

Public Law 109–1
109th Congress

An Act

To accelerate the income tax benefits for charitable cash contributions for the relief of victims of the Indian Ocean tsunami.

Jan. 7, 2005
[H.R. 241]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ACCELERATION OF INCOME TAX BENEFITS FOR CHARITABLE CASH CONTRIBUTIONS FOR RELIEF OF INDIAN OCEAN TSUNAMI VICTIMS.

(a) IN GENERAL.—For purposes of section 170 of the Internal Revenue Code of 1986, a taxpayer may treat any contribution described in subsection (b) made in January 2005 as if such contribution was made on December 31, 2004, and not in January 2005.

(b) CONTRIBUTION DESCRIBED.—A contribution is described in this subsection if such contribution is a cash contribution made for the relief of victims in areas affected by the December 26, 2004, Indian Ocean tsunami for which a charitable contribution deduction is allowable under section 170 of the Internal Revenue Code of 1986.

Approved January 7, 2005.

LEGISLATIVE HISTORY—H.R. 241:

CONGRESSIONAL RECORD, Vol. 151 (2005):

Jan. 6, considered and passed House and Senate.



Public Law 109–2
109th Congress

An Act

Feb. 18, 2005
[S. 5]

Class Action
Fairness Act of
2005.

28 USC 1 note.

To amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Class Action Fairness Act of 2005”.

(b) **REFERENCE.**—Whenever in this Act reference is made to an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 28, United States Code.

(c) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

- Sec. 1. Short title; reference; table of contents.
- Sec. 2. Findings and purposes.
- Sec. 3. Consumer class action bill of rights and improved procedures for interstate class actions.
- Sec. 4. Federal district court jurisdiction for interstate class actions.
- Sec. 5. Removal of interstate class actions to Federal district court.
- Sec. 6. Report on class action settlements.
- Sec. 7. Enactment of Judicial Conference recommendations.
- Sec. 8. Rulemaking authority of Supreme Court and Judicial Conference.
- Sec. 9. Effective date.

28 USC 1711
note.

SEC. 2. FINDINGS AND PURPOSES.

(a) **FINDINGS.**—Congress finds the following:

(1) Class action lawsuits are an important and valuable part of the legal system when they permit the fair and efficient resolution of legitimate claims of numerous parties by allowing the claims to be aggregated into a single action against a defendant that has allegedly caused harm.

(2) Over the past decade, there have been abuses of the class action device that have—

(A) harmed class members with legitimate claims and defendants that have acted responsibly;

(B) adversely affected interstate commerce; and

(C) undermined public respect for our judicial system.

(3) Class members often receive little or no benefit from class actions, and are sometimes harmed, such as where—

(A) counsel are awarded large fees, while leaving class members with coupons or other awards of little or no value;

(B) unjustified awards are made to certain plaintiffs at the expense of other class members; and

(C) confusing notices are published that prevent class members from being able to fully understand and effectively exercise their rights.

(4) Abuses in class actions undermine the national judicial system, the free flow of interstate commerce, and the concept of diversity jurisdiction as intended by the framers of the United States Constitution, in that State and local courts are—

(A) keeping cases of national importance out of Federal court;

(B) sometimes acting in ways that demonstrate bias against out-of-State defendants; and

(C) making judgments that impose their view of the law on other States and bind the rights of the residents of those States.

(b) PURPOSES.—The purposes of this Act are to—

(1) assure fair and prompt recoveries for class members with legitimate claims;

(2) restore the intent of the framers of the United States Constitution by providing for Federal court consideration of interstate cases of national importance under diversity jurisdiction; and

(3) benefit society by encouraging innovation and lowering consumer prices.

SEC. 3. CONSUMER CLASS ACTION BILL OF RIGHTS AND IMPROVED PROCEDURES FOR INTERSTATE CLASS ACTIONS.

(a) IN GENERAL.—Part V is amended by inserting after chapter 113 the following:

“CHAPTER 114—CLASS ACTIONS

“Sec.

“1711. Definitions.

“1712. Coupon settlements.

“1713. Protection against loss by class members.

“1714. Protection against discrimination based on geographic location.

“1715. Notifications to appropriate Federal and State officials.

“§ 1711. Definitions

“In this chapter:

“(1) CLASS.—The term ‘class’ means all of the class members in a class action.

“(2) CLASS ACTION.—The term ‘class action’ means any civil action filed in a district court of the United States under rule 23 of the Federal Rules of Civil Procedure or any civil action that is removed to a district court of the United States that was originally filed under a State statute or rule of judicial procedure authorizing an action to be brought by 1 or more representatives as a class action.

“(3) CLASS COUNSEL.—The term ‘class counsel’ means the persons who serve as the attorneys for the class members in a proposed or certified class action.

“(4) CLASS MEMBERS.—The term ‘class members’ means the persons (named or unnamed) who fall within the definition of the proposed or certified class in a class action.

“(5) PLAINTIFF CLASS ACTION.—The term ‘plaintiff class action’ means a class action in which class members are plaintiffs.

“(6) PROPOSED SETTLEMENT.—The term ‘proposed settlement’ means an agreement regarding a class action that is subject to court approval and that, if approved, would be binding on some or all class members.

“§ 1712. Coupon settlements

“(a) CONTINGENT FEES IN COUPON SETTLEMENTS.—If a proposed settlement in a class action provides for a recovery of coupons to a class member, the portion of any attorney’s fee award to class counsel that is attributable to the award of the coupons shall be based on the value to class members of the coupons that are redeemed.

“(b) OTHER ATTORNEY’S FEE AWARDS IN COUPON SETTLEMENTS.—

“(1) IN GENERAL.—If a proposed settlement in a class action provides for a recovery of coupons to class members, and a portion of the recovery of the coupons is not used to determine the attorney’s fee to be paid to class counsel, any attorney’s fee award shall be based upon the amount of time class counsel reasonably expended working on the action.

“(2) COURT APPROVAL.—Any attorney’s fee under this subsection shall be subject to approval by the court and shall include an appropriate attorney’s fee, if any, for obtaining equitable relief, including an injunction, if applicable. Nothing in this subsection shall be construed to prohibit application of a lodestar with a multiplier method of determining attorney’s fees.

“(c) ATTORNEY’S FEE AWARDS CALCULATED ON A MIXED BASIS IN COUPON SETTLEMENTS.—If a proposed settlement in a class action provides for an award of coupons to class members and also provides for equitable relief, including injunctive relief—

“(1) that portion of the attorney’s fee to be paid to class counsel that is based upon a portion of the recovery of the coupons shall be calculated in accordance with subsection (a); and

“(2) that portion of the attorney’s fee to be paid to class counsel that is not based upon a portion of the recovery of the coupons shall be calculated in accordance with subsection (b).

“(d) SETTLEMENT VALUATION EXPERTISE.—In a class action involving the awarding of coupons, the court may, in its discretion upon the motion of a party, receive expert testimony from a witness qualified to provide information on the actual value to the class members of the coupons that are redeemed.

“(e) JUDICIAL SCRUTINY OF COUPON SETTLEMENTS.—In a proposed settlement under which class members would be awarded coupons, the court may approve the proposed settlement only after a hearing to determine whether, and making a written finding that, the settlement is fair, reasonable, and adequate for class members. The court, in its discretion, may also require that a proposed settlement agreement provide for the distribution of a portion of the value of unclaimed coupons to 1 or more charitable or governmental organizations, as agreed to by the parties. The distribution and redemption of any proceeds under this subsection shall not be used to calculate attorneys’ fees under this section.

“§ 1713. Protection against loss by class members

“The court may approve a proposed settlement under which any class member is obligated to pay sums to class counsel that would result in a net loss to the class member only if the court makes a written finding that nonmonetary benefits to the class member substantially outweigh the monetary loss.

“§ 1714. Protection against discrimination based on geographic location

“The court may not approve a proposed settlement that provides for the payment of greater sums to some class members than to others solely on the basis that the class members to whom the greater sums are to be paid are located in closer geographic proximity to the court.

“§ 1715. Notifications to appropriate Federal and State officials

“(a) DEFINITIONS.—

“(1) APPROPRIATE FEDERAL OFFICIAL.—In this section, the term ‘appropriate Federal official’ means—

“(A) the Attorney General of the United States; or

“(B) in any case in which the defendant is a Federal depository institution, a State depository institution, a depository institution holding company, a foreign bank, or a nondepository institution subsidiary of the foregoing (as such terms are defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)), the person who has the primary Federal regulatory or supervisory responsibility with respect to the defendant, if some or all of the matters alleged in the class action are subject to regulation or supervision by that person.

“(2) APPROPRIATE STATE OFFICIAL.—In this section, the term ‘appropriate State official’ means the person in the State who has the primary regulatory or supervisory responsibility with respect to the defendant, or who licenses or otherwise authorizes the defendant to conduct business in the State, if some or all of the matters alleged in the class action are subject to regulation by that person. If there is no primary regulator, supervisor, or licensing authority, or the matters alleged in the class action are not subject to regulation or supervision by that person, then the appropriate State official shall be the State attorney general.

“(b) IN GENERAL.—Not later than 10 days after a proposed settlement of a class action is filed in court, each defendant that is participating in the proposed settlement shall serve upon the appropriate State official of each State in which a class member resides and the appropriate Federal official, a notice of the proposed settlement consisting of—

Deadline.

“(1) a copy of the complaint and any materials filed with the complaint and any amended complaints (except such materials shall not be required to be served if such materials are made electronically available through the Internet and such service includes notice of how to electronically access such material);

“(2) notice of any scheduled judicial hearing in the class action;

“(3) any proposed or final notification to class members of—

“(A)(i) the members’ rights to request exclusion from the class action; or

“(ii) if no right to request exclusion exists, a statement that no such right exists; and

“(B) a proposed settlement of a class action;

“(4) any proposed or final class action settlement;

“(5) any settlement or other agreement contemporaneously made between class counsel and counsel for the defendants;

“(6) any final judgment or notice of dismissal;

“(7)(A) if feasible, the names of class members who reside in each State and the estimated proportionate share of the claims of such members to the entire settlement to that State’s appropriate State official; or

“(B) if the provision of information under subparagraph (A) is not feasible, a reasonable estimate of the number of class members residing in each State and the estimated proportionate share of the claims of such members to the entire settlement; and

“(8) any written judicial opinion relating to the materials described under subparagraphs (3) through (6).

“(c) DEPOSITORY INSTITUTIONS NOTIFICATION.—

“(1) FEDERAL AND OTHER DEPOSITORY INSTITUTIONS.—In any case in which the defendant is a Federal depository institution, a depository institution holding company, a foreign bank, or a non-depository institution subsidiary of the foregoing, the notice requirements of this section are satisfied by serving the notice required under subsection (b) upon the person who has the primary Federal regulatory or supervisory responsibility with respect to the defendant, if some or all of the matters alleged in the class action are subject to regulation or supervision by that person.

“(2) STATE DEPOSITORY INSTITUTIONS.—In any case in which the defendant is a State depository institution (as that term is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)), the notice requirements of this section are satisfied by serving the notice required under subsection (b) upon the State bank supervisor (as that term is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)) of the State in which the defendant is incorporated or chartered, if some or all of the matters alleged in the class action are subject to regulation or supervision by that person, and upon the appropriate Federal official.

“(d) FINAL APPROVAL.—An order giving final approval of a proposed settlement may not be issued earlier than 90 days after the later of the dates on which the appropriate Federal official and the appropriate State official are served with the notice required under subsection (b).

“(e) NONCOMPLIANCE IF NOTICE NOT PROVIDED.—

“(1) IN GENERAL.—A class member may refuse to comply with and may choose not to be bound by a settlement agreement or consent decree in a class action if the class member demonstrates that the notice required under subsection (b) has not been provided.

“(2) LIMITATION.—A class member may not refuse to comply with or to be bound by a settlement agreement or consent

decree under paragraph (1) if the notice required under subsection (b) was directed to the appropriate Federal official and to either the State attorney general or the person that has primary regulatory, supervisory, or licensing authority over the defendant.

“(3) APPLICATION OF RIGHTS.—The rights created by this subsection shall apply only to class members or any person acting on a class member’s behalf, and shall not be construed to limit any other rights affecting a class member’s participation in the settlement.

“(f) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to expand the authority of, or impose any obligations, duties, or responsibilities upon, Federal or State officials.”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for part V is amended by inserting after the item relating to chapter 113 the following:

“114. Class Actions 1711”.

SEC. 4. FEDERAL DISTRICT COURT JURISDICTION FOR INTERSTATE CLASS ACTIONS.

(a) APPLICATION OF FEDERAL DIVERSITY JURISDICTION.—Section 1332 is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following:

“(d)(1) In this subsection—

“(A) the term ‘class’ means all of the class members in a class action;

“(B) the term ‘class action’ means any civil action filed under rule 23 of the Federal Rules of Civil Procedure or similar State statute or rule of judicial procedure authorizing an action to be brought by 1 or more representative persons as a class action;

“(C) the term ‘class certification order’ means an order issued by a court approving the treatment of some or all aspects of a civil action as a class action; and

“(D) the term ‘class members’ means the persons (named or unnamed) who fall within the definition of the proposed or certified class in a class action.

“(2) The district courts shall have original jurisdiction of any civil action in which the matter in controversy exceeds the sum or value of \$5,000,000, exclusive of interest and costs, and is a class action in which—

“(A) any member of a class of plaintiffs is a citizen of a State different from any defendant;

“(B) any member of a class of plaintiffs is a foreign state or a citizen or subject of a foreign state and any defendant is a citizen of a State; or

“(C) any member of a class of plaintiffs is a citizen of a State and any defendant is a foreign state or a citizen or subject of a foreign state.

“(3) A district court may, in the interests of justice and looking at the totality of the circumstances, decline to exercise jurisdiction under paragraph (2) over a class action in which greater than one-third but less than two-thirds of the members of all proposed plaintiff classes in the aggregate and the primary defendants are citizens of the State in which the action was originally filed based on consideration of—

“(A) whether the claims asserted involve matters of national or interstate interest;

“(B) whether the claims asserted will be governed by laws of the State in which the action was originally filed or by the laws of other States;

“(C) whether the class action has been pleaded in a manner that seeks to avoid Federal jurisdiction;

“(D) whether the action was brought in a forum with a distinct nexus with the class members, the alleged harm, or the defendants;

“(E) whether the number of citizens of the State in which the action was originally filed in all proposed plaintiff classes in the aggregate is substantially larger than the number of citizens from any other State, and the citizenship of the other members of the proposed class is dispersed among a substantial number of States; and

“(F) whether, during the 3-year period preceding the filing of that class action, 1 or more other class actions asserting the same or similar claims on behalf of the same or other persons have been filed.

“(4) A district court shall decline to exercise jurisdiction under paragraph (2)—

“(A)(i) over a class action in which—

“(I) greater than two-thirds of the members of all proposed plaintiff classes in the aggregate are citizens of the State in which the action was originally filed;

“(II) at least 1 defendant is a defendant—

“(aa) from whom significant relief is sought by members of the plaintiff class;

“(bb) whose alleged conduct forms a significant basis for the claims asserted by the proposed plaintiff class; and

“(cc) who is a citizen of the State in which the action was originally filed; and

“(III) principal injuries resulting from the alleged conduct or any related conduct of each defendant were incurred in the State in which the action was originally filed; and

“(ii) during the 3-year period preceding the filing of that class action, no other class action has been filed asserting the same or similar factual allegations against any of the defendants on behalf of the same or other persons; or

“(B) two-thirds or more of the members of all proposed plaintiff classes in the aggregate, and the primary defendants, are citizens of the State in which the action was originally filed.

“(5) Paragraphs (2) through (4) shall not apply to any class action in which—

“(A) the primary defendants are States, State officials, or other governmental entities against whom the district court may be foreclosed from ordering relief; or

“(B) the number of members of all proposed plaintiff classes in the aggregate is less than 100.

“(6) In any class action, the claims of the individual class members shall be aggregated to determine whether the matter in controversy exceeds the sum or value of \$5,000,000, exclusive of interest and costs.

“(7) Citizenship of the members of the proposed plaintiff classes shall be determined for purposes of paragraphs (2) through (6) as of the date of filing of the complaint or amended complaint, or, if the case stated by the initial pleading is not subject to Federal jurisdiction, as of the date of service by plaintiffs of an amended pleading, motion, or other paper, indicating the existence of Federal jurisdiction.

“(8) This subsection shall apply to any class action before or after the entry of a class certification order by the court with respect to that action.

“(9) Paragraph (2) shall not apply to any class action that solely involves a claim—

“(A) concerning a covered security as defined under 16(f)(3) of the Securities Act of 1933 (15 U.S.C. 78p(f)(3)) and section 28(f)(5)(E) of the Securities Exchange Act of 1934 (15 U.S.C. 78bb(f)(5)(E));

“(B) that relates to the internal affairs or governance of a corporation or other form of business enterprise and that arises under or by virtue of the laws of the State in which such corporation or business enterprise is incorporated or organized; or

“(C) that relates to the rights, duties (including fiduciary duties), and obligations relating to or created by or pursuant to any security (as defined under section 2(a)(1) of the Securities Act of 1933 (15 U.S.C. 77b(a)(1)) and the regulations issued thereunder).

“(10) For purposes of this subsection and section 1453, an unincorporated association shall be deemed to be a citizen of the State where it has its principal place of business and the State under whose laws it is organized.

“(11)(A) For purposes of this subsection and section 1453, a mass action shall be deemed to be a class action removable under paragraphs (2) through (10) if it otherwise meets the provisions of those paragraphs.

“(B)(i) As used in subparagraph (A), the term ‘mass action’ means any civil action (except a civil action within the scope of section 1711(2)) in which monetary relief claims of 100 or more persons are proposed to be tried jointly on the ground that the plaintiffs’ claims involve common questions of law or fact, except that jurisdiction shall exist only over those plaintiffs whose claims in a mass action satisfy the jurisdictional amount requirements under subsection (a).

“(ii) As used in subparagraph (A), the term ‘mass action’ shall not include any civil action in which—

“(I) all of the claims in the action arise from an event or occurrence in the State in which the action was filed, and that allegedly resulted in injuries in that State or in States contiguous to that State;

“(II) the claims are joined upon motion of a defendant;

“(III) all of the claims in the action are asserted on behalf of the general public (and not on behalf of individual claimants or members of a purported class) pursuant to a State statute specifically authorizing such action; or

“(IV) the claims have been consolidated or coordinated solely for pretrial proceedings.

“(C)(i) Any action(s) removed to Federal court pursuant to this subsection shall not thereafter be transferred to any other court

pursuant to section 1407, or the rules promulgated thereunder, unless a majority of the plaintiffs in the action request transfer pursuant to section 1407.

“(ii) This subparagraph will not apply—

“(I) to cases certified pursuant to rule 23 of the Federal Rules of Civil Procedure; or

“(II) if plaintiffs propose that the action proceed as a class action pursuant to rule 23 of the Federal Rules of Civil Procedure.

“(D) The limitations periods on any claims asserted in a mass action that is removed to Federal court pursuant to this subsection shall be deemed tolled during the period that the action is pending in Federal court.”.

(b) CONFORMING AMENDMENTS.—

(1) Section 1335(a)(1) is amended by inserting “subsection (a) or (d) of” before “section 1332”.

(2) Section 1603(b)(3) is amended by striking “(d)” and inserting “(e)”.

SEC. 5. REMOVAL OF INTERSTATE CLASS ACTIONS TO FEDERAL DISTRICT COURT.

(a) IN GENERAL.—Chapter 89 is amended by adding after section 1452 the following:

“§ 1453. Removal of class actions

“(a) DEFINITIONS.—In this section, the terms ‘class’, ‘class action’, ‘class certification order’, and ‘class member’ shall have the meanings given such terms under section 1332(d)(1).

“(b) IN GENERAL.—A class action may be removed to a district court of the United States in accordance with section 1446 (except that the 1-year limitation under section 1446(b) shall not apply), without regard to whether any defendant is a citizen of the State in which the action is brought, except that such action may be removed by any defendant without the consent of all defendants.

“(c) REVIEW OF REMAND ORDERS.—

“(1) IN GENERAL.—Section 1447 shall apply to any removal of a case under this section, except that notwithstanding section 1447(d), a court of appeals may accept an appeal from an order of a district court granting or denying a motion to remand a class action to the State court from which it was removed if application is made to the court of appeals not less than 7 days after entry of the order.

“(2) TIME PERIOD FOR JUDGMENT.—If the court of appeals accepts an appeal under paragraph (1), the court shall complete all action on such appeal, including rendering judgment, not later than 60 days after the date on which such appeal was filed, unless an extension is granted under paragraph (3).

“(3) EXTENSION OF TIME PERIOD.—The court of appeals may grant an extension of the 60-day period described in paragraph (2) if—

“(A) all parties to the proceeding agree to such extension, for any period of time; or

“(B) such extension is for good cause shown and in the interests of justice, for a period not to exceed 10 days.

“(4) DENIAL OF APPEAL.—If a final judgment on the appeal under paragraph (1) is not issued before the end of the period

Applicability.

described in paragraph (2), including any extension under paragraph (3), the appeal shall be denied.

“(d) EXCEPTION.—This section shall not apply to any class action that solely involves—

“(1) a claim concerning a covered security as defined under section 16(f)(3) of the Securities Act of 1933 (15 U.S.C. 78p(f)(3)) and section 28(f)(5)(E) of the Securities Exchange Act of 1934 (15 U.S.C. 78bb(f)(5)(E));

“(2) a claim that relates to the internal affairs or governance of a corporation or other form of business enterprise and arises under or by virtue of the laws of the State in which such corporation or business enterprise is incorporated or organized; or

“(3) a claim that relates to the rights, duties (including fiduciary duties), and obligations relating to or created by or pursuant to any security (as defined under section 2(a)(1) of the Securities Act of 1933 (15 U.S.C. 77b(a)(1)) and the regulations issued thereunder).”.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—The table of sections for chapter 89 is amended by adding after the item relating to section 1452 the following:

“1453. Removal of class actions.”.

SEC. 6. REPORT ON CLASS ACTION SETTLEMENTS.

(a) IN GENERAL.—Not later than 12 months after the date of enactment of this Act, the Judicial Conference of the United States, with the assistance of the Director of the Federal Judicial Center and the Director of the Administrative Office of the United States Courts, shall prepare and transmit to the Committees on the Judiciary of the Senate and the House of Representatives a report on class action settlements.

(b) CONTENT.—The report under subsection (a) shall contain—

(1) recommendations on the best practices that courts can use to ensure that proposed class action settlements are fair to the class members that the settlements are supposed to benefit;

(2) recommendations on the best practices that courts can use to ensure that—

(A) the fees and expenses awarded to counsel in connection with a class action settlement appropriately reflect the extent to which counsel succeeded in obtaining full redress for the injuries alleged and the time, expense, and risk that counsel devoted to the litigation; and

(B) the class members on whose behalf the settlement is proposed are the primary beneficiaries of the settlement; and

(3) the actions that the Judicial Conference of the United States has taken and intends to take toward having the Federal judiciary implement any or all of the recommendations contained in the report.

(c) AUTHORITY OF FEDERAL COURTS.—Nothing in this section shall be construed to alter the authority of the Federal courts to supervise attorneys’ fees.

SEC. 7. ENACTMENT OF JUDICIAL CONFERENCE RECOMMENDATIONS.

Notwithstanding any other provision of law, the amendments to rule 23 of the Federal Rules of Civil Procedure, which are

28 USC 2074
note.

set forth in the order entered by the Supreme Court of the United States on March 27, 2003, shall take effect on the date of enactment of this Act or on December 1, 2003 (as specified in that order), whichever occurs first.

28 USC 2071
note.

SEC. 8. RULEMAKING AUTHORITY OF SUPREME COURT AND JUDICIAL CONFERENCE.

Nothing in this Act shall restrict in any way the authority of the Judicial Conference and the Supreme Court to propose and prescribe general rules of practice and procedure under chapter 131 of title 28, United States Code.

28 USC 1332
note.

SEC. 9. EFFECTIVE DATE.

The amendments made by this Act shall apply to any civil action commenced on or after the date of enactment of this Act.

Approved February 18, 2005.

LEGISLATIVE HISTORY—S. 5:

CONGRESSIONAL RECORD, Vol. 151 (2005):

Feb. 7–10, considered and passed Senate.

Feb. 17, considered and passed House.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 41 (2005):

Feb. 18, Presidential remarks.



Public Law 109–3
109th Congress

An Act

For the relief of the parents of Theresa Marie Schiavo.

Mar. 21, 2005

[S. 686]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RELIEF OF THE PARENTS OF THERESA MARIE SCHIAVO.

The United States District Court for the Middle District of Florida shall have jurisdiction to hear, determine, and render judgment on a suit or claim by or on behalf of Theresa Marie Schiavo for the alleged violation of any right of Theresa Marie Schiavo under the Constitution or laws of the United States relating to the withholding or withdrawal of food, fluids, or medical treatment necessary to sustain her life.

SEC. 2. PROCEDURE.

Any parent of Theresa Marie Schiavo shall have standing to bring a suit under this Act. The suit may be brought against any other person who was a party to State court proceedings relating to the withholding or withdrawal of food, fluids, or medical treatment necessary to sustain the life of Theresa Marie Schiavo, or who may act pursuant to a State court order authorizing or directing the withholding or withdrawal of food, fluids, or medical treatment necessary to sustain her life. In such a suit, the District Court shall determine de novo any claim of a violation of any right of Theresa Marie Schiavo within the scope of this Act, notwithstanding any prior State court determination and regardless of whether such a claim has previously been raised, considered, or decided in State court proceedings. The District Court shall entertain and determine the suit without any delay or abstention in favor of State court proceedings, and regardless of whether remedies available in the State courts have been exhausted.

SEC. 3. RELIEF.

After a determination of the merits of a suit brought under this Act, the District Court shall issue such declaratory and injunctive relief as may be necessary to protect the rights of Theresa Marie Schiavo under the Constitution and laws of the United States relating to the withholding or withdrawal of food, fluids, or medical treatment necessary to sustain her life.

SEC. 4. TIME FOR FILING.

Notwithstanding any other time limitation, any suit or claim under this Act shall be timely if filed within 30 days after the date of enactment of this Act.

SEC. 5. NO CHANGE OF SUBSTANTIVE RIGHTS.

Nothing in this Act shall be construed to create substantive rights not otherwise secured by the Constitution and laws of the United States or of the several States.

SEC. 6. NO EFFECT ON ASSISTING SUICIDE.

Nothing in this Act shall be construed to confer additional jurisdiction on any court to consider any claim related—

- (1) to assisting suicide, or
- (2) a State law regarding assisting suicide.

SEC. 7. NO PRECEDENT FOR FUTURE LEGISLATION.

Nothing in this Act shall constitute a precedent with respect to future legislation, including the provision of private relief bills.

SEC. 8. NO AFFECT ON THE PATIENT SELF-DETERMINATION ACT OF 1990.

Nothing in this Act shall affect the rights of any person under the Patient Self-Determination Act of 1990.

SEC. 9. SENSE OF THE CONGRESS.

It is the Sense of Congress that the 109th Congress should consider policies regarding the status and legal rights of incapacitated individuals who are incapable of making decisions concerning the provision, withholding, or withdrawal of foods, fluid, or medical care.

Approved March 21, 2005.

LEGISLATIVE HISTORY—S. 686:

CONGRESSIONAL RECORD, Vol. 151 (2005):

Mar. 20, considered and passed Senate and House.



Public Law 109–4
109th Congress

An Act

To reauthorize the Temporary Assistance for Needy Families block grant program through June 30, 2005, and for other purposes.

Mar. 25, 2005
[H.R. 1160]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Welfare Reform Extension Act of 2005”.

Welfare Reform
Extension Act
of 2005.
42 USC 1305
note.

SEC. 2. EXTENSION OF THE TEMPORARY ASSISTANCE FOR NEEDY FAMILIES BLOCK GRANT PROGRAM THROUGH JUNE 30, 2005.

(a) IN GENERAL.—Activities authorized by part A of title IV of the Social Security Act, and by sections 510, 1108(b), and 1925 of such Act, shall continue through June 30, 2005, in the manner authorized for fiscal year 2004, notwithstanding section 1902(e)(1)(A) of such Act, and out of any money in the Treasury of the United States not otherwise appropriated, there are hereby appropriated such sums as may be necessary for such purpose. Grants and payments may be made pursuant to this authority through the third quarter of fiscal year 2005 at the level provided for such activities through the third quarter of fiscal year 2004.

(b) CONFORMING AMENDMENT.—Section 403(a)(3)(H)(ii) of the Social Security Act (42 U.S.C. 603(a)(3)(H)(ii)) is amended by striking “March 31” and inserting “June 30”.

42 USC 603.

SEC. 3. EXTENSION OF THE NATIONAL RANDOM SAMPLE STUDY OF CHILD WELFARE AND CHILD WELFARE WAIVER AUTHORITY THROUGH JUNE 30, 2005.

Activities authorized by sections 429A and 1130(a) of the Social Security Act shall continue through June 30, 2005, in the manner authorized for fiscal year 2004, and out of any money in the Treasury of the United States not otherwise appropriated, there are hereby appropriated such sums as may be necessary for such purpose. Grants and payments may be made pursuant to this authority through the third quarter of fiscal year 2005 at the

level provided for such activities through the third quarter of fiscal year 2004.

Approved March 25, 2005.

LEGISLATIVE HISTORY—H.R. 1160:

CONGRESSIONAL RECORD, Vol. 151 (2005):

Mar. 14, considered and passed House.

Mar. 15, considered and passed Senate.



Public Law 109–5
109th Congress

An Act

To extend the existence of the Nazi War Crimes and Japanese Imperial Government
Records Interagency Working Group for 2 years.

Mar. 25, 2005
[S. 384]

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. TWO-YEAR EXTENSION OF WORKING GROUP.

5 USC 552 note.

Section 802(b)(1) of the Japanese Imperial Government Disclosure Act of 2000 (Public Law 106–567; 114 Stat. 2865) is amended by striking “4 years” and inserting “6 years”.

Approved March 25, 2005.

LEGISLATIVE HISTORY—S. 384:

CONGRESSIONAL RECORD, Vol. 151 (2005):
Feb. 16, considered and passed Senate.
Mar. 14, considered and passed House.



Public Law 109–6
109th Congress

An Act

Mar. 31, 2005
[H.R. 1270]

To amend the Internal Revenue Code of 1986 to extend the Leaking Underground Storage Tank Trust Fund financing rate.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.

26 USC 4081.

(a) IN GENERAL.—Paragraph (3) of section 4081(d) of the Internal Revenue Code of 1986 (relating to Leaking Underground Storage Tank Trust Fund financing rate) is amended by striking “April 1, 2005” and inserting “October 1, 2005”.

26 USC 4081
note.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

Approved March 31, 2005.

LEGISLATIVE HISTORY—H.R. 1270:

CONGRESSIONAL RECORD, Vol. 151 (2005):

Mar. 16, considered and passed House.

Mar. 17, considered and passed Senate.



Public Law 109–7
109th Congress

An Act

To amend the Internal Revenue Code of 1986 to provide for the proper tax treatment of certain disaster mitigation payments.

Apr. 15, 2005
[H.R. 1134]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROPER TAX TREATMENT OF CERTAIN DISASTER MITIGATION PAYMENTS.

(a) QUALIFIED DISASTER MITIGATION PAYMENTS EXCLUDED FROM GROSS INCOME.—

(1) IN GENERAL.—Section 139 of the Internal Revenue Code of 1986 (relating to disaster relief payments) is amended by adding at the end the following new subsections: 26 USC 139.

“(g) QUALIFIED DISASTER MITIGATION PAYMENTS.—

“(1) IN GENERAL.—Gross income shall not include any amount received as a qualified disaster mitigation payment.

“(2) QUALIFIED DISASTER MITIGATION PAYMENT DEFINED.—For purposes of this section, the term ‘qualified disaster mitigation payment’ means any amount which is paid pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (as in effect on the date of the enactment of this subsection) or the National Flood Insurance Act (as in effect on such date) to or for the benefit of the owner of any property for hazard mitigation with respect to such property. Such term shall not include any amount received for the sale or disposition of any property.

“(3) NO INCREASE IN BASIS.—Notwithstanding any other provision of this subtitle, no increase in the basis or adjusted basis of any property shall result from any amount excluded under this subsection with respect to such property.

“(h) DENIAL OF DOUBLE BENEFIT.—Notwithstanding any other provision of this subtitle, no deduction or credit shall be allowed (to the person for whose benefit a qualified disaster relief payment or qualified disaster mitigation payment is made) for, or by reason of, any expenditure to the extent of the amount excluded under this section with respect to such expenditure.”.

(2) CONFORMING AMENDMENTS.—

(A) Subsection (d) of section 139 of such Code is amended by striking “a qualified disaster relief payment” and inserting “qualified disaster relief payments and qualified disaster mitigation payments”.

(B) Subsection (e) of section 139 of such Code is amended by striking “and (f)” and inserting “, (f), and (g)”.

(b) CERTAIN DISPOSITIONS OF PROPERTY UNDER HAZARD MITIGATION PROGRAMS TREATED AS INVOLUNTARY CONVERSIONS.—Section 1033 of such Code (relating to involuntary conversions) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

“(k) SALES OR EXCHANGES UNDER CERTAIN HAZARD MITIGATION PROGRAMS.—For purposes of this subtitle, if property is sold or otherwise transferred to the Federal Government, a State or local government, or an Indian tribal government to implement hazard mitigation under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (as in effect on the date of the enactment of this subsection) or the National Flood Insurance Act (as in effect on such date), such sale or transfer shall be treated as an involuntary conversion to which this section applies.”.

(c) EFFECTIVE DATE.—

26 USC 139 note.

(1) QUALIFIED DISASTER MITIGATION PAYMENTS.—The amendments made by subsection (a) shall apply to amounts received before, on, or after the date of the enactment of this Act.

26 USC 1033
note.

(2) DISPOSITIONS OF PROPERTY UNDER HAZARD MITIGATION PROGRAMS.—The amendments made by subsection (b) shall apply to sales or other dispositions before, on, or after the date of the enactment of this Act.

Approved April 15, 2005.

LEGISLATIVE HISTORY—H.R. 1134:

CONGRESSIONAL RECORD, Vol. 151 (2005):

Mar. 14, considered and passed House.

Apr. 13, considered and passed Senate, amended.

Apr. 14, House concurred in Senate amendment.



Public Law 109–8
109th Congress

An Act

To amend title 11 of the United States Code, and for other purposes.

Apr. 20, 2005

[S. 256]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Bankruptcy Abuse Prevention and Consumer Protection Act of 2005”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

Bankruptcy
Abuse Prevention
and Consumer
Protection Act
of 2005.
11 USC 101 note.

Sec. 1. Short title; references; table of contents.

TITLE I—NEEDS-BASED BANKRUPTCY

- Sec. 101. Conversion.
- Sec. 102. Dismissal or conversion.
- Sec. 103. Sense of Congress and study.
- Sec. 104. Notice of alternatives.
- Sec. 105. Debtor financial management training test program.
- Sec. 106. Credit counseling.
- Sec. 107. Schedules of reasonable and necessary expenses.

TITLE II—ENHANCED CONSUMER PROTECTION

Subtitle A—Penalties for Abusive Creditor Practices

- Sec. 201. Promotion of alternative dispute resolution.
- Sec. 202. Effect of discharge.
- Sec. 203. Discouraging abuse of reaffirmation agreement practices.
- Sec. 204. Preservation of claims and defenses upon sale of predatory loans.
- Sec. 205. GAO study and report on reaffirmation agreement process.

Subtitle B—Priority Child Support

- Sec. 211. Definition of domestic support obligation.
- Sec. 212. Priorities for claims for domestic support obligations.
- Sec. 213. Requirements to obtain confirmation and discharge in cases involving domestic support obligations.
- Sec. 214. Exceptions to automatic stay in domestic support obligation proceedings.
- Sec. 215. Nondischargeability of certain debts for alimony, maintenance, and support.
- Sec. 216. Continued liability of property.
- Sec. 217. Protection of domestic support claims against preferential transfer motions.
- Sec. 218. Disposable income defined.
- Sec. 219. Collection of child support.
- Sec. 220. Nondischargeability of certain educational benefits and loans.

Subtitle C—Other Consumer Protections

- Sec. 221. Amendments to discourage abusive bankruptcy filings.
- Sec. 222. Sense of Congress.
- Sec. 223. Additional amendments to title 11, United States Code.
- Sec. 224. Protection of retirement savings in bankruptcy.
- Sec. 225. Protection of education savings in bankruptcy.

- Sec. 226. Definitions.
- Sec. 227. Restrictions on debt relief agencies.
- Sec. 228. Disclosures.
- Sec. 229. Requirements for debt relief agencies.
- Sec. 230. GAO study.
- Sec. 231. Protection of personally identifiable information.
- Sec. 232. Consumer privacy ombudsman.
- Sec. 233. Prohibition on disclosure of name of minor children.
- Sec. 234. Protection of personal information.

TITLE III—DISCOURAGING BANKRUPTCY ABUSE

- Sec. 301. Technical amendments.
- Sec. 302. Discouraging bad faith repeat filings.
- Sec. 303. Curbing abusive filings.
- Sec. 304. Debtor retention of personal property security.
- Sec. 305. Relief from the automatic stay when the debtor does not complete intended surrender of consumer debt collateral.
- Sec. 306. Giving secured creditors fair treatment in chapter 13.
- Sec. 307. Domiciliary requirements for exemptions.
- Sec. 308. Reduction of homestead exemption for fraud.
- Sec. 309. Protecting secured creditors in chapter 13 cases.
- Sec. 310. Limitation on luxury goods.
- Sec. 311. Automatic stay.
- Sec. 312. Extension of period between bankruptcy discharges.
- Sec. 313. Definition of household goods and antiques.
- Sec. 314. Debt incurred to pay nondischargeable debts.
- Sec. 315. Giving creditors fair notice in chapters 7 and 13 cases.
- Sec. 316. Dismissal for failure to timely file schedules or provide required information.
- Sec. 317. Adequate time to prepare for hearing on confirmation of the plan.
- Sec. 318. Chapter 13 plans to have a 5-year duration in certain cases.
- Sec. 319. Sense of Congress regarding expansion of rule 9011 of the Federal Rules of Bankruptcy Procedure.
- Sec. 320. Prompt relief from stay in individual cases.
- Sec. 321. Chapter 11 cases filed by individuals.
- Sec. 322. Limitations on homestead exemption.
- Sec. 323. Excluding employee benefit plan participant contributions and other property from the estate.
- Sec. 324. Exclusive jurisdiction in matters involving bankruptcy professionals.
- Sec. 325. United States trustee program filing fee increase.
- Sec. 326. Sharing of compensation.
- Sec. 327. Fair valuation of collateral.
- Sec. 328. Defaults based on nonmonetary obligations.
- Sec. 329. Clarification of postpetition wages and benefits.
- Sec. 330. Delay of discharge during pendency of certain proceedings.
- Sec. 331. Limitation on retention bonuses, severance pay, and certain other payments.
- Sec. 332. Fraudulent involuntary bankruptcy.

TITLE IV—GENERAL AND SMALL BUSINESS BANKRUPTCY PROVISIONS

Subtitle A—General Business Bankruptcy Provisions

- Sec. 401. Adequate protection for investors.
- Sec. 402. Meetings of creditors and equity security holders.
- Sec. 403. Protection of refinancing of security interest.
- Sec. 404. Executory contracts and unexpired leases.
- Sec. 405. Creditors and equity security holders committees.
- Sec. 406. Amendment to section 546 of title 11, United States Code.
- Sec. 407. Amendments to section 330(a) of title 11, United States Code.
- Sec. 408. Postpetition disclosure and solicitation.
- Sec. 409. Preferences.
- Sec. 410. Venue of certain proceedings.
- Sec. 411. Period for filing plan under chapter 11.
- Sec. 412. Fees arising from certain ownership interests.
- Sec. 413. Creditor representation at first meeting of creditors.
- Sec. 414. Definition of disinterested person.
- Sec. 415. Factors for compensation of professional persons.
- Sec. 416. Appointment of elected trustee.
- Sec. 417. Utility service.
- Sec. 418. Bankruptcy fees.
- Sec. 419. More complete information regarding assets of the estate.

Subtitle B—Small Business Bankruptcy Provisions

- Sec. 431. Flexible rules for disclosure statement and plan.
- Sec. 432. Definitions.
- Sec. 433. Standard form disclosure statement and plan.
- Sec. 434. Uniform national reporting requirements.
- Sec. 435. Uniform reporting rules and forms for small business cases.
- Sec. 436. Duties in small business cases.
- Sec. 437. Plan filing and confirmation deadlines.
- Sec. 438. Plan confirmation deadline.
- Sec. 439. Duties of the United States trustee.
- Sec. 440. Scheduling conferences.
- Sec. 441. Serial filer provisions.
- Sec. 442. Expanded grounds for dismissal or conversion and appointment of trustee.
- Sec. 443. Study of operation of title 11, United States Code, with respect to small businesses.
- Sec. 444. Payment of interest.
- Sec. 445. Priority for administrative expenses.
- Sec. 446. Duties with respect to a debtor who is a plan administrator of an employee benefit plan.
- Sec. 447. Appointment of committee of retired employees.

TITLE V—MUNICIPAL BANKRUPTCY PROVISIONS

- Sec. 501. Petition and proceedings related to petition.
- Sec. 502. Applicability of other sections to chapter 9.

TITLE VI—BANKRUPTCY DATA

- Sec. 601. Improved bankruptcy statistics.
- Sec. 602. Uniform rules for the collection of bankruptcy data.
- Sec. 603. Audit procedures.
- Sec. 604. Sense of Congress regarding availability of bankruptcy data.

TITLE VII—BANKRUPTCY TAX PROVISIONS

- Sec. 701. Treatment of certain liens.
- Sec. 702. Treatment of fuel tax claims.
- Sec. 703. Notice of request for a determination of taxes.
- Sec. 704. Rate of interest on tax claims.
- Sec. 705. Priority of tax claims.
- Sec. 706. Priority property taxes incurred.
- Sec. 707. No discharge of fraudulent taxes in chapter 13.
- Sec. 708. No discharge of fraudulent taxes in chapter 11.
- Sec. 709. Stay of tax proceedings limited to prepetition taxes.
- Sec. 710. Periodic payment of taxes in chapter 11 cases.
- Sec. 711. Avoidance of statutory tax liens prohibited.
- Sec. 712. Payment of taxes in the conduct of business.
- Sec. 713. Tardily filed priority tax claims.
- Sec. 714. Income tax returns prepared by tax authorities.
- Sec. 715. Discharge of the estate's liability for unpaid taxes.
- Sec. 716. Requirement to file tax returns to confirm chapter 13 plans.
- Sec. 717. Standards for tax disclosure.
- Sec. 718. Setoff of tax refunds.
- Sec. 719. Special provisions related to the treatment of State and local taxes.
- Sec. 720. Dismissal for failure to timely file tax returns.

TITLE VIII—ANCILLARY AND OTHER CROSS-BORDER CASES

- Sec. 801. Amendment to add chapter 15 to title 11, United States Code.
- Sec. 802. Other amendments to titles 11 and 28, United States Code.

TITLE IX—FINANCIAL CONTRACT PROVISIONS

- Sec. 901. Treatment of certain agreements by conservators or receivers of insured depository institutions.
- Sec. 902. Authority of the FDIC and NCUAB with respect to failed and failing institutions.
- Sec. 903. Amendments relating to transfers of qualified financial contracts.
- Sec. 904. Amendments relating to disaffirmance or repudiation of qualified financial contracts.
- Sec. 905. Clarifying amendment relating to master agreements.
- Sec. 906. Federal Deposit Insurance Corporation Improvement Act of 1991.
- Sec. 907. Bankruptcy law amendments.
- Sec. 908. Recordkeeping requirements.

- Sec. 909. Exemptions from contemporaneous execution requirement.
- Sec. 910. Damage measure.
- Sec. 911. SIPC stay.

TITLE X—PROTECTION OF FAMILY FARMERS AND FAMILY FISHERMEN

- Sec. 1001. Permanent reenactment of chapter 12.
- Sec. 1002. Debt limit increase.
- Sec. 1003. Certain claims owed to governmental units.
- Sec. 1004. Definition of family farmer.
- Sec. 1005. Elimination of requirement that family farmer and spouse receive over 50 percent of income from farming operation in year prior to bankruptcy.
- Sec. 1006. Prohibition of retroactive assessment of disposable income.
- Sec. 1007. Family fishermen.

TITLE XI—HEALTH CARE AND EMPLOYEE BENEFITS

- Sec. 1101. Definitions.
- Sec. 1102. Disposal of patient records.
- Sec. 1103. Administrative expense claim for costs of closing a health care business and other administrative expenses.
- Sec. 1104. Appointment of ombudsman to act as patient advocate.
- Sec. 1105. Debtor in possession; duty of trustee to transfer patients.
- Sec. 1106. Exclusion from program participation not subject to automatic stay.

TITLE XII—TECHNICAL AMENDMENTS

- Sec. 1201. Definitions.
- Sec. 1202. Adjustment of dollar amounts.
- Sec. 1203. Extension of time.
- Sec. 1204. Technical amendments.
- Sec. 1205. Penalty for persons who negligently or fraudulently prepare bankruptcy petitions.
- Sec. 1206. Limitation on compensation of professional persons.
- Sec. 1207. Effect of conversion.
- Sec. 1208. Allowance of administrative expenses.
- Sec. 1209. Exceptions to discharge.
- Sec. 1210. Effect of discharge.
- Sec. 1211. Protection against discriminatory treatment.
- Sec. 1212. Property of the estate.
- Sec. 1213. Preferences.
- Sec. 1214. Postpetition transactions.
- Sec. 1215. Disposition of property of the estate.
- Sec. 1216. General provisions.
- Sec. 1217. Abandonment of railroad line.
- Sec. 1218. Contents of plan.
- Sec. 1219. Bankruptcy cases and proceedings.
- Sec. 1220. Knowing disregard of bankruptcy law or rule.
- Sec. 1221. Transfers made by nonprofit charitable corporations.
- Sec. 1222. Protection of valid purchase money security interests.
- Sec. 1223. Bankruptcy Judgeships.
- Sec. 1224. Compensating trustees.
- Sec. 1225. Amendment to section 362 of title 11, United States Code.
- Sec. 1226. Judicial education.
- Sec. 1227. Reclamation.
- Sec. 1228. Providing requested tax documents to the court.
- Sec. 1229. Encouraging creditworthiness.
- Sec. 1230. Property no longer subject to redemption.
- Sec. 1231. Trustees.
- Sec. 1232. Bankruptcy forms.
- Sec. 1233. Direct appeals of bankruptcy matters to courts of appeals.
- Sec. 1234. Involuntary cases.
- Sec. 1235. Federal election law fines and penalties as nondischargeable debt.

TITLE XIII—CONSUMER CREDIT DISCLOSURE

- Sec. 1301. Enhanced disclosures under an open end credit plan.
- Sec. 1302. Enhanced disclosure for credit extensions secured by a dwelling.
- Sec. 1303. Disclosures related to “introductory rates”.
- Sec. 1304. Internet-based credit card solicitations.
- Sec. 1305. Disclosures related to late payment deadlines and penalties.
- Sec. 1306. Prohibition on certain actions for failure to incur finance charges.
- Sec. 1307. Dual use debit card.
- Sec. 1308. Study of bankruptcy impact of credit extended to dependent students.

Sec. 1309. Clarification of clear and conspicuous.

TITLE XIV—PREVENTING CORPORATE BANKRUPTCY ABUSE

Sec. 1401. Employee wage and benefit priorities.

Sec. 1402. Fraudulent transfers and obligations.

Sec. 1403. Payment of insurance benefits to retired employees.

Sec. 1404. Debts nondischargeable if incurred in violation of securities fraud laws.

Sec. 1405. Appointment of trustee in cases of suspected fraud.

Sec. 1406. Effective date; application of amendments.

TITLE XV—GENERAL EFFECTIVE DATE; APPLICATION OF AMENDMENTS

Sec. 1501. Effective date; application of amendments.

Sec. 1502. Technical corrections.

TITLE I—NEEDS-BASED BANKRUPTCY

SEC. 101. CONVERSION.

Section 706(c) of title 11, United States Code, is amended by inserting “or consents to” after “requests”.

SEC. 102. DISMISSAL OR CONVERSION.

(a) IN GENERAL.—Section 707 of title 11, United States Code, is amended—

(1) by striking the section heading and inserting the following:

“§ 707. Dismissal of a case or conversion to a case under chapter 11 or 13”;

and

(2) in subsection (b)—

(A) by inserting “(1)” after “(b)”;

(B) in paragraph (1), as so redesignated by subparagraph (A) of this paragraph—

(i) in the first sentence—

(I) by striking “but not at the request or suggestion of” and inserting “trustee (or bankruptcy administrator, if any), or”;

(II) by inserting “, or, with the debtor’s consent, convert such a case to a case under chapter 11 or 13 of this title,” after “consumer debts”;

and

(III) by striking “a substantial abuse” and inserting “an abuse”; and

(ii) by striking the next to last sentence; and

(C) by adding at the end the following:

“(2)(A)(i) In considering under paragraph (1) whether the granting of relief would be an abuse of the provisions of this chapter, the court shall presume abuse exists if the debtor’s current monthly income reduced by the amounts determined under clauses (ii), (iii), and (iv), and multiplied by 60 is not less than the lesser of—

“(I) 25 percent of the debtor’s nonpriority unsecured claims in the case, or \$6,000, whichever is greater; or

“(II) \$10,000.

“(ii)(I) The debtor’s monthly expenses shall be the debtor’s applicable monthly expense amounts specified under the National Standards and Local Standards, and the debtor’s actual monthly expenses for the categories specified as Other Necessary Expenses issued by the Internal Revenue Service for the area in which

the debtor resides, as in effect on the date of the order for relief, for the debtor, the dependents of the debtor, and the spouse of the debtor in a joint case, if the spouse is not otherwise a dependent. Such expenses shall include reasonably necessary health insurance, disability insurance, and health savings account expenses for the debtor, the spouse of the debtor, or the dependents of the debtor. Notwithstanding any other provision of this clause, the monthly expenses of the debtor shall not include any payments for debts. In addition, the debtor's monthly expenses shall include the debtor's reasonably necessary expenses incurred to maintain the safety of the debtor and the family of the debtor from family violence as identified under section 309 of the Family Violence Prevention and Services Act, or other applicable Federal law. The expenses included in the debtor's monthly expenses described in the preceding sentence shall be kept confidential by the court. In addition, if it is demonstrated that it is reasonable and necessary, the debtor's monthly expenses may also include an additional allowance for food and clothing of up to 5 percent of the food and clothing categories as specified by the National Standards issued by the Internal Revenue Service.

“(II) In addition, the debtor's monthly expenses may include, if applicable, the continuation of actual expenses paid by the debtor that are reasonable and necessary for care and support of an elderly, chronically ill, or disabled household member or member of the debtor's immediate family (including parents, grandparents, siblings, children, and grandchildren of the debtor, the dependents of the debtor, and the spouse of the debtor in a joint case who is not a dependent) and who is unable to pay for such reasonable and necessary expenses.

“(III) In addition, for a debtor eligible for chapter 13, the debtor's monthly expenses may include the actual administrative expenses of administering a chapter 13 plan for the district in which the debtor resides, up to an amount of 10 percent of the projected plan payments, as determined under schedules issued by the Executive Office for United States Trustees.

“(IV) In addition, the debtor's monthly expenses may include the actual expenses for each dependent child less than 18 years of age, not to exceed \$1,500 per year per child, to attend a private or public elementary or secondary school if the debtor provides documentation of such expenses and a detailed explanation of why such expenses are reasonable and necessary, and why such expenses are not already accounted for in the National Standards, Local Standards, or Other Necessary Expenses referred to in subclause (I).

“(V) In addition, the debtor's monthly expenses may include an allowance for housing and utilities, in excess of the allowance specified by the Local Standards for housing and utilities issued by the Internal Revenue Service, based on the actual expenses for home energy costs if the debtor provides documentation of such actual expenses and demonstrates that such actual expenses are reasonable and necessary.

“(iii) The debtor's average monthly payments on account of secured debts shall be calculated as the sum of—

“(I) the total of all amounts scheduled as contractually due to secured creditors in each month of the 60 months following the date of the petition; and

“(II) any additional payments to secured creditors necessary for the debtor, in filing a plan under chapter 13 of this title, to maintain possession of the debtor’s primary residence, motor vehicle, or other property necessary for the support of the debtor and the debtor’s dependents, that serves as collateral for secured debts;

divided by 60.

“(iv) The debtor’s expenses for payment of all priority claims (including priority child support and alimony claims) shall be calculated as the total amount of debts entitled to priority, divided by 60.

“(B)(i) In any proceeding brought under this subsection, the presumption of abuse may only be rebutted by demonstrating special circumstances, such as a serious medical condition or a call or order to active duty in the Armed Forces, to the extent such special circumstances that justify additional expenses or adjustments of current monthly income for which there is no reasonable alternative.

“(ii) In order to establish special circumstances, the debtor shall be required to itemize each additional expense or adjustment of income and to provide—

“(I) documentation for such expense or adjustment to income; and

“(II) a detailed explanation of the special circumstances that make such expenses or adjustment to income necessary and reasonable.

“(iii) The debtor shall attest under oath to the accuracy of any information provided to demonstrate that additional expenses or adjustments to income are required.

“(iv) The presumption of abuse may only be rebutted if the additional expenses or adjustments to income referred to in clause (i) cause the product of the debtor’s current monthly income reduced by the amounts determined under clauses (ii), (iii), and (iv) of subparagraph (A) when multiplied by 60 to be less than the lesser of—

“(I) 25 percent of the debtor’s nonpriority unsecured claims, or \$6,000, whichever is greater; or

“(II) \$10,000.

“(C) As part of the schedule of current income and expenditures required under section 521, the debtor shall include a statement of the debtor’s current monthly income, and the calculations that determine whether a presumption arises under subparagraph (A)(i), that show how each such amount is calculated.

“(D) Subparagraphs (A) through (C) shall not apply, and the court may not dismiss or convert a case based on any form of means testing, if the debtor is a disabled veteran (as defined in section 3741(1) of title 38), and the indebtedness occurred primarily during a period during which he or she was—

“(i) on active duty (as defined in section 101(d)(1) of title 10); or

“(ii) performing a homeland defense activity (as defined in section 901(1) of title 32).

“(3) In considering under paragraph (1) whether the granting of relief would be an abuse of the provisions of this chapter in a case in which the presumption in subparagraph (A)(i) of such paragraph does not arise or is rebutted, the court shall consider—

“(A) whether the debtor filed the petition in bad faith;
or

“(B) the totality of the circumstances (including whether the debtor seeks to reject a personal services contract and the financial need for such rejection as sought by the debtor) of the debtor’s financial situation demonstrates abuse.

“(4)(A) The court, on its own initiative or on the motion of a party in interest, in accordance with the procedures described in rule 9011 of the Federal Rules of Bankruptcy Procedure, may order the attorney for the debtor to reimburse the trustee for all reasonable costs in prosecuting a motion filed under section 707(b), including reasonable attorneys’ fees, if—

“(i) a trustee files a motion for dismissal or conversion under this subsection; and

“(ii) the court—

“(I) grants such motion; and

“(II) finds that the action of the attorney for the debtor in filing a case under this chapter violated rule 9011 of the Federal Rules of Bankruptcy Procedure.

“(B) If the court finds that the attorney for the debtor violated rule 9011 of the Federal Rules of Bankruptcy Procedure, the court, on its own initiative or on the motion of a party in interest, in accordance with such procedures, may order—

“(i) the assessment of an appropriate civil penalty against the attorney for the debtor; and

“(ii) the payment of such civil penalty to the trustee, the United States trustee (or the bankruptcy administrator, if any).

“(C) The signature of an attorney on a petition, pleading, or written motion shall constitute a certification that the attorney has—

“(i) performed a reasonable investigation into the circumstances that gave rise to the petition, pleading, or written motion; and

“(ii) determined that the petition, pleading, or written motion—

“(I) is well grounded in fact; and

“(II) is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law and does not constitute an abuse under paragraph (1).

“(D) The signature of an attorney on the petition shall constitute a certification that the attorney has no knowledge after an inquiry that the information in the schedules filed with such petition is incorrect.

“(5)(A) Except as provided in subparagraph (B) and subject to paragraph (6), the court, on its own initiative or on the motion of a party in interest, in accordance with the procedures described in rule 9011 of the Federal Rules of Bankruptcy Procedure, may award a debtor all reasonable costs (including reasonable attorneys’ fees) in contesting a motion filed by a party in interest (other than a trustee or United States trustee (or bankruptcy administrator, if any)) under this subsection if—

“(i) the court does not grant the motion; and

“(ii) the court finds that—

“(I) the position of the party that filed the motion violated rule 9011 of the Federal Rules of Bankruptcy Procedure; or

“(II) the attorney (if any) who filed the motion did not comply with the requirements of clauses (i) and (ii) of paragraph (4)(C), and the motion was made solely for the purpose of coercing a debtor into waiving a right guaranteed to the debtor under this title.

“(B) A small business that has a claim of an aggregate amount less than \$1,000 shall not be subject to subparagraph (A)(ii)(I).

“(C) For purposes of this paragraph—

“(i) the term ‘small business’ means an unincorporated business, partnership, corporation, association, or organization that—

“(I) has fewer than 25 full-time employees as determined on the date on which the motion is filed; and

“(II) is engaged in commercial or business activity;

and

“(ii) the number of employees of a wholly owned subsidiary of a corporation includes the employees of—

“(I) a parent corporation; and

“(II) any other subsidiary corporation of the parent corporation.

“(6) Only the judge or United States trustee (or bankruptcy administrator, if any) may file a motion under section 707(b), if the current monthly income of the debtor, or in a joint case, the debtor and the debtor’s spouse, as of the date of the order for relief, when multiplied by 12, is equal to or less than—

“(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner;

“(B) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals; or

“(C) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals, plus \$525 per month for each individual in excess of 4.

“(7)(A) No judge, United States trustee (or bankruptcy administrator, if any), trustee, or other party in interest may file a motion under paragraph (2) if the current monthly income of the debtor, including a veteran (as that term is defined in section 101 of title 38), and the debtor’s spouse combined, as of the date of the order for relief when multiplied by 12, is equal to or less than—

“(i) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner;

“(ii) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals; or

“(iii) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals, plus \$525 per month for each individual in excess of 4.

“(B) In a case that is not a joint case, current monthly income of the debtor’s spouse shall not be considered for purposes of subparagraph (A) if—

“(i)(I) the debtor and the debtor’s spouse are separated under applicable nonbankruptcy law; or

“(II) the debtor and the debtor’s spouse are living separate and apart, other than for the purpose of evading subparagraph (A); and

“(ii) the debtor files a statement under penalty of perjury—

“(I) specifying that the debtor meets the requirement of subclause (I) or (II) of clause (i); and

“(II) disclosing the aggregate, or best estimate of the aggregate, amount of any cash or money payments received from the debtor’s spouse attributed to the debtor’s current monthly income.”.

(b) DEFINITION.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (10) the following:

“(10A) ‘current monthly income’—

“(A) means the average monthly income from all sources that the debtor receives (or in a joint case the debtor and the debtor’s spouse receive) without regard to whether such income is taxable income, derived during the 6-month period ending on—

“(i) the last day of the calendar month immediately preceding the date of the commencement of the case if the debtor files the schedule of current income required by section 521(a)(1)(B)(ii); or

“(ii) the date on which current income is determined by the court for purposes of this title if the debtor does not file the schedule of current income required by section 521(a)(1)(B)(ii); and

“(B) includes any amount paid by any entity other than the debtor (or in a joint case the debtor and the debtor’s spouse), on a regular basis for the household expenses of the debtor or the debtor’s dependents (and in a joint case the debtor’s spouse if not otherwise a dependent), but excludes benefits received under the Social Security Act, payments to victims of war crimes or crimes against humanity on account of their status as victims of such crimes, and payments to victims of international terrorism (as defined in section 2331 of title 18) or domestic terrorism (as defined in section 2331 of title 18) on account of their status as victims of such terrorism;”.

(c) UNITED STATES TRUSTEE AND BANKRUPTCY ADMINISTRATOR DUTIES.—Section 704 of title 11, United States Code, is amended—

(1) by inserting “(a)” before “The trustee shall—”; and

(2) by adding at the end the following:

“(b)(1) With respect to a debtor who is an individual in a case under this chapter—

“(A) the United States trustee (or the bankruptcy administrator, if any) shall review all materials filed by the debtor and, not later than 10 days after the date of the first meeting of creditors, file with the court a statement as to whether the debtor’s case would be presumed to be an abuse under section 707(b); and

“(B) not later than 5 days after receiving a statement under subparagraph (A), the court shall provide a copy of the statement to all creditors.

“(2) The United States trustee (or bankruptcy administrator, if any) shall, not later than 30 days after the date of filing a statement under paragraph (1), either file a motion to dismiss or convert under section 707(b) or file a statement setting forth

Deadlines.

the reasons the United States trustee (or the bankruptcy administrator, if any) does not consider such a motion to be appropriate, if the United States trustee (or the bankruptcy administrator, if any) determines that the debtor's case should be presumed to be an abuse under section 707(b) and the product of the debtor's current monthly income, multiplied by 12 is not less than—

“(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner; or

“(B) in the case of a debtor in a household of 2 or more individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals.”.

(d) NOTICE.—Section 342 of title 11, United States Code, is amended by adding at the end the following:

“(d) In a case under chapter 7 of this title in which the debtor is an individual and in which the presumption of abuse arises under section 707(b), the clerk shall give written notice to all creditors not later than 10 days after the date of the filing of the petition that the presumption of abuse has arisen.”.

Deadline.

(e) NONLIMITATION OF INFORMATION.—Nothing in this title shall limit the ability of a creditor to provide information to a judge (except for information communicated ex parte, unless otherwise permitted by applicable law), United States trustee (or bankruptcy administrator, if any), or trustee.

11 USC 101 note.

(f) DISMISSAL FOR CERTAIN CRIMES.—Section 707 of title 11, United States Code, is amended by adding at the end the following:

“(c)(1) In this subsection—

“(A) the term ‘crime of violence’ has the meaning given such term in section 16 of title 18; and

“(B) the term ‘drug trafficking crime’ has the meaning given such term in section 924(c)(2) of title 18.

“(2) Except as provided in paragraph (3), after notice and a hearing, the court, on a motion by the victim of a crime of violence or a drug trafficking crime, may when it is in the best interest of the victim dismiss a voluntary case filed under this chapter by a debtor who is an individual if such individual was convicted of such crime.

“(3) The court may not dismiss a case under paragraph (2) if the debtor establishes by a preponderance of the evidence that the filing of a case under this chapter is necessary to satisfy a claim for a domestic support obligation.”.

(g) CONFIRMATION OF PLAN.—Section 1325(a) of title 11, United States Code, is amended—

(1) in paragraph (5), by striking “and” at the end;

(2) in paragraph (6), by striking the period and inserting a semicolon; and

(3) by inserting after paragraph (6) the following:

“(7) the action of the debtor in filing the petition was in good faith;”.

(h) APPLICABILITY OF MEANS TEST TO CHAPTER 13.—Section 1325(b) of title 11, United States Code, is amended—

(1) in paragraph (1)(B), by inserting “to unsecured creditors” after “to make payments”; and

(2) by striking paragraph (2) and inserting the following:

“(2) For purposes of this subsection, the term ‘disposable income’ means current monthly income received by the debtor (other than child support payments, foster care payments, or

disability payments for a dependent child made in accordance with applicable nonbankruptcy law to the extent reasonably necessary to be expended for such child) less amounts reasonably necessary to be expended—

“(A)(i) for the maintenance or support of the debtor or a dependent of the debtor, or for a domestic support obligation, that first becomes payable after the date the petition is filed; and

“(ii) for charitable contributions (that meet the definition of ‘charitable contribution’ under section 548(d)(3) to a qualified religious or charitable entity or organization (as defined in section 548(d)(4)) in an amount not to exceed 15 percent of gross income of the debtor for the year in which the contributions are made; and

“(B) if the debtor is engaged in business, for the payment of expenditures necessary for the continuation, preservation, and operation of such business.

“(3) Amounts reasonably necessary to be expended under paragraph (2) shall be determined in accordance with subparagraphs (A) and (B) of section 707(b)(2), if the debtor has current monthly income, when multiplied by 12, greater than—

“(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner;

“(B) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals; or

“(C) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals, plus \$525 per month for each individual in excess of 4.”.

(i) SPECIAL ALLOWANCE FOR HEALTH INSURANCE.—Section 1329(a) of title 11, United States Code, is amended—

(1) in paragraph (2) by striking “or” at the end;

(2) in paragraph (3) by striking the period at the end and inserting “; or”; and

(3) by adding at the end the following:

“(4) reduce amounts to be paid under the plan by the actual amount expended by the debtor to purchase health insurance for the debtor (and for any dependent of the debtor if such dependent does not otherwise have health insurance coverage) if the debtor documents the cost of such insurance and demonstrates that—

“(A) such expenses are reasonable and necessary;

“(B)(i) if the debtor previously paid for health insurance, the amount is not materially larger than the cost the debtor previously paid or the cost necessary to maintain the lapsed policy; or

“(ii) if the debtor did not have health insurance, the amount is not materially larger than the reasonable cost that would be incurred by a debtor who purchases health insurance, who has similar income, expenses, age, and health status, and who lives in the same geographical location with the same number of dependents who do not otherwise have health insurance coverage; and

“(C) the amount is not otherwise allowed for purposes of determining disposable income under section 1325(b) of this title;

and upon request of any party in interest, files proof that a health insurance policy was purchased.”.

(j) ADJUSTMENT OF DOLLAR AMOUNTS.—Section 104(b) of title 11, United States Code, is amended by striking “and 523(a)(2)(C)” each place it appears and inserting “523(a)(2)(C), 707(b), and 1325(b)(3)”.

(k) DEFINITION OF ‘MEDIAN FAMILY INCOME’.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (39) the following:

“(39A) ‘median family income’ means for any year—

“(A) the median family income both calculated and reported by the Bureau of the Census in the then most recent year; and

“(B) if not so calculated and reported in the then current year, adjusted annually after such most recent year until the next year in which median family income is both calculated and reported by the Bureau of the Census, to reflect the percentage change in the Consumer Price Index for All Urban Consumers during the period of years occurring after such most recent year and before such current year;”.

(k) CLERICAL AMENDMENT.—The table of sections for chapter 7 of title 11, United States Code, is amended by striking the item relating to section 707 and inserting the following:

“707. Dismissal of a case or conversion to a case under chapter 11 or 13.”.

SEC. 103. SENSE OF CONGRESS AND STUDY.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of the Treasury has the authority to alter the Internal Revenue Service standards established to set guidelines for repayment plans as needed to accommodate their use under section 707(b) of title 11, United States Code.

(b) STUDY.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Director of the Executive Office for United States Trustees shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives containing the findings of the Director regarding the utilization of Internal Revenue Service standards for determining—

(A) the current monthly expenses of a debtor under section 707(b) of title 11, United States Code; and

(B) the impact that the application of such standards has had on debtors and on the bankruptcy courts.

(2) RECOMMENDATION.—The report under paragraph (1) may include recommendations for amendments to title 11, United States Code, that are consistent with the findings of the Director under paragraph (1).

Deadline.
Reports.

SEC. 104. NOTICE OF ALTERNATIVES.

Section 342(b) of title 11, United States Code, is amended to read as follows:

“(b) Before the commencement of a case under this title by an individual whose debts are primarily consumer debts, the clerk shall give to such individual written notice containing—

“(1) a brief description of—

“(A) chapters 7, 11, 12, and 13 and the general purpose, benefits, and costs of proceeding under each of those chapters; and

“(B) the types of services available from credit counseling agencies; and

“(2) statements specifying that—

“(A) a person who knowingly and fraudulently conceals assets or makes a false oath or statement under penalty of perjury in connection with a case under this title shall be subject to fine, imprisonment, or both; and

“(B) all information supplied by a debtor in connection with a case under this title is subject to examination by the Attorney General.”.

11 USC 111 note. **SEC. 105. DEBTOR FINANCIAL MANAGEMENT TRAINING TEST PROGRAM.**

(a) **DEVELOPMENT OF FINANCIAL MANAGEMENT AND TRAINING CURRICULUM AND MATERIALS.**—The Director of the Executive Office for United States Trustees (in this section referred to as the “Director”) shall consult with a wide range of individuals who are experts in the field of debtor education, including trustees who serve in cases under chapter 13 of title 11, United States Code, and who operate financial management education programs for debtors, and shall develop a financial management training curriculum and materials that can be used to educate debtors who are individuals on how to better manage their finances.

(b) **TEST.**—

(1) **SELECTION OF DISTRICTS.**—The Director shall select 6 judicial districts of the United States in which to test the effectiveness of the financial management training curriculum and materials developed under subsection (a).

Deadline.

(2) **USE.**—For an 18-month period beginning not later than 270 days after the date of the enactment of this Act, such curriculum and materials shall be, for the 6 judicial districts selected under paragraph (1), used as the instructional course concerning personal financial management for purposes of section 111 of title 11, United States Code.

(c) **EVALUATION.**—

(1) **IN GENERAL.**—During the 18-month period referred to in subsection (b), the Director shall evaluate the effectiveness of—

(A) the financial management training curriculum and materials developed under subsection (a); and

(B) a sample of existing consumer education programs such as those described in the Report of the National Bankruptcy Review Commission (October 20, 1997) that are representative of consumer education programs carried out by the credit industry, by trustees serving under chapter 13 of title 11, United States Code, and by consumer counseling groups.

(2) **REPORT.**—Not later than 3 months after concluding such evaluation, the Director shall submit a report to the Speaker of the House of Representatives and the President

pro tempore of the Senate, for referral to the appropriate committees of the Congress, containing the findings of the Director regarding the effectiveness of such curriculum, such materials, and such programs and their costs.

SEC. 106. CREDIT COUNSELING.

(a) WHO MAY BE A DEBTOR.—Section 109 of title 11, United States Code, is amended by adding at the end the following:

“(h)(1) Subject to paragraphs (2) and (3), and notwithstanding any other provision of this section, an individual may not be a debtor under this title unless such individual has, during the 180-day period preceding the date of filing of the petition by such individual, received from an approved nonprofit budget and credit counseling agency described in section 111(a) an individual or group briefing (including a briefing conducted by telephone or on the Internet) that outlined the opportunities for available credit counseling and assisted such individual in performing a related budget analysis.

“(2)(A) Paragraph (1) shall not apply with respect to a debtor who resides in a district for which the United States trustee (or the bankruptcy administrator, if any) determines that the approved nonprofit budget and credit counseling agencies for such district are not reasonably able to provide adequate services to the additional individuals who would otherwise seek credit counseling from such agencies by reason of the requirements of paragraph (1).

“(B) The United States trustee (or the bankruptcy administrator, if any) who makes a determination described in subparagraph (A) shall review such determination not later than 1 year after the date of such determination, and not less frequently than annually thereafter. Notwithstanding the preceding sentence, a nonprofit budget and credit counseling agency may be disapproved by the United States trustee (or the bankruptcy administrator, if any) at any time.

Deadline.

“(3)(A) Subject to subparagraph (B), the requirements of paragraph (1) shall not apply with respect to a debtor who submits to the court a certification that—

“(i) describes exigent circumstances that merit a waiver of the requirements of paragraph (1);

“(ii) states that the debtor requested credit counseling services from an approved nonprofit budget and credit counseling agency, but was unable to obtain the services referred to in paragraph (1) during the 5-day period beginning on the date on which the debtor made that request; and

“(iii) is satisfactory to the court.

“(B) With respect to a debtor, an exemption under subparagraph (A) shall cease to apply to that debtor on the date on which the debtor meets the requirements of paragraph (1), but in no case may the exemption apply to that debtor after the date that is 30 days after the debtor files a petition, except that the court, for cause, may order an additional 15 days.

“(4) The requirements of paragraph (1) shall not apply with respect to a debtor whom the court determines, after notice and hearing, is unable to complete those requirements because of incapacity, disability, or active military duty in a military combat zone. For the purposes of this paragraph, incapacity means that the debtor is impaired by reason of mental illness or mental deficiency so that he is incapable of realizing and making rational decisions

with respect to his financial responsibilities; and “disability” means that the debtor is so physically impaired as to be unable, after reasonable effort, to participate in an in person, telephone, or Internet briefing required under paragraph (1).”.

(b) CHAPTER 7 DISCHARGE.—Section 727(a) of title 11, United States Code, is amended—

(1) in paragraph (9), by striking “or” at the end;

(2) in paragraph (10), by striking the period and inserting “, or”; and

(3) by adding at the end the following:

Deadline.

“(11) after filing the petition, the debtor failed to complete an instructional course concerning personal financial management described in section 111, except that this paragraph shall not apply with respect to a debtor who is a person described in section 109(h)(4) or who resides in a district for which the United States trustee (or the bankruptcy administrator, if any) determines that the approved instructional courses are not adequate to service the additional individuals who would otherwise be required to complete such instructional courses under this section (The United States trustee (or the bankruptcy administrator, if any) who makes a determination described in this paragraph shall review such determination not later than 1 year after the date of such determination, and not less frequently than annually thereafter.).”.

(c) CHAPTER 13 DISCHARGE.—Section 1328 of title 11, United States Code, is amended by adding at the end the following:

“(g)(1) The court shall not grant a discharge under this section to a debtor unless after filing a petition the debtor has completed an instructional course concerning personal financial management described in section 111.

“(2) Paragraph (1) shall not apply with respect to a debtor who is a person described in section 109(h)(4) or who resides in a district for which the United States trustee (or the bankruptcy administrator, if any) determines that the approved instructional courses are not adequate to service the additional individuals who would otherwise be required to complete such instructional course by reason of the requirements of paragraph (1).

Deadline.

“(3) The United States trustee (or the bankruptcy administrator, if any) who makes a determination described in paragraph (2) shall review such determination not later than 1 year after the date of such determination, and not less frequently than annually thereafter.”.

(d) DEBTOR’S DUTIES.—Section 521 of title 11, United States Code, is amended—

(1) by inserting “(a)” before “The debtor shall—”; and

(2) by adding at the end the following:

“(b) In addition to the requirements under subsection (a), a debtor who is an individual shall file with the court—

“(1) a certificate from the approved nonprofit budget and credit counseling agency that provided the debtor services under section 109(h) describing the services provided to the debtor; and

“(2) a copy of the debt repayment plan, if any, developed under section 109(h) through the approved nonprofit budget and credit counseling agency referred to in paragraph (1).”.

(e) GENERAL PROVISIONS.—

(1) IN GENERAL.—Chapter 1 of title 11, United States Code, is amended by adding at the end the following:

“§ 111. Nonprofit budget and credit counseling agencies; financial management instructional courses

“(a) The clerk shall maintain a publicly available list of—
“(1) nonprofit budget and credit counseling agencies that provide 1 or more services described in section 109(h) currently approved by the United States trustee (or the bankruptcy administrator, if any); and

Public
information.
Records.

“(2) instructional courses concerning personal financial management currently approved by the United States trustee (or the bankruptcy administrator, if any), as applicable.

“(b) The United States trustee (or bankruptcy administrator, if any) shall only approve a nonprofit budget and credit counseling agency or an instructional course concerning personal financial management as follows:

“(1) The United States trustee (or bankruptcy administrator, if any) shall have thoroughly reviewed the qualifications of the nonprofit budget and credit counseling agency or of the provider of the instructional course under the standards set forth in this section, and the services or instructional courses that will be offered by such agency or such provider, and may require such agency or such provider that has sought approval to provide information with respect to such review.

“(2) The United States trustee (or bankruptcy administrator, if any) shall have determined that such agency or such instructional course fully satisfies the applicable standards set forth in this section.

“(3) If a nonprofit budget and credit counseling agency or instructional course did not appear on the approved list for the district under subsection (a) immediately before approval under this section, approval under this subsection of such agency or such instructional course shall be for a probationary period not to exceed 6 months.

“(4) At the conclusion of the applicable probationary period under paragraph (3), the United States trustee (or bankruptcy administrator, if any) may only approve for an additional 1-year period, and for successive 1-year periods thereafter, an agency or instructional course that has demonstrated during the probationary or applicable subsequent period of approval that such agency or instructional course—

“(A) has met the standards set forth under this section during such period; and

“(B) can satisfy such standards in the future.

“(5) Not later than 30 days after any final decision under paragraph (4), an interested person may seek judicial review of such decision in the appropriate district court of the United States.

Deadline.

“(c)(1) The United States trustee (or the bankruptcy administrator, if any) shall only approve a nonprofit budget and credit counseling agency that demonstrates that it will provide qualified counselors, maintain adequate provision for safekeeping and payment of client funds, provide adequate counseling with respect to client credit problems, and deal responsibly and effectively with other matters relating to the quality, effectiveness, and financial security of the services it provides.

“(2) To be approved by the United States trustee (or the bankruptcy administrator, if any), a nonprofit budget and credit counseling agency shall, at a minimum—

“(A) have a board of directors the majority of which—

“(i) are not employed by such agency; and

“(ii) will not directly or indirectly benefit financially from the outcome of the counseling services provided by such agency;

“(B) if a fee is charged for counseling services, charge a reasonable fee, and provide services without regard to ability to pay the fee;

“(C) provide for safekeeping and payment of client funds, including an annual audit of the trust accounts and appropriate employee bonding;

“(D) provide full disclosures to a client, including funding sources, counselor qualifications, possible impact on credit reports, and any costs of such program that will be paid by such client and how such costs will be paid;

“(E) provide adequate counseling with respect to a client’s credit problems that includes an analysis of such client’s current financial condition, factors that caused such financial condition, and how such client can develop a plan to respond to the problems without incurring negative amortization of debt;

“(F) provide trained counselors who receive no commissions or bonuses based on the outcome of the counseling services provided by such agency, and who have adequate experience, and have been adequately trained to provide counseling services to individuals in financial difficulty, including the matters described in subparagraph (E);

“(G) demonstrate adequate experience and background in providing credit counseling; and

“(H) have adequate financial resources to provide continuing support services for budgeting plans over the life of any repayment plan.

“(d) The United States trustee (or the bankruptcy administrator, if any) shall only approve an instructional course concerning personal financial management—

“(1) for an initial probationary period under subsection (b)(3) if the course will provide at a minimum—

“(A) trained personnel with adequate experience and training in providing effective instruction and services;

“(B) learning materials and teaching methodologies designed to assist debtors in understanding personal financial management and that are consistent with stated objectives directly related to the goals of such instructional course;

“(C) adequate facilities situated in reasonably convenient locations at which such instructional course is offered, except that such facilities may include the provision of such instructional course by telephone or through the Internet, if such instructional course is effective;

“(D) the preparation and retention of reasonable records (which shall include the debtor’s bankruptcy case number) to permit evaluation of the effectiveness of such instructional course, including any evaluation of satisfaction of instructional course requirements for each debtor

attending such instructional course, which shall be available for inspection and evaluation by the Executive Office for United States Trustees, the United States trustee (or the bankruptcy administrator, if any), or the chief bankruptcy judge for the district in which such instructional course is offered; and

“(E) if a fee is charged for the instructional course, charge a reasonable fee, and provide services without regard to ability to pay the fee.

“(2) for any 1-year period if the provider thereof has demonstrated that the course meets the standards of paragraph (1) and, in addition—

“(A) has been effective in assisting a substantial number of debtors to understand personal financial management; and

“(B) is otherwise likely to increase substantially the debtor’s understanding of personal financial management.

“(e) The district court may, at any time, investigate the qualifications of a nonprofit budget and credit counseling agency referred to in subsection (a), and request production of documents to ensure the integrity and effectiveness of such agency. The district court may, at any time, remove from the approved list under subsection (a) a nonprofit budget and credit counseling agency upon finding such agency does not meet the qualifications of subsection (b).

“(f) The United States trustee (or the bankruptcy administrator, if any) shall notify the clerk that a nonprofit budget and credit counseling agency or an instructional course is no longer approved, in which case the clerk shall remove it from the list maintained under subsection (a).

Notification.

“(g)(1) No nonprofit budget and credit counseling agency may provide to a credit reporting agency information concerning whether a debtor has received or sought instruction concerning personal financial management from such agency.

“(2) A nonprofit budget and credit counseling agency that willfully or negligently fails to comply with any requirement under this title with respect to a debtor shall be liable for damages in an amount equal to the sum of—

“(A) any actual damages sustained by the debtor as a result of the violation; and

“(B) any court costs or reasonable attorneys’ fees (as determined by the court) incurred in an action to recover those damages.”.

(2) CLERICAL AMENDMENT.—The table of sections for chapter 1 of title 11, United States Code, is amended by adding at the end the following:

“111. Nonprofit budget and credit counseling agencies; financial management instructional courses.”.

(f) LIMITATION.—Section 362 of title 11, United States Code, is amended by adding at the end the following:

“(i) If a case commenced under chapter 7, 11, or 13 is dismissed due to the creation of a debt repayment plan, for purposes of subsection (c)(3), any subsequent case commenced by the debtor under any such chapter shall not be presumed to be filed not in good faith.

“(j) On request of a party in interest, the court shall issue an order under subsection (c) confirming that the automatic stay has been terminated.”.

Deadline.
11 USC 707 note.

SEC. 107. SCHEDULES OF REASONABLE AND NECESSARY EXPENSES.

For purposes of section 707(b) of title 11, United States Code, as amended by this Act, the Director of the Executive Office for United States Trustees shall, not later than 180 days after the date of enactment of this Act, issue schedules of reasonable and necessary administrative expenses of administering a chapter 13 plan for each judicial district of the United States.

TITLE II—ENHANCED CONSUMER PROTECTION

Subtitle A—Penalties for Abusive Creditor Practices

SEC. 201. PROMOTION OF ALTERNATIVE DISPUTE RESOLUTION.

(a) **REDUCTION OF CLAIM.**—Section 502 of title 11, United States Code, is amended by adding at the end the following:

“(k)(1) The court, on the motion of the debtor and after a hearing, may reduce a claim filed under this section based in whole on an unsecured consumer debt by not more than 20 percent of the claim, if—

“(A) the claim was filed by a creditor who unreasonably refused to negotiate a reasonable alternative repayment schedule proposed on behalf of the debtor by an approved nonprofit budget and credit counseling agency described in section 111;

“(B) the offer of the debtor under subparagraph (A)—

“(i) was made at least 60 days before the date of the filing of the petition; and

“(ii) provided for payment of at least 60 percent of the amount of the debt over a period not to exceed the repayment period of the loan, or a reasonable extension thereof; and

“(C) no part of the debt under the alternative repayment schedule is nondischargeable.

“(2) The debtor shall have the burden of proving, by clear and convincing evidence, that—

“(A) the creditor unreasonably refused to consider the debtor’s proposal; and

“(B) the proposed alternative repayment schedule was made prior to expiration of the 60-day period specified in paragraph (1)(B)(i).”.

(b) **LIMITATION ON AVOIDABILITY.**—Section 547 of title 11, United States Code, is amended by adding at the end the following:

“(h) The trustee may not avoid a transfer if such transfer was made as a part of an alternative repayment schedule between the debtor and any creditor of the debtor created by an approved nonprofit budget and credit counseling agency.”.

SEC. 202. EFFECT OF DISCHARGE.

Section 524 of title 11, United States Code, is amended by adding at the end the following:

“(i) The willful failure of a creditor to credit payments received under a plan confirmed under this title, unless the order confirming the plan is revoked, the plan is in default, or the creditor has not received payments required to be made under the plan in the manner required by the plan (including crediting the amounts required under the plan), shall constitute a violation of an injunction under subsection (a)(2) if the act of the creditor to collect and failure to credit payments in the manner required by the plan caused material injury to the debtor.

“(j) Subsection (a)(2) does not operate as an injunction against an act by a creditor that is the holder of a secured claim, if—

“(1) such creditor retains a security interest in real property that is the principal residence of the debtor;

“(2) such act is in the ordinary course of business between the creditor and the debtor; and

“(3) such act is limited to seeking or obtaining periodic payments associated with a valid security interest in lieu of pursuit of in rem relief to enforce the lien.”.

SEC. 203. DISCOURAGING ABUSE OF REAFFIRMATION AGREEMENT PRACTICES.

(a) IN GENERAL.—Section 524 of title 11, United States Code, as amended section 202, is amended—

(1) in subsection (c), by striking paragraph (2) and inserting the following:

“(2) the debtor received the disclosures described in subsection (k) at or before the time at which the debtor signed the agreement;”; and

(2) by adding at the end the following:

“(k)(1) The disclosures required under subsection (c)(2) shall consist of the disclosure statement described in paragraph (3), completed as required in that paragraph, together with the agreement specified in subsection (c), statement, declaration, motion and order described, respectively, in paragraphs (4) through (8), and shall be the only disclosures required in connection with entering into such agreement.

“(2) Disclosures made under paragraph (1) shall be made clearly and conspicuously and in writing. The terms ‘Amount Reaffirmed’ and ‘Annual Percentage Rate’ shall be disclosed more conspicuously than other terms, data or information provided in connection with this disclosure, except that the phrases ‘Before agreeing to reaffirm a debt, review these important disclosures’ and ‘Summary of Reaffirmation Agreement’ may be equally conspicuous. Disclosures may be made in a different order and may use terminology different from that set forth in paragraphs (2) through (8), except that the terms ‘Amount Reaffirmed’ and ‘Annual Percentage Rate’ must be used where indicated.

“(3) The disclosure statement required under this paragraph shall consist of the following:

“(A) The statement: ‘Part A: Before agreeing to reaffirm a debt, review these important disclosures.’;

“(B) Under the heading ‘Summary of Reaffirmation Agreement’, the statement: ‘This Summary is made pursuant to the requirements of the Bankruptcy Code’;

“(C) The ‘Amount Reaffirmed’, using that term, which shall be—

“(i) the total amount of debt that the debtor agrees to reaffirm by entering into an agreement of the kind specified in subsection (c), and

“(ii) the total of any fees and costs accrued as of the date of the disclosure statement, related to such total amount.

“(D) In conjunction with the disclosure of the ‘Amount Reaffirmed’, the statements—

“(i) ‘The amount of debt you have agreed to reaffirm’; and

“(ii) ‘Your credit agreement may obligate you to pay additional amounts which may come due after the date of this disclosure. Consult your credit agreement.’

“(E) The ‘Annual Percentage Rate’, using that term, which shall be disclosed as—

“(i) if, at the time the petition is filed, the debt is an extension of credit under an open end credit plan, as the terms ‘credit’ and ‘open end credit plan’ are defined in section 103 of the Truth in Lending Act, then—

“(I) the annual percentage rate determined under paragraphs (5) and (6) of section 127(b) of the Truth in Lending Act, as applicable, as disclosed to the debtor in the most recent periodic statement prior to entering into an agreement of the kind specified in subsection (c) or, if no such periodic statement has been given to the debtor during the prior 6 months, the annual percentage rate as it would have been so disclosed at the time the disclosure statement is given to the debtor, or to the extent this annual percentage rate is not readily available or not applicable, then

“(II) the simple interest rate applicable to the amount reaffirmed as of the date the disclosure statement is given to the debtor, or if different simple interest rates apply to different balances, the simple interest rate applicable to each such balance, identifying the amount of each such balance included in the amount reaffirmed, or

“(III) if the entity making the disclosure elects, to disclose the annual percentage rate under subclause (I) and the simple interest rate under subclause (II); or

“(ii) if, at the time the petition is filed, the debt is an extension of credit other than under an open end credit plan, as the terms ‘credit’ and ‘open end credit plan’ are defined in section 103 of the Truth in Lending Act, then—

“(I) the annual percentage rate under section 128(a)(4) of the Truth in Lending Act, as disclosed to the debtor in the most recent disclosure statement given to the debtor prior to the entering into an agreement of the kind specified in subsection (c) with respect to the debt, or, if no such disclosure statement was given to the debtor, the annual percentage rate as it would have been so disclosed at the time the disclosure statement is given to the debtor, or to the extent

this annual percentage rate is not readily available or not applicable, then

“(II) the simple interest rate applicable to the amount reaffirmed as of the date the disclosure statement is given to the debtor, or if different simple interest rates apply to different balances, the simple interest rate applicable to each such balance, identifying the amount of such balance included in the amount reaffirmed, or

“(III) if the entity making the disclosure elects, to disclose the annual percentage rate under (I) and the simple interest rate under (II).

“(F) If the underlying debt transaction was disclosed as a variable rate transaction on the most recent disclosure given under the Truth in Lending Act, by stating ‘The interest rate on your loan may be a variable interest rate which changes from time to time, so that the annual percentage rate disclosed here may be higher or lower.’

“(G) If the debt is secured by a security interest which has not been waived in whole or in part or determined to be void by a final order of the court at the time of the disclosure, by disclosing that a security interest or lien in goods or property is asserted over some or all of the debts the debtor is reaffirming and listing the items and their original purchase price that are subject to the asserted security interest, or if not a purchase-money security interest then listing by items or types and the original amount of the loan.

“(H) At the election of the creditor, a statement of the repayment schedule using 1 or a combination of the following—

“(i) by making the statement: ‘Your first payment in the amount of \$ _____ is due on _____ but the future payment amount may be different. Consult your reaffirmation agreement or credit agreement, as applicable.’, and stating the amount of the first payment and the due date of that payment in the places provided;

“(ii) by making the statement: ‘Your payment schedule will be’, and describing the repayment schedule with the number, amount, and due dates or period of payments scheduled to repay the debts reaffirmed to the extent then known by the disclosing party; or

“(iii) by describing the debtor’s repayment obligations with reasonable specificity to the extent then known by the disclosing party.

“(I) The following statement: ‘Note: When this disclosure refers to what a creditor “may” do, it does not use the word “may” to give the creditor specific permission. The word “may” is used to tell you what might occur if the law permits the creditor to take the action. If you have questions about your reaffirming a debt or what the law requires, consult with the attorney who helped you negotiate this agreement reaffirming a debt. If you don’t have an attorney helping you, the judge will explain the effect of your reaffirming a debt when the hearing on the reaffirmation agreement is held.’

“(J)(i) The following additional statements:

“‘Reaffirming a debt is a serious financial decision. The law requires you to take certain steps to make sure the decision is

in your best interest. If these steps are not completed, the reaffirmation agreement is not effective, even though you have signed it.

“1. Read the disclosures in this Part A carefully. Consider the decision to reaffirm carefully. Then, if you want to reaffirm, sign the reaffirmation agreement in Part B (or you may use a separate agreement you and your creditor agree on).

“2. Complete and sign Part D and be sure you can afford to make the payments you are agreeing to make and have received a copy of the disclosure statement and a completed and signed reaffirmation agreement.

“3. If you were represented by an attorney during the negotiation of your reaffirmation agreement, the attorney must have signed the certification in Part C.

“4. If you were not represented by an attorney during the negotiation of your reaffirmation agreement, you must have completed and signed Part E.

“5. The original of this disclosure must be filed with the court by you or your creditor. If a separate reaffirmation agreement (other than the one in Part B) has been signed, it must be attached.

“6. If you were represented by an attorney during the negotiation of your reaffirmation agreement, your reaffirmation agreement becomes effective upon filing with the court unless the reaffirmation is presumed to be an undue hardship as explained in Part D.

“7. If you were not represented by an attorney during the negotiation of your reaffirmation agreement, it will not be effective unless the court approves it. The court will notify you of the hearing on your reaffirmation agreement. You must attend this hearing in bankruptcy court where the judge will review your reaffirmation agreement. The bankruptcy court must approve your reaffirmation agreement as consistent with your best interests, except that no court approval is required if your reaffirmation agreement is for a consumer debt secured by a mortgage, deed of trust, security deed, or other lien on your real property, like your home.

“Your right to rescind (cancel) your reaffirmation agreement. You may rescind (cancel) your reaffirmation agreement at any time before the bankruptcy court enters a discharge order, or before the expiration of the 60-day period that begins on the date your reaffirmation agreement is filed with the court, whichever occurs later. To rescind (cancel) your reaffirmation agreement, you must notify the creditor that your reaffirmation agreement is rescinded (or canceled).

“What are your obligations if you reaffirm the debt? A reaffirmed debt remains your personal legal obligation. It is not discharged in your bankruptcy case. That means that if you default on your reaffirmed debt after your bankruptcy case is over, your creditor may be able to take your property or your wages. Otherwise, your obligations will be determined by the reaffirmation agreement which may have changed the terms of the original agreement. For example, if you are reaffirming an open end credit agreement, the creditor may be permitted by that agreement or applicable law to change the terms of that agreement in the future under certain conditions.

“Are you required to enter into a reaffirmation agreement by any law? No, you are not required to reaffirm a debt by any

law. Only agree to reaffirm a debt if it is in your best interest. Be sure you can afford the payments you agree to make.

“What if your creditor has a security interest or lien? Your bankruptcy discharge does not eliminate any lien on your property. A “lien” is often referred to as a security interest, deed of trust, mortgage or security deed. Even if you do not reaffirm and your personal liability on the debt is discharged, because of the lien your creditor may still have the right to take the security property if you do not pay the debt or default on it. If the lien is on an item of personal property that is exempt under your State’s law or that the trustee has abandoned, you may be able to redeem the item rather than reaffirm the debt. To redeem, you make a single payment to the creditor equal to the current value of the security property, as agreed by the parties or determined by the court.”

“(ii) In the case of a reaffirmation under subsection (m)(2), numbered paragraph 6 in the disclosures required by clause (i) of this subparagraph shall read as follows:

“6. If you were represented by an attorney during the negotiation of your reaffirmation agreement, your reaffirmation agreement becomes effective upon filing with the court.”

Effective date.

“(4) The form of such agreement required under this paragraph shall consist of the following:

“Part B: Reaffirmation Agreement. I (we) agree to reaffirm the debts arising under the credit agreement described below.

“Brief description of credit agreement:

“Description of any changes to the credit agreement made as part of this reaffirmation agreement:

“Signature: Date:

“Borrower:

“Co-borrower, if also reaffirming these debts:

“Accepted by creditor:

“Date of creditor acceptance.”

“(5) The declaration shall consist of the following:

“(A) The following certification:

“Part C: Certification by Debtor’s Attorney (If Any).

“I hereby certify that (1) this agreement represents a fully informed and voluntary agreement by the debtor; (2) this agreement does not impose an undue hardship on the debtor or any dependent of the debtor; and (3) I have fully advised the debtor of the legal effect and consequences of this agreement and any default under this agreement.

“Signature of Debtor’s Attorney: Date:”

“(B) If a presumption of undue hardship has been established with respect to such agreement, such certification shall state that in the opinion of the attorney, the debtor is able to make the payment.

“(C) In the case of a reaffirmation agreement under subsection (m)(2), subparagraph (B) is not applicable.

“(6)(A) The statement in support of such agreement, which the debtor shall sign and date prior to filing with the court, shall consist of the following:

“Part D: Debtor’s Statement in Support of Reaffirmation Agreement.

“1. I believe this reaffirmation agreement will not impose an undue hardship on my dependents or me. I can afford to make the payments on the reaffirmed debt because my monthly income

(take home pay plus any other income received) is \$_____, and my actual current monthly expenses including monthly payments on post-bankruptcy debt and other reaffirmation agreements total \$_____, leaving \$_____ to make the required payments on this reaffirmed debt. I understand that if my income less my monthly expenses does not leave enough to make the payments, this reaffirmation agreement is presumed to be an undue hardship on me and must be reviewed by the court. However, this presumption may be overcome if I explain to the satisfaction of the court how I can afford to make the payments here:_____.

“2. I received a copy of the Reaffirmation Disclosure Statement in Part A and a completed and signed reaffirmation agreement.’.

“(B) Where the debtor is represented by an attorney and is reaffirming a debt owed to a creditor defined in section 19(b)(1)(A)(iv) of the Federal Reserve Act, the statement of support of the reaffirmation agreement, which the debtor shall sign and date prior to filing with the court, shall consist of the following:

“I believe this reaffirmation agreement is in my financial interest. I can afford to make the payments on the reaffirmed debt. I received a copy of the Reaffirmation Disclosure Statement in Part A and a completed and signed reaffirmation agreement.’.

“(7) The motion that may be used if approval of such agreement by the court is required in order for it to be effective, shall be signed and dated by the movant and shall consist of the following:

“Part E: Motion for Court Approval (To be completed only if the debtor is not represented by an attorney.). I (we), the debtor(s), affirm the following to be true and correct:

“I am not represented by an attorney in connection with this reaffirmation agreement.

“I believe this reaffirmation agreement is in my best interest based on the income and expenses I have disclosed in my Statement in Support of this reaffirmation agreement, and because (provide any additional relevant reasons the court should consider):

“Therefore, I ask the court for an order approving this reaffirmation agreement.’.

“(8) The court order, which may be used to approve such agreement, shall consist of the following:

“Court Order: The court grants the debtor’s motion and approves the reaffirmation agreement described above.’.

“(1) Notwithstanding any other provision of this title the following shall apply:

“(1) A creditor may accept payments from a debtor before and after the filing of an agreement of the kind specified in subsection (c) with the court.

“(2) A creditor may accept payments from a debtor under such agreement that the creditor believes in good faith to be effective.

“(3) The requirements of subsections (c)(2) and (k) shall be satisfied if disclosures required under those subsections are given in good faith.

“(m)(1) Until 60 days after an agreement of the kind specified in subsection (c) is filed with the court (or such additional period as the court, after notice and a hearing and for cause, orders before the expiration of such period), it shall be presumed that such agreement is an undue hardship on the debtor if the debtor’s monthly income less the debtor’s monthly expenses as shown on the debtor’s completed and signed statement in support of such

Applicability.

agreement required under subsection (k)(6)(A) is less than the scheduled payments on the reaffirmed debt. This presumption shall be reviewed by the court. The presumption may be rebutted in writing by the debtor if the statement includes an explanation that identifies additional sources of funds to make the payments as agreed upon under the terms of such agreement. If the presumption is not rebutted to the satisfaction of the court, the court may disapprove such agreement. No agreement shall be disapproved without notice and a hearing to the debtor and creditor, and such hearing shall be concluded before the entry of the debtor's discharge.

“(2) This subsection does not apply to reaffirmation agreements where the creditor is a credit union, as defined in section 19(b)(1)(A)(iv) of the Federal Reserve Act.”.

(b) LAW ENFORCEMENT.—

(1) IN GENERAL.—Chapter 9 of title 18, United States Code, is amended by adding at the end the following:

“§ 158. Designation of United States attorneys and agents of the Federal Bureau of Investigation to address abusive reaffirmations of debt and materially fraudulent statements in bankruptcy schedules

“(a) IN GENERAL.—The Attorney General of the United States shall designate the individuals described in subsection (b) to have primary responsibility in carrying out enforcement activities in addressing violations of section 152 or 157 relating to abusive reaffirmations of debt. In addition to addressing the violations referred to in the preceding sentence, the individuals described under subsection (b) shall address violations of section 152 or 157 relating to materially fraudulent statements in bankruptcy schedules that are intentionally false or intentionally misleading.

“(b) UNITED STATES ATTORNEYS AND AGENTS OF THE FEDERAL BUREAU OF INVESTIGATION.—The individuals referred to in subsection (a) are—

“(1) the United States attorney for each judicial district of the United States; and

“(2) an agent of the Federal Bureau of Investigation for each field office of the Federal Bureau of Investigation.

“(c) BANKRUPTCY INVESTIGATIONS.—Each United States attorney designated under this section shall, in addition to any other responsibilities, have primary responsibility for carrying out the duties of a United States attorney under section 3057.

“(d) BANKRUPTCY PROCEDURES.—The bankruptcy courts shall establish procedures for referring any case that may contain a materially fraudulent statement in a bankruptcy schedule to the individuals designated under this section.”.

(2) CLERICAL AMENDMENT.—The table of sections for chapter 9 of title 18, United States Code, is amended by adding at the end the following:

“158. Designation of United States attorneys and agents of the Federal Bureau of Investigation to address abusive reaffirmations of debt and materially fraudulent statements in bankruptcy schedules.”.

SEC. 204. PRESERVATION OF CLAIMS AND DEFENSES UPON SALE OF PREDATORY LOANS.

Section 363 of title 11, United States Code, is amended—

- (1) by redesignating subsection (o) as subsection (p), and
- (2) by inserting after subsection (n) the following:

“(o) Notwithstanding subsection (f), if a person purchases any interest in a consumer credit transaction that is subject to the Truth in Lending Act or any interest in a consumer credit contract (as defined in section 433.1 of title 16 of the Code of Federal Regulations (January 1, 2004), as amended from time to time), and if such interest is purchased through a sale under this section, then such person shall remain subject to all claims and defenses that are related to such consumer credit transaction or such consumer credit contract, to the same extent as such person would be subject to such claims and defenses of the consumer had such interest been purchased at a sale not under this section.”.

SEC. 205. GAO STUDY AND REPORT ON REAFFIRMATION AGREEMENT PROCESS.

(a) **STUDY.**—The Comptroller General of the United States shall conduct a study of the reaffirmation agreement process that occurs under title 11 of the United States Code, to determine the overall treatment of consumers within the context of such process, and shall include in such study consideration of—

(1) the policies and activities of creditors with respect to reaffirmation agreements; and

(2) whether consumers are fully, fairly, and consistently informed of their rights pursuant to such title.

(b) **REPORT TO THE CONGRESS.**—Not later than 18 months after the date of the enactment of this Act, the Comptroller General shall submit to the President pro tempore of the Senate and the Speaker of the House of Representatives a report on the results of the study conducted under subsection (a), together with recommendations for legislation (if any) to address any abusive or coercive tactics found in connection with the reaffirmation agreement process that occurs under title 11 of the United States Code.

Subtitle B—Priority Child Support

SEC. 211. DEFINITION OF DOMESTIC SUPPORT OBLIGATION.

Section 101 of title 11, United States Code, is amended—

(1) by striking paragraph (12A); and

(2) by inserting after paragraph (14) the following:

“(14A) ‘domestic support obligation’ means a debt that accrues before, on, or after the date of the order for relief in a case under this title, including interest that accrues on that debt as provided under applicable nonbankruptcy law notwithstanding any other provision of this title, that is—

“(A) owed to or recoverable by—

“(i) a spouse, former spouse, or child of the debtor or such child’s parent, legal guardian, or responsible relative; or

“(ii) a governmental unit;

“(B) in the nature of alimony, maintenance, or support (including assistance provided by a governmental unit) of such spouse, former spouse, or child of the debtor or such child’s parent, without regard to whether such debt is expressly so designated;

“(C) established or subject to establishment before, on, or after the date of the order for relief in a case under this title, by reason of applicable provisions of—

“(i) a separation agreement, divorce decree, or property settlement agreement;

“(ii) an order of a court of record; or

“(iii) a determination made in accordance with applicable nonbankruptcy law by a governmental unit; and

“(D) not assigned to a nongovernmental entity, unless that obligation is assigned voluntarily by the spouse, former spouse, child of the debtor, or such child’s parent, legal guardian, or responsible relative for the purpose of collecting the debt;”.

SEC. 212. PRIORITIES FOR CLAIMS FOR DOMESTIC SUPPORT OBLIGATIONS.

Section 507(a) of title 11, United States Code, is amended—

(1) by striking paragraph (7);

(2) by redesignating paragraphs (1) through (6) as paragraphs (2) through (7), respectively;

(3) in paragraph (2), as so redesignated, by striking “First” and inserting “Second”;

(4) in paragraph (3), as so redesignated, by striking “Second” and inserting “Third”;

(5) in paragraph (4), as so redesignated—

(A) by striking “Third” and inserting “Fourth”; and

(B) by striking the semicolon at the end and inserting a period;

(6) in paragraph (5), as so redesignated, by striking “Fourth” and inserting “Fifth”;

(7) in paragraph (6), as so redesignated, by striking “Fifth” and inserting “Sixth”;

(8) in paragraph (7), as so redesignated, by striking “Sixth” and inserting “Seventh”; and

(9) by inserting before paragraph (2), as so redesignated, the following:

“(1) First:

“(A) Allowed unsecured claims for domestic support obligations that, as of the date of the filing of the petition in a case under this title, are owed to or recoverable by a spouse, former spouse, or child of the debtor, or such child’s parent, legal guardian, or responsible relative, without regard to whether the claim is filed by such person or is filed by a governmental unit on behalf of such person, on the condition that funds received under this paragraph by a governmental unit under this title after the date of the filing of the petition shall be applied and distributed in accordance with applicable nonbankruptcy law.

“(B) Subject to claims under subparagraph (A), allowed unsecured claims for domestic support obligations that, as of the date of the filing of the petition, are assigned by a spouse, former spouse, child of the debtor, or such child’s parent, legal guardian, or responsible relative to a governmental unit (unless such obligation is assigned voluntarily by the spouse, former spouse, child, parent, legal guardian, or responsible relative of the child for the purpose of collecting the debt) or are owed directly to or recoverable by a governmental unit under applicable nonbankruptcy law, on the condition that funds received

under this paragraph by a governmental unit under this title after the date of the filing of the petition be applied and distributed in accordance with applicable nonbankruptcy law.

“(C) If a trustee is appointed or elected under section 701, 702, 703, 1104, 1202, or 1302, the administrative expenses of the trustee allowed under paragraphs (1)(A), (2), and (6) of section 503(b) shall be paid before payment of claims under subparagraphs (A) and (B), to the extent that the trustee administers assets that are otherwise available for the payment of such claims.”.

SEC. 213. REQUIREMENTS TO OBTAIN CONFIRMATION AND DISCHARGE IN CASES INVOLVING DOMESTIC SUPPORT OBLIGATIONS.

Title 11, United States Code, is amended—

(1) in section 1129(a), by adding at the end the following:

“(14) If the debtor is required by a judicial or administrative order, or by statute, to pay a domestic support obligation, the debtor has paid all amounts payable under such order or such statute for such obligation that first become payable after the date of the filing of the petition.”;

(2) in section 1208(c)—

(A) in paragraph (8), by striking “or” at the end;

(B) in paragraph (9), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(10) failure of the debtor to pay any domestic support obligation that first becomes payable after the date of the filing of the petition.”;

(3) in section 1222(a)—

(A) in paragraph (2), by striking “and” at the end;

(B) in paragraph (3), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(4) notwithstanding any other provision of this section, a plan may provide for less than full payment of all amounts owed for a claim entitled to priority under section 507(a)(1)(B) only if the plan provides that all of the debtor’s projected disposable income for a 5-year period beginning on the date that the first payment is due under the plan will be applied to make payments under the plan.”;

(4) in section 1222(b)—

(A) in paragraph (10), by striking “and” at the end;

(B) by redesignating paragraph (11) as paragraph (12); and

(C) by inserting after paragraph (10) the following:

“(11) provide for the payment of interest accruing after the date of the filing of the petition on unsecured claims that are nondischargeable under section 1228(a), except that such interest may be paid only to the extent that the debtor has disposable income available to pay such interest after making provision for full payment of all allowed claims; and”;

(5) in section 1225(a)—

(A) in paragraph (5), by striking “and” at the end;

(B) in paragraph (6), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(7) the debtor has paid all amounts that are required to be paid under a domestic support obligation and that first become payable after the date of the filing of the petition if the debtor is required by a judicial or administrative order, or by statute, to pay such domestic support obligation.”;

(6) in section 1228(a), in the matter preceding paragraph (1), by inserting “, and in the case of a debtor who is required by a judicial or administrative order, or by statute, to pay a domestic support obligation, after such debtor certifies that all amounts payable under such order or such statute that are due on or before the date of the certification (including amounts due before the petition was filed, but only to the extent provided for by the plan) have been paid” after “completion by the debtor of all payments under the plan”;

(7) in section 1307(c)—

(A) in paragraph (9), by striking “or” at the end;

(B) in paragraph (10), by striking the period at the end and inserting “; or”; and

(C) by adding at the end the following:

“(11) failure of the debtor to pay any domestic support obligation that first becomes payable after the date of the filing of the petition.”;

(8) in section 1322(a)—

(A) in paragraph (2), by striking “and” at the end;

(B) in paragraph (3), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(4) notwithstanding any other provision of this section, a plan may provide for less than full payment of all amounts owed for a claim entitled to priority under section 507(a)(1)(B) only if the plan provides that all of the debtor’s projected disposable income for a 5-year period beginning on the date that the first payment is due under the plan will be applied to make payments under the plan.”;

(9) in section 1322(b)—

(A) in paragraph (9), by striking “; and” and inserting a semicolon;

(B) by redesignating paragraph (10) as paragraph (11); and

(C) inserting after paragraph (9) the following:

“(10) provide for the payment of interest accruing after the date of the filing of the petition on unsecured claims that are nondischargeable under section 1328(a), except that such interest may be paid only to the extent that the debtor has disposable income available to pay such interest after making provision for full payment of all allowed claims; and”;

(10) in section 1325(a), as amended by section 102, by inserting after paragraph (7) the following:

“(8) the debtor has paid all amounts that are required to be paid under a domestic support obligation and that first become payable after the date of the filing of the petition if the debtor is required by a judicial or administrative order, or by statute, to pay such domestic support obligation; and”;

(11) in section 1328(a), in the matter preceding paragraph (1), by inserting “, and in the case of a debtor who is required by a judicial or administrative order, or by statute, to pay a domestic support obligation, after such debtor certifies that

all amounts payable under such order or such statute that are due on or before the date of the certification (including amounts due before the petition was filed, but only to the extent provided for by the plan) have been paid” after “completion by the debtor of all payments under the plan”.

SEC. 214. EXCEPTIONS TO AUTOMATIC STAY IN DOMESTIC SUPPORT OBLIGATION PROCEEDINGS.

Section 362(b) of title 11, United States Code, is amended by striking paragraph (2) and inserting the following:

“(2) under subsection (a)—

“(A) of the commencement or continuation of a civil action or proceeding—

“(i) for the establishment of paternity;

“(ii) for the establishment or modification of an order for domestic support obligations;

“(iii) concerning child custody or visitation;

“(iv) for the dissolution of a marriage, except to the extent that such proceeding seeks to determine the division of property that is property of the estate; or

“(v) regarding domestic violence;

“(B) of the collection of a domestic support obligation from property that is not property of the estate;

“(C) with respect to the withholding of income that is property of the estate or property of the debtor for payment of a domestic support obligation under a judicial or administrative order or a statute;

“(D) of the withholding, suspension, or restriction of a driver’s license, a professional or occupational license, or a recreational license, under State law, as specified in section 466(a)(16) of the Social Security Act;

“(E) of the reporting of overdue support owed by a parent to any consumer reporting agency as specified in section 466(a)(7) of the Social Security Act;

“(F) of the interception of a tax refund, as specified in sections 464 and 466(a)(3) of the Social Security Act or under an analogous State law; or

“(G) of the enforcement of a medical obligation, as specified under title IV of the Social Security Act;”.

SEC. 215. NONDISCHARGEABILITY OF CERTAIN DEBTS FOR ALIMONY, MAINTENANCE, AND SUPPORT.

Section 523 of title 11, United States Code, is amended—

(1) in subsection (a)—

(A) by striking paragraph (5) and inserting the following:

“(5) for a domestic support obligation;” and

(B) by striking paragraph (18);

(2) in subsection (c), by striking “(6), or (15)” each place it appears and inserting “or (6)”; and

(3) in paragraph (15), as added by Public Law 103–394 (108 Stat. 4133)—

(A) by inserting “to a spouse, former spouse, or child of the debtor and” before “not of the kind”;

(B) by inserting “or” after “court of record,”; and

(C) by striking “unless—” and all that follows through the end of the paragraph and inserting a semicolon.

SEC. 216. CONTINUED LIABILITY OF PROPERTY.

Section 522 of title 11, United States Code, is amended—

(1) in subsection (c), by striking paragraph (1) and inserting the following:

“(1) a debt of a kind specified in paragraph (1) or (5) of section 523(a) (in which case, notwithstanding any provision of applicable nonbankruptcy law to the contrary, such property shall be liable for a debt of a kind specified in section 523(a)(5));”;

(2) in subsection (f)(1)(A), by striking the dash and all that follows through the end of the subparagraph and inserting “of a kind that is specified in section 523(a)(5); or”; and

(3) in subsection (g)(2), by striking “subsection (f)(2)” and inserting “subsection (f)(1)(B)”.

SEC. 217. PROTECTION OF DOMESTIC SUPPORT CLAIMS AGAINST PREFERENTIAL TRANSFER MOTIONS.

Section 547(c)(7) of title 11, United States Code, is amended to read as follows:

“(7) to the extent such transfer was a bona fide payment of a debt for a domestic support obligation;”.

SEC. 218. DISPOSABLE INCOME DEFINED.

Section 1225(b)(2)(A) of title 11, United States Code, is amended by inserting “or for a domestic support obligation that first becomes payable after the date of the filing of the petition” after “dependent of the debtor”.

SEC. 219. COLLECTION OF CHILD SUPPORT.

(a) DUTIES OF TRUSTEE UNDER CHAPTER 7.—Section 704 of title 11, United States Code, as amended by section 102, is amended—

(1) in subsection (a)—

(A) in paragraph (8), by striking “and” at the end;

(B) in paragraph (9), by striking the period and inserting a semicolon; and

(C) by adding at the end the following:

“(10) if with respect to the debtor there is a claim for a domestic support obligation, provide the applicable notice specified in subsection (c); and”; and

(2) by adding at the end the following:

“(c)(1) In a case described in subsection (a)(10) to which sub- Notices.
section (a)(10) applies, the trustee shall—

“(A)(i) provide written notice to the holder of the claim described in subsection (a)(10) of such claim and of the right of such holder to use the services of the State child support enforcement agency established under sections 464 and 466 of the Social Security Act for the State in which such holder resides, for assistance in collecting child support during and after the case under this title;

“(ii) include in the notice provided under clause (i) the address and telephone number of such State child support enforcement agency; and

“(iii) include in the notice provided under clause (i) an explanation of the rights of such holder to payment of such claim under this chapter;

“(B)(i) provide written notice to such State child support enforcement agency of such claim; and

“(ii) include in the notice provided under clause (i) the name, address, and telephone number of such holder; and

“(C) at such time as the debtor is granted a discharge under section 727, provide written notice to such holder and to such State child support enforcement agency of—

“(i) the granting of the discharge;

“(ii) the last recent known address of the debtor;

“(iii) the last recent known name and address of the debtor’s employer; and

“(iv) the name of each creditor that holds a claim that—

“(I) is not discharged under paragraph (2), (4), or (14A) of section 523(a); or

“(II) was reaffirmed by the debtor under section 524(c).

“(2)(A) The holder of a claim described in subsection (a)(10) or the State child support enforcement agency of the State in which such holder resides may request from a creditor described in paragraph (1)(C)(iv) the last known address of the debtor.

“(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable by reason of making such disclosure.”.

(b) DUTIES OF TRUSTEE UNDER CHAPTER 11.—Section 1106 of title 11, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (6), by striking “and” at the end;

(B) in paragraph (7), by striking the period and inserting “; and”; and

(C) by adding at the end the following:

“(8) if with respect to the debtor there is a claim for a domestic support obligation, provide the applicable notice specified in subsection (c).”; and

(2) by adding at the end the following:

“(c)(1) In a case described in subsection (a)(8) to which subsection (a)(8) applies, the trustee shall—

“(A)(i) provide written notice to the holder of the claim described in subsection (a)(8) of such claim and of the right of such holder to use the services of the State child support enforcement agency established under sections 464 and 466 of the Social Security Act for the State in which such holder resides, for assistance in collecting child support during and after the case under this title; and

“(ii) include in the notice required by clause (i) the address and telephone number of such State child support enforcement agency;

“(B)(i) provide written notice to such State child support enforcement agency of such claim; and

“(ii) include in the notice required by clause (i) the name, address, and telephone number of such holder; and

“(C) at such time as the debtor is granted a discharge under section 1141, provide written notice to such holder and to such State child support enforcement agency of—

“(i) the granting of the discharge;

“(ii) the last recent known address of the debtor;

“(iii) the last recent known name and address of the debtor’s employer; and

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“(iv) the name of each creditor that holds a claim that—

“(I) is not discharged under paragraph (2), (4), or (14A) of section 523(a); or

“(II) was reaffirmed by the debtor under section 524(c).

“(2)(A) The holder of a claim described in subsection (a)(8) or the State child enforcement support agency of the State in which such holder resides may request from a creditor described in paragraph (1)(C)(iv) the last known address of the debtor.

“(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable by reason of making such disclosure.”.

(c) DUTIES OF TRUSTEE UNDER CHAPTER 12.—Section 1202 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (4), by striking “and” at the end;

(B) in paragraph (5), by striking the period and inserting “; and”; and

(C) by adding at the end the following:

“(6) if with respect to the debtor there is a claim for a domestic support obligation, provide the applicable notice specified in subsection (c).”; and

(2) by adding at the end the following:

“(c)(1) In a case described in subsection (b)(6) to which sub- Notices.

“(A)(i) provide written notice to the holder of the claim described in subsection (b)(6) of such claim and of the right of such holder to use the services of the State child support enforcement agency established under sections 464 and 466 of the Social Security Act for the State in which such holder resides, for assistance in collecting child support during and after the case under this title; and

“(ii) include in the notice provided under clause (i) the address and telephone number of such State child support enforcement agency;

“(B)(i) provide written notice to such State child support enforcement agency of such claim; and

“(ii) include in the notice provided under clause (i) the name, address, and telephone number of such holder; and

“(C) at such time as the debtor is granted a discharge under section 1228, provide written notice to such holder and to such State child support enforcement agency of—

“(i) the granting of the discharge;

“(ii) the last recent known address of the debtor;

“(iii) the last recent known name and address of the debtor’s employer; and

“(iv) the name of each creditor that holds a claim that—

“(I) is not discharged under paragraph (2), (4), or (14A) of section 523(a); or

“(II) was reaffirmed by the debtor under section 524(c).

“(2)(A) The holder of a claim described in subsection (b)(6) or the State child support enforcement agency of the State in

which such holder resides may request from a creditor described in paragraph (1)(C)(iv) the last known address of the debtor.

“(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable by reason of making that disclosure.”.

(d) DUTIES OF TRUSTEE UNDER CHAPTER 13.—Section 1302 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (4), by striking “and” at the end;

(B) in paragraph (5), by striking the period and inserting “; and”; and

(C) by adding at the end the following:

“(6) if with respect to the debtor there is a claim for a domestic support obligation, provide the applicable notice specified in subsection (d).”; and

(2) by adding at the end the following:

“(d)(1) In a case described in subsection (b)(6) to which subsection (b)(6) applies, the trustee shall—

“(A)(i) provide written notice to the holder of the claim described in subsection (b)(6) of such claim and of the right of such holder to use the services of the State child support enforcement agency established under sections 464 and 466 of the Social Security Act for the State in which such holder resides, for assistance in collecting child support during and after the case under this title; and

“(ii) include in the notice provided under clause (i) the address and telephone number of such State child support enforcement agency;

“(B)(i) provide written notice to such State child support enforcement agency of such claim; and

“(ii) include in the notice provided under clause (i) the name, address, and telephone number of such holder; and

“(C) at such time as the debtor is granted a discharge under section 1328, provide written notice to such holder and to such State child support enforcement agency of—

“(i) the granting of the discharge;

“(ii) the last recent known address of the debtor;

“(iii) the last recent known name and address of the debtor’s employer; and

“(iv) the name of each creditor that holds a claim that—

“(I) is not discharged under paragraph (2) or (4) of section 523(a); or

“(II) was reaffirmed by the debtor under section 524(c).

“(2)(A) The holder of a claim described in subsection (b)(6) or the State child support enforcement agency of the State in which such holder resides may request from a creditor described in paragraph (1)(C)(iv) the last known address of the debtor.

“(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable by reason of making that disclosure.”.

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SEC. 220. NONDISCHARGEABILITY OF CERTAIN EDUCATIONAL BENEFITS AND LOANS.

Section 523(a) of title 11, United States Code, is amended by striking paragraph (8) and inserting the following:

“(8) unless excepting such debt from discharge under this paragraph would impose an undue hardship on the debtor and the debtor’s dependents, for—

“(A)(i) an educational benefit overpayment or loan made, insured, or guaranteed by a governmental unit, or made under any program funded in whole or in part by a governmental unit or nonprofit institution; or

“(ii) an obligation to repay funds received as an educational benefit, scholarship, or stipend; or

“(B) any other educational loan that is a qualified education loan, as defined in section 221(d)(1) of the Internal Revenue Code of 1986, incurred by a debtor who is an individual;”.

Subtitle C—Other Consumer Protections**SEC. 221. AMENDMENTS TO DISCOURAGE ABUSIVE BANKRUPTCY FILINGS.**

Section 110 of title 11, United States Code, is amended—

(1) in subsection (a)(1), by striking “or an employee of an attorney” and inserting “for the debtor or an employee of such attorney under the direct supervision of such attorney”;

(2) in subsection (b)—

(A) in paragraph (1), by adding at the end the following:

“If a bankruptcy petition preparer is not an individual, then an officer, principal, responsible person, or partner of the bankruptcy petition preparer shall be required to—

“(A) sign the document for filing; and

“(B) print on the document the name and address of that officer, principal, responsible person, or partner.”; and

(B) by striking paragraph (2) and inserting the following:

“(2)(A) Before preparing any document for filing or accepting any fees from a debtor, the bankruptcy petition preparer shall provide to the debtor a written notice which shall be on an official form prescribed by the Judicial Conference of the United States in accordance with rule 9009 of the Federal Rules of Bankruptcy Procedure.

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“(B) The notice under subparagraph (A)—

“(i) shall inform the debtor in simple language that a bankruptcy petition preparer is not an attorney and may not practice law or give legal advice;

“(ii) may contain a description of examples of legal advice that a bankruptcy petition preparer is not authorized to give, in addition to any advice that the preparer may not give by reason of subsection (e)(2); and

“(iii) shall—

“(I) be signed by the debtor and, under penalty of perjury, by the bankruptcy petition preparer; and

“(II) be filed with any document for filing.”;

(3) in subsection (c)—

(A) in paragraph (2)—

(i) by striking “(2) For purposes” and inserting “(2)(A) Subject to subparagraph (B), for purposes”; and
 (ii) by adding at the end the following:

“(B) If a bankruptcy petition preparer is not an individual, the identifying number of the bankruptcy petition preparer shall be the Social Security account number of the officer, principal, responsible person, or partner of the bankruptcy petition preparer.”; and

(B) by striking paragraph (3);

(4) in subsection (d)—

(A) by striking “(d)(1)” and inserting “(d)”; and

(B) by striking paragraph (2);

(5) in subsection (e)—

(A) by striking paragraph (2); and

(B) by adding at the end the following:

“(2)(A) A bankruptcy petition preparer may not offer a potential bankruptcy debtor any legal advice, including any legal advice described in subparagraph (B).

“(B) The legal advice referred to in subparagraph (A) includes advising the debtor—

“(i) whether—

“(I) to file a petition under this title; or

“(II) commencing a case under chapter 7, 11, 12, or 13 is appropriate;

“(ii) whether the debtor’s debts will be discharged in a case under this title;

“(iii) whether the debtor will be able to retain the debtor’s home, car, or other property after commencing a case under this title;

“(iv) concerning—

“(I) the tax consequences of a case brought under this title; or

“(II) the dischargeability of tax claims;

“(v) whether the debtor may or should promise to repay debts to a creditor or enter into a reaffirmation agreement with a creditor to reaffirm a debt;

“(vi) concerning how to characterize the nature of the debtor’s interests in property or the debtor’s debts; or

“(vii) concerning bankruptcy procedures and rights.”;

(6) in subsection (f)—

(A) by striking “(f)(1)” and inserting “(f)”; and

(B) by striking paragraph (2);

(7) in subsection (g)—

(A) by striking “(g)(1)” and inserting “(g)”; and

(B) by striking paragraph (2);

(8) in subsection (h)—

(A) by redesignating paragraphs (1) through (4) as paragraphs (2) through (5), respectively;

(B) by inserting before paragraph (2), as so redesignated, the following:

“(1) The Supreme Court may promulgate rules under section 2075 of title 28, or the Judicial Conference of the United States may prescribe guidelines, for setting a maximum allowable fee chargeable by a bankruptcy petition preparer. A bankruptcy petition preparer shall notify the debtor of any such maximum amount before preparing any document for filing for a debtor or accepting any fee from the debtor.”;

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(C) in paragraph (2), as so redesignated—

(i) by striking “Within 10 days after the date of the filing of a petition, a bankruptcy petition preparer shall file a” and inserting “A”;

(ii) by inserting “by the bankruptcy petition preparer shall be filed together with the petition,” after “perjury”; and

(iii) by adding at the end the following: “If rules or guidelines setting a maximum fee for services have been promulgated or prescribed under paragraph (1), the declaration under this paragraph shall include a certification that the bankruptcy petition preparer complied with the notification requirement under paragraph (1).”;

(D) by striking paragraph (3), as so redesignated, and inserting the following:

“(3)(A) The court shall disallow and order the immediate turnover to the bankruptcy trustee any fee referred to in paragraph (2) found to be in excess of the value of any services—

“(i) rendered by the bankruptcy petition preparer during the 12-month period immediately preceding the date of the filing of the petition; or

“(ii) found to be in violation of any rule or guideline promulgated or prescribed under paragraph (1).

“(B) All fees charged by a bankruptcy petition preparer may be forfeited in any case in which the bankruptcy petition preparer fails to comply with this subsection or subsection (b), (c), (d), (e), (f), or (g).

“(C) An individual may exempt any funds recovered under this paragraph under section 522(b).”; and

(E) in paragraph (4), as so redesignated, by striking “or the United States trustee” and inserting “the United States trustee (or the bankruptcy administrator, if any) or the court, on the initiative of the court.”;

(9) in subsection (i)(1), by striking the matter preceding subparagraph (A) and inserting the following:

“(i)(1) If a bankruptcy petition preparer violates this section or commits any act that the court finds to be fraudulent, unfair, or deceptive, on the motion of the debtor, trustee, United States trustee (or the bankruptcy administrator, if any), and after notice and a hearing, the court shall order the bankruptcy petition preparer to pay to the debtor—”;

(10) in subsection (j)—

(A) in paragraph (2)—

(i) in subparagraph (A)(i)(I), by striking “a violation of which subjects a person to criminal penalty”;

(ii) in subparagraph (B)—

(I) by striking “or has not paid a penalty” and inserting “has not paid a penalty”; and

(II) by inserting “or failed to disgorge all fees ordered by the court” after “a penalty imposed under this section.”;

(B) by redesignating paragraph (3) as paragraph (4);

and

(C) by inserting after paragraph (2) the following:

“(3) The court, as part of its contempt power, may enjoin a bankruptcy petition preparer that has failed to comply with

a previous order issued under this section. The injunction under this paragraph may be issued on the motion of the court, the trustee, or the United States trustee (or the bankruptcy administrator, if any).”; and

(11) by adding at the end the following:

“(1)(1) A bankruptcy petition preparer who fails to comply with any provision of subsection (b), (c), (d), (e), (f), (g), or (h) may be fined not more than \$500 for each such failure.

“(2) The court shall triple the amount of a fine assessed under paragraph (1) in any case in which the court finds that a bankruptcy petition preparer—

“(A) advised the debtor to exclude assets or income that should have been included on applicable schedules;

“(B) advised the debtor to use a false Social Security account number;

“(C) failed to inform the debtor that the debtor was filing for relief under this title; or

“(D) prepared a document for filing in a manner that failed to disclose the identity of the bankruptcy petition preparer.

“(3) A debtor, trustee, creditor, or United States trustee (or the bankruptcy administrator, if any) may file a motion for an order imposing a fine on the bankruptcy petition preparer for any violation of this section.

“(4)(A) Fines imposed under this subsection in judicial districts served by United States trustees shall be paid to the United States trustee, who shall deposit an amount equal to such fines in a special account of the United States Trustee System Fund referred to in section 586(e)(2) of title 28. Amounts deposited under this subparagraph shall be available to fund the enforcement of this section on a national basis.

“(B) Fines imposed under this subsection in judicial districts served by bankruptcy administrators shall be deposited as offsetting receipts to the fund established under section 1931 of title 28, and shall remain available until expended to reimburse any appropriation for the amount paid out of such appropriation for expenses of the operation and maintenance of the courts of the United States.”.

SEC. 222. SENSE OF CONGRESS.

It is the sense of Congress that States should develop curricula relating to the subject of personal finance, designed for use in elementary and secondary schools.

SEC. 223. ADDITIONAL AMENDMENTS TO TITLE 11, UNITED STATES CODE.

Section 507(a) of title 11, United States Code, as amended by section 212, is amended by inserting after paragraph (9) the following:

“(10) Tenth, allowed claims for death or personal injury resulting from the operation of a motor vehicle or vessel if such operation was unlawful because the debtor was intoxicated from using alcohol, a drug, or another substance.”.

SEC. 224. PROTECTION OF RETIREMENT SAVINGS IN BANKRUPTCY.

(a) IN GENERAL.—Section 522 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (2)—

(i) in subparagraph (A), by striking “and” at the end;

(ii) in subparagraph (B), by striking the period at the end and inserting “; and”;

(iii) by adding at the end the following:

“(C) retirement funds to the extent that those funds are in a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986.”; and

(iv) by striking “(2)(A) any property” and inserting: “(3) Property listed in this paragraph is—

“(A) any property”;

(B) by striking paragraph (1) and inserting:

“(2) Property listed in this paragraph is property that is specified under subsection (d), unless the State law that is applicable to the debtor under paragraph (3)(A) specifically does not so authorize.”;

(C) by striking “(b) Notwithstanding” and inserting “(b)(1) Notwithstanding”;

(D) by striking “paragraph (2)” each place it appears and inserting “paragraph (3)”;

(E) by striking “paragraph (1)” each place it appears and inserting “paragraph (2)”;

(F) by striking “Such property is—”; and

(G) by adding at the end the following:

“(4) For purposes of paragraph (3)(C) and subsection (d)(12), the following shall apply: Applicability.

“(A) If the retirement funds are in a retirement fund that has received a favorable determination under section 7805 of the Internal Revenue Code of 1986, and that determination is in effect as of the date of the filing of the petition in a case under this title, those funds shall be presumed to be exempt from the estate.

“(B) If the retirement funds are in a retirement fund that has not received a favorable determination under such section 7805, those funds are exempt from the estate if the debtor demonstrates that—

“(i) no prior determination to the contrary has been made by a court or the Internal Revenue Service; and

“(ii)(I) the retirement fund is in substantial compliance with the applicable requirements of the Internal Revenue Code of 1986; or

“(II) the retirement fund fails to be in substantial compliance with the applicable requirements of the Internal Revenue Code of 1986 and the debtor is not materially responsible for that failure.

“(C) A direct transfer of retirement funds from 1 fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986, under section 401(a)(31) of the Internal Revenue Code of 1986, or otherwise, shall not cease to qualify for exemption under paragraph (3)(C) or subsection (d)(12) by reason of such direct transfer.

“(D)(i) Any distribution that qualifies as an eligible rollover distribution within the meaning of section 402(c) of the Internal Revenue Code of 1986 or that is described in clause (ii) shall

not cease to qualify for exemption under paragraph (3)(C) or subsection (d)(12) by reason of such distribution.

“(ii) A distribution described in this clause is an amount that—

“(I) has been distributed from a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986; and

“(II) to the extent allowed by law, is deposited in such a fund or account not later than 60 days after the distribution of such amount.”; and

(2) in subsection (d)—

(A) in the matter preceding paragraph (1), by striking “subsection (b)(1)” and inserting “subsection (b)(2)”; and

(B) by adding at the end the following:

“(12) Retirement funds to the extent that those funds are in a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986.”.

(b) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, is amended—

(1) in paragraph (17), by striking “or” at the end;

(2) in paragraph (18), by striking the period and inserting a semicolon; and

(3) by inserting after paragraph (18) the following:

“(19) under subsection (a), of withholding of income from a debtor’s wages and collection of amounts withheld, under the debtor’s agreement authorizing that withholding and collection for the benefit of a pension, profit-sharing, stock bonus, or other plan established under section 401, 403, 408, 408A, 414, 457, or 501(c) of the Internal Revenue Code of 1986, that is sponsored by the employer of the debtor, or an affiliate, successor, or predecessor of such employer—

“(A) to the extent that the amounts withheld and collected are used solely for payments relating to a loan from a plan under section 408(b)(1) of the Employee Retirement Income Security Act of 1974 or is subject to section 72(p) of the Internal Revenue Code of 1986; or

“(B) a loan from a thrift savings plan permitted under subchapter III of chapter 84 of title 5, that satisfies the requirements of section 8433(g) of such title;

but nothing in this paragraph may be construed to provide that any loan made under a governmental plan under section 414(d), or a contract or account under section 403(b), of the Internal Revenue Code of 1986 constitutes a claim or a debt under this title;”.

(c) EXCEPTIONS TO DISCHARGE.—Section 523(a) of title 11, United States Code, as amended by section 215, is amended by inserting after paragraph (17) the following:

“(18) owed to a pension, profit-sharing, stock bonus, or other plan established under section 401, 403, 408, 408A, 414, 457, or 501(c) of the Internal Revenue Code of 1986, under—

“(A) a loan permitted under section 408(b)(1) of the Employee Retirement Income Security Act of 1974, or subject to section 72(p) of the Internal Revenue Code of 1986; or

“(B) a loan from a thrift savings plan permitted under subchapter III of chapter 84 of title 5, that satisfies the requirements of section 8433(g) of such title;

but nothing in this paragraph may be construed to provide that any loan made under a governmental plan under section 414(d), or a contract or account under section 403(b), of the Internal Revenue Code of 1986 constitutes a claim or a debt under this title; or”.

(d) PLAN CONTENTS.—Section 1322 of title 11, United States Code, is amended by adding at the end the following:

“(f) A plan may not materially alter the terms of a loan described in section 362(b)(19) and any amounts required to repay such loan shall not constitute ‘disposable income’ under section 1325.”.

(e) ASSET LIMITATION.—

(1) LIMITATION.—Section 522 of title 11, United States Code, is amended by adding at the end the following:

“(n) For assets in individual retirement accounts described in section 408 or 408A of the Internal Revenue Code of 1986, other than a simplified employee pension under section 408(k) of such Code or a simple retirement account under section 408(p) of such Code, the aggregate value of such assets exempted under this section, without regard to amounts attributable to rollover contributions under section 402(c), 402(e)(6), 403(a)(4), 403(a)(5), and 403(b)(8) of the Internal Revenue Code of 1986, and earnings thereon, shall not exceed \$1,000,000 in a case filed by a debtor who is an individual, except that such amount may be increased if the interests of justice so require.”.

(2) ADJUSTMENT OF DOLLAR AMOUNTS.—Paragraphs (1) and (2) of section 104(b) of title 11, United States Code, are amended by inserting “522(n),” after “522(d),”.

SEC. 225. PROTECTION OF EDUCATION SAVINGS IN BANKRUPTCY.

(a) EXCLUSIONS.—Section 541 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (4), by striking “or” at the end;

(B) by redesignating paragraph (5) as paragraph (9);

and

(C) by inserting after paragraph (4) the following:

“(5) funds placed in an education individual retirement account (as defined in section 530(b)(1) of the Internal Revenue Code of 1986) not later than 365 days before the date of the filing of the petition in a case under this title, but—

“(A) only if the designated beneficiary of such account was a child, stepchild, grandchild, or stepgrandchild of the debtor for the taxable year for which funds were placed in such account;

“(B) only to the extent that such funds—

“(i) are not pledged or promised to any entity in connection with any extension of credit; and

“(ii) are not excess contributions (as described in section 4973(e) of the Internal Revenue Code of 1986); and

“(C) in the case of funds placed in all such accounts having the same designated beneficiary not earlier than

720 days nor later than 365 days before such date, only so much of such funds as does not exceed \$5,000;

“(6) funds used to purchase a tuition credit or certificate or contributed to an account in accordance with section 529(b)(1)(A) of the Internal Revenue Code of 1986 under a qualified State tuition program (as defined in section 529(b)(1) of such Code) not later than 365 days before the date of the filing of the petition in a case under this title, but—

“(A) only if the designated beneficiary of the amounts paid or contributed to such tuition program was a child, stepchild, grandchild, or stepgrandchild of the debtor for the taxable year for which funds were paid or contributed;

“(B) with respect to the aggregate amount paid or contributed to such program having the same designated beneficiary, only so much of such amount as does not exceed the total contributions permitted under section 529(b)(7) of such Code with respect to such beneficiary, as adjusted beginning on the date of the filing of the petition in a case under this title by the annual increase or decrease (rounded to the nearest tenth of 1 percent) in the education expenditure category of the Consumer Price Index prepared by the Department of Labor; and

“(C) in the case of funds paid or contributed to such program having the same designated beneficiary not earlier than 720 days nor later than 365 days before such date, only so much of such funds as does not exceed \$5,000;”;

and

(2) by adding at the end the following:

“(e) In determining whether any of the relationships specified in paragraph (5)(A) or (6)(A) of subsection (b) exists, a legally adopted child of an individual (and a child who is a member of an individual’s household, if placed with such individual by an authorized placement agency for legal adoption by such individual), or a foster child of an individual (if such child has as the child’s principal place of abode the home of the debtor and is a member of the debtor’s household) shall be treated as a child of such individual by blood.”.

(b) DEBTOR’S DUTIES.—Section 521 of title 11, United States Code, as amended by section 106, is amended by adding at the end the following:

“(c) In addition to meeting the requirements under subsection (a), a debtor shall file with the court a record of any interest that a debtor has in an education individual retirement account (as defined in section 530(b)(1) of the Internal Revenue Code of 1986) or under a qualified State tuition program (as defined in section 529(b)(1) of such Code).”.

SEC. 226. DEFINITIONS.

(a) DEFINITIONS.—Section 101 of title 11, United States Code, is amended—

(1) by inserting after paragraph (2) the following:

“(3) ‘assisted person’ means any person whose debts consist primarily of consumer debts and the value of whose nonexempt property is less than \$150,000;”;

(2) by inserting after paragraph (4) the following:

“(4A) ‘bankruptcy assistance’ means any goods or services sold or otherwise provided to an assisted person with the

express or implied purpose of providing information, advice, counsel, document preparation, or filing, or attendance at a creditors' meeting or appearing in a case or proceeding on behalf of another or providing legal representation with respect to a case or proceeding under this title;"; and

(3) by inserting after paragraph (12) the following:

"(12A) 'debt relief agency' means any person who provides any bankruptcy assistance to an assisted person in return for the payment of money or other valuable consideration, or who is a bankruptcy petition preparer under section 110, but does not include—

"(A) any person who is an officer, director, employee, or agent of a person who provides such assistance or of the bankruptcy petition preparer;

"(B) a nonprofit organization that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986;

"(C) a creditor of such assisted person, to the extent that the creditor is assisting such assisted person to restructure any debt owed by such assisted person to the creditor;

"(D) a depository institution (as defined in section 3 of the Federal Deposit Insurance Act) or any Federal credit union or State credit union (as those terms are defined in section 101 of the Federal Credit Union Act), or any affiliate or subsidiary of such depository institution or credit union; or

"(E) an author, publisher, distributor, or seller of works subject to copyright protection under title 17, when acting in such capacity."

(b) CONFORMING AMENDMENT.—Section 104(b) of title 11, United States Code, is amended by inserting "101(3)," after "sections" each place it appears.

SEC. 227. RESTRICTIONS ON DEBT RELIEF AGENCIES.

(a) ENFORCEMENT.—Subchapter II of chapter 5 of title 11, United States Code, is amended by adding at the end the following:

"§ 526. Restrictions on debt relief agencies

"(a) A debt relief agency shall not—

"(1) fail to perform any service that such agency informed an assisted person or prospective assisted person it would provide in connection with a case or proceeding under this title;

"(2) make any statement, or counsel or advise any assisted person or prospective assisted person to make a statement in a document filed in a case or proceeding under this title, that is untrue and misleading, or that upon the exercise of reasonable care, should have been known by such agency to be untrue or misleading;

"(3) misrepresent to any assisted person or prospective assisted person, directly or indirectly, affirmatively or by material omission, with respect to—

"(A) the services that such agency will provide to such person; or

"(B) the benefits and risks that may result if such person becomes a debtor in a case under this title; or

“(4) advise an assisted person or prospective assisted person to incur more debt in contemplation of such person filing a case under this title or to pay an attorney or bankruptcy petition preparer fee or charge for services performed as part of preparing for or representing a debtor in a case under this title.

“(b) Any waiver by any assisted person of any protection or right provided under this section shall not be enforceable against the debtor by any Federal or State court or any other person, but may be enforced against a debt relief agency.

“(c)(1) Any contract for bankruptcy assistance between a debt relief agency and an assisted person that does not comply with the material requirements of this section, section 527, or section 528 shall be void and may not be enforced by any Federal or State court or by any other person, other than such assisted person.

“(2) Any debt relief agency shall be liable to an assisted person in the amount of any fees or charges in connection with providing bankruptcy assistance to such person that such debt relief agency has received, for actual damages, and for reasonable attorneys’ fees and costs if such agency is found, after notice and a hearing, to have—

“(A) intentionally or negligently failed to comply with any provision of this section, section 527, or section 528 with respect to a case or proceeding under this title for such assisted person;

“(B) provided bankruptcy assistance to an assisted person in a case or proceeding under this title that is dismissed or converted to a case under another chapter of this title because of such agency’s intentional or negligent failure to file any required document including those specified in section 521; or

“(C) intentionally or negligently disregarded the material requirements of this title or the Federal Rules of Bankruptcy Procedure applicable to such agency.

“(3) In addition to such other remedies as are provided under State law, whenever the chief law enforcement officer of a State, or an official or agency designated by a State, has reason to believe that any person has violated or is violating this section, the State—

“(A) may bring an action to enjoin such violation;

“(B) may bring an action on behalf of its residents to recover the actual damages of assisted persons arising from such violation, including any liability under paragraph (2); and

“(C) in the case of any successful action under subparagraph (A) or (B), shall be awarded the costs of the action and reasonable attorneys’ fees as determined by the court.

“(4) The district courts of the United States for districts located in the State shall have concurrent jurisdiction of any action under subparagraph (A) or (B) of paragraph (3).

“(5) Notwithstanding any other provision of Federal law and in addition to any other remedy provided under Federal or State law, if the court, on its own motion or on the motion of the United States trustee or the debtor, finds that a person intentionally violated this section, or engaged in a clear and consistent pattern or practice of violating this section, the court may—

“(A) enjoin the violation of such section; or

“(B) impose an appropriate civil penalty against such person.

“(d) No provision of this section, section 527, or section 528 shall—

“(1) annul, alter, affect, or exempt any person subject to such sections from complying with any law of any State except to the extent that such law is inconsistent with those sections, and then only to the extent of the inconsistency; or

“(2) be deemed to limit or curtail the authority or ability—

“(A) of a State or subdivision or instrumentality thereof, to determine and enforce qualifications for the practice of law under the laws of that State; or

“(B) of a Federal court to determine and enforce the qualifications for the practice of law before that court.”.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, is amended by inserting after the item relating to section 525, the following:

“526. Restrictions on debt relief agencies.”.

SEC. 228. DISCLOSURES.

(a) DISCLOSURES.—Subchapter II of chapter 5 of title 11, United States Code, as amended by section 227, is amended by adding at the end the following:

“§ 527. Disclosures

“(a) A debt relief agency providing bankruptcy assistance to an assisted person shall provide—

“(1) the written notice required under section 342(b)(1); Notices.

and

“(2) to the extent not covered in the written notice described in paragraph (1), and not later than 3 business days after the first date on which a debt relief agency first offers to provide any bankruptcy assistance services to an assisted person, a clear and conspicuous written notice advising assisted persons that— Deadline.

“(A) all information that the assisted person is required to provide with a petition and thereafter during a case under this title is required to be complete, accurate, and truthful;

“(B) all assets and all liabilities are required to be completely and accurately disclosed in the documents filed to commence the case, and the replacement value of each asset as defined in section 506 must be stated in those documents where requested after reasonable inquiry to establish such value;

“(C) current monthly income, the amounts specified in section 707(b)(2), and, in a case under chapter 13 of this title, disposable income (determined in accordance with section 707(b)(2)), are required to be stated after reasonable inquiry; and

“(D) information that an assisted person provides during their case may be audited pursuant to this title, and that failure to provide such information may result in dismissal of the case under this title or other sanction, including a criminal sanction.

“(b) A debt relief agency providing bankruptcy assistance to an assisted person shall provide each assisted person at the same time as the notices required under subsection (a)(1) the following

statement, to the extent applicable, or one substantially similar. The statement shall be clear and conspicuous and shall be in a single document separate from other documents or notices provided to the assisted person:

“IMPORTANT INFORMATION ABOUT BANKRUPTCY ASSISTANCE SERVICES FROM AN ATTORNEY OR BANKRUPTCY PETITION PREPARER.

“If you decide to seek bankruptcy relief, you can represent yourself, you can hire an attorney to represent you, or you can get help in some localities from a bankruptcy petition preparer who is not an attorney. THE LAW REQUIRES AN ATTORNEY OR BANKRUPTCY PETITION PREPARER TO GIVE YOU A WRITTEN CONTRACT SPECIFYING WHAT THE ATTORNEY OR BANKRUPTCY PETITION PREPARER WILL DO FOR YOU AND HOW MUCH IT WILL COST. Ask to see the contract before you hire anyone.

“The following information helps you understand what must be done in a routine bankruptcy case to help you evaluate how much service you need. Although bankruptcy can be complex, many cases are routine.

“Before filing a bankruptcy case, either you or your attorney should analyze your eligibility for different forms of debt relief available under the Bankruptcy Code and which form of relief is most likely to be beneficial for you. Be sure you understand the relief you can obtain and its limitations. To file a bankruptcy case, documents called a Petition, Schedules and Statement of Financial Affairs, as well as in some cases a Statement of Intention need to be prepared correctly and filed with the bankruptcy court. You will have to pay a filing fee to the bankruptcy court. Once your case starts, you will have to attend the required first meeting of creditors where you may be questioned by a court official called a ‘trustee’ and by creditors.

“If you choose to file a chapter 7 case, you may be asked by a creditor to reaffirm a debt. You may want help deciding whether to do so. A creditor is not permitted to coerce you into reaffirming your debts.

“If you choose to file a chapter 13 case in which you repay your creditors what you can afford over 3 to 5 years, you may also want help with preparing your chapter 13 plan and with the confirmation hearing on your plan which will be before a bankruptcy judge.

“If you select another type of relief under the Bankruptcy Code other than chapter 7 or chapter 13, you will want to find out what should be done from someone familiar with that type of relief.

“Your bankruptcy case may also involve litigation. You are generally permitted to represent yourself in litigation in bankruptcy court, but only attorneys, not bankruptcy petition preparers, can give you legal advice.’

“(c) Except to the extent the debt relief agency provides the required information itself after reasonably diligent inquiry of the assisted person or others so as to obtain such information reasonably accurately for inclusion on the petition, schedules or statement of financial affairs, a debt relief agency providing bankruptcy assistance to an assisted person, to the extent permitted by nonbankruptcy law, shall provide each assisted person at the time required for the notice required under subsection (a)(1) reasonably sufficient

information (which shall be provided in a clear and conspicuous writing) to the assisted person on how to provide all the information the assisted person is required to provide under this title pursuant to section 521, including—

“(1) how to value assets at replacement value, determine current monthly income, the amounts specified in section 707(b)(2) and, in a chapter 13 case, how to determine disposable income in accordance with section 707(b)(2) and related calculations;

“(2) how to complete the list of creditors, including how to determine what amount is owed and what address for the creditor should be shown; and

“(3) how to determine what property is exempt and how to value exempt property at replacement value as defined in section 506.

“(d) A debt relief agency shall maintain a copy of the notices required under subsection (a) of this section for 2 years after the date on which the notice is given the assisted person.”.

Records.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, as amended by section 227, is amended by inserting after the item relating to section 526 the following:

“527. Disclosures.”.

SEC. 229. REQUIREMENTS FOR DEBT RELIEF AGENCIES.

(a) ENFORCEMENT.—Subchapter II of chapter 5 of title 11, United States Code, as amended by sections 227 and 228, is amended by adding at the end the following:

“§ 528. Requirements for debt relief agencies

“(a) A debt relief agency shall—

“(1) not later than 5 business days after the first date on which such agency provides any bankruptcy assistance services to an assisted person, but prior to such assisted person’s petition under this title being filed, execute a written contract with such assisted person that explains clearly and conspicuously—

Deadline.
Contracts.

“(A) the services such agency will provide to such assisted person; and

“(B) the fees or charges for such services, and the terms of payment;

“(2) provide the assisted person with a copy of the fully executed and completed contract;

“(3) clearly and conspicuously disclose in any advertisement of bankruptcy assistance services or of the benefits of bankruptcy directed to the general public (whether in general media, seminars or specific mailings, telephonic or electronic messages, or otherwise) that the services or benefits are with respect to bankruptcy relief under this title; and

“(4) clearly and conspicuously use the following statement in such advertisement: ‘We are a debt relief agency. We help people file for bankruptcy relief under the Bankruptcy Code.’ or a substantially similar statement.

“(b)(1) An advertisement of bankruptcy assistance services or of the benefits of bankruptcy directed to the general public includes—

“(A) descriptions of bankruptcy assistance in connection with a chapter 13 plan whether or not chapter 13 is specifically mentioned in such advertisement; and

“(B) statements such as ‘federally supervised repayment plan’ or ‘Federal debt restructuring help’ or other similar statements that could lead a reasonable consumer to believe that debt counseling was being offered when in fact the services were directed to providing bankruptcy assistance with a chapter 13 plan or other form of bankruptcy relief under this title.

“(2) An advertisement, directed to the general public, indicating that the debt relief agency provides assistance with respect to credit defaults, mortgage foreclosures, eviction proceedings, excessive debt, debt collection pressure, or inability to pay any consumer debt shall—

“(A) disclose clearly and conspicuously in such advertisement that the assistance may involve bankruptcy relief under this title; and

“(B) include the following statement: ‘We are a debt relief agency. We help people file for bankruptcy relief under the Bankruptcy Code.’ or a substantially similar statement.”.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, as amended by section 227 and 228, is amended by inserting after the item relating to section 527, the following:

“528. Requirements for debt relief agencies.”.

SEC. 230. GAO STUDY.

(a) STUDY.—Not later than 270 days after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study of the feasibility, effectiveness, and cost of requiring trustees appointed under title 11, United States Code, or the bankruptcy courts, to provide to the Office of Child Support Enforcement promptly after the commencement of cases by debtors who are individuals under such title, the names and social security account numbers of such debtors for the purposes of allowing such Office to determine whether such debtors have outstanding obligations for child support (as determined on the basis of information in the Federal Case Registry or other national database).

(b) REPORT.—Not later than 300 days after the date of enactment of this Act, the Comptroller General shall submit to the President pro tempore of the Senate and the Speaker of the House of Representatives a report containing the results of the study required by subsection (a).

SEC. 231. PROTECTION OF PERSONALLY IDENTIFIABLE INFORMATION.

(a) LIMITATION.—Section 363(b)(1) of title 11, United States Code, is amended by striking the period at the end and inserting the following:

“, except that if the debtor in connection with offering a product or a service discloses to an individual a policy prohibiting the transfer of personally identifiable information about individuals to persons that are not affiliated with the debtor and if such policy is in effect on the date of the commencement of the case, then the trustee may not sell or lease personally identifiable information to any person unless—

“(A) such sale or such lease is consistent with such policy;
or

“(B) after appointment of a consumer privacy ombudsman in accordance with section 332, and after notice and a hearing, the court approves such sale or such lease—

“(i) giving due consideration to the facts, circumstances, and conditions of such sale or such lease; and

“(ii) finding that no showing was made that such sale or such lease would violate applicable nonbankruptcy law.”.

(b) DEFINITION.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (41) the following:

“(41A) ‘personally identifiable information’ means—

“(A) if provided by an individual to the debtor in connection with obtaining a product or a service from the debtor primarily for personal, family, or household purposes—

“(i) the first name (or initial) and last name of such individual, whether given at birth or time of adoption, or resulting from a lawful change of name;

“(ii) the geographical address of a physical place of residence of such individual;

“(iii) an electronic address (including an e-mail address) of such individual;

“(iv) a telephone number dedicated to contacting such individual at such physical place of residence;

“(v) a social security account number issued to such individual; or

“(vi) the account number of a credit card issued to such individual; or

“(B) if identified in connection with 1 or more of the items of information specified in subparagraph (A)—

“(i) a birth date, the number of a certificate of birth or adoption, or a place of birth; or

“(ii) any other information concerning an identified individual that, if disclosed, will result in contacting or identifying such individual physically or electronically;”.

SEC. 232. CONSUMER PRIVACY OMBUDSMAN.

(a) CONSUMER PRIVACY OMBUDSMAN.—Title 11 of the United States Code is amended by inserting after section 331 the following:

“§ 332. Consumer privacy ombudsman

“(a) If a hearing is required under section 363(b)(1)(B), the court shall order the United States trustee to appoint, not later than 5 days before the commencement of the hearing, 1 disinterested person (other than the United States trustee) to serve as the consumer privacy ombudsman in the case and shall require that notice of such hearing be timely given to such ombudsman. Deadline.

“(b) The consumer privacy ombudsman may appear and be heard at such hearing and shall provide to the court information to assist the court in its consideration of the facts, circumstances, and conditions of the proposed sale or lease of personally identifiable information under section 363(b)(1)(B). Such information may include presentation of—

“(1) the debtor’s privacy policy;

“(2) the potential losses or gains of privacy to consumers if such sale or such lease is approved by the court;

“(3) the potential costs or benefits to consumers if such sale or such lease is approved by the court; and

“(4) the potential alternatives that would mitigate potential privacy losses or potential costs to consumers.

“(c) A consumer privacy ombudsman shall not disclose any personally identifiable information obtained by the ombudsman under this title.”.

(b) **COMPENSATION OF CONSUMER PRIVACY OMBUDSMAN.**—Section 330(a)(1) of title 11, United States Code, is amended in the matter preceding subparagraph (A), by inserting “a consumer privacy ombudsman appointed under section 332,” before “an examiner”.

(c) **CONFORMING AMENDMENT.**—The table of sections for subchapter II of chapter 3 of title 11, United States Code, is amended by adding at the end the following:

“332. Consumer privacy ombudsman.”.

SEC. 233. PROHIBITION ON DISCLOSURE OF NAME OF MINOR CHILDREN.

(a) **PROHIBITION.**—Title 11 of the United States Code, as amended by section 106, is amended by inserting after section 111 the following:

“§ 112. Prohibition on disclosure of name of minor children

“The debtor may be required to provide information regarding a minor child involved in matters under this title but may not be required to disclose in the public records in the case the name of such minor child. The debtor may be required to disclose the name of such minor child in a nonpublic record that is maintained by the court and made available by the court for examination by the United States trustee, the trustee, and the auditor (if any) serving under section 586(f) of title 28, in the case. The court, the United States trustee, the trustee, and such auditor shall not disclose the name of such minor child maintained in such nonpublic record.”.

(b) **CLERICAL AMENDMENT.**—The table of sections for chapter 1 of title 11, United States Code, as amended by section 106, is amended by inserting after the item relating to section 111 the following:

“112. Prohibition on disclosure of name of minor children.”.

(c) **CONFORMING AMENDMENT.**—Section 107(a) of title 11, United States Code, is amended by inserting “and subject to section 112” after “section”.

SEC. 234. PROTECTION OF PERSONAL INFORMATION.

(a) **RESTRICTION OF PUBLIC ACCESS TO CERTAIN INFORMATION CONTAINED IN BANKRUPTCY CASE FILES.**—Section 107 of title 11, United States Code, is amended by adding at the end the following:

“(c)(1) The bankruptcy court, for cause, may protect an individual, with respect to the following types of information to the extent the court finds that disclosure of such information would create undue risk of identity theft or other unlawful injury to the individual or the individual’s property:

“(A) Any means of identification (as defined in section 1028(d) of title 18) contained in a paper filed, or to be filed, in a case under this title.

“(B) Other information contained in a paper described in subparagraph (A).

“(2) Upon ex parte application demonstrating cause, the court shall provide access to information protected pursuant to paragraph (1) to an entity acting pursuant to the police or regulatory power of a domestic governmental unit.

“(3) The United States trustee, bankruptcy administrator, trustee, and any auditor serving under section 586(f) of title 28—

“(A) shall have full access to all information contained in any paper filed or submitted in a case under this title; and

“(B) shall not disclose information specifically protected by the court under this title.”.

(b) SECURITY OF SOCIAL SECURITY ACCOUNT NUMBER OF DEBTOR IN NOTICE TO CREDITOR.—Section 342(c) of title 11, United States Code, is amended—

(1) by inserting “last 4 digits of the” before “taxpayer identification number”; and

(2) by adding at the end the following: “If the notice concerns an amendment that adds a creditor to the schedules of assets and liabilities, the debtor shall include the full taxpayer identification number in the notice sent to that creditor, but the debtor shall include only the last 4 digits of the taxpayer identification number in the copy of the notice filed with the court.”.

(c) CONFORMING AMENDMENT.—Section 107(a) of title 11, United States Code, is amended by striking “subsection (b),” and inserting “subsections (b) and (c),”.

TITLE III—DISCOURAGING BANKRUPTCY ABUSE

SEC. 301. TECHNICAL AMENDMENTS.

Section 523(a)(17) of title 11, United States Code, is amended—

(1) by striking “by a court” and inserting “on a prisoner by any court”;

(2) by striking “section 1915(b) or (f)” and inserting “subsection (b) or (f)(2) of section 1915”; and

(3) by inserting “(or a similar non-Federal law)” after “title 28” each place it appears.

SEC. 302. DISCOURAGING BAD FAITH REPEAT FILINGS.

Section 362(c) of title 11, United States Code, is amended—

(1) in paragraph (1), by striking “and” at the end;

(2) in paragraph (2), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

“(3) if a single or joint case is filed by or against debtor who is an individual in a case under chapter 7, 11, or 13, and if a single or joint case of the debtor was pending within the preceding 1-year period but was dismissed, other than a case refiled under a chapter other than chapter 7 after dismissal under section 707(b)—

Termination
date.

“(A) the stay under subsection (a) with respect to any action taken with respect to a debt or property securing such debt or with respect to any lease shall terminate with respect to the debtor on the 30th day after the filing of the later case;

“(B) on the motion of a party in interest for continuation of the automatic stay and upon notice and a hearing, the court may extend the stay in particular cases as to any or all creditors (subject to such conditions or limitations as the court may then impose) after notice and a hearing completed before the expiration of the 30-day period only if the party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed; and

“(C) for purposes of subparagraph (B), a case is presumptively filed not in good faith (but such presumption may be rebutted by clear and convincing evidence to the contrary)—

“(i) as to all creditors, if—

“(I) more than 1 previous case under any of chapters 7, 11, and 13 in which the individual was a debtor was pending within the preceding 1-year period;

“(II) a previous case under any of chapters 7, 11, and 13 in which the individual was a debtor was dismissed within such 1-year period, after the debtor failed to—

“(aa) file or amend the petition or other documents as required by this title or the court without substantial excuse (but mere inadvertence or negligence shall not be a substantial excuse unless the dismissal was caused by the negligence of the debtor’s attorney);

“(bb) provide adequate protection as ordered by the court; or

“(cc) perform the terms of a plan confirmed by the court; or

“(III) there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case under chapter 7, 11, or 13 or any other reason to conclude that the later case will be concluded—

“(aa) if a case under chapter 7, with a discharge; or

“(bb) if a case under chapter 11 or 13, with a confirmed plan that will be fully performed; and

“(ii) as to any creditor that commenced an action under subsection (d) in a previous case in which the individual was a debtor if, as of the date of dismissal of such case, that action was still pending or had been resolved by terminating, conditioning, or limiting the stay as to actions of such creditor; and

“(4)(A)(i) if a single or joint case is filed by or against a debtor who is an individual under this title, and if 2 or more single or joint cases of the debtor were pending within the previous year but were dismissed, other than a case refiled

under section 707(b), the stay under subsection (a) shall not go into effect upon the filing of the later case; and

“(ii) on request of a party in interest, the court shall promptly enter an order confirming that no stay is in effect;

“(B) if, within 30 days after the filing of the later case, a party in interest requests the court may order the stay to take effect in the case as to any or all creditors (subject to such conditions or limitations as the court may impose), after notice and a hearing, only if the party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed;

“(C) a stay imposed under subparagraph (B) shall be effective on the date of the entry of the order allowing the stay to go into effect; and

Effective date.

“(D) for purposes of subparagraph (B), a case is presumptively filed not in good faith (but such presumption may be rebutted by clear and convincing evidence to the contrary)—

“(i) as to all creditors if—

“(I) 2 or more previous cases under this title in which the individual was a debtor were pending within the 1-year period;

“(II) a previous case under this title in which the individual was a debtor was dismissed within the time period stated in this paragraph after the debtor failed to file or amend the petition or other documents as required by this title or the court without substantial excuse (but mere inadvertence or negligence shall not be substantial excuse unless the dismissal was caused by the negligence of the debtor’s attorney), failed to provide adequate protection as ordered by the court, or failed to perform the terms of a plan confirmed by the court; or

“(III) there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case under this title, or any other reason to conclude that the later case will not be concluded, if a case under chapter 7, with a discharge, and if a case under chapter 11 or 13, with a confirmed plan that will be fully performed; or

“(ii) as to any creditor that commenced an action under subsection (d) in a previous case in which the individual was a debtor if, as of the date of dismissal of such case, such action was still pending or had been resolved by terminating, conditioning, or limiting the stay as to such action of such creditor.”.

SEC. 303. CURBING ABUSIVE FILINGS.

(a) IN GENERAL.—Section 362(d) of title 11, United States Code, is amended—

(1) in paragraph (2), by striking “or” at the end;

(2) in paragraph (3), by striking the period at the end and inserting “; or”; and

(3) by adding at the end the following:

“(4) with respect to a stay of an act against real property under subsection (a), by a creditor whose claim is secured by an interest in such real property, if the court finds that

the filing of the petition was part of a scheme to delay, hinder, and defraud creditors that involved either—

“(A) transfer of all or part ownership of, or other interest in, such real property without the consent of the secured creditor or court approval; or

“(B) multiple bankruptcy filings affecting such real property.

If recorded in compliance with applicable State laws governing notices of interests or liens in real property, an order entered under paragraph (4) shall be binding in any other case under this title purporting to affect such real property filed not later than 2 years after the date of the entry of such order by the court, except that a debtor in a subsequent case under this title may move for relief from such order based upon changed circumstances or for good cause shown, after notice and a hearing. Any Federal, State, or local governmental unit that accepts notices of interests or liens in real property shall accept any certified copy of an order described in this subsection for indexing and recording.”.

(b) **AUTOMATIC STAY.**—Section 362(b) of title 11, United States Code, as amended by section 224, is amended by inserting after paragraph (19), the following:

“(20) under subsection (a), of any act to enforce any lien against or security interest in real property following entry of the order under subsection (d)(4) as to such real property in any prior case under this title, for a period of 2 years after the date of the entry of such an order, except that the debtor, in a subsequent case under this title, may move for relief from such order based upon changed circumstances or for other good cause shown, after notice and a hearing;

“(21) under subsection (a), of any act to enforce any lien against or security interest in real property—

“(A) if the debtor is ineligible under section 109(g) to be a debtor in a case under this title; or

“(B) if the case under this title was filed in violation of a bankruptcy court order in a prior case under this title prohibiting the debtor from being a debtor in another case under this title;”.

SEC. 304. DEBTOR RETENTION OF PERSONAL PROPERTY SECURITY.

Title 11, United States Code, is amended—

(1) in section 521(a), as so designated by section 106—

(A) in paragraph (4), by striking “, and” at the end and inserting a semicolon;

(B) in paragraph (5), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(6) in a case under chapter 7 of this title in which the debtor is an individual, not retain possession of personal property as to which a creditor has an allowed claim for the purchase price secured in whole or in part by an interest in such personal property unless the debtor, not later than 45 days after the first meeting of creditors under section 341(a), either—

“(A) enters into an agreement with the creditor pursuant to section 524(c) with respect to the claim secured by such property; or

Deadline.

“(B) redeems such property from the security interest pursuant to section 722.

If the debtor fails to so act within the 45-day period referred to in paragraph (6), the stay under section 362(a) is terminated with respect to the personal property of the estate or of the debtor which is affected, such property shall no longer be property of the estate, and the creditor may take whatever action as to such property as is permitted by applicable nonbankruptcy law, unless the court determines on the motion of the trustee filed before the expiration of such 45-day period, and after notice and a hearing, that such property is of consequential value or benefit to the estate, orders appropriate adequate protection of the creditor’s interest, and orders the debtor to deliver any collateral in the debtor’s possession to the trustee.”; and

(2) in section 722, by inserting “in full at the time of redemption” before the period at the end.

SEC. 305. RELIEF FROM THE AUTOMATIC STAY WHEN THE DEBTOR DOES NOT COMPLETE INTENDED SURRENDER OF CONSUMER DEBT COLLATERAL.

Title 11, United States Code, is amended—

(1) in section 362, as amended by section 106—

(A) in subsection (c), by striking “(e), and (f)” and inserting “(e), (f), and (h)”;

(B) by redesignating subsection (h) as subsection (k) and transferring such subsection so as to insert it after subsection (j) as added by section 106; and

(C) by inserting after subsection (g) the following:

“(h)(1) In a case in which the debtor is an individual, the stay provided by subsection (a) is terminated with respect to personal property of the estate or of the debtor securing in whole or in part a claim, or subject to an unexpired lease, and such personal property shall no longer be property of the estate if the debtor fails within the applicable time set by section 521(a)(2)—

“(A) to file timely any statement of intention required under section 521(a)(2) with respect to such personal property or to indicate in such statement that the debtor will either surrender such personal property or retain it and, if retaining such personal property, either redeem such personal property pursuant to section 722, enter into an agreement of the kind specified in section 524(c) applicable to the debt secured by such personal property, or assume such unexpired lease pursuant to section 365(p) if the trustee does not do so, as applicable; and

“(B) to take timely the action specified in such statement, as it may be amended before expiration of the period for taking action, unless such statement specifies the debtor’s intention to reaffirm such debt on the original contract terms and the creditor refuses to agree to the reaffirmation on such terms.

“(2) Paragraph (1) does not apply if the court determines, on the motion of the trustee filed before the expiration of the applicable time set by section 521(a)(2), after notice and a hearing, that such personal property is of consequential value or benefit to the estate, and orders appropriate adequate protection of the creditor’s interest, and orders the debtor to deliver any collateral in the debtor’s possession to the trustee. If the court does not

so determine, the stay provided by subsection (a) shall terminate upon the conclusion of the hearing on the motion.”; and

(2) in section 521, as amended by sections 106 and 225—

(A) in subsection (a)(2) by striking “consumer”;

(B) in subsection (a)(2)(B)—

(i) by striking “forty-five days after the filing of a notice of intent under this section” and inserting “30 days after the first date set for the meeting of creditors under section 341(a)”;

(ii) by striking “forty-five day” and inserting “30-day”;

(C) in subsection (a)(2)(C) by inserting “, except as provided in section 362(h)” before the semicolon; and

(D) by adding at the end the following:

“(d) If the debtor fails timely to take the action specified in subsection (a)(6) of this section, or in paragraphs (1) and (2) of section 362(h), with respect to property which a lessor or bailor owns and has leased, rented, or bailed to the debtor or as to which a creditor holds a security interest not otherwise voidable under section 522(f), 544, 545, 547, 548, or 549, nothing in this title shall prevent or limit the operation of a provision in the underlying lease or agreement that has the effect of placing the debtor in default under such lease or agreement by reason of the occurrence, pendency, or existence of a proceeding under this title or the insolvency of the debtor. Nothing in this subsection shall be deemed to justify limiting such a provision in any other circumstance.”.

SEC. 306. GIVING SECURED CREDITORS FAIR TREATMENT IN CHAPTER 13.

(a) **IN GENERAL.**—Section 1325(a)(5)(B)(i) of title 11, United States Code, is amended to read as follows:

“(i) the plan provides that—

“(I) the holder of such claim retain the lien securing such claim until the earlier of—

“(aa) the payment of the underlying debt determined under nonbankruptcy law; or

“(bb) discharge under section 1328; and

“(II) if the case under this chapter is dismissed or converted without completion of the plan, such lien shall also be retained by such holder to the extent recognized by applicable nonbankruptcy law; and”.

(b) **RESTORING THE FOUNDATION FOR SECURED CREDIT.**—Section 1325(a) of title 11, United States Code, is amended by adding at the end the following:

“For purposes of paragraph (5), section 506 shall not apply to a claim described in that paragraph if the creditor has a purchase money security interest securing the debt that is the subject of the claim, the debt was incurred within the 910-day preceding the date of the filing of the petition, and the collateral for that debt consists of a motor vehicle (as defined in section 30102 of title 49) acquired for the personal use of the debtor, or if collateral for that debt consists of any other thing of value, if the debt was incurred during the 1-year period preceding that filing.”.

(c) **DEFINITIONS.**—Section 101 of title 11, United States Code, is amended—

(1) by inserting after paragraph (13) the following:

“(13A) ‘debtor’s principal residence’—

“(A) means a residential structure, including incidental property, without regard to whether that structure is attached to real property; and

“(B) includes an individual condominium or cooperative unit, a mobile or manufactured home, or trailer;”;

“(2) by inserting after paragraph (27), the following:

“(27A) ‘incidental property’ means, with respect to a debtor’s principal residence—

“(A) property commonly conveyed with a principal residence in the area where the real property is located;

“(B) all easements, rights, appurtenances, fixtures, rents, royalties, mineral rights, oil or gas rights or profits, water rights, escrow funds, or insurance proceeds; and

“(C) all replacements or additions;”.

SEC. 307. DOMICILIARY REQUIREMENTS FOR EXEMPTIONS.

Section 522(b)(3) of title 11, United States Code, as so designated by section 106, is amended—

(1) in subparagraph (A)—

(A) by striking “180 days” and inserting “730 days”; and

(B) by striking “, or for a longer portion of such 180-day period than in any other place” and inserting “or if the debtor’s domicile has not been located at a single State for such 730-day period, the place in which the debtor’s domicile was located for 180 days immediately preceding the 730-day period or for a longer portion of such 180-day period than in any other place”; and

(2) by adding at the end the following:

“If the effect of the domiciliary requirement under subparagraph (A) is to render the debtor ineligible for any exemption, the debtor may elect to exempt property that is specified under subsection (d).”.

SEC. 308. REDUCTION OF HOMESTEAD EXEMPTION FOR FRAUD.

Section 522 of title 11, United States Code, as amended by section 224, is amended—

(1) in subsection (b)(3)(A), as so designated by this Act, by inserting “subject to subsections (o) and (p),” before “any property”; and

(2) by adding at the end the following:

“(o) For purposes of subsection (b)(3)(A), and notwithstanding subsection (a), the value of an interest in—

“(1) real or personal property that the debtor or a dependent of the debtor uses as a residence;

“(2) a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence;

“(3) a burial plot for the debtor or a dependent of the debtor; or

“(4) real or personal property that the debtor or a dependent of the debtor claims as a homestead;

shall be reduced to the extent that such value is attributable to any portion of any property that the debtor disposed of in the 10-year period ending on the date of the filing of the petition with the intent to hinder, delay, or defraud a creditor and that the debtor could not exempt, or that portion that the debtor could

not exempt, under subsection (b), if on such date the debtor had held the property so disposed of.”.

SEC. 309. PROTECTING SECURED CREDITORS IN CHAPTER 13 CASES.

(a) STOPPING ABUSIVE CONVERSIONS FROM CHAPTER 13.—Section 348(f)(1) of title 11, United States Code, is amended—

- (1) in subparagraph (A), by striking “and” at the end;
- (2) in subparagraph (B)—

(A) by striking “in the converted case, with allowed secured claims” and inserting “only in a case converted to a case under chapter 11 or 12, but not in a case converted to a case under chapter 7, with allowed secured claims in cases under chapters 11 and 12”; and

(B) by striking the period and inserting “; and”; and

(3) by adding at the end the following:

“(C) with respect to cases converted from chapter 13—

“(i) the claim of any creditor holding security as of the date of the petition shall continue to be secured by that security unless the full amount of such claim determined under applicable nonbankruptcy law has been paid in full as of the date of conversion, notwithstanding any valuation or determination of the amount of an allowed secured claim made for the purposes of the case under chapter 13; and

“(ii) unless a prebankruptcy default has been fully cured under the plan at the time of conversion, in any proceeding under this title or otherwise, the default shall have the effect given under applicable nonbankruptcy law.”.

(b) GIVING DEBTORS THE ABILITY TO KEEP LEASED PERSONAL PROPERTY BY ASSUMPTION.—Section 365 of title 11, United States Code, is amended by adding at the end the following:

“(p)(1) If a lease of personal property is rejected or not timely assumed by the trustee under subsection (d), the leased property is no longer property of the estate and the stay under section 362(a) is automatically terminated.

“(2)(A) If the debtor in a case under chapter 7 is an individual, the debtor may notify the creditor in writing that the debtor desires to assume the lease. Upon being so notified, the creditor may, at its option, notify the debtor that it is willing to have the lease assumed by the debtor and may condition such assumption on cure of any outstanding default on terms set by the contract.

“(B) If, not later than 30 days after notice is provided under subparagraph (A), the debtor notifies the lessor in writing that the lease is assumed, the liability under the lease will be assumed by the debtor and not by the estate.

“(C) The stay under section 362 and the injunction under section 524(a)(2) shall not be violated by notification of the debtor and negotiation of cure under this subsection.

“(3) In a case under chapter 11 in which the debtor is an individual and in a case under chapter 13, if the debtor is the lessee with respect to personal property and the lease is not assumed in the plan confirmed by the court, the lease is deemed rejected as of the conclusion of the hearing on confirmation. If the lease is rejected, the stay under section 362 and any stay under section 1301 is automatically terminated with respect to the property subject to the lease.”.

Deadline.

(c) ADEQUATE PROTECTION OF LESSORS AND PURCHASE MONEY SECURED CREDITORS.—

(1) CONFIRMATION OF PLAN.—Section 1325(a)(5)(B) of title 11, United States Code, as amended by section 306, is amended—

(A) in clause (i), by striking “and” at the end;

(B) in clause (ii), by striking “or” at the end and inserting “and”; and

(C) by adding at the end the following:

“(iii) if—

“(I) property to be distributed pursuant to this subsection is in the form of periodic payments, such payments shall be in equal monthly amounts; and

“(II) the holder of the claim is secured by personal property, the amount of such payments shall not be less than an amount sufficient to provide to the holder of such claim adequate protection during the period of the plan; or”.

(2) PAYMENTS.—Section 1326(a) of title 11, United States Code, is amended to read as follows:

“(a)(1) Unless the court orders otherwise, the debtor shall commence making payments not later than 30 days after the date of the filing of the plan or the order for relief, whichever is earlier, in the amount—

“(A) proposed by the plan to the trustee;

“(B) scheduled in a lease of personal property directly to the lessor for that portion of the obligation that becomes due after the order for relief, reducing the payments under subparagraph (A) by the amount so paid and providing the trustee with evidence of such payment, including the amount and date of payment; and

“(C) that provides adequate protection directly to a creditor holding an allowed claim secured by personal property to the extent the claim is attributable to the purchase of such property by the debtor for that portion of the obligation that becomes due after the order for relief, reducing the payments under subparagraph (A) by the amount so paid and providing the trustee with evidence of such payment, including the amount and date of payment.

“(2) A payment made under paragraph (1)(A) shall be retained by the trustee until confirmation or denial of confirmation. If a plan is confirmed, the trustee shall distribute any such payment in accordance with the plan as soon as is practicable. If a plan is not confirmed, the trustee shall return any such payments not previously paid and not yet due and owing to creditors pursuant to paragraph (3) to the debtor, after deducting any unpaid claim allowed under section 503(b).

“(3) Subject to section 363, the court may, upon notice and a hearing, modify, increase, or reduce the payments required under this subsection pending confirmation of a plan.

“(4) Not later than 60 days after the date of filing of a case under this chapter, a debtor retaining possession of personal property subject to a lease or securing a claim attributable in whole or in part to the purchase price of such property shall provide the lessor or secured creditor reasonable evidence of the maintenance of any required insurance coverage with respect to the use

or ownership of such property and continue to do so for so long as the debtor retains possession of such property.”.

SEC. 310. LIMITATION ON LUXURY GOODS.

Section 523(a)(2)(C) of title 11, United States Code, is amended to read as follows:

“(C)(i) for purposes of subparagraph (A)—

“(I) consumer debts owed to a single creditor and aggregating more than \$500 for luxury goods or services incurred by an individual debtor on or within 90 days before the order for relief under this title are presumed to be nondischargeable; and

“(II) cash advances aggregating more than \$750 that are extensions of consumer credit under an open end credit plan obtained by an individual debtor on or within 70 days before the order for relief under this title, are presumed to be nondischargeable; and

“(ii) for purposes of this subparagraph—

“(I) the terms ‘consumer’, ‘credit’, and ‘open end credit plan’ have the same meanings as in section 103 of the Truth in Lending Act; and

“(II) the term ‘luxury goods or services’ does not include goods or services reasonably necessary for the support or maintenance of the debtor or a dependent of the debtor.”.

SEC. 311. AUTOMATIC STAY.

(a) **IN GENERAL.**—Section 362(b) of title 11, United States Code, as amended by sections 224 and 303, is amended by inserting after paragraph (21), the following:

“(22) subject to subsection (l), under subsection (a)(3), of the continuation of any eviction, unlawful detainer action, or similar proceeding by a lessor against a debtor involving residential property in which the debtor resides as a tenant under a lease or rental agreement and with respect to which the lessor has obtained before the date of the filing of the bankruptcy petition, a judgment for possession of such property against the debtor;

“(23) subject to subsection (m), under subsection (a)(3), of an eviction action that seeks possession of the residential property in which the debtor resides as a tenant under a lease or rental agreement based on endangerment of such property or the illegal use of controlled substances on such property, but only if the lessor files with the court, and serves upon the debtor, a certification under penalty of perjury that such an eviction action has been filed, or that the debtor, during the 30-day period preceding the date of the filing of the certification, has endangered property or illegally used or allowed to be used a controlled substance on the property;

“(24) under subsection (a), of any transfer that is not avoidable under section 544 and that is not avoidable under section 549;”.

(b) **LIMITATIONS.**—Section 362 of title 11, United States Code, as amended by sections 106 and 305, is amended by adding at the end the following:

“(l)(1) Except as otherwise provided in this subsection, subsection (b)(22) shall apply on the date that is 30 days after the date on which the bankruptcy petition is filed, if the debtor files

Applicability.

with the petition and serves upon the lessor a certification under penalty of perjury that—

“(A) under nonbankruptcy law applicable in the jurisdiction, there are circumstances under which the debtor would be permitted to cure the entire monetary default that gave rise to the judgment for possession, after that judgment for possession was entered; and

“(B) the debtor (or an adult dependent of the debtor) has deposited with the clerk of the court, any rent that would become due during the 30-day period after the filing of the bankruptcy petition.

“(2) If, within the 30-day period after the filing of the bankruptcy petition, the debtor (or an adult dependent of the debtor) complies with paragraph (1) and files with the court and serves upon the lessor a further certification under penalty of perjury that the debtor (or an adult dependent of the debtor) has cured, under nonbankruptcy law applicable in the jurisdiction, the entire monetary default that gave rise to the judgment under which possession is sought by the lessor, subsection (b)(22) shall not apply, unless ordered to apply by the court under paragraph (3).

“(3)(A) If the lessor files an objection to any certification filed by the debtor under paragraph (1) or (2), and serves such objection upon the debtor, the court shall hold a hearing within 10 days after the filing and service of such objection to determine if the certification filed by the debtor under paragraph (1) or (2) is true.

Deadline.

“(B) If the court upholds the objection of the lessor filed under subparagraph (A)—

“(i) subsection (b)(22) shall apply immediately and relief from the stay provided under subsection (a)(3) shall not be required to enable the lessor to complete the process to recover full possession of the property; and

Applicability.

“(ii) the clerk of the court shall immediately serve upon the lessor and the debtor a certified copy of the court’s order upholding the lessor’s objection.

“(4) If a debtor, in accordance with paragraph (5), indicates on the petition that there was a judgment for possession of the residential rental property in which the debtor resides and does not file a certification under paragraph (1) or (2)—

“(A) subsection (b)(22) shall apply immediately upon failure to file such certification, and relief from the stay provided under subsection (a)(3) shall not be required to enable the lessor to complete the process to recover full possession of the property; and

Applicability.

“(B) the clerk of the court shall immediately serve upon the lessor and the debtor a certified copy of the docket indicating the absence of a filed certification and the applicability of the exception to the stay under subsection (b)(22).

“(5)(A) Where a judgment for possession of residential property in which the debtor resides as a tenant under a lease or rental agreement has been obtained by the lessor, the debtor shall so indicate on the bankruptcy petition and shall provide the name and address of the lessor that obtained that pre-petition judgment on the petition and on any certification filed under this subsection.

“(B) The form of certification filed with the petition, as specified in this subsection, shall provide for the debtor to certify, and the debtor shall certify—

Certification.

“(i) whether a judgment for possession of residential rental housing in which the debtor resides has been obtained against the debtor before the date of the filing of the petition; and

“(ii) whether the debtor is claiming under paragraph (1) that under nonbankruptcy law applicable in the jurisdiction, there are circumstances under which the debtor would be permitted to cure the entire monetary default that gave rise to the judgment for possession, after that judgment of possession was entered, and has made the appropriate deposit with the court.

“(C) The standard forms (electronic and otherwise) used in a bankruptcy proceeding shall be amended to reflect the requirements of this subsection.

“(D) The clerk of the court shall arrange for the prompt transmittal of the rent deposited in accordance with paragraph (1)(B) to the lessor.

Applicability.

“(m)(1) Except as otherwise provided in this subsection, subsection (b)(23) shall apply on the date that is 15 days after the date on which the lessor files and serves a certification described in subsection (b)(23).

“(2)(A) If the debtor files with the court an objection to the truth or legal sufficiency of the certification described in subsection (b)(23) and serves such objection upon the lessor, subsection (b)(23) shall not apply, unless ordered to apply by the court under this subsection.

Deadline.

“(B) If the debtor files and serves the objection under subparagraph (A), the court shall hold a hearing within 10 days after the filing and service of such objection to determine if the situation giving rise to the lessor’s certification under paragraph (1) existed or has been remedied.

“(C) If the debtor can demonstrate to the satisfaction of the court that the situation giving rise to the lessor’s certification under paragraph (1) did not exist or has been remedied, the stay provided under subsection (a)(3) shall remain in effect until the termination of the stay under this section.

“(D) If the debtor cannot demonstrate to the satisfaction of the court that the situation giving rise to the lessor’s certification under paragraph (1) did not exist or has been remedied—

“(i) relief from the stay provided under subsection (a)(3) shall not be required to enable the lessor to proceed with the eviction; and

“(ii) the clerk of the court shall immediately serve upon the lessor and the debtor a certified copy of the court’s order upholding the lessor’s certification.

Deadline.

“(3) If the debtor fails to file, within 15 days, an objection under paragraph (2)(A)—

Applicability.

“(A) subsection (b)(23) shall apply immediately upon such failure and relief from the stay provided under subsection (a)(3) shall not be required to enable the lessor to complete the process to recover full possession of the property; and

“(B) the clerk of the court shall immediately serve upon the lessor and the debtor a certified copy of the docket indicating such failure.”.

SEC. 312. EXTENSION OF PERIOD BETWEEN BANKRUPTCY DISCHARGES.

Title 11, United States Code, is amended—

(1) in section 727(a)(8), by striking “six” and inserting “8”; and

(2) in section 1328, by inserting after subsection (e) the following:

“(f) Notwithstanding subsections (a) and (b), the court shall not grant a discharge of all debts provided for in the plan or disallowed under section 502, if the debtor has received a discharge—

“(1) in a case filed under chapter 7, 11, or 12 of this title during the 4-year period preceding the date of the order for relief under this chapter, or

“(2) in a case filed under chapter 13 of this title during the 2-year period preceding the date of such order.”.

SEC. 313. DEFINITION OF HOUSEHOLD GOODS AND ANTIQUES.

(a) DEFINITION.—Section 522(f) of title 11, United States Code, is amended by adding at the end the following:

“(4)(A) Subject to subparagraph (B), for purposes of paragraph (1)(B), the term ‘household goods’ means—

“(i) clothing;

“(ii) furniture;

“(iii) appliances;

“(iv) 1 radio;

“(v) 1 television;

“(vi) 1 VCR;

“(vii) linens;

“(viii) china;

“(ix) crockery;

“(x) kitchenware;

“(xi) educational materials and educational equipment primarily for the use of minor dependent children of the debtor;

“(xii) medical equipment and supplies;

“(xiii) furniture exclusively for the use of minor children, or elderly or disabled dependents of the debtor;

“(xiv) personal effects (including the toys and hobby equipment of minor dependent children and wedding rings) of the debtor and the dependents of the debtor; and

“(xv) 1 personal computer and related equipment.

“(B) The term ‘household goods’ does not include—

“(i) works of art (unless by or of the debtor, or any relative of the debtor);

“(ii) electronic entertainment equipment with a fair market value of more than \$500 in the aggregate (except 1 television, 1 radio, and 1 VCR);

“(iii) items acquired as antiques with a fair market value of more than \$500 in the aggregate;

“(iv) jewelry with a fair market value of more than \$500 in the aggregate (except wedding rings); and

“(v) a computer (except as otherwise provided for in this section), motor vehicle (including a tractor or lawn tractor), boat, or a motorized recreational device, conveyance, vehicle, watercraft, or aircraft.”.

(b) STUDY.—Not later than 2 years after the date of enactment of this Act, the Director of the Executive Office for United States Trustees shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives containing its findings regarding utilization of

Reports.

the definition of household goods, as defined in section 522(f)(4) of title 11, United States Code, as added by subsection (a), with respect to the avoidance of nonpossessory, nonpurchase money security interests in household goods under section 522(f)(1)(B) of title 11, United States Code, and the impact such section 522(f)(4) has had on debtors and on the bankruptcy courts. Such report may include recommendations for amendments to such section 522(f)(4) consistent with the Director's findings.

SEC. 314. DEBT INCURRED TO PAY NONDISCHARGEABLE DEBTS.

(a) **IN GENERAL.**—Section 523(a) of title 11, United States Code, is amended by inserting after paragraph (14) the following:

“(14A) incurred to pay a tax to a governmental unit, other than the United States, that would be nondischargeable under paragraph (1);”.

(b) **DISCHARGE UNDER CHAPTER 13.**—Section 1328(a) of title 11, United States Code, is amended by striking paragraphs (1) through (3) and inserting the following:

“(1) provided for under section 1322(b)(5);

“(2) of the kind specified in paragraph (2), (3), (4), (5), (8), or (9) of section 523(a);

“(3) for restitution, or a criminal fine, included in a sentence on the debtor's conviction of a crime; or

“(4) for restitution, or damages, awarded in a civil action against the debtor as a result of willful or malicious injury by the debtor that caused personal injury to an individual or the death of an individual.”.

SEC. 315. GIVING CREDITORS FAIR NOTICE IN CHAPTERS 7 AND 13 CASES.

(a) **NOTICE.**—Section 342 of title 11, United States Code, as amended by section 102, is amended—

(1) in subsection (c)—

(A) by inserting “(1)” after “(c)”;

(B) by striking “, but the failure of such notice to contain such information shall not invalidate the legal effect of such notice”; and

(C) by adding at the end the following:

“(2)(A) If, within the 90 days before the commencement of a voluntary case, a creditor supplies the debtor in at least 2 communications sent to the debtor with the current account number of the debtor and the address at which such creditor requests to receive correspondence, then any notice required by this title to be sent by the debtor to such creditor shall be sent to such address and shall include such account number.

“(B) If a creditor would be in violation of applicable nonbankruptcy law by sending any such communication within such 90-day period and if such creditor supplies the debtor in the last 2 communications with the current account number of the debtor and the address at which such creditor requests to receive correspondence, then any notice required by this title to be sent by the debtor to such creditor shall be sent to such address and shall include such account number.”; and

(2) by adding at the end the following:

“(e)(1) In a case under chapter 7 or 13 of this title of a debtor who is an individual, a creditor at any time may both file with the court and serve on the debtor a notice of address to be used to provide notice in such case to such creditor.

“(2) Any notice in such case required to be provided to such creditor by the debtor or the court later than 5 days after the court and the debtor receive such creditor’s notice of address, shall be provided to such address.

“(f)(1) An entity may file with any bankruptcy court a notice of address to be used by all the bankruptcy courts or by particular bankruptcy courts, as so specified by such entity at the time such notice is filed, to provide notice to such entity in all cases under chapters 7 and 13 pending in the courts with respect to which such notice is filed, in which such entity is a creditor.

“(2) In any case filed under chapter 7 or 13, any notice required to be provided by a court with respect to which a notice is filed under paragraph (1), to such entity later than 30 days after the filing of such notice under paragraph (1) shall be provided to such address unless with respect to a particular case a different address is specified in a notice filed and served in accordance with subsection (e).

“(3) A notice filed under paragraph (1) may be withdrawn by such entity.

“(g)(1) Notice provided to a creditor by the debtor or the court other than in accordance with this section (excluding this subsection) shall not be effective notice until such notice is brought to the attention of such creditor. If such creditor designates a person or an organizational subdivision of such creditor to be responsible for receiving notices under this title and establishes reasonable procedures so that such notices receivable by such creditor are to be delivered to such person or such subdivision, then a notice provided to such creditor other than in accordance with this section (excluding this subsection) shall not be considered to have been brought to the attention of such creditor until such notice is received by such person or such subdivision.

“(2) A monetary penalty may not be imposed on a creditor for a violation of a stay in effect under section 362(a) (including a monetary penalty imposed under section 362(k)) or for failure to comply with section 542 or 543 unless the conduct that is the basis of such violation or of such failure occurs after such creditor receives notice effective under this section of the order for relief.”.

(b) DEBTOR’S DUTIES.—Section 521 of title 11, United States Code, as amended by sections 106, 225, and 305, is amended—

(1) in subsection (a), as so designated by section 106, by amending paragraph (1) to read as follows:

“(1) file—

“(A) a list of creditors; and

“(B) unless the court orders otherwise—

“(i) a schedule of assets and liabilities;

“(ii) a schedule of current income and current expenditures;

“(iii) a statement of the debtor’s financial affairs and, if section 342(b) applies, a certificate—

“(I) of an attorney whose name is indicated on the petition as the attorney for the debtor, or a bankruptcy petition preparer signing the petition under section 110(b)(1), indicating that such attorney or the bankruptcy petition preparer delivered to the debtor the notice required by section 342(b); or

“(II) if no attorney is so indicated, and no bankruptcy petition preparer signed the petition, of the debtor that such notice was received and read by the debtor;

“(iv) copies of all payment advices or other evidence of payment received within 60 days before the date of the filing of the petition, by the debtor from any employer of the debtor;

“(v) a statement of the amount of monthly net income, itemized to show how the amount is calculated; and

“(vi) a statement disclosing any reasonably anticipated increase in income or expenditures over the 12-month period following the date of the filing of the petition;” and

(2) by adding at the end the following:

“(e)(1) If the debtor in a case under chapter 7 or 13 is an individual and if a creditor files with the court at any time a request to receive a copy of the petition, schedules, and statement of financial affairs filed by the debtor, then the court shall make such petition, such schedules, and such statement available to such creditor.

“(2)(A) The debtor shall provide—

“(i) not later than 7 days before the date first set for the first meeting of creditors, to the trustee a copy of the Federal income tax return required under applicable law (or at the election of the debtor, a transcript of such return) for the most recent tax year ending immediately before the commencement of the case and for which a Federal income tax return was filed; and

“(ii) at the same time the debtor complies with clause (i), a copy of such return (or if elected under clause (i), such transcript) to any creditor that timely requests such copy.

“(B) If the debtor fails to comply with clause (i) or (ii) of subparagraph (A), the court shall dismiss the case unless the debtor demonstrates that the failure to so comply is due to circumstances beyond the control of the debtor.

“(C) If a creditor requests a copy of such tax return or such transcript and if the debtor fails to provide a copy of such tax return or such transcript to such creditor at the time the debtor provides such tax return or such transcript to the trustee, then the court shall dismiss the case unless the debtor demonstrates that the failure to provide a copy of such tax return or such transcript is due to circumstances beyond the control of the debtor.

“(3) If a creditor in a case under chapter 13 files with the court at any time a request to receive a copy of the plan filed by the debtor, then the court shall make available to such creditor a copy of the plan—

“(A) at a reasonable cost; and

“(B) not later than 5 days after such request is filed.

“(f) At the request of the court, the United States trustee, or any party in interest in a case under chapter 7, 11, or 13, a debtor who is an individual shall file with the court—

“(1) at the same time filed with the taxing authority, a copy of each Federal income tax return required under applicable law (or at the election of the debtor, a transcript

Deadline.

Deadline.

of such tax return) with respect to each tax year of the debtor ending while the case is pending under such chapter;

“(2) at the same time filed with the taxing authority, each Federal income tax return required under applicable law (or at the election of the debtor, a transcript of such tax return) that had not been filed with such authority as of the date of the commencement of the case and that was subsequently filed for any tax year of the debtor ending in the 3-year period ending on the date of the commencement of the case;

“(3) a copy of each amendment to any Federal income tax return or transcript filed with the court under paragraph (1) or (2); and

“(4) in a case under chapter 13—

Deadline.

“(A) on the date that is either 90 days after the end of such tax year or 1 year after the date of the commencement of the case, whichever is later, if a plan is not confirmed before such later date; and

“(B) annually after the plan is confirmed and until the case is closed, not later than the date that is 45 days before the anniversary of the confirmation of the plan; a statement, under penalty of perjury, of the income and expenditures of the debtor during the tax year of the debtor most recently concluded before such statement is filed under this paragraph, and of the monthly income of the debtor, that shows how income, expenditures, and monthly income are calculated.

“(g)(1) A statement referred to in subsection (f)(4) shall disclose—

“(A) the amount and sources of the income of the debtor;

“(B) the identity of any person responsible with the debtor for the support of any dependent of the debtor; and

“(C) the identity of any person who contributed, and the amount contributed, to the household in which the debtor resides.

“(2) The tax returns, amendments, and statement of income and expenditures described in subsections (e)(2)(A) and (f) shall be available to the United States trustee (or the bankruptcy administrator, if any), the trustee, and any party in interest for inspection and copying, subject to the requirements of section 315(c) of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005.

“(h) If requested by the United States trustee or by the trustee, the debtor shall provide—

“(1) a document that establishes the identity of the debtor, including a driver’s license, passport, or other document that contains a photograph of the debtor; or

“(2) such other personal identifying information relating to the debtor that establishes the identity of the debtor.”.

(c)(1) Not later than 180 days after the date of the enactment of this Act, the Director of the Administrative Office of the United States Courts shall establish procedures for safeguarding the confidentiality of any tax information required to be provided under this section.

Deadline.
Procedures.
11 USC 521 note.

(2) The procedures under paragraph (1) shall include restrictions on creditor access to tax information that is required to be provided under this section.

Deadline.
Reports.

(3) Not later than 540 days after the date of enactment of this Act, the Director of the Administrative Office of the United States Courts shall prepare and submit to the President pro tempore of the Senate and the Speaker of the House of Representatives a report that—

(A) assesses the effectiveness of the procedures established under paragraph (1); and

(B) if appropriate, includes proposed legislation to—

(i) further protect the confidentiality of tax information; and

(ii) provide penalties for the improper use by any person of the tax information required to be provided under this section.

SEC. 316. DISMISSAL FOR FAILURE TO TIMELY FILE SCHEDULES OR PROVIDE REQUIRED INFORMATION.

Section 521 of title 11, United States Code, as amended by sections 106, 225, 305, and 315, is amended by adding at the end the following:

“(i)(1) Subject to paragraphs (2) and (4) and notwithstanding section 707(a), if an individual debtor in a voluntary case under chapter 7 or 13 fails to file all of the information required under subsection (a)(1) within 45 days after the date of the filing of the petition, the case shall be automatically dismissed effective on the 46th day after the date of the filing of the petition.

Deadline.

“(2) Subject to paragraph (4) and with respect to a case described in paragraph (1), any party in interest may request the court to enter an order dismissing the case. If requested, the court shall enter an order of dismissal not later than 5 days after such request.

“(3) Subject to paragraph (4) and upon request of the debtor made within 45 days after the date of the filing of the petition described in paragraph (1), the court may allow the debtor an additional period of not to exceed 45 days to file the information required under subsection (a)(1) if the court finds justification for extending the period for the filing.

“(4) Notwithstanding any other provision of this subsection, on the motion of the trustee filed before the expiration of the applicable period of time specified in paragraph (1), (2), or (3), and after notice and a hearing, the court may decline to dismiss the case if the court finds that the debtor attempted in good faith to file all the information required by subsection (a)(1)(B)(iv) and that the best interests of creditors would be served by administration of the case.”.

SEC. 317. ADEQUATE TIME TO PREPARE FOR HEARING ON CONFIRMATION OF THE PLAN.

Section 1324 of title 11, United States Code, is amended—

(1) by striking “After” and inserting the following:

“(a) Except as provided in subsection (b) and after”; and

(2) by adding at the end the following:

Deadline.

“(b) The hearing on confirmation of the plan may be held not earlier than 20 days and not later than 45 days after the date of the meeting of creditors under section 341(a), unless the court determines that it would be in the best interests of the creditors and the estate to hold such hearing at an earlier date and there is no objection to such earlier date.”.

SEC. 318. CHAPTER 13 PLANS TO HAVE A 5-YEAR DURATION IN CERTAIN CASES.

Title 11, United States Code, is amended—

(1) by amending section 1322(d) to read as follows:

“(d)(1) If the current monthly income of the debtor and the debtor’s spouse combined, when multiplied by 12, is not less than—

“(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner;

“(B) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals; or

“(C) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals, plus \$525 per month for each individual in excess of 4, the plan may not provide for payments over a period that is longer than 5 years.

“(2) If the current monthly income of the debtor and the debtor’s spouse combined, when multiplied by 12, is less than—

“(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner;

“(B) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals; or

“(C) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals, plus \$525 per month for each individual in excess of 4, the plan may not provide for payments over a period that is longer than 3 years, unless the court, for cause, approves a longer period, but the court may not approve a period that is longer than 5 years.”;

(2) in section 1325(b)(1)(B), by striking “three-year period” and inserting “applicable commitment period”; and

(3) in section 1325(b), as amended by section 102, by adding at the end the following:

“(4) For purposes of this subsection, the ‘applicable commitment period’—

“(A) subject to subparagraph (B), shall be—

“(i) 3 years; or

“(ii) not less than 5 years, if the current monthly income of the debtor and the debtor’s spouse combined, when multiplied by 12, is not less than—

“(I) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner;

“(II) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals; or

“(III) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals, plus \$525 per month for each individual in excess of 4; and

“(B) may be less than 3 or 5 years, whichever is applicable under subparagraph (A), but only if the plan provides for payment in full of all allowed unsecured claims over a shorter period.”; and

(4) in section 1329(c), by striking “three years” and inserting “the applicable commitment period under section 1325(b)(1)(B)”.

SEC. 319. SENSE OF CONGRESS REGARDING EXPANSION OF RULE 9011 OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE.

It is the sense of Congress that rule 9011 of the Federal Rules of Bankruptcy Procedure (11 U.S.C. App.) should be modified to include a requirement that all documents (including schedules), signed and unsigned, submitted to the court or to a trustee by debtors who represent themselves and debtors who are represented by attorneys be submitted only after the debtors or the debtors’ attorneys have made reasonable inquiry to verify that the information contained in such documents is—

(1) well grounded in fact; and

(2) warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law.

SEC. 320. PROMPT RELIEF FROM STAY IN INDIVIDUAL CASES.

Section 362(e) of title 11, United States Code, is amended—

(1) by inserting “(1)” after “(e)”; and

(2) by adding at the end the following:

“(2) Notwithstanding paragraph (1), in a case under chapter 7, 11, or 13 in which the debtor is an individual, the stay under subsection (a) shall terminate on the date that is 60 days after a request is made by a party in interest under subsection (d), unless—

“(A) a final decision is rendered by the court during the 60-day period beginning on the date of the request; or

“(B) such 60-day period is extended—

“(i) by agreement of all parties in interest; or

“(ii) by the court for such specific period of time as the court finds is required for good cause, as described in findings made by the court.”.

SEC. 321. CHAPTER 11 CASES FILED BY INDIVIDUALS.

(a) PROPERTY OF THE ESTATE.—

(1) IN GENERAL.—Subchapter I of chapter 11 of title 11, United States Code, is amended by adding at the end the following:

“§ 1115. Property of the estate

“(a) In a case in which the debtor is an individual, property of the estate includes, in addition to the property specified in section 541—

“(1) all property of the kind specified in section 541 that the debtor acquires after the commencement of the case but before the case is closed, dismissed, or converted to a case under chapter 7, 12, or 13, whichever occurs first; and

“(2) earnings from services performed by the debtor after the commencement of the case but before the case is closed, dismissed, or converted to a case under chapter 7, 12, or 13, whichever occurs first.

Termination
date.

“(b) Except as provided in section 1104 or a confirmed plan or order confirming a plan, the debtor shall remain in possession of all property of the estate.”.

(2) CLERICAL AMENDMENT.—The table of sections for subchapter I of chapter 11 of title 11, United States Code, is amended by adding at the end the following:

“1115. Property of the estate.”.

(b) CONTENTS OF PLAN.—Section 1123(a) of title 11, United States Code, is amended—

(1) in paragraph (6), by striking “and” at the end;

(2) in paragraph (7), by striking the period and inserting “; and”; and

(3) by adding at the end the following:

“(8) in a case in which the debtor is an individual, provide for the payment to creditors under the plan of all or such portion of earnings from personal services performed by the debtor after the commencement of the case or other future income of the debtor as is necessary for the execution of the plan.”.

(c) CONFIRMATION OF PLAN.—

(1) REQUIREMENTS RELATING TO VALUE OF PROPERTY.—Section 1129(a) of title 11, United States Code, as amended by section 213, is amended by adding at the end the following:

“(15) In a case in which the debtor is an individual and in which the holder of an allowed unsecured claim objects to the confirmation of the plan—

“(A) the value, as of the effective date of the plan, of the property to be distributed under the plan on account of such claim is not less than the amount of such claim; or

“(B) the value of the property to be distributed under the plan is not less than the projected disposable income of the debtor (as defined in section 1325(b)(2)) to be received during the 5-year period beginning on the date that the first payment is due under the plan, or during the period for which the plan provides payments, whichever is longer.”.

(2) REQUIREMENT RELATING TO INTERESTS IN PROPERTY.—Section 1129(b)(2)(B)(ii) of title 11, United States Code, is amended by inserting before the period at the end the following:

“, except that in a case in which the debtor is an individual, the debtor may retain property included in the estate under section 1115, subject to the requirements of subsection (a)(14) of this section”.

(d) EFFECT OF CONFIRMATION.—Section 1141(d) of title 11, United States Code, is amended—

(1) in paragraph (2), by striking “The confirmation of a plan does not discharge an individual debtor” and inserting “A discharge under this chapter does not discharge a debtor who is an individual”; and

(2) by adding at the end the following:

“(5) In a case in which the debtor is an individual—

“(A) unless after notice and a hearing the court orders otherwise for cause, confirmation of the plan does not discharge any debt provided for in the plan until the court grants a discharge on completion of all payments under the plan;

“(B) at any time after the confirmation of the plan, and after notice and a hearing, the court may grant a discharge to the debtor who has not completed payments under the plan if—

“(i) the value, as of the effective date of the plan, of property actually distributed under the plan on account of each allowed unsecured claim is not less than the amount that would have been paid on such claim if the estate of the debtor had been liquidated under chapter 7 on such date; and

“(ii) modification of the plan under section 1127 is not practicable; and”.

(e) MODIFICATION OF PLAN.—Section 1127 of title 11, United States Code, is amended by adding at the end the following:

“(e) If the debtor is an individual, the plan may be modified at any time after confirmation of the plan but before the completion of payments under the plan, whether or not the plan has been substantially consummated, upon request of the debtor, the trustee, the United States trustee, or the holder of an allowed unsecured claim, to—

“(1) increase or reduce the amount of payments on claims of a particular class provided for by the plan;

“(2) extend or reduce the time period for such payments;

or

“(3) alter the amount of the distribution to a creditor whose claim is provided for by the plan to the extent necessary to take account of any payment of such claim made other than under the plan.

Applicability.

“(f)(1) Sections 1121 through 1128 and the requirements of section 1129 apply to any modification under subsection (a).

“(2) The plan, as modified, shall become the plan only after there has been disclosure under section 1125 as the court may direct, notice and a hearing, and such modification is approved.”.

SEC. 322. LIMITATIONS ON HOMESTEAD EXEMPTION.

(a) EXEMPTIONS.—Section 522 of title 11, United States Code, as amended by sections 224 and 308, is amended by adding at the end the following:

“(p)(1) Except as provided in paragraph (2) of this subsection and sections 544 and 548, as a result of electing under subsection (b)(3)(A) to exempt property under State or local law, a debtor may not exempt any amount of interest that was acquired by the debtor during the 1215-day period preceding the date of the filing of the petition that exceeds in the aggregate \$125,000 in value in—

“(A) real or personal property that the debtor or a dependent of the debtor uses as a residence;

“(B) a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence;

“(C) a burial plot for the debtor or a dependent of the debtor; or

“(D) real or personal property that the debtor or dependent of the debtor claims as a homestead.

“(2)(A) The limitation under paragraph (1) shall not apply to an exemption claimed under subsection (b)(3)(A) by a family farmer for the principal residence of such farmer.

“(B) For purposes of paragraph (1), any amount of such interest does not include any interest transferred from a debtor’s previous principal residence (which was acquired prior to the beginning of such 1215-day period) into the debtor’s current principal residence, if the debtor’s previous and current residences are located in the same State.

“(q)(1) As a result of electing under subsection (b)(3)(A) to exempt property under State or local law, a debtor may not exempt any amount of an interest in property described in subparagraphs (A), (B), (C), and (D) of subsection (p)(1) which exceeds in the aggregate \$125,000 if—

“(A) the court determines, after notice and a hearing, that the debtor has been convicted of a felony (as defined in section 3156 of title 18), which under the circumstances, demonstrates that the filing of the case was an abuse of the provisions of this title; or

“(B) the debtor owes a debt arising from—

“(i) any violation of the Federal securities laws (as defined in section 3(a)(47) of the Securities Exchange Act of 1934), any State securities laws, or any regulation or order issued under Federal securities laws or State securities laws;

“(ii) fraud, deceit, or manipulation in a fiduciary capacity or in connection with the purchase or sale of any security registered under section 12 or 15(d) of the Securities Exchange Act of 1934 or under section 6 of the Securities Act of 1933;

“(iii) any civil remedy under section 1964 of title 18;

or

“(iv) any criminal act, intentional tort, or willful or reckless misconduct that caused serious physical injury or death to another individual in the preceding 5 years.

“(2) Paragraph (1) shall not apply to the extent the amount of an interest in property described in subparagraphs (A), (B), (C), and (D) of subsection (p)(1) is reasonably necessary for the support of the debtor and any dependent of the debtor.”.

(b) ADJUSTMENT OF DOLLAR AMOUNTS.—Paragraphs (1) and (2) of section 104(b) of title 11, United States Code, as amended by section 224, are amended by inserting “522(p), 522(q),” after “522(n),”.

SEC. 323. EXCLUDING EMPLOYEE BENEFIT PLAN PARTICIPANT CONTRIBUTIONS AND OTHER PROPERTY FROM THE ESTATE.

Section 541(b) of title 11, United States Code, as amended by section 225, is amended by adding after paragraph (6), as added by section 225(a)(1)(C), the following:

“(7) any amount—

“(A) withheld by an employer from the wages of employees for payment as contributions—

“(i) to—

“(I) an employee benefit plan that is subject to title I of the Employee Retirement Income Security Act of 1974 or under an employee benefit plan which is a governmental plan under section 414(d) of the Internal Revenue Code of 1986;

“(II) a deferred compensation plan under section 457 of the Internal Revenue Code of 1986; or

“(III) a tax-deferred annuity under section 403(b) of the Internal Revenue Code of 1986; except that such amount under this subparagraph shall not constitute disposable income as defined in section 1325(b)(2); or

“(ii) to a health insurance plan regulated by State law whether or not subject to such title; or

“(B) received by an employer from employees for payment as contributions—

“(i) to—

“(I) an employee benefit plan that is subject to title I of the Employee Retirement Income Security Act of 1974 or under an employee benefit plan which is a governmental plan under section 414(d) of the Internal Revenue Code of 1986;

“(II) a deferred compensation plan under section 457 of the Internal Revenue Code of 1986; or

“(III) a tax-deferred annuity under section 403(b) of the Internal Revenue Code of 1986; except that such amount under this subparagraph shall not constitute disposable income, as defined in section 1325(b)(2); or

“(ii) to a health insurance plan regulated by State law whether or not subject to such title;”.

SEC. 324. EXCLUSIVE JURISDICTION IN MATTERS INVOLVING BANKRUPTCY PROFESSIONALS.

(a) IN GENERAL.—Section 1334 of title 28, United States Code, is amended—

(1) in subsection (b), by striking “Notwithstanding” and inserting “Except as provided in subsection (e)(2), and notwithstanding”; and

(2) by striking subsection (e) and inserting the following:

“(e) The district court in which a case under title 11 is commenced or is pending shall have exclusive jurisdiction—

“(1) of all the property, wherever located, of the debtor as of the commencement of such case, and of property of the estate; and

“(2) over all claims or causes of action that involve construction of section 327 of title 11, United States Code, or rules relating to disclosure requirements under section 327.”.

(b) APPLICABILITY.—This section shall only apply to cases filed after the date of enactment of this Act.

SEC. 325. UNITED STATES TRUSTEE PROGRAM FILING FEE INCREASE.

(a) ACTIONS UNDER CHAPTER 7, 11, OR 13 OF TITLE 11, UNITED STATES CODE.—Section 1930(a) of title 28, United States Code, is amended—

(1) by striking paragraph (1) and inserting the following:

“(1) For a case commenced under—

“(A) chapter 7 of title 11, \$200; and

“(B) chapter 13 of title 11, \$150.”; and

(2) in paragraph (3), by striking “\$800” and inserting “\$1000”.

(b) UNITED STATES TRUSTEE SYSTEM FUND.—Section 589a(b) of title 28, United States Code, is amended—

(1) by striking paragraph (1) and inserting the following:

“(1)(A) 40.63 percent of the fees collected under section 1930(a)(1)(A) of this title; and

“(B) 70.00 percent of the fees collected under section 1930(a)(1)(B);”;

(2) in paragraph (2), by striking “one-half” and inserting “75 percent”; and

(3) in paragraph (4), by striking “one-half” and inserting “100 percent”.

(c) COLLECTION AND DEPOSIT OF MISCELLANEOUS BANKRUPTCY FEES.—Section 406(b) of the Judiciary Appropriations Act, 1990 (28 U.S.C. 1931 note) is amended by striking “pursuant to 28 U.S.C. section 1930(b)” and all that follows through “28 U.S.C. section 1931” and inserting “under section 1930(b) of title 28, United States Code, 31.25 of the fees collected under section 1930(a)(1)(A) of that title, 30.00 percent of the fees collected under section 1930(a)(1)(B) of that title, and 25 percent of the fees collected under section 1930(a)(3) of that title shall be deposited as offsetting receipts to the fund established under section 1931 of that title”.

(d) SUNSET DATE.—The amendments made by subsections (b) and (c) shall be effective during the 2-year period beginning on the date of enactment of this Act.

28 USC 589a
note.

(e) USE OF INCREASED RECEIPTS.—

(1) JUDGES’ SALARIES AND BENEFITS.—The amount of fees collected under paragraphs (1) and (3) of section 1930(a) of title 28, United States Code, during the 5-year period beginning on the date of enactment of this Act, that is greater than the amount that would have been collected if the amendments made by subsection (a) had not taken effect shall be used, to the extent necessary, to pay the salaries and benefits of the judges appointed pursuant to section 1223 of this Act.

28 USC 1930
note.

(2) REMAINDER.—Any amount described in paragraph (1), which is not used for the purpose described in paragraph (1), shall be deposited into the Treasury of the United States to the extent necessary to offset the decrease in governmental receipts resulting from the amendments made by subsections (b) and (c).

SEC. 326. SHARING OF COMPENSATION.

Section 504 of title 11, United States Code, is amended by adding at the end the following:

“(c) This section shall not apply with respect to sharing, or agreeing to share, compensation with a bona fide public service attorney referral program that operates in accordance with non-Federal law regulating attorney referral services and with rules of professional responsibility applicable to attorney acceptance of referrals.”.

SEC. 327. FAIR VALUATION OF COLLATERAL.

Section 506(a) of title 11, United States Code, is amended by—

(1) inserting “(1)” after “(a)”; and

(2) by adding at the end the following:

“(2) If the debtor is an individual in a case under chapter 7 or 13, such value with respect to personal property securing an allowed claim shall be determined based on the replacement

value of such property as of the date of the filing of the petition without deduction for costs of sale or marketing. With respect to property acquired for personal, family, or household purposes, replacement value shall mean the price a retail merchant would charge for property of that kind considering the age and condition of the property at the time value is determined.”.

SEC. 328. DEFAULTS BASED ON NONMONETARY OBLIGATIONS.

(a) EXECUTORY CONTRACTS AND UNEXPIRED LEASES.—Section 365 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1)(A), by striking the semicolon at the end and inserting the following: “other than a default that is a breach of a provision relating to the satisfaction of any provision (other than a penalty rate or penalty provision) relating to a default arising from any failure to perform nonmonetary obligations under an unexpired lease of real property, if it is impossible for the trustee to cure such default by performing nonmonetary acts at and after the time of assumption, except that if such default arises from a failure to operate in accordance with a non-residential real property lease, then such default shall be cured by performance at and after the time of assumption in accordance with such lease, and pecuniary losses resulting from such default shall be compensated in accordance with the provisions of this paragraph;”; and

(B) in paragraph (2)(D), by striking “penalty rate or provision” and inserting “penalty rate or penalty provision”;

(2) in subsection (c)—

(A) in paragraph (2), by inserting “or” at the end;

(B) in paragraph (3), by striking “; or” at the end and inserting a period; and

(C) by striking paragraph (4);

(3) in subsection (d)—

(A) by striking paragraphs (5) through (9); and

(B) by redesignating paragraph (10) as paragraph (5);

and

(4) in subsection (f)(1) by striking “; except that” and all that follows through the end of the paragraph and inserting a period.

(b) IMPAIRMENT OF CLAIMS OR INTERESTS.—Section 1124(2) of title 11, United States Code, is amended—

(1) in subparagraph (A), by inserting “or of a kind that section 365(b)(2) expressly does not require to be cured” before the semicolon at the end;

(2) in subparagraph (C), by striking “and” at the end;

(3) by redesignating subparagraph (D) as subparagraph (E); and

(4) by inserting after subparagraph (C) the following:

“(D) if such claim or such interest arises from any failure to perform a nonmonetary obligation, other than a default arising from failure to operate a nonresidential real property lease subject to section 365(b)(1)(A), compensates the holder of such claim or such interest (other than the debtor or an insider) for any actual pecuniary loss incurred by such holder as a result of such failure; and”.

SEC. 329. CLARIFICATION OF POSTPETITION WAGES AND BENEFITS.

Section 503(b)(1)(A) of title 11, United States Code, is amended to read as follows:

“(A) the actual, necessary costs and expenses of preserving the estate including—

“(i) wages, salaries, and commissions for services rendered after the commencement of the case; and

“(ii) wages and benefits awarded pursuant to a judicial proceeding or a proceeding of the National Labor Relations Board as back pay attributable to any period of time occurring after commencement of the case under this title, as a result of a violation of Federal or State law by the debtor, without regard to the time of the occurrence of unlawful conduct on which such award is based or to whether any services were rendered, if the court determines that payment of wages and benefits by reason of the operation of this clause will not substantially increase the probability of layoff or termination of current employees, or of nonpayment of domestic support obligations, during the case under this title.”.

SEC. 330. DELAY OF DISCHARGE DURING PENDENCY OF CERTAIN PROCEEDINGS.

(a) CHAPTER 7.—Section 727(a) of title 11, United States Code, as amended by section 106, is amended—

(1) in paragraph (10), by striking “or” at the end;

(2) in paragraph (11) by striking the period at the end and inserting “; or”; and

(3) by inserting after paragraph (11) the following:

“(12) the court after notice and a hearing held not more than 10 days before the date of the entry of the order granting the discharge finds that there is reasonable cause to believe that—

“(A) section 522(q)(1) may be applicable to the debtor; and

“(B) there is pending any proceeding in which the debtor may be found guilty of a felony of the kind described in section 522(q)(1)(A) or liable for a debt of the kind described in section 522(q)(1)(B).”.

(b) CHAPTER 11.—Section 1141(d) of title 11, United States Code, as amended by section 321, is amended by adding at the end the following:

“(C) unless after notice and a hearing held not more than 10 days before the date of the entry of the order granting the discharge, the court finds that there is no reasonable cause to believe that—

“(i) section 522(q)(1) may be applicable to the debtor; and

“(ii) there is pending any proceeding in which the debtor may be found guilty of a felony of the kind described in section 522(q)(1)(A) or liable for a debt of the kind described in section 522(q)(1)(B).”.

(c) CHAPTER 12.—Section 1228 of title 11, United States Code, is amended—

(1) in subsection (a) by striking “As” and inserting “Subject to subsection (d), as”,

(2) in subsection (b) by striking “At” and inserting “Subject to subsection (d), at”, and

(3) by adding at the end the following:

“(f) The court may not grant a discharge under this chapter unless the court after notice and a hearing held not more than 10 days before the date of the entry of the order granting the discharge finds that there is no reasonable cause to believe that—

“(1) section 522(q)(1) may be applicable to the debtor; and

“(2) there is pending any proceeding in which the debtor may be found guilty of a felony of the kind described in section 522(q)(1)(A) or liable for a debt of the kind described in section 522(q)(1)(B).”.

(d) CHAPTER 13.—Section 1328 of title 11, United States Code, as amended by section 106, is amended—

(1) in subsection (a) by striking “As” and inserting “Subject to subsection (d), as”,

(2) in subsection (b) by striking “At” and inserting “Subject to subsection (d), at”, and

(3) by adding at the end the following:

“(h) The court may not grant a discharge under this chapter unless the court after notice and a hearing held not more than 10 days before the date of the entry of the order granting the discharge finds that there is no reasonable cause to believe that—

“(1) section 522(q)(1) may be applicable to the debtor; and

“(2) there is pending any proceeding in which the debtor may be found guilty of a felony of the kind described in section 522(q)(1)(A) or liable for a debt of the kind described in section 522(q)(1)(B).”.

SEC. 331. LIMITATION ON RETENTION BONUSES, SEVERANCE PAY, AND CERTAIN OTHER PAYMENTS.

Section 503 of title 11, United States Code, is amended by adding at the end the following:

“(c) Notwithstanding subsection (b), there shall neither be allowed, nor paid—

“(1) a transfer made to, or an obligation incurred for the benefit of, an insider of the debtor for the purpose of inducing such person to remain with the debtor’s business, absent a finding by the court based on evidence in the record that—

“(A) the transfer or obligation is essential to retention of the person because the individual has a bona fide job offer from another business at the same or greater rate of compensation;

“(B) the services provided by the person are essential to the survival of the business; and

“(C) either—

“(i) the amount of the transfer made to, or obligation incurred for the benefit of, the person is not greater than an amount equal to 10 times the amount of the mean transfer or obligation of a similar kind given to nonmanagement employees for any purpose during the calendar year in which the transfer is made or the obligation is incurred; or

“(ii) if no such similar transfers were made to, or obligations were incurred for the benefit of, such nonmanagement employees during such calendar year, the amount of the transfer or obligation is not greater

than an amount equal to 25 percent of the amount of any similar transfer or obligation made to or incurred for the benefit of such insider for any purpose during the calendar year before the year in which such transfer is made or obligation is incurred;

“(2) a severance payment to an insider of the debtor, unless—

“(A) the payment is part of a program that is generally applicable to all full-time employees; and

“(B) the amount of the payment is not greater than 10 times the amount of the mean severance pay given to nonmanagement employees during the calendar year in which the payment is made; or

“(3) other transfers or obligations that are outside the ordinary course of business and not justified by the facts and circumstances of the case, including transfers made to, or obligations incurred for the benefit of, officers, managers, or consultants hired after the date of the filing of the petition.”.

SEC. 332. FRAUDULENT INVOLUNTARY BANKRUPTCY.

(a) **SHORT TITLE.**—This section may be cited as the “Involuntary Bankruptcy Improvement Act of 2005”.

(b) **INVOLUNTARY CASES.**—Section 303 of title 11, United States Code, is amended by adding at the end the following:

“(l)(1) If—

“(A) the petition under this section is false or contains any materially false, fictitious, or fraudulent statement;

“(B) the debtor is an individual; and

“(C) the court dismisses such petition,

the court, upon the motion of the debtor, shall seal all the records of the court relating to such petition, and all references to such petition.

“(2) If the debtor is an individual and the court dismisses a petition under this section, the court may enter an order prohibiting all consumer reporting agencies (as defined in section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f))) from making any consumer report (as defined in section 603(d) of that Act) that contains any information relating to such petition or to the case commenced by the filing of such petition.

“(3) Upon the expiration of the statute of limitations described in section 3282 of title 18, for a violation of section 152 or 157 of such title, the court, upon the motion of the debtor and for good cause, may expunge any records relating to a petition filed under this section.”.

(c) **BANKRUPTCY FRAUD.**—Section 157 of title 18, United States Code, is amended by inserting “, including a fraudulent involuntary bankruptcy petition under section 303 of such title” after “title 11”.

Involuntary
Bankruptcy
Improvement Act
of 2005.
11 USC 101 note.

TITLE IV—GENERAL AND SMALL BUSINESS BANKRUPTCY PROVISIONS

Subtitle A—General Business Bankruptcy Provisions

SEC. 401. ADEQUATE PROTECTION FOR INVESTORS.

(a) DEFINITION.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (48) the following:

“(48A) ‘securities self regulatory organization’ means either a securities association registered with the Securities and Exchange Commission under section 15A of the Securities Exchange Act of 1934 or a national securities exchange registered with the Securities and Exchange Commission under section 6 of the Securities Exchange Act of 1934;”.

(b) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, as amended by sections 224, 303, and 311, is amended by inserting after paragraph (24) the following:

“(25) under subsection (a), of—

“(A) the commencement or continuation of an investigation or action by a securities self regulatory organization to enforce such organization’s regulatory power;

“(B) the enforcement of an order or decision, other than for monetary sanctions, obtained in an action by such securities self regulatory organization to enforce such organization’s regulatory power; or

“(C) any act taken by such securities self regulatory organization to delist, delete, or refuse to permit quotation of any stock that does not meet applicable regulatory requirements;”.

SEC. 402. MEETINGS OF CREDITORS AND EQUITY SECURITY HOLDERS.

Section 341 of title 11, United States Code, is amended by adding at the end the following:

“(e) Notwithstanding subsections (a) and (b), the court, on the request of a party in interest and after notice and a hearing, for cause may order that the United States trustee not convene a meeting of creditors or equity security holders if the debtor has filed a plan as to which the debtor solicited acceptances prior to the commencement of the case.”.

SEC. 403. PROTECTION OF REFINANCE OF SECURITY INTEREST.

Subparagraphs (A), (B), and (C) of section 547(e)(2) of title 11, United States Code, are each amended by striking “10” each place it appears and inserting “30”.

SEC. 404. EXECUTORY CONTRACTS AND UNEXPIRED LEASES.

(a) IN GENERAL.—Section 365(d)(4) of title 11, United States Code, is amended to read as follows:

“(4)(A) Subject to subparagraph (B), an unexpired lease of non-residential real property under which the debtor is the lessee shall be deemed rejected, and the trustee shall immediately surrender that nonresidential real property to the lessor, if the trustee does not assume or reject the unexpired lease by the earlier of—

Deadlines.

“(i) the date that is 120 days after the date of the order for relief; or

“(ii) the date of the entry of an order confirming a plan.

“(B)(i) The court may extend the period determined under subparagraph (A), prior to the expiration of the 120-day period, for 90 days on the motion of the trustee or lessor for cause.

“(ii) If the court grants an extension under clause (i), the court may grant a subsequent extension only upon prior written consent of the lessor in each instance.”.

(b) EXCEPTION.—Section 365(f)(1) of title 11, United States Code, is amended by striking “subsection” the first place it appears and inserting “subsections (b) and”.

SEC. 405. CREDITORS AND EQUITY SECURITY HOLDERS COMMITTEES.

(a) APPOINTMENT.—Section 1102(a) of title 11, United States Code, is amended by adding at the end the following:

“(4) On request of a party in interest and after notice and a hearing, the court may order the United States trustee to change the membership of a committee appointed under this subsection, if the court determines that the change is necessary to ensure adequate representation of creditors or equity security holders. The court may order the United States trustee to increase the number of members of a committee to include a creditor that is a small business concern (as described in section 3(a)(1) of the Small Business Act), if the court determines that the creditor holds claims (of the kind represented by the committee) the aggregate amount of which, in comparison to the annual gross revenue of that creditor, is disproportionately large.”.

(b) INFORMATION.—Section 1102(b) of title 11, United States Code, is amended by adding at the end the following:

“(3) A committee appointed under subsection (a) shall—

“(A) provide access to information for creditors who—

“(i) hold claims of the kind represented by that committee; and

“(ii) are not appointed to the committee;

“(B) solicit and receive comments from the creditors described in subparagraph (A); and

“(C) be subject to a court order that compels any additional report or disclosure to be made to the creditors described in subparagraph (A).”.

SEC. 406. AMENDMENT TO SECTION 546 OF TITLE 11, UNITED STATES CODE.

Section 546 of title 11, United States Code, is amended—

(1) by redesignating the second subsection (g) (as added by section 222(a) of Public Law 103–394) as subsection (h);

(2) in subsection (h), as so redesignated, by inserting “and subject to the prior rights of holders of security interests in such goods or the proceeds of such goods” after “consent of a creditor”; and

(3) by adding at the end the following:

“(i)(1) Notwithstanding paragraphs (2) and (3) of section 545, the trustee may not avoid a warehouseman’s lien for storage, transportation, or other costs incidental to the storage and handling of goods.

“(2) The prohibition under paragraph (1) shall be applied in a manner consistent with any State statute applicable to such lien that is similar to section 7–209 of the Uniform Commercial

Applicability.

Code, as in effect on the date of enactment of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, or any successor to such section 7–209.”

SEC. 407. AMENDMENTS TO SECTION 330(a) OF TITLE 11, UNITED STATES CODE.

Section 330(a) of title 11, United States Code, is amended—

(1) in paragraph (3)—

(A) by striking “(A) In” and inserting “In”; and

(B) by inserting “to an examiner, trustee under chapter 11, or professional person” after “awarded”; and

(2) by adding at the end the following:

“(7) In determining the amount of reasonable compensation to be awarded to a trustee, the court shall treat such compensation as a commission, based on section 326.”.

SEC. 408. POSTPETITION DISCLOSURE AND SOLICITATION.

Section 1125 of title 11, United States Code, is amended by adding at the end the following:

“(g) Notwithstanding subsection (b), an acceptance or rejection of the plan may be solicited from a holder of a claim or interest if such solicitation complies with applicable nonbankruptcy law and if such holder was solicited before the commencement of the case in a manner complying with applicable nonbankruptcy law.”.

SEC. 409. PREFERENCES.

Section 547(c) of title 11, United States Code, is amended—

(1) by striking paragraph (2) and inserting the following:

“(2) to the extent that such transfer was in payment of a debt incurred by the debtor in the ordinary course of business or financial affairs of the debtor and the transferee, and such transfer was—

“(A) made in the ordinary course of business or financial affairs of the debtor and the transferee; or

“(B) made according to ordinary business terms;”;

(2) in paragraph (8), by striking the period at the end and inserting “; or”; and

(3) by adding at the end the following:

“(9) if, in a case filed by a debtor whose debts are not primarily consumer debts, the aggregate value of all property that constitutes or is affected by such transfer is less than \$5,000.”.

SEC. 410. VENUE OF CERTAIN PROCEEDINGS.

Section 1409(b) of title 28, United States Code, is amended by inserting “, or a debt (excluding a consumer debt) against a noninsider of less than \$10,000,” after “\$5,000”. Section 1409(b) of title 28, United States Code, is further amended by striking “\$5,000” and inserting “\$15,000”.

SEC. 411. PERIOD FOR FILING PLAN UNDER CHAPTER 11.

Section 1121(d) of title 11, United States Code, is amended—

(1) by striking “On” and inserting “(1) Subject to paragraph (2), on”; and

(2) by adding at the end the following:

“(2)(A) The 120-day period specified in paragraph (1) may not be extended beyond a date that is 18 months after the date of the order for relief under this chapter.

“(B) The 180-day period specified in paragraph (1) may not be extended beyond a date that is 20 months after the date of the order for relief under this chapter.”.

SEC. 412. FEES ARISING FROM CERTAIN OWNERSHIP INTERESTS.

Section 523(a)(16) of title 11, United States Code, is amended—

- (1) by striking “dwelling” the first place it appears;
- (2) by striking “ownership or” and inserting “ownership,”;
- (3) by striking “housing” the first place it appears; and
- (4) by striking “but only” and all that follows through “such period,” and inserting “or a lot in a homeowners association, for as long as the debtor or the trustee has a legal, equitable, or possessory ownership interest in such unit, such corporation, or such lot,”.

SEC. 413. CREDITOR REPRESENTATION AT FIRST MEETING OF CREDITORS.

Section 341(c) of title 11, United States Code, is amended by inserting at the end the following: “Notwithstanding any local court rule, provision of a State constitution, any otherwise applicable nonbankruptcy law, or any other requirement that representation at the meeting of creditors under subsection (a) be by an attorney, a creditor holding a consumer debt or any representative of the creditor (which may include an entity or an employee of an entity and may be a representative for more than 1 creditor) shall be permitted to appear at and participate in the meeting of creditors in a case under chapter 7 or 13, either alone or in conjunction with an attorney for the creditor. Nothing in this subsection shall be construed to require any creditor to be represented by an attorney at any meeting of creditors.”.

SEC. 414. DEFINITION OF DISINTERESTED PERSON.

Section 101(14) of title 11, United States Code, is amended to read as follows:

“(14) ‘disinterested person’ means a person that—

“(A) is not a creditor, an equity security holder, or an insider;

“(B) is not and was not, within 2 years before the date of the filing of the petition, a director, officer, or employee of the debtor; and

“(C) does not have an interest materially adverse to the interest of the estate or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the debtor, or for any other reason;”.

SEC. 415. FACTORS FOR COMPENSATION OF PROFESSIONAL PERSONS.

Section 330(a)(3) of title 11, United States Code, is amended—

- (1) in subparagraph (D), by striking “and” at the end;
- (2) by redesignating subparagraph (E) as subparagraph (F); and
- (3) by inserting after subparagraph (D) the following:

“(E) with respect to a professional person, whether the person is board certified or otherwise has demonstrated skill and experience in the bankruptcy field; and”.

SEC. 416. APPOINTMENT OF ELECTED TRUSTEE.

Section 1104(b) of title 11, United States Code, is amended—

Reports. (1) by inserting “(1)” after “(b)”; and
 (2) by adding at the end the following:
 “(2)(A) If an eligible, disinterested trustee is elected at a meeting of creditors under paragraph (1), the United States trustee shall file a report certifying that election.
 “(B) Upon the filing of a report under subparagraph (A)—
 “(i) the trustee elected under paragraph (1) shall be considered to have been selected and appointed for purposes of this section; and
 “(ii) the service of any trustee appointed under subsection (d) shall terminate.
 “(C) The court shall resolve any dispute arising out of an election described in subparagraph (A).”.

SEC. 417. UTILITY SERVICE.

Section 366 of title 11, United States Code, is amended—
 (1) in subsection (a), by striking “subsection (b)” and inserting “subsections (b) and (c)”; and
 (2) by adding at the end the following:
 “(c)(1)(A) For purposes of this subsection, the term ‘assurance of payment’ means—
 “(i) a cash deposit;
 “(ii) a letter of credit;
 “(iii) a certificate of deposit;
 “(iv) a surety bond;
 “(v) a prepayment of utility consumption; or
 “(vi) another form of security that is mutually agreed on between the utility and the debtor or the trustee.
 “(B) For purposes of this subsection an administrative expense priority shall not constitute an assurance of payment.
 “(2) Subject to paragraphs (3) and (4), with respect to a case filed under chapter 11, a utility referred to in subsection (a) may alter, refuse, or discontinue utility service, if during the 30-day period beginning on the date of the filing of the petition, the utility does not receive from the debtor or the trustee adequate assurance of payment for utility service that is satisfactory to the utility.
 “(3)(A) On request of a party in interest and after notice and a hearing, the court may order modification of the amount of an assurance of payment under paragraph (2).
 “(B) In making a determination under this paragraph whether an assurance of payment is adequate, the court may not consider—
 “(i) the absence of security before the date of the filing of the petition;
 “(ii) the payment by the debtor of charges for utility service in a timely manner before the date of the filing of the petition; or
 “(iii) the availability of an administrative expense priority.
 “(4) Notwithstanding any other provision of law, with respect to a case subject to this subsection, a utility may recover or set off against a security deposit provided to the utility by the debtor before the date of the filing of the petition without notice or order of the court.”.

SEC. 418. BANKRUPTCY FEES.

Section 1930 of title 28, United States Code, is amended—
 (1) in subsection (a), by striking “Notwithstanding section 1915 of this title, the” and inserting “The”; and

(2) by adding at the end the following:

“(f)(1) Under the procedures prescribed by the Judicial Conference of the United States, the district court or the bankruptcy court may waive the filing fee in a case under chapter 7 of title 11 for an individual if the court determines that such individual has income less than 150 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved and is unable to pay that fee in installments. For purposes of this paragraph, the term ‘filing fee’ means the filing fee required by subsection (a), or any other fee prescribed by the Judicial Conference under subsections (b) and (c) that is payable to the clerk upon the commencement of a case under chapter 7.

“(2) The district court or the bankruptcy court may waive for such debtors other fees prescribed under subsections (b) and (c).

“(3) This subsection does not restrict the district court or the bankruptcy court from waiving, in accordance with Judicial Conference policy, fees prescribed under this section for other debtors and creditors.”.

SEC. 419. MORE COMPLETE INFORMATION REGARDING ASSETS OF THE ESTATE.

28 USC 2073
note.

(a) IN GENERAL.—

(1) DISCLOSURE.—The Judicial Conference of the United States, in accordance with section 2075 of title 28 of the United States Code and after consideration of the views of the Director of the Executive Office for United States Trustees, shall propose amended Federal Rules of Bankruptcy Procedure and in accordance with rule 9009 of the Federal Rules of Bankruptcy Procedure shall prescribe official bankruptcy forms directing debtors under chapter 11 of title 11 of United States Code, to disclose the information described in paragraph (2) by filing and serving periodic financial and other reports designed to provide such information.

(2) INFORMATION.—The information referred to in paragraph (1) is the value, operations, and profitability of any closely held corporation, partnership, or of any other entity in which the debtor holds a substantial or controlling interest.

(b) PURPOSE.—The purpose of the rules and reports under subsection (a) shall be to assist parties in interest taking steps to ensure that the debtor’s interest in any entity referred to in subsection (a)(2) is used for the payment of allowed claims against debtor.

Subtitle B—Small Business Bankruptcy Provisions

SEC. 431. FLEXIBLE RULES FOR DISCLOSURE STATEMENT AND PLAN.

Section 1125 of title 11, United States Code, is amended—

(1) in subsection (a)(1), by inserting before the semicolon “and in determining whether a disclosure statement provides adequate information, the court shall consider the complexity of the case, the benefit of additional information to creditors

and other parties in interest, and the cost of providing additional information”; and

(2) by striking subsection (f), and inserting the following: “(f) Notwithstanding subsection (b), in a small business case—

“(1) the court may determine that the plan itself provides adequate information and that a separate disclosure statement is not necessary;

“(2) the court may approve a disclosure statement submitted on standard forms approved by the court or adopted under section 2075 of title 28; and

“(3)(A) the court may conditionally approve a disclosure statement subject to final approval after notice and a hearing;

“(B) acceptances and rejections of a plan may be solicited based on a conditionally approved disclosure statement if the debtor provides adequate information to each holder of a claim or interest that is solicited, but a conditionally approved disclosure statement shall be mailed not later than 25 days before the date of the hearing on confirmation of the plan; and

“(C) the hearing on the disclosure statement may be combined with the hearing on confirmation of a plan.”.

Deadline.

SEC. 432. DEFINITIONS.

(a) DEFINITIONS.—Section 101 of title 11, United States Code, is amended by striking paragraph (51C) and inserting the following:

“(51C) ‘small business case’ means a case filed under chapter 11 of this title in which the debtor is a small business debtor;

“(51D) ‘small business debtor’—

“(A) subject to subparagraph (B), means a person engaged in commercial or business activities (including any affiliate of such person that is also a debtor under this title and excluding a person whose primary activity is the business of owning or operating real property or activities incidental thereto) that has aggregate noncontingent liquidated secured and unsecured debts as of the date of the petition or the date of the order for relief in an amount not more than \$2,000,000 (excluding debts owed to 1 or more affiliates or insiders) for a case in which the United States trustee has not appointed under section 1102(a)(1) a committee of unsecured creditors or where the court has determined that the committee of unsecured creditors is not sufficiently active and representative to provide effective oversight of the debtor; and

“(B) does not include any member of a group of affiliated debtors that has aggregate noncontingent liquidated secured and unsecured debts in an amount greater than \$2,000,000 (excluding debt owed to 1 or more affiliates or insiders);”.

(b) CONFORMING AMENDMENT.—Section 1102(a)(3) of title 11, United States Code, is amended by inserting “debtor” after “small business”.

(c) ADJUSTMENT OF DOLLAR AMOUNTS.—Section 104(b) of title 11, United States Code, as amended by section 226, is amended by inserting “101(51D),” after “101(3),” each place it appears.

28 USC 2073
note.

SEC. 433. STANDARD FORM DISCLOSURE STATEMENT AND PLAN.

Within a reasonable period of time after the date of enactment of this Act, the Judicial Conference of the United States shall

prescribe in accordance with rule 9009 of the Federal Rules of Bankruptcy Procedure official standard form disclosure statements and plans of reorganization for small business debtors (as defined in section 101 of title 11, United States Code, as amended by this Act), designed to achieve a practical balance between—

(1) the reasonable needs of the courts, the United States trustee, creditors, and other parties in interest for reasonably complete information; and

(2) economy and simplicity for debtors.

SEC. 434. UNIFORM NATIONAL REPORTING REQUIREMENTS.

(a) REPORTING REQUIRED.—

(1) IN GENERAL.—Chapter 3 of title 11, United States Code, is amended by inserting after section 307 the following:

“§ 308. Debtor reporting requirements

“(a) For purposes of this section, the term ‘profitability’ means, with respect to a debtor, the amount of money that the debtor has earned or lost during current and recent fiscal periods.

“(b) A small business debtor shall file periodic financial and other reports containing information including—

“(1) the debtor’s profitability;

“(2) reasonable approximations of the debtor’s projected cash receipts and cash disbursements over a reasonable period;

“(3) comparisons of actual cash receipts and disbursements with projections in prior reports;

“(4)(A) whether the debtor is—

“(i) in compliance in all material respects with postpetition requirements imposed by this title and the Federal Rules of Bankruptcy Procedure; and

“(ii) timely filing tax returns and other required government filings and paying taxes and other administrative expenses when due;

“(B) if the debtor is not in compliance with the requirements referred to in subparagraph (A)(i) or filing tax returns and other required government filings and making the payments referred to in subparagraph (A)(ii), what the failures are and how, at what cost, and when the debtor intends to remedy such failures; and

“(C) such other matters as are in the best interests of the debtor and creditors, and in the public interest in fair and efficient procedures under chapter 11 of this title.”.

(2) CLERICAL AMENDMENT.—The table of sections for chapter 3 of title 11, United States Code, is amended by inserting after the item relating to section 307 the following:

“308. Debtor reporting requirements.”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect 60 days after the date on which rules are prescribed under section 2075 of title 28, United States Code, to establish forms to be used to comply with section 308 of title 11, United States Code, as added by subsection (a).

11 USC 308 note.

SEC. 435. UNIFORM REPORTING RULES AND FORMS FOR SMALL BUSINESS CASES.

(a) PROPOSAL OF RULES AND FORMS.—The Judicial Conference of the United States shall propose in accordance with section 2073 of title 28 of the United States Code amended Federal Rules of

28 USC 2073 note.

Bankruptcy Procedure, and shall prescribe in accordance with rule 9009 of the Federal Rules of Bankruptcy Procedure official bankruptcy forms, directing small business debtors to file periodic financial and other reports containing information, including information relating to—

- (1) the debtor's profitability;
- (2) the debtor's cash receipts and disbursements; and
- (3) whether the debtor is timely filing tax returns and paying taxes and other administrative expenses when due.

(b) PURPOSE.—The rules and forms proposed under subsection (a) shall be designed to achieve a practical balance among—

- (1) the reasonable needs of the bankruptcy court, the United States trustee, creditors, and other parties in interest for reasonably complete information;
- (2) a small business debtor's interest that required reports be easy and inexpensive to complete; and
- (3) the interest of all parties that the required reports help such debtor to understand such debtor's financial condition and plan the such debtor's future.

SEC. 436. DUTIES IN SMALL BUSINESS CASES.

(a) DUTIES IN CHAPTER 11 CASES.—Subchapter I of chapter 11 of title 11, United States Code, as amended by section 321, is amended by adding at the end the following:

“§ 1116. Duties of trustee or debtor in possession in small business cases

“In a small business case, a trustee or the debtor in possession, in addition to the duties provided in this title and as otherwise required by law, shall—

Deadline.

“(1) append to the voluntary petition or, in an involuntary case, file not later than 7 days after the date of the order for relief—

“(A) its most recent balance sheet, statement of operations, cash-flow statement, and Federal income tax return; or

“(B) a statement made under penalty of perjury that no balance sheet, statement of operations, or cash-flow statement has been prepared and no Federal tax return has been filed;

“(2) attend, through its senior management personnel and counsel, meetings scheduled by the court or the United States trustee, including initial debtor interviews, scheduling conferences, and meetings of creditors convened under section 341 unless the court, after notice and a hearing, waives that requirement upon a finding of extraordinary and compelling circumstances;

Deadline.

“(3) timely file all schedules and statements of financial affairs, unless the court, after notice and a hearing, grants an extension, which shall not extend such time period to a date later than 30 days after the date of the order for relief, absent extraordinary and compelling circumstances;

“(4) file all postpetition financial and other reports required by the Federal Rules of Bankruptcy Procedure or by local rule of the district court;

“(5) subject to section 363(c)(2), maintain insurance customary and appropriate to the industry;

“(6)(A) timely file tax returns and other required government filings; and

“(B) subject to section 363(c)(2), timely pay all taxes entitled to administrative expense priority except those being contested by appropriate proceedings being diligently prosecuted; and

“(7) allow the United States trustee, or a designated representative of the United States trustee, to inspect the debtor’s business premises, books, and records at reasonable times, after reasonable prior written notice, unless notice is waived by the debtor.”.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 11 of title 11, United States Code, as amended by section 321, is amended by inserting after the item relating to section 1115 the following:

“1116. Duties of trustee or debtor in possession in small business cases.”.

SEC. 437. PLAN FILING AND CONFIRMATION DEADLINES.

Section 1121 of title 11, United States Code, is amended by striking subsection (e) and inserting the following:

“(e) In a small business case—

“(1) only the debtor may file a plan until after 180 days after the date of the order for relief, unless that period is—

“(A) extended as provided by this subsection, after notice and a hearing; or

“(B) the court, for cause, orders otherwise;

“(2) the plan and a disclosure statement (if any) shall be filed not later than 300 days after the date of the order for relief; and

“(3) the time periods specified in paragraphs (1) and (2), and the time fixed in section 1129(e) within which the plan shall be confirmed, may be extended only if—

“(A) the debtor, after providing notice to parties in interest (including the United States trustee), demonstrates by a preponderance of the evidence that it is more likely than not that the court will confirm a plan within a reasonable period of time;

“(B) a new deadline is imposed at the time the extension is granted; and

“(C) the order extending time is signed before the existing deadline has expired.”.

SEC. 438. PLAN CONFIRMATION DEADLINE.

Section 1129 of title 11, United States Code, is amended by adding at the end the following:

“(e) In a small business case, the court shall confirm a plan that complies with the applicable provisions of this title and that is filed in accordance with section 1121(e) not later than 45 days after the plan is filed unless the time for confirmation is extended in accordance with section 1121(e)(3).”.

SEC. 439. DUTIES OF THE UNITED STATES TRUSTEE.

Section 586(a) of title 28, United States Code, is amended—

(1) in paragraph (3)—

(A) in subparagraph (G), by striking “and” at the end;

(B) by redesignating subparagraph (H) as subparagraph (I); and

(C) by inserting after subparagraph (G) the following:

“(H) in small business cases (as defined in section 101 of title 11), performing the additional duties specified in title 11 pertaining to such cases; and”;

(2) in paragraph (5), by striking “and” at the end;

(3) in paragraph (6), by striking the period at the end and inserting a semicolon; and

(4) by adding at the end the following:

“(7) in each of such small business cases—

“(A) conduct an initial debtor interview as soon as practicable after the date of the order for relief but before the first meeting scheduled under section 341(a) of title 11, at which time the United States trustee shall—

“(i) begin to investigate the debtor’s viability;

“(ii) inquire about the debtor’s business plan;

“(iii) explain the debtor’s obligations to file monthly operating reports and other required reports;

“(iv) attempt to develop an agreed scheduling order; and

“(v) inform the debtor of other obligations;

“(B) if determined to be appropriate and advisable, visit the appropriate business premises of the debtor, ascertain the state of the debtor’s books and records, and verify that the debtor has filed its tax returns; and

“(C) review and monitor diligently the debtor’s activities, to identify as promptly as possible whether the debtor will be unable to confirm a plan; and

“(8) in any case in which the United States trustee finds material grounds for any relief under section 1112 of title 11, the United States trustee shall apply promptly after making that finding to the court for relief.”.

Applicability.

SEC. 440. SCHEDULING CONFERENCES.

Section 105(d) of title 11, United States Code, is amended—

(1) in the matter preceding paragraph (1), by striking “, may”; and

(2) by striking paragraph (1) and inserting the following:

“(1) shall hold such status conferences as are necessary to further the expeditious and economical resolution of the case; and”.

SEC. 441. SERIAL FILER PROVISIONS.

Section 362 of title 11, United States Code, as amended by sections 106, 305, and 311, is amended—

(1) in subsection (k), as so redesignated by section 305—

(A) by striking “An” and inserting “(1) Except as provided in paragraph (2), an”; and

(B) by adding at the end the following:

“(2) If such violation is based on an action taken by an entity in the good faith belief that subsection (h) applies to the debtor, the recovery under paragraph (1) of this subsection against such entity shall be limited to actual damages.”; and

(2) by adding at the end the following:

“(n)(1) Except as provided in paragraph (2), subsection (a) does not apply in a case in which the debtor—

“(A) is a debtor in a small business case pending at the time the petition is filed;

“(B) was a debtor in a small business case that was dismissed for any reason by an order that became final in the

2-year period ending on the date of the order for relief entered with respect to the petition;

“(C) was a debtor in a small business case in which a plan was confirmed in the 2-year period ending on the date of the order for relief entered with respect to the petition; or

“(D) is an entity that has acquired substantially all of the assets or business of a small business debtor described in subparagraph (A), (B), or (C), unless such entity establishes by a preponderance of the evidence that such entity acquired substantially all of the assets or business of such small business debtor in good faith and not for the purpose of evading this paragraph.

“(2) Paragraph (1) does not apply—

“(A) to an involuntary case involving no collusion by the debtor with creditors; or

“(B) to the filing of a petition if—

“(i) the debtor proves by a preponderance of the evidence that the filing of the petition resulted from circumstances beyond the control of the debtor not foreseeable at the time the case then pending was filed; and

“(ii) it is more likely than not that the court will confirm a feasible plan, but not a liquidating plan, within a reasonable period of time.”.

SEC. 442. EXPANDED GROUNDS FOR DISMISSAL OR CONVERSION AND APPOINTMENT OF TRUSTEE.

(a) EXPANDED GROUNDS FOR DISMISSAL OR CONVERSION.—Section 1112 of title 11, United States Code, is amended by striking subsection (b) and inserting the following:

“(b)(1) Except as provided in paragraph (2) of this subsection, subsection (c) of this section, and section 1104(a)(3), on request of a party in interest, and after notice and a hearing, absent unusual circumstances specifically identified by the court that establish that the requested conversion or dismissal is not in the best interests of creditors and the estate, the court shall convert a case under this chapter to a case under chapter 7 or dismiss a case under this chapter, whichever is in the best interests of creditors and the estate, if the movant establishes cause.

“(2) The relief provided in paragraph (1) shall not be granted absent unusual circumstances specifically identified by the court that establish that such relief is not in the best interests of creditors and the estate, if the debtor or another party in interest objects and establishes that—

“(A) there is a reasonable likelihood that a plan will be confirmed within the timeframes established in sections 1121(e) and 1129(e) of this title, or if such sections do not apply, within a reasonable period of time; and

“(B) the grounds for granting such relief include an act or omission of the debtor other than under paragraph (4)(A)—

“(i) for which there exists a reasonable justification for the act or omission; and

“(ii) that will be cured within a reasonable period of time fixed by the court.

“(3) The court shall commence the hearing on a motion under this subsection not later than 30 days after filing of the motion, Deadlines.

and shall decide the motion not later than 15 days after commencement of such hearing, unless the movant expressly consents to a continuance for a specific period of time or compelling circumstances prevent the court from meeting the time limits established by this paragraph.

“(4) For purposes of this subsection, the term ‘cause’ includes—

“(A) substantial or continuing loss to or diminution of the estate and the absence of a reasonable likelihood of rehabilitation;

“(B) gross mismanagement of the estate;

“(C) failure to maintain appropriate insurance that poses a risk to the estate or to the public;

“(D) unauthorized use of cash collateral substantially harmful to 1 or more creditors;

“(E) failure to comply with an order of the court;

“(F) unexcused failure to satisfy timely any filing or reporting requirement established by this title or by any rule applicable to a case under this chapter;

“(G) failure to attend the meeting of creditors convened under section 341(a) or an examination ordered under rule 2004 of the Federal Rules of Bankruptcy Procedure without good cause shown by the debtor;

“(H) failure timely to provide information or attend meetings reasonably requested by the United States trustee (or the bankruptcy administrator, if any);

“(I) failure timely to pay taxes owed after the date of the order for relief or to file tax returns due after the date of the order for relief;

“(J) failure to file a disclosure statement, or to file or confirm a plan, within the time fixed by this title or by order of the court;

“(K) failure to pay any fees or charges required under chapter 123 of title 28;

“(L) revocation of an order of confirmation under section 1144;

“(M) inability to effectuate substantial consummation of a confirmed plan;

“(N) material default by the debtor with respect to a confirmed plan;

“(O) termination of a confirmed plan by reason of the occurrence of a condition specified in the plan; and

“(P) failure of the debtor to pay any domestic support obligation that first becomes payable after the date of the filing of the petition.”.

(b) ADDITIONAL GROUNDS FOR APPOINTMENT OF TRUSTEE.—Section 1104(a) of title 11, United States Code, is amended—

(1) in paragraph (1), by striking “or” at the end;

(2) in paragraph (2), by striking the period at the end and inserting “; or”; and

(3) by adding at the end the following:

“(3) if grounds exist to convert or dismiss the case under section 1112, but the court determines that the appointment of a trustee or an examiner is in the best interests of creditors and the estate.”.

SEC. 443. STUDY OF OPERATION OF TITLE 11, UNITED STATES CODE, WITH RESPECT TO SMALL BUSINESSES.

Not later than 2 years after the date of enactment of this Act, the Administrator of the Small Business Administration, in consultation with the Attorney General, the Director of the Executive Office for United States Trustees, and the Director of the Administrative Office of the United States Courts, shall—

(1) conduct a study to determine—

(A) the internal and external factors that cause small businesses, especially sole proprietorships, to become debtors in cases under title 11, United States Code, and that cause certain small businesses to successfully complete cases under chapter 11 of such title; and

(B) how Federal laws relating to bankruptcy may be made more effective and efficient in assisting small businesses to remain viable; and

(2) submit to the President pro tempore of the Senate and the Speaker of the House of Representatives a report summarizing that study.

Reports.

SEC. 444. PAYMENT OF INTEREST.

Section 362(d)(3) of title 11, United States Code, is amended—

(1) by inserting “or 30 days after the court determines that the debtor is subject to this paragraph, whichever is later” after “90-day period”; and

(2) by striking subparagraph (B) and inserting the following:

“(B) the debtor has commenced monthly payments that—

“(i) may, in the debtor’s sole discretion, notwithstanding section 363(c)(2), be made from rents or other income generated before, on, or after the date of the commencement of the case by or from the property to each creditor whose claim is secured by such real estate (other than a claim secured by a judgment lien or by an unmatured statutory lien); and

“(ii) are in an amount equal to interest at the then applicable nondefault contract rate of interest on the value of the creditor’s interest in the real estate; or”.

SEC. 445. PRIORITY FOR ADMINISTRATIVE EXPENSES.

Section 503(b) of title 11, United States Code, is amended—

(1) in paragraph (5), by striking “and” at the end;

(2) in paragraph (6), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

“(7) with respect to a nonresidential real property lease previously assumed under section 365, and subsequently rejected, a sum equal to all monetary obligations due, excluding those arising from or relating to a failure to operate or a penalty provision, for the period of 2 years following the later of the rejection date or the date of actual turnover of the premises, without reduction or setoff for any reason whatsoever except for sums actually received or to be received from an entity other than the debtor, and the claim for remaining

sums due for the balance of the term of the lease shall be a claim under section 502(b)(6);”.

SEC. 446. DUTIES WITH RESPECT TO A DEBTOR WHO IS A PLAN ADMINISTRATOR OF AN EMPLOYEE BENEFIT PLAN.

(a) **IN GENERAL.**—Section 521(a) of title 11, United States Code, as amended by sections 106 and 304, is amended—

- (1) in paragraph (5), by striking “and” at the end;
- (2) in paragraph (6), by striking the period at the end and inserting “; and”; and
- (3) by adding after paragraph (6) the following:

“(7) unless a trustee is serving in the case, continue to perform the obligations required of the administrator (as defined in section 3 of the Employee Retirement Income Security Act of 1974) of an employee benefit plan if at the time of the commencement of the case the debtor (or any entity designated by the debtor) served as such administrator.”.

(b) **DUTIES OF TRUSTEES.**—Section 704(a) of title 11, United States Code, as amended by sections 102 and 219, is amended—

- (1) in paragraph (10), by striking “and” at the end; and
- (2) by adding at the end the following:

“(11) if, at the time of the commencement of the case, the debtor (or any entity designated by the debtor) served as the administrator (as defined in section 3 of the Employee Retirement Income Security Act of 1974) of an employee benefit plan, continue to perform the obligations required of the administrator; and”.

(c) **CONFORMING AMENDMENT.**—Section 1106(a)(1) of title 11, United States Code, is amended to read as follows:

“(1) perform the duties of the trustee, as specified in paragraphs (2), (5), (7), (8), (9), (10), and (11) of section 704;”.

SEC. 447. APPOINTMENT OF COMMITTEE OF RETIRED EMPLOYEES.

Section 1114(d) of title 11, United States Code, is amended—

- (1) by striking “appoint” and inserting “order the appointment of”, and
- (2) by adding at the end the following: “The United States trustee shall appoint any such committee.”.

TITLE V—MUNICIPAL BANKRUPTCY PROVISIONS

SEC. 501. PETITION AND PROCEEDINGS RELATED TO PETITION.

(a) **TECHNICAL AMENDMENT RELATING TO MUNICIPALITIES.**—Section 921(d) of title 11, United States Code, is amended by inserting “notwithstanding section 301(b)” before the period at the end.

(b) **CONFORMING AMENDMENT.**—Section 301 of title 11, United States Code, is amended—

- (1) by inserting “(a)” before “A voluntary”; and
- (2) by striking the last sentence and inserting the following:
“(b) The commencement of a voluntary case under a chapter of this title constitutes an order for relief under such chapter.”.

SEC. 502. APPLICABILITY OF OTHER SECTIONS TO CHAPTER 9.

Section 901(a) of title 11, United States Code, is amended—

- (1) by inserting “555, 556,” after “553,”; and
- (2) by inserting “559, 560, 561, 562,” after “557,”.

TITLE VI—BANKRUPTCY DATA

SEC. 601. IMPROVED BANKRUPTCY STATISTICS.

(a) IN GENERAL.—Chapter 6 of title 28, United States Code, is amended by adding at the end the following:

“§ 159. Bankruptcy statistics

“(a) The clerk of the district court, or the clerk of the bankruptcy court if one is certified pursuant to section 156(b) of this title, shall collect statistics regarding debtors who are individuals with primarily consumer debts seeking relief under chapters 7, 11, and 13 of title 11. Those statistics shall be in a standardized format prescribed by the Director of the Administrative Office of the United States Courts (referred to in this section as the ‘Director’).

“(b) The Director shall—

- “(1) compile the statistics referred to in subsection (a);
- “(2) make the statistics available to the public; and

“(3) not later than July 1, 2008, and annually thereafter, prepare, and submit to Congress a report concerning the information collected under subsection (a) that contains an analysis of the information.

“(c) The compilation required under subsection (b) shall—

- “(1) be itemized, by chapter, with respect to title 11;
- “(2) be presented in the aggregate and for each district;

and

“(3) include information concerning—

“(A) the total assets and total liabilities of the debtors described in subsection (a), and in each category of assets and liabilities, as reported in the schedules prescribed pursuant to section 2075 of this title and filed by debtors;

“(B) the current monthly income, average income, and average expenses of debtors as reported on the schedules and statements that each such debtor files under sections 521 and 1322 of title 11;

“(C) the aggregate amount of debt discharged in cases filed during the reporting period, determined as the difference between the total amount of debt and obligations of a debtor reported on the schedules and the amount of such debt reported in categories which are predominantly nondischargeable;

“(D) the average period of time between the date of the filing of the petition and the closing of the case for cases closed during the reporting period;

“(E) for cases closed during the reporting period—

“(i) the number of cases in which a reaffirmation agreement was filed; and

“(ii)(I) the total number of reaffirmation agreements filed;

“(II) of those cases in which a reaffirmation agreement was filed, the number of cases in which the debtor was not represented by an attorney; and

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information.
Deadline.
Reports.

“(III) of those cases in which a reaffirmation agreement was filed, the number of cases in which the reaffirmation agreement was approved by the court; “(F) with respect to cases filed under chapter 13 of title 11, for the reporting period—

“(i)(I) the number of cases in which a final order was entered determining the value of property securing a claim in an amount less than the amount of the claim; and

“(II) the number of final orders entered determining the value of property securing a claim;

“(ii) the number of cases dismissed, the number of cases dismissed for failure to make payments under the plan, the number of cases refiled after dismissal, and the number of cases in which the plan was completed, separately itemized with respect to the number of modifications made before completion of the plan, if any; and

“(iii) the number of cases in which the debtor filed another case during the 6-year period preceding the filing;

“(G) the number of cases in which creditors were fined for misconduct and any amount of punitive damages awarded by the court for creditor misconduct; and

“(H) the number of cases in which sanctions under rule 9011 of the Federal Rules of Bankruptcy Procedure were imposed against debtor’s attorney or damages awarded under such Rule.”.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 6 of title 28, United States Code, is amended by adding at the end the following:

“159. Bankruptcy statistics.”.

28 USC 159 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 18 months after the date of enactment of this Act.

SEC. 602. UNIFORM RULES FOR THE COLLECTION OF BANKRUPTCY DATA.

(a) AMENDMENT.—Chapter 39 of title 28, United States Code, is amended by adding at the end the following:

“§ 589b. Bankruptcy data

“(a) RULES.—The Attorney General shall, within a reasonable time after the effective date of this section, issue rules requiring uniform forms for (and from time to time thereafter to appropriately modify and approve)—

“(1) final reports by trustees in cases under chapters 7, 12, and 13 of title 11; and

“(2) periodic reports by debtors in possession or trustees in cases under chapter 11 of title 11.

“(b) REPORTS.—Each report referred to in subsection (a) shall be designed (and the requirements as to place and manner of filing shall be established) so as to facilitate compilation of data and maximum possible access of the public, both by physical inspection at one or more central filing locations, and by electronic access through the Internet or other appropriate media.

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information.
Internet.

“(c) REQUIRED INFORMATION.—The information required to be filed in the reports referred to in subsection (b) shall be that which is in the best interests of debtors and creditors, and in the public interest in reasonable and adequate information to evaluate the efficiency and practicality of the Federal bankruptcy system. In issuing rules proposing the forms referred to in subsection (a), the Attorney General shall strike the best achievable practical balance between—

“(1) the reasonable needs of the public for information about the operational results of the Federal bankruptcy system;

“(2) economy, simplicity, and lack of undue burden on persons with a duty to file reports; and

“(3) appropriate privacy concerns and safeguards.

“(d) FINAL REPORTS.—The uniform forms for final reports required under subsection (a) for use by trustees under chapters 7, 12, and 13 of title 11 shall, in addition to such other matters as are required by law or as the Attorney General in the discretion of the Attorney General shall propose, include with respect to a case under such title—

“(1) information about the length of time the case was pending;

“(2) assets abandoned;

“(3) assets exempted;

“(4) receipts and disbursements of the estate;

“(5) expenses of administration, including for use under section 707(b), actual costs of administering cases under chapter 13 of title 11;

“(6) claims asserted;

“(7) claims allowed; and

“(8) distributions to claimants and claims discharged without payment,

in each case by appropriate category and, in cases under chapters 12 and 13 of title 11, date of confirmation of the plan, each modification thereto, and defaults by the debtor in performance under the plan.

“(e) PERIODIC REPORTS.—The uniform forms for periodic reports required under subsection (a) for use by trustees or debtors in possession under chapter 11 of title 11 shall, in addition to such other matters as are required by law or as the Attorney General in the discretion of the Attorney General shall propose, include—

“(1) information about the industry classification, published by the Department of Commerce, for the businesses conducted by the debtor;

“(2) length of time the case has been pending;

“(3) number of full-time employees as of the date of the order for relief and at the end of each reporting period since the case was filed;

“(4) cash receipts, cash disbursements and profitability of the debtor for the most recent period and cumulatively since the date of the order for relief;

“(5) compliance with title 11, whether or not tax returns and tax payments since the date of the order for relief have been timely filed and made;

“(6) all professional fees approved by the court in the case for the most recent period and cumulatively since the date of the order for relief (separately reported, for the professional fees incurred by or on behalf of the debtor, between those

that would have been incurred absent a bankruptcy case and those not); and

“(7) plans of reorganization filed and confirmed and, with respect thereto, by class, the recoveries of the holders, expressed in aggregate dollar values and, in the case of claims, as a percentage of total claims of the class allowed.”.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 39 of title 28, United States Code, is amended by adding at the end the following:

“589b. Bankruptcy data.”.

SEC. 603. AUDIT PROCEDURES.

28 USC 586 note.

(a) IN GENERAL.—

(1) ESTABLISHMENT OF PROCEDURES.—The Attorney General (in judicial districts served by United States trustees) and the Judicial Conference of the United States (in judicial districts served by bankruptcy administrators) shall establish procedures to determine the accuracy, veracity, and completeness of petitions, schedules, and other information that the debtor is required to provide under sections 521 and 1322 of title 11, United States Code, and, if applicable, section 111 of such title, in cases filed under chapter 7 or 13 of such title in which the debtor is an individual. Such audits shall be in accordance with generally accepted auditing standards and performed by independent certified public accountants or independent licensed public accountants, provided that the Attorney General and the Judicial Conference, as appropriate, may develop alternative auditing standards not later than 2 years after the date of enactment of this Act.

(2) PROCEDURES.—Those procedures required by paragraph (1) shall—

(A) establish a method of selecting appropriate qualified persons to contract to perform those audits;

(B) establish a method of randomly selecting cases to be audited, except that not less than 1 out of every 250 cases in each Federal judicial district shall be selected for audit;

(C) require audits of schedules of income and expenses that reflect greater than average variances from the statistical norm of the district in which the schedules were filed if those variances occur by reason of higher income or higher expenses than the statistical norm of the district in which the schedules were filed; and

(D) establish procedures for providing, not less frequently than annually, public information concerning the aggregate results of such audits including the percentage of cases, by district, in which a material misstatement of income or expenditures is reported.

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information.

(b) AMENDMENTS.—Section 586 of title 28, United States Code, is amended—

(1) in subsection (a), by striking paragraph (6) and inserting the following:

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“(6) make such reports as the Attorney General directs, including the results of audits performed under section 603(a) of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005;”;

(2) by adding at the end the following:

“(f)(1) The United States trustee for each district is authorized to contract with auditors to perform audits in cases designated by the United States trustee, in accordance with the procedures established under section 603(a) of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005.

“(2)(A) The report of each audit referred to in paragraph (1) shall be filed with the court and transmitted to the United States trustee. Each report shall clearly and conspicuously specify any material misstatement of income or expenditures or of assets identified by the person performing the audit. In any case in which a material misstatement of income or expenditures or of assets has been reported, the clerk of the district court (or the clerk of the bankruptcy court if one is certified under section 156(b) of this title) shall give notice of the misstatement to the creditors in the case.

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“(B) If a material misstatement of income or expenditures or of assets is reported, the United States trustee shall—

“(i) report the material misstatement, if appropriate, to the United States Attorney pursuant to section 3057 of title 18; and

“(ii) if advisable, take appropriate action, including but not limited to commencing an adversary proceeding to revoke the debtor’s discharge pursuant to section 727(d) of title 11.”.

(c) AMENDMENTS TO SECTION 521 OF TITLE 11, U.S.C.—Section 521(a) of title 11, United States Code, as so designated by section 106, is amended in each of paragraphs (3) and (4) by inserting “or an auditor serving under section 586(f) of title 28” after “serving in the case”.

(d) AMENDMENTS TO SECTION 727 OF TITLE 11, U.S.C.—Section 727(d) of title 11, United States Code, is amended—

(1) in paragraph (2), by striking “or” at the end;

(2) in paragraph (3), by striking the period at the end and inserting “; or”; and

(3) by adding at the end the following:

“(4) the debtor has failed to explain satisfactorily—

“(A) a material misstatement in an audit referred to in section 586(f) of title 28; or

“(B) a failure to make available for inspection all necessary accounts, papers, documents, financial records, files, and all other papers, things, or property belonging to the debtor that are requested for an audit referred to in section 586(f) of title 28.”.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect 18 months after the date of enactment of this Act.

11 USC 521 note.

SEC. 604. SENSE OF CONGRESS REGARDING AVAILABILITY OF BANKRUPTCY DATA.

It is the sense of Congress that—

(1) the national policy of the United States should be that all data held by bankruptcy clerks in electronic form, to the extent such data reflects only public records (as defined in section 107 of title 11, United States Code), should be released in a usable electronic form in bulk to the public, subject to such appropriate privacy concerns and safeguards as Congress

and the Judicial Conference of the United States may determine; and

(2) there should be established a bankruptcy data system in which—

(A) a single set of data definitions and forms are used to collect data nationwide; and

(B) data for any particular bankruptcy case are aggregated in the same electronic record.

TITLE VII—BANKRUPTCY TAX PROVISIONS

SEC. 701. TREATMENT OF CERTAIN LIENS.

(a) TREATMENT OF CERTAIN LIENS.—Section 724 of title 11, United States Code, is amended—

(1) in subsection (b), in the matter preceding paragraph (1), by inserting “(other than to the extent that there is a properly perfected unavoidable tax lien arising in connection with an ad valorem tax on real or personal property of the estate)” after “under this title”;

(2) in subsection (b)(2), by inserting “(except that such expenses, other than claims for wages, salaries, or commissions that arise after the date of the filing of the petition, shall be limited to expenses incurred under chapter 7 of this title and shall not include expenses incurred under chapter 11 of this title)” after “507(a)(1)”; and

(3) by adding at the end the following:

“(e) Before subordinating a tax lien on real or personal property of the estate, the trustee shall—

“(1) exhaust the unencumbered assets of the estate; and

“(2) in a manner consistent with section 506(c), recover from property securing an allowed secured claim the reasonable, necessary costs and expenses of preserving or disposing of such property.

“(f) Notwithstanding the exclusion of ad valorem tax liens under this section and subject to the requirements of subsection (e), the following may be paid from property of the estate which secures a tax lien, or the proceeds of such property:

“(1) Claims for wages, salaries, and commissions that are entitled to priority under section 507(a)(4).

“(2) Claims for contributions to an employee benefit plan entitled to priority under section 507(a)(5).”.

(b) DETERMINATION OF TAX LIABILITY.—Section 505(a)(2) of title 11, United States Code, is amended—

(1) in subparagraph (A), by striking “or” at the end;

(2) in subparagraph (B), by striking the period at the end and inserting “; or”; and

(3) by adding at the end the following:

“(C) the amount or legality of any amount arising in connection with an ad valorem tax on real or personal property of the estate, if the applicable period for contesting or redetermining that amount under any law (other than a bankruptcy law) has expired.”.

SEC. 702. TREATMENT OF FUEL TAX CLAIMS.

Section 501 of title 11, United States Code, is amended by adding at the end the following:

“(e) A claim arising from the liability of a debtor for fuel use tax assessed consistent with the requirements of section 31705 of title 49 may be filed by the base jurisdiction designated pursuant to the International Fuel Tax Agreement (as defined in section 31701 of title 49) and, if so filed, shall be allowed as a single claim.”.

SEC. 703. NOTICE OF REQUEST FOR A DETERMINATION OF TAXES.

Section 505(b) of title 11, United States Code, is amended—

(1) in the first sentence, by inserting “at the address and in the manner designated in paragraph (1)” after “determination of such tax”;

(2) by striking “(1) upon payment” and inserting “(A) upon payment”;

(3) by striking “(A) such governmental unit” and inserting “(i) such governmental unit”;

(4) by striking “(B) such governmental unit” and inserting “(ii) such governmental unit”;

(5) by striking “(2) upon payment” and inserting “(B) upon payment”;

(6) by striking “(3) upon payment” and inserting “(C) upon payment”;

(7) by striking “(b)” and inserting “(2)”; and

(8) by inserting before paragraph (2), as so designated, the following:

“(b)(1)(A) The clerk shall maintain a list under which a Federal, State, or local governmental unit responsible for the collection of taxes within the district may—

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“(i) designate an address for service of requests under this subsection; and

“(ii) describe where further information concerning additional requirements for filing such requests may be found.

“(B) If such governmental unit does not designate an address and provide such address to the clerk under subparagraph (A), any request made under this subsection may be served at the address for the filing of a tax return or protest with the appropriate taxing authority of such governmental unit.”.

SEC. 704. RATE OF INTEREST ON TAX CLAIMS.

(a) IN GENERAL.—Subchapter I of chapter 5 of title 11, United States Code, is amended by adding at the end the following:

“§ 511. Rate of interest on tax claims

“(a) If any provision of this title requires the payment of interest on a tax claim or on an administrative expense tax, or the payment of interest to enable a creditor to receive the present value of the allowed amount of a tax claim, the rate of interest shall be the rate determined under applicable nonbankruptcy law.

“(b) In the case of taxes paid under a confirmed plan under this title, the rate of interest shall be determined as of the calendar month in which the plan is confirmed.”.

(b) CLERICAL AMENDMENT.—The table of sections for subchapter I of chapter 5 of title 11, United States Code, is amended by adding at the end the following:

“511. Rate of interest on tax claims.”.

SEC. 705. PRIORITY OF TAX CLAIMS.

Section 507(a)(8) of title 11, United States Code, is amended—
(1) in subparagraph (A)—

(A) in the matter preceding clause (i), by inserting “for a taxable year ending on or before the date of the filing of the petition” after “gross receipts”;

(B) in clause (i), by striking “for a taxable year ending on or before the date of the filing of the petition”; and

(C) by striking clause (ii) and inserting the following:

“(ii) assessed within 240 days before the date of the filing of the petition, exclusive of—

“(I) any time during which an offer in compromise with respect to that tax was pending or in effect during that 240-day period, plus 30 days; and

“(II) any time during which a stay of proceedings against collections was in effect in a prior case under this title during that 240-day period, plus 90 days.”; and

(2) by adding at the end the following:

“An otherwise applicable time period specified in this paragraph shall be suspended for any period during which a governmental unit is prohibited under applicable nonbankruptcy law from collecting a tax as a result of a request by the debtor for a hearing and an appeal of any collection action taken or proposed against the debtor, plus 90 days; plus any time during which the stay of proceedings was in effect in a prior case under this title or during which collection was precluded by the existence of 1 or more confirmed plans under this title, plus 90 days.”.

SEC. 706. PRIORITY PROPERTY TAXES INCURRED.

Section 507(a)(8)(B) of title 11, United States Code, is amended by striking “assessed” and inserting “incurred”.

SEC. 707. NO DISCHARGE OF FRAUDULENT TAXES IN CHAPTER 13.

Section 1328(a)(2) of title 11, United States Code, as amended by section 314, is amended by striking “paragraph” and inserting “section 507(a)(8)(C) or in paragraph (1)(B), (1)(C),”.

SEC. 708. NO DISCHARGE OF FRAUDULENT TAXES IN CHAPTER 11.

Section 1141(d) of title 11, United States Code, as amended by sections 321 and 330, is amended by adding at the end the following:

“(6) Notwithstanding paragraph (1), the confirmation of a plan does not discharge a debtor that is a corporation from any debt—

“(A) of a kind specified in paragraph (2)(A) or (2)(B) of section 523(a) that is owed to a domestic governmental unit, or owed to a person as the result of an action filed under subchapter III of chapter 37 of title 31 or any similar State statute; or

Deadline.

“(B) for a tax or customs duty with respect to which the debtor—

“(i) made a fraudulent return; or

“(ii) willfully attempted in any manner to evade or to defeat such tax or such customs duty.”.

SEC. 709. STAY OF TAX PROCEEDINGS LIMITED TO PREPETITION TAXES.

Section 362(a)(8) of title 11, United States Code, is amended by striking “the debtor” and inserting “a corporate debtor’s tax liability for a taxable period the bankruptcy court may determine or concerning the tax liability of a debtor who is an individual for a taxable period ending before the date of the order for relief under this title”.

SEC. 710. PERIODIC PAYMENT OF TAXES IN CHAPTER 11 CASES.

Section 1129(a)(9) of title 11, United States Code, is amended—

(1) in subparagraph (B), by striking “and” at the end;

(2) in subparagraph (C), by striking “deferred cash payments,” and all that follows through the end of the subparagraph, and inserting “regular installment payments in cash—

“(i) of a total value, as of the effective date of the plan, equal to the allowed amount of such claim;

“(ii) over a period ending not later than 5 years after the date of the order for relief under section 301, 302, or 303; and

“(iii) in a manner not less favorable than the most favored nonpriority unsecured claim provided for by the plan (other than cash payments made to a class of creditors under section 1122(b)); and”; and

(3) by adding at the end the following:

“(D) with respect to a secured claim which would otherwise meet the description of an unsecured claim of a governmental unit under section 507(a)(8), but for the secured status of that claim, the holder of that claim will receive on account of that claim, cash payments, in the same manner and over the same period, as prescribed in subparagraph (C).”.

SEC. 711. AVOIDANCE OF STATUTORY TAX LIENS PROHIBITED.

Section 545(2) of title 11, United States Code, is amended by inserting before the semicolon at the end the following: “, except in any case in which a purchaser is a purchaser described in section 6323 of the Internal Revenue Code of 1986, or in any other similar provision of State or local law”.

SEC. 712. PAYMENT OF TAXES IN THE CONDUCT OF BUSINESS.

(a) PAYMENT OF TAXES REQUIRED.—Section 960 of title 28, United States Code, is amended—

(1) by inserting “(a)” before “Any”; and

(2) by adding at the end the following:

“(b) A tax under subsection (a) shall be paid on or before the due date of the tax under applicable nonbankruptcy law, unless—

“(1) the tax is a property tax secured by a lien against property that is abandoned under section 554 of title 11, within a reasonable period of time after the lien attaches, by the trustee in a case under title 11; or

“(2) payment of the tax is excused under a specific provision of title 11.

“(c) In a case pending under chapter 7 of title 11, payment of a tax may be deferred until final distribution is made under section 726 of title 11, if—

“(1) the tax was not incurred by a trustee duly appointed or elected under chapter 7 of title 11; or

“(2) before the due date of the tax, an order of the court makes a finding of probable insufficiency of funds of the estate to pay in full the administrative expenses allowed under section 503(b) of title 11 that have the same priority in distribution under section 726(b) of title 11 as the priority of that tax.”.

(b) PAYMENT OF AD VALOREM TAXES REQUIRED.—Section 503(b)(1)(B)(i) of title 11, United States Code, is amended by inserting “whether secured or unsecured, including property taxes for which liability is in rem, in personam, or both,” before “except”.

(c) REQUEST FOR PAYMENT OF ADMINISTRATIVE EXPENSE TAXES ELIMINATED.—Section 503(b)(1) of title 11, United States Code, is amended—

(1) in subparagraph (B), by striking “and” at the end;

(2) in subparagraph (C), by adding “and” at the end; and

(3) by adding at the end the following:

“(D) notwithstanding the requirements of subsection (a), a governmental unit shall not be required to file a request for the payment of an expense described in subparagraph (B) or (C), as a condition of its being an allowed administrative expense;”.

(d) PAYMENT OF TAXES AND FEES AS SECURED CLAIMS.—Section 506 of title 11, United States Code, is amended—

(1) in subsection (b), by inserting “or State statute” after “agreement”; and

(2) in subsection (c), by inserting “, including the payment of all ad valorem property taxes with respect to the property” before the period at the end.

SEC. 713. TARDILY FILED PRIORITY TAX CLAIMS.

Section 726(a)(1) of title 11, United States Code, is amended by striking “before the date on which the trustee commences distribution under this section,” and inserting the following: “on or before the earlier of—

“(A) the date that is 10 days after the mailing to creditors of the summary of the trustee’s final report; or

“(B) the date on which the trustee commences final distribution under this section;”.

SEC. 714. INCOME TAX RETURNS PREPARED BY TAX AUTHORITIES.

Section 523(a) of title 11, United States Code, as amended by sections 215 and 224, is amended—

(1) in paragraph (1)(B)—

(A) in the matter preceding clause (i), by inserting “or equivalent report or notice,” after “a return,”;

(B) in clause (i), by inserting “or given” after “filed”; and

(C) in clause (ii)—

(i) by inserting “or given” after “filed”; and

(ii) by inserting “, report, or notice” after “return”; and

(2) by adding at the end the following:

“For purposes of this subsection, the term ‘return’ means a return that satisfies the requirements of applicable nonbankruptcy law (including applicable filing requirements). Such term includes a return prepared pursuant to section 6020(a) of the Internal Revenue Code of 1986, or similar State or local law, or a written stipulation to a judgment or a final order entered by a nonbankruptcy tribunal, but does not include a return made pursuant to section 6020(b) of the Internal Revenue Code of 1986, or a similar State or local law.”.

SEC. 715. DISCHARGE OF THE ESTATE’S LIABILITY FOR UNPAID TAXES.

Section 505(b)(2) of title 11, United States Code, as amended by section 703, is amended by inserting “the estate,” after “misrepresentation,”.

SEC. 716. REQUIREMENT TO FILE TAX RETURNS TO CONFIRM CHAPTER 13 PLANS.

(a) FILING OF PREPETITION TAX RETURNS REQUIRED FOR PLAN CONFIRMATION.—Section 1325(a) of title 11, United States Code, as amended by sections 102, 213, and 306, is amended by inserting after paragraph (8) the following:

“(9) the debtor has filed all applicable Federal, State, and local tax returns as required by section 1308.”.

(b) ADDITIONAL TIME PERMITTED FOR FILING TAX RETURNS.—

(1) IN GENERAL.—Subchapter I of chapter 13 of title 11, United States Code, is amended by adding at the end the following:

“§ 1308. Filing of prepetition tax returns

Deadlines.

“(a) Not later than the day before the date on which the meeting of the creditors is first scheduled to be held under section 341(a), if the debtor was required to file a tax return under applicable nonbankruptcy law, the debtor shall file with appropriate tax authorities all tax returns for all taxable periods ending during the 4-year period ending on the date of the filing of the petition.

“(b)(1) Subject to paragraph (2), if the tax returns required by subsection (a) have not been filed by the date on which the meeting of creditors is first scheduled to be held under section 341(a), the trustee may hold open that meeting for a reasonable period of time to allow the debtor an additional period of time to file any unfiled returns, but such additional period of time shall not extend beyond—

“(A) for any return that is past due as of the date of the filing of the petition, the date that is 120 days after the date of that meeting; or

“(B) for any return that is not past due as of the date of the filing of the petition, the later of—

“(i) the date that is 120 days after the date of that meeting; or

“(ii) the date on which the return is due under the last automatic extension of time for filing that return to which the debtor is entitled, and for which request is timely made, in accordance with applicable nonbankruptcy law.

“(2) After notice and a hearing, and order entered before the tolling of any applicable filing period determined under this subsection, if the debtor demonstrates by a preponderance of the evidence that the failure to file a return as required under this subsection is attributable to circumstances beyond the control of the debtor, the court may extend the filing period established by the trustee under this subsection for—

“(A) a period of not more than 30 days for returns described in paragraph (1); and

“(B) a period not to extend after the applicable extended due date for a return described in paragraph (2).

“(c) For purposes of this section, the term ‘return’ includes a return prepared pursuant to subsection (a) or (b) of section 6020 of the Internal Revenue Code of 1986, or a similar State or local law, or a written stipulation to a judgment or a final order entered by a nonbankruptcy tribunal.”.

(2) CONFORMING AMENDMENT.—The table of sections for subchapter I of chapter 13 of title 11, United States Code, is amended by adding at the end the following:

“1308. Filing of prepetition tax returns.”.

(c) DISMISSAL OR CONVERSION ON FAILURE TO COMPLY.—Section 1307 of title 11, United States Code, is amended—

(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(2) by inserting after subsection (d) the following:

“(e) Upon the failure of the debtor to file a tax return under section 1308, on request of a party in interest or the United States trustee and after notice and a hearing, the court shall dismiss a case or convert a case under this chapter to a case under chapter 7 of this title, whichever is in the best interest of the creditors and the estate.”.

(d) TIMELY FILED CLAIMS.—Section 502(b)(9) of title 11, United States Code, is amended by inserting before the period at the end the following: “, and except that in a case under chapter 13, a claim of a governmental unit for a tax with respect to a return filed under section 1308 shall be timely if the claim is filed on or before the date that is 60 days after the date on which such return was filed as required”.

(e) RULES FOR OBJECTIONS TO CLAIMS AND TO CONFIRMATION.—It is the sense of Congress that the Judicial Conference of the United States should, as soon as practicable after the date of enactment of this Act, propose amended Federal Rules of Bankruptcy Procedure that provide—

(1) notwithstanding the provisions of Rule 3015(f), in cases under chapter 13 of title 11, United States Code, that an objection to the confirmation of a plan filed by a governmental unit on or before the date that is 60 days after the date on which the debtor files all tax returns required under sections 1308 and 1325(a)(7) of title 11, United States Code, shall be treated for all purposes as if such objection had been timely filed before such confirmation; and

(2) in addition to the provisions of Rule 3007, in a case under chapter 13 of title 11, United States Code, that no objection to a claim for a tax with respect to which a return is required to be filed under section 1308 of title 11, United

States Code, shall be filed until such return has been filed as required.

SEC. 717. STANDARDS FOR TAX DISCLOSURE.

Section 1125(a)(1) of title 11, United States Code, is amended—

(1) by inserting “including a discussion of the potential material Federal tax consequences of the plan to the debtor, any successor to the debtor, and a hypothetical investor typical of the holders of claims or interests in the case,” after “records,”; and

(2) by striking “a hypothetical reasonable investor typical of holders of claims or interests” and inserting “such a hypothetical investor”.

SEC. 718. SETOFF OF TAX REFUNDS.

Section 362(b) of title 11, United States Code, as amended by sections 224, 303, 311, and 401, is amended by inserting after paragraph (25) the following:

“(26) under subsection (a), of the setoff under applicable nonbankruptcy law of an income tax refund, by a governmental unit, with respect to a taxable period that ended before the date of the order for relief against an income tax liability for a taxable period that also ended before the date of the order for relief, except that in any case in which the setoff of an income tax refund is not permitted under applicable nonbankruptcy law because of a pending action to determine the amount or legality of a tax liability, the governmental unit may hold the refund pending the resolution of the action, unless the court, on the motion of the trustee and after notice and a hearing, grants the taxing authority adequate protection (within the meaning of section 361) for the secured claim of such authority in the setoff under section 506(a);”.

SEC. 719. SPECIAL PROVISIONS RELATED TO THE TREATMENT OF STATE AND LOCAL TAXES.

(a) IN GENERAL.—

(1) SPECIAL PROVISIONS.—Section 346 of title 11, United States Code, is amended to read as follows:

“§ 346. Special provisions related to the treatment of State and local taxes

“(a) Whenever the Internal Revenue Code of 1986 provides that a separate taxable estate or entity is created in a case concerning a debtor under this title, and the income, gain, loss, deductions, and credits of such estate shall be taxed to or claimed by the estate, a separate taxable estate is also created for purposes of any State and local law imposing a tax on or measured by income and such income, gain, loss, deductions, and credits shall be taxed to or claimed by the estate and may not be taxed to or claimed by the debtor. The preceding sentence shall not apply if the case is dismissed. The trustee shall make tax returns of income required under any such State or local law.

“(b) Whenever the Internal Revenue Code of 1986 provides that no separate taxable estate shall be created in a case concerning a debtor under this title, and the income, gain, loss, deductions, and credits of an estate shall be taxed to or claimed by the debtor, such income, gain, loss, deductions, and credits shall be taxed to or claimed by the debtor under a State or local law imposing

a tax on or measured by income and may not be taxed to or claimed by the estate. The trustee shall make such tax returns of income of corporations and of partnerships as are required under any State or local law, but with respect to partnerships, shall make such returns only to the extent such returns are also required to be made under such Code. The estate shall be liable for any tax imposed on such corporation or partnership, but not for any tax imposed on partners or members.

“(c) With respect to a partnership or any entity treated as a partnership under a State or local law imposing a tax on or measured by income that is a debtor in a case under this title, any gain or loss resulting from a distribution of property from such partnership, or any distributive share of any income, gain, loss, deduction, or credit of a partner or member that is distributed, or considered distributed, from such partnership, after the commencement of the case, is gain, loss, income, deduction, or credit, as the case may be, of the partner or member, and if such partner or member is a debtor in a case under this title, shall be subject to tax in accordance with subsection (a) or (b).

“(d) For purposes of any State or local law imposing a tax on or measured by income, the taxable period of a debtor in a case under this title shall terminate only if and to the extent that the taxable period of such debtor terminates under the Internal Revenue Code of 1986.

“(e) The estate in any case described in subsection (a) shall use the same accounting method as the debtor used immediately before the commencement of the case, if such method of accounting complies with applicable nonbankruptcy tax law.

“(f) For purposes of any State or local law imposing a tax on or measured by income, a transfer of property from the debtor to the estate or from the estate to the debtor shall not be treated as a disposition for purposes of any provision assigning tax consequences to a disposition, except to the extent that such transfer is treated as a disposition under the Internal Revenue Code of 1986.

“(g) Whenever a tax is imposed pursuant to a State or local law imposing a tax on or measured by income pursuant to subsection (a) or (b), such tax shall be imposed at rates generally applicable to the same types of entities under such State or local law.

“(h) The trustee shall withhold from any payment of claims for wages, salaries, commissions, dividends, interest, or other payments, or collect, any amount required to be withheld or collected under applicable State or local tax law, and shall pay such withheld or collected amount to the appropriate governmental unit at the time and in the manner required by such tax law, and with the same priority as the claim from which such amount was withheld or collected was paid.

“(i)(1) To the extent that any State or local law imposing a tax on or measured by income provides for the carryover of any tax attribute from one taxable period to a subsequent taxable period, the estate shall succeed to such tax attribute in any case in which such estate is subject to tax under subsection (a).

“(2) After such a case is closed or dismissed, the debtor shall succeed to any tax attribute to which the estate succeeded under paragraph (1) to the extent consistent with the Internal Revenue Code of 1986.

“(3) The estate may carry back any loss or tax attribute to a taxable period of the debtor that ended before the date of the order for relief under this title to the extent that—

“(A) applicable State or local tax law provides for a carryback in the case of the debtor; and

“(B) the same or a similar tax attribute may be carried back by the estate to such a taxable period of the debtor under the Internal Revenue Code of 1986.

“(j)(1) For purposes of any State or local law imposing a tax on or measured by income, income is not realized by the estate, the debtor, or a successor to the debtor by reason of discharge of indebtedness in a case under this title, except to the extent, if any, that such income is subject to tax under the Internal Revenue Code of 1986.

“(2) Whenever the Internal Revenue Code of 1986 provides that the amount excluded from gross income in respect of the discharge of indebtedness in a case under this title shall be applied to reduce the tax attributes of the debtor or the estate, a similar reduction shall be made under any State or local law imposing a tax on or measured by income to the extent such State or local law recognizes such attributes. Such State or local law may also provide for the reduction of other attributes to the extent that the full amount of income from the discharge of indebtedness has not been applied.

“(k)(1) Except as provided in this section and section 505, the time and manner of filing tax returns and the items of income, gain, loss, deduction, and credit of any taxpayer shall be determined under applicable nonbankruptcy law.

“(2) For Federal tax purposes, the provisions of this section are subject to the Internal Revenue Code of 1986 and other applicable Federal nonbankruptcy law.”.

(2) CLERICAL AMENDMENT.—The table of sections for chapter 3 of title 11, United States Code, is amended by striking the item relating to section 346 and inserting the following:

“346. Special provisions related to the treatment of State and local taxes.”.

(b) CONFORMING AMENDMENTS.—Title 11 of the United States Code is amended—

(1) by striking section 728;

(2) in the table of sections for chapter 7 by striking the item relating to section 728;

(3) in section 1146—

(A) by striking subsections (a) and (b); and

(B) by redesignating subsections (c) and (d) as subsections (a) and (b), respectively; and

(4) in section 1231—

(A) by striking subsections (a) and (b); and

(B) by redesignating subsections (c) and (d) as subsections (a) and (b), respectively.

SEC. 720. DISMISSAL FOR FAILURE TO TIMELY FILE TAX RETURNS.

Section 521 of title 11, United States Code, as amended by sections 106, 225, 305, 315, and 316, is amended by adding at the end the following:

“(j)(1) Notwithstanding any other provision of this title, if the debtor fails to file a tax return that becomes due after the commencement of the case or to properly obtain an extension of

Deadline.

the due date for filing such return, the taxing authority may request that the court enter an order converting or dismissing the case.

“(2) If the debtor does not file the required return or obtain the extension referred to in paragraph (1) within 90 days after a request is filed by the taxing authority under that paragraph, the court shall convert or dismiss the case, whichever is in the best interests of creditors and the estate.”.

TITLE VIII—ANCILLARY AND OTHER CROSS-BORDER CASES

SEC. 801. AMENDMENT TO ADD CHAPTER 15 TO TITLE 11, UNITED STATES CODE.

(a) IN GENERAL.—Title 11, United States Code, is amended by inserting after chapter 13 the following:

“CHAPTER 15—ANCILLARY AND OTHER CROSS-BORDER CASES

“Sec.

“1501. Purpose and scope of application.

“SUBCHAPTER I—GENERAL PROVISIONS

“1502. Definitions.

“1503. International obligations of the United States.

“1504. Commencement of ancillary case.

“1505. Authorization to act in a foreign country.

“1506. Public policy exception.

“1507. Additional assistance.

“1508. Interpretation.

“SUBCHAPTER II—ACCESS OF FOREIGN REPRESENTATIVES AND CREDITORS TO THE COURT

“1509. Right of direct access.

“1510. Limited jurisdiction.

“1511. Commencement of case under section 301 or 303.

“1512. Participation of a foreign representative in a case under this title.

“1513. Access of foreign creditors to a case under this title.

“1514. Notification to foreign creditors concerning a case under this title.

“SUBCHAPTER III—RECOGNITION OF A FOREIGN PROCEEDING AND RELIEF

“1515. Application for recognition.

“1516. Presumptions concerning recognition.

“1517. Order granting recognition.

“1518. Subsequent information.

“1519. Relief that may be granted upon filing petition for recognition.

“1520. Effects of recognition of a foreign main proceeding.

“1521. Relief that may be granted upon recognition.

“1522. Protection of creditors and other interested persons.

“1523. Actions to avoid acts detrimental to creditors.

“1524. Intervention by a foreign representative.

“SUBCHAPTER IV—COOPERATION WITH FOREIGN COURTS AND FOREIGN REPRESENTATIVES

“1525. Cooperation and direct communication between the court and foreign courts or foreign representatives.

“1526. Cooperation and direct communication between the trustee and foreign courts or foreign representatives.

“1527. Forms of cooperation.

“SUBCHAPTER V—CONCURRENT PROCEEDINGS

“1528. Commencement of a case under this title after recognition of a foreign main proceeding.

“1529. Coordination of a case under this title and a foreign proceeding.

“1530. Coordination of more than 1 foreign proceeding.

“1531. Presumption of insolvency based on recognition of a foreign main proceeding.

“1532. Rule of payment in concurrent proceedings.

“§ 1501. Purpose and scope of application

“(a) The purpose of this chapter is to incorporate the Model Law on Cross-Border Insolvency so as to provide effective mechanisms for dealing with cases of cross-border insolvency with the objectives of—

“(1) cooperation between—

“(A) courts of the United States, United States trustees, trustees, examiners, debtors, and debtors in possession; and

“(B) the courts and other competent authorities of foreign countries involved in cross-border insolvency cases;

“(2) greater legal certainty for trade and investment;

“(3) fair and efficient administration of cross-border insolvencies that protects the interests of all creditors, and other interested entities, including the debtor;

“(4) protection and maximization of the value of the debtor’s assets; and

“(5) facilitation of the rescue of financially troubled businesses, thereby protecting investment and preserving employment.

“(b) This chapter applies where—

“(1) assistance is sought in the United States by a foreign court or a foreign representative in connection with a foreign proceeding;

“(2) assistance is sought in a foreign country in connection with a case under this title;

“(3) a foreign proceeding and a case under this title with respect to the same debtor are pending concurrently; or

“(4) creditors or other interested persons in a foreign country have an interest in requesting the commencement of, or participating in, a case or proceeding under this title.

“(c) This chapter does not apply to—

“(1) a proceeding concerning an entity, other than a foreign insurance company, identified by exclusion in section 109(b);

“(2) an individual, or to an individual and such individual’s spouse, who have debts within the limits specified in section 109(e) and who are citizens of the United States or aliens lawfully admitted for permanent residence in the United States; or

“(3) an entity subject to a proceeding under the Securities Investor Protection Act of 1970, a stockbroker subject to subchapter III of chapter 7 of this title, or a commodity broker subject to subchapter IV of chapter 7 of this title.

“(d) The court may not grant relief under this chapter with respect to any deposit, escrow, trust fund, or other security required or permitted under any applicable State insurance law or regulation for the benefit of claim holders in the United States.

Applicability.

“SUBCHAPTER I—GENERAL PROVISIONS

“§ 1502. Definitions

“For the purposes of this chapter, the term—

“(1) ‘debtor’ means an entity that is the subject of a foreign proceeding;

“(2) ‘establishment’ means any place of operations where the debtor carries out a nontransitory economic activity;

“(3) ‘foreign court’ means a judicial or other authority competent to control or supervise a foreign proceeding;

“(4) ‘foreign main proceeding’ means a foreign proceeding pending in the country where the debtor has the center of its main interests;

“(5) ‘foreign nonmain proceeding’ means a foreign proceeding, other than a foreign main proceeding, pending in a country where the debtor has an establishment;

“(6) ‘trustee’ includes a trustee, a debtor in possession in a case under any chapter of this title, or a debtor under chapter 9 of this title;

“(7) ‘recognition’ means the entry of an order granting recognition of a foreign main proceeding or foreign nonmain proceeding under this chapter; and

“(8) ‘within the territorial jurisdiction of the United States’, when used with reference to property of a debtor, refers to tangible property located within the territory of the United States and intangible property deemed under applicable non-bankruptcy law to be located within that territory, including any property subject to attachment or garnishment that may properly be seized or garnished by an action in a Federal or State court in the United States.

“§ 1503. International obligations of the United States

“To the extent that this chapter conflicts with an obligation of the United States arising out of any treaty or other form of agreement to which it is a party with one or more other countries, the requirements of the treaty or agreement prevail.

“§ 1504. Commencement of ancillary case

“A case under this chapter is commenced by the filing of a petition for recognition of a foreign proceeding under section 1515.

“§ 1505. Authorization to act in a foreign country

“A trustee or another entity (including an examiner) may be authorized by the court to act in a foreign country on behalf of an estate created under section 541. An entity authorized to act under this section may act in any way permitted by the applicable foreign law.

“§ 1506. Public policy exception

“Nothing in this chapter prevents the court from refusing to take an action governed by this chapter if the action would be manifestly contrary to the public policy of the United States.

“§ 1507. Additional assistance

“(a) Subject to the specific limitations stated elsewhere in this chapter the court, if recognition is granted, may provide additional assistance to a foreign representative under this title or under other laws of the United States.

“(b) In determining whether to provide additional assistance under this title or under other laws of the United States, the

court shall consider whether such additional assistance, consistent with the principles of comity, will reasonably assure—

“(1) just treatment of all holders of claims against or interests in the debtor’s property;

“(2) protection of claim holders in the United States against prejudice and inconvenience in the processing of claims in such foreign proceeding;

“(3) prevention of preferential or fraudulent dispositions of property of the debtor;

“(4) distribution of proceeds of the debtor’s property substantially in accordance with the order prescribed by this title; and

“(5) if appropriate, the provision of an opportunity for a fresh start for the individual that such foreign proceeding concerns.

“§ 1508. Interpretation

“In interpreting this chapter, the court shall consider its international origin, and the need to promote an application of this chapter that is consistent with the application of similar statutes adopted by foreign jurisdictions.

“SUBCHAPTER II—ACCESS OF FOREIGN REPRESENTATIVES AND CREDITORS TO THE COURT

“§ 1509. Right of direct access

“(a) A foreign representative may commence a case under section 1504 by filing directly with the court a petition for recognition of a foreign proceeding under section 1515.

“(b) If the court grants recognition under section 1517, and subject to any limitations that the court may impose consistent with the policy of this chapter—

“(1) the foreign representative has the capacity to sue and be sued in a court in the United States;

“(2) the foreign representative may apply directly to a court in the United States for appropriate relief in that court; and

“(3) a court in the United States shall grant comity or cooperation to the foreign representative.

“(c) A request for comity or cooperation by a foreign representative in a court in the United States other than the court which granted recognition shall be accompanied by a certified copy of an order granting recognition under section 1517.

“(d) If the court denies recognition under this chapter, the court may issue any appropriate order necessary to prevent the foreign representative from obtaining comity or cooperation from courts in the United States.

“(e) Whether or not the court grants recognition, and subject to sections 306 and 1510, a foreign representative is subject to applicable nonbankruptcy law.

“(f) Notwithstanding any other provision of this section, the failure of a foreign representative to commence a case or to obtain recognition under this chapter does not affect any right the foreign representative may have to sue in a court in the United States to collect or recover a claim which is the property of the debtor.

“§ 1510. Limited jurisdiction

“The sole fact that a foreign representative files a petition under section 1515 does not subject the foreign representative to the jurisdiction of any court in the United States for any other purpose.

“§ 1511. Commencement of case under section 301 or 303

“(a) Upon recognition, a foreign representative may commence—

“(1) an involuntary case under section 303; or

“(2) a voluntary case under section 301 or 302, if the foreign proceeding is a foreign main proceeding.

“(b) The petition commencing a case under subsection (a) must be accompanied by a certified copy of an order granting recognition. The court where the petition for recognition has been filed must be advised of the foreign representative’s intent to commence a case under subsection (a) prior to such commencement.

“§ 1512. Participation of a foreign representative in a case under this title

“Upon recognition of a foreign proceeding, the foreign representative in the recognized proceeding is entitled to participate as a party in interest in a case regarding the debtor under this title.

“§ 1513. Access of foreign creditors to a case under this title

“(a) Foreign creditors have the same rights regarding the commencement of, and participation in, a case under this title as domestic creditors.

“(b)(1) Subsection (a) does not change or codify present law as to the priority of claims under section 507 or 726, except that the claim of a foreign creditor under those sections shall not be given a lower priority than that of general unsecured claims without priority solely because the holder of such claim is a foreign creditor.

“(2)(A) Subsection (a) and paragraph (1) do not change or codify present law as to the allowability of foreign revenue claims or other foreign public law claims in a proceeding under this title.

“(B) Allowance and priority as to a foreign tax claim or other foreign public law claim shall be governed by any applicable tax treaty of the United States, under the conditions and circumstances specified therein.

“§ 1514. Notification to foreign creditors concerning a case under this title

“(a) Whenever in a case under this title notice is to be given to creditors generally or to any class or category of creditors, such notice shall also be given to the known creditors generally, or to creditors in the notified class or category, that do not have addresses in the United States. The court may order that appropriate steps be taken with a view to notifying any creditor whose address is not yet known.

“(b) Such notification to creditors with foreign addresses described in subsection (a) shall be given individually, unless the court considers that, under the circumstances, some other form of notification would be more appropriate. No letter or other formality is required.

“(c) When a notification of commencement of a case is to be given to foreign creditors, such notification shall—

“(1) indicate the time period for filing proofs of claim and specify the place for filing such proofs of claim;

“(2) indicate whether secured creditors need to file proofs of claim; and

“(3) contain any other information required to be included in such notification to creditors under this title and the orders of the court.

“(d) Any rule of procedure or order of the court as to notice or the filing of a proof of claim shall provide such additional time to creditors with foreign addresses as is reasonable under the circumstances.

“SUBCHAPTER III—RECOGNITION OF A FOREIGN PROCEEDING AND RELIEF

“§ 1515. Application for recognition

“(a) A foreign representative applies to the court for recognition of a foreign proceeding in which the foreign representative has been appointed by filing a petition for recognition.

“(b) A petition for recognition shall be accompanied by—

Certification.

“(1) a certified copy of the decision commencing such foreign proceeding and appointing the foreign representative;

“(2) a certificate from the foreign court affirming the existence of such foreign proceeding and of the appointment of the foreign representative; or

“(3) in the absence of evidence referred to in paragraphs (1) and (2), any other evidence acceptable to the court of the existence of such foreign proceeding and of the appointment of the foreign representative.

“(c) A petition for recognition shall also be accompanied by a statement identifying all foreign proceedings with respect to the debtor that are known to the foreign representative.

“(d) The documents referred to in paragraphs (1) and (2) of subsection (b) shall be translated into English. The court may require a translation into English of additional documents.

“§ 1516. Presumptions concerning recognition

“(a) If the decision or certificate referred to in section 1515(b) indicates that the foreign proceeding is a foreign proceeding and that the person or body is a foreign representative, the court is entitled to so presume.

“(b) The court is entitled to presume that documents submitted in support of the petition for recognition are authentic, whether or not they have been legalized.

“(c) In the absence of evidence to the contrary, the debtor’s registered office, or habitual residence in the case of an individual, is presumed to be the center of the debtor’s main interests.

“§ 1517. Order granting recognition

“(a) Subject to section 1506, after notice and a hearing, an order recognizing a foreign proceeding shall be entered if—

“(1) such foreign proceeding for which recognition is sought is a foreign main proceeding or foreign nonmain proceeding within the meaning of section 1502;

“(2) the foreign representative applying for recognition is a person or body; and

“(3) the petition meets the requirements of section 1515.

“(b) Such foreign proceeding shall be recognized—

“(1) as a foreign main proceeding if it is pending in the country where the debtor has the center of its main interests; or

“(2) as a foreign nonmain proceeding if the debtor has an establishment within the meaning of section 1502 in the foreign country where the proceeding is pending.

“(c) A petition for recognition of a foreign proceeding shall be decided upon at the earliest possible time. Entry of an order recognizing a foreign proceeding constitutes recognition under this chapter.

“(d) The provisions of this subchapter do not prevent modification or termination of recognition if it is shown that the grounds for granting it were fully or partially lacking or have ceased to exist, but in considering such action the court shall give due weight to possible prejudice to parties that have relied upon the order granting recognition. A case under this chapter may be closed in the manner prescribed under section 350.

Notice.

“§ 1518. Subsequent information

“From the time of filing the petition for recognition of a foreign proceeding, the foreign representative shall file with the court promptly a notice of change of status concerning—

“(1) any substantial change in the status of such foreign proceeding or the status of the foreign representative’s appointment; and

“(2) any other foreign proceeding regarding the debtor that becomes known to the foreign representative.

“§ 1519. Relief that may be granted upon filing petition for recognition

“(a) From the time of filing a petition for recognition until the court rules on the petition, the court may, at the request of the foreign representative, where relief is urgently needed to protect the assets of the debtor or the interests of the creditors, grant relief of a provisional nature, including—

“(1) staying execution against the debtor’s assets;

“(2) entrusting the administration or realization of all or part of the debtor’s assets located in the United States to the foreign representative or another person authorized by the court, including an examiner, in order to protect and preserve the value of assets that, by their nature or because of other circumstances, are perishable, susceptible to devaluation or otherwise in jeopardy; and

“(3) any relief referred to in paragraph (3), (4), or (7) of section 1521(a).

“(b) Unless extended under section 1521(a)(6), the relief granted under this section terminates when the petition for recognition is granted.

“(c) It is a ground for denial of relief under this section that such relief would interfere with the administration of a foreign main proceeding.

“(d) The court may not enjoin a police or regulatory act of a governmental unit, including a criminal action or proceeding, under this section.

Applicability.

“(e) The standards, procedures, and limitations applicable to an injunction shall apply to relief under this section.

“(f) The exercise of rights not subject to the stay arising under section 362(a) pursuant to paragraph (6), (7), (17), or (27) of section 362(b) or pursuant to section 362(n) shall not be stayed by any order of a court or administrative agency in any proceeding under this chapter.

“§ 1520. Effects of recognition of a foreign main proceeding

“(a) Upon recognition of a foreign proceeding that is a foreign main proceeding— Applicability.

“(1) sections 361 and 362 apply with respect to the debtor and the property of the debtor that is within the territorial jurisdiction of the United States;

“(2) sections 363, 549, and 552 apply to a transfer of an interest of the debtor in property that is within the territorial jurisdiction of the United States to the same extent that the sections would apply to property of an estate;

“(3) unless the court orders otherwise, the foreign representative may operate the debtor’s business and may exercise the rights and powers of a trustee under and to the extent provided by sections 363 and 552; and

“(4) section 552 applies to property of the debtor that is within the territorial jurisdiction of the United States.

“(b) Subsection (a) does not affect the right to commence an individual action or proceeding in a foreign country to the extent necessary to preserve a claim against the debtor.

“(c) Subsection (a) does not affect the right of a foreign representative or an entity to file a petition commencing a case under this title or the right of any party to file claims or take other proper actions in such a case.

“§ 1521. Relief that may be granted upon recognition

“(a) Upon recognition of a foreign proceeding, whether main or nonmain, where necessary to effectuate the purpose of this chapter and to protect the assets of the debtor or the interests of the creditors, the court may, at the request of the foreign representative, grant any appropriate relief, including—

“(1) staying the commencement or continuation of an individual action or proceeding concerning the debtor’s assets, rights, obligations or liabilities to the extent they have not been stayed under section 1520(a);

“(2) staying execution against the debtor’s assets to the extent it has not been stayed under section 1520(a);

“(3) suspending the right to transfer, encumber or otherwise dispose of any assets of the debtor to the extent this right has not been suspended under section 1520(a);

“(4) providing for the examination of witnesses, the taking of evidence or the delivery of information concerning the debtor’s assets, affairs, rights, obligations or liabilities;

“(5) entrusting the administration or realization of all or part of the debtor’s assets within the territorial jurisdiction of the United States to the foreign representative or another person, including an examiner, authorized by the court;

“(6) extending relief granted under section 1519(a); and

“(7) granting any additional relief that may be available to a trustee, except for relief available under sections 522, 544, 545, 547, 548, 550, and 724(a).

“(b) Upon recognition of a foreign proceeding, whether main or nonmain, the court may, at the request of the foreign representative, entrust the distribution of all or part of the debtor’s assets located in the United States to the foreign representative or another person, including an examiner, authorized by the court, provided that the court is satisfied that the interests of creditors in the United States are sufficiently protected.

“(c) In granting relief under this section to a representative of a foreign nonmain proceeding, the court must be satisfied that the relief relates to assets that, under the law of the United States, should be administered in the foreign nonmain proceeding or concerns information required in that proceeding.

“(d) The court may not enjoin a police or regulatory act of a governmental unit, including a criminal action or proceeding, under this section.

Applicability.

“(e) The standards, procedures, and limitations applicable to an injunction shall apply to relief under paragraphs (1), (2), (3), and (6) of subsection (a).

“(f) The exercise of rights not subject to the stay arising under section 362(a) pursuant to paragraph (6), (7), (17), or (27) of section 362(b) or pursuant to section 362(n) shall not be stayed by any order of a court or administrative agency in any proceeding under this chapter.

“§ 1522. Protection of creditors and other interested persons

“(a) The court may grant relief under section 1519 or 1521, or may modify or terminate relief under subsection (c), only if the interests of the creditors and other interested entities, including the debtor, are sufficiently protected.

“(b) The court may subject relief granted under section 1519 or 1521, or the operation of the debtor’s business under section 1520(a)(3), to conditions it considers appropriate, including the giving of security or the filing of a bond.

“(c) The court may, at the request of the foreign representative or an entity affected by relief granted under section 1519 or 1521, or at its own motion, modify or terminate such relief.

Applicability.

“(d) Section 1104(d) shall apply to the appointment of an examiner under this chapter. Any examiner shall comply with the qualification requirements imposed on a trustee by section 322.

“§ 1523. Actions to avoid acts detrimental to creditors

“(a) Upon recognition of a foreign proceeding, the foreign representative has standing in a case concerning the debtor pending under another chapter of this title to initiate actions under sections 522, 544, 545, 547, 548, 550, 553, and 724(a).

“(b) When a foreign proceeding is a foreign nonmain proceeding, the court must be satisfied that an action under subsection (a) relates to assets that, under United States law, should be administered in the foreign nonmain proceeding.

“§ 1524. Intervention by a foreign representative

“Upon recognition of a foreign proceeding, the foreign representative may intervene in any proceedings in a State or Federal court in the United States in which the debtor is a party.

“SUBCHAPTER IV—COOPERATION WITH FOREIGN COURTS
AND FOREIGN REPRESENTATIVES

**“§ 1525. Cooperation and direct communication between the
court and foreign courts or foreign representa-
tives**

“(a) Consistent with section 1501, the court shall cooperate to the maximum extent possible with a foreign court or a foreign representative, either directly or through the trustee.

“(b) The court is entitled to communicate directly with, or to request information or assistance directly from, a foreign court or a foreign representative, subject to the rights of a party in interest to notice and participation.

**“§ 1526. Cooperation and direct communication between the
trustee and foreign courts or foreign representa-
tives**

“(a) Consistent with section 1501, the trustee or other person, including an examiner, authorized by the court, shall, subject to the supervision of the court, cooperate to the maximum extent possible with a foreign court or a foreign representative.

“(b) The trustee or other person, including an examiner, authorized by the court is entitled, subject to the supervision of the court, to communicate directly with a foreign court or a foreign representative.

“§ 1527. Forms of cooperation

“Cooperation referred to in sections 1525 and 1526 may be implemented by any appropriate means, including—

“(1) appointment of a person or body, including an examiner, to act at the direction of the court;

“(2) communication of information by any means considered appropriate by the court;

“(3) coordination of the administration and supervision of the debtor’s assets and affairs;

“(4) approval or implementation of agreements concerning the coordination of proceedings; and

“(5) coordination of concurrent proceedings regarding the same debtor.

“SUBCHAPTER V—CONCURRENT PROCEEDINGS

**“§ 1528. Commencement of a case under this title after rec-
ognition of a foreign main proceeding**

“After recognition of a foreign main proceeding, a case under another chapter of this title may be commenced only if the debtor has assets in the United States. The effects of such case shall be restricted to the assets of the debtor that are within the territorial jurisdiction of the United States and, to the extent necessary to implement cooperation and coordination under sections 1525, 1526, and 1527, to other assets of the debtor that are within the jurisdiction of the court under sections 541(a) of this title, and 1334(e) of title 28, to the extent that such other assets are not subject to the jurisdiction and control of a foreign proceeding that has been recognized under this chapter.

Applicability.

“§ 1529. Coordination of a case under this title and a foreign proceeding

“If a foreign proceeding and a case under another chapter of this title are pending concurrently regarding the same debtor, the court shall seek cooperation and coordination under sections 1525, 1526, and 1527, and the following shall apply:

“(1) If the case in the United States pending at the time the petition for recognition of such foreign proceeding is filed—

“(A) any relief granted under section 1519 or 1521 must be consistent with the relief granted in the case in the United States; and

“(B) section 1520 does not apply even if such foreign proceeding is recognized as a foreign main proceeding.

“(2) If a case in the United States under this title commences after recognition, or after the date of the filing of the petition for recognition, of such foreign proceeding—

“(A) any relief in effect under section 1519 or 1521 shall be reviewed by the court and shall be modified or terminated if inconsistent with the case in the United States; and

“(B) if such foreign proceeding is a foreign main proceeding, the stay and suspension referred to in section 1520(a) shall be modified or terminated if inconsistent with the relief granted in the case in the United States.

“(3) In granting, extending, or modifying relief granted to a representative of a foreign nonmain proceeding, the court must be satisfied that the relief relates to assets that, under the laws of the United States, should be administered in the foreign nonmain proceeding or concerns information required in that proceeding.

“(4) In achieving cooperation and coordination under sections 1528 and 1529, the court may grant any of the relief authorized under section 305.

Applicability.

“§ 1530. Coordination of more than 1 foreign proceeding

“In matters referred to in section 1501, with respect to more than 1 foreign proceeding regarding the debtor, the court shall seek cooperation and coordination under sections 1525, 1526, and 1527, and the following shall apply:

“(1) Any relief granted under section 1519 or 1521 to a representative of a foreign nonmain proceeding after recognition of a foreign main proceeding must be consistent with the foreign main proceeding.

“(2) If a foreign main proceeding is recognized after recognition, or after the filing of a petition for recognition, of a foreign nonmain proceeding, any relief in effect under section 1519 or 1521 shall be reviewed by the court and shall be modified or terminated if inconsistent with the foreign main proceeding.

“(3) If, after recognition of a foreign nonmain proceeding, another foreign nonmain proceeding is recognized, the court shall grant, modify, or terminate relief for the purpose of facilitating coordination of the proceedings.

“§ 1531. Presumption of insolvency based on recognition of a foreign main proceeding

“In the absence of evidence to the contrary, recognition of a foreign main proceeding is, for the purpose of commencing a

proceeding under section 303, proof that the debtor is generally not paying its debts as such debts become due.

“§ 1532. Rule of payment in concurrent proceedings

“Without prejudice to secured claims or rights in rem, a creditor who has received payment with respect to its claim in a foreign proceeding pursuant to a law relating to insolvency may not receive a payment for the same claim in a case under any other chapter of this title regarding the debtor, so long as the payment to other creditors of the same class is proportionately less than the payment the creditor has already received.”.

(b) CLERICAL AMENDMENT.—The table of chapters for title 11, United States Code, is amended by inserting after the item relating to chapter 13 the following:

“15. Ancillary and Other Cross-Border Cases 1501”.

SEC. 802. OTHER AMENDMENTS TO TITLES 11 AND 28, UNITED STATES CODE.

(a) APPLICABILITY OF CHAPTERS.—Section 103 of title 11, United States Code, is amended—

(1) in subsection (a), by inserting before the period the following: “, and this chapter, sections 307, 362(n), 555 through 557, and 559 through 562 apply in a case under chapter 15”; and

(2) by adding at the end the following:

“(k) Chapter 15 applies only in a case under such chapter, except that—

“(1) sections 1505, 1513, and 1514 apply in all cases under this title; and

“(2) section 1509 applies whether or not a case under this title is pending.”.

(b) DEFINITIONS.—Section 101 of title 11, United States Code, is amended by striking paragraphs (23) and (24) and inserting the following:

“(23) ‘foreign proceeding’ means a collective judicial or administrative proceeding in a foreign country, including an interim proceeding, under a law relating to insolvency or adjustment of debt in which proceeding the assets and affairs of the debtor are subject to control or supervision by a foreign court, for the purpose of reorganization or liquidation;

“(24) ‘foreign representative’ means a person or body, including a person or body appointed on an interim basis, authorized in a foreign proceeding to administer the reorganization or the liquidation of the debtor’s assets or affairs or to act as a representative of such foreign proceeding;”.

(c) AMENDMENTS TO TITLE 28, UNITED STATES CODE.—

(1) PROCEDURES.—Section 157(b)(2) of title 28, United States Code, is amended—

(A) in subparagraph (N), by striking “and” at the end;

(B) in subparagraph (O), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(P) recognition of foreign proceedings and other matters under chapter 15 of title 11.”.

(2) BANKRUPTCY CASES AND PROCEEDINGS.—Section 1334(c) of title 28, United States Code, is amended by striking “Nothing

in” and inserting “Except with respect to a case under chapter 15 of title 11, nothing in”.

(3) DUTIES OF TRUSTEES.—Section 586(a)(3) of title 28, United States Code, is amended by striking “or 13” and inserting “13, or 15”.

(4) VENUE OF CASES ANCILLARY TO FOREIGN PROCEEDINGS.—Section 1410 of title 28, United States Code, is amended to read as follows:

“§ 1410. Venue of cases ancillary to foreign proceedings

“A case under chapter 15 of title 11 may be commenced in the district court of the United States for the district—

“(1) in which the debtor has its principal place of business or principal assets in the United States;

“(2) if the debtor does not have a place of business or assets in the United States, in which there is pending against the debtor an action or proceeding in a Federal or State court; or

“(3) in a case other than those specified in paragraph (1) or (2), in which venue will be consistent with the interests of justice and the convenience of the parties, having regard to the relief sought by the foreign representative.”.

(d) OTHER SECTIONS OF TITLE 11.—Title 11 of the United States Code is amended—

(1) in section 109(b), by striking paragraph (3) and inserting the following:

“(3)(A) a foreign insurance company, engaged in such business in the United States; or

“(B) a foreign bank, savings bank, cooperative bank, savings and loan association, building and loan association, or credit union, that has a branch or agency (as defined in section 1(b) of the International Banking Act of 1978 in the United States.”;

(2) in section 303, by striking subsection (k);

(3) by striking section 304;

(4) in the table of sections for chapter 3 by striking the item relating to section 304;

(5) in section 306 by striking “, 304,” each place it appears;

(6) in section 305(a) by striking paragraph (2) and inserting the following:

“(2)(A) a petition under section 1515 for recognition of a foreign proceeding has been granted; and

“(B) the purposes of chapter 15 of this title would be best served by such dismissal or suspension.”; and

(7) in section 508—

(A) by striking subsection (a); and

(B) in subsection (b), by striking “(b)”.

TITLE IX—FINANCIAL CONTRACT PROVISIONS

SEC. 901. TREATMENT OF CERTAIN AGREEMENTS BY CONSERVATORS OR RECEIVERS OF INSURED DEPOSITORY INSTITUTIONS.

(a) DEFINITION OF QUALIFIED FINANCIAL CONTRACT.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)) is amended—

(A) by striking “subsection—” and inserting “subsection, the following definitions shall apply:”; and

(B) in clause (i), by inserting “, resolution, or order” after “any similar agreement that the Corporation determines by regulation”.

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)) is amended—

(A) by striking “subsection—” and inserting “subsection, the following definitions shall apply:”; and

(B) in clause (i), by inserting “, resolution, or order” after “any similar agreement that the Board determines by regulation”.

(b) DEFINITION OF SECURITIES CONTRACT.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D)(ii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(ii)) is amended to read as follows:

“(ii) SECURITIES CONTRACT.—The term ‘securities contract’—

“(I) means a contract for the purchase, sale, or loan of a security, a certificate of deposit, a mortgage loan, or any interest in a mortgage loan, a group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof) or any option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option, and including any repurchase or reverse repurchase transaction on any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

“(II) does not include any purchase, sale, or repurchase obligation under a participation in a commercial mortgage loan unless the Corporation determines by regulation, resolution, or order to include any such agreement within the meaning of such term;

“(III) means any option entered into on a national securities exchange relating to foreign currencies;

“(IV) means the guarantee by or to any securities clearing agency of any settlement of cash, securities, certificates of deposit, mortgage loans or interests therein, group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof) or option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

“(V) means any margin loan;

“(VI) means any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;

“(VII) means any combination of the agreements or transactions referred to in this clause;

“(VIII) means any option to enter into any agreement or transaction referred to in this clause;

“(IX) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), (IV), (V), (VI), (VII), or (VIII), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a securities contract under this clause, except that the master agreement shall be considered to be a securities contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), (IV), (V), (VI), (VII), or (VIII); and

“(X) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause, including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause.”

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D)(ii) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)(ii)) is amended to read as follows:

“(ii) SECURITIES CONTRACT.—The term ‘securities contract’—

“(I) means a contract for the purchase, sale, or loan of a security, a certificate of deposit, a mortgage loan, or any interest in a mortgage loan, a group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof) or any option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option, and including any repurchase or reverse repurchase transaction on any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

“(II) does not include any purchase, sale, or repurchase obligation under a participation in a commercial mortgage loan unless the Board determines by regulation, resolution, or order to include any such agreement within the meaning of such term;

“(III) means any option entered into on a national securities exchange relating to foreign currencies;

“(IV) means the guarantee by or to any securities clearing agency of any settlement of cash, securities, certificates of deposit, mortgage loans

or interests therein, group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof) or option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

“(V) means any margin loan;

“(VI) means any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;

“(VII) means any combination of the agreements or transactions referred to in this clause;

“(VIII) means any option to enter into any agreement or transaction referred to in this clause;

“(IX) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), (IV), (V), (VI), (VII), or (VIII), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a securities contract under this clause, except that the master agreement shall be considered to be a securities contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), (IV), (V), (VI), (VII), or (VIII); and

“(X) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause, including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause.”.

(c) DEFINITION OF COMMODITY CONTRACT.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D)(iii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(iii)) is amended to read as follows:

“(iii) COMMODITY CONTRACT.—The term ‘commodity contract’ means—

“(I) with respect to a futures commission merchant, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade;

“(II) with respect to a foreign futures commission merchant, a foreign future;

“(III) with respect to a leverage transaction merchant, a leverage transaction;

“(IV) with respect to a clearing organization, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization, or commodity option traded on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization;

“(V) with respect to a commodity options dealer, a commodity option;

“(VI) any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;

“(VII) any combination of the agreements or transactions referred to in this clause;

“(VIII) any option to enter into any agreement or transaction referred to in this clause;

“(IX) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII), or (VIII), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a commodity contract under this clause, except that the master agreement shall be considered to be a commodity contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII), or (VIII); or

“(X) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause, including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause.”

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D)(iii) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)(iii)) is amended to read as follows:

“(iii) COMMODITY CONTRACT.—The term ‘commodity contract’ means—

“(I) with respect to a futures commission merchant, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade;

“(II) with respect to a foreign futures commission merchant, a foreign future;

“(III) with respect to a leverage transaction merchant, a leverage transaction;

“(IV) with respect to a clearing organization, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization, or commodity option traded on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization;

“(V) with respect to a commodity options dealer, a commodity option;

“(VI) any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;

“(VII) any combination of the agreements or transactions referred to in this clause;

“(VIII) any option to enter into any agreement or transaction referred to in this clause;

“(IX) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII), or (VIII), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a commodity contract under this clause, except that the master agreement shall be considered to be a commodity contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII), or (VIII); or

“(X) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause, including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause.”.

(d) DEFINITION OF FORWARD CONTRACT.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D)(iv) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(iv)) is amended to read as follows:

“(iv) FORWARD CONTRACT.—The term ‘forward contract’ means—

“(I) a contract (other than a commodity contract) for the purchase, sale, or transfer of a commodity or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade, or product or byproduct thereof, with a maturity date more than 2 days after the date the contract is entered into, including, a repurchase transaction, reverse repurchase transaction, consignment, lease, swap, hedge transaction, deposit, loan, option, allocated transaction, unallocated transaction, or any other similar agreement;

“(II) any combination of agreements or transactions referred to in subclauses (I) and (III);

“(III) any option to enter into any agreement or transaction referred to in subclause (I) or (II);

“(IV) a master agreement that provides for an agreement or transaction referred to in subclauses (I), (II), or (III), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a forward contract under this clause, except that the master agreement shall be considered to be a forward contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), or (III); or

“(V) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (II), (III), or (IV), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.”.

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D)(iv) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)(iv)) is amended to read as follows:

“(iv) FORWARD CONTRACT.—The term ‘forward contract’ means—

“(I) a contract (other than a commodity contract) for the purchase, sale, or transfer of a commodity or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade, or product or byproduct thereof, with a maturity date more than 2 days after the date the contract is entered into, including, a repurchase transaction, reverse repurchase transaction, consignment, lease, swap, hedge transaction, deposit, loan, option, allocated transaction, unallocated transaction, or any other similar agreement;

“(II) any combination of agreements or transactions referred to in subclauses (I) and (III);

“(III) any option to enter into any agreement or transaction referred to in subclause (I) or (II);

“(IV) a master agreement that provides for an agreement or transaction referred to in subclauses (I), (II), or (III), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a forward contract under this clause, except that the master agreement shall be considered to be a forward contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), or (III); or

“(V) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (II), (III), or (IV), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.”.

(e) DEFINITION OF REPURCHASE AGREEMENT.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D)(v) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(v)) is amended to read as follows:

“(v) REPURCHASE AGREEMENT.—The term ‘repurchase agreement’ (which definition also applies to a reverse repurchase agreement)—

“(I) means an agreement, including related terms, which provides for the transfer of one or

more certificates of deposit, mortgage-related securities (as such term is defined in the Securities Exchange Act of 1934), mortgage loans, interests in mortgage-related securities or mortgage loans, eligible bankers' acceptances, qualified foreign government securities or securities that are direct obligations of, or that are fully guaranteed by, the United States or any agency of the United States against the transfer of funds by the transferee of such certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests as described above, at a date certain not later than 1 year after such transfers or on demand, against the transfer of funds, or any other similar agreement;

“(II) does not include any repurchase obligation under a participation in a commercial mortgage loan unless the Corporation determines by regulation, resolution, or order to include any such participation within the meaning of such term;

“(III) means any combination of agreements or transactions referred to in subclauses (I) and (IV);

“(IV) means any option to enter into any agreement or transaction referred to in subclause (I) or (III);

“(V) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), or (IV), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a repurchase agreement under this clause, except that the master agreement shall be considered to be a repurchase agreement under this subclause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), or (IV); and

“(VI) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (III), (IV), or (V), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

For purposes of this clause, the term ‘qualified foreign government security’ means a security that is a direct obligation of, or that is fully guaranteed by, the central government of a member of the Organization for Economic Cooperation and Development (as determined by regulation or order adopted by the appropriate Federal banking authority).”.

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D)(v) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)(v)) is amended to read as follows:

“(v) REPURCHASE AGREEMENT.—The term ‘repurchase agreement’ (which definition also applies to a reverse repurchase agreement)—

“(I) means an agreement, including related terms, which provides for the transfer of one or more certificates of deposit, mortgage-related securities (as such term is defined in the Securities Exchange Act of 1934), mortgage loans, interests in mortgage-related securities or mortgage loans, eligible bankers’ acceptances, qualified foreign government securities or securities that are direct obligations of, or that are fully guaranteed by, the United States or any agency of the United States against the transfer of funds by the transferee of such certificates of deposit, eligible bankers’ acceptances, securities, mortgage loans, or interests with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers’ acceptances, securities, mortgage loans, or interests as described above, at a date certain not later than 1 year after such transfers or on demand, against the transfer of funds, or any other similar agreement;

“(II) does not include any repurchase obligation under a participation in a commercial mortgage loan unless the Board determines by regulation, resolution, or order to include any such participation within the meaning of such term;

“(III) means any combination of agreements or transactions referred to in subclauses (I) and (IV);

“(IV) means any option to enter into any agreement or transaction referred to in subclause (I) or (III);

“(V) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), or (IV), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a repurchase agreement under this clause, except that the master agreement shall be considered to be a repurchase agreement under this subclause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), or (IV); and

“(VI) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (III), (IV), or (V), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

For purposes of this clause, the term ‘qualified foreign government security’ means a security that is a direct obligation of, or that is fully guaranteed by, the central government of a member of the Organization for Economic Cooperation and Development (as determined by regulation or order adopted by the appropriate Federal banking authority).”.

(f) DEFINITION OF SWAP AGREEMENT.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D)(vi) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(vi)) is amended to read as follows:

“(vi) SWAP AGREEMENT.—The term ‘swap agreement’ means—

“(I) any agreement, including the terms and conditions incorporated by reference in any such agreement, which is an interest rate swap, option, future, or forward agreement, including a rate floor, rate cap, rate collar, cross-currency rate swap, and basis swap; a spot, same day-tomorrow, tomorrow-next, forward, or other foreign exchange or precious metals agreement; a currency swap, option, future, or forward agreement; an equity index or equity swap, option, future, or forward agreement; a debt index or debt swap, option, future, or forward agreement; a total return, credit spread or credit swap, option, future, or forward agreement; a commodity index or commodity swap, option, future, or forward agreement; or a weather swap, weather derivative, or weather option;

“(II) any agreement or transaction that is similar to any other agreement or transaction referred to in this clause and that is of a type that has been, is presently, or in the future becomes, the subject of recurrent dealings in the swap markets (including terms and conditions incorporated by reference in such agreement) and that is a forward, swap, future, or option on one or more rates, currencies, commodities, equity securities or other equity instruments, debt securities or other debt instruments, quantitative measures associated with an occurrence, extent of an occurrence, or contingency associated with a financial, commercial, or economic consequence, or economic or financial indices or measures of economic or financial risk or value;

“(III) any combination of agreements or transactions referred to in this clause;

“(IV) any option to enter into any agreement or transaction referred to in this clause;

“(V) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), or (IV), together with all supplements to any such master agreement, without regard to whether the master agreement contains an agreement or transaction that is not a swap agreement under this clause, except that the master agreement shall be considered to be a swap agreement

under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), or (IV); and

“(VI) any security agreement or arrangement or other credit enhancement related to any agreements or transactions referred to in subclause (I), (II), (III), (IV), or (V), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

Applicability.

Such term is applicable for purposes of this subsection only and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any swap agreement under any other statute, regulation, or rule, including the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Investor Protection Act of 1970, the Commodity Exchange Act, the Gramm-Leach-Bliley Act, and the Legal Certainty for Bank Products Act of 2000.”.

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)) is amended by adding at the end the following new clause:

“(vi) SWAP AGREEMENT.—The term ‘swap agreement’ means—

“(I) any agreement, including the terms and conditions incorporated by reference in any such agreement, which is an interest rate swap, option, future, or forward agreement, including a rate floor, rate cap, rate collar, cross-currency rate swap, and basis swap; a spot, same day-tomorrow, tomorrow-next, forward, or other foreign exchange or precious metals agreement; a currency swap, option, future, or forward agreement; an equity index or equity swap, option, future, or forward agreement; a debt index or debt swap, option, future, or forward agreement; a total return, credit spread or credit swap, option, future, or forward agreement; a commodity index or commodity swap, option, future, or forward agreement; or a weather swap, weather derivative, or weather option;

“(II) any agreement or transaction that is similar to any other agreement or transaction referred to in this clause and that is of a type that has been, is presently, or in the future becomes, the subject of recurrent dealings in the swap markets (including terms and conditions incorporated by reference in such agreement) and that is a forward, swap, future, or option on one or more rates, currencies, commodities, equity securities or other equity instruments, debt securities or other debt instruments, quantitative measures associated with an occurrence, extent of an

occurrence, or contingency associated with a financial, commercial, or economic consequence, or economic or financial indices or measures of economic or financial risk or value;

“(III) any combination of agreements or transactions referred to in this clause;

“(IV) any option to enter into any agreement or transaction referred to in this clause;

“(V) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), or (IV), together with all supplements to any such master agreement, without regard to whether the master agreement contains an agreement or transaction that is not a swap agreement under this clause, except that the master agreement shall be considered to be a swap agreement under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), or (IV); and

“(VI) any security agreement or arrangement or other credit enhancement related to any agreements or transactions referred to in subclause (I), (II), (III), (IV), or (V), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

Such term is applicable for purposes of this subsection only and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any swap agreement under any other statute, regulation, or rule, including the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Investor Protection Act of 1970, the Commodity Exchange Act, the Gramm-Leach-Bliley Act, and the Legal Certainty for Bank Products Act of 2000.”.

Applicability.

(g) DEFINITION OF TRANSFER.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D)(viii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(viii)) is amended to read as follows:

“(viii) TRANSFER.—The term ‘transfer’ means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with property or with an interest in property, including retention of title as a security interest and foreclosure of the depository institution’s equity of redemption.”.

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)) (as amended by subsection (f) of this section) is amended by adding at the end the following new clause:

“(viii) TRANSFER.—The term ‘transfer’ means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with

property or with an interest in property, including retention of title as a security interest and foreclosure of the depository institution's equity of redemption.”.

(h) TREATMENT OF QUALIFIED FINANCIAL CONTRACTS.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is amended—

(A) in subparagraph (A)—

(i) by striking “paragraph (10)” and inserting “paragraphs (9) and (10)”;

(ii) in clause (i), by striking “to cause the termination or liquidation” and inserting “such person has to cause the termination, liquidation, or acceleration”; and

(iii) by striking clause (ii) and inserting the following new clause:

“(ii) any right under any security agreement or arrangement or other credit enhancement related to one or more qualified financial contracts described in clause (i);”; and

(B) in subparagraph (E), by striking clause (ii) and inserting the following:

“(ii) any right under any security agreement or arrangement or other credit enhancement related to one or more qualified financial contracts described in clause (i);”.

(2) INSURED CREDIT UNIONS.—Section 207(c)(8) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)) is amended—

(A) in subparagraph (A)—

(i) by striking “paragraph (12)” and inserting “paragraphs (9) and (10)”;

(ii) in clause (i), by striking “to cause the termination or liquidation” and inserting “such person has to cause the termination, liquidation, or acceleration”; and

(iii) by striking clause (ii) and inserting the following new clause:

“(ii) any right under any security agreement or arrangement or other credit enhancement related to 1 or more qualified financial contracts described in clause (i);”; and

(B) in subparagraph (E), by striking clause (ii) and inserting the following new clause:

“(ii) any right under any security agreement or arrangement or other credit enhancement related to 1 or more qualified financial contracts described in clause (i);”.

(i) AVOIDANCE OF TRANSFERS.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(C)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(C)(i)) is amended by inserting “section 5242 of the Revised Statutes of the United States or any other Federal or State law relating to the avoidance of preferential or fraudulent transfers,” before “the Corporation”.

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(C)(i) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(C)(i)) is amended by inserting “section 5242 of the Revised Statutes of the United

States or any other Federal or State law relating to the avoidance of preferential or fraudulent transfers,” before “the Board”.

SEC. 902. AUTHORITY OF THE FDIC AND NCUAB WITH RESPECT TO FAILED AND FAILING INSTITUTIONS.

(a) **FEDERAL DEPOSIT INSURANCE CORPORATION.**—

(1) **IN GENERAL.**—Section 11(e)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is amended—

(A) in subparagraph (E), by striking “other than paragraph (12) of this subsection, subsection (d)(9)” and inserting “other than subsections (d)(9) and (e)(10)”; and

(B) by adding at the end the following new subparagraphs:

“(F) **CLARIFICATION.**—No provision of law shall be construed as limiting the right or power of the Corporation, or authorizing any court or agency to limit or delay, in any manner, the right or power of the Corporation to transfer any qualified financial contract in accordance with paragraphs (9) and (10) of this subsection or to disaffirm or repudiate any such contract in accordance with subsection (e)(1) of this section.

“(G) **WALKAWAY CLAUSES NOT EFFECTIVE.**—

“(i) **IN GENERAL.**—Notwithstanding the provisions of subparagraphs (A) and (E), and sections 403 and 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, no walkaway clause shall be enforceable in a qualified financial contract of an insured depository institution in default.

“(ii) **WALKAWAY CLAUSE DEFINED.**—For purposes of this subparagraph, the term ‘walkaway clause’ means a provision in a qualified financial contract that, after calculation of a value of a party’s position or an amount due to or from 1 of the parties in accordance with its terms upon termination, liquidation, or acceleration of the qualified financial contract, either does not create a payment obligation of a party or extinguishes a payment obligation of a party in whole or in part solely because of such party’s status as a nondefaulting party.”.

(2) **TECHNICAL AND CONFORMING AMENDMENT.**—Section 11(e)(12)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(12)(A)) is amended by inserting “or the exercise of rights or powers by” after “the appointment of”.

(b) **NATIONAL CREDIT UNION ADMINISTRATION BOARD.**—

(1) **IN GENERAL.**—Section 207(c)(8) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)) is amended—

(A) in subparagraph (E) (as amended by section 901(h)), by striking “other than paragraph (12) of this subsection, subsection (b)(9)” and inserting “other than subsections (b)(9) and (c)(10)”; and

(B) by adding at the end the following new subparagraphs:

“(F) **CLARIFICATION.**—No provision of law shall be construed as limiting the right or power of the Board, or authorizing any court or agency to limit or delay, in any manner, the right or power of the Board to transfer any qualified financial contract in accordance with paragraphs

(9) and (10) of this subsection or to disaffirm or repudiate any such contract in accordance with subsection (c)(1) of this section.

“(G) WALKAWAY CLAUSES NOT EFFECTIVE.—

“(i) IN GENERAL.—Notwithstanding the provisions of subparagraphs (A) and (E), and sections 403 and 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, no walkaway clause shall be enforceable in a qualified financial contract of an insured credit union in default.

“(ii) WALKAWAY CLAUSE DEFINED.—For purposes of this subparagraph, the term ‘walkaway clause’ means a provision in a qualified financial contract that, after calculation of a value of a party’s position or an amount due to or from 1 of the parties in accordance with its terms upon termination, liquidation, or acceleration of the qualified financial contract, either does not create a payment obligation of a party or extinguishes a payment obligation of a party in whole or in part solely because of such party’s status as a nondefaulting party.”.

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 207(c)(12)(A) of the Federal Credit Union Act (12 U.S.C. 1787(c)(12)(A)) is amended by inserting “or the exercise of rights or powers by” after “the appointment of”.

SEC. 903. AMENDMENTS RELATING TO TRANSFERS OF QUALIFIED FINANCIAL CONTRACTS.

(a) FDIC-INSURED DEPOSITORY INSTITUTIONS.—

(1) TRANSFERS OF QUALIFIED FINANCIAL CONTRACTS TO FINANCIAL INSTITUTIONS.—Section 11(e)(9) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(9)) is amended to read as follows:

“(9) TRANSFER OF QUALIFIED FINANCIAL CONTRACTS.—

“(A) IN GENERAL.—In making any transfer of assets or liabilities of a depository institution in default which includes any qualified financial contract, the conservator or receiver for such depository institution shall either—

“(i) transfer to one financial institution, other than a financial institution for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed or which is otherwise the subject of a bankruptcy or insolvency proceeding—

“(I) all qualified financial contracts between any person or any affiliate of such person and the depository institution in default;

“(II) all claims of such person or any affiliate of such person against such depository institution under any such contract (other than any claim which, under the terms of any such contract, is subordinated to the claims of general unsecured creditors of such institution);

“(III) all claims of such depository institution against such person or any affiliate of such person under any such contract; and

“(IV) all property securing or any other credit enhancement for any contract described in subclause (I) or any claim described in subclause (II) or (III) under any such contract; or

“(ii) transfer none of the qualified financial contracts, claims, property or other credit enhancement referred to in clause (i) (with respect to such person and any affiliate of such person).

“(B) TRANSFER TO FOREIGN BANK, FOREIGN FINANCIAL INSTITUTION, OR BRANCH OR AGENCY OF A FOREIGN BANK OR FINANCIAL INSTITUTION.—In transferring any qualified financial contracts and related claims and property under subparagraph (A)(i), the conservator or receiver for the depository institution shall not make such transfer to a foreign bank, financial institution organized under the laws of a foreign country, or a branch or agency of a foreign bank or financial institution unless, under the law applicable to such bank, financial institution, branch or agency, to the qualified financial contracts, and to any netting contract, any security agreement or arrangement or other credit enhancement related to one or more qualified financial contracts, the contractual rights of the parties to such qualified financial contracts, netting contracts, security agreements or arrangements, or other credit enhancements are enforceable substantially to the same extent as permitted under this section.

“(C) TRANSFER OF CONTRACTS SUBJECT TO THE RULES OF A CLEARING ORGANIZATION.—In the event that a conservator or receiver transfers any qualified financial contract and related claims, property, and credit enhancements pursuant to subparagraph (A)(i) and such contract is cleared by or subject to the rules of a clearing organization, the clearing organization shall not be required to accept the transferee as a member by virtue of the transfer.

“(D) DEFINITIONS.—For purposes of this paragraph, the term ‘financial institution’ means a broker or dealer, a depository institution, a futures commission merchant, or any other institution, as determined by the Corporation by regulation to be a financial institution, and the term ‘clearing organization’ has the same meaning as in section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991.”.

(2) NOTICE TO QUALIFIED FINANCIAL CONTRACT COUNTERPARTIES.—Section 11(e)(10)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(10)(A)) is amended in the material immediately following clause (ii) by striking “the conservator” and all that follows through the period and inserting the following: “the conservator or receiver shall notify any person who is a party to any such contract of such transfer by 5:00 p.m. (eastern time) on the business day following the date of the appointment of the receiver in the case of a receivership, or the business day following such transfer in the case of a conservatorship.”.

(3) RIGHTS AGAINST RECEIVER AND CONSERVATOR AND TREATMENT OF BRIDGE BANKS.—Section 11(e)(10) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(10)) is amended—

(A) by redesignating subparagraph (B) as subparagraph (D); and

(B) by inserting after subparagraph (A) the following new subparagraphs:

“(B) CERTAIN RIGHTS NOT ENFORCEABLE.—

“(i) RECEIVERSHIP.—A person who is a party to a qualified financial contract with an insured depository institution may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(A) of this subsection or section 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a receiver for the depository institution (or the insolvency or financial condition of the depository institution for which the receiver has been appointed)—

“(I) until 5:00 p.m. (eastern time) on the business day following the date of the appointment of the receiver; or

“(II) after the person has received notice that the contract has been transferred pursuant to paragraph (9)(A).

“(ii) CONSERVATORSHIP.—A person who is a party to a qualified financial contract with an insured depository institution may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(E) of this subsection or section 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a conservator for the depository institution (or the insolvency or financial condition of the depository institution for which the conservator has been appointed).

“(iii) NOTICE.—For purposes of this paragraph, the Corporation as receiver or conservator of an insured depository institution shall be deemed to have notified a person who is a party to a qualified financial contract with such depository institution if the Corporation has taken steps reasonably calculated to provide notice to such person by the time specified in subparagraph (A).

“(C) TREATMENT OF BRIDGE BANKS.—The following institutions shall not be considered to be a financial institution for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed or which is otherwise the subject of a bankruptcy or insolvency proceeding for purposes of paragraph (9):

“(i) A bridge bank.

“(ii) A depository institution organized by the Corporation, for which a conservator is appointed either—

“(I) immediately upon the organization of the institution; or

“(II) at the time of a purchase and assumption transaction between the depository institution and the Corporation as receiver for a depository institution in default.”.

(b) INSURED CREDIT UNIONS.—

(1) TRANSFERS OF QUALIFIED FINANCIAL CONTRACTS TO FINANCIAL INSTITUTIONS.—Section 207(c)(9) of the Federal Credit Union Act (12 U.S.C. 1787(c)(9)) is amended to read as follows:

“(9) TRANSFER OF QUALIFIED FINANCIAL CONTRACTS.—

“(A) IN GENERAL.—In making any transfer of assets or liabilities of a credit union in default which includes any qualified financial contract, the conservator or liquidating agent for such credit union shall either—

“(i) transfer to 1 financial institution, other than a financial institution for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed or which is otherwise the subject of a bankruptcy or insolvency proceeding—

“(I) all qualified financial contracts between any person or any affiliate of such person and the credit union in default;

“(II) all claims of such person or any affiliate of such person against such credit union under any such contract (other than any claim which, under the terms of any such contract, is subordinated to the claims of general unsecured creditors of such credit union);

“(III) all claims of such credit union against such person or any affiliate of such person under any such contract; and

“(IV) all property securing or any other credit enhancement for any contract described in subclause (I) or any claim described in subclause (II) or (III) under any such contract; or

“(ii) transfer none of the qualified financial contracts, claims, property or other credit enhancement referred to in clause (i) (with respect to such person and any affiliate of such person).

“(B) TRANSFER TO FOREIGN BANK, FOREIGN FINANCIAL INSTITUTION, OR BRANCH OR AGENCY OF A FOREIGN BANK OR FINANCIAL INSTITUTION.—In transferring any qualified financial contracts and related claims and property under subparagraph (A)(i), the conservator or liquidating agent for the credit union shall not make such transfer to a foreign bank, financial institution organized under the laws of a foreign country, or a branch or agency of a foreign bank or financial institution unless, under the law applicable to such bank, financial institution, branch or agency, to the qualified financial contracts, and to any netting contract, any security agreement or arrangement or other credit enhancement related to 1 or more qualified financial contracts, the contractual rights of the parties to such qualified financial contracts, netting contracts, security agreements or arrangements, or other credit enhancements are enforceable substantially to the same extent as permitted under this section.

“(C) TRANSFER OF CONTRACTS SUBJECT TO THE RULES OF A CLEARING ORGANIZATION.—In the event that a conservator or liquidating agent transfers any qualified financial contract and related claims, property, and credit enhancements pursuant to subparagraph (A)(i) and such contract

is cleared by or subject to the rules of a clearing organization, the clearing organization shall not be required to accept the transferee as a member by virtue of the transfer.

“(D) DEFINITIONS.—For purposes of this paragraph—

“(i) the term ‘financial institution’ means a broker or dealer, a depository institution, a futures commission merchant, a credit union, or any other institution, as determined by the Board by regulation to be a financial institution; and

“(ii) the term ‘clearing organization’ has the same meaning as in section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991.”.

(2) NOTICE TO QUALIFIED FINANCIAL CONTRACT COUNTERPARTIES.—Section 207(c)(10)(A) of the Federal Credit Union Act (12 U.S.C. 1787(c)(10)(A)) is amended in the material immediately following clause (ii) by striking “the conservator” and all that follows through the period and inserting the following: “the conservator or liquidating agent shall notify any person who is a party to any such contract of such transfer by 5:00 p.m. (eastern time) on the business day following the date of the appointment of the liquidating agent in the case of a liquidation, or the business day following such transfer in the case of a conservatorship.”.

(3) RIGHTS AGAINST LIQUIDATING AGENT AND CONSERVATOR AND TREATMENT OF BRIDGE BANKS.—Section 207(c)(10) of the Federal Credit Union Act (12 U.S.C. 1787(c)(10)) is amended—

(A) by redesignating subparagraph (B) as subparagraph (D); and

(B) by inserting after subparagraph (A) the following new subparagraphs:

“(B) CERTAIN RIGHTS NOT ENFORCEABLE.—

“(i) LIQUIDATION.—A person who is a party to a qualified financial contract with an insured credit union may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(A) of this subsection or section 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a liquidating agent for the credit union institution (or the insolvency or financial condition of the credit union for which the liquidating agent has been appointed)—

“(I) until 5:00 p.m. (eastern time) on the business day following the date of the appointment of the liquidating agent; or

“(II) after the person has received notice that the contract has been transferred pursuant to paragraph (9)(A).

“(ii) CONSERVATORSHIP.—A person who is a party to a qualified financial contract with an insured credit union may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(E) of this subsection or section 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a conservator for the credit union or the insolvency or financial condition

of the credit union for which the conservator has been appointed).

“(iii) NOTICE.—For purposes of this paragraph, the Board as conservator or liquidating agent of an insured credit union shall be deemed to have notified a person who is a party to a qualified financial contract with such credit union if the Board has taken steps reasonably calculated to provide notice to such person by the time specified in subparagraph (A).

“(C) TREATMENT OF BRIDGE BANKS.—The following institutions shall not be considered to be a financial institution for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed or which is otherwise the subject of a bankruptcy or insolvency proceeding for purposes of paragraph (9):

“(i) A bridge bank.

“(ii) A credit union organized by the Board, for which a conservator is appointed either—

“(I) immediately upon the organization of the credit union; or

“(II) at the time of a purchase and assumption transaction between the credit union and the Board as receiver for a credit union in default.”.

SEC. 904. AMENDMENTS RELATING TO DISAFFIRMANCE OR REPUDIATION OF QUALIFIED FINANCIAL CONTRACTS.

(a) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)) is amended—

(1) by redesignating paragraphs (11) through (15) as paragraphs (12) through (16), respectively;

(2) by inserting after paragraph (10) the following new paragraph:

“(11) DISAFFIRMANCE OR REPUDIATION OF QUALIFIED FINANCIAL CONTRACTS.—In exercising the rights of disaffirmance or repudiation of a conservator or receiver with respect to any qualified financial contract to which an insured depository institution is a party, the conservator or receiver for such institution shall either—

“(A) disaffirm or repudiate all qualified financial contracts between—

“(i) any person or any affiliate of such person; and

“(ii) the depository institution in default; or

“(B) disaffirm or repudiate none of the qualified financial contracts referred to in subparagraph (A) (with respect to such person or any affiliate of such person).”; and

(3) by adding at the end the following new paragraph:

“(17) SAVINGS CLAUSE.—The meanings of terms used in this subsection are applicable for purposes of this subsection only, and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any similar terms under any other statute, regulation, or rule, including the Gramm-Leach-Bliley Act, the Legal Certainty for Bank Products Act of 2000, the securities laws (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934), and the Commodity Exchange Act.”.

(b) **INSURED CREDIT UNIONS.**—Section 207(c) of the Federal Credit Union Act (12 U.S.C. 1787(c)) is amended—

(1) by redesignating paragraphs (11), (12), and (13) as paragraphs (12), (13), and (14), respectively;

(2) by inserting after paragraph (10) the following new paragraph:

“(11) **DISAFFIRMANCE OR REPUDIATION OF QUALIFIED FINANCIAL CONTRACTS.**—In exercising the rights of disaffirmance or repudiation of a conservator or liquidating agent with respect to any qualified financial contract to which an insured credit union is a party, the conservator or liquidating agent for such credit union shall either—

“(A) disaffirm or repudiate all qualified financial contracts between—

“(i) any person or any affiliate of such person; and

“(ii) the credit union in default; or

“(B) disaffirm or repudiate none of the qualified financial contracts referred to in subparagraph (A) (with respect to such person or any affiliate of such person).”; and

(3) by adding at the end the following new paragraph:

“(15) **SAVINGS CLAUSE.**—The meanings of terms used in this subsection are applicable for purposes of this subsection only, and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any similar terms under any other statute, regulation, or rule, including the Gramm-Leach-Bliley Act, the Legal Certainty for Bank Products Act of 2000, the securities laws (as that term is defined in section (a)(47) of the Securities Exchange Act of 1934), and the Commodity Exchange Act.”.

SEC. 905. CLARIFYING AMENDMENT RELATING TO MASTER AGREEMENTS.

(a) **FDIC-INSURED DEPOSITORY INSTITUTIONS.**—Section 11(e)(8)(D)(vii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(vii)) is amended to read as follows:

“(vii) **TREATMENT OF MASTER AGREEMENT AS ONE AGREEMENT.**—Any master agreement for any contract or agreement described in any preceding clause of this subparagraph (or any master agreement for such master agreement or agreements), together with all supplements to such master agreement, shall be treated as a single agreement and a single qualified financial contract. If a master agreement contains provisions relating to agreements or transactions that are not themselves qualified financial contracts, the master agreement shall be deemed to be a qualified financial contract only with respect to those transactions that are themselves qualified financial contracts.”.

(b) **INSURED CREDIT UNIONS.**—Section 207(c)(8)(D) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)) is amended by inserting after clause (vi) (as added by section 901(f)) the following new clause:

“(vii) **TREATMENT OF MASTER AGREEMENT AS ONE AGREEMENT.**—Any master agreement for any contract or agreement described in any preceding clause of this

subparagraph (or any master agreement for such master agreement or agreements), together with all supplements to such master agreement, shall be treated as a single agreement and a single qualified financial contract. If a master agreement contains provisions relating to agreements or transactions that are not themselves qualified financial contracts, the master agreement shall be deemed to be a qualified financial contract only with respect to those transactions that are themselves qualified financial contracts.”.

SEC. 906. FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT OF 1991.

(a) **DEFINITIONS.**—Section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4402) is amended—

(1) in paragraph (2)—

(A) in subparagraph (A)(ii), by inserting before the semicolon “, or is exempt from such registration by order of the Securities and Exchange Commission”; and

(B) in subparagraph (B), by inserting before the period “, that has been granted an exemption under section 4(c)(1) of the Commodity Exchange Act, or that is a multilateral clearing organization (as defined in section 408 of this Act)”;

(2) in paragraph (6)—

(A) by redesignating subparagraphs (B) through (D) as subparagraphs (C) through (E), respectively;

(B) by inserting after subparagraph (A) the following new subparagraph:

“(B) an uninsured national bank or an uninsured State bank that is a member of the Federal Reserve System, if the national bank or State member bank is not eligible to make application to become an insured bank under section 5 of the Federal Deposit Insurance Act;”;

(C) by amending subparagraph (C), so redesignated, to read as follows:

“(C) a branch or agency of a foreign bank, a foreign bank and any branch or agency of the foreign bank, or the foreign bank that established the branch or agency, as those terms are defined in section 1(b) of the International Banking Act of 1978;”;

(3) in paragraph (11), by inserting before the period “and any other clearing organization with which such clearing organization has a netting contract”;

(4) by amending paragraph (14)(A)(i) to read as follows:

“(i) means a contract or agreement between 2 or more financial institutions, clearing organizations, or members that provides for netting present or future payment obligations or payment entitlements (including liquidation or close out values relating to such obligations or entitlements) among the parties to the agreement; and”;

(5) by adding at the end the following new paragraph:

“(15) PAYMENT.—The term ‘payment’ means a payment of United States dollars, another currency, or a composite currency, and a noncash delivery, including a payment or delivery to liquidate an unmatured obligation.”.

(b) ENFORCEABILITY OF BILATERAL NETTING CONTRACTS.—Section 403 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4403) is amended—

(1) by striking subsection (a) and inserting the following:

“(a) GENERAL RULE.—Notwithstanding any other provision of State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act, paragraphs (8)(E), (8)(F), and (10)(B) of section 207(c) of the Federal Credit Union Act, or any order authorized under section 5(b)(2) of the Securities Investor Protection Act of 1970), the covered contractual payment obligations and the covered contractual payment entitlements between any 2 financial institutions shall be netted in accordance with, and subject to the conditions of, the terms of any applicable netting contract (except as provided in section 561(b)(2) of title 11, United States Code).”; and

(2) by adding at the end the following new subsection:

“(f) ENFORCEABILITY OF SECURITY AGREEMENTS.—The provisions of any security agreement or arrangement or other credit enhancement related to one or more netting contracts between any 2 financial institutions shall be enforceable in accordance with their terms (except as provided in section 561(b)(2) of title 11, United States Code), and shall not be stayed, avoided, or otherwise limited by any State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act, paragraphs (8)(E), (8)(F), and (10)(B) of section 207(c) of the Federal Credit Union Act, and section 5(b)(2) of the Securities Investor Protection Act of 1970).”.

(c) ENFORCEABILITY OF CLEARING ORGANIZATION NETTING CONTRACTS.—Section 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4404) is amended—

(1) by striking subsection (a) and inserting the following:

“(a) GENERAL RULE.—Notwithstanding any other provision of State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act, paragraphs (8)(E), (8)(F), and (10)(B) of section 207(c) of the Federal Credit Union Act, and any order authorized under section 5(b)(2) of the Securities Investor Protection Act of 1970), the covered contractual payment obligations and the covered contractual payment entitlements of a member of a clearing organization to and from all other members of a clearing organization shall be netted in accordance with and subject to the conditions of any applicable netting contract (except as provided in section 561(b)(2) of title 11, United States Code).”; and

(2) by adding at the end the following new subsection:

“(h) ENFORCEABILITY OF SECURITY AGREEMENTS.—The provisions of any security agreement or arrangement or other credit enhancement related to one or more netting contracts between any 2 members of a clearing organization shall be enforceable in accordance with their terms (except as provided in section 561(b)(2) of title 11, United States Code), and shall not be stayed, avoided, or otherwise limited by any State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act, paragraphs (8)(E), (8)(F), and (10)(B)

of section 207(c) of the Federal Credit Union Act, and section 5(b)(2) of the Securities Investor Protection Act of 1970).”.

(d) ENFORCEABILITY OF CONTRACTS WITH UNINSURED NATIONAL BANKS, UNINSURED FEDERAL BRANCHES AND AGENCIES, CERTAIN UNINSURED STATE MEMBER BANKS, AND EDGE ACT CORPORATIONS.—The Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4401 et seq.) is amended—

- (1) by redesignating section 407 as section 407A; and 12 USC 4407.
- (2) by inserting after section 406 the following new section:

“SEC. 407. TREATMENT OF CONTRACTS WITH UNINSURED NATIONAL BANKS, UNINSURED FEDERAL BRANCHES AND AGENCIES, CERTAIN UNINSURED STATE MEMBER BANKS, AND EDGE ACT CORPORATIONS. 12 USC 4406a.

“(a) IN GENERAL.—Notwithstanding any other provision of law, paragraphs (8), (9), (10), and (11) of section 11(e) of the Federal Deposit Insurance Act shall apply to an uninsured national bank or uninsured Federal branch or Federal agency, a corporation chartered under section 25A of the Federal Reserve Act, or an uninsured State member bank which operates, or operates as, a multilateral clearing organization pursuant to section 409 of this Act, except that for such purpose— Applicability.

“(1) any reference to the ‘Corporation as receiver’ or ‘the receiver or the Corporation’ shall refer to the receiver appointed by the Comptroller of the Currency in the case of an uninsured national bank or uninsured Federal branch or agency, or to the receiver appointed by the Board of Governors of the Federal Reserve System in the case of a corporation chartered under section 25A of the Federal Reserve Act or an uninsured State member bank;

“(2) any reference to the ‘Corporation’ (other than in section 11(e)(8)(D) of such Act), the ‘Corporation, whether acting as such or as conservator or receiver’, a ‘receiver’, or a ‘conservator’ shall refer to the receiver or conservator appointed by the Comptroller of the Currency in the case of an uninsured national bank or uninsured Federal branch or agency, or to the receiver or conservator appointed by the Board of Governors of the Federal Reserve System in the case of a corporation chartered under section 25A of the Federal Reserve Act or an uninsured State member bank; and

“(3) any reference to an ‘insured depository institution’ or ‘depository institution’ shall refer to an uninsured national bank, an uninsured Federal branch or Federal agency, a corporation chartered under section 25A of the Federal Reserve Act, or an uninsured State member bank which operates, or operates as, a multilateral clearing organization pursuant to section 409 of this Act.

“(b) LIABILITY.—The liability of a receiver or conservator of an uninsured national bank, uninsured Federal branch or agency, a corporation chartered under section 25A of the Federal Reserve Act, or an uninsured State member bank which operates, or operates as, a multilateral clearing organization pursuant to section 409 of this Act, shall be determined in the same manner and subject to the same limitations that apply to receivers and conservators of insured depository institutions under section 11(e) of the Federal Deposit Insurance Act.

“(c) REGULATORY AUTHORITY.—

“(1) IN GENERAL.—The Comptroller of the Currency in the case of an uninsured national bank or uninsured Federal branch or agency and the Board of Governors of the Federal Reserve System in the case of a corporation chartered under section 25A of the Federal Reserve Act, or an uninsured State member bank that operates, or operates as, a multilateral clearing organization pursuant to section 409 of this Act, in consultation with the Federal Deposit Insurance Corporation, may each promulgate regulations solely to implement this section.

“(2) SPECIFIC REQUIREMENT.—In promulgating regulations, limited solely to implementing paragraphs (8), (9), (10), and (11) of section 11(e) of the Federal Deposit Insurance Act, the Comptroller of the Currency and the Board of Governors of the Federal Reserve System each shall ensure that the regulations generally are consistent with the regulations and policies of the Federal Deposit Insurance Corporation adopted pursuant to the Federal Deposit Insurance Act.

“(d) DEFINITIONS.—For purposes of this section, the terms ‘Federal branch’, ‘Federal agency’, and ‘foreign bank’ have the same meanings as in section 1(b) of the International Banking Act of 1978.”.

SEC. 907. BANKRUPTCY LAW AMENDMENTS.

(a) DEFINITIONS OF FORWARD CONTRACT, REPURCHASE AGREEMENT, SECURITIES CLEARING AGENCY, SWAP AGREEMENT, COMMODITY CONTRACT, AND SECURITIES CONTRACT.—Title 11, United States Code, is amended—

(1) in section 101—

(A) in paragraph (25)—

(i) by striking “means a contract” and inserting “means—

“(A) a contract”;

(ii) by striking “, or any combination thereof or option thereon,” and inserting “, or any other similar agreement;”; and

(iii) by adding at the end the following:

“(B) any combination of agreements or transactions referred to in subparagraphs (A) and (C);

“(C) any option to enter into an agreement or transaction referred to in subparagraph (A) or (B);

“(D) a master agreement that provides for an agreement or transaction referred to in subparagraph (A), (B), or (C), together with all supplements to any such master agreement, without regard to whether such master agreement provides for an agreement or transaction that is not a forward contract under this paragraph, except that such master agreement shall be considered to be a forward contract under this paragraph only with respect to each agreement or transaction under such master agreement that is referred to in subparagraph (A), (B), or (C); or

“(E) any security agreement or arrangement, or other credit enhancement related to any agreement or transaction referred to in subparagraph (A), (B), (C), or (D), including any guarantee or reimbursement obligation by or to a forward contract merchant or financial participant in connection with any agreement or transaction referred to in any such subparagraph, but not to exceed the damages

in connection with any such agreement or transaction, measured in accordance with section 562;”;

(B) in paragraph (46), by striking “on any day during the period beginning 90 days before the date of” and inserting “at any time before”;

(C) by amending paragraph (47) to read as follows:

“(47) ‘repurchase agreement’ (which definition also applies to a reverse repurchase agreement)—

“(A) means—

“(i) an agreement, including related terms, which provides for the transfer of one or more certificates of deposit, mortgage related securities (as defined in section 3 of the Securities Exchange Act of 1934), mortgage loans, interests in mortgage related securities or mortgage loans, eligible bankers’ acceptances, qualified foreign government securities (defined as a security that is a direct obligation of, or that is fully guaranteed by, the central government of a member of the Organization for Economic Cooperation and Development), or securities that are direct obligations of, or that are fully guaranteed by, the United States or any agency of the United States against the transfer of funds by the transferee of such certificates of deposit, eligible bankers’ acceptances, securities, mortgage loans, or interests, with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers’ acceptance, securities, mortgage loans, or interests of the kind described in this clause, at a date certain not later than 1 year after such transfer or on demand, against the transfer of funds;

“(ii) any combination of agreements or transactions referred to in clauses (i) and (iii);

“(iii) an option to enter into an agreement or transaction referred to in clause (i) or (ii);

“(iv) a master agreement that provides for an agreement or transaction referred to in clause (i), (ii), or (iii), together with all supplements to any such master agreement, without regard to whether such master agreement provides for an agreement or transaction that is not a repurchase agreement under this paragraph, except that such master agreement shall be considered to be a repurchase agreement under this paragraph only with respect to each agreement or transaction under the master agreement that is referred to in clause (i), (ii), or (iii); or

“(v) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in clause (i), (ii), (iii), or (iv), including any guarantee or reimbursement obligation by or to a repo participant or financial participant in connection with any agreement or transaction referred to in any such clause, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562 of this title; and

“(B) does not include a repurchase obligation under a participation in a commercial mortgage loan;”;

(D) in paragraph (48), by inserting “, or exempt from such registration under such section pursuant to an order of the Securities and Exchange Commission,” after “1934”; and

(E) by amending paragraph (53B) to read as follows: “(53B) ‘swap agreement’—

“(A) means—

“(i) any agreement, including the terms and conditions incorporated by reference in such agreement, which is—

“(I) an interest rate swap, option, future, or forward agreement, including a rate floor, rate cap, rate collar, cross-currency rate swap, and basis swap;

“(II) a spot, same day-tomorrow, tomorrow-next, forward, or other foreign exchange or precious metals agreement;

“(III) a currency swap, option, future, or forward agreement;

“(IV) an equity index or equity swap, option, future, or forward agreement;

“(V) a debt index or debt swap, option, future, or forward agreement;

“(VI) a total return, credit spread or credit swap, option, future, or forward agreement;

“(VII) a commodity index or a commodity swap, option, future, or forward agreement; or

“(VIII) a weather swap, weather derivative, or weather option;

“(ii) any agreement or transaction that is similar to any other agreement or transaction referred to in this paragraph and that—

“(I) is of a type that has been, is presently, or in the future becomes, the subject of recurrent dealings in the swap markets (including terms and conditions incorporated by reference therein); and

“(II) is a forward, swap, future, or option on one or more rates, currencies, commodities, equity securities, or other equity instruments, debt securities or other debt instruments, quantitative measures associated with an occurrence, extent of an occurrence, or contingency associated with a financial, commercial, or economic consequence, or economic or financial indices or measures of economic or financial risk or value;

“(iii) any combination of agreements or transactions referred to in this subparagraph;

“(iv) any option to enter into an agreement or transaction referred to in this subparagraph;

“(v) a master agreement that provides for an agreement or transaction referred to in clause (i), (ii), (iii), or (iv), together with all supplements to any such master agreement, and without regard to whether the

master agreement contains an agreement or transaction that is not a swap agreement under this paragraph, except that the master agreement shall be considered to be a swap agreement under this paragraph only with respect to each agreement or transaction under the master agreement that is referred to in clause (i), (ii), (iii), or (iv); or

“(vi) any security agreement or arrangement or other credit enhancement related to any agreements or transactions referred to in clause (i) through (v), including any guarantee or reimbursement obligation by or to a swap participant or financial participant in connection with any agreement or transaction referred to in any such clause, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562; and

“(B) is applicable for purposes of this title only, and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any swap agreement under any other statute, regulation, or rule, including the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Investor Protection Act of 1970, the Commodity Exchange Act, the Gramm-Leach-Bliley Act, and the Legal Certainty for Bank Products Act of 2000;”;

Applicability.

(2) in section 741(7), by striking paragraph (7) and inserting the following:

“(7) ‘securities contract’—

“(A) means—

“(i) a contract for the purchase, sale, or loan of a security, a certificate of deposit, a mortgage loan or any interest in a mortgage loan, a group or index of securities, certificates of deposit, or mortgage loans or interests therein (including an interest therein or based on the value thereof), or option on any of the foregoing, including an option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option, and including any repurchase or reverse repurchase transaction on any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

“(ii) any option entered into on a national securities exchange relating to foreign currencies;

“(iii) the guarantee by or to any securities clearing agency of a settlement of cash, securities, certificates of deposit, mortgage loans or interests therein, group or index of securities, or mortgage loans or interests therein (including any interest therein or based on the value thereof), or option on any of the foregoing, including an option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

“(iv) any margin loan;

“(v) any other agreement or transaction that is similar to an agreement or transaction referred to in this subparagraph;

“(vi) any combination of the agreements or transactions referred to in this subparagraph;

“(vii) any option to enter into any agreement or transaction referred to in this subparagraph;

“(viii) a master agreement that provides for an agreement or transaction referred to in clause (i), (ii), (iii), (iv), (v), (vi), or (vii), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a securities contract under this subparagraph, except that such master agreement shall be considered to be a securities contract under this subparagraph only with respect to each agreement or transaction under such master agreement that is referred to in clause (i), (ii), (iii), (iv), (v), (vi), or (vii); or

“(ix) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this subparagraph, including any guarantee or reimbursement obligation by or to a stockbroker, securities clearing agency, financial institution, or financial participant in connection with any agreement or transaction referred to in this subparagraph, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562; and

“(B) does not include any purchase, sale, or repurchase obligation under a participation in a commercial mortgage loan;”; and

(3) in section 761(4)—

(A) by striking “or” at the end of subparagraph (D); and

(B) by adding at the end the following:

“(F) any other agreement or transaction that is similar to an agreement or transaction referred to in this paragraph;

“(G) any combination of the agreements or transactions referred to in this paragraph;

“(H) any option to enter into an agreement or transaction referred to in this paragraph;

“(I) a master agreement that provides for an agreement or transaction referred to in subparagraph (A), (B), (C), (D), (E), (F), (G), or (H), together with all supplements to such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a commodity contract under this paragraph, except that the master agreement shall be considered to be a commodity contract under this paragraph only with respect to each agreement or transaction under the master agreement that is referred to in subparagraph (A), (B), (C), (D), (E), (F), (G), or (H); or

“(J) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this paragraph, including any guarantee or reimbursement obligation by or to a commodity broker or financial participant in connection with any agreement or transaction referred to in this paragraph, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562;”.

(b) DEFINITIONS OF FINANCIAL INSTITUTION, FINANCIAL PARTICIPANT, AND FORWARD CONTRACT MERCHANT.—Section 101 of title 11, United States Code, is amended—

(1) by striking paragraph (22) and inserting the following:

“(22) ‘financial institution’ means—

“(A) a Federal reserve bank, or an entity (domestic or foreign) that is a commercial or savings bank, industrial savings bank, savings and loan association, trust company, federally-insured credit union, or receiver, liquidating agent, or conservator for such entity and, when any such Federal reserve bank, receiver, liquidating agent, conservator or entity is acting as agent or custodian for a customer in connection with a securities contract (as defined in section 741) such customer; or

“(B) in connection with a securities contract (as defined in section 741) an investment company registered under the Investment Company Act of 1940;”;

(2) by inserting after paragraph (22) the following:

“(22A) ‘financial participant’ means—

“(A) an entity that, at the time it enters into a securities contract, commodity contract, swap agreement, repurchase agreement, or forward contract, or at the time of the date of the filing of the petition, has one or more agreements or transactions described in paragraph (1), (2), (3), (4), (5), or (6) of section 561(a) with the debtor or any other entity (other than an affiliate) of a total gross dollar value of not less than \$1,000,000,000 in notional or actual principal amount outstanding on any day during the previous 15-month period, or has gross mark-to-market positions of not less than \$100,000,000 (aggregated across counterparties) in one or more such agreements or transactions with the debtor or any other entity (other than an affiliate) on any day during the previous 15-month period; or

“(B) a clearing organization (as defined in section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991);”;

(3) by striking paragraph (26) and inserting the following:

“(26) ‘forward contract merchant’ means a Federal reserve bank, or an entity the business of which consists in whole or in part of entering into forward contracts as or with merchants in a commodity (as defined in section 761) or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade;”.

(c) DEFINITION OF MASTER NETTING AGREEMENT AND MASTER NETTING AGREEMENT PARTICIPANT.—Section 101 of title 11, United

States Code, is amended by inserting after paragraph (38) the following new paragraphs:

“(38A) ‘master netting agreement’—

“(A) means an agreement providing for the exercise of rights, including rights of netting, setoff, liquidation, termination, acceleration, or close out, under or in connection with one or more contracts that are described in any one or more of paragraphs (1) through (5) of section 561(a), or any security agreement or arrangement or other credit enhancement related to one or more of the foregoing, including any guarantee or reimbursement obligation related to 1 or more of the foregoing; and

“(B) if the agreement contains provisions relating to agreements or transactions that are not contracts described in paragraphs (1) through (5) of section 561(a), shall be deemed to be a master netting agreement only with respect to those agreements or transactions that are described in any one or more of paragraphs (1) through (5) of section 561(a);

“(38B) ‘master netting agreement participant’ means an entity that, at any time before the date of the filing of the petition, is a party to an outstanding master netting agreement with the debtor;”.

(d) SWAP AGREEMENTS, SECURITIES CONTRACTS, COMMODITY CONTRACTS, FORWARD CONTRACTS, REPURCHASE AGREEMENTS, AND MASTER NETTING AGREEMENTS UNDER THE AUTOMATIC-STAY.—

(1) IN GENERAL.—Section 362(b) of title 11, United States Code, as amended by sections 224, 303, 311, 401, and 718, is amended—

(A) in paragraph (6), by inserting “, pledged to, under the control of,” after “held by”;

(B) in paragraph (7), by inserting “, pledged to, under the control of,” after “held by”;

(C) by striking paragraph (17) and inserting the following:

“(17) under subsection (a), of the setoff by a swap participant or financial participant of a mutual debt and claim under or in connection with one or more swap agreements that constitutes the setoff of a claim against the debtor for any payment or other transfer of property due from the debtor under or in connection with any swap agreement against any payment due to the debtor from the swap participant or financial participant under or in connection with any swap agreement or against cash, securities, or other property held by, pledged to, under the control of, or due from such swap participant or financial participant to margin, guarantee, secure, or settle any swap agreement;” and

(D) by inserting after paragraph (26) the following:

“(27) under subsection (a), of the setoff by a master netting agreement participant of a mutual debt and claim under or in connection with one or more master netting agreements or any contract or agreement subject to such agreements that constitutes the setoff of a claim against the debtor for any payment or other transfer of property due from the debtor under or in connection with such agreements or any contract or agreement subject to such agreements against any payment

due to the debtor from such master netting agreement participant under or in connection with such agreements or any contract or agreement subject to such agreements or against cash, securities, or other property held by, pledged to, under the control of, or due from such master netting agreement participant to margin, guarantee, secure, or settle such agreements or any contract or agreement subject to such agreements, to the extent that such participant is eligible to exercise such offset rights under paragraph (6), (7), or (17) for each individual contract covered by the master netting agreement in issue; and”.

(2) LIMITATION.—Section 362 of title 11, United States Code, as amended by sections 106, 305, 311, and 441, is amended by adding at the end the following:

“(o) The exercise of rights not subject to the stay arising under subsection (a) pursuant to paragraph (6), (7), (17), or (27) of subsection (b) shall not be stayed by any order of a court or administrative agency in any proceeding under this title.”.

(e) LIMITATION OF AVOIDANCE POWERS UNDER MASTER NETTING AGREEMENT.—Section 546 of title 11, United States Code, is amended—

(1) in subsection (g) (as added by section 103 of Public Law 101–311)—

(A) by striking “under a swap agreement”;

(B) by striking “in connection with a swap agreement” and inserting “under or in connection with any swap agreement”; and

(C) by inserting “or financial participant” after “swap participant”; and

(2) by adding at the end the following:

“(j) Notwithstanding sections 544, 545, 547, 548(a)(1)(B), and 548(b) the trustee may not avoid a transfer made by or to a master netting agreement participant under or in connection with any master netting agreement or any individual contract covered thereby that is made before the commencement of the case, except under section 548(a)(1)(A) and except to the extent that the trustee could otherwise avoid such a transfer made under an individual contract covered by such master netting agreement.”.

(f) FRAUDULENT TRANSFERS OF MASTER NETTING AGREEMENTS.—Section 548(d)(2) of title 11, United States Code, is amended—

(1) in subparagraph (C), by striking “and” at the end;

(2) in subparagraph (D), by striking the period and inserting “; and”; and

(3) by adding at the end the following new subparagraph:

“(E) a master netting agreement participant that receives a transfer in connection with a master netting agreement or any individual contract covered thereby takes for value to the extent of such transfer, except that, with respect to a transfer under any individual contract covered thereby, to the extent that such master netting agreement participant otherwise did not take (or is otherwise not deemed to have taken) such transfer for value.”.

(g) TERMINATION OR ACCELERATION OF SECURITIES CONTRACTS.—Section 555 of title 11, United States Code, is amended—

(1) by amending the section heading to read as follows:

“§ 555. Contractual right to liquidate, terminate, or accelerate a securities contract”;

and

(2) in the first sentence, by striking “liquidation” and inserting “liquidation, termination, or acceleration”.

(h) TERMINATION OR ACCELERATION OF COMMODITIES OR FORWARD CONTRACTS.—Section 556 of title 11, United States Code, is amended—

(1) by amending the section heading to read as follows:

“§ 556. Contractual right to liquidate, terminate, or accelerate a commodities contract or forward contract”;

(2) in the first sentence, by striking “liquidation” and inserting “liquidation, termination, or acceleration”; and

(3) in the second sentence, by striking “As used” and all that follows through “right,” and inserting “As used in this section, the term ‘contractual right’ includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act) or in a resolution of the governing board thereof and a right,”.

(i) TERMINATION OR ACCELERATION OF REPURCHASE AGREEMENTS.—Section 559 of title 11, United States Code, is amended—

(1) by amending the section heading to read as follows:

“§ 559. Contractual right to liquidate, terminate, or accelerate a repurchase agreement”;

(2) in the first sentence, by striking “liquidation” and inserting “liquidation, termination, or acceleration”; and

(3) in the third sentence, by striking “As used” and all that follows through “right,” and inserting “As used in this section, the term ‘contractual right’ includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act) or in a resolution of the governing board thereof and a right,”.

(j) LIQUIDATION, TERMINATION, OR ACCELERATION OF SWAP AGREEMENTS.—Section 560 of title 11, United States Code, is amended—

(1) by amending the section heading to read as follows:

“§ 560. Contractual right to liquidate, terminate, or accelerate a swap agreement”;

(2) in the first sentence, by striking “termination of a swap agreement” and inserting “liquidation, termination, or acceleration of one or more swap agreements”;

(3) by striking “in connection with any swap agreement” and inserting “in connection with the termination, liquidation, or acceleration of one or more swap agreements”; and

(4) in the second sentence, by striking “As used” and all that follows through “right,” and inserting “As used in this section, the term ‘contractual right’ includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act) or in a resolution of the governing board thereof and a right,”.

(k) LIQUIDATION, TERMINATION, ACCELERATION, OR OFFSET UNDER A MASTER NETTING AGREEMENT AND ACROSS CONTRACTS.—

(1) IN GENERAL.—Title 11, United States Code, is amended by inserting after section 560 the following:

“§ 561. Contractual right to terminate, liquidate, accelerate, or offset under a master netting agreement and across contracts; proceedings under chapter 15

“(a) Subject to subsection (b), the exercise of any contractual right, because of a condition of the kind specified in section 365(e)(1), to cause the termination, liquidation, or acceleration of or to offset or net termination values, payment amounts, or other transfer obligations arising under or in connection with one or more (or the termination, liquidation, or acceleration of one or more)—

“(1) securities contracts, as defined in section 741(7);

“(2) commodity contracts, as defined in section 761(4);

“(3) forward contracts;

“(4) repurchase agreements;

“(5) swap agreements; or

“(6) master netting agreements,

shall not be stayed, avoided, or otherwise limited by operation of any provision of this title or by any order of a court or administrative agency in any proceeding under this title.

“(b)(1) A party may exercise a contractual right described in subsection (a) to terminate, liquidate, or accelerate only to the extent that such party could exercise such a right under section 555, 556, 559, or 560 for each individual contract covered by the master netting agreement in issue.

“(2) If a debtor is a commodity broker subject to subchapter IV of chapter 7—

“(A) a party may not net or offset an obligation to the debtor arising under, or in connection with, a commodity contract traded on or subject to the rules of a contract market designated under the Commodity Exchange Act or a derivatives transaction execution facility registered under the Commodity Exchange Act against any claim arising under, or in connection

with, other instruments, contracts, or agreements listed in subsection (a) except to the extent that the party has positive net equity in the commodity accounts at the debtor, as calculated under such subchapter; and

“(B) another commodity broker may not net or offset an obligation to the debtor arising under, or in connection with, a commodity contract entered into or held on behalf of a customer of the debtor and traded on or subject to the rules of a contract market designated under the Commodity Exchange Act or a derivatives transaction execution facility registered under the Commodity Exchange Act against any claim arising under, or in connection with, other instruments, contracts, or agreements listed in subsection (a).

“(3) No provision of subparagraph (A) or (B) of paragraph (2) shall prohibit the offset of claims and obligations that arise under—

“(A) a cross-margining agreement or similar arrangement that has been approved by the Commodity Futures Trading Commission or submitted to the Commodity Futures Trading Commission under paragraph (1) or (2) of section 5c(c) of the Commodity Exchange Act and has not been abrogated or rendered ineffective by the Commodity Futures Trading Commission; or

“(B) any other netting agreement between a clearing organization (as defined in section 761) and another entity that has been approved by the Commodity Futures Trading Commission.

“(c) As used in this section, the term ‘contractual right’ includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act) or in a resolution of the governing board thereof, and a right, whether or not evidenced in writing, arising under common law, under law merchant, or by reason of normal business practice.

“(d) Any provisions of this title relating to securities contracts, commodity contracts, forward contracts, repurchase agreements, swap agreements, or master netting agreements shall apply in a case under chapter 15, so that enforcement of contractual provisions of such contracts and agreements in accordance with their terms will not be stayed or otherwise limited by operation of any provision of this title or by order of a court in any case under this title, and to limit avoidance powers to the same extent as in a proceeding under chapter 7 or 11 of this title (such enforcement not to be limited based on the presence or absence of assets of the debtor in the United States).”.

(2) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, is amended by inserting after the item relating to section 560 the following:

“561. Contractual right to terminate, liquidate, accelerate, or offset under a master netting agreement and across contracts; proceedings under chapter 15.”.

(1) COMMODITY BROKER LIQUIDATIONS.—Title 11, United States Code, is amended by inserting after section 766 the following:

“§ 767. Commodity broker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, financial participants, securities clearing agencies, swap participants, repo participants, and master netting agreement participants

“Notwithstanding any other provision of this title, the exercise of rights by a forward contract merchant, commodity broker, stockbroker, financial institution, financial participant, securities clearing agency, swap participant, repo participant, or master netting agreement participant under this title shall not affect the priority of any unsecured claim it may have after the exercise of such rights.”.

(m) STOCKBROKER LIQUIDATIONS.—Title 11, United States Code, is amended by inserting after section 752 the following:

“§ 753. Stockbroker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, financial participants, securities clearing agencies, swap participants, repo participants, and master netting agreement participants

“Notwithstanding any other provision of this title, the exercise of rights by a forward contract merchant, commodity broker, stockbroker, financial institution, financial participant, securities clearing agency, swap participant, repo participant, or master netting agreement participant under this title shall not affect the priority of any unsecured claim it may have after the exercise of such rights.”.

(n) SETOFF.—Section 553 of title 11, United States Code, is amended—

(1) in subsection (a)(2)(B)(ii), by inserting before the semicolon the following: “(except for a setoff of a kind described in section 362(b)(6), 362(b)(7), 362(b)(17), 362(b)(27), 555, 556, 559, 560, or 561)”;

(2) in subsection (a)(3)(C), by inserting before the period the following: “(except for a setoff of a kind described in section 362(b)(6), 362(b)(7), 362(b)(17), 362(b)(27), 555, 556, 559, 560, or 561)”;

(3) in subsection (b)(1), by striking “362(b)(14),” and inserting “362(b)(17), 362(b)(27), 555, 556, 559, 560, 561,”.

(o) SECURITIES CONTRACTS, COMMODITY CONTRACTS, AND FORWARD CONTRACTS.—Title 11, United States Code, is amended—

(1) in section 362(b)(6), by striking “financial institutions,” each place such term appears and inserting “financial institution, financial participant,”;

(2) in sections 362(b)(7) and 546(f), by inserting “or financial participant” after “repo participant” each place such term appears;

(3) in section 546(e), by inserting “financial participant,” after “financial institution,”;

(4) in section 548(d)(2)(B), by inserting “financial participant,” after “financial institution,”;

(5) in section 548(d)(2)(C), by inserting “or financial participant” after “repo participant”;

(6) in section 548(d)(2)(D), by inserting “or financial participant” after “swap participant”;

(7) in section 555—

(A) by inserting “financial participant,” after “financial institution,”; and

(B) by striking the second sentence and inserting the following: “As used in this section, the term ‘contractual right’ includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act), or in a resolution of the governing board thereof, and a right, whether or not in writing, arising under common law, under law merchant, or by reason of normal business practice.”;

(8) in section 556, by inserting “, financial participant,” after “commodity broker”;

(9) in section 559, by inserting “or financial participant” after “repo participant” each place such term appears; and

(10) in section 560, by inserting “or financial participant” after “swap participant”.

(p) CONFORMING AMENDMENTS.—Title 11, United States Code, is amended—

(1) in the table of sections for chapter 5—

(A) by amending the items relating to sections 555 and 556 to read as follows:

“555. Contractual right to liquidate, terminate, or accelerate a securities contract.

“556. Contractual right to liquidate, terminate, or accelerate a commodities contract or forward contract.”;

and

(B) by amending the items relating to sections 559 and 560 to read as follows:

“559. Contractual right to liquidate, terminate, or accelerate a repurchase agreement.

“560. Contractual right to liquidate, terminate, or accelerate a swap agreement.”;

and

(2) in the table of sections for chapter 7—

(A) by inserting after the item relating to section 766 the following:

“767. Commodity broker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, financial participants, securities clearing agencies, swap participants, repo participants, and master netting agreement participants.”;
and

(B) by inserting after the item relating to section 752 the following:

“753. Stockbroker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, financial participants, securities clearing agencies, swap participants, repo participants, and master netting agreement participants.”.

SEC. 908. RECORDKEEPING REQUIREMENTS.

(a) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is amended by adding at the end the following new subparagraph:

“(H) RECORDKEEPING REQUIREMENTS.—The Corporation, in consultation with the appropriate Federal banking agencies, may prescribe regulations requiring more detailed recordkeeping by any insured depository institution with respect to qualified financial contracts (including market valuations) only if such insured depository institution is in a troubled condition (as such term is defined by the Corporation pursuant to section 32).”.

(b) INSURED CREDIT UNIONS.—Section 207(c)(8) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)) is amended by adding at the end the following new subparagraph:

“(H) RECORDKEEPING REQUIREMENTS.—The Board, in consultation with the appropriate Federal banking agencies, may prescribe regulations requiring more detailed recordkeeping by any insured credit union with respect to qualified financial contracts (including market valuations) only if such insured credit union is in a troubled condition (as such term is defined by the Board pursuant to section 212).”.

SEC. 909. EXEMPTIONS FROM CONTEMPORANEOUS EXECUTION REQUIREMENT.

Section 13(e)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(e)(2)) is amended to read as follows:

“(2) EXEMPTIONS FROM CONTEMPORANEOUS EXECUTION REQUIREMENT.—An agreement to provide for the lawful collateralization of—

“(A) deposits of, or other credit extension by, a Federal, State, or local governmental entity, or of any depositor referred to in section 11(a)(2), including an agreement to provide collateral in lieu of a surety bond;

“(B) bankruptcy estate funds pursuant to section 345(b)(2) of title 11, United States Code;

“(C) extensions of credit, including any overdraft, from a Federal reserve bank or Federal home loan bank; or

“(D) one or more qualified financial contracts, as defined in section 11(e)(8)(D),

shall not be deemed invalid pursuant to paragraph (1)(B) solely because such agreement was not executed contemporaneously with the acquisition of the collateral or because of pledges, delivery, or substitution of the collateral made in accordance with such agreement.”.

SEC. 910. DAMAGE MEASURE.

(a) IN GENERAL.—Title 11, United States Code, is amended—
(1) by inserting after section 561, as added by section 907, the following:

“§ 562. Timing of damage measurement in connection with swap agreements, securities contracts, forward contracts, commodity contracts, repurchase agreements, and master netting agreements

“(a) If the trustee rejects a swap agreement, securities contract (as defined in section 741), forward contract, commodity contract (as defined in section 761), repurchase agreement, or master netting agreement pursuant to section 365(a), or if a forward contract merchant, stockbroker, financial institution, securities clearing agency, repo participant, financial participant, master netting agreement participant, or swap participant liquidates, terminates, or accelerates such contract or agreement, damages shall be measured as of the earlier of—

“(1) the date of such rejection; or

“(2) the date or dates of such liquidation, termination, or acceleration.

“(b) If there are not any commercially reasonable determinants of value as of any date referred to in paragraph (1) or (2) of subsection (a), damages shall be measured as of the earliest subsequent date or dates on which there are commercially reasonable determinants of value.

“(c) For the purposes of subsection (b), if damages are not measured as of the date or dates of rejection, liquidation, termination, or acceleration, and the forward contract merchant, stockbroker, financial institution, securities clearing agency, repo participant, financial participant, master netting agreement participant, or swap participant or the trustee objects to the timing of the measurement of damages—

“(1) the trustee, in the case of an objection by a forward contract merchant, stockbroker, financial institution, securities clearing agency, repo participant, financial participant, master netting agreement participant, or swap participant; or

“(2) the forward contract merchant, stockbroker, financial institution, securities clearing agency, repo participant, financial participant, master netting agreement participant, or swap participant, in the case of an objection by the trustee, has the burden of proving that there were no commercially reasonable determinants of value as of such date or dates.”; and

(2) in the table of sections for chapter 5, by inserting after the item relating to section 561 (as added by section 907) the following new item:

“562. Timing of damage measure in connection with swap agreements, securities contracts, forward contracts, commodity contracts, repurchase agreements, or master netting agreements.”.

(b) CLAIMS ARISING FROM REJECTION.—Section 502(g) of title 11, United States Code, is amended—

(1) by inserting “(1)” after “(g)”; and

(2) by adding at the end the following:

“(2) A claim for damages calculated in accordance with section 562 shall be allowed under subsection (a), (b), or (c), or disallowed under subsection (d) or (e), as if such claim had arisen before the date of the filing of the petition.”.

SEC. 911. SIPC STAY.

Section 5(b)(2) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78eee(b)(2)) is amended by adding at the end the following new subparagraph:

“(C) EXCEPTION FROM STAY.—

“(i) Notwithstanding section 362 of title 11, United States Code, neither the filing of an application under subsection (a)(3) nor any order or decree obtained by SIPC from the court shall operate as a stay of any contractual rights of a creditor to liquidate, terminate, or accelerate a securities contract, commodity contract, forward contract, repurchase agreement, swap agreement, or master netting agreement, as those terms are defined in sections 101, 741, and 761 of title 11, United States Code, to offset or net termination values, payment amounts, or other transfer obligations arising under or in connection with one or more of such contracts or agreements, or to foreclose on any cash collateral pledged by the debtor, whether or not with respect to one or more of such contracts or agreements.

“(ii) Notwithstanding clause (i), such application, order, or decree may operate as a stay of the foreclosure on, or disposition of, securities collateral pledged by the debtor, whether or not with respect to one or more of such contracts or agreements, securities sold by the debtor under a repurchase agreement, or securities lent under a securities lending agreement.

“(iii) As used in this subparagraph, the term ‘contractual right’ includes a right set forth in a rule or bylaw of a national securities exchange, a national securities association, or a securities clearing agency, a right set forth in a bylaw of a clearing organization or contract market or in a resolution of the governing board thereof, and a right, whether or not in writing, arising under common law, under law merchant, or by reason of normal business practice.”.

TITLE X—PROTECTION OF FAMILY FARMERS AND FAMILY FISHERMEN

SEC. 1001. PERMANENT REENACTMENT OF CHAPTER 12.

(a) REENACTMENT.—

(1) IN GENERAL.—Chapter 12 of title 11, United States Code, as reenacted by section 149 of division C of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105–277), and as in effect on June 30, 2005, is hereby reenacted.

(2) EFFECTIVE DATE OF REENACTMENT.—Paragraph (1) shall take effect on July 1, 2005.

11 USC 1201
note.

11 USC 1201 *et*
seq.

(b) AMENDMENTS—Chapter 12 of title 11, United States Code, as reenacted by subsection (a), is amended by this Act.

(c) CONFORMING AMENDMENT.—Section 302 of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (28 U.S.C. 581 note) is amended by striking subsection (f).

SEC. 1002. DEBT LIMIT INCREASE.

Section 104(b) of title 11, United States Code, as amended by section 226, is amended by inserting “101(18),” after “101(3),” each place it appears.

SEC. 1003. CERTAIN CLAIMS OWED TO GOVERNMENTAL UNITS.

(a) CONTENTS OF PLAN.—Section 1222(a)(2) of title 11, United States Code, as amended by section 213, is amended to read as follows:

“(2) provide for the full payment, in deferred cash payments, of all claims entitled to priority under section 507, unless—

“(A) the claim is a claim owed to a governmental unit that arises as a result of the sale, transfer, exchange, or other disposition of any farm asset used in the debtor’s farming operation, in which case the claim shall be treated as an unsecured claim that is not entitled to priority under section 507, but the debt shall be treated in such manner only if the debtor receives a discharge; or

“(B) the holder of a particular claim agrees to a different treatment of that claim;”.

(b) SPECIAL NOTICE PROVISIONS.—Section 1231(b) of title 11, United States Code, as so designated by section 719, is amended by striking “a State or local governmental unit” and inserting “any governmental unit”.

11 USC 1222
note.

(c) EFFECTIVE DATE; APPLICATION OF AMENDMENTS.—This section and the amendments made by this section shall take effect on the date of the enactment of this Act and shall not apply with respect to cases commenced under title 11 of the United States Code before such date.

SEC. 1004. DEFINITION OF FAMILY FARMER.

Section 101(18) of title 11, United States Code, is amended—

(1) in subparagraph (A)—

(A) by striking “\$1,500,000” and inserting “\$3,237,000”;

and

(B) by striking “80” and inserting “50”; and

(2) in subparagraph (B)(ii)—

(A) by striking “\$1,500,000” and inserting “\$3,237,000”;

and

(B) by striking “80” and inserting “50”.

SEC. 1005. ELIMINATION OF REQUIREMENT THAT FAMILY FARMER AND SPOUSE RECEIVE OVER 50 PERCENT OF INCOME FROM FARMING OPERATION IN YEAR PRIOR TO BANKRUPTCY.

Section 101(18)(A) of title 11, United States Code, is amended by striking “for the taxable year preceding the taxable year” and inserting the following:

“for—

“(i) the taxable year preceding; or

“(ii) each of the 2d and 3d taxable years preceding; the taxable year”.

SEC. 1006. PROHIBITION OF RETROACTIVE ASSESSMENT OF DISPOSABLE INCOME.

(a) **CONFIRMATION OF PLAN.**—Section 1225(b)(1) of title 11, United States Code, is amended—

(1) in subparagraph (A) by striking “or” at the end;

(2) in subparagraph (B) by striking the period at the end and inserting “; or”; and

(3) by adding at the end the following:

“(C) the value of the property to be distributed under the plan in the 3-year period, or such longer period as the court may approve under section 1222(c), beginning on the date that the first distribution is due under the plan is not less than the debtor’s projected disposable income for such period.”.

(b) **MODIFICATION OF PLAN.**—Section 1229 of title 11, United States Code, is amended by adding at the end the following:

“(d) A plan may not be modified under this section—

“(1) to increase the amount of any payment due before the plan as modified becomes the plan;

“(2) by anyone except the debtor, based on an increase in the debtor’s disposable income, to increase the amount of payments to unsecured creditors required for a particular month so that the aggregate of such payments exceeds the debtor’s disposable income for such month; or

“(3) in the last year of the plan by anyone except the debtor, to require payments that would leave the debtor with insufficient funds to carry on the farming operation after the plan is completed.”.

SEC. 1007. FAMILY FISHERMEN.

(a) **DEFINITIONS.**—Section 101 of title 11, United States Code, is amended—

(1) by inserting after paragraph (7) the following:

“(7A) ‘commercial fishing operation’ means—

“(A) the catching or harvesting of fish, shrimp, lobsters, urchins, seaweed, shellfish, or other aquatic species or products of such species; or

“(B) for purposes of section 109 and chapter 12, aquaculture activities consisting of raising for market any species or product described in subparagraph (A);

“(7B) ‘commercial fishing vessel’ means a vessel used by a family fisherman to carry out a commercial fishing operation;” and

(2) by inserting after paragraph (19) the following:

“(19A) ‘family fisherman’ means—

“(A) an individual or individual and spouse engaged in a commercial fishing operation—

“(i) whose aggregate debts do not exceed \$1,500,000 and not less than 80 percent of whose aggregate noncontingent, liquidated debts (excluding a debt for the principal residence of such individual or such individual and spouse, unless such debt arises out of a commercial fishing operation), on the date the case is filed, arise out of a commercial fishing operation

owned or operated by such individual or such individual and spouse; and

“(ii) who receive from such commercial fishing operation more than 50 percent of such individual’s or such individual’s and spouse’s gross income for the taxable year preceding the taxable year in which the case concerning such individual or such individual and spouse was filed; or

“(B) a corporation or partnership—

“(i) in which more than 50 percent of the outstanding stock or equity is held by—

“(I) 1 family that conducts the commercial fishing operation; or

“(II) 1 family and the relatives of the members of such family, and such family or such relatives conduct the commercial fishing operation; and

“(ii)(I) more than 80 percent of the value of its assets consists of assets related to the commercial fishing operation;

“(II) its aggregate debts do not exceed \$1,500,000 and not less than 80 percent of its aggregate noncontingent, liquidated debts (excluding a debt for 1 dwelling which is owned by such corporation or partnership and which a shareholder or partner maintains as a principal residence, unless such debt arises out of a commercial fishing operation), on the date the case is filed, arise out of a commercial fishing operation owned or operated by such corporation or such partnership; and

“(III) if such corporation issues stock, such stock is not publicly traded;

“(19B) ‘family fisherman with regular annual income’ means a family fisherman whose annual income is sufficiently stable and regular to enable such family fisherman to make payments under a plan under chapter 12 of this title;”

(b) WHO MAY BE A DEBTOR.—Section 109(f) of title 11, United States Code, is amended by inserting “or family fisherman” after “family farmer”.

(c) CHAPTER 12.—Chapter 12 of title 11, United States Code, is amended—

(1) in the chapter heading, by inserting “**OR FISHERMAN**” after “**FAMILY FARMER**”;

(2) in section 1203, by inserting “or commercial fishing operation” after “farm”; and

(3) in section 1206, by striking “if the property is farmland or farm equipment” and inserting “if the property is farmland, farm equipment, or property used to carry out a commercial fishing operation (including a commercial fishing vessel)”.

(d) CLERICAL AMENDMENT.—In the table of chapters for title 11, United States Code, the item relating to chapter 12, is amended to read as follows:

“12. Adjustments of Debts of a Family Farmer or Family Fisherman with Regular Annual Income 1201”.

(e) APPLICABILITY.—Nothing in this section shall change, affect, or amend the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 et seq.).

TITLE XI—HEALTH CARE AND EMPLOYEE BENEFITS

SEC. 1101. DEFINITIONS.

(a) **HEALTH CARE BUSINESS DEFINED.**—Section 101 of title 11, United States Code, as amended by section 306, is amended—
(1) by redesignating paragraph (27A) as paragraph (27B);
and

(2) by inserting after paragraph (27) the following:

“(27A) ‘health care business’—

“(A) means any public or private entity (without regard to whether that entity is organized for profit or not for profit) that is primarily engaged in offering to the general public facilities and services for—

“(i) the diagnosis or treatment of injury, deformity, or disease; and

“(ii) surgical, drug treatment, psychiatric, or obstetric care; and

“(B) includes—

“(i) any—

“(I) general or specialized hospital;

“(II) ancillary ambulatory, emergency, or surgical treatment facility;

“(III) hospice;

“(IV) home health agency; and

“(V) other health care institution that is similar to an entity referred to in subclause (I), (II), (III), or (IV); and

“(ii) any long-term care facility, including any—

“(I) skilled nursing facility;

“(II) intermediate care facility;

“(III) assisted living facility;

“(IV) home for the aged;

“(V) domiciliary care facility; and

“(VI) health care institution that is related to a facility referred to in subclause (I), (II), (III), (IV), or (V), if that institution is primarily engaged in offering room, board, laundry, or personal assistance with activities of daily living and incidentals to activities of daily living;”.

(b) **PATIENT AND PATIENT RECORDS DEFINED.**—Section 101 of title 11, United States Code, is amended by inserting after paragraph (40) the following:

“(40A) ‘patient’ means any individual who obtains or receives services from a health care business;

“(40B) ‘patient records’ means any written document relating to a patient or a record recorded in a magnetic, optical, or other form of electronic medium;”.

(c) **RULE OF CONSTRUCTION.**—The amendments made by subsection (a) of this section shall not affect the interpretation of section 109(b) of title 11, United States Code.

11 USC 101 note.

SEC. 1102. DISPOSAL OF PATIENT RECORDS.

(a) **IN GENERAL.**—Subchapter III of chapter 3 of title 11, United States Code, is amended by adding at the end the following:

Applicability.

“§ 351. Disposal of patient records

“If a health care business commences a case under chapter 7, 9, or 11, and the trustee does not have a sufficient amount of funds to pay for the storage of patient records in the manner required under applicable Federal or State law, the following requirements shall apply:

Notices.

Newspaper,
publication.

“(1) The trustee shall—

“(A) promptly publish notice, in 1 or more appropriate newspapers, that if patient records are not claimed by the patient or an insurance provider (if applicable law permits the insurance provider to make that claim) by the date that is 365 days after the date of that notification, the trustee will destroy the patient records; and

“(B) during the first 180 days of the 365-day period described in subparagraph (A), promptly attempt to notify directly each patient that is the subject of the patient records and appropriate insurance carrier concerning the patient records by mailing to the most recent known address of that patient, or a family member or contact person for that patient, and to the appropriate insurance carrier an appropriate notice regarding the claiming or disposing of patient records.

“(2) If, after providing the notification under paragraph (1), patient records are not claimed during the 365-day period described under that paragraph, the trustee shall mail, by certified mail, at the end of such 365-day period a written request to each appropriate Federal agency to request permission from that agency to deposit the patient records with that agency, except that no Federal agency is required to accept patient records under this paragraph.

“(3) If, following the 365-day period described in paragraph (2) and after providing the notification under paragraph (1), patient records are not claimed by a patient or insurance provider, or request is not granted by a Federal agency to deposit such records with that agency, the trustee shall destroy those records by—

“(A) if the records are written, shredding or burning the records; or

“(B) if the records are magnetic, optical, or other electronic records, by otherwise destroying those records so that those records cannot be retrieved.”.

(b) CLERICAL AMENDMENT.—The table of sections for subchapter III of chapter 3 of title 11, United States Code, is amended by adding at the end the following:

“351. Disposal of patient records.”.

**SEC. 1103. ADMINISTRATIVE EXPENSE CLAIM FOR COSTS OF CLOSING
A HEALTH CARE BUSINESS AND OTHER ADMINISTRATIVE
EXPENSES.**

Section 503(b) of title 11, United States Code, as amended by section 445, is amended by adding at the end the following:

“(8) the actual, necessary costs and expenses of closing a health care business incurred by a trustee or by a Federal agency (as defined in section 551(1) of title 5) or a department or agency of a State or political subdivision thereof, including any cost or expense incurred—

“(A) in disposing of patient records in accordance with section 351; or

“(B) in connection with transferring patients from the health care business that is in the process of being closed to another health care business; and”.

SEC. 1104. APPOINTMENT OF OMBUDSMAN TO ACT AS PATIENT ADVOCATE.

(a) OMBUDSMAN TO ACT AS PATIENT ADVOCATE.—

(1) APPOINTMENT OF OMBUDSMAN.—Title 11, United States Code, as amended by section 232, is amended by inserting after section 332 the following:

“§ 333. Appointment of patient care ombudsman

“(a)(1) If the debtor in a case under chapter 7, 9, or 11 is a health care business, the court shall order, not later than 30 days after the commencement of the case, the appointment of an ombudsman to monitor the quality of patient care and to represent the interests of the patients of the health care business unless the court finds that the appointment of such ombudsman is not necessary for the protection of patients under the specific facts of the case. Deadline.

“(2)(A) If the court orders the appointment of an ombudsman under paragraph (1), the United States trustee shall appoint 1 disinterested person (other than the United States trustee) to serve as such ombudsman.

“(B) If the debtor is a health care business that provides long-term care, then the United States trustee may appoint the State Long-Term Care Ombudsman appointed under the Older Americans Act of 1965 for the State in which the case is pending to serve as the ombudsman required by paragraph (1).

“(C) If the United States trustee does not appoint a State Long-Term Care Ombudsman under subparagraph (B), the court shall notify the State Long-Term Care Ombudsman appointed under the Older Americans Act of 1965 for the State in which the case is pending, of the name and address of the person who is appointed under subparagraph (A). Notification.

“(b) An ombudsman appointed under subsection (a) shall—

“(1) monitor the quality of patient care provided to patients of the debtor, to the extent necessary under the circumstances, including interviewing patients and physicians;

“(2) not later than 60 days after the date of appointment, and not less frequently than at 60-day intervals thereafter, report to the court after notice to the parties in interest, at a hearing or in writing, regarding the quality of patient care provided to patients of the debtor; and Deadlines.
Reports.

“(3) if such ombudsman determines that the quality of patient care provided to patients of the debtor is declining significantly or is otherwise being materially compromised, file with the court a motion or a written report, with notice to the parties in interest immediately upon making such determination.

“(c)(1) An ombudsman appointed under subsection (a) shall maintain any information obtained by such ombudsman under this section that relates to patients (including information relating to patient records) as confidential information. Such ombudsman may not review confidential patient records unless the court approves Records.
Confidentiality.

such review in advance and imposes restrictions on such ombudsman to protect the confidentiality of such records.

“(2) An ombudsman appointed under subsection (a)(2)(B) shall have access to patient records consistent with authority of such ombudsman under the Older Americans Act of 1965 and under non-Federal laws governing the State Long-Term Care Ombudsman program.”.

(2) CLERICAL AMENDMENT.—The table of sections for subchapter II of chapter 3 of title 11, United States Code, as amended by section 232, is amended by adding at the end the following:

“333. Appointment of ombudsman.”.

(b) COMPENSATION OF OMBUDSMAN.—Section 330(a)(1) of title 11, United States Code, is amended—

(1) in the matter preceding subparagraph (A), by inserting “an ombudsman appointed under section 333, or” before “a professional person”; and

(2) in subparagraph (A), by inserting “ombudsman,” before “professional person”.

SEC. 1105. DEBTOR IN POSSESSION; DUTY OF TRUSTEE TO TRANSFER PATIENTS.

(a) IN GENERAL.—Section 704(a) of title 11, United States Code, as amended by sections 102, 219, and 446, is amended by adding at the end the following:

“(12) use all reasonable and best efforts to transfer patients from a health care business that is in the process of being closed to an appropriate health care business that—

“(A) is in the vicinity of the health care business that is closing;

“(B) provides the patient with services that are substantially similar to those provided by the health care business that is in the process of being closed; and

“(C) maintains a reasonable quality of care.”.

(b) CONFORMING AMENDMENT.—Section 1106(a)(1) of title 11, United States Code, as amended by section 446, is amended by striking “and (11)” and inserting “(11), and (12)”.

SEC. 1106. EXCLUSION FROM PROGRAM PARTICIPATION NOT SUBJECT TO AUTOMATIC STAY.

Section 362(b) of title 11, United States Code, is amended by inserting after paragraph (27), as amended by sections 224, 303, 311, 401, 718, and 907, the following:

“(28) under subsection (a), of the exclusion by the Secretary of Health and Human Services of the debtor from participation in the medicare program or any other Federal health care program (as defined in section 1128B(f) of the Social Security Act pursuant to title XI or XVIII of such Act).”.

TITLE XII—TECHNICAL AMENDMENTS

SEC. 1201. DEFINITIONS.

Section 101 of title 11, United States Code, as amended by this Act, is further amended—

(1) by striking “In this title—” and inserting “In this title the following definitions shall apply.”;

- (2) in each paragraph (other than paragraph (54A)), by inserting “The term” after the paragraph designation;
- (3) in paragraph (35)(B), by striking “paragraphs (21B) and (33)(A)” and inserting “paragraphs (23) and (35)”;
- (4) in each of paragraphs (35A), (38), and (54A), by striking “; and” at the end and inserting a period;
- (5) in paragraph (51B)—
 - (A) by inserting “who is not a family farmer” after “debtor” the first place it appears; and
 - (B) by striking “thereto having aggregate” and all that follows through the end of the paragraph and inserting a semicolon;
- (6) by striking paragraph (54) and inserting the following:
 - “(54) The term ‘transfer’ means—
 - “(A) the creation of a lien;
 - “(B) the retention of title as a security interest;
 - “(C) the foreclosure of a debtor’s equity of redemption;or
 - “(D) each mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with—
 - “(i) property; or
 - “(ii) an interest in property;”;
- (7) in paragraph (54A)—
 - (A) by striking “the term” and inserting “The term”;
 - and
 - (B) by indenting the left margin of paragraph (54A) 2 ems to the right; and
- (8) in each of paragraphs (1) through (35), in each of paragraphs (36), (37), (38A), (38B) and (39A), and in each of paragraphs (40) through (55), by striking the semicolon at the end and inserting a period.

SEC. 1202. ADJUSTMENT OF DOLLAR AMOUNTS.

Section 104(b) of title 11, United States Code, as amended by this Act, is further amended—

- (1) by inserting “101(19A),” after “101(18),” each place it appears;
- (2) by inserting “522(f)(3) and 522(f)(4),” after “522(d),” each place it appears;
- (3) by inserting “541(b), 547(c)(9),” after “523(a)(2)(C),” each place it appears;
- (4) in paragraph (1), by striking “and 1325(b)(3)” and inserting “1322(d), 1325(b), and 1326(b)(3) of this title and section 1409(b) of title 28”; and
- (5) in paragraph (2), by striking “and 1325(b)(3) of this title” and inserting “1322(d), 1325(b), and 1326(b)(3) of this title and section 1409(b) of title 28”.

SEC. 1203. EXTENSION OF TIME.

Section 108(c)(2) of title 11, United States Code, is amended by striking “922” and all that follows through “or”, and inserting “922, 1201, or”.

SEC. 1204. TECHNICAL AMENDMENTS.

Title 11, United States Code, is amended—

- (1) in section 109(b)(2), by striking “subsection (c) or (d) of”; and

(2) in section 552(b)(1), by striking “product” each place it appears and inserting “products”.

SEC. 1205. PENALTY FOR PERSONS WHO NEGLIGENTLY OR FRAUDULENTLY PREPARE BANKRUPTCY PETITIONS.

Section 110(j)(4) of title 11, United States Code, as so redesignated by section 221, is amended by striking “attorney’s” and inserting “attorneys”.

SEC. 1206. LIMITATION ON COMPENSATION OF PROFESSIONAL PERSONS.

Section 328(a) of title 11, United States Code, is amended by inserting “on a fixed or percentage fee basis,” after “hourly basis,”.

SEC. 1207. EFFECT OF CONVERSION.

Section 348(f)(2) of title 11, United States Code, is amended by inserting “of the estate” after “property” the first place it appears.

SEC. 1208. ALLOWANCE OF ADMINISTRATIVE EXPENSES.

Section 503(b)(4) of title 11, United States Code, is amended by inserting “subparagraph (A), (B), (C), (D), or (E) of” before “paragraph (3)”.

SEC. 1209. EXCEPTIONS TO DISCHARGE.

Section 523 of title 11, United States Code, as amended by sections 215 and 314, is amended—

(1) by transferring paragraph (15), as added by section 304(e) of Public Law 103–394 (108 Stat. 4133), so as to insert such paragraph after subsection (a)(14A);

(2) in subsection (a)(9), by striking “motor vehicle” and inserting “motor vehicle, vessel, or aircraft”; and

(3) in subsection (e), by striking “a insured” and inserting “an insured”.

SEC. 1210. EFFECT OF DISCHARGE.

Section 524(a)(3) of title 11, United States Code, is amended by striking “section 523” and all that follows through “or that” and inserting “section 523, 1228(a)(1), or 1328(a)(1), or that”.

SEC. 1211. PROTECTION AGAINST DISCRIMINATORY TREATMENT.

Section 525(c) of title 11, United States Code, is amended—

(1) in paragraph (1), by inserting “student” before “grant” the second place it appears; and

(2) in paragraph (2), by striking “the program operated under part B, D, or E of” and inserting “any program operated under”.

SEC. 1212. PROPERTY OF THE ESTATE.

Section 541(b)(4)(B)(ii) of title 11, United States Code, is amended by inserting “365 or” before “542”.

SEC. 1213. PREFERENCES.

(a) IN GENERAL.—Section 547 of title 11, United States Code, as amended by section 201, is amended—

(1) in subsection (b), by striking “subsection (c)” and inserting “subsections (c) and (i)”; and

(2) by adding at the end the following:

“(i) If the trustee avoids under subsection (b) a transfer made between 90 days and 1 year before the date of the filing of the petition, by the debtor to an entity that is not an insider for the benefit of a creditor that is an insider, such transfer shall be considered to be avoided under this section only with respect to the creditor that is an insider.”.

(b) **APPLICABILITY.**—The amendments made by this section shall apply to any case that is pending or commenced on or after the date of enactment of this Act.

11 USC 547 note.

SEC. 1214. POSTPETITION TRANSACTIONS.

Section 549(c) of title 11, United States Code, is amended—

(1) by inserting “an interest in” after “transfer of” each place it appears;

(2) by striking “such property” and inserting “such real property”; and

(3) by striking “the interest” and inserting “such interest”.

SEC. 1215. DISPOSITION OF PROPERTY OF THE ESTATE.

Section 726(b) of title 11, United States Code, is amended by striking “1009,”.

SEC. 1216. GENERAL PROVISIONS.

Section 901(a) of title 11, United States Code, is amended by inserting “1123(d),” after “1123(b),”.

SEC. 1217. ABANDONMENT OF RAILROAD LINE.

Section 1170(e)(1) of title 11, United States Code, is amended by striking “section 11347” and inserting “section 11326(a)”.

SEC. 1218. CONTENTS OF PLAN.

Section 1172(c)(1) of title 11, United States Code, is amended by striking “section 11347” and inserting “section 11326(a)”.

SEC. 1219. BANKRUPTCY CASES AND PROCEEDINGS.

Section 1334(d) of title 28, United States Code, is amended—

(1) by striking “made under this subsection” and inserting “made under subsection (c)”; and

(2) by striking “This subsection” and inserting “Subsection (c) and this subsection”.

SEC. 1220. KNOWING DISREGARD OF BANKRUPTCY LAW OR RULE.

Section 156(a) of title 18, United States Code, is amended—

(1) in the first undesignated paragraph—

(A) by inserting “(1) the term” before “‘bankruptcy’”; and

(B) by striking the period at the end and inserting “; and”; and

(2) in the second undesignated paragraph—

(A) by inserting “(2) the term” before “‘document’”; and

(B) by striking “this title” and inserting “title 11”.

SEC. 1221. TRANSFERS MADE BY NONPROFIT CHARITABLE CORPORATIONS.

(a) **SALE OF PROPERTY OF ESTATE.**—Section 363(d) of title 11, United States Code, is amended by striking “only” and all that follows through the end of the subsection and inserting “only—

“(1) in accordance with applicable nonbankruptcy law that governs the transfer of property by a corporation or trust that is not a moneyed, business, or commercial corporation or trust; and

“(2) to the extent not inconsistent with any relief granted under subsection (c), (d), (e), or (f) of section 362.”.

(b) **CONFIRMATION OF PLAN OF REORGANIZATION.**—Section 1129(a) of title 11, United States Code, as amended by sections 213 and 321, is amended by adding at the end the following:

“(16) All transfers of property of the plan shall be made in accordance with any applicable provisions of nonbankruptcy law that govern the transfer of property by a corporation or trust that is not a moneyed, business, or commercial corporation or trust.”.

(c) **TRANSFER OF PROPERTY.**—Section 541 of title 11, United States Code, as amended by section 225, is amended by adding at the end the following:

“(f) Notwithstanding any other provision of this title, property that is held by a debtor that is a corporation described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code may be transferred to an entity that is not such a corporation, but only under the same conditions as would apply if the debtor had not filed a case under this title.”.

11 USC 363 note.

(d) **APPLICABILITY.**—The amendments made by this section shall apply to a case pending under title 11, United States Code, on the date of enactment of this Act, or filed under that title on or after that date of enactment, except that the court shall not confirm a plan under chapter 11 of title 11, United States Code, without considering whether this section would substantially affect the rights of a party in interest who first acquired rights with respect to the debtor after the date of the filing of the petition. The parties who may appear and be heard in a proceeding under this section include the attorney general of the State in which the debtor is incorporated, was formed, or does business.

(e) **RULE OF CONSTRUCTION.**—Nothing in this section shall be construed to require the court in which a case under chapter 11 of title 11, United States Code, is pending to remand or refer any proceeding, issue, or controversy to any other court or to require the approval of any other court for the transfer of property.

SEC. 1222. PROTECTION OF VALID PURCHASE MONEY SECURITY INTERESTS.

Section 547(c)(3)(B) of title 11, United States Code, is amended by striking “20” and inserting “30”.

SEC. 1223. BANKRUPTCY JUDGESHIPS.

(a) **SHORT TITLE.**—This section may be cited as the “Bankruptcy Judgeship Act of 2005”.

(b) **TEMPORARY JUDGESHIPS.**—

(1) **APPOINTMENTS.**—The following bankruptcy judges shall be appointed in the manner prescribed in section 152(a)(1) of title 28, United States Code, for the appointment of bankruptcy judges provided for in section 152(a)(2) of such title:

(A) One additional bankruptcy judge for the eastern district of California.

(B) Three additional bankruptcy judges for the central district of California.

Bankruptcy
Judgeship Act
of 2005.
28 USC 1 note.
28 USC 152 note.

(C) Four additional bankruptcy judges for the district of Delaware.

(D) Two additional bankruptcy judges for the southern district of Florida.

(E) One additional bankruptcy judge for the southern district of Georgia.

(F) Three additional bankruptcy judges for the district of Maryland.

(G) One additional bankruptcy judge for the eastern district of Michigan.

(H) One additional bankruptcy judge for the southern district of Mississippi.

(I) One additional bankruptcy judge for the district of New Jersey.

(J) One additional bankruptcy judge for the eastern district of New York.

(K) One additional bankruptcy judge for the northern district of New York.

(L) One additional bankruptcy judge for the southern district of New York.

(M) One additional bankruptcy judge for the eastern district of North Carolina.

(N) One additional bankruptcy judge for the eastern district of Pennsylvania.

(O) One additional bankruptcy judge for the middle district of Pennsylvania.

(P) One additional bankruptcy judge for the district of Puerto Rico.

(Q) One additional bankruptcy judge for the western district of Tennessee.

(R) One additional bankruptcy judge for the eastern district of Virginia.

(S) One additional bankruptcy judge for the district of South Carolina.

(T) One additional bankruptcy judge for the district of Nevada.

(2) VACANCIES.—

(A) DISTRICTS WITH SINGLE APPOINTMENTS.—Except as provided in subparagraphs (B), (C), (D), and (E), the first vacancy occurring in the office of bankruptcy judge in each of the judicial districts set forth in paragraph (1)—

(i) occurring 5 years or more after the appointment date of the bankruptcy judge appointed under paragraph (1) to such office; and

(ii) resulting from the death, retirement, resignation, or removal of a bankruptcy judge;

shall not be filled.

(B) CENTRAL DISTRICT OF CALIFORNIA.—The 1st, 2d, and 3d vacancies in the office of bankruptcy judge in the central district of California—

(i) occurring 5 years or more after the respective 1st, 2d, and 3d appointment dates of the bankruptcy judges appointed under paragraph (1)(B); and

(ii) resulting from the death, retirement, resignation, or removal of a bankruptcy judge;

shall not be filled.

(C) DISTRICT OF DELAWARE.—The 1st, 2d, 3d, and 4th vacancies in the office of bankruptcy judge in the district of Delaware—

(i) occurring 5 years or more after the respective 1st, 2d, 3d, and 4th appointment dates of the bankruptcy judges appointed under paragraph (1)(F); and

(ii) resulting from the death, retirement, resignation, or removal of a bankruptcy judge;

shall not be filled.

(D) SOUTHERN DISTRICT OF FLORIDA.—The 1st and 2d vacancies in the office of bankruptcy judge in the southern district of Florida—

(i) occurring 5 years or more after the respective 1st and 2d appointment dates of the bankruptcy judges appointed under paragraph (1)(D); and

(ii) resulting from the death, retirement, resignation, or removal of a bankruptcy judge;

shall not be filled.

(E) DISTRICT OF MARYLAND.—The 1st, 2d, and 3d vacancies in the office of bankruptcy judge in the district of Maryland—

(i) occurring 5 years or more after the respective 1st, 2d, and 3d appointment dates of the bankruptcy judges appointed under paragraph (1)(F); and

(ii) resulting from the death, retirement, resignation, or removal of a bankruptcy judge;

shall not be filled.

(c) EXTENSIONS.—

(1) IN GENERAL.—The temporary office of bankruptcy judges authorized for the northern district of Alabama, the district of Delaware, the district of Puerto Rico, and the eastern district of Tennessee under paragraphs (1), (3), (7), and (9) of section 3(a) of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note) are extended until the first vacancy occurring in the office of a bankruptcy judge in the applicable district resulting from the death, retirement, resignation, or removal of a bankruptcy judge and occurring 5 years after the date of the enactment of this Act.

(2) APPLICABILITY OF OTHER PROVISIONS.—All other provisions of section 3 of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note) remain applicable to the temporary office of bankruptcy judges referred to in this subsection.

(d) TECHNICAL AMENDMENTS.—Section 152(a) of title 28, United States Code, is amended—

(1) in paragraph (1), by striking the first sentence and inserting the following: “Each bankruptcy judge to be appointed for a judicial district, as provided in paragraph (2), shall be appointed by the court of appeals of the United States for the circuit in which such district is located.”; and

(2) in paragraph (2)—

(A) in the item relating to the middle district of Georgia, by striking “2” and inserting “3”; and

(B) in the collective item relating to the middle and southern districts of Georgia, by striking “Middle and Southern 1”.

28 USC 152 note.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 1224. COMPENSATING TRUSTEES.

Section 1326 of title 11, United States Code, is amended—
(1) in subsection (b)—

(A) in paragraph (1), by striking “and”;

(B) in paragraph (2), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(3) if a chapter 7 trustee has been allowed compensation due to the conversion or dismissal of the debtor’s prior case pursuant to section 707(b), and some portion of that compensation remains unpaid in a case converted to this chapter or in the case dismissed under section 707(b) and refiled under this chapter, the amount of any such unpaid compensation, which shall be paid monthly—

“(A) by prorating such amount over the remaining duration of the plan; and

“(B) by monthly payments not to exceed the greater of—

“(i) \$25; or

“(ii) the amount payable to unsecured nonpriority creditors, as provided by the plan, multiplied by 5 percent, and the result divided by the number of months in the plan.”; and

(2) by adding at the end the following:

“(d) Notwithstanding any other provision of this title—

“(1) compensation referred to in subsection (b)(3) is payable and may be collected by the trustee under that paragraph, even if such amount has been discharged in a prior case under this title; and

“(2) such compensation is payable in a case under this chapter only to the extent permitted by subsection (b)(3).”.

SEC. 1225. AMENDMENT TO SECTION 362 OF TITLE 11, UNITED STATES CODE.

Section 362(b)(18) of title 11, United States Code, is amended to read as follows:

“(18) under subsection (a) of the creation or perfection of a statutory lien for an ad valorem property tax, or a special tax or special assessment on real property whether or not ad valorem, imposed by a governmental unit, if such tax or assessment comes due after the date of the filing of the petition;”.

SEC. 1226. JUDICIAL EDUCATION.

11 USC 101 note.

The Director of the Federal Judicial Center, in consultation with the Director of the Executive Office for United States Trustees, shall develop materials and conduct such training as may be useful to courts in implementing this Act and the amendments made by this Act, including the requirements relating to the means test under section 707(b), and reaffirmation agreements under section 524, of title 11 of the United States Code, as amended by this Act.

SEC. 1227. RECLAMATION.

Deadlines.

(a) **RIGHTS AND POWERS OF THE TRUSTEE.**—Section 546(c) of title 11, United States Code, is amended to read as follows:

“(c)(1) Except as provided in subsection (d) of this section and in section 507(c), and subject to the prior rights of a holder of

a security interest in such goods or the proceeds thereof, the rights and powers of the trustee under sections 544(a), 545, 547, and 549 are subject to the right of a seller of goods that has sold goods to the debtor, in the ordinary course of such seller's business, to reclaim such goods if the debtor has received such goods while insolvent, within 45 days before the date of the commencement of a case under this title, but such seller may not reclaim such goods unless such seller demands in writing reclamation of such goods—

“(A) not later than 45 days after the date of receipt of such goods by the debtor; or

“(B) not later than 20 days after the date of commencement of the case, if the 45-day period expires after the commencement of the case.

“(2) If a seller of goods fails to provide notice in the manner described in paragraph (1), the seller still may assert the rights contained in section 503(b)(9).”.

(b) ADMINISTRATIVE EXPENSES.—Section 503(b) of title 11, United States Code, as amended by sections 445 and 1103, is amended by adding at the end the following:

“(9) the value of any goods received by the debtor within 20 days before the date of commencement of a case under this title in which the goods have been sold to the debtor in the ordinary course of such debtor's business.”.

11 USC 521 note. **SEC. 1228. PROVIDING REQUESTED TAX DOCUMENTS TO THE COURT.**

(a) CHAPTER 7 CASES.—The court shall not grant a discharge in the case of an individual who is a debtor in a case under chapter 7 of title 11, United States Code, unless requested tax documents have been provided to the court.

(b) CHAPTER 11 AND CHAPTER 13 CASES.—The court shall not confirm a plan of reorganization in the case of an individual under chapter 11 or 13 of title 11, United States Code, unless requested tax documents have been filed with the court.

Deadline. (c) DOCUMENT RETENTION.—The court shall destroy documents submitted in support of a bankruptcy claim not sooner than 3 years after the date of the conclusion of a case filed by an individual under chapter 7, 11, or 13 of title 11, United States Code. In the event of a pending audit or enforcement action, the court may extend the time for destruction of such requested tax documents.

SEC. 1229. ENCOURAGING CREDITWORTHINESS.

(a) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) certain lenders may sometimes offer credit to consumers indiscriminately, without taking steps to ensure that consumers are capable of repaying the resulting debt, and in a manner which may encourage certain consumers to accumulate additional debt; and

(2) resulting consumer debt may increasingly be a major contributing factor to consumer insolvency.

(b) STUDY REQUIRED.—The Board of Governors of the Federal Reserve System (hereafter in this section referred to as the “Board”) shall conduct a study of—

(1) consumer credit industry practices of soliciting and extending credit—

(A) indiscriminately;

(B) without taking steps to ensure that consumers are capable of repaying the resulting debt; and

(C) in a manner that encourages consumers to accumulate additional debt; and

(2) the effects of such practices on consumer debt and insolvency.

(c) REPORT AND REGULATIONS.—Not later than 12 months after the date of enactment of this Act, the Board—

(1) shall make public a report on its findings with respect to the indiscriminate solicitation and extension of credit by the credit industry;

(2) may issue regulations that would require additional disclosures to consumers; and

(3) may take any other actions, consistent with its existing statutory authority, that the Board finds necessary to ensure responsible industrywide practices and to prevent resulting consumer debt and insolvency.

SEC. 1230. PROPERTY NO LONGER SUBJECT TO REDEMPTION.

Section 541(b) of title 11, United States Code, as amended by sections 225 and 323, is amended by adding after paragraph (7), as added by section 323, the following:

“(8) subject to subchapter III of chapter 5, any interest of the debtor in property where the debtor pledged or sold tangible personal property (other than securities or written or printed evidences of indebtedness or title) as collateral for a loan or advance of money given by a person licensed under law to make such loans or advances, where—

“(A) the tangible personal property is in the possession of the pledgee or transferee;

“(B) the debtor has no obligation to repay the money, redeem the collateral, or buy back the property at a stipulated price; and

“(C) neither the debtor nor the trustee have exercised any right to redeem provided under the contract or State law, in a timely manner as provided under State law and section 108(b); or”.

SEC. 1231. TRUSTEES.

(a) SUSPENSION AND TERMINATION OF PANEL TRUSTEES AND STANDING TRUSTEES.—Section 586(d) of title 28, United States Code, is amended—

(1) by inserting “(1)” after “(d)”; and

(2) by adding at the end the following:

“(2) A trustee whose appointment under subsection (a)(1) or under subsection (b) is terminated or who ceases to be assigned to cases filed under title 11, United States Code, may obtain judicial review of the final agency decision by commencing an action in the district court of the United States for the district for which the panel to which the trustee is appointed under subsection (a)(1), or in the district court of the United States for the district in which the trustee is appointed under subsection (b) resides, after first exhausting all available administrative remedies, which if the trustee so elects, shall also include an administrative hearing on the record. Unless the trustee elects to have an administrative hearing on the record, the trustee shall be deemed to have exhausted all administrative remedies for purposes of this paragraph if the agency fails to make a final agency decision within

Deadline.

Procedures. 90 days after the trustee requests administrative remedies. The Attorney General shall prescribe procedures to implement this paragraph. The decision of the agency shall be affirmed by the district court unless it is unreasonable and without cause based on the administrative record before the agency.”.

(b) EXPENSES OF STANDING TRUSTEES.—Section 586(e) of title 28, United States Code, is amended by adding at the end the following:

“(3) After first exhausting all available administrative remedies, an individual appointed under subsection (b) may obtain judicial review of final agency action to deny a claim of actual, necessary expenses under this subsection by commencing an action in the district court of the United States for the district where the individual resides. The decision of the agency shall be affirmed by the district court unless it is unreasonable and without cause based upon the administrative record before the agency.

Procedures. “(4) The Attorney General shall prescribe procedures to implement this subsection.”.

SEC. 1232. BANKRUPTCY FORMS.

Section 2075 of title 28, United States Code, is amended by adding at the end the following:

“The bankruptcy rules promulgated under this section shall prescribe a form for the statement required under section 707(b)(2)(C) of title 11 and may provide general rules on the content of such statement.”.

SEC. 1233. DIRECT APPEALS OF BANKRUPTCY MATTERS TO COURTS OF APPEALS.

(a) APPEALS.—Section 158 of title 28, United States Code, is amended—

(1) in subsection (c)(1), by striking “Subject to subsection (b),” and inserting “Subject to subsections (b) and (d)(2),”; and

(2) in subsection (d)—

(A) by inserting “(1)” after “(d)”; and

(B) by adding at the end the following:

Certification. “(2)(A) The appropriate court of appeals shall have jurisdiction of appeals described in the first sentence of subsection (a) if the bankruptcy court, the district court, or the bankruptcy appellate panel involved, acting on its own motion or on the request of a party to the judgment, order, or decree described in such first sentence, or all the appellants and appellees (if any) acting jointly, certify that—

“(i) the judgment, order, or decree involves a question of law as to which there is no controlling decision of the court of appeals for the circuit or of the Supreme Court of the United States, or involves a matter of public importance;

“(ii) the judgment, order, or decree involves a question of law requiring resolution of conflicting decisions; or

“(iii) an immediate appeal from the judgment, order, or decree may materially advance the progress of the case or proceeding in which the appeal is taken;

and if the court of appeals authorizes the direct appeal of the judgment, order, or decree.

“(B) If the bankruptcy court, the district court, or the bankruptcy appellate panel—

“(i) on its own motion or on the request of a party, determines that a circumstance specified in clause (i), (ii), or (iii) of subparagraph (A) exists; or

“(ii) receives a request made by a majority of the appellants and a majority of appellees (if any) to make the certification described in subparagraph (A);

then the bankruptcy court, the district court, or the bankruptcy appellate panel shall make the certification described in subparagraph (A).

“(C) The parties may supplement the certification with a short statement of the basis for the certification.

“(D) An appeal under this paragraph does not stay any proceeding of the bankruptcy court, the district court, or the bankruptcy appellate panel from which the appeal is taken, unless the respective bankruptcy court, district court, or bankruptcy appellate panel, or the court of appeals in which the appeal is pending, issues a stay of such proceeding pending the appeal.

“(E) Any request under subparagraph (B) for certification shall be made not later than 60 days after the entry of the judgment, order, or decree.”

Deadline.

(b) PROCEDURAL RULES.—

28 USC 158 note.

(1) TEMPORARY APPLICATION.—A provision of this subsection shall apply to appeals under section 158(d)(2) of title 28, United States Code, until a rule of practice and procedure relating to such provision and such appeals is promulgated or amended under chapter 131 of such title.

(2) CERTIFICATION.—A district court, a bankruptcy court, or a bankruptcy appellate panel may make a certification under section 158(d)(2) of title 28, United States Code, only with respect to matters pending in the respective bankruptcy court, district court, or bankruptcy appellate panel.

(3) PROCEDURE.—Subject to any other provision of this subsection, an appeal authorized by the court of appeals under section 158(d)(2)(A) of title 28, United States Code, shall be taken in the manner prescribed in subdivisions (a)(1), (b), (c), and (d) of rule 5 of the Federal Rules of Appellate Procedure. For purposes of subdivision (a)(1) of rule 5—

(A) a reference in such subdivision to a district court shall be deemed to include a reference to a bankruptcy court and a bankruptcy appellate panel, as appropriate; and

(B) a reference in such subdivision to the parties requesting permission to appeal to be served with the petition shall be deemed to include a reference to the parties to the judgment, order, or decree from which the appeal is taken.

(4) FILING OF PETITION WITH ATTACHMENT.—A petition requesting permission to appeal, that is based on a certification made under subparagraph (A) or (B) of section 158(d)(2) shall—

Deadline.

(A) be filed with the circuit clerk not later than 10 days after the certification is entered on the docket of the bankruptcy court, the district court, or the bankruptcy appellate panel from which the appeal is taken; and

(B) have attached a copy of such certification.

(5) REFERENCES IN RULE 5.—For purposes of rule 5 of the Federal Rules of Appellate Procedure—

(A) a reference in such rule to a district court shall be deemed to include a reference to a bankruptcy court and to a bankruptcy appellate panel; and

(B) a reference in such rule to a district clerk shall be deemed to include a reference to a clerk of a bankruptcy court and to a clerk of a bankruptcy appellate panel.

(6) APPLICATION OF RULES.—The Federal Rules of Appellate Procedure shall apply in the courts of appeals with respect to appeals authorized under section 158(d)(2)(A), to the extent relevant and as if such appeals were taken from final judgments, orders, or decrees of the district courts or bankruptcy appellate panels exercising appellate jurisdiction under subsection (a) or (b) of section 158 of title 28, United States Code.

SEC. 1234. INVOLUNTARY CASES.

(a) AMENDMENTS.—Section 303 of title 11, United States Code, is amended—

(1) in subsection (b)(1), by—

(A) inserting “as to liability or amount” after “bona fide dispute”; and

(B) striking “if such claims” and inserting “if such noncontingent, undisputed claims”; and

(2) in subsection (h)(1), by inserting “as to liability or amount” before the semicolon at the end.

11 USC 303 note.

(b) EFFECTIVE DATE; APPLICATION OF AMENDMENTS.—This section and the amendments made by this section shall take effect on the date of the enactment of this Act and shall apply with respect to cases commenced under title 11 of the United States Code before, on, and after such date.

SEC. 1235. FEDERAL ELECTION LAW FINES AND PENALTIES AS NON-DISCHARGEABLE DEBT.

Section 523(a) of title 11, United States Code, as amended by section 314, is amended by inserting after paragraph (14A) the following:

“(14B) incurred to pay fines or penalties imposed under Federal election law;”.

TITLE XIII—CONSUMER CREDIT DISCLOSURE

SEC. 1301. ENHANCED DISCLOSURES UNDER AN OPEN END CREDIT PLAN.

(a) MINIMUM PAYMENT DISCLOSURES.—Section 127(b) of the Truth in Lending Act (15 U.S.C. 1637(b)) is amended by adding at the end the following:

“(11)(A) In the case of an open end credit plan that requires a minimum monthly payment of not more than 4 percent of the balance on which finance charges are accruing, the following statement, located on the front of the billing statement, disclosed clearly and conspicuously: ‘Minimum Payment Warning: Making only the minimum payment will increase the interest you pay and the time it takes to repay your balance. For example, making only the typical 2% minimum monthly payment on a balance of \$1,000 at an interest rate of 17% would

take 88 months to repay the balance in full. For an estimate of the time it would take to repay your balance, making only minimum payments, call this toll-free number: _____.' (the blank space to be filled in by the creditor).

“(B) In the case of an open end credit plan that requires a minimum monthly payment of more than 4 percent of the balance on which finance charges are accruing, the following statement, in a prominent location on the front of the billing statement, disclosed clearly and conspicuously: ‘Minimum Payment Warning: Making only the required minimum payment will increase the interest you pay and the time it takes to repay your balance. Making a typical 5% minimum monthly payment on a balance of \$300 at an interest rate of 17% would take 24 months to repay the balance in full. For an estimate of the time it would take to repay your balance, making only minimum monthly payments, call this toll-free number: _____.’ (the blank space to be filled in by the creditor).

“(C) Notwithstanding subparagraphs (A) and (B), in the case of a creditor with respect to which compliance with this title is enforced by the Federal Trade Commission, the following statement, in a prominent location on the front of the billing statement, disclosed clearly and conspicuously: ‘Minimum Payment Warning: Making only the required minimum payment will increase the interest you pay and the time it takes to repay your balance. For example, making only the typical 5% minimum monthly payment on a balance of \$300 at an interest rate of 17% would take 24 months to repay the balance in full. For an estimate of the time it would take to repay your balance, making only minimum monthly payments, call the Federal Trade Commission at this toll-free number: _____.’ (the blank space to be filled in by the creditor).

A creditor who is subject to this subparagraph shall not be subject to subparagraph (A) or (B).

“(D) Notwithstanding subparagraph (A), (B), or (C), in complying with any such subparagraph, a creditor may substitute an example based on an interest rate that is greater than 17 percent. Any creditor that is subject to subparagraph (B) may elect to provide the disclosure required under subparagraph (A) in lieu of the disclosure required under subparagraph (B).

“(E) The Board shall, by rule, periodically recalculate, as necessary, the interest rate and repayment period under subparagraphs (A), (B), and (C).

Regulations.

“(F)(i) The toll-free telephone number disclosed by a creditor or the Federal Trade Commission under subparagraph (A), (B), or (G), as appropriate, may be a toll-free telephone number established and maintained by the creditor or the Federal Trade Commission, as appropriate, or may be a toll-free telephone number established and maintained by a third party for use by the creditor or multiple creditors or the Federal Trade Commission, as appropriate. The toll-free telephone number may connect consumers to an automated device through which consumers may obtain information described in subparagraph (A), (B), or (C), by inputting information using a touch-tone telephone or similar device, if consumers whose telephones are not equipped to use such automated device are provided

the opportunity to be connected to an individual from whom the information described in subparagraph (A), (B), or (C), as applicable, may be obtained. A person that receives a request for information described in subparagraph (A), (B), or (C) from an obligor through the toll-free telephone number disclosed under subparagraph (A), (B), or (C), as applicable, shall disclose in response to such request only the information set forth in the table promulgated by the Board under subparagraph (H)(i).

Communications
and tele-
communications.
Expiration date.

“(ii)(I) The Board shall establish and maintain for a period not to exceed 24 months following the effective date of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, a toll-free telephone number, or provide a toll-free telephone number established and maintained by a third party, for use by creditors that are depository institutions (as defined in section 3 of the Federal Deposit Insurance Act), including a Federal credit union or State credit union (as defined in section 101 of the Federal Credit Union Act), with total assets not exceeding \$250,000,000. The toll-free telephone number may connect consumers to an automated device through which consumers may obtain information described in subparagraph (A) or (B), as applicable, by inputting information using a touch-tone telephone or similar device, if consumers whose telephones are not equipped to use such automated device are provided the opportunity to be connected to an individual from whom the information described in subparagraph (A) or (B), as applicable, may be obtained. A person that receives a request for information described in subparagraph (A) or (B) from an obligor through the toll-free telephone number disclosed under subparagraph (A) or (B), as applicable, shall disclose in response to such request only the information set forth in the table promulgated by the Board under subparagraph (H)(i). The dollar amount contained in this subclause shall be adjusted according to an indexing mechanism established by the Board.

Deadline.
Reports.

“(II) Not later than 6 months prior to the expiration of the 24-month period referenced in subclause (I), the Board shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report on the program described in subclause (I).

Communications
and tele-
communications.

“(G) The Federal Trade Commission shall establish and maintain a toll-free number for the purpose of providing to consumers the information required to be disclosed under subparagraph (C).

“(H) The Board shall—

“(i) establish a detailed table illustrating the approximate number of months that it would take to repay an outstanding balance if a consumer pays only the required minimum monthly payments and if no other advances are made, which table shall clearly present standardized information to be used to disclose the information required to be disclosed under subparagraph (A), (B), or (C), as applicable;

“(ii) establish the table required under clause (i) by assuming—

“(I) a significant number of different annual percentage rates;

“(II) a significant number of different account balances;

“(III) a significant number of different minimum payment amounts; and

“(IV) that only minimum monthly payments are made and no additional extensions of credit are obtained; and

“(iii) promulgate regulations that provide instructional guidance regarding the manner in which the information contained in the table established under clause (i) should be used in responding to the request of an obligor for any information required to be disclosed under subparagraph (A), (B), or (C).

Regulations.

“(I) The disclosure requirements of this paragraph do not apply to any charge card account, the primary purpose of which is to require payment of charges in full each month.

“(J) A creditor that maintains a toll-free telephone number for the purpose of providing customers with the actual number of months that it will take to repay the customer’s outstanding balance is not subject to the requirements of subparagraph (A) or (B).

“(K) A creditor that maintains a toll-free telephone number for the purpose of providing customers with the actual number of months that it will take to repay an outstanding balance shall include the following statement on each billing statement: ‘Making only the minimum payment will increase the interest you pay and the time it takes to repay your balance. For more information, call this toll-free number: _____.’ (the blank space to be filled in by the creditor).”.

(b) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board of Governors of the Federal Reserve System (hereafter in this title referred to as the “Board”) shall promulgate regulations implementing the requirements of section 127(b)(11) of the Truth in Lending Act, as added by subsection (a) of this section.

15 USC 1637
note.

(2) EFFECTIVE DATE.—Section 127(b)(11) of the Truth in Lending Act, as added by subsection (a) of this section, and the regulations issued under paragraph (1) of this subsection shall not take effect until the later of—

15 USC 1637
note.

(A) 18 months after the date of enactment of this Act; or

(B) 12 months after the publication of such final regulations by the Board.

(c) STUDY OF FINANCIAL DISCLOSURES.—

(1) IN GENERAL.—The Board may conduct a study to determine the types of information available to potential borrowers from consumer credit lending institutions regarding factors qualifying potential borrowers for credit, repayment requirements, and the consequences of default.

(2) FACTORS FOR CONSIDERATION.—In conducting a study under paragraph (1), the Board should, in consultation with the other Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act), the National Credit Union Administration, and the Federal Trade Commission, consider the extent to which—

(A) consumers, in establishing new credit arrangements, are aware of their existing payment obligations, the need to consider those obligations in deciding to take on new credit, and how taking on excessive credit can result in financial difficulty;

(B) minimum periodic payment features offered in connection with open end credit plans impact consumer default rates;

(C) consumers make only the required minimum payment under open end credit plans;

(D) consumers are aware that making only required minimum payments will increase the cost and repayment period of an open end credit obligation; and

(E) the availability of low minimum payment options is a cause of consumers experiencing financial difficulty.

(3) REPORT TO CONGRESS.—Findings of the Board in connection with any study conducted under this subsection shall be submitted to Congress. Such report shall also include recommendations for legislative initiatives, if any, of the Board, based on its findings.

SEC. 1302. ENHANCED DISCLOSURE FOR CREDIT EXTENSIONS SECURED BY A DWELLING.

(a) OPEN END CREDIT EXTENSIONS.—

(1) CREDIT APPLICATIONS.—Section 127A(a)(13) of the Truth in Lending Act (15 U.S.C. 1637a(a)(13)) is amended—

(A) by striking “CONSULTATION OF TAX ADVISER.—A statement that the” and inserting the following: “TAX DEDUCTIBILITY.—A statement that—

“(A) the”; and

(B) by striking the period at the end and inserting the following: “; and

“(B) in any case in which the extension of credit exceeds the fair market value (as defined under the Internal Revenue Code of 1986) of the dwelling, the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes.”.

(2) CREDIT ADVERTISEMENTS.—Section 147(b) of the Truth in Lending Act (15 U.S.C. 1665b(b)) is amended—

(A) by striking “If any” and inserting the following:

“(1) IN GENERAL.—If any”; and

(B) by adding at the end the following:

“(2) CREDIT IN EXCESS OF FAIR MARKET VALUE.—Each advertisement described in subsection (a) that relates to an extension of credit that may exceed the fair market value of the dwelling, and which advertisement is disseminated in paper form to the public or through the Internet, as opposed to by radio or television, shall include a clear and conspicuous statement that—

“(A) the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes; and

“(B) the consumer should consult a tax adviser for further information regarding the deductibility of interest and charges.”.

(b) NON-OPEN END CREDIT EXTENSIONS.—

(1) CREDIT APPLICATIONS.—Section 128 of the Truth in Lending Act (15 U.S.C. 1638) is amended—

(A) in subsection (a), by adding at the end the following:

“(15) In the case of a consumer credit transaction that is secured by the principal dwelling of the consumer, in which the extension of credit may exceed the fair market value of the dwelling, a clear and conspicuous statement that—

“(A) the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes; and

“(B) the consumer should consult a tax adviser for further information regarding the deductibility of interest and charges.”; and

(B) in subsection (b), by adding at the end the following:

“(3) In the case of a credit transaction described in paragraph (15) of subsection (a), disclosures required by that paragraph shall be made to the consumer at the time of application for such extension of credit.”.

(2) CREDIT ADVERTISEMENTS.—Section 144 of the Truth in Lending Act (15 U.S.C. 1664) is amended by adding at the end the following:

“(e) Each advertisement to which this section applies that relates to a consumer credit transaction that is secured by the principal dwelling of a consumer in which the extension of credit may exceed the fair market value of the dwelling, and which advertisement is disseminated in paper form to the public or through the Internet, as opposed to by radio or television, shall clearly and conspicuously state that—

“(1) the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes; and

“(2) the consumer should consult a tax adviser for further information regarding the deductibility of interest and charges.”.

(c) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board shall promulgate regulations implementing the amendments made by this section.

(2) EFFECTIVE DATE.—Regulations issued under paragraph (1) shall not take effect until the later of—

(A) 12 months after the date of enactment of this Act; or

(B) 12 months after the date of publication of such final regulations by the Board.

15 USC 1637a
note.

SEC. 1303. DISCLOSURES RELATED TO “INTRODUCTORY RATES”.

(a) INTRODUCTORY RATE DISCLOSURES.—Section 127(c) of the Truth in Lending Act (15 U.S.C. 1637(c)) is amended by adding at the end the following:

“(6) ADDITIONAL NOTICE CONCERNING ‘INTRODUCTORY RATES’.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), an application or solicitation to open a credit card account and all promotional materials accompanying such application or solicitation for which a disclosure is required under paragraph (1), and that offers a temporary annual percentage rate of interest, shall—

“(i) use the term ‘introductory’ in immediate proximity to each listing of the temporary annual percentage rate applicable to such account, which term shall appear clearly and conspicuously;

“(ii) if the annual percentage rate of interest that will apply after the end of the temporary rate period will be a fixed rate, state in a clear and conspicuous manner in a prominent location closely proximate to the first listing of the temporary annual percentage rate (other than a listing of the temporary annual percentage rate in the tabular format described in section 122(c)), the time period in which the introductory period will end and the annual percentage rate that will apply after the end of the introductory period; and

“(iii) if the annual percentage rate that will apply after the end of the temporary rate period will vary in accordance with an index, state in a clear and conspicuous manner in a prominent location closely proximate to the first listing of the temporary annual percentage rate (other than a listing in the tabular format prescribed by section 122(c)), the time period in which the introductory period will end and the rate that will apply after that, based on an annual percentage rate that was in effect within 60 days before the date of mailing the application or solicitation.

“(B) EXCEPTION.—Clauses (ii) and (iii) of subparagraph (A) do not apply with respect to any listing of a temporary annual percentage rate on an envelope or other enclosure in which an application or solicitation to open a credit card account is mailed.

“(C) CONDITIONS FOR INTRODUCTORY RATES.—An application or solicitation to open a credit card account for which a disclosure is required under paragraph (1), and that offers a temporary annual percentage rate of interest shall, if that rate of interest is revocable under any circumstance or upon any event, clearly and conspicuously disclose, in a prominent manner on or with such application or solicitation—

“(i) a general description of the circumstances that may result in the revocation of the temporary annual percentage rate; and

“(ii) if the annual percentage rate that will apply upon the revocation of the temporary annual percentage rate—

“(I) will be a fixed rate, the annual percentage rate that will apply upon the revocation of the temporary annual percentage rate; or

“(II) will vary in accordance with an index, the rate that will apply after the temporary rate, based on an annual percentage rate that was in effect within 60 days before the date of mailing the application or solicitation.

“(D) DEFINITIONS.—In this paragraph—

“(i) the terms ‘temporary annual percentage rate of interest’ and ‘temporary annual percentage rate’ mean any rate of interest applicable to a credit card

account for an introductory period of less than 1 year, if that rate is less than an annual percentage rate that was in effect within 60 days before the date of mailing the application or solicitation; and

“(ii) the term ‘introductory period’ means the maximum time period for which the temporary annual percentage rate may be applicable.

“(E) RELATION TO OTHER DISCLOSURE REQUIREMENTS.—

Nothing in this paragraph may be construed to supersede subsection (a) of section 122, or any disclosure required by paragraph (1) or any other provision of this subsection.”.

(b) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board shall promulgate regulations implementing the requirements of section 127(c)(6) of the Truth in Lending Act, as added by this section. 15 USC 1637 note.

(2) EFFECTIVE DATE.—Section 127(c)(6) of the Truth in Lending Act, as added by this section, and regulations issued under paragraph (1) of this subsection shall not take effect until the later of— 15 USC 1637 note.

(A) 12 months after the date of enactment of this Act; or

(B) 12 months after the date of publication of such final regulations by the Board.

SEC. 1304. INTERNET-BASED CREDIT CARD SOLICITATIONS.

(a) INTERNET-BASED SOLICITATIONS.—Section 127(c) of the Truth in Lending Act (15 U.S.C. 1637(c)) is amended by adding at the end the following:

“(7) INTERNET-BASED SOLICITATIONS.—

“(A) IN GENERAL.—In any solicitation to open a credit card account for any person under an open end consumer credit plan using the Internet or other interactive computer service, the person making the solicitation shall clearly and conspicuously disclose—

“(i) the information described in subparagraphs (A) and (B) of paragraph (1); and

“(ii) the information described in paragraph (6).

“(B) FORM OF DISCLOSURE.—The disclosures required by subparagraph (A) shall be—

“(i) readily accessible to consumers in close proximity to the solicitation to open a credit card account; and

“(ii) updated regularly to reflect the current policies, terms, and fee amounts applicable to the credit card account.

“(C) DEFINITIONS.—For purposes of this paragraph—

“(i) the term ‘Internet’ means the international computer network of both Federal and non-Federal interoperable packet switched data networks; and

“(ii) the term ‘interactive computer service’ means any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the Internet and such systems operated or services offered by libraries or educational institutions.”.

(b) REGULATORY IMPLEMENTATION.—

15 USC 1637
note.

(1) IN GENERAL.—The Board shall promulgate regulations implementing the requirements of section 127(c)(7) of the Truth in Lending Act, as added by this section.

15 USC 1637
note.

(2) EFFECTIVE DATE.—The amendment made by subsection (a) and the regulations issued under paragraph (1) of this subsection shall not take effect until the later of—

(A) 12 months after the date of enactment of this Act; or

(B) 12 months after the date of publication of such final regulations by the Board.

SEC. 1305. DISCLOSURES RELATED TO LATE PAYMENT DEADLINES AND PENALTIES.

(a) DISCLOSURES RELATED TO LATE PAYMENT DEADLINES AND PENALTIES.—Section 127(b) of the Truth in Lending Act (15 U.S.C. 1637(b)) is amended by adding at the end the following:

“(12) If a late payment fee is to be imposed due to the failure of the obligor to make payment on or before a required payment due date, the following shall be stated clearly and conspicuously on the billing statement:

“(A) The date on which that payment is due or, if different, the earliest date on which a late payment fee may be charged.

“(B) The amount of the late payment fee to be imposed if payment is made after such date.”.

(b) REGULATORY IMPLEMENTATION.—

15 USC 1637
note.

(1) IN GENERAL.—The Board shall promulgate regulations implementing the requirements of section 127(b)(12) of the Truth in Lending Act, as added by this section.

15 USC 1637
note.

(2) EFFECTIVE DATE.—The amendment made by subsection (a) and regulations issued under paragraph (1) of this subsection shall not take effect until the later of—

(A) 12 months after the date of enactment of this Act; or

(B) 12 months after the date of publication of such final regulations by the Board.

SEC. 1306. PROHIBITION ON CERTAIN ACTIONS FOR FAILURE TO INCUR FINANCE CHARGES.

(a) PROHIBITION ON CERTAIN ACTIONS FOR FAILURE TO INCUR FINANCE CHARGES.—Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended by adding at the end the following:

“(h) PROHIBITION ON CERTAIN ACTIONS FOR FAILURE TO INCUR FINANCE CHARGES.—A creditor of an account under an open end consumer credit plan may not terminate an account prior to its expiration date solely because the consumer has not incurred finance charges on the account. Nothing in this subsection shall prohibit a creditor from terminating an account for inactivity in 3 or more consecutive months.”.

(b) REGULATORY IMPLEMENTATION.—

15 USC 1637
note.

(1) IN GENERAL.—The Board shall promulgate regulations implementing the requirements of section 127(h) of the Truth in Lending Act, as added by this section.

15 USC 1637
note.

(2) EFFECTIVE DATE.—The amendment made by subsection (a) and regulations issued under paragraph (1) of this subsection shall not take effect until the later of—

(A) 12 months after the date of enactment of this Act; or

(B) 12 months after the date of publication of such final regulations by the Board.

SEC. 1307. DUAL USE DEBIT CARD.

(a) **REPORT.**—The Board may conduct a study of, and present to Congress a report containing its analysis of, consumer protections under existing law to limit the liability of consumers for unauthorized use of a debit card or similar access device. Such report, if submitted, shall include recommendations for legislative initiatives, if any, of the Board, based on its findings.

(b) **CONSIDERATIONS.**—In preparing a report under subsection (a), the Board may include—

(1) the extent to which section 909 of the Electronic Fund Transfer Act (15 U.S.C. 1693g), as in effect at the time of the report, and the implementing regulations promulgated by the Board to carry out that section provide adequate unauthorized use liability protection for consumers;

(2) the extent to which any voluntary industry rules have enhanced or may enhance the level of protection afforded consumers in connection with such unauthorized use liability; and

(3) whether amendments to the Electronic Fund Transfer Act (15 U.S.C. 1693 et seq.), or revisions to regulations promulgated by the Board to carry out that Act, are necessary to further address adequate protection for consumers concerning unauthorized use liability.

SEC. 1308. STUDY OF BANKRUPTCY IMPACT OF CREDIT EXTENDED TO DEPENDENT STUDENTS.

(a) **STUDY.**—

(1) **IN GENERAL.**—The Board shall conduct a study regarding the impact that the extension of credit described in paragraph (2) has on the rate of cases filed under title 11 of the United States Code.

(2) **EXTENSION OF CREDIT.**—The extension of credit described in this paragraph is the extension of credit to individuals who are—

(A) claimed as dependents for purposes of the Internal Revenue Code of 1986; and

(B) enrolled within 1 year of successfully completing all required secondary education requirements and on a full-time basis, in postsecondary educational institutions.

(b) **REPORT.**—Not later than 1 year after the date of enactment of this Act, the Board shall submit to the Senate and the House of Representatives a report summarizing the results of the study conducted under subsection (a).

SEC. 1309. CLARIFICATION OF CLEAR AND CONSPICUOUS.

(a) **REGULATIONS.**—Not later than 6 months after the date of enactment of this Act, the Board, in consultation with the other Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act), the National Credit Union Administration Board, and the Federal Trade Commission, shall promulgate regulations to provide guidance regarding the meaning of the term “clear and conspicuous”, as used in subparagraphs (A), (B), and (C) of section 127(b)(11) and clauses (ii) and (iii) of section 127(c)(6)(A) of the Truth in Lending Act.

(b) **EXAMPLES.**—Regulations promulgated under subsection (a) shall include examples of clear and conspicuous model disclosures

15 USC 1637
note.
Deadline.

for the purposes of disclosures required by the provisions of the Truth in Lending Act referred to in subsection (a).

(c) **STANDARDS.**—In promulgating regulations under this section, the Board shall ensure that the clear and conspicuous standard required for disclosures made under the provisions of the Truth in Lending Act referred to in subsection (a) can be implemented in a manner which results in disclosures which are reasonably understandable and designed to call attention to the nature and significance of the information in the notice.

TITLE XIV—PREVENTING CORPORATE BANKRUPTCY ABUSE

SEC. 1401. EMPLOYEE WAGE AND BENEFIT PRIORITIES.

Section 507(a) of title 11, United States Code, as amended by section 212, is amended—

- (1) in paragraph (4) by striking “90” and inserting “180”, and
- (2) in paragraphs (4) and (5) by striking “\$4,000” and inserting “\$10,000”.

SEC. 1402. FRAUDULENT TRANSFERS AND OBLIGATIONS.

Section 548 of title 11, United States Code, is amended—

- (1) in subsections (a) and (b) by striking “one year” and inserting “2 years”,

(2) in subsection (a)—

(A) by inserting “(including any transfer to or for the benefit of an insider under an employment contract)” after “transfer” the 1st place it appears, and

(B) by inserting “(including any obligation to or for the benefit of an insider under an employment contract)” after “obligation” the 1st place it appears, and

(3) in subsection (a)(1)(B)(ii)—

(A) in subclause (II) by striking “or” at the end,

(B) in subclause (III) by striking the period at the end and inserting “; or”, and

(C) by adding at the end the following:

“(IV) made such transfer to or for the benefit of an insider, or incurred such obligation to or for the benefit of an insider, under an employment contract and not in the ordinary course of business.”

(4) by adding at the end the following:

“(e)(1) In addition to any transfer that the trustee may otherwise avoid, the trustee may avoid any transfer of an interest of the debtor in property that was made on or within 10 years before the date of the filing of the petition, if—

“(A) such transfer was made to a self-settled trust or similar device;

“(B) such transfer was by the debtor;

“(C) the debtor is a beneficiary of such trust or similar device; and

“(D) the debtor made such transfer with actual intent to hinder, delay, or defraud any entity to which the debtor was or became, on or after the date that such transfer was made, indebted.

“(2) For the purposes of this subsection, a transfer includes a transfer made in anticipation of any money judgment, settlement, civil penalty, equitable order, or criminal fine incurred by, or which the debtor believed would be incurred by—

“(A) any violation of the securities laws (as defined in section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47))), any State securities laws, or any regulation or order issued under Federal securities laws or State securities laws; or

“(B) fraud, deceit, or manipulation in a fiduciary capacity or in connection with the purchase or sale of any security registered under section 12 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78l and 78o(d)) or under section 6 of the Securities Act of 1933 (15 U.S.C. 77f).”.

SEC. 1403. PAYMENT OF INSURANCE BENEFITS TO RETIRED EMPLOYEES.

Section 1114 of title 11, United States Code, is amended—

(1) by redesignating subsection (l) as subsection (m), and

(2) by inserting after subsection (k) the following:

“(l) If the debtor, during the 180-day period ending on the date of the filing of the petition—

“(1) modified retiree benefits; and

“(2) was insolvent on the date such benefits were modified; the court, on motion of a party in interest, and after notice and a hearing, shall issue an order reinstating as of the date the modification was made, such benefits as in effect immediately before such date unless the court finds that the balance of the equities clearly favors such modification.”.

SEC. 1404. DEBTS NONDISCHARGEABLE IF INCURRED IN VIOLATION OF SECURITIES FRAUD LAWS.

(a) **PREPETITION AND POSTPETITION EFFECT.**—Section 523(a)(19)(B) of title 11, United States Code, is amended by inserting “, before, on, or after the date on which the petition was filed,” after “results”.

(b) **EFFECTIVE DATE UPON ENACTMENT OF SARBANES-OXLEY ACT.**—The amendment made by subsection (a) is effective beginning July 30, 2002.

11 USC 523 note.

SEC. 1405. APPOINTMENT OF TRUSTEE IN CASES OF SUSPECTED FRAUD.

Section 1104 of title 11, United States Code, is amended by adding at the end the following:

“(e) The United States trustee shall move for the appointment of a trustee under subsection (a) if there are reasonable grounds to suspect that current members of the governing body of the debtor, the debtor’s chief executive or chief financial officer, or members of the governing body who selected the debtor’s chief executive or chief financial officer, participated in actual fraud, dishonesty, or criminal conduct in the management of the debtor or the debtor’s public financial reporting.”.

SEC. 1406. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

11 USC 507 note.

(a) **EFFECTIVE DATE.**—Except as provided in subsection (b), this title and the amendments made by this title shall take effect on the date of the enactment of this Act.

(b) **APPLICATION OF AMENDMENTS.**—

(1) IN GENERAL.—cept as provided in paragraph (2), the amendments made by this title shall apply only with respect to cases commenced under title 11 of the United States Code on or after the date of the enactment of this Act.

(2) AVOIDANCE PERIOD.—The amendment made by section 1402(1) shall apply only with respect to cases commenced under title 11 of the United States Code more than 1 year after the date of the enactment of this Act.

TITLE XV—GENERAL EFFECTIVE DATE; APPLICATION OF AMENDMENTS

11 USC 101 note. SEC. 1501. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—Except as otherwise provided in this Act, this Act and the amendments made by this Act shall take effect 180 days after the date of enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—

(1) IN GENERAL.—Except as otherwise provided in this Act and paragraph (2), the amendments made by this Act shall not apply with respect to cases commenced under title 11, United States Code, before the effective date of this Act.

(2) CERTAIN LIMITATIONS APPLICABLE TO DEBTORS.—The amendments made by sections 308, 322, and 330 shall apply with respect to cases commenced under title 11, United States Code, on or after the date of the enactment of this Act.

SEC. 1502. TECHNICAL CORRECTIONS.

(a) CONFORMING AMENDMENTS TO TITLE 11 OF THE UNITED STATES CODE.—Title 11 of the United States Code, as amended by the preceding provisions of this Act, is amended—

(1) in section 507—

(A) in subsection (a)—

(i) in paragraph (5)(B)(ii) by striking “paragraph (3)” and inserting “paragraph (4)”; and

(ii) in paragraph (8)(D) by striking “paragraph (3)” and inserting “paragraph (4)”; and

(B) in subsection (b) by striking “subsection (a)(1)” and inserting “subsection (a)(2)”; and

(C) in subsection (d) by striking “subsection (a)(3)” and inserting “subsection (a)(1)”; and

(2) in section 523(a)(1)(A) by striking “507(a)(2)” and inserting “507(a)(3)”; and

(3) in section 752(a) by striking “507(a)(1)” and inserting “507(a)(2)”; and

(4) in section 766—

(A) in subsection (h) by striking “507(a)(1)” and inserting “507(a)(2)”; and

(B) in subsection (i) by striking “507(a)(1)” each place it appears and inserting “507(a)(2)”; and

(5) in section 901(a) by striking “507(a)(1)” and inserting “507(a)(2)”; and

(6) in section 943(b)(5) by striking “507(a)(1)” and inserting “507(a)(2)”; and

(7) in section 1123(a)(1) by striking “507(a)(1), 507(a)(2)” and inserting “507(a)(2), 507(a)(3)”; and

(8) in section 1129(a)(9)—

(A) in subparagraph (A) by striking “507(a)(1) or 507(a)(2)” and inserting “507(a)(2) or 507(a)(3)”; and

(B) in subparagraph (B) by striking “507(a)(3)” and inserting “507(a)(1)”;

(9) in section 1226(b)(1) by striking “507(a)(1)” and inserting “507(a)(2)”; and

(10) in section 1326(b)(1) by striking “507(a)(1)” and inserting “507(a)(2)”.

(b) RELATED CONFORMING AMENDMENT.—Section 6(e) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78fff(e)) is amended by striking “507(a)(1)” and inserting “507(a)(2)”.

Approved April 20, 2005.

LEGISLATIVE HISTORY—S. 256:

HOUSE REPORTS: No. 109–31, Pt. 1 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 151 (2005):

Feb. 28, Mar. 1–4, 7–10, considered and passed Senate.

Apr. 14, considered and passed House.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 41 (2005):

Apr. 20, Presidential remarks.



Public Law 109–9
109th Congress

An Act

Apr. 27, 2005
[S. 167]

Family
Entertainment
and Copyright
Act of 2005.
17 USC 101 note.

Artists' Rights
and Theft
Prevention Act
of 2005.

17 USC 101 note.

To provide for the protection of intellectual property rights, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Family Entertainment and Copyright Act of 2005”.

**TITLE I—ARTISTS’ RIGHTS AND THEFT
PREVENTION**

SEC. 101. SHORT TITLE.

This title may be cited as the “Artists’ Rights and Theft Prevention Act of 2005” or the “ART Act”.

**SEC. 102. CRIMINAL PENALTIES FOR UNAUTHORIZED RECORDING OF
MOTION PICTURES IN A MOTION PICTURE EXHIBITION
FACILITY.**

(a) IN GENERAL.—Chapter 113 of title 18, United States Code, is amended by adding after section 2319A the following new section:

**“§ 2319B. Unauthorized recording of Motion pictures in a
Motion picture exhibition facility**

“(a) OFFENSE.—Any person who, without the authorization of the copyright owner, knowingly uses or attempts to use an audiovisual recording device to transmit or make a copy of a motion picture or other audiovisual work protected under title 17, or any part thereof, from a performance of such work in a motion picture exhibition facility, shall—

“(1) be imprisoned for not more than 3 years, fined under this title, or both; or

“(2) if the offense is a second or subsequent offense, be imprisoned for no more than 6 years, fined under this title, or both.

The possession by a person of an audiovisual recording device in a motion picture exhibition facility may be considered as evidence in any proceeding to determine whether that person committed an offense under this subsection, but shall not, by itself, be sufficient to support a conviction of that person for such offense.

“(b) FORFEITURE AND DESTRUCTION.—When a person is convicted of a violation of subsection (a), the court in its judgment of conviction shall, in addition to any penalty provided, order the forfeiture and destruction or other disposition of all unauthorized

copies of motion pictures or other audiovisual works protected under title 17, or parts thereof, and any audiovisual recording devices or other equipment used in connection with the offense.

“(c) AUTHORIZED ACTIVITIES.—This section does not prevent any lawfully authorized investigative, protective, or intelligence activity by an officer, agent, or employee of the United States, a State, or a political subdivision of a State, or by a person acting under a contract with the United States, a State, or a political subdivision of a State.

“(d) IMMUNITY FOR THEATERS.—With reasonable cause, the owner or lessee of a motion picture exhibition facility where a motion picture or other audiovisual work is being exhibited, the authorized agent or employee of such owner or lessee, the licensor of the motion picture or other audiovisual work being exhibited, or the agent or employee of such licensor—

“(1) may detain, in a reasonable manner and for a reasonable time, any person suspected of a violation of this section with respect to that motion picture or audiovisual work for the purpose of questioning or summoning a law enforcement officer; and

“(2) shall not be held liable in any civil or criminal action arising out of a detention under paragraph (1).

“(e) VICTIM IMPACT STATEMENT.—

“(1) IN GENERAL.—During the preparation of the presentence report under rule 32(c) of the Federal Rules of Criminal Procedure, victims of an offense under this section shall be permitted to submit to the probation officer a victim impact statement that identifies the victim of the offense and the extent and scope of the injury and loss suffered by the victim, including the estimated economic impact of the offense on that victim.

“(2) CONTENTS.—A victim impact statement submitted under this subsection shall include—

“(A) producers and sellers of legitimate works affected by conduct involved in the offense;

“(B) holders of intellectual property rights in the works described in subparagraph (A); and

“(C) the legal representatives of such producers, sellers, and holders.

“(f) STATE LAW NOT PREEMPTED.—Nothing in this section may be construed to annul or limit any rights or remedies under the laws of any State.

“(g) DEFINITIONS.—In this section, the following definitions shall apply:

“(1) TITLE 17 DEFINITIONS.—The terms ‘audiovisual work’, ‘copy’, ‘copyright owner’, ‘motion picture’, ‘motion picture exhibition facility’, and ‘transmit’ have, respectively, the meanings given those terms in section 101 of title 17.

“(2) AUDIOVISUAL RECORDING DEVICE.—The term ‘audiovisual recording device’ means a digital or analog photographic or video camera, or any other technology or device capable of enabling the recording or transmission of a copyrighted motion picture or other audiovisual work, or any part thereof, regardless of whether audiovisual recording is the sole or primary purpose of the device.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 113 of title 18, United States Code, is amended by inserting after the item relating to section 2319A the following:

“2319B. Unauthorized recording of motion pictures in a motion picture exhibition facility.”.

(c) DEFINITION.—Section 101 of title 17, United States Code, is amended by inserting after the definition of “Motion pictures” the following: “The term “motion picture exhibition facility” means a movie theater, screening room, or other venue that is being used primarily for the exhibition of a copyrighted motion picture, if such exhibition is open to the public or is made to an assembled group of viewers outside of a normal circle of a family and its social acquaintances.”.

SEC. 103. CRIMINAL INFRINGEMENT OF A WORK BEING PREPARED FOR COMMERCIAL DISTRIBUTION.

(a) PROHIBITED ACTS.—Section 506(a) of title 17, United States Code, is amended to read as follows:

“(a) CRIMINAL INFRINGEMENT.—

“(1) IN GENERAL.—Any person who willfully infringes a copyright shall be punished as provided under section 2319 of title 18, if the infringement was committed—

“(A) for purposes of commercial advantage or private financial gain;

“(B) by the reproduction or distribution, including by electronic means, during any 180-day period, of 1 or more copies or phonorecords of 1 or more copyrighted works, which have a total retail value of more than \$1,000; or

“(C) by the distribution of a work being prepared for commercial distribution, by making it available on a computer network accessible to members of the public, if such person knew or should have known that the work was intended for commercial distribution.

“(2) EVIDENCE.—For purposes of this subsection, evidence of reproduction or distribution of a copyrighted work, by itself, shall not be sufficient to establish willful infringement of a copyright.

“(3) DEFINITION.—In this subsection, the term ‘work being prepared for commercial distribution’ means—

“(A) a computer program, a musical work, a motion picture or other audiovisual work, or a sound recording, if, at the time of unauthorized distribution—

“(i) the copyright owner has a reasonable expectation of commercial distribution; and

“(ii) the copies or phonorecords of the work have not been commercially distributed; or

“(B) a motion picture, if, at the time of unauthorized distribution, the motion picture—

“(i) has been made available for viewing in a motion picture exhibition facility; and

“(ii) has not been made available in copies for sale to the general public in the United States in a format intended to permit viewing outside a motion picture exhibition facility.”.

(b) CRIMINAL PENALTIES.—Section 2319 of title 18, United States Code, is amended—

- (1) in subsection (a)—
 - (A) by striking “Whoever” and inserting “Any person who”; and
 - (B) by striking “and (c) of this section” and inserting “, (c), and (d)”;
- (2) in subsection (b), by striking “section 506(a)(1)” and inserting “section 506(a)(1)(A)”;
- (3) in subsection (c), by striking “section 506(a)(2) of title 17, United States Code” and inserting “section 506(a)(1)(B) of title 17”;
- (4) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively;
- (5) by adding after subsection (c) the following:

“(d) Any person who commits an offense under section 506(a)(1)(C) of title 17—

 - “(1) shall be imprisoned not more than 3 years, fined under this title, or both;
 - “(2) shall be imprisoned not more than 5 years, fined under this title, or both, if the offense was committed for purposes of commercial advantage or private financial gain;
 - “(3) shall be imprisoned not more than 6 years, fined under this title, or both, if the offense is a second or subsequent offense; and
 - “(4) shall be imprisoned not more than 10 years, fined under this title, or both, if the offense is a second or subsequent offense under paragraph (2).”; and
- (6) in subsection (f), as redesignated—
 - (A) in paragraph (1), by striking “and” at the end;
 - (B) in paragraph (2), by striking the period at the end and inserting a semicolon; and
 - (C) by adding at the end the following:

“(3) the term ‘financial gain’ has the meaning given the term in section 101 of title 17; and

“(4) the term ‘work being prepared for commercial distribution’ has the meaning given the term in section 506(a) of title 17.”.

SEC. 104. CIVIL REMEDIES FOR INFRINGEMENT OF A WORK BEING PREPARED FOR COMMERCIAL DISTRIBUTION.

(a) PREREGISTRATION.—Section 408 of title 17, United States Code, is amended by adding at the end the following:

“(f) PREREGISTRATION OF WORKS BEING PREPARED FOR COMMERCIAL DISTRIBUTION.—

Deadlines.

“(1) RULEMAKING.—Not later than 180 days after the date of enactment of this subsection, the Register of Copyrights shall issue regulations to establish procedures for preregistration of a work that is being prepared for commercial distribution and has not been published.

“(2) CLASS OF WORKS.—The regulations established under paragraph (1) shall permit preregistration for any work that is in a class of works that the Register determines has had a history of infringement prior to authorized commercial distribution.

“(3) APPLICATION FOR REGISTRATION.—Not later than 3 months after the first publication of a work preregistered under this subsection, the applicant shall submit to the Copyright Office—

“(A) an application for registration of the work;

“(B) a deposit; and

“(C) the applicable fee.

“(4) EFFECT OF UNTIMELY APPLICATION.—An action under this chapter for infringement of a work preregistered under this subsection, in a case in which the infringement commenced no later than 2 months after the first publication of the work, shall be dismissed if the items described in paragraph (3) are not submitted to the Copyright Office in proper form within the earlier of—

“(A) 3 months after the first publication of the work;

or

“(B) 1 month after the copyright owner has learned of the infringement.”.

(b) INFRINGEMENT ACTIONS.—Section 411(a) of title 17, United States Code, is amended by inserting “preregistration or” after “shall be instituted until”.

(c) EXCLUSION.—Section 412 of title 17, United States Code, is amended by inserting after “section 106A(a)” the following: “, an action for infringement of the copyright of a work that has been preregistered under section 408(f) before the commencement of the infringement and that has an effective date of registration not later than the earlier of 3 months after the first publication of the work or 1 month after the copyright owner has learned of the infringement,”.

28 USC 994 note.

SEC. 105. FEDERAL SENTENCING GUIDELINES.

Deadline.

(a) REVIEW AND AMENDMENT.—Not later than 180 days after the date of enactment of this Act, the United States Sentencing Commission, pursuant to its authority under section 994 of title 28, United States Code, and in accordance with this section, shall review and, if appropriate, amend the Federal sentencing guidelines and policy statements applicable to persons convicted of intellectual property rights crimes, including any offense under—

(1) section 506, 1201, or 1202 of title 17, United States Code; or

(2) section 2318, 2319, 2319A, 2319B, or 2320 of title 18, United States Code.

(b) AUTHORIZATION.—The United States Sentencing Commission may amend the Federal sentencing guidelines in accordance with the procedures set forth in section 21(a) of the Sentencing Act of 1987 (28 U.S.C. 994 note) as though the authority under that section had not expired.

(c) RESPONSIBILITIES OF UNITED STATES SENTENCING COMMISSION.—In carrying out this section, the United States Sentencing Commission shall—

(1) take all appropriate measures to ensure that the Federal sentencing guidelines and policy statements described in subsection (a) are sufficiently stringent to deter, and adequately reflect the nature of, intellectual property rights crimes;

(2) determine whether to provide a sentencing enhancement for those convicted of the offenses described in subsection (a), if the conduct involves the display, performance, publication, reproduction, or distribution of a copyrighted work before it has been authorized by the copyright owner, whether in the media format used by the infringing party or in any other media format;

(3) determine whether the scope of “uploading” set forth in application note 3 of section 2B5.3 of the Federal sentencing guidelines is adequate to address the loss attributable to people who, without authorization, broadly distribute copyrighted works over the Internet; and

(4) determine whether the sentencing guidelines and policy statements applicable to the offenses described in subsection (a) adequately reflect any harm to victims from copyright infringement if law enforcement authorities cannot determine how many times copyrighted material has been reproduced or distributed.

TITLE II—EXEMPTION FROM INFRINGEMENT FOR SKIPPING AUDIO AND VIDEO CONTENT IN MOTION PICTURES

Family Movie Act
of 2005.

SEC. 201. SHORT TITLE.

17 USC 101 note.

This title may be cited as the “Family Movie Act of 2005”.

SEC. 202. EXEMPTION FROM INFRINGEMENT FOR SKIPPING AUDIO AND VIDEO CONTENT IN MOTION PICTURES.

(a) IN GENERAL.—Section 110 of title 17, United States Code, is amended—

(1) in paragraph (9), by striking “and” after the semicolon at the end;

(2) in paragraph (10), by striking the period at the end and inserting “; and”;

(3) by inserting after paragraph (10) the following:

“(11) the making imperceptible, by or at the direction of a member of a private household, of limited portions of audio or video content of a motion picture, during a performance in or transmitted to that household for private home viewing, from an authorized copy of the motion picture, or the creation or provision of a computer program or other technology that enables such making imperceptible and that is designed and marketed to be used, at the direction of a member of a private household, for such making imperceptible, if no fixed copy of the altered version of the motion picture is created by such computer program or other technology.”; and

(4) by adding at the end the following:

“For purposes of paragraph (11), the term ‘making imperceptible’ does not include the addition of audio or video content that is performed or displayed over or in place of existing content in a motion picture.

“Nothing in paragraph (11) shall be construed to imply further rights under section 106 of this title, or to have any effect on defenses or limitations on rights granted under any other section of this title or under any other paragraph of this section.”.

(b) EXEMPTION FROM TRADEMARK INFRINGEMENT.—Section 32 of the Trademark Act of 1946 (15 U.S.C. 1114) is amended by adding at the end the following:

“(3)(A) Any person who engages in the conduct described in paragraph (11) of section 110 of title 17, United States Code, and who complies with the requirements set forth in that paragraph

is not liable on account of such conduct for a violation of any right under this Act. This subparagraph does not preclude liability, nor shall it be construed to restrict the defenses or limitations on rights granted under this Act, of a person for conduct not described in paragraph (11) of section 110 of title 17, United States Code, even if that person also engages in conduct described in paragraph (11) of section 110 of such title.

Notice.

“(B) A manufacturer, licensee, or licensor of technology that enables the making of limited portions of audio or video content of a motion picture imperceptible as described in subparagraph (A) is not liable on account of such manufacture or license for a violation of any right under this Act, if such manufacturer, licensee, or licensor ensures that the technology provides a clear and conspicuous notice at the beginning of each performance that the performance of the motion picture is altered from the performance intended by the director or copyright holder of the motion picture. The limitations on liability in subparagraph (A) and this subparagraph shall not apply to a manufacturer, licensee, or licensor of technology that fails to comply with this paragraph.

Applicability.
Effective date.

“(C) The requirement under subparagraph (B) to provide notice shall apply only with respect to technology manufactured after the end of the 180-day period beginning on the date of the enactment of the Family Movie Act of 2005.

“(D) Any failure by a manufacturer, licensee, or licensor of technology to qualify for the exemption under subparagraphs (A) and (B) shall not be construed to create an inference that any such party that engages in conduct described in paragraph (11) of section 110 of title 17, United States Code, is liable for trademark infringement by reason of such conduct.”.

(c) DEFINITION.—In this section, the term “Trademark Act of 1946” means the Act entitled “An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes”, approved July 5, 1946 (15 U.S.C. 1051 et seq.).

TITLE III—NATIONAL FILM PRESERVATION

National Film
Preservation Act
of 2005.

Subtitle A—Reauthorization of the National Film Preservation Board

2 USC 179f note.

SEC. 301. SHORT TITLE.

This subtitle may be cited as the “National Film Preservation Act of 2005”.

SEC. 302. REAUTHORIZATION AND AMENDMENT.

(a) DUTIES OF THE LIBRARIAN OF CONGRESS.—Section 103 of the National Film Preservation Act of 1996 (2 U.S.C. 179m) is amended—

(1) in subsection (b)—

(A) by striking “film copy” each place that term appears and inserting “film or other approved copy”;

(B) by striking “film copies” each place that term appears and inserting “film or other approved copies”; and

(C) in the third sentence, by striking “copyrighted” and inserting “copyrighted, mass distributed, broadcast, or published”; and

(2) by adding at the end the following:

“(c) COORDINATION OF PROGRAM WITH OTHER COLLECTION, PRESERVATION, AND ACCESSIBILITY ACTIVITIES.—In carrying out the comprehensive national film preservation program for motion pictures established under the National Film Preservation Act of 1992, the Librarian, in consultation with the Board established pursuant to section 104, shall—

“(1) carry out activities to make films included in the National Film registry more broadly accessible for research and educational purposes, and to generate public awareness and support of the Registry and the comprehensive national film preservation program;

“(2) review the comprehensive national film preservation plan, and amend it to the extent necessary to ensure that it addresses technological advances in the preservation and storage of, and access to film collections in multiple formats; and

“(3) wherever possible, undertake expanded initiatives to ensure the preservation of the moving image heritage of the United States, including film, videotape, television, and born digital moving image formats, by supporting the work of the National Audio-Visual Conservation Center of the Library of Congress, and other appropriate nonprofit archival and preservation organizations.”

(b) NATIONAL FILM PRESERVATION BOARD.—Section 104 of the National Film Preservation Act of 1996 (2 U.S.C. 179n) is amended—

(1) in subsection (a)(1) by striking “20” and inserting “22”;

(2) in subsection (a)(2) by striking “three” and inserting “5”;

(3) in subsection (d) by striking “11” and inserting “12”; and

(4) by striking subsection (e) and inserting the following:

“(e) REIMBURSEMENT OF EXPENSES.—Members of the Board shall serve without pay, but may receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.”

(c) NATIONAL FILM REGISTRY.—Section 106 of the National Film Preservation Act of 1996 (2 U.S.C. 179p) is amended by adding at the end the following:

“(e) NATIONAL AUDIO-VISUAL CONSERVATION CENTER.—The Librarian shall utilize the National Audio-Visual Conservation Center of the Library of Congress at Culpeper, Virginia, to ensure that preserved films included in the National Film Registry are stored in a proper manner, and disseminated to researchers, scholars, and the public as may be appropriate in accordance with—

“(1) title 17, United States Code; and

“(2) the terms of any agreements between the Librarian and persons who hold copyrights to such audiovisual works.”

(d) USE OF SEAL.—Section 107(a) of the National Film Preservation Act of 1996 (2 U.S.C. 179q(a)) is amended—

(1) in paragraph (1), by inserting “in any format” after “or any copy”; and

(2) in paragraph (2), by striking “or film copy” and inserting “in any format”.

(e) EFFECTIVE DATE.—Section 113 of the National Film Preservation Act of 1996 (2 U.S.C. 179w) is amended by striking “7” and inserting “13”.

National Film
Preservation
Foundation
Reauthorization
Act of 2005.
36 USC 101 note.

Subtitle B—Reauthorization of the National Film Preservation Foundation

SEC. 311. SHORT TITLE.

This subtitle may be cited as the “National Film Preservation Foundation Reauthorization Act of 2005”.

SEC. 312. REAUTHORIZATION AND AMENDMENT.

(a) BOARD OF DIRECTORS.—Section 151703 of title 36, United States Code, is amended—

(1) in subsection (b)(2)(A), by striking “nine” and inserting “12”; and

(2) in subsection (b)(4), by striking the second sentence and inserting “There shall be no limit to the number of terms to which any individual may be appointed.”.

(b) POWERS.—Section 151705 of title 36, United States Code, is amended in subsection (b) by striking “District of Columbia” and inserting “the jurisdiction in which the principal office of the corporation is located”.

(c) PRINCIPAL OFFICE.—Section 151706 of title 36, United States Code, is amended by inserting “, or another place as determined by the board of directors” after “District of Columbia”.

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 151711 of title 36, United States Code, is amended by striking subsections (a) and (b) and inserting the following:

“(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Library of Congress amounts necessary to carry out this chapter, not to exceed \$530,000 for each of the fiscal years 2005 through 2009. These amounts are to be made available to the corporation to match any private contributions (whether in currency, services, or property) made to the corporation by private persons and State and local governments.

“(b) LIMITATION RELATED TO ADMINISTRATIVE EXPENSES.—Amounts authorized under this section may not be used by the corporation for management and general or fundraising expenses as reported to the Internal Revenue Service as part of an annual information return required under the Internal Revenue Code of 1986.”.

Preservation of
Orphan Works
Act.

TITLE IV—PRESERVATION OF ORPHAN WORKS

17 USC 101 note. SEC. 401. SHORT TITLE.

This title may be cited as the “Preservation of Orphan Works Act”.

**SEC. 402. REPRODUCTION OF COPYRIGHTED WORKS BY LIBRARIES
AND ARCHIVES.**

Section 108(i) of title 17, United States Code, is amended by striking “(b) and (c)” and inserting “(b), (c), and (h)”.

Approved April 27, 2005.

LEGISLATIVE HISTORY—S. 167:

HOUSE REPORTS: No. 109–33, Pt. 1 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 151 (2005):

Feb. 1, considered and passed Senate.

Apr. 19, considered and passed House.



Public Law 109–10
109th Congress

An Act

Apr. 29, 2005
[H.R. 787]

To designate the United States courthouse located at 501 I Street in Sacramento, California, as the “Robert T. Matsui United States Courthouse”.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States courthouse located at 501 I Street in Sacramento, California, shall be known and designated as the “Robert T. Matsui United States Courthouse”.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States courthouse referred to in section 1 shall be deemed to be a reference to the “Robert T. Matsui United States Courthouse”.

Approved April 29, 2005.

LEGISLATIVE HISTORY—H.R. 787 (S. 125):

CONGRESSIONAL RECORD, Vol. 151 (2005):

Apr. 13, considered and passed House.

Apr. 14, considered and passed Senate.



Public Law 109–11
109th Congress

Joint Resolution

Providing for the appointment of Shirley Ann Jackson as a citizen regent of the Board of Regents of the Smithsonian Institution.

May 5, 2005
[H.J. Res. 19]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in accordance with section 5581 of the Revised Statutes of the United States (20 U.S.C. 43), the vacancy on the Board of Regents of the Smithsonian Institution, in the class other than Members of Congress, occurring by reason of the expiration of the term of Hanna H. Gray of Illinois on April 13, 2005, is filled by the appointment of Shirley Ann Jackson of New York. The appointment is for a term of 6 years, beginning on the later of April 14, 2005, or the date of the enactment of this joint resolution.

Effective date.

Approved May 5, 2005.

LEGISLATIVE HISTORY—H.J. Res. 19:

CONGRESSIONAL RECORD, Vol. 151 (2005):

Apr. 19, considered and passed House.

Apr. 28, considered and passed Senate.



Public Law 109–12
109th Congress

Joint Resolution

May 5, 2005
[H.J. Res. 20]

Providing for the appointment of Robert P. Kogod as a citizen regent of the Board of Regents of the Smithsonian Institution.

Effective date.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in accordance with section 5581 of the Revised Statutes of the United States (20 U.S.C. 43), the vacancy on the Board of Regents of the Smithsonian Institution, in the class other than Members of Congress, occurring by reason of the expiration of the term of Wesley S. Williams, Jr. of the District of Columbia, on April 13, 2005, is filled by the appointment of Robert P. Kogod of the District of Columbia. The appointment is for a term of 6 years, beginning on the later of April 14, 2005, or the date of the enactment of this joint resolution.

Approved May 5, 2005.

LEGISLATIVE HISTORY—H.J. Res. 20:

CONGRESSIONAL RECORD, Vol. 151 (2005):

Apr. 19, considered and passed House.

Apr. 28, considered and passed Senate.



Public Law 109–13
109th Congress

An Act

Making Emergency Supplemental Appropriations for Defense, the Global War on Terror, and Tsunami Relief, for the fiscal year ending September 30, 2005, and for other purposes.

May 11, 2005
[H.R. 1268]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005”.

Emergency
Supplemental
Appropriations
Act for Defense,
the Global War
on Terror, and
Tsunami Relief,
2005.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. References.

**DIVISION A—EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR
DEFENSE, THE GLOBAL WAR ON TERROR, AND TSUNAMI RELIEF, 2005**

Title I—Defense Related Appropriations

Title II—International Programs and Assistance for Reconstruction and the War on Terror

Title III—Domestic Appropriations for the War on Terror

Title IV—Indian Ocean Tsunami Relief

Title V—Other Emergency Appropriations

Title VI—General Provisions and Technical Corrections

DIVISION B—REAL ID ACT OF 2005

SEC. 3. REFERENCES.

Except as expressly provided otherwise, any reference to “this Act” contained in any division of this Act shall be treated as referring only to the provisions of that division.

**DIVISION A—EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT FOR
DEFENSE, THE GLOBAL WAR ON TERROR, AND TSUNAMI RELIEF, 2005**

Emergency
Supplemental
Appropriations
Act for Defense,
the Global War
on Terror, and
Tsunami Relief,
2005.

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2005, and for other purposes, namely:

TITLE I—DEFENSE-RELATED APPROPRIATIONS

DEPARTMENT OF DEFENSE—MILITARY

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For an additional amount for “Military Personnel, Army”, \$13,609,208,000, of which not to exceed \$508,374,000 shall remain available until September 30, 2006: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

MILITARY PERSONNEL, NAVY

For an additional amount for “Military Personnel, Navy”, \$535,108,000, of which not to exceed \$19,928,000 shall remain available until September 30, 2006: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

MILITARY PERSONNEL, MARINE CORPS

For an additional amount for “Military Personnel, Marine Corps”, \$1,358,053,000, of which not to exceed \$220,227,000 shall remain available until September 30, 2006: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

MILITARY PERSONNEL, AIR FORCE

For an additional amount for “Military Personnel, Air Force”, \$1,599,943,000, of which not to exceed \$16,471,000 shall remain available until September 30, 2006: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

RESERVE PERSONNEL, ARMY

For an additional amount for “Reserve Personnel, Army”, \$39,627,000: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

RESERVE PERSONNEL, NAVY

For an additional amount for “Reserve Personnel, Navy”, \$9,411,000: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

RESERVE PERSONNEL, MARINE CORPS

For an additional amount for “Reserve Personnel, Marine Corps”, \$4,015,000: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

RESERVE PERSONNEL, AIR FORCE

For an additional amount for “Reserve Personnel, Air Force”, \$130,000: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

NATIONAL GUARD PERSONNEL, ARMY

For an additional amount for “National Guard Personnel, Army”, \$291,100,000: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

NATIONAL GUARD PERSONNEL, AIR FORCE

For an additional amount for “National Guard Personnel, Air Force”, \$91,000: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For an additional amount for “Operation and Maintenance, Army”, \$16,980,304,000: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

OPERATION AND MAINTENANCE, NAVY

For an additional amount for “Operation and Maintenance, Navy”, \$3,030,574,000: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

OPERATION AND MAINTENANCE, MARINE CORPS

For an additional amount for “Operation and Maintenance, Marine Corps”, \$982,464,000: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for “Operation and Maintenance, Air Force”, \$5,627,053,000: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

OPERATION AND MAINTENANCE, DEFENSE-WIDE

For an additional amount for “Operation and Maintenance, Defense-Wide”, \$3,042,265,000, of which—

(1) not to exceed \$25,000,000 may be used for the Combatant Commander Initiative Fund, to be used in support of Operation Iraqi Freedom and Operation Enduring Freedom; and

(2) up to \$1,220,000,000, to remain available until expended, may be used for payments to reimburse Pakistan,

Jordan, and other key cooperating nations, for logistical, military, and other support provided, or to be provided, to United States military operations, notwithstanding any other provision of law: *Provided*, That such payments may be made in such amounts as the Secretary of Defense, with the concurrence of the Secretary of State, and in consultation with the Director of the Office of Management and Budget, may determine, in his discretion, based on documentation determined by the Secretary of Defense to adequately account for the support provided, and such determination is final and conclusive upon the accounting officers of the United States, and 15 days following notification to the appropriate congressional committees:

Notification.

Provided further, That the Secretary of Defense shall provide quarterly reports to the congressional defense committees on the use of funds provided in this paragraph: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

Reports.

OPERATION AND MAINTENANCE, ARMY RESERVE

For an additional amount for “Operation and Maintenance, Army Reserve”, \$26,354,000: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

OPERATION AND MAINTENANCE, NAVY RESERVE

For an additional amount for “Operation and Maintenance, Navy Reserve”, \$75,164,000: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For an additional amount for “Operation and Maintenance, Marine Corps Reserve”, \$24,920,000: *Provided*, That the amount

provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For an additional amount for “Operation and Maintenance, Army National Guard”, \$326,850,000: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

AFGHANISTAN SECURITY FORCES FUND

(INCLUDING TRANSFER OF FUNDS)

For the “Afghanistan Security Forces Fund”, \$1,285,000,000, to remain available until September 30, 2006: *Provided*, That such funds shall be available to the Secretary of Defense, notwithstanding any other provision of law, for the purpose of allowing the Commander, Combined Forces Command—Afghanistan, or the Secretary’s designee to provide assistance, with the concurrence of the Secretary of State, to the security forces of Afghanistan including the provision of equipment, supplies, services, training, facility and infrastructure repair, renovation, and construction, and funding: *Provided further*, That the authority to provide assistance under this section is in addition to any other authority to provide assistance to foreign nations: *Provided further*, That the Secretary of Defense may transfer the funds provided herein to appropriations for military personnel; operation and maintenance; Overseas Humanitarian, Disaster, and Civic Aid; procurement; research, development, test and evaluation; and defense working capital funds to accomplish the purposes provided herein: *Provided further*, That this transfer authority is in addition to any other transfer authority available to the Department of Defense: *Provided further*, That upon a determination that all or part of the funds so transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further*, That of the amounts provided under this heading, \$290,000,000 shall be transferred to “Operation and Maintenance, Army” to reimburse the Department of the Army for costs incurred to train, equip and provide related assistance to Afghan security forces: *Provided further*, That contributions of funds for the purposes provided herein from any person, foreign government, or international organization may be credited to this Fund, and used for such purposes: *Provided further*, That the Secretary shall notify the congressional defense committees in writing upon the receipt and upon the transfer of any contribution delineating the sources and amounts of the funds received and the specific use of such contributions: *Provided further*, That the Secretary of Defense shall, not fewer than 5 days prior to making transfers from this appropriation, notify the congressional defense committees in writing of the details of any such transfer: *Provided further*, That the Secretary shall submit a report no later than 30 days after the end of each fiscal quarter to the congressional defense committees summarizing the details of the transfer of funds from this appropriation: *Provided further*, That the amount provided under this heading is designated

Notification.

Notification.

Reports.
Deadline.

as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

IRAQ SECURITY FORCES FUND

(INCLUDING TRANSFER OF FUNDS)

For the “Iraq Security Forces Fund”, \$5,700,000,000, to remain available until September 30, 2006: *Provided*, That such funds shall be available to the Secretary of Defense, notwithstanding any other provision of law, for the purpose of allowing the Commander, Multi-National Security Transition Command—Iraq, or the Secretary’s designee to provide assistance, with the concurrence of the Secretary of State, to the security forces of Iraq including the provision of equipment, supplies, services, training, facility and infrastructure repair, renovation, and construction, and funding: *Provided further*, That the authority to provide assistance under this section is in addition to any other authority to provide assistance to foreign nations: *Provided further*, That the Secretary of Defense may transfer the funds provided herein to appropriations for military personnel; operation and maintenance; Overseas Humanitarian, Disaster, and Civic Aid; procurement; research, development, test and evaluation; and defense working capital funds to accomplish the purposes provided herein: *Provided further*, That this transfer authority is in addition to any other transfer authority available to the Department of Defense: *Provided further*, That upon a determination that all or part of the funds so transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further*, That of the amounts provided under this heading, \$210,000,000 shall be transferred to “Operation and Maintenance, Army” to reimburse the Department of the Army for costs incurred to train, equip, and provide related assistance to Iraqi security forces: *Provided further*, That contributions of funds for the purposes provided herein from any person, foreign government, or international organization may be credited to this Fund, and used for such purposes: *Provided further*, That the Secretary shall notify the congressional defense committees in writing upon the receipt and upon the transfer of any contribution delineating the sources and amounts of the funds received and the specific use of such contributions: *Provided further*, That, notwithstanding any other provision of law, from funds made available under this heading, \$99,000,000 shall be used to provide assistance to the Government of Jordan to establish a regional training center designed to provide comprehensive training programs for regional military and security forces and military and civilian officials, to enhance the capability of such forces and officials to respond to existing and emerging security threats in the region: *Provided further*, That assistance authorized by the preceding proviso may include the provision of facilities, equipment, supplies, services and training, and the Secretary of Defense may transfer funds to any Federal agency for the purpose of providing such assistance: *Provided further*, That the Secretary of Defense shall, not fewer than 5 days prior to making transfers from this appropriation, notify the congressional defense committees in writing of the details of any such transfer: *Provided further*, That the Secretary shall submit a report no later than 30 days after the end of each fiscal quarter to the congressional defense committees summarizing the details of the transfer of funds

Notification.

Notification.

Reports.
Deadline.

from this appropriation: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

PROCUREMENT

AIRCRAFT PROCUREMENT, ARMY

For an additional amount for “Aircraft Procurement, Army”, \$458,677,000, to remain available until September 30, 2007: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

MISSILE PROCUREMENT, ARMY

For an additional amount for “Missile Procurement, Army”, \$310,250,000, to remain available until September 30, 2007: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

For an additional amount for “Procurement of Weapons and Tracked Combat Vehicles, Army”, \$2,551,187,000, to remain available until September 30, 2007: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

PROCUREMENT OF AMMUNITION, ARMY

For an additional amount for “Procurement of Ammunition, Army”, \$532,800,000, to remain available until September 30, 2007: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

OTHER PROCUREMENT, ARMY

For an additional amount for “Other Procurement, Army”, \$6,250,505,000, to remain available until September 30, 2007: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

AIRCRAFT PROCUREMENT, NAVY

For an additional amount for “Aircraft Procurement, Navy”, \$200,295,000, to remain available until September 30, 2007: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

WEAPONS PROCUREMENT, NAVY

For an additional amount for “Weapons Procurement, Navy”, \$66,000,000, to remain available until September 30, 2007: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

PROCUREMENT OF AMMUNITION, NAVY AND MARINE CORPS

For an additional amount for “Procurement of Ammunition, Navy and Marine Corps”, \$139,635,000, to remain available until September 30, 2007: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

OTHER PROCUREMENT, NAVY

For an additional amount for “Other Procurement, Navy”, \$78,397,000, to remain available until September 30, 2007: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

PROCUREMENT, MARINE CORPS

For an additional amount for “Procurement, Marine Corps”, \$3,283,042,000, to remain available until September 30, 2007: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

AIRCRAFT PROCUREMENT, AIR FORCE

For an additional amount for “Aircraft Procurement, Air Force”, \$277,309,000, to remain available until September 30, 2007: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

PROCUREMENT OF AMMUNITION, AIR FORCE

For an additional amount for “Procurement of Ammunition, Air Force”, \$6,998,000, to remain available until September 30, 2007: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

OTHER PROCUREMENT, AIR FORCE

For an additional amount for “Other Procurement, Air Force”, \$2,577,560,000, to remain available until September 30, 2007: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

PROCUREMENT, DEFENSE-WIDE

For an additional amount for “Procurement, Defense-Wide”, \$645,939,000, to remain available until September 30, 2007: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

For an additional amount for “Research, Development, Test and Evaluation, Army”, \$37,170,000, to remain available until September 30, 2006: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

For an additional amount for “Research, Development, Test and Evaluation, Navy”, \$204,051,000, to remain available until September 30, 2006: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

For an additional amount for “Research, Development, Test and Evaluation, Air Force”, \$142,500,000, to remain available until September 30, 2006: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE

For an additional amount for “Research, Development, Test and Evaluation, Defense-Wide”, \$203,561,000, to remain available until September 30, 2006: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

REVOLVING AND MANAGEMENT FUNDS

DEFENSE WORKING CAPITAL FUNDS

For an additional amount for “Defense Working Capital Funds”, \$1,511,300,000: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

NATIONAL DEFENSE SEALIFT FUND

For an additional amount for “National Defense Sealift Fund”, \$32,400,000, to remain available until expended: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

RELATED AGENCIES

INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT

For an additional amount for “Intelligence Community Management Account”, \$250,300,000, of which \$181,000,000 is to remain available until September 30, 2006: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

OTHER DEPARTMENT OF DEFENSE PROGRAMS

DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for “Drug Interdiction and Counter-Drug Activities, Defense”, \$242,000,000: *Provided*, That these funds may be used for such activities related to Afghanistan and the Central Asia area: *Provided further*, That the Secretary of Defense may transfer the funds provided herein only to appropriations for military personnel; operation and maintenance; and procurement: *Provided further*, That the funds transferred shall be merged with and be available for the same purposes and for the same time period as the appropriation to which transferred: *Provided further*, That the transfer authority provided in this paragraph is in addition to any other transfer authority available to the Department of Defense: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further*, That not to exceed \$70,000,000 of the funds provided herein may be used to reimburse fully this account for obligations incurred for the purposes provided under this heading prior to enactment of this Act: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

OFFICE OF THE INSPECTOR GENERAL

For an additional amount for “Office of the Inspector General”, \$148,000: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

DEFENSE HEALTH PROGRAM

For an additional amount for “Defense Health Program”, \$210,550,000 for Operation and maintenance: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

MILITARY CONSTRUCTION

MILITARY CONSTRUCTION, ARMY

For an additional amount for “Military Construction, Army”, \$847,191,000, to remain available until September 30, 2006: *Provided*, That notwithstanding any other provision of law, such funds may be obligated or expended to carry out planning and design and military construction projects not otherwise authorized by law: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

MILITARY CONSTRUCTION, NAVY AND MARINE CORPS

For an additional amount for “Military Construction, Navy and Marine Corps”, \$139,880,000, to remain available until September 30, 2006: *Provided*, That notwithstanding any other provision of law, such funds may be obligated or expended to carry out planning and design and military construction projects not otherwise authorized by law: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

MILITARY CONSTRUCTION, AIR FORCE

For an additional amount for “Military Construction, Air Force”, \$140,983,000, to remain available until September 30, 2006: *Provided*, That notwithstanding any other provision of law, such funds may be obligated or expended to carry out planning and design and military construction projects not otherwise authorized by law: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

GENERAL PROVISIONS, THIS TITLE

SPECIAL TRANSFER AUTHORITY

(TRANSFER OF FUNDS)

SEC. 1001. Upon his determination that such action is necessary in the national interest, the Secretary of Defense may transfer between appropriations up to \$3,000,000,000 of the funds made available to the Department of Defense in this title, except for military construction: *Provided*, That the Secretary shall notify the Congress promptly of each transfer made pursuant to this authority: *Provided further*, That the transfer authority provided

Notification.

in this section is in addition to any other transfer authority available to the Department of Defense: *Provided further*, That the authority in this section is subject to the same terms and conditions as the authority provided in section 8005 of the Department of Defense Appropriations Act, 2005, except for the fourth proviso: *Provided further*, That the amount made available by the transfer of funds in or pursuant to this section is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

GENERAL TRANSFER AUTHORITY

(TRANSFER OF FUNDS)

SEC. 1002. Section 8005 of the Department of Defense Appropriations Act, 2005 (Public Law 108–287; 118 Stat. 969), is amended by striking “\$3,500,000,000” and inserting in lieu thereof “\$6,185,000,000”: *Provided*, That the amount made available by the transfer of funds in or pursuant to this section is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

COUNTER-DRUG ACTIVITIES

SEC. 1003. (a) AUTHORITY TO PROVIDE SUPPORT.—Of the amount appropriated by this Act under the heading “Drug Interdiction and Counter-Drug Activities, Defense”, not to exceed \$34,000,000 may be made available for support for counter-drug activities of the Government of Afghanistan, and not to exceed \$4,000,000 may be made available for support for counter-drug activities of the Government of Pakistan: *Provided*, That such support shall be in addition to support provided for the counter-drug activities of said Governments under any other provision of the law.

Applicability.

(b) TYPES OF SUPPORT.—(1) Except as specified in subsections (b)(2) and (b)(3) of this section, the support that may be provided under the authority in this section shall be limited to the types of support specified in section 1033(c)(1) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85, as amended by Public Law 106–398 and Public Law 108–136) and conditions on the provision of support as contained in section 1033 shall apply for fiscal year 2005.

(2) The Secretary of Defense may transfer vehicles, aircraft, and detection, interception, monitoring and testing equipment to said Governments for counter-drug activities.

(3) For the Government of Afghanistan, the Secretary of Defense may also provide individual and crew-served weapons, and ammunition for counter-drug security forces.

EXTRAORDINARY AND EMERGENCY EXPENSES

SEC. 1004. The paragraph under the heading “Operation and Maintenance, Defense-Wide” in title II of the Department of Defense Appropriations Act, 2005 (Public Law 108–287; 118 Stat. 954), is amended in the first proviso by striking “\$32,000,000” and inserting “\$40,000,000”.

ADVANCE BILLING

SEC. 1005. For fiscal year 2005, the limitation under paragraph (3) of section 2208(1) of title 10, United States Code, on the total amount of advance billings rendered or imposed for all working capital funds of the Department of Defense in a fiscal year shall be applied by substituting “\$1,500,000,000” for “\$1,000,000,000”.

Applicability.
10 USC 2208
note.

COMMANDER’S EMERGENCY RESPONSE PROGRAM

SEC. 1006. Section 1201(a) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2077), as amended by section 102 of title I of division J of the Consolidated Appropriations Act, 2005 (Public Law 108–447), is further amended by striking “\$500,000,000” in the matter preceding paragraph (1) and inserting “\$854,000,000”: *Provided*, That from funds available for the Commander’s Emergency Response Program for fiscal year 2005, not to exceed \$10,000,000 may be used to purchase weapons from any person, foreign government, international organization or other entity for the purpose of protecting United States forces overseas, and to dispose of the weapons purchased: *Provided further*, That the Secretary of Defense shall submit to the congressional defense committees quarterly reports regarding the purchase and disposal of weapons under this subsection.

Reports.

CLASSIFIED PROGRAM

SEC. 1007. Section 8090(b) of the Department of Defense Appropriations Act, 2005 (Public Law 108–287), is amended by striking “\$185,000,000” and inserting “\$210,000,000”.

118 Stat. 992.

LIMITATION ON CIVILIAN COMPENSATION

SEC. 1008. (a) During calendar year 2005 and notwithstanding section 5547 of title 5, United States Code, the head of an Executive agency may waive the limitation, up to \$200,000, established in that section for total compensation, including limitations on the aggregate of basic pay and premium pay payable in a calendar year, to an employee who performs work while in an overseas location that is in the area of responsibility of the Commander of the U.S. Central Command, in support of, or related to—

(1) a military operation, including a contingency operation;

or

(2) an operation in response to a declared emergency.

(b) To the extent that a waiver under subsection (a) results in payment of additional premium pay of a type that is normally creditable as basic pay for retirement or any other purpose, such additional pay shall not be considered to be basic pay for any purpose, nor shall it be used in computing a lump-sum payment for accumulated and accrued annual leave under section 5551 of title 5, United States Code.

(c) The Director of the Office of Personnel Management may issue regulations to ensure appropriate consistency among heads of executive agencies in the exercise of authority granted by this section.

OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE

50 USC 401 note. SEC. 1009. Section 1096(b) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458), is amended—

(1) by striking “in the fiscal year after the effective date of this Act” and inserting in lieu thereof “in the fiscal years 2005 and 2006”; and

(2) in paragraph (1) by striking “500 new personnel billets” and inserting in lieu thereof “the total of 500 new personnel positions”.

COALITION LIAISON OFFICERS

SEC. 1010. Section 1051a(e) of title 10, United States Code, is amended by striking “September 30, 2005” and inserting “December 31, 2005”.

RESERVE AFFILIATION BONUS

SEC. 1011. Notwithstanding subsection (c) of section 308e of title 37, United States Code, the maximum amount of the bonus paid to a member of the Armed Forces pursuant to a reserve affiliation agreement entered into under such section during fiscal year 2005 shall not exceed \$10,000, and the Secretary of Defense and the Secretary of Homeland Security, with respect to the Coast Guard, may prescribe regulations under subsection (f) of such section to modify the method by which bonus payments are made under reserve affiliation agreements entered into during such fiscal year.

SERVICEMEMBERS’ GROUP LIFE INSURANCE

SEC. 1012. (a) INCREASED MAXIMUM AMOUNT OF SERVICEMEMBERS’ GROUP LIFE INSURANCE.—Section 1967 of title 38, United States Code, is amended—

(1) in subsection (a)(3)(A), by striking clause (i) and inserting the following new clause:

“(i) In the case of a member—

“(I) \$400,000 or such lesser amount as the member may elect as provided in subparagraph (B);

“(II) in the case of a member covered by subsection (e), the amount provided for or elected by the member under subclause (I) plus the additional amount of insurance provided for the member by subsection (e); or

“(III) in the case of a member covered by subsection (e) who has made an election under paragraph (2)(A) not to be insured under this subchapter, the amount of insurance provided for the member by subsection (e).”; and

(2) in subsection (d), by striking “\$250,000” and inserting “\$400,000”.

(b) INCREMENTS OF DECREASED AMOUNTS ELECTABLE BY MEMBERS.—Subsection (a)(3)(B) of such section is amended by striking “member or spouse” in the last sentence and inserting “member, be evenly divisible by \$50,000 and, in the case of a member’s spouse”.

(c) ADDITIONAL AMOUNT FOR MEMBERS SERVING IN CERTAIN AREAS OR OPERATIONS.—

(1) INCREASED AMOUNT.—Section 1967 of such title is further amended—

(A) by redesignating subsection (e) as subsection (f);
and

(B) by inserting after subsection (d) the following new subsection (e):

“(e)(1) A member covered by this subsection is any member as follows:

“(A) Any member who dies as a result of one or more wounds, injuries, or illnesses incurred while serving in an operation or area that the Secretary designates, in writing, as a combat operation or a zone of combat, respectively, for purposes of this subsection.

“(B) Any member who formerly served in an operation or area so designated and whose death is determined (under regulations prescribed by the Secretary of Defense) to be the direct result of injury or illness incurred or aggravated while so serving.

“(2) The additional amount of insurance under this subchapter that is provided for a member by this subsection is \$150,000, except that in a case in which the amount provided for or elected by the member under subsection (a)(3)(A)(i)(I) exceeds \$250,000, the additional amount of insurance under this subchapter that is provided for the member by this subsection shall be reduced to such amount as is necessary to comply with the limitation in paragraph (3).

“(3) The total amount of insurance payable for a member under this subchapter may not exceed \$400,000.

“(4) While a member is serving in an operation or area designated as described in paragraph (1), the cost of insurance of the member under this subchapter that is attributable to \$150,000 of insurance coverage shall, at the election of the Secretary concerned—

“(A) be contributed as provided in section 1969(b)(2) of this title, rather through deduction or withholding from the member’s pay; or

“(B) if deducted or withheld from the member’s pay, be reimbursed to the member through such mechanism as the Secretary concerned determines appropriate.”.

(2) FUNDING.—Section 1969(b) of such title is amended—

(A) by inserting “(1)” after “(b)”;

(B) by adding at the end the following new paragraph:

“(2) For each month for which a member insured under this subchapter is serving in an operation or area designated as described by paragraph (1)(A) of section 1967(e) of this title, there may, at the election of the Secretary concerned under paragraph (4)(A) of such section, be contributed from the appropriation made for active duty pay of the uniformed service concerned an amount determined by the Secretary and certified to the Secretary concerned to be the cost of Servicemembers’ Group Life Insurance which is traceable to the cost of providing insurance for the member under section 1967 of this title in the amount of \$150,000.”.

(d) CONFORMING AMENDMENT.—Section 1967(a)(2)(A) of such title is amended by inserting before the period at the end the following: “, except with respect to insurance provided under paragraph (3)(A)(i)(III)”.

(e) COORDINATION WITH VGLI.—Section 1977(a) of such title is amended—

(1) by striking “\$250,000” each place it appears and inserting “\$400,000”; and

(2) by adding at the end of paragraph (1) the following new sentence: “Any additional amount of insurance provided a member under section 1967(e) of this title may not be treated as an amount for which Veterans’ Group Life Insurance shall be issued under this section.”.

(f) REQUIREMENTS REGARDING ELECTIONS OF MEMBERS TO REDUCE OR DECLINE INSURANCE.—Section 1967(a) of such title is further amended—

(1) in paragraph (2), by adding at the end the following new subparagraph:

Regulations.
Notice.

“(C) Pursuant to regulations prescribed by the Secretary of Defense, notice of an election of a member with a spouse not to be insured under this subchapter, or to be insured under this subchapter in an amount less than the maximum amount provided under paragraph (3)(A)(i)(I), shall be provided to the spouse of the member.”; and

(2) in paragraph (3)—

(A) in the matter preceding clause (i), by striking “and (C)” and inserting “, (C), and (D)”;

(B) by adding at the end the following new subparagraphs:

“(D) A member with a spouse may not elect not to be insured under this subchapter, or to be insured under this subchapter in an amount less than the maximum amount provided under subparagraph (A)(i)(I), without the written consent of the spouse.

Notice.
Regulations.

“(E) Whenever a member who is not married elects not to be insured under this subchapter, or to be insured under this subchapter in an amount less than the maximum amount provided for under subparagraph (A)(i)(I), the Secretary concerned shall provide a notice of such election to any person designated by the member as a beneficiary or designated as the member’s next-of-kin for the purpose of emergency notification, as determined under regulations prescribed by the Secretary of Defense.”.

(g) REQUIREMENT REGARDING REDESIGNATION OF BENEFICIARIES.—Section 1970 of such title is amended by adding at the end the following new subsection:

“(j) A member with a spouse may not modify the beneficiary or beneficiaries designated by the member under subsection (a) without providing written notice of such modification to the spouse.”.

38 USC 1967
note.

(h) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on the first day of the first month that begins more than 90 days after the date of the enactment of this Act.

Effective date.

(i) TERMINATION.—The amendments made by this section shall terminate on September 30, 2005. Effective on October 1, 2005, the provisions of sections 1967, 1969, 1970, and 1977 of title 38, United States Code, as in effect on the day before the date of the enactment of this Act shall be revived.

DEATH GRATUITY

SEC. 1013. (a) INCREASE IN DEATH GRATUITY.—

(1) AMOUNT.—Section 1478 of title 10, United States Code, is amended—

(A) in subsection (a), by inserting “, except as provided in subsections (c), (e), and (f)” after “\$12,000”;

(B) by redesignating subsection (c) as subsection (d); and

(C) by inserting after subsection (b) the following new subsection (c):

“(c) The death gratuity payable under sections 1475 through 1477 of this title is \$100,000 in the case of a death resulting from wounds, injuries, or illnesses that are—

“(1) incurred as described in section 1413a(e)(2) of this title; or

“(2) incurred in an operation or area designated as a combat operation or a combat zone, respectively, by the Secretary of Defense under section 1967(e)(1)(A) of title 38.”.

(2) CONFORMING AMENDMENT.—Subsection (a) of such section, as amended by paragraph (1), is further amended by striking “(as adjusted under subsection (c))” and inserting “(as adjusted under subsection (d))”.

(b) RETROACTIVE PAYMENT OF DEATH GRATUITY FOR DEATHS AFTER OCTOBER 7, 2001, FROM COMBAT-RELATED CAUSES OR CAUSES INCURRED IN COMBAT OPERATIONS OR AREAS.—Such section is further amended by adding at the end the following new subsection:

“(e)(1) In the case of a person described in paragraph (2), a death gratuity shall be payable in accordance with this subsection for the death of such person that is in addition to the death gratuity payable in the case of such death under subsection (a).

“(2) This subsection applies in the case of a member of the armed forces who dies before the date of the enactment of this subsection as a direct result of one or more wounds, injuries, or illnesses that—

“(A) were incurred in the theater of operations of Operation Enduring Freedom or Operation Iraqi Freedom; or

“(B) were incurred as described in section 1413a(e)(2) of this title on or after October 7, 2001.

“(3) The amount of additional death gratuity payable under this subsection shall be \$238,000, of which—

“(A) \$150,000 shall be paid in the manner specified in paragraph (4); and

“(B) \$88,000 shall be paid in the manner specified in paragraph (5).

“(4) A payment pursuant to paragraph (3)(A) by reason of a death covered by this subsection shall be paid—

“(A) to a beneficiary in proportion to the share of benefits applicable to such beneficiary in the payment of life insurance proceeds paid on the basis of that death under the Servicemembers Group Life Insurance program under subchapter III of chapter 19 of title 38; or

“(B) in the case of a person who elected not to be insured under the provisions of that subchapter, in equal shares to the person or persons who would have received proceeds under those provisions of law for a member who is insured under that subchapter but does not designate named beneficiaries.

“(5) A payment pursuant to paragraph (3)(B) by reason of a death covered by this subsection shall be paid equal shares to the beneficiaries who were paid the death gratuity that was paid with respect to that death under this section.”.

Applicability.

(c) PAYMENT OF DEATH GRATUITY FOR CERTAIN OTHER DEATHS FROM COMBAT-RELATED CAUSES OR CAUSES INCURRED IN COMBAT OPERATIONS OR AREAS.—Such section is further amended by adding at the end the following new subsection:

Applicability.

“(f)(1) In the case of a person described in paragraph (2), a death gratuity shall be payable in accordance with this subsection for the death of such person that is in addition to the death gratuity payable in the case of such death under subsection (e).

“(2) This subsection applies in the case of a member of the armed forces who dies during the period beginning on the date of the enactment of this subsection and ending on the first day of the first month that begins more than 90 days after such date of one or more wounds, injuries, or illnesses that—

“(A) are incurred in the theater of operations of Operation Enduring Freedom or Operation Iraqi Freedom; or

“(B) are incurred as described in section 1413a(e)(2) of this title.

“(3) The amount of additional death gratuity payable under this subsection shall be \$150,000.

“(4) A payment pursuant to paragraph (3) by reason of a death covered by this subsection shall be paid—

“(A) to a beneficiary in proportion to the share of benefits applicable to such beneficiary in the payment of life insurance proceeds payable on the basis of that death under the Servicemembers Group Life Insurance program under subchapter III of chapter 19 of title 38; or

“(B) in the case of a person who elected not to be insured under the provisions of that subchapter, in equal shares to the person or persons who receive proceeds under those provisions of law for a member who is insured under that subchapter but does not designate named beneficiaries.”.

10 USC 1478
note.

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on the date of the enactment of this Act.

(e) TERMINATION.—

Effective date.

(1) IN GENERAL.—This section and the amendment made by this subsection shall terminate on September 30, 2005. Effective as of October 1, 2005, the provisions of section 1478 of title 10, United States Code, as in effect on the date before the date of the enactment of this Act shall be revived.

(2) CONTINUING OBLIGATION TO PAY.—Any amount of additional death gratuity payable under section 1478 of title 10, United States Code, by reason of the amendments made by subsections (b) and (c) of this section that remains payable as of September 30, 2005, shall, notwithstanding paragraph (1), remain payable after that date until paid.

INTELLIGENCE ACTIVITIES AUTHORIZATION

SEC. 1014. Funds appropriated in this title, or made available by the transfer of funds in or pursuant to this title, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414).

PROHIBITION OF NEW START PROGRAMS

SEC. 1015. (a) None of the funds provided in this title may be used to finance programs or activities denied by Congress in fiscal year 2004 and 2005 appropriations to the Department of Defense or to initiate a procurement or research, development, test and evaluation new start program without prior written notification to the congressional defense committees.

(b) Notwithstanding subsection (a) of this section, the Department of the Army may use funds made available in this Act under the heading “Procurement of Ammunition, Army” to procure ammunition and accessories therefor that have a standard-type classification, under Army regulations pertaining to the acceptability of materiel for use, and that are the same as other ammunition and accessories therefor that have been procured with funds made available under such heading in past appropriations Acts for the Department of Defense, only for 25 mm high explosive rounds for M2 Bradley Fighting Vehicles, 120 mm multi-purpose anti-tank and obstacle reduction rounds for M1 Abrams tanks, L410 aircraft countermeasure flares, 81 mm mortar red phosphorous smoke rounds, MD73 impulse cartridge for aircraft flares, and 20 mm high explosive rounds for C-RAM, whose stocks have been depleted and must be replenished for continuing operations of the Department of the Army.

CHEMICAL WEAPONS DEMILITARIZATION

SEC. 1016. (a)(1) Notwithstanding section 917 of Public Law 97–86, as amended, of the funds appropriated or otherwise made available by the Department of Defense Appropriations Act, 2005 (Public Law 108–287), the Military Construction Appropriations and Emergency Hurricane Supplemental Appropriations Act, 2005 (Public Law 108–324), and other Acts for the purpose of the destruction of the United States stockpile of lethal chemical agents and munitions at Blue Grass Army Depot, Kentucky, and Pueblo Chemical Depot, Colorado, the unobligated balance as of the date of enactment of this Act, shall remain available for obligation solely for such purpose and shall be made available not later than 30 days after the date of the enactment of this Act to the Program Manager for Assembled Chemical Weapons Alternatives for activities related to such purpose at Blue Grass Army Depot, Kentucky, and Pueblo Chemical Depot, Colorado.

Deadline.
Kentucky.
Colorado.

(2) Of the funds made available under paragraph (a)(1), not less than \$100,000,000 shall be obligated not later than 120 days after the date of the enactment of this Act.

Deadline.

(b)(1) Notwithstanding section 917 of Public Law 97–86, as amended, none of the funds appropriated or otherwise made available by the Department of Defense Appropriations Act, 2005, the Military Construction Appropriations and Emergency Hurricane Supplemental Appropriations Act, 2005, and other Acts for the purpose of the destruction of the United States stockpile of lethal chemical agents and munitions at Blue Grass Army Depot, Kentucky, and Pueblo Chemical Depot, Colorado, may be deobligated, transferred, or reprogrammed out of the Assembled Chemical Weapons Alternatives Program.

(2) The amount appropriated or otherwise made available by the Department of Defense Appropriations Act, 2005, the Military

Construction Appropriations and Emergency Hurricane Supplemental Appropriations Act, 2005, and other Acts for the purpose of the destruction of the United States stockpile of lethal chemical agents and munitions at Blue Grass Army Depot, Kentucky, and Pueblo Chemical Depot, Colorado, is \$813,440,000.

(c) No funds appropriated or otherwise made available to the Secretary of Defense under this Act or any other Act may be obligated or expended to finance directly or indirectly any study related to the transportation of chemical weapons across State lines.

PHILADELPHIA REGIONAL PORT AUTHORITY

118 Stat. 439.

SEC. 1017. Section 115 of division H of Public Law 108–199 is amended by striking all after “made available” and substituting “, notwithstanding section 2218(c)(1) of title 10, United States Code, for a grant to Philadelphia Regional Port Authority, to be used solely for the purpose of construction, by and for a Philadelphia-based company established to operate high-speed, advanced-design vessels for the transport of high-value, time-sensitive cargoes in the foreign commerce of the United States, of a marine cargo terminal and IT network for high-speed commercial vessels that is capable of supporting military sealift requirements.”: *Provided*, That of the funds provided in Public Law 108–287 under the heading “Operation and Maintenance, Army” for Woody Island and Historic Structure, \$1,000,000 shall be made available in the form of a grant for these purposes.

LPD–17 COST ADJUSTMENT

(TRANSFER OF FUNDS)

SEC. 1018. Upon enactment of this Act, the Secretary of Defense shall make the following transfer of funds: *Provided*, That funds so transferred shall be merged with and shall be available for the same purpose and for the same time period as the appropriation to which transferred: *Provided further*, That the amounts shall be transferred between the following appropriations in the amounts specified:

From:

Under the heading “Shipbuilding and Conversion, Navy, 2005/2009”:

LCU (X), \$19,000,000.

To:

Under the heading “Shipbuilding and Conversion, Navy, 1996/2008”:

LPD–17, \$19,000,000:

Provided further, That the amount made available by the transfer of funds in or pursuant to this section is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

PROHIBITION ON COMPETITION OF THE NEXT GENERATION DESTROYER (DD(X))

SEC. 1019. (a) No funds appropriated or otherwise made available by this Act, or by prior Acts, may be obligated or expended to prepare for, conduct, or implement a strategy for the acquisition

of the next generation destroyer (DD(X)) program through a winner-take-all strategy.

(b) WINNER-TAKE-ALL STRATEGY DEFINED.—In this section, the term “winner-take-all strategy”, with respect to the acquisition of destroyers under the next generation destroyer program, means the acquisition (including design and construction) of such destroyers through a single shipyard.

CIVILIAN PAY

SEC. 1020. None of the funds appropriated to the Department of Defense by this Act or any other Act for fiscal year 2005 or any other fiscal year may be expended for any pay raise granted on or after January 1, 2005, that is implemented in a manner that provides a greater increase for non-career employees than for career employees on the basis of their status as career or non-career employees, unless specifically authorized by law: *Provided*, That this provision shall be implemented for fiscal year 2005 without regard to the requirements of section 5383 of title 5, United States Code: *Provided further*, That no employee of the Department of Defense shall have his or her pay reduced for the purpose of complying with the requirements of this provision. 5 USC 9902 note.

INDUSTRIAL MOBILIZATION CAPACITY

SEC. 1021. Of the amounts appropriated or otherwise made available by the Department of Defense Appropriations Act, 2005, \$12,500,000 shall be available only for industrial mobilization capacity at Rock Island Arsenal.

BASIC ALLOWANCE FOR HOUSING FOR DEPENDENTS

SEC. 1022. (a) Section 403(l) of title 37, United States Code, is amended by striking “180 days” each place it appears and inserting “365 days”.

(b) TERMINATION.—The amendment made by this section shall terminate on September 30, 2005. Effective on October 1, 2005, the provisions of section 403(l) of title 37, United States Code, as in effect on the date before the date of the enactment of this Act shall be revived. 37 USC 403 note.
Effective date.

PROHIBITION ON CHARGES FOR MEALS

SEC. 1023. (a) PROHIBITION.—A member of the Armed Forces entitled to a basic allowance for subsistence under section 402 of title 37, United States Code, who is undergoing medical recuperation or therapy, or is otherwise in the status of continuous care, including outpatient care, at a military treatment facility for an injury, illness, or disease incurred or aggravated while on active duty in the Armed Forces in Operation Iraqi Freedom or Operation Enduring Freedom shall not, during any month in which so entitled, be required to pay any charge for meals provided such member by the military treatment facility.

(b) EFFECTIVE DATE.—The limitation in paragraph (a) shall take effect upon enactment of this Act, and shall apply with respect to meals provided members of the Armed Forces as described in that paragraph on or after that date.

(c) TERMINATION.—The amendment made by this section shall terminate on September 30, 2005. Effective on October 1, 2005, Effective date.

the provisions of section 402 of title 37, United States Code, as in effect on the date before the date of the enactment of this Act shall be revived.

REQUESTS FOR FUTURE FUNDING FOR MILITARY OPERATIONS IN
AFGHANISTAN AND IRAQ

SEC. 1024. (a) FINDINGS.—The Senate makes the following findings:

(1) The Department of Defense Appropriations Act, 2004 (Public Law 108–87) and the Department of Defense Appropriations Act, 2005 (Public Law 108–287) each contain a sense of the Senate provision urging the President to provide in the annual budget requests of the President for a fiscal year under section 1105(a) of title 31, United States Code, an estimate of the cost of ongoing military operations in Iraq and Afghanistan in such fiscal year.

(2) The budget for fiscal year 2006 submitted to Congress by the President on February 7, 2005, requests no funds for fiscal year 2006 for ongoing military operations in Iraq or Afghanistan.

(3) According to the Congressional Research Service, there exists historical precedent for including the cost of ongoing military operations in the annual budget requests of the President following initial funding for such operations by emergency or supplemental appropriations Acts, including—

(A) funds for Operation Noble Eagle, beginning in the budget request of President George W. Bush for fiscal year 2005;

(B) funds for operations in Kosovo, beginning in the budget request of President George W. Bush for fiscal year 2001;

(C) funds for operations in Bosnia, beginning in budget request of President Clinton for fiscal year 1997;

(D) funds for operations in Southwest Asia, beginning in the budget request of President Clinton for fiscal year 1997;

(E) funds for operations in Vietnam, beginning in the budget request of President Johnson for fiscal year 1966; and

(F) funds for World War II, beginning in the budget request of President Roosevelt for fiscal year 1943.

(4) The Senate has included in its version of the fiscal year 2006 budget resolution, which was adopted by the Senate on March 17, 2005, a reserve fund of \$50,000,000,000 for overseas contingency operations, but the determination of that amount could not take into account any Administration estimate on the projected cost of such operations in fiscal year 2006.

(5) In February 2005, the Congressional Budget Office estimated that fiscal year 2006 costs for ongoing military operations in Iraq and Afghanistan could total \$65,000,000,000.

(b) SENSE OF SENATE.—It is the sense of the Senate that—

(1) any request for funds for a fiscal year after fiscal year 2006 for an ongoing military operation overseas, including operations in Afghanistan and Iraq, should be included in the annual budget of the President for such fiscal year as submitted

to Congress under section 1105(a) of title 31, United States Code;

(2) the President should submit to Congress, not later than September 1, 2005, an amendment to the budget of the President for fiscal year 2006 that was submitted to Congress under section 1105(a) of title 31, United States Code, setting forth detailed cost estimates for ongoing military operations overseas during such fiscal year; and

President.
Deadline.

(3) any funds provided for a fiscal year for ongoing military operations overseas should be provided in appropriations Acts for such fiscal year through appropriations to specific accounts set forth in such appropriations Acts.

(c) ADDITIONAL REQUIREMENTS FOR CERTAIN REPORTS.—(1) Each semiannual report to Congress required under a provision of law referred to in paragraph (2) shall include, in addition to the matters specified in the applicable provision of law, the following:

10 USC 113 note.

(A) A statement of the cumulative total of all amounts obligated, and of all amounts expended, as of the date of such report for Operation Enduring Freedom.

(B) A statement of the cumulative total of all amounts obligated, and of all amounts expended, as of the date of such report for Operation Iraqi Freedom.

(C) An estimate of the reasonably foreseeable costs for ongoing military operations to be incurred during the 12-month period beginning on the date of such report.

(2) The provisions of law referred to in this paragraph are as follows:

(A) Section 1120 of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106; 117 Stat. 1219; 10 U.S.C. 113 note).

(B) Section 9010 of the Department of Defense Appropriations Act, 2005 (Public Law 108–287; 118 Stat. 1008; 10 U.S.C. 113 note).

AIRCRAFT CARRIERS OF THE NAVY

SEC. 1025. (a) FUNDING FOR REPAIR AND MAINTENANCE OF U.S.S. JOHN F. KENNEDY.—Of the amount appropriated to the Department of the Navy in this Act, necessary funding will be made available for such repair and maintenance of the U.S.S. John F. Kennedy as the Navy considers appropriate to extend the life of U.S.S. John F. Kennedy.

(b) LIMITATION ON REDUCTION IN NUMBER OF ACTIVE AIRCRAFT CARRIERS.—No funds appropriated or otherwise made available in this Act may be obligated or expended to reduce the number of active aircraft carriers of the Navy below 12 active aircraft carriers until after the date of the submittal to Congress of the quadrennial defense review required in 2005 under section 118 of title 10, United States Code.

(c) ACTIVE AIRCRAFT CARRIERS.—For purposes of this section, an active aircraft carrier of the Navy includes an aircraft carrier that is temporarily unavailable for worldwide deployment due to routing or scheduled maintenance.

(d) PACIFIC FLEET AUTHORITIES.—None of the funds available to the Department of the Navy may be obligated to modify command

and control relationships to give Fleet Forces Command administrative and operational control of U.S. Navy forces assigned to the Pacific fleet: *Provided*, That the command and control relationships which existed on October 1, 2004, shall remain in force unless changes are specifically authorized in a subsequent Act.

TRAVEL FOR FAMILY OF HOSPITALIZED SERVICEMEMBERS

SEC. 1026. (a) AUTHORITY.—Subsection (a) of section 411h of title 37, United States Code, is amended—

(1) in paragraph (2)—

(A) by inserting “and” at the end of subparagraph (A); and

(B) by striking subparagraphs (B) and (C) and inserting the following new subparagraph:

“(B) either—

“(i) is seriously ill, seriously injured, or in a situation of imminent death (whether or not electrical brain activity still exists or brain death is declared), and is hospitalized in a medical facility in or outside the United States; or

“(ii) is not described in clause (i), but has an injury incurred in an operation or area designated as a combat operation or combat zone, respectively, by the Secretary of Defense under section 1967(e)(1)(A) of title 38 and is hospitalized in a medical facility in the United States for treatment of that injury.”; and

(2) by adding at the end the following new paragraph:

“(3) Not more than one roundtrip may be provided to a family member under paragraph (1) on the basis of clause (ii) of paragraph (2)(B).”.

(b) CONFORMING AMENDMENTS.—

(1) HEADING FOR AMENDED SECTION.—The heading for section 411h of such title is amended to read as follows:

“§411h. Travel and transportation allowances: transportation of family members incident to illness or injury of members”.

(2) CLERICAL AMENDMENT.—The item relating to such section in the table of sections at the beginning of chapter 7 of such title is amended to read as follows:

“411h. Travel and transportation allowances: transportation of family members incident to illness or injury of members.”.

(c) FUNDING.—Funds for the provision of travel in fiscal year 2005 under section 411h of title 37, United States Code, by reason of the amendments made by this section shall be derived as follows:

(1) In the case of travel provided by the Department of the Army, from amounts appropriated for fiscal year 2005 by this Act and the Department of Defense Appropriations Act, 2005 (Public Law 108–287) for the Operation and Maintenance, Army account.

(2) In the case of travel provided by the Department of the Navy, from amounts appropriated for fiscal year 2005 by the Acts referred to in paragraph (1) for the Operation and Maintenance, Navy account.

(3) In the case of travel provided by the Department of the Air Force, from amounts appropriated for fiscal year 2005

by the Acts referred to in paragraph (1) for the Operation and Maintenance, Air Force account.

(d) REPORT ON TRAVEL IN EXCESS OF CERTAIN LIMIT.—If in any fiscal year the amount of travel provided in such fiscal year under section 411h of title 37, United States Code, by reason of the amendments made by this section exceeds \$20,000,000, the Secretary of Defense shall submit to the congressional defense committees a report on that fact, including the total amount of travel provided in such fiscal year under such section 411h by reason of the amendments made by this section.

37 USC 411h
note.

(e) TERMINATION.—The amendment made by this section shall terminate on September 30, 2005. Effective on October 1, 2005, the provisions of section 411h of title 37, United States Code, as in effect on the date before the date of the enactment of this Act shall be revived.

37 USC 411h
note.
Effective date.

PROHIBITION ON TERMINATION OF MULTIYEAR PROCUREMENT
CONTRACT FOR C/KC–130J AIRCRAFT

SEC. 1027. No funds in this Act may be obligated or expended to terminate the joint service multiyear procurement contract for C/KC–130J aircraft that is in effect on the date of the enactment of this Act.

PURPLE HEART COMMENDATIONS

SEC. 1028. None of the funds in this Act or prior Acts may be used to revoke Purple Heart commendations awarded to members of the Armed Forces who have served in Operation Iraqi Freedom or Operation Enduring Freedom: *Provided*, That the Secretary of any military department may, on a case-by-case basis, waive this provision fifteen days after notifying the congressional defense committees of their intent to revoke an individual's Purple Heart commendation.

VIRTUAL TRAINING COCKPIT OPTIMIZATION PROGRAM

(TRANSFER OF FUNDS)

SEC. 1029. Upon enactment of this Act, the Secretary of Defense shall make the following transfer of funds: *Provided*, That funds so transferred shall be merged with and shall be available for the same purpose and for the same time period as the appropriation to which transferred: *Provided further*, That the authority provided in this section is in addition to any other transfer authority available to the Department of Defense: *Provided further*, That the amounts shall be transferred between the following appropriations in the amounts specified:

From:

Under the heading “Aircraft Procurement, Army, 2004/2006”, \$2,000,000.

To:

Under the heading “Research, Development, Test and Evaluation, Army, 2004/2005”, \$2,000,000:

Provided further, That these funds may only be used for the Virtual Training Cockpit Optimization Program: *Provided further*, That the amount made available by the transfer of funds in or pursuant to this section is designated as an emergency requirement pursuant

to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

TRANSFER OF FUNDS FOR FORCE PROTECTION PROGRAMS

(TRANSFER OF FUNDS)

SEC. 1030. Notwithstanding any other provision of law, upon enactment of this Act, the Secretary of Defense shall make the following transfers of funds previously made available in the Department of Defense Appropriations Act, 2005 (Public Law 108–287): *Provided*, That the amounts transferred shall be made available for the same purpose and the same time period as the appropriation to which transferred: *Provided further*, That the authority provided in this section is in addition to any other transfer authority available to the Department of Defense: *Provided further*, That the amounts shall be transferred between the following appropriations, in the amounts specified:

To:

Under the heading “Research, Development, Test and Evaluation, Air Force, 2005/2006”, \$500,000.

From:

Under the heading “Other Procurement, Air Force”, \$500,000.

To:

Under the heading “Other Procurement, Air Force, 2005/2007”, \$8,200,000.

From:

Under the heading “Other Procurement, Navy, 2005/2007”, \$8,200,000:

Provided further, That the amounts made available by the transfer of funds in or pursuant to this section are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

PROHIBITION ON TORTURE AND CRUEL, INHUMAN, OR DEGRADING
TREATMENT

SEC. 1031. (a)(1) None of the funds appropriated or otherwise made available by this Act shall be obligated or expended to subject any person in the custody or under the physical control of the United States to torture or cruel, inhuman, or degrading treatment or punishment that is prohibited by the Constitution, laws, or treaties of the United States.

(2) Nothing in this section shall affect the status of any person under the Geneva Conventions or whether any person is entitled to the protections of the Geneva Conventions.

(b) As used in this section—

(1) the term “torture” has the meaning given that term in section 2340(1) of title 18, United States Code; and

(2) the term “cruel, inhuman, or degrading treatment or punishment” means the cruel, unusual, and inhumane treatment or punishment prohibited by the fifth amendment, eighth amendment, or fourteenth amendment to the Constitution of the United States.

TRAUMATIC INJURY PROTECTION

SEC. 1032. TRAUMATIC INJURY PROTECTION. (a) IN GENERAL.—Subchapter III of chapter 19, Title 38, United States Code, is amended—

(1) in section 1965, by adding at the end the following:

“(11) The term ‘activities of daily living’ means the inability to independently perform 2 of the 6 following functions:

“(A) Bathing.

“(B) Continence.

“(C) Dressing.

“(D) Eating.

“(E) Toileting.

“(F) Transferring.”; and

(2) by adding at the end the following:

“§ 1980A. Traumatic injury protection

“(a) A member who is insured under subparagraph (A)(i), (B), or (C)(i) of section 1967(a)(1) shall automatically be issued a traumatic injury protection rider that will provide for a payment not to exceed \$100,000 if the member, while so insured, sustains a traumatic injury that results in a loss described in subsection (b)(1). The maximum amount payable for all injuries resulting from the same traumatic event shall be limited to \$100,000. If a member suffers more than 1 such loss as a result of traumatic injury, payment will be made in accordance with the schedule in subsection (d) for the single loss providing the highest payment.

“(b)(1) A member who is issued a traumatic injury protection rider under subsection (a) is insured against such traumatic injuries, as prescribed by the Secretary, in collaboration with the Secretary of Defense, including, but not limited to—

“(A) total and permanent loss of sight;

“(B) loss of a hand or foot by severance at or above the wrist or ankle;

“(C) total and permanent loss of speech;

“(D) total and permanent loss of hearing in both ears;

“(E) loss of thumb and index finger of the same hand by severance at or above the metacarpophalangeal joints;

“(F) quadriplegia, paraplegia, or hemiplegia;

“(G) burns greater than second degree, covering 30 percent of the body or 30 percent of the face; and

“(H) coma or the inability to carry out the activities of daily living resulting from traumatic injury to the brain.

“(2) For purposes of this subsection—

“(A) the term ‘quadriplegia’ means the complete and irreversible paralysis of all 4 limbs;

“(B) the term ‘paraplegia’ means the complete and irreversible paralysis of both lower limbs; and

“(C) the term ‘hemiplegia’ means the complete and irreversible paralysis of the upper and lower limbs on 1 side of the body.

“(3) The Secretary, in collaboration with the Secretary of Defense, shall prescribe, by regulation, the conditions under which coverage against loss will not be provided.

Regulations.

“(c) A payment under this section may be made only if—

“(1) the member is insured under Servicemembers’ Group Life Insurance when the traumatic injury is sustained;

Deadline.

“(2) the loss results directly from that traumatic injury and from no other cause; and

“(3) the member suffers the loss before the end of the period prescribed by the Secretary, in collaboration with the Secretary of Defense, which begins on the date on which the member sustains the traumatic injury, except, if the loss is quadriplegia, paraplegia, or hemiplegia, the member suffers the loss not later than 365 days after sustaining the traumatic injury.

“(d) Payments under this section for losses described in subsection (b)(1) shall be—

“(1) made in accordance with a schedule prescribed by the Secretary, in collaboration with the Secretary of Defense;

“(2) based on the severity of the covered condition; and

“(3) in an amount that is equal to not less than \$25,000 and not more than \$100,000.

“(e)(1) During any period in which a member is insured under this section and the member is on active duty, there shall be deducted each month from the member’s basic or other pay until separation or release from active duty an amount determined by the Secretary of Veterans Affairs as the premium allocable to the pay period for providing traumatic injury protection under this section (which shall be the same for all such members) as the share of the cost attributable to provided coverage under this section, less any costs traceable to the extra hazards of such duty in the uniformed services.

“(2) During any month in which a member is assigned to the Ready Reserve of a uniformed service under conditions which meet the qualifications set forth in section 1965(5)(B) of this title and is insured under a policy of insurance purchased by the Secretary of Veterans Affairs under section 1966 of this title, there shall be contributed from the appropriation made for active duty pay of the uniformed service concerned an amount determined by the Secretary of Veterans Affairs (which shall be the same for all such members) as the share of the cost attributable to provided coverage under this section, less any costs traceable to the extra hazards of such duty in the uniformed services. Any amounts so contributed on behalf of any member shall be collected by the Secretary of the concerned service from such member (by deduction from pay or otherwise) and shall be credited to the appropriation from which such contribution was made in advance on a monthly basis.

“(3) The Secretary of Veterans Affairs shall determine the premium amounts to be charged for traumatic injury protection coverage provided under this section.

“(4) The premium amounts shall be determined on the basis of sound actuarial principles and shall include an amount necessary to cover the administrative costs to the insurer or insurers providing such insurance.

“(5) Each premium rate for the first policy year shall be continued for subsequent policy years, except that the rate may be adjusted for any such subsequent policy year on the basis of the experience under the policy, as determined by the Secretary of Veterans Affairs in advance of that policy year.

“(6) The cost attributable to insuring such member under this section, less the premiums deducted from the pay of the member’s uniformed service, shall be paid by the Secretary of Defense to

the Secretary of Veterans Affairs. This amount shall be paid on a monthly basis, and shall be due within 10 days of the notice provided by the Secretary of Veterans Affairs to the Secretary of the concerned uniformed service.

Notice.
Deadline.

“(7) The Secretary of Defense shall provide the amount of appropriations required to pay expected claims in a policy year, as determined according to sound actuarial principles by the Secretary of Veterans Affairs.

“(8) The Secretary of Defense shall forward an amount to the Secretary of Veterans Affairs that is equivalent to half the anticipated cost of claims for the current fiscal year, upon the effective date of this legislation.

Effective date.

“(f) The Secretary of Defense shall certify whether any member claiming the benefit under this section is eligible.

Certification.

“(g) Payment for a loss resulting from traumatic injury will not be made if the member dies before the end of the period prescribed by the Secretary, in collaboration with the Secretary of Defense, which begins on the date on which the member sustains the injury. If the member dies before payment to the member can be made, the payment will be made according to the member’s most current beneficiary designation under Servicemembers’ Group Life Insurance, or a by law designation, if applicable.

“(h) Coverage for loss resulting from traumatic injury provided under this section shall cease at midnight on the date of the member’s separation from the uniformed service. Payment will not be made for any loss resulting from injury incurred after the date a member is separated from the uniformed services.

“(i) Insurance coverage provided under this section is not convertible to Veterans’ Group Life Insurance.”.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 19 of title 38, United States Code, is amended by adding after the item relating to section 1980 the following:

“1980A. Traumatic injury protection.”.

(c) RETROACTIVE PROVISION.—

38 USC 1980A
note.

(1) IN GENERAL.—Any member who experienced a traumatic injury (as described in section 1980A(b)(1) of title 38, United States Code) between October 7, 2001, and the effective date under subsection (d), is eligible for coverage provided in such section 1980A if the qualifying loss was a direct result of injuries incurred in Operation Enduring Freedom or Operation Iraqi Freedom.

(2) CERTIFICATION; PAYMENT.—The Secretary of Defense shall—

(A) certify to the Office of Servicemembers’ Group Life Insurance the names and addresses of those members the Secretary of Defense determines to be eligible for retroactive traumatic injury benefits under such section 1980A; and

(B) forward to the Secretary of Veterans Affairs, at the time the certification is made under subparagraph (A), an amount of money equal to the amount the Secretary of Defense determines to be necessary to pay all cost related to claims for retroactive benefits under such section 1980A.

(d) EFFECTIVE DATE.—

38 USC 1980A
note.

(1) IN GENERAL.—The amendments made by this section shall take effect on the first day of the first month beginning more than 180 days after the date of enactment of this Act.

(2) RULEMAKING.—Before the effective date described in paragraph (1), the Secretary of Veterans Affairs, in collaboration with the Secretary of Defense, shall issue regulations to carry out the amendments made by this section.

AMOUNTS FROM PRIOR YEAR IRAQ FREEDOM FUND APPROPRIATION

(RESCISSION OF FUNDS)

SEC. 1033. Of the funds appropriated in title IX of Public Law 108–287 for “Iraq Freedom Fund” (118 Stat. 1005) that remain available for obligation, \$50,000,000 is hereby rescinded.

TECHNICAL CORRECTION

SEC. 1034. Of the funds available in the Department of Defense Appropriations Act, 2005 (Public Law 108–287), under the heading “Defense Health Program”, \$1,000,000 shall be available to the Paralyzed Veterans of America (PVA) Outdoor Sports Heritage Fund.

DEFENSE TRANSFER AUTHORITY

SEC. 1035. In addition to amounts appropriated elsewhere in this Act, there is hereby appropriated \$50,000,000 for “Research, Development, Test and Evaluation, Defense-Wide”, to remain available until September 30, 2006: *Provided*, That these funds are available for transfer to any other appropriations accounts of the Department of Defense, for certain classified activities, and notwithstanding any other provision of law and of this Act, such funds may be obligated to carry out projects not otherwise authorized by law: *Provided further*, That any funds transferred shall be merged with and shall be available for the same purposes and for the same time period as the appropriation to which transferred: *Provided further*, That the transfer authority provided in this section is in addition to any other transfer authority available to the Department of Defense: *Provided further*, That the amount provided in this section is designated an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

RE-USE AND REDEVELOPMENT OF CLOSED OR REALIGNED MILITARY INSTALLATIONS

Deadline.
Reports.

SEC. 1036. (a) In order to assist communities with preparations for the results of the 2005 round of defense base closure and realignment, and consistent with assistance provided to communities by the Department of Defense in previous rounds of base closure and realignment, the Secretary of Defense shall, not later than July 15, 2005, submit to the congressional defense committees a report on the processes and policies of the Federal Government for disposal of property at military installations proposed to be closed or realigned as part of the 2005 round of base closure and realignment, and the assistance available to affected local communities for re-use and redevelopment decisions.

(b) The report under subsection (a) shall include—

(1) a description of the processes of the Federal Government for disposal of property at military installations proposed to be closed or realigned;

(2) a description of Federal Government policies for providing re-use and redevelopment assistance;

(3) a catalogue of community assistance programs that are provided by the Federal Government related to the re-use and redevelopment of closed or realigned military installations;

(4) a description of the services, policies, and resources of the Department of Defense that are available to assist communities affected by the closing or realignment of military installations as a result of the 2005 round of base closure and realignment;

(5) guidance to local communities on the establishment of local redevelopment authorities and the implementation of a base redevelopment plan; and

(6) a description of the policies and responsibilities of the Department of Defense related to environmental clean-up and restoration of property disposed by the Federal Government.

CAMP JOSEPH T. ROBINSON

SEC. 1037. The United States releases to the State of Arkansas the reversionary interest described in sections 2 and 3 of the Act entitled “An Act authorizing the transfer of part of Camp Joseph T. Robinson to the State of Arkansas”, approved June 30, 1950 (64 Stat. 311, chapter 429), in and to the surface estate of the land constituting Camp Joseph T. Robinson, Arkansas, which lies east of the Batesville Pike county road, in sections 24, 25, and 36, township 3 north, range 12 west, Pulaski County, Arkansas. Arkansas.

TITLE II—INTERNATIONAL PROGRAMS AND ASSISTANCE FOR RECONSTRUCTION AND THE WAR ON TERROR

CHAPTER 1

DEPARTMENT OF AGRICULTURE

FOREIGN AGRICULTURAL SERVICE

PUBLIC LAW 480 TITLE II GRANTS

For additional expenses during the current fiscal year, not otherwise recoverable, and unrecovered prior years’ costs, including interest thereon, under the Agricultural Trade Development and Assistance Act of 1954, for commodities supplied in connection with dispositions abroad under title II of said Act, \$240,000,000 to remain available until expended: *Provided*, That from this amount, to the maximum extent possible, funding shall be restored to the previously approved fiscal year 2005 programs under section 204(a)(2) of the Agricultural Trade Development and Assistance Act of 1954: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

CHAPTER 2

DEPARTMENT OF STATE AND RELATED AGENCY

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

For an additional amount for “Diplomatic and Consular Programs”, \$734,000,000, to remain available until September 30, 2006, of which \$10,000,000 is provided for security requirements in the detection of explosives: *Provided*, That of the funds appropriated under this heading, not less than \$250,000 shall be made available for programs to assist Iraqi and Afghan scholars who are in physical danger to travel to the United States to engage in research or other scholarly activities at American institutions of higher education: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

EMBASSY SECURITY, CONSTRUCTION, AND MAINTENANCE

For an additional amount for “Embassy Security, Construction, and Maintenance”, \$592,000,000, to remain available until expended: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

INTERNATIONAL ORGANIZATIONS

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for “Contributions for International Peacekeeping Activities”, \$680,000,000, to remain available until September 30, 2006: *Provided*, That of the funds appropriated under this heading, up to \$50,000,000 may be transferred to “Peacekeeping Operations” for support of the efforts of the African Union to halt genocide and other atrocities in Darfur, Sudan: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

RELATED AGENCY

BROADCASTING BOARD OF GOVERNORS

INTERNATIONAL BROADCASTING OPERATIONS

For an additional amount for “International Broadcasting Operations” for activities related to broadcasting to the broader Middle East, \$4,800,000, to remain available until September 30, 2006: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of

the conference report to accompany S. Con. Res. 95 (108th Congress).

BROADCASTING CAPITAL IMPROVEMENTS

For an additional amount for “Broadcasting Capital Improvements”, \$2,500,000, to remain available until September 30, 2006: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

INTERNATIONAL DISASTER AND FAMINE ASSISTANCE

For an additional amount for “International Disaster and Famine Assistance”, \$90,000,000, to remain available until expended, for emergency expenses related to the humanitarian crisis in the Darfur region of Sudan and other African countries: *Provided*, That these funds may be used to reimburse fully accounts administered by the United States Agency for International Development for obligations incurred for the purposes provided under this heading prior to enactment of this Act from funds appropriated for foreign operations, export financing, and related programs: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

For an additional amount for “Operating Expenses of the United States Agency for International Development”, \$24,400,000, to remain available until September 30, 2006: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT OFFICE OF INSPECTOR GENERAL

For an additional amount for “Operating Expenses of the United States Agency for International Development Office of Inspector General”, \$2,500,000, to remain available until September 30, 2006: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

OTHER BILATERAL ECONOMIC ASSISTANCE

ECONOMIC SUPPORT FUND

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for “Economic Support Fund”, \$1,433,600,000, to remain available until September 30, 2006: *Provided*, That of the funds appropriated under this heading, \$200,000,000 should be made available for programs, activities, and efforts to support Palestinians, of which \$50,000,000 should be made available for assistance for Israel to help ease the movement of Palestinian people and goods in and out of Israel: *Provided further*, That of the funds appropriated under this heading, \$5,000,000 should be made available for assistance for displaced persons in Afghanistan: *Provided further*, That of the funds appropriated under this heading, \$2,500,000 should be made available for assistance for families and communities of Afghan civilians who have suffered losses as a result of the military operations: *Provided further*, That of the funds appropriated under this heading, \$20,000,000 should be made available for assistance for Haiti, of which \$2,500,000 should be made available for criminal case management, case tracking, and the reduction of pre-trial detention in Haiti, notwithstanding any other provision of law: *Provided further*, That of the funds appropriated under this heading, \$5,000,000 should be made available for programs and activities to promote democracy, including political party development, in Lebanon: *Provided further*, That of the funds appropriated under this heading, up to \$10,000,000 may be transferred to the Overseas Private Investment Corporation for the cost of direct and guaranteed loans as authorized by section 234 of the Foreign Assistance Act of 1961: *Provided further*, That such costs, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

ASSISTANCE FOR THE INDEPENDENT STATES OF THE FORMER SOVIET UNION

For an additional amount for “Assistance for the Independent States of the Former Soviet Union”, \$70,000,000, to remain available until September 30, 2006: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

DEPARTMENT OF STATE

INTERNATIONAL NARCOTICS CONTROL AND LAW ENFORCEMENT

For an additional amount for “International Narcotics Control and Law Enforcement”, \$620,000,000, to remain available until September 30, 2007: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

MIGRATION AND REFUGEE ASSISTANCE

For an additional amount for “Migration and Refugee Assistance”, \$120,400,000, to remain available until September 30, 2006: *Provided*, That of the funds appropriated under this heading, not less than \$67,000,000 shall be made available for assistance for refugees in Africa and to fulfill refugee protection goals set by the President for fiscal year 2005: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND RELATED PROGRAMS

For an additional amount for “Nonproliferation, Anti-Terrorism, Demining and Related Programs”, \$24,600,000, to remain available until September 30, 2006, of which not to exceed \$7,500,000, to remain available until expended, may be made available for the Nonproliferation and Disarmament Fund, notwithstanding any other provision of law, to promote bilateral and multilateral activities relating to nonproliferation and disarmament: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

FOREIGN MILITARY FINANCING PROGRAM

For an additional amount for “Foreign Military Financing Program”, \$250,000,000: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

PEACEKEEPING OPERATIONS

For an additional amount for “Peacekeeping Operations”, \$240,000,000, to remain available until September 30, 2006, of which up to \$200,000,000 is for military and other security assistance to coalition partners in Iraq and Afghanistan: *Provided*, That up to \$30,000,000 may be used only pursuant to a determination by the President, and after consultation with the Committees on Appropriations, that such use will support the global war on terrorism: *Provided further*, That these funds may be transferred by the Secretary of State to other Federal agencies or accounts to support the global war on terrorism: *Provided further*, That funds appropriated under this heading shall be subject to the regular notification procedures of the Committees on Appropriations, except that such notifications shall be submitted no less than five days prior to the obligation of funds: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

Notification.
Deadline.

GENERAL PROVISIONS, THIS CHAPTER

VOLUNTARY CONTRIBUTION

SEC. 2101. Section 307(a) of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2227), is further amended by striking “Iraq.”.

(RESCISSION OF FUNDS)

SEC. 2102. The unexpended balance appropriated by Public Law 108–11 under the heading “Economic Support Fund” and made available for Turkey is rescinded.

AUDIT REQUIREMENT

118 Stat. 3019.

SEC. 2103. Section 559 of division D of Public Law 108–447 is amended by adding at the end the following:

“(e) Subsequent to the certification specified in subsection (a), the Comptroller General of the United States shall conduct an audit and an investigation of the treatment, handling, and uses of all funds for the bilateral West Bank and Gaza Program in fiscal year 2005 under the heading ‘Economic Support Fund’. The audit shall address—

“(1) the extent to which such Program complies with the requirements of subsections (b) and (c), and

“(2) an examination of all programs, projects, and activities carried out under such Program, including both obligations and expenditures.”.

REPORTING REQUIREMENT

SEC. 2104. The Secretary of State shall submit to the Committees on Appropriations not later than 30 days after enactment, and prior to the initial obligation of funds appropriated under this chapter, a report on the proposed uses of all funds on a project-by-project basis, for which the obligation of funds is anticipated: *Provided*, That up to 15 percent of funds appropriated under this chapter may be obligated before the submission of the report subject to the normal notification procedures of the Committees on Appropriations: *Provided further*, That the report shall be updated and submitted to the Committees on Appropriations every six months and shall include information detailing how the estimates and assumptions contained in previous reports have changed: *Provided further*, That any new projects and increases in funding of ongoing projects shall be subject to the prior approval of the Committees on Appropriations: *Provided further*, That the Secretary of State shall submit to the Committees on Appropriations, not later than 210 days following enactment of this Act and annually thereafter, a report detailing on a project-by-project basis the expenditure of funds appropriated under this chapter until all funds have been fully expended.

AUDIT REQUIREMENT

SEC. 2105. The Comptroller General of the United States shall conduct an audit of the use of all funds for the bilateral Afghanistan counternarcotics and alternative livelihood programs in fiscal year

2005 under the heading “Economic Support Fund” and “International Narcotics Control and Law Enforcement”: *Provided*, That the audit shall include an examination of all programs, projects and activities carried out under such programs, including both obligations and expenditures.

REPORTING REQUIREMENT

SEC. 2106. Not later than 60 days after the date of enactment of this Act, the President shall submit a report to the Congress detailing: (1) information regarding the Palestinian security services, including their numbers, accountability, and chains of command, and steps taken to purge from their ranks individuals with ties to terrorist entities; (2) specific steps taken by the Palestinian Authority to dismantle the terrorist infrastructure, confiscate unauthorized weapons, arrest and bring terrorists to justice, destroy unauthorized arms factories, thwart and preempt terrorist attacks, and cooperate with Israel’s security services; (3) specific actions taken by the Palestinian Authority to stop incitement in Palestinian Authority-controlled electronic and print media and in schools, mosques, and other institutions it controls, and to promote peace and coexistence with Israel; (4) specific steps the Palestinian Authority has taken to further democracy, the rule of law, and an independent judiciary, and transparent and accountable governance; (5) the Palestinian Authority’s cooperation with United States officials in investigations into the late Palestinian leader Yasser Arafat’s finances; and (6) the amount of assistance pledged and actually provided to the Palestinian Authority by other donors: *Provided*, That not later than 180 days after enactment of this Act, the President shall submit to the Congress an update of this report: *Provided further*, That up to \$5,000,000 of the funds made available for assistance for the West Bank and Gaza by this chapter under “Economic Support Fund” shall be used for an outside, independent evaluation by an internationally recognized accounting firm of the transparency and accountability of Palestinian Authority accounting procedures and an audit of expenditures by the Palestinian Authority.

President.

REPROGRAMMING AUTHORITY

SEC. 2107. The amounts set forth in the eighth proviso in the Diplomatic and Consular Programs appropriation in the fiscal year 2005 Departments of Commerce, Justice, State, the Judiciary, and Related Agencies Appropriations Act (Public Law 108–447, division B) may be subject to reprogramming pursuant to section 605 of that Act.

MARLA RUZICKA IRAQI WAR VICTIMS FUND

SEC. 2108. Of the funds appropriated by chapter 2 of title II of Public Law 108–106 under the heading “Iraq Relief and Reconstruction Fund”, not less than \$20,000,000 should be made available for assistance for families and communities of Iraqi civilians who have suffered losses as a result of the military operations: *Provided*, That such assistance shall be designated as the “Marla Ruzicka Iraqi War Victims Fund”.

CANDIDATE COUNTRIES

22 USC 7715. SEC. 2109. Section 616(b)(1) of the Millennium Challenge Act of 2003 (Public Law 108–199) is amended—

(1) by striking “subparagraphs (A) and (B) of section 606(a)(1)”; and

(2) inserting in lieu thereof “subsection (a) or (b) of section 606”.

HUMANITARIAN ASSISTANCE CODE OF CONDUCT

22 USC 2370b. SEC. 2110. (a) None of the funds made available for foreign operations, export financing, and related programs under the headings “Migration and Refugee Assistance”, “United States Emergency Refugee and Migration Assistance Fund”, “International Disaster and Famine Assistance”, or “Transition Initiatives” may be obligated to an organization that fails to adopt a code of conduct that provides for the protection of beneficiaries of assistance under any such heading from sexual exploitation and abuse in humanitarian relief operations.

(b) The code of conduct referred to in subsection (a) shall, to the maximum extent practicable, be consistent with the six core principles of the United Nations Inter-Agency Standing Committee Task Force on Protection From Sexual Exploitation and Abuse in Humanitarian Crises.

Deadline.
President.
Reports.

(c) Not later than 180 days after the date of the enactment of this Act, and not later than one year after the date of the enactment of this Act, the President shall transmit to the appropriate congressional committees a report on the implementation of this section.

Effective date.
Applicability.

(d) This section shall take effect 60 days after the date of the enactment of this Act and shall apply to funds obligated after such date for fiscal year 2005 and any subsequent fiscal year.

JOINT EXPLANATORY STATEMENT

SEC. 2111. (a) Funds provided in this Act for the following accounts shall be made available for programs and countries in the amounts contained in the joint explanatory statement of managers accompanying this Act:

“Economic Support Fund”; and

“Assistance for the Independent States of the Former Soviet Union”.

(b) Any proposed increases or decreases to the amounts contained in such tables in the joint explanatory statement of managers shall be subject to the regular notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961.

TITLE III—DOMESTIC APPROPRIATIONS FOR THE WAR ON
TERROR

CHAPTER 1

DEPARTMENT OF ENERGY

NATIONAL NUCLEAR SECURITY ADMINISTRATION

DEFENSE NUCLEAR NONPROLIFERATION

For an additional amount for “Defense Nuclear Nonproliferation”, \$84,000,000, to remain available until expended: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

CHAPTER 2

DEPARTMENT OF HOMELAND SECURITY

CUSTOMS AND BORDER PROTECTION

SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, \$124,425,000, to remain available until September 30, 2006, for hiring, training, supporting, and equipping 500 border patrol agents above the level funded in Public Law 108–334: *Provided*, That the Secretary of Homeland Security shall provide the Committees on Appropriations of the Senate and the House of Representatives no later than June 15, 2005, with a plan for the expeditious implementation and execution of these funds: *Provided further*, That of the amount provided under this heading, \$49,075,000 is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

Deadline.

CONSTRUCTION

For an additional amount for “Construction”, \$51,875,000, to remain available until September 30, 2006: *Provided*, That the Secretary of Homeland Security shall provide the Committees on Appropriations of the Senate and the House of Representatives no later than June 15, 2005, with a plan for the expeditious implementation and execution of these funds: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

Deadline.

IMMIGRATION AND CUSTOMS ENFORCEMENT

SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, \$454,250,000, of which not less than \$11,000,000 shall be available for the costs of increasing by no less than seventy-nine the level of full-time equivalents on board on the date of enactment of this

Deadline.

Act: *Provided*, That of the total amount provided, \$178,250,000 is available until September 30, 2006, of which \$93,050,000 is for new investigators, enforcement agents, detention officers, and detention bedspace: *Provided further*, That the Secretary of Homeland Security shall provide the Committees on Appropriations of the Senate and the House of Representatives no later than June 15, 2005, with a plan for the expeditious implementation and execution of these funds: *Provided further*, That of the amount provided under this heading, \$349,050,000 is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

UNITED STATES COAST GUARD

OPERATING EXPENSES

For an additional amount for “Operating Expenses”, \$111,950,000: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

For an additional amount for “Acquisition, Construction, and Improvements”, \$49,200,000, to remain available until September 30, 2007: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, \$2,568,000, to remain available until September 30, 2006.

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED
EXPENSES

For an additional amount for “Acquisition, Construction, Improvements, and Related Expenses”, \$1,882,000, to remain available until September 30, 2006.

CHAPTER 3

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

DETENTION TRUSTEE

For an additional amount for “Detention Trustee”, \$184,000,000, for necessary expenses of the Federal Detention Trustee: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

LEGAL ACTIVITIES

ASSET FORFEITURE FUND

(RESCISSION)

Of the unobligated balances available under this heading, \$40,000,000 are rescinded.

UNITED STATES MARSHALS SERVICE

SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, \$11,935,000, for increased judicial security outside of courthouse facilities, including home intrusion detection systems for Federal judges, to remain available until September 30, 2006: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, \$73,991,000, to remain available until September 30, 2006: *Provided*, That of the amount appropriated, \$1,250,000 shall be transferred to and merged with the appropriation for “Department of Justice, General Administration, Office of Inspector General”: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, \$7,648,000, to remain available until September 30, 2006: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES

SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, \$4,000,000, to remain available until September 30, 2006: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

CHAPTER 4

LEGISLATIVE BRANCH

HOUSE OF REPRESENTATIVES

PAYMENT TO WIDOWS AND HEIRS OF DECEASED MEMBERS OF
CONGRESS

For payment to Doris K. Matsui, widow of Robert T. Matsui, late a Representative from the State of California, \$162,100.

SALARIES AND EXPENSES

For an additional amount for salaries and expenses of the House of Representatives, \$39,000,000, to remain available until expended: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

ADMINISTRATIVE PROVISIONS

HOUSE SERVICES REVOLVING FUND

118 Stat. 3174. SEC. 3401. (a) Section 103(b) of the Legislative Branch Appropriations Act, 2005 (Public Law 108–447; 118 Stat. 3175) is amended to read as follows:

“(b) USE OF FEES.—Any amounts paid as fees for the use of the exercise facility described in subsection (a) shall be deposited into the House Services Revolving Fund established under section 105.”

(b) Section 105(a) of such Act (2 U.S.C. 117m(a)) is amended by adding at the end the following new paragraph:

“(5) The payment of fees for the use of the exercise facility described in section 103(a).”

Effective date.
2 USC 117m
note.

(c) The amendments made by this section shall take effect as if included in the enactment of the Legislative Branch Appropriations Act, 2005.

TECHNICAL CORRECTIONS

SEC. 3402. (a) The last proviso under the heading “LIBRARY OF CONGRESS—Salaries and Expenses” in chapter 9 of division A of the Miscellaneous Appropriations Act, 2001, as enacted into law by section 1(a)(4) of the Consolidated Appropriations Act, 2001 (2 U.S.C. 132b note), is amended by striking “chair of the Subcommittee on the Legislative Branch of the Committee on Appropriations of the House of Representatives” and inserting “chair of the Committee on Appropriations of the House of Representatives (or another member of such Committee designated by the chair)”.

(b) Section 313(a)(2)(E) of the Legislative Branch Appropriations Act, 2001 (2 U.S.C. 1151(a)(2)(E)), as added by section 1502 of the Legislative Branch Appropriations Act, 2005 (Public Law 108–447), is amended by striking “chair of the Subcommittee on Legislative Branch of the Committee on Appropriations of the House of Representatives” and inserting “chair of the Committee on Appropriations of the House of Representatives (or another member of such Committee designated by the chair)”.

CAPITOL POLICE

GENERAL EXPENSES

For an additional amount for necessary expenses of the Capitol Police, \$11,000,000, to remain available until expended: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

ARCHITECT OF THE CAPITOL

CAPITOL GROUNDS

For an additional amount for “Capitol Grounds”, \$8,200,000, to remain available until September 30, 2006: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

CAPITOL POLICE BUILDINGS AND GROUNDS

For an additional amount for “Capitol Police Buildings and Grounds”, \$4,100,000, to remain available until September 30, 2006: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

TITLE IV—INDIAN OCEAN TSUNAMI RELIEF

CHAPTER 1

FUNDS APPROPRIATED TO THE PRESIDENT

OTHER BILATERAL ASSISTANCE

TSUNAMI RECOVERY AND RECONSTRUCTION FUND

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the Foreign Assistance Act of 1961, for emergency relief, rehabilitation, and reconstruction aid to countries affected by the tsunami and earthquakes of December 2004 and March 2005, and the Avian influenza virus, \$656,000,000, to remain available until September 30, 2006: *Provided*, That these funds may be transferred by the Secretary of State to Federal agencies or accounts for any activity authorized under part I (including chapter 4 of part II) of the Foreign Assistance Act, or under the Agricultural Trade Development and Assistance Act of 1954, to accomplish the purposes provided herein: *Provided further*, That upon a determination that all or part of the funds so transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further*, That funds appropriated under this heading may be used to reimburse fully accounts administered by the United States Agency for International Development for obligations incurred for the purposes provided

under this heading prior to enactment of this Act, including Public Law 480 Title II grants: *Provided further*, That of the amounts provided herein: up to \$10,000,000 may be transferred to and consolidated with “Development Credit Authority” for the cost of direct loans and loan guarantees as authorized by sections 256 and 635 of the Foreign Assistance Act of 1961 in furtherance of the purposes of this heading; up to \$17,500,000 may be transferred to and consolidated with “Operating Expenses of the United States Agency for International Development”, of which up to \$2,000,000 may be used for administrative expenses to carry out credit programs administered by the United States Agency for International Development in furtherance of the purposes of this heading; up to \$1,000,000 may be transferred to and consolidated with “Operating Expenses of the United States Agency for International Development Office of Inspector General”; and up to \$5,000,000 may be transferred to and consolidated with “Emergencies in the Diplomatic and Consular Service” for the purpose of providing support services for United States citizen victims and related operations: *Provided further*, That of the funds appropriated under this heading, \$5,000,000 should be made available for environmental recovery activities in tsunami affected countries: *Provided further*, That of the funds appropriated under this heading, \$10,000,000 should be made available for programs and activities which create new economic opportunities for women: *Provided further*, That of the funds appropriated under this heading, \$1,500,000 should be made available for programs to address the needs of people with physical and mental disabilities resulting from the tsunami: *Provided further*, That of the funds appropriated under this heading, not less than \$12,500,000 should be made available to support initiatives that focus on the immediate and long-term needs of children for protection and permanency, including the registration of unaccompanied children, the reunification of children with their immediate or extended families, the protection of women and children from violence and exploitation, and activities designed to prevent the capture of children by armed forces and promote the integration of war affected youth: *Provided further*, That of the funds appropriated under this heading, \$20,000,000 should be made available for microenterprise development programs in countries affected by the tsunami, of which \$5,000,000 should be made available for microcredit programs, to be administered by the United States Agency for International Development: *Provided further*, That of the funds appropriated under this heading, \$1,500,000 should be made available for trafficking in persons monitoring and prevention programs and activities in tsunami affected countries: *Provided further*, That the President is hereby authorized to defer and reschedule for such period as he may deem appropriate any amounts owed to the United States or any agency of the United States by those countries significantly affected by the tsunami and earthquakes of December 2004 and March 2005, including the Republic of Indonesia, the Republic of Maldives and the Democratic Socialist Republic of Sri Lanka: *Provided further*, That funds appropriated under this heading may be made available for the modification costs, as defined in section 502 of the Congressional Budget Act of 1974, if any, associated with any deferral and rescheduling authorized under this heading: *Provided further*, That such amounts shall not be considered “assistance” for the purposes of provisions of law limiting assistance to any such affected country:

President.

Provided further, That any agreement to defer and reschedule such debt will include a commitment by the recipient government that resources freed by the debt deferral will benefit directly the people affected by the tsunami: *Provided further*, That the Secretary of State shall arrange for an outside, independent evaluation of each government's compliance with the commitment: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

GENERAL PROVISIONS, THIS CHAPTER

ANNUAL LIMITATION

SEC. 4101. Amounts made available pursuant to section 492(b) of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2292a), to address relief and rehabilitation needs for countries affected by the Indian Ocean tsunami and earthquakes of December 2004 and March 2005, prior to the enactment of this Act, shall be in addition to the amount that may be obligated in fiscal year 2005 under that section.

REPORTING REQUIREMENT

SEC. 4102. The Secretary of State shall submit to the Committees on Appropriations not later than 30 days after enactment, and prior to the initial obligation of funds appropriated under this chapter not used to reimburse accounts for obligations made prior to enactment, a report on the proposed uses of all funds on a project-by-project basis, for which such initial obligation of funds is anticipated: *Provided*, That up to 15 percent of funds appropriated under this chapter may be obligated before the submission of the report subject to the regular notification procedures of the Committees on Appropriations: *Provided further*, That the report shall be updated and submitted to the Committees on Appropriations every six months and shall include information detailing how the estimates and assumptions contained in previous reports have changed: *Provided further*, That any proposed new projects and increases in funding of ongoing projects shall be reported to the Committees on Appropriations in accordance with regular notification procedures: *Provided further*, That the Secretary of State shall submit to the Committees on Appropriations, not later than 210 days following enactment of this Act, and every six months thereafter, a report detailing on a project-by project basis, the expenditure of funds appropriated under this chapter until all funds have been fully expended.

AUTHORIZATION OF FUNDS

SEC. 4103. Funds appropriated by this Act may be obligated and expended notwithstanding section 15 of the State Department Basic Authorities Act of 1956, section 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236), section 10 of Public Law 91–672 (22 U.S.C. 2412), and section 504(a)(1) of the National Security Act of 1947 (50 U.S.C. 414(a)(1)).

AVIAN INFLUENZA VIRUS

SEC. 4104. Of the funds appropriated under this chapter, \$25,000,000 shall be made available for a coordinated program to prevent and control the spread of the Avian influenza virus: *Provided*, That not less than \$15,000,000 of such funds should be transferred to the Centers for Disease Control and Prevention: *Provided further*, That prior to the obligation of such funds, the Centers for Disease Control and Prevention shall consult with the United States Agency for International Development on the proposed use of such funds: *Provided further*, That funds made available by this section and transferred to the Centers for Disease Control and Prevention shall be for necessary expenses to carry out Titles III and XXIII of the Public Health Service Act.

CHAPTER 2

DEPARTMENT OF DEFENSE—MILITARY

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, NAVY

For an additional amount for “Operation and Maintenance, Navy”, \$124,100,000: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

OPERATION AND MAINTENANCE, MARINE CORPS

For an additional amount for “Operation and Maintenance, Marine Corps”, \$2,800,000: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for “Operation and Maintenance, Air Force”, \$30,000,000: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

OPERATION AND MAINTENANCE, DEFENSE-WIDE

For an additional amount for “Operation and Maintenance, Defense-Wide”, \$29,150,000: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

OVERSEAS HUMANITARIAN, DISASTER, AND CIVIC AID

For an additional amount for “Overseas Humanitarian, Disaster, and Civic Aid”, \$36,000,000, to remain available until September 30, 2006: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to

section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

OTHER DEPARTMENT OF DEFENSE PROGRAMS

DEFENSE HEALTH PROGRAM

For an additional amount for “Defense Health Program”, \$3,600,000 for Operation and maintenance: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

CHAPTER 3

DEPARTMENT OF HOMELAND SECURITY

UNITED STATES COAST GUARD

OPERATING EXPENSES

For an additional amount for “Operating Expenses”, \$350,000: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

CHAPTER 4

DEPARTMENT OF THE INTERIOR

UNITED STATES GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

For an additional amount for “Surveys, Investigations, and Research”, \$8,100,000, to remain available until September 30, 2006: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

CHAPTER 5

DEPARTMENT OF COMMERCE

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount for “Operations, Research, and Facilities”, \$7,070,000, to remain available until September 30, 2006, for United States tsunami warning capabilities and operations: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

PROCUREMENT, ACQUISITION AND CONSTRUCTION

For an additional amount for “Procurement, Acquisition and Construction”, \$10,170,000, to remain available until September 30, 2007, for United States tsunami warning capabilities: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

TITLE V—OTHER EMERGENCY APPROPRIATIONS

CHAPTER 1

DEPARTMENT OF AGRICULTURE

NATURAL RESOURCES CONSERVATION SERVICE

EMERGENCY WATERSHED PROTECTION PROGRAM

Utah.

For an additional amount for the emergency watershed protection program established under section 403 of the Agricultural Credit Act of 1978 (16 U.S.C. 2203) to repair damages to waterways and watersheds resulting from natural disasters, \$104,500,000, to remain available until expended: *Provided*, That the above amount includes funding for eligible work identified in the Emergency Watershed Program Recovery Projects Unfunded list as of April 25, 2005: *Provided further*, That notwithstanding any other provision of law, the Secretary of Agriculture shall count local financial and technical resources, including in-kind materials and services, contributed toward recovery from the flooding events of January 2005 in Washington County, Utah, toward local matching requirements for the emergency watershed protection program assistance provided to Washington County, Utah: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

GENERAL PROVISIONS, THIS CHAPTER

RURAL HOUSING SERVICE

SEC. 5101. Hereafter, notwithstanding any other provision of law, the Secretary of Agriculture may transfer any unobligated amounts made available under the heading “Rural Housing Service”, “Rural Housing Insurance Fund Program Account” in chapter 1 of title II of Public Law 106–246 (114 Stat. 540) to the Rural Housing Service “Rental Assistance Program” account for projects in North Carolina: *Provided*, That the amounts made available by the transfer of funds in or pursuant to this section are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

RURAL HOUSING ASSISTANCE GRANTS

Ohio.

SEC. 5102. Notwithstanding any other provision of law, the Secretary of Agriculture shall consider the Village of New Miami, Ohio, a rural area for purposes of eligibility for grants funded through the Rural Housing Assistance Grants account.

WATERSHED PROJECTS IN WEST VIRGINIA

SEC. 5103. Of the amount provided to the Secretary of Agriculture under the Consolidated Appropriations Act, 2005 (Public Law 108–447) for the Lost River Watershed project, West Virginia, \$4,000,000 may be transferred to the Upper Tygart Watershed project, West Virginia, to be used under the same terms and conditions under which funds for that project were appropriated in section 735 of the Consolidated Appropriations Act, 2004 (Public Law 108–199; 118 Stat. 36).

FARM SERVICE AGENCY

SEC. 5104. The funds made available in section 786 of title VII of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2005 as contained in division A of the Consolidated Appropriations Act, 2005 (Public Law 108–447) may be applied to accounts of Alaska dairy farmers owed to the Secretary of Agriculture.

CHAPTER 2

DEPARTMENT OF THE INTERIOR

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For an additional amount for “Departmental Management”, \$3,000,000 to support deployment of business systems to the bureaus and offices of the Department of the Interior, including the Financial and Business Management System: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

RELATED AGENCY

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

CAPITAL IMPROVEMENT AND MAINTENANCE

For an additional amount for “Capital Improvement and Maintenance”, \$24,390,000, to remain available until expended, to repair damages to national forest facilities and lands caused by severe storms in southern California: *Provided*, That such funds shall be available to perform repair activities including, but not limited to, restoration of roads, trails and facilities; removal of landslides; drainage protection; waste removal; and stream stabilization: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

CHAPTER 3

DEPARTMENT OF HEALTH AND HUMAN SERVICES

OFFICE OF THE SECRETARY

PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY FUND

(INCLUDING RESCISSIONS OF FUNDS)

For an additional amount for the “Public Health and Social Services Emergency Fund” in title II of Public Law 108–447, \$10,000,000, to remain available until expended, for an infrastructure grant to improve the supply of domestically produced vaccine: *Provided*, That the entire amount is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress): *Provided further*, That under the heading “Health Resources and Services Administration, Health Resources and Services”, the unobligated balance for the Health Professions Teaching Facilities Program authorized in sections 726 and 805 of the Public Health Service Act; the unobligated balance of the Health Teaching Construction Interest Subsidy Program authorized in section 726 and title XVI of the Public Health Service Act; and the unobligated balance of the AIDS Facilities Renovation and Support Program authorized in title XVI of the Public Health Service Act are all hereby rescinded: *Provided further*, That under the heading “Office of the Secretary, Office of the Inspector General”, the unobligated balance of the Medicaid Fraud Control Program authorized in section 1903 of the Social Security Act and appropriated to the Office of the Inspector General in the Department of Health and Human Services is hereby rescinded: *Provided further*, That under the heading “Assistant Secretary for Health Scientific Activities Overseas (Special Foreign Currency Program)” the unobligated balance of the Scientific Activities Overseas (Special Foreign Currency Program) account within the Department of Health and Human Services is hereby rescinded.

For an additional amount for the “Public Health and Social Services Emergency Fund” in title II of Public Law 108–447, \$58,000,000, to remain available until expended, to be transferred to the Centers for Disease Control and Prevention for the purchase of influenza countermeasures for the Strategic National Stockpile: *Provided*, That \$58,000,000 appropriated by section 1897(g) of the Social Security Act, as added by section 1016 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173) is rescinded.

CHAPTER 4

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

HOUSING FOR PERSONS WITH DISABILITIES

(INCLUDING RESCISSION OF FUNDS)

Of the amount made available under this heading in Public Law 108–447, \$238,080,000 are rescinded.

For an additional amount for “Housing for Persons with Disabilities”, \$238,080,000, to remain available until September 30, 2006: *Provided*, That these funds shall be available under the same terms and conditions as authorized for funds under this heading in Public Law 108–447.

OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for the “Office of Federal Housing Enterprise Oversight” for carrying out the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, \$5,000,000 to remain available until expended, to be derived from the Federal Housing Enterprises Oversight Fund but not any funds collected under section 1316(c) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4516(c)): *Provided*, That notwithstanding section 1316(d) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, any funds collected under section 1316(c) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 shall not be credited for fiscal year 2006 as surplus under section 1316(d) of such Act or as part of any assessment to be collected for fiscal year 2006 under section 1316(a) of such Act: *Provided further*, That not to exceed the amount provided herein shall be available from the general fund of the Treasury to the extent necessary to incur obligations and make expenditures pending the receipt of collections to the Fund: *Provided further*, That the general fund amount shall be reduced as collections are received during the fiscal year so as to result in a final appropriation from the general fund estimated at not more than \$0.

TITLE VI—GENERAL PROVISIONS AND TECHNICAL
CORRECTIONS

AVAILABILITY OF FUNDS

SEC. 6001. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

REFERENCES TO EMERGENCY REQUIREMENTS

SEC. 6002. Any reference in this Act to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress) shall be treated as a reference to the emergency legislation section of H. Con. Res. 95 (109th Congress), if H. Con. Res. 95 (109th Congress) is adopted prior to the enactment of this Act.

RURAL BUSINESS-COOPERATIVE SERVICE

SEC. 6003. None of the funds made available by this or any other Act may be used to deny the provision of assistance under section 310B(a)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(a)(1)) solely due to the failure of the Secretary of Labor to respond to a request to certify assistance within the time period specified in section 310B(d)(4) of that Act.

MC CLELLAN KERR NAVIGATION SYSTEM ADVANCED OPERATIONS AND
MAINTENANCE

118 Stat. 2940. SEC. 6004. The last proviso under the heading “Operation and Maintenance” in title I of division C of Public Law 108–447 is amended by striking “Public Law 108–357” and inserting “Public Law 108–137”.

ENVIRONMENTAL INFRASTRUCTURE

33 USC 2221. SEC. 6005. Section 101 of title I of division C of Public Law 108–447 is amended by striking “per project” and all that follows through the period at the end and inserting “for all applicable programs and projects not to exceed \$80,000,000 in each fiscal year.”.

DE SOTO COUNTY, MISSISSIPPI

SEC. 6006. Section 219(f)(30) of the Water Resources Development Act of 1992 (106 Stat. 4835; 106 Stat. 3757; 113 Stat. 334) is amended by striking “\$20,000,000” and inserting “\$55,000,000” in lieu thereof, and by striking “treatment” and inserting “infrastructure” in lieu thereof: *Provided*, That the Secretary is authorized and directed to reimburse the non-Federal local sponsor of the project described in section 219(f)(30) of the Water Resources Development Act of 1992 (106 Stat. 4835; 106 Stat. 3757; 113 Stat. 334) for costs incurred between May 13, 2002, and September 30, 2005, in excess of the required non-Federal share if the Secretary determines that such costs were incurred for work that is compatible with and integral to the project: *Provided further*, That the non-Federal local sponsor, at its option, may choose to accept, in lieu of reimbursement, a credit against the non-Federal share of project cost incurred after May 13, 2002.

FORT PECK FISH HATCHERY, MONTANA

114 Stat. 2605. SEC. 6007. Section 325(f)(1)(A) of Public Law 106–541 is modified by striking “\$20,000,000” and inserting in lieu thereof “\$25,000,000”.

INTERCOASTAL WATERWAY, DELAWARE RIVER TO CHESAPEAKE BAY,
SR–1 BRIDGE, DELAWARE

118 Stat. 2939. SEC. 6008. The first proviso under the heading “Operation and Maintenance” in title I of division C of Public Law 108–447 is amended by striking “October 1, 2003, and September 30, 2004” and inserting “October 1, 2004, and September 30, 2005”.

OFFSHORE OIL AND GAS FABRICATION PORTS

SEC. 6009. In determining the economic justification for navigation projects involving offshore oil and gas fabrication ports, the Secretary of the Army, acting through the Chief of Engineers, is directed to measure and include in the National Economic Development calculation the value of future energy exploration and production fabrication contracts and transportation cost savings that would result from larger navigation channels.

ENVIRONMENTAL INFRASTRUCTURE

SEC. 6010. In division C, title I of the Consolidated Appropriations Act, 2005 (Public Law 108–447), the item relating to Corps of Engineers—Civil, Construction, General, is amended by inserting before the period at the end the following: “: *Provided further*, That of the funds made available herein for Ohio Environmental Infrastructure, \$500,000 shall be used for the Liberty Little Squaw Creek sewer upgrade and \$1,000,000 shall be used for the Lake County, Concord Township sanitary sewer line improvement: *Provided further*, That of the funds made available herein, \$350,000 shall be used to complete design for the St. Croix Falls, Wisconsin, wastewater infrastructure project”.

118 Stat. 2935.

INDIANA HARBOR, INDIANA

SEC. 6011. The Secretary of the Army, acting through the Chief of Engineers, is directed to complete, at full Federal expense, the Indiana Harbor and Canal, Confined Disposal Facility, Indiana, currently under construction.

SEMINOLE TRIBE, BIG CYPRESS PROJECT

SEC. 6012. Section 528(b)(3) of the Water Resources Development Act of 1996 (110 Stat. 3769; 113 Stat. 286) is amended by adding the following:

“(5) The Seminole Tribe of Florida shall receive a mitigation credit for 50 percent of the net wetland benefits derived within the footprint of the Big Cypress Seminole Reservation Water Conservation Plan Project. Such credit may be used to meet the mitigation requirements of section 404 of the Clean Water Act as they may apply to future projects proposed by the Seminole Tribe of Florida.”.

SAN GABRIEL BASIN RESTORATION

SEC. 6013. (a) The matter under the heading “Water and Related Resources” in title II of division C of Public Law 108–447 is amended by inserting before the period at the end the following: “: *Provided further*, That \$4,023,000 of the funds appropriated under this heading shall be deposited in the San Gabriel Basin Restoration Fund established by section 110 of title I of division B of the Miscellaneous Appropriations Act, 2001 (as enacted into law by Public Law 106–554)”.

118 Stat. 2947.

(b) Section 110(a)(3)(A)(ii) of the Miscellaneous Appropriations Act, 2001 (as enacted into law by section 1(a)(4) of Public Law 106–554) as amended is further amended by inserting the words “and maintain” after the word “operate”.

114 Stat.
2763A–222.

SILVERY MINNOW OFF-CHANNEL SANCTUARIES

SEC. 6014. The Secretary of the Interior is authorized to perform such analyses and studies as needed to determine the viability of establishing an off-channel sanctuary for the Rio Grande Silvery Minnow in the Middle Rio Grande Valley. In conducting these studies, the Secretary shall take into consideration:

(1) providing off-channel, naturalistic habitat conditions for propagation, recruitment, and maintenance of Rio Grande silvery minnows; and

(2) minimizing the need for acquiring water or water rights to operate the sanctuary.

If the Secretary determines the project to be viable, the Secretary is further authorized to design and construct the sanctuary and to thereafter operate and maintain the sanctuary. The Secretary may enter into grant agreements, cooperative agreements, financial assistance agreements, interagency agreements, and contracts with Federal and non-Federal entities to carry out the purposes of this Act.

DESALINATION ACT EXTENSION

42 USC 10301
note.

SEC. 6015. Section 8 of Public Law 104–298 (The Water Desalination Act of 1996) (110 Stat. 3624) as amended by section 210 of Public Law 108–7 (117 Stat. 146) is amended by—

(1) in paragraph (a) by striking “2004” and inserting in lieu thereof “2005”; and

(2) in paragraph (b) by striking “2004” and inserting in lieu thereof “2005”.

ENERGY SUPPLY

118 Stat. 2951.

SEC. 6016. In division C, title III of the Consolidated Appropriations Act, 2005 (Public Law 108–447), the item relating to “Department of Energy, Energy Programs, Energy Supply” is amended by inserting before the period at the end the following: “: *Provided*, That \$2,000,000 is made available for the National Center for Manufacturing Sciences in Michigan: *Provided further*, That \$825,000 is made available for research and development in California to advance the state of metal hydride hydrogen storage”.

OFFICE OF SCIENCE

118 Stat. 2951.

SEC. 6017. In division C, title III of the Consolidated Appropriations Act, 2005 (Public Law 108–447), the item relating to “Department of Energy, Energy Programs, Science” is amended by inserting “: *Provided*, That \$2,000,000 is provided within available funds to continue funding for project #DE-FG0204ER63842–04090945, the Southeast Regional Cooling, Heating and Power and Bio-Fuel Application Center, and \$3,000,000 is provided from within available funds for the University of Texas Southwestern Medical Center, University of Texas at Dallas Metroplex Comprehensive Imaging Center: *Provided further*, That within funds made available herein \$500,000 is provided for the desalination plant technology program at the University of Nevada-Reno (UNR) and \$500,000 for the Oral History of the Negotiated Settlement project at UNR: *Provided further*, That \$4,000,000 is to be provided from within available funds to the Fire Sciences Academy in Elko, Nevada, for purposes of capital debt service: *Provided further*, That \$2,000,000 is made available within available funds to upgrade chemistry laboratories at Drew University, New Jersey” after “\$3,628,902,000”.

FOSSIL ENERGY

118 Stat. 3081.

SEC. 6018. In division E, title II of the Consolidated Appropriations Act, 2005 (Public Law 108–447), the item relating to “Department of Energy, Fossil Energy Research and Development” is amended by inserting before the period at the end the following: “: *Provided further*, That \$1,000,000 is made available for the

National Energy Technology Laboratory in Pennsylvania to work with the Borough of Versailles, Pennsylvania, to remediate leaks from abandoned natural gas wells”.

WEAPONS ACTIVITIES

(INCLUDING TRANSFER OF FUNDS)

SEC. 6019. Notwithstanding the provisions of section 302 of Public Law 102–377 and section 4705 of Public Law 107–314, as amended, the Department may transfer up to \$10,000,000 from the Weapons Activities appropriation for purposes of carrying out section 3147 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005, Public Law 108–375: *Provided*, That \$825,000 is made available for cybersecurity at Department of Energy laboratories using the CimTrak technology.

DEFENSE ENVIRONMENTAL SERVICES

SEC. 6020. Title III of division C of the Consolidated Appropriations Act, 2005 (Public Law 108–447) is amended by inserting before the period at the end of “Defense Environmental Services” the following: “: *Provided*, That to the extent activities to be funded within the ‘Defense Environmental Services’ cannot be funded without unduly impacting mission activities and statutory requirements, up to \$30,000,000 from ‘Defense Site Acceleration Completion’ may be used for these activities: *Provided further*, That \$2,000,000 is provided within available funds to support desalination activities in partnership with the Bureau of Reclamation at the Tularosa Basin desalination facility, New Mexico”.

118 Stat. 2954.

DEFENSE SITE ACCELERATION COMPLETION TRANSFER TO WEAPONS ACTIVITIES

(INCLUDING TRANSFER OF FUNDS)

SEC. 6021. Notwithstanding the provisions of section 302 of Public Law 102–377 and section 4705 of Public Law 107–314, as amended, the Department may transfer up to \$4,000,000 from the “Defense Site Acceleration Completion” appropriation to “Weapons Activities” appropriation contained in the Consolidated Appropriations Act, 2005 (Public Law 108–447), division C—Energy and Water Development.

SMALL BUSINESS CONTRACTING

SEC. 6022. (a) Not later than September 30, 2005, the Department of Energy and the Small Business Administration shall enter into a memorandum of understanding setting forth an appropriate methodology for measuring the achievement of the Department of Energy with respect to awarding contracts to small businesses.

Deadline.
Memorandum.
42 USC 7256
note.

(b) The methodology set forth in the memorandum of understanding entered into under subsection (a) shall, at a minimum, include—

(1) a method of counting the achievement of the Department of Energy in awards of—

(A) prime contracts; and

(B) subcontracts to small businesses awarded by Department of Energy management and operating,

	management and integration, and other facility management prime contractors; and
	(2) uniform criteria that could be used by prime contractors when measuring the value and number of subcontracts awarded to small businesses.
Deadline.	(c)(1) Not later than September 30, 2005, the Administrator of the Small Business Administration, the Chief Counsel for Advocacy of the Small Business Administration, the Chairman of the Defense Nuclear Facilities Safety Board, the Secretary of Energy, and the Administrator of the National Nuclear Security Administration, shall jointly conduct a study regarding the feasibility of possible changes to management and operating contracts and other management contracts within the Department of Energy to encourage new opportunities for small businesses to increase their role as prime contractors.
	(2) In conducting the study under paragraph (1), the Administrator of the Small Business Administration, the Chief Counsel for Advocacy of the Small Business Administration, the Chairman of the Defense Nuclear Facilities Safety Board, the Secretary of Energy, and the Administrator of the National Nuclear Security Administration shall jointly consider the impact of changes studied on—
	(A) accountability, competition, and sound management practices at the Department of Energy and its facilities managed by prime contractors;
	(B) safety, security, and oversight of Department of Energy facilities; and
	(C) the potential oversight and management requirements necessary to implement the findings of the study.
Reports.	(3) The Administrator of the Small Business Administration, the Chief Counsel for Advocacy of the Small Business Administration, the Chairman of the Defense Nuclear Facilities Safety Board, the Secretary of Energy, and the Administrator of the National Nuclear Security Administration shall report their joint findings to—
	(A) the Committee on Small Business and Entrepreneurship, the Committee on Energy and Natural Resources, the Committee on Armed Services, the Committee on Homeland Security and Government Affairs, and the Committee on Appropriations of the Senate; and
	(B) the Committee on Small Business, the Committee on Energy and Commerce, the Committee on Armed Services, the Committee on Homeland Security, and the Committee on Appropriations of the House of Representatives.
Effective date. Termination date.	(d)(1) Beginning on the date of enactment of this Act and ending at the conclusion of fiscal year 2007, in any case in which the Secretary of Energy decides to break-out appropriate large prime contracts, known as the management and operating contracts, for award to small businesses, the Secretary shall consider whether—
	(A) the services under the contract have previously been provided by a small business concern; and
	(B) the contract is of the type capable of being performed by a small business concern.
	(2) In the case of a contract awarded by the Department of Energy as a result of a break-out of subcontracts previously awarded

by management and operating prime contractors and reawarded as a small business prime contract under paragraph (1)—

(A) any such contract valued at more than \$25,000,000 shall be required to have a subcontracting plan for small businesses; and

(B) the Secretary shall make a determination on the advisability of requiring a local presence for small business subcontractors.

NUCLEAR WASTE DISPOSAL

SEC. 6023. Title III of division C of the Consolidated Appropriations Act, 2005 (Public Law 108–447; 118 Stat. 2951) is amended in the matter under the heading “Nuclear Waste Disposal”—

(1) by inserting “to be derived from the Nuclear Waste Fund and” after “\$346,000,000,”; and

(2) in the second proviso, by striking “to conduct scientific oversight responsibilities and participate in licensing activities pursuant to the Act” and inserting “to participate in licensing activities and other appropriate activities pursuant to that Act”.

DEPARTMENT OF HOMELAND SECURITY

WORKING CAPITAL FUND

SEC. 6024. None of the funds appropriated or otherwise made available to the Department of Homeland Security may be used to make payments to the “Department of Homeland Security Working Capital Fund”, except for the activities for fiscal year 2005 contained in the April 11, 2005, report submitted to the Committees on Appropriations of the Senate and the House of Representatives on the Department of Homeland Security Working Capital Fund, and all activities and services funded by the Federal Emergency Management Agency “Working Capital Fund” before March 1, 2003: *Provided*, That all organizations shall be charged only for direct usage of each service: *Provided further*, That for fiscal year 2005, funding for activities shall not exceed the amounts listed in the Department of Homeland Security Working Capital Fund April 11, 2005, report: *Provided further*, That any additional activities and amounts must be approved by the Committees on Appropriations of the Senate and the House of Representatives 30 days in advance of obligation.

SEC. 6025. The Department of Homeland Security shall henceforth provide an appropriations justification for the “Department of Homeland Security Working Capital Fund” to the Committees on Appropriations of the Senate and House of Representatives: *Provided*, That an annual appropriations justification shall be submitted to the Congress as a part of the President’s budget as submitted under Section 1105(a) of Title 31, United States Code, and shall contain the same level of detail as the Department’s Congressional appropriations justification in support of the President’s budget: *Provided further*, That the “Department of Homeland Security Working Capital Fund” Congressional appropriations justification for fiscal year 2006 shall be submitted within 15 days of enactment of this Act: *Provided further*, That the Chief Financial Officer shall ensure that all planned activities and amounts to be funded by the “Department of Homeland Security Working Capital Fund”, all reimbursable agreements, and all uses of the

31 USC 501 note.

Deadline.

Economy Act are explicitly identified in each Congressional appropriations justification in support of the President’s budget provided for each agency and component of the Department.

OFFICE OF THE CHIEF INFORMATION OFFICER

SEC. 6026. Of the funds provided under the heading “Office of the Chief Information Officer” in Public Law 108–334, \$5,000,000 shall not be obligated for salaries and expenses until an expenditure plan is submitted to the Committees on Appropriations of the Senate and the House of Representatives for any information technology project that: (1) is funded by the “Office of the Chief Information Officer”; or (2) is funded by multiple components of the Department of Homeland Security through reimbursable agreements: *Provided*, That such expenditure plan shall include each specific project funded, key milestones, all funding sources for each project, details of annual and lifecycle costs, and projected cost savings or cost avoidance to be achieved by project: *Provided further*, That the expenditure plan shall include a complete list of all legacy systems operational as of March 1, 2003, the current operational status of each system, and the plans for continued operation or termination of each system.

RESCISSION OF FUNDS

SEC. 6027. Of the funds appropriated by Public Law 108–334 (118 Stat. 1298, 1300, 1302), the following are rescinded: \$500,000 under the heading “Office of the Secretary and Executive Management”; \$3,300,000 under the heading “Office of the Under Secretary for Management”; \$76,000,000 under the heading “Customs and Border Protection, Salaries and Expenses”; and \$85,200,000 under the heading “Immigration and Customs Enforcement, Salaries and Expenses”.

SEC. 6028. Of the unobligated balances available in the “Department of Homeland Security Working Capital Fund”, \$20,000,000 are rescinded.

REPROGRAMMING AND TRANSFER OF FUNDS

SEC. 6029. Any funds made available to the Department of Homeland Security by this Act shall be subject to the terms and conditions of Title V of Public Law 108–334.

BUREAU OF LAND MANAGEMENT, TECHNICAL CORRECTION

118 Stat. 3072.

SEC. 6030. Section 144 of division E of Public Law 108–447 is amended in paragraph (b)(2) by striking “September 24, 2004” and inserting “November 12, 2004”.

FOREST SERVICE TRANSFER

SEC. 6031. Funds in the amount of \$1,500,000, provided in Public Law 108–447 for the “Forest Service, Capital Improvement and Maintenance” account, are hereby transferred to the “Forest Service, State and Private Forestry” account.

WEST YELLOWSTONE VISITOR INFORMATION CENTER

SEC. 6032. Notwithstanding any other provision of law, the National Park Service is authorized to expend appropriated funds

for the construction, operations and maintenance of an expansion to the West Yellowstone Visitor Information Center to be constructed for visitors to, and administration of, Yellowstone National Park.

PESTICIDES TOLERANCE FEES

SEC. 6033. None of the funds in this or any other Appropriations Act may be used by the Environmental Protection Agency or any other Federal agency to develop, promulgate, or publish a pesticides tolerance fee rulemaking.

GULF ISLANDS NATIONAL SEASHORE

SEC. 6034. (a) The Secretary of the Interior shall allow the State of Mississippi, its lessees, contractors, and permittees, to conduct, under reasonable regulation not inconsistent with extraction of the oil and gas minerals reserved by the State of Mississippi in the deed referenced in subsection (b):

Mississippi.
Minerals.

(1) exploration, development and production operations on sites outside the boundaries of Gulf Islands National Seashore that use directional drilling techniques which result in the drill hole crossing into the Gulf Islands National Seashore and passing under any land or water the surface of which is owned by the United States, including terminating in bottom hole locations thereunder; and

(2) seismic and seismic-related exploration activities inside the boundaries of Gulf Islands National Seashore to identify the oil and gas minerals located within the boundaries of the Gulf Islands National Seashore under the surface estate conveyed by the State of Mississippi, all of which oil and gas minerals the State of Mississippi reserved the right to extract.

(b) The provisions of subsection (a) shall not take effect until the State of Mississippi enters into an agreement with the Secretary providing that any actions by the United States in relation to the provisions in the section shall not trigger any reverter of any estate conveyed by the State of Mississippi to the United States within the Gulf Islands National Seashore in Chapter 482 of the General Laws of the State of Mississippi, 1971, and the quitclaim deed of June 15, 1972.

Contracts.

SURFACE MINING CONTROL AND RECLAMATION ACT

SEC. 6035. Section 402(b) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(b)) is amended by striking “June 30, 2005,” and inserting “September 30, 2005,”.

RESIDENT AND NONRESIDENT HUNTING AND FISHING REGULATIONS

SEC. 6036. STATE REGULATION OF RESIDENT AND NONRESIDENT HUNTING AND FISHING. (a) SHORT TITLE.—This section may be cited as the “Reaffirmation of State Regulation of Resident and Nonresident Hunting and Fishing Act of 2005”.

(b) DECLARATION OF POLICY AND CONSTRUCTION OF CONGRESSIONAL SILENCE.—

(1) IN GENERAL.—It is the policy of Congress that it is in the public interest for each State to continue to regulate

Reaffirmation of
State Regulation
of Resident and
Nonresident
Hunting and
Fishing Act
of 2005.

the taking for any purpose of fish and wildlife within its boundaries, including by means of laws or regulations that differentiate between residents and nonresidents of such State with respect to the availability of licenses or permits for taking of particular species of fish or wildlife, the kind and numbers of fish and wildlife that may be taken, or the fees charged in connection with issuance of licenses or permits for hunting or fishing.

(2) CONSTRUCTION OF CONGRESSIONAL SILENCE.—Silence on the part of Congress shall not be construed to impose any barrier under clause 3 of Section 8 of Article I of the Constitution (commonly referred to as the “commerce clause”) to the regulation of hunting or fishing by a State or Indian tribe.

(c) LIMITATIONS.—Nothing in this section shall be construed—

(1) to limit the applicability or effect of any Federal law related to the protection or management of fish or wildlife or to the regulation of commerce;

(2) to limit the authority of the United States to prohibit hunting or fishing on any portion of the lands owned by the United States; or

(3) to abrogate, abridge, affect, modify, supersede or alter any treaty-reserved right or other right of any Indian tribe as recognized by any other means, including, but not limited to, agreements with the United States, Executive Orders, statutes, and judicial decrees, and by Federal law.

(d) STATE DEFINED.—For purposes of this section, the term “State” includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands.

STATE AND TRIBAL ASSISTANCE GRANTS, TECHNICAL CORRECTIONS

SEC. 6037. The referenced statement of the managers under the heading “State and Tribal Assistance Grants” for the Environmental Protection Agency in Public Law 106-377, in reference to item 80, is deemed to be amended by striking all after “for” and inserting in lieu thereof “wastewater infrastructure improvements”.

SEC. 6038. The referenced statement of the managers under the heading “State and Tribal Assistance Grants” for the Environmental Protection Agency in Public Law 108-199 is deemed to be amended, in reference to item 331, by striking all after “to” and inserting in lieu thereof “Wayne County, New York Water and Sewer Authority for wastewater infrastructure improvements” and, in reference to item 25, by striking all after “for” and inserting in lieu thereof “water and wastewater improvements”.

SEC. 6039. The referenced statement of the managers under the heading “State and Tribal Assistance Grants” for the Environmental Protection Agency in Public Law 108-447 is deemed to be amended, in reference to item 235, by striking “\$650,000” and inserting in lieu thereof “\$1,000,000” and is deemed to be amended by adding “668. \$150,000 to the City of Oldsmar, Florida for water and wastewater infrastructure improvements.”.

TRANSFER AUTHORITY

SEC. 6040. (a) Section 102 of division F of Public Law 108-447 is hereby repealed.

(b) Section 208 of division F of Public Law 108-447 is amended by inserting before the period at the end the following: “: *Provided further*, That such authority shall be limited to emergency use only, and is not to be used to create new programs, or to fund any project or activity for which no funds were provided”.

118 Stat. 3138.

TECHNICAL CORRECTIONS—FUND FOR THE IMPROVEMENT OF
EDUCATION—FISCAL YEAR 2005

SEC. 6041. In the statement of the managers of the committee of conference accompanying H.R. 4818 (Public Law 108-447; House Report 108-792), in the matter in title III of division F, relating to the Fund for the Improvement of Education under the heading “Innovation and Improvement”—

(1) the provision specifying \$500,000 for the Mississippi Museum of Art, Jackson, MS for Hardy Middle School After School Program shall be deemed to read “Mississippi Museum of Art, Jackson, MS for a Mississippi Museum of Art After-School Collaborative”;

(2) the provision specifying \$2,000,000 for the Milken Family Foundation, Santa Monica, CA, for the Teacher Advancement Program shall be deemed to read “Teacher Advancement Program Foundation, Santa Monica, CA for the Teacher Advancement Program”;

(3) the provision specifying \$1,000,000 for Batelle for Kids, Columbus, OH for a multi-state effort to evaluate and learn the most effective ways for accelerating student academic growth shall be deemed to read “Battelle for Kids, Columbus, OH for a multi-state effort to implement, evaluate and learn the most effective ways for accelerating student academic growth”;

(4) the provision specifying \$750,000 for the Institute of Heart Math, Boulder Creek, CO for a teacher retention and student dropout prevention program shall be deemed to read “Institute of Heart Math, Boulder Creek, CA for a teacher retention and student dropout prevention program”;

(5) the provision specifying \$200,000 for Fairfax County Public Schools, Fairfax, VA for Chinese language programs in Franklin Sherman Elementary School and Chesterbrook Elementary School in McLean, Virginia shall be deemed to read “Fairfax County Public Schools, Fairfax, VA for Chinese language programs in Shreveview Elementary School and Wolftrap Elementary School”;

(6) the provision specifying \$1,250,000 for the University of Alaska/Fairbanks in Fairbanks, AK, working with the State of Alaska and Catholic Community Services, for the Alaska System for Early Education Development (SEED) shall be deemed to read “University of Alaska/Southeast in Juneau, AK, working with the State of Alaska and Catholic Community Services, for the Alaska System for Early Education Development (SEED)”;

(7) the provision specifying \$25,000 for QUILL Productions, Inc., Aston, PA, to develop and disseminate programs to enhance the teaching of American history shall be deemed to read “QUILL Entertainment Company, Aston, PA, to develop and disseminate programs to enhance the teaching of American history”;

(8) the provision specifying \$780,000 for City of St. Charles, MO for the St. Charles Foundry Arts Center in support of arts education shall be deemed to read “The Foundry Art Centre, St. Charles, Missouri for support of arts education in conjunction with the City of St. Charles, MO”;

(9) the provision specifying \$100,000 for Community Arts Program, Chester, PA, for arts education shall be deemed to read “Chester Economic Development Authority, Chester, PA for a community arts program”;

(10) the provision specifying \$100,000 for Kids with A Promise—The Bowery Mission, Bushkill, PA shall be deemed to read “Kids with A Promise—The Bowery Mission, New York, NY”;

(11) the provision specifying \$50,000 for Great Projects Film Company, Inc., Washington, DC, to produce “Educating America”, a documentary about the challenges facing our public schools shall be deemed to read “Great Projects Film Company, Inc., New York, NY, to produce ‘Educating America’, a documentary about the challenges facing our public schools”;

(12) the provision specifying \$30,000 for Summer Camp Opportunities Provide an Edge (SCOPE), New York, NY for YMCA Camps Skycrest, Speers and Eljabar shall be deemed to read “American Camping Association for Summer Camp Opportunities Provide an Edge (SCOPE), New York, NY for YMCA Camps Skycrest and Speers-Eljabar”;

(13) the provision specifying \$163,000 for Space Education Initiatives, Green Bay, WI for the Wisconsin Space Science Initiative shall be deemed to read “Space Education Initiatives, De Pere, WI for the Wisconsin Space Science Initiative”;

(14) the provision specifying \$100,000 for Clarion County Career Center, Shippenville, PA for curriculum development shall be deemed to read “Clarion County Career Center, Shippenville, PA for curriculum development, technology and/or equipment”;

(15) the provision specifying \$100,000 for Central Pennsylvania Institute of Science and Technology, Pleasant Gap, PA for curriculum development shall be deemed to read “Central Pennsylvania Institute of Science and Technology, Pleasant Gap, PA for curriculum development, technology and/or equipment”;

(16) the provision specifying \$100,000 for Forest Area High School, Tionesta, PA, for curriculum development shall be deemed to read “Forest Area High School, Tionesta, PA for curriculum development, technology and/or equipment”;

(17) the provision specifying \$100,000 for Jersey Shore High School, Jersey Shore, PA, for curriculum development shall be deemed to read “Jersey Shore High School, Jersey Shore, PA for curriculum development, technology and/or equipment”;

(18) the provision specifying \$100,000 for Montgomery Area School District, Montgomery, PA for curriculum development shall be deemed to read “Montgomery Area School District, Montgomery, PA for curriculum development, technology and/or equipment”;

(19) the provision specifying \$100,000 for Southern Tioga School District, Blossburg, PA for curriculum development shall

be deemed to read “Southern Tioga School District, Blossburg, PA for curriculum development, technology and/or equipment”;

(20) the provision specifying \$300,000 for Venango County AVTS, Oil City, PA for curriculum development shall be deemed to read “Venango County AVTS, Oil City, PA for curriculum development, technology and/or equipment”;

(21) the provision specifying \$100,000 for Warren County Career Center, Warren, PA, for curriculum development shall be deemed to read “Warren County Career Center, Warren, PA for curriculum development, technology and/or equipment”; and

(22) the provision specifying \$100,000 for Wellsboro Area School District, Wellsboro, PA, for curriculum development shall be deemed to read “Wellsboro Area School District, Wellsboro, PA for curriculum development, technology and/or equipment”.

TECHNICAL CORRECTIONS—FUND FOR THE IMPROVEMENT OF
POSTSECONDARY EDUCATION—FISCAL YEAR 2005

SEC. 6042. In the statement of the managers of the committee of conference accompanying H.R. 4818 (Public Law 108-447; House Report 108-792), in the matter in title III of division F, relating to the Fund for the Improvement of Postsecondary Education under the heading “Higher Education”—

(1) the provision specifying \$145,000 for the Belin-Blank Center at the University of Iowa, Iowa City, IA for the Big 10 school initiative to improve minority student access to Advanced Placement courses shall be deemed to read “University of Iowa, Iowa City, IA for the Iowa and Israel: Partners in Excellence program to enhance math and science opportunities to rural Iowa students”;

(2) the provision specifying \$150,000 for Mercy College, Dobbs Ferry, NY for the development of a registered nursing program shall be deemed to read “Mercy College, Dobbs Ferry, NY, for the development of a master’s degree program in nursing education, including marketing and recruitment activities”;

(3) the provision specifying \$100,000 for University of Alaska/Southeast to develop distance education coursework for arctic engineering courses and programs shall be deemed to read “University of Alaska System Office to develop distance education coursework for arctic engineering courses and programs”;

(4) the provision specifying \$170,000 for Shippensburg University Foundation, Shippensburg, PA, for the Center for Land Use shall be deemed to read “Shippensburg University, Shippensburg, PA, for the Center for Land Use”; and

(5) the provision specifying \$100,000 for Culver-Stockton College, Canton, MO for equipment and technology shall be deemed to read “Moberly Area Community College, Moberly, MO for equipment and technology”.

TECHNICAL CORRECTIONS—FUND FOR THE IMPROVEMENT OF
EDUCATION—FISCAL YEAR 2004

SEC. 6043. In the statement of the managers of the committee of conference accompanying H.R. 2673 (Public Law 108-199; House

Report 108–401), in the matter in title III of division E, relating to the Fund for the Improvement of Education under the heading “Innovation and Improvement” the provision specifying \$1,500,000 for the University of Alaska at Fairbanks for Alaska System for Early Education Development (SEED) program to expand early childhood services and to train Early Head Start teachers with AAS degrees for positions in rural Alaska shall be deemed to read “University of Alaska/Southeast in Juneau, AK, working with the State of Alaska and Catholic Community Services, for the Alaska System for Early Education Development (SEED) program to expand early childhood services and to train Early Head Start teachers with AAS degrees for positions in rural Alaska”.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR GRANT
REVIEWS

118 Stat. 3323. SEC. 6044. The matter under the heading “Corporation for National and Community Service—National and Community Service Programs Operating Expenses” in title III of division I of Public Law 108–447 is amended by inserting before the period at the end the following: “: *Provided further*, That the Corporation may use up to 1 percent of program grant funds made available under this heading to defray its costs of conducting grant application reviews, including the use of outside peer reviewers”.

MEDICARE HEALTH CARE INFRASTRUCTURE IMPROVEMENT PROGRAM

SEC. 6045. (a) IN GENERAL.—Section 1897(c) of the Social Security Act (42 U.S.C. 1395hhh(c)) is amended—

(1) in paragraph (2)—

(A) in the matter preceding subparagraph (A), by inserting “or an entity described in paragraph (3)” after “means a hospital”; and

(B) in subparagraph (B)—

(i) by inserting “legislature” after “State” the first place it appears; and

(ii) by inserting “and such designation by the State legislature occurred prior to December 8, 2003” before the period at the end; and

(2) by adding at the end the following new paragraph:

“(3) ENTITY DESCRIBED.—An entity described in this paragraph is an entity that—

“(A) is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code;

“(B) has at least 1 existing memorandum of understanding or affiliation agreement with a hospital located in the State in which the entity is located; and

“(C) retains clinical outpatient treatment for cancer on site as well as lab research and education and outreach for cancer in the same facility.”.

(b) LIMITATION ON REVIEW.—Section 1897 of the Social Security Act (42 U.S.C. 1395hhh(c)) is amended by adding at the end the following new subsection:

“(i) LIMITATION ON REVIEW.—There shall be no administrative or judicial review of any determination made by the Secretary under this section.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of section 1016 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2447). 42 USC 1395hhh note.

APPLICATION PROCESSING AND ENFORCEMENT FEES

SEC. 6046. Section 286(s)(6) of the Immigration and Nationality Act (8 U.S.C. 1356(s)(6)) is amended in the second sentence by inserting “and section 212(a)(5)(A)” before the period at the end.

TECHNICAL CORRECTION—HIGHER EDUCATION

(INCLUDING RESCISSION OF FUNDS)

SEC. 6047. (a) RESCISSION.—Of the funds made available under the heading “Higher Education” in title III of division F of Public Law 108–447, \$496,000 is rescinded, to be derived from the amount provided pursuant to the last proviso under such heading for the IWF Leadership Foundation, Washington, DC, for a scholarship fund.

(b) APPROPRIATION.—The amount rescinded by subsection (a) is appropriated for “General Services Administration—Operating Expenses”, for a grant to the IWF Leadership Foundation, Washington, DC, for a scholarship fund.

COPYRIGHT ROYALTY JUDGES

SEC. 6048. (a) The item relating to “LIBRARY OF CONGRESS—Copyright Office—salaries and expenses” in the Legislative Branch Appropriations Act, 2005 (Public Law 108–447; 118 Stat. 3187), is amended by striking the period at the end and inserting the following: “: *Provided further*, That notwithstanding any provision of chapter 8 of title 17, United States Code, any amounts made available under this heading which are attributable to royalty fees and payments received by the Copyright Office pursuant to sections 111 and 119, and chapter 10 of such title may be used for the costs incurred in the administration of the Copyright Royalty Judges program during any portion of fiscal year 2005 in which such program is in effect.”.

(b) The amendment made by subsection (a) shall take effect as if included in the enactment of the Legislative Branch Appropriations Act, 2005.

Effective date.

CAPITOL VISITOR CENTER

SEC. 6049. (a) The item relating to “Architect of the Capitol—Capitol Visitor Center” in the Legislative Branch Appropriations Act, 2002 (Public Law 107–68; 115 Stat. 588), is amended by striking “chair and ranking minority member of the”.

(b) The amendment made by subsection (a) shall take effect as if included in the enactment of the Legislative Branch Appropriations Act, 2002.

Effective date.

TECHNICAL CORRECTION

SEC. 6050. Notwithstanding any other provision of law, unexpended and unobligated funds appropriated by Public Law 108–7 to the accounts under the heading “SENATE” relating to Legislative Branch appropriations shall remain available without fiscal

year limitation: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

TECHNICAL CORRECTIONS—NATIONAL OCEANIC AND ATMOSPHERIC
ADMINISTRATION—FISCAL YEAR 2005

SEC. 6051. The referenced statement of managers under the heading “National Oceanic and Atmospheric Administration” in title II of division B of Public Law 108-447 is deemed to be amended after “Bonneau Ferry, SC” by striking “20,000” and inserting “19,200” in the “Procurement, Acquisition and Construction” account: *Provided*, That the difference in these amounts are available for transfer to the “Operations, Research, and Facilities” account for “Response and Restoration Base”.

SEC. 6052. The referenced statement of managers under the heading “National Oceanic and Atmospheric Administration” in title II of division B of Public Law 108-447 is deemed to be amended under the heading “Construction/Acquisition, Coastal and Estuarine Land Conservation Program” by striking “Tonner Canyon, CA” and inserting “Tolay Lake, Sonoma County, CA”.

SEC. 6053. The referenced statement of managers under the heading “National Oceanic and Atmospheric Administration” in title II of division B of Public Law 108-447 is deemed to be amended under the heading “Construction/Acquisition, Coastal and Estuarine Land Conservation Program” by striking “Port Aransas Nature Preserve Wetlands Project, TX—3,000” and under the heading “Section 2 (FWCA) Coastal/Estuarine Land Acquisition” by inserting “Port Aransas Nature Preserve Wetlands Project, TX—3,000”.

SMALL BUSINESS ADMINISTRATION—TECHNICAL CORRECTIONS

118 Stat. 96. SEC. 6054. Section 621 of title VI of division B of Public Law 108-199 is amended by striking “of passenger, cargo and other aviation services”.

118 Stat. 2916. SEC. 6055. Section 619(a) of title VI of division B of Public Law 108-447 is amended by striking “Asheville-Buncombe Technical Community College” and inserting “the International Small Business Institute”.

SEC. 6056. (a) Section 619(a) of title VI of division B of Public Law 108-447 is amended by striking “for the continued modernization of the Mason Building”.

118 Stat. 2919. (b) Section 621 of title VI of division B of Public Law 108-199, as amended by Public Law 108-447, is amended by striking “, for the continued modernization of the Mason Building”.

114 Stat.
2762A-112,
115 Stat. 804.
Applicability. SEC. 6057. (a) Section 633 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2001 (as enacted into law by Public Law 106-553) and section 629 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2002 (Public Law 107-77) are each amended by striking “NTTC at Wheeling Jesuit University” and inserting “West Virginia High Technology Consortium Foundation”.

(b) The amendments made by subsection (a) shall apply to the remaining balances of the grants involved.

TECHNICAL CORRECTION—BANKRUPTCY

SEC. 6058. (a) Section 325 of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 is amended to read as follows: *Ante*, p. 98.

“SEC. 325. UNITED STATES TRUSTEE PROGRAM FILING FEE INCREASE.

“(a) BANKRUPTCY FILING FEES.—Section 1930(a) of title 28, United States Code, is amended—

“(1) by striking paragraph (1) and inserting the following:

“(1) For a case commenced under—

“(A) chapter 7 of title 11, \$220, and

“(B) chapter 13 of title 11, \$150.’; and

“(2) in paragraph (3), by striking ‘\$800’ and inserting ‘\$1,000’.

“(b) UNITED STATES TRUSTEE SYSTEM FUND.—Section 589a(b) of title 28, United States Code, is amended—

“(1) by striking paragraph (1) and inserting the following:

“(1)(A) 40.46 percent of the fees collected under section 1930(a)(1)(A); and

“(B) 28.33 percent of the fees collected under section 1930(a)(1)(B);’; and

“(2) in paragraph (2), by striking ‘one-half’ and inserting ‘55 percent’.

“(c) COLLECTIONS AND DEPOSITS OF MISCELLANEOUS BANKRUPTCY FEES.—Section 406(b) of the Judiciary Appropriations Act, 1990 (28 U.S.C. 1931 note) is amended by striking ‘pursuant to 28 U.S.C. section 1930(b)’ and all that follows through ‘28 U.S.C. section 1931’ and inserting ‘under section 1930(b) of title 28, United States Code, 28.87 percent of the fees collected under section 1930(a)(1)(A) of that title, 35.00 percent of the fees collected under section 1930(a)(1)(B) of that title, and 25 percent of the fees collected under section 1930(a)(3) of that title shall be deposited as offsetting receipts to the fund established under section 1931 of that title.’.”

(b) This section and the amendment made by this section shall take effect immediately after the enactment of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005.

Effective date.
28 USC 589a
note.

DEPARTMENT OF COMMERCE—CONFERENCE

SEC. 6059. Within the amount provided for the Department of Commerce in division B of Public Law 108–447, the Secretary of Commerce shall convene a national conference on science, technology, trade and manufacturing.

TECHNICAL CORRECTION—9/11 HEROES

SEC. 6060. Subsection (d) of the section 124 that appears under the item relating to “General Provisions—Department of Justice” of the Consolidated Appropriations Act of 2005 (Public Law 108–447) is amended—

(1) in paragraph (2), by striking “with the Secretary of the Treasury to prepare and strike, on a reimbursable basis,” and inserting “for striking”; and

(2) by striking paragraph (3).

31 USC 5111
note.

TECHNICAL CORRECTIONS—DEPARTMENT OF TRANSPORTATION

SEC. 6061. The matter under the heading “Federal Transit Administration, Capital Investment Grants” in title I of division

118 Stat. 3224. H of Public Law 108-447 is amended by striking “\$3,591,548” and inserting “\$1,362,683” and by striking “\$22,554,144” and inserting “\$12,998,815”: *Provided*, That the amount of new fixed guideway funds available for each project expected to complete its full funding grant agreement this fiscal year shall not exceed the amount which, when reduced by the across-the-board rescission of 0.80 percent of such Act, is equal to the amount of new fixed guideway funds required to complete the commitment of Federal new fixed guideway funds reflected in the project’s full funding grant agreement: *Provided further*, That of the new fixed guideway funds available in Public Law 108-447, \$1,352,899 shall be available for the Northern New Jersey Newark Rail Link MOS 1 project, no funds shall be available for the Northern New Jersey Newark-Elizabeth Rail Line MOS 1 project, and \$316,427 shall be available for the Northern New Jersey Hudson-Bergen Light Rail MOS 1 project.

112 Stat. 256. SEC. 6062. Notwithstanding any other provision of law, in section 1602 of the Transportation Equity Act for the 21st Century, item number 744 is amended by striking “Preliminary design of Route 2 Connector to Downtown Fitchburg” and inserting “design, construction/reconstruction and right of way acquisition for roadway improvements along the Route 12 corridor in Leominster and Fitchburg to enhance access from Route 2 to North Leominster and Downtown Fitchburg”.

118 Stat. 3235. SEC. 6063. Section 198 of division H of Public Law 108-447 is amended by inserting “under title 23 of the United States Code” after “law”.

PAYMENTS TO AIR CARRIERS

SEC. 6064. Notwithstanding any other provision of law, for the current fiscal year and any period covered by an Act making continuing appropriations for fiscal year 2006, all overflight fees collected and credited to the account established under section 45303(a) of title 49, United States Code, shall be made available immediately for obligation and expenditure to meet the costs of the essential air service program under 49 U.S.C. 41731 through 41742: *Provided*, That, if the funds in this account are insufficient to meet the costs of the essential air service program in such fiscal year, the Secretary of Transportation shall transfer such sums as may be necessary to carry out the essential air service program from any available amounts appropriated to or directly administered by the Office of the Secretary for such fiscal year.

MARITIME ADMINISTRATION

SEC. 6065. No provision of this Act may be construed as altering or amending the force or effect of any of the following provisions of law as currently applied:

(1) Sections 2631 and 2631a of title 10, United States Code.

(2) Sections 901(b) and 901b of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(b), 1241f).

(3) Public Resolution Numbered 17, Seventy-third Congress (48 Stat. 500).

(4) Any other similar provision of law requiring the use of privately owned United States flag commercial vessels for certain transportation purposes of the United States.

THE JUDICIARY

SEC. 6066. Section 308 of division B of Public Law 108–447 is amended by striking all after the words “shall be deposited”, and inserting “as offsetting receipts to the fund established under 28 U.S.C. 1931 and shall remain available to the Judiciary until expended to reimburse any appropriation for the amount paid out of such appropriation for expenses of the Courts of Appeals, District Courts, and Other Judicial Services and the Administrative Offices of the United States Courts.”. 28 USC 331 note.

TECHNICAL CORRECTIONS—GENERAL SERVICES ADMINISTRATION

SEC. 6067. Under the heading “Federal Buildings Fund” in title IV of division H of Public Law 108–447, strike “\$60,000,000” and insert in lieu thereof “\$60,600,000” in reference to the Las Cruces United States Courthouse. 118 Stat. 3253.

SEC. 6068. Section 408 in title IV of division H of Public Law 108–447 is amended by striking “Section 572(a)(2)(ii)” and inserting in lieu thereof “Section 572(a)(2)(A)(ii)”. 40 USC 572.

TECHNICAL CORRECTIONS—DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SEC. 6069. (a) The referenced statement of the managers under the heading “Community Development Fund” in title II of division I of Public Law 108–447 is deemed to be amended—

(1) with respect to item 230 by striking “City” and inserting “Port”;

(2) with respect to item 233 by inserting “Port of” before the words “Brookings Harbor”; and

(3) with respect to item number 30 by inserting “to be used for planning, design, and construction” after “California”.

SEC. 6070. The referenced statement of managers under the heading “Community Development Fund” in title II of division K of Public Law 108–7 is deemed to be amended—

(1) with respect to item number 39 by striking “Conference and Workforce Center in Harrison, Arkansas” and inserting “in Harrison, Arkansas for facilities construction of the North Arkansas College Health Sciences Education Center”; and

(2) with respect to item number 316 by striking “for renovation of a visitor center to accommodate a Space and Flight Center” and inserting “to build-out the Prince George’s County Economic Development and Business Assistance Center”.

SEC. 6071. The referenced statement of the managers under the heading “Community Development Fund” in title II of division G of Public Law 108–199 is deemed to be amended—

(1) with respect to item number 56 by striking “Conference and Training Center” and inserting “North Arkansas College Health Sciences Education Center”;

(2) with respect to item number 102 by striking “to the Town of Groveland, California for purchase of a youth center” and inserting “to the County of Tuolumne for the purchase of a new youth center in the mountain community of Groveland”;

(3) with respect to item number 218 by striking “for construction” and inserting “for design and engineering”;

(4) with respect to item number 472 by striking “for sidewalk, curbs and facade improvements in the Morton Avenue neighborhood” and inserting “for streetscape renovation”;

(5) with respect to item number 493 by striking “for land acquisition” and inserting “for planning and design of its Sports and Recreation Center and Education Complex”;

(6) with respect to item number 122 by inserting “to be used for planning, design, and construction” after “California,”;

(7) with respect to item number 369 by striking “for the” after “Michigan” and inserting “to be used for planning, design, and construction of the”; and

(8) with respect to item number 450 by striking “V.I.C.T.E.M. Family Center in Washoe County, Nevada for the construction of a facility for multi-purpose social services referral and victim counseling;” and inserting “Washoe County, Nevada for a facility and equipment for the SART/CARE’s victim programs;”.

SEC. 6072. The referenced statement of the managers under the heading “Community Development Fund” in title II of division I of Public Law 108-447 is deemed to be amended as follows—

(1) with respect to item number 706 by striking “a public swimming pool” and inserting “recreation fields”;

(2) with respect to item number 667 by striking “to the Town of Appomattox, Virginia for facilities construction of an African-American cultural and heritage museum at the Carver-Price building” and inserting “to the County of Appomattox, Virginia for renovation of the Carver-Price building”;

(3) with respect to item number 668 by striking “for the Town of South Boston, Virginia for renovations and creation of a community arts center at the Prizery” and inserting “for The Prizery in South Boston, Virginia for renovations and creation of a community arts center”;

(4) with respect to item number 669 by striking “for the City of Moneta, Virginia for facilities construction and renovations of an art, education, and community outreach center” and inserting “for the Moneta Arts, Education, and Community Outreach Center in Moneta, Virginia for facilities construction and renovations”;

(5) with respect to item number 910 by striking “repairs to” and inserting “renovation and construction of”;

(6) with respect to item number 902 by striking “City of Brooklyn” and inserting “Fifth Ave Committee in Brooklyn”; and

(7) with respect to item number 244 by inserting “Historic” before the words “Village, Inc”.

12 USC 1709. SEC. 6073. (a) Section 222 of title II of division I of Public Law 108-447 is deleted; and

(b) Section 203(c)(1) of the National Housing Act (12 U.S.C. 1709(c)) is amended by—

(1) striking “subsections” and inserting “subsection”, and

(2) striking “or (k)” each place that it appears.

SEC. 6074. Section 255(g) of the National Housing Act (12 U.S.C. 1715z-20(g)) is amended by striking “150,000” and inserting “250,000”.

SEC. 6075. The matter under the heading relating to “PUBLIC AND INDIAN HOUSING—PUBLIC HOUSING CAPITAL FUND” in title II of the Departments of Veterans Affairs and Housing and Urban

Development, and Independent Agencies Appropriations Act, 2005 (enacted as division I of the Consolidated Appropriations Act, 2005 (Public Law 108–447; 118 Stat. 3297)) is amended by striking the 8th proviso and inserting the following: “: *Provided further*, That up to \$3,000,000 is to support the costs of administrative and judicial receiverships”.

PREPACKAGED NEWS

SEC. 6076. Unless otherwise authorized by existing law, none of the funds provided in this Act or any other Act, may be used by an executive branch agency to produce any prepackaged news story intended for broadcast or distribution in the United States unless the story includes a clear notification within the text or audio of the prepackaged news story that the prepackaged news story was prepared or funded by that executive branch agency.

LOCAL BUDGET AUTHORITY FOR THE DISTRICT OF COLUMBIA

SEC. 6077. The District of Columbia Appropriations Act, 2005 (Public Law 108–335) approved October 18, 2004, is amended as follows:

(1) Section 331 is amended as follows:

118 Stat. 1345.

(A) in the first sentence by striking “\$15,000,000” and inserting “\$42,000,000, to remain available until expended,” in its place, and

(B) by amending subsection (5) to read as follows:

“(5) The amounts may be obligated or expended only if the Mayor notifies the Committees on Appropriations of the House of Representatives and Senate in writing 30 days in advance of any obligation or expenditure.”.

(2) By inserting a new section before the short title at the end to read as follows:

118 Stat. 1353.

“SEC. 348. The amount appropriated by this Act may be increased by an additional amount of \$206,736,000 (including \$49,927,000 from local funds and \$156,809,000 from other funds) to be transferred by the Mayor of the District of Columbia to the various headings under this Act as follows:

“(1) \$174,927,000 (including \$34,927,000 from local funds and \$140,000,000 from other funds) shall be transferred under the heading ‘Government Direction and Support’: *Provided*, That of the funds, \$33,000,000 from local funds shall remain available until expended: *Provided further*, That of the funds, \$140,000,000 from other funds shall remain available until expended and shall only be available in conjunction with revenue from a private or alternative financing proposal approved pursuant to section 106 of DC Act 15–717, the ‘Ballpark Omnibus Financing and Revenue Act of 2004’ approved by the District of Columbia, December 29, 2004, and

“(2) \$15,000,000 from local funds shall be transferred under the heading ‘Repayment of Loans and Interest’, and

“(3) \$14,000,000 from other funds shall be transferred under the heading ‘Sports and Entertainment Commission’, and

“(4) \$2,809,000 from other funds shall be transferred under the heading ‘Water and Sewer Authority’.”.

USE OF FUNDS FOR EMERGENCY PREPAREDNESS CENTERS

118 Stat. 3293. SEC. 6078. Section 114 of title I of division I of the Consolidated Appropriations Act, 2005 (Public Law 108–447) is amended by inserting before the period “and section 303 of Public Law 108–422”.

COLLECTIONS DEPOSITED INTO PROJECT CONSTRUCTION ACCOUNTS

118 Stat. 3293. SEC. 6079. Section 117 of title I of division I of the Consolidated Appropriations Act, 2005 (Public Law 108–447) is amended by striking “that are deposited into the Medical Care Collections Fund may be transferred and merged with” and inserting “may be deposited into the”.

CONTRACTS FOR HOSPITAL CARE AND MEDICAL SERVICES

SEC. 6080. Section 1703(d)(2) of title 38, United States Code, is amended by striking “shall be available for the purposes” and inserting “shall be available, without fiscal year limitation, for the purposes”.

IMPLEMENTATION OF MISSION CHANGES AT SPECIFIC VETERANS
HEALTH ADMINISTRATION FACILITIES

118 Stat. 2391. SEC. 6081. (a) IN GENERAL.—Section 414 of the Veterans Health Programs Improvement Act of 2004, is amended by adding at the end the following:

“(h) DEFINITION.—In this section, the term ‘medical center’ includes any outpatient clinic.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the Veterans Health Programs Improvement Act of 2004 (Public Law 108–422).

This division may be cited as the “Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005”.

REAL ID Act
of 2005.

DIVISION B—REAL ID ACT OF 2005

8 USC 1101 note.

SECTION 1. SHORT TITLE.

This division may be cited as the “REAL ID Act of 2005”.

**TITLE I—AMENDMENTS TO FEDERAL
LAWS TO PROTECT AGAINST TER-
RORIST ENTRY****SEC. 101. PREVENTING TERRORISTS FROM OBTAINING RELIEF FROM
REMOVAL.**

(a) CONDITIONS FOR GRANTING ASYLUM.—Section 208(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1158(b)(1)) is amended—

(1) by striking “The Attorney General” the first place such term appears and inserting the following:

“(A) ELIGIBILITY.—The Secretary of Homeland Security or the Attorney General”;

(2) by striking “the Attorney General” the second and third places such term appears and inserting “the Secretary of Homeland Security or the Attorney General”; and

(3) by adding at the end the following:

“(B) BURDEN OF PROOF.—

“(i) IN GENERAL.—The burden of proof is on the applicant to establish that the applicant is a refugee, within the meaning of section 101(a)(42)(A). To establish that the applicant is a refugee within the meaning of such section, the applicant must establish that race, religion, nationality, membership in a particular social group, or political opinion was or will be at least one central reason for persecuting the applicant.

“(ii) SUSTAINING BURDEN.—The testimony of the applicant may be sufficient to sustain the applicant’s burden without corroboration, but only if the applicant satisfies the trier of fact that the applicant’s testimony is credible, is persuasive, and refers to specific facts sufficient to demonstrate that the applicant is a refugee. In determining whether the applicant has met the applicant’s burden, the trier of fact may weigh the credible testimony along with other evidence of record. Where the trier of fact determines that the applicant should provide evidence that corroborates otherwise credible testimony, such evidence must be provided unless the applicant does not have the evidence and cannot reasonably obtain the evidence.

“(iii) CREDIBILITY DETERMINATION.—Considering the totality of the circumstances, and all relevant factors, a trier of fact may base a credibility determination on the demeanor, candor, or responsiveness of the applicant or witness, the inherent plausibility of the applicant’s or witness’s account, the consistency between the applicant’s or witness’s written and oral statements (whenever made and whether or not under oath, and considering the circumstances under which the statements were made), the internal consistency of each such statement, the consistency of such statements with other evidence of record (including the reports of the Department of State on country conditions), and any inaccuracies or falsehoods in such statements, without regard to whether an inconsistency, inaccuracy, or falsehood goes to the heart of the applicant’s claim, or any other relevant factor. There is no presumption of credibility, however, if no adverse credibility determination is explicitly made, the applicant or witness shall have a rebuttable presumption of credibility on appeal.”.

(b) EXCEPTIONS TO ELIGIBILITY FOR ASYLUM.—Section 208(b)(2)(A)(v) of the Immigration and Nationality Act (8 U.S.C. 1158(b)(2)(A)(v)) is amended—

(1) by striking “inadmissible under” each place such term appears and inserting “described in”; and

(2) by striking “removable under”.

(c) WITHHOLDING OF REMOVAL.—Section 241(b)(3) of the Immigration and Nationality Act (8 U.S.C. 1231(b)(3)) is amended by adding at the end the following:

“(C) SUSTAINING BURDEN OF PROOF; CREDIBILITY DETERMINATIONS.—In determining whether an alien has demonstrated that the alien’s life or freedom would be threatened for a reason described in subparagraph (A), the trier of fact shall determine whether the alien has sustained the alien’s burden of proof, and shall make credibility determinations, in the manner described in clauses (ii) and (iii) of section 208(b)(1)(B).”.

8 USC 1229a. (d) OTHER REQUESTS FOR RELIEF FROM REMOVAL.—Section 240(c) of the Immigration and Nationality Act (8 U.S.C. 1230(c)) is amended—

(1) by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively; and

(2) by inserting after paragraph (3) the following:

“(4) APPLICATIONS FOR RELIEF FROM REMOVAL.—

“(A) IN GENERAL.—An alien applying for relief or protection from removal has the burden of proof to establish that the alien—

“(i) satisfies the applicable eligibility requirements; and

“(ii) with respect to any form of relief that is granted in the exercise of discretion, that the alien merits a favorable exercise of discretion.

“(B) SUSTAINING BURDEN.—The applicant must comply with the applicable requirements to submit information or documentation in support of the applicant’s application for relief or protection as provided by law or by regulation or in the instructions for the application form. In evaluating the testimony of the applicant or other witness in support of the application, the immigration judge will determine whether or not the testimony is credible, is persuasive, and refers to specific facts sufficient to demonstrate that the applicant has satisfied the applicant’s burden of proof. In determining whether the applicant has met such burden, the immigration judge shall weigh the credible testimony along with other evidence of record. Where the immigration judge determines that the applicant should provide evidence which corroborates otherwise credible testimony, such evidence must be provided unless the applicant demonstrates that the applicant does not have the evidence and cannot reasonably obtain the evidence.

“(C) CREDIBILITY DETERMINATION.—Considering the totality of the circumstances, and all relevant factors, the immigration judge may base a credibility determination on the demeanor, candor, or responsiveness of the applicant or witness, the inherent plausibility of the applicant’s or witness’s account, the consistency between the applicant’s or witness’s written and oral statements (whenever made and whether or not under oath, and considering the circumstances under which the statements were made), the internal consistency of each such statement, the consistency of such statements with other evidence of record (including the reports of the Department of State on country conditions), and any inaccuracies or falsehoods in such statements, without regard to whether an inconsistency, inaccuracy, or falsehood goes to the heart of the applicant’s claim, or any other relevant factor. There is no presumption of

credibility, however, if no adverse credibility determination is explicitly made, the applicant or witness shall have a rebuttable presumption of credibility on appeal.”.

(e) STANDARD OF REVIEW FOR ORDERS OF REMOVAL.—Section 242(b)(4) of the Immigration and Nationality Act (8 U.S.C. 1252(b)(4)) is amended by adding at the end, after subparagraph (D), the following: “No court shall reverse a determination made by a trier of fact with respect to the availability of corroborating evidence, as described in section 208(b)(1)(B), 240(c)(4)(B), or 241(b)(3)(C), unless the court finds, pursuant to section 242(b)(4)(B), that a reasonable trier of fact is compelled to conclude that such corroborating evidence is unavailable.”.

(f) CLARIFICATION OF DISCRETION.—Section 242(a)(2)(B) of the Immigration and Nationality Act (8 U.S.C. 1252(a)(2)(B)) is amended—

(1) by inserting “or the Secretary of Homeland Security” after “Attorney General” each place such term appears; and

(2) in the matter preceding clause (i), by inserting “and regardless of whether the judgment, decision, or action is made in removal proceedings,” after “other provision of law,”.

(g) REMOVAL OF CAPS.—

(1) ASYLEES.—Section 209 of the Immigration and Nationality Act (8 U.S.C. 1159) is amended—

(A) in subsection (a)(1)—

(i) by striking “Service” and inserting “Department of Homeland Security”; and

(ii) by striking “Attorney General” each place such term appears and inserting “Secretary of Homeland Security or the Attorney General”;

(B) in subsection (b)—

(i) by striking “Not more” and all that follows through “asylum who—” and inserting “The Secretary of Homeland Security or the Attorney General, in the Secretary’s or the Attorney General’s discretion and under such regulations as the Secretary or the Attorney General may prescribe, may adjust to the status of an alien lawfully admitted for permanent residence the status of any alien granted asylum who—”; and

(ii) in the matter following paragraph (5), by striking “Attorney General” and inserting “Secretary of Homeland Security or the Attorney General”; and

(C) in subsection (c), by striking “Attorney General” and inserting “Secretary of Homeland Security or the Attorney General”.

(2) PERSONS RESISTING COERCIVE POPULATION CONTROL METHODS.—Section 207(a) of the Immigration and Nationality Act (8 U.S.C. 1157(a)) is amended by striking paragraph (5).

(h) EFFECTIVE DATES.—

(1) The amendments made by paragraphs (1) and (2) of subsection (a) shall take effect as if enacted on March 1, 2003.

(2) The amendments made by subsections (a)(3), (b), (c), and (d) shall take effect on the date of the enactment of this division and shall apply to applications for asylum, withholding, or other relief from removal made on or after such date.

(3) The amendment made by subsection (e) shall take effect on the date of the enactment of this division and shall apply

Applicability.

8 USC 1158 note.

8 USC 1252 note.

to all cases in which the final administrative removal order is or was issued before, on, or after such date.

(4) The amendments made by subsection (f) shall take effect on the date of the enactment of this division and shall apply to all cases pending before any court on or after such date.

8 USC 1157 note.

(5) The amendments made by subsection (g) shall take effect on the date of the enactment of this division.

118 Stat. 3737.

(i) REPEAL.—Section 5403 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458) is repealed.

SEC. 102. WAIVER OF LEGAL REQUIREMENTS NECESSARY FOR IMPROVEMENT OF BARRIERS AT BORDERS; FEDERAL COURT REVIEW.

Section 102(c) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1103 note) is amended to read as follows:

“(c) WAIVER.—

“(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Homeland Security shall have the authority to waive all legal requirements such Secretary, in such Secretary’s sole discretion, determines necessary to ensure expeditious construction of the barriers and roads under this section. Any such decision by the Secretary shall be effective upon being published in the Federal Register.

Federal Register,
publication.
Effective date.

“(2) FEDERAL COURT REVIEW.—

“(A) IN GENERAL.—The district courts of the United States shall have exclusive jurisdiction to hear all causes or claims arising from any action undertaken, or any decision made, by the Secretary of Homeland Security pursuant to paragraph (1). A cause of action or claim may only be brought alleging a violation of the Constitution of the United States. The court shall not have jurisdiction to hear any claim not specified in this subparagraph.

Deadline.

“(B) TIME FOR FILING OF COMPLAINT.—Any cause or claim brought pursuant to subparagraph (A) shall be filed not later than 60 days after the date of the action or decision made by the Secretary of Homeland Security. A claim shall be barred unless it is filed within the time specified.

“(C) ABILITY TO SEEK APPELLATE REVIEW.—An interlocutory or final judgment, decree, or order of the district court may be reviewed only upon petition for a writ of certiorari to the Supreme Court of the United States.”.

SEC. 103. INADMISSIBILITY DUE TO TERRORIST AND TERRORIST-RELATED ACTIVITIES.

(a) IN GENERAL.—So much of section 212(a)(3)(B)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(i)) as precedes the final sentence is amended to read as follows:

“(i) IN GENERAL.—Any alien who—

“(I) has engaged in a terrorist activity;

“(II) a consular officer, the Attorney General, or the Secretary of Homeland Security knows, or has reasonable ground to believe, is engaged in or is likely to engage after entry in any terrorist activity (as defined in clause (iv));

“(III) has, under circumstances indicating an intention to cause death or serious bodily harm, incited terrorist activity;

“(IV) is a representative (as defined in clause (v)) of—

“(aa) a terrorist organization (as defined in clause (vi)); or

“(bb) a political, social, or other group that endorses or espouses terrorist activity;

“(V) is a member of a terrorist organization described in subclause (I) or (II) of clause (vi);

“(VI) is a member of a terrorist organization described in clause (vi)(III), unless the alien can demonstrate by clear and convincing evidence that the alien did not know, and should not reasonably have known, that the organization was a terrorist organization;

“(VII) endorses or espouses terrorist activity or persuades others to endorse or espouse terrorist activity or support a terrorist organization;

“(VIII) has received military-type training (as defined in section 2339D(c)(1) of title 18, United States Code) from or on behalf of any organization that, at the time the training was received, was a terrorist organization (as defined in clause (vi)); or

“(IX) is the spouse or child of an alien who is inadmissible under this subparagraph, if the activity causing the alien to be found inadmissible occurred within the last 5 years, is inadmissible.”.

(b) **ENGAGE IN TERRORIST ACTIVITY DEFINED.**—Section 212(a)(3)(B)(iv) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(iv)) is amended to read as follows:

“(iv) **ENGAGE IN TERRORIST ACTIVITY DEFINED.**—As used in this Act, the term ‘engage in terrorist activity’ means, in an individual capacity or as a member of an organization—

“(I) to commit or to incite to commit, under circumstances indicating an intention to cause death or serious bodily injury, a terrorist activity;

“(II) to prepare or plan a terrorist activity;

“(III) to gather information on potential targets for terrorist activity;

“(IV) to solicit funds or other things of value for—

“(aa) a terrorist activity;

“(bb) a terrorist organization described in clause (vi)(I) or (vi)(II); or

“(cc) a terrorist organization described in clause (vi)(III), unless the solicitor can demonstrate by clear and convincing evidence that he did not know, and should not reasonably have known, that the organization was a terrorist organization;

“(V) to solicit any individual—

“(aa) to engage in conduct otherwise described in this subsection;

“(bb) for membership in a terrorist organization described in clause (vi)(I) or (vi)(II); or

“(cc) for membership in a terrorist organization described in clause (vi)(III) unless the solicitor can demonstrate by clear and convincing evidence that he did not know, and should not reasonably have known, that the organization was a terrorist organization; or

“(VI) to commit an act that the actor knows, or reasonably should know, affords material support, including a safe house, transportation, communications, funds, transfer of funds or other material financial benefit, false documentation or identification, weapons (including chemical, biological, or radiological weapons), explosives, or training—

“(aa) for the commission of a terrorist activity;

“(bb) to any individual who the actor knows, or reasonably should know, has committed or plans to commit a terrorist activity;

“(cc) to a terrorist organization described in subclause (I) or (II) of clause (vi) or to any member of such an organization; or

“(dd) to a terrorist organization described in clause (vi)(III), or to any member of such an organization, unless the actor can demonstrate by clear and convincing evidence that the actor did not know, and should not reasonably have known, that the organization was a terrorist organization.”.

(c) **TERRORIST ORGANIZATION DEFINED.**—Section 212(a)(3)(B)(vi) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(vi)) is amended to read as follows:

“(vi) **TERRORIST ORGANIZATION DEFINED.**—As used in this section, the term ‘terrorist organization’ means an organization—

“(I) designated under section 219;

“(II) otherwise designated, upon publication in the Federal Register, by the Secretary of State in consultation with or upon the request of the Attorney General or the Secretary of Homeland Security, as a terrorist organization, after finding that the organization engages in the activities described in subclauses (I) through (VI) of clause (iv); or

“(III) that is a group of two or more individuals, whether organized or not, which engages in, or has a subgroup which engages in, the activities described in subclauses (I) through (VI) of clause (iv).”.

Applicability.
8 USC 1182 note.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on the date of the enactment of this division, and these amendments, and section 212(a)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)), as amended by this section, shall apply to—

(1) removal proceedings instituted before, on, or after the date of the enactment of this division; and

(2) acts and conditions constituting a ground for inadmissibility, excludability, deportation, or removal occurring or existing before, on, or after such date.

SEC. 104. WAIVER FOR CERTAIN GROUNDS OF INADMISSIBILITY.

Section 212(d)(3) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(3)) is amended—

(1) by striking “(3)” and inserting “(3)(A)”;

(2) by striking “alien (A)” and inserting “alien (i)”;

(3) by striking “or (B)” and inserting “or (ii)”;

(4) by adding at the end the following:

“(B)(i) The Secretary of State, after consultation with the Attorney General and the Secretary of Homeland Security, or the Secretary of Homeland Security, after consultation with the Secretary of State and the Attorney General, may conclude in such Secretary’s sole unreviewable discretion that subsection (a)(3)(B)(i)(IV)(bb) or (a)(3)(B)(i)(VII) shall not apply to an alien, that subsection (a)(3)(B)(iv)(VI) shall not apply with respect to any material support an alien afforded to an organization or individual that has engaged in a terrorist activity, or that subsection (a)(3)(B)(vi)(III) shall not apply to a group solely by virtue of having a subgroup within the scope of that subsection. The Secretary of State may not, however, exercise discretion under this clause with respect to an alien once removal proceedings against the alien are instituted under section 240.

“(ii) Not later than 90 days after the end of each fiscal year, the Secretary of State and the Secretary of Homeland Security shall each provide to the Committees on the Judiciary of the House of Representatives and of the Senate, the Committee on International Relations of the House of Representatives, the Committee on Foreign Relations of the Senate, and the Committee on Homeland Security of the House of Representatives a report on the aliens to whom such Secretary has applied clause (i). Within one week of applying clause (i) to a group, the Secretary of State or the Secretary of Homeland Security shall provide a report to such Committees.”.

Deadline.
Reports.

SEC. 105. REMOVAL OF TERRORISTS.

(a) IN GENERAL.—

(1) IN GENERAL.—Section 237(a)(4)(B) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(4)(B)) is amended to read as follows:

“(B) TERRORIST ACTIVITIES.—Any alien who is described in subparagraph (B) or (F) of section 212(a)(3) is deportable.”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this division, and the amendment, and section 237(a)(4)(B) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(4)(B)), as amended by such paragraph, shall apply to—

Applicability.
8 USC 1227 note.

(A) removal proceedings instituted before, on, or after the date of the enactment of this division; and

(B) acts and conditions constituting a ground for inadmissibility, excludability, deportation, or removal occurring or existing before, on, or after such date.

Effective date.

8 USC 1227.

(b) REPEAL.—Effective as of the date of the enactment of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458), section 5402 of such Act is repealed, and the Immigration and Nationality Act shall be applied as if such section had not been enacted.

SEC. 106. JUDICIAL REVIEW OF ORDERS OF REMOVAL.

(a) IN GENERAL.—Section 242 of the Immigration and Nationality Act (8 U.S.C. 1252) is amended—

(1) in subsection (a)—

(A) in paragraph (2)—

(i) in subparagraph (A), by inserting “(statutory or nonstatutory), including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of such title” after “Notwithstanding any other provision of law”;

(ii) in each of subparagraphs (B) and (C), by inserting “(statutory or nonstatutory), including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of such title, and except as provided in subparagraph (D)” after “Notwithstanding any other provision of law”; and

(iii) by adding at the end the following:

“(D) JUDICIAL REVIEW OF CERTAIN LEGAL CLAIMS.—Nothing in subparagraph (B) or (C), or in any other provision of this Act (other than this section) which limits or eliminates judicial review, shall be construed as precluding review of constitutional claims or questions of law raised upon a petition for review filed with an appropriate court of appeals in accordance with this section.”; and

(B) by adding at the end the following:

“(4) CLAIMS UNDER THE UNITED NATIONS CONVENTION.—Notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of such title, a petition for review filed with an appropriate court of appeals in accordance with this section shall be the sole and exclusive means for judicial review of any cause or claim under the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman, or Degrading Treatment or Punishment, except as provided in subsection (e).

“(5) EXCLUSIVE MEANS OF REVIEW.—Notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of such title, a petition for review filed with an appropriate court of appeals in accordance with this section shall be the sole and exclusive means for judicial review of an order of removal entered or issued under any provision of this Act, except as provided in subsection (e). For purposes of this Act, in every provision that limits or eliminates judicial review or jurisdiction to review, the terms ‘judicial review’ and ‘jurisdiction to review’ include habeas corpus review pursuant to section 2241 of title 28, United States Code, or any other habeas corpus provision,

sections 1361 and 1651 of such title, and review pursuant to any other provision of law (statutory or nonstatutory).”;

(2) in subsection (b)(9), by adding at the end the following: “Except as otherwise provided in this section, no court shall have jurisdiction, by habeas corpus under section 2241 of title 28, United States Code, or any other habeas corpus provision, by section 1361 or 1651 of such title, or by any other provision of law (statutory or nonstatutory), to review such an order or such questions of law or fact.”; and

(3) in subsection (g), by inserting “(statutory or nonstatutory), including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of such title” after “notwithstanding any other provision of law”.

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall take effect upon the date of the enactment of this division and shall apply to cases in which the final administrative order of removal, deportation, or exclusion was issued before, on, or after the date of the enactment of this division.

Applicability.
8 USC 1252 note.

(c) **TRANSFER OF CASES.**—If an alien’s case, brought under section 2241 of title 28, United States Code, and challenging a final administrative order of removal, deportation, or exclusion, is pending in a district court on the date of the enactment of this division, then the district court shall transfer the case (or the part of the case that challenges the order of removal, deportation, or exclusion) to the court of appeals for the circuit in which a petition for review could have been properly filed under section 242(b)(2) of the Immigration and Nationality Act (8 U.S.C. 1252), as amended by this section, or under section 309(c)(4)(D) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note). The court of appeals shall treat the transferred case as if it had been filed pursuant to a petition for review under such section 242, except that subsection (b)(1) of such section shall not apply.

8 USC 1252 note.

(d) **TRANSITIONAL RULE CASES.**—A petition for review filed under former section 106(a) of the Immigration and Nationality Act (as in effect before its repeal by section 306(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1252 note)) shall be treated as if it had been filed as a petition for review under section 242 of the Immigration and Nationality Act (8 U.S.C. 1252), as amended by this section. Notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of such title, such petition for review shall be the sole and exclusive means for judicial review of an order of deportation or exclusion.

8 USC 1252 note.

TITLE II—IMPROVED SECURITY FOR DRIVERS’ LICENSES AND PERSONAL IDENTIFICATION CARDS

SEC. 201. DEFINITIONS.

In this title, the following definitions apply:

49 USC 30301
note.

(1) **DRIVER’S LICENSE.**—The term “driver’s license” means a motor vehicle operator’s license, as defined in section 30301 of title 49, United States Code.

(2) **IDENTIFICATION CARD.**—The term “identification card” means a personal identification card, as defined in section 1028(d) of title 18, United States Code, issued by a State.

(3) **OFFICIAL PURPOSE.**—The term “official purpose” includes but is not limited to accessing Federal facilities, boarding federally regulated commercial aircraft, entering nuclear power plants, and any other purposes that the Secretary shall determine.

(4) **SECRETARY.**—The term “Secretary” means the Secretary of Homeland Security.

(5) **STATE.**—The term “State” means a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

49 USC 30301
note.

SEC. 202. MINIMUM DOCUMENT REQUIREMENTS AND ISSUANCE STANDARDS FOR FEDERAL RECOGNITION.

Effective date.

(a) **MINIMUM STANDARDS FOR FEDERAL USE.**—

(1) **IN GENERAL.**—Beginning 3 years after the date of the enactment of this division, a Federal agency may not accept, for any official purpose, a driver’s license or identification card issued by a State to any person unless the State is meeting the requirements of this section.

(2) **STATE CERTIFICATIONS.**—The Secretary shall determine whether a State is meeting the requirements of this section based on certifications made by the State to the Secretary. Such certifications shall be made at such times and in such manner as the Secretary, in consultation with the Secretary of Transportation, may prescribe by regulation.

(b) **MINIMUM DOCUMENT REQUIREMENTS.**—To meet the requirements of this section, a State shall include, at a minimum, the following information and features on each driver’s license and identification card issued to a person by the State:

- (1) The person’s full legal name.
- (2) The person’s date of birth.
- (3) The person’s gender.
- (4) The person’s driver’s license or identification card number.
- (5) A digital photograph of the person.
- (6) The person’s address of principle residence.
- (7) The person’s signature.
- (8) Physical security features designed to prevent tampering, counterfeiting, or duplication of the document for fraudulent purposes.
- (9) A common machine-readable technology, with defined minimum data elements.

(c) **MINIMUM ISSUANCE STANDARDS.**—

(1) **IN GENERAL.**—To meet the requirements of this section, a State shall require, at a minimum, presentation and verification of the following information before issuing a driver’s license or identification card to a person:

(A) A photo identity document, except that a non-photo identity document is acceptable if it includes both the person's full legal name and date of birth.

(B) Documentation showing the person's date of birth.

(C) Proof of the person's social security account number or verification that the person is not eligible for a social security account number.

(D) Documentation showing the person's name and address of principal residence.

(2) SPECIAL REQUIREMENTS.—

(A) IN GENERAL.—To meet the requirements of this section, a State shall comply with the minimum standards of this paragraph.

(B) EVIDENCE OF LAWFUL STATUS.—A State shall require, before issuing a driver's license or identification card to a person, valid documentary evidence that the person—

(i) is a citizen or national of the United States;

(ii) is an alien lawfully admitted for permanent or temporary residence in the United States;

(iii) has conditional permanent resident status in the United States;

(iv) has an approved application for asylum in the United States or has entered into the United States in refugee status;

(v) has a valid, unexpired nonimmigrant visa or nonimmigrant visa status for entry into the United States;

(vi) has a pending application for asylum in the United States;

(vii) has a pending or approved application for temporary protected status in the United States;

(viii) has approved deferred action status; or

(ix) has a pending application for adjustment of status to that of an alien lawfully admitted for permanent residence in the United States or conditional permanent resident status in the United States.

(C) TEMPORARY DRIVERS' LICENSES AND IDENTIFICATION CARDS.—

(i) IN GENERAL.—If a person presents evidence under any of clauses (v) through (ix) of subparagraph (B), the State may only issue a temporary driver's license or temporary identification card to the person.

(ii) EXPIRATION DATE.—A temporary driver's license or temporary identification card issued pursuant to this subparagraph shall be valid only during the period of time of the applicant's authorized stay in the United States or, if there is no definite end to the period of authorized stay, a period of one year.

(iii) DISPLAY OF EXPIRATION DATE.—A temporary driver's license or temporary identification card issued pursuant to this subparagraph shall clearly indicate that it is temporary and shall state the date on which it expires.

(iv) RENEWAL.—A temporary driver's license or temporary identification card issued pursuant to this subparagraph may be renewed only upon presentation

of valid documentary evidence that the status by which the applicant qualified for the temporary driver's license or temporary identification card has been extended by the Secretary of Homeland Security.

(3) VERIFICATION OF DOCUMENTS.—To meet the requirements of this section, a State shall implement the following procedures:

(A) Before issuing a driver's license or identification card to a person, the State shall verify, with the issuing agency, the issuance, validity, and completeness of each document required to be presented by the person under paragraph (1) or (2).

(B) The State shall not accept any foreign document, other than an official passport, to satisfy a requirement of paragraph (1) or (2).

Deadline.
Memorandum.

(C) Not later than September 11, 2005, the State shall enter into a memorandum of understanding with the Secretary of Homeland Security to routinely utilize the automated system known as Systematic Alien Verification for Entitlements, as provided for by section 404 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (110 Stat. 3009–664), to verify the legal presence status of a person, other than a United States citizen, applying for a driver's license or identification card.

(d) OTHER REQUIREMENTS.—To meet the requirements of this section, a State shall adopt the following practices in the issuance of drivers' licenses and identification cards:

(1) Employ technology to capture digital images of identity source documents so that the images can be retained in electronic storage in a transferable format.

(2) Retain paper copies of source documents for a minimum of 7 years or images of source documents presented for a minimum of 10 years.

(3) Subject each person applying for a driver's license or identification card to mandatory facial image capture.

(4) Establish an effective procedure to confirm or verify a renewing applicant's information.

(5) Confirm with the Social Security Administration a social security account number presented by a person using the full social security account number. In the event that a social security account number is already registered to or associated with another person to which any State has issued a driver's license or identification card, the State shall resolve the discrepancy and take appropriate action.

(6) Refuse to issue a driver's license or identification card to a person holding a driver's license issued by another State without confirmation that the person is terminating or has terminated the driver's license.

(7) Ensure the physical security of locations where drivers' licenses and identification cards are produced and the security of document materials and papers from which drivers' licenses and identification cards are produced.

(8) Subject all persons authorized to manufacture or produce drivers' licenses and identification cards to appropriate security clearance requirements.

(9) Establish fraudulent document recognition training programs for appropriate employees engaged in the issuance of drivers' licenses and identification cards.

(10) Limit the period of validity of all driver's licenses and identification cards that are not temporary to a period that does not exceed 8 years.

(11) In any case in which the State issues a driver's license or identification card that does not satisfy the requirements of this section, ensure that such license or identification card—

(A) clearly states on its face that it may not be accepted by any Federal agency for federal identification or any other official purpose; and

(B) uses a unique design or color indicator to alert Federal agency and other law enforcement personnel that it may not be accepted for any such purpose.

(12) Provide electronic access to all other States to information contained in the motor vehicle database of the State.

(13) Maintain a State motor vehicle database that contains, at a minimum—

(A) all data fields printed on drivers' licenses and identification cards issued by the State; and

(B) motor vehicle drivers' histories, including motor vehicle violations, suspensions, and points on licenses.

SEC. 203. TRAFFICKING IN AUTHENTICATION FEATURES FOR USE IN FALSE IDENTIFICATION DOCUMENTS.

49 USC 30301
note.

(a) CRIMINAL PENALTY.—Section 1028(a)(8) of title 18, United States Code, is amended by striking “false authentication features” and inserting “false or actual authentication features”.

(b) USE OF FALSE DRIVER'S LICENSE AT AIRPORTS.—

(1) IN GENERAL.—The Secretary shall enter, into the appropriate aviation security screening database, appropriate information regarding any person convicted of using a false driver's license at an airport (as such term is defined in section 40102 of title 49, United States Code).

(2) FALSE DEFINED.—In this subsection, the term “false” has the same meaning such term has under section 1028(d) of title 18, United States Code.

SEC. 204. GRANTS TO STATES.

49 USC 30301
note.

(a) IN GENERAL.—The Secretary may make grants to a State to assist the State in conforming to the minimum standards set forth in this title.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for each of the fiscal years 2005 through 2009 such sums as may be necessary to carry out this title.

SEC. 205. AUTHORITY.

49 USC 30301
note.

(a) PARTICIPATION OF SECRETARY OF TRANSPORTATION AND STATES.—All authority to issue regulations, set standards, and issue grants under this title shall be carried out by the Secretary, in consultation with the Secretary of Transportation and the States.

(b) EXTENSIONS OF DEADLINES.—The Secretary may grant to a State an extension of time to meet the requirements of section 202(a)(1) if the State provides adequate justification for noncompliance.

SEC. 206. REPEAL.

Section 7212 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458) is repealed.

49 USC 30301
note.
49 USC 30301
note.

SEC. 207. LIMITATION ON STATUTORY CONSTRUCTION.

Nothing in this title shall be construed to affect the authorities or responsibilities of the Secretary of Transportation or the States under chapter 303 of title 49, United States Code.

TITLE III—BORDER INFRASTRUCTURE AND TECHNOLOGY INTEGRATION

8 USC 1778.

SEC. 301. VULNERABILITY AND THREAT ASSESSMENT.

(a) **STUDY.**—The Under Secretary of Homeland Security for Border and Transportation Security, in consultation with the Under Secretary of Homeland Security for Science and Technology and the Under Secretary of Homeland Security for Information Analysis and Infrastructure Protection, shall study the technology, equipment, and personnel needed to address security vulnerabilities within the United States for each field office of the Bureau of Customs and Border Protection that has responsibility for any portion of the United States borders with Canada and Mexico. The Under Secretary shall conduct follow-up studies at least once every 5 years.

(b) **REPORT TO CONGRESS.**—The Under Secretary shall submit a report to Congress on the Under Secretary’s findings and conclusions from each study conducted under subsection (a) together with legislative recommendations, as appropriate, for addressing any security vulnerabilities found by the study.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Department of Homeland Security Directorate of Border and Transportation Security such sums as may be necessary for fiscal years 2006 through 2011 to carry out any such recommendations from the first study conducted under subsection (a).

8 USC 1712 note.

SEC. 302. USE OF GROUND SURVEILLANCE TECHNOLOGIES FOR BORDER SECURITY.

Deadline.

(a) **PILOT PROGRAM.**—Not later than 180 days after the date of the enactment of this division, the Under Secretary of Homeland Security for Science and Technology, in consultation with the Under Secretary of Homeland Security for Border and Transportation Security, the Under Secretary of Homeland Security for Information Analysis and Infrastructure Protection, and the Secretary of Defense, shall develop a pilot program to utilize, or increase the utilization of, ground surveillance technologies to enhance the border security of the United States. In developing the program, the Under Secretary shall—

(1) consider various current and proposed ground surveillance technologies that could be utilized to enhance the border security of the United States;

(2) assess the threats to the border security of the United States that could be addressed by the utilization of such technologies; and

(3) assess the feasibility and advisability of utilizing such technologies to address such threats, including an assessment

of the technologies considered best suited to address such threats.

(b) **ADDITIONAL REQUIREMENTS.**—

(1) **IN GENERAL.**—The pilot program shall include the utilization of a variety of ground surveillance technologies in a variety of topographies and areas (including both populated and unpopulated areas) on both the northern and southern borders of the United States in order to evaluate, for a range of circumstances—

(A) the significance of previous experiences with such technologies in homeland security or critical infrastructure protection for the utilization of such technologies for border security;

(B) the cost, utility, and effectiveness of such technologies for border security; and

(C) liability, safety, and privacy concerns relating to the utilization of such technologies for border security.

(2) **TECHNOLOGIES.**—The ground surveillance technologies utilized in the pilot program shall include the following:

(A) Video camera technology.

(B) Sensor technology.

(C) Motion detection technology.

(c) **IMPLEMENTATION.**—The Under Secretary of Homeland Security for Border and Transportation Security shall implement the pilot program developed under this section.

(d) **REPORT.**—Not later than 1 year after implementing the pilot program under subsection (a), the Under Secretary shall submit a report on the program to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Science, the House of Representatives Committee on Homeland Security, and the House of Representatives Committee on the Judiciary. The Under Secretary shall include in the report a description of the program together with such recommendations as the Under Secretary finds appropriate, including recommendations for terminating the program, making the program permanent, or enhancing the program.

SEC. 303. ENHANCEMENT OF COMMUNICATIONS INTEGRATION AND INFORMATION SHARING ON BORDER SECURITY.

8 USC 1721 note.

(a) **IN GENERAL.**—Not later than 180 days after the date of the enactment of this division, the Secretary of Homeland Security, acting through the Under Secretary of Homeland Security for Border and Transportation Security, in consultation with the Under Secretary of Homeland Security for Science and Technology, the Under Secretary of Homeland Security for Information Analysis and Infrastructure Protection, the Assistant Secretary of Commerce for Communications and Information, and other appropriate Federal, State, local, and tribal agencies, shall develop and implement a plan—

Deadline.

(1) to improve the communications systems of the departments and agencies of the Federal Government in order to facilitate the integration of communications among the departments and agencies of the Federal Government and State, local government agencies, and Indian tribal agencies on matters relating to border security; and

(2) to enhance information sharing among the departments and agencies of the Federal Government, State and local

government agencies, and Indian tribal agencies on such matters.

(b) **REPORT.**—Not later than 1 year after implementing the plan under subsection (a), the Secretary shall submit a copy of the plan and a report on the plan, including any recommendations the Secretary finds appropriate, to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Science, the House of Representatives Committee on Homeland Security, and the House of Representatives Committee on the Judiciary.

Save Our Small
and Seasonal
Businesses Act
of 2005.
8 USC 1101 note.

TITLE IV—TEMPORARY WORKERS

SEC. 401. SHORT TITLE.

This title may be cited as the “Save Our Small and Seasonal Businesses Act of 2005”.

SEC. 402. NUMERICAL LIMITATIONS ON H-2B WORKERS.

(a) **IN GENERAL.**—Section 214(g) of the Immigration and Nationality Act (8 U.S.C. 1184(g)) is amended by adding at the end the following:

“(9)(A) Subject to subparagraphs (B) and (C), an alien who has already been counted toward the numerical limitations of paragraph (1)(B) during any 1 of the 3 fiscal years prior to the fiscal year of the approved start date of a petition for a nonimmigrant worker described in section 101(a)(15)(H)(ii)(b) shall not be counted toward such limitation for the fiscal year in which the petition is approved. Such an alien shall be considered a returning worker.

“(B) A petition referred to in subparagraph (A) shall include, with respect to a returning worker—

“(i) all information and evidence that the Secretary of Homeland Security determines is required to support a petition for status under section 101(a)(15)(H)(ii)(b);

“(ii) the full name of the alien; and

“(iii) a certification to the Department of Homeland Security that the alien is a returning worker.

“(C) An H-2B visa or grant of nonimmigrant status for a returning worker shall be approved only if the alien is confirmed to be a returning worker by—

“(i) the Department of State; or

“(ii) if the alien is visa exempt or seeking to change to status under section 101 (a)(15)(H)(ii)(b), the Department of Homeland Security.”.

(b) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—The amendment in subsection (a) shall take effect as if enacted on October 1, 2004, and shall expire on October 1, 2006.

(2) **IMPLEMENTATION.**—Not later than 14 days after the date of the enactment of this Act, the Secretary of Homeland Security shall begin accepting and processing petitions filed on behalf of aliens described in section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act, in a manner consistent with this section and the amendments made by this section. Notwithstanding section 214(g)(9)(B) of such Act, as added by subsection (a), the Secretary of Homeland Security shall allocate additional numbers for fiscal year 2005 based on statistical

8 USC 1184 note.
Termination
date.

Deadline.

estimates and projections derived from Department of State data.

SEC. 403. FRAUD PREVENTION AND DETECTION FEE.

(a) IMPOSITION OF FEE.—Section 214(c) of the Immigration and Nationality Act (8 U.S.C. 1184(c)), as amended by section 426(a) of division J of the Consolidated Appropriations Act, 2005 (Public Law 108–447), is amended by adding at the end the following:

“(13)(A) In addition to any other fees authorized by law, the Secretary of Homeland Security shall impose a fraud prevention and detection fee on an employer filing a petition under paragraph (1) for nonimmigrant workers described in section 101(a)(15)(H)(ii)(b).

“(B) The amount of the fee imposed under subparagraph (A) shall be \$150.”.

(b) USE OF FEES.—

(1) FRAUD PREVENTION AND DETECTION ACCOUNT.—Subsection (v) of section 286 of the Immigration and Nationality Act (8 U.S.C. 1356), as added by section 426(b) of division J of the Consolidated Appropriations Act, 2005 (Public Law 108–447), is amended—

(A) in paragraphs (1), (2)(A), (2)(B), (2)(C), and (2)(D) by striking “H1–B and L” each place it appears;

(B) in paragraph (1), as amended by subparagraph (A), by striking “section 214(c)(12)” and inserting “paragraph (12) or (13) of section 214(c)”;

(C) in paragraphs (2)(A)(i) and (2)(B), as amended by subparagraph (A), by striking “(H)(i)” each place it appears and inserting “(H)(i), (H)(ii),”; and

(D) in paragraph (2)(D), as amended by subparagraph (A), by inserting before the period at the end “or for programs and activities to prevent and detect fraud with respect to petitions under paragraph (1) or (2)(A) of section 214(c) to grant an alien nonimmigrant status described in section 101(a)(15)(H)(ii)”.

(2) CONFORMING AMENDMENT.—The heading of such subsection (v) of section 286 is amended by striking “H1–B and L”.

8 USC 1356.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect 14 days after the date of the enactment of this Act and shall apply to filings for a fiscal year after fiscal year 2005.

8 USC 1184 note.

SEC. 404. SANCTIONS.

(a) IN GENERAL.—Section 214(c) of the Immigration and Nationality Act (8 U.S.C. 1184(c)), as amended by section 403, is further amended by adding at the end the following:

“(14)(A) If the Secretary of Homeland Security finds, after notice and an opportunity for a hearing, a substantial failure to meet any of the conditions of the petition to admit or otherwise provide status to a nonimmigrant worker under section 101(a)(15)(H)(ii)(b) or a willful misrepresentation of a material fact in such petition—

“(i) the Secretary of Homeland Security may, in addition to any other remedy authorized by law, impose such administrative remedies (including civil monetary penalties in an amount not to exceed \$10,000 per violation) as the Secretary of Homeland Security determines to be appropriate; and

“(ii) the Secretary of Homeland Security may deny petitions filed with respect to that employer under section 204 or paragraph (1) of this subsection during a period of at least 1 year but not more than 5 years for aliens to be employed by the employer.

“(B) The Secretary of Homeland Security may delegate to the Secretary of Labor, with the agreement of the Secretary of Labor, any of the authority given to the Secretary of Homeland Security under subparagraph (A)(i).

“(C) In determining the level of penalties to be assessed under subparagraph (A), the highest penalties shall be reserved for willful failures to meet any of the conditions of the petition that involve harm to United States workers.

“(D) In this paragraph, the term ‘substantial failure’ means the willful failure to comply with the requirements of this section that constitutes a significant deviation from the terms and conditions of a petition.”.

8 USC 1184 note.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect on October 1, 2005.

SEC. 405. ALLOCATION OF H-2B VISAS OR H-2B NONIMMIGRANT STATUS DURING A FISCAL YEAR.

Section 214(g) of the Immigration and Nationality Act (8 U.S.C. 1184(g)), as amended by section 402, is further amended by adding at the end the following new paragraph:

“(10) The numerical limitations of paragraph (1)(B) shall be allocated for a fiscal year so that the total number of aliens subject to such numerical limits who enter the United States pursuant to a visa or are accorded nonimmigrant status under section 101(a)(15)(H)(ii)(b) during the first 6 months of such fiscal year is not more than 33,000.”.

SEC. 406. SUBMISSION TO CONGRESS OF INFORMATION REGARDING H-2B NONIMMIGRANTS.

Section 416 of the American Competitiveness and Workforce Improvement Act of 1998 (title IV of division C of Public Law 105–277; 8 U.S.C. 1184 note) is amended—

(1) by striking “Attorney General” each place that term appears and inserting “Secretary of Homeland Security”; and

(2) by adding at the end the following new subsection:

“(d) **PROVISION OF INFORMATION.**—

Deadline.

“(1) **SEMIANNUAL NOTIFICATION.**—Beginning not later than March 1, 2006, the Secretary of Homeland Security and the Secretary of State shall notify, on a semiannual basis, the Committees on the Judiciary of the House of Representatives and the Senate of the number of aliens who during the preceding 1-year period—

“(A) were issued visas or otherwise provided nonimmigrant status under section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(b)); or

“(B) had such a visa or such status be revoked or otherwise terminated.

Deadlines.
Reports.

“(2) **ANNUAL SUBMISSION.**—Beginning in fiscal year 2007, the Secretary of Homeland Security and the Secretary of State shall submit, on an annual basis, to the Committees on the Judiciary of the House of Representatives and the Senate—

“(A) information on the countries of origin of, occupations of, and compensation paid to aliens who were issued visas or otherwise provided nonimmigrant status under section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(b)) during the previous fiscal year;

“(B) the number of aliens who had such a visa or such status expire or be revoked or otherwise terminated during each month of such fiscal year; and

“(C) the number of aliens who were provided nonimmigrant status under such section during both such fiscal year and the preceding fiscal year.

“(3) INFORMATION MAINTAINED BY STATE.—If the Secretary of Homeland Security determines that information maintained by the Secretary of State is required to make a submission described in paragraph (1) or (2), the Secretary of State shall provide such information to the Secretary of Homeland Security upon request.”.

SEC. 407. EXEMPTION FROM ADMINISTRATIVE PROCEDURE ACT.

8 USC 1184 note.

The requirements of chapter 5 of title 5, United States Code (commonly referred to as the “Administrative Procedure Act”) or any other law relating to rulemaking, information collection or publication in the Federal Register, shall not apply to any action to implement sections 402, 403, and 405 or the amendments made by such sections to the extent the Secretary of Homeland Security, the Secretary of Labor, or the Secretary of State determine that compliance with any such requirement would impede the expeditious implementation of such sections or the amendments made by such sections.

TITLE V—OTHER CHANGES TO PROVISIONS GOVERNING NONIMMIGRANT AND IMMIGRANT VISAS

SEC. 501. RECIPROCAL VISAS FOR NATIONALS OF AUSTRALIA.

(a) IN GENERAL.—Section 101(a)(15)(E) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(E)) is amended—

(1) by adding at the end “or (iii) solely to perform services in a specialty occupation in the United States if the alien is a national of the Commonwealth of Australia and with respect to whom the Secretary of Labor determines and certifies to the Secretary of Homeland Security and the Secretary of State that the intending employer has filed with the Secretary of Labor an attestation under section 212(t)(1);”; and

(2) in clause (i), by striking “or” after “national;”.

(b) NUMERICAL LIMITATION TO ANY SINGLE FOREIGN STATE.—Section 214(g) of such Act (8 U.S.C. 1184(g)), as amended by section 405, is further amended by adding at the end the following new paragraph:

“(11)(A) The Secretary of State may not approve a number of initial applications submitted for aliens described in section 101(a)(15)(E)(iii) that is more than the applicable numerical limitation set out in this paragraph.

Applicability.

“(B) The applicable numerical limitation referred to in subparagraph (A) is 10,500 for each fiscal year.

“(C) The applicable numerical limitation referred to in subparagraph (A) shall only apply to principal aliens and not to the spouses or children of such aliens.”.

(c) SPECIALTY OCCUPATION DEFINED.—Section 214(i)(1) of such Act (8 U.S.C. 1184(i)(1)) is amended by inserting “, section 101(a)(15)(E)(iii),” after “section 101(a)(15)(H)(i)(b)”.

(d) ATTESTATION.—Section 212(t) of such Act (8 U.S.C. 1182(t)), as added by section 402(b)(2) of the United States-Chile Free Trade Agreement Implementation Act (Public Law 108–77; 117 Stat. 941), is amended—

(1) by inserting “or section 101(a)(15)(E)(iii)” after “section 101(a)(15)(H)(i)(b1)” each place it appears; and

(2) in paragraphs (3)(C)(i)(II), (3)(C)(ii)(II), and (3)(C)(iii)(II) by striking “or 101(a)(15)(H)(i)(b1)” each place it appears and inserting “101(a)(15)(H)(i)(b1), or 101(a)(15)(E)(iii)”.

SEC. 502. VISAS FOR NURSES.

Section 106(d) of the American Competitiveness in the Twenty-first Century Act of 2000 (Public Law 106–313; 8 U.S.C. 1153 note) is amended—

(1) in paragraph (1), by inserting before the period at the end of the second sentence “and any such visa that is made available due to the difference between the number of employment-based visas that were made available in fiscal year 2001, 2002, 2003, or 2004 and the number of such visas that were actually used in such fiscal year shall be available only to employment-based immigrants (and their family members accompanying or following to join under section 203(d) of such Act (8 U.S.C. 1153(d))) whose immigrant worker petitions were approved based on schedule A, as defined in section 656.5 of title 20, Code of Federal Regulations, as promulgated by the Secretary of Labor”;

(2) in paragraph (2)(A), by striking “and 2000” and inserting “through 2004”; and

(3) in paragraph (2), by amending subparagraph (B) to read as follows:

“(B)(i) REDUCTION.—The number described in subparagraph (A) shall be reduced, for each fiscal year after fiscal year 2001, by the cumulative number of immigrant visas actually used under paragraph (1) for previous fiscal years.

“(ii) MAXIMUM.—The total number of visas made available under paragraph (1) from unused visas from the fiscal years 2001 through 2004 may not exceed 50,000.”.

Approved May 11, 2005.

LEGISLATIVE HISTORY—H.R. 1268:

HOUSE REPORTS: Nos. 109–16 (Comm. on Appropriations) and 109–72 (Comm. of Conference).

SENATE REPORTS: No. 109–52 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 151 (2005):

Mar. 15, 16, considered and passed House.

Apr. 11–15, 18–21, considered and passed Senate, amended.

May 5, House agreed to conference report.

May 10, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 41 (2005):

May 11, Presidential statement.



Public Law 109–14
109th Congress

An Act

May 31, 2005
[H.R. 2566]

To provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century.

Surface
Transportation
Extension Act of
2005.
23 USC 101 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Surface Transportation Extension Act of 2005”.

SEC. 2. ADVANCES.

(a) **IN GENERAL.**—Section 2(a)(1) of the Surface Transportation Extension Act of 2004, Part V (23 U.S.C. 104 note; 118 Stat. 1144) is amended by striking “as amended by this section” and inserting “as amended by this Act and the Surface Transportation Extension Act of 2005”.

(b) **PROGRAMMATIC DISTRIBUTIONS.**—

(1) **ADMINISTRATION OF FUNDS.**—Section 2(b)(3) of such Act (118 Stat. 1145) is amended by striking “the amendment made under subsection (d)” and inserting “section 1101(l) of the Transportation Equity Act for the 21st Century”.

(2) **SPECIAL RULES FOR MINIMUM GUARANTEE.**—Section 2(b)(4) of such Act is amended by striking “\$1,866,666,667” and inserting “\$2,100,000,000”.

(3) **EXTENSION OF OFF-SYSTEM BRIDGE SETASIDE.**—Section 144(g)(3) of title 23, United States Code, is amended by striking “May 31” inserting “June 30”.

(c) **AUTHORIZATION OF CONTRACT AUTHORITY.**—Section 1101(l)(1) of the Transportation Equity Act for the 21st Century (118 Stat. 1145) is amended by striking “\$22,685,936,000 for the period of October 1, 2004, through May 31, 2005” and inserting “\$25,521,678,000 for the period of October 1, 2004, through June 30, 2005”.

23 USC 104 note.

(d) **LIMITATION ON OBLIGATIONS.**—Section 2(e) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1146) is amended to read as follows:

“(e) **LIMITATION ON OBLIGATIONS.**—

“(1) **DISTRIBUTION OF OBLIGATION AUTHORITY.**—Subject to paragraph (2), for the period of October 1, 2004, through June 30, 2005, the Secretary shall distribute the obligation limitation made available for Federal-aid highways and highway safety construction programs under the heading ‘FEDERAL-AID HIGHWAYS’ in title I of division H of the Consolidated Appropriations Act, 2005 (23 U.S.C. 104 note; 118 Stat. 3204), in accordance

with section 110 of such title (23 U.S.C. 104 note; 118 Stat. 3209); except that the amount of obligation limitation to be distributed for such period for each program, project, and activity specified in sections 110(a)(1), 110(a)(2), 110(a)(4), and 110(a)(5) of such title shall equal the greater of—

“(A) the funding authorized for such program, project, or activity in this Act and the Surface Transportation Extension Act of 2005 (including any amendments made by this Act and such Act); or

“(B) $\frac{9}{12}$ of the funding provided for or limitation set on such program, project, or activity in title I of division H of the Consolidated Appropriations Act, 2005.

“(2) LIMITATION ON TOTAL AMOUNT OF AUTHORITY DISTRIBUTED.—The total amount of obligation limitation distributed under paragraph (1) for the period of October 1, 2004, through June 30, 2005, shall not exceed \$26,025,000,000; except that this limitation shall not apply to \$479,250,000 in obligations for minimum guarantee for such period.

“(3) TIME PERIOD FOR OBLIGATIONS OF FUNDS.—After June 30, 2005, no funds shall be obligated for any Federal-aid highway program project until the date of enactment of a law reauthorizing the Federal-aid highway program.

“(4) TREATMENT OF OBLIGATIONS.—Any obligation of obligation authority distributed under this subsection shall be considered to be an obligation for Federal-aid highways and highway safety construction programs for fiscal year 2005 for the purposes of the matter under the heading ‘FEDERAL-AID HIGHWAYS’ in title I of division H of the Consolidated Appropriations Act, 2005 (23 U.S.C. 104 note; 118 Stat. 3204).”.

Applicability.

SEC. 3. ADMINISTRATIVE EXPENSES.

Section 4(a) of the Surface Transportation Extension Act of 2004 (118 Stat. 1147) is amended by striking “\$234,682,667” and inserting “\$264,018,000”.

SEC. 4. OTHER FEDERAL-AID HIGHWAY PROGRAMS.

(a) AUTHORIZATION OF APPROPRIATIONS UNDER TITLE I OF TEA–21.—

(1) FEDERAL LANDS HIGHWAYS.—

(A) INDIAN RESERVATION ROADS.—Section 1101(a)(8)(A) of the Transportation Equity Act for the 21st Century (112 Stat. 112; 118 Stat. 1147) is amended—

(i) in the first sentence by striking “\$183,333,333 for the period of October 1, 2004, through May 31, 2005” and inserting “\$206,250,000 for the period of October 1, 2004, through June 30, 2005”; and

(ii) in the second sentence by striking “\$8,666,667” and inserting “\$9,750,000”.

(B) PUBLIC LANDS HIGHWAYS.—Section 1101(a)(8)(B) of such Act (112 Stat. 112; 118 Stat. 1148) is amended by striking “\$164,000,000 for the period of October 1, 2004, through May 31, 2005” and inserting “\$184,500,000 for the period of October 1, 2004, through June 30, 2005”.

(C) PARK ROADS AND PARKWAYS.—Section 1101(a)(8)(C) of such Act (112 Stat. 112; 118 Stat. 1148) is amended by striking “\$110,000,000 for the period of October 1, 2004, through May 31, 2005” and inserting “\$123,750,000 for the period of October 1, 2004, through June 30, 2005”.

(D) REFUGE ROADS.—Section 1101(a)(8)(D) of such Act (112 Stat. 112; 118 Stat. 1148) is amended by striking “\$13,333,333 for the period of October 1, 2004, through May 31, 2005” and inserting “\$15,000,000 for the period of October 1, 2004, through June 30, 2005”.

(2) NATIONAL CORRIDOR PLANNING AND DEVELOPMENT AND COORDINATED BORDER INFRASTRUCTURE PROGRAMS.—Section 1101(a)(9) of such Act (112 Stat. 112; 118 Stat. 1148) is amended by striking “\$93,333,333 for the period of October 1, 2004, through May 31, 2005” and inserting “\$105,000,000 for the period of October 1, 2004, through June 30, 2005”.

(3) CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES.—

(A) IN GENERAL.—Section 1101(a)(10) of such Act (112 Stat. 113; 118 Stat. 1148) is amended by striking “\$25,333,333 for the period of October 1, 2004, through May 31, 2005” and inserting “\$28,500,000 for the period of October 1, 2004, through June 30, 2005”.

(B) SET ASIDE FOR ALASKA, NEW JERSEY, AND WASHINGTON.—Section 5(a)(3)(B) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1148) is amended—

(i) in clause (i) by striking “\$6,666,667” and inserting “\$7,500,000”;

(ii) in clause (ii) by striking “\$3,333,333” and inserting “\$3,750,000”; and

(iii) in clause (iii) by striking “\$3,333,333” and inserting “\$3,750,000”.

(4) NATIONAL SCENIC BYWAYS PROGRAM.—Section 1101(a)(11) of the Transportation Equity Act for the 21st Century (112 Stat. 113; 118 Stat. 1148) is amended by striking “2001,” and all that follows through “May 31, 2005” and inserting “2001, \$25,500,000 for fiscal year 2002, \$26,500,000 for each of fiscal years 2003 and 2004, and \$19,875,000 for the period of October 1, 2004, through June 30, 2005”.

(5) VALUE PRICING PILOT PROGRAM.—Section 1101(a)(12) of such Act (112 Stat. 113; 118 Stat. 1148) is amended by striking “\$7,333,333 for the period of October 1, 2004, through May 31, 2005” and inserting “\$8,250,000 for the period of October 1, 2004, through June 30, 2005”.

(6) HIGHWAY USE TAX EVASION PROJECTS.—Section 1101(a)(14) of such Act (112 Stat. 113; 118 Stat. 1148) is amended by striking “\$3,333,333 for the period of October 1, 2004, through May 31, 2005” and inserting “\$3,750,000 for the period of October 1, 2004, through June 30, 2005”.

(7) COMMONWEALTH OF PUERTO RICO HIGHWAY PROGRAM.—Section 1101(a)(15)(A) of such Act (112 Stat. 113; 118 Stat. 1149) is amended by striking “\$73,333,333 for the period of October 1, 2004, through May 31, 2005” and inserting “\$82,500,000 for the period of October 1, 2004, through June 30, 2005”.

(8) SAFETY GRANTS.—Section 1212(i)(1)(D) of such Act (23 U.S.C. 402 note; 112 Stat. 196; 112 Stat. 840; 118 Stat. 1149) is amended by striking “\$333,333 for the period of October 1, 2004, through May 31, 2005” and inserting “\$375,000 for the period of October 1, 2004, through June 30, 2005”.

(9) TRANSPORTATION AND COMMUNITY AND SYSTEM PRESERVATION PILOT PROGRAM.—Section 1221(e)(1) of such Act (23 U.S.C. 101 note; 112 Stat. 223; 118 Stat. 1149) is amended by striking “\$16,666,667 for the period of October 1, 2004, through May 31, 2005” and inserting “\$18,750,000 for the period of October 1, 2004, through June 30, 2005”.

(10) TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION.—Section 188 of title 23, United States Code, is amended—

(A) by striking subsection (a)(1)(G) and inserting the following:

“(G) \$97,500,000 for the period of October 1, 2004, through June 30, 2005.”;

(B) in subsection (a)(2) by striking “\$1,333,333 for the period of October 1, 2004, through May 31, 2005” and inserting “\$1,500,000 for the period of October 1, 2004, through June 30, 2005”; and

(C) in the item relating to fiscal year 2005 in the table contained in subsection (c) by striking “\$1,733,333,333” and inserting “\$1,950,000,000”.

(11) NATIONAL SCENIC BYWAYS CLEARINGHOUSE.—Section 1215(b)(3) of the Transportation Equity Act for the 21st Century (112 Stat. 210; 118 Stat. 1149) is amended—

(A) by striking “\$1,000,000” and inserting “\$1,125,000”; and

(B) by striking “May 31” and inserting “June 30”.

(b) AUTHORIZATION OF APPROPRIATIONS UNDER TITLE V OF TEA–21.—

(1) SURFACE TRANSPORTATION RESEARCH.—Section 5001(a)(1) of the Transportation Equity Act for the 21st Century (112 Stat. 419; 118 Stat. 1149) is amended by striking “\$68,666,667 for the period of October 1, 2004, through May 31, 2005” and inserting “\$77,250,000 for the period of October 1, 2004, through June 30, 2005”.

(2) TECHNOLOGY DEPLOYMENT PROGRAM.—Section 5001(a)(2) of such Act (112 Stat. 419; 118 Stat. 1149) is amended by striking “\$33,333,333 for the period of October 1, 2004, through May 31, 2005” and inserting “\$37,500,000 for the period of October 1, 2004, through June 30, 2005”.

(3) TRAINING AND EDUCATION.—Section 5001(a)(3) of such Act (112 Stat. 420; 118 Stat. 1150) is amended by striking “\$13,333,333 for the period of October 1, 2004, through May 31, 2005” and inserting “\$15,000,000 for the period of October 1, 2004, through June 30, 2005”.

(4) BUREAU OF TRANSPORTATION STATISTICS.—Section 5001(a)(4) of such Act (112 Stat. 420; 118 Stat. 1150) is amended by striking “\$20,666,667 for the period of October 1, 2004, through May 31, 2005” and inserting “\$23,250,000 for the period of October 1, 2004, through June 30, 2005”.

(5) ITS STANDARDS, RESEARCH, OPERATIONAL TESTS, AND DEVELOPMENT.—Section 5001(a)(5) of such Act (112 Stat. 420; 118 Stat. 1150) is amended by striking “\$73,333,333 for the period of October 1, 2004, through May 31, 2005” and inserting “\$82,500,000 for the period of October 1, 2004, through June 30, 2005”.

(6) ITS DEPLOYMENT.—Section 5001(a)(6) of such Act (112 Stat. 420; 118 Stat. 1150) is amended by striking “\$81,333,333

for the period of October 1, 2004, through May 31, 2005” and inserting “\$91,500,000 for the period of October 1, 2004, through June 30, 2005”.

(7) UNIVERSITY TRANSPORTATION RESEARCH.—Section 5001(a)(7) of such Act (112 Stat. 420; 118 Stat. 1150) is amended by striking “\$17,666,667 for the period of October 1, 2004, through May 31, 2005” and inserting “\$19,875,000 for the period of October 1, 2004, through June 30, 2005”.

(c) METROPOLITAN PLANNING.—Section 5(c)(1) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1150) is amended by striking “\$145,000,000 for the period of October 1, 2004, through May 31, 2005” and inserting “\$163,125,000 for the period of October 1, 2004, through June 30, 2005”.

(d) TERRITORIES.—Section 1101(d)(1) of the Transportation Equity Act for the 21st Century (112 Stat. 111; 118 Stat. 1150) is amended by striking “\$24,266,667 for the period of October 1, 2004, through May 31, 2005” and inserting “\$27,300,000 for the period of October 1, 2004, through June 30, 2005”.

(e) ALASKA HIGHWAY.—Section 1101(e)(1) of such Act (118 Stat. 1150) is amended by striking “\$12,533,333 for the period of October 1, 2004, through May 31, 2005” and inserting “\$14,100,000 for the period of October 1, 2004, through June 30, 2005”.

(f) OPERATION LIFESAVER.—Section 1101(f)(1) of such Act (118 Stat. 1151) is amended by striking “\$333,333 for the period of October 1, 2004, through May 31, 2005” and inserting “\$375,000 for the period of October 1, 2004, through June 30, 2005”.

(g) BRIDGE DISCRETIONARY.—Section 1101(g)(1) of such Act (118 Stat. 1151) is amended—

(1) by striking “\$66,666,667” and inserting “\$75,000,000”; and

(2) by striking “May 31” and inserting “June 30”.

(h) INTERSTATE MAINTENANCE.—Section 1101(h)(1) of such Act (118 Stat. 1151) is amended—

(1) by striking “\$66,666,667” and inserting “\$75,000,000”; and

(2) by striking “May 31” and inserting “June 30”.

(i) RECREATIONAL TRAILS ADMINISTRATIVE COSTS.—Section 1101(i)(1) of such Act (118 Stat. 1151) is amended by striking “\$500,000 for the period of October 1, 2004, through May 31, 2005” and inserting “\$562,500 for the period of October 1, 2004, through June 30, 2005”.

(j) RAILWAY-HIGHWAY CROSSING HAZARD ELIMINATION IN HIGH SPEED RAIL CORRIDORS.—Section 1101(j)(1) of such Act (118 Stat. 1151) is amended—

(1) by striking “\$3,500,000” and inserting “\$3,937,500”;

(2) by striking “\$166,667” and inserting “\$187,500”; and

(3) by striking “May 31” each place it appears and inserting “June 30”.

(k) NONDISCRIMINATION.—Section 1101(k) of such Act (118 Stat. 1151) is amended—

(1) in paragraph (1) by striking “\$6,666,667 for the period of October 1, 2004, through May 31, 2005” and inserting “\$7,500,000 for the period of October 1, 2004, through June 30, 2005”; and

(2) in paragraph (2) by striking “\$6,666,667 for the period of October 1, 2004, through May 31, 2005” and inserting

“\$7,500,000 for the period of October 1, 2004, through June 30, 2005”.

(l) ADMINISTRATION OF FUNDS.—Section 5(l) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1151) is amended—

(1) by inserting “and section 4 of the Surface Transportation Extension Act of 2005” after “this section” the first place it appears; and

(2) by inserting “or the amendment made by section 4(a)(1) of such Act” before the period at the end.

(m) REDUCTION OF ALLOCATED PROGRAMS.—Section 5(m) of such Act (118 Stat. 1151) is amended—

(1) by inserting “and section 4 of the Surface Transportation Extension Act of 2005” after “but for this section”;

(2) by striking “both”;

(3) by striking “and by this section” and inserting “, by this section, and by section 4 of such Act”; and

(4) by inserting “and by section 4 of such Act” before the period at the end.

(n) PROGRAM CATEGORY RECONCILIATION.—Section 5(n) of such Act (118 Stat. 1151) is amended by inserting “and section 4 of the Surface Transportation Extension Act of 2005” after “this section”.

SEC. 5. EXTENSION OF HIGHWAY SAFETY PROGRAMS.

(a) CHAPTER 1 HIGHWAY SAFETY PROGRAMS.—

(1) SEAT BELT SAFETY INCENTIVE GRANTS.—Section 157(g)(1) of title 23, United States Code, is amended by striking “\$74,666,667 for the period of October 1, 2004, through May 31, 2005” and inserting “\$84,000,000 for the period of October 1, 2004, through June 30, 2005”.

(2) PREVENTION OF INTOXICATED DRIVER INCENTIVE GRANTS.—Section 163(e)(1) of such title is amended by striking “\$73,333,333 for the period of October 1, 2004, through May 31, 2005” and inserting “\$82,500,000 for the period of October 1, 2004, through June 30, 2005”.

(b) CHAPTER 4 HIGHWAY SAFETY PROGRAMS.—Section 2009(a)(1) of the Transportation Equity Act for the 21st Century (112 Stat. 337; 118 Stat. 1152) is amended by striking “\$110,000,000 for the period of October 1, 2004, through May 31, 2005” and inserting “\$123,750,000 for the period of October 1, 2004, through June 30, 2005”.

(c) HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.—Section 2009(a)(2) of such Act (112 Stat. 337; 118 Stat. 1152) is amended by striking “1998 through” and all that follows through “May 31, 2005” and inserting “1998 through 2004 and \$54,000,000 for the period of October 1, 2004, through June 30, 2005”.

(d) OCCUPANT PROTECTION INCENTIVE GRANTS.—Section 2009(a)(3) of such Act (112 Stat. 337; 118 Stat. 1152) is amended by striking “\$13,333,333 for the period of October 1, 2004, through May 31, 2005” and inserting “\$15,000,000 for the period of October 1, 2004, through June 30, 2005”.

(e) ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES INCENTIVE GRANTS.—Section 2009(a)(4) of such Act (112 Stat. 337; 118 Stat. 1153) is amended by striking “\$26,666,667 for the period of October 1, 2004, through May 31, 2005” and inserting “\$30,000,000 for the period of October 1, 2004, through June 30, 2005”.

(f) NATIONAL DRIVER REGISTER.—Section 2009(a)(6) of such Act (112 Stat. 338; 118 Stat. 1153) is amended by striking “\$2,400,000 for the period of October 1, 2004, through May 31, 2005” and inserting “\$2,700,000 for the period of October 1, 2004, through June 30, 2005”.

SEC. 6. FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION PROGRAM.

(a) ADMINISTRATIVE EXPENSES.—Section 7(a)(1) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1153) is amended by striking “\$160,552,536 for the period of October 1, 2004, through May 31, 2005” and inserting “\$192,631,044 for the period October 1, 2004 through June 30, 2005”.

(b) MOTOR CARRIER SAFETY ASSISTANCE PROGRAM.—Section 31104(a)(8) of title 49, United States Code, is amended to read as follows:

“(8) Not more than \$126,402,740 for the period of October 1, 2004, through June 30, 2005.”.

(c) INFORMATION SYSTEMS AND COMMERCIAL DRIVER’S LICENSE GRANTS.—

(1) AUTHORIZATION OF APPROPRIATION.—Section 31107(a)(6) of such title is amended to read as follows:

“(5) \$14,958,904 for the period of October 1, 2004, through June 30, 2005.”.

(2) EMERGENCY CDL GRANTS.—Section 7(c)(2) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1153) is amended—

(A) by striking “May 31,” and inserting “June 30,”; and

(B) by striking “\$665,753” and inserting “\$747,945”.

(d) CRASH CAUSATION STUDY.—Section 7(d) of such Act (118 Stat. 1154) is amended—

(1) by striking “\$665,753” and inserting “\$747,945”; and

(2) by striking “May 31” and inserting “June 30”.

SEC. 7. EXTENSION OF FEDERAL TRANSIT PROGRAMS.

(a) ALLOCATING AMOUNTS.—Section 5309(m) of title 49, United States Code, is amended—

(1) in the matter preceding subparagraph (A) of paragraph (1) by striking “May 31, 2005” and inserting “June 30, 2005”;

(2) in paragraph (2)(B)(iii)—

(A) in the heading by striking “MAY 31, 2005” and inserting “JUNE 30, 2005”;

(B) by striking “\$6,933,333” and inserting “\$7,800,000”; and

(C) by striking “May 31, 2005” and inserting “June 30, 2005”;

(3) in paragraph (3)(B)—

(A) by striking “\$2,000,000” and inserting “\$2,250,000”; and

(B) by striking “May 31, 2005” and inserting “June 30, 2005”; and

(4) in paragraph (3)(C)—

(A) by striking “\$33,333,333” and inserting “\$37,500,000”; and

(B) by striking “May 31, 2005” and inserting “June 30, 2005”.

(b) FORMULA GRANTS AUTHORIZATIONS.—Section 5338(a) of title 49, United States Code, is amended—

(1) in the heading to paragraph (2) by striking “MAY 31, 2005” and inserting “JUNE 30, 2005”;

(2) in paragraph (2)(A)(vii)—

(A) by striking “\$2,201,760,000” and inserting “\$2,545,785,000”; and

(B) by striking “May 31, 2005” and inserting “June 30, 2005”;

(3) in paragraph (2)(B)(vii) by striking “May 31, 2005” and inserting “June 30, 2005”; and

(4) in paragraph (2)(C) by striking “May 31, 2005” and inserting “June 30, 2005”.

(c) FORMULA GRANT FUNDS.—Section 8(d) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1155) is amended—

(1) in the heading by striking “MAY 31, 2005” and inserting “JUNE 30, 2005”;

(2) in the matter preceding paragraph (1) by striking “May 31, 2005” and inserting “June 30, 2005”;

(3) in paragraph (1) by striking “\$3,233,300” and inserting “\$3,637,462”;

(4) in paragraph (2) by striking “\$33,333,333” and inserting “\$37,500,000”;

(5) in paragraph (3) by striking “\$65,064,001” and inserting “\$73,197,001”;

(6) in paragraph (4) by striking “\$172,690,702” and inserting “\$194,277,040”;

(7) in paragraph (5) by striking “\$4,633,333” and inserting “\$5,212,500”; and

(8) in paragraph (6) by striking “\$2,473,245,331” and inserting “\$2,782,400,997”.

(d) CAPITAL PROGRAM AUTHORIZATIONS.—Section 5338(b)(2) of title 49, United States Code, is amended—

(1) in the heading by striking “MAY 31, 2005” and inserting “JUNE 30, 2005”;

(2) in subparagraph (A)(vii)—

(A) by striking “\$1,740,960,000” and inserting “\$2,012,985,000”; and

(B) by striking “May 31, 2005” and inserting “June 30, 2005”; and

(3) in subparagraph (B)(vii) by striking “May 31, 2005” and inserting “June 30, 2005”.

(e) PLANNING AUTHORIZATIONS AND ALLOCATIONS.—Section 5338(c)(2) of title 49, United States Code, is amended—

(1) in the heading by striking “MAY 31, 2005” and inserting “JUNE 30, 2005”;

(2) in subparagraph (A)(vii)—

(A) by striking “\$41,813,334” and inserting “\$48,346,668”; and

(B) by striking “May 31, 2005” and inserting “June 30, 2005”; and

(3) in subparagraph (B)(vii) by striking “May 31, 2005” and inserting “June 30, 2005”.

(f) RESEARCH AUTHORIZATIONS.—Section 5338(d)(2) of title 49, United States Code, is amended—

(1) in the heading by striking “MAY 31, 2005” and inserting “JUNE 30, 2005”;

(2) in subparagraph (A)(vii)—

(A) by striking “\$28,266,667” and inserting “\$32,683,333”; and

(B) by striking “May 31, 2005” and inserting “June 30, 2005”;

(3) in subparagraph (B)(vii) by striking “May 31, 2005” and inserting “June 30, 2005”; and

(4) in subparagraph (C) by striking “May 31, 2005” and inserting “June 30, 2005”.

(g) ALLOCATION OF RESEARCH FUNDS.—Section 8(h) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1156) is amended—

(1) in the heading by striking “MAY 31, 2005” and inserting “JUNE 30, 2005”;

(2) in the matter preceding paragraph (1) by striking “May 31, 2005” and inserting “June 30, 2005”;

(3) in paragraph (1) by striking “\$3,500,000” and inserting “\$3,937,500”;

(4) in paragraph (2) by striking “\$5,500,000” and inserting “\$6,187,500”; and

(5) in paragraph (3)—

(A) by striking “\$2,666,667” and inserting “\$3,000,000”; and

(B) by striking “\$666,667” and inserting “\$750,000”.

(h) UNIVERSITY TRANSPORTATION RESEARCH AUTHORIZATIONS.—Section 5338(e)(2) of title 49, United States Code, is amended—

(1) in the heading by striking “MAY 31, 2005” and inserting “JUNE 30, 2005”;

(2) in subparagraph (A)—

(A) by striking “\$3,200,000” and inserting “\$3,700,000”; and

(B) by striking “May 31, 2005” and inserting “June 30, 2005”;

(3) in subparagraph (B) by striking “May 31, 2005” and inserting “June 30, 2005”; and

(4) in subparagraphs (C)(i) and (C)(iii) by striking “May 31, 2005” and inserting “June 30, 2005”.

(i) ALLOCATION OF UNIVERSITY TRANSPORTATION RESEARCH FUNDS.—

(1) IN GENERAL.—Section 8(j) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1157) is amended—

(A) in the matter preceding subparagraph (A) of paragraph (1) by striking “May 31, 2005” and inserting “June 30, 2005”;

(B) in paragraph (1)(A) by striking “\$1,333,333” and inserting “\$1,500,000”;

(C) in paragraph (1)(B) by striking “\$1,333,333” and inserting “\$1,500,000”; and

(D) in paragraph (2) by striking “May 31, 2005” and inserting “June 30, 2005”.

(2) CONFORMING AMENDMENT.—Section 3015(d)(2) of the Transportation Equity Act for the 21st Century (112 Stat. 857; 118 Stat. 1157) is amended by striking “May 31, 2005” and inserting “June 30, 2005”.

(j) ADMINISTRATION AUTHORIZATIONS.—Section 5338(f)(2) of title 49, United States Code, is amended—

(1) in the heading by striking “MAY 31, 2005” and inserting “JUNE 30, 2005”;

(2) in subparagraph (A)(vii)—

(A) by striking “\$41,600,000” and inserting “\$48,100,000”; and

(B) by striking “May 31, 2005” and inserting “June 30, 2005”; and

(3) in subparagraph (B)(vii) by striking “May 31, 2005” and inserting “June 30, 2005”.

(k) JOB ACCESS AND REVERSE COMMUTE PROGRAM.—Section 3037(l) of the Transportation Equity Act for the 21st Century (49 U.S.C. 5309 note; 112 Stat. 391; 118 Stat. 1157) is amended—

(1) in paragraph (1)(A)(vii)—

(A) by striking “\$80,000,000” and inserting “\$92,500,000”; and

(B) by striking “May 31, 2005” and inserting “June 30, 2005”;

(2) in paragraph (1)(B)(vii) by striking “May 31, 2005” and inserting “June 30, 2005”; and

(3) in paragraph (2) by striking “May 31, 2005, not more than \$6,666,667” and inserting “June 30, 2005, not more than \$7,500,000”.

(l) RURAL TRANSPORTATION ACCESSIBILITY INCENTIVE PROGRAM.—Section 3038(g) of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note; 112 Stat. 393; 118 Stat. 1158) is amended—

(1) by striking paragraph (1)(G) and inserting after paragraph (1)(F) the following:

“(G) \$3,937,500 for the period of October 1, 2004, through June 30, 2005.”; and

(2) in paragraph (2)—

(A) by striking “\$1,133,333” and inserting “\$1,275,000”; and

(B) by striking “May 31, 2005” and inserting “June 30, 2005”.

(m) URBANIZED AREA FORMULA GRANTS.—Section 5307(b)(2) of title 49, United States Code, is amended—

(1) in the heading by striking “MAY 31, 2005” and inserting “JUNE 30, 2005”; and

(2) in subparagraph (A) by striking “May 31, 2005” and inserting “June 30, 2005”.

(n) OBLIGATION CEILING.—Section 3040(7) of the Transportation Equity Act for the 21st Century (112 Stat. 394; 118 Stat. 1158) is amended—

(1) by striking “\$5,172,000,000” and inserting “\$5,818,500,000”; and

(2) by striking “May 31, 2005” and inserting “June 30, 2005”.

(o) FUEL CELL BUS AND BUS FACILITIES PROGRAM.—Section 3015(b) of the Transportation Equity Act for the 21st Century (112 Stat. 361; 118 Stat. 1158) is amended—

(1) by striking “May 31, 2005” and inserting “June 30, 2005”; and

(2) by striking “\$3,233,333” and inserting “\$3,637,500”.

(p) ADVANCED TECHNOLOGY PILOT PROJECT.—Section 3015(c)(2) of the Transportation Equity Act for the 21st Century (49 U.S.C. 322 note; 112 Stat. 361; 118 Stat. 1158) is amended—

(1) by striking “May 31, 2005,” and inserting “June 30, 2005”; and

(2) by striking “\$3,333,333” and inserting “\$3,750,000”.

(q) PROJECTS FOR NEW FIXED GUIDEWAY SYSTEMS AND EXTENSIONS TO EXISTING SYSTEMS.—Subsections (a), (b), and (c)(1) of section 3030 of the Transportation Equity Act for the 21st Century (112 Stat. 373; 118 Stat. 1158) are amended by striking “May 31, 2005” and inserting “June 30, 2005”.

(r) NEW JERSEY URBAN CORE PROJECT.—Subparagraphs (A), (B), and (C) of section 3031(a)(3) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2122; 118 Stat. 1158) are amended by striking “May 31, 2005” and inserting “June 30, 2005”.

(s) TREATMENT OF FUNDS.—Amounts made available under the amendments made by this section shall be treated for purposes of section 1101(b) of the Transportation Equity Act for the 21st Century (23 U.S.C. 101 note) as amounts made available for programs under title III of such Act.

(t) LOCAL SHARE.—Section 3011(a) of the Transportation Equity Act for the 21st Century (49 U.S.C. 5307 note; 118 Stat. 1158) is amended by striking “May 31, 2005” and inserting “June 30, 2005”.

SEC. 8. SPORT FISHING AND BOATING SAFETY.

(a) FUNDING FOR NATIONAL OUTREACH AND COMMUNICATIONS PROGRAM.—Section 4(c)(7) of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777c(c)(6)) is amended to read as follows:

“(6) \$7,499,997 for the period of October 1, 2004, through June 30, 2005;”.

(b) CLEAN VESSEL ACT FUNDING.—Section 4(b)(4) of such Act (16 U.S.C. 777c(b)(4)) is amended to read as follows:

“(4) FIRST 9 MONTHS OF FISCAL YEAR 2005.—For the period of October 1, 2004, through June 30, 2005, of the balance of each annual appropriation remaining after making the distribution under subsection (a), an amount equal to \$61,499,997, reduced by 82 percent of the amount appropriated for that fiscal year from the Boat Safety Account of the Aquatic Resources Trust Fund established by section 9504 of the Internal Revenue Code of 1986 to carry out the purposes of section 13106(a) of title 46, United States Code, shall be used as follows:

“(A) \$7,499,997 shall be available to the Secretary of the Interior for 3 fiscal years for obligation for qualified projects under section 5604(c) of the Clean Vessel Act of 1992 (33 U.S.C. 1322 note).

“(B) \$6,000,000 shall be available to the Secretary of the Interior for 3 fiscal years for obligation for qualified projects under section 7404(d) of the Sportfishing and Boating Safety Act of 1998 (16 U.S.C. 777g–1(d)).

“(C) The balance remaining after the application of subparagraphs (A) and (B) shall be transferred to the Secretary of Transportation and shall be expended for State recreational boating safety programs under section 13106 of title 46, United States Code.”.

(c) BOAT SAFETY FUNDS.—Section 13106(c) of title 46, United States Code, is amended—

- (1) by striking “\$3,333,336” and inserting “\$3,750,003”; and
- (2) by striking “\$1,333,336” and inserting “\$1,500,003”.

SEC. 9. EXTENSION OF AUTHORIZATION FOR USE OF TRUST FUNDS FOR OBLIGATIONS UNDER TEA-21.

(a) HIGHWAY TRUST FUND.—

(1) IN GENERAL.—Paragraph (1) of section 9503(c) of the Internal Revenue Code of 1986 is amended—

26 USC 9503.

(A) in the matter before subparagraph (A), by striking “June 1, 2005” and inserting “July 1, 2005”,

(B) by striking “or” at the end of subparagraph (J),

(C) by striking the period at the end of subparagraph (K) and inserting “, or”,

(D) by inserting after subparagraph (K) the following new subparagraph:

“(L) authorized to be paid out of the Highway Trust Fund under the Surface Transportation Extension Act of 2005.”, and

(E) in the matter after subparagraph (L), as added by this paragraph, by striking “Surface Transportation Extension Act of 2004, Part V” and inserting “Surface Transportation Extension Act of 2005”.

(2) MASS TRANSIT ACCOUNT.—Paragraph (3) of section 9503(e) of such Code is amended—

(A) in the matter before subparagraph (A), by striking “June 1, 2005” and inserting “July 1, 2005”,

(B) in subparagraph (H), by striking “or” at the end of such subparagraph,

(C) in subparagraph (I), by inserting “or” at the end of such subparagraph,

(D) by inserting after subparagraph (I) the following new subparagraph:

“(J) the Surface Transportation Extension Act of 2005.”, and

(E) in the matter after subparagraph (J), as added by this paragraph, by striking “Surface Transportation Extension Act of 2004, Part V” and inserting “Surface Transportation Extension Act of 2005”.

(3) EXCEPTION TO LIMITATION ON TRANSFERS.—Subparagraph (B) of section 9503(b)(6) of such Code is amended by striking “June 1, 2005” and inserting “July 1, 2005”.

(b) AQUATIC RESOURCES TRUST FUND.—

(1) SPORT FISH RESTORATION ACCOUNT.—Paragraph (2) of section 9504(b) of the Internal Revenue Code of 1986 is amended by striking “Surface Transportation Extension Act of 2004, Part V” each place it appears and inserting “Surface Transportation Extension Act of 2005”.

26 USC 9504.

(2) BOAT SAFETY ACCOUNT.—Subsection (c) of section 9504 of such Code is amended—

(A) by striking “June 1, 2005” and inserting “July 1, 2005”, and

(B) by striking “Surface Transportation Extension Act of 2004, Part V” and inserting “Surface Transportation Extension Act of 2005”.

- (3) EXCEPTION TO LIMITATION ON TRANSFERS.—Paragraph (2) of section 9504(d) of such Code is amended by striking “June 1, 2005” and inserting “July 1, 2005”.
- (c) EXTENSION OF TAX, ETC., ON USE OF CERTAIN HEAVY VEHICLES.—The following provisions of the Internal Revenue Code of 1986 are each amended by striking “2005” each place it appears and inserting “2006”:
- (1) Section 4481(f).
 - (2) Section 4482(c)(4).
 - (3) Section 4482(d).
 - (4) Section 4483(h).
- (d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.
- (e) TEMPORARY RULE REGARDING ADJUSTMENTS.—During the period beginning on the date of the enactment of the Surface Transportation Extension Act of 2003 and ending on June 30, 2005, for purposes of making any estimate under section 9503(d) of the Internal Revenue Code of 1986 of receipts of the Highway Trust Fund, the Secretary of the Treasury shall treat—
- (1) each expiring provision of paragraphs (1) through (4) of section 9503(b) of such Code which is related to appropriations or transfers to such Fund to have been extended through the end of the 24-month period referred to in section 9503(d)(1)(B) of such Code, and
 - (2) with respect to each tax imposed under the sections referred to in section 9503(b)(1) of such Code, the rate of such tax during the 24-month period referred to in section 9503(d)(1)(B) of such Code to be the same as the rate of such tax as in effect on the date of the enactment of the Surface Transportation Extension Act of 2003.

Approved May 31, 2005.

LEGISLATIVE HISTORY—H.R. 2566:

CONGRESSIONAL RECORD, Vol. 151 (2005):

May 25, considered and passed House.

May 26, considered and passed Senate.



Public Law 109–15
109th Congress

An Act

To designate the facility of the United States Postal Service located at 215 Martin Luther King, Jr. Boulevard in Madison, Wisconsin, as the “Robert M. La Follette, Sr. Post Office Building”.

June 17, 2005
[H.R. 1760]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The facility of the United States Postal Service located at 215 Martin Luther King, Jr. Boulevard in Madison, Wisconsin, shall be known and designated as the “Robert M. La Follette, Sr. Post Office Building”.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the “Robert M. La Follette, Sr. Post Office Building”.

Approved June 17, 2005.

LEGISLATIVE HISTORY—H.R. 1760:

CONGRESSIONAL RECORD, Vol. 151 (2005):
May 16, considered and passed House.
May 26, considered and passed Senate.



Public Law 109–16
109th Congress

An Act

June 29, 2005
[H.R. 483]

To designate a United States courthouse in Brownsville, Texas, as the “Reynaldo G. Garza and Filemon B. Vela United States Courthouse”.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States courthouse located at the corner of Seventh Street and East Jackson Street in Brownsville, Texas, shall be designated and known as the “Reynaldo G. Garza and Filemon B. Vela United States Courthouse”.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States courthouse referred to in section 1 shall be deemed to be a reference to the “Reynaldo G. Garza and Filemon B. Vela United States Courthouse”.

Approved June 29, 2005.

LEGISLATIVE HISTORY—H.R. 483:

CONGRESSIONAL RECORD, Vol. 151 (2005):

Apr. 13, considered and passed House.

June 15, considered and passed Senate.



Public Law 109–17
109th Congress

An Act

To amend the Agricultural Credit Act of 1987 to reauthorize State mediation programs.

June 29, 2005
[S. 643]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REAUTHORIZATION OF STATE MEDIATION PROGRAMS.

Section 506 of the Agricultural Credit Act of 1987 (7 U.S.C. 5106) is amended by striking “2005” and inserting “2010”.

Approved June 29, 2005.

LEGISLATIVE HISTORY—S. 643:

CONGRESSIONAL RECORD, Vol. 151 (2005):

Apr. 21, considered and passed Senate.

June 13, considered and passed House.



Public Law 109–18
109th Congress

An Act

June 29, 2005
[H.R. 1812]

To amend the Public Health Service Act to authorize a demonstration grant program to provide patient navigator services to reduce barriers and improve health care outcomes, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Patient
Navigator
Outreach and
Chronic Disease
Prevention Act of
2005.
42 USC 201 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the “Patient Navigator Outreach and Chronic Disease Prevention Act of 2005”.

SEC. 2. PATIENT NAVIGATOR GRANTS.

Subpart V of part D of title III of the Public Health Service Act (42 U.S.C. 256) is amended by adding at the end the following:

42 USC 256a.

“SEC. 340A. PATIENT NAVIGATOR GRANTS.

“(a) GRANTS.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, may make grants to eligible entities for the development and operation of demonstration programs to provide patient navigator services to improve health care outcomes. The Secretary shall coordinate with, and ensure the participation of, the Indian Health Service, the National Cancer Institute, the Office of Rural Health Policy, and such other offices and agencies as deemed appropriate by the Secretary, regarding the design and evaluation of the demonstration programs.

“(b) USE OF FUNDS.—The Secretary shall require each recipient of a grant under this section to use the grant to recruit, assign, train, and employ patient navigators who have direct knowledge of the communities they serve to facilitate the care of individuals, including by performing each of the following duties:

“(1) Acting as contacts, including by assisting in the coordination of health care services and provider referrals, for individuals who are seeking prevention or early detection services for, or who following a screening or early detection service are found to have a symptom, abnormal finding, or diagnosis of, cancer or other chronic disease.

“(2) Facilitating the involvement of community organizations in assisting individuals who are at risk for or who have cancer or other chronic diseases to receive better access to high-quality health care services (such as by creating partnerships with patient advocacy groups, charities, health care centers, community hospice centers, other health care providers, or other organizations in the targeted community).

“(3) Notifying individuals of clinical trials and, on request, facilitating enrollment of eligible individuals in these trials.

“(4) Anticipating, identifying, and helping patients to overcome barriers within the health care system to ensure prompt diagnostic and treatment resolution of an abnormal finding of cancer or other chronic disease.

“(5) Coordinating with the relevant health insurance ombudsman programs to provide information to individuals who are at risk for or who have cancer or other chronic diseases about health coverage, including private insurance, health care savings accounts, and other publicly funded programs (such as Medicare, Medicaid, health programs operated by the Department of Veterans Affairs or the Department of Defense, the State children’s health insurance program, and any private or governmental prescription assistance programs).

“(6) Conducting ongoing outreach to health disparity populations, including the uninsured, rural populations, and other medically underserved populations, in addition to assisting other individuals who are at risk for or who have cancer or other chronic diseases to seek preventative care.

“(c) PROHIBITIONS.—

“(1) REFERRAL FEES.—The Secretary shall require each recipient of a grant under this section to prohibit any patient navigator providing services under the grant from accepting any referral fee, kickback, or other thing of value in return for referring an individual to a particular health care provider.

“(2) LEGAL FEES AND COSTS.—The Secretary shall prohibit the use of any grant funds received under this section to pay any fees or costs resulting from any litigation, arbitration, mediation, or other proceeding to resolve a legal dispute.

“(d) GRANT PERIOD.—

“(1) IN GENERAL.—Subject to paragraphs (2) and (3), the Secretary may award grants under this section for periods of not more than 3 years.

“(2) EXTENSIONS.—Subject to paragraph (3), the Secretary may extend the period of a grant under this section. Each such extension shall be for a period of not more than 1 year.

“(3) LIMITATIONS ON GRANT PERIOD.—In carrying out this section, the Secretary—

“(A) shall ensure that the total period of a grant does not exceed 4 years; and

“(B) may not authorize any grant period ending after September 30, 2010.

“(e) APPLICATION.—

“(1) IN GENERAL.—To seek a grant under this section, an eligible entity shall submit an application to the Secretary in such form, in such manner, and containing such information as the Secretary may require.

“(2) CONTENTS.—At a minimum, the Secretary shall require each such application to outline how the eligible entity will establish baseline measures and benchmarks that meet the Secretary’s requirements to evaluate program outcomes.

“(f) UNIFORM BASELINE MEASURES.—The Secretary shall establish uniform baseline measures in order to properly evaluate the impact of the demonstration projects under this section.

“(g) PREFERENCE.—In making grants under this section, the Secretary shall give preference to eligible entities that demonstrate

in their applications plans to utilize patient navigator services to overcome significant barriers in order to improve health care outcomes in their respective communities.

“(h) **DUPLICATION OF SERVICES.**—An eligible entity that is receiving Federal funds for activities described in subsection (b) on the date on which the entity submits an application under subsection (e) may not receive a grant under this section unless the entity can demonstrate that amounts received under the grant will be utilized to expand services or provide new services to individuals who would not otherwise be served.

“(i) **COORDINATION WITH OTHER PROGRAMS.**—The Secretary shall ensure coordination of the demonstration grant program under this section with existing authorized programs in order to facilitate access to high-quality health care services.

“(j) **STUDY; REPORTS.**—

“(1) **FINAL REPORT BY SECRETARY.**—Not later than 6 months after the completion of the demonstration grant program under this section, the Secretary shall conduct a study of the results of the program and submit to the Congress a report on such results that includes the following:

“(A) An evaluation of the program outcomes, including—

“(i) quantitative analysis of baseline and benchmark measures; and

“(ii) aggregate information about the patients served and program activities.

“(B) Recommendations on whether patient navigator programs could be used to improve patient outcomes in other public health areas.

“(2) **INTERIM REPORTS BY SECRETARY.**—The Secretary may provide interim reports to the Congress on the demonstration grant program under this section at such intervals as the Secretary determines to be appropriate.

“(3) **REPORTS BY GRANTEEES.**—The Secretary may require grant recipients under this section to submit interim and final reports on grant program outcomes.

“(k) **RULE OF CONSTRUCTION.**—This section shall not be construed to authorize funding for the delivery of health care services (other than the patient navigator duties listed in subsection (b)).

“(l) **DEFINITIONS.**—In this section:

“(1) The term ‘eligible entity’ means a public or nonprofit private health center (including a Federally qualified health center (as that term is defined in section 1861(aa)(4) of the Social Security Act)), a health facility operated by or pursuant to a contract with the Indian Health Service, a hospital, a cancer center, a rural health clinic, an academic health center, or a nonprofit entity that enters into a partnership or coordinates referrals with such a center, clinic, facility, or hospital to provide patient navigator services.

“(2) The term ‘health disparity population’ means a population that, as determined by the Secretary, has a significant disparity in the overall rate of disease incidence, prevalence, morbidity, mortality, or survival rates as compared to the health status of the general population.

“(3) The term ‘patient navigator’ means an individual who has completed a training program approved by the Secretary to perform the duties listed in subsection (b).

“(m) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—To carry out this section, there are authorized to be appropriated \$2,000,000 for fiscal year 2006, \$5,000,000 for fiscal year 2007, \$8,000,000 for fiscal year 2008, \$6,500,000 for fiscal year 2009, and \$3,500,000 for fiscal year 2010.

“(2) AVAILABILITY.—The amounts appropriated pursuant to paragraph (1) shall remain available for obligation through the end of fiscal year 2010.”.

Approved June 29, 2005.

LEGISLATIVE HISTORY—H.R. 1812 (S. 898):

HOUSE REPORTS: No. 109–104 (Comm. on Energy and Commerce).

SENATE REPORTS: No. 109–73 accompanying S. 898 (Comm. on Health, Education, Labor, and Pensions).

CONGRESSIONAL RECORD, Vol. 151 (2005):

June 13, considered and passed House.

June 22, considered and passed Senate.



Public Law 109–19
109th Congress

An Act

July 1, 2005
[H.R. 3021]

To reauthorize the Temporary Assistance for Needy Families block grant program through September 30, 2005, and for other purposes.

TANF Extension
Act of 2005.
42 USC 1305
note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “TANF Extension Act of 2005”.

SEC. 2. EXTENSION OF THE TEMPORARY ASSISTANCE FOR NEEDY FAMILIES BLOCK GRANT PROGRAM THROUGH SEPTEMBER 30, 2005.

(a) IN GENERAL.—Activities authorized by part A of title IV of the Social Security Act, and by sections 510, 1108(b), and 1925 of such Act, shall continue through September 30, 2005, in the manner authorized for fiscal year 2004, notwithstanding section 1902(e)(1)(A) of such Act, and out of any money in the Treasury of the United States not otherwise appropriated, there are hereby appropriated such sums as may be necessary for such purpose. Grants and payments may be made pursuant to this authority through the fourth quarter of fiscal year 2005 at the level provided for such activities through the fourth quarter of fiscal year 2004.

(b) CONFORMING AMENDMENT.—Section 403(a)(3)(H)(ii) of the Social Security Act (42 U.S.C. 603(a)(3)(H)(ii)) is amended by striking “June 30” and inserting “September 30”.

SEC. 3. EXTENSION OF THE NATIONAL RANDOM SAMPLE STUDY OF CHILD WELFARE AND CHILD WELFARE WAIVER AUTHORITY THROUGH SEPTEMBER 30, 2005.

Activities authorized by sections 429A and 1130(a) of the Social Security Act shall continue through September 30, 2005, in the manner authorized for fiscal year 2004, and out of any money in the Treasury of the United States not otherwise appropriated, there are hereby appropriated such sums as may be necessary for such purpose. Grants and payments may be made pursuant to this authority through the fourth quarter of fiscal year 2005

at the level provided for such activities through the fourth quarter of fiscal year 2004.

Approved July 1, 2005.

LEGISLATIVE HISTORY—H.R. 3021:

CONGRESSIONAL RECORD, Vol. 151 (2005):

June 29, considered and passed House.

June 30, considered and passed Senate.



Public Law 109–20
109th Congress

An Act

July 1, 2005
[H.R. 3104]

To provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century.

Surface
Transportation
Extension Act of
2005, Part II.
23 USC 101 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Surface Transportation Extension Act of 2005, Part II”.

SEC. 2. ADVANCES.

(a) **IN GENERAL.**—Section 2(a)(1) of the Surface Transportation Extension Act of 2004, Part V (23 U.S.C. 104 note; 118 Stat. 1144; 119 Stat. 324) is amended by striking “and the Surface Transportation Extension Act of 2005” and inserting “, the Surface Transportation Extension Act of 2005, and the Surface Transportation Extension Act of 2005, Part II”.

(b) **PROGRAMMATIC DISTRIBUTIONS.**—

(1) **SPECIAL RULES FOR MINIMUM GUARANTEE.**—Section 2(b)(4) of such Act (119 Stat. 324) is amended by striking “\$2,100,000,000” and inserting “\$2,240,000,000”.

(2) **EXTENSION OF OFF-SYSTEM BRIDGE SETASIDE.**—Section 144(g)(3) of title 23, United States Code, is amended by striking “June 30” inserting “July 19”.

(c) **AUTHORIZATION OF CONTRACT AUTHORITY.**—Section 1101(l)(1) of the Transportation Equity Act for the 21st Century (118 Stat. 1145; 119 Stat. 324) is amended by striking “\$25,521,678,000 for the period of October 1, 2004, through June 30, 2005” and inserting “\$27,223,123,200 for the period of October 1, 2004, through July 19, 2005”.

(d) **LIMITATION ON OBLIGATIONS.**—Section 2(e) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1146; 119 Stat. 324) is amended—

(1) in paragraph (1)—

(A) by striking “June 30” and inserting “July 19”;

(B) by striking “and the Surface Transportation Extension Act of 2005” and inserting “, the Surface Transportation Extension Act of 2005, and the Surface Transportation Extension Act of 2005, Part II”; and

(C) by striking “⁹/₁₂” and inserting “80 percent”; and

(2) in paragraph (2)—

(A) by striking “June 30, 2005, shall not exceed \$26,025,000,000” and inserting “July 19, 2005, shall not exceed \$27,760,000,000”; and

23 USC 104 note.

- (B) by striking “\$479,250,000” and inserting “\$511,200,000”; and
- (3) in paragraph (3) by striking “June 30” and inserting “July 19”.

SEC. 3. ADMINISTRATIVE EXPENSES.

Section 4(a) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1147; 119 Stat. 325) is amended by striking “highway program” and all that follows through “2005” and inserting “highway program \$281,619,200 for fiscal year 2005”.

SEC. 4. OTHER FEDERAL-AID HIGHWAY PROGRAMS.

(a) AUTHORIZATION OF APPROPRIATIONS UNDER TITLE I OF TEA–21.—

(1) FEDERAL LANDS HIGHWAYS.—

(A) INDIAN RESERVATION ROADS.—Section 1101(a)(8)(A) of the Transportation Equity Act for the 21st Century (112 Stat. 112; 118 Stat. 1147; 119 Stat. 325) is amended—

(i) in the first sentence by striking “\$206,250,000 for the period of October 1, 2004, through June 30, 2005” and inserting “\$220,000,000 for the period of October 1, 2004, through July 19, 2005”; and

(ii) in the second sentence by striking “\$9,750,000” and inserting “\$10,400,000”.

(B) PUBLIC LANDS HIGHWAYS.—Section 1101(a)(8)(B) of such Act (112 Stat. 112; 118 Stat. 1148; 119 Stat. 325) is amended by striking “\$184,500,000 for the period of October 1, 2004, through June 30, 2005” and inserting “\$196,800,000 for the period of October 1, 2004, through July 19, 2005”.

(C) PARK ROADS AND PARKWAYS.—Section 1101(a)(8)(C) of such Act (112 Stat. 112; 118 Stat. 1148; 119 Stat. 325) is amended by striking “\$123,750,000 for the period of October 1, 2004, through June 30, 2005” and inserting “\$132,000,000 for the period of October 1, 2004, through July 19, 2005”.

(D) REFUGE ROADS.—Section 1101(a)(8)(D) of such Act (112 Stat. 112; 118 Stat. 1148; 119 Stat. 326) is amended by striking “\$15,000,000 for the period of October 1, 2004, through June 30, 2005” and inserting “\$16,000,000 for the period of October 1, 2004, through July 19, 2005”.

(2) NATIONAL CORRIDOR PLANNING AND DEVELOPMENT AND COORDINATED BORDER INFRASTRUCTURE PROGRAMS.—Section 1101(a)(9) of such Act (112 Stat. 112; 118 Stat. 1148; 119 Stat. 326) is amended by striking “\$105,000,000 for the period of October 1, 2004, through June 30, 2005” and inserting “\$112,000,000 for the period of October 1, 2004, through July 19, 2005”.

(3) CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES.—

(A) IN GENERAL.—Section 1101(a)(10) of such Act (112 Stat. 113; 118 Stat. 1148; 119 Stat. 326) is amended by striking “\$28,500,000 for the period of October 1, 2004, through June 30, 2005” and inserting “\$30,400,000 for the period of October 1, 2004, through July 19, 2005”.

(B) SET ASIDE FOR ALASKA, NEW JERSEY, AND WASHINGTON.—Section 5(a)(3)(B) of the Surface Transportation

Extension Act of 2004, Part V (118 Stat. 1148; 119 Stat. 326) is amended—

- (i) in clause (i) by striking “\$7,500,000” and inserting “\$8,000,000”;
- (ii) in clause (ii) by striking “\$3,750,000” and inserting “\$4,000,000”; and
- (iii) in clause (iii) by striking “\$3,750,000” and inserting “\$4,000,000”.

(4) NATIONAL SCENIC BYWAYS PROGRAM.—Section 1101(a)(11) of the Transportation Equity Act for the 21st Century (112 Stat. 113; 118 Stat. 1148; 119 Stat. 326) is amended by striking “\$19,875,000 for the period of October 1, 2004, through June 30, 2005” and inserting “\$21,200,000 for the period of October 1, 2004, through July 19, 2005”.

(5) VALUE PRICING PILOT PROGRAM.—Section 1101(a)(12) of such Act (112 Stat. 113; 118 Stat. 1148; 119 Stat. 326) is amended by striking “\$8,250,000 for the period of October 1, 2004, through June 30, 2005” and inserting “\$8,800,000 for the period of October 1, 2004, through July 19, 2005”.

(6) HIGHWAY USE TAX EVASION PROJECTS.—Section 1101(a)(14) of such Act (112 Stat. 113; 118 Stat. 1148; 119 Stat. 326) is amended by striking “\$3,750,000 for the period of October 1, 2004, through June 30, 2005” and inserting “\$4,000,000 for the period of October 1, 2004, through July 19, 2005”.

(7) COMMONWEALTH OF PUERTO RICO HIGHWAY PROGRAM.—

Effective date.

(A) TECHNICAL CORRECTION.—Effective May 31, 2005, section 4(a)(7) of the Surface Transportation Extension Act of 2005 (119 Stat. 326) is amended by striking “1101(a)(15)(A)” and inserting “1101(a)(15)”.

(B) INCREASED FUNDING.—Section 1101(a)(15) of the Transportation Equity Act for the 21st Century (112 Stat. 113; 118 Stat. 1149; 119 Stat. 326) is amended by striking “\$82,500,000 for the period of October 1, 2004, through June 30, 2005” and inserting “\$88,000,000 for the period of October 1, 2004, through July 19, 2005”.

(8) SAFETY GRANTS.—Section 1212(i)(1)(D) of such Act (23 U.S.C. 402 note; 112 Stat. 196; 112 Stat. 840; 118 Stat. 1149; 119 Stat. 326) is amended by striking “\$375,000 for the period of October 1, 2004, through June 30, 2005” and inserting “\$400,000 for the period of October 1, 2004, through July 19, 2005”.

(9) TRANSPORTATION AND COMMUNITY AND SYSTEM PRESERVATION PILOT PROGRAM.—Section 1221(e)(1) of such Act (23 U.S.C. 101 note; 112 Stat. 223; 118 Stat. 1149; 119 Stat. 327) is amended by striking “\$18,750,000 for the period of October 1, 2004, through June 30, 2005” and inserting “\$20,000,000 for the period of October 1, 2004, through July 19, 2005”.

(10) TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION.—Section 188 of title 23, United States Code, is amended—

(A) in subsection (a)(1) by striking subparagraph (G) and inserting the following:

“(G) \$104,000,000 for the period of October 1, 2004, through July 19, 2005.”;

(B) in subsection (a)(2) by striking “\$1,500,000 for the period of October 1, 2004, through June 30, 2005” and inserting “\$1,600,000 for the period of October 1, 2004, through July 19, 2005”; and

(C) in the item relating to fiscal year 2005 in the table contained in subsection (c) by striking “\$1,950,000,000” and inserting “\$2,080,000,000”.

(11) NATIONAL SCENIC BYWAYS CLEARINGHOUSE.—Section 1215(b)(3) of the Transportation Equity Act for the 21st Century (112 Stat. 210; 118 Stat. 1149; 119 Stat. 327) is amended—

(A) by striking “\$1,125,000” and inserting “\$1,200,000”;

and

(B) by striking “June 30” and inserting “July 19”.

(b) AUTHORIZATION OF APPROPRIATIONS UNDER TITLE V OF TEA–21.—

(1) SURFACE TRANSPORTATION RESEARCH.—Section 5001(a)(1) of the Transportation Equity Act for the 21st Century (112 Stat. 419; 118 Stat. 1149; 119 Stat. 327) is amended by striking “\$77,250,000 for the period of October 1, 2004, through June 30, 2005” and inserting “\$82,400,000 for the period of October 1, 2004, through July 19, 2005”.

(2) TECHNOLOGY DEPLOYMENT PROGRAM.—Section 5001(a)(2) of such Act (112 Stat. 419; 118 Stat. 1149; 119 Stat. 327) is amended by striking “\$37,500,000 for the period of October 1, 2004, through June 30, 2005” and inserting “\$40,000,000 for the period of October 1, 2004, through July 19, 2005”.

(3) TRAINING AND EDUCATION.—Section 5001(a)(3) of such Act (112 Stat. 420; 118 Stat. 1150; 119 Stat. 327) is amended by striking “\$15,000,000 for the period of October 1, 2004, through June 30, 2005” and inserting “\$16,000,000 for the period of October 1, 2004, through July 19, 2005”.

(4) BUREAU OF TRANSPORTATION STATISTICS.—Section 5001(a)(4) of such Act (112 Stat. 420; 118 Stat. 1150; 119 Stat. 327) is amended by striking “\$23,250,000 for the period of October 1, 2004, through June 30, 2005” and inserting “\$24,800,000 for the period of October 1, 2004, through July 19, 2005”.

(5) ITS STANDARDS, RESEARCH, OPERATIONAL TESTS, AND DEVELOPMENT.—Section 5001(a)(5) of such Act (112 Stat. 420; 118 Stat. 1150; 119 Stat. 327) is amended by striking “\$82,500,000 for the period of October 1, 2004, through June 30, 2005” and inserting “\$88,000,000 for the period of October 1, 2004, through July 19, 2005”.

(6) ITS DEPLOYMENT.—Section 5001(a)(6) of such Act (112 Stat. 420; 118 Stat. 1150; 119 Stat. 327) is amended by striking “\$91,500,000 for the period of October 1, 2004, through June 30, 2005” and inserting “\$97,600,000 for the period of October 1, 2004, through July 19, 2005”.

(7) UNIVERSITY TRANSPORTATION RESEARCH.—Section 5001(a)(7) of such Act (112 Stat. 420; 118 Stat. 1150; 119 Stat. 328) is amended by striking “\$19,875,000 for the period of October 1, 2004, through June 30, 2005” and inserting “\$21,200,000 for the period of October 1, 2004, through July 19, 2005”.

(c) METROPOLITAN PLANNING.—Section 5(c)(1) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1150;

119 Stat. 328) is amended by striking “\$163,125,000 for the period of October 1, 2004, through June 30, 2005” and inserting “\$174,000,000 for the period of October 1, 2004, through July 19, 2005”.

(d) TERRITORIES.—Section 1101(d)(1) of the Transportation Equity Act for the 21st Century (112 Stat. 111; 118 Stat. 1150; 119 Stat. 328) is amended by striking “\$27,300,000 for the period of October 1, 2004, through June 30, 2005” and inserting “\$29,120,000 for the period of October 1, 2004, through July 19, 2005”.

(e) ALASKA HIGHWAY.—Section 1101(e)(1) of such Act (118 Stat. 1150; 119 Stat. 328) is amended by striking “\$14,100,000 for the period of October 1, 2004, through June 30, 2005” and inserting “\$15,040,000 for the period of October 1, 2004, through July 19, 2005”.

(f) OPERATION LIFESAVER.—Section 1101(f)(1) of such Act (118 Stat. 1151; 119 Stat. 328) is amended by striking “\$375,000 for the period of October 1, 2004, through June 30, 2005” and inserting “\$400,000 for the period of October 1, 2004, through July 19, 2005”.

(g) BRIDGE DISCRETIONARY.—Section 1101(g)(1) of such Act (118 Stat. 1151; 119 Stat. 328) is amended—

(1) by striking “\$75,000,000” and inserting “\$80,000,000”; and

(2) by striking “June 30” and inserting “July 19”.

(h) INTERSTATE MAINTENANCE.—Section 1101(h)(1) of such Act (118 Stat. 1151; 119 Stat. 328) is amended—

(1) by striking “\$75,000,000” and inserting “\$80,000,000”; and

(2) by striking “June 30” and inserting “July 19”.

(i) RECREATIONAL TRAILS ADMINISTRATIVE COSTS.—Section 1101(i)(1) of such Act (118 Stat. 1151; 119 Stat. 328) is amended by striking “\$562,500 for the period of October 1, 2004, through June 30, 2005” and inserting “\$600,000 for the period of October 1, 2004, through July 19, 2005”.

(j) RAILWAY-HIGHWAY CROSSING HAZARD ELIMINATION IN HIGH SPEED RAIL CORRIDORS.—Section 1101(j)(1) of such Act (118 Stat. 1151; 119 Stat. 328) is amended—

(1) by striking “\$3,937,500” and inserting “\$4,200,000”;

(2) by striking “\$187,500” and inserting “\$200,000”; and

(3) by striking “June 30” each place it appears and inserting “July 19”.

(k) NONDISCRIMINATION.—Section 1101(k) of such Act (118 Stat. 1151; 119 Stat. 328) is amended—

(1) in paragraph (1) by striking “\$7,500,000 for the period of October 1, 2004, through June 30, 2005” and inserting “\$8,000,000 for the period of October 1, 2004, through July 19, 2005”; and

(2) in paragraph (2) by striking “\$7,500,000 for the period of October 1, 2004, through June 30, 2005” and inserting “\$8,000,000 for the period of October 1, 2004, through July 19, 2005”.

(l) ADMINISTRATION OF FUNDS.—Section 5(l) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1151; 119 Stat. 329) is amended—

(1) by striking “and section 4 of the Surface Transportation Extension Act of 2005” and inserting “, section 4 of the Surface

Transportation Extension Act of 2005, and section 4 of the Surface Transportation Extension Act of 2005, Part II”; and

(2) by striking “the amendment made by subsection (a)(1) of this section or the amendment made by section 4(a)(1) of such Act” and inserting “the amendments made by subsection (a) of this section, section 4(a) of the Surface Transportation Extension Act of 2005, and section 4(a) of the Surface Transportation Extension Act of 2005, Part II”.

(m) REDUCTION OF ALLOCATED PROGRAMS.—Section 5(m) of such Act (118 Stat. 1151; 119 Stat. 329) is amended—

(1) by striking “and section 4 of the Surface Transportation Extension Act of 2005” and inserting “, section 4 of the Surface Transportation Extension Act of 2005, and section 4 of the Surface Transportation Extension Act of 2005, Part II”;

(2) by striking “and by section 4 of such Act” the first place it appears and inserting “, section 4 of the Surface Transportation Extension Act of 2005, and section 4 of the Surface Transportation Extension Act, Part II”; and

(3) by striking “and by section 4 of such Act” the second place it appears and inserting “, section 4 of the Surface Transportation Extension Act of 2005, and section 4 of the Surface Transportation Extension Act, Part II”.

(n) PROGRAM CATEGORY RECONCILIATION.—Section 5(n) of such Act (118 Stat. 1151; 119 Stat. 329) is amended by striking “and section 4 of the Surface Transportation Extension Act of 2005” and inserting “, section 4 of the Surface Transportation Extension Act of 2005, and section 4 of the Surface Transportation Extension Act, Part II”.

SEC. 5. EXTENSION OF HIGHWAY SAFETY PROGRAMS.

(a) CHAPTER 1 HIGHWAY SAFETY PROGRAMS.—

(1) SEAT BELT SAFETY INCENTIVE GRANTS.—Section 157(g)(1) of title 23, United States Code, is amended by striking “\$84,000,000 for the period of October 1, 2004, through June 30, 2005” and inserting “\$89,600,000 for the period of October 1, 2004, through July 19, 2005”.

(2) PREVENTION OF INTOXICATED DRIVER INCENTIVE GRANTS.—Section 163(e)(1) of such title is amended by striking “\$82,500,000 for the period of October 1, 2004, through June 30, 2005” and inserting “\$88,000,000 for the period of October 1, 2004, through July 19, 2005”.

(b) CHAPTER 4 HIGHWAY SAFETY PROGRAMS.—Section 2009(a)(1) of the Transportation Equity Act for the 21st Century (112 Stat. 337; 118 Stat. 1152; 119 Stat. 329) is amended by striking “\$123,750,000 for the period of October 1, 2004, through June 30, 2005” and inserting “\$132,000,000 for the period of October 1, 2004, through July 19, 2005”.

(c) HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.—Section 2009(a)(2) of such Act (112 Stat. 337; 118 Stat. 1152; 119 Stat. 329) is amended by striking “\$54,000,000 for the period of October 1, 2004, through June 30, 2005” and inserting “\$57,600,000 for the period of October 1, 2004, through July 19, 2005”.

(d) OCCUPANT PROTECTION INCENTIVE GRANTS.—Section 2009(a)(3) of such Act (112 Stat. 337; 118 Stat. 1152; 119 Stat. 329) is amended by striking “\$15,000,000 for the period of October 1, 2004, through June 30, 2005” and inserting “\$16,000,000 for the period of October 1, 2004, through July 19, 2005”.

(e) **ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES INCENTIVE GRANTS.**—Section 2009(a)(4) of such Act (112 Stat. 337; 118 Stat. 1153; 119 Stat. 329) is amended by striking “\$30,000,000 for the period of October 1, 2004, through June 30, 2005” and inserting “\$32,000,000 for the period of October 1, 2004, through July 19, 2005”.

(f) **NATIONAL DRIVER REGISTER.**—

(1) **FUNDING.**—Section 2009(a)(6) of such Act (112 Stat. 338; 118 Stat. 1153; 119 Stat. 330) is amended by striking “\$2,700,000 for the period of October 1, 2004, through June 30, 2005” and inserting “\$2,880,000 for the period of October 1, 2004, through July 19, 2005”.

(2) **CONTRACT AUTHORITY.**—Funds made available by the amendments made by paragraph (1) and by section 5(f) of the Surface Transportation Extension Act of 2005 (119 Stat. 330) shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code.

SEC. 6. FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION PROGRAM.

(a) **ADMINISTRATIVE EXPENSES.**—Section 7(a)(1) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1153; 119 Stat. 330) is amended by striking “\$192,631,044 for the period of October 1, 2004, through June 30, 2005” and inserting “\$206,037,600 for the period of October 1, 2004, through July 19, 2005”.

(b) **MOTOR CARRIER SAFETY ASSISTANCE PROGRAM.**—Section 31104(a)(8) of title 49, United States Code, is amended to read as follows:

“(8) Not more than \$135,200,000 for the period of October 1, 2004, through July 19, 2005.”.

(c) **INFORMATION SYSTEMS AND COMMERCIAL DRIVER’S LICENSE GRANTS.**—

(1) **AUTHORIZATION OF APPROPRIATION.**—Section 31107(a) of such title is amended by striking “(5) \$14,958,904 for the period of October 1, 2004, through June 30, 2005.” and inserting the following:

“(6) \$16,000,000 for the period of October 1, 2004, through July 19, 2005.”.

(2) **EMERGENCY CDL GRANTS.**—Section 7(c)(2) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1153; 119 Stat. 330) is amended—

(A) by striking “June 30” and inserting “July 19”; and

(B) by striking “\$747,945” and inserting “\$800,000”.

(d) **CRASH CAUSATION STUDY.**—Section 7(d) of such Act (118 Stat. 1154; 119 Stat. 330) is amended—

(1) by striking “\$747,945” and inserting “\$800,000”; and

(2) by striking “June 30” and inserting “July 19”.

SEC. 7. EXTENSION OF FEDERAL TRANSIT PROGRAMS.

(a) **ALLOCATING AMOUNTS.**—Section 5309(m) of title 49, United States Code, is amended—

(1) in the matter preceding subparagraph (A) of paragraph

(1) by striking “June 30, 2005” and inserting “July 19, 2005”;

(2) in paragraph (2)(B)(iii)—

(A) in the heading by striking “JUNE 30, 2005” and inserting “JULY 19, 2005”;

(B) by striking “\$7,800,000” and inserting “\$8,320,000”;
and

(C) by striking “June 30, 2005” and inserting “July 19, 2005”;

(3) in paragraph (3)(B)—

(A) by striking “\$2,250,000” and inserting “\$2,400,000”;
and

(B) by striking “June 30, 2005” and inserting “July 19, 2005”; and

(4) in paragraph (3)(C)—

(A) by striking “\$37,500,000” and inserting “\$40,000,000”; and

(B) by striking “June 30, 2005” and inserting “July 19, 2005”.

(b) FORMULA GRANTS AUTHORIZATIONS.—Section 5338(a) of title 49, United States Code, is amended—

(1) in the heading to paragraph (2) by striking “JUNE 30, 2005” and inserting “JULY 19, 2005”;

(2) in paragraph (2)(A)(vii)—

(A) by striking “\$2,545,785,000” and inserting “\$2,675,300,000”; and

(B) by striking “June 30, 2005” and inserting “July 19, 2005”;

(3) in paragraph (2)(B)(vii) by striking “June 30, 2005” and inserting “July 19, 2005”; and

(4) in paragraph (2)(C) by striking “June 30, 2005” and inserting “July 19, 2005”.

(c) FORMULA GRANT FUNDS.—Section 8(d) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1155; 119 Stat. 331) is amended—

(1) in the heading by striking “JUNE 30, 2005” and inserting “JULY 19, 2005”;

(2) in the matter preceding paragraph (1) by striking “June 30, 2005” and inserting “July 19, 2005”;

(3) in paragraph (1) by striking “\$3,637,462” and inserting “\$3,879,960”;

(4) in paragraph (2) by striking “\$37,500,000” and inserting “\$40,000,000”;

(5) in paragraph (3) by striking “\$73,197,001” and inserting “\$76,231,201”;

(6) in paragraph (4) by striking “\$194,277,040” and inserting “\$202,330,313”;

(7) in paragraph (5) by striking “\$5,212,500” and inserting “\$5,560,000”; and

(8) in paragraph (6) by striking “\$2,782,400,997” and inserting “\$2,897,738,526”.

(d) CAPITAL PROGRAM AUTHORIZATIONS.—Section 5338(b)(2) of title 49, United States Code, is amended—

(1) in the heading by striking “JUNE 30, 2005” and inserting “JULY 19, 2005”;

(2) in subparagraph (A)(vii)—

(A) by striking “\$2,012,985,000” and inserting “\$2,235,820,000”; and

(B) by striking “June 30, 2005” and inserting “July 19, 2005”; and

(3) in subparagraph (B)(vii) by striking “June 30, 2005” and inserting “July 19, 2005”.

(e) PLANNING AUTHORIZATIONS AND ALLOCATIONS.—Section 5338(c)(2) of title 49, United States Code, is amended—

(1) in the heading by striking “JUNE 30, 2005” and inserting “JULY 19, 2005”;

(2) in subparagraph (A)(vii)—

(A) by striking “\$48,346,668” and inserting “\$47,946,667”; and

(B) by striking “June 30, 2005” and inserting “July 19, 2005”; and

(3) in subparagraph (B)(vii) by striking “June 30, 2005” and inserting “July 19, 2005”.

(f) RESEARCH AUTHORIZATIONS.—Section 5338(d)(2) of title 49, United States Code, is amended—

(1) in the heading by striking “JUNE 30, 2005” and inserting “JULY 19, 2005”;

(2) in subparagraph (A)(vii)—

(A) by striking “\$32,683,333” and inserting “\$36,933,334”; and

(B) by striking “June 30, 2005” and inserting “July 19, 2005”;

(3) in subparagraph (B)(vii) by striking “June 30, 2005” and inserting “July 19, 2005”; and

(4) in subparagraph (C) by striking “June 30, 2005” and inserting “July 19, 2005”.

(g) ALLOCATION OF RESEARCH FUNDS.—Section 8(h) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1156; 119 Stat. 332) is amended—

(1) in the heading by striking “JUNE 30, 2005” and inserting “JULY 19, 2005”;

(2) in the matter preceding paragraph (1) by striking “June 30, 2005” and inserting “July 19, 2005”;

(3) in paragraph (1) by striking “\$3,937,500” and inserting “\$4,200,000”;

(4) in paragraph (2) by striking “\$6,187,500” and inserting “\$6,600,000”; and

(5) in paragraph (3)—

(A) by striking “\$3,000,000” and inserting “\$3,200,000”; and

(B) by striking “\$750,000” and inserting “\$800,000”.

(h) UNIVERSITY TRANSPORTATION RESEARCH AUTHORIZATIONS.—Section 5338(e)(2) of title 49, United States Code, is amended—

(1) in the heading by striking “JUNE 30, 2005” and inserting “JULY 19, 2005”;

(2) in subparagraph (A)—

(A) by striking “\$3,700,000” and inserting “\$4,000,000”; and

(B) by striking “June 30, 2005” and inserting “July 19, 2005”;

(3) in subparagraph (B) by striking “June 30, 2005” and inserting “July 19, 2005”; and

(4) in subparagraphs (C)(i) and (C)(iii) by striking “June 30, 2005” and inserting “July 19, 2005”.

(i) ALLOCATION OF UNIVERSITY TRANSPORTATION RESEARCH FUNDS.—

(1) IN GENERAL.—Section 8(j) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1157; 119 Stat. 332) is amended—

(A) in the matter preceding subparagraph (A) of paragraph (1) by striking “June 30, 2005” and inserting “July 19, 2005”;

(B) in paragraph (1)(A) by striking “\$1,500,000” and inserting “\$1,600,000”;

(C) in paragraph (1)(B) by striking “\$1,500,000” and inserting “\$1,600,000”; and

(D) in paragraph (2) by striking “June 30, 2005” and inserting “July 19, 2005”.

(2) CONFORMING AMENDMENT.—Section 3015(d)(2) of the Transportation Equity Act for the 21st Century (49 U.S.C. 5338 note; 112 Stat. 857; 118 Stat. 1157; 119 Stat. 332) is amended by striking “June 30, 2005” and inserting “July 19, 2005”.

(j) ADMINISTRATION AUTHORIZATIONS.—Section 5338(f)(2) of title 49, United States Code, is amended—

(1) in the heading by striking “JUNE 30, 2005” and inserting “JULY 19, 2005”;

(2) in subparagraph (A)(vii)—

(A) by striking “\$48,100,000” and inserting “\$52,000,000”; and

(B) by striking “June 30, 2005” and inserting “July 19, 2005”; and

(3) in subparagraph (B)(vii) by striking “June 30, 2005” and inserting “July 19, 2005”.

(k) JOB ACCESS AND REVERSE COMMUTE PROGRAM.—Section 3037(l) of the Transportation Equity Act for the 21st Century (49 U.S.C. 5309 note; 112 Stat. 391; 118 Stat. 1157; 119 Stat. 333) is amended—

(1) in paragraph (1)(A)(vii)—

(A) by striking “\$92,500,000” and inserting “\$80,000,000”; and

(B) by striking “June 30, 2005” and inserting “July 19, 2005”;

(2) in paragraph (1)(B)(vii) by striking “June 30, 2005” and inserting “July 19, 2005”; and

(3) in paragraph (2) by striking “June 30, 2005, not more than \$7,500,000” and inserting “July 19, 2005, not more than \$8,000,000”.

(l) RURAL TRANSPORTATION ACCESSIBILITY INCENTIVE PROGRAM.—Section 3038(g) of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note; 112 Stat. 393; 118 Stat. 1158; 119 Stat. 333) is amended—

(1) by striking paragraph (1)(G) and inserting after paragraph (1)(F) the following:

“(G) \$4,200,000 for the period of October 1, 2004, through July 19, 2005.”; and

(2) in paragraph (2)—

(A) by striking “\$1,275,000” and inserting “\$1,360,000”; and

(B) by striking “June 30, 2005” and inserting “July 19, 2005”.

(m) URBANIZED AREA FORMULA GRANTS.—Section 5307(b)(2) of title 49, United States Code, is amended—

(1) in the heading by striking “JUNE 30, 2005” and inserting “JULY 19, 2005”; and

(2) in subparagraph (A) by striking “June 30, 2005” and inserting “July 19, 2005”.

(n) OBLIGATION CEILING.—Section 3040(7) of the Transportation Equity Act for the 21st Century (112 Stat. 394; 118 Stat. 1158; 119 Stat. 333) is amended—

(1) by striking “\$5,818,500,000” and inserting “\$6,166,400,000”; and

(2) by striking “June 30, 2005” and inserting “July 19, 2005”.

(o) FUEL CELL BUS AND BUS FACILITIES PROGRAM.—Section 3015(b) of the Transportation Equity Act for the 21st Century (112 Stat. 361; 118 Stat. 1158; 119 Stat. 333) is amended—

(1) by striking “June 30, 2005” and inserting “July 19, 2005”; and

(2) by striking “\$3,637,500” and inserting “\$3,880,000”.

23 USC 322 note.

(p) ADVANCED TECHNOLOGY PILOT PROJECT.—Section 3015(c)(2) of the Transportation Equity Act for the 21st Century (49 U.S.C. 322 note; 112 Stat. 361; 118 Stat. 1158; 119 Stat. 334) is amended—

(1) by striking “June 30, 2005,” and inserting “July 19, 2005”; and

(2) by striking “\$3,750,000” and inserting “\$4,000,000”.

(q) PROJECTS FOR NEW FIXED GUIDEWAY SYSTEMS AND EXTENSIONS TO EXISTING SYSTEMS.—Subsections (a), (b), and (c)(1) of section 3030 of the Transportation Equity Act for the 21st Century (112 Stat. 373; 118 Stat. 1158; 119 Stat. 334) are amended by striking “June 30, 2005” and inserting “July 19, 2005”.

(r) NEW JERSEY URBAN CORE PROJECT.—Subparagraphs (A), (B), and (C) of section 3031(a)(3) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2122; 118 Stat. 1158; 119 Stat. 334) are amended by striking “June 30, 2005” and inserting “July 19, 2005”.

(s) LOCAL SHARE.—Section 3011(a) of the Transportation Equity Act for the 21st Century (49 U.S.C. 5307 note; 118 Stat. 1158; 119 Stat. 334) is amended by striking “June 30, 2005” and inserting “July 19, 2005”.

SEC. 8. SPORT FISHING AND BOATING SAFETY.

(a) FUNDING FOR NATIONAL OUTREACH AND COMMUNICATIONS PROGRAM.—Section 4(c) of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777c(c)) is amended by striking “(6) \$7,499,997 for the period of October 1, 2004, through June 30, 2005;” and inserting the following:

“(7) \$8,000,000 for the period of October 1, 2004, through July 19, 2005;”.

(b) CLEAN VESSEL ACT FUNDING.—Section 4(b)(4) of such Act (16 U.S.C. 777c(b)(4)) is amended to read as follows:

“(4) FIRST 292 DAYS OF FISCAL YEAR 2005.—For the period of October 1, 2004, through July 19, 2005, of the balance of each annual appropriation remaining after making the distribution under subsection (a), an amount equal to \$65,600,000, reduced by 82 percent of the amount appropriated for that fiscal year from the Boat Safety Account of the Aquatic Resources Trust Fund established by section 9504 of the Internal Revenue Code of 1986 to carry out the purposes of section 13106(a) of title 46, United States Code, shall be used as follows:

“(A) \$8,000,000 shall be available to the Secretary of the Interior for 3 fiscal years for obligation for qualified projects under section 5604(c) of the Clean Vessel Act of 1992 (33 U.S.C. 1322 note).

“(B) \$6,400,000 shall be available to the Secretary of the Interior for 3 fiscal years for obligation for qualified projects under section 7404(d) of the Sportfishing and Boating Safety Act of 1998 (16 U.S.C. 777g–1(d)).

“(C) The balance remaining after the application of subparagraphs (A) and (B) shall be transferred to the Secretary of Transportation and shall be expended for State recreational boating safety programs under section 13106 of title 46, United States Code.”.

(c) BOAT SAFETY FUNDS.—Section 13106(c) of title 46, United States Code, is amended—

- (1) by striking “\$3,750,003” and inserting “\$4,000,000”; and
- (2) by striking “\$1,500,003” and inserting “\$1,600,000”.

SEC. 9. EXTENSION OF AUTHORIZATION FOR USE OF TRUST FUNDS FOR OBLIGATIONS UNDER TEA-21.

(a) HIGHWAY TRUST FUND.—

(1) IN GENERAL.—Paragraph (1) of section 9503(c) of the Internal Revenue Code of 1986 is amended—

26 USC 9503.

(A) in the matter before subparagraph (A), by striking “July 1, 2005” and inserting “July 20, 2005”,

(B) by striking “or” at the end of subparagraph (K),

(C) by striking the period at the end of subparagraph (L) and inserting “, or”,

(D) by inserting after subparagraph (L) the following new subparagraph:

“(M) authorized to be paid out of the Highway Trust Fund under the Surface Transportation Extension Act of 2005, Part II.”, and

(E) in the matter after subparagraph (M), as added by this paragraph, by striking “Surface Transportation Extension Act of 2005” and inserting “Surface Transportation Extension Act of 2005, Part II”.

(2) MASS TRANSIT ACCOUNT.—Paragraph (3) of section 9503(e) of such Code is amended—

(A) in the matter before subparagraph (A), by striking “July 1, 2005” and inserting “July 20, 2005”,

(B) in subparagraph (I), by striking “or” at the end of such subparagraph,

(C) in subparagraph (J), by inserting “or” at the end of such subparagraph,

(D) by inserting after subparagraph (J) the following new subparagraph:

“(K) the Surface Transportation Extension Act of 2005, Part II.”, and

(E) in the matter after subparagraph (K), as added by this paragraph, by striking “Surface Transportation Extension Act of 2005” and inserting “Surface Transportation Extension Act of 2005, Part II”.

(3) EXCEPTION TO LIMITATION ON TRANSFERS.—Subparagraph (B) of section 9503(b)(6) of such Code is amended by striking “July 1, 2005” and inserting “July 20, 2005”.

(b) AQUATIC RESOURCES TRUST FUND.—

26 USC 9504. (1) SPORT FISH RESTORATION ACCOUNT.—Paragraph (2) of section 9504(b) of the Internal Revenue Code of 1986 is amended by striking “Surface Transportation Extension Act of 2005” each place it appears and inserting “Surface Transportation Extension Act of 2005, Part II”.

(2) BOAT SAFETY ACCOUNT.—Subsection (c) of section 9504 of such Code is amended—

(A) by striking “July 1, 2005” and inserting “July 20, 2005”, and

(B) by striking “Surface Transportation Extension Act of 2005” and inserting “Surface Transportation Extension Act of 2005, Part II”.

(3) EXCEPTION TO LIMITATION ON TRANSFERS.—Paragraph (2) of section 9504(d) of such Code is amended by striking “July 1, 2005” and inserting “July 20, 2005”.

26 USC 9503
note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(d) TEMPORARY RULE REGARDING ADJUSTMENTS.—During the period beginning on the date of the enactment of the Surface Transportation Extension Act of 2003 and ending on July 19, 2005, for purposes of making any estimate under section 9503(d) of the Internal Revenue Code of 1986 of receipts of the Highway Trust Fund, the Secretary of the Treasury shall treat—

(1) each expiring provision of paragraphs (1) through (4) of section 9503(b) of such Code which is related to appropriations or transfers to such Fund to have been extended through the end of the 24-month period referred to in section 9503(d)(1)(B) of such Code, and

(2) with respect to each tax imposed under the sections referred to in section 9503(b)(1) of such Code, the rate of such tax during the 24-month period referred to in section 9503(d)(1)(B) of such Code to be the same as the rate of such tax as in effect on the date of the enactment of the Surface Transportation Extension Act of 2003.

Approved July 1, 2005.

LEGISLATIVE HISTORY—H.R. 3104:

CONGRESSIONAL RECORD, Vol. 151 (2005):

June 30, considered and passed House and Senate.



Public Law 109–21
109th Congress

An Act

To amend section 227 of the Communications Act of 1934 (47 U.S.C. 227) relating to the prohibition on junk fax transmissions.

July 9, 2005
[S. 714]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Junk Fax Prevention Act of 2005”.

Junk Fax
Prevention Act
of 2005.
47 USC 609 note.

SEC. 2. PROHIBITION ON FAX TRANSMISSIONS CONTAINING UNSOLICITED ADVERTISEMENTS.

(a) PROHIBITION.—Section 227(b)(1)(C) of the Communications Act of 1934 (47 U.S.C. 227(b)(1)(C)) is amended to read as follows:

“(C) to use any telephone facsimile machine, computer, or other device to send, to a telephone facsimile machine, an unsolicited advertisement, unless—

“(i) the unsolicited advertisement is from a sender with an established business relationship with the recipient;

“(ii) the sender obtained the number of the telephone facsimile machine through—

“(I) the voluntary communication of such number, within the context of such established business relationship, from the recipient of the unsolicited advertisement, or

“(II) a directory, advertisement, or site on the Internet to which the recipient voluntarily agreed to make available its facsimile number for public distribution,

except that this clause shall not apply in the case of an unsolicited advertisement that is sent based on an established business relationship with the recipient that was in existence before the date of enactment of the Junk Fax Prevention Act of 2005 if the sender possessed the facsimile machine number of the recipient before such date of enactment; and

“(iii) the unsolicited advertisement contains a notice meeting the requirements under paragraph (2)(D),

except that the exception under clauses (i) and (ii) shall not apply with respect to an unsolicited advertisement sent to a telephone facsimile machine by a sender to whom a request has been made not to send future unsolicited advertisements to such telephone facsimile machine that

complies with the requirements under paragraph (2)(E); or”.

(b) DEFINITION OF ESTABLISHED BUSINESS RELATIONSHIP.—Section 227(a) of the Communications Act of 1934 (47 U.S.C. 227(a)) is amended—

(1) by redesignating paragraphs (2) through (4) as paragraphs (3) through (5), respectively; and

(2) by inserting after paragraph (1) the following:

“(2) The term ‘established business relationship’, for purposes only of subsection (b)(1)(C)(i), shall have the meaning given the term in section 64.1200 of title 47, Code of Federal Regulations, as in effect on January 1, 2003, except that—

“(A) such term shall include a relationship between a person or entity and a business subscriber subject to the same terms applicable under such section to a relationship between a person or entity and a residential subscriber; and

“(B) an established business relationship shall be subject to any time limitation established pursuant to paragraph (2)(G)).”.

(c) REQUIRED NOTICE OF OPT-OUT OPPORTUNITY.—Section 227(b)(2) of the Communications Act of 1934 (47 U.S.C. 227(b)(2)) is amended—

(1) in subparagraph (B), by striking “and” at the end;

(2) in subparagraph (C), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

“(D) shall provide that a notice contained in an unsolicited advertisement complies with the requirements under this subparagraph only if—

“(i) the notice is clear and conspicuous and on the first page of the unsolicited advertisement;

“(ii) the notice states that the recipient may make a request to the sender of the unsolicited advertisement not to send any future unsolicited advertisements to a telephone facsimile machine or machines and that failure to comply, within the shortest reasonable time, as determined by the Commission, with such a request meeting the requirements under subparagraph (E) is unlawful;

“(iii) the notice sets forth the requirements for a request under subparagraph (E);

“(iv) the notice includes—

“(I) a domestic contact telephone and facsimile machine number for the recipient to transmit such a request to the sender; and

“(II) a cost-free mechanism for a recipient to transmit a request pursuant to such notice to the sender of the unsolicited advertisement; the Commission shall by rule require the sender to provide such a mechanism and may, in the discretion of the Commission and subject to such conditions as the Commission may prescribe, exempt certain classes of small business senders, but only if the Commission determines that the costs to such class are unduly burdensome given the revenues generated by such small businesses;

“(v) the telephone and facsimile machine numbers and the cost-free mechanism set forth pursuant to clause (iv) permit an individual or business to make such a request at any time on any day of the week; and

“(vi) the notice complies with the requirements of subsection (d);”.

(d) REQUEST TO OPT-OUT OF FUTURE UNSOLICITED ADVERTISEMENTS.—Section 227(b)(2) of the Communications Act of 1934 (47 U.S.C. 227(b)(2)), as amended by subsection (c), is further amended by adding at the end the following:

“(E) shall provide, by rule, that a request not to send future unsolicited advertisements to a telephone facsimile machine complies with the requirements under this subparagraph only if—

“(i) the request identifies the telephone number or numbers of the telephone facsimile machine or machines to which the request relates;

“(ii) the request is made to the telephone or facsimile number of the sender of such an unsolicited advertisement provided pursuant to subparagraph (D)(iv) or by any other method of communication as determined by the Commission; and

“(iii) the person making the request has not, subsequent to such request, provided express invitation or permission to the sender, in writing or otherwise, to send such advertisements to such person at such telephone facsimile machine;”.

(e) AUTHORITY TO ESTABLISH NONPROFIT EXCEPTION.—Section 227(b)(2) of the Communications Act of 1934 (47 U.S.C. 227(b)(2)), as amended by subsections (c) and (d), is further amended by adding at the end the following:

“(F) may, in the discretion of the Commission and subject to such conditions as the Commission may prescribe, allow professional or trade associations that are tax-exempt nonprofit organizations to send unsolicited advertisements to their members in furtherance of the association’s tax-exempt purpose that do not contain the notice required by paragraph (1)(C)(iii), except that the Commission may take action under this subparagraph only—

“(i) by regulation issued after public notice and opportunity for public comment; and

“(ii) if the Commission determines that such notice required by paragraph (1)(C)(iii) is not necessary to protect the ability of the members of such associations to stop such associations from sending any future unsolicited advertisements; and”.

(f) AUTHORITY TO ESTABLISH TIME LIMIT ON ESTABLISHED BUSINESS RELATIONSHIP EXCEPTION.—Section 227(b)(2) of the Communications Act of 1934 (47 U.S.C. 227(b)(2)), as amended by subsections (c), (d), and (e) of this section, is further amended by adding at the end the following:

“(G)(i) may, consistent with clause (ii), limit the duration of the existence of an established business relationship, however, before establishing any such limits, the Commission shall—

“(I) determine whether the existence of the exception under paragraph (1)(C) relating to an established business relationship has resulted in a significant number of complaints to the Commission regarding the sending of unsolicited advertisements to telephone facsimile machines;

“(II) determine whether a significant number of any such complaints involve unsolicited advertisements that were sent on the basis of an established business relationship that was longer in duration than the Commission believes is consistent with the reasonable expectations of consumers;

“(III) evaluate the costs to senders of demonstrating the existence of an established business relationship within a specified period of time and the benefits to recipients of establishing a limitation on such established business relationship; and

“(IV) determine whether with respect to small businesses, the costs would not be unduly burdensome; and

“(ii) may not commence a proceeding to determine whether to limit the duration of the existence of an established business relationship before the expiration of the 3-month period that begins on the date of the enactment of the Junk Fax Prevention Act of 2005.”.

(g) **UNSOLICITED ADVERTISEMENT.**—Section 227(a)(5) of the Communications Act of 1934, as so redesignated by subsection (b)(1), is amended by inserting “, in writing or otherwise” before the period at the end.

47 USC 227 note.

(h) **REGULATIONS.**—Except as provided in section 227(b)(2)(G)(ii) of the Communications Act of 1934 (as added by subsection (f)), not later than 270 days after the date of enactment of this Act, the Federal Communications Commission shall issue regulations to implement the amendments made by this section.

SEC. 3. FCC ANNUAL REPORT REGARDING JUNK FAX ENFORCEMENT.

Section 227 of the Communications Act of 1934 (47 U.S.C. 227) is amended by adding at the end the following:

“(g) **JUNK FAX ENFORCEMENT REPORT.**—The Commission shall submit an annual report to Congress regarding the enforcement during the past year of the provisions of this section relating to sending of unsolicited advertisements to telephone facsimile machines, which report shall include—

“(1) the number of complaints received by the Commission during such year alleging that a consumer received an unsolicited advertisement via telephone facsimile machine in violation of the Commission’s rules;

“(2) the number of citations issued by the Commission pursuant to section 503 during the year to enforce any law, regulation, or policy relating to sending of unsolicited advertisements to telephone facsimile machines;

“(3) the number of notices of apparent liability issued by the Commission pursuant to section 503 during the year to enforce any law, regulation, or policy relating to sending of unsolicited advertisements to telephone facsimile machines;

“(4) for each notice referred to in paragraph (3)—

“(A) the amount of the proposed forfeiture penalty involved;

“(B) the person to whom the notice was issued;

“(C) the length of time between the date on which the complaint was filed and the date on which the notice was issued; and

“(D) the status of the proceeding;

“(5) the number of final orders imposing forfeiture penalties issued pursuant to section 503 during the year to enforce any law, regulation, or policy relating to sending of unsolicited advertisements to telephone facsimile machines;

“(6) for each forfeiture order referred to in paragraph (5)—

“(A) the amount of the penalty imposed by the order;

“(B) the person to whom the order was issued;

“(C) whether the forfeiture penalty has been paid; and

“(D) the amount paid;

“(7) for each case in which a person has failed to pay a forfeiture penalty imposed by such a final order, whether the Commission referred such matter for recovery of the penalty; and

“(8) for each case in which the Commission referred such an order for recovery—

“(A) the number of days from the date the Commission issued such order to the date of such referral;

“(B) whether an action has been commenced to recover the penalty, and if so, the number of days from the date the Commission referred such order for recovery to the date of such commencement; and

“(C) whether the recovery action resulted in collection of any amount, and if so, the amount collected.”.

SEC. 4. GAO STUDY OF JUNK FAX ENFORCEMENT.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study regarding complaints received by the Federal Communications Commission concerning unsolicited advertisements sent to telephone facsimile machines, which study shall determine—

(1) the mechanisms established by the Commission to receive, investigate, and respond to such complaints;

(2) the level of enforcement success achieved by the Commission regarding such complaints;

(3) whether complainants to the Commission are adequately informed by the Commission of the responses to their complaints; and

(4) whether additional enforcement measures are necessary to protect consumers, including recommendations regarding such additional enforcement measures.

(b) ADDITIONAL ENFORCEMENT REMEDIES.—In conducting the analysis and making the recommendations required under subsection (a)(4), the Comptroller General shall specifically examine—

(1) the adequacy of existing statutory enforcement actions available to the Commission;

(2) the adequacy of existing statutory enforcement actions and remedies available to consumers;

(3) the impact of existing statutory enforcement remedies on senders of facsimiles;

(4) whether increasing the amount of financial penalties is warranted to achieve greater deterrent effect; and

(5) whether establishing penalties and enforcement actions for repeat violators or abusive violations similar to those established under section 1037 of title 18, United States Code, would have a greater deterrent effect.

(c) REPORT.—Not later than 270 days after the date of enactment of this Act, the Comptroller General shall submit a report on the results of the study under this section to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives.

Approved July 9, 2005.

LEGISLATIVE HISTORY—S. 714:

SENATE REPORTS: No. 109–76 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD, Vol. 151 (2005):

June 24, considered and passed Senate.

June 28, considered and passed House.



Public Law 109–22
109th Congress

An Act

To designate the facility of the United States Postal Service located at 30777 Rancho California Road in Temecula, California, as the “Dalip Singh Saund Post Office Building”.

July 12, 2005
[H.R. 120]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The facility of the United States Postal Service located at 30777 Rancho California Road in Temecula, California, shall be known and designated as the “Dalip Singh Saund Post Office Building”.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the “Dalip Singh Saund Post Office Building”.

Approved July 12, 2005.

LEGISLATIVE HISTORY—H.R. 120:

CONGRESSIONAL RECORD, Vol. 151 (2005):

Feb. 1, considered and passed House.

June 29, considered and passed Senate.



Public Law 109–23
109th Congress

An Act

July 12, 2005
[H.R. 289]

To designate the facility of the United States Postal Service located at 8200 South Vermont Avenue in Los Angeles, California, as the “Sergeant First Class John Marshall Post Office Building”.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The facility of the United States Postal Service located at 8200 South Vermont Avenue in Los Angeles, California, shall be known and designated as the “Sergeant First Class John Marshall Post Office Building”.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the “Sergeant First Class John Marshall Post Office Building”.

Approved July 12, 2005.

LEGISLATIVE HISTORY—H.R. 289:

CONGRESSIONAL RECORD, Vol. 151 (2005):
Feb. 1, considered and passed House.
June 29, considered and passed Senate.



Public Law 109–24
109th Congress

An Act

To designate the facility of the United States Postal Service located at 321 Montgomery Road in Altamonte Springs, Florida, as the “Arthur Stacey Mastrapa Post Office Building”.

July 12, 2005
[H.R. 324]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The facility of the United States Postal Service located at 321 Montgomery Road in Altamonte Springs, Florida, shall be known and designated as the “Arthur Stacey Mastrapa Post Office Building”.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the “Arthur Stacey Mastrapa Post Office Building”.

Approved July 12, 2005.

LEGISLATIVE HISTORY—H.R. 324:

CONGRESSIONAL RECORD, Vol. 151 (2005):
Feb. 15, considered and passed House.
June 29, considered and passed Senate.



Public Law 109–25
109th Congress

An Act

July 12, 2005
[H.R. 504]

To designate the facility of the United States Postal Service located at 4960 West Washington Boulevard in Los Angeles, California, as the “Ray Charles Post Office Building”.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The facility of the United States Postal Service located at 4960 West Washington Boulevard in Los Angeles, California, shall be known and designated as the “Ray Charles Post Office Building”.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the “Ray Charles Post Office Building”.

Approved July 12, 2005.

LEGISLATIVE HISTORY—H.R. 504:

CONGRESSIONAL RECORD, Vol. 151 (2005):
Apr. 20, considered and passed House.
June 29, considered and passed Senate.



Public Law 109–26
109th Congress

An Act

To designate the facility of the United States Postal Service located at 40 Putnam Avenue in Hamden, Connecticut, as the “Linda White-Epps Post Office”.

July 12, 2005
[H.R. 627]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The facility of the United States Postal Service located at 40 Putnam Avenue in Hamden, Connecticut, shall be known and designated as the “Linda White-Epps Post Office”.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the “Linda White-Epps Post Office”.

Approved July 12, 2005.

LEGISLATIVE HISTORY—H.R. 627:

CONGRESSIONAL RECORD, Vol. 151 (2005):
May 16, considered and passed House.
June 29, considered and passed Senate.



Public Law 109–27
109th Congress

An Act

July 12, 2005
[H.R. 1072]

To designate the facility of the United States Postal Service located at 151 West End Street in Goliad, Texas, as the “Judge Emilio Vargas Post Office Building”.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The facility of the United States Postal Service located at 151 West End Street in Goliad, Texas, shall be known and designated as the “Judge Emilio Vargas Post Office Building”.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the “Judge Emilio Vargas Post Office Building”.

Approved July 12, 2005.

LEGISLATIVE HISTORY—H.R. 1072:

CONGRESSIONAL RECORD, Vol. 151 (2005):

Apr. 20, considered and passed House.

June 29, considered and passed Senate.



Public Law 109–28
109th Congress

An Act

To designate the facility of the United States Postal Service located at 120 East Illinois Avenue in Vinita, Oklahoma, as the “Francis C. Goodpaster Post Office Building”.

July 12, 2005
[H.R. 1082]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The facility of the United States Postal Service located at 120 East Illinois Avenue in Vinita, Oklahoma, shall be known and designated as the “Francis C. Goodpaster Post Office Building”.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the “Francis C. Goodpaster Post Office Building”.

Approved July 12, 2005.

LEGISLATIVE HISTORY—H.R. 1082:

CONGRESSIONAL RECORD, Vol. 151 (2005):
May 4, considered and passed House.
June 29, considered and passed Senate.



Public Law 109–29
109th Congress

An Act

July 12, 2005
[H.R. 1236]

To designate the facility of the United States Postal Service located at 750 4th Street in Sparks, Nevada, as the “Mayor Tony Armstrong Memorial Post Office”.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The facility of the United States Postal Service located at 750 4th Street in Sparks, Nevada, shall be known and designated as the “Mayor Tony Armstrong Memorial Post Office”.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the “Mayor Tony Armstrong Memorial Post Office”.

Approved July 12, 2005.

LEGISLATIVE HISTORY—H.R. 1236:

CONGRESSIONAL RECORD, Vol. 151 (2005):

Apr. 26, considered and passed House.

June 29, considered and passed Senate.



Public Law 109–30
109th Congress

An Act

To designate the facility of the United States Postal Service located at 6200 Rolling Road in Springfield, Virginia, as the “Captain Mark Stubenhofer Post Office Building”.

July 12, 2005
[H.R. 1460]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The facility of the United States Postal Service located at 6200 Rolling Road in Springfield, Virginia, shall be known and designated as the “Captain Mark Stubenhofer Post Office Building”.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the “Captain Mark Stubenhofer Post Office Building”.

Approved July 12, 2005.

LEGISLATIVE HISTORY—H.R. 1460:

CONGRESSIONAL RECORD, Vol. 151 (2005):

Apr. 6, considered and passed House.

June 29, considered and passed Senate.



Public Law 109–31
109th Congress

An Act

July 12, 2005
[H.R. 1524]

To designate the facility of the United States Postal Service located at 12433 Antioch Road in Overland Park, Kansas, as the “Ed Eilert Post Office Building”.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The facility of the United States Postal Service located at 12433 Antioch Road in Overland Park, Kansas, shall be known and designated as the “Ed Eilert Post Office Building”.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the “Ed Eilert Post Office Building”.

Approved July 12, 2005.

LEGISLATIVE HISTORY—H.R. 1524:

CONGRESSIONAL RECORD, Vol. 151 (2005):

Apr. 26, considered and passed House.

June 29, considered and passed Senate.



Public Law 109–32
109th Congress

An Act

To designate the facility of the United States Postal Service located at 695 Pleasant Street in New Bedford, Massachusetts, as the “Honorable Judge George N. Leighton Post Office Building”.

July 12, 2005
[H.R. 1542]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The facility of the United States Postal Service located at 695 Pleasant Street in New Bedford, Massachusetts, shall be known and designated as the “Honorable Judge George N. Leighton Post Office Building”.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the “Honorable Judge George N. Leighton Post Office Building”.

Approved July 12, 2005.

LEGISLATIVE HISTORY—H.R. 1542:

CONGRESSIONAL RECORD, Vol. 151 (2005):

May 4, considered and passed House.

June 29, considered and passed Senate.



Public Law 109–33
109th Congress

An Act

July 12, 2005
[H.R. 2326]

To designate the facility of the United States Postal Service located at 614 West Old County Road in Belhaven, North Carolina, as the “Floyd Lupton Post Office”.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The facility of the United States Postal Service located at 614 West Old County Road in Belhaven, North Carolina, shall be known and designated as the “Floyd Lupton Post Office”.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the “Floyd Lupton Post Office”.

Approved July 12, 2005.

LEGISLATIVE HISTORY—H.R. 2326:

CONGRESSIONAL RECORD, Vol. 151 (2005):

June 13, considered and passed House.

June 29, considered and passed Senate.



Public Law 109–34
109th Congress

An Act

To amend the Communications Satellite Act of 1962 to strike the privatization criteria for INTELSAT separated entities, remove certain restrictions on separated and successor entities to INTELSAT, and for other purposes.

July 12, 2005
[S. 1282]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINANCIAL INTERESTS OF OFFICERS, MANAGERS, OR DIRECTORS.

Section 621(5)(D) of the Communications Satellite Act of 1962 (47 U.S.C. 763(5)(D)) is amended—

- (1) by striking “(I)” in clause (ii);
- (2) by striking “signatories, or (II)” in clause (ii) and all that follows through “mechanism;” and inserting “signatories; and”;
- (3) by striking “organization; and” in clause (iii) and inserting “organization.”; and
- (4) by striking clause (iv).

SEC. 2. CRITERIA FOR INTELSAT SEPARATED ENTITIES.

Subtitle B of title VI of the Communications Satellite Act of 1962 (47 U.S.C. 763 et seq.) is amended by striking section 623 (47 U.S.C. 763b).

SEC. 3. PRESERVATION OF SPACE SEGMENT CAPACITY OF THE GMDSS.

Section 624 of the Communications Satellite Act of 1962 (47 U.S.C. 763c) is amended to read as follows:

“SEC. 624. SPACE SEGMENT CAPACITY OF THE GMDSS.

“The United States shall preserve the space segment capacity of the GMDSS. This section is not intended to alter the status that the GMDSS would otherwise have under United States laws and regulations of the International Telecommunication Union with respect to spectrum, orbital locations, or other operational parameters, or to be a barrier to competition for the provision of GMDSS services.”.

SEC. 4. SATELLITE SERVICE REPORT.

47 USC 703.

(a) **ANNUAL REPORT.**—The Federal Communications Commission shall review competitive market conditions with respect to domestic and international satellite communications services and shall include in an annual report an analysis of those conditions. The Commission shall transmit a copy of the report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce.

(b) **CONTENT.**—The Commission shall include in the report—

(1) an identification of the number and market share of competitors in domestic and international satellite markets;

(2) an analysis of whether there is effective competition in the market for domestic and international satellite services; and

(3) a list of any foreign nations in which legal or regulatory practices restrict access to the market for satellite services in such nation in a manner that undermines competition or favors a particular competitor or set of competitors.

Approved July 12, 2005.

LEGISLATIVE HISTORY—S. 1282:

CONGRESSIONAL RECORD, Vol. 151 (2005):

June 21, considered and passed Senate.

June 29, considered and passed House.



Public Law 109–35
109th Congress

An Act

To provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century.

July 20, 2005
[H.R. 3332]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Surface Transportation Extension Act of 2005, Part III”.

Surface
Transportation
Extension Act of
2005, Part III.
23 USC 101 note.

SEC. 2. ADVANCES.

(a) **IN GENERAL.**—Section 2(a)(1) of the Surface Transportation Extension Act of 2004, Part V (23 U.S.C. 104 note; 118 Stat. 1144; 119 Stat. 324; 119 Stat. 346) is amended by striking “and the Surface Transportation Extension Act of 2005, Part II” and inserting “, the Surface Transportation Extension Act of 2005, Part II, and the Surface Transportation Extension Act of 2005, Part III”.

(b) **PROGRAMMATIC DISTRIBUTIONS.**—

(1) **SPECIAL RULES FOR MINIMUM GUARANTEE.**—Section 2(b)(4) of such Act (119 Stat. 324; 119 Stat. 346) is amended by striking “\$2,240,000,000” and inserting “\$2,268,000,000”.

(2) **EXTENSION OF OFF-SYSTEM BRIDGE SETASIDE.**—Section 144(g)(3) of title 23, United States Code, is amended by striking “July 19” inserting “July 21”.

(c) **AUTHORIZATION OF CONTRACT AUTHORITY.**—Section 1101(l)(1) of the Transportation Equity Act for the 21st Century (118 Stat. 1145; 119 Stat. 324; 119 Stat. 346) is amended by striking “\$27,223,123,200 for the period of October 1, 2004, through July 19, 2005” and inserting “\$27,563,412,240 for the period of October 1, 2004, through July 21, 2005”.

(d) **LIMITATION ON OBLIGATIONS.**—Section 2(e) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1146; 119 Stat. 324; 119 Stat. 346) is amended—

23 USC 104 note.

(1) in paragraph (1)—

(A) by striking “July 19” and inserting “July 21”;

(B) by striking “and the Surface Transportation Extension Act of 2005, Part II” and inserting “, the Surface Transportation Extension Act of 2005, Part II, and the Surface Transportation Extension Act of 2005, Part III”; and

(C) by striking “80 percent” and inserting “80.8 percent”; and

(2) in paragraph (2)—

(A) by striking “July 19, 2005, shall not exceed \$27,760,000,000” and inserting “July 21, 2005, shall not exceed \$28,107,000,000”; and

(B) by striking “\$511,200,000” and inserting “\$517,590,000”; and

(3) in paragraph (3) by striking “July 19” and inserting “July 21”.

SEC. 3. ADMINISTRATIVE EXPENSES.

Section 4(a) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1147; 119 Stat. 325; 119 Stat. 346) is amended by striking “\$281,619,200” and inserting “\$285,139,440”.

SEC. 4. OTHER FEDERAL-AID HIGHWAY PROGRAMS.

(a) AUTHORIZATION OF APPROPRIATIONS UNDER TITLE I OF TEA-21.—

(1) FEDERAL LANDS HIGHWAYS.—

(A) INDIAN RESERVATION ROADS.—Section 1101(a)(8)(A) of the Transportation Equity Act for the 21st Century (112 Stat. 112; 118 Stat. 1147; 119 Stat. 325; 119 Stat. 346) is amended—

(i) in the first sentence by striking “\$220,000,000 for the period of October 1, 2004, through July 19, 2005” and inserting “\$222,750,000 for the period of October 1, 2004, through July 21, 2005”; and

(ii) in the second sentence by striking “\$10,400,000” and inserting “\$10,530,000”.

(B) PUBLIC LANDS HIGHWAYS.—Section 1101(a)(8)(B) of such Act (112 Stat. 112; 118 Stat. 1148; 119 Stat. 325; 119 Stat. 346) is amended by striking “\$196,800,000 for the period of October 1, 2004, through July 19, 2005” and inserting “\$199,260,000 for the period of October 1, 2004, through July 21, 2005”.

(C) PARK ROADS AND PARKWAYS.—Section 1101(a)(8)(C) of such Act (112 Stat. 112; 118 Stat. 1148; 119 Stat. 325; 119 Stat. 346) is amended by striking “\$132,000,000 for the period of October 1, 2004, through July 19, 2005” and inserting “\$133,650,000 for the period of October 1, 2004, through July 21, 2005”.

(D) REFUGE ROADS.—Section 1101(a)(8)(D) of such Act (112 Stat. 112; 118 Stat. 1148; 119 Stat. 326; 119 Stat. 346) is amended by striking “\$16,000,000 for the period of October 1, 2004, through July 19, 2005” and inserting “\$16,200,000 for the period of October 1, 2004, through July 21, 2005”.

(2) NATIONAL CORRIDOR PLANNING AND DEVELOPMENT AND COORDINATED BORDER INFRASTRUCTURE PROGRAMS.—Section 1101(a)(9) of such Act (112 Stat. 112; 118 Stat. 1148; 119 Stat. 326; 119 Stat. 346) is amended by striking “\$112,000,000 for the period of October 1, 2004, through July 19, 2005” and inserting “\$113,400,000 for the period of October 1, 2004, through July 21, 2005”.

(3) CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES.—

(A) IN GENERAL.—Section 1101(a)(10) of such Act (112 Stat. 113; 118 Stat. 1148; 119 Stat. 326; 119 Stat. 346) is amended by striking “\$30,400,000 for the period of October 1, 2004, through July 19, 2005” and inserting

“\$30,780,000 for the period of October 1, 2004, through July 21, 2005”.

(B) SET ASIDE FOR ALASKA, NEW JERSEY, AND WASHINGTON.—Section 5(a)(3)(B) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1148; 119 Stat. 326; 119 Stat. 346) is amended—

(i) in clause (i) by striking “\$8,000,000” and inserting “\$8,100,000”;

(ii) in clause (ii) by striking “\$4,000,000” and inserting “\$4,050,000”; and

(iii) in clause (iii) by striking “\$4,000,000” and inserting “\$4,050,000”.

(4) NATIONAL SCENIC BYWAYS PROGRAM.—Section 1101(a)(11) of the Transportation Equity Act for the 21st Century (112 Stat. 113; 118 Stat. 1148; 119 Stat. 326; 119 Stat. 346) is amended by striking “\$21,200,000 for the period of October 1, 2004, through July 19, 2005” and inserting “\$21,465,000 for the period of October 1, 2004, through July 21, 2005”.

(5) VALUE PRICING PILOT PROGRAM.—Section 1101(a)(12) of such Act (112 Stat. 113; 118 Stat. 1148; 119 Stat. 326; 119 Stat. 346) is amended by striking “\$8,800,000 for the period of October 1, 2004, through July 19, 2005” and inserting “\$8,910,000 for the period of October 1, 2004, through July 21, 2005”.

(6) HIGHWAY USE TAX EVASION PROJECTS.—Section 1101(a)(14) of such Act (112 Stat. 113; 118 Stat. 1148; 119 Stat. 326; 119 Stat. 346) is amended by striking “\$4,000,000 for the period of October 1, 2004, through July 19, 2005” and inserting “\$4,050,000 for the period of October 1, 2004, through July 21, 2005”.

(7) COMMONWEALTH OF PUERTO RICO HIGHWAY PROGRAM.—Section 1101(a)(15) of the Transportation Equity Act for the 21st Century (112 Stat. 113; 118 Stat. 1149; 119 Stat. 326; 119 Stat. 346) is amended by striking “\$88,000,000 for the period of October 1, 2004, through July 19, 2005” and inserting “\$89,100,000 for the period of October 1, 2004, through July 21, 2005”.

(8) SAFETY GRANTS.—Section 1212(i)(1)(D) of such Act (23 U.S.C. 402 note; 112 Stat. 196; 112 Stat. 840; 118 Stat. 1149; 119 Stat. 326; 119 Stat. 346) is amended by striking “\$400,000 for the period of October 1, 2004, through July 19, 2005” and inserting “\$405,000 for the period of October 1, 2004, through July 21, 2005”.

(9) TRANSPORTATION AND COMMUNITY AND SYSTEM PRESERVATION PILOT PROGRAM.—Section 1221(e)(1) of such Act (23 U.S.C. 101 note; 112 Stat. 223; 118 Stat. 1149; 119 Stat. 327; 119 Stat. 346) is amended by striking “\$20,000,000 for the period of October 1, 2004, through July 19, 2005” and inserting “\$20,250,000 for the period of October 1, 2004, through July 21, 2005”.

(10) TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION.—Section 188 of title 23, United States Code, is amended—

(A) in subsection (a)(1) by striking subparagraph (G) and inserting the following:

“(G) \$105,300,000 for the period of October 1, 2004, through July 21, 2005.”;

(B) in subsection (a)(2) by striking “\$1,600,000 for the period of October 1, 2004, through July 19, 2005” and inserting “\$1,620,000 for the period of October 1, 2004, through July 21, 2005”; and

(C) in the item relating to fiscal year 2005 in table contained in subsection (c) by striking “\$2,080,000,000” and inserting “\$2,106,000,000”.

(11) NATIONAL SCENIC BYWAYS CLEARINGHOUSE.—Section 1215(b)(3) of the Transportation Equity Act for the 21st Century (112 Stat. 210; 118 Stat. 1149; 119 Stat. 327; 119 Stat. 346) is amended—

(A) by striking “\$1,200,000” and inserting “\$1,215,000”;

and

(B) by striking “July 19” and inserting “July 21”.

(b) AUTHORIZATION OF APPROPRIATIONS UNDER TITLE V OF TEA-21.—

(1) SURFACE TRANSPORTATION RESEARCH.—Section 5001(a)(1) of the Transportation Equity Act for the 21st Century (112 Stat. 419; 118 Stat. 1149; 119 Stat. 327; 119 Stat. 346) is amended by striking “\$82,400,000 for the period of October 1, 2004, through July 19, 2005” and inserting “\$83,430,000 for the period of October 1, 2004, through July 21, 2005”.

(2) TECHNOLOGY DEPLOYMENT PROGRAM.—Section 5001(a)(2) of such Act (112 Stat. 419; 118 Stat. 1149; 119 Stat. 327; 119 Stat. 346) is amended by striking “\$40,000,000 for the period of October 1, 2004, through July 19, 2005” and inserting “\$40,500,000 for the period of October 1, 2004, through July 21, 2005”.

(3) TRAINING AND EDUCATION.—Section 5001(a)(3) of such Act (112 Stat. 420; 118 Stat. 1150; 119 Stat. 327; 119 Stat. 346) is amended by striking “\$16,000,000 for the period of October 1, 2004, through July 19, 2005” and inserting “\$16,200,000 for the period of October 1, 2004, through July 21, 2005”.

(4) BUREAU OF TRANSPORTATION STATISTICS.—Section 5001(a)(4) of such Act (112 Stat. 420; 118 Stat. 1150; 119 Stat. 327; 119 Stat. 346) is amended by striking “\$24,800,000 for the period of October 1, 2004, through July 19, 2005” and inserting “\$25,110,000 for the period of October 1, 2004, through July 21, 2005”.

(5) ITS STANDARDS, RESEARCH, OPERATIONAL TESTS, AND DEVELOPMENT.—Section 5001(a)(5) of such Act (112 Stat. 420; 118 Stat. 1150; 119 Stat. 327; 119 Stat. 346) is amended by striking “\$88,000,000 for the period of October 1, 2004, through July 19, 2005” and inserting “\$89,100,000 for the period of October 1, 2004, through July 21, 2005”.

(6) ITS DEPLOYMENT.—Section 5001(a)(6) of such Act (112 Stat. 420; 118 Stat. 1150; 119 Stat. 327; 119 Stat. 346) is amended by striking “\$97,600,000 for the period of October 1, 2004, through July 19, 2005” and inserting “\$98,820,000 for the period of October 1, 2004, through July 21, 2005”.

(7) UNIVERSITY TRANSPORTATION RESEARCH.—Section 5001(a)(7) of such Act (112 Stat. 420; 118 Stat. 1150; 119 Stat. 328; 119 Stat. 346) is amended by striking “\$21,200,000 for the period of October 1, 2004, through July 19, 2005”

and inserting “\$21,465,000 for the period of October 1, 2004, through July 21, 2005”.

(c) METROPOLITAN PLANNING.—Section 5(c)(1) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1150; 119 Stat. 328; 119 Stat. 346) is amended by striking “\$174,000,000 for the period of October 1, 2004, through July 19, 2005” and inserting “\$176,175,000 for the period of October 1, 2004, through July 21, 2005”.

(d) TERRITORIES.—Section 1101(d)(1) of the Transportation Equity Act for the 21st Century (112 Stat. 111; 118 Stat. 1150; 119 Stat. 328; 119 Stat. 346) is amended by striking “\$29,120,000 for the period of October 1, 2004, through July 19, 2005” and inserting “\$29,484,000 for the period of October 1, 2004, through July 21, 2005”.

(e) ALASKA HIGHWAY.—Section 1101(e)(1) of such Act (118 Stat. 1150; 119 Stat. 328; 119 Stat. 346) is amended by striking “\$15,040,000 for the period of October 1, 2004, through July 19, 2005” and inserting “\$15,228,000 for the period of October 1, 2004, through July 21, 2005”.

(f) OPERATION LIFESAVER.—Section 1101(f)(1) of such Act (118 Stat. 1151; 119 Stat. 328; 119 Stat. 346) is amended by striking “\$400,000 for the period of October 1, 2004, through July 19, 2005” and inserting “\$405,000 for the period of October 1, 2004, through July 21, 2005”.

(g) BRIDGE DISCRETIONARY.—Section 1101(g)(1) of such Act (118 Stat. 1151; 119 Stat. 328; 119 Stat. 346) is amended—

(1) by striking “\$80,000,000” and inserting “\$81,000,000”; and

(2) by striking “July 19” and inserting “July 21”.

(h) INTERSTATE MAINTENANCE.—Section 1101(h)(1) of such Act (118 Stat. 1151; 119 Stat. 328; 119 Stat. 346) is amended—

(1) by striking “\$80,000,000” and inserting “\$81,000,000”; and

(2) by striking “July 19” and inserting “July 21”.

(i) RECREATIONAL TRAILS ADMINISTRATIVE COSTS.—Section 1101(i)(1) of such Act (118 Stat. 1151; 119 Stat. 328; 119 Stat. 346) is amended by striking “\$600,000 for the period of October 1, 2004, through July 19, 2005” and inserting “\$607,500 for the period of October 1, 2004, through July 21, 2005”.

(j) RAILWAY-HIGHWAY CROSSING HAZARD ELIMINATION IN HIGH SPEED RAIL CORRIDORS.—Section 1101(j)(1) of such Act (118 Stat. 1151; 119 Stat. 328; 119 Stat. 346) is amended—

(1) by striking “\$4,200,000” and inserting “\$4,252,000”;

(2) by striking “\$200,000” and inserting “\$202,500”; and

(3) by striking “July 19” each place it appears and inserting “July 21”.

(k) NONDISCRIMINATION.—Section 1101(k) of such Act (118 Stat. 1151; 119 Stat. 328; 119 Stat. 346) is amended—

(1) in paragraph (1) by striking “\$8,000,000 for the period of October 1, 2004, through July 19, 2005” and inserting “\$8,100,000 for the period of October 1, 2004, through July 21, 2005”; and

(2) in paragraph (2) by striking “\$8,000,000 for the period of October 1, 2004, through July 19, 2005” and inserting “\$8,100,000 for the period of October 1, 2004, through July 21, 2005”.

(l) ADMINISTRATION OF FUNDS.—Section 5(l) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1151; 119 Stat. 329; 119 Stat. 346) is amended—

(1) by striking “and section 4 of the Surface Transportation Extension Act of 2005, Part II” and inserting “section 4 of the Surface Transportation Extension Act of 2005, Part II, and section 4 of the Surface Transportation Extension Act of 2005, Part III”; and

(2) by striking “and section 4(a) of the Surface Transportation Extension Act of 2005, Part II” and inserting “section 4(a) of the Surface Transportation Extension Act of 2005, Part II, and section 4(a) of the Surface Transportation Extension Act of 2005, Part III”.

(m) REDUCTION OF ALLOCATED PROGRAMS.—Section 5(m) of such Act (118 Stat. 1151; 119 Stat. 329; 119 Stat. 346) is amended—

(1) by striking “and section 4 of the Surface Transportation Extension Act of 2005, Part II” and inserting “section 4 of the Surface Transportation Extension Act of 2005, Part II, and section 4 of the Surface Transportation Extension Act of 2005, Part III”;

(2) by striking “and section 4 of the Surface Transportation Extension Act, Part II” the first place it appears and inserting “section 4 of the Surface Transportation Extension Act, Part II, and section 4 of the Surface Transportation Extension Act, Part III”; and

(3) by striking “and section 4 of the Surface Transportation Extension Act, Part II” the second place it appears and inserting “, section 4 of the Surface Transportation Extension Act of 2005, Part II, and section 4 of the Surface Transportation Extension Act, Part III”.

(n) PROGRAM CATEGORY RECONCILIATION.—Section 5(n) of such Act (118 Stat. 1151; 119 Stat. 329; 119 Stat. 346) is amended by striking “and section 4 of the Surface Transportation Extension Act, Part II” and inserting “, section 4 of the Surface Transportation Extension Act of 2005, Part II, and section 4 of the Surface Transportation Extension Act, Part III”.

SEC. 5. EXTENSION OF HIGHWAY SAFETY PROGRAMS.

(a) CHAPTER 1 HIGHWAY SAFETY PROGRAMS.—

(1) SEAT BELT SAFETY INCENTIVE GRANTS.—Section 157(g)(1) of title 23, United States Code, is amended by striking “\$89,600,000 for the period of October 1, 2004, through July 19, 2005” and inserting “\$90,720,000 for the period of October 1, 2004, through July 21, 2005”.

(2) PREVENTION OF INTOXICATED DRIVER INCENTIVE GRANTS.—Section 163(e)(1) of such title is amended by striking “\$88,000,000 for the period of October 1, 2004, through July 19, 2005” and inserting “\$89,100,000 for the period of October 1, 2004, through July 21, 2005”.

(b) CHAPTER 4 HIGHWAY SAFETY PROGRAMS.—Section 2009(a)(1) of the Transportation Equity Act for the 21st Century (112 Stat. 337; 118 Stat. 1152; 119 Stat. 329; 119 Stat. 346) is amended by striking “\$132,000,000 for the period of October 1, 2004, through July 19, 2005” and inserting “\$133,650,000 for the period of October 1, 2004, through July 21, 2005”.

(c) HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.—Section 2009(a)(2) of such Act (112 Stat. 337; 118 Stat. 1152; 119 Stat.

329; 119 Stat. 346) is amended by striking “\$57,600,000 for the period of October 1, 2004, through July 19, 2005” and inserting “\$58,320,000 for the period of October 1, 2004, through July 21, 2005”.

(d) OCCUPANT PROTECTION INCENTIVE GRANTS.—Section 2009(a)(3) of such Act (112 Stat. 337; 118 Stat. 1152; 119 Stat. 329; 119 Stat. 346) is amended by striking “\$16,000,000 for the period of October 1, 2004, through July 19, 2005” and inserting “\$16,200,000 for the period of October 1, 2004, through July 21, 2005”.

(e) ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES INCENTIVE GRANTS.—Section 2009(a)(4) of such Act (112 Stat. 337; 118 Stat. 1153; 119 Stat. 329; 119 Stat. 346) is amended by striking “\$32,000,000 for the period of October 1, 2004, through July 19, 2005” and inserting “\$32,400,000 for the period of October 1, 2004, through July 21, 2005”.

(f) NATIONAL DRIVER REGISTER.—

(1) FUNDING.—Section 2009(a)(6) of such Act (112 Stat. 338; 118 Stat. 1153; 119 Stat. 330; 119 Stat. 346) is amended by striking “\$2,880,000 for the period of October 1, 2004, through July 19, 2005” and inserting “\$2,916,000 for the period of October 1, 2004, through July 21, 2005”.

(2) CONTRACT AUTHORITY.—Funds made available by the amendments made by paragraph (1) and by section 5(f) of the Surface Transportation Extension Act of 2005 (119 Stat. 330; 119 Stat. 346) shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code.

SEC. 6. FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION PROGRAM.

(a) ADMINISTRATIVE EXPENSES.—Section 7(a)(1) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1153; 119 Stat. 330; 119 Stat. 346) is amended by striking “\$206,037,600 for the period of October 1, 2004, through July 19, 2005” and inserting “\$208,154,425 for the period of October 1, 2004, through July 21, 2005”.

(b) MOTOR CARRIER SAFETY ASSISTANCE PROGRAM.—Section 31104(a)(8) of title 49, United States Code, is amended to read as follows:

“(8) Not more than \$136,589,041 for the period of October 1, 2004, through July 21, 2005.”.

(c) INFORMATION SYSTEMS AND COMMERCIAL DRIVER'S LICENSE GRANTS.—

(1) AUTHORIZATION OF APPROPRIATION.—Section 31107(a)(6) of such title is amended to read as follows:

“(6) \$16,164,384 for the period of October 1, 2004, through July 21, 2005.”.

(2) EMERGENCY CDL GRANTS.—Section 7(c)(2) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1153; 119 Stat. 330; 119 Stat. 346) is amended—

(A) by striking “July 19” and inserting “July 21”; and

(B) by striking “\$800,000” and inserting “\$808,219”.

(d) CRASH CAUSATION STUDY.—Section 7(d) of such Act (118 Stat. 1154; 119 Stat. 330; 119 Stat. 346) is amended—

(1) by striking “\$800,000” and inserting “\$808,219”; and

(2) by striking “July 19” and inserting “July 21”.

SEC. 7. EXTENSION OF FEDERAL TRANSIT PROGRAMS.

(a) **ALLOCATING AMOUNTS.**—Section 5309(m) of title 49, United States Code, is amended—

(1) in the matter preceding subparagraph (A) of paragraph (1) by striking “July 19, 2005” and inserting “July 21, 2005”;

(2) in paragraph (2)(B)(iii)—

(A) in the heading by striking “JULY 19, 2005” and inserting “JULY 21, 2005”;

(B) by striking “\$8,320,000” and inserting “\$8,424,000”; and

(C) by striking “July 19, 2005” and inserting “July 21, 2005”;

(3) in paragraph (3)(B)—

(A) by striking “\$2,400,000” and inserting “\$2,430,000”; and

(B) by striking “July 19, 2005” and inserting “July 21, 2005”; and

(4) in paragraph (3)(C)—

(A) by striking “\$40,000,000” and inserting “\$40,500,000”; and

(B) by striking “July 19, 2005” and inserting “July 21, 2005”.

(b) **FORMULA GRANTS AUTHORIZATIONS.**—Section 5338(a) of title 49, United States Code, is amended—

(1) in the heading to paragraph (2) by striking “JULY 19, 2005” and inserting “JULY 21, 2005”;

(2) in paragraph (2)(A)(vii)—

(A) by striking “\$2,675,300,000” and inserting “\$2,793,483,000”; and

(B) by striking “July 19, 2005” and inserting “July 21, 2005”;

(3) in paragraph (2)(B)(vii) by striking “July 19, 2005” and inserting “July 21, 2005”; and

(4) in paragraph (2)(C) by striking “July 19, 2005” and inserting “July 21, 2005”.

(c) **FORMULA GRANT FUNDS.**—Section 8(d) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1155; 119 Stat. 331; 119 Stat. 346) is amended—

(1) in the heading by striking “JULY 19, 2005” and inserting “JULY 21, 2005”;

(2) in the matter preceding paragraph (1) by striking “July 19, 2005” and inserting “July 21, 2005”;

(3) in paragraph (1) by striking “\$3,879,960” and inserting “\$3,928,459”;

(4) in paragraph (2) by striking “\$40,000,000” and inserting “\$40,500,000”;

(5) in paragraph (3) by striking “\$76,231,201” and inserting “\$79,052,761”;

(6) in paragraph (4) by striking “\$202,330,313” and inserting “\$209,819,203”;

(7) in paragraph (5) by striking “\$5,560,000” and inserting “\$5,629,500”; and

(8) in paragraph (6) by striking “\$2,897,738,526” and inserting “\$3,004,993,077”.

(d) **CAPITAL PROGRAM AUTHORIZATIONS.**—Section 5338(b)(2) of title 49, United States Code, is amended—

- (1) in the heading by striking “JULY 19, 2005” and inserting “JULY 21, 2005”;
 - (2) in subparagraph (A)(vii)—
 - (A) by striking “\$2,235,820,000” and inserting “\$2,263,265,142”; and
 - (B) by striking “July 19, 2005” and inserting “July 21, 2005”; and
 - (3) in subparagraph (B)(vii) by striking “July 19, 2005” and inserting “July 21, 2005”.
- (e) PLANNING AUTHORIZATIONS AND ALLOCATIONS.—Section 5338(c)(2) of title 49, United States Code, is amended—
- (1) in the heading by striking “JULY 19, 2005” and inserting “JULY 21, 2005”;
 - (2) in subparagraph (A)(vii)—
 - (A) by striking “\$47,946,667” and inserting “\$48,546,727”; and
 - (B) by striking “July 19, 2005” and inserting “July 21, 2005”; and
 - (3) in subparagraph (B)(vii) by striking “July 19, 2005” and inserting “July 21, 2005”.
- (f) RESEARCH AUTHORIZATIONS.—Section 5338(d)(2) of title 49, United States Code, is amended—
- (1) in the heading by striking “JULY 19, 2005” and inserting “JULY 21, 2005”;
 - (2) in subparagraph (A)(vii)—
 - (A) by striking “\$36,933,334” and inserting “\$37,385,434”; and
 - (B) by striking “July 19, 2005” and inserting “July 21, 2005”;
 - (3) in subparagraph (B)(vii) by striking “July 19, 2005” and inserting “July 21, 2005”; and
 - (4) in subparagraph (C) by striking “July 19, 2005” and inserting “July 21, 2005”.
- (g) ALLOCATION OF RESEARCH FUNDS.—Section 8(h) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1156; 119 Stat. 332; 119 Stat. 346) is amended—
- (1) in the heading by striking “JULY 19, 2005” and inserting “JULY 21, 2005”;
 - (2) in the matter preceding paragraph (1) by striking “July 19, 2005” and inserting “July 21, 2005”;
 - (3) in paragraph (1) by striking “\$4,200,000” and inserting “\$4,252,500”;
 - (4) in paragraph (2) by striking “\$6,600,000” and inserting “\$6,682,500”; and
 - (5) in paragraph (3)—
 - (A) by striking “\$3,200,000” and inserting “\$3,240,000”; and
 - (B) by striking “\$800,000” and inserting “\$810,000”.
- (h) UNIVERSITY TRANSPORTATION RESEARCH AUTHORIZATIONS.—Section 5338(e)(2) of title 49, United States Code, is amended—
- (1) in the heading by striking “JULY 19, 2005” and inserting “JULY 21, 2005”;
 - (2) in subparagraph (A)—
 - (A) by striking “\$4,000,000” and inserting “\$4,060,000”; and
 - (B) by striking “July 19, 2005” and inserting “July 21, 2005”;

(3) in subparagraph (B) by striking “July 19, 2005” and inserting “July 21, 2005”; and

(4) in subparagraphs (C)(i) and (C)(iii) by striking “July 19, 2005” and inserting “July 21, 2005”.

(i) ALLOCATION OF UNIVERSITY TRANSPORTATION RESEARCH FUNDS.—

(1) IN GENERAL.—Section 8(j) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1157; 119 Stat. 332; 119 Stat. 346) is amended—

(A) in the matter preceding subparagraph (A) of paragraph (1) by striking “July 19, 2005” and inserting “July 21, 2005”;

(B) in paragraph (1)(A) by striking “\$1,600,000” and inserting “\$1,620,000”;

(C) in paragraph (1)(B) by striking “\$1,600,000” and inserting “\$1,620,000”; and

(D) in paragraph (2) by striking “July 19, 2005” and inserting “July 21, 2005”.

(2) CONFORMING AMENDMENT.—Section 3015(d)(2) of the Transportation Equity Act for the 21st Century (49 U.S.C. 5338 note; 112 Stat. 857; 118 Stat. 1157; 119 Stat. 332; 119 Stat. 346) is amended by striking “July 19, 2005” and inserting “July 21, 2005”.

(j) ADMINISTRATION AUTHORIZATIONS.—Section 5338(f)(2) of title 49, United States Code, is amended—

(1) in the heading by striking “JULY 19, 2005” and inserting “JULY 21, 2005”;

(2) in subparagraph (A)(vii)—

(A) by striking “\$52,000,000” and inserting “\$52,780,000”; and

(B) by striking “July 19, 2005” and inserting “July 21, 2005”; and

(3) in subparagraph (B)(vii) by striking “July 19, 2005” and inserting “July 21, 2005”.

(k) JOB ACCESS AND REVERSE COMMUTE PROGRAM.—Section 3037(l) of the Transportation Equity Act for the 21st Century (49 U.S.C. 5309 note; 112 Stat. 391; 118 Stat. 1157; 119 Stat. 333; 119 Stat. 346) is amended—

(1) in paragraph (1)(A)(vii)—

(A) by striking “\$80,000,000” and inserting “\$81,027,500”; and

(B) by striking “July 19, 2005” and inserting “July 21, 2005”;

(2) in paragraph (1)(B)(vii) by striking “July 19, 2005” and inserting “July 21, 2005”; and

(3) in paragraph (2) by striking “July 19, 2005, not more than \$8,000,000” and inserting “July 21, 2005, not more than \$8,100,000”.

(l) RURAL TRANSPORTATION ACCESSIBILITY INCENTIVE PROGRAM.—Section 3038(g) of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note; 112 Stat. 393; 118 Stat. 1158; 119 Stat. 333; 119 Stat. 346) is amended—

(1) by striking paragraph (1)(G) and inserting the following:

“(G) \$4,222,125 for the period of October 1, 2004, through July 21, 2005.”; and

(2) in paragraph (2)—

- (A) by striking “\$1,360,000” and inserting “\$1,407,375”; and
- (B) by striking “July 19, 2005” and inserting “July 21, 2005”.
- (m) URBANIZED AREA FORMULA GRANTS.—Section 5307(b)(2) of title 49, United States Code, is amended—
- (1) in the heading by striking “JULY 19, 2005” and inserting “JULY 21, 2005”; and
- (2) in subparagraph (A) by striking “July 19, 2005” and inserting “July 21, 2005”.
- (n) OBLIGATION CEILING.—Section 3040(7) of the Transportation Equity Act for the 21st Century (112 Stat. 394; 118 Stat. 1158; 119 Stat. 333; 119 Stat. 346) is amended—
- (1) by striking “\$6,166,400,000” and inserting “\$6,229,759,760”; and
- (2) by striking “July 19, 2005” and inserting “July 21, 2005”.
- (o) FUEL CELL BUS AND BUS FACILITIES PROGRAM.—Section 3015(b) of the Transportation Equity Act for the 21st Century (112 Stat. 361; 118 Stat. 1158; 119 Stat. 333; 119 Stat. 346) is amended—
- (1) by striking “July 19, 2005” and inserting “July 21, 2005”; and
- (2) by striking “\$3,880,000” and inserting “\$3,928,500”.
- (p) ADVANCED TECHNOLOGY PILOT PROJECT.—Section 3015(c)(2) of the Transportation Equity Act for the 21st Century (49 U.S.C. 322 note; 112 Stat. 361; 118 Stat. 1158; 119 Stat. 334; 119 Stat. 346) is amended—
- (1) by striking “July 19, 2005,” and inserting “July 21, 2005”; and
- (2) by striking “\$4,000,000” and inserting “\$4,050,000”.
- (q) PROJECTS FOR NEW FIXED GUIDEWAY SYSTEMS AND EXTENSIONS TO EXISTING SYSTEMS.—Subsections (a), (b), and (c)(1) of section 3030 of the Transportation Equity Act for the 21st Century (112 Stat. 373; 118 Stat. 1158; 119 Stat. 334; 119 Stat. 346) are amended by striking “July 19, 2005” and inserting “July 21, 2005”.
- (r) NEW JERSEY URBAN CORE PROJECT.—Subparagraphs (A), (B), and (C) of section 3031(a)(3) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2122; 118 Stat. 1158; 119 Stat. 334; 119 Stat. 346) are amended by striking “July 19, 2005” and inserting “July 21, 2005”.
- (s) LOCAL SHARE.—Section 3011(a) of the Transportation Equity Act for the 21st Century (49 U.S.C. 5307 note; 118 Stat. 1158; 119 Stat. 334; 119 Stat. 346) is amended by striking “July 19, 2005” and inserting “July 21, 2005”.

23 USC 322 note.

SEC. 8. SPORT FISHING AND BOATING SAFETY.

- (a) FUNDING FOR NATIONAL OUTREACH AND COMMUNICATIONS PROGRAM.—Section 4(c)(7) of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777c(c)) is amended to read as follows:
- “(7) \$8,099,997 for the period of October 1, 2004, through July 21, 2005;”.
- (b) CLEAN VESSEL ACT FUNDING.—Section 4(b)(4) of such Act (16 U.S.C. 777c(b)(4)) is amended to read as follows:
- “(4) FIRST 42 WEEKS OF FISCAL YEAR 2005.—For the period of October 1, 2004, through July 21, 2005, of the balance

of each annual appropriation remaining after making the distribution under subsection (a), an amount equal to \$66,420,000, reduced by 82.9 percent of the amount appropriated for that fiscal year from the Boat Safety Account of the Aquatic Resources Trust Fund established by section 9504 of the Internal Revenue Code of 1986 to carry out the purposes of section 13106(a) of title 46, United States Code, shall be used as follows:

“(A) \$8,100,000 shall be available to the Secretary of the Interior for 3 fiscal years for obligation for qualified projects under section 5604(c) of the Clean Vessel Act of 1992 (33 U.S.C. 1322 note).

“(B) \$6,480,000 shall be available to the Secretary of the Interior for 3 fiscal years for obligation for qualified projects under section 7404(d) of the Sportfishing and Boating Safety Act of 1998 (16 U.S.C. 777g-1(d)).

“(C) The balance remaining after the application of subparagraphs (A) and (B) shall be transferred to the Secretary of Transportation and shall be expended for State recreational boating safety programs under section 13106 of title 46, United States Code.”.

(c) BOAT SAFETY FUNDS.—Section 13106(c) of title 46, United States Code, is amended—

- (1) by striking “\$4,000,000” and inserting “\$4,050,000”; and
- (2) by striking “\$1,600,000” and inserting “\$1,620,003”.

SEC. 9. EXTENSION OF AUTHORIZATION FOR USE OF TRUST FUNDS FOR OBLIGATIONS UNDER TEA-21.

(a) HIGHWAY TRUST FUND.—

(1) IN GENERAL.—Paragraph (1) of section 9503(c) of the Internal Revenue Code of 1986 is amended—

(A) in the matter before subparagraph (A), by striking “July 20, 2005” and inserting “July 22, 2005”;

(B) by striking “or” at the end of subparagraph (L);

(C) by striking the period at the end of subparagraph (M) and inserting “, or”;

(D) by inserting after subparagraph (M) the following new subparagraph:

“(N) authorized to be paid out of the Highway Trust Fund under the Surface Transportation Extension Act of 2005, Part III.”; and

(E) in the matter after subparagraph (N), as added by this paragraph, by striking “Surface Transportation Extension Act of 2005, Part II” and inserting “Surface Transportation Extension Act of 2005, Part III”.

(2) MASS TRANSIT ACCOUNT.—Paragraph (3) of section 9503(e) of such Code is amended—

(A) in the matter before subparagraph (A), by striking “July 20, 2005” and inserting “July 22, 2005”;

(B) in subparagraph (J), by striking “or” at the end of such subparagraph;

(C) in subparagraph (K), by inserting “or” at the end of such subparagraph;

(D) by inserting after subparagraph (K) the following new subparagraph:

“(L) the Surface Transportation Extension Act of 2005, Part III.”; and

(E) in the matter after subparagraph (L), as added by this paragraph, by striking “Surface Transportation Extension Act of 2005, Part II” and inserting “Surface Transportation Extension Act of 2005, Part III”.

(3) EXCEPTION TO LIMITATION ON TRANSFERS.—Subparagraph (B) of section 9503(b)(6) of such Code is amended by striking “July 20, 2005” and inserting “July 22, 2005”.

(b) AQUATIC RESOURCES TRUST FUND.—

(1) SPORT FISH RESTORATION ACCOUNT.—Paragraph (2) of section 9504(b) of the Internal Revenue Code of 1986 is amended by striking “Surface Transportation Extension Act of 2005, Part II” each place it appears and inserting “Surface Transportation Extension Act of 2005, Part III”.

26 USC 9504.

(2) BOAT SAFETY ACCOUNT.—Subsection (c) of section 9504 of such Code is amended—

(A) by striking “July 20, 2005” and inserting “July 22, 2005”; and

(B) by striking “Surface Transportation Extension Act of 2005, Part II” and inserting “Surface Transportation Extension Act of 2005, Part III”.

(3) EXCEPTION TO LIMITATION ON TRANSFERS.—Paragraph (2) of section 9504(d) of such Code is amended by striking “July 20, 2005” and inserting “July 22, 2005”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

26 USC 9503
note.

(d) TEMPORARY RULE REGARDING ADJUSTMENTS.—During the period beginning on the date of the enactment of the Surface Transportation Extension Act of 2003 and ending on July 21, 2005, for purposes of making any estimate under section 9503(d) of the Internal Revenue Code of 1986 of receipts of the Highway Trust Fund, the Secretary of the Treasury shall treat—

(1) each expiring provision of paragraphs (1) through (4) of section 9503(b) of such Code which is related to appropriations or transfers to such Fund to have been extended through the end of the 24-month period referred to in section 9503(d)(1)(B) of such Code; and

(2) with respect to each tax imposed under the sections referred to in section 9503(b)(1) of such Code, the rate of such tax during the 24-month period referred to in section 9503(d)(1)(B) of such Code to be the same as the rate of such

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tax as in effect on the date of the enactment of the Surface
Transportation Extension Act of 2003.

Approved July 20, 2005.

LEGISLATIVE HISTORY—H.R. 3332:

CONGRESSIONAL RECORD, Vol. 151 (2005):

July 19, considered and passed House and Senate.

Public Law 109–36
109th Congress

An Act

To designate the facility of the United States Postal Service located at 301 South Heatherwilde Boulevard in Pflugerville, Texas, as the “Sergeant Byron W. Norwood Post Office Building”.

July 21, 2005
[H.R. 1001]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The facility of the United States Postal Service located at 301 South Heatherwilde Boulevard in Pflugerville, Texas, shall be known and designated as the “Sergeant Byron W. Norwood Post Office Building”.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the “Sergeant Byron W. Norwood Post Office Building”.

Approved July 21, 2005.

LEGISLATIVE HISTORY—H.R. 1001:

CONGRESSIONAL RECORD, Vol. 151 (2005):

Apr. 20, considered and passed House.

June 29, considered and passed Senate.



Public Law 109–37
109th Congress

An Act

July 22, 2005
[H.R. 3377]

To provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century.

Surface
Transportation
Extension Act of
2005, Part IV.
23 USC 101 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Surface Transportation Extension Act of 2005, Part IV”.

SEC. 2. ADVANCES.

(a) **IN GENERAL.**—Section 2(a)(1) of the Surface Transportation Extension Act of 2004, Part V (23 U.S.C. 104 note; 118 Stat. 1144; 119 Stat. 324; 119 Stat. 346; 119 Stat. 379) is amended by striking “, and the Surface Transportation Extension Act of 2005, Part III” and inserting “the Surface Transportation Extension Act of 2005, Part III, and the Surface Transportation Extension Act of 2005, Part IV”.

(b) **PROGRAMMATIC DISTRIBUTIONS.**—

(1) **SPECIAL RULES FOR MINIMUM GUARANTEE.**—Section 2(b)(4) of such Act (119 Stat. 324; 119 Stat. 346; 119 Stat. 379) is amended by striking “\$2,268,000,000” and inserting “\$2,301,370,400”.

(2) **EXTENSION OF OFF-SYSTEM BRIDGE SETASIDE.**—Section 144(g)(3) of title 23, United States Code, is amended by striking “July 21” inserting “July 27”.

(c) **AUTHORIZATION OF CONTRACT AUTHORITY.**—Section 1101(l)(1) of the Transportation Equity Act for the 21st Century (118 Stat. 1145; 119 Stat. 324; 119 Stat. 346; 119 Stat. 379) is amended by striking “\$27,563,412,240 for the period of October 1, 2004, through July 21, 2005” and inserting “\$27,968,968,718 for the period of October 1, 2004, through July 27, 2005”.

(d) **LIMITATION ON OBLIGATIONS.**—Section 2(e) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1146; 119 Stat. 324; 119 Stat. 346; 119 Stat. 379) is amended—

(1) in paragraph (1)—

(A) by striking “July 21” and inserting “July 27”;

(B) by striking “, and the Surface Transportation Extension Act of 2005, Part III” and inserting “the Surface Transportation Extension Act of 2005, Part III, and the Surface Transportation Extension Act of 2005, Part IV”; and

(C) by striking “80.8 percent” and inserting “82.2 percent”; and

23 USC 104 note.

(2) in paragraph (2)—

(A) by striking “July 21, 2005, shall not exceed \$28,107,000,000” and inserting “July 27, 2005, shall not exceed \$28,520,554,600”; and

(B) by striking “\$517,590,000” and inserting “\$525,205,602”; and

(3) in paragraph (3) by striking “July 21” and inserting “July 27”.

SEC. 3. ADMINISTRATIVE EXPENSES.

Section 4(a) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1147; 119 Stat. 325; 119 Stat. 346; 119 Stat. 379) is amended by striking “\$285,139,440” and inserting “\$289,334,862”.

SEC. 4. OTHER FEDERAL-AID HIGHWAY PROGRAMS.

(a) AUTHORIZATION OF APPROPRIATIONS UNDER TITLE I OF TEA–21.—

(1) FEDERAL LANDS HIGHWAYS.—

(A) INDIAN RESERVATION ROADS.—Section 1101(a)(8)(A) of the Transportation Equity Act for the 21st Century (112 Stat. 112; 118 Stat. 1147; 119 Stat. 325; 119 Stat. 346; 119 Stat. 379) is amended—

(i) in the first sentence by striking “\$222,750,000 for the period of October 1, 2004, through July 21, 2005” and inserting “\$226,027,450 for the period of October 1, 2004, through July 27, 2005”; and

(ii) in the second sentence by striking “\$10,530,000” and inserting “\$10,684,934”.

(B) PUBLIC LANDS HIGHWAYS.—Section 1101(a)(8)(B) of such Act (112 Stat. 112; 118 Stat. 1148; 119 Stat. 325; 119 Stat. 346; 119 Stat. 379) is amended by striking “\$199,260,000 for the period of October 1, 2004, through July 21, 2005” and inserting “\$202,191,828 for the period of October 1, 2004, through July 27, 2005”.

(C) PARK ROADS AND PARKWAYS.—Section 1101(a)(8)(C) of such Act (112 Stat. 112; 118 Stat. 1148; 119 Stat. 325; 119 Stat. 346; 119 Stat. 379) is amended by striking “\$133,650,000 for the period of October 1, 2004, through July 21, 2005” and inserting “\$135,616,470 for the period of October 1, 2004, through July 27, 2005”.

(D) REFUGE ROADS.—Section 1101(a)(8)(D) of such Act (112 Stat. 112; 118 Stat. 1148; 119 Stat. 326; 119 Stat. 346; 119 Stat. 379) is amended by striking “\$16,200,000 for the period of October 1, 2004, through July 21, 2005” and inserting “\$16,438,360 for the period of October 1, 2004, through July 27, 2005”.

(2) NATIONAL CORRIDOR PLANNING AND DEVELOPMENT AND COORDINATED BORDER INFRASTRUCTURE PROGRAMS.—Section 1101(a)(9) of such Act (112 Stat. 112; 118 Stat. 1148; 119 Stat. 326; 119 Stat. 346; 119 Stat. 379) is amended by striking “\$113,400,000 for the period of October 1, 2004, through July 21, 2005” and inserting “\$115,068,520 for the period of October 1, 2004, through July 27, 2005”.

(3) CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES.—

(A) IN GENERAL.—Section 1101(a)(10) of such Act (112 Stat. 113; 118 Stat. 1148; 119 Stat. 326; 119 Stat. 346;

119 Stat. 379) is amended by striking “\$30,780,000 for the period of October 1, 2004, through July 21, 2005” and inserting “\$31,232,884 for the period of October 1, 2004, through July 27, 2005”.

(B) SET ASIDE FOR ALASKA, NEW JERSEY, AND WASHINGTON.—Section 5(a)(3)(B) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1148; 119 Stat. 326; 119 Stat. 346; 119 Stat. 379) is amended—

(i) in clause (i) by striking “\$8,100,000” and inserting “\$8,219,180”;

(ii) in clause (ii) by striking “\$4,050,000” and inserting “\$4,109,590”; and

(iii) in clause (iii) by striking “\$4,050,000” and inserting “\$4,109,590”.

(4) NATIONAL SCENIC BYWAYS PROGRAM.—Section 1101(a)(11) of the Transportation Equity Act for the 21st Century (112 Stat. 113; 118 Stat. 1148; 119 Stat. 326; 119 Stat. 346; 119 Stat. 379) is amended by striking “\$21,465,000 for the period of October 1, 2004, through July 21, 2005” and inserting “\$21,780,827 for the period of October 1, 2004, through July 27, 2005”.

(5) VALUE PRICING PILOT PROGRAM.—Section 1101(a)(12) of such Act (112 Stat. 113; 118 Stat. 1148; 119 Stat. 326; 119 Stat. 346; 119 Stat. 379) is amended by striking “\$8,910,000 for the period of October 1, 2004, through July 21, 2005” and inserting “\$9,041,098 for the period of October 1, 2004, through July 27, 2005”.

(6) HIGHWAY USE TAX EVASION PROJECTS.—Section 1101(a)(14) of such Act (112 Stat. 113; 118 Stat. 1148; 119 Stat. 326; 119 Stat. 346; 119 Stat. 379) is amended by striking “\$4,050,000 for the period of October 1, 2004, through July 21, 2005” and inserting “\$4,109,590 for the period of October 1, 2004, through July 27, 2005”.

(7) COMMONWEALTH OF PUERTO RICO HIGHWAY PROGRAM.—Section 1101(a)(15) of the Transportation Equity Act for the 21st Century (112 Stat. 113; 118 Stat. 1149; 119 Stat. 326; 119 Stat. 346; 119 Stat. 379) is amended by striking “\$89,100,000 for the period of October 1, 2004, through July 21, 2005” and inserting “\$90,410,980 for the period of October 1, 2004, through July 27, 2005”.

(8) SAFETY GRANTS.—Section 1212(i)(1)(D) of such Act (23 U.S.C. 402 note; 112 Stat. 196; 112 Stat. 840; 118 Stat. 1149; 119 Stat. 326; 119 Stat. 346; 119 Stat. 379) is amended by striking “\$405,000 for the period of October 1, 2004, through July 21, 2005” and inserting “\$410,959 for the period of October 1, 2004, through July 27, 2005”.

(9) TRANSPORTATION AND COMMUNITY AND SYSTEM PRESERVATION PILOT PROGRAM.—Section 1221(e)(1) of such Act (23 U.S.C. 101 note; 112 Stat. 223; 118 Stat. 1149; 119 Stat. 327; 119 Stat. 346; 119 Stat. 379) is amended by striking “\$20,250,000 for the period of October 1, 2004, through July 21, 2005” and inserting “\$20,547,950 for the period of October 1, 2004, through July 27, 2005”.

(10) TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION.—Section 188 of title 23, United States Code, is amended—

(A) in subsection (a)(1) by striking subparagraph (G) and inserting the following:

“(G) \$106,849,340 for the period of October 1, 2004, through July 27, 2005.”;

(B) in subsection (a)(2) by striking “\$1,620,000 for the period of October 1, 2004, through July 21, 2005” and inserting “\$1,643,836 for the period of October 1, 2004, through July 27, 2005”; and

(C) in the item relating to fiscal year 2005 in the table contained in subsection (c) by striking “\$2,106,000,000” and inserting “\$2,136,986,800”.

(11) NATIONAL SCENIC BYWAYS CLEARINGHOUSE.—Section 1215(b)(3) of the Transportation Equity Act for the 21st Century (112 Stat. 210; 118 Stat. 1149; 119 Stat. 327; 119 Stat. 346; 119 Stat. 379) is amended—

(A) by striking “\$1,215,000” and inserting “\$1,232,877”; and

(B) by striking “July 21” and inserting “July 27”.

(b) AUTHORIZATION OF APPROPRIATIONS UNDER TITLE V OF TEA–21.—

(1) SURFACE TRANSPORTATION RESEARCH.—Section 5001(a)(1) of the Transportation Equity Act for the 21st Century (112 Stat. 419; 118 Stat. 1149; 119 Stat. 327; 119 Stat. 346; 119 Stat. 379) is amended by striking “\$83,430,000 for the period of October 1, 2004, through July 21, 2005” and inserting “\$84,657,554 for the period of October 1, 2004, through July 27, 2005”.

(2) TECHNOLOGY DEPLOYMENT PROGRAM.—Section 5001(a)(2) of such Act (112 Stat. 419; 118 Stat. 1149; 119 Stat. 327; 119 Stat. 346; 119 Stat. 379) is amended by striking “\$40,500,000 for the period of October 1, 2004, through July 21, 2005” and inserting “\$41,095,900 for the period of October 1, 2004, through July 27, 2005”.

(3) TRAINING AND EDUCATION.—Section 5001(a)(3) of such Act (112 Stat. 420; 118 Stat. 1150; 119 Stat. 327; 119 Stat. 346; 119 Stat. 379) is amended by striking “\$16,200,000 for the period of October 1, 2004, through July 21, 2005” and inserting “\$16,438,360 for the period of October 1, 2004, through July 27, 2005”.

(4) BUREAU OF TRANSPORTATION STATISTICS.—Section 5001(a)(4) of such Act (112 Stat. 420; 118 Stat. 1150; 119 Stat. 327; 119 Stat. 346; 119 Stat. 379) is amended by striking “\$25,110,000 for the period of October 1, 2004, through July 21, 2005” and inserting “\$25,479,458 for the period of October 1, 2004, through July 27, 2005”.

(5) ITS STANDARDS, RESEARCH, OPERATIONAL TESTS, AND DEVELOPMENT.—Section 5001(a)(5) of such Act (112 Stat. 420; 118 Stat. 1150; 119 Stat. 327; 119 Stat. 346; 119 Stat. 379) is amended by striking “\$89,100,000 for the period of October 1, 2004, through July 21, 2005” and inserting “\$90,410,980 for the period of October 1, 2004, through July 27, 2005”.

(6) ITS DEPLOYMENT.—Section 5001(a)(6) of such Act (112 Stat. 420; 118 Stat. 1150; 119 Stat. 327; 119 Stat. 346; 119 Stat. 379) is amended by striking “\$98,820,000 for the period of October 1, 2004, through July 21, 2005” and inserting “\$100,273,996 for the period of October 1, 2004, through July 27, 2005”.

(7) UNIVERSITY TRANSPORTATION RESEARCH.—Section 5001(a)(7) of such Act (112 Stat. 420; 118 Stat. 1150; 119 Stat. 328; 119 Stat. 346; 119 Stat. 379) is amended by striking “\$21,465,000 for the period of October 1, 2004, through July 21, 2005” and inserting “\$21,780,827 for the period of October 1, 2004, through July 27, 2005”.

(c) METROPOLITAN PLANNING.—Section 5(c)(1) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1150; 119 Stat. 328; 119 Stat. 346; 119 Stat. 379) is amended by striking “\$176,175,000 for the period of October 1, 2004, through July 21, 2005” and inserting “\$178,767,165 for the period of October 1, 2004, through July 27, 2005”.

(d) TERRITORIES.—Section 1101(d)(1) of the Transportation Equity Act for the 21st Century (112 Stat. 111; 118 Stat. 1150; 119 Stat. 328; 119 Stat. 346; 119 Stat. 379) is amended by striking “\$29,484,000 for the period of October 1, 2004, through July 21, 2005” and inserting “\$29,917,815 for the period of October 1, 2004, through July 27, 2005”.

(e) ALASKA HIGHWAY.—Section 1101(e)(1) of such Act (118 Stat. 1150; 119 Stat. 328; 119 Stat. 346; 119 Stat. 379) is amended by striking “\$15,228,000 for the period of October 1, 2004, through July 21, 2005” and inserting “\$15,452,058 for the period of October 1, 2004, through July 27, 2005”.

(f) OPERATION LIFESAVER.—Section 1101(f)(1) of such Act (118 Stat. 1151; 119 Stat. 328; 119 Stat. 346; 119 Stat. 379) is amended by striking “\$405,000 for the period of October 1, 2004, through July 21, 2005” and inserting “\$410,959 for the period of October 1, 2004, through July 27, 2005”.

(g) BRIDGE DISCRETIONARY.—Section 1101(g)(1) of such Act (118 Stat. 1151; 119 Stat. 328; 119 Stat. 346; 119 Stat. 379) is amended—

(1) by striking “\$81,000,000” and inserting “\$82,191,800”; and

(2) by striking “July 21” and inserting “July 27”.

(h) INTERSTATE MAINTENANCE.—Section 1101(h)(1) of such Act (118 Stat. 1151; 119 Stat. 328; 119 Stat. 346; 119 Stat. 379) is amended—

(1) by striking “\$81,000,000” and inserting “\$82,191,800”; and

(2) by striking “July 21” and inserting “July 27”.

(i) RECREATIONAL TRAILS ADMINISTRATIVE COSTS.—Section 1101(i)(1) of such Act (118 Stat. 1151; 119 Stat. 328; 119 Stat. 346; 119 Stat. 379) is amended by striking “\$607,500 for the period of October 1, 2004, through July 21, 2005” and inserting “\$616,439 for the period of October 1, 2004, through July 27, 2005”.

(j) RAILWAY-HIGHWAY CROSSING HAZARD ELIMINATION IN HIGH SPEED RAIL CORRIDORS.—Section 1101(j)(1) of such Act (118 Stat. 1151; 119 Stat. 328; 119 Stat. 346; 119 Stat. 379) is amended—

(1) by striking “\$4,252,000” and inserting “\$4,315,069”;

(2) by striking “\$202,500” and inserting “\$205,480”; and

(3) by striking “July 21” each place it appears and inserting “July 27”.

(k) NONDISCRIMINATION.—Section 1101(k) of such Act (118 Stat. 1151; 119 Stat. 328; 119 Stat. 346; 119 Stat. 379) is amended—

(1) in paragraph (1) by striking “\$8,100,000 for the period of October 1, 2004, through July 21, 2005” and inserting “\$8,219,180 for the period of October 1, 2004, through July 27, 2005”; and

(2) in paragraph (2) by striking “\$8,100,000 for the period of October 1, 2004, through July 21, 2005” and inserting “\$8,219,180 for the period of October 1, 2004, through July 27, 2005”.

(l) ADMINISTRATION OF FUNDS.—Section 5(l) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1151; 119 Stat. 329; 119 Stat. 346; 119 Stat. 379) is amended—

(1) by striking “and section 4 of the Surface Transportation Extension Act of 2005, Part III” and inserting “section 4 of the Surface Transportation Extension Act of 2005, Part III, and section 4 of the Surface Transportation Extension Act of 2005, Part IV”; and

(2) by striking “and section 4(a) of the Surface Transportation Extension Act of 2005, Part III” and inserting “section 4(a) of the Surface Transportation Extension Act of 2005, Part III, and section 4(a) of the Surface Transportation Extension Act of 2005, Part IV”.

(m) REDUCTION OF ALLOCATED PROGRAMS.—Section 5(m) of such Act (118 Stat. 1151; 119 Stat. 329; 119 Stat. 346; 119 Stat. 379) is amended—

(1) by striking “and section 4 of Surface Transportation Extension Act of 2005, Part III” and inserting “section 4 of the Surface Transportation Extension Act of 2005, Part III, and section 4 of the Surface Transportation Extension Act of 2005, Part IV”; and

(2) by striking “and section 4 of the Surface Transportation Extension Act, Part III” the first place it appears and inserting “section 4 of the Surface Transportation Extension Act, Part III, and section 4 of the Surface Transportation Extension Act, Part IV”; and

(3) by striking “, and section 4 of the Surface Transportation Extension Act, Part III” the second place it appears and inserting “section 4 of the Surface Transportation Extension Act of 2005, Part III, and section 4 of the Surface Transportation Extension Act, Part IV”.

(n) PROGRAM CATEGORY RECONCILIATION.—Section 5(n) of such Act (118 Stat. 1151; 119 Stat. 329; 119 Stat. 346; 119 Stat. 379) is amended by striking “, and section 4 of the Surface Transportation Extension Act, Part III” and inserting “section 4 of the Surface Transportation Extension Act of 2005, Part III, and section 4 of the Surface Transportation Extension Act, Part IV”.

SEC. 5. EXTENSION OF HIGHWAY SAFETY PROGRAMS.

(a) CHAPTER 1 HIGHWAY SAFETY PROGRAMS.—

(1) SEAT BELT SAFETY INCENTIVE GRANTS.—Section 157(g)(1) of title 23, United States Code, is amended by striking “\$90,720,000 for the period of October 1, 2004, through July 21, 2005” and inserting “\$92,054,794 for the period of October 1, 2004, through July 27, 2005”.

(2) PREVENTION OF INTOXICATED DRIVER INCENTIVE GRANTS.—Section 163(e)(1) of such title is amended by striking “\$89,100,000 for the period of October 1, 2004, through July 21, 2005” and inserting “\$90,410,958 for the period of October 1, 2004, through July 27, 2005”.

(b) CHAPTER 4 HIGHWAY SAFETY PROGRAMS.—Section 2009(a)(1) of the Transportation Equity Act for the 21st Century (112 Stat. 337; 118 Stat. 1152; 119 Stat. 329; 119 Stat. 346; 119 Stat. 379)

is amended by striking “\$133,650,000 for the period of October 1, 2004, through July 21, 2005” and inserting “\$135,616,438 for the period of October 1, 2004, through July 27, 2005”.

(c) HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.—Section 2009(a)(2) of such Act (112 Stat. 337; 118 Stat. 1152; 119 Stat. 329; 119 Stat. 346; 119 Stat. 379) is amended by striking “\$58,320,000 for the period of October 1, 2004, through July 21, 2005” and inserting “\$59,178,082 for the period of October 1, 2004, through July 27, 2005”.

(d) OCCUPANT PROTECTION INCENTIVE GRANTS.—Section 2009(a)(3) of such Act (112 Stat. 337; 118 Stat. 1152; 119 Stat. 329; 119 Stat. 346; 119 Stat. 379) is amended by striking “\$16,200,000 for the period of October 1, 2004, through July 21, 2005” and inserting “\$16,438,356 for the period of October 1, 2004, through July 27, 2005”.

(e) ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES INCENTIVE GRANTS.—Section 2009(a)(4) of such Act (112 Stat. 337; 118 Stat. 1153; 119 Stat. 329; 119 Stat. 346; 119 Stat. 379) is amended by striking “\$32,400,000 for the period of October 1, 2004, through July 21, 2005” and inserting “\$32,876,712 for the period of October 1, 2004, through July 27, 2005”.

(f) NATIONAL DRIVER REGISTER.—

(1) FUNDING.—Section 2009(a)(6) of such Act (112 Stat. 338; 118 Stat. 1153; 119 Stat. 330; 119 Stat. 346; 119 Stat. 379) is amended by striking “\$2,916,000 for the period of October 1, 2004, through July 21, 2005” and inserting “\$2,958,904 for the period of October 1, 2004, through July 27, 2005”.

(2) CONTRACT AUTHORITY.—Funds made available by the amendments made by paragraph (1) and by section 5(f) of the Surface Transportation Extension Act of 2005 (119 Stat. 330; 119 Stat. 346; 119 Stat. 379) shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code.

SEC. 6. FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION PROGRAM.

(a) ADMINISTRATIVE EXPENSES.—Section 7(a)(1) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1153; 119 Stat. 330; 119 Stat. 346; 119 Stat. 379) is amended by striking “\$208,154,425 for the period of October 1, 2004, through July 21, 2005” and inserting “\$211,682,467 for the period of October 1, 2004, through July 27, 2005”.

(b) MOTOR CARRIER SAFETY ASSISTANCE PROGRAM.—Section 31104(a)(8) of title 49, United States Code, is amended to read as follows:

“(8) Not more than \$138,904,110 for the period of October 1, 2004, through July 27, 2005.”.

(c) INFORMATION SYSTEMS AND COMMERCIAL DRIVER’S LICENSE GRANTS.—

(1) AUTHORIZATION OF APPROPRIATION.—Section 31107(a)(6) of such title is amended to read as follows:

“(6) \$16,438,356 for the period of October 1, 2004, through July 27, 2005.”.

(2) EMERGENCY CDL GRANTS.—Section 7(c)(2) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1153; 119 Stat. 330; 119 Stat. 346; 119 Stat. 379) is amended—

- (A) by striking “July 21” and inserting “July 27”; and
 - (B) by striking “\$808,219” and inserting “\$821,918”.
- (d) CRASH CAUSATION STUDY.—Section 7(d) of such Act (118 Stat. 1154; 119 Stat. 330; 119 Stat. 346; 119 Stat. 379) is amended—
- (1) by striking “\$808,219” and inserting “\$821,918”; and
 - (2) by striking “July 21” and inserting “July 27”.

SEC. 7. EXTENSION OF FEDERAL TRANSIT PROGRAMS.

(a) ALLOCATING AMOUNTS.—Section 5309(m) of title 49, United States Code, is amended—

- (1) in the matter preceding subparagraph (A) of paragraph (1) by striking “July 21, 2005” and inserting “July 27, 2005”;
- (2) in paragraph (2)(B)(iii)—
 - (A) in the heading by striking “JULY 21, 2005” and inserting “JULY 27, 2005”;
 - (B) by striking “\$8,424,000” and inserting “\$8,547,000”;
- and
- (C) by striking “July 21, 2005” and inserting “July 27, 2005”;
- (3) in paragraph (3)(B)—
 - (A) by striking “\$2,430,000” and inserting “\$2,465,754”;
- and
- (B) by striking “July 21, 2005” and inserting “July 27, 2005”; and
- (4) in paragraph (3)(C)—
 - (A) by striking “\$40,500,000” and inserting “\$41,095,900”; and
 - (B) by striking “July 21, 2005” and inserting “July 27, 2005”.

(b) FORMULA GRANTS AUTHORIZATIONS.—Section 5338(a) of title 49, United States Code, is amended—

- (1) in the heading to paragraph (2) by striking “JULY 21, 2005” and inserting “JULY 27, 2005”;
- (2) in paragraph (2)(A)(vii)—
 - (A) by striking “\$2,793,483,000” and inserting “\$2,795,000,000”; and
 - (B) by striking “July 21, 2005” and inserting “July 27, 2005”;
- (3) in paragraph (2)(B)(vii) by striking “July 21, 2005” and inserting “July 27, 2005”; and
- (4) in paragraph (2)(C) by striking “July 21, 2005” and inserting “July 27, 2005”.

(c) FORMULA GRANT FUNDS.—Section 8(d) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1155; 119 Stat. 331; 119 Stat. 346; 119 Stat. 379) is amended—

- (1) in the heading by striking “JULY 21, 2005” and inserting “JULY 27, 2005”;
- (2) in the matter preceding paragraph (1) by striking “July 21, 2005” and inserting “July 27, 2005”;
- (3) in paragraph (1) by striking “\$3,928,459” and inserting “\$3,986,261”;
- (4) in paragraph (2) by striking “\$40,500,000” and inserting “\$41,095,900”;
- (5) in paragraph (3) by striking “\$79,052,761” and inserting “\$79,100,000”;
- (6) in paragraph (4) by striking “\$209,819,203” and inserting “\$210,000,000”; and

(7) in paragraph (5) by striking “\$5,629,500” and inserting “\$5,712,330”.

(d) CAPITAL PROGRAM AUTHORIZATIONS.—Section 5338(b)(2) of title 49, United States Code, is amended—

(1) in the heading by striking “JULY 21, 2005” and inserting “JULY 27, 2005”;

(2) in subparagraph (A)(vii)—

(A) by striking “\$2,263,265,142” and inserting “\$2,309,000,366”; and

(B) by striking “July 21, 2005” and inserting “July 27, 2005”; and

(3) in subparagraph (B)(vii) by striking “July 21, 2005” and inserting “July 27, 2005”.

(e) PLANNING AUTHORIZATIONS AND ALLOCATIONS.—Section 5338(c)(2) of title 49, United States Code, is amended—

(1) in the heading by striking “JULY 21, 2005” and inserting “JULY 27, 2005”;

(2) in subparagraph (A)(vii)—

(A) by striking “\$48,546,727” and inserting “\$49,546,681”; and

(B) by striking “July 21, 2005” and inserting “July 27, 2005”; and

(3) in subparagraph (B)(vii) by striking “July 21, 2005” and inserting “July 27, 2005”.

(f) RESEARCH AUTHORIZATIONS.—Section 5338(d)(2) of title 49, United States Code, is amended—

(1) in the heading by striking “JULY 21, 2005” and inserting “JULY 27, 2005”;

(2) in subparagraph (A)(vii)—

(A) by striking “\$37,385,434” and inserting “\$39,554,804”; and

(B) by striking “July 21, 2005” and inserting “July 27, 2005”;

(3) in subparagraph (B)(vii) by striking “July 21, 2005” and inserting “July 27, 2005”; and

(4) in subparagraph (C) by striking “July 21, 2005” and inserting “July 27, 2005”.

(g) ALLOCATION OF RESEARCH FUNDS.—Section 8(h) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1156; 119 Stat. 332; 119 Stat. 346; 119 Stat. 379) is amended—

(1) in the heading by striking “JULY 21, 2005” and inserting “JULY 27, 2005”;

(2) in the matter preceding paragraph (1) by striking “July 21, 2005” and inserting “July 27, 2005”;

(3) in paragraph (1) by striking “\$4,252,500” and inserting “\$4,315,070”;

(4) in paragraph (2) by striking “\$6,682,500” and inserting “\$6,780,824”; and

(5) in paragraph (3)—

(A) by striking “\$3,240,000” and inserting “\$3,287,672”; and

(B) by striking “\$810,000” and inserting “\$821,918”.

(h) UNIVERSITY TRANSPORTATION RESEARCH AUTHORIZATIONS.—Section 5338(e)(2) of title 49, United States Code, is amended—

(1) in the heading by striking “JULY 21, 2005” and inserting “JULY 27, 2005”;

(2) in subparagraph (A)—

(A) by striking “\$4,060,000” and inserting “\$4,131,508”; and

(B) by striking “July 21, 2005” and inserting “July 27, 2005”;

(3) in subparagraph (B) by striking “July 21, 2005” and inserting “July 27, 2005”; and

(4) in subparagraphs (C)(i) and (C)(iii) by striking “July 21, 2005” and inserting “July 27, 2005”.

(i) ALLOCATION OF UNIVERSITY TRANSPORTATION RESEARCH FUNDS.—

(1) IN GENERAL.—Section 8(j) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1157; 119 Stat. 332; 119 Stat. 346; 119 Stat. 379) is amended—

(A) in the matter preceding subparagraph (A) of paragraph (1) by striking “July 21, 2005” and inserting “July 27, 2005”;

(B) in paragraph (1)(A) by striking “\$1,620,000” and inserting “\$1,643,836”;

(C) in paragraph (1)(B) by striking “\$1,620,000” and inserting “\$1,643,836”; and

(D) in paragraph (2) by striking “July 21, 2005” and inserting “July 27, 2005”.

(2) CONFORMING AMENDMENT.—Section 3015(d)(2) of the Transportation Equity Act for the 21st Century (49 U.S.C. 5338 note; 112 Stat. 857; 118 Stat. 1157; 119 Stat. 332; 119 Stat. 346; 119 Stat. 379) is amended by striking “July 21, 2005” and inserting “July 27, 2005”.

(j) ADMINISTRATION AUTHORIZATIONS.—Section 5338(f)(2) of title 49, United States Code, is amended—

(1) in the heading by striking “JULY 21, 2005” and inserting “JULY 27, 2005”;

(2) in subparagraph (A)(vii)—

(A) by striking “\$52,780,000” and inserting “\$53,709,604”; and

(B) by striking “July 21, 2005” and inserting “July 27, 2005”; and

(3) in subparagraph (B)(vii) by striking “July 21, 2005” and inserting “July 27, 2005”.

(k) JOB ACCESS AND REVERSE COMMUTE PROGRAM.—Section 3037(l) of the Transportation Equity Act for the 21st Century (49 U.S.C. 5309 note; 112 Stat. 391; 118 Stat. 1157; 119 Stat. 333; 119 Stat. 346; 119 Stat. 379) is amended—

(1) in paragraph (1)(A)(vii)—

(A) by striking “\$81,027,500” and inserting “\$82,739,750”; and

(B) by striking “July 21, 2005” and inserting “July 27, 2005”;

(2) in paragraph (1)(B)(vii) by striking “July 21, 2005” and inserting “July 27, 2005”; and

(3) in paragraph (2) by striking “July 21, 2005, not more than \$8,100,000” and inserting “July 27, 2005, not more than \$8,219,180”.

(l) RURAL TRANSPORTATION ACCESSIBILITY INCENTIVE PROGRAM.—Section 3038(g) of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note; 112 Stat. 393; 118 Stat. 1158; 119 Stat. 333; 119 Stat. 346; 119 Stat. 379) is amended—

(1) by striking paragraph (1)(G) and inserting the following:

“(G) \$5,712,330 for the period of October 1, 2004, through July 27, 2005.”; and

(2) in paragraph (2)—

(A) by striking “\$1,407,375” and inserting “\$1,428,082”; and

(B) by striking “July 21, 2005” and inserting “July 27, 2005”.

(m) URBANIZED AREA FORMULA GRANTS.—Section 5307(b)(2) of title 49, United States Code, is amended—

(1) in the heading by striking “JULY 21, 2005” and inserting “JULY 27, 2005”; and

(2) in subparagraph (A) by striking “July 21, 2005” and inserting “July 27, 2005”.

(n) OBLIGATION CEILING.—Section 3040(7) of the Transportation Equity Act for the 21st Century (112 Stat. 394; 118 Stat. 1158; 119 Stat. 333; 119 Stat. 346; 119 Stat. 379) is amended—

(1) by striking “\$6,229,759,760” and inserting “\$6,335,343,944”; and

(2) by striking “July 21, 2005” and inserting “July 27, 2005”.

(o) FUEL CELL BUS AND BUS FACILITIES PROGRAM.—Section 3015(b) of the Transportation Equity Act for the 21st Century (112 Stat. 361; 118 Stat. 1158; 119 Stat. 333; 119 Stat. 346; 119 Stat. 379) is amended—

(1) by striking “July 21, 2005” and inserting “July 27, 2005”; and

(2) by striking “\$3,928,500” and inserting “\$3,986,000”.

23 USC 322 note.

(p) ADVANCED TECHNOLOGY PILOT PROJECT.—Section 3015(c)(2) of the Transportation Equity Act for the 21st Century (49 U.S.C. 322 note; 112 Stat. 361; 118 Stat. 1158; 119 Stat. 334; 119 Stat. 346; 119 Stat. 379) is amended—

(1) by striking “July 21, 2005” and inserting “July 27, 2005,”; and

(2) by striking “\$4,050,000” and inserting “\$4,100,000”.

(q) PROJECTS FOR NEW FIXED GUIDEWAY SYSTEMS AND EXTENSIONS TO EXISTING SYSTEMS.—Subsections (a), (b), and (c)(1) of section 3030 of the Transportation Equity Act for the 21st Century (112 Stat. 373; 118 Stat. 1158; 119 Stat. 334; 119 Stat. 346; 119 Stat. 379) are amended by striking “July 21, 2005” and inserting “July 27, 2005”.

(r) NEW JERSEY URBAN CORE PROJECT.—Subparagraphs (A), (B), and (C) of section 3031(a)(3) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2122; 118 Stat. 1158; 119 Stat. 334; 119 Stat. 346; 119 Stat. 379) are amended by striking “July 21, 2005” and inserting “July 27, 2005”.

(s) LOCAL SHARE.—Section 3011(a) of the Transportation Equity Act for the 21st Century (49 U.S.C. 5307 note; 118 Stat. 1158; 119 Stat. 334; 119 Stat. 346; 119 Stat. 379) is amended by striking “July 21, 2005” and inserting “July 27, 2005”.

SEC. 8. SPORT FISHING AND BOATING SAFETY.

(a) FUNDING FOR NATIONAL OUTREACH AND COMMUNICATIONS PROGRAM.—Section 4(c)(7) of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777c(c)) is amended to read as follows:

“(7) \$8,219,180 for the period of October 1, 2004, through July 27, 2005.”.

(b) CLEAN VESSEL ACT FUNDING.—Section 4(b)(4) of such Act (16 U.S.C. 777c(b)(4)) is amended to read as follows:

“(4) FIRST 300 DAYS OF FISCAL YEAR 2005.—For the period of October 1, 2004, through July 27, 2005, of the balance of each annual appropriation remaining after making the distribution under subsection (a), an amount equal to \$66,500,000, reduced by 82 percent of the amount appropriated for that fiscal year from the Boat Safety Account of the Aquatic Resources Trust Fund established by section 9504 of the Internal Revenue Code of 1986 to carry out the purposes of section 13106(a) of title 46, United States Code, shall be used as follows:

“(A) \$8,219,180 shall be available to the Secretary of the Interior for 3 fiscal years for obligation for qualified projects under section 5604(c) of the Clean Vessel Act of 1992 (33 U.S.C. 1322 note).

“(B) \$6,480,000 shall be available to the Secretary of the Interior for 3 fiscal years for obligation for qualified projects under section 7404(d) of the Sportfishing and Boating Safety Act of 1998 (16 U.S.C. 777g–1(d)).

“(C) The balance remaining after the application of subparagraphs (A) and (B) shall be transferred to the Secretary of Transportation and shall be expended for State recreational boating safety programs under section 13106 of title 46, United States Code.”.

(c) BOAT SAFETY FUNDS.—Section 13106(c) of title 46, United States Code, is amended—

- (1) by striking “\$4,050,000” and inserting “\$4,100,000”; and
- (2) by striking “\$1,620,003” and inserting “\$1,643,836”.

SEC. 9. EXTENSION OF AUTHORIZATION FOR USE OF TRUST FUNDS FOR OBLIGATIONS UNDER TEA-21.

(a) HIGHWAY TRUST FUND.—

(1) IN GENERAL.—Paragraph (1) of section 9503(c) of the Internal Revenue Code of 1986 is amended—

(A) in the matter before subparagraph (A), by striking “July 22, 2005” and inserting “July 28, 2005”;

(B) by striking “or” at the end of subparagraph (M);

(C) by striking the period at the end of subparagraph (N) and inserting “, or”;

(D) by inserting after subparagraph (N) the following new subparagraph:

“(O) authorized to be paid out of the Highway Trust Fund under the Surface Transportation Extension Act of 2005, Part IV.”, and

(E) in the matter after subparagraph (O), as added by this paragraph, by striking “Surface Transportation Extension Act of 2005, Part III” and inserting “Surface Transportation Extension Act of 2005, Part IV”.

(2) MASS TRANSIT ACCOUNT.—Paragraph (3) of section 9503(e) of such Code is amended—

(A) in the matter before subparagraph (A), by striking “July 22, 2005” and inserting “July 28, 2005”;

(B) in subparagraph (K), by striking “or” at the end of such subparagraph;

(C) in subparagraph (L), by inserting “or” at the end of such subparagraph;

26 USC 9503.

(D) by inserting after subparagraph (L) the following new subparagraph:

“(M) the Surface Transportation Extension Act of 2005, Part IV,”; and

(E) in the matter after subparagraph (M), as added by this paragraph, by striking “Surface Transportation Extension Act of 2005, Part III” and inserting “Surface Transportation Extension Act of 2005, Part IV”.

(3) EXCEPTION TO LIMITATION ON TRANSFERS.—Subparagraph (B) of section 9503(b)(6) of such Code is amended by striking “July 22, 2005” and inserting “July 28, 2005”.

(b) AQUATIC RESOURCES TRUST FUND.—

26 USC 9504.

(1) SPORT FISH RESTORATION ACCOUNT.—Paragraph (2) of section 9504(b) of the Internal Revenue Code of 1986 is amended by striking “Surface Transportation Extension Act of 2005, Part III” each place it appears and inserting “Surface Transportation Extension Act of 2005, Part IV”.

(2) BOAT SAFETY ACCOUNT.—Subsection (c) of section 9504 of such Code is amended—

(A) by striking “July 22, 2005” and inserting “July 28, 2005”; and

(B) by striking “Surface Transportation Extension Act of 2005, Part III” and inserting “Surface Transportation Extension Act of 2005, Part IV”.

(3) EXCEPTION TO LIMITATION ON TRANSFERS.—Paragraph (2) of section 9504(d) of such Code is amended by striking “July 22, 2005” and inserting “July 28, 2005”.

26 USC 9503
note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(d) TEMPORARY RULE REGARDING ADJUSTMENTS.—During the period beginning on the date of the enactment of the Surface Transportation Extension Act of 2003 and ending on July 27, 2005, for purposes of making any estimate under section 9503(d) of the Internal Revenue Code of 1986 of receipts of the Highway Trust Fund, the Secretary of the Treasury shall treat—

(1) each expiring provision of paragraphs (1) through (4) of section 9503(b) of such Code which is related to appropriations or transfers to such Fund to have been extended through the end of the 24-month period referred to in section 9503(d)(1)(B) of such Code; and

(2) with respect to each tax imposed under the sections referred to in section 9503(b)(1) of such Code, the rate of such tax during the 24-month period referred to in section 9503(d)(1)(B) of such Code to be the same as the rate of such

tax as in effect on the date of the enactment of the Surface
Transportation Extension Act of 2003.

Approved July 22, 2005.

LEGISLATIVE HISTORY—H.R. 3377:

CONGRESSIONAL RECORD, Vol. 151 (2005):

July 21, considered and passed House and Senate.



Public Law 109–38
109th Congress

An Act

July 27, 2005
[H.R. 3071]

To permit the individuals currently serving as Executive Director, Deputy Executive Directors, and General Counsel of the Office of Compliance to serve one additional term.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

2 USC 1832 note.

SECTION 1. PERMITTING CURRENT EXECUTIVE DIRECTOR, DEPUTY EXECUTIVE DIRECTORS, AND GENERAL COUNSEL OF OFFICE OF COMPLIANCE TO SERVE ONE ADDITIONAL TERM.

(a) EXECUTIVE DIRECTOR.—Notwithstanding section 302(a)(3) of the Congressional Accountability Act of 1995 (2 U.S.C. 1382(a)(3)), the individual serving as Executive Director of the Office of Compliance as of the date of the enactment of this Act may serve one additional term.

(b) DEPUTY EXECUTIVE DIRECTORS.—Notwithstanding section 302(b)(2) of such Act (2 U.S.C. 1382(b)(2)), any individual serving as a Deputy Executive Director of the Office of Compliance as of the date of the enactment of this Act may serve one additional term.

(c) GENERAL COUNSEL.—Notwithstanding section 302(c)(5) of such Act (2 U.S.C. 1382(c)(5)), the individual serving as General Counsel of the Office of Compliance as of the date of the enactment of this Act may serve one additional term.

Approved July 27, 2005.

LEGISLATIVE HISTORY—H.R. 3071:

CONGRESSIONAL RECORD, Vol. 151 (2005):
June 30, considered and passed House.
July 13, considered and passed Senate.



Public Law 109–39
109th Congress

Joint Resolution

Approving the renewal of import restrictions contained in the Burmese Freedom
and Democracy Act of 2003.

July 27, 2005
[H.J. Res. 52]

*Resolved by the Senate and House of Representatives of the
United States of America in Congress assembled, That Congress*
approves the renewal of the import restrictions contained in section
3(a)(1) of the Burmese Freedom and Democracy Act of 2003.

50 USC 1701
note.

Approved July 27, 2005.

LEGISLATIVE HISTORY—H.J. Res. 52 (S.J. Res. 18):

SENATE REPORTS: No. 109–101 accompanying S.J. Res. 18 (Comm. on Finance).

CONGRESSIONAL RECORD, Vol. 151 (2005):

June 21, considered and passed House.

July 19, considered and passed Senate.



Public Law 109–40
109th Congress

An Act

July 28, 2005
[H.R. 3453]

To provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century.

Surface
Transportation
Extension Act of
2005, Part V.
23 USC 101 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Surface Transportation Extension Act of 2005, Part V”.

SEC. 2. ADVANCES.

(a) **IN GENERAL.**—Section 2(a)(1) of the Surface Transportation Extension Act of 2004, Part V (23 U.S.C. 104 note; 118 Stat. 1144; 119 Stat. 324; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking “and the Surface Transportation Extension Act of 2005, Part IV” and inserting “the Surface Transportation Extension Act of 2005, Part IV, and the Surface Transportation Extension Act of 2005, Part V”.

(b) **PROGRAMMATIC DISTRIBUTIONS.**—

(1) **SPECIAL RULES FOR MINIMUM GUARANTEE.**—Section 2(b)(4) of such Act (119 Stat. 324; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking “\$2,301,370,400” and inserting “\$2,324,000,000”.

(2) **EXTENSION OF OFF-SYSTEM BRIDGE SETASIDE.**—Section 144(g)(3) of title 23, United States Code, is amended by striking “July 27” and inserting “July 30”.

(c) **AUTHORIZATION OF CONTRACT AUTHORITY.**—Section 1101(l)(1) of the Transportation Equity Act for the 21st Century (118 Stat. 1145; 119 Stat. 324; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking “\$27,968,968,718 for the period of October 1, 2004, through July 27, 2005” and inserting “\$28,243,990,320 for the period of October 1, 2004, through July 30, 2005”.

23 USC 104 note.

(d) **LIMITATION ON OBLIGATIONS.**—Section 2(e) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1146; 119 Stat. 324; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended—

(1) in paragraph (1)—

(A) by striking “July 27” and inserting “July 30”;

(B) by striking “and the Surface Transportation Extension Act of 2005, Part IV” and inserting “the Surface Transportation Extension Act of 2005, Part IV, and the Surface Transportation Extension Act of 2005, Part V”;

and

(C) by striking “82.2 percent” and inserting “83 percent”; and

(2) in paragraph (2)—

(A) by striking “July 27, 2005, shall not exceed \$28,520,554,600” and inserting “July 30, 2005, shall not exceed \$28,801,000,000”; and

(B) by striking “\$525,205,602” and inserting “\$530,370,000”; and

(3) in paragraph (3) by striking “July 27” and inserting “July 30”.

SEC. 3. ADMINISTRATIVE EXPENSES.

Section 4(a) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1147; 119 Stat. 325; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking “\$289,334,862” and inserting “\$292,179,920”.

SEC. 4. OTHER FEDERAL-AID HIGHWAY PROGRAMS.

(a) AUTHORIZATION OF APPROPRIATIONS UNDER TITLE I OF TEA-21.—

(1) FEDERAL LANDS HIGHWAYS.—

(A) INDIAN RESERVATION ROADS.—Section 1101(a)(8)(A) of the Transportation Equity Act for the 21st Century (112 Stat. 112; 118 Stat. 1147; 119 Stat. 325; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended—

(i) in the first sentence by striking “\$226,027,450 for the period of October 1, 2004, through July 27, 2005” and inserting “\$228,250,000 for the period of October 1, 2004, through July 30, 2005”; and

(ii) in the second sentence by striking “\$10,684,934” and inserting “\$10,790,000”.

(B) PUBLIC LANDS HIGHWAYS.—Section 1101(a)(8)(B) of such Act (112 Stat. 112; 118 Stat. 1148; 119 Stat. 325; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking “\$202,191,828 for the period of October 1, 2004, through July 27, 2005” and inserting “\$204,180,000 for the period of October 1, 2004, through July 30, 2005”.

(C) PARK ROADS AND PARKWAYS.—Section 1101(a)(8)(C) of such Act (112 Stat. 112; 118 Stat. 1148; 119 Stat. 325; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking “\$135,616,470 for the period of October 1, 2004, through July 27, 2005” and inserting “\$136,950,000 for the period of October 1, 2004, through July 30, 2005”.

(D) REFUGE ROADS.—Section 1101(a)(8)(D) of such Act (112 Stat. 112; 118 Stat. 1148; 119 Stat. 326; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking “\$16,438,360 for the period of October 1, 2004, through July 27, 2005” and inserting “\$16,600,000 for the period of October 1, 2004, through July 30, 2005”.

(2) NATIONAL CORRIDOR PLANNING AND DEVELOPMENT AND COORDINATED BORDER INFRASTRUCTURE PROGRAMS.—Section 1101(a)(9) of such Act (112 Stat. 112; 118 Stat. 1148; 119 Stat. 326; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking “\$115,068,520 for the period of October 1, 2004, through July 27, 2005” and inserting “\$116,200,000 for the period of October 1, 2004, through July 30, 2005”.

(3) CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES.—

(A) IN GENERAL.—Section 1101(a)(10) of such Act (112 Stat. 113; 118 Stat. 1148; 119 Stat. 326; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking “\$31,232,884 for the period of October 1, 2004, through July 27, 2005” and inserting “\$31,540,000 for the period of October 1, 2004, through July 30, 2005”.

(B) SET ASIDE FOR ALASKA, NEW JERSEY, AND WASHINGTON.—Section 5(a)(3)(B) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1148; 119 Stat. 326; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended—

(i) in clause (i) by striking “\$8,219,180” and inserting “\$8,300,000”;

(ii) in clause (ii) by striking “\$4,109,590” and inserting “\$4,150,000”; and

(iii) in clause (iii) by striking “\$4,109,590” and inserting “\$4,150,000”.

(4) NATIONAL SCENIC BYWAYS PROGRAM.—Section 1101(a)(11) of the Transportation Equity Act for the 21st Century (112 Stat. 113; 118 Stat. 1148; 119 Stat. 326; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking “\$21,780,827 for the period of October 1, 2004, through July 27, 2005” and inserting “\$21,995,000 for the period of October 1, 2004, through July 30, 2005”.

(5) VALUE PRICING PILOT PROGRAM.—Section 1101(a)(12) of such Act (112 Stat. 113; 118 Stat. 1148; 119 Stat. 326; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking “\$9,041,098 for the period of October 1, 2004, through July 27, 2005” and inserting “\$9,130,000 for the period of October 1, 2004, through July 30, 2005”.

(6) HIGHWAY USE TAX EVASION PROJECTS.—Section 1101(a)(14) of such Act (112 Stat. 113; 118 Stat. 1148; 119 Stat. 326; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking “\$4,109,590 for the period of October 1, 2004, through July 27, 2005” and inserting “\$4,150,000 for the period of October 1, 2004, through July 30, 2005”.

(7) COMMONWEALTH OF PUERTO RICO HIGHWAY PROGRAM.—Section 1101(a)(15) of the Transportation Equity Act for the 21st Century (112 Stat. 113; 118 Stat. 1149; 119 Stat. 326; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking “\$90,410,980 for the period of October 1, 2004, through July 27, 2005” and inserting “\$91,300,000 for the period of October 1, 2004, through July 30, 2005”.

(8) SAFETY GRANTS.—Section 1212(i)(1)(D) of such Act (23 U.S.C. 402 note; 112 Stat. 196; 112 Stat. 840; 118 Stat. 1149; 119 Stat. 326; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking “\$410,959 for the period of October 1, 2004, through July 27, 2005” and inserting “\$415,000 for the period of October 1, 2004, through July 30, 2005”.

(9) TRANSPORTATION AND COMMUNITY AND SYSTEM PRESERVATION PILOT PROGRAM.—Section 1221(e)(1) of such Act (23 U.S.C. 101 note; 112 Stat. 223; 118 Stat. 1149; 119 Stat. 327; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking “\$20,547,950 for the period of October 1, 2004, through July 27, 2005” and inserting “\$20,750,000 for the period of October 1, 2004, through July 30, 2005”.

(10) TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION.—Section 188 of title 23, United States Code, is amended—

(A) in subsection (a)(1) by striking subparagraph (G) and inserting the following:

“(G) \$107,900,000 for the period of October 1, 2004, through July 30, 2005.”;

(B) in subsection (a)(2) by striking “\$1,643,836 for the period of October 1, 2004, through July 27, 2005” and inserting “\$1,660,000 for the period of October 1, 2004, through July 30, 2005”; and

(C) in the item relating to fiscal year 2005 in table contained in subsection (c) by striking “\$2,136,986,800” and inserting “\$2,158,000,000”.

(11) NATIONAL SCENIC BYWAYS CLEARINGHOUSE.—Section 1215(b)(3) of the Transportation Equity Act for the 21st Century (112 Stat. 210; 118 Stat. 1149; 119 Stat. 327; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended—

(A) by striking “\$1,232,877” and inserting “\$1,245,000”; and

(B) by striking “July 27” and inserting “July 30”.

(b) AUTHORIZATION OF APPROPRIATIONS UNDER TITLE V OF TEA–21.—

(1) SURFACE TRANSPORTATION RESEARCH.—Section 5001(a)(1) of the Transportation Equity Act for the 21st Century (112 Stat. 419; 118 Stat. 1149; 119 Stat. 327; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking “\$84,657,554 for the period of October 1, 2004, through July 27, 2005” and inserting “\$85,490,000 for the period of October 1, 2004, through July 30, 2005”.

(2) TECHNOLOGY DEPLOYMENT PROGRAM.—Section 5001(a)(2) of such Act (112 Stat. 419; 118 Stat. 1149; 119 Stat. 327; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking “\$41,095,900 for the period of October 1, 2004, through July 27, 2005” and inserting “\$41,500,000 for the period of October 1, 2004, through July 30, 2005”.

(3) TRAINING AND EDUCATION.—Section 5001(a)(3) of such Act (112 Stat. 420; 118 Stat. 1150; 119 Stat. 327; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking “\$16,438,360 for the period of October 1, 2004, through July 27, 2005” and inserting “\$16,600,000 for the period of October 1, 2004, through July 30, 2005”.

(4) BUREAU OF TRANSPORTATION STATISTICS.—Section 5001(a)(4) of such Act (112 Stat. 420; 118 Stat. 1150; 119 Stat. 327; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking “\$25,479,458 for the period of October 1, 2004, through July 27, 2005” and inserting “\$25,730,000 for the period of October 1, 2004, through July 30, 2005”.

(5) ITS STANDARDS, RESEARCH, OPERATIONAL TESTS, AND DEVELOPMENT.—Section 5001(a)(5) of such Act (112 Stat. 420; 118 Stat. 1150; 119 Stat. 327; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking “\$90,410,980 for the period of October 1, 2004, through July 27, 2005” and inserting “\$91,300,000 for the period of October 1, 2004, through July 30, 2005”.

(6) ITS DEPLOYMENT.—Section 5001(a)(6) of such Act (112 Stat. 420; 118 Stat. 1150; 119 Stat. 327; 119 Stat. 346; 119

Stat. 379; 119 Stat. 394) is amended by striking “\$100,273,996 for the period of October 1, 2004, through July 27, 2005” and inserting “\$101,260,000 for the period of October 1, 2004, through July 30, 2005”.

(7) UNIVERSITY TRANSPORTATION RESEARCH.—Section 5001(a)(7) of such Act (112 Stat. 420; 118 Stat. 1150; 119 Stat. 328; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking “\$21,780,827 for the period of October 1, 2004, through July 27, 2005” and inserting “\$21,995,000 for the period of October 1, 2004, through July 30, 2005”.

(c) METROPOLITAN PLANNING.—Section 5(c)(1) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1150; 119 Stat. 328; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking “\$178,767,165 for the period of October 1, 2004, through July 27, 2005” and inserting “\$180,525,000 for the period of October 1, 2004, through July 30, 2005”.

(d) TERRITORIES.—Section 1101(d)(1) of the Transportation Equity Act for the 21st Century (112 Stat. 111; 118 Stat. 1150; 119 Stat. 328; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking “\$29,917,815 for the period of October 1, 2004, through July 27, 2005” and inserting “\$30,212,000 for the period of October 1, 2004, through July 30, 2005”.

(e) ALASKA HIGHWAY.—Section 1101(e)(1) of such Act (118 Stat. 1150; 119 Stat. 328; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking “\$15,452,058 for the period of October 1, 2004, through July 27, 2005” and inserting “\$15,604,000 for the period of October 1, 2004, through July 30, 2005”.

(f) OPERATION LIFESAVER.—Section 1101(f)(1) of such Act (118 Stat. 1151; 119 Stat. 328; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking “\$410,959 for the period of October 1, 2004, through July 27, 2005” and inserting “\$415,000 for the period of October 1, 2004, through July 30, 2005”.

(g) BRIDGE DISCRETIONARY.—Section 1101(g)(1) of such Act (118 Stat. 1151; 119 Stat. 328; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended—

(1) by striking “\$82,191,800” and inserting “\$83,000,000”; and

(2) by striking “July 27” and inserting “July 30”.

(h) INTERSTATE MAINTENANCE.—Section 1101(h)(1) of such Act (118 Stat. 1151; 119 Stat. 328; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended—

(1) by striking “\$82,191,800” and inserting “\$83,000,000”; and

(2) by striking “July 27” and inserting “July 30”.

(i) RECREATIONAL TRAILS ADMINISTRATIVE COSTS.—Section 1101(i)(1) of such Act (118 Stat. 1151; 119 Stat. 328; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking “\$616,439 for the period of October 1, 2004, through July 27, 2005” and inserting “\$622,500 for the period of October 1, 2004, through July 30, 2005”.

(j) RAILWAY-HIGHWAY CROSSING HAZARD ELIMINATION IN HIGH SPEED RAIL CORRIDORS.—Section 1101(j)(1) of such Act (118 Stat. 1151; 119 Stat. 328; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended—

(1) by striking “\$4,315,069” and inserting “\$4,357,500”; and

(2) by striking “\$205,480” and inserting “\$207,500”; and

(3) by striking “July 27” each place it appears and inserting “July 30”.

(k) NONDISCRIMINATION.—Section 1101(k) of such Act (118 Stat. 1151; 119 Stat. 328; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended—

(1) in paragraph (1) by striking “\$8,219,180 for the period of October 1, 2004, through July 27, 2005” and inserting “\$8,300,000 for the period of October 1, 2004, through July 30, 2005”; and

(2) in paragraph (2) by striking “\$8,219,180 for the period of October 1, 2004, through July 27, 2005” and inserting “\$8,300,000 for the period of October 1, 2004, through July 30, 2005”.

(l) ADMINISTRATION OF FUNDS.—Section 5(l) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1151; 119 Stat. 329; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended—

(1) by striking “and section 4 of the Surface Transportation Extension Act of 2005, Part IV” and inserting “section 4 of the Surface Transportation Extension Act of 2005, Part IV, and section 4 of the Surface Transportation Extension Act of 2005, Part V”; and

(2) by striking “and section 4(a) of the Surface Transportation Extension Act of 2005, Part IV” and inserting “section 4(a) of the Surface Transportation Extension Act of 2005, Part IV, and section 4(a) of the Surface Transportation Extension Act of 2005, Part V”.

(m) REDUCTION OF ALLOCATED PROGRAMS.—Section 5(m) of such Act (118 Stat. 1151; 119 Stat. 329; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended—

(1) by striking “and section 4 of Surface Transportation Extension Act of 2005, Part IV” and inserting “section 4 of the Surface Transportation Extension Act of 2005, Part IV, and section 4 of the Surface Transportation Extension Act of 2005, Part V”; and

(2) by striking “and section 4 of the Surface Transportation Extension Act, Part IV” the first place it appears and inserting “section 4 of the Surface Transportation Extension Act of 2005, Part IV, and section 4 of the Surface Transportation Extension Act of 2005, Part V”; and

(3) by striking “and section 4 of the Surface Transportation Extension Act, Part IV” the second place it appears and inserting “section 4 of the Surface Transportation Extension Act of 2005, Part IV, and section 4 of the Surface Transportation Extension Act of 2005, Part V”.

(n) PROGRAM CATEGORY RECONCILIATION.—Section 5(n) of such Act (118 Stat. 1151; 119 Stat. 329; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking “and section 4 of the Surface Transportation Extension Act, Part IV” and inserting “section 4 of the Surface Transportation Extension Act of 2005, Part IV, and section 4 of the Surface Transportation Extension Act of 2005, Part V”.

SEC. 5. EXTENSION OF HIGHWAY SAFETY PROGRAMS.

(a) CHAPTER 1 HIGHWAY SAFETY PROGRAMS.—

(1) SEAT BELT SAFETY INCENTIVE GRANTS.—Section 157(g)(1) of title 23, United States Code, is amended by striking

“\$92,054,794 for the period of October 1, 2004, through July 27, 2005” and inserting “\$92,975,342 for the period of October 1, 2004, through July 30, 2005”.

(2) PREVENTION OF INTOXICATED DRIVER INCENTIVE GRANTS.—Section 163(e)(1) of such title is amended by striking “\$90,410,958 for the period of October 1, 2004, through July 27, 2005” and inserting “\$91,315,068 for the period of October 1, 2004, through July 30, 2005”.

(b) CHAPTER 4 HIGHWAY SAFETY PROGRAMS.—Section 2009(a)(1) of the Transportation Equity Act for the 21st Century (112 Stat. 337; 118 Stat. 1152; 119 Stat. 329; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking “\$135,616,438 for the period of October 1, 2004, through July 27, 2005” and inserting “\$136,972,603 for the period of October 1, 2004, through July 30, 2005”.

(c) HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.—Section 2009(a)(2) of such Act (112 Stat. 337; 118 Stat. 1152; 119 Stat. 329; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking “\$59,178,082 for the period of October 1, 2004, through July 27, 2005” and inserting “\$59,769,863 for the period of October 1, 2004, through July 30, 2005”.

(d) OCCUPANT PROTECTION INCENTIVE GRANTS.—Section 2009(a)(3) of such Act (112 Stat. 337; 118 Stat. 1152; 119 Stat. 329; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking “\$16,438,356 for the period of October 1, 2004, through July 27, 2005” and inserting “\$16,602,704 for the period of October 1, 2004, through July 30, 2005”.

(e) ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES INCENTIVE GRANTS.—Section 2009(a)(4) of such Act (112 Stat. 337; 118 Stat. 1153; 119 Stat. 329; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking “\$32,876,712 for the period of October 1, 2004, through July 27, 2005” and inserting “\$33,205,479 for the period of October 1, 2004, through July 30, 2005”.

(f) NATIONAL DRIVER REGISTER.—

(1) FUNDING.—Section 2009(a)(6) of such Act (112 Stat. 338; 118 Stat. 1153; 119 Stat. 330; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking “\$2,958,904 for the period of October 1, 2004, through July 27, 2005” and inserting “\$2,988,493 for the period of October 1, 2004, through July 30, 2005”.

(2) CONTRACT AUTHORITY.—Funds made available by the amendments made by paragraph (1) and by section 5(f) of the Surface Transportation Extension Act of 2005 (119 Stat. 330; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code.

SEC. 6. FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION PROGRAM.

(a) ADMINISTRATIVE EXPENSES.—Section 7(a)(1) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1153; 119 Stat. 330; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking “\$211,682,467 for the period of October 1, 2004, through July 27, 2005” and inserting “\$213,799,290 for the period of October 1, 2004, through July 30, 2005”.

(b) MOTOR CARRIER SAFETY ASSISTANCE PROGRAM.—Section 31104(a)(8) of title 49, United States Code, is amended to read as follows:

“(8) Not more than \$140,293,151 for the period of October 1, 2004, through July 30, 2005.”.

(c) INFORMATION SYSTEMS AND COMMERCIAL DRIVER’S LICENSE GRANTS.—

(1) AUTHORIZATION OF APPROPRIATION.—Section 31107(a)(6) of such title is amended to read as follows:

“(6) \$16,602,740 for the period of October 1, 2004, through July 30, 2005.”.

(2) EMERGENCY CDL GRANTS.—Section 7(c)(2) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1153; 119 Stat. 330; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended—

(A) by striking “July 27” and inserting “July 30”; and

(B) by striking “\$821,918” and inserting “\$830,137”.

(d) CRASH CAUSATION STUDY.—Section 7(d) of such Act (118 Stat. 1154; 119 Stat. 330; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended—

(1) by striking “\$821,918” and inserting “\$830,137”; and

(2) by striking “July 27” and inserting “July 30”.

SEC. 7. EXTENSION OF FEDERAL TRANSIT PROGRAMS.

(a) ALLOCATING AMOUNTS.—Section 5309(m) of title 49, United States Code, is amended—

(1) in the matter preceding subparagraph (A) of paragraph

(1) by striking “July 27, 2005” and inserting “July 30, 2005”;

(2) in paragraph (2)(B)(iii)—

(A) in the heading by striking “JULY 27, 2005” and inserting “JULY 30, 2005”;

(B) by striking “\$8,547,000” and inserting “\$8,550,000”; and

(C) by striking “July 27, 2005” and inserting “July 30, 2005”;

(3) in paragraph (3)(B)—

(A) by striking “\$2,465,754” and inserting “\$2,470,000”; and

(B) by striking “July 27, 2005” and inserting “July 30, 2005”; and

(4) in paragraph (3)(C)—

(A) by striking “\$41,095,900” and inserting “\$41,506,850”; and

(B) by striking “July 27, 2005” and inserting “July 30, 2005”.

(b) FORMULA GRANTS AUTHORIZATIONS.—Section 5338(a) of title 49, United States Code, is amended—

(1) in the heading to paragraph (2) by striking “JULY 27, 2005” and inserting “JULY 30, 2005”;

(2) in paragraph (2)(A)(vii)—

(A) by striking “\$2,795,000,000” and inserting “\$2,796,817,658”; and

(B) by striking “July 27, 2005” and inserting “July 30, 2005”;

(3) in paragraph (2)(B)(vii) by striking “July 27, 2005” and inserting “July 30, 2005”; and

(4) in paragraph (2)(C) by striking “July 27, 2005” and inserting “July 30, 2005”.

(c) FORMULA GRANT FUNDS.—Section 8(d) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1155; 119 Stat. 331; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended—

(1) in the heading by striking “JULY 27, 2005” and inserting “JULY 30, 2005”;

(2) in the matter preceding paragraph (1) by striking “July 27, 2005” and inserting “July 30, 2005”;

(3) in paragraph (1) by striking “\$3,986,261” and inserting “\$4,026,123”;

(4) in paragraph (2) by striking “\$41,095,900” and inserting “\$41,506,850”;

(5) in paragraph (3) by striking “\$79,100,000” and inserting “\$79,102,926”;

(6) in paragraph (4) by striking “\$210,000,000” and inserting “\$212,000,000”; and

(7) in paragraph (5) by striking “\$5,712,330” and inserting “\$5,769,452”.

(d) CAPITAL PROGRAM AUTHORIZATIONS.—Section 5338(b)(2) of title 49, United States Code, is amended—

(1) in the heading by striking “JULY 27, 2005” and inserting “JULY 30, 2005”;

(2) in subparagraph (A)(vii)—

(A) by striking “\$2,309,000,366” and inserting “\$2,336,442,169”; and

(B) by striking “July 27, 2005” and inserting “July 30, 2005”; and

(3) in subparagraph (B)(vii) by striking “July 27, 2005” and inserting “July 30, 2005”.

(e) PLANNING AUTHORIZATIONS AND ALLOCATIONS.—Section 5338(c)(2) of title 49, United States Code, is amended—

(1) in the heading by striking “JULY 27, 2005” and inserting “JULY 30, 2005”;

(2) in subparagraph (A)(vii)—

(A) by striking “\$49,546,681” and inserting “\$50,146,668”; and

(B) by striking “July 27, 2005” and inserting “July 30, 2005”; and

(3) in subparagraph (B)(vii) by striking “July 27, 2005” and inserting “July 30, 2005”.

(f) RESEARCH AUTHORIZATIONS.—Section 5338(d)(2) of title 49, United States Code, is amended—

(1) in the heading by striking “JULY 27, 2005” and inserting “JULY 30, 2005”;

(2) in subparagraph (A)(vii)—

(A) by striking “\$39,554,804” and inserting “\$39,950,343”; and

(B) by striking “July 27, 2005” and inserting “July 30, 2005”;

(3) in subparagraph (B)(vii) by striking “July 27, 2005” and inserting “July 30, 2005”; and

(4) in subparagraph (C) by striking “July 27, 2005” and inserting “July 30, 2005”.

(g) ALLOCATION OF RESEARCH FUNDS.—Section 8(h) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1156;

119 Stat. 332; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended—

(1) in the heading by striking “JULY 27, 2005” and inserting “JULY 30, 2005”;

(2) in the matter preceding paragraph (1) by striking “July 27, 2005” and inserting “July 30, 2005”;

(3) in paragraph (1) by striking “\$4,315,070” and inserting “\$4,358,219”;

(4) in paragraph (2) by striking “\$6,780,824” and inserting “\$6,848,630”; and

(5) in paragraph (3)—

(A) by striking “\$3,287,672” and inserting “\$3,320,548”;

and

(B) by striking “\$821,918” and inserting “\$830,137”.

(h) UNIVERSITY TRANSPORTATION RESEARCH AUTHORIZATIONS.—Section 5338(e)(2) of title 49, United States Code, is amended—

(1) in the heading by striking “JULY 27, 2005” and inserting “JULY 30, 2005”;

(2) in subparagraph (A)—

(A) by striking “\$4,131,508” and inserting “\$4,180,822”;

and

(B) by striking “July 27, 2005” and inserting “July 30, 2005”;

(3) in subparagraph (B) by striking “July 27, 2005” and inserting “July 30, 2005”; and

(4) in subparagraphs (C)(i) and (C)(iii) by striking “July 27, 2005” and inserting “July 30, 2005”.

(i) ALLOCATION OF UNIVERSITY TRANSPORTATION RESEARCH FUNDS.—

(1) IN GENERAL.—Section 8(j) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1157; 119 Stat. 332; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended—

(A) in the matter preceding subparagraph (A) of paragraph (1) by striking “July 27, 2005” and inserting “July 30, 2005”;

(B) in paragraph (1)(A) by striking “\$1,643,836” and inserting “\$1,660,274”;

(C) in paragraph (1)(B) by striking “\$1,643,836” and inserting “\$1,660,274”; and

(D) in paragraph (2) by striking “July 27, 2005” and inserting “July 30, 2005”.

(2) CONFORMING AMENDMENT.—Section 3015(d)(2) of the Transportation Equity Act for the 21st Century (49 U.S.C. 5338 note; 112 Stat. 857; 118 Stat. 1157; 119 Stat. 332; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking “July 27, 2005” and inserting “July 30, 2005”.

(j) ADMINISTRATION AUTHORIZATIONS.—Section 5338(f)(2) of title 49, United States Code, is amended—

(1) in the heading by striking “JULY 27, 2005” and inserting “JULY 30, 2005”;

(2) in subparagraph (A)(vii)—

(A) by striking “\$53,709,604” and inserting “\$54,350,686”; and

(B) by striking “July 27, 2005” and inserting “July 30, 2005”; and

(3) in subparagraph (B)(vii) by striking “July 27, 2005” and inserting “July 30, 2005”.

(k) **JOB ACCESS AND REVERSE COMMUTE PROGRAM.**—Section 3037(l) of the Transportation Equity Act for the 21st Century (49 U.S.C. 5309 note; 112 Stat. 391; 118 Stat. 1157; 119 Stat. 333; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended—

(1) in paragraph (1)(A)(vii)—

(A) by striking “\$82,739,750” and inserting “\$83,767,125”; and

(B) by striking “July 27, 2005” and inserting “July 30, 2005”;

(2) in paragraph (1)(B)(vii) by striking “July 27, 2005” and inserting “July 30, 2005”; and

(3) in paragraph (2) by striking “July 27, 2005, not more than \$8,219,180” and inserting “July 30, 2005, not more than \$8,301,370”.

(l) **RURAL TRANSPORTATION ACCESSIBILITY INCENTIVE PROGRAM.**—Section 3038(g) of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note; 112 Stat. 393; 118 Stat. 1158; 119 Stat. 333; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended—

(1) by striking paragraph (1)(G) and inserting the following:
“(G) \$5,769,452 for the period of October 1, 2004, through July 30, 2005.”; and

(2) in paragraph (2)—

(A) by striking “\$1,428,082” and inserting “\$1,428,124”; and

(B) by striking “July 27, 2005” and inserting “July 30, 2005”.

(m) **URBANIZED AREA FORMULA GRANTS.**—Section 5307(b)(2) of title 49, United States Code, is amended—

(1) in the heading by striking “JULY 27, 2005” and inserting “JULY 30, 2005”; and

(2) in subparagraph (A) by striking “July 27, 2005” and inserting “July 30, 2005”.

(n) **OBLIGATION CEILING.**—Section 3040(7) of the Transportation Equity Act for the 21st Century (112 Stat. 394; 118 Stat. 1158; 119 Stat. 333; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended—

(1) by striking “\$6,335,343,944” and inserting “\$6,398,695,996”; and

(2) by striking “July 27, 2005” and inserting “July 30, 2005”.

(o) **FUEL CELL BUS AND BUS FACILITIES PROGRAM.**—Section 3015(b) of the Transportation Equity Act for the 21st Century (112 Stat. 361; 118 Stat. 1158; 119 Stat. 333; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended—

(1) by striking “July 27, 2005” and inserting “July 30, 2005”; and

(2) by striking “\$3,986,000” and inserting “\$4,026,164”.

(p) **ADVANCED TECHNOLOGY PILOT PROJECT.**—Section 3015(c)(2) of the Transportation Equity Act for the 21st Century (49 U.S.C. 322 note; 112 Stat. 361; 118 Stat. 1158; 119 Stat. 334; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended—

(1) by striking “July 27, 2005” and inserting “July 30, 2005.”; and

(2) by striking “\$4,100,000” and inserting “\$4,150,685”.

(q) **PROJECTS FOR NEW FIXED GUIDEWAY SYSTEMS AND EXTENSIONS TO EXISTING SYSTEMS.**—Subsections (a), (b), and (c)(1) of

section 3030 of the Transportation Equity Act for the 21st Century (112 Stat. 373; 118 Stat. 1158; 119 Stat. 334; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) are amended by striking “July 27, 2005” and inserting “July 30, 2005”.

(r) NEW JERSEY URBAN CORE PROJECT.—Subparagraphs (A), (B), and (C) of section 3031(a)(3) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2122; 118 Stat. 1158; 119 Stat. 334; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) are amended by striking “July 27, 2005” and inserting “July 30, 2005”.

(s) LOCAL SHARE.—Section 3011(a) of the Transportation Equity Act for the 21st Century (49 U.S.C. 5307 note; 118 Stat. 1158; 119 Stat. 334; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking “July 27, 2005” and inserting “July 30, 2005”.

SEC. 8. SPORT FISHING AND BOATING SAFETY.

(a) FUNDING FOR NATIONAL OUTREACH AND COMMUNICATIONS PROGRAM.—Section 4(c)(7) of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777c(c)) is amended to read as follows:

“(7) \$8,301,370 for the period of October 1, 2004, through July 30, 2005;”.

(b) CLEAN VESSEL ACT FUNDING.—Section 4(b)(4) of such Act (16 U.S.C. 777c(b)(4)) is amended to read as follows:

“(4) FIRST 303 DAYS OF FISCAL YEAR 2005.—For the period of October 1, 2004, through July 30, 2005, of the balance of each annual appropriation remaining after making the distribution under subsection (a), an amount equal to \$68,071,233, reduced by 82 percent of the amount appropriated for that fiscal year from the Boat Safety Account of the Aquatic Resources Trust Fund established by section 9504 of the Internal Revenue Code of 1986 to carry out the purposes of section 13106(a) of title 46, United States Code, shall be used as follows:

“(A) \$8,301,370 shall be available to the Secretary of the Interior for 3 fiscal years for obligation for qualified projects under section 5604(c) of the Clean Vessel Act of 1992 (33 U.S.C. 1322 note).

“(B) \$6,641,096 shall be available to the Secretary of the Interior for 3 fiscal years for obligation for qualified projects under section 7404(d) of the Sportfishing and Boating Safety Act of 1998 (16 U.S.C. 777g–1(d)).

“(C) The balance remaining after the application of subparagraphs (A) and (B) shall be transferred to the Secretary of Transportation and shall be expended for State recreational boating safety programs under section 13106 of title 46, United States Code.”.

(c) BOAT SAFETY FUNDS.—Section 13106(c) of title 46, United States Code, is amended—

- (1) by striking “\$4,100,000” and inserting “\$4,150,685”; and
- (2) by striking “\$1,643,836” and inserting “\$1,660,274”.

SEC. 9. EXTENSION OF AUTHORIZATION FOR USE OF TRUST FUNDS FOR OBLIGATIONS UNDER TEA-21.

(a) HIGHWAY TRUST FUND.—

(1) IN GENERAL.—Paragraph (1) of section 9503(c) of the Internal Revenue Code of 1986 is amended—

(A) in the matter before subparagraph (A), by striking “July 28, 2005” and inserting “July 31, 2005”;

(B) by striking “or” at the end of subparagraph (N);
 (C) by striking the period at the end of subparagraph (O) and inserting “, or”;

(D) by inserting after subparagraph (O) the following new subparagraph:

“(P) authorized to be paid out of the Highway Trust Fund under the Surface Transportation Extension Act of 2005, Part V.”; and

(E) in the matter after subparagraph (P), as added by this paragraph, by striking “Surface Transportation Extension Act of 2005, Part IV” and inserting “Surface Transportation Extension Act of 2005, Part V”.

(2) MASS TRANSIT ACCOUNT.—Paragraph (3) of section 9503(e) of such Code is amended—

(A) in the matter before subparagraph (A), by striking “July 28, 2005” and inserting “July 31, 2005”;

(B) in subparagraph (L), by striking “or” at the end of such subparagraph;

(C) in subparagraph (M), by inserting “or” at the end of such subparagraph;

(D) by inserting after subparagraph (M) the following new subparagraph:

“(N) the Surface Transportation Extension Act of 2005, Part V.”; and

(E) in the matter after subparagraph (N), as added by this paragraph, by striking “Surface Transportation Extension Act of 2005, Part IV” and inserting “Surface Transportation Extension Act of 2005, Part V”.

(3) EXCEPTION TO LIMITATION ON TRANSFERS.—Subparagraph (B) of section 9503(b)(6) of such Code is amended by striking “July 28, 2005” and inserting “July 31, 2005”.

(b) AQUATIC RESOURCES TRUST FUND.—

(1) SPORT FISH RESTORATION ACCOUNT.—Paragraph (2) of section 9504(b) of the Internal Revenue Code of 1986 is amended by striking “Surface Transportation Extension Act of 2005, Part IV” each place it appears and inserting “Surface Transportation Extension Act of 2005, Part V”.

(2) BOAT SAFETY ACCOUNT.—Subsection (c) of section 9504 of such Code is amended—

(A) by striking “July 28, 2005” and inserting “July 31, 2005”; and

(B) by striking “Surface Transportation Extension Act of 2005, Part IV” and inserting “Surface Transportation Extension Act of 2005, Part V”.

(3) EXCEPTION TO LIMITATION ON TRANSFERS.—Paragraph (2) of section 9504(d) of such Code is amended by striking “July 28, 2005” and inserting “July 31, 2005”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(d) TEMPORARY RULE REGARDING ADJUSTMENTS.—During the period beginning on the date of the enactment of the Surface Transportation Extension Act of 2003 and ending on July 30, 2005, for purposes of making any estimate under section 9503(d) of the Internal Revenue Code of 1986 of receipts of the Highway Trust Fund, the Secretary of the Treasury shall treat—

26 USC 9504.

26 USC 9503
note.

(1) each expiring provision of paragraphs (1) through (4) of section 9503(b) of such Code which is related to appropriations or transfers to such Fund to have been extended through the end of the 24-month period referred to in section 9503(d)(1)(B) of such Code; and

(2) with respect to each tax imposed under the sections referred to in section 9503(b)(1) of such Code, the rate of such tax during the 24-month period referred to in section 9503(d)(1)(B) of such Code to be the same as the rate of such tax as in effect on the date of the enactment of the Surface Transportation Extension Act of 2003.

Approved July 28, 2005.

LEGISLATIVE HISTORY—H.R. 3453:

CONGRESSIONAL RECORD, Vol. 151 (2005):

July 27, considered and passed House and Senate.



Public Law 109–41
109th Congress

An Act

July 29, 2005
[S. 544]

To amend title IX of the Public Health Service Act to provide for the improvement of patient safety and to reduce the incidence of events that adversely effect patient safety.

Patient Safety
and Quality
Improvement Act
of 2005.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Patient Safety and Quality Improvement Act of 2005”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Amendments to Public Health Service Act.

“PART C—PATIENT SAFETY IMPROVEMENT

“Sec. 921. Definitions.

“Sec. 922. Privilege and confidentiality protections.

“Sec. 923. Network of patient safety databases.

“Sec. 924. Patient safety organization certification and listing.

“Sec. 925. Technical assistance.

“Sec. 926. Severability.

SEC. 2. AMENDMENTS TO PUBLIC HEALTH SERVICE ACT.

(a) **IN GENERAL.**—Title IX of the Public Health Service Act (42 U.S.C. 299 et seq.) is amended—

42 USC 299b–1.

(1) in section 912(c), by inserting “, in accordance with part C,” after “The Director shall”;

42 USC
299c–299c–7.

(2) by redesignating part C as part D;
(3) by redesignating sections 921 through 928, as sections 931 through 938, respectively;

42 USC 299c–7.

(4) in section 938(1) (as so redesignated), by striking “921” and inserting “931”; and

(5) by inserting after part B the following:

“PART C—PATIENT SAFETY IMPROVEMENT

42 USC 299b–21.

“SEC. 921. DEFINITIONS.

“In this part:

“(1) **HIPAA CONFIDENTIALITY REGULATIONS.**—The term ‘HIPAA confidentiality regulations’ means regulations promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104–191; 110 Stat. 2033).

“(2) IDENTIFIABLE PATIENT SAFETY WORK PRODUCT.—The term ‘identifiable patient safety work product’ means patient safety work product that—

“(A) is presented in a form and manner that allows the identification of any provider that is a subject of the work product, or any providers that participate in activities that are a subject of the work product;

“(B) constitutes individually identifiable health information as that term is defined in the HIPAA confidentiality regulations; or

“(C) is presented in a form and manner that allows the identification of an individual who reported information in the manner specified in section 922(e).

“(3) NONIDENTIFIABLE PATIENT SAFETY WORK PRODUCT.—The term ‘nonidentifiable patient safety work product’ means patient safety work product that is not identifiable patient safety work product (as defined in paragraph (2)).

“(4) PATIENT SAFETY ORGANIZATION.—The term ‘patient safety organization’ means a private or public entity or component thereof that is listed by the Secretary pursuant to section 924(d).

“(5) PATIENT SAFETY ACTIVITIES.—The term ‘patient safety activities’ means the following activities:

“(A) Efforts to improve patient safety and the quality of health care delivery.

“(B) The collection and analysis of patient safety work product.

“(C) The development and dissemination of information with respect to improving patient safety, such as recommendations, protocols, or information regarding best practices.

“(D) The utilization of patient safety work product for the purposes of encouraging a culture of safety and of providing feedback and assistance to effectively minimize patient risk.

“(E) The maintenance of procedures to preserve confidentiality with respect to patient safety work product.

“(F) The provision of appropriate security measures with respect to patient safety work product.

“(G) The utilization of qualified staff.

“(H) Activities related to the operation of a patient safety evaluation system and to the provision of feedback to participants in a patient safety evaluation system.

“(6) PATIENT SAFETY EVALUATION SYSTEM.—The term ‘patient safety evaluation system’ means the collection, management, or analysis of information for reporting to or by a patient safety organization.

“(7) PATIENT SAFETY WORK PRODUCT.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the term ‘patient safety work product’ means any data, reports, records, memoranda, analyses (such as root cause analyses), or written or oral statements—

“(i) which—

“(I) are assembled or developed by a provider for reporting to a patient safety organization and are reported to a patient safety organization; or

“(II) are developed by a patient safety organization for the conduct of patient safety activities;

and which could result in improved patient safety, health care quality, or health care outcomes; or

“(ii) which identify or constitute the deliberations or analysis of, or identify the fact of reporting pursuant to, a patient safety evaluation system.

“(B) CLARIFICATION.—

“(i) Information described in subparagraph (A) does not include a patient’s medical record, billing and discharge information, or any other original patient or provider record.

“(ii) Information described in subparagraph (A) does not include information that is collected, maintained, or developed separately, or exists separately, from a patient safety evaluation system. Such separate information or a copy thereof reported to a patient safety organization shall not by reason of its reporting be considered patient safety work product.

“(iii) Nothing in this part shall be construed to limit—

“(I) the discovery of or admissibility of information described in this subparagraph in a criminal, civil, or administrative proceeding;

“(II) the reporting of information described in this subparagraph to a Federal, State, or local governmental agency for public health surveillance, investigation, or other public health purposes or health oversight purposes; or

“(III) a provider’s recordkeeping obligation with respect to information described in this subparagraph under Federal, State, or local law.

“(8) PROVIDER.—The term ‘provider’ means—

“(A) an individual or entity licensed or otherwise authorized under State law to provide health care services, including—

“(i) a hospital, nursing facility, comprehensive outpatient rehabilitation facility, home health agency, hospice program, renal dialysis facility, ambulatory surgical center, pharmacy, physician or health care practitioner’s office, long term care facility, behavior health residential treatment facility, clinical laboratory, or health center; or

“(ii) a physician, physician assistant, nurse practitioner, clinical nurse specialist, certified registered nurse anesthetist, certified nurse midwife, psychologist, certified social worker, registered dietitian or nutrition professional, physical or occupational therapist, pharmacist, or other individual health care practitioner; or

“(B) any other individual or entity specified in regulations promulgated by the Secretary.

“SEC. 922. PRIVILEGE AND CONFIDENTIALITY PROTECTIONS.

42 USC 299b-22.

“(a) **PRIVILEGE.**—Notwithstanding any other provision of Federal, State, or local law, and subject to subsection (c), patient safety work product shall be privileged and shall not be—

“(1) subject to a Federal, State, or local civil, criminal, or administrative subpoena or order, including in a Federal, State, or local civil or administrative disciplinary proceeding against a provider;

“(2) subject to discovery in connection with a Federal, State, or local civil, criminal, or administrative proceeding, including in a Federal, State, or local civil or administrative disciplinary proceeding against a provider;

“(3) subject to disclosure pursuant to section 552 of title 5, United States Code (commonly known as the Freedom of Information Act) or any other similar Federal, State, or local law;

“(4) admitted as evidence in any Federal, State, or local governmental civil proceeding, criminal proceeding, administrative rulemaking proceeding, or administrative adjudicatory proceeding, including any such proceeding against a provider; or

“(5) admitted in a professional disciplinary proceeding of a professional disciplinary body established or specifically authorized under State law.

“(b) **CONFIDENTIALITY OF PATIENT SAFETY WORK PRODUCT.**—Notwithstanding any other provision of Federal, State, or local law, and subject to subsection (c), patient safety work product shall be confidential and shall not be disclosed.

“(c) **EXCEPTIONS.**—Except as provided in subsection (g)(3)—

“(1) **EXCEPTIONS FROM PRIVILEGE AND CONFIDENTIALITY.**—Subsections (a) and (b) shall not apply to (and shall not be construed to prohibit) one or more of the following disclosures:

“(A) Disclosure of relevant patient safety work product for use in a criminal proceeding, but only after a court makes an in camera determination that such patient safety work product contains evidence of a criminal act and that such patient safety work product is material to the proceeding and not reasonably available from any other source.

“(B) Disclosure of patient safety work product to the extent required to carry out subsection (f)(4)(A).

“(C) Disclosure of identifiable patient safety work product if authorized by each provider identified in such work product.

“(2) **EXCEPTIONS FROM CONFIDENTIALITY.**—Subsection (b) shall not apply to (and shall not be construed to prohibit) one or more of the following disclosures:

“(A) Disclosure of patient safety work product to carry out patient safety activities.

“(B) Disclosure of nonidentifiable patient safety work product.

“(C) Disclosure of patient safety work product to grantees, contractors, or other entities carrying out research, evaluation, or demonstration projects authorized, funded, certified, or otherwise sanctioned by rule or other means by the Secretary, for the purpose of conducting research to the extent that disclosure of protected health information would be allowed for such purpose under the HIPAA confidentiality regulations.

“(D) Disclosure by a provider to the Food and Drug Administration with respect to a product or activity regulated by the Food and Drug Administration.

“(E) Voluntary disclosure of patient safety work product by a provider to an accrediting body that accredits that provider.

“(F) Disclosures that the Secretary may determine, by rule or other means, are necessary for business operations and are consistent with the goals of this part.

“(G) Disclosure of patient safety work product to law enforcement authorities relating to the commission of a crime (or to an event reasonably believed to be a crime) if the person making the disclosure believes, reasonably under the circumstances, that the patient safety work product that is disclosed is necessary for criminal law enforcement purposes.

“(H) With respect to a person other than a patient safety organization, the disclosure of patient safety work product that does not include materials that—

“(i) assess the quality of care of an identifiable provider; or

“(ii) describe or pertain to one or more actions or failures to act by an identifiable provider.

“(3) EXCEPTION FROM PRIVILEGE.—Subsection (a) shall not apply to (and shall not be construed to prohibit) voluntary disclosure of nonidentifiable patient safety work product.

“(d) CONTINUED PROTECTION OF INFORMATION AFTER DISCLOSURE.—

“(1) IN GENERAL.—Patient safety work product that is disclosed under subsection (c) shall continue to be privileged and confidential as provided for in subsections (a) and (b), and such disclosure shall not be treated as a waiver of privilege or confidentiality, and the privileged and confidential nature of such work product shall also apply to such work product in the possession or control of a person to whom such work product was disclosed.

“(2) EXCEPTION.—Notwithstanding paragraph (1), and subject to paragraph (3)—

“(A) if patient safety work product is disclosed in a criminal proceeding, the confidentiality protections provided for in subsection (b) shall no longer apply to the work product so disclosed; and

“(B) if patient safety work product is disclosed as provided for in subsection (c)(2)(B) (relating to disclosure of nonidentifiable patient safety work product), the privilege and confidentiality protections provided for in subsections (a) and (b) shall no longer apply to such work product.

“(3) CONSTRUCTION.—Paragraph (2) shall not be construed as terminating or limiting the privilege or confidentiality protections provided for in subsection (a) or (b) with respect to patient safety work product other than the specific patient safety work product disclosed as provided for in subsection (c).

“(4) LIMITATIONS ON ACTIONS.—

“(A) PATIENT SAFETY ORGANIZATIONS.—

“(i) IN GENERAL.—A patient safety organization shall not be compelled to disclose information collected or developed under this part whether or not such

information is patient safety work product unless such information is identified, is not patient safety work product, and is not reasonably available from another source.

“(ii) NONAPPLICATION.—The limitation contained in clause (i) shall not apply in an action against a patient safety organization or with respect to disclosures pursuant to subsection (c)(1).

“(B) PROVIDERS.—An accrediting body shall not take an accrediting action against a provider based on the good faith participation of the provider in the collection, development, reporting, or maintenance of patient safety work product in accordance with this part. An accrediting body may not require a provider to reveal its communications with any patient safety organization established in accordance with this part.

“(e) REPORTER PROTECTION.—

“(1) IN GENERAL.—A provider may not take an adverse employment action, as described in paragraph (2), against an individual based upon the fact that the individual in good faith reported information—

“(A) to the provider with the intention of having the information reported to a patient safety organization; or

“(B) directly to a patient safety organization.

“(2) ADVERSE EMPLOYMENT ACTION.—For purposes of this subsection, an ‘adverse employment action’ includes—

“(A) loss of employment, the failure to promote an individual, or the failure to provide any other employment-related benefit for which the individual would otherwise be eligible; or

“(B) an adverse evaluation or decision made in relation to accreditation, certification, credentialing, or licensing of the individual.

“(f) ENFORCEMENT.—

“(1) CIVIL MONETARY PENALTY.—Subject to paragraphs (2) and (3), a person who discloses identifiable patient safety work product in knowing or reckless violation of subsection (b) shall be subject to a civil monetary penalty of not more than \$10,000 for each act constituting such violation.

“(2) PROCEDURE.—The provisions of section 1128A of the Social Security Act, other than subsections (a) and (b) and the first sentence of subsection (c)(1), shall apply to civil money penalties under this subsection in the same manner as such provisions apply to a penalty or proceeding under section 1128A of the Social Security Act.

“(3) RELATION TO HIPAA.—Penalties shall not be imposed both under this subsection and under the regulations issued pursuant to section 264(c)(1) of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d-2 note) for a single act or omission.

“(4) EQUITABLE RELIEF.—

“(A) IN GENERAL.—Without limiting remedies available to other parties, a civil action may be brought by any aggrieved individual to enjoin any act or practice that violates subsection (e) and to obtain other appropriate equitable relief (including reinstatement, back pay, and restoration of benefits) to redress such violation.

“(B) AGAINST STATE EMPLOYEES.—An entity that is a State or an agency of a State government may not assert the privilege described in subsection (a) unless before the time of the assertion, the entity or, in the case of and with respect to an agency, the State has consented to be subject to an action described in subparagraph (A), and that consent has remained in effect.

“(g) RULE OF CONSTRUCTION.—Nothing in this section shall be construed—

“(1) to limit the application of other Federal, State, or local laws that provide greater privilege or confidentiality protections than the privilege and confidentiality protections provided for in this section;

“(2) to limit, alter, or affect the requirements of Federal, State, or local law pertaining to information that is not privileged or confidential under this section;

“(3) except as provided in subsection (i), to alter or affect the implementation of any provision of the HIPAA confidentiality regulations or section 1176 of the Social Security Act (or regulations promulgated under such section);

“(4) to limit the authority of any provider, patient safety organization, or other entity to enter into a contract requiring greater confidentiality or delegating authority to make a disclosure or use in accordance with this section;

“(5) as preempting or otherwise affecting any State law requiring a provider to report information that is not patient safety work product; or

“(6) to limit, alter, or affect any requirement for reporting to the Food and Drug Administration information regarding the safety of a product or activity regulated by the Food and Drug Administration.

“(h) CLARIFICATION.—Nothing in this part prohibits any person from conducting additional analysis for any purpose regardless of whether such additional analysis involves issues identical to or similar to those for which information was reported to or assessed by a patient safety organization or a patient safety evaluation system.

“(i) CLARIFICATION OF APPLICATION OF HIPAA CONFIDENTIALITY REGULATIONS TO PATIENT SAFETY ORGANIZATIONS.—For purposes of applying the HIPAA confidentiality regulations—

“(1) patient safety organizations shall be treated as business associates; and

“(2) patient safety activities of such organizations in relation to a provider are deemed to be health care operations (as defined in such regulations) of the provider.

“(j) REPORTS ON STRATEGIES TO IMPROVE PATIENT SAFETY.—

“(1) DRAFT REPORT.—Not later than the date that is 18 months after any network of patient safety databases is operational, the Secretary, in consultation with the Director, shall prepare a draft report on effective strategies for reducing medical errors and increasing patient safety. The draft report shall include any measure determined appropriate by the Secretary to encourage the appropriate use of such strategies, including use in any federally funded programs. The Secretary shall make the draft report available for public comment and submit the draft report to the Institute of Medicine for review.

“(2) FINAL REPORT.—Not later than 1 year after the date described in paragraph (1), the Secretary shall submit a final report to the Congress.

“SEC. 923. NETWORK OF PATIENT SAFETY DATABASES.

42 USC 299b–23.

“(a) IN GENERAL.—The Secretary shall facilitate the creation of, and maintain, a network of patient safety databases that provides an interactive evidence-based management resource for providers, patient safety organizations, and other entities. The network of databases shall have the capacity to accept, aggregate across the network, and analyze nonidentifiable patient safety work product voluntarily reported by patient safety organizations, providers, or other entities. The Secretary shall assess the feasibility of providing for a single point of access to the network for qualified researchers for information aggregated across the network and, if feasible, provide for implementation.

“(b) DATA STANDARDS.—The Secretary may determine common formats for the reporting to and among the network of patient safety databases maintained under subsection (a) of nonidentifiable patient safety work product, including necessary work product elements, common and consistent definitions, and a standardized computer interface for the processing of such work product. To the extent practicable, such standards shall be consistent with the administrative simplification provisions of part C of title XI of the Social Security Act.

“(c) USE OF INFORMATION.—Information reported to and among the network of patient safety databases under subsection (a) shall be used to analyze national and regional statistics, including trends and patterns of health care errors. The information resulting from such analyses shall be made available to the public and included in the annual quality reports prepared under section 913(b)(2).

Public
information.

“SEC. 924. PATIENT SAFETY ORGANIZATION CERTIFICATION AND LISTING.

42 USC 299b–24.

“(a) CERTIFICATION.—

“(1) INITIAL CERTIFICATION.—An entity that seeks to be a patient safety organization shall submit an initial certification to the Secretary that the entity—

“(A) has policies and procedures in place to perform each of the patient safety activities described in section 921(5); and

“(B) upon being listed under subsection (d), will comply with the criteria described in subsection (b).

“(2) SUBSEQUENT CERTIFICATIONS.—An entity that is a patient safety organization shall submit every 3 years after the date of its initial listing under subsection (d) a subsequent certification to the Secretary that the entity—

“(A) is performing each of the patient safety activities described in section 921(5); and

“(B) is complying with the criteria described in subsection (b).

Deadlines.

“(b) CRITERIA.—

“(1) IN GENERAL.—The following are criteria for the initial and subsequent certification of an entity as a patient safety organization:

“(A) The mission and primary activity of the entity are to conduct activities that are to improve patient safety and the quality of health care delivery.

“(B) The entity has appropriately qualified staff (whether directly or through contract), including licensed or certified medical professionals.

“(C) The entity, within each 24-month period that begins after the date of the initial listing under subsection (d), has bona fide contracts, each of a reasonable period of time, with more than 1 provider for the purpose of receiving and reviewing patient safety work product.

“(D) The entity is not, and is not a component of, a health insurance issuer (as defined in section 2791(b)(2)).

“(E) The entity shall fully disclose—

“(i) any financial, reporting, or contractual relationship between the entity and any provider that contracts with the entity; and

“(ii) if applicable, the fact that the entity is not managed, controlled, and operated independently from any provider that contracts with the entity.

“(F) To the extent practical and appropriate, the entity collects patient safety work product from providers in a standardized manner that permits valid comparisons of similar cases among similar providers.

“(G) The utilization of patient safety work product for the purpose of providing direct feedback and assistance to providers to effectively minimize patient risk.

“(2) ADDITIONAL CRITERIA FOR COMPONENT ORGANIZATIONS.—If an entity that seeks to be a patient safety organization is a component of another organization, the following are additional criteria for the initial and subsequent certification of the entity as a patient safety organization:

“(A) The entity maintains patient safety work product separately from the rest of the organization, and establishes appropriate security measures to maintain the confidentiality of the patient safety work product.

“(B) The entity does not make an unauthorized disclosure under this part of patient safety work product to the rest of the organization in breach of confidentiality.

“(C) The mission of the entity does not create a conflict of interest with the rest of the organization.

“(c) REVIEW OF CERTIFICATION.—

“(1) IN GENERAL.—

“(A) INITIAL CERTIFICATION.—Upon the submission by an entity of an initial certification under subsection (a)(1), the Secretary shall determine if the certification meets the requirements of subparagraphs (A) and (B) of such subsection.

“(B) SUBSEQUENT CERTIFICATION.—Upon the submission by an entity of a subsequent certification under subsection (a)(2), the Secretary shall review the certification with respect to requirements of subparagraphs (A) and (B) of such subsection.

“(2) NOTICE OF ACCEPTANCE OR NON-ACCEPTANCE.—If the Secretary determines that—

“(A) an entity’s initial certification meets requirements referred to in paragraph (1)(A), the Secretary shall notify the entity of the acceptance of such certification; or

“(B) an entity’s initial certification does not meet such requirements, the Secretary shall notify the entity that such certification is not accepted and the reasons therefor.

“(3) DISCLOSURES REGARDING RELATIONSHIP TO PROVIDERS.—The Secretary shall consider any disclosures under subsection (b)(1)(E) by an entity and shall make public findings on whether the entity can fairly and accurately perform the patient safety activities of a patient safety organization. The Secretary shall take those findings into consideration in determining whether to accept the entity’s initial certification and any subsequent certification submitted under subsection (a) and, based on those findings, may deny, condition, or revoke acceptance of the entity’s certification.

“(d) LISTING.—The Secretary shall compile and maintain a listing of entities with respect to which there is an acceptance of a certification pursuant to subsection (c)(2)(A) that has not been revoked under subsection (e) or voluntarily relinquished.

“(e) REVOCATION OF ACCEPTANCE OF CERTIFICATION.—

“(1) IN GENERAL.—If, after notice of deficiency, an opportunity for a hearing, and a reasonable opportunity for correction, the Secretary determines that a patient safety organization does not meet the certification requirements under subsection (a)(2), including subparagraphs (A) and (B) of such subsection, the Secretary shall revoke the Secretary’s acceptance of the certification of such organization.

“(2) SUPPLYING CONFIRMATION OF NOTIFICATION TO PROVIDERS.—Within 15 days of a revocation under paragraph (1), a patient safety organization shall submit to the Secretary a confirmation that the organization has taken all reasonable actions to notify each provider whose patient safety work product is collected or analyzed by the organization of such revocation.

Deadline.

“(3) PUBLICATION OF DECISION.—If the Secretary revokes the certification of an organization under paragraph (1), the Secretary shall—

“(A) remove the organization from the listing maintained under subsection (d); and

“(B) publish notice of the revocation in the Federal Register.

Federal Register, publication.

“(f) STATUS OF DATA AFTER REMOVAL FROM LISTING.—

“(1) NEW DATA.—With respect to the privilege and confidentiality protections described in section 922, data submitted to an entity within 30 days after the entity is removed from the listing under subsection (e)(3)(A) shall have the same status as data submitted while the entity was still listed.

“(2) PROTECTION TO CONTINUE TO APPLY.—If the privilege and confidentiality protections described in section 922 applied to patient safety work product while an entity was listed, or to data described in paragraph (1), such protections shall continue to apply to such work product or data after the entity is removed from the listing under subsection (e)(3)(A).

“(g) DISPOSITION OF WORK PRODUCT AND DATA.—If the Secretary removes a patient safety organization from the listing as provided for in subsection (e)(3)(A), with respect to the patient safety work product or data described in subsection (f)(1) that the patient safety organization received from another entity, such former patient safety organization shall—

“(1) with the approval of the other entity and a patient safety organization, transfer such work product or data to such patient safety organization;

“(2) return such work product or data to the entity that submitted the work product or data; or

“(3) if returning such work product or data to such entity is not practicable, destroy such work product or data.

42 USC 299b–25. **“SEC. 925. TECHNICAL ASSISTANCE.**

“The Secretary, acting through the Director, may provide technical assistance to patient safety organizations, including convening annual meetings for patient safety organizations to discuss methodology, communication, data collection, or privacy concerns.

42 USC 299b–26. **“SEC. 926. SEVERABILITY.**

“If any provision of this part is held to be unconstitutional, the remainder of this part shall not be affected.”.

42 USC 299c–6. (b) **AUTHORIZATION OF APPROPRIATIONS.**—Section 937 of the Public Health Service Act (as redesignated by subsection (a)) is amended by adding at the end the following:

“(e) **PATIENT SAFETY AND QUALITY IMPROVEMENT.**—For the purpose of carrying out part C, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2006 through 2010.”.

(c) **GAO STUDY ON IMPLEMENTATION.**—

(1) **STUDY.**—The Comptroller General of the United States shall conduct a study on the effectiveness of part C of title IX of the Public Health Service Act (as added by subsection (a)) in accomplishing the purposes of such part.

(2) **REPORT.**—Not later than February 1, 2010, the Comptroller General shall submit a report on the study conducted under paragraph (1). Such report shall include such recommendations for changes in such part as the Comptroller General deems appropriate.

Approved July 29, 2005.

LEGISLATIVE HISTORY—S. 544 (H.R. 3205):

HOUSE REPORTS: No. 109–197 accompanying H.R. 3205 (Comm. on Energy and Commerce).

CONGRESSIONAL RECORD, Vol. 151 (2005):

July 21, considered and passed Senate.

July 27, considered and passed House.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 41 (2005):

July 29, Presidential remarks.



Public Law 109–42
109th Congress

An Act

To provide an extension of administrative expenses for highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century.

July 30, 2005
[H.R. 3512]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Surface Transportation Extension Act of 2005, Part VI”.

Surface
Transportation
Extension Act of
2005, Part VI.
23 USC 101 note.

SEC. 2. ADMINISTRATIVE EXPENSES FOR FEDERAL-AID HIGHWAY PROGRAM.

(a) **AUTHORIZATION OF CONTRACT AUTHORITY.**—Section 4(a) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1147, 119 Stat. 325) is amended by striking “\$292,179,920” and inserting “\$309,260,880”.

Ante, p. 411.

(b) **LIMITATION ON OBLIGATIONS.**—Of the obligation limitation made available for Federal-aid highways and highway safety construction programs for fiscal year 2005 by division H of Public Law 108–447 (118 Stat. 3204) not more than \$17,080,960 shall be available, in addition to any obligation limitation previously provided, for administrative expenses of the Federal Highway Administration for the period of July 30, 2005, through August 14, 2005.

(b) **CONFORMING AMENDMENT.**—Section 2(e)(3) of such Act (118 Stat. 1146, 119 Stat. 325) is amended by striking “July 30” and inserting “August 14”.

Ante, p. 412.

SEC. 3. ADMINISTRATIVE EXPENSES FOR NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION.

(a) **IN GENERAL.**—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) for the Secretary of Transportation to pay the administrative expenses of the National Highway Traffic Administration in carrying out the highway safety programs authorized by sections 157 and 163 of chapter 1 of title 23, United States Code, and sections 402, 403, 405, and 410 of chapter 4 of such title, the National Driver Register under chapter 303 of title 49, United States Code, the motor vehicle safety program under chapter 301 of such title 49, and the motor vehicle information and cost savings program under part C of subtitle VI of such title 49 \$4,125,000 for the period of July 30, 2005, through August 14, 2005.

(b) **CONTRACT AUTHORITY.**—Funds made available by this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall remain available until expended.

SEC. 4. ADMINISTRATIVE EXPENSES FOR MOTOR CARRIER SAFETY ADMINISTRATION PROGRAM.

Ante, p. 416. Section 7(a)(1) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1153; 119 Stat. 330) is amended—

(1) by striking “\$213,799,290” and inserting “\$224,383,414”; and

(2) by striking “July 30” and inserting “August 14”.

SEC. 5. ADMINISTRATIVE EXPENSES FOR FEDERAL TRANSIT PROGRAMS.

(a) **AUTHORIZATION OF APPROPRIATIONS.**—Section 5338(f)(2) of title 49, United States Code, is amended—

(1) in the heading by striking “JULY 30” and inserting “AUGUST 14”;

(2) in subparagraph (A)(vii)—

(A) by striking “\$54,350,686” and inserting “\$57,650,686”; and

(B) by striking “July 30” and inserting “August 14”; and

(3) in subparagraph (B)(vii) by striking “July 30” and inserting “August 14”.

(b) **OBLIGATION CEILING.**—Section 3040(7) of the Transportation Equity Act for the 21st Century (112 Stat. 394; 118 Stat. 885; 118 Stat. 1158; 119 Stat. 333) is amended—

Ante, p. 420. (1) by striking “\$6,398,695,996” and inserting “\$6,401,995,996”; and

(2) by striking “July 30” and inserting “August 14”.

SEC. 6. BUREAU OF TRANSPORTATION STATISTICS.

(a) **IN GENERAL.**—Section 5001(a)(4) of the Transportation Equity Act for the 21st Century (112 Stat. 420; 118 Stat. 1150; 119 Stat. 327; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking “\$25,730,000 for the period of October 1, 2004, through July 30, 2005” and inserting “\$27,000,000 for the period of October 1, 2004, through August 14, 2005”.

Ante, p. 413.

(b) **LIMITATION ON OBLIGATIONS.**—Of the obligation limitation made available for Federal-aid highways and highway safety construction programs for fiscal year 2005 by division H of Public Law 108-447 (118 Stat. 3204) not more than \$1,270,000 shall be available, in addition to any obligation limitation previously provided, for administrative expenses of the Bureau of Transportation Statistics for the period of July 30, 2005, through August 14, 2005.

SEC. 7. EXTENSION OF AUTHORIZATION FOR USE OF TRUST FUNDS FOR OBLIGATIONS UNDER TEA-21.

(a) **HIGHWAY TRUST FUND.**—

(1) **IN GENERAL.**—Paragraph (1) of section 9503(c) of the Internal Revenue Code of 1986 is amended—

26 USC 9503.

(A) in the matter before subparagraph (A), by striking “July 31, 2005” and inserting “August 15, 2005”,

(B) by striking “or” at the end of subparagraph (O),

(C) by striking the period at the end of subparagraph (P) and inserting “, or”,

(D) by inserting after subparagraph (P) the following new subparagraph:

“(Q) authorized to be paid out of the Highway Trust Fund under the Surface Transportation Extension Act of 2005, Part VI.”, and

(E) in the matter after subparagraph (Q), as added by this paragraph, by striking “Surface Transportation Extension Act of 2005, Part V” and inserting “Surface Transportation Extension Act of 2005, Part VI”.

(2) MASS TRANSIT ACCOUNT.—Paragraph (3) of section 9503(e) of such Code is amended—

(A) in the matter before subparagraph (A), by striking “July 31, 2005” and inserting “August 15, 2005”,

(B) in subparagraph (M), by striking “or” at the end of such subparagraph,

(C) in subparagraph (N), by inserting “or” at the end of such subparagraph,

(D) by inserting after subparagraph (N) the following new subparagraph:

“(O) the Surface Transportation Extension Act of 2005, Part VI.”, and

(E) in the matter after subparagraph (O), as added by this paragraph, by striking “Surface Transportation Extension Act of 2005, Part V” and inserting “Surface Transportation Extension Act of 2005, Part VI”.

(3) EXCEPTION TO LIMITATION ON TRANSFERS.—Subparagraph (B) of section 9503(b)(6) of such Code is amended by adding at the end the following: “The preceding sentence shall be applied by substituting ‘August 15, 2005’ for the date therein.”.

(b) AQUATIC RESOURCES TRUST FUND.—

(1) SPORT FISH RESTORATION ACCOUNT.—Paragraph (2) of section 9504(b) of the Internal Revenue Code of 1986 is amended by adding at the end the following: “Subparagraphs (A), (B), and (C) shall each be applied by substituting ‘Surface Transportation Extension Act of 2005, Part VI’ for ‘Surface Transportation Extension Act of 2005, Part V’.”.

26 USC 9504.

(2) BOAT SAFETY ACCOUNT.—Subsection (c) of section 9504 of such Code is amended—

(A) by striking “July 31, 2005” and inserting “August 15, 2005”, and

(B) by striking “Surface Transportation Extension Act of 2005, Part V” and inserting “Surface Transportation Extension Act of 2005, Part VI”.

(3) EXCEPTION TO LIMITATION ON TRANSFERS.—Paragraph (2) of section 9504(d) of such Code is amended by adding at the end the following new sentence: “The preceding sentence shall be applied by substituting ‘August 15, 2005’ for the date therein.”.

Applicability.

(c) TEMPORARY RULE REGARDING ADJUSTMENTS.—During the period beginning on the date of the enactment of the Surface Transportation Extension Act of 2003 and ending on August 14, 2005, for purposes of making any estimate under section 9503(d) of the Internal Revenue Code of 1986 of receipts of the Highway Trust Fund, the Secretary of the Treasury shall treat—

(1) each expiring provision of paragraphs (1) through (4) of section 9503(b) of such Code which is related to appropriations or transfers to such Fund to have been extended through the end of the 24-month period referred to in section 9503(d)(1)(B) of such Code, and

(2) with respect to each tax imposed under the sections referred to in section 9503(b)(1) of such Code, the rate of such tax during the 24-month period referred to in section 9503(d)(1)(B) of such Code to be the same as the rate of such tax as in effect on the date of the enactment of the Surface Transportation Extension Act of 2003.

(d) SUBSEQUENT REPEAL OF CERTAIN TEMPORARY PROVISIONS.—Each of the following provisions of the Internal Revenue Code of 1986 are amended by striking the last sentence thereof:

(1) Section 9503(b)(6)(B).

(2) Section 9504(b)(2).

(3) Section 9504(d)(2).

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) SUBSEQUENT REPEAL.—The amendments made by subsection (d) shall take effect on the date of the enactment of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users and shall be executed immediately before the amendments made by such Act.

Approved July 30, 2005.

26 USC 9503.

26 USC 9504.

26 USC 9503
note.

LEGISLATIVE HISTORY—H.R. 3512:

CONGRESSIONAL RECORD, Vol. 151 (2005):

July 29, considered and passed House and Senate.



Public Law 109–43
109th Congress

An Act

To amend the Federal Food, Drug, and Cosmetic Act with respect to medical device user fees.

Aug. 1, 2005
[H.R. 3423]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

21 USC 301 note.

This Act may be cited as the “Medical Device User Fee Stabilization Act of 2005”.

SEC. 2. AMENDMENTS TO THE FEDERAL FOOD, DRUG, AND COSMETIC ACT.

(a) **DEVICE USER FEES.**—Section 738 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379j) is amended—

(1) in subsection (b)—

(A) after “2004,” by inserting “and”; and

(B) by striking “2005,” and all that follows through “2007” and inserting “2005”;

(2) in subsection (c)—

(A) by striking the heading and inserting “Annual Fee Setting.—”;

(B) by striking paragraphs (1), (2), (3), and (4);

(C) by redesignating paragraphs (5) and (6) as paragraphs (1) and (2), respectively;

(D) in paragraph (1), as so redesignated, by—

(i) striking the heading and inserting “IN GENERAL.—”;

(ii) striking “establish, for the next fiscal year, and” and all that follows through “the fees” and inserting “publish in the Federal Register fees under subsection (a). The fees”;

(iii) striking “2003” and inserting “2006”; and

(iv) striking “\$154,000.” and inserting “\$259,600, and the fees established for fiscal year 2007 shall be based on a premarket application fee of \$281,600.”; and

(E) by adding at the end the following:

“(3) **SUPPLEMENT.**—

“(A) **IN GENERAL.**—For fiscal years 2006 and 2007, the Secretary may use unobligated carryover balances from fees collected in previous fiscal years to ensure that sufficient fee revenues are available in that fiscal year, so long as the Secretary maintains unobligated carryover balances of not less than 1 month of operating reserves for the first month of fiscal year 2008.

Deadline.

“(B) NOTICE TO CONGRESS.—Not later than 14 days before the Secretary anticipates the use of funds described in subparagraph (A), the Secretary shall provide notice to the Committee on Health, Education, Labor, and Pensions and the Committee on Appropriations of the Senate and the Committee on Energy and Commerce and the Committee on Appropriations of the House of Representatives.”;

(3) in subsection (d)—

(A) in paragraph (1), by inserting after the first sentence the following: “For the purposes of this paragraph, the term ‘small business’ means an entity that reported \$30,000,000 or less of gross receipts or sales in its most recent Federal income tax return for a taxable year, including such returns of all of its affiliates, partners, and parent firms.”; and

(B) in paragraph (2)(A), by—

(i) striking “(i) IN GENERAL.—”;

(ii) striking “subsection,” and inserting “paragraph,”;

(iii) striking “\$30,000,000” and inserting “\$100,000,000”; and

(iv) striking clause (ii);

(4) in subsection (e)(2)(A), by striking “\$30,000,000” and inserting “\$100,000,000”;

(5) in subsection (g)(1)—

(A) in subparagraph (B)—

(i) by striking clause (i) and inserting the following:

“(i) For fiscal year 2005, the Secretary is expected to meet all of the performance goals identified for the fiscal year if the amount so appropriated for such fiscal year, excluding the amount of fees appropriated for such fiscal year, is equal to or greater than \$205,720,000 multiplied by the adjustment factor applicable to the fiscal year.”; and

(ii) in clause (ii), by striking the matter preceding subclause (I) and inserting the following:

“(ii) For fiscal year 2005, if the amount so appropriated for such fiscal year, excluding the amount of fees appropriated for such fiscal year, is more than 1 percent less than the amount that applies under clause (i), the following applies:”;

(B) in subparagraph (C)—

(i) in the matter preceding clause (i), by—

(I) striking “2003 through” and inserting “2005 and”; and

(II) inserting “more than 1 percent” after “years, is”; and

(ii) in clause (ii), by striking “sum” and inserting “amount”; and

(C) in subparagraph (D)(i), by inserting “more than 1 percent” after “year, is”;

(6) in subsection (h)(3)—

(A) in subparagraph (C), by striking the semicolon and inserting “; and”; and

(B) by striking subparagraphs (D) and (E) and inserting the following:

“(D) such sums as may be necessary for each of fiscal years 2006 and 2007.”; and

(7) by striking “subsection (c)(5)” each place it appears and inserting “subsection (c)(1)”.

(b) ANNUAL REPORTS.—Section 103 of the Medical Device User Fee and Modernization Act of 2002 (Public Law 107–250 (116 Stat. 1600)) is amended—

(1) by striking “Beginning with” and inserting “(a) IN GENERAL.—Beginning with”; and

(2) by adding at the end the following:

“(b) ADDITIONAL INFORMATION.—For fiscal years 2006 and 2007, the report described under subsection (a)(2) shall include—

“(1) information on the number of different types of applications and notifications, and the total amount of fees paid for each such type of application or notification, from businesses with gross receipts or sales from \$0 to \$100,000,000, with such businesses categorized in \$10,000,000 intervals; and

“(2) a certification by the Secretary that the amounts appropriated for salaries and expenses of the Food and Drug Administration for such fiscal year and obligated by the Secretary for the performance of any function relating to devices that is not for the process for the review of device applications, as defined in paragraph (5) of section 737 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379i), are not less than such amounts for fiscal year 2002 multiplied by the adjustment factor, as defined in paragraph (7) of such section 737.”.

(c) MISBRANDED DEVICES.—

(1) IN GENERAL.—Section 502(u) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352(u)) is amended to read as follows:

“(u)(1) Subject to paragraph (2), if it is a reprocessed single-use device, unless it, or an attachment thereto, prominently and conspicuously bears the name of the manufacturer of the reprocessed device, a generally recognized abbreviation of such name, or a unique and generally recognized symbol identifying such manufacturer.

“(2) If the original device or an attachment thereto does not prominently and conspicuously bear the name of the manufacturer of the original device, a generally recognized abbreviation of such name, or a unique and generally recognized symbol identifying such manufacturer, a reprocessed device may satisfy the requirements of paragraph (1) through the use of a detachable label on the packaging that identifies the manufacturer and is intended to be affixed to the medical record of a patient.”.

(2) GUIDANCE.—Not later than 180 days after the date of enactment of this Act, the Secretary of Health and Human Services shall issue guidance to identify circumstances in which the name of the manufacturer of the original device, a generally recognized abbreviation of such name, or a unique and generally recognized symbol identifying such manufacturer, is not “prominent and conspicuous”, as used in section 502(u) of Federal Food, Drug, and Cosmetic Act (as amended by paragraph (1)).

(d) EFFECTIVE DATE.—Section 301(b) of the Medical Device User Fee and Modernization Act of 2002 (Public Law 107–250 (116 Stat. 1616)), as amended by section 2(c) of Public Law 108–214 (118 Stat. 575), is amended to read as follows:

21 USC 379i
note.

Certification.

Labeling.

Deadline.
21 USC 352 note.

21 USC 352 note.

“(b) EFFECTIVE DATE.—Section 502(u) of the Federal Food, Drug, and Cosmetic Act (as amended by section 2(c) of the Medical Device User Fee Stabilization Act of 2005)—

“(1) shall be effective—

“(A) with respect to devices described under paragraph (1) of such section, 12 months after the date of enactment of the Medical Device User Fee Stabilization Act of 2005, or the date on which the original device first bears the name of the manufacturer of the original device, a generally recognized abbreviation of such name, or a unique and generally recognized symbol identifying such manufacturer, whichever is later; and

“(B) with respect to devices described under paragraph (2) of such section 502(u), 12 months after such date of enactment; and

Applicability.

“(2) shall apply only to devices reprocessed and introduced or delivered for introduction in interstate commerce after such applicable effective date.”.

Approved August 1, 2005.

LEGISLATIVE HISTORY—H.R. 3423 (S. 1420):

SENATE REPORTS: No. 109–107 accompanying S. 1420 (Comm. on Health, Education, Labor, and Pensions).

CONGRESSIONAL RECORD, Vol. 151 (2005):

July 26, considered and passed House.

July 27, considered and passed Senate.



Public Law 109–44
109th Congress

An Act

To designate a portion of the White Salmon River as a component of the National
Wild and Scenic Rivers System.

Aug. 2, 2005

[H.R. 38]

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the “Upper White Salmon Wild and
Scenic Rivers Act”.

Upper White
Salmon Wild and
Scenic Rivers
Act.
16 USC 1271
note.

SEC. 2. UPPER WHITE SALMON WILD AND SCENIC RIVER.

Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C.
1274(a)) is amended by adding at the end the following:

“() WHITE SALMON RIVER, WASHINGTON.—The 20 miles of
river segments of the main stem of the White Salmon River and
Cascade Creek, Washington, to be administered by the Secretary
of Agriculture in the following classifications:

“(A) The approximately 1.6-mile segment of the main stem
of the White Salmon River from the headwaters on Mount
Adams in section 17, township 8 north, range 10 east, down-
stream to the Mount Adams Wilderness boundary as a wild
river.

“(B) The approximately 5.1-mile segment of Cascade Creek
from its headwaters on Mount Adams in section 10, township
8 north, range 10 east, downstream to the Mount Adams
Wilderness boundary as a wild river.

“(C) The approximately 1.5-mile segment of Cascade Creek
from the Mount Adams Wilderness boundary downstream to
its confluence with the White Salmon River as a scenic river.

“(D) The approximately 11.8-mile segment of the main
stem of the White Salmon River from the Mount Adams Wilder-
ness boundary downstream to the Gifford Pinchot National
Forest boundary as a scenic river.”.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

Approved August 2, 2005.

LEGISLATIVE HISTORY—H.R. 38 (S. 74):

HOUSE REPORTS: No. 109–125 (Comm. on Resources).

SENATE REPORTS: No. 109–8 accompanying S. 74 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 151 (2005):

June 27, considered and passed House.

July 26, considered and passed Senate.



Public Law 109–45
109th Congress

An Act

To further the purposes of the Sand Creek Massacre National Historic Site Establishment Act of 2000.

Aug. 2, 2005

[H.R. 481]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Sand Creek Massacre National Historic Site Trust Act of 2005”.

Sand Creek
Massacre
National Historic
Trust Act of
2005.
16 USC 461 note.

SEC. 2. DEFINITIONS.

In this Act:

(1) **FACILITY.**—The term “facility” means any structure, utility, road, or sign constructed on the trust property on or after the date of enactment of this Act.

(2) **IMPROVEMENT.**—The term “improvement” means—

(A) a 1,625 square foot 1-story ranch house, built in 1952, located in the SW quarter of sec. 30, T. 17 S., R. 45 W., sixth principal meridian;

(B) a 3,600 square foot metal-constructed shop building, built in 1975, located in the SW quarter of sec. 30, T. 17 S., R. 45 W., sixth principal meridian;

(C) a livestock corral and shelter; and

(D) a water system and wastewater system with all associated utility connections.

(3) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior.

(4) **TRIBE.**—The term “Tribe” means the Cheyenne and Arapaho Tribes of Oklahoma, a federally recognized Indian tribe.

(5) **TRUST PROPERTY.**—The term “trust property” means the real property, including rights to all minerals, and excluding the improvements, formerly known as the “Dawson Ranch”, consisting of approximately 1,465 total acres presently under the jurisdiction of the Tribe, situated within Kiowa County, Colorado, and more particularly described as follows:

(A) The portion of sec. 24, T. 17 S., R. 46 W., sixth principal meridian, that is the Eastern half of the NW quarter, the SW quarter of the NE quarter, the NW quarter of the SE quarter, sixth principal meridian.

(B) All of sec. 25, T. 17 S., R. 46 W., sixth principal meridian.

(C) All of sec. 30, T. 17 S., R. 45 W., sixth principal meridian.

SEC. 3. CONVEYANCE OF LAND TO BE HELD IN TRUST FOR THE CHEYENNE AND ARAPAHO TRIBES OF OKLAHOMA.

(a) **LAND HELD IN TRUST FOR THE CHEYENNE AND ARAPAHO TRIBES OF OKLAHOMA.**—On conveyance of title to the trust property by the Tribe to the United States, without any further action by the Secretary, the trust property shall be held in trust for the benefit of the Tribe.

(b) **TRUST.**—All right, title, and interest of the United States in and to the trust property, except any facilities constructed under section 4(b), are declared to be held by the United States in trust for the Tribe.

SEC. 4. IMPROVEMENTS AND FACILITIES.

(a) **IMPROVEMENTS.**—The Secretary may acquire by donation the improvements in fee.

(b) **FACILITIES.**—

(1) **IN GENERAL.**—The Secretary may construct a facility on the trust property only after consulting with, soliciting advice from, and obtaining the agreement of, the Tribe, the Northern Cheyenne Tribe, and the Northern Arapaho Tribe.

(2) **OWNERSHIP.**—Facilities constructed with Federal funds or funds donated to the United States shall be owned in fee by the United States.

(c) **FEDERAL FUNDS.**—For the purposes of the construction, maintenance, or demolition of improvements or facilities, Federal funds shall be expended only on improvements or facilities that are owned in fee by the United States.

SEC. 5. SURVEY OF BOUNDARY LINE; PUBLICATION OF DESCRIPTION.

Deadline.

(a) **SURVEY OF BOUNDARY LINE.**—To accurately establish the boundary of the trust property, not later than 180 days after the date of enactment of this Act, the Secretary shall cause a survey to be conducted by the Office of Cadastral Survey of the Bureau of Land Management of the boundary lines described in section 2(5).

(b) **PUBLICATION OF LAND DESCRIPTION.**—

Federal Register,
publication.

(1) **IN GENERAL.**—On completion of the survey under subsection (a), and acceptance of the survey by the representatives of the Tribe, the Secretary shall cause the full metes and bounds description of the lines, with a full and accurate description of the trust property, to be published in the Federal Register.

(2) **EFFECT.**—The description shall, on publication, constitute the official description of the trust property.

SEC. 6. ADMINISTRATION OF TRUST PROPERTY.

(a) **IN GENERAL.**—The trust property shall be administered in perpetuity by the Secretary as part of the Sand Creek Massacre National Historic Site, only for historical, traditional, cultural, and other uses in accordance with the Sand Creek Massacre National Historic Site Establishment Act of 2000 (16 U.S.C. 461 note; Public Law 106–465).

(b) **ACCESS FOR ADMINISTRATION.**—For purposes of administration, the Secretary shall have access to the trust property, improvements, and facilities as necessary for management of the Sand Creek Massacre National Historic Site in accordance with the Sand Creek Massacre National Historic Site Establishment Act of 2000 (16 U.S.C. 461 note; Public Law 106–465).

(c) DUTY OF THE SECRETARY.—The Secretary shall take such action as is necessary to ensure that the trust property is used only in accordance with this section.

(d) SAVINGS PROVISION.—Nothing in this Act supersedes the laws and policies governing units of the National Park System.

SEC. 7. ACQUISITION OF PROPERTY.

Section 6(a)(2) of the Sand Creek Massacre National Historic Site Establishment Act of 2000 (16 U.S.C. 461 note; Public Law 106–465) is amended by inserting “or exchange” after “only by donation”.

Approved August 2, 2005.

LEGISLATIVE HISTORY—H.R. 481 (S. 57):

HOUSE REPORTS: No. 109–107 (Comm. on Resources).

SENATE REPORTS: No. 109–20 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 151 (2005):

June 27, considered and passed House.

July 26, considered and passed Senate.



Public Law 109–46
109th Congress

An Act

Aug. 2, 2005
[H.R. 541]

To direct the Secretary of Agriculture to convey certain land to Lander County, Nevada, and the Secretary of the Interior to convey certain land to Eureka County, Nevada, for continued use as cemeteries.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONVEYANCE TO LANDER COUNTY, NEVADA.

(a) FINDINGS.—Congress finds that the following:

(1) The historical use by settlers and travelers since the late 1800's of the cemetery known as "Kingston Cemetery" in Kingston, Nevada, predates incorporation of the land within the jurisdiction of the Forest Service on which the cemetery is situated.

(2) It is appropriate that use be continued through local public ownership of the parcel rather than through the permitting process of the Federal agency.

(3) In accordance with Public Law 85–569 (commonly known as the "Townsite Act"; 16 U.S.C. 478a), the Forest Service has conveyed to the Town of Kingston 1.25 acres of the land on which historic gravesites have been identified.

(4) To ensure that all areas that may have unmarked gravesites are included, and to ensure the availability of adequate gravesite space in future years, an additional parcel consisting of approximately 8.75 acres should be conveyed to the county so as to include the total amount of the acreage included in the original permit issued by the Forest Service for the cemetery.

Deadline.

(b) CONVEYANCE ON CONDITION SUBSEQUENT.—Subject to valid existing rights and the condition stated in subsection (e), the Secretary of Agriculture, acting through the Chief of the Forest Service (referred to in this section as the "Secretary"), not later than 90 days after the date of enactment of this Act, shall convey to Lander County, Nevada (referred to in this section as the "county"), for no consideration, all right, title, and interest of the United States in and to the parcel of land described in subsection (c).

(c) DESCRIPTION OF LAND.—The parcel of land referred to in subsection (b) is the parcel of National Forest System land (including any improvements on the land) known as "Kingston Cemetery", consisting of approximately 10 acres and more particularly described as SW1/4SE1/4SE1/4 of section 36, T. 16N., R. 43E., Mount Diablo Meridian.

(d) EASEMENT.—At the time of the conveyance under subsection (b), subject to subsection (e)(2), the Secretary shall grant the county

an easement allowing access for persons desiring to visit the cemetery and other cemetery purposes over Forest Development Road #20307B, notwithstanding any future closing of the road for other use.

(e) **CONDITION ON USE OF LAND.**—

(1) **IN GENERAL.**—The county (including its successors) shall continue the use of the parcel conveyed under subsection (b) as a cemetery.

(2) **REVERSION.**—If the Secretary, after notice to the county and an opportunity for a hearing, makes a finding that the county has used or permitted the use of the parcel for any purpose other than the purpose specified in paragraph (1), and the county fails to discontinue that use—

(A) title to the parcel shall revert to the United States to be administered by the Secretary; and

(B) the easement granted to the county under subsection (d) shall be revoked.

(3) **WAIVER.**—The Secretary may waive the application of paragraph (2)(A) or (2)(B) if the Secretary determines that such a waiver would be in the best interests of the United States.

SEC. 2. CONVEYANCE TO EUREKA COUNTY, NEVADA.

(a) **FINDINGS.**—Congress finds the following:

(1) The historical use by settlers and travelers since the late 1800s of the cemetery known as “Maiden’s Grave Cemetery” in Beowawe, Nevada, predates incorporation of the land within the jurisdiction of the Bureau of Land Management on which the cemetery is situated.

(2) It is appropriate that such use be continued through local public ownership of the parcel rather than through the permitting process of the Federal agency.

(b) **CONVEYANCE ON CONDITION SUBSEQUENT.**—Subject to valid existing rights and the condition stated in subsection (e), the Secretary of the Interior, acting through the Director of the Bureau of Land Management (referred to in this section as the “Secretary”), not later than 90 days after the date of enactment of this Act, shall convey to Eureka County, Nevada (referred to in this section as the “county”), for no consideration, all right, title, and interest of the United States in and to the parcel of land described in subsection (c). Deadline.

(c) **DESCRIPTION OF LAND.**—The parcel of land referred to in subsection (b) is the parcel of public land (including any improvements on the land) known as “Maiden’s Grave Cemetery”, consisting of approximately 10 acres and more particularly described as S1/2NE1/4SW1/4SW1/4, N1/2SE1/4SW1/4SW1/4 of section 10, T.31N., R.49E., Mount Diablo Meridian.

(d) **EASEMENT.**—At the time of the conveyance under subsection (b), subject to subsection (e)(2), the Secretary shall grant the county an easement allowing access for persons desiring to visit the cemetery and other cemetery purposes over an appropriate access route consistent with current access.

(e) **CONDITION ON USE OF LAND.**—

(1) **IN GENERAL.**—The county (including its successors) shall continue the use of the parcel conveyed under subsection (b) as a cemetery.

(2) REVERSION.—If the Secretary, after notice to the county and an opportunity for a hearing, makes a finding that the county has used or permitted the use of the parcel for any purpose other than the purpose specified in paragraph (1), and the county fails to discontinue that use—

(A) title to the parcel shall revert to the United States to be administered by the Secretary; and

(B) the easement granted to the county under subsection (d) shall be revoked.

(3) WAIVER.—The Secretary may waive the application of paragraph (2)(A) or (2)(B) if the Secretary determines that such a waiver would be in the best interests of the United States.

Approved August 2, 2005.

LEGISLATIVE HISTORY—H.R. 541 (S. 254):

SENATE REPORTS: No. 109-12 accompanying S. 254 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 151 (2005):

Apr. 12, considered and passed House.

July 26, considered and passed Senate.



Public Law 109–47
109th Congress

An Act

To correct the south boundary of the Colorado River Indian Reservation in Arizona,
and for other purposes.

Aug. 2, 2005
[H.R. 794]

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

Colorado River
Indian
Reservation
Boundary
Correction Act.

SECTION 1. SHORT TITLE, FINDINGS, PURPOSES.

(a) **SHORT TITLE.**—This Act may be cited as the “Colorado River Indian Reservation Boundary Correction Act”.

(b) **FINDINGS.**—Congress finds the following:

(1) The Act of March 3, 1865, created the Colorado River Indian Reservation (hereinafter “Reservation”) along the Colorado River in Arizona and California for the “Indians of said river and its tributaries”.

(2) In 1873 and 1874, President Grant issued Executive Orders to expand the Reservation southward and to secure its southern boundary at a clearly recognizable geographic location in order to forestall non-Indian encroachment and conflicts with the Indians of the Reservation.

(3) In 1875, Mr. Chandler Robbins surveyed the Reservation (hereinafter “the Robbins Survey”) and delineated its new southern boundary, which included approximately 16,000 additional acres (hereinafter “the La Paz lands”), as part of the Reservation.

(4) On May 15, 1876, President Grant issued an Executive Order that established the Reservation’s boundaries as those delineated by the Robbins Survey.

(5) In 1907, as a result of increasingly frequent trespasses by miners and cattle and at the request of the Bureau of Indian Affairs, the General Land Office of the United States provided for a resurvey of the southern and southeastern areas of the Reservation.

(6) In 1914, the General Land Office accepted and approved a resurvey of the Reservation conducted by Mr. Guy Harrington in 1912 (hereinafter the “Harrington Resurvey”) which confirmed the boundaries that were delineated by the Robbins Survey and established by Executive Order in 1876.

(7) On November 19, 1915, the Secretary of the Interior reversed the decision of the General Land Office to accept the Harrington Resurvey, and upon his recommendation on November 22, 1915, President Wilson issued Executive Order No. 2273 “. . . to correct the error in location said southern boundary line . . .”—and thus effectively excluded the La Paz lands from the Reservation.

(8) Historical evidence compiled by the Department of the Interior supports the conclusion that the reason given by the Secretary in recommending that the President issue the 1915 Executive Order—“to correct an error in locating the southern boundary”—was itself in error and that the La Paz lands should not have been excluded from the Reservation.

(9) The La Paz lands continue to hold cultural and historical significance, as well as economic development potential, for the Colorado River Indian tribes, who have consistently sought to have such lands restored to their Reservation.

(c) PURPOSES.—The purposes of this Act are:

(1) To correct the south boundary of the Reservation by reestablishing such boundary as it was delineated by the Robbins Survey and affirmed by the Harrington Resurvey.

(2) To restore the La Paz lands to the Reservation, subject to valid existing rights under Federal law and to provide for continued reasonable public access for recreational purposes.

(3) To provide for the Secretary of the Interior to review and ensure that the corrected Reservation boundary is resurveyed and marked in conformance with the public system of surveys extended over such lands.

SEC. 2. BOUNDARY CORRECTION, RESTORATION, DESCRIPTION.

(a) BOUNDARY.—The boundaries of the Colorado River Indian Reservation are hereby declared to include those boundaries as were delineated by the Robbins Survey, affirmed by the Harrington Survey, and described as follows: The approximately 15,375 acres of Federal land described as “Lands Identified for Transfer to Colorado River Indian Tribes” on the map prepared by the Bureau of Land Management entitled “Colorado River Indian Reservation Boundary Correction Act, and dated January 4, 2005”, (hereinafter referred to as the “Map”).

(b) MAP.—The Map shall be available for review at the Bureau of Land Management.

(c) RESTORATION.—Subject to valid existing rights under Federal law, all right, title, and interest of the United States to those lands within the boundaries declared in subsection (a) that were excluded from the Colorado River Indian Reservation pursuant to Executive Order No. 2273 (November 22, 1915) are hereby restored to the Reservation and shall be held in trust by the United States on behalf of the Colorado River Indian Tribes.

(d) EXCLUSION.—Excluded from the lands restored to trust status on behalf of the Colorado River Indian Tribes that are described in subsection (a) are 2 parcels of Arizona State Lands identified on the Map as “State Lands” and totaling 320 acres and 520 acres.

SEC. 3. RESURVEY AND MARKING.

The Secretary of the Interior shall ensure that the boundary for the restored lands described in section 2(a) is surveyed and clearly marked in conformance with the public system of surveys extended over such lands.

SEC. 4. WATER RIGHTS.

The restored lands described in section 2(a) and shown on the Map shall have no Federal reserve water rights to surface water or ground water from any source.

SEC. 5. PUBLIC ACCESS.

Continued access to the restored lands described in section (2)(a) for hunting and other existing recreational purposes shall remain available to the public under reasonable rules and regulations promulgated by the Colorado River Indian Tribes.

SEC. 6. ECONOMIC ACTIVITY.

(a) **IN GENERAL.**—The restored lands described in section (2)(a) shall be subject to all rights-of-way, easements, leases, and mining claims existing on the date of the enactment of this Act. The United States reserves the right to continue all Reclamation projects, including the right to access and remove mineral materials for Colorado River maintenance on the restored lands described in section (2)(a).

(b) **ADDITIONAL RIGHTS-OF-WAY.**—Notwithstanding any other provision of law, the Secretary, in consultation with the Tribe, shall grant additional rights-of-way, expansions, or renewals of existing rights-of-way for roads, utilities, and other accommodations to adjoining landowners or existing right-of-way holders, or their successors and assigns, if—

(1) the proposed right-of-way is necessary to the needs of the applicant;

(2) the proposed right-of-way acquisition will not cause significant and substantial harm to the Colorado River Indian Tribes; and

(3) the proposed right-of-way complies with the procedures in part 169 of title 25, Code of Federal Regulations consistent with this subsection and other generally applicable Federal laws unrelated to the acquisition of interests on trust lands, except that section 169.3 of those regulations shall not be applicable to expansions or renewals of existing rights-of-way for roads and utilities.

(c) **FEES.**—The fees charged for the renewal of any valid lease, easement, or right-of-way subject to this section shall not be greater than the current Federal rate for such a lease, easement, or right-of-way at the time of renewal if the holder has been in substantial compliance with all terms of the lease, easement, or right-of-way.

SEC. 7. GAMING.

Land taken into trust under this Act shall neither be considered to have been taken into trust for gaming nor be used for gaming

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(as that term is used in the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.)).

Approved August 2, 2005.

LEGISLATIVE HISTORY—H.R. 794:

CONGRESSIONAL RECORD, Vol. 151 (2005):

April 12, considered and passed House.

July 26, considered and passed Senate.



Public Law 109–48
109th Congress

An Act

To authorize the Secretary of the Interior to contract with the city of Cheyenne, Wyoming, for the storage of the city's water in the Kendrick Project, Wyoming.

Aug. 2, 2005
[H.R. 1046]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. WATER STORAGE CONTRACTS.

(a) **DEFINITIONS.**—In this Act:

(1) **CITY.**—The term “city” means—

(A) the city of Cheyenne, Wyoming;

(B) the Board of Public Utilities of the city; and

(C) any agency, public utility, or enterprise of the city.

(2) **KENDRICK PROJECT.**—The term “Kendrick Project” means the Bureau of Reclamation project on the North Platte River that was authorized by a finding of feasibility approved by the President on August 30, 1935, and constructed for irrigation and electric power generation, the major features of which include—

(A) Seminoe Dam, Reservoir, and Powerplant; and

(B) Alcova Dam and Powerplant.

(3) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior, acting through the Commissioner of Reclamation.

(4) **STATE.**—The term “State” means the State of Wyoming.

(b) **CONTRACTS.**—

(1) **IN GENERAL.**—The Secretary may enter into 1 or more contracts with the city for annual storage of the city's water for municipal and industrial use in Seminoe Dam and Reservoir of the Kendrick Project.

(2) **CONDITIONS.**—

(A) **TERM; RENEWAL.**—A contract under paragraph (1) shall—

(i) have a term of not more than 40 years; and

(ii) may be renewed on terms agreeable to the Secretary and the city, for successive terms of not more than 40 years per term.

(B) **REVENUES.**—Notwithstanding the Act of May 9, 1938 (52 Stat. 322, chapter 187; 43 U.S.C. 392a)—

(i) any operation and maintenance charges received under a contract executed under paragraph (1) shall be credited against applicable operation and maintenance costs of the Kendrick Project; and

(ii) any other revenues received under a contract executed under paragraph (1) shall be credited to the

Reclamation Fund as a credit to the construction costs of the Kendrick Project.

(C) EFFECT ON EXISTING CONTRACTORS.—A contract under paragraph (1) shall not adversely affect the Kendrick Project, any existing Kendrick Project contractor, or any existing Reclamation contractor on the North Platte River System.

Approved August 2, 2005.

LEGISLATIVE HISTORY—H.R. 1046:

CONGRESSIONAL RECORD, Vol. 151 (2005):

May 16, considered and passed House.

July 26, considered and passed Senate.



Public Law 109–49
109th Congress

Joint Resolution

Expressing the sense of Congress with respect to the women suffragists who fought for and won the right of women to vote in the United States.

Aug. 2, 2005

[H.J. Res. 59]

Whereas one of the first public appeals for women’s suffrage came in 1848 when Lucretia Mott and Elizabeth Cady Stanton called a women’s rights convention in Seneca Falls, New York, on July 19, 1848;

Lucretia Mott.
Elizabeth Cady
Stanton.

Whereas Sojourner Truth gave her famous speech titled “Ain’t I a Woman?” at the 1851 Women’s Rights Convention in Akron, Ohio;

Sojourner Truth.

Whereas in 1869, suffragists formed two national organizations to work for the right to vote: the National Woman Suffrage Association and the American Woman Suffrage Association;

National Woman
Suffrage
Association.
American
Woman Suffrage
Association.

Whereas these two organizations united in 1890 to form the National American Woman Suffrage Association;

Whereas in 1872, Susan B. Anthony and a group of women voted in the presidential election in Rochester, New York;

Susan B.
Anthony.

Whereas she was arrested and fined for voting illegally;

Whereas at her trial, which attracted nationwide attention, she made a speech that ended with the slogan “Resistance to Tyranny Is Obedience to God”;

Whereas on January 25, 1887, the United States Senate voted on women’s suffrage for the first time;

Whereas during the early 1900s, a new generation of leaders joined the women’s suffrage movement, including Carrie Chapman Catt, Maud Wood Park, Lucy Burns, Alice Paul, and Harriot E. Blatch;

Carrie Chapman
Catt.
Maud Wood
Park.

Whereas women’s suffrage leaders devoted most of their efforts to marches, picketing, and other active forms of protest;

Lucy Burns.
Alice Paul.
Harriot E.
Blatch.

Whereas Alice Paul and others chained themselves to the White House fence;

Whereas the suffragists were often arrested and sent to jail, where many of them went on hunger strikes;

Whereas almost 5,000 people paraded for women’s suffrage up Pennsylvania Avenue in Washington, DC; and

Whereas on August 26, 1920, the 19th Amendment to the United States Constitution granted women in the United States the right to vote: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the sense of Congress that women suffragists should be revered and

celebrated for working to ensure the right of women to vote in the United States.

Approved August 2, 2005.

LEGISLATIVE HISTORY—H.J. Res. 59:

CONGRESSIONAL RECORD, Vol. 151 (2005):

July 25, considered and passed House.

July 28, considered and passed Senate.



Public Law 109–50
109th Congress

An Act

To designate the facility of the United States Postal Service located at 1915 Fulton Street in Brooklyn, New York, as the “Congresswoman Shirley A. Chisholm Post Office Building”.

Aug. 2, 2005
[S. 571]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONGRESSWOMAN SHIRLEY A. CHISHOLM POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 1915 Fulton Street in Brooklyn, New York, shall be known and designated as the “Congresswoman Shirley A. Chisholm Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the Congresswoman Shirley A. Chisholm Post Office Building.

Approved August 2, 2005.

LEGISLATIVE HISTORY—S. 571:

CONGRESSIONAL RECORD, Vol. 151 (2005):
June 29, considered and passed Senate.
July 25, considered and passed House.



Public Law 109–51
109th Congress

An Act

Aug. 2, 2005
[S. 775]

To designate the facility of the United States Postal Service located at 123 W. 7th Street in Holdenville, Oklahoma, as the “Boone Pickens Post Office”.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. BOONE PICKENS POST OFFICE.

(a) DESIGNATION.—The facility of the United States Postal Service located at 123 W. 7th Street in Holdenville, Oklahoma, shall be known and designated as the “Boone Pickens Post Office”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Boone Pickens Post Office”.

Approved August 2, 2005.

LEGISLATIVE HISTORY—S. 775:

CONGRESSIONAL RECORD, Vol. 151 (2005):
June 29, considered and passed Senate.
July 25, considered and passed House.



Public Law 109–52
109th Congress

An Act

To designate the facility of the United States Postal Service located at 1560 Union Valley Road in West Milford, New Jersey, as the “Brian P. Parrello Post Office Building”.

Aug. 2, 2005
[S. 904]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. BRIAN P. PARRELLO POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 1560 Union Valley Road in West Milford, New Jersey, shall be known and designated as the “Brian P. Parrello Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Brian P. Parrello Post Office Building”.

Approved August 2, 2005.

LEGISLATIVE HISTORY—S. 904:

CONGRESSIONAL RECORD, Vol. 151 (2005):
June 29, considered and passed Senate.
July 26, considered and passed House.



Public Law 109–53
109th Congress

An Act

Aug. 2, 2005
[H.R. 3045]

To implement the Dominican Republic-Central America-United States Free Trade Agreement.

Dominican
Republic-Central
America-United
States Free
Trade Agreement
Implementation
Act.
19 USC 4001
note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Dominican Republic-Central America-United States Free Trade Agreement Implementation Act”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Purposes.
- Sec. 3. Definitions.

TITLE I—APPROVAL OF, AND GENERAL PROVISIONS RELATING TO, THE AGREEMENT

- Sec. 101. Approval and entry into force of the Agreement.
- Sec. 102. Relationship of the Agreement to United States and State law.
- Sec. 103. Implementing actions in anticipation of entry into force and initial regulations.
- Sec. 104. Consultation and layover provisions for, and effective date of, proclaimed actions.
- Sec. 105. Administration of dispute settlement proceedings.
- Sec. 106. Arbitration of claims.
- Sec. 107. Effective dates; effect of termination.

TITLE II—CUSTOMS PROVISIONS

- Sec. 201. Tariff modifications.
- Sec. 202. Additional duties on certain agricultural goods.
- Sec. 203. Rules of origin.
- Sec. 204. Customs user fees.
- Sec. 205. Retroactive application for certain liquidations and reliquidations of textile or apparel goods.
- Sec. 206. Disclosure of incorrect information; false certifications of origin; denial of preferential tariff treatment.
- Sec. 207. Reliquidation of entries.
- Sec. 208. Recordkeeping requirements.
- Sec. 209. Enforcement relating to trade in textile or apparel goods.
- Sec. 210. Regulations.

TITLE III—RELIEF FROM IMPORTS

- Sec. 301. Definitions.

Subtitle A—Relief From Imports Benefiting From the Agreement

- Sec. 311. Commencing of action for relief.
- Sec. 312. Commission action on petition.
- Sec. 313. Provision of relief.
- Sec. 314. Termination of relief authority.
- Sec. 315. Compensation authority.
- Sec. 316. Confidential business information.

Subtitle B—Textile and Apparel Safeguard Measures

- Sec. 321. Commencement of action for relief.
- Sec. 322. Determination and provision of relief.
- Sec. 323. Period of relief.
- Sec. 324. Articles exempt from relief.
- Sec. 325. Rate after termination of import relief.
- Sec. 326. Termination of relief authority.
- Sec. 327. Compensation authority.
- Sec. 328. Confidential business information.

Subtitle C—Cases Under Title II of the Trade Act of 1974

- Sec. 331. Findings and action on goods of CAFTA–DR countries.

TITLE IV—MISCELLANEOUS

- Sec. 401. Eligible products.
- Sec. 402. Modifications to the Caribbean Basin Economic Recovery Act.
- Sec. 403. Periodic reports and meetings on labor obligations and labor capacity-building provisions.

SEC. 2. PURPOSES.

19 USC 4001.

The purposes of this Act are—

(1) to approve and implement the Free Trade Agreement between the United States, Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua entered into under the authority of section 2103(b) of the Bipartisan Trade Promotion Authority Act of 2002 (19 U.S.C. 3803(b));

(2) to strengthen and develop economic relations between the United States, Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua for their mutual benefit;

(3) to establish free trade between the United States, Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua through the reduction and elimination of barriers to trade in goods and services and to investment; and

(4) to lay the foundation for further cooperation to expand and enhance the benefits of the Agreement.

SEC. 3. DEFINITIONS.

19 USC 4002.

In this Act:

(1) **AGREEMENT.**—The term “Agreement” means the Dominican Republic–Central America–United States Free Trade Agreement approved by the Congress under section 101(a)(1).

(2) **CAFTA–DR COUNTRY.**—Except as provided in section 203, the term “CAFTA–DR country” means—

(A) Costa Rica, for such time as the Agreement is in force between the United States and Costa Rica;

(B) the Dominican Republic, for such time as the Agreement is in force between the United States and the Dominican Republic;

(C) El Salvador, for such time as the Agreement is in force between the United States and El Salvador;

(D) Guatemala, for such time as the Agreement is in force between the United States and Guatemala;

(E) Honduras, for such time as the Agreement is in force between the United States and Honduras; and

(F) Nicaragua, for such time as the Agreement is in force between the United States and Nicaragua.

(3) **COMMISSION.**—The term “Commission” means the United States International Trade Commission.

(4) HTS.—The term “HTS” means the Harmonized Tariff Schedule of the United States.

(5) TEXTILE OR APPAREL GOOD.—The term “textile or apparel good” means a good listed in the Annex to the Agreement on Textiles and Clothing referred to in section 101(d)(4) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(4)), other than a good listed in Annex 3.29 of the Agreement.

TITLE I—APPROVAL OF, AND GENERAL PROVISIONS RELATING TO, THE AGREEMENT

19 USC 4011.

SEC. 101. APPROVAL AND ENTRY INTO FORCE OF THE AGREEMENT.

(a) APPROVAL OF AGREEMENT AND STATEMENT OF ADMINISTRATIVE ACTION.—Pursuant to section 2105 of the Bipartisan Trade Promotion Authority Act of 2002 (19 U.S.C. 3805) and section 151 of the Trade Act of 1974 (19 U.S.C. 2191), the Congress approves—

(1) the Dominican Republic-Central America-United States Free Trade Agreement entered into on August 5, 2004, with the Governments of Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua, and submitted to the Congress on June 23, 2005; and

(2) the statement of administrative action proposed to implement the Agreement that was submitted to the Congress on June 23, 2005.

(b) CONDITIONS FOR ENTRY INTO FORCE OF THE AGREEMENT.—At such time as the President determines that countries listed in subsection (a)(1) have taken measures necessary to comply with the provisions of the Agreement that are to take effect on the date on which the Agreement enters into force, the President is authorized to provide for the Agreement to enter into force with respect to those countries that provide for the Agreement to enter into force for them.

19 USC 4012.

SEC. 102. RELATIONSHIP OF THE AGREEMENT TO UNITED STATES AND STATE LAW.

(a) RELATIONSHIP OF AGREEMENT TO UNITED STATES LAW.—

(1) UNITED STATES LAW TO PREVAIL IN CONFLICT.—No provision of the Agreement, nor the application of any such provision to any person or circumstance, which is inconsistent with any law of the United States shall have effect.

(2) CONSTRUCTION.—Nothing in this Act shall be construed—

(A) to amend or modify any law of the United States,

or

(B) to limit any authority conferred under any law of the United States, unless specifically provided for in this Act.

(b) RELATIONSHIP OF AGREEMENT TO STATE LAW.—

(1) LEGAL CHALLENGE.—No State law, or the application thereof, may be declared invalid as to any person or circumstance on the ground that the provision or application is inconsistent with the Agreement, except in an action brought

by the United States for the purpose of declaring such law or application invalid.

(2) DEFINITION OF STATE LAW.—For purposes of this subsection, the term “State law” includes—

- (A) any law of a political subdivision of a State; and
- (B) any State law regulating or taxing the business of insurance.

(c) EFFECT OF AGREEMENT WITH RESPECT TO PRIVATE REMEDIES.—No person other than the United States—

(1) shall have any cause of action or defense under the Agreement or by virtue of congressional approval thereof; or

(2) may challenge, in any action brought under any provision of law, any action or inaction by any department, agency, or other instrumentality of the United States, any State, or any political subdivision of a State, on the ground that such action or inaction is inconsistent with the Agreement.

SEC. 103. IMPLEMENTING ACTIONS IN ANTICIPATION OF ENTRY INTO FORCE AND INITIAL REGULATIONS. 19 USC 4013.

(a) IMPLEMENTING ACTIONS.—

(1) PROCLAMATION AUTHORITY.—After the date of the enactment of this Act—

(A) the President may proclaim such actions, and

(B) other appropriate officers of the United States Government may issue such regulations, as may be necessary to ensure that any provision of this Act, or amendment made by this Act, that takes effect on the date the Agreement enters into force is appropriately implemented on such date, but no such proclamation or regulation may have an effective date earlier than the date the Agreement enters into force.

(2) EFFECTIVE DATE OF CERTAIN PROCLAIMED ACTIONS.—Any action proclaimed by the President under the authority of this Act that is not subject to the consultation and layover provisions under section 104 may not take effect before the 15th day after the date on which the text of the proclamation is published in the Federal Register. Federal Register, publication.

(3) WAIVER OF 15-DAY RESTRICTION.—The 15-day restriction contained in paragraph (2) on the taking effect of proclaimed actions is waived to the extent that the application of such restriction would prevent the taking effect on the date the Agreement enters into force of any action proclaimed under this section.

(b) INITIAL REGULATIONS.—Initial regulations necessary or appropriate to carry out the actions required by or authorized under this Act or proposed in the statement of administrative action submitted under section 101(a)(2) to implement the Agreement shall, to the maximum extent feasible, be issued within 1 year after the date on which the Agreement enters into force. In the case of any implementing action that takes effect on a date after the date on which the Agreement enters into force, initial regulations to carry out that action shall, to the maximum extent feasible, be issued within 1 year after such effective date. Deadlines.

SEC. 104. CONSULTATION AND LAYOVER PROVISIONS FOR, AND EFFECTIVE DATE OF, PROCLAIMED ACTIONS. President. 19 USC 4014.

If a provision of this Act provides that the implementation of an action by the President by proclamation is subject to the

consultation and layover requirements of this section, such action may be proclaimed only if—

(1) the President has obtained advice regarding the proposed action from—

(A) the appropriate advisory committees established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155); and

(B) the Commission;

Reports.

(2) the President has submitted to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report that sets forth—

(A) the action proposed to be proclaimed and the reasons therefor; and

(B) the advice obtained under paragraph (1);

(3) a period of 60 calendar days, beginning on the first day on which the requirements set forth in paragraphs (1) and (2) have been met has expired; and

(4) the President has consulted with such Committees regarding the proposed action during the period referred to in paragraph (3).

19 USC 4015.

SEC. 105. ADMINISTRATION OF DISPUTE SETTLEMENT PROCEEDINGS.

President.

(a) ESTABLISHMENT OR DESIGNATION OF OFFICE.—The President is authorized to establish or designate within the Department of Commerce an office that shall be responsible for providing administrative assistance to panels established under chapter 20 of the Agreement. The office may not be considered to be an agency for purposes of section 552 of title 5, United States Code.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year after fiscal year 2005 to the Department of Commerce such sums as may be necessary for the establishment and operations of the office established or designated under subsection (a) and for the payment of the United States share of the expenses of panels established under chapter 20 of the Agreement.

19 USC 4016.

SEC. 106. ARBITRATION OF CLAIMS.

The United States is authorized to resolve any claim against the United States covered by article 10.16.1(a)(i)(C) or article 10.16.1(b)(i)(C) of the Agreement, pursuant to the Investor-State Dispute Settlement procedures set forth in section B of chapter 10 of the Agreement.

19 USC 4001
note.

SEC. 107. EFFECTIVE DATES; EFFECT OF TERMINATION.

(a) EFFECTIVE DATES.—Except as provided in subsection (b), the provisions of this Act and the amendments made by this Act take effect on the date the Agreement enters into force.

(b) EXCEPTIONS.—Sections 1 through 3 and this title take effect on the date of the enactment of this Act.

(c) TERMINATION OF CAFTA–DR STATUS.—During any period in which a country ceases to be a CAFTA–DR country, the provisions of this Act (other than this subsection) and the amendments made by this Act shall cease to have effect with respect to that country.

(d) TERMINATION OF THE AGREEMENT.—On the date on which the Agreement ceases to be in force with respect to the United States, the provisions of this Act (other than this subsection) and the amendments made by this Act shall cease to have effect.

TITLE II—CUSTOMS PROVISIONS

SEC. 201. TARIFF MODIFICATIONS.

19 USC 4031.

(a) TARIFF MODIFICATIONS PROVIDED FOR IN THE AGREEMENT.—

(1) PROCLAMATION AUTHORITY.—The President may proclaim—

- (A) such modifications or continuation of any duty,
- (B) such continuation of duty-free or excise treatment,

or

- (C) such additional duties,

as the President determines to be necessary or appropriate to carry out or apply articles 3.3, 3.5, 3.6, 3.21, 3.26, 3.27, and 3.28, and Annexes 3.3, 3.27, and 3.28 of the Agreement.

(2) EFFECT ON GSP STATUS.—Notwithstanding section 502(a)(1) of the Trade Act of 1974 (19 U.S.C. 2462(a)(1)), the President shall terminate the designation of each CAFTA–DR country as a beneficiary developing country for purposes of title V of the Trade Act of 1974 on the date the Agreement enters into force with respect to that country.

President.

(3) EFFECT ON CBERA STATUS.—

(A) IN GENERAL.—Notwithstanding section 212(a) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702(a)), the President shall terminate the designation of each CAFTA–DR country as a beneficiary country for purposes of that Act on the date the Agreement enters into force with respect to that country.

President.

(B) EXCEPTION.—Notwithstanding subparagraph (A), each such country shall be considered a beneficiary country under section 212(a) of the Caribbean Basin Economic Recovery Act, for purposes of—

(i) sections 771(7)(G)(ii)(III) and 771(7)(H) of the Tariff Act of 1930 (19 U.S.C. 1677(7)(G)(ii)(III) and 1677(7)(H));

(ii) the duty-free treatment provided under paragraph 12 of Appendix I of the General Notes to the Schedule of the United States to Annex 3.3 of the Agreement; and

(iii) section 274(h)(6)(B) of the Internal Revenue Code of 1986.

(b) OTHER TARIFF MODIFICATIONS.—Subject to the consultation and layover provisions of section 104, the President may proclaim—

(1) such modifications or continuation of any duty,

(2) such modifications as the United States may agree to with a CAFTA–DR country regarding the staging of any duty treatment set forth in Annex 3.3 of the Agreement,

(3) such continuation of duty-free or excise treatment, or

(4) such additional duties,

as the President determines to be necessary or appropriate to maintain the general level of reciprocal and mutually advantageous concessions provided for by the Agreement.

(c) CONVERSION TO AD VALOREM RATES.—For purposes of subsections (a) and (b), with respect to any good for which the base rate in the Schedule of the United States to Annex 3.3 of the Agreement is a specific or compound rate of duty, the President may substitute for the base rate an ad valorem rate that the President determines to be equivalent to the base rate.

19 USC 4032.

SEC. 202. ADDITIONAL DUTIES ON CERTAIN AGRICULTURAL GOODS.**(a) GENERAL PROVISIONS.—**

(1) **APPLICABILITY OF SUBSECTION.**—This subsection applies to additional duties assessed under subsection (b).

(2) **APPLICABLE NTR (MFN) RATE OF DUTY.**—For purposes of subsection (b), the term “applicable NTR (MFN) rate of duty” means, with respect to a safeguard good, a rate of duty that is the lesser of—

(A) the column 1 general rate of duty that would, at the time the additional duty is imposed under subsection (b), apply to a good classifiable in the same 8-digit subheading of the HTS as the safeguard good; or

(B) the column 1 general rate of duty that would, on the day before the date on which the Agreement enters into force, apply to a good classifiable in the same 8-digit subheading of the HTS as the safeguard good.

(3) **SCHEDULE RATE OF DUTY.**—For purposes of subsection (b), the term “schedule rate of duty” means, with respect to a safeguard good, the rate of duty for that good that is set out in the Schedule of the United States to Annex 3.3 of the Agreement.

(4) **SAFEGUARD GOOD.**—In this section, the term “safeguard good” means a good—

(A) that is included in the Schedule of the United States to Annex 3.15 of the Agreement;

(B) that qualifies as an originating good under section 203, except that operations performed in or material obtained from the United States shall be considered as if the operations were performed in, and the material was obtained from, a country that is not a party to the Agreement; and

(C) for which a claim for preferential tariff treatment under the Agreement has been made.

(5) **EXCEPTIONS.**—No additional duty shall be assessed on a good under subsection (b) if, at the time of entry, the good is subject to import relief under—

(A) subtitle A of title III of this Act; or

(B) chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.).

(6) **TERMINATION.**—The assessment of an additional duty on a good under subsection (b) shall cease to apply to that good on the date on which duty-free treatment must be provided to that good under the Schedule of the United States to Annex 3.3 of the Agreement.

Deadline.

(7) **NOTICE.**—Not later than 60 days after the Secretary of the Treasury first assesses an additional duty in a calendar year on a good under subsection (b), the Secretary shall notify the country whose good is subject to the additional duty in writing of such action and shall provide to that country data supporting the assessment of the additional duty.

(b) ADDITIONAL DUTIES ON SAFEGUARD GOODS.—

(1) **IN GENERAL.**—In addition to any duty proclaimed under subsection (a) or (b) of section 201, and subject to subsection (a), the Secretary of the Treasury shall assess a duty, in the amount determined under paragraph (2), on a safeguard good of a CAFTA-DR country imported into the United States in a calendar year if the Secretary determines that, prior to such

importation, the total volume of that safeguard good of such country that is imported into the United States in that calendar year exceeds 130 percent of the volume that is set out for that safeguard good in the corresponding year in the table for that country contained in Appendix I of the General Notes to the Schedule of the United States to Annex 3.3 of the Agreement. For purposes of this subsection, year 1 in that table corresponds to the calendar year in which the Agreement enters into force.

(2) **CALCULATION OF ADDITIONAL DUTY.**—The additional duty on a safeguard good under this subsection shall be—

(A) in the case of a good classified under subheading 1202.10.80, 1202.20.80, 2008.11.15, 2008.11.35, or 2008.11.60 of the HTS—

(i) in years 1 through 5, an amount equal to 100 percent of the excess of the applicable NTR (MFN) rate of duty over the schedule rate of duty;

(ii) in years 6 through 10, an amount equal to 75 percent of the excess of the applicable NTR (MFN) rate of duty over the schedule rate of duty; and

(iii) in years 11 through 14, an amount equal to 50 percent of the excess of the applicable NTR (MFN) rate of duty over the schedule rate of duty; and

(B) in the case of any other safeguard good—

(i) in years 1 through 14, an amount equal to 100 percent of the excess of the applicable NTR (MFN) rate of duty over the schedule rate of duty;

(ii) in years 15 through 17, an amount equal to 75 percent of the excess of the applicable NTR (MFN) rate of duty over the schedule rate of duty; and

(iii) in years 18 and 19, an amount equal to 50 percent of the excess of the applicable NTR (MFN) rate of duty over the schedule rate of duty.

SEC. 203. RULES OF ORIGIN.

19 USC 4033.

(a) **APPLICATION AND INTERPRETATION.**—In this section:

(1) **TARIFF CLASSIFICATION.**—The basis for any tariff classification is the HTS.

(2) **REFERENCE TO HTS.**—Whenever in this section there is a reference to a chapter, heading, or subheading, such reference shall be a reference to a chapter, heading, or subheading of the HTS.

(3) **COST OR VALUE.**—Any cost or value referred to in this section shall be recorded and maintained in accordance with the generally accepted accounting principles applicable in the territory of the country in which the good is produced (whether the United States or another CAFTA–DR country).

(b) **ORIGINATING GOODS.**—For purposes of this Act and for purposes of implementing the preferential tariff treatment provided for under the Agreement, except as otherwise provided in this section, a good is an originating good if—

(1) the good is a good wholly obtained or produced entirely in the territory of one or more of the CAFTA–DR countries;

(2) the good—

(A) is produced entirely in the territory of one or more of the CAFTA–DR countries, and—

(i) each of the nonoriginating materials used in the production of the good undergoes an applicable change in tariff classification specified in Annex 4.1 of the Agreement; or

(ii) the good otherwise satisfies any applicable regional value-content or other requirements specified in Annex 4.1 of the Agreement; and

(B) satisfies all other applicable requirements of this section; or

(3) the good is produced entirely in the territory of one or more of the CAFTA-DR countries, exclusively from materials described in paragraph (1) or (2).

(c) REGIONAL VALUE-CONTENT.—

(1) IN GENERAL.—For purposes of subsection (b)(2), the regional value-content of a good referred to in Annex 4.1 of the Agreement, except for goods to which paragraph (4) applies, shall be calculated by the importer, exporter, or producer of the good, on the basis of the build-down method described in paragraph (2) or the build-up method described in paragraph (3).

(2) BUILD-DOWN METHOD.—

(A) IN GENERAL.—The regional value-content of a good may be calculated on the basis of the following build-down method:

$$\text{RVC} = \frac{\text{AV}}{\text{AV}-\text{VNM}} \times 100$$

(B) DEFINITIONS.—In subparagraph (A):

(i) RVC.—The term “RVC” means the regional value-content of the good, expressed as a percentage.

(ii) AV.—The term “AV” means the adjusted value of the good.

(iii) VNM.—The term “VNM” means the value of nonoriginating materials that are acquired and used by the producer in the production of the good, but does not include the value of a material that is self-produced.

(3) BUILD-UP METHOD.—

(A) IN GENERAL.—The regional value-content of a good may be calculated on the basis of the following build-up method:

$$\text{RVC} = \frac{\text{AV}}{\text{VOM}} \times 100$$

(B) DEFINITIONS.—In subparagraph (A):

(i) RVC.—The term “RVC” means the regional value-content of the good, expressed as a percentage.

(ii) AV.—The term “AV” means the adjusted value of the good.

(iii) VOM.—The term “VOM” means the value of originating materials that are acquired or self-produced, and used by the producer in the production of the good.

(4) SPECIAL RULE FOR CERTAIN AUTOMOTIVE GOODS.—

(A) IN GENERAL.—For purposes of subsection (b)(2), the regional value-content of an automotive good referred to in Annex 4.1 of the Agreement may be calculated by the importer, exporter, or producer of the good, on the basis of the following net cost method:

$$\text{RVC} = \frac{\text{NC}}{\text{NC}-\text{VNM}} \times 100$$

(B) DEFINITIONS.—In subparagraph (A):

(i) AUTOMOTIVE GOOD.—The term “automotive good” means a good provided for in any of subheadings 8407.31 through 8407.34, subheading 8408.20, heading 8409, or in any of headings 8701 through 8708.

(ii) RVC.—The term “RVC” means the regional value-content of the automotive good, expressed as a percentage.

(iii) NC.—The term “NC” means the net cost of the automotive good.

(iv) VNM.—The term “VNM” means the value of nonoriginating materials that are acquired and used by the producer in the production of the automotive good, but does not include the value of a material that is self-produced.

(C) MOTOR VEHICLES.—

(i) BASIS OF CALCULATION.—For purposes of determining the regional value-content under subparagraph (A) for an automotive good that is a motor vehicle provided for in any of headings 8701 through 8705, an importer, exporter, or producer may average the amounts calculated under the formula contained in subparagraph (A), over the producer’s fiscal year—

(I) with respect to all motor vehicles in any 1 of the categories described in clause (ii); or

(II) with respect to all motor vehicles in any such category that are exported to the territory of one or more of the CAFTA–DR countries.

(ii) CATEGORIES.—A category is described in this clause if it—

(I) is the same model line of motor vehicles, is in the same class of vehicles, and is produced in the same plant in the territory of a CAFTA–DR country, as the good described in clause (i) for which regional value-content is being calculated;

(II) is the same class of motor vehicles, and is produced in the same plant in the territory of a CAFTA–DR country, as the good described in clause (i) for which regional value-content is being calculated; or

(III) is the same model line of motor vehicles produced in the territory of a CAFTA–DR country as the good described in clause (i) for which regional value-content is being calculated.

(D) OTHER AUTOMOTIVE GOODS.—For purposes of determining the regional value-content under subparagraph (A) for automotive goods provided for in any of subheadings

8407.31 through 8407.34, in subheading 8408.20, or in heading 8409, 8706, 8707, or 8708, that are produced in the same plant, an importer, exporter, or producer may—

(i) average the amounts calculated under the formula contained in subparagraph (A) over—

(I) the fiscal year of the motor vehicle producer to whom the automotive goods are sold,

(II) any quarter or month, or

(III) its own fiscal year,

if the goods were produced during the fiscal year, quarter, or month that is the basis for the calculation;

(ii) determine the average referred to in clause

(i) separately for such goods sold to 1 or more motor vehicle producers; or

(iii) make a separate determination under clause

(i) or (ii) for automotive goods that are exported to the territory of one or more of the CAFTA-DR countries.

(E) CALCULATING NET COST.—The importer, exporter, or producer shall, consistent with the provisions regarding allocation of costs set out in generally accepted accounting principles, determine the net cost of an automotive good under subparagraph (B) by—

(i) calculating the total cost incurred with respect to all goods produced by the producer of the automotive good, subtracting any sales promotion, marketing and after-sales service costs, royalties, shipping and packing costs, and nonallowable interest costs that are included in the total cost of all such goods, and then reasonably allocating the resulting net cost of those goods to the automotive good;

(ii) calculating the total cost incurred with respect to all goods produced by that producer, reasonably allocating the total cost to the automotive good, and then subtracting any sales promotion, marketing and after-sales service costs, royalties, shipping and packing costs, and nonallowable interest costs that are included in the portion of the total cost allocated to the automotive good; or

(iii) reasonably allocating each cost that forms part of the total cost incurred with respect to the automotive good so that the aggregate of all such costs does not include any sales promotion, marketing and after-sales service costs, royalties, shipping and packing costs, or nonallowable interest costs.

(d) VALUE OF MATERIALS.—

(1) IN GENERAL.—For the purpose of calculating the regional value-content of a good under subsection (c), and for purposes of applying the de minimis rules under subsection (f), the value of a material is—

(A) in the case of a material that is imported by the producer of the good, the adjusted value of the material;

(B) in the case of a material acquired in the territory in which the good is produced, the value, determined in accordance with Articles 1 through 8, Article 15, and the corresponding interpretive notes of the Agreement on Implementation of Article VII of the General Agreement

on Tariffs and Trade 1994 referred to in section 101(d)(8) of the Uruguay Round Agreements Act, as set forth in regulations promulgated by the Secretary of the Treasury providing for the application of such Articles in the absence of an importation; or

(C) in the case of a material that is self-produced, the sum of—

(i) all expenses incurred in the production of the material, including general expenses; and

(ii) an amount for profit equivalent to the profit added in the normal course of trade.

(2) FURTHER ADJUSTMENTS TO THE VALUE OF MATERIALS.—

(A) ORIGINATING MATERIAL.—The following expenses, if not included in the value of an originating material calculated under paragraph (1), may be added to the value of the originating material:

(i) The costs of freight, insurance, packing, and all other costs incurred in transporting the material within or between the territory of one or more of the CAFTA-DR countries to the location of the producer.

(ii) Duties, taxes, and customs brokerage fees on the material paid in the territory of one or more of the CAFTA-DR countries, other than duties or taxes that are waived, refunded, refundable, or otherwise recoverable, including credit against duty or tax paid or payable.

(iii) The cost of waste and spoilage resulting from the use of the material in the production of the good, less the value of renewable scrap or byproducts.

(B) NONORIGINATING MATERIAL.—The following expenses, if included in the value of a nonoriginating material calculated under paragraph (1), may be deducted from the value of the nonoriginating material:

(i) The costs of freight, insurance, packing, and all other costs incurred in transporting the material within or between the territory of one or more of the CAFTA-DR countries to the location of the producer.

(ii) Duties, taxes, and customs brokerage fees on the material paid in the territory of one or more of the CAFTA-DR countries, other than duties or taxes that are waived, refunded, refundable, or otherwise recoverable, including credit against duty or tax paid or payable.

(iii) The cost of waste and spoilage resulting from the use of the material in the production of the good, less the value of renewable scrap or byproducts.

(iv) The cost of originating materials used in the production of the nonoriginating material in the territory of one or more of the CAFTA-DR countries.

(e) ACCUMULATION.—

(1) ORIGINATING MATERIALS USED IN PRODUCTION OF GOODS OF ANOTHER COUNTRY.—Originating materials from the territory of one or more of the CAFTA-DR countries that are used in the production of a good in the territory of another CAFTA-DR country shall be considered to originate in the territory of that other country.

(2) MULTIPLE PROCEDURES.—A good that is produced in the territory of one or more of the CAFTA-DR countries by 1 or more producers is an originating good if the good satisfies the requirements of subsection (b) and all other applicable requirements of this section.

(f) DE MINIMIS AMOUNTS OF NONORIGINATING MATERIALS.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), a good that does not undergo a change in tariff classification pursuant to Annex 4.1 of the Agreement is an originating good if—

(A) the value of all nonoriginating materials that—
 (i) are used in the production of the good, and
 (ii) do not undergo the applicable change in tariff classification (set out in Annex 4.1 of the Agreement), does not exceed 10 percent of the adjusted value of the good;

(B) the good meets all other applicable requirements of this section; and

(C) the value of such nonoriginating materials is included in the value of nonoriginating materials for any applicable regional value-content requirement for the good.

(2) EXCEPTIONS.—Paragraph (1) does not apply to the following:

(A) A nonoriginating material provided for in chapter 4, or a nonoriginating dairy preparation containing over 10 percent by weight of milk solids provided for in subheading 1901.90 or 2106.90, that is used in the production of a good provided for in chapter 4.

(B) A nonoriginating material provided for in chapter 4, or a nonoriginating dairy preparation containing over 10 percent by weight of milk solids provided for in subheading 1901.90, that is used in the production of the following goods:

(i) Infant preparations containing over 10 percent by weight of milk solids provided for in subheading 1901.10.

(ii) Mixes and doughs, containing over 25 percent by weight of butterfat, not put up for retail sale, provided for in subheading 1901.20.

(iii) Dairy preparations containing over 10 percent by weight of milk solids provided for in subheading 1901.90 or 2106.90.

(iv) Goods provided for in heading 2105.

(v) Beverages containing milk provided for in subheading 2202.90.

(vi) Animal feeds containing over 10 percent by weight of milk solids provided for in subheading 2309.90.

(C) A nonoriginating material provided for in heading 0805, or any of subheadings 2009.11 through 2009.39, that is used in the production of a good provided for in any of subheadings 2009.11 through 2009.39, or in fruit or vegetable juice of any single fruit or vegetable, fortified with minerals or vitamins, concentrated or unconcentrated, provided for in subheading 2106.90 or 2202.90.

(D) A nonoriginating material provided for in heading 0901 or 2101 that is used in the production of a good provided for in heading 0901 or 2101.

(E) A nonoriginating material provided for in heading 1006 that is used in the production of a good provided for in heading 1102 or 1103 or subheading 1904.90.

(F) A nonoriginating material provided for in chapter 15 that is used in the production of a good provided for in chapter 15.

(G) A nonoriginating material provided for in heading 1701 that is used in the production of a good provided for in any of headings 1701 through 1703.

(H) A nonoriginating material provided for in chapter 17 that is used in the production of a good provided for in subheading 1806.10.

(I) Except as provided in subparagraphs (A) through (H) and Annex 4.1 of the Agreement, a nonoriginating material used in the production of a good provided for in any of chapters 1 through 24, unless the nonoriginating material is provided for in a different subheading than the good for which origin is being determined under this section.

(3) TEXTILE OR APPAREL GOODS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), a textile or apparel good that is not an originating good because certain fibers or yarns used in the production of the component of the good that determines the tariff classification of the good do not undergo an applicable change in tariff classification, set out in Annex 4.1 of the Agreement, shall be considered to be an originating good if—

(i) the total weight of all such fibers or yarns in that component is not more than 10 percent of the total weight of that component; or

(ii) the yarns are those described in section 204(b)(3)(B)(vi)(IV) of the Andean Trade Preference Act (19 U.S.C. 3203(b)(3)(B)(vi)(IV)) (as in effect on the date of the enactment of this Act).

(B) CERTAIN TEXTILE OR APPAREL GOODS.—A textile or apparel good containing elastomeric yarns in the component of the good that determines the tariff classification of the good shall be considered to be an originating good only if such yarns are wholly formed in the territory of a CAFTA-DR country.

(C) YARN, FABRIC, OR FIBER.—For purposes of this paragraph, in the case of a good that is a yarn, fabric, or fiber, the term “component of the good that determines the tariff classification of the good” means all of the fibers in the good.

(g) FUNGIBLE GOODS AND MATERIALS.—

(1) IN GENERAL.—

(A) CLAIM FOR PREFERENTIAL TARIFF TREATMENT.—A person claiming that a fungible good or fungible material is an originating good may base the claim either on the physical segregation of the fungible good or fungible material or by using an inventory management method with respect to the fungible good or fungible material.

(B) INVENTORY MANAGEMENT METHOD.—In this subsection, the term “inventory management method” means—

- (i) averaging;
- (ii) “last-in, first-out”;
- (iii) “first-in, first-out”; or
- (iv) any other method—

(I) recognized in the generally accepted accounting principles of the CAFTA–DR country in which the production is performed; or

(II) otherwise accepted by that country.

(2) ELECTION OF INVENTORY METHOD.—A person selecting an inventory management method under paragraph (1) for a particular fungible good or fungible material shall continue to use that method for that fungible good or fungible material throughout the fiscal year of that person.

(h) ACCESSORIES, SPARE PARTS, OR TOOLS.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), accessories, spare parts, or tools delivered with a good that form part of the good’s standard accessories, spare parts, or tools shall—

(A) be treated as originating goods if the good is an originating good; and

(B) be disregarded in determining whether all the non-originating materials used in the production of the good undergo the applicable change in tariff classification set out in Annex 4.1 of the Agreement.

Applicability.

(2) CONDITIONS.—Paragraph (1) shall apply only if—

(A) the accessories, spare parts, or tools are classified with and not invoiced separately from the good, regardless of whether they appear specified or separately identified in the invoice for the good; and

(B) the quantities and value of the accessories, spare parts, or tools are customary for the good.

(3) REGIONAL VALUE-CONTENT.—If the good is subject to a regional value-content requirement, the value of the accessories, spare parts, or tools shall be taken into account as originating or nonoriginating materials, as the case may be, in calculating the regional value-content of the good.

(i) PACKAGING MATERIALS AND CONTAINERS FOR RETAIL SALE.—Packaging materials and containers in which a good is packaged for retail sale, if classified with the good, shall be disregarded in determining whether all the nonoriginating materials used in the production of the good undergo the applicable change in tariff classification set out in Annex 4.1 of the Agreement, and, if the good is subject to a regional value-content requirement, the value of such packaging materials and containers shall be taken into account as originating or nonoriginating materials, as the case may be, in calculating the regional value-content of the good.

(j) PACKING MATERIALS AND CONTAINERS FOR SHIPMENT.—Packing materials and containers for shipment shall be disregarded in determining whether a good is an originating good.

(k) INDIRECT MATERIALS.—An indirect material shall be treated as an originating material without regard to where it is produced.

(l) TRANSIT AND TRANSHIPMENT.—A good that has undergone production necessary to qualify as an originating good under subsection (b) shall not be considered to be an originating good if, subsequent to that production, the good—

(1) undergoes further production or any other operation outside the territories of the CAFTA-DR countries, other than unloading, reloading, or any other operation necessary to preserve the good in good condition or to transport the good to the territory of a CAFTA-DR country; or

(2) does not remain under the control of customs authorities in the territory of a country other than a CAFTA-DR country.

(m) GOODS CLASSIFIABLE AS GOODS PUT UP IN SETS.—Notwithstanding the rules set forth in Annex 4.1 of the Agreement, goods classifiable as goods put up in sets for retail sale as provided for in General Rule of Interpretation 3 of the HTS shall not be considered to be originating goods unless—

(1) each of the goods in the set is an originating good;

or

(2) the total value of the nonoriginating goods in the set does not exceed—

(A) in the case of textile or apparel goods, 10 percent of the adjusted value of the set; or

(B) in the case of a good, other than a textile or apparel good, 15 percent of the adjusted value of the set.

(n) DEFINITIONS.—In this section:

(1) ADJUSTED VALUE.—The term “adjusted value” means the value determined in accordance with Articles 1 through 8, Article 15, and the corresponding interpretive notes of the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 referred to in section 101(d)(8) of the Uruguay Round Agreements Act, adjusted, if necessary, to exclude any costs, charges, or expenses incurred for transportation, insurance, and related services incident to the international shipment of the merchandise from the country of exportation to the place of importation.

(2) CAFTA-DR COUNTRY.—The term “CAFTA-DR country” means—

(A) the United States; and

(B) Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, or Nicaragua, for such time as the Agreement is in force between the United States and that country.

(3) CLASS OF MOTOR VEHICLES.—The term “class of motor vehicles” means any one of the following categories of motor vehicles:

(A) Motor vehicles provided for in subheading 8701.20, 8704.10, 8704.22, 8704.23, 8704.32, or 8704.90, or heading 8705 or 8706, or motor vehicles for the transport of 16 or more persons provided for in subheading 8702.10 or 8702.90.

(B) Motor vehicles provided for in subheading 8701.10 or any of subheadings 8701.30 through 8701.90.

(C) Motor vehicles for the transport of 15 or fewer persons provided for in subheading 8702.10 or 8702.90, or motor vehicles provided for in subheading 8704.21 or 8704.31.

(D) Motor vehicles provided for in any of subheadings 8703.21 through 8703.90.

(4) FUNGIBLE GOOD OR FUNGIBLE MATERIAL.—The term “fungible good” or “fungible material” means a good or material, as the case may be, that is interchangeable with another good

or material for commercial purposes and the properties of which are essentially identical to such other good or material.

(5) **GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.**—The term “generally accepted accounting principles” means the recognized consensus or substantial authoritative support in the territory of a CAFTA–DR country with respect to the recording of revenues, expenses, costs, assets, and liabilities, the disclosure of information, and the preparation of financial statements. The principles may encompass broad guidelines of general application as well as detailed standards, practices, and procedures.

(6) **GOODS WHOLLY OBTAINED OR PRODUCED ENTIRELY IN THE TERRITORY OF ONE OR MORE OF THE CAFTA–DR COUNTRIES.**—The term “goods wholly obtained or produced entirely in the territory of one or more of the CAFTA–DR countries” means—

(A) plants and plant products harvested or gathered in the territory of one or more of the CAFTA–DR countries;

(B) live animals born and raised in the territory of one or more of the CAFTA–DR countries;

(C) goods obtained in the territory of one or more of the CAFTA–DR countries from live animals;

(D) goods obtained from hunting, trapping, fishing or aquaculture conducted in the territory of one or more of the CAFTA–DR countries;

(E) minerals and other natural resources not included in subparagraphs (A) through (D) that are extracted or taken in the territory of one or more of the CAFTA–DR countries;

(F) fish, shellfish, and other marine life taken from the sea, seabed, or subsoil outside the territory of one or more of the CAFTA–DR countries by vessels registered or recorded with a CAFTA–DR country and flying the flag of that country;

(G) goods produced on board factory ships from the goods referred to in subparagraph (F), if such factory ships are registered or recorded with that CAFTA–DR country and fly the flag of that country;

(H) goods taken by a CAFTA–DR country or a person of a CAFTA–DR country from the seabed or subsoil outside territorial waters, if a CAFTA–DR country has rights to exploit such seabed or subsoil;

(I) goods taken from outer space, if the goods are obtained by a CAFTA–DR country or a person of a CAFTA–DR country and not processed in the territory of a country other than a CAFTA–DR country;

(J) waste and scrap derived from—

(i) manufacturing or processing operations in the territory of one or more of the CAFTA–DR countries; or

(ii) used goods collected in the territory of one or more of the CAFTA–DR countries, if such goods are fit only for the recovery of raw materials;

(K) recovered goods derived in the territory of one or more of the CAFTA–DR countries from used goods, and used in the territory of a CAFTA–DR country in the production of remanufactured goods; and

(L) goods produced in the territory of one or more of the CAFTA-DR countries exclusively from—

- (i) goods referred to in any of subparagraphs (A) through (J), or
- (ii) the derivatives of goods referred to in clause (i),

at any stage of production.

(7) IDENTICAL GOODS.—The term “identical goods” means identical goods as defined in the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 referred to in section 101(d)(8) of the Uruguay Round Agreements Act;

(8) INDIRECT MATERIAL.—The term “indirect material” means a good used in the production, testing, or inspection of a good but not physically incorporated into the good, or a good used in the maintenance of buildings or the operation of equipment associated with the production of a good, including—

- (A) fuel and energy;
- (B) tools, dies, and molds;
- (C) spare parts and materials used in the maintenance of equipment or buildings;
- (D) lubricants, greases, compounding materials, and other materials used in production or used to operate equipment or buildings;
- (E) gloves, glasses, footwear, clothing, safety equipment, and supplies;
- (F) equipment, devices, and supplies used for testing or inspecting the good;
- (G) catalysts and solvents; and
- (H) any other goods that are not incorporated into the good but the use of which in the production of the good can reasonably be demonstrated to be a part of that production.

(9) MATERIAL.—The term “material” means a good that is used in the production of another good, including a part or an ingredient.

(10) MATERIAL THAT IS SELF-PRODUCED.—The term “material that is self-produced” means an originating material that is produced by a producer of a good and used in the production of that good.

(11) MODEL LINE.—The term “model line” means a group of motor vehicles having the same platform or model name.

(12) NET COST.—The term “net cost” means total cost minus sales promotion, marketing, and after-sales service costs, royalties, shipping and packing costs, and non-allowable interest costs that are included in the total cost.

(13) NONALLOWABLE INTEREST COSTS.—The term “nonallowable interest costs” means interest costs incurred by a producer that exceed 700 basis points above the applicable official interest rate for comparable maturities of the CAFTA-DR country in which the producer is located.

(14) NONORIGINATING GOOD OR NONORIGINATING MATERIAL.—The terms “nonoriginating good” and “nonoriginating material” mean a good or material, as the case may be, that does not qualify as originating under this section.

(15) **PACKING MATERIALS AND CONTAINERS FOR SHIPMENT.**—The term “packing materials and containers for shipment” means the goods used to protect a good during its transportation and does not include the packaging materials and containers in which a good is packaged for retail sale.

(16) **PREFERENTIAL TARIFF TREATMENT.**—The term “preferential tariff treatment” means the customs duty rate, and the treatment under article 3.10.4 of the Agreement, that are applicable to an originating good pursuant to the Agreement.

(17) **PRODUCER.**—The term “producer” means a person who engages in the production of a good in the territory of a CAFTA–DR country.

(18) **PRODUCTION.**—The term “production” means growing, mining, harvesting, fishing, raising, trapping, hunting, manufacturing, processing, assembling, or disassembling a good.

(19) **REASONABLY ALLOCATE.**—The term “reasonably allocate” means to apportion in a manner that would be appropriate under generally accepted accounting principles.

(20) **RECOVERED GOODS.**—The term “recovered goods” means materials in the form of individual parts that are the result of—

(A) the disassembly of used goods into individual parts; and

(B) the cleaning, inspecting, testing, or other processing that is necessary for improvement to sound working condition of such individual parts.

(21) **REMANUFACTURED GOOD.**—The term “remanufactured good” means a good that is classified under chapter 84, 85, or 87, or heading 9026, 9031, or 9032, other than a good classified under heading 8418 or 8516, and that—

(A) is entirely or partially comprised of recovered goods; and

(B) has a similar life expectancy and enjoys a factory warranty similar to such a new good.

(22) **TOTAL COST.**—The term “total cost” means all product costs, period costs, and other costs for a good incurred in the territory of one or more of the CAFTA–DR countries.

(23) **USED.**—The term “used” means used or consumed in the production of goods.

(o) **PRESIDENTIAL PROCLAMATION AUTHORITY.**—

(1) **IN GENERAL.**—The President is authorized to proclaim, as part of the HTS—

(A) the provisions set out in Annex 4.1 of the Agreement; and

(B) any additional subordinate category necessary to carry out this title consistent with the Agreement.

(2) **FABRICS AND YARNS NOT AVAILABLE IN COMMERCIAL QUANTITIES IN THE UNITED STATES.**—The President is authorized to proclaim that a fabric or yarn is added to the list in Annex 3.25 of the Agreement in an unrestricted quantity, as provided in article 3.25.4(e) of the Agreement.

(3) **MODIFICATIONS.**—

(A) **IN GENERAL.**—Subject to the consultation and lay-over provisions of section 104, the President may proclaim modifications to the provisions proclaimed under the

authority of paragraph (1)(A), other than provisions of chapters 50 through 63, as included in Annex 4.1 of the Agreement.

(B) ADDITIONAL PROCLAMATIONS.—Notwithstanding subparagraph (A), and subject to the consultation and lay-over provisions of section 104, the President may proclaim before the end of the 1-year period beginning on the date of the enactment of this Act, modifications to correct any typographical, clerical, or other nonsubstantive technical error regarding the provisions of chapters 50 through 63, as included in Annex 4.1 of the Agreement. Deadline.

(4) FABRICS, YARNS, OR FIBERS NOT AVAILABLE IN COMMERCIAL QUANTITIES IN THE CAFTA-DR COUNTRIES.—

(A) IN GENERAL.—Notwithstanding paragraph 3(A), the list of fabrics, yarns, and fibers set out in Annex 3.25 of the Agreement may be modified as provided for in this paragraph.

(B) DEFINITIONS.—In this paragraph:

(i) The term “interested entity” means the government of a CAFTA-DR country other than the United States, a potential or actual purchaser of a textile or apparel good, or a potential or actual supplier of a textile or apparel good.

(ii) All references to “day” and “days” exclude Saturdays, Sundays, and legal holidays.

(C) REQUESTS TO ADD FABRICS, YARNS, OR FIBERS.—

(i) An interested entity may request the President to determine that a fabric, yarn, or fiber is not available in commercial quantities in a timely manner in the CAFTA-DR countries and to add that fabric, yarn, or fiber to the list in Annex 3.25 of the Agreement in a restricted or unrestricted quantity.

(ii) After receiving a request under clause (i), the President may determine whether—

(I) the fabric, yarn, or fiber is available in commercial quantities in a timely manner in the CAFTA-DR countries; or

(II) any interested entity objects to the request.

(iii) The President may, within the time periods specified in clause (iv), proclaim that a fabric, yarn, or fiber that is the subject of a request submitted under clause (i) is added to the list in Annex 3.25 of the Agreement in an unrestricted quantity, or in any restricted quantity that the President may establish, if the President determines under clause (ii) that—

(I) the fabric, yarn, or fiber is not available in commercial quantities in a timely manner in the CAFTA-DR countries; or

(II) no interested entity has objected to the request.

(iv) The time periods within which the President may issue a proclamation under clause (iii) are— Deadlines.

(I) not later than 30 days after the date on which the request is submitted under clause (i); or

(II) not later than 44 days after the request is submitted, if the President determines, within 30 days after the date on which the request is submitted, that

Effective date. Federal Register, publication.	<p>the President does not have sufficient information to make a determination under clause (ii).</p> <p>(v) Notwithstanding section 103(a)(2), a proclamation made under clause (iii) shall take effect on the date on which the text of the proclamation is published in the Federal Register.</p>
Deadline.	<p>(vi) Not later than 6 months after proclaiming under clause (iii) that a fabric, yarn, or fiber is added to the list in Annex 3.25 of the Agreement in a restricted quantity, the President may eliminate the restriction if the President determines that the fabric, yarn, or fiber is not available in commercial quantities in a timely manner in the CAFTA–DR countries.</p>
Effective dates.	<p>(D) DEEMED APPROVAL OF REQUEST.—If, after an interested entity submits a request under subparagraph (C)(i), the President does not, within the applicable time period specified in subparagraph (C)(iv), make a determination under subparagraph (C)(ii) regarding the request, the fabric, yarn, or fiber that is the subject of the request shall be considered to be added, in an unrestricted quantity, to the list in Annex 3.25 of the Agreement beginning—</p> <p>(i) 45 days after the date on which the request was submitted; or</p> <p>(ii) 60 days after the date on which the request was submitted, if the President made a determination under subparagraph (C)(iv)(II).</p> <p>(E) REQUESTS TO RESTRICT OR REMOVE FABRICS, YARNS, OR FIBERS.—(i) Subject to clause (ii), an interested entity may request the President to restrict the quantity of, or remove from the list in Annex 3.25 of the Agreement, any fabric, yarn, or fiber—</p> <p>(I) that has been added to that list in an unrestricted quantity pursuant to paragraph (2) or subparagraph (C)(iii) or (D); or</p> <p>(II) with respect to which the President has eliminated a restriction under subparagraph (C)(vi).</p> <p>(ii) An interested entity may submit a request under clause (i) at any time beginning 6 months after the date of the action described in subclause (I) or (II) of that clause.</p>
Deadline.	<p>(iii) Not later than 30 days after the date on which a request under clause (i) is submitted, the President may proclaim an action provided for under clause (i) if the President determines that the fabric, yarn, or fiber that is the subject of the request is available in commercial quantities in a timely manner in the CAFTA–DR countries.</p>
Effective date. Federal Register, publication.	<p>(iv) A proclamation declared under clause (iii) shall take effect no earlier than the date that is 6 months after the date on which the text of the proclamation is published in the Federal Register.</p> <p>(F) PROCEDURES.—The President shall establish procedures—</p> <p>(i) governing the submission of a request under subparagraphs (C) and (E); and</p> <p>(ii) providing an opportunity for interested entities to submit comments and supporting evidence before</p>

the President makes a determination under subparagraph (C) (ii) or (vi) or (E)(iii).

SEC. 204. CUSTOMS USER FEES.

Section 13031(b) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)) is amended by adding after paragraph (14), the following:

“(15) No fee may be charged under subsection (a) (9) or (10) with respect to goods that qualify as originating goods under section 203 of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act. Any service for which an exemption from such fee is provided by reason of this paragraph may not be funded with money contained in the Customs User Fee Account.”.

SEC. 205. RETROACTIVE APPLICATION FOR CERTAIN LIQUIDATIONS AND RELIQUIDATIONS OF TEXTILE OR APPAREL GOODS.

19 USC 4034.

(a) **IN GENERAL.**—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, and subject to subsection (c), an entry—

(1) of a textile or apparel good—

(A) of a CAFTA–DR country that the United States Trade Representative has designated as an eligible country under subsection (b), and

(B) that would have qualified as an originating good under section 203 if the good had been entered after the date of entry into force of the Agreement for that country,

(2) that was made on or after January 1, 2004, and before the date of the entry into force of the Agreement with respect to that country, and

(3) for which customs duties in excess of the applicable rate of duty for that good set out in the Schedule of the United States to Annex 3.3 of the Agreement were paid,

shall be liquidated or reliquidated at the applicable rate of duty for that good set out in the Schedule of the United States to Annex 3.3 of the Agreement, and the Secretary of the Treasury shall refund any excess customs duties paid with respect to such entry.

(b) **ELIGIBLE COUNTRY.**—The United States Trade Representative shall determine, in accordance with article 3.20 of the Agreement, which CAFTA–DR countries are eligible countries for purposes of this section, and shall publish a list of all such countries in the Federal Register.

Federal Register, publication.

(c) **REQUESTS.**—Liquidation or reliquidation may be made under subsection (a) with respect to an entry of a textile or apparel good only if a request therefor is filed with the Bureau of Customs and Border Protection, within such period as the Bureau of Customs and Border Protection shall establish by regulation in consultation with the Secretary of the Treasury, that contains sufficient information to enable the Bureau of Customs and Border Protection—

Regulations.

(1)(A) to locate the entry; or

(B) to reconstruct the entry if it cannot be located; and

(2) to determine that the good satisfies the conditions set out in subsection (a).

(d) **DEFINITION.**—As used in this section, the term “entry” includes a withdrawal from warehouse for consumption.

SEC. 206. DISCLOSURE OF INCORRECT INFORMATION; FALSE CERTIFICATIONS OF ORIGIN; DENIAL OF PREFERENTIAL TARIFF TREATMENT.

(a) **DISCLOSURE OF INCORRECT INFORMATION.**—Section 592 of the Tariff Act of 1930 (19 U.S.C. 1592) is amended—

(1) in subsection (c)—

(A) by redesignating paragraph (9) as paragraph (10);

and

(B) by inserting after paragraph (8) the following new paragraph:

Regulations.

“(9) **PRIOR DISCLOSURE REGARDING CLAIMS UNDER THE DOMINICAN REPUBLIC-CENTRAL AMERICA-UNITED STATES FREE TRADE AGREEMENT.**—An importer shall not be subject to penalties under subsection (a) for making an incorrect claim that a good qualifies as an originating good under section 203 of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act if the importer, in accordance with regulations issued by the Secretary of the Treasury, promptly and voluntarily makes a corrected declaration and pays any duties owing.”; and

(2) by adding at the end the following new subsection:

“(h) **FALSE CERTIFICATIONS OF ORIGIN UNDER THE DOMINICAN REPUBLIC-CENTRAL AMERICA-UNITED STATES FREE TRADE AGREEMENT.**—

Applicability.

“(1) **IN GENERAL.**—Subject to paragraph (2), it is unlawful for any person to certify falsely, by fraud, gross negligence, or negligence, in a CAFTA-DR certification of origin (as defined in section 508(g)(1)(B) of this Act) that a good exported from the United States qualifies as an originating good under the rules of origin set out in section 203 of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act. The procedures and penalties of this section that apply to a violation of subsection (a) also apply to a violation of this subsection.

“(2) **PROMPT AND VOLUNTARY DISCLOSURE OF INCORRECT INFORMATION.**—No penalty shall be imposed under this subsection if, promptly after an exporter or producer that issued a CAFTA-DR certification of origin has reason to believe that such certification contains or is based on incorrect information, the exporter or producer voluntarily provides written notice of such incorrect information to every person to whom the certification was issued.

“(3) **EXCEPTION.**—A person may not be considered to have violated paragraph (1) if—

“(A) the information was correct at the time it was provided in a CAFTA-DR certification of origin but was later rendered incorrect due to a change in circumstances; and

“(B) the person promptly and voluntarily provides written notice of the change in circumstances to all persons to whom the person provided the certification.”.

(b) **DENIAL OF PREFERENTIAL TARIFF TREATMENT.**—Section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) is amended by adding at the end the following new subsection:

“(h) **DENIAL OF PREFERENTIAL TARIFF TREATMENT UNDER THE DOMINICAN REPUBLIC-CENTRAL AMERICA-UNITED STATES FREE**

TRADE AGREEMENT.—If the Bureau of Customs and Border Protection or the Bureau of Immigration and Customs Enforcement finds indications of a pattern of conduct by an importer, exporter, or producer of false or unsupported representations that goods qualify under the rules of origin set out in section 203 of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act, the Bureau of Customs and Border Protection, in accordance with regulations issued by the Secretary of the Treasury, may suspend preferential tariff treatment under the Dominican Republic-Central America-United States Free Trade Agreement to entries of identical goods covered by subsequent representations by that importer, exporter, or producer until the Bureau of Customs and Border Protection determines that representations of that person are in conformity with such section 203.”.

SEC. 207. RELIQUIDATION OF ENTRIES.

Subsection (d) of section 520 of the Tariff Act of 1930 (19 U.S.C. 1520(d)) is amended—

(1) in the matter preceding paragraph (1), by striking “or section 202 of the United States-Chile Free Trade Agreement Implementation Act” and inserting “, section 202 of the United States-Chile Free Trade Agreement Implementation Act, or section 203 of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act”; and

(2) in paragraph (2), by inserting “or certifications” after “other certificates”.

SEC. 208. RECORDKEEPING REQUIREMENTS.

Section 508 of the Tariff Act of 1930 (19 U.S.C. 1508) is amended—

(1) by redesignating subsection (g) as subsection (h);

(2) by inserting after subsection (f) the following new subsection:

“(g) **CERTIFICATIONS OF ORIGIN FOR GOODS EXPORTED UNDER THE DOMINICAN REPUBLIC-CENTRAL AMERICA-UNITED STATES FREE TRADE AGREEMENT.**—

“(1) **DEFINITIONS.**—In this subsection:

“(A) **RECORDS AND SUPPORTING DOCUMENTS.**—The term ‘records and supporting documents’ means, with respect to an exported good under paragraph (2), records and documents related to the origin of the good, including—

“(i) the purchase, cost, and value of, and payment for, the good;

“(ii) the purchase, cost, and value of, and payment for, all materials, including indirect materials, used in the production of the good; and

“(iii) the production of the good in the form in which it was exported.

“(B) **CAFTA-DR CERTIFICATION OF ORIGIN.**—The term ‘CAFTA-DR certification of origin’ means the certification established under article 4.16 of the Dominican Republic-Central America-United States Free Trade Agreement that a good qualifies as an originating good under such Agreement.

“(2) **EXPORTS TO CAFTA-DR COUNTRIES.**—Any person who completes and issues a CAFTA-DR certification of origin for a good exported from the United States shall make, keep, and, pursuant to rules and regulations promulgated by the

Secretary of the Treasury, render for examination and inspection all records and supporting documents related to the origin of the good (including the certification or copies thereof).

“(3) RETENTION PERIOD.—Records and supporting documents shall be kept by the person who issued a CAFTA–DR certification of origin for at least 5 years after the date on which the certification was issued.”; and

(3) in subsection (h), as so redesignated—

(A) by inserting “or (g)” after “(f)”; and

(B) by striking “that subsection” and inserting “either such subsection”.

19 USC 4035.

SEC. 209. ENFORCEMENT RELATING TO TRADE IN TEXTILE OR APPAREL GOODS.

(a) ACTION DURING VERIFICATION.—

(1) IN GENERAL.—If the Secretary of the Treasury requests the government of a CAFTA–DR country to conduct a verification pursuant to article 3.24 of the Agreement for purposes of making a determination under paragraph (2), the President may direct the Secretary to take appropriate action described in subsection (b) while the verification is being conducted.

(2) DETERMINATION.—A determination under this paragraph is a determination—

(A) that an exporter or producer in that country is complying with applicable customs laws, regulations, and procedures regarding trade in textile or apparel goods, or

(B) that a claim that a textile or apparel good exported or produced by such exporter or producer—

(i) qualifies as an originating good under section 203 of this Act, or

(ii) is a good of a CAFTA–DR country, is accurate.

(b) APPROPRIATE ACTION DESCRIBED.—Appropriate action under subsection (a)(1) includes—

(1) suspension of preferential tariff treatment under the Agreement with respect to—

(A) any textile or apparel good exported or produced by the person that is the subject of a verification under subsection (a)(1) regarding compliance described in subsection (a)(2)(A), if the Secretary determines there is insufficient information to support any claim for preferential tariff treatment that has been made with respect to any such good; or

(B) the textile or apparel good for which a claim of preferential tariff treatment has been made that is the subject of a verification under subsection (a)(1) regarding a claim described in subsection (a)(2)(B), if the Secretary determines there is insufficient information to support that claim;

(2) denial of preferential tariff treatment under the Agreement with respect to—

(A) any textile or apparel good exported or produced by the person that is the subject of a verification under

subsection (a)(1) regarding compliance described in subsection (a)(2)(A), if the Secretary determines that the person has provided incorrect information to support any claim for preferential tariff treatment that has been made with respect to any such good; or

(B) the textile or apparel good for which a claim of preferential tariff treatment has been made that is the subject of a verification under subsection (a)(1) regarding a claim described in subsection (a)(2)(B), if the Secretary determines that a person has provided incorrect information to support that claim;

(3) detention of any textile or apparel good exported or produced by the person that is the subject of a verification under subsection (a)(1) regarding compliance described in subsection (a)(2)(A) or a claim described in subsection (a)(2)(B), if the Secretary determines there is insufficient information to determine the country of origin of any such good; and

(4) denial of entry into the United States of any textile or apparel good exported or produced by the person that is the subject of a verification under subsection (a)(1) regarding compliance described in subsection (a)(2)(A) or a claim described in subsection (a)(2)(B), if the Secretary determines that the person has provided incorrect information as to the country of origin of any such good.

(c) ACTION ON COMPLETION OF A VERIFICATION.—On completion of a verification under subsection (a), the President may direct the Secretary to take appropriate action described in subsection (d) until such time as the Secretary receives information sufficient to make the determination under subsection (a)(2) or until such earlier date as the President may direct.

(d) APPROPRIATE ACTION DESCRIBED.—Appropriate action under subsection (c) includes—

(1) denial of preferential tariff treatment under the Agreement with respect to—

(A) any textile or apparel good exported or produced by the person that is the subject of a verification under subsection (a)(1) regarding compliance described in subsection (a)(2)(A), if the Secretary determines there is insufficient information to support, or that the person has provided incorrect information to support, any claim for preferential tariff treatment that has been made with respect to any such good; or

(B) the textile or apparel good for which a claim of preferential tariff treatment has been made that is the subject of a verification under subsection (a)(1) regarding a claim described in subsection (a)(2)(B), if the Secretary determines there is insufficient information to support, or that a person has provided incorrect information to support, that claim; and

(2) denial of entry into the United States of any textile or apparel good exported or produced by the person that is the subject of a verification under subsection (a)(1) regarding compliance described in subsection (a)(2)(A) or a claim described in subsection (a)(2)(B), if the Secretary determines there is insufficient information to determine, or that the person has provided incorrect information as to, the country of origin of any such good.

(e) PUBLICATION OF NAME OF PERSON.—The Secretary may publish the name of any person that the Secretary has determined—

(1) is engaged in intentional circumvention of applicable laws, regulations, or procedures affecting trade in textile or apparel goods; or

(2) has failed to demonstrate that it produces, or is capable of producing, textile or apparel goods.

19 USC 4036.

SEC. 210. REGULATIONS.

The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out—

(1) subsections (a) through (n) of section 203;

(2) the amendment made by section 204; and

(3) any proclamation issued under section 203(o).

TITLE III—RELIEF FROM IMPORTS

19 USC 4051.

SEC. 301. DEFINITIONS.

In this title:

(1) CAFTA–DR ARTICLE.—The term “CAFTA–DR article” means an article that qualifies as an originating good under section 203(b).

(2) CAFTA–DR TEXTILE OR APPAREL ARTICLE.—The term “CAFTA–DR textile or apparel article” means a textile or apparel good (as defined in section 3(5)) that is a CAFTA–DR article.

(3) DE MINIMIS SUPPLYING COUNTRY.—

(A) Subject to subparagraph (B), the term “de minimis supplying country” means a CAFTA–DR country whose share of imports of the relevant CAFTA–DR article into the United States does not exceed 3 percent of the aggregate volume of imports of the relevant CAFTA–DR article in the most recent 12-month period for which data are available that precedes the filing of the petition under section 311(a).

(B) A CAFTA–DR country shall not be considered to be a de minimis supplying country if the aggregate share of imports of the relevant CAFTA–DR article into the United States of all CAFTA–DR countries that satisfy the conditions of subparagraph (A) exceeds 9 percent of the aggregate volume of imports of the relevant CAFTA–DR article during the applicable 12-month period.

(4) RELEVANT CAFTA–DR ARTICLE.—The term “relevant CAFTA–DR article” means the CAFTA–DR article with respect to which a petition has been filed under section 311(a).

Subtitle A—Relief From Imports Benefiting From the Agreement

19 USC 4061.

SEC. 311. COMMENCING OF ACTION FOR RELIEF.

(a) FILING OF PETITION.—A petition requesting action under this subtitle for the purpose of adjusting to the obligations of the United States under the Agreement may be filed with the

Commission by an entity, including a trade association, firm, certified or recognized union, or group of workers, that is representative of an industry. The Commission shall transmit a copy of any petition filed under this subsection to the United States Trade Representative.

(b) INVESTIGATION AND DETERMINATION.—Upon the filing of a petition under subsection (a), the Commission, unless subsection (d) applies, shall promptly initiate an investigation to determine whether, as a result of the reduction or elimination of a duty provided for under the Agreement, a CAFTA–DR article is being imported into the United States in such increased quantities, in absolute terms or relative to domestic production, and under such conditions that imports of the CAFTA–DR article constitute a substantial cause of serious injury or threat thereof to the domestic industry producing an article that is like, or directly competitive with, the imported article.

(c) APPLICABLE PROVISIONS.—The following provisions of section 202 of the Trade Act of 1974 (19 U.S.C. 2252) apply with respect to any investigation initiated under subsection (b):

- (1) Paragraphs (1)(B) and (3) of subsection (b).
- (2) Subsection (c).
- (3) Subsection (i).

(d) ARTICLES EXEMPT FROM INVESTIGATION.—No investigation may be initiated under this section with respect to any CAFTA–DR article if, after the date that the Agreement enters into force, import relief has been provided with respect to that CAFTA–DR article under this subtitle.

SEC. 312. COMMISSION ACTION ON PETITION.

19 USC 4062.

(a) DETERMINATION.—Not later than 120 days after the date on which an investigation is initiated under section 311(b) with respect to a petition, the Commission shall make the determination required under that section. At that time, the Commission shall also determine whether any CAFTA–DR country is a de minimis supplying country.

Deadline.

(b) APPLICABLE PROVISIONS.—For purposes of this subtitle, the provisions of paragraphs (1), (2), and (3) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d) (1), (2), and (3)) shall be applied with respect to determinations and findings made under this section as if such determinations and findings were made under section 202 of the Trade Act of 1974 (19 U.S.C. 2252).

(c) ADDITIONAL FINDING AND RECOMMENDATION IF DETERMINATION AFFIRMATIVE.—If the determination made by the Commission under subsection (a) with respect to imports of an article is affirmative, or if the President may consider a determination of the Commission to be an affirmative determination as provided for under paragraph (1) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)), the Commission shall find, and recommend to the President in the report required under subsection (d), the amount of import relief that is necessary to remedy or prevent the injury found by the Commission in the determination and to facilitate the efforts of the domestic industry to make a positive adjustment to import competition. The import relief recommended by the Commission under this subsection shall be limited to the relief described in section 313(c). Only those members of the Commission who voted in the affirmative under subsection (a) are eligible to vote on the proposed action to remedy or prevent the

injury found by the Commission. Members of the Commission who did not vote in the affirmative may submit, in the report required under subsection (d), separate views regarding what action, if any, should be taken to remedy or prevent the injury.

(d) **REPORT TO PRESIDENT.**—Not later than the date that is 30 days after the date on which a determination is made under subsection (a) with respect to an investigation, the Commission shall submit to the President a report that includes—

(1) the determination made under subsection (a) and an explanation of the basis for the determination;

(2) if the determination under subsection (a) is affirmative, any findings and recommendations for import relief made under subsection (c) and an explanation of the basis for each recommendation; and

(3) any dissenting or separate views by members of the Commission regarding the determination and recommendation referred to in paragraphs (1) and (2).

Federal Register,
publication.

(e) **PUBLIC NOTICE.**—Upon submitting a report to the President under subsection (d), the Commission shall promptly make public such report (with the exception of information which the Commission determines to be confidential) and shall cause a summary thereof to be published in the Federal Register.

President.
19 USC 4063.
Deadline.

SEC. 313. PROVISION OF RELIEF.

(a) **IN GENERAL.**—Not later than the date that is 30 days after the date on which the President receives the report of the Commission in which the Commission's determination under section 312(a) is affirmative, or which contains a determination under section 312(a) that the President considers to be affirmative under paragraph (1) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)(1)), the President, subject to subsection (b), shall provide relief from imports of the article that is the subject of such determination to the extent that the President determines necessary to remedy or prevent the injury found by the Commission and to facilitate the efforts of the domestic industry to make a positive adjustment to import competition.

(b) **EXCEPTION.**—The President is not required to provide import relief under this section if the President determines that the provision of the import relief will not provide greater economic and social benefits than costs.

(c) **NATURE OF RELIEF.**—

(1) **IN GENERAL.**—The import relief that the President is authorized to provide under this section with respect to imports of an article is as follows:

(A) The suspension of any further reduction provided for under Annex 3.3 of the Agreement in the duty imposed on such article.

(B) An increase in the rate of duty imposed on such article to a level that does not exceed the lesser of—

(i) the column 1 general rate of duty imposed under the HTS on like articles at the time the import relief is provided; or

(ii) the column 1 general rate of duty imposed under the HTS on like articles on the day before the date on which the Agreement enters into force.

(2) **PROGRESSIVE LIBERALIZATION.**—If the period for which import relief is provided under this section is greater than

1 year, the President shall provide for the progressive liberalization (described in article 8.2.3 of the Agreement) of such relief at regular intervals during the period of its application.

(d) PERIOD OF RELIEF.—

(1) IN GENERAL.—Subject to paragraph (2), any import relief that the President is authorized to provide under this section may not, in the aggregate, be in effect for more than 4 years.

(2) EXTENSION.—

(A) IN GENERAL.—If the initial period for any import relief provided under this section is less than 4 years, the President, after receiving a determination from the Commission under subparagraph (B) that is affirmative, or which the President considers to be affirmative under paragraph (1) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)(1)), may extend the effective period of any import relief provided under this section, subject to the limitation under paragraph (1), if the President determines that—

(i) the import relief continues to be necessary to remedy or prevent serious injury and to facilitate adjustment by the domestic industry to import competition; and

(ii) there is evidence that the industry is making a positive adjustment to import competition.

(B) ACTION BY COMMISSION.—(i) Upon a petition on behalf of the industry concerned that is filed with the Commission not earlier than the date which is 9 months, and not later than the date which is 6 months, before the date on which any action taken under subsection (a) is to terminate, the Commission shall conduct an investigation to determine whether action under this section continues to be necessary to remedy or prevent serious injury and whether there is evidence that the industry is making a positive adjustment to import competition.

Deadline.

(ii) The Commission shall publish notice of the commencement of any proceeding under this subparagraph in the Federal Register and shall, within a reasonable time thereafter, hold a public hearing at which the Commission shall afford interested parties and consumers an opportunity to be present, to present evidence, and to respond to the presentations of other parties and consumers, and otherwise to be heard.

Federal Register,
publication.

(iii) The Commission shall transmit to the President a report on its investigation and determination under this subparagraph not later than 60 days before the action under subsection (a) is to terminate, unless the President specifies a different date.

Reports.
Deadline.

(e) RATE AFTER TERMINATION OF IMPORT RELIEF.—When import relief under this section is terminated with respect to an article—

(1) the rate of duty on that article after such termination and on or before December 31 of the year in which such termination occurs shall be the rate that, according to the Schedule of the United States to Annex 3.3 of the Agreement would have been in effect 1 year after the provision of relief under subsection (a); and

(2) the rate of duty for that article after December 31 of the year in which termination occurs shall be, at the discretion of the President, either—

(A) the applicable rate of duty for that article set out in the Schedule of the United States to Annex 3.3 of the Agreement; or

(B) the rate of duty resulting from the elimination of the tariff in equal annual stages ending on the date set out in the Schedule of the United States to Annex 3.3 of the Agreement for the elimination of the tariff.

(f) ARTICLES EXEMPT FROM RELIEF.—No import relief may be provided under this section on—

(1) any article subject to import relief under chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.); or

(2) imports of a CAFTA–DR article of a CAFTA–DR country that is a de minimis supplying country with respect to that article.

19 USC 4064.

SEC. 314. TERMINATION OF RELIEF AUTHORITY.

(a) GENERAL RULE.—Subject to subsection (b), no import relief may be provided under this subtitle after the date that is 10 years after the date on which the Agreement enters into force.

(b) EXCEPTION.—If an article for which relief is provided under this subtitle is an article for which the period for tariff elimination, set out in the Schedule of the United States to Annex 3.3 of the Agreement, is greater than 10 years, no relief under this subtitle may be provided for that article after the date on which that period ends.

19 USC 4065.

SEC. 315. COMPENSATION AUTHORITY.

For purposes of section 123 of the Trade Act of 1974 (19 U.S.C. 2133), any import relief provided by the President under section 313 shall be treated as action taken under chapter 1 of title II of such Act.

SEC. 316. CONFIDENTIAL BUSINESS INFORMATION.

Section 202(a)(8) of the Trade Act of 1974 (19 U.S.C. 2252(a)(8)) is amended in the first sentence—

(1) by striking “and”; and

(2) by inserting before the period at the end “, and title III of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act”.

Subtitle B—Textile and Apparel Safeguard Measures

President.
19 USC 4081.

SEC. 321. COMMENCEMENT OF ACTION FOR RELIEF.

(a) IN GENERAL.—A request under this subtitle for the purpose of adjusting to the obligations of the United States under the Agreement may be filed with the President by an interested party. Upon the filing of a request, the President shall review the request to determine, from information presented in the request, whether to commence consideration of the request.

(b) PUBLICATION OF REQUEST.—If the President determines that the request under subsection (a) provides the information necessary

Federal Register,
publication.
Notice.

for the request to be considered, the President shall cause to be published in the Federal Register a notice of commencement of consideration of the request, and notice seeking public comments regarding the request. The notice shall include a summary of the request and the dates by which comments and rebuttals must be received.

SEC. 322. DETERMINATION AND PROVISION OF RELIEF.

President.
19 USC 4082.

(a) DETERMINATION.—

(1) IN GENERAL.—If a positive determination is made under section 321(b), the President shall determine whether, as a result of the elimination of a duty under the Agreement, a CAFTA-DR textile or apparel article of a specified CAFTA-DR country is being imported into the United States in such increased quantities, in absolute terms or relative to the domestic market for that article, and under such conditions as to cause serious damage, or actual threat thereof, to a domestic industry producing an article that is like, or directly competitive with, the imported article.

(2) SERIOUS DAMAGE.—In making a determination under paragraph (1), the President—

(A) shall examine the effect of increased imports on the domestic industry, as reflected in changes in such relevant economic factors as output, productivity, utilization of capacity, inventories, market share, exports, wages, employment, domestic prices, profits, and investment, none of which is necessarily decisive; and

(B) shall not consider changes in technology or consumer preference as factors supporting a determination of serious damage or actual threat thereof.

(3) DEADLINE FOR DETERMINATION.—The President shall make the determination under paragraph (1) no later than 30 days after the completion of any consultations held pursuant to article 3.23.4 of the Agreement.

(b) PROVISION OF RELIEF.—

(1) IN GENERAL.—If a determination under subsection (a) is affirmative, the President may provide relief from imports of the article that is the subject of such determination, as provided in paragraph (2), to the extent that the President determines necessary to remedy or prevent the serious damage and to facilitate adjustment by the domestic industry.

(2) NATURE OF RELIEF.—The relief that the President is authorized to provide under this subsection with respect to imports of an article is an increase in the rate of duty imposed on the article to a level that does not exceed the lesser of—

(A) the column 1 general rate of duty imposed under the HTS on like articles at the time the import relief is provided; or

(B) the column 1 general rate of duty imposed under the HTS on like articles on the day before the date on which the Agreement enters into force.

SEC. 323. PERIOD OF RELIEF.

19 USC 4083.

(a) IN GENERAL.—Subject to subsection (b), any import relief that the President provides under subsection (b) of section 322 may not, in the aggregate, be in effect for more than 3 years.

(b) EXTENSION.—If the initial period for any import relief provided under section 322 is less than 3 years, the President may

extend the effective period of any import relief provided under that section, subject to the limitation set forth in subsection (a), if the President determines that—

(1) the import relief continues to be necessary to remedy or prevent serious damage and to facilitate adjustment by the domestic industry to import competition; and

(2) there is evidence that the industry is making a positive adjustment to import competition.

19 USC 4084.

SEC. 324. ARTICLES EXEMPT FROM RELIEF.

The President may not provide import relief under this subtitle with respect to any article if—

(1) import relief previously has been provided under this subtitle with respect to that article; or

(2) the article is subject to import relief under—

(A) subtitle A; or

(B) chapter 1 of title II of the Trade Act of 1974.

19 USC 4085.

SEC. 325. RATE AFTER TERMINATION OF IMPORT RELIEF.

When import relief under this subtitle is terminated with respect to an article, the rate of duty on that article shall be the rate that would have been in effect, but for the provision of such relief.

19 USC 4086.

SEC. 326. TERMINATION OF RELIEF AUTHORITY.

No import relief may be provided under this subtitle with respect to any article after the date that is 5 years after the date on which the Agreement enters into force.

19 USC 4087.

SEC. 327. COMPENSATION AUTHORITY.

For purposes of section 123 of the Trade Act of 1974 (19 U.S.C. 2133), any import relief provided by the President under this subtitle shall be treated as action taken under chapter 1 of title II of that Act.

19 USC 4088.

SEC. 328. CONFIDENTIAL BUSINESS INFORMATION.

The President may not release information received in connection with a review under this subtitle which the President considers to be confidential business information unless the party submitting the confidential business information had notice, at the time of submission, that such information would be released by the President, or such party subsequently consents to the release of the information. To the extent a party submits confidential business information, it shall also provide a nonconfidential version of the information in which the confidential business information is summarized or, if necessary, deleted.

Subtitle C—Cases Under Title II of the Trade Act of 1974

19 USC 4101.

SEC. 331. FINDINGS AND ACTION ON GOODS OF CAFTA-DR COUNTRIES.

Reports.

(a) EFFECT OF IMPORTS.—If, in any investigation initiated under chapter 1 of title II of the Trade Act of 1974, the Commission makes an affirmative determination (or a determination which the President may treat as an affirmative determination under such chapter by reason of section 330(d) of the Tariff Act of 1930), the Commission shall also find (and report to the President at

the time such injury determination is submitted to the President) whether imports of the article of each CAFTA–DR country that qualify as originating goods under section 203(b) are a substantial cause of serious injury or threat thereof.

(b) **PRESIDENTIAL DETERMINATION REGARDING IMPORTS OF CAFTA–DR COUNTRIES.**—In determining the nature and extent of action to be taken under chapter 1 of title II of the Trade Act of 1974, the President may exclude from the action goods of a CAFTA–DR country with respect to which the Commission has made a negative finding under subsection (a).

TITLE IV—MISCELLANEOUS

SEC. 401. ELIGIBLE PRODUCTS.

Section 308(4)(A) of the Trade Agreements Act of 1979 (19 U.S.C. 2518(4)(A)) is amended—

- (1) by striking “or” at the end of clause (ii);
- (2) by striking the period at the end of clause (iii) and inserting “; or”; and
- (3) by adding at the end the following new clause:

“(iv) a party to the Dominican Republic-Central America-United States Free Trade Agreement, a product or service of that country or instrumentality which is covered under that Agreement for procurement by the United States.”.

SEC. 402. MODIFICATIONS TO THE CARIBBEAN BASIN ECONOMIC RECOVERY ACT.

(a) **FORMER BENEFICIARY COUNTRIES.**—Section 212(a)(1) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702(a)(1)) is amended by adding at the end the following new subparagraph:

“(F) The term ‘former beneficiary country’ means a country that ceases to be designated as a beneficiary country under this title because the country has become a party to a free trade agreement with the United States.”.

(b) **COUNTRIES ELIGIBLE FOR DESIGNATION AS BENEFICIARY COUNTRIES.**—Section 212(b) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702(b)) is amended by striking from the list of countries eligible for designation as beneficiary countries—

Effective dates.

- (1) “Costa Rica”, effective on the date the President terminates the designation of Costa Rica as a beneficiary country pursuant to section 201(a)(3); 19 USC 2702 note.
- (2) “Dominican Republic”, effective on the date the President terminates the designation of the Dominican Republic as a beneficiary country pursuant to section 201(a)(3); 19 USC 2702 note.
- (3) “El Salvador”, effective on the date the President terminates the designation of El Salvador as a beneficiary country pursuant to section 201(a)(3); 19 USC 2702 note.
- (4) “Guatemala”, effective on the date the President terminates the designation of Guatemala as a beneficiary country pursuant to section 201(a)(3); 19 USC 2702 note.
- (5) “Honduras”, effective on the date the President terminates the designation of Honduras as a beneficiary country pursuant to section 201(a)(3); and 19 USC 2702 note.

19 USC 2702
note.

(6) “Nicaragua”, effective on the date the President terminates the designation of Nicaragua as a beneficiary country pursuant to section 201(a)(3).

(c) MATERIALS OF, OR PROCESSING IN, FORMER BENEFICIARY COUNTRIES.—Section 213(a)(1) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(a)(1)) is amended by striking “the Commonwealth of Puerto Rico and the United States Virgin Islands” and inserting “the Commonwealth of Puerto Rico, the United States Virgin Islands, and any former beneficiary country”.

(d) DEFINITIONS AND SPECIAL RULES.—Section 213(b)(5) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(b)(5)) is amended by adding at the end the following new subparagraphs:

“(G) FORMER CBTPA BENEFICIARY COUNTRY.—The term ‘former CBTPA beneficiary country’ means a country that ceases to be designated as a CBTPA beneficiary country under this title because the country has become a party to a free trade agreement with the United States.

“(H) ARTICLES THAT UNDERGO PRODUCTION IN A CBTPA BENEFICIARY COUNTRY AND A FORMER CBTPA BENEFICIARY COUNTRY.—(i) For purposes of determining the eligibility of an article for preferential treatment under paragraph (2) or (3), references in either such paragraph, and in subparagraph (C) of this paragraph to—

“(I) a ‘CBTPA beneficiary country’ shall be considered to include any former CBTPA beneficiary country, and

“(II) ‘CBTPA beneficiary countries’ shall be considered to include former CBTPA beneficiary countries, if the article, or a good used in the production of the article, undergoes production in a CBTPA beneficiary country.

“(ii) An article that is eligible for preferential treatment under clause (i) shall not be ineligible for such treatment because the article is imported directly from a former CBTPA beneficiary country.

“(iii) Notwithstanding clauses (i) and (ii), an article that is a good of a former CBTPA beneficiary country for purposes of section 304 of the Tariff Act of 1930 (19 U.S.C. 1304) or section 334 of the Uruguay Round Agreements Act (19 U.S.C. 3592), as the case may be, shall not be eligible for preferential treatment under paragraph (2) or (3), unless—

“(I) it is an article that is a good of the Dominican Republic under either such section 304 or 334; and

“(II) the article, or a good used in the production of the article, undergoes production in Haiti.”.

19 USC 4111.

SEC. 403. PERIODIC REPORTS AND MEETINGS ON LABOR OBLIGATIONS AND LABOR CAPACITY-BUILDING PROVISIONS.

(a) REPORTS TO CONGRESS.—

President.

(1) IN GENERAL.—Not later than the end of the 2-year period beginning on the date the Agreement enters into force, and not later than the end of each 2-year period thereafter during the succeeding 14-year period, the President shall report to the Congress on the progress made by the CAFTA-DR countries in—

(A) implementing Chapter Sixteen and Annex 16.5 of the Agreement; and

(B) implementing the White Paper.

(2) WHITE PAPER.—In this section, the term “White Paper” means the report of April 2005 of the Working Group of the Vice Ministers Responsible for Trade and Labor in the Countries of Central America and the Dominican Republic entitled “The Labor Dimension in Central America and the Dominican Republic - Building on Progress: Strengthening Compliance and Enhancing Capacity”.

(3) CONTENTS OF REPORTS.—Each report under paragraph (1) shall include the following:

(A) A description of the progress made by the Labor Cooperation and Capacity Building Mechanism established by article 16.5 and Annex 16.5 of the Agreement, and the Labor Affairs Council established by article 16.4 of the Agreement, in achieving their stated goals, including a description of the capacity-building projects undertaken, funds received, and results achieved, in each CAFTA–DR country.

(B) Recommendations on how the United States can facilitate full implementation of the recommendations contained in the White Paper.

(C) A description of the work done by the CAFTA–DR countries with the International Labor Organization to implement the recommendations contained in the White Paper, and the efforts of the CAFTA–DR countries with international organizations, through the Labor Cooperation and Capacity Building Mechanism referred to in subparagraph (A), to advance common commitments regarding labor matters.

(D) A summary of public comments received on—

(i) capacity-building efforts by the United States envisaged by article 16.5 and Annex 16.5 of the Agreement;

(ii) efforts by the United States to facilitate full implementation of the White Paper recommendations; and

(iii) the efforts made by the CAFTA–DR countries to comply with article 16.5 and Annex 16.5 of the Agreement and to fully implement the White Paper recommendations, including the progress made by the CAFTA–DR countries in affording to workers internationally-recognized worker rights through improved capacity.

(4) SOLICITATION OF PUBLIC COMMENTS.—The President shall establish a mechanism to solicit public comments for purposes of paragraph (3)(D). President.

(b) PERIODIC MEETINGS OF SECRETARY OF LABOR WITH LABOR MINISTERS OF CAFTA–DR COUNTRIES.—

(1) PERIODIC MEETINGS.—The Secretary of Labor should take the necessary steps to meet periodically with the labor ministers of the CAFTA–DR countries to discuss—

(A) the operation of the labor provisions of the Agreement;

(B) progress on the commitments made by the CAFTA–DR countries to implement the recommendations contained in the White Paper;

(C) the work of the International Labor Organization in the CAFTA–DR countries, and other cooperative efforts, to afford to workers internationally-recognized worker rights; and

(D) such other matters as the Secretary of Labor and the labor ministers consider appropriate.

President.

(2) INCLUSION IN BIENNIAL REPORTS.—The President shall include in each report under subsection (a), as the President deems appropriate, summaries of the meetings held pursuant to paragraph (1).

Approved August 2, 2005.

LEGISLATIVE HISTORY—H.R. 3045 (S. 1307):

HOUSE REPORTS: No. 109–182 (Comm. on Ways and Means).

CONGRESSIONAL RECORD, Vol. 151 (2005):

July 27, considered and passed House.

July 28, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 41 (2005):

Aug. 2, Presidential remarks.



Public Law 109–54
109th Congress

An Act

Making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2006, and for other purposes.

Aug. 2, 2005
[H.R. 2361]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2006, and for other purposes, namely:

Department of
the Interior,
Environment,
and Related
Agencies
Appropriations
Act, 2006.

TITLE I—DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

For necessary expenses for protection, use, improvement, development, disposal, cadastral surveying, classification, acquisition of easements and other interests in lands, and performance of other functions, including maintenance of facilities, as authorized by law, in the management of lands and their resources under the jurisdiction of the Bureau of Land Management, including the general administration of the Bureau, and assessment of mineral potential of public lands pursuant to Public Law 96–487 (16 U.S.C. 3150(a)), \$860,791,000, to remain available until expended, of which \$1,250,000 is for high priority projects, to be carried out by the Youth Conservation Corps; and of which \$3,000,000 shall be available in fiscal year 2006 subject to a match by at least an equal amount by the National Fish and Wildlife Foundation for cost-shared projects supporting conservation of Bureau lands; and such funds shall be advanced to the Foundation as a lump sum grant without regard to when expenses are incurred.

In addition, \$32,696,000 is for Mining Law Administration program operations, including the cost of administering the mining claim fee program; to remain available until expended, to be reduced by amounts collected by the Bureau and credited to this appropriation from annual mining claim fees so as to result in a final appropriation estimated at not more than \$860,791,000, and \$2,000,000, to remain available until expended, from communication site rental fees established by the Bureau for the cost of administering communication site activities.

WILDLAND FIRE MANAGEMENT
(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for fire preparedness, suppression operations, fire science and research, emergency rehabilitation, hazardous fuels reduction, and rural fire assistance by the Department of the Interior, \$766,564,000, to remain available until expended, of which not to exceed \$7,849,000 shall be for the renovation or construction of fire facilities: *Provided*, That such funds are also available for repayment of advances to other appropriation accounts from which funds were previously transferred for such purposes: *Provided further*, That persons hired pursuant to 43 U.S.C. 1469 may be furnished subsistence and lodging without cost from funds available from this appropriation: *Provided further*, That notwithstanding 42 U.S.C. 1856d, sums received by a bureau or office of the Department of the Interior for fire protection rendered pursuant to 42 U.S.C. 1856 et seq., protection of United States property, may be credited to the appropriation from which funds were expended to provide that protection, and are available without fiscal year limitation: *Provided further*, That using the amounts designated under this title of this Act, the Secretary of the Interior may enter into procurement contracts, grants, or cooperative agreements, for hazardous fuels reduction activities, and for training and monitoring associated with such hazardous fuels reduction activities, on Federal land, or on adjacent non-Federal land for activities that benefit resources on Federal land: *Provided further*, That the costs of implementing any cooperative agreement between the Federal Government and any non-Federal entity may be shared, as mutually agreed on by the affected parties: *Provided further*, That notwithstanding requirements of the Competition in Contracting Act, the Secretary, for purposes of hazardous fuels reduction activities, may obtain maximum practicable competition among: (1) local private, nonprofit, or cooperative entities; (2) Youth Conservation Corps crews or related partnerships with State, local, or non-profit youth groups; (3) small or micro-businesses; or (4) other entities that will hire or train locally a significant percentage, defined as 50 percent or more, of the project workforce to complete such contracts: *Provided further*, That in implementing this section, the Secretary shall develop written guidance to field units to ensure accountability and consistent application of the authorities provided herein: *Provided further*, That funds appropriated under this head may be used to reimburse the United States Fish and Wildlife Service and the National Marine Fisheries Service for the costs of carrying out their responsibilities under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) to consult and conference, as required by section 7 of such Act, in connection with wildland fire management activities: *Provided further*, That the Secretary of the Interior may use wildland fire appropriations to enter into non-competitive sole source leases of real property with local governments, at or below fair market value, to construct capitalized improvements for fire facilities on such leased properties, including but not limited to fire guard stations, retardant stations, and other initial attack and fire support facilities, and to make advance payments for any such lease or for construction activity associated with the lease: *Provided further*, That the Secretary of the Interior and the Secretary of Agriculture may authorize the transfer of funds appropriated for wildland fire management, in an aggregate

Guidelines.

amount not to exceed \$9,000,000, between the Departments when such transfers would facilitate and expedite jointly funded wildland fire management programs and projects: *Provided further*, That funds provided for wildfire suppression shall be available for support of Federal emergency response actions.

CONSTRUCTION

For construction of buildings, recreation facilities, roads, trails, and appurtenant facilities, \$11,926,000, to remain available until expended.

LAND ACQUISITION

For expenses necessary to carry out sections 205, 206, and 318(d) of Public Law 94–579, including administrative expenses and acquisition of lands or waters, or interests therein, \$8,750,000, to be derived from the Land and Water Conservation Fund and to remain available until expended.

OREGON AND CALIFORNIA GRANT LANDS

For expenses necessary for management, protection, and development of resources and for construction, operation, and maintenance of access roads, reforestation, and other improvements on the revested Oregon and California Railroad grant lands, on other Federal lands in the Oregon and California land-grant counties of Oregon, and on adjacent rights-of-way; and acquisition of lands or interests therein, including existing connecting roads on or adjacent to such grant lands; \$110,070,000, to remain available until expended: *Provided*, That 25 percent of the aggregate of all receipts during the current fiscal year from the revested Oregon and California Railroad grant lands is hereby made a charge against the Oregon and California land-grant fund and shall be transferred to the General Fund in the Treasury in accordance with the second paragraph of subsection (b) of title II of the Act of August 28, 1937 (50 Stat. 876).

FOREST ECOSYSTEM HEALTH AND RECOVERY FUND

(REVOLVING FUND, SPECIAL ACCOUNT)

In addition to the purposes authorized in Public Law 102–381, funds made available in the Forest Ecosystem Health and Recovery Fund can be used for the purpose of planning, preparing, implementing and monitoring salvage timber sales and forest ecosystem health and recovery activities, such as release from competing vegetation and density control treatments. The Federal share of receipts (defined as the portion of salvage timber receipts not paid to the counties under 43 U.S.C. 1181f and 43 U.S.C. 1181f–1 et seq., and Public Law 106–393) derived from treatments funded by this account shall be deposited into the Forest Ecosystem Health and Recovery Fund.

RANGE IMPROVEMENTS

For rehabilitation, protection, and acquisition of lands and interests therein, and improvement of Federal rangelands pursuant to section 401 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701), notwithstanding any other Act, sums

equal to 50 percent of all moneys received during the prior fiscal year under sections 3 and 15 of the Taylor Grazing Act (43 U.S.C. 315 et seq.) and the amount designated for range improvements from grazing fees and mineral leasing receipts from Bankhead-Jones lands transferred to the Department of the Interior pursuant to law, but not less than \$10,000,000, to remain available until expended: *Provided*, That not to exceed \$600,000 shall be available for administrative expenses.

SERVICE CHARGES, DEPOSITS, AND FORFEITURES

43 USC 1735
note.

For administrative expenses and other costs related to processing application documents and other authorizations for use and disposal of public lands and resources, for costs of providing copies of official public land documents, for monitoring construction, operation, and termination of facilities in conjunction with use authorizations, and for rehabilitation of damaged property, such amounts as may be collected under Public Law 94-579, as amended, and Public Law 93-153, to remain available until expended: *Provided*, That, notwithstanding any provision to the contrary of section 305(a) of Public Law 94-579 (43 U.S.C. 1735(a)), any moneys that have been or will be received pursuant to that section, whether as a result of forfeiture, compromise, or settlement, if not appropriate for refund pursuant to section 305(c) of that Act (43 U.S.C. 1735(c)), shall be available and may be expended under the authority of this Act by the Secretary to improve, protect, or rehabilitate any public lands administered through the Bureau of Land Management which have been damaged by the action of a resource developer, purchaser, permittee, or any unauthorized person, without regard to whether all moneys collected from each such action are used on the exact lands damaged which led to the action: *Provided further*, That any such moneys that are in excess of amounts needed to repair damage to the exact land for which funds were collected may be used to repair other damaged public lands.

MISCELLANEOUS TRUST FUNDS

In addition to amounts authorized to be expended under existing laws, there is hereby appropriated such amounts as may be contributed under section 307 of the Act of October 21, 1976 (43 U.S.C. 1701), and such amounts as may be advanced for administrative costs, surveys, appraisals, and costs of making conveyances of omitted lands under section 211(b) of that Act, to remain available until expended.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Land Management shall be available for purchase, erection, and dismantlement of temporary structures, and alteration and maintenance of necessary buildings and appurtenant facilities to which the United States has title; up to \$100,000 for payments, at the discretion of the Secretary, for information or evidence concerning violations of laws administered by the Bureau; miscellaneous and emergency expenses of enforcement activities authorized or approved by the Secretary and to be accounted for solely on her certificate, not to exceed \$10,000: *Provided*, That notwithstanding 44 U.S.C. 501, the Bureau may,

under cooperative cost-sharing and partnership arrangements authorized by law, procure printing services from cooperators in connection with jointly produced publications for which the cooperators share the cost of printing either in cash or in services, and the Bureau determines the cooperator is capable of meeting accepted quality standards.

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

For necessary expenses of the United States Fish and Wildlife Service, as authorized by law, and for scientific and economic studies, maintenance of the herd of long-horned cattle on the Wichita Mountains Wildlife Refuge, general administration, and for the performance of other authorized functions related to such resources by direct expenditure, contracts, grants, cooperative agreements and reimbursable agreements with public and private entities, \$1,008,880,000, to remain available until September 30, 2007, except as otherwise provided herein: *Provided*, That \$2,500,000 is for high priority projects, which shall be carried out by the Youth Conservation Corps: *Provided further*, That not to exceed \$18,130,000 shall be used for implementing subsections (a), (b), (c), and (e) of section 4 of the Endangered Species Act, as amended, for species that are indigenous to the United States (except for processing petitions, developing and issuing proposed and final regulations, and taking any other steps to implement actions described in subsection (c)(2)(A), (c)(2)(B)(i), or (c)(2)(B)(ii)), of which not to exceed \$12,852,000 shall be used for any activity regarding the designation of critical habitat, pursuant to subsection (a)(3), excluding litigation support, for species listed pursuant to subsection (a)(1) prior to October 1, 2005: *Provided further*, That of the amount available for law enforcement, up to \$400,000, to remain available until expended, may at the discretion of the Secretary be used for payment for information, rewards, or evidence concerning violations of laws administered by the Service, and miscellaneous and emergency expenses of enforcement activity, authorized or approved by the Secretary and to be accounted for solely on her certificate: *Provided further*, That of the amount provided for environmental contaminants, up to \$1,000,000 may remain available until expended for contaminant sample analyses.

CONSTRUCTION

For construction, improvement, acquisition, or removal of buildings and other facilities required in the conservation, management, investigation, protection, and utilization of fishery and wildlife resources, and the acquisition of lands and interests therein; \$45,891,000, to remain available until expended: *Provided*, That funds made available under the 2005 Consolidated Appropriations Act (Public Law 108-447) for the Chase Lake and Arrowwood National Wildlife Refuges, North Dakota, shall be transferred to North Dakota State University to complete planning and design for a Joint Interpretive Center.

LAND ACQUISITION

For expenses necessary to carry out the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l-4 through 11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the United States Fish and Wildlife Service, \$28,408,000 to be derived from the Land and Water Conservation Fund and to remain available until expended: *Provided*, That none of the funds appropriated for specific land acquisition projects can be used to pay for any administrative overhead, planning or other management costs.

LANDOWNER INCENTIVE PROGRAM

For expenses necessary to carry out the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l-4 through 11), including administrative expenses, and for private conservation efforts to be carried out on private lands, \$24,000,000, to be derived from the Land and Water Conservation Fund, and to remain available until expended: *Provided*, That the amount provided herein is for a Landowner Incentive Program established by the Secretary that provides matching, competitively awarded grants to States, the District of Columbia, federally recognized Indian tribes, Puerto Rico, Guam, the United States Virgin Islands, the Northern Mariana Islands, and American Samoa, to establish or supplement existing landowner incentive programs that provide technical and financial assistance, including habitat protection and restoration, to private landowners for the protection and management of habitat to benefit federally listed, proposed, candidate, or other at-risk species on private lands.

PRIVATE STEWARDSHIP GRANTS

For expenses necessary to carry out the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l-4 through 11), including administrative expenses, and for private conservation efforts to be carried out on private lands, \$7,386,000, to be derived from the Land and Water Conservation Fund, and to remain available until expended: *Provided*, That the amount provided herein is for the Private Stewardship Grants Program established by the Secretary to provide grants and other assistance to individuals and groups engaged in private conservation efforts that benefit federally listed, proposed, candidate, or other at-risk species.

COOPERATIVE ENDANGERED SPECIES CONSERVATION FUND

For expenses necessary to carry out section 6 of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), as amended, \$82,200,000, of which \$20,161,000 is to be derived from the Cooperative Endangered Species Conservation Fund and \$62,039,000 is to be derived from the Land and Water Conservation Fund and to remain available until expended.

NATIONAL WILDLIFE REFUGE FUND

For expenses necessary to implement the Act of October 17, 1978 (16 U.S.C. 715s), \$14,414,000.

NORTH AMERICAN WETLANDS CONSERVATION FUND

For expenses necessary to carry out the provisions of the North American Wetlands Conservation Act, Public Law 101-233, as amended, \$40,000,000, to remain available until expended.

NEOTROPICAL MIGRATORY BIRD CONSERVATION

For financial assistance for projects to promote the conservation of neotropical migratory birds in accordance with the Neotropical Migratory Bird Conservation Act, Public Law 106-247 (16 U.S.C. 6101-6109), \$4,000,000, to remain available until expended.

MULTINATIONAL SPECIES CONSERVATION FUND

For expenses necessary to carry out the African Elephant Conservation Act (16 U.S.C. 4201-4203, 4211-4213, 4221-4225, 4241-4245, and 1538), the Asian Elephant Conservation Act of 1997 (Public Law 105-96; 16 U.S.C. 4261-4266), the Rhinoceros and Tiger Conservation Act of 1994 (16 U.S.C. 5301-5306), the Great Ape Conservation Act of 2000 (16 U.S.C. 6301), and the Marine Turtle Conservation Act of 2004 (Public Law 108-266; 16 U.S.C. 6601), \$6,500,000, to remain available until expended.

STATE AND TRIBAL WILDLIFE GRANTS

For wildlife conservation grants to States and to the District of Columbia, Puerto Rico, Guam, the United States Virgin Islands, the Northern Mariana Islands, American Samoa, and federally recognized Indian tribes under the provisions of the Fish and Wildlife Act of 1956 and the Fish and Wildlife Coordination Act, for the development and implementation of programs for the benefit of wildlife and their habitat, including species that are not hunted or fished, \$68,500,000, to be derived from the Land and Water Conservation Fund and to remain available until expended: *Provided*, That of the amount provided herein, \$6,000,000 is for a competitive grant program for Indian tribes not subject to the remaining provisions of this appropriation: *Provided further*, That the Secretary shall, after deducting said \$6,000,000 and administrative expenses, apportion the amount provided herein in the following manner: (1) to the District of Columbia and to the Commonwealth of Puerto Rico, each a sum equal to not more than one-half of 1 percent thereof; and (2) to Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands, each a sum equal to not more than one-fourth of 1 percent thereof: *Provided further*, That the Secretary shall apportion the remaining amount in the following manner: (1) one-third of which is based on the ratio to which the land area of such State bears to the total land area of all such States; and (2) two-thirds of which is based on the ratio to which the population of such State bears to the total population of all such States: *Provided further*, That the amounts apportioned under this paragraph shall be adjusted equitably so that no State shall be apportioned a sum which is less than 1 percent of the amount available for apportionment under this paragraph for any fiscal year or more than 5 percent of such amount: *Provided further*, That the Federal share of planning grants shall not exceed 75 percent of the total costs of such projects and the Federal share of implementation grants shall not exceed 50 percent of the total costs of such

Deadline.

projects: *Provided further*, That the non-Federal share of such projects may not be derived from Federal grant programs: *Provided further*, That no State, territory, or other jurisdiction shall receive a grant unless it has developed, by October 1, 2005, a comprehensive wildlife conservation plan, consistent with criteria established by the Secretary of the Interior, that considers the broad range of the State, territory, or other jurisdiction's wildlife and associated habitats, with appropriate priority placed on those species with the greatest conservation need and taking into consideration the relative level of funding available for the conservation of those species: *Provided further*, That no State, territory, or other jurisdiction shall receive a grant if its comprehensive wildlife conservation plan is disapproved and such funds that would have been distributed to such State, territory, or other jurisdiction shall be distributed equitably to States, territories, and other jurisdictions with approved plans: *Provided further*, That any amount apportioned in 2006 to any State, territory, or other jurisdiction that remains unobligated as of September 30, 2007, shall be reapportioned, together with funds appropriated in 2008, in the manner provided herein: *Provided further*, That balances from amounts previously appropriated under the heading "State Wildlife Grants" shall be transferred to and merged with this appropriation and shall remain available until expended.

ADMINISTRATIVE PROVISIONS

Appropriations and funds available to the United States Fish and Wildlife Service shall be available for purchase of passenger motor vehicles; repair of damage to public roads within and adjacent to reservation areas caused by operations of the Service; options for the purchase of land at not to exceed \$1 for each option; facilities incident to such public recreational uses on conservation areas as are consistent with their primary purpose; and the maintenance and improvement of aquaria, buildings, and other facilities under the jurisdiction of the Service and to which the United States has title, and which are used pursuant to law in connection with management, and investigation of fish and wildlife resources: *Provided*, That notwithstanding 44 U.S.C. 501, the Service may, under cooperative cost sharing and partnership arrangements authorized by law, procure printing services from cooperators in connection with jointly produced publications for which the cooperators share at least one-half the cost of printing either in cash or services and the Service determines the cooperator is capable of meeting accepted quality standards: *Provided further*, That, notwithstanding any other provision of law, the Service may use up to \$2,000,000 from funds provided for contracts for employment-related legal services: *Provided further*, That the Service may accept donated aircraft as replacements for existing aircraft: *Provided further*, That, notwithstanding any other provision of law, the Secretary of the Interior may not spend any of the funds appropriated in this Act for the purchase of lands or interests in lands to be used in the establishment of any new unit of the National Wildlife Refuge System unless the purchase is approved in advance by the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in the statement of the managers accompanying this Act.

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

For expenses necessary for the management, operation, and maintenance of areas and facilities administered by the National Park Service (including special road maintenance service to trucking permittees on a reimbursable basis), and for the general administration of the National Park Service, \$1,744,074,000, of which \$9,892,000 is for planning and interagency coordination in support of Everglades restoration and shall remain available until expended; of which \$97,600,000, to remain available until September 30, 2007, is for maintenance, repair or rehabilitation projects for constructed assets, operation of the National Park Service automated facility management software system, and comprehensive facility condition assessments; and of which \$2,000,000 is for the Youth Conservation Corps for high priority projects: *Provided*, That the only funds in this account which may be made available to support United States Park Police are those funds approved for emergency law and order incidents pursuant to established National Park Service procedures, those funds needed to maintain and repair United States Park Police administrative facilities, and those funds necessary to reimburse the United States Park Police account for the unbudgeted overtime and travel costs associated with special events for an amount not to exceed \$10,000 per event subject to the review and concurrence of the Washington headquarters office.

UNITED STATES PARK POLICE

For expenses necessary to carry out the programs of the United States Park Police, \$81,411,000.

NATIONAL RECREATION AND PRESERVATION

For expenses necessary to carry out recreation programs, natural programs, cultural programs, heritage partnership programs, environmental compliance and review, international park affairs, statutory or contractual aid for other activities, and grant administration, not otherwise provided for, \$54,965,000: *Provided*, That none of the funds in this Act for the River, Trails and Conservation Assistance program may be used for cash agreements, or for cooperative agreements that are inconsistent with the program's final strategic plan.

HISTORIC PRESERVATION FUND

For expenses necessary in carrying out the Historic Preservation Act of 1966, as amended (16 U.S.C. 470), and the Omnibus Parks and Public Lands Management Act of 1996 (Public Law 104–333), \$73,250,000, to be derived from the Historic Preservation Fund and to remain available until September 30, 2007, of which \$30,000,000 shall be for Save America's Treasures for preservation of nationally significant sites, structures, and artifacts: *Provided*, That not to exceed \$5,000,000 of the amount provided for Save America's Treasures may be for Preserve America grants to States, Tribes, and local communities for projects that preserve important historic resources through the promotion of heritage tourism: *Provided further*, That any individual Save America's Treasures or

Preserve America grant shall be matched by non-Federal funds: *Provided further*, That individual projects shall only be eligible for one grant: *Provided further*, That all projects to be funded shall be approved by the Secretary of the Interior in consultation with the House and Senate Committees on Appropriations, and in consultation with the President's Committee on the Arts and Humanities prior to the commitment of Save America's Treasures grant funds and with the Advisory Council on Historic Preservation prior to the commitment of Preserve America grant funds: *Provided further*, That Save America's Treasures funds allocated for Federal projects, following approval, shall be available by transfer to appropriate accounts of individual agencies.

CONSTRUCTION

(INCLUDING TRANSFER OF FUNDS)

For construction, improvements, repair or replacement of physical facilities, including the modifications authorized by section 104 of the Everglades National Park Protection and Expansion Act of 1989, \$301,291,000, to remain available until expended, of which \$17,000,000 for modified water deliveries to Everglades National Park shall be derived by transfer from unobligated balances in the "Land Acquisition and State Assistance" account for Everglades National Park land acquisitions, and of which \$400,000 for the Mark Twain Boyhood Home National Historic Landmark shall be derived from the Historic Preservation Fund pursuant to 16 U.S.C. 470a: *Provided*, That none of the funds available to the National Park Service may be used to plan, design, or construct any partnership project with a total value in excess of \$5,000,000, without advance approval of the House and Senate Committees on Appropriations: *Provided further*, That notwithstanding any other provision of law, the National Park Service may not accept donations or services associated with the planning, design, or construction of such new facilities without advance approval of the House and Senate Committees on Appropriations: *Provided further*, That funds provided under this heading for implementation of modified water deliveries to Everglades National Park shall be expended consistent with the requirements of the fifth proviso under this heading in Public Law 108-108: *Provided further*, That funds provided under this heading for implementation of modified water deliveries to Everglades National Park shall be available for obligation only if matching funds are appropriated to the Army Corps of Engineers for the same purpose: *Provided further*, That none of the funds provided under this heading for implementation of modified water deliveries to Everglades National Park shall be available for obligation if any of the funds appropriated to the Army Corps of Engineers for the purpose of implementing modified water deliveries, including finalizing detailed engineering and design documents for a bridge or series of bridges for the Tamiami Trail component of the project, becomes unavailable for obligation: *Provided further*, That hereinafter notwithstanding any other provision of law, procurements for the Mount Rainier National Park Jackson Visitor Center replacement and the rehabilitation of Paradise Inn and Annex may be issued which include the full scope of the facility: *Provided further*, That the solicitation and contract shall contain the clause "availability of funds" found at 48 CFR 52.232.18: *Provided further*, That none

of the funds provided in this or any other Act may be used for planning, design, or construction of any underground security screening or visitor contact facility at the Washington Monument until such facility has been approved in writing by the House and Senate Committees on Appropriations.

LAND AND WATER CONSERVATION FUND

(RESCISSION)

The contract authority provided for fiscal year 2006 by 16 U.S.C. 4601–10a is rescinded.

16 USC 4601–10a
note.

LAND ACQUISITION AND STATE ASSISTANCE

For expenses necessary to carry out the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 4601–4 through 11), including administrative expenses, and for acquisition of lands or waters, or interest therein, in accordance with the statutory authority applicable to the National Park Service, \$74,824,000, to be derived from the Land and Water Conservation Fund and to remain available until expended, of which \$30,000,000 is for the State assistance program including \$1,587,000 for program administration: *Provided*, That none of the funds provided for the State assistance program may be used to establish a contingency fund.

ADMINISTRATIVE PROVISIONS

Appropriations for the National Park Service shall be available for the purchase of not to exceed 245 passenger motor vehicles, of which 199 shall be for replacement only, including not to exceed 193 for police-type use, 10 buses, and 8 ambulances: *Provided*, That none of the funds appropriated to the National Park Service may be used to implement an agreement for the redevelopment of the southern end of Ellis Island until such agreement has been submitted to the Congress and shall not be implemented prior to the expiration of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than 3 calendar days to a day certain) from the receipt by the Speaker of the House of Representatives and the President of the Senate of a full and comprehensive report on the development of the southern end of Ellis Island, including the facts and circumstances relied upon in support of the proposed project: *Provided further*, That in fiscal year 2006 and thereafter, appropriations available to the National Park Service may be used to maintain the following areas in Washington, District of Columbia: Jackson Place, Madison Place, and Pennsylvania Avenue between 15th and 17th Streets, Northwest.

Ellis Island.
Deadline.
Reports.

None of the funds in this Act may be spent by the National Park Service for activities taken in direct response to the United Nations Biodiversity Convention.

The National Park Service may distribute to operating units based on the safety record of each unit the costs of programs designed to improve workplace and employee safety, and to encourage employees receiving workers' compensation benefits pursuant to chapter 81 of title 5, United States Code, to return to appropriate positions for which they are medically able.

If the Secretary of the Interior considers the decision of any value determination proceeding conducted under a National Park Service concession contract issued prior to November 13, 1998, to misinterpret or misapply relevant contractual requirements or their underlying legal authority, the Secretary may seek, within 180 days of any such decision, the de novo review of the value determination by the United States Court of Federal Claims, and that court may make an order affirming, vacating, modifying or correcting the determination.

In addition to other uses set forth in section 407(d) of Public Law 105-391, franchise fees credited to a sub-account shall be available for expenditure by the Secretary, without further appropriation, for use at any unit within the National Park System to extinguish or reduce liability for Possessory Interest or leasehold surrender interest. Such funds may only be used for this purpose to the extent that the benefiting unit anticipated franchise fee receipts over the term of the contract at that unit exceed the amount of funds used to extinguish or reduce liability. Franchise fees at the benefiting unit shall be credited to the sub-account of the originating unit over a period not to exceed the term of a single contract at the benefiting unit, in the amount of funds so expended to extinguish or reduce liability.

UNITED STATES GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

For expenses necessary for the United States Geological Survey to perform surveys, investigations, and research covering topography, geology, hydrology, biology, and the mineral and water resources of the United States, its territories and possessions, and other areas as authorized by 43 U.S.C. 31, 1332, and 1340; classify lands as to their mineral and water resources; give engineering supervision to power permittees and Federal Energy Regulatory Commission licensees; administer the minerals exploration program (30 U.S.C. 641); conduct inquiries into the economic conditions affecting mining and materials processing industries (30 U.S.C. 3, 21a, and 1603; 50 U.S.C. 98g(1)) and related purposes as authorized by law; and to publish and disseminate data relative to the foregoing activities; \$976,035,000, of which \$63,770,000 shall be available only for cooperation with States or municipalities for water resources investigations; of which \$8,000,000 shall remain available until expended for satellite operations; of which \$21,720,000 shall be available until September 30, 2007, for the operation and maintenance of facilities and deferred maintenance; of which \$1,600,000 shall be available until expended for deferred maintenance and capital improvement projects that exceed \$100,000 in cost; and of which \$177,485,000 shall be available until September 30, 2007, for the biological research activity and the operation of the Cooperative Research Units: *Provided*, That none of the funds provided for the biological research activity shall be used to conduct new surveys on private property, unless specifically authorized in writing by the property owner: *Provided further*, That no part of this appropriation shall be used to pay more than one-half the cost of topographic mapping or water resources data collection and investigations carried on in cooperation with States and municipalities.

ADMINISTRATIVE PROVISIONS

From within the amount appropriated for activities of the United States Geological Survey such sums as are necessary shall be available for the purchase and replacement of passenger motor vehicles; reimbursement to the General Services Administration for security guard services; contracting for the furnishing of topographic maps and for the making of geophysical or other specialized surveys when it is administratively determined that such procedures are in the public interest; construction and maintenance of necessary buildings and appurtenant facilities; acquisition of lands for gauging stations and observation wells; expenses of the United States National Committee on Geology; and payment of compensation and expenses of persons on the rolls of the Survey duly appointed to represent the United States in the negotiation and administration of interstate compacts: *Provided*, That activities funded by appropriations herein made may be accomplished through the use of contracts, grants, or cooperative agreements as defined in 31 U.S.C. 6302 et seq.: *Provided further*, That the United States Geological Survey may enter into contracts or cooperative agreements directly with individuals or indirectly with institutions or nonprofit organizations, without regard to 41 U.S.C. 5, for the temporary or intermittent services of students or recent graduates, who shall be considered employees for the purpose of chapters 57 and 81 of title 5, United States Code, relating to compensation for travel and work injuries, and chapter 171 of title 28, United States Code, relating to tort claims, but shall not be considered to be Federal employees for any other purposes.

MINERALS MANAGEMENT SERVICE

ROYALTY AND OFFSHORE MINERALS MANAGEMENT

For expenses necessary for minerals leasing and environmental studies, regulation of industry operations, and collection of royalties, as authorized by law; for enforcing laws and regulations applicable to oil, gas, and other minerals leases, permits, licenses and operating contracts; and for matching grants or cooperative agreements; including the purchase of not to exceed eight passenger motor vehicles for replacement only, \$153,651,000, of which \$78,529,000 shall be available for royalty management activities; and an amount not to exceed \$122,730,000, to be credited to this appropriation and to remain available until expended, from additions to receipts resulting from increases to rates in effect on August 5, 1993, from rate increases to fee collections for Outer Continental Shelf administrative activities performed by the Minerals Management Service (MMS) over and above the rates in effect on September 30, 1993, and from additional fees for Outer Continental Shelf administrative activities established after September 30, 1993: *Provided*, That to the extent \$122,730,000 in addition to receipts are not realized from the sources of receipts stated above, the amount needed to reach \$122,730,000 shall be credited to this appropriation from receipts resulting from rental rates for Outer Continental Shelf leases in effect before August 5, 1993: *Provided further*, That \$3,000,000 for computer acquisitions shall remain available until September 30, 2007: *Provided further*, That not to exceed \$3,000 shall be available for reasonable expenses related to promoting volunteer beach and marine cleanup activities: *Provided further*,

30 USC 1758.

That notwithstanding any other provision of law, \$15,000 under this heading shall be available for refunds of overpayments in connection with certain Indian leases in which the Director of MMS concurred with the claimed refund due, to pay amounts owed to Indian allottees or tribes, or to correct prior unrecoverable erroneous payments: *Provided further*, That in fiscal year 2006 and thereafter, the MMS may under the royalty-in-kind program, or under its authority to transfer oil to the Strategic Petroleum Reserve, use a portion of the revenues from royalty-in-kind sales, without regard to fiscal year limitation, to pay for transportation to wholesale market centers or upstream pooling points, to process or otherwise dispose of royalty production taken in kind, and to recover MMS transportation costs, salaries, and other administrative costs directly related to the royalty-in-kind program: *Provided further*, That MMS shall analyze and document the expected return in advance of any royalty-in-kind sales to assure to the maximum extent practicable that royalty income under the program is equal to or greater than royalty income recognized under a comparable royalty-in-value program.

OIL SPILL RESEARCH

For necessary expenses to carry out title I, section 1016, title IV, sections 4202 and 4303, title VII, and title VIII, section 8201 of the Oil Pollution Act of 1990, \$7,006,000, which shall be derived from the Oil Spill Liability Trust Fund, to remain available until expended.

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

REGULATION AND TECHNOLOGY

30 USC 1211
note.

For necessary expenses to carry out the provisions of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, as amended, including the purchase of not to exceed 10 passenger motor vehicles, for replacement only; \$110,435,000: *Provided*, That the Secretary of the Interior, pursuant to regulations, may use directly or through grants to States, moneys collected in fiscal year 2006 for civil penalties assessed under section 518 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1268), to reclaim lands adversely affected by coal mining practices after August 3, 1977, to remain available until expended: *Provided further*, That appropriations for the Office of Surface Mining Reclamation and Enforcement may provide for the travel and per diem expenses of State and tribal personnel attending Office of Surface Mining Reclamation and Enforcement sponsored training.

ABANDONED MINE RECLAMATION FUND

For necessary expenses to carry out title IV of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, as amended, including the purchase of not more than 10 passenger motor vehicles for replacement only, \$188,014,000, to be derived from receipts of the Abandoned Mine Reclamation Fund and to remain available until expended; of which up to \$10,000,000, to be derived from the Federal Expenses Share of the Fund, shall

be for supplemental grants to States for the reclamation of abandoned sites with acid mine rock drainage from coal mines, and for associated activities, through the Appalachian Clean Streams Initiative: *Provided*, That grants to minimum program States will be \$1,500,000 per State in fiscal year 2006: *Provided further*, That pursuant to Public Law 97–365, the Department of the Interior is authorized to use up to 20 percent from the recovery of the delinquent debt owed to the United States Government to pay for contracts to collect these debts: *Provided further*, That funds made available under title IV of Public Law 95–87 may be used for any required non-Federal share of the cost of projects funded by the Federal Government for the purpose of environmental restoration related to treatment or abatement of acid mine drainage from abandoned mines: *Provided further*, That such projects must be consistent with the purposes and priorities of the Surface Mining Control and Reclamation Act: *Provided further*, That amounts allocated under section 402(g)(2) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(g)(2)) as of September 30, 2005, but not appropriated as of that date, are reallocated to the allocation established in section 402(g)(3) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(g)(3)): *Provided further*, That the State of Maryland may set aside the greater of \$1,000,000 or 10 percent of the total of the grants made available to the State under title IV of the Surface Mining Control and Reclamation Act of 1977, as amended (30 U.S.C. 1231 et seq.), if the amount set aside is deposited in an acid mine drainage abatement and treatment fund established under a State law, pursuant to which law the amount (together with all interest earned on the amount) is expended by the State to undertake acid mine drainage abatement and treatment projects, except that before any amounts greater than 10 percent of its title IV grants are deposited in an acid mine drainage abatement and treatment fund, the State of Maryland must first complete all Surface Mining Control and Reclamation Act priority one projects: *Provided further*, That amounts provided under this heading may be used for the travel and per diem expenses of State and tribal personnel attending Office of Surface Mining Reclamation and Enforcement sponsored training.

ADMINISTRATIVE PROVISION

With funds available for the Technical Innovation and Professional Services program in this Act, the Secretary may transfer title for computer hardware, software and other technical equipment to State and Tribal regulatory and reclamation programs.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

For expenses necessary for the operation of Indian programs, as authorized by law, including the Snyder Act of November 2, 1921 (25 U.S.C. 13), the Indian Self-Determination and Education Assistance Act of 1975 (25 U.S.C. 450 et seq.), as amended, the Education Amendments of 1978 (25 U.S.C. 2001–2019), and the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2501 et seq.), as amended, \$1,991,490,000, to remain available until September 30, 2007 except as otherwise provided herein, of which not to

exceed \$86,462,000 shall be for welfare assistance payments and notwithstanding any other provision of law, including but not limited to the Indian Self-Determination Act of 1975, as amended, not to exceed \$134,609,000 shall be available for payments to tribes and tribal organizations for contract support costs associated with ongoing contracts, grants, compacts, or annual funding agreements entered into with the Bureau prior to or during fiscal year 2006, as authorized by such Act, except that tribes and tribal organizations may use their tribal priority allocations for unmet indirect contract support costs of ongoing contracts, grants, or compacts, or annual funding agreements and for unmet welfare assistance costs; and of which not to exceed \$464,585,000 for school operations costs of Bureau-funded schools and other education programs shall become available on July 1, 2006, and shall remain available until September 30, 2007; and of which not to exceed \$61,667,000 shall remain available until expended for housing improvement, road maintenance, attorney fees, litigation support, the Indian Self-Determination Fund, land records improvement, and the Navajo-Hopi Settlement Program: *Provided*, That notwithstanding any other provision of law, including but not limited to the Indian Self-Determination Act of 1975, as amended, and 25 U.S.C. 2008, not to exceed \$44,718,000 within and only from such amounts made available for school operations shall be available to tribes and tribal organizations for administrative cost grants associated with ongoing grants entered into with the Bureau prior to or during fiscal year 2005 for the operation of Bureau-funded schools, and up to \$500,000 within and only from such amounts made available for school operations shall be available for the transitional costs of initial administrative cost grants to tribes and tribal organizations that enter into grants for the operation on or after July 1, 2005, of Bureau-operated schools: *Provided further*, That any forestry funds allocated to a tribe which remain unobligated as of September 30, 2007, may be transferred during fiscal year 2008 to an Indian forest land assistance account established for the benefit of such tribe within the tribe's trust fund account: *Provided further*, That any such unobligated balances not so transferred shall expire on September 30, 2008.

CONSTRUCTION

For construction, repair, improvement, and maintenance of irrigation and power systems, buildings, utilities, and other facilities, including architectural and engineering services by contract; acquisition of lands, and interests in lands; and preparation of lands for farming, and for construction of the Navajo Indian Irrigation Project pursuant to Public Law 87-483, \$275,637,000, to remain available until expended: *Provided*, That such amounts as may be available for the construction of the Navajo Indian Irrigation Project may be transferred to the Bureau of Reclamation: *Provided further*, That not to exceed 6 percent of contract authority available to the Bureau of Indian Affairs from the Federal Highway Trust Fund may be used to cover the road program management costs of the Bureau: *Provided further*, That any funds provided for the Safety of Dams program pursuant to 25 U.S.C. 13 shall be made available on a nonreimbursable basis: *Provided further*, That for fiscal year 2006, in implementing new construction or facilities improvement and repair project grants in excess of \$100,000 that are provided to tribally controlled grant schools under Public Law

100–297, as amended, the Secretary of the Interior shall use the Administrative and Audit Requirements and Cost Principles for Assistance Programs contained in 43 CFR part 12 as the regulatory requirements: *Provided further*, That such grants shall not be subject to section 12.61 of 43 CFR; the Secretary and the grantee shall negotiate and determine a schedule of payments for the work to be performed: *Provided further*, That in considering applications, the Secretary shall consider whether the Indian tribe or tribal organization would be deficient in assuring that the construction projects conform to applicable building standards and codes and Federal, tribal, or State health and safety standards as required by 25 U.S.C. 2005(b), with respect to organizational and financial management capabilities: *Provided further*, That if the Secretary declines an application, the Secretary shall follow the requirements contained in 25 U.S.C. 2504(f): *Provided further*, That any disputes between the Secretary and any grantee concerning a grant shall be subject to the disputes provision in 25 U.S.C. 2507(e): *Provided further*, That in order to ensure timely completion of replacement school construction projects, the Secretary may assume control of a project and all funds related to the project, if, within eighteen months of the date of enactment of this Act, any tribe or tribal organization receiving funds appropriated in this Act or in any prior Act, has not completed the planning and design phase of the project and commenced construction of the replacement school: *Provided further*, That this Appropriation may be reimbursed from the Office of the Special Trustee for American Indians Appropriation for the appropriate share of construction costs for space expansion needed in agency offices to meet trust reform implementation.

INDIAN LAND AND WATER CLAIM SETTLEMENTS AND MISCELLANEOUS PAYMENTS TO INDIANS

For miscellaneous payments to Indian tribes and individuals and for necessary administrative expenses, \$34,754,000, to remain available until expended, for implementation of Indian land and water claim settlements pursuant to Public Laws 99–264, 100–580, 101–618, 106–554, 107–331, and 108–34, and for implementation of other land and water rights settlements, of which \$10,000,000 shall be available for payment to the Quinault Indian Nation pursuant to the terms of the North Boundary Settlement Agreement dated July 14, 2000, providing for the acquisition of perpetual conservation easements from the Nation.

INDIAN GUARANTEED LOAN PROGRAM ACCOUNT

For the cost of guaranteed and insured loans, \$6,348,000, of which \$701,000 is for administrative expenses, as authorized by the Indian Financing Act of 1974, as amended: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed \$118,884,000.

ADMINISTRATIVE PROVISIONS

The Bureau of Indian Affairs may carry out the operation of Indian programs by direct expenditure, contracts, cooperative

agreements, compacts and grants, either directly or in cooperation with States and other organizations.

Notwithstanding 25 U.S.C. 15, the Bureau of Indian Affairs may contract for services in support of the management, operation, and maintenance of the Power Division of the San Carlos Irrigation Project.

Appropriations for the Bureau of Indian Affairs (except the revolving fund for loans, the Indian loan guarantee and insurance fund, and the Indian Guaranteed Loan Program account) shall be available for expenses of exhibits, and purchase and replacement of passenger motor vehicles.

Notwithstanding any other provision of law, no funds available to the Bureau of Indian Affairs for central office operations or pooled overhead general administration (except facilities operations and maintenance) shall be available for tribal contracts, grants, compacts, or cooperative agreements with the Bureau of Indian Affairs under the provisions of the Indian Self-Determination Act or the Tribal Self-Governance Act of 1994 (Public Law 103–413).

In the event any tribe returns appropriations made available by this Act to the Bureau of Indian Affairs for distribution to other tribes, this action shall not diminish the Federal Government's trust responsibility to that tribe, or the government-to-government relationship between the United States and that tribe, or that tribe's ability to access future appropriations.

Notwithstanding any other provision of law, no funds available to the Bureau, other than the amounts provided herein for assistance to public schools under 25 U.S.C. 452 et seq., shall be available to support the operation of any elementary or secondary school in the State of Alaska.

Charter schools.

Appropriations made available in this or any other Act for schools funded by the Bureau shall be available only to the schools in the Bureau school system as of September 1, 1996. No funds available to the Bureau shall be used to support expanded grades for any school or dormitory beyond the grade structure in place or approved by the Secretary of the Interior at each school in the Bureau school system as of October 1, 1995. Funds made available under this Act may not be used to establish a charter school at a Bureau-funded school (as that term is defined in section 1146 of the Education Amendments of 1978 (25 U.S.C. 2026)), except that a charter school that is in existence on the date of the enactment of this Act and that has operated at a Bureau-funded school before September 1, 1999, may continue to operate during that period, but only if the charter school pays to the Bureau a pro rata share of funds to reimburse the Bureau for the use of the real and personal property (including buses and vans), the funds of the charter school are kept separate and apart from Bureau funds, and the Bureau does not assume any obligation for charter school programs of the State in which the school is located if the charter school loses such funding. Employees of Bureau-funded schools sharing a campus with a charter school and performing functions related to the charter school's operation and employees of a charter school shall not be treated as Federal employees for purposes of chapter 171 of title 28, United States Code.

Notwithstanding any other provision of law, including section 113 of title I of appendix C of Public Law 106–113, if a tribe or tribal organization in fiscal year 2003 or 2004 received indirect

and administrative costs pursuant to a distribution formula based on section 5(f) of Public Law 101–301, the Secretary shall continue to distribute indirect and administrative cost funds to such tribe or tribal organization using the section 5(f) distribution formula.

DEPARTMENTAL OFFICES

INSULAR AFFAIRS

ASSISTANCE TO TERRITORIES

For expenses necessary for assistance to territories under the jurisdiction of the Department of the Interior, \$76,883,000, of which: (1) \$69,502,000 shall be available until expended for technical assistance, including maintenance assistance, disaster assistance, insular management controls, coral reef initiative activities, and brown tree snake control and research; grants to the judiciary in American Samoa for compensation and expenses, as authorized by law (48 U.S.C. 1661(c)); grants to the Government of American Samoa, in addition to current local revenues, for construction and support of governmental functions; grants to the Government of the Virgin Islands as authorized by law; grants to the Government of Guam, as authorized by law; and grants to the Government of the Northern Mariana Islands as authorized by law (Public Law 94–241; 90 Stat. 272); and (2) \$7,381,000 shall be available for salaries and expenses of the Office of Insular Affairs: *Provided*, That all financial transactions of the territorial and local governments herein provided for, including such transactions of all agencies or instrumentalities established or used by such governments, may be audited by the Government Accountability Office, at its discretion, in accordance with chapter 35 of title 31, United States Code: *Provided further*, That Northern Mariana Islands Covenant grant funding shall be provided according to those terms of the Agreement of the Special Representatives on Future United States Financial Assistance for the Northern Mariana Islands approved by Public Law 104–134: *Provided further*, That of the amounts provided for technical assistance, sufficient funds shall be made available for a grant to the Pacific Basin Development Council: *Provided further*, That of the amounts provided for technical assistance, sufficient funding shall be made available for a grant to the Close Up Foundation: *Provided further*, That the funds for the program of operations and maintenance improvement are appropriated to institutionalize routine operations and maintenance improvement of capital infrastructure with territorial participation and cost sharing to be determined by the Secretary based on the grantee's commitment to timely maintenance of its capital assets: *Provided further*, That any appropriation for disaster assistance under this heading in this Act or previous appropriations Acts may be used as non-Federal matching funds for the purpose of hazard mitigation grants provided pursuant to section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c).

48 USC 1469b.

COMPACT OF FREE ASSOCIATION

For grants and necessary expenses, \$5,362,000, to remain available until expended, as provided for in sections 221(a)(2), 221(b), and 233 of the Compact of Free Association for the Republic of

Palau; and section 221(a)(2) of the Compacts of Free Association for the Government of the Republic of the Marshall Islands and the Federated States of Micronesia, as authorized by Public Law 99-658 and Public Law 108-188.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For necessary expenses for management of the Department of the Interior, \$127,183,000; of which \$7,441,000 is to be derived from the Land and Water Conservation Fund and shall remain available until expended; of which not to exceed \$8,500 may be for official reception and representation expenses; and of which up to \$1,000,000 shall be available for workers compensation payments and unemployment compensation payments associated with the orderly closure of the United States Bureau of Mines: *Provided*, That none of the funds in this Act or previous appropriations Acts may be used to establish reserves in the Working Capital Fund account other than for accrued annual leave and depreciation of equipment without prior approval of the House and Senate Committees on Appropriations.

PAYMENTS IN LIEU OF TAXES

For expenses necessary to implement the Act of October 20, 1976, as amended (31 U.S.C. 6901-6907), \$236,000,000, of which not to exceed \$400,000 shall be available for administrative expenses: *Provided*, That no payment shall be made to otherwise eligible units of local government if the computed amount of the payment is less than \$100.

CENTRAL HAZARDOUS MATERIALS FUND

For necessary expenses of the Department of the Interior and any of its component offices and bureaus for the remedial action, including associated activities, of hazardous waste substances, pollutants, or contaminants pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (42 U.S.C. 9601 et seq.), \$9,855,000, to remain available until expended: *Provided*, That hereafter, notwithstanding 31 U.S.C. 3302, sums recovered from or paid by a party in advance of or as reimbursement for remedial action or response activities conducted by the Department pursuant to section 107 or 113(f) of such Act, shall be credited to this account, to be available until expended without further appropriation: *Provided further*, That hereafter such sums recovered from or paid by any party are not limited to monetary payments and may include stocks, bonds or other personal or real property, which may be retained, liquidated, or otherwise disposed of by the Secretary and which shall be credited to this account.

42 USC 9607
note.

OFFICE OF THE SOLICITOR

SALARIES AND EXPENSES

For necessary expenses of the Office of the Solicitor, \$55,440,000.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For necessary expenses of the Office of Inspector General, \$39,116,000.

OFFICE OF SPECIAL TRUSTEE FOR AMERICAN INDIANS

FEDERAL TRUST PROGRAMS

For the operation of trust programs for Indians by direct expenditure, contracts, cooperative agreements, compacts, and grants, \$191,593,000, to remain available until expended, of which not to exceed \$58,000,000 from this or any other Act, shall be available for historical accounting: *Provided*, That funds for trust management improvements and litigation support may, as needed, be transferred to or merged with the Bureau of Indian Affairs, "Operation of Indian Programs" account; the Office of the Solicitor, "Salaries and Expenses" account; and the Departmental Management, "Salaries and Expenses" account: *Provided further*, That funds made available to Tribes and Tribal organizations through contracts or grants obligated during fiscal year 2006, as authorized by the Indian Self-Determination Act of 1975 (25 U.S.C. 450 et seq.), shall remain available until expended by the contractor or grantee: *Provided further*, That, notwithstanding any other provision of law, the statute of limitations shall not commence to run on any claim, including any claim in litigation pending on the date of the enactment of this Act, concerning losses to or mismanagement of trust funds, until the affected tribe or individual Indian has been furnished with an accounting of such funds from which the beneficiary can determine whether there has been a loss: *Provided further*, That, notwithstanding any other provision of law, the Secretary shall not be required to provide a quarterly statement of performance for any Indian trust account that has not had activity for at least 18 months and has a balance of \$1.00 or less: *Provided further*, That the Secretary shall issue an annual account statement and maintain a record of any such accounts and shall permit the balance in each such account to be withdrawn upon the express written request of the account holder: *Provided further*, That not to exceed \$50,000 is available for the Secretary to make payments to correct administrative errors of either disbursements from or deposits to Individual Indian Money or Tribal accounts after September 30, 2002: *Provided further*, That erroneous payments that are recovered shall be credited to and remain available in this account for this purpose.

25 USC 4011
note.

Records.

INDIAN LAND CONSOLIDATION

For consolidation of fractional interests in Indian lands and expenses associated with redetermining and redistributing escheated interests in allotted lands, and for necessary expenses to carry out the Indian Land Consolidation Act of 1983, as amended, by direct expenditure or cooperative agreement, \$34,514,000, to remain available until expended, and which may be transferred to the Bureau of Indian Affairs and Departmental Management accounts: *Provided*, That funds provided under this heading may be expended pursuant to the authorities contained in the provisos

under the heading “Office of Special Trustee for American Indians, Indian Land Consolidation” of the Interior and Related Agencies Appropriations Act, 2001 (Public Law 106-291).

NATURAL RESOURCE DAMAGE ASSESSMENT AND RESTORATION

NATURAL RESOURCE DAMAGE ASSESSMENT FUND

To conduct natural resource damage assessment and restoration activities by the Department of the Interior necessary to carry out the provisions of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (42 U.S.C. 9601 et seq.), Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq.), the Oil Pollution Act of 1990 (Public Law 101-380) (33 U.S.C. 2701 et seq.), and Public Law 101-337, as amended (16 U.S.C. 19jj et seq.), \$6,106,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS

There is hereby authorized for acquisition from available resources within the Working Capital Fund, 15 aircraft, 10 of which shall be for replacement and which may be obtained by donation, purchase or through available excess surplus property: *Provided*, That existing aircraft being replaced may be sold, with proceeds derived or trade-in value used to offset the purchase price for the replacement aircraft: *Provided further*, That no programs funded with appropriated funds in the “Departmental Management”, “Office of the Solicitor”, and “Office of Inspector General” may be augmented through the Working Capital Fund: *Provided further*, That the annual budget justification for Departmental Management shall describe estimated Working Capital Fund charges to bureaus and offices, including the methodology on which charges are based: *Provided further*, That departures from the Working Capital Fund estimates contained in the Departmental Management budget justification shall be presented to the Committees on Appropriations for approval: *Provided further*, That the Secretary shall provide a semi-annual report to the Committees on Appropriations on reimbursable support agreements between the Office of the Secretary and the National Business Center and the bureaus and offices of the Department, including the amounts billed pursuant to such agreements.

Reports.
Deadlines.

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

SEC. 101. Appropriations made in this title shall be available for expenditure or transfer (within each bureau or office), with the approval of the Secretary, for the emergency reconstruction, replacement, or repair of aircraft, buildings, utilities, or other facilities or equipment damaged or destroyed by fire, flood, storm, or other unavoidable causes: *Provided*, That no funds shall be made available under this authority until funds specifically made available to the Department of the Interior for emergencies shall have been exhausted: *Provided further*, That all funds used pursuant to this section must be replenished by a supplemental appropriation which must be requested as promptly as possible.

SEC. 102. The Secretary may authorize the expenditure or transfer of any no year appropriation in this title, in addition

to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of wildland fires on or threatening lands under the jurisdiction of the Department of the Interior; for the emergency rehabilitation of burned-over lands under its jurisdiction; for emergency actions related to potential or actual earthquakes, floods, volcanoes, storms, or other unavoidable causes; for contingency planning subsequent to actual oil spills; for response and natural resource damage assessment activities related to actual oil spills; for the prevention, suppression, and control of actual or potential grasshopper and Mormon cricket outbreaks on lands under the jurisdiction of the Secretary, pursuant to the authority in section 1773(b) of Public Law 99-198 (99 Stat. 1658); for emergency reclamation projects under section 410 of Public Law 95-87; and shall transfer, from any no year funds available to the Office of Surface Mining Reclamation and Enforcement, such funds as may be necessary to permit assumption of regulatory authority in the event a primacy State is not carrying out the regulatory provisions of the Surface Mining Act: *Provided*, That appropriations made in this title for wildland fire operations shall be available for the payment of obligations incurred during the preceding fiscal year, and for reimbursement to other Federal agencies for destruction of vehicles, aircraft, or other equipment in connection with their use for wildland fire operations, such reimbursement to be credited to appropriations currently available at the time of receipt thereof: *Provided further*, That for wildland fire operations, no funds shall be made available under this authority until the Secretary determines that funds appropriated for "wildland fire operations" shall be exhausted within 30 days: *Provided further*, That all funds used pursuant to this section must be replenished by a supplemental appropriation which must be requested as promptly as possible: *Provided further*, That such replenishment funds shall be used to reimburse, on a pro rata basis, accounts from which emergency funds were transferred.

SEC. 103. Appropriations made to the Department of the Interior in this title shall be available for services as authorized by 5 U.S.C. 3109, when authorized by the Secretary, in total amount not to exceed \$500,000; hire, maintenance, and operation of aircraft; hire of passenger motor vehicles; purchase of reprints; payment for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; and the payment of dues, when authorized by the Secretary, for library membership in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members.

SEC. 104. No funds provided in this title may be expended by the Department of the Interior for the conduct of offshore preleasing, leasing and related activities placed under restriction in the President's moratorium statement of June 12, 1998, in the areas of northern, central, and southern California; the North Atlantic; Washington and Oregon; and the eastern Gulf of Mexico south of 26 degrees north latitude and east of 86 degrees west longitude.

SEC. 105. No funds provided in this title may be expended by the Department of the Interior to conduct offshore oil and natural gas preleasing, leasing and related activities in the eastern Gulf of Mexico planning area for any lands located outside Sale 181,

as identified in the final Outer Continental Shelf 5-Year Oil and Gas Leasing Program, 1997–2002.

SEC. 106. No funds provided in this title may be expended by the Department of the Interior to conduct oil and natural gas preleasing, leasing and related activities in the Mid-Atlantic and South Atlantic planning areas.

SEC. 107. Appropriations made in this Act under the headings Bureau of Indian Affairs and Office of Special Trustee for American Indians and any unobligated balances from prior appropriations Acts made under the same headings shall be available for expenditure or transfer for Indian trust management and reform activities, except that total funding for historical accounting activities shall not exceed amounts specifically designated in this Act for such purpose.

SEC. 108. Notwithstanding any other provision of law, in fiscal years 2006 through 2010, for the purpose of reducing the backlog of Indian probate cases in the Department of the Interior, the hearing requirements of chapter 10 of title 25, United States Code, are deemed satisfied by a proceeding conducted by an Indian probate judge, appointed by the Secretary without regard to the provisions of title 5, United States Code, governing the appointments in the competitive service, for such period of time as the Secretary determines necessary: *Provided*, That the basic pay of an Indian probate judge so appointed may be fixed by the Secretary without regard to the provisions of chapter 51, and subchapter III of chapter 53 of title 5, United States Code, governing the classification and pay of General Schedule employees, except that no such Indian probate judge may be paid at a level which exceeds the maximum rate payable for the highest grade of the General Schedule, including locality pay.

SEC. 109. Notwithstanding any other provision of law, the Secretary of the Interior is authorized to redistribute any Tribal Priority Allocation funds, including tribal base funds, to alleviate tribal funding inequities by transferring funds to address identified, unmet needs, dual enrollment, overlapping service areas or inaccurate distribution methodologies. No tribe shall receive a reduction in Tribal Priority Allocation funds of more than 10 percent in fiscal year 2006. Under circumstances of dual enrollment, overlapping service areas or inaccurate distribution methodologies, the 10 percent limitation does not apply.

SEC. 110. (a) For fiscal year 2006 and each succeeding fiscal year, any funds made available by this Act for the Southwest Indian Polytechnic Institute and Haskell Indian Nations University for postsecondary programs of the Bureau of Indian Affairs in excess of the amount made available for those postsecondary programs for fiscal year 2005 shall be allocated in direct proportion to the need of the schools, as determined in accordance with the postsecondary funding formula adopted by the Office of Indian Education Programs.

(b) For fiscal year 2007 and each succeeding fiscal year, the Bureau of Indian Affairs shall use the postsecondary funding formula adopted by the Office of Indian Education Programs based on the needs of the Southwest Indian Polytechnic Institute and Haskell Indian Nations University to justify the amounts submitted as part of the budget request of the Department of the Interior.

SEC. 111. Notwithstanding any other provision of law, in conveying the Twin Cities Research Center under the authority provided by Public Law 104-134, as amended by Public Law 104-208, the Secretary may accept and retain land and other forms of reimbursement: *Provided*, That the Secretary may retain and use any such reimbursement until expended and without further appropriation: (1) for the benefit of the National Wildlife Refuge System within the State of Minnesota; and (2) for all activities authorized by Public Law 100-696; 16 U.S.C. 460zz.

SEC. 112. The Secretary of the Interior may use or contract for the use of helicopters or motor vehicles on the Sheldon and Hart National Wildlife Refuges for the purpose of capturing and transporting horses and burros. The provisions of subsection (a) of the Act of September 8, 1959 (18 U.S.C. 47(a)) shall not be applicable to such use. Such use shall be in accordance with humane procedures prescribed by the Secretary.

Procedures.

SEC. 113. Funds provided in this Act for Federal land acquisition by the National Park Service for Shenandoah Valley Battlefields National Historic District and Ice Age National Scenic Trail, and funds provided in division E of Public Law 108-447 (118 Stat. 3050) for land acquisition at the Niobrara National Scenic River, may be used for a grant to a State, a local government, or any other land management entity for the acquisition of lands without regard to any restriction on the use of Federal land acquisition funds provided through the Land and Water Conservation Fund Act of 1965 as amended.

SEC. 114. None of the funds made available by this Act may be obligated or expended by the National Park Service to enter into or implement a concession contract which permits or requires the removal of the underground lunchroom at the Carlsbad Caverns National Park.

SEC. 115. None of the funds made available in this Act may be used: (1) to demolish the bridge between Jersey City, New Jersey, and Ellis Island; or (2) to prevent pedestrian use of such bridge, when such pedestrian use is consistent with generally accepted safety standards.

New Jersey.
Ellis Island.

SEC. 116. None of the funds in this or any other Act can be used to compensate the Special Master and the Special Master-Monitor, and all variations thereto, appointed by the United States District Court for the District of Columbia in the Cobell v. Norton litigation at an annual rate that exceeds 200 percent of the highest Senior Executive Service rate of pay for the Washington-Baltimore locality pay area.

SEC. 117. The Secretary of the Interior may use discretionary funds to pay private attorney fees and costs for employees and former employees of the Department of the Interior reasonably incurred in connection with Cobell v. Norton to the extent that such fees and costs are not paid by the Department of Justice or by private insurance. In no case shall the Secretary make payments under this section that would result in payment of hourly fees in excess of the highest hourly rate approved by the District Court for the District of Columbia for counsel in Cobell v. Norton.

SEC. 118. The United States Fish and Wildlife Service shall, in carrying out its responsibilities to protect threatened and endangered species of salmon, implement a system of mass marking of salmonid stocks, intended for harvest, that are released from Federally operated or Federally financed hatcheries including but

not limited to fish releases of coho, chinook, and steelhead species. Marked fish must have a visible mark that can be readily identified by commercial and recreational fishers.

SEC. 119. (a) IN GENERAL.—Nothing in section 134 of the Department of the Interior and Related Agencies Appropriations Act, 2002 (115 Stat. 443) affects the decision of the United States Court of Appeals for the 10th Circuit in *Sac and Fox Nation v. Norton*, 240 F.3d 1250 (2001).

(b) USE OF CERTAIN INDIAN LAND.—Nothing in this section permits the conduct of gaming under the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.) on land described in section 123 of the Department of the Interior and Related Agencies Appropriations Act, 2001 (114 Stat. 944), or land that is contiguous to that land, regardless of whether the land or contiguous land has been taken into trust by the Secretary of the Interior.

SEC. 120. No funds appropriated for the Department of the Interior by this Act or any other Act shall be used to study or implement any plan to drain Lake Powell or to reduce the water level of the lake below the range of water levels required for the operation of the Glen Canyon Dam.

SEC. 121. Notwithstanding the limitation in subparagraph (2)(B) of section 18(a) of the Indian Gaming Regulatory Act (25 U.S.C. 2717(a)), the total amount of all fees imposed by the National Indian Gaming Commission for fiscal year 2007 shall not exceed \$12,000,000.

SEC. 122. Notwithstanding any implementation of the Department of the Interior's trust reorganization or reengineering plans, or the implementation of the "To Be" Model, funds appropriated for fiscal year 2006 shall be available to the tribes within the California Tribal Trust Reform Consortium and to the Salt River Pima-Maricopa Indian Community, the Confederated Salish and Kootenai Tribes of the Flathead Reservation and the Chippewa Cree Tribe of the Rocky Boys Reservation through the same methodology as funds were distributed in fiscal year 2003. This Demonstration Project shall continue to operate separate and apart from the Department of the Interior's trust reform and reorganization and the Department shall not impose its trust management infrastructure upon or alter the existing trust resource management systems of the above referenced tribes having a self-governance compact and operating in accordance with the Tribal Self-Governance Program set forth in 25 U.S.C. 458aa–458hh: *Provided*, That the California Trust Reform Consortium and any other participating tribe agree to carry out their responsibilities under the same written and implemented fiduciary standards as those being carried by the Secretary of the Interior: *Provided further*, That they demonstrate to the satisfaction of the Secretary that they have the capability to do so: *Provided further*, That the Department shall provide funds to the tribes in an amount equal to that required by 25 U.S.C. 458cc(g)(3), including funds specifically or functionally related to the provision of trust services to the tribes or their members.

SEC. 123. Notwithstanding any provision of law, including 42 U.S.C. 4321 et. seq., nonrenewable grazing permits authorized in the Jarbidge Field Office, Bureau of Land Management within the past 9 years, shall be renewed. The Animal Unit Months contained in the most recently expired nonrenewable grazing permit, authorized between March 1, 1997, and February 28, 2003, shall

continue in effect under the renewed permit. Nothing in this section shall be deemed to extend the nonrenewable permits beyond the standard 1-year term.

SEC. 124. Notwithstanding any other provision of law, the Secretary of the Interior is authorized to acquire lands, waters, or interests therein including the use of all or part of any pier, dock, or landing within the State of New York and the State of New Jersey, for the purpose of operating and maintaining facilities in the support of transportation and accommodation of visitors to Ellis, Governors, and Liberty Islands, and of other program and administrative activities, by donation or with appropriated funds, including franchise fees (and other monetary consideration), or by exchange; and the Secretary is authorized to negotiate and enter into leases, subleases, concession contracts or other agreements for the use of such facilities on such terms and conditions as the Secretary may determine reasonable.

New York.
New Jersey.

SEC. 125. Upon the request of the permittee for the Clark Mountain Allotment lands adjacent to the Mojave National Preserve, the Secretary shall also issue a special use permit for that portion of the grazing allotment located within the Preserve. The special use permit shall be issued with the same terms and conditions as the most recently-issued permit for that allotment and the Secretary shall consider the permit to be one transferred in accordance with section 325 of Public Law 108–108.

Mojave National
Preserve.

SEC. 126. Notwithstanding any other provision of law, the National Park Service final winter use rules published in Part VII of the Federal Register for November 10, 2004, 69 Fed. Reg. 65348 et seq., shall be in force and effect for the winter use season of 2005–2006 that commences on or about December 15, 2005.

Applicability.
Effective date.

SEC. 127. Section 1121(d) of the Education Amendments of 1978 (25 U.S.C. 2001(d)) is amended by striking paragraph (7) and inserting the following:

“(7) APPROVAL OF INDIAN TRIBES.—The Secretary shall not terminate, close, consolidate, contract, transfer to another authority, or take any other action relating to an elementary school or secondary school (or any program of such a school) of an Indian tribe without the approval of the governing body of any Indian tribe that would be affected by such an action.”.

SEC. 128. Section 108(e) of the Act entitled “An Act to establish the Kalaupapa National Historical Park in the State of Hawaii, and for other purposes” (16 U.S.C. 410jj–7) is amended by striking “twenty-five years from” and inserting “on the date that is 45 years after”.

SEC. 129. Section 402(b) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(b)) is amended by striking “September 30, 2005,” and inserting “June 30, 2006,”.

SEC. 130. None of the funds in this or any other Act may be used to set up Centers of Excellence and Partnership Skills Bank training without prior approval of the House and Senate Committees on Appropriations.

SEC. 131. Section 114 of the Department of the Interior and Related Agencies Appropriations Act, 2003 (16 U.S.C. 460bb–3 note; 117 Stat. 239; division F of Public Law 108–7), is amended—

(1) in the second sentence, by inserting “, including utility expenses of the National Park Service or lessees of the National Park Service” after “Fort Baker properties”; and

(2) by inserting between the first and second sentences the following: “In furtherance of a lease entered into under the first sentence, the Secretary of the Interior or a lessee may impose fees on overnight lodgers for the purpose of covering the cost of providing utilities and transportation services at Fort Baker properties at a rate not to exceed the annual cost of providing these services.”.

16 USC 460l–6a, 6812. SEC. 132. (a) Section 813(a) of the Federal Lands Recreation Enhancement Act (16 U.S.C. 6812(a)) is amended by striking “and (i)” and inserting “and (i) (except for paragraph (1)(C))”.

(b) Section 4(i)(1)(C)(i) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(i)(1)(C)(i)) is amended—

(1) by striking “Notwithstanding subparagraph (A)” and all that follows through “or section 107” and inserting “Notwithstanding section 107”; and

(2) by striking “account under subparagraph (A)” and inserting “account under section 807(a) of the Federal Lands Recreation Enhancement Act (16 U.S.C. 6806(a))”.

Applicability.
16 USC 460l–6a
note.

(c) Except as provided in this section, section 4(i)(1)(C) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(i)(1)(C)) shall be applied and administered as if section 813(a) of the Federal Lands Recreation Enhancement Act (16 U.S.C. 6812(a)) (and the amendments made by that section) had not been enacted.

Effective date.
16 USC 460l–6a
note.

(d) This section and the amendments made by this section take effect as of December 8, 2004.

Captain John
Smith.

SEC. 133. Section 5(c) of the National Trails System Act (16 U.S.C. 1244(c)) is amended by adding at the end the following:

“(43)(A) The Captain John Smith Chesapeake National Historic Watertrail, a series of routes extending approximately 3,000 miles along the Chesapeake Bay and the tributaries of the Chesapeake Bay in the States of Virginia, Maryland, Pennsylvania, and Delaware and the District of Columbia that traces Captain John Smith’s voyages charting the land and waterways of the Chesapeake Bay and the tributaries of the Chesapeake Bay.

“(B) The study shall be conducted in consultation with Federal, State, regional, and local agencies and representatives of the private sector, including the entities responsible for administering—

“(i) the Chesapeake Bay Gateways and Watertrails Network authorized under the Chesapeake Bay Initiative Act of 1998 (16 U.S.C. 461 note; title V of Public Law 105-312); and

“(ii) the Chesapeake Bay Program authorized under section 117 of the Federal Water Pollution Control Act (33 U.S.C. 1267).

“(C) The study shall include an extensive analysis of the potential impacts the designation of the trail as a national historic watertrail is likely to have on land and water, including docks and piers, along the proposed route or bordering the study route that is privately owned at the time the study is conducted.”.

SEC. 134. (a) Notwithstanding section 508(c) of the Omnibus Parks and Public Lands Management Act of 1996 (40 U.S.C. 8903 note; Public Law 104-333) there is hereby appropriated to the Secretary of the Interior \$10,000,000, to remain available until expended, for necessary expenses for the Memorial to Martin Luther King, Jr., authorized in that Act.

(b) The funds appropriated in subsection (a) shall only be made available after the entire amount is matched by non-Federal contributions (not including in-kind contributions) that are pledged and received after July 26, 2005, but prior to the date specified in subsection (c).

(c) Section 508(b)(2) of the Omnibus Parks and Public Lands Management Act of 1996 is amended by striking “November 12, 2006” and inserting “November 12, 2008”.

40 USC 8903
note.

TITLE II—ENVIRONMENTAL PROTECTION AGENCY

SCIENCE AND TECHNOLOGY

For science and technology, including research and development activities, which shall include research and development activities under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended; necessary expenses for personnel and related costs and travel expenses, including uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the maximum rate payable for senior level positions under 5 U.S.C. 5376; procurement of laboratory equipment and supplies; other operating expenses in support of research and development; construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed \$85,000 per project, \$741,722,000, to remain available until September 30, 2007.

ENVIRONMENTAL PROGRAMS AND MANAGEMENT

For environmental programs and management, including necessary expenses, not otherwise provided for, for personnel and related costs and travel expenses, including uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the maximum rate payable for senior level positions under 5 U.S.C. 5376; hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; purchase of reprints; library memberships in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members; construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed \$85,000 per project; and not to exceed \$19,000 for official reception and representation expenses, \$2,381,752,000, to remain available until September 30, 2007, including administrative costs of the brownfields program under the Small Business Liability Relief and Brownfields Revitalization Act of 2002.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, and for construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed \$85,000 per project, \$37,455,000, to remain available until September 30, 2007.

BUILDINGS AND FACILITIES

For construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities of, or for use by, the Environmental Protection Agency, \$40,218,000, to remain available until expended.

HAZARDOUS SUBSTANCE SUPERFUND

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended, including sections 111(c)(3), (c)(5), (c)(6), and (e)(4) (42 U.S.C. 9611), and for construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed \$85,000 per project; \$1,260,621,000, to remain available until expended, consisting of such sums as are available in the Trust Fund upon the date of enactment of this Act as authorized by section 517(a) of the Superfund Amendments and Reauthorization Act of 1986 (SARA) and up to \$1,260,621,000 as a payment from general revenues to the Hazardous Substance Superfund for purposes as authorized by section 517(b) of SARA, as amended: *Provided*, That funds appropriated under this heading may be allocated to other Federal agencies in accordance with section 111(a) of CERCLA: *Provided further*, That of the funds appropriated under this heading, \$13,536,000 shall be transferred to the “Office of Inspector General” appropriation to remain available until September 30, 2007, and \$30,606,000 shall be transferred to the “Science and Technology” appropriation to remain available until September 30, 2007.

LEAKING UNDERGROUND STORAGE TANK PROGRAM

For necessary expenses to carry out leaking underground storage tank cleanup activities authorized by section 205 of the Superfund Amendments and Reauthorization Act of 1986, and for construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed \$85,000 per project, \$73,027,000, to remain available until expended.

OIL SPILL RESPONSE

For expenses necessary to carry out the Environmental Protection Agency’s responsibilities under the Oil Pollution Act of 1990, \$15,863,000, to be derived from the Oil Spill Liability trust fund, to remain available until expended.

STATE AND TRIBAL ASSISTANCE GRANTS

(INCLUDING RESCISSIONS OF FUNDS)

For environmental programs and infrastructure assistance, including capitalization grants for State revolving funds and performance partnership grants, \$3,261,696,000, to remain available until expended, of which \$900,000,000 shall be for making capitalization grants for the Clean Water State Revolving Funds under title VI of the Federal Water Pollution Control Act, as amended (the “Act”); of which up to \$50,000,000 shall be available for loans, including interest free loans as authorized by 33 U.S.C.

1383(d)(1)(A), to municipal, inter-municipal, interstate, or State agencies or nonprofit entities for projects that provide treatment for or that minimize sewage or stormwater discharges using one or more approaches which include, but are not limited to, decentralized or distributed stormwater controls, decentralized wastewater treatment, low-impact development practices, conservation easements, stream buffers, or wetlands restoration; \$850,000,000 shall be for capitalization grants for the Drinking Water State Revolving Funds under section 1452 of the Safe Drinking Water Act, as amended, except that, notwithstanding section 1452(n) of the Safe Drinking Water Act, as amended, hereafter none of the funds made available under this heading in this or previous appropriations Acts shall be reserved by the Administrator for health effects studies on drinking water contaminants; \$50,000,000 shall be for architectural, engineering, planning, design, construction and related activities in connection with the construction of high priority water and wastewater facilities in the area of the United States-Mexico Border, after consultation with the appropriate border commission; \$35,000,000 shall be for grants to the State of Alaska to address drinking water and waste infrastructure needs of rural and Alaska Native Villages: *Provided*, That, of these funds: (1) the State of Alaska shall provide a match of 25 percent; (2) no more than 5 percent of the funds may be used for administrative and overhead expenses; and (3) not later than October 1, 2005 the State of Alaska shall make awards consistent with the State-wide priority list established in 2004 for all water, sewer, waste disposal, and similar projects carried out by the State of Alaska that are funded under section 221 of the Federal Water Pollution Control Act (33 U.S.C. 1301) or the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) which shall allocate not less than 25 percent of the funds provided for projects in regional hub communities; \$200,000,000 shall be for making special project grants for the construction of drinking water, wastewater and storm water infrastructure and for water quality protection in accordance with the terms and conditions specified for such grants in the joint explanatory statement of the managers accompanying this Act, and, for purposes of these grants, each grantee shall contribute not less than 45 percent of the cost of the project unless the grantee is approved for a waiver by the Agency; \$90,000,000 shall be to carry out section 104(k) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended, including grants, interagency agreements, and associated program support costs; \$7,000,000 for making cost-shared grants for school bus retrofit and replacement projects that reduce diesel emissions; and \$1,129,696,000 shall be for grants, including associated program support costs, to States, federally recognized tribes, interstate agencies, tribal consortia, and air pollution control agencies for multi-media or single media pollution prevention, control and abatement and related activities, including activities pursuant to the provisions set forth under this heading in Public Law 104-134, and for making grants under section 103 of the Clean Air Act for particulate matter monitoring and data collection activities subject to terms and conditions specified by the Administrator, of which \$50,000,000 shall be for carrying out section 128 of CERCLA, as amended, \$20,000,000 shall be for Environmental Information Exchange Network grants, including associated program support costs, and \$16,856,000 shall be for making competitive

Alaska.
Deadline.

42 USC 300j-12
note.

33 USC 1377
note.

33 USC 1377
note.

targeted watershed grants: *Provided further*, That for fiscal year 2006 and thereafter, State authority under section 302(a) of Public Law 104-182 shall remain in effect: *Provided further*, That notwithstanding section 603(d)(7) of the Federal Water Pollution Control Act, the limitation on the amounts in a State water pollution control revolving fund that may be used by a State to administer the fund shall not apply to amounts included as principal in loans made by such fund in fiscal year 2006 and prior years where such amounts represent costs of administering the fund to the extent that such amounts are or were deemed reasonable by the Administrator, accounted for separately from other assets in the fund, and used for eligible purposes of the fund, including administration: *Provided further*, That for fiscal year 2006, and notwithstanding section 518(f) of the Act, the Administrator is authorized to use the amounts appropriated for any fiscal year under section 319 of that Act to make grants to Indian tribes pursuant to sections 319(h) and 518(e) of that Act: *Provided further*, That for fiscal year 2006, notwithstanding the limitation on amounts in section 518(c) of the Act, up to a total of 1½ percent of the funds appropriated for State Revolving Funds under title VI of that Act may be reserved by the Administrator for grants under section 518(c) of that Act: *Provided further*, That no funds provided by this legislation to address the water, wastewater and other critical infrastructure needs of the colonias in the United States along the United States-Mexico border shall be made available to a county or municipal government unless that government has established an enforceable local ordinance, or other zoning rule, which prevents in that jurisdiction the development or construction of any additional colonia areas, or the development within an existing colonia the construction of any new home, business, or other structure which lacks water, wastewater, or other necessary infrastructure: *Provided further*, That, notwithstanding this or any other appropriations Act, heretofore and hereafter, after consultation with the House and Senate Committees on Appropriations and for the purpose of making technical corrections, the Administrator is authorized to award grants under this heading to entities and for purposes other than those listed in the joint explanatory statements of the managers accompanying the Agency's appropriations Acts for the construction of drinking water, wastewater and stormwater infrastructure and for water quality protection.

In addition, \$80,000,000 is hereby rescinded from prior year funds in appropriation accounts available to the Environmental Protection Agency: *Provided*, That such rescissions shall be taken solely from amounts associated with grants, contracts, and interagency agreements whose availability, under the original project period for such grant or interagency agreement or contract period for such contract, has expired: *Provided further*, That such rescissions shall include funds that were appropriated under this heading for special project grants in fiscal year 2000 or earlier that have not been obligated on an approved grant by September 1, 2006.

ADMINISTRATIVE PROVISIONS

For fiscal year 2006, notwithstanding 31 U.S.C. 6303(1) and 6305(1), the Administrator of the Environmental Protection Agency, in carrying out the Agency's function to implement directly Federal environmental programs required or authorized by law in the

absence of an acceptable tribal program, may award cooperative agreements to federally-recognized Indian Tribes or Intertribal consortia, if authorized by their member Tribes, to assist the Administrator in implementing Federal environmental programs for Indian Tribes required or authorized by law, except that no such cooperative agreements may be awarded from funds designated for State financial assistance agreements.

The Administrator of the Environmental Protection Agency is authorized to collect and obligate pesticide registration service fees in accordance with section 33 of the Federal Insecticide, Fungicide, and Rodenticide Act (as added by subsection (f)(2) of the Pesticide Registration Improvement Act of 2003), as amended.

Notwithstanding CERCLA 104(k)(4)(B)(i)(IV), appropriated funds for fiscal year 2006 may be used to award grants or loans under section 104(k) of CERCLA to eligible entities that satisfy all of the elements set forth in CERCLA section 101(40) to qualify as a bona fide prospective purchaser except that the date of acquisition of the property was prior to the date of enactment of the Small Business Liability Relief and Brownfield Revitalization Act of 2001.

For fiscal years 2006 through 2011, the Administrator may, after consultation with the Office of Personnel Management, make not to exceed five appointments in any fiscal year under the authority provided in 42 U.S.C. 209 for the Office of Research and Development.

Beginning in fiscal year 2006 and thereafter, and notwithstanding section 306 of the Toxic Substances Control Act, the Federal share of the cost of radon program activities implemented with Federal assistance under section 306 shall not exceed 60 percent in the third and subsequent grant years.

Effective date.
15 USC 2666
note.

GENERAL PROVISIONS, ENVIRONMENTAL PROTECTION AGENCY

SEC. 201. None of the funds made available by this Act may be used by the Administrator of the Environmental Protection Agency to accept, consider or rely on third-party intentional dosing human toxicity studies for pesticides, or to conduct intentional dosing human toxicity studies for pesticides until the Administrator issues a final rulemaking on this subject. The Administrator shall allow for a period of not less than 90 days for public comment on the Agency's proposed rule before issuing a final rule. Such rule shall not permit the use of pregnant women, infants or children as subjects; shall be consistent with the principles proposed in the 2004 report of the National Academy of Sciences on intentional human dosing and the principles of the Nuremberg Code with respect to human experimentation; and shall establish an independent Human Subjects Review Board. The final rule shall be issued no later than 180-days after enactment of this Act.

Deadline.
Public
information.
Regulations.
Human dosing.
Establishment.

Deadline.

SEC. 202. None of the funds made available by this Act may be used in contravention of, or to delay the implementation of, Executive Order No. 12898 of February 11, 1994 (59 Fed. Reg. 7629; relating to Federal actions to address environmental justice in minority populations and low-income populations).

SEC. 203. None of the funds made available in this Act may be used to finalize, issue, implement, or enforce the proposed policy of the Environmental Protection Agency entitled "National Pollutant Discharge Elimination System (NPDES) Permit Requirements for

Municipal Wastewater Treatment During Wet Weather Conditions”, dated November 3, 2003 (68 Fed. Reg. 63042).

SEC. 204. None of the funds made available in this Act may be used in contravention of 15 U.S.C. 2682(c)(3) or to delay the implementation of that section.

SEC. 205. None of the funds provided in this Act or any other Act may be used by the Environmental Protection Agency (EPA) to publish proposed or final regulations pursuant to the requirements of section 428(b) of division G of Public Law 108–199 until the Administrator of the Environmental Protection Agency, in coordination with other appropriate Federal agencies, has completed and published a technical study to look at safety issues, including the risk of fire and burn to consumers in use, associated with compliance with the regulations. Not later than 6 months after the date of enactment of this Act, the Administrator shall complete and publish the technical study.

Deadline.
Publication.

TITLE III—RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

FOREST AND RANGELAND RESEARCH

For necessary expenses of forest and rangeland research as authorized by law, \$283,094,000, to remain available until expended: *Provided*, That of the funds provided, \$60,267,000 is for the forest inventory and analysis program.

STATE AND PRIVATE FORESTRY

For necessary expenses of cooperating with and providing technical and financial assistance to States, territories, possessions, and others, and for forest health management, including treatments of pests, pathogens, and invasive or noxious plants and for restoring and rehabilitating forests damaged by pests or invasive plants, cooperative forestry, and education and land conservation activities and conducting an international program as authorized, \$283,577,000, to remain available until expended, as authorized by law of which \$57,380,000 is to be derived from the Land and Water Conservation Fund: *Provided*, That none of the funds provided under this heading for the acquisition of lands or interests in lands shall be available until the Forest Service notifies the House Committee on Appropriations and the Senate Committee on Appropriations, in writing, of specific contractual and grant details including the non-Federal cost share: *Provided further*, That of the funds provided herein, \$1,000,000 shall be provided to Custer County, Idaho, for economic development in accordance with the Central Idaho Economic Development and Recreation Act, subject to authorization: *Provided further*, That notwithstanding any other provision of law, of the funds provided under this heading, an advance lump sum payment of \$1,000,000 shall be made available to Madison County, North Carolina, for a forest recreation center, and a similar \$500,000 payment shall be made available to Folkmoot USA in Haywood County, North Carolina, for Appalachian folk programs including forest crafts.

NATIONAL FOREST SYSTEM

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Forest Service, not otherwise provided for, for management, protection, improvement, and utilization of the National Forest System, \$1,424,348,000, to remain available until expended, which shall include 50 percent of all moneys received during prior fiscal years as fees collected under the Land and Water Conservation Fund Act of 1965, as amended, in accordance with section 4 of the Act (16 U.S.C. 460l-6a(i)): *Provided*, That unobligated balances under this heading available at the start of fiscal year 2006 shall be displayed by budget line item in the fiscal year 2007 budget justification: *Provided further*, That of the funds provided under this heading for Forest Products, \$5,000,000 shall be allocated to the Alaska Region, in addition to its normal allocation for the purposes of preparing additional timber for sale, to establish a 3-year timber supply and such funds may be transferred to other appropriations accounts as necessary to maximize accomplishment: *Provided further*, That within funds available for the purpose of implementing the Valles Caldera Preservation Act, notwithstanding the limitations of section 107(e)(2) of the Valles Caldera Preservation Act (Public Law 106-248), for fiscal year 2006, the Chair of the Board of Trustees of the Valles Caldera Trust may receive, upon request, compensation for each day (including travel time) that the Chair is engaged in the performance of the functions of the Board, except that compensation shall not exceed the daily equivalent of the annual rate in effect for members of the Senior Executive Service at the ES-1 level, and shall be in addition to any reimbursement for travel, subsistence and other necessary expenses incurred by the Chair in the performance of the Chair's duties.

WILDLAND FIRE MANAGEMENT

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses for forest fire presuppression activities on National Forest System lands, for emergency fire suppression on or adjacent to such lands or other lands under fire protection agreement, hazardous fuels reduction on or adjacent to such lands, and for emergency rehabilitation of burned-over National Forest System lands and water, \$1,779,395,000, to remain available until expended: *Provided*, That such funds including unobligated balances under this heading, are available for repayment of advances from other appropriations accounts previously transferred for such purposes: *Provided further*, That such funds shall be available to reimburse State and other cooperating entities for services provided in response to wildfire and other emergencies or disasters to the extent such reimbursements by the Forest Service for non-fire emergencies are fully repaid by the responsible emergency management agency: *Provided further*, That not less than 50 percent of any unobligated balances remaining (exclusive of amounts for hazardous fuels reduction) at the end of fiscal year 2005 shall be transferred to the fund established pursuant to section 3 of Public Law 71-319 (16 U.S.C. 576 et seq.) if necessary to reimburse the fund for unpaid past advances: *Provided further*, That, notwithstanding any other provision of law, \$8,000,000 of funds appropriated under

this appropriation shall be used for Fire Science Research in support of the Joint Fire Science Program: *Provided further*, That all authorities for the use of funds, including the use of contracts, grants, and cooperative agreements, available to execute the Forest and Rangeland Research appropriation, are also available in the utilization of these funds for Fire Science Research: *Provided further*, That funds provided shall be available for emergency rehabilitation and restoration, hazardous fuels reduction activities in the urban-wildland interface, support to Federal emergency response, and wildfire suppression activities of the Forest Service: *Provided further*, That of the funds provided, \$286,000,000 is for hazardous fuels reduction activities, \$6,281,000 is for rehabilitation and restoration, \$23,219,000 is for research activities and to make competitive research grants pursuant to the Forest and Rangeland Renewable Resources Research Act, as amended (16 U.S.C. 1641 et seq.), \$46,500,000 is for State fire assistance, \$7,889,000 is for volunteer fire assistance, \$15,000,000 is for forest health activities on Federal lands and \$10,000,000 is for forest health activities on State and private lands: *Provided further*, That amounts in this paragraph may be transferred to the “State and Private Forestry”, “National Forest System”, and “Forest and Rangeland Research” accounts to fund State fire assistance, volunteer fire assistance, forest health management, forest and rangeland research, vegetation and watershed management, heritage site rehabilitation, and wildlife and fish habitat management and restoration: *Provided further*, That transfers of any amounts in excess of those authorized in this paragraph, shall require approval of the House and Senate Committees on Appropriations in compliance with reprogramming procedures contained in the report accompanying this Act: *Provided further*, That funds provided under this heading for hazardous fuels treatments may be transferred to and made a part of the “National Forest System” account at the sole discretion of the Chief of the Forest Service thirty days after notifying the House and the Senate Committees on Appropriations: *Provided further*, That the costs of implementing any cooperative agreement between the Federal Government and any non-Federal entity may be shared, as mutually agreed on by the affected parties: *Provided further*, That in addition to funds provided for State Fire Assistance programs, and subject to all authorities available to the Forest Service under the State and Private Forestry Appropriation, up to \$15,000,000 may be used on adjacent non-Federal lands for the purpose of protecting communities when hazard reduction activities are planned on national forest lands that have the potential to place such communities at risk: *Provided further*, That included in funding for hazardous fuel reduction is \$5,000,000 for implementing the Community Forest Restoration Act, Public Law 106-393, title VI, and any portion of such funds shall be available for use on non-Federal lands in accordance with authorities available to the Forest Service under the State and Private Forestry Appropriation: *Provided further*, That the Secretary of the Interior and the Secretary of Agriculture may authorize the transfer of funds appropriated for wildland fire management, in an aggregate amount not to exceed \$9,000,000, between the Departments when such transfers would facilitate and expedite jointly funded wildland fire management programs and projects: *Provided further*, That of the funds provided for hazardous fuels reduction, not to exceed \$5,000,000, may be used to make grants,

using any authorities available to the Forest Service under the State and Private Forestry appropriation, for the purpose of creating incentives for increased use of biomass from national forest lands: *Provided further*, That funds designated for wildfire suppression shall be assessed for indirect costs on the same basis as such assessments are calculated against other agency programs.

CAPITAL IMPROVEMENT AND MAINTENANCE

For necessary expenses of the Forest Service, not otherwise provided for, \$441,178,000, to remain available until expended for construction, reconstruction, maintenance and acquisition of buildings and other facilities, and for construction, reconstruction, repair, decommissioning, and maintenance of forest roads and trails by the Forest Service as authorized by 16 U.S.C. 532-538 and 23 U.S.C. 101 and 205: *Provided*, That up to \$15,000,000 of the funds provided herein for road maintenance shall be available for the decommissioning of roads, including unauthorized roads not part of the transportation system, which are no longer needed: *Provided further*, That no funds shall be expended to decommission any system road until notice and an opportunity for public comment has been provided on each decommissioning project: *Provided further*, That of funds provided, \$3,000,000 is provided for needed rehabilitation and restoration work at Jarbidge Canyon, Nevada: *Provided further*, That the Secretary of Agriculture may authorize the transfer of up to \$1,350,000 as necessary to the Department of the Interior, Bureau of Land Management and Fish and Wildlife Service when such transfers would facilitate and expedite needed rehabilitation work on Bureau of Land Management lands, and for the Fish and Wildlife Service to implement terms and conditions identified in the Biological Opinion.

LAND ACQUISITION

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l-4 through 11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the Forest Service, \$42,500,000, to be derived from the Land and Water Conservation Fund and to remain available until expended: *Provided further*, That, subject to valid existing rights, all land and interests in land acquired in the Thunder Mountain area of the Payette National Forest (including patented claims and land that are encumbered by unpatented claims or previously appropriated funds under this section, or otherwise relinquished by a private party) are withdrawn from mineral entry or appropriation under Federal mining laws, and from leasing claims under Federal mineral and geothermal leasing laws.

ACQUISITION OF LANDS FOR NATIONAL FORESTS SPECIAL ACTS

For acquisition of lands within the exterior boundaries of the Cache, Uinta, and Wasatch National Forests, Utah; the Toiyabe National Forest, Nevada; and the Angeles, San Bernardino, Sequoia, and Cleveland National Forests, California, as authorized by law, \$1,069,000, to be derived from forest receipts.

ACQUISITION OF LANDS TO COMPLETE LAND EXCHANGES

For acquisition of lands, such sums, to be derived from funds deposited by State, county, or municipal governments, public school districts, or other public school authorities, and for authorized expenditures from funds deposited by non-Federal parties pursuant to Land Sale and Exchange Acts, pursuant to the Act of December 4, 1967, as amended (16 U.S.C. 484a), to remain available until expended.

RANGE BETTERMENT FUND

For necessary expenses of range rehabilitation, protection, and improvement, 50 percent of all moneys received during the prior fiscal year, as fees for grazing domestic livestock on lands in National Forests in the 16 Western States, pursuant to section 401(b)(1) of Public Law 94-579, as amended, to remain available until expended, of which not to exceed 6 percent shall be available for administrative expenses associated with on-the-ground range rehabilitation, protection, and improvements.

GIFTS, DONATIONS AND BEQUESTS FOR FOREST AND RANGELAND RESEARCH

For expenses authorized by 16 U.S.C. 1643(b), \$64,000, to remain available until expended, to be derived from the fund established pursuant to the above Act.

MANAGEMENT OF NATIONAL FOREST LANDS FOR SUBSISTENCE USES

For necessary expenses of the Forest Service to manage Federal lands in Alaska for subsistence uses under title VIII of the Alaska National Interest Lands Conservation Act (Public Law 96-487), \$5,067,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS, FOREST SERVICE

Appropriations to the Forest Service for the current fiscal year shall be available for: (1) purchase of passenger motor vehicles; acquisition of passenger motor vehicles from excess sources, and hire of such vehicles; purchase, lease, operation, maintenance, and acquisition of aircraft from excess sources to maintain the operable fleet for use in Forest Service wildland fire programs and other Forest Service programs; notwithstanding other provisions of law, existing aircraft being replaced may be sold, with proceeds derived or trade-in value used to offset the purchase price for the replacement aircraft; (2) services pursuant to 7 U.S.C. 2225, and not to exceed \$100,000 for employment under 5 U.S.C. 3109; (3) purchase, erection, and alteration of buildings and other public improvements (7 U.S.C. 2250); (4) acquisition of land, waters, and interests therein pursuant to 7 U.S.C. 428a; (5) for expenses pursuant to the Volunteers in the National Forest Act of 1972 (16 U.S.C. 558a, 558d, and 558a note); (6) the cost of uniforms as authorized by 5 U.S.C. 5901-5902; and (7) for debt collection contracts in accordance with 31 U.S.C. 3718(c).

None of the funds made available under this Act shall be obligated or expended to abolish any region, to move or close any regional office for National Forest System administration of the

Forest Service, Department of Agriculture without the consent of the House and Senate Committees on Appropriations.

Any appropriations or funds available to the Forest Service may be transferred to the Wildland Fire Management appropriation for forest firefighting, emergency rehabilitation of burned-over or damaged lands or waters under its jurisdiction, and fire preparedness due to severe burning conditions upon notification of the House and Senate Committees on Appropriations and if and only if all previously appropriated emergency contingent funds under the heading “Wildland Fire Management” have been released by the President and apportioned and all wildfire suppression funds under the heading “Wildland Fire Management” are obligated.

The first transfer of funds into the Wildland Fire Management account shall include unobligated funds, if available, from the Land Acquisition account and the Forest Legacy program within the State and Private Forestry account.

Funds appropriated to the Forest Service shall be available for assistance to or through the Agency for International Development and the Foreign Agricultural Service in connection with forest and rangeland research, technical information, and assistance in foreign countries, and shall be available to support forestry and related natural resource activities outside the United States and its territories and possessions, including technical assistance, education and training, and cooperation with United States and international organizations.

None of the funds made available to the Forest Service under this Act shall be subject to transfer under the provisions of section 702(b) of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 2257) or 7 U.S.C. 147b, except that in fiscal year 2006 the Forest Service may transfer funds to the “National Forest System” account from other agency accounts to enable the agency’s law enforcement program to pay full operating costs including overhead.

None of the funds available to the Forest Service may be reprogrammed without the advance approval of the House and Senate Committees on Appropriations in accordance with the reprogramming procedures contained in the report accompanying this Act.

Not more than \$72,646,000 of funds available to the Forest Service shall be transferred to the Working Capital Fund of the Department of Agriculture. Nothing in this paragraph shall prohibit or limit the use of reimbursable agreements requested by the Forest Service in order to obtain services from the Department of Agriculture’s National Information Technology Center.

Funds available to the Forest Service shall be available to conduct a program of not less than \$2,500,000 for high priority projects within the scope of the approved budget which shall be carried out by the Youth Conservation Corps.

Of the funds available to the Forest Service, \$4,000 is available to the Chief of the Forest Service for official reception and representation expenses.

Pursuant to sections 405(b) and 410(b) of Public Law 101-593, of the funds available to the Forest Service, \$3,000,000 may be advanced in a lump sum to the National Forest Foundation to aid conservation partnership projects in support of the Forest Service mission, without regard to when the Foundation incurs expenses, for administrative expenses or projects on or benefitting

16 USC 583j-9
note.

National Forest System lands or related to Forest Service programs: *Provided*, That of the Federal funds made available to the Foundation, no more than \$300,000 shall be available for administrative expenses: *Provided further*, That the Foundation shall obtain, by the end of the period of Federal financial assistance, private contributions to match on at least one-for-one basis funds made available by the Forest Service: *Provided further*, That the Foundation may transfer Federal funds to a non-Federal recipient for a project at the same rate that the recipient has obtained the non-Federal matching funds: *Provided further*, That authorized investments of Federal funds held by the Foundation may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States.

Pursuant to section 2(b)(2) of Public Law 98-244, \$2,650,000 of the funds available to the Forest Service shall be advanced to the National Fish and Wildlife Foundation in a lump sum to aid cost-share conservation projects, without regard to when expenses are incurred, on or benefitting National Forest System lands or related to Forest Service programs: *Provided*, That such funds shall be matched on at least a one-for-one basis by the Foundation or its subrecipients.

Funds appropriated to the Forest Service shall be available for interactions with and providing technical assistance to rural communities for sustainable rural development purposes.

Funds appropriated to the Forest Service shall be available for payments to counties within the Columbia River Gorge National Scenic Area, pursuant to sections 14(c)(1) and (2), and section 16(a)(2) of Public Law 99-663.

Notwithstanding any other provision of law, any appropriations or funds available to the Forest Service not to exceed \$500,000 may be used to reimburse the Office of the General Counsel (OGC), Department of Agriculture, for travel and related expenses incurred as a result of OGC assistance or participation requested by the Forest Service at meetings, training sessions, management reviews, land purchase negotiations and similar non-litigation related matters. Future budget justifications for both the Forest Service and the Department of Agriculture should clearly display the sums previously transferred and the requested funding transfers.

Any appropriations or funds available to the Forest Service may be used for necessary expenses in the event of law enforcement emergencies as necessary to protect natural resources and public or employee safety: *Provided*, That such amounts shall not exceed \$500,000.

An eligible individual who is employed in any project funded under title V of the Older American Act of 1965 (42 U.S.C. 3056 et seq.) and administered by the Forest Service shall be considered to be a Federal employee for purposes of chapter 171 of title 28, United States Code.

Any funds appropriated to the Forest Service may be used to meet the non-Federal share requirement in section 502(c) of the Older American Act of 1965 (42 U.S.C. 3056(c)(2)).

For each fiscal year through 2009, funds available to the Forest Service in this Act may be used for the purpose of expenses associated with primary and secondary schooling for dependents of agency personnel stationed in Puerto Rico prior to the date of enactment of this Act, who are subject to transfer and reassignment to other locations in the United States, at a cost not in excess of those

authorized for the Department of Defense for the same area, when it is determined by the Chief of the Forest Service that public schools available in the locality are unable to provide adequately for the education of such dependents.

Funds available to the Forest Service, not to exceed \$35,000,000, shall be assessed for the purpose of performing facilities maintenance. Such assessments shall occur using a square foot rate charged on the same basis the agency uses to assess programs for payment of rent, utilities, and other support services.

In support of management of the National Wildlife Refuge System, Lot 6C of United States Survey 2538-A, containing 2.39 acres and the residential triplex situated thereon, located in Kodiak, Alaska, is hereby transferred from the USDA Forest Service to the U.S. Fish and Wildlife Service.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

INDIAN HEALTH SERVICE

INDIAN HEALTH SERVICES

For expenses necessary to carry out the Act of August 5, 1954 (68 Stat. 674), the Indian Self-Determination Act, the Indian Health Care Improvement Act, and titles II and III of the Public Health Service Act with respect to the Indian Health Service, \$2,732,298,000, together with payments received during the fiscal year pursuant to 42 U.S.C. 238(b) for services furnished by the Indian Health Service: *Provided*, That funds made available to tribes and tribal organizations through contracts, grant agreements, or any other agreements or compacts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (25 U.S.C. 450), shall be deemed to be obligated at the time of the grant or contract award and thereafter shall remain available to the tribe or tribal organization without fiscal year limitation: *Provided further*, That up to \$18,000,000 shall remain available until expended, for the Indian Catastrophic Health Emergency Fund: *Provided further*, That \$507,021,000 for contract medical care shall remain available for obligation until September 30, 2007: *Provided further*, That of the funds provided, up to \$27,000,000, to remain available until expended, shall be used to carry out the loan repayment program under section 108 of the Indian Health Care Improvement Act: *Provided further*, That funds provided in this Act may be used for one-year contracts and grants which are to be performed in two fiscal years, so long as the total obligation is recorded in the year for which the funds are appropriated: *Provided further*, That the amounts collected by the Secretary of Health and Human Services under the authority of title IV of the Indian Health Care Improvement Act shall remain available until expended for the purpose of achieving compliance with the applicable conditions and requirements of titles XVIII and XIX of the Social Security Act (exclusive of planning, design, or construction of new facilities): *Provided further*, That funding contained herein, and in any earlier appropriations Acts for scholarship programs under the Indian Health Care Improvement Act (25 U.S.C. 1613) shall remain available until expended: *Provided further*, That amounts received by tribes and tribal organizations under title IV of the Indian Health Care Improvement Act shall be reported and accounted for and available to the receiving tribes and tribal organizations until

Reports.
Records.

Alaska.
Alcohol and
alcohol abuse.

expended: *Provided further*, That, notwithstanding any other provision of law, of the amounts provided herein, not to exceed \$268,683,000 shall be for payments to tribes and tribal organizations for contract or grant support costs associated with contracts, grants, self-governance compacts or annual funding agreements between the Indian Health Service and a tribe or tribal organization pursuant to the Indian Self-Determination Act of 1975, as amended, prior to or during fiscal year 2006, of which not to exceed \$5,000,000 may be used for contract support costs associated with new or expanded self-determination contracts, grants, self-governance compacts or annual funding agreements: *Provided further*, That the Bureau of Indian Affairs may collect from the Indian Health Service and tribes and tribal organizations operating health facilities pursuant to Public Law 93-638 such individually identifiable health information relating to disabled children as may be necessary for the purpose of carrying out its functions under the Individuals with Disabilities Education Act, 20 U.S.C. 1400, et seq.: *Provided further*, That of the amounts provided to the Indian Health Service, \$15,000,000 is provided for alcohol control, enforcement, prevention, treatment, sobriety and wellness, and education in Alaska, to be distributed in accordance with the instruction provided in Senate Report 109-80: *Provided further*, That none of the funds may be used for tribal courts or tribal ordinance programs or any program that is not directly related to alcohol control, enforcement, prevention, treatment, or sobriety: *Provided further*, That no more than 15 percent may be used by any entity receiving funding for administrative overhead including indirect costs.

INDIAN HEALTH FACILITIES

For construction, repair, maintenance, improvement, and equipment of health and related auxiliary facilities, including quarters for personnel; preparation of plans, specifications, and drawings; acquisition of sites, purchase and erection of modular buildings, and purchases of trailers; and for provision of domestic and community sanitation facilities for Indians, as authorized by section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a), the Indian Self-Determination Act, and the Indian Health Care Improvement Act, and for expenses necessary to carry out such Acts and titles II and III of the Public Health Service Act with respect to environmental health and facilities support activities of the Indian Health Service, \$358,485,000, to remain available until expended: *Provided*, That notwithstanding any other provision of law, funds appropriated for the planning, design, construction or renovation of health facilities for the benefit of an Indian tribe or tribes may be used to purchase land for sites to construct, improve, or enlarge health or related facilities: *Provided further*, That not to exceed \$500,000 shall be used by the Indian Health Service to purchase TRANSAM equipment from the Department of Defense for distribution to the Indian Health Service and tribal facilities: *Provided further*, That none of the funds appropriated to the Indian Health Service may be used for sanitation facilities construction for new homes funded with grants by the housing programs of the United States Department of Housing and Urban Development: *Provided further*, That not to exceed \$1,000,000 from this account and the "Indian Health Services" account shall be used by the Indian Health Service to obtain ambulances for the Indian Health Service and tribal facilities in conjunction with an existing interagency agreement between

the Indian Health Service and the General Services Administration: *Provided further*, That notwithstanding any other provision of law, the Indian Health Service is authorized to construct a replacement health care facility in Nome, Alaska, on land owned by the Norton Sound Health Corporation: *Provided further*, That not to exceed \$500,000 shall be placed in a Demolition Fund, available until expended, to be used by the Indian Health Service for demolition of Federal buildings.

ADMINISTRATIVE PROVISIONS, INDIAN HEALTH SERVICE

Appropriations in this Act to the Indian Health Service shall be available for services as authorized by 5 U.S.C. 3109 but at rates not to exceed the per diem rate equivalent to the maximum rate payable for senior-level positions under 5 U.S.C. 5376; hire of passenger motor vehicles and aircraft; purchase of medical equipment; purchase of reprints; purchase, renovation and erection of modular buildings and renovation of existing facilities; payments for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; and for uniforms or allowances therefor as authorized by 5 U.S.C. 5901-5902; and for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities.

In accordance with the provisions of the Indian Health Care Improvement Act, non-Indian patients may be extended health care at all tribally administered or Indian Health Service facilities, subject to charges, and the proceeds along with funds recovered under the Federal Medical Care Recovery Act (42 U.S.C. 2651-2653) shall be credited to the account of the facility providing the service and shall be available without fiscal year limitation. Notwithstanding any other law or regulation, funds transferred from the Department of Housing and Urban Development to the Indian Health Service shall be administered under Public Law 86-121 (the Indian Sanitation Facilities Act) and Public Law 93-638, as amended.

Funds appropriated to the Indian Health Service in this Act, except those used for administrative and program direction purposes, shall not be subject to limitations directed at curtailing Federal travel and transportation.

None of the funds made available to the Indian Health Service in this Act shall be used for any assessments or charges by the Department of Health and Human Services unless identified in the budget justification and provided in this Act, or approved by the House and Senate Committees on Appropriations through the reprogramming process. Personnel ceilings may not be imposed on the Indian Health Service nor may any action be taken to reduce the full time equivalent level of the Indian Health Service below the level in fiscal year 2002 adjusted upward for the staffing of new and expanded facilities, funding provided for staffing at the Lawton, Oklahoma hospital in fiscal years 2003 and 2004, critical positions not filled in fiscal year 2002, and staffing necessary to carry out the intent of Congress with regard to program increases.

Notwithstanding any other provision of law, funds previously or herein made available to a tribe or tribal organization through a contract, grant, or agreement authorized by title I or title V of the Indian Self-Determination and Education Assistance Act

of 1975 (25 U.S.C. 450), may be deobligated and reobligated to a self-determination contract under title I, or a self-governance agreement under title V of such Act and thereafter shall remain available to the tribe or tribal organization without fiscal year limitation.

None of the funds made available to the Indian Health Service in this Act shall be used to implement the final rule published in the Federal Register on September 16, 1987, by the Department of Health and Human Services, relating to the eligibility for the health care services of the Indian Health Service until the Indian Health Service has submitted a budget request reflecting the increased costs associated with the proposed final rule, and such request has been included in an appropriations Act and enacted into law.

With respect to functions transferred by the Indian Health Service to tribes or tribal organizations, the Indian Health Service is authorized to provide goods and services to those entities, on a reimbursable basis, including payment in advance with subsequent adjustment. The reimbursements received therefrom, along with the funds received from those entities pursuant to the Indian Self-Determination Act, may be credited to the same or subsequent appropriation account which provided the funding. Such amounts shall remain available until expended.

Reimbursements for training, technical assistance, or services provided by the Indian Health Service will contain total costs, including direct, administrative, and overhead associated with the provision of goods, services, or technical assistance.

The appropriation structure for the Indian Health Service may not be altered without advance notification to the House and Senate Committees on Appropriations.

NATIONAL INSTITUTES OF HEALTH

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

For necessary expenses for the National Institute of Environmental Health Sciences in carrying out activities set forth in section 311(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, and section 126(g) of the Superfund Amendments and Reauthorization Act of 1986, \$80,289,000.

AGENCY FOR TOXIC SUBSTANCES AND DISEASE REGISTRY

TOXIC SUBSTANCES AND ENVIRONMENTAL PUBLIC HEALTH

For necessary expenses for the Agency for Toxic Substances and Disease Registry (ATSDR) in carrying out activities set forth in sections 104(i), 111(c)(4), and 111(c)(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended; section 118(f) of the Superfund Amendments and Reauthorization Act of 1986 (SARA), as amended; and section 3019 of the Solid Waste Disposal Act, as amended, \$76,024,000, of which up to \$1,500,000, to remain available until expended, is for Individual Learning Accounts for full-time equivalent employees of the Agency for Toxic Substances and Disease Registry: *Provided*, That notwithstanding any other provision of law, in lieu of performing a health assessment under section

104(i)(6) of CERCLA, the Administrator of ATSDR may conduct other appropriate health studies, evaluations, or activities, including, without limitation, biomedical testing, clinical evaluations, medical monitoring, and referral to accredited health care providers: *Provided further*, That in performing any such health assessment or health study, evaluation, or activity, the Administrator of ATSDR shall not be bound by the deadlines in section 104(i)(6)(A) of CERCLA: *Provided further*, That none of the funds appropriated under this heading shall be available for ATSDR to issue in excess of 40 toxicological profiles pursuant to section 104(i) of CERCLA during fiscal year 2006, and existing profiles may be updated as necessary.

OTHER RELATED AGENCIES

EXECUTIVE OFFICE OF THE PRESIDENT

COUNCIL ON ENVIRONMENTAL QUALITY AND OFFICE OF ENVIRONMENTAL QUALITY

For necessary expenses to continue functions assigned to the Council on Environmental Quality and Office of Environmental Quality pursuant to the National Environmental Policy Act of 1969, the Environmental Quality Improvement Act of 1970, and Reorganization Plan No. 1 of 1977, and not to exceed \$750 for official reception and representation expenses, \$2,717,000: *Provided*, That notwithstanding section 202 of the National Environmental Policy Act of 1970, the Council shall consist of one member, appointed by the President, by and with the advice and consent of the Senate, serving as chairman and exercising all powers, functions, and duties of the Council.

42 USC 4342
note.

CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

SALARIES AND EXPENSES

For necessary expenses in carrying out activities pursuant to section 112(r)(6) of the Clean Air Act, as amended, including hire of passenger vehicles, uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902, and for services authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem equivalent to the maximum rate payable for senior level positions under 5 U.S.C. 5376, \$9,200,000: *Provided*, That the Chemical Safety and Hazard Investigation Board (Board) shall have not more than three career Senior Executive Service positions: *Provided further*, That notwithstanding any other provision of law, the individual appointed to the position of Inspector General of the Environmental Protection Agency (EPA) shall, by virtue of such appointment, also hold the position of Inspector General of the Board: *Provided further*, That notwithstanding any other provision of law, the Inspector General of the Board shall utilize personnel of the Office of Inspector General of EPA in performing the duties of the Inspector General of the Board, and shall not appoint any individuals to positions within the Board.

5 USC app. 8G
note.

OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

SALARIES AND EXPENSES

For necessary expenses of the Office of Navajo and Hopi Indian Relocation as authorized by Public Law 93-531, \$8,601,000, to remain available until expended: *Provided*, That funds provided in this or any other appropriations Act are to be used to relocate eligible individuals and groups including evictees from District 6, Hopi-partitioned lands residents, those in significantly substandard housing, and all others certified as eligible and not included in the preceding categories: *Provided further*, That none of the funds contained in this or any other Act may be used by the Office of Navajo and Hopi Indian Relocation to evict any single Navajo or Navajo family who, as of November 30, 1985, was physically domiciled on the lands partitioned to the Hopi Tribe unless a new or replacement home is provided for such household: *Provided further*, That no relocatee will be provided with more than one new or replacement home: *Provided further*, That the Office shall relocate any certified eligible relocatees who have selected and received an approved homesite on the Navajo reservation or selected a replacement residence off the Navajo reservation or on the land acquired pursuant to 25 U.S.C. 640d-10.

INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT

PAYMENT TO THE INSTITUTE

For payment to the Institute of American Indian and Alaska Native Culture and Arts Development, as authorized by title XV of Public Law 99-498, as amended (20 U.S.C. 56 part A), \$6,300,000.

SMITHSONIAN INSTITUTION

SALARIES AND EXPENSES

For necessary expenses of the Smithsonian Institution, as authorized by law, including research in the fields of art, science, and history; development, preservation, and documentation of the National Collections; presentation of public exhibits and performances; collection, preparation, dissemination, and exchange of information and publications; conduct of education, training, and museum assistance programs; maintenance, alteration, operation, lease (for terms not to exceed 30 years), and protection of buildings, facilities, and approaches; not to exceed \$100,000 for services as authorized by 5 U.S.C. 3109; up to five replacement passenger vehicles; purchase, rental, repair, and cleaning of uniforms for employees, \$524,281,000, of which not to exceed \$10,992,000 for the instrumentation program, collections acquisition, exhibition reinstallation, the National Museum of African American History and Culture, and the repatriation of skeletal remains program shall remain available until expended; and of which \$9,086,000 for the reopening of the Patent Office Building and for fellowships and scholarly awards shall remain available until September 30, 2007; and including such funds as may be necessary to support American overseas research centers and a total of \$125,000 for the Council of American Overseas Research Centers: *Provided*, That funds appropriated herein are available for advance payments to

independent contractors performing research services or participating in official Smithsonian presentations: *Provided further*, That the Smithsonian Institution may expend Federal appropriations designated in this Act for lease or rent payments for long term and swing space, as rent payable to the Smithsonian Institution, and such rent payments may be deposited into the general trust funds of the Institution to the extent that federally supported activities are housed in the 900 H Street, N.W. building in the District of Columbia: *Provided further*, That this use of Federal appropriations shall not be construed as debt service, a Federal guarantee of, a transfer of risk to, or an obligation of, the Federal Government: *Provided further*, That no appropriated funds may be used to service debt which is incurred to finance the costs of acquiring the 900 H Street building or of planning, designing, and constructing improvements to such building.

FACILITIES CAPITAL

For necessary expenses of repair, revitalization, and alteration of facilities owned or occupied by the Smithsonian Institution, by contract or otherwise, as authorized by section 2 of the Act of August 22, 1949 (63 Stat. 623), and for construction, including necessary personnel, \$100,000,000, to remain available until expended, of which not to exceed \$10,000 is for services as authorized by 5 U.S.C. 3109: *Provided*, That contracts awarded for environmental systems, protection systems, and repair or restoration of facilities of the Smithsonian Institution may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price.

ADMINISTRATIVE PROVISIONS, SMITHSONIAN INSTITUTION

None of the funds in this or any other Act may be used to make any changes to the existing Smithsonian science programs including closure of facilities, relocation of staff or redirection of functions and programs without the advance approval of the House and Senate Committees on Appropriations.

None of the funds in this or any other Act may be used to initiate the design for any proposed expansion of current space or new facility without consultation with the House and Senate Appropriations Committees.

None of the funds in this or any other Act may be used for the Holt House located at the National Zoological Park in Washington, D.C., unless identified as repairs to minimize water damage, monitor structure movement, or provide interim structural support.

None of the funds available to the Smithsonian may be reprogrammed without the advance approval of the House and Senate Committees on Appropriations in accordance with the reprogramming procedures contained in the statement of the managers accompanying this Act.

None of the funds in this or any other Act may be used to purchase any additional buildings without prior consultation with the House and Senate Committees on Appropriations.

NATIONAL GALLERY OF ART

SALARIES AND EXPENSES

For the upkeep and operations of the National Gallery of Art, the protection and care of the works of art therein, and administrative expenses incident thereto, as authorized by the Act of March 24, 1937 (50 Stat. 51), as amended by the public resolution of April 13, 1939 (Public Resolution 9, Seventy-sixth Congress), including services as authorized by 5 U.S.C. 3109; payment in advance when authorized by the treasurer of the Gallery for membership in library, museum, and art associations or societies whose publications or services are available to members only, or to members at a price lower than to the general public; purchase, repair, and cleaning of uniforms for guards, and uniforms, or allowances therefor, for other employees as authorized by law (5 U.S.C. 5901–5902); purchase or rental of devices and services for protecting buildings and contents thereof, and maintenance, alteration, improvement, and repair of buildings, approaches, and grounds; and purchase of services for restoration and repair of works of art for the National Gallery of Art by contracts made, without advertising, with individuals, firms, or organizations at such rates or prices and under such terms and conditions as the Gallery may deem proper, \$96,600,000, of which not to exceed \$3,157,000 for the special exhibition program shall remain available until expended.

REPAIR, RESTORATION AND RENOVATION OF BUILDINGS

For necessary expenses of repair, restoration and renovation of buildings, grounds and facilities owned or occupied by the National Gallery of Art, by contract or otherwise, as authorized, \$16,200,000, to remain available until expended: *Provided*, That contracts awarded for environmental systems, protection systems, and exterior repair or renovation of buildings of the National Gallery of Art may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price: *Provided further*, That, notwithstanding any other provision of law, a single procurement for the Master Facilities Plan renovation project at the National Gallery of Art may be issued which includes the full scope of the Work Area #3 project: *Provided further*, That the solicitation and the contract shall contain the clause “availability of funds” found at 48 CFR 52.232.18.

JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

OPERATIONS AND MAINTENANCE

For necessary expenses for the operation, maintenance and security of the John F. Kennedy Center for the Performing Arts, \$17,800,000.

CONSTRUCTION

For necessary expenses for capital repair and restoration of the existing features of the building and site of the John F. Kennedy Center for the Performing Arts, \$13,000,000, to remain available until expended.

WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

SALARIES AND EXPENSES

For expenses necessary in carrying out the provisions of the Woodrow Wilson Memorial Act of 1968 (82 Stat. 1356) including hire of passenger vehicles and services as authorized by 5 U.S.C. 3109, \$9,201,000.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

NATIONAL ENDOWMENT FOR THE ARTS

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, \$126,264,000 shall be available to the National Endowment for the Arts for the support of projects and productions in the arts through assistance to organizations and individuals pursuant to sections 5(c) and 5(g) of the Act, including \$17,922,000 for support of arts education and public outreach activities through the Challenge America program, for program support, and for administering the functions of the Act, to remain available until expended: *Provided*, That funds previously appropriated to the National Endowment for the Arts “Matching Grants” account and “Challenge America” account may be transferred to and merged with this account: *Provided further*, That funds appropriated herein shall be expended in accordance with sections 309 and 311 of Public Law 108–108.

NATIONAL ENDOWMENT FOR THE HUMANITIES

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, \$127,605,000, shall be available to the National Endowment for the Humanities for support of activities in the humanities, pursuant to section 7(c) of the Act, and for administering the functions of the Act, to remain available until expended.

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, \$15,449,000, to remain available until expended, of which \$10,000,000 shall be available to the National Endowment for the Humanities for the purposes of section 7(h): *Provided*, That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the chairman or by grantees of the Endowment under the provisions of subsections 11(a)(2)(B) and 11(a)(3)(B) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.

ADMINISTRATIVE PROVISIONS

None of the funds appropriated to the National Foundation on the Arts and the Humanities may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: *Provided*, That none of the funds appropriated to the National Foundation on the Arts and the Humanities may be used for official reception and representation expenses: *Provided further*, That funds from nonappropriated sources may be used as necessary for official reception and representation expenses: *Provided further*, That the Chairperson of the National Endowment for the Arts may approve grants up to \$10,000, if in the aggregate this amount does not exceed 5 percent of the sums appropriated for grant-making purposes per year: *Provided further*, That such small grant actions are taken pursuant to the terms of an expressed and direct delegation of authority from the National Council on the Arts to the Chairperson.

COMMISSION OF FINE ARTS

SALARIES AND EXPENSES

For expenses made necessary by the Act establishing a Commission of Fine Arts (40 U.S.C. 104), \$1,893,000: *Provided*, That the Commission is authorized to charge fees to cover the full costs of its publications, and such fees shall be credited to this account as an offsetting collection, to remain available until expended without further appropriation.

NATIONAL CAPITAL ARTS AND CULTURAL AFFAIRS

For necessary expenses as authorized by Public Law 99–190 (20 U.S.C. 956a), as amended, \$7,250,000.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

SALARIES AND EXPENSES

For necessary expenses of the Advisory Council on Historic Preservation (Public Law 89–665, as amended), \$4,860,000: *Provided*, That none of these funds shall be available for compensation of level V of the Executive Schedule or higher positions.

NATIONAL CAPITAL PLANNING COMMISSION

SALARIES AND EXPENSES

For necessary expenses, as authorized by the National Capital Planning Act of 1952 (40 U.S.C. 71–71i), including services as authorized by 5 U.S.C. 3109, \$8,244,000: *Provided*, That one-quarter of 1 percent of the funds provided under this heading may be used for official reception and representational expenses associated with hosting international visitors engaged in the planning and physical development of world capitals.

UNITED STATES HOLOCAUST MEMORIAL MUSEUM

HOLOCAUST MEMORIAL MUSEUM

For expenses of the Holocaust Memorial Museum, as authorized by Public Law 106–292 (36 U.S.C. 2301–2310), \$42,780,000, of which \$1,874,000 for the museum’s repair and rehabilitation program and \$1,246,000 for the museum’s exhibition design and production program shall remain available until expended.

PRESIDIO TRUST

PRESIDIO TRUST FUND

For necessary expenses to carry out title I of the Omnibus Parks and Public Lands Management Act of 1996, \$20,000,000 shall be available to the Presidio Trust, to remain available until expended.

WHITE HOUSE COMMISSION ON THE NATIONAL MOMENT OF
REMEMBRANCE

SALARIES AND EXPENSES

For necessary expenses of the White House Commission on the National Moment of Remembrance, \$250,000.

TITLE IV—GENERAL PROVISIONS

SEC. 401. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

Contracts.
Public
information.

SEC. 402. No part of any appropriation contained in this Act shall be available for any activity or the publication or distribution of literature that in any way tends to promote public support or opposition to any legislative proposal on which Congressional action is not complete other than to communicate to Members of Congress as described in 18 U.S.C. 1913.

SEC. 403. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 404. None of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency except as otherwise provided by law.

SEC. 405. Estimated overhead charges, deductions, reserves or holdbacks from programs, projects, activities and subactivities to support government-wide, departmental, agency or bureau administrative functions or headquarters, regional or central operations shall be presented in annual budget justifications and subject to approval by the Committees on Appropriations. Changes to such estimates shall be presented to the Committees on Appropriations for approval.

SEC. 406. None of the funds made available in this Act may be transferred to any department, agency, or instrumentality of the United States Government except pursuant to a transfer made by, or transfer provided in, this Act or any other Act.

SEC. 407. None of the funds in this Act may be used to plan, prepare, or offer for sale timber from trees classified as giant sequoia (*Sequoiadendron giganteum*) which are located on National Forest System or Bureau of Land Management lands in a manner different than such sales were conducted in fiscal year 2005.

SEC. 408. (a) LIMITATION OF FUNDS.—None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to accept or process applications for a patent for any mining or mill site claim located under the general mining laws.

(b) EXCEPTIONS.—The provisions of subsection (a) shall not apply if the Secretary of the Interior determines that, for the claim concerned: (1) a patent application was filed with the Secretary on or before September 30, 1994; and (2) all requirements established under sections 2325 and 2326 of the Revised Statutes (30 U.S.C. 29 and 30) for vein or lode claims and sections 2329, 2330, 2331, and 2333 of the Revised Statutes (30 U.S.C. 35, 36, and 37) for placer claims, and section 2337 of the Revised Statutes (30 U.S.C. 42) for mill site claims, as the case may be, were fully complied with by the applicant by that date.

(c) REPORT.—On September 30, 2006, the Secretary of the Interior shall file with the House and Senate Committees on Appropriations and the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on actions taken by the Department under the plan submitted pursuant to section 314(c) of the Department of the Interior and Related Agencies Appropriations Act, 1997 (Public Law 104-208).

Contracts.

(d) MINERAL EXAMINATIONS.—In order to process patent applications in a timely and responsible manner, upon the request of a patent applicant, the Secretary of the Interior shall allow the applicant to fund a qualified third-party contractor to be selected by the Bureau of Land Management to conduct a mineral examination of the mining claims or mill sites contained in a patent application as set forth in subsection (b). The Bureau of Land Management shall have the sole responsibility to choose and pay the third-party contractor in accordance with the standard procedures employed by the Bureau of Land Management in the retention of third-party contractors.

SEC. 409. Notwithstanding any other provision of law, amounts appropriated to or earmarked in committee reports for the Bureau of Indian Affairs and the Indian Health Service by Public Laws 103-138, 103-332, 104-134, 104-208, 105-83, 105-277, 106-113, 106-291, 107-63, 108-7, 108-108, and 108-447 for payments to tribes and tribal organizations for contract support costs associated with self-determination or self-governance contracts, grants, compacts, or annual funding agreements with the Bureau of Indian Affairs or the Indian Health Service as funded by such Acts, are the total amounts available for fiscal years 1994 through 2005 for such purposes, except that, for the Bureau of Indian Affairs, tribes and tribal organizations may use their tribal priority allocations for unmet contract support costs of ongoing contracts, grants, self-governance compacts or annual funding agreements.

SEC. 410. The National Endowment for the Arts and the National Endowment for the Humanities are hereafter authorized to solicit, accept, receive, and invest in the name of the United States, gifts, bequests, or devises of money and other property or services and to use such in furtherance of the functions of the National Endowment for the Arts and the National Endowment for the Humanities. Any proceeds from such gifts, bequests, or devises, after acceptance by the National Endowment for the Arts or the National Endowment for the Humanities, shall be paid by the donor or the representative of the donor to the Chairman. The Chairman shall enter the proceeds in a special interest-bearing account to the credit of the appropriate endowment for the purposes specified in each case. 20 USC 959a.

SEC. 411. No part of any appropriation contained in this Act shall be expended or obligated to complete and issue the 5-year program under the Forest and Rangeland Renewable Resources Planning Act.

SEC. 412. Section 3(a) of the Act of June 9, 1930 (commonly known as the Knutson-Vandenberg Act; 16 U.S.C. 576b), is amended—

(1) by striking “or” following “stand of timber,” in (3); and

(2) by striking the period following “wildlife habitat management” in (4), and inserting “, or (5) watershed restoration, wildlife habitat improvement, control of insects, disease and noxious weeds, community protection activities, and the maintenance of forest roads, within the Forest Service region in which the timber sale occurred: *Provided*, That such activities may be performed through the use of contracts, forest product sales, and cooperative agreements.”.

SEC. 413. Amounts deposited during fiscal year 2005 in the roads and trails fund provided for in the 14th paragraph under the heading “FOREST SERVICE” of the Act of March 4, 1913 (37 Stat. 843; 16 U.S.C. 501), shall be used by the Secretary of Agriculture, without regard to the State in which the amounts were derived, to repair or reconstruct roads, bridges, and trails on National Forest System lands or to carry out and administer projects to improve forest health conditions, which may include the repair or reconstruction of roads, bridges, and trails on National Forest System lands in the wildland-community interface where there is an abnormally high risk of fire. The projects shall emphasize reducing risks to human safety and public health and property and enhancing ecological functions, long-term forest productivity, and biological integrity. The projects may be completed in a subsequent fiscal year. Funds shall not be expended under this section to replace funds which would otherwise appropriately be expended from the timber salvage sale fund. Nothing in this section shall be construed to exempt any project from any environmental law.

SEC. 414. Other than in emergency situations, none of the funds in this Act may be used to operate telephone answering machines during core business hours unless such answering machines include an option that enables callers to reach promptly an individual on-duty with the agency being contacted.

SEC. 415. Prior to October 1, 2006, the Secretary of Agriculture shall not be considered to be in violation of subparagraph 6(f)(5)(A) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604(f)(5)(A)) solely because more than 15 years 16 USC 1604 note.

have passed without revision of the plan for a unit of the National Forest System. Nothing in this section exempts the Secretary from any other requirement of the Forest and Rangeland Renewable Resources Planning Act (16 U.S.C. 1600 et seq.) or any other law: *Provided*, That if the Secretary is not acting expeditiously and in good faith, within the funding available, to revise a plan for a unit of the National Forest System, this section shall be void with respect to such plan and a court of proper jurisdiction may order completion of the plan on an accelerated basis.

SEC. 416. No timber sale in Region 10 shall be advertised if the indicated rate is deficit when appraised using a residual value approach that assigns domestic Alaska values for western redcedar. Program accomplishments shall be based on volume sold. Should Region 10 sell, in the current fiscal year, the annual average portion of the decadal allowable sale quantity called for in the current Tongass Land Management Plan in sales which are not deficit when appraised using a residual value approach that assigns domestic Alaska values for western redcedar, all of the western redcedar timber from those sales which is surplus to the needs of domestic processors in Alaska, shall be made available to domestic processors in the contiguous 48 United States at prevailing domestic prices. Should Region 10 sell, in the current fiscal year, less than the annual average portion of the decadal allowable sale quantity called for in the Tongass Land Management Plan in sales which are not deficit when appraised using a residual value approach that assigns domestic Alaska values for western redcedar, the volume of western redcedar timber available to domestic processors at prevailing domestic prices in the contiguous 48 United States shall be that volume: (1) which is surplus to the needs of domestic processors in Alaska; and (2) is that percent of the surplus western redcedar volume determined by calculating the ratio of the total timber volume which has been sold on the Tongass to the annual average portion of the decadal allowable sale quantity called for in the current Tongass Land Management Plan. The percentage shall be calculated by Region 10 on a rolling basis as each sale is sold (for purposes of this amendment, a “rolling basis” shall mean that the determination of how much western redcedar is eligible for sale to various markets shall be made at the time each sale is awarded). Western redcedar shall be deemed “surplus to the needs of domestic processors in Alaska” when the timber sale holder has presented to the Forest Service documentation of the inability to sell western redcedar logs from a given sale to domestic Alaska processors at a price equal to or greater than the log selling value stated in the contract. All additional western redcedar volume not sold to Alaska or contiguous 48 United States domestic processors may be exported to foreign markets at the election of the timber sale holder. All Alaska yellow cedar may be sold at prevailing export prices at the election of the timber sale holder.

SEC. 417. No funds provided in this Act may be expended to conduct preleasing, leasing and related activities under either the Mineral Leasing Act (30 U.S.C. 181 et seq.) or the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) within the boundaries of a National Monument established pursuant to the Act of June 8, 1906 (16 U.S.C. 431 et seq.) as such boundary existed on January 20, 2001, except where such activities are

allowed under the Presidential proclamation establishing such monument.

SEC. 418. In entering into agreements with foreign countries pursuant to the Wildfire Suppression Assistance Act (42 U.S.C. 1856m) the Secretary of Agriculture and the Secretary of the Interior are authorized to enter into reciprocal agreements in which the individuals furnished under said agreements to provide wildfire services are considered, for purposes of tort liability, employees of the country receiving said services when the individuals are engaged in fire suppression: *Provided*, That the Secretary of Agriculture or the Secretary of the Interior shall not enter into any agreement under this provision unless the foreign country (either directly or through its fire organization) agrees to assume any and all liability for the acts or omissions of American firefighters engaged in firefighting in a foreign country: *Provided further*, That when an agreement is reached for furnishing fire fighting services, the only remedies for acts or omissions committed while fighting fires shall be those provided under the laws of the host country, and those remedies shall be the exclusive remedies for any claim arising out of fighting fires in a foreign country: *Provided further*, That neither the sending country nor any legal organization associated with the firefighter shall be subject to any legal action whatsoever pertaining to or arising out of the firefighter's role in fire suppression.

SEC. 419. Notwithstanding any other provision of law or regulation, to promote the more efficient use of the health care funding allocation for fiscal year 2006, the Eagle Butte Service Unit of the Indian Health Service, at the request of the Cheyenne River Sioux Tribe, may pay base salary rates to health professionals up to the highest grade and step available to a physician, pharmacist, or other health professional and may pay a recruitment or retention bonus of up to 25 percent above the base pay rate.

SEC. 420. In awarding a Federal contract with funds made available by this Act, notwithstanding Federal Government procurement and contracting laws, the Secretary of Agriculture and the Secretary of the Interior (the "Secretaries") may, in evaluating bids and proposals, give consideration to local contractors who are from, and who provide employment and training for, dislocated and displaced workers in an economically disadvantaged rural community, including those historically timber-dependent areas that have been affected by reduced timber harvesting on Federal lands and other forest-dependent rural communities isolated from significant alternative employment opportunities: *Provided*, That notwithstanding Federal Government procurement and contracting laws the Secretaries may award contracts, grants or cooperative agreements to local non-profit entities, Youth Conservation Corps or related partnerships with State, local or non-profit youth groups, or small or micro-business or disadvantaged business: *Provided further*, That the contract, grant, or cooperative agreement is for forest hazardous fuels reduction, watershed or water quality monitoring or restoration, wildlife or fish population monitoring, or habitat restoration or management: *Provided further*, That the terms "rural community" and "economically disadvantaged" shall have the same meanings as in section 2374 of Public Law 101-624: *Provided further*, That the Secretaries shall develop guidance to implement this section: *Provided further*, That nothing in this section shall be construed as relieving the Secretaries of any duty

Guidelines.

under applicable procurement laws, except as provided in this section.

SEC. 421. No funds appropriated in this Act for the acquisition of lands or interests in lands may be expended for the filing of declarations of taking or complaints in condemnation without the approval of the House and Senate Committees on Appropriations: *Provided*, That this provision shall not apply to funds appropriated to implement the Everglades National Park Protection and Expansion Act of 1989, or to funds appropriated for Federal assistance to the State of Florida to acquire lands for Everglades restoration purposes.

SEC. 422. (a) LIMITATION ON COMPETITIVE SOURCING STUDIES.—

(1) Of the funds made available by this or any other Act to the Department of the Interior for fiscal year 2006, not more than \$3,450,000 may be used by the Secretary of the Interior to initiate or continue competitive sourcing studies in fiscal year 2006 for programs, projects, and activities for which funds are appropriated by this Act until such time as the Secretary concerned submits a reprogramming proposal to the Committees on Appropriations of the Senate and the House of Representatives, and such proposal has been processed consistent with the reprogramming guidelines included in the report accompanying this Act.

(2) Of the funds appropriated by this Act, not more than \$3,000,000 may be used in fiscal year 2006 for competitive sourcing studies and related activities by the Forest Service.

(b) COMPETITIVE SOURCING STUDY DEFINED.—In this section, the term “competitive sourcing study” means a study on subjecting work performed by Federal Government employees or private contractors to public-private competition or on converting the Federal Government employees or the work performed by such employees to private contractor performance under the Office of Management and Budget Circular A-76 or any other administrative regulation, directive, or policy.

(c) COMPETITIVE SOURCING EXEMPTION FOR FOREST SERVICE STUDIES CONDUCTED PRIOR TO FISCAL YEAR 2006.—The Forest Service is hereby exempted from implementing the Letter of Obligation and post-competition accountability guidelines where a competitive sourcing study involved 65 or fewer full-time equivalents, the performance decision was made in favor of the agency provider; no net savings was achieved by conducting the study, and the study was completed prior to the date of this Act.

(d) In preparing any reports to the Committees on Appropriations on competitive sourcing activities, agencies funded in this Act shall include the incremental cost directly attributable to conducting the competitive sourcing competitions, including costs attributable to paying outside consultants and contractors and, in accordance with full cost accounting principles, all costs attributable to developing, implementing, supporting, managing, monitoring, and reporting on competitive sourcing, including personnel, consultant, travel, and training costs associated with program management.

(e) In carrying out any competitive sourcing study involving Forest Service employees, the Secretary of Agriculture shall—

(1) determine whether any of the employees concerned are also qualified to participate in wildland fire management activities; and

(2) take into consideration the effect that contracting with a private sector source would have on the ability of the Forest Service to effectively and efficiently fight and manage wildfires.

SEC. 423. None of the funds in this Act or prior Acts making appropriations for the Department of the Interior and Related Agencies may be provided to the managing partners or their agents for the SAFECOM or Disaster Management projects.

SEC. 424. (a) IN GENERAL.—An entity that enters into a contract with the United States to operate the National Recreation Reservation Service (as solicited by the solicitation numbered WO-04-06vm) shall not carry out any duties under the contract using:

(1) a contact center located outside the United States;

or

(2) a reservation agent who does not live in the United States.

(b) NO WAIVER.—The Secretary of Agriculture may not waive the requirements of subsection (a).

(c) TELECOMMUTING.—A reservation agent who is carrying out duties under the contract described in subsection (a) may not telecommute from a location outside the United States.

(d) LIMITATIONS.—Nothing in this Act shall be construed to apply to any employee of the entity who is not a reservation agent carrying out the duties under the contract described in subsection (a) or who provides managerial or support services.

SEC. 425. Section 331 of the Department of the Interior and Related Agencies Appropriations Act, 2000 (as enacted into law by section 1000(a)(3) of Public Law 106-113; 113 Stat. 1501A-196; 16 U.S.C. 497 note), as amended, is amended—

(1) in subsection (a) by striking “2005” and inserting “2006”;

and

(2) in subsection (b) by striking “2005” and inserting “2006”.

SEC. 426. Section 321 of the Department of the Interior and Related Agencies Appropriations Act, 2003 (division F of Public Law 108-7; 117 Stat. 274; 16 U.S.C. 565a-1 note) is amended by striking “September 30, 2005” and inserting “September 30, 2007”.

SEC. 427. Section 5 of the Arts and Artifacts Indemnity Act (20 U.S.C. 974) is amended—

(1) in subsection (b), by striking “\$8,000,000,000” and inserting “\$10,000,000,000”; and

(2) in subsection (c), by striking “\$600,000,000” and inserting “\$1,200,000,000”.

SEC. 428. Section 330 of the Department of the Interior and Related Agencies Appropriations Act, 2001 (Public Law 106-291; 114 Stat. 996; 43 U.S.C. 1701 note), is amended—

(1) in the first sentence, by striking “2005” and inserting “2008”;

(2) in the first sentence by striking “may pilot test agency-wide joint permitting and leasing programs” and inserting after “Congress,” the following: “may establish pilot programs involving the land management agencies referred to in this section to conduct projects, planning, permitting, leasing, contracting and other activities, either jointly or on behalf of one another; may co-locate in Federal offices and facilities leased by an agency of either Department;”;

(3) in the third sentence, by inserting “, National Park Service, Fish and Wildlife Service,” after “Bureau of Land Management”; and

(4) by adding at the end the following new sentence: “To facilitate the sharing of resources under the Service First initiative, the Secretaries of the Interior and Agriculture may make transfers of funds and reimbursement of funds on an annual basis, including transfers and reimbursements for multi-year projects, except that this authority may not be used to circumvent requirements and limitations imposed on the use of funds.”.

SEC. 429. The Secretary of Agriculture may acquire, by exchange or otherwise, a parcel of real property, including improvements thereon, of the Inland Valley Development Agency of San Bernardino, California, or its successors and assigns, generally comprising Building No. 3 and Building No. 4 of the former Defense Finance and Accounting Services complex located at the southwest corner of Tippecanoe Avenue and Mill Street in San Bernardino, California, adjacent to the former Norton Air Force Base. As full consideration for the property to be acquired, the Secretary of Agriculture may terminate the leasehold rights of the United States received pursuant to section 8121(a)(2) of the Department of Defense Appropriations Act, 2005 (Public Law 108–287; 118 Stat. 999). The acquisition of the property shall be on such terms and conditions as the Secretary of Agriculture considers appropriate and may be carried out without appraisals, environmental or administrative surveys, consultations, analyses, or other considerations of the condition of the property.

SEC. 430. None of the funds in this Act may be used to prepare or issue a permit or lease for oil or gas drilling in the Finger Lakes National Forest, New York, during fiscal year 2006.

SEC. 431. (a) IN GENERAL.—

(1) The Secretary of Agriculture and the Secretary of the Interior are authorized to make grants to the Eastern Nevada Landscape Coalition for the study and restoration of rangeland and other lands in Nevada’s Great Basin in order to help assure the reduction of hazardous fuels and for related purposes.

(2) Notwithstanding 31 U.S.C. 6301–6308, the Director of the Bureau of Land Management may enter into a cooperative agreement with the Eastern Nevada Landscape Coalition for the Great Basin Restoration Project, including hazardous fuels and mechanical treatments and related work.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 432. (a) Section 108(g) of the Valles Caldera Preservation Act (16 U.S.C. 698v–6(g)) is amended—

(1) in the first sentence, by striking “The Secretary” and inserting the following:

“(1) LAW ENFORCEMENT.—

“(A) IN GENERAL.—The Secretary”;

(2) in the second sentence, by striking “The Trust” and inserting the following:

“(B) FEDERAL AGENCY.—The Trust”; and

(3) by striking “At the request of the Trust” and all that follows through the end of the subsection and inserting the following:

“(2) FIRE MANAGEMENT.—

“(A) NON-REIMBURSABLE SERVICES.—

“(i) DEVELOPMENT OF PLAN.—Subject to the availability of appropriations under section 111(a), the Secretary shall, in consultation with the Trust, develop a plan to carry out fire preparedness, suppression, and emergency rehabilitation services on the Preserve.

“(ii) CONSISTENCY WITH MANAGEMENT PROGRAM.—The plan shall be consistent with the management program developed pursuant to subsection (d).

“(iii) COOPERATIVE AGREEMENT.—To the extent generally authorized at other units of the National Forest System, the Secretary shall provide the services to be carried out pursuant to the plan under a cooperative agreement entered into between the Secretary and the Trust.

“(B) REIMBURSABLE SERVICES.—To the extent generally authorized at other units of the National Forest System and subject to the availability of appropriations under section 111(a), the Secretary shall provide presuppression and nonemergency rehabilitation and restoration services for the Trust at any time on a reimbursable basis.”.

(b) The amendments made by subsection (a) take effect as of January 1, 2005.

SEC. 433. None of the funds made available to the Forest Service under this Act shall be expended or obligated for the demolition of buildings at the Zephyr Shoals property, Lake Tahoe, Nevada.

SEC. 434. Section 323(a) of the Department of the Interior and Related Agencies Appropriations Act, 1999 (16 U.S.C. 1011 note; as contained in section 101(e) of Public Law 105–277), is amended by striking “fiscal year 1999” and all that follows through “2005” and inserting “each of fiscal years 2006 through 2011”.

SEC. 435. CONGRESSIONAL SECURITY RELATING TO CERTAIN REAL PROPERTY. (a) IN GENERAL.—Except as provided under subsection (b)—

(1) the District of Columbia Board of Zoning Adjustments and the District of Columbia Zoning Commission may not take any action to grant any variance relating to the property located at 51 Louisiana Avenue NW, Square 631, Lot 17 in the District of Columbia; and

(2) if any variance described under paragraph (1) is granted before the effective date of this section, such variance shall be set aside and shall have no force or effect.

(b) CONDITIONS FOR VARIANCE.—A variance described under subsection (a) may be granted or shall be given force or effect if—

(1) the Capitol Police Board makes a determination that any such variance shall not—

(A) negatively impact congressional security; and

(B) increase Federal expenditures relating to congressional security;

Effective date.
16 USC 698v–6
note.

Certification.

(2) the Majority and Minority Leaders of the Senate and the Speaker and Minority Leader of the House of Representatives approve such determination; and

(3) the Capitol Police Board certifies the determination in writing to the District of Columbia Board of Zoning Adjustments and the District of Columbia Zoning Commission.

(c) EFFECTIVE DATE.—This section shall take effect on the date of enactment of this Act and apply to the remaining portion of the fiscal year in which enacted and each fiscal year thereafter.

SEC. 436. WISCONSIN NATIONAL FOREST ACQUISITION. (a) PROSPECTIVE MANAGEMENT REQUIREMENTS.—The Secretary of Agriculture is authorized to acquire property located within Sections 1 and 2, Township 44 North, Range 4 West; Section 31, Township 45 North, Range 3 West; and Section 36, Township 45 North, Range 4 West; Fourth Principal Meridian, Ashland County, State of Wisconsin, and upon such acquisition, such lands shall be subject to the special management requirements of subsection (b).

(b) SPECIAL MANAGEMENT.—Subject to valid existing rights of record, upon acquisition by the Secretary of Agriculture of any land referenced in subsection (a), that area of the land encompassed within 300 feet of the ordinary high water mark of the Brunsweler River or Beaverdam Lake, whether or not the waterways are impounded, shall be subject to the laws and regulations pertaining to the National Forest System with the following management emphasis:

(1) Enhancing the physical, biological, and cultural features and values for public use, interpretation, research, and monitoring;

(2) Maintenance of the natural character of Brunsweler River, whether or not impounded; and

(3) Prohibition of structures, motorized use of trails, developed recreation facilities, and surface occupancy for mineral exploration or extraction.

(c) NATIONAL FOREST BOUNDARIES.—Without further action by the Secretary of Agriculture, the boundaries of the Chequamegon National Forest are hereby expanded to encompass the lands referenced in subsection (a).

(d) SAVINGS PROVISION.—Nothing in this section shall be construed to prohibit the maintenance or reconstruction of the existing dam on the Brunsweler River, located within the area referenced in subsection (a).

SEC. 437. In addition to amounts provided to the Department of the Interior in this Act, \$5,000,000 is provided for a grant to Kendall County, Illinois.

SEC. 438. Section 344 of the Department of the Interior and Related Agencies Appropriations Act, 2005 as contained in division E of the Consolidated Appropriations Act, 2005 (Public Law 108-447) is amended as follows:

(1) by striking “seven”, “14910001,” and “, 14913007, and 14913008”;

(2) by inserting “and” after “14913005,”; and

(3) by striking all after “(2)” and inserting “immediately transfer to the Alaska SeaLife Center for various acquisitions, waterfront improvements and facilities that complement the new Federal facility, any remaining balance of previously appropriated funds.”.

118 Stat. 3105.

SEC. 439. (a) ACROSS-THE-BOARD RESCISSIONS.—There is hereby rescinded an amount equal to 0.476 percent of the budget authority provided for fiscal year 2006 for any discretionary appropriation in titles I through IV of this Act.

(b) PROPORTIONATE APPLICATION.—Any rescission made by subsection (a) shall be applied proportionately—

(1) to each discretionary account and each item of budget authority described in subsection (a); and

(2) within each such account and item, to each program, project, and activity (with programs, projects, and activities as delineated in the appropriation Act or accompanying reports for the relevant fiscal year covering such account or item, or for accounts and items not included in appropriation Acts, as delineated in the most recently submitted President’s budget).

(c) INDIAN LAND AND WATER CLAIM SETTLEMENTS.—Under the heading “Bureau of Indian Affairs, Indian Land and Water Claim Settlements and Miscellaneous Payments to Indians”, the across-the-board rescission in this section, and any subsequent across-the-board rescission for fiscal year 2006, shall apply only to the first dollar amount in the paragraph and the distribution of the rescission shall be at the discretion of the Secretary of the Interior who shall submit a report on such distribution and the rationale therefor to the House and Senate Committees on Appropriations.

Applicability.
Reports.

TITLE V—FOREST SERVICE FACILITY REALIGNMENT AND ENHANCEMENT

Forest Service
Facility
Realignment and
Enhancement
Act of 2005.
16 USC 580d
note.

SEC. 501. SHORT TITLE.

This title may be cited as the “Forest Service Facility Realignment and Enhancement Act of 2005”.

SEC. 502. DEFINITIONS.

16 USC 580d
note.

In this title:

(1) ADMINISTRATIVE SITE.—The term “administrative site” means—

(A) any facility or improvement, including curtilage, that was acquired or is used specifically for purposes of administration of the National Forest System;

(B) any Federal land associated with a facility or improvement described in subparagraph (A) that was acquired or is used specifically for purposes of administration of Forest Service activities and underlies or abuts the facility or improvement; or

(C) not more than 10 isolated, undeveloped parcels per fiscal year of not more than 40 acres each that were acquired or used for purposes of administration of Forest Service activities, but are not being so utilized, such as vacant lots outside of the proclaimed boundary of a unit of the National Forest System.

(2) FACILITY OR IMPROVEMENT.—The term “facility or improvement” includes—

- (A) a forest headquarters;
- (B) a ranger station;
- (C) a research station or laboratory;
- (D) a dwelling;

- (E) a warehouse;
- (F) a scaling station;
- (G) a fire-retardant mixing station;
- (H) a fire-lookout station;
- (I) a guard station;
- (J) a storage facility;
- (K) a telecommunication facility; and
- (L) other administrative installations for conducting Forest Service activities.

(3) **MARKET ANALYSIS.**—The term “market analysis” means the identification and study of the real estate market for a particular economic good or service.

(4) **SECRETARY.**—The term “Secretary” means the Secretary of Agriculture.

16 USC 580d
note.

SEC. 503. AUTHORIZATION FOR CONVEYANCE OF FOREST SERVICE ADMINISTRATIVE SITES.

(a) **CONVEYANCES AUTHORIZED.**—In the manner provided by this title, the Secretary may convey an administrative site, or an interest in an administrative site, that is under the jurisdiction of the Secretary.

(b) **MEANS OF CONVEYANCE.**—The conveyance of an administrative site under this title may be made—

- (1) by sale;
- (2) by lease;
- (3) by exchange;
- (4) by a combination of sale and exchange; or
- (5) by such other means as the Secretary considers appropriate.

(c) **SIZE OF CONVEYANCE.**—An administrative site or compound of administrative sites disposed of in a single conveyance under this title may not exceed 40 acres.

(d) **CERTAIN LANDS EXCLUDED.**—The following Federal land may not be conveyed under this title:

(1) Any land within a unit of the National Forest System that is exclusively designated for natural area or recreational purposes.

(2) Any land included within the National Wilderness Preservation System, the Wild and Scenic River System, or a National Monument.

(3) Any land that the Secretary determines—

(A) is needed for resource management purposes or to provide access to other land or water;

(B) is surrounded by National Forest System land or other publicly owned land, if conveyance would not be in the public interest due to the creation of a non-Federal inholding that would preclude the efficient management of the surrounding land; or

(C) would be in the public interest to retain.

(e) **CONGRESSIONAL NOTIFICATIONS.**—

(1) **NOTICE OF ANTICIPATED USE OF AUTHORITY.**—As part of the annual budget justification documents provided to the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate, the Secretary shall include—

(A) a list of the anticipated conveyances to be made, including the anticipated revenue that may be obtained,

using the authority provided by this title or other conveyance authorities available to the Secretary;

(B) a discussion of the intended purposes of any new revenue obtained using this authority or other conveyance authorities available to the Secretary, and a list of any individual projects that exceed \$500,000; and

(C) a presentation of accomplishments of previous years using this authority or other conveyance authorities available to the Secretary.

(2) NOTICE OF CHANGES TO CONVEYANCE LIST.—If the Secretary proposes to convey an administrative site under this title or using other conveyance authorities available to the Secretary and the administrative site is not included on a list provided under paragraph (1)(A), the Secretary shall submit to the congressional committees specified in paragraph (3) written notice of the proposed conveyance, including the anticipated revenue that may be obtained from the conveyance.

(3) NOTICE OF USE OF AUTHORITY.—At least once a year, the Secretary shall submit to the Committee on Agriculture, the Committee on Appropriations, and the Committee on Resources of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry, the Committee on Appropriations, and the Committee on Energy and Natural Resources of the Senate a report containing a description of all conveyances of National Forest System land made by the Secretary under this title or other conveyance authorities during the period covered by the report.

Deadline.
Reports.

(f) DURATION OF AUTHORITY.—The authority of the Secretary to initiate the conveyance of an administrative site under this title expires on September 30, 2008.

Expiration date.

(g) REPEAL OF PILOT CONVEYANCE AUTHORITY.—Effective September 30, 2006, section 329 of the Department of the Interior and Related Agencies Appropriations Act, 2002 (16 U.S.C. 580d note; Public Law 107–63), is repealed. Notwithstanding the repeal of such section, the Secretary may complete the conveyance under such section of any administrative site whose conveyance was initiated under such section before that date.

Effective date.

SEC. 504. CONVEYANCE REQUIREMENTS.

16 USC 580d
note.

(a) CONFIGURATION OF ADMINISTRATIVE SITES.—

(1) CONFIGURATION.—To facilitate the conveyance of an administrative site under this title, the Secretary may configure the administrative site—

(A) to maximize the marketability of the administrative site; and

(B) to achieve management objectives.

(2) SEPARATE TREATMENT OF FACILITY OR IMPROVEMENT.—A facility or improvement on an administrative site to be conveyed under this title may be severed from the land and disposed of in a separate conveyance.

(3) RESERVATION OF INTERESTS.—In conveying an administrative site under this title, the Secretary may reserve such right, title, and interest in and to the administrative site as the Secretary determines to be necessary.

(b) CONSIDERATION.—

(1) CONSIDERATION REQUIRED.—A person or entity acquiring an administrative site under this title shall provide

to the Secretary consideration in an amount that is at least equal to the market value of the administrative site.

(2) FORM OF CONSIDERATION.—

(A) SALE.—Consideration for an administrative site conveyed by sale under this title shall be paid in cash on conveyance of the administrative site.

(B) EXCHANGE.—If the administrative site is conveyed by exchange, the consideration shall be provided in the form of a conveyance to the Secretary of land or improvements that are equal in market value to the conveyed administrative site. If the market values are not equal, the market values may be equalized by—

(i) the Secretary making a cash payment to the person or entity acquiring the administrative site; or

(ii) the person or entity acquiring the administrative site making a cash equalization payment to the Secretary.

(c) DETERMINATION OF MARKET VALUE.—The Secretary shall determine the market value of an administrative site to be conveyed under this title or of non-Federal land or improvements to be provided as consideration in exchange for an administrative site—

(1) by conducting an appraisal that is performed in accordance with—

(A) the Uniform Appraisal Standards for Federal Land Acquisitions, established in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.); and

(B) the Uniform Standards of Professional Appraisal Practice; or

(2) by competitive sale.

(d) RELATION TO OTHER LAWS.—

(1) FEDERAL PROPERTY DISPOSAL.—Subchapter I of chapter 5 of title 40, United States Code, shall not apply to the conveyance of an administrative site under this title.

(2) LAND EXCHANGES.—Section 206 of the Federal Land Policy and Management Act (43 U.S.C. 1716) shall not apply to the conveyance of an administrative site under this title carried out by means of an exchange or combination of sale and exchange.

(3) LEAD-BASED PAINT AND ASBESTOS ABATEMENT.—Notwithstanding any provision of law relating to the mitigation or abatement of lead-based paint or asbestos-containing building materials, the Secretary is not required to mitigate or abate lead-based paint or asbestos-containing building materials with respect to an administrative site to be conveyed under this title. However, if the administrative site has lead-based paint or asbestos-containing building materials, the Secretary shall—

(A) provide notice to the person or entity acquiring the administrative site of the presence of the lead-based paint or asbestos-containing building material; and

(B) obtain written assurance from the person or entity acquiring the administrative site that the person or entity will comply with applicable Federal, State, and local laws relating to the management of the lead-based paint and asbestos-containing building materials.

Notice.

(4) ENVIRONMENTAL REVIEW.—The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall apply to the conveyance of administrative sites under this title, except that, in any environmental review or analysis required under such Act for the conveyance of an administrative site under this title, the Secretary is only required to—

Applicability.

(A) analyze the most reasonably foreseeable use of the administrative site, as determined through a market analysis;

(B) determine whether or not to reserve any right, title, or interest in the administrative site under subsection (a)(3); and

(C) evaluate the alternative of not conveying the administrative site, consistent with the National Environmental Policy Act of 1969.

(e) REJECTION OF OFFERS.—The Secretary shall reject any offer made for the acquisition of an administrative site under this title if the Secretary determines that the offer is—

(1) not adequate to cover the market value of the administrative site; or

(2) not otherwise in the public interest.

(f) CONSULTATION AND PUBLIC NOTICE.—As appropriate, the Secretary is encouraged to work with the Administrator of the General Services Administration with respect to the conveyance of administrative sites under this title. Before making an administrative site available for conveyance under this title, the Secretary shall consult with local governmental officials of the community in which the administrative site is located and provide public notice of the proposed conveyance.

SEC. 505. DISPOSITION OF PROCEEDS RECEIVED FROM ADMINISTRATIVE SITE CONVEYANCES.

16 USC 580d note.

(a) DEPOSIT.—The Secretary shall deposit in the fund established under Public Law 90–171 (commonly known as the Sisk Act; 16 U.S.C. 484a) all of the proceeds from the conveyance of an administrative site under this title.

(b) USE.—Amounts deposited under paragraph (1) shall be available to the Secretary, until expended and without further appropriation, to pay any necessary and incidental costs incurred by the Secretary in connection with—

(1) the acquisition, improvement, maintenance, reconstruction, or construction of a facility or improvement for the National Forest System; and

(2) the conveyance of administrative sites under this title, including costs described in subsection (c).

(c) BROKERAGE SERVICES.—The Secretary may use the proceeds from the conveyance of an administrative site under this title to pay reasonable commissions or fees for brokerage services obtained in connection with the conveyance if the Secretary determines that the services are in the public interest. The Secretary shall provide public notice of any brokerage services contract entered into in connection with a conveyance under this title.

TITLE VI—VETERANS HEALTH CARE

SEC. 601. From any money in the Treasury not otherwise appropriated, there is appropriated to the Department of Veterans Affairs an additional amount for “Medical Services” of

\$1,500,000,000, to be available for obligation upon enactment of this Act and to remain available until September 30, 2006.

This Act may be cited as the “Department of the Interior, Environment, and Related Agencies Appropriations Act, 2006”.

Approved August 2, 2005.

LEGISLATIVE HISTORY—H.R. 2361:

HOUSE REPORTS: Nos. 109–80 (Comm. on Appropriations) and 109–188 (Comm. of Conference).

SENATE REPORTS: No. 109–80 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 151 (2005):

May 19, considered and passed House.

June 24, 27–29, considered and passed Senate, amended.

July 28, House agreed to conference report.

July 29, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 41 (2005):

Aug. 2, Presidential statement.



Public Law 109–55
109th Congress

An Act

Making appropriations for the Legislative Branch for the fiscal year ending September 30, 2006, and for other purposes.

Aug. 2, 2005
[H.R. 2985]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Legislative Branch for the fiscal year ending September 30, 2006, and for other purposes, namely:

Legislative
Branch
Appropriations
Act, 2006.

TITLE I—LEGISLATIVE BRANCH APPROPRIATIONS

2 USC 60a note.

SENATE

EXPENSE ALLOWANCES

For expense allowances of the Vice President, \$20,000; the President Pro Tempore of the Senate, \$40,000; Majority Leader of the Senate, \$40,000; Minority Leader of the Senate, \$40,000; Majority Whip of the Senate, \$10,000; Minority Whip of the Senate, \$10,000; President Pro Tempore emeritus, \$15,000; Chairmen of the Majority and Minority Conference Committees, \$5,000 for each Chairman; and Chairmen of the Majority and Minority Policy Committees, \$5,000 for each Chairman; in all, \$195,000.

REPRESENTATION ALLOWANCES FOR THE MAJORITY AND MINORITY
LEADERS

For representation allowances of the Majority and Minority Leaders of the Senate, \$15,000 for each such Leader; in all, \$30,000.

SALARIES, OFFICERS AND EMPLOYEES

For compensation of officers, employees, and others as authorized by law, including agency contributions, \$147,120,000, which shall be paid from this appropriation without regard to the following limitations:

OFFICE OF THE VICE PRESIDENT

For the Office of the Vice President, \$2,181,000.

OFFICE OF THE PRESIDENT PRO TEMPORE

For the Office of the President Pro Tempore, \$582,000.

OFFICE OF THE PRESIDENT PRO TEMPORE EMERITUS

For the Office of the President Pro Tempore emeritus, \$290,000.

OFFICES OF THE MAJORITY AND MINORITY LEADERS

For Offices of the Majority and Minority Leaders, \$4,340,000.

OFFICES OF THE MAJORITY AND MINORITY WHIPS

For Offices of the Majority and Minority Whips, \$2,644,000.

COMMITTEE ON APPROPRIATIONS

For salaries of the Committee on Appropriations, \$13,758,000.

CONFERENCE COMMITTEES

For the Conference of the Majority and the Conference of the Minority, at rates of compensation to be fixed by the Chairman of each such committee, \$1,470,000 for each such committee; in all, \$2,940,000.

OFFICES OF THE SECRETARIES OF THE CONFERENCE OF THE MAJORITY
AND THE CONFERENCE OF THE MINORITY

For Offices of the Secretaries of the Conference of the Majority and the Conference of the Minority, \$728,000.

POLICY COMMITTEES

For salaries of the Majority Policy Committee and the Minority Policy Committee, \$1,524,000 for each such committee; in all, \$3,048,000.

OFFICE OF THE CHAPLAIN

For Office of the Chaplain, \$354,000.

OFFICE OF THE SECRETARY

For Office of the Secretary, \$20,866,000.

OFFICE OF THE SERGEANT AT ARMS AND DOORKEEPER

For Office of the Sergeant at Arms and Doorkeeper, \$56,700,000.

OFFICES OF THE SECRETARIES FOR THE MAJORITY AND MINORITY

For Offices of the Secretary for the Majority and the Secretary for the Minority, \$1,584,000.

AGENCY CONTRIBUTIONS AND RELATED EXPENSES

For agency contributions for employee benefits, as authorized by law, and related expenses, \$37,105,000.

OFFICE OF THE LEGISLATIVE COUNSEL OF THE SENATE

For salaries and expenses of the Office of the Legislative Counsel of the Senate, \$5,437,000.

OFFICE OF SENATE LEGAL COUNSEL

For salaries and expenses of the Office of Senate Legal Counsel, \$1,306,000.

EXPENSE ALLOWANCES OF THE SECRETARY OF THE SENATE, SERGEANT AT ARMS AND DOORKEEPER OF THE SENATE, AND SECRETARIES FOR THE MAJORITY AND MINORITY OF THE SENATE

For expense allowances of the Secretary of the Senate, \$6,000; Sergeant at Arms and Doorkeeper of the Senate, \$6,000; Secretary for the Majority of the Senate, \$6,000; Secretary for the Minority of the Senate, \$6,000; in all, \$24,000.

CONTINGENT EXPENSES OF THE SENATE

INQUIRIES AND INVESTIGATIONS

For expenses of inquiries and investigations ordered by the Senate, or conducted under paragraph 1 of rule XXVI of the Standing Rules of the Senate, section 112 of the Supplemental Appropriations and Rescission Act, 1980 (Public Law 96-304), and Senate Resolution 281, 96th Congress, agreed to March 11, 1980, \$119,637,000.

EXPENSES OF THE UNITED STATES SENATE CAUCUS ON INTERNATIONAL NARCOTICS CONTROL

For expenses of the United States Senate Caucus on International Narcotics Control, \$520,000.

SECRETARY OF THE SENATE

For expenses of the Office of the Secretary of the Senate, \$1,980,000.

SERGEANT AT ARMS AND DOORKEEPER OF THE SENATE

For expenses of the Office of the Sergeant at Arms and Doorkeeper of the Senate, \$142,000,000, which shall remain available until September 30, 2010.

MISCELLANEOUS ITEMS

For miscellaneous items, \$17,000,000, of which up to \$500,000 shall be made available for a pilot program for mailings of postal patron postcards by Senators for the purpose of providing notice of a town meeting by a Senator in a county (or equivalent unit of local government) at which the Senator will personally attend: *Provided*, That any amount allocated to a Senator for such mailing shall not exceed 50 percent of the cost of the mailing and the remaining cost shall be paid by the Senator from other funds available to the Senator.

SENATORS' OFFICIAL PERSONNEL AND OFFICE EXPENSE ACCOUNT

For Senators' Official Personnel and Office Expense Account, \$350,000,000.

OFFICIAL MAIL COSTS

For expenses necessary for official mail costs of the Senate, \$300,000.

ADMINISTRATIVE PROVISIONS

2 USC 61–1 and
note.

SEC. 1. GROSS RATE OF COMPENSATION IN OFFICES OF SENATORS. Effective on and after October 1, 2005, each of the dollar amounts contained in the table under section 105(d)(1)(A) of the Legislative Branch Appropriations Act, 1968 (2 U.S.C. 61–1(d)(1)(A)) shall be deemed to be the dollar amounts in that table, as adjusted by law and in effect on September 30, 2005, increased by an additional \$50,000 each.

Applicability.
2 USC 61h–6
note.

SEC. 2. CONSULTANTS. With respect to fiscal year 2006, the first sentence of section 101(a) of the Supplemental Appropriations Act, 1977 (2 U.S.C. 61h–6(a)) shall be applied by substituting “nine individual consultants” for “eight individual consultants”.

SEC. 3. UNITED STATES SENATE COLLECTION. Section 316 of Public Law 101–302 (2 U.S.C. 2107) is amended in the first sentence of subsection (a) by striking “2005” and inserting “2006”.

SEC. 4. SENATE COMMISSION ON ART. Section 3(c)(2) of Public Law 108–83 (2 U.S.C. 2108(c)(2)) is amended by striking “and for any purposes” through the period and inserting “for any purposes for which funds from the contingent fund of the Senate may be used under section 316(a) of Public Law 101–302 (2 U.S.C. 2107(a)), and for expenditures, not to exceed \$10,000 in any fiscal year, for meals and refreshments in Capitol facilities in connection with official activities of the Commission or other authorized programs or activities.”.

SEC. 5. ABSENCES. Section 40 of the Revised Statutes (2 U.S.C. 39) is amended by—

- (1) striking “Secretary of the Senate and the”;
- (2) striking “, respectively, shall” and inserting “shall”;
- (3) striking “Senate or”; and
- (4) striking “, respectively, unless” and inserting “, unless”.

SEC. 6. MODIFICATION OF CERTAIN CONSULTANT REQUIREMENT. Section 10(a)(5) of the Legislative Branch Appropriations Act, 1999 (2 U.S.C. 72d) is amended by inserting “, except that any approval (and related reporting requirement) shall not apply” after “May 14, 1975”.

HOUSE OF REPRESENTATIVES

SALARIES AND EXPENSES

For salaries and expenses of the House of Representatives, \$1,100,907,000, as follows:

HOUSE LEADERSHIP OFFICES

For salaries and expenses, as authorized by law, \$19,844,000, including: Office of the Speaker, \$2,788,000, including \$25,000 for official expenses of the Speaker; Office of the Majority Floor Leader, \$2,089,000, including \$10,000 for official expenses of the Majority Leader; Office of the Minority Floor Leader, \$2,928,000, including \$10,000 for official expenses of the Minority Leader; Office of the Majority Whip, including the Chief Deputy Majority Whip,

\$1,797,000, including \$5,000 for official expenses of the Majority Whip; Office of the Minority Whip, including the Chief Deputy Minority Whip, \$1,345,000, including \$5,000 for official expenses of the Minority Whip; Speaker's Office for Legislative Floor Activities, \$482,000; Republican Steering Committee, \$906,000; Republican Conference, \$1,548,000; Republican Policy Committee, \$307,000; Democratic Steering and Policy Committee, \$1,945,000; Democratic Caucus, \$816,000; nine minority employees, \$1,445,000; training and program development—majority, \$290,000; training and program development—minority, \$290,000; Cloakroom Personnel—majority, \$434,000; and Cloakroom Personnel—minority, \$434,000.

MEMBERS' REPRESENTATIONAL ALLOWANCES

INCLUDING MEMBERS' CLERK HIRE, OFFICIAL EXPENSES OF MEMBERS, AND OFFICIAL MAIL

For Members' representational allowances, including Members' clerk hire, official expenses, and official mail, \$542,109,000.

COMMITTEE EMPLOYEES

STANDING COMMITTEES, SPECIAL AND SELECT

For salaries and expenses of standing committees, special and select, authorized by House resolutions, \$117,913,000: *Provided*, That such amount shall remain available for such salaries and expenses until December 31, 2006.

COMMITTEE ON APPROPRIATIONS

For salaries and expenses of the Committee on Appropriations, \$25,668,000, including studies and examinations of executive agencies and temporary personal services for such committee, to be expended in accordance with section 202(b) of the Legislative Reorganization Act of 1946 and to be available for reimbursement to agencies for services performed: *Provided*, That such amount shall remain available for such salaries and expenses until December 31, 2006.

SALARIES, OFFICERS AND EMPLOYEES

For compensation and expenses of officers and employees, as authorized by law, \$172,249,000, including: for salaries and expenses of the Office of the Clerk, including not more than \$13,000, of which not more than \$10,000 is for the Family Room, for official representation and reception expenses, \$21,911,000; for salaries and expenses of the Office of the Sergeant at Arms, including the position of Superintendent of Garages, and including not more than \$3,000 for official representation and reception expenses, \$6,284,000; for salaries and expenses of the Office of the Chief Administrative Officer, \$121,471,000, of which \$7,806,000 shall remain available until expended; for salaries and expenses of the Office of the Inspector General, \$3,991,000; for salaries and expenses of the Office of Emergency Planning, Preparedness and Operations, \$5,000,000, to remain available until expended; for salaries and expenses of the Office of General Counsel, \$962,000;

for the Office of the Chaplain, \$161,000; for salaries and expenses of the Office of the Parliamentarian, including the Parliamentarian and \$2,000 for preparing the Digest of Rules, \$1,767,000; for salaries and expenses of the Office of the Law Revision Counsel of the House, \$2,453,000; for salaries and expenses of the Office of the Legislative Counsel of the House, \$6,963,000; for salaries and expenses of the Office of Interparliamentary Affairs, \$720,000; for other authorized employees, \$161,000; and for salaries and expenses of the Office of the Historian, \$405,000.

ALLOWANCES AND EXPENSES

For allowances and expenses as authorized by House resolution or law, \$223,124,000, including: supplies, materials, administrative costs and Federal tort claims, \$4,179,000; official mail for committees, leadership offices, and administrative offices of the House, \$410,000; Government contributions for health, retirement, Social Security, and other applicable employee benefits, \$214,422,000; supplies, materials, and other costs relating to the House portion of expenses for the Capitol Visitor Center, \$3,410,000, to remain available until expended; and miscellaneous items including purchase, exchange, maintenance, repair and operation of House motor vehicles, interparliamentary receptions, and gratuities to heirs of deceased employees of the House, \$703,000.

CHILD CARE CENTER

For salaries and expenses of the House of Representatives Child Care Center, such amounts as are deposited in the account established by section 312(d)(1) of the Legislative Branch Appropriations Act, 1992 (2 U.S.C. 2112), subject to the level specified in the budget of the Center, as submitted to the Committee on Appropriations of the House of Representatives.

ADMINISTRATIVE PROVISION

SEC. 101. (a) REQUIRING AMOUNTS REMAINING IN MEMBERS' REPRESENTATIONAL ALLOWANCES TO BE USED FOR DEFICIT REDUCTION OR TO REDUCE THE FEDERAL DEBT. Notwithstanding any other provision of law, any amounts appropriated under this Act for "HOUSE OF REPRESENTATIVES—SALARIES AND EXPENSES—MEMBERS' REPRESENTATIONAL ALLOWANCES" shall be available only for fiscal year 2006. Any amount remaining after all payments are made under such allowances for fiscal year 2006 shall be deposited in the Treasury and used for deficit reduction (or, if there is no Federal budget deficit after all such payments have been made, for reducing the Federal debt, in such manner as the Secretary of the Treasury considers appropriate).

(b) REGULATIONS.—The Committee on House Administration of the House of Representatives shall have authority to prescribe regulations to carry out this section.

(c) DEFINITION.—As used in this section, the term "Member of the House of Representatives" means a Representative in, or a Delegate or Resident Commissioner to, the Congress.

JOINT ITEMS

For Joint Committees, as follows:

JOINT ECONOMIC COMMITTEE

For salaries and expenses of the Joint Economic Committee, \$4,276,000, to be disbursed by the Secretary of the Senate.

JOINT COMMITTEE ON TAXATION

For salaries and expenses of the Joint Committee on Taxation, \$8,781,000, to be disbursed by the Chief Administrative Officer of the House of Representatives.

For other joint items, as follows:

OFFICE OF THE ATTENDING PHYSICIAN

For medical supplies, equipment, and contingent expenses of the emergency rooms, and for the Attending Physician and his assistants, including: (1) an allowance of \$2,175 per month to the Attending Physician; (2) an allowance of \$725 per month each to four medical officers while on duty in the Office of the Attending Physician; (3) an allowance of \$725 per month to two assistants and \$580 per month each not to exceed 11 assistants on the basis heretofore provided for such assistants; and (4) \$1,834,000 for reimbursement to the Department of the Navy for expenses incurred for staff and equipment assigned to the Office of the Attending Physician, which shall be advanced and credited to the applicable appropriation or appropriations from which such salaries, allowances, and other expenses are payable and shall be available for all the purposes thereof, \$2,545,000, to be disbursed by the Chief Administrative Officer of the House of Representatives.

CAPITOL GUIDE SERVICE AND SPECIAL SERVICES OFFICE

For salaries and expenses of the Capitol Guide Service and Special Services Office, \$4,098,000, to be disbursed by the Secretary of the Senate: *Provided*, That no part of such amount may be used to employ more than 58 individuals: *Provided further*, That the Capitol Guide Board is authorized, during emergencies, to employ not more than two additional individuals for not more than 120 days each, and not more than 10 additional individuals for not more than 6 months each, for the Capitol Guide Service.

STATEMENTS OF APPROPRIATIONS

For the preparation, under the direction of the Committees on Appropriations of the Senate and the House of Representatives, of the statements for the first session of the 109th Congress, showing appropriations made, indefinite appropriations, and contracts authorized, together with a chronological history of the regular appropriations bills as required by law, \$30,000, to be paid to the persons designated by the chairmen of such committees to supervise the work.

CAPITOL POLICE

SALARIES

For salaries of employees of the Capitol Police, including overtime, hazardous duty pay differential, and Government contributions for health, retirement, social security, professional liability

insurance, and other applicable employee benefits, \$217,456,000, to be disbursed by the Chief of the Capitol Police or his designee.

GENERAL EXPENSES

For necessary expenses of the Capitol Police, including motor vehicles, communications and other equipment, security equipment and installation, uniforms, weapons, supplies, materials, training, medical services, forensic services, stenographic services, personal and professional services, the employee assistance program, the awards program, postage, communication services, travel advances, relocation of instructor and liaison personnel for the Federal Law Enforcement Training Center, and not more than \$5,000 to be expended on the certification of the Chief of the Capitol Police in connection with official representation and reception expenses, \$32,000,000, to be disbursed by the Chief of the Capitol Police or his designee: *Provided*, That, notwithstanding any other provision of law, the cost of basic training for the Capitol Police at the Federal Law Enforcement Training Center for fiscal year 2006 shall be paid by the Secretary of Homeland Security from funds available to the Department of Homeland Security.

ADMINISTRATIVE PROVISIONS

(INCLUDING TRANSFER OF FUNDS)

SEC. 1001. TRANSFER AUTHORITY. Amounts appropriated for fiscal year 2006 for the Capitol Police may be transferred between the headings “SALARIES” and “GENERAL EXPENSES” upon the approval of the Committees on Appropriations of the Senate and the House of Representatives.

2 USC 1980.

SEC. 1002. MOUNTED HORSE UNIT. (a) The United States Capitol Police may not operate a mounted horse unit during fiscal year 2006 or any succeeding fiscal year.

Deadline.

(b) Not later than 60 days after the date of the enactment of this Act, the Chief of the Capitol Police shall transfer to the Chief of the United States Park Police the horses, equipment, and supplies of the Capitol Police mounted horse unit which remain in the possession of the Capitol Police as of such date.

SEC. 1003. ETHICS IN GOVERNMENT ACT. (a) Section 103(h)(1)(A)(i)(I) of the Ethics in Government Act of 1978 (5 U.S.C. App. 103(h)(1)(A)(i)(I)) is amended by inserting “United States Capitol Police,” after “Architect of the Capitol,”.

Applicability.
5 USC app. 103
note.

(b) The amendment made by subsection (a) shall apply with respect to reports filed under the Ethics in Government Act of 1978 for calendar year 2005 and each succeeding calendar year.

2 USC 1909.

SEC. 1004. INSPECTOR GENERAL FOR THE UNITED STATES CAPITOL POLICE. (a) ESTABLISHMENT OF OFFICE.—There is established in the United States Capitol Police the Office of the Inspector General (hereafter in this section referred to as the “Office”), headed by the Inspector General of the United States Capitol Police (hereafter in this section referred to as the “Inspector General”).

(b) INSPECTOR GENERAL.—

(1) APPOINTMENT.—The Inspector General shall be appointed by, and under the general supervision of, the Capitol Police Board. The appointment shall be made in consultation with the Inspectors General of the Library of Congress, Government Printing Office, and the Government Accountability

Office. The Capitol Police Board shall appoint the Inspector General without regard to political affiliation and solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations.

(2) TERM OF SERVICE.—The Inspector General shall serve for a term of 5 years, and an individual serving as Inspector General may be reappointed for not more than 2 additional terms.

(3) REMOVAL.—The Inspector General may be removed from office prior to the expiration of his term only by the unanimous vote of all of the voting members of the Capitol Police Board, and the Board shall communicate the reasons for any such removal to the Committee on House Administration, the Senate Committee on Rules and Administration and the Committees on Appropriations of the House of Representatives and of the Senate.

(4) SALARY.—The Inspector General shall be paid at an annual rate equal to \$1,000 less than the annual rate of pay in effect for the Chief of the Capitol Police.

(5) DEADLINE.—The Capitol Police Board shall appoint the first Inspector General under this section not later than 180 days after the date of the enactment of this Act.

(c) DUTIES.—

(1) APPLICABILITY OF DUTIES OF INSPECTOR GENERAL OF EXECUTIVE BRANCH ESTABLISHMENT.—The Inspector General shall carry out the same duties and responsibilities with respect to the United States Capitol Police as an Inspector General of an establishment carries out with respect to an establishment under section 4 of the Inspector General Act of 1978, (5 U.S.C. App. 4), under the same terms and conditions which apply under such section.

(2) SEMIANNUAL REPORTS.—The Inspector General shall prepare and submit semiannual reports summarizing the activities of the Office in the same manner, and in accordance with the same deadlines, terms, and conditions, as an Inspector General of an establishment under section 5 (other than subsection (a)(13) thereof) of the Inspector General Act of 1978, (5 U.S.C. App. 5). For purposes of applying section 5 of such Act to the Inspector General, the Chief of the Capitol Police shall be considered the head of the establishment. The Chief shall, within 30 days of receipt of a report, report to the Capitol Police Board, the Committee on House Administration, the Senate Committee on Rules and Administration, and the Committees on Appropriations of the House of Representatives and of the Senate consistent with section 5(b) of such Act.

(3) INVESTIGATIONS OF COMPLAINTS OF EMPLOYEES AND MEMBERS.—

(A) AUTHORITY.—The Inspector General may receive and investigate complaints or information from an employee or member of the Capitol Police concerning the possible existence of an activity constituting a violation of law, rules, or regulations, or mismanagement, gross waste of funds, abuse of authority, or a substantial and specific danger to the public health and safety, including complaints or information the investigation of which is under the jurisdiction of the Internal Affairs Division of

the Capitol Police as of the date of the enactment of this Act.

(B) NONDISCLOSURE.—The Inspector General shall not, after receipt of a complaint or information from an employee or member, disclose the identity of the employee or member without the consent of the employee or member, unless required by law or the Inspector General determines such disclosure is otherwise unavoidable during the course of the investigation.

(C) PROHIBITING RETALIATION.—An employee or member of the Capitol Police who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, take or threaten to take any action against any employee or member as a reprisal for making a complaint or disclosing information to the Inspector General, unless the complaint was made or the information disclosed with the knowledge that it was false or with willful disregard for its truth or falsity.

(4) INDEPENDENCE IN CARRYING OUT DUTIES.—Neither the Capitol Police Board, the Chief of the Capitol Police, nor any other member or employee of the Capitol Police may prevent or prohibit the Inspector General from carrying out any of the duties or responsibilities assigned to the Inspector General under this section.

(d) POWERS.—

(1) IN GENERAL.—The Inspector General may exercise the same authorities with respect to the United States Capitol Police as an Inspector General of an establishment may exercise with respect to an establishment under section 6(a) of the Inspector General Act of 1978, (5 U.S.C. App. 6(a)), other than paragraphs (7) and (8) of such section.

(2) STAFF.—

(A) IN GENERAL.—The Inspector General may appoint and fix the pay of such personnel as the Inspector General considers appropriate. Such personnel may be appointed without regard to the provisions of title 5, United States Code, regarding appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no personnel of the Office (other than the Inspector General) may be paid at an annual rate greater than \$500 less than the annual rate of pay of the Inspector General under subsection (b)(4).

(B) EXPERTS AND CONSULTANTS.—The Inspector General may procure temporary and intermittent services under section 3109 of title 5, United States Code, at rates not to exceed the daily equivalent of the annual rate of basic pay for level IV of the Executive Schedule under section 5315 of such title.

(C) INDEPENDENCE IN APPOINTING STAFF.—No individual may carry out any of the duties or responsibilities of the Office unless the individual is appointed by the Inspector General, or provides services procured by the Inspector General, pursuant to this paragraph. Nothing in this subparagraph may be construed to prohibit the

Inspector General from entering into a contract or other arrangement for the provision of services under this section.

(D) APPLICABILITY OF CAPITOL POLICE PERSONNEL RULES.—None of the regulations governing the appointment and pay of employees of the Capitol Police shall apply with respect to the appointment and compensation of the personnel of the Office, except to the extent agreed to by the Inspector General. Nothing in the previous sentence may be construed to affect subparagraphs (A) through (C).

(3) EQUIPMENT AND SUPPLIES.—The Chief of the Capitol Police shall provide the Office with appropriate and adequate office space, together with such equipment, supplies, and communications facilities and services as determined by the Inspector General to be necessary for the operation of the Office, and shall provide necessary maintenance services for such office space and the equipment and facilities located therein.

(e) TRANSFER OF FUNCTIONS.—

(1) TRANSFER.—To the extent that any office or entity in the Capitol Police prior to the appointment of the first Inspector General under this section carried out any of the duties and responsibilities assigned to the Inspector General under this section, the functions of such office or entity shall be transferred to the Office upon the appointment of the first Inspector General under this section.

(2) NO REDUCTION IN PAY OR BENEFITS.—The transfer of the functions of an office or entity to the Office under paragraph (1) may not result in a reduction in the pay or benefits of any employee of the office or entity, except to the extent required under subsection (d)(2)(A).

(f) EFFECTIVE DATE.—This section shall be effective upon enactment of this Act.

(g) CONFORMING AMENDMENT.—Section 108(b)(2)(D) of the Legislative Branch Appropriations Act, 2001, Public Law 106-554 (2 U.S.C. 1903(b)(2)(D)) is amended to read as follows:

“(D) Prepare annual financial statements for the Capitol Police, and such financial statements shall be audited by the Inspector General of the Capitol Police or by an independent public accountant, as determined by the Inspector General.”.

SEC. 1005. REPORT OF DISBURSEMENTS. (a) IN GENERAL.—Not later than 60 days after the last day of each semiannual period, the Chief of the Capitol Police shall submit to Congress, with respect to that period, a detailed, itemized report of the disbursements for the operations of the United States Capitol Police. 2 USC 1910.

(b) CONTENTS.—The report required by subsection (a) shall include—

(1) the name of each person or entity who receives a payment from the Capitol Police and the amount thereof;

(2) a description of any service rendered to the Capitol Police, together with service dates;

(3) a statement of all amounts appropriated to, or received or expended by, the Capitol Police and any unexpended balances of such amounts for any open fiscal year; and

(4) such additional information as may be required by regulation of the Committee on House Administration of the

House of Representatives or the Committee on Rules and Administration of the Senate.

(c) PRINTING.—Each report under this section shall be printed as a House document.

Applicability.

(d) EFFECTIVE DATE.—This section shall apply with respect to the semiannual periods of October 1 through March 31 and April 1 through September 30 of each year, beginning with the semiannual period in which this section is enacted.

SEC. 1006. CAPITOL POLICE AND TRANSFER OF LIBRARY OF CONGRESS POLICE. (a) LIMITATION ON CERTAIN HIRING AUTHORITY OF CAPITOL POLICE.—Section 1006(b)(3) of the Legislative Branch Appropriations Act, 2004 (Public Law 108–83; 117 Stat. 1023), as amended by section 1002 of the Legislative Branch Appropriations Act, 2005 (2 U.S.C. 1901 note; Public Law 108–447; 118 Stat. 3179), is further amended by adding after subparagraph (D), the following:

“(E) LIMITATION FOR FISCAL YEAR 2006.—During fiscal year 2006, the number of individuals hired under this subsection may not exceed—

“(i) the number of Library of Congress Police employees who separated from service or transferred to a position other than a Library of Congress Police employee position during fiscal year 2005 for whom a corresponding hire was not made under this subsection; and

“(ii) the number of Library of Congress Police employees who separate from service or transfer to a position other than a Library of Congress Police employee position during fiscal year 2006.”.

(b) MEMORANDUM OF UNDERSTANDING.—The Memorandum of Understanding between the Library of Congress and the Capitol Police entered into on December 12, 2004, shall remain in effect through fiscal year 2006, subject to such modifications as may be made in accordance with the modification and dispute resolution provisions of the Memorandum of Understanding.

SEC. 1007. (a) WAIVING REPAYMENT OF CERTAIN OVERTIME COMPENSATION PAID INCORRECTLY.—Except as provided in subsection (b), any individual to whom overtime compensation was paid under section 1009 of the Legislative Branch Appropriations Act, 2003 (Public Law 108–7; 117 Stat. 359), in violation of the restrictions applicable to the payment of such compensation under section 1009(b) of such Act shall not be required to repay the compensation, but only to the extent the compensation was paid for services provided prior to June 15, 2005.

(b) EXCEPTION.—Subsection (a) shall not apply with respect to any officer or employee of the United States Capitol Police whose annual rate of pay is specified in statute and is not established under the schedule of rates of basic pay established and maintained by the Capitol Police Board.

OFFICE OF COMPLIANCE

SALARIES AND EXPENSES

For salaries and expenses of the Office of Compliance, as authorized by section 305 of the Congressional Accountability Act of 1995 (2 U.S.C. 1385), \$3,112,000, of which \$780,000 shall remain available until September 30, 2007: *Provided*, That the Executive

Director of the Office of Compliance may, within the limits of available appropriations, dispose of surplus or obsolete personal property by interagency transfer, donation, or discarding: *Provided further*, That not more than \$500 may be expended on the certification of the Executive Director of the Office of Compliance in connection with official representation and reception expenses.

CONGRESSIONAL BUDGET OFFICE

SALARIES AND EXPENSES

For salaries and expenses necessary for operation of the Congressional Budget Office, including not more than \$3,000 to be expended on the certification of the Director of the Congressional Budget Office in connection with official representation and reception expenses, \$35,450,000.

ADMINISTRATIVE PROVISION

SEC. 1100. (a) PERMITTING WAIVER OF CLAIMS FOR OVERPAYMENT OF PAY AND ALLOWANCES.—Section 5584(g) of title 5, United States Code, is amended—

(1) by striking “and” at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting “; and”; and

(3) by inserting immediately after paragraph (6) the following new paragraph:

“(7) the Congressional Budget Office.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to fiscal year 2006 and each succeeding fiscal year. 5 USC 5584 note.

ARCHITECT OF THE CAPITOL

GENERAL ADMINISTRATION

For salaries for the Architect of the Capitol, and other personal services, at rates of pay provided by law; for surveys and studies in connection with activities under the care of the Architect of the Capitol; for all necessary expenses for the general and administrative support of the operations under the Architect of the Capitol including the Botanic Garden; electrical substations of the Capitol, Senate and House office buildings, and other facilities under the jurisdiction of the Architect of the Capitol; including furnishings and office equipment; including not more than \$5,000 for official reception and representation expenses, to be expended as the Architect of the Capitol may approve; for purchase or exchange, maintenance, and operation of a passenger motor vehicle, \$76,812,000.

CAPITOL BUILDING

For all necessary expenses for the maintenance, care and operation of the Capitol, \$23,352,000, of which \$8,300,000 shall remain available until September 30, 2010.

CAPITOL GROUNDS

For all necessary expenses for care and improvement of grounds surrounding the Capitol, the Senate and House office buildings, and the Capitol Power Plant, \$7,511,000.

SENATE OFFICE BUILDINGS

For all necessary expenses for the maintenance, care and operation of Senate office buildings; and furniture and furnishings to be expended under the control and supervision of the Architect of the Capitol, \$67,004,000, of which \$15,745,000 shall remain available until September 30, 2010.

HOUSE OFFICE BUILDINGS

For all necessary expenses for the maintenance, care and operation of the House office buildings, \$59,616,000, of which \$20,922,000 shall remain available until September 30, 2010.

CAPITOL POWER PLANT

For all necessary expenses for the maintenance, care and operation of the Capitol Power Plant; lighting, heating, power (including the purchase of electrical energy) and water and sewer services for the Capitol, Senate and House office buildings, Library of Congress buildings, and the grounds about the same, Botanic Garden, Senate garage, and air conditioning refrigeration not supplied from plants in any of such buildings; heating the Government Printing Office and Washington City Post Office, and heating and chilled water for air conditioning for the Supreme Court Building, the Union Station complex, the Thurgood Marshall Federal Judiciary Building and the Folger Shakespeare Library, expenses for which shall be advanced or reimbursed upon request of the Architect of the Capitol and amounts so received shall be deposited into the Treasury to the credit of this appropriation, \$58,685,000, of which \$1,600,000 shall remain available until September 30, 2010: *Provided*, That not more than \$6,600,000 of the funds credited or to be reimbursed to this appropriation as herein provided shall be available for obligation during fiscal year 2006.

LIBRARY BUILDINGS AND GROUNDS

For all necessary expenses for the mechanical and structural maintenance, care and operation of the Library buildings and grounds, \$68,763,000, of which \$42,500,000 shall remain available until September 30, 2010.

CAPITOL POLICE BUILDINGS AND GROUNDS

For all necessary expenses for the maintenance, care and operation of buildings and grounds of the United States Capitol Police, \$14,902,000, of which \$5,000,000 shall remain available until September 30, 2010.

BOTANIC GARDEN

For all necessary expenses for the maintenance, care and operation of the Botanic Garden and the nurseries, buildings, grounds,

and collections; and purchase and exchange, maintenance, repair, and operation of a passenger motor vehicle; all under the direction of the Joint Committee on the Library, \$7,633,000: *Provided*, That this appropriation shall not be available for construction of the National Garden: *Provided further*, That of the amount made available under this heading, the Architect may obligate and expend such sums as may be necessary for the maintenance, care and operation of the National Garden established under section 307E of the Legislative Branch Appropriations Act, 1989 (2 U.S.C. 2146), upon vouchers approved by the Architect or a duly authorized designee.

CAPITOL VISITOR CENTER

For an additional amount for the Capitol Visitor Center project, \$41,900,000, to remain available until expended, and in addition, \$2,300,000 for Capitol Visitor Center operation costs: *Provided*, That the Architect of the Capitol may not obligate any of the funds which are made available for the Capitol Visitor Center project without an obligation plan approved by the Committees on Appropriations of the Senate and House of Representatives.

ADMINISTRATIVE PROVISIONS

SEC. 1201. (a) Section 108 of the Legislative Branch Appropriations Act, 1991 (2 U.S.C. 1849), is amended in subsection (b), by striking “8 positions” and inserting “9 positions”.

(b) The amendment made by subsection (a) shall apply with respect to pay periods beginning on or after the date of the enactment of this Act.

Applicability.
2 USC 1849 note.

SEC. 1202. (a) Section 905 of the 2002 Supplemental Appropriations Act for Further Recovery From and Response To Terrorist Attacks on the United States (2 U.S.C. 1819) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new sub-

section:

“(d) In the case of a building or facility acquired through purchase pursuant to subsection (a), the Architect of the Capitol may enter into or assume a lease with another person for the use of any portion of the building or facility that the Architect of the Capitol determines is not required to be used to carry out the purposes of this section, subject to the approval of the entity which approved the acquisition of such building or facility under subsection (b).”.

(b) The amendments made by subsection (a) shall apply with respect to leases entered into on or after the date of the enactment of this Act.

Applicability.
2 USC 1819 note.

LIBRARY OF CONGRESS

SALARIES AND EXPENSES

(INCLUDING RESCISSION OF FUNDS)

For necessary expenses of the Library of Congress not otherwise provided for, including development and maintenance of the Library’s catalogs; custody and custodial care of the Library

buildings; special clothing; cleaning, laundering and repair of uniforms; preservation of motion pictures in the custody of the Library; operation and maintenance of the American Folklife Center in the Library; preparation and distribution of catalog records and other publications of the Library; hire or purchase of one passenger motor vehicle; and expenses of the Library of Congress Trust Fund Board not properly chargeable to the income of any trust fund held by the Board, \$395,754,000, of which not more than \$6,000,000 shall be derived from collections credited to this appropriation during fiscal year 2006, and shall remain available until expended, under the Act of June 28, 1902 (chapter 1301; 32 Stat. 480; 2 U.S.C. 150) and not more than \$350,000 shall be derived from collections during fiscal year 2006 and shall remain available until expended for the development and maintenance of an international legal information database and activities related thereto: *Provided*, That the Library of Congress may not obligate or expend any funds derived from collections under the Act of June 28, 1902, in excess of the amount authorized for obligation or expenditure in appropriations Acts: *Provided further*, That the total amount available for obligation shall be reduced by the amount by which collections are less than \$6,350,000: *Provided further*, That of the total amount appropriated, \$13,972,000 shall remain available until expended for the partial acquisition of books, periodicals, newspapers, and all other materials including subscriptions for bibliographic services for the Library, including \$40,000 to be available solely for the purchase, when specifically approved by the Librarian, of special and unique materials for additions to the collections: *Provided further*, That of the total amount appropriated, not more than \$12,000 may be expended, on the certification of the Librarian of Congress, in connection with official representation and reception expenses for the Overseas Field Offices: *Provided further*, That of the total amount appropriated, \$5,860,000 shall remain available until expended for the digital collections and educational curricula program under section 1306 of this Act: *Provided further*, That of the total amount appropriated, \$600,000 shall remain available until expended, and shall be transferred to the Abraham Lincoln Bicentennial Commission for carrying out the purposes of Public Law 106–173, of which \$10,000 may be used for official representation and reception expenses of the Abraham Lincoln Bicentennial Commission: *Provided further*, That of the total amount appropriated, \$11,078,000 shall remain available until expended for partial support of the National Audio-Visual Conservation Center: *Provided further*, That of the total amount appropriated, \$250,000 shall be used to provide a grant to the Middle Eastern Text Initiative for translation and publishing of middle eastern text: *Provided further*, That no funds made available under this heading may be expended inconsistently with the provisions and intent of section 1006 of the Legislative Branch Appropriations Act, 2004 (Public Law 108–83), as amended, and the memorandum of understanding between the Library of Congress and the Capitol Police entered into on December 12, 2004: *Provided further*, That of the total amount appropriated, \$300,000 shall be available to the University of South Carolina for the Cooperative Preservation and Conservation project for the Movietone Newsreel collection: *Provided further*, That of the total amount appropriated, \$400,000 shall be available to the University of Mississippi American Music Archives: *Provided further*, That of the amounts made available under this heading

in chapter 9 of division A of the Miscellaneous Appropriations Act, 2001 (Public Law 106-554; 114 Stat. 2763A-194), \$6,858,000 are rescinded.

COPYRIGHT OFFICE

SALARIES AND EXPENSES

For necessary expenses of the Copyright Office, \$58,601,000, of which not more than \$30,481,000, to remain available until expended, shall be derived from collections credited to this appropriation during fiscal year 2006 under section 708(d) of title 17, United States Code: *Provided*, That the Copyright Office may not obligate or expend any funds derived from collections under such section, in excess of the amount authorized for obligation or expenditure in appropriations Acts: *Provided further*, That not more than \$5,465,000 shall be derived from collections during fiscal year 2006 under sections 111(d)(2), 119(b)(2), 802(h), 1005, and 1316 of such title: *Provided further*, That the total amount available for obligation shall be reduced by the amount by which collections are less than \$35,946,000: *Provided further*, That not more than \$100,000 of the amount appropriated is available for the maintenance of an “International Copyright Institute” in the Copyright Office of the Library of Congress for the purpose of training nationals of developing countries in intellectual property laws and policies: *Provided further*, That not more than \$4,250 may be expended, on the certification of the Librarian of Congress, in connection with official representation and reception expenses for activities of the International Copyright Institute and for copyright delegations, visitors, and seminars: *Provided further*, That notwithstanding any provision of chapter 8 of title 17, United States Code, any amounts made available under this heading which are attributable to royalty fees and payments received by the Copyright Office pursuant to sections 111, 119, and chapter 10 of such title may be used for the costs incurred in the administration of the Copyright Royalty Judges program.

CONGRESSIONAL RESEARCH SERVICE

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of section 203 of the Legislative Reorganization Act of 1946 (2 U.S.C. 166) and to revise and extend the Annotated Constitution of the United States of America, \$100,916,000: *Provided*, That no part of such amount may be used to pay any salary or expense in connection with any publication, or preparation of material therefor (except the Digest of Public General Bills), to be issued by the Library of Congress unless such publication has obtained prior approval of either the Committee on House Administration of the House of Representatives or the Committee on Rules and Administration of the Senate.

BOOKS FOR THE BLIND AND PHYSICALLY HANDICAPPED

SALARIES AND EXPENSES

For salaries and expenses to carry out the Act of March 3, 1931 (chapter 400; 46 Stat. 1487; 2 U.S.C. 135a), \$54,449,000,

of which \$16,231,000 shall remain available until expended: *Provided*, That of the total amount appropriated, \$400,000 shall remain available until expended to reimburse the National Federation of the Blind for costs incurred in the operation of its “NEWSLINE” program.

ADMINISTRATIVE PROVISIONS

SEC. 1301. INCENTIVE AWARDS PROGRAM. Of the amounts appropriated to the Library of Congress in this Act, not more than \$5,000 may be expended, on the certification of the Librarian of Congress, in connection with official representation and reception expenses for the incentive awards program.

SEC. 1302. REIMBURSABLE AND REVOLVING FUND ACTIVITIES. (a) IN GENERAL.—For fiscal year 2006, the obligational authority of the Library of Congress for the activities described in subsection (b) may not exceed \$109,943,000.

(b) ACTIVITIES.—The activities referred to in subsection (a) are reimbursable and revolving fund activities that are funded from sources other than appropriations to the Library in appropriations Acts for the legislative branch.

(c) TRANSFER OF FUNDS.—During fiscal year 2006, the Librarian of Congress may temporarily transfer funds appropriated in this Act, under the heading “LIBRARY OF CONGRESS” under the subheading “SALARIES AND EXPENSES” to the revolving fund for the FEDLINK Program and the Federal Research Program established under section 103 of the Library of Congress Fiscal Operations Improvement Act of 2000 (Public Law 106–481; 2 U.S.C. 182c): *Provided*, That the total amount of such transfers may not exceed \$1,900,000: *Provided further*, That the appropriate revolving fund account shall reimburse the Library for any amounts transferred to it before the period of availability of the Library appropriation expires.

SEC. 1303. NATIONAL DIGITAL INFORMATION INFRASTRUCTURE AND PRESERVATION PROGRAM. The Miscellaneous Appropriations Act, 2001 (enacted into law by section 1(a)(4) of Public Law 106–554, 114 Stat. 2763A–194) is amended in the first proviso under the subheading “SALARIES AND EXPENSES” under the heading “LIBRARY OF CONGRESS” in chapter 9 of division A by adding at the end “, except that an amount not to exceed \$10,000,000 of such additional \$75,000,000 shall remain available until expended and may be used for competitive grants to State governmental entities, without regard to any matching contribution requirement, to work cooperatively to collect and preserve at-risk digital State and local government information”.

SEC. 1304. UNITED STATES DIPLOMATIC FACILITIES. Funds made available for the Library of Congress under this Act are available for transfer to the Department of State as remittance for a fee charged by the Department for fiscal year 2006 for the maintenance, upgrade, or construction of United States diplomatic facilities only to the extent that the amount of the fee so charged is equal to or less than the unreimbursed value of the services provided during fiscal year 2006 to the Library of Congress on State Department diplomatic facilities.

SEC. 1305. PARLIAMENTARY DEVELOPMENT. (a) Section 208 of the Legislative Branch Appropriations Act, 1996 (Public Law 104–53; 109 Stat. 532), is hereby repealed.

(b) The amendment made by this section shall take effect on the date of the enactment of this Act or October 1, 2005, whichever occurs earlier.

Effective date.

SEC. 1306. INCORPORATION OF DIGITAL COLLECTIONS INTO EDUCATIONAL CURRICULA. (a) SHORT TITLE.—This section may be cited as the “Library of Congress Digital Collections and Educational Curricula Act of 2005”.

Library of
Congress Digital
Collections and
Educational
Curricula Act
of 2005.
2 USC 184.

(b) PROGRAM.—The Librarian of Congress shall administer a program to teach educators and librarians how to incorporate the digital collections of the Library of Congress into educational curricula.

(c) EDUCATIONAL CONSORTIUM.—In administering the program under this section, the Librarian of Congress may—

(1) establish an educational consortium to support the program; and

(2) make funds appropriated for the program available to consortium members, educational institutions, and libraries.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section for fiscal year 2006 and each fiscal year thereafter.

SEC. 1307. INSPECTOR GENERAL OF THE LIBRARY OF CONGRESS. (a) SHORT TITLE.—This section may be cited as the “Library of Congress Inspector General Act of 2005”.

Library of
Congress
Inspector
General Act
of 2005.
2 USC 185.

(b) OFFICE OF INSPECTOR GENERAL.—There is an Office of Inspector General within the Library of Congress which is an independent objective office to—

(1) conduct and supervise audits and investigations (excluding incidents involving violence and personal property) relating to the Library of Congress;

(2) provide leadership and coordination and recommend policies to promote economy, efficiency, and effectiveness; and

(3) provide a means of keeping the Librarian of Congress and the Congress fully and currently informed about problems and deficiencies relating to the administration and operations of the Library of Congress.

(c) APPOINTMENT OF INSPECTOR GENERAL; SUPERVISION; REMOVAL.—

(1) APPOINTMENT AND SUPERVISION.—

(A) IN GENERAL.—There shall be at the head of the Office of Inspector General, an Inspector General who shall be appointed by the Librarian of Congress without regard to political affiliation and solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations. The Inspector General shall report to, and be under the general supervision of, the Librarian of Congress.

(B) AUDITS, INVESTIGATIONS, AND REPORTS.—The Librarian of Congress shall have no authority to prevent or prohibit the Inspector General from—

(i) initiating, carrying out, or completing any audit or investigation;

(ii) issuing any subpoena during the course of any audit or investigation; or

(iii) issuing any report.

(2) REMOVAL.—The Inspector General may be removed from office by the Librarian of Congress. The Librarian of Congress

Applicability.

shall, promptly upon such removal, communicate in writing the reasons for any such removal to each House of the Congress.

(d) DUTIES, RESPONSIBILITIES, AUTHORITY, AND REPORTS.—

(1) IN GENERAL.—Sections 4, 5 (other than subsections (a)(13)), 6(a) (other than paragraphs (7) and (8) thereof), and 7 of the Inspector General Act of 1978 (5 U.S.C. App.) shall apply to the Inspector General of the Library of Congress and the Office of such Inspector General and such sections shall be applied to the Library of Congress and the Librarian of Congress by substituting—

(A) “Library of Congress” for “establishment”; and

(B) “Librarian of Congress” for “head of the establishment”.

(2) EMPLOYEES.—The Inspector General, in carrying out the provisions of this section, is authorized to select, appoint, and employ such officers and employees (including consultants) as may be necessary for carrying out the functions, powers, and duties of the Office of Inspector General subject to the provisions of law governing selections, appointments, and employment in the Library of Congress.

(e) TRANSFERS.—All functions, personnel, and budget resources of the Office of Investigations of the Library of Congress are transferred to the Office of Inspector General.

(f) INCUMBENT.—The individual who serves in the position of Inspector General of the Library of Congress on the date of enactment of this Act shall continue to serve in that position, subject to removal in accordance with this section.

(g) REFERENCES.—References in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or relating to the Inspector General of the Library of Congress shall be deemed to refer to the Inspector General of the Library of Congress as set forth under this section.

(h) EFFECTIVE DATE.—This section shall be effective upon enactment of this Act.

GOVERNMENT PRINTING OFFICE

CONGRESSIONAL PRINTING AND BINDING

(INCLUDING TRANSFER OF FUNDS)

For authorized printing and binding for the Congress and the distribution of Congressional information in any format; printing and binding for the Architect of the Capitol; expenses necessary for preparing the semimonthly and session index to the Congressional Record, as authorized by law (section 902 of title 44, United States Code); printing and binding of Government publications authorized by law to be distributed to Members of Congress; and printing, binding, and distribution of Government publications authorized by law to be distributed without charge to the recipient, \$88,090,000: *Provided*, That this appropriation shall not be available for paper copies of the permanent edition of the Congressional Record for individual Representatives, Resident Commissioners or Delegates authorized under section 906 of title 44, United States Code: *Provided further*, That this appropriation shall be available for the payment of obligations incurred under the appropriations for similar purposes for preceding fiscal years: *Provided further*, That notwithstanding the 2-year limitation under section 718 of

title 44, United States Code, none of the funds appropriated or made available under this Act or any other Act for printing and binding and related services provided to Congress under chapter 7 of title 44, United States Code, may be expended to print a document, report, or publication after the 27-month period beginning on the date that such document, report, or publication is authorized by Congress to be printed, unless Congress reauthorizes such printing in accordance with section 718 of title 44, United States Code: *Provided further*, That any unobligated or unexpended balances in this account or accounts for similar purposes for preceding fiscal years may be transferred to the Government Printing Office revolving fund for carrying out the purposes of this heading, subject to the approval of the Committees on Appropriations of the House of Representatives and Senate.

OFFICE OF SUPERINTENDENT OF DOCUMENTS

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For expenses of the Office of Superintendent of Documents necessary to provide for the cataloging and indexing of Government publications and their distribution to the public, Members of Congress, other Government agencies, and designated depository and international exchange libraries as authorized by law, \$33,337,000: *Provided*, That amounts of not more than \$2,000,000 from current year appropriations are authorized for producing and disseminating Congressional serial sets and other related publications for fiscal years 2004 and 2005 to depository and other designated libraries: *Provided further*, That any unobligated or unexpended balances in this account or accounts for similar purposes for preceding fiscal years may be transferred to the Government Printing Office revolving fund for carrying out the purposes of this heading, subject to the approval of the Committees on Appropriations of the House of Representatives and Senate.

GOVERNMENT PRINTING OFFICE REVOLVING FUND

For payment to the Government Printing Office Revolving Fund, \$2,000,000 for workforce retraining: *Provided*, That the Government Printing Office may make such expenditures, within the limits of funds available and in accordance with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 9104 of title 31, United States Code, as may be necessary in carrying out the programs and purposes set forth in the budget for the current fiscal year for the Government Printing Office revolving fund: *Provided further*, That not more than \$5,000 may be expended on the certification of the Public Printer in connection with official representation and reception expenses: *Provided further*, That the revolving fund shall be available for the hire or purchase of not more than 12 passenger motor vehicles: *Provided further*, That expenditures in connection with travel expenses of the advisory councils to the Public Printer shall be deemed necessary to carry out the provisions of title 44, United States Code: *Provided further*, That the revolving fund shall be available for temporary or intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals

not more than the daily equivalent of the annual rate of basic pay for level V of the Executive Schedule under section 5316 of such title: *Provided further*, That the revolving fund and the funds provided under the headings “OFFICE OF SUPERINTENDENT OF DOCUMENTS” and “SALARIES AND EXPENSES” together may not be available for the full-time equivalent employment of more than 2,621 workyears (or such other number of workyears as the Public Printer may request, subject to the approval of the Committees on Appropriations of the House of Representatives and Senate): *Provided further*, That activities financed through the revolving fund may provide information in any format: *Provided further*, That not more than \$10,000 may be expended from the revolving fund in support of the activities of the Benjamin Franklin Tercentenary Commission established by Public Law 107–202.

GOVERNMENT ACCOUNTABILITY OFFICE

SALARIES AND EXPENSES

For necessary expenses of the Government Accountability Office, including not more than \$12,500 to be expended on the certification of the Comptroller General of the United States in connection with official representation and reception expenses; temporary or intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not more than the daily equivalent of the annual rate of basic pay for level IV of the Executive Schedule under section 5315 of such title; hire of one passenger motor vehicle; advance payments in foreign countries in accordance with section 3324 of title 31, United States Code; benefits comparable to those payable under sections 901(5), (6), and (8) of the Foreign Service Act of 1980 (22 U.S.C. 4081(5), (6), and (8)); and under regulations prescribed by the Comptroller General of the United States, rental of living quarters in foreign countries, \$482,395,000: *Provided*, That not more than \$5,104,000 of payments received under section 782 of title 31, United States Code, shall be available for use in fiscal year 2006: *Provided further*, That not more than \$2,061,000 of reimbursements received under section 9105 of title 31, United States Code, shall be available for use in fiscal year 2006: *Provided further*, That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the National Intergovernmental Audit Forum or a Regional Intergovernmental Audit Forum shall be available to finance an appropriate share of either Forum’s costs as determined by the respective Forum, including necessary travel expenses of non-Federal participants: *Provided further*, That payments hereunder to the Forum may be credited as reimbursements to any appropriation from which costs involved are initially financed.

OPEN WORLD LEADERSHIP CENTER TRUST FUND

For a payment to the Open World Leadership Center Trust Fund for financing activities of the Open World Leadership Center under section 313 of the Legislative Branch Appropriations Act, 2001 (2 U.S.C. 1151), \$14,000,000.

JOHN C. STENNIS CENTER FOR PUBLIC SERVICE TRAINING
AND DEVELOPMENT

For payment to the John C. Stennis Center for Public Service Development Trust Fund established under section 116 of the John C. Stennis Center for Public Service Training and Development Act (2 U.S.C. 1105), \$430,000.

TITLE II—GENERAL PROVISIONS

SEC. 201. MAINTENANCE AND CARE OF PRIVATE VEHICLES. No part of the funds appropriated in this Act shall be used for the maintenance or care of private vehicles, except for emergency assistance and cleaning as may be provided under regulations relating to parking facilities for the House of Representatives issued by the Committee on House Administration and for the Senate issued by the Committee on Rules and Administration.

SEC. 202. FISCAL YEAR LIMITATION. No part of the funds appropriated in this Act shall remain available for obligation beyond fiscal year 2006 unless expressly so provided in this Act.

SEC. 203. RATES OF COMPENSATION AND DESIGNATION. Whenever in this Act any office or position not specifically established by the Legislative Pay Act of 1929 (46 Stat. 32 et seq.) is appropriated for or the rate of compensation or designation of any office or position appropriated for is different from that specifically established by such Act, the rate of compensation and the designation in this Act shall be the permanent law with respect thereto: *Provided*, That the provisions in this Act for the various items of official expenses of Members, officers, and committees of the Senate and House of Representatives, and clerk hire for Senators and Members of the House of Representatives shall be the permanent law with respect thereto.

SEC. 204. CONSULTING SERVICES. The expenditure of any appropriation under this Act for any consulting service through procurement contract, under section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued under existing law.

Contracts.
Public
information.

SEC. 205. AWARDS AND SETTLEMENTS. Such sums as may be necessary are appropriated to the account described in subsection (a) of section 415 of the Congressional Accountability Act of 1995 (2 U.S.C. 1415(a)) to pay awards and settlements as authorized under such subsection.

SEC. 206. COSTS OF LBFMC. Amounts available for administrative expenses of any legislative branch entity which participates in the Legislative Branch Financial Managers Council (LBFMC) established by charter on March 26, 1996, shall be available to finance an appropriate share of LBFMC costs as determined by the LBFMC, except that the total LBFMC costs to be shared among all participating legislative branch entities (in such allocations among the entities as the entities may determine) may not exceed \$2,000.

SEC. 207. LANDSCAPE MAINTENANCE. The Architect of the Capitol, in consultation with the District of Columbia, is authorized to maintain and improve the landscape features, excluding streets and sidewalks, in the irregular shaped grassy areas bounded by Washington Avenue, SW on the northeast, Second Street SW on

the west, Square 582 on the south, and the beginning of the I-395 tunnel on the southeast.

SEC. 208. LIMITATION ON TRANSFERS. None of the funds made available in this Act may be transferred to any department, agency, or instrumentality of the United States Government, except pursuant to a transfer made by, or transfer authority provided in, this Act or any other appropriation Act.

TITLE III—CONTINUITY IN REPRESENTATION

SEC. 301. Section 26 of the Revised Statutes of the United States (2 U.S.C. 8) is amended—

(1) by striking “The time” and inserting “(a) IN GENERAL.—Except as provided in subsection (b), the time”; and

(2) by adding at the end the following new subsection: “(b) SPECIAL RULES IN EXTRAORDINARY CIRCUMSTANCES.—

“(1) IN GENERAL.—In extraordinary circumstances, the executive authority of any State in which a vacancy exists in its representation in the House of Representatives shall issue a writ of election to fill such vacancy by special election.

Deadline.

“(2) TIMING OF SPECIAL ELECTION.—A special election held under this subsection to fill a vacancy shall take place not later than 49 days after the Speaker of the House of Representatives announces that the vacancy exists, unless, during the 75-day period which begins on the date of the announcement of the vacancy—

“(A) a regularly scheduled general election for the office involved is to be held; or

“(B) another special election for the office involved is to be held, pursuant to a writ for a special election issued by the chief executive of the State prior to the date of the announcement of the vacancy.

“(3) NOMINATIONS BY PARTIES.—If a special election is to be held under this subsection, the determination of the candidates who will run in such election shall be made—

Deadline.

“(A) by nominations made not later than 10 days after the Speaker announces that the vacancy exists by the political parties of the State that are authorized by State law to nominate candidates for the election; or

“(B) by any other method the State considers appropriate, including holding primary elections, that will ensure that the State will hold the special election within the deadline required under paragraph (2).

“(4) EXTRAORDINARY CIRCUMSTANCES.—

“(A) IN GENERAL.—In this subsection, ‘extraordinary circumstances’ occur when the Speaker of the House of Representatives announces that vacancies in the representation from the States in the House exceed 100.

Applicability.

“(B) JUDICIAL REVIEW.—If any action is brought for declaratory or injunctive relief to challenge an announcement made under subparagraph (A), the following rules shall apply:

Deadline.

“(i) Not later than 2 days after the announcement, the action shall be filed in the United States District Court having jurisdiction in the district of the Member of the House of Representatives whose seat has been announced to be vacant and shall be heard by a 3-

judge court convened pursuant to section 2284 of title 28, United States Code.

“(ii) A copy of the complaint shall be delivered promptly to the Clerk of the House of Representatives. Records.

“(iii) A final decision in the action shall be made within 3 days of the filing of such action and shall not be reviewable.

“(iv) The executive authority of the State that contains the district of the Member of the House of Representatives whose seat has been announced to be vacant shall have the right to intervene either in support of or opposition to the position of a party to the case regarding the announcement of such vacancy.

“(5) PROTECTING ABILITY OF ABSENT MILITARY AND OVERSEAS VOTERS TO PARTICIPATE IN SPECIAL ELECTIONS.—

“(A) DEADLINE FOR TRANSMITTAL OF ABSENTEE BALLOTS.—In conducting a special election held under this subsection to fill a vacancy in its representation, the State shall ensure to the greatest extent practicable (including through the use of electronic means) that absentee ballots for the election are transmitted to absent uniformed services voters and overseas voters (as such terms are defined in the Uniformed and Overseas Citizens Absentee Voting Act) not later than 15 days after the Speaker of the House of Representatives announces that the vacancy exists.

“(B) PERIOD FOR BALLOT TRANSIT TIME.—Notwithstanding the deadlines referred to in paragraphs (2) and (3), in the case of an individual who is an absent uniformed services voter or an overseas voter (as such terms are defined in the Uniformed and Overseas Citizens Absentee Voting Act), a State shall accept and process any otherwise valid ballot or other election material from the voter so long as the ballot or other material is received by the appropriate State election official not later than 45 days after the State transmits the ballot or other material to the voter. Deadline.

“(6) APPLICATION TO DISTRICT OF COLUMBIA AND TERRITORIES.—This subsection shall apply—

“(A) to a Delegate or Resident Commissioner to the Congress in the same manner as it applies to a Member of the House of Representatives; and

“(B) to the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, and the United States Virgin Islands in the same manner as it applies to a State, except that a vacancy in the representation from any such jurisdiction in the House shall not be taken into account by the Speaker in determining whether vacancies in the representation from the States in the House exceed 100 for purposes of paragraph (4)(A).

“(7) RULE OF CONSTRUCTION REGARDING FEDERAL ELECTION LAWS.—Nothing in this subsection may be construed to affect the application to special elections under this subsection of any Federal law governing the administration of elections for Federal office (including any law providing for the enforcement of any such law), including, but not limited to, the following:

“(A) The Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.), as amended.

“(B) The Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee et seq.), as amended.

“(C) The Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff et seq.), as amended.

“(D) The National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.), as amended.

“(E) The Americans With Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), as amended.

“(F) The Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), as amended.

“(G) The Help America Vote Act of 2002 (42 U.S.C. 15301 et seq.), as amended.”.

This Act may be cited as the “Legislative Branch Appropriations Act, 2006”.

Approved August 2, 2005.

LEGISLATIVE HISTORY—H.R. 2985:

HOUSE REPORTS: Nos. 109–139 (Comm. on Appropriations) and 109–189 (Comm. of Conference).

SENATE REPORTS: No. 109–89 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 151 (2005):

June 22, considered and passed House.

June 30, considered and passed Senate, amended.

July 28, House agreed to conference report.

July 29, Senate agreed to conference report.



Public Law 109–56
109th Congress

An Act

To amend the Controlled Substances Act to lift the patient limitation on prescribing drug addiction treatments by medical practitioners in group practices, and for other purposes.

Aug. 2, 2005

[S. 45]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MAINTENANCE OR DETOXIFICATION TREATMENT WITH CERTAIN NARCOTIC DRUGS; ELIMINATION OF 30-PATIENT LIMIT FOR GROUP PRACTICES.

(a) IN GENERAL.—Section 303(g)(2)(B) of the Controlled Substances Act (21 U.S.C. 823(g)(2)(B)) is amended by striking clause (iv).

(b) CONFORMING AMENDMENT.—Section 303(g)(2)(B) of the Controlled Substances Act (21 U.S.C. 823(g)(2)(B)) is amended in clause (iii) by striking “In any case” and all that follows through “the total” and inserting “The total”.

(c) EFFECTIVE DATE.—This section shall take effect on the date of enactment of this Act. 21 USC 823 note.

Approved August 2, 2005.

LEGISLATIVE HISTORY—S. 45:

CONGRESSIONAL RECORD, Vol. 151 (2005):

July 19, considered and passed Senate.

July 27, considered and passed House.



Public Law 109–57
109th Congress

An Act

Aug. 2, 2005
[S. 1395]

Controlled
Substances
Export Reform
Act of 2005.
21 USC 801 note.

To amend the Controlled Substances Import and Export Act to provide authority for the Attorney General to authorize the export of controlled substances from the United States to another country for subsequent export from that country to a second country, if certain conditions and safeguards are satisfied.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REEXPORTATION OF CONTROLLED SUBSTANCES.

(a) **SHORT TITLE.**—This Act may be cited as the “Controlled Substances Export Reform Act of 2005”.

(b) **IN GENERAL.**—Section 1003 of the Controlled Substances Import and Export Act (21 U.S.C. 953) is amended by adding at the end the following:

“(f) Notwithstanding subsections (a)(4) and (c)(3), the Attorney General may authorize any controlled substance that is in schedule I or II, or is a narcotic drug in schedule III or IV, to be exported from the United States to a country for subsequent export from that country to another country, if each of the following conditions is met:

“(1) Both the country to which the controlled substance is exported from the United States (referred to in this subsection as the ‘first country’) and the country to which the controlled substance is exported from the first country (referred to in this subsection as the ‘second country’) are parties to the Single Convention on Narcotic Drugs, 1961, and the Convention on Psychotropic Substances, 1971.

“(2) The first country and the second country have each instituted and maintain, in conformity with such Conventions, a system of controls of imports of controlled substances which the Attorney General deems adequate.

“(3) With respect to the first country, the controlled substance is consigned to a holder of such permits or licenses as may be required under the laws of such country, and a permit or license to import the controlled substance has been issued by the country.

“(4) With respect to the second country, substantial evidence is furnished to the Attorney General by the person who will export the controlled substance from the United States that—

“(A) the controlled substance is to be consigned to a holder of such permits or licenses as may be required under the laws of such country, and a permit or license to import the controlled substance is to be issued by the country; and

“(B) the controlled substance is to be applied exclusively to medical, scientific, or other legitimate uses within the country.

“(5) The controlled substance will not be exported from the second country.

“(6) Within 30 days after the controlled substance is exported from the first country to the second country, the person who exported the controlled substance from the United States delivers to the Attorney General documentation certifying that such export from the first country has occurred. Deadline.

“(7) A permit to export the controlled substance from the United States has been issued by the Attorney General.”.

Approved August 2, 2005.

LEGISLATIVE HISTORY—S. 1395 (H.R. 184):

CONGRESSIONAL RECORD, Vol. 151 (2005):

July 13, considered and passed Senate.

July 27, considered and passed House.



Public Law 109–58
109th Congress

An Act

Aug. 8, 2005
[H.R. 6]

Energy Policy Act
of 2005.
42 USC 15801
note.

To ensure jobs for our future with secure, affordable, and reliable energy.

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Energy Policy Act of 2005”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—ENERGY EFFICIENCY

Subtitle A—Federal Programs

- Sec. 101. Energy and water saving measures in congressional buildings.
- Sec. 102. Energy management requirements.
- Sec. 103. Energy use measurement and accountability.
- Sec. 104. Procurement of energy efficient products.
- Sec. 105. Energy savings performance contracts.
- Sec. 106. Voluntary commitments to reduce industrial energy intensity.
- Sec. 107. Advanced Building Efficiency Testbed.
- Sec. 108. Increased use of recovered mineral component in federally funded projects involving procurement of cement or concrete.
- Sec. 109. Federal building performance standards.
- Sec. 110. Daylight savings.
- Sec. 111. Enhancing energy efficiency in management of Federal lands.

Subtitle B—Energy Assistance and State Programs

- Sec. 121. Low-income home energy assistance program.
- Sec. 122. Weatherization assistance.
- Sec. 123. State energy programs.
- Sec. 124. Energy efficient appliance rebate programs.
- Sec. 125. Energy efficient public buildings.
- Sec. 126. Low income community energy efficiency pilot program.
- Sec. 127. State Technologies Advancement Collaborative.
- Sec. 128. State building energy efficiency codes incentives.

Subtitle C—Energy Efficient Products

- Sec. 131. Energy Star program.
- Sec. 132. HVAC maintenance consumer education program.
- Sec. 133. Public energy education program.
- Sec. 134. Energy efficiency public information initiative.
- Sec. 135. Energy conservation standards for additional products.
- Sec. 136. Energy conservation standards for commercial equipment.
- Sec. 137. Energy labeling.
- Sec. 138. Intermittent escalator study.
- Sec. 139. Energy efficient electric and natural gas utilities study.
- Sec. 140. Energy efficiency pilot program.
- Sec. 141. Report on failure to comply with deadlines for new or revised energy conservation standards.

Subtitle D—Public Housing

- Sec. 151. Public housing capital fund.

- Sec. 152. Energy-efficient appliances.
- Sec. 153. Energy efficiency standards.
- Sec. 154. Energy strategy for HUD.

TITLE II—RENEWABLE ENERGY

Subtitle A—General Provisions

- Sec. 201. Assessment of renewable energy resources.
- Sec. 202. Renewable energy production incentive.
- Sec. 203. Federal purchase requirement.
- Sec. 204. Use of photovoltaic energy in public buildings.
- Sec. 205. Biobased products.
- Sec. 206. Renewable energy security.
- Sec. 207. Installation of photovoltaic system.
- Sec. 208. Sugar cane ethanol program.
- Sec. 209. Rural and remote community electrification grants.
- Sec. 210. Grants to improve the commercial value of forest biomass for electric energy, useful heat, transportation fuels, and other commercial purposes.
- Sec. 211. Sense of Congress regarding generation capacity of electricity from renewable energy resources on public lands.

Subtitle B—Geothermal Energy

- Sec. 221. Short title.
- Sec. 222. Competitive lease sale requirements.
- Sec. 223. Direct use.
- Sec. 224. Royalties and near-term production incentives.
- Sec. 225. Coordination of geothermal leasing and permitting on Federal lands.
- Sec. 226. Assessment of geothermal energy potential.
- Sec. 227. Cooperative or unit plans.
- Sec. 228. Royalty on byproducts.
- Sec. 229. Authorities of Secretary to readjust terms, conditions, rentals, and royalties.
- Sec. 230. Crediting of rental toward royalty.
- Sec. 231. Lease duration and work commitment requirements.
- Sec. 232. Advanced royalties required for cessation of production.
- Sec. 233. Annual rental.
- Sec. 234. Deposit and use of geothermal lease revenues for 5 fiscal years.
- Sec. 235. Acreage limitations.
- Sec. 236. Technical amendments.
- Sec. 237. Intermountain West Geothermal Consortium.

Subtitle C—Hydroelectric

- Sec. 241. Alternative conditions and fishways.
- Sec. 242. Hydroelectric production incentives.
- Sec. 243. Hydroelectric efficiency improvement.
- Sec. 244. Alaska State jurisdiction over small hydroelectric projects.
- Sec. 245. Flint Creek hydroelectric project.
- Sec. 246. Small hydroelectric power projects.

Subtitle D—Insular Energy

- Sec. 251. Insular areas energy security.
- Sec. 252. Projects enhancing insular energy independence.

TITLE III—OIL AND GAS

Subtitle A—Petroleum Reserve and Home Heating Oil

- Sec. 301. Permanent authority to operate the Strategic Petroleum Reserve and other energy programs.
- Sec. 302. National Oilheat Research Alliance.
- Sec. 303. Site selection.

Subtitle B—Natural Gas

- Sec. 311. Exportation or importation of natural gas.
- Sec. 312. New natural gas storage facilities.
- Sec. 313. Process coordination; hearings; rules of procedure.
- Sec. 314. Penalties.
- Sec. 315. Market manipulation.
- Sec. 316. Natural gas market transparency rules.
- Sec. 317. Federal-State liquefied natural gas forums.
- Sec. 318. Prohibition of trading and serving by certain individuals.

Subtitle C—Production

- Sec. 321. Outer Continental Shelf provisions.

- Sec. 322. Hydraulic fracturing.
- Sec. 323. Oil and gas exploration and production defined.

Subtitle D—Naval Petroleum Reserve

- Sec. 331. Transfer of administrative jurisdiction and environmental remediation, Naval Petroleum Reserve Numbered 2, Kern County, California.
- Sec. 332. Naval Petroleum Reserve Numbered 2 Lease Revenue Account.
- Sec. 333. Land conveyance, portion of Naval Petroleum Reserve Numbered 2, to City of Taft, California.
- Sec. 334. Revocation of land withdrawal.

Subtitle E—Production Incentives

- Sec. 341. Definition of Secretary.
- Sec. 342. Program on oil and gas royalties in-kind.
- Sec. 343. Marginal property production incentives.
- Sec. 344. Incentives for natural gas production from deep wells in the shallow waters of the Gulf of Mexico.
- Sec. 345. Royalty relief for deep water production.
- Sec. 346. Alaska offshore royalty suspension.
- Sec. 347. Oil and gas leasing in the National Petroleum Reserve in Alaska.
- Sec. 348. North Slope Science Initiative.
- Sec. 349. Orphaned, abandoned, or idled wells on Federal land.
- Sec. 350. Combined hydrocarbon leasing.
- Sec. 351. Preservation of geological and geophysical data.
- Sec. 352. Oil and gas lease acreage limitations.
- Sec. 353. Gas hydrate production incentive.
- Sec. 354. Enhanced oil and natural gas production through carbon dioxide injection.
- Sec. 355. Assessment of dependence of State of Hawaii on oil.
- Sec. 356. Denali Commission.
- Sec. 357. Comprehensive inventory of OCS oil and natural gas resources.

Subtitle F—Access to Federal Lands

- Sec. 361. Federal onshore oil and gas leasing and permitting practices.
- Sec. 362. Management of Federal oil and gas leasing programs.
- Sec. 363. Consultation regarding oil and gas leasing on public land.
- Sec. 364. Estimates of oil and gas resources underlying onshore Federal land.
- Sec. 365. Pilot project to improve Federal permit coordination.
- Sec. 366. Deadline for consideration of applications for permits.
- Sec. 367. Fair market value determinations for linear rights-of-way across public lands and National Forests.
- Sec. 368. Energy right-of-way corridors on Federal land.
- Sec. 369. Oil shale, tar sands, and other strategic unconventional fuels.
- Sec. 370. Finger Lakes withdrawal.
- Sec. 371. Reinstatement of leases.
- Sec. 372. Consultation regarding energy rights-of-way on public land.
- Sec. 373. Sense of Congress regarding development of minerals under Padre Island National Seashore.
- Sec. 374. Livingston Parish mineral rights transfer.

Subtitle G—Miscellaneous

- Sec. 381. Deadline for decision on appeals of consistency determination under the Coastal Zone Management Act of 1972.
- Sec. 382. Appeals relating to offshore mineral development.
- Sec. 383. Royalty payments under leases under the Outer Continental Shelf Lands Act.
- Sec. 384. Coastal impact assistance program.
- Sec. 385. Study of availability of skilled workers.
- Sec. 386. Great Lakes oil and gas drilling ban.
- Sec. 387. Federal coalbed methane regulation.
- Sec. 388. Alternate energy-related uses on the Outer Continental Shelf.
- Sec. 389. Oil Spill Recovery Institute.
- Sec. 390. NEPA review.

Subtitle H—Refinery Revitalization

- Sec. 391. Findings and definitions.
- Sec. 392. Federal-State regulatory coordination and assistance.

TITLE IV—COAL

Subtitle A—Clean Coal Power Initiative

- Sec. 401. Authorization of appropriations.

- Sec. 402. Project criteria.
- Sec. 403. Report.
- Sec. 404. Clean coal centers of excellence.

Subtitle B—Clean Power Projects

- Sec. 411. Integrated coal/renewable energy system.
- Sec. 412. Loan to place Alaska clean coal technology facility in service.
- Sec. 413. Western integrated coal gasification demonstration project.
- Sec. 414. Coal gasification.
- Sec. 415. Petroleum coke gasification.
- Sec. 416. Electron scrubbing demonstration.
- Sec. 417. Department of Energy transportation fuels from Illinois basin coal.

Subtitle C—Coal and Related Programs

- Sec. 421. Amendment of the Energy Policy Act of 1992.

Subtitle D—Federal Coal Leases

- Sec. 431. Short title.
- Sec. 432. Repeal of the 160-acre limitation for coal leases.
- Sec. 433. Approval of logical mining units.
- Sec. 434. Payment of advance royalties under coal leases.
- Sec. 435. Elimination of deadline for submission of coal lease operation and reclamation plan.
- Sec. 436. Amendment relating to financial assurances with respect to bonus bids.
- Sec. 437. Inventory requirement.
- Sec. 438. Application of amendments.

TITLE V—INDIAN ENERGY

- Sec. 501. Short title.
- Sec. 502. Office of Indian Energy Policy and Programs.
- Sec. 503. Indian energy.
- Sec. 504. Consultation with Indian tribes.
- Sec. 505. Four Corners transmission line project and electrification.
- Sec. 506. Energy efficiency in federally assisted housing.

TITLE VI—NUCLEAR MATTERS

Subtitle A—Price-Anderson Act Amendments

- Sec. 601. Short title.
- Sec. 602. Extension of indemnification authority.
- Sec. 603. Maximum assessment.
- Sec. 604. Department liability limit.
- Sec. 605. Incidents outside the United States.
- Sec. 606. Reports.
- Sec. 607. Inflation adjustment.
- Sec. 608. Treatment of modular reactors.
- Sec. 609. Applicability.
- Sec. 610. Civil penalties.

Subtitle B—General Nuclear Matters

- Sec. 621. Licenses.
- Sec. 622. Nuclear Regulatory Commission scholarship and fellowship program.
- Sec. 623. Cost recovery from Government agencies.
- Sec. 624. Elimination of pension offset for certain rehired Federal retirees.
- Sec. 625. Antitrust review.
- Sec. 626. Decommissioning.
- Sec. 627. Limitation on legal fee reimbursement.
- Sec. 628. Decommissioning pilot program.
- Sec. 629. Whistleblower protection.
- Sec. 630. Medical isotope production.
- Sec. 631. Safe disposal of greater-than-Class C radioactive waste.
- Sec. 632. Prohibition on nuclear exports to countries that sponsor terrorism.
- Sec. 633. Employee benefits.
- Sec. 634. Demonstration hydrogen production at existing nuclear power plants.
- Sec. 635. Prohibition on assumption by United States Government of liability for certain foreign incidents.
- Sec. 636. Authorization of appropriations.
- Sec. 637. Nuclear Regulatory Commission user fees and annual charges.
- Sec. 638. Standby support for certain nuclear plant delays.
- Sec. 639. Conflicts of interest relating to contracts and other arrangements.

Subtitle C—Next Generation Nuclear Plant Project

- Sec. 641. Project establishment.
- Sec. 642. Project management.
- Sec. 643. Project organization.
- Sec. 644. Nuclear Regulatory Commission.
- Sec. 645. Project timelines and authorization of appropriations.

Subtitle D—Nuclear Security

- Sec. 651. Nuclear facility and materials security.
- Sec. 652. Fingerprinting and criminal history record checks.
- Sec. 653. Use of firearms by security personnel.
- Sec. 654. Unauthorized introduction of dangerous weapons.
- Sec. 655. Sabotage of nuclear facilities, fuel, or designated material.
- Sec. 656. Secure transfer of nuclear materials.
- Sec. 657. Department of Homeland Security consultation.

TITLE VII—VEHICLES AND FUELS

Subtitle A—Existing Programs

- Sec. 701. Use of alternative fuels by dual fueled vehicles.
- Sec. 702. Incremental cost allocation.
- Sec. 703. Alternative compliance and flexibility.
- Sec. 704. Review of Energy Policy Act of 1992 programs.
- Sec. 705. Report concerning compliance with alternative fueled vehicle purchasing requirements.
- Sec. 706. Joint flexible fuel/hybrid vehicle commercialization initiative.
- Sec. 707. Emergency exemption.

Subtitle B—Hybrid Vehicles, Advanced Vehicles, and Fuel Cell Buses

PART 1—HYBRID VEHICLES

- Sec. 711. Hybrid vehicles.
- Sec. 712. Efficient hybrid and advanced diesel vehicles.

PART 2—ADVANCED VEHICLES

- Sec. 721. Pilot program.
- Sec. 722. Reports to Congress.
- Sec. 723. Authorization of appropriations.

PART 3—FUEL CELL BUSES

- Sec. 731. Fuel cell transit bus demonstration.

Subtitle C—Clean School Buses

- Sec. 741. Clean school bus program.
- Sec. 742. Diesel truck retrofit and fleet modernization program.
- Sec. 743. Fuel cell school buses.

Subtitle D—Miscellaneous

- Sec. 751. Railroad efficiency.
- Sec. 752. Mobile emission reductions trading and crediting.
- Sec. 753. Aviation fuel conservation and emissions.
- Sec. 754. Diesel fueled vehicles.
- Sec. 755. Conserve by Bicycling Program.
- Sec. 756. Reduction of engine idling.
- Sec. 757. Biodiesel engine testing program.
- Sec. 758. Ultra-efficient engine technology for aircraft.
- Sec. 759. Fuel economy incentive requirements.

Subtitle E—Automobile Efficiency

- Sec. 771. Authorization of appropriations for implementation and enforcement of fuel economy standards.
- Sec. 772. Extension of maximum fuel economy increase for alternative fueled vehicles.
- Sec. 773. Study of feasibility and effects of reducing use of fuel for automobiles.
- Sec. 774. Update testing procedures.

Subtitle F—Federal and State Procurement

- Sec. 781. Definitions.
- Sec. 782. Federal and State procurement of fuel cell vehicles and hydrogen energy systems.

Sec. 783. Federal procurement of stationary, portable, and micro fuel cells.

Subtitle G—Diesel Emissions Reduction

Sec. 791. Definitions.
Sec. 792. National grant and loan programs.
Sec. 793. State grant and loan programs.
Sec. 794. Evaluation and report.
Sec. 795. Outreach and incentives.
Sec. 796. Effect of subtitle.
Sec. 797. Authorization of appropriations.

TITLE VIII—HYDROGEN

Sec. 801. Hydrogen and fuel cell program.
Sec. 802. Purposes.
Sec. 803. Definitions.
Sec. 804. Plan.
Sec. 805. Programs.
Sec. 806. Hydrogen and Fuel Cell Technical Task Force.
Sec. 807. Technical Advisory Committee.
Sec. 808. Demonstration.
Sec. 809. Codes and standards.
Sec. 810. Disclosure.
Sec. 811. Reports.
Sec. 812. Solar and wind technologies.
Sec. 813. Technology transfer.
Sec. 814. Miscellaneous provisions.
Sec. 815. Cost sharing.
Sec. 816. Savings clause.

TITLE IX—RESEARCH AND DEVELOPMENT

Sec. 901. Short title.
Sec. 902. Goals.
Sec. 903. Definitions.

Subtitle A—Energy Efficiency

Sec. 911. Energy efficiency.
Sec. 912. Next Generation Lighting Initiative.
Sec. 913. National Building Performance Initiative.
Sec. 914. Building standards.
Sec. 915. Secondary electric vehicle battery use program.
Sec. 916. Energy Efficiency Science Initiative.
Sec. 917. Advanced Energy Efficiency Technology Transfer Centers.

Subtitle B—Distributed Energy and Electric Energy Systems

Sec. 921. Distributed energy and electric energy systems.
Sec. 922. High power density industry program.
Sec. 923. Micro-cogeneration energy technology.
Sec. 924. Distributed energy technology demonstration programs.
Sec. 925. Electric transmission and distribution programs.

Subtitle C—Renewable Energy

Sec. 931. Renewable energy.
Sec. 932. Bioenergy program.
Sec. 933. Low-cost renewable hydrogen and infrastructure for vehicle propulsion.
Sec. 934. Concentrating solar power research program.
Sec. 935. Renewable energy in public buildings.

Subtitle D—Agricultural Biomass Research and Development Programs

Sec. 941. Amendments to the Biomass Research and Development Act of 2000.
Sec. 942. Production incentives for cellulosic biofuels.
Sec. 943. Procurement of biobased products.
Sec. 944. Small business bioproduct marketing and certification grants.
Sec. 945. Regional bioeconomy development grants.
Sec. 946. Preprocessing and harvesting demonstration grants.
Sec. 947. Education and outreach.
Sec. 948. Reports.

Subtitle E—Nuclear Energy

Sec. 951. Nuclear energy.
Sec. 952. Nuclear energy research programs.

- Sec. 953. Advanced fuel cycle initiative.
- Sec. 954. University nuclear science and engineering support.
- Sec. 955. Department of Energy civilian nuclear infrastructure and facilities.
- Sec. 956. Security of nuclear facilities.
- Sec. 957. Alternatives to industrial radioactive sources.

Subtitle F—Fossil Energy

- Sec. 961. Fossil energy.
- Sec. 962. Coal and related technologies program.
- Sec. 963. Carbon capture research and development program.
- Sec. 964. Research and development for coal mining technologies.
- Sec. 965. Oil and gas research programs.
- Sec. 966. Low-volume oil and gas reservoir research program.
- Sec. 967. Complex well technology testing facility.
- Sec. 968. Methane hydrate research.

Subtitle G—Science

- Sec. 971. Science.
- Sec. 972. Fusion energy sciences program.
- Sec. 973. Catalysis research program.
- Sec. 974. Hydrogen.
- Sec. 975. Solid state lighting.
- Sec. 976. Advanced scientific computing for energy missions.
- Sec. 977. Systems biology program.
- Sec. 978. Fission and fusion energy materials research program.
- Sec. 979. Energy and water supplies.
- Sec. 980. Spallation Neutron Source.
- Sec. 981. Rare isotope accelerator.
- Sec. 982. Office of Scientific and Technical Information.
- Sec. 983. Science and engineering education pilot program.
- Sec. 984. Energy research fellowships.
- Sec. 984A. Science and technology scholarship program.

Subtitle H—International Cooperation

- Sec. 985. Western Hemisphere energy cooperation.
- Sec. 986. Cooperation between United States and Israel.
- Sec. 986A. International energy training.

Subtitle I—Research Administration and Operations

- Sec. 987. Availability of funds.
- Sec. 988. Cost sharing.
- Sec. 989. Merit review of proposals.
- Sec. 990. External technical review of Departmental programs.
- Sec. 991. National Laboratory designation.
- Sec. 992. Report on equal employment opportunity practices.
- Sec. 993. Strategy and plan for science and energy facilities and infrastructure.
- Sec. 994. Strategic research portfolio analysis and coordination plan.
- Sec. 995. Competitive award of management contracts.
- Sec. 996. Western Michigan demonstration project.
- Sec. 997. Arctic Engineering Research Center.
- Sec. 998. Barrow Geophysical Research Facility.

Subtitle J—Ultra-Deepwater and Unconventional Natural Gas and Other Petroleum Resources

- Sec. 999A. Program authority.
- Sec. 999B. Ultra-deepwater and unconventional onshore natural gas and other petroleum research and development program.
- Sec. 999C. Additional requirements for awards.
- Sec. 999D. Advisory committees.
- Sec. 999E. Limits on participation.
- Sec. 999F. Sunset.
- Sec. 999G. Definitions.
- Sec. 999H. Funding.

TITLE X—DEPARTMENT OF ENERGY MANAGEMENT

- Sec. 1001. Improved technology transfer of energy technologies.
- Sec. 1002. Technology Infrastructure Program.
- Sec. 1003. Small business advocacy and assistance.
- Sec. 1004. Outreach.
- Sec. 1005. Relationship to other laws.

- Sec. 1006. Improved coordination and management of civilian science and technology programs.
- Sec. 1007. Other transactions authority.
- Sec. 1008. Prizes for achievement in grand challenges of science and technology.
- Sec. 1009. Technical corrections.
- Sec. 1010. University collaboration.
- Sec. 1011. Sense of Congress.

TITLE XI—PERSONNEL AND TRAINING

- Sec. 1101. Workforce trends and traineeship grants.
- Sec. 1102. Educational programs in science and mathematics.
- Sec. 1103. Training guidelines for nonnuclear electric energy industry personnel.
- Sec. 1104. National Center for Energy Management and Building Technologies.
- Sec. 1105. Improved access to energy-related scientific and technical careers.
- Sec. 1106. National Power Plant Operations Technology and Educational Center.

TITLE XII—ELECTRICITY

- Sec. 1201. Short title.

Subtitle A—Reliability Standards

- Sec. 1211. Electric reliability standards.

Subtitle B—Transmission Infrastructure Modernization

- Sec. 1221. Siting of interstate electric transmission facilities.
- Sec. 1222. Third-party finance.
- Sec. 1223. Advanced transmission technologies.
- Sec. 1224. Advanced Power System Technology Incentive Program.

Subtitle C—Transmission Operation Improvements

- Sec. 1231. Open nondiscriminatory access.
- Sec. 1232. Federal utility participation in Transmission Organizations.
- Sec. 1233. Native load service obligation.
- Sec. 1234. Study on the benefits of economic dispatch.
- Sec. 1235. Protection of transmission contracts in the Pacific Northwest.
- Sec. 1236. Sense of Congress regarding locational installed capacity mechanism.

Subtitle D—Transmission Rate Reform

- Sec. 1241. Transmission infrastructure investment.
- Sec. 1242. Funding new interconnection and transmission upgrades.

Subtitle E—Amendments to PURPA

- Sec. 1251. Net metering and additional standards.
- Sec. 1252. Smart metering.
- Sec. 1253. Cogeneration and small power production purchase and sale requirements.
- Sec. 1254. Interconnection.

Subtitle F—Repeal of PUHCA

- Sec. 1261. Short title.
- Sec. 1262. Definitions.
- Sec. 1263. Repeal of the Public Utility Holding Company Act of 1935.
- Sec. 1264. Federal access to books and records.
- Sec. 1265. State access to books and records.
- Sec. 1266. Exemption authority.
- Sec. 1267. Affiliate transactions.
- Sec. 1268. Applicability.
- Sec. 1269. Effect on other regulations.
- Sec. 1270. Enforcement.
- Sec. 1271. Savings provisions.
- Sec. 1272. Implementation.
- Sec. 1273. Transfer of resources.
- Sec. 1274. Effective date.
- Sec. 1275. Service allocation.
- Sec. 1276. Authorization of appropriations.
- Sec. 1277. Conforming amendments to the Federal Power Act.

Subtitle G—Market Transparency, Enforcement, and Consumer Protection

- Sec. 1281. Electricity market transparency.
- Sec. 1282. False statements.

- Sec. 1283. Market manipulation.
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- Sec. 1285. Refund effective date.
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- Sec. 1287. Consumer privacy and unfair trade practices.
- Sec. 1288. Authority of court to prohibit individuals from serving as officers, directors, and energy traders.
- Sec. 1289. Merger review reform.
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Subtitle H—Definitions

- Sec. 1291. Definitions.

Subtitle I—Technical and Conforming Amendments

- Sec. 1295. Conforming amendments.

Subtitle J—Economic Dispatch

- Sec. 1298. Economic dispatch.

TITLE XIII—ENERGY POLICY TAX INCENTIVES

- Sec. 1300. Short title; amendment to 1986 Code.

Subtitle A—Electricity Infrastructure

- Sec. 1301. Extension and modification of renewable electricity production credit.
- Sec. 1302. Application of section 45 credit to agricultural cooperatives.
- Sec. 1303. Clean renewable energy bonds.
- Sec. 1304. Treatment of income of certain electric cooperatives.
- Sec. 1305. Dispositions of transmission property to implement FERC restructuring policy.
- Sec. 1306. Credit for production from advanced nuclear power facilities.
- Sec. 1307. Credit for investment in clean coal facilities.
- Sec. 1308. Electric transmission property treated as 15-year property.
- Sec. 1309. Expansion of amortization for certain atmospheric pollution control facilities in connection with plants first placed in service after 1975.
- Sec. 1310. Modifications to special rules for nuclear decommissioning costs.
- Sec. 1311. Five-year net operating loss carryover for certain losses.

Subtitle B—Domestic Fossil Fuel Security

- Sec. 1321. Extension of credit for producing fuel from a nonconventional source for facilities producing coke or coke gas.
- Sec. 1322. Modification of credit for producing fuel from a nonconventional source.
- Sec. 1323. Temporary expensing for equipment used in refining of liquid fuels.
- Sec. 1324. Pass through to owners of deduction for capital costs incurred by small refiner cooperatives in complying with Environmental Protection Agency sulfur regulations.
- Sec. 1325. Natural gas distribution lines treated as 15-year property.
- Sec. 1326. Natural gas gathering lines treated as 7-year property.
- Sec. 1327. Arbitrage rules not to apply to prepayments for natural gas.
- Sec. 1328. Determination of small refiner exception to oil depletion deduction.
- Sec. 1329. Amortization of geological and geophysical expenditures.

Subtitle C—Conservation and Energy Efficiency Provisions

- Sec. 1331. Energy efficient commercial buildings deduction.
- Sec. 1332. Credit for construction of new energy efficient homes.
- Sec. 1333. Credit for certain nonbusiness energy property.
- Sec. 1334. Credit for energy efficient appliances.
- Sec. 1335. Credit for residential energy efficient property.
- Sec. 1336. Credit for business installation of qualified fuel cells and stationary microturbine power plants.
- Sec. 1337. Business solar investment tax credit.

Subtitle D—Alternative Motor Vehicles and Fuels Incentives

- Sec. 1341. Alternative motor vehicle credit.
- Sec. 1342. Credit for installation of alternative fueling stations.
- Sec. 1343. Reduced motor fuel excise tax on certain mixtures of diesel fuel.
- Sec. 1344. Extension of excise tax provisions and income tax credit for biodiesel.
- Sec. 1345. Small agri-biodiesel producer credit.
- Sec. 1346. Renewable diesel.
- Sec. 1347. Modification of small ethanol producer credit.
- Sec. 1348. Sunset of deduction for clean-fuel vehicles and certain refueling property.

Subtitle E—Additional Energy Tax Incentives

- Sec. 1351. Expansion of research credit.
- Sec. 1352. National Academy of Sciences study and report.
- Sec. 1353. Recycling study.

Subtitle F—Revenue Raising Provisions

- Sec. 1361. Oil Spill Liability Trust Fund financing rate.
- Sec. 1362. Extension of Leaking Underground Storage Tank Trust Fund financing rate.
- Sec. 1363. Modification of recapture rules for amortizable section 197 intangibles.
- Sec. 1364. Clarification of tire excise tax.

TITLE XIV—MISCELLANEOUS

Subtitle A—In General

- Sec. 1401. Sense of Congress on risk assessments.
- Sec. 1402. Energy production incentives.
- Sec. 1403. Regulation of certain oil used in transformers.
- Sec. 1404. Petrochemical and oil refinery facility health assessment.
- Sec. 1405. National Priority Project Designation.
- Sec. 1406. Cold cracking.
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Subtitle B—Set America Free

- Sec. 1421. Short title.
- Sec. 1422. Purpose.
- Sec. 1423. United States Commission on North American Energy Freedom.
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TITLE XV—ETHANOL AND MOTOR FUELS

Subtitle A—General Provisions

- Sec. 1501. Renewable content of gasoline.
- Sec. 1502. Findings.
- Sec. 1503. Claims filed after enactment.
- Sec. 1504. Elimination of oxygen content requirement for reformulated gasoline.
- Sec. 1505. Public health and environmental impacts of fuels and fuel additives.
- Sec. 1506. Analyses of motor vehicle fuel changes.
- Sec. 1507. Additional opt-in areas under reformulated gasoline program.
- Sec. 1508. Data collection.
- Sec. 1509. Fuel system requirements harmonization study.
- Sec. 1510. Commercial byproducts from municipal solid waste and cellulosic biomass loan guarantee program.
- Sec. 1511. Renewable fuel.
- Sec. 1512. Conversion assistance for cellulosic biomass, waste-derived ethanol, approved renewable fuels.
- Sec. 1513. Blending of compliant reformulated gasolines.
- Sec. 1514. Advanced biofuel technologies program.
- Sec. 1515. Waste-derived ethanol and biodiesel.
- Sec. 1516. Sugar ethanol loan guarantee program.

Subtitle B—Underground Storage Tank Compliance

- Sec. 1521. Short title.
- Sec. 1522. Leaking underground storage tanks.
- Sec. 1523. Inspection of underground storage tanks.
- Sec. 1524. Operator training.
- Sec. 1525. Remediation from oxygenated fuel additives.
- Sec. 1526. Release prevention, compliance, and enforcement.
- Sec. 1527. Delivery prohibition.
- Sec. 1528. Federal facilities.
- Sec. 1529. Tanks on tribal lands.
- Sec. 1530. Additional measures to protect groundwater.
- Sec. 1531. Authorization of appropriations.
- Sec. 1532. Conforming amendments.
- Sec. 1533. Technical amendments.

Subtitle C—Boutique Fuels

- Sec. 1541. Reducing the proliferation of boutique fuels.

TITLE XVI—CLIMATE CHANGE

Subtitle A—National Climate Change Technology Deployment

- Sec. 1601. Greenhouse gas intensity reducing technology strategies.

Subtitle B—Climate Change Technology Deployment in Developing Countries

Sec. 1611. Climate change technology deployment in developing countries.

TITLE XVII—INCENTIVES FOR INNOVATIVE TECHNOLOGIES

Sec. 1701. Definitions.

Sec. 1702. Terms and conditions.

Sec. 1703. Eligible projects.

Sec. 1704. Authorization of appropriations.

TITLE XVIII—STUDIES

Sec. 1801. Study on inventory of petroleum and natural gas storage.

Sec. 1802. Study of energy efficiency standards.

Sec. 1803. Telecommuting study.

Sec. 1804. LIHEAP Report.

Sec. 1805. Oil bypass filtration technology.

Sec. 1806. Total integrated thermal systems.

Sec. 1807. Report on energy integration with Latin America.

Sec. 1808. Low-volume gas reservoir study.

Sec. 1809. Investigation of gasoline prices.

Sec. 1810. Alaska natural gas pipeline.

Sec. 1811. Coal bed methane study.

Sec. 1812. Backup fuel capability study.

Sec. 1813. Indian land rights-of-way.

Sec. 1814. Mobility of scientific and technical personnel.

Sec. 1815. Interagency review of competition in the wholesale and retail markets for electric energy.

Sec. 1816. Study of rapid electrical grid restoration.

Sec. 1817. Study of distributed generation.

Sec. 1818. Natural gas supply shortage report.

Sec. 1819. Hydrogen participation study.

Sec. 1820. Overall employment in a hydrogen economy.

Sec. 1821. Study of best management practices for energy research and development programs.

Sec. 1822. Effect of electrical contaminants on reliability of energy production systems.

Sec. 1823. Alternative fuels reports.

Sec. 1824. Final action on refunds for excessive charges.

Sec. 1825. Fuel cell and hydrogen technology study.

Sec. 1826. Passive solar technologies.

Sec. 1827. Study of link between energy security and increases in vehicle miles traveled.

Sec. 1828. Science study on cumulative impacts of multiple offshore liquefied natural gas facilities.

Sec. 1829. Energy and water saving measures in congressional buildings.

Sec. 1830. Study of availability of skilled workers.

Sec. 1831. Review of Energy Policy Act of 1992 programs.

Sec. 1832. Study on the benefits of economic dispatch.

Sec. 1833. Renewable energy on Federal land.

Sec. 1834. Increased hydroelectric generation at existing Federal facilities.

Sec. 1835. Split-estate Federal oil and gas leasing and development practices.

Sec. 1836. Resolution of Federal resource development conflicts in the Powder River Basin.

Sec. 1837. National security review of international energy requirements.

Sec. 1838. Used oil re-refining study.

Sec. 1839. Transmission system monitoring.

Sec. 1840. Report identifying and describing the status of potential hydropower facilities.

42 USC 15801.

SEC. 2. DEFINITIONS.

Except as otherwise provided, in this Act:

(1) DEPARTMENT.—The term “Department” means the Department of Energy.

(2) INSTITUTION OF HIGHER EDUCATION.—

(A) IN GENERAL.—The term “institution of higher education” has the meaning given the term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

(B) INCLUSION.—The term “institution of higher education” includes an organization that—

(i) is organized, and at all times thereafter operated, exclusively for the benefit of, to perform the functions of, or to carry out the functions of one or more organizations referred to in subparagraph (A); and

(ii) is operated, supervised, or controlled by or in connection with one or more of those organizations.

(3) NATIONAL LABORATORY.—The term “National Laboratory” means any of the following laboratories owned by the Department:

- (A) Ames Laboratory.
- (B) Argonne National Laboratory.
- (C) Brookhaven National Laboratory.
- (D) Fermi National Accelerator Laboratory.
- (E) Idaho National Laboratory.
- (F) Lawrence Berkeley National Laboratory.
- (G) Lawrence Livermore National Laboratory.
- (H) Los Alamos National Laboratory.
- (I) National Energy Technology Laboratory.
- (J) National Renewable Energy Laboratory.
- (K) Oak Ridge National Laboratory.
- (L) Pacific Northwest National Laboratory.
- (M) Princeton Plasma Physics Laboratory.
- (N) Sandia National Laboratories.
- (O) Savannah River National Laboratory.
- (P) Stanford Linear Accelerator Center.
- (Q) Thomas Jefferson National Accelerator Facility.

(4) SECRETARY.—The term “Secretary” means the Secretary of Energy.

(5) SMALL BUSINESS CONCERN.—The term “small business concern” has the meaning given the term in section 3 of the Small Business Act (15 U.S.C. 632).

TITLE I—ENERGY EFFICIENCY

Subtitle A—Federal Programs

SEC. 101. ENERGY AND WATER SAVING MEASURES IN CONGRESSIONAL BUILDINGS.

(a) IN GENERAL.—Part 3 of title V of the National Energy Conservation Policy Act (42 U.S.C. 8251 et seq.) is amended by adding at the end the following:

“SEC. 552. ENERGY AND WATER SAVINGS MEASURES IN CONGRESSIONAL BUILDINGS. 42 USC 8259a.

“(a) IN GENERAL.—The Architect of the Capitol—

“(1) shall develop, update, and implement a cost-effective energy conservation and management plan (referred to in this section as the ‘plan’) for all facilities administered by Congress (referred to in this section as ‘congressional buildings’) to meet the energy performance requirements for Federal buildings established under section 543(a)(1); and

“(2) shall submit the plan to Congress, not later than 180 days after the date of enactment of this section. Deadline.

“(b) PLAN REQUIREMENTS.—The plan shall include—

“(1) a description of the life cycle cost analysis used to determine the cost-effectiveness of proposed energy efficiency projects;

“(2) a schedule of energy surveys to ensure complete surveys of all congressional buildings every 5 years to determine the cost and payback period of energy and water conservation measures;

“(3) a strategy for installation of life cycle cost-effective energy and water conservation measures;

“(4) the results of a study of the costs and benefits of installation of submetering in congressional buildings; and

“(5) information packages and ‘how-to’ guides for each Member and employing authority of Congress that detail simple, cost-effective methods to save energy and taxpayer dollars in the workplace.

“(c) ANNUAL REPORT.—The Architect of the Capitol shall submit to Congress annually a report on congressional energy management and conservation programs required under this section that describes in detail—

“(1) energy expenditures and savings estimates for each facility;

“(2) energy management and conservation projects; and

“(3) future priorities to ensure compliance with this section.”.

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents of the National Energy Conservation Policy Act is amended by adding at the end of the items relating to part 3 of title V the following new item:

“Sec. 552. Energy and water savings measures in congressional buildings.”.

(c) REPEAL.—Section 310 of the Legislative Branch Appropriations Act, 1999 (2 U.S.C. 1815), is repealed.

SEC. 102. ENERGY MANAGEMENT REQUIREMENTS.

(a) ENERGY REDUCTION GOALS.—

(1) AMENDMENT.—Section 543(a)(1) of the National Energy Conservation Policy Act (42 U.S.C. 8253(a)(1)) is amended by striking “its Federal buildings so that” and all that follows through the end and inserting “the Federal buildings of the agency (including each industrial or laboratory facility) so that the energy consumption per gross square foot of the Federal buildings of the agency in fiscal years 2006 through 2015 is reduced, as compared with the energy consumption per gross square foot of the Federal buildings of the agency in fiscal year 2003, by the percentage specified in the following table:

“Fiscal Year	Percentage reduction
2006	2
2007	4
2008	6
2009	8
2010	10
2011	12
2012	14
2013	16
2014	18
2015	20.”.

(2) REPORTING BASELINE.—The energy reduction goals and baseline established in paragraph (1) of section 543(a) of the

National Energy Conservation Policy Act (42 U.S.C. 8253(a)(1)), as amended by this subsection, supersede all previous goals and baselines under such paragraph, and related reporting requirements.

(b) REVIEW AND REVISION OF ENERGY PERFORMANCE REQUIREMENT.—Section 543(a) of the National Energy Conservation Policy Act (42 U.S.C. 8253(a)) is further amended by adding at the end the following:

“(3) Not later than December 31, 2014, the Secretary shall review the results of the implementation of the energy performance requirement established under paragraph (1) and submit to Congress recommendations concerning energy performance requirements for fiscal years 2016 through 2025.”.

Deadline.

(c) EXCLUSIONS.—Section 543(c)(1) of the National Energy Conservation Policy Act (42 U.S.C. 8253(c)(1)) is amended by striking “An agency may exclude” and all that follows through the end and inserting “(A) An agency may exclude, from the energy performance requirement for a fiscal year established under subsection (a) and the energy management requirement established under subsection (b), any Federal building or collection of Federal buildings, if the head of the agency finds that—

“(i) compliance with those requirements would be impracticable;

“(ii) the agency has completed and submitted all federally required energy management reports;

“(iii) the agency has achieved compliance with the energy efficiency requirements of this Act, the Energy Policy Act of 1992, Executive orders, and other Federal law; and

“(iv) the agency has implemented all practicable, life cycle cost-effective projects with respect to the Federal building or collection of Federal buildings to be excluded.

“(B) A finding of impracticability under subparagraph (A)(i) shall be based on—

“(i) the energy intensiveness of activities carried out in the Federal building or collection of Federal buildings; or

“(ii) the fact that the Federal building or collection of Federal buildings is used in the performance of a national security function.”.

(d) REVIEW BY SECRETARY.—Section 543(c)(2) of the National Energy Conservation Policy Act (42 U.S.C. 8253(c)(2)) is amended—

(1) by striking “impracticability standards” and inserting “standards for exclusion”;

(2) by striking “a finding of impracticability” and inserting “the exclusion”; and

(3) by striking “energy consumption requirements” and inserting “requirements of subsections (a) and (b)(1)”.

(e) CRITERIA.—Section 543(c) of the National Energy Conservation Policy Act (42 U.S.C. 8253(c)) is further amended by adding at the end the following:

“(3) Not later than 180 days after the date of enactment of this paragraph, the Secretary shall issue guidelines that establish criteria for exclusions under paragraph (1).”.

Deadline.
Guidelines.

(f) RETENTION OF ENERGY AND WATER SAVINGS.—Section 546 of the National Energy Conservation Policy Act (42 U.S.C. 8256) is amended by adding at the end the following new subsection:

“(e) RETENTION OF ENERGY AND WATER SAVINGS.—An agency may retain any funds appropriated to that agency for energy

expenditures, water expenditures, or wastewater treatment expenditures, at buildings subject to the requirements of section 543(a) and (b), that are not made because of energy savings or water savings. Except as otherwise provided by law, such funds may be used only for energy efficiency, water conservation, or unconventional and renewable energy resources projects. Such projects shall be subject to the requirements of section 3307 of title 40, United States Code.”.

(g) **REPORTS.**—Section 548(b) of the National Energy Conservation Policy Act (42 U.S.C. 8258(b)) is amended—

(1) in the subsection heading, by inserting “THE PRESIDENT AND” before “CONGRESS”; and

(2) by inserting “President and” before “Congress”.

(h) **CONFORMING AMENDMENT.**—Section 550(d) of the National Energy Conservation Policy Act (42 U.S.C. 8258b(d)) is amended in the second sentence by striking “the 20 percent reduction goal established under section 543(a) of the National Energy Conservation Policy Act (42 U.S.C. 8253(a)).” and inserting “each of the energy reduction goals established under section 543(a).”.

SEC. 103. ENERGY USE MEASUREMENT AND ACCOUNTABILITY.

Section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253) is further amended by adding at the end the following:

“(e) **METERING OF ENERGY USE.**—

“(1) **DEADLINE.**—By October 1, 2012, in accordance with guidelines established by the Secretary under paragraph (2), all Federal buildings shall, for the purposes of efficient use of energy and reduction in the cost of electricity used in such buildings, be metered. Each agency shall use, to the maximum extent practicable, advanced meters or advanced metering devices that provide data at least daily and that measure at least hourly consumption of electricity in the Federal buildings of the agency. Such data shall be incorporated into existing Federal energy tracking systems and made available to Federal facility managers.

“(2) **GUIDELINES.**—

“(A) **IN GENERAL.**—Not later than 180 days after the date of enactment of this subsection, the Secretary, in consultation with the Department of Defense, the General Services Administration, representatives from the metering industry, utility industry, energy services industry, energy efficiency industry, energy efficiency advocacy organizations, national laboratories, universities, and Federal facility managers, shall establish guidelines for agencies to carry out paragraph (1).

“(B) **REQUIREMENTS FOR GUIDELINES.**—The guidelines shall—

“(i) take into consideration—

“(I) the cost of metering and the reduced cost of operation and maintenance expected to result from metering;

“(II) the extent to which metering is expected to result in increased potential for energy management, increased potential for energy savings and energy efficiency improvement, and cost and

Deadline.

energy savings due to utility contract aggregation;
and

“(III) the measurement and verification protocols of the Department of Energy;

“(ii) include recommendations concerning the amount of funds and the number of trained personnel necessary to gather and use the metering information to track and reduce energy use;

“(iii) establish priorities for types and locations of buildings to be metered based on cost-effectiveness and a schedule of one or more dates, not later than 1 year after the date of issuance of the guidelines, on which the requirements specified in paragraph (1) shall take effect; and

“(iv) establish exclusions from the requirements specified in paragraph (1) based on the de minimis quantity of energy use of a Federal building, industrial process, or structure.

“(3) PLAN.—Not later than 6 months after the date guidelines are established under paragraph (2), in a report submitted by the agency under section 548(a), each agency shall submit to the Secretary a plan describing how the agency will implement the requirements of paragraph (1), including (A) how the agency will designate personnel primarily responsible for achieving the requirements and (B) demonstration by the agency, complete with documentation, of any finding that advanced meters or advanced metering devices, as defined in paragraph (1), are not practicable.”

Deadline.

SEC. 104. PROCUREMENT OF ENERGY EFFICIENT PRODUCTS.

(a) REQUIREMENTS.—Part 3 of title V of the National Energy Conservation Policy Act (42 U.S.C. 8251 et seq.), as amended by section 101, is amended by adding at the end the following:

“SEC. 553. FEDERAL PROCUREMENT OF ENERGY EFFICIENT PRODUCTS.

42 USC 8259b.

“(a) DEFINITIONS.—In this section:

“(1) AGENCY.—The term ‘agency’ has the meaning given that term in section 7902(a) of title 5, United States Code.

“(2) ENERGY STAR PRODUCT.—The term ‘Energy Star product’ means a product that is rated for energy efficiency under an Energy Star program.

“(3) ENERGY STAR PROGRAM.—The term ‘Energy Star program’ means the program established by section 324A of the Energy Policy and Conservation Act.

“(4) FEMP DESIGNATED PRODUCT.—The term ‘FEMP designated product’ means a product that is designated under the Federal Energy Management Program of the Department of Energy as being among the highest 25 percent of equivalent products for energy efficiency.

“(5) PRODUCT.—The term ‘product’ does not include any energy consuming product or system designed or procured for combat or combat-related missions.

“(b) PROCUREMENT OF ENERGY EFFICIENT PRODUCTS.—

“(1) REQUIREMENT.—To meet the requirements of an agency for an energy consuming product, the head of the agency shall, except as provided in paragraph (2), procure—

“(A) an Energy Star product; or

“(B) a FEMP designated product.

“(2) EXCEPTIONS.—The head of an agency is not required to procure an Energy Star product or FEMP designated product under paragraph (1) if the head of the agency finds in writing that—

“(A) an Energy Star product or FEMP designated product is not cost-effective over the life of the product taking energy cost savings into account; or

“(B) no Energy Star product or FEMP designated product is reasonably available that meets the functional requirements of the agency.

“(3) PROCUREMENT PLANNING.—The head of an agency shall incorporate into the specifications for all procurements involving energy consuming products and systems, including guide specifications, project specifications, and construction, renovation, and services contracts that include provision of energy consuming products and systems, and into the factors for the evaluation of offers received for the procurement, criteria for energy efficiency that are consistent with the criteria used for rating Energy Star products and for rating FEMP designated products.

“(c) LISTING OF ENERGY EFFICIENT PRODUCTS IN FEDERAL CATALOGS.—Energy Star products and FEMP designated products shall be clearly identified and prominently displayed in any inventory or listing of products by the General Services Administration or the Defense Logistics Agency. The General Services Administration or the Defense Logistics Agency shall supply only Energy Star products or FEMP designated products for all product categories covered by the Energy Star program or the Federal Energy Management Program, except in cases where the agency ordering a product specifies in writing that no Energy Star product or FEMP designated product is available to meet the buyer’s functional requirements, or that no Energy Star product or FEMP designated product is cost-effective for the intended application over the life of the product, taking energy cost savings into account.

Standards.

Deadline.

“(d) SPECIFIC PRODUCTS.—(1) In the case of electric motors of 1 to 500 horsepower, agencies shall select only premium efficient motors that meet a standard designated by the Secretary. The Secretary shall designate such a standard not later than 120 days after the date of the enactment of this section, after considering the recommendations of associated electric motor manufacturers and energy efficiency groups.

“(2) All Federal agencies are encouraged to take actions to maximize the efficiency of air conditioning and refrigeration equipment, including appropriate cleaning and maintenance, including the use of any system treatment or additive that will reduce the electricity consumed by air conditioning and refrigeration equipment. Any such treatment or additive must be—

“(A) determined by the Secretary to be effective in increasing the efficiency of air conditioning and refrigeration equipment without having an adverse impact on air conditioning performance (including cooling capacity) or equipment useful life;

“(B) determined by the Administrator of the Environmental Protection Agency to be environmentally safe; and

“(C) shown to increase seasonal energy efficiency ratio (SEER) or energy efficiency ratio (EER) when tested by the

National Institute of Standards and Technology according to Department of Energy test procedures without causing any adverse impact on the system, system components, the refrigerant or lubricant, or other materials in the system.

Results of testing described in subparagraph (C) shall be published in the Federal Register for public review and comment. For purposes of this section, a hardware device or primary refrigerant shall not be considered an additive.

Federal Register,
publication.

“(e) REGULATIONS.—Not later than 180 days after the date of the enactment of this section, the Secretary shall issue guidelines to carry out this section.”.

(b) CONFORMING AMENDMENT.—The table of contents of the National Energy Conservation Policy Act is further amended by inserting after the item relating to section 552 the following new item:

“Sec. 553. Federal procurement of energy efficient products.”.

SEC. 105. ENERGY SAVINGS PERFORMANCE CONTRACTS.

(a) EXTENSION.—Section 801(c) of the National Energy Conservation Policy Act (42 U.S.C. 8287(c)) is amended by striking “2006” and inserting “2016”.

(b) EXTENSION OF AUTHORITY.—Any energy savings performance contract entered into under section 801 of the National Energy Conservation Policy Act (42 U.S.C. 8287) after October 1, 2003, and before the date of enactment of this Act, shall be considered to have been entered into under that section.

42 USC 8257
note.

SEC. 106. VOLUNTARY COMMITMENTS TO REDUCE INDUSTRIAL ENERGY INTENSITY.

42 USC 15811.

(a) DEFINITION OF ENERGY INTENSITY.—In this section, the term “energy intensity” means the primary energy consumed for each unit of physical output in an industrial process.

(b) VOLUNTARY AGREEMENTS.—The Secretary may enter into voluntary agreements with one or more persons in industrial sectors that consume significant quantities of primary energy for each unit of physical output to reduce the energy intensity of the production activities of the persons.

(c) GOAL.—Voluntary agreements under this section shall have as a goal the reduction of energy intensity by not less than 2.5 percent each year during the period of calendar years 2007 through 2016.

(d) RECOGNITION.—The Secretary, in cooperation with other appropriate Federal agencies, shall develop mechanisms to recognize and publicize the achievements of participants in voluntary agreements under this section.

(e) TECHNICAL ASSISTANCE.—A person that enters into an agreement under this section and continues to make a good faith effort to achieve the energy efficiency goals specified in the agreement shall be eligible to receive from the Secretary a grant or technical assistance, as appropriate, to assist in the achievement of those goals.

(f) REPORT.—Not later than each of June 30, 2012, and June 30, 2017, the Secretary shall submit to Congress a report that—

(1) evaluates the success of the voluntary agreements under this section; and

(2) provides independent verification of a sample of the energy savings estimates provided by participating firms.

42 USC 15812.

SEC. 107. ADVANCED BUILDING EFFICIENCY TESTBED.

(a) **ESTABLISHMENT.**—The Secretary, in consultation with the Administrator of General Services, shall establish an Advanced Building Efficiency Testbed program for the development, testing, and demonstration of advanced engineering systems, components, and materials to enable innovations in building technologies. The program shall evaluate efficiency concepts for government and industry buildings, and demonstrate the ability of next generation buildings to support individual and organizational productivity and health (including by improving indoor air quality) as well as flexibility and technological change to improve environmental sustainability. Such program shall complement and not duplicate existing national programs.

(b) **PARTICIPANTS.**—The program established under subsection (a) shall be led by a university with the ability to combine the expertise from numerous academic fields including, at a minimum, intelligent workplaces and advanced building systems and engineering, electrical and computer engineering, computer science, architecture, urban design, and environmental and mechanical engineering. Such university shall partner with other universities and entities who have established programs and the capability of advancing innovative building efficiency technologies.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary to carry out this section \$6,000,000 for each of the fiscal years 2006 through 2008, to remain available until expended. For any fiscal year in which funds are expended under this section, the Secretary shall provide one-third of the total amount to the lead university described in subsection (b), and provide the remaining two-thirds to the other participants referred to in subsection (b) on an equal basis.

SEC. 108. INCREASED USE OF RECOVERED MINERAL COMPONENT IN FEDERALLY FUNDED PROJECTS INVOLVING PROCUREMENT OF CEMENT OR CONCRETE.

(a) **AMENDMENT.**—Subtitle F of the Solid Waste Disposal Act (42 U.S.C. 6961 et seq.) is amended by adding at the end the following:

42 USC 6966.

“INCREASED USE OF RECOVERED MINERAL COMPONENT IN FEDERALLY FUNDED PROJECTS INVOLVING PROCUREMENT OF CEMENT OR CONCRETE

“SEC. 6005. (a) **DEFINITIONS.**—In this section:

“(1) **AGENCY HEAD.**—The term ‘agency head’ means—

“(A) the Secretary of Transportation; and

“(B) the head of any other Federal agency that, on a regular basis, procures, or provides Federal funds to pay or assist in paying the cost of procuring, material for cement or concrete projects.

“(2) **CEMENT OR CONCRETE PROJECT.**—The term ‘cement or concrete project’ means a project for the construction or maintenance of a highway or other transportation facility or a Federal, State, or local government building or other public facility that—

“(A) involves the procurement of cement or concrete; and

“(B) is carried out, in whole or in part, using Federal funds.

“(3) RECOVERED MINERAL COMPONENT.—The term ‘recovered mineral component’ means—

“(A) ground granulated blast furnace slag, excluding lead slag;

“(B) coal combustion fly ash; and

“(C) any other waste material or byproduct recovered or diverted from solid waste that the Administrator, in consultation with an agency head, determines should be treated as recovered mineral component under this section for use in cement or concrete projects paid for, in whole or in part, by the agency head.

“(b) IMPLEMENTATION OF REQUIREMENTS.—

“(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Administrator and each agency head shall take such actions as are necessary to implement fully all procurement requirements and incentives in effect as of the date of enactment of this section (including guidelines under section 6002) that provide for the use of cement and concrete incorporating recovered mineral component in cement or concrete projects. Deadline.

“(2) PRIORITY.—In carrying out paragraph (1), an agency head shall give priority to achieving greater use of recovered mineral component in cement or concrete projects for which recovered mineral components historically have not been used or have been used only minimally.

“(3) FEDERAL PROCUREMENT REQUIREMENTS.—The Administrator and each agency head shall carry out this subsection in accordance with section 6002.

“(c) FULL IMPLEMENTATION STUDY.—

“(1) IN GENERAL.—The Administrator, in cooperation with the Secretary of Transportation and the Secretary of Energy, shall conduct a study to determine the extent to which procurement requirements, when fully implemented in accordance with subsection (b), may realize energy savings and environmental benefits attainable with substitution of recovered mineral component in cement used in cement or concrete projects.

“(2) MATTERS TO BE ADDRESSED.—The study shall—

“(A) quantify—

“(i) the extent to which recovered mineral components are being substituted for Portland cement, particularly as a result of procurement requirements; and

“(ii) the energy savings and environmental benefits associated with the substitution;

“(B) identify all barriers in procurement requirements to greater realization of energy savings and environmental benefits, including barriers resulting from exceptions from the law; and

“(C)(i) identify potential mechanisms to achieve greater substitution of recovered mineral component in types of cement or concrete projects for which recovered mineral components historically have not been used or have been used only minimally;

“(ii) evaluate the feasibility of establishing guidelines or standards for optimized substitution rates of recovered mineral component in those cement or concrete projects; and

“(iii) identify any potential environmental or economic effects that may result from greater substitution of recovered mineral component in those cement or concrete projects.

“(3) REPORT.—Not later than 30 months after the date of enactment of this section, the Administrator shall submit to Congress a report on the study.

Deadline.

“(d) ADDITIONAL PROCUREMENT REQUIREMENTS.—Unless the study conducted under subsection (c) identifies any effects or other problems described in subsection (c)(2)(C)(iii) that warrant further review or delay, the Administrator and each agency head shall, not later than 1 year after the date on which the report under subsection (c)(3) is submitted, take additional actions under this Act to establish procurement requirements and incentives that provide for the use of cement and concrete with increased substitution of recovered mineral component in the construction and maintenance of cement or concrete projects—

“(1) to realize more fully the energy savings and environmental benefits associated with increased substitution; and

“(2) to eliminate barriers identified under subsection (c)(2)(B).

“(e) EFFECT OF SECTION.—Nothing in this section affects the requirements of section 6002 (including the guidelines and specifications for implementing those requirements).”.

(b) CONFORMING AMENDMENT.—The table of contents of the Solid Waste Disposal Act is amended by adding after the item relating to section 6004 the following:

“Sec. 6005. Increased use of recovered mineral component in federally funded projects involving procurement of cement or concrete.”.

SEC. 109. FEDERAL BUILDING PERFORMANCE STANDARDS.

Section 305(a) of the Energy Conservation and Production Act (42 U.S.C. 6834(a)) is amended—

(1) in paragraph (2)(A), by striking “CABO Model Energy Code, 1992 (in the case of residential buildings) or ASHRAE Standard 90.1–1989” and inserting “the 2004 International Energy Conservation Code (in the case of residential buildings) or ASHRAE Standard 90.1–2004”; and

(2) by adding at the end the following:

Deadline.
Regulations.

“(3)(A) Not later than 1 year after the date of enactment of this paragraph, the Secretary shall establish, by rule, revised Federal building energy efficiency performance standards that require that—

“(i) if life-cycle cost-effective for new Federal buildings—

“(I) the buildings be designed to achieve energy consumption levels that are at least 30 percent below the levels established in the version of the ASHRAE Standard or the International Energy Conservation Code, as appropriate, that is in effect as of the date of enactment of this paragraph; and

“(II) sustainable design principles are applied to the siting, design, and construction of all new and replacement buildings; and

“(ii) if water is used to achieve energy efficiency, water conservation technologies shall be applied to the extent that the technologies are life-cycle cost-effective.

“(B) Not later than 1 year after the date of approval of each subsequent revision of the ASHRAE Standard or the International Energy Conservation Code, as appropriate, the Secretary shall determine, based on the cost-effectiveness of the requirements under the amendment, whether the revised standards established under this paragraph should be updated to reflect the amendment. Deadline.

“(C) In the budget request of the Federal agency for each fiscal year and each report submitted by the Federal agency under section 548(a) of the National Energy Conservation Policy Act (42 U.S.C. 8258(a)), the head of each Federal agency shall include—

“(i) a list of all new Federal buildings owned, operated, or controlled by the Federal agency; and

“(ii) a statement specifying whether the Federal buildings meet or exceed the revised standards established under this paragraph.”.

SEC. 110. DAYLIGHT SAVINGS.

(a) AMENDMENT.—Section 3(a) of the Uniform Time Act of 1966 (15 U.S.C. 260a(a)) is amended—

(1) by striking “first Sunday of April” and inserting “second Sunday of March”; and

(2) by striking “last Sunday of October” and inserting “first Sunday of November”.

(b) EFFECTIVE DATE.—Subsection (a) shall take effect 1 year after the date of enactment of this Act or March 1, 2007, whichever is later. 15 USC 260a note.

(c) REPORT TO CONGRESS.—Not later than 9 months after the effective date stated in subsection (b), the Secretary shall report to Congress on the impact of this section on energy consumption in the United States. 15 USC 260a note.

(d) RIGHT TO REVERT.—Congress retains the right to revert the Daylight Saving Time back to the 2005 time schedules once the Department study is complete.

SEC. 111. ENHANCING ENERGY EFFICIENCY IN MANAGEMENT OF FEDERAL LANDS. 42 USC 15813.

(a) SENSE OF THE CONGRESS.—It is the sense of the Congress that Federal agencies should enhance the use of energy efficient technologies in the management of natural resources.

(b) ENERGY EFFICIENT BUILDINGS.—To the extent practicable, the Secretary of the Interior, the Secretary of Commerce, and the Secretary of Agriculture shall seek to incorporate energy efficient technologies in public and administrative buildings associated with management of the National Park System, National Wildlife Refuge System, National Forest System, National Marine Sanctuaries System, and other public lands and resources managed by the Secretaries.

(c) ENERGY EFFICIENT VEHICLES.—To the extent practicable, the Secretary of the Interior, the Secretary of Commerce, and the Secretary of Agriculture shall seek to use energy efficient motor vehicles, including vehicles equipped with biodiesel or hybrid engine technologies, in the management of the National Park System, National Wildlife Refuge System, National Forest System, National Marine Sanctuaries System, and other public lands and resources managed by the Secretaries.

Subtitle B—Energy Assistance and State Programs

SEC. 121. LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM.

(a) **AUTHORIZATION OF APPROPRIATIONS.**—Section 2602(b) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621(b)) is amended by striking “and \$2,000,000,000 for each of fiscal years 2002 through 2004” and inserting “and \$5,100,000,000 for each of fiscal years 2005 through 2007”.

(b) **RENEWABLE FUELS.**—The Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.) is amended by adding at the end the following new section:

“RENEWABLE FUELS

42 USC 8630.

“SEC. 2612. In providing assistance pursuant to this title, a State, or any other person with which the State makes arrangements to carry out the purposes of this title, may purchase renewable fuels, including biomass.”.

42 USC 8630
note.

(c) **REPORT TO CONGRESS.**—The Secretary shall report to Congress on the use of renewable fuels in providing assistance under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.).

SEC. 122. WEATHERIZATION ASSISTANCE.

(a) **AUTHORIZATION OF APPROPRIATIONS.**—Section 422 of the Energy Conservation and Production Act (42 U.S.C. 6872) is amended by striking “for fiscal years 1999 through 2003 such sums as may be necessary” and inserting “\$500,000,000 for fiscal year 2006, \$600,000,000 for fiscal year 2007, and \$700,000,000 for fiscal year 2008”.

(b) **ELIGIBILITY.**—Section 412(7) of the Energy Conservation and Production Act (42 U.S.C. 6862(7)) is amended by striking “125 percent” both places it appears and inserting “150 percent”.

SEC. 123. STATE ENERGY PROGRAMS.

(a) **STATE ENERGY CONSERVATION PLANS.**—Section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6322) is amended by inserting at the end the following new subsection:

“(g) The Secretary shall, at least once every 3 years, invite the Governor of each State to review and, if necessary, revise the energy conservation plan of such State submitted under subsection (b) or (e). Such reviews should consider the energy conservation plans of other States within the region, and identify opportunities and actions carried out in pursuit of common energy conservation goals.”.

(b) **STATE ENERGY EFFICIENCY GOALS.**—Section 364 of the Energy Policy and Conservation Act (42 U.S.C. 6324) is amended to read as follows:

“STATE ENERGY EFFICIENCY GOALS

“SEC. 364. Each State energy conservation plan with respect to which assistance is made available under this part on or after the date of enactment of the Energy Policy Act of 2005 shall contain a goal, consisting of an improvement of 25 percent or more in the efficiency of use of energy in the State concerned

in calendar year 2012 as compared to calendar year 1990, and may contain interim goals.”.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 365(f) of the Energy Policy and Conservation Act (42 U.S.C. 6325(f)) is amended by striking “for fiscal years 1999 through 2003 such sums as may be necessary” and inserting “\$100,000,000 for each of the fiscal years 2006 and 2007 and \$125,000,000 for fiscal year 2008”.

SEC. 124. ENERGY EFFICIENT APPLIANCE REBATE PROGRAMS.

42 USC 15821.

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE STATE.—The term “eligible State” means a State that meets the requirements of subsection (b).

(2) ENERGY STAR PROGRAM.—The term “Energy Star program” means the program established by section 324A of the Energy Policy and Conservation Act.

(3) RESIDENTIAL ENERGY STAR PRODUCT.—The term “residential Energy Star product” means a product for a residence that is rated for energy efficiency under the Energy Star program.

(4) STATE ENERGY OFFICE.—The term “State energy office” means the State agency responsible for developing State energy conservation plans under section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6322).

(5) STATE PROGRAM.—The term “State program” means a State energy efficient appliance rebate program described in subsection (b)(1).

(b) ELIGIBLE STATES.—A State shall be eligible to receive an allocation under subsection (c) if the State—

(1) establishes (or has established) a State energy efficient appliance rebate program to provide rebates to residential consumers for the purchase of residential Energy Star products to replace used appliances of the same type;

(2) submits an application for the allocation at such time, in such form, and containing such information as the Secretary may require; and

(3) provides assurances satisfactory to the Secretary that the State will use the allocation to supplement, but not supplant, funds made available to carry out the State program.

(c) AMOUNT OF ALLOCATIONS.—

(1) IN GENERAL.—Subject to paragraph (2), for each fiscal year, the Secretary shall allocate to the State energy office of each eligible State to carry out subsection (d) an amount equal to the product obtained by multiplying the amount made available under subsection (f) for the fiscal year by the ratio that the population of the State in the most recent calendar year for which data are available bears to the total population of all eligible States in that calendar year.

(2) MINIMUM ALLOCATIONS.—For each fiscal year, the amounts allocated under this subsection shall be adjusted proportionately so that no eligible State is allocated a sum that is less than an amount determined by the Secretary.

(d) USE OF ALLOCATED FUNDS.—The allocation to a State energy office under subsection (c) may be used to pay up to 50 percent of the cost of establishing and carrying out a State program.

(e) ISSUANCE OF REBATES.—Rebates may be provided to residential consumers that meet the requirements of the State program.

The amount of a rebate shall be determined by the State energy office, taking into consideration—

(1) the amount of the allocation to the State energy office under subsection (c);

(2) the amount of any Federal or State tax incentive available for the purchase of the residential Energy Star product; and

(3) the difference between the cost of the residential Energy Star product and the cost of an appliance that is not a residential Energy Star product, but is of the same type as, and is the nearest capacity, performance, and other relevant characteristics (as determined by the State energy office) to, the residential Energy Star product.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section \$50,000,000 for each of the fiscal years 2006 through 2010.

42 USC 15822.

SEC. 125. ENERGY EFFICIENT PUBLIC BUILDINGS.

(a) GRANTS.—The Secretary may make grants to the State agency responsible for developing State energy conservation plans under section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6322), or, if no such agency exists, a State agency designated by the Governor of the State, to assist units of local government in the State in improving the energy efficiency of public buildings and facilities—

(1) through construction of new energy efficient public buildings that use at least 30 percent less energy than a comparable public building constructed in compliance with standards prescribed in the most recent version of the International Energy Conservation Code, or a similar State code intended to achieve substantially equivalent efficiency levels; or

(2) through renovation of existing public buildings to achieve reductions in energy use of at least 30 percent as compared to the baseline energy use in such buildings prior to renovation, assuming a 3-year, weather-normalized average for calculating such baseline.

(b) ADMINISTRATION.—State energy offices receiving grants under this section shall—

Records.

(1) maintain such records and evidence of compliance as the Secretary may require; and

(2) develop and distribute information and materials and conduct programs to provide technical services and assistance to encourage planning, financing, and design of energy efficient public buildings by units of local government.

(c) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this section, there are authorized to be appropriated to the Secretary \$30,000,000 for each of fiscal years 2006 through 2010. Not more than 10 percent of appropriated funds shall be used for administration.

42 USC 15823.

SEC. 126. LOW INCOME COMMUNITY ENERGY EFFICIENCY PILOT PROGRAM.

(a) GRANTS.—The Secretary is authorized to make grants to units of local government, private, non-profit community development organizations, and Indian tribe economic development entities to improve energy efficiency; identify and develop alternative, renewable, and distributed energy supplies; and increase energy conservation in low income rural and urban communities.

(b) **PURPOSE OF GRANTS.**—The Secretary may make grants on a competitive basis for—

(1) investments that develop alternative, renewable, and distributed energy supplies;

(2) energy efficiency projects and energy conservation programs;

(3) studies and other activities that improve energy efficiency in low income rural and urban communities;

(4) planning and development assistance for increasing the energy efficiency of buildings and facilities; and

(5) technical and financial assistance to local government and private entities on developing new renewable and distributed sources of power or combined heat and power generation.

(c) **DEFINITION.**—For purposes of this section, the term “Indian tribe” means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—For the purposes of this section there are authorized to be appropriated to the Secretary \$20,000,000 for each of fiscal years 2006 through 2008.

SEC. 127. STATE TECHNOLOGIES ADVANCEMENT COLLABORATIVE.

42 USC 15824.

(a) **IN GENERAL.**—The Secretary, in cooperation with the States, shall establish a cooperative program for research, development, demonstration, and deployment of technologies in which there is a common Federal and State energy efficiency, renewable energy, and fossil energy interest, to be known as the “State Technologies Advancement Collaborative” (referred to in this section as the “Collaborative”).

(b) **DUTIES.**—The Collaborative shall—

(1) leverage Federal and State funding through cost-shared activity;

(2) reduce redundancies in Federal and State funding; and

(3) create multistate projects to be awarded through a competitive process.

(c) **ADMINISTRATION.**—The Collaborative shall be administered through an agreement between the Department and appropriate State-based organizations.

(d) **FUNDING SOURCES.**—Funding for the Collaborative may be provided from—

(1) amounts specifically appropriated for the Collaborative;

or

(2) amounts that may be allocated from other appropriations without changing the purpose for which the amounts are appropriated.

(e) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to carry out this section such sums as are necessary for each of fiscal years 2006 through 2010.

SEC. 128. STATE BUILDING ENERGY EFFICIENCY CODES INCENTIVES.

Section 304(e) of the Energy Conservation and Production Act (42 U.S.C. 6833(e)) is amended—

(1) in paragraph (1), by inserting before the period at the end of the first sentence the following: “, including increasing and verifying compliance with such codes”; and

(2) by striking paragraph (2) and inserting the following: “(2) Additional funding shall be provided under this subsection for implementation of a plan to achieve and document at least a 90 percent rate of compliance with residential and commercial building energy efficiency codes, based on energy performance—

“(A) to a State that has adopted and is implementing, on a statewide basis—

“(i) a residential building energy efficiency code that meets or exceeds the requirements of the 2004 International Energy Conservation Code, or any succeeding version of that code that has received an affirmative determination from the Secretary under subsection (a)(5)(A); and

“(ii) a commercial building energy efficiency code that meets or exceeds the requirements of the ASHRAE Standard 90.1–2004, or any succeeding version of that standard that has received an affirmative determination from the Secretary under subsection (b)(2)(A); or

“(B) in a State in which there is no statewide energy code either for residential buildings or for commercial buildings, to a local government that has adopted and is implementing residential and commercial building energy efficiency codes, as described in subparagraph (A).

“(3) Of the amounts made available under this subsection, the Secretary may use \$500,000 for each fiscal year to train State and local officials to implement codes described in paragraph (2).

“(4)(A) There are authorized to be appropriated to carry out this subsection—

“(i) \$25,000,000 for each of fiscal years 2006 through 2010; and

“(ii) such sums as are necessary for fiscal year 2011 and each fiscal year thereafter.

“(B) Funding provided to States under paragraph (2) for each fiscal year shall not exceed one-half of the excess of funding under this subsection over \$5,000,000 for the fiscal year.”.

Appropriation
authorization.

Subtitle C—Energy Efficient Products

SEC. 131. ENERGY STAR PROGRAM.

(a) IN GENERAL.—The Energy Policy and Conservation Act is amended by inserting after section 324 (42 U.S.C. 6294) the following:

“ENERGY STAR PROGRAM

42 USC 6294a.

“SEC. 324A. (a) IN GENERAL.—There is established within the Department of Energy and the Environmental Protection Agency a voluntary program to identify and promote energy-efficient products and buildings in order to reduce energy consumption, improve energy security, and reduce pollution through voluntary labeling of, or other forms of communication about, products and buildings that meet the highest energy conservation standards.

“(b) DIVISION OF RESPONSIBILITIES.—Responsibilities under the program shall be divided between the Department of Energy and

the Environmental Protection Agency in accordance with the terms of applicable agreements between those agencies.

“(c) DUTIES.—The Administrator and the Secretary shall—

“(1) promote Energy Star compliant technologies as the preferred technologies in the marketplace for—

“(A) achieving energy efficiency; and

“(B) reducing pollution;

“(2) work to enhance public awareness of the Energy Star label, including by providing special outreach to small businesses;

“(3) preserve the integrity of the Energy Star label;

“(4) regularly update Energy Star product criteria for product categories;

“(5) solicit comments from interested parties prior to establishing or revising an Energy Star product category, specification, or criterion (or prior to effective dates for any such product category, specification, or criterion);

“(6) on adoption of a new or revised product category, specification, or criterion, provide reasonable notice to interested parties of any changes (including effective dates) in product categories, specifications, or criteria, along with—

“(A) an explanation of the changes; and

“(B) as appropriate, responses to comments submitted by interested parties; and

“(7) provide appropriate lead time (which shall be 270 days, unless the Agency or Department specifies otherwise) prior to the applicable effective date for a new or a significant revision to a product category, specification, or criterion, taking into account the timing requirements of the manufacturing, product marketing, and distribution process for the specific product addressed.

“(d) DEADLINES.—The Secretary shall establish new qualifying levels—

“(1) not later than January 1, 2006, for clothes washers and dishwashers, effective beginning January 1, 2007; and

“(2) not later than January 1, 2008, for clothes washers, effective beginning January 1, 2010.”.

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents of the Energy Policy and Conservation Act (42 U.S.C. prec. 6201) is amended by inserting after the item relating to section 324 the following:

“Sec. 324A. Energy Star program.”.

SEC. 132. HVAC MAINTENANCE CONSUMER EDUCATION PROGRAM.

Section 337 of the Energy Policy and Conservation Act (42 U.S.C. 6307) is amended by adding at the end the following:

“(c) HVAC MAINTENANCE.—(1) To ensure that installed air conditioning and heating systems operate at maximum rated efficiency levels, the Secretary shall, not later than 180 days after the date of enactment of this subsection, carry out a program to educate homeowners and small business owners concerning the energy savings from properly conducted maintenance of air conditioning, heating, and ventilating systems.

Deadline.

“(2) The Secretary shall carry out the program under paragraph (1), on a cost-shared basis, in cooperation with the Administrator of the Environmental Protection Agency and any other entities that the Secretary determines to be appropriate, including industry

trade associations, industry members, and energy efficiency organizations.

“(d) SMALL BUSINESS EDUCATION AND ASSISTANCE.—(1) The Administrator of the Small Business Administration, in consultation with the Secretary and the Administrator of the Environmental Protection Agency, shall develop and coordinate a Government-wide program, building on the Energy Star for Small Business Program, to assist small businesses in—

“(A) becoming more energy efficient;

“(B) understanding the cost savings from improved energy efficiency;

“(C) understanding and accessing Federal procurement opportunities with regard to Energy Star technologies and products; and

“(D) identifying financing options for energy efficiency upgrades.

“(2) The Secretary, the Administrator of the Environmental Protection Agency, and the Administrator of the Small Business Administration shall—

“(A) make program information available to small business concerns directly through the district offices and resource partners of the Small Business Administration, including small business development centers, women’s business centers, and the Service Corps of Retired Executives (SCORE), and through other Federal agencies, including the Federal Emergency Management Agency and the Department of Agriculture; and

“(B) coordinate assistance with the Secretary of Commerce for manufacturing-related efforts, including the Manufacturing Extension Partnership Program.

“(3) The Secretary, on a cost shared basis in cooperation with the Administrator of the Environmental Protection Agency, shall provide to the Small Business Administration all advertising, marketing, and other written materials necessary for the dissemination of information under paragraph (2).

“(4) The Secretary, the Administrator of the Environmental Protection Agency, and the Administrator of the Small Business Administration, as part of the outreach to small business concerns under the Energy Star Program for Small Business Program, may enter into cooperative agreements with qualified resources partners (including the National Center for Appropriate Technology) to establish, maintain, and promote a Small Business Energy Clearinghouse (in this subsection referred to as the ‘Clearinghouse’).

“(5) The Secretary, the Administrator of the Environmental Protection Agency, and the Administrator of the Small Business Administration shall ensure that the Clearinghouse provides a centralized resource where small business concerns may access, telephonically and electronically, technical information and advice to help increase energy efficiency and reduce energy costs.

“(6) There are authorized to be appropriated such sums as are necessary to carry out this subsection, to remain available until expended.”.

Appropriation
authorization.

42 USC 15831.

Deadline.

SEC. 133. PUBLIC ENERGY EDUCATION PROGRAM.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall convene an organizational conference for the purpose of establishing an ongoing, self-sustaining national public energy education program.

(b) **PARTICIPANTS.**—The Secretary shall invite to participate in the conference individuals and entities representing all aspects of energy production and distribution, including—

- (1) industrial firms;
- (2) professional societies;
- (3) educational organizations;
- (4) trade associations; and
- (5) governmental agencies.

(c) **PURPOSE, SCOPE, AND STRUCTURE.**—

(1) **PURPOSE.**—The purpose of the conference shall be to establish an ongoing, self-sustaining national public energy education program to examine and recognize interrelationships between energy sources in all forms, including—

- (A) conservation and energy efficiency;
- (B) the role of energy use in the economy; and
- (C) the impact of energy use on the environment.

(2) **SCOPE AND STRUCTURE.**—Taking into consideration the purpose described in paragraph (1), the participants in the conference invited under subsection (b) shall design the scope and structure of the program described in subsection (a).

(d) **TECHNICAL ASSISTANCE.**—The Secretary shall provide technical assistance and other guidance necessary to carry out the program described in subsection (a).

(e) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 134. ENERGY EFFICIENCY PUBLIC INFORMATION INITIATIVE.

42 USC 15832.

(a) **IN GENERAL.**—The Secretary shall carry out a comprehensive national program, including advertising and media awareness, to inform consumers about—

(1) the need to reduce energy consumption during the 4-year period beginning on the date of enactment of this Act;

(2) the benefits to consumers of reducing consumption of electricity, natural gas, and petroleum, particularly during peak use periods;

(3) the importance of low energy costs to economic growth and preserving manufacturing jobs in the United States; and

(4) practical, cost-effective measures that consumers can take to reduce consumption of electricity, natural gas, and gasoline, including—

- (A) maintaining and repairing heating and cooling ducts and equipment;
- (B) weatherizing homes and buildings;
- (C) purchasing energy efficient products; and
- (D) proper tire maintenance.

(b) **COOPERATION.**—The program carried out under subsection (a) shall—

(1) include collaborative efforts with State and local government officials and the private sector; and

(2) incorporate, to the maximum extent practicable, successful State and local public education programs.

(c) **REPORT.**—Not later than July 1, 2009, the Secretary shall submit to Congress a report describing the effectiveness of the program under this section.

(d) **TERMINATION OF AUTHORITY.**—The program carried out under this section shall terminate on December 31, 2010.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$90,000,000 for each of fiscal years 2006 through 2010.

SEC. 135. ENERGY CONSERVATION STANDARDS FOR ADDITIONAL PRODUCTS.

(a) DEFINITIONS.—Section 321 of the Energy Policy and Conservation Act (42 U.S.C. 6291) is amended—

(1) in paragraph (29)—

(A) in subparagraph (D)—

(i) in clause (i), by striking “C78.1-1978(R1984)” and inserting “C78.81-2003 (Data Sheet 7881-ANSI-1010-1)”;

(ii) in clause (ii), by striking “C78.1-1978(R1984)” and inserting “C78.81-2003 (Data Sheet 7881-ANSI-3007-1)”;

(iii) in clause (iii), by striking “C78.1-1978(R1984)” and inserting “C78.81-2003 (Data Sheet 7881-ANSI-1019-1)”;

(B) by adding at the end the following:

“(M) The term ‘F34T12 lamp’ (also known as a ‘F40T12/ES lamp’) means a nominal 34 watt tubular fluorescent lamp that is 48 inches in length and 1½ inches in diameter, and conforms to ANSI standard C78.81-2003 (Data Sheet 7881-ANSI-1006-1).

“(N) The term ‘F96T12/ES lamp’ means a nominal 60 watt tubular fluorescent lamp that is 96 inches in length and 1½ inches in diameter, and conforms to ANSI standard C78.81-2003 (Data Sheet 7881-ANSI-3006-1).

“(O) The term ‘F96T12HO/ES lamp’ means a nominal 95 watt tubular fluorescent lamp that is 96 inches in length and 1½ inches in diameter, and conforms to ANSI standard C78.81-2003 (Data Sheet 7881-ANSI-1017-1).

“(P) The term ‘replacement ballast’ means a ballast that—

“(i) is designed for use to replace an existing ballast in a previously installed luminaire;

“(ii) is marked ‘FOR REPLACEMENT USE ONLY’;

“(iii) is shipped by the manufacturer in packages containing not more than 10 ballasts; and

“(iv) has output leads that when fully extended are a total length that is less than the length of the lamp with which the ballast is intended to be operated.”;

(2) in paragraph (30)(S)—

(A) by inserting “(i)” before “The term”; and

(B) by adding at the end the following:

“(ii) The term ‘medium base compact fluorescent lamp’ does not include—

“(I) any lamp that is—

“(aa) specifically designed to be used for special purpose applications; and

“(bb) unlikely to be used in general purpose applications, such as the applications described in subparagraph (D); or

“(II) any lamp not described in subparagraph (D) that is excluded by the Secretary, by rule, because the lamp is—

“(aa) designed for special applications; and

“(bb) unlikely to be used in general purpose applications.”; and

(3) by adding at the end the following:

“(32) The term ‘battery charger’ means a device that charges batteries for consumer products, including battery chargers embedded in other consumer products.

“(33)(A) The term ‘commercial prerinse spray valve’ means a handheld device designed and marketed for use with commercial dishwashing and ware washing equipment that sprays water on dishes, flatware, and other food service items for the purpose of removing food residue before cleaning the items.

“(B) The Secretary may modify the definition of ‘commercial prerinse spray valve’ by rule—

“(i) to include products—

“(I) that are extensively used in conjunction with commercial dishwashing and ware washing equipment;

“(II) the application of standards to which would result in significant energy savings; and

“(III) the application of standards to which would meet the criteria specified in section 325(o)(4); and

“(ii) to exclude products—

“(I) that are used for special food service applications;

“(II) that are unlikely to be widely used in conjunction with commercial dishwashing and ware washing equipment; and

“(III) the application of standards to which would not result in significant energy savings.

“(34) The term ‘dehumidifier’ means a self-contained, electrically operated, and mechanically encased assembly consisting of—

“(A) a refrigerated surface (evaporator) that condenses moisture from the atmosphere;

“(B) a refrigerating system, including an electric motor;

“(C) an air-circulating fan; and

“(D) means for collecting or disposing of the condensate.

“(35)(A) The term ‘distribution transformer’ means a transformer that—

“(i) has an input voltage of 34.5 kilovolts or less;

“(ii) has an output voltage of 600 volts or less; and

“(iii) is rated for operation at a frequency of 60 Hertz.

“(B) The term ‘distribution transformer’ does not include—

“(i) a transformer with multiple voltage taps, the highest of which equals at least 20 percent more than the lowest;

“(ii) a transformer that is designed to be used in a special purpose application and is unlikely to be used in general purpose applications, such as a drive transformer, rectifier transformer, auto-transformer, Uninterruptible Power System transformer, impedance transformer, regulating transformer, sealed and nonventilating transformer, machine tool transformer, welding transformer, grounding transformer, or testing transformer; or

“(iii) any transformer not listed in clause (ii) that is excluded by the Secretary by rule because—

“(I) the transformer is designed for a special application;

“(II) the transformer is unlikely to be used in general purpose applications; and

“(III) the application of standards to the transformer would not result in significant energy savings.

“(36) The term ‘external power supply’ means an external power supply circuit that is used to convert household electric current into DC current or lower-voltage AC current to operate a consumer product.

“(37) The term ‘illuminated exit sign’ means a sign that—

“(A) is designed to be permanently fixed in place to identify an exit; and

“(B) consists of an electrically powered integral light source that—

“(i) illuminates the legend ‘EXIT’ and any directional indicators; and

“(ii) provides contrast between the legend, any directional indicators, and the background.

“(38) The term ‘low-voltage dry-type distribution transformer’ means a distribution transformer that—

“(A) has an input voltage of 600 volts or less;

“(B) is air-cooled; and

“(C) does not use oil as a coolant.

“(39) The term ‘pedestrian module’ means a light signal used to convey movement information to pedestrians.

“(40) The term ‘refrigerated bottled or canned beverage vending machine’ means a commercial refrigerator that cools bottled or canned beverages and dispenses the bottled or canned beverages on payment.

“(41) The term ‘standby mode’ means the lowest power consumption mode, as established on an individual product basis by the Secretary, that—

“(A) cannot be switched off or influenced by the user;

and

“(B) may persist for an indefinite time when an appliance is—

“(i) connected to the main electricity supply; and

“(ii) used in accordance with the instructions of the manufacturer.

“(42) The term ‘torchiere’ means a portable electric lamp with a reflector bowl that directs light upward to give indirect illumination.

“(43) The term ‘traffic signal module’ means a standard 8-inch (200mm) or 12-inch (300mm) traffic signal indication that—

“(A) consists of a light source, a lens, and all other parts necessary for operation; and

“(B) communicates movement messages to drivers through red, amber, and green colors.

“(44) The term ‘transformer’ means a device consisting of 2 or more coils of insulated wire that transfers alternating current by electromagnetic induction from 1 coil to another to change the original voltage or current value.

“(45)(A) The term ‘unit heater’ means a self-contained fan-type heater designed to be installed within the heated space.

“(B) The term ‘unit heater’ does not include a warm air furnace.

“(46)(A) The term ‘high intensity discharge lamp’ means an electric-discharge lamp in which—

“(i) the light-producing arc is stabilized by bulb wall temperature; and

“(ii) the arc tube has a bulb wall loading in excess of 3 Watts/cm².

“(B) The term ‘high intensity discharge lamp’ includes mercury vapor, metal halide, and high-pressure sodium lamps described in subparagraph (A).

“(47)(A) The term ‘mercury vapor lamp’ means a high intensity discharge lamp in which the major portion of the light is produced by radiation from mercury operating at a partial pressure in excess of 100,000 Pa (approximately 1 atm).

“(B) The term ‘mercury vapor lamp’ includes clear, phosphor-coated, and self-ballasted lamps described in subparagraph (A).

“(48) The term ‘mercury vapor lamp ballast’ means a device that is designed and marketed to start and operate mercury vapor lamps by providing the necessary voltage and current.

“(49) The term ‘ceiling fan’ means a nonportable device that is suspended from a ceiling for circulating air via the rotation of fan blades.

“(50) The term ‘ceiling fan light kit’ means equipment designed to provide light from a ceiling fan that can be—

“(A) integral, such that the equipment is attached to the ceiling fan prior to the time of retail sale; or

“(B) attachable, such that at the time of retail sale the equipment is not physically attached to the ceiling fan, but may be included inside the ceiling fan at the time of sale or sold separately for subsequent attachment to the fan.

“(51) The term ‘medium screw base’ means an Edison screw base identified with the prefix E-26 in the ‘American National Standard for Electric Lamp Bases’, ANSI/IEC C81.61-2003, published by the American National Standards Institute.”.

(b) TEST PROCEDURES.—Section 323 of the Energy Policy and Conservation Act (42 U.S.C. 6293) is amended—

(1) in subsection (b), by adding at the end the following:

“(9) Test procedures for illuminated exit signs shall be based on the test method used under version 2.0 of the Energy Star program of the Environmental Protection Agency for illuminated exit signs.

“(10)(A) Test procedures for distribution transformers and low voltage dry-type distribution transformers shall be based on the ‘Standard Test Method for Measuring the Energy Consumption of Distribution Transformers’ prescribed by the National Electrical Manufacturers Association (NEMA TP 2-1998).

“(B) The Secretary may review and revise the test procedures established under subparagraph (A).

“(C) For purposes of section 346(a), the test procedures established under subparagraph (A) shall be considered to be the testing requirements prescribed by the Secretary under section 346(a)(1) for distribution transformers for which the Secretary makes a determination that energy conservation standards would—

“(i) be technologically feasible and economically justified;

and

“(ii) result in significant energy savings.

“(11) Test procedures for traffic signal modules and pedestrian modules shall be based on the test method used under the Energy Star program of the Environmental Protection Agency for traffic signal modules, as in effect on the date of enactment of this paragraph.

“(12)(A) Test procedures for medium base compact fluorescent lamps shall be based on the test methods for compact fluorescent lamps used under the August 9, 2001, version of the Energy Star program of the Environmental Protection Agency and the Department of Energy.

“(B) Except as provided in subparagraph (C), medium base compact fluorescent lamps shall meet all test requirements for regulated parameters of section 325(cc).

“(C) Notwithstanding subparagraph (B), if manufacturers document engineering predictions and analysis that support expected attainment of lumen maintenance at 40 percent rated life and lamp lifetime, medium base compact fluorescent lamps may be marketed before completion of the testing of lamp life and lumen maintenance at 40 percent of rated life.

“(13) Test procedures for dehumidifiers shall be based on the test criteria used under the Energy Star Program Requirements for Dehumidifiers developed by the Environmental Protection Agency, as in effect on the date of enactment of this paragraph unless revised by the Secretary pursuant to this section.

“(14) The test procedure for measuring flow rate for commercial prerinse spray valves shall be based on American Society for Testing and Materials Standard F2324, entitled ‘Standard Test Method for Pre-Rinse Spray Valves’.

“(15) The test procedure for refrigerated bottled or canned beverage vending machines shall be based on American National Standards Institute/American Society of Heating, Refrigerating and Air-Conditioning Engineers Standard 32.1–2004, entitled ‘Methods of Testing for Rating Vending Machines for Bottled, Canned or Other Sealed Beverages’.

“(16)(A)(i) Test procedures for ceiling fans shall be based on the ‘Energy Star Testing Facility Guidance Manual: Building a Testing Facility and Performing the Solid State Test Method for ENERGY STAR Qualified Ceiling Fans, Version 1.1’ published by the Environmental Protection Agency.

“(ii) Test procedures for ceiling fan light kits shall be based on the test procedures referenced in the Energy Star specifications for Residential Light Fixtures and Compact Fluorescent Light Bulbs, as in effect on the date of enactment of this paragraph.

“(B) The Secretary may review and revise the test procedures established under subparagraph (A).”; and

(2) by adding at the end the following:

Deadline.
Requirements.

“(f) ADDITIONAL CONSUMER AND COMMERCIAL PRODUCTS.—(1) Not later than 2 years after the date of enactment of this subsection, the Secretary shall prescribe testing requirements for refrigerated bottled or canned beverage vending machines.

“(2) To the maximum extent practicable, the testing requirements prescribed under paragraph (1) shall be based on existing test procedures used in industry.”.

(c) STANDARD SETTING AUTHORITY.—Section 325 of the Energy Policy and Conservation Act (42 U.S.C. 6295) is amended—

(1) in subsection (f)(3), by adding at the end the following:

“(D) Notwithstanding any other provision of this Act, if the requirements of subsection (o) are met, the Secretary may consider and prescribe energy conservation standards or energy use standards for electricity used for purposes of circulating air through duct work.”;

(2) in subsection (g)—

(A) in paragraph (6)(B), by inserting “and labeled” after “designed”; and

(B) by adding at the end the following:

“(8)(A) Each fluorescent lamp ballast (other than replacement ballasts or ballasts described in subparagraph (C))—

“(i)(I) manufactured on or after July 1, 2009;

“(II) sold by the manufacturer on or after October 1, 2009;

or

“(III) incorporated into a luminaire by a luminaire manufacturer on or after July 1, 2010; and

“(ii) designed—

“(I) to operate at nominal input voltages of 120 or 277 volts;

“(II) to operate with an input current frequency of 60 Hertz; and

“(III) for use in connection with F34T12 lamps, F96T12/ES lamps, or F96T12HO/ES lamps;

shall have a power factor of 0.90 or greater and shall have a ballast efficacy factor of not less than the following:

“Application for operation of	Ballast input voltage	Total nominal lamp watts	Ballast efficacy factor
One F34T12 lamp	120/277	34	2.61
Two F34T12 lamps	120/277	68	1.35
Two F96T12/ES lamps	120/277	120	0.77
Two F96T12HO/ES lamps	120/277	190	0.42.

“(B) The standards described in subparagraph (A) shall apply to all ballasts covered by subparagraph (A)(ii) that are manufactured on or after July 1, 2010, or sold by the manufacturer on or after October 1, 2010.

Applicability.

“(C) The standards described in subparagraph (A) do not apply to—

“(i) a ballast that is designed for dimming to 50 percent or less of the maximum output of the ballast;

“(ii) a ballast that is designed for use with 2 F96T12HO lamps at ambient temperatures of 20°F or less and for use in an outdoor sign; or

“(iii) a ballast that has a power factor of less than 0.90 and is designed and labeled for use only in residential applications.”;

(3) in subsection (o), by adding at the end the following:

“(5) The Secretary may set more than 1 energy conservation standard for products that serve more than 1 major function by setting 1 energy conservation standard for each major function.”; and

(4) by adding at the end the following:

“(u) BATTERY CHARGER AND EXTERNAL POWER SUPPLY ELECTRIC ENERGY CONSUMPTION.—(1)(A) Not later than 18 months after the date of enactment of this subsection, the Secretary shall, after providing notice and an opportunity for comment, prescribe, by

Deadline.
Notice.
Regulations.

rule, definitions and test procedures for the power use of battery chargers and external power supplies.

“(B) In establishing the test procedures under subparagraph (A), the Secretary shall—

“(i) consider existing definitions and test procedures used for measuring energy consumption in standby mode and other modes; and

“(ii) assess the current and projected future market for battery chargers and external power supplies.

“(C) The assessment under subparagraph (B)(ii) shall include—

“(i) estimates of the significance of potential energy savings from technical improvements to battery chargers and external power supplies; and

“(ii) suggested product classes for energy conservation standards.

Deadline.

“(D) Not later than 18 months after the date of enactment of this subsection, the Secretary shall hold a scoping workshop to discuss and receive comments on plans for developing energy conservation standards for energy use for battery chargers and external power supplies.

Deadline.
Regulations.

“(E)(i) Not later than 3 years after the date of enactment of this subsection, the Secretary shall issue a final rule that determines whether energy conservation standards shall be issued for battery chargers and external power supplies or classes of battery chargers and external power supplies.

“(ii) For each product class, any energy conservation standards issued under clause (i) shall be set at the lowest level of energy use that—

“(I) meets the criteria and procedures of subsections (o), (p), (q), (r), (s), and (t); and

“(II) would result in significant overall annual energy savings, considering standby mode and other operating modes.

“(2) In determining under section 323 whether test procedures and energy conservation standards under this section should be revised with respect to covered products that are major sources of standby mode energy consumption, the Secretary shall consider whether to incorporate standby mode into the test procedures and energy conservation standards, taking into account standby mode power consumption compared to overall product energy consumption.

“(3) The Secretary shall not propose an energy conservation standard under this section, unless the Secretary has issued applicable test procedures for each product under section 323.

Applicability.
Effective date.

“(4) Any energy conservation standard issued under this subsection shall be applicable to products manufactured or imported beginning on the date that is 3 years after the date of issuance.

“(5) The Secretary and the Administrator shall collaborate and develop programs (including programs under section 324A and other voluntary industry agreements or codes of conduct) that are designed to reduce standby mode energy use.

Deadline.
Regulations.

“(v) CEILING FANS AND REFRIGERATED BEVERAGE VENDING MACHINES.—(1) Not later than 1 year after the date of enactment of this subsection, the Secretary shall prescribe, by rule, test procedures and energy conservation standards for ceiling fans and ceiling fan light kits. If the Secretary sets such standards, the Secretary shall consider exempting or setting different standards for certain product classes for which the primary standards are not technically

feasible or economically justified, and establishing separate or exempted product classes for highly decorative fans for which air movement performance is a secondary design feature.

“(2) Not later than 4 years after the date of enactment of this subsection, the Secretary shall prescribe, by rule, energy conservation standards for refrigerated bottle or canned beverage vending machines.

Deadline.
Regulations.

“(3) In establishing energy conservation standards under this subsection, the Secretary shall use the criteria and procedures prescribed under subsections (o) and (p).

“(4) Any energy conservation standard prescribed under this subsection shall apply to products manufactured 3 years after the date of publication of a final rule establishing the energy conservation standard.

Applicability.

“(w) ILLUMINATED EXIT SIGNS.—An illuminated exit sign manufactured on or after January 1, 2006, shall meet the version 2.0 Energy Star Program performance requirements for illuminated exit signs prescribed by the Environmental Protection Agency.

“(x) TORCHIERES.—A torchiere manufactured on or after January 1, 2006—

“(1) shall consume not more than 190 watts of power; and

“(2) shall not be capable of operating with lamps that total more than 190 watts.

“(y) LOW VOLTAGE DRY-TYPE DISTRIBUTION TRANSFORMERS.—The efficiency of a low voltage dry-type distribution transformer manufactured on or after January 1, 2007, shall be the Class I Efficiency Levels for distribution transformers specified in table 4–2 of the ‘Guide for Determining Energy Efficiency for Distribution Transformers’ published by the National Electrical Manufacturers Association (NEMA TP–1–2002).

“(z) TRAFFIC SIGNAL MODULES AND PEDESTRIAN MODULES.—Any traffic signal module or pedestrian module manufactured on or after January 1, 2006, shall—

“(1) meet the performance requirements used under the Energy Star program of the Environmental Protection Agency for traffic signals, as in effect on the date of enactment of this subsection; and

“(2) be installed with compatible, electrically connected signal control interface devices and conflict monitoring systems.

“(aa) UNIT HEATERS.—A unit heater manufactured on or after the date that is 3 years after the date of enactment of this subsection shall—

“(1) be equipped with an intermittent ignition device; and

“(2) have power venting or an automatic flue damper.

“(bb) MEDIUM BASE COMPACT FLUORESCENT LAMPS.—(1) A bare lamp and covered lamp (no reflector) medium base compact fluorescent lamp manufactured on or after January 1, 2006, shall meet the following requirements prescribed by the August 9, 2001, version of the Energy Star Program Requirements for Compact Fluorescent Lamps, Energy Star Eligibility Criteria, Energy-Efficiency Specification issued by the Environmental Protection Agency and Department of Energy:

“(A) Minimum initial efficacy.

“(B) Lumen maintenance at 1000 hours.

“(C) Lumen maintenance at 40 percent of rated life.

“(D) Rapid cycle stress test.

“(E) Lamp life.

“(2) The Secretary may, by rule, establish requirements for color quality (CRI), power factor, operating frequency, and maximum allowable start time based on the requirements prescribed by the August 9, 2001, version of the Energy Star Program Requirements for Compact Fluorescent Lamps.

“(3) The Secretary may, by rule—

“(A) revise the requirements established under paragraph (2); or

“(B) establish other requirements, after considering energy savings, cost effectiveness, and consumer satisfaction.

“(cc) DEHUMIDIFIERS.—(1) Dehumidifiers manufactured on or after October 1, 2007, shall have an Energy Factor that meets or exceeds the following values:

“Product Capacity (pints/day):	Minimum Energy Factor (Liters/kWh)
25.00 or less	1.00
25.01 – 35.00	1.20
35.01 – 54.00	1.30
54.01 – 74.99	1.50
75.00 or more	2.25.

Deadline.
Publication.
Regulations.

“(2)(A) Not later than October 1, 2009, the Secretary shall publish a final rule in accordance with subsections (o) and (p), to determine whether the energy conservation standards established under paragraph (1) should be amended.

“(B) The final rule published under subparagraph (A) shall—

“(i) contain any amendment by the Secretary; and

Applicability.

“(ii) provide that the amendment applies to products manufactured on or after October 1, 2012.

“(C) If the Secretary does not publish an amendment that takes effect by October 1, 2012, dehumidifiers manufactured on or after October 1, 2012, shall have an Energy Factor that meets or exceeds the following values:

“Product Capacity (pints/day):	Minimum Energy Factor (Liters/kWh)
25.00 or less	1.20
25.01 – 35.00	1.30
35.01 – 45.00	1.40
45.01 – 54.00	1.50
54.01 – 74.99	1.60
75.00 or more	2.5.

“(dd) COMMERCIAL PRERINSE SPRAY VALVES.—Commercial prerinse spray valves manufactured on or after January 1, 2006, shall have a flow rate of not more than 1.6 gallons per minute.

“(ee) MERCURY VAPOR LAMP BALLASTS.—Mercury vapor lamp ballasts shall not be manufactured or imported after January 1, 2008.

“(ff) CEILING FANS AND CEILING FAN LIGHT KITS.—(1)(A) All ceiling fans manufactured on or after January 1, 2007, shall have the following features:

“(i) Fan speed controls separate from any lighting controls.

“(ii) Adjustable speed controls (either more than 1 speed or variable speed).

“(iii) Adjustable speed controls (either more than 1 speed or variable speed).

“(iv) The capability of reversible fan action, except for—

“(I) fans sold for industrial applications;

“(II) outdoor applications; and

“(III) cases in which safety standards would be violated by the use of the reversible mode.

“(B) The Secretary may define the exceptions described in clause (iv) in greater detail, but shall not substantively expand the exceptions.

“(2)(A) Ceiling fan light kits with medium screw base sockets manufactured on or after January 1, 2007, shall be packaged with screw-based lamps to fill all screw base sockets.

“(B) The screw-based lamps required under subparagraph (A) shall—

“(i) meet the Energy Star Program Requirements for Compact Fluorescent Lamps, version 3.0, issued by the Department of Energy; or

“(ii) use light sources other than compact fluorescent lamps that have lumens per watt performance at least equivalent to comparably configured compact fluorescent lamps meeting the Energy Star Program Requirements described in clause (i).

“(3) Ceiling fan light kits with pin-based sockets for fluorescent lamps manufactured on or after January 1, 2007 shall—

“(A) meet the Energy Star Program Requirements for Residential Light Fixtures version 4.0 issued by the Environmental Protection Agency; and

“(B) be packaged with lamps to fill all sockets.

“(4)(A) By January 1, 2007, the Secretary shall consider and issue requirements for any ceiling fan lighting kits other than those covered in paragraphs (2) and (3), including candelabra screw base sockets.

Deadline.
Requirements.

“(B) The requirements issued under subparagraph (A) shall be effective for products manufactured 2 years after the date of the final rule.

“(C) If the Secretary fails to issue a final rule by the date specified in subparagraph (B), any type of ceiling fan lighting kit described in subparagraph (A) that is manufactured after January 1, 2009—

“(i) shall not be capable of operating with lamps that total more than 190 watts; and

“(ii) shall include the lamps described in clause (i) in the ceiling fan lighting kits.

“(5)(A) After January 1, 2010, the Secretary may consider, and issue, if the requirements of subsections (o) and (p) are met, amended energy efficiency standards for ceiling fan light kits.

“(B) Any amended standards issued under subparagraph (A) shall apply to products manufactured not earlier than 2 years after the date of publication of the final rule establishing the amended standard.

Applicability.

“(6)(A) Notwithstanding any other provision of this Act, the Secretary may consider, and issue, if the requirements of subsections (o) and (p) are met, energy efficiency or energy use standards for electricity used by ceiling fans to circulate air in a room.

“(B) In issuing the standards under subparagraph (A), the Secretary shall consider—

“(C) exempting, or setting different standards for, certain product classes for which the primary standards are not technically feasible or economically justified; and

Applicability.

“(D) establishing separate exempted product classes for highly decorative fans for which air movement performance is a secondary design feature.

“(7) Section 327 shall apply to the products covered in paragraphs (1) through (4) beginning on the date of enactment of this subsection, except that any State or local labeling requirement for ceiling fans prescribed or enacted before the date of enactment of this subsection shall not be preempted until the labeling requirements applicable to ceiling fans established under section 327 take effect.

“(gg) APPLICATION DATE.—Section 327 applies—

“(1) to products for which energy conservation standards are to be established under subsection (l), (u), or (v) beginning on the date on which a final rule is issued by the Secretary, except that any State or local standard prescribed or enacted for the product before the date on which the final rule is issued shall not be preempted until the energy conservation standard established under subsection (l), (u), or (v) for the product takes effect; and

“(2) to products for which energy conservation standards are established under subsections (w) through (ff) on the date of enactment of those subsections, except that any State or local standard prescribed or enacted before the date of enactment of those subsections shall not be preempted until the energy conservation standards established under subsections (w) through (ff) take effect.”.

(d) GENERAL RULE OF PREEMPTION.—Section 327(c) of the Energy Policy and Conservation Act (42 U.S.C. 6297(c)) is amended—

(1) in paragraph (5), by striking “or” at the end;

(2) in paragraph (6), by striking the period at the end and inserting “; or”; and

(3) by adding at the end the following:

“(7)(A) is a regulation concerning standards for commercial prerinse spray valves adopted by the California Energy Commission before January 1, 2005; or

“(B) is an amendment to a regulation described in subparagraph (A) that was developed to align California regulations with changes in American Society for Testing and Materials Standard F2324;

“(8)(A) is a regulation concerning standards for pedestrian modules adopted by the California Energy Commission before January 1, 2005; or

“(B) is an amendment to a regulation described in subparagraph (A) that was developed to align California regulations to changes in the Institute for Transportation Engineers standards, entitled ‘Performance Specification: Pedestrian Traffic Control Signal Indications’.”.

SEC. 136. ENERGY CONSERVATION STANDARDS FOR COMMERCIAL EQUIPMENT.

(a) DEFINITIONS.—Section 340 of the Energy Policy and Conservation Act (42 U.S.C. 6311) is amended—

(1) in paragraph (1)—

(A) by redesignating subparagraphs (D) through (G) as subparagraphs (H) through (K), respectively; and

(B) by inserting after subparagraph (C) the following:

“(D) Very large commercial package air conditioning and heating equipment.

“(E) Commercial refrigerators, freezers, and refrigerator-freezers.

“(F) Automatic commercial ice makers.

“(G) Commercial clothes washers.”;

(2) in paragraph (2)(B), by striking “small and large commercial package air conditioning and heating equipment” and inserting “commercial package air conditioning and heating equipment, commercial refrigerators, freezers, and refrigerator-freezers, automatic commercial ice makers, commercial clothes washers”;

(3) by striking paragraphs (8) and (9) and inserting the following:

“(8)(A) The term ‘commercial package air conditioning and heating equipment’ means air-cooled, water-cooled, evaporatively-cooled, or water source (not including ground water source) electrically operated, unitary central air conditioners and central air conditioning heat pumps for commercial application.

“(B) The term ‘small commercial package air conditioning and heating equipment’ means commercial package air conditioning and heating equipment that is rated below 135,000 Btu per hour (cooling capacity).

“(C) The term ‘large commercial package air conditioning and heating equipment’ means commercial package air conditioning and heating equipment that is rated—

“(i) at or above 135,000 Btu per hour; and

“(ii) below 240,000 Btu per hour (cooling capacity).

“(D) The term ‘very large commercial package air conditioning and heating equipment’ means commercial package air conditioning and heating equipment that is rated—

“(i) at or above 240,000 Btu per hour; and

“(ii) below 760,000 Btu per hour (cooling capacity).

“(9)(A) The term ‘commercial refrigerator, freezer, and refrigerator-freezer’ means refrigeration equipment that—

“(i) is not a consumer product (as defined in section 321);

“(ii) is not designed and marketed exclusively for medical, scientific, or research purposes;

“(iii) operates at a chilled, frozen, combination chilled and frozen, or variable temperature;

“(iv) displays or stores merchandise and other perishable materials horizontally, semivertically, or vertically;

“(v) has transparent or solid doors, sliding or hinged doors, a combination of hinged, sliding, transparent, or solid doors, or no doors;

“(vi) is designed for pull-down temperature applications or holding temperature applications; and

“(vii) is connected to a self-contained condensing unit or to a remote condensing unit.

“(B) The term ‘holding temperature application’ means a use of commercial refrigeration equipment other than a pull-down temperature application, except a blast chiller or freezer.

“(C) The term ‘integrated average temperature’ means the average temperature of all test package measurements taken during the test.

“(D) The term ‘pull-down temperature application’ means a commercial refrigerator with doors that, when fully loaded with 12 ounce beverage cans at 90 degrees F, can cool those beverages to an average stable temperature of 38 degrees F in 12 hours or less.

“(E) The term ‘remote condensing unit’ means a factory-made assembly of refrigerating components designed to compress and liquefy a specific refrigerant that is remotely located from the refrigerated equipment and consists of one or more refrigerant compressors, refrigerant condensers, condenser fans and motors, and factory supplied accessories.

“(F) The term ‘self-contained condensing unit’ means a factory-made assembly of refrigerating components designed to compress and liquefy a specific refrigerant that is an integral part of the refrigerated equipment and consists of one or more refrigerant compressors, refrigerant condensers, condenser fans and motors, and factory supplied accessories.”; and

(4) by adding at the end the following:

“(19) The term ‘automatic commercial ice maker’ means a factory-made assembly (not necessarily shipped in one package) that—

“(A) consists of a condensing unit and ice-making section operating as an integrated unit, with means for making and harvesting ice; and

“(B) may include means for storing ice, dispensing ice, or storing and dispensing ice.

“(20) The term ‘commercial clothes washer’ means a soft-mount front-loading or soft-mount top-loading clothes washer that—

“(A) has a clothes container compartment that—

“(i) for horizontal-axis clothes washers, is not more than 3.5 cubic feet; and

“(ii) for vertical-axis clothes washers, is not more than 4.0 cubic feet; and

“(B) is designed for use in—

“(i) applications in which the occupants of more than one household will be using the clothes washer, such as multi-family housing common areas and coin laundries; or

“(ii) other commercial applications.

“(21) The term ‘harvest rate’ means the amount of ice (at 32 degrees F) in pounds produced per 24 hours.”.

(b) STANDARDS FOR COMMERCIAL PACKAGE AIR CONDITIONING AND HEATING EQUIPMENT.—Section 342(a) of the Energy Policy and Conservation Act (42 U.S.C. 6313(a)) is amended—

(1) in the subsection heading, by striking “SMALL AND LARGE” and inserting “SMALL, LARGE, AND VERY LARGE”;

(2) in paragraph (1), by inserting “but before January 1, 2010,” after “January 1, 1994,”;

(3) in paragraph (2), by inserting “but before January 1, 2010,” after “January 1, 1995,”; and

(4) in paragraph (6)—

(A) in subparagraph (A)—

(i) by inserting “(i)” after “(A)”;

(ii) by striking “the date of enactment of the Energy Policy Act of 1992” and inserting “January 1, 2010”;

(iii) by inserting after “large commercial package air conditioning and heating equipment,” the following: “and very large commercial package air conditioning and heating equipment, or if ASHRAE/IES Standard 90.1, as in effect on October 24, 1992, is amended with respect to any”; and

(iv) by adding at the end the following:

“(ii) If ASHRAE/IES Standard 90.1 is not amended with respect to small commercial package air conditioning and heating equipment, large commercial package air conditioning and heating equipment, and very large commercial package air conditioning and heating equipment during the 5-year period beginning on the effective date of a standard, the Secretary may initiate a rulemaking to determine whether a more stringent standard—

“(I) would result in significant additional conservation of energy; and

“(II) is technologically feasible and economically justified.”; and

(B) in subparagraph (C)(ii), by inserting “and very large commercial package air conditioning and heating equipment” after “large commercial package air conditioning and heating equipment”; and

(5) by adding at the end the following:

“(7) Small commercial package air conditioning and heating equipment manufactured on or after January 1, 2010, shall meet the following standards:

“(A) The minimum energy efficiency ratio of air-cooled central air conditioners at or above 65,000 Btu per hour (cooling capacity) and less than 135,000 Btu per hour (cooling capacity) shall be—

“(i) 11.2 for equipment with no heating or electric resistance heating; and

“(ii) 11.0 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of 95 degrees F db).

“(B) The minimum energy efficiency ratio of air-cooled central air conditioner heat pumps at or above 65,000 Btu per hour (cooling capacity) and less than 135,000 Btu per hour (cooling capacity) shall be—

“(i) 11.0 for equipment with no heating or electric resistance heating; and

“(ii) 10.8 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of 95 degrees F db).

“(C) The minimum coefficient of performance in the heating mode of air-cooled central air conditioning heat pumps at or above 65,000 Btu per hour (cooling capacity) and less than 135,000 Btu per hour (cooling capacity) shall be 3.3 (at a high temperature rating of 47 degrees F db).

“(8) Large commercial package air conditioning and heating equipment manufactured on or after January 1, 2010, shall meet the following standards:

“(A) The minimum energy efficiency ratio of air-cooled central air conditioners at or above 135,000 Btu per hour (cooling capacity) and less than 240,000 Btu per hour (cooling capacity) shall be—

“(i) 11.0 for equipment with no heating or electric resistance heating; and

“(ii) 10.8 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of 95 degrees F db).

“(B) The minimum energy efficiency ratio of air-cooled central air conditioner heat pumps at or above 135,000 Btu per hour (cooling capacity) and less than 240,000 Btu per hour (cooling capacity) shall be—

“(i) 10.6 for equipment with no heating or electric resistance heating; and

“(ii) 10.4 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of 95 degrees F db).

“(C) The minimum coefficient of performance in the heating mode of air-cooled central air conditioning heat pumps at or above 135,000 Btu per hour (cooling capacity) and less than 240,000 Btu per hour (cooling capacity) shall be 3.2 (at a high temperature rating of 47 degrees F db).

“(9) Very large commercial package air conditioning and heating equipment manufactured on or after January 1, 2010, shall meet the following standards:

“(A) The minimum energy efficiency ratio of air-cooled central air conditioners at or above 240,000 Btu per hour (cooling capacity) and less than 760,000 Btu per hour (cooling capacity) shall be—

“(i) 10.0 for equipment with no heating or electric resistance heating; and

“(ii) 9.8 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of 95 degrees F db).

“(B) The minimum energy efficiency ratio of air-cooled central air conditioner heat pumps at or above 240,000 Btu per hour (cooling capacity) and less than 760,000 Btu per hour (cooling capacity) shall be—

“(i) 9.5 for equipment with no heating or electric resistance heating; and

“(ii) 9.3 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of 95 degrees F db).

“(C) The minimum coefficient of performance in the heating mode of air-cooled central air conditioning heat pumps at or above 240,000 Btu per hour (cooling capacity) and less than 760,000 Btu per hour (cooling capacity) shall be 3.2 (at a high temperature rating of 47 degrees F db).”.

(c) STANDARDS FOR COMMERCIAL REFRIGERATORS, FREEZERS, AND REFRIGERATOR-FREEZERS.—Section 342 of the Energy Policy and Conservation Act (42 U.S.C. 6313) is amended by adding at the end the following:

“(c) COMMERCIAL REFRIGERATORS, FREEZERS, AND REFRIGERATOR-FREEZERS.—(1) In this subsection:

“(A) The term ‘AV’ means the adjusted volume (ft³) (defined as 1.63 x frozen temperature compartment volume (ft³) + chilled temperature compartment volume (ft³)) with compartment volumes measured in accordance with the Association of Home Appliance Manufacturers Standard HRF1-1979.

“(B) The term ‘V’ means the chilled or frozen compartment volume (ft³) (as defined in the Association of Home Appliance Manufacturers Standard HRF1–1979).

“(C) Other terms have such meanings as may be established by the Secretary, based on industry-accepted definitions and practice.

“(2) Each commercial refrigerator, freezer, and refrigerator-freezer with a self-contained condensing unit designed for holding temperature applications manufactured on or after January 1, 2010, shall have a daily energy consumption (in kilowatt hours per day) that does not exceed the following:

Refrigerators with solid doors	0.10 V + 2.04
Refrigerators with transparent doors	0.12 V + 3.34
Freezers with solid doors	0.40 V + 1.38
Freezers with transparent doors	0.75 V + 4.10
Refrigerators/freezers with solid doors the greater of.	0.27 AV – 0.71 or 0.70.

“(3) Each commercial refrigerator with a self-contained condensing unit designed for pull-down temperature applications and transparent doors manufactured on or after January 1, 2010, shall have a daily energy consumption (in kilowatt hours per day) of not more than $0.126 V + 3.51$.

“(4)(A) Not later than January 1, 2009, the Secretary shall issue, by rule, standard levels for ice-cream freezers, self-contained commercial refrigerators, freezers, and refrigerator-freezers without doors, and remote condensing commercial refrigerators, freezers, and refrigerator-freezers, with the standard levels effective for equipment manufactured on or after January 1, 2012.

Deadline.
Regulations.

“(B) The Secretary may issue, by rule, standard levels for other types of commercial refrigerators, freezers, and refrigerator-freezers not covered by paragraph (2)(A) with the standard levels effective for equipment manufactured 3 or more years after the date on which the final rule is published.

“(5)(A) Not later than January 1, 2013, the Secretary shall issue a final rule to determine whether the standards established under this subsection should be amended.

Deadlines.
Regulations.

“(B) Not later than 3 years after the effective date of any amended standards under subparagraph (A) or the publication of a final rule determining that the standards should not be amended, the Secretary shall issue a final rule to determine whether the standards established under this subsection or the amended standards, as applicable, should be amended.

“(C) If the Secretary issues a final rule under subparagraph (A) or (B) establishing amended standards, the final rule shall provide that the amended standards apply to products manufactured on or after the date that is—

Applicability.

“(i) 3 years after the date on which the final amended standard is published; or

“(ii) if the Secretary determines, by rule, that 3 years is inadequate, not later than 5 years after the date on which the final rule is published.”

(d) STANDARDS FOR AUTOMATIC COMMERCIAL ICE MAKERS.—Section 342 of the Energy Policy and Conservation Act (42 U.S.C.

6313) (as amended by subsection (c)) is amended by adding at the end the following:

“(d) AUTOMATIC COMMERCIAL ICE MAKERS.—(1) Each automatic commercial ice maker that produces cube type ice with capacities between 50 and 2500 pounds per 24-hour period when tested according to the test standard established in section 343(a)(7) and is manufactured on or after January 1, 2010, shall meet the following standard levels:

Equipment Type	Type of Cooling	Harvest Rate (lbs ice/24 hours)	Maximum Energy Use (kWh/100 lbs Ice)	Maximum Condenser Water Use (gal/100 lbs Ice)
Ice Making Head	Water	<500	7.80–0.0055H	200–0.022H
		≥500 and <1436	5.58–0.0011H	200–0.022H
		≥1436	4.0	200–0.022H
Ice Making Head	Air	<450	10.26–0.0086H	Not Applicable
		≥450	6.89–0.0011H	Not Applicable
Remote Condensing (but not remote compressor)	Air	<1000	8.85–0.0038H	Not Applicable
		≥1000	5.10	Not Applicable
Remote Condensing and Remote Compressor	Air	<934	8.85–0.0038H	Not Applicable
		≥934	5.3	Not Applicable
Self Contained	Water	<200	11.40–0.019H	191–0.0315H
		≥200	7.60	191–0.0315H
Self Contained	Air	<175	18.0–0.0469H	Not Applicable
		≥175	9.80	Not Applicable

H = Harvest rate in pounds per 24 hours.

Water use is for the condenser only and does not include potable water used to make ice.

“(2)(A) The Secretary may issue, by rule, standard levels for types of automatic commercial ice makers that are not covered by paragraph (1).

“(B) The standards established under subparagraph (A) shall apply to products manufactured on or after the date that is—

“(i) 3 years after the date on which the rule is published under subparagraph (A); or

Applicability.

“(ii) if the Secretary determines, by rule, that 3 years is inadequate, not later than 5 years after the date on which the final rule is published. Deadline.

“(3)(A) Not later than January 1, 2015, with respect to the standards established under paragraph (1), and, with respect to the standards established under paragraph (2), not later than 5 years after the date on which the standards take effect, the Secretary shall issue a final rule to determine whether amending the applicable standards is technologically feasible and economically justified. Deadlines. Regulations.

“(B) Not later than 5 years after the effective date of any amended standards under subparagraph (A) or the publication of a final rule determining that amending the standards is not technologically feasible or economically justified, the Secretary shall issue a final rule to determine whether amending the standards established under paragraph (1) or the amended standards, as applicable, is technologically feasible or economically justified.

“(C) If the Secretary issues a final rule under subparagraph (A) or (B) establishing amended standards, the final rule shall provide that the amended standards apply to products manufactured on or after the date that is— Applicability.

“(i) 3 years after the date on which the final amended standard is published; or

“(ii) if the Secretary determines, by rule, that 3 years is inadequate, not later than 5 years after the date on which the final amended standard is published.

“(4) A final rule issued under paragraph (2) or (3) shall establish standards at the maximum level that is technically feasible and economically justified, as provided in subsections (o) and (p) of section 325.”.

(e) STANDARDS FOR COMMERCIAL CLOTHES WASHERS.—Section 342 of the Energy Policy and Conservation Act (42 U.S.C. 6313) (as amended by subsection (d)) is amended by adding at the end the following:

“(e) COMMERCIAL CLOTHES WASHERS.—(1) Each commercial clothes washer manufactured on or after January 1, 2007, shall have—

“(A) a Modified Energy Factor of at least 1.26; and

“(B) a Water Factor of not more than 9.5.

“(2)(A)(i) Not later than January 1, 2010, the Secretary shall publish a final rule to determine whether the standards established under paragraph (1) should be amended. Deadlines. Publication. Regulations.

“(ii) The rule published under clause (i) shall provide that any amended standard shall apply to products manufactured 3 years after the date on which the final amended standard is published. Applicability.

“(B)(i) Not later than January 1, 2015, the Secretary shall publish a final rule to determine whether the standards established under paragraph (1) should be amended.

“(ii) The rule published under clause (i) shall provide that any amended standard shall apply to products manufactured 3 years after the date on which the final amended standard is published.”. Applicability.

(f) TEST PROCEDURES.—Section 343 of the Energy Policy and Conservation Act (42 U.S.C. 6314) is amended—

(1) in subsection (a)—

(A) in paragraph (4)—

(i) in subparagraph (A), by inserting “very large commercial package air conditioning and heating equipment,” after “large commercial package air conditioning and heating equipment,”; and

(ii) in subparagraph (B), by inserting “very large commercial package air conditioning and heating equipment,” after “large commercial package air conditioning and heating equipment,”; and

(B) by adding at the end the following:

“(6)(A)(i) In the case of commercial refrigerators, freezers, and refrigerator-freezers, the test procedures shall be—

“(I) the test procedures determined by the Secretary to be generally accepted industry testing procedures; or

“(II) rating procedures developed or recognized by the ASHRAE or by the American National Standards Institute.

“(ii) In the case of self-contained refrigerators, freezers, and refrigerator-freezers to which standards are applicable under paragraphs (2) and (3) of section 342(c), the initial test procedures shall be the ASHRAE 117 test procedure that is in effect on January 1, 2005.

“(B)(i) In the case of commercial refrigerators, freezers, and refrigerator-freezers with doors covered by the standards adopted in February 2002, by the California Energy Commission, the rating temperatures shall be the integrated average temperature of 38 degrees F (\pm 2 degrees F) for refrigerator compartments and 0 degrees F (\pm 2 degrees F) for freezer compartments.

Regulations.

“(C) The Secretary shall issue a rule in accordance with paragraphs (2) and (3) to establish the appropriate rating temperatures for the other products for which standards will be established under section 342(c)(4).

“(D) In establishing the appropriate test temperatures under this subparagraph, the Secretary shall follow the procedures and meet the requirements under section 323(e).

Deadline.
Regulations.

“(E)(i) Not later than 180 days after the publication of the new ASHRAE 117 test procedure, if the ASHRAE 117 test procedure for commercial refrigerators, freezers, and refrigerator-freezers is amended, the Secretary shall, by rule, amend the test procedure for the product as necessary to ensure that the test procedure is consistent with the amended ASHRAE 117 test procedure, unless the Secretary makes a determination, by rule, and supported by clear and convincing evidence, that to do so would not meet the requirements for test procedures under paragraphs (2) and (3).

Notice.
Federal Register,
publication.

“(ii) If the Secretary determines that 180 days is an insufficient period during which to review and adopt the amended test procedure or rating procedure under clause (i), the Secretary shall publish a notice in the Federal Register stating the intent of the Secretary to wait not longer than 1 additional year before putting into effect an amended test procedure or rating procedure.

Regulations.

“(F)(i) If a test procedure other than the ASHRAE 117 test procedure is approved by the American National Standards Institute, the Secretary shall, by rule—

“(I) review the relative strengths and weaknesses of the new test procedure relative to the ASHRAE 117 test procedure; and

“(II) based on that review, adopt one new test procedure for use in the standards program.

Applicability.

“(ii) If a new test procedure is adopted under clause (i)—

“(I) section 323(e) shall apply; and

“(II) subparagraph (B) shall apply to the adopted test procedure.

“(7)(A) In the case of automatic commercial ice makers, the test procedures shall be the test procedures specified in Air-Conditioning and Refrigeration Institute Standard 810–2003, as in effect on January 1, 2005.

“(B)(i) If Air-Conditioning and Refrigeration Institute Standard 810–2003 is amended, the Secretary shall amend the test procedures established in subparagraph (A) as necessary to be consistent with the amended Air-Conditioning and Refrigeration Institute Standard, unless the Secretary determines, by rule, published in the Federal Register and supported by clear and convincing evidence, that to do so would not meet the requirements for test procedures under paragraphs (2) and (3).

“(ii) If the Secretary issues a rule under clause (i) containing a determination described in clause (ii), the rule may establish an amended test procedure for the product that meets the requirements of paragraphs (2) and (3).

“(C) The Secretary shall comply with section 323(e) in establishing any amended test procedure under this paragraph.

“(8) With respect to commercial clothes washers, the test procedures shall be the same as the test procedures established by the Secretary for residential clothes washers under section 325(g).”; and

(2) in subsection (d)(1), by inserting “very large commercial package air conditioning and heating equipment, commercial refrigerators, freezers, and refrigerator-freezers, automatic commercial ice makers, commercial clothes washers,” after “large commercial package air conditioning and heating equipment,”.

(g) LABELING.—Section 344(e) of the Energy Policy and Conservation Act (42 U.S.C. 6315(e)) is amended by inserting “very large commercial package air conditioning and heating equipment, commercial refrigerators, freezers, and refrigerator-freezers, automatic commercial ice makers, commercial clothes washers,” after “large commercial package air conditioning and heating equipment,” each place it appears.

(h) ADMINISTRATION, PENALTIES, ENFORCEMENT, AND PREEMPTION.—Section 345 of the Energy Policy and Conservation Act (42 U.S.C. 6316) is amended—

(1) in subsection (a)—

(A) in paragraph (7), by striking “and” at the end;

(B) in paragraph (8), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(9) in the case of commercial clothes washers, section 327(b)(1) shall be applied as if the National Appliance Energy Conservation Act of 1987 was the Energy Policy Act of 2005.”;

(2) in the first sentence of subsection (b)(1), by striking “part B” and inserting “part A”; and

(3) by adding at the end the following:

“(d)(1) Except as provided in paragraphs (2) and (3), section 327 shall apply with respect to very large commercial package air conditioning and heating equipment to the same extent and in the same manner as section 327 applies under part A on the date of enactment of this subsection.

Regulations.
Federal Register,
publication.

Applicability.

Effective date.	“(2) Any State or local standard issued before the date of enactment of this subsection shall not be preempted until the standards established under section 342(a)(9) take effect on January 1, 2010.
Applicability.	<p>“(e)(1)(A) Subsections (a), (b), and (d) of section 326, subsections (m) through (s) of section 325, and sections 328 through 336 shall apply with respect to commercial refrigerators, freezers, and refrigerator-freezers to the same extent and in the same manner as those provisions apply under part A.</p> <p>“(B) In applying those provisions to commercial refrigerators, freezers, and refrigerator-freezers, paragraphs (1), (2), (3), and (4) of subsection (a) shall apply.</p> <p>“(2)(A) Section 327 shall apply to commercial refrigerators, freezers, and refrigerator-freezers for which standards are established under paragraphs (2) and (3) of section 342(c) to the same extent and in the same manner as those provisions apply under part A on the date of enactment of this subsection, except that any State or local standard issued before the date of enactment of this subsection shall not be preempted until the standards established under paragraphs (2) and (3) of section 342(c) take effect.</p> <p>“(B) In applying section 327 in accordance with subparagraph (A), paragraphs (1), (2), and (3) of subsection (a) shall apply.</p> <p>“(3)(A) Section 327 shall apply to commercial refrigerators, freezers, and refrigerator-freezers for which standards are established under section 342(c)(4) to the same extent and in the same manner as the provisions apply under part A on the date of publication of the final rule by the Secretary, except that any State or local standard issued before the date of publication of the final rule by the Secretary shall not be preempted until the standards take effect.</p> <p>“(B) In applying section 327 in accordance with subparagraph (A), paragraphs (1), (2), and (3) of subsection (a) shall apply.</p> <p>“(4)(A) If the Secretary does not issue a final rule for a specific type of commercial refrigerator, freezer, or refrigerator-freezer within the time frame specified in section 342(c)(5), subsections (b) and (c) of section 327 shall not apply to that specific type of refrigerator, freezer, or refrigerator-freezer for the period beginning on the date that is 2 years after the scheduled date for a final rule and ending on the date on which the Secretary publishes a final rule covering the specific type of refrigerator, freezer, or refrigerator-freezer.</p> <p>“(B) Any State or local standard issued before the date of publication of the final rule shall not be preempted until the final rule takes effect.</p>
Certification.	<p>“(5)(A) In the case of any commercial refrigerator, freezer, or refrigerator-freezer to which standards are applicable under paragraphs (2) and (3) of section 342(c), the Secretary shall require manufacturers to certify, through an independent, nationally recognized testing or certification program, that the commercial refrigerator, freezer, or refrigerator-freezer meets the applicable standard.</p> <p>“(B) The Secretary shall, to the maximum extent practicable, encourage the establishment of at least 2 independent testing and certification programs.</p>
Records.	“(C) As part of certification, information on equipment energy use and interior volume shall be made available to the Secretary.
Applicability.	“(f)(1)(A)(i) Except as provided in clause (ii), section 327 shall apply to automatic commercial ice makers for which standards

have been established under section 342(d)(1) to the same extent and in the same manner as the section applies under part A on the date of enactment of this subsection.

“(ii) Any State standard issued before the date of enactment of this subsection shall not be preempted until the standards established under section 342(d)(1) take effect.

“(B) In applying section 327 to the equipment under subparagraph (A), paragraphs (1), (2), and (3) of subsection (a) shall apply.

“(2)(A)(i) Except as provided in clause (ii), section 327 shall apply to automatic commercial ice makers for which standards have been established under section 342(d)(2) to the same extent and in the same manner as the section applies under part A on the date of publication of the final rule by the Secretary.

“(ii) Any State standard issued before the date of publication of the final rule by the Secretary shall not be preempted until the standards established under section 342(d)(2) take effect.

“(B) In applying section 327 in accordance with subparagraph (A), paragraphs (1), (2), and (3) of subsection (a) shall apply.

“(3)(A) If the Secretary does not issue a final rule for a specific type of automatic commercial ice maker within the time frame specified in section 342(d), subsections (b) and (c) of section 327 shall no longer apply to the specific type of automatic commercial ice maker for the period beginning on the day after the scheduled date for a final rule and ending on the date on which the Secretary publishes a final rule covering the specific type of automatic commercial ice maker.

“(B) Any State standard issued before the publication of the final rule shall not be preempted until the standards established in the final rule take effect.

“(4)(A) The Secretary shall monitor whether manufacturers are reducing harvest rates below tested values for the purpose of bringing non-complying equipment into compliance.

“(B) If the Secretary finds that there has been a substantial amount of manipulation with respect to harvest rates under subparagraph (A), the Secretary shall take steps to minimize the manipulation, such as requiring harvest rates to be within 5 percent of tested values.

“(g)(1)(A) If the Secretary does not issue a final rule for commercial clothes washers within the timeframe specified in section 342(e)(2), subsections (b) and (c) of section 327 shall not apply to commercial clothes washers for the period beginning on the day after the scheduled date for a final rule and ending on the date on which the Secretary publishes a final rule covering commercial clothes washers.

“(B) Any State or local standard issued before the date on which the Secretary publishes a final rule shall not be preempted until the standards established under section 342(e)(2) take effect.

“(2) The Secretary shall undertake an educational program to inform owners of laundromats, multifamily housing, and other sites where commercial clothes washers are located about the new standard, including impacts on washer purchase costs and options for recovering those costs through coin collection.”.

SEC. 137. ENERGY LABELING.

(a) RULEMAKING ON EFFECTIVENESS OF CONSUMER PRODUCT LABELING.—Section 324(a)(2) of the Energy Policy and Conservation

Act (42 U.S.C. 6294(a)(2)) is amended by adding at the end the following:

Deadlines.

“(F)(i) Not later than 90 days after the date of enactment of this subparagraph, the Commission shall initiate a rulemaking to consider—

“(I) the effectiveness of the consumer products labeling program in assisting consumers in making purchasing decisions and improving energy efficiency; and

“(II) changes to the labeling rules (including categorical labeling) that would improve the effectiveness of consumer product labels.

“(ii) Not later than 2 years after the date of enactment of this subparagraph, the Commission shall complete the rulemaking initiated under clause (i).

Deadline.

“(G)(i) Not later than 18 months after the date of enactment of this subparagraph, the Commission shall issue by rule, in accordance with this section, labeling requirements for the electricity used by ceiling fans to circulate air in a room.

Applicability.

“(ii) The rule issued under clause (i) shall apply to products manufactured after the later of—

“(I) January 1, 2009; or

“(II) the date that is 60 days after the final rule is issued.”.

(b) RULEMAKING ON LABELING FOR ADDITIONAL PRODUCTS.—Section 324(a) of the Energy Policy and Conservation Act (42 U.S.C. 6294(a)) is amended by adding at the end the following:

“(5)(A) For covered products described in subsections (u) through (ff) of section 325, after a test procedure has been prescribed under section 323, the Secretary or the Commission, as appropriate, may prescribe, by rule, under this section labeling requirements for the products.

“(B) In the case of products to which TP–1 standards under section 325(y) apply, labeling requirements shall be based on the ‘Standard for the Labeling of Distribution Transformer Efficiency’ prescribed by the National Electrical Manufacturers Association (NEMA TP–3) as in effect on the date of enactment of this paragraph.

“(C) In the case of dehumidifiers covered under section 325(dd), the Commission shall not require an ‘Energy Guide’ label.”.

SEC. 138. INTERMITTENT ESCALATOR STUDY.

(a) IN GENERAL.—The Administrator of General Services shall conduct a study on the advantages and disadvantages of employing intermittent escalators in the United States.

(b) CONTENTS.—Such study shall include an analysis of—

(1) the energy end-cost savings derived from the use of intermittent escalators;

(2) the cost savings derived from reduced maintenance requirements; and

(3) such other issues as the Administrator considers appropriate.

(c) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Administrator shall transmit to Congress a report on the results of the study.

(d) DEFINITION.—For purposes of this section, the term “intermittent escalator” means an escalator that remains in a stationary

position until it automatically operates at the approach of a passenger, returning to a stationary position after the passenger completes passage.

SEC. 139. ENERGY EFFICIENT ELECTRIC AND NATURAL GAS UTILITIES STUDY.

(a) **IN GENERAL.**—Not later than 1 year after the date of enactment of this Act, the Secretary, in consultation with the National Association of Regulatory Utility Commissioners and the National Association of State Energy Officials, shall conduct a study of State and regional policies that promote cost-effective programs to reduce energy consumption (including energy efficiency programs) that are carried out by—

Deadline.

- (1) utilities that are subject to State regulation; and
- (2) nonregulated utilities.

(b) **CONSIDERATION.**—In conducting the study under subsection (a), the Secretary shall take into consideration—

- (1) performance standards for achieving energy use and demand reduction targets;
- (2) funding sources, including rate surcharges;
- (3) infrastructure planning approaches (including energy efficiency programs) and infrastructure improvements;
- (4) the costs and benefits of consumer education programs conducted by State and local governments and local utilities to increase consumer awareness of energy efficiency technologies and measures; and
- (5) methods of—
 - (A) removing disincentives for utilities to implement energy efficiency programs;
 - (B) encouraging utilities to undertake voluntary energy efficiency programs; and
 - (C) ensuring appropriate returns on energy efficiency programs.

(c) **REPORT.**—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report that includes—

- (1) the findings of the study; and
- (2) any recommendations of the Secretary, including recommendations on model policies to promote energy efficiency programs.

SEC. 140. ENERGY EFFICIENCY PILOT PROGRAM.

42 USC 15833.

(a) **IN GENERAL.**—The Secretary shall establish a pilot program under which the Secretary provides financial assistance to at least 3, but not more than 7, States to carry out pilot projects in the States for—

- (1) planning and adopting statewide programs that encourage, for each year in which the pilot project is carried out—
 - (A) energy efficiency; and
 - (B) reduction of consumption of electricity or natural gas in the State by at least 0.75 percent, as compared to a baseline determined by the Secretary for the period preceding the implementation of the program; or
- (2) for any State that has adopted a statewide program as of the date of enactment of this Act, activities that reduce energy consumption in the State by expanding and improving the program.

(b) VERIFICATION.—A State that receives financial assistance under subsection (a)(1) shall submit to the Secretary independent verification of any energy savings achieved through the statewide program.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$5,000,000 for each of fiscal years 2006 through 2010, to remain available until expended.

42 USC 15834.

SEC. 141. REPORT ON FAILURE TO COMPLY WITH DEADLINES FOR NEW OR REVISED ENERGY CONSERVATION STANDARDS.

(a) INITIAL REPORT.—The Secretary shall submit a report to Congress regarding each new or revised energy conservation or water use standard which the Secretary has failed to issue in conformance with the deadlines established in the Energy Policy and Conservation Act. Such report shall state the reasons why the Secretary has failed to comply with the deadline for issuances of the new or revised standard and set forth the Secretary's plan for expeditiously prescribing such new or revised standard. The Secretary's initial report shall be submitted not later than 6 months following enactment of this Act and subsequent reports shall be submitted whenever the Secretary determines that additional deadlines for issuance of new or revised standards have been missed.

(b) IMPLEMENTATION REPORT.—Every 6 months following the submission of a report under subsection (a) until the adoption of a new or revised standard described in such report, the Secretary shall submit to the Congress an implementation report describing the Secretary's progress in implementing the Secretary's plan or the issuance of the new or revised standard.

Subtitle D—Public Housing

SEC. 151. PUBLIC HOUSING CAPITAL FUND.

Section 9 of the United States Housing Act of 1937 (42 U.S.C. 1437g) is amended—

(1) in subsection (d)(1)—

(A) in subparagraph (I), by striking “and” at the end;

(B) in subparagraph (J), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following new subparagraphs:

“(K) improvement of energy and water-use efficiency by installing fixtures and fittings that conform to the American Society of Mechanical Engineers/American National Standards Institute standards A112.19.2–1998 and A112.18.1–2000, or any revision thereto, applicable at the time of installation, and by increasing energy efficiency and water conservation by such other means as the Secretary determines are appropriate; and

“(L) integrated utility management and capital planning to maximize energy conservation and efficiency measures.”; and

(2) in subsection (e)(2)(C)—

(A) by striking “The” and inserting the following:

“(i) IN GENERAL.—The”; and

(B) by adding at the end the following:

“(ii) **THIRD PARTY CONTRACTS.**—Contracts described in clause (i) may include contracts for equipment conversions to less costly utility sources, projects with resident-paid utilities, and adjustments to frozen base year consumption, including systems repaired to meet applicable building and safety codes and adjustments for occupancy rates increased by rehabilitation.

“(iii) **TERM OF CONTRACT.**—The total term of a contract described in clause (i) shall not exceed 20 years to allow longer payback periods for retrofits, including windows, heating system replacements, wall insulation, site-based generation, advanced energy savings technologies, including renewable energy generation, and other such retrofits.”.

SEC. 152. ENERGY-EFFICIENT APPLIANCES.

42 USC 15841.

In purchasing appliances, a public housing agency shall purchase energy-efficient appliances that are Energy Star products or FEMP-designated products, as such terms are defined in section 553 of the National Energy Conservation Policy Act, unless the purchase of energy-efficient appliances is not cost-effective to the agency.

SEC. 153. ENERGY EFFICIENCY STANDARDS.

Section 109 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12709) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking “1 year after the date of the enactment of the Energy Policy Act of 1992” and inserting “September 30, 2006”;

(ii) in subparagraph (A), by striking “and” at the end;

(iii) in subparagraph (B), by striking the period at the end and inserting “; and”; and

(iv) by adding at the end the following:

“(C) rehabilitation and new construction of public and assisted housing funded by HOPE VI revitalization grants under section 24 of the United States Housing Act of 1937 (42 U.S.C. 1437v), where such standards are determined to be cost effective by the Secretary of Housing and Urban Development.”; and

(B) in paragraph (2), by inserting “, and, with respect to rehabilitation and new construction of public and assisted housing funded by HOPE VI revitalization grants under section 24 of the United States Housing Act of 1937 (42 U.S.C. 1437v), the 2003 International Energy Conservation Code” after “90.1–1989”;

(2) in subsection (b)—

(A) by striking “within 1 year after the date of the enactment of the Energy Policy Act of 1992” and inserting “by September 30, 2006”; and

(B) by inserting “, and, with respect to rehabilitation and new construction of public and assisted housing funded by HOPE VI revitalization grants under section 24 of the United States Housing Act of 1937 (42 U.S.C. 1437v), the 2003 International Energy Conservation Code” before the period at the end; and

(3) in subsection (c)—

(A) in the heading, by inserting “AND THE INTERNATIONAL ENERGY CONSERVATION CODE” after “MODEL ENERGY CODE”; and

(B) by inserting “, or, with respect to rehabilitation and new construction of public and assisted housing funded by HOPE VI revitalization grants under section 24 of the United States Housing Act of 1937 (42 U.S.C. 1437v), the 2003 International Energy Conservation Code” after “1989”.

42 USC 15842.

SEC. 154. ENERGY STRATEGY FOR HUD.

Reports.
Deadlines.

The Secretary of Housing and Urban Development shall develop and implement an integrated strategy to reduce utility expenses through cost-effective energy conservation and efficiency measures and energy efficient design and construction of public and assisted housing. The energy strategy shall include the development of energy reduction goals and incentives for public housing agencies. The Secretary shall submit a report to Congress, not later than 1 year after the date of the enactment of this Act, on the energy strategy and the actions taken by the Department of Housing and Urban Development to monitor the energy usage of public housing agencies and shall submit an update every 2 years thereafter on progress in implementing the strategy.

TITLE II—RENEWABLE ENERGY

Subtitle A—General Provisions

42 USC 15851.

Deadlines.

SEC. 201. ASSESSMENT OF RENEWABLE ENERGY RESOURCES.

(a) **RESOURCE ASSESSMENT.**—Not later than 6 months after the date of enactment of this Act, and each year thereafter, the Secretary shall review the available assessments of renewable energy resources within the United States, including solar, wind, biomass, ocean (including tidal, wave, current, and thermal), geothermal, and hydroelectric energy resources, and undertake new assessments as necessary, taking into account changes in market conditions, available technologies, and other relevant factors.

(b) **CONTENTS OF REPORTS.**—Not later than 1 year after the date of enactment of this Act, and each year thereafter, the Secretary shall publish a report based on the assessment under subsection (a). The report shall contain—

(1) a detailed inventory describing the available amount and characteristics of the renewable energy resources; and

(2) such other information as the Secretary believes would be useful in developing such renewable energy resources, including descriptions of surrounding terrain, population and load centers, nearby energy infrastructure, location of energy and water resources, and available estimates of the costs needed to develop each resource, together with an identification of any barriers to providing adequate transmission for remote sources of renewable energy resources to current and emerging markets, recommendations for removing or addressing such barriers, and ways to provide access to the grid that do not unfairly disadvantage renewable or other energy producers.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—For the purposes of this section, there are authorized to be appropriated to the Secretary \$10,000,000 for each of fiscal years 2006 through 2010. 42 USC 13311 note.

SEC. 202. RENEWABLE ENERGY PRODUCTION INCENTIVE.

(a) **INCENTIVE PAYMENTS.**—Section 1212(a) of the Energy Policy Act of 1992 (42 U.S.C. 13317(a)) is amended—

(1) by striking the last sentence;

(2) by designating the first, second, and third sentences as paragraphs (1), (2), and (3), respectively;

(3) in paragraph (3) (as so designated), by striking “and which satisfies” and all that follows through “deems necessary”; and

(4) by adding at the end the following:

“(4)(A) Subject to subparagraph (B), if there are insufficient appropriations to make full payments for electric production from all qualified renewable energy facilities for a fiscal year, the Secretary shall assign—

“(i) 60 percent of appropriated funds for the fiscal year to facilities that use solar, wind, ocean (including tidal, wave, current, and thermal), geothermal, or closed-loop (dedicated energy crops) biomass technologies to generate electricity; and

“(ii) 40 percent of appropriated funds for the fiscal year to other projects.

“(B) After submitting to Congress an explanation of the reasons for the alteration, the Secretary may alter the percentage requirements of subparagraph (A).”.

(b) **QUALIFIED RENEWABLE ENERGY FACILITY.**—Section 1212(b) of the Energy Policy Act of 1992 (42 U.S.C. 13317(b)) is amended—

(1) by striking “a State or any political” and all that follows through “nonprofit electrical cooperative” and inserting “a not-for-profit electric cooperative, a public utility described in section 115 of the Internal Revenue Code of 1986, a State, Commonwealth, territory, or possession of the United States, or the District of Columbia, or a political subdivision thereof, an Indian tribal government or subdivision thereof, or a Native Corporation (as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602)),”; and

(2) by inserting “landfill gas, livestock methane, ocean (including tidal, wave, current, and thermal),” after “wind, biomass,”.

(c) **ELIGIBILITY WINDOW.**—Section 1212(c) of the Energy Policy Act of 1992 (42 U.S.C. 13317(c)) is amended by striking “during the 10-fiscal year period beginning with the first full fiscal year occurring after the enactment of this section” and inserting “before October 1, 2016”.

(d) **PAYMENT PERIOD.**—Section 1212(d) of the Energy Policy Act of 1992 (42 U.S.C. 13317(d)) is amended in the second sentence by inserting “, or in which the Secretary determines that all necessary Federal and State authorizations have been obtained to begin construction of the facility” after “eligible for such payments”.

(e) **AMOUNT OF PAYMENT.**—Section 1212(e)(1) of the Energy Policy Act of 1992 (42 U.S.C. 13317(e)(1)) is amended in the first sentence by inserting “landfill gas, livestock methane, ocean (including tidal, wave, current, and thermal),” after “wind, biomass,”.

(f) **TERMINATION OF AUTHORITY.**—Section 1212(f) of the Energy Policy Act of 1992 (42 U.S.C. 13317(f)) is amended by striking “the expiration of” and all that follows through “of this section” and inserting “September 30, 2026”.

(g) **AUTHORIZATION OF APPROPRIATIONS.**—Section 1212 of the Energy Policy Act of 1992 (42 U.S.C. 13317) is amended by striking subsection (g) and inserting the following:

“(g) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2006 through 2026, to remain available until expended.”.

42 USC 15852.

President.

SEC. 203. FEDERAL PURCHASE REQUIREMENT.

(a) **REQUIREMENT.**—The President, acting through the Secretary, shall seek to ensure that, to the extent economically feasible and technically practicable, of the total amount of electric energy the Federal Government consumes during any fiscal year, the following amounts shall be renewable energy:

(1) Not less than 3 percent in fiscal years 2007 through 2009.

(2) Not less than 5 percent in fiscal years 2010 through 2012.

(3) Not less than 7.5 percent in fiscal year 2013 and each fiscal year thereafter.

(b) **DEFINITIONS.**—In this section:

(1) **BIOMASS.**—The term “biomass” means any lignin waste material that is segregated from other waste materials and is determined to be nonhazardous by the Administrator of the Environmental Protection Agency and any solid, nonhazardous, cellulosic material that is derived from—

(A) any of the following forest-related resources: mill residues, precommercial thinnings, slash, and brush, or nonmerchantable material;

(B) solid wood waste materials, including waste pallets, crates, dunnage, manufacturing and construction wood wastes (other than pressure-treated, chemically-treated, or painted wood wastes), and landscape or right-of-way tree trimmings, but not including municipal solid waste (garbage), gas derived from the biodegradation of solid waste, or paper that is commonly recycled;

(C) agriculture wastes, including orchard tree crops, vineyard, grain, legumes, sugar, and other crop by-products or residues, and livestock waste nutrients; or

(D) a plant that is grown exclusively as a fuel for the production of electricity.

(2) **RENEWABLE ENERGY.**—The term “renewable energy” means electric energy generated from solar, wind, biomass, landfill gas, ocean (including tidal, wave, current, and thermal), geothermal, municipal solid waste, or new hydroelectric generation capacity achieved from increased efficiency or additions of new capacity at an existing hydroelectric project.

(c) **CALCULATION.**—For purposes of determining compliance with the requirement of this section, the amount of renewable energy shall be doubled if—

(1) the renewable energy is produced and used on-site at a Federal facility;

(2) the renewable energy is produced on Federal lands and used at a Federal facility; or

(3) the renewable energy is produced on Indian land as defined in title XXVI of the Energy Policy Act of 1992 (25 U.S.C. 3501 et seq.) and used at a Federal facility.

(d) REPORT.—Not later than April 15, 2007, and every 2 years thereafter, the Secretary shall provide a report to Congress on the progress of the Federal Government in meeting the goals established by this section.

SEC. 204. USE OF PHOTOVOLTAIC ENERGY IN PUBLIC BUILDINGS.

(a) IN GENERAL.—Subchapter VI of chapter 31 of title 40, United States Code, is amended by adding at the end the following:

“§ 3177. Use of photovoltaic energy in public buildings

“(a) PHOTOVOLTAIC ENERGY COMMERCIALIZATION PROGRAM.—

“(1) IN GENERAL.—The Administrator of General Services may establish a photovoltaic energy commercialization program for the procurement and installation of photovoltaic solar electric systems for electric production in new and existing public buildings.

“(2) PURPOSES.—The purposes of the program shall be to accomplish the following:

“(A) To accelerate the growth of a commercially viable photovoltaic industry to make this energy system available to the general public as an option which can reduce the national consumption of fossil fuel.

“(B) To reduce the fossil fuel consumption and costs of the Federal Government.

“(C) To attain the goal of installing solar energy systems in 20,000 Federal buildings by 2010, as contained in the Federal Government’s Million Solar Roof Initiative of 1997.

“(D) To stimulate the general use within the Federal Government of life-cycle costing and innovative procurement methods.

“(E) To develop program performance data to support policy decisions on future incentive programs with respect to energy.

“(3) ACQUISITION OF PHOTOVOLTAIC SOLAR ELECTRIC SYSTEMS.—

“(A) IN GENERAL.—The program shall provide for the acquisition of photovoltaic solar electric systems and associated storage capability for use in public buildings.

“(B) ACQUISITION LEVELS.—The acquisition of photovoltaic electric systems shall be at a level substantial enough to allow use of low-cost production techniques with at least 150 megawatts (peak) cumulative acquired during the 5 years of the program.

“(4) ADMINISTRATION.—The Administrator shall administer the program and shall—

“(A) issue such rules and regulations as may be appropriate to monitor and assess the performance and operation of photovoltaic solar electric systems installed pursuant to this subsection;

“(B) develop innovative procurement strategies for the acquisition of such systems; and

Reports.

“ (C) transmit to Congress an annual report on the results of the program.

“(b) PHOTOVOLTAIC SYSTEMS EVALUATION PROGRAM.—

Deadline. “(1) IN GENERAL.—Not later than 60 days after the date of enactment of this section, the Administrator shall establish a photovoltaic solar energy systems evaluation program to evaluate such photovoltaic solar energy systems as are required in public buildings.

“(2) PROGRAM REQUIREMENT.—In evaluating photovoltaic solar energy systems under the program, the Administrator shall ensure that such systems reflect the most advanced technology.

“(c) AUTHORIZATION OF APPROPRIATIONS.—

“(1) PHOTOVOLTAIC ENERGY COMMERCIALIZATION PROGRAM.—There are authorized to be appropriated to carry out subsection (a) \$50,000,000 for each of fiscal years 2006 through 2010. Such sums shall remain available until expended.

“(2) PHOTOVOLTAIC SYSTEMS EVALUATION PROGRAM.—There are authorized to be appropriated to carry out subsection (b) \$10,000,000 for each of fiscal years 2006 through 2010. Such sums shall remain available until expended.”

(b) CONFORMING AMENDMENT.—The table of sections for the National Energy Conservation Policy Act is amended by inserting after the item relating to section 569 the following:

“Sec. 570. Use of photovoltaic energy in public buildings.”.

SEC. 205. BIOBASED PRODUCTS.

Section 9002(c)(1) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8102(c)(1)) is amended by inserting “or such items that comply with the regulations issued under section 103 of Public Law 100–556 (42 U.S.C. 6914b–1)” after “practicable”.

SEC. 206. RENEWABLE ENERGY SECURITY.

(a) WEATHERIZATION ASSISTANCE.—Section 415(c) of the Energy Conservation and Production Act (42 U.S.C. 6865(c)) is amended—

(1) in paragraph (1), by striking “in paragraph (3)” and inserting “in paragraphs (3) and (4)”;

(2) in paragraph (3), by striking “\$2,500 per dwelling unit average provided in paragraph (1)” and inserting “dwelling unit averages provided in paragraphs (1) and (4)”;

(3) by adding at the end the following new paragraphs:

“(4) The expenditure of financial assistance provided under this part for labor, weatherization materials, and related matters for a renewable energy system shall not exceed an average of \$3,000 per dwelling unit.

Regulations. “(5)(A) The Secretary shall by regulations—

“(i) establish the criteria which are to be used in prescribing performance and quality standards under paragraph (6)(A)(ii) or in specifying any form of renewable energy under paragraph (6)(A)(i)(I); and

“(ii) establish a procedure under which a manufacturer of an item may request the Secretary to certify that the item will be treated, for purposes of this paragraph, as a renewable energy system.

“(B) The Secretary shall make a final determination with respect to any request filed under subparagraph (A)(ii) within 1

year after the filing of the request, together with any information required to be filed with such request under subparagraph (A)(ii).

“(C) Each month the Secretary shall publish a report of any request under subparagraph (A)(ii) which has been denied during the preceding month and the reasons for the denial. Reports.

“(D) The Secretary shall not specify any form of renewable energy under paragraph (6)(A)(i)(I) unless the Secretary determines that—

“(i) there will be a reduction in oil or natural gas consumption as a result of such specification;

“(ii) such specification will not result in an increased use of any item which is known to be, or reasonably suspected to be, environmentally hazardous or a threat to public health or safety; and

“(iii) available Federal subsidies do not make such specification unnecessary or inappropriate (in the light of the most advantageous allocation of economic resources).

“(6) In this subsection—

“(A) the term ‘renewable energy system’ means a system which—

“(i) when installed in connection with a dwelling, transmits or uses—

“(I) solar energy, energy derived from the geothermal deposits, energy derived from biomass, or any other form of renewable energy which the Secretary specifies by regulations, for the purpose of heating or cooling such dwelling or providing hot water or electricity for use within such dwelling; or

“(II) wind energy for nonbusiness residential purposes;

“(ii) meets the performance and quality standards (if any) which have been prescribed by the Secretary by regulations;

“(iii) in the case of a combustion rated system, has a thermal efficiency rating of at least 75 percent; and

“(iv) in the case of a solar system, has a thermal efficiency rating of at least 15 percent; and

“(B) the term ‘biomass’ means any organic matter that is available on a renewable or recurring basis, including agricultural crops and trees, wood and wood wastes and residues, plants (including aquatic plants), grasses, residues, fibers, and animal wastes, municipal wastes, and other waste materials.”.

(b) DISTRICT HEATING AND COOLING PROGRAMS.—Section 172 of the Energy Policy Act of 1992 (42 U.S.C. 13451 note) is amended—

(1) in subsection (a)—

(A) by striking “and” at the end of paragraph (3);

(B) by striking the period at the end of paragraph

(4) and inserting “; and”; and

(C) by adding at the end the following new paragraph:

“(5) evaluate the use of renewable energy systems (as such term is defined in section 415(c) of the Energy Conservation and Production Act (42 U.S.C. 6865(c))) in residential buildings.”; and

(2) in subsection (b), by striking “this Act” and inserting “the Energy Policy Act of 2005”.

(c) REBATE PROGRAM.—

(1) **ESTABLISHMENT.**—The Secretary shall establish a program providing rebates for consumers for expenditures made for the installation of a renewable energy system in connection with a dwelling unit or small business.

(2) **AMOUNT OF REBATE.**—Rebates provided under the program established under paragraph (1) shall be in an amount not to exceed the lesser of—

(A) 25 percent of the expenditures described in paragraph (1) made by the consumer; or

(B) \$3,000.

(3) **DEFINITION.**—For purposes of this subsection, the term “renewable energy system” has the meaning given that term in section 415(c)(6)(A) of the Energy Conservation and Production Act (42 U.S.C. 6865(c)(6)(A)), as added by subsection (a)(3) of this section.

(4) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary for carrying out this subsection, to remain available until expended—

(A) \$150,000,000 for fiscal year 2006;

(B) \$150,000,000 for fiscal year 2007;

(C) \$200,000,000 for fiscal year 2008;

(D) \$250,000,000 for fiscal year 2009; and

(E) \$250,000,000 for fiscal year 2010.

Deadline.
Reports.

(d) **RENEWABLE FUEL INVENTORY.**—Not later than 180 days after the date of enactment of this Act, the Secretary shall transmit to Congress a report containing—

(1) an inventory of renewable fuels available for consumers; and

(2) a projection of future inventories of renewable fuels based on the incentives provided in this section.

SEC. 207. INSTALLATION OF PHOTOVOLTAIC SYSTEM.

Appropriation
authorization.

There is authorized to be appropriated to the General Services Administration to install a photovoltaic system, as set forth in the Sun Wall Design Project, for the headquarters building of the Department of Energy located at 1000 Independence Avenue Southwest in the District of Columbia, commonly known as the Forrestal Building, \$20,000,000 for fiscal year 2006. Such sums shall remain available until expended.

42 USC 15854.

SEC. 208. SUGAR CANE ETHANOL PROGRAM.

(a) **DEFINITION OF PROGRAM.**—In this section, the term “program” means the Sugar Cane Ethanol Program established by subsection (b).

(b) **ESTABLISHMENT.**—There is established within the Environmental Protection Agency a program to be known as the “Sugar Cane Ethanol Program”.

(c) **PROJECT.**—

(1) **IN GENERAL.**—Subject to the availability of appropriations under subsection (d), in carrying out the program, the Administrator of the Environmental Protection Agency shall establish a project that is—

(A) carried out in multiple States—

(i) in each of which is produced cane sugar that is eligible for loans under section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272), or a similar subsequent authority; and

(ii) at the option of each such State, that have an incentive program that requires the use of ethanol in the State; and

(B) designed to study the production of ethanol from cane sugar, sugarcane, and sugarcane byproducts.

(2) REQUIREMENTS.—A project described in paragraph (1) shall—

(A) be limited to sugar producers and the production of ethanol in the States of Florida, Louisiana, Texas, and Hawaii, divided equally among the States, to demonstrate that the process may be applicable to cane sugar, sugarcane, and sugarcane byproducts;

(B) include information on the ways in which the scale of production may be replicated once the sugar cane industry has located sites for, and constructed, ethanol production facilities; and

(C) not last more than 3 years.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$36,000,000, to remain available until expended.

SEC. 209. RURAL AND REMOTE COMMUNITY ELECTRIFICATION GRANTS.

The Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.) is amended in title VI by adding at the end the following:

“SEC. 609. RURAL AND REMOTE COMMUNITIES ELECTRIFICATION GRANTS. 7 USC 918c.

“(a) DEFINITIONS.—In this section:

“(1) The term ‘eligible grantee’ means a local government or municipality, peoples’ utility district, irrigation district, and cooperative, nonprofit, or limited-dividend association in a rural area.

“(2) The term ‘incremental hydropower’ means additional generation achieved from increased efficiency after January 1, 2005, at a hydroelectric dam that was placed in service before January 1, 2005.

“(3) The term ‘renewable energy’ means electricity generated from—

“(A) a renewable energy source; or

“(B) hydrogen, other than hydrogen produced from a fossil fuel, that is produced from a renewable energy source.

“(4) The term ‘renewable energy source’ means—

“(A) wind;

“(B) ocean waves;

“(C) biomass;

“(D) solar;

“(E) landfill gas;

“(F) incremental hydropower;

“(G) livestock methane; or

“(H) geothermal energy.

“(5) The term ‘rural area’ means a city, town, or unincorporated area that has a population of not more than 10,000 inhabitants.

“(b) GRANTS.—The Secretary, in consultation with the Secretary of Agriculture and the Secretary of the Interior, may provide grants under this section to eligible grantees for the purpose of—

“(1) increasing energy efficiency, siting or upgrading transmission and distribution lines serving rural areas; or

“(2) providing or modernizing electric generation facilities that serve rural areas.

“(c) GRANT ADMINISTRATION.—(1) The Secretary shall make grants under this section based on a determination of cost-effectiveness and the most effective use of the funds to achieve the purposes described in subsection (b).

“(2) For each fiscal year, the Secretary shall allocate grant funds under this section equally between the purposes described in paragraphs (1) and (2) of subsection (b).

“(3) In making grants for the purposes described in subsection (b)(2), the Secretary shall give preference to renewable energy facilities.

“(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section \$20,000,000 for each of fiscal years 2006 through 2012.”.

42 USC 15855.

SEC. 210. GRANTS TO IMPROVE THE COMMERCIAL VALUE OF FOREST BIOMASS FOR ELECTRIC ENERGY, USEFUL HEAT, TRANSPORTATION FUELS, AND OTHER COMMERCIAL PURPOSES.

(a) DEFINITIONS.—In this section:

(1) BIOMASS.—The term “biomass” means nonmerchutable materials or precommercial thinnings that are byproducts of preventive treatments, such as trees, wood, brush, thinnings, chips, and slash, that are removed—

(A) to reduce hazardous fuels;

(B) to reduce or contain disease or insect infestation;

or

(C) to restore forest health.

(2) INDIAN TRIBE.—The term “Indian tribe” has the meaning given the term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

(3) NONMERCHANTABLE.—For purposes of subsection (b), the term “nonmerchutable” means that portion of the byproducts of preventive treatments that would not otherwise be used for higher value products.

(4) PERSON.—The term “person” includes—

(A) an individual;

(B) a community (as determined by the Secretary concerned);

(C) an Indian tribe;

(D) a small business or a corporation that is incorporated in the United States; and

(E) a nonprofit organization.

(5) PREFERRED COMMUNITY.—The term “preferred community” means—

(A) any Indian tribe;

(B) any town, township, municipality, or other similar unit of local government (as determined by the Secretary concerned) that—

(i) has a population of not more than 50,000 individuals; and

(ii) the Secretary concerned, in the sole discretion of the Secretary concerned, determines contains or is located near Federal or Indian land, the condition of

which is at significant risk of catastrophic wildfire, disease, or insect infestation or which suffers from disease or insect infestation; or

(C) any county that—

(i) is not contained within a metropolitan statistical area; and

(ii) the Secretary concerned, in the sole discretion of the Secretary concerned, determines contains or is located near Federal or Indian land, the condition of which is at significant risk of catastrophic wildfire, disease, or insect infestation or which suffers from disease or insect infestation.

(6) SECRETARY CONCERNED.—The term “Secretary concerned” means the Secretary of Agriculture or the Secretary of the Interior.

(b) BIOMASS COMMERCIAL USE GRANT PROGRAM.—

(1) IN GENERAL.—The Secretary concerned may make grants to any person in a preferred community that owns or operates a facility that uses biomass as a raw material to produce electric energy, sensible heat, or transportation fuels to offset the costs incurred to purchase biomass for use by such facility.

(2) GRANT AMOUNTS.—A grant under this subsection may not exceed \$20 per green ton of biomass delivered.

(3) MONITORING OF GRANT RECIPIENT ACTIVITIES.—As a condition of a grant under this subsection, the grant recipient shall keep such records as the Secretary concerned may require to fully and correctly disclose the use of the grant funds and all transactions involved in the purchase of biomass. Upon notice by a representative of the Secretary concerned, the grant recipient shall afford the representative reasonable access to the facility that purchases or uses biomass and an opportunity to examine the inventory and records of the facility.

(c) IMPROVED BIOMASS USE GRANT PROGRAM.—

(1) IN GENERAL.—The Secretary concerned may make grants to persons to offset the cost of projects to develop or research opportunities to improve the use of, or add value to, biomass. In making such grants, the Secretary concerned shall give preference to persons in preferred communities.

(2) SELECTION.—The Secretary concerned shall select a grant recipient under paragraph (1) after giving consideration to—

(A) the anticipated public benefits of the project, including the potential to develop thermal or electric energy resources or affordable energy;

(B) opportunities for the creation or expansion of small businesses and micro-businesses;

(C) the potential for new job creation;

(D) the potential for the project to improve efficiency or develop cleaner technologies for biomass utilization; and

(E) the potential for the project to reduce the hazardous fuels from the areas in greatest need of treatment.

(3) GRANT AMOUNT.—A grant under this subsection may not exceed \$500,000.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$50,000,000 for each of the fiscal years 2006 through 2016 to carry out this section.

(e) **REPORT.**—Not later than October 1, 2010, the Secretary of Agriculture, in consultation with the Secretary of the Interior, shall submit to the Committee on Energy and Natural Resources and the Committee on Agriculture, Nutrition, and Forestry of the Senate, and the Committee on Resources, the Committee on Energy and Commerce, and the Committee on Agriculture of the House of Representatives, a report describing the results of the grant programs authorized by this section. The report shall include the following:

(1) An identification of the size, type, and use of biomass by persons that receive grants under this section.

(2) The distance between the land from which the biomass was removed and the facility that used the biomass.

(3) The economic impacts, particularly new job creation, resulting from the grants to and operation of the eligible operations.

SEC. 211. SENSE OF CONGRESS REGARDING GENERATION CAPACITY OF ELECTRICITY FROM RENEWABLE ENERGY RESOURCES ON PUBLIC LANDS.

It is the sense of the Congress that the Secretary of the Interior should, before the end of the 10-year period beginning on the date of enactment of this Act, seek to have approved non-hydro-power renewable energy projects located on the public lands with a generation capacity of at least 10,000 megawatts of electricity.

Subtitle B—Geothermal Energy

SEC. 221. SHORT TITLE.

This subtitle may be cited as the “John Rishel Geothermal Steam Act Amendments of 2005”.

SEC. 222. COMPETITIVE LEASE SALE REQUIREMENTS.

Section 4 of the Geothermal Steam Act of 1970 (30 U.S.C. 1003) is amended to read as follows:

“SEC. 4. LEASING PROCEDURES.

“(a) **NOMINATIONS.**—The Secretary shall accept nominations of land to be leased at any time from qualified companies and individuals under this Act.

“(b) **COMPETITIVE LEASE SALE REQUIRED.**—

“(1) **IN GENERAL.**—Except as otherwise specifically provided by this Act, all land to be leased that is not subject to leasing under subsection (c) shall be leased as provided in this subsection to the highest responsible qualified bidder, as determined by the Secretary.

“(2) **COMPETITIVE LEASE SALES.**—The Secretary shall hold a competitive lease sale at least once every 2 years for land in a State that has nominations pending under subsection (a) if the land is otherwise available for leasing.

“(3) **LANDS SUBJECT TO MINING CLAIMS.**—Lands that are subject to a mining claim for which a plan of operations has been approved by the relevant Federal land management agency may be available for noncompetitive leasing under this section to the mining claim holder.

“(c) **NONCOMPETITIVE LEASING.**—The Secretary shall make available for a period of 2 years for noncompetitive leasing any

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note.

tract for which a competitive lease sale is held, but for which the Secretary does not receive any bids in a competitive lease sale.

“(d) PENDING LEASE APPLICATIONS.—

“(1) IN GENERAL.—It shall be a priority for the Secretary, and for the Secretary of Agriculture with respect to National Forest Systems land, to ensure timely completion of administrative actions, including amendments to applicable forest plans and resource management plans, necessary to process applications for geothermal leasing pending on the date of enactment of this subsection. All future forest plans and resource management plans for areas with high geothermal resource potential shall consider geothermal leasing and development.

“(2) ADMINISTRATION.—An application described in paragraph (1) and any lease issued pursuant to the application—

“(A) except as provided in subparagraph (B), shall be subject to this section as in effect on the day before the date of enactment of this paragraph; or

“(B) at the election of the applicant, shall be subject to this section as in effect on the effective date of this paragraph.

“(e) LEASES SOLD AS A BLOCK.—If information is available to the Secretary indicating a geothermal resource that could be produced as 1 unit can reasonably be expected to underlie more than 1 parcel to be offered in a competitive lease sale, the parcels for such a resource may be offered for bidding as a block in the competitive lease sale.”.

SEC. 223. DIRECT USE.

(a) FEES FOR DIRECT USE.—Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) is amended—

(1) in subsection (c), by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by redesignating subsections (a) through (d) as paragraphs (1) through (4), respectively;

(3) by inserting “(a) IN GENERAL.—” after “SEC. 5.”; and

(4) by adding at the end the following:

“(b) DIRECT USE.—

“(1) IN GENERAL.—Notwithstanding subsection (a)(1), the Secretary shall establish a schedule of fees, in lieu of royalties for geothermal resources, that a lessee or its affiliate—

“(A) uses for a purpose other than the commercial generation of electricity; and

“(B) does not sell.

“(2) SCHEDULE OF FEES.—The schedule of fees—

“(A) may be based on the quantity or thermal content, or both, of geothermal resources used;

“(B) shall ensure a fair return to the United States for use of the resource; and

“(C) shall encourage development of the resource.

“(3) STATE, TRIBAL, OR LOCAL GOVERNMENTS.—If a State, tribal, or local government is the lessee and uses geothermal resources without sale and for public purposes other than commercial generation of electricity, the Secretary shall charge only a nominal fee for use of the resource.

Fees.

“(4) FINAL REGULATION.—In issuing any final regulation establishing a schedule of fees under this subsection, the Secretary shall seek—

“(A) to provide lessees with a simplified administrative system;

“(B) to facilitate development of direct use of geothermal resources; and

“(C) to contribute to sustainable economic development opportunities in the area.”.

(b) LEASING FOR DIRECT USE.—Section 4 of the Geothermal Steam Act of 1970 (30 U.S.C. 1003) (as amended by section 222) is further amended by adding at the end the following:

“(f) LEASING FOR DIRECT USE OF GEOTHERMAL RESOURCES.—Notwithstanding subsection (b), the Secretary may identify areas in which the land to be leased under this Act exclusively for direct use of geothermal resources, without sale for purposes other than commercial generation of electricity, may be leased to any qualified applicant that first applies for such a lease under regulations issued by the Secretary, if the Secretary—

“(1) publishes a notice of the land proposed for leasing not later than 90 days before the date of the issuance of the lease;

“(2) does not receive during the 90-day period beginning on the date of the publication any nomination to include the land concerned in the next competitive lease sale; and

“(3) determines there is no competitive interest in the geothermal resources in the land to be leased.

“(g) AREA SUBJECT TO LEASE FOR DIRECT USE.—

“(1) IN GENERAL.—Subject to paragraph (2), a geothermal lease for the direct use of geothermal resources shall cover not more than the quantity of acreage determined by the Secretary to be reasonably necessary for the proposed use.

“(2) LIMITATIONS.—The quantity of acreage covered by the lease shall not exceed the limitations established under section 7.”.

(c) APPLICATION OF NEW LEASE TERMS.—The schedule of fees established under the amendment made by subsection (a)(4) shall apply with respect to payments under a lease converted under this subsection that are due and owing, and have been paid, on or after July 16, 2003. This subsection shall not require the refund of royalties paid to a State under section 20 of the Geothermal Steam Act of 1970 (30 U.S.C. 1019) prior to the date of enactment of this Act.

SEC. 224. ROYALTIES AND NEAR-TERM PRODUCTION INCENTIVES.

(a) ROYALTY.—Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) is further amended—

(1) in subsection (a) by striking paragraph (1) and inserting the following:

“(1) a royalty on electricity produced using geothermal resources, other than direct use of geothermal resources, that shall be—

“(A) not less than 1 percent and not more than 2.5 percent of the gross proceeds from the sale of electricity produced from such resources during the first 10 years of production under the lease; and

Notice.
Deadline.

30 USC 1004
note.

“(B) not less than 2 and not more than 5 percent of the gross proceeds from the sale of electricity produced from such resources during each year after such 10-year period;” and

(2) by adding at the end the following:

“(c) FINAL REGULATION ESTABLISHING ROYALTY RATES.—In issuing any final regulation establishing royalty rates under this section, the Secretary shall seek—

“(1) to provide lessees a simplified administrative system;

“(2) to encourage new development; and

“(3) to achieve the same level of royalty revenues over a 10-year period as the regulation in effect on the date of enactment of this subsection.

“(d) CREDITS FOR IN-KIND PAYMENTS OF ELECTRICITY.—The Secretary may provide to a lessee a credit against royalties owed under this Act, in an amount equal to the value of electricity provided under contract to a State or county government that is entitled to a portion of such royalties under section 20 of this Act, section 35 of the Mineral Leasing Act (30 U.S.C. 191), except as otherwise provided by this section, or section 6 of the Mineral Leasing Act for Acquired Lands (30 U.S.C. 355), if—

“(1) the Secretary has approved in advance the contract between the lessee and the State or county government for such in-kind payments;

“(2) the contract establishes a specific methodology to determine the value of such credits; and

“(3) the maximum credit will be equal to the royalty value owed to the State or county that is a party to the contract and the electricity received will serve as the royalty payment from the Federal Government to that entity.”

(b) DISPOSAL OF MONEYS FROM SALES, BONUSES, ROYALTIES, AND RENTS.—Section 20 of the Geothermal Steam Act of 1970 (30 U.S.C. 1019) is amended to read as follows:

“SEC. 20. DISPOSAL OF MONEYS FROM SALES, BONUSES, RENTALS, AND ROYALTIES.

“(a) IN GENERAL.—Except with respect to lands in the State of Alaska, all monies received by the United States from sales, bonuses, rentals, and royalties under this Act shall be paid into the Treasury of the United States. Of amounts deposited under this subsection, subject to the provisions of subsection (b) of section 35 of the Mineral Leasing Act (30 U.S.C. 191(b)) and section 5(a)(2) of this Act—

“(1) 50 percent shall be paid to the State within the boundaries of which the leased lands or geothermal resources are or were located; and

“(2) 25 percent shall be paid to the county within the boundaries of which the leased lands or geothermal resources are or were located.

“(b) USE OF PAYMENTS.—Amounts paid to a State or county under subsection (a) shall be used consistent with the terms of section 35 of the Mineral Leasing Act (30 U.S.C. 191).”

(c) NEAR-TERM PRODUCTION INCENTIVE FOR EXISTING LEASES.—

(1) IN GENERAL.—Notwithstanding section 5(a) of the Geothermal Steam Act of 1970, the royalty required to be paid shall be 50 percent of the amount of the royalty otherwise required, on any lease issued before the date of enactment

30 USC 1004
note.

of this Act that does not convert to new royalty terms under subsection (e)—

(A) with respect to commercial production of energy from a facility that begins such production in the 6-year period beginning on the date of enactment of this Act; or

(B) on qualified expansion geothermal energy.

(2) 4-YEAR APPLICATION.—Paragraph (1) applies only to new commercial production of energy from a facility in the first 4 years of such production.

(d) DEFINITION OF QUALIFIED EXPANSION GEOTHERMAL ENERGY.—In this section, the term “qualified expansion geothermal energy” means geothermal energy produced from a generation facility for which—

(1) the production is increased by more than 10 percent as a result of expansion of the facility carried out in the 6-year period beginning on the date of enactment of this Act; and

(2) such production increase is greater than 10 percent of the average production by the facility during the 5-year period preceding the expansion of the facility (as such average is adjusted to reflect any trend in changes in production during that period).

(e) ROYALTY UNDER EXISTING LEASES.—

(1) IN GENERAL.—Any lessee under a lease issued under the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) before the date of enactment of this Act may, within the time period specified in paragraph (2), submit to the Secretary of the Interior a request to modify the terms of the lease relating to payment of royalties to provide—

(A) in the case of a lease that meets the requirements of subsection (b) of section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) (as amended by section 223), that royalties be based on the schedule of fees established under that section; and

(B) in the case of any other lease, that royalties be computed on a percentage of the gross proceeds from the sale of electricity, at a royalty rate that is expected to yield total royalty payments equivalent to payments that would have been received for comparable production under the royalty rate in effect for the lease before the date of enactment of this subsection.

Deadlines.

(2) TIMING.—A request for a modification under paragraph (1) shall be submitted to the Secretary of the Interior by the date that is not later than—

(A) in the case of a lease for direct use, 18 months after the effective date of the schedule of fees established by the Secretary of the Interior under section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004); or

(B) in the case of any other lease, 18 months after the effective date of the final regulation issued under subsection (a).

(3) APPLICATION OF MODIFICATION.—If the lessee requests modification of a lease under paragraph (1)—

Deadline.

(A) the Secretary of the Interior shall, within 180 days after the receipt of the request for modification, modify the lease to comply with—

(i) in the case of a lease for direct use, the schedule of fees established by the Secretary under section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004); or

(ii) in the case of any other lease, the royalty for the lease established under paragraph (1)(B); and

(B) the modification shall apply to any use of geothermal resources to which subsection (a) applies that occurs after the date of the modification.

(4) CONSULTATION.—The Secretary of the Interior shall consult with the State and local governments affected by any proposed changes in lease royalty terms under this subsection.

SEC. 225. COORDINATION OF GEOTHERMAL LEASING AND PERMITTING ON FEDERAL LANDS.

42 USC 15871.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Secretary of the Interior and the Secretary of Agriculture shall enter into and submit to Congress a memorandum of understanding in accordance with this section, the Geothermal Steam Act of 1970 (as amended by this Act), and other applicable laws, regarding coordination of leasing and permitting for geothermal development of public lands and National Forest System lands under their respective jurisdictions.

Deadline.
Memorandum.

(b) LEASE AND PERMIT APPLICATIONS.—The memorandum of understanding shall—

(1) establish an administrative procedure for processing geothermal lease applications, including lines of authority, steps in application processing, and time limits for application processing;

(2) establish a 5-year program for geothermal leasing of lands in the National Forest System, and a process for updating that program every 5 years; and

(3) establish a program for reducing the backlog of geothermal lease application pending on January 1, 2005, by 90 percent within the 5-year period beginning on the date of enactment of this Act, including, as necessary, by issuing leases, rejecting lease applications for failure to comply with the provisions of the regulations under which they were filed, or determining that an original applicant (or the applicant's assigns, heirs, or estate) is no longer interested in pursuing the lease application.

Effective date.

(c) DATA RETRIEVAL SYSTEM.—The memorandum of understanding shall establish a joint data retrieval system that is capable of tracking lease and permit applications and providing to the applicant information as to their status within the Departments of the Interior and Agriculture, including an estimate of the time required for administrative action.

SEC. 226. ASSESSMENT OF GEOTHERMAL ENERGY POTENTIAL.

Deadline.
42 USC 15872.

Not later than 3 years after the date of enactment of this Act and thereafter as the availability of data and developments in technology warrants, the Secretary of the Interior, acting through the Director of the United States Geological Survey and in cooperation with the States, shall—

(1) update the Assessment of Geothermal Resources made during 1978; and

(2) submit to Congress the updated assessment.

SEC. 227. COOPERATIVE OR UNIT PLANS.

Section 18 of the Geothermal Steam Act of 1970 (30 U.S.C. 1017) is amended to read as follows:

“SEC. 18. UNIT AND COMMUNITIZATION AGREEMENTS.

“(a) ADOPTION OF UNITS BY LESSEES.—

“(1) IN GENERAL.—For the purpose of more properly conserving the natural resources of any geothermal reservoir, field, or like area, or any part thereof (whether or not any part of the geothermal reservoir, field, or like area, is subject to any cooperative plan of development or operation (referred to in this section as a ‘unit agreement’)), lessees thereof and their representatives may unite with each other, or jointly or separately with others, in collectively adopting and operating under a unit agreement for the reservoir, field, or like area, or any part thereof, including direct use resources, if determined and certified by the Secretary to be necessary or advisable in the public interest.

“(2) MAJORITY INTEREST OF SINGLE LEASES.—A majority interest of owners of any single lease shall have the authority to commit the lease to a unit agreement.

“(3) INITIATIVE OF SECRETARY.—The Secretary may also initiate the formation of a unit agreement, or require an existing Federal lease to commit to a unit agreement, if in the public interest.

“(4) MODIFICATION OF LEASE REQUIREMENTS BY SECRETARY.—

“(A) IN GENERAL.—The Secretary may, in the discretion of the Secretary and with the consent of the holders of leases involved, establish, alter, change, or revoke rates of operations (including drilling, operations, production, and other requirements) of the leases and make conditions with respect to the leases, with the consent of the lessees, in connection with the creation and operation of any such unit agreement as the Secretary may consider necessary or advisable to secure the protection of the public interest.

“(B) UNLIKE TERMS OR RATES.—Leases with unlike lease terms or royalty rates shall not be required to be modified to be in the same unit.

“(b) REQUIREMENT OF PLANS UNDER NEW LEASES.—The Secretary may—

“(1) provide that geothermal leases issued under this Act shall contain a provision requiring the lessee to operate under a unit agreement; and

“(2) prescribe the unit agreement under which the lessee shall operate, which shall adequately protect the rights of all parties in interest, including the United States.

“(c) MODIFICATION OF RATE OF PROSPECTING, DEVELOPMENT, AND PRODUCTION.—The Secretary may require that any unit agreement authorized by this section that applies to land owned by the United States contain a provision under which authority is vested in the Secretary, or any person, committee, or State or Federal officer or agency as may be designated in the unit agreement to alter or modify, from time to time, the rate of prospecting and development and the quantity and rate of production under the unit agreement.

“(d) EXCLUSION FROM DETERMINATION OF HOLDING OR CONTROL.—Any land that is subject to a unit agreement approved or prescribed by the Secretary under this section shall not be considered in determining holdings or control under section 7.

“(e) POOLING OF CERTAIN LAND.—If separate tracts of land cannot be independently developed and operated to use geothermal resources pursuant to any section of this Act—

“(1) the land, or a portion of the land, may be pooled with other land, whether or not owned by the United States, for purposes of development and operation under a communitization agreement providing for an apportionment of production or royalties among the separate tracts of land comprising the production unit, if the pooling is determined by the Secretary to be in the public interest; and

“(2) operation or production pursuant to the communitization agreement shall be treated as operation or production with respect to each tract of land that is subject to the communitization agreement.

“(f) UNIT AGREEMENT REVIEW.—

“(1) IN GENERAL.—Not later than 5 years after the date of approval of any unit agreement and at least every 5 years thereafter, the Secretary shall—

Deadlines.

“(A) review each unit agreement; and

“(B) after notice and opportunity for comment, eliminate from inclusion in the unit agreement any land that the Secretary determines is not reasonably necessary for unit operations under the unit agreement.

“(2) BASIS FOR ELIMINATION.—The elimination shall—

“(A) be based on scientific evidence; and

“(B) occur only if the elimination is determined by the Secretary to be for the purpose of conserving and properly managing the geothermal resource.

“(3) EXTENSION.—Any land eliminated under this subsection shall be eligible for an extension under section 6(g) if the land meets the requirements for the extension.

“(g) DRILLING OR DEVELOPMENT CONTRACTS.—

“(1) IN GENERAL.—The Secretary may, on such conditions as the Secretary may prescribe, approve drilling or development contracts made by one or more lessees of geothermal leases, with one or more persons, associations, or corporations if, in the discretion of the Secretary, the conservation of natural resources or the public convenience or necessity may require or the interests of the United States may be best served by the approval.

“(2) HOLDINGS OR CONTROL.—Each lease operated under an approved drilling or development contract, and interest under the contract, shall be excepted in determining holdings or control under section 7.

“(h) COORDINATION WITH STATE GOVERNMENTS.—The Secretary shall coordinate unitization and pooling activities with appropriate State agencies.”.

SEC. 228. ROYALTY ON BYPRODUCTS.

Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) (as amended by section 223(a)) is further amended in subsection (a) by striking paragraph (2) and inserting the following:

“(2) a royalty on any byproduct that is a mineral specified in the first section of the Mineral Leasing Act (30 U.S.C. 181), and that is derived from production under the lease, at the rate of the royalty that applies under that Act to production of the mineral under a lease under that Act;”.

SEC. 229. AUTHORITIES OF SECRETARY TO READJUST TERMS, CONDITIONS, RENTALS, AND ROYALTIES.

30 USC 1007. Section 8(b) of the Geothermal Steam Act of 1970 (30 U.S.C. 1006) is amended in the second sentence by striking “period, and in no event” and all that follows through the end of the sentence and inserting “period”.

SEC. 230. CREDITING OF RENTAL TOWARD ROYALTY.

Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) (as amended by sections 223 and 224) is further amended—

(1) in subsection (a)(2) by inserting “and” after the semicolon at the end;

(2) in subsection (a)(3) by striking “; and” and inserting a period;

(3) by striking paragraph (4) of subsection (a); and

(4) by adding at the end the following:

“(e) CREDITING OF RENTAL TOWARD ROYALTY.—Any annual rental under this section that is paid with respect to a lease before the first day of the year for which the annual rental is owed shall be credited to the amount of royalty that is required to be paid under the lease for that year.”.

SEC. 231. LEASE DURATION AND WORK COMMITMENT REQUIREMENTS.

Section 6 of the Geothermal Steam Act of 1970 (30 U.S.C. 1005) is amended—

(1) by striking so much as precedes subsection (c), and striking subsections (e), (g), (h), (i), and (j);

(2) by redesignating subsections (c), (d), and (f) in order as subsections (g), (h), and (i); and

(3) by inserting before subsection (g), as so redesignated, the following:

Regulations.

“SEC. 6. LEASE TERM AND WORK COMMITMENT REQUIREMENTS.

“(a) IN GENERAL.—

“(1) PRIMARY TERM.—A geothermal lease shall be for a primary term of 10 years.

“(2) INITIAL EXTENSION.—The Secretary shall extend the primary term of a geothermal lease for 5 years if, for each year after the 10th year of the lease—

“(A) the Secretary determined under subsection (b) that the lessee satisfied the work commitment requirements that applied to the lease for that year; or

“(B) the lessee paid in annual payments accordance with subsection (c).

“(3) ADDITIONAL EXTENSION.—The Secretary shall extend the primary term of a geothermal lease (after an initial extension under paragraph (2)) for an additional 5 years if, for each year of the initial extension under paragraph (2), the Secretary determined under subsection (b) that the lessee satisfied the minimum work requirements that applied to the lease for that year.

“(b) REQUIREMENT TO SATISFY ANNUAL MINIMUM WORK REQUIREMENT.—

“(1) IN GENERAL.—The lessee for a geothermal lease shall, for each year after the 10th year of the lease, satisfy minimum work requirements prescribed by the Secretary that apply to the lease for that year.

“(2) PRESCRIPTION OF MINIMUM WORK REQUIREMENTS.—The Secretary shall issue regulations prescribing minimum work requirements for geothermal leases, that—

“(A) establish a geothermal potential; and

“(B) if a geothermal potential has been established, confirm the existence of producible geothermal resources.

“(c) PAYMENTS IN LIEU OF MINIMUM WORK REQUIREMENTS.—In lieu of the minimum work requirements set forth in subsection (b)(2), the Secretary shall by regulation establish minimum annual payments which may be made by the lessee for a limited number of years that the Secretary determines will not impair achieving diligent development of the geothermal resource, but in no event shall the number of years exceed the duration of the extension period provided in subsection (a).

“(d) TRANSITION RULES FOR LEASES ISSUED PRIOR TO ENACTMENT OF ENERGY POLICY ACT OF 2005.—The Secretary shall by regulation establish transition rules for leases issued before the date of the enactment of this subsection, including terms under which a lease that is near the end of its term on the date of enactment of this subsection may be extended for up to 2 years—

“(1) to allow achievement of production under the lease;

or

“(2) to allow the lease to be included in a producing unit.

“(e) GEOTHERMAL LEASE OVERLYING MINING CLAIM.—

“(1) EXEMPTION.—The lessee for a geothermal lease of an area overlying an area subject to a mining claim for which a plan of operations has been approved by the relevant Federal land management agency is exempt from annual work requirements established under this Act, if development of the geothermal resource subject to the lease would interfere with the mining operations under such claim.

“(2) TERMINATION OF EXEMPTION.—An exemption under this paragraph expires upon the termination of the mining operations.

“(f) TERMINATION OF APPLICATION OF REQUIREMENTS.—Minimum work requirements prescribed under this section shall not apply to a geothermal lease after the date on which the geothermal resource is utilized under the lease in commercial quantities.”.

SEC. 232. ADVANCED ROYALTIES REQUIRED FOR CESSATION OF PRODUCTION.

Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) (as amended by sections 223, 224, and 230) is further amended by adding at the end the following:

“(f) ADVANCED ROYALTIES REQUIRED FOR CESSATION OF PRODUCTION.—

“(1) IN GENERAL.—Subject to paragraphs (2) and (3), if, at any time after commercial production under a lease is achieved, production ceases for any reason, the lease shall remain in full force and effect for a period of not more than

an aggregate number of 10 years beginning on the date production ceases, if, during the period in which production is ceased, the lessee pays royalties in advance at the monthly average rate at which the royalty was paid during the period of production.

“(2) REDUCTION.—The amount of any production royalty paid for any year shall be reduced (but not below 0) by the amount of any advanced royalties paid under the lease to the extent that the advance royalties have not been used to reduce production royalties for a prior year.

“(3) EXCEPTIONS.—Paragraph (1) shall not apply if the cessation in production is required or otherwise caused by—

“(A) the Secretary;

“(B) the Secretary of the Air Force;

“(C) the Secretary of the Army;

“(D) the Secretary of the Navy;

“(E) a State or a political subdivision of a State; or

“(F) a force majeure.”.

SEC. 233. ANNUAL RENTAL.

(a) ANNUAL RENTAL RATE.—Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) (as amended by section 223(a)) is further amended in subsection (a) by striking paragraph (3) and inserting the following:

“(3) payment in advance of an annual rental of not less than—

“(A) for each of the 1st through 10th years of the lease—

“(i) in the case of a lease awarded in a noncompetitive lease sale, \$1 per acre or fraction thereof; or

“(ii) in the case of a lease awarded in a competitive lease sale, \$2 per acre or fraction thereof for the 1st year and \$3 per acre or fraction thereof for each of the 2nd through 10th years; and

“(B) for each year after the 10th year of the lease, \$5 per acre or fraction thereof.”.

(b) TERMINATION OF LEASE FOR FAILURE TO PAY RENTAL.—Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) (as amended by sections 223, 224, 230, and 232) is further amended by adding at the end the following:

“(g) TERMINATION OF LEASE FOR FAILURE TO PAY RENTAL.—

“(1) IN GENERAL.—The Secretary shall terminate any lease with respect to which rental is not paid in accordance with this Act and the terms of the lease under which the rental is required, on the expiration of the 45-day period beginning on the date of the failure to pay the rental.

“(2) NOTIFICATION.—The Secretary shall promptly notify a lessee that has not paid rental required under the lease that the lease will be terminated at the end of the period referred to in paragraph (1).

“(3) REINSTATEMENT.—A lease that would otherwise terminate under paragraph (1) shall not terminate under that paragraph if the lessee pays to the Secretary, before the end of the period referred to in paragraph (1), the amount of rental due plus a late fee equal to 10 percent of the amount.”.

SEC. 234. DEPOSIT AND USE OF GEOTHERMAL LEASE REVENUES FOR 5 FISCAL YEARS. 42 USC 15873.

(a) **DEPOSIT OF GEOTHERMAL RESOURCES LEASES.**—Notwithstanding any other provision of law, amounts received by the United States in the first 5 fiscal years beginning after the date of enactment of this Act as rentals, royalties, and other payments required under leases under the Geothermal Steam Act of 1970, excluding funds required to be paid to State and county governments, shall be deposited into a separate account in the Treasury.

(b) **USE OF DEPOSITS.**—Amounts deposited under subsection (a) shall be available to the Secretary of the Interior for expenditure, without further appropriation and without fiscal year limitation, to implement the Geothermal Steam Act of 1970 and this Act.

(c) **TRANSFER OF FUNDS.**—For the purposes of coordination and processing of geothermal leases and geothermal use authorizations on Federal land the Secretary of the Interior may authorize the expenditure or transfer of such funds as are necessary to the Forest Service.

SEC. 235. ACREAGE LIMITATIONS.

Section 7 of the Geothermal Steam Act of 1970 (30 U.S.C. 1006) is amended—

(1) by striking “**SEC. 7.**”, and by inserting immediately before and above the first paragraph the following:

“**SEC. 7. ACREAGE LIMITATIONS.**”;

(2) in the first paragraph—

(A) by striking “two thousand five hundred and sixty acres” and inserting “5,120 acres”; and

(B) by striking “twenty thousand four hundred and eighty acres” and inserting “51,200 acres”; and

(3) by striking the second paragraph.

SEC. 236. TECHNICAL AMENDMENTS.

The Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) is further amended as follows:

(1) By striking “geothermal steam and associated geothermal resources” each place it appears and inserting “geothermal resources”.

30 USC 1001,
1002, 1005, 1020,
1022, 1024–1026.

(2) Section 2 (30 U.S.C. 1001) is amended by adding at the end the following:

“(g) ‘direct use’ means utilization of geothermal resources for commercial, residential, agricultural, public facilities, or other energy needs other than the commercial production of electricity; and”.

(3) Section 21 (30 U.S.C. 1020) is amended by striking “(a) Within one hundred” and all that follows through “(b) Geothermal” and inserting “Geothermal”.

(4) The first section (30 U.S.C. 1001 note) is amended by striking “That this” and inserting the following:

“SEC. 1. SHORT TITLE.

“This”.

(5) Section 2 (30 U.S.C. 1001) is amended by striking “**SEC. 2. As**” and inserting the following:

“SEC. 2. DEFINITIONS.

“As”.

(6) Section 3 (30 U.S.C. 1002) is amended by striking “SEC. 3. Subject” and inserting the following:

“SEC. 3. LANDS SUBJECT TO GEOTHERMAL LEASING.

“Subject”.

(7) Section 5 (30 U.S.C. 1004) is further amended by striking “SEC. 5.”, and by inserting immediately before and above subsection (a) the following:

“SEC. 5. RENTS AND ROYALTIES.”.

(8) Section 8 (30 U.S.C. 1007) is amended by striking “SEC. 8. (a) The” and inserting the following:

“SEC. 8. READJUSTMENT OF LEASE TERMS AND CONDITIONS.

“(a) The”.

(9) Section 9 (30 U.S.C. 1008) is amended by striking “SEC. 9. If” and inserting the following:

“SEC. 9. BYPRODUCTS.

“If”.

(10) Section 10 (30 U.S.C. 1009) is amended by striking “SEC. 10. The” and inserting the following:

“SEC. 10. RELINQUISHMENT OF GEOTHERMAL RIGHTS.

“The”.

(11) Section 11 (30 U.S.C. 1010) is amended by striking “SEC. 11. The” and inserting the following:

“SEC. 11. SUSPENSION OF OPERATIONS AND PRODUCTION.

“The”.

(12) Section 12 (30 U.S.C. 1011) is amended by striking “SEC. 12. Leases” and inserting the following:

“SEC. 12. TERMINATION OF LEASES.

“Leases”.

(13) Section 13 (30 U.S.C. 1012) is amended by striking “SEC. 13. The” and inserting the following:

“SEC. 13. WAIVER, SUSPENSION, OR REDUCTION OF RENTAL OR ROYALTY.

“The”.

(14) Section 14 (30 U.S.C. 1013) is amended by striking “SEC. 14. Subject” and inserting the following:

“SEC. 14. SURFACE LAND USE.

“Subject”.

(15) Section 15 (30 U.S.C. 1014) is amended by striking “SEC. 15. (a) Geothermal” and inserting the following:

“SEC. 15. LANDS SUBJECT TO GEOTHERMAL LEASING.

“(a) Geothermal”.

(16) Section 16 (30 U.S.C. 1015) is amended by striking “SEC. 16. Leases” and inserting the following:

“SEC. 16. REQUIREMENT FOR LESSEES.

“Leases”.

(17) Section 17 (30 U.S.C. 1016) is amended by striking “SEC. 17. Administration” and inserting the following:

“SEC. 17. ADMINISTRATION.

“Administration”.

(18) Section 19 (30 U.S.C. 1018) is amended by striking “SEC. 19. Upon” and inserting the following:

“SEC. 19. DATA FROM FEDERAL AGENCIES.

“Upon”.

(19) Section 21 (30 U.S.C. 1020) is further amended by striking “SEC. 21.”, and by inserting immediately before and above the remainder of that section the following:

“SEC. 21. PUBLICATION IN FEDERAL REGISTER; RESERVATION OF MINERAL RIGHTS.”.

(20) Section 22 (30 U.S.C. 1021) is amended by striking “SEC. 22. Nothing” and inserting the following:

“SEC. 22. FEDERAL EXEMPTION FROM STATE WATER LAWS.

“Nothing”.

(21) Section 23 (30 U.S.C. 1022) is amended by striking “SEC. 23. (a) All” and inserting the following:

“SEC. 23. PREVENTION OF WASTE; EXCLUSIVITY.

“(a) All”.

(22) Section 24 (30 U.S.C. 1023) is amended by striking “SEC. 24. The” and inserting the following:

“SEC. 24. RULES AND REGULATIONS.

“The”.

(23) Section 25 (30 U.S.C. 1024) is amended by striking “SEC. 25. As” and inserting the following:

“SEC. 25. INCLUSION OF GEOTHERMAL LEASING UNDER CERTAIN OTHER LAWS.

“As”.

(24) Section 26 is amended by striking “SEC. 26. The” and inserting the following: 30 USC 530.

“SEC. 26. AMENDMENT.

“The”.

(25) Section 27 (30 U.S.C. 1025) is amended by striking “SEC. 27. The” and inserting the following:

“SEC. 27. FEDERAL RESERVATION OF CERTAIN MINERAL RIGHTS.

“The”.

(26) Section 28 (30 U.S.C. 1026) is amended by striking “SEC. 28. (a)(1) The” and inserting the following:

“SEC. 28. SIGNIFICANT THERMAL FEATURES.

“(a)(1) The”.

(27) Section 29 (30 U.S.C. 1027) is amended by striking “SEC. 29. The” and inserting the following:

“SEC. 29. LAND SUBJECT TO PROHIBITION ON LEASING.

“The”.

SEC. 237. INTERMOUNTAIN WEST GEOTHERMAL CONSORTIUM.

(a) PARTICIPATION AUTHORIZED.—The Secretary, acting through the Idaho National Laboratory, may participate in a consortium described in subsection (b) to address science and science policy

- Establishment.
- issues surrounding the expanded discovery and use of geothermal energy, including from geothermal resources on public lands.
- (b) MEMBERS.—The consortium referred to in subsection (a) shall—
- (1) be known as the “Intermountain West Geothermal Consortium”;
 - (2) be a regional consortium of institutions and government agencies that focuses on building collaborative efforts among the universities in the State of Idaho, other regional universities, State agencies, and the Idaho National Laboratory;
 - (3) include Boise State University, the University of Idaho (including the Idaho Water Resources Research Institute), the Oregon Institute of Technology, the Desert Research Institute with the University and Community College System of Nevada, and the Energy and Geoscience Institute at the University of Utah;
 - (4) be hosted and managed by Boise State University; and
 - (5) have a director appointed by Boise State University, and associate directors appointed by each participating institution.
- (c) FINANCIAL ASSISTANCE.—The Secretary, acting through the Idaho National Laboratory and subject to the availability of appropriations, will provide financial assistance to Boise State University for expenditure under contracts with members of the consortium to carry out the activities of the consortium.

Subtitle C—Hydroelectric

SEC. 241. ALTERNATIVE CONDITIONS AND FISHWAYS.

- Deadline.
Regulations.
Procedures.
- (a) FEDERAL RESERVATIONS.—Section 4(e) of the Federal Power Act (16 U.S.C. 797(e)) is amended by inserting after “adequate protection and utilization of such reservation.” at the end of the first proviso the following: “The license applicant and any party to the proceeding shall be entitled to a determination on the record, after opportunity for an agency trial-type hearing of no more than 90 days, on any disputed issues of material fact with respect to such conditions. All disputed issues of material fact raised by any party shall be determined in a single trial-type hearing to be conducted by the relevant resource agency in accordance with the regulations promulgated under this subsection and within the time frame established by the Commission for each license proceeding. Within 90 days of the date of enactment of the Energy Policy Act of 2005, the Secretaries of the Interior, Commerce, and Agriculture shall establish jointly, by rule, the procedures for such expedited trial-type hearing, including the opportunity to undertake discovery and cross-examine witnesses, in consultation with the Federal Energy Regulatory Commission.”.
- Deadline.
- (b) FISHWAYS.—Section 18 of the Federal Power Act (16 U.S.C. 811) is amended by inserting after “and such fishways as may be prescribed by the Secretary of Commerce.” the following: “The license applicant and any party to the proceeding shall be entitled to a determination on the record, after opportunity for an agency trial-type hearing of no more than 90 days, on any disputed issues of material fact with respect to such fishways. All disputed issues of material fact raised by any party shall be determined in a

single trial-type hearing to be conducted by the relevant resource agency in accordance with the regulations promulgated under this subsection and within the time frame established by the Commission for each license proceeding. Within 90 days of the date of enactment of the Energy Policy Act of 2005, the Secretaries of the Interior, Commerce, and Agriculture shall establish jointly, by rule, the procedures for such expedited trial-type hearing, including the opportunity to undertake discovery and cross-examine witnesses, in consultation with the Federal Energy Regulatory Commission.”.

Deadline.
Regulations.
Procedures.

(c) ALTERNATIVE CONDITIONS AND PRESCRIPTIONS.—Part I of the Federal Power Act (16 U.S.C. 791a et seq.) is amended by adding the following new section at the end thereof:

“SEC. 33. ALTERNATIVE CONDITIONS AND PRESCRIPTIONS.

16 USC 823d.

“(a) ALTERNATIVE CONDITIONS.—(1) Whenever any person applies for a license for any project works within any reservation of the United States, and the Secretary of the department under whose supervision such reservation falls (referred to in this subsection as the ‘Secretary’) deems a condition to such license to be necessary under the first proviso of section 4(e), the license applicant or any other party to the license proceeding may propose an alternative condition.

“(2) Notwithstanding the first proviso of section 4(e), the Secretary shall accept the proposed alternative condition referred to in paragraph (1), and the Commission shall include in the license such alternative condition, if the Secretary determines, based on substantial evidence provided by the license applicant, any other party to the proceeding, or otherwise available to the Secretary, that such alternative condition—

“(A) provides for the adequate protection and utilization of the reservation; and

“(B) will either, as compared to the condition initially by the Secretary—

“(i) cost significantly less to implement; or

“(ii) result in improved operation of the project works for electricity production.

“(3) In making a determination under paragraph (2), the Secretary shall consider evidence provided for the record by any party to a licensing proceeding, or otherwise available to the Secretary, including any evidence provided by the Commission, on the implementation costs or operational impacts for electricity production of a proposed alternative.

“(4) The Secretary concerned shall submit into the public record of the Commission proceeding with any condition under section 4(e) or alternative condition it accepts under this section, a written statement explaining the basis for such condition, and reason for not accepting any alternative condition under this section. The written statement must demonstrate that the Secretary gave equal consideration to the effects of the condition adopted and alternatives not accepted on energy supply, distribution, cost, and use; flood control; navigation; water supply; and air quality (in addition to the preservation of other aspects of environmental quality); based on such information as may be available to the Secretary, including information voluntarily provided in a timely manner by the applicant and others. The Secretary shall also submit, together with the aforementioned written statement, all studies, data, and

Public
information.
Records.

other factual information available to the Secretary and relevant to the Secretary's decision.

Deadline.

Records.

"(5) If the Commission finds that the Secretary's final condition would be inconsistent with the purposes of this part, or other applicable law, the Commission may refer the dispute to the Commission's Dispute Resolution Service. The Dispute Resolution Service shall consult with the Secretary and the Commission and issue a non-binding advisory within 90 days. The Secretary may accept the Dispute Resolution Service advisory unless the Secretary finds that the recommendation will not adequately protect the reservation. The Secretary shall submit the advisory and the Secretary's final written determination into the record of the Commission's proceeding.

"(b) ALTERNATIVE PRESCRIPTIONS.—(1) Whenever the Secretary of the Interior or the Secretary of Commerce prescribes a fishway under section 18, the license applicant or any other party to the license proceeding may propose an alternative to such prescription to construct, maintain, or operate a fishway.

"(2) Notwithstanding section 18, the Secretary of the Interior or the Secretary of Commerce, as appropriate, shall accept and prescribe, and the Commission shall require, the proposed alternative referred to in paragraph (1), if the Secretary of the appropriate department determines, based on substantial evidence provided by the license applicant, any other party to the proceeding, or otherwise available to the Secretary, that such alternative—

"(A) will be no less protective than the fishway initially prescribed by the Secretary; and

"(B) will either, as compared to the fishway initially prescribed by the Secretary—

"(i) cost significantly less to implement; or

"(ii) result in improved operation of the project works for electricity production.

"(3) In making a determination under paragraph (2), the Secretary shall consider evidence provided for the record by any party to a licensing proceeding, or otherwise available to the Secretary, including any evidence provided by the Commission, on the implementation costs or operational impacts for electricity production of a proposed alternative.

Public
information.
Records.

"(4) The Secretary concerned shall submit into the public record of the Commission proceeding with any prescription under section 18 or alternative prescription it accepts under this section, a written statement explaining the basis for such prescription, and reason for not accepting any alternative prescription under this section. The written statement must demonstrate that the Secretary gave equal consideration to the effects of the prescription adopted and alternatives not accepted on energy supply, distribution, cost, and use; flood control; navigation; water supply; and air quality (in addition to the preservation of other aspects of environmental quality); based on such information as may be available to the Secretary, including information voluntarily provided in a timely manner by the applicant and others. The Secretary shall also submit, together with the aforementioned written statement, all studies, data, and other factual information available to the Secretary and relevant to the Secretary's decision.

"(5) If the Commission finds that the Secretary's final prescription would be inconsistent with the purposes of this part, or other applicable law, the Commission may refer the dispute to the

Commission’s Dispute Resolution Service. The Dispute Resolution Service shall consult with the Secretary and the Commission and issue a non-binding advisory within 90 days. The Secretary may accept the Dispute Resolution Service advisory unless the Secretary finds that the recommendation will not adequately protect the fish resources. The Secretary shall submit the advisory and the Secretary’s final written determination into the record of the Commission’s proceeding.”.

Deadline.

Records.

SEC. 242. HYDROELECTRIC PRODUCTION INCENTIVES.

42 USC 15881.

(a) **INCENTIVE PAYMENTS.**—For electric energy generated and sold by a qualified hydroelectric facility during the incentive period, the Secretary shall make, subject to the availability of appropriations, incentive payments to the owner or operator of such facility. The amount of such payment made to any such owner or operator shall be as determined under subsection (e) of this section. Payments under this section may only be made upon receipt by the Secretary of an incentive payment application which establishes that the applicant is eligible to receive such payment and which satisfies such other requirements as the Secretary deems necessary. Such application shall be in such form, and shall be submitted at such time, as the Secretary shall establish.

(b) **DEFINITIONS.**—For purposes of this section:

(1) **QUALIFIED HYDROELECTRIC FACILITY.**—The term “qualified hydroelectric facility” means a turbine or other generating device owned or solely operated by a non-Federal entity which generates hydroelectric energy for sale and which is added to an existing dam or conduit.

(2) **EXISTING DAM OR CONDUIT.**—The term “existing dam or conduit” means any dam or conduit the construction of which was completed before the date of the enactment of this section and which does not require any construction or enlargement of impoundment or diversion structures (other than repair or reconstruction) in connection with the installation of a turbine or other generating device.

(3) **CONDUIT.**—The term “conduit” has the same meaning as when used in section 30(a)(2) of the Federal Power Act (16 U.S.C. 823a(a)(2)).

The terms defined in this subsection shall apply without regard to the hydroelectric kilowatt capacity of the facility concerned, without regard to whether the facility uses a dam owned by a governmental or nongovernmental entity, and without regard to whether the facility begins operation on or after the date of the enactment of this section.

Applicability.

(c) **ELIGIBILITY WINDOW.**—Payments may be made under this section only for electric energy generated from a qualified hydroelectric facility which begins operation during the period of 10 fiscal years beginning with the first full fiscal year occurring after the date of enactment of this subtitle.

(d) **INCENTIVE PERIOD.**—A qualified hydroelectric facility may receive payments under this section for a period of 10 fiscal years (referred to in this section as the “incentive period”). Such period shall begin with the fiscal year in which electric energy generated from the facility is first eligible for such payments.

(e) **AMOUNT OF PAYMENT.**—

(1) **IN GENERAL.**—Payments made by the Secretary under this section to the owner or operator of a qualified hydroelectric

facility shall be based on the number of kilowatt hours of hydroelectric energy generated by the facility during the incentive period. For any such facility, the amount of such payment shall be 1.8 cents per kilowatt hour (adjusted as provided in paragraph (2)), subject to the availability of appropriations under subsection (g), except that no facility may receive more than \$750,000 in 1 calendar year.

(2) ADJUSTMENTS.—The amount of the payment made to any person under this section as provided in paragraph (1) shall be adjusted for inflation for each fiscal year beginning after calendar year 2005 in the same manner as provided in the provisions of section 29(d)(2)(B) of the Internal Revenue Code of 1986, except that in applying such provisions the calendar year 2005 shall be substituted for calendar year 1979.

(f) SUNSET.—No payment may be made under this section to any qualified hydroelectric facility after the expiration of the period of 20 fiscal years beginning with the first full fiscal year occurring after the date of enactment of this subtitle, and no payment may be made under this section to any such facility after a payment has been made with respect to such facility for a period of 10 fiscal years.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out the purposes of this section \$10,000,000 for each of the fiscal years 2006 through 2015.

42 USC 15882.

SEC. 243. HYDROELECTRIC EFFICIENCY IMPROVEMENT.

(a) INCENTIVE PAYMENTS.—The Secretary shall make incentive payments to the owners or operators of hydroelectric facilities at existing dams to be used to make capital improvements in the facilities that are directly related to improving the efficiency of such facilities by at least 3 percent.

(b) LIMITATIONS.—Incentive payments under this section shall not exceed 10 percent of the costs of the capital improvement concerned and not more than 1 payment may be made with respect to improvements at a single facility. No payment in excess of \$750,000 may be made with respect to improvements at a single facility.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section not more than \$10,000,000 for each of the fiscal years 2006 through 2015.

SEC. 244. ALASKA STATE JURISDICTION OVER SMALL HYDROELECTRIC PROJECTS.

Section 32 of the Federal Power Act (16 U.S.C. 823c) is amended—

(1) in subsection (a)(3)(C), by inserting “except as provided in subsection (j),” before “conditions”; and

(2) by adding at the end the following:

“(j) FISH AND WILDLIFE.—If the State of Alaska determines that a recommendation under subsection (a)(3)(C) is inconsistent with paragraphs (1) and (2) of subsection (a), the State of Alaska may decline to adopt all or part of the recommendations in accordance with the procedures established under section 10(j)(2).”.

Montana.

SEC. 245. FLINT CREEK HYDROELECTRIC PROJECT.

Applicability.
Effective dates.

(a) EXTENSION OF TIME.—Notwithstanding the time period specified in section 5 of the Federal Power Act (16 U.S.C. 798)

that would otherwise apply to the Federal Energy Regulatory Commission (referred to in this section as the “Commission”) project numbered 12107, the Commission shall—

(1) if the preliminary permit is in effect on the date of enactment of this Act, extend the preliminary permit for a period of 3 years beginning on the date on which the preliminary permit expires; or

(2) if the preliminary permit expired before the date of enactment of this Act, on request of the permittee, reinstate the preliminary permit for an additional 3-year period beginning on the date of enactment of this Act.

(b) **LIMITATION ON CERTAIN FEES.**—Notwithstanding section 10(e)(1) of the Federal Power Act (16 U.S.C. 803(e)(1)) or any other provision of Federal law providing for the payment to the United States of charges for the use of Federal land for the purposes of operating and maintaining a hydroelectric development licensed by the Commission, any political subdivision of the State of Montana that holds a Commission license for the Commission project numbered 12107 in Granite and Deer Lodge Counties, Montana, shall be required to pay to the United States for the use of that land for each year during which the political subdivision continues to hold the license for the project, the lesser of—

(1) \$25,000; or

(2) such annual charge as the Commission or any other department or agency of the Federal Government may assess.

SEC. 246. SMALL HYDROELECTRIC POWER PROJECTS.

Section 408(a)(6) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2708(a)(6)) is amended by striking “April 20, 1977” and inserting “July 22, 2005”.

Subtitle D—Insular Energy

SEC. 251. INSULAR AREAS ENERGY SECURITY.

Section 604 of the Act entitled “An Act to authorize appropriations for certain insular areas of the United States, and for other purposes”, approved December 24, 1980 (48 U.S.C. 1492), is amended—

(1) in subsection (a)(4) by striking the period and inserting a semicolon;

(2) by adding at the end of subsection (a) the following new paragraphs:

“(5) electric power transmission and distribution lines in insular areas are inadequate to withstand damage caused by the hurricanes and typhoons which frequently occur in insular areas and such damage often costs millions of dollars to repair; and

“(6) the refinement of renewable energy technologies since the publication of the 1982 Territorial Energy Assessment prepared pursuant to subsection (c) reveals the need to reassess the state of energy production, consumption, infrastructure, reliance on imported energy, opportunities for energy conservation and increased energy efficiency, and indigenous sources in regard to the insular areas.”;

(3) by amending subsection (e) to read as follows:

“(e)(1) The Secretary of the Interior, in consultation with the Secretary of Energy and the head of government of each insular area, shall update the plans required under subsection (c) by—

“(A) updating the contents required by subsection (c);

“(B) drafting long-term energy plans for such insular areas with the objective of reducing, to the extent feasible, their reliance on energy imports by the year 2012, increasing energy conservation and energy efficiency, and maximizing, to the extent feasible, use of indigenous energy sources; and

“(C) drafting long-term energy transmission line plans for such insular areas with the objective that the maximum percentage feasible of electric power transmission and distribution lines in each insular area be protected from damage caused by hurricanes and typhoons.

“(2) In carrying out this subsection, the Secretary of Energy shall identify and evaluate the strategies or projects with the greatest potential for reducing the dependence on imported fossil fuels as used for the generation of electricity, including strategies and projects for—

“(A) improved supply-side efficiency of centralized electrical generation, transmission, and distribution systems;

“(B) improved demand-side management through—

“(i) the application of established standards for energy efficiency for appliances;

“(ii) the conduct of energy audits for business and industrial customers; and

“(iii) the use of energy savings performance contracts;

“(C) increased use of renewable energy, including—

“(i) solar thermal energy for electric generation;

“(ii) solar thermal energy for water heating in large buildings, such as hotels, hospitals, government buildings, and residences;

“(iii) photovoltaic energy;

“(iv) wind energy;

“(v) hydroelectric energy;

“(vi) wave energy;

“(vii) energy from ocean thermal resources, including ocean thermal-cooling for community air conditioning;

“(viii) water vapor condensation for the production of potable water;

“(ix) fossil fuel and renewable hybrid electrical generation systems; and

“(x) other strategies or projects that the Secretary may identify as having significant potential; and

“(D) fuel substitution and minimization with indigenous biofuels, such as coconut oil.

“(3) In carrying out this subsection, for each insular area with a significant need for distributed generation, the Secretary of Energy shall identify and evaluate the most promising strategies and projects described in subparagraphs (C) and (D) of paragraph (2) for meeting that need.

“(4) In assessing the potential of any strategy or project under paragraphs (2) and (3), the Secretary of Energy shall consider—

“(A) the estimated cost of the power or energy to be produced, including—

“(i) any additional costs associated with the distribution of the generation; and

“(ii) the long-term availability of the generation source;
“(B) the capacity of the local electrical utility to manage, operate, and maintain any project that may be undertaken; and

“(C) other factors the Secretary of Energy considers to be appropriate.

“(5) Not later than 1 year after the date of enactment of this subsection, the Secretary of the Interior shall submit to the Committee on Energy and Natural Resources of the Senate, the Committee on Resources of the House of Representatives, and the Committee on Energy and Commerce of the House of Representatives, the updated plans for each insular area required by this subsection.”; and Deadline.

(4) by amending subsection (g)(4) to read as follows:

“(4) POWER LINE GRANTS FOR INSULAR AREAS.—

“(A) IN GENERAL.—The Secretary of the Interior is authorized to make grants to governments of insular areas of the United States to carry out eligible projects to protect electric power transmission and distribution lines in such insular areas from damage caused by hurricanes and typhoons.

“(B) ELIGIBLE PROJECTS.—The Secretary of the Interior may award grants under subparagraph (A) only to governments of insular areas of the United States that submit written project plans to the Secretary for projects that meet the following criteria:

“(i) The project is designed to protect electric power transmission and distribution lines located in 1 or more of the insular areas of the United States from damage caused by hurricanes and typhoons.

“(ii) The project is likely to substantially reduce the risk of future damage, hardship, loss, or suffering.

“(iii) The project addresses 1 or more problems that have been repetitive or that pose a significant risk to public health and safety.

“(iv) The project is not likely to cost more than the value of the reduction in direct damage and other negative impacts that the project is designed to prevent or mitigate. The cost benefit analysis required by this criterion shall be computed on a net present value basis.

“(v) The project design has taken into consideration long-term changes to the areas and persons it is designed to protect and has manageable future maintenance and modification requirements.

“(vi) The project plan includes an analysis of a range of options to address the problem it is designed to prevent or mitigate and a justification for the selection of the project in light of that analysis.

“(vii) The applicant has demonstrated to the Secretary that the matching funds required by subparagraph (D) are available.

“(C) PRIORITY.—When making grants under this paragraph, the Secretary of the Interior shall give priority to grants for projects which are likely to—

“(i) have the greatest impact on reducing future disaster losses; and

“(ii) best conform with plans that have been approved by the Federal Government or the government of the insular area where the project is to be carried out for development or hazard mitigation for that insular area.

“(D) MATCHING REQUIREMENT.—The Federal share of the cost for a project for which a grant is provided under this paragraph shall not exceed 75 percent of the total cost of that project. The non-Federal share of the cost may be provided in the form of cash or services.

“(E) TREATMENT OF FUNDS FOR CERTAIN PURPOSES.—Grants provided under this paragraph shall not be considered as income, a resource, or a duplicative program when determining eligibility or benefit levels for Federal major disaster and emergency assistance.

“(F) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this paragraph \$6,000,000 for each fiscal year beginning after the date of the enactment of this paragraph.”.

42 USC 15891.

SEC. 252. PROJECTS ENHANCING INSULAR ENERGY INDEPENDENCE.

(a) PROJECT FEASIBILITY STUDIES.—

(1) IN GENERAL.—On a request described in paragraph (2), the Secretary shall conduct a feasibility study of a project to implement a strategy or project identified in the plans submitted to Congress pursuant to section 604 of the Act entitled “An Act to authorize appropriations for certain insular areas of the United States, and for other purposes”, approved December 24, 1980 (48 U.S.C. 1492), as having the potential to—

(A) significantly reduce the dependence of an insular area on imported fossil fuels; or

(B) provide needed distributed generation to an insular area.

(2) REQUEST.—The Secretary shall conduct a feasibility study under paragraph (1) on—

(A) the request of an electric utility located in an insular area that commits to fund at least 10 percent of the cost of the study; and

(B) if the electric utility is located in the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau, written support for that request by the President or the Ambassador of the affected freely associated state.

(3) CONSULTATION.—The Secretary shall consult with regional utility organizations in—

(A) conducting feasibility studies under paragraph (1); and

(B) determining the feasibility of potential projects.

(4) FEASIBILITY.—For the purpose of a feasibility study under paragraph (1), a project shall be determined to be feasible if the project would significantly reduce the dependence of an insular area on imported fossil fuels, or provide needed distributed generation to an insular area, at a reasonable cost.

(b) IMPLEMENTATION.—

(1) IN GENERAL.—On a determination by the Secretary (in consultation with the Secretary of the Interior) that a project

is feasible under subsection (a) and a commitment by an electric utility to operate and maintain the project, the Secretary may provide such technical and financial assistance as the Secretary determines is appropriate for the implementation of the project.

(2) REGIONAL UTILITY ORGANIZATIONS.—In providing assistance under paragraph (1), the Secretary shall consider providing the assistance through regional utility organizations.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary—

(A) \$500,000 for each fiscal year for project feasibility studies under subsection (a); and

(B) \$4,000,000 for each fiscal year for project implementation under subsection (b).

(2) LIMITATION OF FUNDS RECEIVED BY INSULAR AREAS.—No insular area may receive, during any 3-year period, more than 20 percent of the total funds made available during that 3-year period under subparagraphs (A) and (B) of paragraph (1) unless the Secretary determines that providing funding in excess of that percentage best advances existing opportunities to meet the objectives of this section.

TITLE III—OIL AND GAS

Subtitle A—Petroleum Reserve and Home Heating Oil

SEC. 301. PERMANENT AUTHORITY TO OPERATE THE STRATEGIC PETROLEUM RESERVE AND OTHER ENERGY PROGRAMS.

(a) AMENDMENT TO TITLE I OF THE ENERGY POLICY AND CONSERVATION ACT.—Title I of the Energy Policy and Conservation Act (42 U.S.C. 6212 et seq.) is amended—

(1) by striking section 166 (42 U.S.C. 6246) and inserting the following:

“AUTHORIZATION OF APPROPRIATIONS

“SEC. 166. There are authorized to be appropriated to the Secretary such sums as are necessary to carry out this part and part D, to remain available until expended.”;

(2) by striking section 186 (42 U.S.C. 6250e); and

(3) by striking part E (42 U.S.C. 6251).

(b) AMENDMENT TO TITLE II OF THE ENERGY POLICY AND CONSERVATION ACT.—Title II of the Energy Policy and Conservation Act (42 U.S.C. 6271 et seq.) is amended—

(1) by inserting before section 273 (42 U.S.C. 6283) the following:

“PART C—SUMMER FILL AND FUEL BUDGETING PROGRAMS”;

(2) by striking section 273(e) (42 U.S.C. 6283(e)); and

(3) by striking part D (42 U.S.C. 6285).

(c) TECHNICAL AMENDMENTS.—The table of contents for the Energy Policy and Conservation Act is amended—

(1) by inserting after the items relating to part C of title I the following:

“PART D—NORTHEAST HOME HEATING OIL RESERVE

“Sec. 181. Establishment.
 “Sec. 182. Authority.
 “Sec. 183. Conditions for release; plan.
 “Sec. 184. Northeast Home Heating Oil Reserve Account.
 “Sec. 185. Exemptions.”;

(2) by amending the items relating to part C of title II to read as follows:

“PART C—SUMMER FILL AND FUEL BUDGETING PROGRAMS

“Sec. 273. Summer fill and fuel budgeting programs.”;

and

(3) by striking the items relating to part D of title II.
 (d) AMENDMENT TO THE ENERGY POLICY AND CONSERVATION ACT.—Section 183(b)(1) of the Energy Policy and Conservation Act (42 U.S.C. 6250b(b)(1)) is amended by striking “by more” and all that follows through “mid-October through March” and inserting “by more than 60 percent over its 5-year rolling average for the months of mid-October through March (considered as a heating season average)”.

42 USC 6240
 note.

(e) FILL STRATEGIC PETROLEUM RESERVE TO CAPACITY.—

(1) IN GENERAL.—The Secretary shall, as expeditiously as practicable, without incurring excessive cost or appreciably affecting the price of petroleum products to consumers, acquire petroleum in quantities sufficient to fill the Strategic Petroleum Reserve to the 1,000,000,000-barrel capacity authorized under section 154(a) of the Energy Policy and Conservation Act (42 U.S.C. 6234(a)), in accordance with the sections 159 and 160 of that Act (42 U.S.C. 6239, 6240).

(2) PROCEDURES.—

(A) AMENDMENT.—Section 160 of the Energy Policy and Conservation Act (42 U.S.C. 6240) is amended by inserting after subsection (b) the following new subsection:

Public
 information.
 Notice.

“(c) PROCEDURES.—The Secretary shall develop, with public notice and opportunity for comment, procedures consistent with the objectives of this section to acquire petroleum for the Reserve. Such procedures shall take into account the need to—

“(1) maximize overall domestic supply of crude oil (including quantities stored in private sector inventories);

“(2) avoid incurring excessive cost or appreciably affecting the price of petroleum products to consumers;

“(3) minimize the costs to the Department of the Interior and the Department of Energy in acquiring such petroleum products (including foregone revenues to the Treasury when petroleum products for the Reserve are obtained through the royalty-in-kind program);

“(4) protect national security;

“(5) avoid adversely affecting current and futures prices, supplies, and inventories of oil; and

“(6) address other factors that the Secretary determines to be appropriate.”.

42 USC 6240
 note.

(B) REVIEW OF REQUESTS FOR DEFERRALS OF SCHEDULED DELIVERIES.—The procedures developed under section 160(c) of the Energy Policy and Conservation Act, as added by subparagraph (A), shall include procedures and criteria

for the review of requests for the deferrals of scheduled deliveries.

(C) DEADLINES.—The Secretary shall—

(i) propose the procedures required under the amendment made by subparagraph (A) not later than 120 days after the date of enactment of this Act;

(ii) promulgate the procedures not later than 180 days after the date of enactment of this Act; and

(iii) comply with the procedures in acquiring petroleum for the Reserve effective beginning on the date that is 180 days after the date of enactment of this Act.

SEC. 302. NATIONAL OILHEAT RESEARCH ALLIANCE.

Section 713 of the Energy Act of 2000 (Public Law 106–469; 42 U.S.C. 6201 note) is amended by striking “4” and inserting “9”.

SEC. 303. SITE SELECTION.

Deadline.

Not later than 1 year after the date of enactment of this Act, the Secretary shall complete a proceeding to select, from sites that the Secretary has previously studied, sites necessary to enable acquisition by the Secretary of the full authorized volume of the Strategic Petroleum Reserve. In such proceeding, the Secretary shall first consider and give preference to the five sites which the Secretary previously assessed in the Draft Environmental Impact Statement, DOE/EIS–0165–D. However, the Secretary in his discretion may select other sites as proposed by a State where a site has been previously studied by the Secretary to meet the full authorized volume of the Strategic Petroleum Reserve.

Subtitle B—Natural Gas

SEC. 311. EXPORTATION OR IMPORTATION OF NATURAL GAS.

(a) SCOPE OF NATURAL GAS ACT.—Section 1(b) of the Natural Gas Act (15 U.S.C. 717(b)) is amended by inserting “and to the importation or exportation of natural gas in foreign commerce and to persons engaged in such importation or exportation,” after “such transportation or sale,”.

(b) DEFINITION.—Section 2 of the Natural Gas Act (15 U.S.C. 717a) is amended by adding at the end the following new paragraph:

“(11) ‘LNG terminal’ includes all natural gas facilities located onshore or in State waters that are used to receive, unload, load, store, transport, gasify, liquefy, or process natural gas that is imported to the United States from a foreign country, exported to a foreign country from the United States, or transported in interstate commerce by waterborne vessel, but does not include—

“(A) waterborne vessels used to deliver natural gas to or from any such facility; or

“(B) any pipeline or storage facility subject to the jurisdiction of the Commission under section 7.”.

(c) AUTHORIZATION FOR SITING, CONSTRUCTION, EXPANSION, OR OPERATION OF LNG TERMINALS.—(1) The title for section 3 of the Natural Gas Act (15 U.S.C. 717b) is amended by inserting “; LNG TERMINALS” after “EXPORTATION OR IMPORTATION OF NATURAL GAS”.

(2) Section 3 of the Natural Gas Act (15 U.S.C. 717b) is amended by adding at the end the following:

“(d) Except as specifically provided in this Act, nothing in this Act affects the rights of States under—

“(1) the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.);

“(2) the Clean Air Act (42 U.S.C. 7401 et seq.); or

“(3) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).

“(e)(1) The Commission shall have the exclusive authority to approve or deny an application for the siting, construction, expansion, or operation of an LNG terminal. Except as specifically provided in this Act, nothing in this Act is intended to affect otherwise applicable law related to any Federal agency’s authorities or responsibilities related to LNG terminals.

“(2) Upon the filing of any application to site, construct, expand, or operate an LNG terminal, the Commission shall—

“(A) set the matter for hearing;

“(B) give reasonable notice of the hearing to all interested persons, including the State commission of the State in which the LNG terminal is located and, if not the same, the Governor-appointed State agency described in section 3A;

“(C) decide the matter in accordance with this subsection; and

“(D) issue or deny the appropriate order accordingly.

“(3)(A) Except as provided in subparagraph (B), the Commission may approve an application described in paragraph (2), in whole or part, with such modifications and upon such terms and conditions as the Commission find necessary or appropriate.

“(B) Before January 1, 2015, the Commission shall not—

“(i) deny an application solely on the basis that the applicant proposes to use the LNG terminal exclusively or partially for gas that the applicant or an affiliate of the applicant will supply to the facility; or

“(ii) condition an order on—

“(I) a requirement that the LNG terminal offer service to customers other than the applicant, or any affiliate of the applicant, securing the order;

“(II) any regulation of the rates, charges, terms, or conditions of service of the LNG terminal; or

“(III) a requirement to file with the Commission schedules or contracts related to the rates, charges, terms, or conditions of service of the LNG terminal.

“(C) Subparagraph (B) shall cease to have effect on January 1, 2030.

“(4) An order issued for an LNG terminal that also offers service to customers on an open access basis shall not result in subsidization of expansion capacity by existing customers, degradation of service to existing customers, or undue discrimination against existing customers as to their terms or conditions of service at the facility, as all of those terms are defined by the Commission.

“(f)(1) In this subsection, the term ‘military installation’—

“(A) means a base, camp, post, range, station, yard, center, or homeport facility for any ship or other activity under the jurisdiction of the Department of Defense, including any leased facility, that is located within a State, the District of Columbia, or any territory of the United States; and

Notice.

Termination
date.

“(B) does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects, as determined by the Secretary of Defense.

“(2) The Commission shall enter into a memorandum of understanding with the Secretary of Defense for the purpose of ensuring that the Commission coordinate and consult with the Secretary of Defense on the siting, construction, expansion, or operation of liquefied natural gas facilities that may affect an active military installation.

Memorandum.

“(3) The Commission shall obtain the concurrence of the Secretary of Defense before authorizing the siting, construction, expansion, or operation of liquefied natural gas facilities affecting the training or activities of an active military installation.”.

(d) LNG TERMINAL STATE AND LOCAL SAFETY CONCERNS.—After section 3 of the Natural Gas Act (15 U.S.C. 717b) insert the following:

“STATE AND LOCAL SAFETY CONSIDERATIONS

“SEC. 3A. (a) The Commission shall promulgate regulations on the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) pre-filing process within 60 days after the date of enactment of this section. An applicant shall comply with pre-filing process required under the National Environmental Policy Act of 1969 prior to filing an application with the Commission. The regulations shall require that the pre-filing process commence at least 6 months prior to the filing of an application for authorization to construct an LNG terminal and encourage applicants to cooperate with State and local officials.

Regulations.
Deadline.
15 USC 717b–1.

“(b) The Governor of a State in which an LNG terminal is proposed to be located shall designate the appropriate State agency for the purposes of consulting with the Commission regarding an application under section 3. The Commission shall consult with such State agency regarding State and local safety considerations prior to issuing an order pursuant to section 3. For the purposes of this section, State and local safety considerations include—

- “(1) the kind and use of the facility;
- “(2) the existing and projected population and demographic characteristics of the location;
- “(3) the existing and proposed land use near the location;
- “(4) the natural and physical aspects of the location;
- “(5) the emergency response capabilities near the facility location; and
- “(6) the need to encourage remote siting.

“(c) The State agency may furnish an advisory report on State and local safety considerations to the Commission with respect to an application no later than 30 days after the application was filed with the Commission. Before issuing an order authorizing an applicant to site, construct, expand, or operate an LNG terminal, the Commission shall review and respond specifically to the issues raised by the State agency described in subsection (b) in the advisory report. This subsection shall apply to any application filed after the date of enactment of the Energy Policy Act of 2005. A State agency has 30 days after such date of enactment to file an advisory report related to any applications pending at the Commission as of such date of enactment.

Applicability.

Deadline.
Reports.

“(d) The State commission of the State in which an LNG terminal is located may, after the terminal is operational, conduct

Notification.

safety inspections in conformance with Federal regulations and guidelines with respect to the LNG terminal upon written notice to the Commission. The State commission may notify the Commission of any alleged safety violations. The Commission shall transmit information regarding such allegations to the appropriate Federal agency, which shall take appropriate action and notify the State commission.

“(e)(1) In any order authorizing an LNG terminal the Commission shall require the LNG terminal operator to develop an Emergency Response Plan. The Emergency Response Plan shall be prepared in consultation with the United States Coast Guard and State and local agencies and be approved by the Commission prior to any final approval to begin construction. The Plan shall include a cost-sharing plan.

“(2) A cost-sharing plan developed under paragraph (1) shall include a description of any direct cost reimbursements that the applicant agrees to provide to any State and local agencies with responsibility for security and safety—

“(A) at the LNG terminal; and

“(B) in proximity to vessels that serve the facility.”.

SEC. 312. NEW NATURAL GAS STORAGE FACILITIES.

Section 4 of the Natural Gas Act (15 U.S.C. 717c) is amended by adding at the end the following:

“(f)(1) In exercising its authority under this Act or the Natural Gas Policy Act of 1978 (15 U.S.C. 3301 et seq.), the Commission may authorize a natural gas company (or any person that will be a natural gas company on completion of any proposed construction) to provide storage and storage-related services at market-based rates for new storage capacity related to a specific facility placed in service after the date of enactment of the Energy Policy Act of 2005, notwithstanding the fact that the company is unable to demonstrate that the company lacks market power, if the Commission determines that—

“(A) market-based rates are in the public interest and necessary to encourage the construction of the storage capacity in the area needing storage services; and

“(B) customers are adequately protected.

“(2) The Commission shall ensure that reasonable terms and conditions are in place to protect consumers.

“(3) If the Commission authorizes a natural gas company to charge market-based rates under this subsection, the Commission shall review periodically whether the market-based rate is just, reasonable, and not unduly discriminatory or preferential.”.

SEC. 313. PROCESS COORDINATION; HEARINGS; RULES OF PROCEDURE.

(a) IN GENERAL.—Section 15 of the Natural Gas Act (15 U.S.C. 717n) is amended—

(1) by striking the section heading and inserting “PROCESS COORDINATION; HEARINGS; RULES OF PROCEDURE”;

(2) by redesignating subsections (a) and (b) as subsections (e) and (f), respectively; and

(3) by striking “SEC. 15.” and inserting the following:

“SEC. 15.(a) In this section, the term ‘Federal authorization’—

“(1) means any authorization required under Federal law with respect to an application for authorization under section

3 or a certificate of public convenience and necessity under section 7; and

“(2) includes any permits, special use authorizations, certifications, opinions, or other approvals as may be required under Federal law with respect to an application for authorization under section 3 or a certificate of public convenience and necessity under section 7.

“(b) DESIGNATION AS LEAD AGENCY.—

“(1) IN GENERAL.—The Commission shall act as the lead agency for the purposes of coordinating all applicable Federal authorizations and for the purposes of complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

“(2) OTHER AGENCIES.—Each Federal and State agency considering an aspect of an application for Federal authorization shall cooperate with the Commission and comply with the deadlines established by the Commission.

“(c) SCHEDULE.—

“(1) COMMISSION AUTHORITY TO SET SCHEDULE.—The Commission shall establish a schedule for all Federal authorizations. In establishing the schedule, the Commission shall—

“(A) ensure expeditious completion of all such proceedings; and

“(B) comply with applicable schedules established by Federal law.

“(2) FAILURE TO MEET SCHEDULE.—If a Federal or State administrative agency does not complete a proceeding for an approval that is required for a Federal authorization in accordance with the schedule established by the Commission, the applicant may pursue remedies under section 19(d).

“(d) CONSOLIDATED RECORD.—The Commission shall, with the cooperation of Federal and State administrative agencies and officials, maintain a complete consolidated record of all decisions made or actions taken by the Commission or by a Federal administrative agency or officer (or State administrative agency or officer acting under delegated Federal authority) with respect to any Federal authorization. Such record shall be the record for—

“(1) appeals or reviews under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.), provided that the record may be supplemented as expressly provided pursuant to section 319 of that Act; or

“(2) judicial review under section 19(d) of decisions made or actions taken of Federal and State administrative agencies and officials, provided that, if the Court determines that the record does not contain sufficient information, the Court may remand the proceeding to the Commission for further development of the consolidated record.”.

(b) JUDICIAL REVIEW.—Section 19 of the Natural Gas Act (15 U.S.C. 717r) is amended by adding at the end the following:

“(d) JUDICIAL REVIEW.—

“(1) IN GENERAL.—The United States Court of Appeals for the circuit in which a facility subject to section 3 or section 7 is proposed to be constructed, expanded, or operated shall have original and exclusive jurisdiction over any civil action for the review of an order or action of a Federal agency (other than the Commission) or State administrative agency acting pursuant to Federal law to issue, condition, or deny any permit,

license, concurrence, or approval (hereinafter collectively referred to as ‘permit’) required under Federal law, other than the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.).

“(2) AGENCY DELAY.—The United States Court of Appeals for the District of Columbia shall have original and exclusive jurisdiction over any civil action for the review of an alleged failure to act by a Federal agency (other than the Commission) or State administrative agency acting pursuant to Federal law to issue, condition, or deny any permit required under Federal law, other than the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.), for a facility subject to section 3 or section 7. The failure of an agency to take action on a permit required under Federal law, other than the Coastal Zone Management Act of 1972, in accordance with the Commission schedule established pursuant to section 15(c) shall be considered inconsistent with Federal law for the purposes of paragraph (3).

“(3) COURT ACTION.—If the Court finds that such order or action is inconsistent with the Federal law governing such permit and would prevent the construction, expansion, or operation of the facility subject to section 3 or section 7, the Court shall remand the proceeding to the agency to take appropriate action consistent with the order of the Court. If the Court remands the order or action to the Federal or State agency, the Court shall set a reasonable schedule and deadline for the agency to act on remand.

“(4) COMMISSION ACTION.—For any action described in this subsection, the Commission shall file with the Court the consolidated record of such order or action to which the appeal hereunder relates.

“(5) EXPEDITED REVIEW.—The Court shall set any action brought under this subsection for expedited consideration.”.

SEC. 314. PENALTIES.

(a) CRIMINAL PENALTIES.—

(1) NATURAL GAS ACT.—Section 21 of the Natural Gas Act (15 U.S.C. 717t) is amended—

(A) in subsection (a)—

(i) by striking “\$5,000” and inserting “\$1,000,000”; and

(ii) by striking “two years” and inserting “5 years”; and

(B) in subsection (b), by striking “\$500” and inserting “\$50,000”.

(2) NATURAL GAS POLICY ACT OF 1978.—Section 504(c) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3414(c)) is amended—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking “\$5,000” and inserting “\$1,000,000”; and

(ii) in subparagraph (B), by striking “two years” and inserting “5 years”; and

(B) in paragraph (2), by striking “\$500 for each violation” and inserting “\$50,000 for each day on which the offense occurs”.

(b) CIVIL PENALTIES.—

(1) NATURAL GAS ACT.—The Natural Gas Act (15 U.S.C. 717 et seq.) is amended—

(A) by redesignating sections 22 through 24 as sections 24 through 26, respectively; and

15 USC
717u–717w.

(B) by inserting after section 21 (15 U.S.C. 717t) the following:

“CIVIL PENALTY AUTHORITY

“SEC. 22. (a) Any person that violates this Act, or any rule, regulation, restriction, condition, or order made or imposed by the Commission under authority of this Act, shall be subject to a civil penalty of not more than \$1,000,000 per day per violation for as long as the violation continues.

15 USC 717t–1.

“(b) The penalty shall be assessed by the Commission after notice and opportunity for public hearing.

“(c) In determining the amount of a proposed penalty, the Commission shall take into consideration the nature and seriousness of the violation and the efforts to remedy the violation.”.

(2) NATURAL GAS POLICY ACT OF 1978.—Section 504(b)(6)(A) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3414(b)(6)(A)) is amended—

(A) in clause (i), by striking “\$5,000” and inserting “\$1,000,000”; and

(B) in clause (ii), by striking “\$25,000” and inserting “\$1,000,000”.

SEC. 315. MARKET MANIPULATION.

The Natural Gas Act is amended by inserting after section 4 (15 U.S.C. 717c) the following:

“PROHIBITION ON MARKET MANIPULATION

“SEC. 4A. It shall be unlawful for any entity, directly or indirectly, to use or employ, in connection with the purchase or sale of natural gas or the purchase or sale of transportation services subject to the jurisdiction of the Commission, any manipulative or deceptive device or contrivance (as those terms are used in section 10(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78j(b))) in contravention of such rules and regulations as the Commission may prescribe as necessary in the public interest or for the protection of natural gas ratepayers. Nothing in this section shall be construed to create a private right of action.”.

15 USC 717c–1.

SEC. 316. NATURAL GAS MARKET TRANSPARENCY RULES.

The Natural Gas Act (15 U.S.C. 717 et seq.) is amended by inserting after section 22 the following:

“NATURAL GAS MARKET TRANSPARENCY RULES

“SEC. 23. (a)(1) The Commission is directed to facilitate price transparency in markets for the sale or transportation of physical natural gas in interstate commerce, having due regard for the public interest, the integrity of those markets, fair competition, and the protection of consumers.

15 USC 717t–2.

“(2) The Commission may prescribe such rules as the Commission determines necessary and appropriate to carry out the purposes of this section. The rules shall provide for the dissemination, on a timely basis, of information about the availability and prices

of natural gas sold at wholesale and in interstate commerce to the Commission, State commissions, buyers and sellers of wholesale natural gas, and the public.

“(3) The Commission may—

“(A) obtain the information described in paragraph (2) from any market participant; and

“(B) rely on entities other than the Commission to receive and make public the information, subject to the disclosure rules in subsection (b).

“(4) In carrying out this section, the Commission shall consider the degree of price transparency provided by existing price publishers and providers of trade processing services, and shall rely on such publishers and services to the maximum extent possible. The Commission may establish an electronic information system if it determines that existing price publications are not adequately providing price discovery or market transparency.

“(b)(1) Rules described in subsection (a)(2), if adopted, shall exempt from disclosure information the Commission determines would, if disclosed, be detrimental to the operation of an effective market or jeopardize system security.

“(2) In determining the information to be made available under this section and the time to make the information available, the Commission shall seek to ensure that consumers and competitive markets are protected from the adverse effects of potential collusion or other anticompetitive behaviors that can be facilitated by untimely public disclosure of transaction-specific information.

“(c)(1) Within 180 days of enactment of this section, the Commission shall conclude a memorandum of understanding with the Commodity Futures Trading Commission relating to information sharing, which shall include, among other things, provisions ensuring that information requests to markets within the respective jurisdiction of each agency are properly coordinated to minimize duplicative information requests, and provisions regarding the treatment of proprietary trading information.

“(2) Nothing in this section may be construed to limit or affect the exclusive jurisdiction of the Commodity Futures Trading Commission under the Commodity Exchange Act (7 U.S.C. 1 et seq.).

“(d)(1) The Commission shall not condition access to interstate pipeline transportation on the reporting requirements of this section.

“(2) The Commission shall not require natural gas producers, processors, or users who have a de minimis market presence to comply with the reporting requirements of this section.

“(e)(1) Except as provided in paragraph (2), no person shall be subject to any civil penalty under this section with respect to any violation occurring more than 3 years before the date on which the person is provided notice of the proposed penalty under section 22(b).

“(2) Paragraph (1) shall not apply in any case in which the Commission finds that a seller that has entered into a contract for the transportation or sale of natural gas subject to the jurisdiction of the Commission has engaged in fraudulent market manipulation activities materially affecting the contract in violation of section 4A.”.

Deadline.
Memorandum.

SEC. 317. FEDERAL-STATE LIQUEFIED NATURAL GAS FORUMS.

(a) **IN GENERAL.**—Not later than 1 year after the date of enactment of this Act, the Secretary, in cooperation and consultation with the Secretary of Transportation, the Secretary of Homeland Security, the Federal Energy Regulatory Commission, and the Governors of the Coastal States, shall convene not less than 3 forums on liquefied natural gas. Deadline.

(b) **REQUIREMENTS.**—The forums shall—

(1) be located in areas where liquefied natural gas facilities are under consideration;

(2) be designed to foster dialogue among Federal officials, State and local officials, the general public, independent experts, and industry representatives; and

(3) at a minimum, provide an opportunity for public education and dialogue on—

(A) the role of liquefied natural gas in meeting current and future United States energy supply requirements and demand, in the context of the full range of energy supply options;

(B) the Federal and State siting and permitting processes;

(C) the potential risks and rewards associated with importing liquefied natural gas;

(D) the Federal safety and environmental requirements (including regulations) applicable to liquefied natural gas;

(E) prevention, mitigation, and response strategies for liquefied natural gas hazards; and

(F) additional issues as appropriate.

(c) **PURPOSE.**—The purpose of the forums shall be to identify and develop best practices for addressing the issues and challenges associated with liquefied natural gas imports, building on existing cooperative efforts.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 318. PROHIBITION OF TRADING AND SERVING BY CERTAIN INDIVIDUALS.

Section 20 of the Natural Gas Act (15 U.S.C. 717s) is amended by adding at the end the following:

“(d) In any proceedings under subsection (a), the court may prohibit, conditionally or unconditionally, and permanently or for such period of time as the court determines, any individual who is engaged or has engaged in practices constituting a violation of section 4A (including related rules and regulations) from—

“(1) acting as an officer or director of a natural gas company; or

“(2) engaging in the business of—

“(A) the purchasing or selling of natural gas; or

“(B) the purchasing or selling of transmission services subject to the jurisdiction of the Commission.”.

Subtitle C—Production

SEC. 321. OUTER CONTINENTAL SHELF PROVISIONS.

(a) STORAGE ON THE OUTER CONTINENTAL SHELF.—Section 5(a)(5) of the Outer Continental Shelf Lands Act (43 U.S.C. 1334(a)(5)) is amended by inserting “from any source” after “oil and gas”.

(b) NATURAL GAS DEFINED.—Section 3(13) of the Deepwater Port Act of 1974 (33 U.S.C. 1502(13)) is amended by adding at the end before the semicolon the following: “, natural gas liquids, liquefied petroleum gas, and condensate recovered from natural gas”.

SEC. 322. HYDRAULIC FRACTURING.

Paragraph (1) of section 1421(d) of the Safe Drinking Water Act (42 U.S.C. 300h(d)) is amended to read as follows:

“(1) UNDERGROUND INJECTION.—The term ‘underground injection’—

“(A) means the subsurface emplacement of fluids by well injection; and

“(B) excludes—

“(i) the underground injection of natural gas for purposes of storage; and

“(ii) the underground injection of fluids or propping agents (other than diesel fuels) pursuant to hydraulic fracturing operations related to oil, gas, or geothermal production activities.”.

SEC. 323. OIL AND GAS EXPLORATION AND PRODUCTION DEFINED.

Section 502 of the Federal Water Pollution Control Act (33 U.S.C. 1362) is amended by adding at the end the following:

“(24) OIL AND GAS EXPLORATION AND PRODUCTION.—The term ‘oil and gas exploration, production, processing, or treatment operations or transmission facilities’ means all field activities or operations associated with exploration, production, processing, or treatment operations, or transmission facilities, including activities necessary to prepare a site for drilling and for the movement and placement of drilling equipment, whether or not such field activities or operations may be considered to be construction activities.”.

Subtitle D—Naval Petroleum Reserve

10 USC 7420
note.

SEC. 331. TRANSFER OF ADMINISTRATIVE JURISDICTION AND ENVIRONMENTAL REMEDIATION, NAVAL PETROLEUM RESERVE NUMBERED 2, KERN COUNTY, CALIFORNIA.

Effective date.

(a) ADMINISTRATION JURISDICTION TRANSFER TO SECRETARY OF THE INTERIOR.—Effective on the date of the enactment of this Act, administrative jurisdiction and control over all public domain lands included within Naval Petroleum Reserve Numbered 2 located in Kern County, California (other than the lands specified in subsection (b)), are transferred from the Secretary to the Secretary of the Interior for management, subject to subsection (c), in accordance with the laws governing management of the public lands, and the regulations promulgated under such laws, including the

Mineral Leasing Act (30 U.S.C. 181 et seq.) and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

(b) EXCLUSION OF CERTAIN RESERVE LANDS.—The transfer of administrative jurisdiction made by subsection (a) does not include the following lands:

(1) That portion of Naval Petroleum Reserve Numbered 2 authorized for disposal under section 3403(a) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 10 U.S.C. 7420 note).

(2) That portion of the surface estate of Naval Petroleum Reserve Numbered 2 conveyed to the City of Taft, California, by section 333.

(c) PURPOSE OF TRANSFER.—

(1) PRODUCTION OF HYDROCARBON RESOURCES.—Notwithstanding any other provision of law, the principal purpose of the lands subject to transfer under subsection (a) is the production of hydrocarbon resources, and the Secretary of the Interior shall manage the lands in a fashion consistent with this purpose. In managing the lands, the Secretary of the Interior shall regulate operations to prevent unnecessary degradation and to provide for ultimate economic recovery of the resources.

(2) DISPOSAL AUTHORITY AND SURFACE USE.—The Secretary of the Interior may make disposals of lands subject to transfer under subsection (a), or allow commercial or non-profit surface use of such lands, not to exceed 10 acres each, so long as the disposals or surface uses do not materially interfere with the ultimate economic recovery of the hydrocarbon resources of such lands. All revenues received from the disposal of lands under this paragraph or from allowing the surface use of such lands shall be deposited in the Naval Petroleum Reserve Numbered 2 Lease Revenue Account established by section 332.

(d) CONFORMING AMENDMENT.—Section 3403 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 10 U.S.C. 7420 note) is amended by striking subsection (b).

SEC. 332. NAVAL PETROLEUM RESERVE NUMBERED 2 LEASE REVENUE ACCOUNT.

10 USC 7420
note.

(a) ESTABLISHMENT.—There is established in the Treasury a special deposit account to be known as the “Naval Petroleum Reserve Numbered 2 Lease Revenue Account” (in this section referred to as the “lease revenue account”). The lease revenue account is a revolving account, and amounts in the lease revenue account shall be available to the Secretary of the Interior, without further appropriation, for the purposes specified in subsection (b).

(b) PURPOSES OF ACCOUNT.—

(1) ENVIRONMENTAL-RELATED COSTS.—The lease revenue account shall be the sole and exclusive source of funds to pay for any and all costs and expenses incurred by the United States for—

(A) environmental investigations (other than any environmental investigations that were conducted by the Secretary before the transfer of the Naval Petroleum Reserve Numbered 2 lands under section 331), remediation, compliance actions, response, waste management, impediments, fines or penalties, or any other costs or expenses

of any kind arising from, or relating to, conditions existing on or below the Naval Petroleum Reserve Numbered 2 lands, or activities occurring or having occurred on such lands, on or before the date of the transfer of such lands; and

(B) any future remediation necessitated as a result of pre-transfer and leasing activities on such lands.

(2) TRANSITION COSTS.—The lease revenue account shall also be available for use by the Secretary of the Interior to pay for transition costs incurred by the Department of the Interior associated with the transfer and leasing of the Naval Petroleum Reserve Numbered 2 lands.

(c) FUNDING.—The lease revenue account shall consist of the following:

(1) Notwithstanding any other provision of law, for a period of three years after the date of the transfer of the Naval Petroleum Reserve Numbered 2 lands under section 331, the sum of \$500,000 per year of revenue from leases entered into before that date, including bonuses, rents, royalties, and interest charges collected pursuant to the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et. seq.), derived from the Naval Petroleum Reserve Numbered 2 lands, shall be deposited into the lease revenue account.

(2) Subject to subsection (d), all revenues derived from leases on Naval Petroleum Reserve Numbered 2 lands issued on or after the date of the transfer of such lands, including bonuses, rents, royalties, and interest charges collected pursuant to the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.), shall be deposited into the lease revenue account.

(d) LIMITATION.—Funds in the lease revenue account shall not exceed \$3,000,000 at any one time. Whenever funds in the lease revenue account are obligated or expended so that the balance in the account falls below that amount, lease revenues referred to in subsection (c)(2) shall be deposited in the account to maintain a balance of \$3,000,000.

Certification.

(e) TERMINATION OF ACCOUNT.—At such time as the Secretary of the Interior certifies that remediation of all environmental contamination of Naval Petroleum Reserve Numbered 2 lands in existence as of the date of the transfer of such lands under section 331 has been successfully completed, that all costs and expenses of investigation, remediation, compliance actions, response, waste management, impediments, fines, or penalties associated with environmental contamination of such lands in existence as of the date of the transfer have been paid in full, and that the transition costs of the Department of the Interior referred to in subsection (b)(2) have been paid in full, the lease revenue account shall be terminated and any remaining funds shall be distributed in accordance with subsection (f).

Applicability.

(f) DISTRIBUTION OF REMAINING FUNDS.—Section 35 of the Mineral Leasing Act (30 U.S.C. 191) shall apply to the payment and distribution of all funds remaining in the lease revenue account upon its termination under subsection (e).

SEC. 333. LAND CONVEYANCE, PORTION OF NAVAL PETROLEUM RESERVE NUMBERED 2, TO CITY OF TAFT, CALIFORNIA. 10 USC 7420 note.

(a) CONVEYANCE.—Effective on the date of the enactment of this Act, there is conveyed to the City of Taft, California (in this section referred to as the “City”), all surface right, title, and interest of the United States in and to a parcel of real property consisting of approximately 220 acres located in the NE¹/₄, the NE¹/₄ of the NW¹/₄, and the N¹/₂ of the SE¹/₄ of the NW¹/₄ of section 18, township 32 south, range 24 east, Mount Diablo meridian, Kern County, California.

Effective date.

(b) CONSIDERATION.—The conveyance under subsection (a) is made without the payment of consideration by the City.

(c) TREATMENT OF EXISTING RIGHTS.—The conveyance under subsection (a) is subject to valid existing rights, including Federal oil and gas lease SAC–019577.

(d) TREATMENT OF MINERALS.—All coal, oil, gas, and other minerals within the lands conveyed under subsection (a) are reserved to the United States, except that the United States and its lessees, licensees, permittees, or assignees shall have no right of surface use or occupancy of the lands. Nothing in this subsection shall be construed to require the United States or its lessees, licensees, permittees, or assignees to support the surface of the conveyed lands.

(e) INDEMNIFY AND HOLD HARMLESS.—The City shall indemnify, defend, and hold harmless the United States for, from, and against, and the City shall assume all responsibility for, any and all liability of any kind or nature, including all loss, cost, expense, or damage, arising from the City’s use or occupancy of, or operations on, the land conveyed under subsection (a), whether such use or occupancy of, or operations on, occurred before or occur after the date of the enactment of this Act.

(f) INSTRUMENT OF CONVEYANCE.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall execute, file, and cause to be recorded in the appropriate office a deed or other appropriate instrument documenting the conveyance made by this section.

Deadline.
Records.

SEC. 334. REVOCATION OF LAND WITHDRAWAL.

Effective on the date of the enactment of this Act, the Executive Order of December 13, 1912, which created Naval Petroleum Reserve Numbered 2, is revoked in its entirety.

Effective date.
10 USC 7420
note.

Subtitle E—Production Incentives

SEC. 341. DEFINITION OF SECRETARY.

42 USC 15901.

In this subtitle, the term “Secretary” means the Secretary of the Interior.

SEC. 342. PROGRAM ON OIL AND GAS ROYALTIES IN-KIND.

42 USC 15902.

(a) APPLICABILITY OF SECTION.—Notwithstanding any other provision of law, this section applies to all royalty in-kind accepted by the Secretary on or after the date of enactment of this Act under any Federal oil or gas lease or permit under—

- (1) section 36 of the Mineral Leasing Act (30 U.S.C. 192);
- (2) section 27 of the Outer Continental Shelf Lands Act (43 U.S.C. 1353); or

(3) any other Federal law governing leasing of Federal land for oil and gas development.

(b) TERMS AND CONDITIONS.—All royalty accruing to the United States shall, on the demand of the Secretary, be paid in-kind. If the Secretary makes such a demand, the following provisions apply to the payment:

(1) SATISFACTION OF ROYALTY OBLIGATION.—Delivery by, or on behalf of, the lessee of the royalty amount and quality due under the lease satisfies royalty obligation of the lessee for the amount delivered, except that transportation and processing reimbursements paid to, or deductions claimed by, the lessee shall be subject to review and audit.

(2) MARKETABLE CONDITION.—

(A) DEFINITION OF MARKETABLE CONDITION.—In this paragraph, the term “in marketable condition” means sufficiently free from impurities and otherwise in a condition that the royalty production will be accepted by a purchaser under a sales contract typical of the field or area in which the royalty production was produced.

(B) REQUIREMENT.—Royalty production shall be placed in marketable condition by the lessee at no cost to the United States.

(3) DISPOSITION BY THE SECRETARY.—The Secretary may—

(A) sell or otherwise dispose of any royalty production taken in-kind (other than oil or gas transferred under section 27(a)(3) of the Outer Continental Shelf Lands Act (43 U.S.C. 1353(a)(3)) for not less than the market price; and

(B) transport or process (or both) any royalty production taken in-kind.

(4) RETENTION BY THE SECRETARY.—The Secretary may, notwithstanding section 3302 of title 31, United States Code, retain and use a portion of the revenues from the sale of oil and gas taken in-kind that otherwise would be deposited to miscellaneous receipts, without regard to fiscal year limitation, or may use oil or gas received as royalty taken in-kind (referred to in this paragraph as “royalty production”) to pay the cost of—

(A) transporting the royalty production;

(B) processing the royalty production;

(C) disposing of the royalty production; or

(D) any combination of transporting, processing, and disposing of the royalty production.

(5) LIMITATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary may not use revenues from the sale of oil and gas taken in-kind to pay for personnel, travel, or other administrative costs of the Federal Government.

(B) EXCEPTION.—Notwithstanding subparagraph (A), the Secretary may use a portion of the revenues from royalty in-kind sales, without fiscal year limitation, to pay salaries and other administrative costs directly related to the royalty in-kind program.

(c) REIMBURSEMENT OF COST.—If the lessee, pursuant to an agreement with the United States or as provided in the lease, processes the royalty gas or delivers the royalty oil or gas at a point not on or adjacent to the lease area, the Secretary shall—

(1) reimburse the lessee for the reasonable costs of transportation (not including gathering) from the lease to the point of delivery or for processing costs; or

(2) allow the lessee to deduct the transportation or processing costs in reporting and paying royalties in-value for other Federal oil and gas leases.

(d) **BENEFIT TO THE UNITED STATES REQUIRED.**—The Secretary may receive oil or gas royalties in-kind only if the Secretary determines that receiving royalties in-kind provides benefits to the United States that are greater than or equal to the benefits that are likely to have been received had royalties been taken in-value.

(e) **REPORTS.**—

(1) **IN GENERAL.**—Not later than September 30, 2006, the Secretary shall submit to Congress a report that addresses—

(A) actions taken to develop business processes and automated systems to fully support the royalty-in-kind capability to be used in tandem with the royalty-in-value approach in managing Federal oil and gas revenue; and

(B) future royalty-in-kind businesses operation plans and objectives.

(2) **REPORTS ON OIL OR GAS ROYALTIES TAKEN IN-KIND.**—For each of fiscal years 2006 through 2015 in which the United States takes oil or gas royalties in-kind from production in any State or from the outer Continental Shelf, excluding royalties taken in-kind and sold to refineries under subsection (h), the Secretary shall submit to Congress a report that describes—

(A) the 1 or more methodologies used by the Secretary to determine compliance with subsection (d), including the performance standard for comparing amounts received by the United States derived from royalties in-kind to amounts likely to have been received had royalties been taken in-value;

(B) an explanation of the evaluation that led the Secretary to take royalties in-kind from a lease or group of leases, including the expected revenue effect of taking royalties in-kind;

(C) actual amounts received by the United States derived from taking royalties in-kind and costs and savings incurred by the United States associated with taking royalties in-kind, including administrative savings and any new or increased administrative costs; and

(D) an evaluation of other relevant public benefits or detriments associated with taking royalties in-kind.

(f) **DEDUCTION OF EXPENSES.**—

(1) **IN GENERAL.**—Before making payments under section 35 of the Mineral Leasing Act (30 U.S.C. 191) or section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)) of revenues derived from the sale of royalty production taken in-kind from a lease, the Secretary shall deduct amounts paid or deducted under subsections (b)(4) and (c) and deposit the amount of the deductions in the miscellaneous receipts of the Treasury.

(2) **ACCOUNTING FOR DEDUCTIONS.**—When the Secretary allows the lessee to deduct transportation or processing costs under subsection (c), the Secretary may not reduce any payments to recipients of revenues derived from any other Federal oil and gas lease as a consequence of that deduction.

(g) CONSULTATION WITH STATES.—The Secretary—

(1) shall consult with a State before conducting a royalty in-kind program under this subtitle within the State;

(2) may delegate management of any portion of the Federal royalty in-kind program to the State except as otherwise prohibited by Federal law; and

(3) shall consult annually with any State from which Federal oil or gas royalty is being taken in-kind to ensure, to the maximum extent practicable, that the royalty in-kind program provides revenues to the State greater than or equal to the revenues likely to have been received had royalties been taken in-value.

(h) SMALL REFINERIES.—

(1) PREFERENCE.—If the Secretary finds that sufficient supplies of crude oil are not available in the open market to refineries that do not have their own source of supply for crude oil, the Secretary may grant preference to those refineries in the sale of any royalty oil accruing or reserved to the United States under Federal oil and gas leases issued under any mineral leasing law, for processing or use in those refineries at private sale at not less than the market price.

(2) PRORATION AMONG REFINERIES IN PRODUCTION AREA.—In disposing of oil under this subsection, the Secretary may, at the discretion of the Secretary, prorate the oil among refineries described in paragraph (1) in the area in which the oil is produced.

(i) DISPOSITION TO FEDERAL AGENCIES.—

(1) ONSHORE ROYALTY.—Any royalty oil or gas taken by the Secretary in-kind from onshore oil and gas leases may be sold at not less than the market price to any Federal agency.

(2) OFFSHORE ROYALTY.—Any royalty oil or gas taken in-kind from a Federal oil or gas lease on the outer Continental Shelf may be disposed of only under section 27 of the Outer Continental Shelf Lands Act (43 U.S.C. 1353).

(j) FEDERAL LOW-INCOME ENERGY ASSISTANCE PROGRAMS.—

(1) PREFERENCE.—In disposing of royalty oil or gas taken in-kind under this section, the Secretary may grant a preference to any person, including any Federal or State agency, for the purpose of providing additional resources to any Federal low-income energy assistance program.

(2) REPORT.—Not later than 3 years after the date of enactment of this Act, the Secretary shall submit a report to Congress—

(A) assessing the effectiveness of granting preferences specified in paragraph (1); and

(B) providing a specific recommendation on the continuation of authority to grant preferences.

42 USC 15903.

SEC. 343. MARGINAL PROPERTY PRODUCTION INCENTIVES.

(a) DEFINITION OF MARGINAL PROPERTY.—Until such time as the Secretary issues regulations under subsection (e) that prescribe a different definition, in this section, the term “marginal property” means an onshore unit, communitization agreement, or lease not within a unit or communitization agreement, that produces on average the combined equivalent of less than 15 barrels of oil per well per day or 90,000,000 British thermal units of gas per

well per day calculated based on the average over the 3 most recent production months, including only wells that produce on more than half of the days during those 3 production months.

(b) CONDITIONS FOR REDUCTION OF ROYALTY RATE.—Until such time as the Secretary issues regulations under subsection (e) that prescribe different standards or requirements, the Secretary shall reduce the royalty rate on—

(1) oil production from marginal properties as prescribed in subsection (c) if the spot price of West Texas Intermediate crude oil at Cushing, Oklahoma, is, on average, less than \$15 per barrel (adjusted in accordance with the Consumer Price Index for all-urban consumers, United States city average, as published by the Bureau of Labor Statistics) for 90 consecutive trading days; and

(2) gas production from marginal properties as prescribed in subsection (c) if the spot price of natural gas delivered at Henry Hub, Louisiana, is, on average, less than \$2.00 per million British thermal units (adjusted in accordance with the Consumer Price Index for all-urban consumers, United States city average, as published by the Bureau of Labor Statistics) for 90 consecutive trading days.

(c) REDUCED ROYALTY RATE.—

(1) IN GENERAL.—When a marginal property meets the conditions specified in subsection (b), the royalty rate shall be the lesser of—

(A) 5 percent; or

(B) the applicable rate under any other statutory or regulatory royalty relief provision that applies to the affected production.

(2) PERIOD OF EFFECTIVENESS.—The reduced royalty rate under this subsection shall be effective beginning on the first day of the production month following the date on which the applicable condition specified in subsection (b) is met.

(d) TERMINATION OF REDUCED ROYALTY RATE.—A royalty rate prescribed in subsection (c)(1) shall terminate—

(1) with respect to oil production from a marginal property, on the first day of the production month following the date on which—

(A) the spot price of West Texas Intermediate crude oil at Cushing, Oklahoma, on average, exceeds \$15 per barrel (adjusted in accordance with the Consumer Price Index for all-urban consumers, United States city average, as published by the Bureau of Labor Statistics) for 90 consecutive trading days; or

(B) the property no longer qualifies as a marginal property; and

(2) with respect to gas production from a marginal property, on the first day of the production month following the date on which—

(A) the spot price of natural gas delivered at Henry Hub, Louisiana, on average, exceeds \$2.00 per million British thermal units (adjusted in accordance with the Consumer Price Index for all-urban consumers, United States city average, as published by the Bureau of Labor Statistics) for 90 consecutive trading days; or

(B) the property no longer qualifies as a marginal property.

(e) REGULATIONS PRESCRIBING DIFFERENT RELIEF.—

(1) DISCRETIONARY REGULATIONS.—The Secretary may by regulation prescribe different parameters, standards, and requirements for, and a different degree or extent of, royalty relief for marginal properties in lieu of those prescribed in subsections (a) through (d).

Deadline.

(2) MANDATORY REGULATIONS.—Unless a determination is made under paragraph (3), not later than 18 months after the date of enactment of this Act, the Secretary shall by regulation—

(A) prescribe standards and requirements for, and the extent of royalty relief for, marginal properties for oil and gas leases on the outer Continental Shelf; and

(B) define what constitutes a marginal property on the outer Continental Shelf for purposes of this section.

(3) REPORT.—To the extent the Secretary determines that it is not practicable to issue the regulations referred to in paragraph (2), the Secretary shall provide a report to Congress explaining such determination by not later than 18 months after the date of enactment of this Act.

(4) CONSIDERATIONS.—In issuing regulations under this subsection, the Secretary may consider—

(A) oil and gas prices and market trends;

(B) production costs;

(C) abandonment costs;

(D) Federal and State tax provisions and the effects of those provisions on production economics;

(E) other royalty relief programs;

(F) regional differences in average wellhead prices;

(G) national energy security issues; and

(H) other relevant matters, as determined by the Secretary.

(f) SAVINGS PROVISION.—Nothing in this section prevents a lessee from receiving royalty relief or a royalty reduction pursuant to any other law (including a regulation) that provides more relief than the amounts provided by this section.

42 USC 15904.

SEC. 344. INCENTIVES FOR NATURAL GAS PRODUCTION FROM DEEP WELLS IN THE SHALLOW WATERS OF THE GULF OF MEXICO.

(a) ROYALTY INCENTIVE REGULATIONS FOR ULTRA DEEP GAS WELLS.—

Deadline.

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, in addition to any other regulations that may provide royalty incentives for natural gas produced from deep wells on oil and gas leases issued pursuant to the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), the Secretary shall issue regulations granting royalty relief suspension volumes of not less than 35 billion cubic feet with respect to the production of natural gas from ultra deep wells on leases issued in shallow waters less than 400 meters deep located in the Gulf of Mexico wholly west of 87 degrees, 30 minutes west longitude. Regulations issued under this subsection shall be retroactive to the date that the notice of proposed rulemaking is published in the Federal Register.

Effective date.
Notices.
Federal Register,
publication.

(2) **SUSPENSION VOLUMES.**—The Secretary may grant suspension volumes of not less than 35 billion cubic feet in any case in which—

(A) the ultra deep well is a sidetrack; or

(B) the lease has previously produced from wells with a perforated interval the top of which is at least 15,000 feet true vertical depth below the datum at mean sea level.

(3) **DEFINITIONS.**—In this subsection:

(A) **ULTRA DEEP WELL.**—The term “ultra deep well” means a well drilled with a perforated interval, the top of which is at least 20,000 true vertical depth below the datum at mean sea level.

(B) **SIDETRACK.**—

(i) **IN GENERAL.**—The term “sidetrack” means a well resulting from drilling an additional hole to a new objective bottom-hole location by leaving a previously drilled hole.

(ii) **INCLUSION.**—The term “sidetrack” includes—

(I) drilling a well from a platform slot reclaimed from a previously drilled well;

(II) re-entering and deepening a previously drilled well; and

(III) a bypass from a sidetrack, including drilling around material blocking a hole or drilling to straighten a crooked hole.

(b) **ROYALTY INCENTIVE REGULATIONS FOR DEEP GAS WELLS.**—Not later than 180 days after the date of enactment of this Act, in addition to any other regulations that may provide royalty incentives for natural gas produced from deep wells on oil and gas leases issued pursuant to the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), the Secretary shall issue regulations granting royalty relief suspension volumes with respect to production of natural gas from deep wells on leases issued in waters more than 200 meters but less than 400 meters deep located in the Gulf of Mexico wholly west of 87 degrees, 30 minutes west longitude. The suspension volumes for deep wells within 200 to 400 meters of water depth shall be calculated using the same methodology used to calculate the suspension volumes for deep wells in the shallower waters of the Gulf of Mexico, and in no case shall the suspension volumes for deep wells within 200 to 400 meters of water depth be lower than those for deep wells in shallower waters. Regulations issued under this subsection shall be retroactive to the date that the notice of proposed rulemaking is published in the Federal Register.

Deadline.

(c) **LIMITATIONS.**—The Secretary may place limitations on the royalty relief granted under this section based on market price. The royalty relief granted under this section shall not apply to a lease for which deep water royalty relief is available.

Effective date.
Notices.
Federal Register,
publication.

SEC. 345. ROYALTY RELIEF FOR DEEP WATER PRODUCTION.

42 USC 15905.

(a) **IN GENERAL.**—Subject to subsections (b) and (c), for each tract located in water depths of greater than 400 meters in the Western and Central Planning Area of the Gulf of Mexico (including the portion of the Eastern Planning Area of the Gulf of Mexico encompassing whole lease blocks lying west of 87 degrees, 30 minutes West longitude), any oil or gas lease sale under the Outer

Effective date.

Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) occurring during the 5-year period beginning on the date of enactment of this Act shall use the bidding system authorized under section 8(a)(1)(H) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)(1)(H)).

(b) **SUSPENSION OF ROYALTIES.**—The suspension of royalties under subsection (a) shall be established at a volume of not less than—

(1) 5,000,000 barrels of oil equivalent for each lease in water depths of 400 to 800 meters;

(2) 9,000,000 barrels of oil equivalent for each lease in water depths of 800 to 1,600 meters;

(3) 12,000,000 barrels of oil equivalent for each lease in water depths of 1,600 to 2,000 meters; and

(4) 16,000,000 barrels of oil equivalent for each lease in water depths greater than 2,000 meters.

(c) **LIMITATION.**—The Secretary may place limitations on royalty relief granted under this section based on market price.

SEC. 346. ALASKA OFFSHORE ROYALTY SUSPENSION.

Section 8(a)(3)(B) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)(3)(B)) is amended by inserting “and in the Planning Areas offshore Alaska” after “West longitude”.

SEC. 347. OIL AND GAS LEASING IN THE NATIONAL PETROLEUM RESERVE IN ALASKA.

(a) **TRANSFER OF AUTHORITY.**—

(1) **REDESIGNATION.**—The Naval Petroleum Reserves Production Act of 1976 (42 U.S.C. 6501 et seq.) is amended by redesignating section 107 (42 U.S.C. 6507) as section 108.

(2) **TRANSFER.**—The matter under the heading “**EXPLORATION OF NATIONAL PETROLEUM RESERVE IN ALASKA**” under the heading “**ENERGY AND MINERALS**” of title I of Public Law 96–514 (42 U.S.C. 6508) is—

(A) transferred to the Naval Petroleum Reserves Production Act of 1976 (42 U.S.C. 6501 et seq.);

(B) redesignated as section 107 of that Act; and

(C) moved so as to appear after section 106 of that Act (42 U.S.C. 6506).

(b) **COMPETITIVE LEASING.**—Section 107 of the Naval Petroleum Reserves Production Act of 1976 (as amended by subsection (a)(2)) is amended—

(1) by striking the heading and all that follows through “*Provided, That* (1) activities” and inserting the following:

“SEC. 107. COMPETITIVE LEASING OF OIL AND GAS.

“(a) **IN GENERAL.**—The Secretary shall conduct an expeditious program of competitive leasing of oil and gas in the Reserve in accordance with this Act.

“(b) **MITIGATION OF ADVERSE EFFECTS.**—Activities”;

(2) by striking “Alaska (the Reserve); (2) the” and inserting “Alaska”.

“(c) **LAND USE PLANNING; BLM WILDERNESS STUDY.**—The”;

(3) by striking “Reserve; (3) the” and inserting “Reserve”.

“(d) **FIRST LEASE SALE.**—The”;

(4) by striking “4332”; (4) the” and inserting “4321 et seq.”.

“(e) **WITHDRAWALS.**—The”;

(5) by striking “herein; (5) bidding” and inserting “under this section”.

“(f) BIDDING SYSTEMS.—Bidding”;

(6) by striking “629); (6) lease” and inserting “629)”.

“(g) GEOLOGICAL STRUCTURES.—Lease”;

(7) by striking “structures; (7) the” and inserting “structures”.

“(h) SIZE OF LEASE TRACTS.—The”;

(8) by striking “Secretary; (8)” and all that follows through “Drilling, production,” and inserting “Secretary”.

“(i) TERMS.—

Deadlines.

“(1) IN GENERAL.—Each lease shall be issued for an initial period of not more than 10 years, and shall be extended for so long thereafter as oil or gas is produced from the lease in paying quantities, oil or gas is capable of being produced in paying quantities, or drilling or reworking operations, as approved by the Secretary, are conducted on the leased land.

“(2) RENEWAL OF LEASES WITH DISCOVERIES.—At the end of the primary term of a lease the Secretary shall renew for an additional 10-year term a lease that does not meet the requirements of paragraph (1) if the lessee submits to the Secretary an application for renewal not later than 60 days before the expiration of the primary lease and the lessee certifies, and the Secretary agrees, that hydrocarbon resources were discovered on one or more wells drilled on the leased land in such quantities that a prudent operator would hold the lease for potential future development.

“(3) RENEWAL OF LEASES WITHOUT DISCOVERIES.—At the end of the primary term of a lease the Secretary shall renew for an additional 10-year term a lease that does not meet the requirements of paragraph (1) if the lessee submits to the Secretary an application for renewal not later than 60 days before the expiration of the primary lease and pays the Secretary a renewal fee of \$100 per acre of leased land, and—

“(A) the lessee provides evidence, and the Secretary agrees that, the lessee has diligently pursued exploration that warrants continuation with the intent of continued exploration or future potential development of the leased land; or

“(B) all or part of the lease—

“(i) is part of a unit agreement covering a lease described in subparagraph (A); and

“(ii) has not been previously contracted out of the unit.

“(4) APPLICABILITY.—This subsection applies to a lease that is in effect on or after the date of enactment of the Energy Policy Act of 2005.

“(5) EXPIRATION FOR FAILURE TO PRODUCE.—Notwithstanding any other provision of this Act, if no oil or gas is produced from a lease within 30 years after the date of the issuance of the lease the lease shall expire.

Deadline.

“(6) TERMINATION.—No lease issued under this section covering lands capable of producing oil or gas in paying quantities shall expire because the lessee fails to produce the same due to circumstances beyond the control of the lessee.

“(j) UNIT AGREEMENTS.—

“(1) IN GENERAL.—For the purpose of conservation of the natural resources of all or part of any oil or gas pool, field, reservoir, or like area, lessees (including representatives) of the pool, field, reservoir, or like area may unite with each other, or jointly or separately with others, in collectively adopting and operating under a unit agreement for all or part of the pool, field, reservoir, or like area (whether or not any other part of the oil or gas pool, field, reservoir, or like area is already subject to any cooperative or unit plan of development or operation), if the Secretary determines the action to be necessary or advisable in the public interest. In determining the public interest, the Secretary should consider, among other things, the extent to which the unit agreement will minimize the impact to surface resources of the leases and will facilitate consolidation of facilities.

“(2) CONSULTATION.—In making a determination under paragraph (1), the Secretary shall consult with and provide opportunities for participation by the State of Alaska or a Regional Corporation (as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602)) with respect to the creation or expansion of units that include acreage in which the State of Alaska or the Regional Corporation has an interest in the mineral estate.

“(3) PRODUCTION ALLOCATION METHODOLOGY.—(A) The Secretary may use a production allocation methodology for each participating area within a unit that includes solely Federal land in the Reserve.

“(B) The Secretary shall use a production allocation methodology for each participating area within a unit that includes Federal land in the Reserve and non-Federal land based on the characteristics of each specific oil or gas pool, field, reservoir, or like area to take into account reservoir heterogeneity and area variation in reservoir producibility across diverse leasehold interests. The implementation of the foregoing production allocation methodology shall be controlled by agreement among the affected lessors and lessees.

“(4) BENEFIT OF OPERATIONS.—Drilling, production,”;

(9) by striking “When separate” and inserting the following:

“(5) POOLING.—If separate”;

(10) by inserting “(in consultation with the owners of the other land)” after “determined by the Secretary of the Interior”;

(11) by striking “thereto; (10) to” and all that follows through “the terms provided therein” and inserting “to the agreement.

“(k) EXPLORATION INCENTIVES.—

“(1) IN GENERAL.—

“(A) WAIVER, SUSPENSION, OR REDUCTION.—To encourage the greatest ultimate recovery of oil or gas or in the interest of conservation, the Secretary may waive, suspend, or reduce the rental fees or minimum royalty, or reduce the royalty on an entire leasehold (including on any lease operated pursuant to a unit agreement), whenever (after consultation with the State of Alaska and the North Slope Borough of Alaska and the concurrence of any Regional Corporation for leases that include land that was made available for acquisition by the Regional Corporation under the provisions of section 1431(o) of the Alaska National

Interest Lands Conservation Act (16 U.S.C. 3101 et seq.)) in the judgment of the Secretary it is necessary to do so to promote development, or whenever in the judgment of the Secretary the leases cannot be successfully operated under the terms provided therein.

“(B) APPLICABILITY.—This paragraph applies to a lease that is in effect on or after the date of enactment of the Energy Policy Act of 2005.”;

(12) by striking “The Secretary is authorized to” and inserting the following:

“(2) SUSPENSION OF OPERATIONS AND PRODUCTION.—The Secretary may”;

(13) by striking “In the event” and inserting the following:

“(3) SUSPENSION OF PAYMENTS.—If”;

(14) by striking “thereto; and (11) all” and inserting “to the lease.

“(1) RECEIPTS.—All”;

(15) by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively;

(16) by striking “Any agency” and inserting the following:

“(m) EXPLORATIONS.—Any agency”;

(17) by striking “Any action” and inserting the following:

“(n) ENVIRONMENTAL IMPACT STATEMENTS.—

“(1) JUDICIAL REVIEW.—Any action”;

(18) by striking “The detailed” and inserting the following:

“(2) INITIAL LEASE SALES.—The detailed”;

(19) by striking “section 104(b) of the Naval Petroleum Reserves Production Act of 1976 (90 Stat. 304; 42 U.S.C. 6504)” and inserting “section 104(a)”;

(20) by adding at the end the following:

“(o) REGULATIONS.—As soon as practicable after the date of enactment of the Energy Policy Act of 2005, the Secretary shall issue regulations to implement this section.

“(p) WAIVER OF ADMINISTRATION FOR CONVEYED LANDS.—

“(1) IN GENERAL.—Notwithstanding section 14(g) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(g))—

“(A) the Secretary of the Interior shall waive administration of any oil and gas lease to the extent that the lease covers any land in the Reserve in which all of the subsurface estate is conveyed to the Arctic Slope Regional Corporation (referred to in this subsection as the ‘Corporation’);

“(B)(i) in a case in which a conveyance of a subsurface estate described in subparagraph (A) does not include all of the land covered by the oil and gas lease, the person that owns the subsurface estate in any particular portion of the land covered by the lease shall be entitled to all of the revenues reserved under the lease as to that portion, including, without limitation, all the royalty payable with respect to oil or gas produced from or allocated to that portion;

“(ii) in a case described in clause (i), the Secretary of the Interior shall—

“(I) segregate the lease into 2 leases, 1 of which shall cover only the subsurface estate conveyed to the Corporation; and

“(II) waive administration of the lease that covers the subsurface estate conveyed to the Corporation; and

“(iii) the segregation of the lease described in clause (ii)(I) has no effect on the obligations of the lessee under either of the resulting leases, including obligations relating to operations, production, or other circumstances (other than payment of rentals or royalties); and

“(C) nothing in this subsection limits the authority of the Secretary of the Interior to manage the federally-owned surface estate within the Reserve.”.

(c) CONFORMING AMENDMENTS.—Section 104 of the Naval Petroleum Reserves Production Act of 1976 (42 U.S.C. 6504) is amended—

(1) by striking subsection (a); and

(2) by redesignating subsections (b) through (d) as subsections (a) through (c), respectively.

Alaska.
42 USC 15906.

SEC. 348. NORTH SLOPE SCIENCE INITIATIVE.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary of the Interior shall establish a long-term initiative to be known as the “North Slope Science Initiative” (referred to in this section as the “Initiative”).

(2) PURPOSE.—The purpose of the Initiative shall be to implement efforts to coordinate collection of scientific data that will provide a better understanding of the terrestrial, aquatic, and marine ecosystems of the North Slope of Alaska.

(b) OBJECTIVES.—To ensure that the Initiative is conducted through a comprehensive science strategy and implementation plan, the Initiative shall, at a minimum—

(1) identify and prioritize information needs for inventory, monitoring, and research activities to address the individual and cumulative effects of past, ongoing, and anticipated development activities and environmental change on the North Slope;

(2) develop an understanding of information needs for regulatory and land management agencies, local governments, and the public;

(3) focus on prioritization of pressing natural resource management and ecosystem information needs, coordination, and cooperation among agencies and organizations;

(4) coordinate ongoing and future inventory, monitoring, and research activities to minimize duplication of effort, share financial resources and expertise, and assure the collection of quality information;

(5) identify priority needs not addressed by agency science programs in effect on the date of enactment of this Act and develop a funding strategy to meet those needs;

(6) provide a consistent approach to high caliber science, including inventory, monitoring, and research;

(7) maintain and improve public and agency access to—

(A) accumulated and ongoing research; and

(B) contemporary and traditional local knowledge; and

(8) ensure through appropriate peer review that the science conducted by participating agencies and organizations is of the highest technical quality.

(c) MEMBERSHIP.—

(1) IN GENERAL.—To ensure comprehensive collection of scientific data, in carrying out the Initiative, the Secretary shall consult and coordinate with Federal, State, and local agencies that have responsibilities for land and resource management across the North Slope.

(2) COOPERATIVE AGREEMENTS.—The Secretary shall enter into cooperative agreements with the State of Alaska, the North Slope Borough, the Arctic Slope Regional Corporation, and other Federal agencies as appropriate to coordinate efforts, share resources, and fund projects under this section.

(d) SCIENCE TECHNICAL ADVISORY PANEL.—

Establishment.

(1) IN GENERAL.—The Initiative shall include a panel to provide advice on proposed inventory, monitoring, and research functions.

(2) MEMBERSHIP.—The panel described in paragraph (1) shall consist of a representative group of not more than 15 scientists and technical experts from diverse professions and interests, including the oil and gas industry, subsistence users, Native Alaskan entities, conservation organizations, wildlife management organizations, and academia, as determined by the Secretary.

(e) REPORTS.—Not later than 3 years after the date of enactment of this section and each year thereafter, the Secretary shall publish a report that describes the studies and findings of the Initiative.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 349. ORPHANED, ABANDONED, OR IDLED WELLS ON FEDERAL LAND.

42 USC 15907.

(a) IN GENERAL.—The Secretary, in cooperation with the Secretary of Agriculture, shall establish a program not later than 1 year after the date of enactment of this Act to remediate, reclaim, and close orphaned, abandoned, or idled oil and gas wells located on land administered by the land management agencies within the Department of the Interior and the Department of Agriculture.

Deadline.

(b) ACTIVITIES.—The program under subsection (a) shall—

(1) include a means of ranking orphaned, abandoned, or idled wells sites for priority in remediation, reclamation, and closure, based on public health and safety, potential environmental harm, and other land use priorities;

(2) provide for identification and recovery of the costs of remediation, reclamation, and closure from persons or other entities currently providing a bond or other financial assurance required under State or Federal law for an oil or gas well that is orphaned, abandoned, or idled; and

(3) provide for recovery from the persons or entities identified under paragraph (2), or their sureties or guarantors, of the costs of remediation, reclamation, and closure of such wells.

(c) COOPERATION AND CONSULTATIONS.—In carrying out the program under subsection (a), the Secretary shall—

Deadline.

(1) work cooperatively with the Secretary of Agriculture and the States within which Federal land is located; and

(2) consult with the Secretary of Energy and the Interstate Oil and Gas Compact Commission.

(d) PLAN.—Not later than 1 year after the date of enactment of this Act, the Secretary, in cooperation with the Secretary of Agriculture, shall submit to Congress a plan for carrying out the program under subsection (a).

(e) IDLED WELL.—For the purposes of this section, a well is idled if—

(1) the well has been nonoperational for at least 7 years; and

(2) there is no anticipated beneficial use for the well.

(f) FEDERAL REIMBURSEMENT FOR ORPHANED WELL RECLAMATION PILOT PROGRAM.—

(1) REIMBURSEMENT FOR REMEDIATING, RECLAIMING, AND CLOSING WELLS ON LAND SUBJECT TO A NEW LEASE.—The Secretary shall carry out a pilot program under which, in issuing a new oil and gas lease on federally owned land on which 1 or more orphaned wells are located, the Secretary—

(A) may require, other than as a condition of the lease, that the lessee remediate, reclaim, and close in accordance with standards established by the Secretary, all orphaned wells on the land leased; and

(B) shall develop a program to reimburse a lessee, through a royalty credit against the Federal share of royalties owed or other means, for the reasonable actual costs of remediating, reclaiming, and closing the orphaned wells pursuant to that requirement.

(2) REIMBURSEMENT FOR RECLAIMING ORPHANED WELLS ON OTHER LAND.—In carrying out this subsection, the Secretary—

(A) may authorize any lessee under an oil and gas lease on federally owned land to reclaim in accordance with the Secretary's standards—

(i) an orphaned well on unleased federally owned land; or

(ii) an orphaned well located on an existing lease on federally owned land for the reclamation of which the lessee is not legally responsible; and

(B) shall develop a program to provide reimbursement of 100 percent of the reasonable actual costs of remediating, reclaiming, and closing the orphaned well, through credits against the Federal share of royalties or other means.

(3) REGULATIONS.—The Secretary may issue such regulations as are appropriate to carry out this subsection.

(g) TECHNICAL ASSISTANCE PROGRAM FOR NON-FEDERAL LAND.—

(1) IN GENERAL.—The Secretary of Energy shall establish a program to provide technical and financial assistance to oil and gas producing States to facilitate State efforts over a 10-year period to ensure a practical and economical remedy for environmental problems caused by orphaned or abandoned oil and gas exploration or production well sites on State or private land.

(2) ASSISTANCE.—The Secretary of Energy shall work with the States, through the Interstate Oil and Gas Compact Commission, to assist the States in quantifying and mitigating

environmental risks of onshore orphaned or abandoned oil or gas wells on State and private land.

(3) ACTIVITIES.—The program under paragraph (1) shall include—

(A) mechanisms to facilitate identification, if feasible, of the persons currently providing a bond or other form of financial assurance required under State or Federal law for an oil or gas well that is orphaned or abandoned;

(B) criteria for ranking orphaned or abandoned well sites based on factors such as public health and safety, potential environmental harm, and other land use priorities;

(C) information and training programs on best practices for remediation of different types of sites; and

(D) funding of State mitigation efforts on a cost-shared basis.

(h) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this section \$25,000,000 for each of fiscal years 2006 through 2010.

(2) USE.—Of the amounts authorized under paragraph (1), \$5,000,000 are authorized for each fiscal year for activities under subsection (f).

SEC. 350. COMBINED HYDROCARBON LEASING.

(a) SPECIAL PROVISIONS REGARDING LEASING.—Section 17(b)(2) of the Mineral Leasing Act (30 U.S.C. 226(b)(2)) is amended—

(1) by inserting “(A)” after “(2)”; and

(2) by adding at the end the following:

“(B) For any area that contains any combination of tar sand and oil or gas (or both), the Secretary may issue under this Act, separately—

“(i) a lease for exploration for and extraction of tar sand;

and

“(ii) a lease for exploration for and development of oil and gas.

“(C) A lease issued for tar sand shall be issued using the same bidding process, annual rental, and posting period as a lease issued for oil and gas, except that the minimum acceptable bid required for a lease issued for tar sand shall be \$2 per acre.

“(D) The Secretary may waive, suspend, or alter any requirement under section 26 that a permittee under a permit authorizing prospecting for tar sand must exercise due diligence, to promote any resource covered by a combined hydrocarbon lease.”.

(b) CONFORMING AMENDMENT.—Section 17(b)(1)(B) of the Mineral Leasing Act (30 U.S.C. 226(b)(1)(B)) is amended in the second sentence by inserting “, subject to paragraph (2)(B),” after “Secretary”.

(c) REGULATIONS.—Not later than 45 days after the date of enactment of this Act, the Secretary shall issue final regulations to implement this section.

Deadline.
30 USC 226 note.

SEC. 351. PRESERVATION OF GEOLOGICAL AND GEOPHYSICAL DATA.

(a) SHORT TITLE.—This section may be cited as the “National Geological and Geophysical Data Preservation Program Act of 2005”.

National
Geographical and
Geophysical Data
Preservation
Program Act of
2005.
42 USC 15908.

(b) PROGRAM.—The Secretary shall carry out a National Geological and Geophysical Data Preservation Program in accordance with this section—

(1) to archive geologic, geophysical, and engineering data, maps, well logs, and samples;

(2) to provide a national catalog of such archival material; and

(3) to provide technical and financial assistance related to the archival material.

Deadline.

(c) PLAN.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a plan for the implementation of the Program.

(d) DATA ARCHIVE SYSTEM.—

(1) ESTABLISHMENT.—The Secretary shall establish, as a component of the Program, a data archive system to provide for the storage, preservation, and archiving of subsurface, surface, geological, geophysical, and engineering data and samples. The Secretary, in consultation with the Advisory Committee, shall develop guidelines relating to the data archive system, including the types of data and samples to be preserved.

(2) SYSTEM COMPONENTS.—The system shall be comprised of State agencies that elect to be part of the system and agencies within the Department of the Interior that maintain geological and geophysical data and samples that are designated by the Secretary in accordance with this subsection. The Program shall provide for the storage of data and samples through data repositories operated by such agencies.

(3) LIMITATION OF DESIGNATION.—The Secretary may not designate a State agency as a component of the data archive system unless that agency is the agency that acts as the geological survey in the State.

(4) DATA FROM FEDERAL LAND.—The data archive system shall provide for the archiving of relevant subsurface data and samples obtained from Federal land—

(A) in the most appropriate repository designated under paragraph (2), with preference being given to archiving data in the State in which the data were collected; and

(B) consistent with all applicable law and requirements relating to confidentiality and proprietary data.

(e) NATIONAL CATALOG.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall develop and maintain, as a component of the Program, a national catalog that identifies—

(A) data and samples available in the data archive system established under subsection (d);

(B) the repository for particular material in the system; and

(C) the means of accessing the material.

(2) AVAILABILITY.—The Secretary shall make the national catalog accessible to the public on the site of the Survey on the Internet, consistent with all applicable requirements related to confidentiality and proprietary data.

(f) ADVISORY COMMITTEE.—

(1) IN GENERAL.—The Advisory Committee shall advise the Secretary on planning and implementation of the Program.

(2) NEW DUTIES.—In addition to its duties under the National Geologic Mapping Act of 1992 (43 U.S.C. 31a et seq.), the Advisory Committee shall perform the following duties:

(A) Advise the Secretary on developing guidelines and procedures for providing assistance for facilities under subsection (g)(1).

(B) Review and critique the draft implementation plan prepared by the Secretary under subsection (c).

(C) Identify useful studies of data archived under the Program that will advance understanding of the Nation's energy and mineral resources, geologic hazards, and engineering geology.

(D) Review the progress of the Program in archiving significant data and preventing the loss of such data, and the scientific progress of the studies funded under the Program.

(E) Include in the annual report to the Secretary required under section 5(b)(3) of the National Geologic Mapping Act of 1992 (43 U.S.C. 31d(b)(3)) an evaluation of the progress of the Program toward fulfilling the purposes of the Program under subsection (b).

(g) FINANCIAL ASSISTANCE.—

(1) ARCHIVE FACILITIES.—Subject to the availability of appropriations, the Secretary shall provide financial assistance to a State agency that is designated under subsection (d)(2) for providing facilities to archive energy material.

(2) STUDIES.—Subject to the availability of appropriations, the Secretary shall provide financial assistance to any State agency designated under subsection (d)(2) for studies and technical assistance activities that enhance understanding, interpretation, and use of materials archived in the data archive system established under subsection (d).

(3) FEDERAL SHARE.—The Federal share of the cost of an activity carried out with assistance under this subsection shall be not more than 50 percent of the total cost of the activity.

(4) PRIVATE CONTRIBUTIONS.—The Secretary shall apply to the non-Federal share of the cost of an activity carried out with assistance under this subsection the value of private contributions of property and services used for that activity.

Applicability.

(h) REPORT.—The Secretary shall include in each report under section 8 of the National Geologic Mapping Act of 1992 (43 U.S.C. 31g)—

(1) a description of the status of the Program;

(2) an evaluation of the progress achieved in developing the Program during the period covered by the report; and

(3) any recommendations for legislative or other action the Secretary considers necessary and appropriate to fulfill the purposes of the Program under subsection (b).

(i) MAINTENANCE OF STATE EFFORT.—It is the intent of Congress that the States not use this section as an opportunity to reduce State resources applied to the activities that are the subject of the Program.

(j) DEFINITIONS.—In this section:

(1) ADVISORY COMMITTEE.—The term “Advisory Committee” means the advisory committee established under section 5 of the National Geologic Mapping Act of 1992 (43 U.S.C. 31d).

(2) PROGRAM.—The term “Program” means the National Geological and Geophysical Data Preservation Program carried out under this section.

(3) SECRETARY.—The term “Secretary” means the Secretary of the Interior, acting through the Director of the United States Geological Survey.

(4) SURVEY.—The term “Survey” means the United States Geological Survey.

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$30,000,000 for each of fiscal years 2006 through 2010.

SEC. 352. OIL AND GAS LEASE ACREAGE LIMITATIONS.

Section 27(d)(1) of the Mineral Leasing Act (30 U.S.C. 184(d)(1)) is amended by inserting after “acreage held in special tar sand areas” the following: “, and acreage under any lease any portion of which has been committed to a federally approved unit or cooperative plan or communitization agreement or for which royalty (including compensatory royalty or royalty in-kind) was paid in the preceding calendar year,”.

42 USC 15909.

SEC. 353. GAS HYDRATE PRODUCTION INCENTIVE.

(a) PURPOSE.—The purpose of this section is to promote natural gas production from the natural gas hydrate resources on the outer Continental Shelf and Federal lands in Alaska by providing royalty incentives.

(b) SUSPENSION OF ROYALTIES.—

(1) IN GENERAL.—The Secretary may grant royalty relief in accordance with this section for natural gas produced from gas hydrate resources under an eligible lease.

(2) ELIGIBLE LEASES.—A lease shall be an eligible lease for purposes of this section if—

(A) it is issued under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), or is an oil and gas lease issued for onshore Federal lands in Alaska;

(B) it is issued prior to January 1, 2016; and

(C) production under the lease of natural gas from gas hydrate resources commences prior to January 1, 2018.

(3) AMOUNT OF RELIEF.—The Secretary shall conduct a rulemaking and grant royalty relief under this section as a suspension volume if the Secretary determines that such royalty relief would encourage production of natural gas from gas hydrate resources from an eligible lease. The maximum suspension volume shall be 30 billion cubic feet of natural gas per lease. Such relief shall be in addition to any other royalty relief under any other provision applicable to the lease that does not specifically grant a gas hydrate production incentive. Such royalty suspension volume shall be applied to any eligible production occurring on or after the date of publication of the advanced notice of proposed rulemaking.

(4) LIMITATION.—The Secretary may place limitations on royalty relief granted under this section based on market price.

(c) APPLICATION.—This section shall apply to any eligible lease issued before, on, or after the date of enactment of this Act.

(d) RULEMAKINGS.—

(1) REQUIREMENT.—The Secretary shall publish the advanced notice of proposed rulemaking within 180 days after the date of enactment of this Act and complete the rulemaking

Publication.
Notices.
Deadlines.

implementing this section within 365 days after the date of enactment of this Act.

(2) **GAS HYDRATE RESOURCES DEFINED.**—Such regulations shall define the term “gas hydrate resources” to include both the natural gas content of gas hydrates within the hydrate stability zone and free natural gas trapped by and beneath the hydrate stability zone.

(e) **REVIEW.**—Not later than 365 days after the date of enactment of this Act, the Secretary, in consultation with the Secretary of Energy, shall carry out a review of, and submit to Congress a report on, further opportunities to enhance production of natural gas from gas hydrate resources on the outer Continental Shelf and on Federal lands in Alaska through the provision of other production incentives or through technical or financial assistance.

Deadline.
Reports.

SEC. 354. ENHANCED OIL AND NATURAL GAS PRODUCTION THROUGH CARBON DIOXIDE INJECTION.

42 USC 15910.

(a) **PRODUCTION INCENTIVE.**—

(1) **FINDINGS.**—Congress finds the following:

(A) Approximately two-thirds of the original oil in place in the United States remains unproduced.

(B) Enhanced oil and natural gas production from the sequestering of carbon dioxide and other appropriate gases has the potential to increase oil and natural gas production.

(C) Capturing and productively using carbon dioxide would help reduce the carbon intensity of the economy.

(2) **PURPOSE.**—The purpose of this section is—

(A) to promote the capturing, transportation, and injection of produced carbon dioxide, natural carbon dioxide, and other appropriate gases or other matter for sequestration into oil and gas fields; and

(B) to promote oil and natural gas production from the outer Continental Shelf and onshore Federal lands under lease by providing royalty incentives to use enhanced recovery techniques using injection of the substances referred to in subparagraph (A).

(b) **SUSPENSION OF ROYALTIES.**—

(1) **IN GENERAL.**—If the Secretary determines that reduction of the royalty under a Federal oil and gas lease that is an eligible lease is in the public interest and promotes the purposes of this section, the Secretary shall undertake a rulemaking to provide for such reduction for an eligible lease.

(2) **RULEMAKINGS.**—The Secretary shall publish the advanced notice of proposed rulemaking within 180 days after the date of enactment of this Act and complete the rulemaking implementing this section within 365 days after the date of enactment of this Act.

Publication.
Notices.
Deadlines.

(3) **ELIGIBLE LEASES.**—A lease shall be an eligible lease for purposes of this section if—

(A) it is a lease for production of oil and gas from the outer Continental Shelf or Federal onshore lands;

(B) the injection of the substances referred to in subsection (a)(2)(A) will be used as an enhanced recovery technique on such lease; and

(C) the Secretary determines that the lease contains oil or gas that would not likely be produced without the royalty reduction provided under this section.

(4) AMOUNT OF RELIEF.—The rulemaking shall provide for a suspension volume, which shall not exceed 5,000,000 barrels of oil equivalent for each eligible lease. Such suspension volume shall be applied to any production from an eligible lease occurring on or after the date of publication of any advanced notice of proposed rulemaking under this subsection.

(5) LIMITATION.—The Secretary may place limitations on the royalty reduction granted under this section based on market price.

(6) APPLICATION.—This section shall apply to any eligible lease issued before, on, or after the date of enactment of this Act.

(c) DEMONSTRATION PROGRAM.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—The Secretary of Energy shall establish a competitive grant program to provide grants to producers of oil and gas to carry out projects to inject carbon dioxide for the purpose of enhancing recovery of oil or natural gas while increasing the sequestration of carbon dioxide.

(B) PROJECTS.—The demonstration program shall provide for—

(i) not more than 10 projects in the Williston Basin in North Dakota and Montana; and

(ii) 1 project in the Cook Inlet Basin in Alaska.

(2) REQUIREMENTS.—

(A) IN GENERAL.—The Secretary of Energy shall issue requirements relating to applications for grants under paragraph (1).

(B) RULEMAKING.—The issuance of requirements under subparagraph (A) shall not require a rulemaking.

(C) MINIMUM REQUIREMENTS.—At a minimum, the Secretary shall require under subparagraph (A) that an application for a grant include—

(i) a description of the project proposed in the application;

(ii) an estimate of the production increase and the duration of the production increase from the project, as compared to conventional recovery techniques, including water flooding;

(iii) an estimate of the carbon dioxide sequestered by project, over the life of the project;

(iv) a plan to collect and disseminate data relating to each project to be funded by the grant;

(v) a description of the means by which the project will be sustainable without Federal assistance after the completion of the term of the grant;

(vi) a complete description of the costs of the project, including acquisition, construction, operation, and maintenance costs over the expected life of the project;

(vii) a description of which costs of the project will be supported by Federal assistance under this section; and

(viii) a description of any secondary or tertiary recovery efforts in the field and the efficacy of water flood recovery techniques used.

(3) PARTNERS.—An applicant for a grant under paragraph (1) may carry out a project under a pilot program in partnership with 1 or more other public or private entities.

(4) SELECTION CRITERIA.—In evaluating applications under this subsection, the Secretary of Energy shall—

(A) consider the previous experience with similar projects of each applicant; and

(B) give priority consideration to applications that—

(i) are most likely to maximize production of oil and gas in a cost-effective manner;

(ii) sequester significant quantities of carbon dioxide from anthropogenic sources;

(iii) demonstrate the greatest commitment on the part of the applicant to ensure funding for the proposed project and the greatest likelihood that the project will be maintained or expanded after Federal assistance under this section is completed; and

(iv) minimize any adverse environmental effects from the project.

(5) DEMONSTRATION PROGRAM REQUIREMENTS.—

(A) MAXIMUM AMOUNT.—The Secretary of Energy shall not provide more than \$3,000,000 in Federal assistance under this subsection to any applicant.

(B) COST SHARING.—The Secretary of Energy shall require cost-sharing under this subsection in accordance with section 988.

(C) PERIOD OF GRANTS.—

(i) IN GENERAL.—A project funded by a grant under this subsection shall begin construction not later than 2 years after the date of provision of the grant, but in any case not later than December 31, 2010.

(ii) TERM.—The Secretary shall not provide grant funds to any applicant under this subsection for a period of more than 5 years.

(6) TRANSFER OF INFORMATION AND KNOWLEDGE.—The Secretary of Energy shall establish mechanisms to ensure that the information and knowledge gained by participants in the program under this subsection are transferred among other participants and interested persons, including other applicants that submitted applications for a grant under this subsection.

(7) SCHEDULE.—

(A) PUBLICATION.—Not later than 180 days after the date of enactment of this Act, the Secretary of Energy shall publish in the Federal Register, and elsewhere, as appropriate, a request for applications to carry out projects under this subsection.

(B) DATE FOR APPLICATIONS.—An application for a grant under this subsection shall be submitted not later than 180 days after the date of publication of the request under subparagraph (A).

(C) SELECTION.—After the date by which applications for grants are required to be submitted under subparagraph (B), the Secretary of Energy, in a timely manner, shall select, after peer review and based on the criteria under paragraph (4), those projects to be awarded a grant under this subsection.

Deadline.

Procedures.

Deadline.
Federal Register,
publication.

Deadline.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 355. ASSESSMENT OF DEPENDENCE OF STATE OF HAWAII ON OIL.

(a) ASSESSMENT.—The Secretary of Energy shall assess the economic implications of the dependence of the State of Hawaii on oil as the principal source of energy for the State, including—

(1) the short- and long-term prospects for crude oil supply disruption and price volatility and potential impacts on the economy of Hawaii;

(2) the economic relationship between oil-fired generation of electricity from residual fuel and refined petroleum products consumed for ground, marine, and air transportation;

(3) the technical and economic feasibility of increasing the contribution of renewable energy resources for generation of electricity, on an island-by-island basis, including—

(A) siting and facility configuration;

(B) environmental, operational, and safety considerations;

(C) the availability of technology;

(D) the effects on the utility system, including reliability;

(E) infrastructure and transport requirements;

(F) community support; and

(G) other factors affecting the economic impact of such an increase and any effect on the economic relationship described in paragraph (2);

(4) the technical and economic feasibility of using liquefied natural gas to displace residual fuel oil for electric generation, including neighbor island opportunities, and the effect of the displacement on the economic relationship described in paragraph (2), including—

(A) the availability of supply;

(B) siting and facility configuration for onshore and offshore liquefied natural gas receiving terminals;

(C) the factors described in subparagraphs (B) through (F) of paragraph (3); and

(D) other economic factors;

(5) the technical and economic feasibility of using renewable energy sources (including hydrogen) for ground, marine, and air transportation energy applications to displace the use of refined petroleum products, on an island-by-island basis, and the economic impact of the displacement on the relationship described in paragraph (2); and

(6) an island-by-island approach to—

(A) the development of hydrogen from renewable resources; and

(B) the application of hydrogen to the energy needs of Hawaii.

(b) CONTRACTING AUTHORITY.—The Secretary of Energy may carry out the assessment under subsection (a) directly or, in whole or in part, through 1 or more contracts with qualified public or private entities.

(c) **REPORT.**—Not later than 300 days after the date of enactment of this Act, the Secretary of Energy shall prepare (in consultation with agencies of the State of Hawaii and other stakeholders, as appropriate), and submit to Congress, a report describing the findings, conclusions, and recommendations resulting from the assessment.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 356. DENALI COMMISSION.

42 USC 15911.

(a) **DEFINITION OF COMMISSION.**—In this section, the term “Commission” means the Denali Commission established by the Denali Commission Act of 1998 (42 U.S.C. 3121 note; Public Law 105–277).

(b) **ENERGY PROGRAMS.**—The Commission shall use amounts made available under subsection (d) to carry out energy programs, including—

- (1) energy generation and development, including—
 - (A) fuel cells, hydroelectric, solar, wind, wave, and tidal energy; and
 - (B) alternative energy sources;
- (2) the construction of energy transmission, including interties;
- (3) the replacement and cleanup of fuel tanks;
- (4) the construction of fuel transportation networks and related facilities;
- (5) power cost equalization programs; and
- (6) projects using coal as a fuel, including coal gasification projects.

(c) **OPEN MEETINGS.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), a meeting of the Commission shall be open to the public if—

- (A) the Commission members take action on behalf of the Commission; or
- (B) the deliberations of the Commission determine, or result in the joint conduct or disposition of, official Commission business.

(2) **EXCEPTIONS.**—Paragraph (1) shall not apply to any portion of a Commission meeting for which the Commission, in public session, votes to close the meeting for the reasons described in paragraph (2), (4), (5), or (6) of subsection (c) of section 552b of title 5, United States Code.

(3) **PUBLIC NOTICE.**—

(A) **IN GENERAL.**—At least 1 week before a meeting of the Commission, the Commission shall make a public announcement of the meeting that describes—

Deadline.

- (i) the time, place, and subject matter of the meeting;
- (ii) whether the meeting is to be open or closed to the public; and
- (iii) the name and telephone number of an appropriate person to respond to requests for information about the meeting.

(B) **ADDITIONAL NOTICE.**—The Commission shall make a public announcement of any change to the information

made available under subparagraph (A) at the earliest practicable time.

(4) MINUTES.—The Commission shall keep, and make available to the public, a transcript, electronic recording, or minutes from each Commission meeting, except for portions of the meeting closed under paragraph (2).

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Commission not more than \$55,000,000 for each of fiscal years 2006 through 2015 to carry out subsection (b).

42 USC 15912.

SEC. 357. COMPREHENSIVE INVENTORY OF OCS OIL AND NATURAL GAS RESOURCES.

(a) IN GENERAL.—The Secretary shall conduct an inventory and analysis of oil and natural gas resources beneath all of the waters of the United States Outer Continental Shelf (“OCS”). The inventory and analysis shall—

(1) use available data on oil and gas resources in areas offshore of Mexico and Canada that will provide information on trends of oil and gas accumulation in areas of the OCS;

(2) use any available technology, except drilling, but including 3–D seismic technology to obtain accurate resource estimates;

(3) analyze how resource estimates in OCS areas have changed over time in regards to gathering geological and geophysical data, initial exploration, or full field development, including areas such as the deepwater and subsalt areas in the Gulf of Mexico;

(4) estimate the effect that understated oil and gas resource inventories have on domestic energy investments; and

(5) identify and explain how legislative, regulatory, and administrative programs or processes restrict or impede the development of identified resources and the extent that they affect domestic supply, such as moratoria, lease terms and conditions, operational stipulations and requirements, approval delays by the Federal Government and coastal States, and local zoning restrictions for onshore processing facilities and pipeline landings.

(b) REPORTS.—The Secretary shall submit a report to Congress on the inventory of estimates and the analysis of restrictions or impediments, together with any recommendations, within 6 months of the date of enactment of the section. The report shall be publicly available and updated at least every 5 years.

Public
information.

Subtitle F—Access to Federal Lands

SEC. 361. FEDERAL ONSHORE OIL AND GAS LEASING AND PERMITTING PRACTICES.

(a) REVIEW OF ONSHORE OIL AND GAS LEASING PRACTICES.—

(1) IN GENERAL.—The Secretary of the Interior, in consultation with the Secretary of Agriculture with respect to National Forest System lands under the jurisdiction of the Department of Agriculture, shall perform an internal review of current Federal onshore oil and gas leasing and permitting practices.

(2) INCLUSIONS.—The review shall include the process for—

(A) accepting or rejecting offers to lease;

(B) administrative appeals of decisions or orders of officers or employees of the Bureau of Land Management with respect to a Federal oil or gas lease;

(C) considering surface use plans of operation, including the timeframes in which the plans are considered, and any recommendations for improving and expediting the process; and

(D) identifying stipulations to address site-specific concerns and conditions, including those stipulations relating to the environment and resource use conflicts.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary of the Interior and the Secretary of Agriculture shall transmit a report to Congress that describes—

(1) actions taken under section 3 of Executive Order No. 13212 (42 U.S.C. 13201 note); and

(2) actions taken or any plans to improve the Federal onshore oil and gas leasing program.

SEC. 362. MANAGEMENT OF FEDERAL OIL AND GAS LEASING PROGRAMS. 42 USC 15921.

(a) TIMELY ACTION ON LEASES AND PERMITS.—

(1) SECRETARY OF THE INTERIOR.—To ensure timely action on oil and gas leases and applications for permits to drill on land otherwise available for leasing, the Secretary of the Interior (referred to in this section as the “Secretary”) shall—

(A) ensure expeditious compliance with section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) and any other applicable environmental and cultural resources laws;

(B) improve consultation and coordination with the States and the public; and

(C) improve the collection, storage, and retrieval of information relating to the oil and gas leasing activities.

(2) SECRETARY OF AGRICULTURE.—To ensure timely action on oil and gas lease applications for permits to drill on land otherwise available for leasing, the Secretary of Agriculture shall—

(A) ensure expeditious compliance with all applicable environmental and cultural resources laws; and

(B) improve the collection, storage, and retrieval of information relating to the oil and gas leasing activities.

(b) BEST MANAGEMENT PRACTICES.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Secretary shall develop and implement best management practices to— Deadline.

(A) improve the administration of the onshore oil and gas leasing program under the Mineral Leasing Act (30 U.S.C. 181 et seq.); and

(B) ensure timely action on oil and gas leases and applications for permits to drill on land otherwise available for leasing.

(2) CONSIDERATIONS.—In developing the best management practices under paragraph (1), the Secretary shall consider any recommendations from the review under section 361.

(3) REGULATIONS.—Not later than 180 days after the development of the best management practices under paragraph (1), the Secretary shall publish, for public comment, Deadline.

proposed regulations that set forth specific timeframes for processing leases and applications in accordance with the best management practices, including deadlines for—

(A) approving or disapproving—

(i) resource management plans and related documents;

(ii) lease applications;

(iii) applications for permits to drill; and

(iv) surface use plans; and

(B) related administrative appeals.

(c) **IMPROVED ENFORCEMENT.**—The Secretary and the Secretary of Agriculture shall improve inspection and enforcement of oil and gas activities, including enforcement of terms and conditions in permits to drill on land under the jurisdiction of the Secretary and the Secretary of Agriculture, respectively.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—In addition to amounts made available to carry out activities relating to oil and gas leasing on public land administered by the Secretary and National Forest System land administered by the Secretary of Agriculture, there are authorized to be appropriated for each of fiscal years 2006 through 2010—

(1) to the Secretary, acting through the Director of the Bureau of Land Management—

(A) \$40,000,000 to carry out subsections (a)(1) and

(b); and

(B) \$20,000,000 to carry out subsection (c);

(2) to the Secretary, acting through the Director of the United States Fish and Wildlife Service, \$5,000,000 to carry out subsection (a)(1); and

(3) to the Secretary of Agriculture, acting through the Chief of the Forest Service, \$5,000,000 to carry out subsections (a)(2) and (c).

42 USC 15922.

SEC. 363. CONSULTATION REGARDING OIL AND GAS LEASING ON PUBLIC LAND.

Deadline.
Memorandum.

(a) **IN GENERAL.**—Not later than 180 days after the date of enactment of this Act, the Secretary of the Interior and the Secretary of Agriculture shall enter into a memorandum of understanding regarding oil and gas leasing on—

(1) public land under the jurisdiction of the Secretary of the Interior; and

(2) National Forest System land under the jurisdiction of the Secretary of Agriculture.

(b) **CONTENTS.**—The memorandum of understanding shall include provisions that—

(1) establish administrative procedures and lines of authority that ensure timely processing of—

(A) oil and gas lease applications;

(B) surface use plans of operation, including steps for processing surface use plans; and

(C) applications for permits to drill consistent with applicable timelines;

(2) eliminate duplication of effort by providing for coordination of planning and environmental compliance efforts;

(3) ensure that lease stipulations are—

(A) applied consistently;

(B) coordinated between agencies; and

(C) only as restrictive as necessary to protect the resource for which the stipulations are applied;
 (4) establish a joint data retrieval system that is capable of—

(A) tracking applications and formal requests made in accordance with procedures of the Federal onshore oil and gas leasing program; and

(B) providing information regarding the status of the applications and requests within the Department of the Interior and the Department of Agriculture; and

(5) establish a joint geographic information system mapping system for use in—

(A) tracking surface resource values to aid in resource management; and

(B) processing surface use plans of operation and applications for permits to drill.

SEC. 364. ESTIMATES OF OIL AND GAS RESOURCES UNDERLYING ONSHORE FEDERAL LAND.

(a) ASSESSMENT.—Section 604 of the Energy Act of 2000 (42 U.S.C. 6217) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking “reserve”; and

(ii) by striking “and” after the semicolon; and

(B) by striking paragraph (2) and inserting the following:

“(2) the extent and nature of any restrictions or impediments to the development of the resources, including—

“(A) impediments to the timely granting of leases;

“(B) post-lease restrictions, impediments, or delays on development for conditions of approval, applications for permits to drill, or processing of environmental permits; and

“(C) permits or restrictions associated with transporting the resources for entry into commerce; and

“(3) the quantity of resources not produced or introduced into commerce because of the restrictions.”;

(2) in subsection (b)—

(A) by striking “reserve” and inserting “resource”; and

(B) by striking “publically” and inserting “publicly”;

and

(3) by striking subsection (d) and inserting the following:

“(d) ASSESSMENTS.—Using the inventory, the Secretary of Energy shall make periodic assessments of economically recoverable resources accounting for a range of parameters such as current costs, commodity prices, technology, and regulations.”.

(b) METHODOLOGY.—The Secretary of the Interior shall use the same assessment methodology across all geological provinces, areas, and regions in preparing and issuing national geological assessments to ensure accurate comparisons of geological resources. 42 USC 15923.

SEC. 365. PILOT PROJECT TO IMPROVE FEDERAL PERMIT COORDINATION. 42 USC 15924.

(a) ESTABLISHMENT.—The Secretary of the Interior (referred to in this section as the “Secretary”) shall establish a Federal Permit Streamlining Pilot Project (referred to in this section as the “Pilot Project”).

(b) MEMORANDUM OF UNDERSTANDING.—

Deadline.

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary shall enter into a memorandum of understanding for purposes of this section with—

(A) the Secretary of Agriculture;

(B) the Administrator of the Environmental Protection Agency; and

(C) the Chief of Engineers.

(2) STATE PARTICIPATION.—The Secretary may request that the Governors of Wyoming, Montana, Colorado, Utah, and New Mexico be signatories to the memorandum of understanding.

(c) DESIGNATION OF QUALIFIED STAFF.—

Deadline.

(1) IN GENERAL.—Not later than 30 days after the date of the signing of the memorandum of understanding under subsection (b), all Federal signatory parties shall, if appropriate, assign to each of the field offices identified in subsection (d) an employee who has expertise in the regulatory issues relating to the office in which the employee is employed, including, as applicable, particular expertise in—

(A) the consultations and the preparation of biological opinions under section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536);

(B) permits under section 404 of Federal Water Pollution Control Act (33 U.S.C. 1344);

(C) regulatory matters under the Clean Air Act (42 U.S.C. 7401 et seq.);

(D) planning under the National Forest Management Act of 1976 (16 U.S.C. 472a et seq.); and

(E) the preparation of analyses under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(2) DUTIES.—Each employee assigned under paragraph (1) shall—

Deadline.

(A) not later than 90 days after the date of assignment, report to the Bureau of Land Management Field Managers in the office to which the employee is assigned;

(B) be responsible for all issues relating to the jurisdiction of the home office or agency of the employee; and

(C) participate as part of the team of personnel working on proposed energy projects, planning, and environmental analyses.

(d) FIELD OFFICES.—The following Bureau of Land Management Field Offices shall serve as the Pilot Project offices:

(1) Rawlins, Wyoming.

(2) Buffalo, Wyoming.

(3) Miles City, Montana.

(4) Farmington, New Mexico.

(5) Carlsbad, New Mexico.

(6) Grand Junction/Glenwood Springs, Colorado.

(7) Vernal, Utah.

(e) REPORTS.—Not later than 3 years after the date of enactment of this Act, the Secretary shall submit to Congress a report that—

(1) outlines the results of the Pilot Project to date; and

(2) makes a recommendation to the President regarding whether the Pilot Project should be implemented throughout the United States.

(f) **ADDITIONAL PERSONNEL.**—The Secretary shall assign to each field office identified in subsection (d) any additional personnel that are necessary to ensure the effective implementation of—

(1) the Pilot Project; and

(2) other programs administered by the field offices, including inspection and enforcement relating to energy development on Federal land, in accordance with the multiple use mandate of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

(g) **PERMIT PROCESSING IMPROVEMENT FUND.**—Section 35 of the Mineral Leasing Act (30 U.S.C. 191) is amended by adding at the end the following:

“(c)(1) Notwithstanding the first sentence of subsection (a), any rentals received from leases in any State (other than the State of Alaska) on or after the date of enactment of this subsection shall be deposited in the Treasury, to be allocated in accordance with paragraph (2).

“(2) Of the amounts deposited in the Treasury under paragraph (1)—

“(A) 50 percent shall be paid by the Secretary of the Treasury to the State within the boundaries of which the leased land is located or the deposits were derived; and

“(B) 50 percent shall be deposited in a special fund in the Treasury, to be known as the ‘BLM Permit Processing Improvement Fund’ (referred to in this subsection as the ‘Fund’).

“(3) For each of fiscal years 2006 through 2015, the Fund shall be available to the Secretary of the Interior for expenditure, without further appropriation and without fiscal year limitation, for the coordination and processing of oil and gas use authorizations on onshore Federal land under the jurisdiction of the Pilot Project offices identified in section 365(d) of the Energy Policy Act of 2005.”.

(h) **TRANSFER OF FUNDS.**—For the purposes of coordination and processing of oil and gas use authorizations on Federal land under the administration of the Pilot Project offices identified in subsection (d), the Secretary may authorize the expenditure or transfer of such funds as are necessary to—

(1) the United States Fish and Wildlife Service;

(2) the Bureau of Indian Affairs;

(3) the Forest Service;

(4) the Environmental Protection Agency;

(5) the Corps of Engineers; and

(6) the States of Wyoming, Montana, Colorado, Utah, and New Mexico.

(i) **FEES.**—During the period in which the Pilot Project is authorized, the Secretary shall not implement a rulemaking that would enable an increase in fees to recover additional costs related to processing drilling-related permit applications and use authorizations.

(j) **SAVINGS PROVISION.**—Nothing in this section affects—

(1) the operation of any Federal or State law; or

(2) any delegation of authority made by the head of a Federal agency whose employees are participating in the Pilot Project.

SEC. 366. DEADLINE FOR CONSIDERATION OF APPLICATIONS FOR PERMITS.

Section 17 of the Mineral Leasing Act (30 U.S.C. 226) is amended by adding at the end the following:

“(p) DEADLINES FOR CONSIDERATION OF APPLICATIONS FOR PERMITS.—

Notification.

“(1) IN GENERAL.—Not later than 10 days after the date on which the Secretary receives an application for any permit to drill, the Secretary shall—

“(A) notify the applicant that the application is complete; or

“(B) notify the applicant that information is missing and specify any information that is required to be submitted for the application to be complete.

“(2) ISSUANCE OR DEFERRAL.—Not later than 30 days after the applicant for a permit has submitted a complete application, the Secretary shall—

“(A) issue the permit, if the requirements under the National Environmental Policy Act of 1969 and other applicable law have been completed within such timeframe; or

Notice.

“(B) defer the decision on the permit and provide to the applicant a notice—

“(i) that specifies any steps that the applicant could take for the permit to be issued; and

“(ii) a list of actions that need to be taken by the agency to complete compliance with applicable law together with timelines and deadlines for completing such actions.

“(3) REQUIREMENTS FOR DEFERRED APPLICATIONS.—

“(A) IN GENERAL.—If the Secretary provides notice under paragraph (2)(B), the applicant shall have a period of 2 years from the date of receipt of the notice in which to complete all requirements specified by the Secretary, including providing information needed for compliance with the National Environmental Policy Act of 1969.

“(B) ISSUANCE OF DECISION ON PERMIT.—If the applicant completes the requirements within the period specified in subparagraph (A), the Secretary shall issue a decision on the permit not later than 10 days after the date of completion of the requirements described in subparagraph (A), unless compliance with the National Environmental Policy Act of 1969 and other applicable law has not been completed within such timeframe.

“(C) DENIAL OF PERMIT.—If the applicant does not complete the requirements within the period specified in subparagraph (A) or if the applicant does not comply with applicable law, the Secretary shall deny the permit.”.

42 USC 15925.

SEC. 367. FAIR MARKET VALUE DETERMINATIONS FOR LINEAR RIGHTS-OF-WAY ACROSS PUBLIC LANDS AND NATIONAL FORESTS.

Deadline.

(a) UPDATE OF FEE SCHEDULE.—Not later than 1 year after the date of enactment of this section—

(1) the Secretary of the Interior shall update section 2806.20 of title 43, Code of Federal Regulations, as in effect on the date of enactment of this section, to revise the per

acre rental fee zone value schedule by State, county, and type of linear right-of-way use to reflect current values of land in each zone; and

(2) the Secretary of Agriculture shall make the same revision for linear rights-of-way granted, issued, or renewed under title V of the Federal Lands Policy and Management Act of 1976 (43 U.S.C. 1761 et seq.) on National Forest System land.

(b) **FAIR MARKET VALUE RENTAL DETERMINATION FOR LINEAR RIGHTS-OF-WAY.**—The fair market value rent of a linear right-of-way across public lands or National Forest System lands issued under section 504 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1764) or section 28 of the Mineral Leasing Act (30 U.S.C. 185) shall be determined in accordance with subpart 2806 of title 43, Code of Federal Regulations, as in effect on the date of enactment of this section (including the annual or periodic updates specified in the regulations) and as updated in accordance with subsection (a).

SEC. 368. ENERGY RIGHT-OF-WAY CORRIDORS ON FEDERAL LAND.

42 USC 15926.

(a) **WESTERN STATES.**—Not later than 2 years after the date of enactment of this Act, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Defense, the Secretary of Energy, and the Secretary of the Interior (in this section referred to collectively as “the Secretaries”), in consultation with the Federal Energy Regulatory Commission, States, tribal or local units of governments as appropriate, affected utility industries, and other interested persons, shall consult with each other and shall—

Deadline.

(1) designate, under their respective authorities, corridors for oil, gas, and hydrogen pipelines and electricity transmission and distribution facilities on Federal land in the eleven contiguous Western States (as defined in section 103(o) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702(o)));

(2) perform any environmental reviews that may be required to complete the designation of such corridors; and

(3) incorporate the designated corridors into the relevant agency land use and resource management plans or equivalent plans.

(b) **OTHER STATES.**—Not later than 4 years after the date of enactment of this Act, the Secretaries, in consultation with the Federal Energy Regulatory Commission, affected utility industries, and other interested persons, shall jointly—

Deadline.

(1) identify corridors for oil, gas, and hydrogen pipelines and electricity transmission and distribution facilities on Federal land in States other than those described in subsection (a); and

(2) schedule prompt action to identify, designate, and incorporate the corridors into the applicable land use plans.

(c) **ONGOING RESPONSIBILITIES.**—The Secretaries, in consultation with the Federal Energy Regulatory Commission, affected utility industries, and other interested parties, shall establish procedures under their respective authorities that—

Procedures.

(1) ensure that additional corridors for oil, gas, and hydrogen pipelines and electricity transmission and distribution facilities on Federal land are promptly identified and designated as necessary; and

(2) expedite applications to construct or modify oil, gas, and hydrogen pipelines and electricity transmission and distribution facilities within such corridors, taking into account prior analyses and environmental reviews undertaken during the designation of such corridors.

(d) CONSIDERATIONS.—In carrying out this section, the Secretaries shall take into account the need for upgraded and new electricity transmission and distribution facilities to—

- (1) improve reliability;
- (2) relieve congestion; and
- (3) enhance the capability of the national grid to deliver electricity.

(e) SPECIFICATIONS OF CORRIDOR.—A corridor designated under this section shall, at a minimum, specify the centerline, width, and compatible uses of the corridor.

Oil Shale, Tar
Sands, and Other
Strategic
Unconventional
Fuels Act of
2005.
Deadlines.
42 USC 15927.

SEC. 369. OIL SHALE, TAR SANDS, AND OTHER STRATEGIC UNCONVENTIONAL FUELS.

(a) SHORT TITLE.—This section may be cited as the “Oil Shale, Tar Sands, and Other Strategic Unconventional Fuels Act of 2005”.

(b) DECLARATION OF POLICY.—Congress declares that it is the policy of the United States that—

(1) United States oil shale, tar sands, and other unconventional fuels are strategically important domestic resources that should be developed to reduce the growing dependence of the United States on politically and economically unstable sources of foreign oil imports;

(2) the development of oil shale, tar sands, and other strategic unconventional fuels, for research and commercial development, should be conducted in an environmentally sound manner, using practices that minimize impacts; and

(3) development of those strategic unconventional fuels should occur, with an emphasis on sustainability, to benefit the United States while taking into account affected States and communities.

(c) LEASING PROGRAM FOR RESEARCH AND DEVELOPMENT OF OIL SHALE AND TAR SANDS.—In accordance with section 21 of the Mineral Leasing Act (30 U.S.C. 241) and any other applicable law, except as provided in this section, not later than 180 days after the date of enactment of this Act, from land otherwise available for leasing, the Secretary of the Interior (referred to in this section as the “Secretary”) shall make available for leasing such land as the Secretary considers to be necessary to conduct research and development activities with respect to technologies for the recovery of liquid fuels from oil shale and tar sands resources on public lands. Prospective public lands within each of the States of Colorado, Utah, and Wyoming shall be made available for such research and development leasing.

(d) PROGRAMMATIC ENVIRONMENTAL IMPACT STATEMENT AND COMMERCIAL LEASING PROGRAM FOR OIL SHALE AND TAR SANDS.—

(1) PROGRAMMATIC ENVIRONMENTAL IMPACT STATEMENT.—Not later than 18 months after the date of enactment of this Act, in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), the Secretary shall complete a programmatic environmental impact statement for a commercial leasing program for oil shale and tar sands resources on public lands, with an emphasis on

the most geologically prospective lands within each of the States of Colorado, Utah, and Wyoming.

(2) FINAL REGULATION.—Not later than 6 months after the completion of the programmatic environmental impact statement under this subsection, the Secretary shall publish a final regulation establishing such program.

(e) COMMENCEMENT OF COMMERCIAL LEASING OF OIL SHALE AND TAR SANDS.—Not later than 180 days after publication of the final regulation required by subsection (d), the Secretary shall consult with the Governors of States with significant oil shale and tar sands resources on public lands, representatives of local governments in such States, interested Indian tribes, and other interested persons, to determine the level of support and interest in the States in the development of tar sands and oil shale resources. If the Secretary finds sufficient support and interest exists in a State, the Secretary may conduct a lease sale in that State under the commercial leasing program regulations. Evidence of interest in a lease sale under this subsection shall include, but not be limited to, appropriate areas nominated for leasing by potential lessees and other interested parties.

(f) DILIGENT DEVELOPMENT REQUIREMENTS.—The Secretary shall, by regulation, designate work requirements and milestones to ensure the diligent development of the lease. Regulations.

(g) INITIAL REPORT BY THE SECRETARY OF THE INTERIOR.—Within 90 days after the date of enactment of this Act, the Secretary of the Interior shall report to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate on—

(1) the interim actions necessary to—

(A) develop the program, complete the programmatic environmental impact statement, and promulgate the final regulation as required by subsection (d); and

(B) conduct the first lease sales under the program as required by subsection (e); and

(2) a schedule to complete such actions within the time limits mandated by this section.

(h) TASK FORCE.—

(1) ESTABLISHMENT.—The Secretary of Energy, in cooperation with the Secretary of the Interior and the Secretary of Defense, shall establish a task force to develop a program to coordinate and accelerate the commercial development of strategic unconventional fuels, including but not limited to oil shale and tar sands resources within the United States, in an integrated manner.

(2) COMPOSITION.—The Task Force shall be composed of—

(A) the Secretary of Energy (or the designee of the Secretary);

(B) the Secretary of the Interior (or the designee of the Secretary of the Interior);

(C) the Secretary of Defense (or the designee of the Secretary of Defense);

(D) the Governors of affected States; and

(E) representatives of local governments in affected areas.

(3) RECOMMENDATIONS.—The Task Force shall make such recommendations regarding promoting the development of the

strategic unconventional fuels resources within the United States as it may deem appropriate.

(4) PARTNERSHIPS.—The Task Force shall make recommendations with respect to initiating a partnership with the Province of Alberta, Canada, for purposes of sharing information relating to the development and production of oil from tar sands, and similar partnerships with other nations that contain significant oil shale resources.

(5) REPORTS.—

(A) INITIAL REPORT.—Not later than 180 days after the date of enactment of this Act, the Task Force shall submit to the President and Congress a report that describes the analysis and recommendations of the Task Force.

(B) SUBSEQUENT REPORTS.—The Secretary shall provide an annual report describing the progress in developing the strategic unconventional fuels resources within the United States for each of the 5 years following submission of the report provided for in subparagraph (A).

Establishment.

(i) OFFICE OF PETROLEUM RESERVES.—

(1) IN GENERAL.—The Office of Petroleum Reserves of the Department of Energy shall—

(A) coordinate the creation and implementation of a commercial strategic fuel development program for the United States;

(B) evaluate the strategic importance of unconventional sources of strategic fuels to the security of the United States;

(C) promote and coordinate Federal Government actions that facilitate the development of strategic fuels in order to effectively address the energy supply needs of the United States;

(D) identify, assess, and recommend appropriate actions of the Federal Government required to assist in the development and manufacturing of strategic fuels; and

(E) coordinate and facilitate appropriate relationships between private industry and the Federal Government to promote sufficient and timely private investment to commercialize strategic fuels for domestic and military use.

(2) CONSULTATION AND COORDINATION.—The Office of Petroleum Reserves shall work closely with the Task Force and coordinate its staff support.

(3) ANNUAL REPORTS.—Not later than 180 days after the date of enactment of this Act and annually thereafter, the Secretary shall submit to Congress a report that describes the activities of the Office of Petroleum Reserves carried out under this subsection.

(j) MINERAL LEASING ACT AMENDMENTS.—

(1) SECTION 17.—Section 17(b)(2) of the Mineral Leasing Act (30 U.S.C. 226(b)(2)), as amended by section 350, is further amended—

(A) in subparagraph (A) (as designated by the amendment made by subsection (a)(1) of that section) by designating the first, second, and third sentences as clauses (i), (ii), and (iii), respectively;

(B) by moving clause (ii), as so designated, so as to begin immediately after and below clause (i);

(C) by moving clause (iii), as so designated, so as to begin immediately after and below clause (ii);

(D) in clause (i) of subparagraph (A) (as designated by subparagraph (A) of this paragraph) by striking “five thousand one hundred and twenty” and inserting “5,760”; and

(E) by adding at the end the following:

“(iv) No lease issued under this paragraph shall be included in any chargeability limitation associated with oil and gas leases.”.

(2) SECTION 21.—Section 21(a) of the Mineral Leasing Act (30 U.S.C. 241(a)) is amended—

(A) by striking “(a) That the Secretary” and inserting the following:

“(a)(1) The Secretary”;

(B) by striking “; that no lease” and inserting a period, followed by the following:

“(2) No lease”;

(C) by striking “Leases may be for” and inserting the following:

“(3) Leases may be for”;

(D) by striking “For the privilege” and inserting the following:

“(4) For the privilege”;

(E) in paragraph (2) (as designated by subparagraph (B) of this paragraph) by striking “five thousand one hundred and twenty” and inserting “5,760”;

(F) in paragraph (4) (as designated by subparagraph (D) of this paragraph) by striking “rate of 50 cents per acre” and inserting “rate of \$2.00 per acre”;

(G)(i) by striking “: *Provided further*, That not more than one lease shall be granted under this section to any” and inserting “: *Provided further*, That no”; and

(ii) by striking “except that with respect to leases for” and inserting “shall acquire or hold more than 50,000 acres of oil shale leases in any one State. For”; and

(H) by adding at the end the following:

“(5) No lease issued under this section shall be included in any chargeability limitation associated with oil and gas leases.”.

(k) INTERAGENCY COORDINATION AND EXPEDITIOUS REVIEW OF PERMITTING PROCESS.—

(1) DEPARTMENT OF THE INTERIOR AS LEAD AGENCY.—Upon written request of a prospective applicant for Federal authorization to develop a proposed oil shale or tar sands project, the Department of the Interior shall act as the lead Federal agency for the purposes of coordinating all applicable Federal authorizations and environmental reviews. To the maximum extent practicable under applicable Federal law, the Secretary shall coordinate this Federal authorization and review process with any Indian tribes and State and local agencies responsible for conducting any separate permitting and environmental reviews.

(2) IMPLEMENTING REGULATIONS.—Not later than 6 months after the date of enactment of this Act, the Secretary shall issue any regulations necessary to implement this subsection.

(l) COST-SHARED DEMONSTRATION TECHNOLOGIES.—

(1) IDENTIFICATION.—The Secretary of Energy shall identify technologies for the development of oil shale and tar sands that—

(A) are ready for demonstration at a commercially-representative scale; and

(B) have a high probability of leading to commercial production.

(2) ASSISTANCE.—For each technology identified under paragraph (1), the Secretary of Energy may provide—

(A) technical assistance;

(B) assistance in meeting environmental and regulatory requirements; and

(C) cost-sharing assistance.

(m) NATIONAL OIL SHALE AND TAR SANDS ASSESSMENT.—

(1) ASSESSMENT.—

(A) IN GENERAL.—The Secretary shall carry out a national assessment of oil shale and tar sands resources for the purposes of evaluating and mapping oil shale and tar sands deposits, in the geographic areas described in subparagraph (B). In conducting such an assessment, the Secretary shall make use of the extensive geological assessment work for oil shale and tar sands already conducted by the United States Geological Survey.

(B) GEOGRAPHIC AREAS.—The geographic areas referred to in subparagraph (A), listed in the order in which the Secretary shall assign priority, are—

(i) the Green River Region of the States of Colorado, Utah, and Wyoming;

(ii) the Devonian oil shales and other hydrocarbon-bearing rocks having the nomenclature of “shale” located east of the Mississippi River; and

(iii) any remaining area in the central and western United States (including the State of Alaska) that contains oil shale and tar sands, as determined by the Secretary.

(2) USE OF STATE SURVEYS AND UNIVERSITIES.—In carrying out the assessment under paragraph (1), the Secretary may request assistance from any State-administered geological survey or university.

(n) LAND EXCHANGES.—

(1) IN GENERAL.—To facilitate the recovery of oil shale and tar sands, especially in areas where Federal, State, and private lands are intermingled, the Secretary shall consider the use of land exchanges where appropriate and feasible to consolidate land ownership and mineral interests into manageable areas.

(2) IDENTIFICATION AND PRIORITY OF PUBLIC LANDS.—The Secretary shall identify public lands containing deposits of oil shale or tar sands within the Green River, Piceance Creek, Uintah, and Washakie geologic basins, and shall give priority to implementing land exchanges within those basins. The Secretary shall consider the geology of the respective basin in determining the optimum size of the lands to be consolidated.

(3) COMPLIANCE WITH SECTION 206 OF FLPMA.—A land exchange undertaken in furtherance of this subsection shall be implemented in accordance with section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716).

(o) **ROYALTY RATES FOR LEASES.**—The Secretary shall establish royalties, fees, rentals, bonus, or other payments for leases under this section that shall—

(1) encourage development of the oil shale and tar sands resource; and

(2) ensure a fair return to the United States.

(p) **HEAVY OIL TECHNICAL AND ECONOMIC ASSESSMENT.**—The Secretary of Energy shall update the 1987 technical and economic assessment of domestic heavy oil resources that was prepared by the Interstate Oil and Gas Compact Commission. Such an update should include all of North America and cover all unconventional oil, including heavy oil, tar sands (oil sands), and oil shale.

(q) **PROCUREMENT OF UNCONVENTIONAL FUELS BY THE DEPARTMENT OF DEFENSE.**—

(1) **IN GENERAL.**—Chapter 141 of title 10, United States Code, is amended by inserting after section 2398 the following:

“§ 2398a. Procurement of fuel derived from coal, oil shale, and tar sands

“(a) **USE OF FUEL TO MEET DEPARTMENT OF DEFENSE NEEDS.**—The Secretary of Defense shall develop a strategy to use fuel produced, in whole or in part, from coal, oil shale, and tar sands (referred to in this section as a ‘covered fuel’) that are extracted by either mining or in-situ methods and refined or otherwise processed in the United States in order to assist in meeting the fuel requirements of the Department of Defense when the Secretary determines that it is in the national interest.

“(b) **AUTHORITY TO PROCURE.**—The Secretary of Defense may enter into 1 or more contracts or other agreements (that meet the requirements of this section) to procure a covered fuel to meet 1 or more fuel requirements of the Department of Defense.

“(c) **CLEAN FUEL REQUIREMENTS.**—A covered fuel may be procured under subsection (b) only if the covered fuel meets such standards for clean fuel produced from domestic sources as the Secretary of Defense shall establish for purposes of this section in consultation with the Department of Energy.

“(d) **MULTIYEAR CONTRACT AUTHORITY.**—Subject to applicable provisions of law, any contract or other agreement for the procurement of covered fuel under subsection (b) may be for 1 or more years at the election of the Secretary of Defense.

“(e) **FUEL SOURCE ANALYSIS.**—In order to facilitate the procurement by the Department of Defense of covered fuel under subsection (b), the Secretary of Defense may carry out a comprehensive assessment of current and potential locations in the United States for the supply of covered fuel to the Department.”.

(2) **CLERICAL AMENDMENT.**—The table of sections for chapter 141 of title 10, United States Code, is amended by inserting after the item relating to section 2398 the following:

“2398a. Procurement of fuel derived from coal, oil shale, and tar sands.”.

(r) **STATE WATER RIGHTS.**—Nothing in this section preempts or affects any State water law or interstate compact relating to water.

(s) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 370. FINGER LAKES WITHDRAWAL.

All Federal land within the boundary of Finger Lakes National Forest in the State of New York is withdrawn from—

- (1) all forms of entry, appropriation, or disposal under the public land laws; and
- (2) disposition under all laws relating to oil and gas leasing.

30 USC 188 note.

SEC. 371. REINSTATEMENT OF LEASES.

Effective date.
Termination
date.

(a) **LEASES TERMINATED FOR CERTAIN FAILURE TO PAY RENTAL.**—Notwithstanding section 31(d)(2)(B) of the Mineral Leasing Act (30 U.S.C. 188(d)(2)(B)) as in effect before the effective date of this section, and notwithstanding the amendment made by subsection (b) of this section, the Secretary of the Interior may reinstate any oil and gas lease issued under that Act that was terminated for failure of a lessee to pay the full amount of rental on or before the anniversary date of the lease, during the period beginning on September 1, 2001, and ending on June 30, 2004, if—

Deadline.

- (1) not later than 120 days after the date of enactment of this Act, the lessee—

- (A) files a petition for reinstatement of the lease;

- (B) complies with the conditions of section 31(e) of the Mineral Leasing Act (30 U.S.C. 188(e)); and

Certification.

- (C) certifies that the lessee did not receive a notice of termination by the date that was 13 months before the date of termination; and

- (2) the land is available for leasing.

(b) **DEADLINE FOR PETITIONS, GENERALLY.**—Section 31(d)(2) of the Mineral Leasing Act (30 U.S.C. 188(d)(2)) is amended by striking subparagraphs (A) and (B) and inserting the following:

“(A) with respect to any lease that terminated under subsection (b) on or before the date of the enactment of the Energy Policy Act of 2005, a petition for reinstatement (together with the required back rental and royalty accruing after the date of termination) is filed on or before the earlier of—

- “(i) 60 days after the lessee receives from the Secretary notice of termination, whether by return of check or by any other form of actual notice; or

- “(ii) 15 months after the termination of the lease;

or

“(B) with respect to any lease that terminates under subsection (b) after the date of the enactment of the Energy Policy Act of 2005, a petition for reinstatement (together with the required back rental and royalty accruing after the date of termination) is filed on or before the earlier of—

- “(i) 60 days after receipt of the notice of termination sent by the Secretary by certified mail to all lessees of record; or

- “(ii) 24 months after the termination of the lease.”.

42 USC 15928.

SEC. 372. CONSULTATION REGARDING ENERGY RIGHTS-OF-WAY ON PUBLIC LAND.

(a) **MEMORANDUM OF UNDERSTANDING.**—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary of Energy, in consultation with the Secretary of the Interior, the Secretary of Agriculture, and the Secretary of Defense with respect to lands under their respective jurisdictions, shall enter into a memorandum of understanding to coordinate all applicable Federal authorizations and environmental reviews relating to a proposed or existing utility facility. To the maximum extent practicable under applicable law, the Secretary of Energy shall, to ensure timely review and permit decisions, coordinate such authorizations and reviews with any Indian tribes, multi-State entities, and State agencies that are responsible for conducting any separate permitting and environmental reviews of the affected utility facility. Deadline.

(2) CONTENTS.—The memorandum of understanding shall include provisions that—

(A) establish—

(i) a unified right-of-way application form; and

(ii) an administrative procedure for processing right-of-way applications, including lines of authority, steps in application processing, and timeframes for application processing;

(B) provide for coordination of planning relating to the granting of the rights-of-way;

(C) provide for an agreement among the affected Federal agencies to prepare a single environmental review document to be used as the basis for all Federal authorization decisions; and

(D) provide for coordination of use of right-of-way stipulations to achieve consistency.

(b) NATURAL GAS PIPELINES.—

(1) IN GENERAL.—With respect to permitting activities for interstate natural gas pipelines, the May 2002 document entitled “Interagency Agreement On Early Coordination Of Required Environmental And Historic Preservation Reviews Conducted In Conjunction With The Issuance Of Authorizations To Construct And Operate Interstate Natural Gas Pipelines Certificated By The Federal Energy Regulatory Commission” shall constitute compliance with subsection (a).

(2) REPORT.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and every 2 years thereafter, agencies that are signatories to the document referred to in paragraph (1) shall transmit to Congress a report on how the agencies under the jurisdiction of the Secretaries are incorporating and implementing the provisions of the document referred to in paragraph (1).

(B) CONTENTS.—The report shall address—

(i) efforts to implement the provisions of the document referred to in paragraph (1);

(ii) whether the efforts have had a streamlining effect;

(iii) further improvements to the permitting process of the agency; and

(iv) recommendations for inclusion of State and tribal governments in a coordinated permitting process.

(c) **DEFINITION OF UTILITY FACILITY.**—In this section, the term “utility facility” means any privately, publicly, or cooperatively owned line, facility, or system—

(1) for the transportation of—

(A) oil, natural gas, synthetic liquid fuel, or gaseous fuel;

(B) any refined product produced from oil, natural gas, synthetic liquid fuel, or gaseous fuel; or

(C) products in support of the production of material referred to in subparagraph (A) or (B);

(2) for storage and terminal facilities in connection with the production of material referred to in paragraph (1); or

(3) for the generation, transmission, and distribution of electric energy.

SEC. 373. SENSE OF CONGRESS REGARDING DEVELOPMENT OF MINERALS UNDER PADRE ISLAND NATIONAL SEASHORE.

(a) **FINDINGS.**—Congress finds the following:

(1) Pursuant to Public Law 87-712 (16 U.S.C. 459d et seq.; popularly known as the “Federal Enabling Act”) and various deeds and actions under that Act, the United States is the owner of only the surface estate of certain lands constituting the Padre Island National Seashore.

(2) Ownership of the oil, gas, and other minerals in the subsurface estate of the lands constituting the Padre Island National Seashore was never acquired by the United States, and ownership of those interests is held by the State of Texas and private parties.

(3) Public Law 87-712 (16 U.S.C. 459d et seq.)—

(A) expressly contemplated that the United States would recognize the ownership and future development of the oil, gas, and other minerals in the subsurface estate of the lands constituting the Padre Island National Seashore by the owners and their mineral lessees; and

(B) recognized that approval of the State of Texas was required to create Padre Island National Seashore.

(4) Approval was given for the creation of Padre Island National Seashore by the State of Texas through Tex. Rev. Civ. Stat. Ann. Art. 6077(t) (Vernon 1970), which expressly recognized that development of the oil, gas, and other minerals in the subsurface of the lands constituting Padre Island National Seashore would be conducted with full rights of ingress and egress under the laws of the State of Texas.

(b) **SENSE OF CONGRESS.**—It is the sense of Congress that with regard to Federal law, any regulation of the development of oil, gas, or other minerals in the subsurface of the lands constituting Padre Island National Seashore should be made as if those lands retained the status that the lands had on September 27, 1962.

Louisiana.

SEC. 374. LIVINGSTON PARISH MINERAL RIGHTS TRANSFER.

Section 102 of Public Law 102-562 (106 Stat. 4234) is amended by striking subsection (b) and inserting the following:

“(b) **RESERVATION OF OIL AND GAS RIGHTS AND CONVEYANCE OF REMAINING MINERAL RIGHTS.**—Subject to the limitations set forth in subsection (c), the United States hereby excepts and reserves from the provisions of subsection (a), all rights to oil and gas underlying such lands, along with the right to explore

for, and produce the oil and gas under applicable law and such regulations as the Secretary of the Interior may prescribe. Not later than 180 days after the date of enactment of the Energy Policy Act of 2005, the Secretary of the Interior shall convey the remaining mineral rights to the parties who as of the date of enactment of the Energy Policy Act of 2005 would be recognized as holders of a right, title, or interest to any portion of such minerals under the laws of the State of Louisiana, but for the interest of the United States in such minerals.

“(c) OIL AND GAS RESOURCE ASSESSMENT AND REPORT.—The United States Geological Survey shall conduct a resource assessment and publish a report of the findings of such resource assessment (‘USGS Assessment and Report’) within 1 year of the date of enactment of the Energy Policy Act of 2005. The USGS Assessment and Report shall provide an assessment of all oil and gas resources underlying the certain lands in Livingston Parish, Louisiana, as described in section 103 (the ‘Livingston Parish lands’). Upon a finding by the Secretary of the Interior based upon the USGS Assessment and Report that it is unlikely that economically recoverable oil and gas resources are present, the Secretary shall convey all rights to oil and gas underlying such lands to the recipients, or their successors, heirs, or assigns, of the conveyances under subsection (b). Such further conveyances shall be made within 180 days after a finding by the Secretary that it is unlikely that economically recoverable oil and gas resources are present.”.

Deadlines.

Subtitle G—Miscellaneous

SEC. 381. DEADLINE FOR DECISION ON APPEALS OF CONSISTENCY DETERMINATION UNDER THE COASTAL ZONE MANAGEMENT ACT OF 1972.

Section 319 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1465) is amended to read as follows:

“APPEALS TO THE SECRETARY

“SEC. 319. (a) NOTICE.—Not later than 30 days after the date of the filing of an appeal to the Secretary of a consistency determination under section 307, the Secretary shall publish an initial notice in the Federal Register.

Federal Register,
publication.

“(b) CLOSURE OF RECORD.—

“(1) IN GENERAL.—Not later than the end of the 160-day period beginning on the date of publication of an initial notice under subsection (a), except as provided in paragraph (3), the Secretary shall immediately close the decision record and receive no more filings on the appeal.

“(2) NOTICE.—After closing the administrative record, the Secretary shall immediately publish a notice in the Federal Register that the administrative record has been closed.

Federal Register,
publication.

“(3) EXCEPTION.—

“(A) IN GENERAL.—Subject to subparagraph (B), during the 160-day period described in paragraph (1), the Secretary may stay the closing of the decision record—

“(i) for a specific period mutually agreed to in writing by the appellant and the State agency; or

“(ii) as the Secretary determines necessary to receive, on an expedited basis—

“(I) any supplemental information specifically requested by the Secretary to complete a consistency review under this Act; or

“(II) any clarifying information submitted by a party to the proceeding related to information in the consolidated record compiled by the lead Federal permitting agency.

“(B) APPLICABILITY.—The Secretary may only stay the 160-day period described in paragraph (1) for a period not to exceed 60 days.

“(c) DEADLINE FOR DECISION.—

Notices.
Federal Register,
publication.

“(1) IN GENERAL.—Not later than 60 days after the date of publication of a Federal Register notice stating when the decision record for an appeal has been closed, the Secretary shall issue a decision or publish a notice in the Federal Register explaining why a decision cannot be issued at that time.

“(2) SUBSEQUENT DECISION.—Not later than 15 days after the date of publication of a Federal Register notice explaining why a decision cannot be issued within the 60-day period, the Secretary shall issue a decision.”.

16 USC 1466.

SEC. 382. APPEALS RELATING TO OFFSHORE MINERAL DEVELOPMENT.

For any Federal administrative agency proceeding that is an appeal or review under section 319 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1465), as amended by this Act, related to any Federal authorization for the permitting, approval, or other authorization of an energy project, the lead Federal permitting agency for the project shall, with the cooperation of Federal and State administrative agencies, maintain a consolidated record of all decisions made or actions taken by the lead agency or by another Federal or State administrative agency or officer. Such record shall be the initial record for appeals or reviews under that Act, provided that the record may be supplemented as expressly provided pursuant to section 319 of that Act.

SEC. 383. ROYALTY PAYMENTS UNDER LEASES UNDER THE OUTER CONTINENTAL SHELF LANDS ACT.

(a) ROYALTY RELIEF.—

(1) IN GENERAL.—For purposes of providing compensation for lessees and a State for which amounts are authorized by section 6004(c) of the Oil Pollution Act of 1990 (Public Law 101–380), a lessee may withhold from payment any royalty due and owing to the United States under any leases under the Outer Continental Shelf Lands Act (43 U.S.C. 1301 et seq.) for offshore oil or gas production from a covered lease tract if, on or before the date that the payment is due and payable to the United States, the lessee makes a payment to the State of 44 cents for every \$1 of royalty withheld.

(2) TREATMENT OF AMOUNTS.—Any royalty withheld by a lessee in accordance with this section (including any portion thereof that is paid to the State under paragraph (1)) shall be treated as paid for purposes of satisfaction of the royalty obligations of the lessee to the United States.

(3) CERTIFICATION OF WITHHELD AMOUNTS.—The Secretary of the Treasury shall—

(A) determine the amount of royalty withheld by a lessee under this section; and

(B) promptly publish a certification when the total amount of royalty withheld by the lessee under this section is equal to—

Publication.

(i) the dollar amount stated at page 47 of Senate Report number 101–534, which is designated therein as the total drainage claim for the West Delta field; plus

(ii) interest as described at page 47 of that Report.

(b) PERIOD OF ROYALTY RELIEF.—Subsection (a) shall apply to royalty amounts that are due and payable in the period beginning on October 1, 2006, and ending on the date on which the Secretary of the Treasury publishes a certification under subsection (a)(3)(B).

Applicability.
Effective date.
Termination
date.

(c) DEFINITIONS.—As used in this section:

(1) COVERED LEASE TRACT.—The term “covered lease tract” means a leased tract (or portion of a leased tract)—

(A) lying seaward of the zone defined and governed by section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)); or

(B) lying within such zone but to which such section does not apply.

(2) LESSEE.—The term “lessee”—

(A) means a person or entity that, on the date of the enactment of the Oil Pollution Act of 1990, was a lessee referred to in section 6004(c) of that Act (as in effect on that date of the enactment), but did not hold lease rights in Federal offshore lease OCS–G–5669; and

(B) includes successors and affiliates of a person or entity described in subparagraph (A).

SEC. 384. COASTAL IMPACT ASSISTANCE PROGRAM.

Section 31 of the Outer Continental Shelf Lands Act (43 U.S.C. 1356a) is amended to read as follows:

“SEC. 31. COASTAL IMPACT ASSISTANCE PROGRAM.

“(a) DEFINITIONS.—In this section:

“(1) COASTAL POLITICAL SUBDIVISION.—The term ‘coastal political subdivision’ means a political subdivision of a coastal State any part of which political subdivision is—

“(A) within the coastal zone (as defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453)) of the coastal State as of the date of enactment of the Energy Policy Act of 2005; and

“(B) not more than 200 nautical miles from the geographic center of any leased tract.

“(2) COASTAL POPULATION.—The term ‘coastal population’ means the population, as determined by the most recent official data of the Census Bureau, of each political subdivision any part of which lies within the designated coastal boundary of a State (as defined in a State’s coastal zone management program under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.)).

“(3) COASTAL STATE.—The term ‘coastal State’ has the meaning given the term in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453).

“(4) COASTLINE.—The term ‘coastline’ has the meaning given the term ‘coast line’ in section 2 of the Submerged Lands Act (43 U.S.C. 1301).

“(5) DISTANCE.—The term ‘distance’ means the minimum great circle distance, measured in statute miles.

“(6) LEASED TRACT.—The term ‘leased tract’ means a tract that is subject to a lease under section 6 or 8 for the purpose of drilling for, developing, and producing oil or natural gas resources.

“(7) LEASING MORATORIA.—The term ‘leasing moratoria’ means the prohibitions on preleasing, leasing, and related activities on any geographic area of the outer Continental Shelf as contained in sections 107 through 109 of division E of the Consolidated Appropriations Act, 2005 (Public Law 108–447; 118 Stat. 3063).

“(8) POLITICAL SUBDIVISION.—The term ‘political subdivision’ means the local political jurisdiction immediately below the level of State government, including counties, parishes, and boroughs.

“(9) PRODUCING STATE.—

“(A) IN GENERAL.—The term ‘producing State’ means a coastal State that has a coastal seaward boundary within 200 nautical miles of the geographic center of a leased tract within any area of the outer Continental Shelf.

“(B) EXCLUSION.—The term ‘producing State’ does not include a producing State, a majority of the coastline of which is subject to leasing moratoria, unless production was occurring on January 1, 2005, from a lease within 10 nautical miles of the coastline of that State.

“(10) QUALIFIED OUTER CONTINENTAL SHELF REVENUES.—

“(A) IN GENERAL.—The term ‘qualified Outer Continental Shelf revenues’ means all amounts received by the United States from each leased tract or portion of a leased tract—

“(i) lying—

“(I) seaward of the zone covered by section 8(g); or

“(II) within that zone, but to which section 8(g) does not apply; and

“(ii) the geographic center of which lies within a distance of 200 nautical miles from any part of the coastline of any coastal State.

“(B) INCLUSIONS.—The term ‘qualified Outer Continental Shelf revenues’ includes bonus bids, rents, royalties (including payments for royalty taken in kind and sold), net profit share payments, and related late-payment interest from natural gas and oil leases issued under this Act.

“(C) EXCLUSION.—The term ‘qualified Outer Continental Shelf revenues’ does not include any revenues from a leased tract or portion of a leased tract that is located in a geographic area subject to a leasing moratorium on January 1, 2005, unless the lease was in production on January 1, 2005.

“(b) PAYMENTS TO PRODUCING STATES AND COASTAL POLITICAL SUBDIVISIONS.—

“(1) IN GENERAL.—The Secretary shall, without further appropriation, disburse to producing States and coastal political subdivisions in accordance with this section \$250,000,000 for each of fiscal years 2007 through 2010.

“(2) DISBURSEMENT.—In each fiscal year, the Secretary shall disburse to each producing State for which the Secretary has approved a plan under subsection (c), and to coastal political subdivisions under paragraph (4), such funds as are allocated to the producing State or coastal political subdivision, respectively, under this section for the fiscal year.

“(3) ALLOCATION AMONG PRODUCING STATES.—

“(A) IN GENERAL.—Except as provided in subparagraph (C) and subject to subparagraph (D), the amounts available under paragraph (1) shall be allocated to each producing State based on the ratio that—

“(i) the amount of qualified outer Continental Shelf revenues generated off the coastline of the producing State; bears to

“(ii) the amount of qualified outer Continental Shelf revenues generated off the coastline of all producing States.

“(B) AMOUNT OF OUTER CONTINENTAL SHELF REVENUES.—For purposes of subparagraph (A)—

“(i) the amount of qualified outer Continental Shelf revenues for each of fiscal years 2007 and 2008 shall be determined using qualified outer Continental Shelf revenues received for fiscal year 2006; and

“(ii) the amount of qualified outer Continental Shelf revenues for each of fiscal years 2009 and 2010 shall be determined using qualified outer Continental Shelf revenues received for fiscal year 2008.

“(C) MULTIPLE PRODUCING STATES.—In a case in which more than one producing State is located within 200 nautical miles of any portion of a leased tract, the amount allocated to each producing State for the leased tract shall be inversely proportional to the distance between—

“(i) the nearest point on the coastline of the producing State; and

“(ii) the geographic center of the leased tract.

“(D) MINIMUM ALLOCATION.—The amount allocated to a producing State under subparagraph (A) shall be at least 1 percent of the amounts available under paragraph (1).

“(4) PAYMENTS TO COASTAL POLITICAL SUBDIVISIONS.—

“(A) IN GENERAL.—The Secretary shall pay 35 percent of the allocable share of each producing State, as determined under paragraph (3) to the coastal political subdivisions in the producing State.

“(B) FORMULA.—Of the amount paid by the Secretary to coastal political subdivisions under subparagraph (A)—

“(i) 25 percent shall be allocated to each coastal political subdivision in the proportion that—

“(I) the coastal population of the coastal political subdivision; bears to

“(II) the coastal population of all coastal political subdivisions in the producing State;

“(ii) 25 percent shall be allocated to each coastal political subdivision in the proportion that—

“(I) the number of miles of coastline of the coastal political subdivision; bears to

“(II) the number of miles of coastline of all coastal political subdivisions in the producing State; and

“(iii) 50 percent shall be allocated in amounts that are inversely proportional to the respective distances between the points in each coastal political subdivision that are closest to the geographic center of each leased tract, as determined by the Secretary.

“(C) EXCEPTION FOR THE STATE OF LOUISIANA.—For the purposes of subparagraph (B)(ii), the coastline for coastal political subdivisions in the State of Louisiana without a coastline shall be considered to be $\frac{1}{3}$ the average length of the coastline of all coastal political subdivisions with a coastline in the State of Louisiana.

“(D) EXCEPTION FOR THE STATE OF ALASKA.—For the purposes of carrying out subparagraph (B)(iii) in the State of Alaska, the amounts allocated shall be divided equally among the two coastal political subdivisions that are closest to the geographic center of a leased tract.

“(E) EXCLUSION OF CERTAIN LEASED TRACTS.—For purposes of subparagraph (B)(iii), a leased tract or portion of a leased tract shall be excluded if the tract or portion of a leased tract is located in a geographic area subject to a leasing moratorium on January 1, 2005, unless the lease was in production on that date.

“(5) NO APPROVED PLAN.—

“(A) IN GENERAL.—Subject to subparagraph (B) and except as provided in subparagraph (C), in a case in which any amount allocated to a producing State or coastal political subdivision under paragraph (4) or (5) is not disbursed because the producing State does not have in effect a plan that has been approved by the Secretary under subsection (c), the Secretary shall allocate the undisbursed amount equally among all other producing States.

“(B) RETENTION OF ALLOCATION.—The Secretary shall hold in escrow an undisbursed amount described in subparagraph (A) until such date as the final appeal regarding the disapproval of a plan submitted under subsection (c) is decided.

“(C) WAIVER.—The Secretary may waive subparagraph (A) with respect to an allocated share of a producing State and hold the allocable share in escrow if the Secretary determines that the producing State is making a good faith effort to develop and submit, or update, a plan in accordance with subsection (c).

“(c) COASTAL IMPACT ASSISTANCE PLAN.—

“(1) SUBMISSION OF STATE PLANS.—

Deadline.

“(A) IN GENERAL.—Not later than July 1, 2008, the Governor of a producing State shall submit to the Secretary a coastal impact assistance plan.

“(B) PUBLIC PARTICIPATION.—In carrying out subparagraph (A), the Governor shall solicit local input and provide for public participation in the development of the plan.

“(2) APPROVAL.—

“(A) IN GENERAL.—The Secretary shall approve a plan of a producing State submitted under paragraph (1) before disbursing any amount to the producing State, or to a

coastal political subdivision located in the producing State, under this section.

“(B) COMPONENTS.—The Secretary shall approve a plan submitted under paragraph (1) if—

“(i) the Secretary determines that the plan is consistent with the uses described in subsection (d); and

“(ii) the plan contains—

“(I) the name of the State agency that will have the authority to represent and act on behalf of the producing State in dealing with the Secretary for purposes of this section;

“(II) a program for the implementation of the plan that describes how the amounts provided under this section to the producing State will be used;

“(III) for each coastal political subdivision that receives an amount under this section—

“(aa) the name of a contact person; and

“(bb) a description of how the coastal political subdivision will use amounts provided under this section;

“(IV) a certification by the Governor that ample opportunity has been provided for public participation in the development and revision of the plan; and

Certification.

“(V) a description of measures that will be taken to determine the availability of assistance from other relevant Federal resources and programs.

“(3) AMENDMENT.—Any amendment to a plan submitted under paragraph (1) shall be—

“(A) developed in accordance with this subsection; and

“(B) submitted to the Secretary for approval or disapproval under paragraph (4).

“(4) PROCEDURE.—Not later than 90 days after the date on which a plan or amendment to a plan is submitted under paragraph (1) or (3), the Secretary shall approve or disapprove the plan or amendment.

Deadline.

“(d) AUTHORIZED USES.—

“(1) IN GENERAL.—A producing State or coastal political subdivision shall use all amounts received under this section, including any amount deposited in a trust fund that is administered by the State or coastal political subdivision and dedicated to uses consistent with this section, in accordance with all applicable Federal and State laws, only for one or more of the following purposes:

“(A) Projects and activities for the conservation, protection, or restoration of coastal areas, including wetland.

“(B) Mitigation of damage to fish, wildlife, or natural resources.

“(C) Planning assistance and the administrative costs of complying with this section.

“(D) Implementation of a federally-approved marine, coastal, or comprehensive conservation management plan.

“(E) Mitigation of the impact of outer Continental Shelf activities through funding of onshore infrastructure projects and public service needs.

“(2) COMPLIANCE WITH AUTHORIZED USES.—If the Secretary determines that any expenditure made by a producing State or coastal political subdivision is not consistent with this subsection, the Secretary shall not disburse any additional amount under this section to the producing State or the coastal political subdivision until such time as all amounts obligated for unauthorized uses have been repaid or reobligated for authorized uses.

“(3) LIMITATION.—Not more than 23 percent of amounts received by a producing State or coastal political subdivision for any 1 fiscal year shall be used for the purposes described in subparagraphs (C) and (E) of paragraph (1).”.

SEC. 385. STUDY OF AVAILABILITY OF SKILLED WORKERS.

Contracts.

(a) IN GENERAL.—The Secretary shall enter into an arrangement with the National Academy of Sciences under which the National Academy of Sciences shall conduct a study of the short-term and long-term availability of skilled workers to meet the energy and mineral security requirements of the United States.

(b) INCLUSIONS.—The study shall include an analysis of—

(1) the need for and availability of workers for the oil, gas, and mineral industries;

(2) the availability of skilled labor at both entry level and more senior levels; and

(3) recommendations for future actions needed to meet future labor requirements.

(c) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to Congress a report that describes the results of the study.

42 USC 15941.

SEC. 386. GREAT LAKES OIL AND GAS DRILLING BAN.

No Federal or State permit or lease shall be issued for new oil and gas slant, directional, or offshore drilling in or under one or more of the Great Lakes.

Deadline.
42 USC 13368
note.

SEC. 387. FEDERAL COALBED METHANE REGULATION.

Any State currently on the list of Affected States established under section 1339(b) of the Energy Policy Act of 1992 (42 U.S.C. 13368(b)) shall be removed from the list if, not later than 3 years after the date of enactment of this Act, the State takes, or prior to the date of enactment has taken, any of the actions required for removal from the list under such section 1339(b).

SEC. 388. ALTERNATE ENERGY-RELATED USES ON THE OUTER CONTINENTAL SHELF.

(a) AMENDMENT TO OUTER CONTINENTAL SHELF LANDS ACT.—Section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) is amended by adding at the end the following:

“(p) LEASES, EASEMENTS, OR RIGHTS-OF-WAY FOR ENERGY AND RELATED PURPOSES.—

“(1) IN GENERAL.—The Secretary, in consultation with the Secretary of the Department in which the Coast Guard is operating and other relevant departments and agencies of the Federal Government, may grant a lease, easement, or right-of-way on the outer Continental Shelf for activities not otherwise authorized in this Act, the Deepwater Port Act of 1974 (33 U.S.C. 1501 et seq.), the Ocean Thermal Energy Conversion

Act of 1980 (42 U.S.C. 9101 et seq.), or other applicable law, if those activities—

“(A) support exploration, development, production, or storage of oil or natural gas, except that a lease, easement, or right-of-way shall not be granted in an area in which oil and gas preleasing, leasing, and related activities are prohibited by a moratorium;

“(B) support transportation of oil or natural gas, excluding shipping activities;

“(C) produce or support production, transportation, or transmission of energy from sources other than oil and gas; or

“(D) use, for energy-related purposes or for other authorized marine-related purposes, facilities currently or previously used for activities authorized under this Act, except that any oil and gas energy-related uses shall not be authorized in areas in which oil and gas preleasing, leasing, and related activities are prohibited by a moratorium.

“(2) PAYMENTS AND REVENUES.—(A) The Secretary shall establish royalties, fees, rentals, bonuses, or other payments to ensure a fair return to the United States for any lease, easement, or right-of-way granted under this subsection.

“(B) The Secretary shall provide for the payment of 27 percent of the revenues received by the Federal Government as a result of payments under this section from projects that are located wholly or partially within the area extending three nautical miles seaward of State submerged lands. Payments shall be made based on a formula established by the Secretary by rulemaking no later than 180 days after the date of enactment of this section that provides for equitable distribution, based on proximity to the project, among coastal states that have a coastline that is located within 15 miles of the geographic center of the project.

Regulations.
Deadline.

“(3) COMPETITIVE OR NONCOMPETITIVE BASIS.—Except with respect to projects that meet the criteria established under section 388(d) of the Energy Policy Act of 2005, the Secretary shall issue a lease, easement, or right-of-way under paragraph (1) on a competitive basis unless the Secretary determines after public notice of a proposed lease, easement, or right-of-way that there is no competitive interest.

“(4) REQUIREMENTS.—The Secretary shall ensure that any activity under this subsection is carried out in a manner that provides for—

“(A) safety;

“(B) protection of the environment;

“(C) prevention of waste;

“(D) conservation of the natural resources of the outer Continental Shelf;

“(E) coordination with relevant Federal agencies;

“(F) protection of national security interests of the United States;

“(G) protection of correlative rights in the outer Continental Shelf;

“(H) a fair return to the United States for any lease, easement, or right-of-way under this subsection;

“(I) prevention of interference with reasonable uses (as determined by the Secretary) of the exclusive economic zone, the high seas, and the territorial seas;

“(J) consideration of—

“(i) the location of, and any schedule relating to, a lease, easement, or right-of-way for an area of the outer Continental Shelf; and

“(ii) any other use of the sea or seabed, including use for a fishery, a sealane, a potential site of a deep-water port, or navigation;

“(K) public notice and comment on any proposal submitted for a lease, easement, or right-of-way under this subsection; and

“(L) oversight, inspection, research, monitoring, and enforcement relating to a lease, easement, or right-of-way under this subsection.

“(5) LEASE DURATION, SUSPENSION, AND CANCELLATION.—The Secretary shall provide for the duration, issuance, transfer, renewal, suspension, and cancellation of a lease, easement, or right-of-way under this subsection.

“(6) SECURITY.—The Secretary shall require the holder of a lease, easement, or right-of-way granted under this subsection to—

“(A) furnish a surety bond or other form of security, as prescribed by the Secretary;

“(B) comply with such other requirements as the Secretary considers necessary to protect the interests of the public and the United States; and

“(C) provide for the restoration of the lease, easement, or right-of-way.

“(7) COORDINATION AND CONSULTATION WITH AFFECTED STATE AND LOCAL GOVERNMENTS.—The Secretary shall provide for coordination and consultation with the Governor of any State or the executive of any local government that may be affected by a lease, easement, or right-of-way under this subsection.

Deadline.

“(8) REGULATIONS.—Not later than 270 days after the date of enactment of the Energy Policy Act of 2005, the Secretary, in consultation with the Secretary of Defense, the Secretary of the Department in which the Coast Guard is operating, the Secretary of Commerce, heads of other relevant departments and agencies of the Federal Government, and the Governor of any affected State, shall issue any necessary regulations to carry out this subsection.

“(9) EFFECT OF SUBSECTION.—Nothing in this subsection displaces, supersedes, limits, or modifies the jurisdiction, responsibility, or authority of any Federal or State agency under any other Federal law.

“(10) APPLICABILITY.—This subsection does not apply to any area on the outer Continental Shelf within the exterior boundaries of any unit of the National Park System, National Wildlife Refuge System, or National Marine Sanctuary System, or any National Monument.”.

43 USC 1337
note.

(b) COORDINATED OCS MAPPING INITIATIVE.—

(1) IN GENERAL.—The Secretary of the Interior, in cooperation with the Secretary of Commerce, the Commandant of the Coast Guard, and the Secretary of Defense, shall establish

an interagency comprehensive digital mapping initiative for the outer Continental Shelf to assist in decisionmaking relating to the siting of activities under subsection (p) of section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) (as added by subsection (a)).

(2) **USE OF DATA.**—The mapping initiative shall use, and develop procedures for accessing, data collected before the date on which the mapping initiative is established, to the maximum extent practicable.

(3) **INCLUSIONS.**—Mapping carried out under the mapping initiative shall include an indication of the locations on the outer Continental Shelf of—

- (A) Federally-permitted activities;
- (B) obstructions to navigation;
- (C) submerged cultural resources;
- (D) undersea cables;
- (E) offshore aquaculture projects; and
- (F) any area designated for the purpose of safety, national security, environmental protection, or conservation and management of living marine resources.

(c) **CONFORMING AMENDMENT.**—Section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) is amended by striking the section heading and inserting the following: “LEASES, EASEMENTS, AND RIGHTS-OF-WAY ON THE OUTER CONTINENTAL SHELF.—”.

(d) **SAVINGS PROVISION.**—Nothing in the amendment made by subsection (a) requires the resubmittal of any document that was previously submitted or the reauthorization of any action that was previously authorized with respect to a project for which, before the date of enactment of this Act—

43 USC 1337
note.

(1) an offshore test facility has been constructed; or

(2) a request for a proposal has been issued by a public authority.

(e) **STATE CLAIMS TO JURISDICTION OVER SUBMERGED LANDS.**—Nothing in this section shall be construed to alter, limit, or modify any claim of any State to any jurisdiction over, or any right, title, or interest in, any submerged lands.

43 USC 1337
note.

SEC. 389. OIL SPILL RECOVERY INSTITUTE.

Title V of the Oil Pollution Act of 1990 (33 U.S.C. 2731 et seq.) is amended—

(1) in section 5001(i), by striking “September 30, 2012” and inserting “1 year after the date on which the Secretary, in consultation with the Secretary of the Interior, determines that oil and gas exploration, development, and production in the State of Alaska have ceased”; and

33 USC 2731.

(2) in section 5006(c), by striking “October 1, 2012” and inserting “1 year after the date on which the Secretary, in consultation with the Secretary of the Interior, determines that oil and gas exploration, development, and production in the State of Alaska have ceased,”.

33 USC 2736.

SEC. 390. NEPA REVIEW.

42 USC 15942.

(a) **NEPA REVIEW.**—Action by the Secretary of the Interior in managing the public lands, or the Secretary of Agriculture in managing National Forest System Lands, with respect to any of the activities described in subsection (b) shall be subject to a rebuttable presumption that the use of a categorical exclusion under

the National Environmental Policy Act of 1969 (NEPA) would apply if the activity is conducted pursuant to the Mineral Leasing Act for the purpose of exploration or development of oil or gas.

(b) **ACTIVITIES DESCRIBED.**—The activities referred to in subsection (a) are the following:

(1) Individual surface disturbances of less than 5 acres so long as the total surface disturbance on the lease is not greater than 150 acres and site-specific analysis in a document prepared pursuant to NEPA has been previously completed.

(2) Drilling an oil or gas well at a location or well pad site at which drilling has occurred previously within 5 years prior to the date of spudding the well.

(3) Drilling an oil or gas well within a developed field for which an approved land use plan or any environmental document prepared pursuant to NEPA analyzed such drilling as a reasonably foreseeable activity, so long as such plan or document was approved within 5 years prior to the date of spudding the well.

(4) Placement of a pipeline in an approved right-of-way corridor, so long as the corridor was approved within 5 years prior to the date of placement of the pipeline.

(5) Maintenance of a minor activity, other than any construction or major renovation or a building or facility.

Subtitle H—Refinery Revitalization

42 USC 15951.

SEC. 391. FINDINGS AND DEFINITIONS.

(a) **FINDINGS.**—Congress finds that—

(1) it serves the national interest to increase petroleum refining capacity for gasoline, heating oil, diesel fuel, jet fuel, kerosene, and petrochemical feedstocks wherever located within the United States, to bring more supply to the markets for the use of the American people;

(2) United States demand for refined petroleum products currently exceeds the country's petroleum refining capacity to produce such products;

(3) this excess demand has been met with increased imports;

(4) due to lack of capacity, refined petroleum product imports are expected to grow from 7.9 percent to 10.7 percent of total refined product by 2025;

(5) refiners are still subject to significant environmental and other regulations and face several new requirements under the Clean Air Act (42 U.S.C. 7401 et seq.) over the next decade; and

(6) better coordination of Federal and State regulatory reviews may help facilitate siting and construction of new refineries to meet the demand in the United States for refined products.

(b) **DEFINITIONS.**—In this subtitle:

(1) **ADMINISTRATOR.**—The term “Administrator” means the Administrator of the Environmental Protection Agency.

(2) **STATE.**—The term “State” means—

(A) a State;

(B) the Commonwealth of Puerto Rico; and

(C) any other territory or possession of the United States.

SEC. 392. FEDERAL-STATE REGULATORY COORDINATION AND ASSISTANCE. 42 USC 15952.

(a) **IN GENERAL.**—At the request of the Governor of a State, the Administrator may enter into a refinery permitting cooperative agreement with the State, under which each party to the agreement identifies steps, including timelines, that it will take to streamline the consideration of Federal and State environmental permits for a new refinery.

(b) **AUTHORITY UNDER AGREEMENT.**—The Administrator shall be authorized to—

(1) accept from a refiner a consolidated application for all permits required from the Environmental Protection Agency, to the extent consistent with other applicable law;

(2) enter into memoranda of agreement with other Federal agencies to coordinate consideration of refinery applications and permits among Federal agencies; and

(3) enter into memoranda of agreement with a State, under which Federal and State review of refinery permit applications will be coordinated and concurrently considered, to the extent practicable.

(c) **STATE ASSISTANCE.**—The Administrator is authorized to provide financial assistance to State governments to facilitate the hiring of additional personnel with expertise in fields relevant to consideration of refinery permits.

(d) **OTHER ASSISTANCE.**—The Administrator is authorized to provide technical, legal, or other assistance to State governments to facilitate their review of applications to build new refineries.

TITLE IV—COAL

Subtitle A—Clean Coal Power Initiative

SEC. 401. AUTHORIZATION OF APPROPRIATIONS.

42 USC 15961.

(a) **CLEAN COAL POWER INITIATIVE.**—There are authorized to be appropriated to the Secretary to carry out the activities authorized by this subtitle \$200,000,000 for each of fiscal years 2006 through 2014, to remain available until expended.

(b) **REPORT.**—The Secretary shall submit to Congress the report required by this subsection not later than March 31, 2007. The report shall include, with respect to subsection (a), a plan containing—

(1) a detailed assessment of whether the aggregate funding levels provided under subsection (a) are the appropriate funding levels for that program;

(2) a detailed description of how proposals will be solicited and evaluated, including a list of all activities expected to be undertaken;

(3) a detailed list of technical milestones for each coal and related technology that will be pursued; and

(4) a detailed description of how the program will avoid problems enumerated in Government Accountability Office

reports on the Clean Coal Technology Program, including problems that have resulted in unspent funds and projects that failed either financially or scientifically.

42 USC 15962.

SEC. 402. PROJECT CRITERIA.

(a) **IN GENERAL.**—To be eligible to receive assistance under this subtitle, a project shall advance efficiency, environmental performance, and cost competitiveness well beyond the level of technologies that are in commercial service or have been demonstrated on a scale that the Secretary determines is sufficient to demonstrate that commercial service is viable as of the date of enactment of this Act.

(b) **TECHNICAL CRITERIA FOR CLEAN COAL POWER INITIATIVE.**—

(1) **GASIFICATION PROJECTS.**—

(A) **IN GENERAL.**—In allocating the funds made available under section 401(a), the Secretary shall ensure that at least 70 percent of the funds are used only to fund projects on coal-based gasification technologies, including—

- (i) gasification combined cycle;
- (ii) gasification fuel cells and turbine combined cycle;
- (iii) gasification coproduction;
- (iv) hybrid gasification and combustion; and
- (v) other advanced coal based technologies capable of producing a concentrated stream of carbon dioxide.

(B) **TECHNICAL MILESTONES.**—

(i) **PERIODIC DETERMINATION.**—

(I) **IN GENERAL.**—The Secretary shall periodically set technical milestones specifying the emission and thermal efficiency levels that coal gasification projects under this subtitle shall be designed, and reasonably expected, to achieve.

(II) **PRESCRIPTIVE MILESTONES.**—The technical milestones shall become more prescriptive during the period of the clean coal power initiative.

(ii) **2020 GOALS.**—The Secretary shall establish the periodic milestones so as to achieve by the year 2020 coal gasification projects able—

(I) to remove at least 99 percent of sulfur dioxide;

(II) to emit not more than .05 lbs of NO_x per million Btu;

(III) to achieve at least 95 percent reductions in mercury emissions; and

(IV) to achieve a thermal efficiency of at least—

(aa) 50 percent for coal of more than 9,000 Btu;

(bb) 48 percent for coal of 7,000 to 9,000 Btu; and

(cc) 46 percent for coal of less than 7,000 Btu.

(2) **OTHER PROJECTS.**—

(A) **ALLOCATION OF FUNDS.**—The Secretary shall ensure that up to 30 percent of the funds made available under section 401(a) are used to fund projects other than those described in paragraph (1).

(B) TECHNICAL MILESTONES.—

(i) PERIODIC DETERMINATION.—

(I) IN GENERAL.—The Secretary shall periodically establish technical milestones specifying the emission and thermal efficiency levels that projects funded under this paragraph shall be designed, and reasonably expected, to achieve.

(II) PRESCRIPTIVE MILESTONES.—The technical milestones shall become more prescriptive during the period of the clean coal power initiative.

(ii) 2020 GOALS.—The Secretary shall set the periodic milestones so as to achieve by the year 2020 projects able—

(I) to remove at least 97 percent of sulfur dioxide;

(II) to emit no more than .08 lbs of NO_x per million Btu;

(III) to achieve at least 90 percent reductions in mercury emissions; and

(IV) to achieve a thermal efficiency of at least—

(aa) 43 percent for coal of more than 9,000 Btu;

(bb) 41 percent for coal of 7,000 to 9,000 Btu; and

(cc) 39 percent for coal of less than 7,000 Btu.

(3) CONSULTATION.—Before setting the technical milestones under paragraphs (1)(B) and (2)(B), the Secretary shall consult with—

(A) the Administrator of the Environmental Protection Agency; and

(B) interested entities, including—

(i) coal producers;

(ii) industries using coal;

(iii) organizations that promote coal or advanced coal technologies;

(iv) environmental organizations;

(v) organizations representing workers; and

(vi) organizations representing consumers.

(4) EXISTING UNITS.—In the case of projects at units in existence on the date of enactment of this Act, in lieu of the thermal efficiency requirements described in paragraphs (1)(B)(ii)(IV) and (2)(B)(ii)(IV), the milestones shall be designed to achieve an overall thermal design efficiency improvement, compared to the efficiency of the unit as operated, of not less than—

(A) 7 percent for coal of more than 9,000 Btu;

(B) 6 percent for coal of 7,000 to 9,000 Btu; or

(C) 4 percent for coal of less than 7,000 Btu.

(5) ADMINISTRATION.—

(A) ELEVATION OF SITE.—In evaluating project proposals to achieve thermal efficiency levels established under paragraphs (1)(B)(i) and (2)(B)(i) and in determining progress towards thermal efficiency milestones under paragraphs (1)(B)(ii)(IV), (2)(B)(ii)(IV), and (4), the Secretary

shall take into account and make adjustments for the elevation of the site at which a project is proposed to be constructed.

(B) **APPLICABILITY OF MILESTONES.**—In applying the thermal efficiency milestones under paragraphs (1)(B)(ii)(IV), (2)(B)(ii)(IV), and (4) to projects that separate and capture at least 50 percent of the potential emissions of carbon dioxide by a facility, the energy used for separation and capture of carbon dioxide shall not be counted in calculating the thermal efficiency.

(C) **PERMITTED USES.**—In carrying out this section, the Secretary may give priority to projects that include, as part of the project—

- (i) the separation or capture of carbon dioxide;
- or
- (ii) the reduction of the demand for natural gas if deployed.

(c) **FINANCIAL CRITERIA.**—The Secretary shall not provide financial assistance under this subtitle for a project unless the recipient documents to the satisfaction of the Secretary that—

- (1) the recipient is financially responsible;
- (2) the recipient will provide sufficient information to the Secretary to enable the Secretary to ensure that the funds are spent efficiently and effectively; and
- (3) a market exists for the technology being demonstrated or applied, as evidenced by statements of interest in writing from potential purchasers of the technology.

(d) **FINANCIAL ASSISTANCE.**—The Secretary shall provide financial assistance to projects that, as determined by the Secretary—

- (1) meet the requirements of subsections (a), (b), and (c); and

(2) are likely—

(A) to achieve overall cost reductions in the use of coal to generate useful forms of energy or chemical feedstocks;

(B) to improve the competitiveness of coal among various forms of energy in order to maintain a diversity of fuel choices in the United States to meet electricity generation requirements; and

(C) to demonstrate methods and equipment that are applicable to 25 percent of the electricity generating facilities, using various types of coal, that use coal as the primary feedstock as of the date of enactment of this Act.

(e) **COST-SHARING.**—In carrying out this subtitle, the Secretary shall require cost sharing in accordance with section 988.

(f) **SCHEDULED COMPLETION OF SELECTED PROJECTS.**—

(1) **IN GENERAL.**—In selecting a project for financial assistance under this section, the Secretary shall establish a reasonable period of time during which the owner or operator of the project shall complete the construction or demonstration phase of the project, as the Secretary determines to be appropriate.

(2) **CONDITION OF FINANCIAL ASSISTANCE.**—The Secretary shall require as a condition of receipt of any financial assistance under this subtitle that the recipient of the assistance enter

into an agreement with the Secretary not to request an extension of the time period established for the project by the Secretary under paragraph (1).

(3) EXTENSION OF TIME PERIOD.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary may extend the time period established under paragraph (1) if the Secretary determines, in the sole discretion of the Secretary, that the owner or operator of the project cannot complete the construction or demonstration phase of the project within the time period due to circumstances beyond the control of the owner or operator.

(B) LIMITATION.—The Secretary shall not extend a time period under subparagraph (A) by more than 4 years.

(g) FEE TITLE.—The Secretary may vest fee title or other property interests acquired under cost-share clean coal power initiative agreements under this subtitle in any entity, including the United States.

(h) DATA PROTECTION.—For a period not exceeding 5 years after completion of the operations phase of a cooperative agreement, the Secretary may provide appropriate protections (including exemptions from subchapter II of chapter 5 of title 5, United States Code) against the dissemination of information that—

(1) results from demonstration activities carried out under the clean coal power initiative program; and

(2) would be a trade secret or commercial or financial information that is privileged or confidential if the information had been obtained from and first produced by a non-Federal party participating in a clean coal power initiative project.

(i) APPLICABILITY.—No technology, or level of emission reduction, solely by reason of the use of the technology, or the achievement of the emission reduction, by 1 or more facilities receiving assistance under this Act, shall be considered to be—

(1) adequately demonstrated for purposes of section 111 of the Clean Air Act (42 U.S.C. 7411);

(2) achievable for purposes of section 169 of that Act (42 U.S.C. 7479); or

(3) achievable in practice for purposes of section 171 of that Act (42 U.S.C. 7501).

SEC. 403. REPORT.

42 USC 15963.

Not later than 1 year after the date of enactment of this Act, and once every 2 years thereafter through 2014, the Secretary, in consultation with other appropriate Federal agencies, shall submit to Congress a report describing—

(1) the technical milestones set forth in section 402 and how those milestones ensure progress toward meeting the requirements of subsections (b)(1)(B) and (b)(2) of section 402; and

(2) the status of projects funded under this subtitle.

SEC. 404. CLEAN COAL CENTERS OF EXCELLENCE.

42 USC 15964.

(a) IN GENERAL.—As part of the clean coal power initiative, the Secretary shall award competitive, merit-based grants to institutions of higher education for the establishment of centers of excellence for energy systems of the future.

(b) BASIS FOR GRANTS.—The Secretary shall award grants under this section to institutions of higher education that show the greatest potential for advancing new clean coal technologies.

Subtitle B—Clean Power Projects

42 USC 15971.

SEC. 411. INTEGRATED COAL/RENEWABLE ENERGY SYSTEM.

(a) IN GENERAL.—Subject to the availability of appropriations, the Secretary may provide loan guarantees for a project to produce energy from coal of less than 7,000 Btu/lb. using appropriate advanced integrated gasification combined cycle technology, including repowering of existing facilities, that—

- (1) is combined with wind and other renewable sources;
- (2) minimizes and offers the potential to sequester carbon dioxide emissions; and
- (3) provides a ready source of hydrogen for near-site fuel cell demonstrations.

(b) REQUIREMENTS.—The facility—

- (1) may be built in stages;
- (2) shall have a combined output of at least 200 megawatts at successively more competitive rates; and
- (3) shall be located in the Upper Great Plains.

Applicability.

(c) TECHNICAL CRITERIA.—Technical criteria described in section 402(b) shall apply to the facility.

(d) INVESTMENT TAX CREDITS.—

(1) IN GENERAL.—The loan guarantees provided under this section do not preclude the facility from receiving an allocation for investment tax credits under section 48A of the Internal Revenue Code of 1986.

(2) OTHER FUNDING.—Use of the investment tax credit described in paragraph (1) does not prohibit the use of other clean coal program funding.

42 USC 15972.

SEC. 412. LOAN TO PLACE ALASKA CLEAN COAL TECHNOLOGY FACILITY IN SERVICE.

(a) DEFINITIONS.—In this section:

(1) BORROWER.—The term “borrower” means the owner of the clean coal technology plant.

(2) CLEAN COAL TECHNOLOGY PLANT.—The term “clean coal technology plant” means the plant located near Healy, Alaska, constructed under Department cooperative agreement number DE–FC–22–91PC90544.

(3) COST OF A DIRECT LOAN.—The term “cost of a direct loan” has the meaning given the term in section 502(5)(B) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5)(B)).

(b) AUTHORIZATION.—Subject to subsection (c), the Secretary shall use amounts made available under subsection (e) to provide the cost of a direct loan to the borrower for purposes of placing the clean coal technology plant into reliable operation for the generation of electricity.

(c) REQUIREMENTS.—

(1) MAXIMUM LOAN AMOUNT.—The amount of the direct loan provided under subsection (b) shall not exceed \$80,000,000.

(2) DETERMINATIONS BY SECRETARY.—Before providing the direct loan to the borrower under subsection (b), the Secretary shall determine that—

- (A) the plan of the borrower for placing the clean coal technology plant in reliable operation has a reasonable prospect of success;

(B) the amount of the loan (when combined with amounts available to the borrower from other sources) will be sufficient to carry out the project; and

(C) there is a reasonable prospect that the borrower will repay the principal and interest on the loan.

(3) **INTEREST; TERM.**—The direct loan provided under subsection (b) shall bear interest at a rate and for a term that the Secretary determines appropriate, after consultation with the Secretary of the Treasury, taking into account the needs and capacities of the borrower and the prevailing rate of interest for similar loans made by public and private lenders.

(4) **ADDITIONAL TERMS AND CONDITIONS.**—The Secretary may require any other terms and conditions that the Secretary determines to be appropriate.

(d) **USE OF PAYMENTS.**—The Secretary shall retain any payments of principal and interest on the direct loan provided under subsection (b) to support energy research and development activities, to remain available until expended, subject to any other conditions in an applicable appropriations Act.

(e) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as are necessary to provide the cost of a direct loan under subsection (b).

SEC. 413. WESTERN INTEGRATED COAL GASIFICATION DEMONSTRATION PROJECT. 42 USC 15973.

(a) **IN GENERAL.**—Subject to the availability of appropriations, the Secretary shall carry out a project to demonstrate production of energy from coal mined in the western United States using integrated gasification combined cycle technology (referred to in this section as the “demonstration project”).

(b) **COMPONENTS.**—The demonstration project—

(1) may include repowering of existing facilities;

(2) shall be designed to demonstrate the ability to use coal with an energy content of not more than 9,000 Btu/lb.; and

(3) shall be capable of removing and sequestering carbon dioxide emissions.

(c) **ALL TYPES OF WESTERN COALS.**—Notwithstanding the foregoing, and to the extent economically feasible, the demonstration project shall also be designed to demonstrate the ability to use a variety of types of coal (including subbituminous and bituminous coal with an energy content of up to 13,000 Btu/lb.) mined in the western United States.

(d) **LOCATION.**—The demonstration project shall be located in a western State at an altitude of greater than 4,000 feet above sea level.

(e) **COST SHARING.**—The Federal share of the cost of the demonstration project shall be determined in accordance with section 988.

(f) **LOAN GUARANTEES.**—Notwithstanding title XIV, the demonstration project shall not be eligible for Federal loan guarantees.

SEC. 414. COAL GASIFICATION.

42 USC 15974.

The Secretary is authorized to provide loan guarantees for a project to produce energy from a plant using integrated gasification combined cycle technology of at least 400 megawatts in capacity that produces power at competitive rates in deregulated

energy generation markets and that does not receive any subsidy (direct or indirect) from ratepayers.

42 USC 15975.

SEC. 415. PETROLEUM COKE GASIFICATION.

The Secretary is authorized to provide loan guarantees for at least 5 petroleum coke gasification projects.

42 USC 15976.

SEC. 416. ELECTRON SCRUBBING DEMONSTRATION.

The Secretary shall use \$5,000,000 from amounts appropriated to initiate, through the Chicago Operations Office, a project to demonstrate the viability of high-energy electron scrubbing technology on commercial-scale electrical generation using high-sulfur coal.

42 USC 15977.

SEC. 417. DEPARTMENT OF ENERGY TRANSPORTATION FUELS FROM ILLINOIS BASIN COAL.

(a) IN GENERAL.—The Secretary shall carry out a program to evaluate the commercial and technical viability of advanced technologies for the production of Fischer-Tropsch transportation fuels, and other transportation fuels, manufactured from Illinois basin coal, including the capital modification of existing facilities and the construction of testing facilities under subsection (b).

(b) FACILITIES.—For the purpose of evaluating the commercial and technical viability of different processes for producing Fischer-Tropsch transportation fuels, and other transportation fuels, from Illinois basin coal, the Secretary shall support the use and capital modification of existing facilities and the construction of new facilities at—

- (1) Southern Illinois University Coal Research Center;
- (2) University of Kentucky Center for Applied Energy Research; and
- (3) Energy Center at Purdue University.

(c) GASIFICATION PRODUCTS TEST CENTER.—In conjunction with the activities described in subsections (a) and (b), the Secretary shall construct a test center to evaluate and confirm liquid and gas products from syngas catalysis in order that the system has an output of at least 500 gallons of Fischer-Tropsch transportation fuel per day in a 24-hour operation.

Deadlines.

(d) MILESTONES.—

(1) SELECTION OF PROCESSES.—Not later than 180 days after the date of enactment of this Act, the Secretary shall select processes for evaluating the commercial and technical viability of different processes of producing Fischer-Tropsch transportation fuels, and other transportation fuels, from Illinois basin coal.

(2) AGREEMENTS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall offer to enter into agreements—

(A) to carry out the activities described in this section, at the facilities described in subsection (b); and

(B) for the capital modifications or construction of the facilities at the locations described in subsection (b).

(3) EVALUATIONS.—Not later than 3 years after the date of enactment of the Act, the Secretary shall begin, at the facilities described in subsection (b), evaluation of the technical and commercial viability of different processes of producing Fischer-Tropsch transportation fuels, and other transportation fuels, from Illinois basin coal.

(4) CONSTRUCTION OF FACILITIES.—

(A) IN GENERAL.—The Secretary shall construct the facilities described in subsection (b) at the lowest cost practicable.

(B) GRANTS OR AGREEMENTS.—The Secretary may make grants or enter into agreements or contracts with the institutions of higher education described in subsection (b).

(e) COST SHARING.—The cost of making grants under this section shall be shared in accordance with section 988.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$85,000,000 for the period of fiscal years 2006 through 2010.

Subtitle C—Coal and Related Programs

SEC. 421. AMENDMENT OF THE ENERGY POLICY ACT OF 1992.

(a) AMENDMENT.—The Energy Policy Act of 1992 (42 U.S.C. 13201 et seq.) is amended by adding at the end the following:

“TITLE XXXI—CLEAN AIR COAL PROGRAM

“SEC. 3101. PURPOSES.

42 USC 13571.

“The purposes of this title are to—

“(1) promote national energy policy and energy security, diversity, and economic competitiveness benefits that result from the increased use of coal;

“(2) mitigate financial risks, reduce the cost of clean coal generation, and increase the marketplace acceptance of clean coal generation and pollution control equipment and processes; and

“(3) facilitate the environmental performance of clean coal generation.

“SEC. 3102. AUTHORIZATION OF PROGRAM.

42 USC 13572.

“(a) IN GENERAL.—The Secretary shall carry out a program of financial assistance to—

“(1) facilitate the production and generation of coal-based power, through the deployment of clean coal electric generating equipment and processes that, compared to equipment or processes that are in operation on a full scale—

“(A) improve—

“(i) energy efficiency; or

“(ii) environmental performance consistent with relevant Federal and State clean air requirements, including those promulgated under the Clean Air Act (42 U.S.C. 7401 et seq.); and

“(B) are not yet cost competitive; and

“(2) facilitate the utilization of existing coal-based electricity generation plants through projects that—

“(A) deploy advanced air pollution control equipment and processes; and

“(B) are designed to voluntarily enhance environmental performance above current applicable obligations under the

Clean Air Act and State implementation efforts pursuant to such Act.

“(b) FINANCIAL CRITERIA.—As determined by the Secretary for a particular project, financial assistance under this title shall be in the form of—

“(1) cost-sharing of an appropriate percentage of the total project cost, not to exceed 50 percent as calculated under section 988 of the Energy Policy Act of 2005; or

“(2) financial assistance, including grants, cooperative agreements, or loans as authorized under this Act or other statutory authority of the Secretary.

42 USC 13573.

“SEC. 3103. GENERATION PROJECTS.

“(a) ELIGIBLE PROJECTS.—Projects supported under section 3102(a)(1) may include—

“(1) equipment or processes previously supported by a Department of Energy program;

“(2) advanced combustion equipment and processes that the Secretary determines will be cost-effective and could substantially contribute to meeting environmental or energy needs, including gasification, gasification fuel cells, gasification coproduction, oxidation combustion techniques, ultra-supercritical boilers, and chemical looping; and

“(3) hybrid gasification/combustion systems, including systems integrating fuel cells with gasification or combustion units.

“(b) CRITERIA.—The Secretary shall establish criteria for the selection of generation projects under section 3102(a)(1). The Secretary may modify the criteria as appropriate to reflect improvements in equipment, except that the criteria shall not be modified to be less stringent. The selection criteria shall include—

“(1) prioritization of projects whose installation is likely to result in significant air quality improvements in nonattainment air quality areas;

“(2) prioritization of projects whose installation is likely to result in lower emission rates of pollution;

“(3) prioritization of projects that result in the repowering or replacement of older, less efficient units;

“(4) documented broad interest in the procurement of the equipment and utilization of the processes used in the projects by owners or operators of facilities for electricity generation;

“(5) equipment and processes beginning in 2006 through 2011 that are projected to achieve a thermal efficiency of—

“(A) 40 percent for coal of more than 9,000 Btu per pound based on higher heating values;

“(B) 38 percent for coal of 7,000 to 9,000 Btu per pound passed on higher heating values; and

“(C) 36 percent for coal of less than 7,000 Btu per pound based on higher heating values;

except that energy used for coproduction or cogeneration shall not be counted in calculating the thermal efficiency under this paragraph; and

“(6) equipment and processes beginning in 2012 and 2013 that are projected to achieve a thermal efficiency of—

“(A) 45 percent for coal of more than 9,000 Btu per pound based on higher heating values;

“(B) 44 percent for coal of 7,000 to 9,000 Btu per pound passed on higher heating values; and

“(C) 40 percent for coal of less than 7,000 Btu per pound based on higher heating values; except that energy used for coproduction or cogeneration shall not be counted in calculating the thermal efficiency under this paragraph.

“(c) PROGRAM BALANCE AND PRIORITY.—In carrying out the program under section 3102(a)(1), the Secretary shall ensure, to the extent practicable, that—

“(1) between 25 percent and 75 percent of the projects supported are for the sole purpose of electrical generation; and

“(2) priority is given to projects that use electrical generation equipment and processes that have been developed and demonstrated and applied in actual production of electricity, but are not yet cost-competitive, and that achieve greater efficiency and environmental performance.

“(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out section 3102(a)(1)—

“(1) \$250,000,000 for fiscal year 2007;

“(2) \$350,000,000 for fiscal year 2008;

“(3) \$400,000,000 for each of fiscal years 2009 through 2012; and

“(4) \$300,000,000 for fiscal year 2013.

“(e) APPLICABILITY.—No technology, or level of emission reduction, shall be treated as adequately demonstrated for purpose of section 111 of the Clean Air Act (42 U.S.C. 7411), achievable for purposes of section 169 of that Act (42 U.S.C. 7479), or achievable in practice for purposes of section 171 of that Act (42 U.S.C. 7501) solely by reason of the use of such technology, or the achievement of such emission reduction, by one or more facilities receiving assistance under section 3102(a)(1).

“SEC. 3104. AIR QUALITY ENHANCEMENT PROGRAM.

42 USC 13574.

“(a) ELIGIBLE PROJECTS.—Projects supported under section 3102(a)(2) shall—

“(1) utilize technologies that meet relevant Federal and State clean air requirements applicable to the unit or facility, including being adequately demonstrated for purposes of section 111 of the Clean Air Act (42 U.S.C. 7411), achievable for purposes of section 169 of that Act (42 U.S.C. 7479), or achievable in practice for purposes of section 171 of that Act (42 U.S.C. 7501); or

“(2) utilize equipment or processes that exceed relevant Federal or State clean air requirements applicable to the unit or facilities included in the projects by achieving greater efficiency or environmental performance.

“(b) PRIORITY IN PROJECT SELECTION.—In making an award under section 3102(a)(2), the Secretary shall give priority to—

“(1) projects whose installation is likely to result in significant air quality improvements in nonattainment air quality areas or substantially reduce the emission level of criteria pollutants and mercury air emissions;

“(2) projects for pollution control that result in the mitigation or collection of more than 1 pollutant; and

“(3) projects designed to allow the use of the waste byproducts or other byproducts of the equipment.

“(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out section 3102(a)(2)—

- “(1) \$300,000,000 for fiscal year 2007;
- “(2) \$100,000,000 for fiscal year 2008;
- “(3) \$40,000,000 for fiscal year 2009;
- “(4) \$30,000,000 for fiscal year 2010; and
- “(5) \$30,000,000 for fiscal year 2011.

“(d) APPLICABILITY.—No technology, or level of emission reduction under subsection (a)(2) shall be treated as adequately demonstrated for purpose of Section 111 of the Clean Air Act (42 U.S.C. 7411), achievable for purposes of section 169 of that Act (42 U.S.C. 7479), or achievable in practice for purposes of section 171 of that Act (42 U.S.C. 7501) solely by reason of the use of such technology, or the achievement of such emission reduction, by one or more facilities receiving assistance under section 3102(a)(2).”.

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents of the Energy Policy Act of 1992 (42 U.S.C. prec. 13201) is amended by adding at the end the following:

“TITLE XXXI—CLEAN AIR COAL PROGRAM

- “Sec. 3101. Purposes.
- “Sec. 3102. Authorization of program.
- “Sec. 3103. Generation projects.
- “Sec. 3104. Air quality enhancement program.”.

Coal Leasing
Amendments Act
of 2005.
42 USC 15801.

Subtitle D—Federal Coal Leases

SEC. 431. SHORT TITLE.

This subtitle may be cited as the “Coal Leasing Amendments Act of 2005”.

SEC. 432. REPEAL OF THE 160-ACRE LIMITATION FOR COAL LEASES.

Section 3 of the Mineral Leasing Act (30 U.S.C. 203) is amended—

(1) in the first sentence, by striking “Any person” and inserting the following: “(a)(1) Except as provided in paragraph (3), on a finding by the Secretary under paragraph (2), any person”;

(2) in the second sentence, by striking “The Secretary” and inserting the following:

“(b) The Secretary”;

(3) in the third sentence, by striking “The minimum” and inserting the following:

“(c) The minimum”;

(4) in subsection (a) (as designated by paragraph (1))—

(A) by striking “upon” and all that follows and inserting the following: “secure modifications of the original coal lease by including additional coal lands or coal deposits contiguous or cornering to those embraced in the lease.”; and

(B) by adding at the end the following:

“(2) A finding referred to in paragraph (1) is a finding by the Secretary that the modifications—

“(A) would be in the interest of the United States;

“(B) would not displace a competitive interest in the lands;

and

“(C) would not include lands or deposits that can be developed as part of another potential or existing operation.

“(3) In no case shall the total area added by modifications to an existing coal lease under paragraph (1)—

“(A) exceed 960 acres; or

“(B) add acreage larger than that in the original lease.”.

SEC. 433. APPROVAL OF LOGICAL MINING UNITS.

Section 2(d)(2) of the Mineral Leasing Act (30 U.S.C. 202a(2)) is amended—

(1) by inserting “(A)” after “(2)”; and

(2) by adding at the end the following:

“(B) The Secretary may establish a period of more than 40 years if the Secretary determines that the longer period—

“(i) will ensure the maximum economic recovery of a coal deposit; or

“(ii) the longer period is in the interest of the orderly, efficient, or economic development of a coal resource.”.

SEC. 434. PAYMENT OF ADVANCE ROYALTIES UNDER COAL LEASES.

Section 7(b) of the Mineral Leasing Act (30 U.S.C. 207(b)) is amended—

(1) in the first sentence, by striking “Each lease” and inserting the following: “(1) Each lease”;

(2) in the second sentence, by striking “The Secretary” and inserting the following:

“(2) The Secretary”;

(3) in the third sentence, by striking “Such advance royalties” and inserting the following:

“(3) Advance royalties described in paragraph (2)”;

(4) in the seventh sentence, by striking “The Secretary” and inserting the following:

“(6) The Secretary”;

(5) in the last sentence, by striking “Nothing” and inserting the following:

“(7) Nothing”;

(6) by striking the fourth, fifth, and sixth sentences; and

(7) by inserting after paragraph (3) (as designated by paragraph (3)) the following:

“(4) Advance royalties described in paragraph (2) shall be computed—

“(A) based on—

“(i) the average price in the spot market for sales of comparable coal from the same region during the last month of each applicable continued operation year; or

“(ii) in the absence of a spot market for comparable coal from the same region, by using a comparable method established by the Secretary of the Interior to capture the commercial value of coal; and

“(B) based on commercial quantities, as defined by regulation by the Secretary of the Interior.

“(5) The aggregate number of years during the period of any lease for which advance royalties may be accepted in lieu of the condition of continued operation shall not exceed 20 years.

“(6) The amount of any production royalty paid for any year shall be reduced (but not below 0) by the amount of any advance royalties paid under a lease described in paragraph (5) to the

extent that the advance royalties have not been used to reduce production royalties for a prior year.”.

SEC. 435. ELIMINATION OF DEADLINE FOR SUBMISSION OF COAL LEASE OPERATION AND RECLAMATION PLAN.

Section 7(c) of the Mineral Leasing Act (30 U.S.C. 207(c)) is amended by striking “and not later than three years after a lease is issued,”.

SEC. 436. AMENDMENT RELATING TO FINANCIAL ASSURANCES WITH RESPECT TO BONUS BIDS.

Section 2(a) of the Mineral Leasing Act (30 U.S.C. 201(a)) is amended by adding at the end the following:

“(4)(A) The Secretary shall not require a surety bond or any other financial assurance to guarantee payment of deferred bonus bid installments with respect to any coal lease issued on a cash bonus bid to a lessee or successor in interest having a history of a timely payment of noncontested coal royalties and advanced coal royalties in lieu of production (where applicable) and bonus bid installment payments.

“(B) The Secretary may waive any requirement that a lessee provide a surety bond or other financial assurance to guarantee payment of deferred bonus bid installment with respect to any coal lease issued before the date of the enactment of the Energy Policy Act of 2005 only if the Secretary determines that the lessee has a history of making timely payments referred to in subparagraph (A).

“(5) Notwithstanding any other provision of law, if the lessee under a coal lease fails to pay any installment of a deferred cash bonus bid within 10 days after the Secretary provides written notice that payment of the installment is past due—

“(A) the lease shall automatically terminate; and

“(B) any bonus payments already made to the United States with respect to the lease shall not be returned to the lessee or credited in any future lease sale.”.

Deadline.
Notices.

42 USC 15991.

SEC. 437. INVENTORY REQUIREMENT.

(a) REVIEW OF ASSESSMENTS.—

(1) IN GENERAL.—The Secretary of the Interior, in consultation with the Secretary of Agriculture and the Secretary, shall review coal assessments and other available data to identify—

(A) Federal lands with coal resources that are available for development;

(B) the extent and nature of any restrictions on the development of coal resources on Federal lands identified under paragraph (1); and

(C) with respect to areas of such lands for which sufficient data exists, resources of compliant coal and supercompliant coal.

(2) DEFINITIONS.—For purposes of this subsection—

(A) the term “compliant coal” means coal that contains not less than 1.0 and not more than 1.2 pounds of sulfur dioxide per million Btu; and

(B) the term “supercompliant coal” means coal that contains less than 1.0 pounds of sulfur dioxide per million Btu.

(b) COMPLETION AND UPDATING OF THE INVENTORY.—The Secretary—

(1) shall complete the inventory under subsection (a) by not later than 2 years after the date of enactment of this Act; and

Deadline.

(2) shall update the inventory as the availability of data and developments in technology warrant.

(c) REPORT.—The Secretary shall submit to the Committee on Resources of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate and make publicly available—

(1) a report containing the inventory under this section, by not later than 2 years after the effective date of this section; and

(2) each update of such inventory.

SEC. 438. APPLICATION OF AMENDMENTS.

30 USC 201 note.

The amendments made by this subtitle apply with respect to any coal lease issued before, on, or after the date of the enactment of this Act.

TITLE V—INDIAN ENERGY

Indian Tribal Energy Development and Self-Determination Act of 2005.
42 USC 15801 note.

SEC. 501. SHORT TITLE.

This title may be cited as the “Indian Tribal Energy Development and Self-Determination Act of 2005”.

SEC. 502. OFFICE OF INDIAN ENERGY POLICY AND PROGRAMS.

(a) IN GENERAL.—Title II of the Department of Energy Organization Act (42 U.S.C. 7131 et seq.) is amended by adding at the end the following:

“OFFICE OF INDIAN ENERGY POLICY AND PROGRAMS

“SEC. 217. (a) ESTABLISHMENT.—There is established within the Department an Office of Indian Energy Policy and Programs (referred to in this section as the ‘Office’). The Office shall be headed by a Director, who shall be appointed by the Secretary and compensated at a rate equal to that of level IV of the Executive Schedule under section 5315 of title 5, United States Code.

42 USC 7144e.

“(b) DUTIES OF DIRECTOR.—The Director, in accordance with Federal policies promoting Indian self-determination and the purposes of this Act, shall provide, direct, foster, coordinate, and implement energy planning, education, management, conservation, and delivery programs of the Department that—

“(1) promote Indian tribal energy development, efficiency, and use;

“(2) reduce or stabilize energy costs;

“(3) enhance and strengthen Indian tribal energy and economic infrastructure relating to natural resource development and electrification; and

“(4) bring electrical power and service to Indian land and the homes of tribal members located on Indian lands or acquired, constructed, or improved (in whole or in part) with Federal funds.”

(b) CONFORMING AMENDMENTS.—

(1) The table of contents of the Department of Energy Organization Act (42 U.S.C. prec. 7101) is amended—

(A) in the item relating to section 209, by striking “Section” and inserting “Sec.”; and

(B) by striking the items relating to sections 213 through 216 and inserting the following:

- “Sec. 213. Establishment of policy for National Nuclear Security Administration.
 “Sec. 214. Establishment of security, counterintelligence, and intelligence policies.
 “Sec. 215. Office of Counterintelligence.
 “Sec. 216. Office of Intelligence.
 “Sec. 217. Office of Indian Energy Policy and Programs.”.

(2) Section 5315 of title 5, United States Code, is amended by inserting after the item related to the Inspector General, Department of Energy the following new item:

“Director, Office of Indian Energy Policy and Programs, Department of Energy.”.

SEC. 503. INDIAN ENERGY.

(a) IN GENERAL.—Title XXVI of the Energy Policy Act of 1992 (25 U.S.C. 3501 et seq.) is amended to read as follows:

“TITLE XXVI—INDIAN ENERGY

25 USC 3501.

“SEC. 2601. DEFINITIONS.

“In this title:

“(1) The term ‘Director’ means the Director of the Office of Indian Energy Policy and Programs, Department of Energy.

“(2) The term ‘Indian land’ means—

“(A) any land located within the boundaries of an Indian reservation, pueblo, or rancheria;

“(B) any land not located within the boundaries of an Indian reservation, pueblo, or rancheria, the title to which is held—

“(i) in trust by the United States for the benefit of an Indian tribe or an individual Indian;

“(ii) by an Indian tribe or an individual Indian, subject to restriction against alienation under laws of the United States; or

“(iii) by a dependent Indian community; and

“(C) land that is owned by an Indian tribe and was conveyed by the United States to a Native Corporation pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), or that was conveyed by the United States to a Native Corporation in exchange for such land.

“(3) The term ‘Indian reservation’ includes—

“(A) an Indian reservation in existence in any State or States as of the date of enactment of this paragraph;

“(B) a public domain Indian allotment; and

“(C) a dependent Indian community located within the borders of the United States, regardless of whether the community is located—

“(i) on original or acquired territory of the community; or

“(ii) within or outside the boundaries of any State or States.

“(4)(A) The term ‘Indian tribe’ has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

“(B) For the purpose of paragraph (12) and sections 2603(b)(1)(C) and 2604, the term ‘Indian tribe’ does not include any Native Corporation.

“(5) The term ‘integration of energy resources’ means any project or activity that promotes the location and operation of a facility (including any pipeline, gathering system, transportation system or facility, or electric transmission or distribution facility) on or near Indian land to process, refine, generate electricity from, or otherwise develop energy resources on, Indian land.

“(6) The term ‘Native Corporation’ has the meaning given the term in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

“(7) The term ‘organization’ means a partnership, joint venture, limited liability company, or other unincorporated association or entity that is established to develop Indian energy resources.

“(8) The term ‘Program’ means the Indian energy resource development program established under section 2602(a).

“(9) The term ‘Secretary’ means the Secretary of the Interior.

“(10) The term ‘sequestration’ means the long-term separation, isolation, or removal of greenhouse gases from the atmosphere, including through a biological or geologic method such as reforestation or an underground reservoir.

“(11) The term ‘tribal energy resource development organization’ means an organization of two or more entities, at least one of which is an Indian tribe, that has the written consent of the governing bodies of all Indian tribes participating in the organization to apply for a grant, loan, or other assistance under section 2602.

“(12) The term ‘tribal land’ means any land or interests in land owned by any Indian tribe, title to which is held in trust by the United States, or is subject to a restriction against alienation under laws of the United States.

“SEC. 2602. INDIAN TRIBAL ENERGY RESOURCE DEVELOPMENT.

25 USC 3502.

“(a) DEPARTMENT OF THE INTERIOR PROGRAM.—

“(1) To assist Indian tribes in the development of energy resources and further the goal of Indian self-determination, the Secretary shall establish and implement an Indian energy resource development program to assist consenting Indian tribes and tribal energy resource development organizations in achieving the purposes of this title.

“(2) In carrying out the Program, the Secretary shall—

Grants.

“(A) provide development grants to Indian tribes and tribal energy resource development organizations for use in developing or obtaining the managerial and technical capacity needed to develop energy resources on Indian land, and to properly account for resulting energy production and revenues;

“(B) provide grants to Indian tribes and tribal energy resource development organizations for use in carrying out projects to promote the integration of energy resources, and to process, use, or develop those energy resources, on Indian land;

Loans.

“(C) provide low-interest loans to Indian tribes and tribal energy resource development organizations for use in the promotion of energy resource development on Indian land and integration of energy resources; and

“(D) provide grants and technical assistance to an appropriate tribal environmental organization, as determined by the Secretary, that represents multiple Indian tribes to establish a national resource center to develop tribal capacity to establish and carry out tribal environmental programs in support of energy-related programs and activities under this title, including—

“(i) training programs for tribal environmental officials, program managers, and other governmental representatives;

“(ii) the development of model environmental policies and tribal laws, including tribal environmental review codes, and the creation and maintenance of a clearinghouse of best environmental management practices; and

“(iii) recommended standards for reviewing the implementation of tribal environmental laws and policies within tribal judicial or other tribal appeals systems.

Appropriation
authorization.

“(3) There are authorized to be appropriated to carry out this subsection such sums as are necessary for each of fiscal years 2006 through 2016.

“(b) DEPARTMENT OF ENERGY INDIAN ENERGY EDUCATION PLANNING AND MANAGEMENT ASSISTANCE PROGRAM.—

“(1) The Director shall establish programs to assist consenting Indian tribes in meeting energy education, research and development, planning, and management needs.

“(2) In carrying out this subsection, the Director may provide grants, on a competitive basis, to an Indian tribe or tribal energy resource development organization for use in carrying out—

“(A) energy, energy efficiency, and energy conservation programs;

“(B) studies and other activities supporting tribal acquisitions of energy supplies, services, and facilities, including the creation of tribal utilities to assist in securing electricity to promote electrification of homes and businesses on Indian land;

“(C) planning, construction, development, operation, maintenance, and improvement of tribal electrical generation, transmission, and distribution facilities located on Indian land; and

“(D) development, construction, and interconnection of electric power transmission facilities located on Indian land with other electric transmission facilities.

“(3)(A) The Director shall develop a program to support and implement research projects that provide Indian tribes with opportunities to participate in carbon sequestration practices on Indian land, including—

“(i) geologic sequestration;

“(ii) forest sequestration;

“(iii) agricultural sequestration; and

“(iv) any other sequestration opportunities the Director considers to be appropriate.

“(B) The activities carried out under subparagraph (A) shall be—

“(i) coordinated with other carbon sequestration research and development programs conducted by the Secretary of Energy;

“(ii) conducted to determine methods consistent with existing standardized measurement protocols to account and report the quantity of carbon dioxide or other greenhouse gases sequestered in projects that may be implemented on Indian land; and

“(iii) reviewed periodically to collect and distribute to Indian tribes information on carbon sequestration practices that will increase the sequestration of carbon without threatening the social and economic well-being of Indian tribes.

“(4)(A) The Director, in consultation with Indian tribes, may develop a formula for providing grants under this subsection.

“(B) In providing a grant under this subsection, the Director shall give priority to any application received from an Indian tribe with inadequate electric service (as determined by the Director).

“(C) In providing a grant under this subsection for an activity to provide, or expand the provision of, electricity on Indian land, the Director shall encourage cooperative arrangements between Indian tribes and utilities that provide service to Indian tribes, as the Director determines to be appropriate.

“(5) The Secretary of Energy may issue such regulations as the Secretary determines to be necessary to carry out this subsection.

“(6) There is authorized to be appropriated to carry out this subsection \$20,000,000 for each of fiscal years 2006 through 2016.

Appropriation
authorization.

“(c) DEPARTMENT OF ENERGY LOAN GUARANTEE PROGRAM.—

“(1) Subject to paragraphs (2) and (4), the Secretary of Energy may provide loan guarantees (as defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a)) for an amount equal to not more than 90 percent of the unpaid principal and interest due on any loan made to an Indian tribe for energy development.

“(2) In providing a loan guarantee under this subsection for an activity to provide, or expand the provision of, electricity on Indian land, the Secretary of Energy shall encourage cooperative arrangements between Indian tribes and utilities that provide service to Indian tribes, as the Secretary determines to be appropriate.

“(3) A loan guarantee under this subsection shall be made by—

“(A) a financial institution subject to examination by the Secretary of Energy; or

“(B) an Indian tribe, from funds of the Indian tribe.

“(4) The aggregate outstanding amount guaranteed by the Secretary of Energy at any time under this subsection shall not exceed \$2,000,000,000.

Appropriation
authorization.

“(5) The Secretary of Energy may issue such regulations as the Secretary of Energy determines are necessary to carry out this subsection.

“(6) There are authorized to be appropriated such sums as are necessary to carry out this subsection, to remain available until expended.

Deadline.
Reports.

“(7) Not later than 1 year after the date of enactment of this section, the Secretary of Energy shall submit to Congress a report on the financing requirements of Indian tribes for energy development on Indian land.

“(d) PREFERENCE.—

“(1) In purchasing electricity or any other energy product or byproduct, a Federal agency or department may give preference to an energy and resource production enterprise, partnership, consortium, corporation, or other type of business organization the majority of the interest in which is owned and controlled by 1 or more Indian tribes.

“(2) In carrying out this subsection, a Federal agency or department shall not—

“(A) pay more than the prevailing market price for an energy product or byproduct; or

“(B) obtain less than prevailing market terms and conditions.

25 USC 3503.

“SEC. 2603. INDIAN TRIBAL ENERGY RESOURCE REGULATION.

“(a) GRANTS.—The Secretary may provide to Indian tribes, on an annual basis, grants for use in accordance with subsection (b).

“(b) USE OF FUNDS.—Funds from a grant provided under this section may be used—

“(1)(A) by an Indian tribe for the development of a tribal energy resource inventory or tribal energy resource on Indian land;

“(B) by an Indian tribe for the development of a feasibility study or other report necessary to the development of energy resources on Indian land;

“(C) by an Indian tribe (other than an Indian Tribe in the State of Alaska, except the Metlakatla Indian Community) for—

“(i) the development and enforcement of tribal laws (including regulations) relating to tribal energy resource development; and

“(ii) the development of technical infrastructure to protect the environment under applicable law; or

“(D) by a Native Corporation for the development and implementation of corporate policies and the development of technical infrastructure to protect the environment under applicable law; and

“(2) by an Indian tribe for the training of employees that—

“(A) are engaged in the development of energy resources on Indian land; or

“(B) are responsible for protecting the environment.

“(c) OTHER ASSISTANCE.—

“(1) In carrying out the obligations of the United States under this title, the Secretary shall ensure, to the maximum extent practicable and to the extent of available resources, that on the request of an Indian tribe, the Indian tribe shall

have available scientific and technical information and expertise, for use in the regulation, development, and management of energy resources of the Indian tribe on Indian land.

“(2) The Secretary may carry out paragraph (1)—

“(A) directly, through the use of Federal officials; or

“(B) indirectly, by providing financial assistance to an Indian tribe to secure independent assistance.

“SEC. 2604. LEASES, BUSINESS AGREEMENTS, AND RIGHTS-OF-WAY INVOLVING ENERGY DEVELOPMENT OR TRANSMISSION. 25 USC 3504.

“(a) LEASES AND BUSINESS AGREEMENTS.—In accordance with this section—

“(1) an Indian tribe may, at the discretion of the Indian tribe, enter into a lease or business agreement for the purpose of energy resource development on tribal land, including a lease or business agreement for—

“(A) exploration for, extraction of, processing of, or other development of the energy mineral resources of the Indian tribe located on tribal land; or

“(B) construction or operation of—

“(i) an electric generation, transmission, or distribution facility located on tribal land; or

“(ii) a facility to process or refine energy resources developed on tribal land; and

“(2) a lease or business agreement described in paragraph (1) shall not require review by or the approval of the Secretary under section 2103 of the Revised Statutes (25 U.S.C. 81), or any other provision of law, if—

“(A) the lease or business agreement is executed pursuant to a tribal energy resource agreement approved by the Secretary under subsection (e);

“(B) the term of the lease or business agreement does not exceed—

“(i) 30 years; or

“(ii) in the case of a lease for the production of oil resources, gas resources, or both, 10 years and as long thereafter as oil or gas is produced in paying quantities; and

“(C) the Indian tribe has entered into a tribal energy resource agreement with the Secretary, as described in subsection (e), relating to the development of energy resources on tribal land (including the periodic review and evaluation of the activities of the Indian tribe under the agreement, to be conducted pursuant to subsection (e)(2)(D)(i)).

“(b) RIGHTS-OF-WAY FOR PIPELINES OR ELECTRIC TRANSMISSION OR DISTRIBUTION LINES.—An Indian tribe may grant a right-of-way over tribal land for a pipeline or an electric transmission or distribution line without review or approval by the Secretary if—

“(1) the right-of-way is executed in accordance with a tribal energy resource agreement approved by the Secretary under subsection (e);

“(2) the term of the right-of-way does not exceed 30 years;

“(3) the pipeline or electric transmission or distribution line serves—

“(A) an electric generation, transmission, or distribution facility located on tribal land; or

“(B) a facility located on tribal land that processes or refines energy resources developed on tribal land; and

“(4) the Indian tribe has entered into a tribal energy resource agreement with the Secretary, as described in subsection (e), relating to the development of energy resources on tribal land (including the periodic review and evaluation of the activities of the Indian tribe under an agreement described in subparagraphs (D) and (E) of subsection (e)(2)).

“(c) RENEWALS.—A lease or business agreement entered into, or a right-of-way granted, by an Indian tribe under this section may be renewed at the discretion of the Indian tribe in accordance with this section.

“(d) VALIDITY.—No lease, business agreement, or right-of-way relating to the development of tribal energy resources under this section shall be valid unless the lease, business agreement, or right-of-way is authorized by a tribal energy resource agreement approved by the Secretary under subsection (e)(2).

“(e) TRIBAL ENERGY RESOURCE AGREEMENTS.—

“(1) On the date on which regulations are promulgated under paragraph (8), an Indian tribe may submit to the Secretary for approval a tribal energy resource agreement governing leases, business agreements, and rights-of-way under this section.

“(2)(A) Not later than 270 days after the date on which the Secretary receives a tribal energy resource agreement from an Indian tribe under paragraph (1), or not later than 60 days after the Secretary receives a revised tribal energy resource agreement from an Indian tribe under paragraph (4)(C) (or a later date, as agreed to by the Secretary and the Indian tribe), the Secretary shall approve or disapprove the tribal energy resource agreement.

“(B) The Secretary shall approve a tribal energy resource agreement submitted under paragraph (1) if—

“(i) the Secretary determines that the Indian tribe has demonstrated that the Indian tribe has sufficient capacity to regulate the development of energy resources of the Indian tribe;

“(ii) the tribal energy resource agreement includes provisions required under subparagraph (D); and

“(iii) the tribal energy resource agreement includes provisions that, with respect to a lease, business agreement, or right-of-way under this section—

“(I) ensure the acquisition of necessary information from the applicant for the lease, business agreement, or right-of-way;

“(II) address the term of the lease or business agreement or the term of conveyance of the right-of-way;

“(III) address amendments and renewals;

“(IV) address the economic return to the Indian tribe under leases, business agreements, and rights-of-way;

“(V) address technical or other relevant requirements;

Deadlines.

“(VI) establish requirements for environmental review in accordance with subparagraph (C);

“(VII) ensure compliance with all applicable environmental laws, including a requirement that each lease, business agreement, and right-of-way state that the lessee, operator, or right-of-way grantee shall comply with all such laws;

“(VIII) identify final approval authority;

“(IX) provide for public notification of final approvals;

“(X) establish a process for consultation with any affected States regarding off-reservation impacts, if any, identified under subparagraph (C)(i);

“(XI) describe the remedies for breach of the lease, business agreement, or right-of-way;

“(XII) require each lease, business agreement, and right-of-way to include a statement that, if any of its provisions violates an express term or requirement of the tribal energy resource agreement pursuant to which the lease, business agreement, or right-of-way was executed—

“(aa) the provision shall be null and void; and

“(bb) if the Secretary determines the provision to be material, the Secretary may suspend or rescind the lease, business agreement, or right-of-way or take other appropriate action that the Secretary determines to be in the best interest of the Indian tribe;

“(XIII) require each lease, business agreement, and right-of-way to provide that it will become effective on the date on which a copy of the executed lease, business agreement, or right-of-way is delivered to the Secretary in accordance with regulations promulgated under paragraph (8);

“(XIV) include citations to tribal laws, regulations, or procedures, if any, that set out tribal remedies that must be exhausted before a petition may be submitted to the Secretary under paragraph (7)(B);

“(XV) specify the financial assistance, if any, to be provided by the Secretary to the Indian tribe to assist in implementation of the tribal energy resource agreement, including environmental review of individual projects; and

“(XVI) in accordance with the regulations promulgated by the Secretary under paragraph (8), require that the Indian tribe, as soon as practicable after receipt of a notice by the Indian tribe, give written notice to the Secretary of—

“(aa) any breach or other violation by another party of any provision in a lease, business agreement, or right-of-way entered into under the tribal energy resource agreement; and

“(bb) any activity or occurrence under a lease, business agreement, or right-of-way that constitutes a violation of Federal or tribal environmental laws.

“(C) Tribal energy resource agreements submitted under paragraph (1) shall establish, and include provisions to ensure compliance with, an environmental review process that, with respect to a lease, business agreement, or right-of-way under this section, provides for, at a minimum—

“(i) the identification and evaluation of all significant environmental effects (as compared to a no-action alternative), including effects on cultural resources;

“(ii) the identification of proposed mitigation measures, if any, and incorporation of appropriate mitigation measures into the lease, business agreement, or right-of-way;

“(iii) a process for ensuring that—

“(I) the public is informed of, and has an opportunity to comment on, the environmental impacts of the proposed action; and

“(II) responses to relevant and substantive comments are provided, before tribal approval of the lease, business agreement, or right-of-way;

“(iv) sufficient administrative support and technical capability to carry out the environmental review process; and

“(v) oversight by the Indian tribe of energy development activities by any other party under any lease, business agreement, or right-of-way entered into pursuant to the tribal energy resource agreement, to determine whether the activities are in compliance with the tribal energy resource agreement and applicable Federal environmental laws.

“(D) A tribal energy resource agreement between the Secretary and an Indian tribe under this subsection shall include—

“(i) provisions requiring the Secretary to conduct a periodic review and evaluation to monitor the performance of the activities of the Indian tribe associated with the development of energy resources under the tribal energy resource agreement; and

“(ii) if a periodic review and evaluation, or an investigation, by the Secretary of any breach or violation described in a notice provided by the Indian tribe to the Secretary in accordance with subparagraph (B)(iii)(XVI), results in a finding by the Secretary of imminent jeopardy to a physical trust asset arising from a violation of the tribal energy resource agreement or applicable Federal laws, provisions authorizing the Secretary to take actions determined by the Secretary to be necessary to protect the asset, including reassumption of responsibility for activities associated with the development of energy resources on tribal land until the violation and any condition that caused the jeopardy are corrected.

“(E) Periodic review and evaluation under subparagraph (D) shall be conducted on an annual basis, except that, after the third annual review and evaluation, the Secretary and the Indian tribe may mutually agree to amend the tribal energy resource agreement to authorize

the review and evaluation under subparagraph (D) to be conducted once every 2 years.

“(3) The Secretary shall provide notice and opportunity for public comment on tribal energy resource agreements submitted for approval under paragraph (1). The Secretary’s review of a tribal energy resource agreement shall be limited to activities specified by the provisions of the tribal energy resource agreement.”

Notice.
Public
information.

“(4) If the Secretary disapproves a tribal energy resource agreement submitted by an Indian tribe under paragraph (1), the Secretary shall, not later than 10 days after the date of disapproval—

Deadline.

“(A) notify the Indian tribe in writing of the basis for the disapproval;

Notification.

“(B) identify what changes or other actions are required to address the concerns of the Secretary; and

“(C) provide the Indian tribe with an opportunity to revise and resubmit the tribal energy resource agreement.

“(5) If an Indian tribe executes a lease or business agreement, or grants a right-of-way, in accordance with a tribal energy resource agreement approved under this subsection, the Indian tribe shall, in accordance with the process and requirements under regulations promulgated under paragraph (8), provide to the Secretary—

“(A) a copy of the lease, business agreement, or right-of-way document (including all amendments to and renewals of the document); and

Records.

“(B) in the case of a tribal energy resource agreement or a lease, business agreement, or right-of-way that permits payments to be made directly to the Indian tribe, information and documentation of those payments sufficient to enable the Secretary to discharge the trust responsibility of the United States to enforce the terms of, and protect the rights of the Indian tribe under, the lease, business agreement, or right-of-way.

“(6)(A) In carrying out this section, the Secretary shall—

“(i) act in accordance with the trust responsibility of the United States relating to mineral and other trust resources; and

“(ii) act in good faith and in the best interests of the Indian tribes.

“(B) Subject to the provisions of subsections (a)(2), (b), and (c) waiving the requirement of Secretarial approval of leases, business agreements, and rights-of-way executed pursuant to tribal energy resource agreements approved under this section, and the provisions of subparagraph (D), nothing in this section shall absolve the United States from any responsibility to Indians or Indian tribes, including, but not limited to, those which derive from the trust relationship or from any treaties, statutes, and other laws of the United States, Executive orders, or agreements between the United States and any Indian tribe.

“(C) The Secretary shall continue to fulfill the trust obligation of the United States to ensure that the rights and interests of an Indian tribe are protected if—

“(i) any other party to a lease, business agreement, or right-of-way violates any applicable Federal law or the

terms of any lease, business agreement, or right-of-way under this section; or

“(ii) any provision in a lease, business agreement, or right-of-way violates the tribal energy resource agreement pursuant to which the lease, business agreement, or right-of-way was executed.

“(D)(i) In this subparagraph, the term ‘negotiated term’ means any term or provision that is negotiated by an Indian tribe and any other party to a lease, business agreement, or right-of-way entered into pursuant to an approved tribal energy resource agreement.

“(ii) Notwithstanding subparagraph (B), the United States shall not be liable to any party (including any Indian tribe) for any negotiated term of, or any loss resulting from the negotiated terms of, a lease, business agreement, or right-of-way executed pursuant to and in accordance with a tribal energy resource agreement approved by the Secretary under paragraph (2).

“(7)(A) In this paragraph, the term ‘interested party’ means any person (including an entity) that has demonstrated that an interest of the person has sustained, or will sustain, an adverse environmental impact as a result of the failure of an Indian tribe to comply with a tribal energy resource agreement of the Indian tribe approved by the Secretary under paragraph (2).

“(B) After exhaustion of any tribal remedy, and in accordance with regulations promulgated by the Secretary under paragraph (8), an interested party may submit to the Secretary a petition to review the compliance by an Indian tribe with a tribal energy resource agreement of the Indian tribe approved by the Secretary under paragraph (2).

Deadline.

“(C)(i) Not later than 20 days after the date on which the Secretary receives a petition under subparagraph (B), the Secretary shall—

Records.

“(I) provide to the Indian tribe a copy of the petition; and

“(II) consult with the Indian tribe regarding any non-compliance alleged in the petition.

Deadline.
Claims.

“(ii) Not later than 45 days after the date on which a consultation under clause (i)(II) takes place, the Indian tribe shall respond to any claim made in a petition under subparagraph (B).

“(iii) The Secretary shall act in accordance with subparagraphs (D) and (E) only if the Indian tribe—

“(I) denies, or fails to respond to, each claim made in the petition within the period described in clause (ii); or

“(II) fails, refuses, or is unable to cure or otherwise resolve each claim made in the petition within a reasonable period, as determined by the Secretary, after the expiration of the period described in clause (ii).

Deadline.

“(D)(i) Not later than 120 days after the date on which the Secretary receives a petition under subparagraph (B), the Secretary shall determine whether the Indian tribe is not in compliance with the tribal energy resource agreement.

“(ii) The Secretary may adopt procedures under paragraph (8) authorizing an extension of time, not to exceed 120 days,

for making the determination under clause (i) in any case in which the Secretary determines that additional time is necessary to evaluate the allegations of the petition.

“(iii) Subject to subparagraph (E), if the Secretary determines that the Indian tribe is not in compliance with the tribal energy resource agreement, the Secretary shall take such action as the Secretary determines to be necessary to ensure compliance with the tribal energy resource agreement, including—

“(I) temporarily suspending any activity under a lease, business agreement, or right-of-way under this section until the Indian tribe is in compliance with the approved tribal energy resource agreement; or

“(II) rescinding approval of all or part of the tribal energy resource agreement, and if all of the agreement is rescinded, reassuming the responsibility for approval of any future leases, business agreements, or rights-of-way described in subsection (a) or (b).

“(E) Before taking an action described in subparagraph (D)(iii), the Secretary shall—

“(i) make a written determination that describes the manner in which the tribal energy resource agreement has been violated;

“(ii) provide the Indian tribe with a written notice of the violations together with the written determination; and

Notice.

“(iii) before taking any action described in subparagraph (D)(iii) or seeking any other remedy, provide the Indian tribe with a hearing and a reasonable opportunity to attain compliance with the tribal energy resource agreement.

“(F) An Indian tribe described in subparagraph (E) shall retain all rights to appeal under any regulation promulgated by the Secretary.

“(8) Not later than 1 year after the date of enactment of the Energy Policy Act of 2005, the Secretary shall promulgate regulations that implement this subsection, including—

Deadline.
Regulations.

“(A) criteria to be used in determining the capacity of an Indian tribe under paragraph (2)(B)(i), including the experience of the Indian tribe in managing natural resources and financial and administrative resources available for use by the Indian tribe in implementing the approved tribal energy resource agreement of the Indian tribe;

“(B) a process and requirements in accordance with which an Indian tribe may—

“(i) voluntarily rescind a tribal energy resource agreement approved by the Secretary under this subsection; and

“(ii) return to the Secretary the responsibility to approve any future lease, business agreement, or right-of-way under this subsection;

“(C) provisions establishing the scope of, and procedures for, the periodic review and evaluation described in subparagraphs (D) and (E) of paragraph (2), including

provisions for review of transactions, reports, site inspections, and any other review activities the Secretary determines to be appropriate; and

“(D) provisions describing final agency actions after exhaustion of administrative appeals from determinations of the Secretary under paragraph (7).

“(f) NO EFFECT ON OTHER LAW.—Nothing in this section affects the application of—

“(1) any Federal environmental law;

“(2) the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 et seq.); or

“(3) except as otherwise provided in this title, the Indian Mineral Development Act of 1982 (25 U.S.C. 2101 et seq.).

“(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as are necessary for each of fiscal years 2006 through 2016 to carry out this section and to make grants or provide other appropriate assistance to Indian tribes to assist the Indian tribes in developing and implementing tribal energy resource agreements in accordance with this section.

25 USC 3505.

“SEC. 2605. FEDERAL POWER MARKETING ADMINISTRATIONS.

“(a) DEFINITIONS.—In this section:

“(1) The term ‘Administrator’ means the Administrator of the Bonneville Power Administration and the Administrator of the Western Area Power Administration.

“(2) The term ‘power marketing administration’ means—

“(A) the Bonneville Power Administration;

“(B) the Western Area Power Administration; and

“(C) any other power administration the power allocation of which is used by or for the benefit of an Indian tribe located in the service area of the administration.

“(b) ENCOURAGEMENT OF INDIAN TRIBAL ENERGY DEVELOPMENT.—Each Administrator shall encourage Indian tribal energy development by taking such actions as the Administrators determine to be appropriate, including administration of programs of the power marketing administration, in accordance with this section.

“(c) ACTION BY ADMINISTRATORS.—In carrying out this section, in accordance with laws in existence on the date of enactment of the Energy Policy Act of 2005—

“(1) each Administrator shall consider the unique relationship that exists between the United States and Indian tribes;

“(2) power allocations from the Western Area Power Administration to Indian tribes may be used to meet firming and reserve needs of Indian-owned energy projects on Indian land;

“(3) the Administrator of the Western Area Power Administration may purchase non-federally generated power from Indian tribes to meet the firming and reserve requirements of the Western Area Power Administration; and

“(4) each Administrator shall not—

“(A) pay more than the prevailing market price for an energy product; or

“(B) obtain less than prevailing market terms and conditions.

“(d) ASSISTANCE FOR TRANSMISSION SYSTEM USE.—

“(1) An Administrator may provide technical assistance to Indian tribes seeking to use the high-voltage transmission system for delivery of electric power.

“(2) The costs of technical assistance provided under paragraph (1) shall be funded—

“(A) by the Secretary of Energy using nonreimbursable funds appropriated for that purpose; or

“(B) by any appropriate Indian tribe.

“(e) **POWER ALLOCATION STUDY.**—Not later than 2 years after the date of enactment of the Energy Policy Act of 2005, the Secretary of Energy shall submit to Congress a report that—

Deadline.
Reports.

“(1) describes the use by Indian tribes of Federal power allocations of the power marketing administration (or power sold by the Southwestern Power Administration) to or for the benefit of Indian tribes in a service area of the power marketing administration; and

“(2) identifies—

“(A) the quantity of power allocated to, or used for the benefit of, Indian tribes by the Western Area Power Administration;

“(B) the quantity of power sold to Indian tribes by any other power marketing administration; and

“(C) barriers that impede tribal access to and use of Federal power, including an assessment of opportunities to remove those barriers and improve the ability of power marketing administrations to deliver Federal power.

“(f) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out this section \$750,000, non-reimbursable, to remain available until expended.

“SEC. 2606. WIND AND HYDROPOWER FEASIBILITY STUDY.

25 USC 3506.

“(a) **STUDY.**—The Secretary of Energy, in coordination with the Secretary of the Army and the Secretary, shall conduct a study of the cost and feasibility of developing a demonstration project that uses wind energy generated by Indian tribes and hydropower generated by the Army Corps of Engineers on the Missouri River to supply firming power to the Western Area Power Administration.

“(b) **SCOPE OF STUDY.**—The study shall—

“(1) determine the economic and engineering feasibility of blending wind energy and hydropower generated from the Missouri River dams operated by the Army Corps of Engineers, including an assessment of the costs and benefits of blending wind energy and hydropower compared to current sources used for firming power to the Western Area Power Administration;

“(2) review historical and projected requirements for, patterns of availability and use of, and reasons for historical patterns concerning the availability of firming power;

“(3) assess the wind energy resource potential on tribal land and projected cost savings through a blend of wind and hydropower over a 30-year period;

“(4) determine seasonal capacity needs and associated transmission upgrades for integration of tribal wind generation and identify costs associated with these activities;

“(5) include an independent tribal engineer and a Western Area Power Administration customer representative as study team members; and

“(6) incorporate, to the extent appropriate, the results of the Dakotas Wind Transmission study prepared by the Western Area Power Administration.

“(c) REPORT.—Not later than 1 year after the date of enactment of the Energy Policy Act of 2005, the Secretary of Energy, the Secretary, and the Secretary of the Army shall submit to Congress a report that describes the results of the study, including—

“(1) an analysis and comparison of the potential energy cost or benefits to the customers of the Western Area Power Administration through the use of combined wind and hydropower;

“(2) an economic and engineering evaluation of whether a combined wind and hydropower system can reduce reservoir fluctuation, enhance efficient and reliable energy production, and provide Missouri River management flexibility;

“(3) if found feasible, recommendations for a demonstration project to be carried out by the Western Area Power Administration, in partnership with an Indian tribal government or tribal energy resource development organization, and Western Area Power Administration customers to demonstrate the feasibility and potential of using wind energy produced on Indian land to supply firming energy to the Western Area Power Administration; and

“(4) an identification of—

“(A) the economic and environmental costs of, or benefits to be realized through, a Federal-tribal-customer partnership; and

“(B) the manner in which a Federal-tribal-customer partnership could contribute to the energy security of the United States.

“(d) FUNDING.—

“(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$1,000,000, to remain available until expended.

“(2) NONREIMBURSABILITY.—Costs incurred by the Secretary in carrying out this section shall be nonreimbursable.”.

(b) CONFORMING AMENDMENTS.—The table of contents for the Energy Policy Act of 1992 is amended by striking the items relating to title XXVI and inserting the following:

“Sec. 2601. Definitions.

“Sec. 2602. Indian tribal energy resource development.

“Sec. 2603. Indian tribal energy resource regulation.

“Sec. 2604. Leases, business agreements, and rights-of-way involving energy development or transmission.

“Sec. 2605. Federal Power Marketing Administrations.

“Sec. 2606. Wind and hydropower feasibility study.”.

SEC. 504. CONSULTATION WITH INDIAN TRIBES.

In carrying out this title and the amendments made by this title, the Secretary and the Secretary of the Interior shall, as appropriate and to the maximum extent practicable, involve and consult with Indian tribes.

SEC. 505. FOUR CORNERS TRANSMISSION LINE PROJECT AND ELECTRIFICATION.

(a) TRANSMISSION LINE PROJECT.—The Dine Power Authority, an enterprise of the Navajo Nation, shall be eligible to receive grants and other assistance under section 217 of the Department of Energy Organization Act, as added by section 502, and section

2602 of the Energy Policy Act of 1992, as amended by this Act, for activities associated with the development of a transmission line from the Four Corners Area to southern Nevada, including related power generation opportunities.

(b) NAVAJO ELECTRIFICATION.—Section 602 of Public Law 106–511 (114 Stat. 2376) is amended—

(1) in subsection (a)—

(A) in the first sentence, by striking “5-year” and inserting “10-year”; and

(B) in the third sentence, by striking “2006” and inserting “2011”; and

(2) in the first sentence of subsection (e) by striking “2006” and inserting “2011”.

SEC. 506. ENERGY EFFICIENCY IN FEDERALLY ASSISTED HOUSING. 42 USC 16001.

(a) IN GENERAL.—The Secretary of Housing and Urban Development shall promote energy conservation in housing that is located on Indian land and assisted with Federal resources through—

(1) the use of energy-efficient technologies and innovations (including the procurement of energy-efficient refrigerators and other appliances);

(2) the promotion of shared savings contracts; and

(3) the use and implementation of such other similar technologies and innovations as the Secretary of Housing and Urban Development considers to be appropriate.

(b) AMENDMENT.—Section 202(2) of the Native American Housing and Self-Determination Act of 1996 (25 U.S.C. 4132(2)) is amended by inserting “improvement to achieve greater energy efficiency,” after “planning,”.

TITLE VI—NUCLEAR MATTERS

Subtitle A—Price-Anderson Act Amendments

Price-Anderson
Amendments Act
of 2005.

SEC. 601. SHORT TITLE.

This subtitle may be cited as the “Price-Anderson Amendments Act of 2005”.

42 USC 2011
note.

SEC. 602. EXTENSION OF INDEMNIFICATION AUTHORITY.

(a) INDEMNIFICATION OF NUCLEAR REGULATORY COMMISSION LICENSEES.—Section 170 c. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(c)) is amended—

(1) in the subsection heading, by striking “LICENSES” and inserting “LICENSEES”; and

(2) by striking “December 31, 2003” each place it appears and inserting “December 31, 2025”.

(b) INDEMNIFICATION OF DEPARTMENT CONTRACTORS.—Section 170 d.(1)(A) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)(1)(A)) is amended by striking “December 31, 2006” and inserting “December 31, 2025”.

(c) INDEMNIFICATION OF NONPROFIT EDUCATIONAL INSTITUTIONS.—Section 170 k. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(k)) is amended by striking “August 1, 2002” each place it appears and inserting “December 31, 2025”.

SEC. 603. MAXIMUM ASSESSMENT.

Section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) is amended—

(1) in the second proviso of the third sentence of subsection b.(1)—

(A) by striking “\$63,000,000” and inserting “\$95,800,000”; and

(B) by striking “\$10,000,000 in any 1 year” and inserting “\$15,000,000 in any 1 year (subject to adjustment for inflation under subsection t.)”; and

(2) in subsection t.(1)—

(A) by inserting “total and annual” after “amount of the maximum”; and

(B) by striking “the date of the enactment of the Price-Anderson Amendments Act of 1988” and inserting “August 20, 2003”; and

(C) in subparagraph (A), by striking “such date of enactment” and inserting “August 20, 2003”.

SEC. 604. DEPARTMENT LIABILITY LIMIT.

(a) INDEMNIFICATION OF DEPARTMENT CONTRACTORS.—Section 170 d. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)) is amended by striking paragraph (2) and inserting the following:

“(2) In an agreement of indemnification entered into under paragraph (1), the Secretary—

“(A) may require the contractor to provide and maintain financial protection of such a type and in such amounts as the Secretary shall determine to be appropriate to cover public liability arising out of or in connection with the contractual activity; and

“(B) shall indemnify the persons indemnified against such liability above the amount of the financial protection required, in the amount of \$10,000,000,000 (subject to adjustment for inflation under subsection t.), in the aggregate, for all persons indemnified in connection with the contract and for each nuclear incident, including such legal costs of the contractor as are approved by the Secretary.”.

(b) CONTRACT AMENDMENTS.—Section 170 d. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)) is further amended by striking paragraph (3) and inserting the following—

“(3) All agreements of indemnification under which the Department of Energy (or its predecessor agencies) may be required to indemnify any person under this section shall be deemed to be amended, on the date of enactment of the Price-Anderson Amendments Act of 2005, to reflect the amount of indemnity for public liability and any applicable financial protection required of the contractor under this subsection.”.

(c) LIABILITY LIMIT.—Section 170 e.(1)(B) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(e)(1)(B)) is amended—

(1) by striking “the maximum amount of financial protection required under subsection b. or”; and

(2) by striking “paragraph (3) of subsection d., whichever amount is more” and inserting “paragraph (2) of subsection d.”.

SEC. 605. INCIDENTS OUTSIDE THE UNITED STATES.

(a) AMOUNT OF INDEMNIFICATION.—Section 170 d.(5) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)(5)) is amended by striking “\$100,000,000” and inserting “\$500,000,000”.

(b) LIABILITY LIMIT.—Section 170 e.(4) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(e)(4)) is amended by striking “\$100,000,000” and inserting “\$500,000,000”.

SEC. 606. REPORTS.

Section 170 p. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(p)) is amended by striking “August 1, 1998” and inserting “December 31, 2021”.

SEC. 607. INFLATION ADJUSTMENT.

Section 170 t. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(t)) is amended—

- (1) by redesignating paragraph (2) as paragraph (3); and
- (2) by inserting after paragraph (1) the following:

“(2) The Secretary shall adjust the amount of indemnification provided under an agreement of indemnification under subsection d. not less than once during each 5-year period following July 1, 2003, in accordance with the aggregate percentage change in the Consumer Price Index since—

“(A) that date, in the case of the first adjustment under this paragraph; or

“(B) the previous adjustment under this paragraph.”.

SEC. 608. TREATMENT OF MODULAR REACTORS.

Section 170 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(b)) is amended by adding at the end the following:

“(5)(A) For purposes of this section only, the Commission shall consider a combination of facilities described in subparagraph (B) to be a single facility having a rated capacity of 100,000 electrical kilowatts or more.

“(B) A combination of facilities referred to in subparagraph (A) is two or more facilities located at a single site, each of which has a rated capacity of 100,000 electrical kilowatts or more but not more than 300,000 electrical kilowatts, with a combined rated capacity of not more than 1,300,000 electrical kilowatts.”.

SEC. 609. APPLICABILITY.

The amendments made by sections 603, 604, and 605 do not apply to a nuclear incident that occurs before the date of the enactment of this Act.

42 USC 2210
note.

SEC. 610. CIVIL PENALTIES.

(a) REPEAL OF AUTOMATIC REMISSION.—Section 234A b.(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2282a(b)(2)) is amended by striking the last sentence.

(b) LIMITATION FOR NOT-FOR-PROFIT INSTITUTIONS.—Subsection d. of section 234A of the Atomic Energy Act of 1954 (42 U.S.C. 2282a(d)) is amended to read as follows:

“d.(1) Notwithstanding subsection a., in the case of any not-for-profit contractor, subcontractor, or supplier, the total amount of civil penalties paid under subsection a. may not exceed the total amount of fees paid within any 1-year period (as determined by the Secretary) under the contract under which the violation occurs.

“(2) For purposes of this section, the term ‘not-for-profit’ means that no part of the net earnings of the contractor, subcontractor, or supplier inures to the benefit of any natural person or for-profit artificial person.”.

42 USC 2282a
note.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall not apply to any violation of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) occurring under a contract entered into before the date of enactment of this section.

Subtitle B—General Nuclear Matters

SEC. 621. LICENSES.

Section 103 c. of the Atomic Energy Act of 1954 (42 U.S.C. 2133(c)) is amended by inserting “from the authorization to commence operations” after “forty years”.

SEC. 622. NUCLEAR REGULATORY COMMISSION SCHOLARSHIP AND FELLOWSHIP PROGRAM.

(a) **IN GENERAL.**—Chapter 19 of the Atomic Energy Act of 1954 is amended by inserting after section 242 (42 U.S.C. 2015a) the following:

42 USC 2015b.

“SEC. 243. SCHOLARSHIP AND FELLOWSHIP PROGRAM.

“a. **SCHOLARSHIP PROGRAM.**—To enable students to study, for at least 1 academic semester or equivalent term, science, engineering, or another field of study that the Commission determines is in a critical skill area related to the regulatory mission of the Commission, the Commission may carry out a program to—

“(1) award scholarships to undergraduate students who—

“(A) are United States citizens; and

“(B) enter into an agreement under subsection c. to be employed by the Commission in the area of study for which the scholarship is awarded.

“b. **FELLOWSHIP PROGRAM.**—To enable students to pursue education in science, engineering, or another field of study that the Commission determines is in a critical skill area related to its regulatory mission, in a graduate or professional degree program offered by an institution of higher education in the United States, the Commission may carry out a program to—

“(1) award fellowships to graduate students who—

“(A) are United States citizens; and

“(B) enter into an agreement under subsection c. to be employed by the Commission in the area of study for which the fellowship is awarded.

“c. **REQUIREMENTS.**—

“(1) **IN GENERAL.**—As a condition of receiving a scholarship or fellowship under subsection a. or b., a recipient of the scholarship or fellowship shall enter into an agreement with the Commission under which, in return for the assistance, the recipient shall—

“(A) maintain satisfactory academic progress in the studies of the recipient, as determined by criteria established by the Commission;

“(B) agree that failure to maintain satisfactory academic progress shall constitute grounds on which the Commission may terminate the assistance;

“(C) on completion of the academic course of study in connection with which the assistance was provided, and in accordance with criteria established by the Commission, engage in employment by the Commission for a period specified by the Commission, that shall be not less than 1 time and not more than 3 times the period for which the assistance was provided; and

“(D) if the recipient fails to meet the requirements of subparagraph (A), (B), or (C), reimburse the United States Government for—

“(i) the entire amount of the assistance provided the recipient under the scholarship or fellowship; and

“(ii) interest at a rate determined by the Commission.

“(2) WAIVER OR SUSPENSION.—The Commission may establish criteria for the partial or total waiver or suspension of any obligation of service or payment incurred by a recipient of a scholarship or fellowship under this section.

“d. COMPETITIVE PROCESS.—Recipients of scholarships or fellowships under this section shall be selected through a competitive process primarily on the basis of academic merit and such other criteria as the Commission may establish, with consideration given to financial need and the goal of promoting the participation of individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a, 1885b).

“e. DIRECT APPOINTMENT.—The Commission may appoint directly, with no further competition, public notice, or consideration of any other potential candidate, an individual who has—

“(1) received a scholarship or fellowship awarded by the Commission under this section; and

“(2) completed the academic program for which the scholarship or fellowship was awarded.”.

(b) CONFORMING AMENDMENT.—The table of sections of the Atomic Energy Act of 1954 (42 U.S.C. prec. 2011) is amended by adding after the item relating to section 242 the following:

“Sec. 243. Scholarship and fellowship program.”.

SEC. 623. COST RECOVERY FROM GOVERNMENT AGENCIES.

Section 161 w. of the Atomic Energy Act of 1954 (42 U.S.C. 2201(w)) is amended—

(1) by striking “for or is issued” and all that follows through “1702” and inserting “to the Commission for, or is issued by the Commission, a license or certificate”;

(2) by striking “483a” and inserting “9701”; and

(3) by striking “, of applicants for, or holders of, such licenses or certificates”.

SEC. 624. ELIMINATION OF PENSION OFFSET FOR CERTAIN REHIRED FEDERAL RETIREES.

(a) IN GENERAL.—Chapter 14 of the Atomic Energy Act of 1954 (42 U.S.C. 2201 et seq.) is amended by adding at the end the following:

42 USC 2210c.

“SEC. 170C. ELIMINATION OF PENSION OFFSET FOR CERTAIN REHIRED FEDERAL RETIREES.

“a. IN GENERAL.—The Commission may waive the application of section 8344 or 8468 of title 5, United States Code, on a case-by-case basis for employment of an annuitant—

“(1) in a position of the Commission for which there is exceptional difficulty in recruiting or retaining a qualified employee; or

“(2) when a temporary emergency hiring need exists.

“b. PROCEDURES.—The Commission shall prescribe procedures for the exercise of authority under this section, including—

“(1) criteria for any exercise of authority; and

“(2) procedures for a delegation of authority.

“c. EFFECT OF WAIVER.—An employee as to whom a waiver under this section is in effect shall not be considered an employee for purposes of subchapter II of chapter 83, or chapter 84, of title 5, United States Code.”.

(b) CONFORMING AMENDMENT.—The table of sections of the Atomic Energy Act of 1954 (42 U.S.C. prec. 2011) is amended by adding at the end of the items relating to chapter 14 the following:

“Sec. 170C. Elimination of pension offset for certain rehired Federal retirees.”.

SEC. 625. ANTITRUST REVIEW.

Section 105 c. of the Atomic Energy Act of 1954 (42 U.S.C. 2135(c)) is amended by adding at the end the following:

“(9) APPLICABILITY.—This subsection does not apply to an application for a license to construct or operate a utilization facility or production facility under section 103 or 104 b. that is filed on or after the date of enactment of this paragraph.”.

SEC. 626. DECOMMISSIONING.

Section 161 i. of the Atomic Energy Act of 1954 (42 U.S.C. 2201(i)) is amended—

(1) by striking “and (3)” and inserting “(3)”; and

(2) by inserting before the semicolon at the end the following: “; and (4) to ensure that sufficient funds will be available for the decommissioning of any production or utilization facility licensed under section 103 or 104 b., including standards and restrictions governing the control, maintenance, use, and disbursement by any former licensee under this Act that has control over any fund for the decommissioning of the facility”.

SEC. 627. LIMITATION ON LEGAL FEE REIMBURSEMENT.

Title II of the Energy Reorganization Act of 1974 (42 U.S.C. 5841 et seq.) is amended by adding at the end the following new section:

“LIMITATION ON LEGAL FEE REIMBURSEMENT

42 USC 5853.

“SEC. 212. The Department of Energy shall not, except as required under a contract entered into before the date of enactment of this section, reimburse any contractor or subcontractor of the Department for any legal fees or expenses incurred with respect to a complaint subsequent to—

“(1) an adverse determination on the merits with respect to such complaint against the contractor or subcontractor by the Director of the Department of Energy’s Office of Hearings

and Appeals pursuant to part 708 of title 10, Code of Federal Regulations, or by a Department of Labor Administrative Law Judge pursuant to section 211 of this Act; or

“(2) an adverse final judgment by any State or Federal court with respect to such complaint against the contractor or subcontractor for wrongful termination or retaliation due to the making of disclosures protected under chapter 12 of title 5, United States Code, section 211 of this Act, or any comparable State law, unless the adverse determination or final judgment is reversed upon further administrative or judicial review.”.

SEC. 628. DECOMMISSIONING PILOT PROGRAM.

(a) **PILOT PROGRAM.**—The Secretary shall establish a decommissioning pilot program under which the Secretary shall decommission and decontaminate the sodium-cooled fast breeder experimental test-site reactor located in northwest Arkansas, in accordance with the decommissioning activities contained in the report of the Department relating to the reactor, dated August 31, 1998.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to the Secretary to carry out this section \$16,000,000.

SEC. 629. WHISTLEBLOWER PROTECTION.

(a) **DEFINITION OF EMPLOYER.**—Section 211(a)(2) of the Energy Reorganization Act of 1974 (42 U.S.C. 5851(a)(2)) is amended—

- (1) in subparagraph (C), by striking “and” at the end;
- (2) in subparagraph (D), by striking the period at the end and inserting a semicolon; and
- (3) by adding at the end the following:
 - “(E) a contractor or subcontractor of the Commission;
 - “(F) the Commission; and
 - “(G) the Department of Energy.”.

(b) **DE NOVO REVIEW.**—Subsection (b) of such section 211 is amended by adding at the end the following new paragraph:

“(4) If the Secretary has not issued a final decision within 1 year after the filing of a complaint under paragraph (1), and there is no showing that such delay is due to the bad faith of the person seeking relief under this paragraph, such person may bring an action at law or equity for de novo review in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy.”.

Deadline.

SEC. 630. MEDICAL ISOTOPE PRODUCTION.

Section 134 of the Atomic Energy Act of 1954 (42 U.S.C. 2160d) is amended—

- (1) in subsection a., by striking “a. The Commission” and inserting “a. IN GENERAL.—Except as provided in subsection b., the Commission”;
- (2) by redesignating subsection b. as subsection c.; and
- (3) by inserting after subsection a. the following:

“b. **MEDICAL ISOTOPE PRODUCTION.**—

“(1) **DEFINITIONS.**—In this subsection:

“(A) **HIGHLY ENRICHED URANIUM.**—The term ‘highly enriched uranium’ means uranium enriched to include concentration of U-235 above 20 percent.

“(B) **MEDICAL ISOTOPE.**—The term ‘medical isotope’ includes Molybdenum 99, Iodine 131, Xenon 133, and other radioactive materials used to produce a radiopharmaceutical for diagnostic, therapeutic procedures or for research and development.

“(C) **RADIOPHARMACEUTICAL.**—The term ‘radiopharmaceutical’ means a radioactive isotope that—

“(i) contains byproduct material combined with chemical or biological material; and

“(ii) is designed to accumulate temporarily in a part of the body for therapeutic purposes or for enabling the production of a useful image for use in a diagnosis of a medical condition.

“(D) **RECIPIENT COUNTRY.**—The term ‘recipient country’ means Canada, Belgium, France, Germany, and the Netherlands.

“(2) **LICENSES.**—The Commission may issue a license authorizing the export (including shipment to and use at intermediate and ultimate consignees specified in the license) to a recipient country of highly enriched uranium for medical isotope production if, in addition to any other requirements of this Act (except subsection a.), the Commission determines that—

“(A) a recipient country that supplies an assurance letter to the United States Government in connection with the consideration by the Commission of the export license application has informed the United States Government that any intermediate consignees and the ultimate consignee specified in the application are required to use the highly enriched uranium solely to produce medical isotopes; and

“(B) the highly enriched uranium for medical isotope production will be irradiated only in a reactor in a recipient country that—

“(i) uses an alternative nuclear reactor fuel; or

“(ii) is the subject of an agreement with the United States Government to convert to an alternative nuclear reactor fuel when alternative nuclear reactor fuel can be used in the reactor.

“(3) **REVIEW OF PHYSICAL PROTECTION REQUIREMENTS.**—

“(A) **IN GENERAL.**—The Commission shall review the adequacy of physical protection requirements that, as of the date of an application under paragraph (2), are applicable to the transportation and storage of highly enriched uranium for medical isotope production or control of residual material after irradiation and extraction of medical isotopes.

“(B) **IMPOSITION OF ADDITIONAL REQUIREMENTS.**—If the Commission determines that additional physical protection requirements are necessary (including a limit on the quantity of highly enriched uranium that may be contained in a single shipment), the Commission shall impose such requirements as license conditions or through other appropriate means.

“(4) **FIRST REPORT TO CONGRESS.**—

“(A) NAS STUDY.—The Secretary shall enter into an arrangement with the National Academy of Sciences to conduct a study to determine—

Contracts.

“(i) the feasibility of procuring supplies of medical isotopes from commercial sources that do not use highly enriched uranium;

“(ii) the current and projected demand and availability of medical isotopes in regular current domestic use;

“(iii) the progress that is being made by the Department of Energy and others to eliminate all use of highly enriched uranium in reactor fuel, reactor targets, and medical isotope production facilities; and

“(iv) the potential cost differential in medical isotope production in the reactors and target processing facilities if the products were derived from production systems that do not involve fuels and targets with highly enriched uranium.

“(B) FEASIBILITY.—For the purpose of this subsection, the use of low enriched uranium to produce medical isotopes shall be determined to be feasible if—

“(i) low enriched uranium targets have been developed and demonstrated for use in the reactors and target processing facilities that produce significant quantities of medical isotopes to serve United States needs for such isotopes;

“(ii) sufficient quantities of medical isotopes are available from low enriched uranium targets and fuel to meet United States domestic needs; and

“(iii) the average anticipated total cost increase from production of medical isotopes in such facilities without use of highly enriched uranium is less than 10 percent.

“(C) REPORT BY THE SECRETARY.—Not later than 5 years after the date of enactment of the Energy Policy Act of 2005, the Secretary shall submit to Congress a report that—

“(i) contains the findings of the National Academy of Sciences made in the study under subparagraph (A); and

“(ii) discloses the existence of any commitments from commercial producers to provide domestic requirements for medical isotopes without use of highly enriched uranium consistent with the feasibility criteria described in subparagraph (B) not later than the date that is 4 years after the date of submission of the report.

“(5) SECOND REPORT TO CONGRESS.—If the study of the National Academy of Sciences determines under paragraph (4)(A)(i) that the procurement of supplies of medical isotopes from commercial sources that do not use highly enriched uranium is feasible, but the Secretary is unable to report the existence of commitments under paragraph (4)(C)(ii), not later than the date that is 6 years after the date of enactment of the Energy Policy Act of 2005, the Secretary shall submit to Congress a report that describes options for developing domestic supplies of medical isotopes in quantities that are

adequate to meet domestic demand without the use of highly enriched uranium consistent with the cost increase described in paragraph (4)(B)(iii).

“(6) CERTIFICATION.—At such time as commercial facilities that do not use highly enriched uranium are capable of meeting domestic requirements for medical isotopes, within the cost increase described in paragraph (4)(B)(iii) and without impairing the reliable supply of medical isotopes for domestic utilization, the Secretary shall submit to Congress a certification to that effect.

“(7) SUNSET PROVISION.—After the Secretary submits a certification under paragraph (6), the Commission shall, by rule, terminate its review of export license applications under this subsection.”.

SEC. 631. SAFE DISPOSAL OF GREATER-THAN-CLASS C RADIOACTIVE WASTE.

Notification.

(a) RESPONSIBILITY FOR ACTIVITIES TO PROVIDE STORAGE FACILITY.—The Secretary shall provide to Congress official notification of the final designation of an entity within the Department to have the responsibility of completing activities needed to provide a facility for safely disposing of all greater-than-Class C low-level radioactive waste.

(b) REPORTS AND PLANS.—

(1) REPORT ON PERMANENT DISPOSAL FACILITY.—

(A) PLAN REGARDING COST AND SCHEDULE FOR COMPLETION OF EIS AND ROD.—Not later than 1 year after the date of enactment of this Act, the Secretary, in consultation with Congress, shall submit to Congress a report containing an estimate of the cost and a proposed schedule to complete an environmental impact statement and record of decision for a permanent disposal facility for greater-than-Class C radioactive waste.

(B) ANALYSIS OF ALTERNATIVES.—Before the Secretary makes a final decision on the disposal alternative or alternatives to be implemented, the Secretary shall—

(i) submit to Congress a report that describes all alternatives under consideration, including all information required in the comprehensive report making recommendations for ensuring the safe disposal of all greater-than-Class C low-level radioactive waste that was submitted by the Secretary to Congress in February 1987; and

(ii) await action by Congress.

(2) SHORT-TERM PLAN FOR RECOVERY AND STORAGE.—

Deadline.

(A) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to Congress a plan to ensure the continued recovery and storage of greater-than-Class C low-level radioactive sealed sources that pose a security threat until a permanent disposal facility is available.

(B) CONTENTS.—The plan shall address estimated cost, resource, and facility needs.

SEC. 632. PROHIBITION ON NUCLEAR EXPORTS TO COUNTRIES THAT SPONSOR TERRORISM.

(a) IN GENERAL.—Section 129 of the Atomic Energy Act of 1954 (42 U.S.C. 2158) is amended—

(1) by inserting “a.” before “No nuclear materials and equipment”; and

(2) by adding at the end the following new subsection:

“b.(1) Notwithstanding any other provision of law, including specifically section 121 of this Act, and except as provided in paragraphs (2) and (3), no nuclear materials and equipment or sensitive nuclear technology, including items and assistance authorized by section 57 b. of this Act and regulated under part 810 of title 10, Code of Federal Regulations, and nuclear-related items on the Commerce Control List maintained under part 774 of title 15 of the Code of Federal Regulations, shall be exported or reexported, or transferred or retransferred whether directly or indirectly, and no Federal agency shall issue any license, approval, or authorization for the export or reexport, or transfer, or retransfer, whether directly or indirectly, of these items or assistance (as defined in this paragraph) to any country whose government has been identified by the Secretary of State as engaged in state sponsorship of terrorist activities (specifically including any country the government of which has been determined by the Secretary of State under section 620A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2371(a)), section 6(j)(1) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)), or section 40(d) of the Arms Export Control Act (22 U.S.C. 2780(d)) to have repeatedly provided support for acts of international terrorism).

“(2) This subsection shall not apply to exports, reexports, transfers, or retransfers of radiation monitoring technologies, surveillance equipment, seals, cameras, tamper-indication devices, nuclear detectors, monitoring systems, or equipment necessary to safely store, transport, or remove hazardous materials, whether such items, services, or information are regulated by the Department of Energy, the Department of Commerce, or the Commission, except to the extent that such technologies, equipment, seals, cameras, devices, detectors, or systems are available for use in the design or construction of nuclear reactors or nuclear weapons.

“(3) The President may waive the application of paragraph (1) to a country if the President determines and certifies to Congress that the waiver will not result in any increased risk that the country receiving the waiver will acquire nuclear weapons, nuclear reactors, or any materials or components of nuclear weapons and—

“(A) the government of such country has not within the preceding 12-month period willfully aided or abetted the international proliferation of nuclear explosive devices to individuals or groups or willfully aided and abetted an individual or groups in acquiring unsafeguarded nuclear materials;

“(B) in the judgment of the President, the government of such country has provided adequate, verifiable assurances that it will cease its support for acts of international terrorism;

“(C) the waiver of that paragraph is in the vital national security interest of the United States; or

“(D) such a waiver is essential to prevent or respond to a serious radiological hazard in the country receiving the waiver that may or does threaten public health and safety.”.

(b) APPLICABILITY TO EXPORTS APPROVED FOR TRANSFER BUT NOT TRANSFERRED.—Subsection b. of section 129 of Atomic Energy Act of 1954, as added by subsection (a) of this section, shall apply with respect to exports that have been approved for transfer as

42 USC 2158
note.

of the date of the enactment of this Act but have not yet been transferred as of that date.

SEC. 633. EMPLOYEE BENEFITS.

Section 3110(a) of the USEC Privatization Act (42 U.S.C. 2297h-8(a)) is amended by adding at the end the following new paragraph:

Deadline.
Ohio.
Kentucky.

“(8) CONTINUITY OF BENEFITS.—To the extent appropriations are provided in advance for this purpose or are otherwise available, not later than 30 days after the date of enactment of this paragraph, the Secretary shall implement such actions as are necessary to ensure that any employee who—

“(A) is involved in providing infrastructure or environmental remediation services at the Portsmouth, Ohio, or the Paducah, Kentucky, Gaseous Diffusion Plant;

“(B) has been an employee of the Department of Energy’s predecessor management and integrating contractor (or its first or second tier subcontractors), or of the Corporation, at the Portsmouth, Ohio, or the Paducah, Kentucky, facility; and

“(C) was eligible as of April 1, 2005, to participate in or transfer into the Multiple Employer Pension Plan or the associated multiple employer retiree health care benefit plans, as defined in those plans, shall continue to be eligible to participate in or transfer into such pension or health care benefit plans.”.

42 USC 16011.

SEC. 634. DEMONSTRATION HYDROGEN PRODUCTION AT EXISTING NUCLEAR POWER PLANTS.

(a) DEMONSTRATION PROJECTS.—The Secretary shall provide for the establishment of 2 projects in geographic areas that are regionally and climatically diverse to demonstrate the commercial production of hydrogen at existing nuclear power plants.

(b) ECONOMIC ANALYSIS.—Prior to making an award under subsection (a), the Secretary shall determine whether the use of existing nuclear power plants is a cost-effective means of producing hydrogen.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for the purposes of carrying out this section not more than \$100,000,000.

42 USC 16012.

SEC. 635. PROHIBITION ON ASSUMPTION BY UNITED STATES GOVERNMENT OF LIABILITY FOR CERTAIN FOREIGN INCIDENTS.

(a) IN GENERAL.—Notwithstanding any other provision of law, no officer of the United States or of any department, agency, or instrumentality of the United States Government may enter into any contract or other arrangement, or into any amendment or modification of a contract or other arrangement, the purpose or effect of which would be to directly or indirectly impose liability on the United States Government, or any department, agency, or instrumentality of the United States Government, or to otherwise directly or indirectly require an indemnity by the United States Government, for nuclear incidents occurring in connection with the design, construction, or operation of a production facility or utilization facility in any country whose government has been identified by the Secretary of State as engaged in state sponsorship of terrorist activities (specifically including any country the government of which, as of September 11, 2001, had been determined by the Secretary of State under section 620A(a) of the Foreign

Assistance Act of 1961 (22 U.S.C. 2371(a)), section 6(j)(1) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)), or section 40(d) of the Arms Export Control Act (22 U.S.C. 2780(d)) to have repeatedly provided support for acts of international terrorism). This section shall not apply to nuclear incidents occurring as a result of missions, carried out under the direction of the Secretary, the Secretary of Defense, or the Secretary of State, that are necessary to safely secure, store, transport, or remove nuclear materials for nuclear safety or nonproliferation purposes.

(b) **DEFINITIONS.**—The terms used in this section shall have the same meaning as those terms have under section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014), unless otherwise expressly provided in this section.

SEC. 636. AUTHORIZATION OF APPROPRIATIONS.

42 USC 16013.

There are authorized to be appropriated such sums as are necessary to carry out this subtitle and the amendments made by this subtitle.

SEC. 637. NUCLEAR REGULATORY COMMISSION USER FEES AND ANNUAL CHARGES.

(a) **IN GENERAL.**—Section 6101 of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 2214) is amended—

(1) in subsection (a)—

(A) by striking “Except as provided in paragraph (3), the” and inserting “The” in paragraph (1); and

(B) by striking paragraph (3); and

(2) in subsection (c)—

(A) by striking “and” at the end of paragraph (2)(A)(i);

(B) by striking the period at the end of paragraph (2)(A)(ii) and inserting a semicolon;

(C) by adding at the end of paragraph (2)(A) the following new clauses:

“(iii) amounts appropriated to the Commission for the fiscal year for implementation of section 3116 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005; and

“(iv) amounts appropriated to the Commission for homeland security activities of the Commission for the fiscal year, except for the costs of fingerprinting and background checks required by section 149 of the Atomic Energy Act of 1954 (42 U.S.C. 2169) and the costs of conducting security inspections.”; and

(D) by amending paragraph (2)(B)(v) to read as follows:

“(v) 90 percent for fiscal year 2005 and each fiscal year thereafter.”.

(b) **REPEAL.**—Section 7601 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (42 U.S.C. 2213) is repealed.

(c) **EFFECTIVE DATE.**—The amendments made by this section take effect on October 1, 2006.

42 USC 2214
note.

SEC. 638. STANDBY SUPPORT FOR CERTAIN NUCLEAR PLANT DELAYS.

42 USC 16014.

(a) **DEFINITIONS.**—In this section:

(1) **ADVANCED NUCLEAR FACILITY.**—The term “advanced nuclear facility” means any nuclear facility the reactor design for which is approved after December 31, 1993, by the Commission (and such design or a substantially similar design of comparable capacity was not approved on or before that date).

(2) **COMBINED LICENSE.**—The term “combined license” means a combined construction and operating license for an advanced nuclear facility issued by the Commission.

(3) **COMMISSION.**—The term “Commission” means the Nuclear Regulatory Commission.

(4) **SPONSOR.**—The term “sponsor” means a person who has applied for or been granted a combined license.

(b) **CONTRACT AUTHORITY.**—

(1) **IN GENERAL.**—The Secretary may enter into contracts under this section with sponsors of an advanced nuclear facility that cover a total of 6 reactors, with the 6 reactors consisting of not more than 3 different reactor designs, in accordance with paragraph (2).

(2) **REQUIREMENT FOR CONTRACTS.**—

(A) **DEFINITION OF LOAN COST.**—In this paragraph, the term “loan cost” has the meaning given the term “cost of a loan guarantee” under section 502(5)(C) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5)(C)).

(B) **ESTABLISHMENT OF ACCOUNTS.**—There is established in the Department 2 separate accounts, which shall be known as the—

(i) “Standby Support Program Account”; and

(ii) “Standby Support Grant Account”.

(C) **REQUIREMENT.**—The Secretary shall not enter into a contract under this section unless the Secretary deposits—

(i) in the Standby Support Program Account established under subparagraph (B), funds appropriated to the Secretary in advance of the contract or a combination of appropriated funds and loan guarantee fees that are in an amount sufficient to cover the loan costs described in subsection (d)(5)(A); and

(ii) in the Standby Support Grant Account established under subparagraph (B), funds appropriated to the Secretary in advance of the contract, paid to the Secretary by the sponsor of the advanced nuclear facility, or a combination of appropriations and payments that are in an amount sufficient cover the costs described in subparagraphs (B), (C), and (D) of subsection (d)(5).

(c) **COVERED DELAYS.**—

(1) **INCLUSIONS.**—Under each contract authorized by this section, the Secretary shall pay the costs specified in subsection (d), using funds appropriated or collected for the covered costs, if full power operation of the advanced nuclear facility is delayed by—

(A) the failure of the Commission to comply with schedules for review and approval of inspections, tests, analyses, and acceptance criteria established under the combined license or the conduct of preoperational hearings by the Commission for the advanced nuclear facility; or

(B) litigation that delays the commencement of full-power operations of the advanced nuclear facility.

(2) **EXCLUSIONS.**—The Secretary may not enter into any contract under this section that would obligate the Secretary to pay any costs resulting from—

(A) the failure of the sponsor to take any action required by law or regulation;

(B) events within the control of the sponsor; or

(C) normal business risks.

(d) COVERED COSTS.—

(1) IN GENERAL.—Subject to paragraphs (2), (3), and (4), the costs that shall be paid by the Secretary pursuant to a contract entered into under this section are the costs that result from a delay covered by the contract.

(2) INITIAL 2 REACTORS.—In the case of the first 2 reactors that receive combined licenses and on which construction is commenced, the Secretary shall pay—

(A) 100 percent of the covered costs of delay; but

(B) not more than \$500,000,000 per contract.

(3) SUBSEQUENT 4 REACTORS.—In the case of the next 4 reactors that receive a combined license and on which construction is commenced, the Secretary shall pay—

(A) 50 percent of the covered costs of delay that occur after the initial 180-day period of covered delay; but

(B) not more than \$250,000,000 per contract.

(4) CONDITIONS ON PAYMENT OF CERTAIN COVERED COSTS.—

(A) IN GENERAL.—The obligation of the Secretary to pay the covered costs described in subparagraph (B) of paragraph (5) is subject to the Secretary receiving from appropriations or payments from other non-Federal sources amounts sufficient to pay the covered costs.

(B) NON-FEDERAL SOURCES.—The Secretary may receive and accept payments from any non-Federal source, which shall be made available without further appropriation for the payment of the covered costs.

(5) TYPES OF COVERED COSTS.—Subject to paragraphs (2), (3), and (4), the contract entered into under this section for an advanced nuclear facility shall include as covered costs those costs that result from a delay during construction and in gaining approval for fuel loading and full-power operation, including—

(A) principal or interest on any debt obligation of an advanced nuclear facility owned by a non-Federal entity; and

(B) the incremental difference between—

(i) the fair market price of power purchased to meet the contractual supply agreements that would have been met by the advanced nuclear facility but for the delay; and

(ii) the contractual price of power from the advanced nuclear facility subject to the delay.

(e) REQUIREMENTS.—Any contract between a sponsor and the Secretary covering an advanced nuclear facility under this section shall require the sponsor to use due diligence to shorten, and to end, the delay covered by the contract.

(f) REPORTS.—For each advanced nuclear facility that is covered by a contract under this section, the Commission shall submit to Congress and the Secretary quarterly reports summarizing the status of licensing actions associated with the advanced nuclear facility.

(g) REGULATIONS.—

Deadline.
Public
information.

Deadline.

(1) IN GENERAL.—Subject to paragraphs (2) and (3), the Secretary shall issue such regulations as are necessary to carry out this section.

(2) INTERIM FINAL RULEMAKING.—Not later than 270 days after the date of enactment of this Act, the Secretary shall issue for public comment an interim final rule regulating contracts authorized by this section.

(3) NOTICE OF FINAL RULEMAKING.—Not later than 1 year after the date of enactment of this Act, the Secretary shall issue a notice of final rulemaking regulating the contracts.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 639. CONFLICTS OF INTEREST RELATING TO CONTRACTS AND OTHER ARRANGEMENTS.

Section 170A b. of the Atomic Energy Act of 1954 (42 U.S.C. 2210a(b)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and indenting appropriately;

(2) by striking “b. The Commission” and inserting the following:

“b. EVALUATION.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the Nuclear Regulatory Commission”; and

(3) by adding at the end the following:

“(2) NUCLEAR REGULATORY COMMISSION.—Notwithstanding any conflict of interest, the Nuclear Regulatory Commission may enter into a contract, agreement, or arrangement with the Department of Energy or the operator of a Department of Energy facility, if the Nuclear Regulatory Commission determines that—

“(A) the conflict of interest cannot be mitigated; and

“(B) adequate justification exists to proceed without mitigation of the conflict of interest.”.

Subtitle C—Next Generation Nuclear Plant Project

42 USC 16021.

SEC. 641. PROJECT ESTABLISHMENT.

(a) ESTABLISHMENT.—The Secretary shall establish a project to be known as the “Next Generation Nuclear Plant Project” (referred to in this subtitle as the “Project”).

(b) CONTENT.—The Project shall consist of the research, development, design, construction, and operation of a prototype plant, including a nuclear reactor that—

(1) is based on research and development activities supported by the Generation IV Nuclear Energy Systems Initiative under section 942(d); and

(2) shall be used—

(A) to generate electricity;

(B) to produce hydrogen; or

(C) both to generate electricity and to produce hydrogen.

SEC. 642. PROJECT MANAGEMENT.

42 USC 16022.

(a) DEPARTMENTAL MANAGEMENT.—

(1) IN GENERAL.—The Project shall be managed in the Department by the Office of Nuclear Energy, Science, and Technology.

(2) GENERATION IV NUCLEAR ENERGY SYSTEMS PROGRAM.—The Secretary may combine the Project with the Generation IV Nuclear Energy Systems Initiative.

(3) EXISTING DOE PROJECT MANAGEMENT EXPERTISE.—The Secretary may utilize capabilities for review of construction projects for advanced scientific facilities within the Office of Science to track the progress of the Project.

(b) LABORATORY MANAGEMENT.—

(1) LEAD LABORATORY.—The Idaho National Laboratory shall be the lead National Laboratory for the Project and shall collaborate with other National Laboratories, institutions of higher education, other research institutes, industrial researchers, and international researchers to carry out the Project.

(2) INDUSTRIAL PARTNERSHIPS.—

(A) IN GENERAL.—The Idaho National Laboratory shall organize a consortium of appropriate industrial partners that will carry out cost-shared research, development, design, and construction activities, and operate research facilities, on behalf of the Project.

(B) COST-SHARING.—Activities of industrial partners funded by the Project shall be cost-shared in accordance with section 988.

(C) PREFERENCE.—Preference in determining the final structure of the consortium or any partnerships under this subtitle shall be given to a structure (including designating as a lead industrial partner an entity incorporated in the United States) that retains United States technological leadership in the Project while maximizing cost sharing opportunities and minimizing Federal funding responsibilities.

(3) PROTOTYPE PLANT SITING.—The prototype nuclear reactor and associated plant shall be sited at the Idaho National Laboratory in Idaho.

(4) REACTOR TEST CAPABILITIES.—The Project shall use, if appropriate, reactor test capabilities at the Idaho National Laboratory.

(5) OTHER LABORATORY CAPABILITIES.—The Project may use, if appropriate, facilities at other National Laboratories.

SEC. 643. PROJECT ORGANIZATION.

42 USC 16023.

(a) MAJOR PROJECT ELEMENTS.—The Project shall consist of the following major program elements:

(1) High-temperature hydrogen production technology development and validation.

(2) Energy conversion technology development and validation.

(3) Nuclear fuel development, characterization, and qualification.

(4) Materials selection, development, testing, and qualification.

(5) Reactor and balance-of-plant design, engineering, safety analysis, and qualification.

(b) PROJECT PHASES.—The Project shall be conducted in the following phases:

(1) FIRST PROJECT PHASE.—A first project phase shall be conducted to—

(A) select and validate the appropriate technology under subsection (a)(1);

(B) carry out enabling research, development, and demonstration activities on technologies and components under paragraphs (2) through (4) of subsection (a);

(C) determine whether it is appropriate to combine electricity generation and hydrogen production in a single prototype nuclear reactor and plant; and

(D) carry out initial design activities for a prototype nuclear reactor and plant, including development of design methods and safety analytical methods and studies under subsection (a)(5).

(2) SECOND PROJECT PHASE.—A second project phase shall be conducted to—

(A) continue appropriate activities under paragraphs (1) through (5) of subsection (a);

(B) develop, through a competitive process, a final design for the prototype nuclear reactor and plant;

(C) apply for licenses to construct and operate the prototype nuclear reactor from the Nuclear Regulatory Commission; and

(D) construct and start up operations of the prototype nuclear reactor and its associated hydrogen or electricity production facilities.

(c) PROJECT REQUIREMENTS.—

(1) IN GENERAL.—The Secretary shall ensure that the Project is structured so as to maximize the technical interchange and transfer of technologies and ideas into the Project from other sources of relevant expertise, including—

(A) the nuclear power industry, including nuclear powerplant construction firms, particularly with respect to issues associated with plant design, construction, and operational and safety issues;

(B) the chemical processing industry, particularly with respect to issues relating to—

(i) the use of process energy for production of hydrogen; and

(ii) the integration of technologies developed by the Project into chemical processing environments; and

(C) international efforts in areas related to the Project, particularly with respect to hydrogen production technologies.

(2) INTERNATIONAL COLLABORATION.—

(A) IN GENERAL.—The Secretary shall seek international cooperation, participation, and financial contributions for the Project.

(B) ASSISTANCE FROM INTERNATIONAL PARTNERS.—The Secretary, through the Idaho National Laboratory, may contract for assistance from specialists or facilities from member countries of the Generation IV International

Forum, the Russian Federation, or other international partners if the specialists or facilities provide access to cost-effective and relevant skills or test capabilities.

(C) PARTNER NATIONS.—The Project may involve demonstration of selected project objectives in a partner country.

(D) GENERATION IV INTERNATIONAL FORUM.—The Secretary shall ensure that international activities of the Project are coordinated with the Generation IV International Forum.

(3) REVIEW BY NUCLEAR ENERGY RESEARCH ADVISORY COMMITTEE.—

(A) IN GENERAL.—The Nuclear Energy Research Advisory Committee of the Department (referred to in this paragraph as the “NERAC”) shall—

(i) review all program plans for the Project and all progress under the Project on an ongoing basis; and

(ii) ensure that important scientific, technical, safety, and program management issues receive attention in the Project and by the Secretary.

(B) ADDITIONAL EXPERTISE.—The NERAC shall supplement the expertise of the NERAC or appoint subpanels to incorporate into the review by the NERAC the relevant sources of expertise described under paragraph (1).

(C) INITIAL REVIEW.—Not later than 180 days after the date of enactment of this Act, the NERAC shall— Deadline.

(i) review existing program plans for the Project in light of the recommendations of the document entitled “Design Features and Technology Uncertainties for the Next Generation Nuclear Plant,” dated June 30, 2004; and

(ii) address any recommendations of the document not incorporated in program plans for the Project.

(D) FIRST PROJECT PHASE REVIEW.—On a determination by the Secretary that the appropriate activities under the first project phase under subsection (b)(1) are nearly complete, the Secretary shall request the NERAC to conduct a comprehensive review of the Project and to report to the Secretary the recommendation of the NERAC concerning whether the Project is ready to proceed to the second project phase under subsection (b)(2).

(E) TRANSMITTAL OF REPORTS TO CONGRESS.—Not later than 60 days after receiving any report from the NERAC related to the Project, the Secretary shall submit to the appropriate committees of the Senate and the House of Representatives a copy of the report, along with any additional views of the Secretary that the Secretary may consider appropriate.

SEC. 644. NUCLEAR REGULATORY COMMISSION.

42 USC 16024.

(a) IN GENERAL.—In accordance with section 202 of the Energy Reorganization Act of 1974 (42 U.S.C. 5842), the Nuclear Regulatory Commission shall have licensing and regulatory authority for any reactor authorized under this subtitle.

(b) LICENSING STRATEGY.—Not later than 3 years after the date of enactment of this Act, the Secretary and the Chairman Deadline.

of the Nuclear Regulatory Commission shall jointly submit to the appropriate committees of the Senate and the House of Representatives a licensing strategy for the prototype nuclear reactor, including—

(1) a description of ways in which current licensing requirements relating to light-water reactors need to be adapted for the types of prototype nuclear reactor being considered by the Project;

(2) a description of analytical tools that the Nuclear Regulatory Commission will have to develop to independently verify designs and performance characteristics of components, equipment, systems, or structures associated with the prototype nuclear reactor;

(3) other research or development activities that may be required on the part of the Nuclear Regulatory Commission in order to review a license application for the prototype nuclear reactor; and

(4) an estimate of the budgetary requirements associated with the licensing strategy.

(c) ONGOING INTERACTION.—The Secretary shall seek the active participation of the Nuclear Regulatory Commission throughout the duration of the Project to—

(1) avoid design decisions that will compromise adequate safety margins in the design of the reactor or impair the accessibility of nuclear safety-related components of the prototype reactor for inspection and maintenance;

(2) develop tools to facilitate inspection and maintenance needed for safety purposes; and

(3) develop risk-based criteria for any future commercial development of a similar reactor architectures.

42 USC 16025.

SEC. 645. PROJECT TIMELINES AND AUTHORIZATION OF APPROPRIATIONS.

Deadline.

(a) TARGET DATE TO COMPLETE THE FIRST PROJECT PHASE.—Not later than September 30, 2011, the Secretary shall—

(1) select the technology to be used by the Project for high-temperature hydrogen production and the initial design parameters for the prototype nuclear plant; or

Reports.

(2) submit to Congress a report establishing an alternative date for making the selection.

(b) DESIGN COMPETITION FOR SECOND PROJECT PHASE.—

(1) IN GENERAL.—The Secretary, acting through the Idaho National Laboratory, shall fund not more than 4 teams for not more than 2 years to develop detailed proposals for competitive evaluation and selection of a single proposal for a final design of the prototype nuclear reactor.

(2) SYSTEMS INTEGRATION.—The Secretary may structure Project activities in the second project phase to use the lead industrial partner of the competitively selected design under paragraph (1) in a systems integration role for final design and construction of the Project.

Deadline.

(c) TARGET DATE TO COMPLETE PROJECT CONSTRUCTION.—Not later than September 30, 2021, the Secretary shall—

(1) complete construction and begin operations of the prototype nuclear reactor and associated energy or hydrogen facilities; or

(2) submit to Congress a report establishing an alternative date for completion. Reports.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary for research and construction activities under this subtitle (including for transfer to the Nuclear Regulatory Commission for activities under section 644 as appropriate)—

(1) \$1,250,000,000 for the period of fiscal years 2006 through 2015; and

(2) such sums as are necessary for each of fiscal years 2016 through 2021.

Subtitle D—Nuclear Security

SEC. 651. NUCLEAR FACILITY AND MATERIALS SECURITY.

42 USC 16041.

(a) SECURITY EVALUATIONS; DESIGN BASIS THREAT RULEMAKING.—

(1) IN GENERAL.—Chapter 14 of the Atomic Energy Act of 1954 (42 U.S.C. 2201 et seq.) (as amended by section 624(a)) is amended by adding at the end the following:

“SEC. 170D. SECURITY EVALUATIONS.

42 USC 2210d.

“a. SECURITY RESPONSE EVALUATIONS.—Not less often than once every 3 years, the Commission shall conduct security evaluations at each licensed facility that is part of a class of licensed facilities, as the Commission considers to be appropriate, to assess the ability of a private security force of a licensed facility to defend against any applicable design basis threat.

Deadline.

“b. FORCE-ON-FORCE EXERCISES.—(1) The security evaluations shall include force-on-force exercises.

“(2) The force-on-force exercises shall, to the maximum extent practicable, simulate security threats in accordance with any design basis threat applicable to a facility.

“(3) In conducting a security evaluation, the Commission shall mitigate any potential conflict of interest that could influence the results of a force-on-force exercise, as the Commission determines to be necessary and appropriate.

“c. ACTION BY LICENSEES.—The Commission shall ensure that an affected licensee corrects those material defects in performance that adversely affect the ability of a private security force at that facility to defend against any applicable design basis threat.

“d. FACILITIES UNDER HEIGHTENED THREAT LEVELS.—The Commission may suspend a security evaluation under this section if the Commission determines that the evaluation would compromise security at a nuclear facility under a heightened threat level.

“e. REPORT.—Not less often than once each year, the Commission shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Energy and Commerce of the House of Representatives a report, in classified form and unclassified form, that describes the results of each security response evaluation conducted and any relevant corrective action taken by a licensee during the previous year.

“SEC. 170E. DESIGN BASIS THREAT RULEMAKING.

42 USC 2210e.

“a. RULEMAKING.—The Commission shall—

Deadlines.

“(1) not later than 90 days after the date of enactment of this section, initiate a rulemaking proceeding, including notice and opportunity for public comment, to be completed not later than 18 months after that date, to revise the design basis threats of the Commission; or

“(2) not later than 18 months after the date of enactment of this section, complete any ongoing rulemaking to revise the design basis threats.

“b. FACTORS.—When conducting its rulemaking, the Commission shall consider the following, but not be limited to—

“(1) the events of September 11, 2001;

“(2) an assessment of physical, cyber, biochemical, and other terrorist threats;

“(3) the potential for attack on facilities by multiple coordinated teams of a large number of individuals;

“(4) the potential for assistance in an attack from several persons employed at the facility;

“(5) the potential for suicide attacks;

“(6) the potential for water-based and air-based threats;

“(7) the potential use of explosive devices of considerable size and other modern weaponry;

“(8) the potential for attacks by persons with a sophisticated knowledge of facility operations;

“(9) the potential for fires, especially fires of long duration;

“(10) the potential for attacks on spent fuel shipments by multiple coordinated teams of a large number of individuals;

“(11) the adequacy of planning to protect the public health and safety at and around nuclear facilities, as appropriate, in the event of a terrorist attack against a nuclear facility; and

“(12) the potential for theft and diversion of nuclear materials from such facilities.”.

(2) CONFORMING AMENDMENT.—The table of sections of the Atomic Energy Act of 1954 (42 U.S.C. prec. 2011) (as amended by section 624(b)) is amended by adding at the end of the items relating to chapter 14 the following:

“Sec. 170D. Security evaluations.

“Sec. 170E. Design basis threat rulemaking.”.

(3) FEDERAL SECURITY COORDINATORS.—

Deadline.

(A) REGIONAL OFFICES.—Not later than 18 months after the date of enactment of this Act, the Nuclear Regulatory Commission (referred to in this section as the “Commission”) shall assign a Federal security coordinator, under the employment of the Commission, to each region of the Commission.

(B) RESPONSIBILITIES.—The Federal security coordinator shall be responsible for—

(i) communicating with the Commission and other Federal, State, and local authorities concerning threats, including threats against such classes of facilities as the Commission determines to be appropriate;

(ii) monitoring such classes of facilities as the Commission determines to be appropriate to ensure that they maintain security consistent with the security plan in accordance with the appropriate threat level; and

(iii) assisting in the coordination of security measures among the private security forces at such classes of facilities as the Commission determines to be appropriate and Federal, State, and local authorities, as appropriate.

(b) **BACKUP POWER FOR CERTAIN EMERGENCY NOTIFICATION SYSTEMS.**—For any licensed nuclear power plants located where there is a permanent population, as determined by the 2000 decennial census, in excess of 15,000,000 within a 50-mile radius of the power plant, not later than 18 months after enactment of this Act, the Commission shall require that backup power to be available for the emergency notification system of the power plant, including the emergency siren warning system, if the alternating current supply within the 10-mile emergency planning zone of the power plant is lost. Deadline.

(c) **ADDITIONAL PROVISIONS.**—

(1) **PROVISION OF SUPPORT TO UNIVERSITY NUCLEAR SAFETY, SECURITY, AND ENVIRONMENTAL PROTECTION PROGRAMS.**—Section 31 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2051(b)) is amended—

(A) by striking “b. The Commission is further authorized to make” and inserting the following:

“b. **GRANTS AND CONTRIBUTIONS.**—The Commission is authorized—

“(1) to make”;

(B) in paragraph (1) (as designated by subparagraph (A)) by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(2) to provide grants, loans, cooperative agreements, contracts, and equipment to institutions of higher education (as defined in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002)) to support courses, studies, training, curricula, and disciplines pertaining to nuclear safety, security, or environmental protection, or any other field that the Commission determines to be critical to the regulatory mission of the Commission.”.

(2) **RECRUITMENT TOOLS.**—Chapter 14 of the Atomic Energy Act of 1954 (42 U.S.C. 2201 et seq.) (as amended by subsection (a)(1)) is amended by adding at the end the following:

“SEC. 170F. RECRUITMENT TOOLS.

42 USC 2210f.

“The Commission may purchase promotional items of nominal value for use in the recruitment of individuals for employment.”.

(3) **EXPENSES AUTHORIZED TO BE PAID BY THE COMMISSION.**—Chapter 14 of the Atomic Energy Act of 1954 (42 U.S.C. 2201 et seq.) (as amended by paragraph (2)) is amended by adding at the end the following:

“SEC. 170G. EXPENSES AUTHORIZED TO BE PAID BY THE COMMISSION. 42 USC 2210g.

“The Commission may—

“(1) pay transportation, lodging, and subsistence expenses of employees who—

“(A) assist scientific, professional, administrative, or technical employees of the Commission; and

“(B) are students in good standing at an institution of higher education (as defined in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002)) pursuing courses

related to the field in which the students are employed by the Commission; and

“(2) pay the costs of health and medical services furnished, pursuant to an agreement between the Commission and the Department of State, to employees of the Commission and dependents of the employees serving in foreign countries.”.

(4) PARTNERSHIP PROGRAM WITH INSTITUTIONS OF HIGHER EDUCATION.—

(A) IN GENERAL.—Chapter 19 of the Atomic Energy Act of 1954 (42 U.S.C. 2015 et seq.) (as amended by section 622(a)) is amended by inserting after section 243 the following:

42 USC 2015c.

“SEC. 244. PARTNERSHIP PROGRAM WITH INSTITUTIONS OF HIGHER EDUCATION.

“a. DEFINITIONS.—In this section:

“(1) HISPANIC-SERVING INSTITUTION.—The term ‘Hispanic-serving institution’ has the meaning given the term in section 502(a) of the Higher Education Act of 1965 (20 U.S.C. 1101a(a)).

“(2) HISTORICALLY BLACK COLLEGE AND UNIVERSITY.—The term ‘historically Black college or university’ has the meaning given the term ‘part B institution’ in section 322 of the Higher Education Act of 1965 (20 U.S.C. 1061).

“(3) TRIBAL COLLEGE.—The term ‘Tribal college’ has the meaning given the term ‘tribally controlled college or university’ in section 2(a) of the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801(a)).

“b. PARTNERSHIP PROGRAM.—The Commission may establish and participate in activities relating to research, mentoring, instruction, and training with institutions of higher education, including Hispanic-serving institutions, historically Black colleges or universities, and Tribal colleges, to strengthen the capacity of the institutions—

“(1) to educate and train students (including present or potential employees of the Commission); and

“(2) to conduct research in the field of science, engineering, or law, or any other field that the Commission determines is important to the work of the Commission.”.

(5) CONFORMING AMENDMENTS.—The table of sections of the Atomic Energy Act of 1954 (42 U.S.C. prec. 2011) (as amended by subsection (a)(2)) is amended—

(A) by adding at the end of the items relating to chapter 14 the following:

“Sec. 170F. Recruitment tools.

“Sec. 170G. Expenses authorized to be paid by the Commission.”;

and

(B) by inserting after the item relating to section 243 the following:

“Sec. 244. Partnership program with institutions of higher education.”.

(d) RADIATION SOURCE PROTECTION.—

(1) AMENDMENT.—Chapter 14 of the Atomic Energy Act of 1954 (42 U.S.C. 2201 et seq.) (as amended by subsection (c)(3)) is amended by adding at the end the following:

42 USC 2210h.

“SEC. 170H. RADIATION SOURCE PROTECTION.

“a. DEFINITIONS.—In this section:

“(1) CODE OF CONDUCT.—The term ‘Code of Conduct’ means the code entitled the ‘Code of Conduct on the Safety and Security of Radioactive Sources’, approved by the Board of Governors of the International Atomic Energy Agency and dated September 8, 2003.

“(2) RADIATION SOURCE.—The term ‘radiation source’ means—

“(A) a Category 1 Source or a Category 2 Source, as defined in the Code of Conduct; and

“(B) any other material that poses a threat such that the material is subject to this section, as determined by the Commission, by regulation, other than spent nuclear fuel and special nuclear materials.

“b. COMMISSION APPROVAL.—Not later than 180 days after the date of enactment of this section, the Commission shall issue regulations prohibiting a person from—

Deadline.
Regulations.

“(1) exporting a radiation source, unless the Commission has specifically determined under section 57 or 82, consistent with the Code of Conduct, with respect to the exportation, that—

“(A) the recipient of the radiation source may receive and possess the radiation source under the laws and regulations of the country of the recipient;

“(B) the recipient country has the appropriate technical and administrative capability, resources, and regulatory structure to ensure that the radiation source will be managed in a safe and secure manner; and

“(C) before the date on which the radiation source is shipped—

Deadline.
Notification.

“(i) a notification has been provided to the recipient country; and

“(ii) a notification has been received from the recipient country;

as the Commission determines to be appropriate;

“(2) importing a radiation source, unless the Commission has determined, with respect to the importation, that—

“(A) the proposed recipient is authorized by law to receive the radiation source; and

“(B) the shipment will be made in accordance with any applicable Federal or State law or regulation; and

“(3) selling or otherwise transferring ownership of a radiation source, unless the Commission—

“(A) has determined that the licensee has verified that the proposed recipient is authorized under law to receive the radiation source; and

“(B) has required that the transfer shall be made in accordance with any applicable Federal or State law or regulation.

“c. TRACKING SYSTEM.—(1)(A) Not later than 1 year after the date of enactment of this section, the Commission shall issue regulations establishing a mandatory tracking system for radiation sources in the United States.

Deadline.
Regulations.

“(B) In establishing the tracking system under subparagraph (A), the Commission shall coordinate with the Secretary of Transportation to ensure compatibility, to the maximum extent

practicable, between the tracking system and any system established by the Secretary of Transportation to track the shipment of radiation sources.

“(2) The tracking system under paragraph (1) shall—

“(A) enable the identification of each radiation source by serial number or other unique identifier;

“(B) require reporting within 7 days of any change of possession of a radiation source;

“(C) require reporting within 24 hours of any loss of control of, or accountability for, a radiation source; and

“(D) provide for reporting under subparagraphs (B) and (C) through a secure Internet connection.

“d. PENALTY.—A violation of a regulation issued under subsection a. or b. shall be punishable by a civil penalty not to exceed \$1,000,000.

Deadline.
Contracts.

“e. NATIONAL ACADEMY OF SCIENCES STUDY.—(1) Not later than 60 days after the date of enactment of this section, the Commission shall enter into an arrangement with the National Academy of Sciences under which the National Academy of Sciences shall conduct a study of industrial, research, and commercial uses for radiation sources.

“(2) The study under paragraph (1) shall include a review of uses of radiation sources in existence on the date on which the study is conducted, including an identification of any industrial or other process that—

“(A) uses a radiation source that could be replaced with an economically and technically equivalent (or improved) process that does not require the use of a radiation source; or

“(B) may be used with a radiation source that would pose a lower risk to public health and safety in the event of an accident or attack involving the radiation source.

Deadline.

“(3) Not later than 2 years after the date of enactment of this section, the Commission shall submit to Congress the results of the study under paragraph (1).

Establishment.

“f. TASK FORCE ON RADIATION SOURCE PROTECTION AND SECURITY.—(1) There is established a task force on radiation source protection and security (referred to in this section as the ‘task force’).

“(2)(A) The chairperson of the task force shall be the Chairperson of the Commission (or a designee).

“(B) The membership of the task force shall consist of the following:

“(i) The Secretary of Homeland Security (or a designee).

“(ii) The Secretary of Defense (or a designee).

“(iii) The Secretary of Energy (or a designee).

“(iv) The Secretary of Transportation (or a designee).

“(v) The Attorney General (or a designee).

“(vi) The Secretary of State (or a designee).

“(vii) The Director of National Intelligence (or a designee).

“(viii) The Director of the Central Intelligence Agency (or a designee).

“(ix) The Director of the Federal Emergency Management Agency (or a designee).

“(x) The Director of the Federal Bureau of Investigation (or a designee).

“(xi) The Administrator of the Environmental Protection Agency (or a designee).

“(3)(A) The task force, in consultation with Federal, State, and local agencies, the Conference of Radiation Control Program Directors, and the Organization of Agreement States, and after public notice and an opportunity for comment, shall evaluate, and provide recommendations relating to, the security of radiation sources in the United States from potential terrorist threats, including acts of sabotage, theft, or use of a radiation source in a radiological dispersal device.

“(B) Not later than 1 year after the date of enactment of this section, and not less than once every 4 years thereafter, the task force shall submit to Congress and the President a report, in unclassified form with a classified annex if necessary, providing recommendations, including recommendations for appropriate regulatory and legislative changes, for—

Deadlines.
Reports.

“(i) a list of additional radiation sources that should be required to be secured under this Act, based on the potential attractiveness of the sources to terrorists and the extent of the threat to public health and safety of the sources, taking into consideration—

“(I) radiation source radioactivity levels;

“(II) radioactive half-life of a radiation source;

“(III) dispersability;

“(IV) chemical and material form;

“(V) for radioactive materials with a medical use, the availability of the sources to physicians and patients for medical treatment; and

“(VI) any other factor that the Chairperson of the Commission determines to be appropriate;

“(ii) the establishment of, or modifications to, a national system for recovery of lost or stolen radiation sources;

“(iii) the storage of radiation sources that are not used in a safe and secure manner as of the date on which the report is submitted;

“(iv) modifications to the national tracking system for radiation sources;

“(v) the establishment of, or modifications to, a national system (including user fees and other methods) to provide for the proper disposal of radiation sources secured under this Act;

“(vi) modifications to export controls on radiation sources to ensure that foreign recipients of radiation sources are able and willing to adequately control radiation sources from the United States;

“(vii)(I) any alternative technologies available as of the date on which the report is submitted that may perform some or all of the functions performed by devices or processes that employ radiation sources; and

“(II) the establishment of appropriate regulations and incentives for the replacement of the devices and processes described in subclause (I)—

“(aa) with alternative technologies in order to reduce the number of radiation sources in the United States; or

“(bb) with radiation sources that would pose a lower risk to public health and safety in the event of an accident or attack involving the radiation source; and

“(viii) the creation of, or modifications to, procedures for improving the security of use, transportation, and storage of radiation sources, including—

“(I) periodic audits or inspections by the Commission to ensure that radiation sources are properly secured and can be fully accounted for;

“(II) evaluation of the security measures by the Commission;

“(III) increased fines for violations of Commission regulations relating to security and safety measures applicable to licensees that possess radiation sources;

“(IV) criminal and security background checks for certain individuals with access to radiation sources (including individuals involved with transporting radiation sources);

“(V) requirements for effective and timely exchanges of information relating to the results of criminal and security background checks between the Commission and any State with which the Commission has entered into an agreement under section 274 b.;

“(VI) assurances of the physical security of facilities that contain radiation sources (including facilities used to temporarily store radiation sources being transported); and

“(VII) the screening of shipments to facilities that the Commission determines to be particularly at risk for sabotage of radiation sources to ensure that the shipments do not contain explosives.

Deadline.

“g. ACTION BY COMMISSION.—Not later than 60 days after the date of receipt by Congress and the President of a report under subsection f.(3)(B), the Commission, in accordance with the recommendations of the task force, shall—

“(1) take any action the Commission determines to be appropriate, including revising the system of the Commission for licensing radiation sources; and

“(2) ensure that States that have entered into agreements with the Commission under section 274 b. take similar action in a timely manner.”.

(2) CONFORMING AMENDMENT.—The table of sections of the Atomic Energy Act of 1954 (42 U.S.C. prec. 2011) (as amended by subsection (c)(5)(A)) is amended by adding at the end of the items relating to chapter 14 the following:

“Sec. 170H. Radiation source protection.”.

(e) TREATMENT OF ACCELERATOR-PRODUCED AND OTHER RADIOACTIVE MATERIAL AS BYPRODUCT MATERIAL.—

(1) DEFINITION OF BYPRODUCT MATERIAL.—Section 11 e. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)) is amended—

(A) by striking “means (1) any radioactive” and inserting the following: “means—

“(1) any radioactive”.

(B) by striking “material, and (2) the tailings” and inserting the following: “material;

“(2) the tailings”.

(C) by striking “content.” and inserting the following: “content;

“(3)(A) any discrete source of radium-226 that is produced, extracted, or converted after extraction, before, on, or after

the date of enactment of this paragraph for use for a commercial, medical, or research activity; or

“(B) any material that—

“(i) has been made radioactive by use of a particle accelerator; and

“(ii) is produced, extracted, or converted after extraction, before, on, or after the date of enactment of this paragraph for use for a commercial, medical, or research activity; and

“(4) any discrete source of naturally occurring radioactive material, other than source material, that—

“(A) the Commission, in consultation with the Administrator of the Environmental Protection Agency, the Secretary of Energy, the Secretary of Homeland Security, and the head of any other appropriate Federal agency, determines would pose a threat similar to the threat posed by a discrete source of radium-226 to the public health and safety or the common defense and security; and

“(B) before, on, or after the date of enactment of this paragraph is extracted or converted after extraction for use in a commercial, medical, or research activity.”.

(2) AGREEMENTS WITH GOVERNORS.—Section 274 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2021(b)) is amended by striking “State—” and all that follows through paragraph (4) and inserting the following: “State:

“(1) Byproduct materials (as defined in section 11 e.).

“(2) Source materials.

“(3) Special nuclear materials in quantities not sufficient to form a critical mass.”.

(3) WASTE DISPOSAL.—

(A) DOMESTIC DISTRIBUTION.—Section 81 of the Atomic Energy Act of 1954 (42 U.S.C. 2111) is amended—

(i) by striking “No person may” and inserting the following:

“a. IN GENERAL.—No person may”.

(ii) by adding at the end the following:

“b. REQUIREMENTS.—

“(1) IN GENERAL.—Except as provided in paragraph (2), byproduct material, as defined in paragraphs (3) and (4) of section 11 e., may only be transferred to and disposed of in a disposal facility that—

“(A) is adequate to protect public health and safety; and

“(B)(i) is licensed by the Commission; or

“(ii) is licensed by a State that has entered into an agreement with the Commission under section 274 b., if the licensing requirements of the State are compatible with the licensing requirements of the Commission.

“(2) EFFECT OF SUBSECTION.—Nothing in this subsection affects the authority of any entity to dispose of byproduct material, as defined in paragraphs (3) and (4) of section 11 e., at a disposal facility in accordance with any Federal or State solid or hazardous waste law, including the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

“c. TREATMENT AS LOW-LEVEL RADIOACTIVE WASTE.—Byproduct material, as defined in paragraphs (3) and (4) of section 11 e.,

disposed of under this section shall not be considered to be low-level radioactive waste for the purposes of—

“(1) section 2 of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021b); or

“(2) carrying out a compact that is—

“(A) entered into in accordance with that Act (42 U.S.C. 2021b et seq.); and

“(B) approved by Congress.”.

(B) DEFINITION OF LOW-LEVEL RADIOACTIVE WASTE.—Section 2(9) of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021b(9)) is amended—

(i) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and indenting the clauses appropriately;

(ii) in the matter preceding clause (i) (as redesignated by subparagraph (A)) by striking “The term” and inserting the following:

“(A) IN GENERAL.—The term”; and

(iii) by adding at the end the following:

“(B) EXCLUSION.—The term ‘low-level radioactive waste’ does not include byproduct material (as defined in paragraphs (3) and (4) of section 11 e. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)).”.

(4) FINAL REGULATIONS.—

(A) REGULATIONS.—

(i) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Commission, after consultation with States and other stakeholders, shall issue final regulations establishing such requirements as the Commission determines to be necessary to carry out this section and the amendments made by this section.

(ii) INCLUSIONS.—The regulations shall include a definition of the term “discrete source” for purposes of paragraphs (3) and (4) of section 11 e. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)) (as amended by paragraph (1)).

(B) COOPERATION.—In promulgating regulations under paragraph (1), the Commission shall, to the maximum extent practicable—

(i) cooperate with States; and

(ii) use model State standards in existence on the date of enactment of this Act.

(C) TRANSITION PLAN.—

(i) DEFINITION OF BYPRODUCT MATERIAL.—In this paragraph, the term “byproduct material” has the meaning given the term in paragraphs (3) and (4) of section 11 e. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)) (as amended by paragraph (1)).

(ii) PREPARATION AND PUBLICATION.—To facilitate an orderly transition of regulatory authority with respect to byproduct material, the Commission, in issuing regulations under subparagraph (A), shall prepare and publish a transition plan for—

(I) States that have not, before the date on which the plan is published, entered into an agreement with the Commission under section 274 b.

Deadline.

of the Atomic Energy Act of 1954 (42 U.S.C. 2021(b)); and

(II) States that have entered into an agreement with the Commission under that section before the date on which the plan is published.

(iii) INCLUSIONS.—The transition plan under clause (ii) shall include—

(I) a description of the conditions under which a State may exercise authority over byproduct material; and

(II) a statement of the Commission that any agreement covering byproduct material, as defined in paragraph (1) or (2) of section 11e. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)), entered into between the Commission and a State under section 274 b. of that Act (42 U.S.C. 2021(b)) before the date of publication of the transition plan shall be considered to include byproduct material, as defined in paragraph (3) or (4) of section 11e. of that Act (42 U.S.C. 2014(e)) (as amended by paragraph (1)), if the Governor of the State certifies to the Commission on the date of publication of the transition plan that—

(aa) the State has a program for licensing byproduct material, as defined in paragraph (3) or (4) of section 11e. of the Atomic Energy Act of 1954, that is adequate to protect the public health and safety, as determined by the Commission; and

(bb) the State intends to continue to implement the regulatory responsibility of the State with respect to the byproduct material.

(D) AVAILABILITY OF RADIOPHARMACEUTICALS.—In promulgating regulations under subparagraph (A), the Commission shall consider the impact on the availability of radiopharmaceuticals to—

(i) physicians; and

(ii) patients the medical treatment of which relies on radiopharmaceuticals.

(5) WAIVERS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Commission may grant a waiver to any entity of any requirement under this section or an amendment made by this section with respect to a matter relating to byproduct material (as defined in paragraphs (3) and (4) of section 11 e. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)) (as amended by paragraph (1))) if the Commission determines that the waiver is in accordance with the protection of the public health and safety and the promotion of the common defense and security.

(B) EXCEPTIONS.—

(i) IN GENERAL.—The Commission may not grant a waiver under subparagraph (A) with respect to—

(I) any requirement under the amendments made by subsection (c)(1);

(II) a matter relating to an importation into, or exportation from, the United States for a period

ending after the date that is 1 year after the date of enactment of this Act; or

(III) any other matter for a period ending after the date that is 4 years after the date of enactment of this Act.

(ii) **WAIVERS TO STATES.**—The Commission shall terminate any waiver granted to a State under subparagraph (A) if the Commission determines that—

(I) the State has entered into an agreement with the Commission under section 274 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2021(b));

(II) the agreement described in subclause (I) covers byproduct material (as described in paragraph (3) or (4) of section 11 e. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)) (as amended by paragraph (1))); and

(III) the program of the State for licensing such byproduct material is adequate to protect the public health and safety.

Federal Register,
publication.
Notice.

(C) **PUBLICATION.**—The Commission shall publish in the Federal Register a notice of any waiver granted under this subsection.

SEC. 652. FINGERPRINTING AND CRIMINAL HISTORY RECORD CHECKS.

Section 149 of the Atomic Energy Act of 1954 (42 U.S.C. 2169) is amended—

(1) in subsection a.—

(A) by striking “a. The Nuclear” and all that follows through “section 147.” and inserting the following:

“a.(1)(A)(i) The Commission shall require each individual or entity described in clause (ii) to fingerprint each individual described in subparagraph (B) before the individual described in subparagraph (B) is permitted access under subparagraph (B).

“(ii) The individuals and entities referred to in clause (i) are individuals and entities that, on or before the date on which an individual is permitted access under subparagraph (B)—

“(I) are licensed or certified to engage in an activity subject to regulation by the Commission;

“(II) have filed an application for a license or certificate to engage in an activity subject to regulation by the Commission; or

Notification.

“(III) have notified the Commission in writing of an intent to file an application for licensing, certification, permitting, or approval of a product or activity subject to regulation by the Commission.

“(B) The Commission shall require to be fingerprinted any individual who—

“(i) is permitted unescorted access to—

“(I) a utilization facility; or

“(II) radioactive material or other property subject to regulation by the Commission that the Commission determines to be of such significance to the public health and safety or the common defense and security as to warrant fingerprinting and background checks; or

“(ii) is permitted access to safeguards information under section 147.”;

(B) by striking “All fingerprints obtained by a licensee or applicant as required in the preceding sentence” and inserting the following:

“(2) All fingerprints obtained by an individual or entity as required in paragraph (1)”;

(C) by striking “The costs of any identification and records check conducted pursuant to the preceding sentence shall be paid by the licensee or applicant.” and inserting the following:

“(3) The costs of an identification or records check under paragraph (2) shall be paid by the individual or entity required to conduct the fingerprinting under paragraph (1)(A).”; and

(D) by striking “Notwithstanding any other provision of law, the Attorney General may provide all the results of the search to the Commission, and, in accordance with regulations prescribed under this section, the Commission may provide such results to licensee or applicant submitting such fingerprints.” and inserting the following:

“(4) Notwithstanding any other provision of law—

“(A) the Attorney General may provide any result of an identification or records check under paragraph (2) to the Commission; and

“(B) the Commission, in accordance with regulations prescribed under this section, may provide the results to the individual or entity required to conduct the fingerprinting under paragraph (1)(A).”;

(2) in subsection c.—

(A) by striking “, subject to public notice and comment, regulations—” and inserting “requirements—”; and

(B) in paragraph (2)(B), by striking “unescorted access to the facility of a licensee or applicant” and inserting “unescorted access to a utilization facility, radioactive material, or other property described in subsection a.(1)(B)”;

(3) by redesignating subsection d. as subsection e.; and

(4) by inserting after subsection c. the following:

“d. The Commission may require a person or individual to conduct fingerprinting under subsection a.(1) by authorizing or requiring the use of any alternative biometric method for identification that has been approved by—

“(1) the Attorney General; and

“(2) the Commission, by regulation.”.

SEC. 653. USE OF FIREARMS BY SECURITY PERSONNEL.

The Atomic Energy Act of 1954 is amended by inserting after section 161 (42 U.S.C. 2201) the following:

“SEC. 161A. USE OF FIREARMS BY SECURITY PERSONNEL.

42 USC 2201a.

“a. **DEFINITIONS.**—In this section, the terms ‘handgun’, ‘rifle’, ‘shotgun’, ‘firearm’, ‘ammunition’, ‘machinegun’, ‘short-barreled shotgun’, and ‘short-barreled rifle’ have the meanings given the terms in section 921(a) of title 18, United States Code.

“b. **AUTHORIZATION.**—Notwithstanding subsections (a)(4), (a)(5), (b)(2), (b)(4), and (c) of section 922 of title 18, United States Code, section 925(d)(3) of title 18, United States Code, section 5844 of the Internal Revenue Code of 1986, and any law (including regulations) of a State or a political subdivision of a State that prohibits the transfer, receipt, possession, transportation, importation, or use of a handgun, a rifle, a shotgun, a short-barreled shotgun, a short-

barreled rifle, a machinegun, a semiautomatic assault weapon, ammunition for any such gun or weapon, or a large capacity ammunition feeding device, in carrying out the duties of the Commission, the Commission may authorize the security personnel of any licensee or certificate holder of the Commission (including an employee of a contractor of such a licensee or certificate holder) to transfer, receive, possess, transport, import, and use 1 or more such guns, weapons, ammunition, or devices, if the Commission determines that—

“(1) the authorization is necessary to the discharge of the official duties of the security personnel; and

“(2) the security personnel—

“(A) are not otherwise prohibited from possessing or receiving a firearm under Federal or State laws relating to possession of firearms by a certain category of persons;

“(B) have successfully completed any requirement under this section for training in the use of firearms and tactical maneuvers;

“(C) are engaged in the protection of—

“(i) a facility owned or operated by a licensee or certificate holder of the Commission that is designated by the Commission; or

“(ii) radioactive material or other property owned or possessed by a licensee or certificate holder of the Commission, or that is being transported to or from a facility owned or operated by such a licensee or certificate holder, and that has been determined by the Commission to be of significance to the common defense and security or public health and safety; and

“(D) are discharging the official duties of the security personnel in transferring, receiving, possessing, transporting, or importing the weapons, ammunition, or devices.

“c. **BACKGROUND CHECKS.**—A person that receives, possesses, transports, imports, or uses a weapon, ammunition, or a device under subsection (b) shall be subject to a background check by the Attorney General, based on fingerprints and including a background check under section 103(b) of the Brady Handgun Violence Prevention Act (Public Law 103-159; 18 U.S.C. 922 note) to determine whether the person is prohibited from possessing or receiving a firearm under Federal or State law.

“d. **EFFECTIVE DATE.**—This section takes effect on the date on which guidelines are issued by the Commission, with the approval of the Attorney General, to carry out this section.”.

SEC. 654. UNAUTHORIZED INTRODUCTION OF DANGEROUS WEAPONS.

Section 229 of the Atomic Energy Act of 1954 (42 U.S.C. 2278a) is amended—

(1) by striking “SEC. 229, TRESPASS UPON COMMISSION INSTALLATIONS.—” and inserting the following:

“**SEC. 229. TRESPASS ON COMMISSION INSTALLATIONS.**”;

(2) by adjusting the indentations of subsections a., b., and c. so as to reflect proper subsection indentations; and

(3) in subsection a.—

(A) in the first sentence, by striking “a. The” and inserting the following:

“a.(1) The”;

(B) in the second sentence, by striking “Every” and inserting the following:

“(2) Every”; and

(C) in paragraph (1) (as designated by subparagraph (A))—

(i) by striking “or in the custody” and inserting “in the custody”; and

(ii) by inserting “, or subject to the licensing authority of the Commission or certification by the Commission under this Act or any other Act” before the period.

SEC. 655. SABOTAGE OF NUCLEAR FACILITIES, FUEL, OR DESIGNATED MATERIAL.

(a) IN GENERAL.—Section 236a. of the Atomic Energy Act of 1954 (42 U.S.C. 2284(a)) is amended—

(1) in paragraph (2), by striking “storage facility” and inserting “treatment, storage, or disposal facility”;

(2) in paragraph (3)—

(A) by striking “such a utilization facility” and inserting “a utilization facility licensed under this Act”; and

(B) by striking “or” at the end;

(3) in paragraph (4)—

(A) by striking “facility licensed” and inserting “, uranium conversion, or nuclear fuel fabrication facility licensed or certified”; and

(B) by striking the comma at the end and inserting a semicolon; and

(4) by inserting after paragraph (4) the following:

“(5) any production, utilization, waste storage, waste treatment, waste disposal, uranium enrichment, uranium conversion, or nuclear fuel fabrication facility subject to licensing or certification under this Act during construction of the facility, if the destruction or damage caused or attempted to be caused could adversely affect public health and safety during the operation of the facility;

“(6) any primary facility or backup facility from which a radiological emergency preparedness alert and warning system is activated; or

“(7) any radioactive material or other property subject to regulation by the Commission that, before the date of the offense, the Commission determines, by order or regulation published in the Federal Register, is of significance to the public health and safety or to common defense and security;”.

(b) CONFORMING AMENDMENT.—Section 236 of the Atomic Energy Act of 1954 (42 U.S.C. 2284) is amended by striking “intentionally and willfully” each place it appears and inserting “knowingly”.

SEC. 656. SECURE TRANSFER OF NUCLEAR MATERIALS.

(a) AMENDMENT.—Chapter 14 of the Atomic Energy Act of 1954 (42 U.S.C. 2201–2210b) (as amended by section 651(d)(1)) is amended by adding at the end the following new section:

“SEC. 170I. SECURE TRANSFER OF NUCLEAR MATERIALS.

42 USC 2210i.

“a. The Commission shall establish a system to ensure that materials described in subsection b., when transferred or received in the United States by any party pursuant to an import or export

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license issued pursuant to this Act, are accompanied by a manifest describing the type and amount of materials being transferred or received. Each individual receiving or accompanying the transfer of such materials shall be subject to a security background check conducted by appropriate Federal entities.

“b. Except as otherwise provided by the Commission by regulation, the materials referred to in subsection a. are byproduct materials, source materials, special nuclear materials, high-level radioactive waste, spent nuclear fuel, transuranic waste, and low-level radioactive waste (as defined in section 2(16) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(16))).”.

Deadline.
42 USC 2210i
note.

(b) REGULATIONS.—Not later than 1 year after the date of the enactment of this Act, and from time to time thereafter as it considers necessary, the Nuclear Regulatory Commission shall issue regulations identifying radioactive materials or classes of individuals that, consistent with the protection of public health and safety and the common defense and security, are appropriate exceptions to the requirements of section 170D of the Atomic Energy Act of 1954, as added by subsection (a) of this section.

42 USC 2210i
note.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect upon the issuance of regulations under subsection (b), except that the background check requirement shall become effective on a date established by the Commission.

42 USC 2210i
note.

(d) EFFECT ON OTHER LAW.—Nothing in this section or the amendment made by this section shall waive, modify, or affect the application of chapter 51 of title 49, United States Code, part A of subtitle V of title 49, United States Code, part B of subtitle VI of title 49, United States Code, and title 23, United States Code.

(e) CONFORMING AMENDMENT.—The table of sections of the Atomic Energy Act of 1954 (42 U.S.C. prec. 2011) (as amended by subsection (a)) is amended by adding at the end of the items relating to chapter 14 the following:

“Sec. 170I. Secure transfer of nuclear materials.”.

42 USC 16042.

SEC. 657. DEPARTMENT OF HOMELAND SECURITY CONSULTATION.

Before issuing a license for a utilization facility, the Nuclear Regulatory Commission shall consult with the Department of Homeland Security concerning the potential vulnerabilities of the location of the proposed facility to terrorist attack.

TITLE VII—VEHICLES AND FUELS

Subtitle A—Existing Programs

SEC. 701. USE OF ALTERNATIVE FUELS BY DUAL FUELED VEHICLES.

Section 400AA(a)(3)(E) of the Energy Policy and Conservation Act (42 U.S.C. 6374(a)(3)(E)) is amended to read as follows:

“(E)(i) Dual fueled vehicles acquired pursuant to this section shall be operated on alternative fuels unless the Secretary determines that an agency qualifies for a waiver of such requirement for vehicles operated by the agency in a particular geographic area in which—

“(I) the alternative fuel otherwise required to be used in the vehicle is not reasonably available to retail purchasers

of the fuel, as certified to the Secretary by the head of the agency; or

“(II) the cost of the alternative fuel otherwise required to be used in the vehicle is unreasonably more expensive compared to gasoline, as certified to the Secretary by the head of the agency.

“(ii) The Secretary shall monitor compliance with this subparagraph by all such fleets and shall report annually to Congress on the extent to which the requirements of this subparagraph are being achieved. The report shall include information on annual reductions achieved from the use of petroleum-based fuels and the problems, if any, encountered in acquiring alternative fuels.”.

Reports.

SEC. 702. INCREMENTAL COST ALLOCATION.

Section 303(c) of the Energy Policy Act of 1992 (42 U.S.C. 13212(c)) is amended by striking “may” and inserting “shall”.

SEC. 703. ALTERNATIVE COMPLIANCE AND FLEXIBILITY.

(a) **ALTERNATIVE COMPLIANCE.**—Title V of the Energy Policy Act of 1992 (42 U.S.C. 13251 et seq.) is amended—

(1) by redesignating section 514 (42 U.S.C. 13264) as section 515; and

(2) by inserting after section 513 (42 U.S.C. 13263) the following:

“SEC. 514. ALTERNATIVE COMPLIANCE.

42 USC 13263a.

“(a) **APPLICATION FOR WAIVER.**—Any covered person subject to section 501 and any State subject to section 507(o) may petition the Secretary for a waiver of the applicable requirements of section 501 or 507(o).

“(b) **GRANT OF WAIVER.**—The Secretary shall grant a waiver of the requirements of section 501 or 507(o) on a showing that the fleet owned, operated, leased, or otherwise controlled by the State or covered person—

“(1) will achieve a reduction in the annual consumption of petroleum fuels by the fleet equal to—

“(A) the reduction in consumption of petroleum that would result from 100 percent cumulative compliance with the fuel use requirements of section 501; or

“(B) in the case of an entity covered under section 507(o), a reduction equal to the annual consumption by the State entity of alternative fuels if all of the cumulative alternative fuel vehicles of the State entity given credit under section 508 were to use alternative fuel 100 percent of the time; and

“(2) is in compliance with all applicable vehicle emission standards established by the Administrator of the Environmental Protection Agency under the Clean Air Act (42 U.S.C. 7401 et seq.).

“(c) **REPORTING REQUIREMENT.**—Not later than December 31 of a model year, any State or covered person granted a waiver under this section for the preceding model year shall submit to the Secretary an annual report that—

“(1) certifies the quantity of the petroleum motor fuel reduction of the State or covered person during the preceding model year; and

Certification.

“(2) projects the baseline quantity of the petroleum motor fuel reduction of the State or covered person during the following model year.

“(d) REVOCATION OF WAIVER.—If a State or covered person that receives a waiver under this section fails to comply with this section, the Secretary—

“(1) shall revoke the waiver; and

“(2) may impose on the State or covered person a penalty under section 512.”.

(b) CONFORMING AMENDMENT.—Section 511 of the Energy Policy Act of 1992 (42 U.S.C. 13261) is amended by striking “or 507” and inserting “507, or 514”.

(c) TABLE OF CONTENTS AMENDMENT.—The table of contents of the Energy Policy Act of 1992 (42 U.S.C. prec. 13201) is amended by striking the item relating to section 514 and inserting the following:

“Sec. 514. Alternative compliance.

“Sec. 515. Authorization of appropriations.”.

SEC. 704. REVIEW OF ENERGY POLICY ACT OF 1992 PROGRAMS.

Deadline.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Secretary shall complete a study to determine the effect that titles III, IV, and V of the Energy Policy Act of 1992 (42 U.S.C. 13211 et seq.) have had on—

- (1) the development of alternative fueled vehicle technology;
- (2) the availability of that technology in the market; and
- (3) the cost of alternative fueled vehicles.

(b) TOPICS.—As part of the study under subsection (a), the Secretary shall specifically identify—

(1) the number of alternative fueled vehicles acquired by fleets or covered persons required to acquire alternative fueled vehicles;

(2) the quantity, by type, of alternative fuel actually used in alternative fueled vehicles acquired by fleets or covered persons;

(3) the quantity of petroleum displaced by the use of alternative fuels in alternative fueled vehicles acquired by fleets or covered persons;

(4) the direct and indirect costs of compliance with requirements under titles III, IV, and V of the Energy Policy Act of 1992 (42 U.S.C. 13211 et seq.), including—

(A) vehicle acquisition requirements imposed on fleets or covered persons;

(B) administrative and recordkeeping expenses;

(C) fuel and fuel infrastructure costs;

(D) associated training and employee expenses; and

(E) any other factors or expenses the Secretary determines to be necessary to compile reliable estimates of the overall costs and benefits of complying with programs under those titles for fleets, covered persons, and the national economy;

(5) the existence of obstacles preventing compliance with vehicle acquisition requirements and increased use of alternative fuel in alternative fueled vehicles acquired by fleets or covered persons; and

(6) the projected impact of amendments to the Energy Policy Act of 1992 made by this title.

(c) **REPORT.**—Upon completion of the study under this section, the Secretary shall submit to Congress a report that describes the results of the study and includes any recommendations of the Secretary for legislative or administrative changes concerning the alternative fueled vehicle requirements under titles III, IV, and V of the Energy Policy Act of 1992 (42 U.S.C. 13211 et seq.).

SEC. 705. REPORT CONCERNING COMPLIANCE WITH ALTERNATIVE FUELED VEHICLE PURCHASING REQUIREMENTS.

Section 310(b)(1) of the Energy Policy Act of 1992 (42 U.S.C. 13218(b)(1)) is amended by striking “1 year after the date of enactment of this subsection” and inserting “February 15, 2006”.

SEC. 706. JOINT FLEXIBLE FUEL/HYBRID VEHICLE COMMERCIALIZATION INITIATIVE. 42 USC 16051.

(a) **DEFINITIONS.**—In this section:

- (1) **ELIGIBLE ENTITY.**—The term “eligible entity” means—
 (A) a for-profit corporation;
 (B) a nonprofit corporation; or
 (C) an institution of higher education.

(2) **PROGRAM.**—The term “program” means a program established under subsection (b).

(b) **ESTABLISHMENT.**—The Secretary shall establish a program to improve technologies for the commercialization of—

- (1) a combination hybrid/flexible fuel vehicle; or
 (2) a plug-in hybrid/flexible fuel vehicle.

(c) **GRANTS.**—In carrying out the program, the Secretary shall provide grants that give preference to proposals that—

- (1) achieve the greatest reduction in miles per gallon of petroleum fuel consumption;
 (2) achieve not less than 250 miles per gallon of petroleum fuel consumption; and
 (3) have the greatest potential of commercialization to the general public within 5 years.

(d) **VERIFICATION.**—Not later than 90 days after the date of enactment of this Act, the Secretary shall publish in the Federal Register procedures to verify—

- (1) the hybrid/flexible fuel vehicle technologies to be demonstrated; and
 (2) that grants are administered in accordance with this section.

(e) **REPORT.**—Not later than 260 days after the date of enactment of this Act, and annually thereafter, the Secretary shall submit to Congress a report that—

- (1) identifies the grant recipients;
 (2) describes the technologies to be funded under the program;
 (3) assesses the feasibility of the technologies described in paragraph (2) in meeting the goals described in subsection (c);
 (4) identifies applications submitted for the program that were not funded; and
 (5) makes recommendations for Federal legislation to achieve commercialization of the technology demonstrated.

(f) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out this section, to remain available until expended—

- (1) \$3,000,000 for fiscal year 2006;

Deadline.
Federal Register,
publication.
Procedures.

- (2) \$7,000,000 for fiscal year 2007;
- (3) \$10,000,000 for fiscal year 2008; and
- (4) \$20,000,000 for fiscal year 2009.

SEC. 707. EMERGENCY EXEMPTION.

Section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211) is amended in paragraph (9)(E) by inserting before the semicolon at the end “, including vehicles directly used in the emergency repair of transmission lines and in the restoration of electricity service following power outages, as determined by the Secretary”.

Subtitle B—Hybrid Vehicles, Advanced Vehicles, and Fuel Cell Buses

PART 1—HYBRID VEHICLES

42 USC 16061. **SEC. 711. HYBRID VEHICLES.**

The Secretary shall accelerate efforts directed toward the improvement of batteries and other rechargeable energy storage systems, power electronics, hybrid systems integration, and other technologies for use in hybrid vehicles.

42 USC 16062. **SEC. 712. EFFICIENT HYBRID AND ADVANCED DIESEL VEHICLES.**

(a) PROGRAM.—The Secretary shall establish a program to encourage domestic production and sales of efficient hybrid and advanced diesel vehicles. The program shall include grants to automobile manufacturers to encourage domestic production of efficient hybrid and advanced diesel vehicles.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section such sums as may be necessary for each of the fiscal years 2006 through 2015.

PART 2—ADVANCED VEHICLES

42 USC 16071. **SEC. 721. PILOT PROGRAM.**

(a) ESTABLISHMENT.—The Secretary, in consultation with the Secretary of Transportation, shall establish a competitive grant pilot program (referred to in this part as the “pilot program”), to be administered through the Clean Cities Program of the Department, to provide not more than 30 geographically dispersed project grants to State governments, local governments, or metropolitan transportation authorities to carry out a project or projects for the purposes described in subsection (b).

(b) GRANT PURPOSES.—A grant under this section may be used for the following purposes:

(1) The acquisition of alternative fueled vehicles or fuel cell vehicles, including—

(A) passenger vehicles (including neighborhood electric vehicles); and

(B) motorized 2-wheel bicycles or other vehicles for use by law enforcement personnel or other State or local government or metropolitan transportation authority employees.

(2) The acquisition of alternative fueled vehicles, hybrid vehicles, or fuel cell vehicles, including—

(A) buses used for public transportation or transportation to and from schools;

(B) delivery vehicles for goods or services; and

(C) ground support vehicles at public airports (including vehicles to carry baggage or push or pull airplanes toward or away from terminal gates).

(3) The acquisition of ultra-low sulfur diesel vehicles.

(4) Installation or acquisition of infrastructure necessary to directly support an alternative fueled vehicle, fuel cell vehicle, or hybrid vehicle project funded by the grant, including fueling and other support equipment.

(5) Operation and maintenance of vehicles, infrastructure, and equipment acquired as part of a project funded by the grant.

(c) APPLICATIONS.—

(1) REQUIREMENTS.—

(A) IN GENERAL.—The Secretary shall issue requirements for applying for grants under the pilot program.

(B) MINIMUM REQUIREMENTS.—At a minimum, the Secretary shall require that an application for a grant—

(i) be submitted by the head of a State or local government or a metropolitan transportation authority, or any combination thereof, and a registered participant in the Clean Cities Program of the Department; and

(ii) include—

(I) a description of the project proposed in the application, including how the project meets the requirements of this part;

(II) an estimate of the ridership or degree of use of the project;

(III) an estimate of the air pollution emissions reduced and fossil fuel displaced as a result of the project, and a plan to collect and disseminate environmental data, related to the project to be funded under the grant, over the life of the project;

(IV) a description of how the project will be sustainable without Federal assistance after the completion of the term of the grant;

(V) a complete description of the costs of the project, including acquisition, construction, operation, and maintenance costs over the expected life of the project;

(VI) a description of which costs of the project will be supported by Federal assistance under this part; and

(VII) documentation to the satisfaction of the Secretary that diesel fuel containing sulfur at not more than 15 parts per million is available for carrying out the project, and a commitment by the applicant to use such fuel in carrying out the project.

(2) PARTNERS.—An applicant under paragraph (1) may carry out a project under the pilot program in partnership with public and private entities.

(d) SELECTION CRITERIA.—In evaluating applications under the pilot program, the Secretary shall—

(1) consider each applicant's previous experience with similar projects; and

(2) give priority consideration to applications that—

(A) are most likely to maximize protection of the environment;

(B) demonstrate the greatest commitment on the part of the applicant to ensure funding for the proposed project and the greatest likelihood that the project will be maintained or expanded after Federal assistance under this part is completed; and

(C) exceed the minimum requirements of subsection (c)(1)(B)(ii).

(e) PILOT PROJECT REQUIREMENTS.—

(1) MAXIMUM AMOUNT.—The Secretary shall not provide more than \$15,000,000 in Federal assistance under the pilot program to any applicant.

(2) COST SHARING.—The Secretary shall not provide more than 50 percent of the cost, incurred during the period of the grant, of any project under the pilot program.

(3) MAXIMUM PERIOD OF GRANTS.—The Secretary shall not fund any applicant under the pilot program for more than 5 years.

(4) DEPLOYMENT AND DISTRIBUTION.—The Secretary shall seek to the maximum extent practicable to ensure a broad geographic distribution of project sites.

Procedures.

(5) TRANSFER OF INFORMATION AND KNOWLEDGE.—The Secretary shall establish mechanisms to ensure that the information and knowledge gained by participants in the pilot program are transferred among the pilot program participants and to other interested parties, including other applicants that submitted applications.

Deadlines.

Federal Register,
publication.
Commerce
Business Daily,
publication.

(f) SCHEDULE.—

(1) PUBLICATION.—Not later than 90 days after the date of enactment of this Act, the Secretary shall publish in the Federal Register, Commerce Business Daily, and elsewhere as appropriate, a request for applications to undertake projects under the pilot program. Applications shall be due not later than 180 days after the date of publication of the notice.

(2) SELECTION.—Not later than 180 days after the date by which applications for grants are due, the Secretary shall select by competitive, peer reviewed proposal, all applications for projects to be awarded a grant under the pilot program.

Regulations.

(g) DEFINITIONS.—For purposes of carrying out the pilot program, the Secretary shall issue regulations defining any term, as the Secretary determines to be necessary.

42 USC 16072.

SEC. 722. REPORTS TO CONGRESS.

(a) INITIAL REPORT.—Not later than 60 days after the date on which grants are awarded under this part, the Secretary shall submit to Congress a report containing—

(1) an identification of the grant recipients and a description of the projects to be funded;

(2) an identification of other applicants that submitted applications for the pilot program; and

(3) a description of the mechanisms used by the Secretary to ensure that the information and knowledge gained by participants in the pilot program are transferred among the pilot

program participants and to other interested parties, including other applicants that submitted applications.

(b) EVALUATION.—Not later than 3 years after the date of enactment of this Act, and annually thereafter until the pilot program ends, the Secretary shall submit to Congress a report containing an evaluation of the effectiveness of the pilot program, including—

(1) an assessment of the benefits to the environment derived from the projects included in the pilot program; and

(2) an estimate of the potential benefits to the environment to be derived from widespread application of alternative fueled vehicles and ultra-low sulfur diesel vehicles.

SEC. 723. AUTHORIZATION OF APPROPRIATIONS.

42 USC 16073.

There are authorized to be appropriated to the Secretary to carry out this part \$200,000,000, to remain available until expended.

PART 3—FUEL CELL BUSES

SEC. 731. FUEL CELL TRANSIT BUS DEMONSTRATION.

42 USC 16081.

(a) IN GENERAL.—The Secretary, in consultation with the Secretary of Transportation, shall establish a transit bus demonstration program to make competitive, merit-based awards for 5-year projects to demonstrate not more than 25 fuel cell transit buses (and necessary infrastructure) in 5 geographically dispersed localities.

(b) PREFERENCE.—In selecting projects under this section, the Secretary shall give preference to projects that are most likely to mitigate congestion and improve air quality.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section \$10,000,000 for each of fiscal years 2006 through 2010.

Subtitle C—Clean School Buses

SEC. 741. CLEAN SCHOOL BUS PROGRAM.

42 USC 16091.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term “Administrator” means the Administrator of the Environmental Protection Agency.

(2) ALTERNATIVE FUEL.—The term “alternative fuel” means—

(A) liquefied natural gas, compressed natural gas, liquefied petroleum gas, hydrogen, or propane;

(B) methanol or ethanol at no less than 85 percent by volume; or

(C) biodiesel conforming with standards published by the American Society for Testing and Materials as of the date of enactment of this Act.

(3) CLEAN SCHOOL BUS.—The term “clean school bus” means a school bus with a gross vehicle weight of greater than 14,000 pounds that—

(A) is powered by a heavy duty engine; and

(B) is operated solely on an alternative fuel or ultra-low sulfur diesel fuel.

(4) ELIGIBLE RECIPIENT.—

(A) IN GENERAL.—Subject to subparagraph (B), the term “eligible recipient” means—

(i) 1 or more local or State governmental entities responsible for—

(I) providing school bus service to 1 or more public school systems; or

(II) the purchase of school buses;

(ii) 1 or more contracting entities that provide school bus service to 1 or more public school systems; or

(iii) a nonprofit school transportation association.

(B) SPECIAL REQUIREMENTS.—In the case of eligible recipients identified under clauses (ii) and (iii), the Administrator shall establish timely and appropriate requirements for notice and may establish timely and appropriate requirements for approval by the public school systems that would be served by buses purchased or retrofit using grant funds made available under this section.

(5) RETROFIT TECHNOLOGY.—The term “retrofit technology” means a particulate filter or other emissions control equipment that is verified or certified by the Administrator or the California Air Resources Board as an effective emission reduction technology when installed on an existing school bus.

(6) ULTRA-LOW SULFUR DIESEL FUEL.—The term “ultra-low sulfur diesel fuel” means diesel fuel that contains sulfur at not more than 15 parts per million.

(b) PROGRAM FOR RETROFIT OR REPLACEMENT OF CERTAIN EXISTING SCHOOL BUSES WITH CLEAN SCHOOL BUSES.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—The Administrator, in consultation with the Secretary and other appropriate Federal departments and agencies, shall establish a program for awarding grants on a competitive basis to eligible recipients for the replacement, or retrofit (including repowering, aftertreatment, and remanufactured engines) of, certain existing school buses.

(B) BALANCING.—In awarding grants under this section, the Administrator shall, to the maximum extent practicable, achieve an appropriate balance between awarding grants—

(i) to replace school buses; and

(ii) to install retrofit technologies.

(2) PRIORITY OF GRANT APPLICATIONS.—

(A) REPLACEMENT.—In the case of grant applications to replace school buses, the Administrator shall give priority to applicants that propose to replace school buses manufactured before model year 1977.

(B) RETROFITTING.—In the case of grant applications to retrofit school buses, the Administrator shall give priority to applicants that propose to retrofit school buses manufactured in or after model year 1991.

(3) USE OF SCHOOL BUS FLEET.—

(A) IN GENERAL.—All school buses acquired or retrofitted with funds provided under this section shall be operated as part of the school bus fleet for which the grant was made for not less than 5 years.

(B) MAINTENANCE, OPERATION, AND FUELING.—New school buses and retrofit technology shall be maintained, operated, and fueled according to manufacturer recommendations or State requirements.

(4) RETROFIT GRANTS.—The Administrator may award grants for up to 100 percent of the retrofit technologies and installation costs.

(5) REPLACEMENT GRANTS.—

(A) ELIGIBILITY FOR 50 PERCENT GRANTS.—The Administrator may award grants for replacement of school buses in the amount of up to one-half of the acquisition costs (including fueling infrastructure) for—

(i) clean school buses with engines manufactured in model year 2005 or 2006 that emit not more than—

(I) 1.8 grams per brake horsepower-hour of non-methane hydrocarbons and oxides of nitrogen; and

(II) .01 grams per brake horsepower-hour of particulate matter; or

(ii) clean school buses with engines manufactured in model year 2007, 2008, or 2009 that satisfy regulatory requirements established by the Administrator for emissions of oxides of nitrogen and particulate matter to be applicable for school buses manufactured in model year 2010.

(B) ELIGIBILITY FOR 25 PERCENT GRANTS.—The Administrator may award grants for replacement of school buses in the amount of up to one-fourth of the acquisition costs (including fueling infrastructure) for—

(i) clean school buses with engines manufactured in model year 2005 or 2006 that emit not more than—

(I) 2.5 grams per brake horsepower-hour of non-methane hydrocarbons and oxides of nitrogen; and

(II) .01 grams per brake horsepower-hour of particulate matter; or

(ii) clean school buses with engines manufactured in model year 2007 or thereafter that satisfy regulatory requirements established by the Administrator for emissions of oxides of nitrogen and particulate matter from school buses manufactured in that model year.

(6) ULTRA-LOW SULFUR DIESEL FUEL.—

(A) IN GENERAL.—In the case of a grant recipient receiving a grant for the acquisition of ultra-low sulfur diesel fuel school buses with engines manufactured in model year 2005 or 2006, the grant recipient shall provide, to the satisfaction of the Administrator—

(i) documentation that diesel fuel containing sulfur at not more than 15 parts per million is available for carrying out the purposes of the grant; and

(ii) a commitment by the applicant to use that fuel in carrying out the purposes of the grant.

(7) DEPLOYMENT AND DISTRIBUTION.—The Administrator shall, to the maximum extent practicable—

(A) achieve nationwide deployment of clean school buses through the program under this section; and

(B) ensure a broad geographic distribution of grant awards, with no State receiving more than 10 percent of the grant funding made available under this section during a fiscal year.

(8) ANNUAL REPORT.—

(A) IN GENERAL.—Not later than January 31 of each year, the Administrator shall submit to Congress a report that—

(i) evaluates the implementation of this section; and

(ii) describes—

(I) the total number of grant applications received;

(II) the number and types of alternative fuel school buses, ultra-low sulfur diesel fuel school buses, and retrofitted buses requested in grant applications;

(III) grants awarded and the criteria used to select the grant recipients;

(IV) certified engine emission levels of all buses purchased or retrofitted under this section;

(V) an evaluation of the in-use emission level of buses purchased or retrofitted under this section; and

(VI) any other information the Administrator considers appropriate.

(c) EDUCATION.—

Deadline.

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Administrator shall develop an education outreach program to promote and explain the grant program.

(2) COORDINATION WITH STAKEHOLDERS.—The outreach program shall be designed and conducted in conjunction with national school bus transportation associations and other stakeholders.

(3) COMPONENTS.—The outreach program shall—

(A) inform potential grant recipients on the process of applying for grants;

(B) describe the available technologies and the benefits of the technologies;

(C) explain the benefits of participating in the grant program; and

(D) include, as appropriate, information from the annual report required under subsection (b)(8).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator to carry out this section, to remain available until expended—

(1) \$55,000,000 for each of fiscal years 2006 and 2007; and

(2) such sums as are necessary for each of fiscal years 2008, 2009, and 2010.

42 USC 16092.

SEC. 742. DIESEL TRUCK RETROFIT AND FLEET MODERNIZATION PROGRAM.

(a) ESTABLISHMENT.—The Administrator, in consultation with the Secretary, shall establish a program for awarding grants on

a competitive basis to public agencies and entities for fleet modernization programs including installation of retrofit technologies for diesel trucks.

(b) **ELIGIBLE RECIPIENTS.**—A grant shall be awarded under this section only to a State or local government or an agency or instrumentality of a State or local government or of two or more State or local governments who will allocate funds, with preference to ports and other major hauling operations.

(c) **AWARDS.**—

(1) **IN GENERAL.**—The Administrator shall seek, to the maximum extent practicable, to ensure a broad geographic distribution of grants under this section.

(2) **PREFERENCES.**—In making awards of grants under this section, the Administrator shall give preference to proposals that—

(A) will achieve the greatest reductions in emissions of nonmethane hydrocarbons, oxides of nitrogen, and/or particulate matter per proposal or per truck; or

(B) involve the use of Environmental Protection Agency or California Air Resources Board verified emissions control retrofit technology on diesel trucks that operate solely on ultra-low sulfur diesel fuel after September 2006.

(d) **CONDITIONS OF GRANT.**—A grant shall be provided under this section on the conditions that—

(1) trucks which are replacing scrapped trucks and on which retrofit emissions-control technology are to be demonstrated—

(A) will operate on ultra-low sulfur diesel fuel where such fuel is reasonably available or required for sale by State or local law or regulation;

(B) were manufactured in model year 1998 and before; and

(C) will be used for the transportation of cargo goods especially in port areas or used in goods movement and major hauling operations;

(2) grant funds will be used for the purchase of emission control retrofit technology, including State taxes and contract fees; and

(3) grant recipients will provide at least 50 percent of the total cost of the retrofit, including the purchase of emission control retrofit technology and all necessary labor for installation of the retrofit, from any source other than this section.

(e) **VERIFICATION.**—Not later than 90 days after the date of enactment of this Act, the Administrator shall publish in the Federal Register procedures to—

(1) make grants pursuant to this section;

(2) verify that trucks powered by ultra-low sulfur diesel fuel on which retrofit emissions-control technology are to be demonstrated will operate on diesel fuel containing not more than 15 parts per million of sulfur after September 2006; and

(3) verify that grants are administered in accordance with this section.

(f) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Administrator to carry out this section, to remain available until expended the following sums:

(1) \$20,000,000 for fiscal year 2006.

(2) \$35,000,000 for fiscal year 2007.

Deadline.
Federal Register,
publication.
Procedures.

(3) \$45,000,000 for fiscal year 2008.

(4) Such sums as are necessary for each of fiscal years 2009 and 2010.

42 USC 16093.

SEC. 743. FUEL CELL SCHOOL BUSES.

(a) **ESTABLISHMENT.**—The Secretary shall establish a program for entering into cooperative agreements—

(1) with private sector fuel cell bus developers for the development of fuel cell-powered school buses; and

(2) subsequently, with not less than 2 units of local government using natural gas-powered school buses and such private sector fuel cell bus developers to demonstrate the use of fuel cell-powered school buses.

(b) **COST SHARING.**—The non-Federal contribution for activities funded under this section shall be not less than—

(1) 20 percent for fuel infrastructure development activities; and

(2) 50 percent for demonstration activities and for development activities not described in paragraph (1).

(c) **REPORTS TO CONGRESS.**—Not later than 3 years after the date of enactment of this Act, the Secretary shall transmit to Congress a report that—

(1) evaluates the process of converting natural gas infrastructure to accommodate fuel cell-powered school buses; and

(2) assesses the results of the development and demonstration program under this section.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary to carry out this section \$25,000,000 for the period of fiscal years 2006 through 2009.

Subtitle D—Miscellaneous

42 USC 16101.

SEC. 751. RAILROAD EFFICIENCY.

(a) **ESTABLISHMENT.**—The Secretary shall (in cooperation with the Secretary of Transportation and the Administrator of the Environmental Protection Agency) establish a cost-shared, public-private research partnership involving the Federal Government, railroad carriers, locomotive manufacturers and equipment suppliers, and the Association of American Railroads, to develop and demonstrate railroad locomotive technologies that increase fuel economy, reduce emissions, and lower costs of operation.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary to carry out this section—

(1) \$15,000,000 for fiscal year 2006;

(2) \$20,000,000 for fiscal year 2007; and

(3) \$30,000,000 for fiscal year 2008.

SEC. 752. MOBILE EMISSION REDUCTIONS TRADING AND CREDITING.Deadline.
Reports.

(a) **IN GENERAL.**—Not later than 180 days after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall submit to Congress a report on the experience of the Administrator with the trading of mobile source emission reduction credits for use by owners and operators of stationary source emission sources to meet emission offset requirements within a nonattainment area.

(b) **CONTENTS.**—The report shall describe—

(1) projects approved by the Administrator that include the trading of mobile source emission reduction credits for use by stationary sources in complying with offset requirements, including a description of—

- (A) project and stationary sources location;
- (B) volumes of emissions offset and traded;
- (C) the sources of mobile emission reduction credits;

and

- (D) if available, the cost of the credits;

(2) the significant issues identified by the Administrator in consideration and approval of trading in the projects;

(3) the requirements for monitoring and assessing the air quality benefits of any approved project;

(4) the statutory authority on which the Administrator has based approval of the projects;

(5) an evaluation of how the resolution of issues in approved projects could be used in other projects and whether the emission reduction credits may be considered to be additional in relation to other requirements;

(6) the potential, for attainment purposes, of emission reduction credits relating to transit and land use policies; and

(7) any other issues that the Administrator considers relevant to the trading and generation of mobile source emission reduction credits for use by stationary sources or for other purposes.

SEC. 753. AVIATION FUEL CONSERVATION AND EMISSIONS.

(a) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration and the Administrator of the Environmental Protection Agency shall jointly initiate a study to identify— Deadline.

(1) the impact of aircraft emissions on air quality in non-attainment areas;

(2) ways to promote fuel conservation measures for aviation to enhance fuel efficiency and reduce emissions; and

(3) opportunities to reduce air traffic inefficiencies that increase fuel burn and emissions.

(b) FOCUS.—The study under subsection (a) shall focus on how air traffic management inefficiencies, such as aircraft idling at airports, result in unnecessary fuel burn and air emissions.

(c) REPORT.—Not later than 1 year after the date of the initiation of the study under subsection (a), the Administrator of the Federal Aviation Administration and the Administrator of the Environmental Protection Agency shall jointly submit to the Committee on Energy and Commerce and the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works and the Committee on Commerce, Science, and Transportation of the Senate a report that—

(1) describes the results of the study; and

(2) includes any recommendations on ways in which unnecessary fuel use and emissions affecting air quality may be reduced—

(A) without adversely affecting safety and security and increasing individual aircraft noise; and

(B) while taking into account all aircraft emissions and the impact of those emissions on the human health.

(d) **RISK ASSESSMENTS.**—Any assessment of risk to human health and the environment prepared by the Administrator of the Federal Aviation Administration or the Administrator of the Environmental Protection Agency to support the report in this section shall be based on sound and objective scientific practices, shall consider the best available science, and shall present the weight of the scientific evidence concerning such risks.

42 USC 16102.

SEC. 754. DIESEL FUELED VEHICLES.

(a) **DEFINITION OF TIER 2 EMISSION STANDARDS.**—In this section, the term “tier 2 emission standards” means the motor vehicle emission standards that apply to passenger cars, light trucks, and larger passenger vehicles manufactured after the 2003 model year, as issued on February 10, 2000, by the Administrator of the Environmental Protection Agency under sections 202 and 211 of the Clean Air Act (42 U.S.C. 7521, 7545).

(b) **DIESEL COMBUSTION AND AFTER-TREATMENT TECHNOLOGIES.**—The Secretary shall accelerate efforts to improve diesel combustion and after-treatment technologies for use in diesel fueled motor vehicles.

(c) **GOALS.**—The Secretary shall carry out subsection (b) with a view toward achieving the following goals:

(1) Developing and demonstrating diesel technologies that, not later than 2010, meet the following standards:

(A) Tier 2 emission standards.

(B) The heavy-duty emissions standards of 2007 that are applicable to heavy-duty vehicles under regulations issued by the Administrator of the Environmental Protection Agency as of the date of enactment of this Act.

(2) Developing the next generation of low-emission, high efficiency diesel engine technologies, including homogeneous charge compression ignition technology.

42 USC 16103.

SEC. 755. CONSERVE BY BICYCLING PROGRAM.

(a) **DEFINITIONS.**—In this section:

(1) **PROGRAM.**—The term “program” means the Conserve by Bicycling Program established by subsection (b).

(2) **SECRETARY.**—The term “Secretary” means the Secretary of Transportation.

(b) **ESTABLISHMENT.**—There is established within the Department of Transportation a program to be known as the “Conserve by Bicycling Program”.

(c) **PROJECTS.**—

(1) **IN GENERAL.**—In carrying out the program, the Secretary shall establish not more than 10 pilot projects that are—

(A) dispersed geographically throughout the United States; and

(B) designed to conserve energy resources by encouraging the use of bicycles in place of motor vehicles.

(2) **REQUIREMENTS.**—A pilot project described in paragraph (1) shall—

(A) use education and marketing to convert motor vehicle trips to bicycle trips;

(B) document project results and energy savings (in estimated units of energy conserved);

(C) facilitate partnerships among interested parties in at least 2 of the fields of—

- (i) transportation;
- (ii) law enforcement;
- (iii) education;
- (iv) public health;
- (v) environment; and
- (vi) energy;
- (D) maximize bicycle facility investments;
- (E) demonstrate methods that may be used in other regions of the United States; and
- (F) facilitate the continuation of ongoing programs that are sustained by local resources.

(3) **COST SHARING.**—At least 20 percent of the cost of each pilot project described in paragraph (1) shall be provided from non-Federal sources.

(d) **ENERGY AND BICYCLING RESEARCH STUDY.**—

(1) **IN GENERAL.**—Not later than 2 years after the date of enactment of this Act, the Secretary shall enter into a contract with the National Academy of Sciences for, and the National Academy of Sciences shall conduct and submit to Congress a report on, a study on the feasibility of converting motor vehicle trips to bicycle trips.

Deadline.
Contracts.
Reports.

(2) **COMPONENTS.**—The study shall—

(A) document the results or progress of the pilot projects under subsection (c);

(B) determine the type and duration of motor vehicle trips that people in the United States may feasibly make by bicycle, taking into consideration factors such as—

- (i) weather;
- (ii) land use and traffic patterns;
- (iii) the carrying capacity of bicycles; and
- (iv) bicycle infrastructure;

(C) determine any energy savings that would result from the conversion of motor vehicle trips to bicycle trips;

(D) include a cost-benefit analysis of bicycle infrastructure investments; and

(E) include a description of any factors that would encourage more motor vehicle trips to be replaced with bicycle trips.

(e) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to the Secretary to carry out this section \$6,200,000, to remain available until expended, of which—

(1) \$5,150,000 shall be used to carry out pilot projects described in subsection (c);

(2) \$300,000 shall be used by the Secretary to coordinate, publicize, and disseminate the results of the program; and

(3) \$750,000 shall be used to carry out subsection (d).

SEC. 756. REDUCTION OF ENGINE IDLING.

42 USC 16104.

(a) **DEFINITIONS.**—In this section:

(1) **ADMINISTRATOR.**—The term “Administrator” means the Administrator of the Environmental Protection Agency.

(2) **ADVANCED TRUCK STOP ELECTRIFICATION SYSTEM.**—The term “advanced truck stop electrification system” means a stationary system that delivers heat, air conditioning, electricity, or communications, and is capable of providing verifiable and auditable evidence of use of those services, to a heavy-duty vehicle and any occupants of the heavy-duty vehicle with or

without relying on components mounted onboard the heavy-duty vehicle for delivery of those services.

(3) **AUXILIARY POWER UNIT.**—The term “auxiliary power unit” means an integrated system that—

(A) provides heat, air conditioning, engine warming, or electricity to components on a heavy-duty vehicle; and

(B) is certified by the Administrator under part 89 of title 40, Code of Federal Regulations (or any successor regulation), as meeting applicable emission standards.

(4) **HEAVY-DUTY VEHICLE.**—The term “heavy-duty vehicle” means a vehicle that—

(A) has a gross vehicle weight rating greater than 8,500 pounds; and

(B) is powered by a diesel engine.

(5) **IDLE REDUCTION TECHNOLOGY.**—The term “idle reduction technology” means an advanced truck stop electrification system, auxiliary power unit, or other technology that—

(A) is used to reduce long-duration idling; and

(B) allows for the main drive engine or auxiliary refrigeration engine to be shut down.

(6) **ENERGY CONSERVATION TECHNOLOGY.**—the term “energy conservation technology” means any device, system of devices, or equipment that improves the fuel economy.

(7) **LONG-DURATION IDLING.**—

(A) **IN GENERAL.**—The term “long-duration idling” means the operation of a main drive engine or auxiliary refrigeration engine, for a period greater than 15 consecutive minutes, at a time at which the main drive engine is not engaged in gear.

(B) **EXCLUSIONS.**—The term “long-duration idling” does not include the operation of a main drive engine or auxiliary refrigeration engine during a routine stoppage associated with traffic movement or congestion.

(b) **IDLE REDUCTION TECHNOLOGY BENEFITS, PROGRAMS, AND STUDIES.**—

Deadline.

(1) **IN GENERAL.**—Not later than 90 days after the date of enactment of this Act, the Administrator shall—

(A)(i) commence a review of the mobile source air emission models of the Environmental Protection Agency used under the Clean Air Act (42 U.S.C. 7401 et seq.) to determine whether the models accurately reflect the emissions resulting from long-duration idling of heavy-duty vehicles and other vehicles and engines; and

(ii) update those models as the Administrator determines to be appropriate; and

(B)(i) commence a review of the emission reductions achieved by the use of idle reduction technology; and

(ii) complete such revisions of the regulations and guidance of the Environmental Protection Agency as the Administrator determines to be appropriate.

(2) **DEADLINE FOR COMPLETION.**—Not later than 180 days after the date of enactment of this Act, the Administrator shall—

(A) complete the reviews under subparagraphs (A)(i) and (B)(i) of paragraph (1); and

(B) prepare and make publicly available one or more reports on the results of the reviews.

(3) DISCRETIONARY INCLUSIONS.—The reviews under subparagraphs (A)(i) and (B)(i) of paragraph (1) and the reports under paragraph (2)(B) may address the potential fuel savings resulting from use of idle reduction technology.

(4) IDLE REDUCTION AND ENERGY CONSERVATION DEPLOYMENT PROGRAM.—

(A) ESTABLISHMENT.—

(i) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Administrator, in consultation with the Secretary of Transportation shall, through the Environmental Protection Agency’s SmartWay Transport Partnership, establish a program to support deployment of idle reduction and energy conservation technologies. Deadline.

(ii) PRIORITY.—The Administrator shall give priority to the deployment of idle reduction and energy conservation technologies based on the costs and beneficial effects on air quality and ability to lessen the emission of criteria air pollutants.

(B) FUNDING.—

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator to carry out subparagraph (A) for the purpose of reducing extended idling from heavy-duty vehicles \$19,500,000 for fiscal year 2006, \$30,000,000 for fiscal year 2007, and \$45,000,000 for fiscal year 2008.

(ii) LOCOMOTIVES.—There are authorized to be appropriated to the administrator to carry out subparagraph (A) for the purpose of reducing extended idling from locomotives \$10,000,000 for fiscal year 2006, \$15,000,000 for fiscal year 2007, and \$20,000,000 for fiscal year 2008.

(iii) COST SHARING.—Subject to clause (iv), the Administrator shall require at least 50 percent of the costs directly and specifically related to any project under this section to be provided from non-Federal sources.

(iv) NECESSARY AND APPROPRIATE REDUCTIONS.—The Administrator may reduce the non-Federal requirement under clause (iii) if the Administrator determines that the reduction is necessary and appropriate to meet the objectives of this section.

(5) IDLING LOCATION STUDY.—

(A) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Administrator, in consultation with the Secretary of Transportation, shall commence a study to analyze all locations at which heavy-duty vehicles stop for long-duration idling, including— Deadline.

- (i) truck stops;
- (ii) rest areas;
- (iii) border crossings;
- (iv) ports;
- (v) transfer facilities; and
- (vi) private terminals.

(B) DEADLINE FOR COMPLETION.—Not later than 180 days after the date of enactment of this Act, the Administrator shall—

(i) complete the study under subparagraph (A); and

(ii) prepare and make publicly available one or more reports of the results of the study.

(c) VEHICLE WEIGHT EXEMPTION.—Section 127(a) of title 23, United States Code, is amended—

(1) by designating the first through eleventh sentences as paragraphs (1) through (11), respectively; and

(2) by adding at the end the following:

“(12) HEAVY DUTY VEHICLES.—

“(A) IN GENERAL.—Subject to subparagraphs (B) and (C), in order to promote reduction of fuel use and emissions because of engine idling, the maximum gross vehicle weight limit and the axle weight limit for any heavy-duty vehicle equipped with an idle reduction technology shall be increased by a quantity necessary to compensate for the additional weight of the idle reduction system.

“(B) MAXIMUM WEIGHT INCREASE.—The weight increase under subparagraph (A) shall be not greater than 400 pounds.

“(C) PROOF.—On request by a regulatory agency or law enforcement agency, the vehicle operator shall provide proof (through demonstration or certification) that—

“(i) the idle reduction technology is fully functional at all times; and

“(ii) the 400-pound gross weight increase is not used for any purpose other than the use of idle reduction technology described in subparagraph (A).”.

(d) REPORT.—Not later than 60 days after the date on which funds are initially awarded under this section, and on an annual basis thereafter, the Administrator shall submit to Congress a report containing—

(1) an identification of the grant recipients, a description of the projects to be funded and the amount of funding provided; and

(2) an identification of all other applicants that submitted applications under the program.

42 USC 16105.

Deadline.

SEC. 757. BIODIESEL ENGINE TESTING PROGRAM.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall initiate a partnership with diesel engine, diesel fuel injection system, and diesel vehicle manufacturers and diesel and biodiesel fuel providers, to include biodiesel testing in advanced diesel engine and fuel system technology.

(b) SCOPE.—The program shall provide for testing to determine the impact of biodiesel from different sources on current and future emission control technologies, with emphasis on—

(1) the impact of biodiesel on emissions warranty, in-use liability, and antitampering provisions;

(2) the impact of long-term use of biodiesel on engine operations;

(3) the options for optimizing these technologies for both emissions and performance when switching between biodiesel and diesel fuel; and

(4) the impact of using biodiesel in these fueling systems and engines when used as a blend with 2006 Environmental

Protection Agency-mandated diesel fuel containing a maximum of 15-parts-per-million sulfur content.

(c) **REPORT.**—Not later than 2 years after the date of enactment of this Act, the Secretary shall provide an interim report to Congress on the findings of the program, including a comprehensive analysis of impacts from biodiesel on engine operation for both existing and expected future diesel technologies, and recommendations for ensuring optimal emissions reductions and engine performance with biodiesel.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated \$5,000,000 for each of fiscal years 2006 through 2010 to carry out this section.

(e) **DEFINITION.**—For purposes of this section, the term “biodiesel” means a diesel fuel substitute produced from nonpetroleum renewable resources that meets the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545) and that meets the American Society for Testing and Materials D6751–02a Standard Specification for Biodiesel Fuel (B100) Blend Stock for Distillate Fuels.

SEC. 758. ULTRA-EFFICIENT ENGINE TECHNOLOGY FOR AIRCRAFT.

42 USC 16106.

(a) **ULTRA-EFFICIENT ENGINE TECHNOLOGY PARTNERSHIP.**—The Secretary shall enter into a cooperative agreement with the National Aeronautics and Space Administration for the development of ultra-efficient engine technology for aircraft.

Contracts.

(b) **PERFORMANCE OBJECTIVE.**—The Secretary shall establish the following performance objectives for the program set forth in subsection (a):

(1) A fuel efficiency increase of at least 10 percent.

(2) A reduction in the impact of landing and takeoff nitrogen oxides emissions on local air quality of 70 percent.

(3) Exploring advanced concepts, alternate propulsion, and power configurations, including hybrid fuel cell powered systems.

(4) Exploring the use of alternate fuel in conventional or nonconventional turbine-based systems.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary for carrying out this section \$50,000,000 for each of the fiscal years 2006, 2007, 2008, 2009, and 2010.

SEC. 759. FUEL ECONOMY INCENTIVE REQUIREMENTS.

Section 32905 of title 49, United States Code, is amended by adding the following new subsection at the end thereof:

“(h) **FUEL ECONOMY INCENTIVE REQUIREMENTS.**—In order for any model of dual fueled automobile to be eligible to receive the fuel economy incentives included in section 32906(a) and (b), a label shall be attached to the fuel compartment of each dual fueled automobile of that model, notifying that the vehicle can be operated on an alternative fuel and on gasoline or diesel, with the form of alternative fuel stated on the notice. This requirement applies to dual fueled automobiles manufactured on or after September 1, 2006.”.

Applicability.
Effective date.

Subtitle E—Automobile Efficiency

SEC. 771. AUTHORIZATION OF APPROPRIATIONS FOR IMPLEMENTATION AND ENFORCEMENT OF FUEL ECONOMY STANDARDS.

In addition to any other funds authorized by law, there are authorized to be appropriated to the National Highway Traffic Safety Administration to carry out its obligations with respect to average fuel economy standards \$3,500,000 for each of the fiscal years 2006 through 2010.

SEC. 772. EXTENSION OF MAXIMUM FUEL ECONOMY INCREASE FOR ALTERNATIVE FUELED VEHICLES.

(a) MANUFACTURING INCENTIVES.—Section 32905 of title 49, United States Code, is amended—

(1) in each of subsections (b) and (d), by striking “1993–2004” and inserting “1993–2010”;

(2) in subsection (f), by striking “2001” and inserting “2007”; and

(3) in subsection (f)(1), by striking “2004” and inserting “2010”.

(b) MAXIMUM FUEL ECONOMY INCREASE.—Subsection (a)(1) of section 32906 of title 49, United States Code, is amended—

(1) in subparagraph (A), by striking “the model years 1993–2004” and inserting “model years 1993–2010”; and

(2) in subparagraph (B), by striking “the model years 2005–2008” and inserting “model years 2011–2014”.

SEC. 773. STUDY OF FEASIBILITY AND EFFECTS OF REDUCING USE OF FUEL FOR AUTOMOBILES.

Deadline.

(a) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act, the Administrator of the National Highway Traffic Safety Administration shall initiate a study of the feasibility and effects of reducing by model year 2014, by a significant percentage, the amount of fuel consumed by automobiles.

(b) SUBJECTS OF STUDY.—The study under this section shall include—

(1) examination of, and recommendation of alternatives to, the policy under current Federal law of establishing average fuel economy standards for automobiles and requiring each automobile manufacturer to comply with average fuel economy standards that apply to the automobiles it manufactures;

(2) examination of how automobile manufacturers could contribute toward achieving the reduction referred to in subsection (a);

(3) examination of the potential of fuel cell technology in motor vehicles in order to determine the extent to which such technology may contribute to achieving the reduction referred to in subsection (a); and

(4) examination of the effects of the reduction referred to in subsection (a) on—

(A) gasoline supplies;

(B) the automobile industry, including sales of automobiles manufactured in the United States;

(C) motor vehicle safety; and

(D) air quality.

(c) **REPORT.**—The Administrator shall submit to Congress a report on the findings, conclusion, and recommendations of the study under this section by not later than 1 year after the date of the enactment of this Act.

SEC. 774. UPDATE TESTING PROCEDURES.

The Administrator of the Environmental Protection Agency shall update or revise the adjustment factors in sections 600.209–85 and 600.209–95, of the Code of Federal Regulations, CFR Part 600 (1995) Fuel Economy Regulations for 1977 and Later Model Year Automobiles to take into consideration higher speed limits, faster acceleration rates, variations in temperature, use of air conditioning, shorter city test cycle lengths, current reference fuels, and the use of other fuel depleting features.

Subtitle F—Federal and State Procurement

SEC. 781. DEFINITIONS.

42 USC 16121.

In this subtitle:

(1) **FUEL CELL.**—The term “fuel cell” means a device that directly converts the chemical energy of a fuel and an oxidant into electricity by electrochemical processes occurring at separate electrodes in the device.

(2) **LIGHT-DUTY OR HEAVY-DUTY VEHICLE FLEET.**—The term “light-duty or heavy-duty vehicle fleet” does not include any vehicle designed or procured for combat or combat-related missions.

(3) **STATIONARY; PORTABLE.**—The terms “stationary” and “portable”, when used in reference to a fuel cell, include—
(A) continuous electric power; and
(B) backup electric power.

(4) **TASK FORCE.**—The term “Task Force” means the Hydrogen and Fuel Cell Technical Task Force established under section 806 of this Act.

(5) **TECHNICAL ADVISORY COMMITTEE.**—The term “Technical Advisory Committee” means the independent Technical Advisory Committee selected under section 807 of this Act.

SEC. 782. FEDERAL AND STATE PROCUREMENT OF FUEL CELL VEHICLES AND HYDROGEN ENERGY SYSTEMS.

42 USC 16122.

(a) **PURPOSES.**—The purposes of this section are—

(1) to stimulate acceptance by the market of fuel cell vehicles and hydrogen energy systems;

(2) to support development of technologies relating to fuel cell vehicles, public refueling stations, and hydrogen energy systems; and

(3) to require the Federal government, which is the largest single user of energy in the United States, to adopt those technologies as soon as practicable after the technologies are developed, in conjunction with private industry partners.

(b) **FEDERAL LEASES AND PURCHASES.**—

(1) **REQUIREMENT.**—

(A) **IN GENERAL.**—Not later than January 1, 2010, the head of any Federal agency that uses a light-duty or heavy-duty vehicle fleet shall lease or purchase fuel cell vehicles

Deadline.

and hydrogen energy systems to meet any applicable energy savings goal described in subsection (c).

(B) **LEARNING DEMONSTRATION VEHICLES.**—The Secretary may lease or purchase appropriate vehicles developed under subsections (a)(10) and (b)(1)(A) of section 808 to meet the requirement in subparagraph (A).

(2) **COSTS OF LEASES AND PURCHASES.**—

(A) **IN GENERAL.**—The Secretary, in cooperation with the Task Force and the Technical Advisory Committee, shall pay to Federal agencies (or share the cost under interagency agreements) the difference in cost between—

(i) the cost to the agencies of leasing or purchasing fuel cell vehicles and hydrogen energy systems under paragraph (1); and

(ii) the cost to the agencies of a feasible alternative to leasing or purchasing fuel cell vehicles and hydrogen energy systems, as determined by the Secretary.

(B) **COMPETITIVE COSTS AND MANAGEMENT STRUCTURES.**—In carrying out subparagraph (A), the Secretary, in consultation with the agency, may use the General Services Administration or any commercial vendor to ensure—

(i) a cost-effective purchase of a fuel cell vehicle or hydrogen energy system; or

(ii) a cost-effective management structure of the lease of a fuel cell vehicle or hydrogen energy system.

(3) **EXCEPTION.**—

(A) **IN GENERAL.**—If the Secretary determines that the head of an agency described in paragraph (1) cannot find an appropriately efficient and reliable fuel cell vehicle or hydrogen energy system in accordance with paragraph (1), that agency shall be excepted from compliance with paragraph (1).

(B) **CONSIDERATION.**—In making a determination under subparagraph (A), the Secretary shall consider—

(i) the needs of the agency; and

(ii) an evaluation performed by—

(I) the Task Force; or

(II) the Technical Advisory Committee.

(c) **ENERGY SAVINGS GOALS.**—

(1) **IN GENERAL.**—

(A) **REGULATIONS.**—Not later than December 31, 2006, the Secretary shall—

(i) in cooperation with the Task Force, promulgate regulations for the period of 2008 through 2010 that extend and augment energy savings goals for each Federal agency, in accordance with any Executive order issued after March 2000; and

(ii) promulgate regulations to expand the minimum Federal fleet requirement and credit allowances for fuel cell vehicle systems under section 303 of the Energy Policy Act of 1992 (42 U.S.C. 13212).

(B) **REVIEW, EVALUATION, AND NEW REGULATIONS.**—Not later than December 31, 2010, the Secretary shall—

(i) review the regulations promulgated under subparagraph (A);

(ii) evaluate any progress made toward achieving energy savings by Federal agencies; and

Deadlines.

(iii) promulgate new regulations for the period of 2011 through 2015 to achieve additional energy savings by Federal agencies relating to technical and cost-performance standards.

(2) OFFSETTING ENERGY SAVINGS GOALS.—An agency that leases or purchases a fuel cell vehicle or hydrogen energy system in accordance with subsection (b)(1) may use that lease or purchase to count toward an energy savings goal of the agency.

(d) COOPERATIVE PROGRAM WITH STATE AGENCIES.—

(1) IN GENERAL.—The Secretary may establish a cooperative program with State agencies managing motor vehicle fleets to encourage purchase of fuel cell vehicles by the agencies.

(2) INCENTIVES.—In carrying out the cooperative program, the Secretary may offer incentive payments to a State agency to assist with the cost of planning, differential purchases, and administration.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section—

(1) \$15,000,000 for fiscal year 2008;

(2) \$25,000,000 for fiscal year 2009;

(3) \$65,000,000 for fiscal year 2010; and

(4) such sums as are necessary for each of fiscal years 2011 through 2015.

SEC. 783. FEDERAL PROCUREMENT OF STATIONARY, PORTABLE, AND MICRO FUEL CELLS. 42 USC 16123.

(a) PURPOSES.—The purposes of this section are—

(1) to stimulate acceptance by the market of stationary, portable, and micro fuel cells; and

(2) to support development of technologies relating to stationary, portable, and micro fuel cells.

(b) FEDERAL LEASES AND PURCHASES.—

(1) IN GENERAL.—Not later than January 1, 2006, the head of any Federal agency that uses electrical power from stationary, portable, or microportable devices shall lease or purchase a stationary, portable, or micro fuel cell to meet any applicable energy savings goal described in subsection (c). Deadline.

(2) COSTS OF LEASES AND PURCHASES.—

(A) IN GENERAL.—The Secretary, in cooperation with the Task Force and the Technical Advisory Committee, shall pay the cost to Federal agencies (or share the cost under interagency agreements) of leasing or purchasing stationary, portable, and micro fuel cells under paragraph (1).

(B) COMPETITIVE COSTS AND MANAGEMENT STRUCTURES.—In carrying out subparagraph (A), the Secretary, in consultation with the agency, may use the General Services Administration or any commercial vendor to ensure—

(i) a cost-effective purchase of a stationary, portable, or micro fuel cell; or

(ii) a cost-effective management structure of the lease of a stationary, portable, or micro fuel cell.

(3) EXCEPTION.—

(A) IN GENERAL.—If the Secretary determines that the head of an agency described in paragraph (1) cannot find an appropriately efficient and reliable stationary, portable,

or micro fuel cell in accordance with paragraph (1), that agency shall be excepted from compliance with paragraph (1).

(B) CONSIDERATION.—In making a determination under subparagraph (A), the Secretary shall consider—

- (i) the needs of the agency; and
- (ii) an evaluation performed by—
 - (I) the Task Force; or
 - (II) the Technical Advisory Committee of the Task Force.

(c) ENERGY SAVINGS GOALS.—An agency that leases or purchases a stationary, portable, or micro fuel cell in accordance with subsection (b)(1) may use that lease or purchase to count toward an energy savings goal described in section 808 of this Act that is applicable to the agency.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section—

- (1) \$20,000,000 for fiscal year 2006;
- (2) \$50,000,000 for fiscal year 2007;
- (3) \$75,000,000 for fiscal year 2008;
- (4) \$100,000,000 for fiscal year 2009;
- (5) \$100,000,000 for fiscal year 2010; and
- (6) such sums as are necessary for each of fiscal years 2011 through 2015.

Subtitle G—Diesel Emissions Reduction

42 USC 16131.

SEC. 791. DEFINITIONS.

In this subtitle:

(1) ADMINISTRATOR.—The term “Administrator” means the Administrator of the Environmental Protection Agency.

(2) CERTIFIED ENGINE CONFIGURATION.—The term “certified engine configuration” means a new, rebuilt, or remanufactured engine configuration—

(A) that has been certified or verified by—

- (i) the Administrator; or
- (ii) the California Air Resources Board;

(B) that meets or is rebuilt or remanufactured to a more stringent set of engine emission standards, as determined by the Administrator; and

(C) in the case of a certified engine configuration involving the replacement of an existing engine or vehicle, an engine configuration that replaced an engine that was—

- (i) removed from the vehicle; and
- (ii) returned to the supplier for remanufacturing to a more stringent set of engine emissions standards or for scrappage.

(3) ELIGIBLE ENTITY.—The term “eligible entity” means—

(A) a regional, State, local, or tribal agency or port authority with jurisdiction over transportation or air quality; and

(B) a nonprofit organization or institution that—

- (i) represents or provides pollution reduction or educational services to persons or organizations that own or operate diesel fleets; or

(ii) has, as its principal purpose, the promotion of transportation or air quality.

(4) **EMERGING TECHNOLOGY.**—The term “emerging technology” means a technology that is not certified or verified by the Administrator or the California Air Resources Board but for which an approvable application and test plan has been submitted for verification to the Administrator or the California Air Resources Board.

(5) **FLEET.**—The term “fleet” means one or more diesel vehicles or mobile or stationary diesel engines.

(6) **HEAVY-DUTY TRUCK.**—The term “heavy-duty truck” has the meaning given the term “heavy duty vehicle” in section 202 of the Clean Air Act (42 U.S.C. 7521).

(7) **MEDIUM-DUTY TRUCK.**—The term “medium-duty truck” has such meaning as shall be determined by the Administrator, by regulation.

(8) **VERIFIED TECHNOLOGY.**—The term “verified technology” means a pollution control technology, including a retrofit technology, advanced truckstop electrification system, or auxiliary power unit, that has been verified by—

(A) the Administrator; or

(B) the California Air Resources Board.

SEC. 792. NATIONAL GRANT AND LOAN PROGRAMS.

42 USC 16132.

(a) **IN GENERAL.**—The Administrator shall use 70 percent of the funds made available to carry out this subtitle for each fiscal year to provide grants and low-cost revolving loans, as determined by the Administrator, on a competitive basis, to eligible entities to achieve significant reductions in diesel emissions in terms of—

(1) tons of pollution produced; and

(2) diesel emissions exposure, particularly from fleets operating in areas designated by the Administrator as poor air quality areas.

(b) **DISTRIBUTION.**—

(1) **IN GENERAL.**—The Administrator shall distribute funds made available for a fiscal year under this subtitle in accordance with this section.

(2) **FLEETS.**—The Administrator shall provide not less than 50 percent of funds available for a fiscal year under this section to eligible entities for the benefit of public fleets.

(3) **ENGINE CONFIGURATIONS AND TECHNOLOGIES.**—

(A) **CERTIFIED ENGINE CONFIGURATIONS AND VERIFIED TECHNOLOGIES.**—The Administrator shall provide not less than 90 percent of funds available for a fiscal year under this section to eligible entities for projects using—

(i) a certified engine configuration; or

(ii) a verified technology.

(B) **EMERGING TECHNOLOGIES.**—

(i) **IN GENERAL.**—The Administrator shall provide not more than 10 percent of funds available for a fiscal year under this section to eligible entities for the development and commercialization of emerging technologies.

(ii) **APPLICATION AND TEST PLAN.**—To receive funds under clause (i), a manufacturer, in consultation with an eligible entity, shall submit for verification to the Administrator or the California Air Resources Board

a test plan for the emerging technology, together with the application under subsection (c).

(c) APPLICATIONS.—

(1) IN GENERAL.—To receive a grant or loan under this section, an eligible entity shall submit to the Administrator an application at a time, in a manner, and including such information as the Administrator may require.

(2) INCLUSIONS.—An application under this subsection shall include—

(A) a description of the air quality of the area served by the eligible entity;

(B) the quantity of air pollution produced by the diesel fleets in the area served by the eligible entity;

(C) a description of the project proposed by the eligible entity, including—

(i) any certified engine configuration, verified technology, or emerging technology to be used or funded by the eligible entity; and

(ii) the means by which the project will achieve a significant reduction in diesel emissions;

(D) an evaluation (using methodology approved by the Administrator or the National Academy of Sciences) of the quantifiable and unquantifiable benefits of the emissions reductions of the proposed project;

(E) an estimate of the cost of the proposed project;

(F) a description of the age and expected lifetime control of the equipment used or funded by the eligible entity;

(G) a description of the diesel fuel available in the areas to be served by the eligible entity, including the sulfur content of the fuel; and

(H) provisions for the monitoring and verification of the project.

(3) PRIORITY.—In providing a grant or loan under this section, the Administrator shall give priority to proposed projects that, as determined by the Administrator—

(A) maximize public health benefits;

(B) are the most cost-effective;

(C) serve areas—

(i) with the highest population density;

(ii) that are poor air quality areas, including areas identified by the Administrator as—

(I) in nonattainment or maintenance of national ambient air quality standards for a criteria pollutant;

(II) Federal Class I areas; or

(III) areas with toxic air pollutant concerns;

(iii) that receive a disproportionate quantity of air pollution from a diesel fleets, including truckstops, ports, rail yards, terminals, and distribution centers; or

(iv) that use a community-based multistakeholder collaborative process to reduce toxic emissions;

(D) include a certified engine configuration, verified technology, or emerging technology that has a long expected useful life;

(E) will maximize the useful life of any certified engine configuration, verified technology, or emerging technology used or funded by the eligible entity;

(F) conserve diesel fuel; and

(G) use diesel fuel with a sulfur content of less than or equal to 15 parts per million, as the Administrator determines to be appropriate.

(d) USE OF FUNDS.—

(1) IN GENERAL.—An eligible entity may use a grant or loan provided under this section to fund the costs of—

(A) a retrofit technology (including any incremental costs of a repowered or new diesel engine) that significantly reduces emissions through development and implementation of a certified engine configuration, verified technology, or emerging technology for—

(i) a bus;

(ii) a medium-duty truck or a heavy-duty truck;

(iii) a marine engine;

(iv) a locomotive; or

(v) a nonroad engine or vehicle used in—

(I) construction;

(II) handling of cargo (including at a port or airport);

(III) agriculture;

(IV) mining; or

(V) energy production; or

(B) programs or projects to reduce long-duration idling using verified technology involving a vehicle or equipment described in subparagraph (A).

(2) REGULATORY PROGRAMS.—

(A) IN GENERAL.—Notwithstanding paragraph (1), no grant or loan provided under this section shall be used to fund the costs of emissions reductions that are mandated under Federal, State or local law.

(B) MANDATED.—For purposes of subparagraph (A), voluntary or elective emission reduction measures shall not be considered “mandated”, regardless of whether the reductions are included in the State implementation plan of a State.

SEC. 793. STATE GRANT AND LOAN PROGRAMS.

42 USC 16133.

(a) IN GENERAL.—Subject to the availability of adequate appropriations, the Administrator shall use 30 percent of the funds made available for a fiscal year under this subtitle to support grant and loan programs administered by States that are designed to achieve significant reductions in diesel emissions.

(b) APPLICATIONS.—The Administrator shall—

(1) provide to States guidance for use in applying for grant or loan funds under this section, including information regarding—

Guidelines.

(A) the process and forms for applications;

(B) permissible uses of funds received; and

(C) the cost-effectiveness of various emission reduction technologies eligible to be carried out using funds provided under this section; and

(2) establish, for applications described in paragraph (1)—

Procedures.

Deadline.

(A) an annual deadline for submission of the applications;

(B) a process by which the Administrator shall approve or disapprove each application; and

(C) a streamlined process by which a State may renew an application described in paragraph (1) for subsequent fiscal years.

(c) ALLOCATION OF FUNDS.—

(1) IN GENERAL.—For each fiscal year, the Administrator shall allocate among States for which applications are approved by the Administrator under subsection (b)(2)(B) funds made available to carry out this section for the fiscal year.

(2) ALLOCATION.—Using not more than 20 percent of the funds made available to carry out this subtitle for a fiscal year, the Administrator shall provide to each State described in paragraph (1) for the fiscal year an allocation of funds that is equal to—

(A) if each of the 50 States qualifies for an allocation, an amount equal to 2 percent of the funds made available to carry out this section; or

(B) if fewer than 50 States qualifies for an allocation, an amount equal to the amount described in subparagraph (A), plus an additional amount equal to the product obtained by multiplying—

(i) the proportion that—

(I) the population of the State; bears to

(II) the population of all States described in paragraph (1); by

(ii) the amount of funds remaining after each State described in paragraph (1) receives the 2-percent allocation under this paragraph.

(3) STATE MATCHING INCENTIVE.—

(A) IN GENERAL.—If a State agrees to match the allocation provided to the State under paragraph (2) for a fiscal year, the Administrator shall provide to the State for the fiscal year an additional amount equal to 50 percent of the allocation of the State under paragraph (2).

(B) REQUIREMENTS.—A State—

(i) may not use funds received under this subtitle to pay a matching share required under this subsection; and

(ii) shall not be required to provide a matching share for any additional amount received under subparagraph (A).

(4) UNCLAIMED FUNDS.—Any funds that are not claimed by a State for a fiscal year under this subsection shall be used to carry out section 792.

(d) ADMINISTRATION.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3) and, to the extent practicable, the priority areas listed in section 792(c)(3), a State shall use any funds provided under this section to develop and implement such grant and low-cost revolving loan programs in the State as are appropriate to meet State needs and goals relating to the reduction of diesel emissions.

(2) APPORTIONMENT OF FUNDS.—The Governor of a State that receives funding under this section may determine the portion of funds to be provided as grants or loans.

(3) USE OF FUNDS.—A grant or loan provided under this section may be used for a project relating to—

- (A) a certified engine configuration; or
- (B) a verified technology.

SEC. 794. EVALUATION AND REPORT.

42 USC 16134.

(a) IN GENERAL.—Not later than 1 year after the date on which funds are made available under this subtitle, and biennially thereafter, the Administrator shall submit to Congress a report evaluating the implementation of the programs under this subtitle.

(b) INCLUSIONS.—The report shall include a description of—

- (1) the total number of grant applications received;
- (2) each grant or loan made under this subtitle, including the amount of the grant or loan;
- (3) each project for which a grant or loan is provided under this subtitle, including the criteria used to select the grant or loan recipients;
- (4) the actual and estimated air quality and diesel fuel conservation benefits, cost-effectiveness, and cost-benefits of the grant and loan programs under this subtitle;
- (5) the problems encountered by projects for which a grant or loan is provided under this subtitle; and
- (6) any other information the Administrator considers to be appropriate.

SEC. 795. OUTREACH AND INCENTIVES.

42 USC 16135.

(a) DEFINITION OF ELIGIBLE TECHNOLOGY.—In this section, the term “eligible technology” means—

- (1) a verified technology; or
- (2) an emerging technology.

(b) TECHNOLOGY TRANSFER PROGRAM.—

(1) IN GENERAL.—The Administrator shall establish a program under which the Administrator—

- (A) informs stakeholders of the benefits of eligible technologies; and
- (B) develops nonfinancial incentives to promote the use of eligible technologies.

(2) ELIGIBLE STAKEHOLDERS.—Eligible stakeholders under this section include—

- (A) equipment owners and operators;
- (B) emission and pollution control technology manufacturers;
- (C) engine and equipment manufacturers;
- (D) State and local officials responsible for air quality management;
- (E) community organizations; and
- (F) public health, educational, and environmental organizations.

(c) STATE IMPLEMENTATION PLANS.—The Administrator shall develop appropriate guidance to provide credit to a State for emission reductions in the State created by the use of eligible technologies through a State implementation plan under section 110 of the Clean Air Act (42 U.S.C. 7410).

Guidelines.

(d) INTERNATIONAL MARKETS.—The Administrator, in coordination with the Department of Commerce and industry stakeholders,

shall inform foreign countries with air quality problems of the potential of technology developed or used in the United States to provide emission reductions in those countries.

42 USC 16136. **SEC. 796. EFFECT OF SUBTITLE.**

Nothing in this subtitle affects any authority under the Clean Air Act (42 U.S.C. 7401 et seq.) in existence on the day before the date of enactment of this Act.

42 USC 16137. **SEC. 797. AUTHORIZATION OF APPROPRIATIONS.**

There is authorized to be appropriated to carry out this subtitle \$200,000,000 for each of fiscal years 2007 through 2011, to remain available until expended.

Spark M.
Matsunaga
Hydrogen Act of
2005.
42 USC 15801
note.

TITLE VIII—HYDROGEN

SEC. 801. HYDROGEN AND FUEL CELL PROGRAM.

This title may be cited as the “Spark M. Matsunaga Hydrogen Act of 2005”.

42 USC 16151. **SEC. 802. PURPOSES.**

The purposes of this title are—

(1) to enable and promote comprehensive development, demonstration, and commercialization of hydrogen and fuel cell technology in partnership with industry;

(2) to make critical public investments in building strong links to private industry, institutions of higher education, National Laboratories, and research institutions to expand innovation and industrial growth;

(3) to build a mature hydrogen economy that creates fuel diversity in the massive transportation sector of the United States;

(4) to sharply decrease the dependency of the United States on imported oil, eliminate most emissions from the transportation sector, and greatly enhance our energy security; and

(5) to create, strengthen, and protect a sustainable national energy economy.

42 USC 16152. **SEC. 803. DEFINITIONS.**

In this title:

(1) **FUEL CELL.**—The term “fuel cell” means a device that directly converts the chemical energy of a fuel, which is supplied from an external source, and an oxidant into electricity by electrochemical processes occurring at separate electrodes in the device.

(2) **HEAVY-DUTY VEHICLE.**—The term “heavy-duty vehicle” means a motor vehicle that—

(A) is rated at more than 8,500 pounds gross vehicle weight;

(B) has a curb weight of more than 6,000 pounds;

or

(C) has a basic vehicle frontal area in excess of 45 square feet.

(3) **INFRASTRUCTURE.**—The term “infrastructure” means the equipment, systems, or facilities used to produce, distribute, deliver, or store hydrogen (except for onboard storage).

(4) **LIGHT-DUTY VEHICLE.**—The term “light-duty vehicle” means a motor vehicle that is rated at 8,500 or less pounds gross vehicle weight.

(5) **STATIONARY; PORTABLE.**—The terms “stationary” and “portable”, when used in reference to a fuel cell, include—
(A) continuous electric power; and
(B) backup electric power.

(6) **TASK FORCE.**—The term “Task Force” means the Hydrogen and Fuel Cell Technical Task Force established under section 806.

(7) **TECHNICAL ADVISORY COMMITTEE.**—The term “Technical Advisory Committee” means the independent Technical Advisory Committee established under section 807.

SEC. 804. PLAN.

Deadline.
42 USC 16153.

Not later than 6 months after the date of enactment of this Act, the Secretary shall transmit to Congress a coordinated plan for the programs described in this title and any other programs of the Department that are directly related to fuel cells or hydrogen. The plan shall describe, at a minimum—

(1) the agenda for the next 5 years for the programs authorized under this title, including the agenda for each activity enumerated in section 805(e);

(2) the types of entities that will carry out the activities under this title and what role each entity is expected to play;

(3) the milestones that will be used to evaluate the programs for the next 5 years;

(4) the most significant technical and nontechnical hurdles that stand in the way of achieving the goals described in section 805, and how the programs will address those hurdles; and

(5) the policy assumptions that are implicit in the plan, including any assumptions that would affect the sources of hydrogen or the marketability of hydrogen-related products.

SEC. 805. PROGRAMS.

42 USC 16154.

(a) **IN GENERAL.**—The Secretary, in consultation with other Federal agencies and the private sector, shall conduct a research and development program on technologies relating to the production, purification, distribution, storage, and use of hydrogen energy, fuel cells, and related infrastructure.

(b) **GOAL.**—The goal of the program shall be to demonstrate and commercialize the use of hydrogen for transportation (in light-duty vehicles and heavy-duty vehicles), utility, industrial, commercial, and residential applications.

(c) **FOCUS.**—In carrying out activities under this section, the Secretary shall focus on factors that are common to the development of hydrogen infrastructure and the supply of vehicle and electric power for critical consumer and commercial applications, and that achieve continuous technical evolution and cost reduction, particularly for hydrogen production, the supply of hydrogen, storage of hydrogen, and end uses of hydrogen that—

(1) steadily increase production, distribution, and end use efficiency and reduce life-cycle emissions;

(2) resolve critical problems relating to catalysts, membranes, storage, lightweight materials, electronic controls, manufacturability, and other problems that emerge from the program;

(3) enhance sources of renewable fuels and biofuels for hydrogen production; and

(4) enable widespread use of distributed electricity generation and storage.

(d) PUBLIC EDUCATION AND RESEARCH.—In carrying out this section, the Secretary shall support enhanced public education and research conducted at institutions of higher education in fundamental sciences, application design, and systems concepts (including education and research relating to materials, subsystems, manufacturability, maintenance, and safety) relating to hydrogen and fuel cells.

(e) ACTIVITIES.—The Secretary, in partnership with the private sector, shall conduct programs to address—

(1) production of hydrogen from diverse energy sources, including—

(A) fossil fuels, which may include carbon capture and sequestration;

(B) hydrogen-carrier fuels (including ethanol and methanol);

(C) renewable energy resources, including biomass; and

(D) nuclear energy;

(2) use of hydrogen for commercial, industrial, and residential electric power generation;

(3) safe delivery of hydrogen or hydrogen-carrier fuels, including—

(A) transmission by pipeline and other distribution methods; and

(B) convenient and economic refueling of vehicles either at central refueling stations or through distributed onsite generation;

(4) advanced vehicle technologies, including—

(A) engine and emission control systems;

(B) energy storage, electric propulsion, and hybrid systems;

(C) automotive materials; and

(D) other advanced vehicle technologies;

(5) storage of hydrogen or hydrogen-carrier fuels, including development of materials for safe and economic storage in gaseous, liquid, or solid form at refueling facilities and onboard vehicles;

(6) development of safe, durable, affordable, and efficient fuel cells, including fuel-flexible fuel cell power systems, improved manufacturing processes, high-temperature membranes, cost-effective fuel processing for natural gas, fuel cell stack and system reliability, low temperature operation, and cold start capability; and

(7) the ability of domestic automobile manufacturers to manufacture commercially available competitive hybrid vehicle technologies in the United States.

(f) PROGRAM GOALS.—

(1) VEHICLES.—For vehicles, the goals of the program are—

(A) to enable a commitment by automakers no later than year 2015 to offer safe, affordable, and technically viable hydrogen fuel cell vehicles in the mass consumer market; and

(B) to enable production, delivery, and acceptance by consumers of model year 2020 hydrogen fuel cell and other

hydrogen-powered vehicles that will have, when compared to light duty vehicles in model year 2005—

- (i) fuel economy that is substantially higher;
- (ii) substantially lower emissions of air pollutants;

and

- (iii) equivalent or improved vehicle fuel system crash integrity and occupant protection.

(2) HYDROGEN ENERGY AND ENERGY INFRASTRUCTURE.—For hydrogen energy and energy infrastructure, the goals of the program are to enable a commitment not later than 2015 that will lead to infrastructure by 2020 that will provide—

- (A) safe and convenient refueling;
- (B) improved overall efficiency;
- (C) widespread availability of hydrogen from domestic energy sources through—

- (i) production, with consideration of emissions levels;

- (ii) delivery, including transmission by pipeline and other distribution methods for hydrogen; and

- (iii) storage, including storage in surface transportation vehicles;

- (D) hydrogen for fuel cells, internal combustion engines, and other energy conversion devices for portable, stationary, micro, critical needs facilities, and transportation applications; and

- (E) other technologies consistent with the Department's plan.

(3) FUEL CELLS.—The goals for fuel cells and their portable, stationary, and transportation applications are to enable—

- (A) safe, economical, and environmentally sound hydrogen fuel cells;

- (B) fuel cells for light duty and other vehicles; and

- (C) other technologies consistent with the Department's plan.

(g) FUNDING.—

(1) IN GENERAL.—The Secretary shall carry out the programs under this section using a competitive, merit-based review process and consistent with the generally applicable Federal laws and regulations governing awards of financial assistance, contracts, or other agreements.

(2) RESEARCH CENTERS.—Activities under this section may be carried out by funding nationally recognized university-based or Federal laboratory research centers.

(h) HYDROGEN SUPPLY.—There are authorized to be appropriated to carry out projects and activities relating to hydrogen production, storage, distribution and dispensing, transport, education and coordination, and technology transfer under this section—

- (1) \$160,000,000 for fiscal year 2006;

- (2) \$200,000,000 for fiscal year 2007;

- (3) \$220,000,000 for fiscal year 2008;

- (4) \$230,000,000 for fiscal year 2009;

- (5) \$250,000,000 for fiscal year 2010; and

- (6) such sums as are necessary for each of fiscal years 2011 through 2020.

(i) **FUEL CELL TECHNOLOGIES.**—There are authorized to be appropriated to carry out projects and activities relating to fuel cell technologies under this section—

- (1) \$150,000,000 for fiscal year 2006;
- (2) \$160,000,000 for fiscal year 2007;
- (3) \$170,000,000 for fiscal year 2008;
- (4) \$180,000,000 for fiscal year 2009;
- (5) \$200,000,000 for fiscal year 2010; and
- (6) such sums as are necessary for each of fiscal years 2011 through 2020.

42 USC 16155.

SEC. 806. HYDROGEN AND FUEL CELL TECHNICAL TASK FORCE.

Deadline.
President.

(a) **ESTABLISHMENT.**—Not later than 120 days after the date of enactment of this Act, the President shall establish an inter-agency task force chaired by the Secretary with representatives from each of the following:

- (1) The Office of Science and Technology Policy within the Executive Office of the President.
- (2) The Department of Transportation.
- (3) The Department of Defense.
- (4) The Department of Commerce (including the National Institute of Standards and Technology).
- (5) The Department of State.
- (6) The Environmental Protection Agency.
- (7) The National Aeronautics and Space Administration.
- (8) Other Federal agencies as the Secretary determines appropriate.

(b) **DUTIES.**—

(1) **PLANNING.**—The Task Force shall work toward—

(A) a safe, economical, and environmentally sound fuel infrastructure for hydrogen and hydrogen-carrier fuels, including an infrastructure that supports buses and other fleet transportation;

(B) fuel cells in government and other applications, including portable, stationary, and transportation applications;

(C) distributed power generation, including the generation of combined heat, power, and clean fuels including hydrogen;

(D) uniform hydrogen codes, standards, and safety protocols; and

(E) vehicle hydrogen fuel system integrity safety performance.

(2) **ACTIVITIES.**—The Task Force may organize workshops and conferences, may issue publications, and may create databases to carry out its duties. The Task Force shall—

(A) foster the exchange of generic, nonproprietary information and technology among industry, academia, and government;

(B) develop and maintain an inventory and assessment of hydrogen, fuel cells, and other advanced technologies, including the commercial capability of each technology for the economic and environmentally safe production, distribution, delivery, storage, and use of hydrogen;

(C) integrate technical and other information made available as a result of the programs and activities under this title;

(D) promote the marketplace introduction of infrastructure for hydrogen fuel vehicles; and

(E) conduct an education program to provide hydrogen and fuel cell information to potential end-users.

(c) AGENCY COOPERATION.—The heads of all agencies, including those whose agencies are not represented on the Task Force, shall cooperate with and furnish information to the Task Force, the Technical Advisory Committee, and the Department.

SEC. 807. TECHNICAL ADVISORY COMMITTEE.

42 USC 16156.

(a) ESTABLISHMENT.—The Hydrogen Technical and Fuel Cell Advisory Committee is established to advise the Secretary on the programs and activities under this title.

(b) MEMBERSHIP.—

(1) MEMBERS.—The Technical Advisory Committee shall be comprised of not fewer than 12 nor more than 25 members. The members shall be appointed by the Secretary to represent domestic industry, academia, professional societies, government agencies, Federal laboratories, previous advisory panels, and financial, environmental, and other appropriate organizations based on the Department's assessment of the technical and other qualifications of Technical Advisory Committee members and the needs of the Technical Advisory Committee.

(2) TERMS.—The term of a member of the Technical Advisory Committee shall not be more than 3 years. The Secretary may appoint members of the Technical Advisory Committee in a manner that allows the terms of the members serving at any time to expire at spaced intervals so as to ensure continuity in the functioning of the Technical Advisory Committee. A member of the Technical Advisory Committee whose term is expiring may be reappointed.

(3) CHAIRPERSON.—The Technical Advisory Committee shall have a chairperson, who shall be elected by the members from among their number.

(c) REVIEW.—The Technical Advisory Committee shall review and make recommendations to the Secretary on—

(1) the implementation of programs and activities under this title;

(2) the safety, economical, and environmental consequences of technologies for the production, distribution, delivery, storage, or use of hydrogen energy and fuel cells; and

(3) the plan under section 804.

(d) RESPONSE.—

(1) CONSIDERATION OF RECOMMENDATIONS.—The Secretary shall consider, but need not adopt, any recommendations of the Technical Advisory Committee under subsection (c).

(2) BIENNIAL REPORT.—The Secretary shall transmit a biennial report to Congress describing any recommendations made by the Technical Advisory Committee since the previous report. The report shall include a description of how the Secretary has implemented or plans to implement the recommendations, or an explanation of the reasons that a recommendation will not be implemented. The report shall be transmitted along with the President's budget proposal.

(e) SUPPORT.—The Secretary shall provide resources necessary in the judgment of the Secretary for the Technical Advisory Committee to carry out its responsibilities under this title.

42 USC 16157.

SEC. 808. DEMONSTRATION.

(a) **IN GENERAL.**—In carrying out the programs under this section, the Secretary shall fund a limited number of demonstration projects, consistent with this title and a determination of the maturity, cost-effectiveness, and environmental impacts of technologies supporting each project. In selecting projects under this subsection, the Secretary shall, to the extent practicable and in the public interest, select projects that—

(1) involve using hydrogen and related products at existing facilities or installations, such as existing office buildings, military bases, vehicle fleet centers, transit bus authorities, or units of the National Park System;

(2) depend on reliable power from hydrogen to carry out essential activities;

(3) lead to the replication of hydrogen technologies and draw such technologies into the marketplace;

(4) include vehicle, portable, and stationary demonstrations of fuel cell and hydrogen-based energy technologies;

(5) address the interdependency of demand for hydrogen fuel cell applications and hydrogen fuel infrastructure;

(6) raise awareness of hydrogen technology among the public;

(7) facilitate identification of an optimum technology among competing alternatives;

(8) address distributed generation using renewable sources;

(9) carry out demonstrations of evolving hydrogen and fuel cell technologies in national parks, remote island areas, and on Indian tribal land, as selected by the Secretary;

(10) carry out a program to demonstrate developmental hydrogen and fuel cell systems for mobile, portable, and stationary uses, using improved versions of the learning demonstrations program concept of the Department including demonstrations involving—

(A) light-duty vehicles;

(B) heavy-duty vehicles;

(C) fleet vehicles;

(D) specialty industrial and farm vehicles; and

(E) commercial and residential portable, continuous, and backup electric power generation;

(11) in accordance with any code or standards developed in a region, fund prototype, pilot fleet, and infrastructure regional hydrogen supply corridors along the interstate highway system in varied climates across the United States; and

(12) fund demonstration programs that explore the use of hydrogen blends, hybrid hydrogen, and hydrogen reformed from renewable agricultural fuels, including the use of hydrogen in hybrid electric, heavier duty, and advanced internal combustion-powered vehicles.

The Secretary shall give preference to projects which address multiple elements contained in paragraphs (1) through (12).

(b) **SYSTEM DEMONSTRATIONS.**—

(1) **IN GENERAL.**—As a component of the demonstration program under this section, the Secretary shall provide grants, on a cost share basis as appropriate, to eligible entities (as determined by the Secretary) for use in—

Grants.

(A) devising system design concepts that provide for the use of advanced composite vehicles in programs under section 782 that—

(i) have as a primary goal the reduction of drive energy requirements;

(ii) after 2010, add another research and development phase, as defined in subsection (c), including the vehicle and infrastructure partnerships developed under the learning demonstrations program concept of the Department; and

(iii) are managed through an enhanced FreedomCAR program within the Department that encourages involvement in cost-shared projects by manufacturers and governments; and

(B) designing a local distributed energy system that—

(i) incorporates renewable hydrogen production, off-grid electricity production, and fleet applications in industrial or commercial service;

(ii) integrates energy or applications described in clause (i), such as stationary, portable, micro, and mobile fuel cells, into a high-density commercial or residential building complex or agricultural community; and

(iii) is managed in cooperation with industry, State, tribal, and local governments, agricultural organizations, and nonprofit generators and distributors of electricity.

(c) IDENTIFICATION OF NEW PROGRAM REQUIREMENTS.—In carrying out the demonstrations under subsection (a), the Secretary, in consultation with the Task Force and the Technical Advisory Committee, shall—

(1) after 2008 for stationary and portable applications, and after 2010 for vehicles, identify new requirements that refine technological concepts, planning, and applications; and

(2) during the second phase of the learning demonstrations under subsection (b)(1)(A)(ii), redesign subsequent program work to incorporate those requirements.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) \$185,000,000 for fiscal year 2006;

(2) \$200,000,000 for fiscal year 2007;

(3) \$250,000,000 for fiscal year 2008;

(4) \$300,000,000 for fiscal year 2009;

(5) \$375,000,000 for fiscal year 2010; and

(6) such sums as are necessary for each of fiscal years 2011 through 2020.

SEC. 809. CODES AND STANDARDS.

42 USC 16158.

(a) IN GENERAL.—The Secretary, in cooperation with the Task Force, shall provide grants to, or offer to enter into contracts with, such professional organizations, public service organizations, and government agencies as the Secretary determines appropriate to support timely and extensive development of safety codes and standards relating to fuel cell vehicles, hydrogen energy systems, and stationary, portable, and micro fuel cells.

Grants.
Contracts.

(b) **EDUCATIONAL EFFORTS.**—The Secretary shall support educational efforts by organizations and agencies described in subsection (a) to share information, including information relating to best practices, among those organizations and agencies.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out this section—

- (1) \$4,000,000 for fiscal year 2006;
- (2) \$7,000,000 for fiscal year 2007;
- (3) \$8,000,000 for fiscal year 2008;
- (4) \$10,000,000 for fiscal year 2009;
- (5) \$9,000,000 for fiscal year 2010; and
- (6) such sums as are necessary for each of fiscal years 2011 through 2020.

Applicability.
42 USC 16159.

SEC. 810. DISCLOSURE.

Section 623 of the Energy Policy Act of 1992 (42 U.S.C. 13293) shall apply to any project carried out through a grant, cooperative agreement, or contract under this title.

42 USC 16160.

SEC. 811. REPORTS.

(a) **SECRETARY.**—Subject to subsection (c), not later than 2 years after the date of enactment of this Act, and triennially thereafter, the Secretary shall submit to Congress a report describing—

- (1) activities carried out by the Department under this title, for hydrogen and fuel cell technology;
- (2) measures the Secretary has taken during the preceding 3 years to support the transition of primary industry (or a related industry) to a fully commercialized hydrogen economy;
- (3) any change made to the strategy relating to hydrogen and fuel cell technology to reflect the results of a learning demonstrations;
- (4) progress, including progress in infrastructure, made toward achieving the goal of producing and deploying not less than—

(A) 100,000 hydrogen-fueled vehicles in the United States by 2010; and

(B) 2,500,000 hydrogen-fueled vehicles in the United States by 2020;

(5) progress made toward achieving the goal of supplying hydrogen at a sufficient number of fueling stations in the United States by 2010 including by integrating—

(A) hydrogen activities; and

(B) associated targets and timetables for the development of hydrogen technologies;

(6) any problem relating to the design, execution, or funding of a program under this title;

(7) progress made toward and goals achieved in carrying out this title and updates to the developmental roadmap, including the results of the reviews conducted by the National Academy of Sciences under subsection (b) for the fiscal years covered by the report; and

(8) any updates to strategic plans that are necessary to meet the goals described in paragraph (4).

Deadlines.

(b) **EXTERNAL REVIEW.**—The Secretary shall enter into an arrangement with the National Academy of Sciences under which the Academy will review the programs under sections 805 and 808 every fourth year following the date of enactment of this Act. The Academy's review shall include the program priorities and

technical milestones, and evaluate the progress toward achieving them. The first review shall be completed not later than 5 years after the date of enactment of this Act. Not later than 45 days after receiving the review, the Secretary shall transmit the review to Congress along with a plan to implement the review's recommendations or an explanation for the reasons that a recommendation will not be implemented.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this section \$1,500,000 for each of fiscal years 2006 through 2020.

SEC. 812. SOLAR AND WIND TECHNOLOGIES.

42 USC 16161.

(a) **SOLAR ENERGY TECHNOLOGIES.**—The Secretary shall—

(1) prepare a detailed roadmap for carrying out the provisions in this title related to solar energy technologies and for implementing the recommendations related to solar energy technologies that are included in the report transmitted under subsection (e);

(2) provide for the establishment of 5 projects in geographic areas that are regionally and climatically diverse to demonstrate the production of hydrogen at solar energy facilities, including one demonstration project at a National Laboratory or institution of higher education;

(3) establish a program—

(A) to develop optimized concentrating solar power devices that may be used for the production of both electricity and hydrogen; and

(B) to evaluate the use of thermochemical cycles for hydrogen production at the temperatures attainable with concentrating solar power devices;

(4) coordinate with activities sponsored by the Department's Office of Nuclear Energy, Science, and Technology on high-temperature materials, thermochemical cycles, and economic issues related to solar energy;

(5) provide for the construction and operation of new concentrating solar power devices or solar power cogeneration facilities that produce hydrogen either concurrently with, or independently of, the production of electricity;

(6) support existing facilities and programs of study related to concentrating solar power devices; and

(7) establish a program—

(A) to develop methods that use electricity from photovoltaic devices for the onsite production of hydrogen, such that no intermediate transmission or distribution infrastructure is required or used and future demand growth may be accommodated;

(B) to evaluate the economics of small-scale electrolysis for hydrogen production; and

(C) to study the potential of modular photovoltaic devices for the development of a hydrogen infrastructure, the security implications of a hydrogen infrastructure, and the benefits potentially derived from a hydrogen infrastructure.

(b) **WIND ENERGY TECHNOLOGIES.**—The Secretary shall—

(1) prepare a detailed roadmap for carrying out the provisions in this title related to wind energy technologies and for implementing the recommendations related to wind energy

technologies that are included in the report transmitted under subsection (e); and

(2) provide for the establishment of 5 projects in geographic areas that are regionally and climatically diverse to demonstrate the production of hydrogen at existing wind energy facilities, including one demonstration project at a National Laboratory or institution of higher education.

(c) PROGRAM SUPPORT.—The Secretary shall support programs at institutions of higher education for the development of solar energy technologies and wind energy technologies for the production of hydrogen. The programs supported under this subsection shall—

(1) enhance fellowship and faculty assistance programs;

(2) provide support for fundamental research;

(3) encourage collaborative research among industry, National Laboratories, and institutions of higher education;

(4) support communication and outreach; and

(5) to the greatest extent possible—

(A) be located in geographic areas that are regionally and climatically diverse; and

(B) be located at part B institutions, minority institutions, and institutions of higher education located in States participating in the Experimental Program to Stimulate Competitive Research of the Department.

(d) INSTITUTIONS OF HIGHER EDUCATION AND NATIONAL LABORATORY INTERACTIONS.—In conjunction with the programs supported under this section, the Secretary shall develop sabbatical, fellowship, and visiting scientist programs to encourage National Laboratories and institutions of higher education to share and exchange personnel.

(e) REPORT.—The Secretary shall transmit to the Congress not later than 120 days after the date of enactment of this Act a report containing detailed summaries of the roadmaps prepared under subsections (a)(1) and (b)(1), descriptions of the Secretary's progress in establishing the projects and other programs required under this section, and recommendations for promoting the availability of advanced solar and wind energy technologies for the production of hydrogen.

(f) DEFINITIONS.—For purposes of this section—

(1) the term “concentrating solar power devices” means devices that concentrate the power of the sun by reflection or refraction to improve the efficiency of a photovoltaic or thermal generation process;

(2) the term “minority institution” has the meaning given to that term in section 365 of the Higher Education Act of 1965 (20 U.S.C. 1067k);

(3) the term “part B institution” has the meaning given to that term in section 322 of the Higher Education Act of 1965 (20 U.S.C. 1061); and

(4) the term “photovoltaic devices” means devices that convert light directly into electricity through a solid-state, semiconductor process.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as are necessary for carrying out the activities under this section for each of fiscal years 2006 through 2020.

SEC. 813. TECHNOLOGY TRANSFER.

42 USC 16162.

In carrying out this title, the Secretary shall carry out programs that—

- (1) provide for the transfer of critical hydrogen and fuel cell technologies to the private sector;
- (2) accelerate wider application of those technologies in the global market;
- (3) foster the exchange of generic, nonproprietary information; and
- (4) assess technical and commercial viability of technologies relating to the production, distribution, storage, and use of hydrogen energy and fuel cells.

SEC. 814. MISCELLANEOUS PROVISIONS.

42 USC 16163.

(a) REPRESENTATION.—The Secretary may represent the United States interests with respect to activities and programs under this title, in coordination with the Department of Transportation, the National Institute of Standards and Technology, and other relevant Federal agencies, before governments and nongovernmental organizations including—

- (1) other Federal, State, regional, and local governments and their representatives;
- (2) industry and its representatives, including members of the energy and transportation industries; and
- (3) in consultation with the Department of State, foreign governments and their representatives including international organizations.

(b) REGULATORY AUTHORITY.—Nothing in this title shall be construed to alter the regulatory authority of the Department.

SEC. 815. COST SHARING.

42 USC 16164.

The costs of carrying out projects and activities under this title shall be shared in accordance with section 988.

SEC. 816. SAVINGS CLAUSE.

42 USC 16165.

Nothing in this title shall be construed to affect the authority of the Secretary of Transportation that may exist prior to the date of enactment of this Act with respect to—

- (1) research into, and regulation of, hydrogen-powered vehicles fuel systems integrity, standards, and safety under subtitle VI of title 49, United States Code;
- (2) regulation of hazardous materials transportation under chapter 51 of title 49, United States Code;
- (3) regulation of pipeline safety under chapter 601 of title 49, United States Code;
- (4) encouragement and promotion of research, development, and deployment activities relating to advanced vehicle technologies under section 5506 of title 49, United States Code;
- (5) regulation of motor vehicle safety under chapter 301 of title 49, United States Code;
- (6) automobile fuel economy under chapter 329 of title 49, United States Code; or
- (7) representation of the interests of the United States with respect to the activities and programs under the authority of title 49, United States Code.

Energy Research,
Development,
Demonstration,
and Commercial
Application Act
of 2005.
42 USC 15801
note.

TITLE IX—RESEARCH AND DEVELOPMENT

SEC. 901. SHORT TITLE.

This title may be cited as the “Energy Research, Development, Demonstration, and Commercial Application Act of 2005”.

42 USC 16181.

SEC. 902. GOALS.

(a) IN GENERAL.—In order to achieve the purposes of this title, the Secretary shall conduct a balanced set of programs of energy research, development, demonstration, and commercial application with the general goals of—

- (1) increasing the efficiency of all energy intensive sectors through conservation and improved technologies;
- (2) promoting diversity of energy supply;
- (3) decreasing the dependence of the United States on foreign energy supplies;
- (4) improving the energy security of the United States; and
- (5) decreasing the environmental impact of energy-related activities.

Publication.

(b) GOALS.—The Secretary shall publish measurable cost and performance-based goals, comparable over time, with each annual budget submission in at least the following areas:

- (1) Energy efficiency for buildings, energy-consuming industries, and vehicles.
- (2) Electric energy generation (including distributed generation), transmission, and storage.
- (3) Renewable energy technologies, including wind power, photovoltaics, solar thermal systems, geothermal energy, hydrogen-fueled systems, biomass-based systems, biofuels, and hydropower.
- (4) Fossil energy, including power generation, onshore and offshore oil and gas resource recovery, and transportation fuels.
- (5) Nuclear energy, including programs for existing and advanced reactors, and education of future specialists.

(c) PUBLIC COMMENT.—The Secretary shall provide mechanisms for input on the annually published goals from industry, institutions of higher education, and other public sources.

(d) EFFECT OF GOALS.—Nothing in subsection (a) or the annually published goals creates any new authority for any Federal agency, or may be used by any Federal agency, to support the establishment of regulatory standards or regulatory requirements.

42 USC 16182.

SEC. 903. DEFINITIONS.

In this title:

(1) DEPARTMENTAL MISSION.—The term “departmental mission” means any of the functions vested in the Secretary by the Department of Energy Organization Act (42 U.S.C. 7101 et seq.) or other law.

(2) HISPANIC-SERVING INSTITUTION.—The term “Hispanic-serving institution” has the meaning given the term in section 502(a) of the Higher Education Act of 1965 (20 U.S.C. 1101a(a)).

(3) NONMILITARY ENERGY LABORATORY.—The term “non-military energy laboratory” means a National Laboratory other

than a National Laboratory listed in subparagraph (G), (H), or (N) of section 2(3).

(4) PART B INSTITUTION.—The term “part B institution” has the meaning given the term in section 322 of the Higher Education Act of 1965 (20 U.S.C. 1061).

(5) SINGLE-PURPOSE RESEARCH FACILITY.—The term “single-purpose research facility” means—

(A) any of the primarily single-purpose entities owned by the Department; or

(B) any other organization of the Department designated by the Secretary.

(6) UNIVERSITY.—The term “university” has the meaning given the term “institution of higher education” in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

Subtitle A—Energy Efficiency

SEC. 911. ENERGY EFFICIENCY.

42 USC 16191.

(a) IN GENERAL.—

(1) OBJECTIVES.—The Secretary shall conduct programs of energy efficiency research, development, demonstration, and commercial application, including activities described in this subtitle. Such programs shall take into consideration the following objectives:

(A) Increasing the energy efficiency of vehicles, buildings, and industrial processes.

(B) Reducing the demand of the United States for energy, especially energy from foreign sources.

(C) Reducing the cost of energy and making the economy more efficient and competitive.

(D) Improving the energy security of the United States.

(E) Reducing the environmental impact of energy-related activities.

(2) PROGRAMS.—Programs under this subtitle shall include research, development, demonstration, and commercial application of—

(A) advanced, cost-effective technologies to improve the energy efficiency and environmental performance of vehicles, including—

(i) hybrid and electric propulsion systems;

(ii) plug-in hybrid systems;

(iii) advanced combustion engines;

(iv) weight and drag reduction technologies;

(v) whole-vehicle design optimization; and

(vi) advanced drive trains;

(B) cost-effective technologies, for new construction and retrofit, to improve the energy efficiency and environmental performance of buildings, using a whole-buildings approach, including onsite renewable energy generation;

(C) advanced technologies to improve the energy efficiency, environmental performance, and process efficiency of energy-intensive and waste-intensive industries; and

(D) advanced control devices to improve the energy efficiency of electric motors, including those used in industrial processes, heating, ventilation, and cooling.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary to carry out energy efficiency and conservation research, development, demonstration, and commercial application activities, including activities authorized under this subtitle—

- (1) \$783,000,000 for fiscal year 2007;
- (2) \$865,000,000 for fiscal year 2008; and
- (3) \$952,000,000 for fiscal year 2009.

(c) **ALLOCATIONS.**—From amounts authorized under subsection (b), the following sums are authorized:

- (1) For activities under section 912, \$50,000,000 for each of fiscal years 2007 through 2009.
- (2) For activities under section 915, \$7,000,000 for each of fiscal years 2007 through 2009.

(3) For activities under subsection (a)(2)(A)—

- (A) \$200,000,000 for fiscal year 2007;
- (B) \$270,000,000 for fiscal year 2008; and
- (C) \$310,000,000 for fiscal year 2009.

(4) For activities under subsection (a)(2)(D), \$2,000,000 for each of fiscal years 2007 and 2008.

(d) **EXTENDED AUTHORIZATION.**—There are authorized to be appropriated to the Secretary to carry out section 912 \$50,000,000 for each of fiscal years 2010 through 2013.

(e) **LIMITATIONS.**—None of the funds authorized to be appropriated under this section may be used for—

- (1) the issuance or implementation of energy efficiency regulations;
- (2) the weatherization program established under part A of title IV of the Energy Conservation and Production Act (42 U.S.C. 6861 et seq.);
- (3) a State energy conservation plan established under part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.); or
- (4) a Federal energy management measure carried out under part 3 of title V of the National Energy Conservation Policy Act (42 U.S.C. 8251 et seq.).

42 USC 16192.

SEC. 912. NEXT GENERATION LIGHTING INITIATIVE.

(a) **DEFINITIONS.**—In this section:

(1) **ADVANCED SOLID-STATE LIGHTING.**—The term “advanced solid-state lighting” means a semiconducting device package and delivery system that produces white light using externally applied voltage.

(2) **INDUSTRY ALLIANCE.**—The term “Industry Alliance” means an entity selected by the Secretary under subsection (d).

(3) **INITIATIVE.**—The term “Initiative” means the Next Generation Lighting Initiative carried out under this section.

(4) **RESEARCH.**—The term “research” includes research on the technologies, materials, and manufacturing processes required for white light emitting diodes.

(5) **WHITE LIGHT EMITTING DIODE.**—The term “white light emitting diode” means a semiconducting package, using either organic or inorganic materials, that produces white light using externally applied voltage.

(b) **INITIATIVE.**—The Secretary shall carry out a Next Generation Lighting Initiative in accordance with this section to support

research, development, demonstration, and commercial application activities related to advanced solid-state lighting technologies based on white light emitting diodes.

(c) OBJECTIVES.—The objectives of the Initiative shall be to develop advanced solid-state organic and inorganic lighting technologies based on white light emitting diodes that, compared to incandescent and fluorescent lighting technologies, are longer lasting, are more energy-efficient and cost-competitive, and have less environmental impact.

(d) INDUSTRY ALLIANCE.—Not later than 90 days after the date of enactment of this Act, the Secretary shall competitively select an Industry Alliance to represent participants who are private, for-profit firms, open to large and small businesses, that, as a group, are broadly representative of United States solid-state lighting research, development, infrastructure, and manufacturing expertise as a whole.

Deadline.

(e) RESEARCH.—

(1) GRANTS.—The Secretary shall carry out the research activities of the Initiative through competitively awarded grants to—

- (A) researchers, including Industry Alliance participants;
- (B) small businesses;
- (C) National Laboratories; and
- (D) institutions of higher education.

(2) INDUSTRY ALLIANCE.—The Secretary shall annually solicit from the Industry Alliance—

- (A) comments to identify solid-state lighting technology needs;
- (B) an assessment of the progress of the research activities of the Initiative; and
- (C) assistance in annually updating solid-state lighting technology roadmaps.

(3) AVAILABILITY TO PUBLIC.—The information and roadmaps under paragraph (2) shall be available to the public.

(f) DEVELOPMENT, DEMONSTRATION, AND COMMERCIAL APPLICATION.—

Grants.

(1) IN GENERAL.—The Secretary shall carry out a development, demonstration, and commercial application program for the Initiative through competitively selected awards.

(2) PREFERENCE.—In making the awards, the Secretary may give preference to participants in the Industry Alliance.

(g) COST SHARING.—In carrying out this section, the Secretary shall require cost sharing in accordance with section 988.

(h) INTELLECTUAL PROPERTY.—The Secretary may require (in accordance with section 202(a)(ii) of title 35, United States Code, section 152 of the Atomic Energy Act of 1954 (42 U.S.C. 2182), and section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5908)) that for any new invention developed under subsection (e)—

- (1) that the Industry Alliance participants who are active participants in research, development, and demonstration activities related to the advanced solid-state lighting technologies that are covered by this section shall be granted the first option to negotiate with the invention owner, at least in the field of solid-state lighting, nonexclusive licenses and royalties on terms that are reasonable under the circumstances;

(2)(A) that, for 1 year after a United States patent is issued for the invention, the patent holder shall not negotiate any license or royalty with any entity that is not a participant in the Industry Alliance described in paragraph (1); and

(B) that, during the year described in subparagraph (A), the patent holder shall negotiate nonexclusive licenses and royalties in good faith with any interested participant in the Industry Alliance described in paragraph (1); and

(3) such other terms as the Secretary determines are required to promote accelerated commercialization of inventions made under the Initiative.

(i) NATIONAL ACADEMY REVIEW.—The Secretary shall enter into an arrangement with the National Academy of Sciences to conduct periodic reviews of the Initiative.

42 USC 16193.

SEC. 913. NATIONAL BUILDING PERFORMANCE INITIATIVE.

(a) INTERAGENCY GROUP.—

Deadline.
Establishment.

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Director of the Office of Science and Technology Policy shall establish an interagency group to develop, in coordination with the advisory committee established under subsection (e), a National Building Performance Initiative (referred to in this section as the “Initiative”).

(2) COCHAIRS.—The interagency group shall be co-chaired by appropriate officials of the Department and the Department of Commerce, who shall jointly arrange for the provision of necessary administrative support to the group.

(b) INTEGRATION OF EFFORTS.—The Initiative shall integrate Federal, State, and voluntary private sector efforts to reduce the costs of construction, operation, maintenance, and renovation of commercial, industrial, institutional, and residential buildings.

(c) PLAN.—

Deadline.

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the interagency group shall submit to Congress a plan for carrying out the appropriate Federal role in the Initiative.

(2) INCLUSIONS.—The plan shall include—

(A) research, development, demonstration, and commercial application of energy technology systems and materials for new construction and retrofit relating to the building envelope and building system components;

(B) research, development, demonstration, and commercial application of energy technology and infrastructure enabling the energy efficient, automated operation of buildings and building equipment; and

(C) the collection, analysis, and dissemination of research results and other pertinent information on enhancing building performance to industry, government entities, and the public.

(d) DEPARTMENT OF ENERGY ROLE.—Within the Federal portion of the Initiative, the Department shall be the lead agency for all aspects of building performance related to use and conservation of energy.

Establishment.

(e) ADVISORY COMMITTEE.—The Director of the Office of Science and Technology Policy shall establish an advisory committee to—

(1) analyze and provide recommendations on potential private sector roles and participation in the Initiative; and

(2) review and provide recommendations on the plan described in subsection (c).

(f) ADMINISTRATION.—Nothing in this section provides any Federal agency with new authority to regulate building performance.

SEC. 914. BUILDING STANDARDS.

42 USC 16194.

(a) DEFINITION OF HIGH PERFORMANCE BUILDING.—In this section, the term “high performance building” means a building that integrates and optimizes all major high-performance building attributes, including energy efficiency, durability, life-cycle performance, and occupant productivity.

(b) ASSESSMENT.—Not later than 120 days after the date of enactment of this Act, the Secretary shall enter into an agreement with the National Institute of Building Sciences to—

Deadline.
Contracts.

(1) conduct an assessment (in cooperation with industry, standards development organizations, and other entities, as appropriate) of whether the current voluntary consensus standards and rating systems for high performance buildings are consistent with the current technological state of the art, including relevant results from the research, development and demonstration activities of the Department;

(2) determine if additional research is required, based on the findings of the assessment; and

(3) recommend steps for the Secretary to accelerate the development of voluntary consensus-based standards for high performance buildings that are based on the findings of the assessment.

(c) GRANT AND TECHNICAL ASSISTANCE PROGRAM.—Consistent with subsection (b) and section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note), the Secretary shall establish a grant and technical assistance program to support the development of voluntary consensus-based standards for high performance buildings.

SEC. 915. SECONDARY ELECTRIC VEHICLE BATTERY USE PROGRAM.

42 USC 16195.

(a) DEFINITIONS.—In this section:

(1) BATTERY.—The term “battery” means an energy storage device that previously has been used to provide motive power in a vehicle powered in whole or in part by electricity.

(2) ASSOCIATED EQUIPMENT.—The term “associated equipment” means equipment located where the batteries will be used that is necessary to enable the use of the energy stored in the batteries.

(b) PROGRAM.—

(1) IN GENERAL.—The Secretary shall establish and conduct a program of research, development, demonstration, and commercial application of energy technology for the secondary use of batteries, if the Secretary finds that there are sufficient numbers of batteries to support the program.

(2) ADMINISTRATION.—The program shall be—

(A) designed to demonstrate the use of batteries in secondary applications, including utility and commercial power storage and power quality;

(B) structured to evaluate the performance, including useful service life and costs, of such batteries in field operations, and the necessary supporting infrastructure, including reuse and disposal of batteries; and

(C) coordinated with ongoing secondary battery use programs at the National Laboratories and in industry.

(c) SOLICITATION.—

Deadline.

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall solicit proposals to demonstrate the secondary use of batteries and associated equipment and supporting infrastructure in geographic locations throughout the United States.

(2) ADDITIONAL SOLICITATIONS.—The Secretary may make additional solicitations for proposals if the Secretary determines that the solicitations are necessary to carry out this section.

(d) SELECTION OF PROPOSALS.—

Deadline.

(1) IN GENERAL.—Not later than 90 days after the closing date established by the Secretary for receipt of proposals under subsection (c), the Secretary shall select up to five proposals that may receive financial assistance under this section once the Department receives appropriated funds to carry out this section.

(2) FACTORS.—In selecting proposals, the Secretary shall consider—

- (A) the diversity of battery type;
- (B) geographic and climatic diversity; and
- (C) life-cycle environmental effects of the approaches.

(3) LIMITATION.—No one project selected under this section shall receive more than 25 percent of the funds made available to carry out the program under this section.

(4) NON-FEDERAL INVOLVEMENT.—In selecting proposals, the Secretary shall consider the extent of involvement of State or local government and other persons in each demonstration project to optimize use of Federal resources.

(5) OTHER CRITERIA.—In selecting proposals, the Secretary may consider such other criteria as the Secretary considers appropriate.

(e) CONDITIONS.—In carrying out this section, the Secretary shall require that—

(1) relevant information be provided to—

- (A) the Department;
- (B) the users of the batteries;
- (C) the proposers of a project under this section; and
- (D) the battery manufacturers; and

(2) the costs of carrying out projects and activities under this section are shared in accordance with section 988.

42 USC 16196.

SEC. 916. ENERGY EFFICIENCY SCIENCE INITIATIVE.

(a) ESTABLISHMENT.—The Secretary shall establish an Energy Efficiency Science Initiative to be managed by the Assistant Secretary in the Department with responsibility for energy conservation under section 203(a)(9) of the Department of Energy Organization Act (42 U.S.C. 7133(a)(9)), in consultation with the Director of the Office of Science, for grants to be competitively awarded and subject to peer review for research relating to energy efficiency.

(b) REPORT.—The Secretary shall submit to Congress, along with the annual budget request of the President submitted to Congress, a report on the activities of the Energy Efficiency Science Initiative, including a description of the process used to award the funds and an explanation of how the research relates to energy efficiency.

SEC. 917. ADVANCED ENERGY EFFICIENCY TECHNOLOGY TRANSFER CENTERS. 42 USC 16197.

(a) **GRANTS.**—Not later than 18 months after the date of enactment of this Act, the Secretary shall make grants to nonprofit institutions, State and local governments, or universities (or consortia thereof), to establish a geographically dispersed network of Advanced Energy Efficiency Technology Transfer Centers, to be located in areas the Secretary determines have the greatest need of the services of such Centers. In establishing the network, the Secretary shall consider the special needs and opportunities for increased energy efficiency for manufactured and site-built housing.

Deadline.
Establishment.

(b) **ACTIVITIES.**—

(1) **IN GENERAL.**—Each Center shall operate a program to encourage demonstration and commercial application of advanced energy methods and technologies through education and outreach to building and industrial professionals, and to other individuals and organizations with an interest in efficient energy use.

(2) **ADVISORY PANEL.**—Each Center shall establish an advisory panel to advise the Center on how best to accomplish the activities under paragraph (1).

Establishment.

(c) **APPLICATION.**—A person seeking a grant under this section shall submit to the Secretary an application in such form and containing such information as the Secretary may require. The Secretary may award a grant under this section to an entity already in existence if the entity is otherwise eligible under this section.

(d) **SELECTION CRITERIA.**—The Secretary shall award grants under this section on the basis of the following criteria, at a minimum:

(1) The ability of the applicant to carry out the activities described in subsection (b)(1).

(2) The extent to which the applicant will coordinate the activities of the Center with other entities, such as State and local governments, utilities, and educational and research institutions.

(e) **COST-SHARING.**—In carrying out this section, the Secretary shall require cost-sharing in accordance with the requirements of section 988 for commercial application activities.

(f) **ADVISORY COMMITTEE.**—The Secretary shall establish an advisory committee to advise the Secretary on the establishment of Centers under this section. The advisory committee shall be composed of individuals with expertise in the area of advanced energy methods and technologies, including at least one representative from—

Establishment.

- (1) State or local energy offices;
- (2) energy professionals;
- (3) trade or professional associations;
- (4) architects, engineers, or construction professionals;
- (5) manufacturers;
- (6) the research community; and
- (7) nonprofit energy or environmental organizations.

(g) **DEFINITIONS.**—For purposes of this section:

(1) **ADVANCED ENERGY METHODS AND TECHNOLOGIES.**—The term “advanced energy methods and technologies” means all methods and technologies that promote energy efficiency and conservation, including distributed generation technologies, and life-cycle analysis of energy use.

(2) **CENTER.**—The term “Center” means an Advanced Energy Technology Transfer Center established pursuant to this section.

(3) **DISTRIBUTED GENERATION.**—The term “distributed generation” means an electric power generation facility that is designed to serve retail electric consumers at or near the facility site.

(h) **AUTHORIZATION OF APPROPRIATIONS.**—In addition to amounts otherwise authorized to be appropriated in section 911, there are authorized to be appropriated for the program under this section such sums as may be appropriated.

Subtitle B—Distributed Energy and Electric Energy Systems

42 USC 16211.

SEC. 921. DISTRIBUTED ENERGY AND ELECTRIC ENERGY SYSTEMS.

(a) **IN GENERAL.**—The Secretary shall carry out programs of research, development, demonstration, and commercial application on distributed energy resources and systems reliability and efficiency, to improve the reliability and efficiency of distributed energy resources and systems, integrating advanced energy technologies with grid connectivity, including activities described in this subtitle. The programs shall address advanced energy technologies and systems and advanced grid reliability technologies.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—

(1) **DISTRIBUTED ENERGY AND ELECTRIC ENERGY SYSTEMS ACTIVITIES.**—There are authorized to be appropriated to the Secretary to carry out distributed energy and electric energy systems activities, including activities authorized under this subtitle—

(A) \$240,000,000 for fiscal year 2007;

(B) \$255,000,000 for fiscal year 2008; and

(C) \$273,000,000 for fiscal year 2009.

(2) **POWER DELIVERY RESEARCH INITIATIVE.**—There are authorized to be appropriated to the Secretary to carry out the Power Delivery Research Initiative under subsection 925(e) such sums as may be necessary for each of fiscal years 2007 through 2009.

(c) **MICRO-COGENERATION ENERGY TECHNOLOGY.**—From amounts authorized under subsection (b), \$20,000,000 for each of fiscal years 2007 and 2008 shall be available to carry out activities under section 923.

(d) **HIGH-VOLTAGE TRANSMISSION LINES.**—From amounts authorized under subsection (b), \$2,000,000 for fiscal year 2007 shall be available to carry out activities under section 925(g).

42 USC 16212.

SEC. 922. HIGH POWER DENSITY INDUSTRY PROGRAM.

(a) **IN GENERAL.**—The Secretary shall establish a comprehensive research, development, demonstration, and commercial application to improve the energy efficiency of high power density facilities, including data centers, server farms, and telecommunications facilities.

(b) **TECHNOLOGIES.**—The program shall consider technologies that provide significant improvement in thermal controls, metering, load management, peak load reduction, or the efficient cooling of electronics.

SEC. 923. MICRO-COGENERATION ENERGY TECHNOLOGY.

42 USC 16213.

(a) **IN GENERAL.**—The Secretary shall make competitive, merit-based grants to consortia for the development of micro-cogeneration energy technology.

(b) **USES.**—The consortia shall explore—

- (1) the use of small-scale combined heat and power in residential heating appliances;
- (2) the use of excess power to operate other appliances within the residence; and
- (3) the supply of excess generated power to the power grid.

SEC. 924. DISTRIBUTED ENERGY TECHNOLOGY DEMONSTRATION PROGRAMS.

42 USC 16214.

(a) **COORDINATING CONSORTIA PROGRAM.**—The Secretary may provide financial assistance to coordinating consortia of interdisciplinary participants for demonstrations designed to accelerate the use of distributed energy technologies (such as fuel cells, micro-turbines, reciprocating engines, thermally activated technologies, and combined heat and power systems) in high-energy intensive commercial applications.

(b) **SMALL-SCALE PORTABLE POWER PROGRAM.**—

(1) **IN GENERAL.**—The Secretary shall—

(A) establish a research, development, and demonstration program to develop working models of small scale portable power devices; and

(B) to the fullest extent practicable, identify and utilize the resources of universities that have shown expertise with respect to advanced portable power devices for either civilian or military use.

(2) **ORGANIZATION.**—The universities identified and utilized under paragraph (1)(B) are authorized to establish an organization to promote small scale portable power devices.

(3) **DEFINITION.**—For purposes of this subsection, the term “small scale portable power device” means a field-deployable portable mechanical or electromechanical device that can be used for applications such as communications, computation, mobility enhancement, weapons systems, optical devices, cooling, sensors, medical devices, and active biological agent detection systems.

SEC. 925. ELECTRIC TRANSMISSION AND DISTRIBUTION PROGRAMS.

42 USC 16215.

(a) **PROGRAM.**—The Secretary shall establish a comprehensive research, development, and demonstration program to ensure the reliability, efficiency, and environmental integrity of electrical transmission and distribution systems, which shall include—

(1) advanced energy delivery technologies, energy storage technologies, materials, and systems, giving priority to new transmission technologies, including composite conductor materials and other technologies that enhance reliability, operational flexibility, or power-carrying capability;

(2) advanced grid reliability and efficiency technology development;

(3) technologies contributing to significant load reductions;

(4) advanced metering, load management, and control technologies;

(5) technologies to enhance existing grid components;

(6) the development and use of high-temperature superconductors to—

(A) enhance the reliability, operational flexibility, or power-carrying capability of electric transmission or distribution systems; or

(B) increase the efficiency of electric energy generation, transmission, distribution, or storage systems;

(7) integration of power systems, including systems to deliver high-quality electric power, electric power reliability, and combined heat and power;

(8) supply of electricity to the power grid by small scale, distributed and residential-based power generators;

(9) the development and use of advanced grid design, operation, and planning tools;

(10) any other infrastructure technologies, as appropriate; and

(11) technology transfer and education.

(b) PROGRAM PLAN.—

Deadline.

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary, in consultation with other appropriate Federal agencies, shall prepare and submit to Congress a 5-year program plan to guide activities under this section.

(2) CONSULTATION.—In preparing the program plan, the Secretary shall consult with—

(A) utilities;

(B) energy service providers;

(C) manufacturers;

(D) institutions of higher education;

(E) other appropriate State and local agencies;

(F) environmental organizations;

(G) professional and technical societies; and

(H) any other persons the Secretary considers appropriate.

(c) IMPLEMENTATION.—The Secretary shall consider implementing the program under this section using a consortium of participants from industry, institutions of higher education, and National Laboratories.

(d) REPORT.—Not later than 2 years after the submission of the plan under subsection (b), the Secretary shall submit to Congress a report—

(1) describing the progress made under this section; and

(2) identifying any additional resources needed to continue the development and commercial application of transmission and distribution of infrastructure technologies.

(e) POWER DELIVERY RESEARCH INITIATIVE.—

(1) IN GENERAL.—The Secretary shall establish a research, development, and demonstration initiative specifically focused on power delivery using components incorporating high temperature superconductivity.

(2) GOALS.—The goals of the Initiative shall be—

(A) to establish world-class facilities to develop high temperature superconductivity power applications in partnership with manufacturers and utilities;

(B) to provide technical leadership for establishing reliability for high temperature superconductivity power applications, including suitable modeling and analysis;

(C) to facilitate the commercial transition toward direct current power transmission, storage, and use for high power systems using high temperature superconductivity; and

(D) to facilitate the integration of very low impedance high temperature superconducting wires and cables in existing electric networks to improve system performance, power flow control, and reliability.

(3) INCLUSIONS.—The Initiative shall include—

(A) feasibility analysis, planning, research, and design to construct demonstrations of superconducting links in high power, direct current, and controllable alternating current transmission systems;

(B) public-private partnerships to demonstrate deployment of high temperature superconducting cable into testbeds simulating a realistic transmission grid and under varying transmission conditions, including actual grid insertions; and

(C) testbeds developed in cooperation with National Laboratories, industries, and institutions of higher education to—

(i) demonstrate those technologies;

(ii) prepare the technologies for commercial introduction; and

(iii) address cost or performance roadblocks to successful commercial use.

(f) TRANSMISSION AND DISTRIBUTION GRID PLANNING AND OPERATIONS INITIATIVE.—

(1) IN GENERAL.—The Secretary shall establish a research, development, and demonstration initiative specifically focused on tools needed to plan, operate, and expand the transmission and distribution grids in the presence of competitive market mechanisms for energy, load demand, customer response, and ancillary services.

(2) GOALS.—The goals of the Initiative shall be—

(A)(i) to develop and use a geographically distributed center, consisting of institutions of higher education, and National Laboratories, with expertise and facilities to develop the underlying theory and software for power system application; and

(ii) to ensure commercial development in partnership with software vendors and utilities;

(B) to provide technical leadership in engineering and economic analysis for the reliability and efficiency of power systems planning and operations in the presence of competitive markets for electricity;

(C) to model, simulate, and experiment with new market mechanisms and operating practices to understand and optimize those new methods before actual use; and

(D) to provide technical support and technology transfer to electric utilities and other participants in the domestic electric industry and marketplace.

(g) HIGH-VOLTAGE TRANSMISSION LINES.—As part of the program described in subsection (a), the Secretary shall award a grant to a university research program to design and test, in consultation with the Tennessee Valley Authority, state-of-the-art optimization

Grants.

techniques for power flow through existing high voltage transmission lines.

Subtitle C—Renewable Energy

42 USC 16231.

SEC. 931. RENEWABLE ENERGY.

(a) IN GENERAL.—

(1) OBJECTIVES.—The Secretary shall conduct programs of renewable energy research, development, demonstration, and commercial application, including activities described in this subtitle. Such programs shall take into consideration the following objectives:

(A) Increasing the conversion efficiency of all forms of renewable energy through improved technologies.

(B) Decreasing the cost of renewable energy generation and delivery.

(C) Promoting the diversity of the energy supply.

(D) Decreasing the dependence of the United States on foreign energy supplies.

(E) Improving United States energy security.

(F) Decreasing the environmental impact of energy-related activities.

(G) Increasing the export of renewable generation equipment from the United States.

(2) PROGRAMS.—

(A) SOLAR ENERGY.—The Secretary shall conduct a program of research, development, demonstration, and commercial application for solar energy, including—

(i) photovoltaics;

(ii) solar hot water and solar space heating;

(iii) concentrating solar power;

(iv) lighting systems that integrate sunlight and electrical lighting in complement to each other in common lighting fixtures for the purpose of improving energy efficiency;

(v) manufacturability of low cost, high quality solar systems; and

(vi) development of products that can be easily integrated into new and existing buildings.

(B) WIND ENERGY.—The Secretary shall conduct a program of research, development, demonstration, and commercial application for wind energy, including—

(i) low speed wind energy;

(ii) offshore wind energy;

(iii) testing and verification (including construction and operation of a research and testing facility capable of testing wind turbines); and

(iv) distributed wind energy generation.

(C) GEOTHERMAL.—The Secretary shall conduct a program of research, development, demonstration, and commercial application for geothermal energy. The program shall focus on developing improved technologies for reducing the costs of geothermal energy installations, including technologies for—

(i) improving detection of geothermal resources;

(ii) decreasing drilling costs;

- (iii) decreasing maintenance costs through improved materials;
- (iv) increasing the potential for other revenue sources, such as mineral production; and
- (v) increasing the understanding of reservoir life cycle and management.

(D) HYDROPOWER.—The Secretary shall conduct a program of research, development, demonstration, and commercial application for cost competitive technologies that enable the development of new and incremental hydro-power capacity, adding to the diversity of the energy supply of the United States, including:

- (i) Fish-friendly large turbines.
- (ii) Advanced technologies to enhance environmental performance and yield greater energy efficiencies.

(E) MISCELLANEOUS PROJECTS.—The Secretary shall conduct research, development, demonstration, and commercial application programs for—

- (i) ocean energy, including wave energy;
- (ii) the combined use of renewable energy technologies with one another and with other energy technologies, including the combined use of wind power and coal gasification technologies;
- (iii) renewable energy technologies for cogeneration of hydrogen and electricity; and
- (iv) kinetic hydro turbines.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out renewable energy research, development, demonstration, and commercial application activities, including activities authorized under this subtitle—

- (1) \$632,000,000 for fiscal year 2007;
- (2) \$743,000,000 for fiscal year 2008; and
- (3) \$852,000,000 for fiscal year 2009.

(c) BIOENERGY.—From the amounts authorized under subsection (b), there are authorized to be appropriated to carry out section 932—

- (1) \$213,000,000 for fiscal year 2007, of which \$100,000,000 shall be for section 932(d);
- (2) \$251,000,000 for fiscal year 2008, of which \$125,000,000 shall be for section 932(d); and
- (3) \$274,000,000 for fiscal year 2009, of which \$150,000,000 shall be for section 932(d).

(d) SOLAR POWER.—From amounts authorized under subsection (b), there is authorized to be appropriated to carry out activities under subsection (a)(2)(A)—

- (1) \$140,000,000 for fiscal year 2007, of which \$40,000,000 shall be for activities under section 935;
- (2) \$200,000,000 for fiscal year 2008, of which \$50,000,000 shall be for activities under section 935; and
- (3) \$250,000,000 for fiscal year 2009, of which \$50,000,000 shall be for activities under section 935.

(e) ADMINISTRATION.—Of the funds authorized under subsection (c), not less than \$5,000,000 for each fiscal year shall be made available for grants to—

- (1) part B institutions;

(2) Tribal Colleges or Universities (as defined in section 316(b) of the Higher Education Act of 1965 (20 U.S.C. 1059c(b))); and

(3) Hispanic-serving institutions.

(f) RURAL DEMONSTRATION PROJECTS.—In carrying out this section, the Secretary, in consultation with the Secretary of Agriculture, shall demonstrate the use of renewable energy technologies to assist in delivering electricity to rural and remote locations including —

(1) advanced wind power technology, including combined use with coal gasification;

(2) biomass; and

(3) geothermal energy systems.

(g) ANALYSIS AND EVALUATION.—

(1) IN GENERAL.—The Secretary shall conduct analysis and evaluation in support of the renewable energy programs under this subtitle. These activities shall be used to guide budget and program decisions, and shall include—

(A) economic and technical analysis of renewable energy potential, including resource assessment;

(B) analysis of past program performance, both in terms of technical advances and in market introduction of renewable energy; and

(C) any other analysis or evaluation that the Secretary considers appropriate.

(2) FUNDING.—The Secretary may designate up to 1 percent of the funds appropriated for carrying out this subtitle for analysis and evaluation activities under this subsection.

42 USC 16232.

SEC. 932. BIOENERGY PROGRAM.

(a) DEFINITIONS.—In this section:

(1) BIOMASS.—The term “biomass” means—

(A) any organic material grown for the purpose of being converted to energy;

(B) any organic byproduct of agriculture (including wastes from food production and processing) that can be converted into energy; or

(C) any waste material that can be converted to energy, is segregated from other waste materials, and is derived from—

(i) any of the following forest-related resources: mill residues, precommercial thinnings, slash, brush, or otherwise nonmerchantable material; or

(ii) wood waste materials, including waste pallets, crates, dunnage, manufacturing and construction wood wastes (other than pressure-treated, chemically-treated, or painted wood wastes), and landscape or right-of-way tree trimmings, but not including municipal solid waste, gas derived from the biodegradation of municipal solid waste, or paper that is commonly recycled.

(2) LIGNOCELLULOSIC FEEDSTOCK.—The term “lignocellulosic feedstock” means any portion of a plant or co-product from conversion, including crops, trees, forest residues, and agricultural residues not specifically grown for food, including from barley grain, grapeseed, rice bran, rice hulls, rice straw, soybean matter, and sugarcane bagasse.

(b) PROGRAM.—The Secretary shall conduct a program of research, development, demonstration, and commercial application for bioenergy, including—

- (1) biopower energy systems;
- (2) biofuels;
- (3) bioproducts;
- (4) integrated biorefineries that may produce biopower, biofuels, and bioproducts;
- (5) cross-cutting research and development in feedstocks; and
- (6) economic analysis.

(c) BIOFUELS AND BIOPRODUCTS.—The goals of the biofuels and bioproducts programs shall be to develop, in partnership with industry and institutions of higher education—

- (1) advanced biochemical and thermochemical conversion technologies capable of making fuels from lignocellulosic feedstocks that are price-competitive with gasoline or diesel in either internal combustion engines or fuel cell-powered vehicles;
- (2) advanced biotechnology processes capable of making biofuels and bioproducts with emphasis on development of biorefinery technologies using enzyme-based processing systems;
- (3) advanced biotechnology processes capable of increasing energy production from lignocellulosic feedstocks, with emphasis on reducing the dependence of industry on fossil fuels in manufacturing facilities; and
- (4) other advanced processes that will enable the development of cost-effective bioproducts, including biofuels.

(d) INTEGRATED BIOREFINERY DEMONSTRATION PROJECTS.—

(1) IN GENERAL.—The Secretary shall carry out a program to demonstrate the commercial application of integrated biorefineries. The Secretary shall ensure geographical distribution of biorefinery demonstrations under this subsection. The Secretary shall not provide more than \$100,000,000 under this subsection for any single biorefinery demonstration. In making awards under this subsection, the Secretary shall encourage—

(A) the demonstration of a wide variety of lignocellulosic feedstocks;

(B) the commercial application of biomass technologies for a variety of uses, including—

- (i) liquid transportation fuels;
- (ii) high-value biobased chemicals;
- (iii) substitutes for petroleum-based feedstocks and products; and
- (iv) energy in the form of electricity or useful heat;

and

(C) the demonstration of the collection and treatment of a variety of biomass feedstocks.

(2) PROPOSALS.—Not later than 6 months after the date of enactment of this Act, the Secretary shall solicit proposals for demonstration of advanced biorefineries. The Secretary shall select only proposals that—

(A) demonstrate that the project will be able to operate profitably without direct Federal subsidy after initial construction costs are paid; and

(B) enable the biorefinery to be easily replicated.

(e) UNIVERSITY BIODIESEL PROGRAM.—The Secretary shall establish a demonstration program to determine the feasibility of

Deadline.

the operation of diesel electric power generators, using biodiesel fuels with ratings as high as B100, at electric generation facilities owned by institutions of higher education. The program shall examine—

- (1) heat rates of diesel fuels with large quantities of cel-
lulosic content;
- (2) the reliability of operation of various fuel blends;
- (3) performance in cold or freezing weather;
- (4) stability of fuel after extended storage; and
- (5) other criteria, as determined by the Secretary.

42 USC 16233.

SEC. 933. LOW-COST RENEWABLE HYDROGEN AND INFRASTRUCTURE FOR VEHICLE PROPULSION.

The Secretary shall—

- (1) establish a research, development, and demonstration program to determine the feasibility of using hydrogen propulsion in light-weight vehicles and the integration of the associated hydrogen production infrastructure using off-the-shelf components; and
- (2) identify universities and institutions that—
 - (A) have expertise in researching and testing vehicles fueled by hydrogen, methane, and other fuels;
 - (B) have expertise in integrating off-the-shelf components to minimize cost; and
 - (C) within 2 years can test a vehicle based on an existing commercially available platform with a curb weight of not less than 2,000 pounds before modifications, that—
 - (i) operates solely on hydrogen;
 - (ii) qualifies as a light-duty passenger vehicle; and
 - (iii) uses hydrogen produced from water using only solar energy.

42 USC 16234.

SEC. 934. CONCENTRATING SOLAR POWER RESEARCH PROGRAM.

(a) IN GENERAL.—The Secretary shall conduct a program of research and development to evaluate the potential for concentrating solar power for hydrogen production, including cogeneration approaches for both hydrogen and electricity.

(b) ADMINISTRATION.—The program shall take advantage of existing facilities to the extent practicable and shall include—

- (1) development of optimized technologies that are common to both electricity and hydrogen production;
- (2) evaluation of thermochemical cycles for hydrogen production at the temperatures attainable with concentrating solar power;
- (3) evaluation of materials issues for the thermochemical cycles described in paragraph (2);
- (4) cogeneration of solar thermal electric power and photo-synthetic-based hydrogen production;
- (5) system architectures and economics studies; and
- (6) coordination with activities under the Next Generation Nuclear Plant Project established under subtitle C of title VI on high temperature materials, thermochemical cycles, and economic issues.

(c) ASSESSMENT.—In carrying out the program under this section, the Secretary shall—

- (1) assess conflicting guidance on the economic potential of concentrating solar power for electricity production received from the National Research Council in the report entitled

“Renewable Power Pathways: A Review of the U.S. Department of Energy’s Renewable Energy Programs” and dated 2000 and subsequent reviews of that report funded by the Department; and

(2) provide an assessment of the potential impact of technology used to concentrate solar power for electricity before, or concurrent with, submission of the budget for fiscal year 2008.

(d) REPORT.—Not later than 5 years after the date of enactment of this Act, the Secretary shall provide to Congress a report on the economic and technical potential for electricity or hydrogen production, with or without cogeneration, with concentrating solar power, including the economic and technical feasibility of potential construction of a pilot demonstration facility suitable for commercial production of electricity or hydrogen from concentrating solar power.

SEC. 935. RENEWABLE ENERGY IN PUBLIC BUILDINGS.

42 USC 16235.

(a) DEMONSTRATION AND TECHNOLOGY TRANSFER PROGRAM.—The Secretary shall establish a program for the demonstration of innovative technologies for solar and other renewable energy sources in buildings owned or operated by a State or local government, and for the dissemination of information resulting from such demonstration to interested parties.

(b) LIMIT ON FEDERAL FUNDING.—Notwithstanding section 988, the Secretary shall provide under this section no more than 40 percent of the incremental costs of the solar or other renewable energy source project funded.

(c) REQUIREMENTS.—As part of the application for awards under this section, the Secretary shall require all applicants—

(1) to demonstrate a continuing commitment to the use of solar and other renewable energy sources in buildings they own or operate; and

(2) to state how they expect any award to further their transition to the significant use of renewable energy.

Subtitle D—Agricultural Biomass Research and Development Programs

SEC. 941. AMENDMENTS TO THE BIOMASS RESEARCH AND DEVELOPMENT ACT OF 2000.

7 USC 8101 note.

(a) DEFINITIONS.—Section 303 of the Biomass Research and Development Act of 2000 (Public Law 106–224; 7 U.S.C. 8101 note) is amended—

(1) by striking paragraphs (2), (9), and (10);

(2) by redesignating paragraphs (3), (4), (5), (6), (7), and (8) as paragraphs (4), (5), (7), (8), (9), and (10), respectively;

(3) by inserting after paragraph (1) the following:

“(2) BIOBASED FUEL.—The term ‘biobased fuel’ means any transportation fuel produced from biomass.

“(3) BIOBASED PRODUCT.—The term ‘biobased product’ means an industrial product (including chemicals, materials, and polymers) produced from biomass, or a commercial or industrial product (including animal feed and electric power) derived in connection with the conversion of biomass to fuel.”;

(4) by inserting after paragraph (5) (as redesignated by paragraph (2)) the following:

“(6) DEMONSTRATION.—The term ‘demonstration’ means demonstration of technology in a pilot plant or semi-works scale facility.”; and

(5) by striking paragraph (9) (as redesignated by paragraph (2)) and inserting the following:

“(9) NATIONAL LABORATORY.—The term ‘National Laboratory’ has the meaning given that term in section 2 of the Energy Policy Act of 2005.”

(b) COOPERATION AND COORDINATION IN BIOMASS RESEARCH AND DEVELOPMENT.—Section 304 of the Biomass Research and Development Act of 2000 (Public Law 106–224; 7 U.S.C. 8101 note) is amended—

(1) in subsections (a) and (d), by striking “industrial products” each place it appears and inserting “fuels and biobased products”;

(2) by striking subsections (b) and (c); and

(3) by redesignating subsection (d) as subsection (b).

(c) BIOMASS RESEARCH AND DEVELOPMENT BOARD.—Section 305 of the Biomass Research and Development Act of 2000 (Public Law 106–224; 7 U.S.C. 8101 note) is amended—

(1) in subsections (a) and (c), by striking “industrial products” each place it appears and inserting “fuels and biobased products”;

(2) in subsection (b)—

(A) in paragraph (1), by striking “304(d)(1)(B)” and inserting “304(b)(1)(B)”; and

(B) in paragraph (2), by striking “304(d)(1)(A)” and inserting “304(b)(1)(A)”; and

(3) in subsection (c)—

(A) in paragraph (1)(B), by striking “and” at the end;

(B) in paragraph (2), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

“(3) ensure that—

“(A) solicitations are open and competitive with awards made annually; and

“(B) objectives and evaluation criteria of the solicitations are clearly stated and minimally prescriptive, with no areas of special interest; and

“(4) ensure that the panel of scientific and technical peers assembled under section 307(g)(1)(C) to review proposals is composed predominantly of independent experts selected from outside the Departments of Agriculture and Energy.”.

(d) BIOMASS RESEARCH AND DEVELOPMENT TECHNICAL ADVISORY COMMITTEE.—Section 306 of the Biomass Research and Development Act of 2000 (Public Law 106–224; 7 U.S.C. 8101 note) is amended—

(1) in subsection (b)(1)—

(A) in subparagraph (A), by striking “biobased industrial products” and inserting “biofuels”;

(B) by redesignating subparagraphs (B) through (J) as subparagraphs (C) through (K), respectively;

(C) by inserting after subparagraph (A) the following:

“(B) an individual affiliated with the biobased industrial and commercial products industry;”;

(D) in subparagraph (F) (as redesignated by subparagraph (B)) by striking “an individual has” and inserting “2 individuals have”;

(E) in subparagraphs (C), (D), (G), and (I) (as redesignated by subparagraph (B)) by striking “industrial products” each place it appears and inserting “fuels and biobased products”; and

(F) in subparagraph (H) (as redesignated by subparagraph (B)), by inserting “and environmental” before “analysis”;

(2) in subsection (c)(2)—

(A) in subparagraph (A), by striking “goals” and inserting “objectives, purposes, and considerations”;

(B) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively;

(C) by inserting after subparagraph (A) the following:

“(B) solicitations are open and competitive with awards made annually and that objectives and evaluation criteria of the solicitations are clearly stated and minimally prescriptive, with no areas of special interest;” and

(D) in subparagraph (C) (as redesignated by subparagraph (B)) by inserting “predominantly from outside the Departments of Agriculture and Energy” after “technical peers”.

(e) BIOMASS RESEARCH AND DEVELOPMENT INITIATIVE.—Section 307 of the Biomass Research and Development Act of 2000 (Public Law 106–224; 7 U.S.C. 8101 note) is amended—

(1) in subsection (a), by striking “research on biobased industrial products” and inserting “research on, and development and demonstration of, biobased fuels and biobased products, and the methods, practices and technologies, for their production”; and

(2) by striking subsections (b) through (e) and inserting the following:

“(b) OBJECTIVES.—The objectives of the Initiative are to develop—

“(1) technologies and processes necessary for abundant commercial production of biobased fuels at prices competitive with fossil fuels;

“(2) high-value biobased products—

“(A) to enhance the economic viability of biobased fuels and power; and

“(B) as substitutes for petroleum-based feedstocks and products; and

“(3) a diversity of sustainable domestic sources of biomass for conversion to biobased fuels and biobased products.

“(c) PURPOSES.—The purposes of the Initiative are—

“(1) to increase the energy security of the United States;

“(2) to create jobs and enhance the economic development of the rural economy;

“(3) to enhance the environment and public health; and

“(4) to diversify markets for raw agricultural and forestry products.

“(d) TECHNICAL AREAS.—To advance the objectives and purposes of the Initiative, the Secretary of Agriculture and the Secretary

of Energy, in consultation with the Administrator of the Environmental Protection Agency and heads of other appropriate departments and agencies (referred to in this section as the ‘Secretaries’), shall direct research and development toward—

“(1) feedstock production through the development of crops and cropping systems relevant to production of raw materials for conversion to biobased fuels and biobased products, including—

“(A) development of advanced and dedicated crops with desired features, including enhanced productivity, broader site range, low requirements for chemical inputs, and enhanced processing;

“(B) advanced crop production methods to achieve the features described in subparagraph (A);

“(C) feedstock harvest, handling, transport, and storage; and

“(D) strategies for integrating feedstock production into existing managed land;

“(2) overcoming recalcitrance of cellulosic biomass through developing technologies for converting cellulosic biomass into intermediates that can subsequently be converted into biobased fuels and biobased products, including—

“(A) pretreatment in combination with enzymatic or microbial hydrolysis; and

“(B) thermochemical approaches, including gasification and pyrolysis;

“(3) product diversification through technologies relevant to production of a range of biobased products (including chemicals, animal feeds, and cogenerated power) that eventually can increase the feasibility of fuel production in a biorefinery, including—

“(A) catalytic processing, including thermochemical fuel production;

“(B) metabolic engineering, enzyme engineering, and fermentation systems for biological production of desired products or cogeneration of power;

“(C) product recovery;

“(D) power production technologies; and

“(E) integration into existing biomass processing facilities, including starch ethanol plants, paper mills, and power plants; and

“(4) analysis that provides strategic guidance for the application of biomass technologies in accordance with realization of improved sustainability and environmental quality, cost effectiveness, security, and rural economic development, usually featuring system-wide approaches.

“(e) ADDITIONAL CONSIDERATIONS.—Within the technical areas described in subsection (d), and in addition to advancing the purposes described in subsection (c) and the objectives described in subsection (b), the Secretaries shall support research and development—

“(1) to create continuously expanding opportunities for participants in existing biofuels production by seeking synergies and continuity with current technologies and practices, such as the use of dried distillers grains as a bridge feedstock;

“(2) to maximize the environmental, economic, and social benefits of production of biobased fuels and biobased products

on a large scale through life-cycle economic and environmental analysis and other means; and

“(3) to assess the potential of Federal land and land management programs as feedstock resources for biobased fuels and biobased products, consistent with the integrity of soil and water resources and with other environmental considerations.

“(f) ELIGIBLE ENTITIES.—To be eligible for a grant, contract, or assistance under this section, an applicant shall be—

“(1) an institution of higher education;

“(2) a National Laboratory;

“(3) a Federal research agency;

“(4) a State research agency;

“(5) a private sector entity;

“(6) a nonprofit organization; or

“(7) a consortium of two or more entities described in paragraphs (1) through (6).

“(g) ADMINISTRATION.—

“(1) IN GENERAL.—After consultation with the Board, the points of contact shall—

“(A) publish annually one or more joint requests for proposals for grants, contracts, and assistance under this section;

“(B) require that grants, contracts, and assistance under this section be awarded competitively, on the basis of merit, after the establishment of procedures that provide for scientific peer review by an independent panel of scientific and technical peers; and

“(C) give some preference to applications that—

“(i) involve a consortia of experts from multiple institutions;

“(ii) encourage the integration of disciplines and application of the best technical resources; and

“(iii) increase the geographic diversity of demonstration projects.

“(2) DISTRIBUTION OF FUNDING BY TECHNICAL AREA.—Of the funds authorized to be appropriated for activities described in this section, funds shall be distributed for each of fiscal years 2007 through 2010 so as to achieve an approximate distribution of—

“(A) 20 percent of the funds to carry out activities for feedstock production under subsection (d)(1);

“(B) 45 percent of the funds to carry out activities for overcoming recalcitrance of cellulosic biomass under subsection (d)(2);

“(C) 30 percent of the funds to carry out activities for product diversification under subsection (d)(3); and

“(D) 5 percent of the funds to carry out activities for strategic guidance under subsection (d)(4).

“(3) DISTRIBUTION OF FUNDING WITHIN EACH TECHNICAL AREA.—Within each technical area described in paragraphs (1) through (3) of subsection (d), funds shall be distributed for each of fiscal years 2007 through 2010 so as to achieve an approximate distribution of—

“(A) 15 percent of the funds for applied fundamentals;

“(B) 35 percent of the funds for innovation; and

“(C) 50 percent of the funds for demonstration.

“(4) MATCHING FUNDS.—

“(A) IN GENERAL.—A minimum 20 percent funding match shall be required for demonstration projects under this title.

“(B) COMMERCIAL APPLICATIONS.—A minimum of 50 percent funding match shall be required for commercial application projects under this title.

“(5) TECHNOLOGY AND INFORMATION TRANSFER TO AGRICULTURAL USERS.—The Administrator of the Cooperative State Research, Education, and Extension Service and the Chief of the Natural Resources Conservation Service shall ensure that applicable research results and technologies from the Initiative are adapted, made available, and disseminated through those services, as appropriate.”.

(f) ANNUAL REPORTS.—Section 309 of the Biomass Research and Development Act of 2000 (Public Law 106–224; 7 U.S.C. 8101 note) is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking “purposes described in section 307(b)” and inserting “objectives, purposes, and additional considerations described in subsections (b) through (e) of section 307”;

(ii) in subparagraph (B), by striking “and” at the end;

(iii) by redesignating subparagraph (C) as subparagraph (D); and

(iv) by inserting after subparagraph (B) the following:

“(C) achieves the distribution of funds described in paragraphs (2) and (3) of section 307(g); and”; and

(B) in paragraph (2), by striking “industrial products” and inserting “fuels and biobased products”; and

(2) by adding at the end the following:

“(c) UPDATES.—The Secretary and the Secretary of Energy shall update the Vision and Roadmap documents prepared for Federal biomass research and development activities.”.

(g) AUTHORIZATION OF APPROPRIATIONS.—Section 310(b) of the Biomass Research and Development Act of 2000 (Public Law 106–224; 7 U.S.C. 8101 note) is amended by striking “title \$54,000,000 for each of fiscal years 2002 through 2007” and inserting “title \$200,000,000 for each of fiscal years 2006 through 2015”.

(h) REPEAL OF SUNSET PROVISION.—Section 311 of the Biomass Research and Development Act of 2000 (Public Law 106–224; 7 U.S.C. 8101 note) is repealed.

42 USC 16251.

SEC. 942. PRODUCTION INCENTIVES FOR CELLULOSIC BIOFUELS.

(a) PURPOSE.—The purpose of this section is to—

(1) accelerate deployment and commercialization of biofuels;

(2) deliver the first 1,000,000,000 gallons in annual cellulosic biofuels production by 2015;

(3) ensure biofuels produced after 2015 are cost competitive with gasoline and diesel; and

(4) ensure that small feedstock producers and rural small businesses are full participants in the development of the cellulosic biofuels industry.

(b) DEFINITIONS.—In this section:

(1) CELLULOSIC BIOFUELS.—The term “cellulosic biofuels” means any fuel that is produced from cellulosic feedstocks.

(2) ELIGIBLE ENTITY.—The term “eligible entity” means a producer of fuel from cellulosic biofuels the production facility of which—

(A) is located in the United States;

(B) meets all applicable Federal and State permitting requirements; and

(C) meets any financial criteria established by the Secretary.

(c) PROGRAM.—

(1) ESTABLISHMENT.—The Secretary, in consultation with the Secretary of Agriculture, the Secretary of Defense, and the Administrator of the Environmental Protection Agency, shall establish an incentive program for the production of cellulosic biofuels.

(2) BASIS OF INCENTIVES.—Under the program, the Secretary shall award production incentives on a per gallon basis of cellulosic biofuels from eligible entities, through—

(A) set payments per gallon of cellulosic biofuels produced in an amount determined by the Secretary, until initiation of the first reverse auction; and

(B) reverse auction thereafter.

(3) FIRST REVERSE AUCTION.—The first reverse auction shall be held on the earlier of—

Deadlines.

(A) not later than 1 year after the first year of annual production in the United States of 100,000,000 gallons of cellulosic biofuels, as determined by the Secretary; or

(B) not later than 3 years after the date of enactment of this Act.

(4) REVERSE AUCTION PROCEDURE.—

(A) IN GENERAL.—On initiation of the first reverse auction, and each year thereafter until the earlier of the first year of annual production in the United States of 1,000,000,000 gallons of cellulosic biofuels, as determined by the Secretary, or 10 years after the date of enactment of this Act, the Secretary shall conduct a reverse auction at which—

(i) the Secretary shall solicit bids from eligible entities;

(ii) eligible entities shall submit—

(I) a desired level of production incentive on a per gallon basis; and

(II) an estimated annual production amount in gallons; and

(iii) the Secretary shall issue awards for the production amount submitted, beginning with the eligible entity submitting the bid for the lowest level of production incentive on a per gallon basis and meeting such other criteria as are established by the Secretary, until the amount of funds available for the reverse auction is committed.

(B) AMOUNT OF INCENTIVE RECEIVED.—An eligible entity selected by the Secretary through a reverse auction shall receive the amount of performance incentive

Deadline.
Contracts.

requested in the auction for each gallon produced and sold by the entity during the first 6 years of operation.

(C) COMMENCEMENT OF PRODUCTION OF CELLULOSIC BIOFUELS.—As a condition of the receipt of an award under this section, an eligible entity shall enter into an agreement with the Secretary under which the eligible entity agrees to begin production of cellulosic biofuels not later than 3 years after the date of the reverse auction in which the eligible entity participates.

(d) LIMITATIONS.—Awards under this section shall be limited to—

(1) a per gallon amount determined by the Secretary during the first 4 years of the program;

(2) a declining per gallon cap over the remaining lifetime of the program, to be established by the Secretary so that cellulosic biofuels produced after the first year of annual cellulosic biofuels production in the United States in excess of 1,000,000,000 gallons are cost competitive with gasoline and diesel;

(3) not more than 25 percent of the funds committed within each reverse auction to any 1 project;

(4) not more than \$100,000,000 in any 1 year; and

(5) not more than \$1,000,000,000 over the lifetime of the program.

(e) PRIORITY.—In selecting a project under the program, the Secretary shall give priority to projects that—

(1) demonstrate outstanding potential for local and regional economic development;

(2) include agricultural producers or cooperatives of agricultural producers as equity partners in the ventures; and

(3) have a strategic agreement in place to fairly reward feedstock suppliers.

(f) AUTHORIZATIONS OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$250,000,000.

SEC. 943. PROCUREMENT OF BIOBASED PRODUCTS.

(a) FEDERAL PROCUREMENT.—

(1) DEFINITION OF PROCURING AGENCY.—Section 9001 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8101) is amended—

(A) by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively; and

(B) by inserting after paragraph (3) the following:

“(4) PROCURING AGENCY.—The term ‘procuring agency’ means—

“(A) any Federal agency that is using Federal funds for procurement; or

“(B) any person contracting with any Federal agency with respect to work performed under the contract.”.

(2) PROCUREMENT.—Section 9002 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8102) is amended—

(A) by striking “Federal agency” each place it appears (other than in subsections (f) and (g)) and inserting “procuring agency”;

(B) in subsection (c)(2)—

(i) by striking “(2)” and all that follows through “Notwithstanding” and inserting the following:

“(2) FLEXIBILITY.—Notwithstanding”;

(ii) by striking “an agency” and inserting “a procuring agency”; and

(iii) by striking “the agency” and inserting “the procuring agency”;

(C) in subsection (d), by striking “procured by Federal agencies” and inserting “procured by procuring agencies”; and

(D) in subsection (f), by striking “Federal agencies” and inserting “procuring agencies”.

(b) CAPITOL COMPLEX PROCUREMENT.—Section 9002 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8102) (as amended by subsection (a)(2)) is amended—

(1) by redesignating subsection (j) as subsection (k); and

(2) by inserting after subsection (i) the following:

“(j) INCLUSION.—Not later than 90 days after the date of enactment of the Energy Policy Act of 2005, the Architect of the Capitol, the Sergeant at Arms of the Senate, and the Chief Administrative Officer of the House of Representatives shall establish procedures that apply the requirements of this section to procurement for the Capitol Complex.”.

Deadline.
Procedures.

(c) EDUCATION.—

42 USC 16252.

(1) IN GENERAL.—The Architect of the Capitol shall establish in the Capitol Complex a program of public education regarding use by the Architect of the Capitol of biobased products.

(2) PURPOSES.—The purposes of the program shall be—

(A) to establish the Capitol Complex as a showcase for the existence and benefits of biobased products; and

(B) to provide access to further information on biobased products to occupants and visitors.

(d) PROCEDURE.—Requirements issued under the amendments made by subsection (b) shall be made in accordance with directives issued by the Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives.

7 USC 8102 note.

SEC. 944. SMALL BUSINESS BIOPRODUCT MARKETING AND CERTIFICATION GRANTS.

42 USC 16253.

(a) IN GENERAL.—Using amounts made available under subsection (g), the Secretary of Agriculture (referred to in this section as the “Secretary”) shall make available on a competitive basis grants to eligible entities described in subsection (b) for the biobased product marketing and certification purposes described in subsection (c).

(b) ELIGIBLE ENTITIES.—

(1) IN GENERAL.—An entity eligible for a grant under this section is any manufacturer of biobased products that—

(A) proposes to use the grant for the biobased product marketing and certification purposes described in subsection (c); and

(B) has not previously received a grant under this section.

(2) PREFERENCE.—In making grants under this section, the Secretary shall provide a preference to an eligible entity that has fewer than 50 employees.

(c) BIOBASED PRODUCT MARKETING AND CERTIFICATION GRANT PURPOSES.—A grant made under this section shall be used—

(1) to provide working capital for marketing of biobased products; and

(2) to provide for the certification of biobased products to—

(A) qualify for the label described in section 9002(h)(1) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8102(h)(1)); or

(B) meet other biobased standards determined appropriate by the Secretary.

(d) MATCHING FUNDS.—

(1) IN GENERAL.—Grant recipients shall provide matching non-Federal funds equal to the amount of the grant received.

(2) EXPENDITURE.—Matching funds shall be expended in advance of grant funding, so that for every dollar of grant that is advanced, an equal amount of matching funds shall have been funded prior to submitting the request for reimbursement.

(e) AMOUNT.—A grant made under this section shall not exceed \$100,000.

(f) ADMINISTRATION.—The Secretary shall establish such administrative requirements for grants under this section, including requirements for applications for the grants, as the Secretary considers appropriate.

(g) AUTHORIZATIONS OF APPROPRIATIONS.—There are authorized to be appropriated to make grants under this section—

(1) \$1,000,000 for fiscal year 2006; and

(2) such sums as are necessary for each of fiscal years 2007 through 2015.

42 USC 16254.

SEC. 945. REGIONAL BIOECONOMY DEVELOPMENT GRANTS.

(a) IN GENERAL.—Using amounts made available under subsection (g), the Secretary of Agriculture (referred to in this section as the “Secretary”) shall make available on a competitive basis grants to eligible entities described in subsection (b) for the purposes described in subsection (c).

(b) ELIGIBLE ENTITIES.—An entity eligible for a grant under this section is any regional bioeconomy development association, agricultural or energy trade association, or Land Grant institution that—

(1) proposes to use the grant for the purposes described in subsection (c); and

(2) has not previously received a grant under this section.

(c) REGIONAL BIOECONOMY DEVELOPMENT ASSOCIATION GRANT PURPOSES.—A grant made under this section shall be used to support and promote the growth and development of the bioeconomy within the region served by the eligible entity, through coordination, education, outreach, and other endeavors by the eligible entity.

(d) MATCHING FUNDS.—

(1) IN GENERAL.—Grant recipients shall provide matching non-Federal funds equal to the amount of the grant received.

(2) EXPENDITURE.—Matching funds shall be expended in advance of grant funding, so that for every dollar of grant that is advanced, an equal amount of matching funds shall have been funded prior to submitting the request for reimbursement.

(e) ADMINISTRATION.—The Secretary shall establish such administrative requirements for grants under this section, including requirements for applications for the grants, as the Secretary considers appropriate. Requirements.

(f) AMOUNT.—A grant made under this section shall not exceed \$500,000.

(g) AUTHORIZATIONS OF APPROPRIATIONS.—There are authorized to be appropriated to make grants under this section—

(1) \$1,000,000 for fiscal year 2006; and

(2) such sums as are necessary for each of fiscal years 2007 through 2015.

SEC. 946. PREPROCESSING AND HARVESTING DEMONSTRATION GRANTS. 42 USC 16255.

(a) IN GENERAL.—The Secretary of Agriculture (referred to in this section as the “Secretary”) shall make grants available on a competitive basis to enterprises owned by agricultural producers, for the purposes of demonstrating cost-effective, cellulosic biomass innovations in—

(1) preprocessing of feedstocks, including cleaning, separating and sorting, mixing or blending, and chemical or biochemical treatments, to add value and lower the cost of feedstock processing at a biorefinery; or

(2) 1-pass or other efficient, multiple crop harvesting techniques.

(b) LIMITATIONS ON GRANTS.—

(1) NUMBER OF GRANTS.—Not more than 5 demonstration projects per fiscal year shall be funded under this section.

(2) NON-FEDERAL COST SHARE.—The non-Federal cost share of a project under this section shall be not less than 20 percent, as determined by the Secretary.

(c) CONDITION OF GRANT.—To be eligible for a grant for a project under this section, a recipient of a grant or a participating entity shall agree to use the material harvested under the project—

(1) to produce ethanol; or

(2) for another energy purpose, such as the generation of heat or electricity.

(d) AUTHORIZATION FOR APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$5,000,000 for each of fiscal years 2006 through 2010.

SEC. 947. EDUCATION AND OUTREACH.

42 USC 16256.

(a) IN GENERAL.—The Secretary of Agriculture shall establish, within the Department of Agriculture or through an independent contracting entity, a program of education and outreach on biobased fuels and biobased products consisting of—

(1) training and technical assistance programs for feedstock producers to promote producer ownership, investment, and participation in the operation of processing facilities; and

(2) public education and outreach to familiarize consumers with the biobased fuels and biobased products.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$1,000,000 for each of fiscal years 2006 through 2010.

SEC. 948. REPORTS.

(a) BIOBASED PRODUCT POTENTIAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Agriculture

(referred to in this section as the “Secretary”) shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that—

(1) describes the economic potential for the United States of the widespread production and use of commercial and industrial biobased products through calendar year 2025; and

(2) as the maximum extent practicable, identifies the economic potential by product area.

Deadline.

(b) ANALYSIS OF ECONOMIC INDICATORS.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to Congress an analysis of economic indicators of the biobased economy.

Subtitle E—Nuclear Energy

42 USC 16271.

SEC. 951. NUCLEAR ENERGY.

(a) IN GENERAL.—The Secretary shall conduct programs of civilian nuclear energy research, development, demonstration, and commercial application, including activities described in this subtitle. Programs under this subtitle shall take into consideration the following objectives:

(1) Enhancing nuclear power’s viability as part of the United States energy portfolio.

(2) Providing the technical means to reduce the likelihood of nuclear proliferation.

(3) Maintaining a cadre of nuclear scientists and engineers.

(4) Maintaining National Laboratory and university nuclear programs, including their infrastructure.

(5) Supporting both individual researchers and multidisciplinary teams of researchers to pioneer new approaches in nuclear energy, science, and technology.

(6) Developing, planning, constructing, acquiring, and operating special equipment and facilities for the use of researchers.

(7) Supporting technology transfer and other appropriate activities to assist the nuclear energy industry, and other users of nuclear science and engineering, including activities addressing reliability, availability, productivity, component aging, safety, and security of nuclear power plants.

(8) Reducing the environmental impact of nuclear energy-related activities.

(b) AUTHORIZATION OF APPROPRIATIONS FOR CORE PROGRAMS.—There are authorized to be appropriated to the Secretary to carry out nuclear energy research, development, demonstration, and commercial application activities, including activities authorized under this subtitle, other than those described in subsection (c)—

(1) \$330,000,000 for fiscal year 2007;

(2) \$355,000,000 for fiscal year 2008; and

(3) \$495,000,000 for fiscal year 2009.

(c) NUCLEAR INFRASTRUCTURE AND FACILITIES.—There are authorized to be appropriated to the Secretary to carry out activities under section 955—

(1) \$135,000,000 for fiscal year 2007;

(2) \$140,000,000 for fiscal year 2008; and

(3) \$145,000,000 for fiscal year 2009.

(d) ALLOCATIONS.—From amounts authorized under subsection (a), the following sums are authorized:

(1) For activities under section 953—

- (A) \$150,000,000 for fiscal year 2007;
- (B) \$155,000,000 for fiscal year 2008; and
- (C) \$275,000,000 for fiscal year 2009.

(2) For activities under section 954—

- (A) \$43,600,000 for fiscal year 2007;
- (B) \$50,100,000 for fiscal year 2008; and
- (C) \$56,000,000 for fiscal year 2009.

(3) For activities under section 957, \$6,000,000 for each of fiscal years 2007 through 2009.

(e) LIMITATION.—None of the funds authorized under this section may be used to decommission the Fast Flux Test Facility.

SEC. 952. NUCLEAR ENERGY RESEARCH PROGRAMS.

42 USC 16272.

(a) NUCLEAR ENERGY RESEARCH INITIATIVE.—The Secretary shall carry out a Nuclear Energy Research Initiative for research and development related to nuclear energy.

(b) NUCLEAR ENERGY SYSTEMS SUPPORT PROGRAM.—The Secretary shall carry out a Nuclear Energy Systems Support Program to support research and development activities addressing reliability, availability, productivity, component aging, safety, and security of existing nuclear power plants.

(c) NUCLEAR POWER 2010 PROGRAM.—

(1) IN GENERAL.—The Secretary shall carry out a Nuclear Power 2010 Program, consistent with recommendations of the Nuclear Energy Research Advisory Committee of the Department in the report entitled “A Roadmap to Deploy New Nuclear Power Plants in the United States by 2010” and dated October 2001.

(2) ADMINISTRATION.—The Program shall include—

(A) use of the expertise and capabilities of industry, institutions of higher education, and National Laboratories in evaluation of advanced nuclear fuel cycles and fuels testing;

(B) consideration of a variety of reactor designs suitable for both developed and developing nations;

(C) participation of international collaborators in research, development, and design efforts, as appropriate; and

(D) encouragement for participation by institutions of higher education and industry.

(d) GENERATION IV NUCLEAR ENERGY SYSTEMS INITIATIVE.—

(1) IN GENERAL.—The Secretary shall carry out a Generation IV Nuclear Energy Systems Initiative to develop an overall technology plan for and to support research and development necessary to make an informed technical decision about the most promising candidates for eventual commercial application.

(2) ADMINISTRATION.—In conducting the Initiative, the Secretary shall examine advanced proliferation-resistant and passively safe reactor designs, including designs that—

(A) are economically competitive with other electric power generation plants;

(B) have higher efficiency, lower cost, and improved safety compared to reactors in operation on the date of enactment of this Act;

(C) use fuels that are proliferation resistant and have substantially reduced production of high-level waste per unit of output; and

(D) use improved instrumentation.

(e) REACTOR PRODUCTION OF HYDROGEN.—The Secretary shall carry out research to examine designs for high-temperature reactors capable of producing large-scale quantities of hydrogen.

42 USC 16273.

SEC. 953. ADVANCED FUEL CYCLE INITIATIVE.

(a) IN GENERAL.—The Secretary, acting through the Director of the Office of Nuclear Energy, Science and Technology, shall conduct an advanced fuel recycling technology research, development, and demonstration program (referred to in this section as the “program”) to evaluate proliferation-resistant fuel recycling and transmutation technologies that minimize environmental and public health and safety impacts as an alternative to aqueous reprocessing technologies deployed as of the date of enactment of this Act in support of evaluation of alternative national strategies for spent nuclear fuel and the Generation IV advanced reactor concepts.

(b) ANNUAL REVIEW.—The program shall be subject to annual review by the Nuclear Energy Research Advisory Committee of the Department or other independent entity, as appropriate.

(c) INTERNATIONAL COOPERATION.—In carrying out the program, the Secretary is encouraged to seek opportunities to enhance the progress of the program through international cooperation.

(d) REPORTS.—The Secretary shall submit, as part of the annual budget submission of the Department, a report on the activities of the program.

42 USC 16274.

SEC. 954. UNIVERSITY NUCLEAR SCIENCE AND ENGINEERING SUPPORT.

(a) IN GENERAL.—The Secretary shall conduct a program to invest in human resources and infrastructure in the nuclear sciences and related fields, including health physics, nuclear engineering, and radiochemistry, consistent with missions of the Department related to civilian nuclear research, development, demonstration, and commercial application.

(b) REQUIREMENTS.—In carrying out the program under this section, the Secretary shall—

(1) conduct a graduate and undergraduate fellowship program to attract new and talented students, which may include fellowships for students to spend time at National Laboratories in the areas of nuclear science, engineering, and health physics with a member of the National Laboratory staff acting as a mentor;

(2) conduct a junior faculty research initiation grant program to assist universities in recruiting and retaining new faculty in the nuclear sciences and engineering by awarding grants to junior faculty for research on issues related to nuclear energy engineering and science;

(3) support fundamental nuclear sciences, engineering, and health physics research through a nuclear engineering education and research program;

(4) encourage collaborative nuclear research among industry, National Laboratories, and universities; and

(5) support communication and outreach related to nuclear science, engineering, and health physics.

(c) UNIVERSITY-NATIONAL LABORATORY INTERACTIONS.—The Secretary shall conduct—

(1) a fellowship program for professors at universities to spend sabbaticals at National Laboratories in the areas of nuclear science and technology; and

(2) a visiting scientist program in which National Laboratory staff can spend time in academic nuclear science and engineering departments.

(d) STRENGTHENING UNIVERSITY RESEARCH AND TRAINING REACTORS AND ASSOCIATED INFRASTRUCTURE.—In carrying out the program under this section, the Secretary may support—

(1) converting research reactors from high-enrichment fuels to low-enrichment fuels and upgrading operational instrumentation;

(2) consortia of universities to broaden access to university research reactors;

(3) student training programs, in collaboration with the United States nuclear industry, in relicensing and upgrading reactors, including through the provision of technical assistance; and

(4) reactor improvements as part of a taking into consideration effort that emphasizes research, training, and education, including through the Innovations in Nuclear Infrastructure and Education Program or any similar program.

(e) OPERATIONS AND MAINTENANCE.—Funding for a project provided under this section may be used for a portion of the operating and maintenance costs of a research reactor at a university used in the project.

(f) DEFINITION.—In this section, the term “junior faculty” means a faculty member who was awarded a doctorate less than 10 years before receipt of an award from the grant program described in subsection (b)(2).

SEC. 955. DEPARTMENT OF ENERGY CIVILIAN NUCLEAR INFRASTRUCTURE AND FACILITIES.

42 USC 16275.

(a) IN GENERAL.—The Secretary shall operate and maintain infrastructure and facilities to support the nuclear energy research, development, demonstration, and commercial application programs, including radiological facilities management, isotope production, and facilities management.

(b) DUTIES.—In carrying out this section, the Secretary shall—

(1) develop an inventory of nuclear science and engineering facilities, equipment, expertise, and other assets at all of the National Laboratories;

(2) develop a prioritized list of nuclear science and engineering plant and equipment improvements needed at each of the National Laboratories;

(3) consider the available facilities and expertise at all National Laboratories and emphasize investments which complement rather than duplicate capabilities; and

(4) develop a timeline and a proposed budget for the completion of deferred maintenance on plant and equipment, with the goal of ensuring that Department programs under this subtitle will be generally recognized to be among the best in the world.

(c) PLAN.—The Secretary shall develop a comprehensive plan for the facilities at the Idaho National Laboratory, especially taking

into account the resources available at other National Laboratories. In developing the plan, the Secretary shall—

(1) evaluate the facilities planning processes utilized by other physical science and engineering research and development institutions, both in the United States and abroad, that are generally recognized as being among the best in the world, and consider how those processes might be adapted toward developing such facilities plan;

(2) avoid duplicating, moving, or transferring nuclear science and engineering facilities, equipment, expertise, and other assets that currently exist at other National Laboratories;

(3) consider the establishment of a national transuranic analytic chemistry laboratory as a user facility at the Idaho National Laboratory;

(4) include a plan to develop, if feasible, the Advanced Test Reactor and Test Reactor Area into a user facility that is more readily accessible to academic and industrial researchers;

(5) consider the establishment of a fast neutron source as a user facility;

(6) consider the establishment of new hot cells and the configuration of hot cells most likely to advance research, development, demonstration, and commercial application in nuclear science and engineering, especially in the context of the condition and availability of these facilities elsewhere in the National Laboratories; and

(7) include a timeline and a proposed budget for the completion of deferred maintenance on plant and equipment.

Deadline.

(d) TRANSMITTAL TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall transmit the plan under subsection (c) to Congress.

42 USC 16276.

SEC. 956. SECURITY OF NUCLEAR FACILITIES.

The Secretary, acting through the Director of the Office of Nuclear Energy, Science and Technology, shall conduct a research and development program on cost-effective technologies for increasing—

(1) the safety of nuclear facilities from natural phenomena; and

(2) the security of nuclear facilities from deliberate attacks.

42 USC 16277.

SEC. 957. ALTERNATIVES TO INDUSTRIAL RADIOACTIVE SOURCES.

(a) SURVEY.—

Deadline.

(1) IN GENERAL.—Not later than August 1, 2006, the Secretary shall submit to Congress the results of a survey of industrial applications of large radioactive sources.

(2) ADMINISTRATION.—The survey shall—

(A) consider well-logging sources as one class of industrial sources;

(B) include information on current domestic and international Department, Department of Defense, State Department, and commercial programs to manage and dispose of radioactive sources; and

(C) analyze available disposal options for currently deployed or future sources and, if deficiencies are noted for either deployed or future sources, recommend legislative options that Congress may consider to remedy identified deficiencies.

(b) PLAN.—

(1) IN GENERAL.—In conjunction with the survey conducted under subsection (a), the Secretary shall establish a research and development program to develop alternatives to sources described in subsection (a) that reduce safety, environmental, or proliferation risks to either workers using the sources or the public.

(2) ACCELERATORS.—Miniaturized particle accelerators for well-logging or other industrial applications and portable accelerators for production of short-lived radioactive materials at an industrial site shall be considered as part of the research and development efforts.

(3) REPORT.—Not later than August 1, 2006, the Secretary shall submit to Congress a report describing the details of the program plan.

Subtitle F—Fossil Energy

SEC. 961. FOSSIL ENERGY.

42 USC 16291.

(a) IN GENERAL.—The Secretary shall carry out research, development, demonstration, and commercial application programs in fossil energy, including activities under this subtitle, with the goal of improving the efficiency, effectiveness, and environmental performance of fossil energy production, upgrading, conversion, and consumption. Such programs take into consideration the following objectives:

(1) Increasing the energy conversion efficiency of all forms of fossil energy through improved technologies.

(2) Decreasing the cost of all fossil energy production, generation, and delivery.

(3) Promoting diversity of energy supply.

(4) Decreasing the dependence of the United States on foreign energy supplies.

(5) Improving United States energy security.

(6) Decreasing the environmental impact of energy-related activities.

(7) Increasing the export of fossil energy-related equipment, technology, and services from the United States.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out fossil energy research, development, demonstration, and commercial application activities, including activities authorized under this subtitle—

(1) \$611,000,000 for fiscal year 2007;

(2) \$626,000,000 for fiscal year 2008; and

(3) \$641,000,000 for fiscal year 2009.

(c) ALLOCATIONS.—From amounts authorized under subsection (a), the following sums are authorized:

(1) For activities under section 962—

(A) \$367,000,000 for fiscal year 2007;

(B) \$376,000,000 for fiscal year 2008; and

(C) \$394,000,000 for fiscal year 2009.

(2) For activities under section 964—

(A) \$20,000,000 for fiscal year 2007;

(B) \$25,000,000 for fiscal year 2008; and

(C) \$30,000,000 for fiscal year 2009.

(3) For activities under section 966—

(A) \$1,500,000 for fiscal year 2007; and

(B) \$450,000 for each of fiscal years 2008 and 2009.

(4) For the Office of Arctic Energy under section 3197 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (42 U.S.C. 7144d) \$25,000,000 for each of fiscal years 2007 through 2009.

(d) EXTENDED AUTHORIZATION.—There are authorized to be appropriated to the Secretary for the Office of Arctic Energy established under section 3197 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (42 U.S.C. 7144d) \$25,000,000 for each of fiscal years 2010 through 2012.

(e) LIMITATIONS.—

(1) USES.—None of the funds authorized under this section may be used for Fossil Energy Environmental Restoration or Import/Export Authorization.

(2) INSTITUTIONS OF HIGHER EDUCATION.—Of the funds authorized under subsection (c)(2), not less than 20 percent of the funds appropriated for each fiscal year shall be dedicated to research and development carried out at institutions of higher education.

42 USC 16292.

SEC. 962. COAL AND RELATED TECHNOLOGIES PROGRAM.

(a) IN GENERAL.—In addition to the programs authorized under title IV, the Secretary shall conduct a program of technology research, development, demonstration, and commercial application for coal and power systems, including programs to facilitate production and generation of coal-based power through—

(1) innovations for existing plants (including mercury removal);

(2) gasification systems;

(3) advanced combustion systems;

(4) turbines for synthesis gas derived from coal;

(5) carbon capture and sequestration research and development;

(6) coal-derived chemicals and transportation fuels;

(7) liquid fuels derived from low rank coal water slurry;

(8) solid fuels and feedstocks;

(9) advanced coal-related research;

(10) advanced separation technologies; and

(11) fuel cells for the operation of synthesis gas derived from coal.

(b) COST AND PERFORMANCE GOALS.—

(1) IN GENERAL.—In carrying out programs authorized by this section, during each of calendar years 2008, 2010, 2012, and 2016, and during each fiscal year beginning after September 30, 2021, the Secretary shall identify cost and performance goals for coal-based technologies that would permit the continued cost-competitive use of coal for the production of electricity, chemical feedstocks, and transportation fuels.

(2) ADMINISTRATION.—In establishing the cost and performance goals, the Secretary shall—

(A) consider activities and studies undertaken as of the date of enactment of this Act by industry in cooperation with the Department in support of the identification of the goals;

(B) consult with interested entities, including—

(i) coal producers;

- (ii) industries using coal;
- (iii) organizations that promote coal and advanced coal technologies;
- (iv) environmental organizations;
- (v) organizations representing workers; and
- (vi) organizations representing consumers;

(C) not later than 120 days after the date of enactment of this Act, publish in the Federal Register proposed draft cost and performance goals for public comments; and

Deadline.
Federal Register,
publication.

(D) not later than 180 days after the date of enactment of this Act and every 4 years thereafter, submit to Congress a report describing the final cost and performance goals for the technologies that includes—

Deadline.
Reports.

- (i) a list of technical milestones; and
- (ii) an explanation of how programs authorized in this section will not duplicate the activities authorized under the Clean Coal Power Initiative authorized under title IV.

(c) POWDER RIVER BASIN AND FORT UNION LIGNITE COAL MERCURY REMOVAL.—

(1) **IN GENERAL.**—In addition to the programs authorized by subsection (a), the Secretary shall establish a program to test and develop technologies to control and remove mercury emissions from subbituminous coal mined in the Powder River Basin, and Fort Union lignite coals, that are used for the generation of electricity.

(2) **EFFICACY OF MERCURY REMOVAL TECHNOLOGY.**—In carrying out the program under paragraph (1), the Secretary shall examine the efficacy of mercury removal technologies on coals described in that paragraph that are blended with other types of coal.

(d) FUEL CELLS.—

(1) **IN GENERAL.**—The Secretary shall conduct a program of research, development, demonstration, and commercial application on fuel cells for low-cost, high-efficiency, fuel-flexible, modular power systems.

(2) **DEMONSTRATIONS.**—The demonstrations referred to in paragraph (1) shall include solid oxide fuel cell technology for commercial, residential, and transportation applications, and distributed generation systems, using improved manufacturing production and processes.

SEC. 963. CARBON CAPTURE RESEARCH AND DEVELOPMENT PROGRAM.

42 USC 16293.

(a) **IN GENERAL.**—The Secretary shall carry out a 10-year carbon capture research and development program to develop carbon dioxide capture technologies on combustion-based systems for use—

- (1) in new coal utilization facilities; and
- (2) on the fleet of coal-based units in existence on the date of enactment of this Act.

(b) **OBJECTIVES.**—The objectives of the program under subsection (a) shall be—

- (1) to develop carbon dioxide capture technologies, including adsorption and absorption techniques and chemical processes, to remove the carbon dioxide from gas streams containing carbon dioxide potentially amenable to sequestration;

(2) to develop technologies that would directly produce concentrated streams of carbon dioxide potentially amenable to sequestration;

(3) to increase the efficiency of the overall system to reduce the quantity of carbon dioxide emissions released from the system per megawatt generated; and

(4) in accordance with the carbon dioxide capture program, to promote a robust carbon sequestration program and continue the work of the Department, in conjunction with the private sector, through regional carbon sequestration partnerships.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—From amounts authorized under section 961(b), the following sums are authorized for activities described in subsection (a)(2):

(1) \$25,000,000 for fiscal year 2006;

(2) \$30,000,000 for fiscal year 2007; and

(3) \$35,000,000 for fiscal year 2008.

42 USC 16294.

SEC. 964. RESEARCH AND DEVELOPMENT FOR COAL MINING TECHNOLOGIES.

(a) **ESTABLISHMENT.**—The Secretary shall carry out a program for research and development on coal mining technologies.

(b) **COOPERATION.**—In carrying out the program, the Secretary shall cooperate with appropriate Federal agencies, coal producers, trade associations, equipment manufacturers, institutions of higher education with mining engineering departments, and other relevant entities.

(c) **PROGRAM.**—The research and development activities carried out under this section shall—

(1) be guided by the mining research and development priorities identified by the Mining Industry of the Future Program and in the recommendations from relevant reports of the National Academy of Sciences on mining technologies;

(2) include activities exploring minimization of contaminants in mined coal that contribute to environmental concerns including development and demonstration of electromagnetic wave imaging ahead of mining operations;

(3) develop and demonstrate coal bed electromagnetic wave imaging, spectroscopic reservoir analysis technology, and techniques for horizontal drilling in order to—

(A) identify areas of high coal gas content;

(B) increase methane recovery efficiency;

(C) prevent spoilage of domestic coal reserves; and

(D) minimize water disposal associated with methane extraction; and

(4) expand mining research capabilities at institutions of higher education.

42 USC 16295.

SEC. 965. OIL AND GAS RESEARCH PROGRAMS.

(a) **IN GENERAL.**—The Secretary shall conduct a program of research, development, demonstration, and commercial application of oil and gas, including—

(1) exploration and production;

(2) gas hydrates;

(3) reservoir life and extension;

(4) transportation and distribution infrastructure;

(5) ultraclean fuels;

(6) heavy oil, oil shale, and tar sands; and

(7) related environmental research.

(b) **OBJECTIVES.**—The objectives of this program shall include advancing the science and technology available to domestic petroleum producers, particularly independent operators, to minimize the economic dislocation caused by the decline of domestic supplies of oil and natural gas resources.

(c) **NATURAL GAS AND OIL DEPOSITS REPORT.**—Not later than 2 years after the date of enactment of this Act and every 2 years thereafter, the Secretary of the Interior, in consultation with other appropriate Federal agencies, shall submit to Congress a report on the latest estimates of natural gas and oil reserves, reserves growth, and undiscovered resources in Federal and State waters off the coast of Louisiana, Texas, Alabama, and Mississippi.

(d) **INTEGRATED CLEAN POWER AND ENERGY RESEARCH.**—

(1) **ESTABLISHMENT OF CENTER.**—The Secretary shall establish a national center or consortium of excellence in clean energy and power generation, using the resources of the Clean Power and Energy Research Consortium in existence on the date of enactment of this Act, to address the critical dependence of the United States on energy and the need to reduce emissions.

(2) **FOCUS AREAS.**—The center or consortium shall conduct a program of research, development, demonstration, and commercial application on integrating the following 6 focus areas:

(A) Efficiency and reliability of gas turbines for power generation.

(B) Reduction in emissions from power generation.

(C) Promotion of energy conservation issues.

(D) Effectively using alternative fuels and renewable energy.

(E) Development of advanced materials technology for oil and gas exploration and use in harsh environments.

(F) Education on energy and power generation issues.

SEC. 966. LOW-VOLUME OIL AND GAS RESERVOIR RESEARCH PROGRAM.

42 USC 16296.

(a) **DEFINITION OF GIS.**—In this section, the term “GIS” means geographic information systems technology that facilitates the organization and management of data with a geographic component.

(b) **PROGRAM.**—The Secretary shall establish a program of research, development, demonstration, and commercial application to maximize the productive capacity of marginal wells and reservoirs.

(c) **DATA COLLECTION.**—Under the program, the Secretary shall collect data on—

(1) the status and location of marginal wells and oil and gas reservoirs;

(2) the production capacity of marginal wells and oil and gas reservoirs;

(3) the location of low-pressure gathering facilities and pipelines; and

(4) the quantity of natural gas vented or flared in association with crude oil production.

(d) **ANALYSIS.**—Under the program, the Secretary shall—

(1) estimate the remaining producible reserves based on variable pipeline pressures; and

(2) recommend measures that will enable the continued production of those resources.

(e) STUDY.—

(1) IN GENERAL.—The Secretary may award a grant to an organization of States that contain significant numbers of marginal oil and natural gas wells to conduct an annual study of low-volume natural gas reservoirs.

(2) ORGANIZATION WITH NO GIS CAPABILITIES.—If an organization receiving a grant under paragraph (1) does not have GIS capabilities, the organization shall contract with an institution of higher education with GIS capabilities.

(3) STATE GEOLOGISTS.—The organization receiving a grant under paragraph (1) shall collaborate with the State geologist of each State being studied.

(f) PUBLIC INFORMATION.—The Secretary may use the data collected and analyzed under this section to produce maps and literature to disseminate to States to promote conservation of natural gas reserves.

Establishment.
42 USC 16297.

SEC. 967. COMPLEX WELL TECHNOLOGY TESTING FACILITY.

The Secretary, in coordination with industry leaders in extended research drilling technology, shall establish a Complex Well Technology Testing Facility at the Rocky Mountain Oilfield Testing Center to increase the range of extended drilling technologies.

30 USC 1902
note.

SEC. 968. METHANE HYDRATE RESEARCH.

(a) IN GENERAL.—The Methane Hydrate Research and Development Act of 2000 (30 U.S.C. 1902 note; Public Law 106–193) is amended to read as follows:

“SECTION 1. SHORT TITLE.

“This Act may be cited as the ‘Methane Hydrate Research and Development Act of 2000’.

“SEC. 2. FINDINGS.

“Congress finds that—

“(1) in order to promote energy independence and meet the increasing demand for energy, the United States will require a diversified portfolio of substantially increased quantities of electricity, natural gas, and transportation fuels;

“(2) according to the report submitted to Congress by the National Research Council entitled ‘Charting the Future of Methane Hydrate Research in the United States’, the total United States resources of gas hydrates have been estimated to be on the order of 200,000 trillion cubic feet;

“(3) according to the report of the National Commission on Energy Policy entitled ‘Ending the Energy Stalemate—A Bipartisan Strategy to Meet America’s Energy Challenge’, and dated December 2004, the United States may be endowed with over one-fourth of the methane hydrate deposits in the world;

“(4) according to the Energy Information Administration, a shortfall in natural gas supply from conventional and unconventional sources is expected to occur in or about 2020; and

“(5) the National Academy of Sciences states that methane hydrate may have the potential to alleviate the projected shortfall in the natural gas supply.

“SEC. 3. DEFINITIONS.

“In this Act:

“(1) **CONTRACT.**—The term ‘contract’ means a procurement contract within the meaning of section 6303 of title 31, United States Code.

“(2) **COOPERATIVE AGREEMENT.**—The term ‘cooperative agreement’ means a cooperative agreement within the meaning of section 6305 of title 31, United States Code.

“(3) **DIRECTOR.**—The term ‘Director’ means the Director of the National Science Foundation.

“(4) **GRANT.**—The term ‘grant’ means a grant awarded under a grant agreement (within the meaning of section 6304 of title 31, United States Code).

“(5) **INDUSTRIAL ENTERPRISE.**—The term ‘industrial enterprise’ means a private, nongovernmental enterprise that has an expertise or capability that relates to methane hydrate research and development.

“(6) **INSTITUTION OF HIGHER EDUCATION.**—The term ‘institution of higher education’ means an institution of higher education (as defined in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002)).

“(7) **SECRETARY.**—The term ‘Secretary’ means the Secretary of Energy, acting through the Assistant Secretary for Fossil Energy.

“(8) **SECRETARY OF COMMERCE.**—The term ‘Secretary of Commerce’ means the Secretary of Commerce, acting through the Administrator of the National Oceanic and Atmospheric Administration.

“(9) **SECRETARY OF DEFENSE.**—The term ‘Secretary of Defense’ means the Secretary of Defense, acting through the Secretary of the Navy.

“(10) **SECRETARY OF THE INTERIOR.**—The term ‘Secretary of the Interior’ means the Secretary of the Interior, acting through the Director of the United States Geological Survey, the Director of the Bureau of Land Management, and the Director of the Minerals Management Service.

“SEC. 4. METHANE HYDRATE RESEARCH AND DEVELOPMENT PROGRAM.

“(a) **IN GENERAL.**—

“(1) **COMMENCEMENT OF PROGRAM.**—Not later than 90 days after the date of enactment of the Energy Research, Development, Demonstration, and Commercial Application Act of 2005, the Secretary, in consultation with the Secretary of Commerce, the Secretary of Defense, the Secretary of the Interior, and the Director, shall commence a program of methane hydrate research and development in accordance with this section. Deadline.

“(2) **DESIGNATIONS.**—The Secretary, the Secretary of Commerce, the Secretary of Defense, the Secretary of the Interior, and the Director shall designate individuals to carry out this section.

“(3) **COORDINATION.**—The individual designated by the Secretary shall coordinate all activities within the Department of Energy relating to methane hydrate research and development.

“(4) **MEETINGS.**—The individuals designated under paragraph (2) shall meet not later than 180 days after the date Deadlines.

of enactment of the Energy Research, Development, Demonstration, and Commercial Application Act of 2005 and not less frequently than every 180 days thereafter to—

“(A) review the progress of the program under paragraph (1); and

“(B) coordinate interagency research and partnership efforts in carrying out the program.

“(b) GRANTS, CONTRACTS, COOPERATIVE AGREEMENTS, INTER-AGENCY FUNDS TRANSFER AGREEMENTS, AND FIELD WORK PROPOSALS.—

“(1) ASSISTANCE AND COORDINATION.—In carrying out the program of methane hydrate research and development authorized by this section, the Secretary may award grants to, or enter into contracts or cooperative agreements with, institutions of higher education, oceanographic institutions, and industrial enterprises to—

“(A) conduct basic and applied research to identify, explore, assess, and develop methane hydrate as a commercially viable source of energy;

“(B) identify methane hydrate resources through remote sensing;

“(C) acquire and reprocess seismic data suitable for characterizing methane hydrate accumulations;

“(D) assist in developing technologies required for efficient and environmentally sound development of methane hydrate resources;

“(E) promote education and training in methane hydrate resource research and resource development through fellowships or other means for graduate education and training;

“(F) conduct basic and applied research to assess and mitigate the environmental impact of hydrate degassing (including both natural degassing and degassing associated with commercial development);

“(G) develop technologies to reduce the risks of drilling through methane hydrates; and

“(H) conduct exploratory drilling, well testing, and production testing operations on permafrost and non-permafrost gas hydrates in support of the activities authorized by this paragraph, including drilling of one or more full-scale production test wells.

“(2) COMPETITIVE PEER REVIEW.—Funds made available under paragraph (1) shall be made available based on a competitive process using external scientific peer review of proposed research.

“(c) METHANE HYDRATES ADVISORY PANEL.—

“(1) IN GENERAL.—The Secretary shall establish an advisory panel (including the hiring of appropriate staff) consisting of representatives of industrial enterprises, institutions of higher education, oceanographic institutions, State agencies, and environmental organizations with knowledge and expertise in the natural gas hydrates field, to—

“(A) assist in developing recommendations and broad programmatic priorities for the methane hydrate research and development program carried out under subsection (a)(1);

Establishment.

“(B) provide scientific oversight for the methane hydrates program, including assessing progress toward program goals, evaluating program balance, and providing recommendations to enhance the quality of the program over time; and

“(C) not later than 2 years after the date of enactment of the Energy Research, Development, Demonstration, and Commercial Application Act of 2005, and at such later dates as the panel considers advisable, submit to Congress—

“(i) an assessment of the methane hydrate research program; and

“(ii) an assessment of the 5-year research plan of the Department of Energy.

“(2) CONFLICTS OF INTEREST.—In appointing each member of the advisory panel established under paragraph (1), the Secretary shall ensure, to the maximum extent practicable, that the appointment of the member does not pose a conflict of interest with respect to the duties of the member under this Act.

“(3) MEETINGS.—The advisory panel shall—

“(A) hold the initial meeting of the advisory panel not later than 180 days after the date of establishment of the advisory panel; and

“(B) meet biennially thereafter.

“(4) COORDINATION.—The advisory panel shall coordinate activities of the advisory panel with program managers of the Department of Energy at appropriate National Laboratories.

“(d) CONSTRUCTION COSTS.—None of the funds made available to carry out this section may be used for the construction of a new building or the acquisition, expansion, remodeling, or alteration of an existing building (including site grading and improvement and architect fees).

“(e) RESPONSIBILITIES OF THE SECRETARY.—In carrying out subsection (b)(1), the Secretary shall—

“(1) facilitate and develop partnerships among government, industrial enterprises, and institutions of higher education to research, identify, assess, and explore methane hydrate resources;

“(2) undertake programs to develop basic information necessary for promoting long-term interest in methane hydrate resources as an energy source;

“(3) ensure that the data and information developed through the program are accessible and widely disseminated as needed and appropriate;

“(4) promote cooperation among agencies that are developing technologies that may hold promise for methane hydrate resource development;

“(5) report annually to Congress on the results of actions taken to carry out this Act; and

“(6) ensure, to the maximum extent practicable, greater participation by the Department of Energy in international cooperative efforts.

“SEC. 5. NATIONAL RESEARCH COUNCIL STUDY.

“(a) AGREEMENT FOR STUDY.—The Secretary shall offer to enter into an agreement with the National Research Council under which the National Research Council shall—

“(1) conduct a study of the progress made under the methane hydrate research and development program implemented under this Act; and

“(2) make recommendations for future methane hydrate research and development needs.

“(b) REPORT.—Not later than September 30, 2009, the Secretary shall submit to Congress a report containing the findings and recommendations of the National Research Council under this section.

“SEC. 6. REPORTS AND STUDIES FOR CONGRESS.

“The Secretary shall provide to the Committee on Science of the House of Representatives and the Committee on Energy and Natural Resources of the Senate copies of any report or study that the Department of Energy prepares at the direction of any committee of Congress relating to the methane hydrate research and development program implemented under this Act.

“SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated to the Secretary to carry out this Act, to remain available until expended—

“(1) \$15,000,000 for fiscal year 2006;

“(2) \$20,000,000 for fiscal year 2007;

“(3) \$30,000,000 for fiscal year 2008;

“(4) \$40,000,000 for fiscal year 2009; and

“(5) \$50,000,000 for fiscal year 2010.”.

30 USC 2001
note.

(b) RECLASSIFICATION.—The Law Revision Counsel shall reclassify the Methane Hydrate Research and Development Act of 2000 (30 U.S.C. 1902 note; Public Law 106–193) to a new chapter at the end of title 30, United States Code.

Subtitle G—Science

42 USC 16311.

SEC. 971. SCIENCE.

(a) IN GENERAL.—The Secretary shall conduct, through the Office of Science, programs of research, development, demonstration, and commercial application in high energy physics, nuclear physics, biological and environmental research, basic energy sciences, advanced scientific computing research, and fusion energy sciences, including activities described in this subtitle. The programs shall include support for facilities and infrastructure, education, outreach, information, analysis, and coordination activities.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out research, development, demonstration, and commercial application activities of the Office of Science, including activities authorized under this subtitle (including the amounts authorized under the amendment made by section 976(b) and including basic energy sciences, advanced scientific and computing research, biological and environmental research, fusion energy sciences, high energy physics, nuclear physics, research analysis, and infrastructure support)—

(1) \$4,153,000,000 for fiscal year 2007;

(2) \$4,586,000,000 for fiscal year 2008; and

(3) \$5,200,000,000 for fiscal year 2009.

(c) ALLOCATIONS.—From amounts authorized under subsection (b), the following sums are authorized:

(1) For activities under the Fusion Energy Sciences program (including activities under section 972)—

(A) \$355,500,000 for fiscal year 2007;

(B) \$369,500,000 for fiscal year 2008;

(C) \$384,800,000 for fiscal year 2009; and

(D) in addition to the amounts authorized under subparagraphs (A), (B), and (C), such sums as may be necessary for ITER construction, consistent with the limitations of section 972(c)(5).

(2) For activities under the catalysis research program under section 973—

(A) \$36,500,000 for fiscal year 2007;

(B) \$38,200,000 for fiscal year 2008; and

(C) such sums as may be necessary for fiscal year 2009.

(3) For activities under the Systems Biology Program under section 977 such sums as may be necessary for each of fiscal years 2007 through 2009.

(4) For activities under the Energy and Water Supplies program under section 979, \$30,000,000 for each of fiscal years 2007 through 2009.

(5) For the energy research fellowships programs under section 984, \$40,000,000 for each of fiscal years 2007 through 2009.

(6) For the advanced scientific computing activities under section 976—

(A) \$270,000,000 for fiscal year 2007;

(B) \$350,000,000 for fiscal year 2008; and

(C) \$375,000,000 for fiscal year 2009.

(7) For the science and engineering education pilot program under section 983—

(A) \$4,000,000 for each of fiscal years 2007 and 2008;

and

(B) \$8,000,000 for fiscal year 2009.

(d) INTEGRATED BIOENERGY RESEARCH AND DEVELOPMENT.—In addition to amounts otherwise authorized by this section, there are authorized to be appropriated to the Secretary for integrated bioenergy research and development programs, projects, and activities, \$49,000,000 for each of the fiscal years 2005 through 2009. Activities funded under this subsection shall be coordinated with ongoing related programs of other Federal agencies, including the Plant Genome Program of the National Science Foundation. Of the funds authorized under this subsection, at least \$5,000,000 for each fiscal year shall be for training and education targeted to minority and socially disadvantaged farmers and ranchers.

SEC. 972. FUSION ENERGY SCIENCES PROGRAM.

42 USC 16312.

(a) DECLARATION OF POLICY.—It shall be the policy of the United States to conduct research, development, demonstration, and commercial applications to provide for the scientific, engineering, and commercial infrastructure necessary to ensure that the United States is competitive with other countries in providing fusion energy for its own needs and the needs of other countries, including by demonstrating electric power or hydrogen

production for the United States energy grid using fusion energy at the earliest date.

Deadline.

(b) PLANNING.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to Congress a plan (with proposed cost estimates, budgets, and lists of potential international partners) for the implementation of the policy described in subsection (a) in a manner that ensures that—

(A) existing fusion research facilities are more fully used;

(B) fusion science, technology, theory, advanced computation, modeling, and simulation are strengthened;

(C) new magnetic and inertial fusion research and development facilities are selected based on scientific innovation and cost effectiveness, and the potential of the facilities to advance the goal of practical fusion energy at the earliest date practicable;

(D) facilities that are selected are funded at a cost-effective rate;

(E) communication of scientific results and methods between the fusion energy science community and the broader scientific and technology communities is improved;

(F) inertial confinement fusion facilities are used to the extent practicable for the purpose of inertial fusion energy research and development;

(G) attractive alternative inertial and magnetic fusion energy approaches are more fully explored; and

(H) to the extent practicable, the recommendations of the Fusion Energy Sciences Advisory Committee in the report on workforce planning, dated March 2004, are carried out, including periodic reassessment of program needs.

(2) COSTS AND SCHEDULES.—The plan shall also address the status of and, to the extent practicable, costs and schedules for—

(A) the design and implementation of international or national facilities for the testing of fusion materials; and

(B) the design and implementation of international or national facilities for the testing and development of key fusion technologies.

(c) UNITED STATES PARTICIPATION IN ITER.—

(1) DEFINITIONS.—In this subsection:

(A) CONSTRUCTION.—

(i) IN GENERAL.—The term “construction” means—

(I) the physical construction of the ITER facility; and

(II) the physical construction, purchase, or manufacture of equipment or components that are specifically designed for the ITER facility.

(ii) EXCLUSIONS.—The term “construction” does not include the design of the facility, equipment, or components.

(B) ITER.—The term “ITER” means the international burning plasma fusion research project in which the President announced United States participation on January 30, 2003, or any similar international project.

(2) PARTICIPATION.—The United States may participate in the ITER only in accordance with this subsection.

(3) AGREEMENT.—

(A) IN GENERAL.—The Secretary may negotiate an agreement for United States participation in the ITER.

(B) CONTENTS.—Any agreement for United States participation in the ITER shall, at a minimum—

(i) clearly define the United States financial contribution to construction and operating costs, as well as any other costs associated with a project;

(ii) ensure that the share of high-technology components of the ITER manufactured in the United States is at least proportionate to the United States financial contribution to the ITER;

(iii) ensure that the United States will not be financially responsible for cost overruns in components manufactured in other ITER participating countries;

(iv) guarantee the United States full access to all data generated by the ITER;

(v) enable United States researchers to propose and carry out an equitable share of the experiments at the ITER;

(vi) provide the United States with a role in all collective decisionmaking related to the ITER; and

(vii) describe the process for discontinuing or decommissioning the ITER and any United States role in that process.

(4) PLAN.—

(A) DEVELOPMENT.—The Secretary, in consultation with the Fusion Energy Sciences Advisory Committee, shall develop a plan for the participation of United States scientists in the ITER that shall include—

(i) the United States research agenda for the ITER;

(ii) methods to evaluate whether the ITER is promoting progress toward making fusion a reliable and affordable source of power; and

(iii) a description of how work at the ITER will relate to other elements of the United States fusion program.

(B) REVIEW.—The Secretary shall request a review of the plan by the National Academy of Sciences.

(5) LIMITATION.—No Federal funds shall be expended for the construction of the ITER until the Secretary has submitted to Congress—

(A) the agreement negotiated in accordance with paragraph (3) and 120 days have elapsed since that submission;

(B) a report describing the management structure of the ITER and providing a fixed dollar estimate of the cost of United States participation in the construction of the ITER, and 120 days have elapsed since that submission;

(C) a report describing how United States participation in the ITER will be funded without reducing funding for other programs in the Office of Science (including other fusion programs), and 60 days have elapsed since that submission; and

Reports.
Deadlines.

(D) the plan required by paragraph (4) (but not the National Academy of Sciences review of that plan), and 60 days have elapsed since that submission.

(6) ALTERNATIVE TO ITER.—

(A) IN GENERAL.—If at any time during the negotiations on the ITER, the Secretary determines that construction and operation of the ITER is unlikely or infeasible, the Secretary shall submit to Congress, along with the budget request of the President submitted to Congress for the following fiscal year, a plan for implementing a domestic burning plasma experiment such as the Fusion Ignition Research Experiment, including costs and schedules for the plan.

(B) ADMINISTRATION.—The Secretary shall—

(i) refine the plan in full consultation with the Fusion Energy Sciences Advisory Committee; and

(ii) transmit the plan to the National Academy of Sciences for review.

42 USC 16313.

SEC. 973. CATALYSIS RESEARCH PROGRAM.

(a) ESTABLISHMENT.—The Secretary, acting through the Office of Science, shall support a program of research and development in catalysis science consistent with the statutory authorities of the Department related to research and development.

(b) COMPONENTS.—The program shall include efforts to—

(1) enable catalyst design using combinations of experimental and mechanistic methodologies coupled with computational modeling of catalytic reactions at the molecular level;

(2) develop techniques for high throughput synthesis, assay, and characterization at nanometer and subnanometer scales in-situ under actual operating conditions;

(3) synthesize catalysts with specific site architectures;

(4) conduct research on the use of precious metals for catalysis; and

(5) translate molecular understanding to the design of catalytic compounds.

(c) DUTIES OF THE OFFICE OF SCIENCE.—In carrying out the program, the Director of the Office of Science shall—

(1) support both individual investigators and multidisciplinary teams of investigators to pioneer new approaches in catalytic design;

(2) develop, plan, construct, acquire, share, or operate special equipment or facilities for the use of investigators in collaboration with national user facilities, such as nanoscience and engineering centers;

(3) support technology transfer activities to benefit industry and other users of catalysis science and engineering; and

(4) coordinate research and development activities with industry and other Federal agencies.

Deadline.

(d) ASSESSMENT.—Not later than 3 years after the date of enactment of this Act, the Secretary shall enter into an arrangement with the National Academy of Sciences to—

(1) review the catalysis program to measure—

(A) gains made in the fundamental science of catalysis; and

(B) progress towards developing new fuels for energy production and material fabrication processes; and

(2) submit to Congress a report describing the results of the review. Reports.

SEC. 974. HYDROGEN.

42 USC 16314.

(a) **IN GENERAL.**—The Secretary shall conduct a program of fundamental research and development in support of programs authorized under title VIII.

(b) **METHODS.**—The program shall include support for methods of generating hydrogen without the use of natural gas.

SEC. 975. SOLID STATE LIGHTING.

42 USC 16315.

The Secretary shall conduct a program of fundamental research on solid state lighting in support of the Next Generation Lighting Initiative carried out under section 912.

SEC. 976. ADVANCED SCIENTIFIC COMPUTING FOR ENERGY MISSIONS.

42 USC 16316.

(a) **PROGRAM.**—

(1) **IN GENERAL.**—The Secretary shall conduct an advanced scientific computing research and development program that includes activities related to applied mathematics and activities authorized by the Department of Energy High-End Computing Revitalization Act of 2004 (15 U.S.C. 5541 et seq.).

(2) **GOAL.**—The Secretary shall carry out the program with the goal of supporting departmental missions, and providing the high-performance computational, networking, advanced visualization technologies, and workforce resources, that are required for world leadership in science.

(b) **HIGH-PERFORMANCE COMPUTING.**—Section 203 of the High-Performance Computing Act of 1991 (15 U.S.C. 5523) is amended to read as follows:

“SEC. 203. DEPARTMENT OF ENERGY ACTIVITIES.

“(a) **GENERAL RESPONSIBILITIES.**—As part of the Program described in title I, the Secretary of Energy shall—

“(1) conduct and support basic and applied research in high-performance computing and networking to support fundamental research in science and engineering disciplines related to energy applications; and

“(2) provide computing and networking infrastructure support, including—

“(A) the provision of high-performance computing systems that are among the most advanced in the world in terms of performance in solving scientific and engineering problems; and

“(B) support for advanced software and applications development for science and engineering disciplines related to energy applications.

“(b) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary of Energy such sums as are necessary to carry out this section.”.

SEC. 977. SYSTEMS BIOLOGY PROGRAM.

42 USC 16317.

(a) **PROGRAM.**—

(1) **ESTABLISHMENT.**—The Secretary shall establish a research, development, and demonstration program in microbial and plant systems biology, protein science, and computational biology to support the energy, national security, and environmental missions of the Department.

(2) GRANTS.—The program shall support individual researchers and multidisciplinary teams of researchers through competitive, merit-reviewed grants.

(3) CONSULTATION.—In carrying out the program, the Secretary shall consult with other Federal agencies that conduct genetic and protein research.

(b) GOALS.—The program shall have the goal of developing technologies and methods based on the biological functions of genomes, microbes, and plants that—

(1) can facilitate the production of fuels, including hydrogen;

(2) convert carbon dioxide to organic carbon;

(3) detoxify soils and water, including at facilities of the Department, contaminated with heavy metals and radiological materials; and

(4) address other Department missions as identified by the Secretary.

(c) PLAN.—

Deadline.

(1) DEVELOPMENT OF PLAN.—Not later than 1 year after the date of enactment of this Act, the Secretary shall prepare and transmit to Congress a research plan describing how the program authorized pursuant to this section will be undertaken to accomplish the program goals established in subsection (b).

Contracts.

(2) REVIEW OF PLAN.—The Secretary shall contract with the National Academy of Sciences to review the research plan developed under this subsection. The Secretary shall transmit the review to Congress not later than 18 months after transmittal of the research plan under paragraph (1), along with the Secretary's response to the recommendations contained in the review.

Deadline.

(d) USER FACILITIES AND ANCILLARY EQUIPMENT.—Within the funds authorized to be appropriated pursuant to this subtitle, amounts shall be available for projects to develop, plan, construct, acquire, or operate special equipment, instrumentation, or facilities, including user facilities at National Laboratories, for researchers conducting research, development, demonstration, and commercial application in systems biology and proteomics and associated biological disciplines.

(e) PROHIBITION ON BIOMEDICAL AND HUMAN CELL AND HUMAN SUBJECT RESEARCH.—

(1) NO BIOMEDICAL RESEARCH.—In carrying out the program under this section, the Secretary shall not conduct biomedical research.

(2) LIMITATIONS.—Nothing in this section shall authorize the Secretary to conduct any research or demonstrations—

(A) on human cells or human subjects; or

(B) designed to have direct application with respect to human cells or human subjects.

42 USC 16318.

SEC. 978. FISSION AND FUSION ENERGY MATERIALS RESEARCH PROGRAM.

(a) IN GENERAL.—Along with the budget request of the President submitted to Congress for fiscal year 2007, the Secretary shall establish a research and development program on material science issues presented by advanced fission reactors and the fusion energy program of the Department.

(b) **ADMINISTRATION.**—In carrying out the program, the Secretary shall develop—

- (1) a catalog of material properties required for applications described in subsection (a);
- (2) theoretical models for materials possessing the required properties;
- (3) benchmark models against existing data; and
- (4) a roadmap to guide further research and development in the area covered by the program.

SEC. 979. ENERGY AND WATER SUPPLIES.

42 USC 16319.

(a) **IN GENERAL.**—The Secretary shall carry out a program of research, development, demonstration, and commercial application to—

- (1) address energy-related issues associated with provision of adequate water supplies, optimal management, and efficient use of water;
- (2) address water-related issues associated with the provision of adequate supplies, optimal management, and efficient use of energy; and
- (3) assess the effectiveness of existing programs within the Department and other Federal agencies to address these energy and water related issues.

(b) **PROGRAM ELEMENTS.**—The program under this section shall include—

- (1) arsenic treatment;
- (2) desalination; and
- (3) planning, analysis, and modeling of energy and water supply and demand.

(c) **COLLABORATION.**—In carrying out this section, the Secretary shall consult with the Administrator of the Environmental Protection Agency, the Secretary of the Interior, the Chief Engineer of the Army Corps of Engineers, the Secretary of Commerce, the Secretary of Defense, and other Federal agencies as appropriate.

(d) **FACILITIES.**—The Secretary may utilize all existing facilities within the Department and may design and construct additional facilities as needed to carry out the purposes of this program.

(e) **ADVISORY COMMITTEE.**—The Secretary shall establish or utilize an advisory committee to provide independent advice and review of the program.

Establishment.

(f) **REPORTS.**—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to Congress a report on the assessment described in subsection (b) and recommendations for future actions.

SEC. 980. SPALLATION NEUTRON SOURCE.

42 USC 16320.

(a) **DEFINITIONS.**—In this section:

(1) **SING.**—The term “SING” means the Spallation Neutron Source Instruments Next Generation major item of equipment.

(2) **SNS POWER UPGRADE.**—The term “SNS power upgrade” means the Spallation Neutron Source power upgrade described in the 20-year facilities plan of the Office of Science of the Department.

(3) **SNS SECOND TARGET STATION.**—The term “SNS second target station” means the Spallation Neutron Source second target station described in the 20-year facilities plan of the Office of Science of the Department.

(4) SPALLATION NEUTRON SOURCE FACILITY.—The terms “Spallation Neutron Source Facility” and “Facility” mean the completed Spallation Neutron Source scientific user facility located at Oak Ridge National Laboratory, Oak Ridge, Tennessee.

(5) SPALLATION NEUTRON SOURCE PROJECT.—The terms “Spallation Neutron Source Project” and “Project” means Department Project 99-E-334, Oak Ridge National Laboratory, Oak Ridge, Tennessee.

(b) SPALLATION NEUTRON SOURCE PROJECT.—

Reports.

(1) IN GENERAL.—The Secretary shall submit to Congress, as part of the annual budget request of the President submitted to Congress, a report on progress on the Spallation Neutron Source Project.

(2) CONTENTS.—The report shall include for the Project—

(A) a description of the achievement of milestones;

(B) a comparison of actual costs to estimated costs;

and

(C) any changes in estimated Project costs or schedule.

(c) SPALLATION NEUTRON SOURCE FACILITY PLAN.—

(1) IN GENERAL.—The Secretary shall develop an operational plan for the Spallation Neutron Source Facility that ensures that the Facility is employed to the full capability of the Facility in support of the study of advanced materials, nanoscience, and other missions of the Office of Science of the Department.

(2) PLAN.—The operational plan shall—

(A) include a plan for the operation of an effective scientific user program that—

(i) is based on peer review of proposals submitted for use of the Facility;

(ii) includes scientific and technical support to ensure that external users, including researchers based at institutions of higher education, are able to make full use of a variety of high quality scientific instruments; and

(iii) phases in systems upgrades to ensure that the Facility remains at the forefront of international scientific endeavors in the field of the Facility throughout the operating life of the Facility;

(B) include an ongoing program to develop new instruments that builds on the high performance neutron source and that allows neutron scattering techniques to be applied to a growing range of scientific problems and disciplines; and

(C) address the status of and, to the maximum extent practicable, costs and schedules for—

(i) full user mode operations of the Facility;

(ii) instrumentation built at the Facility during the operating phase through full use of the experimental hall, including the SING;

(iii) the SNS power upgrade; and

(iv) the SNS second target station.

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) SPALLATION NEUTRON SOURCE PROJECT.—There is authorized to be appropriated to carry out the Spallation Neutron Source Project for the lifetime of the Project \$1,411,700,000 for total project costs, of which—

(A) \$1,192,700,000 shall be used for the costs of construction; and

(B) \$219,000,000 shall be used for other Project costs.

(2) SPALLATION NEUTRON SOURCE FACILITY.—

(A) IN GENERAL.—Except as provided in subparagraph (B), there is authorized to be appropriated for the Spallation Neutron Source Facility for—

(i) the SING, \$75,000,000 for each of fiscal year 2007 through 2009; and

(ii) the SNS power upgrade, \$160,000,000, to remain available until expended.

(B) INSUFFICIENT STOCKPILES OF HEAVY WATER.—If stockpiles of heavy water of the Department are insufficient to meet the needs of the Facility, there is authorized to be appropriated for the Facility \$12,000,000 for fiscal year 2007.

SEC. 981. RARE ISOTOPE ACCELERATOR.

42 USC 16321.

(a) ESTABLISHMENT.—The Secretary shall construct and operate a Rare Isotope Accelerator. The Secretary shall commence construction no later than September 30, 2008.

Deadline.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this section. The Secretary shall not spend more than \$1,100,000,000 in Federal funds for all activities associated with the Rare Isotope Accelerator, prior to operation of the Accelerator.

SEC. 982. OFFICE OF SCIENTIFIC AND TECHNICAL INFORMATION.

42 USC 16322.

The Secretary, through the Office of Scientific and Technical Information, shall maintain within the Department publicly available collections of scientific and technical information resulting from research, development, demonstration, and commercial applications activities supported by the Department.

SEC. 983. SCIENCE AND ENGINEERING EDUCATION PILOT PROGRAM.

42 USC 16323.

(a) ESTABLISHMENT OF PILOT PROGRAM.—The Secretary shall award a grant to a Southeastern United States consortium of major research universities that currently advances science and education by partnering with National Laboratories, to establish a regional pilot program of its SEEK–16 program for enhancing scientific, technological, engineering, and mathematical literacy, creativity, and decision-making. The consortium shall include leading research universities, one or more universities that train substantial numbers of elementary and secondary school teachers, and (where appropriate) National Laboratories.

Grants.

(b) PROGRAM ELEMENTS.—The regional pilot program shall include—

(1) expanding strategic, formal partnerships among universities with strength in research, universities that train substantial numbers of elementary and secondary school teachers, and the private sector;

(2) combining Department expertise with one or more National Aeronautics and Space Administration Educator Resource Centers;

(3) developing programs to permit current and future teachers to participate in ongoing research projects at National Laboratories and research universities and to adapt lessons learned to the classroom;

(4) designing and implementing course work;

(5) designing and implementing a strategy for measuring and assessing progress under the program; and

(6) developing models for transferring knowledge gained under the pilot program to other institutions and areas of the United States.

(c) CATEGORIZATION.—A grant under this section shall be considered an authorized activity under section 3165 of the Department of Energy Science Education Enhancement Act (42 U.S.C. 7381b).

(d) REPORT.—No later than 2 years after the award of the grant, the Secretary shall transmit to Congress a report outlining lessons learned and, if determined appropriate by the Secretary, containing a plan for expanding the program throughout the United States.

42 USC 16324.

SEC. 984. ENERGY RESEARCH FELLOWSHIPS.

(a) POSTDOCTORAL FELLOWSHIP PROGRAM.—The Secretary shall establish a program under which the Secretary provides fellowships to encourage outstanding young scientists and engineers to pursue postdoctoral research appointments in energy research and development at institutions of higher education of their choice.

(b) SENIOR RESEARCH FELLOWSHIPS.—

(1) IN GENERAL.—The Secretary shall establish a program under which the Secretary provides fellowships to allow outstanding senior researchers and their research groups in energy research and development to explore research and development topics of their choosing for a period of not less than 3 years, to be determined by the Secretary.

(2) CONSIDERATION.—In providing a fellowship under the program described in paragraph (1), the Secretary shall consider—

(A) the past scientific or technical accomplishment of a senior researcher; and

(B) the potential for continued accomplishment by the researcher during the period of the fellowship.

42 USC 16325.

SEC. 984A. SCIENCE AND TECHNOLOGY SCHOLARSHIP PROGRAM.

(a) IN GENERAL.—The Secretary is authorized to establish a Science and Technology Scholarship Program to award scholarships to individuals that is designed to recruit and prepare students for careers in the Department and National Laboratories.

(b) SERVICE REQUIREMENT.—The Secretary may require that an individual receiving a scholarship under this section serve as a full-time employee of the Department or a National Laboratory for a fixed period in return for receiving the scholarship.

Subtitle H—International Cooperation

42 USC 16341.

SEC. 985. WESTERN HEMISPHERE ENERGY COOPERATION.

(a) PROGRAM.—The Secretary shall carry out a program to promote cooperation on energy issues with countries of the Western Hemisphere.

(b) **ACTIVITIES.**—Under the program, the Secretary shall fund activities to work with countries of the Western Hemisphere to—

- (1) increase the production of energy supplies;
- (2) improve energy efficiency; and
- (3) assist in the development and transfer of energy supply and efficiency technologies that would have a beneficial impact on world energy markets.

(c) **PARTICIPATION BY INSTITUTIONS OF HIGHER EDUCATION.**—To the extent practicable, the Secretary shall carry out the program under this section with the participation of institutions of higher education so as to take advantage of the acceptance of institutions of higher education by countries of the Western Hemisphere as sources of unbiased technical and policy expertise when assisting the Secretary in—

- (1) evaluating new technologies;
- (2) resolving technical issues;
- (3) working with those countries in the development of new policies; and
- (4) training policymakers, particularly in the case of institutions of higher education that involve the participation of minority students, such as—
 - (A) Hispanic-serving institutions; and
 - (B) part B institutions.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out this section—

- (1) \$10,000,000 for fiscal year 2007;
- (2) \$13,000,000 for fiscal year 2008; and
- (3) \$16,000,000 for fiscal year 2009.

SEC. 986. COOPERATION BETWEEN UNITED STATES AND ISRAEL.

(a) **FINDINGS.**—Congress finds that—

(1) on February 1, 1996, the United States and Israel signed the agreement entitled “Agreement between the Department of Energy of the United States of America and the Ministry of Energy and Infrastructure of Israel Concerning Energy Cooperation” (referred to in this section as the “Agreement”), to establish a framework for collaboration between the United States and Israel in energy research and development activities;

(2) the Agreement entered into force in February 2000;

(3) in February 2005, the Agreement was automatically renewed for 1 additional 5-year period pursuant to Article X of the Agreement; and

(4) under the Agreement, the United States and Israel may cooperate in energy research and development in a variety of alternative and advanced energy sectors.

(b) **REPORT TO CONGRESS.**—Not later than 90 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Energy and Natural Resources and the Committee on Foreign Relations of the Senate and the Committee on Energy and Commerce and the Committee on International Relations of the House of Representatives a report that describes—

(1) the ways in which the United States and Israel have cooperated on energy research and development activities under the Agreement;

(2) projects initiated pursuant to the Agreement; and

(3) plans for future cooperation and joint projects under the Agreement.

(c) SENSE OF CONGRESS.—It is the sense of Congress that energy cooperation between the Governments of the United States and Israel is mutually beneficial in the development of energy technology.

42 USC 16342.

SEC. 986A. INTERNATIONAL ENERGY TRAINING.

(a) IN GENERAL.—The Secretary, in consultation with the Secretary of Commerce, the Secretary of the Interior, and Secretary of State, and the Federal Energy Regulatory Commission, shall coordinate training and outreach efforts for international commercial energy markets in countries with developing and restructuring economies.

(b) COMPONENTS.—The training and outreach efforts referred to in subsection (a) may include—

- (1) production-related fiscal regimes;
- (2) grid and network issues;
- (3) energy user and demand side response;
- (4) international trade of energy; and
- (5) international transportation of energy.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$1,500,000 for each of fiscal years 2007 through 2010.

Subtitle I—Research Administration and Operations

42 USC 16351.

SEC. 987. AVAILABILITY OF FUNDS.

Funds authorized to be appropriated to the Department under this Act or an amendment made by this Act shall remain available until expended.

42 USC 16352.

SEC. 988. COST SHARING.

(a) APPLICABILITY.—Notwithstanding any other provision of law, in carrying out a research, development, demonstration, or commercial application program or activity that is initiated after the date of enactment of this section, the Secretary shall require cost-sharing in accordance with this section.

(b) RESEARCH AND DEVELOPMENT.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3) and subsection (f), the Secretary shall require not less than 20 percent of the cost of a research or development activity described in subsection (a) to be provided by a non-Federal source.

(2) EXCLUSION.—Paragraph (1) shall not apply to a research or development activity described in subsection (a) that is of a basic or fundamental nature, as determined by the appropriate officer of the Department.

(3) REDUCTION.—The Secretary may reduce or eliminate the requirement of paragraph (1) for a research and development activity of an applied nature if the Secretary determines that the reduction is necessary and appropriate.

(c) DEMONSTRATION AND COMMERCIAL APPLICATION.—

(1) IN GENERAL.—Except as provided in paragraph (2) and subsection (f), the Secretary shall require that not less than

50 percent of the cost of a demonstration or commercial application activity described in subsection (a) to be provided by a non-Federal source.

(2) **REDUCTION OF NON-FEDERAL SHARE.**—The Secretary may reduce the non-Federal share required under paragraph (1) if the Secretary determines the reduction to be necessary and appropriate, taking into consideration any technological risk relating to the activity.

(d) **CALCULATION OF AMOUNT.**—In calculating the amount of a non-Federal contribution under this section, the Secretary—

(1) may include allowable costs in accordance with the applicable cost principles, including—

(A) cash;

(B) personnel costs;

(C) the value of a service, other resource, or third party in-kind contribution determined in accordance with the applicable circular of the Office of Management and Budget;

(D) indirect costs or facilities and administrative costs;

or

(E) any funds received under the power program of the Tennessee Valley Authority (except to the extent that such funds are made available under an annual appropriation Act); and

(2) shall not include—

(A) revenues or royalties from the prospective operation of an activity beyond the time considered in the award;

(B) proceeds from the prospective sale of an asset of an activity; or

(C) other appropriated Federal funds.

(e) **REPAYMENT OF FEDERAL SHARE.**—The Secretary shall not require repayment of the Federal share of a cost-shared activity under this section as a condition of making an award.

(f) **EXCLUSIONS.**—This section shall not apply to—

(1) a cooperative research and development agreement under the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.);

(2) a fee charged for the use of a Department facility;

or

(3) an award under—

(A) the small business innovation research program under section 9 of the Small Business Act (15 U.S.C. 638);

or

(B) the small business technology transfer program under that section.

SEC. 989. MERIT REVIEW OF PROPOSALS.

42 USC 16353.

(a) **AWARDS.**—Awards of funds authorized under this Act or an amendment made by this Act shall be made only after an impartial review of the scientific and technical merit of the proposals for the awards has been carried out by or for the Department.

(b) **COMPETITION.**—Competitive awards under this Act shall involve competitions open to all qualified entities within one or more of the following categories:

(1) Institutions of higher education.

(2) National Laboratories.

(3) Nonprofit and for-profit private entities.

(4) State and local governments.

(5) Consortia of entities described in paragraphs (1) through (4).

(c) SENSE OF CONGRESS.—It is the sense of Congress that research, development, demonstration, and commercial application activities carried out by the Department should be awarded using competitive procedures, to the maximum extent practicable.

42 USC 16354.

SEC. 990. EXTERNAL TECHNICAL REVIEW OF DEPARTMENTAL PROGRAMS.

(a) NATIONAL ENERGY RESEARCH AND DEVELOPMENT ADVISORY BOARDS.—

(1) ESTABLISHMENT.—The Secretary shall establish one or more advisory boards to review research, development, demonstration, and commercial application programs of the Department in energy efficiency, renewable energy, nuclear energy, and fossil energy.

(2) ALTERNATIVES.—The Secretary may—

(A) designate an existing advisory board within the Department to fulfill the responsibilities of an advisory board under this section; and

(B) enter into appropriate arrangements with the National Academy of Sciences to establish such an advisory board.

(b) USE OF EXISTING COMMITTEES.—The Secretary shall continue to use the scientific program advisory committees chartered under the Federal Advisory Committee Act (5 U.S.C. App.) by the Office of Science to oversee research and development programs under that Office.

(c) MEMBERSHIP.—Each advisory board under this section shall consist of persons with appropriate expertise representing a diverse range of interests.

(d) MEETINGS AND GOALS.—

(1) MEETINGS.—Each advisory board under this section shall meet at least semiannually to review and advise on the progress made by the respective one or more research, development, demonstration, and commercial application programs.

(2) GOALS.—The advisory board shall review the measurable cost and performance-based goals for the programs as established under section 902, and the progress on meeting the goals.

(e) PERIODIC REVIEWS AND ASSESSMENTS.—

(1) IN GENERAL.—The Secretary shall enter into appropriate arrangements with the National Academy of Sciences to conduct periodic reviews and assessments of—

(A) the research, development, demonstration, and commercial application programs authorized by this Act and amendments made by this Act;

(B) the measurable cost and performance-based goals for the programs as established under section 902, if any; and

(C) the progress on meeting the goals.

(2) TIMING.—The reviews and assessments shall be conducted every 5 years or more often as the Secretary considers necessary.

(3) **REPORTS.**—The Secretary shall submit to Congress reports describing the results of all the reviews and assessments.

SEC. 991. NATIONAL LABORATORY DESIGNATION.

42 USC 16355.

After the date of enactment of this Act, the Secretary shall not designate a facility that is not listed in section 2(3) as a National Laboratory.

SEC. 992. REPORT ON EQUAL EMPLOYMENT OPPORTUNITY PRACTICES.

42 USC 16356.

Not later than 12 months after the date of enactment of this Act, and biennially thereafter, the Secretary shall transmit to Congress a report on the equal employment opportunity practices at National Laboratories. Such report shall include—

(1) a thorough review of each National Laboratory contractor's equal employment opportunity policies, including promotion to management and professional positions and pay raises;

(2) a statistical report on complaints and their disposition in the National Laboratories;

(3) a description of how equal employment opportunity practices at the National Laboratories are treated in the contract and in calculating award fees for each contractor;

(4) a summary of disciplinary actions and their disposition by either the Department or the relevant contractors for each National Laboratory;

(5) a summary of outreach efforts to attract women and minorities to the National Laboratories;

(6) a summary of efforts to retain women and minorities in the National Laboratories; and

(7) a summary of collaboration efforts with the Office of Federal Contract Compliance Programs to improve equal employment opportunity practices at the National Laboratories.

SEC. 993. STRATEGY AND PLAN FOR SCIENCE AND ENERGY FACILITIES AND INFRASTRUCTURE.

42 USC 16357.

(a) **FACILITY AND INFRASTRUCTURE POLICY.**—

(1) **IN GENERAL.**—The Secretary shall develop and implement a strategy for facilities and infrastructure supported primarily from the Office of Science, the Office of Energy Efficiency and Renewable Energy, the Office of Fossil Energy, or the Office of Nuclear Energy, Science and Technology Programs at all National Laboratories and single-purpose research facilities.

(2) **STRATEGY.**—The strategy shall provide cost-effective means for—

(A) maintaining existing facilities and infrastructure;

(B) closing unneeded facilities;

(C) making facility modifications; and

(D) building new facilities.

(b) **REPORT.**—

(1) **IN GENERAL.**—The Secretary shall prepare and submit, along with the budget request of the President submitted to Congress for fiscal year 2008, a report describing the strategy developed under subsection (a).

(2) CONTENTS.—For each National Laboratory and single-purpose research facility that is primarily used for science and energy research, the report shall contain—

(A) the current priority list of proposed facilities and infrastructure projects, including cost and schedule requirements;

(B) a current 10-year plan that demonstrates the reconfiguration of its facilities and infrastructure to meet its missions and to address its long-term operational costs and return on investment;

(C) the total current budget for all facilities and infrastructure funding; and

(D) the current status of each facility and infrastructure project compared to the original baseline cost, schedule, and scope.

42 USC 16358.

SEC. 994. STRATEGIC RESEARCH PORTFOLIO ANALYSIS AND COORDINATION PLAN.

(a) IN GENERAL.—The Secretary shall periodically review all of the science and technology activities of the Department in a strategic framework that takes into account both the frontiers of science to which the Department can contribute and the national needs relevant to the Department’s statutory missions.

(b) COORDINATION ANALYSIS AND PLAN.—As part of the review under subsection (a), the Secretary shall develop a coordination plan to improve coordination and collaboration in research, development, demonstration, and commercial application activities across Department organizational boundaries.

(c) PLAN CONTENTS.—The plan shall describe—

(1) cross-cutting scientific and technical issues and research questions that span more than one program or major office of the Department;

(2) how the applied technology programs of the Department are coordinating their activities, and addressing those questions;

(3) ways in which the technical interchange within the Department, particularly between the Office of Science and the applied technology programs, can be enhanced, including ways in which the research agendas of the Office of Science and the applied programs can interact and assist each other;

(4) a description of how the Secretary will ensure that the Department’s overall research agenda include, in addition to fundamental, curiosity-driven research, fundamental research related to topics of concern to the applied programs, and applications in Departmental technology programs of research results generated by fundamental, curiosity-driven research.

Deadlines.

(d) PLAN TRANSMITTAL.—Not later than 12 months after the date of enactment of this Act, and every 4 years thereafter, the Secretary shall transmit to Congress the results of the review under subsection (a) and the coordination plan under subsection (b).

42 USC 16359.

SEC. 995. COMPETITIVE AWARD OF MANAGEMENT CONTRACTS.

None of the funds authorized to be appropriated to the Secretary by this title may be used to award a management and operating contract for a National Laboratory (excluding those named in subparagraphs (G), (H), (N), and (O) of section 2 (3)), unless

such contract is competitively awarded, or the Secretary grants, on a case-by-case basis, a waiver. The Secretary may not delegate the authority to grant such a waiver and shall submit to Congress a report notifying it of the waiver, and setting forth the reasons for the waiver, at least 60 days prior to the date of the award of such contract.

Reports.
Deadline.

SEC. 996. WESTERN MICHIGAN DEMONSTRATION PROJECT.

42 USC 16360.

The Administrator of the Environmental Protection Agency, in consultation with the State of Michigan and affected local officials, shall conduct a demonstration project to address the effect of transported ozone and ozone precursors in Southwestern Michigan. The demonstration program shall address projected non-attainment areas in Southwestern Michigan that include counties with design values for ozone of less than .095 based on years 2000 to 2002 or the most current 3-year period of air quality data. The Administrator shall assess any difficulties such areas may experience in meeting the 8-hour national ambient air quality standard for ozone due to the effect of transported ozone or ozone precursors into the areas. The Administrator shall work with State and local officials to determine the extent of ozone and ozone precursor transport, to assess alternatives to achieve compliance with the 8-hour standard apart from local controls, and to determine the timeframe in which such compliance could take place. The Administrator shall complete this demonstration project no later than 2 years after the date of enactment of this section and shall not impose any requirement or sanction under the Clean Air Act (42 U.S.C. 7401 et seq.) that might otherwise apply during the pendency of the demonstration project.

Deadline.

SEC. 997. ARCTIC ENGINEERING RESEARCH CENTER.

42 USC 16361.

(a) IN GENERAL.—The Secretary of Transportation, in consultation with the Secretary and the United States Arctic Research Commission, shall provide annual grants to a university located adjacent to the Arctic Energy Office of the Department of Energy, to establish and operate a university research center to be headquartered in Fairbanks and to be known as the “Arctic Engineering Research Center” (referred to in this section as the “Center”).

Establishment.
Grants.

(b) PURPOSE.—The purpose of the Center shall be to conduct research on, and develop improved methods of, construction and use of materials to improve the overall performance of roads, bridges, residential, commercial, and industrial structures, and other infrastructure in the Arctic region, with an emphasis on developing—

(1) new construction techniques for roads, bridges, rail, and related transportation infrastructure and residential, commercial, and industrial infrastructure that are capable of withstanding the Arctic environment and using limited energy resources as efficiently as practicable;

(2) technologies and procedures for increasing road, bridge, rail, and related transportation infrastructure and residential, commercial, and industrial infrastructure safety, reliability, and integrity in the Arctic region;

(3) new materials and improving the performance and energy efficiency of existing materials for the construction of roads, bridges, rail, and related transportation infrastructure

and residential, commercial, and industrial infrastructure in the Arctic region; and

(4) recommendations for new local, regional, and State permitting and building codes to ensure transportation and building safety and efficient energy use when constructing, using, and occupying such infrastructure in the Arctic region.

(c) OBJECTIVES.—The Center shall carry out—

(1) basic and applied research in the subjects described in subsection (b), the products of which shall be judged by peers or other experts in the field to advance the body of knowledge in road, bridge, rail, and infrastructure engineering in the Arctic region; and

(2) an ongoing program of technology transfer that makes research results available to potential users in a form that can be implemented.

(d) AMOUNT OF GRANT.—For each of fiscal years 2006 through 2011, the Secretary shall provide a grant in the amount of \$3,000,000 to the institution specified in subsection (a) to carry out this section.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$3,000,000 for each of fiscal years 2006 through 2011.

42 USC 16362.

SEC. 998. BARROW GEOPHYSICAL RESEARCH FACILITY.

(a) ESTABLISHMENT.—The Secretary of Commerce, in consultation with the Secretaries of Energy and the Interior, the Director of the National Science Foundation, and the Administrator of the Environmental Protection Agency, shall establish a joint research facility in Barrow, Alaska, to be known as the “Barrow Geophysical Research Facility”, to support scientific research activities in the Arctic.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretaries of Commerce, Energy, and the Interior, the Director of the National Science Foundation, and the Administrator of the Environmental Protection Agency for the planning, design, construction, and support of the Barrow Geophysical Research Facility, \$61,000,000.

Subtitle J—Ultra-Deepwater and Unconventional Natural Gas and Other Petroleum Resources

42 USC 16371.

SEC. 999A. PROGRAM AUTHORITY.

(a) IN GENERAL.—The Secretary shall carry out a program under this subtitle of research, development, demonstration, and commercial application of technologies for ultra-deepwater and unconventional natural gas and other petroleum resource exploration and production, including addressing the technology challenges for small producers, safe operations, and environmental mitigation (including reduction of greenhouse gas emissions and sequestration of carbon).

(b) PROGRAM ELEMENTS.—The program under this subtitle shall address the following areas, including improving safety and minimizing environmental impacts of activities within each area:

(1) Ultra-deepwater architecture and technology, including drilling to formations in the Outer Continental Shelf to depths greater than 15,000 feet.

(2) Unconventional natural gas and other petroleum resource exploration and production technology.

(3) The technology challenges of small producers.

(4) Complementary research performed by the National Energy Technology Laboratory for the Department.

(c) LIMITATION ON LOCATION OF FIELD ACTIVITIES.—Field activities under the program under this subtitle shall be carried out only—

(1) in—

(A) areas in the territorial waters of the United States not under any Outer Continental Shelf moratorium as of September 30, 2002;

(B) areas onshore in the United States on public land administered by the Secretary of the Interior available for oil and gas leasing, where consistent with applicable law and land use plans; and

(C) areas onshore in the United States on State or private land, subject to applicable law; and

(2) with the approval of the appropriate Federal or State land management agency or private land owner.

(d) ACTIVITIES AT THE NATIONAL ENERGY TECHNOLOGY LABORATORY.—The Secretary, through the National Energy Technology Laboratory, shall carry out a program of research and other activities complementary to and supportive of the research programs under subsection (b).

(e) CONSULTATION WITH SECRETARY OF THE INTERIOR.—In carrying out this subtitle, the Secretary shall consult regularly with the Secretary of the Interior.

SEC. 999B. ULTRA-DEEPWATER AND UNCONVENTIONAL ONSHORE NATURAL GAS AND OTHER PETROLEUM RESEARCH AND DEVELOPMENT PROGRAM.

42 USC 16372.

(a) IN GENERAL.—The Secretary shall carry out the activities under section 999A, to maximize the value of natural gas and other petroleum resources of the United States, by increasing the supply of such resources, through reducing the cost and increasing the efficiency of exploration for and production of such resources, while improving safety and minimizing environmental impacts.

(b) ROLE OF THE SECRETARY.—The Secretary shall have ultimate responsibility for, and oversight of, all aspects of the program under this section.

(c) ROLE OF THE PROGRAM CONSORTIUM.—

(1) IN GENERAL.—The Secretary shall contract with a corporation that is structured as a consortium to administer the programmatic activities outlined in this chapter. The program consortium shall—

(A) administer the program pursuant to subsection (f)(3), utilizing program administration funds only;

(B) issue research project solicitations upon approval of the Secretary or the Secretary's designee;

(C) make project awards to research performers upon approval of the Secretary or the Secretary's designee;

(D) disburse research funds to research performers awarded under subsection (f) as directed by the Secretary

in accordance with the annual plan under subsection (e); and

(E) carry out other activities assigned to the program consortium by this section.

(2) LIMITATION.—The Secretary may not assign any activities to the program consortium except as specifically authorized under this section.

(3) CONFLICT OF INTEREST.—

(A) PROCEDURES.—The Secretary shall establish procedures—

(i) to ensure that each board member, officer, or employee of the program consortium who is in a decisionmaking capacity under subsection (f)(3) shall disclose to the Secretary any financial interests in, or financial relationships with, applicants for or recipients of awards under this section, including those of his or her spouse or minor child, unless such relationships or interests would be considered to be remote or inconsequential; and

(ii) to require any board member, officer, or employee with a financial relationship or interest disclosed under clause (i) to recuse himself or herself from any oversight under subsection (f)(4) with respect to such applicant or recipient.

(B) FAILURE TO COMPLY.—The Secretary may disqualify an application or revoke an award under this section if a board member, officer, or employee has failed to comply with procedures required under subparagraph (A)(ii).

(d) SELECTION OF THE PROGRAM CONSORTIUM.—

(1) IN GENERAL.—The Secretary shall select the program consortium through an open, competitive process.

(2) MEMBERS.—The program consortium may include corporations, trade associations, institutions of higher education, National Laboratories, or other research institutions. After submitting a proposal under paragraph (4), the program consortium may not add members without the consent of the Secretary.

(3) REQUIREMENT OF SECTION 501(c)(3) STATUS.—The Secretary shall not select a consortium under this section unless such consortium is an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under such section 501(a) of such Code.

(4) SCHEDULE.—Not later than 90 days after the date of enactment of this Act, the Secretary shall solicit proposals from eligible consortia to perform the duties in subsection (c)(1), which shall be submitted not later than 180 days after the date of enactment of this Act. The Secretary shall select the program consortium not later than 270 days after such date of enactment.

(5) APPLICATION.—Applicants shall submit a proposal including such information as the Secretary may require. At a minimum, each proposal shall—

(A) list all members of the consortium;

(B) fully describe the structure of the consortium, including any provisions relating to intellectual property; and

Deadlines.

(C) describe how the applicant would carry out the activities of the program consortium under this section.

(6) ELIGIBILITY.—To be eligible to be selected as the program consortium, an applicant must be an entity whose members have collectively demonstrated capabilities and experience in planning and managing research, development, demonstration, and commercial application programs for ultra-deepwater and unconventional natural gas or other petroleum exploration or production.

(7) FOCUS AREAS FOR AWARDS.—

(A) ULTRA-DEEPWATER RESOURCES.—Awards from allocations under section 999H(d)(1) shall focus on the development and demonstration of individual exploration and production technologies as well as integrated systems technologies including new architectures for production in ultra-deepwater.

(B) UNCONVENTIONAL RESOURCES.—Awards from allocations under section 999H(d)(2) shall focus on areas including advanced coalbed methane, deep drilling, natural gas production from tight sands, natural gas production from gas shales, stranded gas, innovative exploration and production techniques, enhanced recovery techniques, and environmental mitigation of unconventional natural gas and other petroleum resources exploration and production.

(C) SMALL PRODUCERS.—Awards from allocations under section 999H(d)(3) shall be made to consortia consisting of small producers or organized primarily for the benefit of small producers, and shall focus on areas including complex geology involving rapid changes in the type and quality of the oil and gas reservoirs across the reservoir; low reservoir pressure; unconventional natural gas reservoirs in coalbeds, deep reservoirs, tight sands, or shales; and unconventional oil reservoirs in tar sands and oil shales.

(e) ANNUAL PLAN.—

(1) IN GENERAL.—The program under this section shall be carried out pursuant to an annual plan prepared by the Secretary in accordance with paragraph (2).

(2) DEVELOPMENT.—

(A) SOLICITATION OF RECOMMENDATIONS.—Before drafting an annual plan under this subsection, the Secretary shall solicit specific written recommendations from the program consortium for each element to be addressed in the plan, including those described in paragraph (4). The program consortium shall submit its recommendations in the form of a draft annual plan.

(B) SUBMISSION OF RECOMMENDATIONS; OTHER COMMENT.—The Secretary shall submit the recommendations of the program consortium under subparagraph (A) to the Ultra-Deepwater Advisory Committee established under section 999D(a) and to the Unconventional Resources Technology Advisory Committee established under section 999D(b), and such Advisory Committees shall provide to the Secretary written comments by a date determined by the Secretary. The Secretary may also solicit comments from any other experts.

Federal Register,
publication.

(C) CONSULTATION.—The Secretary shall consult regularly with the program consortium throughout the preparation of the annual plan.

(3) PUBLICATION.—The Secretary shall transmit to Congress and publish in the Federal Register the annual plan, along with any written comments received under paragraph (2)(A) and (B).

(4) CONTENTS.—The annual plan shall describe the ongoing and prospective activities of the program under this section and shall include—

(A) a list of any solicitations for awards to carry out research, development, demonstration, or commercial application activities, including the topics for such work, who would be eligible to apply, selection criteria, and the duration of awards; and

(B) a description of the activities expected of the program consortium to carry out subsection (f)(3).

Reports.

(5) ESTIMATES OF INCREASED ROYALTY RECEIPTS.—The Secretary, in consultation with the Secretary of the Interior, shall provide an annual report to Congress with the President's budget on the estimated cumulative increase in Federal royalty receipts (if any) resulting from the implementation of this subtitle. The initial report under this paragraph shall be submitted in the first President's budget following the completion of the first annual plan required under this subsection.

(f) AWARDS.—

(1) IN GENERAL.—Upon approval of the Secretary the program consortium shall make awards to research performers to carry out research, development, demonstration, and commercial application activities under the program under this section. The program consortium shall not be eligible to receive such awards, but provided that conflict of interest procedures in section 999B(c)(3) are followed, entities who are members of the program consortium are not precluded from receiving research awards as either individual research performers or as research performers who are members of a research collaboration.

(2) PROPOSALS.—Upon approval of the Secretary the program consortium shall solicit proposals for awards under this subsection in such manner and at such time as the Secretary may prescribe, in consultation with the program consortium.

(3) OVERSIGHT.—

(A) IN GENERAL.—The program consortium shall oversee the implementation of awards under this subsection, consistent with the annual plan under subsection (e), including disbursing funds and monitoring activities carried out under such awards for compliance with the terms and conditions of the awards.

(B) EFFECT.—Nothing in subparagraph (A) shall limit the authority or responsibility of the Secretary to oversee awards, or limit the authority of the Secretary to review or revoke awards.

(g) ADMINISTRATIVE COSTS.—

(1) IN GENERAL.—To compensate the program consortium for carrying out its activities under this section, the Secretary shall provide to the program consortium funds sufficient to administer the program. This compensation may include a

management fee consistent with Department of Energy contracting practices and procedures.

(2) **ADVANCE.**—The Secretary shall advance funds to the program consortium upon selection of the consortium, which shall be deducted from amounts to be provided under paragraph (1).

(h) **AUDIT.**—The Secretary shall retain an independent auditor, which shall include a review by the General Accountability Office, to determine the extent to which funds provided to the program consortium, and funds provided under awards made under subsection (f), have been expended in a manner consistent with the purposes and requirements of this subtitle. The auditor shall transmit a report (including any review by the General Accountability Office) annually to the Secretary, who shall transmit the report to Congress, along with a plan to remedy any deficiencies cited in the report.

Reports.

(i) **ACTIVITIES BY THE UNITED STATES GEOLOGICAL SURVEY.**—The Secretary of the Interior, through the United States Geological Survey, shall, where appropriate, carry out programs of long-term research to complement the programs under this section.

(j) **PROGRAM REVIEW AND OVERSIGHT.**—The National Energy Technology Laboratory, on behalf of the Secretary, shall (1) issue a competitive solicitation for the program consortium, (2) evaluate, select, and award a contract or other agreement to a qualified program consortium, and (3) have primary review and oversight responsibility for the program consortium, including review and approval of research awards proposed to be made by the program consortium, to ensure that its activities are consistent with the purposes and requirements described in this subtitle. Up to 5 percent of program funds allocated under paragraphs (1) through (3) of section 999H(d) may be used for this purpose, including program direction and the establishment of a site office if determined to be necessary to carry out the purposes of this subsection.

Contracts.

SEC. 999C. ADDITIONAL REQUIREMENTS FOR AWARDS.

42 USC 16373.

(a) **DEMONSTRATION PROJECTS.**—An application for an award under this subtitle for a demonstration project shall describe with specificity the intended commercial use of the technology to be demonstrated.

(b) **FLEXIBILITY IN LOCATING DEMONSTRATION PROJECTS.**—Subject to the limitation in section 999A(c), a demonstration project under this subtitle relating to an ultra-deepwater technology or an ultra-deepwater architecture may be conducted in deepwater depths.

(c) **INTELLECTUAL PROPERTY AGREEMENTS.**—If an award under this subtitle is made to a consortium (other than the program consortium), the consortium shall provide to the Secretary a signed contract agreed to by all members of the consortium describing the rights of each member to intellectual property used or developed under the award.

(d) **TECHNOLOGY TRANSFER.**—Two and one-half percent of the amount of each award made under this subtitle shall be designated for technology transfer and outreach activities under this subtitle.

(e) **COST SHARING REDUCTION FOR INDEPENDENT PRODUCERS.**—In applying the cost sharing requirements under section 988 to an award under this subtitle the Secretary may reduce or eliminate the non-Federal requirement if the Secretary determines that the

reduction is necessary and appropriate considering the technological risks involved in the project.

(f) INFORMATION SHARING.—All results of the research administered by the program consortium shall be made available to the public consistent with Department policy and practice on information sharing and intellectual property agreements.

42 USC 16374.

SEC. 999D. ADVISORY COMMITTEES.

Deadline.

(a) ULTRA-DEEPWATER ADVISORY COMMITTEE.—

(1) ESTABLISHMENT.—Not later than 270 days after the date of enactment of this Act, the Secretary shall establish an advisory committee to be known as the Ultra-Deepwater Advisory Committee.

(2) MEMBERSHIP.—The Advisory Committee under this subsection shall be composed of members appointed by the Secretary, including—

(A) individuals with extensive research experience or operational knowledge of offshore natural gas and other petroleum exploration and production;

(B) individuals broadly representative of the affected interests in ultra-deepwater natural gas and other petroleum production, including interests in environmental protection and safe operations;

(C) no individuals who are Federal employees; and

(D) no individuals who are board members, officers, or employees of the program consortium.

(3) DUTIES.—The Advisory Committee under this subsection shall—

(A) advise the Secretary on the development and implementation of programs under this subtitle related to ultra-deepwater natural gas and other petroleum resources; and

(B) carry out section 999B(e)(2)(B).

(4) COMPENSATION.—A member of the Advisory Committee under this subsection shall serve without compensation but shall receive travel expenses in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

(b) UNCONVENTIONAL RESOURCES TECHNOLOGY ADVISORY COMMITTEE.—

Deadline.

(1) ESTABLISHMENT.—Not later than 270 days after the date of enactment of this Act, the Secretary shall establish an advisory committee to be known as the Unconventional Resources Technology Advisory Committee.

(2) MEMBERSHIP.—The Secretary shall endeavor to have a balanced representation of members on the Advisory Committee to reflect the breadth of geographic areas of potential gas supply. The Advisory Committee under this subsection shall be composed of members appointed by the Secretary, including—

(A) a majority of members who are employees or representatives of independent producers of natural gas and other petroleum, including small producers;

(B) individuals with extensive research experience or operational knowledge of unconventional natural gas and other petroleum resource exploration and production;

(C) individuals broadly representative of the affected interests in unconventional natural gas and other petroleum resource exploration and production, including interests in environmental protection and safe operations;

(D) individuals with expertise in the various geographic areas of potential supply of unconventional onshore natural gas and other petroleum in the United States;

(E) no individuals who are Federal employees; and

(F) no individuals who are board members, officers, or employees of the program consortium.

(3) DUTIES.—The Advisory Committee under this subsection shall—

(A) advise the Secretary on the development and implementation of activities under this subtitle related to unconventional natural gas and other petroleum resources; and

(B) carry out section 999B(e)(2)(B).

(4) COMPENSATION.—A member of the Advisory Committee under this subsection shall serve without compensation but shall receive travel expenses in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

(c) PROHIBITION.—No advisory committee established under this section shall make recommendations on funding awards to particular consortia or other entities, or for specific projects.

SEC. 999E. LIMITS ON PARTICIPATION.

42 USC 16375.

An entity shall be eligible to receive an award under this subtitle only if the Secretary finds—

(1) that the entity's participation in the program under this subtitle would be in the economic interest of the United States; and

(2) that either—

(A) the entity is a United States-owned entity organized under the laws of the United States; or

(B) the entity is organized under the laws of the United States and has a parent entity organized under the laws of a country that affords—

(i) to United States-owned entities opportunities, comparable to those afforded to any other entity, to participate in any cooperative research venture similar to those authorized under this subtitle;

(ii) to United States-owned entities local investment opportunities comparable to those afforded to any other entity; and

(iii) adequate and effective protection for the intellectual property rights of United States-owned entities.

SEC. 999F. SUNSET.

42 USC 16376.

The authority provided by this subtitle shall terminate on September 30, 2014.

SEC. 999G. DEFINITIONS.

42 USC 16377.

In this subtitle:

(1) DEEPWATER.—The term “deepwater” means a water depth that is greater than 200 but less than 1,500 meters.

(2) INDEPENDENT PRODUCER OF OIL OR GAS.—

(A) IN GENERAL.—The term “independent producer of oil or gas” means any person that produces oil or gas other than a person to whom subsection (c) of section 613A of the Internal Revenue Code of 1986 does not apply by reason of paragraph (2) (relating to certain retailers) or paragraph (4) (relating to certain refiners) of section 613A(d) of such Code.

(B) RULES FOR APPLYING PARAGRAPHS (2) AND (4) OF SECTION 613A(d).—For purposes of subparagraph (A), paragraphs (2) and (4) of section 613A(d) of the Internal Revenue Code of 1986 shall be applied by substituting “calendar year” for “taxable year” each place it appears in such paragraphs.

(3) PROGRAM ADMINISTRATION FUNDS.—The term “program administration funds” means funds used by the program consortium to administer the program under this subtitle, but not to exceed 10 percent of the total funds allocated under paragraphs (1) through (3) of section 999H(d).

(4) PROGRAM CONSORTIUM.—The term “program consortium” means the consortium selected under section 999B(d).

(5) PROGRAM RESEARCH FUNDS.—The term “program research funds” means funds awarded to research performers by the program consortium consistent with the annual plan.

(6) REMOTE OR INCONSEQUENTIAL.—The term “remote or inconsequential” has the meaning given that term in regulations issued by the Office of Government Ethics under section 208(b)(2) of title 18, United States Code.

(7) SMALL PRODUCER.—The term “small producer” means an entity organized under the laws of the United States with production levels of less than 1,000 barrels per day of oil equivalent.

(8) ULTRA-DEEPWATER.—The term “ultra-deepwater” means a water depth that is equal to or greater than 1,500 meters.

(9) ULTRA-DEEPWATER ARCHITECTURE.—The term “ultra-deepwater architecture” means the integration of technologies for the exploration for, or production of, natural gas or other petroleum resources located at ultra-deepwater depths.

(10) ULTRA-DEEPWATER TECHNOLOGY.—The term “ultra-deepwater technology” means a discrete technology that is specially suited to address one or more challenges associated with the exploration for, or production of, natural gas or other petroleum resources located at ultra-deepwater depths.

(11) UNCONVENTIONAL NATURAL GAS AND OTHER PETROLEUM RESOURCE.—The term “unconventional natural gas and other petroleum resource” means natural gas and other petroleum resource located onshore in an economically inaccessible geological formation, including resources of small producers.

42 USC 16378.

SEC. 999H. FUNDING.

(a) OIL AND GAS LEASE INCOME.—For each of fiscal years 2007 through 2017, from any Federal royalties, rents, and bonuses derived from Federal onshore and offshore oil and gas leases issued under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) and the Mineral Leasing Act (30 U.S.C. 181 et seq.) which are deposited in the Treasury, and after distribution of any such funds as described in subsection (c), \$50,000,000 shall be deposited into the Ultra-Deepwater and Unconventional Natural Gas and

Other Petroleum Research Fund (in this section referred to as the “Fund”). For purposes of this section, the term “royalties” excludes proceeds from the sale of royalty production taken in kind and royalty production that is transferred under section 27(a)(3) of the Outer Continental Shelf Lands Act (43 U.S.C. 1353(a)(3)).

(b) OBLIGATIONAL AUTHORITY.—Monies in the Fund shall be available to the Secretary for obligation under this part without fiscal year limitation, to remain available until expended.

(c) PRIOR DISTRIBUTIONS.—The distributions described in subsection (a) are those required by law—

(1) to States and to the Reclamation Fund under the Mineral Leasing Act (30 U.S.C. 191(a)); and

(2) to other funds receiving monies from Federal oil and gas leasing programs, including—

(A) any recipients pursuant to section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g));

(B) the Land and Water Conservation Fund, pursuant to section 2(c) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–5(c));

(C) the Historic Preservation Fund, pursuant to section 108 of the National Historic Preservation Act (16 U.S.C. 470h); and

(D) the coastal impact assistance program established under section 31 of the Outer Continental Shelf Lands Act (as amended by section 384).

(d) ALLOCATION.—Amounts obligated from the Fund under subsection (a)(1) in each fiscal year shall be allocated as follows:

(1) 35 percent shall be for activities under section 999A(b)(1).

(2) 32.5 percent shall be for activities under section 999A(b)(2).

(3) 7.5 percent shall be for activities under section 999A(b)(3).

(4) 25 percent shall be for complementary research under section 999A(b)(4) and other activities under section 999A(b) to include program direction funds, overall program oversight, contract management, and the establishment and operation of a technical committee to ensure that in-house research activities funded under section 999A(b)(4) are technically complementary to, and not duplicative of, research conducted under paragraphs (1), (2), and (3) of section 999A(b).

(e) AUTHORIZATION OF APPROPRIATIONS.—In addition to other amounts that are made available to carry out this section, there is authorized to be appropriated to carry out this section \$100,000,000 for each of fiscal years 2007 through 2016.

(f) FUND.—There is hereby established in the Treasury of the United States a separate fund to be known as the “Ultra-Deepwater and Unconventional Natural Gas and Other Petroleum Research Fund”.

TITLE X—DEPARTMENT OF ENERGY MANAGEMENT

42 USC 16391. **SEC. 1001. IMPROVED TECHNOLOGY TRANSFER OF ENERGY TECHNOLOGIES.**

Establishment. (a) **TECHNOLOGY TRANSFER COORDINATOR.**—The Secretary shall appoint a Technology Transfer Coordinator to be the principal advisor to the Secretary on all matters relating to technology transfer and commercialization.

(b) **QUALIFICATIONS.**—The Coordinator shall be an individual who, by reason of professional background and experience, is specially qualified to advise the Secretary on matters pertaining to technology transfer at the Department.

(c) **DUTIES OF THE COORDINATOR.**—The Coordinator shall oversee—

(1) the activities of the Technology Transfer Working Group established under subsection (d);

(2) the expenditure of funds allocated for technology transfer within the Department;

(3) the activities of each technology partnership ombudsman appointed under section 11 of the Technology Transfer Commercialization Act of 2000 (42 U.S.C. 7261c); and

(4) efforts to engage private sector entities, including venture capital companies.

Establishment. (d) **TECHNOLOGY TRANSFER WORKING GROUP.**—The Secretary shall establish a Technology Transfer Working Group, which shall consist of representatives of the National Laboratories and single-purpose research facilities, to—

(1) coordinate technology transfer activities occurring at National Laboratories and single-purpose research facilities;

(2) exchange information about technology transfer practices, including alternative approaches to resolution of disputes involving intellectual property rights and other technology transfer matters; and

(3) develop and disseminate to the public and prospective technology partners information about opportunities and procedures for technology transfer with the Department, including opportunities and procedures related to alternative approaches to resolution of disputes involving intellectual property rights and other technology transfer matters.

(e) **TECHNOLOGY COMMERCIALIZATION FUND.**—The Secretary shall establish an Energy Technology Commercialization Fund, using 0.9 percent of the amount made available to the Department for applied energy research, development, demonstration, and commercial application for each fiscal year, to be used to provide matching funds with private partners to promote promising energy technologies for commercial purposes.

(f) **TECHNOLOGY TRANSFER RESPONSIBILITY.**—Nothing in this section affects the technology transfer responsibilities of Federal employees under the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.).

(g) **PLANNING AND REPORTING.**—

(1) **IN GENERAL.**—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to Congress a technology transfer execution plan.

(2) **UPDATES.**—Each year after the submission of the plan under paragraph (1), the Secretary shall submit to Congress an updated execution plan and reports that describe progress toward meeting goals set forth in the execution plan and the funds expended under subsection (e).

SEC. 1002. TECHNOLOGY INFRASTRUCTURE PROGRAM.

42 USC 16392.

(a) **DEFINITIONS.**—In this section:

(1) **PROGRAM.**—The term “Program” means the Technology Infrastructure Program established under subsection (b).

(2) **TECHNOLOGY CLUSTER.**—The term “technology cluster” means a concentration of technology-related business concerns, institutions of higher education, or nonprofit institutions, that reinforce each other’s performance in the areas of technology development through formal or informal relationships.

(3) **TECHNOLOGY-RELATED BUSINESS CONCERN.**—The term “technology-related business concern” means a for-profit corporation, company, association, firm, partnership, or small business concern that—

(A) conducts scientific or engineering research;

(B) develops new technologies;

(C) manufactures products based on new technologies;

or

(D) performs technological services.

(b) **ESTABLISHMENT.**—The Secretary shall establish a Technology Infrastructure Program in accordance with this section.

(c) **PURPOSE.**—The purpose of the Program shall be to improve the ability of National Laboratories and single-purpose research facilities to support departmental missions by—

(1) stimulating the development of technology clusters that can support departmental missions at the National Laboratories or single-purpose research facilities;

(2) improving the ability of National Laboratories and single-purpose research facilities to leverage and benefit from commercial research, technology, products, processes, and services; and

(3) encouraging the exchange of scientific and technological expertise between—

(A) National Laboratories or single-purpose research facilities; and

(B) entities that can support departmental missions at the National Laboratories or single-purpose research facilities, such as—

(i) institutions of higher education;

(ii) technology-related business concerns;

(iii) nonprofit institutions; and

(iv) agencies of State, tribal, or local governments.

(d) **PROJECTS.**—The Secretary shall authorize the director of each National Laboratory or single-purpose research facility to implement the Program at the National Laboratory or facility through one or more projects that meet the requirements of subsections (e) and (f).

(e) **PROGRAM REQUIREMENTS.**—

(1) **IN GENERAL.**—Each project funded under this section shall meet the requirements of this subsection.

(2) **ENTITIES.**—Each project shall include at least one of each of the following entities:

- (A) A business.
- (B) An institution of higher education.
- (C) A nonprofit institution.
- (D) An agency of a State, local, or tribal government.

(3) COST-SHARING.—

(A) IN GENERAL.—The costs of carrying out projects under this section shall be shared in accordance with section 988.

(B) SOURCES.—The calculation of costs paid by the non-Federal sources for a project shall include cash, personnel, services, equipment, and other resources expended on the project after the commencement of the project.

(C) RESEARCH AND DEVELOPMENT EXPENSES.—Independent research and development expenses of Government contractors that qualify for reimbursement under section 31.205–18(e) of title 48, Code of Federal Regulations, issued pursuant to section 25(c)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)(1)), may be credited towards costs paid by non-Federal sources to a project, if the expenses meet the other requirements of this section.

(4) COMPETITIVE SELECTION.—A project under this section shall be competitively selected using procedures determined by the Secretary.

(5) ACCOUNTING.—Any participant that receives funds under this section may use generally accepted accounting principles for maintaining accounts, books, and records relating to the project.

(6) DURATION.—No Federal funds shall be made available under this section for a construction project or for any project with a duration of more than 5 years.

(f) SELECTION CRITERIA.—

(1) DEPARTMENTAL MISSIONS.—The Secretary shall allocate funds under this section only if the Director of the National Laboratory or single-purpose research facility managing the project determines that the project is likely to improve the ability of the National Laboratory or single-purpose research facility to achieve technical success in meeting departmental missions.

(2) OTHER CRITERIA.—In selecting a project to receive Federal funds, the Secretary shall consider—

(A) the potential of the project to promote the development of a commercially sustainable technology cluster following the period of investment by the Department, which will derive most of the demand for its products or services from the private sector, and which will support departmental missions at the participating National Laboratory or single-purpose research facility;

(B) the potential of the project to promote the use of commercial research, technology, products, processes, and services by the participating National Laboratory or single-purpose research facility to achieve its mission or the commercial development of technological innovations made at the participating National Laboratory or single-purpose research facility;

(C) the extent to which the project involves a wide variety and number of institutions of higher education,

nonprofit institutions, and technology-related business concerns that can support the missions of the participating National Laboratory or single-purpose research facility and that will make substantive contributions to achieving the goals of the project;

(D) the extent to which the project focuses on promoting the development of technology-related business concerns that are small businesses or involves such small businesses substantively in the project; and

(E) such other criteria as the Secretary determines to be appropriate.

(g) **ALLOCATION.**—In allocating funds for projects approved under this section, the Secretary shall provide—

(1) the Federal share of the project costs; and

(2) additional funds to the National Laboratory or single-purpose research facility managing the project to permit the National Laboratory or single-purpose research facility to carry out activities relating to the project, and to coordinate the activities with the project.

(h) **REPORT TO CONGRESS.**—Not later than July 1, 2008, the Secretary shall submit to Congress a report on whether the Program should be continued and, if so, how the program should be managed.

(i) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary for activities under this section \$10,000,000 for each of fiscal years 2006 through 2008.

SEC. 1003. SMALL BUSINESS ADVOCACY AND ASSISTANCE.

42 USC 16393.

(a) **SMALL BUSINESS ADVOCATE.**—The Secretary shall require the Director of each National Laboratory, and may require the Director of a single-purpose research facility, to designate a small business advocate to—

(1) increase the participation of small business concerns, including socially and economically disadvantaged small business concerns (as defined in section 8(a)(4) of the Small Business Act (15 U.S.C. 637(a)(4))), in procurement, collaborative research, technology licensing, and technology transfer activities conducted by the National Laboratory or single-purpose research facility;

(2) report to the Director of the National Laboratory or single-purpose research facility on the actual participation of small business concerns in procurement and collaborative research along with recommendations, if appropriate, on how to improve participation;

(3) make available to small business concerns training, mentoring, and information on how to participate in procurement and collaborative research activities;

(4) increase the awareness inside the National Laboratory or single-purpose research facility of the capabilities and opportunities presented by small business concerns; and

(5) establish guidelines for the program under subsection (b) and report on the effectiveness of the program to the Director of the National Laboratory or single-purpose research facility.

Reports.

Guidelines.
Reports.

(b) **ESTABLISHMENT OF SMALL BUSINESS ASSISTANCE PROGRAM.**—The Secretary shall require the Director of each National Laboratory, and may require the Director of a single-purpose

research facility, to establish a program to provide small business concerns with—

(1) assistance directed at making the small business concerns more effective and efficient subcontractors or suppliers to the National Laboratory or single-purpose research facilities; or

(2) general technical assistance, the cost of which shall not exceed \$10,000 per instance of assistance, to improve the products or services of the small business concern.

(c) **USE OF FUNDS.**—None of the funds expended under subsection (b) may be used for direct grants to small business concerns.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to the Secretary for activities under this section \$5,000,000 for each of fiscal years 2006 through 2008.

42 USC 16394.

SEC. 1004. OUTREACH.

The Secretary shall ensure that each program authorized by this Act or an amendment made by this Act includes an outreach component to provide information, as appropriate, to manufacturers, consumers, engineers, architects, builders, energy service companies, institutions of higher education, facility planners and managers, State and local governments, and other entities.

Applicability.
42 USC 16395.

SEC. 1005. RELATIONSHIP TO OTHER LAWS.

Except as otherwise provided in this Act or an amendment made by this Act, the Secretary shall carry out the research, development, demonstration, and commercial application programs, projects, and activities authorized by this Act or an amendment made by this Act in accordance with the applicable provisions of—

(1) the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.);

(2) the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901 et seq.);

(3) the Energy Policy Act of 1992 (42 U.S.C. 13201 et seq.);

(4) the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.);

(5) chapter 18 of title 35, United States Code (commonly known as the “Bayh-Dole Act”); and

(6) any other Act under which the Secretary is authorized to carry out the programs, projects, and activities.

Government
organization and
employees.

SEC. 1006. IMPROVED COORDINATION AND MANAGEMENT OF CIVILIAN SCIENCE AND TECHNOLOGY PROGRAMS.

(a) **EFFECTIVE TOP-LEVEL COORDINATION OF RESEARCH AND DEVELOPMENT PROGRAMS.**—Section 202 of the Department of Energy Organization Act (42 U.S.C. 7132) is amended by striking subsection (b) and inserting the following:

President.

“(b)(1) There shall be in the Department an Under Secretary for Science, who shall be appointed by the President, by and with the advice and consent of the Senate.

“(2) The Under Secretary shall be compensated at the rate provided for level III of the Executive Schedule under section 5314 of title 5, United States Code.

“(3) The Under Secretary for Science shall be appointed from among persons who—

“(A) have extensive background in scientific or engineering fields; and

“(B) are well qualified to manage the civilian research and development programs of the Department.

“(4) The Under Secretary for Science shall—

“(A) serve as the Science and Technology Advisor to the Secretary;

“(B) monitor the research and development programs of the Department in order to advise the Secretary with respect to any undesirable duplication or gaps in the programs;

“(C) advise the Secretary with respect to the well-being and management of the multipurpose laboratories under the jurisdiction of the Department;

“(D) advise the Secretary with respect to education and training activities required for effective short- and long-term basic and applied research activities of the Department;

“(E) advise the Secretary with respect to grants and other forms of financial assistance required for effective short- and long-term basic and applied research activities of the Department;

“(F) advise the Secretary with respect to long-term planning, coordination, and development of a strategic framework for Department research and development activities; and

“(G) carry out such additional duties assigned to the Under Secretary by the Secretary relating to basic and applied research, including supervision or support of research activities carried out by any of the Assistant Secretaries designated by section 203 of this Act, as the Secretary considers advantageous.”.

(b) ADDITIONAL ASSISTANT SECRETARY POSITION.—

(1) IN GENERAL.—Section 203(a) of the Department of Energy Organization Act (42 U.S.C. 7133(a)) is amended in the first sentence by striking “six Assistant Secretaries” and inserting “7 Assistant Secretaries”.

(2) ASSISTANT SECRETARY LEVEL.—It is the sense of Congress that the leadership for departmental missions in nuclear energy should be at the Assistant Secretary level.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 202 of the Department of Energy Organization Act (42 U.S.C. 7132) is amended by adding at the end the following:

“(d)(1) There shall be in the Department an Under Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall perform such functions and duties as the Secretary shall prescribe, consistent with this section. President.

“(2) The Under Secretary shall be compensated at the rate provided for level III of the Executive Schedule under section 5314 of title 5, United States Code.

“(e)(1) There shall be in the Department a General Counsel, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall perform such functions and duties as the Secretary shall prescribe. President.

“(2) The General Counsel shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.”.

(2) Section 5314 of title 5, United States Code, is amended by striking “Under Secretaries of Energy (2)” and inserting “Under Secretaries of Energy (3)”.

(3) Section 5315 of title 5, United States Code, is amended by striking “Assistant Secretaries of Energy (6)” and inserting “Assistant Secretaries of Energy (7)”.

(4) Section 209(b) of the Department of Energy Organization Act (42 U.S.C. 7139(b)) is amended by striking paragraph (6) and inserting the following:

“(6) to carry out such additional duties assigned to the Office by the Secretary.”.

SEC. 1007. OTHER TRANSACTIONS AUTHORITY.

Section 646 of the Department of Energy Organization Act (42 U.S.C. 7256) is amended by adding at the end the following:

“(g)(1) In addition to authority granted to the Secretary under any other provision of law, the Secretary may exercise the same authority to enter into transactions (other than contracts, cooperative agreements, and grants), subject to the same terms and conditions as the Secretary of Defense under section 2371 of title 10, United States Code (other than subsections (b) and (f) of that section).

“(2) In applying section 2371 of title 10, United States Code, to the Secretary under paragraph (1)—

“(A) the term ‘basic’ shall be replaced by the term ‘research’;

“(B) the term ‘applied’ shall be replaced by the term ‘development’; and

“(C) the terms ‘advanced research projects’ and ‘advanced research’ shall be replaced by the term ‘demonstration projects’.

“(3) The authority of the Secretary under paragraph (1) shall not be subject to—

“(A) section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5908); or

“(B) section 152 of the Atomic Energy Act of 1954 (42 U.S.C. 2182).

“(4)(A) The Secretary shall use such competitive, merit-based selection procedures in entering into transactions under paragraph (1), as the Secretary determines in writing to be practicable.

“(B) A transaction under paragraph (1) shall relate to a research, development, or demonstration project only if the Secretary determines in writing that the use of a standard contract, grant, or cooperative agreement for the project is not feasible or appropriate.

“(5) The Secretary may protect from disclosure, for up to 5 years after the date on which the information is developed, any information developed pursuant to a transaction under paragraph (1) that would be protected from disclosure under section 552(b)(4) of title 5, United States Code, if obtained from a person other than a Federal agency.

“(6)(A) Not later than 90 days after the date of enactment of this subsection, the Secretary shall issue guidelines for transactions under paragraph (1).

“(B) The guidelines shall be published in the Federal Register for public comment in accordance with rulemaking procedures of the Department.

Deadline.
Guidelines.

Federal Register,
publication.

“(C) The Secretary shall not have authority to carry out transactions under paragraph (1) until the guidelines for transactions required under subparagraph (A) are final.

“(7) The annual report of the head of an executive agency under section 2371(h) of title 10, United States Code, shall be submitted to Congress. Reports.

“(8)(A) In this paragraph, the term ‘nontraditional Government contractor’ has the meaning given the term ‘nontraditional defense contractor’ in section 845(f) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 10 U.S.C. 2371 note).

“(B) Not later than 1 year after the date on which the final guidelines are published under paragraph (6), the Comptroller General of the United States shall submit to Congress a report describing— Deadline. Reports.

“(i) the use by the Department of authorities under this section, including the ability to attract nontraditional Government contractors; and

“(ii) whether additional safeguards are necessary to carry out the authorities.

“(9) The authority of the Secretary under this subsection may be delegated only to an officer of the Department who is appointed by the President by and with the advice and consent of the Senate.

“(10) Notwithstanding any other provision of law, the authority to enter into transactions under paragraph (1) shall terminate on September 30, 2010.” Termination date.

SEC. 1008. PRIZES FOR ACHIEVEMENT IN GRAND CHALLENGES OF SCIENCE AND TECHNOLOGY. 42 USC 16396.

(a) **AUTHORITY.**—The Secretary may carry out a program to award cash prizes in recognition of breakthrough achievements in research, development, demonstration, and commercial application that have the potential for application to the performance of the mission of the Department.

(b) **COMPETITION REQUIREMENTS.**—The program under subsection (a) may include prizes for the achievement of goals articulated by the Secretary in a specific area through a widely advertised solicitation of submission of results for research, development, demonstration, or commercial application projects.

(c) **PRIZES FOR PROCESSES AND TECHNOLOGIES TO REDUCE DEPENDENCE ON IMPORTED OIL.**—The Secretary, in cooperation with the Freedom Prize Foundation, shall support a program of awarding prizes, to be known as Freedom Prizes, to encourage and recognize the development and deployment of processes and technologies that serve to reduce the dependence of the United States on imported oil.

(d) **RELATIONSHIP TO OTHER AUTHORITY.**—The program under subsection (a) may be carried out in conjunction with or in addition to the exercise of any other authority of the Secretary to acquire, support, or stimulate research, development, demonstration, or commercial application projects.

(e) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated—

(1) \$10,000,000 to carry out the program under subsection (a); and

(2) \$5,000,000 to carry out the program under subsection (c).

SEC. 1009. TECHNICAL CORRECTIONS.(a) **COAL RESEARCH AND DEVELOPMENT.**—

(1) **IN GENERAL.**—Public Law 86-599 (30 U.S.C. 661 et seq.) is amended—

(A) by striking the first section (30 U.S.C. 661) and inserting the following:

“SEC. 1. (a) This Act may be cited as the ‘Coal Research and Development Act of 1960’.

“(b) In this Act:

“(1) The term ‘research’ means scientific, technical, and economic research and the practical application of that research.

“(2) The term ‘Secretary’ means the Secretary of Energy.”;

(B) in section 2 (30 U.S.C. 662), by striking “shall establish within” and all that follows through “such Office”;

(C) by striking sections 3, 4, and 7 (30 U.S.C. 663, 664, 667); and

(D) by redesignating sections 5, 6, and 8 (30 U.S.C. 665, 666, 668) as sections 3, 4, and 5, respectively.

(2) **PATENTS.**—Section 210(a)(8) of title 35, United States Code, is amended by striking “Coal Research Development Act of 1960” and inserting “Coal Research and Development Act of 1960”.

(b) **NONNUCLEAR ENERGY RESEARCH AND DEVELOPMENT.**—

(1) **SHORT TITLE; DEFINITIONS.**—Section 1 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5902) is amended to read as follows:

“SHORT TITLE AND DEFINITIONS

“SEC. 1. (a) This Act may be cited as the ‘Federal Nonnuclear Energy Research and Development Act of 1974’.

“(b) In this Act:

“(1) The term ‘Department’ means the Department of Energy.

“(2) The term ‘Secretary’ means the Secretary of Energy.”.

(2) **STATEMENT OF POLICY.**—Section 3(b) of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5902(b)) is amended—

(A) in paragraph (1), by striking “Energy Research and Development Administration” and inserting “Department”;

(B) in paragraph (2), by striking “Administrator of the Energy Research and Development Administration (hereinafter in this Act referred to as the ‘Administrator’)” and inserting “Secretary”; and

(C) in paragraph (3)—

(i) by striking “Administrator” and inserting “Secretary”; and

(ii) by inserting “Demonstration” after “Cooling”.

(3) **DUTIES AND AUTHORITIES.**—Section 4 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5903) is amended—

(A) by striking the section heading and inserting the following: “DUTIES AND AUTHORITIES OF THE SECRETARY”; and

(B) in the matter preceding subsection (a), by striking “Administrator” and inserting “Secretary”.

(4) COMPREHENSIVE PLANNING AND PROGRAMMING.—Section 6 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5905) is amended—

(A) by striking “Administrator” each place it appears and inserting “Secretary”; and

(B) in subsection (b)(3)—

(i) in subparagraph (I), by inserting “Demonstration” after “Cooling”; and

(ii) in subparagraph (L), by inserting “Energy” after “Solar”.

(5) FORMS OF FEDERAL ASSISTANCE.—Section 7 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5906) is amended—

(A) by striking “Administrator” each place it appears and inserting “Secretary”; and

(B) in subsection (a)(4), by striking “of the section”.

(6) DEMONSTRATIONS.—Section 8 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5907) is amended—

(A) in subsections (a) through (c), by striking “Administrator” each place it appears and inserting “Secretary”; and

(B) in subsection (d)—

(i) in the first sentence of paragraph (1), by inserting “of the Energy Research and Development Administration” after “Administrator”; and

(ii) in paragraph (3), by striking “Administrator” and inserting “Secretary”; and

(C) in subsection (f)—

(i) by striking “Administrator” each place it appears and inserting “Secretary”; and

(ii) in the proviso of the first sentence, by striking “Administrator’s” and inserting “Secretary’s”.

(7) PATENT POLICY.—Section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5908) is amended—

(A) by striking “Administration” each place it appears and inserting “Department”; and

(B) by striking “Administrator” each place it appears and inserting “Secretary”; and

(C) in subsection (c)(3), by striking “Administration’s” and inserting “Department’s”.

(8) ACQUISITION OF ESSENTIAL MATERIALS.—Section 12 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5911) is amended by striking subsection (b) and inserting the following:

“(b) A rule or order under subsection (a) shall be considered to be a major rule subject to chapter 8 of title 5, United States Code.”.

(9) WATER RESOURCE EVALUATION.—Section 13 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5912) is amended by striking “Administrator” each place it appears and inserting “Secretary”.

(10) AUTHORIZATION OF APPROPRIATIONS.—Section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5915) is amended—

(A) by striking the section heading and inserting the following: “AUTHORIZATION OF APPROPRIATIONS”;

(B) by striking “(a) There may be appropriated to the Administrator” and inserting “There may be appropriated to the Secretary”; and

(C) by striking subsections (b) and (c).

(11) CENTRAL SOURCE OF NONNUCLEAR ENERGY INFORMATION.—Section 17 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5916) is amended—

(A) by striking “Administrator” each place it appears and inserting “Secretary”;

(B) in the first sentence, by striking “Administrator’s”;

(C) in the second sentence, by striking “he” and inserting “the Secretary”;

(D) in the third sentence—

(i) in paragraph (2) of the first proviso, by striking “section 1905 or title 18” and inserting “section 1905 of title 18”; and

(ii) in subparagraph (B) of the second proviso—

(I) by striking “the Federal Energy Administration,”;

(II) by striking “the Federal Power Commission,” and inserting “the Federal Energy Regulatory Commission”; and

(III) by striking “General Accounting Office” and inserting “Government Accountability Office”; and

(E) in the last sentence, by inserting “or ranking minority member” after “chairman”.

(12) ENERGY INFORMATION, LOAN GUARANTEES, AND FINANCIAL SUPPORT.—Sections 18 through 20 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5917 through 5920) are repealed.

(c) STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT OF 1980.—Section 20 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3712) is amended by striking “and the National Science Foundation” and inserting “, the Secretary of Energy, and the Director of the National Science Foundation”.

Deadline.
Reports.

SEC. 1010. UNIVERSITY COLLABORATION.

Not later than 2 years after the date of enactment of this Act, the Secretary shall transmit to the Congress a report that examines the feasibility of promoting collaborations between major universities and other colleges and universities in grants, contracts, and cooperative agreements made by the Secretary for energy projects. For purposes of this section, major universities are schools listed by the Carnegie Foundation as Doctoral Research Extensive Universities. The Secretary shall also consider providing incentives to increase the inclusion of small institutions of higher education, including minority-serving institutions, in energy grants, contracts, and cooperative agreements.

SEC. 1011. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) the Secretary should develop and implement more stringent procurement and inventory controls, including controls on the purchase card program, to prevent waste, fraud, and abuse of taxpayer funds by employees and contractors of the Department; and

(2) the Department’s Inspector General should continue to closely review purchase card purchases and other procurement and inventory practices at the Department.

TITLE XI—PERSONNEL AND TRAINING

SEC. 1101. WORKFORCE TRENDS AND TRAINEESHIP GRANTS.

42 USC 16411.

(a) **DEFINITIONS.**—In this section:

(1) **ENERGY TECHNOLOGY INDUSTRY.**—The term “energy technology industry” includes—

- (A) a renewable energy industry;
- (B) a company that develops or commercializes a device to increase energy efficiency;
- (C) the oil and gas industry;
- (D) the nuclear power industry;
- (E) the coal industry;
- (F) the electric utility industry; and
- (G) any other industrial sector, as the Secretary determines to be appropriate.

(2) **SKILLED TECHNICAL PERSONNEL.**—The term “skilled technical personnel” means—

- (A) journey- and apprentice-level workers who are enrolled in, or have completed, a federally-recognized or State-recognized apprenticeship program; and
- (B) other skilled workers in energy technology industries, as determined by the Secretary.

(b) **WORKFORCE TRENDS.**—

(1) **MONITORING.**—The Secretary, in consultation with, and using data collected by, the Secretary of Labor, shall monitor trends in the workforce of—

- (A) skilled technical personnel that support energy technology industries; and
- (B) electric power and transmission engineers.

(2) **REPORT ON TRENDS.**—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report on current trends under paragraph (1), with recommendations (as appropriate) to meet the future labor requirements for the energy technology industries.

(3) **REPORT ON SHORTAGE.**—As soon as practicable after the date on which the Secretary identifies or predicts a significant national shortage of skilled technical personnel in one or more energy technology industries, the Secretary shall submit to Congress a report describing the shortage.

(c) **TRAINEESHIP GRANTS FOR SKILLED TECHNICAL PERSONNEL.**—The Secretary, in consultation with the Secretary of Labor, may establish programs in the appropriate offices of the Department under which the Secretary provides grants to enhance training (including distance learning) for any workforce category for which a shortage is identified or predicted under subsection (b)(2).

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this section \$20,000,000 for each of fiscal years 2006 through 2008.

SEC. 1102. EDUCATIONAL PROGRAMS IN SCIENCE AND MATHEMATICS.

(a) **SCIENCE EDUCATION ENHANCEMENT FUND.**—Section 3164 of the Department of Energy Science Education Enhancement Act (42 U.S.C. 7381a) is amended by adding at the end:

“(c) **SCIENCE EDUCATION ENHANCEMENT FUND.**—The Secretary shall use not less than 0.3 percent of the amount made available to the Department for research, development, demonstration, and commercial application for fiscal year 2006 and each fiscal year thereafter to carry out activities authorized by this part.”.

(b) **AUTHORIZED EDUCATION ACTIVITIES.**—Section 3165 of the Department of Energy Science Education Enhancement Act (42 U.S.C. 7381b) is amended by adding at the end the following:

“(14) Support competitive events for students under the supervision of teachers, designed to encourage student interest and knowledge in science and mathematics.

“(15) Support competitively-awarded, peer-reviewed programs to promote professional development for mathematics teachers and science teachers who teach in grades from kindergarten through grade 12 at Department research and development facilities.

“(16) Support summer internships at Department research and development facilities, for mathematics teachers and science teachers who teach in grades from kindergarten through grade 12.

“(17) Sponsor and assist in educational and training activities identified as critical skills needs for future workforce development at Department research and development facilities.”.

(c) **EDUCATIONAL PARTNERSHIPS.**—Section 3166(b) of the Department of Energy Science Education Enhancement Act (42 U.S.C. 7381c(b)) is amended—

(1) by striking paragraph (1) and inserting the following:

“(1) loaning or transferring equipment to the institution;”;

(2) in paragraph (5), by striking “and” at the end;

(3) in paragraph (6), by striking the period at the end and inserting “; and”; and

(4) by adding at the end the following:

“(7) providing funds to educational institutions to hire personnel to facilitate interactions between local school systems, Department research and development facilities, and corporate and governmental entities.”.

(d) **DEFINITION OF DEPARTMENT RESEARCH AND DEVELOPMENT FACILITIES.**—Section 3167(3) of the Department of Energy Science Education Enhancement Act (42 U.S.C. 7381d(3)) is amended by striking “from the Office of Science of the Department of Energy” and inserting “by the Department of Energy”.

(e) **STUDY.**—

(1) **IN GENERAL.**—The Secretary, in consultation with the Secretary of Education, shall enter into an arrangement with the National Academy of Public Administration to conduct a study of the priorities, quality, local and regional flexibility, and plans for educational programs at Department research and development facilities.

(2) **INCLUSION.**—The study shall recommend measures that the Secretary may take to improve Department-wide coordination of educational, workforce development, and critical skills development activities.

(3) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to Congress a report on the results of the study conducted under this subsection.

SEC. 1103. TRAINING GUIDELINES FOR NONNUCLEAR ELECTRIC ENERGY INDUSTRY PERSONNEL. 42 USC 16412.

(a) IN GENERAL.—The Secretary of Labor, in consultation with the Secretary and in conjunction with the electric industry and recognized employee representatives, shall develop model personnel training guidelines to support the reliability and safety of the nonnuclear electric system.

(b) REQUIREMENTS.—The training guidelines under subsection (a) shall, at a minimum—

(1) include training requirements for workers engaged in the construction, operation, inspection, or maintenance of nonnuclear electric generation, transmission, or distribution systems, including requirements relating to—

- (A) competency;
 - (B) certification; and
 - (C) assessment, including—
 - (i) initial and continuous evaluation of workers;
 - (ii) recertification procedures; and
 - (iii) methods for examining or testing the qualification of an individual who performs a covered task;
- and

(2) consolidate training guidelines in existence on the date on which the guidelines under subsection (a) are developed relating to the construction, operation, maintenance, and inspection of nonnuclear electric generation, transmission, and distribution facilities, such as guidelines established by the National Electric Safety Code and other industry consensus standards.

SEC. 1104. NATIONAL CENTER FOR ENERGY MANAGEMENT AND BUILDING TECHNOLOGIES. 42 USC 16413.

The Secretary shall support the ongoing activities of and explore opportunities for expansion of the National Center for Energy Management and Building Technologies to carry out research, education, and training activities to facilitate the improvement of energy efficiency, indoor environmental quality, and security of industrial, commercial, residential, and public buildings.

SEC. 1105. IMPROVED ACCESS TO ENERGY-RELATED SCIENTIFIC AND TECHNICAL CAREERS.

(a) SCIENCE EDUCATION PROGRAMS.—Section 3164 of the Department of Energy Science Education Enhancement Act (42 U.S.C. 7381a) (as amended by section 1102(a)) is amended by adding at the end the following:

“(d) PROGRAMS FOR STUDENTS FROM UNDER-REPRESENTED GROUPS.—In carrying out a program under subsection (a), the Secretary shall give priority to activities that are designed to encourage students from under-represented groups to pursue scientific and technical careers.”.

(b) PARTNERSHIPS WITH HISTORICALLY BLACK COLLEGES AND UNIVERSITIES, HISPANIC-SERVICING INSTITUTIONS, AND TRIBAL COLLEGES.—The Department of Energy Science Education Enhancement Act (42 U.S.C. 7381 et seq.) is amended—

42 USC 7381d,
7381e.

(1) by redesignating sections 3167 and 3168 as sections 3168 and 3169, respectively; and

(2) by inserting after section 3166 the following:

42 USC 7381c–1. **“SEC. 3167. PARTNERSHIPS WITH HISTORICALLY BLACK COLLEGES AND UNIVERSITIES, HISPANIC-SERVING INSTITUTIONS, AND TRIBAL COLLEGES.**

“(a) DEFINITIONS.—In this section:

“(1) HISPANIC-SERVING INSTITUTION.—The term ‘Hispanic-serving institution’ has the meaning given the term in section 502(a) of the Higher Education Act of 1965 (20 U.S.C. 1101a(a)).

“(2) HISTORICALLY BLACK COLLEGE OR UNIVERSITY.—The term ‘historically Black college or university’ has the meaning given the term ‘part B institution’ in section 322 of the Higher Education Act of 1965 (20 U.S.C. 1061).

“(3) NATIONAL LABORATORY.—The term ‘National Laboratory’ has the meaning given the term in section 2 of the Energy Policy Act of 2005.

“(4) SCIENCE FACILITY.—The term ‘science facility’ has the meaning given the term ‘single-purpose research facility’ in section 903 of the Energy Policy Act of 2005.

“(5) TRIBAL COLLEGE.—The term ‘tribal college’ has the meaning given the term ‘tribally controlled college or university’ in section 2(a) of the Tribally Controlled College Assistance Act of 1978 (25 U.S.C. 1801(a)).

“(b) EDUCATION PARTNERSHIP.—The Secretary shall require the director of each National Laboratory, and may require the head of any science facility, to increase the participation of historically Black colleges or universities, Hispanic-serving institutions, or tribal colleges in any activity that increases the capacity of the historically Black colleges or universities, Hispanic-serving institutions, or tribal colleges to train personnel in science or engineering.

“(c) ACTIVITIES.—An activity described in subsection (b) includes—

“(1) collaborative research;

“(2) equipment transfer;

“(3) training activities carried out at a National Laboratory or science facility; and

“(4) mentoring activities carried out at a National Laboratory or science facility.

“(d) REPORT.—Not later than 2 years after the date of enactment of this subsection, the Secretary shall submit to Congress a report describing the activities carried out under this section.”.

42 USC 16414.

SEC. 1106. NATIONAL POWER PLANT OPERATIONS TECHNOLOGY AND EDUCATIONAL CENTER.

(a) ESTABLISHMENT.—The Secretary shall support the establishment of a National Power Plant Operations Technology and Education Center (referred to in this section as the “Center”), to address the need for training and educating certified operators and technicians for the electric power industry.

(b) LOCATION OF CENTER.—The Secretary shall support the establishment of the Center at an institution of higher education that has—

(1) expertise in providing degree programs in electric power generation, transmission, and distribution technologies;

(2) expertise in providing onsite and Internet-based training; and

(3) demonstrated responsiveness to workforce and training requirements in the electric power industry.

(c) TRAINING AND CONTINUING EDUCATION.—

(1) IN GENERAL.—The Center shall provide training and continuing education in electric power generation, transmission, and distribution technologies and operations.

(2) LOCATION.—The Center shall carry out training and education activities under paragraph (1)—

(A) at the Center; and

(B) through Internet-based information technologies that allow for learning at remote sites.

TITLE XII—ELECTRICITY

SEC. 1201. SHORT TITLE.

This title may be cited as the “Electricity Modernization Act of 2005”.

Electricity
Modernization
Act of 2005.
42 USC 15801
note.

Subtitle A—Reliability Standards

SEC. 1211. ELECTRIC RELIABILITY STANDARDS.

(a) IN GENERAL.—Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

“SEC. 215. ELECTRIC RELIABILITY.

16 USC 824o.

“(a) DEFINITIONS.—For purposes of this section:

“(1) The term ‘bulk-power system’ means—

“(A) facilities and control systems necessary for operating an interconnected electric energy transmission network (or any portion thereof); and

“(B) electric energy from generation facilities needed to maintain transmission system reliability.

The term does not include facilities used in the local distribution of electric energy.

“(2) The terms ‘Electric Reliability Organization’ and ‘ERO’ mean the organization certified by the Commission under subsection (c) the purpose of which is to establish and enforce reliability standards for the bulk-power system, subject to Commission review.

“(3) The term ‘reliability standard’ means a requirement, approved by the Commission under this section, to provide for reliable operation of the bulk-power system. The term includes requirements for the operation of existing bulk-power system facilities, including cybersecurity protection, and the design of planned additions or modifications to such facilities to the extent necessary to provide for reliable operation of the bulk-power system, but the term does not include any requirement to enlarge such facilities or to construct new transmission capacity or generation capacity.

“(4) The term ‘reliable operation’ means operating the elements of the bulk-power system within equipment and electric system thermal, voltage, and stability limits so that instability, uncontrolled separation, or cascading failures of such system will not occur as a result of a sudden disturbance, including a cybersecurity incident, or unanticipated failure of system elements.

“(5) The term ‘Interconnection’ means a geographic area in which the operation of bulk-power system components is synchronized such that the failure of one or more of such components may adversely affect the ability of the operators of other components within the system to maintain reliable operation of the facilities within their control.

“(6) The term ‘transmission organization’ means a Regional Transmission Organization, Independent System Operator, independent transmission provider, or other transmission organization finally approved by the Commission for the operation of transmission facilities.

“(7) The term ‘regional entity’ means an entity having enforcement authority pursuant to subsection (e)(4).

“(8) The term ‘cybersecurity incident’ means a malicious act or suspicious event that disrupts, or was an attempt to disrupt, the operation of those programmable electronic devices and communication networks including hardware, software and data that are essential to the reliable operation of the bulk power system.

“(b) JURISDICTION AND APPLICABILITY.—(1) The Commission shall have jurisdiction, within the United States, over the ERO certified by the Commission under subsection (c), any regional entities, and all users, owners and operators of the bulk-power system, including but not limited to the entities described in section 201(f), for purposes of approving reliability standards established under this section and enforcing compliance with this section. All users, owners and operators of the bulk-power system shall comply with reliability standards that take effect under this section.

Regulations.
Deadline.

“(2) The Commission shall issue a final rule to implement the requirements of this section not later than 180 days after the date of enactment of this section.

“(c) CERTIFICATION.—Following the issuance of a Commission rule under subsection (b)(2), any person may submit an application to the Commission for certification as the Electric Reliability Organization. The Commission may certify one such ERO if the Commission determines that such ERO—

“(1) has the ability to develop and enforce, subject to subsection (e)(2), reliability standards that provide for an adequate level of reliability of the bulk-power system; and

“(2) has established rules that—

“(A) assure its independence of the users and owners and operators of the bulk-power system, while assuring fair stakeholder representation in the selection of its directors and balanced decisionmaking in any ERO committee or subordinate organizational structure;

“(B) allocate equitably reasonable dues, fees, and other charges among end users for all activities under this section;

“(C) provide fair and impartial procedures for enforcement of reliability standards through the imposition of penalties in accordance with subsection (e) (including limitations on activities, functions, or operations, or other appropriate sanctions);

“(D) provide for reasonable notice and opportunity for public comment, due process, openness, and balance of interests in developing reliability standards and otherwise exercising its duties; and

“(E) provide for taking, after certification, appropriate steps to gain recognition in Canada and Mexico.

“(d) RELIABILITY STANDARDS.—(1) The Electric Reliability Organization shall file each reliability standard or modification to a reliability standard that it proposes to be made effective under this section with the Commission.

“(2) The Commission may approve, by rule or order, a proposed reliability standard or modification to a reliability standard if it determines that the standard is just, reasonable, not unduly discriminatory or preferential, and in the public interest. The Commission shall give due weight to the technical expertise of the Electric Reliability Organization with respect to the content of a proposed standard or modification to a reliability standard and to the technical expertise of a regional entity organized on an Interconnection-wide basis with respect to a reliability standard to be applicable within that Interconnection, but shall not defer with respect to the effect of a standard on competition. A proposed standard or modification shall take effect upon approval by the Commission.

“(3) The Electric Reliability Organization shall rebuttably presume that a proposal from a regional entity organized on an Interconnection-wide basis for a reliability standard or modification to a reliability standard to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest.

“(4) The Commission shall remand to the Electric Reliability Organization for further consideration a proposed reliability standard or a modification to a reliability standard that the Commission disapproves in whole or in part.

“(5) The Commission, upon its own motion or upon complaint, may order the Electric Reliability Organization to submit to the Commission a proposed reliability standard or a modification to a reliability standard that addresses a specific matter if the Commission considers such a new or modified reliability standard appropriate to carry out this section.

“(6) The final rule adopted under subsection (b)(2) shall include fair processes for the identification and timely resolution of any conflict between a reliability standard and any function, rule, order, tariff, rate schedule, or agreement accepted, approved, or ordered by the Commission applicable to a transmission organization. Such transmission organization shall continue to comply with such function, rule, order, tariff, rate schedule or agreement accepted, approved, or ordered by the Commission until—

“(A) the Commission finds a conflict exists between a reliability standard and any such provision;

“(B) the Commission orders a change to such provision pursuant to section 206 of this part; and

“(C) the ordered change becomes effective under this part. If the Commission determines that a reliability standard needs to be changed as a result of such a conflict, it shall order the ERO to develop and file with the Commission a modified reliability standard under paragraph (4) or (5) of this subsection.

“(e) ENFORCEMENT.—(1) The ERO may impose, subject to paragraph (2), a penalty on a user or owner or operator of the bulk-power system for a violation of a reliability standard approved by the Commission under subsection (d) if the ERO, after notice and an opportunity for a hearing—

“(A) finds that the user or owner or operator has violated a reliability standard approved by the Commission under subsection (d); and

“(B) files notice and the record of the proceeding with the Commission.

“(2) A penalty imposed under paragraph (1) may take effect not earlier than the 31st day after the ERO files with the Commission notice of the penalty and the record of proceedings. Such penalty shall be subject to review by the Commission, on its own motion or upon application by the user, owner or operator that is the subject of the penalty filed within 30 days after the date such notice is filed with the Commission. Application to the Commission for review, or the initiation of review by the Commission on its own motion, shall not operate as a stay of such penalty unless the Commission otherwise orders upon its own motion or upon application by the user, owner or operator that is the subject of such penalty. In any proceeding to review a penalty imposed under paragraph (1), the Commission, after notice and opportunity for hearing (which hearing may consist solely of the record before the ERO and opportunity for the presentation of supporting reasons to affirm, modify, or set aside the penalty), shall by order affirm, set aside, reinstate, or modify the penalty, and, if appropriate, remand to the ERO for further proceedings. The Commission shall implement expedited procedures for such hearings.

“(3) On its own motion or upon complaint, the Commission may order compliance with a reliability standard and may impose a penalty against a user or owner or operator of the bulk-power system if the Commission finds, after notice and opportunity for a hearing, that the user or owner or operator of the bulk-power system has engaged or is about to engage in any acts or practices that constitute or will constitute a violation of a reliability standard.

“(4) The Commission shall issue regulations authorizing the ERO to enter into an agreement to delegate authority to a regional entity for the purpose of proposing reliability standards to the ERO and enforcing reliability standards under paragraph (1) if—

“(A) the regional entity is governed by—

“(i) an independent board;

“(ii) a balanced stakeholder board; or

“(iii) a combination independent and balanced stakeholder board.

“(B) the regional entity otherwise satisfies the provisions of subsection (c)(1) and (2); and

“(C) the agreement promotes effective and efficient administration of bulk-power system reliability.

The Commission may modify such delegation. The ERO and the Commission shall rebuttably presume that a proposal for delegation to a regional entity organized on an Interconnection-wide basis promotes effective and efficient administration of bulk-power system reliability and should be approved. Such regulation may provide that the Commission may assign the ERO’s authority to enforce reliability standards under paragraph (1) directly to a regional entity consistent with the requirements of this paragraph.

“(5) The Commission may take such action as is necessary or appropriate against the ERO or a regional entity to ensure compliance with a reliability standard or any Commission order affecting the ERO or a regional entity.

Regulations.
Contracts.

“(6) Any penalty imposed under this section shall bear a reasonable relation to the seriousness of the violation and shall take into consideration the efforts of such user, owner, or operator to remedy the violation in a timely manner.

“(f) CHANGES IN ELECTRIC RELIABILITY ORGANIZATION RULES.—The Electric Reliability Organization shall file with the Commission for approval any proposed rule or proposed rule change, accompanied by an explanation of its basis and purpose. The Commission, upon its own motion or complaint, may propose a change to the rules of the ERO. A proposed rule or proposed rule change shall take effect upon a finding by the Commission, after notice and opportunity for comment, that the change is just, reasonable, not unduly discriminatory or preferential, is in the public interest, and satisfies the requirements of subsection (c).

“(g) RELIABILITY REPORTS.—The ERO shall conduct periodic assessments of the reliability and adequacy of the bulk-power system in North America.

“(h) COORDINATION WITH CANADA AND MEXICO.—The President is urged to negotiate international agreements with the governments of Canada and Mexico to provide for effective compliance with reliability standards and the effectiveness of the ERO in the United States and Canada or Mexico.

“(i) SAVINGS PROVISIONS.—(1) The ERO shall have authority to develop and enforce compliance with reliability standards for only the bulk-power system.

“(2) This section does not authorize the ERO or the Commission to order the construction of additional generation or transmission capacity or to set and enforce compliance with standards for adequacy or safety of electric facilities or services.

“(3) Nothing in this section shall be construed to preempt any authority of any State to take action to ensure the safety, adequacy, and reliability of electric service within that State, as long as such action is not inconsistent with any reliability standard, except that the State of New York may establish rules that result in greater reliability within that State, as long as such action does not result in lesser reliability outside the State than that provided by the reliability standards.

“(4) Within 90 days of the application of the Electric Reliability Organization or other affected party, and after notice and opportunity for comment, the Commission shall issue a final order determining whether a State action is inconsistent with a reliability standard, taking into consideration any recommendation of the ERO.

Deadline.
Standards.

“(5) The Commission, after consultation with the ERO and the State taking action, may stay the effectiveness of any State action, pending the Commission’s issuance of a final order.

“(j) REGIONAL ADVISORY BODIES.—The Commission shall establish a regional advisory body on the petition of at least two-thirds of the States within a region that have more than one-half of their electric load served within the region. A regional advisory body shall be composed of one member from each participating State in the region, appointed by the Governor of each State, and may include representatives of agencies, States, and provinces outside the United States. A regional advisory body may provide advice to the Electric Reliability Organization, a regional entity, or the Commission regarding the governance of an existing or proposed regional entity within the same region, whether a standard

Establishment.

proposed to apply within the region is just, reasonable, not unduly discriminatory or preferential, and in the public interest, whether fees proposed to be assessed within the region are just, reasonable, not unduly discriminatory or preferential, and in the public interest and any other responsibilities requested by the Commission. The Commission may give deference to the advice of any such regional advisory body if that body is organized on an Interconnection-wide basis.

“(k) ALASKA AND HAWAII.—The provisions of this section do not apply to Alaska or Hawaii.”.

16 USC 824o
note.

(b) STATUS OF ERO.—The Electric Reliability Organization certified by the Federal Energy Regulatory Commission under section 215(c) of the Federal Power Act and any regional entity delegated enforcement authority pursuant to section 215(e)(4) of that Act are not departments, agencies, or instrumentalities of the United States Government.

16 USC 824o
note.

(c) ACCESS APPROVALS BY FEDERAL AGENCIES.—Federal agencies responsible for approving access to electric transmission or distribution facilities located on lands within the United States shall, in accordance with applicable law, expedite any Federal agency approvals that are necessary to allow the owners or operators of such facilities to comply with any reliability standard, approved by the Commission under section 215 of the Federal Power Act, that pertains to vegetation management, electric service restoration, or resolution of situations that imminently endanger the reliability or safety of the facilities.

Subtitle B—Transmission Infrastructure Modernization

SEC. 1221. SITING OF INTERSTATE ELECTRIC TRANSMISSION FACILITIES.

(a) IN GENERAL.—Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

16 USC 824p.

“SEC. 216. SITING OF INTERSTATE ELECTRIC TRANSMISSION FACILITIES.

Deadlines.

“(a) DESIGNATION OF NATIONAL INTEREST ELECTRIC TRANSMISSION CORRIDORS.—(1) Not later than 1 year after the date of enactment of this section and every 3 years thereafter, the Secretary of Energy (referred to in this section as the ‘Secretary’), in consultation with affected States, shall conduct a study of electric transmission congestion.

Reports.

“(2) After considering alternatives and recommendations from interested parties (including an opportunity for comment from affected States), the Secretary shall issue a report, based on the study, which may designate any geographic area experiencing electric energy transmission capacity constraints or congestion that adversely affects consumers as a national interest electric transmission corridor.

“(3) The Secretary shall conduct the study and issue the report in consultation with any appropriate regional entity referred to in section 215.

“(4) In determining whether to designate a national interest electric transmission corridor under paragraph (2), the Secretary may consider whether—

“(A) the economic vitality and development of the corridor, or the end markets served by the corridor, may be constrained by lack of adequate or reasonably priced electricity;

“(B)(i) economic growth in the corridor, or the end markets served by the corridor, may be jeopardized by reliance on limited sources of energy; and

“(ii) a diversification of supply is warranted;

“(C) the energy independence of the United States would be served by the designation;

“(D) the designation would be in the interest of national energy policy; and

“(E) the designation would enhance national defense and homeland security.

“(b) CONSTRUCTION PERMIT.—Except as provided in subsection (i), the Commission may, after notice and an opportunity for hearing, issue one or more permits for the construction or modification of electric transmission facilities in a national interest electric transmission corridor designated by the Secretary under subsection (a) if the Commission finds that—

“(1)(A) a State in which the transmission facilities are to be constructed or modified does not have authority to—

“(i) approve the siting of the facilities; or

“(ii) consider the interstate benefits expected to be achieved by the proposed construction or modification of transmission facilities in the State;

“(B) the applicant for a permit is a transmitting utility under this Act but does not qualify to apply for a permit or siting approval for the proposed project in a State because the applicant does not serve end-use customers in the State; or

“(C) a State commission or other entity that has authority to approve the siting of the facilities has—

“(i) withheld approval for more than 1 year after the filing of an application seeking approval pursuant to applicable law or 1 year after the designation of the relevant national interest electric transmission corridor, whichever is later; or

“(ii) conditioned its approval in such a manner that the proposed construction or modification will not significantly reduce transmission congestion in interstate commerce or is not economically feasible;

“(2) the facilities to be authorized by the permit will be used for the transmission of electric energy in interstate commerce;

“(3) the proposed construction or modification is consistent with the public interest;

“(4) the proposed construction or modification will significantly reduce transmission congestion in interstate commerce and protects or benefits consumers;

“(5) the proposed construction or modification is consistent with sound national energy policy and will enhance energy independence; and

“(6) the proposed modification will maximize, to the extent reasonable and economical, the transmission capabilities of existing towers or structures.

“(c) PERMIT APPLICATIONS.—(1) Permit applications under subsection (b) shall be made in writing to the Commission.

Regulations.

“(2) The Commission shall issue rules specifying—

“(A) the form of the application;

“(B) the information to be contained in the application;

and

“(C) the manner of service of notice of the permit application on interested persons.

“(d) COMMENTS.—In any proceeding before the Commission under subsection (b), the Commission shall afford each State in which a transmission facility covered by the permit is or will be located, each affected Federal agency and Indian tribe, private property owners, and other interested persons, a reasonable opportunity to present their views and recommendations with respect to the need for and impact of a facility covered by the permit.

“(e) RIGHTS-OF-WAY.—(1) In the case of a permit under subsection (b) for electric transmission facilities to be located on property other than property owned by the United States or a State, if the permit holder cannot acquire by contract, or is unable to agree with the owner of the property to the compensation to be paid for, the necessary right-of-way to construct or modify the transmission facilities, the permit holder may acquire the right-of-way by the exercise of the right of eminent domain in the district court of the United States for the district in which the property concerned is located, or in the appropriate court of the State in which the property is located.

“(2) Any right-of-way acquired under paragraph (1) shall be used exclusively for the construction or modification of electric transmission facilities within a reasonable period of time after the acquisition.

“(3) The practice and procedure in any action or proceeding under this subsection in the district court of the United States shall conform as nearly as practicable to the practice and procedure in a similar action or proceeding in the courts of the State in which the property is located.

“(4) Nothing in this subsection shall be construed to authorize the use of eminent domain to acquire a right-of-way for any purpose other than the construction, modification, operation, or maintenance of electric transmission facilities and related facilities. The right-of-way cannot be used for any other purpose, and the right-of-way shall terminate upon the termination of the use for which the right-of-way was acquired.

“(f) COMPENSATION.—(1) Any right-of-way acquired pursuant to subsection (e) shall be considered a taking of private property for which just compensation is due.

“(2) Just compensation shall be an amount equal to the fair market value (including applicable severance damages) of the property taken on the date of the exercise of eminent domain authority.

“(g) STATE LAW.—Nothing in this section precludes any person from constructing or modifying any transmission facility in accordance with State law.

“(h) COORDINATION OF FEDERAL AUTHORIZATIONS FOR TRANSMISSION FACILITIES.—(1) In this subsection:

“(A) The term ‘Federal authorization’ means any authorization required under Federal law in order to site a transmission facility.

“(B) The term ‘Federal authorization’ includes such permits, special use authorizations, certifications, opinions, or other

approvals as may be required under Federal law in order to site a transmission facility.

“(2) The Department of Energy shall act as the lead agency for purposes of coordinating all applicable Federal authorizations and related environmental reviews of the facility.

“(3) To the maximum extent practicable under applicable Federal law, the Secretary shall coordinate the Federal authorization and review process under this subsection with any Indian tribes, multistate entities, and State agencies that are responsible for conducting any separate permitting and environmental reviews of the facility, to ensure timely and efficient review and permit decisions.

“(4)(A) As head of the lead agency, the Secretary, in consultation with agencies responsible for Federal authorizations and, as appropriate, with Indian tribes, multistate entities, and State agencies that are willing to coordinate their own separate permitting and environmental reviews with the Federal authorization and environmental reviews, shall establish prompt and binding intermediate milestones and ultimate deadlines for the review of, and Federal authorization decisions relating to, the proposed facility.

“(B) The Secretary shall ensure that, once an application has been submitted with such data as the Secretary considers necessary, all permit decisions and related environmental reviews under all applicable Federal laws shall be completed—

“(i) within 1 year; or

“(ii) if a requirement of another provision of Federal law does not permit compliance with clause (i), as soon thereafter as is practicable.

“(C) The Secretary shall provide an expeditious pre-application mechanism for prospective applicants to confer with the agencies involved to have each such agency determine and communicate to the prospective applicant not later than 60 days after the prospective applicant submits a request for such information concerning—

“(i) the likelihood of approval for a potential facility; and

“(ii) key issues of concern to the agencies and public.

“(5)(A) As lead agency head, the Secretary, in consultation with the affected agencies, shall prepare a single environmental review document, which shall be used as the basis for all decisions on the proposed project under Federal law.

“(B) The Secretary and the heads of other agencies shall streamline the review and permitting of transmission within corridors designated under section 503 of the Federal Land Policy and Management Act (43 U.S.C. 1763) by fully taking into account prior analyses and decisions relating to the corridors.

“(C) The document shall include consideration by the relevant agencies of any applicable criteria or other matters as required under applicable law.

“(6)(A) If any agency has denied a Federal authorization required for a transmission facility, or has failed to act by the deadline established by the Secretary pursuant to this section for deciding whether to issue the authorization, the applicant or any State in which the facility would be located may file an appeal with the President, who shall, in consultation with the affected agency, review the denial or failure to take action on the pending application.

“(B) Based on the overall record and in consultation with the affected agency, the President may—

“(i) issue the necessary authorization with any appropriate conditions; or
 “(ii) deny the application.
 President. “(C) The President shall issue a decision not later than 90
 Deadline. days after the date of the filing of the appeal.
 President. “(D) In making a decision under this paragraph, the President shall comply with applicable requirements of Federal law, including any requirements of—
 “(i) the National Forest Management Act of 1976 (16 U.S.C. 472a et seq.);
 “(ii) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);
 “(iii) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);
 “(iv) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and
 “(v) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).
 Deadline. “(7)(A) Not later than 18 months after the date of enactment
 Regulations. of this section, the Secretary shall issue any regulations necessary to implement this subsection.
 Deadline. “(B)(i) Not later than 1 year after the date of enactment of
 Memorandum. this section, the Secretary and the heads of all Federal agencies with authority to issue Federal authorizations shall enter into a memorandum of understanding to ensure the timely and coordinated review and permitting of electricity transmission facilities.
 “(ii) Interested Indian tribes, multistate entities, and State agencies may enter the memorandum of understanding.
 “(C) The head of each Federal agency with authority to issue a Federal authorization shall designate a senior official responsible for, and dedicate sufficient other staff and resources to ensure, full implementation of the regulations and memorandum required under this paragraph.
 “(8)(A) Each Federal land use authorization for an electricity transmission facility shall be issued—
 “(i) for a duration, as determined by the Secretary, commensurate with the anticipated use of the facility; and
 “(ii) with appropriate authority to manage the right-of-way for reliability and environmental protection.
 “(B) On the expiration of the authorization (including an authorization issued before the date of enactment of this section), the authorization shall be reviewed for renewal taking fully into account reliance on such electricity infrastructure, recognizing the importance of the authorization for public health, safety, and economic welfare and as a legitimate use of Federal land.
 “(9) In exercising the responsibilities under this section, the Secretary shall consult regularly with—
 “(A) the Federal Energy Regulatory Commission;
 “(B) electric reliability organizations (including related regional entities) approved by the Commission; and
 “(C) Transmission Organizations approved by the Commission.
 “(i) INTERSTATE COMPACTS.—(1) The consent of Congress is given for three or more contiguous States to enter into an interstate compact, subject to approval by Congress, establishing regional transmission siting agencies to—

“(A) facilitate siting of future electric energy transmission facilities within those States; and

“(B) carry out the electric energy transmission siting responsibilities of those States.

“(2) The Secretary may provide technical assistance to regional transmission siting agencies established under this subsection.

“(3) The regional transmission siting agencies shall have the authority to review, certify, and permit siting of transmission facilities, including facilities in national interest electric transmission corridors (other than facilities on property owned by the United States).

“(4) The Commission shall have no authority to issue a permit for the construction or modification of an electric transmission facility within a State that is a party to a compact, unless the members of the compact are in disagreement and the Secretary makes, after notice and an opportunity for a hearing, the finding described in subsection (b)(1)(C).

“(j) RELATIONSHIP TO OTHER LAWS.—(1) Except as specifically provided, nothing in this section affects any requirement of an environmental law of the United States, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

“(2) Subsection (h)(6) shall not apply to any unit of the National Park System, the National Wildlife Refuge System, the National Wild and Scenic Rivers System, the National Trails System, the National Wilderness Preservation System, or a National Monument.

“(k) ERCOT.—This section shall not apply within the area referred to in section 212(k)(2)(A).”.

(b) REPORTS TO CONGRESS ON CORRIDORS AND RIGHTS-OF-WAY ON FEDERAL LANDS.—Not later than 90 days after the date of enactment of this Act, the Secretary of the Interior, the Secretary, the Secretary of Agriculture, and the Chairman of the Council on Environmental Quality shall submit to Congress a joint report identifying—

(1)(A) all existing designated transmission and distribution corridors on Federal land and the status of work related to proposed transmission and distribution corridor designations under title V of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761 et seq.);

(B) the schedule for completing the work;

(C) any impediments to completing the work; and

(D) steps that Congress could take to expedite the process;

(2)(A) the number of pending applications to locate transmission facilities on Federal land;

(B) key information relating to each such facility;

(C) how long each application has been pending;

(D) the schedule for issuing a timely decision as to each facility; and

(E) progress in incorporating existing and new such rights-of-way into relevant land use and resource management plans or the equivalent of those plans; and

(3)(A) the number of existing transmission and distribution rights-of-way on Federal land that will come up for renewal within the following 5-, 10-, and 15-year periods; and

(B) a description of how the Secretaries plan to manage the renewals.

42 USC 16421.

SEC. 1222. THIRD-PARTY FINANCE.

(a) **EXISTING FACILITIES.**—The Secretary, acting through the Administrator of the Western Area Power Administration (hereinafter in this section referred to as “WAPA”), or through the Administrator of the Southwestern Power Administration (hereinafter in this section referred to as “SWPA”), or both, may design, develop, construct, operate, maintain, or own, or participate with other entities in designing, developing, constructing, operating, maintaining, or owning, an electric power transmission facility and related facilities (“Project”) needed to upgrade existing transmission facilities owned by SWPA or WAPA if the Secretary, in consultation with the applicable Administrator, determines that the proposed Project—

(1)(A) is located in a national interest electric transmission corridor designated under section 216(a) of the Federal Power Act and will reduce congestion of electric transmission in interstate commerce; or

(B) is necessary to accommodate an actual or projected increase in demand for electric transmission capacity;

(2) is consistent with—

(A) transmission needs identified, in a transmission expansion plan or otherwise, by the appropriate Transmission Organization (as defined in the Federal Power Act), if any, or approved regional reliability organization; and

(B) efficient and reliable operation of the transmission grid; and

(3) would be operated in conformance with prudent utility practice.

(b) **NEW FACILITIES.**—The Secretary, acting through WAPA or SWPA, or both, may design, develop, construct, operate, maintain, or own, or participate with other entities in designing, developing, constructing, operating, maintaining, or owning, a new electric power transmission facility and related facilities (“Project”) located within any State in which WAPA or SWPA operates if the Secretary, in consultation with the applicable Administrator, determines that the proposed Project—

(1)(A) is located in an area designated under section 216(a) of the Federal Power Act and will reduce congestion of electric transmission in interstate commerce; or

(B) is necessary to accommodate an actual or projected increase in demand for electric transmission capacity;

(2) is consistent with—

(A) transmission needs identified, in a transmission expansion plan or otherwise, by the appropriate Transmission Organization (as defined in the Federal Power Act) if any, or approved regional reliability organization; and

(B) efficient and reliable operation of the transmission grid;

(3) will be operated in conformance with prudent utility practice;

(4) will be operated by, or in conformance with the rules of, the appropriate (A) Transmission Organization, if any, or (B) if such an organization does not exist, regional reliability organization; and

(5) will not duplicate the functions of existing transmission facilities or proposed facilities which are the subject of ongoing or approved siting and related permitting proceedings.

(c) OTHER FUNDS.—

(1) IN GENERAL.—In carrying out a Project under subsection (a) or (b), the Secretary may accept and use funds contributed by another entity for the purpose of carrying out the Project.

(2) AVAILABILITY.—The contributed funds shall be available for expenditure for the purpose of carrying out the Project—

(A) without fiscal year limitation; and

(B) as if the funds had been appropriated specifically for that Project.

(3) ALLOCATION OF COSTS.—In carrying out a Project under subsection (a) or (b), any costs of the Project not paid for by contributions from another entity shall be collected through rates charged to customers using the new transmission capability provided by the Project and allocated equitably among these project beneficiaries using the new transmission capability.

(d) RELATIONSHIP TO OTHER LAWS.—Nothing in this section affects any requirement of—

(1) any Federal environmental law, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(2) any Federal or State law relating to the siting of energy facilities; or

(3) any existing authorizing statutes.

(e) SAVINGS CLAUSE.—Nothing in this section shall constrain or restrict an Administrator in the utilization of other authority delegated to the Administrator of WAPA or SWPA.

(f) SECRETARIAL DETERMINATIONS.—Any determination made pursuant to subsections (a) or (b) shall be based on findings by the Secretary using the best available data.

(g) MAXIMUM FUNDING AMOUNT.—The Secretary shall not accept and use more than \$100,000,000 under subsection (c)(1) for the period encompassing fiscal years 2006 through 2015.

SEC. 1223. ADVANCED TRANSMISSION TECHNOLOGIES.

42 USC 16422.

(a) DEFINITION OF ADVANCED TRANSMISSION TECHNOLOGY.—In this section, the term “advanced transmission technology” means a technology that increases the capacity, efficiency, or reliability of an existing or new transmission facility, including—

(1) high-temperature lines (including superconducting cables);

(2) underground cables;

(3) advanced conductor technology (including advanced composite conductors, high-temperature low-sag conductors, and fiber optic temperature sensing conductors);

(4) high-capacity ceramic electric wire, connectors, and insulators;

(5) optimized transmission line configurations (including multiple phased transmission lines);

(6) modular equipment;

(7) wireless power transmission;

(8) ultra-high voltage lines;

(9) high-voltage DC technology;

(10) flexible AC transmission systems;

- (11) energy storage devices (including pumped hydro, compressed air, superconducting magnetic energy storage, flywheels, and batteries);
- (12) controllable load;
- (13) distributed generation (including PV, fuel cells, and microturbines);
- (14) enhanced power device monitoring;
- (15) direct system state sensors;
- (16) fiber optic technologies;
- (17) power electronics and related software (including real time monitoring and analytical software);
- (18) mobile transformers and mobile substations; and
- (19) any other technologies the Commission considers appropriate.

(b) **AUTHORITY.**—In carrying out the Federal Power Act (16 U.S.C. 791a et seq.) and the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.), the Commission shall encourage, as appropriate, the deployment of advanced transmission technologies.

42 USC 16423.

SEC. 1224. ADVANCED POWER SYSTEM TECHNOLOGY INCENTIVE PROGRAM.

(a) **PROGRAM.**—The Secretary is authorized to establish an Advanced Power System Technology Incentive Program to support the deployment of certain advanced power system technologies and to improve and protect certain critical governmental, industrial, and commercial processes. Funds provided under this section shall be used by the Secretary to make incentive payments to eligible owners or operators of advanced power system technologies to increase power generation through enhanced operational, economic, and environmental performance. Payments under this section may only be made upon receipt by the Secretary of an incentive payment application establishing an applicant as either—

- (1) a qualifying advanced power system technology facility;
- or
- (2) a qualifying security and assured power facility.

(b) **INCENTIVES.**—Subject to availability of funds, a payment of 1.8 cents per kilowatt-hour shall be paid to the owner or operator of a qualifying advanced power system technology facility under this section for electricity generated at such facility. An additional 0.7 cents per kilowatt-hour shall be paid to the owner or operator of a qualifying security and assured power facility for electricity generated at such facility. Any facility qualifying under this section shall be eligible for an incentive payment for up to, but not more than, the first 10,000,000 kilowatt-hours produced in any fiscal year.

(c) **ELIGIBILITY.**—For purposes of this section:

(1) **QUALIFYING ADVANCED POWER SYSTEM TECHNOLOGY FACILITY.**—The term “qualifying advanced power system technology facility” means a facility using an advanced fuel cell, turbine, or hybrid power system or power storage system to generate or store electric energy.

(2) **QUALIFYING SECURITY AND ASSURED POWER FACILITY.**—The term “qualifying security and assured power facility” means a qualifying advanced power system technology facility determined by the Secretary, in consultation with the Secretary of Homeland Security, to be in critical need of secure, reliable,

rapidly available, high-quality power for critical governmental, industrial, or commercial applications.

(d) AUTHORIZATION.—There are authorized to be appropriated to the Secretary for the purposes of this section, \$10,000,000 for each of the fiscal years 2006 through 2012.

Subtitle C—Transmission Operation Improvements

SEC. 1231. OPEN NONDISCRIMINATORY ACCESS.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by inserting after section 211 (16 U.S.C. 824j) the following:

“SEC. 211A. OPEN ACCESS BY UNREGULATED TRANSMITTING UTILITIES. 16 USC 824j–1.

“(a) DEFINITION OF UNREGULATED TRANSMITTING UTILITY.—In this section, the term ‘unregulated transmitting utility’ means an entity that—

“(1) owns or operates facilities used for the transmission of electric energy in interstate commerce; and

“(2) is an entity described in section 201(f).

“(b) TRANSMISSION OPERATION SERVICES.—Subject to section 212(h), the Commission may, by rule or order, require an unregulated transmitting utility to provide transmission services—

“(1) at rates that are comparable to those that the unregulated transmitting utility charges itself; and

“(2) on terms and conditions (not relating to rates) that are comparable to those under which the unregulated transmitting utility provides transmission services to itself and that are not unduly discriminatory or preferential.

“(c) EXEMPTION.—The Commission shall exempt from any rule or order under this section any unregulated transmitting utility that—

“(1) sells not more than 4,000,000 megawatt hours of electricity per year;

“(2) does not own or operate any transmission facilities that are necessary for operating an interconnected transmission system (or any portion of the system); or

“(3) meets other criteria the Commission determines to be in the public interest.

“(d) LOCAL DISTRIBUTION FACILITIES.—The requirements of subsection (b) shall not apply to facilities used in local distribution.

“(e) EXEMPTION TERMINATION.—If the Commission, after an evidentiary hearing held on a complaint and after giving consideration to reliability standards established under section 215, finds on the basis of a preponderance of the evidence that any exemption granted pursuant to subsection (c) unreasonably impairs the continued reliability of an interconnected transmission system, the Commission shall revoke the exemption granted to the transmitting utility.

“(f) APPLICATION TO UNREGULATED TRANSMITTING UTILITIES.—The rate changing procedures applicable to public utilities under subsections (c) and (d) of section 205 are applicable to unregulated transmitting utilities for purposes of this section.

“(g) REMAND.—In exercising authority under subsection (b)(1), the Commission may remand transmission rates to an unregulated transmitting utility for review and revision if necessary to meet the requirements of subsection (b).

“(h) OTHER REQUESTS.—The provision of transmission services under subsection (b) does not preclude a request for transmission services under section 211.

“(i) LIMITATION.—The Commission may not require a State or municipality to take action under this section that would violate a private activity bond rule for purposes of section 141 of the Internal Revenue Code of 1986.

“(j) TRANSFER OF CONTROL OF TRANSMITTING FACILITIES.—Nothing in this section authorizes the Commission to require an unregulated transmitting utility to transfer control or operational control of its transmitting facilities to a Transmission Organization that is designated to provide nondiscriminatory transmission access.”.

42 USC 16431.

SEC. 1232. FEDERAL UTILITY PARTICIPATION IN TRANSMISSION ORGANIZATIONS.

(a) DEFINITIONS.—In this section:

(1) APPROPRIATE FEDERAL REGULATORY AUTHORITY.—The term “appropriate Federal regulatory authority” means—

(A) in the case of a Federal power marketing agency, the Secretary, except that the Secretary may designate the Administrator of a Federal power marketing agency to act as the appropriate Federal regulatory authority with respect to the transmission system of the Federal power marketing agency; and

(B) in the case of the Tennessee Valley Authority, the Board of Directors of the Tennessee Valley Authority.

(2) FEDERAL POWER MARKETING AGENCY.—The term “Federal power marketing agency” has the meaning given the term in section 3 of the Federal Power Act (16 U.S.C. 796).

(3) FEDERAL UTILITY.—The term “Federal utility” means—

(A) a Federal power marketing agency; or

(B) the Tennessee Valley Authority.

(4) TRANSMISSION ORGANIZATION.—The term “Transmission Organization” has the meaning given the term in section 3 of the Federal Power Act (16 U.S.C. 796).

(5) TRANSMISSION SYSTEM.—The term “transmission system” means an electric transmission facility owned, leased, or contracted for by the United States and operated by a Federal utility.

(b) TRANSFER.—The appropriate Federal regulatory authority may enter into a contract, agreement, or other arrangement transferring control and use of all or part of the transmission system of a Federal utility to a Transmission Organization.

(c) CONTENTS.—The contract, agreement, or arrangement shall include—

(1) performance standards for operation and use of the transmission system that the head of the Federal utility determines are necessary or appropriate, including standards that ensure—

(A) recovery of all of the costs and expenses of the Federal utility related to the transmission facilities that

are the subject of the contract, agreement, or other arrangement;

(B) consistency with existing contracts and third-party financing arrangements; and

(C) consistency with the statutory authorities, obligations, and limitations of the Federal utility;

(2) provisions for monitoring and oversight by the Federal utility of the Transmission Organization's terms and conditions of the contract, agreement, or other arrangement, including a provision for the resolution of disputes through arbitration or other means with the Transmission Organization or with other participants, notwithstanding the obligations and limitations of any other law regarding arbitration; and

(3) a provision that allows the Federal utility to withdraw from the Transmission Organization and terminate the contract, agreement, or other arrangement in accordance with its terms.

(d) COMMISSION.—Neither this section, actions taken pursuant to this section, nor any other transaction of a Federal utility participating in a Transmission Organization shall confer on the Commission jurisdiction or authority over—

(1) the electric generation assets, electric capacity, or energy of the Federal utility that the Federal utility is authorized by law to market; or

(2) the power sales activities of the Federal utility.

(e) EXISTING STATUTORY AND OTHER OBLIGATIONS.—

(1) SYSTEM OPERATION REQUIREMENTS.—No statutory provision requiring or authorizing a Federal utility to transmit electric power or to construct, operate, or maintain the transmission system of the Federal utility prohibits a transfer of control and use of the transmission system pursuant to, and subject to, the requirements of this section.

(2) OTHER OBLIGATIONS.—This subsection does not—

(A) suspend, or exempt any Federal utility from, any provision of Federal law in effect on the date of enactment of this Act, including any requirement or direction relating to the use of the transmission system of the Federal utility, environmental protection, fish and wildlife protection, flood control, navigation, water delivery, or recreation; or

(B) authorize abrogation of any contract or treaty obligation.

(3) CONFORMING AMENDMENT.—Section 311 of the Energy and Water Development Appropriations Act, 2001 (16 U.S.C. 824n) is repealed.

SEC. 1233. NATIVE LOAD SERVICE OBLIGATION.

(a) IN GENERAL.—Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

“SEC. 217. NATIVE LOAD SERVICE OBLIGATION.

16 USC 824q.

“(a) DEFINITIONS.—In this section:

“(1) The term ‘distribution utility’ means an electric utility that has a service obligation to end-users or to a State utility or electric cooperative that, directly or indirectly, through one or more additional State utilities or electric cooperatives, provides electric service to end-users.

“(2) The term ‘load-serving entity’ means a distribution utility or an electric utility that has a service obligation.

“(3) The term ‘service obligation’ means a requirement applicable to, or the exercise of authority granted to, an electric utility under Federal, State, or local law or under long-term contracts to provide electric service to end-users or to a distribution utility.

“(4) The term ‘State utility’ means a State or any political subdivision of a State, or any agency, authority, or instrumentality of any one or more of the foregoing, or a corporation that is wholly owned, directly or indirectly, by any one or more of the foregoing, competent to carry on the business of developing, transmitting, utilizing, or distributing power.

Applicability.

“(b) MEETING SERVICE OBLIGATIONS.—(1) Paragraph (2) applies to any load-serving entity that, as of the date of enactment of this section—

“(A) owns generation facilities, markets the output of Federal generation facilities, or holds rights under one or more wholesale contracts to purchase electric energy, for the purpose of meeting a service obligation; and

“(B) by reason of ownership of transmission facilities, or one or more contracts or service agreements for firm transmission service, holds firm transmission rights for delivery of the output of the generation facilities or the purchased energy to meet the service obligation.

“(2) Any load-serving entity described in paragraph (1) is entitled to use the firm transmission rights, or, equivalent tradable or financial transmission rights, in order to deliver the output or purchased energy, or the output of other generating facilities or purchased energy to the extent deliverable using the rights, to the extent required to meet the service obligation of the load-serving entity.

“(3)(A) To the extent that all or a portion of the service obligation covered by the firm transmission rights or equivalent tradable or financial transmission rights is transferred to another load-serving entity, the successor load-serving entity shall be entitled to use the firm transmission rights or equivalent tradable or financial transmission rights associated with the transferred service obligation.

“(B) Subsequent transfers to another load-serving entity, or back to the original load-serving entity, shall be entitled to the same rights.

“(4) The Commission shall exercise the authority of the Commission under this Act in a manner that facilitates the planning and expansion of transmission facilities to meet the reasonable needs of load-serving entities to satisfy the service obligations of the load-serving entities, and enables load-serving entities to secure firm transmission rights (or equivalent tradable or financial rights) on a long-term basis for long-term power supply arrangements made, or planned, to meet such needs.

“(c) ALLOCATION OF TRANSMISSION RIGHTS.—Nothing in subsections (b)(1), (b)(2), and (b)(3) of this section shall affect any existing or future methodology employed by a Transmission Organization for allocating or auctioning transmission rights if such Transmission Organization was authorized by the Commission to allocate or auction financial transmission rights on its system as of January 1, 2005, and the Commission determines that any future allocation or auction is just, reasonable and not unduly discriminatory or preferential, provided, however, that if such a Transmission

Organization never allocated financial transmission rights on its system that pertained to a period before January 1, 2005, with respect to any application by such Transmission Organization that would change its methodology the Commission shall exercise its authority in a manner consistent with the Act and that takes into account the policies expressed in subsections (b)(1), (b)(2), and (b)(3) as applied to firm transmission rights held by a load-serving entity as of January 1, 2005, to the extent the associated generation ownership or power purchase arrangements remain in effect.

“(d) CERTAIN TRANSMISSION RIGHTS.—The Commission may exercise authority under this Act to make transmission rights not used to meet an obligation covered by subsection (b) available to other entities in a manner determined by the Commission to be just, reasonable, and not unduly discriminatory or preferential.

“(e) OBLIGATION TO BUILD.—Nothing in this Act relieves a load-serving entity from any obligation under State or local law to build transmission or distribution facilities adequate to meet the service obligations of the load-serving entity.

“(f) CONTRACTS.—Nothing in this section shall provide a basis for abrogating any contract or service agreement for firm transmission service or rights in effect as of the date of the enactment of this subsection. If an ISO in the Western Interconnection had allocated financial transmission rights prior to the date of enactment of this section but had not done so with respect to one or more load-serving entities’ firm transmission rights held under contracts to which the preceding sentence applies (or held by reason of ownership or future ownership of transmission facilities), such load-serving entities may not be required, without their consent, to convert such firm transmission rights to tradable or financial rights, except where the load-serving entity has voluntarily joined the ISO as a participating transmission owner (or its successor) in accordance with the ISO tariff.

“(g) WATER PUMPING FACILITIES.—The Commission shall ensure that any entity described in section 201(f) that owns transmission facilities used predominately to support its own water pumping facilities shall have, with respect to the facilities, protections for transmission service comparable to those provided to load-serving entities pursuant to this section.

“(h) ERCOT.—This section shall not apply within the area referred to in section 212(k)(2)(A).

“(i) JURISDICTION.—This section does not authorize the Commission to take any action not otherwise within the jurisdiction of the Commission.

“(j) TVA AREA.—(1) Subject to paragraphs (2) and (3), for purposes of subsection (b)(1)(B), a load-serving entity that is located within the service area of the Tennessee Valley Authority and that has a firm wholesale power supply contract with the Tennessee Valley Authority shall be considered to hold firm transmission rights for the transmission of the power provided.

“(2) Nothing in this subsection affects the requirements of section 212(j).

“(3) The Commission shall not issue an order on the basis of this subsection that is contrary to the purposes of section 212(j).

“(k) EFFECT OF EXERCISING RIGHTS.—An entity that to the extent required to meet its service obligations exercises rights

Deadline.
16 USC 824q
note.

described in subsection (b) shall not be considered by such action as engaging in undue discrimination or preference under this Act.”.

(b) **FERC RULEMAKING ON LONG-TERM TRANSMISSION RIGHTS IN ORGANIZED MARKETS.**—Within 1 year after the date of enactment of this section and after notice and an opportunity for comment, the Commission shall by rule or order, implement section 217(b)(4) of the Federal Power Act in Transmission Organizations, as defined by that Act with organized electricity markets.

42 USC 16432.

SEC. 1234. STUDY ON THE BENEFITS OF ECONOMIC DISPATCH.

(a) **STUDY.**—The Secretary, in coordination and consultation with the States, shall conduct a study on—

(1) the procedures currently used by electric utilities to perform economic dispatch;

(2) identifying possible revisions to those procedures to improve the ability of nonutility generation resources to offer their output for sale for the purpose of inclusion in economic dispatch; and

(3) the potential benefits to residential, commercial, and industrial electricity consumers nationally and in each State if economic dispatch procedures were revised to improve the ability of nonutility generation resources to offer their output for inclusion in economic dispatch.

(b) **DEFINITION.**—The term “economic dispatch” when used in this section means the operation of generation facilities to produce energy at the lowest cost to reliably serve consumers, recognizing any operational limits of generation and transmission facilities.

(c) **REPORT TO CONGRESS AND THE STATES.**—Not later than 90 days after the date of enactment of this Act, and on a yearly basis following, the Secretary shall submit a report to Congress and the States on the results of the study conducted under subsection (a), including recommendations to Congress and the States for any suggested legislative or regulatory changes.

SEC. 1235. PROTECTION OF TRANSMISSION CONTRACTS IN THE PACIFIC NORTHWEST.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

16 USC 824r.

“SEC. 218. PROTECTION OF TRANSMISSION CONTRACTS IN THE PACIFIC NORTHWEST.

“(a) **DEFINITION OF ELECTRIC UTILITY OR PERSON.**—In this section, the term ‘electric utility or person’ means an electric utility or person that—

“(1) as of the date of enactment of the Energy Policy Act of 2005 holds firm transmission rights pursuant to contract or by reason of ownership of transmission facilities; and

“(2) is located—

“(A) in the Pacific Northwest, as that region is defined in section 3 of the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839a); or

“(B) in that portion of a State included in the geographic area proposed for a regional transmission organization in Commission Docket Number RT01–35 on the date on which that docket was opened.

“(b) **PROTECTION OF TRANSMISSION CONTRACTS.**—Nothing in this Act confers on the Commission the authority to require an electric utility or person to convert to tradable or financial rights—

- “(1) firm transmission rights described in subsection (a);
or
“(2) firm transmission rights obtained by exercising contract or tariff rights associated with the firm transmission rights described in subsection (a).”.

SEC. 1236. SENSE OF CONGRESS REGARDING LOCATIONAL INSTALLED CAPACITY MECHANISM.

- (a) FINDINGS.—Congress finds that—
 (1) in regard to a proposal to develop and implement a specific type of locational installed capacity mechanism in New England pending before the Federal Energy Regulatory Commission; and
 (2) the Governors of the States have objected to the proposed mechanism, arguing that the mechanism—
 (A) would not provide adequate assurance that necessary electric generation capacity or reliability will be provided; and
 (B) would impose a high cost on consumers and have a significant negative economic impact.
- (b) SENSE OF CONGRESS.—Congress—
 (1) notes the concerns of the New England States to the proposed mechanism; and
 (2) declares that it is the sense of Congress that the Federal Energy Regulatory Commission should carefully consider the States’ objections.

Subtitle D—Transmission Rate Reform

SEC. 1241. TRANSMISSION INFRASTRUCTURE INVESTMENT.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

“SEC. 219. TRANSMISSION INFRASTRUCTURE INVESTMENT.

16 USC 824s.

“(a) RULEMAKING REQUIREMENT.—Not later than 1 year after the date of enactment of this section, the Commission shall establish, by rule, incentive-based (including performance-based) rate treatments for the transmission of electric energy in interstate commerce by public utilities for the purpose of benefitting consumers by ensuring reliability and reducing the cost of delivered power by reducing transmission congestion.

Deadline.

“(b) CONTENTS.—The rule shall—

 “(1) promote reliable and economically efficient transmission and generation of electricity by promoting capital investment in the enlargement, improvement, maintenance, and operation of all facilities for the transmission of electric energy in interstate commerce, regardless of the ownership of the facilities;

 “(2) provide a return on equity that attracts new investment in transmission facilities (including related transmission technologies);

 “(3) encourage deployment of transmission technologies and other measures to increase the capacity and efficiency of existing transmission facilities and improve the operation of the facilities; and

 “(4) allow recovery of—

“(A) all prudently incurred costs necessary to comply with mandatory reliability standards issued pursuant to section 215; and

“(B) all prudently incurred costs related to transmission infrastructure development pursuant to section 216.

“(c) INCENTIVES.—In the rule issued under this section, the Commission shall, to the extent within its jurisdiction, provide for incentives to each transmitting utility or electric utility that joins a Transmission Organization. The Commission shall ensure that any costs recoverable pursuant to this subsection may be recovered by such utility through the transmission rates charged by such utility or through the transmission rates charged by the Transmission Organization that provides transmission service to such utility.

“(d) JUST AND REASONABLE RATES.—All rates approved under the rules adopted pursuant to this section, including any revisions to the rules, are subject to the requirements of sections 205 and 206 that all rates, charges, terms, and conditions be just and reasonable and not unduly discriminatory or preferential.”.

42 USC 16441.

SEC. 1242. FUNDING NEW INTERCONNECTION AND TRANSMISSION UPGRADES.

The Commission may approve a participant funding plan that allocates costs related to transmission upgrades or new generator interconnection, without regard to whether an applicant is a member of a Commission-approved Transmission Organization, if the plan results in rates that—

(1) are just and reasonable;

(2) are not unduly discriminatory or preferential; and

(3) are otherwise consistent with sections 205 and 206 of the Federal Power Act (16 U.S.C. 824d, 824e).

Subtitle E—Amendments to PURPA

SEC. 1251. NET METERING AND ADDITIONAL STANDARDS.

(a) ADOPTION OF STANDARDS.—Section 111(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) is amended by adding at the end the following:

“(11) NET METERING.—Each electric utility shall make available upon request net metering service to any electric consumer that the electric utility serves. For purposes of this paragraph, the term ‘net metering service’ means service to an electric consumer under which electric energy generated by that electric consumer from an eligible on-site generating facility and delivered to the local distribution facilities may be used to offset electric energy provided by the electric utility to the electric consumer during the applicable billing period.

“(12) FUEL SOURCES.—Each electric utility shall develop a plan to minimize dependence on 1 fuel source and to ensure that the electric energy it sells to consumers is generated using a diverse range of fuels and technologies, including renewable technologies.

“(13) FOSSIL FUEL GENERATION EFFICIENCY.—Each electric utility shall develop and implement a 10-year plan to increase the efficiency of its fossil fuel generation.”.

(b) COMPLIANCE.—

(1) TIME LIMITATIONS.—Section 112(b) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(b)) is amended by adding at the end the following: Deadlines.

“(3)(A) Not later than 2 years after the enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated electric utility shall commence the consideration referred to in section 111, or set a hearing date for such consideration, with respect to each standard established by paragraphs (11) through (13) of section 111(d).

“(B) Not later than 3 years after the date of the enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority), and each nonregulated electric utility, shall complete the consideration, and shall make the determination, referred to in section 111 with respect to each standard established by paragraphs (11) through (13) of section 111(d).”.

(2) FAILURE TO COMPLY.—Section 112(c) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(c)) is amended by adding at the end the following: “In the case of each standard established by paragraphs (11) through (13) of section 111(d), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of such paragraphs (11) through (13).”.

(3) PRIOR STATE ACTIONS.—

(A) IN GENERAL.—Section 112 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622) is amended by adding at the end the following:

“(d) PRIOR STATE ACTIONS.—Subsections (b) and (c) of this section shall not apply to the standards established by paragraphs (11) through (13) of section 111(d) in the case of any electric utility in a State if, before the enactment of this subsection—

“(1) the State has implemented for such utility the standard concerned (or a comparable standard);

“(2) the State regulatory authority for such State or relevant nonregulated electric utility has conducted a proceeding to consider implementation of the standard concerned (or a comparable standard) for such utility; or

“(3) the State legislature has voted on the implementation of such standard (or a comparable standard) for such utility.”.

(B) CROSS REFERENCE.—Section 124 of such Act (16 U.S.C. 2634) is amended by adding the following at the end thereof: “In the case of each standard established by paragraphs (11) through (13) of section 111(d), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of such paragraphs (11) through (13).”.

SEC. 1252. SMART METERING.

(a) IN GENERAL.—Section 111(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) is amended by adding at the end the following:

“(14) TIME-BASED METERING AND COMMUNICATIONS.—(A) Deadline.
Not later than 18 months after the date of enactment of this paragraph, each electric utility shall offer each of its customer

classes, and provide individual customers upon customer request, a time-based rate schedule under which the rate charged by the electric utility varies during different time periods and reflects the variance, if any, in the utility's costs of generating and purchasing electricity at the wholesale level. The time-based rate schedule shall enable the electric consumer to manage energy use and cost through advanced metering and communications technology.

“(B) The types of time-based rate schedules that may be offered under the schedule referred to in subparagraph (A) include, among others—

“(i) time-of-use pricing whereby electricity prices are set for a specific time period on an advance or forward basis, typically not changing more often than twice a year, based on the utility's cost of generating and/or purchasing such electricity at the wholesale level for the benefit of the consumer. Prices paid for energy consumed during these periods shall be pre-established and known to consumers in advance of such consumption, allowing them to vary their demand and usage in response to such prices and manage their energy costs by shifting usage to a lower cost period or reducing their consumption overall;

“(ii) critical peak pricing whereby time-of-use prices are in effect except for certain peak days, when prices may reflect the costs of generating and/or purchasing electricity at the wholesale level and when consumers may receive additional discounts for reducing peak period energy consumption;

“(iii) real-time pricing whereby electricity prices are set for a specific time period on an advanced or forward basis, reflecting the utility's cost of generating and/or purchasing electricity at the wholesale level, and may change as often as hourly; and

“(iv) credits for consumers with large loads who enter into pre-established peak load reduction agreements that reduce a utility's planned capacity obligations.

“(C) Each electric utility subject to subparagraph (A) shall provide each customer requesting a time-based rate with a time-based meter capable of enabling the utility and customer to offer and receive such rate, respectively.

“(D) For purposes of implementing this paragraph, any reference contained in this section to the date of enactment of the Public Utility Regulatory Policies Act of 1978 shall be deemed to be a reference to the date of enactment of this paragraph.

“(E) In a State that permits third-party marketers to sell electric energy to retail electric consumers, such consumers shall be entitled to receive the same time-based metering and communications device and service as a retail electric consumer of the electric utility.

“(F) Notwithstanding subsections (b) and (c) of section 112, each State regulatory authority shall, not later than 18 months after the date of enactment of this paragraph conduct an investigation in accordance with section 115(i) and issue a decision whether it is appropriate to implement the standards set out in subparagraphs (A) and (C).”.

Deadline.

(b) STATE INVESTIGATION OF DEMAND RESPONSE AND TIME-BASED METERING.—Section 115 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2625) is amended as follows:

(1) By inserting in subsection (b) after the phrase “the standard for time-of-day rates established by section 111(d)(3)” the following: “and the standard for time-based metering and communications established by section 111(d)(14)”.

(2) By inserting in subsection (b) after the phrase “are likely to exceed the metering” the following: “and communications”.

(3) By adding at the end the following:

“(i) TIME-BASED METERING AND COMMUNICATIONS.—In making a determination with respect to the standard established by section 111(d)(14), the investigation requirement of section 111(d)(14)(F) shall be as follows: Each State regulatory authority shall conduct an investigation and issue a decision whether or not it is appropriate for electric utilities to provide and install time-based meters and communications devices for each of their customers which enable such customers to participate in time-based pricing rate schedules and other demand response programs.”.

(c) FEDERAL ASSISTANCE ON DEMAND RESPONSE.—Section 132(a) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2642(a)) is amended by striking “and” at the end of paragraph (3), striking the period at the end of paragraph (4) and inserting “; and”, and by adding the following at the end thereof:

“(5) technologies, techniques, and rate-making methods related to advanced metering and communications and the use of these technologies, techniques and methods in demand response programs.”.

(d) FEDERAL GUIDANCE.—Section 132 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2642) is amended by adding the following at the end thereof:

“(d) DEMAND RESPONSE.—The Secretary shall be responsible for—

“(1) educating consumers on the availability, advantages, and benefits of advanced metering and communications technologies, including the funding of demonstration or pilot projects;

“(2) working with States, utilities, other energy providers and advanced metering and communications experts to identify and address barriers to the adoption of demand response programs; and

“(3) not later than 180 days after the date of enactment of the Energy Policy Act of 2005, providing Congress with a report that identifies and quantifies the national benefits of demand response and makes a recommendation on achieving specific levels of such benefits by January 1, 2007.”.

Deadline.
Reports.

(e) DEMAND RESPONSE AND REGIONAL COORDINATION.—

16 USC 2642
note.

(1) IN GENERAL.—It is the policy of the United States to encourage States to coordinate, on a regional basis, State energy policies to provide reliable and affordable demand response services to the public.

(2) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to States and regional organizations formed by two or more States to assist them in—

(A) identifying the areas with the greatest demand response potential;

(B) identifying and resolving problems in transmission and distribution networks, including through the use of demand response;

(C) developing plans and programs to use demand response to respond to peak demand or emergency needs; and

(D) identifying specific measures consumers can take to participate in these demand response programs.

(3) REPORT.—Not later than 1 year after the date of enactment of the Energy Policy Act of 2005, the Commission shall prepare and publish an annual report, by appropriate region, that assesses demand response resources, including those available from all consumer classes, and which identifies and reviews—

(A) saturation and penetration rate of advanced meters and communications technologies, devices and systems;

(B) existing demand response programs and time-based rate programs;

(C) the annual resource contribution of demand resources;

(D) the potential for demand response as a quantifiable, reliable resource for regional planning purposes;

(E) steps taken to ensure that, in regional transmission planning and operations, demand resources are provided equitable treatment as a quantifiable, reliable resource relative to the resource obligations of any load-serving entity, transmission provider, or transmitting party; and

(F) regulatory barriers to improve customer participation in demand response, peak reduction and critical period pricing programs.

(f) FEDERAL ENCOURAGEMENT OF DEMAND RESPONSE DEVICES.—It is the policy of the United States that time-based pricing and other forms of demand response, whereby electricity customers are provided with electricity price signals and the ability to benefit by responding to them, shall be encouraged, the deployment of such technology and devices that enable electricity customers to participate in such pricing and demand response systems shall be facilitated, and unnecessary barriers to demand response participation in energy, capacity and ancillary service markets shall be eliminated. It is further the policy of the United States that the benefits of such demand response that accrue to those not deploying such technology and devices, but who are part of the same regional electricity entity, shall be recognized.

Deadlines.

(g) TIME LIMITATIONS.—Section 112(b) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(b)) is amended by adding at the end the following:

“(4)(A) Not later than 1 year after the enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated electric utility shall commence the consideration referred to in section 111, or set a hearing date for such consideration, with respect to the standard established by paragraph (14) of section 111(d).

“(B) Not later than 2 years after the date of the enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority),

and each nonregulated electric utility, shall complete the consideration, and shall make the determination, referred to in section 111 with respect to the standard established by paragraph (14) of section 111(d).”.

(h) FAILURE TO COMPLY.—Section 112(c) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(c)) is amended by adding at the end the following:

“In the case of the standard established by paragraph (14) of section 111(d), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of such paragraph (14).”.

(i) PRIOR STATE ACTIONS REGARDING SMART METERING STANDARDS.—

(1) IN GENERAL.—Section 112 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622) is amended by adding at the end the following:

“(e) PRIOR STATE ACTIONS.—Subsections (b) and (c) of this section shall not apply to the standard established by paragraph (14) of section 111(d) in the case of any electric utility in a State if, before the enactment of this subsection—

“(1) the State has implemented for such utility the standard concerned (or a comparable standard);

“(2) the State regulatory authority for such State or relevant nonregulated electric utility has conducted a proceeding to consider implementation of the standard concerned (or a comparable standard) for such utility within the previous 3 years; or

“(3) the State legislature has voted on the implementation of such standard (or a comparable standard) for such utility within the previous 3 years.”.

(2) CROSS REFERENCE.—Section 124 of such Act (16 U.S.C. 2634) is amended by adding the following at the end thereof: “In the case of the standard established by paragraph (14) of section 111(d), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of such paragraph (14).”.

SEC. 1253. COGENERATION AND SMALL POWER PRODUCTION PURCHASE AND SALE REQUIREMENTS.

(a) TERMINATION OF MANDATORY PURCHASE AND SALE REQUIREMENTS.—Section 210 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 824a–3) is amended by adding at the end the following:

“(m) TERMINATION OF MANDATORY PURCHASE AND SALE REQUIREMENTS.—

“(1) OBLIGATION TO PURCHASE.—After the date of enactment of this subsection, no electric utility shall be required to enter into a new contract or obligation to purchase electric energy from a qualifying cogeneration facility or a qualifying small power production facility under this section if the Commission finds that the qualifying cogeneration facility or qualifying small power production facility has nondiscriminatory access to—

“(A)(i) independently administered, auction-based day ahead and real time wholesale markets for the sale of electric energy; and (ii) wholesale markets for long-term sales of capacity and electric energy; or

“(B)(i) transmission and interconnection services that are provided by a Commission-approved regional transmission entity and administered pursuant to an open access transmission tariff that affords nondiscriminatory treatment to all customers; and (ii) competitive wholesale markets that provide a meaningful opportunity to sell capacity, including long-term and short-term sales, and electric energy, including long-term, short-term and real-time sales, to buyers other than the utility to which the qualifying facility is interconnected. In determining whether a meaningful opportunity to sell exists, the Commission shall consider, among other factors, evidence of transactions within the relevant market; or

“(C) wholesale markets for the sale of capacity and electric energy that are, at a minimum, of comparable competitive quality as markets described in subparagraphs (A) and (B).

“(2) REVISED PURCHASE AND SALE OBLIGATION FOR NEW FACILITIES.—(A) After the date of enactment of this subsection, no electric utility shall be required pursuant to this section to enter into a new contract or obligation to purchase from or sell electric energy to a facility that is not an existing qualifying cogeneration facility unless the facility meets the criteria for qualifying cogeneration facilities established by the Commission pursuant to the rulemaking required by subsection (n).

“(B) For the purposes of this paragraph, the term ‘existing qualifying cogeneration facility’ means a facility that—

“(i) was a qualifying cogeneration facility on the date of enactment of subsection (m); or

“(ii) had filed with the Commission a notice of self-certification, self recertification or an application for Commission certification under 18 CFR 292.207 prior to the date on which the Commission issues the final rule required by subsection (n).

“(3) COMMISSION REVIEW.—Any electric utility may file an application with the Commission for relief from the mandatory purchase obligation pursuant to this subsection on a service territory-wide basis. Such application shall set forth the factual basis upon which relief is requested and describe why the conditions set forth in subparagraph (A), (B), or (C) of paragraph (1) of this subsection have been met. After notice, including sufficient notice to potentially affected qualifying cogeneration facilities and qualifying small power production facilities, and an opportunity for comment, the Commission shall make a final determination within 90 days of such application regarding whether the conditions set forth in subparagraph (A), (B), or (C) of paragraph (1) have been met.

“(4) REINSTATEMENT OF OBLIGATION TO PURCHASE.—At any time after the Commission makes a finding under paragraph (3) relieving an electric utility of its obligation to purchase electric energy, a qualifying cogeneration facility, a qualifying small power production facility, a State agency, or any other affected person may apply to the Commission for an order reinstating the electric utility’s obligation to purchase electric energy under this section. Such application shall set forth the factual basis upon which the application is based and describe

Notice.
Deadline.

why the conditions set forth in subparagraph (A), (B), or (C) of paragraph (1) of this subsection are no longer met. After notice, including sufficient notice to potentially affected utilities, and opportunity for comment, the Commission shall issue an order within 90 days of such application reinstating the electric utility's obligation to purchase electric energy under this section if the Commission finds that the conditions set forth in subparagraphs (A), (B) or (C) of paragraph (1) which relieved the obligation to purchase, are no longer met.

Notice.
Deadline.

“(5) OBLIGATION TO SELL.—After the date of enactment of this subsection, no electric utility shall be required to enter into a new contract or obligation to sell electric energy to a qualifying cogeneration facility or a qualifying small power production facility under this section if the Commission finds that—

“(A) competing retail electric suppliers are willing and able to sell and deliver electric energy to the qualifying cogeneration facility or qualifying small power production facility; and

“(B) the electric utility is not required by State law to sell electric energy in its service territory.

“(6) NO EFFECT ON EXISTING RIGHTS AND REMEDIES.—Nothing in this subsection affects the rights or remedies of any party under any contract or obligation, in effect or pending approval before the appropriate State regulatory authority or non-regulated electric utility on the date of enactment of this subsection, to purchase electric energy or capacity from or to sell electric energy or capacity to a qualifying cogeneration facility or qualifying small power production facility under this Act (including the right to recover costs of purchasing electric energy or capacity).

“(7) RECOVERY OF COSTS.—(A) The Commission shall issue and enforce such regulations as are necessary to ensure that an electric utility that purchases electric energy or capacity from a qualifying cogeneration facility or qualifying small power production facility in accordance with any legally enforceable obligation entered into or imposed under this section recovers all prudently incurred costs associated with the purchase.

“(B) A regulation under subparagraph (A) shall be enforceable in accordance with the provisions of law applicable to enforcement of regulations under the Federal Power Act (16 U.S.C. 791a et seq.).

“(n) RULEMAKING FOR NEW QUALIFYING FACILITIES.—(1)(A) Not later than 180 days after the date of enactment of this section, the Commission shall issue a rule revising the criteria in 18 CFR 292.205 for new qualifying cogeneration facilities seeking to sell electric energy pursuant to section 210 of this Act to ensure—

Deadline.

“(i) that the thermal energy output of a new qualifying cogeneration facility is used in a productive and beneficial manner;

“(ii) the electrical, thermal, and chemical output of the cogeneration facility is used fundamentally for industrial, commercial, or institutional purposes and is not intended fundamentally for sale to an electric utility, taking into account technological, efficiency, economic, and variable thermal energy requirements, as well as State laws applicable to sales of electric energy from a qualifying facility to its host facility; and

- “(iii) continuing progress in the development of efficient electric energy generating technology.
- Applicability. “(B) The rule issued pursuant to paragraph (1)(A) of this subsection shall be applicable only to facilities that seek to sell electric energy pursuant to section 210 of this Act. For all other purposes, except as specifically provided in subsection (m)(2)(A), qualifying facility status shall be determined in accordance with the rules and regulations of this Act.
- Applicability. “(2) Notwithstanding rule revisions under paragraph (1), the Commission’s criteria for qualifying cogeneration facilities in effect prior to the date on which the Commission issues the final rule required by paragraph (1) shall continue to apply to any cogeneration facility that—
- “(A) was a qualifying cogeneration facility on the date of enactment of subsection (m), or
- “(B) had filed with the Commission a notice of self-certification, self-recertification or an application for Commission certification under 18 CFR 292.207 prior to the date on which the Commission issues the final rule required by paragraph (1).”.
- (b) **ELIMINATION OF OWNERSHIP LIMITATIONS.**—
- (1) **QUALIFYING SMALL POWER PRODUCTION FACILITY.**—Section 3(17)(C) of the Federal Power Act (16 U.S.C. 796(17)(C)) is amended to read as follows:
- “(C) ‘qualifying small power production facility’ means a small power production facility that the Commission determines, by rule, meets such requirements (including requirements respecting fuel use, fuel efficiency, and reliability) as the Commission may, by rule, prescribe;”.
- (2) **QUALIFYING COGENERATION FACILITY.**—Section 3(18)(B) of the Federal Power Act (16 U.S.C. 796(18)(B)) is amended to read as follows:
- “(B) ‘qualifying cogeneration facility’ means a cogeneration facility that the Commission determines, by rule, meets such requirements (including requirements respecting minimum size, fuel use, and fuel efficiency) as the Commission may, by rule, prescribe;”.

SEC. 1254. INTERCONNECTION.

(a) **ADOPTION OF STANDARDS.**—Section 111(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) is amended by adding at the end the following:

“(15) **INTERCONNECTION.**—Each electric utility shall make available, upon request, interconnection service to any electric consumer that the electric utility serves. For purposes of this paragraph, the term ‘interconnection service’ means service to an electric consumer under which an on-site generating facility on the consumer’s premises shall be connected to the local distribution facilities. Interconnection services shall be offered based upon the standards developed by the Institute of Electrical and Electronics Engineers: IEEE Standard 1547 for Interconnecting Distributed Resources with Electric Power Systems, as they may be amended from time to time. In addition, agreements and procedures shall be established whereby the services are offered shall promote current best practices of interconnection for distributed generation, including but not limited to practices stipulated in model codes adopted by

associations of state regulatory agencies. All such agreements and procedures shall be just and reasonable, and not unduly discriminatory or preferential.”.

(b) COMPLIANCE.—

(1) TIME LIMITATIONS.—Section 112(b) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(b)) is amended by adding at the end the following: Deadlines.

“(5)(A) Not later than 1 year after the enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated utility shall commence the consideration referred to in section 111, or set a hearing date for consideration, with respect to the standard established by paragraph (15) of section 111(d).

“(B) Not later than two years after the date of the enactment of the this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority), and each nonregulated electric utility, shall complete the consideration, and shall make the determination, referred to in section 111 with respect to each standard established by paragraph (15) of section 111(d).”.

(2) FAILURE TO COMPLY.—Section 112(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(c)) is amended by adding at the end the following: “In the case of the standard established by paragraph (15), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of paragraph (15).”.

(3) PRIOR STATE ACTIONS.—

(A) IN GENERAL.—Section 112 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622) is amended by adding at the end the following:

“(f) PRIOR STATE ACTIONS.—Subsections (b) and (c) of this section shall not apply to the standard established by paragraph (15) of section 111(d) in the case of any electric utility in a State if, before the enactment of this subsection—

“(1) the State has implemented for such utility the standard concerned (or a comparable standard);

“(2) the State regulatory authority for such State or relevant nonregulated electric utility has conducted a proceeding to consider implementation of the standard concerned (or a comparable standard) for such utility; or

“(3) the State legislature has voted on the implementation of such standard (or a comparable standard) for such utility.”.

(B) CROSS REFERENCE.—Section 124 of such Act (16 U.S.C. 2634) is amended by adding the following at the end thereof: “In the case of each standard established by paragraph (15) of section 111(d), the reference contained in this subsection to the date of enactment of the Act shall be deemed to be a reference to the date of enactment of paragraph (15).”.

Public Utility
Holding
Company Act of
2005.
42 USC 15801
note.

42 USC 16451.

Subtitle F—Repeal of PUHCA

SEC. 1261. SHORT TITLE.

This subtitle may be cited as the “Public Utility Holding Company Act of 2005”.

SEC. 1262. DEFINITIONS.

For purposes of this subtitle:

(1) **AFFILIATE.**—The term “affiliate” of a company means any company, 5 percent or more of the outstanding voting securities of which are owned, controlled, or held with power to vote, directly or indirectly, by such company.

(2) **ASSOCIATE COMPANY.**—The term “associate company” of a company means any company in the same holding company system with such company.

(3) **COMMISSION.**—The term “Commission” means the Federal Energy Regulatory Commission.

(4) **COMPANY.**—The term “company” means a corporation, partnership, association, joint stock company, business trust, or any organized group of persons, whether incorporated or not, or a receiver, trustee, or other liquidating agent of any of the foregoing.

(5) **ELECTRIC UTILITY COMPANY.**—The term “electric utility company” means any company that owns or operates facilities used for the generation, transmission, or distribution of electric energy for sale.

(6) **EXEMPT WHOLESALE GENERATOR AND FOREIGN UTILITY COMPANY.**—The terms “exempt wholesale generator” and “foreign utility company” have the same meanings as in sections 32 and 33, respectively, of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79z–5a, 79z–5b), as those sections existed on the day before the effective date of this subtitle.

(7) **GAS UTILITY COMPANY.**—The term “gas utility company” means any company that owns or operates facilities used for distribution at retail (other than the distribution only in enclosed portable containers or distribution to tenants or employees of the company operating such facilities for their own use and not for resale) of natural or manufactured gas for heat, light, or power.

(8) **HOLDING COMPANY.**—

(A) **IN GENERAL.**—The term “holding company” means—

(i) any company that directly or indirectly owns, controls, or holds, with power to vote, 10 percent or more of the outstanding voting securities of a public-utility company or of a holding company of any public-utility company; and

(ii) any person, determined by the Commission, after notice and opportunity for hearing, to exercise directly or indirectly (either alone or pursuant to an arrangement or understanding with one or more persons) such a controlling influence over the management or policies of any public-utility company or holding company as to make it necessary or appropriate for the rate protection of utility customers with respect to rates that such person be subject to the obligations,

duties, and liabilities imposed by this subtitle upon holding companies.

(B) EXCLUSIONS.—The term “holding company” shall not include—

(i) a bank, savings association, or trust company, or their operating subsidiaries that own, control, or hold, with the power to vote, public utility or public utility holding company securities so long as the securities are—

(I) held as collateral for a loan;

(II) held in the ordinary course of business as a fiduciary; or

(III) acquired solely for purposes of liquidation and in connection with a loan previously contracted for and owned beneficially for a period of not more than two years; or

(ii) a broker or dealer that owns, controls, or holds with the power to vote public utility or public utility holding company securities so long as the securities are—

(I) not beneficially owned by the broker or dealer and are subject to any voting instructions which may be given by customers or their assigns; or

(II) acquired within 12 months in the ordinary course of business as a broker, dealer, or underwriter with the bona fide intention of effecting distribution of the specific securities so acquired.

(9) HOLDING COMPANY SYSTEM.—The term “holding company system” means a holding company, together with its subsidiary companies.

(10) JURISDICTIONAL RATES.—The term “jurisdictional rates” means rates accepted or established by the Commission for the transmission of electric energy in interstate commerce, the sale of electric energy at wholesale in interstate commerce, the transportation of natural gas in interstate commerce, and the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use.

(11) NATURAL GAS COMPANY.—The term “natural gas company” means a person engaged in the transportation of natural gas in interstate commerce or the sale of such gas in interstate commerce for resale.

(12) PERSON.—The term “person” means an individual or company.

(13) PUBLIC UTILITY.—The term “public utility” means any person who owns or operates facilities used for transmission of electric energy in interstate commerce or sales of electric energy at wholesale in interstate commerce.

(14) PUBLIC-UTILITY COMPANY.—The term “public-utility company” means an electric utility company or a gas utility company.

(15) STATE COMMISSION.—The term “State commission” means any commission, board, agency, or officer, by whatever name designated, of a State, municipality, or other political subdivision of a State that, under the laws of such State, has jurisdiction to regulate public utility companies.

(16) **SUBSIDIARY COMPANY.**—The term “subsidiary company” of a holding company means—

(A) any company, 10 percent or more of the outstanding voting securities of which are directly or indirectly owned, controlled, or held with power to vote, by such holding company; and

(B) any person, the management or policies of which the Commission, after notice and opportunity for hearing, determines to be subject to a controlling influence, directly or indirectly, by such holding company (either alone or pursuant to an arrangement or understanding with one or more other persons) so as to make it necessary for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by this subtitle upon subsidiary companies of holding companies.

(17) **VOTING SECURITY.**—The term “voting security” means any security presently entitling the owner or holder thereof to vote in the direction or management of the affairs of a company.

SEC. 1263. REPEAL OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935.

The Public Utility Holding Company Act of 1935 (15 U.S.C. 79 et seq.) is repealed.

42 USC 16452.

SEC. 1264. FEDERAL ACCESS TO BOOKS AND RECORDS.

(a) **IN GENERAL.**—Each holding company and each associate company thereof shall maintain, and shall make available to the Commission, such books, accounts, memoranda, and other records as the Commission determines are relevant to costs incurred by a public utility or natural gas company that is an associate company of such holding company and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

(b) **AFFILIATE COMPANIES.**—Each affiliate of a holding company or of any subsidiary company of a holding company shall maintain, and shall make available to the Commission, such books, accounts, memoranda, and other records with respect to any transaction with another affiliate, as the Commission determines are relevant to costs incurred by a public utility or natural gas company that is an associate company of such holding company and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

(c) **HOLDING COMPANY SYSTEMS.**—The Commission may examine the books, accounts, memoranda, and other records of any company in a holding company system, or any affiliate thereof, as the Commission determines are relevant to costs incurred by a public utility or natural gas company within such holding company system and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

(d) **CONFIDENTIALITY.**—No member, officer, or employee of the Commission shall divulge any fact or information that may come to his or her knowledge during the course of examination of books, accounts, memoranda, or other records as provided in this section, except as may be directed by the Commission or by a court of competent jurisdiction.

SEC. 1265. STATE ACCESS TO BOOKS AND RECORDS.

42 USC 16453.

(a) **IN GENERAL.**—Upon the written request of a State commission having jurisdiction to regulate a public-utility company in a holding company system, the holding company or any associate company or affiliate thereof, other than such public-utility company, wherever located, shall produce for inspection books, accounts, memoranda, and other records that—

(1) have been identified in reasonable detail in a proceeding before the State commission;

(2) the State commission determines are relevant to costs incurred by such public-utility company; and

(3) are necessary for the effective discharge of the responsibilities of the State commission with respect to such proceeding.

(b) **LIMITATION.**—Subsection (a) does not apply to any person that is a holding company solely by reason of ownership of one or more qualifying facilities under the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.).

(c) **CONFIDENTIALITY OF INFORMATION.**—The production of books, accounts, memoranda, and other records under subsection (a) shall be subject to such terms and conditions as may be necessary and appropriate to safeguard against unwarranted disclosure to the public of any trade secrets or sensitive commercial information.

(d) **EFFECT ON STATE LAW.**—Nothing in this section shall preempt applicable State law concerning the provision of books, accounts, memoranda, and other records, or in any way limit the rights of any State to obtain books, accounts, memoranda, and other records under any other Federal law, contract, or otherwise.

(e) **COURT JURISDICTION.**—Any United States district court located in the State in which the State commission referred to in subsection (a) is located shall have jurisdiction to enforce compliance with this section.

SEC. 1266. EXEMPTION AUTHORITY.

42 USC 16454.

(a) **RULEMAKING.**—Not later than 90 days after the effective date of this subtitle, the Commission shall issue a final rule to exempt from the requirements of section 1264 (relating to Federal access to books and records) any person that is a holding company, solely with respect to one or more—

Deadline.

(1) qualifying facilities under the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.);

(2) exempt wholesale generators; or

(3) foreign utility companies.

(b) **OTHER AUTHORITY.**—The Commission shall exempt a person or transaction from the requirements of section 1264 (relating to Federal access to books and records) if, upon application or upon the motion of the Commission—

(1) the Commission finds that the books, accounts, memoranda, and other records of any person are not relevant to the jurisdictional rates of a public utility or natural gas company; or

(2) the Commission finds that any class of transactions is not relevant to the jurisdictional rates of a public utility or natural gas company.

42 USC 16455. **SEC. 1267. AFFILIATE TRANSACTIONS.**

(a) **COMMISSION AUTHORITY UNAFFECTED.**—Nothing in this subtitle shall limit the authority of the Commission under the Federal Power Act (16 U.S.C. 791a et seq.) to require that jurisdictional rates are just and reasonable, including the ability to deny or approve the pass through of costs, the prevention of cross-subsidization, and the issuance of such rules and regulations as are necessary or appropriate for the protection of utility consumers.

(b) **RECOVERY OF COSTS.**—Nothing in this subtitle shall preclude the Commission or a State commission from exercising its jurisdiction under otherwise applicable law to determine whether a public-utility company, public utility, or natural gas company may recover in rates any costs of an activity performed by an associate company, or any costs of goods or services acquired by such public-utility company from an associate company.

42 USC 16456. **SEC. 1268. APPLICABILITY.**

Except as otherwise specifically provided in this subtitle, no provision of this subtitle shall apply to, or be deemed to include—

- (1) the United States;
- (2) a State or any political subdivision of a State;
- (3) any foreign governmental authority not operating in the United States;
- (4) any agency, authority, or instrumentality of any entity referred to in paragraph (1), (2), or (3); or
- (5) any officer, agent, or employee of any entity referred to in paragraph (1), (2), (3), or (4) acting as such in the course of his or her official duty.

42 USC 16457. **SEC. 1269. EFFECT ON OTHER REGULATIONS.**

Nothing in this subtitle precludes the Commission or a State commission from exercising its jurisdiction under otherwise applicable law to protect utility customers.

42 USC 16458. **SEC. 1270. ENFORCEMENT.**

The Commission shall have the same powers as set forth in sections 306 through 317 of the Federal Power Act (16 U.S.C. 825e–825p) to enforce the provisions of this subtitle.

42 USC 16459. **SEC. 1271. SAVINGS PROVISIONS.**

(a) **IN GENERAL.**—Nothing in this subtitle, or otherwise in the Public Utility Holding Company Act of 1935, or rules, regulations, or orders thereunder, prohibits a person from engaging in or continuing to engage in activities or transactions in which it is legally engaged or authorized to engage on the date of enactment of this Act, if that person continues to comply with the terms (other than an expiration date or termination date) of any such authorization, whether by rule or by order.

(b) **EFFECT ON OTHER COMMISSION AUTHORITY.**—Nothing in this subtitle limits the authority of the Commission under the Federal Power Act (16 U.S.C. 791a et seq.) or the Natural Gas Act (15 U.S.C. 717 et seq.).

(c) **TAX TREATMENT.**—Tax treatment under section 1081 of the Internal Revenue Code of 1986 as a result of transactions ordered in compliance with the Public Utility Holding Company Act of 1935 (15 U.S.C. 79 et seq.) shall not be affected in any manner due to the repeal of that Act and the enactment of the Public Utility Holding Company Act of 2005.

SEC. 1272. IMPLEMENTATION.

Not later than 4 months after the date of enactment of this subtitle, the Commission shall—

(1) issue such regulations as may be necessary or appropriate to implement this subtitle (other than section 1265, relating to State access to books and records); and

(2) submit to Congress detailed recommendations on technical and conforming amendments to Federal law necessary to carry out this subtitle and the amendments made by this subtitle.

Deadline.
42 USC 16460.

Regulations.

SEC. 1273. TRANSFER OF RESOURCES.

All books and records that relate primarily to the functions transferred to the Commission under this subtitle shall be transferred from the Securities and Exchange Commission to the Commission.

Records.
42 USC 16461.

SEC. 1274. EFFECTIVE DATE.

(a) IN GENERAL.—Except for section 1272 (relating to implementation), this subtitle shall take effect 6 months after the date of enactment of this subtitle.

(b) COMPLIANCE WITH CERTAIN RULES.—If the Commission approves and makes effective any final rulemaking modifying the standards of conduct governing entities that own, operate, or control facilities for transmission of electricity in interstate commerce or transportation of natural gas in interstate commerce prior to the effective date of this subtitle, any action taken by a public-utility company or utility holding company to comply with the requirements of such rulemaking shall not subject such public-utility company or utility holding company to any regulatory requirement applicable to a holding company under the Public Utility Holding Company Act of 1935 (15 U.S.C. 79 et seq.).

42 USC 16451
note.

SEC. 1275. SERVICE ALLOCATION.

(a) DEFINITION OF PUBLIC UTILITY.—In this section, the term “public utility” has the meaning given the term in section 201(e) of the Federal Power Act (16 U.S.C. 824(e)).

(b) FERC REVIEW.—In the case of non-power goods or administrative or management services provided by an associate company organized specifically for the purpose of providing such goods or services to any public utility in the same holding company system, at the election of the system or a State commission having jurisdiction over the public utility, the Commission, after the effective date of this subtitle, shall review and authorize the allocation of the costs for such goods or services to the extent relevant to that associate company.

(c) EFFECT ON FEDERAL AND STATE LAW.—Nothing in this section shall affect the authority of the Commission or a State commission under other applicable law.

(d) RULES.—Not later than 4 months after the date of enactment of this Act, the Commission shall issue rules (which rules shall be effective no earlier than the effective date of this subtitle) to exempt from the requirements of this section any company in a holding company system whose public utility operations are confined substantially to a single State and any other class of transactions that the Commission finds is not relevant to the jurisdictional rates of a public utility.

42 USC 16462.

Deadline.

42 USC 16463.

SEC. 1276. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such funds as may be necessary to carry out this subtitle.

SEC. 1277. CONFORMING AMENDMENTS TO THE FEDERAL POWER ACT.

(a) CONFLICT OF JURISDICTION.—Section 318 of the Federal Power Act (16 U.S.C. 825q) is repealed.

(b) DEFINITIONS.—(1) Section 201(g)(5) of the Federal Power Act (16 U.S.C. 824(g)(5)) is amended by striking “1935” and inserting “2005”.

(2) Section 214 of the Federal Power Act (16 U.S.C. 824m) is amended by striking “1935” and inserting “2005”.

Subtitle G—Market Transparency, Enforcement, and Consumer Protection

SEC. 1281. ELECTRICITY MARKET TRANSPARENCY.

Part II of the Federal Power Act is amended by adding at the end the following:

16 USC 824t.

“SEC. 220. ELECTRICITY MARKET TRANSPARENCY RULES.

“(a)(1) The Commission is directed to facilitate price transparency in markets for the sale and transmission of electric energy in interstate commerce, having due regard for the public interest, the integrity of those markets, fair competition, and the protection of consumers.

“(2) The Commission may prescribe such rules as the Commission determines necessary and appropriate to carry out the purposes of this section. The rules shall provide for the dissemination, on a timely basis, of information about the availability and prices of wholesale electric energy and transmission service to the Commission, State commissions, buyers and sellers of wholesale electric energy, users of transmission services, and the public.

“(3) The Commission may—

“(A) obtain the information described in paragraph (2) from any market participant; and

“(B) rely on entities other than the Commission to receive and make public the information, subject to the disclosure rules in subsection (b).

“(4) In carrying out this section, the Commission shall consider the degree of price transparency provided by existing price publishers and providers of trade processing services, and shall rely on such publishers and services to the maximum extent possible. The Commission may establish an electronic information system if it determines that existing price publications are not adequately providing price discovery or market transparency. Nothing in this section, however, shall affect any electronic information filing requirements in effect under this Act as of the date of enactment of this section.

“(b)(1) Rules described in subsection (a)(2), if adopted, shall exempt from disclosure information the Commission determines would, if disclosed, be detrimental to the operation of an effective market or jeopardize system security.

“(2) In determining the information to be made available under this section and time to make the information available, the Commission shall seek to ensure that consumers and competitive

markets are protected from the adverse effects of potential collusion or other anticompetitive behaviors that can be facilitated by untimely public disclosure of transaction-specific information.

“(c)(1) Within 180 days of enactment of this section, the Commission shall conclude a memorandum of understanding with the Commodity Futures Trading Commission relating to information sharing, which shall include, among other things, provisions ensuring that information requests to markets within the respective jurisdiction of each agency are properly coordinated to minimize duplicative information requests, and provisions regarding the treatment of proprietary trading information. Deadline.

“(2) Nothing in this section may be construed to limit or affect the exclusive jurisdiction of the Commodity Futures Trading Commission under the Commodity Exchange Act (7 U.S.C. 1 et seq.).

“(d) The Commission shall not require entities who have a de minimis market presence to comply with the reporting requirements of this section.

“(e)(1) Except as provided in paragraph (2), no person shall be subject to any civil penalty under this section with respect to any violation occurring more than 3 years before the date on which the person is provided notice of the proposed penalty under section 316A.

“(2) Paragraph (1) shall not apply in any case in which the Commission finds that a seller that has entered into a contract for the sale of electric energy at wholesale or transmission service subject to the jurisdiction of the Commission has engaged in fraudulent market manipulation activities materially affecting the contract in violation of section 222.

“(f) This section shall not apply to a transaction for the purchase or sale of wholesale electric energy or transmission services within the area described in section 212(k)(2)(A).”.

SEC. 1282. FALSE STATEMENTS.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

“SEC. 221. PROHIBITION ON FILING FALSE INFORMATION.

16 USC 824u.

“No entity (including an entity described in section 201(f)) shall willfully and knowingly report any information relating to the price of electricity sold at wholesale or the availability of transmission capacity, which information the person or any other entity knew to be false at the time of the reporting, to a Federal agency with intent to fraudulently affect the data being compiled by the Federal agency.”.

SEC. 1283. MARKET MANIPULATION.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

“SEC. 222. PROHIBITION OF ENERGY MARKET MANIPULATION.

16 USC 824v.

“(a) IN GENERAL.—It shall be unlawful for any entity (including an entity described in section 201(f)), directly or indirectly, to use or employ, in connection with the purchase or sale of electric energy or the purchase or sale of transmission services subject to the jurisdiction of the Commission, any manipulative or deceptive device or contrivance (as those terms are used in section 10(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78j(b))), in contravention

of such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of electric ratepayers.

“(b) NO PRIVATE RIGHT OF ACTION.—Nothing in this section shall be construed to create a private right of action.”.

SEC. 1284. ENFORCEMENT.

(a) COMPLAINTS.—Section 306 of the Federal Power Act (16 U.S.C. 825e) is amended—

(1) by inserting “electric utility,” after “Any person,”; and

(2) by inserting “, transmitting utility,” after “licensee” each place it appears.

(b) INVESTIGATIONS.—Section 307(a) of the Federal Power Act (16 U.S.C. 825f(a)) is amended—

(1) by inserting “, electric utility, transmitting utility, or other entity” after “person” each place it appears; and

(2) in the first sentence, by inserting before the period at the end the following: “, or in obtaining information about the sale of electric energy at wholesale in interstate commerce and the transmission of electric energy in interstate commerce”.

(c) REVIEW OF COMMISSION ORDERS.—Section 313(a) of the Federal Power Act (16 U.S.C. 825l) is amended by inserting “electric utility,” after “person,” in the first 2 places it appears and by striking “any person unless such person” and inserting “any entity unless such entity”.

(d) CRIMINAL PENALTIES.—Section 316 of the Federal Power Act (16 U.S.C. 825o) is amended—

(1) in subsection (a)—

(A) by striking “\$5,000” and inserting “\$1,000,000”; and

(B) by striking “two years” and inserting “5 years”; (2) in subsection (b), by striking “\$500” and inserting “\$25,000”; and

(3) by striking subsection (c).

(e) CIVIL PENALTIES.—Section 316A of the Federal Power Act (16 U.S.C. 825o-1) is amended—

(1) by striking “section 211, 212, 213, or 214” each place it appears and inserting “part II”; and

(2) in subsection (b), by striking “\$10,000” and inserting “\$1,000,000”.

SEC. 1285. REFUND EFFECTIVE DATE.

Section 206(b) of the Federal Power Act (16 U.S.C. 824e(b)) is amended as follows:

(1) By striking “the date 60 days after the filing of such complaint nor later than 5 months after the expiration of such 60-day period” in the second sentence and inserting “the date of the filing of such complaint nor later than 5 months after the filing of such complaint”.

(2) By striking “60 days after” in the third sentence and inserting “of”.

(3) By striking “expiration of such 60-day period” in the third sentence and inserting “publication date”.

(4) By striking the fifth sentence and inserting the following: “If no final decision is rendered by the conclusion of the 180-day period commencing upon initiation of a proceeding pursuant to this section, the Commission shall state the reasons

why it has failed to do so and shall state its best estimate as to when it reasonably expects to make such decision.”.

SEC. 1286. REFUND AUTHORITY.

Section 206 of the Federal Power Act (16 U.S.C. 824e) is amended by adding at the end the following:

“(e)(1) In this subsection:

“(A) The term ‘short-term sale’ means an agreement for the sale of electric energy at wholesale in interstate commerce that is for a period of 31 days or less (excluding monthly contracts subject to automatic renewal).

“(B) The term ‘applicable Commission rule’ means a Commission rule applicable to sales at wholesale by public utilities that the Commission determines after notice and comment should also be applicable to entities subject to this subsection.

“(2) If an entity described in section 201(f) voluntarily makes a short-term sale of electric energy through an organized market in which the rates for the sale are established by Commission-approved tariff (rather than by contract) and the sale violates the terms of the tariff or applicable Commission rules in effect at the time of the sale, the entity shall be subject to the refund authority of the Commission under this section with respect to the violation.

“(3) This section shall not apply to—

“(A) any entity that sells in total (including affiliates of the entity) less than 8,000,000 megawatt hours of electricity per year; or

“(B) an electric cooperative.

“(4)(A) The Commission shall have refund authority under paragraph (2) with respect to a voluntary short term sale of electric energy by the Bonneville Power Administration only if the sale is at an unjust and unreasonable rate.

“(B) The Commission may order a refund under subparagraph (A) only for short-term sales made by the Bonneville Power Administration at rates that are higher than the highest just and reasonable rate charged by any other entity for a short-term sale of electric energy in the same geographic market for the same, or most nearly comparable, period as the sale by the Bonneville Power Administration.

“(C) In the case of any Federal power marketing agency or the Tennessee Valley Authority, the Commission shall not assert or exercise any regulatory authority or power under paragraph (2) other than the ordering of refunds to achieve a just and reasonable rate.”.

SEC. 1287. CONSUMER PRIVACY AND UNFAIR TRADE PRACTICES.

42 USC 16471.

(a) **PRIVACY.**—The Federal Trade Commission may issue rules protecting the privacy of electric consumers from the disclosure of consumer information obtained in connection with the sale or delivery of electric energy to electric consumers.

(b) **SLAMMING.**—The Federal Trade Commission may issue rules prohibiting the change of selection of an electric utility except with the informed consent of the electric consumer or if approved by the appropriate State regulatory authority.

(c) **CRAMMING.**—The Federal Trade Commission may issue rules prohibiting the sale of goods and services to an electric consumer unless expressly authorized by law or the electric consumer.

(d) RULEMAKING.—The Federal Trade Commission shall proceed in accordance with section 553 of title 5, United States Code, when prescribing a rule under this section.

(e) STATE AUTHORITY.—If the Federal Trade Commission determines that a State’s regulations provide equivalent or greater protection than the provisions of this section, such State regulations shall apply in that State in lieu of the regulations issued by the Commission under this section.

(f) DEFINITIONS.—For purposes of this section:

(1) STATE REGULATORY AUTHORITY.—The term “State regulatory authority” has the meaning given that term in section 3(21) of the Federal Power Act (16 U.S.C. 796(21)).

(2) ELECTRIC CONSUMER AND ELECTRIC UTILITY.—The terms “electric consumer” and “electric utility” have the meanings given those terms in section 3 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2602).

SEC. 1288. AUTHORITY OF COURT TO PROHIBIT INDIVIDUALS FROM SERVING AS OFFICERS, DIRECTORS, AND ENERGY TRADERS.

Section 314 of the Federal Power Act (16 U.S.C. 825m) is amended by adding at the end the following:

“(d) In any proceedings under subsection (a), the court may prohibit, conditionally or unconditionally, and permanently or for such period of time as the court determines, any individual who is engaged or has engaged in practices constituting a violation of section 221 (and related rules and regulations) from—

“(1) acting as an officer or director of an electric utility;

or

“(2) engaging in the business of purchasing or selling—

“(A) electric energy; or

“(B) transmission services subject to the jurisdiction of the Commission.”.

SEC. 1289. MERGER REVIEW REFORM.

(a) IN GENERAL.—Section 203(a) of the Federal Power Act (16 U.S.C. 824b(a)) is amended to read as follows:

“(a)(1) No public utility shall, without first having secured an order of the Commission authorizing it to do so—

“(A) sell, lease, or otherwise dispose of the whole of its facilities subject to the jurisdiction of the Commission, or any part thereof of a value in excess of \$10,000,000;

“(B) merge or consolidate, directly or indirectly, such facilities or any part thereof with those of any other person, by any means whatsoever;

“(C) purchase, acquire, or take any security with a value in excess of \$10,000,000 of any other public utility;

or

“(D) purchase, lease, or otherwise acquire an existing generation facility—

“(i) that has a value in excess of \$10,000,000;

and

“(ii) that is used for interstate wholesale sales and over which the Commission has jurisdiction for ratemaking purposes.

“(2) No holding company in a holding company system that includes a transmitting utility or an electric utility shall purchase, acquire, or take any security with a value in excess

of \$10,000,000 of, or, by any means whatsoever, directly or indirectly, merge or consolidate with, a transmitting utility, an electric utility company, or a holding company in a holding company system that includes a transmitting utility, or an electric utility company, with a value in excess of \$10,000,000 without first having secured an order of the Commission authorizing it to do so.

“(3) Upon receipt of an application for such approval the Commission shall give reasonable notice in writing to the Governor and State commission of each of the States in which the physical property affected, or any part thereof, is situated, and to such other persons as it may deem advisable. Notice.

“(4) After notice and opportunity for hearing, the Commission shall approve the proposed disposition, consolidation, acquisition, or change in control, if it finds that the proposed transaction will be consistent with the public interest, and will not result in cross-subsidization of a non-utility associate company or the pledge or encumbrance of utility assets for the benefit of an associate company, unless the Commission determines that the cross-subsidization, pledge, or encumbrance will be consistent with the public interest.

“(5) The Commission shall, by rule, adopt procedures for the expeditious consideration of applications for the approval of dispositions, consolidations, or acquisitions, under this section. Such rules shall identify classes of transactions, or specify criteria for transactions, that normally meet the standards established in paragraph (4). The Commission shall provide expedited review for such transactions. The Commission shall grant or deny any other application for approval of a transaction not later than 180 days after the application is filed. If the Commission does not act within 180 days, such application shall be deemed granted unless the Commission finds, based on good cause, that further consideration is required to determine whether the proposed transaction meets the standards of paragraph (4) and issues an order tolling the time for acting on the application for not more than 180 days, at the end of which additional period the Commission shall grant or deny the application. Regulations. Procedures. Deadlines.

“(6) For purposes of this subsection, the terms ‘associate company’, ‘holding company’, and ‘holding company system’ have the meaning given those terms in the Public Utility Holding Company Act of 2005.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect 6 months after the date of enactment of this Act. 16 USC 824b note.

(c) TRANSITION PROVISION.—The amendments made by subsection (a) shall not apply to any application under section 203 of the Federal Power Act (16 U.S.C. 824b) that was filed on or before the date of enactment of this Act.

SEC. 1290. RELIEF FOR EXTRAORDINARY VIOLATIONS.

(a) APPLICATION.—This section applies to any contract entered into the Western Interconnection prior to June 20, 2001, with a seller of wholesale electricity that the Commission has—

(1) found to have manipulated the electricity market resulting in unjust and unreasonable rates; and

(2) revoked the seller's authority to sell any electricity at market-based rates.

(b) RELIEF.—Notwithstanding section 222 of the Federal Power Act (as added by section 1262), any provision of title 11, United States Code, or any other provision of law, in the case of a contract described in subsection (a), the Commission shall have exclusive jurisdiction under the Federal Power Act (16 U.S.C. 791a et seq.) to determine whether a requirement to make termination payments for power not delivered by the seller, or any successor in interest of the seller, is not permitted under a rate schedule (or contract under such a schedule) or is otherwise unlawful on the grounds that the contract is unjust and unreasonable or contrary to the public interest.

(c) APPLICABILITY.—This section applies to any proceeding pending on the date of enactment of this section involving a seller described in subsection (a) in which there is not a final, nonappealable order by the Commission or any other jurisdiction determining the respective rights of the seller.

Subtitle H—Definitions

SEC. 1291. DEFINITIONS.

42 USC 16481.

(a) COMMISSION.—In this title, the term “Commission” means the Federal Energy Regulatory Commission.

(b) AMENDMENT.—Section 3 of the Federal Power Act (16 U.S.C. 796) is amended—

(1) by striking paragraphs (22) and (23) and inserting the following:

“(22) ELECTRIC UTILITY.—(A) The term ‘electric utility’ means a person or Federal or State agency (including an entity described in section 201(f)) that sells electric energy.

“(B) The term ‘electric utility’ includes the Tennessee Valley Authority and each Federal power marketing administration.

“(23) TRANSMITTING UTILITY.—The term ‘transmitting utility’ means an entity (including an entity described in section 201(f)) that owns, operates, or controls facilities used for the transmission of electric energy—

“(A) in interstate commerce;

“(B) for the sale of electric energy at wholesale.”; and

(2) by adding at the end the following:

“(26) ELECTRIC COOPERATIVE.—The term ‘electric cooperative’ means a cooperatively owned electric utility.

“(27) RTO.—The term ‘Regional Transmission Organization’ or ‘RTO’ means an entity of sufficient regional scope approved by the Commission—

“(A) to exercise operational or functional control of facilities used for the transmission of electric energy in interstate commerce; and

“(B) to ensure nondiscriminatory access to the facilities.

“(28) ISO.—The term ‘Independent System Operator’ or ‘ISO’ means an entity approved by the Commission—

“(A) to exercise operational or functional control of facilities used for the transmission of electric energy in interstate commerce; and

“(B) to ensure nondiscriminatory access to the facilities.

“(29) TRANSMISSION ORGANIZATION.—The term ‘Transmission Organization’ means a Regional Transmission Organization, Independent System Operator, independent transmission provider, or other transmission organization finally approved by the Commission for the operation of transmission facilities.”.

(c) APPLICABILITY.—Section 201(f) of the Federal Power Act (16 U.S.C. 824(f)) is amended by striking “political subdivision of a state,” and inserting “political subdivision of a State, an electric cooperative that receives financing under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) or that sells less than 4,000,000 megawatt hours of electricity per year,”.

Subtitle I—Technical and Conforming Amendments

SEC. 1295. CONFORMING AMENDMENTS.

(a) Section 201 of the Federal Power Act (16 U.S.C. 824) is amended—

(1) in subsection (b)(2)—

(A) in the first sentence—

(i) by striking “The” and inserting “Notwithstanding section 201(f), the”; and

(ii) by striking “210, 211, and 212” and inserting “203(a)(2), 206(e), 210, 211, 211A, 212, 215, 216, 217, 218, 219, 220, 221, and 222”; and

(B) in the second sentence—

(i) by inserting “or rule” after “any order”; and

(ii) by striking “210 or 211” and inserting “203(a)(2), 206(e), 210, 211, 211A, 212, 215, 216, 217, 218, 219, 220, 221, or 222”; and

(2) in subsection (e), by striking “210, 211, or 212” and inserting “206(e), 206(f), 210, 211, 211A, 212, 215, 216, 217, 218, 219, 220, 221, or 222”.

(b) Section 206 of the Federal Power Act (16 U.S.C. 824e) is amended—

(1) in the first sentence of subsection (a), by striking “hearing had” and inserting “hearing held”; and

(2) in the seventh sentence of subsection (b), by striking “the public utility to make”.

(c) Section 211 of the Federal Power Act (16 U.S.C. 824j) is amended—

(1) in subsection (c)—

(A) by striking “(2)”;

(B) by striking “(A)” and inserting “(1)”

(C) by striking “(B)” and inserting “(2)”;

(D) by striking “termination of modification” and inserting “termination or modification”; and

(2) in the second sentence of subsection (d)(1), by striking “electric utility” the second place it appears and inserting “transmitting utility”.

(d) Section 315(c) of the Federal Power Act (16 U.S.C. 825n(c)) is amended by striking “subsection” and inserting “section”.

Subtitle J—Economic Dispatch

SEC. 1298. ECONOMIC DISPATCH.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

16 USC 824w.

“SEC. 223. JOINT BOARDS ON ECONOMIC DISPATCH.

Establishment.

“(a) **IN GENERAL.**—The Commission shall convene joint boards on a regional basis pursuant to section 209 of this Act to study the issue of security constrained economic dispatch for the various market regions. The Commission shall designate the appropriate regions to be covered by each such joint board for purposes of this section.

“(b) **MEMBERSHIP.**—The Commission shall request each State to nominate a representative for the appropriate regional joint board, and shall designate a member of the Commission to chair and participate as a member of each such board.

“(c) **POWERS.**—The sole authority of each joint board convened under this section shall be to consider issues relevant to what constitutes ‘security constrained economic dispatch’ and how such a mode of operating an electric energy system affects or enhances the reliability and affordability of service to customers in the region concerned and to make recommendations to the Commission regarding such issues.

“(d) **REPORT TO THE CONGRESS.**—Within 1 year after enactment of this section, the Commission shall issue a report and submit such report to the Congress regarding the recommendations of the joint boards under this section and the Commission may consolidate the recommendations of more than one such regional joint board, including any consensus recommendations for statutory or regulatory reform.”.

Energy Tax
Incentives Act of
2005.

TITLE XIII—ENERGY POLICY TAX INCENTIVES

SEC. 1300. SHORT TITLE; AMENDMENT OF 1986 CODE.

26 USC 1 note.

(a) **SHORT TITLE.**—This title may be cited as the “Energy Tax Incentives Act of 2005”.

26 USC 1 *et seq.*

(b) **AMENDMENT OF 1986 CODE.**—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Electricity Infrastructure

SEC. 1301. EXTENSION AND MODIFICATION OF RENEWABLE ELECTRICITY PRODUCTION CREDIT.

26 USC 45.

(a) **2-YEAR EXTENSION FOR CERTAIN FACILITIES.**—Section 45(d) (relating to qualified facilities) is amended—

(1) by striking “January 1, 2006” each place it appears in paragraphs (1), (2), (3), (5), (6), and (7) and inserting “January 1, 2008”, and

(2) by striking “January 1, 2006” in paragraph (4) and inserting “January 1, 2008 (January 1, 2006, in the case of a facility using solar energy)”.

(b) INCREASE IN CREDIT PERIOD.—Section 45(b)(4)(B) (relating to credit period) is amended—

(1) by inserting “or clause (iii)” after “clause (ii)” in clause (i), and

(2) by adding at the end the following:

“(iii) TERMINATION.—Clause (i) shall not apply to any facility placed in service after the date of the enactment of this clause.”.

(c) EXPANSION OF QUALIFIED RESOURCES TO CERTAIN HYDRO-POWER.—

(1) IN GENERAL.—Section 45(c)(1) (defining qualified energy resources) is amended by striking “and” at the end of subparagraph (F), by striking the period at the end of subparagraph (G) and inserting “, and”, and by adding at the end the following new subparagraph:

“(H) qualified hydropower production.”.

(2) CREDIT RATE.—Section 45(b)(4)(A) (relating to credit rate) is amended by striking “or (7)” and inserting “(7), or (9)”.

(3) DEFINITION OF RESOURCES.—Section 45(c) (relating to qualified energy resources and refined coal) is amended by adding at the end the following new paragraph:

“(8) QUALIFIED HYDROPOWER PRODUCTION.—

“(A) IN GENERAL.—The term ‘qualified hydropower production’ means—

“(i) in the case of any hydroelectric dam which was placed in service on or before the date of the enactment of this paragraph, the incremental hydropower production for the taxable year, and

“(ii) in the case of any nonhydroelectric dam described in subparagraph (C), the hydropower production from the facility for the taxable year.

“(B) DETERMINATION OF INCREMENTAL HYDROPOWER PRODUCTION.—

“(i) IN GENERAL.—For purposes of subparagraph (A), incremental hydropower production for any taxable year shall be equal to the percentage of average annual hydropower production at the facility attributable to the efficiency improvements or additions of capacity placed in service after the date of the enactment of this paragraph, determined by using the same water flow information used to determine an historic average annual hydropower production baseline for such facility. Such percentage and baseline shall be certified by the Federal Energy Regulatory Commission.

“(ii) OPERATIONAL CHANGES DISREGARDED.—For purposes of clause (i), the determination of incremental hydropower production shall not be based on any operational changes at such facility not directly associated with the efficiency improvements or additions of capacity.

“(C) NONHYDROELECTRIC DAM.—For purposes of subparagraph (A), a facility is described in this subparagraph if—

“(i) the facility is licensed by the Federal Energy Regulatory Commission and meets all other applicable environmental, licensing, and regulatory requirements,

“(ii) the facility was placed in service before the date of the enactment of this paragraph and did not produce hydroelectric power on the date of the enactment of this paragraph, and

“(iii) turbines or other generating devices are to be added to the facility after such date to produce hydroelectric power, but only if there is not any enlargement of the diversion structure, or construction or enlargement of a bypass channel, or the impoundment or any withholding of any additional water from the natural stream channel.”.

26 USC 45.

(4) FACILITIES.—Section 45(d) (relating to qualified facilities) is amended by adding at the end the following new paragraph:

“(9) QUALIFIED HYDROPOWER FACILITY.—In the case of a facility producing qualified hydroelectric production described in subsection (c)(8), the term ‘qualified facility’ means—

“(A) in the case of any facility producing incremental hydropower production, such facility but only to the extent of its incremental hydropower production attributable to efficiency improvements or additions to capacity described in subsection (c)(8)(B) placed in service after the date of the enactment of this paragraph and before January 1, 2008, and

“(B) any other facility placed in service after the date of the enactment of this paragraph and before January 1, 2008.

“(C) CREDIT PERIOD.—In the case of a qualified facility described in subparagraph (A), the 10-year period referred to in subsection (a) shall be treated as beginning on the date the efficiency improvements or additions to capacity are placed in service.”.

(d) INDIAN COAL.—

(1) PRODUCTION FACILITIES.—Subsection (e) of section 45 (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

“(10) INDIAN COAL PRODUCTION FACILITIES.—

“(A) DETERMINATION OF CREDIT AMOUNT.—In the case of a producer of Indian coal, the credit determined under this section (without regard to this paragraph) for any taxable year shall be increased by an amount equal to the applicable dollar amount per ton of Indian coal—

“(i) produced by the taxpayer at an Indian coal production facility during the 7-year period beginning on January 1, 2006, and

“(ii) sold by the taxpayer—

“(I) to an unrelated person, and

“(II) during such 7-year period and such taxable year.

“(B) APPLICABLE DOLLAR AMOUNT.—

“(i) IN GENERAL.—The term ‘applicable dollar amount’ for any taxable year beginning in a calendar year means—

“(I) \$1.50 in the case of calendar years 2006 through 2009, and

“(II) \$2.00 in the case of calendar years beginning after 2009.

“(ii) INFLATION ADJUSTMENT.—In the case of any calendar year after 2006, each of the dollar amounts under clause (i) shall be equal to the product of such dollar amount and the inflation adjustment factor determined under paragraph (2)(B) for the calendar year, except that such paragraph shall be applied by substituting ‘2005’ for ‘1992’.

“(C) APPLICATION OF RULES.—Rules similar to the rules of the subsection (b)(3) and paragraphs (1), (3), (4), and (5) of this subsection shall apply for purposes of determining the amount of any increase under this paragraph.

“(D) TREATMENT AS SPECIFIED CREDIT.—The increase in the credit determined under subsection (a) by reason of this paragraph with respect to any facility shall be treated as a specified credit for purposes of section 38(c)(4)(A) during the 4-year period beginning on the later of January 1, 2006, or the date on which such facility is placed in service by the taxpayer.”.

Effective date.

(2) RESOURCE.—Subsection (c) of section 45 (relating to qualified energy resources and refined coal), as amended by this Act, is amended by adding at the end the following new paragraph:

26 USC 45.

“(9) INDIAN COAL.—

“(A) IN GENERAL.—The term ‘Indian coal’ means coal which is produced from coal reserves which, on June 14, 2005—

“(i) were owned by an Indian tribe, or

“(ii) were held in trust by the United States for the benefit of an Indian tribe or its members.

“(B) INDIAN TRIBE.—For purposes of this paragraph, the term ‘Indian tribe’ has the meaning given such term by section 7871(c)(3)(E)(ii).”.

(3) INDIAN COAL PRODUCTION FACILITY.—Subsection (d) of section 45, as amended by this Act, is amended by adding at the end the following new paragraph:

“(10) INDIAN COAL PRODUCTION FACILITY.—The term ‘Indian coal production facility’ means a facility which is placed in service before January 1, 2009.”.

(4) CONFORMING AMENDMENT.—The heading for section 45(c) is amended by striking “QUALIFIED ENERGY RESOURCES AND REFINED COAL” and inserting “RESOURCES”.

(e) TECHNICAL AMENDMENT RELATED TO TRASH COMBUSTION FACILITIES.—Section 45(d)(7) (relating to trash combustion facilities) is amended by adding at the end the following: “Such term shall include a new unit placed in service in connection with a facility placed in service on or before the date of the enactment of this paragraph, but only to the extent of the increased amount of electricity produced at the facility by reason of such new unit.”.

(f) ADDITIONAL TECHNICAL AMENDMENTS RELATED TO SECTION 710 OF THE AMERICAN JOBS CREATION ACT OF 2004.—

(1) Clause (ii) of section 45(b)(4)(B) is amended by striking “the date of the enactment of this Act” and inserting “January 1, 2005,”.

26 USC 45.

(2) Clause (ii) of section 45(c)(3)(A) is amended by inserting “or any nonhazardous lignin waste material” after “cellulosic waste material”.

(3) Subsection (e) of section 45 is amended by striking paragraph (6).

(4)(A) Paragraph (9) of section 45(e) is amended to read as follows:

“(9) COORDINATION WITH CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.—

“(A) IN GENERAL.—The term ‘qualified facility’ shall not include any facility which produces electricity from gas derived from the biodegradation of municipal solid waste if such biodegradation occurred in a facility (within the meaning of section 29) the production from which is allowed as a credit under section 29 for the taxable year or any prior taxable year.

“(B) REFINED COAL FACILITIES.—The term ‘refined coal production facility’ shall not include any facility the production from which is allowed as a credit under section 29 for the taxable year or any prior taxable year.”.

(B) Subparagraph (C) of section 45(e)(8) is amended by striking “and (9)”.

26 USC 168.

(5) Subclause (I) of section 168(e)(3)(B)(vi) is amended to read as follows:

“(I) is described in subparagraph (A) of section 48(a)(3) (or would be so described if ‘solar and wind’ were substituted for ‘solar’ in clause (i) thereof and the last sentence of such section did not apply to such subparagraph),”.

26 USC 45 note.

(6) Paragraph (4) of section 710(g) of the American Jobs Creation Act of 2004 is amended by striking “January 1, 2004” and inserting “January 1, 2005”.

26 USC 45 note.

(g) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect of the date of the enactment of this Act.

(2) TECHNICAL AMENDMENTS.—The amendments made by subsections (e) and (f) shall take effect as if included in the amendments made by section 710 of the American Jobs Creation Act of 2004.

SEC. 1302. APPLICATION OF SECTION 45 CREDIT TO AGRICULTURAL COOPERATIVES.

(a) IN GENERAL.—Section 45(e) (relating to definitions and special rules), as amended by this Act, is amended by adding at the end the following:

“(11) ALLOCATION OF CREDIT TO PATRONS OF AGRICULTURAL COOPERATIVE.—

“(A) ELECTION TO ALLOCATE.—

“(i) IN GENERAL.—In the case of an eligible cooperative organization, any portion of the credit determined under subsection (a) for the taxable year may, at the election of the organization, be apportioned among patrons of the organization on the basis of the amount of business done by the patrons during the taxable year.

“(ii) FORM AND EFFECT OF ELECTION.—An election under clause (i) for any taxable year shall be made on a timely filed return for such year. Such election, once made, shall be irrevocable for such taxable year. Such election shall not take effect unless the organization designates the apportionment as such in a written notice mailed to its patrons during the payment period described in section 1382(d).

“(B) TREATMENT OF ORGANIZATIONS AND PATRONS.—The amount of the credit apportioned to any patrons under subparagraph (A)—

“(i) shall not be included in the amount determined under subsection (a) with respect to the organization for the taxable year, and

“(ii) shall be included in the amount determined under subsection (a) for the first taxable year of each patron ending on or after the last day of the payment period (as defined in section 1382(d)) for the taxable year of the organization or, if earlier, for the taxable year of each patron ending on or after the date on which the patron receives notice from the cooperative of the apportionment.

“(C) SPECIAL RULES FOR DECREASE IN CREDITS FOR TAXABLE YEAR.—If the amount of the credit of a cooperative organization determined under subsection (a) for a taxable year is less than the amount of such credit shown on the return of the cooperative organization for such year, an amount equal to the excess of—

“(i) such reduction, over

“(ii) the amount not apportioned to such patrons under subparagraph (A) for the taxable year, shall be treated as an increase in tax imposed by this chapter on the organization. Such increase shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit under this chapter.

“(D) ELIGIBLE COOPERATIVE DEFINED.—For purposes of this section the term ‘eligible cooperative’ means a cooperative organization described in section 1381(a) which is owned more than 50 percent by agricultural producers or by entities owned by agricultural producers. For this purpose an entity owned by an agricultural producer is one that is more than 50 percent owned by agricultural producers.”.

(b) CONFORMING AMENDMENT.—The last sentence of section 55(c)(1) is amended by inserting “45(e)(11)(C),” after “section”.

26 USC 55.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of cooperative organizations ending after the date of the enactment of this Act.

26 USC 45 note.

SEC. 1303. CLEAN RENEWABLE ENERGY BONDS.

(a) IN GENERAL.—Part IV of subchapter A of chapter 1 (relating to credits against tax) is amended by adding at the end the following new subpart:

“Subpart H—Nonrefundable Credit to Holders of Certain Bonds

“Sec. 54. Credit to holders of clean renewable energy bonds.

“SEC. 54. CREDIT TO HOLDERS OF CLEAN RENEWABLE ENERGY BONDS.

“(a) ALLOWANCE OF CREDIT.—If a taxpayer holds a clean renewable energy bond on one or more credit allowance dates of the bond occurring during any taxable year, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to such dates.

“(b) AMOUNT OF CREDIT.—

“(1) IN GENERAL.—The amount of the credit determined under this subsection with respect to any credit allowance date for a clean renewable energy bond is 25 percent of the annual credit determined with respect to such bond.

“(2) ANNUAL CREDIT.—The annual credit determined with respect to any clean renewable energy bond is the product of—

“(A) the credit rate determined by the Secretary under paragraph (3) for the day on which such bond was sold, multiplied by

“(B) the outstanding face amount of the bond.

“(3) DETERMINATION.—For purposes of paragraph (2), with respect to any clean renewable energy bond, the Secretary shall determine daily or cause to be determined daily a credit rate which shall apply to the first day on which there is a binding, written contract for the sale or exchange of the bond. The credit rate for any day is the credit rate which the Secretary or the Secretary’s designee estimates will permit the issuance of clean renewable energy bonds with a specified maturity or redemption date without discount and without interest cost to the qualified issuer.

“(4) CREDIT ALLOWANCE DATE.—For purposes of this section, the term ‘credit allowance date’ means—

“(A) March 15,

“(B) June 15,

“(C) September 15, and

“(D) December 15.

Such term also includes the last day on which the bond is outstanding.

“(5) SPECIAL RULE FOR ISSUANCE AND REDEMPTION.—In the case of a bond which is issued during the 3-month period ending on a credit allowance date, the amount of the credit determined under this subsection with respect to such credit allowance date shall be a ratable portion of the credit otherwise determined based on the portion of the 3-month period during which the bond is outstanding. A similar rule shall apply when the bond is redeemed or matures.

“(c) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

“(1) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

“(2) the sum of the credits allowable under this part (other than subpart C and this section).

“(d) CLEAN RENEWABLE ENERGY BOND.—For purposes of this section—

“(1) IN GENERAL.—The term ‘clean renewable energy bond’ means any bond issued as part of an issue if—

“(A) the bond is issued by a qualified issuer pursuant to an allocation by the Secretary to such issuer of a portion of the national clean renewable energy bond limitation under subsection (f)(2),

“(B) 95 percent or more of the proceeds of such issue are to be used for capital expenditures incurred by qualified borrowers for one or more qualified projects,

“(C) the qualified issuer designates such bond for purposes of this section and the bond is in registered form, and

“(D) the issue meets the requirements of subsection (h).

“(2) QUALIFIED PROJECT; SPECIAL USE RULES.—

“(A) IN GENERAL.—The term ‘qualified project’ means any qualified facility (as determined under section 45(d) without regard to paragraph (10) and to any placed in service date) owned by a qualified borrower.

“(B) REFINANCING RULES.—For purposes of paragraph (1)(B), a qualified project may be refinanced with proceeds of a clean renewable energy bond only if the indebtedness being refinanced (including any obligation directly or indirectly refinanced by such indebtedness) was originally incurred by a qualified borrower after the date of the enactment of this section.

“(C) REIMBURSEMENT.—For purposes of paragraph (1)(B), a clean renewable energy bond may be issued to reimburse a qualified borrower for amounts paid after the date of the enactment of this section with respect to a qualified project, but only if—

Deadlines.

“(i) prior to the payment of the original expenditure, the qualified borrower declared its intent to reimburse such expenditure with the proceeds of a clean renewable energy bond,

“(ii) not later than 60 days after payment of the original expenditure, the qualified issuer adopts an official intent to reimburse the original expenditure with such proceeds, and

“(iii) the reimbursement is made not later than 18 months after the date the original expenditure is paid.

“(D) TREATMENT OF CHANGES IN USE.—For purposes of paragraph (1)(B), the proceeds of an issue shall not be treated as used for a qualified project to the extent that a qualified borrower or qualified issuer takes any action within its control which causes such proceeds not to be used for a qualified project. The Secretary shall prescribe regulations specifying remedial actions that may be taken (including conditions to taking such remedial actions) to prevent an action described in the preceding sentence from causing a bond to fail to be a clean renewable energy bond.

“(e) MATURITY LIMITATIONS.—

“(1) DURATION OF TERM.—A bond shall not be treated as a clean renewable energy bond if the maturity of such bond exceeds the maximum term determined by the Secretary under paragraph (2) with respect to such bond.

“(2) MAXIMUM TERM.—During each calendar month, the Secretary shall determine the maximum term permitted under this paragraph for bonds issued during the following calendar month. Such maximum term shall be the term which the Secretary estimates will result in the present value of the obligation to repay the principal on the bond being equal to 50 percent of the face amount of such bond. Such present value shall be determined without regard to the requirements of subsection (1)(6) and using as a discount rate the average annual interest rate of tax-exempt obligations having a term of 10 years or more which are issued during the month. If the term as so determined is not a multiple of a whole year, such term shall be rounded to the next highest whole year.

“(f) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—

“(1) NATIONAL LIMITATION.—There is a national clean renewable energy bond limitation of \$800,000,000.

“(2) ALLOCATION BY SECRETARY.—The Secretary shall allocate the amount described in paragraph (1) among qualified projects in such manner as the Secretary determines appropriate, except that the Secretary may not allocate more than \$500,000,000 of the national clean renewable energy bond limitation to finance qualified projects of qualified borrowers which are governmental bodies.

“(g) CREDIT INCLUDED IN GROSS INCOME.—Gross income includes the amount of the credit allowed to the taxpayer under this section (determined without regard to subsection (c)) and the amount so included shall be treated as interest income.

“(h) SPECIAL RULES RELATING TO EXPENDITURES.—

“(1) IN GENERAL.—An issue shall be treated as meeting the requirements of this subsection if, as of the date of issuance, the qualified issuer reasonably expects—

“(A) at least 95 percent of the proceeds of such issue are to be spent for one or more qualified projects within the 5-year period beginning on the date of issuance of the clean energy bond,

“(B) a binding commitment with a third party to spend at least 10 percent of the proceeds of such issue will be incurred within the 6-month period beginning on the date of issuance of the clean energy bond or, in the case of a clean energy bond the proceeds of which are to be loaned to two or more qualified borrowers, such binding commitment will be incurred within the 6-month period beginning on the date of the loan of such proceeds to a qualified borrower, and

“(C) such projects will be completed with due diligence and the proceeds of such issue will be spent with due diligence.

“(2) EXTENSION OF PERIOD.—Upon submission of a request prior to the expiration of the period described in paragraph (1)(A), the Secretary may extend such period if the qualified

issuer establishes that the failure to satisfy the 5-year requirement is due to reasonable cause and the related projects will continue to proceed with due diligence.

“(3) FAILURE TO SPEND REQUIRED AMOUNT OF BOND PROCEEDS WITHIN 5 YEARS.—To the extent that less than 95 percent of the proceeds of such issue are expended by the close of the 5-year period beginning on the date of issuance (or if an extension has been obtained under paragraph (2), by the close of the extended period), the qualified issuer shall redeem all of the nonqualified bonds within 90 days after the end of such period. For purposes of this paragraph, the amount of the nonqualified bonds required to be redeemed shall be determined in the same manner as under section 142.

“(i) SPECIAL RULES RELATING TO ARBITRAGE.—A bond which is part of an issue shall not be treated as a clean renewable energy bond unless, with respect to the issue of which the bond is a part, the qualified issuer satisfies the arbitrage requirements of section 148 with respect to proceeds of the issue.

“(j) COOPERATIVE ELECTRIC COMPANY; QUALIFIED ENERGY TAX CREDIT BOND LENDER; GOVERNMENTAL BODY; QUALIFIED BORROWER.—For purposes of this section—

“(1) COOPERATIVE ELECTRIC COMPANY.—The term ‘cooperative electric company’ means a mutual or cooperative electric company described in section 501(c)(12) or section 1381(a)(2)(C), or a not-for-profit electric utility which has received a loan or loan guarantee under the Rural Electrification Act.

“(2) CLEAN RENEWABLE ENERGY BOND LENDER.—The term ‘clean renewable energy bond lender’ means a lender which is a cooperative which is owned by, or has outstanding loans to, 100 or more cooperative electric companies and is in existence on February 1, 2002, and shall include any affiliated entity which is controlled by such lender.

“(3) GOVERNMENTAL BODY.—The term ‘governmental body’ means any State, territory, possession of the United States, the District of Columbia, Indian tribal government, and any political subdivision thereof.

“(4) QUALIFIED ISSUER.—The term ‘qualified issuer’ means—

- “(A) a clean renewable energy bond lender,
- “(B) a cooperative electric company, or
- “(C) a governmental body.

“(5) QUALIFIED BORROWER.—The term ‘qualified borrower’ means—

- “(A) a mutual or cooperative electric company described in section 501(c)(12) or 1381(a)(2)(C), or
- “(B) a governmental body.

“(k) SPECIAL RULES RELATING TO POOL BONDS.—No portion of a pooled financing bond may be allocable to any loan unless the borrower has entered into a written loan commitment for such portion prior to the issue date of such issue.

“(l) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

“(1) BOND.—The term ‘bond’ includes any obligation.

“(2) POOLED FINANCING BOND.—The term ‘pooled financing bond’ shall have the meaning given such term by section 149(f)(4)(A).

- Applicability. “(3) PARTNERSHIP; S CORPORATION; AND OTHER PASS-THRU ENTITIES.—
- Regulations. “(A) IN GENERAL.—Under regulations prescribed by the Secretary, in the case of a partnership, trust, S corporation, or other pass-thru entity, rules similar to the rules of section 41(g) shall apply with respect to the credit allowable under subsection (a).
“(B) NO BASIS ADJUSTMENT.—In the case of a bond held by a partnership or an S corporation, rules similar to the rules under section 1397E(i) shall apply.
- Procedures. “(4) BONDS HELD BY REGULATED INVESTMENT COMPANIES.—If any clean renewable energy bond is held by a regulated investment company, the credit determined under subsection (a) shall be allowed to shareholders of such company under procedures prescribed by the Secretary.
“(5) TREATMENT FOR ESTIMATED TAX PURPOSES.—Solely for purposes of sections 6654 and 6655, the credit allowed by this section (determined without regard to subsection (c)) to a taxpayer by reason of holding a clean renewable energy bond on a credit allowance date shall be treated as if it were a payment of estimated tax made by the taxpayer on such date.
“(6) RATABLE PRINCIPAL AMORTIZATION REQUIRED.—A bond shall not be treated as a clean renewable energy bond unless it is part of an issue which provides for an equal amount of principal to be paid by the qualified issuer during each calendar year that the issue is outstanding.
“(7) REPORTING.—Issuers of clean renewable energy bonds shall submit reports similar to the reports required under section 149(e).
“(m) TERMINATION.—This section shall not apply with respect to any bond issued after December 31, 2007.”.
- (b) REPORTING.—Subsection (d) of section 6049 (relating to returns regarding payments of interest) is amended by adding at the end the following new paragraph:
“(8) REPORTING OF CREDIT ON CLEAN RENEWABLE ENERGY BONDS.—
“(A) IN GENERAL.—For purposes of subsection (a), the term ‘interest’ includes amounts includible in gross income under section 54(g) and such amounts shall be treated as paid on the credit allowance date (as defined in section 54(b)(4)).
“(B) REPORTING TO CORPORATIONS, ETC.—Except as otherwise provided in regulations, in the case of any interest described in subparagraph (A), subsection (b)(4) shall be applied without regard to subparagraphs (A), (H), (I), (J), (K), and (L)(i) of such subsection.
“(C) REGULATORY AUTHORITY.—The Secretary may prescribe such regulations as are necessary or appropriate to carry out the purposes of this paragraph, including regulations which require more frequent or more detailed reporting.”.
- (c) CONFORMING AMENDMENTS.—
(1) The table of subparts for part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

“SUBPART H. NONREFUNDABLE CREDIT TO HOLDERS OF CERTAIN BONDS.”.

(2) Section 1397E(c)(2) is amended by inserting “, and subpart H thereof” after “refundable credits”.

(3) Subsection (h) of section 1397E is amended to read as follows:

“(h) CREDIT TREATED AS NONREFUNDABLE BONDHOLDER CREDIT.—For purposes of this title, the credit allowed by this section shall be treated as a credit allowable under subpart H of part IV of subchapter A of this chapter.”.

(4) Section 6401(b)(1) is amended by striking “and G” and inserting “G, and H”.

(d) ISSUANCE OF REGULATIONS.—The Secretary of the Treasury shall issue regulations required under section 54 of the Internal Revenue Code of 1986 (as added by this section) not later than 120 days after the date of the enactment of this Act.

Deadline.
26 USC 54 note.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after December 31, 2005.

26 USC 54 note.

SEC. 1304. TREATMENT OF INCOME OF CERTAIN ELECTRIC COOPERATIVES.

(a) ELIMINATION OF SUNSET ON TREATMENT OF INCOME FROM OPEN ACCESS AND NUCLEAR DECOMMISSIONING TRANSACTIONS.—Section 501(c)(12)(C) is amended by striking the last sentence.

(b) ELIMINATION OF SUNSET ON TREATMENT OF INCOME FROM LOAD LOSS TRANSACTIONS.—Section 501(c)(12)(H) is amended by striking clause (x).

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

26 USC 501 note.

SEC. 1305. DISPOSITIONS OF TRANSMISSION PROPERTY TO IMPLEMENT FERC RESTRUCTURING POLICY.

(a) IN GENERAL.—Section 451(i)(3) (defining qualifying electric transmission transaction) is amended by striking “2007” and inserting “2008”.

(b) TECHNICAL AMENDMENT RELATED TO SECTION 909 OF THE AMERICAN JOBS CREATION ACT OF 2004.—Clause (ii) of section 451(i)(4)(B) is amended by striking “the close of the period applicable under subsection (a)(2)(B) as extended under paragraph (2)” and inserting “December 31, 2007”.

(c) EFFECTIVE DATES.—

26 USC 451 note.

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to transactions occurring after the date of the enactment of this Act.

(2) TECHNICAL AMENDMENT.—The amendment made by subsection (b) shall take effect as if included in the amendments made by section 909 of the American Jobs Creation Act of 2004.

SEC. 1306. CREDIT FOR PRODUCTION FROM ADVANCED NUCLEAR POWER FACILITIES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding after section 45I the following new section:

“SEC. 45J. CREDIT FOR PRODUCTION FROM ADVANCED NUCLEAR POWER FACILITIES.

“(a) **GENERAL RULE.**—For purposes of section 38, the advanced nuclear power facility production credit of any taxpayer for any taxable year is equal to the product of—

“(1) 1.8 cents, multiplied by

“(2) the kilowatt hours of electricity—

“(A) produced by the taxpayer at an advanced nuclear power facility during the 8-year period beginning on the date the facility was originally placed in service, and

“(B) sold by the taxpayer to an unrelated person during the taxable year.

“(b) **NATIONAL LIMITATION.**—

“(1) **IN GENERAL.**—The amount of credit which would (but for this subsection and subsection (c)) be allowed with respect to any facility for any taxable year shall not exceed the amount which bears the same ratio to such amount of credit as—

“(A) the national megawatt capacity limitation allocated to the facility, bears to

“(B) the total megawatt nameplate capacity of such facility.

“(2) **AMOUNT OF NATIONAL LIMITATION.**—The national megawatt capacity limitation shall be 6,000 megawatts.

“(3) **ALLOCATION OF LIMITATION.**—The Secretary shall allocate the national megawatt capacity limitation in such manner as the Secretary may prescribe.

“(4) **REGULATIONS.**—Not later than 6 months after the date of the enactment of this section, the Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection. Such regulations shall provide a certification process under which the Secretary, after consultation with the Secretary of Energy, shall approve and allocate the national megawatt capacity limitation.

“(c) **OTHER LIMITATIONS.**—

“(1) **ANNUAL LIMITATION.**—The amount of the credit allowable under subsection (a) (after the application of subsection (b)) for any taxable year with respect to any facility shall not exceed an amount which bears the same ratio to \$125,000,000 as—

“(A) the national megawatt capacity limitation allocated under subsection (b) to the facility, bears to

“(B) 1,000.

“(2) **OTHER LIMITATIONS.**—Rules similar to the rules of section 45(b)(1) shall apply for purposes of this section.

“(d) **ADVANCED NUCLEAR POWER FACILITY.**—For purposes of this section—

“(1) **IN GENERAL.**—The term ‘advanced nuclear power facility’ means any advanced nuclear facility—

“(A) which is owned by the taxpayer and which uses nuclear energy to produce electricity, and

“(B) which is placed in service after the date of the enactment of this paragraph and before January 1, 2021.

“(2) **ADVANCED NUCLEAR FACILITY.**—For purposes of paragraph (1), the term ‘advanced nuclear facility’ means any nuclear facility the reactor design for which is approved after December 31, 1993, by the Nuclear Regulatory Commission

Deadline.

(and such design or a substantially similar design of comparable capacity was not approved on or before such date).

“(e) OTHER RULES TO APPLY.—Rules similar to the rules of paragraphs (1), (2), (3), (4), and (5) of section 45(e) shall apply for purposes of this section.”.

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b), as amended by the Transportation Equity Act: A Legacy for Users, is amended by striking “plus” at the end of paragraph (19), by striking the period at the end of paragraph (20) and inserting “, plus”, and by adding at the end the following:

“(21) the advanced nuclear power facility production credit determined under section 45J(a).”.

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following:

“Sec. 45J. Credit for production from advanced nuclear power facilities.”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to production in taxable years beginning after the date of the enactment of this Act.

26 USC 38 note.

SEC. 1307. CREDIT FOR INVESTMENT IN CLEAN COAL FACILITIES.

(a) IN GENERAL.—Section 46 (relating to amount of credit) is amended by striking “and” at the end of paragraph (1), by striking the period at the end of paragraph (2), and by adding at the end the following new paragraphs:

“(3) the qualifying advanced coal project credit, and

“(4) the qualifying gasification project credit.”.

(b) AMOUNT OF CREDITS.—Subpart E of part IV of subchapter A of chapter 1 (relating to rules for computing investment credit) is amended by inserting after section 48 the following new sections:

“SEC. 48A. QUALIFYING ADVANCED COAL PROJECT CREDIT.

“(a) IN GENERAL.—For purposes of section 46, the qualifying advanced coal project credit for any taxable year is an amount equal to—

“(1) 20 percent of the qualified investment for such taxable year in the case of projects described in subsection (d)(3)(B)(i), and

“(2) 15 percent of the qualified investment for such taxable year in the case of projects described in subsection (d)(3)(B)(ii).

“(b) QUALIFIED INVESTMENT.—

“(1) IN GENERAL.—For purposes of subsection (a), the qualified investment for any taxable year is the basis of eligible property placed in service by the taxpayer during such taxable year which is part of a qualifying advanced coal project—

“(A)(i) the construction, reconstruction, or erection of which is completed by the taxpayer, or

“(ii) which is acquired by the taxpayer if the original use of such property commences with the taxpayer, and

“(B) with respect to which depreciation (or amortization in lieu of depreciation) is allowable.

“(2) SPECIAL RULE FOR CERTAIN SUBSIDIZED PROPERTY.—Rules similar to section 48(a)(4) shall apply for purposes of this section.

“(3) CERTAIN QUALIFIED PROGRESS EXPENDITURES RULES MADE APPLICABLE.—Rules similar to the rules of subsections (c)(4) and (d) of section 46 (as in effect on the day before

the enactment of the Revenue Reconciliation Act of 1990) shall apply for purposes of this section.

“(c) DEFINITIONS.—For purposes of this section—

“(1) QUALIFYING ADVANCED COAL PROJECT.—The term ‘qualifying advanced coal project’ means a project which meets the requirements of subsection (e).

“(2) ADVANCED COAL-BASED GENERATION TECHNOLOGY.—The term ‘advanced coal-based generation technology’ means a technology which meets the requirements of subsection (f).

“(3) ELIGIBLE PROPERTY.—The term ‘eligible property’ means—

“(A) in the case of any qualifying advanced coal project using an integrated gasification combined cycle, any property which is a part of such project and is necessary for the gasification of coal, including any coal handling and gas separation equipment, and

“(B) in the case of any other qualifying advanced coal project, any property which is a part of such project.

“(4) COAL.—The term ‘coal’ means anthracite, bituminous coal, subbituminous coal, lignite, and peat.

“(5) GREENHOUSE GAS CAPTURE CAPABILITY.—The term ‘greenhouse gas capture capability’ means an integrated gasification combined cycle technology facility capable of adding components which can capture, separate on a long-term basis, isolate, remove, and sequester greenhouse gases which result from the generation of electricity.

“(6) ELECTRIC GENERATION UNIT.—The term ‘electric generation unit’ means any facility at least 50 percent of the total annual net output of which is electrical power, including an otherwise eligible facility which is used in an industrial application.

“(7) INTEGRATED GASIFICATION COMBINED CYCLE.—The term ‘integrated gasification combined cycle’ means an electric generation unit which produces electricity by converting coal to synthesis gas which is used to fuel a combined-cycle plant which produces electricity from both a combustion turbine (including a combustion turbine/fuel cell hybrid) and a steam turbine.

Deadlines.

“(d) QUALIFYING ADVANCED COAL PROJECT PROGRAM.—

“(1) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this section, the Secretary, in consultation with the Secretary of Energy, shall establish a qualifying advanced coal project program for the deployment of advanced coal-based generation technologies.

“(2) CERTIFICATION.—

“(A) APPLICATION PERIOD.—Each applicant for certification under this paragraph shall submit an application meeting the requirements of subparagraph (B). An applicant may only submit an application during the 3-year period beginning on the date the Secretary establishes the program under paragraph (1).

“(B) REQUIREMENTS FOR APPLICATIONS FOR CERTIFICATION.—An application under subparagraph (A) shall contain such information as the Secretary may require in order to make a determination to accept or reject an application for certification as meeting the requirements under subsection (e)(1). Any information contained in the

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information.

application shall be protected as provided in section 552(b)(4) of title 5, United States Code.

“(C) TIME TO ACT UPON APPLICATIONS FOR CERTIFICATION.—The Secretary shall issue a determination as to whether an applicant has met the requirements under subsection (e)(1) within 60 days following the date of submittal of the application for certification.

“(D) TIME TO MEET CRITERIA FOR CERTIFICATION.—Each applicant for certification shall have 2 years from the date of acceptance by the Secretary of the application during which to provide to the Secretary evidence that the criteria set forth in subsection (e)(2) have been met.

“(E) PERIOD OF ISSUANCE.—An applicant which receives a certification shall have 5 years from the date of issuance of the certification in order to place the project in service and if such project is not placed in service by that time period then the certification shall no longer be valid.

“(3) AGGREGATE CREDITS.—

“(A) IN GENERAL.—The aggregate credits allowed under subsection (a) for projects certified by the Secretary under paragraph (2) may not exceed \$1,300,000,000.

“(B) PARTICULAR PROJECTS.—Of the dollar amount in subparagraph (A), the Secretary is authorized to certify—

“(i) \$800,000,000 for integrated gasification combined cycle projects, and

“(ii) \$500,000,000 for projects which use other advanced coal-based generation technologies.

“(4) REVIEW AND REDISTRIBUTION.—

“(A) REVIEW.—Not later than 6 years after the date of enactment of this section, the Secretary shall review the credits allocated under this section as of the date which is 6 years after the date of enactment of this section.

“(B) REDISTRIBUTION.—The Secretary may reallocate credits available under clauses (i) and (ii) of paragraph (3)(B) if the Secretary determines that—

“(i) there is an insufficient quantity of qualifying applications for certification pending at the time of the review, or

“(ii) any certification made pursuant to subsection paragraph (2) has been revoked pursuant to subsection paragraph (2)(D) because the project subject to the certification has been delayed as a result of third party opposition or litigation to the proposed project.

“(C) REALLOCATION.—If the Secretary determines that credits under clause (i) or (ii) of paragraph (3)(B) are available for reallocation pursuant to the requirements set forth in paragraph (2), the Secretary is authorized to conduct an additional program for applications for certification.

“(e) QUALIFYING ADVANCED COAL PROJECTS.—

“(1) REQUIREMENTS.—For purposes of subsection (c)(1), a project shall be considered a qualifying advanced coal project that the Secretary may certify under subsection (d)(2) if the Secretary determines that, at a minimum—

“(A) the project uses an advanced coal-based generation technology—

“(i) to power a new electric generation unit; or

“(ii) to retrofit or repower an existing electric generation unit (including an existing natural gas-fired combined cycle unit);

“(B) the fuel input for the project, when completed, is at least 75 percent coal;

“(C) the project, consisting of one or more electric generation units at one site, will have a total nameplate generating capacity of at least 400 megawatts;

“(D) the applicant provides evidence that a majority of the output of the project is reasonably expected to be acquired or utilized;

“(E) the applicant provides evidence of ownership or control of a site of sufficient size to allow the proposed project to be constructed and to operate on a long-term basis; and

“(F) the project will be located in the United States.

“(2) REQUIREMENTS FOR CERTIFICATION.—For the purpose of subsection (d)(2)(D), a project shall be eligible for certification only if the Secretary determines that—

“(A) the applicant for certification has received all Federal and State environmental authorizations or reviews necessary to commence construction of the project; and

“(B) the applicant for certification, except in the case of a retrofit or repower of an existing electric generation unit, has purchased or entered into a binding contract for the purchase of the main steam turbine or turbines for the project, except that such contract may be contingent upon receipt of a certification under subsection (d)(2).

“(3) PRIORITY FOR INTEGRATED GASIFICATION COMBINED CYCLE PROJECTS.—In determining which qualifying advanced coal projects to certify under subsection (d)(2), the Secretary shall—

“(A) certify capacity, in accordance with the procedures set forth in subsection (d), in relatively equal amounts to—

“(i) projects using bituminous coal as a primary feedstock,

“(ii) projects using subbituminous coal as a primary feedstock, and

“(iii) projects using lignite as a primary feedstock, and

“(B) give high priority to projects which include, as determined by the Secretary—

“(i) greenhouse gas capture capability,

“(ii) increased by-product utilization, and

“(iii) other benefits.

“(f) ADVANCED COAL-BASED GENERATION TECHNOLOGY.—

“(1) IN GENERAL.—For the purpose of this section, an electric generation unit uses advanced coal-based generation technology if—

“(A) the unit—

“(i) uses integrated gasification combined cycle technology, or

“(ii) except as provided in paragraph (3), has a design net heat rate of 8530 Btu/kWh (40 percent efficiency), and

“(B) the unit is designed to meet the performance requirements in the following table:

Performance characteristic:	Design level for project:
SO ₂ (percent removal)	99 percent
NO _x (emissions)	0.07 lbs/MMBTU
PM* (emissions)	0.015 lbs/MMBTU
Hg (percent removal)	90 percent

“(2) DESIGN NET HEAT RATE.—For purposes of this subsection, design net heat rate with respect to an electric generation unit shall—

“(A) be measured in Btu per kilowatt hour (higher heating value),

“(B) be based on the design annual heat input to the unit and the rated net electrical power, fuels, and chemicals output of the unit (determined without regard to the cogeneration of steam by the unit),

“(C) be adjusted for the heat content of the design coal to be used by the unit—

“(i) if the heat content is less than 13,500 Btu per pound, but greater than 7,000 Btu per pound, according to the following formula: design net heat rate = unit net heat rate x $[1 - ((13,500 - \text{design coal heat content, Btu per pound}) / 1,000) * 0.013]$, and

“(ii) if the heat content is less than or equal to 7,000 Btu per pound, according to the following formula: design net heat rate = unit net heat rate x $[1 - ((13,500 - \text{design coal heat content, Btu per pound}) / 1,000) * 0.018]$, and

“(D) be corrected for the site reference conditions of—

“(i) elevation above sea level of 500 feet,

“(ii) air pressure of 14.4 pounds per square inch absolute,

“(iii) temperature, dry bulb of 63°F,

“(iv) temperature, wet bulb of 54°F, and

“(v) relative humidity of 55 percent.

“(3) EXISTING UNITS.—In the case of any electric generation unit in existence on the date of the enactment of this section, such unit uses advanced coal-based generation technology if, in lieu of the requirements under paragraph (1)(A)(ii), such unit achieves a minimum efficiency of 35 percent and an overall thermal design efficiency improvement, compared to the efficiency of the unit as operated, of not less than—

“(A) 7 percentage points for coal of more than 9,000 Btu,

“(B) 6 percentage points for coal of 7,000 to 9,000 Btu, or

“(C) 4 percentage points for coal of less than 7,000 Btu.

“(g) APPLICABILITY.—No use of technology (or level of emission reduction solely by reason of the use of the technology), and no achievement of any emission reduction by the demonstration of any technology or performance level, by or at one or more facilities with respect to which a credit is allowed under this section, shall

be considered to indicate that the technology or performance level is—

“(1) adequately demonstrated for purposes of section 111 of the Clean Air Act (42 U.S.C. 7411);

“(2) achievable for purposes of section 169 of that Act (42 U.S.C. 7479); or

“(3) achievable in practice for purposes of section 171 of such Act (42 U.S.C. 7501).

“SEC. 48B. QUALIFYING GASIFICATION PROJECT CREDIT.

“(a) IN GENERAL.—For purposes of section 46, the qualifying gasification project credit for any taxable year is an amount equal to 20 percent of the qualified investment for such taxable year.

“(b) QUALIFIED INVESTMENT.—

“(1) IN GENERAL.—For purposes of subsection (a), the qualified investment for any taxable year is the basis of eligible property placed in service by the taxpayer during such taxable year which is part of a qualifying gasification project—

“(A)(i) the construction, reconstruction, or erection of which is completed by the taxpayer, or

“(ii) which is acquired by the taxpayer if the original use of such property commences with the taxpayer, and

“(B) with respect to which depreciation (or amortization in lieu of depreciation) is allowable.

“(2) SPECIAL RULE FOR CERTAIN SUBSIDIZED PROPERTY.—Rules similar to section 48(a)(4) shall apply for purposes of this section.

“(3) CERTAIN QUALIFIED PROGRESS EXPENDITURES RULES MADE APPLICABLE.—Rules similar to the rules of subsections (c)(4) and (d) of section 46 (as in effect on the day before the enactment of the Revenue Reconciliation Act of 1990) shall apply for purposes of this section.

“(c) DEFINITIONS.—For purposes of this section—

“(1) QUALIFYING GASIFICATION PROJECT.—The term ‘qualifying gasification project’ means any project which—

“(A) employs gasification technology,

“(B) will be carried out by an eligible entity, and

“(C) any portion of the qualified investment of which is certified under the qualifying gasification program as eligible for credit under this section in an amount (not to exceed \$650,000,000) determined by the Secretary.

“(2) GASIFICATION TECHNOLOGY.—The term ‘gasification technology’ means any process which converts a solid or liquid product from coal, petroleum residue, biomass, or other materials which are recovered for their energy or feedstock value into a synthesis gas composed primarily of carbon monoxide and hydrogen for direct use or subsequent chemical or physical conversion.

“(3) ELIGIBLE PROPERTY.—The term ‘eligible property’ means any property which is a part of a qualifying gasification project and is necessary for the gasification technology of such project.

“(4) BIOMASS.—

“(A) IN GENERAL.—The term ‘biomass’ means any—

“(i) agricultural or plant waste,

“(ii) byproduct of wood or paper mill operations, including lignin in spent pulping liquors, and

“(iii) other products of forestry maintenance.

“(B) EXCLUSION.—The term ‘biomass’ does not include paper which is commonly recycled.

“(5) CARBON CAPTURE CAPABILITY.—The term ‘carbon capture capability’ means a gasification plant design which is determined by the Secretary to reflect reasonable consideration for, and be capable of, accommodating the equipment likely to be necessary to capture carbon dioxide from the gaseous stream, for later use or sequestration, which would otherwise be emitted in the flue gas from a project which uses a nonrenewable fuel.

“(6) COAL.—The term ‘coal’ means anthracite, bituminous coal, subbituminous coal, lignite, and peat.

“(7) ELIGIBLE ENTITY.—The term ‘eligible entity’ means any person whose application for certification is principally intended for use in a domestic project which employs domestic gasification applications related to—

“(A) chemicals,

“(B) fertilizers,

“(C) glass,

“(D) steel,

“(E) petroleum residues,

“(F) forest products, and

“(G) agriculture, including feedlots and dairy operations.

“(8) PETROLEUM RESIDUE.—The term ‘petroleum residue’ means the carbonized product of high-boiling hydrocarbon fractions obtained in petroleum processing.

“(d) QUALIFYING GASIFICATION PROJECT PROGRAM.—

“(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this section, the Secretary, in consultation with the Secretary of Energy, shall establish a qualifying gasification project program to consider and award certifications for qualified investment eligible for credits under this section to qualifying gasification project sponsors under this section. The total amounts of credit that may be allocated under the program shall not exceed \$350,000,000 under rules similar to the rules of section 48A(d)(4). Deadline.

“(2) PERIOD OF ISSUANCE.—A certificate of eligibility under paragraph (1) may be issued only during the 10-fiscal year period beginning on October 1, 2005. Deadline.

“(3) SELECTION CRITERIA.—The Secretary shall not make a competitive certification award for qualified investment for credit eligibility under this section unless the recipient has documented to the satisfaction of the Secretary that—

“(A) the award recipient is financially viable without the receipt of additional Federal funding associated with the proposed project,

“(B) the recipient will provide sufficient information to the Secretary for the Secretary to ensure that the qualified investment is spent efficiently and effectively,

“(C) a market exists for the products of the proposed project as evidenced by contracts or written statements of intent from potential customers,

“(D) the fuels identified with respect to the gasification technology for such project will comprise at least 90 percent of the fuels required by the project for the production

of chemical feedstocks, liquid transportation fuels, or co-production of electricity,

“(E) the award recipient’s project team is competent in the construction and operation of the gasification technology proposed, with preference given to those recipients with experience which demonstrates successful and reliable operations of the technology on domestic fuels so identified, and

“(F) the award recipient has met other criteria established and published by the Secretary.

“(e) DENIAL OF DOUBLE BENEFIT.—A credit shall not be allowed under this section for any qualified investment for which a credit is allowed under section 48A.”.

(c) CONFORMING AMENDMENTS.—

(1) Section 49(a)(1)(C) is amended by striking “and” at the end of clause (ii), by striking clause (iii), and by adding after clause (ii) the following new clauses:

“(iii) the basis of any property which is part of a qualifying advanced coal project under section 48A, and

“(iv) the basis of any property which is part of a qualifying gasification project under section 48B.”.

(2) The table of sections for subpart E of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 48 the following new items:

“Sec. 48A. Qualifying advanced coal project credit.

“Sec. 48B. Qualifying gasification project credit.”.

26 USC 46 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after the date of the enactment of this Act, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 1308. ELECTRIC TRANSMISSION PROPERTY TREATED AS 15-YEAR PROPERTY.

(a) IN GENERAL.—Subparagraph (E) of section 168(e)(3) (relating to classification of certain property) is amended by striking “and” at the end of clause (v), by striking the period at the end of clause (vi) and inserting “, and”, and by adding at the end the following new clause:

“(vii) any section 1245 property (as defined in section 1245(a)(3)) used in the transmission at 69 or more kilovolts of electricity for sale and the original use of which commences with the taxpayer after April 11, 2005.”.

(b) ALTERNATIVE SYSTEM.—The table contained in section 168(g)(3)(B) (relating to special rule for certain property assigned to classes) is amended by inserting after the item relating to subparagraph (E)(vi) the following new item:

“(E)(vii) 30”.

26 USC 168 note.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to property placed in service after April 11, 2005.

(2) EXCEPTION.—The amendments made by this section shall not apply to any property with respect to which the taxpayer or a related party has entered into a binding contract for the construction thereof on or before April 11, 2005, or, in the case of self-constructed property, has started construction on or before such date.

SEC. 1309. EXPANSION OF AMORTIZATION FOR CERTAIN ATMOSPHERIC POLLUTION CONTROL FACILITIES IN CONNECTION WITH PLANTS FIRST PLACED IN SERVICE AFTER 1975.

(a) ELIGIBILITY OF POST-1975 POLLUTION CONTROL FACILITIES.—Subsection (d) of section 169 (relating to definitions) is amended by adding at the end the following:

“(5) SPECIAL RULE RELATING TO CERTAIN ATMOSPHERIC POLLUTION CONTROL FACILITIES.—In the case of any atmospheric pollution control facility which is placed in service after April 11, 2005, and used in connection with an electric generation plant or other property which is primarily coal fired—

“(A) paragraph (1) shall be applied without regard to the phrase ‘in operation before January 1, 1976’, and

“(B) this section shall be applied by substituting ‘84’ for ‘60’ each place it appears in subsections (a) and (b).”.

(b) TREATMENT AS NEW IDENTIFIABLE TREATMENT FACILITY.—Subparagraph (B) of section 169(d)(4) is amended to read as follows:

“(B) CERTAIN FACILITIES PLACED IN OPERATION AFTER APRIL 11, 2005.—In the case of any facility described in paragraph (1) solely by reason of paragraph (5), subparagraph (A) shall be applied by substituting ‘April 11, 2005’ for ‘December 31, 1968’ each place it appears therein.”.

(c) CONFORMING AMENDMENT.—The heading for section 169(d) is amended by inserting “AND SPECIAL RULES” after “DEFINITIONS”.

(d) TECHNICAL AMENDMENT.—Section 169(d)(3) is amended by striking “Health, Education, and Welfare” and inserting “Health and Human Services”.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to facilities placed in service after April 11, 2005.

26 USC 169 note.

SEC. 1310. MODIFICATIONS TO SPECIAL RULES FOR NUCLEAR DECOMMISSIONING COSTS.

(a) REPEAL OF LIMITATION ON DEPOSITS INTO FUND BASED ON COST OF SERVICE; CONTRIBUTIONS AFTER FUNDING PERIOD.—Subsection (b) of section 468A (relating to special rules for nuclear decommissioning costs) is amended to read as follows:

“(b) LIMITATION ON AMOUNTS PAID INTO FUND.—The amount which a taxpayer may pay into the Fund for any taxable year shall not exceed the ruling amount applicable to such taxable year.”.

(b) TREATMENT OF CERTAIN DECOMMISSIONING COSTS.—

(1) IN GENERAL.—Section 468A is amended by redesignating subsections (f) and (g) as subsections (g) and (h), respectively, and by inserting after subsection (e) the following new subsection:

“(f) TRANSFERS INTO QUALIFIED FUNDS.—

“(1) IN GENERAL.—Notwithstanding subsection (b), any taxpayer maintaining a Fund to which this section applies with respect to a nuclear power plant may transfer into such Fund not more than an amount equal to the present value of the

portion of the total nuclear decommissioning costs with respect to such nuclear power plant previously excluded for such nuclear power plant under subsection (d)(2)(A) as in effect immediately before the date of the enactment of this subsection.

“(2) DEDUCTION FOR AMOUNTS TRANSFERRED.—

“(A) IN GENERAL.—Except as provided in subparagraph (C), the deduction allowed by subsection (a) for any transfer permitted by this subsection shall be allowed ratably over the remaining estimated useful life (within the meaning of subsection (d)(2)(A)) of the nuclear power plant beginning with the taxable year during which the transfer is made.

“(B) DENIAL OF DEDUCTION FOR PREVIOUSLY DEDUCTED AMOUNTS.—No deduction shall be allowed for any transfer under this subsection of an amount for which a deduction was previously allowed to the taxpayer (or a predecessor) or a corresponding amount was not included in gross income of the taxpayer (or a predecessor). For purposes of the preceding sentence, a ratable portion of each transfer shall be treated as being from previously deducted or excluded amounts to the extent thereof.

“(C) TRANSFERS OF QUALIFIED FUNDS.—If—

“(i) any transfer permitted by this subsection is made to any Fund to which this section applies, and

“(ii) such Fund is transferred thereafter,
any deduction under this subsection for taxable years ending after the date that such Fund is transferred shall be allowed to the transferor for the taxable year which includes such date.

“(D) SPECIAL RULES.—

“(i) GAIN OR LOSS NOT RECOGNIZED ON TRANSFERS TO FUND.—No gain or loss shall be recognized on any transfer described in paragraph (1).

“(ii) TRANSFERS OF APPRECIATED PROPERTY TO FUND.—If appreciated property is transferred in a transfer described in paragraph (1), the amount of the deduction shall not exceed the adjusted basis of such property.

“(3) NEW RULING AMOUNT REQUIRED.—Paragraph (1) shall not apply to any transfer unless the taxpayer requests from the Secretary a new schedule of ruling amounts in connection with such transfer.

“(4) NO BASIS IN QUALIFIED FUNDS.—Notwithstanding any other provision of law, the taxpayer’s basis in any Fund to which this section applies shall not be increased by reason of any transfer permitted by this subsection.”

(2) NEW RULING AMOUNT TO TAKE INTO ACCOUNT TOTAL COSTS.—Subparagraph (A) of section 468A(d)(2) (defining ruling amount) is amended to read as follows:

“(A) fund the total nuclear decommissioning costs with respect to such power plant over the estimated useful life of such power plant, and”

(c) NEW RULING AMOUNT REQUIRED UPON LICENSE RENEWAL.—Paragraph (1) of section 468A(d) (relating to request required) is amended by adding at the end the following new sentence: “For purposes of the preceding sentence, the taxpayer shall request a schedule of ruling amounts upon each renewal of the operating license of the nuclear powerplant.”

(d) CONFORMING AMENDMENT.—Section 468A(e)(3) (relating to review of amount) is amended by striking “The Fund” and inserting “Except as provided in subsection (f), the Fund”.

(e) TECHNICAL AMENDMENTS.—Section 468A(e)(2) (relating to taxation of Fund) is amended—

(1) by striking “rate set forth in subparagraph (B)” in subparagraph (A) and inserting “rate of 20 percent”,

(2) by striking subparagraph (B), and

(3) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005. 26 USC 468A note.

SEC. 1311. FIVE-YEAR NET OPERATING LOSS CARRYOVER FOR CERTAIN LOSSES.

Paragraph (1) of section 172(b) (relating to net operating loss carrybacks and carryovers) is amended by adding at the end the following new subparagraph:

“(I) TRANSMISSION PROPERTY AND POLLUTION CONTROL INVESTMENT.—

“(i) IN GENERAL.—At the election of the taxpayer in any taxable year ending after December 31, 2005, and before January 1, 2009, in the case of a net operating loss in a taxable year ending after December 31, 2002, and before January 1, 2006, there shall be a net operating loss carryback to each of the 5 years preceding the taxable year of such loss to the extent that such loss does not exceed 20 percent of the sum of electric transmission property capital expenditures and pollution control facility capital expenditures of the taxpayer for the taxable year preceding the taxable year in which such election is made.

“(ii) LIMITATIONS.—For purposes of this subsection—

“(I) not more than one election may be made under clause (i) with respect to any net operating loss in a taxable year, and

“(II) an election may not be made under clause (i) for more than 1 taxable year beginning in any calendar year.

“(iii) COORDINATION WITH ORDERING RULE.—For purposes of applying subsection (b)(2), the portion of any loss which is carried back 5 years by reason of clause (i) shall be treated in a manner similar to the manner in which a specified liability loss is treated.

“(iv) APPLICATION FOR ADJUSTMENT.—In the case of any portion of a net operating loss to which an election under clause (i) applies, an application under section 6411(a) with respect to such loss shall not fail to be treated as timely filed if filed within 24 months after the due date specified under such section. Deadline.

“(v) SPECIAL RULES RELATING TO REFUND.—For purposes of a net operating loss to which an election under clause (i) applies, references in sections 6501(h), 6511(d)(2)(A), and 6611(f)(1) to the taxable year in which such net operating loss arises or result in a

net loss carryback shall be treated as references to the taxable year in which such election occurs.

“(vi) DEFINITIONS.—For purposes of this subparagraph—

“(I) ELECTRIC TRANSMISSION PROPERTY CAPITAL EXPENDITURES.—The term ‘electric transmission property capital expenditures’ means any expenditure, chargeable to capital account, made by the taxpayer which is attributable to electric transmission property used by the taxpayer in the transmission at 69 or more kilovolts of electricity for sale. Such term shall not include any expenditure which may be refunded or the purpose of which may be modified at the option of the taxpayer so as to cease to be treated as an expenditure within the meaning of such term.

“(II) POLLUTION CONTROL FACILITY CAPITAL EXPENDITURES.—The term ‘pollution control facility capital expenditures’ means any expenditure, chargeable to capital account, made by an electric utility company (as defined in section 2(3) of the Public Utility Holding Company Act (15 U.S.C. 79b(3)), as in effect on the day before the date of the enactment of the Energy Tax Incentives Act of 2005) which is attributable to a facility which will qualify as a certified pollution control facility as determined under section 169(d)(1) by striking ‘before January 1, 1976,’ and by substituting ‘an identifiable’ for ‘a new identifiable’. Such term shall not include any expenditure which may be refunded or the purpose of which may be modified at the option of the taxpayer so as to cease to be treated as an expenditure within the meaning of such term.”.

Subtitle B—Domestic Fossil Fuel Security

SEC. 1321. EXTENSION OF CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE FOR FACILITIES PRODUCING COKE OR COKE GAS.

(a) IN GENERAL.—Section 29 (relating to credit for producing fuel from a nonconventional source) is amended by adding at the end the following new subsection:

“(h) EXTENSION FOR FACILITIES PRODUCING COKE OR COKE GAS.—Notwithstanding subsection (f)—

“(1) IN GENERAL.—In the case of a facility for producing coke or coke gas which was placed in service before January 1, 1993, or after June 30, 1998, and before January 1, 2010, this section shall apply with respect to coke and coke gas produced in such facility and sold during the period—

“(A) beginning on the later of January 1, 2006, or the date that such facility is placed in service, and

“(B) ending on the date which is 4 years after the date such period began.

“(2) SPECIAL RULES.—In determining the amount of credit allowable under this section solely by reason of this subsection—

“(A) DAILY LIMIT.—The amount of qualified fuels sold during any taxable year which may be taken into account by reason of this subsection with respect to any facility shall not exceed an average barrel-of-oil equivalent of 4,000 barrels per day. Days before the date the facility is placed in service shall not be taken into account in determining such average.

“(B) EXTENSION PERIOD TO COMMENCE WITH UNADJUSTED CREDIT AMOUNT.—For purposes of applying subsection (b)(2) to the \$3 amount in subsection (a), in the case of fuels sold after 2005, subsection (d)(2)(B) shall be applied by substituting ‘2004’ for ‘1979’.

“(C) DENIAL OF DOUBLE BENEFIT.—This subsection shall not apply to any facility producing qualified fuels for which a credit was allowed under this section for the taxable year or any preceding taxable year by reason of subsection (g).”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to fuel produced and sold after December 31, 2005, in taxable years ending after such date. 26 USC 29 note.

SEC. 1322. MODIFICATION OF CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.

(a) TREATMENT AS BUSINESS CREDIT.—

(1) CREDIT MOVED TO SUBPART RELATING TO BUSINESS RELATED CREDITS.—The Internal Revenue Code of 1986 is amended by redesignating section 29 as section 45K and by moving section 45K (as so redesignated) from subpart B of part IV of subchapter A of chapter 1 to the end of subpart D of part IV of subchapter A of chapter 1.

(2) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b), as amended by this Act, is amended by striking “plus” at the end of paragraph (20), by striking the period at the end of paragraph (21) and inserting “, plus”, and by adding at the end the following:

“(22) the nonconventional source production credit determined under section 45K(a).”.

(3) CONFORMING AMENDMENTS.—

(A) Section 30(b)(3)(A) is amended by striking “sections 27 and 29” and inserting “section 27”.

(B) Sections 43(b)(2), 45I(b)(2)(C)(i), and 613A(c)(6)(C) are each amended by striking “section 29(d)(2)(C)” and inserting “section 45K(d)(2)(C)”.

(C) Section 45(e)(9), as added by this Act, is amended—

(i) by striking “section 29” each place it appears and inserting “section 45K”, and

(ii) by inserting “(or under section 29, as in effect on the day before the date of enactment of the Energy Tax Incentives Act of 2005, for any prior taxable year)” before the period at the end thereof.

(D) Section 45I is amended—

(i) in subsection (c)(2)(A) by striking “section 29(d)(5))” and inserting “section 45K(d)(5))”, and

(ii) in subsection (d)(3) by striking “section 29” both places it appears and inserting “section 45K”.

(E) Section 45K(a), as redesignated by paragraph (1), is amended by striking “There shall be allowed as a credit against the tax imposed by this chapter for the taxable year” and inserting “For purposes of section 38, if the taxpayer elects to have this section apply, the nonconventional source production credit determined under this section for the taxable year is”.

(F) Section 45K(b), as so redesignated, is amended by striking paragraph (6).

(G) Section 53(d)(1)(B)(iii) is amended by striking “under section 29” and all that follows through “or not allowed”.

(H) Section 55(c)(3) is amended by striking “29(b)(6),”.

(I) Subsection (a) of section 772 is amended by inserting “and” at the end of paragraph (9), by striking paragraph (10), and by redesignating paragraph (11) as paragraph (10).

(J) Paragraph (5) of section 772(d) is amended by striking “the foreign tax credit, and the credit allowable under section 29” and inserting “and the foreign tax credit”.

(K) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 29.

(L) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 45I the following new item:

“Sec. 45K. Credit for producing fuel from a nonconventional source.”.

(b) AMENDMENTS CONFORMING TO THE REPEAL OF THE NATURAL GAS POLICY ACT OF 1978.—

(1) IN GENERAL.—Section 29(c)(2)(A) (before redesignation under subsection (a) and as amended by section 1321) is amended—

(A) by inserting “(as in effect before the repeal of such section)” after “1978”, and

(B) by striking subsection (e) and redesignating subsections (f), (g), and (h) as subsections (e), (f), and (g), respectively.

(2) CONFORMING AMENDMENTS.—Section 29(g)(1) (before redesignation under subsection (a) and paragraph (1) of this subsection) is amended—

(A) in subparagraph (A) by striking “subsection (f)(1)(B)” and inserting “subsection (e)(1)(B)”, and

(B) in subparagraph (B) by striking “subsection (f)” and inserting “subsection (e)”.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to credits determined under the Internal Revenue Code of 1986 for taxable years ending after December 31, 2005.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall take effect on the date of the enactment of this Act.

SEC. 1323. TEMPORARY EXPENSING FOR EQUIPMENT USED IN REFINING OF LIQUID FUELS.

(a) **IN GENERAL.**—Part VI of subchapter B of chapter 1 is amended by inserting after section 179B the following new section:

“SEC. 179C. ELECTION TO EXPENSE CERTAIN REFINERIES.

“(a) **TREATMENT AS EXPENSES.**—A taxpayer may elect to treat 50 percent of the cost of any qualified refinery property as an expense which is not chargeable to capital account. Any cost so treated shall be allowed as a deduction for the taxable year in which the qualified refinery property is placed in service.

“(b) **ELECTION.**—

“(1) **IN GENERAL.**—An election under this section for any taxable year shall be made on the taxpayer’s return of the tax imposed by this chapter for the taxable year. Such election shall be made in such manner as the Secretary may by regulations prescribe.

“(2) **ELECTION IRREVOCABLE.**—Any election made under this section may not be revoked except with the consent of the Secretary.

“(c) **QUALIFIED REFINERY PROPERTY.**—

“(1) **IN GENERAL.**—The term ‘qualified refinery property’ means any portion of a qualified refinery—

“(A) the original use of which commences with the taxpayer,

“(B) which is placed in service by the taxpayer after the date of the enactment of this section and before January 1, 2012,

“(C) in the case any portion of a qualified refinery (other than a qualified refinery which is separate from any existing refinery), which meets the requirements of subsection (e),

“(D) which meets all applicable environmental laws in effect on the date such portion was placed in service,

“(E) no written binding contract for the construction of which was in effect on or before June 14, 2005, and

“(F)(i) the construction of which is subject to a written binding construction contract entered into before January 1, 2008,

“(ii) which is placed in service before January 1, 2008, or

“(iii) in the case of self-constructed property, the construction of which began after June 14, 2005, and before January 1, 2008.

“(2) **SPECIAL RULE FOR SALE-LEASEBACKS.**—For purposes of paragraph (1)(A), if property is—

“(A) originally placed in service after the date of the enactment of this section by a person, and

“(B) sold and leased back by such person within 3 months after the date such property was originally placed in service,

such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback referred to in subparagraph (B).

“(3) **EFFECT OF WAIVER UNDER CLEAN AIR ACT.**—A waiver under the Clean Air Act shall not be taken into account in

determining whether the requirements of paragraph (1)(D) are met.

“(d) QUALIFIED REFINERY.—For purposes of this section, the term ‘qualified refinery’ means any refinery located in the United States which is designed to serve the primary purpose of processing liquid fuel from crude oil or qualified fuels (as defined in section 45K(c)).

“(e) PRODUCTION CAPACITY.—The requirements of this subsection are met if the portion of the qualified refinery—

“(1) enables the existing qualified refinery to increase total volume output (determined without regard to asphalt or lube oil) by 5 percent or more on an average daily basis, or

“(2) enables the existing qualified refinery to process qualified fuels (as defined in section 45K(c)) at a rate which is equal to or greater than 25 percent of the total throughput of such qualified refinery on an average daily basis.

“(f) INELIGIBLE REFINERY PROPERTY.—No deduction shall be allowed under subsection (a) for any qualified refinery property—

“(1) the primary purpose of which is for use as a topping plant, asphalt plant, lube oil facility, crude or product terminal, or blending facility, or

“(2) which is built solely to comply with consent decrees or projects mandated by Federal, State, or local governments.

“(g) ELECTION TO ALLOCATE DEDUCTION TO COOPERATIVE OWNER.—

“(1) IN GENERAL.—If—

“(A) a taxpayer to which subsection (a) applies is an organization to which part I of subchapter T applies, and

“(B) one or more persons directly holding an ownership interest in the taxpayer are organizations to which part I of subchapter T apply,

the taxpayer may elect to allocate all or a portion of the deduction allowable under subsection (a) to such persons. Such allocation shall be equal to the person’s ratable share of the total amount allocated, determined on the basis of the person’s ownership interest in the taxpayer. The taxable income of the taxpayer shall not be reduced under section 1382 by reason of any amount to which the preceding sentence applies.

“(2) FORM AND EFFECT OF ELECTION.—An election under paragraph (1) for any taxable year shall be made on a timely filed return for such year. Such election, once made, shall be irrevocable for such taxable year.

“(3) WRITTEN NOTICE TO OWNERS.—If any portion of the deduction available under subsection (a) is allocated to owners under paragraph (1), the cooperative shall provide any owner receiving an allocation written notice of the amount of the allocation. Such notice shall be provided before the date on which the return described in paragraph (2) is due.

“(h) REPORTING.—No deduction shall be allowed under subsection (a) to any taxpayer for any taxable year unless such taxpayer files with the Secretary a report containing such information with respect to the operation of the refineries of the taxpayer as the Secretary shall require.”

(b) CONFORMING AMENDMENTS.—

(1) Section 1245(a) is amended by inserting “179C,” after “179B,” both places it appears in paragraphs (2)(C) and (3)(C).

Deadline.

(2) Section 263(a)(1) is amended by striking “or” at the end of subparagraph (H), by striking the period at the end of subparagraph (I) and inserting “, or”, and by inserting after subparagraph (I) the following new subparagraph:

“(J) expenditures for which a deduction is allowed under section 179C.”.

(3) Section 312(k)(3)(B) is amended by striking “179 179A, or 179B” each place it appears in the heading and text and inserting “179, 179A, 179B, or 179C”.

(4) The table of sections for part VI of subchapter B of chapter 1 is amended by inserting after the item relating to section 179B the following new item:

“Sec. 179C. Election to expense certain refineries.”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to properties placed in service after the date of the enactment of this Act. 26 USC 179C note.

SEC. 1324. PASS THROUGH TO OWNERS OF DEDUCTION FOR CAPITAL COSTS INCURRED BY SMALL REFINER COOPERATIVES IN COMPLYING WITH ENVIRONMENTAL PROTECTION AGENCY SULFUR REGULATIONS.

(a) **IN GENERAL.**—Section 179B (relating to deduction for capital costs incurred in complying with Environmental Protection Agency sulfur regulations) is amended by adding at the end the following new subsection:

“(e) **ELECTION TO ALLOCATE DEDUCTION TO COOPERATIVE OWNER.**—

“(1) **IN GENERAL.**—If—

“(A) a small business refiner to which subsection (a) applies is an organization to which part I of subchapter T applies, and

“(B) one or more persons directly holding an ownership interest in the refiner are organizations to which part I of subchapter T apply,

the refiner may elect to allocate all or a portion of the deduction allowable under subsection (a) to such persons. Such allocation shall be equal to the person’s ratable share of the total amount allocated, determined on the basis of the person’s ownership interest in the taxpayer. The taxable income of the refiner shall not be reduced under section 1382 by reason of any amount to which the preceding sentence applies.

“(2) **FORM AND EFFECT OF ELECTION.**—An election under paragraph (1) for any taxable year shall be made on a timely filed return for such year. Such election, once made, shall be irrevocable for such taxable year.

“(3) **WRITTEN NOTICE TO OWNERS.**—If any portion of the deduction available under subsection (a) is allocated to owners under paragraph (1), the cooperative shall provide any owner receiving an allocation written notice of the amount of the allocation. Such notice shall be provided before the date on which the return described in paragraph (2) is due.”.

Deadline.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall take effect as if included in the amendment made by section 338(a) of the American Jobs Creation Act of 2004. 26 USC 179B note.

SEC. 1325. NATURAL GAS DISTRIBUTION LINES TREATED AS 15-YEAR PROPERTY.

(a) **IN GENERAL.**—Section 168(e)(3)(E) (defining 15-year property), as amended by this Act, is amended by striking “and” at the end of clause (vi), by striking the period at the end of clause (vii) and by inserting “, and”, and by adding at the end the following new clause:

“(viii) any natural gas distribution line the original use of which commences with the taxpayer after April 11, 2005, and which is placed in service before January 1, 2011.”.

(b) **ALTERNATIVE SYSTEM.**—The table contained in section 168(g)(3)(B) (relating to special rule for certain property assigned to classes), as amended by this Act, is amended by inserting after the item relating to subparagraph (E)(vii) the following new item:

“(E)(viii) 35”.

26 USC 168 note.

(c) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—The amendments made by this section shall apply to property placed in service after April 11, 2005.

(2) **EXCEPTION.**—The amendments made by this section shall not apply to any property with respect to which the taxpayer or a related party has entered into a binding contract for the construction thereof on or before April 11, 2005, or, in the case of self-constructed property, has started construction on or before such date.

SEC. 1326. NATURAL GAS GATHERING LINES TREATED AS 7-YEAR PROPERTY.

(a) **IN GENERAL.**—Subparagraph (C) of section 168(e)(3) (relating to classification of certain property) is amended by striking “and” at the end of clause (iii), by redesignating clause (iv) as clause (v), and by inserting after clause (iii) the following new clause:

“(iv) any natural gas gathering line the original use of which commences with the taxpayer after April 11, 2005, and”.

(b) **NATURAL GAS GATHERING LINE.**—Subsection (i) of section 168 is amended by inserting after paragraph (16) the following new paragraph:

“(17) **NATURAL GAS GATHERING LINE.**—The term ‘natural gas gathering line’ means—

“(A) the pipe, equipment, and appurtenances determined to be a gathering line by the Federal Energy Regulatory Commission, and

“(B) the pipe, equipment, and appurtenances used to deliver natural gas from the wellhead or a commonpoint to the point at which such gas first reaches—

“(i) a gas processing plant,

“(ii) an interconnection with a transmission pipeline for which a certificate as an interstate transmission pipeline has been issued by the Federal Energy Regulatory Commission,

“(iii) an interconnection with an intrastate transmission pipeline, or

“(iv) a direct interconnection with a local distribution company, a gas storage facility, or an industrial consumer.”.

(c) **ALTERNATIVE SYSTEM.**—The table contained in section 168(g)(3)(B) (relating to special rule for certain property assigned to classes), as amended by this Act, is amended by inserting after the item relating to subparagraph (C)(iii) the following new item:

“(C)(iv) 14”.

(d) **ALTERNATIVE MINIMUM TAX EXCEPTION.**—Subparagraph (B) of section 56(a)(1) is amended by inserting before the period the following: “, or in section 168(e)(3)(C)(iv)”.

(e) **EFFECTIVE DATE.**—

26 USC 56 note.

(1) **IN GENERAL.**—The amendments made by this section shall apply to property placed in service after April 11, 2005.

(2) **EXCEPTION.**—The amendments made by this section shall not apply to any property with respect to which the taxpayer or a related party has entered into a binding contract for the construction thereof on or before April 11, 2005, or, in the case of self-constructed property, has started construction on or before such date.

SEC. 1327. ARBITRAGE RULES NOT TO APPLY TO PREPAYMENTS FOR NATURAL GAS.

(a) **IN GENERAL.**—Subsection (b) of section 148 (relating to higher yielding investments) is amended by adding at the end the following new paragraph:

“(4) **SAFE HARBOR FOR PREPAID NATURAL GAS.**—

“(A) **IN GENERAL.**—The term ‘investment-type property’ does not include a prepayment under a qualified natural gas supply contract.

“(B) **QUALIFIED NATURAL GAS SUPPLY CONTRACT.**—For purposes of this paragraph, the term ‘qualified natural gas supply contract’ means any contract to acquire natural gas for resale by a utility owned by a governmental unit if the amount of gas permitted to be acquired under the contract by the utility during any year does not exceed the sum of—

“(i) the annual average amount during the testing period of natural gas purchased (other than for resale) by customers of such utility who are located within the service area of such utility, and

“(ii) the amount of natural gas to be used to transport the prepaid natural gas to the utility during such year.

“(C) **NATURAL GAS USED TO GENERATE ELECTRICITY.**—Natural gas used to generate electricity shall be taken into account in determining the average under subparagraph (B)(i)—

“(i) only if the electricity is generated by a utility owned by a governmental unit, and

Contracts.

“(ii) only to the extent that the electricity is sold (other than for resale) to customers of such utility who are located within the service area of such utility.

“(D) ADJUSTMENTS FOR CHANGES IN CUSTOMER BASE.—

“(i) NEW BUSINESS CUSTOMERS.—If—

“(I) after the close of the testing period and before the date of issuance of the issue, the utility owned by a governmental unit enters into a contract to supply natural gas (other than for resale) for a business use at a property within the service area of such utility, and

“(II) the utility did not supply natural gas to such property during the testing period or the ratable amount of natural gas to be supplied under the contract is significantly greater than the ratable amount of gas supplied to such property during the testing period,

then a contract shall not fail to be treated as a qualified natural gas supply contract by reason of supplying the additional natural gas under the contract referred to in subclause (I).

“(ii) LOST CUSTOMERS.—The average under subparagraph (B)(i) shall not exceed the annual amount of natural gas reasonably expected to be purchased (other than for resale) by persons who are located within the service area of such utility and who, as of the date of issuance of the issue, are customers of such utility.

“(E) RULING REQUESTS.—The Secretary may increase the average under subparagraph (B)(i) for any period if the utility owned by the governmental unit establishes to the satisfaction of the Secretary that, based on objective evidence of growth in natural gas consumption or population, such average would otherwise be insufficient for such period.

“(F) ADJUSTMENT FOR NATURAL GAS OTHERWISE ON HAND.—

“(i) IN GENERAL.—The amount otherwise permitted to be acquired under the contract for any period shall be reduced by—

“(I) the applicable share of natural gas held by the utility on the date of issuance of the issue, and

“(II) the natural gas (not taken into account under subclause (I)) which the utility has a right to acquire during such period (determined as of the date of issuance of the issue).

“(ii) APPLICABLE SHARE.—For purposes of the clause (i), the term ‘applicable share’ means, with respect to any period, the natural gas allocable to such period if the gas were allocated ratably over the period to which the prepayment relates.

“(G) INTENTIONAL ACTS.—Subparagraph (A) shall cease to apply to any issue if the utility owned by the governmental unit engages in any intentional act to render the volume of natural gas acquired by such prepayment to be in excess of the sum of—

“(i) the amount of natural gas needed (other than for resale) by customers of such utility who are located within the service area of such utility, and

“(ii) the amount of natural gas used to transport such natural gas to the utility.

“(H) TESTING PERIOD.—For purposes of this paragraph, the term ‘testing period’ means, with respect to an issue, the most recent 5 calendar years ending before the date of issuance of the issue.

“(I) SERVICE AREA.—For purposes of this paragraph, the service area of a utility owned by a governmental unit shall be comprised of—

“(i) any area throughout which such utility provided at all times during the testing period—

“(I) in the case of a natural gas utility, natural gas transmission or distribution services, and

“(II) in the case of an electric utility, electricity distribution services,

“(ii) any area within a county contiguous to the area described in clause (i) in which retail customers of such utility are located if such area is not also served by another utility providing natural gas or electricity services, as the case may be, and

“(iii) any area recognized as the service area of such utility under State or Federal law.”.

(b) PRIVATE LOAN FINANCING TEST NOT TO APPLY TO PREPAYMENTS FOR NATURAL GAS.—Paragraph (2) of section 141(c) (providing exceptions to the private loan financing test) is amended by striking “or” at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting “, or”, and by adding at the end the following new subparagraph:

“(C) is a qualified natural gas supply contract (as defined in section 148(b)(4)).”.

(c) EXCEPTION FOR QUALIFIED ELECTRIC AND NATURAL GAS SUPPLY CONTRACTS.—Section 141(d) is amended by adding at the end the following new paragraph:

“(7) EXCEPTION FOR QUALIFIED ELECTRIC AND NATURAL GAS SUPPLY CONTRACTS.—The term ‘nongovernmental output property’ shall not include any contract for the prepayment of electricity or natural gas which is not investment property under section 148(b)(2).”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act. 26 USC 141 note.

SEC. 1328. DETERMINATION OF SMALL REFINER EXCEPTION TO OIL DEPLETION DEDUCTION.

(a) IN GENERAL.—Paragraph (4) of section 613A(d) (relating to limitations on application of subsection (c)) is amended to read as follows:

“(4) CERTAIN REFINERS EXCLUDED.—If the taxpayer or one or more related persons engages in the refining of crude oil, subsection (c) shall not apply to the taxpayer for a taxable year if the average daily refinery runs of the taxpayer and such persons for the taxable year exceed 75,000 barrels. For purposes of this paragraph, the average daily refinery runs

26 USC 613A
note.

for any taxable year shall be determined by dividing the aggregate refinery runs for the taxable year by the number of days in the taxable year.”

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 1329. AMORTIZATION OF GEOLOGICAL AND GEOPHYSICAL EXPENDITURES.

(a) **IN GENERAL.**—Section 167 (relating to depreciation) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

“(h) **AMORTIZATION OF GEOLOGICAL AND GEOPHYSICAL EXPENDITURES.**—

“(1) **IN GENERAL.**—Any geological and geophysical expenses paid or incurred in connection with the exploration for, or development of, oil or gas within the United States (as defined in section 638) shall be allowed as a deduction ratably over the 24-month period beginning on the date that such expense was paid or incurred.

“(2) **HALF-YEAR CONVENTION.**—For purposes of paragraph (1), any payment paid or incurred during the taxable year shall be treated as paid or incurred on the mid-point of such taxable year.

“(3) **EXCLUSIVE METHOD.**—Except as provided in this subsection, no depreciation or amortization deduction shall be allowed with respect to such payments.

“(4) **TREATMENT UPON ABANDONMENT.**—If any property with respect to which geological and geophysical expenses are paid or incurred is retired or abandoned during the 24-month period described in paragraph (1), no deduction shall be allowed on account of such retirement or abandonment and the amortization deduction under this subsection shall continue with respect to such payment.”

(b) **CONFORMING AMENDMENT.**—Section 263A(c)(3) is amended by inserting “167(h),” after “under section”.

26 USC 167 note.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after the date of the enactment of this Act.

Subtitle C—Conservation and Energy Efficiency Provisions

SEC. 1331. ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.

(a) **IN GENERAL.**—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations), as amended by this Act, is amended by inserting after section 179C the following new section:

“SEC. 179D. ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.

“(a) **IN GENERAL.**—There shall be allowed as a deduction an amount equal to the cost of energy efficient commercial building property placed in service during the taxable year.

“(b) **MAXIMUM AMOUNT OF DEDUCTION.**—The deduction under subsection (a) with respect to any building for any taxable year shall not exceed the excess (if any) of—

“(1) the product of—

“(A) \$1.80, and

“(B) the square footage of the building, over

“(2) the aggregate amount of the deductions under subsection (a) with respect to the building for all prior taxable years.

“(c) DEFINITIONS.—For purposes of this section—

“(1) ENERGY EFFICIENT COMMERCIAL BUILDING PROPERTY.—The term ‘energy efficient commercial building property’ means property—

“(A) with respect to which depreciation (or amortization in lieu of depreciation) is allowable,

“(B) which is installed on or in any building which is—

“(i) located in the United States, and

“(ii) within the scope of Standard 90.1-2001,

“(C) which is installed as part of—

“(i) the interior lighting systems,

“(ii) the heating, cooling, ventilation, and hot water systems, or

“(iii) the building envelope, and

“(D) which is certified in accordance with subsection (d)(6) as being installed as part of a plan designed to reduce the total annual energy and power costs with respect to the interior lighting systems, heating, cooling, ventilation, and hot water systems of the building by 50 percent or more in comparison to a reference building which meets the minimum requirements of Standard 90.1-2001 using methods of calculation under subsection (d)(2).

“(2) STANDARD 90.1-2001.—The term ‘Standard 90.1-2001’ means Standard 90.1-2001 of the American Society of Heating, Refrigerating, and Air Conditioning Engineers and the Illuminating Engineering Society of North America (as in effect on April 2, 2003).

“(d) SPECIAL RULES.—

“(1) PARTIAL ALLOWANCE.—

“(A) IN GENERAL.—Except as provided in subsection (f), if—

“(i) the requirement of subsection (c)(1)(D) is not met, but

“(ii) there is a certification in accordance with paragraph (6) that any system referred to in subsection (c)(1)(C) satisfies the energy-savings targets established by the Secretary under subparagraph (B) with respect to such system,

then the requirement of subsection (c)(1)(D) shall be treated as met with respect to such system, and the deduction under subsection (a) shall be allowed with respect to energy efficient commercial building property installed as part of such system and as part of a plan to meet such targets, except that subsection (b) shall be applied to such property by substituting ‘\$.60’ for ‘\$1.80’.

“(B) REGULATIONS.—The Secretary, after consultation with the Secretary of Energy, shall establish a target for each system described in subsection (c)(1)(C) which, if such targets were met for all such systems, the building would meet the requirements of subsection (c)(1)(D).

Regulations.

“(2) METHODS OF CALCULATION.—The Secretary, after consultation with the Secretary of Energy, shall promulgate regulations which describe in detail methods for calculating and verifying energy and power consumption and cost, based on the provisions of the 2005 California Nonresidential Alternative Calculation Method Approval Manual.

“(3) COMPUTER SOFTWARE.—

“(A) IN GENERAL.—Any calculation under paragraph (2) shall be prepared by qualified computer software.

“(B) QUALIFIED COMPUTER SOFTWARE.—For purposes of this paragraph, the term ‘qualified computer software’ means software—

“(i) for which the software designer has certified that the software meets all procedures and detailed methods for calculating energy and power consumption and costs as required by the Secretary,

“(ii) which provides such forms as required to be filed by the Secretary in connection with energy efficiency of property and the deduction allowed under this section, and

“(iii) which provides a notice form which documents the energy efficiency features of the building and its projected annual energy costs.

“(4) ALLOCATION OF DEDUCTION FOR PUBLIC PROPERTY.—

In the case of energy efficient commercial building property installed on or in property owned by a Federal, State, or local government or a political subdivision thereof, the Secretary shall promulgate a regulation to allow the allocation of the deduction to the person primarily responsible for designing the property in lieu of the owner of such property. Such person shall be treated as the taxpayer for purposes of this section.

“(5) NOTICE TO OWNER.—Each certification required under this section shall include an explanation to the building owner regarding the energy efficiency features of the building and its projected annual energy costs as provided in the notice under paragraph (3)(B)(iii).

“(6) CERTIFICATION.—

“(A) IN GENERAL.—The Secretary shall prescribe the manner and method for the making of certifications under this section.

“(B) PROCEDURES.—The Secretary shall include as part of the certification process procedures for inspection and testing by qualified individuals described in subparagraph (C) to ensure compliance of buildings with energy-savings plans and targets. Such procedures shall be comparable, given the difference between commercial and residential buildings, to the requirements in the Mortgage Industry National Accreditation Procedures for Home Energy Rating Systems.

“(C) QUALIFIED INDIVIDUALS.—Individuals qualified to determine compliance shall be only those individuals who are recognized by an organization certified by the Secretary for such purposes.

“(e) BASIS REDUCTION.—For purposes of this subtitle, if a deduction is allowed under this section with respect to any energy efficient commercial building property, the basis of such property shall be reduced by the amount of the deduction so allowed.

“(f) INTERIM RULES FOR LIGHTING SYSTEMS.—Until such time as the Secretary issues final regulations under subsection (d)(1)(B) with respect to property which is part of a lighting system—

“(1) IN GENERAL.—The lighting system target under subsection (d)(1)(A)(ii) shall be a reduction in lighting power density of 25 percent (50 percent in the case of a warehouse) of the minimum requirements in Table 9.3.1.1 or Table 9.3.1.2 (not including additional interior lighting power allowances) of Standard 90.1–2001.

“(2) REDUCTION IN DEDUCTION IF REDUCTION LESS THAN 40 PERCENT.—

“(A) IN GENERAL.—If, with respect to the lighting system of any building other than a warehouse, the reduction in lighting power density of the lighting system is not at least 40 percent, only the applicable percentage of the amount of deduction otherwise allowable under this section with respect to such property shall be allowed.

“(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage is the number of percentage points (not greater than 100) equal to the sum of—

“(i) 50, and

“(ii) the amount which bears the same ratio to 50 as the excess of the reduction of lighting power density of the lighting system over 25 percentage points bears to 15.

“(C) EXCEPTIONS.—This subsection shall not apply to any system—

“(i) the controls and circuiting of which do not comply fully with the mandatory and prescriptive requirements of Standard 90.1–2001 and which do not include provision for bilevel switching in all occupancies except hotel and motel guest rooms, store rooms, restrooms, and public lobbies, or

“(ii) which does not meet the minimum requirements for calculated lighting levels as set forth in the Illuminating Engineering Society of North America Lighting Handbook, Performance and Application, Ninth Edition, 2000.

“(g) REGULATIONS.—The Secretary shall promulgate such regulations as necessary—

“(1) to take into account new technologies regarding energy efficiency and renewable energy for purposes of determining energy efficiency and savings under this section, and

“(2) to provide for a recapture of the deduction allowed under this section if the plan described in subsection (c)(1)(D) or (d)(1)(A) is not fully implemented.

“(h) TERMINATION.—This section shall not apply with respect to property placed in service after December 31, 2007.”.

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a) is amended by striking “and” at the end of paragraph (30), by striking the period at the end of paragraph (31) and inserting “, and”, and by adding at the end the following new paragraph:

“(32) to the extent provided in section 179D(e).”.

(2) Section 1245(a), as amended by this Act, is amended by inserting “179D,” after “179C,” both places it appears in paragraphs (2)(C) and (3)(C).

(3) Section 1250(b)(3) is amended by inserting before the period at the end of the first sentence “or by section 179D”.

(4) Section 263(a)(1), as amended by this Act, is amended by striking “or” at the end of subparagraph (I), by striking the period at the end of subparagraph (J) and inserting “, or”, and by inserting after subparagraph (J) the following new subparagraph:

“(K) expenditures for which a deduction is allowed under section 179D”.

(5) Section 312(k)(3)(B), as amended by this Act, is amended by striking “179, 179A, 179B, or 179C” each place it appears in the heading and text and inserting “179, 179A, 179B, 179C, or 179D”.

(c) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1, as amended by this Act, is amended by inserting after section 179C the following new item:

“Sec. 179D. Energy efficient commercial buildings deduction.”.

26 USC 179D
note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2005.

SEC. 1332. CREDIT FOR CONSTRUCTION OF NEW ENERGY EFFICIENT HOMES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by adding at the end the following new section:

“SEC. 45L. NEW ENERGY EFFICIENT HOME CREDIT.

“(a) ALLOWANCE OF CREDIT.—

“(1) IN GENERAL.—For purposes of section 38, in the case of an eligible contractor, the new energy efficient home credit for the taxable year is the applicable amount for each qualified new energy efficient home which is—

“(A) constructed by the eligible contractor, and

“(B) acquired by a person from such eligible contractor for use as a residence during the taxable year.

“(2) APPLICABLE AMOUNT.—For purposes of paragraph (1), the applicable amount is an amount equal to—

“(A) in the case of a dwelling unit described in paragraph (1) or (2) of subsection (c), \$2,000, and

“(B) in the case of a dwelling unit described in paragraph (3) of subsection (c), \$1,000.

“(b) DEFINITIONS.—For purposes of this section—

“(1) ELIGIBLE CONTRACTOR.—The term ‘eligible contractor’ means—

“(A) the person who constructed the qualified new energy efficient home, or

“(B) in the case of a qualified new energy efficient home which is a manufactured home, the manufactured home producer of such home.

“(2) QUALIFIED NEW ENERGY EFFICIENT HOME.—The term ‘qualified new energy efficient home’ means a dwelling unit—

“(A) located in the United States,

“(B) the construction of which is substantially completed after the date of the enactment of this section, and

“(C) which meets the energy saving requirements of subsection (c).

“(3) CONSTRUCTION.—The term ‘construction’ includes substantial reconstruction and rehabilitation.

“(4) ACQUIRE.—The term ‘acquire’ includes purchase.

“(c) ENERGY SAVING REQUIREMENTS.—A dwelling unit meets the energy saving requirements of this subsection if such unit is—

“(1) certified—

“(A) to have a level of annual heating and cooling energy consumption which is at least 50 percent below the annual level of heating and cooling energy consumption of a comparable dwelling unit—

“(i) which is constructed in accordance with the standards of chapter 4 of the 2003 International Energy Conservation Code, as such Code (including supplements) is in effect on the date of the enactment of this section, and

“(ii) for which the heating and cooling equipment efficiencies correspond to the minimum allowed under the regulations established by the Department of Energy pursuant to the National Appliance Energy Conservation Act of 1987 and in effect at the time of completion of construction, and

“(B) to have building envelope component improvements account for at least $\frac{1}{5}$ of such 50 percent,

“(2) a manufactured home which conforms to Federal Manufactured Home Construction and Safety Standards (section 3280 of title 24, Code of Federal Regulations) and which meets the requirements of paragraph (1), or

“(3) a manufactured home which conforms to Federal Manufactured Home Construction and Safety Standards (section 3280 of title 24, Code of Federal Regulations) and which—

“(A) meets the requirements of paragraph (1) applied by substituting ‘30 percent’ for ‘50 percent’ both places it appears therein and by substituting ‘ $\frac{1}{3}$ ’ for ‘ $\frac{1}{5}$ ’ in subparagraph (B) thereof, or

“(B) meets the requirements established by the Administrator of the Environmental Protection Agency under the Energy Star Labeled Homes program.

“(d) CERTIFICATION.—

“(1) METHOD OF CERTIFICATION.—A certification described in subsection (c) shall be made in accordance with guidance prescribed by the Secretary, after consultation with the Secretary of Energy. Such guidance shall specify procedures and methods for calculating energy and cost savings.

“(2) FORM.—Any certification described in subsection (c) shall be made in writing in a manner which specifies in readily verifiable fashion the energy efficient building envelope components and energy efficient heating or cooling equipment installed and their respective rated energy efficiency performance.

“(e) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is allowed under this section in connection with any expenditure for any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so determined.

“(f) COORDINATION WITH INVESTMENT CREDIT.—For purposes of this section, expenditures taken into account under section 47 or 48(a) shall not be taken into account under this section.

“(g) TERMINATION.—This section shall not apply to any qualified new energy efficient home acquired after December 31, 2007.”.

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit), as amended by this Act, is amended by striking “plus” at the end of paragraph (21), by striking the period at the end of paragraph (22) and inserting “, plus”, and by adding at the end the following new paragraph:

“(23) the new energy efficient home credit determined under section 45L(a).”.

(c) BASIS ADJUSTMENT.—Subsection (a) of section 1016, as amended by this Act, is amended by striking “and” at the end of paragraph (31), by striking the period at the end of paragraph (32) and inserting “, and”, and by adding at the end the following new paragraph:

“(33) to the extent provided in section 45L(e), in the case of amounts with respect to which a credit has been allowed under section 45L.”.

(d) DEDUCTION FOR CERTAIN UNUSED BUSINESS CREDITS.—Section 196(c) (defining qualified business credits) is amended by striking “and” at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting “, and”, and by adding after paragraph (12) the following new paragraph:

“(13) the new energy efficient home credit determined under section 45L(a).”.

(e) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

“Sec. 45L. New energy efficient home credit.”.

26 USC 38 note.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to qualified new energy efficient homes acquired after December 31, 2005, in taxable years ending after such date.

SEC. 1333. CREDIT FOR CERTAIN NONBUSINESS ENERGY PROPERTY.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 25B the following new section:

“SEC. 25C. NONBUSINESS ENERGY PROPERTY.

“(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

“(1) 10 percent of the amount paid or incurred by the taxpayer for qualified energy efficiency improvements installed during such taxable year, and

“(2) the amount of the residential energy property expenditures paid or incurred by the taxpayer during such taxable year.

“(b) LIMITATIONS.—

“(1) LIFETIME LIMITATION.—The credit allowed under this section with respect to any taxpayer for any taxable year shall not exceed the excess (if any) of \$500 over the aggregate credits allowed under this section with respect to such taxpayer for all prior taxable years.

“(2) WINDOWS.—In the case of amounts paid or incurred for components described in subsection (c)(3)(B) by any taxpayer for any taxable year, the credit allowed under this section with respect to such amounts for such year shall not exceed the excess (if any) of \$200 over the aggregate credits allowed under this section with respect to such amounts for all prior taxable years.

“(3) LIMITATION ON RESIDENTIAL ENERGY PROPERTY EXPENDITURES.—The amount of the credit allowed under this section by reason of subsection (a)(2) shall not exceed—

“(A) \$50 for any advanced main air circulating fan,

“(B) \$150 for any qualified natural gas, propane, or oil furnace or hot water boiler, and

“(C) \$300 for any item of energy-efficient building property.

“(c) QUALIFIED ENERGY EFFICIENCY IMPROVEMENTS.—For purposes of this section—

“(1) IN GENERAL.—The term ‘qualified energy efficiency improvements’ means any energy efficient building envelope component which meets the prescriptive criteria for such component established by the 2000 International Energy Conservation Code, as such Code (including supplements) is in effect on the date of the enactment of this section (or, in the case of a metal roof with appropriate pigmented coatings which meet the Energy Star program requirements), if—

“(A) such component is installed in or on a dwelling unit located in the United States and owned and used by the taxpayer as the taxpayer’s principal residence (within the meaning of section 121),

“(B) the original use of such component commences with the taxpayer, and

“(C) such component reasonably can be expected to remain in use for at least 5 years.

“(2) BUILDING ENVELOPE COMPONENT.—The term ‘building envelope component’ means—

“(A) any insulation material or system which is specifically and primarily designed to reduce the heat loss or gain of a dwelling unit when installed in or on such dwelling unit,

“(B) exterior windows (including skylights),

“(C) exterior doors, and

“(D) any metal roof installed on a dwelling unit, but only if such roof has appropriate pigmented coatings which are specifically and primarily designed to reduce the heat gain of such dwelling unit.

“(3) MANUFACTURED HOMES INCLUDED.—The term ‘dwelling unit’ includes a manufactured home which conforms to Federal Manufactured Home Construction and Safety Standards (section 3280 of title 24, Code of Federal Regulations).

“(d) RESIDENTIAL ENERGY PROPERTY EXPENDITURES.—For purposes of this section—

“(1) IN GENERAL.—The term ‘residential energy property expenditures’ means expenditures made by the taxpayer for qualified energy property which is—

“(A) installed on or in connection with a dwelling unit located in the United States and owned and used by the taxpayer as the taxpayer’s principal residence (within the meaning of section 121), and

“(B) originally placed in service by the taxpayer.

Such term includes expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of the property.

“(2) QUALIFIED ENERGY PROPERTY.—

“(A) IN GENERAL.—The term ‘qualified energy property’ means—

“(i) energy-efficient building property,

“(ii) a qualified natural gas, propane, or oil furnace or hot water boiler, or

“(iii) an advanced main air circulating fan.

“(B) PERFORMANCE AND QUALITY STANDARDS.—Property described under subparagraph (A) shall meet the performance and quality standards, and the certification requirements (if any), which—

“(i) have been prescribed by the Secretary by regulations (after consultation with the Secretary of Energy or the Administrator of the Environmental Protection Agency, as appropriate), and

“(ii) are in effect at the time of the acquisition of the property, or at the time of the completion of the construction, reconstruction, or erection of the property, as the case may be.

“(C) REQUIREMENTS FOR STANDARDS.—The standards and requirements prescribed by the Secretary under subparagraph (B)—

“(i) in the case of the energy efficiency ratio (EER) for central air conditioners and electric heat pumps—

“(I) shall require measurements to be based on published data which is tested by manufacturers at 95 degrees Fahrenheit, and

“(II) may be based on the certified data of the Air Conditioning and Refrigeration Institute that are prepared in partnership with the Consortium for Energy Efficiency, and

“(ii) in the case of geothermal heat pumps—

“(I) shall be based on testing under the conditions of ARI/ISO Standard 13256-1 for Water Source Heat Pumps or ARI 870 for Direct Expansion GeoExchange Heat Pumps (DX), as appropriate, and

“(II) shall include evidence that water heating services have been provided through a desuperheater or integrated water heating system connected to the storage water heater tank.

“(3) ENERGY-EFFICIENT BUILDING PROPERTY.—The term ‘energy-efficient building property’ means—

“(A) an electric heat pump water heater which yields an energy factor of at least 2.0 in the standard Department of Energy test procedure,

“(B) an electric heat pump which has a heating seasonal performance factor (HSPF) of at least 9, a seasonal energy efficiency ratio (SEER) of at least 15, and an energy efficiency ratio (EER) of at least 13,

“(C) a geothermal heat pump which—

“(i) in the case of a closed loop product, has an energy efficiency ratio (EER) of at least 14.1 and a heating coefficient of performance (COP) of at least 3.3,

“(ii) in the case of an open loop product, has an energy efficiency ratio (EER) of at least 16.2 and a heating coefficient of performance (COP) of at least 3.6, and

“(iii) in the case of a direct expansion (DX) product, has an energy efficiency ratio (EER) of at least 15 and a heating coefficient of performance (COP) of at least 3.5,

“(D) a central air conditioner which achieves the highest efficiency tier established by the Consortium for Energy Efficiency, as in effect on January 1, 2006, and

“(E) a natural gas, propane, or oil water heater which has an energy factor of at least 0.80.

“(4) QUALIFIED NATURAL GAS, PROPANE, OR OIL FURNACE OR HOT WATER BOILER.—The term ‘qualified natural gas, propane, or oil furnace or hot water boiler’ means a natural gas, propane, or oil furnace or hot water boiler which achieves an annual fuel utilization efficiency rate of not less than 95.

“(5) ADVANCED MAIN AIR CIRCULATING FAN.—The term ‘advanced main air circulating fan’ means a fan used in a natural gas, propane, or oil furnace and which has an annual electricity use of no more than 2 percent of the total annual energy use of the furnace (as determined in the standard Department of Energy test procedures).

“(e) SPECIAL RULES.—For purposes of this section—

“(1) APPLICATION OF RULES.—Rules similar to the rules under paragraphs (4), (5), (6), (7), (8), and (9) of section 25D(e) shall apply.

“(2) JOINT OWNERSHIP OF ENERGY ITEMS.—

“(A) IN GENERAL.—Any expenditure otherwise qualifying as an expenditure under this section shall not be treated as failing to so qualify merely because such expenditure was made with respect to two or more dwelling units.

“(B) LIMITS APPLIED SEPARATELY.—In the case of any expenditure described in subparagraph (A), the amount of the credit allowable under subsection (a) shall (subject to paragraph (1)) be computed separately with respect to the amount of the expenditure made for each dwelling unit.

“(f) BASIS ADJUSTMENTS.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

“(g) TERMINATION.—This section shall not apply with respect to any property placed in service after December 31, 2007.”.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 1016, as amended by this Act, is amended by striking “and” at the end of paragraph (32), by striking the period at the end of paragraph (33) and inserting “, and”, and by adding at the end the following new paragraph:

“(34) to the extent provided in section 25C(e), in the case of amounts with respect to which a credit has been allowed under section 25C.”.

(2) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 25B the following new item:

“Sec. 25C. Nonbusiness energy property.”.

26 USC 25C note.

(c) **EFFECTIVE DATES.**—The amendments made by this section shall apply to property placed in service after December 31, 2005.

SEC. 1334. CREDIT FOR ENERGY EFFICIENT APPLIANCES.

(a) **IN GENERAL.**—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits), as amended by this Act, is amended by adding at the end the following new section:

“SEC. 45M. ENERGY EFFICIENT APPLIANCE CREDIT.

“(a) **GENERAL RULE.**—

“(1) **IN GENERAL.**—For purposes of section 38, the energy efficient appliance credit determined under this section for any taxable year is an amount equal to the sum of the credit amounts determined under paragraph (2) for each type of qualified energy efficient appliance produced by the taxpayer during the calendar year ending with or within the taxable year.

“(2) **CREDIT AMOUNTS.**—The credit amount determined for any type of qualified energy efficient appliance is—

“(A) the applicable amount determined under subsection (b) with respect to such type, multiplied by

“(B) the eligible production for such type.

“(b) **APPLICABLE AMOUNT.**—

“(1) **IN GENERAL.**—For purposes of subsection (a)—

“(A) **DISHWASHERS.**—The applicable amount is the energy savings amount in the case of a dishwasher which—

“(i) is manufactured in calendar year 2006 or 2007, and

“(ii) meets the requirements of the Energy Star program which are in effect for dishwashers in 2007.

“(B) **CLOTHES WASHERS.**—The applicable amount is \$100 in the case of a clothes washer which—

“(i) is manufactured in calendar year 2006 or 2007, and

“(ii) meets the requirements of the Energy Star program which are in effect for clothes washers in 2007.

“(C) **REFRIGERATORS.**—

“(i) **15 PERCENT SAVINGS.**—The applicable amount is \$75 in the case of a refrigerator which—

“(I) is manufactured in calendar year 2006, and

“(II) consumes at least 15 percent but not more than 20 percent less kilowatt hours per year than the 2001 energy conservation standards.

“(ii) 20 PERCENT SAVINGS.—The applicable amount is \$125 in the case of a refrigerator which—

“(I) is manufactured in calendar year 2006 or 2007, and

“(II) consumes at least 20 percent but not more than 25 percent less kilowatt hours per year than the 2001 energy conservation standards.

“(iii) 25 PERCENT SAVINGS.—The applicable amount is \$175 in the case of a refrigerator which—

“(I) is manufactured in calendar year 2006 or 2007, and

“(II) consumes at least 25 percent less kilowatt hours per year than the 2001 energy conservation standards.

“(2) ENERGY SAVINGS AMOUNT.—For purposes of paragraph (1)(A)—

“(A) IN GENERAL.—The energy savings amount is the lesser of—

“(i) the product of—

“(I) \$3, and

“(II) 100 multiplied by the energy savings percentage, or

“(ii) \$100.

“(B) ENERGY SAVINGS PERCENTAGE.—For purposes of subparagraph (A), the energy savings percentage is the ratio of—

“(i) the EF required by the Energy Star program for dishwashers in 2007 minus the EF required by the Energy Star program for dishwashers in 2005, to

“(ii) the EF required by the Energy Star program for dishwashers in 2007.

“(c) ELIGIBLE PRODUCTION.—

“(1) IN GENERAL.—Except as provided in paragraphs (2), the eligible production in a calendar year with respect to each type of energy efficient appliance is the excess of—

“(A) the number of appliances of such type which are produced by the taxpayer in the United States during such calendar year, over

“(B) the average number of appliances of such type which were produced by the taxpayer (or any predecessor) in the United States during the preceding 3-calendar year period.

“(2) SPECIAL RULE FOR REFRIGERATORS.—The eligible production in a calendar year with respect to each type of refrigerator described in subsection (b)(1)(C) is the excess of—

“(A) the number of appliances of such type which are produced by the taxpayer in the United States during such calendar year, over

“(B) 110 percent of the average number of appliances of such type which were produced by the taxpayer (or any predecessor) in the United States during the preceding 3-calendar year period.

“(d) TYPES OF ENERGY EFFICIENT APPLIANCE.—For purposes of this section, the types of energy efficient appliances are—

“(1) dishwashers described in subsection (b)(1)(A),

“(2) clothes washers described in subsection (b)(1)(B),

- “(3) refrigerators described in subsection (b)(1)(C)(i),
- “(4) refrigerators described in subsection (b)(1)(C)(ii), and
- “(5) refrigerators described in subsection (b)(1)(C)(iii).

“(e) LIMITATIONS.—

“(1) AGGREGATE CREDIT AMOUNT ALLOWED.—The aggregate amount of credit allowed under subsection (a) with respect to a taxpayer for any taxable year shall not exceed \$75,000,000 reduced by the amount of the credit allowed under subsection (a) to the taxpayer (or any predecessor) for all prior taxable years.

“(2) AMOUNT ALLOWED FOR 15 PERCENT SAVINGS REFRIGERATORS.—In the case of refrigerators described in subsection (b)(1)(C)(i), the aggregate amount of the credit allowed under subsection (a) with respect to a taxpayer for any taxable year shall not exceed \$20,000,000.

“(3) LIMITATION BASED ON GROSS RECEIPTS.—The credit allowed under subsection (a) with respect to a taxpayer for the taxable year shall not exceed an amount equal to 2 percent of the average annual gross receipts of the taxpayer for the 3 taxable years preceding the taxable year in which the credit is determined.

Applicability.

“(4) GROSS RECEIPTS.—For purposes of this subsection, the rules of paragraphs (2) and (3) of section 448(c) shall apply.

“(f) DEFINITIONS.—For purposes of this section—

“(1) QUALIFIED ENERGY EFFICIENT APPLIANCE.—The term ‘qualified energy efficient appliance’ means—

“(A) any dishwasher described in subsection (b)(1)(A),

“(B) any clothes washer described in subsection (b)(1)(B), and

“(C) any refrigerator described in subsection (b)(1)(C).

“(2) DISHWASHER.—The term ‘dishwasher’ means a residential dishwasher subject to the energy conservation standards established by the Department of Energy.

“(3) CLOTHES WASHER.—The term ‘clothes washer’ means a residential model clothes washer, including a residential style coin operated washer.

“(4) REFRIGERATOR.—The term ‘refrigerator’ means a residential model automatic defrost refrigerator-freezer which has an internal volume of at least 16.5 cubic feet.

“(5) EF.—The term ‘EF’ means the energy factor established by the Department of Energy for compliance with the Federal energy conservation standards.

“(6) PRODUCED.—The term ‘produced’ includes manufactured.

“(7) 2001 ENERGY CONSERVATION STANDARD.—The term ‘2001 energy conservation standard’ means the energy conservation standards promulgated by the Department of Energy and effective July 1, 2001.

“(g) SPECIAL RULES.—For purposes of this section—

Applicability.

“(1) IN GENERAL.—Rules similar to the rules of subsections (c), (d), and (e) of section 52 shall apply.

“(2) CONTROLLED GROUP.—

“(A) IN GENERAL.—All persons treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (o) of section 414 shall be treated as a single producer.

“(B) INCLUSION OF FOREIGN CORPORATIONS.—For purposes of subparagraph (A), in applying subsections (a) and (b) of section 52 to this section, section 1563 shall be applied without regard to subsection (b)(2)(C) thereof.

Applicability.

“(3) VERIFICATION.—No amount shall be allowed as a credit under subsection (a) with respect to which the taxpayer has not submitted such information or certification as the Secretary, in consultation with the Secretary of Energy, determines necessary.”.

(b) CONFORMING AMENDMENT.—Section 38(b) (relating to general business credit), as amended by this Act, is amended by striking “plus” at the end of paragraph (22), by striking the period at the end of paragraph (23) and inserting “, plus”, and by adding at the end the following new paragraph:

“(24) the energy efficient appliance credit determined under section 45M(a).”.

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

“Sec. 45M. Energy efficient appliance credit.”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to appliances produced after December 31, 2005.

26 USC 38 note.

SEC. 1335. CREDIT FOR RESIDENTIAL ENERGY EFFICIENT PROPERTY.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits), as amended by this Act, is amended by inserting after section 25C the following new section:

“SEC. 25D. RESIDENTIAL ENERGY EFFICIENT PROPERTY.

“(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

“(1) 30 percent of the qualified photovoltaic property expenditures made by the taxpayer during such year,

“(2) 30 percent of the qualified solar water heating property expenditures made by the taxpayer during such year, and

“(3) 30 percent of the qualified fuel cell property expenditures made by the taxpayer during such year.

“(b) LIMITATIONS.—

“(1) MAXIMUM CREDIT.—The credit allowed under subsection (a) for any taxable year shall not exceed—

“(A) \$2,000 with respect to any qualified photovoltaic property expenditures,

“(B) \$2,000 with respect to any qualified solar water heating property expenditures, and

“(C) \$500 with respect to each half kilowatt of capacity of qualified fuel cell property (as defined in section 48(c)(1)) for which qualified fuel cell property expenditures are made.

“(2) CERTIFICATION OF SOLAR WATER HEATING PROPERTY.—No credit shall be allowed under this section for an item of property described in subsection (d)(1) unless such property is certified for performance by the non-profit Solar Rating Certification Corporation or a comparable entity endorsed by the government of the State in which such property is installed.

“(c) CARRYFORWARD OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

“(d) DEFINITIONS.—For purposes of this section—

“(1) QUALIFIED SOLAR WATER HEATING PROPERTY EXPENDITURE.—The term ‘qualified solar water heating property expenditure’ means an expenditure for property to heat water for use in a dwelling unit located in the United States and used as a residence by the taxpayer if at least half of the energy used by such property for such purpose is derived from the sun.

“(2) QUALIFIED PHOTOVOLTAIC PROPERTY EXPENDITURE.—The term ‘qualified photovoltaic property expenditure’ means an expenditure for property which uses solar energy to generate electricity for use in a dwelling unit located in the United States and used as a residence by the taxpayer.

“(3) QUALIFIED FUEL CELL PROPERTY EXPENDITURE.—The term ‘qualified fuel cell property expenditure’ means an expenditure for qualified fuel cell property (as defined in section 48(c)(1)) installed on or in connection with a dwelling unit located in the United States and used as a principal residence (within the meaning of section 121) by the taxpayer.

“(e) SPECIAL RULES.—For purposes of this section—

“(1) LABOR COSTS.—Expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of the property described in subsection (d) and for piping or wiring to interconnect such property to the dwelling unit shall be taken into account for purposes of this section.

“(2) SOLAR PANELS.—No expenditure relating to a solar panel or other property installed as a roof (or portion thereof) shall fail to be treated as property described in paragraph (1) or (2) of subsection (d) solely because it constitutes a structural component of the structure on which it is installed.

“(3) SWIMMING POOLS, ETC., USED AS STORAGE MEDIUM.—Expenditures which are properly allocable to a swimming pool, hot tub, or any other energy storage medium which has a function other than the function of such storage shall not be taken into account for purposes of this section.

“(4) DOLLAR AMOUNTS IN CASE OF JOINT OCCUPANCY.—In the case of any dwelling unit which is jointly occupied and used during any calendar year as a residence by two or more individuals the following rules shall apply:

“(A) The amount of the credit allowable, under subsection (a) by reason of expenditures (as the case may be) made during such calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as 1 taxpayer whose taxable year is such calendar year.

“(B) There shall be allowable, with respect to such expenditures to each of such individuals, a credit under subsection (a) for the taxable year in which such calendar year ends in an amount which bears the same ratio to

the amount determined under subparagraph (A) as the amount of such expenditures made by such individual during such calendar year bears to the aggregate of such expenditures made by all of such individuals during such calendar year.

“(C) Subparagraphs (A) and (B) shall be applied separately with respect to expenditures described in paragraphs (1), (2), and (3) of subsection (d).

Applicability.

“(5) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—In the case of an individual who is a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having made his tenant-stockholder’s proportionate share (as defined in section 216(b)(3)) of any expenditures of such corporation.

“(6) CONDOMINIUMS.—

“(A) IN GENERAL.—In the case of an individual who is a member of a condominium management association with respect to a condominium which the individual owns, such individual shall be treated as having made the individual’s proportionate share of any expenditures of such association.

“(B) CONDOMINIUM MANAGEMENT ASSOCIATION.—For purposes of this paragraph, the term ‘condominium management association’ means an organization which meets the requirements of paragraph (1) of section 528(c) (other than subparagraph (E) thereof) with respect to a condominium project substantially all of the units of which are used as residences.

“(7) ALLOCATION IN CERTAIN CASES.—If less than 80 percent of the use of an item is for nonbusiness purposes, only that portion of the expenditures for such item which is properly allocable to use for nonbusiness purposes shall be taken into account.

“(8) WHEN EXPENDITURE MADE; AMOUNT OF EXPENDITURE.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), an expenditure with respect to an item shall be treated as made when the original installation of the item is completed.

“(B) EXPENDITURES PART OF BUILDING CONSTRUCTION.—In the case of an expenditure in connection with the construction or reconstruction of a structure, such expenditure shall be treated as made when the original use of the constructed or reconstructed structure by the taxpayer begins.

“(9) PROPERTY FINANCED BY SUBSIDIZED ENERGY FINANCING.—For purposes of determining the amount of expenditures made by any individual with respect to any dwelling unit, there shall not be taken into account expenditures which are made from subsidized energy financing (as defined in section 48(a)(4)(C)).

“(f) BASIS ADJUSTMENTS.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

“(g) **TERMINATION.**—The credit allowed under this section shall not apply to property placed in service after December 31, 2007.”.

(b) **CONFORMING AMENDMENTS.**—

(1) Section 23(c) is amended by striking “this section and section 1400C” and inserting “this section, section 25D, and section 1400C”.

(2) Section 25(e)(1)(C) is amended by striking “this section and sections 23 and 1400C” and inserting “other than this section, section 23, section 25D, and section 1400C”.

(3) Section 1400C(d) is amended by striking “this section” and inserting “this section and section 25D”.

(4) Section 1016(a), as amended by this Act, is amended by striking “and” at the end of paragraph (33), by striking the period at the end of paragraph (34) and inserting “, and”, and by adding at the end the following new paragraph:

“(35) to the extent provided in section 25D(f), in the case of amounts with respect to which a credit has been allowed under section 25D.”.

(5) The table of sections for subpart A of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 25C the following new item:

“Sec. 25D. Residential energy efficient property.”.

26 USC 23 note.

(c) **EFFECTIVE DATES.**—The amendments made by this section shall apply to property placed in service after December 31, 2005, in taxable years ending after such date.

SEC. 1336. CREDIT FOR BUSINESS INSTALLATION OF QUALIFIED FUEL CELLS AND STATIONARY MICROTURBINE POWER PLANTS.

(a) **IN GENERAL.**—Section 48(a)(3)(A) (defining energy property) is amended by striking “or” at the end of clause (i), by adding “or” at the end of clause (ii), and by inserting after clause (ii) the following new clause:

“(iii) qualified fuel cell property or qualified microturbine property,”.

(b) **QUALIFIED FUEL CELL PROPERTY; QUALIFIED MICROTURBINE PROPERTY.**—Section 48 (relating to energy credit) is amended by adding at the end the following new subsection:

“(c) **QUALIFIED FUEL CELL PROPERTY; QUALIFIED MICROTURBINE PROPERTY.**—For purposes of this subsection—

“(1) **QUALIFIED FUEL CELL PROPERTY.**—

“(A) **IN GENERAL.**—The term ‘qualified fuel cell property’ means a fuel cell power plant which—

“(i) has a nameplate capacity of at least 0.5 kilowatt of electricity using an electrochemical process, and

“(ii) has an electricity-only generation efficiency greater than 30 percent.

“(B) **LIMITATION.**—In the case of qualified fuel cell property placed in service during the taxable year, the credit otherwise determined under paragraph (1) for such year with respect to such property shall not exceed an amount equal to \$500 for each 0.5 kilowatt of capacity of such property.

“(C) **FUEL CELL POWER PLANT.**—The term ‘fuel cell power plant’ means an integrated system comprised of

a fuel cell stack assembly and associated balance of plant components which converts a fuel into electricity using electrochemical means.

“(D) SPECIAL RULE.—The first sentence of the matter in subsection (a)(3) which follows subparagraph (D) thereof shall not apply to qualified fuel cell property which is used predominantly in the trade or business of the furnishing or sale of telephone service, telegraph service by means of domestic telegraph operations, or other telegraph services (other than international telegraph services).

“(E) TERMINATION.—The term ‘qualified fuel cell property’ shall not include any property for any period after December 31, 2007.

“(2) QUALIFIED MICROTURBINE PROPERTY.—

“(A) IN GENERAL.—The term ‘qualified microturbine property’ means a stationary microturbine power plant which—

“(i) has a nameplate capacity of less than 2,000 kilowatts, and

“(ii) has an electricity-only generation efficiency of not less than 26 percent at International Standard Organization conditions.

“(B) LIMITATION.—In the case of qualified microturbine property placed in service during the taxable year, the credit otherwise determined under paragraph (1) for such year with respect to such property shall not exceed an amount equal \$200 for each kilowatt of capacity of such property.

“(C) STATIONARY MICROTURBINE POWER PLANT.—The term ‘stationary microturbine power plant’ means an integrated system comprised of a gas turbine engine, a combustor, a recuperator or regenerator, a generator or alternator, and associated balance of plant components which converts a fuel into electricity and thermal energy. Such term also includes all secondary components located between the existing infrastructure for fuel delivery and the existing infrastructure for power distribution, including equipment and controls for meeting relevant power standards, such as voltage, frequency, and power factors.

“(D) SPECIAL RULE.—The first sentence of the matter in subsection (a)(3) which follows subparagraph (D) thereof shall not apply to qualified microturbine property which is used predominantly in the trade or business of the furnishing or sale of telephone service, telegraph service by means of domestic telegraph operations, or other telegraph services (other than international telegraph services).

“(E) TERMINATION.—The term ‘qualified microturbine property’ shall not include any property for any period after December 31, 2007.”.

(c) ENERGY PERCENTAGE.—Section 48(a)(2)(A) (relating to energy percentage) is amended to read as follows:

“(A) IN GENERAL.—The energy percentage is—

“(i) in the case of qualified fuel cell property, 30 percent, and

“(ii) in the case of any other energy property, 10 percent.”.

(d) CONFORMING AMENDMENT.—Section 48(a)(1) is amended by inserting “except as provided in paragraph (1)(B) or (2)(B) of subsection (d),” before “the energy”.

26 USC 48 note.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after December 31, 2005, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 1337. BUSINESS SOLAR INVESTMENT TAX CREDIT.

(a) INCREASE IN ENERGY PERCENTAGE.—Section 48(a)(2)(A) (relating to energy percentage), as amended by this Act, is amended to read as follows:

“(A) IN GENERAL.—The energy percentage is—

“(i) 30 percent in the case of—

“(I) qualified fuel cell property,

“(II) energy property described in paragraph (3)(A)(i) but only with respect to periods ending before January 1, 2008, and

“(III) energy property described in paragraph (3)(A)(ii), and

“(ii) in the case of any energy property to which clause (i) does not apply, 10 percent.”.

(b) HYBRID SOLAR LIGHTING SYSTEMS.—Subparagraph (A) of section 48(a)(3) is amended by striking “or” at the end of clause (i), by redesignating clause (ii) as clause (iii), and by inserting after clause (i) the following new clause:

“(ii) equipment which uses solar energy to illuminate the inside of a structure using fiber-optic distributed sunlight but only with respect to periods ending before January 1, 2008, or”.

(c) LIMITATION ON USE OF SOLAR ENERGY TO HEAT SWIMMING POOLS.—Clause (i) of section 48(a)(3)(A) is amended by inserting “excepting property used to generate energy for the purposes of heating a swimming pool,” after “solar process heat,”.

26 USC 48 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after December 31, 2005, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

Subtitle D—Alternative Motor Vehicles and Fuels Incentives

SEC. 1341. ALTERNATIVE MOTOR VEHICLE CREDIT.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.) is amended by adding at the end the following new section:

“SEC. 30B. ALTERNATIVE MOTOR VEHICLE CREDIT.

“(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

“(1) the new qualified fuel cell motor vehicle credit determined under subsection (b),

“(2) the new advanced lean burn technology motor vehicle credit determined under subsection (c),

“(3) the new qualified hybrid motor vehicle credit determined under subsection (d), and

“(4) the new qualified alternative fuel motor vehicle credit determined under subsection (e).

“(b) NEW QUALIFIED FUEL CELL MOTOR VEHICLE CREDIT.—

“(1) IN GENERAL.—For purposes of subsection (a), the new qualified fuel cell motor vehicle credit determined under this subsection with respect to a new qualified fuel cell motor vehicle placed in service by the taxpayer during the taxable year is—

“(A) \$8,000 (\$4,000 in the case of a vehicle placed in service after December 31, 2009), if such vehicle has a gross vehicle weight rating of not more than 8,500 pounds,

“(B) \$10,000, if such vehicle has a gross vehicle weight rating of more than 8,500 pounds but not more than 14,000 pounds,

“(C) \$20,000, if such vehicle has a gross vehicle weight rating of more than 14,000 pounds but not more than 26,000 pounds, and

“(D) \$40,000, if such vehicle has a gross vehicle weight rating of more than 26,000 pounds.

“(2) INCREASE FOR FUEL EFFICIENCY.—

“(A) IN GENERAL.—The amount determined under paragraph (1)(A) with respect to a new qualified fuel cell motor vehicle which is a passenger automobile or light truck shall be increased by—

“(i) \$1,000, if such vehicle achieves at least 150 percent but less than 175 percent of the 2002 model year city fuel economy,

“(ii) \$1,500, if such vehicle achieves at least 175 percent but less than 200 percent of the 2002 model year city fuel economy,

“(iii) \$2,000, if such vehicle achieves at least 200 percent but less than 225 percent of the 2002 model year city fuel economy,

“(iv) \$2,500, if such vehicle achieves at least 225 percent but less than 250 percent of the 2002 model year city fuel economy,

“(v) \$3,000, if such vehicle achieves at least 250 percent but less than 275 percent of the 2002 model year city fuel economy,

“(vi) \$3,500, if such vehicle achieves at least 275 percent but less than 300 percent of the 2002 model year city fuel economy, and

“(vii) \$4,000, if such vehicle achieves at least 300 percent of the 2002 model year city fuel economy.

“(B) 2002 MODEL YEAR CITY FUEL ECONOMY.—For purposes of subparagraph (A), the 2002 model year city fuel economy with respect to a vehicle shall be determined in accordance with the following tables:

“(i) In the case of a passenger automobile:

“If vehicle inertia weight class is:	The 2002 model year city fuel economy is:
1,500 or 1,750 lbs	45.2 mpg
2,000 lbs	39.6 mpg
2,250 lbs	35.2 mpg
2,500 lbs	31.7 mpg
2,750 lbs	28.8 mpg
3,000 lbs	26.4 mpg
3,500 lbs	22.6 mpg
4,000 lbs	19.8 mpg
4,500 lbs	17.6 mpg
5,000 lbs	15.9 mpg
5,500 lbs	14.4 mpg
6,000 lbs	13.2 mpg
6,500 lbs	12.2 mpg
7,000 to 8,500 lbs	11.3 mpg.

“(ii) In the case of a light truck:

“If vehicle inertia weight class is:	The 2002 model year city fuel economy is:
1,500 or 1,750 lbs	39.4 mpg
2,000 lbs	35.2 mpg
2,250 lbs	31.8 mpg
2,500 lbs	29.0 mpg
2,750 lbs	26.8 mpg
3,000 lbs	24.9 mpg
3,500 lbs	21.8 mpg
4,000 lbs	19.4 mpg
4,500 lbs	17.6 mpg
5,000 lbs	16.1 mpg
5,500 lbs	14.8 mpg
6,000 lbs	13.7 mpg
6,500 lbs	12.8 mpg
7,000 to 8,500 lbs	12.1 mpg.

“(C) VEHICLE INERTIA WEIGHT CLASS.—For purposes of subparagraph (B), the term ‘vehicle inertia weight class’ has the same meaning as when defined in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

“(3) NEW QUALIFIED FUEL CELL MOTOR VEHICLE.—For purposes of this subsection, the term ‘new qualified fuel cell motor vehicle’ means a motor vehicle—

“(A) which is propelled by power derived from 1 or more cells which convert chemical energy directly into electricity by combining oxygen with hydrogen fuel which is stored on board the vehicle in any form and may or may not require reformation prior to use,

“(B) which, in the case of a passenger automobile or light truck, has received on or after the date of the enactment of this section a certificate that such vehicle meets or exceeds the Bin 5 Tier II emission level established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle,

“(C) the original use of which commences with the taxpayer,

“(D) which is acquired for use or lease by the taxpayer and not for resale, and

“(E) which is made by a manufacturer.

“(c) NEW ADVANCED LEAN BURN TECHNOLOGY MOTOR VEHICLE CREDIT.—

“(1) IN GENERAL.—For purposes of subsection (a), the new advanced lean burn technology motor vehicle credit determined under this subsection for the taxable year is the credit amount determined under paragraph (2) with respect to a new advanced lean burn technology motor vehicle placed in service by the taxpayer during the taxable year.

“(2) CREDIT AMOUNT.—

“(A) FUEL ECONOMY.—

“(i) IN GENERAL.—The credit amount determined under this paragraph shall be determined in accordance with the following table:

“In the case of a vehicle which achieves a fuel economy (expressed as a percentage of the 2002 model year city fuel economy) of—	The credit amount is—
At least 125 percent but less than 150 percent	\$400
At least 150 percent but less than 175 percent	\$800
At least 175 percent but less than 200 percent	\$1,200
At least 200 percent but less than 225 percent	\$1,600
At least 225 percent but less than 250 percent	\$2,000
At least 250 percent	\$2,400.

“(ii) 2002 MODEL YEAR CITY FUEL ECONOMY.—For purposes of clause (i), the 2002 model year city fuel economy with respect to a vehicle shall be determined on a gasoline gallon equivalent basis as determined by the Administrator of the Environmental Protection Agency using the tables provided in subsection (b)(2)(B) with respect to such vehicle.

“(B) CONSERVATION CREDIT.—The amount determined under subparagraph (A) with respect to a new advanced lean burn technology motor vehicle shall be increased by the conservation credit amount determined in accordance with the following table:

“In the case of a vehicle which achieves a lifetime fuel savings (expressed in gallons of gasoline) of—	The conservation credit amount is—
At least 1,200 but less than 1,800	\$250
At least 1,800 but less than 2,400	\$500
At least 2,400 but less than 3,000	\$750
At least 3,000	\$1,000.

“(3) NEW ADVANCED LEAN BURN TECHNOLOGY MOTOR VEHICLE.—For purposes of this subsection, the term ‘new advanced lean burn technology motor vehicle’ means a passenger automobile or a light truck—

“(A) with an internal combustion engine which—

“(i) is designed to operate primarily using more air than is necessary for complete combustion of the fuel,

“(ii) incorporates direct injection,

“(iii) achieves at least 125 percent of the 2002 model year city fuel economy,

“(iv) for 2004 and later model vehicles, has received a certificate that such vehicle meets or exceeds—

“(I) in the case of a vehicle having a gross vehicle weight rating of 6,000 pounds or less, the Bin 5 Tier II emission standard established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle, and

“(II) in the case of a vehicle having a gross vehicle weight rating of more than 6,000 pounds but not more than 8,500 pounds, the Bin 8 Tier II emission standard which is so established,

“(B) the original use of which commences with the taxpayer,

“(C) which is acquired for use or lease by the taxpayer and not for resale, and

“(D) which is made by a manufacturer.

“(4) LIFETIME FUEL SAVINGS.—For purposes of this subsection, the term ‘lifetime fuel savings’ means, in the case of any new advanced lean burn technology motor vehicle, an amount equal to the excess (if any) of—

“(A) 120,000 divided by the 2002 model year city fuel economy for the vehicle inertia weight class, over

“(B) 120,000 divided by the city fuel economy for such vehicle.

“(d) NEW QUALIFIED HYBRID MOTOR VEHICLE CREDIT.—

“(1) IN GENERAL.—For purposes of subsection (a), the new qualified hybrid motor vehicle credit determined under this subsection for the taxable year is the credit amount determined under paragraph (2) with respect to a new qualified hybrid motor vehicle placed in service by the taxpayer during the taxable year.

“(2) CREDIT AMOUNT.—

“(A) CREDIT AMOUNT FOR PASSENGER AUTOMOBILES AND LIGHT TRUCKS.—In the case of a new qualified hybrid motor vehicle which is a passenger automobile or light truck and which has a gross vehicle weight rating of not more than 8,500 pounds, the amount determined under this paragraph is the sum of the amounts determined under clauses (i) and (ii).

“(i) FUEL ECONOMY.—The amount determined under this clause is the amount which would be determined under subsection (c)(2)(A) if such vehicle were a vehicle referred to in such subsection.

“(ii) CONSERVATION CREDIT.—The amount determined under this clause is the amount which would be determined under subsection (c)(2)(B) if such vehicle were a vehicle referred to in such subsection.

“(B) CREDIT AMOUNT FOR OTHER MOTOR VEHICLES.—

“(i) IN GENERAL.—In the case of any new qualified hybrid motor vehicle to which subparagraph (A) does not apply, the amount determined under this paragraph is the amount equal to the applicable percentage of the qualified incremental hybrid cost of the vehicle as certified under clause (v).

“(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i), the applicable percentage is—

“(I) 20 percent if the vehicle achieves an increase in city fuel economy relative to a comparable vehicle of at least 30 percent but less than 40 percent,

“(II) 30 percent if the vehicle achieves such an increase of at least 40 percent but less than 50 percent, and

“(III) 40 percent if the vehicle achieves such an increase of at least 50 percent.

“(iii) QUALIFIED INCREMENTAL HYBRID COST.—For purposes of this subparagraph, the qualified incremental hybrid cost of any vehicle is equal to the amount of the excess of the manufacturer’s suggested retail price for such vehicle over such price for a comparable vehicle, to the extent such amount does not exceed—

“(I) \$7,500, if such vehicle has a gross vehicle weight rating of not more than 14,000 pounds,

“(II) \$15,000, if such vehicle has a gross vehicle weight rating of more than 14,000 pounds but not more than 26,000 pounds, and

“(III) \$30,000, if such vehicle has a gross vehicle weight rating of more than 26,000 pounds.

“(iv) COMPARABLE VEHICLE.—For purposes of this subparagraph, the term ‘comparable vehicle’ means, with respect to any new qualified hybrid motor vehicle, any vehicle which is powered solely by a gasoline or diesel internal combustion engine and which is comparable in weight, size, and use to such vehicle.

“(v) CERTIFICATION.—A certification described in clause (i) shall be made by the manufacturer and shall be determined in accordance with guidance prescribed by the Secretary. Such guidance shall specify procedures and methods for calculating fuel economy savings and incremental hybrid costs.

“(3) NEW QUALIFIED HYBRID MOTOR VEHICLE.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘new qualified hybrid motor vehicle’ means a motor vehicle—

“(i) which draws propulsion energy from onboard sources of stored energy which are both—

“(I) an internal combustion or heat engine using consumable fuel, and

“(II) a rechargeable energy storage system,

“(ii) which, in the case of a vehicle to which paragraph (2)(A) applies, has received a certificate of conformity under the Clean Air Act and meets or exceeds the equivalent qualifying California low emission vehicle standard under section 243(e)(2) of the Clean Air Act for that make and model year, and

“(I) in the case of a vehicle having a gross vehicle weight rating of 6,000 pounds or less, the Bin 5 Tier II emission standard established in regulations prescribed by the Administrator of the Environmental Protection Agency under section

202(i) of the Clean Air Act for that make and model year vehicle, and

“(II) in the case of a vehicle having a gross vehicle weight rating of more than 6,000 pounds but not more than 8,500 pounds, the Bin 8 Tier II emission standard which is so established,

“(iii) which has a maximum available power of at least—

Applicability.

“(I) 4 percent in the case of a vehicle to which paragraph (2)(A) applies,

“(II) 10 percent in the case of a vehicle which has a gross vehicle weight rating of more than 8,500 pounds and not more than 14,000 pounds, and

“(III) 15 percent in the case of a vehicle in excess of 14,000 pounds,

Applicability.

“(iv) which, in the case of a vehicle to which paragraph (2)(B) applies, has an internal combustion or heat engine which has received a certificate of conformity under the Clean Air Act as meeting the emission standards set in the regulations prescribed by the Administrator of the Environmental Protection Agency for 2004 through 2007 model year diesel heavy duty engines or ottocycle heavy duty engines, as applicable,

“(v) the original use of which commences with the taxpayer,

“(vi) which is acquired for use or lease by the taxpayer and not for resale, and

“(vii) which is made by a manufacturer.

Such term shall not include any vehicle which is not a passenger automobile or light truck if such vehicle has a gross vehicle weight rating of less than 8,500 pounds.

“(B) CONSUMABLE FUEL.—For purposes of subparagraph (A)(i)(I), the term ‘consumable fuel’ means any solid, liquid, or gaseous matter which releases energy when consumed by an auxiliary power unit.

Applicability.

“(C) MAXIMUM AVAILABLE POWER.—

“(i) CERTAIN PASSENGER AUTOMOBILES AND LIGHT TRUCKS.—In the case of a vehicle to which paragraph (2)(A) applies, the term ‘maximum available power’ means the maximum power available from the rechargeable energy storage system, during a standard 10 second pulse power or equivalent test, divided by such maximum power and the SAE net power of the heat engine.

“(ii) OTHER MOTOR VEHICLES.—In the case of a vehicle to which paragraph (2)(B) applies, the term ‘maximum available power’ means the maximum power available from the rechargeable energy storage system, during a standard 10 second pulse power or equivalent test, divided by the vehicle’s total traction power. For purposes of the preceding sentence, the term ‘total traction power’ means the sum of the peak power from the rechargeable energy storage system and the heat engine peak power of the vehicle, except that if such storage system is the sole means by which the vehicle

can be driven, the total traction power is the peak power of such storage system.

“(e) NEW QUALIFIED ALTERNATIVE FUEL MOTOR VEHICLE CREDIT.—

“(1) ALLOWANCE OF CREDIT.—Except as provided in paragraph (5), the new qualified alternative fuel motor vehicle credit determined under this subsection is an amount equal to the applicable percentage of the incremental cost of any new qualified alternative fuel motor vehicle placed in service by the taxpayer during the taxable year.

“(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage with respect to any new qualified alternative fuel motor vehicle is—

“(A) 50 percent, plus

“(B) 30 percent, if such vehicle—

“(i) has received a certificate of conformity under the Clean Air Act and meets or exceeds the most stringent standard available for certification under the Clean Air Act for that make and model year vehicle (other than a zero emission standard), or

“(ii) has received an order certifying the vehicle as meeting the same requirements as vehicles which may be sold or leased in California and meets or exceeds the most stringent standard available for certification under the State laws of California (enacted in accordance with a waiver granted under section 209(b) of the Clean Air Act) for that make and model year vehicle (other than a zero emission standard).

For purposes of the preceding sentence, in the case of any new qualified alternative fuel motor vehicle which weighs more than 14,000 pounds gross vehicle weight rating, the most stringent standard available shall be such standard available for certification on the date of the enactment of the Energy Tax Incentives Act of 2005.

“(3) INCREMENTAL COST.—For purposes of this subsection, the incremental cost of any new qualified alternative fuel motor vehicle is equal to the amount of the excess of the manufacturer’s suggested retail price for such vehicle over such price for a gasoline or diesel fuel motor vehicle of the same model, to the extent such amount does not exceed—

“(A) \$5,000, if such vehicle has a gross vehicle weight rating of not more than 8,500 pounds,

“(B) \$10,000, if such vehicle has a gross vehicle weight rating of more than 8,500 pounds but not more than 14,000 pounds,

“(C) \$25,000, if such vehicle has a gross vehicle weight rating of more than 14,000 pounds but not more than 26,000 pounds, and

“(D) \$40,000, if such vehicle has a gross vehicle weight rating of more than 26,000 pounds.

“(4) NEW QUALIFIED ALTERNATIVE FUEL MOTOR VEHICLE.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘new qualified alternative fuel motor vehicle’ means any motor vehicle—

“(i) which is only capable of operating on an alternative fuel,

“(ii) the original use of which commences with the taxpayer,

“(iii) which is acquired by the taxpayer for use or lease, but not for resale, and

“(iv) which is made by a manufacturer.

“(B) ALTERNATIVE FUEL.—The term ‘alternative fuel’ means compressed natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, and any liquid at least 85 percent of the volume of which consists of methanol.

“(5) CREDIT FOR MIXED-FUEL VEHICLES.—

“(A) IN GENERAL.—In the case of a mixed-fuel vehicle placed in service by the taxpayer during the taxable year, the credit determined under this subsection is an amount equal to—

“(i) in the case of a 75/25 mixed-fuel vehicle, 70 percent of the credit which would have been allowed under this subsection if such vehicle was a qualified alternative fuel motor vehicle, and

“(ii) in the case of a 90/10 mixed-fuel vehicle, 90 percent of the credit which would have been allowed under this subsection if such vehicle was a qualified alternative fuel motor vehicle.

“(B) MIXED-FUEL VEHICLE.—For purposes of this subsection, the term ‘mixed-fuel vehicle’ means any motor vehicle described in subparagraph (C) or (D) of paragraph (3), which—

“(i) is certified by the manufacturer as being able to perform efficiently in normal operation on a combination of an alternative fuel and a petroleum-based fuel,

“(ii) either—

“(I) has received a certificate of conformity under the Clean Air Act, or

“(II) has received an order certifying the vehicle as meeting the same requirements as vehicles which may be sold or leased in California and meets or exceeds the low emission vehicle standard under section 88.105–94 of title 40, Code of Federal Regulations, for that make and model year vehicle,

“(iii) the original use of which commences with the taxpayer,

“(iv) which is acquired by the taxpayer for use or lease, but not for resale, and

“(v) which is made by a manufacturer.

“(C) 75/25 MIXED-FUEL VEHICLE.—For purposes of this subsection, the term ‘75/25 mixed-fuel vehicle’ means a mixed-fuel vehicle which operates using at least 75 percent alternative fuel and not more than 25 percent petroleum-based fuel.

“(D) 90/10 MIXED-FUEL VEHICLE.—For purposes of this subsection, the term ‘90/10 mixed-fuel vehicle’ means a mixed-fuel vehicle which operates using at least 90 percent alternative fuel and not more than 10 percent petroleum-based fuel.

“(f) LIMITATION ON NUMBER OF NEW QUALIFIED HYBRID AND ADVANCED LEAN-BURN TECHNOLOGY VEHICLES ELIGIBLE FOR CREDIT.—

“(1) IN GENERAL.—In the case of a qualified vehicle sold during the phaseout period, only the applicable percentage of the credit otherwise allowable under subsection (c) or (d) shall be allowed.

“(2) PHASEOUT PERIOD.—For purposes of this subsection, the phaseout period is the period beginning with the second calendar quarter following the calendar quarter which includes the first date on which the number of qualified vehicles manufactured by the manufacturer of the vehicle referred to in paragraph (1) sold for use in the United States after December 31, 2005, is at least 60,000.

“(3) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage is—

“(A) 50 percent for the first 2 calendar quarters of the phaseout period,

“(B) 25 percent for the 3d and 4th calendar quarters of the phaseout period, and

“(C) 0 percent for each calendar quarter thereafter.

“(4) CONTROLLED GROUPS.—

“(A) IN GENERAL.—For purposes of this subsection, all persons treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (o) of section 414 shall be treated as a single manufacturer.

“(B) INCLUSION OF FOREIGN CORPORATIONS.—For purposes of subparagraph (A), in applying subsections (a) and (b) of section 52 to this section, section 1563 shall be applied without regard to subsection (b)(2)(C) thereof.

“(5) QUALIFIED VEHICLE.—For purposes of this subsection, the term ‘qualified vehicle’ means any new qualified hybrid motor vehicle (described in subsection (d)(2)(A)) and any new advanced lean burn technology motor vehicle.

“(g) APPLICATION WITH OTHER CREDITS.—

“(1) BUSINESS CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—So much of the credit which would be allowed under subsection (a) for any taxable year (determined without regard to this subsection) that is attributable to property of a character subject to an allowance for depreciation shall be treated as a credit listed in section 38(b) for such taxable year (and not allowed under subsection (a)).

“(2) PERSONAL CREDIT.—The credit allowed under subsection (a) (after the application of paragraph (1)) for any taxable year shall not exceed the excess (if any) of—

“(A) the regular tax reduced by the sum of the credits allowable under subpart A and sections 27 and 30, over

“(B) the tentative minimum tax for the taxable year.

“(h) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

“(1) MOTOR VEHICLE.—The term ‘motor vehicle’ has the meaning given such term by section 30(c)(2).

“(2) CITY FUEL ECONOMY.—The city fuel economy with respect to any vehicle shall be measured in a manner which is substantially similar to the manner city fuel economy is measured in accordance with procedures under part 600 of

Applicability.

subchapter Q of chapter I of title 40, Code of Federal Regulations, as in effect on the date of the enactment of this section.

“(3) OTHER TERMS.—The terms ‘automobile’, ‘passenger automobile’, ‘medium duty passenger vehicle’, ‘light truck’, and ‘manufacturer’ have the meanings given such terms in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

“(4) REDUCTION IN BASIS.—For purposes of this subtitle, the basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit so allowed (determined without regard to subsection (g)).

“(5) NO DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter—

“(A) for any incremental cost taken into account in computing the amount of the credit determined under subsection (e) shall be reduced by the amount of such credit attributable to such cost, and

“(B) with respect to a vehicle described under subsection (b) or (c), shall be reduced by the amount of credit allowed under subsection (a) for such vehicle for the taxable year.

“(6) PROPERTY USED BY TAX-EXEMPT ENTITY.—In the case of a vehicle whose use is described in paragraph (3) or (4) of section 50(b) and which is not subject to a lease, the person who sold such vehicle to the person or entity using such vehicle shall be treated as the taxpayer that placed such vehicle in service, but only if such person clearly discloses to such person or entity in a document the amount of any credit allowable under subsection (a) with respect to such vehicle (determined without regard to subsection (g)).

“(7) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be allowable under subsection (a) with respect to any property referred to in section 50(b)(1) or with respect to the portion of the cost of any property taken into account under section 179.

Regulations.

“(8) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any property which ceases to be property eligible for such credit (including recapture in the case of a lease period of less than the economic life of a vehicle).

“(9) ELECTION TO NOT TAKE CREDIT.—No credit shall be allowed under subsection (a) for any vehicle if the taxpayer elects to not have this section apply to such vehicle.

“(10) INTERACTION WITH AIR QUALITY AND MOTOR VEHICLE SAFETY STANDARDS.—Unless otherwise provided in this section, a motor vehicle shall not be considered eligible for a credit under this section unless such vehicle is in compliance with—

“(A) the applicable provisions of the Clean Air Act for the applicable make and model year of the vehicle (or applicable air quality provisions of State law in the case of a State which has adopted such provision under a waiver under section 209(b) of the Clean Air Act), and

“(B) the motor vehicle safety provisions of sections 30101 through 30169 of title 49, United States Code.

“(i) REGULATIONS.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall promulgate such regulations as necessary to carry out the provisions of this section.

“(2) COORDINATION IN PRESCRIPTION OF CERTAIN REGULATIONS.—The Secretary of the Treasury, in coordination with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, shall prescribe such regulations as necessary to determine whether a motor vehicle meets the requirements to be eligible for a credit under this section.

“(j) TERMINATION.—This section shall not apply to any property purchased after—

“(1) in the case of a new qualified fuel cell motor vehicle (as described in subsection (b)), December 31, 2014,

“(2) in the case of a new advanced lean burn technology motor vehicle (as described in subsection (c)) or a new qualified hybrid motor vehicle (as described in subsection (d)(2)(A)), December 31, 2010,

“(3) in the case of a new qualified hybrid motor vehicle (as described in subsection (d)(2)(B)), December 31, 2009, and

“(4) in the case of a new qualified alternative fuel vehicle (as described in subsection (e)), December 31, 2010.”

(b) CONFORMING AMENDMENTS.—

(1) Section 38(b), as amended by this Act, is amended by striking “plus” at the end of paragraph (23), by striking the period at the end of paragraph (24) and inserting “, and”, and by adding at the end the following new paragraph:

“(25) the portion of the alternative motor vehicle credit to which section 30B(g)(1) applies.”

(2) Section 1016(a), as amended by this Act, is amended by striking “and” at the end of paragraph (34), by striking the period at the end of paragraph (35) and inserting “, and”, and by adding at the end the following new paragraph:

“(36) to the extent provided in section 30B(h)(4).”

(3) Section 55(c)(2), as amended by this Act, is amended by inserting “30B(g)(2),” after “30(b)(2).”

(4) Section 6501(m) is amended by inserting “30B(h)(9),” after “30(d)(4).”

(5) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 30A the following new item:

“Sec. 30B. Alternative motor vehicle credit.”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2005, in taxable years ending after such date. 26 USC 30B note.

SEC. 1342. CREDIT FOR INSTALLATION OF ALTERNATIVE FUELING STATIONS.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to other credits), as amended by this Act, is amended by adding at the end the following new section:

“SEC. 30C. ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY CREDIT.

“(a) CREDIT ALLOWED.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 30 percent of the cost of any qualified alternative

fuel vehicle refueling property placed in service by the taxpayer during the taxable year.

“(b) LIMITATION.—The credit allowed under subsection (a) with respect to any alternative fuel vehicle refueling property shall not exceed—

“(1) \$30,000 in the case of a property of a character subject to an allowance for depreciation, and

“(2) \$1,000 in any other case.

“(c) QUALIFIED ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the term ‘qualified alternative fuel vehicle refueling property’ has the meaning given to such term by section 179A(d), but only with respect to any fuel—

“(A) at least 85 percent of the volume of which consists of one or more of the following: ethanol, natural gas, compressed natural gas, liquefied natural gas, liquefied petroleum gas, or hydrogen, or

“(B) any mixture of biodiesel (as defined in section 40A(d)(1)) and diesel fuel (as defined in section 4083(a)(3)), determined without regard to any use of kerosene and containing at least 20 percent biodiesel.

“(2) RESIDENTIAL PROPERTY.—In the case of any property installed on property which is used as the principal residence (within the meaning of section 121) of the taxpayer, paragraph (1) of section 179A(d) shall not apply.

“(d) APPLICATION WITH OTHER CREDITS.—

“(1) BUSINESS CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—So much of the credit which would be allowed under subsection (a) for any taxable year (determined without regard to this subsection) that is attributable to property of a character subject to an allowance for depreciation shall be treated as a credit listed in section 38(b) for such taxable year (and not allowed under subsection (a)).

“(2) PERSONAL CREDIT.—The credit allowed under subsection (a) (after the application of paragraph (1)) for any taxable year shall not exceed the excess (if any) of—

“(A) the regular tax reduced by the sum of the credits allowable under subpart A and sections 27, 30, and 30B, over

“(B) the tentative minimum tax for the taxable year.

“(e) SPECIAL RULES.—For purposes of this section—

“(1) BASIS REDUCTION.—The basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

“(2) PROPERTY USED BY TAX-EXEMPT ENTITY.—In the case of any qualified alternative fuel vehicle refueling property the use of which is described in paragraph (3) or (4) of section 50(b) and which is not subject to a lease, the person who sold such property to the person or entity using such property shall be treated as the taxpayer that placed such property in service, but only if such person clearly discloses to such person or entity in a document the amount of any credit allowable under subsection (a) with respect to such property (determined without regard to subsection (d)).

“(3) PROPERTY USED OUTSIDE UNITED STATES NOT QUALIFIED.—No credit shall be allowable under subsection (a) with

respect to any property referred to in section 50(b)(1) or with respect to the portion of the cost of any property taken into account under section 179.

“(4) ELECTION NOT TO TAKE CREDIT.—No credit shall be allowed under subsection (a) for any property if the taxpayer elects not to have this section apply to such property.

“(5) RECAPTURE RULES.—Rules similar to the rules of section 179A(e)(4) shall apply.

Applicability.

“(f) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to carry out the provisions of this section.

“(g) TERMINATION.—This section shall not apply to any property placed in service—

“(1) in the case of property relating to hydrogen, after December 31, 2014, and

“(2) in the case of any other property, after December 31, 2009.”.

(b) CONFORMING AMENDMENTS.—

(1) Section 38(b), as amended by this Act, is amended by striking “plus” at the end of paragraph (24), by striking the period at the end of paragraph (25) and inserting “, and”, and by adding at the end the following new paragraph:

“(26) the portion of the alternative fuel vehicle refueling property credit to which section 30C(d)(1) applies.”.

(2) Section 1016(a), as amended by this Act, is amended by striking “and” at the end of paragraph (35), by striking the period at the end of paragraph (36) and inserting “, and”, and by adding at the end the following new paragraph:

“(37) to the extent provided in section 30C(f).”.

(3) Section 55(c)(2), as amended by this Act, is amended by inserting “30C(d)(2),” after “30B(g)(2),”.

(4) Section 6501(m) is amended by inserting “30C(e)(5),” after “30B(h)(9),”.

(5) The table of sections for subpart B of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 30B the following new item:

“Sec. 30C. Clean-fuel vehicle refueling property credit.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2005, in taxable years ending after such date.

26 USC 30C note.

SEC. 1343. REDUCED MOTOR FUEL EXCISE TAX ON CERTAIN MIXTURES OF DIESEL FUEL.

(a) IN GENERAL.—Paragraph (2) of section 4081(a) is amended by adding at the end the following:

“(D) DIESEL-WATER FUEL EMULSION.—In the case of diesel-water fuel emulsion at least 14 percent of which is water and with respect to which the emulsion additive is registered by a United States manufacturer with the Environmental Protection Agency pursuant to section 211 of the Clean Air Act (as in effect on March 31, 2003), subparagraph (A)(iii) shall be applied by substituting ‘19.7 cents’ for ‘24.3 cents’. The preceding sentence shall not apply to the removal, sale, or use of diesel-water fuel emulsion unless the person so removing, selling, or using such fuel is registered under section 4101.”.

Applicability.

(b) SPECIAL RULES FOR DIESEL-WATER FUEL EMULSIONS.—

26 USC 6427.

(1) REFUNDS FOR TAX-PAID PURCHASES.—Section 6427 is amended by redesignating subsections (m) through (p) as subsections (n) through (q), respectively, and by inserting after subsection (l) the following new subsection:

“(m) DIESEL FUEL USED TO PRODUCE EMULSION.—

“(1) IN GENERAL.—Except as provided in subsection (k), if any diesel fuel on which tax was imposed by section 4081 at the regular tax rate is used by any person in producing an emulsion described in section 4081(a)(2)(D) which is sold or used in such person’s trade or business, the Secretary shall pay (without interest) to such person an amount equal to the excess of the regular tax rate over the incentive tax rate with respect to such fuel.

“(2) DEFINITIONS.—For purposes of paragraph (1)—

“(A) REGULAR TAX RATE.—The term ‘regular tax rate’ means the aggregate rate of tax imposed by section 4081 determined without regard to section 4081(a)(2)(D).

“(B) INCENTIVE TAX RATE.—The term ‘incentive tax rate’ means the aggregate rate of tax imposed by section 4081 determined with regard to section 4081(a)(2)(D).”.

(2) LATER SEPARATION OF FUEL.—Section 4081 (relating to imposition of tax) is amended by inserting after subsection (b) the following new subsection:

“(c) LATER SEPARATION OF FUEL FROM DIESEL-WATER FUEL EMULSION.—If any person separates the taxable fuel from a diesel-water fuel emulsion on which tax was imposed under subsection (a) at a rate determined under subsection (a)(2)(D) (or with respect to which a credit or payment was allowed or made by reason of section 6427), such person shall be treated as the refiner of such taxable fuel. The amount of tax imposed on any removal of such fuel by such person shall be reduced by the amount of tax imposed (and not credited or refunded) on any prior removal or entry of such fuel.”.

(3) CREDIT CLAIMS.—Paragraphs (1) and (2) of section 6427(i) are both amended by inserting “(m),” after “(l),”.

26 USC 4081
note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2006.

SEC. 1344. EXTENSION OF EXCISE TAX PROVISIONS AND INCOME TAX CREDIT FOR BIODIESEL.

(a) IN GENERAL.—Sections 40A(e), 6426(c)(6), and 6427(e)(4)(B) are each amended by striking “2006” and inserting “2008”.

26 USC 40A note.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 1345. SMALL AGRI-BIODIESEL PRODUCER CREDIT.

(a) IN GENERAL.—Subsection (a) of section 40A (relating to biodiesel used as a fuel) is amended to read as follows:

“(a) GENERAL RULE.—For purposes of section 38, the biodiesel fuels credit determined under this section for the taxable year is an amount equal to the sum of—

“(1) the biodiesel mixture credit, plus

“(2) the biodiesel credit, plus

“(3) in the case of an eligible small agri-biodiesel producer, the small agri-biodiesel producer credit.”.

(b) SMALL AGRI-BIODIESEL PRODUCER CREDIT DEFINED.—Section 40A(b) (relating to definition of biodiesel mixture credit and

biodiesel credit) is amended by adding at the end the following new paragraph:

“(5) SMALL AGRI-BIODIESEL PRODUCER CREDIT.—

“(A) IN GENERAL.—The small agri-biodiesel producer credit of any eligible small agri-biodiesel producer for any taxable year is 10 cents for each gallon of qualified agri-biodiesel production of such producer.

“(B) QUALIFIED AGRI-BIODIESEL PRODUCTION.—For purposes of this paragraph, the term ‘qualified agri-biodiesel production’ means any agri-biodiesel (determined without regard to the last sentence of subsection (d)(2)) which is produced by an eligible small agri-biodiesel producer, and which during the taxable year—

“(i) is sold by such producer to another person—

“(I) for use by such other person in the production of a qualified biodiesel mixture in such other person’s trade or business (other than casual off-farm production),

“(II) for use by such other person as a fuel in a trade or business, or

“(III) who sells such agri-biodiesel at retail to another person and places such agri-biodiesel in the fuel tank of such other person, or

“(ii) is used or sold by such producer for any purpose described in clause (i).

“(C) LIMITATION.—The qualified agri-biodiesel production of any producer for any taxable year shall not exceed 15,000,000 gallons.”.

(c) DEFINITIONS AND SPECIAL RULES.—Section 40A is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

“(e) DEFINITIONS AND SPECIAL RULES FOR SMALL AGRI-BIODIESEL PRODUCER CREDIT.—For purposes of this section—

“(1) ELIGIBLE SMALL AGRI-BIODIESEL PRODUCER.—The term ‘eligible small agri-biodiesel producer’ means a person who, at all times during the taxable year, has a productive capacity for agri-biodiesel not in excess of 60,000,000 gallons.

“(2) AGGREGATION RULE.—For purposes of the 15,000,000 gallon limitation under subsection (b)(5)(C) and the 60,000,000 gallon limitation under paragraph (1), all members of the same controlled group of corporations (within the meaning of section 267(f)) and all persons under common control (within the meaning of section 52(b) but determined by treating an interest of more than 50 percent as a controlling interest) shall be treated as 1 person.

“(3) PARTNERSHIP, S CORPORATION, AND OTHER PASS-THRU ENTITIES.—In the case of a partnership, trust, S corporation, or other pass-thru entity, the limitations contained in subsection (b)(5)(C) and paragraph (1) shall be applied at the entity level and at the partner or similar level. Applicability.

“(4) ALLOCATION.—For purposes of this subsection, in the case of a facility in which more than 1 person has an interest, productive capacity shall be allocated among such persons in such manner as the Secretary may prescribe.

“(5) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary—

“(A) to prevent the credit provided for in subsection (a)(3) from directly or indirectly benefiting any person with a direct or indirect productive capacity of more than 60,000,000 gallons of agri-biodiesel during the taxable year, or

“(B) to prevent any person from directly or indirectly benefiting with respect to more than 15,000,000 gallons during the taxable year.

“(6) ALLOCATION OF SMALL AGRI-BIODIESEL CREDIT TO PATRONS OF COOPERATIVE.—

“(A) ELECTION TO ALLOCATE.—

“(i) IN GENERAL.—In the case of a cooperative organization described in section 1381(a), any portion of the credit determined under subsection (a)(3) for the taxable year may, at the election of the organization, be apportioned pro rata among patrons of the organization on the basis of the quantity or value of business done with or for such patrons for the taxable year.

“(ii) FORM AND EFFECT OF ELECTION.—An election under clause (i) for any taxable year shall be made on a timely filed return for such year. Such election, once made, shall be irrevocable for such taxable year. Such election shall not take effect unless the organization designates the apportionment as such in a written notice mailed to its patrons during the payment period described in section 1382(d).

“(B) TREATMENT OF ORGANIZATIONS AND PATRONS.—

“(i) ORGANIZATIONS.—The amount of the credit not apportioned to patrons pursuant to subparagraph (A) shall be included in the amount determined under subsection (a)(3) for the taxable year of the organization.

“(ii) PATRONS.—The amount of the credit apportioned to patrons pursuant to subparagraph (A) shall be included in the amount determined under such subsection for the first taxable year of each patron ending on or after the last day of the payment period (as defined in section 1382(d)) for the taxable year of the organization or, if earlier, for the taxable year of each patron ending on or after the date on which the patron receives notice from the cooperative of the apportionment.

“(iii) SPECIAL RULES FOR DECREASE IN CREDITS FOR TAXABLE YEAR.—If the amount of the credit of the organization determined under such subsection for a taxable year is less than the amount of such credit shown on the return of the organization for such year, an amount equal to the excess of—

“(I) such reduction, over

“(II) the amount not apportioned to such patrons under subparagraph (A) for the taxable year, shall be treated as an increase in tax imposed by this chapter on the organization. Such increase shall not be treated as tax imposed by this chapter for purposes of determining the amount of any

credit under this chapter or for purposes of section 55.”.

(d) CONFORMING AMENDMENTS.—

(1) Paragraph (4) of section 40A(b) is amended by striking “this section” and inserting “paragraph (1) or (2) of subsection (a)”.

(2) The heading of subsection (b) of section 40A is amended by striking “and Biodiesel Credit” and inserting “, Biodiesel Credit, and Small Agri-biodiesel Producer Credit”.

(3) Paragraph (3) of section 40A(d) is amended by redesignating subparagraph (C) as subparagraph (D) and by inserting after subparagraph (B) the following new subparagraph:

“(C) PRODUCER CREDIT.—If—

“(i) any credit was determined under subsection (a)(3), and

“(ii) any person does not use such fuel for a purpose described in subsection (b)(5)(B), then there is hereby imposed on such person a tax equal to 10 cents a gallon for each gallon of such agri-biodiesel.”.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act. 26 USC 40A note.

SEC. 1346. RENEWABLE DIESEL.

(a) IN GENERAL.—Section 40A (relating to biodiesel used as fuel), as amended by this Act, is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

“(f) RENEWABLE DIESEL.—For purposes of this title—

“(1) TREATMENT IN THE SAME MANNER AS BIODIESEL.—Except as provided in paragraph (2), renewable diesel shall be treated in the same manner as biodiesel.

“(2) EXCEPTIONS.—

“(A) RATE OF CREDIT.—Subsections (b)(1)(A) and (b)(2)(A) shall be applied with respect to renewable diesel by substituting ‘\$1.00’ for ‘50 cents’.

Applicability.

“(B) NONAPPLICATION OF CERTAIN CREDITS.—Subsections (b)(3) and (b)(5) shall not apply with respect to renewable diesel.

“(3) RENEWABLE DIESEL DEFINED.—The term ‘renewable diesel’ means diesel fuel derived from biomass (as defined in section 45K(c)(3)) using a thermal depolymerization process which meets—

“(A) the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545), and

“(B) the requirements of the American Society of Testing and Materials D975 or D396.”.

(b) CLERICAL AMENDMENTS.—

(1) The heading for section 40A is amended by inserting “AND RENEWABLE DIESEL” after “BIODIESEL”.

(2) The item in the table of contents for subpart D of part IV of subchapter A of chapter 1 relating to section 40A is amended to read as follows:

“Sec. 40A. Biodiesel and renewable diesel used as fuel.”.

26 USC 40A note.

(c) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply with respect to fuel sold or used after December 31, 2005.

SEC. 1347. MODIFICATION OF SMALL ETHANOL PRODUCER CREDIT.

(a) **DEFINITION OF SMALL ETHANOL PRODUCER.**—Section 40(g) (relating to definitions and special rules for eligible small ethanol producer credit) is amended by striking “30,000,000” each place it appears and inserting “60,000,000”.

(b) **WRITTEN NOTICE OF ELECTION TO ALLOCATE CREDIT TO PATRONS.**—Section 40(g)(6)(A)(ii) (relating to form and effect of election) is amended by adding at the end the following new sentence: “Such election shall not take effect unless the organization designates the apportionment as such in a written notice mailed to its patrons during the payment period described in section 1382(d).”.

26 USC 40 note.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 1348. SUNSET OF DEDUCTION FOR CLEAN-FUEL VEHICLES AND CERTAIN REFUELING PROPERTY.

Subsection (f) of section 179A (relating to termination) is amended by striking “December 31, 2006” and inserting “December 31, 2005”.

Subtitle E—Additional Energy Tax Incentives

SEC. 1351. EXPANSION OF RESEARCH CREDIT.

(a) **CREDIT FOR EXPENSES ATTRIBUTABLE TO CERTAIN COLLABORATIVE ENERGY RESEARCH CONSORTIA.**—

(1) **IN GENERAL.**—Section 41(a) (relating to credit for increasing research activities) is amended by striking “and” at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting “, and”, and by adding at the end the following new paragraph:

“(3) 20 percent of the amounts paid or incurred by the taxpayer in carrying on any trade or business of the taxpayer during the taxable year (including as contributions) to an energy research consortium.”.

(2) **ENERGY RESEARCH CONSORTIUM DEFINED.**—Section 41(f) (relating to special rules) is amended by adding at the end the following new paragraph:

“(6) **ENERGY RESEARCH CONSORTIUM.**—

“(A) **IN GENERAL.**—The term ‘energy research consortium’ means any organization—

“(i) which is—

“(I) described in section 501(c)(3) and is exempt from tax under section 501(a) and is organized and operated primarily to conduct energy research, or

“(II) organized and operated primarily to conduct energy research in the public interest (within the meaning of section 501(c)(3)),

“(ii) which is not a private foundation,

“(iii) to which at least 5 unrelated persons paid or incurred during the calendar year in which the taxable year of the organization begins amounts (including as contributions) to such organization for energy research, and

“(iv) to which no single person paid or incurred (including as contributions) during such calendar year an amount equal to more than 50 percent of the total amounts received by such organization during such calendar year for energy research.

“(B) TREATMENT OF PERSONS.—All persons treated as a single employer under subsection (a) or (b) of section 52 shall be treated as related persons for purposes of subparagraph (A)(iii) and as a single person for purposes of subparagraph (A)(iv).”.

(3) CONFORMING AMENDMENT.—Section 41(b)(3)(C) is amended by inserting “(other than an energy research consortium)” after “organization”.

(b) REPEAL OF LIMITATION ON CONTRACT RESEARCH EXPENSES PAID TO SMALL BUSINESSES, UNIVERSITIES, AND FEDERAL LABORATORIES.—Section 41(b)(3) (relating to contract research expenses) is amended by adding at the end the following new subparagraph:

“(D) AMOUNTS PAID TO ELIGIBLE SMALL BUSINESSES, UNIVERSITIES, AND FEDERAL LABORATORIES.—

“(i) IN GENERAL.—In the case of amounts paid by the taxpayer to—

“(I) an eligible small business,

“(II) an institution of higher education (as defined in section 3304(f)), or

“(III) an organization which is a Federal laboratory,

for qualified research which is energy research, subparagraph (A) shall be applied by substituting ‘100 percent’ for ‘65 percent’.

“(ii) ELIGIBLE SMALL BUSINESS.—For purposes of this subparagraph, the term ‘eligible small business’ means a small business with respect to which the taxpayer does not own (within the meaning of section 318) 50 percent or more of—

“(I) in the case of a corporation, the outstanding stock of the corporation (either by vote or value), and

“(II) in the case of a small business which is not a corporation, the capital and profits interests of the small business.

“(iii) SMALL BUSINESS.—For purposes of this subparagraph—

“(I) IN GENERAL.—The term ‘small business’ means, with respect to any calendar year, any person if the annual average number of employees employed by such person during either of the 2 preceding calendar years was 500 or fewer. For purposes of the preceding sentence, a preceding calendar year may be taken into account only if the person was in existence throughout the year.

Applicability.

“(II) STARTUPS, CONTROLLED GROUPS, AND PREDECESSORS.—Rules similar to the rules of subparagraphs (B) and (D) of section 220(c)(4) shall apply for purposes of this clause.

“(iv) FEDERAL LABORATORY.—For purposes of this subparagraph, the term ‘Federal laboratory’ has the meaning given such term by section 4(6) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3703(6)), as in effect on the date of the enactment of the Energy Tax Incentives Act of 2005.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act, in taxable years ending after such date.

26 USC 41 note.
Contracts.

SEC. 1352. NATIONAL ACADEMY OF SCIENCES STUDY AND REPORT.

(a) STUDY.—Not later than 60 days after the date of the enactment of this Act, the Secretary of the Treasury shall enter into an agreement with the National Academy of Sciences under which the National Academy of Sciences shall conduct a study to define and evaluate the health, environmental, security, and infrastructure external costs and benefits associated with the production and consumption of energy that are not or may not be fully incorporated into the market price of such energy, or into the Federal tax or fee or other applicable revenue measure related to such production or consumption.

(b) REPORT.—Not later than 2 years after the date on which the agreement under subsection (a) is entered into, the National Academy of Sciences shall submit to Congress a report on the study conducted under subsection (a).

SEC. 1353. RECYCLING STUDY.

(a) STUDY.—The Secretary of the Treasury, in consultation with the Secretary of Energy, shall conduct a study—

(1) to determine and quantify the energy savings achieved through the recycling of glass, paper, plastic, steel, aluminum, and electronic devices, and

(2) to identify tax incentives which would encourage recycling of such material.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary of the Treasury shall submit to Congress a report on the study conducted under subsection (a).

Subtitle F—Revenue Raising Provisions

SEC. 1361. OIL SPILL LIABILITY TRUST FUND FINANCING RATE.

Section 4611(f) (relating to application of oil spill liability trust fund financing rate) is amended to read as follows:

“(f) APPLICATION OF OIL SPILL LIABILITY TRUST FUND FINANCING RATE.—

Effective date.

“(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the Oil Spill Liability Trust Fund financing rate under subsection (c) shall apply on and after April 1, 2006, or if later, the date which is 30 days after the last day of any calendar quarter for which the Secretary estimates that, as of the close of that quarter, the unobligated balance in the Oil Spill Liability Trust Fund is less than \$2,000,000,000.

“(2) FUND BALANCE.—The Oil Spill Liability Trust Fund financing rate shall not apply during a calendar quarter if the Secretary estimates that, as of the close of the preceding calendar quarter, the unobligated balance in the Oil Spill Liability Trust Fund exceeds \$2,700,000,000.

“(3) TERMINATION.—The Oil Spill Liability Trust Fund financing rate shall not apply after December 31, 2014.”.

SEC. 1362. EXTENSION OF LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.

(a) IN GENERAL.—Paragraph (3) of section 4081(d) (relating to Leaking Underground Storage Tank Trust Fund financing rate) is amended by striking “2005” and inserting “2011”.

(b) NO EXEMPTIONS FROM TAX EXCEPT FOR EXPORTS.—

(1) IN GENERAL.—Section 4082(a) (relating to exemptions for diesel fuel and kerosene) is amended by inserting “(other than such tax at the Leaking Underground Storage Tank Trust Fund financing rate imposed in all cases other than for export)” after “section 4081”.

(2) AMENDMENTS RELATING TO SECTION 4041.—

(A) Subsections (a)(1)(B), (a)(2)(A), and (c)(2) of section 4041 are each amended by inserting “(other than such tax at the Leaking Underground Storage Tank Trust Fund financing rate)” after “section 4081”.

(B) Section 4041(b)(1)(A) is amended by striking “or (d)(1)”.

(C) Section 4041(d) is amended by adding at the end the following new paragraph:

“(5) NONAPPLICATION OF EXEMPTIONS OTHER THAN FOR EXPORTS.—For purposes of this section, the tax imposed under this subsection shall be determined without regard to subsections (f), (g) (other than with respect to any sale for export under paragraph (3) thereof), (h), and (l).”.

(3) NO REFUND.—

(A) IN GENERAL.—Subchapter B of chapter 65 is amended by adding at the end the following new section:

“SEC. 6430. TREATMENT OF TAX IMPOSED AT LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.

“No refunds, credits, or payments shall be made under this subchapter for any tax imposed at the Leaking Underground Storage Tank Trust Fund financing rate, except in the case of fuels destined for export.”.

(B) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 65 is amended by adding at the end the following new item:

“Sec. 6430. Treatment of tax imposed at Leaking Underground Storage Tank Trust Fund financing rate.”.

(c) CERTAIN REFUNDS AND CREDITS NOT CHARGED TO LUST TRUST FUND.—Subsection (c) of section 9508 (relating to Leaking Underground Storage Tank Trust Fund) is amended to read as follows:

“(c) EXPENDITURES.—Amounts in the Leaking Underground Storage Tank Trust Fund shall be available, as provided in appropriation Acts, only for purposes of making expenditures to carry out section 9003(h) of the Solid Waste Disposal Act as in effect

on the date of the enactment of the Superfund Amendments and Reauthorization Act of 1986.”.

26 USC 4041
note.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on October 1, 2005.

(2) NO EXEMPTION.—The amendments made by subsection (b) shall apply to fuel entered, removed, or sold after September 30, 2005.

SEC. 1363. MODIFICATION OF RECAPTURE RULES FOR AMORTIZABLE SECTION 197 INTANGIBLES.

(a) IN GENERAL.—Subsection (b) of section 1245 (relating to gain from dispositions of certain depreciable property) is amended by adding at the end the following new paragraph:

“(9) DISPOSITION OF AMORTIZABLE SECTION 197 INTANGIBLES.—

“(A) IN GENERAL.—If a taxpayer disposes of more than 1 amortizable section 197 intangible (as defined in section 197(c)) in a transaction or a series of related transactions, all such amortizable 197 intangibles shall be treated as 1 section 1245 property for purposes of this section.

“(B) EXCEPTION.—Subparagraph (A) shall not apply to any amortizable section 197 intangible (as so defined) with respect to which the adjusted basis exceeds the fair market value.”.

26 USC 1245
note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to dispositions of property after the date of the enactment of this Act.

SEC. 1364. CLARIFICATION OF TIRE EXCISE TAX.

(a) IN GENERAL.—Section 4072(e) (defining super single tire) is amended by adding at the end the following: “Such term shall not include any tire designed for steering.”

26 USC 4072
note.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in section 869 of the American Jobs Creation Act of 2004.

(c) STUDY.—

Effective date.

(1) IN GENERAL.—With respect to the 1-year period beginning on January 1, 2006, the Secretary of the Treasury shall conduct a study to determine—

(A) the amount of tax collected during such period under section 4071 of the Internal Revenue Code of 1986 with respect to each class of tire, and

(B) the number of tires in each such class on which tax is imposed under such section during such period.

(2) REPORT.—Not later than July 1, 2007, the Secretary of the Treasury shall submit to Congress a report on the study conducted under paragraph (1).

TITLE XIV—MISCELLANEOUS

Subtitle A—In General

SEC. 1401. SENSE OF CONGRESS ON RISK ASSESSMENTS.

Subtitle B of title XXX of the Energy Policy Act of 1992 is amended by adding at the end the following new section:

“SEC. 3022. SENSE OF CONGRESS ON RISK ASSESSMENTS.

42 USC 13557.

“It is the sense of Congress that Federal agencies conducting assessments of risks to human health and the environment from energy technology, production, transport, transmission, distribution, storage, use, or conservation activities shall use sound and objective scientific practices in assessing such risks, shall consider the best available science (including peer reviewed studies), and shall include a description of the weight of the scientific evidence concerning such risks.”.

SEC. 1402. ENERGY PRODUCTION INCENTIVES.

42 USC 16491.

(a) IN GENERAL.—A State may provide to any entity—

(1) a credit against any tax or fee owed to the State under a State law, or

(2) any other tax incentive,

determined by the State to be appropriate, in the amount calculated under and in accordance with a formula determined by the State, for production described in subsection (b) in the State by the entity that receives such credit or such incentive.

(b) ELIGIBLE ENTITIES.—Subsection (a) shall apply with respect to the production in the State of electricity from coal mined in the State and used in a facility, if such production meets all applicable Federal and State laws and if such facility uses scrubbers or other forms of clean coal technology.

Applicability.

(c) EFFECT ON INTERSTATE COMMERCE.—Any action taken by a State in accordance with this section with respect to a tax or fee payable, or incentive applicable, for any period beginning after the date of the enactment of this Act shall—

(1) be considered to be a reasonable regulation of commerce;

and

(2) not be considered to impose an undue burden on interstate commerce or to otherwise impair, restrain, or discriminate, against interstate commerce.

SEC. 1403. REGULATION OF CERTAIN OIL USED IN TRANSFORMERS.

42 USC 16492.

Notwithstanding any other provision of law, or rule promulgated by the Environmental Protection Agency, vegetable oil made from soybeans and used in electric transformers as thermal insulation shall not be regulated as an oil identified under section 2(a)(1)(B) of the Edible Oil Regulatory Reform Act (33 U.S.C. 2720(a)(1)(B)).

SEC. 1404. PETROCHEMICAL AND OIL REFINERY FACILITY HEALTH ASSESSMENT.

(a) ESTABLISHMENT.—The Secretary shall conduct a study of direct and significant health impacts to persons resulting from living in proximity to petrochemical and oil refinery facilities. The Secretary shall consult with the Director of the National Cancer Institute and other Federal Government bodies with expertise in

the field it deems appropriate in the design of such study. The study shall be conducted according to sound and objective scientific practices and present the weight of the scientific evidence. The Secretary shall obtain scientific peer review of the draft study.

(b) REPORT TO CONGRESS.—The Secretary shall transmit the results of the study to Congress within 6 months of the enactment of this section.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for activities under this section such sums as are necessary for the completion of the study.

42 USC 16493.

SEC. 1405. NATIONAL PRIORITY PROJECT DESIGNATION.

(a) DESIGNATION OF NATIONAL PRIORITY PROJECTS.—

(1) IN GENERAL.—There is established the National Priority Project Designation (referred to in this section as the “Designation”), which shall be evidenced by a medal bearing the inscription “National Priority Project”.

(2) DESIGN AND MATERIALS.—The medal shall be of such design and materials and bear such additional inscriptions as the President may prescribe.

President.

(b) MAKING AND PRESENTATION OF DESIGNATION.—

(1) IN GENERAL.—The President, on the basis of recommendations made by the Secretary, shall annually designate organizations that have—

(A) advanced the field of renewable energy technology and contributed to North American energy independence; and

Certification.

(B) been certified by the Secretary under subsection (e).

(2) PRESENTATION.—The President shall designate projects with such ceremonies as the President may prescribe.

(3) USE OF DESIGNATION.—An organization that receives a Designation under this section may publicize the Designation of the organization as a National Priority Project in advertising.

(4) CATEGORIES IN WHICH THE DESIGNATION MAY BE GIVEN.—Separate Designations shall be made to qualifying projects in each of the following categories:

(A) Wind and biomass energy generation projects.

(B) Photovoltaic and fuel cell energy generation projects.

(C) Energy efficient building and renewable energy projects.

(D) First-in-Class projects.

(c) SELECTION CRITERIA.—

(1) IN GENERAL.—Certification and selection of the projects to receive the Designation shall be based on criteria established under this subsection.

(2) WIND, BIOMASS, AND BUILDING PROJECTS.—In the case of a wind, biomass, or building project, the project shall demonstrate that the project will install not less than 30 megawatts of renewable energy generation capacity.

(3) SOLAR PHOTOVOLTAIC AND FUEL CELL PROJECTS.—In the case of a solar photovoltaic or fuel cell project, the project shall demonstrate that the project will install not less than 3 megawatts of renewable energy generation capacity.

(4) **ENERGY EFFICIENT BUILDING AND RENEWABLE ENERGY PROJECTS.**—In the case of an energy efficient building or renewable energy project, in addition to meeting the criteria established under paragraph (2), each building project shall demonstrate that the project will—

(A) comply with third-party certification standards for high-performance, sustainable buildings;

(B) use whole-building integration of energy efficiency and environmental performance design and technology, including advanced building controls;

(C) use renewable energy for at least 50 percent of the energy consumption of the project;

(D) comply with applicable Energy Star standards; and

(E) include at least 5,000,000 square feet of enclosed space.

(5) **FIRST-IN-CLASS USE.**—Notwithstanding paragraphs (2) through (4), a new building project may qualify under this section if the Secretary determines that the project—

(A) represents a First-In-Class use of renewable energy;

or

(B) otherwise establishes a new paradigm of building integrated renewable energy use or energy efficiency.

(d) **APPLICATION.**—

(1) **INITIAL APPLICATIONS.**—No later than 120 days after the date of enactment of this Act, and annually thereafter, the Secretary shall publish in the Federal Register an invitation and guidelines for submitting applications, consistent with this section.

Deadline.
Federal Register,
publication.
Guidelines.

(2) **CONTENTS.**—The application shall describe the project, or planned project, and the plans to meet the criteria established under subsection (c).

(e) **CERTIFICATION.**—

(1) **IN GENERAL.**—Not later than 60 days after the application period described in subsection (d), and annually thereafter, the Secretary shall certify projects that are reasonably expected to meet the criteria established under subsection (c).

Deadline.

(2) **CERTIFIED PROJECTS.**—The Secretary shall designate personnel of the Department to work with persons carrying out each certified project and ensure that the personnel—

(A) provide each certified project with guidance in meeting the criteria established under subsection (c);

(B) identify programs of the Department, including National Laboratories and Technology Centers, that will assist each project in meeting the criteria established under subsection (c); and

(C) ensure that knowledge and transfer of the most current technology between the applicable resources of the Federal Government (including the National Laboratories and Technology Centers, the Department, and the Environmental Protection Agency) and the certified projects is being facilitated to accelerate commercialization of work developed through those resources.

(f) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2006 through 2010.

SEC. 1406. COLD CRACKING.

(a) **STUDY.**—The Secretary shall conduct a study of the application of radiation to petroleum at standard temperature and pressure to refine petroleum products, whose objective shall be to increase the economic yield from each barrel of oil.

(b) **GOALS.**—The goals of the study shall include—

- (1) increasing the value of our current oil supply;
 - (2) reducing the capital investment cost for cracking oil;
 - (3) reducing the operating energy cost for cracking oil;
- and

- (4) reducing sulfur content using an environmentally responsible method.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out this section \$250,000 for fiscal year 2006.

42 USC 16494.

SEC. 1407. OXYGEN-FUEL.

(a) **PROGRAM.**—The Secretary shall establish a program on oxygen-fuel systems. If feasible, the program shall include renovation of at least one existing large unit and one existing small unit, and construction of one new large unit and one new small unit.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary for carrying out this section—

- (1) \$100,000,000 for fiscal year 2006;
- (2) \$100,000,000 for fiscal year 2007; and
- (3) \$100,000,000 for fiscal year 2008.

(c) **DEFINITIONS.**—For purposes of this section—

(1) the term “large unit” means a unit with a generating capacity of 100 megawatts or more;

(2) the term “oxygen-fuel systems” means systems that utilize fuel efficiency benefits of oil, gas, coal, and biomass combustion using substantially pure oxygen, with high flame temperatures and the exclusion of air from the boiler, in industrial or electric utility steam generating units; and

(3) the term “small unit” means a unit with a generating capacity in the 10–50 megawatt range.

Set America Free
Act of 2005.
Canada.
Mexico.

Subtitle B—Set America Free**SEC. 1421. SHORT TITLE.**

This subtitle may be cited as the “Set America Free Act of 2005” or the “SAFE Act”.

SEC. 1422. PURPOSE.

The purpose of this subtitle is to establish a United States commission to make recommendations for a coordinated and comprehensive North American energy policy that will achieve energy self-sufficiency by 2025 within the three contiguous North American nation area of Canada, Mexico, and the United States.

SEC. 1423. UNITED STATES COMMISSION ON NORTH AMERICAN ENERGY FREEDOM.

(a) **ESTABLISHMENT.**—There is hereby established the United States Commission on North American Energy Freedom (in this subtitle referred to as the “Commission”). The Federal Advisory

Committee Act (5 U.S.C. App.), except sections 3, 7, and 12, does not apply to the Commission.

(b) MEMBERSHIP.—

President.

(1) APPOINTMENT.—The Commission shall be composed of 16 members appointed by the President from among individuals described in paragraph (2) who are knowledgeable on energy issues, including oil and gas exploration and production, crude oil refining, oil and gas pipelines, electricity production and transmission, coal, unconventional hydrocarbon resources, fuel cells, motor vehicle power systems, nuclear energy, renewable energy, biofuels, energy efficiency, and energy conservation. The membership of the Commission shall be balanced by area of expertise to the extent consistent with maintaining the highest level of expertise on the Commission. Members of the Commission may be citizens of Canada, Mexico, or the United States, and the President shall ensure that citizens of all three nations are appointed to the Commission.

(2) NOMINATIONS.—The President shall appoint the members of the Commission within 60 days after the effective date of this Act, including individuals nominated as follows:

Deadline.

(A) Four members shall be appointed from amongst individuals independently determined by the President to be qualified for appointment.

(B) Four members shall be appointed from a list of eight individuals who shall be nominated by the majority leader of the Senate in consultation with the chairman of the Committee on Energy and Natural Resources of the Senate.

(C) Four members shall be appointed from a list of eight individuals who shall be nominated by the Speaker of the House of Representatives in consultation with the chairmen of the Committees on Energy and Commerce and Resources of the House of Representatives.

(D) Two members shall be appointed from a list of four individuals who shall be nominated by the minority leader of the Senate in consultation with the ranking Member of the Committee on Energy and Natural Resources of the Senate.

(E) Two members shall be appointed from a list of four individuals who shall be nominated by the minority leader of the House in consultation with the ranking Members of the Committees on Energy and Commerce and Resources of the House of Representatives.

(3) CHAIRMAN.—The chairman of the Commission shall be selected by the President. The chairman of the Commission shall be responsible for—

(A) the assignment of duties and responsibilities among staff personnel and their continuing supervision; and

(B) the use and expenditure of funds available to the Commission.

(4) VACANCIES.—Any vacancy on the Commission shall be filled in the same manner as the original incumbent was appointed.

(c) RESOURCES.—In carrying out its functions under this section, the Commission—

(1) is authorized to secure directly from any Federal agency or department any information it deems necessary to carry

out its functions under this Act, and each such agency or department is authorized to cooperate with the Commission and, to the extent permitted by law, to furnish such information (other than information described in section 552(b)(1)(A) of title 5, United States Code) to the Commission, upon the request of the Commission;

(2) may enter into contracts, subject to the availability of appropriations for contracting, and employ such staff experts and consultants as may be necessary to carry out the duties of the Commission, as provided by section 3109 of title 5, United States Code; and

Establishment.

(3) shall establish a multidisciplinary science and technical advisory panel of experts in the field of energy to assist the Commission in preparing its report, including ensuring that the scientific and technical information considered by the Commission is based on the best scientific and technical information available.

(d) STAFFING.—The chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary for the Commission to perform its duties. The executive director shall be compensated at a rate not to exceed the rate payable for Level IV of the Executive Schedule under chapter 5136 of title 5, United States Code. The chairman shall select staff from among qualified citizens of Canada, Mexico, and the United States of America.

(e) MEETINGS.—

(1) ADMINISTRATION.—All meetings of the Commission shall be open to the public, except that a meeting or any portion of it may be closed to the public if it concerns matters or information described in section 552b(c) of title 5, United States Code. Interested persons shall be permitted to appear at open meetings and present oral or written statements on the subject matter of the meeting. The Commission may administer oaths or affirmations to any person appearing before it.

(2) NOTICE; MINUTES; PUBLIC AVAILABILITY OF DOCUMENTS.—

(A) NOTICE.—All open meetings of the Commission shall be preceded by timely public notice in the Federal Register of the time, place, and subject of the meeting.

(B) MINUTES.—Minutes of each meeting shall be kept and shall contain a record of the people present, a description of the discussion that occurred, and copies of all statements filed. Subject to section 552 of title 5, United States Code, the minutes and records of all meetings and other documents that were made available to or prepared for the Commission shall be available for public inspection and copying at a single location in the offices of the Commission.

Deadline.

(3) INITIAL MEETING.—The Commission shall hold its first meeting within 30 days after all 16 members have been appointed.

(f) REPORT.—Within 12 months after the effective date of this Act, the Commission shall submit to Congress and the President a final report of its findings and recommendations regarding North American energy freedom.

(g) ADMINISTRATIVE PROCEDURE FOR REPORT AND REVIEW.—Chapter 5 and chapter 7 of title 5, United States Code, do not apply to the preparation, review, or submission of the report required by subsection (f).

(h) TERMINATION.—The Commission shall cease to exist 90 days after the date on which it submits its final report.

(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this chapter a total of \$10,000,000 for the 2 fiscal-year period beginning with fiscal year 2005, such sums to remain available until expended.

SEC. 1424. NORTH AMERICAN ENERGY FREEDOM POLICY.

Deadline.
President.

Within 90 days after receiving and considering the report and recommendations of the Commission under section 1423, the President shall submit to Congress a statement of proposals to implement or respond to the Commission's recommendations for a coordinated, comprehensive, and long-range national policy to achieve North American energy freedom by 2025.

TITLE XV—ETHANOL AND MOTOR FUELS

Subtitle A—General Provisions

SEC. 1501. RENEWABLE CONTENT OF GASOLINE.

(a) IN GENERAL.—Section 211 of the Clean Air Act (42 U.S.C. 7545) is amended—

- (1) by redesignating subsection (o) as subsection (r); and
- (2) by inserting after subsection (n) the following:

“(o) RENEWABLE FUEL PROGRAM.—

“(1) DEFINITIONS.—In this section:

“(A) CELLULOSIC BIOMASS ETHANOL.—The term ‘cellulosic biomass ethanol’ means ethanol derived from any lignocellulosic or hemicellulosic matter that is available on a renewable or recurring basis, including—

- “(i) dedicated energy crops and trees;
- “(ii) wood and wood residues;
- “(iii) plants;
- “(iv) grasses;
- “(v) agricultural residues;
- “(vi) fibers;
- “(vii) animal wastes and other waste materials;

and

“(viii) municipal solid waste.

The term also includes any ethanol produced in facilities where animal wastes or other waste materials are digested or otherwise used to displace 90 percent or more of the fossil fuel normally used in the production of ethanol.

“(B) WASTE DERIVED ETHANOL.—The term ‘waste derived ethanol’ means ethanol derived from—

- “(i) animal wastes, including poultry fats and poultry wastes, and other waste materials; or
- “(ii) municipal solid waste.

“(C) RENEWABLE FUEL.—

“(i) IN GENERAL.—The term ‘renewable fuel’ means motor vehicle fuel that—

“(I)(aa) is produced from grain, starch, oilseeds, vegetable, animal, or fish materials including fats, greases, and oils, sugarcane, sugar beets, sugar components, tobacco, potatoes, or other biomass; or

“(bb) is natural gas produced from a biogas source, including a landfill, sewage waste treatment plant, feedlot, or other place where decaying organic material is found; and

“(II) is used to replace or reduce the quantity of fossil fuel present in a fuel mixture used to operate a motor vehicle.

“(ii) INCLUSION.—The term ‘renewable fuel’ includes—

“(I) cellulosic biomass ethanol and ‘waste derived ethanol’; and

“(II) biodiesel (as defined in section 312(f) of the Energy Policy Act of 1992 (42 U.S.C. 13220(f))) and any blending components derived from renewable fuel (provided that only the renewable fuel portion of any such blending component shall be considered part of the applicable volume under the renewable fuel program established by this subsection).

“(D) SMALL REFINERY.—The term ‘small refinery’ means a refinery for which the average aggregate daily crude oil throughput for a calendar year (as determined by dividing the aggregate throughput for the calendar year by the number of days in the calendar year) does not exceed 75,000 barrels.

“(2) RENEWABLE FUEL PROGRAM.—

“(A) REGULATIONS.—

“(i) IN GENERAL.—Not later than 1 year after the date of enactment of this paragraph, the Administrator shall promulgate regulations to ensure that gasoline sold or introduced into commerce in the United States (except in noncontiguous States or territories), on an annual average basis, contains the applicable volume of renewable fuel determined in accordance with subparagraph (B).

“(ii) NONCONTIGUOUS STATE OPT-IN.—

“(I) IN GENERAL.—On the petition of a noncontiguous State or territory, the Administrator may allow the renewable fuel program established under this subsection to apply in the noncontiguous State or territory at the same time or any time after the Administrator promulgates regulations under this subparagraph.

“(II) OTHER ACTIONS.—In carrying out this clause, the Administrator may—

“(aa) issue or revise regulations under this paragraph;

“(bb) establish applicable percentages under paragraph (3);

Deadline.

“(cc) provide for the generation of credits under paragraph (5); and

“(dd) take such other actions as are necessary to allow for the application of the renewable fuels program in a noncontiguous State or territory.

“(iii) PROVISIONS OF REGULATIONS.—Regardless of the date of promulgation, the regulations promulgated under clause (i)—

“(I) shall contain compliance provisions applicable to refineries, blenders, distributors, and importers, as appropriate, to ensure that the requirements of this paragraph are met; but

“(II) shall not—

“(aa) restrict geographic areas in which renewable fuel may be used; or

“(bb) impose any per-gallon obligation for the use of renewable fuel.

“(iv) REQUIREMENT IN CASE OF FAILURE TO PROMULGATE REGULATIONS.—If the Administrator does not promulgate regulations under clause (i), the percentage of renewable fuel in gasoline sold or dispensed to consumers in the United States, on a volume basis, shall be 2.78 percent for calendar year 2006.

“(B) APPLICABLE VOLUME.—

“(i) CALENDAR YEARS 2006 THROUGH 2012.—For the purpose of subparagraph (A), the applicable volume for any of calendar years 2006 through 2012 shall be determined in accordance with the following table:

“Calendar year:	Applicable volume of renewable fuel (in billions of gallons):
2006	4.0
2007	4.7
2008	5.4
2009	6.1
2010	6.8
2011	7.4
2012	7.5.

“(ii) CALENDAR YEAR 2013 AND THEREAFTER.—Subject to clauses (iii) and (iv), for the purposes of subparagraph (A), the applicable volume for calendar year 2013 and each calendar year thereafter shall be determined by the Administrator, in coordination with the Secretary of Agriculture and the Secretary of Energy, based on a review of the implementation of the program during calendar years 2006 through 2012, including a review of—

“(I) the impact of the use of renewable fuels on the environment, air quality, energy security, job creation, and rural economic development; and

“(II) the expected annual rate of future production of renewable fuels, including cellulosic ethanol.

“(iii) MINIMUM QUANTITY DERIVED FROM CELLULOSIC BIOMASS.—For calendar year 2013 and each calendar year thereafter—

“(I) the applicable volume referred to in clause (ii) shall contain a minimum of 250,000,000 gallons that are derived from cellulosic biomass; and

“(II) the 2.5-to-1 ratio referred to in paragraph (4) shall not apply.

“(iv) MINIMUM APPLICABLE VOLUME.—For the purpose of subparagraph (A), the applicable volume for calendar year 2013 and each calendar year thereafter shall be equal to the product obtained by multiplying—

“(I) the number of gallons of gasoline that the Administrator estimates will be sold or introduced into commerce in the calendar year; and

“(II) the ratio that—

“(aa) 7,500,000,000 gallons of renewable fuel; bears to

“(bb) the number of gallons of gasoline sold or introduced into commerce in calendar year 2012.

Deadlines.

“(3) APPLICABLE PERCENTAGES.—

“(A) PROVISION OF ESTIMATE OF VOLUMES OF GASOLINE SALES.—Not later than October 31 of each of calendar years 2005 through 2011, the Administrator of the Energy Information Administration shall provide to the Administrator of the Environmental Protection Agency an estimate, with respect to the following calendar year, of the volumes of gasoline projected to be sold or introduced into commerce in the United States.

“(B) DETERMINATION OF APPLICABLE PERCENTAGES.—

“(i) IN GENERAL.—Not later than November 30 of each of calendar years 2005 through 2012, based on the estimate provided under subparagraph (A), the Administrator of the Environmental Protection Agency shall determine and publish in the Federal Register, with respect to the following calendar year, the renewable fuel obligation that ensures that the requirements of paragraph (2) are met.

“(ii) REQUIRED ELEMENTS.—The renewable fuel obligation determined for a calendar year under clause (i) shall—

“(I) be applicable to refineries, blenders, and importers, as appropriate;

“(II) be expressed in terms of a volume percentage of gasoline sold or introduced into commerce in the United States; and

“(III) subject to subparagraph (C)(i), consist of a single applicable percentage that applies to all categories of persons specified in subclause (I).

“(C) ADJUSTMENTS.—In determining the applicable percentage for a calendar year, the Administrator shall make adjustments—

“(i) to prevent the imposition of redundant obligations on any person specified in subparagraph (B)(ii)(I); and

“(ii) to account for the use of renewable fuel during the previous calendar year by small refineries that are exempt under paragraph (9).

“(4) CELLULOSIC BIOMASS ETHANOL OR WASTE DERIVED ETHANOL.—For the purpose of paragraph (2), 1 gallon of cellulosic biomass ethanol or waste derived ethanol shall be considered to be the equivalent of 2.5 gallons of renewable fuel.

“(5) CREDIT PROGRAM.—

“(A) IN GENERAL.—The regulations promulgated under paragraph (2)(A) shall provide—

“(i) for the generation of an appropriate amount of credits by any person that refines, blends, or imports gasoline that contains a quantity of renewable fuel that is greater than the quantity required under paragraph (2);

“(ii) for the generation of an appropriate amount of credits for biodiesel; and

“(iii) for the generation of credits by small refineries in accordance with paragraph (9)(C).

“(B) USE OF CREDITS.—A person that generates credits under subparagraph (A) may use the credits, or transfer all or a portion of the credits to another person, for the purpose of complying with paragraph (2).

“(C) DURATION OF CREDITS.—A credit generated under this paragraph shall be valid to show compliance for the 12 months as of the date of generation.

“(D) INABILITY TO GENERATE OR PURCHASE SUFFICIENT CREDITS.—The regulations promulgated under paragraph (2)(A) shall include provisions allowing any person that is unable to generate or purchase sufficient credits to meet the requirements of paragraph (2) to carry forward a renewable fuel deficit on condition that the person, in the calendar year following the year in which the renewable fuel deficit is created—

“(i) achieves compliance with the renewable fuel requirement under paragraph (2); and

“(ii) generates or purchases additional renewable fuel credits to offset the renewable fuel deficit of the previous year.

“(6) SEASONAL VARIATIONS IN RENEWABLE FUEL USE.—

“(A) STUDY.—For each of calendar years 2006 through 2012, the Administrator of the Energy Information Administration shall conduct a study of renewable fuel blending to determine whether there are excessive seasonal variations in the use of renewable fuel.

“(B) REGULATION OF EXCESSIVE SEASONAL VARIATIONS.—If, for any calendar year, the Administrator of the Energy Information Administration, based on the study under subparagraph (A), makes the determinations specified in subparagraph (C), the Administrator of the Environmental Protection Agency shall promulgate regulations to ensure that 25 percent or more of the quantity of renewable fuel necessary to meet the requirements of paragraph (2) is used during each of the 2 periods specified in subparagraph (D) of each subsequent calendar year.

“(C) DETERMINATIONS.—The determinations referred to in subparagraph (B) are that—

“(i) less than 25 percent of the quantity of renewable fuel necessary to meet the requirements of paragraph (2) has been used during 1 of the 2 periods specified in subparagraph (D) of the calendar year;

“(ii) a pattern of excessive seasonal variation described in clause (i) will continue in subsequent calendar years; and

“(iii) promulgating regulations or other requirements to impose a 25 percent or more seasonal use of renewable fuels will not prevent or interfere with the attainment of national ambient air quality standards or significantly increase the price of motor fuels to the consumer.

“(D) PERIODS.—The 2 periods referred to in this paragraph are—

“(i) April through September; and

“(ii) January through March and October through December.

“(E) EXCLUSION.—Renewable fuel blended or consumed in calendar year 2006 in a State that has received a waiver under section 209(b) shall not be included in the study under subparagraph (A).

“(F) STATE EXEMPTION FROM SEASONALITY REQUIREMENTS.—Notwithstanding any other provision of law, the seasonality requirement relating to renewable fuel use established by this paragraph shall not apply to any State that has received a waiver under section 209(b) or any State dependent on refineries in such State for gasoline supplies.

“(7) WAIVERS.—

“(A) IN GENERAL.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, may waive the requirements of paragraph (2) in whole or in part on petition by one or more States by reducing the national quantity of renewable fuel required under paragraph (2)—

“(i) based on a determination by the Administrator, after public notice and opportunity for comment, that implementation of the requirement would severely harm the economy or environment of a State, a region, or the United States; or

“(ii) based on a determination by the Administrator, after public notice and opportunity for comment, that there is an inadequate domestic supply.

“(B) PETITIONS FOR WAIVERS.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, shall approve or disapprove a State petition for a waiver of the requirements of paragraph (2) within 90 days after the date on which the petition is received by the Administrator.

“(C) TERMINATION OF WAIVERS.—A waiver granted under subparagraph (A) shall terminate after 1 year, but may be renewed by the Administrator after consultation with the Secretary of Agriculture and the Secretary of Energy.

“(8) STUDY AND WAIVER FOR INITIAL YEAR OF PROGRAM.—

Deadline.

“(A) IN GENERAL.—Not later than 180 days after the date of enactment of this paragraph, the Secretary of Energy shall conduct for the Administrator a study assessing whether the renewable fuel requirement under paragraph (2) will likely result in significant adverse impacts on consumers in 2006, on a national, regional, or State basis. Deadline.

“(B) REQUIRED EVALUATIONS.—The study shall evaluate renewable fuel—

“(i) supplies and prices;

“(ii) blendstock supplies; and

“(iii) supply and distribution system capabilities.

“(C) RECOMMENDATIONS BY THE SECRETARY.—Based on the results of the study, the Secretary of Energy shall make specific recommendations to the Administrator concerning waiver of the requirements of paragraph (2), in whole or in part, to prevent any adverse impacts described in subparagraph (A).

“(D) WAIVER.—

“(i) IN GENERAL.—Not later than 270 days after the date of enactment of this paragraph, the Administrator shall, if and to the extent recommended by the Secretary of Energy under subparagraph (C), waive, in whole or in part, the renewable fuel requirement under paragraph (2) by reducing the national quantity of renewable fuel required under paragraph (2) in calendar year 2006. Deadline.

“(ii) NO EFFECT ON WAIVER AUTHORITY.—Clause (i) does not limit the authority of the Administrator to waive the requirements of paragraph (2) in whole, or in part, under paragraph (7).

“(9) SMALL REFINERIES.—

“(A) TEMPORARY EXEMPTION.—

“(i) IN GENERAL.—The requirements of paragraph (2) shall not apply to small refineries until calendar year 2011.

“(ii) EXTENSION OF EXEMPTION.—

“(I) STUDY BY SECRETARY OF ENERGY.—Not later than December 31, 2008, the Secretary of Energy shall conduct for the Administrator a study to determine whether compliance with the requirements of paragraph (2) would impose a disproportionate economic hardship on small refineries. Deadline.

“(II) EXTENSION OF EXEMPTION.—In the case of a small refinery that the Secretary of Energy determines under subclause (I) would be subject to a disproportionate economic hardship if required to comply with paragraph (2), the Administrator shall extend the exemption under clause (i) for the small refinery for a period of not less than 2 additional years.

“(B) PETITIONS BASED ON DISPROPORTIONATE ECONOMIC HARDSHIP.—

“(i) EXTENSION OF EXEMPTION.—A small refinery may at any time petition the Administrator for an extension of the exemption under subparagraph (A) for the reason of disproportionate economic hardship.

“(ii) EVALUATION OF PETITIONS.—In evaluating a petition under clause (i), the Administrator, in consultation with the Secretary of Energy, shall consider the findings of the study under subparagraph (A)(ii) and other economic factors.

“(iii) DEADLINE FOR ACTION ON PETITIONS.—The Administrator shall act on any petition submitted by a small refinery for a hardship exemption not later than 90 days after the date of receipt of the petition.

“(C) CREDIT PROGRAM.—If a small refinery notifies the Administrator that the small refinery waives the exemption under subparagraph (A), the regulations promulgated under paragraph (2)(A) shall provide for the generation of credits by the small refinery under paragraph (5) beginning in the calendar year following the date of notification.

“(D) OPT-IN FOR SMALL REFINERIES.—A small refinery shall be subject to the requirements of paragraph (2) if the small refinery notifies the Administrator that the small refinery waives the exemption under subparagraph (A).

“(10) ETHANOL MARKET CONCENTRATION ANALYSIS.—

“(A) ANALYSIS.—

Deadline.

“(i) IN GENERAL.—Not later than 180 days after the date of enactment of this paragraph, and annually thereafter, the Federal Trade Commission shall perform a market concentration analysis of the ethanol production industry using the Herfindahl-Hirschman Index to determine whether there is sufficient competition among industry participants to avoid price-setting and other anticompetitive behavior.

“(ii) SCORING.—For the purpose of scoring under clause (i) using the Herfindahl-Hirschman Index, all marketing arrangements among industry participants shall be considered.

“(B) REPORT.—Not later than December 1, 2005, and annually thereafter, the Federal Trade Commission shall submit to Congress and the Administrator a report on the results of the market concentration analysis performed under subparagraph (A)(i).”

(b) PENALTIES AND ENFORCEMENT.—Section 211(d) of the Clean Air Act (42 U.S.C. 7545(d)) is amended—

(1) in paragraph (1)—

(A) in the first sentence, by striking “or (n)” each place it appears and inserting “(n), or (o)”; and

(B) in the second sentence, by striking “or (m)” and inserting “(m), or (o)”; and

(2) in the first sentence of paragraph (2), by striking “and (n)” each place it appears and inserting “(n), and (o)”.

(c) EXCLUSION FROM ETHANOL WAIVER.—Section 211(h) of the Clean Air Act (42 U.S.C. 7545(h)) is amended—

(1) by redesignating paragraph (5) as paragraph (6); and

(2) by inserting after paragraph (4) the following:

“(5) EXCLUSION FROM ETHANOL WAIVER.—

Notification.

“(A) PROMULGATION OF REGULATIONS.—Upon notification, accompanied by supporting documentation, from the Governor of a State that the Reid vapor pressure limitation established by paragraph (4) will increase emissions that contribute to air pollution in any area in the State, the

Administrator shall, by regulation, apply, in lieu of the Reid vapor pressure limitation established by paragraph (4), the Reid vapor pressure limitation established by paragraph (1) to all fuel blends containing gasoline and 10 percent denatured anhydrous ethanol that are sold, offered for sale, dispensed, supplied, offered for supply, transported, or introduced into commerce in the area during the high ozone season.

“(B) DEADLINE FOR PROMULGATION.—The Administrator shall promulgate regulations under subparagraph (A) not later than 90 days after the date of receipt of a notification from a Governor under that subparagraph.

“(C) EFFECTIVE DATE.—

“(i) IN GENERAL.—With respect to an area in a State for which the Governor submits a notification under subparagraph (A), the regulations under that subparagraph shall take effect on the later of—

“(I) the first day of the first high ozone season for the area that begins after the date of receipt of the notification; or

“(II) 1 year after the date of receipt of the notification.

“(ii) EXTENSION OF EFFECTIVE DATE BASED ON DETERMINATION OF INSUFFICIENT SUPPLY.—

“(I) IN GENERAL.—If, after receipt of a notification with respect to an area from a Governor of a State under subparagraph (A), the Administrator determines, on the Administrator’s own motion or on petition of any person and after consultation with the Secretary of Energy, that the promulgation of regulations described in subparagraph (A) would result in an insufficient supply of gasoline in the State, the Administrator, by regulation—

Regulations.

“(aa) shall extend the effective date of the regulations under clause (i) with respect to the area for not more than 1 year; and

“(bb) may renew the extension under item (aa) for two additional periods, each of which shall not exceed 1 year.

“(II) DEADLINE FOR ACTION ON PETITIONS.—

The Administrator shall act on any petition submitted under subclause (I) not later than 180 days after the date of receipt of the petition.”.

(d) SURVEY OF RENEWABLE FUEL MARKET.—

47 USC 7545
note.

(1) SURVEY AND REPORT.—Not later than December 1, 2006, and annually thereafter, the Administrator of the Environmental Protection Agency (in consultation with the Secretary acting through the Administrator of the Energy Information Administration) shall—

(A) conduct, with respect to each conventional gasoline use area and each reformulated gasoline use area in each State, a survey to determine the market shares of—

(i) conventional gasoline containing ethanol;

(ii) reformulated gasoline containing ethanol;

(iii) conventional gasoline containing renewable fuel; and

(iv) reformulated gasoline containing renewable fuel; and

(B) submit to Congress, and make publicly available, a report on the results of the survey under subparagraph (A).

(2) **RECORDKEEPING AND REPORTING REQUIREMENTS.**—The Administrator of the Environmental Protection Agency (hereinafter in this subsection referred to as the “Administrator”) may require any refiner, blender, or importer to keep such records and make such reports as are necessary to ensure that the survey conducted under paragraph (1) is accurate. The Administrator, to avoid duplicative requirements, shall rely, to the extent practicable, on existing reporting and record-keeping requirements and other information available to the Administrator including gasoline distribution patterns that include multistate use areas.

(3) **APPLICABLE LAW.**—Activities carried out under this subsection shall be conducted in a manner designed to protect confidentiality of individual responses.

42 USC 7545
note.

SEC. 1502. FINDINGS.

Congress finds that—

(1) since 1979, methyl tertiary butyl ether (hereinafter in this section referred to as “MTBE”) has been used nationwide at low levels in gasoline to replace lead as an octane booster or anti-knocking agent;

(2) Public Law 101–549 (commonly known as the “Clean Air Act Amendments of 1990”) (42 U.S.C. 7401 et seq.) established a fuel oxygenate standard under which reformulated gasoline must contain at least 2 percent oxygen by weight; and

(3) the fuel industry responded to the fuel oxygenate standard established by Public Law 101–549 by making substantial investments in—

(A) MTBE production capacity; and

(B) systems to deliver MTBE-containing gasoline to the marketplace.

42 USC 7545
note.

SEC. 1503. CLAIMS FILED AFTER ENACTMENT.

Claims and legal actions filed after the date of enactment of this Act related to allegations involving actual or threatened contamination of methyl tertiary butyl ether (MTBE) may be removed to the appropriate United States district court.

SEC. 1504. ELIMINATION OF OXYGEN CONTENT REQUIREMENT FOR REFORMULATED GASOLINE.

(a) **ELIMINATION.**—

(1) **IN GENERAL.**—Section 211(k) of the Clean Air Act (42 U.S.C. 7545(k)) is amended—

(A) in paragraph (2)—

(i) in the second sentence of subparagraph (A), by striking “(including the oxygen content requirement contained in subparagraph (B))”;

(ii) by striking subparagraph (B); and

(iii) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively;

(B) in paragraph (3)(A), by striking clause (v); and

(C) in paragraph (7)—

(i) in subparagraph (A)—

(I) by striking clause (i); and

(II) by redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively; and

(ii) in subparagraph (C)—

(I) by striking clause (ii); and

(II) by redesignating clause (iii) as clause (ii).

(2) APPLICABILITY.—The amendments made by paragraph

(1) apply—

(A) in the case of a State that has received a waiver under section 209(b) of the Clean Air Act (42 U.S.C. 7543(b)), beginning on the date of enactment of this Act; and

(B) in the case of any other State, beginning 270 days after the date of enactment of this Act.

(b) MAINTENANCE OF TOXIC AIR POLLUTANT EMISSION REDUCTIONS.—Section 211(k)(1) of the Clean Air Act (42 U.S.C. 7545(k)(1)) is amended—

(1) by striking “Within 1 year after the enactment of the Clean Air Act Amendments of 1990,” and inserting the following:

“(A) IN GENERAL.—Not later than November 15, 1991,”;

and

(2) by adding at the end the following:

“(B) MAINTENANCE OF TOXIC AIR POLLUTANT EMISSIONS REDUCTIONS FROM REFORMULATED GASOLINE.—

“(i) DEFINITION OF PADD.—In this subparagraph the term ‘PADD’ means a Petroleum Administration for Defense District.

“(ii) REGULATIONS CONCERNING EMISSIONS OF TOXIC AIR POLLUTANTS.—Not later than 270 days after the date of enactment of this subparagraph, the Administrator shall establish by regulation, for each refinery or importer (other than a refiner or importer in a State that has received a waiver under section 209(b) with respect to gasoline produced for use in that State), standards for toxic air pollutants from use of the reformulated gasoline produced or distributed by the refiner or importer that maintain the reduction of the average annual aggregate emissions of toxic air pollutants for reformulated gasoline produced or distributed by the refiner or importer during calendar years 2001 and 2002 (as determined on the basis of data collected by the Administrator with respect to the refiner or importer).

“(iii) STANDARDS APPLICABLE TO SPECIFIC REFINERIES OR IMPORTERS.—

“(I) APPLICABILITY OF STANDARDS.—For any calendar year, the standards applicable to a refiner or importer under clause (ii) shall apply to the quantity of gasoline produced or distributed by the refiner or importer in the calendar year only to the extent that the quantity is less than or equal to the average annual quantity of reformulated gasoline produced or distributed by the refiner or importer during calendar years 2001 and 2002.

Effective dates.
42 USC 7545
note.

Deadline.

Deadline.

“(II) APPLICABILITY OF OTHER STANDARDS.—For any calendar year, the quantity of gasoline produced or distributed by a refiner or importer that is in excess of the quantity subject to subclause (I) shall be subject to standards for emissions of toxic air pollutants promulgated under subparagraph (A) and paragraph (3)(B).

“(iv) CREDIT PROGRAM.—The Administrator shall provide for the granting and use of credits for emissions of toxic air pollutants in the same manner as provided in paragraph (7).

“(v) REGIONAL PROTECTION OF TOXICS REDUCTION BASELINES.—

“(I) IN GENERAL.—Not later than 60 days after the date of enactment of this subparagraph, and not later than April 1 of each calendar year that begins after that date of enactment, the Administrator shall publish in the Federal Register a report that specifies, with respect to the previous calendar year—

“(aa) the quantity of reformulated gasoline produced that is in excess of the average annual quantity of reformulated gasoline produced in 2001 and 2002; and

“(bb) the reduction of the average annual aggregate emissions of toxic air pollutants in each PADD, based on retail survey data or data from other appropriate sources.

“(II) EFFECT OF FAILURE TO MAINTAIN AGGREGATE TOXICS REDUCTIONS.—If, in any calendar year, the reduction of the average annual aggregate emissions of toxic air pollutants in a PADD fails to meet or exceed the reduction of the average annual aggregate emissions of toxic air pollutants in the PADD in calendar years 2001 and 2002, the Administrator, not later than 90 days after the date of publication of the report for the calendar year under subclause (I), shall—

“(aa) identify, to the maximum extent practicable, the reasons for the failure, including the sources, volumes, and characteristics of reformulated gasoline that contributed to the failure; and

“(bb) promulgate revisions to the regulations promulgated under clause (ii), to take effect not earlier than 180 days but not later than 270 days after the date of promulgation, to provide that, notwithstanding clause (iii)(II), all reformulated gasoline produced or distributed at each refiner or importer shall meet the standards applicable under clause (iii)(I) beginning not later than April 1 of the calendar year following publication of the report under subclause (I) and in each calendar year thereafter.

“(vi) Not later than July 1, 2007, the Administrator shall promulgate final regulations to control hazardous

Deadlines.
Federal Register,
publication.
Reports.

Effective dates.
Regulations.

Deadline.
Regulations.

air pollutants from motor vehicles and motor vehicle fuels, as provided for in section 80.1045 of title 40, Code of Federal Regulations (as in effect on the date of enactment of this subparagraph), and as authorized under section 202(1) of the Clean Air Act. If the Administrator promulgates by such date, final regulations to control hazardous air pollutants from motor vehicles and motor vehicle fuels that achieve and maintain greater overall reductions in emissions of air toxics from reformulated gasoline than the reductions that would be achieved under section 211(k)(1)(B) of the Clean Air Act as amended by this clause, then sections 211(k)(1)(B)(i) through 211(k)(1)(B)(v) shall be null and void and regulations promulgated thereunder shall be rescinded and have no further effect.”.

(c) CONSOLIDATION IN REFORMULATED GASOLINE REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall revise the reformulated gasoline regulations under subpart D of part 80 of title 40, Code of Federal Regulations, to consolidate the regulations applicable to VOC-Control Regions 1 and 2 under section 80.41 of that title by eliminating the less stringent requirements applicable to gasoline designated for VOC-Control Region 2 and instead applying the more stringent requirements applicable to gasoline designated for VOC-Control Region 1.

Deadline.

(d) SAVINGS CLAUSE.—

42 USC 7545
note.

(1) IN GENERAL.—Nothing in this section or any amendment made by this section affects or prejudices any legal claim or action with respect to regulations promulgated by the Administrator before the date of enactment of this Act regarding—

(A) emissions of toxic air pollutants from motor vehicles; or

(B) the adjustment of standards applicable to a specific refinery or importer made under those regulations.

(2) ADJUSTMENT OF STANDARDS.—

(A) APPLICABILITY.—The Administrator may apply any adjustments to the standards applicable to a refinery or importer under subparagraph (B)(iii)(I) of section 211(k)(1) of the Clean Air Act (as added by subsection (b)(2)), except that—

(i) the Administrator shall revise the adjustments to be based only on calendar years 1999 and 2000;

(ii) any such adjustment shall not be made at a level below the average percentage of reductions of emissions of toxic air pollutants for reformulated gasoline supplied to PADD I during calendar years 1999 and 2000; and

(iii) in the case of an adjustment based on toxic air pollutant emissions from reformulated gasoline significantly below the national annual average emissions of toxic air pollutants from all reformulated gasoline—

(I) the Administrator may revise the adjustment to take account of the scope of the prohibition on methyl tertiary butyl ether imposed by a State; and

(II) any such adjustment shall require the refiner or importer, to the maximum extent practicable, to maintain the reduction achieved during calendar years 1999 and 2000 in the average annual aggregate emissions of toxic air pollutants from reformulated gasoline produced or distributed by the refiner or importer.

SEC. 1505. PUBLIC HEALTH AND ENVIRONMENTAL IMPACTS OF FUELS AND FUEL ADDITIVES.

Section 211(b) of the Clean Air Act (42 U.S.C. 7545(b)) is amended—

(1) in paragraph (2)—

(A) by striking “may also” and inserting “shall, on a regular basis,”; and

(B) by striking subparagraph (A) and inserting the following:

“(A) to conduct tests to determine potential public health and environmental effects of the fuel or additive (including carcinogenic, teratogenic, or mutagenic effects); and”; and

(2) by adding at the end the following:

“(4) STUDY ON CERTAIN FUEL ADDITIVES AND BLENDSTOCKS.—

Deadline.

“(A) IN GENERAL.—Not later than 2 years after the date of enactment of this paragraph, the Administrator shall—

“(i) conduct a study on the effects on public health (including the effects on children, pregnant women, minority or low-income communities, and other sensitive populations), air quality, and water resources of increased use of, and the feasibility of using as substitutes for methyl tertiary butyl ether in gasoline—

“(I) ethyl tertiary butyl ether;

“(II) tertiary amyl methyl ether;

“(III) di-isopropyl ether;

“(IV) tertiary butyl alcohol;

“(V) other ethers and heavy alcohols, as determined by then Administrator;

“(VI) ethanol;

“(VII) iso-octane; and

“(VIII) alkylates; and

“(ii) conduct a study on the effects on public health (including the effects on children, pregnant women, minority or low-income communities, and other sensitive populations), air quality, and water resources of the adjustment for ethanol-blended reformulated gasoline to the volatile organic compounds performance requirements that are applicable under paragraphs (1) and (3) of section 211(k); and

Reports.

“(iii) submit to the Committee on Environment and Public Works of the Senate and the Committee on Energy and Commerce of the House of Representatives a report describing the results of the studies under clauses (i) and (ii).

“(B) CONTRACTS FOR STUDY.—In carrying out this paragraph, the Administrator may enter into one or more contracts with nongovernmental entities such as—

“(i) the national energy laboratories; and

“(ii) institutions of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)).”.

SEC. 1506. ANALYSES OF MOTOR VEHICLE FUEL CHANGES.

Deadlines.

Section 211 of the Clean Air Act (42 U.S.C. 7545) is amended by inserting after subsection (p) the following:

“(q) ANALYSES OF MOTOR VEHICLE FUEL CHANGES AND EMISSIONS MODEL.—

Publication.

“(1) ANTI-BACKSLIDING ANALYSIS.—

“(A) DRAFT ANALYSIS.—Not later than 4 years after the date of enactment of this paragraph, the Administrator shall publish for public comment a draft analysis of the changes in emissions of air pollutants and air quality due to the use of motor vehicle fuel and fuel additives resulting from implementation of the amendments made by the Energy Policy Act of 2005.

Public information.

“(B) FINAL ANALYSIS.—After providing a reasonable opportunity for comment but not later than 5 years after the date of enactment of this paragraph, the Administrator shall publish the analysis in final form.

“(2) EMISSIONS MODEL.—For the purposes of this section, not later than 4 years after the date of enactment of this paragraph, the Administrator shall develop and finalize an emissions model that reflects, to the maximum extent practicable, the effects of gasoline characteristics or components on emissions from vehicles in the motor vehicle fleet during calendar year 2007.

“(3) PERMEATION EFFECTS STUDY.—

“(A) IN GENERAL.—Not later than 1 year after the date of enactment of this paragraph, the Administrator shall conduct a study, and report to Congress the results of the study, on the effects of ethanol content in gasoline on permeation, the process by which fuel molecules migrate through the elastomeric materials (rubber and plastic parts) that make up the fuel and fuel vapor systems of a motor vehicle.

“(B) EVAPORATIVE EMISSIONS.—The study shall include estimates of the increase in total evaporative emissions likely to result from the use of gasoline with ethanol content in a motor vehicle, and the fleet of motor vehicles, due to permeation.”.

SEC. 1507. ADDITIONAL OPT-IN AREAS UNDER REFORMULATED GASOLINE PROGRAM.

Section 211(k)(6) of the Clean Air Act (42 U.S.C. 7545(k)(6)) is amended—

(1) by striking “(6) OPT-IN AREAS.—(A) Upon” and inserting the following:

“(6) OPT-IN AREAS.—

“(A) CLASSIFIED AREAS.—

“(i) IN GENERAL.—Upon”;

(2) in subparagraph (B), by striking “(B) If” and inserting the following:

- “(ii) EFFECT OF INSUFFICIENT DOMESTIC CAPACITY TO PRODUCE REFORMULATED GASOLINE.—If”;
- (3) in subparagraph (A)(ii) (as redesignated by paragraph (2))—
- (A) in the first sentence, by striking “subparagraph (A)” and inserting “clause (i)”; and
- (B) in the second sentence, by striking “this paragraph” and inserting “this subparagraph”; and
- (4) by adding at the end the following:

Deadlines.

“(B) OZONE TRANSPORT REGION.—

“(i) APPLICATION OF PROHIBITION.—

“(I) IN GENERAL.—On application of the Governor of a State in the ozone transport region established by section 184(a), the Administrator, not later than 180 days after the date of receipt of the application, shall apply the prohibition specified in paragraph (5) to any area in the State (other than an area classified as a marginal, moderate, serious, or severe ozone nonattainment area under subpart 2 of part D of title I) unless the Administrator determines under clause (iii) that there is insufficient capacity to supply reformulated gasoline.

Federal Register,
publication.

“(II) PUBLICATION OF APPLICATION.—As soon as practicable after the date of receipt of an application under subclause (I), the Administrator shall publish the application in the Federal Register.

“(ii) PERIOD OF APPLICABILITY.—Under clause (i), the prohibition specified in paragraph (5) shall apply in a State—

“(I) commencing as soon as practicable but not later than 2 years after the date of approval by the Administrator of the application of the Governor of the State; and

“(II) ending not earlier than 4 years after the commencement date determined under subclause (I).

“(iii) EXTENSION OF COMMENCEMENT DATE BASED ON INSUFFICIENT CAPACITY.—

“(I) IN GENERAL.—If, after receipt of an application from a Governor of a State under clause (i), the Administrator determines, on the Administrator’s own motion or on petition of any person, after consultation with the Secretary of Energy, that there is insufficient capacity to supply reformulated gasoline, the Administrator, by regulation—

“(aa) shall extend the commencement date with respect to the State under clause (ii)(I) for not more than 1 year; and

“(bb) may renew the extension under item (aa) for 2 additional periods, each of which shall not exceed 1 year.

“(II) DEADLINE FOR ACTION ON PETITIONS.—
The Administrator shall act on any petition submitted under subclause (I) not later than 180 days after the date of receipt of the petition.”.

SEC. 1508. DATA COLLECTION.

Section 205 of the Department of Energy Organization Act (42 U.S.C. 7135) is amended by adding at the end the following:

“(m) RENEWABLE FUELS SURVEY.—(1) In order to improve the ability to evaluate the effectiveness of the Nation’s renewable fuels mandate, the Administrator shall conduct and publish the results of a survey of renewable fuels demand in the motor vehicle fuels market in the United States monthly, and in a manner designed to protect the confidentiality of individual responses. In conducting the survey, the Administrator shall collect information both on a national and regional basis, including each of the following:

Publication.

“(A) The quantity of renewable fuels produced.

“(B) The quantity of renewable fuels blended.

“(C) The quantity of renewable fuels imported.

“(D) The quantity of renewable fuels demanded.

“(E) Market price data.

“(F) Such other analyses or evaluations as the Administrator finds are necessary to achieve the purposes of this section.

“(2) The Administrator shall also collect or estimate information both on a national and regional basis, pursuant to subparagraphs (A) through (F) of paragraph (1), for the 5 years prior to implementation of this subsection.

“(3) This subsection does not affect the authority of the Administrator to collect data under section 52 of the Federal Energy Administration Act of 1974 (15 U.S.C. 790a).”.

SEC. 1509. FUEL SYSTEM REQUIREMENTS HARMONIZATION STUDY.

(a) STUDY.—

(1) IN GENERAL.—The Administrator of the Environmental Protection Agency and the Secretary shall jointly conduct a study of Federal, State, and local requirements concerning motor vehicle fuels, including—

(A) requirements relating to reformulated gasoline, volatility (measured in Reid vapor pressure), oxygenated fuel, and diesel fuel; and

(B) other requirements that vary from State to State, region to region, or locality to locality.

(2) REQUIRED ELEMENTS.—The study shall assess—

(A) the effect of the variety of requirements described in paragraph (1) on the supply, quality, and price of motor vehicle fuels available to the consumer;

(B) the effect of the requirements described in paragraph (1) on achievement of—

(i) national, regional, and local air quality standards and goals; and

(ii) related environmental and public health protection standards and goals (including the protection of children, pregnant women, minority or low-income communities, and other sensitive populations);

(C) the effect of Federal, State, and local motor vehicle fuel regulations, including multiple motor vehicle fuel requirements, on—

- (i) domestic refiners;
 - (ii) the fuel distribution system; and
 - (iii) industry investment in new capacity;
 - (D) the effect of the requirements described in paragraph (1) on emissions from vehicles, refiners, and fuel handling facilities;
 - (E) the feasibility of developing national or regional motor vehicle fuel slates for the 48 contiguous States that, while protecting and improving air quality at the national, regional, and local levels, could—
 - (i) enhance flexibility in the fuel distribution infrastructure and improve fuel fungibility;
 - (ii) reduce price volatility and costs to consumers and producers;
 - (iii) provide increased liquidity to the gasoline market; and
 - (iv) enhance fuel quality, consistency, and supply;
 - (F) the feasibility of providing incentives, and the need for the development of national standards necessary, to promote cleaner burning motor vehicle fuel; and
 - (G) the extent to which improvements in air quality and any increases or decreases in the price of motor fuel can be projected to result from the Environmental Protection Agency's Tier II requirements for conventional gasoline and vehicle emission systems, on-road and off-road diesel rules, the reformulated gasoline program, the renewable content requirements established by this subtitle, State programs regarding gasoline volatility, and any other requirements imposed by the Federal Government, States or localities affecting the composition of motor fuel.
- (b) REPORT.—
- (1) IN GENERAL.—Not later than June 1, 2008, the Administrator of the Environmental Protection Agency and the Secretary shall submit to Congress a report on the results of the study conducted under subsection (a).
- (2) RECOMMENDATIONS.—
- (A) IN GENERAL.—The report shall contain recommendations for legislative and administrative actions that may be taken—
- (i) to improve air quality;
 - (ii) to reduce costs to consumers and producers;
- and
- (iii) to increase supply liquidity.
- (B) REQUIRED CONSIDERATIONS.—The recommendations under subparagraph (A) shall take into account the need to provide advance notice of required modifications to refinery and fuel distribution systems in order to ensure an adequate supply of motor vehicle fuel in all States.
- (3) CONSULTATION.—In developing the report, the Administrator of the Environmental Protection Agency and the Secretary shall consult with—
- (A) the Governors of the States;
 - (B) automobile manufacturers;
 - (C) State and local air pollution control regulators;
 - (D) public health experts;
 - (E) motor vehicle fuel producers and distributors; and
 - (F) the public.

SEC. 1510. COMMERCIAL BYPRODUCTS FROM MUNICIPAL SOLID WASTE AND CELLULOSIC BIOMASS LOAN GUARANTEE PROGRAM. 42 USC 16501.

(a) **DEFINITION OF MUNICIPAL SOLID WASTE.**—In this section, the term “municipal solid waste” has the meaning given the term “solid waste” in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903).

(b) **ESTABLISHMENT OF PROGRAM.**—The Secretary shall establish a program to provide guarantees of loans by private institutions for the construction of facilities for the processing and conversion of municipal solid waste and cellulosic biomass into fuel ethanol and other commercial byproducts.

(c) **REQUIREMENTS.**—The Secretary may provide a loan guarantee under subsection (b) to an applicant if—

(1) without a loan guarantee, credit is not available to the applicant under reasonable terms or conditions sufficient to finance the construction of a facility described in subsection (b);

(2) the prospective earning power of the applicant and the character and value of the security pledged provide a reasonable assurance of repayment of the loan to be guaranteed in accordance with the terms of the loan; and

(3) the loan bears interest at a rate determined by the Secretary to be reasonable, taking into account the current average yield on outstanding obligations of the United States with remaining periods of maturity comparable to the maturity of the loan.

(d) **CRITERIA.**—In selecting recipients of loan guarantees from among applicants, the Secretary shall give preference to proposals that—

(1) meet all applicable Federal and State permitting requirements;

(2) are most likely to be successful; and

(3) are located in local markets that have the greatest need for the facility because of—

(A) the limited availability of land for waste disposal;

(B) the availability of sufficient quantities of cellulosic biomass; or

(C) a high level of demand for fuel ethanol or other commercial byproducts of the facility.

(e) **MATURITY.**—A loan guaranteed under subsection (b) shall have a maturity of not more than 20 years.

(f) **TERMS AND CONDITIONS.**—The loan agreement for a loan guaranteed under subsection (b) shall provide that no provision of the loan agreement may be amended or waived without the consent of the Secretary.

(g) **ASSURANCE OF REPAYMENT.**—The Secretary shall require that an applicant for a loan guarantee under subsection (b) provide an assurance of repayment in the form of a performance bond, insurance, collateral, or other means acceptable to the Secretary in an amount equal to not less than 20 percent of the amount of the loan.

(h) **GUARANTEE FEE.**—The recipient of a loan guarantee under subsection (b) shall pay the Secretary an amount determined by the Secretary to be sufficient to cover the administrative costs of the Secretary relating to the loan guarantee.

(i) **FULL FAITH AND CREDIT.**—The full faith and credit of the United States is pledged to the payment of all guarantees made under this section. Any such guarantee made by the Secretary shall be conclusive evidence of the eligibility of the loan for the guarantee with respect to principal and interest. The validity of the guarantee shall be incontestable in the hands of a holder of the guaranteed loan.

(j) **REPORTS.**—Until each guaranteed loan under this section has been repaid in full, the Secretary shall annually submit to Congress a report on the activities of the Secretary under this section.

(k) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as are necessary to carry out this section.

(l) **TERMINATION OF AUTHORITY.**—The authority of the Secretary to issue a loan guarantee under subsection (b) terminates on the date that is 10 years after the date of enactment of this Act.

SEC. 1511. RENEWABLE FUEL.

The Clean Air Act is amended by inserting after section 211 (42 U.S.C. 7411) the following:

42 USC 7546.

“SEC. 212. RENEWABLE FUEL.

“(a) **DEFINITIONS.**—In this section:

“(1) **MUNICIPAL SOLID WASTE.**—The term ‘municipal solid waste’ has the meaning given the term ‘solid waste’ in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903).

“(2) **RFG STATE.**—The term ‘RFG State’ means a State in which is located one or more covered areas (as defined in section 211(k)(10)(D)).

“(3) **SECRETARY.**—The term ‘Secretary’ means the Secretary of Energy.

“(b) **CELLULOSIC BIOMASS ETHANOL AND MUNICIPAL SOLID WASTE LOAN GUARANTEE PROGRAM.**—

“(1) **IN GENERAL.**—Funds may be provided for the cost (as defined in the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.)) of loan guarantees issued under title XIV of the Energy Policy Act to carry out commercial demonstration projects for cellulosic biomass and sucrose-derived ethanol.

“(2) **DEMONSTRATION PROJECTS.**—

“(A) **IN GENERAL.**—The Secretary shall issue loan guarantees under this section to carry out not more than 4 projects to commercially demonstrate the feasibility and viability of producing cellulosic biomass ethanol or sucrose-derived ethanol, including at least 1 project that uses cereal straw as a feedstock and 1 project that uses municipal solid waste as a feedstock.

“(B) **DESIGN CAPACITY.**—Each project shall have a design capacity to produce at least 30,000,000 gallons of cellulosic biomass ethanol each year.

“(3) **APPLICANT ASSURANCES.**—An applicant for a loan guarantee under this section shall provide assurances, satisfactory to the Secretary, that—

“(A) the project design has been validated through the operation of a continuous process facility with a cumulative output of at least 50,000 gallons of ethanol;

“(B) the project has been subject to a full technical review;

“(C) the project is covered by adequate project performance guarantees;

“(D) the project, with the loan guarantee, is economically viable; and

“(E) there is a reasonable assurance of repayment of the guaranteed loan.

“(4) LIMITATIONS.—

“(A) MAXIMUM GUARANTEE.—Except as provided in subparagraph (B), a loan guarantee under this section may be issued for up to 80 percent of the estimated cost of a project, but may not exceed \$250,000,000 for a project.

“(B) ADDITIONAL GUARANTEES.—

“(i) IN GENERAL.—The Secretary may issue additional loan guarantees for a project to cover up to 80 percent of the excess of actual project cost over estimated project cost but not to exceed 15 percent of the amount of the original guarantee.

“(ii) PRINCIPAL AND INTEREST.—Subject to subparagraph (A), the Secretary shall guarantee 100 percent of the principal and interest of a loan made under subparagraph (A).

“(5) EQUITY CONTRIBUTIONS.—To be eligible for a loan guarantee under this section, an applicant for the loan guarantee shall have binding commitments from equity investors to provide an initial equity contribution of at least 20 percent of the total project cost.

“(6) INSUFFICIENT AMOUNTS.—If the amount made available to carry out this section is insufficient to allow the Secretary to make loan guarantees for 3 projects described in subsection (b), the Secretary shall issue loan guarantees for one or more qualifying projects under this section in the order in which the applications for the projects are received by the Secretary.

“(7) APPROVAL.—An application for a loan guarantee under this section shall be approved or disapproved by the Secretary not later than 90 days after the application is received by the Secretary.

Deadline.

“(c) AUTHORIZATION OF APPROPRIATIONS FOR RESOURCE CENTER.—There is authorized to be appropriated, for a resource center to further develop bioconversion technology using low-cost biomass for the production of ethanol at the Center for Biomass-Based Energy at the Mississippi State University and the Oklahoma State University, \$4,000,000 for each of fiscal years 2005 through 2007.

Mississippi.
Oklahoma.

“(d) RENEWABLE FUEL PRODUCTION RESEARCH AND DEVELOPMENT GRANTS.—

“(1) IN GENERAL.—The Administrator shall provide grants for the research into, and development and implementation of, renewable fuel production technologies in RFG States with low rates of ethanol production, including low rates of production of cellulosic biomass ethanol.

“(2) ELIGIBILITY.—

“(A) IN GENERAL.—The entities eligible to receive a grant under this subsection are academic institutions in RFG States, and consortia made up of combinations of academic institutions, industry, State government agencies, or local government agencies in RFG States, that have

proven experience and capabilities with relevant technologies.

“(B) APPLICATION.—To be eligible to receive a grant under this subsection, an eligible entity shall submit to the Administrator an application in such manner and form, and accompanied by such information, as the Administrator may specify.

“(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection \$25,000,000 for each of fiscal years 2006 through 2010.

“(e) CELLULOSIC BIOMASS ETHANOL CONVERSION ASSISTANCE.—

“(1) IN GENERAL.—The Secretary may provide grants to merchant producers of cellulosic biomass ethanol in the United States to assist the producers in building eligible production facilities described in paragraph (2) for the production of cellulosic biomass ethanol.

“(2) ELIGIBLE PRODUCTION FACILITIES.—A production facility shall be eligible to receive a grant under this subsection if the production facility—

“(A) is located in the United States; and

“(B) uses cellulosic biomass feedstocks derived from agricultural residues or municipal solid waste.

“(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection—

“(A) \$250,000,000 for fiscal year 2006; and

“(B) \$400,000,000 for fiscal year 2007.”

SEC. 1512. CONVERSION ASSISTANCE FOR CELLULOSIC BIOMASS, WASTE-DERIVED ETHANOL, APPROVED RENEWABLE FUELS.

Section 211 of the Clean Air Act (42 U.S.C. 7545) is amended by adding at the end the following:

“(r) CONVERSION ASSISTANCE FOR CELLULOSIC BIOMASS, WASTE-DERIVED ETHANOL, APPROVED RENEWABLE FUELS.—

“(1) IN GENERAL.—The Secretary of Energy may provide grants to merchant producers of cellulosic biomass ethanol, waste-derived ethanol, and approved renewable fuels in the United States to assist the producers in building eligible production facilities described in paragraph (2) for the production of ethanol or approved renewable fuels.

“(2) ELIGIBLE PRODUCTION FACILITIES.—A production facility shall be eligible to receive a grant under this subsection if the production facility—

“(A) is located in the United States; and

“(B) uses cellulosic or renewable biomass or waste-derived feedstocks derived from agricultural residues, wood residues, municipal solid waste, or agricultural byproducts.

“(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated the following amounts to carry out this subsection:

“(A) \$100,000,000 for fiscal year 2006.

“(B) \$250,000,000 for fiscal year 2007.

“(C) \$400,000,000 for fiscal year 2008.

“(4) DEFINITIONS.—For the purposes of this subsection:

“(A) The term ‘approved renewable fuels’ are fuels and components of fuels that have been approved by the Department of Energy, as defined in section 301 of the Energy

Policy Act of 1992 (42 U.S.C. 13211), which have been made from renewable biomass.

“(B) The term ‘renewable biomass’ is, as defined in Presidential Executive Order 13134, published in the Federal Register on August 16, 1999, any organic matter that is available on a renewable or recurring basis (excluding old-growth timber), including dedicated energy crops and trees, agricultural food and feed crop residues, aquatic plants, animal wastes, wood and wood residues, paper and paper residues, and other vegetative waste materials. Old-growth timber means timber of a forest from the late successional stage of forest development.”.

SEC. 1513. BLENDING OF COMPLIANT REFORMULATED GASOLINES.

Section 211 of the Clean Air Act (42 U.S.C. 7545) is amended by adding at the end the following:

“(s) BLENDING OF COMPLIANT REFORMULATED GASOLINES.—

“(1) IN GENERAL.—Notwithstanding subsections (h) and (k) and subject to the limitations in paragraph (2) of this subsection, it shall not be a violation of this subtitle for a gasoline retailer, during any month of the year, to blend at a retail location batches of ethanol-blended and non-ethanol-blended reformulated gasoline, provided that—

“(A) each batch of gasoline to be blended has been individually certified as in compliance with subsections (h) and (k) prior to being blended;

“(B) the retailer notifies the Administrator prior to such blending, and identifies the exact location of the retail station and the specific tank in which such blending will take place;

“(C) the retailer retains and, as requested by the Administrator or the Administrator’s designee, makes available for inspection such certifications accounting for all gasoline at the retail outlet; and

“(D) the retailer does not, between June 1 and September 15 of each year, blend a batch of VOC-controlled, or ‘summer’, gasoline with a batch of non-VOC-controlled, or ‘winter’, gasoline (as these terms are defined under subsections (h) and (k)).

“(2) LIMITATIONS.—

“(A) FREQUENCY LIMITATION.—A retailer shall only be permitted to blend batches of compliant reformulated gasoline under this subsection a maximum of two blending periods between May 1 and September 15 of each calendar year.

“(B) DURATION OF BLENDING PERIOD.—Each blending period authorized under subparagraph (A) shall extend for a period of no more than 10 consecutive calendar days.

“(3) SURVEYS.—A sample of gasoline taken from a retail location that has blended gasoline within the past 30 days and is in compliance with subparagraphs (A), (B), (C), and (D) of paragraph (1) shall not be used in a VOC survey mandated by 40 CFR Part 80.

“(4) STATE IMPLEMENTATION PLANS.—A State shall be held harmless and shall not be required to revise its State implementation plan under section 110 to account for the emissions from blended gasoline authorized under paragraph (1).

“(5) PRESERVATION OF STATE LAW.—Nothing in this subsection shall—

“(A) preempt existing State laws or regulations regulating the blending of compliant gasolines; or

“(B) prohibit a State from adopting such restrictions in the future.

Notice.
Deadline.

“(6) REGULATIONS.—The Administrator shall promulgate, after notice and comment, regulations implementing this subsection within 1 year after the date of enactment of this subsection.

“(7) EFFECTIVE DATE.—This subsection shall become effective 15 months after the date of its enactment and shall apply to blended batches of reformulated gasoline on or after that date, regardless of whether the implementing regulations required by paragraph (6) have been promulgated by the Administrator by that date.

“(8) LIABILITY.—No person other than the person responsible for blending under this subsection shall be subject to an enforcement action or penalties under subsection (d) solely arising from the blending of compliant reformulated gasolines by the retailers.

“(9) FORMULATION OF GASOLINE.—This subsection does not grant authority to the Administrator or any State (or any subdivision thereof) to require reformulation of gasoline at the refinery to adjust for potential or actual emissions increases due to the blending authorized by this subsection.”.

42 USC 16502.

SEC. 1514. ADVANCED BIOFUEL TECHNOLOGIES PROGRAM.

(a) IN GENERAL.—Subject to the availability of appropriations under subsection (d), the Administrator of the Environmental Protection Agency shall, in consultation with the Secretary of Agriculture and the Biomass Research and Development Technical Advisory Committee established under section 306 of the Biomass Research and Development Act of 2000 (Public Law 106-224; 7 U.S.C. 8101 note), establish a program, to be known as the “Advanced Biofuel Technologies Program”, to demonstrate advanced technologies for the production of alternative transportation fuels.

(b) PRIORITY.—In carrying out the program under subsection (a), the Administrator shall give priority to projects that enhance the geographical diversity of alternative fuels production and utilize feedstocks that represent 10 percent or less of ethanol or biodiesel fuel production in the United States during the previous fiscal year.

(c) DEMONSTRATION PROJECTS.—

(1) IN GENERAL.—As part of the program under subsection (a), the Administrator shall fund demonstration projects—

(A) to develop not less than 4 different conversion technologies for producing cellulosic biomass ethanol; and

(B) to develop not less than 5 technologies for coproducing value-added bioproducts (such as fertilizers, herbicides, and pesticides) resulting from the production of biodiesel fuel.

(2) ADMINISTRATION.—Demonstration projects under this subsection shall be—

(A) conducted based on a merit-reviewed, competitive process; and

(B) subject to the cost-sharing requirements of section 988.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out this section \$110,000,000 for each of fiscal years 2005 through 2009.

SEC. 1515. WASTE-DERIVED ETHANOL AND BIODIESEL.

Section 312(f)(1) of the Energy Policy Act of 1992 (42 U.S.C. 13220(f)(1)) is amended—

(1) by striking “‘biodiesel’ means” and inserting the following: “‘biodiesel’—

“(A) means”; and

(2) in subparagraph (A) (as designated by paragraph (1)) by striking “and” at the end and inserting the following:

“(B) includes biodiesel derived from—

“(i) animal wastes, including poultry fats and poultry wastes, and other waste materials; or

“(ii) municipal solid waste and sludges and oils derived from wastewater and the treatment of wastewater; and”.

SEC. 1516. SUGAR ETHANOL LOAN GUARANTEE PROGRAM.

42 USC 16503.

(a) **IN GENERAL.**—Funds may be provided for the cost (as defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a)) of loan guarantees issued under title XIV to carry out commercial demonstration projects for ethanol derived from sugarcane, bagasse, and other sugarcane byproducts.

(b) **DEMONSTRATION PROJECTS.**—The Secretary may issue loan guarantees under this section to projects to demonstrate commercially the feasibility and viability of producing ethanol using sugarcane, sugarcane bagasse, and other sugarcane byproducts as a feedstock.

(c) **REQUIREMENTS.**—An applicant for a loan guarantee under this section may provide assurances, satisfactory to the Secretary, that—

(1) the project design has been validated through the operation of a continuous process facility;

(2) the project has been subject to a full technical review;

(3) the project, with the loan guarantee, is economically viable; and

(4) there is a reasonable assurance of repayment of the guaranteed loan.

(d) **LIMITATIONS.**—

(1) **MAXIMUM GUARANTEE.**—Except as provided in paragraph (2), a loan guarantee under this section—

(A) may be issued for up to 80 percent of the estimated cost of a project; but

(B) shall not exceed \$50,000,000 for any 1 project.

(2) **ADDITIONAL GUARANTEES.**—

(A) **IN GENERAL.**—The Secretary may issue additional loan guarantees for a project to cover—

(i) up to 80 percent of the excess of actual project costs; but

(ii) not to exceed 15 percent of the amount of the original loan guarantee.

(B) **PRINCIPAL AND INTEREST.**—Subject to subparagraph (A), the Secretary shall guarantee 100 percent of the principal and interest of a loan guarantee made under subparagraph (A).

Underground
Storage Tank
Compliance Act.

Subtitle B—Underground Storage Tank Compliance

42 USC 6901
note.

SEC. 1521. SHORT TITLE.

This subtitle may be cited as the “Underground Storage Tank Compliance Act”.

SEC. 1522. LEAKING UNDERGROUND STORAGE TANKS.

(a) **IN GENERAL.**—Section 9004 of the Solid Waste Disposal Act (42 U.S.C. 6991c) is amended by adding at the end the following:

“(f) **TRUST FUND DISTRIBUTION.**—

“(1) **IN GENERAL.**—

“(A) **AMOUNT AND PERMITTED USES OF DISTRIBUTION.**—The Administrator shall distribute to States not less than 80 percent of the funds from the Trust Fund that are made available to the Administrator under section 9014(2)(A) for each fiscal year for use in paying the reasonable costs, incurred under a cooperative agreement with any State for—

“(i) corrective actions taken by the State under section 9003(h)(7)(A);

“(ii) necessary administrative expenses, as determined by the Administrator, that are directly related to State fund or State assurance programs under subsection (c)(1); or

“(iii) enforcement, by a State or a local government, of State or local regulations pertaining to underground storage tanks regulated under this subtitle.

“(B) **USE OF FUNDS FOR ENFORCEMENT.**—In addition to the uses of funds authorized under subparagraph (A), the Administrator may use funds from the Trust Fund that are not distributed to States under subparagraph (A) for enforcement of any regulation promulgated by the Administrator under this subtitle.

“(C) **PROHIBITED USES.**—Funds provided to a State by the Administrator under subparagraph (A) shall not be used by the State to provide financial assistance to an owner or operator to meet any requirement relating to underground storage tanks under subparts B, C, D, H, and G of part 280 of title 40, Code of Federal Regulations (as in effect on the date of enactment of this subsection).

“(2) **ALLOCATION.**—

“(A) **PROCESS.**—Subject to subparagraphs (B) and (C), in the case of a State with which the Administrator has entered into a cooperative agreement under section 9003(h)(7)(A), the Administrator shall distribute funds from the Trust Fund to the State using an allocation process developed by the Administrator.

“(B) **DIVERSION OF STATE FUNDS.**—The Administrator shall not distribute funds under subparagraph (A)(iii) of subsection (f)(1) to any State that has diverted funds from

a State fund or State assurance program for purposes other than those related to the regulation of underground storage tanks covered by this subtitle, with the exception of those transfers that had been completed earlier than the date of enactment of this subsection.

“(C) REVISIONS TO PROCESS.—The Administrator may revise the allocation process referred to in subparagraph (A) after—

“(i) consulting with State agencies responsible for overseeing corrective action for releases from underground storage tanks; and

“(ii) taking into consideration, at a minimum, each of the following:

“(I) The number of confirmed releases from federally regulated leaking underground storage tanks in the States.

“(II) The number of federally regulated underground storage tanks in the States.

“(III) The performance of the States in implementing and enforcing the program.

“(IV) The financial needs of the States.

“(V) The ability of the States to use the funds referred to in subparagraph (A) in any year.

“(3) DISTRIBUTIONS TO STATE AGENCIES.—Distributions from the Trust Fund under this subsection shall be made directly to a State agency that—

“(A) enters into a cooperative agreement referred to in paragraph (2)(A); or

“(B) is enforcing a State program approved under this section.”.

(b) WITHDRAWAL OF APPROVAL OF STATE FUNDS.—Section 9004(c) of the Solid Waste Disposal Act (42 U.S.C. 6991c(c)) is amended by inserting the following new paragraph at the end thereof:

“(6) WITHDRAWAL OF APPROVAL.—After an opportunity for good faith, collaborative efforts to correct financial deficiencies with a State fund, the Administrator may withdraw approval of any State fund or State assurance program to be used as a financial responsibility mechanism without withdrawing approval of a State underground storage tank program under section 9004(a).”.

(c) ABILITY TO PAY.—Section 9003(h)(6) of the Solid Waste Disposal Act (42 U.S.C. 6591a(h)(6)) is amended by adding the following new subparagraph at the end thereof: 42 USC 6991b.

“(E) INABILITY OR LIMITED ABILITY TO PAY.—

“(i) IN GENERAL.—In determining the level of recovery effort, or amount that should be recovered, the Administrator (or the State pursuant to paragraph (7)) shall consider the owner or operator’s ability to pay. An inability or limited ability to pay corrective action costs must be demonstrated to the Administrator (or the State pursuant to paragraph (7)) by the owner or operator.

“(ii) CONSIDERATIONS.—In determining whether or not a demonstration is made under clause (i), the Administrator (or the State pursuant to paragraph (7)) shall take into consideration the ability of the

owner or operator to pay corrective action costs and still maintain its basic business operations, including consideration of the overall financial condition of the owner or operator and demonstrable constraints on the ability of the owner or operator to raise revenues.

“(iii) INFORMATION.—An owner or operator requesting consideration under this subparagraph shall promptly provide the Administrator (or the State pursuant to paragraph (7)) with all relevant information needed to determine the ability of the owner or operator to pay corrective action costs.

“(iv) ALTERNATIVE PAYMENT METHODS.—The Administrator (or the State pursuant to paragraph (7)) shall consider alternative payment methods as may be necessary or appropriate if the Administrator (or the State pursuant to paragraph (7)) determines that an owner or operator cannot pay all or a portion of the costs in a lump sum payment.

“(v) MISREPRESENTATION.—If an owner or operator provides false information or otherwise misrepresents their financial situation under clause (ii), the Administrator (or the State pursuant to paragraph (7)) shall seek full recovery of the costs of all such actions pursuant to the provisions of subparagraph (A) without consideration of the factors in subparagraph (B).”.

SEC. 1523. INSPECTION OF UNDERGROUND STORAGE TANKS.

(a) INSPECTION REQUIREMENTS.—Section 9005 of the Solid Waste Disposal Act (42 U.S.C. 6991d) is amended by inserting the following new subsection at the end thereof:

“(c) INSPECTION REQUIREMENTS.—

Deadline.

“(1) UNINSPECTED TANKS.—In the case of underground storage tanks regulated under this subtitle that have not undergone an inspection since December 22, 1998, not later than 2 years after the date of enactment of this subsection, the Administrator or a State that receives funding under this subtitle, as appropriate, shall conduct on-site inspections of all such tanks to determine compliance with this subtitle and the regulations under this subtitle (40 CFR 280) or a requirement or standard of a State program developed under section 9004.

“(2) PERIODIC INSPECTIONS.—After completion of all inspections required under paragraph (1), the Administrator or a State that receives funding under this subtitle, as appropriate, shall conduct on-site inspections of each underground storage tank regulated under this subtitle at least once every 3 years to determine compliance with this subtitle and the regulations under this subtitle (40 CFR 280) or a requirement or standard of a State program developed under section 9004. The Administrator may extend for up to one additional year the first 3-year inspection interval under this paragraph if the State demonstrates that it has insufficient resources to complete all such inspections within the first 3-year period.

“(3) INSPECTION AUTHORITY.—Nothing in this section shall be construed to diminish the Administrator’s or a State’s authorities under section 9005(a).”.

(b) **STUDY OF ALTERNATIVE INSPECTION PROGRAMS.**—The Administrator of the Environmental Protection Agency, in coordination with a State, shall gather information on compliance assurance programs that could serve as an alternative to the inspection programs under section 9005(c) of the Solid Waste Disposal Act (42 U.S.C. 6991d(c)) and shall, within 4 years after the date of enactment of this Act, submit a report to the Congress containing the results of such study.

Reports.
Deadline.

SEC. 1524. OPERATOR TRAINING.

(a) **IN GENERAL.**—Section 9010 of the Solid Waste Disposal Act (42 U.S.C. 6991i) is amended to read as follows:

“SEC. 9010. OPERATOR TRAINING.

“(a) GUIDELINES.—

“(1) IN GENERAL.—Not later than 2 years after the date of enactment of the Underground Storage Tank Compliance Act, in consultation and cooperation with States and after public notice and opportunity for comment, the Administrator shall publish guidelines that specify training requirements for—

Deadline.
Notification.
Public
information.
Publication.

“(A) persons having primary responsibility for on-site operation and maintenance of underground storage tank systems;

“(B) persons having daily on-site responsibility for the operation and maintenance of underground storage tanks systems; and

“(C) daily, on-site employees having primary responsibility for addressing emergencies presented by a spill or release from an underground storage tank system.

“(2) CONSIDERATIONS.—The guidelines described in paragraph (1) shall take into account—

“(A) State training programs in existence as of the date of publication of the guidelines;

“(B) training programs that are being employed by tank owners and tank operators as of the date of enactment of the Underground Storage Tank Compliance Act;

“(C) the high turnover rate of tank operators and other personnel;

“(D) the frequency of improvement in underground storage tank equipment technology;

“(E) the nature of the businesses in which the tank operators are engaged;

“(F) the substantial differences in the scope and length of training needed for the different classes of persons described in subparagraphs (A), (B), and (C) of paragraph (1); and

“(G) such other factors as the Administrator determines to be necessary to carry out this section.

“(b) STATE PROGRAMS.—

Deadline.

“(1) IN GENERAL.—Not later than 2 years after the date on which the Administrator publishes the guidelines under subsection (a)(1), each State that receives funding under this subtitle shall develop State-specific training requirements that are consistent with the guidelines developed under subsection (a)(1).

“(2) REQUIREMENTS.—State requirements described in paragraph (1) shall—

“(A) be consistent with subsection (a);

“(B) be developed in cooperation with tank owners and tank operators;

“(C) take into consideration training programs implemented by tank owners and tank operators as of the date of enactment of this section; and

“(D) be appropriately communicated to tank owners and operators.

“(3) FINANCIAL INCENTIVE.—The Administrator may award to a State that develops and implements requirements described in paragraph (1), in addition to any funds that the State is entitled to receive under this subtitle, not more than \$200,000, to be used to carry out the requirements.

“(c) TRAINING.—All persons that are subject to the operator training requirements of subsection (a) shall—

“(1) meet the training requirements developed under subsection (b); and

“(2) repeat the applicable requirements developed under subsection (b), if the tank for which they have primary daily on-site management responsibilities is determined to be out of compliance with—

“(A) a requirement or standard promulgated by the Administrator under section 9003; or

“(B) a requirement or standard of a State program approved under section 9004.”.

(b) STATE PROGRAM REQUIREMENT.—Section 9004(a) of the Solid Waste Disposal Act (42 U.S.C. 6991c(a)) is amended by striking “and” at the end of paragraph (7), by striking the period at the end of paragraph (8) and inserting “; and”, and by adding the following new paragraph at the end thereof:

“(9) State-specific training requirements as required by section 9010.”.

(c) ENFORCEMENT.—Section 9006(d)(2) of such Act (42 U.S.C. 6991e) is amended as follows:

(1) By striking “or” at the end of subparagraph (B).

(2) By adding the following new subparagraph after subparagraph (C):

“(D) the training requirements established by States pursuant to section 9010 (relating to operator training); or”.

(d) TABLE OF CONTENTS.—The item relating to section 9010 in the table of contents for the Solid Waste Disposal Act is amended to read as follows:

“Sec. 9010. Operator training.”.

SEC. 1525. REMEDIATION FROM OXYGENATED FUEL ADDITIVES.

Section 9003(h) of the Solid Waste Disposal Act (42 U.S.C. 6991b(h)) is amended as follows:

(1) In paragraph (7)(A)—

(A) by striking “paragraphs (1) and (2) of this subsection” and inserting “paragraphs (1), (2), and (12)”; and

(B) by striking “and including the authorities of paragraphs (4), (6), and (8) of this subsection” and inserting “and the authority under sections 9011 and 9012 and paragraphs (4), (6), and (8),”.

(2) By adding at the end the following:

“(12) REMEDIATION OF OXYGENATED FUEL CONTAMINATION.—

“(A) IN GENERAL.—The Administrator and the States may use funds made available under section 9014(2)(B) to carry out corrective actions with respect to a release of a fuel containing an oxygenated fuel additive that presents a threat to human health or welfare or the environment.

“(B) APPLICABLE AUTHORITY.—The Administrator or a State shall carry out subparagraph (A) in accordance with paragraph (2), and in the case of a State, in accordance with a cooperative agreement entered into by the Administrator and the State under paragraph (7).”.

Contracts.

SEC. 1526. RELEASE PREVENTION, COMPLIANCE, AND ENFORCEMENT.

(a) RELEASE PREVENTION AND COMPLIANCE.—Subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) is amended by adding at the end the following:

“SEC. 9011. USE OF FUNDS FOR RELEASE PREVENTION AND COMPLIANCE.

42 USC 6991j.

“Funds made available under section 9014(2)(D) from the Trust Fund may be used to conduct inspections, issue orders, or bring actions under this subtitle—

“(1) by a State, in accordance with a grant or cooperative agreement with the Administrator, of State regulations pertaining to underground storage tanks regulated under this subtitle; and

“(2) by the Administrator, for tanks regulated under this subtitle (including under a State program approved under section 9004).”.

(b) GOVERNMENT-OWNED TANKS.—Section 9003 of the Solid Waste Disposal Act (42 U.S.C. 6991b) is amended by adding at the end the following:

“(i) GOVERNMENT-OWNED TANKS.—

“(1) STATE COMPLIANCE REPORT.—(A) Not later than 2 years after the date of enactment of this subsection, each State that receives funding under this subtitle shall submit to the Administrator a State compliance report that—

Deadline.

“(i) lists the location and owner of each underground storage tank described in subparagraph (B) in the State that, as of the date of submission of the report, is not in compliance with section 9003; and

“(ii) specifies the date of the last inspection and describes the actions that have been and will be taken to ensure compliance of the underground storage tank listed under clause (i) with this subtitle.

“(B) An underground storage tank described in this subparagraph is an underground storage tank that is—

“(i) regulated under this subtitle; and

“(ii) owned or operated by the Federal, State, or local government.

“(C) The Administrator shall make each report, received under subparagraph (A), available to the public through an appropriate media.

“(2) FINANCIAL INCENTIVE.—The Administrator may award to a State that develops a report described in paragraph (1), in addition to any other funds that the State is entitled to receive under this subtitle, not more than \$50,000, to be used to carry out the report.

“(3) NOT A SAFE HARBOR.—This subsection does not relieve any person from any obligation or requirement under this subtitle.”.

(c) PUBLIC RECORD.—Section 9002 of the Solid Waste Disposal Act (42 U.S.C. 6991a) is amended by adding at the end the following:

“(d) PUBLIC RECORD.—

“(1) IN GENERAL.—The Administrator shall require each State that receives Federal funds to carry out this subtitle to maintain, update at least annually, and make available to the public, in such manner and form as the Administrator shall prescribe (after consultation with States), a record of underground storage tanks regulated under this subtitle.

“(2) CONSIDERATIONS.—To the maximum extent practicable, the public record of a State, respectively, shall include, for each year—

“(A) the number, sources, and causes of underground storage tank releases in the State;

“(B) the record of compliance by underground storage tanks in the State with—

“(i) this subtitle; or

“(ii) an applicable State program approved under section 9004; and

“(C) data on the number of underground storage tank equipment failures in the State.”.

(d) INCENTIVE FOR PERFORMANCE.—Section 9006 of the Solid Waste Disposal Act (42 U.S.C. 6991e) is amended by adding at the end the following:

“(e) INCENTIVE FOR PERFORMANCE.—Both of the following may be taken into account in determining the terms of a civil penalty under subsection (d):

“(1) The compliance history of an owner or operator in accordance with this subtitle or a program approved under section 9004.

“(2) Any other factor the Administrator considers appropriate.”.

(e) TABLE OF CONTENTS.—The table of contents for such subtitle I is amended by adding the following new item at the end thereof:

“Sec. 9011. Use of funds for release prevention and compliance.”.

SEC. 1527. DELIVERY PROHIBITION.

(a) IN GENERAL.—Subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) is amended by adding at the end the following:

“SEC. 9012. DELIVERY PROHIBITION.

“(a) REQUIREMENTS.—

“(1) PROHIBITION OF DELIVERY OR DEPOSIT.—Beginning 2 years after the date of enactment of this section, it shall be unlawful to deliver to, deposit into, or accept a regulated substance into an underground storage tank at a facility which has been identified by the Administrator or a State implementing agency to be ineligible for such delivery, deposit, or acceptance.

“(2) GUIDANCE.—Within 1 year after the date of enactment of this section, the Administrator shall, in consultation with the States, underground storage tank owners, and product delivery industries, publish guidelines detailing the specific

42 USC 6991k.

Effective date.

Deadline.

processes and procedures they will use to implement the provisions of this section. The processes and procedures include, at a minimum—

“(A) the criteria for determining which underground storage tank facilities are ineligible for delivery, deposit, or acceptance of a regulated substance;

“(B) the mechanisms for identifying which facilities are ineligible for delivery, deposit, or acceptance of a regulated substance to the underground storage tank owning and fuel delivery industries;

“(C) the process for reclassifying ineligible facilities as eligible for delivery, deposit, or acceptance of a regulated substance;

“(D) one or more processes for providing adequate notice to underground storage tank owners and operators and supplier industries that an underground storage tank has been determined to be ineligible for delivery, deposit, or acceptance of a regulated substance; and

“(E) a delineation of, or a process for determining, the specified geographic areas subject to paragraph (4).

“(3) COMPLIANCE.—States that receive funding under this subtitle shall, at a minimum, comply with the processes and procedures published under paragraph (2).

“(4) CONSIDERATION.—

“(A) RURAL AND REMOTE AREAS.—Subject to subparagraph (B), the Administrator or a State may consider not treating an underground storage tank as ineligible for delivery, deposit, or acceptance of a regulated substance if such treatment would jeopardize the availability of, or access to, fuel in any rural and remote areas unless an urgent threat to public health, as determined by the Administrator, exists.

“(B) APPLICABILITY.—Subparagraph (A) shall apply only during the 180-day period following the date of a determination by the Administrator or the appropriate State under subparagraph (A).

“(b) EFFECT ON STATE AUTHORITY.—Nothing in this section shall affect or preempt the authority of a State to prohibit the delivery, deposit, or acceptance of a regulated substance to an underground storage tank.

“(c) DEFENSE TO VIOLATION.—A person shall not be in violation of subsection (a)(1) if the person has not been provided with notice pursuant to subsection (a)(2)(D) of the ineligibility of a facility for delivery, deposit, or acceptance of a regulated substance as determined by the Administrator or a State, as appropriate, under this section.”.

(b) ENFORCEMENT.—Section 9006(d)(2) of such Act (42 U.S.C. 6991e(d)(2)) is amended as follows:

(1) By adding the following new subparagraph after subparagraph (D):

“(E) the delivery prohibition requirement established by section 9012.”.

(2) By adding the following new sentence at the end thereof: “Any person making or accepting a delivery or deposit of a regulated substance to an underground storage tank at an ineligible facility in violation of section 9012 shall also be subject to the same civil penalty for each day of such violation.”.

(c) TABLE OF CONTENTS.—The table of contents for such subtitle I is amended by adding the following new item at the end thereof:

“Sec. 9012. Delivery prohibition.”.

SEC. 1528. FEDERAL FACILITIES.

Section 9007 of the Solid Waste Disposal Act (42 U.S.C. 6991f) is amended to read as follows:

Penalties.
Exemptions.

“SEC. 9007. FEDERAL FACILITIES.

“(a) IN GENERAL.—Each department, agency, and instrumentality of the executive, legislative, and judicial branches of the Federal Government (1) having jurisdiction over any underground storage tank or underground storage tank system, or (2) engaged in any activity resulting, or which may result, in the installation, operation, management, or closure of any underground storage tank, release response activities related thereto, or in the delivery, acceptance, or deposit of any regulated substance to an underground storage tank or underground storage tank system shall be subject to, and comply with, all Federal, State, interstate, and local requirements, both substantive and procedural (including any requirement for permits or reporting or any provisions for injunctive relief and such sanctions as may be imposed by a court to enforce such relief), respecting underground storage tanks in the same manner, and to the same extent, as any person is subject to such requirements, including the payment of reasonable service charges. The Federal, State, interstate, and local substantive and procedural requirements referred to in this subsection include, but are not limited to, all administrative orders and all civil and administrative penalties and fines, regardless of whether such penalties or fines are punitive or coercive in nature or are imposed for isolated, intermittent, or continuing violations. The United States hereby expressly waives any immunity otherwise applicable to the United States with respect to any such substantive or procedural requirement (including, but not limited to, any injunctive relief, administrative order or civil or administrative penalty or fine referred to in the preceding sentence, or reasonable service charge). The reasonable service charges referred to in this subsection include, but are not limited to, fees or charges assessed in connection with the processing and issuance of permits, renewal of permits, amendments to permits, review of plans, studies, and other documents, and inspection and monitoring of facilities, as well as any other nondiscriminatory charges that are assessed in connection with a Federal, State, interstate, or local underground storage tank regulatory program. Neither the United States, nor any agent, employee, or officer thereof, shall be immune or exempt from any process or sanction of any State or Federal Court with respect to the enforcement of any such injunctive relief. No agent, employee, or officer of the United States shall be personally liable for any civil penalty under any Federal, State, interstate, or local law concerning underground storage tanks with respect to any act or omission within the scope of the official duties of the agent, employee, or officer. An agent, employee, or officer of the United States shall be subject to any criminal sanction (including, but not limited to, any fine or imprisonment) under any Federal or State law concerning underground storage tanks, but no department, agency, or instrumentality of the executive, legislative, or judicial branch of the Federal Government shall be subject to any

such sanction. The President may exempt any underground storage tank of any department, agency, or instrumentality in the executive branch from compliance with such a requirement if he determines it to be in the paramount interest of the United States to do so. No such exemption shall be granted due to lack of appropriation unless the President shall have specifically requested such appropriation as a part of the budgetary process and the Congress shall have failed to make available such requested appropriation. Any exemption shall be for a period not in excess of 1 year, but additional exemptions may be granted for periods not to exceed 1 year upon the President's making a new determination. The President shall report each January to the Congress all exemptions from the requirements of this section granted during the preceding calendar year, together with his reason for granting each such exemption.

President.
Reports.

“(b) REVIEW OF AND REPORT ON FEDERAL UNDERGROUND STORAGE TANKS.—

“(1) REVIEW.—Not later than 12 months after the date of enactment of the Underground Storage Tank Compliance Act, each Federal agency that owns or operates one or more underground storage tanks, or that manages land on which one or more underground storage tanks are located, shall submit to the Administrator, the Committee on Energy and Commerce of the United States House of Representatives, and the Committee on the Environment and Public Works of the Senate a compliance strategy report that—

Deadline.

“(A) lists the location and owner of each underground storage tank described in this paragraph;

“(B) lists all tanks that are not in compliance with this subtitle that are owned or operated by the Federal agency;

“(C) specifies the date of the last inspection by a State or Federal inspector of each underground storage tank owned or operated by the agency;

“(D) lists each violation of this subtitle respecting any underground storage tank owned or operated by the agency;

“(E) describes the operator training that has been provided to the operator and other persons having primary daily on-site management responsibility for the operation and maintenance of underground storage tanks owned or operated by the agency; and

“(F) describes the actions that have been and will be taken to ensure compliance for each underground storage tank identified under subparagraph (B).

“(2) NOT A SAFE HARBOR.—This subsection does not relieve any person from any obligation or requirement under this subtitle.”.

SEC. 1529. TANKS ON TRIBAL LANDS.

(a) IN GENERAL.—Subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) is amended by adding the following at the end thereof:

“SEC. 9013. TANKS ON TRIBAL LANDS.

42 USC 6991l.

“(a) STRATEGY.—The Administrator, in coordination with Indian tribes, shall, not later than 1 year after the date of enactment of this section, develop and implement a strategy—

Deadline.

“(1) giving priority to releases that present the greatest threat to human health or the environment, to take necessary

corrective action in response to releases from leaking underground storage tanks located wholly within the boundaries of—

“(A) an Indian reservation; or

“(B) any other area under the jurisdiction of an Indian tribe; and

“(2) to implement and enforce requirements concerning underground storage tanks located wholly within the boundaries of—

“(A) an Indian reservation; or

“(B) any other area under the jurisdiction of an Indian tribe.

“(b) REPORT.—Not later than 2 years after the date of enactment of this section, the Administrator shall submit to Congress a report that summarizes the status of implementation and enforcement of this subtitle in areas located wholly within—

“(1) the boundaries of Indian reservations; and

“(2) any other areas under the jurisdiction of an Indian tribe.

Public
information.

The Administrator shall make the report under this subsection available to the public.

“(c) NOT A SAFE HARBOR.—This section does not relieve any person from any obligation or requirement under this subtitle.

“(d) STATE AUTHORITY.—Nothing in this section applies to any underground storage tank that is located in an area under the jurisdiction of a State, or that is subject to regulation by a State, as of the date of enactment of this section.”.

(b) TABLE OF CONTENTS.—The table of contents for such subtitle I is amended by adding the following new item at the end thereof:

“Sec. 9013. Tanks on Tribal lands.”.

SEC. 1530. ADDITIONAL MEASURES TO PROTECT GROUNDWATER.

(a) IN GENERAL.—Section 9003 of the Solid Waste Disposal Act (42 U.S.C. 6991b) is amended by adding the following new subsection at the end:

“(i) ADDITIONAL MEASURES TO PROTECT GROUNDWATER FROM CONTAMINATION.—The Administrator shall require each State that receives funding under this subtitle to require one of the following:

“(1) TANK AND PIPING SECONDARY CONTAINMENT.—(A) Each new underground storage tank, or piping connected to any such new tank, installed after the effective date of this subsection, or any existing underground storage tank, or existing piping connected to such existing tank, that is replaced after the effective date of this subsection, shall be secondarily contained and monitored for leaks if the new or replaced underground storage tank or piping is within 1,000 feet of any existing community water system or any existing potable drinking water well.

“(B) In the case of a new underground storage tank system consisting of one or more underground storage tanks and connected by piping, subparagraph (A) shall apply to all underground storage tanks and connected pipes comprising such system.

“(C) In the case of a replacement of an existing underground storage tank or existing piping connected to the underground storage tank, subparagraph (A) shall apply only to the specific underground storage tank or piping being replaced,

not to other underground storage tanks and connected pipes comprising such system.

“(D) Each installation of a new motor fuel dispenser system, after the effective date of this subsection, shall include underdispenser spill containment if the new dispenser is within 1,000 feet of any existing community water system or any existing potable drinking water well.

“(E) This paragraph shall not apply to repairs to an underground storage tank, piping, or dispenser that are meant to restore a tank, pipe, or dispenser to operating condition.

“(F) As used in this subsection:

“(i) The term ‘secondarily contained’ means a release detection and prevention system that meets the requirements of 40 CFR 280.43(g), but shall not include underdispenser spill containment or control systems.

“(ii) The term ‘underground storage tank’ has the meaning given to it in section 9001, except that such term does not include tank combinations or more than a single underground pipe connected to a tank.

“(iii) The term ‘installation of a new motor fuel dispenser system’ means the installation of a new motor fuel dispenser and the equipment necessary to connect the dispenser to the underground storage tank system, but does not mean the installation of a motor fuel dispenser installed separately from the equipment need to connect the dispenser to the underground storage tank system.

“(2) EVIDENCE OF FINANCIAL RESPONSIBILITY AND CERTIFICATION.—

“(A) MANUFACTURER AND INSTALLER FINANCIAL RESPONSIBILITY.—A person that manufactures an underground storage tank or piping for an underground storage tank system or that installs an underground storage tank system is required to maintain evidence of financial responsibility under section 9003(d) in order to provide for the costs of corrective actions directly related to releases caused by improper manufacture or installation unless the person can demonstrate themselves to be already covered as an owner or operator of an underground storage tank under section 9003.

“(B) INSTALLER CERTIFICATION.—The Administrator and each State that receives funding under this subtitle, as appropriate, shall require that a person that installs an underground storage tank system is—

“(i) certified or licensed by the tank and piping manufacturer;

“(ii) certified or licensed by the Administrator or a State, as appropriate;

“(iii) has their underground storage tank system installation certified by a registered professional engineer with education and experience in underground storage tank system installation;

“(iv) has had their installation of the underground storage tank inspected and approved by the Administrator or the State, as appropriate;

“(v) compliant with a code of practice developed by a nationally recognized association or independent

testing laboratory and in accordance with the manufacturer's instructions; or

“(vi) compliant with another method that is determined by the Administrator or a State, as appropriate, to be no less protective of human health and the environment.

“(C) SAVINGS CLAUSE.—Nothing in subparagraph (A) alters or affects the liability of any owner or operator of an underground storage tank.”.

42 USC 6991b
note.

(b) EFFECTIVE DATE.—This subsection shall take effect 18 months after the date of enactment of this subsection.

42 USC 6991b
note.

(c) PROMULGATION OF REGULATIONS OR GUIDELINES.—The Administrator shall issue regulations or guidelines implementing the requirements of this subsection, including guidance to differentiate between the terms “repair” and “replace” for the purposes of section 9003(i)(1) of the Solid Waste Disposal Act.

(d) PENALTIES.—Section 9006(d)(2) of such Act (42 U.S.C. 6991e(d)(2)) is amended as follows:

(1) By striking “or” at the end of subparagraph (B).

(2) By inserting “; or” at the end of subparagraph (C).

(3) By adding the following new subparagraph after subparagraph (C):

“(D) the requirements established in section 9003(i),”.

SEC. 1531. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) is amended by adding at the end the following:

42 USC 6991m.

“SEC. 9014. AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated to the Administrator the following amounts:

“(1) To carry out subtitle I (except sections 9003(h), 9005(c), 9011, and 9012) \$50,000,000 for each of fiscal years 2005 through 2009.

“(2) From the Trust Fund, notwithstanding section 9508(c)(1) of the Internal Revenue Code of 1986—

“(A) to carry out section 9003(h) (except section 9003(h)(12)) \$200,000,000 for each of fiscal years 2005 through 2009;

“(B) to carry out section 9003(h)(12), \$200,000,000 for each of fiscal years 2005 through 2009;

“(C) to carry out sections 9003(i), 9004(f), and 9005(c) \$100,000,000 for each of fiscal years 2005 through 2009; and

“(D) to carry out sections 9010, 9011, 9012, and 9013 \$55,000,000 for each of fiscal years 2005 through 2009.”.

(b) TABLE OF CONTENTS.—The table of contents for such subtitle I is amended by adding the following new item at the end thereof:

“Sec. 9014. Authorization of appropriations.”.

SEC. 1532. CONFORMING AMENDMENTS.

(a) IN GENERAL.—Section 9001 of the Solid Waste Disposal Act (42 U.S.C. 6991) is amended as follows:

(1) By striking “For the purposes of this subtitle—” and inserting “In this subtitle:”.

(2) By redesignating paragraphs (1), (2), (3), (4), (5), (6), (7), and (8) as paragraphs (10), (7), (4), (3), (8), (5), (2), and (6), respectively.

(3) By inserting before paragraph (2) (as redesignated by paragraph (2) of this subsection) the following:

“(1) INDIAN TRIBE.—

“(A) IN GENERAL.—The term ‘Indian tribe’ means any Indian tribe, band, nation, or other organized group or community that is recognized as being eligible for special programs and services provided by the United States to Indians because of their status as Indians.

“(B) INCLUSIONS.—The term ‘Indian tribe’ includes an Alaska Native village, as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.); and”.

(4) By inserting after paragraph (8) (as redesignated by paragraph (2) of this subsection) the following:

“(9) TRUST FUND.—The term ‘Trust Fund’ means the Leaking Underground Storage Tank Trust Fund established by section 9508 of the Internal Revenue Code of 1986.”.

(b) CONFORMING AMENDMENTS.—The Solid Waste Disposal Act (42 U.S.C. 6901 and following) is amended as follows:

(1) Section 9003(f) (42 U.S.C. 6991b(f)) is amended—

(A) in paragraph (1), by striking “9001(2)(B)” and inserting “9001(7)(B)”;

(B) in paragraphs (2) and (3), by striking “9001(2)(A)” each place it appears and inserting “9001(7)(A)”.

(2) Section 9003(h) (42 U.S.C. 6991b(h)) is amended in paragraphs (1), (2)(C), (7)(A), and (11) by striking “Leaking Underground Storage Tank Trust Fund” each place it appears and inserting “Trust Fund”.

(3) Section 9009 (42 U.S.C. 6991h) is amended—

(A) in subsection (a), by striking “9001(2)(B)” and inserting “9001(7)(B)”;

(B) in subsection (d), by striking “section 9001(1) (A) and (B)” and inserting “subparagraphs (A) and (B) of section 9001(10)”.

SEC. 1533. TECHNICAL AMENDMENTS.

The Solid Waste Disposal Act is amended as follows:

(1) Section 9001(4)(A) (42 U.S.C. 6991(4)(A)) is amended by striking “sustances” and inserting “substances”.

(2) Section 9003(f)(1) (42 U.S.C. 6991b(f)(1)) is amended by striking “subsection (c) and (d) of this section” and inserting “subsections (c) and (d)”.

(3) Section 9004(a) (42 U.S.C. 6991c(a)) is amended by striking “in 9001(2) (A) or (B) or both” and inserting “in subparagraph (A) or (B) of section 9001(7)”.

(4) Section 9005 (42 U.S.C. 6991d) is amended—

(A) in subsection (a), by striking “study taking” and inserting “study, taking”;

(B) in subsection (b)(1), by striking “relevent” and inserting “relevant”;

(C) in subsection (b)(4), by striking “Environmental” and inserting “Environmental”.

Subtitle C—Boutique Fuels

SEC. 1541. REDUCING THE PROLIFERATION OF BOUTIQUE FUELS.

(a) TEMPORARY WAIVERS DURING SUPPLY EMERGENCIES.—Section 211(c)(4)(C) of the Clean Air Act (42 U.S.C. 7545(c)(4)(C)) is amended by inserting “(i)” after “(C)” and by adding the following new clauses at the end thereof:

“(ii) The Administrator may temporarily waive a control or prohibition respecting the use of a fuel or fuel additive required or regulated by the Administrator pursuant to subsection (c), (h), (i), (k), or (m) of this section or prescribed in an applicable implementation plan under section 110 approved by the Administrator under clause (i) of this subparagraph if, after consultation with, and concurrence by, the Secretary of Energy, the Administrator determines that—

“(I) extreme and unusual fuel or fuel additive supply circumstances exist in a State or region of the Nation which prevent the distribution of an adequate supply of the fuel or fuel additive to consumers;

“(II) such extreme and unusual fuel and fuel additive supply circumstances are the result of a natural disaster, an Act of God, a pipeline or refinery equipment failure, or another event that could not reasonably have been foreseen or prevented and not the lack of prudent planning on the part of the suppliers of the fuel or fuel additive to such State or region; and

“(III) it is in the public interest to grant the waiver (for example, when a waiver is necessary to meet projected temporary shortfalls in the supply of the fuel or fuel additive in a State or region of the Nation which cannot otherwise be compensated for).

“(iii) If the Administrator makes the determinations required under clause (ii), such a temporary extreme and unusual fuel and fuel additive supply circumstances waiver shall be permitted only if—

“(I) the waiver applies to the smallest geographic area necessary to address the extreme and unusual fuel and fuel additive supply circumstances;

“(II) the waiver is effective for a period of 20 calendar days or, if the Administrator determines that a shorter waiver period is adequate, for the shortest practicable time period necessary to permit the correction of the extreme and unusual fuel and fuel additive supply circumstances and to mitigate impact on air quality;

“(III) the waiver permits a transitional period, the exact duration of which shall be determined by the Administrator (but which shall be for the shortest practicable period), after the termination of the temporary waiver to permit wholesalers and retailers to blend down their wholesale and retail inventory;

“(IV) the waiver applies to all persons in the motor fuel distribution system; and

“(V) the Administrator has given public notice to all parties in the motor fuel distribution system, and local and State regulators, in the State or region to be covered by the waiver. The term ‘motor fuel distribution system’ as used in this clause shall be defined by the Administrator through rulemaking.

“(iv) Within 180 days of the date of enactment of this clause, the Administrator shall promulgate regulations to implement clauses (ii) and (iii). Regulations.
Deadline.

“(v) Nothing in this subparagraph shall—

“(I) limit or otherwise affect the application of any other waiver authority of the Administrator pursuant to this section or pursuant to a regulation promulgated pursuant to this section; and

“(II) subject any State or person to an enforcement action, penalties, or liability solely arising from actions taken pursuant to the issuance of a waiver under this subparagraph.”.

(b) LIMIT ON NUMBER OF BOUTIQUE FUELS.—Section 211(c)(4)(C) of the Clean Air Act (42 U.S.C. 7545(c)(4)(C)), as amended by subsection (a), is further amended by adding at the end the following:

“(v)(I) The Administrator shall have no authority, when considering a State implementation plan or a State implementation plan revision, to approve under this paragraph any fuel included in such plan or revision if the effect of such approval increases the total number of fuels approved under this paragraph as of September 1, 2004, in all State implementation plans.

“(II) The Administrator, in consultation with the Secretary of Energy, shall determine the total number of fuels approved under this paragraph as of September 1, 2004, in all State implementation plans and shall publish a list of such fuels, including the States and Petroleum Administration for Defense District in which they are used, in the Federal Register for public review and comment no later than 90 days after enactment. Deadline.
Federal Register,
publication.
Public
information.

“(III) The Administrator shall remove a fuel from the list published under subclause (II) if a fuel ceases to be included in a State implementation plan or if a fuel in a State implementation plan is identical to a Federal fuel formulation implemented by the Administrator, but the Administrator shall not reduce the total number of fuels authorized under the list published under subclause (II).

“(IV) Subclause (I) shall not limit the Administrator’s authority to approve a control or prohibition respecting any new fuel under this paragraph in a State implementation plan or revision to a State implementation plan if such new fuel—

“(aa) completely replaces a fuel on the list published under subclause (II); or

“(bb) does not increase the total number of fuels on the list published under subclause (II) as of September 1, 2004.

In the event that the total number of fuels on the list published under subclause (II) at the time of the Administrator’s consideration of a control or prohibition respecting a new fuel is lower than the total number of fuels on such list as of September 1, 2004, the Administrator may approve a control or prohibition respecting a new fuel under this subclause if the Administrator, after consultation with the Secretary of Energy, publishes in the Federal Register after notice and comment a finding that, in the Administrator’s judgment, such control or prohibition respecting a new fuel will not cause fuel supply or distribution interruptions or have a significant adverse impact on fuel producibility in the affected area or contiguous areas. Supply.
Federal Register,
publication.

“(V) The Administrator shall have no authority under this paragraph, when considering any particular State’s implementation

plan or a revision to that State's implementation plan, to approve any fuel unless that fuel was, as of the date of such consideration, approved in at least one State implementation plan in the applicable Petroleum Administration for Defense District. However, the Administrator may approve as part of a State implementation plan or State implementation plan revision a fuel with a summertime Reid Vapor Pressure of 7.0 psi. In no event shall such approval by the Administrator cause an increase in the total number of fuels on the list published under subclause (II).

“(VI) Nothing in this clause shall be construed to have any effect regarding any available authority of States to require the use of any fuel additive registered in accordance with subsection (b), including any fuel additive registered in accordance with subsection (b) after the enactment of this subclause.”

(c) STUDY AND REPORT TO CONGRESS ON BOUTIQUE FUELS.—

(1) JOINT STUDY.—The Administrator of the Environmental Protection Agency and the Secretary shall undertake a study of the effects on air quality, on the number of fuel blends, on fuel availability, on fuel fungibility, and on fuel costs of the State plan provisions adopted pursuant to section 211(c)(4)(C) of the Clean Air Act (42 U.S.C. 7545(c)(4)(C)).

(2) FOCUS OF STUDY.—The primary focus of the study required under paragraph (1) shall be to determine how to develop a Federal fuels system that maximizes motor fuel fungibility and supply, addresses air quality requirements, and reduces motor fuel price volatility including that which has resulted from the proliferation of boutique fuels, and to recommend to Congress such legislative changes as are necessary to implement such a system. The study should include the impacts on overall energy supply, distribution, and use as a result of the legislative changes recommended.

Science and
technology.

(3) CONDUCT OF STUDY.—In carrying out their joint duties under this section, the Administrator and the Secretary shall use sound science and objective science practices, shall consider the best available science, shall use data collected by accepted means and shall consider and include a description of the weight of the scientific evidence. The Administrator and the Secretary shall coordinate the study required by this section with other studies required by the Act.

(4) RESPONSIBILITY OF ADMINISTRATOR.—In carrying out the study required by this section, the Administrator shall coordinate obtaining comments from affected parties interested in the air quality impact assessment portion of the study.

(5) RESPONSIBILITY OF SECRETARY.—In carrying out the study required by this section, the Secretary shall coordinate obtaining comments from affected parties interested in the fuel availability, number of fuel blends, fuel fungibility, and fuel costs portion of the study.

Deadline.

(6) REPORT TO CONGRESS.—The Administrator and the Secretary jointly shall submit the results of the study required by this section in a report to the Congress not later than 12 months after the date of the enactment of this Act, together with any recommended regulatory and legislative changes. Such report shall be submitted to the Committee on Energy and Commerce of the United States House of Representatives and the Committees on Energy and Natural Resources and on Environment and Public Works of the Senate.

(7) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated jointly to the Administrator and the Secretary \$500,000 for the completion of the study required under this subsection.

(d) **DEFINITIONS.**—In this section:

(1) The term “Administrator” means the Administrator of the Environmental Protection Agency.

(2) The term “fuel” means gasoline, diesel fuel, and any other liquid petroleum product commercially known as gasoline and diesel fuel for use in highway and nonroad motor vehicles.

(3) The term “a control or prohibition respecting a new fuel” means a control or prohibition on the formulation, composition, or emissions characteristics of a fuel that would require the increase or decrease of a constituent in gasoline or diesel fuel.

TITLE XVI—CLIMATE CHANGE

Subtitle A—National Climate Change Technology Deployment

SEC. 1601. GREENHOUSE GAS INTENSITY REDUCING TECHNOLOGY STRATEGIES.

Title XVI of the Energy Policy Act of 1992 (42 U.S.C. 13381 et seq.) is amended by adding at the end the following:

“SEC. 1610. GREENHOUSE GAS INTENSITY REDUCING STRATEGIES.

42 USC 13389.

“(a) **DEFINITIONS.**—In this section:

“(1) **ADVISORY COMMITTEE.**—The term ‘Advisory Committee’ means the Climate Change Technology Advisory Committee established under subsection (f)(1).

“(2) **CARBON SEQUESTRATION.**—The term ‘carbon sequestration’ means the capture of carbon dioxide through terrestrial, geological, biological, or other means, which prevents the release of carbon dioxide into the atmosphere.

“(3) **COMMITTEE.**—The term ‘Committee’ means the Committee on Climate Change Technology established under subsection (b)(1).

“(4) **DEVELOPING COUNTRY.**—The term ‘developing country’ has the meaning given the term in section 1608(m).

“(5) **GREENHOUSE GAS.**—The term ‘greenhouse gas’ means—

“(A) carbon dioxide;

“(B) methane;

“(C) nitrous oxide;

“(D) hydrofluorocarbons;

“(E) perfluorocarbons; and

“(F) sulfur hexafluoride.

“(6) **GREENHOUSE GAS INTENSITY.**—The term ‘greenhouse gas intensity’ means the ratio of greenhouse gas emissions to economic output.

“(7) **NATIONAL LABORATORY.**—The term ‘National Laboratory’ has the meaning given the term in section 3(3) of the Energy Policy Act of 2005.

“(b) **COMMITTEE ON CLIMATE CHANGE TECHNOLOGY.**—

Establishment.
Deadline.

“(1) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the President shall establish a Committee on Climate Change Technology to—

“(A) integrate current Federal climate reports; and

“(B) coordinate Federal climate change technology activities and programs carried out in furtherance of the strategy developed under subsection (c)(1).

“(2) MEMBERSHIP.—The Committee shall be composed of at least 7 members, including—

“(A) the Secretary, who shall chair the Committee;

“(B) the Secretary of Commerce;

“(C) the Chairman of the Council on Environmental Quality;

“(D) the Secretary of Agriculture;

“(E) the Administrator of the Environmental Protection Agency;

“(F) the Secretary of Transportation;

“(G) the Director of the Office of Science and Technology Policy; and

“(H) other representatives as may be determined by the President.

“(3) STAFF.—The members of the Committee shall provide such personnel as are necessary to enable the Committee to perform its duties.

“(c) NATIONAL CLIMATE CHANGE TECHNOLOGY POLICY.—

“(1) IN GENERAL.—Not later than 18 months after the date of enactment of this section, the Committee shall, based on applicable Federal climate reports, submit to the Secretary and the President a national strategy to promote the deployment and commercialization of greenhouse gas intensity reducing technologies and practices developed through research and development programs conducted by the National Laboratories, other Federal research facilities, institutions of higher education, and the private sector.

“(2) UPDATES.—The Committee shall—

“(A) at the time of submission of the strategy to the President under paragraph (1), also make the strategy available to the public; and

“(B) update the strategy every 5 years, or more frequently as the Committee determines to be necessary.

“(d) CLIMATE CHANGE TECHNOLOGY PROGRAM.—Not later than 180 days after the date on which the Committee is established under subsection (b)(1), the Secretary, in consultation with the Committee, shall establish within the Department of Energy the Climate Change Technology Program to—

“(1) assist the Committee in the interagency coordination of climate change technology research, development, demonstration, and deployment to reduce greenhouse gas intensity; and

“(2) carry out the programs authorized under this section.

“(e) TECHNOLOGY INVENTORY.—

“(1) IN GENERAL.—The Secretary shall conduct and make public an inventory and evaluation of greenhouse gas intensity reducing technologies that have been developed, or are under development, by the National Laboratories, other Federal research facilities, institutions of higher education, and the private sector to determine which technologies are suitable for commercialization and deployment.

Research and
development.
Deadline.

Public
information.

Establishment.
Deadline.

Public
information.

“(2) REPORT.—Not later than 180 days after the completion of the inventory under paragraph (1), the Secretary shall submit to Congress a report that includes the results of the completed inventory and any recommendations of the Secretary.

“(3) USE.—The Secretary shall use the results of the inventory as guidance in the commercialization and deployment of greenhouse gas intensity reducing technologies.

“(4) UPDATED INVENTORY.—The Secretary shall—

“(A) periodically update the inventory under paragraph (1), including when determined necessary by the Committee; and

“(B) make the updated inventory available to the public.

“(f) CLIMATE CHANGE TECHNOLOGY ADVISORY COMMITTEE.—

“(1) IN GENERAL.—The Secretary, in consultation with the Committee, may establish under section 624 of the Department of Energy Organization Act (42 U.S.C. 7234) a Climate Change Technology Advisory Committee to identify statutory, regulatory, economic, and other barriers to the commercialization and deployment of greenhouse gas intensity reducing technologies and practices in the United States.

“(2) COMPOSITION.—The Advisory Committee shall be composed of the following members, to be appointed by the Secretary, in consultation with the Committee:

“(A) 1 representative shall be appointed from each National Laboratory.

“(B) 3 members shall be representatives of energy-producing trade organizations.

“(C) 3 members shall represent energy-intensive trade organizations.

“(D) 3 members shall represent groups that represent end-use energy and other consumers.

“(E) 3 members shall be employees of the Federal Government who are experts in energy technology, intellectual property, and tax.

“(F) 3 members shall be representatives of institutions of higher education with expertise in energy technology development that are recommended by the National Academy of Engineering.

“(3) REPORT.—Not later than 1 year after the date of enactment of this section and annually thereafter, the Advisory Committee shall submit to the Committee a report that describes—

“(A) the findings of the Advisory Committee; and

“(B) any recommendations of the Advisory Committee for the removal or reduction of barriers to commercialization, deployment, and increasing the use of greenhouse gas intensity reducing technologies and practices.

“(g) GREENHOUSE GAS INTENSITY REDUCING TECHNOLOGY DEPLOYMENT.—

“(1) IN GENERAL.—Based on the strategy developed under subsection (c)(1), the technology inventory conducted under subsection (e)(1), the greenhouse gas intensity reducing technology study report submitted under subsection (e)(2), and reports under subsection (f)(3), if any, the Committee shall develop recommendations that would provide for the removal of

domestic barriers to the commercialization and deployment of greenhouse gas intensity reducing technologies and practices.

“(2) REQUIREMENTS.—In developing the recommendations under paragraph (1), the Committee shall consider in the aggregate—

“(A) the cost-effectiveness of the technology;

“(B) fiscal and regulatory barriers;

“(C) statutory and other barriers; and

“(D) intellectual property issues.

“(3) DEMONSTRATION PROJECTS.—In developing recommendations under paragraph (1), the Committee may identify the need for climate change technology demonstration projects.

“(4) REPORT.—Not later than 18 months after the date of enactment of this section, the Committee shall submit to the President and Congress a report that—

“(A) identifies, based on the report submitted under subsection (f)(3), any barriers to, and commercial risks associated with, the deployment of greenhouse gas intensity reducing technologies; and

“(B) includes a plan for carrying out demonstration projects.

“(5) UPDATES.—The Committee shall—

“(A) at the time of submission of the report to Congress under paragraph (4), also make the report available to the public; and

“(B) update the report every 5 years, or more frequently as the Committee determines to be necessary.

Public
information.

Notification.
Public
information.

“(h) PROCEDURES FOR CALCULATING, MONITORING, AND ANALYZING GREENHOUSE GAS INTENSITY.—The Secretary, in collaboration with the Committee and the National Institute of Standards and Technology, and after public notice and opportunity for comment, shall develop standards and best practices for calculating, monitoring, and analyzing greenhouse gas intensity.

“(i) DEMONSTRATION PROJECTS.—

“(1) IN GENERAL.—The Secretary shall, subject to the availability of appropriations, support demonstration projects that—

“(A) increase the reduction of the greenhouse gas intensity to levels below that which would be achieved by technologies being used in the United States as of the date of enactment of this section;

“(B) maximize the potential return on Federal investment;

“(C) demonstrate distinct roles in public-private partnerships;

“(D) produce a large-scale reduction of greenhouse gas intensity if commercialization occurred; and

“(E) support a diversified portfolio to mitigate the uncertainty associated with a single technology.

“(2) COST SHARING.—In supporting a demonstration project under this subsection, the Secretary shall require cost-sharing in accordance with section 988 of the Energy Policy Act of 2005.

“(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subsection.

“(j) COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS.—In carrying out greenhouse gas intensity reduction research and technology deployment activities under this subtitle, the Secretary may enter into cooperative research and development agreements under section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a).”.

Subtitle B—Climate Change Technology Deployment in Developing Countries

SEC. 1611. CLIMATE CHANGE TECHNOLOGY DEPLOYMENT IN DEVELOPING COUNTRIES.

The Global Environmental Protection Assistance Act of 1989 (Public Law 101–240; 103 Stat. 2521) is amending by adding at the end the following:

“PART C—TECHNOLOGY DEPLOYMENT IN DEVELOPING COUNTRIES

“SEC. 731. DEFINITIONS.

22 USC 7901.

“In this part:

“(1) CARBON SEQUESTRATION.—The term ‘carbon sequestration’ means the capture of carbon dioxide through terrestrial, geological, biological, or other means, which prevents the release of carbon dioxide into the atmosphere.

“(2) GREENHOUSE GAS.—The term ‘greenhouse gas’ means carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

“(3) GREENHOUSE GAS INTENSITY.—The term ‘greenhouse gas intensity’ means the ratio of greenhouse gas emissions to economic output.

“SEC. 732. REDUCTION OF GREENHOUSE GAS INTENSITY.

22 USC 7902.

“(a) LEAD AGENCY.—

“(1) IN GENERAL.—The Department of State shall act as the lead agency for integrating into United States foreign policy the goal of reducing greenhouse gas intensity in developing countries.

“(2) REPORTS.—

“(A) INITIAL REPORT.—Not later than 180 days after the date of enactment of this part, the Secretary of State shall submit to the appropriate authorizing and appropriating committees of Congress an initial report, based on the most recent information available to the Secretary from reliable public sources, that identifies the 25 developing countries that are the largest greenhouse gas emitters, including for each country—

“(i) an estimate of the quantity and types of energy used;

“(ii) an estimate of the greenhouse gas intensity of the energy, manufacturing, agricultural, and transportation sectors;

“(iii) a description the progress of any significant projects undertaken to reduce greenhouse gas intensity;

“(iv) a description of the potential for undertaking projects to reduce greenhouse gas intensity;

“(v) a description of any obstacles to the reduction of greenhouse gas intensity; and

“(vi) a description of the best practices learned by the Agency for International Development from conducting previous pilot and demonstration projects to reduce greenhouse gas intensity.

“(B) UPDATE.—Not later than 18 months after the date on which the initial report is submitted under subparagraph (A), the Secretary shall submit to the appropriate authorizing and appropriating committees of Congress, based on the best information available to the Secretary, an update of the information provided in the initial report.

“(C) USE.—

“(i) INITIAL REPORT.—The Secretary of State shall use the initial report submitted under subparagraph (A) to establish baselines for the developing countries identified in the report with respect to the information provided under clauses (i) and (ii) of that subparagraph.

“(ii) ANNUAL REPORTS.—The Secretary of State shall use the annual reports prepared under subparagraph (B) and any other information available to the Secretary to track the progress of the developing countries with respect to reducing greenhouse gas intensity.

“(b) PROJECTS.—The Secretary of State, in coordination with Administrator of the United States Agency for International Development, shall (directly or through agreements with the World Bank, the International Monetary Fund, the Overseas Private Investment Corporation, and other development institutions) provide assistance to developing countries specifically for projects to reduce greenhouse gas intensity, including projects to—

“(1) leverage, through bilateral agreements, funds for reduction of greenhouse gas intensity;

“(2) increase private investment in projects and activities to reduce greenhouse gas intensity; and

“(3) expedite the deployment of technology to reduce greenhouse gas intensity.

“(c) FOCUS.—In providing assistance under subsection (b), the Secretary of State shall focus on—

“(1) promoting the rule of law, property rights, contract protection, and economic freedom; and

“(2) increasing capacity, infrastructure, and training.

“(d) PRIORITY.—In providing assistance under subsection (b), the Secretary of State shall give priority to projects in the 25 developing countries identified in the report submitted under subsection (a)(2)(A).

22 USC 7903.

“SEC. 733. TECHNOLOGY INVENTORY FOR DEVELOPING COUNTRIES.

“(a) IN GENERAL.—The Secretary of Energy, in coordination with the Secretary of State and the Secretary of Commerce, shall conduct an inventory of greenhouse gas intensity reducing technologies that are developed, or under development in the United States, to identify technologies that are suitable for transfer to, deployment in, and commercialization in the developing countries identified in the report submitted under section 732(a)(2)(A).

“(b) REPORT.—Not later than 180 days after the completion of the inventory under subsection (a), the Secretary of State and the Secretary of Energy shall jointly submit to Congress a report that—

“(1) includes the results of the completed inventory;

“(2) identifies obstacles to the transfer, deployment, and commercialization of the inventoried technologies;

“(3) includes results from previous Federal reports related to the inventoried technologies; and

“(4) includes an analysis of market forces related to the inventoried technologies.

“SEC. 734. TRADE-RELATED BARRIERS TO EXPORT OF GREENHOUSE GAS INTENSITY REDUCING TECHNOLOGIES. 22 USC 7904.

“(a) IN GENERAL.—Not later than 1 year after the date of enactment of this part, the United States Trade Representative shall (as appropriate and consistent with applicable bilateral, regional, and mutual trade agreements)— Deadline.

“(1) identify trade-relations barriers maintained by foreign countries to the export of greenhouse gas intensity reducing technologies and practices from the United States to the developing countries identified in the report submitted under section 732(a)(2)(A); and

“(2) negotiate with foreign countries for the removal of those barriers.

“(b) ANNUAL REPORT.—Not later than 1 year after the date on which a report is submitted under subsection (a)(1) and annually thereafter, the United States Trade Representative shall submit to Congress a report that describes any progress made with respect to removing the barriers identified by the United States Trade Representative under subsection (a)(1).

“SEC. 735. GREENHOUSE GAS INTENSITY REDUCING TECHNOLOGY EXPORT INITIATIVE. 22 USC 7905.

“(a) IN GENERAL.—There is established an interagency working group to carry out a Greenhouse Gas Intensity Reducing Technology Export Initiative to— Establishment.

“(1) promote the export of greenhouse gas intensity reducing technologies and practices from the United States;

“(2) identify developing countries that should be designated as priority countries for the purpose of exporting greenhouse gas intensity reducing technologies and practices, based on the report submitted under section 732(a)(2)(A);

“(3) identify potential barriers to adoption of exported greenhouse gas intensity reducing technologies and practices based on the reports submitted under section 734; and

“(4) identify previous efforts to export energy technologies to learn best practices.

“(b) COMPOSITION.—The working group shall be composed of—

“(1) the Secretary of State, who shall act as the head of the working group;

“(2) the Administrator of the United States Agency for International Development;

“(3) the United States Trade Representative;

“(4) a designee of the Secretary of Energy;

“(5) a designee of the Secretary of Commerce; and

“(6) a designee of the Administrator of the Environmental Protection Agency.

“(c) PERFORMANCE REVIEWS AND REPORTS.—Not later than 180 days after the date of enactment of this part and each year thereafter, the interagency working group shall—

“(1) conduct a performance review of actions taken and results achieved by the Federal Government (including each of the agencies represented on the interagency working group) to promote the export of greenhouse gas intensity reducing technologies and practices from the United States; and

“(2) submit to the appropriate authorizing and appropriating committees of Congress a report that describes the results of the performance reviews and evaluates progress in promoting the export of greenhouse gas intensity reducing technologies and practices from the United States, including any recommendations for increasing the export of the technologies and practices.

22 USC 7906.

“SEC. 736. TECHNOLOGY DEMONSTRATION PROJECTS.

“(a) IN GENERAL.—The Secretary of State, in coordination with the Secretary of Energy and the Administrator of the United States Agency for International Development, shall promote the adoption of technologies and practices that reduce greenhouse gas intensity in developing countries in accordance with this section.

“(b) DEMONSTRATION PROJECTS.—

“(1) IN GENERAL.—The Secretaries and the Administrator shall plan, coordinate, and carry out, or provide assistance for the planning, coordination, or carrying out of, demonstration projects under this section in at least 10 eligible countries, as determined by the Secretaries and the Administrator.

“(2) ELIGIBILITY.—A country shall be eligible for assistance under this subsection if the Secretaries and the Administrator determine that the country has demonstrated a commitment to—

“(A) just governance, including—

“(i) promoting the rule of law;

“(ii) respecting human and civil rights;

“(iii) protecting private property rights; and

“(iv) combating corruption; and

“(B) economic freedom, including economic policies that—

“(i) encourage citizens and firms to participate in global trade and international capital markets;

“(ii) promote private sector growth and the sustainable management of natural resources; and

“(iii) strengthen market forces in the economy.

“(3) SELECTION.—In determining which eligible countries to provide assistance to under paragraph (1), the Secretaries and the Administrator shall consider—

“(A) the opportunity to reduce greenhouse gas intensity in the eligible country; and

“(B) the opportunity to generate economic growth in the eligible country.

“(4) TYPES OF PROJECTS.—Demonstration projects under this section may include—

“(A) coal gasification, coal liquefaction, and clean coal projects;

“(B) carbon sequestration projects;

“(C) cogeneration technology initiatives;

- “(D) renewable projects; and
- “(E) lower emission transportation.

“SEC. 737. FELLOWSHIP AND EXCHANGE PROGRAMS.

22 USC 7907.

“The Secretary of State, in coordination with the Secretary of Energy, the Secretary of Commerce, and the Administrator of the Environmental Protection Agency, shall carry out fellowship and exchange programs under which officials from developing countries visit the United States to acquire expertise and knowledge of best practices to reduce greenhouse gas intensity in their countries.

“SEC. 738. AUTHORIZATION OF APPROPRIATIONS.

22 USC 7908.

“There are authorized to be appropriated such sums as are necessary to carry out this part.

“SEC. 739. EFFECTIVE DATE.22 USC 7901
note.

“Except as otherwise provided in this part, this part takes effect on October 1, 2005.”.

TITLE XVII—INCENTIVES FOR INNOVATIVE TECHNOLOGIES

SEC. 1701. DEFINITIONS.

22 USC 16511.

In this title:

(1) **COMMERCIAL TECHNOLOGY.**—

(A) **IN GENERAL.**—The term “commercial technology” means a technology in general use in the commercial marketplace.

(B) **INCLUSIONS.**—The term “commercial technology” does not include a technology solely by use of the technology in a demonstration project funded by the Department.

(2) **COST.**—The term “cost” has the meaning given the term “cost of a loan guarantee” within the meaning of section 502(5)(C) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5)(C)).

(3) **ELIGIBLE PROJECT.**—The term “eligible project” means a project described in section 1703.

(4) **GUARANTEE.**—

(A) **IN GENERAL.**—The term “guarantee” has the meaning given the term “loan guarantee” in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a).

(B) **INCLUSION.**—The term “guarantee” includes a loan guarantee commitment (as defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a)).

(5) **OBLIGATION.**—The term “obligation” means the loan or other debt obligation that is guaranteed under this section.

SEC. 1702. TERMS AND CONDITIONS.

22 USC 16512.

(a) **IN GENERAL.**—Except for division C of Public Law 108–324, the Secretary shall make guarantees under this or any other Act for projects on such terms and conditions as the Secretary determines, after consultation with the Secretary of the Treasury, only in accordance with this section.

(b) **SPECIFIC APPROPRIATION OR CONTRIBUTION.**—No guarantee shall be made unless—

- (1) an appropriation for the cost has been made; or

(2) the Secretary has received from the borrower a payment in full for the cost of the obligation and deposited the payment into the Treasury.

(c) AMOUNT.—Unless otherwise provided by law, a guarantee by the Secretary shall not exceed an amount equal to 80 percent of the project cost of the facility that is the subject of the guarantee, as estimated at the time at which the guarantee is issued.

(d) REPAYMENT.—

(1) IN GENERAL.—No guarantee shall be made unless the Secretary determines that there is reasonable prospect of repayment of the principal and interest on the obligation by the borrower.

(2) AMOUNT.—No guarantee shall be made unless the Secretary determines that the amount of the obligation (when combined with amounts available to the borrower from other sources) will be sufficient to carry out the project.

(3) SUBORDINATION.—The obligation shall be subject to the condition that the obligation is not subordinate to other financing.

(e) INTEREST RATE.—An obligation shall bear interest at a rate that does not exceed a level that the Secretary determines appropriate, taking into account the prevailing rate of interest in the private sector for similar loans and risks.

(f) TERM.—The term of an obligation shall require full repayment over a period not to exceed the lesser of—

(1) 30 years; or

(2) 90 percent of the projected useful life of the physical asset to be financed by the obligation (as determined by the Secretary).

(g) DEFAULTS.—

(1) PAYMENT BY SECRETARY.—

(A) IN GENERAL.—If a borrower defaults on the obligation (as defined in regulations promulgated by the Secretary and specified in the guarantee contract), the holder of the guarantee shall have the right to demand payment of the unpaid amount from the Secretary.

(B) PAYMENT REQUIRED.—Within such period as may be specified in the guarantee or related agreements, the Secretary shall pay to the holder of the guarantee the unpaid interest on, and unpaid principal of the obligation as to which the borrower has defaulted, unless the Secretary finds that there was no default by the borrower in the payment of interest or principal or that the default has been remedied.

(C) FORBEARANCE.—Nothing in this subsection precludes any forbearance by the holder of the obligation for the benefit of the borrower which may be agreed upon by the parties to the obligation and approved by the Secretary.

(2) SUBROGATION.—

(A) IN GENERAL.—If the Secretary makes a payment under paragraph (1), the Secretary shall be subrogated to the rights of the recipient of the payment as specified in the guarantee or related agreements including, where appropriate, the authority (notwithstanding any other provision of law) to—

(i) complete, maintain, operate, lease, or otherwise dispose of any property acquired pursuant to such guarantee or related agreements; or

(ii) permit the borrower, pursuant to an agreement with the Secretary, to continue to pursue the purposes of the project if the Secretary determines this to be in the public interest.

(B) SUPERIORITY OF RIGHTS.—The rights of the Secretary, with respect to any property acquired pursuant to a guarantee or related agreements, shall be superior to the rights of any other person with respect to the property.

(C) TERMS AND CONDITIONS.—A guarantee agreement shall include such detailed terms and conditions as the Secretary determines appropriate to—

(i) protect the interests of the United States in the case of default; and

(ii) have available all the patents and technology necessary for any person selected, including the Secretary, to complete and operate the project.

(3) PAYMENT OF PRINCIPAL AND INTEREST BY SECRETARY.—With respect to any obligation guaranteed under this section, the Secretary may enter into a contract to pay, and pay, holders of the obligation, for and on behalf of the borrower, from funds appropriated for that purpose, the principal and interest payments which become due and payable on the unpaid balance of the obligation if the Secretary finds that—

(A)(i) the borrower is unable to meet the payments and is not in default;

(ii) it is in the public interest to permit the borrower to continue to pursue the purposes of the project; and

(iii) the probable net benefit to the Federal Government in paying the principal and interest will be greater than that which would result in the event of a default;

(B) the amount of the payment that the Secretary is authorized to pay shall be no greater than the amount of principal and interest that the borrower is obligated to pay under the agreement being guaranteed; and

(C) the borrower agrees to reimburse the Secretary for the payment (including interest) on terms and conditions that are satisfactory to the Secretary.

(4) ACTION BY ATTORNEY GENERAL.—

(A) NOTIFICATION.—If the borrower defaults on an obligation, the Secretary shall notify the Attorney General of the default.

(B) RECOVERY.—On notification, the Attorney General shall take such action as is appropriate to recover the unpaid principal and interest due from—

(i) such assets of the defaulting borrower as are associated with the obligation; or

(ii) any other security pledged to secure the obligation.

(h) FEES.—

(1) IN GENERAL.—The Secretary shall charge and collect fees for guarantees in amounts the Secretary determines are sufficient to cover applicable administrative expenses.

(2) AVAILABILITY.—Fees collected under this subsection shall—

(A) be deposited by the Secretary into the Treasury; and

(B) remain available until expended, subject to such other conditions as are contained in annual appropriations Acts.

(i) RECORDS; AUDITS.—

(1) IN GENERAL.—A recipient of a guarantee shall keep such records and other pertinent documents as the Secretary shall prescribe by regulation, including such records as the Secretary may require to facilitate an effective audit.

(2) ACCESS.—The Secretary and the Comptroller General of the United States, or their duly authorized representatives, shall have access, for the purpose of audit, to the records and other pertinent documents.

(j) FULL FAITH AND CREDIT.—The full faith and credit of the United States is pledged to the payment of all guarantees issued under this section with respect to principal and interest.

42 USC 16513.

SEC. 1703. ELIGIBLE PROJECTS.

(a) IN GENERAL.—The Secretary may make guarantees under this section only for projects that—

(1) avoid, reduce, or sequester air pollutants or anthropogenic emissions of greenhouse gases; and

(2) employ new or significantly improved technologies as compared to commercial technologies in service in the United States at the time the guarantee is issued.

(b) CATEGORIES.—Projects from the following categories shall be eligible for a guarantee under this section:

(1) Renewable energy systems.

(2) Advanced fossil energy technology (including coal gasification meeting the criteria in subsection (d)).

(3) Hydrogen fuel cell technology for residential, industrial, or transportation applications.

(4) Advanced nuclear energy facilities.

(5) Carbon capture and sequestration practices and technologies, including agricultural and forestry practices that store and sequester carbon.

(6) Efficient electrical generation, transmission, and distribution technologies.

(7) Efficient end-use energy technologies.

(8) Production facilities for fuel efficient vehicles, including hybrid and advanced diesel vehicles.

(9) Pollution control equipment.

(10) Refineries, meaning facilities at which crude oil is refined into gasoline.

(c) GASIFICATION PROJECTS.—The Secretary may make guarantees for the following gasification projects:

(1) INTEGRATED GASIFICATION COMBINED CYCLE PROJECTS.—Integrated gasification combined cycle plants meeting the emission levels under subsection (d), including—

(A) projects for the generation of electricity—

(i) for which, during the term of the guarantee—

(I) coal, biomass, petroleum coke, or a combination of coal, biomass, and petroleum coke will

account for at least 65 percent of annual heat input; and

(II) electricity will account for at least 65 percent of net useful annual energy output;

(ii) that have a design that is determined by the Secretary to be capable of accommodating the equipment likely to be necessary to capture the carbon dioxide that would otherwise be emitted in flue gas from the plant;

(iii) that have an assured revenue stream that covers project capital and operating costs (including servicing all debt obligations covered by the guarantee) that is approved by the Secretary and the relevant State public utility commission; and

(iv) on which construction commences not later than the date that is 3 years after the date of the issuance of the guarantee;

(B) a project to produce energy from coal (of not more than 13,000 Btu/lb and mined in the western United States) using appropriate advanced integrated gasification combined cycle technology that minimizes and offers the potential to sequester carbon dioxide emissions and that—

(i) may include repowering of existing facilities;

(ii) may be built in stages;

(iii) shall have a combined output of at least 100 megawatts;

(iv) shall be located in a western State at an altitude greater than 4,000 feet; and

(v) shall demonstrate the ability to use coal with an energy content of not more than 9,000 Btu/lb;

(C) a project located in a taconite-producing region of the United States that is entitled under the law of the State in which the plant is located to enter into a long-term contract approved by a State public utility commission to sell at least 450 megawatts of output to a utility;

(D) facilities that—

(i) generate one or more hydrogen-rich and carbon monoxide-rich product streams from the gasification of coal or coal waste; and

(ii) use those streams to facilitate the production of ultra clean premium fuels through the Fischer-Tropsch process; and

(E) a project to produce energy and clean fuels, using appropriate coal liquefaction technology, from Western bituminous or subbituminous coal, that—

(i) is owned by a State government; and

(ii) may include tribal and private coal resources.

(2) INDUSTRIAL GASIFICATION PROJECTS.—Facilities that gasify coal, biomass, or petroleum coke in any combination to produce synthesis gas for use as a fuel or feedstock and for which electricity accounts for less than 65 percent of the useful energy output of the facility.

(3) PETROLEUM COKE GASIFICATION PROJECTS.—The Secretary is encouraged to make loan guarantees under this title available for petroleum coke gasification projects.

Loans.

(4) LIQUEFACTION PROJECT.—Notwithstanding any other provision of law, funds awarded under the clean coal power initiative under subtitle A of title IV for coal-to-oil liquefaction projects may be used to finance the cost of loan guarantees for projects awarded such funds.

(d) EMISSION LEVELS.—In addition to any other applicable Federal or State emission limitation requirements, a project shall attain at least—

(1) total sulfur dioxide emissions in flue gas from the project that do not exceed 0.05 lb/MMBtu;

(2) a 90-percent removal rate (including any fuel pretreatment) of mercury from the coal-derived gas, and any other fuel, combusted by the project;

(3) total nitrogen oxide emissions in the flue gas from the project that do not exceed 0.08 lb/MMBtu; and

(4) total particulate emissions in the flue gas from the project that do not exceed 0.01 lb/MMBtu.

(e) QUALIFICATION OF FACILITIES RECEIVING TAX CREDITS.—A project that receives tax credits for clean coal technology shall not be disqualified from receiving a guarantee under this title.

42 USC 16514.

SEC. 1704. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to provide the cost of guarantees under this title.

(b) USE OF OTHER APPROPRIATED FUNDS.—The Department may use amounts awarded under the clean coal power initiative under subtitle A of title IV to carry out the project described in section 1703(c)(1)(C), on the request of the recipient of such award, for a loan guarantee, to the extent that the amounts have not yet been disbursed to, or have been repaid by, the recipient.

TITLE XVIII—STUDIES

SEC. 1801. STUDY ON INVENTORY OF PETROLEUM AND NATURAL GAS STORAGE.

(a) DEFINITION.—For purposes of this section “petroleum” means crude oil, motor gasoline, jet fuel, distillates, and propane.

(b) STUDY.—The Secretary shall conduct a study on petroleum and natural gas storage capacity and operational inventory levels, nationwide and by major geographical regions.

(c) CONTENTS.—The study shall address—

(1) historical normal ranges for petroleum and natural gas inventory levels;

(2) historical and projected storage capacity trends;

(3) estimated operation inventory levels below which outages, delivery slowdown, rationing, interruptions in service, or other indicators of shortage begin to appear;

(4) explanations for inventory levels dropping below normal ranges; and

(5) the ability of industry to meet United States demand for petroleum and natural gas without shortages or price spikes, when inventory levels are below normal ranges.

(d) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit a report

to Congress on the results of the study, including findings and any recommendations for preventing future supply shortages.

SEC. 1802. STUDY OF ENERGY EFFICIENCY STANDARDS.

Deadline.

The Secretary shall contract with the National Academy of Sciences for a study, to be completed within 1 year after the date of enactment of this Act, to examine whether the goals of energy efficiency standards are best served by measurement of energy consumed, and efficiency improvements, at the actual site of energy consumption, or through the full fuel cycle, beginning at the source of energy production. The Secretary shall submit the report to Congress.

Reports.

SEC. 1803. TELECOMMUTING STUDY.

(a) **STUDY REQUIRED.**—The Secretary, in consultation with the Commission, the Director of the Office of Personnel Management, the Administrator of General Services, and the Administrator of NTIA, shall conduct a study of the energy conservation implications of the widespread adoption of telecommuting by Federal employees in the United States.

(b) **REQUIRED SUBJECTS OF STUDY.**—The study required by subsection (a) shall analyze the following subjects in relation to the energy saving potential of telecommuting by Federal employees:

(1) Reductions of energy use and energy costs in commuting and regular office heating, cooling, and other operations.

(2) Other energy reductions accomplished by telecommuting.

(3) Existing regulatory barriers that hamper telecommuting, including barriers to broadband telecommunications services deployment.

(4) Collateral benefits to the environment, family life, and other values.

(c) **REPORT REQUIRED.**—The Secretary shall submit to the President and Congress a report on the study required by this section not later than 6 months after the date of enactment of this Act. Such report shall include a description of the results of the analysis of each of the subjects described in subsection (b).

(d) **DEFINITIONS.**—As used in this section:

(1) **COMMISSION.**—The term “Commission” means the Federal Communications Commission.

(2) **NTIA.**—The term “NTIA” means the National Telecommunications and Information Administration of the Department of Commerce.

(3) **TELECOMMUTING.**—The term “telecommuting” means the performance of work functions using communications technologies, thereby eliminating or substantially reducing the need to commute to and from traditional worksites.

(4) **FEDERAL EMPLOYEE.**—The term “Federal employee” has the meaning provided the term “employee” by section 2105 of title 5, United States Code.

SEC. 1804. LIHEAP REPORT.

Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall transmit to Congress a report on how the Low-Income Home Energy Assistance Program could be used more effectively to prevent loss of

life from extreme temperatures. In preparing such report, the Secretary shall consult with appropriate officials in all 50 States and the District of Columbia.

SEC. 1805. OIL BYPASS FILTRATION TECHNOLOGY.

The Secretary and the Administrator of the Environmental Protection Agency shall—

(1) conduct a joint study of the benefits of oil bypass filtration technology in reducing demand for oil and protecting the environment;

(2) examine the feasibility of using oil bypass filtration technology in Federal motor vehicle fleets; and

(3) include in such study, prior to any determination of the feasibility of using oil bypass filtration technology, the evaluation of products and various manufacturers.

SEC. 1806. TOTAL INTEGRATED THERMAL SYSTEMS.

The Secretary shall—

(1) conduct a study of the benefits of total integrated thermal systems in reducing demand for oil and protecting the environment; and

(2) examine the feasibility of using total integrated thermal systems in Department of Defense and other Federal motor vehicle fleets.

42 USC 16521.

SEC. 1807. REPORT ON ENERGY INTEGRATION WITH LATIN AMERICA.

Mexico.

The Secretary shall submit an annual report to the Committee on Energy and Commerce of the United States House of Representatives and to the Committee on Energy and Natural Resources of the Senate concerning the status of energy export development in Latin America and efforts by the Secretary and other departments and agencies of the United States to promote energy integration with Latin America. The report shall contain a detailed analysis of the status of energy export development in Mexico and a description of all significant efforts by the Secretary and other departments and agencies to promote a constructive relationship with Mexico regarding the development of that nation's energy capacity. In particular this report shall outline efforts the Secretary and other departments and agencies have made to ensure that regulatory approval and oversight of United States/Mexico border projects that result in the expansion of Mexican energy capacity are effectively coordinated across departments and with the Mexican government.

42 USC 16522.

SEC. 1808. LOW-VOLUME GAS RESERVOIR STUDY.

Grants.

(a) **STUDY.**—The Secretary shall make a grant to an organization of oil and gas producing States, specifically those containing significant numbers of marginal oil and natural gas wells, for conducting an annual study of low-volume natural gas reservoirs. Such organization shall work with the State geologist of each State being studied.

(b) **CONTENTS.**—The studies under this section shall—

(1) determine the status and location of marginal wells and gas reservoirs;

(2) gather the production information of these marginal wells and reservoirs;

(3) estimate the remaining producible reserves based on variable pipeline pressures;

- (4) locate low-pressure gathering facilities and pipelines;
- (5) recommend incentives which will enable the continued production of these resources;
- (6) produce maps and literature to disseminate to States to promote conservation of natural gas reserves; and
- (7) evaluate the amount of natural gas that is being wasted through the practice of venting or flaring of natural gas produced in association with crude oil well production.

(c) **DATA ANALYSIS.**—Data development and analysis under this section shall be performed by an institution of higher education with GIS capabilities. If the organization receiving the grant under subsection (a) does not have GIS capabilities, such organization shall contract with one or more entities with—

- (1) technological capabilities and resources to perform advanced image processing, GIS programming, and data analysis; and
- (2) the ability to—
 - (A) process remotely sensed imagery with high spatial resolution;
 - (B) deploy global positioning systems;
 - (C) process and synthesize existing, variable-format gas well, pipeline, gathering facility, and reservoir data;
 - (D) create and query GIS databases with infrastructure location and attribute information;
 - (E) write computer programs to customize relevant GIS software;
 - (F) generate maps, charts, and graphs which summarize findings from data research for presentation to different audiences; and
 - (G) deliver data in a variety of formats, including Internet Map Server for query and display, desktop computer display, and access through handheld personal digital assistants.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary for carrying out this section—

- (1) \$1,500,000 for fiscal year 2006; and
- (2) \$450,000 for each of the fiscal years 2007 through 2010.

(e) **DEFINITIONS.**—For purposes of this section, the term “GIS” means geographic information systems technology that facilitates the organization and management of data with a geographic component.

SEC. 1809. INVESTIGATION OF GASOLINE PRICES.

(a) **INVESTIGATION.**—Not later than 90 days after the date of enactment of this Act, the Federal Trade Commission shall conduct an investigation to determine if the price of gasoline is being artificially manipulated by reducing refinery capacity or by any other form of market manipulation or price gouging practices. Deadline.

(b) **EVALUATION AND ANALYSIS.**—The Secretary shall direct the National Petroleum Council to conduct an evaluation and analysis to determine whether, and to what extent, environmental and other regulations affect new domestic refinery construction and significant expansion of existing refinery capacity.

(c) **REPORTS TO CONGRESS.**—

(1) INVESTIGATION.—On completion of the investigation under subsection (a), the Federal Trade Commission shall submit to Congress a report that describes—

(A) the results of the investigation; and

(B) any recommendations of the Federal Trade Commission.

(2) EVALUATION AND ANALYSIS.—On completion of the evaluation and analysis under subsection (b), the Secretary shall submit to Congress a report that describes—

(A) the results of the evaluation and analysis; and

(B) any recommendations of the National Petroleum Council.

Reports.
Deadlines.
42 USC 16523.

SEC. 1810. ALASKA NATURAL GAS PIPELINE.

Not later than 180 days after the date of enactment of this Act, and every 180 days thereafter until the Alaska natural gas pipeline commences operation, the Federal Energy Regulatory Commission shall submit to Congress a report describing—

(1) the progress made in licensing and constructing the pipeline; and

(2) any issue impeding that progress.

State listing.

SEC. 1811. COAL BED METHANE STUDY.

(a) STUDY.—

(1) IN GENERAL.—The Secretary of the Interior, in consultation with the Administrator of the Environmental Protection Agency, shall enter into an arrangement under which the National Academy of Sciences shall conduct a study on the effect of coal bed natural gas production on surface and ground water resources, including ground water aquifers, in the States of Montana, Wyoming, Colorado, New Mexico, North Dakota, and Utah.

(2) MATTERS TO BE ADDRESSED.—The study shall address the effectiveness of—

(A) the management of coal bed methane produced water;

(B) the use of best management practices; and

(C) various production techniques for coal bed methane natural gas in minimizing impacts on water resources.

(b) DATA ANALYSIS.—The study shall analyze available hydrologic, geologic and water quality data, along with—

(1) production techniques, produced water management techniques, best management practices, and other factors that can mitigate effects of coal bed methane development;

(2) the costs associated with mitigation techniques;

(3) effects on surface or ground water resources, including drinking water, associated with surface or subsurface disposal of waters produced during extraction of coal bed methane; and

(4) any other significant effects on surface or ground water resources associated with production of coal bed methane.

(c) RECOMMENDATIONS.—The study shall analyze the effectiveness of current mitigation practices of coal bed methane produced water handling in relation to existing Federal and State laws and regulations, and make recommendations as to changes, if any, to Federal law necessary to address adverse impacts to surface or ground water resources associated with coal bed methane development.

Contracts.

(d) **COMPLETION OF STUDY.**—The National Academy of Sciences shall submit the findings and recommendations of the study to the Secretary of the Interior and the Administrator of the Environmental Protection Agency within 12 months after the date of enactment of this Act, and shall upon completion make the results of the study available to the public.

Public
information.

(e) **REPORT TO CONGRESS.**—The Secretary of the Interior and the Administrator of the Environmental Protection Agency, after consulting with States, shall report to the Congress within 6 months after receiving the results of the study on—

- (1) the findings and recommendations of the study;
- (2) the agreement or disagreement of the Secretary of the Interior and the Administrator of the Environmental Protection Agency with each of its findings and recommendations; and
- (3) any recommended changes in funding to address the effects of coal bed methane production on surface and ground water resources.

SEC. 1812. BACKUP FUEL CAPABILITY STUDY.

(a) **STUDY.**—

(1) **IN GENERAL.**—The Secretary shall conduct a study of the effect of obtaining and maintaining liquid and other fuel backup capability at—

- (A) gas-fired power generation facilities; and
- (B) other gas-fired industrial facilities.

(2) **CONTENTS.**—The study under paragraph (1) shall address—

(A) the costs and benefits of adding a different fuel capability to a power gas-fired power generating or industrial facility, taking into consideration regional differences;

(B) methods of the Federal Government and State governments to encourage gas-fired power generators and industries to develop the capability to power the facilities using a backup fuel;

(C) the effect on the supply and cost of natural gas of—

(i) a balanced portfolio of fuel choices in power generation and industrial applications; and

(ii) State regulations that permit agencies in the State to carry out policies that encourage the use of other backup fuels in gas-fired power generation; and

(D) changes required in the Clean Air Act (42 U.S.C. 7401 et seq.) to allow natural gas generators to add clean backup fuel capabilities.

(b) **REPORT TO CONGRESS.**—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report on the results of the study under subsection (a), including recommendations regarding future activity of the Federal Government relating to backup fuel capability.

SEC. 1813. INDIAN LAND RIGHTS-OF-WAY.

(a) **STUDY.**—

(1) **IN GENERAL.**—The Secretary and the Secretary of the Interior (referred to in this section as the “Secretaries”) shall jointly conduct a study of issues regarding energy rights-of-way on tribal land (as defined in section 2601 of the Energy Policy Act of 1992 (as amended by section 503)) (referred to in this section as “tribal land”).

(2) CONSULTATION.—In conducting the study under paragraph (1), the Secretaries shall consult with Indian tribes, the energy industry, appropriate governmental entities, and affected businesses and consumers.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretaries shall submit to Congress a report on the findings of the study, including—

(1) an analysis of historic rates of compensation paid for energy rights-of-way on tribal land;

(2) recommendations for appropriate standards and procedures for determining fair and appropriate compensation to Indian tribes for grants, expansions, and renewals of energy rights-of-way on tribal land;

(3) an assessment of the tribal self-determination and sovereignty interests implicated by applications for the grant, expansion, or renewal of energy rights-of-way on tribal land; and

(4) an analysis of relevant national energy transportation policies relating to grants, expansions, and renewals of energy rights-of-way on tribal land.

Reports.
Deadline.

SEC. 1814. MOBILITY OF SCIENTIFIC AND TECHNICAL PERSONNEL.

Not later than 2 years after the date of enactment of this section, the Secretary shall transmit to Congress a report that—

(1) identifies any policies or procedures of a contractor operating a National Laboratory or single-purpose research facility that create disincentives to the temporary or permanent transfer of scientific and technical personnel among the contractor-operated National Laboratories or contractor-operated single-purpose research facilities; and

(2) provides recommendations for improving interlaboratory exchange of scientific and technical personnel.

SEC. 1815. INTERAGENCY REVIEW OF COMPETITION IN THE WHOLESALE AND RETAIL MARKETS FOR ELECTRIC ENERGY.

Establishment.

(a) TASK FORCE.—There is established an inter-agency task force, to be known as the “Electric Energy Market Competition Task Force” (referred to in this section as the “task force”), consisting of five members—

(1) one of whom shall be an employee of the Department of Justice, to be appointed by the Attorney General of the United States;

(2) one of whom shall be an employee of the Federal Energy Regulatory Commission, to be appointed by the Chairperson of that Commission;

(3) one of whom shall be an employee of the Federal Trade Commission, to be appointed by the Chairperson of that Commission;

(4) one of whom shall be an employee of the Department, to be appointed by the Secretary; and

(5) one of whom shall be an employee of the Rural Utilities Service, to be appointed by the Secretary of Agriculture.

(b) STUDY AND REPORT.—

(1) STUDY.—The task force shall conduct a study and analysis of competition within the wholesale and retail market for electric energy in the United States.

(2) REPORT.—

(A) **FINAL REPORT.**—Not later than 1 year after the date of enactment of this Act, the task force shall submit to Congress a final report on the findings of the task force under paragraph (1).

(B) **PUBLIC COMMENT.**—Not later than the date that is 60 days before a final report is submitted to Congress under subparagraph (A), the task force shall—

(i) publish in the Federal Register a draft of the report; and

(ii) provide an opportunity for public comment on the report.

Federal Register,
publication.

(c) **CONSULTATION.**—In conducting the study under subsection (b), the task force shall consult with and solicit comments from any advisory entity of the task force, the States, representatives of the electric power industry, and the public.

SEC. 1816. STUDY OF RAPID ELECTRICAL GRID RESTORATION.

(a) **STUDY.**—

(1) **IN GENERAL.**—The Secretary shall conduct a study of the benefits of using mobile transformers and mobile substations to rapidly restore electrical service to areas subjected to blackouts as a result of—

- (A) equipment failure;
- (B) natural disasters;
- (C) acts of terrorism; or
- (D) war.

(2) **CONTENTS.**—The study under paragraph (1) shall contain an analysis of—

(A) the feasibility of using mobile transformers and mobile substations to reduce dependence on foreign entities for key elements of the electrical grid system of the United States;

(B) the feasibility of using mobile transformers and mobile substations to rapidly restore electrical power to—

- (i) military bases;
- (ii) the Federal Government;
- (iii) communications industries;
- (iv) first responders; and
- (v) other critical infrastructures, as determined by the Secretary;

(C) the quantity of mobile transformers and mobile substations necessary—

- (i) to eliminate dependence on foreign sources for key electrical grid components in the United States;
- (ii) to rapidly deploy technology to fully restore full electrical service to prioritized Governmental functions; and
- (iii) to identify manufacturing sources in existence on the date of enactment of this Act that have previously manufactured specialized mobile transformer or mobile substation products for Federal agencies.

(b) **REPORT.**—

(1) **IN GENERAL.**—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the President and Congress a report on the study under subsection (a).

(2) INCLUSION.—The report shall include a description of the results of the analysis under subsection (a)(2).

SEC. 1817. STUDY OF DISTRIBUTED GENERATION.

(a) STUDY.—

(1) IN GENERAL.—

(A) POTENTIAL BENEFITS.—The Secretary, in consultation with the Federal Energy Regulatory Commission, shall conduct a study of the potential benefits of cogeneration and small power production.

(B) RECIPIENTS.—The benefits described in subparagraph (A) include benefits that are received directly or indirectly by—

(i) an electricity distribution or transmission service provider;

(ii) other customers served by an electricity distribution or transmission service provider; and

(iii) the general public in the area served by the public utility in which the cogenerator or small power producer is located.

(2) INCLUSIONS.—The study shall include an analysis of—

(A) the potential benefits of—

(i) increased system reliability;

(ii) improved power quality;

(iii) the provision of ancillary services;

(iv) reduction of peak power requirements through onsite generation;

(v) the provision of reactive power or volt-ampere reactives;

(vi) an emergency supply of power;

(vii) offsets to investments in generation, transmission, or distribution facilities that would otherwise be recovered through rates;

(viii) diminished land use effects and right-of-way acquisition costs; and

(ix) reducing the vulnerability of a system to terrorism; and

(B) any rate-related issue that may impede or otherwise discourage the expansion of cogeneration and small power production facilities, including a review of whether rates, rules, or other requirements imposed on the facilities are comparable to rates imposed on customers of the same class that do not have cogeneration or small power production.

(3) VALUATION OF BENEFITS.—In carrying out the study, the Secretary shall determine an appropriate method of valuing potential benefits under varying circumstances for individual cogeneration or small power production units.

(b) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary shall—

(1) complete the study;

(2) provide an opportunity for public comment on the results of the study; and

(3) submit to the President and Congress a report describing—

(A) the results of the study; and

Public
information.

(B) information relating to the public comments received under paragraph (2).

(c) PUBLICATION.—After submission of the report under subsection (b) to the President and Congress, the Secretary shall publish the report.

SEC. 1818. NATURAL GAS SUPPLY SHORTAGE REPORT.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to Congress a report on natural gas supplies and demand.

(b) PURPOSE.—The purpose of the report under subsection (a) is to develop recommendations for achieving a balance between natural gas supply and demand in order to—

(1) provide residential consumers with natural gas at reasonable and stable prices;

(2) accommodate long-term maintenance and growth of domestic natural gas-dependent industrial, manufacturing, and commercial enterprises;

(3) facilitate the attainment of national ambient air quality standards under the Clean Air Act (43 U.S.C. 7401 et seq.);

(4) achieve continued progress in reducing the emissions associated with electric power generation; and

(5) support the development of the preliminary phases of hydrogen-based energy technologies.

(c) COMPREHENSIVE ANALYSIS.—The report shall include a comprehensive analysis of, for the period beginning on January 1, 2004, and ending on December 31, 2015, natural gas supply and demand in the United States, including—

(1) estimates of annual domestic demand for natural gas, taking into consideration the effect of Federal policies and actions that are likely to increase or decrease the demand for natural gas;

(2) projections of annual natural gas supplies, from domestic and foreign sources, under Federal policies in existence on the date of enactment of this Act;

(3) an identification of estimated natural gas supplies that are not available under those Federal policies;

(4) scenarios for decreasing natural gas demand and increasing natural gas supplies that compare the relative economic and environmental impacts of Federal policies that—

(A) encourage or require the use of natural gas to meet air quality, carbon dioxide emission reduction, or energy security goals;

(B) encourage or require the use of energy sources other than natural gas, including coal, nuclear, and renewable sources;

(C) support technologies to develop alternative sources of natural gas and synthetic gas, including coal gasification technologies;

(D) encourage or require the use of energy conservation and demand side management practices; and

(E) affect access to domestic natural gas supplies; and

(5) recommendations for Federal actions to achieve the purposes described in subsection (b), including recommendations that—

(A) encourage or require the use of energy sources other than natural gas, including coal, nuclear, and renewable sources;

(B) encourage or require the use of energy conservation or demand side management practices;

(C) support technologies for the development of alternative sources of natural gas and synthetic gas, including coal gasification technologies; and

(D) would improve access to domestic natural gas supplies.

(d) **CONSULTATION.**—In preparing the report under subsection (a), the Secretary shall consult with—

(1) experts in natural gas supply and demand; and

(2) representatives of—

(A) State and local governments;

(B) tribal organizations; and

(C) consumer and other organizations.

(e) **HEARINGS.**—In preparing the report under subsection (a), the Secretary may hold public hearings and provide other opportunities for public comment, as the Secretary considers appropriate.

SEC. 1819. HYDROGEN PARTICIPATION STUDY.

Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report evaluating methodologies to ensure the widest participation practicable in setting goals and milestones under the hydrogen program of the Department, including international participants.

SEC. 1820. OVERALL EMPLOYMENT IN A HYDROGEN ECONOMY.

(a) **STUDY.**—

(1) **IN GENERAL.**—The Secretary shall carry out a study of the likely effects of a transition to a hydrogen economy on overall employment in the United States.

(2) **CONTENTS.**—In completing the study, the Secretary shall take into consideration—

(A) the replacement effects of new goods and services;

(B) international competition;

(C) workforce training requirements;

(D) multiple possible fuel cycles, including usage of raw materials;

(E) rates of market penetration of technologies; and

(F) regional variations based on geography.

(b) **REPORT.**—Not later than 18 months after the date of enactment of this Act, the Secretary shall submit to Congress a report describing the findings, conclusions, and recommendations of the study under subsection (a).

SEC. 1821. STUDY OF BEST MANAGEMENT PRACTICES FOR ENERGY RESEARCH AND DEVELOPMENT PROGRAMS.

(a) **IN GENERAL.**—The Secretary shall enter into an arrangement with the National Academy of Public Administration under which the Academy shall conduct a study to assess management practices for research, development, and demonstration programs at the Department.

(b) **SCOPE OF THE STUDY.**—The study shall consider—

(1) management practices that act as barriers between the Office of Science and offices conducting mission-oriented research;

Reports.
Deadline.

(2) recommendations for management practices that would improve coordination and bridge the innovation gap between the Office of Science and offices conducting mission-oriented research;

(3) the applicability of the management practices used by the Department of Defense Advanced Research Projects Agency to research programs at the Department;

(4) the advisability of creating an agency within the Department modeled after the Department of Defense Advanced Research Projects Agency;

(5) recommendations for management practices that could best encourage innovative research and efficiency at the Department; and

(6) any other relevant considerations.

(c) **REPORT.**—Not later than 18 months after the date of enactment of this Act, the Secretary shall submit to Congress a report on the study conducted under this section.

SEC. 1822. EFFECT OF ELECTRICAL CONTAMINANTS ON RELIABILITY OF ENERGY PRODUCTION SYSTEMS.

Contracts.
Deadline.

Not later than 180 days after the date of enactment of this Act, the Secretary shall enter into a contract with the National Academy of Sciences under which the National Academy of Sciences shall determine the effect that electrical contaminants (such as tin whiskers) may have on the reliability of energy production systems, including nuclear energy.

SEC. 1823. ALTERNATIVE FUELS REPORTS.

(a) **IN GENERAL.**—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress reports on the potential for each of biodiesel and hythane to become major, sustainable, alternative fuels.

(b) **BIODIESEL REPORT.**—The report relating to biodiesel submitted under subsection (a) shall—

(1) provide a detailed assessment of—

(A) potential biodiesel markets and manufacturing capacity; and

(B) environmental and energy security benefits with respect to the use of biodiesel;

(2) identify any impediments, especially in infrastructure needed for production, distribution, and storage, to biodiesel becoming a substantial source of fuel for conventional diesel and heating oil applications;

(3) identify strategies to enhance the commercial deployment of biodiesel; and

(4) include an examination and recommendations, as appropriate, of the ways in which biodiesel may be modified to be a cleaner-burning fuel.

(c) **HYTHANE REPORT.**—The report relating to hythane submitted under subsection (a) shall—

(1) provide a detailed assessment of potential hythane markets and the research and development activities that are necessary to facilitate the commercialization of hythane as a competitive, environmentally friendly transportation fuel;

(2) address—

(A) the infrastructure necessary to produce, blend, distribute, and store hythane for widespread commercial purposes; and

(B) other potential market barriers to the commercialization of hythane;

(3) examine the viability of producing hydrogen using energy-efficient, environmentally friendly methods so that the hydrogen can be blended with natural gas to produce hythane; and

(4) include an assessment of the modifications that would be required to convert compressed natural gas vehicle engines to engines that use hythane as fuel.

(d) GRANTS FOR REPORT COMPLETION.—The Secretary may use such sums as are available to the Secretary to provide, to one or more colleges or universities selected by the Secretary, grants for use in carrying out research to assist the Secretary in preparing the reports required to be submitted under subsection (a).

SEC. 1824. FINAL ACTION ON REFUNDS FOR EXCESSIVE CHARGES.

The Federal Energy Regulatory Commission (FERC) shall—

(1) seek to conclude its investigation into the unjust or unreasonable charges incurred by California during the 2000–2001 electricity crisis as soon as possible;

California.

(2) seek to ensure that refunds the Commission determines are owed to the State of California are paid to the State of California; and

Reports.
Deadline.

(3) submit to Congress a report by December 31, 2005, describing the actions taken by the Commission to date under this section and timetables for further actions.

SEC. 1825. FUEL CELL AND HYDROGEN TECHNOLOGY STUDY.

Contracts.

(a) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall enter into a contract with the National Academy of Sciences and the National Research Council to carry out a study of fuel cell technologies that provides a budget roadmap for the development of fuel cell technologies and the transition from petroleum to hydrogen in a significant percentage of the vehicles sold by 2020.

(b) REQUIREMENTS.—In carrying out the study, the National Academy of Sciences and the National Research Council shall—

(1) establish as a goal the maximum percentage practicable of vehicles that the National Academy of Sciences and the National Research Council determines can be fueled by hydrogen by 2020;

(2) determine the amount of Federal and private funding required to meet the goal established under paragraph (1);

(3) determine what actions are required to meet the goal established under paragraph (1);

(4) examine the need for expanded and enhanced Federal research and development programs, changes in regulations, grant programs, partnerships between the Federal Government and industry, private sector investments, infrastructure investments by the Federal Government and industry, educational and public information initiatives, and Federal and State tax incentives to meet the goal established under paragraph (1);

(5) consider whether other technologies would be less expensive or could be more quickly implemented than fuel cell technologies to achieve significant reductions in carbon dioxide emissions;

(6) take into account any reports relating to fuel cell technologies and hydrogen-fueled vehicles, including—

(A) the report prepared by the National Academy of Engineering and the National Research Council in 2004 entitled “Hydrogen Economy: Opportunities, Costs, Barriers, and R&D Needs”; and

(B) the report prepared by the U.S. Fuel Cell Council in 2003 entitled “Fuel Cells and Hydrogen: The Path Forward”;

(7) consider the challenges, difficulties, and potential barriers to meeting the goal established under paragraph (1); and

(8) with respect to the budget roadmap—

(A) specify the amount of funding required on an annual basis from the Federal Government and industry to carry out the budget roadmap; and

(B) specify the advantages and disadvantages to moving toward the transition to hydrogen in vehicles in accordance with the timeline established by the budget roadmap.

SEC. 1826. PASSIVE SOLAR TECHNOLOGIES.

(a) **DEFINITION OF PASSIVE SOLAR TECHNOLOGY.**—In this section, the term “passive solar technology” means a passive solar technology, including daylighting, that—

(1) is used exclusively to avoid electricity use; and

(2) can be metered to determine energy savings.

(b) **STUDY.**—The Secretary shall conduct a study to determine—

(1) the range of levelized costs of avoided electricity for passive solar technologies;

(2) the quantity of electricity displaced using passive solar technologies in the United States as of the date of enactment of this Act; and

(3) the projected energy savings from passive solar technologies in 5, 10, 15, 20, and 25 years after the date of enactment of this Act if—

(A) incentives comparable to the incentives provided for electricity generation technologies were provided for passive solar technologies; and

(B) no new incentives for passive solar technologies were provided.

(c) **REPORT.**—Not later than 120 days after the date of enactment of this Act, the Secretary shall submit to Congress a report that describes the results of the study under subsection (b).

SEC. 1827. STUDY OF LINK BETWEEN ENERGY SECURITY AND INCREASES IN VEHICLE MILES TRAVELED.

(a) **IN GENERAL.**—The Secretary shall enter into an arrangement with the National Academy of Sciences under which the Academy shall conduct a study to assess the implications on energy use and efficiency of land development patterns in the United States.

(b) **SCOPE.**—The study shall consider—

(1) the correlation, if any, between land development patterns and increases in vehicle miles traveled;

(2) whether petroleum use in the transportation sector can be reduced through changes in the design of development patterns;

(3) the potential benefits of—

(A) information and education programs for State and local officials (including planning officials) on the potential for energy savings through planning, design, development, and infrastructure decisions;

(B) incorporation of location efficiency models in transportation infrastructure planning and investments; and

(C) transportation policies and strategies to help transportation planners manage the demand for the number and length of vehicle trips, including trips that increase the viability of other means of travel; and

(4) such other considerations relating to the study topic as the National Academy of Sciences finds appropriate.

(c) **REPORT.**—Not later than 2 years after the date of enactment of this Act, the National Academy of Sciences shall submit to the Secretary and Congress a report on the study conducted under this section.

SEC. 1828. SCIENCE STUDY ON CUMULATIVE IMPACTS OF MULTIPLE OFFSHORE LIQUEFIED NATURAL GAS FACILITIES.

(a) **IN GENERAL.**—The Secretary (in consultation with the National Oceanic Atmospheric Administration, the Commandant of the Coast Guard, affected recreational and commercial fishing industries, and affected energy and transportation stakeholders) shall carry out a study and compile existing science (including studies and data) to determine the risks or benefits presented by cumulative impacts of multiple offshore liquefied natural gas facilities reasonably assumed to be constructed in an area of the Gulf of Mexico using the open-rack vaporization system.

(b) **ACCURACY.**—In carrying out subsection (a), the Secretary shall verify the accuracy of available science and develop a science-based evaluation of significant short-term and long-term cumulative impacts, both adverse and beneficial, of multiple offshore liquefied natural gas facilities reasonably assumed to be constructed in an area of the Gulf of Mexico using or proposing the open-rack vaporization system on the fisheries and marine populations in the vicinity of the facility.

SEC. 1829. ENERGY AND WATER SAVING MEASURES IN CONGRESSIONAL BUILDINGS.

(a) **IN GENERAL.**—The Architect of the Capitol, as part of the process of updating the Master Plan Study for the Capitol complex, shall—

(1) carry out a study to evaluate the energy infrastructure of the Capitol complex to determine how to augment the infrastructure to become more energy efficient—

(A) by using unconventional and renewable energy resources;

(B) by—

(i) incorporating new technologies to implement effective green building solutions;

(ii) adopting computer-based building management systems; and

(iii) recommending strategies based on end-user behavioral changes to implement low-cost environmental gains; and

(C) in a manner that would enable the Capitol complex to have reliable utility service in the event of power fluctuations, shortages, or outages;

(2) carry out a study to explore the feasibility of installing energy and water conservation measures on the rooftop of the Dirksen Senate Office Building, including the area directly above the food service facilities in the center of the building, including the installation of—

(A) a vegetative covering area, using native species to the maximum extent practicable, to—

(i) insulate and increase the energy efficiency of the building;

(ii) reduce precipitation runoff and conserve water for landscaping or other uses;

(iii) increase, and provide more efficient use of, available outdoor space through management of the rooftop of the center of the building as a park or garden area for occupants of the building; and

(iv) improve the aesthetics of the building; and

(B) onsite renewable energy and other state-of-the-art technologies to—

(i) improve the energy efficiency and energy security of the building or the Capitol complex by providing additional or backup sources of power in the event of a power shortage or other emergency;

(ii) reduce the use of resources by the building;

or

(iii) enhance worker productivity; and

(C) not later than 180 days after the date of enactment of this Act, submit to Congress a report describing the findings and recommendations of the study under subparagraph (B).

Reports.
Deadline.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to the Architect of the Capitol to carry out this section \$2,000,000 for each of fiscal years 2006 through 2010.

SEC. 1830. STUDY OF AVAILABILITY OF SKILLED WORKERS.

(a) **IN GENERAL.**—The Secretary shall enter into an arrangement with the National Academy of Sciences under which the National Academy of Sciences shall conduct a study of the short-term and long-term availability of skilled workers to meet the energy and mineral security requirements of the United States.

(b) **INCLUSIONS.**—The study shall include an analysis of—

(1) the need for and availability of workers for the oil, gas, and mineral industries;

(2) the availability of skilled labor at both entry level and more senior levels; and

(3) recommendations for future actions needed to meet future labor requirements.

(c) **REPORT.**—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to Congress a report that describes the results of the study.

SEC. 1831. REVIEW OF ENERGY POLICY ACT OF 1992 PROGRAMS.

(a) **IN GENERAL.**—Not later than 180 days after the date of enactment of this section, the Secretary shall complete a study to determine the effect that titles III, IV, and V of the Energy Policy Act of 1992 (42 U.S.C. 13211 et seq.) have had on—

Deadline.

- (1) the development of alternative fueled vehicle technology;
- (2) the availability of that technology in the market; and
- (3) the cost of alternative fueled vehicles.

(b) TOPICS.—As part of the study under subsection (a), the Secretary shall specifically identify—

(1) the number of alternative fueled vehicles acquired by fleets or covered persons required to acquire alternative fueled vehicles;

(2) the quantity, by type, of alternative fuel actually used in alternative fueled vehicles acquired by fleets or covered persons;

(3) the quantity of petroleum displaced by the use of alternative fuels in alternative fueled vehicles acquired by fleets or covered persons;

(4) the direct and indirect costs of compliance with requirements under titles III, IV, and V of the Energy Policy Act of 1992 (42 U.S.C. 13211 et seq.), including—

(A) vehicle acquisition requirements imposed on fleets or covered persons;

(B) administrative and recordkeeping expenses;

(C) fuel and fuel infrastructure costs;

(D) associated training and employee expenses; and

(E) any other factors or expenses the Secretary determines to be necessary to compile reliable estimates of the overall costs and benefits of complying with programs under those titles for fleets, covered persons, and the national economy;

(5) the existence of obstacles preventing compliance with vehicle acquisition requirements and increased use of alternative fuel in alternative fueled vehicles acquired by fleets or covered persons; and

(6) the projected impact of amendments to the Energy Policy Act of 1992 made by this title.

(c) REPORT.—Upon completion of the study under this section, the Secretary shall submit to Congress a report that describes the results of the study and includes any recommendations of the Secretary for legislative or administrative changes concerning the alternative fueled vehicle requirements under titles III, IV and V of the Energy Policy Act of 1992 (42 U.S.C. 13211 et seq.).

42 USC 16524.

SEC. 1832. STUDY ON THE BENEFITS OF ECONOMIC DISPATCH.

(a) STUDY.—The Secretary, in coordination and consultation with the States, shall conduct a study on—

(1) the procedures currently used by electric utilities to perform economic dispatch;

(2) identifying possible revisions to those procedures to improve the ability of nonutility generation resources to offer their output for sale for the purpose of inclusion in economic dispatch; and

(3) the potential benefits to residential, commercial, and industrial electricity consumers nationally and in each state if economic dispatch procedures were revised to improve the ability of nonutility generation resources to offer their output for inclusion in economic dispatch.

(b) DEFINITION.—The term “economic dispatch” when used in this section means the operation of generation facilities to produce

energy at the lowest cost to reliably serve consumers, recognizing any operational limits of generation and transmission facilities.

(c) REPORT TO CONGRESS AND THE STATES.—Not later than 90 days after the date of enactment of this Act, and on a yearly basis following, the Secretary shall submit a report to Congress and the States on the results of the study conducted under subsection (a), including recommendations to Congress and the States for any suggested legislative or regulatory changes.

SEC. 1833. RENEWABLE ENERGY ON FEDERAL LAND.

(a) NATIONAL ACADEMY OF SCIENCES STUDY.—Not later than 90 days after the date of enactment of this Act, the Secretary of the Interior shall enter into a contract with the National Academy of Sciences under which the National Academy of Sciences shall—

Contracts.
Deadline.

(1) study the potential of developing wind, solar, and ocean energy resources (including tidal, wave, and thermal energy) on Federal land available for those uses under current law and the outer Continental Shelf;

(2) assess any Federal law (including regulations) relating to the development of those resources that is in existence on the date of enactment of this Act; and

(3) recommend statutory and regulatory mechanisms for developing those resources.

(b) SUBMISSION TO CONGRESS.—Not later than 2 years after the date of enactment of this Act, the Secretary of the Interior shall submit to Congress the results of the study under subsection (a).

SEC. 1834. INCREASED HYDROELECTRIC GENERATION AT EXISTING FEDERAL FACILITIES.

(a) IN GENERAL.—The Secretary of the Interior, the Secretary, and the Secretary of the Army shall jointly conduct a study of the potential for increasing electric power production capability at federally owned or operated water regulation, storage, and conveyance facilities.

(b) CONTENT.—The study under this section shall include identification and description in detail of each facility that is capable, with or without modification, of producing additional hydroelectric power, including estimation of the existing potential for the facility to generate hydroelectric power.

(c) REPORT.—The Secretaries shall submit to the Committees on Energy and Commerce, Resources, and Transportation and Infrastructure of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on the findings, conclusions, and recommendations of the study under this section by not later than 18 months after the date of the enactment of this Act. The report shall include each of the following:

(1) The identifications, descriptions, and estimations referred to in subsection (b).

(2) A description of activities currently conducted or considered, or that could be considered, to produce additional hydroelectric power from each identified facility.

(3) A summary of prior actions taken by the Secretaries to produce additional hydroelectric power from each identified facility.

(4) The costs to install, upgrade, or modify equipment or take other actions to produce additional hydroelectric power

from each identified facility and the level of Federal power customer involvement in the determination of such costs.

(5) The benefits that would be achieved by such installation, upgrade, modification, or other action, including quantified estimates of any additional energy or capacity from each facility identified under subsection (b).

(6) A description of actions that are planned, underway, or might reasonably be considered to increase hydroelectric power production by replacing turbine runners, by performing generator upgrades or rewinds, or construction of pumped storage facilities.

(7) The impact of increased hydroelectric power production on irrigation, water supply, fish, wildlife, Indian tribes, river health, water quality, navigation, recreation, fishing, and flood control.

(8) Any additional recommendations to increase hydroelectric power production from, and reduce costs and improve efficiency at, federally owned or operated water regulation, storage, and conveyance facilities.

SEC. 1835. SPLIT-ESTATE FEDERAL OIL AND GAS LEASING AND DEVELOPMENT PRACTICES.

(a) REVIEW.—In consultation with affected private surface owners, oil and gas industry, and other interested parties, the Secretary of the Interior shall undertake a review of the current policies and practices with respect to management of Federal sub-surface oil and gas development activities and their effects on the privately owned surface. This review shall include—

(1) a comparison of the rights and responsibilities under existing mineral and land law for the owner of a Federal mineral lease, the private surface owners and the Department;

(2) a comparison of the surface owner consent provisions in section 714 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1304) concerning surface mining of Federal coal deposits and the surface owner consent provisions for oil and gas development, including coalbed methane production; and

(3) recommendations for administrative or legislative action necessary to facilitate reasonable access for Federal oil and gas activities while addressing surface owner concerns and minimizing impacts to private surface.

(b) REPORT.—The Secretary of the Interior shall report the results of such review to Congress not later than 180 days after the date of enactment of this Act.

SEC. 1836. RESOLUTION OF FEDERAL RESOURCE DEVELOPMENT CONFLICTS IN THE POWDER RIVER BASIN.

(a) REVIEW.—The Secretary of the Interior shall review Federal and State laws in existence on the date of enactment of this Act in order to resolve any conflict relating to the Powder River Basin in Wyoming and Montana between—

(1) the development of Federal coal; and

(2) the development of Federal and non-Federal coalbed methane.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary of the Interior shall submit to Congress a report that—

Wyoming.
Montana.

(1) describes methods of resolving a conflict described in subsection (a); and

(2) identifies a method preferred by the Secretary of the Interior, including proposed legislative language, if any, required to implement the method.

SEC. 1837. NATIONAL SECURITY REVIEW OF INTERNATIONAL ENERGY REQUIREMENTS. China.

(a) **STUDY.**—The Secretary, in consultation with the Secretary of Defense and Secretary of Homeland Security, shall conduct a study of the growing energy requirements of the People’s Republic of China and the implications of such growth on the political, strategic, economic, or national security interests of the United States, including—

(1) an assessment of the type, nationality, and location of energy assets that have been sought for investment by entities located in the People’s Republic of China;

(2) an assessment of the extent to which investment in energy assets by entities located in the People’s Republic of China has been on market-based terms and free from subsidies from the People’s Republic of China;

(3) an assessment of the effect of investment in energy assets by entities located in the People’s Republic of China on the control by the United States of dual-use and export-controlled technologies, including the effect on current and future access to foreign and domestic sources of rare earth elements used to produce such technologies;

(4) an assessment of the relationship between the Government of the People’s Republic of China and energy-related businesses located in the People’s Republic of China;

(5) an assessment of the impact on the world energy market of the common practice of entities located in the People’s Republic of China of removing the energy assets owned or controlled by such entities from the competitive market, with emphasis on the effect if such practice expands along with the growth in energy consumption of the People’s Republic of China;

(6) an examination of the United States energy policy and foreign policy as it relates to ensuring a competitive global energy market;

(7) an examination of the relationship between the United States and the People’s Republic of China as it relates to pursuing energy interests in a manner that avoids conflicts; and

(8) a comparison of the appropriate laws and regulations of other nations to determine whether a United States company would be permitted to purchase, acquire, merge, or otherwise establish a joint relationship with an entity whose primary place of business is in that other nation, including the laws and regulations of the People’s Republic of China.

(b) **REPORT AND RECOMMENDATIONS.**—Not later than 120 days after the date of the enactment of this Act, the Secretary, in consultation with the Secretary of Defense, shall report to the President and the Congress on the findings of the study described in subsection (a) and any recommendations the Secretaries consider appropriate.

President.
Effective date.

(c) **REGULATORY EFFECT.**—Notwithstanding any other provision of law, any instrumentality of the United States vested with authority to review a transaction that includes an investment in a United States domestic corporation may not conclude a national security review related to an investment in the energy assets of a United States domestic corporation by an entity owned or controlled by the government of the People's Republic of China for 21 days after the report to the President and the Congress, and until the President certifies that he has received the report described in subsection (b).

SEC. 1838. USED OIL RE-REFINING STUDY.

The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall undertake a study of the energy and environmental benefits of the re-refining of used lubricating oil and report to Congress within 90 days after enactment of this Act including recommendations of specific steps that can be taken to improve collections of used lubricating oil and increase re-refining and other beneficial re-use of such oil.

Deadline.
Reports.

SEC. 1839. TRANSMISSION SYSTEM MONITORING.

Within 6 months after the date of enactment of this Act, the Secretary and the Federal Energy Regulatory Commission shall study and report to Congress on the steps which must be taken to establish a system to make available to all transmission system owners and Regional Transmission Organizations (as defined in the Federal Power Act) within the Eastern and Western Interconnections real-time information on the functional status of all transmission lines within such Interconnections. In such study, the Commission shall assess technical means for implementing such transmission information system and identify the steps the Commission or Congress must take to require the implementation of such system.

SEC. 1840. REPORT IDENTIFYING AND DESCRIBING THE STATUS OF POTENTIAL HYDROPOWER FACILITIES.

(a) **REPORT REQUIREMENT.**—Not later than 90 days after the date of enactment of this Act, the Secretary of the Interior, acting through the Bureau of Reclamation, shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report identifying and describing the status of potential hydropower facilities included in water surface storage studies undertaken by the Secretary for projects that have not been completed or authorized for construction.

(b) **REPORT CONTENTS.**—The report shall include the following:

(1) Identification of all surface storage studies authorized by Congress since the enactment of the Reclamation Project Act of 1939 (43 U.S.C. 485 et seq.).

(2) The purposes of each project included within each study identified under paragraph (1).

(3) The status of each study identified under paragraph (1), including for each study—

(A) whether the study is completed or, if not completed, still authorized;

(B) the level of analyses conducted at the feasibility and reconnaissance levels of review;

(C) identifiable environmental impacts of each project included in the study, including to fish and wildlife, water quality, and recreation;

(D) projected water yield from each such project;

(E) beneficiaries of each such project;

(F) the amount authorized and expended;

(G) projected funding needs and timelines for completing the study (if applicable);

(H) anticipated costs of each such project; and

(I) other factors that might interfere with construction of any such project.

(4) An identification of potential hydroelectric facilities that might be developed pursuant to each study identified under paragraph (1).

(5) Applicable costs and benefits associated with potential hydroelectric production pursuant to each study.

Approved August 8, 2005.

LEGISLATIVE HISTORY—H.R. 6:

HOUSE REPORTS: No. 109–190 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 151 (2005):

Apr. 20, 21, considered and passed House.

June 14–16, 20–23, 28, considered and passed Senate, amended.

July 28, House agreed to conference report.

July 29, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 41 (2005):

Aug. 8, Presidential remarks and statement.



Public Law 109–59
109th Congress

An Act

Aug. 10, 2005
[H.R. 3]

To authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Safe,
Accountable,
Flexible, Efficient
Transportation
Equity Act: A
Legacy for Users.
Inter-
governmental
relations.
23 USC 101 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users” or “SAFETEA-LU”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. General definitions.

TITLE I—FEDERAL-AID HIGHWAYS

Subtitle A—Authorization of Programs

- Sec. 1101. Authorization of appropriations.
- Sec. 1102. Obligation ceiling.
- Sec. 1103. Apportionments.
- Sec. 1104. Equity bonus program.
- Sec. 1105. Revenue aligned budget authority.
- Sec. 1106. Future Interstate System routes.
- Sec. 1107. Metropolitan planning.
- Sec. 1108. Transfer of highway and transit funds.
- Sec. 1109. Recreational trails.
- Sec. 1110. Temporary traffic control devices.
- Sec. 1111. Set-asides for Interstate discretionary projects.
- Sec. 1112. Emergency relief.
- Sec. 1113. Surface transportation program.
- Sec. 1114. Highway bridge program.
- Sec. 1115. Highway use tax evasion projects.
- Sec. 1116. Appalachian development highway system.
- Sec. 1117. Transportation, community, and system preservation program.
- Sec. 1118. Territorial highway program.
- Sec. 1119. Federal lands highways.
- Sec. 1120. Puerto Rico highway program.
- Sec. 1121. HOV facilities.
- Sec. 1122. Definitions.

Subtitle B—Congestion Relief

- Sec. 1201. Real-time system management information program.

Subtitle C—Mobility and Efficiency

- Sec. 1301. Projects of national and regional significance.
- Sec. 1302. National corridor infrastructure improvement program.
- Sec. 1303. Coordinated border infrastructure program.
- Sec. 1304. High priority corridors on the National Highway System.
- Sec. 1305. Truck parking facilities.
- Sec. 1306. Freight intermodal distribution pilot grant program.
- Sec. 1307. Deployment of magnetic levitation transportation projects.

- Sec. 1308. Delta region transportation development program.
- Sec. 1309. Extension of public transit vehicle exemption from axle weight restrictions.
- Sec. 1310. Interstate oasis program.

Subtitle D—Highway Safety

- Sec. 1401. Highway safety improvement program.
- Sec. 1402. Worker injury prevention and free flow of vehicular traffic.
- Sec. 1403. Toll facilities workplace safety study.
- Sec. 1404. Safe routes to school program.
- Sec. 1405. Roadway safety improvements for older drivers and pedestrians.
- Sec. 1406. Safety incentive grants for use of seat belts.
- Sec. 1407. Safety incentives to prevent operation of motor vehicles by intoxicated persons.
- Sec. 1408. Improvement or replacement of highway features on National Highway System.
- Sec. 1409. Work zone safety grants.
- Sec. 1410. National Work Zone Safety Information Clearinghouse.
- Sec. 1411. Roadway safety.
- Sec. 1412. Idling reduction facilities in Interstate rights-of-way.

Subtitle E—Construction and Contract Efficiency

- Sec. 1501. Program efficiencies.
- Sec. 1502. Highways for LIFE pilot program.
- Sec. 1503. Design build.

Subtitle F—Finance

- Sec. 1601. Transportation Infrastructure Finance and Innovation Act amendments.
- Sec. 1602. State infrastructure banks.
- Sec. 1603. Use of excess funds and funds for inactive projects.
- Sec. 1604. Tolling.

Subtitle G—High Priority Projects

- Sec. 1701. High Priority Projects program.
- Sec. 1702. Project authorizations.
- Sec. 1703. Technical amendments to transportation projects.

Subtitle H—Environment

- Sec. 1801. Construction of ferry boats and ferry terminal facilities.
- Sec. 1802. National Scenic Byways Program.
- Sec. 1803. America's Byways Resource Center.
- Sec. 1804. National historic covered bridge preservation.
- Sec. 1805. Use of debris from demolished bridges and overpasses.
- Sec. 1806. Additional authorization of contract authority for States with Indian reservations.
- Sec. 1807. Nonmotorized transportation pilot program.
- Sec. 1808. Addition to CMAQ-eligible projects.

Subtitle I—Miscellaneous

- Sec. 1901. Inclusion of requirements for signs identifying funding sources in title 23.
- Sec. 1902. Donations and credits.
- Sec. 1903. Inclusion of Buy America requirements in title 23.
- Sec. 1904. Stewardship and oversight.
- Sec. 1905. Transportation development credits.
- Sec. 1906. Grant program to prohibit racial profiling.
- Sec. 1907. Pavement marking systems demonstration projects.
- Sec. 1908. Inclusion of certain route segments on Interstate System and NHS.
- Sec. 1909. Future of surface transportation system.
- Sec. 1910. Motorist information concerning full service restaurants.
- Sec. 1911. Approval and funding for certain construction projects.
- Sec. 1912. Lead agency designation.
- Sec. 1913. Bridge construction, North Dakota.
- Sec. 1914. Motorcyclist Advisory Council.
- Sec. 1915. Loan forgiveness.
- Sec. 1916. Treatment of off-ramp.
- Sec. 1917. Opening of Interstate ramps.
- Sec. 1918. Credit to State of Louisiana for State matching funds.
- Sec. 1919. Road user fees.
- Sec. 1920. Transportation and local workforce investment.

- Sec. 1921. Update of obsolete text.
- Sec. 1922. Technical amendments to nondiscrimination section.
- Sec. 1923. Transportation assets and needs of Delta region.
- Sec. 1924. Alaska Way Viaduct study.
- Sec. 1925. Community enhancement study.
- Sec. 1926. Budget justification.
- Sec. 1927. 14th Amendment Highway and 3rd Infantry Division Highway.
- Sec. 1928. Sense of Congress regarding Buy America.
- Sec. 1929. Designation of Daniel Patrick Moynihan Interstate Highway.
- Sec. 1930. Designation of Thomas P. “Tip” O’Neill, Jr. Tunnel.
- Sec. 1931. Richard Nixon Parkway, California.
- Sec. 1932. Amo Houghton Bypass.
- Sec. 1933. Billy Tauzin Energy Corridor.
- Sec. 1934. Transportation improvements.
- Sec. 1935. Project flexibility.
- Sec. 1936. Advances.
- Sec. 1937. Roads in closed basins.
- Sec. 1938. Technology.
- Sec. 1939. BIA Indian Road Program.
- Sec. 1940. Going-to-the-Sun Road, Glacier National Park, Montana.
- Sec. 1941. Beartooth Highway, Montana.
- Sec. 1943. Great Lakes ITS implementation.
- Sec. 1944. Transportation construction and remediation, Ottawa County, Oklahoma.
- Sec. 1945. Infrastructure awareness program.
- Sec. 1946. Gateway rural improvement pilot program.
- Sec. 1947. Eligible safety improvements.
- Sec. 1948. Emergency service route.
- Sec. 1949. Knik Arm Bridge funding clarification.
- Sec. 1950. Lincoln Parish, LA/I–20 Transportation Corridor Program.
- Sec. 1951. Bonding assistance program.
- Sec. 1952. Congestion relief.
- Sec. 1953. Authorization of appropriations.
- Sec. 1954. Bicycle transportation and pedestrian walkways.
- Sec. 1955. Conveyance to the City of Ely, Nevada.
- Sec. 1956. Brownfields grants.
- Sec. 1957. Traffic circle construction, Clarendon, Vermont.
- Sec. 1958. Limitation on project approval.
- Sec. 1959. Cross harbor freight movement project.
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- Sec. 1961. I–95/Contee Road interchange study.
- Sec. 1962. Multimodal facility improvements.
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- Sec. 1964. Project Federal share.

TITLE II—HIGHWAY SAFETY

- Sec. 2001. Authorization of appropriations.
- Sec. 2002. Highway safety programs.
- Sec. 2003. Highway safety research and outreach programs.
- Sec. 2004. Occupant protection incentive grants.
- Sec. 2005. Grants for primary safety belt use laws.
- Sec. 2006. State traffic safety information system improvements.
- Sec. 2007. Alcohol-impaired driving countermeasures.
- Sec. 2008. NHTSA accountability.
- Sec. 2009. High visibility enforcement program.
- Sec. 2010. Motorcyclist safety.
- Sec. 2011. Child safety and child booster seat incentive grants.
- Sec. 2012. Safety data.
- Sec. 2013. Drug-impaired driving enforcement.
- Sec. 2014. First responder vehicle safety program.
- Sec. 2015. Driver performance study.
- Sec. 2016. Rural State emergency medical services optimization pilot program.
- Sec. 2017. Older driver safety; law enforcement training.
- Sec. 2018. Safe intersections.
- Sec. 2019. National Highway Safety Advisory Committee technical correction.
- Sec. 2020. Presidential Commission on Alcohol-Impaired Driving.
- Sec. 2021. Sense of the Congress in support of increased public awareness of blood alcohol concentration levels and dangers of alcohol-impaired driving.
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TITLE III—PUBLIC TRANSPORTATION

- Sec. 3001. Short title.

- Sec. 3002. Amendments to title 49, United States Code; updated terminology.
- Sec. 3003. Policies, findings, and purposes.
- Sec. 3004. Definitions.
- Sec. 3005. Metropolitan transportation planning.
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- Sec. 3007. Planning programs.
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- Sec. 3009. Urbanized area formula grants.
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- Sec. 3014. Research, development, demonstration, and deployment projects.
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- Sec. 3020. Bus testing facility.
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- Sec. 3022. Human resources programs.
- Sec. 3023. General provisions on assistance.
- Sec. 3024. Special provisions for capital projects.
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- Sec. 3026. Project management oversight and review.
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- Sec. 3029. State safety oversight.
- Sec. 3030. Controlled substances and alcohol misuse testing.
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- Sec. 3032. Administrative procedures.
- Sec. 3033. National transit database.
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- Sec. 3037. Alternatives analysis program.
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- Sec. 3040. Obligation ceiling.
- Sec. 3041. Adjustments for fiscal year 2005.
- Sec. 3042. Terrorist attacks and other acts of violence against public transportation systems.
- Sec. 3043. Project authorizations for new fixed guideway capital projects.
- Sec. 3044. Projects for bus and bus-related facilities and clean fuels grant program.
- Sec. 3045. National fuel cell bus technology development program.
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- Sec. 4102. Increased penalties for out-of-service violations and false records.
- Sec. 4103. Penalty for denial of access to records.
- Sec. 4104. Revocation of operating authority.
- Sec. 4105. State laws relating to vehicle towing.
- Sec. 4106. Motor carrier safety grants.
- Sec. 4107. High priority activities and new entrants audits.
- Sec. 4108. Data quality improvement.
- Sec. 4109. Performance and registration information system management.
- Sec. 4110. Border enforcement grants.
- Sec. 4111. Motor carrier research and technology program.
- Sec. 4112. Nebraska custom harvesters length exemption.
- Sec. 4113. Pattern of safety violations by motor carrier management.
- Sec. 4114. Intrastate operations of interstate motor carriers.

- Sec. 4115. Transfer provision.
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- Sec. 4123. Commercial driver's license information system modernization.
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- Sec. 4125. Hobbs Act.
- Sec. 4126. Commercial vehicle information systems and networks deployment.
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- Sec. 4208. Arbitration requirements.
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- Sec. 4211. Consumer handbook on DOT web site.
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- Sec. 4213. Working group for development of practices and procedures to enhance Federal-State relations.
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- Sec. 4305. Registration of motor carriers by States.
- Sec. 4306. Identification of vehicles.
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- Sec. 4402. Transfer.
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- Sec. 4408. Rialto Municipal Airport.
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- Sec. 4410. Ralph M. Bartholomew Veterans' Memorial Bridge.
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- Sec. 5207. Surface transportation environment and planning cooperative research program.
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- Sec. 5508. Transportation technology innovation and demonstration program.
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- Sec. 6001. Transportation planning.
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- Sec. 6003. State assumption of responsibilities for certain programs and projects.
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- Sec. 6005. Surface transportation project delivery pilot program.
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- Sec. 7105. Background checks for drivers hauling hazardous materials.
- Sec. 7106. Representation and tampering.
- Sec. 7107. Technical amendments.
- Sec. 7108. Training of certain employees.
- Sec. 7109. Registration.
- Sec. 7110. Shipping papers and disclosure.
- Sec. 7111. Rail tank cars.
- Sec. 7112. Unsatisfactory safety ratings.
- Sec. 7113. Training curriculum for the public sector.
- Sec. 7114. Planning and training grants; Hazardous Materials Emergency Preparedness Fund.
- Sec. 7115. Special permits and exclusions.
- Sec. 7116. Uniform forms and procedures.
- Sec. 7117. International uniformity of standards and requirements.
- Sec. 7118. Administrative authority.
- Sec. 7119. Enforcement.
- Sec. 7120. Civil penalty.
- Sec. 7121. Criminal penalty.
- Sec. 7122. Preemption.
- Sec. 7123. Judicial review.
- Sec. 7124. Relationship to other laws.
- Sec. 7125. Authorization of appropriations.
- Sec. 7126. References to the Secretary of Transportation.
- Sec. 7127. Criminal matters.
- Sec. 7128. Additional civil and criminal penalties.
- Sec. 7129. Hazardous material transportation plan requirement.
- Sec. 7130. Determining amount of undeclared shipments of hazardous materials entering the United States.
- Sec. 7131. Hazardous materials research projects.
- Sec. 7132. National first responder transportation incident response system.
- Sec. 7133. Common carrier pipeline system.

Subtitle B—Sanitary Food Transportation

- Sec. 7201. Short title.

- Sec. 7202. Responsibilities of Secretary of Health and Human Services.
- Sec. 7203. Department of Transportation requirements.
- Sec. 7204. Effective date.

Subtitle C—Research and Innovative Technology Administration

- Sec. 7301. Administrative authority.

TITLE VIII—TRANSPORTATION DISCRETIONARY SPENDING GUARANTEE

- Sec. 8001. Discretionary spending limits for the highway and mass transit categories.
- Sec. 8002. Adjustments to align highway spending with revenues.
- Sec. 8003. Level of obligation limitations.
- Sec. 8004. Enforcement of guarantee.
- Sec. 8005. Transfer of Federal transit administrative expenses.

TITLE IX—RAIL TRANSPORTATION

- Sec. 9001. High-speed rail corridor development.
- Sec. 9002. Capital grants for rail line relocation projects.
- Sec. 9003. Rehabilitation and improvement financing.
- Sec. 9004. Report regarding impact on public safety of train travel in communities without grade separation.
- Sec. 9005. Welded rail and tank car safety improvements.
- Sec. 9006. Alaska Railroad.
- Sec. 9007. Study of rail transportation and regulation.
- Sec. 9008. Hawaii port infrastructure expansion program.

TITLE X—MISCELLANEOUS PROVISIONS

Subtitle A—Sportfishing and Recreational Boating Safety

- Sec. 10101. Short title.

CHAPTER 1—DINGELL-JOHNSON SPORT FISH RESTORATION ACT AMENDMENTS

- Sec. 10111. Amendment of Dingell-Johnson Sport Fish Restoration Act.
- Sec. 10112. Authorization of appropriations.
- Sec. 10113. Division of annual appropriations.
- Sec. 10114. Maintenance of projects.
- Sec. 10115. Boating infrastructure.
- Sec. 10116. Requirements and restrictions concerning use of amounts for expenses for Administration.
- Sec. 10117. Payments of funds to and cooperation with Puerto Rico, the District of Columbia, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Virgin Islands.
- Sec. 10118. Multistate conservation grant program.
- Sec. 10119. Expenditure of remaining balance in Boat Safety Account.

CHAPTER 2—CLEAN VESSEL ACT OF 1992 AMENDMENTS

- Sec. 10131. Grant program.

CHAPTER 3—RECREATIONAL BOATING SAFETY PROGRAM AMENDMENTS

- Sec. 10141. Technical correction.
- Sec. 10142. Availability of allocations.
- Sec. 10143. Authorization of appropriations for State recreational boating safety programs.

Subtitle B—Other Miscellaneous Provisions

- Sec. 10201. Notice regarding participation of small business concerns.
- Sec. 10202. Emergency medical services.
- Sec. 10203. Hubzone program.
- Sec. 10204. Catastrophic hurricane evacuation plans.
- Sec. 10205. Intermodal transportation facility expansion.
- Sec. 10206. Eligibility to participate in western Alaska community development quota program.
- Sec. 10207. Rail rehabilitation and bridge repair.
- Sec. 10208. Rented or leased motor vehicles.
- Sec. 10209. Midway Island.
- Sec. 10210. Demonstration of digital project simulation.
- Sec. 10211. Environmental programs.
- Sec. 10212. Rescission of unobligated balances.
- Sec. 10213. Tribal land.

Subtitle C—Specific Vehicle Safety-related Rulings

- Sec. 10301. Vehicle rollover prevention and crash mitigation.

- Sec. 10302. Side-impact crash protection rulemaking.
- Sec. 10303. Tire research.
- Sec. 10304. Vehicle backover avoidance technology study.
- Sec. 10305. Nontraffic incident data collection.
- Sec. 10306. Study of safety belt use technologies.
- Sec. 10307. Amendment of Automobile Information Disclosure Act.
- Sec. 10308. Power window switches.
- Sec. 10309. 15-Passenger van safety.
- Sec. 10310. Authorization of appropriations.

TITLE XI—HIGHWAY REAUTHORIZATION AND EXCISE TAX
SIMPLIFICATION

- Sec. 11100. Amendment of 1986 Code.

Subtitle A—Trust Fund Reauthorization

- Sec. 11101. Extension of highway-related taxes and trust funds.
Sec. 11102. Modification of adjustments of apportionments.

Subtitle B—Excise Tax Reform and Simplification

PART 1—HIGHWAY EXCISE TAXES

- Sec. 11111. Modification of gas guzzler tax.
Sec. 11112. Exclusion for tractors weighing 19,500 pounds or less from Federal excise tax on heavy trucks and trailers.
Sec. 11113. Volumetric excise tax credit for alternative fuels.

PART 2—AQUATIC EXCISE TAXES

- Sec. 11115. Elimination of Aquatic Resources Trust Fund and transformation of Sport Fish Restoration Account.
Sec. 11116. Repeal of harbor maintenance tax on exports.
Sec. 11117. Cap on excise tax on certain fishing equipment.

PART 3—AERIAL EXCISE TAXES

- Sec. 11121. Clarification of excise tax exemptions for agricultural aerial applicators and exemption for Fixed-Wing aircraft engaged in forestry operations.
Sec. 11122. Modification of rural airport definition.
Sec. 11123. Exemption from taxes on transportation provided by seaplanes.
Sec. 11124. Certain sightseeing flights exempt from taxes on air transportation.

PART 4—TAXES RELATING TO ALCOHOL

- Sec. 11125. Repeal of special occupational taxes on producers and marketers of alcoholic beverages.
Sec. 11126. Income tax credit for distilled spirits wholesalers and for distilled spirits in control State bailment warehouses for costs of carrying Federal excise taxes on bottled distilled spirits.
Sec. 11127. Quarterly excise tax filing for small alcohol excise taxpayers.

PART 5—SPORT EXCISE TAXES

- Sec. 11131. Custom gunsmiths.

Subtitle C—Miscellaneous Provisions

- Sec. 11141. Motor Fuel Tax Enforcement Advisory Commission.
Sec. 11142. National Surface Transportation Infrastructure Financing Commission.
Sec. 11143. Tax-exempt financing of highway projects and rail-truck transfer facilities.
Sec. 11144. Treasury study of highway fuels used by trucks for non-transportation purposes.
Sec. 11145. Diesel fuel tax evasion report.
Sec. 11146. Tax treatment of State ownership of railroad real estate investment trust.
Sec. 11147. Limitation on transfers to the Leaking Underground Storage Tank Trust Fund.

Subtitle D—Highway-Related Technical Corrections

- Sec. 11151. Highway-related technical corrections.

Subtitle E—Preventing Fuel Fraud

- Sec. 11161. Treatment of kerosene for use in aviation.
Sec. 11162. Repeal of ultimate vendor refund claims with respect to farming.

- Sec. 11163. Refunds of excise taxes on exempt sales of fuel by credit card.
Sec. 11164. Reregistration in event of change in ownership.
Sec. 11165. Reconciliation of on-loaded cargo to entered cargo.
Sec. 11166. Treatment of deep-draft vessels.
Sec. 11167. Penalty with respect to certain adulterated fuels.

SEC. 2. GENERAL DEFINITIONS.

23 USC 101 note.

In this Act, the following definitions apply:

- (1) **DEPARTMENT.**—The term “Department” means the Department of Transportation.
(2) **SECRETARY.**—The term “Secretary” means the Secretary of Transportation.

TITLE I—FEDERAL-AID HIGHWAYS**Subtitle A—Authorization of Programs****SEC. 1101. AUTHORIZATION OF APPROPRIATIONS.**

(a) **IN GENERAL.**—The following sums are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

(1) **INTERSTATE MAINTENANCE PROGRAM.**—For the Interstate maintenance program under section 119 of title 23, United States Code—

- (A) \$4,883,759,623 for fiscal year 2005;
(B) \$4,960,788,917 for fiscal year 2006;
(C) \$5,039,058,556 for fiscal year 2007;
(D) \$5,118,588,513 for fiscal year 2008; and
(E) \$5,199,399,081 for fiscal year 2009.

(2) **NATIONAL HIGHWAY SYSTEM.**—For the National Highway System under section 103 of such title—

- (A) \$5,911,200,104 for fiscal year 2005;
(B) \$6,005,256,569 for fiscal year 2006;
(C) \$6,110,827,556 for fiscal year 2007;
(D) \$6,207,937,450 for fiscal year 2008; and
(E) \$6,306,611,031 for fiscal year 2009.

(3) **BRIDGE PROGRAM.**—For the bridge program under section 144 of such title—

- (A) \$4,187,708,821 for fiscal year 2005;
(B) \$4,253,530,131 for fiscal year 2006;
(C) \$4,320,411,313 for fiscal year 2007;
(D) \$4,388,369,431 for fiscal year 2008; and
(E) \$4,457,421,829 for fiscal year 2009.

(4) **SURFACE TRANSPORTATION PROGRAM.**—For the surface transportation program under section 133 of such title—

- (A) \$6,860,096,662 for fiscal year 2005;
(B) \$6,269,833,394 for fiscal year 2006;
(C) \$6,370,469,775 for fiscal year 2007;
(D) \$6,472,726,628 for fiscal year 2008; and
(E) \$6,576,630,046 for fiscal year 2009.

(5) **CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.**—For the congestion mitigation and air quality improvement program under section 149 of such title—

- (A) \$1,667,255,304 for fiscal year 2005;
(B) \$1,694,101,866 for fiscal year 2006;
(C) \$1,721,380,718 for fiscal year 2007;
(D) \$1,749,098,821 for fiscal year 2008; and

- (E) \$1,777,263,247 for fiscal year 2009.
- (6) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—For the highway safety improvement program under section 148 of such title—
- (A) \$1,235,810,000 for fiscal year 2006;
 - (B) \$1,255,709,322 for fiscal year 2007;
 - (C) \$1,275,929,067 for fiscal year 2008; and
 - (D) \$1,296,474,396 for fiscal year 2009.
- (7) APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM PROGRAM.—For the Appalachian development highway system program under subtitle IV of title 40, United States Code, \$470,000,000 for each of fiscal years 2005 through 2009.
- (8) RECREATIONAL TRAILS PROGRAM.—For the recreational trails program under section 206 of title 23, United States Code—
- (A) \$60,000,000 for fiscal year 2005;
 - (B) \$70,000,000 for fiscal year 2006;
 - (C) \$75,000,000 for fiscal year 2007;
 - (D) \$80,000,000 for fiscal year 2008; and
 - (E) \$85,000,000 for fiscal year 2009.
- (9) FEDERAL LANDS HIGHWAYS PROGRAM.—
- (A) INDIAN RESERVATION ROADS.—For Indian reservation roads under section 204 of such title—
 - (i) \$300,000,000 for fiscal year 2005;
 - (ii) \$330,000,000 for fiscal year 2006;
 - (iii) \$370,000,000 for fiscal year 2007;
 - (iv) \$410,000,000 for fiscal year 2008; and
 - (v) \$450,000,000 for fiscal year 2009.
 - (B) PARK ROADS AND PARKWAYS.—
 - (i) IN GENERAL.—For park roads and parkways under section 204 of such title—
 - (I) \$180,000,000 for fiscal year 2005;
 - (II) \$195,000,000 for fiscal year 2006;
 - (III) \$210,000,000 for fiscal year 2007;
 - (IV) \$225,000,000 for fiscal year 2008; and
 - (V) \$240,000,000 for fiscal year 2009.
 - (ii) MINIMUM ALLOCATION TO CERTAIN STATES.—A State containing more than 50 percent of the total acreage of the National Park System shall receive not less than 3 percent of any funds appropriated under this subparagraph.
 - (C) REFUGE ROADS.—For refuge roads under section 204 of such title, \$29,000,000 for each of fiscal years 2005 through 2009.
 - (D) PUBLIC LANDS HIGHWAYS.—For Federal lands highways under section 204 of such title—
 - (i) \$260,000,000 for fiscal year 2005;
 - (ii) \$280,000,000 for fiscal year 2006;
 - (iii) \$280,000,000 for fiscal year 2007;
 - (iv) \$290,000,000 for fiscal year 2008; and
 - (v) \$300,000,000 for fiscal year 2009.
- (10) NATIONAL CORRIDOR INFRASTRUCTURE IMPROVEMENT PROGRAM.—For the national corridor infrastructure improvement program under section 1302 of this Act—
- (A) \$194,800,000 for fiscal year 2005;
 - (B) \$389,600,000 for fiscal year 2006;
 - (C) \$487,000,000 for fiscal year 2007;

- (D) \$487,000,000 for fiscal year 2008; and
- (E) \$389,600,000 for fiscal year 2009.

(11) COORDINATED BORDER INFRASTRUCTURE PROGRAM.—For the coordinated border infrastructure program under section 1303 of this Act—

- (A) \$123,000,000 for fiscal year 2005;
- (B) \$145,000,000 for fiscal year 2006;
- (C) \$165,000,000 for fiscal year 2007;
- (D) \$190,000,000 for fiscal year 2008; and
- (E) \$210,000,000 for fiscal year 2009.

(12) NATIONAL SCENIC BYWAYS PROGRAM.—For the national scenic byways program under section 162 of such title—

- (A) \$26,500,000 for fiscal year 2005;
- (B) \$30,000,000 for fiscal year 2006;
- (C) \$35,000,000 for fiscal year 2007;
- (D) \$40,000,000 for fiscal year 2008; and
- (E) \$43,500,000 for fiscal year 2009.

(13) CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES.—For construction of ferry boats and ferry terminal facilities under section 147 of such title—

- (A) \$38,000,000 for fiscal year 2005;
- (B) \$55,000,000 for fiscal year 2006;
- (C) \$60,000,000 for fiscal year 2007;
- (D) \$65,000,000 for fiscal year 2008; and
- (E) \$67,000,000 for fiscal year 2009.

(14) PUERTO RICO HIGHWAY PROGRAM.—For the Puerto Rico highway program under section 165 of such title—

- (A) \$115,000,000 for fiscal year 2005;
- (B) \$120,000,000 for fiscal year 2006;
- (C) \$135,000,000 for fiscal year 2007;
- (D) \$145,000,000 for fiscal year 2008; and
- (E) \$150,000,000 for fiscal year 2009.

(15) PROJECTS OF NATIONAL AND REGIONAL SIGNIFICANCE PROGRAM.—For the projects of national and regional significance program under section 1301 of this Act—

- (A) \$177,900,000 for fiscal year 2005;
- (B) \$355,800,000 for fiscal year 2006;
- (C) \$444,750,000 for fiscal year 2007;
- (D) \$444,750,000 for fiscal year 2008; and
- (E) \$355,800,000 for fiscal year 2009.

(16) HIGH PRIORITY PROJECTS PROGRAM.—For the high priority projects program under section 117 of title 23, United States Code, \$2,966,400,000 for each of fiscal years 2005 through 2009.

(17) SAFE ROUTES TO SCHOOL PROGRAM.—For the safe routes to school program under section 1404 of this Act—

- (A) \$54,000,000 for fiscal year 2005;
- (B) \$100,000,000 for fiscal year 2006;
- (C) \$125,000,000 for fiscal year 2007;
- (D) \$150,000,000 for fiscal year 2008; and
- (E) \$183,000,000 for fiscal year 2009.

(18) DEPLOYMENT OF MAGNETIC LEVITATION TRANSPORTATION PROJECTS.—For the deployment of magnetic levitation projects under section 1307 of this Act—

- (A) \$15,000,000 for each of fiscal years 2006 and 2007; and
- (B) \$30,000,000 for each of fiscal years 2008 and 2009.

(19) NATIONAL CORRIDOR PLANNING AND DEVELOPMENT AND COORDINATED BORDER INFRASTRUCTURE PROGRAMS.—For the national corridor planning and development and coordinated border infrastructure programs under sections 1118 and 1119 of the Transportation Equity Act for the 21st Century (112 Stat. 161, 163) \$140,000,000 for fiscal year 2005.

(20) HIGHWAYS FOR LIFE.—For the Highways for LIFE Program under section 1502 of this Act—

(A) \$15,000,000 for fiscal year 2006; and

(B) \$20,000,000 for each of fiscal years 2007 through 2009.

(21) HIGHWAY USE TAX EVASION PROJECTS.—For highway use tax evasion projects under section 1115 of this Act—

(A) \$5,000,000 for fiscal year 2005;

(B) \$44,800,000 for fiscal year 2006;

(C) \$53,300,000 for fiscal year 2007; and

(D) \$12,000,000 for each of fiscal years 2008 and 2009.

23 USC 101 note.

(b) DISADVANTAGED BUSINESS ENTERPRISES.—

(1) DEFINITIONS.—In this subsection, the following definitions apply:

(A) SMALL BUSINESS CONCERN.—The term “small business concern” has the meaning that term has under section 3 of the Small Business Act (15 U.S.C. 632), except that the term shall not include any concern or group of concerns controlled by the same socially and economically disadvantaged individual or individuals which has average annual gross receipts over the preceding 3 fiscal years in excess of \$19,570,000, as adjusted annually by the Secretary for inflation.

(B) SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.—The term “socially and economically disadvantaged individuals” has the meaning that term has under section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and relevant subcontracting regulations issued pursuant to that Act, except that women shall be presumed to be socially and economically disadvantaged individuals for purposes of this subsection.

(2) GENERAL RULE.—Except to the extent that the Secretary determines otherwise, not less than 10 percent of the amounts made available for any program under titles I, III, and V of this Act and section 403 of title 23, United States Code, shall be expended through small business concerns owned and controlled by socially and economically disadvantaged individuals.

Records.

(3) ANNUAL LISTING OF DISADVANTAGED BUSINESS ENTERPRISES.—Each State shall annually—

(A) survey and compile a list of the small business concerns referred to in paragraph (1) and the location of the concerns in the State; and

Notification.

(B) notify the Secretary, in writing, of the percentage of the concerns that are controlled by women, by socially and economically disadvantaged individuals (other than women), and by individuals who are women and are otherwise socially and economically disadvantaged individuals.

Guidelines.

(4) UNIFORM CERTIFICATION.—The Secretary shall establish minimum uniform criteria for State governments to use in

certifying whether a concern qualifies for purposes of this subsection. The minimum uniform criteria shall include, but not be limited to, on-site visits, personal interviews, licenses, analysis of stock ownership, listing of equipment, analysis of bonding capacity, listing of work completed, resume of principal owners, financial capacity, and type of work preferred.

(5) COMPLIANCE WITH COURT ORDERS.—Nothing in this subsection limits the eligibility of an entity or person to receive funds made available under titles I, III, and V of this Act and section 403 of title 23, United States Code, if the entity or person is prevented, in whole or in part, from complying with paragraph (1) because a Federal court issues a final order in which the court finds that the requirement of paragraph (1), or the program established under paragraph (1), is unconstitutional.

SEC. 1102. OBLIGATION CEILING.

23 USC 104 note.

(a) GENERAL LIMITATION.—Subject to subsections (g) and (h), and notwithstanding any other provision of law, the obligations for Federal-aid highway and highway safety construction programs shall not exceed—

- (1) \$34,422,400,000 for fiscal year 2005;
- (2) \$36,032,343,903 for fiscal year 2006;
- (3) \$38,244,210,516 for fiscal year 2007;
- (4) \$39,585,075,404 for fiscal year 2008; and
- (5) \$41,199,970,178 for fiscal year 2009.

(b) EXCEPTIONS.—The limitations under subsection (a) shall not apply to obligations under or for—

- (1) section 125 of title 23, United States Code;
- (2) section 147 of the Surface Transportation Assistance Act of 1978 (23 U.S.C. 144 note; 92 Stat. 2714);
- (3) section 9 of the Federal-Aid Highway Act of 1981 (Public Law 97–134; 95 Stat. 1701);
- (4) subsections (b) and (j) of section 131 of the Surface Transportation Assistance Act of 1982 (Public Law 97–424; 96 Stat. 2119);
- (5) subsections (b) and (c) of section 149 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (Public Law 100–17; 101 Stat. 198);
- (6) sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2027);
- (7) section 157 of title 23, United States Code (as in effect on June 8, 1998);
- (8) section 105 of title 23, United States Code (as in effect for fiscal years 1998 through 2004, but only in an amount equal to \$639,000,000 for each of those fiscal years);
- (9) Federal-aid highway programs for which obligation authority was made available under the Transportation Equity Act for the 21st Century (Public Law 105–178; 112 Stat. 107) or subsequent public laws for multiple years or to remain available until used, but only to the extent that the obligation authority has not lapsed or been used;
- (10) section 105 of title 23, United States Code (but, for each of fiscal years 2005 through 2009, only in an amount equal to \$639,000,000 per fiscal year); and

(11) section 1603 of this Act, to the extent that funds obligated in accordance with that section were not subject to a limitation on obligations at the time at which the funds were initially made available for obligation.

(c) DISTRIBUTION OF OBLIGATION AUTHORITY.—For each of fiscal years 2005 through 2009, the Secretary—

(1) shall not distribute obligation authority provided by subsection (a) for the fiscal year for—

(A) amounts authorized for administrative expenses and programs by section 104(a) of title 23, United States Code;

(B) programs funded from the administrative takedown authorized by section 104(a)(1) of title 23, United States Code (as in effect on the date before the date of enactment of this Act); and

(C) amounts authorized for the highway use tax evasion program and the Bureau of Transportation Statistics;

(2) shall not distribute an amount of obligation authority provided by subsection (a) that is equal to the unobligated balance of amounts made available from the Highway Trust Fund (other than the Mass Transit Account) for Federal-aid highway and highway safety programs for previous fiscal years the funds for which are allocated by the Secretary;

(3) shall determine the ratio that—

(A) the obligation authority provided by subsection (a) for the fiscal year, less the aggregate of amounts not distributed under paragraphs (1) and (2); bears to

(B) the total of the sums authorized to be appropriated for the Federal-aid highway and highway safety construction programs (other than sums authorized to be appropriated for provisions of law described in paragraphs (1) through (9) of subsection (b) and sums authorized to be appropriated for section 105 of title 23, United States Code, equal to the amount referred to in subsection (b)(10) for the fiscal year), less the aggregate of the amounts not distributed under paragraphs (1) and (2);

(4)(A) shall distribute the obligation authority provided by subsection (a) less the aggregate amounts not distributed under paragraphs (1) and (2), for sections 1301, 1302, and 1934 of this Act, sections 117 but individually for each of project numbered 1 through 3676 listed in the table contained in section 1702 of this Act and 144(g) of title 23, United States Code, and section 14501 of title 40, United States Code, and, during fiscal year 2005, amounts for programs, projects, and activities authorized by section 117 of title I of division H of the Consolidated Appropriations Act, 2005 (Public Law 108–447; 118 Stat. 3212), so that the amount of obligation authority available for each of such sections is equal to the amount determined by multiplying—

(i) the ratio determined under paragraph (3); by

(ii) the sums authorized to be appropriated for that section for the fiscal year; and

(B) shall distribute \$2,000,000,000 for section 105 of title 23, United States Code;

(5) shall distribute among the States the obligation authority provided by subsection (a), less the aggregate amounts not distributed under paragraphs (1) and (2), for each

of the programs that are allocated by the Secretary under this Act and title 23, United States Code (other than to programs to which paragraph (1) applies), by multiplying—

(A) the ratio determined under paragraph (3); by

(B) the amounts authorized to be appropriated for each such program for the fiscal year; and

(6) shall distribute the obligation authority provided by subsection (a), less the aggregate amounts not distributed under paragraphs (1) and (2) and the amounts distributed under paragraphs (4) and (5), for Federal-aid highway and highway safety construction programs (other than the amounts apportioned for the equity bonus program, but only to the extent that the amounts apportioned for the equity bonus program for the fiscal year are greater than \$2,639,000,000, and the Appalachian development highway system program) that are apportioned by the Secretary under this Act and title 23, United States Code, in the ratio that—

(A) amounts authorized to be appropriated for the programs that are apportioned to each State for the fiscal year; bear to

(B) the total of the amounts authorized to be appropriated for the programs that are apportioned to all States for the fiscal year.

(d) REDISTRIBUTION OF UNUSED OBLIGATION AUTHORITY.—Notwithstanding subsection (c), the Secretary shall, after August 1 of each of fiscal years 2005 through 2009—

(1) revise a distribution of the obligation authority made available under subsection (c) if an amount distributed cannot be obligated during that fiscal year; and

(2) redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during that fiscal year, giving priority to those States having large unobligated balances of funds apportioned under sections 104 and 144 of title 23, United States Code.

(e) APPLICABILITY OF OBLIGATION LIMITATIONS TO TRANSPORTATION RESEARCH PROGRAMS.—

(1) IN GENERAL.—Except as provided in paragraph (2), obligation limitations imposed by subsection (a) shall apply to contract authority for transportation research programs carried out under—

(A) chapter 5 of title 23, United States Code; and

(B) title V (research title) of this Act.

(2) EXCEPTION.—Obligation authority made available under paragraph (1) shall—

(A) remain available for a period of 3 fiscal years; and

(B) be in addition to the amount of any limitation imposed on obligations for Federal-aid highway and highway safety construction programs for future fiscal years.

(f) REDISTRIBUTION OF CERTAIN AUTHORIZED FUNDS.—

(1) IN GENERAL.—Not later than 30 days after the date of distribution of obligation authority under subsection (c) for each of fiscal years 2005 through 2009, the Secretary shall distribute to the States any funds that—

Deadline.

(A) are authorized to be appropriated for the fiscal year for Federal-aid highway programs; and

(B) the Secretary determines will not be allocated to the States, and will not be available for obligation, in the fiscal year due to the imposition of any obligation limitation for the fiscal year.

(2) **RATIO.**—Funds shall be distributed under paragraph (1) in the same ratio as the distribution of obligation authority under subsection (c)(6).

(3) **AVAILABILITY.**—Funds distributed under paragraph (1) shall be available for any purpose described in section 133(b) of title 23, United States Code.

(g) **SPECIAL LIMITATION CHARACTERISTICS.**—Obligation authority distributed for a fiscal year under subsection (c)(4) for the provision specified in subsection (c)(4) shall—

(1) remain available until used for obligation of funds for that provision; and

(2) be in addition to the amount of any limitation imposed on obligations for Federal-aid highway and highway safety construction programs for future fiscal years.

(h) **ADJUSTMENT IN OBLIGATION LIMIT.**—

(1) **IN GENERAL.**—Subject to the last sentence of section 110(a)(2) of title 23, United States Code, a limitation on obligations imposed by subsection (a) for a fiscal year shall be adjusted by an amount equal to the amount determined in accordance with section 251(b)(1)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(1)(B)) for the fiscal year.

(2) **DISTRIBUTION.**—An adjustment under paragraph (1) shall be distributed in accordance with this section.

(i) **SPECIAL RULE FOR FISCAL YEAR 2005.**—

(1) **IN GENERAL.**—Obligation authority distributed under subsection (c)(4) for fiscal year 2005 for sections 1301, 1302, and 1934 of this Act and sections 117 and 144(g) of title 23, United States Code, may be used in fiscal year 2005 for purposes of obligation authority distributed under subsection (c)(6).

(2) **RESTORATION.**—Obligation authority used as described in paragraph (1) shall be restored to the original purpose on the date on which obligation authority is distributed under this section for fiscal year 2006.

(j) **HIGH PRIORITY PROJECT FLEXIBILITY.**—

(1) **IN GENERAL.**—Subject to paragraph (2), obligation authority distributed for a fiscal year under subsection (c)(4) for each project numbered 1 through 3676 listed in the table contained in section 1702 of this Act may be obligated for any other project in such section in the same State.

(2) **RESTORATION.**—Obligation authority used as described in paragraph (1) shall be restored to the original purpose on the date on which obligation authority is distributed under this section for the next fiscal year following obligation under paragraph (1).

(k) **LIMITATION ON STATUTORY CONSTRUCTION.**—Nothing in this section shall be construed to limit the distribution of obligation authority under subsection (c)(4)(A) for each of the individual projects numbered greater than 3676 listed in the table contained in section 1702 of this Act.

SEC. 1103. APPORTIONMENTS.**(a) ADMINISTRATIVE EXPENSES.—**

(1) IN GENERAL.—Section 104(a) of title 23, United States Code, is amended to read as follows:

“(a) ADMINISTRATIVE EXPENSES.—

“(1) IN GENERAL.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to be made available to the Secretary for administrative expenses of the Federal Highway Administration—

“(A) \$353,024,000 for fiscal year 2005;

“(B) \$370,613,540 for fiscal year 2006;

“(C) \$389,079,500 for fiscal year 2007;

“(D) \$408,465,500 for fiscal year 2008; and

“(E) \$423,717,460 for fiscal year 2009.

“(2) PURPOSES.—The funds authorized by this subsection shall be used—

“(A) to administer the provisions of law to be financed from appropriations for the Federal-aid highway program and programs authorized under chapter 2; and

“(B) to make transfers of such sums as the Secretary determines to be appropriate to the Appalachian Regional Commission for administrative activities associated with the Appalachian development highway system.

“(3) AVAILABILITY.—The funds made available under paragraph (1) shall remain available until expended.”.

(2) CONFORMING AMENDMENTS.—Section 104 of such title is amended—

(A) in the matter preceding paragraph (1) of subsection (b), by striking “the deduction authorized by subsection (a) and the set-aside authorized by subsection (f)” and inserting “the set-asides authorized by subsections (d) and (f) and section 130(e)”;

(B) in the first sentence of subsection (e)(1), by striking “, and also” and all that follows through “this section”; and

(C) in subsection (i), by striking “deducted” and inserting “made available”.

(b) ALASKA HIGHWAY.—Section 104(b)(1)(A) of such title is amended by striking “\$18,800,000 for each of fiscal years 1998 through 2002” and inserting “\$30,000,000 for each of fiscal years 2005 through 2009”.

(c) NATIONAL HIGHWAY SYSTEM COMPONENT.—Section 104(b)(1)(A) of such title is amended by striking “\$36,400,000 for each fiscal year” and inserting “\$40,000,000 for each of fiscal years 2005 and 2006 and \$50,000,000 for each of fiscal years 2007 through 2009”.

(d) CMAQ APPORTIONMENT.—Section 104(b)(2) of such title is amended—

(1) in subparagraph (B)—

(A) by striking clause (i) and inserting the following:
“(i) 1.0 if, at the time of apportionment, the area is a maintenance area;”;

(B) by striking “or” at the end of clause (vi);

(C) by striking the period at the end of clause (vii) and inserting “; or”; and

(D) by adding at the end the following:

“(viii) 1.0 if, at the time of apportionment, an area is designated as nonattainment for ozone under subpart 1 of part D of title I of such Act (42 U.S.C. 7512 et seq.)”; and

(2) by striking subparagraph (C) and inserting the following:

“(C) ADDITIONAL ADJUSTMENT FOR CARBON MONOXIDE AREAS.—If, in addition to being designated as a nonattainment or maintenance area for ozone as described in section 149(b), any county within the area was also classified under subpart 3 of part D of title I of the Clean Air Act (42 U.S.C. 7512 et seq.) as a nonattainment or maintenance area described in section 149(b) for carbon monoxide, the weighted nonattainment or maintenance area population of the county, as determined under clauses (i) through (vi) or clause (viii) of subparagraph (B), shall be further multiplied by a factor of 1.2.”.

23 USC 104.

(e) REPORT.—Section 104(j) of such title is amended by striking “submit to Congress a report” and inserting “submit to Congress a report, and also make such report available to the public in a user-friendly format via the Internet,”.

(f) OPERATION LIFESAVER.—Section 104(d) of such title is amended—

(1) by striking paragraph (1) and all that follows through the period at the end of paragraph (2)(A) and inserting the following:

“(1) OPERATION LIFESAVER.—To carry out a public information and education program to help prevent and reduce motor vehicle accidents, injuries, and fatalities and to improve driver performance at railway-highway crossings—

“(A) before making an apportionment under subsection (b)(3) for fiscal year 2005, the Secretary shall set aside \$560,000 for such fiscal year; and

“(B) there is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) \$560,000 for each of fiscal years 2006 through 2009.

“(2) RAILWAY-HIGHWAY CROSSING HAZARD ELIMINATION IN HIGH SPEED RAIL CORRIDORS.—

“(A) FUNDING.—To carry out the elimination of hazards at railway-highway crossings—

“(i) before making an apportionment under subsection (b)(3) for fiscal year 2005, the Secretary shall set aside \$5,250,000 for such fiscal year; and

“(ii) there is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) \$7,250,000 for fiscal year 2006, \$10,000,000 for fiscal year 2007, \$12,500,000 for fiscal year 2008, and \$15,000,000 for fiscal year 2009.”; and

(2) in paragraph (2)(E)—

(A) by striking “Not less than \$250,000 of such set-aside” and inserting “Of such set-aside, not less than \$250,000 for fiscal year 2005, \$1,000,000 for fiscal year 2006, \$1,750,000 for fiscal year 2007, \$2,250,000 for fiscal year 2008, and \$3,000,000 for fiscal year 2009”; and

(B) by striking “per fiscal year”.

SEC. 1104. EQUITY BONUS PROGRAM.

(a) IN GENERAL.—Section 105 of title 23, United States Code, is amended to read as follows:

“§ 105. Equity bonus program

“(a) PROGRAM.—

“(1) IN GENERAL.—Subject to subsections (c) and (d), for each of fiscal years 2005 through 2009, the Secretary shall allocate among the States amounts sufficient to ensure that no State receives a percentage of the total apportionments for the fiscal year for the programs specified in paragraph (2) that is less than the percentage calculated under subsection (b).

“(2) SPECIFIC PROGRAMS.—The programs referred to in subsection (a) are—

“(A) the Interstate maintenance program under section 119;

“(B) the national highway system program under section 103;

“(C) the highway bridge replacement and rehabilitation program under section 144;

“(D) the surface transportation program under section 133;

“(E) the highway safety improvement program under section 148;

“(F) the congestion mitigation and air quality improvement program under section 149;

“(G) metropolitan planning programs under section 104(f);

“(H) the high priority projects program under section 117;

“(I) the equity bonus program under this section;

“(J) the Appalachian development highway system program under subtitle IV of title 40;

“(K) the recreational trails program under section 206;

“(L) the safe routes to school program under section 1404 of the SAFETEA–LU;

“(M) the rail-highway grade crossing program under section 130; and

“(N) the coordinated border infrastructure program under section 1303 of the SAFETEA–LU.

“(b) STATE PERCENTAGE.—

“(1) IN GENERAL.—The percentage referred to in subsection (a) for each State shall be—

“(A) for each of fiscal years 2005 and 2006, 90.5 percent, for fiscal year 2007, 91.5 percent, and for each of fiscal years 2008 and 2009, 92 percent, of the quotient obtained by dividing—

“(i) the estimated tax payments attributable to highway users in the State paid into the Highway Trust Fund (other than the Mass Transit Account) in the most recent fiscal year for which data are available; by

“(ii) the estimated tax payments attributable to highway users in all States paid into the Highway Trust Fund (other than the Mass Transit Account) for the fiscal year; or

“(B) for a State with a total population density of less than 40 persons per square mile (as reported in the decennial census conducted by the Federal Government in 2000) and of which at least 1.25 percent of the total acreage is under Federal jurisdiction, based on the report of the General Services Administration entitled ‘Federal Real Property Profile’ and dated September 30, 2004, a State with a total population of less than 1,000,000 (as reported in that decennial census), a State with a median household income of less than \$35,000 (as reported in that decennial census), a State with a fatality rate during 2002 on Interstate highways that is greater than one fatality for each 100,000,000 vehicle miles traveled on Interstate highways, or a State with an indexed, State motor fuels excise tax rate higher than 150 percent of the Federal motor fuels excise tax rate as of the date of enactment of the SAFETEA–LU, the greater of—

“(i) the applicable percentage under subparagraph (A); or

“(ii) the average percentage of the State’s share of total apportionments for the period of fiscal years 1998 through 2003 for the programs specified in paragraph (2).

“(2) SPECIFIC PROGRAMS.—The programs referred to in paragraph (1)(B)(ii) are (as in effect on the day before the date of enactment of the SAFETEA–LU)—

“(A) the Interstate maintenance program under section 119;

“(B) the national highway system program under section 103;

“(C) the highway bridge replacement and rehabilitation program under section 144;

“(D) the surface transportation program under section 133;

“(E) the recreational trails program under section 206;

“(F) the high priority projects program under section 117;

“(G) the minimum guarantee provided under this section;

“(H) revenue aligned budget authority amounts provided under section 110;

“(I) the congestion mitigation and air quality improvement program under section 149;

“(J) the Appalachian development highway system program under subtitle IV of title 40; and

“(K) metropolitan planning programs under section 104(f).

“(c) SPECIAL RULES.—

“(1) MINIMUM COMBINED ALLOCATION.—For each fiscal year, before making the allocations under subsection (a)(1), the Secretary shall allocate among the States amounts sufficient to ensure that no State receives a combined total of amounts allocated under subsection (a)(1), apportionments for the programs specified in subsection (a)(2), and amounts allocated under this subsection, that is less than the following percentages of the average for fiscal years 1998 through 2003 of

the annual apportionments for the State for all programs specified in subsection (b)(2):

“(A) For fiscal year 2005, 117 percent.

“(B) For fiscal year 2006, 118 percent.

“(C) For fiscal year 2007, 119 percent.

“(D) For fiscal year 2008, 120 percent.

“(E) For fiscal year 2009, 121 percent.

“(2) NO NEGATIVE ADJUSTMENT.—No negative adjustment shall be made under subsection (a)(1) to the apportionment of any State.

“(d) TREATMENT OF FUNDS.—

“(1) PROGRAMMATIC DISTRIBUTION.—The Secretary shall apportion the amounts made available under this section that exceed \$2,639,000,000 so that the amount apportioned to each State under this paragraph for each program referred to in subparagraphs (A) through (F) of subsection (a)(2) is equal to the amount determined by multiplying the amount to be apportioned under this paragraph by the ratio that—

“(A) the amount of funds apportioned to each State for each program referred to in subparagraphs (A) through (F) of subsection (a)(2) for a fiscal year; bears to

“(B) the total amount of funds apportioned to such State for all such programs for such fiscal year.

“(2) REMAINING DISTRIBUTION.—The Secretary shall administer the remainder of funds made available under this section to the States in accordance with section 104(b)(3), except that paragraphs (1) through (3) of section 133(d) shall not apply to amounts administered pursuant to this paragraph.

“(e) METRO PLANNING SET ASIDE.—Notwithstanding section 104(f), no set aside provided for under that section shall apply to funds allocated under this section.

“(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) such sums as are necessary to carry out this section for each of fiscal years 2005 through 2009.”.

(b) CLERICAL AMENDMENT.—The analysis for subchapter I of chapter 1 of such title is amended by striking the item relating to section 105 and inserting the following:

“105. Equity bonus program.”.

SEC. 1105. REVENUE ALIGNED BUDGET AUTHORITY.

(a) ALLOCATION.—Section 110(a)(1) of title 23, United States Code, is amended—

(1) by striking “2000” and inserting “2007”;

(2) by inserting after “such fiscal year” the first place it appears: “and the succeeding fiscal year”.

(b) REDUCTION.—Section 110(a)(2) of such title is amended—

(1) by striking “2000” and inserting “2007”;

(2) by striking “October 1 of the succeeding” and inserting “October 15 of such”;

(3) by inserting after “Account)” the following: “for such fiscal year and the succeeding fiscal year”; and

(4) by adding at the end the following: “No reduction under this paragraph and no reduction under section 1102(h), and no reduction under title VIII or any amendment made by title VIII, of the SAFETEA-LU shall be made for a fiscal year if, as of October 1 of such fiscal year the balance in

the Highway Trust Fund (other than the Mass Transit Account) exceeds \$6,000,000,000.”.

23 USC 110.

(c) GENERAL DISTRIBUTION.—Section 110(b)(1)(A) of such title is amended—

(1) by striking “minimum guarantee” and inserting “equity bonus”; and

(2) by striking “Transportation Equity Act for the 21st Century” and inserting “SAFETEA-LU”.

(d) ADDITION OF HIGHWAY SAFETY IMPROVEMENT PROGRAM.—Section 110(c) of such title is amended by inserting “the highway safety improvement program,” after “the surface transportation program,”.

(e) TECHNICAL AMENDMENT.—Section 110(b)(1)(A) of such title is amended by striking “for” the second place it appears.

23 USC 110 note.

(f) SPECIAL RULE.—If the amount available pursuant to section 110 of title 23, United States Code, for fiscal year 2007 is greater than zero, the Secretary shall—

(1) determine the total amount necessary to increase each State’s rate of return (as determined under section 105(b)(1)(A) of title 23, United States Code) to 92 percent, excluding amounts provided under this paragraph;

(2) allocate to each State the lesser of—

(A) the amount computed for that State under paragraph (1); or

(B) an amount determined by multiplying the total amount calculated under section 110 of title 23, United States Code, for fiscal year 2007 by the ratio that—

(i) the amount determined for such State under paragraph (1); bears to

(ii) the total amount computed for all States in paragraph (1); and

(3) allocate amounts remaining in excess of the amounts allocated in paragraph (2) to all States in accordance with section 110 of title 23, United States Code.

SEC. 1106. FUTURE INTERSTATE SYSTEM ROUTES.

(a) EXTENSION OF DATE.—Section 103(c)(4)(B)(ii) of title 23, United States Code, is amended by striking “12” and inserting “25”.

(b) REMOVAL OF DESIGNATION.—Section 103(c)(4)(B)(iii) of such title is amended—

(1) in subclause (I) by striking “in the agreement between the Secretary and the State or States”; and

(2) by adding at the end the following:

“(III) EXISTING AGREEMENTS.—An agreement described in clause (ii) that is entered into before the date of enactment of this subclause shall be deemed to include the 25-year time limitation described in that clause, regardless of any earlier construction completion date in the agreement.”.

SEC. 1107. METROPOLITAN PLANNING.

Section 104(f) of title 23, United States Code, is amended—

(1) by striking paragraph (1) and inserting the following:

“(1) SET-ASIDE.—On October 1 of each fiscal year, the Secretary shall set aside 1.25 percent of the funds authorized to be appropriated for the Interstate maintenance, national highway system, surface transportation, congestion mitigation

and air quality improvement, and highway bridge replacement and rehabilitation programs authorized under this title to carry out the requirements of section 134.”;

(2) in paragraph (2) by striking “per centum” and inserting “percent”;

(3) in paragraph (3)—

(A) by striking “The funds” and inserting the following:

“(A) IN GENERAL.—The funds”; and

(B) by striking “These funds” and all that follows and inserting the following:

“(B) UNUSED FUNDS.—Any funds that are not used to carry out section 134 may be made available by a metropolitan planning organization to the State to fund activities under section 135.”; and

(4) in paragraph (4)—

(A) by striking “The distribution” and inserting the following:

“(A) IN GENERAL.—The distribution”; and

(B) by adding at the end the following:

“(B) REIMBURSEMENT.—Not later than 30 days after the date of receipt by a State of a request for reimbursement of expenditures made by a metropolitan planning organization for carrying out section 134, the State shall reimburse, from funds distributed under this paragraph to the metropolitan planning organization by the State, the metropolitan planning organization for those expenditures.”.

Deadline.

SEC. 1108. TRANSFER OF HIGHWAY AND TRANSIT FUNDS.

Section 104(k) of title 23, United States Code, is amended to read as follows:

“(k) TRANSFER OF HIGHWAY AND TRANSIT FUNDS.—

“(1) TRANSFER OF HIGHWAY FUNDS FOR TRANSIT PROJECTS.—

“(A) IN GENERAL.—Subject to subparagraph (B), funds made available for transit projects or transportation planning under this title may be transferred to and administered by the Secretary in accordance with chapter 53 of title 49.

“(B) NON-FEDERAL SHARE.—The provisions of this title relating to the non-Federal share shall apply to the funds transferred under subparagraph (A).

“(2) TRANSFER OF TRANSIT FUNDS FOR HIGHWAY PROJECTS.—

“(A) IN GENERAL.—Subject to subparagraph (B), funds made available for highway projects or transportation planning under chapter 53 of title 49 may be transferred to and administered by the Secretary in accordance with this title.

“(B) NON-FEDERAL SHARE.—The provisions of chapter 53 of title 49 relating to the non-Federal share shall apply to funds transferred under subparagraph (A).

Applicability.

“(3) TRANSFER OF FUNDS AMONG STATES OR TO FEDERAL HIGHWAY ADMINISTRATION.—

“(A) IN GENERAL.—Subject to subparagraphs (B) and (C), the Secretary may, at the request of a State, transfer funds apportioned or allocated under this title to the State to another State, or to the Federal Highway Administration, for the purpose of funding one or more projects that

are eligible for assistance with funds so apportioned or allocated.

“(B) APPORTIONMENT.—The transfer shall have no effect on any apportionment of funds to a State under this section or section 105 or 144.

“(C) SURFACE TRANSPORTATION PROGRAM.—Funds that are apportioned or allocated to a State under subsection (b)(3) and attributed to an urbanized area of a State with a population of over 200,000 individuals under section 133(d)(3) may be transferred under this paragraph only if the metropolitan planning organization designated for the area concurs, in writing, with the transfer request.

“(4) TRANSFER OF OBLIGATION AUTHORITY.—Obligation authority for funds transferred under this subsection shall be transferred in the same manner and amount as the funds for the projects that are transferred under this subsection.”.

SEC. 1109. RECREATIONAL TRAILS.

(a) RECREATIONAL TRAILS PROGRAM FORMULA.—Section 104(h) of title 23, United States Code, is amended—

(1) in paragraph (1) by striking the first sentence and inserting the following: “Before apportioning sums authorized to be appropriated to carry out the recreational trails program under section 206, the Secretary shall deduct for administrative, research, technical assistance, and training expenses for such program \$840,000 for each of fiscal years 2005 through 2009.”; and

(2) in paragraph (2) by striking “After” and all that follows through “remainder of the sums” and inserting “The Secretary shall apportion the sums”.

(b) PERMISSIBLE USES.—Section 206(d)(2) of such title is amended to read as follows:

“(2) PERMISSIBLE USES.—Permissible uses of funds apportioned to a State for a fiscal year to carry out this section include—

“(A) maintenance and restoration of existing recreational trails;

“(B) development and rehabilitation of trailside and trailhead facilities and trail linkages for recreational trails;

“(C) purchase and lease of recreational trail construction and maintenance equipment;

“(D) construction of new recreational trails, except that, in the case of new recreational trails crossing Federal lands, construction of the trails shall be—

“(i) permissible under other law;

“(ii) necessary and recommended by a statewide comprehensive outdoor recreation plan that is required by the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–4 et seq.) and that is in effect;

“(iii) approved by the administering agency of the State designated under subsection (c)(1); and

“(iv) approved by each Federal agency having jurisdiction over the affected lands under such terms and conditions as the head of the Federal agency determines to be appropriate, except that the approval shall be contingent on compliance by the Federal agency with all applicable laws, including the National

Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.), and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.);

“(E) acquisition of easements and fee simple title to property for recreational trails or recreational trail corridors;

“(F) assessment of trail conditions for accessibility and maintenance;

“(G) development and dissemination of publications and operation of educational programs to promote safety and environmental protection, (as those objectives relate to one or more of the use of recreational trails, supporting non-law enforcement trail safety and trail use monitoring patrol programs, and providing trail-related training), but in an amount not to exceed 5 percent of the apportionment made to the State for the fiscal year; and

“(H) payment of costs to the State incurred in administering the program, but in an amount not to exceed 7 percent of the apportionment made to the State for the fiscal year.”.

(c) USE OF APPORTIONMENTS.—Section 206(d)(3) of such title is amended—

(1) by striking subparagraph (C);

(2) by redesignating subparagraph (D) as subparagraph (C); and

(3) in subparagraph (C) (as so redesignated) by striking “(2)(F)” and inserting “(2)(H)”.

(d) FEDERAL SHARE.—Section 206(f) of such title is amended—

(1) in paragraph (1)—

(A) by inserting “and the Federal share of the administrative costs of a State” after “project”; and

(B) by striking “not exceed 80 percent” and inserting “be determined in accordance with section 120(b)”;

(2) in paragraph (2)(A) by striking “80 percent of” and inserting “the amount determined in accordance with section 120(b) for”;

(3) in paragraph (2)(B) by inserting “sponsoring the project” after “Federal agency”;

(4) by striking paragraph (5);

(5) by redesignating paragraph (4) as paragraph (5);

(6) in paragraph (5) (as so redesignated) by striking “80 percent” and inserting “the Federal share as determined in accordance with section 120(b)”;

(7) by inserting after paragraph (3) the following:

“(4) USE OF RECREATIONAL TRAILS PROGRAM FUNDS TO MATCH OTHER FEDERAL PROGRAM FUNDS.—Notwithstanding any other provision of law, funds made available under this section may be used toward the non-Federal matching share for other Federal program funds that are—

“(A) expended in accordance with the requirements of the Federal program relating to activities funded and populations served; and

“(B) expended on a project that is eligible for assistance under this section.”.

(e) **PLANNING AND ENVIRONMENTAL ASSESSMENT COSTS INCURRED PRIOR TO PROJECT APPROVAL.**—Section 206(h)(1) of such title is amended by adding at the end the following:

“(C) **PLANNING AND ENVIRONMENTAL ASSESSMENT COSTS INCURRED PRIOR TO PROJECT APPROVAL.**—The Secretary may allow preapproval planning and environmental compliance costs to be credited toward the non-Federal share of the cost of a project described in subsection (d)(2) (other than subparagraph (H)) in accordance with subsection (f), limited to costs incurred less than 18 months prior to project approval.”.

Contracts.
23 USC 206 note.

(f) **ENCOURAGEMENT OF USE OF YOUTH CONSERVATION OR SERVICE CORPS.**—The Secretary shall encourage the States to enter into contracts and cooperative agreements with qualified youth conservation or service corps to perform construction and maintenance of recreational trails under section 206 of title 23, United States Code.

SEC. 1110. TEMPORARY TRAFFIC CONTROL DEVICES.

(a) **STANDARDS.**—Section 109(e) of title 23, United States Code, is amended—

(1) by striking “(e) No funds” and inserting the following:

“(e) **INSTALLATION OF SAFETY DEVICES.**—

“(1) **HIGHWAY AND RAILROAD GRADE CROSSINGS AND DRAWBRIDGES.**—No funds”; and

(2) by adding at the end the following:

“(2) **TEMPORARY TRAFFIC CONTROL DEVICES.**—No funds shall be approved for expenditure on any Federal-aid highway, or highway affected under chapter 2, unless proper temporary traffic control devices to improve safety in work zones will be installed and maintained during construction, utility, and maintenance operations on that portion of the highway with respect to which such expenditures are to be made. Installation and maintenance of the devices shall be in accordance with the Manual on Uniform Traffic Control Devices.”.

(b) **LETTING OF CONTRACTS.**—Section 112 of such title is amended—

(1) by striking subsection (f);

(2) by redesignating subsection (g) as subsection (f); and

(3) by adding at the end the following:

“(g) **TEMPORARY TRAFFIC CONTROL DEVICES.**—

“(1) **ISSUANCE OF REGULATIONS.**—The Secretary, after consultation with appropriate Federal and State officials, shall issue regulations establishing the conditions for the appropriate use of, and expenditure of funds for, uniformed law enforcement officers, positive protective measures between workers and motorized traffic, and installation and maintenance of temporary traffic control devices during construction, utility, and maintenance operations.

“(2) **EFFECTS OF REGULATIONS.**—Based on regulations issued under paragraph (1), a State shall—

“(A) develop separate pay items for the use of uniformed law enforcement officers, positive protective measures between workers and motorized traffic, and installation and maintenance of temporary traffic control devices during construction, utility, and maintenance operations; and

“(B) incorporate such pay items into contract provisions to be included in each contract entered into by the State with respect to a highway project to ensure compliance with section 109(e)(2).

“(3) LIMITATION.—Nothing in the regulations shall prohibit a State from implementing standards that are more stringent than those required under the regulations.

“(4) POSITIVE PROTECTIVE MEASURES DEFINED.—In this subsection, the term ‘positive protective measures’ means temporary traffic barriers, crash cushions, and other strategies to avoid traffic accidents in work zones, including full road closures.”.

(c) CLARIFICATION OF DATE.—Section 109(g) of such title is amended in the first sentence by striking “The Secretary” and all that follows through “of 1970” and inserting “Not later than January 30, 1971, the Secretary shall issue”.

SEC. 1111. SET-ASIDES FOR INTERSTATE DISCRETIONARY PROJECTS.

(a) IN GENERAL.—Section 118(c)(1) of title 23, United States Code, is amended by striking “\$50,000,000” and all that follows through “2003” and inserting “\$100,000,000 for each of fiscal years 2005 through 2009”.

(b) TECHNICAL AMENDMENTS.—

(1) SECTION 116.—Section 116(b) of such title is amended by striking “highway department” and inserting “transportation department”.

(2) SECTION 120.—Section 120(e) of such title is amended in the first sentence by striking “such system” and inserting “such highway”.

(3) SECTION 127.—Section 127(a) of such title is amended by striking “118(b)(1)” and inserting “118(b)(2)”.

(4) BICYCLE AND PEDESTRIAN SAFETY GRANTS.—Section 1212(i) of the Transportation Equity Act for the 21st Century (112 Stat. 196–197) is amended by redesignating subparagraphs (D) and (E) as paragraphs (2) and (3), respectively, and moving such paragraphs 2 ems to the left.

23 USC 402 note.

SEC. 1112. EMERGENCY RELIEF.

There are authorized to be appropriated for each fiscal year such sums as may be necessary for allocations by the Secretary described in subsections (a) and (b) of section 125 of title 23, United States Code, if the total of those allocations in such fiscal year are in excess of \$100,000,000.

SEC. 1113. SURFACE TRANSPORTATION PROGRAM.

(a) PROGRAM ELIGIBILITY.—Section 133(b) of title 23, United States Code, is amended—

(1) in paragraph (6) by inserting “, including advanced truck stop electrification systems” before the period at the end; and

(2) by inserting after paragraph (11) the following:

“(12) Projects relating to intersections that—

“(A) have disproportionately high accident rates;

“(B) have high levels of congestion, as evidenced by—

“(i) interrupted traffic flow at the intersection; and

“(ii) a level of service rating that is not better than ‘F’ during peak travel hours, calculated in accordance with the Highway Capacity Manual issued by the Transportation Research Board; and
“(C) are located on a Federal-aid highway.”.

(b) REPEAL OF SAFETY PROGRAMS SET-ASIDE.—

(1) REPEAL.—Section 133(d)(1) of such title is repealed.

(2) TECHNICAL AMENDMENTS.—Section 133(d) of such title is amended—

(A) in the first sentence of paragraph (3)(A)—

(i) by striking “subparagraphs (C) and (D)” and inserting “subparagraph (C)”; and

(ii) by striking “80 percent” and inserting “90 percent”;

(B) in paragraph (3)(B) by striking “tobe” and inserting “to be”; and

(C) in paragraph (3)—

(i) by striking subparagraph (C);

(ii) by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively; and

(iii) in subparagraph (C) (as redesignated by clause (ii)) by adding a period at the end.

23 USC 133 note.

(3) EFFECTIVE DATE.—Paragraph (1) and paragraph (2)(A)(ii) of this subsection shall take effect October 1, 2005.

(c) TRANSPORTATION ENHANCEMENT ACTIVITIES.—Effective October 1, 2005, section 133(d)(2) of such title is amended by striking “10 percent” and all that follows through “section 104(b)(3) for a fiscal year” and inserting the following: “In a fiscal year, the greater of 10 percent of the funds apportioned to a State under section 104(b)(3) for such fiscal year, or the amount set aside under this paragraph with respect to the State for fiscal year 2005,”.

(d) OBLIGATION AUTHORITY.—Section 133(f)(1) of such title is amended—

(1) by striking “1998 through 2000” and inserting “2004 through 2006”; and

(2) by striking “2001 through 2003” and inserting “2007 through 2009”.

Effective date.

23 USC 133.

(e) TECHNICAL CORRECTION.—Effective June 9, 1998, section 1108(e) of the Transportation Equity Act for the 21st Century (112 Stat. 140) is amended by striking “Section 133” and inserting “Section 133(f)”.

SEC. 1114. HIGHWAY BRIDGE PROGRAM.

(a) FINDING AND DECLARATION.—Section 144(a) of title 23, United States Code, is amended to read as follows:

“(a) FINDING AND DECLARATION.—Congress finds and declares that it is in the vital interest of the United States that a highway bridge program be carried out to enable States to improve the condition of their highway bridges over waterways, other topographical barriers, other highways, and railroads through replacement and rehabilitation of bridges that the States and the Secretary determine are structurally deficient or functionally obsolete and through systematic preventive maintenance of bridges.”.

(b) PARTICIPATION.—Section 144(d) of such title is amended to read as follows:

“(d) PARTICIPATION.—

“(1) BRIDGE REPLACEMENT AND REHABILITATION.—On application by a State or States to the Secretary for assistance for a highway bridge that has been determined to be eligible for replacement or rehabilitation under subsection (b) or (c), the Secretary may approve Federal participation in—

“(A) replacing the bridge with a comparable facility;

or

“(B) rehabilitating the bridge.

“(2) TYPES OF ASSISTANCE.—On application by a State or States to the Secretary, the Secretary may approve Federal assistance for any of the following activities for a highway bridge that has been determined to be eligible for replacement or rehabilitation under subsection (b) or (c):

“(A) Painting.

“(B) Seismic retrofit.

“(C) Systematic preventive maintenance.

“(D) Installation of scour countermeasures.

“(E) Application of calcium magnesium acetate, sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and de-icing compositions.

“(3) BASIS FOR DETERMINATION.—The Secretary shall determine the eligibility of highway bridges for replacement or rehabilitation for each State based on structurally deficient and functionally obsolete highway bridges in the State.

“(4) SPECIAL RULE FOR PREVENTIVE MAINTENANCE.—Notwithstanding any other provision of this subsection, a State may carry out a project under paragraph (2)(B), (2)(C), or (2)(D) for a highway bridge without regard to whether the bridge is eligible for replacement or rehabilitation under this section.”

(c) APPORTIONMENT OF FUNDS.—Section 144(e) of such title is amended—

(1) in the third sentence by striking “square footage” and inserting “deck area”;

(2) in the fourth sentence by striking “the total cost of deficient bridges in a State and in all States shall be reduced by the total cost of any highway bridges constructed under subsection (m) in such State, relating to replacement of destroyed bridges and ferryboat services, and,”; and

(3) in the seventh sentence by striking “for the same period as funds apportioned for projects on the Federal-aid primary system under this title” and inserting “for the period specified in section 118(b)(2)”.

(d) OFF-SYSTEM BRIDGES.—Section 144(g)(3) of such title is amended to read as follows:

“(3) OFF-SYSTEM BRIDGES.—

“(A) IN GENERAL.—Not less than 15 percent of the amount apportioned to each State in each of fiscal years 2005 through 2009 shall be expended for projects to replace, rehabilitate, paint, perform systematic preventive maintenance or seismic retrofit of, or apply calcium magnesium acetate, sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and de-icing compositions to, or install scour countermeasures to, highway bridges located on public roads, other than those on a

Federal-aid highway, or to complete the Warwick Intermodal Station (including the construction of a people mover between the Station and the T.F. Green Airport).

“(B) REDUCTION OF EXPENDITURES.—The Secretary, after consultation with State and local officials, may reduce the requirement for expenditure for bridges not on a Federal-aid highway under subparagraph (A) with respect to the State if the Secretary determines that the State has inadequate needs to justify the expenditure.”.

(e) BRIDGE SET-ASIDE.—

23 USC 144.

(1) FISCAL YEAR 2005.—Section 144(g)(1)(C) of such title is amended—

(A) in the subsection heading by striking “2003” and inserting “2005”; and

(B) in the first sentence by striking “2003” and inserting “2005”.

Effective date.

(2) FISCAL YEARS 2006 THROUGH 2009.—Effective October 1, 2005, section 144(g) of such title (as amended by subsection (d) of this section) is amended—

(A) by striking the subsection designation and all that follows through the period at the end of paragraph (2) and inserting the following:

“(g) BRIDGE SET-ASIDES.—

“(1) DESIGNATED PROJECTS.—

“(A) IN GENERAL.—Of the amounts authorized to be appropriated to carry out the bridge program under this section for each of the fiscal years 2006 through 2009, all but \$100,000,000 shall be apportioned as provided in subsection (e). Such \$100,000,000 shall be available as follows:

“(i) \$12,500,000 per fiscal year for the Golden Gate Bridge.

“(ii) \$18,750,000 per fiscal year for the construction of a bridge joining the Island of Gravina to the community of Ketchikan in Alaska.

“(iii) \$12,500,000 per fiscal year to the State of Nevada for construction of a replacement of the federally owned bridge over the Hoover Dam in the Lake Mead National Recreation Area.

“(iv) \$12,500,000 per fiscal year to the State of Missouri for construction of a structure over the Mississippi River to connect the City of St. Louis, Missouri, to the State of Illinois.

“(v) \$12,500,000 per fiscal year for replacement and reconstruction of State maintained bridges in the State of Oklahoma.

“(vi) \$4,500,000 per fiscal year for replacement of the Missisquoi Bay Bridge, Vermont.

“(vii) \$8,000,000 per fiscal year for replacement and reconstruction of State-maintained bridges in the State of Vermont.

“(viii) \$8,750,000 per fiscal year for design, planning, and right-of-way acquisition for the Interstate Route 74 bridge from Bettendorf, Iowa, to Moline, Illinois.

“(ix) \$10,000,000 per fiscal year for replacement and reconstruction of State-maintained bridges in the State of Oregon.

“(B) GRAVINA ACCESS SCORING.—The project described in subparagraph (A)(ii) shall not be counted for purposes of the reduction set forth in the fourth sentence of subsection (e).

“(C) PERIOD OF AVAILABILITY.—Amounts made available to a State under this paragraph shall remain available until expended.”;

(B) by striking paragraph (2); and

(C) by redesignating paragraph (3) as paragraph (2).

(f) CONTINUATION OF REPORT; FEDERAL SHARE.—Section 144 of such title is amended by adding at the end the following:

“(r) ANNUAL MATERIALS REPORT ON NEW BRIDGE CONSTRUCTION AND BRIDGE REHABILITATION.—Not later than 1 year after the date of enactment of this subsection, and annually thereafter, the Secretary shall publish in the Federal Register a report describing construction materials used in new Federal-aid bridge construction and bridge rehabilitation projects.

Federal Register,
publication.

“(s) FEDERAL SHARE.—

“(1) IN GENERAL.—Except as provided under paragraph (2), the Federal share of the cost of a project payable from funds made available to carry out this section shall be determined under section 120(b).

“(2) INTERSTATE SYSTEM.—The Federal share of the cost of a project on the Interstate System payable from funds made available to carry out this section shall be determined under section 120(a).”.

(g) TECHNICAL AMENDMENT.—Section 144(i) of such title is amended by striking “at the same time” and all that follows through “Congress”.

SEC. 1115. HIGHWAY USE TAX EVASION PROJECTS.

(a) ELIGIBLE ACTIVITIES.—

(1) INTERGOVERNMENTAL ENFORCEMENT EFFORTS.—Section 143(b)(2) of title 23, United States Code, is amended by inserting before the period the following: “; except that of funds so made available for each of fiscal years 2005 through 2009, \$2,000,000 shall be available only to carry out intergovernmental enforcement efforts, including research and training”.

(2) CONDITIONS ON FUNDS ALLOCATED TO INTERNAL REVENUE SERVICE.—Section 143(b)(3) of such title is amended by striking “The” and inserting “Except as otherwise provided in this section, the”.

(3) LIMITATION ON USE OF FUNDS.—Section 143(b)(4) of such title is amended—

(A) by striking “and” at the end of subparagraph (F);

(B) by striking the period at the end of subparagraph

(G) and inserting a semicolon; and

(C) by adding at the end the following:

“(H) to support efforts between States and Indian tribes to address issues relating to State motor fuel taxes; and

“(I) to analyze and implement programs to reduce tax evasion associated with foreign imported fuel.”.

(4) REPORTS.—Section 143(b) of such title is amended by adding at the end the following:

“(9) REPORTS.—The Commissioner of the Internal Revenue Service and each State shall submit to the Secretary an annual report that describes the projects, examinations, and criminal investigations funded by and carried out under this section. Such report shall specify the estimated annual yield from such projects, examinations, and criminal investigations.”.

(b) EXCISE FUEL REPORTING SYSTEM.—Section 143(c) of such title is amended to read as follows:

“(c) EXCISE TAX FUEL REPORTING.—

Deadline.
Memorandum.

“(1) IN GENERAL.—Not later than 90 days after the date of enactment of the SAFETEA-LU, the Secretary shall enter into a memorandum of understanding with the Commissioner of the Internal Revenue Service for the purposes of—

“(A) the additional development of capabilities needed to support new reporting requirements and databases established under such Act and the American Jobs Creation Act of 2004 (Public Law 108–357), and such other reporting requirements and database development as may be determined by the Secretary, in consultation with the Commissioner of the Internal Revenue Service, to be useful in the enforcement of fuel excise taxes, including provisions recommended by the Fuel Tax Enforcement Advisory Committee,

“(B) the completion of requirements needed for the electronic reporting of fuel transactions from carriers and terminal operators,

“(C) the operation and maintenance of an excise summary terminal activity reporting system and other systems used to provide strategic analyses of domestic and foreign motor fuel distribution trends and patterns,

“(D) the collection, analysis, and sharing of information on fuel distribution and compliance or noncompliance with fuel taxes, and

“(E) the development, completion, operation, and maintenance of an electronic claims filing system and database and an electronic database of heavy vehicle highway use payments.

“(2) ELEMENTS OF MEMORANDUM OF UNDERSTANDING.—The memorandum of understanding shall provide that—

“(A) the Internal Revenue Service shall develop and maintain any system under paragraph (1) through contracts,

“(B) any system under paragraph (1) shall be under the control of the Internal Revenue Service, and

“(C) any system under paragraph (1) shall be made available for use by appropriate State and Federal revenue, tax, and law enforcement authorities, subject to section 6103 of the Internal Revenue Code of 1986.

“(3) FUNDING.—Of the amounts made available to carry out this section for each of fiscal years 2005 through 2009, the Secretary shall make available to the Internal Revenue Service such funds as may be necessary to complete, operate, and maintain the systems under paragraph (1) in accordance with this subsection.

“(4) REPORTS.—Not later than September 30 of each year, the Commissioner of the Internal Revenue Service shall provide

reports to the Secretary on the status of the Internal Revenue Service projects funded under this subsection.”

(c) **ALLOCATIONS.**—Of the amounts authorized to be appropriated under section 1101(a)(21) of this Act for highway use tax evasion projects for each of the fiscal years 2005 through 2009, the following amounts shall be allocated to the Internal Revenue Service to carry out section 143 of title 23, United States Code:

- (1) \$5,000,000 for fiscal year 2005.
- (2) \$44,800,000 for fiscal year 2006.
- (3) \$53,300,000 for fiscal year 2007.
- (4) \$12,000,000 for each of fiscal years 2008 and 2009.

SEC. 1116. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM.

(a) **APPORTIONMENT.**—The Secretary shall apportion funds made available by section 1101(a)(7) of this Act for fiscal years 2005 through 2009 among the States based on the latest available cost to complete estimate for the Appalachian development highway system under section 14501 of title 40, United States Code.

(b) **APPLICABILITY OF TITLE 23.**—Funds made available by section 1101(a)(7) of this Act for the Appalachian development highway system shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of any project under this section shall be determined in accordance with section 14501 of title 40, United States Code, and such funds shall be available to construct highways and access roads under such section and shall remain available until expended.

(c) **USE OF TOLL CREDITS.**—Section 120(j)(1) of title 23, United States Code, is amended by inserting “and the Appalachian development highway system program under section 14501 of title 40” after “section 125”.

SEC. 1117. TRANSPORTATION, COMMUNITY, AND SYSTEM PRESERVATION PROGRAM.

(a) **ESTABLISHMENT.**—In cooperation with appropriate State, tribal, regional, and local governments, the Secretary shall establish a comprehensive program to address the relationships among transportation, community, and system preservation plans and practices and identify private sector-based initiatives to improve such relationships.

23 USC 101 note.

(b) **PURPOSE.**—Through the program under this section, the Secretary shall facilitate the planning, development, and implementation of strategies to integrate transportation, community, and system preservation plans and practices that address one or more of the following:

- (1) Improve the efficiency of the transportation system of the United States.
- (2) Reduce the impacts of transportation on the environment.
- (3) Reduce the need for costly future investments in public infrastructure.
- (4) Provide efficient access to jobs, services, and centers of trade.
- (5) Examine community development patterns and identify strategies to encourage private sector development that achieves the purposes identified in paragraphs (1) through (4).

(c) **GENERAL AUTHORITY.**—The Secretary shall allocate funds made available to carry out this section to States, metropolitan

planning organizations, local governments, and tribal governments to carry out eligible projects to integrate transportation, community, and system preservation plans and practices.

(d) ELIGIBILITY.—A project described in subsection (c) is an eligible project under this section if the project—

(1) is eligible for assistance under title 23 or chapter 53 of title 49, United States Code; or

(2) is to conduct any other activity relating to transportation, community, and system preservation that the Secretary determines to be appropriate, including corridor preservation activities that are necessary to implement one or more of the following:

(A) Transit-oriented development plans.

(B) Traffic calming measures.

(C) Other coordinated transportation, community, and system preservation practices.

(e) CRITERIA.—In allocating funds made available to carry out this section, the Secretary shall give priority consideration to applicants that—

(1) have instituted preservation or development plans and programs that—

(A) are coordinated with State and local preservation or development plans, including transit-oriented development plans;

(B) promote cost-effective and strategic investments in transportation infrastructure that minimize adverse impacts on the environment; or

(C) promote innovative private sector strategies;

(2) have instituted other policies to integrate transportation, community, and system preservation practices, such as—

(A) spending policies that direct funds to high-growth areas;

(B) urban growth boundaries to guide metropolitan expansion;

(C) “green corridors” programs that provide access to major highway corridors for areas targeted for efficient and compact development; or

(D) other similar programs or policies as determined by the Secretary;

(3) have preservation or development policies that include a mechanism for reducing potential impacts of transportation activities on the environment;

(4) demonstrate a commitment to public and private involvement, including the involvement of nontraditional partners in the project team; and

(5) examine ways to encourage private sector investments that address the purposes of this section.

(f) EQUITABLE DISTRIBUTION.—In allocating funds to carry out this section, the Secretary shall ensure the equitable distribution of funds to a diversity of populations and geographic regions.

(g) FUNDING.—

(1) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section \$25,000,000 for fiscal year 2005 and \$61,250,000 for each of fiscal years 2006 through 2009.

(2) **CONTRACT AUTHORITY.**—Funds made available to carry out this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall not be transferable, and the Federal share for projects and activities carried out with such funds shall be determined in accordance with section 120(b) of title 23, United States Code.

(h) **CONFORMING AMENDMENT.**—Section 1221 of the Transportation Equity Act for the 21st Century (23 U.S.C. 101 note; 112 Stat. 221) is repealed.

SEC. 1118. TERRITORIAL HIGHWAY PROGRAM.

(a) **IN GENERAL.**—Chapter 2 of title 23, United States Code, is amended by striking section 215 and inserting the following:

“§ 215. Territorial highway program

“(a) **DEFINITIONS.**—In this section, the following definitions apply:

“(1) **PROGRAM.**—The term ‘program’ means the territorial highway program established under subsection (b).

“(2) **TERRITORY.**—The term ‘territory’ means any of the following territories of the United States:

“(A) American Samoa.

“(B) The Commonwealth of the Northern Mariana Islands.

“(C) Guam.

“(D) The United States Virgin Islands.

“(b) **PROGRAM.**—

“(1) **IN GENERAL.**—Recognizing the mutual benefits that will accrue to the territories and the United States from the improvement of highways in the territories, the Secretary may carry out a program to assist each government of a territory in the construction and improvement of a system of arterial and collector highways, and necessary inter-island connectors, that is—

“(A) designated by the Governor or chief executive officer of each territory; and

“(B) approved by the Secretary.

“(2) **FEDERAL SHARE.**—The Federal share of Federal financial assistance provided to territories under this section shall be in accordance with section 120(h).

“(c) **TECHNICAL ASSISTANCE.**—

“(1) **IN GENERAL.**—To continue a long-range highway development program, the Secretary may provide technical assistance to the governments of the territories to enable the territories to, on a continuing basis—

“(A) engage in highway planning;

“(B) conduct environmental evaluations;

“(C) administer right-of-way acquisition and relocation assistance programs; and

“(D) design, construct, operate, and maintain a system of arterial and collector highways, including necessary inter-island connectors.

“(2) **FORM AND TERMS OF ASSISTANCE.**—Technical assistance provided under paragraph (1), and the terms for the sharing

of information among territories receiving the technical assistance, shall be included in the agreement required by subsection (e).

“(d) NONAPPLICABILITY OF CERTAIN PROVISIONS.—

“(1) IN GENERAL.—Except to the extent that provisions of chapter 1 are determined by the Secretary to be inconsistent with the needs of the territories and the intent of the program, chapter 1 (other than provisions of chapter 1 relating to the apportionment and allocation of funds) shall apply to funds authorized to be appropriated for the program.

“(2) APPLICABLE PROVISIONS.—The agreement required by subsection (e) for each territory shall identify the sections of chapter 1 that are applicable to that territory and the extent of the applicability of those sections.

“(e) AGREEMENT.—

Deadline.

“(1) IN GENERAL.—Except as provided in paragraph (4), none of the funds made available for the program shall be available for obligation or expenditure with respect to any territory until the chief executive officer of the territory enters into an agreement with the Secretary (not later than 1 year after the date of enactment of SAFETEA-LU), providing that the government of the territory shall—

“(A) implement the program in accordance with applicable provisions of chapter 1 and subsection (d);

“(B) design and construct a system of arterial and collector highways, including necessary inter-island connectors, in accordance with standards that are—

“(i) appropriate for each territory; and

“(ii) approved by the Secretary;

“(C) provide for the maintenance of facilities constructed or operated under this section in a condition to adequately serve the needs of present and future traffic; and

“(D) implement standards for traffic operations and uniform traffic control devices that are approved by the Secretary.

“(2) TECHNICAL ASSISTANCE.—The agreement required by paragraph (1) shall—

“(A) specify the kind of technical assistance to be provided under the program;

“(B) include appropriate provisions regarding information sharing among the territories; and

“(C) delineate the oversight role and responsibilities of the territories and the Secretary.

“(3) REVIEW AND REVISION OF AGREEMENT.—The agreement entered into under paragraph (1) shall be reevaluated and, as necessary, revised, at least every 2 years.

“(4) EXISTING AGREEMENTS.—With respect to an agreement under the section between the Secretary and the chief executive officer of a territory that is in effect as of the date of enactment of the SAFETEA-LU—

“(A) the agreement shall continue in force until replaced by an agreement entered into in accordance with paragraph (1); and

“(B) amounts made available for the program under the existing agreement shall be available for obligation

or expenditure so long as the agreement, or the existing agreement entered into under paragraph (1), is in effect.

“(f) PERMISSIBLE USES OF FUNDS.—

“(1) IN GENERAL.—Funds made available for the program may be used only for the following projects and activities carried out in a territory:

“(A) Eligible surface transportation program projects described in section 133(b).

“(B) Cost-effective, preventive maintenance consistent with section 116(d).

“(C) Ferry boats, terminal facilities, and approaches, in accordance with subsections (b) and (c) of section 129.

“(D) Engineering and economic surveys and investigations for the planning, and the financing, of future highway programs.

“(E) Studies of the economy, safety, and convenience of highway use.

“(F) The regulation and equitable taxation of highway use.

“(G) Such research and development as are necessary in connection with the planning, design, and maintenance of the highway system.

“(2) PROHIBITION ON USE OF FUNDS FOR ROUTINE MAINTENANCE.—None of the funds made available for the program shall be obligated or expended for routine maintenance.

“(g) LOCATION OF PROJECTS.—Territorial highway projects (other than those described in paragraphs (1), (3), and (4) of section 133(b)) may not be undertaken on roads functionally classified as local.”.

(b) CONFORMING AMENDMENTS.—

(1) ELIGIBLE PROJECTS.—Section 103(b) of such title is amended—

(A) in the heading for paragraph (6) by striking “ELIGIBLE” and inserting “STATE ELIGIBLE”;

(B) in paragraph (6) by striking subparagraph (P); and

(C) by adding at the end the following:

“(7) TERRITORY ELIGIBLE PROJECTS.—Subject to approval by the Secretary, funds set aside for this program under section 104(b)(1) for the National Highway System may be obligated for projects eligible for assistance under the territorial highway program under section 215.”.

(2) FUNDING.—Section 104(b)(1)(A) of such title is amended by striking “to the Virgin Islands, Guam, American Samoa, and the Commonwealth of Northern Mariana Islands” and inserting “for the territorial highway program under section 215”.

(3) CLERICAL AMENDMENT.—The analysis for chapter 2 of such title is amended by striking the item relating to section 215 and inserting the following:

“215. Territorial highway program.”.

SEC. 1119. FEDERAL LANDS HIGHWAYS.

(a) FEDERAL SHARE PAYABLE.—

(1) IN GENERAL.—Section 120(k) of title 23, United States Code, is amended—

(A) by striking “Federal-aid highway”; and

(B) by striking “section 104” and inserting “this title or chapter 53 of title 49”.

(2) TECHNICAL REFERENCES.—Section 120(l) of such title is amended by striking “section 104” and inserting “this title or chapter 53 of title 49”.

(b) PAYMENTS TO FEDERAL AGENCIES FOR FEDERAL-AID PROJECTS.—Section 132 of such title is amended—

(1) by striking the first two sentences and inserting the following:

“(a) IN GENERAL.—In a case in which a proposed Federal-aid project is to be undertaken by a Federal agency in accordance with an agreement between a State and the Federal agency, the State may—

“(1) direct the Secretary to transfer the funds for the Federal share of the project directly to the Federal agency; or

“(2) make such deposit with, or payment to, the Federal agency as is required to meet the obligation of the State under the agreement for the work undertaken or to be undertaken by the Federal agency.

“(b) REIMBURSEMENT.—On execution with a State of a project agreement described in subsection (a), the Secretary may reimburse the State, using any available funds, for the estimated Federal share under this title of the obligation of the State deposited or paid under subsection (a)(2).”; and

(2) in the last sentence by striking “Any sums” and inserting the following:

“(c) RECOVERY AND CREDITING OF FUNDS.—Any sums”.

(c) ALLOCATIONS.—Section 202 of such title is amended—

(1) in subsection (a) by striking “(a) On October 1” and all that follows through “Such allocation” and inserting the following:

“(a) ALLOCATION BASED ON NEED.—

“(1) IN GENERAL.—On October 1 of each fiscal year, the Secretary shall allocate sums authorized to be appropriated for the fiscal year for forest development roads and trails according to the relative needs of the various national forests and grasslands.

“(2) PLANNING.—The allocation under paragraph (1)”;

(2) in subsection (d)(2)—

(A) by adding at the end the following:

“(E) TRANSFERRED FUNDS.—

“(i) IN GENERAL.—Not later than 30 days after the date on which funds are made available to the Secretary of the Interior under this paragraph, the funds shall be distributed to, and available for immediate use by, the eligible Indian tribes, in accordance with the formula for distribution of funds under the Indian reservation roads program.

“(ii) USE OF FUNDS.—Notwithstanding any other provision of this section, funds available to Indian tribes for Indian reservation roads shall be expended on projects identified in a transportation improvement program approved by the Secretary.”; and

(B) in subsection (d)(3)(A) by striking “under this title” and inserting “under this chapter and section 125(e)”.

Effective date.

Deadline.

(d) FEDERAL LANDS HIGHWAYS PROGRAM.—Section 202 of such title is amended by striking subsection (b) and inserting the following:

“(b) ALLOCATION FOR PUBLIC LANDS HIGHWAYS.—

“(1) PUBLIC LANDS HIGHWAYS.—

“(A) IN GENERAL.—On October 1 of each fiscal year, the Secretary shall allocate 34 percent of the sums authorized to be appropriated for that fiscal year for public lands highways among those States having unappropriated or unreserved public lands, nontaxable Indian lands, or other Federal reservations, on the basis of need in the States, respectively, as determined by the Secretary, on application of the State transportation departments of the respective States.

Effective date.

“(B) PREFERENCE.—In making the allocation under subparagraph (A), the Secretary shall give preference to those projects that are significantly impacted by Federal land and resource management activities that are proposed by a State that contains at least 3 percent of the total public land in the United States.

“(2) FOREST HIGHWAYS.—

“(A) IN GENERAL.—On October 1 of each fiscal year, the Secretary shall allocate 66 percent of the funds authorized to be appropriated for public lands highways for forest highways in accordance with section 134 of the Federal-Aid Highway Act of 1987 (23 U.S.C. 202 note; 101 Stat. 173).

Effective date.

“(B) PUBLIC ACCESS TO AND WITHIN NATIONAL FOREST SYSTEM.—In making the allocation under subparagraph (A), the Secretary shall give equal consideration to projects that provide access to and within the National Forest System, as identified by the Secretary of Agriculture through—

“(i) renewable resource and land use planning; and

“(ii) assessments of the impact of that planning on transportation facilities.”.

(e) BIA ADMINISTRATIVE EXPENSES.—Section 202(d)(2) of such title (as amended by subsection (c)(2) of this section) is amended by adding at the end the following:

“(F) ADMINISTRATIVE EXPENSES.—

“(i) IN GENERAL.—Of the funds authorized to be appropriated for Indian reservation roads, \$20,000,000 for fiscal year 2006, \$22,000,000 for fiscal year 2007, \$24,500,000 for fiscal year 2008, and \$27,000,000 for fiscal year 2009 may be used by the Secretary of the Interior for program management and oversight and project-related administrative expenses.

“(ii) HEALTH AND SAFETY ASSURANCES.—Notwithstanding any other provision of law, an Indian tribal government may approve plans, specifications, and estimates and commence road and bridge construction with funds made available for Indian reservation roads under the Transportation Equity Act for the 21st Century (Public Law 105–178) and SAFETEA–LU through a contract or agreement under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.) if the Indian tribal government—

“(I) provides assurances in the contract or agreement that the construction will meet or exceed applicable health and safety standards;

“(II) obtains the advance review of the plans and specifications from a State-licensed civil engineer that has certified that the plans and specifications meet or exceed the applicable health and safety standards; and

“(III) provides a copy of the certification under subclause (I) to the Deputy Assistant Secretary for Tribal Government Affairs or the Assistant Secretary for Indian Affairs, as appropriate.”.

(f) NATIONAL TRIBAL TRANSPORTATION FACILITY INVENTORY.—Section 202(d)(2) of such title (as amended by subsection (e)) is amended by adding at the end the following:

“(G) NATIONAL TRIBAL TRANSPORTATION FACILITY INVENTORY.—

Deadline.

“(i) IN GENERAL.—Not later than 2 years after the date of enactment of the SAFETEA-LU, the Secretary, in cooperation with the Secretary of the Interior, shall complete a comprehensive national inventory of transportation facilities that are eligible for assistance under the Indian reservation roads program.

“(ii) TRANSPORTATION FACILITIES INCLUDED IN THE INVENTORY.—For purposes of identifying the tribal transportation system and determining the relative transportation needs among Indian tribes, the Secretary shall include, at a minimum, transportation facilities that are eligible for assistance under the Indian reservation roads program that a tribe has requested, including facilities that—

“(I) were included in the Bureau of Indian Affairs system inventory for funding formula purposes in 1992 or any subsequent fiscal year;

“(II) were constructed or reconstructed with funds from the Highway Trust Funds (other than the Mass Transit Account) under the Indian reservation roads program since 1983;

“(III) are owned by an Indian tribal government; or

“(IV) are community streets or bridges within the exterior boundary of Indian reservations, Alaska Native villages, and other recognized Indian communities (including communities in former Indian reservations in Oklahoma) in which the majority of residents are American Indians or Alaska Natives; or

“(V) are primary access routes proposed by tribal governments, including roads between villages, roads to landfills, roads to drinking water sources, roads to natural resources identified for economic development, and roads that provide access to intermodal termini, such as airports, harbors, or boat landings.

“(iii) LIMITATION ON PRIMARY ACCESS ROUTES.—For purposes of this subparagraph, a proposed primary

access route is the shortest practicable route connecting 2 points of the proposed route.

“(iv) ADDITIONAL FACILITIES.—Nothing in this subparagraph shall preclude the Secretary from including additional transportation facilities that are eligible for funding under the Indian reservation roads program in the inventory used for the national funding allocation if such additional facilities are included in the inventory in a uniform and consistent manner nationally.

“(v) REPORT TO CONGRESS.—Not later than 90 days after the date of completion of the inventory under this subparagraph, the Secretary shall prepare and submit a report to Congress that includes the data gathered and the results of the inventory.”.

(g) INDIAN RESERVATION ROAD BRIDGES.—Section 202(d)(4) of such title is amended—

(1) in subparagraph (B)—

(A) by striking “(B) RESERVATION.—Of the amounts” and all that follows through “to replace,” and inserting the following:

“(B) FUNDING.—

“(i) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other funds made available for Indian reservation roads for each fiscal year, there is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) \$14,000,000 for each of fiscal years 2005 through 2009 to carry out planning, design, engineering, preconstruction, construction, and inspection of projects to replace;”;

(B) by adding at the end the following:

“(ii) AVAILABILITY.—Funds made available to carry out this subparagraph shall be available for obligation in the same manner as if such funds were apportioned under chapter 1.”;

(2) in subparagraph (C) by striking clause (iii) and inserting the following:

“(iii) be structurally deficient or functionally obsolete; and”;

(3) by striking subparagraph (D) and inserting the following:

“(D) APPROVAL REQUIREMENT.—

“(i) IN GENERAL.—Subject to clause (ii), on request by an Indian tribe or the Secretary of the Interior, the Secretary may make funds available under this subsection for preliminary engineering for Indian reservation road bridge projects.

“(ii) CONSTRUCTION AND CONSTRUCTION ENGINEERING.—The Secretary may make funds available under clause (i) for construction and construction engineering after approval of applicable plans, specifications, and estimates in accordance with this title.”.

(4) CONTRACTS AND AGREEMENTS WITH INDIAN TRIBES.—Section 202(d) of such title is amended by adding at the end the following:

“(5) CONTRACTS AND AGREEMENTS WITH INDIAN TRIBES.—

“(A) IN GENERAL.—Notwithstanding any other provision of law or any interagency agreement, program guideline, manual, or policy directive, all funds made available to an Indian tribal government under this chapter for a highway, road, bridge, parkway, or transit facility program or project that is located on an Indian reservation or provides access to the reservation or a community of the Indian tribe shall be made available, on the request of the Indian tribal government, to the Indian tribal government for use in carrying out, in accordance with the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), contracts and agreements for the planning, research, design, engineering, construction, and maintenance relating to the program or project.

“(B) EXCLUSION OF AGENCY PARTICIPATION.—In accordance with subparagraph (A), all funds for a program or project to which subparagraph (A) applies shall be paid to the Indian tribal government without regard to the organizational level at which the Department of the Interior has previously carried out, or the Department of Transportation has previously carried out under the Federal lands highway programs, the programs, functions, services, or activities involved.

“(C) CONSORTIA.—Two or more Indian tribes that are otherwise eligible to participate in a program or project to which this chapter applies may form a consortium to be considered as a single Indian tribe for the purpose of participating in the project under this section.

“(D) SECRETARY AS SIGNATORY.—Notwithstanding any other provision of law, the Secretary is authorized to enter into a funding agreement with an Indian tribal government to carry out a highway, road, bridge, parkway, or transit program or project under subparagraph (A) that is located on an Indian reservation or provides access to the reservation or a community of the Indian tribe.

“(E) FUNDING.—The amount an Indian tribal government receives for a program or project under subparagraph (A) shall equal the sum of the funding that the Indian tribal government would otherwise receive for the program or project in accordance with the funding formula established under this subsection and such additional amounts as the Secretary determines equal the amounts that would have been withheld for the costs of the Bureau of Indian Affairs for administration of the program or project.

“(F) ELIGIBILITY.—

“(i) IN GENERAL.—Subject to clause (ii), funds may be made available under subparagraph (A) to an Indian tribal government for a program or project in a fiscal year only if the Indian tribal government requesting such funds demonstrates to the satisfaction of the Secretary financial stability and financial management capability during the 3 fiscal years immediately preceding the fiscal year for which the request is being made.

“(ii) CRITERIA FOR DETERMINING FINANCIAL STABILITY AND FINANCIAL MANAGEMENT CAPABILITY.—An Indian tribal government that had no uncorrected

significant and material audit exceptions in the required annual audit of the Indian tribal government self-determination contracts or self-governance funding agreements with any Federal agency during the 3-fiscal year period referred in clause (i) shall be conclusive evidence of the financial stability and financial management capability for purposes of clause (i).

“(G) ASSUMPTION OF FUNCTIONS AND DUTIES.—An Indian tribal government receiving funding under subparagraph (A) for a program or project shall assume all functions and duties that the Secretary of the Interior would have performed with respect to a program or project under this chapter, other than those functions and duties that inherently cannot be legally transferred under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.).

“(H) POWERS.—An Indian tribal government receiving funding under subparagraph (A) for a program or project shall have all powers that the Secretary of the Interior would have exercised in administering the funds transferred to the Indian tribal government for such program or project under this section if the funds had not been transferred, except to the extent that such powers are powers that inherently cannot be legally transferred under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.).

“(I) DISPUTE RESOLUTION.—In the event of a disagreement between the Secretary or the Secretary of the Interior and an Indian tribe over whether a particular function, duty, or power may be lawfully transferred under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.), the Indian tribe shall have the right to pursue all alternative dispute resolutions and appeal procedures authorized by such Act, including regulations issued to carry out such Act.

“(J) TERMINATION OF CONTRACT OR AGREEMENT.—On the date of the termination of a contract or agreement under this section by an Indian tribal government, the Secretary shall transfer all funds that would have been allocated to the Indian tribal government under the contract or agreement to the Secretary of the Interior to provide continued transportation services in accordance with applicable law.”.

(h) PLANNING AND AGENCY COORDINATION.—Section 204 of such title is amended—

(1) in subsection (a)(1) by inserting “refuge roads,” after “parkways,”; and

(2) by striking subsection (b) and inserting the following:

“(b) USE OF FUNDS.—

“(1) IN GENERAL.—Funds made available for public lands highways, park roads and parkways, and Indian reservation roads shall be used by the Secretary and the Secretary of the appropriate Federal land management agency to pay the cost of—

“(A) transportation planning, research, and engineering and construction of, highways, roads, parkways, and transit

facilities located on public lands, national parks, and Indian reservations; and

“(B) operation and maintenance of transit facilities located on public lands, national parks, and Indian reservations.

“(2) CONTRACT.—In connection with an activity described in paragraph (1), the Secretary and the Secretary of the appropriate Federal land management agency may enter into a contract or other appropriate agreement with respect to such activity with—

“(A) a State (including a political subdivision of a State); or

“(B) an Indian tribe.

“(3) INDIAN RESERVATION ROADS.—In the case of an Indian reservation road—

“(A) Indian labor may be employed, in accordance with such rules and regulations as may be promulgated by the Secretary of the Interior, to carry out any construction or other activity described in paragraph (1); and

“(B) funds made available to carry out this section may be used to pay bridge preconstruction costs (including planning, design, and engineering).

“(4) FEDERAL EMPLOYMENT.—No maximum limitation on Federal employment shall be applicable to construction or improvement of Indian reservation roads.

“(5) AVAILABILITY OF FUNDS.—Funds made available under this section for each class of Federal lands highways shall be available for any transportation project eligible for assistance under this title that is within or adjacent to, or that provides access to, the areas served by the particular class of Federal lands highways.

“(6) RESERVATION OF FUNDS.—The Secretary of the Interior may reserve funds from administrative funds of the Bureau of Indian Affairs that are associated with the Indian reservation roads program to finance Indian technical centers under section 504(b).”.

(i) MAINTENANCE OF INDIAN RESERVATION ROADS.—Section 204(c) of such title is amended by striking the second and third sentences and inserting the following: “Notwithstanding any other provision of this title, of the amount of funds allocated for Indian reservation roads from the Highway Trust Fund, not more than 25 percent of the funds allocated to an Indian tribe may be expended for the purpose of maintenance, excluding road sealing which shall not be subject to any limitation. The Bureau of Indian Affairs shall continue to retain primary responsibility, including annual funding request responsibility, for road maintenance programs on Indian reservations. The Secretary shall ensure that funding made available under this subsection for maintenance of Indian reservation roads for each fiscal year is supplementary to and not in lieu of any obligation of funds by the Bureau of Indian Affairs for road maintenance programs on Indian reservations.”.

(j) REFUGE ROADS.—Section 204(k)(1) of such title is amended—

(1) in subparagraph (B)—

(A) by striking “(2), (5),” and inserting “(2), (3), (5),”; and

(B) by striking “and” after the semicolon;

(2) in subparagraph (C) by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

“(D) the non-Federal share of the cost of any project funded under this title or chapter 53 of title 49 that provides access to or within a wildlife refuge; and

“(E) maintenance and improvement of recreational trails; except that expenditures on trails under this subparagraph shall not exceed 5 percent of available funds for each fiscal year.”.

(k) TRIBAL-STATE ROAD MAINTENANCE AGREEMENTS.—Section 204 of such title is amended by adding at the end the following:

“(1) TRIBAL-STATE ROAD MAINTENANCE AGREEMENTS.—

“(1) IN GENERAL.—An Indian tribe and a State may enter into a road maintenance agreement under which an Indian tribe assumes the responsibilities of the State for—

“(A) Indian reservation roads; and

“(B) roads providing access to Indian reservation roads.

“(2) TRIBAL-STATE AGREEMENTS.—Agreements entered into under paragraph (1)—

“(A) shall be negotiated between the State and the Indian tribe; and

“(B) shall not require the approval of the Secretary.

“(3) ANNUAL REPORT.—Effective beginning with fiscal year 2005, the Secretary shall prepare and submit to Congress an annual report that identifies—

Effective date.

“(A) the Indian tribes and States that have entered into agreements under paragraph (1);

“(B) the number of miles of roads for which Indian tribes have assumed maintenance responsibilities; and

“(C) the amount of funding transferred to Indian tribes for the fiscal year under agreements entered into under paragraph (1).”.

(l) DEPUTY ASSISTANT SECRETARY OF TRANSPORTATION FOR TRIBAL GOVERNMENT AFFAIRS.—Section 102 of title 49, United States Code, is amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(2) by inserting after subsection (e) the following:

“(f) DEPUTY ASSISTANT SECRETARY FOR TRIBAL GOVERNMENT AFFAIRS.—

“(1) ESTABLISHMENT.—In accordance with Federal policies promoting Indian self determination, the Department of Transportation shall have, within the office of the Secretary, a Deputy Assistant Secretary for Tribal Government Affairs appointed by the President to plan, coordinate, and implement the Department of Transportation policy and programs serving Indian tribes and tribal organizations and to coordinate tribal transportation programs and activities in all offices and administrations of the Department and to be a participant in any negotiated rulemaking relating to, or having an impact on, projects, programs, or funding associated with the tribal transportation program.

President.

“(2) RESERVATION OF TRUST OBLIGATIONS.—

“(A) RESPONSIBILITY OF SECRETARY.—In carrying out this title, the Secretary shall be responsible to exercise the trust obligations of the United States to Indians and

Indian tribes to ensure that the rights of a tribe or individual Indian are protected.

“(B) PRESERVATION OF UNITED STATES RESPONSIBILITY.—Nothing in this title shall absolve the United States from any responsibility to Indians and Indian tribes, including responsibilities derived from the trust relationship and any treaty, executive order, or agreement between the United States and an Indian tribe.”.

(m) FOREST HIGHWAYS.—Of the amounts made available for public lands highways under section 1101—

(1) not to exceed \$20,000,000 per fiscal year may be used for the maintenance of forest highways;

(2) not to exceed \$1,000,000 per fiscal year may be used for signage identifying public hunting and fishing access; and

(3) not to exceed \$10,000,000 per fiscal year shall be used by the Secretary of Agriculture to pay the costs of facilitating the passage of aquatic species beneath roads in the National Forest System, including the costs of constructing, maintaining, replacing, or removing culverts and bridges, as appropriate.

(n) WILDLIFE VEHICLE COLLISION REDUCTION STUDY.—

(1) IN GENERAL.—The Secretary shall conduct a study of methods to reduce collisions between motor vehicles and wildlife (in this subsection referred to as “wildlife vehicle collisions”).

(2) CONTENTS.—

(A) AREAS OF STUDY.—The study shall include an assessment of the causes and impacts of wildlife vehicle collisions and solutions and best practices for reducing such collisions.

(B) METHODS FOR CONDUCTING THE STUDY.—In carrying out the study, the Secretary shall—

(i) conduct a thorough literature review; and

(ii) survey current practices of the Department of Transportation.

(3) CONSULTATION.—In carrying out the study, the Secretary shall consult with appropriate experts in the field of wildlife vehicle collisions.

(4) REPORT.—

(A) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to Congress a report on the results of the study.

(B) CONTENTS.—The report shall include a description of each of the following:

(i) Causes of wildlife vehicle collisions.

(ii) Impacts of wildlife vehicle collisions.

(iii) Solutions to and prevention of wildlife vehicle collisions.

(5) MANUAL.—

(A) DEVELOPMENT.—Based upon the results of the study, the Secretary shall develop a best practices manual to support State efforts to reduce wildlife vehicle collisions.

(B) AVAILABILITY.—The manual shall be made available to States not later than 1 year after the date of transmission of the report under paragraph (4).

(C) CONTENTS.—The manual shall include, at a minimum, the following:

(i) A list of best practices addressing wildlife vehicle collisions.

23 USC 401 note.

Deadline.

(ii) A list of information, technical, and funding resources for addressing wildlife vehicle collisions.

(iii) Recommendations for addressing wildlife vehicle collisions.

(iv) Guidance for developing a State action plan to address wildlife vehicle collisions.

(6) TRAINING.—Based upon the manual developed under paragraph (5), the Secretary shall develop a training course on addressing wildlife vehicle collisions for transportation professionals.

(o) LIMITATION ON APPLICABILITY.—The requirements of the January 4, 2005, Federal Highway Administration, a final rule on the implementation of the Uniform Relocation Assistance and Real Property Acquisition policy Act of 1970 (42 U.S.C. 4601 et seq.) shall not apply to the voluntary conservation easement activities of the Department of Agriculture or the Department of the Interior.

SEC. 1120. PUERTO RICO HIGHWAY PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code, is amended by adding at the end the following:

“§ 165. Puerto Rico highway program

“(a) IN GENERAL.—The Secretary shall allocate funds made available to carry out this section for each of fiscal years 2005 through 2009 to the Commonwealth of Puerto Rico to carry out a highway program in the Commonwealth.

“(b) APPLICABILITY OF TITLE.—Amounts made available by section 1101(a)(14) of the SAFETEA-LU shall be available for obligation in the same manner as if such funds were apportioned under this chapter.

“(c) TREATMENT OF FUNDS.—Amounts made available to carry out this section for a fiscal year shall be administered as follows:

“(1) APPORTIONMENT.—For the purpose of imposing any penalty under this title or title 49, the amounts shall be treated as being apportioned to Puerto Rico under sections 104(b) and 144, for each program funded under those sections in an amount determined by multiplying—

“(A) the aggregate of the amounts for the fiscal year;

by

“(B) the ratio that—

“(i) the amount of funds apportioned to Puerto Rico for each such program for fiscal year 1997; bears to

“(ii) the total amount of funds apportioned to Puerto Rico for all such programs for fiscal year 1997.

“(2) PENALTY.—The amounts treated as being apportioned to Puerto Rico under each section referred to in paragraph (1) shall be deemed to be required to be apportioned to Puerto Rico under that section for purposes of the imposition of any penalty under this title or title 49.

“(d) EFFECT ON ALLOCATIONS AND APPORTIONMENTS.—Subject to subsection (c)(2), nothing in this section affects any allocation under section 105 and any apportionment under sections 104 and 144.”.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of such title is amended by adding at the end the following:

“165. Puerto Rico highway program.”.

23 USC 101 note.

(c) DEFINITION OF STATE.—For the purposes of apportioning funds under sections 104, 105, 130, 144, and 206 of title 23, United States Code, and section 1404, relating to the safe routes to school program, the term “State” means any of the 50 States and the District of Columbia.

SEC. 1121. HOV FACILITIES.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1120 of this Act), is amended by adding at the end the following:

“§ 166. HOV facilities

“(a) IN GENERAL.—

“(1) AUTHORITY OF STATE AGENCIES.—A State agency that has jurisdiction over the operation of a HOV facility shall establish the occupancy requirements of vehicles operating on the facility.

“(2) OCCUPANCY REQUIREMENT.—Except as otherwise provided by this section, no fewer than two occupants per vehicle may be required for use of a HOV facility.

“(b) EXCEPTIONS.—

Applicability.

“(1) IN GENERAL.—Notwithstanding the occupancy requirement of subsection (a)(2), the exceptions in paragraphs (2) through (5) shall apply with respect to a State agency operating a HOV facility.

“(2) MOTORCYCLES AND BICYCLES.—

“(A) IN GENERAL.—Subject to subparagraph (B), the State agency shall allow motorcycles and bicycles to use the HOV facility.

“(B) SAFETY EXCEPTION.—

“(i) IN GENERAL.—A State agency may restrict use of the HOV facility by motorcycles or bicycles (or both) if the agency certifies to the Secretary that such use would create a safety hazard and the Secretary accepts the certification.

“(ii) ACCEPTANCE OF CERTIFICATION.—The Secretary may accept a certification under this subparagraph only after the Secretary publishes notice of the certification in the Federal Register and provides an opportunity for public comment.

“(3) PUBLIC TRANSPORTATION VEHICLES.—The State agency may allow public transportation vehicles to use the HOV facility if the agency—

Guidelines.

“(A) establishes requirements for clearly identifying the vehicles; and

Procedures.

“(B) establishes procedures for enforcing the restrictions on the use of the facility by the vehicles.

“(4) HIGH OCCUPANCY TOLL VEHICLES.—The State agency may allow vehicles not otherwise exempt pursuant to this subsection to use the HOV facility if the operators of the vehicles pay a toll charged by the agency for use of the facility and the agency—

“(A) establishes a program that addresses how motorists can enroll and participate in the toll program;

“(B) develops, manages, and maintains a system that will automatically collect the toll; and

“(C) establishes policies and procedures to—

“(i) manage the demand to use the facility by varying the toll amount that is charged; and

“(ii) enforce violations of use of the facility.

Procedures.

“(5) LOW EMISSION AND ENERGY-EFFICIENT VEHICLES.—

“(A) INHERENTLY LOW EMISSION VEHICLE.—Before September 30, 2009, the State agency may allow vehicles that are certified as inherently low-emission vehicles pursuant to section 88.311–93 of title 40, Code of Federal Regulations (or successor regulations), and are labeled in accordance with section 88.312–93 of such title (or successor regulations), to use the HOV facility if the agency establishes procedures for enforcing the restrictions on the use of the facility by the vehicles.

“(B) OTHER LOW EMISSION AND ENERGY-EFFICIENT VEHICLES.—Before September 30, 2009, the State agency may allow vehicles certified as low emission and energy-efficient vehicles under subsection (e), and labeled in accordance with subsection (e), to use the HOV facility if the operators of the vehicles pay a toll charged by the agency for use of the facility and the agency—

“(i) establishes a program that addresses the selection of vehicles under this paragraph; and

“(ii) establishes procedures for enforcing the restrictions on the use of the facility by the vehicles.

Procedures.

“(C) AMOUNT OF TOLLS.—Under subparagraph (B), a State agency may charge no toll or may charge a toll that is less than tolls charged under paragraph (3).

“(c) REQUIREMENTS APPLICABLE TO TOLLS.—

“(1) IN GENERAL.—Tolls may be charged under paragraphs (4) and (5) of subsection (b) notwithstanding section 301 and, except as provided in paragraphs (2) and (3), subject to the requirements of section 129.

“(2) HOV FACILITIES ON THE INTERSTATE SYSTEM.—Notwithstanding section 129, tolls may be charged under paragraphs (4) and (5) of subsection (b) on a HOV facility on the Interstate System.

“(3) EXCESS TOLL REVENUES.—If a State agency makes a certification under section 129(a)(3) with respect to toll revenues collected under paragraphs (4) and (5) of subsection (b), the State, in the use of toll revenues under that sentence, shall give priority consideration to projects for developing alternatives to single occupancy vehicle travel and projects for improving highway safety.

“(d) HOV FACILITY MANAGEMENT, OPERATION, MONITORING, AND ENFORCEMENT.—

“(1) IN GENERAL.—A State agency that allows vehicles to use a HOV facility under paragraph (4) or (5) of subsection (b) in a fiscal year shall certify to the Secretary that the agency will carry out the following responsibilities with respect to the facility in the fiscal year:

Certification.

“(A) Establishing, managing, and supporting a performance monitoring, evaluation, and reporting program for

the facility that provides for continuous monitoring, assessment, and reporting on the impacts that the vehicles may have on the operation of the facility and adjacent highways.

“(B) Establishing, managing, and supporting an enforcement program that ensures that the facility is being operated in accordance with the requirements of this section.

“(C) Limiting or discontinuing the use of the facility by the vehicles if the presence of the vehicles has degraded the operation of the facility.

“(2) DEGRADED FACILITY.—

“(A) DEFINITION OF MINIMUM AVERAGE OPERATING SPEED.—In this paragraph, the term ‘minimum average operating speed’ means—

“(i) 45 miles per hour, in the case of a HOV facility with a speed limit of 50 miles per hour or greater; and

“(ii) not more than 10 miles per hour below the speed limit, in the case of a HOV facility with a speed limit of less than 50 miles per hour.

“(B) STANDARD FOR DETERMINING DEGRADED FACILITY.—For purposes of paragraph (1), the operation of a HOV facility shall be considered to be degraded if vehicles operating on the facility are failing to maintain a minimum average operating speed 90 percent of the time over a consecutive 180-day period during morning or evening weekday peak hour periods (or both).

“(C) MANAGEMENT OF LOW EMISSION AND ENERGY-EFFICIENT VEHICLES.—In managing the use of HOV lanes by low emission and energy-efficient vehicles that do not meet applicable occupancy requirements, a State agency may increase the percentages described in subsection (f)(3)(B)(i).

Deadline. “(e) CERTIFICATION OF LOW EMISSION AND ENERGY-EFFICIENT VEHICLES.—Not later than 180 days after the date of enactment of this section, the Administrator of the Environmental Protection Agency shall—

Regulations. “(1) issue a final rule establishing requirements for certification of vehicles as low emission and energy-efficient vehicles for purposes of this section and requirements for the labeling of the vehicles; and

Guidelines. “(2) establish guidelines and procedures for making the vehicle comparisons and performance calculations described in subsection (f)(3)(B), in accordance with section 32908(b) of title 49.

“(f) DEFINITIONS.—In this section, the following definitions apply:

“(1) ALTERNATIVE FUEL VEHICLE.—The term ‘alternative fuel vehicle’ means a vehicle that is operating on—

“(A) methanol, denatured ethanol, or other alcohols;

“(B) a mixture containing at least 85 percent of methanol, denatured ethanol, and other alcohols by volume with gasoline or other fuels;

“(C) natural gas;

“(D) liquefied petroleum gas;

“(E) hydrogen;

“(F) coal derived liquid fuels;

“(G) fuels (except alcohol) derived from biological materials;

“(H) electricity (including electricity from solar energy);
or

“(I) any other fuel that the Secretary prescribes by regulation that is not substantially petroleum and that would yield substantial energy security and environmental benefits, including fuels regulated under section 490 of title 10, Code of Federal Regulations (or successor regulations).

“(2) HOV FACILITY.—The term ‘HOV facility’ means a high occupancy vehicle facility.

“(3) LOW EMISSION AND ENERGY-EFFICIENT VEHICLE.—The term ‘low emission and energy-efficient vehicle’ means a vehicle that—

“(A) has been certified by the Administrator as meeting the Tier II emission level established in regulations prescribed by the Administrator under section 202(i) of the Clean Air Act (42 U.S.C. 7521(i)) for that make and model year vehicle; and

“(B)(i) is certified by the Administrator of the Environmental Protection Agency, in consultation with the manufacturer, to have achieved not less than a 50-percent increase in city fuel economy or not less than a 25-percent increase in combined city-highway fuel economy (or such greater percentage of city or city-highway fuel economy as may be determined by a State under subsection (d)(2)(C)) relative to a comparable vehicle that is an internal combustion gasoline fueled vehicle (other than a vehicle that has propulsion energy from onboard hybrid sources); or

“(ii) is an alternative fuel vehicle.

“(4) PUBLIC TRANSPORTATION VEHICLE.—The term ‘public transportation vehicle’ means a vehicle that—

“(A) provides designated public transportation (as defined in section 221 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12141) or provides public school transportation (to and from public or private primary, secondary, or tertiary schools); and

“(B)(i) is owned or operated by a public entity;

“(ii) is operated under a contract with a public entity;

or

“(iii) is operated pursuant to a license by the Secretary or a State agency to provide motorbus or school vehicle transportation services to the public.

“(5) STATE AGENCY.—

“(A) IN GENERAL.—The term ‘State agency’, as used with respect to a HOV facility, means an agency of a State or local government having jurisdiction over the operation of the facility.

“(B) INCLUSION.—The term ‘State agency’ includes a State transportation department.”.

(b) CONFORMING AMENDMENTS.—

(1) PROGRAM EFFICIENCIES.—Section 102 of title 23, United States Code, is amended—

(A) by striking subsection (a); and

(B) by redesignating subsections (b) and (c) as subsections (a) and (b), respectively.

(2) CHAPTER ANALYSIS.—The analysis for such subchapter (as amended by section 1120 of this Act) is amended by adding at the end the following:

“166. HOV facilities.”.

(c) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary and the States should provide additional incentives (including the use of high occupancy vehicle lanes on State and Interstate highways) for the purchase and use of hybrid and other fuel efficient vehicles, which have been proven to minimize air emissions and decrease consumption of fossil fuels.

SEC. 1122. DEFINITIONS.

(a) TRANSPORTATION ENHANCEMENT ACTIVITY.—Section 101(a)(35) of title 23, United States Code, is amended to read as follows:

“(35) TRANSPORTATION ENHANCEMENT ACTIVITY.—The term ‘transportation enhancement activity’ means, with respect to any project or the area to be served by the project, any of the following activities as the activities relate to surface transportation:

“(A) Provision of facilities for pedestrians and bicycles.

“(B) Provision of safety and educational activities for pedestrians and bicyclists.

“(C) Acquisition of scenic easements and scenic or historic sites (including historic battlefields).

“(D) Scenic or historic highway programs (including the provision of tourist and welcome center facilities).

“(E) Landscaping and other scenic beautification.

“(F) Historic preservation.

“(G) Rehabilitation and operation of historic transportation buildings, structures, or facilities (including historic railroad facilities and canals).

“(H) Preservation of abandoned railway corridors (including the conversion and use of the corridors for pedestrian or bicycle trails).

“(I) Inventory, control, and removal of outdoor advertising.

“(J) Archaeological planning and research.

“(K) Environmental mitigation—

“(i) to address water pollution due to highway runoff; or

“(ii) reduce vehicle-caused wildlife mortality while maintaining habitat connectivity.

“(L) Establishment of transportation museums.”.

(b) ADVANCED TRUCK STOP ELECTRIFICATION SYSTEM.—Such section 101(a) is amended by adding at the end the following:

“(38) ADVANCED TRUCK STOP ELECTRIFICATION SYSTEM.—The term ‘advanced truck stop electrification system’ means a system that delivers heat, air conditioning, electricity, or communications to a heavy duty vehicle.”.

Subtitle B—Congestion Relief

23 USC 303 note. **SEC. 1201. REAL-TIME SYSTEM MANAGEMENT INFORMATION PROGRAM.**

(a) ESTABLISHMENT.—

(1) **IN GENERAL.**—The Secretary shall establish a real-time system management information program to provide, in all States, the capability to monitor, in real-time, the traffic and travel conditions of the major highways of the United States and to share that information to improve the security of the surface transportation system, to address congestion problems, to support improved response to weather events and surface transportation incidents, and to facilitate national and regional highway traveler information.

(2) **PURPOSES.**—The purposes of the real-time system management information program are to—

(A) establish, in all States, a system of basic real-time information for managing and operating the surface transportation system;

(B) identify longer range real-time highway and transit monitoring needs and develop plans and strategies for meeting such needs; and

(C) provide the capability and means to share that data with State and local governments and the traveling public.

(b) **DATA EXCHANGE FORMATS.**—Not later than 2 years after the date of enactment of this Act, the Secretary shall establish data exchange formats to ensure that the data provided by highway and transit monitoring systems, including statewide incident reporting systems, can readily be exchanged across jurisdictional boundaries, facilitating nationwide availability of information. Deadline.

(c) **REGIONAL INTELLIGENT TRANSPORTATION SYSTEM ARCHITECTURE.**—

(1) **ADDRESSING INFORMATION NEEDS.**—As State and local governments develop or update regional intelligent transportation system architectures, described in section 940.9 of title 23, Code of Federal Regulations, such governments shall explicitly address real-time highway and transit information needs and the systems needed to meet such needs, including addressing coverage, monitoring systems, data fusion and archiving, and methods of exchanging or sharing highway and transit information.

(2) **DATA EXCHANGE.**—States shall incorporate the data exchange formats established by the Secretary under subsection (b) to ensure that the data provided by highway and transit monitoring systems may readily be exchanged with State and local governments and may be made available to the traveling public.

(d) **ELIGIBILITY.**—Subject to project approval by the Secretary, a State may obligate funds apportioned to the State under sections 104(b)(1), 104(b)(2), and 104(b)(3) of title 23, United States Code, for activities relating to the planning and deployment of real-time monitoring elements that advance the goals and purposes described in subsection (a).

(e) **LIMITATION ON STATUTORY CONSTRUCTION.**—Nothing in this section shall be construed as altering or otherwise affecting the applicability of the requirements of chapter 1 of title 23, United States Code (including requirements relating to the eligibility of a project for assistance under the program, the location of the project, and the Federal-share payable on account of the project), to amounts apportioned to a State for a program under section

104(b) that are obligated by the State for activities and projects under this section.

(f) **STATEWIDE INCIDENT REPORTING SYSTEM DEFINED.**—In this section, the term “statewide incident reporting system” means a statewide system for facilitating the real-time electronic reporting of surface transportation incidents to a central location for use in monitoring the event, providing accurate traveler information, and responding to the incident as appropriate.

Subtitle C—Mobility and Efficiency

23 USC 101 note. **SEC. 1301. PROJECTS OF NATIONAL AND REGIONAL SIGNIFICANCE.**

(a) **FINDINGS.**—Congress finds the following:

(1) Under current law, surface transportation programs rely primarily on formula capital apportionments to States.

(2) Despite the significant increase for surface transportation program funding in the Transportation Equity Act of the 21st Century, current levels of investment are insufficient to fund critical high-cost transportation infrastructure facilities that address critical national economic and transportation needs.

(3) Critical high-cost transportation infrastructure facilities often include multiple levels of government, agencies, modes of transportation, and transportation goals and planning processes that are not easily addressed or funded within existing surface transportation program categories.

(4) Projects of national and regional significance have national and regional benefits, including improving economic productivity by facilitating international trade, relieving congestion, and improving transportation safety by facilitating passenger and freight movement.

(5) The benefits of projects described in paragraph (4) accrue to local areas, States, and the Nation as a result of the effect such projects have on the national transportation system.

(6) A program dedicated to constructing projects of national and regional significance is necessary to improve the safe, secure, and efficient movement of people and goods throughout the United States and improve the health and welfare of the national economy.

(b) **ESTABLISHMENT OF PROGRAM.**—The Secretary shall establish a program to provide grants to States for projects of national and regional significance.

(c) **DEFINITIONS.**—In this section, the following definitions apply:

(1) **ELIGIBLE PROJECT COSTS.**—The term “eligible project costs” means the costs of—

(A) development phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, preliminary engineering and design work, and other preconstruction activities; and

(B) construction, reconstruction, rehabilitation, and acquisition of real property (including land related to the project and improvements to land), environmental mitigation, construction contingencies, acquisition of equipment, and operational improvements.

(2) ELIGIBLE PROJECT.—The term “eligible project” means any surface transportation project eligible for Federal assistance under title 23, United States Code, including freight railroad projects and activities eligible under such title.

(3) STATE.—The term “State” has the meaning such term has in section 101(a) of title 23, United States Code.

(d) ELIGIBILITY.—To be eligible for assistance under this section, a project shall have eligible project costs that are reasonably anticipated to equal or exceed the lesser of—

(1) \$500,000,000; or

(2) 75 percent of the amount of Federal highway assistance funds apportioned for the most recently completed fiscal year to the State in which the project is located.

(e) APPLICATIONS.—Each State seeking to receive a grant under this section for an eligible project shall submit to the Secretary an application in such form and in accordance with such requirements as the Secretary shall establish.

(f) COMPETITIVE GRANT SELECTION AND CRITERIA FOR GRANTS.—

(1) IN GENERAL.—The Secretary shall—

(A) establish criteria for selecting among projects that meet the eligibility criteria specified in subsection (d);

(B) conduct a national solicitation for applications; and

(C) award grants on a competitive basis.

(2) CRITERIA FOR GRANTS.—The Secretary may approve a grant under this section for a project only if the Secretary determines that the project—

(A) is based on the results of preliminary engineering;

(B) is justified based on the ability of the project—

(i) to generate national economic benefits, including creating jobs, expanding business opportunities, and impacting the gross domestic product;

(ii) to reduce congestion, including impacts in the State, region, and Nation;

(iii) to improve transportation safety, including reducing transportation accidents, injuries, and fatalities;

(iv) to otherwise enhance the national transportation system; and

(v) to garner support for non-Federal financial commitments and provide evidence of stable and dependable financing sources to construct, maintain, and operate the infrastructure facility; and

(C) is supported by an acceptable degree of non-Federal financial commitments, including evidence of stable and dependable financing sources to construct, maintain, and operate the infrastructure facility.

(3) SELECTION CONSIDERATIONS.—In selecting a project under this section, the Secretary shall consider the extent to which the project—

(A) leverages Federal investment by encouraging non-Federal contributions to the project, including contributions from public-private partnerships;

(B) uses new technologies, including intelligent transportation systems, that enhance the efficiency of the project; and

(C) helps maintain or protect the environment.

(4) PRELIMINARY ENGINEERING.—In evaluating a project under paragraph (2)(A), the Secretary shall analyze and consider the results of preliminary engineering for the project.

(5) NON-FEDERAL FINANCIAL COMMITMENT.—

(A) EVALUATION OF PROJECT.—In evaluating a project under paragraph (2)(C), the Secretary shall require that—

(i) the proposed project plan provides for the availability of contingency amounts that the Secretary determines to be reasonable to cover unanticipated cost increases; and

(ii) each proposed non-Federal source of capital and operating financing is stable, reliable, and available within the proposed project timetable.

(B) CONSIDERATIONS.—In assessing the stability, reliability, and availability of proposed sources of non-Federal financing under subparagraph (A), the Secretary shall consider—

(i) existing financial commitments;

(ii) the degree to which financing sources are dedicated to the purposes proposed;

(iii) any debt obligation that exists or is proposed by the recipient for the proposed project; and

(iv) the extent to which the project has a non-Federal financial commitment that exceeds the required non-Federal share of the cost of the project.

Deadline.

(6) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Secretary shall issue regulations on the manner in which the Secretary will evaluate and rate the projects based on the results of preliminary engineering, project justification, and the degree of non-Federal financial commitment, as required under this subsection.

(7) PROJECT EVALUATION AND RATING.—

(A) IN GENERAL.—A proposed project may advance from preliminary engineering to final design and construction only if the Secretary finds that the project meets the requirements of this subsection and there is a reasonable likelihood that the project will continue to meet such requirements.

(B) EVALUATION AND RATING.—In making such findings, the Secretary shall evaluate and rate the project as “highly recommended”, “recommended”, or “not recommended” based on the results of preliminary engineering, the project justification criteria, and the degree of non-Federal financial commitment, as required under this subsection. In rating the projects, the Secretary shall provide, in addition to the overall project rating, individual ratings for each of the criteria established under the regulations issued under paragraph (6).

(g) LETTERS OF INTENT AND FULL FUNDING GRANT AGREEMENTS.—

(1) LETTER OF INTENT.—

(A) IN GENERAL.—The Secretary may issue a letter of intent to an applicant announcing an intention to obligate, for a project under this section, an amount from future available budget authority specified in law that is not more than the amount stipulated as the financial participation of the Secretary in the project.

(B) NOTIFICATION.—At least 60 days before issuing a letter under subparagraph (A) or entering into a full funding grant agreement, the Secretary shall notify in writing the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate of the proposed letter or agreement. The Secretary shall include with the notification a copy of the proposed letter or agreement as well as the evaluations and ratings for the project.

Deadline.

Records.

(C) NOT AN OBLIGATION.—The issuance of a letter is deemed not to be an obligation under sections 1108(c), 1108(d), 1501, and 1502(a) of title 31, United States Code, or an administrative commitment.

(D) OBLIGATION OR COMMITMENT.—An obligation or administrative commitment may be made only when contract authority is allocated to a project.

(2) FULL FUNDING GRANT AGREEMENT.—

(A) IN GENERAL.—A project financed under this subsection shall be carried out through a full funding grant agreement. The Secretary shall enter into a full funding grant agreement based on the evaluations and ratings required under subsection (f)(7).

(B) TERMS.—If the Secretary makes a full funding grant agreement with an applicant, the agreement shall—

(i) establish the terms of participation by the United States Government in a project under this section;

(ii) establish the maximum amount of Government financial assistance for the project;

(iii) cover the period of time for completing the project, including a period extending beyond the period of an authorization; and

(iv) make timely and efficient management of the project easier according to the laws of the United States.

(C) AGREEMENT.—An agreement under this paragraph obligates an amount of available budget authority specified in law and may include a commitment, contingent on amounts to be specified in law in advance for commitments under this paragraph, to obligate an additional amount from future available budget authority specified in law. The agreement shall state that the contingent commitment is not an obligation of the Government. Interest and other financing costs of efficiently carrying out a part of the project within a reasonable time are a cost of carrying out the project under a full funding grant agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a way satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

(3) AMOUNTS.—The total estimated amount of future obligations of the Government and contingent commitments to incur obligations covered by all outstanding letters of intent and full funding grant agreements may be not more than the greater of the amount authorized to carry out this section or an amount

equivalent to the last 2 fiscal years of funding authorized to carry out this section less an amount the Secretary reasonably estimates is necessary for grants under this section not covered by a letter. The total amount covered by new letters and contingent commitments included in full funding grant agreements may be not more than a limitation specified in law.

(h) GRANT REQUIREMENTS.—

(1) IN GENERAL.—A grant for a project under this section shall be subject to all of the requirements of title 23, United States Code.

(2) OTHER TERMS AND CONDITIONS.—The Secretary shall require that all grants under this section be subject to all terms, conditions, and requirements that the Secretary decides are necessary or appropriate for purposes of this section, including requirements for the disposition of net increases in value of real property resulting from the project assisted under this section.

(i) GOVERNMENT'S SHARE OF PROJECT COST.—Based on engineering studies, studies of economic feasibility, and information on the expected use of equipment or facilities, the Secretary shall estimate the cost of a project receiving assistance under this section. A grant for the project is for 80 percent of the project cost, unless the grant recipient requests a lower grant percentage. A refund or reduction of the remainder may be made only if a refund of a proportional amount of the grant of the Government is made at the same time.

(j) FISCAL CAPACITY CONSIDERATIONS.—If the Secretary gives priority consideration to financing projects that include more than the non-Government share required under subsection (i) the Secretary shall give equal consideration to differences in the fiscal capacity of State and local governments.

(k) REPORTS.—

(1) ANNUAL REPORT.—Not later than the first Monday in February of each year, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report that includes a proposal on the allocation of amounts to be made available to finance grants under this section.

(2) RECOMMENDATIONS ON FUNDING.—The annual report under this paragraph shall include evaluations and ratings, as required under subsection (f). The report shall also include recommendations of projects for funding based on the evaluations and ratings and on existing commitments and anticipated funding levels for the next 3 fiscal years and for the next 10 fiscal years based on information currently available to the Secretary.

(l) APPLICABILITY OF TITLE 23.—Funds made available to carry out this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall not be transferable and shall remain available until expended and the Federal share of the cost of a project under this section shall be as provided in this section.

(m) DESIGNATED PROJECTS.—Notwithstanding any other provision of this section, the Secretary shall allocate for each of fiscal

years 2005, 2006, 2007, 2008, and 2009, from funds made available to carry out this section, 10 percent, 20 percent, 25 percent, 25 percent, and 20 percent respectively, of the following amounts for grants to carry out the following projects under this section:

No.	State	Project Description	Amount
1.	CA	Bakersfield Beltway System	\$140,000,000
2.	VA, WV, OH	Heartland Corridor Project including multiple intermodal facility improvements and improvements to facilitate the movement of intermodal freight from VA to OH	\$90,000,000
3.	CA	Roadway improvements in and around the former Norton Air Force Base as part of the Inland Empire Goods Movement Gateway project	\$55,000,000
4.	MI	Planning, design, and construction of a new American border plaza at the Blue Water Bridge in or near Port Huron, MI	\$20,000,000
5.	IL	Construction of O'Hare Bypass/Elgin O'Hare Extension	\$140,000,000
6.	WI	Reconstruction of the Marquette Interchange, Milwaukee WI	\$30,000,000
7.	IL	CREATE	\$100,000,000
8.	OR	I–5 Bridge repair, replacement and associated improvements in the I–5 corridor	\$160,000,000
9.	CA	Alameda Corridor East	\$125,000,000
10.	IL	Mississippi River Bridge and related roads	\$150,000,000
11.	CA	Transbay Terminal	\$27,000,000
12.	NY	Cross Harbor Freight Movement Project, New York	\$100,000,000
13.	WA	Alaska Way Viaduct and Seawall Replacement ..	\$100,000,000
14.	CA	Gerald Desmond/I–710 Gateway Project	\$100,000,000
15.	CO	Denver's Union Station	\$50,000,000
16.	MN	Union Depot Multimodal Transit Facility	\$50,000,000
17.	CA	Sacramento Intermodal Station	\$3,000,000
18.	NJ	Liberty Corridor	\$100,000,000
19.	NM	Relocate the El Paso, TX rail yard to Santa Teresa	\$14,000,000

No.	State	Project Description	Amount
20.	PA	Route 23/US 422 Interchange Modernization and Route 363/US 422 Interchange Improvement Project and U.S. 422 Widening, Montgomery County, PA	\$20,000,000
21.	PA	Route 28 Widening and improvements, Allegheny County, PA	\$15,000,000
22.	PA	Improvements to I–80, Monroe County, PA	\$15,000,000
23.	SC	I–73, Construction of I–73 from Myrtle Beach, SC to I–95, ending at the North Carolina State line	\$40,000,000
24.	VA	Rail Relocation to route 164/I–664 rail corridor, Portsmouth	\$15,000,000
25.	WA	Replacement of the Alaskan Way Viaduct and Seawall in Seattle	\$120,000,000

23 USC 101 note.

SEC. 1302. NATIONAL CORRIDOR INFRASTRUCTURE IMPROVEMENT PROGRAM.

(a) **IN GENERAL.**—The Secretary shall establish and implement a program to make allocations to States for highway construction projects in corridors of national significance to promote economic growth and international or interregional trade pursuant to the selection factors provided in this section. A State must submit an application to the Secretary in order to receive an allocation under this section.

(b) SELECTION PROCESS.—

(1) **PRIORITY.**—In the selection process under this section, the Secretary shall give priority to projects in corridors that are a part of, or will be designated as part of, the Dwight D. Eisenhower National System of Interstate and Defense Highways after completion of the work described in the application received by the Secretary and to any project that will be completed within 5 years of the date of the allocation of funds for the project.

(2) **SELECTION FACTORS.**—In making allocations under this section, the Secretary shall consider the following factors:

(A) The extent to which the corridor provides a link between two existing segments of the Interstate System.

(B) The extent to which the project will facilitate major multistate or regional mobility and economic growth and development in areas underserved by existing highway infrastructure.

(C) The extent to which commercial vehicle traffic in the corridor—

(i) has increased since the date of enactment of the North American Free Trade Agreement Implementation Act (16 U.S.C. 4401 et seq.); and

(ii) is projected to increase in the future.

(D) The extent to which international truck-borne commodities move through the corridor.

(E) The extent to which the project will make improvements to an existing segment of the Interstate System that will result in a decrease in congestion.

(F) The reduction in commercial and other travel time through a major freight corridor expected as a result of the project.

(G) The value of the cargo carried by commercial vehicle traffic in the corridor and the economic costs arising from congestion in the corridor.

(H) The extent of leveraging of Federal funds provided to carry out this section, including—

(i) use of innovative financing;

(ii) combination with funding provided under other sections of this Act and title 23, United States Code; and

(iii) combination with other sources of Federal, State, local, or private funding.

(c) **APPLICABILITY OF TITLE 23.**—Funds made available by section 1101(a)(10) of this Act to carry out this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall remain available until expended, and the Federal share of the cost of a project under this section shall be determined in accordance with section 120 of such title.

(d) **STATE DEFINED.**—In this section, the term “State” has the meaning such term has in section 101(a) of title 23, United States Code.

(e) **DESIGNATED PROJECTS.**—The Secretary shall allocate for each of fiscal years 2005, 2006, 2007, 2008, and 2009, from funds made available to carry out this section, 10 percent, 20 percent, 25 percent, 25 percent, and 20 percent respectively, of the following amounts for grants to carry out the following projects under this section:

No.	State	Project Description	Amount
1.	TX, AR, MS, TN, KY, IN	Planning, Design, and Construction of I–69 in TX, LA, AR, MS, TN, KY, and IN	\$50,000,000
2.	LA	Improvements to Louisiana Highway 1 between the Caminada Bridge and the intersection of LA Highway 1 and U.S. 90	\$20,000,000
3.	MD	Planning, design, and construction of the Inter County Connector in Montgomery and Prince Georges County in Maryland	\$10,000,000
4.	CA	Centennial Corridor Loop in Bakersfield	\$330,000,000
5.	VA	Construction of dedicated truck lanes on additional capacity in I–81 in VA	\$100,000,000
6.	CA	Design, Planning and Construction of State Route 178 in Bakersfield	\$100,000,000

No.	State	Project Description	Amount
7.	CA	Widening of Rosedale Highway between SR 43 and SR 99 in Bakersfield and widening of SR 178 between SR 99 and D street in Bakersfield	\$60,000,000
8.	LA	Construction of the 36 mile segment of I-49 in LA between the Arkansas State line and I-220 in Shreveport	\$150,000,000
9.	AR	Construction of an extension of I-530 from Pine Bluff, Arkansas to Wilmar, Arkansas to interstate specifications	\$40,000,000
10.	IL	Construction of the U.S. I-80 to I-88 North-South Connector in Illinois	\$152,000,000
11.	WI	Construction and reconstruction of the U.S. Highway 41 corridor between Milwaukee and Green Bay, Wisconsin	\$30,000,000
12.	IL	Construction of Route 34 Interchange and improvements in Illinois	\$55,000,000
13.	CA	Increase capacity on I-80 between Sacramento/Placer County Line and SR 65	\$50,000,000
14.	AK	Planning, design, and construction of Knik Arm Bridge	\$30,000,000
15.	IA, IL	Planning, design, right-of-way acquisition and construction of the Interstate Route 74 bridge from Bettendorf, Iowa, to Moline, Illinois	\$15,000,000
16.	AR	Planning, design, and construction of the I-49/Bella Vista Bypass in Arkansas	\$20,000,000
17.	SC	Planning, design, and construction of the I-73 corridor of national significance in South Carolina	\$10,000,000
18.	CA	I-405 HOV lane	\$100,000,000
19.	AR	I-69 Corridor, including the Great River Bridge	\$75,000,000
20.	MN	Falls-to-Falls Corridor	\$50,000,000
21.	DC	Frederick Douglass Memorial Bridge	\$75,000,000
22.	CT	Pearl Harbor Memorial Bridge	\$35,000,000
23.	IN	I-80 Improvements	\$10,000,000
24.	CA	State Route 4 East Upgrade	\$20,000,000
25.	LA	LA 1 Replacement	\$5,000,000
26.	AZ	State Route 85 Upgrade	\$3,000,000
27.	WV	I-73/I-74 Corridor	\$50,000,000

No.	State	Project Description	Amount
28.	LA	Construction of I-49 North from Shreveport, Louisiana to Arkansas State line (I-220 to AR Line)	\$27,500,000
29.	LA	Transportation improvements to I-49 South	\$27,500,000
30.	OK	Ports to Plain Corridor in Oklahoma	\$35,000,000
31.	TN	For design, ROW and construction of Interstate 69	\$100,000,000
32.	CO	U.S. 287, Ports-to-Plains Corridor	\$3,000,000
33.	OK	State of Oklahoma I-44 from Riverside to Yale Avenue in Tulsa	\$110,000,000

SEC. 1303. COORDINATED BORDER INFRASTRUCTURE PROGRAM.

23 USC 101 note.

(a) **GENERAL AUTHORITY.**—The Secretary shall implement a coordinated border infrastructure program under which the Secretary shall distribute funds to border States to improve the safe movement of motor vehicles at or across the border between the United States and Canada and the border between the United States and Mexico.

(b) **ELIGIBLE USES.**—Subject to subsection (d), a State may use funds apportioned under this section only for—

(1) improvements in a border region to existing transportation and supporting infrastructure that facilitate cross-border motor vehicle and cargo movements;

(2) construction of highways and related safety and safety enforcement facilities in a border region that facilitate motor vehicle and cargo movements related to international trade;

(3) operational improvements in a border region, including improvements relating to electronic data interchange and use of telecommunications, to expedite cross border motor vehicle and cargo movement;

(4) modifications to regulatory procedures to expedite safe and efficient cross border motor vehicle and cargo movements; and

(5) international coordination of transportation planning, programming, and border operation with Canada and Mexico relating to expediting cross border motor vehicle and cargo movements.

(c) **APPORTIONMENT OF FUNDS.**—On October 1 of each fiscal year, the Secretary shall apportion among border States sums authorized to be appropriated to carry out this section for such fiscal year as follows:

(1) 20 percent in the ratio that—

(A) the total number of incoming commercial trucks that pass through the land border ports of entry within the boundaries of a border State, as determined by the Secretary; bears to

(B) the total number of incoming commercial trucks that pass through such ports of entry within the boundaries of all the border States, as determined by the Secretary.

(2) 30 percent in the ratio that—

(A) the total number of incoming personal motor vehicles and incoming buses that pass through land border ports of entry within the boundaries of a border State, as determined by the Secretary; bears to

(B) the total number of incoming personal motor vehicles and incoming buses that pass through such ports of entry within the boundaries of all the border States, as determined by the Secretary.

(3) 25 percent in the ratio that—

(A) the total weight of incoming cargo by commercial trucks that pass through land border ports of entry within the boundaries of a border State, as determined by the Secretary; bears to

(B) the total weight of incoming cargo by commercial trucks that pass through such ports of entry within the boundaries of all the border States, as determined by the Secretary.

(4) 25 percent of the ratio that—

(A) the total number of land border ports of entry within the boundaries of a border State, as determined by the Secretary; bears to

(B) the total number of land border ports of entry within the boundaries of all the border States, as determined by the Secretary.

(d) **PROJECTS IN CANADA OR MEXICO.**—A project in Canada or Mexico, proposed by a border State to directly and predominantly facilitate cross-border motor vehicle and cargo movements at an international port of entry into the border region of the State, may be constructed using funds apportioned to the State under this section if, before obligation of those funds, Canada or Mexico, or the political subdivision of Canada or Mexico that is responsible for the operation of the facility to be constructed, provides assurances satisfactory to the Secretary that any facility constructed under this subsection will be—

(1) constructed in accordance with standards equivalent to applicable standards in the United States; and

(2) properly maintained and used over the useful life of the facility for the purpose for which the Secretary is allocating such funds to the project.

(e) **TRANSFER OF FUNDS TO THE GENERAL SERVICES ADMINISTRATION.**—

(1) **STATE FUNDS.**—At the request of a border State, funds apportioned to the State under this section may be transferred to the General Services Administration for the purpose of funding one or more projects described in subsection (b) if—

(A) the Secretary determines, after consultation with the transportation department of the border State, that the General Services Administration should carry out the project; and

(B) the General Services Administration agrees to accept the transfer of, and to administer, those funds in accordance with this section.

(2) **NON-FEDERAL SHARE.**—

(A) **IN GENERAL.**—A border State that makes a request under paragraph (1) shall provide directly to the General Services Administration, for each project covered by the request, the non-Federal share of the cost of the project.

(B) NO AUGMENTATION OF APPROPRIATIONS.—Funds provided by a border State under subparagraph (A)—

(i) shall not be considered to be an augmentation of the appropriations made available to the General Services Administration; and

(ii) shall be—

(I) administered, subject to paragraph (1)(B), in accordance with the procedures of the General Services Administration; but

(II) available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

(3) OBLIGATION AUTHORITY.—Obligation authority shall be transferred to the General Services Administration for a project in the same manner and amount as the funds provided for the project under paragraph (1).

(4) LIMITATION ON TRANSFER OF FUNDS.—No State may transfer to the General Services Administration under this subsection an amount that is more than the lesser of—

(A) 15 percent of the aggregate amount of funds apportioned to the State under this section for such fiscal year; or

(B) \$5,000,000.

(f) APPLICABILITY OF TITLE 23.—Funds made available to carry out this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that, subject to subsection (e), such funds shall not be transferable and shall remain available until expended, and the Federal share of the cost of a project under this section shall be determined in accordance with section 120 of such title.

(g) DEFINITIONS.—In this section, the following definitions apply:

(1) BORDER REGION.—The term “border region” means any portion of a border State within 100 miles of an international land border with Canada or Mexico.

(2) BORDER STATE.—The term “border State” means any State that has an international land border with Canada or Mexico.

(3) COMMERCIAL TRUCK.—The term “commercial truck” means a commercial motor vehicle as defined in section 31301(4) (other than subparagraph (B)) of title 49, United States Code.

(4) MOTOR VEHICLE.—The term “motor vehicle” has the meaning such term has under section 101(a) of title 23, United States Code.

(5) STATE.—The term “State” has the meaning such term has in section 101(a) of such title 23.

SEC. 1304. HIGH PRIORITY CORRIDORS ON THE NATIONAL HIGHWAY SYSTEM.

(a) EVACUATION ROUTES.—Section 1105(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2032) is amended in the first sentence by inserting “and evacuation routes” after “corridors” the first place it appears.

(b) CORRIDORS.—Section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2032) is amended—

(1) by striking paragraph (14) and inserting the following:
“(14) Heartland Expressway from Denver, Colorado, through Scottsbluff, Nebraska, to Rapid City, South Dakota as follows:

“(A) In the State of Colorado, the Heartland Expressway Corridor shall generally follow—

“(i) Interstate 76 from Denver to Brush; and

“(ii) Colorado Highway 71 from Limon to the border between the States of Colorado and Nebraska.

“(B) In the State of Nebraska, the Heartland Expressway Corridor shall generally follow—

“(i) Nebraska Highway 71 from the border between the States of Colorado and Nebraska to Scottsbluff;

“(ii) United States Route 26 from Scottsbluff to the intersection with State Highway L62A;

“(iii) State Highway L62A from the intersection with United States Route 26 to United States Route 385 north of Bridgeport;

“(iv) United States Route 385 to the border between the States of Nebraska and South Dakota; and

“(v) United States Highway 26 from Scottsbluff to the border of the States of Nebraska and Wyoming.

“(C) In the State of Wyoming, the Heartland Expressway Corridor shall generally follow United States Highway 26 from the border of the States of Nebraska and Wyoming to the termination at Interstate 25 at Interchange number 94.

“(D) In the State of South Dakota, the Heartland Expressway Corridor shall generally follow—

“(i) United States Route 385 from the border between the States of Nebraska and South Dakota to the intersection with State Highway 79; and

“(ii) State Highway 79 from the intersection with United States Route 385 to Rapid City.”;

(2) in paragraph (23) by inserting before the period at the end the following: “and the connection from Wichita, Kansas, to Sioux City, Iowa, which includes I-135 from Wichita, Kansas to Salina, Kansas, United States Route 81 from Salina, Kansas, to Norfolk, Nebraska, Nebraska State Route 35 from Norfolk, Nebraska, to South Sioux City, Nebraska, and the connection to I-29 in Sioux City, Iowa”;

(3) in paragraph (33) by striking “I-395” and inserting “and including the I-395 corridor”;

(4) by striking paragraph (34) and inserting the following:

“(34) The Alameda Corridor-East and Southwest Passage, California. The Alameda Corridor-East is generally described as the corridor from East Los Angeles (terminus of Alameda Corridor) through Los Angeles, Orange, San Bernardino, and Riverside Counties, to termini at Barstow in San Bernardino County and Coachella in Riverside County. The Southwest Passage shall follow I-10 from San Bernardino to the Arizona State line.”;

(5) by adding at the end the following:

“(46) Interstate Route 710 between the terminus at Long Beach, California, to California State Route 60.

“(47) Interstate Route 87 from the Quebec border to New York City.

“(48) The Route 50 High Plains Corridor along the United States Route 50 corridor from Newton, Kansas, to Pueblo, Colorado.

“(49) The Atlantic Commerce Corridor on Interstate Route 95 from Jacksonville, Florida, to Miami, Florida.

“(50) The East-West Corridor commencing in Watertown, New York, continuing northeast through New York, Vermont, New Hampshire, and Maine, and terminating in Calais, Maine.

“(51) The SPIRIT Corridor on United States Route 54 from El Paso, Texas, through New Mexico, Texas, and Oklahoma to Wichita, Kansas.

“(52) The route in Arkansas running south of and parallel to Arkansas State Highway 226 from the relocation of United States Route 67 to the vicinity of United States Route 49 and United States Route 63.

“(53) United States Highway Route 6 from Interstate Route 70 to Interstate Route 15, Utah.

“(54) The California Farm-to-Market Corridor, California State Route 99 from south of Bakersfield to Sacramento, California.

“(55) In Texas, Interstate Route 20 from Interstate Route 35E in Dallas County, east to the intersection of Interstate Route 635, north to the intersection of Interstate Route 30, northeast through Texarkana to Little Rock, Arkansas, Interstate Route 40 northeast from Little Rock east to the proposed Interstate Route 69 corridor.

“(56) In the State of Texas, the La Entrada al Pacifico Corridor consisting of the following highways and any portion of a highway in a corridor on 2 miles of either side of the center line of the highway:

“(A) State Route 349 from Lamesa to the point on that highway that is closest to 32 degrees, 7 minutes, north latitude, by 102 degrees, 6 minutes, west longitude.

“(B) The segment or any roadway extending from the point described by subparagraph (A) to the point on Farm-to-Market Road 1788 closest to 32 degrees, 0 minutes, north latitude, by 102 degrees, 16 minutes, west longitude.

“(C) Farm-to-Market Road 1788 from the point described by subparagraph (B) to its intersection with Interstate Route 20.

“(D) Interstate Route 20 from its intersection with Farm-to-Market Road 1788 to its intersection with United States Route 385.

“(E) United States Route 385 from Odessa to Fort Stockton, including those portions that parallel United States Route 67 and Interstate Route 10.

“(F) United States Route 67 from Fort Stockton to Presidio, including those portions that parallel Interstate Route 10 and United States Route 90.

“(57) United States Route 41 corridor between Interstate Route 94 via Interstate Route 894 and Highway 45 near Milwaukee and Interstate Route 43 near Green Bay in the State of Wisconsin.

“(58) The Theodore Roosevelt Expressway from Rapid City, South Dakota, north on United States Route 85 to Williston,

North Dakota, west on United States Route 2 to Culbertson, Montana, and north on Montana Highway 16 to the international border with Canada at the port of Raymond, Montana.

“(59) The Central North American Trade Corridor from the border between North Dakota and South Dakota, north on United States Route 83 through Bismark and Minot, North Dakota, to the international border with Canada.

“(60) The Providence Beltline Corridor beginning at Interstate Route 95 in the vicinity of Hope Valley, Rhode Island, traversing eastwardly intersecting and merging into Interstate Route 295, continuing northeastwardly along Interstate Route 95, and terminating at the Massachusetts border, and including the western bypass of Providence, Rhode Island, from Interstate Route 295 to the Massachusetts border.

“(61) In the State of Missouri, the corridors consisting of the following highways:

“(A) Interstate Route 70, from Interstate Route 29/35 to United States Route 61/Avenue of the Saints.

“(B) Interstate Route 72/United States Route 36, from the intersection with Interstate Route 29 to United States Route 61/Avenue of the Saints.

“(C) United States Route 67, from Interstate Route 55 to the Arkansas State line.

“(D) United States Route 65, from United States Route 36/Interstate Route 72 to the East-West TransAmerica corridor, at the Arkansas State line.

“(E) United States Route 63, from United States Route 36 and the proposed Interstate Route 72 to the East-West TransAmerica corridor, at the Arkansas State line.

“(F) United States Route 54, from the Kansas State line to United States Route 61/Avenue of the Saints.

“(62) The Georgia Developmental Highway System Corridors identified in section 32–4–22 of the Official Code of Georgia, Annotated.

“(63) The Liberty Corridor, a corridor in an area encompassing very critical and significant transportation infrastructure providing regional, national, and international access through the State of New Jersey, including Interstate Routes 95, 80, 287, and 78, and United States Routes 1, 3, 9, 17, and 46, and portways and connecting infrastructure.

“(64) The corridor in an area of passage in the State of New Jersey serving significant interstate and regional traffic, located near the cities of Camden, New Jersey, and Philadelphia, Pennsylvania, and including Interstate Route 295, United States Route 42, United States Route 130, and Interstate Route 676.

“(65) The Interstate Route 95 Corridor beginning at the New York State line and continuing through Connecticut to the Rhode Island State line.

“(66) The Interstate Route 91 Corridor from New Haven, Connecticut, to the Massachusetts State line.

“(67) The Fairbanks-Yukon International Corridor consisting of the portion of the Alaska Highway from the international border with Canada to the Richardson Highway, and the Richardson Highway from its junction with the Alaska Highway to Fairbanks, Alaska.

“(68) The Washoe County corridor, along Interstate Route 580/United States Route 95/United States Route 95A, from Reno, Nevada, to Las Vegas, Nevada.

“(69) The Cross Valley Connector connecting Interstate Route 5 and State Route 14, Santa Clarita Valley, California.

“(70) The Economic Lifeline corridor, along Interstate Route 15 and Interstate Route 40, California, Arizona, and Nevada, including Interstate Route 215 South from near San Bernadino, California, to Riverside, California, and State Route 91 from Riverside, California, to the intersection with Interstate Route 15 near Corona, California.

“(71) The High Desert Corridor/E–220 from Los Angeles, California, to Las Vegas, Nevada, via Palmdale and Victorville, California.

“(72) The North-South corridor, along Interstate Route 49 North, from Kansas City, Missouri, to Shreveport, Louisiana.

“(73) The Louisiana Highway corridor, along Louisiana Highway 1, from Grand Isle, Louisiana, to the intersection with United States Route 90.

“(74) The portion of United States Route 90 from Interstate Route 49 in Lafayette, Louisiana, to Interstate Route 10 in New Orleans, Louisiana.

“(75) The Louisiana 28 corridor from Fort Polk to Alexandria, Louisiana.

“(76) The portion of Interstate Route 75 from Toledo, Ohio, to Cincinnati, Ohio.

“(77) The portion of United States Route 24 from the Indiana/Ohio State line to Toledo, Ohio.

“(78) The portion of Interstate Route 71 from Cincinnati, Ohio, to Cleveland, Ohio.

“(79) Interstate Route 376 from the Pittsburgh Interchange (I/C No. 56) of the Pennsylvania Turnpike, westward on Interstate Route 279, United States Route 22, United States Route 30, and Pennsylvania Route 60, continuing past the Pittsburgh International Airport on Turnpike Route 60, to the Pennsylvania Turnpike (Interstate Route 76), Interchange 10, and continuing north on Pennsylvania Turnpike Route 60 and on United States Route 422 to Interstate Route 80.

“(80) The Intercounty Connector, a new east-west multimodal highway between Interstate Route 270 and Interstate Route 95/United States Route 1 in Montgomery and Prince George’s Counties, Maryland.”; and

(6) by aligning paragraph (45) with paragraph (46) (as added by paragraph (5)).

(c) INTERSTATE ROUTES.—Section 1105(e)(5) of the Intermodal Surface Transportation Efficiency Act of 1991 is amended—

(1) in subparagraph (A) by striking “and subsection (c)(45)” and inserting “subsection (c)(45), subsection (c)(54), and subsection (c)(57)”;

(2) by redesignating subparagraphs (B) through (D) as subparagraphs (C) through (E); and

(3) by inserting after subparagraph (A) the following:

“(B) INTERSTATE ROUTE 376.—

“(i) DESIGNATION OF INTERSTATE ROUTE 376.—

“(I) IN GENERAL.—The routes referred to in subsection (c)(79), except the portion of Pennsylvania Turnpike Route 60 and United States Route

422 between Pennsylvania Turnpike Interchange 10 and Interstate Route 80, shall be designated as Interstate Route 376.

“(II) SIGNS.—The State of Pennsylvania shall have jurisdiction over the highways described in subclause (I) (except Pennsylvania Turnpike Route 60) and erect signs in accordance with Interstate signing criteria that identify the routes described in subclause (I) as Interstate Route 376.

“(III) ASSISTANCE FROM SECRETARY.—The Secretary shall assist the State of Pennsylvania in carrying out, not later than December 31, 2008, an activity under subclause (II) relating to Interstate Route 376 and in complying with sections 109 and 139 of title 23, United States Code.

“(ii) OTHER SEGMENTS.—The segment of the route referred to in subsection (c)(79) located between the Pennsylvania Turnpike, Interchange 10, and Interstate Route 80 may be signed as Interstate Route 376 under clause (i)(II) if that segment meets the criteria under sections 109 and 139 of title 23, United States Code.”.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out, in accordance with title 23, United States Code, projects on corridors identified in section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2032) such sums as may be necessary.

23 USC 137 note. **SEC. 1305. TRUCK PARKING FACILITIES.**

(a) ESTABLISHMENT.—In cooperation with appropriate State, regional, and local governments, the Secretary shall establish a pilot program to address the shortage of long-term parking for commercial motor vehicles on the National Highway System.

(b) ALLOCATION OF FUNDS.—

(1) IN GENERAL.—The Secretary shall allocate funds made available to carry out this section among States, metropolitan planning organizations, and local governments.

(2) APPLICATIONS.—To be eligible for an allocation under this section, a State (as defined in section 101(a) of title 23, United States Code), metropolitan planning organization, or local government shall submit to the Secretary an application at such time and containing such information as the Secretary may require.

(3) ELIGIBLE PROJECTS.—Funds allocated under this subsection shall be used by the recipient for projects described in an application approved by the Secretary. Such projects shall serve the National Highway System and may include the following:

(A) Constructing safety rest areas (as defined in section 120(c) of title 23, United States Code) that include parking for commercial motor vehicles.

(B) Constructing commercial motor vehicle parking facilities adjacent to commercial truck stops and travel plazas.

(C) Opening existing facilities to commercial motor vehicle parking, including inspection and weigh stations and park-and-ride facilities.

(D) Promoting the availability of publicly or privately provided commercial motor vehicle parking on the National Highway System using intelligent transportation systems and other means.

(E) Constructing turnouts along the National Highway System for commercial motor vehicles.

(F) Making capital improvements to public commercial motor vehicle parking facilities currently closed on a seasonal basis to allow the facilities to remain open year-round.

(G) Improving the geometric design of interchanges on the National Highway System to improve access to commercial motor vehicle parking facilities.

(4) PRIORITY.—In allocating funds made available to carry out this section, the Secretary shall give priority to applicants that—

(A) demonstrate a severe shortage of commercial motor vehicle parking capacity in the corridor to be addressed;

(B) have consulted with affected State and local governments, community groups, private providers of commercial motor vehicle parking, and motorist and trucking organizations; and

(C) demonstrate that their proposed projects are likely to have positive effects on highway safety, traffic congestion, or air quality.

(c) REPORT TO CONGRESS.—Not later than 3 years after the date of enactment of this Act, the Secretary shall submit to Congress a report on the results of the pilot program.

(d) FUNDING.—

(1) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section \$6,250,000 for each of fiscal years 2006 through 2009.

(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall not be transferable and shall remain available until expended, and the Federal share of the cost of a project under this section shall be determined in accordance with sections 120(b) and 120(c) of such title.

(e) TREATMENT OF PROJECTS.—Notwithstanding any other provision of law, projects funded under this section shall be treated as projects on a Federal-aid system under chapter 1 of title 23, United States Code.

SEC. 1306. FREIGHT INTERMODAL DISTRIBUTION PILOT GRANT PROGRAM.

23 USC 103 note.

(a) IN GENERAL.—The Secretary shall establish and implement a freight intermodal distribution pilot grant program.

(b) PURPOSES.—The purposes of the program established under subsection (a) shall be for the Secretary to make grants to States—

(1) to facilitate and support intermodal freight transportation initiatives at the State and local levels to relieve congestion and improve safety; and

(2) to provide capital funding to address infrastructure and freight distribution needs at inland ports and intermodal freight facilities.

(c) ELIGIBLE PROJECTS.—Projects for which grants may be made under this section shall help relieve congestion, improve transportation safety, facilitate international trade, and encourage public-private partnership and may include projects for the development and construction of intermodal freight distribution and transfer facilities at inland ports.

(d) SELECTION PROCESS.—

(1) APPLICATIONS.—A State (as defined in section 101(a) of title 23, United States Code) shall submit for approval by the Secretary an application for a grant under this section containing such information as the Secretary may require to receive such a grant.

(2) PRIORITY.—In selecting projects for grants, the Secretary shall give priority to projects that will—

(A) reduce congestion into and out of international ports located in the United States;

(B) demonstrate ways to increase the likelihood that freight container movements involve freight containers carrying goods; and

(C) establish or expand intermodal facilities that encourage the development of inland freight distribution centers.

(3) DESIGNATED PROJECTS.—Subject to the provisions of this section, the Secretary shall allocate for each of fiscal years 2005 through 2009, from funds made available to carry out this section, 20 percent of the following amounts for grants to carry out the following projects under this section:

(A) Short-haul intermodal projects, Oregon, \$5,000,000.

(B) The Georgia Port Authority, \$5,000,000.

(C) The ports of Los Angeles and Long Beach, California, \$5,000,000.

(D) Fairbanks, Alaska, \$5,000,000.

(E) Charlotte Douglas International Airport Freight Intermodal Facility, North Carolina, \$5,000,000.

(F) South Piedmont Freight Intermodal Center, North Carolina, \$5,000,000.

(e) USE OF GRANT FUNDS.—Funds made available to a recipient of a grant under this section shall be used by the recipient for the project described in the application of the recipient approved by the Secretary.

(f) REPORT.—Not later than 3 years after the date of enactment of this Act, the Secretary shall submit to Congress a report on the results of the pilot program carried out under this section.

(g) FUNDING.—

(1) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section \$6,000,000 for each of fiscal years 2005 through 2009.

(2) CONTRACT AUTHORITY.—Funds authorized by this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall not be transferable and shall remain available until expended, and the Federal share of the cost of a project under this section

shall be determined in accordance with section 120 of such title.

(h) TREATMENT OF PROJECTS.—Notwithstanding any other provision of law, projects for which grants are made under this section shall be treated as projects on a Federal-aid system under chapter 1 of title 23, United States Code.

SEC. 1307. DEPLOYMENT OF MAGNETIC LEVITATION TRANSPORTATION PROJECTS.

23 USC 322 note.

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) ELIGIBLE PROJECT COSTS.—The term “eligible project costs”—

(A) means the capital cost of the fixed guideway infrastructure of a MAGLEV project, including land, piers, guideways, propulsion equipment and other components attached to guideways, power distribution facilities (including substations), control and communications facilities, access roads, and storage, repair, and maintenance facilities, but not including costs incurred for a new station; and

(B) includes the costs of preconstruction planning activities.

(2) FULL PROJECT COSTS.—The term “full project costs” means the total capital costs of a MAGLEV project, including eligible project costs and the costs of stations, vehicles, and equipment.

(3) MAGLEV.—The term “MAGLEV” means transportation systems employing magnetic levitation that would be capable of safe use by the public at a speed in excess of 240 miles per hour.

(4) STATE.—The term “State” has the meaning such term has under section 101(a) of title 23, United States Code.

(b) IN GENERAL.—

(1) ASSISTANCE FOR ELIGIBLE PROJECTS.—The Secretary shall make available financial assistance to pay the Federal share of full project costs of eligible projects authorized by this section.

(2) USE OF ASSISTANCE.—Financial assistance provided under paragraph (1) shall be used only to pay eligible project costs of projects authorized by this section.

(3) APPLICABILITY OF OTHER LAWS.—Financial assistance made available under this section, and projects assisted with such assistance, shall be subject to section 5333(a) of title 49, United States Code.

(c) PROJECT ELIGIBILITY.—To be eligible to receive financial assistance under subsection (b), a project shall—

(1) involve a segment or segments of a high-speed ground transportation corridor;

(2) result in an operating transportation facility that provides a revenue producing service; and

(3) be approved by the Secretary based on an application submitted to the Secretary by a State or authority designated by one or more States.

(d) ALLOCATION.—Of the amounts made available to carry out this section for a fiscal year, the Secretary shall allocate 50 percent for the MAGLEV project between Las Vegas and Primm, Nevada,

and 50 percent for a MAGLEV project located east of the Mississippi River.

State listing.
23 USC 101 note.

SEC. 1308. DELTA REGION TRANSPORTATION DEVELOPMENT PROGRAM.

(a) **IN GENERAL.**—The Secretary shall carry out a program in the 8 States comprising the Delta Region (Alabama, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee) to—

- (1) support and encourage multistate transportation planning and corridor development;
- (2) provide for transportation project development;
- (3) facilitate transportation decisionmaking; and
- (4) support transportation construction.

(b) **ELIGIBLE RECIPIENTS.**—A State transportation department or metropolitan planning organization in a Delta Region State may receive and administer funds provided under the program.

(c) **ELIGIBLE ACTIVITIES.**—The Secretary shall make allocations under the program for multistate highway planning, development, and construction projects.

(d) **OTHER PROVISIONS REGARDING ELIGIBILITY.**—All activities funded under this program shall be consistent with the continuing, cooperative, and comprehensive planning processes required by sections 134 and 135 of title 23, United States Code.

(e) **SELECTION CRITERIA.**—The Secretary shall select projects to be carried out under the program based on—

- (1) whether the project is located—
 - (A) in an area under the authority of the Delta Regional Authority; and
 - (B) on a Federal-aid highway;
- (2) endorsement of the project by the State department of transportation; and
- (3) evidence of the ability of the recipient of funds provided under the program to complete the project.

(f) **PROGRAM PRIORITIES.**—In administering the program, the Secretary shall—

- (1) encourage State and local officials to work together to develop plans for multimodal and multijurisdictional transportation decisionmaking; and
- (2) give priority to projects that emphasize multimodal planning, including planning for operational improvements that—

- (A) increase the mobility of people and goods;
- (B) improve the safety of the transportation system with respect to catastrophic natural disasters or disasters caused by human activity; and
- (C) contribute to the economic vitality of the area in which the project is being carried out.

(g) **FEDERAL SHARE.**—Amounts provided by the Delta Regional Authority to carry out a project under this subsection may be applied to the non-Federal share of the project required by section 120 of title 23, United States Code.

(h) **FUNDING.**—

- (1) **IN GENERAL.**—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section \$10,000,000 for each of fiscal years 2006 through 2009.

(2) **CONTRACT AUTHORITY.**—Funds made available to carry out this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall not be transferable and shall remain available until expended.

SEC. 1309. EXTENSION OF PUBLIC TRANSIT VEHICLE EXEMPTION FROM AXLE WEIGHT RESTRICTIONS.

Section 1023(h)(1) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 127 note; 106 Stat. 1552) is amended by striking “2005” and inserting “2009”.

SEC. 1310. INTERSTATE OASIS PROGRAM.

23 USC 111 note.

(a) **IN GENERAL.**—Not later than 180 days after the date of enactment of this section, in consultation with the States and other interested parties, the Secretary shall—

Deadline.

(1) establish an interstate oasis program; and

(2) after providing an opportunity for public comment, develop standards for designating, as an interstate oasis, a facility that—

Standards.

(A) offers—

(i) products and services to the public;

(ii) 24-hour access to restrooms; and

(iii) parking for automobiles and heavy trucks; and

(B) meets other standards established by the Secretary.

(b) **STANDARDS FOR DESIGNATION.**—The standards for designation under subsection (a) shall include standards relating to—

(1) the appearance of a facility; and

(2) the proximity of the facility to the Dwight D. Eisenhower National System of Interstate and Defense Highways.

(c) **ELIGIBILITY FOR DESIGNATION.**—If a State (as defined in section 101(a) of title 23, United States Code) elects to participate in the interstate oasis program, any facility meeting the standards established by the Secretary shall be eligible for designation under this section.

(d) **LOGO.**—The Secretary shall design a logo to be displayed by a facility designated under this section.

Subtitle D—Highway Safety

SEC. 1401. HIGHWAY SAFETY IMPROVEMENT PROGRAM.

(a) **SAFETY IMPROVEMENT.**—

(1) **IN GENERAL.**—Section 148 of title 23, United States Code, is amended to read as follows:

“§ 148. Highway safety improvement program

“(a) **DEFINITIONS.**—In this section, the following definitions apply:

“(1) **HIGH RISK RURAL ROAD.**—The term ‘high risk rural road’ means any roadway functionally classified as a rural major or minor collector or a rural local road—

“(A) on which the accident rate for fatalities and incapacitating injuries exceeds the statewide average for those functional classes of roadway; or

“(B) that will likely have increases in traffic volume that are likely to create an accident rate for fatalities

and incapacitating injuries that exceeds the statewide average for those functional classes of roadway.

“(2) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—The term ‘highway safety improvement program’ means the program carried out under this section.

“(3) HIGHWAY SAFETY IMPROVEMENT PROJECT.—

“(A) IN GENERAL.—The term ‘highway safety improvement project’ means a project described in the State strategic highway safety plan that—

“(i) corrects or improves a hazardous road location or feature; or

“(ii) addresses a highway safety problem.

“(B) INCLUSIONS.—The term ‘highway safety improvement project’ includes a project for one or more of the following:

“(i) An intersection safety improvement.

“(ii) Pavement and shoulder widening (including addition of a passing lane to remedy an unsafe condition).

“(iii) Installation of rumble strips or another warning device, if the rumble strips or other warning devices do not adversely affect the safety or mobility of bicyclists, pedestrians, and the disabled.

“(iv) Installation of a skid-resistant surface at an intersection or other location with a high frequency of accidents.

“(v) An improvement for pedestrian or bicyclist safety or safety of the disabled.

“(vi) Construction of any project for the elimination of hazards at a railway-highway crossing that is eligible for funding under section 130, including the separation or protection of grades at railway-highway crossings.

“(vii) Construction of a railway-highway crossing safety feature, including installation of protective devices.

“(viii) The conduct of a model traffic enforcement activity at a railway-highway crossing.

“(ix) Construction of a traffic calming feature.

“(x) Elimination of a roadside obstacle.

“(xi) Improvement of highway signage and pavement markings.

“(xii) Installation of a priority control system for emergency vehicles at signalized intersections.

“(xiii) Installation of a traffic control or other warning device at a location with high accident potential.

“(xiv) Safety-conscious planning.

“(xv) Improvement in the collection and analysis of crash data.

“(xvi) Planning integrated interoperable emergency communications equipment, operational activities, or traffic enforcement activities (including police assistance) relating to workzone safety.

“(xvii) Installation of guardrails, barriers (including barriers between construction work zones

and traffic lanes for the safety of motorists and workers), and crash attenuators.

“(xviii) The addition or retrofitting of structures or other measures to eliminate or reduce accidents involving vehicles and wildlife.

“(xix) Installation and maintenance of signs (including fluorescent, yellow-green signs) at pedestrian-bicycle crossings and in school zones.

“(xx) Construction and yellow-green signs at pedestrian-bicycle crossings and in school zones.

“(xxi) Construction and operational improvements on high risk rural roads.

“(4) SAFETY PROJECT UNDER ANY OTHER SECTION.—

“(A) IN GENERAL.—The term ‘safety project under any other section’ means a project carried out for the purpose of safety under any other section of this title.

“(B) INCLUSION.—The term ‘safety project under any other section’ includes a project to promote the awareness of the public and educate the public concerning highway safety matters (including motorcyclist safety) and a project to enforce highway safety laws.

“(5) STATE HIGHWAY SAFETY IMPROVEMENT PROGRAM.—The term ‘State highway safety improvement program’ means projects or strategies included in the State strategic highway safety plan carried out as part of the State transportation improvement program under section 135(g).

“(6) STATE STRATEGIC HIGHWAY SAFETY PLAN.—The term ‘State strategic highway safety plan’ means a plan developed by the State transportation department that—

“(A) is developed after consultation with—

“(i) a highway safety representative of the Governor of the State;

“(ii) regional transportation planning organizations and metropolitan planning organizations, if any;

“(iii) representatives of major modes of transportation;

“(iv) State and local traffic enforcement officials;

“(v) persons responsible for administering section 130 at the State level;

“(vi) representatives conducting Operation Life-saver;

“(vii) representatives conducting a motor carrier safety program under section 31102, 31106, or 31309 of title 49;

“(viii) motor vehicle administration agencies; and

“(ix) other major State and local safety stakeholders;

“(B) analyzes and makes effective use of State, regional, or local crash data;

“(C) addresses engineering, management, operation, education, enforcement, and emergency services elements (including integrated, interoperable emergency communications) of highway safety as key factors in evaluating highway projects;

“(D) considers safety needs of, and high-fatality segments of, public roads;

“(E) considers the results of State, regional, or local transportation and highway safety planning processes;

“(F) describes a program of projects or strategies to reduce or eliminate safety hazards;

“(G) is approved by the Governor of the State or a responsible State agency; and

“(H) is consistent with the requirements of section 135(g).

“(b) PROGRAM.—

“(1) IN GENERAL.—The Secretary shall carry out a highway safety improvement program.

“(2) PURPOSE.—The purpose of the highway safety improvement program shall be to achieve a significant reduction in traffic fatalities and serious injuries on public roads.

“(c) ELIGIBILITY.—

“(1) IN GENERAL.—To obligate funds apportioned under section 104(b)(5) to carry out this section, a State shall have in effect a State highway safety improvement program under which the State—

“(A) develops and implements a State strategic highway safety plan that identifies and analyzes highway safety problems and opportunities as provided in paragraph (2);

“(B) produces a program of projects or strategies to reduce identified safety problems;

“(C) evaluates the plan on a regular basis to ensure the accuracy of the data and priority of proposed improvements; and

“(D) submits to the Secretary an annual report that—

“(i) describes, in a clearly understandable fashion, not less than 5 percent of locations determined by the State, using criteria established in accordance with paragraph (2)(B)(ii), as exhibiting the most severe safety needs; and

“(ii) contains an assessment of—

“(I) potential remedies to hazardous locations identified;

“(II) estimated costs associated with those remedies; and

“(III) impediments to implementation other than cost associated with those remedies.

“(2) IDENTIFICATION AND ANALYSIS OF HIGHWAY SAFETY PROBLEMS AND OPPORTUNITIES.—As part of the State strategic highway safety plan, a State shall—

“(A) have in place a crash data system with the ability to perform safety problem identification and countermeasure analysis;

“(B) based on the analysis required by subparagraph (A)—

“(i) identify hazardous locations, sections, and elements (including roadside obstacles, railway-highway crossing needs, and unmarked or poorly marked roads) that constitute a danger to motorists (including motorcyclists), bicyclists, pedestrians, and other highway users; and

“(ii) using such criteria as the State determines to be appropriate, establish the relative severity of

Reports.

those locations, in terms of accidents, injuries, deaths, traffic volume levels, and other relevant data;

“(C) adopt strategic and performance-based goals that—

“(i) address traffic safety, including behavioral and infrastructure problems and opportunities on all public roads;

“(ii) focus resources on areas of greatest need; and

“(iii) are coordinated with other State highway safety programs;

“(D) advance the capabilities of the State for traffic records data collection, analysis, and integration with other sources of safety data (such as road inventories) in a manner that—

“(i) complements the State highway safety program under chapter 4 and the commercial vehicle safety plan under section 31102 of title 49;

“(ii) includes all public roads;

“(iii) identifies hazardous locations, sections, and elements on public roads that constitute a danger to motorists (including motorcyclists), bicyclists, pedestrians, the disabled, and other highway users; and

“(iv) includes a means of identifying the relative severity of hazardous locations described in clause (iii) in terms of accidents, injuries, deaths, and traffic volume levels;

“(E)(i) determine priorities for the correction of hazardous road locations, sections, and elements (including railway-highway crossing improvements), as identified through crash data analysis;

“(ii) identify opportunities for preventing the development of such hazardous conditions; and

“(iii) establish and implement a schedule of highway safety improvement projects for hazard correction and hazard prevention; and

“(F)(i) establish an evaluation process to analyze and assess results achieved by highway safety improvement projects carried out in accordance with procedures and criteria established by this section; and

“(ii) use the information obtained under clause (i) in setting priorities for highway safety improvement projects.

“(d) ELIGIBLE PROJECTS.—

“(1) IN GENERAL.—A State may obligate funds apportioned to the State under section 104(b)(5) to carry out—

“(A) any highway safety improvement project on any public road or publicly owned bicycle or pedestrian pathway or trail; or

“(B) as provided in subsection (e), other safety projects.

“(2) USE OF OTHER FUNDING FOR SAFETY.—

“(A) EFFECT OF SECTION.—Nothing in this section prohibits the use of funds made available under other provisions of this title for highway safety improvement projects.

“(B) USE OF OTHER FUNDS.—States are encouraged to address the full scope of their safety needs and opportunities by using funds made available under other provisions of this title (except a provision that specifically prohibits that use).

“(e) FLEXIBLE FUNDING FOR STATES WITH A STRATEGIC HIGHWAY SAFETY PLAN.—

Certification.

“(1) IN GENERAL.—To further the implementation of a State strategic highway safety plan, a State may use up to 10 percent of the amount of funds apportioned to the State under section 104(b)(5) for a fiscal year to carry out safety projects under any other section as provided in the State strategic highway safety plan if the State certifies that—

“(A) the State has met needs in the State relating to railway-highway crossings; and

“(B) the State has met the State’s infrastructure safety needs relating to highway safety improvement projects.

“(2) OTHER TRANSPORTATION AND HIGHWAY SAFETY PLANS.—Nothing in this subsection requires a State to revise any State process, plan, or program in effect on the date of enactment of this section.

“(f) HIGH RISK RURAL ROADS.—

“(1) IN GENERAL.—After making an apportionment under section 104(b)(5) for a fiscal year beginning after September 30, 2005, the Secretary shall ensure, from amounts made available to carry out this section for such fiscal year, that a total of \$90,000,000 of such apportionment is set aside by the States, proportionally according to the share of each State of the total amount so apportioned, for use only for construction and operational improvements on high risk rural roads.

“(2) SPECIAL RULE.—A State may use funds apportioned to the State pursuant to this subsection for any project under this section if the State certifies to the Secretary that the State has met all of State needs for construction and operational improvements on high risk rural roads.

“(g) REPORTS.—

“(1) IN GENERAL.—A State shall submit to the Secretary a report that—

“(A) describes progress being made to implement highway safety improvement projects under this section;

“(B) assesses the effectiveness of those improvements; and

“(C) describes the extent to which the improvements funded under this section contribute to the goals of—

“(i) reducing the number of fatalities on roadways;

“(ii) reducing the number of roadway-related injuries;

“(iii) reducing the occurrences of roadway-related crashes;

“(iv) mitigating the consequences of roadway-related crashes; and

“(v) reducing the occurrences of crashes at railway-highway crossings.

“(2) CONTENTS; SCHEDULE.—The Secretary shall establish the content and schedule for a report under paragraph (1).

“(3) TRANSPARENCY.—The Secretary shall make reports submitted under subsection (c)(1)(D) available to the public through—

“(A) the Web site of the Department; and

“(B) such other means as the Secretary determines to be appropriate.

Public
information.

“(4) DISCOVERY AND ADMISSION INTO EVIDENCE OF CERTAIN REPORTS, SURVEYS, AND INFORMATION.—Notwithstanding any other provision of law, reports, surveys, schedules, lists, or data compiled or collected for any purpose directly relating to paragraph (1) or subsection (c)(1)(D), or published by the Secretary in accordance with paragraph (3), shall not be subject to discovery or admitted into evidence in a Federal or State court proceeding or considered for other purposes in any action for damages arising from any occurrence at a location identified or addressed in such reports, surveys, schedules, lists, or other data.

“(h) FEDERAL SHARE OF HIGHWAY SAFETY IMPROVEMENT PROJECTS.—Except as provided in sections 120 and 130, the Federal share of the cost of a highway safety improvement project carried out with funds apportioned to a State under section 104(b)(5) shall be 90 percent.”.

(2) CLERICAL AMENDMENT.—The analysis for chapter 1 of such title is amended by striking the item relating to section 148 and inserting the following:

“148. Highway safety improvement program.”.

(3) CONFORMING AMENDMENTS.—

(A) TRANSFERS OF APPORTIONMENTS.—Section 104(g) of such title is amended in the first sentence by striking “sections 130, 144, and 152 of this title” and inserting “sections 130 and 144”.

(B) UNIFORM TRANSFERABILITY.—Section 126(a) of such title is amended by inserting “under” after “State’s apportionment”.

(C) OTHER SECTIONS.—Sections 154, 164, and 409 of such title are amended by striking “152” each place it appears and inserting “148”.

(b) APPORTIONMENT OF HIGHWAY SAFETY IMPROVEMENT PROGRAM FUNDS.—Section 104(b) of such title (as amended by section 1103 of this Act) is amended—

(1) in the matter preceding paragraph (1), by inserting after “Improvement program,” the following: “the highway safety improvement program,”; and

(2) by adding at the end the following:

“(5) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—

“(A) IN GENERAL.—For the highway safety improvement program, in accordance with the following formula:

“(i) $33\frac{1}{3}$ percent of the apportionments in the ratio that—

“(I) the total lane miles of Federal-aid highways in each State; bears to

“(II) the total lane miles of Federal-aid highways in all States.

“(ii) $33\frac{1}{3}$ percent of the apportionments in the ratio that—

“(I) the total vehicle miles traveled on lanes on Federal-aid highways in each State; bears to

“(II) the total vehicle miles traveled on lanes on Federal-aid highways in all States.

“(iii) $33\frac{1}{3}$ percent of the apportionments in the ratio that—

“(I) the number of fatalities on the Federal-aid system in each State in the latest fiscal year for which data are available; bears to

“(II) the number of fatalities on the Federal-aid system in all States in the latest fiscal year for which data are available.

“(B) MINIMUM APPORTIONMENT.—Notwithstanding subparagraph (A), each State shall receive a minimum of one-half of 1 percent of the funds apportioned under this paragraph.”.

(d) ELIMINATION OF HAZARDS RELATING TO RAILWAY-HIGHWAY CROSSINGS.—

(1) FUNDS FOR PROTECTIVE DEVICES.—Section 130(e) of such title is amended—

(A) by striking “At” and inserting the following:

“(1) IN GENERAL.—Before making an apportionment under section 104(b)(5) for a fiscal year, the Secretary shall set aside, from amounts made available to carry out the highway safety improvement program under section 148 for such fiscal year, at least \$220,000,000 for the elimination of hazards and the installation of protective devices at railway-highway crossings. At”; and

(B) by adding at the end the following:

“(2) SPECIAL RULE.—If a State demonstrates to the satisfaction of the Secretary that the State has met all its needs for installation of protective devices at railway-highway crossings, the State may use funds made available by this section for other purposes under this subsection.”.

(2) APPORTIONMENT.—Section 130(f) of such title is amended to read as follows:

“(f) APPORTIONMENT.—

“(1) FORMULA.—Fifty percent of the funds set aside to carry out this section pursuant to subsection (e)(1) shall be apportioned to the States in accordance with the formula set forth in section 104(b)(3)(A), and 50 percent of such funds shall be apportioned to the States in the ratio that total public railway-highway crossings in each State bears to the total of such crossings in all States.

“(2) MINIMUM APPORTIONMENT.—Notwithstanding paragraph (1), each State shall receive a minimum of one-half of 1 percent of the funds apportioned under paragraph (1).

“(3) FEDERAL SHARE.—The Federal share payable on account of any project financed with funds set aside to carry out this section shall be 90 percent of the cost thereof.”.

(3) BIENNIAL REPORTS TO CONGRESS.—Section 130(g) of such title is amended in the third sentence—

(A) by inserting “and the Committee on Commerce, Science, and Transportation,” after “Public Works”; and

(B) by striking “not later than April 1 of each year” and inserting “, not later than April 1, 2006, and every 2 years thereafter,”.

(4) EXPENDITURE OF FUNDS.—Section 130 of such title is amended by adding at the end the following:

“(k) EXPENDITURE OF FUNDS.—Not more than 2 percent of funds apportioned to a State to carry out this section may be used by the State for compilation and analysis of data in support of activities carried out under subsection (g).”.

(e) TRANSITION.—

23 USC 148 note.

(1) IMPLEMENTATION.—Except as provided in paragraph (2), the Secretary shall approve obligations of funds apportioned under section 104(b)(5) of title 23, United States Code (as added by subsection (b)), to carry out section 148 of that title, only if, not later than October 1 of the second fiscal year beginning after the date of enactment of this Act, a State has developed and implemented a State strategic highway safety plan as required pursuant to section 148(c) of that title.

Deadline.

(2) INTERIM PERIOD.—

(A) IN GENERAL.—Before October 1 of the second fiscal year after the date of enactment of this Act and until the date on which a State develops and implements a State strategic highway safety plan, the Secretary shall apportion funds to a State for the highway safety improvement program and the State may obligate funds apportioned to the State for the highway safety improvement program under section 148 for projects that were eligible for funding under sections 130 and 152 of that title, as in effect on the day before the date of enactment of this Act.

(B) NO STRATEGIC HIGHWAY SAFETY PLAN.—If a State has not developed a strategic highway safety plan by October 1, 2007, the State shall receive for the highway safety improvement program for each subsequent fiscal year until the date of development of such plan an amount that equals the amount apportioned to the State for that program for fiscal year 2007.

SEC. 1402. WORKER INJURY PREVENTION AND FREE FLOW OF VEHICULAR TRAFFIC.

Deadline.
Regulations.
23 USC 401 note.

Not later than 1 year after the date of enactment of this Act, the Secretary shall issue regulations to decrease the likelihood of worker injury and maintain the free flow of vehicular traffic by requiring workers whose duties place them on or in close proximity to a Federal-aid highway (as defined in section 101 of title 23, United States Code) to wear high visibility garments. The regulations may also require such other worker-safety measures for workers with those duties as the Secretary determines to be appropriate.

SEC. 1403. TOLL FACILITIES WORKPLACE SAFETY STUDY.

(a) IN GENERAL.—The Secretary shall conduct a study on the safety of highway toll collection facilities, including toll booths, to determine the safety of the facilities for the toll collectors who work in and around the facilities, including consideration of—

(1) the effect of design or construction of the facilities on the likelihood of vehicle collisions with the facilities;

(2) the safety of crosswalks used by toll collectors in transit to and from toll booths;

(3) the extent of the enforcement of speed limits in the vicinity of the facilities;

(4) the use of warning devices, such as vibration and rumble strips, to alert drivers approaching the facilities;

(5) the use of cameras to record traffic violations in the vicinity of the facilities;

(6) the use of traffic control arms in the vicinity of the facilities;

(7) law enforcement practices and jurisdictional issues that affect safety in the vicinity of the facilities; and

(8) the incidence of accidents and injuries in the vicinity of toll booths.

(b) DATA COLLECTION.—As part of the study, the Secretary shall collect data regarding the incidence of accidents and injuries in the vicinity of highway toll collection facilities.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of the study, together with recommendations for improving toll facilities workplace safety.

(d) FUNDING.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, out of the Highway Trust Fund (other than the Mass Transit Account), \$500,000 for fiscal year 2006.

(2) CONTRACT AUTHORITY.—Funds authorized to be appropriated by this section shall be available for obligation in the same manner and to the same extent as if the funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of the project shall be 100 percent, and the funds shall remain available until expended and shall not be transferable.

23 USC 402 note. **SEC. 1404. SAFE ROUTES TO SCHOOL PROGRAM.**

(a) ESTABLISHMENT.—Subject to the requirements of this section, the Secretary shall establish and carry out a safe routes to school program for the benefit of children in primary and middle schools.

(b) PURPOSES.—The purposes of the program shall be—

(1) to enable and encourage children, including those with disabilities, to walk and bicycle to school;

(2) to make bicycling and walking to school a safer and more appealing transportation alternative, thereby encouraging a healthy and active lifestyle from an early age; and

(3) to facilitate the planning, development, and implementation of projects and activities that will improve safety and reduce traffic, fuel consumption, and air pollution in the vicinity of schools.

(c) APPORTIONMENT OF FUNDS.—

(1) IN GENERAL.—Subject to paragraphs (2), (3), and (4), amounts made available to carry out this section for a fiscal year shall be apportioned among the States in the ratio that—

(A) the total student enrollment in primary and middle schools in each State; bears to

(B) the total student enrollment in primary and middle schools in all States.

(2) MINIMUM APPORTIONMENT.—No State shall receive an apportionment under this section for a fiscal year of less than \$1,000,000.

(3) SET-ASIDE FOR ADMINISTRATIVE EXPENSES.—Before apportioning under this subsection amounts made available to carry out this section for a fiscal year, the Secretary shall set aside not more than \$3,000,000 of such amounts for the

administrative expenses of the Secretary in carrying out this subsection.

(4) DETERMINATION OF STUDENT ENROLLMENTS.—Determinations under this subsection concerning student enrollments shall be made by the Secretary.

(d) ADMINISTRATION OF AMOUNTS.—Amounts apportioned to a State under this section shall be administered by the State’s department of transportation.

(e) ELIGIBLE RECIPIENTS.—Amounts apportioned to a State under this section shall be used by the State to provide financial assistance to State, local, and regional agencies, including nonprofit organizations, that demonstrate an ability to meet the requirements of this section.

(f) ELIGIBLE PROJECTS AND ACTIVITIES.—

(1) INFRASTRUCTURE-RELATED PROJECTS.—

(A) IN GENERAL.—Amounts apportioned to a State under this section may be used for the planning, design, and construction of infrastructure-related projects that will substantially improve the ability of students to walk and bicycle to school, including sidewalk improvements, traffic calming and speed reduction improvements, pedestrian and bicycle crossing improvements, on-street bicycle facilities, off-street bicycle and pedestrian facilities, secure bicycle parking facilities, and traffic diversion improvements in the vicinity of schools.

(B) LOCATION OF PROJECTS.—Infrastructure-related projects under subparagraph (A) may be carried out on any public road or any bicycle or pedestrian pathway or trail in the vicinity of schools.

(2) NONINFRASTRUCTURE-RELATED ACTIVITIES.—

(A) IN GENERAL.—In addition to projects described in paragraph (1), amounts apportioned to a State under this section may be used for noninfrastructure-related activities to encourage walking and bicycling to school, including public awareness campaigns and outreach to press and community leaders, traffic education and enforcement in the vicinity of schools, student sessions on bicycle and pedestrian safety, health, and environment, and funding for training, volunteers, and managers of safe routes to school programs.

(B) ALLOCATION.—Not less than 10 percent and not more than 30 percent of the amount apportioned to a State under this section for a fiscal year shall be used for noninfrastructure-related activities under this subparagraph.

(3) SAFE ROUTES TO SCHOOL COORDINATOR.—Each State receiving an apportionment under this section for a fiscal year shall use a sufficient amount of the apportionment to fund a full-time position of coordinator of the State’s safe routes to school program.

(g) CLEARINGHOUSE.—

(1) IN GENERAL.—The Secretary shall make grants to a national nonprofit organization engaged in promoting safe routes to schools to— Grants.

(A) operate a national safe routes to school clearinghouse;

(B) develop information and educational programs on safe routes to school; and

(C) provide technical assistance and disseminate techniques and strategies used for successful safe routes to school programs.

(2) FUNDING.—The Secretary shall carry out this subsection using amounts set aside for administrative expenses under subsection (c)(3).

(h) TASK FORCE.—

(1) IN GENERAL.—The Secretary shall establish a national safe routes to school task force composed of leaders in health, transportation, and education, including representatives of appropriate Federal agencies, to study and develop a strategy for advancing safe routes to school programs nationwide.

(2) REPORT.—Not later than March 31, 2006, the Secretary shall submit to Congress a report containing the results of the study conducted, and a description of the strategy developed, under paragraph (1) and information regarding the use of funds for infrastructure-related and noninfrastructure-related activities under paragraphs (1) and (2) of subsection (f).

(3) FUNDING.—The Secretary shall carry out this subsection using amounts set aside for administrative expenses under subsection (c)(3).

(i) APPLICABILITY OF TITLE 23.—Funds made available to carry out this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall not be transferable and shall remain available until expended, and the Federal share of the cost of a project or activity under this section shall be 100 percent.

(j) TREATMENT OF PROJECTS.—Notwithstanding any other provision of law, projects assisted under this subsection shall be treated as projects on a Federal-aid system under chapter 1 of title 23, United States Code.

(k) DEFINITIONS.—In this section, the following definitions apply:

(1) IN THE VICINITY OF SCHOOLS.—The term “in the vicinity of schools” means, with respect to a school, the area within bicycling and walking distance of the school (approximately 2 miles).

(2) PRIMARY AND MIDDLE SCHOOLS.—The term “primary and middle schools” means schools providing education from kindergarten through eighth grade.

23 USC 401 note. **SEC. 1405. ROADWAY SAFETY IMPROVEMENTS FOR OLDER DRIVERS AND PEDESTRIANS.**

(a) IN GENERAL.—The Secretary shall carry out a program to improve traffic signs and pavement markings in all States (as such term is defined in section 101 of title 23, United States Code) in a manner consistent with the recommendations included in the publication of the Federal Highway Administration entitled “Guidelines and Recommendations to Accommodate Older Drivers and Pedestrians (FHWA–RD–01–103)” and dated October 2001.

(b) FEDERAL SHARE.—The Federal share of the cost of a project carried out under this section shall be determined in accordance with section 120 of title 23, United States Code.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated such sums as may be necessary to carry out this section for each of fiscal years 2005 through 2009.

SEC. 1406. SAFETY INCENTIVE GRANTS FOR USE OF SEAT BELTS.

Section 157(g)(1) of title 23, United States Code, is amended by striking “2004, and” and all that follows through “2005” and inserting “2004, and \$112,000,000 for fiscal year 2005”.

SEC. 1407. SAFETY INCENTIVES TO PREVENT OPERATION OF MOTOR VEHICLES BY INTOXICATED PERSONS.

(a) **CODIFICATION OF PENALTY.**—Section 163 of title 23, United States Code, is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following:

“(e) **PENALTY.**—

“(1) **IN GENERAL.**—On October 1, 2003, and October 1 of each fiscal year thereafter, if a State has not enacted or is not enforcing a law described in subsection (a), the Secretary shall withhold from amounts apportioned to the State on that date under each of paragraphs (1), (3), and (4) of section 104(b) an amount equal to the amount specified in paragraph (2).”

“(2) **AMOUNT TO BE WITHHELD.**—If a State is subject to a penalty under paragraph (1), the Secretary shall withhold for a fiscal year from the apportionments of the State described in paragraph (1) an amount equal to a percentage of the funds apportioned to the State under paragraphs (1), (3), and (4) of section 104(b) for fiscal year 2003. The percentage shall be as follows:

“(A) For fiscal year 2004, 2 percent.

“(B) For fiscal year 2005, 4 percent.

“(C) For fiscal year 2006, 6 percent.

“(D) For fiscal year 2007, and each fiscal year thereafter, 8 percent.

“(3) **FAILURE TO COMPLY.**—If, within 4 years from the date that an apportionment for a State is withheld in accordance with this subsection, the Secretary determines that the State has enacted and is enforcing a law described in subsection (a), the apportionment of the State shall be increased by an amount equal to the amount withheld. If, at the end of such 4-year period, any State has not enacted or is not enforcing a law described in subsection (a) any amounts so withheld from such State shall lapse.”.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—Section 163(f)(1) of such title (as redesignated by subsection (a)(1) of this section) is amended by striking “2004, and” and inserting “2004, and \$110,000,000 for fiscal year 2005”.

(c) **REPEAL.**—Section 351 of the Department of Transportation and Related Agencies Appropriations Act, 2001 (23 U.S.C. 163 note; 114 Stat. 1356A–34) is repealed.

SEC. 1408. IMPROVEMENT OR REPLACEMENT OF HIGHWAY FEATURES ON NATIONAL HIGHWAY SYSTEM.

(a) **UPDATE OF IMPLEMENTATION GUIDANCE.**—The Secretary, in cooperation with the American Association of State Highway and Transportation Officials, shall update as appropriate the August 28, 1998, Federal Highway Administration Policy on Implementation of the report of the Transportation Research Board

of the National Research Council entitled “NCHRP Report 350—Recommended Procedures for the Safety Performance Evaluation of Highway Features”.

Publication.

(b) **GUIDANCE.**—The Secretary, in cooperation with the Association, shall publish updated guidance regarding the conditions under which States, when choosing to improve or replace highway features on the National Highway System, should improve or replace such features with highway features that have been tested, evaluated, and found to be acceptable under the guidelines of the report referred to in subsection (a).

(c) **MATTERS TO BE CONSIDERED.**—Guidance published in accordance with subsection (a)—

(1) shall address those highway features that are covered by the guidelines in the report referred to in subsection (b); and

(2) shall consider types of highway features, cost-effectiveness, and practicality of replacement with highway features that have been found to be acceptable under the report guidelines to determine conditions when such features should be used.

SEC. 1409. WORK ZONE SAFETY GRANTS.

23 USC 401 note.

(a) **IN GENERAL.**—The Secretary shall establish and implement a work zone safety grant program under which the Secretary may make grants to nonprofit organizations and not-for-profit organizations to provide training to prevent or reduce highway work zone injuries and fatalities.

(b) **ELIGIBLE ACTIVITIES.**—Grants may be made under the program for the following purposes:

(1) Training for construction craft workers on the prevention of injuries and fatalities in highway and road construction.

(2) Development of guidelines for the prevention of highway work zone injuries and fatalities.

(3) Training for State and local government transportation agencies and other groups implementing guidelines for the prevention of highway work zone injuries and fatalities.

(c) **FUNDING.**—

(1) **IN GENERAL.**—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section \$5,000,000 for each of fiscal years 2006 through 2009.

(2) **CONTRACT AUTHORITY.**—Funds authorized by this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall not be transferable.

(d) **CONSTRUCTION WORK IN ALASKA.**—Section 114 of title 23, United States Code, is amended by adding at the end of the following:

“(c) **CONSTRUCTION WORK IN ALASKA.**—

“(1) **IN GENERAL.**—The Secretary shall ensure that a worker who is employed on a remote project for the construction of a highway or portion of a highway located on a Federal-aid system in the State of Alaska and who is not a domiciled resident of the locality shall receive meals and lodging.

“(2) LODGING.—The lodging under paragraph (1) shall be in accordance with section 1910.142 of title 29, Code of Federal Regulations (relating to temporary labor camp requirements).

“(3) PER DIEM.—

“(A) IN GENERAL.—Contractors are encouraged to use commercial facilities and lodges on remote projects, however, when such facilities are not available, per diem in lieu of room and lodging may be paid on remote Federal highway projects at a basic rate of \$75.00 per day or part of a day the worker is employed on the project. Where the contractor provides or furnishes room and lodging or pays a per diem, the cost of the amount shall not be considered a part of wages and shall be excluded from the calculation of wages.

“(B) SECRETARY OF LABOR.—Such per diem rate shall be adopted by the Secretary of Labor for all applicable remote Federal highway projects in Alaska.

“(C) EXCEPTION.—Per diem shall not be allowed on any of the following remote projects for the construction of a highway or portion of a highway located on a Federal-aid system:

“(i) West of Livengood on the Elliot Highway.

“(ii) Mile 0 on the Dalton Highway to the North Slope of Alaska; north of Mile 20 on the Taylor Highway.

“(iii) East of Chicken on the Top of the World Highway and south of Tetlin Junction to the Alaska Canadian border.

“(4) DEFINITIONS.—In this subsection, the following definitions apply:

“(A) REMOTE.—The term ‘remote’, as used with respect to a project, means that the project is 65 road miles or more from the international airport in Fairbanks, Anchorage, or Juneau, Alaska, as the case may be, or is inaccessible by road in a 2-wheel drive vehicle.

“(B) RESIDENT.—The term ‘resident’, as used with respect to a project, means a person living within 65 road miles of the midpoint of the project for at least 12 consecutive months prior to the award of the project.”.

SEC. 1410. NATIONAL WORK ZONE SAFETY INFORMATION CLEARINGHOUSE.

23 USC 401 note.

(a) GRANTS.—The Secretary shall make grants for fiscal years 2006 through 2009 to a national nonprofit foundation for the operation of the National Work Zone Safety Information Clearinghouse, authorized by section 358(b)(2) of Public Law 104–59, created for the purpose of assembling and disseminating, by electronic and other means, information relating to improvement of roadway work zone safety.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this section \$1,000,000 for each of fiscal years 2006 through 2009.

(c) CONTRACT AUTHORITY.—Funds authorized by this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except the Federal share of the cost of activities carried

out using such funds shall be 100 percent, and such funds shall remain available until expended and shall not be transferable.

23 USC 402 note.

SEC. 1411. ROADWAY SAFETY.

(a) **ROAD SAFETY.**—

Contracts.

(1) **IN GENERAL.**—The Secretary shall enter into an agreement to assist in the activities of a national nonprofit organization that is dedicated solely to improving public road safety—

(A) by improving the quality of data pertaining to public road hazards and design features that affect or increase the severity of motor vehicle crashes;

(B) by developing and carrying out a public awareness campaign to educate State and local transportation officials, public safety officials, and motorists regarding the extent to which public road hazards and design features are a factor in motor vehicle crashes; and

(C) by promoting public road safety research and technology transfer activities.

(2) **FUNDING.**—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) \$500,000 for each of fiscal years 2006 through 2009 to carry out this subsection.

(3) **APPLICABILITY OF TITLE 23.**—Funds made available by this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the funds shall remain available until expended.

(b) **BICYCLE AND PEDESTRIAN SAFETY GRANTS.**—

(1) **IN GENERAL.**—The Secretary shall make grants to a national, not-for-profit organization engaged in promoting bicycle and pedestrian safety—

(A) to operate a national bicycle and pedestrian clearinghouse;

(B) to develop information and educational programs; and

(C) to disseminate techniques and strategies for improving bicycle and pedestrian safety.

(2) **FUNDING.**—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) \$300,000 for fiscal year 2005 and \$500,000 for each of fiscal years 2006 through 2009 to carry out this subsection.

(3) **APPLICABILITY OF TITLE 23.**—Funds made available by this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the funds shall remain available until expended.

SEC. 1412. IDLING REDUCTION FACILITIES IN INTERSTATE RIGHTS-OF-WAY.

Section 111 of title 23, United States Code, is amended by adding at the end the following:

“(d) **IDLING REDUCTION FACILITIES IN INTERSTATE RIGHTS-OF-WAY.**—

“(1) **IN GENERAL.**—Notwithstanding subsection (a), a State may—

“(A) permit electrification or other idling reduction facilities and equipment, for use by motor vehicles used for commercial purposes, to be placed in rest and recreation

areas, and in safety rest areas, constructed or located on rights-of-way of the Interstate System in the State, so long as those idling reduction measures do not reduce the existing number of designated truck parking spaces at any given rest or recreation area; and

“(B) charge a fee, or permit the charging of a fee, for the use of those parking spaces actively providing power to a truck to reduce idling.

“(2) PURPOSE.—The exclusive purpose of the facilities described in paragraph (1) (or similar technologies) shall be to enable operators of motor vehicles used for commercial purposes—

“(A) to reduce idling of a truck while parked in the rest or recreation area; and

“(B) to use installed or other equipment specifically designed to reduce idling of a truck, or provide alternative power for supporting driver comfort, while parked.”.

Subtitle E—Construction and Contract Efficiency

SEC. 1501. PROGRAM EFFICIENCIES.

(a) ADVANCE CONSTRUCTION.—Section 115 of title 23, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by striking subsections (a) and (b) and inserting the following:

“(a) IN GENERAL.—The Secretary may authorize a State to proceed with a project authorized under this title—

“(1) without the use of Federal funds; and

“(2) in accordance with all procedures and requirements applicable to the project other than those procedures and requirements that limit the State to implementation of a project—

“(A) with the aid of Federal funds previously apportioned or allocated to the State; or

“(B) with obligation authority previously allocated to the State.

“(b) OBLIGATION OF FEDERAL SHARE.—The Secretary, on the request of a State and execution of a project agreement, may obligate all or a portion of the Federal share of a project authorized to proceed under this section from any category of funds for which the project is eligible.”.

(b) OBLIGATION AND RELEASE OF FUNDS.—Section 118(d) of such title is amended to read as follows:

“(d) OBLIGATION AND RELEASE OF FUNDS.—

“(1) IN GENERAL.—Funds apportioned or allocated to a State for a purpose for any fiscal year shall be considered to be obligated if a sum equal to the total of the funds apportioned or allocated to the State for that purpose for that fiscal year and previous fiscal years is obligated.

“(2) RELEASED FUNDS.—Any funds released by the final payment for a project, or by modifying the project agreement for a project, shall be—

“(A) credited to the same class of funds previously apportioned or allocated to the State for the project; and

“(B) immediately available for obligation.

“(3) NET OBLIGATIONS.—Notwithstanding any other provision of law (including a regulation), obligations recorded against funds made available under this subsection shall be recorded and reported as net obligations.”.

23 USC 114 note. **SEC. 1502. HIGHWAYS FOR LIFE PILOT PROGRAM.**

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary shall establish and implement a pilot program to be known as the “Highways for LIFE Pilot Program”.

(2) PURPOSE.—The purpose of the pilot program shall be to advance longer-lasting highways using innovative technologies and practices to accomplish the fast construction of efficient and safe highways and bridges.

(3) OBJECTIVES.—Under the pilot program, the Secretary shall provide leadership and incentives to demonstrate and promote state-of-the-art technologies, elevated performance standards, and new business practices in the highway construction process that result in improved safety, faster construction, reduced congestion from construction, and improved quality and user satisfaction.

(b) PROJECTS.—

(1) APPLICATIONS.—To be eligible to participate in the pilot program, a State shall submit to the Secretary an application that is in such form and contains such information as the Secretary requires. Each application shall contain a description of proposed projects to be carried by the State under the pilot program.

(2) ELIGIBILITY.—A proposed project shall be eligible for assistance under the pilot program if the project—

(A) constructs, reconstructs, or rehabilitates a route or connection on a Federal-aid highway eligible for assistance under chapter 1 of title 23, United States Code;

(B) uses innovative technologies, manufacturing processes, financing, or contracting methods that improve safety, reduce congestion due to construction, and improve quality; and

(C) meets additional criteria as determined by the Secretary.

(3) PROJECT PROPOSAL.—A project proposal submitted under paragraph (1) shall contain—

(A) an identification and description of the projects to be delivered;

(B) a description of how the projects will result in improved safety, faster construction, reduced congestion due to construction, user satisfaction, and improved quality;

(C) a description of the innovative technologies, manufacturing processes, financing, and contracting methods that will be used for the proposed projects; and

(D) such other information as the Secretary may require.

(4) SELECTION CRITERIA.—In selecting projects for approval under this section, the Secretary shall ensure that the projects provide an evaluation of a broad range of technologies in a wide variety of project types and shall give priority to the projects that—

(A) address achieving the Highways for LIFE performance standards for quality, safety, and speed of construction;

(B) deliver and deploy innovative technologies, manufacturing processes, financing, contracting practices, and performance measures that will demonstrate substantial improvements in safety, congestion, quality, and cost-effectiveness;

(C) include innovation that will lead to change in the administration of the State's transportation program to more quickly construct long-lasting, high-quality, cost-effective projects that improve safety and reduce congestion;

(D) are or will be ready for construction within 1 year of approval of the project proposal; and

(E) meet such other criteria as the Secretary determines appropriate.

(5) FINANCIAL ASSISTANCE.—

(A) FUNDS FOR HIGHWAYS FOR LIFE PROJECTS.—Out of amounts made available to carry out this section for a fiscal year, the Secretary may allocate to a State up to 20 percent, but not more than \$5,000,000, of the total cost of a project approved under this section. Notwithstanding any other provision of law, funds allocated to a State under this subparagraph may be applied to the non-Federal share of the cost of construction of a project under title 23, United States Code.

(B) USE OF APPORTIONED FUNDS.—A State may obligate not more than 10 percent of the amount apportioned to the State under one or more of paragraphs (1), (2), (3), and (4) of section 104(b) of title 23, United States Code, for a fiscal year for projects approved under this section.

(C) INCREASED FEDERAL SHARE.—Notwithstanding sections 120 and 129 of title 23, United States Code, the Federal share payable on account of any project constructed with Federal funds allocated under this section, or apportioned under section 104(b) of such title, to a State under such title and approved under this section may amount to 100 percent of the cost of construction of such project.

(D) LIMITATION ON STATUTORY CONSTRUCTION.—Except as provided in subparagraph (C), nothing in this subsection shall be construed as altering or otherwise affecting the applicability of the requirements of chapter 1 of title 23, United States Code (including requirements relating to the eligibility of a project for assistance under the program and the location of the project), to amounts apportioned to a State for a program under section 104(b) that are obligated by the State for projects approved under this subsection.

(6) PROJECT SELECTIONS.—In the period of fiscal years 2005 through 2009, the Secretary, to the maximum extent possible, shall approve at least 1 project in each State for participation in the pilot program and for financial assistance under paragraph (5) if the State submits an application and the project meets the eligibility requirements and selection criteria under this subsection.

(7) **MAXIMUM NUMBER OF PROJECTS.**—The maximum number of projects for which the Secretary may allocate funds under this subsection in a fiscal year is 15.

(c) **TECHNOLOGY PARTNERSHIPS.**—

(1) **IN GENERAL.**—The Secretary may make grants or enter into cooperative agreements or other transactions to foster the development, improvement, and creation of innovative technologies and facilities to improve safety, enhance the speed of highway construction, and improve the quality and durability of highways.

(2) **FEDERAL SHARE.**—The Federal share of the cost of an activity carried out under this subsection shall not exceed 80 percent.

(d) **TECHNOLOGY TRANSFER AND INFORMATION DISSEMINATION.**—

(1) **IN GENERAL.**—The Secretary shall conduct a highways for life technology transfer program.

(2) **AVAILABILITY OF INFORMATION.**—The Secretary shall ensure that the information and technology used, developed, or deployed under this subsection is made available to the transportation community and the public.

Procedures.

(e) **STAKEHOLDER INPUT AND INVOLVEMENT.**—The Secretary shall establish a process for stakeholder input and involvement in the development, implementation, and evaluation of the Highways for LIFE Pilot Program. The process may include participation by representatives of State departments of transportation and other interested persons.

(f) **PROJECT MONITORING AND EVALUATION.**—The Secretary shall monitor and evaluate the effectiveness of any activity carried out under this section.

(g) **CONTRACT AUTHORITY.**—Except as otherwise provided in this section, funds authorized to be appropriated to carry out this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

(h) **STATE DEFINED.**—In this section, the term “State” has the meaning such term has in section 101(a) of title 23, United States Code.

SEC. 1503. DESIGN BUILD.

Section 112(b)(3) of title 23, United States Code, is amended—

(1) by redesignating subparagraph (D) as subparagraph (E); and

(2) by striking subparagraph (C) and inserting the following:

“(C) **QUALIFIED PROJECTS.**—A qualified project referred to in subparagraph (A) is a project under this chapter (including intermodal projects) for which the Secretary has approved the use of design-build contracting under criteria specified in regulations issued by the Secretary.

Deadline.
Regulations.

“(D) **REGULATORY PROCESS.**—Not later than 90 days after the date of enactment of the SAFETEA-LU, the Secretary shall issue revised regulations under section 1307(c) of the Transportation Equity Act for 21st Century (23 U.S.C. 112 note; 112 Stat. 230) that—

“(i) do not preclude a State transportation department or local transportation agency, prior to compliance with section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332), from—

“(I) issuing requests for proposals;

“(II) proceeding with awards of design-build contracts; or

“(III) issuing notices to proceed with preliminary design work under design-build contracts;

“(ii) require that the State transportation department or local transportation agency receive concurrence from the Secretary before carrying out an activity under clause (i); and

“(iii) preclude the design-build contractor from proceeding with final design or construction of any permanent improvement prior to completion of the process under such section 102.”.

Subtitle F—Finance

SEC. 1601. TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION ACT AMENDMENTS.

(a) DEFINITIONS.—Section 181 of title 23, United States Code, is amended—

(1) in paragraph (3) by striking “category” and “offered into the capital markets”;

(2) by striking paragraph (7) and redesignating paragraphs (8) through (15) as paragraphs (7) through (14), respectively;

(3) in paragraph (8) (as redesignated by paragraph (2) of this subsection)—

(A) in subparagraph (B) by striking the period at the end and inserting a semicolon; and

(B) by striking subparagraph (D) and inserting the following:

“(D) a project that—

“(i) is a project—

“(I) for a public freight rail facility or a private facility providing public benefit for highway users;

“(II) for an intermodal freight transfer facility;

“(III) for a means of access to a facility described in subclause (I) or (II);

“(IV) for a service improvement for a facility described in subclause (I) or (II) (including a capital investment for an intelligent transportation system); or

“(V) that comprises a series of projects described in subclauses (I) through (IV) with the common objective of improving the flow of goods;

“(ii) may involve the combining of private and public sector funds, including investment of public funds in private sector facility improvements; and

“(iii) if located within the boundaries of a port terminal, includes only such surface transportation infrastructure modifications as are necessary to facilitate direct intermodal interchange, transfer, and access into and out of the port.”; and

(4) in paragraph (10) (as redesignated by paragraph (2) of this subsection) by striking “bond” and inserting “credit”.

(b) DETERMINATION OF ELIGIBILITY.—Section 182(a) of such title is amended—

(1) by striking paragraphs (1) and (2) and inserting the following:

“(1) INCLUSION IN TRANSPORTATION PLANS AND PROGRAMS.—The project shall satisfy the applicable planning and programming requirements of sections 134 and 135 at such time as an agreement to make available a Federal credit instrument is entered into under this subchapter.

“(2) APPLICATION.—A State, local government, public authority, public-private partnership, or any other legal entity undertaking the project and authorized by the Secretary, shall submit a project application to the Secretary.”;

(2) in paragraph (3)(A)(i) by striking “\$100,000,000” and inserting “\$50,000,000”;

(3) in paragraph (3)(A)(ii) by striking “50” and inserting “33 $\frac{1}{3}$ ”;

(4) in paragraph (3)(B) by striking “\$30,000,000” and inserting “\$15,000,000”; and

(5) in paragraph (4)—

(A) by striking “Project financing” and inserting “The Federal credit instrument”; and

(B) by inserting before the period at the end “that also secure the project obligations”.

(c) PROJECT SELECTION.—Section 182(b) of such title is amended—

(1) in paragraph (1) by striking “criteria” the second place it appears and inserting “requirements”; and

(2) in paragraph (2)(B) by inserting “, which may be the Federal credit instrument,” after “obligations”.

(d) SECURED LOANS.—

(1) AGREEMENTS.—Section 183(a)(1) of such title is amended—

(A) in subparagraph (A) by inserting “of any project selected under section 602” after “costs”;

(B) by striking the semicolon at the end of subparagraph (B) and all that follows through “under section 182.” and inserting “of any project selected under section 602; or”; and

(C) by adding at the end the following:

“(C) to refinance long-term project obligations or Federal credit instruments if such refinancing provides additional funding capacity for the completion, enhancement, or expansion of any project that—

“(i) is selected under section 602; or

“(ii) otherwise meets the requirements of section 602.”.

(2) INVESTMENT-GRADE RATING REQUIREMENT.—Section 183(a)(4) of such title is amended—

(A) by striking “The funding” and inserting “The execution”; and

(B) by striking the first comma and all that follows through “1 rating agency”.

(3) TERMS AND LIMITATIONS.—Section 183(b) of such title is amended—

- (A) in paragraph (2)—
 - (i) by inserting “the lesser of” after “exceed”; and
 - (ii) by inserting “or, if the secured loan does not receive an investment grade rating, the amount of the senior project obligations” after “costs”;
- (B) in paragraph (3)(A)(i) by inserting “that also secure the senior project obligations” after “sources”; and
- (C) in paragraph (4) by striking “marketable”.
- (4) REPAYMENT.—Section 183(c) of such title is amended—
 - (A) by striking paragraph (3);
 - (B) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively;
 - (C) in paragraph (3)(A) (as redesignated by subparagraph (B) of this paragraph) by striking “during the 10 years”; and
 - (D) in subparagraph (3)(B)(ii) (as so redesignated) by striking “loan” and all that follows and inserting “loan.”.
- (e) LINES OF CREDIT.—
 - (1) TERMS AND LIMITATIONS.—Section 184(b) of such title is amended—
 - (A) by striking paragraph (2) and inserting the following:

“(2) MAXIMUM AMOUNTS.—The total amount of the line of credit shall not exceed 33 percent of the reasonably anticipated eligible project costs.”;
 - (B) in paragraph (3) by striking “, any debt service reserve fund, and any other available reserve” and inserting “but not including reasonably required financing reserves”;
 - (C) in paragraph (4)—
 - (i) by striking “marketable”;
 - (ii) by striking “on which” and inserting “of execution of”; and
 - (iii) by striking “is obligated” and inserting “agreement”;
 - (D) in paragraph (5)(A)(i) by inserting “that also secure the senior project obligations” after “sources”; and
 - (E) in paragraph (6) by striking “line of credit” and inserting “full amount of the line of credit, to the extent not drawn upon.”.
 - (2) REPAYMENT.—Section 184(c) of such title is amended—
 - (A) in paragraph (2)—
 - (i) by striking “scheduled”;
 - (ii) by inserting “be scheduled to” after “shall”;
 - and
 - (iii) by striking “be fully repaid, with interest,” and inserting “to conclude, with full repayment of principal and interest,”; and
 - (B) by striking paragraph (3).

(f) PROGRAM ADMINISTRATION.—Section 185 of such title is amended to read as follows:

“§ 185. Program administration

“(a) REQUIREMENT.—The Secretary shall establish a uniform system to service the Federal credit instruments made available under this subchapter.

“(b) FEES.—

“(1) IN GENERAL.—The Secretary may collect and spend fees, contingent upon authority being provided in appropriations Acts, at a level that is sufficient to cover—

“(A) the costs of services of expert firms retained pursuant to subsection (d); and

“(B) all or a portion of the costs to the Federal Government of servicing the Federal credit instruments.

“(c) SERVICER.—

“(1) IN GENERAL.—The Secretary may appoint a financial entity to assist the Secretary in servicing the Federal credit instruments.

“(2) DUTIES.—The servicer shall act as the agent for the Secretary.

“(3) FEE.—The servicer shall receive a servicing fee, subject to approval by the Secretary.

“(d) ASSISTANCE FROM EXPERT FIRMS.—The Secretary may retain the services of expert firms, including counsel, in the field of municipal and project finance to assist in the underwriting and servicing of Federal credit instruments.”

(g) FUNDING.—Section 188 of such title is amended to read as follows:

“§ 188. Funding

“(a) FUNDING.—

“(1) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subchapter \$122,000,000 for each of fiscal years 2005 through 2009.

“(2) AVAILABILITY.—Amounts made available to carry out this chapter shall remain available until expended.

“(3) ADMINISTRATIVE COSTS.—From funds made available to carry out this chapter, the Secretary may use, for the administration of this subchapter, not more than \$2,200,000 for each of fiscal years 2005 through 2009.

“(b) CONTRACT AUTHORITY.—

“(1) IN GENERAL.—Notwithstanding any other provision of law, approval by the Secretary of a Federal credit instrument that uses funds made available under this subchapter shall impose upon the United States a contractual obligation to fund the Federal credit investment.

“(2) AVAILABILITY.—Amounts authorized under this section for a fiscal year shall be available for obligation on October 1 of the fiscal year.”

(h) DATES FOR SUBMISSION OF REPORTS.—Section 189 of such title is amended—

(1) by striking the section designation and heading and inserting the following:

“§ 189. Reports to Congress”;

(2) by striking “Not later than 4 years after the date of enactment of this subchapter,” and inserting “On June 1, 2006, and every 2 years thereafter,”; and

(3) by striking “subchapter” each place it appears and inserting “chapter (other than section 610)”.

(i) CLERICAL AMENDMENT.—The analysis for chapter 1 of such title is amended by striking the item relating to section 185 and inserting the following:

“185. Program administration.”.

SEC. 1602. STATE INFRASTRUCTURE BANKS.

(a) IN GENERAL.—Subchapter II of chapter 1 of title 23, United States Code, is amended by adding at the end the following:

“§ 190. State infrastructure bank program

“(a) DEFINITIONS.—In this section, the following definitions apply:

“(1) CAPITAL PROJECT.—The term ‘capital project’ has the meaning such term has under section 5302 of title 49.

“(2) OTHER FORMS OF CREDIT ASSISTANCE.—The term ‘other forms of credit assistance’ includes any use of funds in an infrastructure bank—

“(A) to provide credit enhancements;

“(B) to serve as a capital reserve for bond or debt instrument financing;

“(C) to subsidize interest rates;

“(D) to insure or guarantee letters of credit and credit instruments against credit risk of loss;

“(E) to finance purchase and lease agreements with respect to transit projects;

“(F) to provide bond or debt financing instrument security; and

“(G) to provide other forms of debt financing and methods of leveraging funds that are approved by the Secretary and that relate to the project with respect to which such assistance is being provided.

“(3) STATE.—The term ‘State’ has the meaning such term has under section 401.

“(4) CAPITALIZATION.—The term ‘capitalization’ means the process used for depositing funds as initial capital into a State infrastructure bank to establish the infrastructure bank.

“(5) COOPERATIVE AGREEMENT.—The term ‘cooperative agreement’ means written consent between a State and the Secretary which sets forth the manner in which the infrastructure bank established by the State in accordance with this section will be administered.

“(6) LOAN.—The term ‘loan’ means any form of direct financial assistance from a State infrastructure bank that is required to be repaid over a period of time and that is provided to a project sponsor for all or part of the costs of the project.

“(7) GUARANTEE.—The term ‘guarantee’ means a contract entered into by a State infrastructure bank in which the bank agrees to take responsibility for all or a portion of a project sponsor’s financial obligations for a project under specified conditions.

“(8) INITIAL ASSISTANCE.—The term ‘initial assistance’ means the first round of funds that are loaned or used for credit enhancement by a State infrastructure bank for projects eligible for assistance under this section.

“(9) LEVERAGE.—The term ‘leverage’ means a financial structure used to increase funds in a State infrastructure bank through the issuance of debt instruments.

“(10) LEVERAGED.—The term ‘leveraged’, as used with respect to a State infrastructure bank, means that the bank has total potential liabilities that exceed the capital of the bank.

“(b) COOPERATIVE AGREEMENTS.—Subject to the provisions of this section, the Secretary may enter into cooperative agreements with States for the establishment of State infrastructure banks for making loans and providing other forms of credit assistance to public and private entities carrying out or proposing to carry out projects eligible for assistance under this section.

“(c) INTERSTATE COMPACTS.—

“(1) IN GENERAL.—Congress grants consent to two or more of the States, entering into a cooperative agreement under subsection (a) with the Secretary for the establishment by such States of a multistate infrastructure bank in accordance with this section, to enter into an interstate compact establishing such bank in accordance with this section.

“(2) RESERVATION OF RIGHTS.—The right to alter, amend, or repeal interstate compacts entered into under this subsection is expressly reserved.

“(d) FUNDING.—

“(1) HIGHWAY ACCOUNT.—Subject to subsection (j), the Secretary may permit a State entering into a cooperative agreement under this section to establish a State infrastructure bank to deposit into the highway account of the bank not to exceed—

“(A) 10 percent of the funds apportioned to the State for each of fiscal years 2005 through 2009 under each of sections 104(b)(1), 104(b)(3), 104(b)(4), and 144; and

“(B) 10 percent of the funds allocated to the State for each of such fiscal years under section 105.

“(2) TRANSIT ACCOUNT.—Subject to subsection (j), the Secretary may permit a State entering into a cooperative agreement under this section to establish a State infrastructure bank, and any other recipient of Federal assistance under section 5307, 5309, or 5311 of title 49, to deposit into the transit account of the bank not to exceed 10 percent of the funds made available to the State or other recipient in each of fiscal years 2005 through 2009 for capital projects under each of such sections.

“(3) RAIL ACCOUNT.—Subject to subsection (j), the Secretary may permit a State entering into a cooperative agreement under this section to establish a State infrastructure bank, and any other recipient of Federal assistance under subtitle V of title 49, to deposit into the rail account of the bank funds made available to the State or other recipient in each of fiscal years 2005 through 2009 for capital projects under such subtitle.

“(4) CAPITAL GRANTS.—

“(A) HIGHWAY ACCOUNT.—Federal funds deposited into a highway account of a State infrastructure bank under paragraph (1) shall constitute for purposes of this section a capitalization grant for the highway account of the bank.

“(B) TRANSIT ACCOUNT.—Federal funds deposited into a transit account of a State infrastructure bank under paragraph (2) shall constitute for purposes of this section a capitalization grant for the transit account of the bank.

“(C) RAIL ACCOUNT.—Federal funds deposited into a rail account of a State infrastructure bank under paragraph 3 shall constitute for purposes of this section a capitalization grant for the rail account of the bank.

“(5) SPECIAL RULE FOR URBANIZED AREAS OF OVER 200,000.—Funds in a State infrastructure bank that are attributed to urbanized areas of a State with urbanized populations of over 200,000 under section 133(d)(3) may be used to provide assistance with respect to a project only if the metropolitan planning organization designated for such area concurs, in writing, with the provision of such assistance.

“(6) DISCONTINUANCE OF FUNDING.—If the Secretary determines that a State is not implementing the State’s infrastructure bank in accordance with a cooperative agreement entered into under subsection (b), the Secretary may prohibit the State from contributing additional Federal funds to the bank.

“(e) FORMS OF ASSISTANCE FROM INFRASTRUCTURE BANKS.—An infrastructure bank established under this section may make loans or provide other forms of credit assistance to a public or private entity in an amount equal to all or a part of the cost of carrying out a project eligible for assistance under this section. The amount of any loan or other form of credit assistance provided for the project may be subordinated to any other debt financing for the project. Initial assistance provided with respect to a project from Federal funds deposited into an infrastructure bank under this section may not be made in the form of a grant.

“(f) ELIGIBLE PROJECTS.—Subject to subsection (e), funds in an infrastructure bank established under this section may be used only to provide assistance for projects eligible for assistance under this title and capital projects defined in section 5302 of title 49, and any other projects relating to surface transportation that the Secretary determines to be appropriate.

“(g) INFRASTRUCTURE BANK REQUIREMENTS.—In order to establish an infrastructure bank under this section, the State establishing the bank shall—

“(1) deposit in cash, at a minimum, into each account of the bank from non-Federal sources an amount equal to 25 percent of the amount of each capitalization grant made to the State and deposited into such account; except that, if the deposit is into the highway account of the bank and the State has a non-Federal share under section 120(b) that is less than 25 percent, the percentage to be deposited from non-Federal sources shall be the lower percentage of such grant;

“(2) ensure that the bank maintains on a continuing basis an investment grade rating on its debt, or has a sufficient level of bond or debt financing instrument insurance, to maintain the viability of the bank;

“(3) ensure that investment income derived from funds deposited to an account of the bank are—

“(A) credited to the account;

“(B) available for use in providing loans and other forms of credit assistance to projects eligible for assistance from the account; and

“(C) invested in United States Treasury securities, bank deposits, or such other financing instruments as the Secretary may approve to earn interest to enhance the leveraging of projects assisted by the bank;

- Deadline. “(4) ensure that any loan from the bank will bear interest at or below market interest rates, as determined by the State, to make the project that is the subject of the loan feasible;
- Deadline. “(5) ensure that repayment of any loan from the bank will commence not later than 5 years after the project has been completed or, in the case of a highway project, the facility has opened to traffic, whichever is later;
- Deadline. “(6) ensure that the term for repaying any loan will not exceed 30 years after the date of the first payment on the loan; and
- Reports.
Deadline. “(7) require the bank to make an annual report to the Secretary on its status no later than September 30 of each year and such other reports as the Secretary may require under guidelines issued to carry out this section.
- “(h) APPLICABILITY OF FEDERAL LAW.—
- “(1) IN GENERAL.—The requirements of this title and title 49 that would otherwise apply to funds made available under this title or such title and projects assisted with those funds shall apply to—
- “(A) funds made available under this title or such title and contributed to an infrastructure bank established under this section, including the non-Federal contribution required under subsection (g); and
- “(B) projects assisted by the bank through the use of the funds,
- except to the extent that the Secretary determines that any requirement of such title (other than sections 113 and 114 of this title and section 5333 of title 49) is not consistent with the objectives of this section.
- “(2) REPAYMENTS.—The requirements of this title and title 49 shall apply to repayments from non-Federal sources to an infrastructure bank from projects assisted by the bank. Such a repayment shall be considered to be Federal funds.
- “(i) UNITED STATES NOT OBLIGATED.—The deposit of Federal funds into an infrastructure bank established under this section shall not be construed as a commitment, guarantee, or obligation on the part of the United States to any third party, nor shall any third party have any right against the United States for payment solely by virtue of the contribution. Any security or debt-financing instrument issued by the infrastructure bank shall expressly state that the security or instrument does not constitute a commitment, guarantee, or obligation of the United States.
- “(j) MANAGEMENT OF FEDERAL FUNDS.—Sections 3335 and 6503 of title 31 shall not apply to funds deposited into an infrastructure bank under this section.
- “(k) PROGRAM ADMINISTRATION.—For each of fiscal years 2005 through 2009, a State may expend not to exceed 2 percent of the Federal funds contributed to an infrastructure bank established by the State under this section to pay the reasonable costs of administering the bank.”.
- (b) PREPARATORY AMENDMENTS.—
- (1) SECTION 181.—Section 181 of such title is amended—
- (A) by striking the section designator and heading and inserting the following:

“§ 181. Generally applicable provisions”;

(B) by striking “In this subchapter” and inserting the following:

“(a) DEFINITIONS.—In this chapter”;

(C) in paragraph (5) by striking “184” and inserting “604”;

(D) in paragraph (11) (as redesignated by section 1601(a) of this Act) by striking “183” and inserting “603”; and

(E) by adding at the end the following:

“(b) TREATMENT OF CHAPTER.—For purposes of this title, this chapter shall be treated as being part of chapter 1.”.

(2) SECTION 182.—Section 182(b)(2)(A)(viii) of such title is amended by inserting “and chapter 1” after “this chapter”.

(3) SECTION 183.—Section 183(a)(3) of such title is amended by striking “182(b)(2)(B)” and inserting “602(b)(2)(B)”.

(4) SECTION 184.—Section 184 of such title is amended—

(A) in subsection (a)(1) by striking “182” and inserting “602”;

(B) in subsection (a)(3) by striking “182(b)(2)(B)” and inserting “602(b)(2)(B)”;

(C) in subsection (b)(10) by striking “183” and inserting “603”.

(5) REFERENCES IN SUBCHAPTER.—Subchapter II of chapter 1 of such title is amended by striking “this subchapter” each place it appears and inserting “this chapter”.

23 USC 181–183,
185–188.

(6) SUBCHAPTER HEADINGS.—Chapter 1 of such title is further amended—

(A) by striking “SUBCHAPTER I—GENERAL PROVISIONS” preceding section 101; and

(B) by striking “SUBCHAPTER II—INFRASTRUCTURE FINANCE” preceding section 181.

(c) CHAPTER 6.—Such title is further amended by adding at the end the following:

“CHAPTER 6—INFRASTRUCTURE FINANCE

“Sec.

“601. Generally applicable provisions.

“602. Determination of eligibility and project selection.

“603. Secured loans.

“604. Lines of credit.

“605. Program administration.

“606. State and local permits.

“607. Regulations.

“608. Funding.

“609. Reports to Congress.

“610. State infrastructure bank program.”.

(d) MOVING AND REDESIGNATING.—Such title is further amended—

(1) by redesignating sections 181 through 189 as sections 601 through 609, respectively;

(2) by moving such sections from chapter 1 to chapter 6 (as added by subsection (c)); and

(3) by inserting such sections after the analysis for chapter 6.

(e) ANALYSIS FOR CHAPTER 1 AND TABLE OF CHAPTERS.—

(1) ANALYSIS FOR CHAPTER 1.—The analysis for chapter 1 of such title is amended—

(A) by striking the headings for subchapters I and II; and

(B) by striking the items relating to sections 181 through 189.

(2) TABLE OF CHAPTERS.—The table of chapters for such title is amended by inserting after the item relating to chapter 5 the following:

“6. Infrastructure Finance 601.”.

23 USC 118 note. **SEC. 1603. USE OF EXCESS FUNDS AND FUNDS FOR INACTIVE PROJECTS.**

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) ELIGIBLE FUNDS.—

(A) IN GENERAL.—The term “eligible funds” means excess funds or inactive funds for a specific transportation project or activity that were—

(i) allocated before fiscal year 1991; and

(ii) designated in a public law, or a report accompanying a public law, for allocation for the specific surface transportation project or activity.

(B) INCLUSION.—The term “eligible funds” includes funds described in subparagraph (A) that were allocated and designated for a demonstration project.

(2) EXCESS FUNDS.—The term “excess funds” means—

(A) funds obligated for a specific transportation project or activity that remain available for the project or activity after the project or activity has been completed or canceled; or

(B) an unobligated balance of funds allocated for a transportation project or activity that the State in which the project or activity was to be carried out certifies are no longer needed for the project or activity.

(3) INACTIVE FUNDS.—The term “inactive funds” means—

(A) an obligated balance of Federal funds for an eligible transportation project or activity against which no expenditures have been charged during any 1-year period beginning after the date of obligation of the funds; and

(B) funds that are available to carry out a transportation project or activity in a State, but, as certified by the State, are unlikely to be advanced for the project or activity during the 1-year period beginning on the date of certification.

(b) AVAILABILITY FOR STP PURPOSES.—Eligible funds shall be—

(1) made available in accordance with this section to the State that originally received the funds; and

(2) available for obligation for any eligible purpose under section 133 of title 23, United States Code.

(c) RETENTION FOR ORIGINAL PURPOSE.—

(1) IN GENERAL.—The Secretary may determine that eligible funds identified as inactive funds shall remain available for the purpose for which the funds were initially made available if the applicable State certifies that the funds are necessary for that initial purpose.

(2) REPORT.—A certification provided by a State under paragraph (1) shall include a report on the status of, and

an estimated completion date for, the project that is the subject of the certification.

(d) **AUTHORITY TO OBLIGATE.**—Notwithstanding the original source or period of availability of eligible funds, the Secretary may, on the request by a State—

(1) obligate the funds for any eligible purpose under section 133 of title 23, United States Code; or

(2)(A) deobligate the funds; and

(B) reobligate the funds for any eligible purpose under that section.

(e) **APPLICABILITY.**—

(1) **IN GENERAL.**—Subject to paragraph (2), this section applies only to eligible funds.

(2) **DISCRETIONARY ALLOCATIONS; SECTION 125 PROJECTS.**—This section does not apply to funds that are—

(A) allocated at the discretion of the Secretary and for which the Secretary has the authority to withdraw the allocation for use on other projects; or

(B) made available to carry out projects under section 125 of title 23, United States Code.

(f) **PERIOD OF AVAILABILITY; TITLE 23 REQUIREMENTS.**—

(1) **IN GENERAL.**—Notwithstanding the original source or period of availability of eligible funds obligated, or deobligated and reobligated, under subsection (d), the eligible funds—

(A) shall remain available for obligation for a period of 3 fiscal years after the fiscal year in which this Act is enacted; and

(B) except as provided in paragraph (2), shall be subject to the requirements of title 23, United States Code, that apply to section 133 of that title, including provisions relating to Federal share.

(2) **EXCEPTION.**—With respect to eligible funds described in paragraph (1)—

(A) section 133(d) of title 23, United States Code, shall not apply; and

(B) the period of availability of the eligible funds shall be determined in accordance with this section.

(g) **REPORT.**—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report describing any action taken by the Secretary under this section.

(h) **SENSE OF CONGRESS REGARDING USE OF ELIGIBLE FUNDS.**—It is the sense of Congress that eligible funds made available under this Act or title 23, United States Code, should be available for obligation for transportation projects and activities in the same geographic region for which the eligible funds were initially made available.

SEC. 1604. TOLLING.

(a) **VALUE PRICING PILOT PROGRAM.**—Section 1012(b)(8) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 149 note; 105 Stat. 1938) is amended—

(1) by redesignating subparagraphs (A) and (B) as subparagraphs (C) and (D), respectively; and

(2) by inserting before subparagraph (C) (as redesignated by paragraph (1)) the following:

“(A) IN GENERAL.—There are authorized to be appropriated to the Secretary from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection—

“(i) for fiscal year 2005, \$11,000,000; and

“(ii) for each of fiscal years 2006 through 2009, \$12,000,000.

“(B) SET-ASIDE FOR PROJECTS NOT INVOLVING HIGHWAY TOLLS.—Of the amounts made available to carry out this subsection, \$3,000,000 for each of fiscal years 2006 through 2009 shall be available only for congestion pricing pilot projects that do not involve highway tolls.”.

23 USC 129 note.

(b) EXPRESS LANES DEMONSTRATION PROGRAM.—

(1) DEFINITIONS.—In this subsection, the following definitions apply:

(A) ELIGIBLE TOLL FACILITY.—The term “eligible toll facility” includes—

(i) a facility in existence on the date of enactment of this Act that collects tolls;

(ii) a facility in existence on the date of enactment of this Act that serves high occupancy vehicles;

(iii) a facility modified or constructed after the date of enactment of this Act to create additional tolled lane capacity (including a facility constructed by a private entity or using private funds); and

(iv) in the case of a new lane added to a previously non-tolled facility, only the new lane.

(B) NONATTAINMENT AREA.—The term “nonattainment area” has the meaning given that term in section 171 of the Clean Air Act (42 U.S.C. 7501).

(2) DEMONSTRATION PROGRAM.—Notwithstanding sections 129 and 301 of title 23, United States Code, the Secretary shall carry out 15 demonstration projects during the period of fiscal years 2005 through 2009 to permit States, public authorities, or a public or private entities designated by States, to collect a toll from motor vehicles at an eligible toll facility for any highway, bridge, or tunnel, including facilities on the Interstate System—

(A) to manage high levels of congestion;

(B) to reduce emissions in a nonattainment area or maintenance area; or

(C) to finance the expansion of a highway, for the purpose of reducing traffic congestion, by constructing one or more additional lanes (including bridge, tunnel, support, and other structures necessary for that construction) on the Interstate System.

(3) LIMITATION ON USE OF REVENUES.—

(A) USE.—

(i) IN GENERAL.—Toll revenues received under paragraph (2) shall be used by a State, public authority, or private entity designated by a State, for—

(I) debt service;

(II) a reasonable return on investment of any private financing;

(III) the costs necessary for proper operation and maintenance of any facilities under paragraph (2) (including reconstruction, resurfacing, restoration, and rehabilitation); or

(IV) if the State, public authority, or private entity annually certifies that the tolled facility is being adequately operated and maintained, any other purpose relating to a highway or transit project carried out under title 23 or 49, United States Code.

(B) REQUIREMENTS.—

(i) VARIABLE PRICE REQUIREMENT.—A facility that charges tolls under this subsection may establish a toll that varies in price according to time of day or level of traffic, as appropriate to manage congestion or improve air quality.

(ii) HOV VARIABLE PRICING REQUIREMENT.—The Secretary shall require, for each high occupancy vehicle facility that charges tolls under this subsection, that the tolls vary in price according to time of day or level of traffic, as appropriate to manage congestion or improve air quality.

(iii) HOV PASSENGER REQUIREMENTS.—Pursuant to section 166 of title 23, United States Code, a State may permit motor vehicles with fewer than two occupants to operate in high occupancy vehicle lanes as part of a variable toll pricing program established under this subsection.

(C) AGREEMENT.—

(i) IN GENERAL.—Before the Secretary may permit a facility to charge tolls under this subsection, the Secretary and the applicable State, public authority, or private entity designated by a State shall enter into an agreement for each facility incorporating the conditions described in subparagraphs (A) and (B).

(ii) TERMINATION.—An agreement under clause (i) shall terminate with respect to a facility upon the decision of the State, public authority, or private entity designated by a State to discontinue the variable tolling program under this subsection for the facility.

(iii) DEBT.—If there is any debt outstanding on a facility at the time at which the decision is made to discontinue the program under this subsection with respect to the facility, the facility may continue to charge tolls in accordance with the terms of the agreement until such time as the debt is retired.

(D) LIMITATION ON FEDERAL SHARE.—The Federal share of the cost of a project on a facility tolled under this subsection, including a project to install the toll collection facility shall be a percentage, not to exceed 80 percent, determined by the applicable State.

(4) ELIGIBILITY.—To be eligible to participate in the program under this subsection, a State, public authority, or private entity designated by a State shall provide to the Secretary—

(A) a description of the congestion or air quality problems sought to be addressed under the program;

(B) a description of—

(i) the goals sought to be achieved under the program; and

(ii) the performance measures that would be used to gauge the success made toward reaching those goals; and

(C) such other information as the Secretary may require.

(5) AUTOMATION.—Fees collected from motorists using an express lane shall be collected only through the use of noncash electronic technology that optimizes the free flow of traffic on the tolled facility.

(6) INTEROPERABILITY.—

(A) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall promulgate a final rule specifying requirements, standards, or performance specifications for automated toll collection systems implemented under this section.

(B) DEVELOPMENT.—In developing that rule, which shall be designed to maximize the interoperability of electronic collection systems, the Secretary shall, to the maximum extent practicable—

(i) seek to accelerate progress toward the national goal of achieving a nationwide interoperable electronic toll collection system;

(ii) take into account the use of noncash electronic technology currently deployed within an appropriate geographical area of travel and the noncash electronic technology likely to be in use within the next 5 years; and

(iii) seek to minimize additional costs and maximize convenience to users of toll facility and to the toll facility owner or operator.

(7) REPORTING.—

(A) IN GENERAL.—The Secretary, in cooperation with State and local agencies and other program participants and with opportunity for public comment, shall—

(i) develop and publish performance goals for each express lane project;

(ii) establish a program for regular monitoring and reporting on the achievement of performance goals, including—

(I) effects on travel, traffic, and air quality;

(II) distribution of benefits and burdens;

(III) use of alternative transportation modes;

and

(IV) use of revenues to meet transportation or impact mitigation needs.

(B) REPORTS TO CONGRESS.—The Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives—

(i) not later than 1 year after the date of enactment of this Act, and annually thereafter, a report that describes in detail the uses of funds under this subsection in accordance with paragraph (8)(D); and

(ii) not later than 3 years after the date of enactment of this Act, and every 3 years thereafter, a report

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that describes any success of the program under this subsection in meeting congestion reduction and other performance goals established for express lane programs.

(c) INTERSTATE SYSTEM CONSTRUCTION TOLL PILOT PROGRAM.— 23 USC 129 note.

(1) ESTABLISHMENT.—The Secretary shall establish and implement an Interstate System construction toll pilot program under which the Secretary, notwithstanding sections 129 and 301 of title 23, United States Code, may permit a State or an interstate compact of States to collect tolls on a highway, bridge, or tunnel on the Interstate System for the purpose of constructing Interstate highways.

(2) LIMITATION ON NUMBER OF FACILITIES.—The Secretary may permit the collection of tolls under this section on three facilities on the Interstate System.

(3) ELIGIBILITY.—To be eligible to participate in the pilot program, a State shall submit to the Secretary an application that contains, at a minimum, the following:

(A) An identification of the facility on the Interstate System proposed to be a toll facility.

(B) In the case of a facility that affects a metropolitan area, an assurance that the metropolitan planning organization designated under section 134 or 135 for the area has been consulted concerning the placement and amount of tolls on the facility.

(C) An analysis demonstrating that financing the construction of the facility with the collection of tolls under the pilot program is the most efficient and economical way to advance the project.

(D) A facility management plan that includes—

(i) a plan for implementing the imposition of tolls on the facility;

(ii) a schedule and finance plan for the construction of the facility using toll revenues;

(iii) a description of the public transportation agency that will be responsible for implementation and administration of the pilot program;

(iv) a description of whether consideration will be given to privatizing the maintenance and operational aspects of the facility, while retaining legal and administrative control of the portion of the Interstate route; and

(v) such other information as the Secretary may require.

(4) SELECTION CRITERIA.—The Secretary may approve the application of a State under paragraph (3) only if the Secretary determines that—

(A) the State's analysis under paragraph (3)(C) is reasonable;

(B) the State plan for implementing tolls on the facility takes into account the interests of local, regional, and interstate travelers;

(C) the State plan for construction of the facility using toll revenues is reasonable;

(D) the State will develop, manage, and maintain a system that will automatically collect the tolls; and

(E) the State has given preference to the use of a public toll agency with demonstrated capability to build, operate, and maintain a toll expressway system meeting criteria for the Interstate System.

Contracts.

(5) PROHIBITION ON NONCOMPETE AGREEMENTS.—Before the Secretary may permit a State to participate in the pilot program, the State must enter into an agreement with the Secretary that provides that the State will not enter into an agreement with a private person under which the State is prevented from improving or expanding the capacity of public roads adjacent to the toll facility to address conditions resulting from traffic diverted to such roads from the toll facility, including—

(A) excessive congestion;

(B) pavement wear; and

(C) an increased incidence of traffic accidents, injuries, or fatalities.

Contracts.

(6) LIMITATIONS ON USE OF REVENUES; AUDITS.—Before the Secretary may permit a State to participate in the pilot program, the State must enter into an agreement with the Secretary that provides that—

(A) all toll revenues received from operation of the toll facility will be used only for—

(i) debt service;

(ii) reasonable return on investment of any private person financing the project; and

(iii) any costs necessary for the improvement of and the proper operation and maintenance of the toll facility, including reconstruction, resurfacing, restoration, and rehabilitation of the toll facility; and

(B) regular audits will be conducted to ensure compliance with subparagraph (A) and the results of such audits will be transmitted to the Secretary.

(7) LIMITATION ON USE OF INTERSTATE MAINTENANCE FUNDS.—During the term of the pilot program, funds apportioned for Interstate maintenance under section 104(b)(4) of title 23, United States Code, may not be used on a facility for which tolls are being collected under the program.

(8) PROGRAM TERM.—The Secretary may approve an application of a State for permission to collect a toll under this section only if the application is received by the Secretary before the last day of the 10-year period beginning on the date of enactment of this Act.

(9) INTERSTATE SYSTEM DEFINED.—In this section, the term “Interstate System” has the meaning such term has under section 101 of title 23, United States Code.

Subtitle G—High Priority Projects

SEC. 1701. HIGH PRIORITY PROJECTS PROGRAM.

(a) AUTHORIZATION OF HIGH PRIORITY PROJECTS.—Section 117(a) of title 23, United States Code, is amended to read as follows:

“(a) AUTHORIZATION OF HIGH PRIORITY PROJECTS.—

“(1) IN GENERAL.—The Secretary is authorized to carry out high priority projects with funds made available to carry out the high priority projects program under this section.

“(2) AVAILABILITY OF FUNDS.—

“(A) FOR TEA–21.—Of amounts made available to carry out this section for fiscal years 1998 through 2003, the Secretary, subject to subsection (b), shall make available to carry out each project described in section 1602 of the Transportation Equity Act for the 21st Century the amount listed for such project in such section.

“(B) FOR SAFETEA–LU.—Of amounts made available to carry out this section for fiscal years 2005 through 2009, the Secretary, subject to subsection (b), shall make available to carry out each project described in section 1702 of the SAFETEA–LU the amount listed for such project in such section.

“(3) AVAILABILITY OF UNALLOCATED FUNDS.—Any amounts made available to carry out such program that are not allocated for projects described in such section shall be available to the Secretary, subject to subsection (b), to carry out such other high priority projects as the Secretary determines appropriate.”.

(b) ALLOCATION PERCENTAGES.—Section 117(b) of such title is amended to read as follows:

“(b) FOR TEA–21.—For each project to be carried out with funds made available to carry out the high priority projects program under this section for fiscal years 1998 through 2003—

“(1) 11 percent of such amount shall be available for obligation beginning in fiscal year 1998;

“(2) 15 percent of such amount shall be available for obligation beginning in fiscal year 1999;

“(3) 18 percent of such amount shall be available for obligation beginning in fiscal year 2000;

“(4) 18 percent of such amount shall be available for obligation beginning in fiscal year 2001;

“(5) 19 percent of such amount shall be available for obligation beginning in fiscal year 2002; and

“(6) 19 percent of such amount shall be available for obligation beginning in fiscal year 2003.

“(c) FOR SAFETEA–LU.—For each project to be carried out with funds made available to carry out the high priority projects program under this section for fiscal years 2005 through 2009—

“(1) 20 percent of such amount shall be available for obligation beginning in fiscal year 2005;

“(2) 20 percent of such amount shall be available for obligation beginning in fiscal year 2006;

“(3) 20 percent of such amount shall be available for obligation beginning in fiscal year 2007;

“(4) 20 percent of such amount shall be available for obligation beginning in fiscal year 2008; and

“(5) 20 percent of such amount shall be available for obligation beginning in fiscal year 2009.”.

(c) ADVANCE CONSTRUCTION.—Section 117(e) of such title is amended—

(1) in paragraph (1) by inserting after “21st Century” the following: “or section 1701 of the SAFETEA–LU, as the case may be,”; and

(2) by striking “section 1602 of the Transportation Equity Act for the 21st Century.” and inserting “such section 1602 or 1702, as the case may be.”

(d) AVAILABILITY OF OBLIGATION LIMITATION.—Section 117(g) of such title is amended by inserting after “21st Century” the following: “or section 1102(g) of the SAFETEA–LU, as the case may be”.

(e) FEDERAL-STATE RELATIONSHIP.—Section 145(b) of such title is amended—

(1) by inserting after “described in” the following: “section 1702 of the SAFETEA–LU,”;

(2) by inserting after “for such projects by” the following: “section 1101(a)(16) of the SAFETEA–LU,”; and

(3) by striking “117 of title 23, United States Code,” and inserting “section 117 of this title.”

SEC. 1702. PROJECT AUTHORIZATIONS.

Subject to section 117 of title 23, United States Code, the amount listed for each high priority project in the following table shall be available (from amounts made available by section 1101(a)(16) of this Act) for fiscal years 2005 through 2009 to carry out each such project:

Highway Projects
High Priority Projects

No.	State	Project Description	Amount
1	CA	Construct safe access to streets for bicyclists and pedestrians including crosswalks, sidewalks and traffic calming measures, Covina	\$400,000
2	CA	Develop and implement ITS master plan in Anaheim	\$800,000
3	TN	Improve circuitry on vehicle protection device installed at highway/RR crossing in Athens, TN	\$47,200
4	CA	Builds a pedestrian bridge from Hiller Street to the Bay Trail, Belmont	\$1,960,000
5	OH	Renovate and expand National Packard Museum and adjacent historic Packard facilities	\$2,750,000
6	IL	Land acquisition for the widening of Rt. 47 in Yorkville, IL	\$4,000,000
7	NE	Interstate 80 Interchange at Pflug Road, Sarpy County, Nebraska	\$1,600,000
8	TX	Construction of Segment #1 of Morrison Road for the City of Brownsville	\$1,600,000
9	MI	I–96 at Latson Road Interchange improvements	\$4,800,000
10	IL	Preconstruction and Construction of IL 83 at IL 132	\$800,000
11	TN	Add third lane on U.S. 27 (State Route 29) for truck-climbing lane and realignment of roadway at Wolf Creek Road to Old U.S. 27 north of Robbins	\$4,800,000
12	MI	Reconfiguration of U.S. 31 from the Manistee Bascule Bridge to Lincoln Street in the City of Manistee	\$600,000
13	AR	Bentonville, Arkansas—Widen and improve I–540 and SH 102 Interchange	\$1,420,000
14	WA	Interstate 5 and 41st Street/Broadway Interchange and Arterial Improvement Project, Everett	\$3,180,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
15	CA	Reconstruct and deep-lift asphalt on various roads throughout the district in Santa Barbara County	\$4,000,000
16	OK	Improving the I-35 Interchange at Milepost 1 Near Thackerville	\$1,600,000
17	NJ	Laurel Avenue Bridge replacement in Holmdel Township	\$800,000
18	OH	Construct overpass over CSX Railroad on Columbia Road (State Route 252), Olmsted Falls	\$448,000
19	TN	Reconstruct and widen U.S. 72 from south of State Route 175 to State Route 57, Shelby County	\$800,000
20	NY	Construct roundabout at Oregon Road—Westbrook Drive—Red Mill Road in Town of Cortlandt	\$380,000
21	IL	Construct Bike, Pedestrian Paths, Orland Hills	\$320,000
22	PA	Construct I-79/Rte 3025 missing ramps at Jackson Township, PA	\$920,000
23	NY	John Street Extension-Lehigh Station Road to Bailey Road in the Town of Henrietta	\$2,000,000
24	TX	Extension of SH 349 to U.S. 87 Relief Route in Dawson County	\$2,000,000
25	IL	Parking facility in Peoria, IL	\$800,000
26	IL	Construct Interchange on Interstate 255/Davis Ferry Road, Dupo	\$17,500,000
27	MN	Construction and right-of-way acquisition for interchange at TH 65 and TH 242 in Blaine, MN	\$3,200,000
28	CA	Huntington Beach, Remove off-ramp on I-405 at Beach Blvd. Construct fourth lane on I-405 North, at the Beach Blvd. interchange ..	\$400,000
29	TN	Addition of an interchange on I-40 in Roane County at Buttermilk Road and I-40	\$2,400,000
30	NY	Purchase Three Ferries and Establish System for Ferry Service from Rockaway Peninsula to Manhattan	\$15,000,000
31	IL	Reconstruction of Mockingbird Lane and Stratford St, Granite City	\$1,600,000
32	FL	Construction a new multi-lane tunnel below the channel to link the Port of Miami on Dodge Island with I-395 on Watson Island and I-95 in Downtown Miami	\$400,000
33	MD	Rehabilitation of West Baltimore Trail and Implementation of Pedestrian Improvements Along Associated Roadways	\$720,000
34	TN	Removal and Reconfiguration of Interstate Ramps/I-40	\$2,400,000
35	CA	Replace structurally unsafe Winters Bridge for vehicles, bicycles and pedestrians between Yolo and Solano Counties	\$1,600,000
36	IL	City of Havana, Illinois Upgrades to Broadway Street	\$762,058
37	MN	Construction of Gitchi-Gami State Trail from Cascade River to Grand Marais	\$900,000
38	LA	Develop master transportation plan for the New Orleans Regional Medical Center	\$400,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
39	VA	Final Design and Construction for improvements at I-64 and City Line Road, Virginia Beach and Chesapeake	\$800,000
40	MA	Replacement of Cross Street Bridge spanning flood prone Aberjona River, Winchester	\$800,000
41	NC	Construction of and improvement to I-73, I-74, and U.S. 220 in Montgomery and Randolph Counties, NC	\$8,800,000
42	IA	Access and transportation enhancements to access Lake Belva Deer, Sigourney	\$1,600,000
43	CA	Roadway surface improvements, street lighting, and storm drain improvements to South Center Street from Baughman Road to State Route 78/86, Westmorland	\$640,000
44	TX	Construct two connectors between SH 288 and Beltway 8	\$1,800,000
45	NY	Implement Central NY highway grade crossing and grade separation project	\$1,600,000
46	CA	Douglas St. Improvements, El Segundo	\$3,200,000
47	MA	Reconstruction of Massachusetts Avenue including safety improvements and related pedestrian, bike way in Arlington	\$1,600,000
48	NY	Reconstruction of Rt. 5, 8, 12 (North South Arterial) Burrstone Rd. to Oriskany Circle, City of Utica	\$800,000
49	OK	Construction of Norman highway-rail Grade Separation	\$1,600,000
50	PA	Construction of the Montour Trail, Great Allegheny Passage	\$1,600,000
51	CA	Route 1 San Pedro Creek Bridge replacement in Pacifica	\$2,500,000
52	MI	South Lyon, 2nd St. between Warren and Haggadorn	\$100,000
53	PA	Street improvements, Abington Township	\$1,600,000
54	IA	Study of a direct link to I-80, Pella	\$400,000
55	TN	Knoxville, TN Cessna Rd. Improving At-Grade highway-railroad Crossings	\$76,800
56	OR	Construct bike/pedestrian path, Powers	\$440,000
57	IL	IL 29 from IL 6 to I-180—Phase 2 study and land acquisition	\$1,600,000
58	FL	Construct a new bridge at Indian Street, Martin County	\$800,000
59	GA	Improve sidewalks, upgrade lighting, and add landscaping in downtown Glennville	\$400,000
60	LA	Continue planning and construction of the New Orleans Regional Planning Commission Mississippi River trail in St. John, Plaquemines St. Bernard and St. Charles parishes	\$1,520,000
61	MO	Road widening and curb and gutter improvements on Hwy 33 in Kearney	\$2,400,000
62	TX	The SH 146, Port Rd. direct connectors allows traffic bypass several rail lines and traffic signals at, near intersection of SH 146 and Port Rd	\$10,560,000
63	UT	Reconstruct South Moore Cut-off Road in Emery County	\$7,500,000
64	PA	Improvements to exits along Interstate 81 in Franklin County, PA—Antrim Road	\$6,560,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
65	OH	Plan and construct the Southeast Arterial Connector highway at Delaware, Ohio	\$4,480,000
66	TN	To construct transportation enhancements on a multi-faceted greenway in downtown Columbia on the Duck River	\$6,400,000
67	RI	New Interchange constructed from I–195 to Taunton and Warren Avenue in East Providence	\$4,640,000
68	NY	Town of Chester reconstruction of Walton Lake Estates subdivision and related roads	\$64,000
69	NC	Extend M.L. King, Jr., Boulevard in Monroe ...	\$1,600,000
70	NY	Town of Fishkill Old Glenham Road (aka Washington Ave.) reconstruction	\$260,400
71	PA	U.S. Route 13 Corridor Reconstruction, Redevelopment and Beautification, Bucks County	\$4,000,000
72	NY	Rochester and Southern Highway-Rail Grade Crossing Bypass, Silver Springs, New York	\$1,464,000
73	IL	Upgrade streets in the City of Rushville, IL	\$800,000
74	MO	Construct 2 lanes on Chouteau Trafficway from MO 210 to I–35	\$1,600,000
75	AZ	U.S. 60 to Gonzalez Pass	\$3,040,000
76	LA	Interstate lighting system (I–10 and LA 93)	\$240,000
77		.....	\$0
78	WA	SR 704 Cross-Base Highway, Spanaway Loop Road to SR 7	\$1,200,000
79	NY	Village of Brewster Main Street and Route 6 related construction and improvements	\$780,000
80	PA	Design and construct relocation of U.S. 11 between Ridge Hill and Hempt Roads	\$4,544,000
81	VA	Improve Route 42 (Main Street) in Bridgewater, Virginia	\$400,000
82	NY	Construction of Route 59 Palisades Interstate Parkway to Route 303	\$1,000,000
83	IL	Improve University Drive, Macomb	\$400,000
84	CA	Adams Street Rehabilitation Project, Glendale	\$310,400
85	NY	Construct grade separation-interchange between Taconic Parkway and Pudding Street	\$1,160,000
86	IA	Construction of 100th St. interchange on I–35/I–80, Urbandale	\$800,000
87	MO	Lewis and Clark Expressway	\$1,600,000
88	PA	Mercer County, PA I–79 and PA 208 Interchange Improvement Project	\$2,400,000
89	WA	Plan to relieve traffic until North-South freeway Hwy 2	\$440,000
90	CA	San Diego River Multiuse Bicycle and Pedestrian Path	\$400,000
91	PA	Construction of the Lafayette Street extension project in Montgomery County, PA	\$9,120,000
92	NJ	Construct new ramps between I–295 and Route 42	\$4,000,000
93	PA	Construct SR 29 Wal-mart to River Betterment, Eaton Tunkhannock, Wyoming County	\$1,360,000
94	WV	Construct Shawnee Parkway	\$880,000
95	FL	Improve pedestrian and bicycle sidewalks, lighting, and ADA ramps—Main Street, Canal Street, Miramar	\$480,000
96	MN	Reconstruct CSAH 19 from CSAH 36 to CSAH 2, Morrison County	\$160,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
97	TN	Develop trails, bike paths and recreational facilities on Bird Mountain, Morgan County for Cumberland Trail State Park	\$200,000
98	MN	Lyndale Avenue Bridge, Richfield	\$13,000,000
99	MI	Provide a bypass around the Village of Almont during M-53 reconstruction which is contiguous with Macomb County	\$80,000
100	NY	Town of Wallkill new construction road-tunnel under Rt. 17	\$800,000
101	NY	Village of Cold Spring Main Street and ancillary road and sidewalk improvements	\$656,000
102	IL	West Ridge Nature Preserve, Chicago	\$2,800,000
103	TN	Widen Campbell Station Road in Knoxville, TN	\$1,440,000
104	AL	Widen Hwy 84 to 4 lanes west of I-65 from Evergreen to Monroeville and beyond to the State of AL line	\$4,800,000
105	MS	Widen State Highway 57 from I-10 through Vancleave	\$4,800,000
106	WA	Widening SR 527 from 2 lanes to 5 from Bothell to Mill Creek	\$1,200,000
107	TX	Paving of County Roads 3230 and 3240 connecting FM 1158 to FM 1159 Northeast of Clarksville, TX	\$1,000,000
108	MI	Construct improvements to Finkbeiner Road from Patterson Road to Whitneyville Road in Barry County, and new bridge over Thornapple River	\$3,520,000
109	PA	York Road improvements from Horsham Road to Summit Avenue, Borough of Hatboro	\$1,000,000
110	OH	Construct Highland Road pedestrian path and intersection improvements at Highland and Bishop Roads in the City of Highland Heights, OH	\$489,600
111	WI	Reconstruct Wisconsin State Highway 21 at I-94 interchange	\$2,400,000
112	MN	Safety improvements and intersection enhancements of TH 95 and TH 169, Princeton	\$1,440,000
113	NY	Wading River Bicycle and Pedestrian Project in Riverhead	\$960,000
114	FL	Widen County Line Road (CR 578) from Suncoast Parkway to U.S. 41 to four lanes	\$4,800,000
115	IL	Improve Great River Road, Warsaw	\$600,000
116	WA	SR 518 3rd lane construction, King County	\$1,600,000
117	FL	Construct East Central Regional Rail Trail in Volusia County, Florida	\$800,000
118	MO	Y Highway U.S. 71 to MO 58, Cass County	\$1,600,000
119	WY	WYO 59 Reconstruction	\$1,600,000
120	LA	Plan and construct bike/pedestrian crossings of Washington-Palmetto Canal in the vicinity of Xavier University, New Orleans	\$3,200,000
121	NC	Winston-Salem Northern Beltway, Eastern Section and Extension, NC	\$4,000,000
122	CA	Willow and Herndon Traffic Flow Improvements, City of Clovis, California	\$240,000
123	MO	U.S. 71 at Y Highway North and Southbound Ramps	\$1,600,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
124	CA	Will add landscaping enhancements along the Ronald Reagan Freeway Route 118 for aesthetic purposes	\$2,320,000
125	NC	Widens U.S. 29 Business Freeway Drive from South Scales St. to NC 14 in Rockingham County	\$8,000,000
126	PA	Widening, rechannelization, signalization to 2nd Ave. and Bates street, replace Elisa Furnace bridge over Bates Street	\$640,000
127	KS	Resurfacing, grading, replacing guardrails and adding shoulders to Old Highway 77 in Geary County, to accommodate expected traffic increase	\$627,200
128	MO	Widening, curb and gutter improvements on Hwy 92 as part of Hwy 33 redevelopment project in Kearney	\$2,400,000
129	IL	Construct streetscape along Morse avenue from Clark street to Sheridan road, Chicago	\$1,600,000
130	SC	Build extension of North Rhett Boulevard from Liberty Hall Road to U.S. 176 in SC	\$5,600,000
131	NH	Construct and upgrade intersection of Route 3 and Franklin Industrial Drive in Franklin ...	\$800,000
132	GA	Construct Waycross East Bypass from U.S. 84 in Pierce County, Georgia to U.S. 1 in Ware County, Georgia	\$2,560,000
133	NY	Design and Construction of a transportation enhancement project at the Erie Canal Aqueduct in downtown Rochester	\$1,200,000
134	CA	Improvement of intersection at Balboa Blvd. and San Fernando Rd	\$400,000
135	TN	Improve Vehicle Efficiencies at highway At-Grade Railroad Crossing in Athens, TN	\$79,200
136	WI	Develop pedestrian and bike connections that link to Hank Aaron State Trail in Milwaukee	\$1,680,000
137	AK	Keystone Drive Road Improvements	\$1,000,000
138	GA	Pedestrian and streetscape improvements, Ellaville	\$250,000
139	NY	Construct and improve pedestrian access on Main Street in Hempstead	\$1,600,000
140	IL	Preconstruction activities IL 336 from Macomb to Peoria	\$1,600,000
141	OH	Purchase of right-of-ways for construction of pedestrian and bicycle improvements in the City of Aurora, OH	\$400,000
142	IL	Replacement of bridge on Harlem Avenue, The Village of River Forest	\$800,000
143	CA	State Route 86S and Ave. 66 highway safety grade separation	\$3,600,000
144	IL	Construct Bissel Street Roadway Connector, Tri-City Regional Port District	\$800,000
145	CT	Improve Route 1 between East Avenue and Belden Avenue, Norwalk, CT	\$1,600,000
146	IA	Central IA Trail Loop, bicycle and pedestrian, Ankeny to Woodward section	\$800,000
147	MI	Chippewa County, Upgrade Tilson Road between M–28 South to intersection of M–48 at Rudyard	\$800,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
148	WA	Coal Creek Parkway Bridge Replacement, Newcastle WA	\$800,000
149	PA	Complete gaps in the Pittsburgh Riverfront Trail Network including the Hot Metal Bridge	\$600,000
150	TX	Construct passing lanes on Texas State Highway 16 in Atascosa County	\$797,000
151	TX	Construct street and drainage improvements to road system in Encinal	\$250,000
152	MN	Environmental assessment and right of-way-acquisition at U.S. 52 and CSAH 24 Interchange, Cannon Falls, Goodhue Cnty, MN ...	\$1,600,000
153	NY	Planning and design, construction, and related relocations for approaches to Peace Bridge Development Project, Buffalo	\$8,000,000
154	MN	Construct recreational visitor center on the Mesabi Trail, City of Virginia	\$1,300,000
155	NE	Engineering, right-of-way and construction of the 23rd Street Viaduct in Fremont, Nebraska	\$400,000
156	MN	Phase III of Devil Track Road Project, Cook County	\$1,200,000
157	ME	Relocation of southbound on-ramp to I-95 at Exit 184, Bangor	\$1,500,000
158	MA	Construct access roads to Hospital Hill project in Northampton, MA	\$1,600,000
159	IN	Construct interchange for 146th St. and I-69, Hamilton County, Indiana	\$2,400,000
160	NY	Design and construct a bicycle and pedestrian walkway along the decommissioned Putnam Rail Line	\$950,000
161	AK	False Pass Road construction from small boat harbor dock to airport and town	\$3,000,000
162	IL	Improve North Illinois St. and related roads, Belleville	\$5,000,000
163	AR	Construction of I-49, Highway 71: Arkansas portion of Bella Vista Bypass	\$17,000,000
164	NM	Coors—I-40 Interchange Reconstruction, Albuquerque	\$15,600,000
165	GA	Extend the south Toccoa Bypass east of Toccoa to CR 311, four lanes for approximately 5.7 miles on new location	\$2,320,000
166	TX	Construct SH 183 from SH 360 to Belt Line Road in Irving, Texas	\$1,600,000
167	CA	Construct pedestrian, bicycle and ADA accessible boardwalks at the Pismo Beach Promenade in San Luis Obispo County	\$240,000
168	TX	SH 44 E of Alice near SH 359 to U.S. 281, Jim Wells County	\$1,600,000
169	AR	Conway Western Loop—For engineering, rights-of-way, relocations, and continued planning and design	\$400,000
170	PA	For design, land and ROW acquisition, and construction of a parking facility and associated activities in the City of Wilkes-Barre ...	\$800,000
171	TN	Hawkins County, Tennessee SR 31 reconstruction	\$800,000
172	WI	Reconstruct U.S. Highway 41—STH 67 interchange (Dodge County, Wisconsin)	\$1,000,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
173	MA	Reconstruct Route 24/Route 140 Interchange, replace bridge and ramps, widen and extend acceleration and deceleration lanes	\$13,000,000
174	OR	Study landslides on U.S. Highway 20 between Cascadia and Santiam Pass to develop long-term repair strategy	\$1,000,000
175	MS	Upgrade Alex Gates Road and Walnut Road in Quitman County, and roads in Falcon, Sledge and Lambert	\$1,400,000
176	IL	Upgrades for Muller Road in the City of Washington, IL	\$224,000
177	AL	Construction of Valleydale Road Flyover and widening and improvements from U.S. 31 to I-65 (Shelby County Rd. 17)	\$4,720,000
178	MS	Upgrade roads in Beauregard (U. S. Hwy 51), Dentville-Jack Rd. near Crystal Springs, and Hazelhurst (U.S. Highway 51 and I-55), Copiah County	\$800,000
179	NY	Westchester County, NY Rehabilitation of June Road Town of North Salem	\$520,000
180	CA	Implement streetscape improvements on segments of Laurel Canyon Blvd. and Victory Blvd. in North Hollywood	\$960,000
181	OH	Construct loop road along U.S. 23 in City of Fostoria, Seneca County	\$6,960,000
182	PA	Design, engineering, ROW acquisition, and construction of street improvements, parking, safety enhancements, and roadway redesign in Nanticoke	\$1,600,000
183	LA	Improve Ralph Darden Memorial Parkway Between LA 182 and Martin Luther King, Jr., Road, St. Mary Parish	\$280,000
184	CA	Reconstruct segments of Hollister Avenue between San Antonio Road and State Route 154 in Santa Barbara County	\$2,000,000
185	NY	Reconstruction of Schenck Avenue from Jamaica Avenue to Flatlands Avenue, Brooklyn	\$4,000,000
186	CO	Construct Wadsworth Interchange over U.S. 36 in Broomfield	\$1,600,000
187	NY	Enhance Battery Park Bikeway Perimeter, New York City	\$1,600,000
188	FL	I-95 Interchange in the City of Boca Raton	\$11,400,000
189	NJ	Construct Long Valley Bypass	\$800,000
190	MI	Alpena County, Resurface 3.51 miles of Hamilton and Wessel Roads	\$512,000
191	CA	Construct a 2.8 mile bikeway along Lambert Road from Mills Ave., to Valley Home Ave., in the City of Whittier, CA	\$2,000,000
192	TX	Hidalgo County Loop	\$800,000
193	ME	Improvements to Route 108 to enhance access to business park, Rumford	\$1,500,000
194	NY	Installation of new turning lane from Mohansic Ave. onto eastbound Route 202 and addition of new striped crosswalk	\$340,000
195	NY	Rockland County Hudson River Greenway Trail Project construction	\$1,600,000
196	TX	Construct a segment of FM 110 in San Marcos	\$1,000,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
197	TX	Big Spring, TX Construction of the Big Spring Reliever Route	\$7,320,000
198	NY	Improvements to Intermodal Transportation Facility and Construction of Waterfront Esplanade at Fort Totten	\$2,240,000
199	PA	Reconstruction and repair of Haverford Ave. Between 68th St. and Lansdowne Ave	\$240,000
200	ND	Bismarck/Mandan Liberty Memorial Bridge over the Missouri River	\$24,000,000
201	WI	City of Glendale, WI. Develop and rehabilitate exit ramps on I-43, and improvements at West Silver Spring Drive and North Port Washington Rd	\$2,400,000
202	TX	Construction of Lake Ridge and U.S. 67 Project, Cedar Hill, TX	\$2,800,000
203	NY	Install Improvements for Pedestrian Safety including in the vicinity of PS K277	\$250,000
204	WI	Resurface U.S. 8 between CTH C and Monico	\$880,000
205	PA	South Phila. Access Rd. Design and construction of port access road from South Phila Port and intermodal facilities, Philadelphia	\$2,400,000
206	NY	Implement ITS system and apparatus to enhance citywide truck route system on Broadway to Irwin Ave. between 232 to 231 in the neighborhood of Kingsbridge, NY	\$100,000
207	PA	SR 219 Purchase of right-of-way and completion of four lane extension from the Town of Somerset to the Maryland border	\$13,600,000
208	WI	Expand U.S. 41 between Oconto and Peshtigo, Wisconsin (Oconto and Marinette Counties, Wisconsin)	\$1,600,000
209	IA	Study for NE Beltway, Polk Co	\$400,000
210	NY	This project involves a full reconstruction of all the streets in Long Island City surrounding 11th Street	\$1,920,000
211	AZ	Upgrade and Widen SR 85 to I-10 (Mileposts 120-141)	\$1,200,000
212	MS	Upgrade Dog Pen Road, Galilee Road, and Holmes County Bridge in Holmes County, and roads in Cruger, Pickens, and Goodman	\$840,000
213	GA	U.S. 19/SR 92 median work from Ellis Rd. to West Taylor ST, Griffin	\$1,200,000
214	MS	Upgrade roads at Coahoma Community College, and roads in Coahoma and Jonestown, Coahoma County	\$1,200,000
215	IN	Construction of Dixon Road from Markland Avenue to Judson Road in Kokomo, Indiana	\$400,000
216	CA	Construction of Cross Valley Connector between I-5 and SR 14	\$4,000,000
217	MA	State Street Corridor Redevelopment Project includes street resurfacing, pedestrian walkway improvements and ornate lighting from Main Street to St. Michael's Cemetery, Springfield	\$4,800,000
218	MI	Resurfacing of Stephenson Highway in Madison Heights	\$280,000
219	CA	Soundwall construction on the 210 Freeway, Pasadena	\$1,440,000
220	GA	Streetscape-Ashburn	\$200,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
221	NY	Improve traffic flow on Rockaway Point Boulevard in the Breezy Point neighborhood of Queens County, including work to install a traffic signal at the intersection of Rockaway Point Boulevard and Reid Avenue	\$500,000
222	WI	Improve Superior Avenue: Interstate 43 to State Highway 32, Sheboygan County, Wisconsin	\$1,000,000
223	TX	Design, construction, and streetscape improvements to enhance pedestrian access, pedestrian access to bus services and facilities	\$800,000
224	IL	Upgrade roads, The Village of Berkeley	\$800,000
225	GA	Upgrade sidewalks and lighting, Wrightsville	\$320,000
226	PA	Upgrades to Bedford Route 220 at the entrance of the Bedford Business Park to Beldon Ridge intersection	\$1,680,000
227	MI	Widen Baldwin Road from Morgan to Waldon in Orion Township	\$3,200,000
228	FL	Construct Saxon Boulevard Extension, Volusia County, Florida	\$1,680,000
229	NY	Construction and rehabilitation of East and West Gates Avenues in the Village of Lindenhurst, NY	\$816,000
230	TN	Widen Interstate 240 from Interstate 55 to Interstate 40 West of Memphis, Shelby County	\$800,000
231	NJ	Rahway River Corridor Greenway Bicycle and Pedestrian Path, South Orange	\$1,200,000
232	CT	Reconstruct Pearl Harbor Memorial Bridge, New Haven	\$1,600,000
233	PA	Development of Northwest Lancaster County River Trail	\$200,000
234	CA	Widen SR 89 at existing mousehole two lane RR underpass	\$2,827,744
235	LA	Construct Mississippi River Trail and Bikepath, New Orleans	\$400,000
236	NY	Utica Marsh-Reestablish Water Street	\$2,120,000
237	AR	Widen to 5 lanes, improvement, and other development to U.S. Highway 79B/University Ave. in Pine Bluff	\$3,200,000
238	WA	SR 9 and 20th St. SE Intersection Reconstruction in Snohomish County	\$250,000
239	OH	Streetscape and related safety improvements to U.S. 20 in Painesville Township, OH	\$280,000
240	PA	Design, construct intersection and other upgrades on PA 24 and 124 in York County, PA	\$800,000
241	WA	Issaquah Historical Society, Issaquah Valley Trolley Project	\$200,000
242	IL	Construct new bridge on Illinois Prairie Path over East Branch River in Milton Township, IL	\$240,000
243	TN	Plan and construct improvements, Livingston public square	\$40,000
244	GA	Construction on U.S. 82 from Dawson to Alabama Line	\$800,000
245	IA	Construct I–74 Bridge in Bettendorf, IA	\$1,200,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
246	CA	Operations and management improvements, including ITS technologies, on U.S. Highway 101 in Santa Barbara County	\$800,000
247	OH	Plan and construct new interchange on Interstate 71 at Big Walnut Road in Delaware County, Ohio	\$4,160,000
248	PA	Design and construct access to intermodal facility in York County	\$1,600,000
249	WA	Complete preliminary engineering and environmental analysis for SR 14 through Camas and Washougal	\$1,500,000
250	UT	Construct Bingham Junction Boulevard in Midvale City	\$5,400,000
251	MD	Construct Centreville, MD spur of Queen Annes County Cross Island Trail, Centreville to U.S. Route 301	\$305,600
252	MN	Polk, Pennington, Marshall County 10-Ton Corridor in Northwestern Minnesota	\$4,480,000
253	CA	Quincy-Oroville Highway Rehabilitation in Plumas County	\$800,000
254	CA	Construct Coyote Creek Trail Project from Story Road to Montague Expressway in San Jose	\$2,000,000
255	TX	Construct Depression of Belt Line Road at I-35 E Intermodal Transportation Project in Carrollton, TX	\$5,600,000
256	AL	Construct Anniston Eastern Bypass from Golden Springs Road to U.S. Highway 431 ..	\$21,600,000
257	NY	Construct greenway along East River waterfront between East River Park (ERP) and Brooklyn Bridge, and reconstruct South entrance to ERP, in Manhattan	\$1,000,000
258	NE	Construction of I-80/Cherry Avenue Interchange and East Bypass, Kearney, Nebraska	\$6,400,000
259	MN	Corridor study, EIS, and ROW acquisition for a future highway and bridge over the Mississippi River, City of Brainerd	\$800,000
260	CA	Escondido, CA Construction of Bear Valley Parkway, East Valley Parkway	\$1,600,000
261	AR	Junction Bridge—Rehabilitation and conversion from rail to pedestrian use	\$1,280,000
262	WA	Port of Tacoma Rd.—Construct a second left turn lane for traffic from westbound Pac. Hwy E. to Port of Tacoma Rd. and I-5	\$400,000
263	NY	Realign Union Valley Road in Town of Carmel	\$264,000
264	MO	Roadway improvements to U.S. 67 in St. Francois County	\$3,200,000
265	FL	Homestead, FL Widening of SW 328 from SW 137 Ave. to 152 Ave	\$5,600,000
266	CA	Reconstruct I-710 southern terminus off ramps, Long Beach	\$2,400,000
267	GA	SR 4 widen from Milledgeville Road to Government Street, Richmond County	\$4,000,000
268	TN	Develop trails, bike paths and recreational facilities on Western Slope of Black Mountain, Cumberland County for Cumberland Trail State Park	\$200,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
269	NJ	Routes 1 and 9 Secaucus Road to Broad Avenue in Hudson and Bergen Counties	\$800,000
270	MA	Massachusetts Avenue Reconstruction, Boston	\$3,850,000
271	NY	Improve Ashburton Ave. from the Saw Mill River Parkway to the waterfront, Yonkers ...	\$1,200,000
272	MN	Trail extensions to Mesabi Trail, City of Aurora	\$235,796
273	LA	I–10 Ryan Street exit ramp to include relocation and realignment of Lakeshore Drive to include portions of Front Street and or Ann Street, and to include expansion of Contraband Bayou Bridge	\$4,000,000
274	MI	Van Buren, Belleville Road widen to 5 lanes between Tyler and Ecorse	\$880,000
275	IA	Widening University Blvd., Clive	\$800,000
276	HI	Construct Waimea Bypass	\$800,000
277	IL	Widening two blocks of Poplar St. from Park Ave. to 13th Street, Williamson County	\$384,000
278	CA	Widening the highway and reconstructing off ramps on Hwy 101 between Steele Lane and Windsor, CA to reduce traffic and promote carpools	\$5,600,000
279	WA	Granite Falls Alternate Freight Route in Granite Falls	\$2,834,000
280	NY	Construction and rehabilitation of North Queens Avenue and Grand Avenue in the Village of Lindenhurst, NY	\$616,000
281	SC	Extension and expansion of Lower Richland Roads Phase I	\$560,000
282	OR	Kuebler Boulevard improvements, Salem	\$1,200,000
283	NC	Upgrade U.S. 1 in Rockingham	\$8,000,000
284	CA	Implement Southwest San Fernando Valley Road and Safety Improvements	\$1,840,000
285	VA	Upgrade DOT crossing #467662S to constant warning time devices	\$161,440
286	TX	Construct new location highway and interchanges on Inner Loop, from Global Reach to Loop 375 including the Global Reach ext., El Paso	\$12,800,000
287	CA	Rehabilitation, repair, and/or reconstruction of deficient 2-lane roads that connect to Interstate 5, SR 180, SR 41 and SR 99 county-wide, Fresno County	\$2,800,000
288	OH	Relocate SR 149 from 26th Street to Trough Run in Bellaire	\$520,000
289	WA	Auburn, Washington—M Street SE rehabilitation between 29th Street SE and 37th Street SE	\$400,000
290	KY	Replace Bridge over Stoner Creek, 2 Miles East of U.S. 27 Junction, Bourbon County ...	\$800,000
291	NM	Development of Paseo del Volcan corridor located in Sandoval County from Iris Road to U.S. Highway 550	\$1,600,000
292	OH	Stan Hywet Hall and Gardens to restore, expand, construct, and improve pedestrian paths and bike trail system	\$144,000
293	MS	Construct bicycle path, Petal	\$160,000
294	NJ	Construction of Route 206 Chester Township, NJ	\$1,600,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
295	IL	For IDOT to conduct Phase II engineering for reconstruction of 159th St./US 6/IL 7 in Will and Cook Counties	\$800,000
296	IL	For Will County to begin Phase II engineering and preconstruction activities for a high level bridge linking Caton Farm Road with Bruce Road	\$1,600,000
297	CA	Study of Thomas Bridge to meet future cargo and passenger traffic needs of the ports of Long Beach and Los Angeles	\$1,600,000
298	MD	Construct new Greenbelt Metro Station Access Interchange at I–95/I–495	\$1,000,000
299	IL	Construct Citywide bicycle path network, City of Evanston	\$200,000
300	CA	Mount Vernon Avenue grade separation and bridge expansion in Colton	\$1,600,000
301	NJ	Improvements for St. Georges Avenue from Wood Avenue to Chestnut Street including the Linden and Roselle sides of the street	\$400,000
302	PA	Design, construct and upgrade interchange of U.S. 15 and U.S. 30 in Adams County	\$3,200,000
303	OH	State Route 8 Improvements in Northern Summit County	\$3,000,000
304	CO	U.S. 50 East, State Line to Pueblo	\$6,000,000
305	IN	Widening road (along Gordon Road, Sixth Street, and West Shafer Drive) to 3-lane street, with sidewalk and improvements to existing bridge White County/Monticello, Indiana	\$11,520,000
306	OH	Widening Pleasant Valley Bagley Road (Rte 27), Parma and Middleburg Heights	\$1,200,000
307	MA	Rehabilitation of I–95 Whittier Bridge—Amesbury and Newburyport	\$1,600,000
308	CA	Streetscape improvements at East 14th St-Mission Blvd. in Alameda County	\$600,000
309	NY	Construct W. 79th St. Rotunda, New York City	\$1,600,000
310	TX	Acquire Kelly Parkway Corridor Right-of-way through San Antonio	\$400,000
311	NC	Construct new route from U.S. 17 to U.S. 421 in Brunswick and New Hanover Counties	\$800,000
312	PA	Construct safety and capacity improvements to Route 309 and Old Packhouse Road	\$200,000
313	OR	Delta Ponds Bike/Pedestrian Path	\$2,880,000
314	FL	Hollywood U.S. Route 1 Young Circle Safety Improvement	\$1,840,000
315	MI	Houghton County, Gravel and paving of remaining 3.2 miles in 5.5 mile stretch of Jacobsville Rd	\$344,000
316	PA	Improve access to Airport Connector from PA 283 to the terminus of the Airport Connector at State Route 230 and adjacent access roads	\$800,000
317	CA	Construct one additional all purpose lane in each direction on I–405 and provide additional capital improvements from SR 73 through the LA County line	\$2,568,000
318	IL	Improve Roads and Bridges, Cook County	\$3,200,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
319	CA	Improve traffic safety, including streetlights, from Queen to Barclay to Los Angeles River to Riverside in Elysian Valley, Los Angeles	\$1,120,000
320	MI	Construction and improvements to Western Avenue and associated streets between Third Street and Terrace Street in Muskegon	\$2,320,000
321	IL	Construct Reed Station Parkway Extension to IL Rt. 3, Carbondale	\$1,655,004
322	AL	Construction of Patton Island Bridge Corridor	\$8,000,000
323	MI	Highland, Clyde Road from Hickory Ridge to Strathcona	\$100,000
324	MI	Alger County, Repaving a portion of H–58 from Buck Hill towards Little Beaver Road	\$1,280,720
325	TX	Improvements to U.S. 183 in Gonzales County	\$400,000
326	CA	Construct a raised landscaped median on Alondra Blvd. between Clark Ave. and Woodruff Ave. in Bellflower	\$320,000
327	MN	Right-of-way acquisition for TH 23 Paynesville Bypass	\$2,000,000
328	FL	Construct interchange improvements at I–75 and University Parkway	\$400,000
329	CO	For construction and architectural improvements of Wadsworth Bypass (SH 121) Burlington Northern Railroad and Grandview Grade Separation	\$4,000,000
330	KS	Construction of 4-lane improvement on K–18 in Riley County, Kansas	\$2,000,000
331	NJ	Replace Rockaway Road Bridge, Randolph Township, New Jersey	\$800,000
332	FL	Construction of paved road over existing unpaved roadway on SE 144th Ave. from SR 100 to U.S. 301, distance of 1.2 miles	\$2,400,000
333	FL	Construct I–4 Frontage Rd., Volusia County, Florida	\$1,600,000
334	MD	Construction of Fringe and Corridor Parking Facility at intersection of Clinton Street and Keith Avenue in Baltimore	\$3,200,000
335	OH	Purchase of right-of-way for transportation enhancement activities in Bainbridge Township, OH	\$1,152,000
336	NJ	Rowan Boulevard Parking adjacent to Highway 322 Corridor in Glassboro Township	\$800,445
337	CA	Construct interchange on U.S. 50 at Empire Ranch Road in Folsom	\$1,440,000
338	FL	Bicycle and Pedestrian Improvements in the Town of Windermere, Florida	\$240,000
339	TN	Plan and construct a bicycle and pedestrian trail, Smyrna	\$2,400,000
340	CA	Santa Anita Avenue Corridor Improvement project, Arcadia, California	\$2,400,000
341	AL	Phoenix City on/off ramps for U.S. Highway 80	\$257,200
342	PA	Design, engineering, ROW acquisition, and construction of a connector road between Pennsylvania Rt. 93 and Pennsylvania Rt. 309 in Hazle Township	\$480,000
343	GA	South Tifton Bypass from U.S. 82/SR 520 west to U.S. 319/SR 35 east, Tift County	\$400,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
344	NJ	Streetscape and Traffic Improvement Project to Downtown West Orange	\$800,000
345	NJ	Bergen County, NJ On Route 17, address congestion, safety, drainage, maintenance, signing, access, pedestrian circulation and transit access	\$4,400,000
346	CA	Road widening, construct bike path, lighting, and safety improvements on road leading to Hansen Dam Recreation Area, Los Angeles	\$5,200,000
347	OH	Highway grade crossing improvement on Summit Road at Pataskala, Ohio	\$54,400
348	NY	Reconstruct a historic bridge crossing Maxwell Creek in the Town of Sodus, NY	\$464,000
349	NJ	Safety and operation improvements on Route 73 in Berlin, Voorhees and Evesham	\$960,000
350	NJ	Study and preliminary engineering designs for a boulevard on State Route 440 and U.S. Highway Routes 1 and 9, Jersey City	\$800,000
351	VA	Construction of Route 17 Dominion Boulevard, Chesapeake, VA	\$6,400,000
352	LA	Installation of proper lighting standards to illuminate inbound and outbound ramps of I-10 and portions of Hwy 95	\$160,000
353	IN	Cyntheanne Rd. Interchange and Corridor Improvements, Town of Fishers, Indiana	\$800,000
354	ME	Plan and construct North-South Aroostook highways, to improve access to St. John Valley, including Presque Isle Bypass and other improvements	\$3,000,000
355	TN	Plan and construct a bicycle and pedestrian trail, LaVergne	\$1,200,000
356	TX	Build Arkansas Street Grade Separation in Laredo	\$1,000,000
357	CA	Construct new left turn lane at State Route 19 and Telstar in El Monte	\$560,000
358	NY	Meadow Drive Extension—North Tonawanda, New York	\$1,600,000
359	CA	Reconstruct I-880 and Coleman Avenue Interchange and implement other I-880 Corridor operational improvements in Santa Clara County	\$8,000,000
360	OR	Improve Millican, West Butte Road which connects U.S. Highway 20 with U.S. Highway 126	\$1,600,000
361	VA	Metropolitan Washington, D.C. Regional Transportation Coordination Program	\$1,600,000
362	NY	Brooks Landing Transportation Improvements and Enhancement project, Rochester	\$400,000
363	NJ	Construct CR 538 Coles Mill Road Bridge over Scotland Run, Gloucester County	\$400,000
364	TX	Convert discontinuous 2-way frontage roads to continuous one-way frontage roads on IH 30 in Texarkana, TX	\$4,000,000
365	TX	Regional bicycle routes on existing highways in Austin, TX	\$800,000
366	IN	Construct Interchange at I-65 and 109th Avenue, Crown Point	\$5,963,375
367	GA	Intersection improvement at Harris Drive at SR 42	\$480,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
368	IL	Engineering and construction of the East Branch DuPage River Greenway Trail in central DuPage County, IL	\$80,000
369	NY	Rehabilitate a historic transportation-related warehouse on the Erie Canal in the Town of Lyons, NY	\$480,000
370	NY	Relocating Miller Highway W 59th-72 St. Manhattan under future expansion of Riverside Park	\$2,000,000
371	MI	Allen Road under the CN Railroad Grade Separation, Woodhaven	\$3,560,000
372	PA	Design, engineering, ROW acquisition, and construction of streetscaping enhancements, paving, lighting, safety improvements, parking, and roadway redesign in Larksville Borough, Luzerne County	\$160,000
373	AR	Northeast Arkansas Connector (relocation of Highway 226)	\$2,400,000
374	NJ	Reconstruct Route 168 from Route 41 to 6th Avenue in Runnemede	\$526,400
375	NY	Renovation of Metropolitan Avenue and Unionport Road center islands	\$1,700,000
376	PA	Rt. 60 Millennium Park Interchange, construct new interchange on Rt. 60 to provide access to new Lawrence County Industrial Park	\$640,000
377	AR	Bentonville, Arkansas—Widen Arkansas Highway 102 between U.S. 71B and the west city limits	\$1,500,000
378	PA	Purchase of right-of-way, utilities and construction for Northern Access to Altoona from Interstate 99, Blair County, PA	\$2,400,000
379	CA	Construct Class I bike and pedestrian path from San Luis Obispo to Avila Beach	\$320,000
380	MN	Reconstruct CSAH 61 from south county line to TH 73, Moose Lake	\$252,800
381	AZ	Improving Lone Pine Dam Road in Navajo County	\$2,000,000
382	MI	Construct Road Improvements to North Henry St. from Vermont Ave. to Wilder Rd. Bay City	\$2,160,000
383	TX	Reconstruct I-35E Trinity River Bridge, Dallas	\$12,000,000
384	NY	Town of Greenville rehabilitation of Grahamtown Rd. and Burnt Corners Rd	\$100,000
385	NJ	Completion of Hudson River Waterfront Walkway through Stevens Institute of Technology in Hoboken	\$800,000
386	NC	Construct U.S. 74 Bypass, Shelby, NC	\$2,400,000
387	WA	Tukwila Urban Access Improvement Project—Address necessary improvements to Southcenter Parkway in Tukwila to relieve congestion	\$800,000
388	CA	Construction of a traffic signal at the intersection of Independence Avenue and Sherman Way	\$100,000
389	NH	Design and construction of intersection of Rte 101A and Rte 13 in Milford	\$800,000
390	NJ	Construct Rte 30—Pomona Road Intersection Improvements, Atlantic County	\$4,000,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
391	CA	I–10 and Indian Ave. Interchange, Palm Springs, CA	\$2,200,000
392	CA	Complete the Bay Trail along the western edge of the American Canyon Wetlands Edge Bay Trail	\$800,000
393	KY	Right-of-way for and construction of Pennyryle Parkway Extension from 41A S. to I–24	\$2,560,000
394	TN	Sevier County, Tennessee SR 66 widening	\$1,400,000
395	TN	Plan and construct interchange improvements, I–65 at Highland Road	\$320,000
396	IA	Reconstruction of NW Madrid Drive, Polk Co ..	\$800,000
397	NH	Relocation and Reconstruction of intersection at Route 103 and North Street in Claremont	\$1,040,000
398	IL	To construct a new 2-lane road extending 1650 feet north from intersection with University Park Drive, Edwardsville	\$400,000
399	NY	Town of Highlands reconstruction of bridge on School Street	\$180,000
400	AK	Unalaska, AK Construction of AMHW ferry terminal including approach, staging, and upland improvements	\$7,500,000
401	PA	Design and construct interchange and related improvements to I–83 Exit 4	\$2,800,000
402	MD	Great Allegheny Passage, Allegany County, MD. Construction of 5 miles of trail from Cumberland to Wharf Branch	\$1,600,000
403	MI	Northwestern Highway Extension projects in Oakland County	\$7,280,000
404	PA	PA Route 61 safety improvements, Leesport Borough and Ontelaunee and Muhlenburg Townships	\$2,400,000
405	OH	Improve Rt. 62 (Main and Town Streets) Bridges over Scioto River, Columbus	\$5,200,000
406	AK	Planning, design, and construction of a bridge joining the Island of Gravina to the Community of Ketchikan	\$100,000,000
407	MN	U.S. Trunk Highway 14 from Waseca to Owatonna, Minnesota	\$3,315,200
408	TX	Construct Mission Trails Project Packages 4 and 5 in San Antonio	\$3,820,000
409	MS	Upgrade Roads in Carthage, Leake County	\$160,000
410	MI	Construct access road at intersection of Doerr Road and Schell Street to Develop 65-Acre of Municipal Tract of Industrial Land. Village of Cass City, Tuscola County	\$20,800
411	MS	Upgrade roads in Humphreys County Districts 1 and 5 and Isola	\$680,000
412	IN	126th Street Project, Town of Fishers, Indiana	\$1,000,000
413	HI	Construct Puanaiko Street	\$800,000
414	AZ	Burro Creek section between Wikieup and the Santa Maria River	\$800,000
415	PA	Conduct Environmental Impact Statement study for Parkway West corridor	\$800,000
416	SC	Build Railroad Avenue Extension in Berkeley County, SC—SCDOT	\$1,600,000
417	MD	Construct a visitors center and related roads serving Fort McHenry	\$3,760,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
418	OH	Construction of Gracemont Street Exchange Interstate 77—Bethlehem Township and Pike Township, Ohio	\$2,400,000
419	MI	Design, Right-of-Way and Construction of the I-196 Chicago Drive (Baldwin Street) Interchange Modification, Michigan	\$15,480,000
420	CA	Folsom Blvd. Transportation Enhancements, City of Rancho Cordova	\$5,600,000
421	TN	improve streetscape and pavement repair, Monroe County, TN	\$240,000
422	TX	IH37 frontage roads in Mathis	\$1,600,000
423	WV	Construct New River Parkway	\$3,600,000
424	NY	Construct sidewalk and improvements on Broadway in the Town of Cortlandt	\$264,000
425	PA	Erie, PA Powell Avenue Bridge Replacement, Asbury Road Improvement Project	\$3,200,000
426	VA	Liberty Street Construction in Martinsville, Virginia	\$236,800
427	CA	Implement streetscape project on Central Avenue from 103rd Street to Watts/103rd Street Station, Watts	\$3,200,000
428	MA	Realignments and reconstruction of a section of Route 32 in Palmer to the Ware town line	\$2,560,000
429	CA	Seismic retrofit of the Golden Gate Bridge	\$8,800,000
430	CA	Upgrade and extend Commerce Avenue, City of Concord	\$1,600,000
431	MA	Somerville Roadway Improvements	\$2,300,000
432	LA	Replace Almonaster Bridge, New Orleans	\$400,000
433	IN	Upgrade Traffic Signals Phase III in the City of Muncie, Indiana	\$512,000
434	FL	Sharpes Ferry Bridge replacement in Marion County	\$2,240,000
435	IA	U.S. 34 Missouri River bridge relocation and replacement	\$2,000,000
436	NY	Village of Highland Falls repaving and sidewalk construction of Oak Avenue	\$120,000
437	MN	Interchange Reconstruction at CSAH 4 and U.S. 169	\$800,000
438	IL	Development and construction of an interchange at Brisbin Rd. and Interstate 80	\$4,800,000
439	NE	Design, right-of-way and construction of rail-grade separations throughout Nebraska as identified by Nebraska Dept. of Roads	\$12,000,000
440	MO	Redesign and Reconstruction of the I-270 Dorsett Road Interchange Complex in the City of Maryland Heights	\$1,600,000
441	SC	Build Berlin Myers Extension in Summerville, SC	\$6,400,000
442	IN	Improve 100 South, Porter County	\$800,000
443	NY	Improve safety measures at the railroad grade crossings on the West Short River Line, Rockland County	\$1,280,000
444	NJ	Street Improvements and Traffic Signal Replacement in Union City Central Business District	\$640,000
445	GA	Streetscape project to replace sidewalks in downtown Forsyth	\$300,000
446	AK	Westside development Williamsport-Pile Bay Road	\$5,000,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
447	NV	Construct Interstate 15-Las Vegas Beltway Interchange	\$10,000,000
448	NY	Palisades Trailway Phase 2-Rockland County, New York	\$150,000
449	PA	Replace a Highway Rail Grade crossing in Jeannette, PA at Wegleys Road	\$400,000
450	CA	Conduct project design and environmental analysis of Heritage Bridge on Heritage Road linking Chula Vista to Otay Mesa	\$2,800,000
451	MA	Assabet River National Wildlife Refuge, MA, Design and Construction of parking areas	\$420,000
452	NY	Reconstruct Main Street in the Town of Lewisboro	\$72,000
453	MA	Study and analysis of Lowell Westford St.-Wood St. Rourke Bridge Corridor, Lowell	\$500,000
454	OR	Highway 20, Lincoln County	\$5,600,000
455	MN	Construction of 8th Street North: Stearns C.R. 120 to TH 15 in St. Cloud, MN	\$1,600,000
456	IL	Construction of a pedestrian sidewalk along S. Chicago Street in Geneseo, IL	\$180,000
457	OH	Construct Bike and Walking Path from West 210 St. to Metroparks Fairview Park	\$280,000
458	PA	Great Allegheny Passage, Somerset County, PA. Garrett Crossing Bridge, realign trail and construct a new bridge to eliminate a dangerous crossing of a State highway	\$800,000
459	MN	City of East Grand Forks Construct 13th St. SE Extension	\$960,000
460	NY	Improvements to Clark Pl. and Cherry Ln.—Rt. 6 and 6 N in Putnam County	\$296,000
461	NJ	Construct Garden State Parkway Grade Separation, Cape May County	\$32,000,000
462	VA	High Knob Horse Trails—Construction of horse riding trails and associated facilities in High Knob area of Jefferson National Forest	\$600,000
463	TN	Plan and construct a bicycle and pedestrian trail, Cookeville	\$2,000,000
464	UT	Provo, Utah Westside Connector from I–15 to Provo Municipal Airport	\$800,000
465	CA	I–5 Santa Clarita-Los Angeles Gateway Improvement Project	\$1,600,000
466	NY	Project will revitalize staircases used as streets due to steep grade of terrain in areas in which they are located, the Bronx	\$800,000
467	TX	Construct and rehabilitate pedestrian walkways along the Main Street Corridor to improve transit-related accessibility	\$800,000
468	MD	Reconstruct East North Avenue (US Route 1) in Baltimore	\$4,000,000
469	CT	Reconstructoin of Lakeville Center to improve pedestrian and vehicle safety at the intersection of Routes 41 and 44	\$716,000
470	TX	City of Robstown Trade Processing and Inland Center	\$5,000,000
471	CA	San Gabriel Blvd. Rehabilitation Project—Mission Rd. to Broadway, San Gabriel	\$240,000
472	NC	To plan, design, and construct the 10th Street Connector Project in Greenville, NC	\$2,131,200

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
473	OH	To widen Western Reserve Road from SR 7 to Hitchcock Road, Mahoning Co	\$2,000,000
474	NY	Binghamton, Improve Front Street	\$4,000,000
475	FL	U.S. Highway 19 Bayside Segment	\$1,600,000
476	MI	Arenac County, Upgrade Maple Ridge Road from Briggs Road east to M–65	\$1,316,800
477	NY	Village of Highland Falls repaving and sidewalk construction of Mearns Ave	\$180,000
478	NY	Village of Nelsonville improvements, paving and sidewalk installation to North Pearl St., Crown St., Pine St., and Wood Ave	\$200,000
479	CA	Widen Firestone Blvd. between Ryerson Blvd. and Stewart and Gray Road in Downey	\$1,600,000
480	CA	Construct Air Cargo Access Road to Oakland International Airport	\$720,000
481	MD	Peer review study of conflicts between road system and light rail operations in Linthicum, MD	\$80,000
482	GA	Resurface and widen Jac-Art Road as part of the Bleckley County Development Authority project	\$200,000
483	VA	Construction of Virginia Blue Ridge Trail in Amherst County, VA	\$240,000
484	FL	Implement NE 6th Street/Sistrunk Boulevard Streetscape and Enhancement Project, City of Fort Lauderdale	\$800,000
485	CA	Widen Lakewood Blvd. between Telegraph Rd. and Fifth St. in Downey	\$1,600,000
486	TX	Widen Motor Street thoroughfare in Dallas to improve accessibility to Southwestern Medical District	\$4,400,000
487	MN	Construction of Gitchi-Gami State Trail, Lutsen Phase, CR 34 to Lockport store	\$500,000
488	PA	Widen of SR 309 through the Borough of Coopersburg to create left-turn lanes and complete the Rt. 309 Corridor Improvement Project	\$2,400,000
489	CA	Pasadena Ave/Monterey Rd. Partial Grade Separation—Preliminary Engineering—Feasibility, South Pasadena	\$240,000
490	OH	Intermodal Bikeway, Independence	\$2,000,000
491	MO	Widen shoulder and resurface U.S. 136 and replace 2 deficient bridges between Rock Port and Bethany, Missouri	\$2,400,000
492	FL	SR 43 (U.S.301) Improvement Project—Ellentown to Parrish, Florida	\$3,200,000
493	GA	Bike and pedestrian paths and other transportation enhancements at Georgia Veterans Memorial Park	\$640,000
494	AK	Citywide pavement rehabilitation in City of North Pole	\$1,000,000
495	GA	Replace and upgrade sidewalks, Glenwood	\$50,000
496	MI	Reconstruction of Leeman Road from County Road 581 west 7 miles to Lerza Road, Dickinson County	\$1,200,000
497	GA	Widen SR 133 from Spence Field to SR 35 in Colquitt County, Georgia	\$800,000
498	CA	Mariposa County, CA Improve 16 roads, bridge and one bike path	\$2,800,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
499	LA	Upgrade highway-rail crossings at Madison Street, City of Gretna	\$160,000
500	PA	Two-lane Extension of Bristol Road, Bucks County	\$1,600,000
501	TN	Widen SR 30 From Athens to Etowah, Tennessee	\$4,606,400
502	MI	Iosco County, Reconstruct Bissonette Road from Lorenz Road to Chambers Road	\$258,000
503	TX	Development of one-story 300-vehicle parking facility	\$1,200,000
504	WA	Design and construct improved I–182 interchange ramps at Broadmoor Blvd. in Pasco, WA	\$1,600,000
505	NY	Erie Canalway National Heritage Corridor in Lockport, NY—Transportation Enhancements	\$2,600,000
506	MI	M–6 Paul Henry Freeway trail design and construction	\$2,224,000
507	CT	Reconstruction and conversion of Union Station in North Canaan to establish a transportation museum	\$1,364,000
508	OR	Construct passing lanes on U.S. 199, Josephine County	\$1,827,000
509	CA	Scenic preservation and run-off mitigation in the Santa Monica Mountains National Recreation Area near PCH and U.S. 101	\$1,200,000
510	IL	South Shore Drive and 67th Underpass	\$1,040,000
511	CA	Mission Boulevard/State Route 71 Interchange—Corridor Improvements	\$3,360,000
512	OR	For purchase of right-of-way, planning, design, and construction of a highway, Newberg	\$8,545,600
513	VA	Smith River Trail—Construction of trail along Smith River in Henry County	\$400,000
514	IL	Resurface Clifton Park Ave. and S. Louis Ave., Village of Evergreen	\$320,000
515	NJ	University Heights Connector for improvements to First Street in Newark from Sussex Street to West Market Street	\$509,600
516	GA	Broad Avenue Bridge: Albany	\$400,000
517	CA	Carlsbad, CA Construction of Poinsettia Lane	\$1,600,000
518	CA	Construct pedestrian enhancements on Broadway in Los Angeles	\$2,000,000
519	NJ	Construct Rt. 56 Maurice River Bridge Replacement, Salem and Cumberland Counties	\$1,600,000
520	WA	Conduct route analysis for community pathway through Chehalis	\$50,000
521	WA	Construct a multi-jurisdictional non-motorized transportation project parallel to SR 99 called the Interurban Trail	\$1,600,000
522	FL	Construct Downtown Bypass Roadway Connector, Lake Mary, Florida	\$400,000
523	NY	To study, design, and construct the Brooklyn Waterfront Greenway in Red Hook, Greenpoint, and the Navy Yard in Brooklyn	\$6,600,000
524	NY	Update all county and town traffic signage in Wayne County, NY	\$220,000
525	CA	Construct Route 101 Auxiliary Lanes 3rd Ave. in the City of San Mateo to Millbrae Ave. in Millbrae	\$3,000,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
526	CA	Undertake Cordelia Hill Sky Valley transportation enhancement project, including upgrade of pedestrian and bicycle corridors, Solano County	\$2,400,000
527	MS	Construct I–20 Interchange at Hawkins Crossing, Lauderdale County	\$2,000,000
528	TN	Sevier, Jefferson, Cocke Counties, Tennessee SR 35 and U.S. 411 widening	\$1,400,000
529	GA	Upgrade Safety of Bicycle and Pedestrian Access to Public Schools, Dekalb County	\$2,400,000
530	OH	Construction of Safety and related improvements on Rutlege Transfer Road in Vernon Township, OH	\$96,000
531	WI	Reconstruct U.S. 45 in Antigo	\$1,616,000
532	WA	SR 2/Main Street/Old Owen Road Intersection in Monroe	\$384,000
533	GA	Install landscaping and upgrade lighting on Fall Line Freeway, Reynolds	\$350,000
534	WA	Congestion relief on I–405 with added lanes from SR 520–SR 522 including 2 lanes each way from NE 85th–NE 124th	\$800,000
535	NY	Conduct NYS 5 construction study	\$64,000
536	PA	Widen lanes, add left turn lanes and update and install traffic signals at SR 309, SR 4010 interchange in North Whitehall Township	\$1,200,000
537	KY	Reconstruct I–64–KY 180 Interchange, Boyd County, Kentucky	\$1,600,000
538	TX	Widen U.S. 271 from a 2-lane facility to a 4 lane divided facility from Paris, TX to Pattonville, TX	\$1,600,000
539	TN	Carter County, Tennessee SR 362 reconstruction	\$400,000
540	OH	Construct Ohio River Trail, Anderson Township	\$220,000
541	MI	Delta County, CR 515 from U.S. 2 and U.S. 41 in Rapid River to County Road 446 at Days River Road–Bituminous overlay and joint repair	\$256,000
542	FL	Fund design phase for widening U.S. 41 north of Dunnellon to four lanes	\$800,000
543	TN	Construction of Elizabethton Connector in Carter County, Tennessee	\$800,000
544	NJ	Newark Waterfront Pedestrian and Bicycle Access project	\$1,200,000
545	ME	Plan and construct Lewiston/Auburn Downtown Connector	\$4,360,000
546	OH	Conduct Miami St. along SR Route 53 safety enhancement project to improve access to railroad crossing	\$800,000
547	AK	Planning, design, and construction of Juneau access roads in Juneau, Alaska	\$15,000,000
548	TN	Construction of an intersection/interchange in the City of Cleveland along I–75	\$1,920,000
549	FL	Construct Flagler Avenue Improvements, City of Key West, Florida	\$808,000
550	CA	Rehabilitate street surface of Cedros Avenue between Burbank Blvd. and Magnolia Blvd	\$34,400

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
551	VA	Engineering and Right-of-way to widen Route 221 in Forest, Virginia	\$1,000,000
552	NY	Install Improvements for Pedestrian Safety including in the vicinity of PS Q200	\$250,000
553	TX	SH 146 grade separation over Red Bluff Rd	\$13,600,000
554	TN	Construction of park access road and adjacent trails at the Athens Regional Park in Athens, TN	\$240,000
555	IL	State Street Road Improvements from 43rd Street to IL Rt. 157, East St. Louis	\$3,080,000
556	GA	Streetscape-Dawson	\$160,000
557	SC	Build Carolina Bays Parkway Segment from SC 544 to U.S. 17 in Myrtle Beach, SC	\$2,400,000
558	GA	U.S. 341 U.S. 41 SR 7 from Barnesville to SR 3, Georgia	\$3,200,000
559	OH	Reconstruct and widen State Route 82 in North Royalton	\$800,000
560	FL	Acquisition, engineering, and construction of West Avenue Connector Bridge, City of Miami Beach, FL	\$800,000
561	ME	Safety Enhancements on Routes 11, 6, and 16 for Piscataquis County Industrial Development	\$400,000
562	IL	Study, design, and construction of a designated truck route through the City of Monticello	\$905,600
563	CA	Improvement of intersection at Aviation Blvd. and Rosecrans Ave. to reduce congestion, City of Hawthorne	\$2,000,000
564	WI	Preliminary engineering for upgrading I-94 between Illinois State Line and Mitchell Interchange in SE Wisconsin	\$7,200,000
565	MI	Cogshall Road Crossing Improvement and Life Safety Access Project in Holly, MI	\$960,000
566	MI	Ontonagon County, Improve Fed. Forest Hwy 16 from M-38 to Houghton County Line	\$400,000
567	UT	Forest Street Improvements, Brigham City, UT	\$2,000,000
568	NC	I-40 Union Cross Road Interchange in Forsyth County, NC	\$800,000
569	NJ	Construct Sea Isle Boulevard Reconstruction from Garden State Parkway to Ludlams Thoroughfare, Cape May County	\$1,600,000
570	CA	I-5 HOV Improvements from Route 134 to Route 170	\$400,000
571	NY	Reconfiguration of intersection and redesign of traffic signal timing at Mohegan Ave. and Lakeland St	\$400,000
572	CA	Shoal Creek Pedestrian Bridge (San Diego)	\$1,200,000
573	GA	Streetscape-Cordele	\$200,000
574	CA	Construct I-605 Interchange Capacity Improvements in Irwindale	\$1,600,000
575	SC	Construction of interchange at I-385 and SC 14, Exit 19, in Laurens County, South Carolina	\$1,760,000
576	NE	Design, right-of-way and construction of Nebraska Highway 35 between Norfolk and South Sioux City	\$7,600,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
577	MO	Complete impact study for North Oak Highway corridor redevelopment	\$400,000
578	MA	Design and construct the 1.5 mile East Long-meadow Redstone rail Trail bike path	\$1,200,000
579	NY	Improve bicycle and pedestrian safety on Main Street, Holbrook	\$100,000
580	CA	Tuolumne, Stanislaus and Merced Counties Upgrade existing county highway, J59	\$2,000,000
581	FL	U.S. 19 Continuous right turn lanes in Pasco County	\$5,760,000
582	NJ	Union Boulevard Revitalization and Streetscape Enhancements, Totowa	\$400,000
583	IL	Improve roads, The Village of Westchester	\$800,000
584	IN	Reconstruct 45th Avenue from Colfax Street to Grant Street, Lake County	\$2,160,000
585	IN	Construct Grade Separation Underpass on Main Street in Mishawaka, Indiana	\$1,600,000
586	UT	Construct 2-lane divided highway from the Atkinville Interchange to the new replacement airport access road in St. George	\$4,000,000
587	CA	Diamond Bar On-Off Ramp at Lemon Ave. on SR 60	\$9,600,000
588	NY	Transportation parking facility serving the Harlem Hospital Complex	\$8,000,000
589	MA	Downtown revitalization for Pleasant Street, Malden	\$1,520,000
590	NY	Install Improvements for Pedestrian Safety in the vicinity of Prospect Park Yeshiva	\$250,000
591	NY	Emergency vehicle preemption system at traffic signals, Smithtown	\$500,000
592	CA	Reconstruct interchange for south-bound traffic entering I–80 from Central Avenue, City of Richmond	\$3,120,000
593	KY	Reconstruct KY 393, Oldham County, Kentucky	\$1,600,000
594	CA	Reduce Orange County Congestion Program ...	\$200,000
595	CA	Street Closure at Chevy Chase Drive, Glendale	\$640,000
596	PA	Allegheny County Urban Runoff Mitigation—eliminate urban highway runoff and the discharge of culverted streams into municipal combined sewers	\$800,000
597	SC	Construct Briggs-Pearson-DeLaine Connector	\$16,080,000
598	NM	Construct an interchange on I–25 to provide access to Mesa del Sol in Albuquerque	\$5,600,000
599	MI	Reconstruction of 30th Avenue from 13th Street to 22nd Street, Menominee	\$270,080
600	VA	Rivermont Ave. (Lynchburg) Bridge improvements	\$1,760,000
601	MA	Construct new interchange on I–95 between existing Route 1A ramp to the north and Route 123 ramp to the south, Attleboro	\$500,000
602	OH	Construct Waverly, Ohio South Connector from U.S. 23 to SR 104 to SR 220	\$2,560,000
603	VA	Craig County Trail—Improvements to trail in Craig County	\$120,000
604	CO	U.S. 160, State Highway 3 to East of the Florida River	\$4,800,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
605	TX	Bridge Access Road for FM 493 from U.S. 281 to U.S. 83	\$5,000,000
606	AZ	Pinal Avenue/Main Street right-of-way acquisition—Pinal County, Casa Grande, AZ—To reconstruct Main St. to include a bypass for commercial traffic	\$800,000
607	PA	Design, engineering, ROW acquisition, and construction of streetscaping enhancements, paving, lighting, safety improvements, parking, garage, and roadway redesign in Duryea Borough, Luzerne County	\$160,000
608	OK	SH-33, Widen SH 33 from the Cimarron River East to U.S. 177 Payne County, OK	\$6,400,000
609	TX	Washington Boulevard Improvements in Beaumont, Texas	\$2,080,000
610	FL	Widen Midway Road from South 25th Street to U.S. 1 in St. Lucie County	\$1,600,000
611	NY	Enhance road and transportation facilities in the vicinity of W. 65th St. and Broadway, New York City	\$4,000,000
612	LA	Construct Kansas-Garrett Connector and I-20 Interchange Improvements	\$4,000,000
613	PA	Construct the SR 1058 Connector between PA 309 and the Pennsylvania Turnpike Northeast Extension in Montgomery County	\$1,280,000
614	OK	Reconstruct the Interstate 44 193rd street interchange	\$2,400,000
615	NY	Roadway improvements to Woodbury Rd. at intersection with Syosset-Woodbury Rd	\$1,600,000
616	RI	Construct a handicapped accessible trail and platform at Kettle Pond Visitor Center Administrative Facility	\$160,000
617	NJ	Construct Great Swamp National Wildlife Refuge Road	\$200,000
618	CA	Grade Separation at 32nd Street between I-15 and Harbor Drive, San Diego	\$800,000
619	IN	Widen Old Meridian Street from 2 to 4 lanes, City of Carmel, Indiana	\$900,000
620	WI	Construct a bicycle/pedestrian path, City of Portage	\$1,760,000
621	VA	Widen Route 17 in Stafford	\$4,000,000
622	VA	Widen Route 820 in Bergton, Virginia	\$1,240,000
623	IL	Construction of 2 North/South Blvds. and 2 East/West Blvds. in the vicinity of Northern Illinois University	\$8,320,000
624	CA	Begin construction of road from U.S. 395 west towards SR 14	\$800,000
625	PA	Design, engineering, ROW acquisition, and construction of streetscaping enhancements, paving, lighting, safety improvements, parking, and roadway redesign in Old Forge Borough, Lackawanna County	\$160,000
626	PA	Improvements to Amtrak Keystone Corridor grade crossings at Irishtown Rd., New Comer Rd., and a new bridge at Ebychiques Rd	\$400,000
627	TN	Acquire and construct trail and bikeway along S. Chickamauga Creek in Chattanooga, TN	\$1,280,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
628	TX	Interchange improvements IH–30 Arlington at FM 157 (Collins Street) and Center Street ...	\$1,600,000
629	MO	Highway 350 Access Management Study from I–435 to I–470	\$800,000
630	TX	Reconstruct Mile 6 W from US83 to SH 107, Hidalgo County	\$800,000
631	NJ	Pedestrian facilities and street lighting on Haddon Avenue from Albertson Avenue to Glenwood Avenue, Haddon Township	\$346,400
632	NY	Rehabilitate highway bridges—Ithaca secondary line	\$2,000,000
633	WA	Buckley, WA; New Road alignments on 112th Street Corridor	\$1,600,000
634	ID	Construct Washington Street North from the end of Project # (STP 7072(102)) to the beginning of Project # (DHP-NH-F-2390(104))	\$4,400,000
635	SC	Construction of the U.S. 15/SC–341 connector parallel to I–20, Lee County	\$3,600,000
636	PA	Construct Recreational Trail from Oil City to Rynd Farm (Venango County)	\$1,200,000
637	TX	FM 1637 from FM 3051 to FM 185, Waco	\$1,600,000
638	VA	Green Cove Station—Improvements to existing Forest Service facility located at trailhead of Virginia Creeper Trail	\$80,000
639	NJ	South Essex Street Bridge Pedestrian Access Improvements, Orange	\$462,400
640	TX	FM 3391 (East Renfro St.) from I–35W to CR 602, Burleson	\$2,200,000
641	WI	Replace Wisconsin Street Bridge (STH 44) in Oshkosh, Wisconsin	\$10,000,000
642	CT	Construct Route 11 Extension and bicycle and pedestrian path from Salem to Waterford	\$14,400,000
643	TX	Drainage Study and Engineering for U.S. 83 in Starr County	\$800,000
644	TN	Widen SR 62 in Knox County, TN	\$6,500,000
645	GA	Widen U.S. 17 SR 25 from Yacht Drive to Harry Driggers Boulevard, Glynn County, Georgia	\$1,600,000
646	KY	Widen U.S. 25 from U.S. 421 North to KY 876, Madison County	\$800,000
647	GA	Widen U.S. 280/SR 30 from east of Flint River to SR 300 Connector west of Cordele	\$800,000
648	MS	Upgrade roads in Gunnison, Mound Bayou, Beulah, Benoit, Pace and Shaw, Bolivar County	\$1,600,000
649	NY	Construct and enhance Fillmore Avenue and traffic down-grade and infrastructure improvements to Humboldt Parkway, Buffalo ..	\$1,200,000
650	NJ	Construct Route 46 and Main Street intersection in Lodi	\$1,600,000
651	MN	Phase III construction of Trunk Highway 61010 Minnesota	\$4,000,000
652	NM	NM 128 JCT NM 31 East to Texas State Line	\$3,200,000
653	NJ	Replacement of Prospect Avenue Culvert, City of Summit, County of Union	\$320,000
654	FL	U.S. 441 Traffic Improvements—Road surface, road access, curb, gutter, and right-of-way, Miami Gardens	\$720,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
655	MN	Environmental studies and right-of-way acquisition for Trunk Highway 55 Corridor Protection Project	\$4,000,000
656	NY	Roadway improvements on Woodbine Avenue between 5th Avenue and Beach Avenue	\$640,000
657	NY	Saugerties, Improve downtown streets	\$960,000
658	IN	Widen U.S. 31 Hamilton County, Indiana	\$800,000
659	GA	Build a bridge across Big Indian Creek, Perry	\$1,000,000
660	MI	Carpenter Road Reconstruction—700 feet South of Textile Road to I-94, Washtenaw County	\$1,600,000
661	IN	Resurface and widen Shelby County Indiana 400 North Phases IV and V	\$800,000
662	SC	Widen West Georgia Road from Neely Ferry Road to Fork Shoals Road	\$1,600,000
663	TX	Construct Phase II of City of Killeen SH 201 ..	\$4,800,000
664	MN	Interchange improvements at I-94 and CSAH 19 and at CSAH 37 in the City of Albertville, MN	\$800,000
665	KY	Construction of bypass between KY 55 and U.S. 68 at Lebanon in Marion County	\$1,200,000
666	NY	Peruville Road/Creating overpass to address intersection safety issue	\$1,600,000
667	OR	Add a southbound lane to section of I-5 through Portland, OR between Delta Park and Lombard	\$4,000,000
668	MN	10th Street Bridge Expansion in St. Cloud, MN	\$800,000
669	NJ	Intermodal Access Improvements to the Peninsula at Bayonne Harbor	\$1,600,000
670	TX	Nolana Loop from FM 1426 to FM 88, Hidalgo County	\$1,600,000
671	OH	Perry Park Road Improvements and Pedestrian Trail Expansion at Call Road in the Village of Perry, OH	\$53,600
672	NV	Implement Regional Transportation of Southern Nevada FAST system	\$5,000,000
673	NY	Bronx River Greenway 233rd Street Connection	\$750,000
674			\$0
675	FL	Planning and design for development of future highway connections to the Florida International Airport, Hardee County	\$400,000
676	WI	Reconstruct and rebuild St. Croix River Crossing, connecting Wisconsin State Highway 64 in Houlton, Wisconsin to Minnesota State Highway 36 in Stillwater, Minnesota	\$5,600,000
677	TN	Conduct study for SR 45 to SR 386 Connector	\$400,000
678	IN	Reconstruct and widen Shelby County Indiana 500 East from 1200 N to U.S. 52	\$800,000
679	MO	Removal and Replacement of the Grand Avenue Bridge in the City of St. Louis	\$2,800,000
680	TX	Conduct reconstruction and managed lanes project on Airport Freeway (SH 183-SH 121) from IH 820 to the Dallas County Line	\$4,000,000
681	FL	Reconstruction of Hanford Boulevard, North Miami Beach	\$2,200,000
682	MA	Commonwealth Ave/Kenmore Sq. roadway and pedestrian improvements	\$4,000,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
683	NY	Pedestrian walkway and bikeway improvements along the NYC Greenway System in Coney Island	\$2,560,000
684	PA	Restore Route 222 in Maxatawny and Richmond Townships, Berks County, PA	\$2,000,000
685	OH	Study and design of modifications to I-75 interchanges at M.L. King, Jr./Hopple, I-74, and Mitchell in Cincinnati	\$2,400,000
686	VA	Widen Route 10 to six lanes from Route 1 to Meadowville Road, Chesterfield	\$800,000
687	GA	Rebuild sidewalks, install sidewalks, and add speed monitoring system, Alamo	\$250,000
688	CA	Widen Wilmington Ave. from 223rd street including ramp modifications, Carson	\$4,000,000
689	WI	Construct SH 32 (Claude Allouez) bridge in DePere, Wisconsin (Brown County, Wisconsin)	\$400,000
690	NY	Construction of drainage improvements and aesthetic enhancements to Oak Beach Road in the Town of Babylon, NY	\$408,000
691	WI	Construct an alternative connection to divert local traffic from I-90, a major highway, and allow movement through the Gateway commercial development project	\$3,200,000
692	WA	East Marine View Drive Widening in Everett	\$3,500,000
693	OH	Construction of safety improvements at intersection of U.S. 422 and SR 700 in Geauga County, OH	\$240,000
694	WV	Upgrade Route 10, Logan Co	\$4,000,000
695	TX	Conduct Preliminary Engineering for Funnel Project on SH 114 from BS 114L to Dallas County Line and on SH 121 from SH 360 to Dallas Co Line	\$3,200,000
696	NC	Install ITS on U.S. 70 Clayton Bypass	\$800,000
697	PA	Brighton Road Extension-Add new street to N Shore roadway network to facilitate access to amphitheater	\$800,000
698	NJ	Broad Street Streetscape Project in Elizabeth to provide physical improvements and to enhance transportation flow and efficiency	\$560,000
699	FL	Construction of 4 lane highway around Jacksonville connecting U.S. 1 to Route 9A	\$2,400,000
700	WA	510–507 Loop—Conduct engineering, design, and ROW acquisition for alternative route to two existing highways that bisect Yelm, WA	\$2,000,000
701	CA	Develop and implement traffic calming measures for traffic exiting the I-710 into Long Beach	\$1,600,000
702	CA	San Diego, CA Construction of the I-5 and SR 56 Connectors	\$6,400,000
703	IL	Upgrade Ridge Avenue, Evanston	\$2,400,000
704	SC	Widening and improvements of SC Highway 5 Bypass in York County	\$1,600,000
705	IA	Widening and Reconstruction, I-235, Des Moines	\$8,720,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
706	CA	Bay Road improvements between University Avenue to Fordham, and from Clarke Avenue to Cooley Landing. Northern access improvements between University and Illinois Avenues, East Palo Alto	\$4,800,000
707	NC	Project to widen U.S. 501 from NC 49 in Roxboro to the VA State line with part on new location	\$3,200,000
708	NY	Congestion reduction, traffic flow improvement and intermodal transfer study at Roosevelt Avenue/74th Street in Queens	\$640,000
709	CA	Construct bicycle and pedestrian bridge between Oyster Bay Regional Park in San Leandro and Metropolitan Golf Course in Oakland	\$600,000
710	TX	For right-of-way acquisition and construction of Seg 5 and 6 of SH 130 from 183 to Seguin, TX	\$4,800,000
711	NJ	Construct the Airport Circle Elimination at Tilton and Delilah Roads, Atlantic County ...	\$800,000
712	CA	The Alameda Corridor SR 47 Port Access Expressway design funding	\$8,000,000
713	NV	Construct U.S. Highway 95—Las Vegas Beltway Interchange	\$10,000,000
714	NY	Repair and repave the north side of the Mineola train station	\$120,000
715	IL	Repair of CH 29 and reconstruction of CH 8 at interchanges with Interstate 55 at Towanda and Lexington, Illinois	\$800,000
716	CA	Conduct a Project Study Report for new Highway 99 interchange between SR 165 and Bradbury Road, serving Turlock/Hilmar region	\$400,000
717	PA	Construction of U.S. 22 to I-79 Section of Southern Beltway, Pittsburgh, Pennsylvania	\$1,200,000
718	MN	Construction of new highway between the bridge over Partridge River on CR 565 in Hoyt Lakes to the intersection of CSAH 21 and 70, Babbitt	\$2,400,000
719	CA	State Route 1 improvements between Soquel and Morrissey Blvd. including merge lanes and the La Fonda overpass, Santa Cruz	\$2,936,000
720	WA	The West Corridor Coalition in Washington State	\$250,000
721	WA	North Sound Connecting Communities Transportation Project Planning	\$960,000
722	FL	West Relief Bridge Rehabilitation, Bay Harbor Islands	\$1,200,000
723	NE	Western Douglas County Trails Project, Nebraska	\$5,600,000
724	TN	Bristol, Tennessee highway—RR grade Crossing improvement—Hazelwood Street	\$80,000
725	GA	Extend East Greene Street, install street lights, utilities, and landscaping, Milledgeville	\$400,000
726	CA	Grade Separation at Vanowen and Cliveborne, Burbank	\$800,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
727	MA	Improve traffic signal operations, pavement markings and regulatory signage, Milton-Boston City Line	\$1,200,000
728	NY	Port Jervis, NY downtown pedestrian mall and promenade	\$560,000
729	MN	Construct Soo Line Trail from north of Bowlus to the east side of Mississippi River	\$396,000
730	WI	Construct traffic mitigation signals, signs, and other upgrades for Howard Ave, St. Francis	\$320,000
731	NH	Reconstruction of NH 11 and NH 28 Intersection in Alton	\$560,000
732	CA	Riverside Drive Improvements, Los Angeles	\$320,000
733	CA	Upgrade CA SR 4 East from the vicinity of Loveridge Road to G Street, Contra Costa County	\$16,000,000
734	TX	Widen SH 24 from a 2-lane facility to 4-lane divided facility from SH 19 to Cooper, TX	\$1,600,000
735	PA	Rail crossing signalization upgrade, Willow Street, Fleetwood, Berks	\$260,320
736	AZ	Navajo Route 20/Navajo Nation, Coconino County, AZ/To Conduct a 2-lane road design for 28 miles of dirt road between the communities of Le Chee, Coppermine, and Gap	\$800,000
737	SC	Construct Hub City Connector Passage (12.5 miles of bicycle-pedestrian improvements, 176–SC 56), part of state-wide Palmetto Trail Project	\$800,000
738	FL	Construct U.S. 1/SR 100 Connector, Bunnell, Florida	\$2,000,000
739		.....	\$0
740	CA	Design and environmental analysis for State Route 11 connecting State Route 905 to the new East Otay Mesa Port of Entry, San Diego	\$800,000
741	NY	Improve North Fork Trail, Southold	\$200,000
742	HI	Interstate Route H1 Deck Repair, Airport Viaduct	\$3,816,000
743	OH	Replace Grade Separation at Eastland and Sheldon Road, Berea	\$600,000
744	WA	Widen I–5 through Lewis County	\$3,750,000
745	SC	Engineering, design, and construction of I–73 from the North Carolina State Line to I–95	\$8,000,000
746	OH	Planning and construction of a bicycle trail adjacent to the I–90 and SR 615 Interchange in Lake County, OH	\$2,000,000
747	SC	Widening of Boiling Springs 9 from Rainbow Lake Rd. to SC 292	\$4,800,000
748	IL	Construct Streetscape Project, Orland Hills	\$320,000
749		.....	\$0
750	OR	Widening of Oregon Hwy 217 between Tualatin Valley Hwy and the U.S. 26 interchange, Beaverton	\$7,745,600
751	PA	SR 10 widening, New Morgan Borough and Caernarvon Township, PA	\$1,600,000
752	MI	Widen M–72 from U.S. 31 easterly 7.2 miles to Old M–72	\$2,000,000
753	PA	Widening of Rt. 22 and SR 26 in Huntingdon. Upgrades to the interchange at U.S. Rt. 22 and SR 26	\$2,700,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
754	MN	Widening of U.S. Highway 61 at Frontenac Station, MN	\$640,000
755	KS	Construction and reconstruction of four interchanges on I-435, I-35 and U.S. 69 in Johnson Co	\$3,200,000
756	MA	Melnea Cass Blvd. Reconstruction	\$2,160,000
757	NH	Improve Meredith Village Traffic Rotary	\$800,000
758	FL	Implement Blue Heron Boulevard Streetscape Improvements, City of Riviera Beach	\$2,000,000
759	NY	Install Improvements for Pedestrian Safety including in the vicinity of PS Q114	\$250,000
760	WI	Reconstruct SH 181 between Florist Ave. and North Milwaukee County Line	\$3,600,000
761	LA	Replace the Prospect Street Bridge (LA 3087), Houma	\$2,400,000
762	GA	Streetscape improvements along LaVista Road in the Northlake business district of DeKalb County, Georgia	\$160,000
763	MD	Study Greater Towson Area traffic flow and future needs	\$160,000
764	FL	Construct U.S. 1 Improvements, Cities of Holly Hill and Ormond Beach, Florida	\$320,000
765	OH	Transportation Enhancements to the downtown area of the Village of Chagrin Falls, OH	\$560,000
766	MA	Pedestrian Walkway for the Town of Norwood	\$780,000
767	NJ	Restoration of Route 35 in Ocean County, New Jersey	\$1,600,000
768	PA	Extension of Third Street from Interstate 83 to Chestnut Street, Harrisburg	\$4,320,000
769	TX	Carlton road grade separation, Laredo, TX	\$4,000,000
770	OH	Construct connector roadway between SR 13 and Horns Hill Road in north Newark	\$1,000,000
771	TN	Construct new lighting on Veterans Memorial Bridge, Loudon County, Tennessee	\$200,000
772	NY	Roadway improvements on CR 3 between Ruland Rd. and I-495	\$1,776,000
773	TN	Construct State Route 385 (North and East) around the City of Memphis	\$2,520,000
774	NY	Waterloo, NY by-pass project	\$5,600,000
775	IN	Extend Everbrook Drive from SR 332 to Bethel Avenue in the City of Muncie, Indiana	\$512,000
776	TN	Construct Proposed SR 397 extension from SR 96 West to U.S. 431 North to Franklin Williamson County	\$1,780,000
777	AK	Construct linking road from airport to port in Akutan	\$1,500,000
778	PA	Uniontown to Brownsville section of Pennsylvania Mon/Fayette Expressway	\$4,000,000
779	NY	Ashburton Avenue Reconstruction, Yonkers, New York	\$1,000,000
780	OR	Highway 22, Polk County	\$800,000
781	FL	I-75 Widening and Improvements in Collier and Lee County, Florida	\$36,000,000
782	WI	Pioneer Road Rail Grade Separation (Fond du Lac, Wisconsin)	\$5,000,000
783	FL	Design and construction of double-deck roadway system exiting FLL airport connecting Y.S. 1 and I-595	\$3,200,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
784	MI	Wayne, Reconstruct one quarter of a mile stretch of Laurenwood	\$100,000
785	GA	Construct the West Cleveland Bypass from U.S. 129 SR 11 near Hope Road extending west of Cleveland, on new and existing locations to SR 75	\$2,320,000
786	IL	Reconstruct Highway-Railway crossing over U.S. 14 and realignment of U.S. 14, Des Plaines	\$1,600,000
787	OR	Highway 22-Cascade Highway interchange improvements, Marion County	\$400,000
788	VA	Widen Route 29 between Eaton Place and Route 123 in Fairfax City, VA	\$2,400,000
789	WI	Reroute State Hwy 11 near Burlington, WI (Walworth and Racine Counties, WI)	\$3,200,000
790	IL	East Peoria, Illinois Technology Blvd. upgrades	\$800,000
791	DC	Metro Branch Trail Construction	\$1,600,000
792	MA	Study and design I-93/Mystic Ave. Interchange at Assembly Sq	\$400,000
793	NM	Widening of U.S. 491 from Navajo 9 to Colorado State border	\$1,600,000
794	FL	Construct access road to link Jacksonville International Airport to I-95	\$4,000,000
795	FL	Widening of SR 60 from 66th Avenue to I-95 in Indian River County, FL	\$800,000
796	GA	Widening of SR 133: Colquitt Co./Daughtery Co	\$800,000
797	IL	Upgrade streets, Stickney Township	\$2,206,400
798	PA	Widening of SR 1001 Section 601 in Clinton County	\$800,000
799	PA	Widening of Route 40 in Wharton Township, Fayette County, Pa	\$1,600,000
800	NJ	Widening of Route 1 and intersection improvements in South Brunswick	\$800,000
801	PA	Construct PA 706 Wyalusing Bypass Bradford County, Pennsylvania	\$800,000
802	IL	Construct four lane extension of IL RT29 from Rochester to Taylorville	\$480,000
803	IL	Widening of Old Madison Road, St. Clair County	\$1,600,000
804	NY	Construction of Bicycle Path and Pedestrian Trail in City of Dunkirk	\$400,000
805	PA	Design, engineering, ROW acquisition, and construction of streetscaping enhancements, paving, lighting, safety improvements, parking, and roadway redesign in Plains Township, Luzerne County	\$160,000
806	CA	Replace I-880 overpass at Davis St. in San Leandro	\$600,000
807	PA	DuBois-Jefferson County Airport Access Road Construction	\$1,200,000
808	GA	Streetscape project to improve accessibility and safety for pedestrians, Mount Vernon	\$400,000
809	IL	Replacement of Fullerton Avenue Bridge and Pedestrian Walkway	\$3,840,000
810	NH	Construct intersection at U.S. 3 and Pembroke Hill Road in Pembroke	\$560,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
811	FL	A new interchange with the Pineda Causeway Extension and I-95	\$10,400,000
812	CT	Make Improvements to Groton Bicycle and Pedestrian Trails and Facilities	\$160,000
813	MN	TH 36—Stillwater Bridge; cut-and-cover approach to river crossing	\$400,000
814	NM	U.S. 54 Reconstruction, Tularosa to Santa Rosa	\$2,400,000
815	VA	Daniel Boone Wilderness Trail Corridor—Acquire site; design and construction of interpretative center, enhancement of trail corridor	\$2,560,000
816	MI	Widening of M-24 from two lanes to four lanes with a boulevard from I-69 to the county line	\$800,000
817	IN	Construct U.S. 231 in Spencer and Dubois Counties in Indiana	\$4,800,000
818	TN	Construct overpass at Highway 321 and Highway 11 Loudon County, Tennessee	\$5,200,000
819	SD	Improve the SD Advanced Traveler Information System	\$800,000
820	GA	Streetscape, lighting, and traffic enhancements from Lancaster to Church Street on Bellevue, Dublin	\$500,000
821	NY	Implement ITS system and apparatus to enhance citywide truck route system on Avenue P between Coney Island Avenue and Ocean Avenue in the 9th District of New York	\$100,000
822	GA	Install sidewalks, trails, lighting, and amenities in Balls Ferry Park, Wilkinson County	\$1,000,000
823	CA	Construct Inland Empire Transportation Management Center in Fontana to better regulate traffic and dispatch personnel to incidents	\$1,200,000
824	IL	Reconstruct Milwaukee Avenue, including Six Corners	\$13,600,000
825	TX	Implementation and quantification of benefits of large-scale landscaping along freeways and interchanges in the Houston region	\$22,796,800
826	PA	Design, engineering, ROW acquisition, and construction of a connector road between PA 115 and Interstate 81 in Luzerne County	\$200,000
827	AL	Pedestrian Improvements for Homewood, AL ..	\$320,000
828	TN	Plan and construct a bicycle and pedestrian trail, Gallatin	\$532,000
829	MA	Conduct design, feasibility and environmental impact studies of proposal to relocate New Bedford/Fairhaven bridge	\$1,400,000
830	IA	Iowa City, IA Construction of arterial extension project connecting Coralville to west and south Iowa City	\$2,000,000
831	NJ	Rehabilitate Route 139 in Jersey City—Portway	\$1,600,000
832	NJ	Route 605 extension to U.S. 206	\$800,000
833	OH	Widen SR 170 Calcutta	\$2,000,000
834	IA	Widening of Hwy 44, Grimes	\$800,000
835	VA	Widening of Highway 15 in Farmville, Virginia	\$1,349,760

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
836	MA	Design and construct intersection improvements at Memorial Park II on Roosevelt Ave. from Bay St. to Page Boulevard, Springfield	\$800,000
837	SC	Widening of Frontage Road from U.S. 72 to U.S. 56, Laurens, SC	\$2,240,000
838	NY	Mill Road: NY Rte 261 to North Avenue in the Town of Greece	\$400,000
839	NC	Widening of Beckford Drive, City of Henderson	\$768,000
840	NY	Realignment of Clove Road and Rt. 208, access management improvements in Orange County	\$960,000
841	NY	City of Peeskill, NY Street Resurfacing Program, Brown Street	\$41,600
842	FL	Fund advanced Right-of-Way Acquisition along SR 52 in Pasco County, Florida	\$2,960,000
843	MA	Design, engineer, permit, and construct “Border to Boston Bikeway” rails-trails project, from Salisbury to Danvers	\$800,000
844	FL	Soutel Drive Road Enhancements, Jacksonville	\$1,200,000
845	NJ	Bicycle facilities in West Deptford Township ...	\$92,000
846	PA	Create a direct connection between State Road 29 and State Route 113	\$2,400,000
847	MA	Design and construction of the north and southbound ramps on Interstate 91 at Exit 19	\$1,200,000
848	IA	NW 70th Ave. reconstruction, Johnston	\$4,000,000
849	NY	Town of Minisink South Plank Road	\$220,000
850	VA	Town of St. Paul—Restoration of historic Hillman House to serve as trail system information center and construction of stations on trails	\$120,000
851	PA	Conduct environmental review and acquire right-of-way for preferred alternative to improve PA 41	\$3,360,000
852	FL	Acquire Right-of-Way for Ludlam Trail, Miami, Florida	\$400,000
853	NY	Construct Safe Routes to Schools projects in New York City	\$2,800,000
854	CO	Construction of U.S. 24—Tennessee Pass, Colorado	\$4,800,000
855	CA	Implement Riverside Avenue Railroad Bridge improvements, south of Interstate 10 in Rialto	\$400,000
856	MA	Longwood Ave/Urban Ring Tunnel Study	\$450,000
857	MN	Ely Area Joint Public Works Complex	\$1,500,000
858	IA	U.S. 63 improvement near New Hampton, Iowa	\$6,960,000
859	NY	Village of Unionville reconstruction of Main Street	\$64,000
860	TX	Widening from two lanes to four of SH 36 from Bellville, TX to Sealy, TX	\$7,200,000
861	KY	Comprehensive Traffic Study for intersection of Main Street and Berea College Campus, Berea	\$480,000
862	TN	Improve State Route 62 in Morgan County near U.S. 27 in Wartburg to Petit Lane from existing two lane highway to four lanes	\$3,600,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
863	IL	Construct West Corbin Overpass over Illinois 255, Bethalto	\$4,000,000
864	OR	I-5/99W connector	\$248,000
865	FL	Improvements to I-75 in the City of Pembroke Pines, Florida	\$6,000,000
866	CA	Planning, design, engineering, and construction of Naval Air Station, North Island access tunnel on SR 75-282 corridor, San Diego	\$4,000,000
867	CA	Construct road from Mace Blvd. in Yolo County to federally supported Pacific Flyway wildlife area	\$800,000
868	PA	Construction of ramps on I-95 and U.S. 322, widening of streets and intersections	\$2,400,000
869	NY	Construct and restore pedestrian and residential roadways in downtown business district in Rockville Centre	\$800,000
870	LA	Plan, design, and construct Pointe Clair Expressway in Iberville Parish	\$2,400,000
871	MA	Construction of East Milton Parking Deck over Interstate/Rt. 93	\$1,000,000
872	PA	Reconstruction of I-176 in Cumru and Robeson Townships, Berks County	\$2,400,000
873	MI	Resurfacing of Masonic Boulevard in Fraser ...	\$928,000
874	OH	Construct Ohio River Trail from Downtown Cincinnati, Ohio to Salem Road	\$1,600,000
875	PA	Realignment and reconstruction of SR 60 interchange with U.S. 22-30 and reconstruct adjacent Tonidale-Bayer intersection	\$1,600,000
876	NY	Construction and rehabilitation of East and West John Streets in the Village of Lindenhurst, NY	\$836,000
877	NY	Construct Northern State Parkway and Long Island Expressway access at Marcus Avenue and Lakeville Road and associated Park and Ride	\$4,800,000
878	PA	Deployment of an Intelligent Transportation System along I-476 PA Turnpike NE Ext/PA 309 and I-76 Schuylkill Exprwy in Montgomery County	\$3,200,000
879	NY	Install Improvements for Pedestrian Safety including in the vicinity of PS Q153	\$250,000
880	TX	Build 36th Street Extension in San Antonio ...	\$1,680,000
881	CA	North Atlantic Pedestrian Bridge, Monterey Park	\$480,000
882	CA	Reconstruct Eastern Ave. from Muller St. to Watcher St. in Bell Gardens	\$800,000
883	PA	Design, engineering, ROW acquisition, and construction of streetscaping enhancements, paving, lighting, safety improvements, parking, and roadway redesign in West Pittston, Luzerne County	\$160,000
884	CA	Design Traffic Flow Improvements Azusa and Amar, City of West Covina	\$1,000,000
885	MI	Reconstruction of Nine Mile Road in Eastpointe	\$896,000
886	WA	Redmond, WA City-wide ITS	\$800,000
887	IL	Reconstruction and realignment of Baseline Rd., Montgomery, IL	\$1,664,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
888	NY	Transportation Enhancements to support development of Erie Canal in Orleans County, NY	\$240,000
889	CO	U.S. 160, East of Wolf Creek Pass	\$12,000,000
890	MA	Design, engineering, and construction at I-93 The Junction Interchange, Andover, Tewksbury and Wilmington	\$2,200,000
891	CA	Rosemead Boulevard/Highway 19 Renovation Project, Pico Rivera	\$80,000
892	PA	Intersection improvements at PA Route 209 and Water Company Road, construction of a bridge and access enhancements to Nature and Arts Center, Upper Paxton Township	\$600,000
893	TX	Improvements to FM 1979 in Caldwell County	\$240,000
894	HI	Interstate Route H 1 guard rail and shoulder improvements, Waialeale Bridge to Airport Interchange, Honolulu	\$3,040,000
895	MI	M-168 Reconstruction in the village of Elberta	\$1,760,000
896	CA	Colima Road at Fullerton Road Intersection Improvements	\$800,000
897	OH	Design and construct Youngstown State University Roadway and Pedestrian Safety Improvements, Youngstown	\$2,100,000
898	MO	Reconstruct Interstate 44 and Highway 39 Interchange	\$4,000,000
899	WA	Complete final Columbia River crossing Environmental Impact Statement for SR 35 in Klickitat County	\$640,000
900	KY	Reconstruct U.S. 127 at Bellows Road, Mercer County	\$480,000
901	NY	Roadway and Pedestrian Improvements for Times and Duffy Squares in New York City	\$3,200,000
902	FL	Six lane expansion of State Road 200 (A1A) from Interstate 95 east to Amelia Island	\$3,200,000
903	MI	Widen and reconstruct Tienken Road in Rochester Hills from Livernois to Sheldon	\$10,800,000
904	NV	Design and Construct I-580 Meadowood Complex Improvements, Washoe County	\$1,600,000
905	NY	Town of Chester reconstruction of 13 independent town roads	\$160,000
906	NY	Implement ITS system and apparatus to enhance citywide truck route system at 9th Street and 3rd Avenue intersection in Kings County	\$100,000
907	TX	Construction of highway infrastructure to provide flood protection for Nueces County	\$800,000
908	FL	Widen State Road 80, Hendry County	\$2,800,000
909	NE	Construction of the Columbus, Nebraska North Arterial Road	\$3,600,000
910	KY	Extension of Newtown Pike from West Main Street to South Limestone Street, Lexington	\$16,000,000
911	OH	Road construction and related improvements in the Village of Gates Mills, OH	\$400,000
912	IL	Widening and Reconstruction of 55th Street from Holmes Avenue to Williams Street in Westmont and Clarendon Hills	\$1,200,000
913	IL	Road upgrades for the Village of Oreana, IL	\$707,200
914	ID	Widen Amity Road from Chestnut Street to Robinson Road in Nampa, Idaho	\$1,600,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
915	TX	Widening FM 60 (University Drive) from SH 6 to FM 158, College Station	\$2,400,000
916	GA	Widening Cedarcrest Road from Paulding County line to Governors Towne	\$2,520,000
917	CA	Widening Avenue 416 in Dinuba California	\$1,200,000
918	MA	Infrastructure Improvements in the Gardner-Kilby-Hammond Area, Worcester	\$600,000
919	TX	Extend Munn Street from Demaree Ln. to Gellhorn Drive	\$800,000
920	MN	City of Moorhead SE Main GSI, 34th St. and I-94 Interchange and Moorhead Comprehensive Rail Safety Program	\$2,400,000
921	AL	Widening and safety improvements to SR 216 between SR 215 and I-59, I-20	\$1,813,333
922	GA	The Carrollton Greenbelt Project, City of Carrollton, Georgia	\$280,000
923	IL	Improve safety of culvert replacement on 250th Rd. between 460th St. and County Hwy 20 in Grandview Township, Edgar County, IL	\$256,000
924	NY	Kingston, Improve uptown streets	\$1,040,000
925	PA	Replace Blair Creek Bridge over the Little Lehigh Creek, just west of the Maple Grove Bridge, in Longswamp Township, Berks County	\$1,280,000
926	CA	Construct highway connecting State Route 78/86 and State Route 111, Brawley	\$7,600,000
927	GA	Widening and improvements on Colerain Road in St. Marys, Georgia	\$800,000
928	MD	Implement Pedestrian and Roadway Improvements Contained in the Druid Hill Park Neighborhood Access Program in Baltimore	\$1,600,000
929	AZ	Kabba Wash project between I-40 and Wikieup	\$1,600,000
930	ME	Route 2 Improvements from Bethel to Gilead ..	\$1,000,000
931	FL	Widening and Improvements for I-75 in Collier and Lee County	\$21,600,000
932	TX	Widening 349 Dawson and Martin County	\$1,600,000
933	WI	Widen Wisconsin State Highway 64 between Houlton and New Richmond	\$3,200,000
934	IN	Widen Wheeling Avenue from Centennial to McGalliard Road in the City of Muncie, Indiana	\$768,000
935	MN	Construct a bike trail along the north side of TH 11 to the Voyageurs National Park Visitor Center on Black Bay of Rainy Lake	\$540,000
936	FL	Construct pedestrian underpass and safety improvements at SR A1A and Castillo Drive, City of St. Augustine	\$1,280,000
937	CA	Rehabilitate street surfaces in Sherman Oaks	\$99,200
938	CA	Repair and realignment of Brahma Drive and Winnetka Ave	\$240,000
939	NJ	Riverwalk in Millburn along the West Branch of the Rahway River	\$600,000
940	AL	I-20 widening and safety improvements in St. Clair County	\$4,000,000
941	TN	Plan and construct Rutherford County visitor's center/Transportation information hub	\$400,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
942	UT	Streetscape a 2-lane road and add turning lanes at key intersections on Santa Clara Drive in Santa Clara	\$1,050,000
943	CA	U.S. 101 Operational Improvements, San Jose	\$4,000,000
944	IL	Upgrade traffic signal system on 87th Street, Chicago	\$400,000
945	LA	Water Well Road Gateway Corridor (LA 478)—Design, right-of-way, and Construction of 3.6 miles from I–49 to LA 1	\$4,520,000
946	CO	East 104th and U.S. 85 Intersection: Study, design, and construction of needed improvements to intersection	\$664,000
947	FL	Widen West Virginia Drive from Floresta Drive to U.S. 1 in St. Lucie	\$2,400,000
948	ID	Widen U.S. 95 in Idaho from Jct. SH 1 to Canadian Border	\$2,400,000
949	IL	Engineering of the Willow Creek Trail Extension from Rock Cut State Park to the Long Prairie Trail	\$160,000
950	CA	Widen Interstate 8 overpass at Dogwood Road, Imperial County	\$1,698,000
951	CA	Improve bridge 58–7 on SR 115 that crosses the Alamo River in Holtville and also project design and environmental analysis of a new bridge over the same river	\$800,000
952	ID	Widen U.S. 95 from Worley to Mica Creek, Idaho	\$2,400,000
953	MI	Complete the 2 segments of U.S. 127 from Ithaca to St. Johns to a limited access freeway	\$4,000,000
954	CA	Construct a new interchange where I–15 meets Cajalco Road in Corona, CA	\$8,000,000
955	OH	Construct interchange at CR 80 on IR 77 near Dover	\$5,000,000
956	TX	Colonial Drive Project, Cleburne	\$1,200,000
957	NC	Widen and improve I–85 through Cabarrus County from U.S. 29/49 to 29/601	\$6,400,000
958	NC	U.S. 401 from Raleigh to Fayetteville	\$3,200,000
959	GA	Construct and Improve Westside Parkway, Northern Section, in Fulton County	\$3,200,000
960	NY	City of Peeskill, NY Street Resurfacing Program, Hudson Avenue	\$104,000
961	CA	Construction of CA 101 Auxiliary Lanes, Marsh Rd. to Santa Clara County Line	\$1,800,000
962	NY	For the acquisition of ferry boats and ferry terminal facilities and operation of ferry service from Rockland County-Yonkers-Manhattan	\$1,200,000
963	IL	For engineering, right-of-way acquisition and reconstruction of two existing lanes on Arsenal Road from Baseline Rd. to Rt. 53	\$1,700,000
964	PA	For the Scranton City Redevelopment Authority to design, engineer, acquire ROW and construct streetscaping enhancements, paving, lighting and safety improvements, parking, and roadway redesign	\$2,000,000
965	FL	Construct landscaped sidewalks, bus lanes, pedestrian/bicycle paths, vehicular lanes, City of Plantation	\$1,228,833

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
966	NY	Improve Route 17—Access Control, Elmira to Chemung	\$2,000,000
967	PA	Design, engineering, ROW acquisition, and construction of streetscaping enhancements, paving, lighting, safety improvements, parking, and roadway redesign in Plymouth Borough, Luzerne County	\$160,000
968	ID	Improve SH 75 from Timmerman to Ketchum	\$4,800,000
969	OR	Improve U.S. 97 from Modoc Point to Algoma	\$1,600,000
970	SD	Construct an interchange on I-90 at Marion Road west of Sioux Falls	\$5,600,000
971	CA	Realign First St. between Mission Rd. and Clarence St. in Los Angeles	\$1,000,000
972	MO	Relocation of Route 13 Branson West Bypass ..	\$4,160,000
973	IL	Resurfacing Congress Parkway The Illinois Department of Transportation	\$400,000
974	RI	Establish interchange between Route 4 and Interstate 95	\$4,800,000
975	TX	Improvements to FM 676 in Alton	\$400,000
976	MA	Reconstruction of Goddard Memorial Drive from State Route 9 to Airport Drive, Worcester	\$900,000
977	FL	Homestead, FL Widening of SW 320 Street (Mowry Drive) from Flagler Avenue to SW 187 Avenue	\$2,000,000
978	CT	Broad Street Reconstruction Project in New Britain	\$2,000,000
979	PA	Construct Johnsonburg Bypass	\$3,520,000
980	CT	Construct Valley Service Road Extension, North Haven	\$1,600,000
981	VA	Construction of transportation related enhancements and infrastructure of the VMFA project	\$800,000
982	MI	Reconstruct and Widen I-94 in Kalamazoo, MI	\$12,800,000
983	MD	Land Acquisition for Highway Mitigation in Cecil and Worcester Counties, MD	\$15,600,000
984	CA	Construct overpass on Central Ave. at the railroad crossing in Newark	\$600,000
985	IL	City of Bartonville, Street widening and improvements and sidewalk improvements	\$762,058
986	OH	Construct Williamsburg, Ohio to Batavia, Ohio Hike, and Bike Trail	\$240,000
987	IL	The continuation of U.S. Route 12 from the Wisconsin State line to the intersection of Tryon Grove Road, Route 12 and Illinois State Route 31	\$2,400,000
988	FL	U.S. 17-92 and French Ave. Roundabout, Sanford	\$400,000
989	PA	Design, engineering, ROW acquisition, and construction of streetscaping enhancements, paving, lighting, safety improvements, parking, and roadway redesign in Hanover Township, Luzerne County	\$160,000
990	MI	Reduction from 3.5 miles of travel to 1.0 mile of travel crossing over the Tittabawassee River on Meridian Road	\$2,400,000
991	ID	Widen U.S. 95 from Top of Lewiston Hill to Moscow, Idaho	\$1,600,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
992	TX	Construct a pedestrian/bicycle trail in the Sunnyside area of Houston	\$750,000
993	TX	Construct remaining 800-foot 4-lane divided thoroughfare for Preston Rd. segment between Beltway 8 and Genoa Red Bluff Rd	\$928,000
994		.....	\$0
995	SC	Medical University of South Carolina Roadway Enhancement	\$3,200,000
996	PA	Acquisition of adjacent property to planned Park-n-Ride at Kressler and Hamilton Boulevards in Wescosville, PA	\$2,000,000
997	MI	Livonia, reconstruct Stark Rd. between Plymouth Rd. and I–96	\$800,000
998	PA	PA Route 309 roadway construction and signalization improvements in Tamaqua Borough	\$1,600,000
999	MA	Union Square Roadway and Streetscape Improvements	\$400,000
1000	TX	Improvements to South McColl Road in Hidalgo County	\$1,920,000
1001	MS	Widen U.S. Highway 61 and improve major intersections, Natchez	\$3,040,000
1002	TX	Widen U.S. 82 from 2-lane facility to 4-lane facility from FM 1417 in Sherman, TX to U.S. 69 in Bells, TX	\$3,600,000
1003	TX	Widen U.S. 79, from FM 1512 near Jewett to IH–45 to a 4-lane divided highway	\$1,600,000
1004	TN	Construct shoulder and turn lane on SR 35 in Seymour, Tennessee	\$1,200,000
1005	NE	Construction of Heartland Expressway between Alliance and Minatare, NE	\$6,000,000
1006	WA	Pedestrian Sidewalk Construction in Snohomish	\$140,000
1007	TN	North Second Street Corridor Upgrade, Memphis	\$1,600,000
1008	OH	Purchase High Speed Ferries for Black River Excursion Boat Service, Lorain	\$600,000
1009	MD	MD4 at Suitland Parkway	\$3,200,000
1010	OK	Widen U.S. 60 from approximately 2 miles east of the U.S. 60/US 75 interchange east approximately 5.5 miles	\$1,600,000
1011	NC	Widen U.S. 401 from Wake County to Louisburg	\$2,400,000
1012	PA	CUPSS, Pennsylvania, Urban Maglev Demonstration Test Project	\$4,000,000
1013	TX	Widen U.S. 287 Bypass at Ennis from two to four lanes	\$6,400,000
1014	KY	Widen U.S. 27 from KY 34 to U.S. 150 Bypass, Garrard County and Lincoln County	\$1,600,000
1015	MN	Right-of-way acquisition for Mississippi River Bridge connecting I–94 and U.S. 10 between U.S. 169 and TH 101	\$800,000
1016	WI	Rehabilitate Highway 53 between Chippewa Falls and New Auburn	\$3,200,000
1017	IL	Widen U.S. Route 67 from Macomb to Illinois 101	\$1,600,000
1018	IL	Widen U.S. Route 51 from Pana to Vandalia ...	\$2,400,000
1019	IL	Widen U.S. Route 34 from U.S. 67 to Carmen Road	\$3,200,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
1020	WA	Alaskan Way Viaduct and Seawall	\$11,200,000
1021	NJ	East Coast Greenway bicycle and pedestrian path from New Brunswick to Hudson River	\$800,000
1022	FL	Construct bicycle and pedestrian underpass and park under I–95, Miami	\$1,200,000
1023	CA	Implement Van Nuys Road and Safety Improvements	\$400,000
1024	FL	New systems interchange ramps at SR 417 and Boggy Creek Road in Orange County, FL	\$6,400,000
1025	NY	Reconstruction of Tappan Street Bridge in Town of Newark Valley	\$800,000
1026	IL	Widen Rakow Road from Ackman Road to IL Rt. 31 in McHenry County, Illinois	\$5,720,000
1027	IL	Widen U.S. Route 30 from Rock Falls to Round Grove, Whiteside County	\$400,000
1028	TN	Bristol, Tennessee highway-RR grade crossing improvement—Cedar Street	\$40,000
1029	IL	Perform Broadway and Sheridan Road signal interconnect project, Chicago	\$1,200,000
1030	IL	Widen U.S. Highway 30 in Whiteside County, Illinois	\$800,000
1031	WI	Rehabilitate existing bridge and construct new bridge on Michigan Street in Sturgeon Bay, Wisconsin	\$5,600,000
1032	ME	Replacement of the Route 201–A “covered” bridge, Norridgewock	\$3,000,000
1033	AR	Widen to four lanes, improvement, and other development to U.S. Highway 167 from LA State line north to I–530	\$5,000,000
1034	PA	Widen the Route 412 corridor from I–78 into the City of Bethlehem	\$8,000,000
1035	HI	Construct access road for Kahului Airport	\$800,000
1036	IL	Improve Highway-Railroad Crossings, Galesburg	\$600,000
1037	MN	Sauk Rapids Bridge and Roadway Replacement in Sauk Rapids, MN	\$4,800,000
1038	TN	Construct Transportation and Heritage Museum in Townsend, Tennessee	\$800,000
1039	CA	Widen State Route 98, including storm drain developments, from Kloke Road to State Route 111, Calxico	\$2,400,000
1040	CA	Widen State Route 98 from Route 111 to State Route 7, Calxico	\$4,000,000
1041	GA	Construction of bypass around town of Hiram, from SR 92 to U.S. 278, Paulding County, Georgia	\$1,600,000
1042	TX	Construction of the interchanges at BI20 and IH20 for JBS Parkway	\$2,000,000
1043	CA	Widen State Route 46 between Airport Road and the Shandon Rest Stop in San Luis Obispo County	\$33,461,000
1044	TN	Widen State Route 4 (U.S. 78) from Mississippi State Line to Getwell Road (SR 176) in Memphis, Shelby County	\$800,000
1045	MI	Baraga County, Reconstruction of county primary road on Bayshore Drive from Haanpaa Road northerly 1.7 miles to Whirligig Road	\$600,000
1046	NY	Town of Warwick, NY walking and biking trail	\$400,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
1047	AK	Bridge over Fish Creek in Matanuska-Susitna Borough	\$1,000,000
1048	GA	GA 400 and McGinnis Ferry Road Interchange, Forsyth County, GA	\$2,400,000
1049	NY	Implement Improvements for Pedestrian Safety in Kings County	\$600,000
1050	NY	Reconfigure road through FDR VA Hospital to provide access to Battery Place in Town of Cortlandt	\$316,000
1051	CA	Widen State Route 262, replace two railroad overpass structures, and rebuild on and off ramps between SR 262 and Kato Rd. in Fremont	\$3,200,000
1052	TN	Widen State Route 101 in Cumberland County from two lane highway to five lanes between State Routes 282 (Dunbar Road) and 392 in Crossville	\$6,400,000
1053	FL	Widen State Road 50 in Lake County, Florida	\$5,600,000
1054	AZ	Construct a passing lane between the north end of Lake Havasu City to I–40	\$1,600,000
1055	GA	Widen SR 85 from SR 74 to County Route 126 Bernhard Road, Fayette County, Georgia	\$2,400,000
1056	CT	Construct New arterial roadway from Barnum Avenue north to proposed Lake Success Business Park in Bridgeport, CT	\$8,000,000
1057	MI	M–13 Washington Avenue Streetscape Project. Phase II of High Priority Project 192 in Public Law 105–550, City of Saginaw	\$1,200,000
1058	TX	Improvements to FM 716 in Duval County	\$800,000
1059	NY	Town of Chester Surrey Meadow subdivision road improvements	\$240,000
1060	PA	Cresheim Valley Drive Revitalization project involving scenic enhancements and pedestrian safety improvements from Lincoln Drive to Navajo Street	\$880,000
1061	NC	Transportation Improvements at Piedmont Triad Research Park, Winston-Salem, NC	\$2,400,000
1062	MO	Upgrade and partially relocate MO Rt. 141 from I–64 to Rt. 340	\$2,880,000
1063	NY	Construct Millennium Parkway in the Towns of Dunkirk and Sheridan	\$8,400,000
1064	AZ	Construct the Rio Salado Parkway to connect I–10 and Loop 202 freeways to 7th Street in downtown Phoenix	\$6,400,000
1065	TN	Improving Vehicle Efficiencies at At-Grade highway-Railroad Crossing in Lenoir City, TN	\$83,200
1066	NJ	Replacement of Monmouth County bridges W–7, W–8, and W–9	\$2,400,000
1067	OK	U.S. 54, Widen U.S. 54 from North of Optima Northeast to Kansas State Line, Texas County, OK	\$800,000
1068	FL	Widen Palm Coast Parkway and I–95 interchange and overpass, Flagler County, Florida	\$2,320,000
1069	FL	Delray Beach Federal Highway pedestrian improvements SE 4th Street to NE 4th Street	\$1,600,000
1070	WI	Expand Highway 10 between Marshfield and Stevens Point	\$16,000,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
1071	NY	Install Improvements for Pedestrian Safety including in the vicinity of IS R72/PS R69	\$250,000
1072	TN	Upgrade roads for Slack Water Port facility and industrial park Lake County	\$1,500,000
1073	AK	Emergency evacuation road at Point Hope in North Slope Borough	\$3,000,000
1074	MI	Construct railroad grade separation on M–85 (Fort Street) North of Van Horn Road, Trenton	\$1,600,000
1075	IL	Land acquisition, engineering, and construction for the initial 2-lane segments of the Corridor between IL 31 to IL 25 and other segments of the Corridor as appropriate	\$4,000,000
1076	PA	Modernize traffic signals, complete minor roadway realignment, and improve channelization at U.S. 322 and PA 10 intersection ...	\$384,000
1077	KS	Construction of a 4-lane access controlled improvement for 4 miles on US 54/400 in Pratt County	\$8,548,800
1078	IN	Upgrade rail crossing at 93rd Avenue, St. John	\$160,000
1079	FL	Widen SR 710 by 2 lanes from Congress Avenue to U.S. 1	\$2,400,000
1080	GA	Widen SR 234/Gillionville Road from Eight Mile Road to Lockett Station, Dougherty County	\$800,000
1081	CA	Widen SR 12 to four lanes through Jamieson Canyon (between I–80 and SR 29) for safety concerns and economic growth	\$6,400,000
1082	GA	Widen SR 104 from SR 383/Belaire Road to CR 515/Cumberland Drive (including bridges) in Columbia County	\$3,200,000
1083	IN	Study Traffic on Muncie By-Pass from Centennial Avenue to McGalliard Road in the City of Muncie and Delaware County, Indiana	\$96,000
1084	FL	Construct U.S. 17–92 improvements, Maitland, Florida	\$1,200,000
1085	CA	Widen South Main St.-Soda Bay Rd. between CR 400A (mile marker 0.0-mile marker 0.7) and CR 502 (mile marker 0.0 and 0.9)	\$3,200,000
1086	VA	Replacement of the 635 Bridge in Orange County, VA	\$400,000
1087	TX	Construct Loop 20 in Laredo	\$1,600,000
1088	IA	Construct SE Connector/Martin Luther King, Jr., Pkwy, Des Moines	\$7,200,000
1089	FL	Construction and Design of Miami River Greenway Road Improvements and 5th Street Improvements	\$1,600,000
1090	TX	Widen SH 317 from two lanes to four lane divided facility	\$1,600,000
1091	TX	Widen SH 205 from two lanes to a six lane urban divided highway from North of SH 66 to proposed SH 276	\$800,000
1092	CA	Widen Santa Maria River Bridge on U.S. Highway 101 between Santa Barbara County and San Luis Obispo County	\$2,720,000
1093	CA	Widen San Fernando Road North, including streetscape projects, Sylmar	\$848,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
1094	PA	Central Susquehanna Valley Transportation Project U.S. 15: \$5 million for the final design	\$4,880,000
1095	NJ	Construct Rt. 49 Cohansey River Bridge Replacement, Cumberland County	\$2,400,000
1096	ME	Construction and snowmobile safety accommodations for Route 116 Bridge, Medway	\$4,000,000
1097	MI	Construct pedestrian trail and bridge in Kearsley Park in Flint	\$80,000
1098	IA	Coralville, IA Implementation of final phase of Safety Improvements Project from 12th Ave. to 22nd Ave	\$1,600,000
1099	IL	Expand and improve Illinois Route 47 Roadway from Reed Road to Kreutzer Road in Huntley, Illinois	\$5,720,000
1100	NY	Build Route 15, Pennsylvania to Presheo	\$20,000,000
1101	GA	I–285 Riverside interchange reconstruction, Fulton County, Georgia	\$1,600,000
1102	MN	Construct 3 segments of Cuyuna Lakes Trails, Crow Wing County	\$1,200,000
1103	WA	Improve I–5 interchange at 134th Street in Clark County	\$10,772,000
1104	GA	Construct Pedestrian Safety Improvements on Buford Hwy (SR 13), Dekalb County	\$2,400,000
1105	DC	11th St. Bridges, Rehabilitation of structures as well as new ramps to provide for traffic at Navy Yard, Southeast Federal Ctr., and Gateway Government Ctr	\$17,600,000
1106	MO	Improve U.S. 36 to divided four lane expressway from Macon to Route 24	\$8,000,000
1107	VA	Mill Road Slip Ramp	\$400,000
1108	NY	Construct sidewalks and curbing on Tate Avenue in Village of Buchanan	\$300,000
1109	MI	Delta County, Widen, pulverize, improve drainage at County Rd. 497 from U.S. 2 at Nahma Junction southerly 4.75 miles to the village of Nahma	\$589,920
1110	UT	Construction of 200 North Street highway-rail graded crossing separation, Kaysville, Utah	\$3,200,000
1111	FL	Kennedy Blvd. Reconstruction, Eatonville	\$1,600,000
1112	VA	Improvements to public roadways within the campus boundaries of the Virginia Biotechnology Park, Richmond, VA	\$2,400,000
1113	VA	Install Transpiration Critical Incident Mobile Data Collection Device in Charlottesville	\$94,720
1114	NY	Ithaca, Design and construct pedestrian and bicycle path	\$435,200
1115	AZ	Navajo Mountain Road on the Navajo Nation	\$1,000,000
1116	PA	Expansion of existing PA Turnpike ITS System	\$3,280,000
1117	TX	Construction of ferryboat for City of Port Aransas	\$320,000
1118	NY	Project will rehabilitate and reopen historic High Bridge, which crosses the Harlem River between Manhattan and the Bronx	\$4,000,000
1119	NJ	Route 17 Congestion Improvements and Widening, from Williams Avenue to the Garden State Parkway and Route 4 in Bergen County	\$9,600,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
1120	IN	Design and construct Tanner Creek Bridge on U.S. 50, Dearborn County Indiana	\$992,000
1121	NC	Environmental studies and construction of U.S. 74 Monroe Bypass Extension	\$4,800,000
1122	OH	Construct Pedestrian Bridge from east of Dock 32 to Voinovich Park southwest corner, Cleveland	\$1,712,000
1123	GA	Extension of Sugarloaf Parkway, Gwinnett County	\$2,400,000
1124	ME	Construct bicycle and pedestrian bridge over Stillwater River, Orono	\$1,000,000
1125	IL	For widening from two to four lanes, the Brookmont Boulevard Viaduct in Kankakee, IL and adjusting approach grades	\$800,000
1126	GA	I–285 SR 400 interchange reconstruction and HOV interchange, Fulton County, Georgia ...	\$800,000
1127	MN	Construct a road between Highway 332 and TH 11 including a signalized rail road crossing, Koochiching County	\$240,000
1128	MO	Hanley Road from I–64 to south of State Route 100, St. Louis County	\$8,000,000
1129	AL	Expand SR 167 from Troy, AL to Enterprise, AL	\$2,400,000
1130	MN	Construction of primary and secondary access roadways to the Duluth Air National Guard Base, City of Duluth	\$3,400,000
1131	CT	Construct high-speed rail crossing to bike and pedestrian trails-Enfield, CT	\$3,440,000
1132	TX	Expansion of Port Rd. at Northbound Frontage Rd. of SH 146 east to intersection with Cruise Terminal Rd. to 6-lane section with raised median	\$9,552,000
1133	TN	Construct Western Bypass from Zinc Plant Road to Dotsonville Road, Montgomery County	\$2,720,000
1134	CA	Improvements to State Route 67/State Route 52 interchange	\$4,000,000
1135	TN	Plan and construct a bicycle and pedestrian trail, Springfield	\$200,000
1136	TX	Expansion of Daniel McCall Dr., Lufkin, TX ...	\$2,200,000
1137	NY	Rehabilitate the Pines Bridge Road and Lake Avenue and Ryder Road, in Ossining, Yorktown, and New Castle	\$2,212,000
1138	CA	Construct Valley Boulevard Drainage Improvements, El Monte	\$600,000
1139	NJ	Route 82 Union County Streetscape and Intersection Improvements	\$800,000
1140	NY	Short Clove Road Rail Overpass, Haverstraw ..	\$800,000
1141	FL	Construct Atlantic Boulevard Improvements, Key West, Florida	\$800,000
1142	CA	Implement intelligent management and logistics measures to improve freight movement, Gateway Cities	\$2,400,000
1143	WI	Expand U.S. 45 between CTH G and Winchester, Winnebago County, WI	\$4,000,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
1144	NY	Implement ITS system and apparatus to enhance citywide truck route system on LIE Eastbound Service Road at 74th Street to Caldwell Ave, Grand Ave. from 69th Street to Flushing Ave, and Eliot Ave. from 69th Street to Woodhaven Blvd	\$100,000
1145	IA	Construct IA-32 Arterial from U.S. 20 in Dubuque Co, IA to U.S. 61 and U.S. 151	\$15,200,000
1146	HI	Kapolei Transportation Improvements, Island of Oahu	\$800,000
1147	NY	125th Street Corridor Improvements from Old Broadway to Marginal Street/Waterfront, New York City	\$11,200,000
1148	CA	Los Angeles Regional Diesel Emissions Reduction Program For Engine Retrofit, Gateway Cities	\$400,000
1149	IL	Reconstruct intersection of Wood Dale and Irving Park roads in DuPage County, IL	\$11,440,000
1150	GA	Social Circle bypass completion, from Stanford Road to SR 11, Social Circle	\$2,400,000
1151	GA	Streetscape Project to install sidewalks and bicycle trails, Gray	\$500,000
1152	MO	Reconstruction of the Tucker Street Bridge in the City of St. Louis	\$5,600,000
1153	PA	Bethlehem Pike improvements from Valley Green Road to South of Gordon Lane, Springfield Township	\$800,000
1154	GA	Construct I-75 I-575 HOV interchange, Cobb County, Georgia	\$480,000
1155	IL	Construct multi-use pedestrian path between Oakton St. and Dempster St., Skokie	\$200,000
1156	AZ	Construct link from Twin Peaks Road to I-10 and Linda Vista Blvd. including bridge over Santa Cruz River and overpass of Union Pacific Rail Road	\$4,800,000
1157	PA	Design, engineering, ROW acquisition and construction of streetscaping enhancements, paving, lighting, safety improvements, parking and roadway redesign in Newport Township, Luzerne County	\$160,000
1158	VA	Fries Train Station and Trail—Restoration of former train station for use as visitors center and construction of trail along New River	\$800,000
1159	PA	Construction SR 3024, Middle Creek Bridge II, South Canaan, Wayne County	\$560,000
1160	WI	Expand U.S. 141 between SH 22 and SH 64 (Oconto and Marinette Counties, Wisconsin)	\$1,600,000
1161	IL	Development of a coordinated trail system, parking and trail systems in Dixon, IL	\$2,560,000
1162	PA	Installation of comprehensive signage system across 1700 acres of urban parks in Pittsburgh	\$720,000
1163	GA	Interstate 75/Windy Hill Road Interchange	\$1,600,000
1164	NJ	Bridge replacement and SR 31 widening over the Raritan Valley Line in Glen Gardner, Hampton, Hunterdon County	\$800,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
1165	VA	Bristol Train Station—Historic preservation and rehabilitation of former Bristol, VA train station	\$400,000
1166	CO	I-25 Improvements—Douglas—Arapahoe County Line to El Paso County Line	\$4,800,000
1167	TN	Reconstruct connection with Hermitage Avenue to Cumberland River Bluff in Nashville	\$400,000
1168	IL	For Village of Lemont to construct a bridge over Chicago Ship and Sanitary Canal linking Centennial Trail to I&M Canal Trail	\$80,000
1169	OH	Construct roadway improvement along State Route 62 in Berlin	\$100,000
1170	NY	Reconstruction and improvements of University Avenue and the extension of the ARTWalk project, Rochester	\$1,600,000
1171	NH	Reconstruction and Improvements to NH Route 110 in Berlin	\$1,600,000
1172	PA	Route 6 Resurfacing from Mansfield Borough in Richmond Township to the Village of Mainesburg in Sullivan Township	\$1,200,000
1173	WA	SR 167—Right-of-way acquisition for a new freeway connecting SR 509 to SR 161	\$2,000,000
1174	MD	I-70: Frederick	\$1,600,000
1175	NY	Planning, Design, ROW and Construction of Fort Drum Connector Road	\$5,200,000
1176	CA	Study and construct highway alternatives between Orange and Riverside Counties, directed by the Riverside Orange Corridor Authority working with local government agencies, local transp. authorities, and guided by the current MIS	\$3,200,000
1177	CA	Fresno County, CA Widen Friant Road to four lanes with class II bicycle lanes	\$1,200,000
1178	MO	Study for Highway 160 and Kansas Expressway Corridor	\$1,600,000
1179	FL	Construct Route 9B from U.S. 1 to Route 9A (I-295) to the Duval County line	\$4,000,000
1180	PA	Design, const. widening of PA 94 from York-Adams County line to Elm Street in Hanover, PA	\$2,400,000
1181	CA	Improvement of intersection at Burbank Blvd. and Woodley Ave	\$128,000
1182	TX	Port of Beaumont Southside Intermodal Project	\$5,190,400
1183	WA	Perform final interchange design and property acquisition at Fleshman Way where it crosses SR 129, that enhances safety and passenger and freight mobility and reduces congestion	\$840,000
1184	WA	Roosevelt Extension at Urban Avenue to Cameron Way in Mount Vernon	\$3,200,000
1185	NJ	Hazel Street reconstruction, Passaic County ..	\$3,200,000
1186	FL	Improvements to Eller Drive including right-of-way acquisition and construction of return loop connector	\$800,000
1187	MO	Study Highway 37-60 Entire Corridor	\$2,000,000
1188	TX	The District-Tyler Outer Loop 49 Construction	\$5,184,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
1189	PA	Tidal Schuylkill Riverfront project consists of an eight mile bike and pedestrian recreation trail from Locust Street to Historic Bartram's Gardens	\$1,344,000
1190	NY	Town of Fishkill reconstruct Maple Ave	\$19,600
1191	IL	For IDOT to expedite pre-construction and construction to widen I–55 from Naperville Road south to I–80	\$2,800,000
1192	UT	200 East Minor Arterial, Logan City, Utah	\$720,000
1193	NJ	Construct I–287, I–80, Route 202 Interchange	\$800,000
1194	NY	Design and construction of Fulton Street from Clinton Avenue to Bedford Avenue in Brooklyn, New York	\$4,480,000
1195	TX	Port of Corpus Christi Joe Fulton International Trade Corridor for congestion and safety enhancements	\$400,000
1196	MO	Renovations and Enhancements on the Bicycle Pedestrian Facility on the Old Chain of Rocks Bridge spanning the Mississippi River	\$640,000
1197	CT	Construct Shoreline Greenway Trail, Guilford, Branford, East Haven	\$1,600,000
1198	NJ	Transportation Improvements in Liberty Corridor	\$4,000,000
1199	OH	Construct SR 104 into a 4 lane facility with a turning lane in Ross County	\$6,000,000
1200	MO	Construct 2 lanes on Hwy 45 from Hwy 9 to Graden Road in Platte County	\$2,400,000
1201	MS	Plan and Construct Highway 45 Bypass in Columbus	\$2,400,000
1202	PA	Reconstruct Hwy and replace of bridge on U.S. 422 between the Berks County Line and the Schuylkill River in Montgomery and Chester Counties	\$1,200,000
1203	FL	Construct SR 20 connection to SR 100 via CR 309–C, Putnam County, Florida	\$3,440,000
1204	OH	Road and related pedestrian improvements at SR 283 in the Village of Grand River, OH	\$80,000
1205	NY	Road infrastructure projects to improve commercial access in the Towns of Malta and Stillwater and the Village of Round Lake, Saratoga County, New York	\$6,520,000
1206	NY	Replace structurally deficient bridge over the Pocantico River, the Village of Pleasantville	\$800,000
1207	IL	Complete Heavy Truck Loop for DuQuoin Industrial Park	\$500,000
1208	MD	Construction and dualization of U.S. 113	\$12,000,000
1209	GA	Streetscape-Quitman	\$160,000
1210	NY	Town of New Windsor Toleman and Station Roads Reconstruction and area Improvements	\$592,000
1211		.....	\$0
1212	WA	Design and construct pedestrian land bridge spanning SR 14	\$2,000,000
1213	MI	Construction of Greenways in Pittsfield Charter Township—2.5 miles to existing Ann Arbor Greenways, Pittsfield Charter Township	\$239,200

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
1214	CA	Golden Gate National Parks Conservancy—Plan and Implement Trails and Bikeways Plan for the Golden Gate National Recreation Area and Presidio	\$5,000,000
1215	NY	State of NY Village of Kiryas Joel sidewalk project	\$600,000
1216		.....	\$0
1217	IL	Transportation Enhancement and road improvements necessary for Downtown Plaza improvements in Jacksonville, IL	\$762,058
1218	CA	Upgrade and reconstruct I–580/Vasco Road Interchange, City of Livermore	\$2,000,000
1219	TX	Build Bike Trail at Chacon Creek in Laredo	\$3,300,000
1220	UT	3200 South Project, Nibley, Utah	\$800,000
1221	NJ	Expand Route 440—State Street Interchange in Perth Amboy	\$4,000,000
1222	GA	Improvement and construction of SR 40 from east of St. Marys cutoff at mile post 5.0, Charlton County to County Route 61, Camden County, Georgia	\$800,000
1223	PA	Erie, PA Regional upgrades to urban-rural corridors	\$1,280,000
1224	GA	Georgia Construct Three Greenway Trail Project, Dekalb County	\$1,600,000
1225	FL	Cross Creek Boulevard Widening	\$1,440,000
1226	MD	Implement Intelligent Transportation System in Baltimore	\$1,120,000
1227	OH	Construct an access road into the industrial park near SR 209 and CR 345 in Guernsey County	\$800,000
1228	CA	Improve the Rosecrans Ave. and Alondra Blvd. bridges over the San Gabriel River in Bellflower	\$40,000
1229	PA	Independence National Historic Park scenic enhancement and pedestrian walkways improvement project in conjunction with the park's Executive Mansion Exhibit	\$3,600,000
1230	CA	Modesto, Riverbank and Oakdale, CA Improve SR 219 to 4-lanes	\$1,600,000
1231	ME	Modifications to Exit 7/I–295 and to Franklin Arterial, Portland	\$180,000
1232	KY	Replace Bridge and Approaches on Searcy School Road over Beaver Creek, Anderson County	\$700,000
1233	NJ	Route 22 Sustainable Corridor Plan	\$2,400,000
1234	NY	Conduct studies, if necessary, and construct the High Line Trail Project, New York City	\$4,000,000
1235	WA	Install dual left turn lanes and intersection signal modifications at SR 432 and Columbia Blvd	\$1,750,000
1236	OK	Transportation enhancements for Highway 19 from Ada to Stratford	\$2,400,000
1237	CA	I–15/Base Line Road Interchange Project, Rancho Cucamonga, California	\$4,000,000
1238	SC	Build Interchange at U.S. 17 and Bowman Road in Mount Pleasant, SC	\$4,800,000
1239	CA	Complete Monterey Bay Sanctuary Scenic Trail between Monterey and Santa Cruz counties	\$5,800,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
1240	NY	Improve Hospital Road Bridge between CR 99 and CR 101, Patchogue	\$4,800,000
1241	NV	Construct Martin Luther King, Jr., Blvd.—Industrial Rd. Connector	\$8,000,000
1242	MI	I–96 Beck, Wixom Road Interchange, design, ROW, and construction	\$2,400,000
1243	IA	Muscatine, IA Construction of 4.2 mile multipurpose trail from Musser Park to Weggens Road	\$400,000
1244	GA	Historic preservation of a city bus station in downtown Eastman	\$160,000
1245	TX	Construction of internal roads at Port of Brownsville to make roads safer with less wear and tear	\$2,000,000
1246	NY	NYS DOT Route 55 turning lane at Gardner Hollow Road	\$400,000
1247	TN	Plan and construct a bicycle and pedestrian trail, Lewisburg	\$80,000
1248	TX	Reconstruct Daniel Dale Rd. from I–35E to Houston School Rd. in Lancaster	\$1,600,000
1249	CT	Relocation of Edmond Road in Newtown and construction of additional turning lanes at Rte 6 and Commerce and Edmond Rds	\$1,600,000
1250	OH	Construction of Interchange at State Route 8 and Seasons Road, Stow, OH	\$1,200,000
1251	NJ	North Avenue-Route 1 Elizabeth Pedestrian and Bicycle Project	\$60,000
1252	AL	Pedestrian Improvements for Morris, AL	\$106,666
1253	NY	Preliminary design and environmental impact study for a collector-distributor road along I–95 from Westchester Ave. to Bartow Ave ..	\$7,360,000
1254	NJ	Replacement of Signals at the Intersections of Centennial Ave. at Lincoln Ave. and Walnut Ave. at Lincoln Ave., Cranford, NJ	\$392,000
1255	KS	Replacement or rehabilitation of the Amelia Earhart U.S. 59 Bridge in Atchison County, Kansas	\$2,000,000
1256		.....	\$0
1257	CA	Central Galt and State Route 99 Interchange and Access Improvements	\$2,400,000
1258	OH	Construction of Roadways and transportation improvements for downtown Springfield, Ohio	\$3,560,000
1259	KY	Reconstruct KY 89 from Irvine Bypass to 2000 Feet North of Estill County High School, Estill County	\$600,000
1260	NY	Town of East Fishkill new construction Bypass road	\$640,000
1261	CA	Establish new grade separation at Sunset Ave. in Banning	\$1,600,000
1262	CT	Construct and Widen Stamford Rail Underpass and Road Realignment Project	\$800,000
1263	TN	Hamblen County, Tennessee U.S. 11E (SR 34) interchange improvements	\$800,000
1264	IL	Implement ITS and congestion Mitigation Project on I–294 and I–90	\$3,200,000
1265	AZ	Design and construction of roadway improvements on U.S. 60 from 67th Avenue to McDowell	\$1,600,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
1266	TX	Hike and bike trail will tie into the Gellhorn Drive project providing an improved multimodal transportation facility	\$800,000
1267	OH	Jackson Township, Ohio—Hill and Dales Road widening	\$1,600,000
1268	SC	Build 701 Connector (Southern Conway Bypass) in SC	\$4,000,000
1269	MN	Reconstruct I–694 White Bear Avenue (CSAH 65) Interchange in White Bear Lake	\$400,000
1270	WI	Replace 17th Street Lift Bridge, Two Rivers, Wisconsin	\$6,000,000
1271	MA	Route 116 and Bay Road Intersection Improvements-Amherst	\$3,200,000
1272	IL	Streetscape improvements on Blue Island from 19th–21st St, Chicago	\$800,000
1273	TN	Construct and improve intersections in Niotia, Tennessee	\$80,000
1274	CA	Upgrade Bellflower intersections at Alondra Blvd. and at Rosecrans Ave. in Bellflower	\$280,000
1275	NJ	Construct Riverbank Park Bike Trail, Kearny	\$2,000,000
1276	NC	Install ITS on U.S. 52 in Forsyth County	\$320,000
1277	MD	Construction and dualization of MD 404 in Queen Anne, Talbot and Caroline Counties	\$5,600,000
1278	NY	Land acquisition and improvements on Louisa Street, Peekskill, NY	\$740,000
1279	IL	Upgrade connector road from IL Rt. I–255 to IL Rt. 3, Sauget	\$1,920,000
1280	NJ	Reconstruction of Route 46/Route 3/Valley Rd/Notch Rd. Interchange	\$9,600,000
1281	MS	Upgrade roads in Attala County District 4 (Roads 4211 and 4204), Kosciusko, Ward 3 (U.S. Highway 16), and Ethel (U.S. Highway 12), Attala County	\$800,000
1282	TX	Construction of streets in the White Heather area of Houston	\$9,250,000
1283	MS	Upgrade roads in Canton (U.S. Highway 51, 22, 16, and I–55), Madison County	\$320,000
1284	IA	Reconstruction of the Neal Smith Trail, bicycle and pedestrian, Polk Co	\$2,880,000
1285	CA	Rehabilitate pavement on Azusa Avenue and San Gabriel Avenue in Azusa	\$400,000
1286	CA	South Bay Cities COG Coastal Corridor Transportation Initiative, Phase 3, El Segundo	\$1,600,000
1287	MS	Upgrade roads in Terry, Edwards, Utica and Bolton, Hinds County	\$1,000,000
1288	FL	U.S. 1 six laning from St. Lucie County line to south of 4th St. in Indian River County, FL	\$800,000
1289	MD	Expand Route 29 in Howard County	\$5,440,000
1290	WA	Issaquah SE Bypass	\$4,000,000
1291		.....	\$0
1292	MD	U.S. 220 MD 53 North South Corridor	\$800,000
1293	NJ	Improvements to Clove Road and Long Hill Road in Little Falls and Upper Mountain Ave. in Montclair	\$2,800,000
1294	HI	Study of East Hawaii Alternative Road, Island of Hawaii	\$160,000
1295	FL	Town of Southwest Ranches Urban Interchange	\$1,600,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
1296	CA	Long Beach Intelligent Transportation System: Integrate functioning traffic management center that includes the port, transit, airport as well as the city's police and fire departments, Long Beach	\$2,400,000
1297	CA	Almaden Expressway Improvements between Branham Lane and Blossom Road, San Jose	\$2,800,000
1298	AR	Construct and rehabilitate University of Arkansas Technology Corridor Enhancement Project	\$1,200,000
1299	CO	U.S. 550, New Mexico State Line to Durango ..	\$4,800,000
1300	TX	Construct bicycle and pedestrian trails in Houston's historic Third Ward	\$600,000
1301	NY	Village of Cold Spring Main St. sidewalk and lighting improvements	\$200,000
1302	NY	Village of Goshen Hatfield Lane reconstruction	\$200,000
1303	SC	Plan and build Interstate 73 from NC line to Myrtle Beach, SC	\$8,000,000
1304		.....	\$0
1305	FL	Construct College Road Improvements, Key West, Florida	\$400,000
1306	NY	West Harlem Waterfront-ferry, intermodal and street improvements	\$11,200,000
1307	CA	Construct sound barriers at the I-805/SR 54 Interchange, National City	\$680,000
1308	NY	Road projects that develop Access to Port Byron and Erie Canal	\$1,000,000
1309	FL	West Palm Beach, Florida, Flagler Drive Reconfiguration	\$800,000
1310	AL	Construct extension of I-565 westward from existing interchange to existing Tennessee River bridges at Decatur, AL	\$4,000,000
1311	CT	Construct Farmington Canal Greenway, City of New Haven and Hamden	\$2,000,000
1312	GA	Replace sidewalks, upgrade lighting, and install landscaping, Helena	\$320,000
1313	IA	Upgrade U.S. 30 Liberty Square in City of Clinton, Iowa	\$7,600,000
1314	HI	Study of Waianae Coast Emergency Access Road	\$400,000
1315	NY	Westchester County, NY Rehabilitation of Lexington Ave, Mount Kisco	\$400,000
1316	CA	Widen and Improve County Line Road in Calimesa	\$1,600,000
1317	OH	Construct turn lane, install traffic light, and reorient traffic on SR 146 near Bussemer Lane in Muskingum County	\$600,000
1318	RI	Restore and Expand Maritime Heritage site in Bristol	\$800,000
1319	OH	City of Green, Ohio. Lauby Road exit improvements	\$1,200,000
1320	NY	Construct Bicycle Path in Town of Bedford	\$520,000
1321	CA	Compton Arterial Reconstruction and Improvement Program, Compton	\$3,200,000
1322	MT	Construction of S. 323 from Alzada to Ekalaka in Carter County	\$9,600,000
1323	IL	Improve Great River Road, Mercer County	\$400,000
1324	FL	Normandy Blvd. and Cassat Ave. Transportation Enhancements, Jacksonville	\$400,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
1325	OH	North Canton, OH Applegrove St. road widening	\$2,400,000
1326	MA	Design and Build Cape Cod Bike Trail, with Shining Sea Bikeway, to link core with outer Cape communities and heavily visited national sites	\$3,200,000
1327	TN	Plan and construct N. Tennessee Boulevard enhancements	\$400,000
1328	NJ	Quinn Road realignment, Clifton	\$2,400,000
1329	MO	Reconstruct Interstate 44 and Highway 65 Interchange	\$13,040,000
1330	MN	Reconstruct TH 61 from Split Rock River to Silver Bay including construction of the Gitchi Gami Spur Trail between the main trail and Silver Bay Marina along the TH 61 roadway segment	\$9,664,000
1331	KY	Reconstruction of KY 259 in Edmonson County from Green River Bridge at Brownsville to Kyrock Elementary School	\$1,200,000
1332	LA	Construction of a turn lane expansion along with signalization at the north bound off ramp on I–49, at the intersection of U.S. 190	\$400,000
1333	AL	Expand SR 210 (Ross Clark Circle) from U.S. 231 North to U.S. 231 South in Dothan, AL	\$3,200,000
1334	MD	Construct interchange at MD Route 355 at Montrose and Randolph Roads in Montgomery County	\$1,600,000
1335	CA	Construct new interchange and related road improvements on U.S. 101 near Airport Blvd., Salinas	\$1,936,000
1336	PA	Construct the French Creek Parkway in Phoenixville, PA	\$4,000,000
1337	MN	Capacity and safety improvements to TH 8, west of 306th St. to eastern city limits, Lindstrom	\$5,760,000
1338	VA	Eastern Seaboard Intermodal Transportation Applications Center (ESITAC) in Hampton Roads	\$1,200,000
1339	IL	Construct underpass at intersection of Damen/Fullerton/Elston Avenues, Chicago	\$4,400,000
1340	AR	Highway 165: Railroad Overpass	\$1,600,000
1341	FL	Implement Snake Road (BIA Route 1281) Widening and Improvements	\$800,000
1342	CA	Construction of new freeway between I–15 and U.S. 395, including new interchange at I–15	\$4,000,000
1343	OH	Lake Township, Ohio. Market Avenue-Lake Center intersections improvement	\$1,760,000
1344	CT	Construct Quinnipiac Linear Trail, Wallingford	\$800,000
1345	MI	Construction of a hike and bike path from Riverbends Park, 22 Mile Road, to Stony Creek Park, 25 Mile Road in Shelby Township	\$400,000
1346	IN	Reconstruct Boston Street, from State Road 2 to Bach St., Larson-Whirlpool St. in LaPorte, Indiana	\$600,000
1347	OR	Improvements to Bandon-Charleston State Scenic Tour on Randolph Road and North Bank Lane	\$4,200,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
1348	VA	Conduct study of Route 460 Corridor, Virginia	\$4,000,000
1349	NJ	Construct Sparta Stanhope Road Bridge (AKA Bridge K-07)	\$800,000
1350	KY	Reconstruct Turkeyfoot Road, Kenton County, Kentucky	\$2,400,000
1351	OH	Construct additional lane to alleviate traffic congestion on U.S. 40 in and adjacent to St. Clairsville	\$800,000
1352	CO	CO 56th Avenue and Quebec Street Improvements Phase I, Denver	\$5,200,000
1353	OH	Construct Truck Bypass-Orville, Ohio	\$4,803,520
1354	PA	Conversion of Penn and Park Bridges located over Spring Run in Altoona, PA into pedestrian bridges	\$40,000
1355	CA	Coyote Creek Trail Project—Story Road to Montague Expressway	\$2,000,000
1356	PA	Construct Cameron Street Bridge Northumberland County, Pennsylvania	\$800,000
1357		.....	\$0
1358	OH	Medina, Ohio. Guilford Avenue urban road collector pavement reconstruction	\$480,000
1359	TN	Improvements to I-40 interchange at I-240 East of Memphis (Phase II)	\$2,400,000
1360	WY	Casper Bypass: Reconstruct Old Yellowstone Hwy and 2nd St	\$4,000,000
1361	NY	Construct sidewalks and roadway improvements on Oscawana Lake Road in the Town of Putnam Valley	\$480,000
1362	LA	Engineering and right-of-way acquisition for I-49 Corridor through Lafayette, LA	\$8,000,000
1363	PA	Design, engineering, ROW acquisition and construction of streetscaping enhancements, paving, lighting, safety improvements, parking and roadway redesign in Edwardsville Borough, Luzerne County	\$160,000
1364	IL	Foster Avenue at Kedzie Avenue Streetscape ..	\$1,600,000
1365	WV	Construct I-73/74 High Priority Corridor, Mercer Co	\$8,960,000
1366	NY	Improve Long and Short Beach Road, Southampton	\$2,100,000
1367	CA	Modify I-880 and Stevens Creek Boulevard Interchange to ease traffic congestion in San Jose	\$9,600,000
1368	NY	Improve road and streetscape along Prospect Avenue in North Hempstead	\$800,000
1369	CA	Palm Drive and Interstate 10 interchange project	\$2,200,000
1370	MN	Reconstruct TH 36 from expressway to freeway in North St. Paul	\$4,800,000
1371	CA	Construct I-580 Interchange Improvements in Castro Valley	\$960,000
1372	AL	Expand U.S. 331 from Luverne, AL to Montgomery, AL	\$2,400,000
1373	TX	Construction of highway medians, pedestrian walkways for City of South Padre Island	\$400,000
1374	NY	Construct Rt. 12 intersection between Pamela Drive-River Road-Located in the Town of Chenango	\$1,920,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
1375	IL	Construct Streetscape Project, Village of Robbins	\$640,000
1376	GA	Effingham Parkway to Connect SR 119 to SR 30	\$3,200,000
1377	MD	Construct Phase 2 of the Jones Falls Trail from Baltimore Penn Station to the Maryland Science Center on the Inner Harbor	\$3,200,000
1378	IL	For Will County for engineering and right-of-way acquisition to extend 95th Street from Plainfield-Naperville Road east to Boughton Road	\$400,000
1379	PA	Construct Valley Business Park Access Road C, Bradford County	\$2,160,000
1380	LA	Improve by widening, realigning, and resurfacing 3.2 miles of LA Hwy 820 btwn LA Hwy 145 and LA Hwy 821	\$2,400,000
1381	IN	45th Street Improvements, Munster	\$400,000
1382	NY	Install Improvements for Pedestrian Safety including in the vicinity of PS K124	\$250,000
1383	VT	Construction and engineering for the Vermont Smugglers Notch Scenic Highway Corridor Southern Gateway and Notch Proper Facilities	\$868,411
1384	OH	Planning and construction of a network of recreational trails in Perry Township	\$760,000
1385	GA	Construction of the Truman Linear Park Trail-Phase II	\$1,008,000
1386	NJ	Pedestrian and bicycle facilities, and street lighting in Haddon Heights/Barrington	\$600,000
1387	CA	Reconstruct interchange at I–10 and Riverside Avenue to improve traffic in Rialto	\$1,600,000
1388	CA	Reconstruct Bloomfield Ave. with medians from Carson St. to north city limits in Hawaiian Gardens	\$320,000
1389	SC	Extension of Wells Highway, Oconee County, South Carolina	\$1,600,000
1390	CA	Reconstruct Paramount Blvd. with medians and improve drainage from Artesia Blvd. to Candlewood St. in Long Beach	\$480,000
1391	IL	Reconstruction of 5th Street Road (FAS 569) in Logan County, IL	\$762,056
1392	WA	Reconstruction of SR 99 (Aurora Ave. N) between N 145th St. and N 205th St	\$1,600,000
1393	NY	Page Green—Phase III—Reconstruction of 2.6 miles. Town of Virgil, Cortland County	\$2,880,000
1394	MI	Gogebic County, Reconstruct Lake Road in Ironwood from Margaret Street to Airport Road	\$644,000
1395		.....	\$0
1396	IN	Redevelop and Complete the Cardinal Greenway and Starr-Gennett Area in the City of Richmond, Indiana	\$2,400,000
1397	NY	Rehabilitate and redesign Erie Canal Museum in Syracuse, NY through the Erie Canalway National Heritage Corridor Commission	\$400,000
1398	OH	Construction of 6.25 mile bicycle project in Mahoning County	\$400,000
1399	NM	I–40/Munoz Reconstruction in the City of Gallup	\$1,200,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
1400	TX	Rehabilitate Yale Street between IH 10 to IH 610	\$800,000
1401	CA	Reconstruct Long Beach Blvd. with medians and improve drainage from Palm Ave. to Tweedy Blvd. in Lynwood	\$2,400,000
1402	CA	Expand carsharing pilot program to serve low- and moderate-income neighborhoods in the City and County of San Francisco	\$1,600,000
1403	FL	Implement Kennedy Boulevard corridor improvements to improve safety in Tampa	\$2,000,000
1404	MD	Construct Broadneck Peninsula Trail, Anne Arundel County, Maryland	\$1,200,000
1405	MO	Relocation and reconstruction of Rt. MM from Rt. 21 to Rt. 30	\$13,744,000
1406	MN	Replace three at-grade highway-railroad crossings with grade-separated crossings adjacent to Winona State University	\$473,600
1407	CA	Construct Traffic flow improvements Vincent and Lakes Drive, West Covina	\$600,000
1408	CA	Construction of a Lincoln Bypass on SR 65 in Placer County, CA	\$2,400,000
1409	KS	Construct highway-rail grade separation from Douglas Avenue to 17th Street North in Wichita, KS	\$11,200,000
1410	OH	Conduct Phase II of U.S. Route 68 bypass project in Urbana	\$1,840,000
1411	GA	Construct sidewalks and install landscaping, Vienna	\$500,000
1412	TX	Extension of FM 1427 in Penitas	\$560,000
1413	MD	MD 124, Woodfield Road, from Midcounty Highway to Warfield Road	\$1,600,000
1414	CA	Rio Vista Bridge Realignment Study and Street Sign Safety Program	\$560,000
1415	CO	SH 121/Bowles Ave. Intersection and Roadway Improvements, Jefferson County Colorado ...	\$1,600,000
1416	NY	Implement Improvements for Pedestrian Safety in Queens County	\$600,000
1417	NY	Repair and improve Jericho Turnpike (NYS Hwy 25) and construct streetscapes along the Turnpike in New Hyde Park	\$1,600,000
1418	GA	SR 316/SR 20 interchange construction Gwinnett County	\$400,000
1419	IL	Construct pedestrian walkways and streetscaping projects in the Village of Western Springs	\$3,553,600
1420	WA	SR 518 corridor—Improvements to SR 518–509 interchange and addition of eastbound travel lane on a portion of the corridor	\$800,000
1421	CA	Development and construction of improvements to State Route 79 in the San Jacinto Valley	\$2,400,000
1422	MN	Construct roadway improvements on the Great River Road on CSAH 10 and CSAH 21, Aitkin County	\$5,568,000
1423	WA	Conduct preliminary engineering and EIS for Columbia River Crossing in WA and OR	\$7,000,000
1424	NC	Greensboro Signal System Replacement ITS Enhancement Project	\$10,000,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
1425	MN	Reconstruction of 1 mile of CR 107 from CSAH 2 to Highway 11 and 71, Koochiching County	\$400,000
1426	OH	Plain Township, Ohio. Market Avenue widening	\$4,000,000
1427	LA	Construct right-of-way improvements from Third St. at James St. to LA. Hwy. One at Broadway St. Acquire property at Third St. and Winn St	\$2,400,000
1428	PA	State Street Bridge Rehabilitation, Hamburg ..	\$1,200,000
1429	OH	Construct Flats East Bulkhead and Riverwalk: construct bulkhead and riverwalk connecting Front and Maine Ave	\$3,720,000
1430	NY	Construct/reconstruct Lincoln Road: Commercial Street to Route 31F in the Town-Village of East Rochester	\$720,000
1431	OH	Acquire land and construct Portage Bike and Hike Trail, Portage Co	\$800,000
1432	NC	Continued development of Cary, NC pedestrian bike paths	\$1,200,000
1433	TX	Cottonflat Road overpass at Interstate 20	\$1,200,000
1434	NY	Improve Rt. 17M access, safety and traffic management	\$600,000
1435	OH	Safety improvements to Paris Avenue intersections and Meese Rd. and Easton St.-Nimishillen Township, Ohio	\$1,200,000
1436	CA	Alameda Corridor-East Construction Authority, San Gabriel Valley	\$240,000
1437	WA	Construct a tunnel as part of the Bremerton Pedestrian-Bremerton Transportation Center Access Improvement project	\$16,800,000
1438	NC	Eliminate highway-railway crossings in the City of Fayetteville, NC	\$800,000
1439	NJ	Hoboken Observer Highway Operational and Safety Improvements	\$2,000,000
1440	CA	Reconfigure San Fernando Road from Fletcher Drive to I-5 Fwy, Los Angeles	\$5,160,000
1441	NY	Construction of an access road, drainage improvements, and aesthetic enhancements adjacent to Ocean Parkway in the Town of Babylon, NY	\$2,156,000
1442	TX	Construct highway improvements on E. Tidwell, Ley Rd., and E. Little York Rd	\$2,000,000
1443	AZ	Construct pedestrian and bicycle overpass at McDowell Road and 35th Avenue in Phoenix	\$2,400,000
1444	TX	Reconstruct I-30 Trinity River Bridge, Dallas	\$20,000,000
1445	PA	Armstrong and Indiana County, Pennsylvania, U.S. 422 Improvements	\$1,600,000
1446	TX	Bicycle and Pedestrian Trail Network in East Austin	\$7,680,000
1447	NV	Construct I-15 Cactus Avenue	\$8,000,000
1448	AL	I-65 Widening from U.S. 31 in Alabaster (Exit 238) to AL 25 in Calera (Exit 228)	\$6,400,000
1449	NY	Improve Route 4 Streetscape and replace waterlines, Town and Village of Fort Edward, Washington County	\$3,480,000
1450	OH	Planning and construction on bike paths and trails as part of Phases III-VI in Ashtabula Metroparks Western Reserve Greenway	\$800,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
1451	CO	Construction of Powers Boulevard and Woodman Road interchange, Colorado Springs	\$8,000,000
1452	MN	Environmental review for TH 8 upgrade, Forest Lake to Chisago City	\$480,000
1453	MD	Construct Pedestrian Bridge and Garage at Coppin State University in Baltimore	\$2,640,000
1454	MD	Historic Preservation and Traffic Improvements along Liberty Heights Ave. and in Druid Hill Park in Baltimore	\$1,520,000
1455	NC	I–85 in Vance County	\$800,000
1456	PA	Design and construct interchange and related improvements at I–83 Exit 19	\$4,800,000
1457	IL	Preconstruction and Construction at IL 31 from Bull Valley Road to IL 176	\$1,936,000
1458	MS	Replace Popps Ferry Road Bridge, Biloxi	\$4,000,000
1459	IL	Reconstruct Lakeshore Drive Overpass over Wilson Avenue, Chicago	\$1,200,000
1460	AL	Pedestrian Improvements for Moody, AL	\$106,666
1461	MA	Design and construct Canal and Union Street Corridor improvements, Lawrence	\$800,000
1462	OH	Construct new two lane road to Sycamore Street in Gallia County	\$1,000,000
1463	AL	Construct interchange on Interstate 85 at Beehive Road in Auburn, AL	\$400,000
1464	ME	Improvements to the Interconnecting Trail System for bike/pedestrian trails near Baxter State Park	\$500,000
1465	TX	ROW acquisition for 87 Relief Route	\$1,200,000
1466	WA	Restore and construct historic Naches Depot and Trail project	\$400,000
1467	GA	SR 20 widening from I–575 to SR 369, Cherokee County	\$800,000
1468	IL	Road Construction and reconstruction in the Village of Hampshire: Keyes Ave., Industrial Drive Overlay, and Mill Avenue	\$1,840,000
1469	IL	Conduct study and design of Chicago North lakefront path expansion project	\$800,000
1470	MS	I–59 interchange at U.S. 84 and SR 15, Laurel	\$4,000,000
1471	TX	Improvements to IH–35E from U.S. 77 North of Waxahachie to U.S. 77 South of Waxahachie	\$3,200,000
1472	MO	Scudder Road and I–170 Interchange Improvements, St. Louis County	\$1,600,000
1473	GA	Construct and improve Cobb County Trails	\$900,000
1474	MS	Extend SR 590 from U.S. 11 to SR 29 near Ellisville	\$3,200,000
1475	IN	Improve Intersection at Jackson Street and Morrison Road in the City of Muncie, Delaware County, Indiana	\$448,000
1476	CO	Construction of McCaslin Boulevard U.S. 36 Interchange in Superior	\$800,000
1477	MA	Route 128 Improvements—Route 114 in Peabody to Route 62 in Danvers	\$1,600,000
1478	TX	Lubbock, Texas Construction for Marsha Sharp Freeway main lanes between Chicago and Salem Avenues	\$12,440,000
1479	NH	South Road Mitigation in Londonderry	\$1,200,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
1480	NY	Paul Road—Fisher Road Improvements, Town of Chili, Monroe County	\$4,000,000
1481	CA	Construct truck lane on Keystone Road from State Route 111 to Austin Road, Imperial County	\$2,000,000
1482	MS	Construct East Metropolitan Corridor linking I–20 at Brandon to Hwy 25 at Flowood	\$4,960,000
1483	LA	Leeville Bridge, Port Fourchon to Golden Meadow	\$4,000,000
1484	GA	National Infantry Museum Transportation Network	\$2,400,000
1485	AL	Interchange at I–65 and Limestone County Road 24 Constuction	\$800,000
1486	PA	Project to realign intersection of King of Prussia Road and Upper Gulph Road to provide turning lanes and signalization	\$1,319,200
1487	FL	Widen State Road 80, Hendry County	\$800,000
1488	SD	Construction of 4-lane highway on U.S. 79 between Maverick Junction, and the Nebraska border	\$6,400,000
1489	IL	130th and Torrance Avenue Intersection Improvement, Chicago	\$7,200,000
1490	OK	Improvements to Hereford Lane and US69 Interchange, McAlester	\$800,000
1491	GA	Athens-Clarke County Bike Trail Project	\$1,120,000
1492	CT	Construct UCONN Storrs Campus-Hillside Road	\$1,600,000
1493	NM	I–25, Tramway North to Bernalillo, Reconstruction	\$2,800,000
1494	NJ	Planning for Liberty Corridor	\$400,000
1495	OR	Sellwood Bridge Replacement–Multnomah County	\$2,000,000
1496		.....	\$0
1497	FL	Englewood Interstate Connector in Sarasota County, Florida	\$2,400,000
1498	NY	Elevate and construct drainage improvements to Beach Road, Canal Road, and Sea Breeze Road in Massapequa, New York	\$2,400,000
1499	TX	Design and construction streetscape improvements in Midtown, enhance pedestrian access	\$800,000
1500	NY	Replace sidewalk along Route 9A in Hamlet of Montrose, Town of Cortlandt	\$264,000
1501	MN	Construction and widening of TH 241 in the City of St. Michael, MN	\$1,600,000
1502	GA	I–75 lanes from Aviation Boulevard to SR 54, Clayton County	\$1,200,000
1503	VT	Construction and rehabilitation of the Cross Vermont Trail for the Cross Vermont Trail Association	\$1,108,800
1504	NY	Construction of a new ramp from 9A Southbound to Taconic State Parkway Southbound, Westchester County	\$1,420,000
1505	NY	Restore vehicular traffic to Main Street in Downtown Buffalo	\$4,000,000
1506	MI	Construction of 5 lane concrete pavement with curb, gutter and sewer on Romeo Plank Road from M–59 to 23 Mile Road in Macomb Township	\$8,000,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
1507	NY	Enhance road and transportation facilities in the vicinity of the Brooklyn Children's Museum	\$550,000
1508	IL	Construct and expand Northwest Illinois U.S. Rte 20 from Freeport to Galena, IL	\$3,200,000
1509	CA	Construction of new roadway lighting on major transportation corridors in the Southwest San Fernando Valley	\$800,000
1510	MO	Construct Interstate flyover at Hughes Road and Liberty Drive to 76th Street. Part of Liberty Parkway Project	\$15,200,000
1511	CA	Freeway 180 Improvements Fresno	\$7,600,000
1512	NY	Construct sidewalks and curbs on Valley Road in Town of Bedford	\$360,000
1513	OK	Construction of rail crossing in Claremore at Blue Star Drive and SH 66	\$1,600,000
1514	IL	Improve U.S. Route 34 from Kewanee to Kentville Road	\$400,000
1515	IL	For Naperville Township to fund improvements to North Aurora Road	\$160,000
1516	WA	Kent—Construct a single point urban interchange (SPUI) under I–5 at South 272nd St	\$800,000
1517	TN	Construct Interpretive Visitor Center for the Cherokee Removal Memorial Park Trail of Tears site in Meigs County, TN	\$800,000
1518	GA	Create a greenway trail along the Oconee River connecting parks, preserving historic sites, and promoting economic development	\$2,000,000
1519	PA	Design, engineering, ROW acquisition, and construction of streetscaping enhancements, paving, lighting, safety improvements, parking and roadway redesign in Dunmore Borough, Lackawanna County	\$320,000
1520	PA	Add turn lane, modify signals and install pavement markings at intersection of PA 422 and PA 662 in Amity Township	\$1,944,000
1521	WI	Construct bicycle/pedestrian path and facilities in the Central park area of Madison	\$2,800,000
1522	VA	Expand Route 15 29 in Culpeper, Virginia	\$1,600,000
1523	WV	Fairmont Gateway Connector System to provide an improved highway link between downtown Fairmont and I–79 in the vicinity of Fairmont	\$17,600,000
1524	OR	Construct Barber Street extension, Wilsonville	\$2,400,000
1525	FL	Four-laning SR 281 (Avalon Boulevard) in Santa Rosa County from Interstate 10 to north of CSX RR Bridge	\$11,600,000
1526	OR	Interstate 5 Interchange at City of Coburg	\$8,000,000
1527	IL	Construction of a bridge at Stearns Road in Kane County, Illinois	\$70,400,000
1528	TX	East 7th Street Improvements in Austin	\$420,000
1529	GA	Rebuild SR 10 Memorial Drive for bicycle and pedestrian safety, from Mountain Drive to Goldsmith Road, Dekalb County	\$1,600,000
1530	NJ	Provide an alternative route for traffic passing through congested SR 31 corridor in Flemington, NJ	\$2,000,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
1531	CA	Construction of a smart crosswalk system at the intersection of Arminta St. and Mason Ave	\$40,000
1532	WI	Reconstruct U.S. Highway 41 north of Lake Butte des Morts Bridge, Wisconsin	\$13,000,000
1533	PA	Improvements to 8th and 9th Street bridges between Pleasant Valley Blvd. and Valley View Blvd., Altoona, PA	\$392,000
1534	LA	Construction of a direct intermodal truck access road from Interstate 210 to the City Docks of the Port of Lake Charles	\$10,400,000
1535	TX	Construct Links Hike and Bike Trail Project. 2.2 mile trail project connecting Gaylord Texan to Grapevine Mills Mall. Grapevine, TX	\$400,000
1536	GA	Construct sidewalks between Marion Middle School, City Park, and Community Center, Buena Vista	\$300,000
1537	IL	Construct a four lane connection between Rt. 13 and Rt. 45 and upgrades to Netty Green Road in Saline Co., Illinois	\$1,600,000
1538	MI	Plymouth, Haggerty Road from Plymouth Rd. to Schoolcraft Rd	\$400,000
1539	TN	Provide streetscape improvements and pavement repair, Greenback, Tennessee	\$200,000
1540	IA	Reconstruction of NE 56th St, eastern Polk Co	\$800,000
1541	IL	Relocate Pocket Road/Lakewood Place for Access to the Racehorse Business Park, Alorton	\$900,000
1542	CT	Construct roadway on East Commerce Drive, Oxford, CT	\$400,000
1543	TN	Niota, TN Improve vehicle efficiencies at highway At-Grade Railroad Crossing	\$45,600
1544	FL	Plan and Construct 17th Street connector in the City of Sarasota, FL	\$1,600,000
1545	VT	Reconstruction and widening of U.S. Route 5 for the Town of Hartford	\$1,200,000
1546	MO	Relocate the entrance to the Shaw Nature Reserve that is being altered due to a redesign of the Gray Summit I-44 interchange project	\$400,000
1547	DC	Replace and reconstruct South Capitol Street/Frederick Douglass Memorial Bridge	\$48,000,000
1548	MI	Complete 13.8 miles of nonmotorized pedestrian Fred Meijer Heartland Trail of 30.1 miles	\$2,160,000
1549	MO	Roadway improvements on U.S. 60 from Willow Springs to the Van Buren Area	\$8,000,000
1550	UT	Construct Parley's Creek Trail	\$5,000,000
1551	ME	Construction of Calais/St. Stephen Border Crossing Project	\$7,000,000
1552	FL	Alleviate congestion at Atlantic Corridor Green-way Network, City of Miami Beach, FL	\$2,000,000
1553	MD	Construction of MD 331 Dover Bridge	\$3,454,400
1554	NY	Improve Traffic Flow on Noel Road between Church and Crossbay Boulevard including work necessary to demolish and reconstruct the firehouse facility	\$1,000,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
1555	PA	Construct 9th and 10th Street bridges over Norfolk Southern Tracks, Lebanon	\$6,400,000
1556		.....	\$0
1557	CA	Improve I–8 off ramp at Ocotillo to the Imperial Valley College Desert Museum/Regional Traveler Visitor Center, Imperial County	\$800,000
1558	CA	Install new grade separation at Ranchero Road in Hesperia	\$4,000,000
1559	NY	Bartow Ave. Ramp and Reconstruction at the Hutchinson Parkway	\$1,600,000
1560	FL	Airport Access Rd., Gainesville	\$1,600,000
1561	WA	Intersection project at South Access/522 beginning and ending at the UWB-CCC campus to improve access and alleviate congestion ...	\$2,400,000
1562	NJ	Reconstruction of CR 530 from Rt. 206 to CR 644. Construct shoulders, travel lanes, center turn lane, drainage improvements and traffic signal	\$8,000,000
1563	NY	Improve SCCC roads, Fallsburg	\$1,100,000
1564	CA	Add turn lane and adaptive traffic control system at intersection of San Tomas Expressway and Hamilton Avenue in Campbell	\$1,280,000
1565	CA	Interchange improvements at Rice Avenue and U.S. Highway 101 in the City of Oxnard	\$2,640,000
1566	GA	Northside Drive Multimodal Corridor	\$1,600,000
1567	GA	Replace sidewalks, meet ADA guidelines, and install a crosswalk, McRae	\$400,000
1568	TX	Ritchie Road from FM 1695 to U.S. 84, Waco ..	\$2,400,000
1569	AR	Maumelle Interchange—Third entrance into Maumelle	\$800,000
1570	CT	Construct Housatonic Riverwalk, Shelton	\$800,000
1571	MD	Rehabilitate Roadways Around East Baltimore Life Science Park in Baltimore	\$6,800,000
1572	AL	City of Vestavia Hills Pedestrian Walkway to Cross U.S. 31	\$560,000
1573	IN	Replace Samuelson Road Underpass, Portage	\$2,530,312
1574	IL	Construct Commuter Parking Structure in the Central Business District in the vicinity of La Grange Road	\$3,232,000
1575	PA	Design and construct inner loop roadway around Shippensburg Boro	\$400,000
1576	WV	Construct I–73/74 High Priority Corridor, Mingo Co	\$9,600,000
1577	NY	Roadway improvements to Jackson Avenue between Jericho Turnpike and Teibrook Avenue	\$1,800,000
1578	OR	Rogue River Bikeway/Pedestrian Path, Curry County	\$600,000
1579	CA	San Gabriel Blvd. Intersection Improvements at Broadway and at Las Tunas, San Gabriel	\$160,000
1580	NY	Improvements to Erie Station Road, Town of Henrietta, Monroe County	\$1,000,000
1581	IA	Sioux City, Iowa Hoeven Corridor—Outer Drive Project	\$1,600,000
1582	KY	Study and rehabilitate the I–471 corridor, Campbell County, Kentucky	\$1,600,000
1583	SC	SCSU Transportation Center, Orangeburg	\$5,200,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
1584	NY	Construction and rehabilitation of North and South Delaware Avenues in the Village of Lindenhurst, NY	\$696,000
1585	NY	Study on extending Rt. 5 to Auburn	\$120,000
1586	AL	Expand U.S. 84 from Andalusia, AL to Enterprise, AL	\$2,400,000
1587	NJ	Sussex County, NJ, Safety and Operational Improvements on Route 23 in Hardyston Township and Franklin Borough	\$3,440,000
1588	PA	State Street and Mulberry Street Bridge Lighting project, Harrisburg	\$4,000,000
1589			\$0
1590	CA	Interstate 15 and State Route 79 South Freeway Interchange and Ramp Improvement Project	\$1,600,000
1591	OH	Road Improvements, streetscapes, and pedestrian safety additions in Ashtabula Harbor ..	\$800,000
1592	NY	Town of East Fishkill improvements to Robinson Lane and Lake Walton Road at NYS Route 376	\$400,000
1593	WI	Construct a bicycle/pedestrian path, Wisconsin Dells	\$1,600,000
1594	NY	Construct improvements in Sight Distance at Road Grade and Trail Crossings in Oneida and Herkimer Counties	\$160,000
1595	NY	Repair Silver Mine Bridge in the Town of Lewisboro	\$120,000
1596	IL	River walk Reconstruction, City of Chicago	\$480,000
1597	AR	Rogers, Arkansas—Construct new interchange on I–540 near the existing Perry Road overpass	\$5,000,000
1598	IN	Design and construct Indiana Ohio River Bridges Project on I–65 and 265	\$16,000,000
1599	RI	Transportation Enhancements at Blackstone Valley Heritage Corridor	\$400,000
1600	TX	Reconstruction of U.S. 79 from FM 1460 to Williamson County Road 195	\$1,600,000
1601	CA	Transportation enhancements to Children's Museum of Los Angeles	\$960,000
1602	IN	Construct Shelby County Indiana Shelbyville Parkway	\$400,000
1603	NY	Reconstruct the Niagara Street culvert/bridge which crosses over Two Mile Creek, City of Tonawanda	\$320,000
1604	MA	Reconstruction of Main Street and Lebanon Street in Melrose	\$560,000
1605	OH	Construct the existing IR 70 interchange at U.S. 40, SR 331 west of St. Clairsville	\$9,700,000
1606	GA	Install traffic lights and pedestrian walkways on Highway 441 at Martin Luther King, Jr., Boulevard, Dublin	\$500,000
1607	OH	Pike County, OH Fog Road Upgrade	\$960,000
1608	CA	Project design, environmental assessment, and roadway construction of Lonestar Road from Alta Road to Enrico Fermi Drive San Diego County	\$400,000
1609	CA	Project Study Reports for I–105 and I–405 Interchanges at Los Angeles International Airport	\$320,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
1610	CA	Reconstruct Whittier Blvd. and improve parkway drainage from Philadelphia Ave. to Five Points in Whittier	\$1,360,000
1611	NY	Rockland County Railroad Grade Crossings Safety Study	\$1,000,000
1612	TX	San Angelo Ports-to-Plains Route Loop 306 at F.M. 388	\$1,200,000
1613	MN	City of Hutchinson School Road Underpass of TH 7 and TH 22 improvements	\$800,000
1614	TN	construct and widen SR 33 in Monroe County, TN	\$5,000,000
1615	PA	Construct the realignment of Cool Creek Road in York County, PA	\$800,000
1616	NJ	Construct Waterfront Walkway from North Sinatra Drive and 12th St. south to Sinatra Drive in Hoboken	\$1,600,000
1617	TX	Add shoulders to FM 156 from Ponder, Texas to Krum, Texas	\$1,600,000
1618	NJ	Bridge replacement on Section 6V of Route 1 from Ryders Lane to Milltown Road, North Brunswick	\$1,600,000
1619	MN	Construct Two Harbors High School Trail connecting Two Harbors High School to Two Harbors City	\$891,600
1620	SC	Construct I–85 Brockman-McClimon Interchange between Greenville Spartanburg Airport and SC Highway 101 interchanges	\$800,000
1621	IA	Fort Madison, IA Construction of U.S. 61 bypass around Fort Madison to create a safer and faster route	\$2,720,000
1622	PA	Germantown Avenue Revitalization with Mount Airy USA for landscaping, scenic enhancements and pedestrian safety improvements along the heavily traveled thoroughfare	\$1,856,000
1623	NM	I–10 Reconstruction, Las Cruces to Texas State Line	\$2,400,000
1624	TX	IH 820 Widening Project	\$1,600,000
1625	IL	For Naperville Township to fund improvements to Diehl Road between Eola Road and Route 59	\$640,000
1626	KS	Remove and Replace Topeka Blvd. Bridge over the Kansas River	\$5,600,000
1627	VA	Clifton, VA Main Street parking and sidewalk improvements	\$200,000
1628	SC	Replace Milford Road Bridge, Anderson, SC	\$400,000
1629	LA	Improvements to Essen Lane at I–12; and to Perkins Rd.; and to Central Thruway; and to O’Neal Lane; and to Burbank Dr.; and to Essen Park Extension; and for LA 408 study	\$24,000,000
1630	GA	Streetscape project for lighting and landscaping on Main Street along Georgia Highway 231, Davisboro	\$240,000
1631	IA	City of Council Bluffs and Pottawattamie county East Beltway Roadway and Connectors Project	\$1,200,000
1632	OR	U.S. 199/Laurel Road Intersection	\$2,880,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
1633	CA	Conduct project report study on Old River School Rd—Firestone Blvd. intersection re-configuration	\$400,000
1634	FL	Conduct study for Port of Miami Tunnel, Miami, FL	\$1,600,000
1635	NY	Ithaca, Design and construct pedestrian and bicycle path (Cayuga Waterfront Trail)	\$960,000
1636	NC	Greenway Trails Project, Elizabeth City	\$512,000
1637	IL	Reconstruct Lakeshore Drive overpass over Lawrence Avenue	\$1,200,000
1638	SC	Replace Murphy Road West Bridge, Anderson, SC	\$188,000
1639	CA	Resurface and construct truck lane at CA Hwy 94 and I–8 interchange, Boulevard	\$2,400,000
1640	CT	Undertake road improvements associated with Coltsville Area Redevelopment, Hartford	\$1,600,000
1641	AZ	Upgrade and Re-opening of Main Street in Yuma	\$960,000
1642	NJ	Pedestrian facilities, street lighting and streetscaping improvements in downtown Laurel Springs	\$477,059
1643	MS	Upgrade Blue Cane Road in Tallahatchie County, and roads in Webb and Tutwiler	\$600,000
1644	OH	Upgrade circuitry on vehicle protection device at Sheldon Road rail crossing in Berea	\$112,000
1645	NY	Design and construct Upper Delaware Scenic Byway Visitor Center, Cochection	\$600,000
1646	NY	Construct sidewalks and curbing on Westchester Avenue in Village of Buchanan	\$220,000
1647	NC	Downtown Redevelopment Project, City of Rocky Mount	\$5,068,800
1648	TX	Construction of divided four lane concrete arterial with drainage improvements—Sandy Lake Road: Denton Tap Rd. to North Coppel Road	\$800,000
1649	IL	Preconstruction and Construction at IL 120 at Bacon Road and Cedar Lake Road	\$1,092,000
1650	GA	Revitalization project will extend and resurface the Roberta Walking Trail, Roberta	\$400,000
1651	KY	Construct Westbound Access to Mountain Parkway from Exit 18 (KY 1057), Powell County	\$2,320,000
1652	NC	Development of 2 miles of road parallel to I–95 located approximately between the I–95/NC 125 interchange and I–95/U.S. 158 interchange	\$1,200,000
1653	CA	Engineering, right-of-way and construction of HOV lanes on I–580 in the Livermore Valley, California	\$9,600,000
1654	IL	Construct Streetscape Project, City of Markham	\$400,000
1655	CA	Landscape south side of the 91 Fwy at Bellflower Blvd. in Bellflower	\$200,000
1656	MA	Southwick and Westfield Rail Trail, Design and Construction	\$4,000,000
1657	VA	Upgrade DOT crossing #467665M to constant warning time devices	\$155,680

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
1658	TX	Reconstruct and add two lanes to U.S. 287 from the Oklahoma State line to U.S. 54 in Stratford	\$5,600,000
1659	WY	Casper West Belt Loop	\$1,600,000
1660	MN	Munger Trail extension, City of Duluth	\$2,500,000
1661	AK	Bogard/Sheldon Extension in Matanuska-Susitna Borough	\$4,000,000
1662	CA	City of Redondo Beach Esplanade Improvement Project	\$800,000
1663	MN	Kandiyohi and Meeker Counties Hwy 7 between TH 71 and TH 22	\$1,600,000
1664	NJ	Construction of Rowan Boulevard from U.S. Route 322 to Main Street, Glassboro	\$480,000
1665	CA	Conduct Study of SR 130 Realignment Project, San Joaquin County and Santa Clara County, CA	\$1,600,000
1666	CA	Passons Grade Separation in the City of Pico Rivera	\$2,960,000
1667	MD	Construct South Shore Trail, Anne Arundel County, MD	\$800,000
1668	NJ	Realignment of the Routes 35/36 intersection in Eatontown	\$1,600,000
1669	IN	Construct Hoosier Heartland Highway in Cass and Carroll County, Indiana	\$2,400,000
1670	MI	Oscoda County, Reconstruction and surfacing of Valley Road from M–33 west to Mapes Road	\$768,000
1671	TX	Reconstruct Precinct Line Road 2-lane bridge as 4-lane bridge and widen Precinct Line Road to 4-lane roadway from SH 10 to Trammel Davis Rd	\$800,000
1672	CT	Reconstruct Waterfront Street Corridor, City of New Haven	\$1,200,000
1673	TN	Improving Vehicle Efficiencies at At-Grade highway-Railroad Crossing in Philadelphia, TN	\$79,200
1674	TX	Reconstruct Mile 2 W from Mile 12 N to U.S. 83, Hidalgo County	\$800,000
1675	NY	Reconstruction of West Neck Road from Huntington-Lloyd Harbor boundary to the end of the Village-maintained road	\$2,400,000
1676	GA	Rehabilitate sidewalks and replace street lights, Swainsboro	\$400,000
1677	SC	Replace Murphy Road East Bridge, Anderson, SC	\$212,000
1678	MO	Access improvements and safety and mobility upgrades along U.S. 7 as part of the Highway 7 Corridor Development Plan in Blue Springs	\$4,000,000
1679	OH	Construct Stearns Road Grade Separation, Olmsted Township	\$3,600,000
1680	CA	Implement Grove Avenue Corridor I–10 interchange improvements in Ontario	\$2,400,000
1681	MA	Construct and Replace West Corner Bridge and Culvert, Rt. 228, spanning Weir River Estuary and Straits Pond Inlet	\$800,000
1682	OK	Complete Reconstruction of the I–35/SH 9 West Interchange	\$3,200,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
1683	NJ	Construct Rte 50 Tuckahoe River Bridge Replacement, Cape May and Atlantic Counties	\$3,200,000
1684	NY	Rt. 12 reconstruction-Town and Village of Greene	\$3,288,000
1685	MN	Becker County CR 143 and CR 124 Improvements	\$768,000
1686	NY	Construct and extend existing pedestrian streetscape areas in Valley Stream	\$1,080,000
1687	MI	Construct Interchange at I-675 and M-13 (Washington Avenue). Northbound Exit. Phase I of Construction. City of Saginaw	\$2,000,000
1688	OH	Construct Cleveland Towpath Trail, 6-mile extension towards downtown, Cleveland	\$4,640,000
1689	FL	Construct widening of U.S. 17 to 4 lanes from San Mateo to Volusia County line, Putnam County, Florida	\$16,300,000
1690	MD	Construct Phase 1 of the South Shore Trail in Anne Arundel County from Maryland Route 3 at Millersville Road to I-97 at Waterbury Road	\$800,000
1691	MI	Construction of 5 lane concrete pavement with curb, gutter and storm sewer on Van Dyke Ave. from 23 Mile Road to 26 Mile Road, Macomb Co	\$1,663,600
1692	FL	Design and construct replacement for A. Max Brewer Bridge, Titusville	\$8,000,000
1693	NY	Implement ITS system and apparatus to enhance citywide truck route system on Victory Blvd. Between Travis Ave. and West Shore Expressway Travis Section of SI	\$100,000
1694	MI	Purchase and implementation of various Intelligent Transportation System technologies in the Grand Rapids metro region	\$9,944,000
1695	WI	Recondition U.S. 45 between New London and Clintonville, Wisconsin (Waupaca County, Wisconsin)	\$1,600,000
1696	CA	Reconstruction of The Strand in the City of Manhattan Beach to improve beach access and accommodate increased pedestrian traffic	\$1,600,000
1697	CA	Construction of new roadway lighting on major transportation corridors in the Northeast San Fernando Valley	\$400,000
1698	MD	Rehabilitate Hanover Street Bridge in Baltimore	\$1,200,000
1699	NY	Rehabilitation of Hornbeck Road in the Town of Poughkeepsie	\$340,800
1700	CA	Rehabilitation of Tulare County Farm to Market road system	\$3,200,000
1701	GA	Riverside Drive Streetscape Project, Macon	\$400,000
1702	GA	South Lumpkin Road Trail-Columbus	\$400,000
1703	CA	Implement Northeast San Fernando Valley Road and Safety Improvements	\$160,000
1704	NY	Big Ridge Road: Spencerport Village Line to Gillet Road in the Town of Ogden	\$1,000,000
1705	TX	Build south bound ramp from east bound I-20 to Clark Road at the southern terminus of Spur 408. Duncanville, TX	\$4,400,000
1706		.....	\$0

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
1707	TN	Reconstruct U.S. 64 from west of Bolivar to the Lawrence County Line in Hardemant, McNairy, Hardin, Wayne Counties	\$4,180,000
1708	PA	Improve safety of Route 145 in Whitehall Township	\$1,780,000
1709	GA	Construct Stone Mountain-Lithonia Road Bike Lane and Sidewalks, Dekalb County	\$800,000
1710	OK	Texanna Road improvements around Lake Eufaula	\$800,000
1711	OH	North Huntington Street Improvements, Medina, OH	\$1,088,000
1712	IL	To construct a new intersection of a public road and U.S. Route 50 and a new street	\$440,000
1713	NC	To plan, design, and construct the Northwest Corridor-Western Blvd. Project in Jacksonville, NC	\$473,600
1714	CT	Upgrade Mark Twain Drive, Hartford	\$1,600,000
1715	CO	CO I-70 East Multimodal Corridor (Highway Expansion), Denver	\$2,000,000
1716	MS	Upgrade roads in Indianola, Ruleville, Moorehead, Doddsville, Sunflower and Drew, Sunflower County	\$1,600,000
1717	MS	Upgrade Marshall Road in North Carrollton (U.S. Highway 35 and 82) McCain Street, South Street, Love Street, and Colver Street, Carroll County	\$320,000
1718	NJ	Passaic-Bergen intermodal transportation deployment initiative	\$12,000,000
1719	IL	Upgrade roads, The Village of Maywood	\$800,000
1720	PA	Upgrade Route 30 Corridor and Airport Access	\$800,000
1721	GA	Upgrade sidewalks and lighting, Lyons	\$400,000
1722	CA	State Route 88—Pine Grove Corridor Improvement Project	\$400,000
1723	WA	Tacoma—Lincoln Avenue Grade Separation	\$800,000
1724	NY	Improve NY 112 from Old Town Road to NY 347	\$8,000,000
1725	NJ	Construct I-195 Noise Barrier, Hamilton Township, Mercer County	\$2,000,000
1726	AR	Highway 77 Rail Grade Separation	\$800,000
1727	WA	Kent, WA Willis Street BNSF Railroad Grade Separation Project	\$400,000
1728	MI	Menominee, Ogden Street Bridge rehabilitation project-replacement of deck, expansion joints, sidewalks, railing and all other joints	\$160,000
1729	VA	Pochantas Trail—Development and construction of trail from Bluestone Junction to Pochantas adjacent to abandoned rail line ...	\$400,000
1730	NY	Suffolk County ITS arterial monitoring and performance measures	\$500,000
1731	LA	Conduct study for Highway 25 in Washington Parish	\$400,000
1732	IL	Construction of the 43rd Street Bicycle Pedestrian Bridge over Lake Shore Drive, City of Chicago	\$480,000
1733	NY	To design and reconstruct Nassau Avenue, improve sidewalks and include pedestrian amenities in Greenpoint, Brooklyn	\$1,920,000
1734	OH	Upgrade the I-480 and Tiedman Road interchange, Brooklyn	\$1,600,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
1735	NJ	Interchange improvements and bridge replacement, Route 46, Passaic County	\$4,000,000
1736		.....	\$0
1737	IA	Construction of a Four Lane U.S. Highway 20 between Moville in Woodbury County, through Ida County and Sac County to U.S. 71 at Early, IA	\$8,000,000
1738	AZ	Paving of Navajo Route 9010-off of I-40 at Houck, AZ (Exit 348) to Pine Springs Day School	\$3,440,000
1739	OH	Red Bank Road Improvements from I-71 to Fair Lane in Eastern Hamilton County, Ohio	\$3,120,000
1740	CA	Construct earthen berm along Esperanza Road from Yorba Linda Blvd. to the west city limits to mitigate noise	\$1,600,000
1741	TX	U.S. 90—Construct 6 mainlines from east of Mercury to east of Wallisville	\$1,600,000
1742	NY	Town of Chester Trout Brook road improvements and reconstruction	\$56,000
1743	OR	Upgrade the I-5 Fern Valley Interchange (Exit 24)	\$2,400,000
1744	CA	Construct I-80 Gilman Street interchange improvements in Berkeley	\$1,200,000
1745	NJ	Construct Vineland Boulevard and Sherman Avenue Intersection Improvements, Vineland, Cumberland County	\$1,400,000
1746	WA	Terry's Corner Park and Ride on Camano Island	\$1,120,000
1747	OR	Upgrade U.S. 101 and Utility Relocation, Gold Beach	\$200,000
1748	WI	Upgrade U.S. 41 from DePere to Suamico, Wisconsin (Brown County, Wisconsin)	\$2,000,000
1749	IL	Upgrade Veterans Drive in Pekin, Illinois	\$800,000
1750	NY	Saugerties, Improve Tistle Road-Old Kings Highway intersection	\$500,000
1751	TX	Design and Construct the Cottonwood Trail pedestrian-bicycle connection	\$800,000
1752	NY	Rehabilitation of the Ashford Ave. bridge over I-87 in the Villages of Dobbs Ferry and Ardsley	\$2,080,000
1753	OH	Streetscape completion along U.S. 40 in Bridgeport	\$80,000
1754	SD	Design and construct new Meridian Bridge across the Missouri River at Yankton	\$7,108,844
1755	MD	Upgrade MD 210 from MD 228 to I-495	\$3,000,000
1756	IL	For DuPage County to construct certain segments of Southern DuPage County Regional Trail	\$80,000
1757	IA	U.S. 20 relocated, Webster, Sac and Calhoun Counties, Iowa	\$2,400,000
1758	NJ	Construction of new access roads along Route 42/Blackhorse Pike in Washington Township	\$800,000
1759	CA	Highways 152-156 Intersection improvements, CA	\$800,000
1760	AK	Coffman Cove IFA ferry terminal or IFA vessel debt repayment for MV Prince of Wales Ferry	\$3,200,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
1761	MA	Acquisition, engineering, design, and construction of the Assabet River Rail Trail, Acton, Hudson, Maynard, and Stow	\$1,500,000
1762	MI	Conduct Feasibility Study to Extend I–475 to U.S. 23 in Genesee County	\$480,000
1763	TX	Construct a reliever route on U.S. 287 South of Dumas to U.S. 287 North of Dumas	\$2,400,000
1764	TN	construct new exit on I–75 and connect U.S. 11, U.S. 411, and SR 30	\$3,600,000
1765	PA	Design, engineering, ROW acquisition and construction of street improvements, parking, safety enhancements and roadway redesign in Pittston	\$1,400,000
1766	TX	Dowlen Road Improvements for Beaumont, Texas	\$2,764,800
1767	CA	Construct Hwy 101 bicycle-pedestrian project in Marin and Sonoma Counties from north of Atherton Ave. to south of Petaluma River bridge	\$400,000
1768	TX	Construct raised median from Loop 224 to Sradley St. in Nacogdoches, TX	\$2,680,000
1769	OH	Construction of bicycle trail extension in Geauga Park District in Chardon, OH	\$400,000
1770	CA	Extension of a regional Class I bikeway from the West City limits to the East City limits along leased railroad right-of-way	\$320,000
1771	AR	For rail grade separations identified by the MPO for the Little Rock/North Little Rock metropolitan area, (which may include: Edison Ave.; Springer Blvd.; Hwy 89 Extension; McCain/Fairfax; Salem Road; J.P. Wright Loop; South Loop; Geyer Springs Rd)	\$8,000,000
1772	NY	Court Street and Smith Street Shopping District Enhancements	\$640,000
1773	MA	Hampshire County Bike Paths, Design and Construction	\$4,400,000
1774	NV	Construct I–15 Starr Interchange	\$8,000,000
1775	CA	Construct full-access interchange at SR 120—McKinley Avenue, with the necessary SR 120 auxiliary lanes, Manteca, CA	\$3,200,000
1776	CA	Install emergency vehicle preemption equipment along major arterials in the I–880 corridor, Alameda County	\$400,000
1777	OH	Construct a proposed relocation of U.S. 22 and SR 93 from the current IR 70, U.S. 40 west of Zanesville	\$4,800,000
1778	CA	Conduct Study and Construct I–205 Chrisman Road Interchange Project, Tracy, CA	\$800,000
1779	IL	Construction of part of a 230 mile corridor U.S. 67 near Jerseyville and Carrolton, Illinois	\$1,360,000
1780	CA	Construction of Campus Parkway from State Route 99 to Yosemite Ave., Merced County ..	\$400,000
1781	MI	Construction of Superior Road Roundabout, Superior Township	\$600,000
1782	OR	Construction and preliminary engineering of a railroad crossing at the intersection of Havlik Road and Hwy 30, Scappoose	\$198,400
1783	FL	Clark Road Clover Leaf at I–95, Jacksonville ..	\$4,400,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
1784	PA	Construct and widen PA 94 from the Adams and York County line north to Appler Road	\$1,200,000
1785	IL	For the reconstruction and realignment of 2 miles of Evergreen Ave. located west of the City of Effingham	\$1,600,000
1786	IN	Improve State Road 332 and Nebo Road Intersection in Delaware County, Indiana	\$2,400,000
1787	AL	Birmingham Northern Beltline	\$8,000,000
1788	WI	Construct Lake Butte des Morts Bridge, U.S. Highway 41, Winnebago County, Wisconsin	\$28,000,000
1789	MA	North Worcester County Bike Paths, Design and Construction	\$4,000,000
1790	TX	Old Reliance Road Overpass at SH 6 (Earl Rudder Freeway)—Widening project in Brazos Co	\$2,000,000
1791	IA	Phase III of Main St. project, Amana	\$800,000
1792	MN	Realign Vadnais Boulevard at interchange of I–694/Highway 49, Ramsey County	\$800,000
1793	CA	Reconfigure intersection at Highways 152 and 156 in Santa Clara County	\$11,120,000
1794	KY	Construct Georgetown Northwest Bypass from U.S. 460 West to I–75 North, Scott County ..	\$2,400,000
1795	AZ	Grand Canyon Greenway Trails	\$2,560,000
1796	NY	Remediate road runoff in vicinity of Peconic Estuary watershed	\$1,000,000
1797		.....	\$0
1798	OH	Construction of road improvements from Richmond Road to new Cuyahoga Community College in Warrensville Heights, OH	\$120,000
1799	MI	Construction of the I–696 and Northwestern Highway Interchange Freeway Ramps at Franklin Road in Southfield	\$1,600,000
1800	OH	Construct access improvements to I–680 and internal roadways for Corridor of Opportunity, Mahoning Co	\$1,600,000
1801	NY	Mount Vernon Railroad Cut	\$2,000,000
1802	TX	Reconstruct and add two lanes to IH 27 from Western Street in Amarillo to Loop 335	\$4,800,000
1803	CO	SH 83–SH 88 Interchange Reconstruction—Arapahoe County, CO	\$3,200,000
1804	NY	Town of Pawling Old Rt. 55	\$400,000
1805	IL	Upgrade Curtis Road in conjunction with State plan for I–57 interchange; from Duncan Rd. to 1st Street in Champaign	\$5,600,000
1806	MO	Upgrade Rt. 249 [Range Line] from Rt. 171 to I–44	\$8,000,000
1807	VA	Bland County Trails and Visitor Center—Establishment of multi-use trail network, associated facilities and begin work on visitors center	\$800,000
1808	NH	Upgrade Sewalls Falls Road bridge over Merrimack River in Concord	\$800,000
1809	IL	Perform Old Orchard Road Expansion and improvement project between Harms Road and U.S. 41, Cook County	\$800,000
1810	MN	Design, engineering, and ROW acquisition to reconstruct TH 95 bridge, North Branch	\$7,120,745
1811	NY	Tappan Zee Bridge to I287 Transportation Corridor	\$1,000,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
1812	CA	Upgrade and reconstruct the I–80/I–680/SR 12 Interchange, Solano County	\$17,480,000
1813	MD	U.S. 219 Oakland Bypass	\$800,000
1814	NC	U.S. 221 widening from U.S. 421 to Jefferson, NC	\$1,600,000
1815	IL	Complete 80,000 lb truck route between CH 2 (Burma Rd) and IL Rt. 130 in Cumberland County	\$2,400,000
1816	CA	Improvement of intersection at Burbank Blvd. and Hayvenhurst Ave	\$320,000
1817	OH	Construct pedestrian bridge over I–77; tunnel underneath railroad; bridge over Tuscarawas River along OH and Erie Canal in Tuscarawas County	\$2,000,000
1818	MN	Lake Street Access to I–35W, Minneapolis	\$1,600,000
1819	WI	Upgrade U.S. 2 in Ashland County	\$3,200,000
1820	OR	Construct an urban arterial street between NE Weidler and NE Washington on NE 102nd, Portland	\$4,200,000
1821	CA	Construct an Interchange on Highway 70 at Georgia Pacific Road in Oroville	\$2,028,000
1822	AZ	Construct or Modify Railroad Grade Separations on 6th St. and 22nd St. and Reconstruct Speedway Blvd. Underpass in Tucson	\$10,640,000
1823	FL	Construct North Ormond Beach Business Park Interchange at I–95 between U.S. 1 and SR 40, Volusia County	\$880,000
1824	MN	Environmental review for improvement along the entire U.S. 10 corridor	\$1,040,000
1825	NY	Construct visitor center, access road, and parking at Sam’s Point Preserve, Ellenville	\$400,000
1826	OH	Installation of road improvements on Old State Road–SR 608 in Middlefield, OH	\$80,000
1827	WA	To replace BNSF trestle, Sammamish River bridge and reconstruct SR 202/127th Pl. NE and SR 202/180th Ave. NE intersections	\$1,600,000
1828	PA	Completion of beltway interchanges along Business Route 60 in Moon Township, Allegheny County	\$800,000
1829	TX	U.S. 290 Improvements in Austin, TX	\$2,400,000
1830	CA	City of Madera, CA Improve SR 99—SR 145 Interchange	\$2,400,000
1831	AL	Construct a new interchange on I–65 at Cullman, AL County Road 222	\$800,000
1832	VA	National Park Service transportation improvements to Historic Jamestowne, Virginia	\$3,400,000
1833	MI	Design and construction of West Michigan Regional Trail Network connector to link two trail systems together and to Grand Rapids	\$2,400,000
1834	TN	Plan and construct a bicycle and pedestrian trail including enhancements, Murfreesboro	\$7,200,000
1835	AZ	Replacement of Safford Bridge which crosses the Gila River directly north of Safford, AZ on North 8th Avenue	\$3,520,000
1836	TX	Design and construct streetscape improvements to Old Spanish Trail—SH 288 to Griggs, Griggs to Mykawa	\$800,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
1837	TN	For each rail-highway crossing: Improve circuitry on vehicle protection device installed at crossing in Knoxville, TN	\$45,600
1838	OH	Reconstruct Broadway Ave. in Lorain	\$600,000
1839	OH	Road Widening and related improvements to SR 82 in Macedonia, OH	\$2,728,000
1840	MN	Reconstruct CSAH 4 and CSAH 5 (Forest Highway 11) between CSAH 15 and TH 61, Silver Bay	\$1,392,000
1841	CA	Ramona Avenue Grade Separation, Montclair, California	\$1,600,000
1842	MN	Roadway improvements, City of Federal Dam	\$800,000
1843	VA	Rocky Knob Heritage Center—Planning, design, site acquisition, and construction for trail system and visitors center on Blue Ridge Parkway	\$1,200,000
1844	FL	Design and construct capacity and safety improvements for State Road 426-County Road 419 in Oviedo from Pine St. to west of Lockwood Blvd	\$1,600,000
1845	FL	Coordinated Regional Transportation Study of U.S. 98 from Pensacola Bay Bridge, Escambia County to Hathaway Bridge, Bay County, Florida	\$1,200,000
1846	PA	Paving and reconstruction in the townships: North and South Eldorado, North Altoona, Fairview, Juniata, East End, Pleasant Valley, South Tracks, Lyswen-Altoona, PA	\$1,600,000
1847	AK	Ferry infrastructure at Seward Marine Center	\$3,000,000
1848	AZ	Realign Davis Road from State Route 80 to State Route 191	\$2,640,000
1849	PA	Reesdale Street roadway reconfiguration to allow HOV access to new parking facility	\$800,000
1850	WA	SR 538 (College Way) and North 26th St. Signal in Mount Vernon	\$140,000
1851	TX	Acquisition of right-of-way and environmental preservation from I–45 to U.S. 59 for Grand Parkway	\$11,200,000
1852	ID	Reconstruct Grangemont Road (Idaho Forest Highway 67) from Orofino to Milepost 9.3	\$1,600,000
1853	VA	Expansion of South Airport Connector Road (Clarkson Road to Charles City)	\$6,240,000
1854	NY	Design and Construction of bicycle and pedestrian facilities in the area of the Roosevelt Avenue Bridge	\$384,000
1855	NC	Construct Endor Iron Furnace Greenway enhancements from Deep River to Sanford	\$800,000
1856	CO	Improve and widen State Highway 44 from Colorado Boulevard to State Highway 2	\$3,200,000
1857	FL	Fund improvement of U.S. 301 corridor in Sumter and Marion Counties	\$1,600,000
1858	TN	Complete construction and landscaping of visitor center on Cherohala Skyway in Monroe County, TN	\$80,000
1859	OR	Construction of the East Burnside Street improvements, Portland	\$5,200,000
1860	AL	Expand to 4 lanes U.S. Highway 278 from Sulligent to Guin	\$800,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
1861	IL	Francis Cabrini/W. Green Homes CHA Street Construction, City of Chicago	\$480,000
1862	NY	Plan and construct greenway, bicycle path, esplanades and ferry landing along New York Bay in Sunset Park, Brooklyn	\$8,000,000
1863	PA	Construct Dubois Regional Medical Center Access Road	\$480,000
1864	NY	To design and construct safe route to school projects in Brooklyn, Queens and Manhattan, NY	\$1,680,000
1865	PA	U.S. 30 corridor improvements from PA 896 to PA 897. Connects PA 41	\$2,600,000
1866	MD	U.S. 40 Alternate, Middletown Bypass	\$4,000,000
1867	CA	Construction of a smart crosswalk system at the intersection of Topanga Canyon Blvd. and Gault St	\$40,000
1868	WI	Expand U.S. 51 and SH 29 in Marathon County	\$6,400,000
1869	PA	Construct 2 flyover ramps and S Linden St. ext for access to industrial sites in the cities of McKeesport and Duquesne	\$5,600,000
1870	NY	Improvements and upgrades on Main Street, Beekman, NY	\$160,000
1871	NY	Construct pedestrian walkway along Route 9A in Hudson River Park, New York City	\$5,600,000
1872	IN	Design engineering, right-of-way acquisition, and construction for the Grant County Economic Corridor	\$1,600,000
1873	MN	City of Marshall TH 23 4-Lane Extension	\$2,630,400
1874	IL	Henry Horner Homes CHA Street Construction, City of Chicago	\$800,000
1875	TN	Improve circuitry on vehicle protection device installed at highway-RR crossing in Knoxville, TN	\$126,400
1876	NJ	Construct Intersection at Route 46 and Little Ferry Circle in Little Ferry	\$1,200,000
1877	AR	Improve State Highway 88 (Higdon Ferry Road) in Hot Springs	\$3,560,000
1878	MD	Improve U.S. 1, Washington Boulevard Corridor in Howard County	\$800,000
1879	NY	Downtown Flushing Traffic and Pedestrian Improvements	\$800,000
1880	FL	Arlington Expressway Access Rd., Jacksonville	\$1,200,000
1881	CO	Construct arterial on W side of Montrose to ease traffic congestion on SH 550 between Grand Avenue, N/S of city	\$6,000,000
1882	CO	North I-25: Denver to Fort Collins, Colorado ..	\$7,733,333
1883	CA	Planning for Orange Line Mag Lev from downtown Los Angeles to central Orange County	\$280,000
1884	NJ	Rahway Streetscape Replacement Project	\$400,000
1885	CT	Reconstruct I-95/I-91 interchange and construct pedestrian walkway, New Haven	\$1,600,000
1886	VA	Blue Ridge Music Center—Install lighting/steps, upgrade existing trail system and equip interpretative center with visitor information	\$1,200,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
1887	VA	Ceres Recreation Trail and Center—Design and construct pedestrian/bicycle trail in community of Ceres and establish trail center	\$120,000
1888	ME	Construction of trails within the Eastern Trail Management District	\$1,000,000
1889	GA	I-75 interchanges from north of Tifton to Turner County line	\$800,000
1890	GA	City of Savannah, Construct bike and pedestrian paths along Heritage Rail	\$160,000
1891	FL	Implementation of the Advanced Traffic Management System, Boca Raton, FL	\$1,600,000
1892	NY	Lyell Avenue: NY Rt. 259 (Union Street) to Village Line, Village of Spenserport, Town of Ogden	\$1,280,000
1893	WI	Construct U.S. 151 between CTH D and SH 175, Fond du Lac County, WI	\$3,000,000
1894	OH	Construct transportation enhancement projects, Toledo	\$8,400,000
1895	TX	Construct grade separation at U.S. 59 and SH 99. Replace the proposed interim cloverleaf ramps at the intersection	\$4,000,000
1896	MS	Gateways Transportation Enhancement Project, Hancock County	\$200,000
1897	NY	Install Improvements for Pedestrian Safety including in the vicinity of IS X194	\$250,000
1898	OK	Improvements to SH 412P at 412 Interchange	\$3,600,000
1899	FL	Acquire right-of-way and construct East-West Connector from SR 37 to SR 563 in Lakeland, FL	\$4,000,000
1900	WA	Design Valley Mall Blvd. for Main St. to I-82 and two I-82 interchanges at Mileposts 36 and 38 in Union Gap, WA	\$5,120,000
1901	WA	Extension of Waaga Way west to Old Frontier Rd	\$400,000
1902	ME	Plan and construct highway access between U.S. Route 161 and U.S. Route 1 in Madawaska	\$1,000,000
1903	CA	Randolph St. improvements between Wilmington Ave. and Fishburn Ave. in Huntington Park	\$960,000
1904	CA	Reconstruct Azusa Ave. and San Gabriel Ave. for 2-way traffic in Azusa	\$2,000,000
1905	KS	Construction of a 1.5 mile alternate truck route in Downs, Kansas	\$400,000
1906	AL	Pedestrian Improvements for Columbiana, AL	\$106,667
1907	MN	Reconstruct CSAH 91 from the D.M. and I.R. Railroad crossing at 8th Street in Duluth to CSAH 56, St. Louis County	\$4,000,000
1908	NY	Construct Wayne County, NY rails to trails initiative	\$276,000
1909	MA	Design and construct signal crossing and other safety improvements to Emerald Necklace Greenway Bicycle Trail, Town of Brookline ..	\$600,000
1910	MI	Construction of Nonmotorized Pathway, City of Rockwood	\$240,000
1911	WA	Purchase of scenic easement or site at I-90 and Highway 18	\$480,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
1912	PA	Reconstruct the SR 33, 512 interchange in the Borough of Wind Gap	\$2,000,000
1913	NY	Access improvements for terminal located on 12th Ave. between W. 44th and W. 54th St. in Manhattan	\$3,200,000
1914	IL	Completion of the Grand Illinois Trail, Cook County	\$1,034,000
1915	CA	Construct and improve medians and drainage on Imperial Highway from west border to east border of city in La Mirada	\$1,360,000
1916	CT	Construct Pomfret Pedestrian Bridge	\$80,000
1917	NV	Construct Laughlin Bullhead City Bridge	\$1,600,000
1918	PA	Design, engineering, ROW acquisition, and construction of the widening of Pennsylvania Rt. 443 Corridor in Carbon County	\$800,000
1919	NY	Palisades Interstate Parkway Mitigation Measures for New Square	\$600,000
1920	CA	Reconstruct and widen Del Amo Blvd. to four lanes between Normandie Ave. and New Hampshire Ave., Los Angeles County	\$2,400,000
1921	MN	Reconstruct Unorganized Township Road 488 from CSAH 138, Koochiching County	\$820,000
1922	NY	Reconstruction of Empire Boulevard	\$5,120,000
1923	PA	Reconstruction of PA 309 from Greenwood Avenue to Welsh Road	\$2,000,000
1924	TN	Construction of I–69 in Obion, Dyer, Lauderdale and Tipton Counties	\$11,300,000
1925	IL	Design, land acquisition, and construction of South Main St. (IL 2) Corridor from Beltline Rd. to Cedar Street in Rockford, IL	\$1,600,000
1926	OH	Grading, paving, roads for the transfer of rail to truck for the intermodal facility at Rick-enbacker Airport	\$12,000,000
1927	MA	Reconstruction of Pleasant Street, Watertown	\$1,600,000
1928	MN	Lake Wobegon Trail corridor from Sauk Centre to the Stearns County line	\$281,600
1929	RI	Replace Sakonnet Bridge	\$1,600,000
1930	CA	Conduct study and construct CA State Route 239 from State Route 4 in Brentwood area to I–205 in Tracy area	\$4,000,000
1931	MA	Geometric improvements, safety enhancements and signal upgrades at Rt. 28 and Rt. 106, intersection West Bridgewater	\$1,200,000
1932	WA	Fife—Widen 70th Ave. East and Valley Ave. East	\$800,000
1933	CA	Construct two right hand turn for Byzantine Latino Quarter transit plazas at Normandie and Pico, and Hoover and Pico, Los Angeles	\$400,000
1934	WA	I–90 Two-Way Transit-HOV Project	\$3,200,000
1935	AL	Construct Talladega Mountains Natural Resource Center—An educational center and hub for hikers, bicyclists, and automobiles ...	\$800,000
1936	MD	Gaithersburg, MD Extension of Teachers Way—Olde Towne Gaithersburg Revitalization	\$1,120,000
1937	IL	Millburn By-Pass (US Route 45 at Gross Lake Road/Millburn Road), Lake County	\$2,080,000
1938	AK	Planning, design, and EIS of Bradfield Canal Road	\$2,000,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
1939	TX	Reconstruct Clinton Drive from Federal Rd. to N. Wayside Drive	\$11,200,000
1940	GA	Pave portions of CR 345, CR 44, and CR 45, Hancock County	\$400,000
1941	NY	Deer Avoidance System, to deter deer from milepost marker 494.5, Ripley, PA, to 304.2., Weedsport, NY along I-90	\$200,000
1942	CA	El Camino Real Grand Blvd. Initiative in San Mateo County	\$3,000,000
1943	CA	Construct Guadalupe River Trail from I-880 to Highway 237 in Santa Clara County	\$6,400,000
1944	TN	Cocke County, Tennessee SR 32 reconstruction	\$800,000
1945	IL	Construct I-80, Ridgeland Ave. Improvements, Tinley Park	\$800,000
1946	KY	Construct Pedestrian Mall and Streetscape Improvements on Lexington, College, Walnut and Giles Sts, Wilmore	\$3,124,000
1947	PA	PA 23 corridor improvements from U.S. 30 to U.S. 322	\$2,400,000
1948	NJ	Replacement and realignment of Amwell Road Bridge over Neshanic River	\$844,000
1949	FL	City of Wilton Manors Powerline Road Streetscape Enhancement Project	\$300,000
1950	TX	Construct SH 199 (Henderson St.) through the Trinity Uptown Project between the West Fork and Clear Fork of the Trinity River in Fort Worth	\$6,400,000
1951	IN	Construction of multi-use paths, Town of Fishers, Indiana	\$200,000
1952	OH	Construct White Pond Drive project in Akron	\$800,000
1953	MN	Design and right-of-way acquisition for I-35 E CSAH 14 Main Street Interchange, City of Lino Lakes, Minnesota	\$800,000
1954	OR	Expand storage facilities in Eugene to support transportation enhancement activities throughout the State	\$2,500,000
1955	CA	Improvements to U.S. 101 ramps between Winnetka Ave. and Van Nuys Blvd	\$320,000
1956	IN	Acquire right-of-way for and construct University Parkway from Upper Mount Vernon Road to SR 66	\$2,400,000
1957	CA	Pine Avenue extension from Route 71 to Euclid Avenue in the City of Chino, California	\$6,800,000
1958	MO	Confluence Greenway Land Acquisition for Riverfront Trail development in St. Louis	\$560,000
1959	TN	Retrofit noise abatement walls in Davidson County	\$2,000,000
1960	MA	Streetscape and pedestrian access improvements between Museum Road and Forsyth Way	\$3,200,000
1961	MI	Commerce, Haggerty Road from 14 Mile to Richardson	\$1,200,000
1962	WI	Expand SH 23, County Highway OJ to U.S. Highway 41, WI	\$24,000,000
1963	FL	Construct interchange at I-95 and Matanzas Woods Parkway, Flagler County	\$800,000
1964	IL	Miller Road Widening and Improvement, McHenry	\$6,364,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
1965	NC	Construct Neuse River Trail in Johnston County	\$1,600,000
1966	TX	Construct landscaping and other pedestrian amenities in segments of the Old Spanish Trail and Griggs Road rights-of-way	\$1,600,000
1967	NY	Construction of and improvements to Union Road and Walden Avenue in Cheektowaga ..	\$800,000
1968	LA	Construction of West Covington Bypass-LA 21 Widening	\$3,200,000
1969	MS	Construct Byrd Parkway Extension, Petal	\$1,200,000
1970	NY	Intermodal transportation improvements in Coney Island	\$3,200,000
1971	MN	Construct one mile of new roadway and a bridge crossing the DM&IR railroad tracks, and construct connector between CSAH 14 and CSAH 284, Proctor	\$2,624,000
1972	NH	Construct Park and Ride, Exit 5 on I-93—Londonderry, NH	\$1,600,000
1973	PA	Design, engineering, ROW acquisition and construction of streetscaping enhancements, paving, lighting, safety improvements, parking and roadway redesign in Exeter Borough, Luzerne County	\$160,000
1974	PA	Extension of River Road in Reading, PA to provide access to major industrial and brownfields sites	\$1,200,000
1975	AK	Point MacKenzie in Matanuska-Susitna Borough plan and design road access	\$1,000,000
1976	TX	Repair 4.35 miles of Lake Ridge Parkway. Widen roadway along with 2 bridges from 4 lanes to 6 across Joe Poole Lake in Grand Prairie, TX	\$4,800,000
1977	IL	Robert Taylor Homes CHA Street Construction, City of Chicago	\$440,000
1978	OR	Rockwood Town Center for Stark Street from 190th to 197th for pedestrian, bicycle and transit facilities and safety mitigation	\$2,000,000
1979	PA	Route 89 Curve Realignment one mile north of Titusville on Route 89	\$240,000
1980	FL	Sand Lake Road Improvements between Presidents Drive and I-4	\$4,800,000
1981	MI	Sault Ste. Marie, Reconstruct East Spruce Street with drainage, curb, gutter, pavement, traffic control devices	\$760,000
1982	MI	Study and construct I-96/U.S. 31/Sternberg Road area improvements	\$2,000,000
1983	PA	Provide access to HOV ramp from Reedsdale Street with traffic signals, pavement markings, lane control and fast acting gates	\$1,600,000
1984	IL	The extension of MacArthur Blvd. from Wabash to Iron Bridge Road. Springfield	\$1,200,000
1985	IL	Construct Cedar Creek Linear Park Trail, Quincy	\$400,000
1986	IN	Conduct study for U.S. 50 Corridor Improvements, Dearborn County, Indiana	\$240,000
1987	IL	Design, land acquisition, and construct West State St. (US Business 20) from Meridian Rd. to Rockton Ave. in Rockford, IL	\$1,600,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
1988	CA	The Foothill South Project, construct 16 miles of a six-lane limited access highway system	\$8,000,000
1989	MI	Construct Road Improvements to Miller Rd. from I-75 to Linden Rd. Flint Township	\$2,400,000
1990	CA	State Route 99 improvements at Sheldon Road	\$3,200,000
1991	KY	The Kentucky Multi-Highway Preservation Project	\$1,280,000
1992	NY	Town of Warwick, NY. Bridge replacement on Buttermilk Falls Rd	\$140,000
1993	TN	Improve existing two lane highway to a four lane facility along the U.S. 412 Corridor west of Natchez Trace to U.S. 43 at Mount Pleasant	\$8,000,000
1994	NY	Town of Warwick, NY East Shore Road reconstruction	\$640,000
1995	FL	Traffic Reconfiguration of SR 934 and U.S. 1 Route, Miami	\$800,000
1996	PA	For design, engineering, ROW acquisition, and construction of the third phase of the Marshalls Creek Bypass Project in Monroe County, Pennsylvania	\$240,000
1997	MI	Construct North Central Muskegon County Corridor Improvements at U.S. 31 and Russell Road	\$1,840,000
1998	OH	Reconstruct I-75/I-475 Interchange, Toledo	\$2,400,000
1999	NY	College Point 20th Avenue Streetscapes Improvements Project in Queens	\$700,000
2000	OH	Construct a 4 lane limited access road to link Newcomerstown and Cadiz	\$550,000
2001	CT	Construct trail to extend the Pequonnock Valley rail-trail through Trumbull and into Bridgeport, CT	\$400,000
2002	AK	Providence Hospital Public Access Road	\$3,000,000
2003	TX	I Road Between Nolana Loop and FM 495 in Hidalgo County	\$1,520,000
2004	NC	North Carolina. Add passing lanes and safety improvements to U.S. Highway 64 in Transylvania County	\$4,800,000
2005	TN	Improve streetscape and pavement repair, Blount County, TN	\$240,000
2006	CT	Reconstruction of State Route 111 from Purdy Hill Road to Fan Hill Road, Monroe, CT	\$1,200,000
2007	IL	Resurface Trumbull Ave. and Homan Ave., Evergreen Park	\$320,000
2008	GA	Hwy 78 Corridor Improvement Gwinnett County	\$400,000
2009	TX	Construct Southwest Bypass in Georgetown, Texas, between SH 29 and Ranch Road 2243	\$3,200,000
2010	MO	To improve U.S. 54 to a four lane highway from the Osage River to MO Route KK	\$800,000
2011	MS	Upgrade roads in Mayersville (U.S. Highway 14 and 1), Issaquena County	\$160,000
2012	MA	Gainsborough St. and St. Botolph St. Improvements	\$900,000
2013	IN	Construct U.S. 31 Kokomo Corridor Project for Kokomo Howard County, Indiana	\$800,000
2014	OH	Construction of Tri-State Outer Belt in Lawrence County	\$1,600,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
2015	PA	Completion of I-79-Kirwin Heights Interchange and construction of retaining walls, bridge and new ramps	\$1,600,000
2016	OH	Construction of the Carroll Area Interchange in Fairfield County	\$3,600,000
2017	CA	Construct the Silicon Valley Transportation Incident Management Center in San Jose	\$6,400,000
2018	CA	Design and Construction Camino Tassajara Crown Canyon to East Town Project, Danville, CA	\$800,000
2019	NY	Traffic mitigation on Bridge Street and Maple Avenue, Florida, NY	\$120,000
2020	WI	North 28th Street Phase 2 roadway safety improvements from Weeks Avenue to Hill Avenue in Superior	\$1,024,000
2021	NC	Upgrade U.S. 74 in Columbus County	\$5,600,000
2022	MS	Upgrade U.S. 78 to Interstate Standards from the MS/TN State line to the MS/AL State line	\$8,000,000
2023	IN	Improve Bailie Street, Kentland	\$256,000
2024	CA	Realignment of La Brea Avenue to reduce congestion, City of Inglewood	\$2,640,000
2025	IL	Resurface Elston Avenue from Milwaukee to Pulaski, Chicago	\$1,600,000
2026	TN	Sullivan, Washington Counties, Tennessee SR 75 widening	\$1,600,000
2027	GA	U.S. 17/SR 404 Spur, Back River bridge replacement, Savannah	\$4,000,000
2028	MS	U.S. 98 access improvements and new I-59 interchange, Lamar County	\$4,000,000
2029	VA	Construct South Airport Connector, Richmond International Airport	\$400,000
2030	NY	City of Peekskill, NY Street Resurfacing Program. Riverview Avenue	\$104,000
2031	GA	SR 400 at SR 120 Old Milton Parkway intersection improvement Fulton County, Georgia	\$800,000
2032	MA	East Boston Haul Road Construction	\$5,000,000
2033	NY	Town of Goshen Orzeck Road reconstruction ..	\$320,000
2034	VA	Revitalize Main Street in Dumfries	\$580,000
2035	FL	Replace Platt Street Bridge	\$2,400,000
2036	FL	Access Rd. Streetscaping, Sanford Airport	\$400,000
2037	NY	Rockland County and City of Yonkers to Lower-Manhattan Ferry Boat project	\$800,000
2038	SC	Complete construction of Palmetto Parkway (I520) Extension (Phase II) to I-20	\$5,600,000
2039	NM	U.S. 62-180 Reconstruction, Texas State Line to Carlsbad	\$4,000,000
2040	IL	For U.S. Rt. 30 intersection signals, turn and deceleration lanes btwn Williams St. and IL Rt. 43 incl. 80th Ave, Wolf Rd., Lincoln Way HS and Locust St	\$5,600,000
2041	OH	Construct Orchard Lane to Factory Road Connector, Greene County	\$400,000
2042	TX	Construct a bridge impact protection system for TxDOT	\$400,000
2043	NC	Design and construction of the Airport Area Roadway Network, High Point, North Carolina	\$4,000,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
2044	VA	Repair Colorado Street bridge in Salem, Virginia	\$1,400,000
2045	CA	Project to evaluate air quality and congestion mitigation benefits of a Hybrid Utility Vehicle in Santa Barbara County	\$80,000
2046	PA	Mill Street improvements, Borough of Lansdale	\$720,000
2047	MN	Construction of County State Aid Highway 21, Scott County, MN	\$2,560,000
2048		.....	\$0
2049	TX	Two direct connectors in Houston, Texas between IH 10 and SH 99, The Grand Parkway	\$4,000,000
2050	MO	Upgrade of Rt. 71 from Pineville to Arkansas State Line	\$12,000,000
2051	CA	Improve interstates and roads part of the Inland Empire Goods Movement Gateway project in and around the former Norton Air Force Base	\$20,000,000
2052	IL	Preconstruction activities for Sangamon Valley Bicycle Trail (IL)	\$400,000
2053	MI	St. Clair County Parks is working with 13 local units to develop the 54-mile Bridge-to-Bay trail	\$400,000
2054	NJ	New Jersey Underground Railroad for preservation, enhancement and promotion of sites in New Jersey	\$256,000
2055	CA	Construction of an interchange at Lammers Road and I-205, Tracy, CA	\$800,000
2056	MN	Corridor Preservation Studies and Right-of-Way acquisition, St. Cloud Metro Area	\$2,400,000
2057	NY	Improve CR 39 from NY 27 to NY 27A, Suffolk County	\$3,000,000
2058	PA	Street improvements, Borough of Ambler	\$520,000
2059	KY	Reconstruction of KY 61 from Greensburg in Green County to Columbia in Adair County	\$800,000
2060	TX	Construct Loop 12-IH 35E and SH 183 west extension to MacArthur, Irving, Texas	\$800,000
2061	NC	To plan, design, and construct the segment of Berkeley Blvd. from Royal Avenue to Hew Hope Rd. (SR 1003) in Goldsboro, NC	\$236,800
2062	OH	Upgrade Manchester Rd. in Akron	\$3,200,000
2063	IL	St. Charles Road, The Village of Bellwood	\$800,000
2064	TN	Engineer, design and construction of connector road from I-75 interchange across Enterprise South Industrial Park to Hwy 58 in Hamilton County	\$7,200,000
2065	TX	Construct 4 lane divided roadway along SH 71 from the Perdarnales River to Bee Creek	\$1,600,000
2066	CT	I-84 Danbury Exits I-11 Upgrade Interchanges	\$2,720,000
2067	CA	Complete the engineering design and acquire the right-of-way needed for the Arch-Sperry project in San Joaquin County	\$4,000,000
2068	UT	Increase lane capacity on bridge over Virgin River on Washington Fields Road in Washington	\$3,000,000
2069	NY	Installation of Utica Traffic Signal System	\$2,400,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
2070	NC	To construct an interchange at an existing grade separation at SR 1602 (Old Stantonsburg Rd.) and U.S. 264 Bypass in Wilson County, NC	\$947,200
2071	WA	U.S. 12 Burbank to Walla Walla: Construct new four lane highway for portion of U.S. 12	\$3,440,000
2072		.....	\$0
2073	OH	Structural improvements to two bridges over the Zimber Ditch between 38th St. and Whipple Ave. in Canton, Ohio	\$400,000
2074	OK	U.S. 281, Widen U.S. 281 from the new U.S. 281 Spur North to Geary Canadian County, OK	\$800,000
2075	MI	City of Negaunee, Croix Street reconstruction—Streetscape and resurfacing from U.S. 41 to Maas Street	\$900,000
2076	KS	Construct I–35 and Lone Elm Road interchange and widen I–35 from 151st St. to 159th St., Olathe	\$4,000,000
2077	MI	Integrated highway realignment and grade separations at Port Huron, MI to eliminate road blockages from NAFTA rail traffic	\$400,000
2078	OK	U.S. 60, Widen U.S. 60 between Bartlesville and Pawhuska, Osage County, OK	\$2,400,000
2079	WA	Construct an off-ramp from I–5 to the intersection of Alderwood Mall Blvd. and Alderwood Mall Pkwy	\$400,000
2080	CA	Reduce congestion and boost economies through safer access to the coast by realigning Hwy 299 between Trinity and Shasta Counties	\$5,600,000
2081	IL	Pre-construction and construction activities on U.S. 45/LaGrange Road from 131st Street to 179th Street	\$800,000
2082	AR	Van Buren, Arkansas—Widen and reconstruct Rena Road	\$3,000,000
2083	GA	Construction of infrastructure for inter-parcel access, median upgrades, lighting, and beautification along Highway 78 corridor	\$4,800,000
2084	CA	Construct Alviso Bay Trail from Gold Street in historic Alviso to San Tomas Aquino Creek in San Jose	\$800,000
2085	MS	Construct bicycle and trolley path, Hattiesburg	\$680,000
2086	WI	Construct a bike and pedestrian bridge across SH 100 at the 1800 block of S. 108th Street, West Allis	\$240,000
2087	IL	Increasing the height on the IL Rt. 82 Railroad Underpass in Geneseo, IL	\$2,400,000
2088	NC	U.S. 70 Goldsboro Bypass	\$800,000
2089	CA	Vasco Road Safety Improvements, Contra Costa Transportation Authority and the County of Alameda Public Works, California	\$800,000
2090	NY	Downtown Flushing Multimodal Connection Project, Queens	\$880,000
2091	MD	Construct Safety and Operations Improvements at Martin Luther King, Jr., Blvd. and W. Baltimore Street in Baltimore	\$2,000,000
2092	NY	Rehabilitate Riis Park Boardwalk	\$300,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
2093	TX	Construct 25 mile stretch of the 177-mile loop, between IH–45 south and SH 288	\$9,200,000
2094	UT	Construction of Midvalley Highway, Tooele County, Utah	\$800,000
2095	WA	Improve Willapa Hills bicycle and pedestrian trail between Chehalis and Pacific County ...	\$700,000
2096	PA	Design and construct interchange and related improvements at I–83 Exit 18	\$4,800,000
2097	VA	Northern Virginia Potomac Heritage National Scenic Trail	\$800,000
2098	NC	Wilmington Area Port Access Improvements ...	\$2,400,000
2099	OK	Construction of Midwest City Pedestrian Walkway	\$800,000
2100		.....	\$0
2101	GA	Construct access roads on Airport Loop road in Hapeville	\$1,600,000
2102	TN	Construct 2nd Creek Greenway, Knoxville, Tennessee	\$548,560
2103	NE	Design, right-of-way and construction for the Louisville Bypass, Nebraska	\$2,000,000
2104	HI	Construct Honoapiilani Highway Realignment	\$2,400,000
2105	TN	Hamblen County, Tennessee U.S. 25E interchange improvements	\$800,000
2106	IL	Construction of a new bicycle-pedestrian bridge in Wayne, IL	\$960,000
2107	PA	David Lawrence Convention Center Phase IV-reconstruction of roadways assoc. with HQ hotel project	\$960,000
2108	CO	I–70 and SH 58 Interchange: Reconstruction of existing ramps, building of missing ramps and ROW acquisition	\$5,976,000
2109	OH	Reconstruct U.S. Route 6 (Lake Road). Rocky River	\$2,640,000
2110	WA	Construct 6 mile span over I–5 in Thurston County to connect Chehalis Western Trail ...	\$4,108,000
2111	IL	Extend Frank Scott Parkway East Road to Scott AFB, St. Clair County	\$2,240,000
2112	OH	Reconfigure I–480 and Transportation Blvd. Interchange, Garfield Heights	\$800,000
2113	NY	Rehabilitation of Route 100 from Virginia Road to Westchester Community College	\$880,000
2114	TN	Restoration of historic L&N Depot, McMinn County, Tennessee	\$16,000
2115	SD	Resurface 10 miles of U.S. 18 from Okreek to Carter on the Rosebud Indian Reservation ...	\$1,840,000
2116	CA	Route 198 Expansion, from SR 99 to SR 43	\$2,400,000
2117	WA	SR 543 Interstate 5 to International Boundary Enhancement in Blaine	\$3,000,000
2118	MD	Rockville, MD Construction of Maryland Avenue and Market Street Intermodal Access Project	\$3,200,000
2119	MN	U.S. Highway 212 expansion from Carver Cnty Rd. 147 to Cologne and from Cologne to Norwood Young America	\$800,000
2120	VA	Vienna, VA Maple Avenue improvement project	\$1,320,000
2121	IL	Village of South Jacksonville—West Vandalia Road upgrades	\$762,058
2122		.....	\$0

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
2123		.....	\$0
2124	FL	Destiny Rd. Reconstruction, Eatonville	\$800,000
2125	KY	Construct New Technology Triangle Access Road, Campbell County, Kentucky	\$1,600,000
2126	NY	Town of Wawayanda reconstruction of McVeigh Road	\$400,000
2127	VA	Virginia Creeper Trail—Trail needs, including construction of restroom facilities at Watauga and Alvarado and parking expansion at Watauga	\$680,000
2128	CA	Construct grade separation on State College Blvd. at the Burlington Northern Santa Fe railroad, Fullerton	\$12,800,000
2129	MA	Warren Street—Blue Hill Avenue	\$2,400,000
2130	FL	Design and construct Dunn Avenue Extension, Volusia County	\$1,600,000
2131	CA	Construct operational and safety improvements to I–880 N at 29th Ave. in Oakland ...	\$2,000,000
2132	WA	U.S. 395, North Spokane Corridor Improvements	\$4,640,000
2133	NY	Route 531 Expansion Spencerport-Brockport, 4-lane Highway is a project to extend Rt. 531	\$5,920,000
2134	OR	Columbia Intermodal Corridor for rail congestion relief, improved intersections and access to Interstate-5 for trucks, and grade-separate road from rail, Portland	\$11,000,000
2135	OH	Interchange and related road improvements to SR 44 in Painesville, OH	\$2,000,000
2136	GA	Greene County, Georgia conversion of I–20 and Carey Station Road overpass to full interchange	\$960,000
2137	IL	Pioneer Parkway upgrade in Peoria—Extension from Allen Road to Route 91	\$1,600,000
2138	MS	Construct historic bicycle path, Pascagoula	\$120,000
2139	PA	Crows Run Relocation from SR 65 to Freedom Crider Road	\$3,080,000
2140	OH	Replace the Edward N. Walldvogel Viaduct in Cincinnati	\$8,000,000
2141	NC	Construct I–540 from NC 55 South to NC 55 North	\$8,800,000
2142	NY	Roadway, streetscape, pedestrian, and parking improvements to the Buffalo Niagara Medical Campus, Buffalo	\$3,200,000
2143	VA	Upgrade DOT crossing #470515H to constant warning devices in Halifax	\$35,520
2144	PA	Design, engineering, ROW acquisition and construction of streetscaping enhancements, paving, lighting, safety improvements, parking and roadway redesign in Avoca Borough, Luzerne County	\$160,000
2145	WA	Bridge Modification and Interstate Highway Protection Project, Skagit River, in Skagit County	\$3,000,000
2146	TN	Construct welcome center, Macon County	\$160,000
2147	CA	Construction of new roadway lighting on major transportation corridors in the Northwest San Fernando Valley	\$800,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
2148	MO	Interchange design and construction for the Main Street Extension at I-55, Cape Girardeau County	\$800,000
2149	CA	Replace SR 22 interchanges, construct HOV lanes, and lengthen bridges in Garden Grove	\$5,200,000
2150	IL	Construction of CAP I-290 Village of Oak Park	\$800,000
2151	RI	Rehabilitation of Bridge Number 550 in Pawtucket	\$4,400,000
2152	WA	Complete analysis, permitting and right-of-way procurement for I-5/SR 501 Interchange replacement in Ridgefield	\$600,000
2153	CA	Design and construct new interchange at Potrero Blvd. and State Route 60 in Beaumont	\$1,600,000
2154	TN	Construction of a pedestrian bridge in Alcoa, TN	\$800,000
2155	WV	Construct 4 lane improvements on U.S. Route 35 in Mason County	\$35,400,000
2156	OH	Construct Grade Separation at Front Street, Berea	\$400,000
2157	CA	Crenshaw Blvd. Rehabilitation, 182nd St. 190th St.; and Crenshaw Blvd. at 182nd St. Fwy on-off Ramp Capacity Enhancement, City of Torrance	\$640,000
2158	CA	Construct Interchange at Intersection of SR 44 and Stillwater Road	\$4,000,000
2159	MN	CSAH 61 improvements, City of Coleraine	\$392,000
2160	KY	Expansion to four lanes of Hwy 55 and Hwy 555 Heartland Parkway in Taylor County	\$8,000,000
2161	KS	Interchange improvement at K-7 and 55th St. in Johnson Co	\$4,000,000
2162	CA	Construct truck lane on Baughman Road from State Route 78/86 to Forrester Road, Westmorland	\$440,000
2163	AZ	Construct bridges at Aspen St., at Birch St., at Cherry St., at Bonito St., at Thorpe St	\$3,000,000
2164	CT	Construct Putnam curb cuts	\$80,000
2165	OH	Canton, OH Cleveland Ave. bridge replacement over the Nimishilen Creek	\$320,000
2166	MN	Design and right-of-way acquisition for I-35 and CSAH 2 interchange in Forest Lake, MN	\$2,400,000
2167	PA	Complete the connection of the American Parkway between the east and west sides of the Lehigh River with bridge and interchanges	\$8,000,000
2168	PA	Design, engineering, ROW acquisition and construction of street improvements, parking and safety enhancements Main and Parsonage Streets in Pittston	\$200,000
2169	TX	Grade separation bridges at Wintergreen Rd. and Millers Ferry Rd. in Hutchins and Pleasant Run Rd. and Millers Ferry Rd. in Wilmer	\$6,560,000
2170	GA	I-20 HOV lanes from Evans Mill Road to Salem Road, Dekalb and Rockdale Counties	\$1,200,000
2171	NV	Improve Las Vegas Beltway-Airport Connector Interchange	\$3,200,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
2172	CA	Oregon-Page Mill expressway Improvements between U.S. 101 and SR 82, Palo Alto	\$3,200,000
2173	MA	Design and construct the Quinebaug River Rail Trail Bikeway	\$800,000
2174	CA	Park Boulevard-Harbor Drive Rail Grade Separation, San Diego	\$800,000
2175	MN	Paul Bunyan Trail, Walker to Bemidji segment	\$560,000
2176	CA	Construct road surface improvements, and improve road safety from Brawley Water plant to Hwy 86 to 9th Street to 18th Street, Brawley	\$1,120,000
2177	TX	Improvements to FM 1017 in Hebbronville	\$400,000
2178	CA	Alameda Corridor East Gateway to America Trade Corridor Project, Highway-Railgrade separation along 35 mile corridor from Alameda Corridor (Hobart Junction) to Los Angeles/San Bernardino County Line	\$12,400,000
2179	GA	Phase III Streetscape-Columbus	\$800,000
2180	IL	Pre-construction and construction IL 15 over Wabash River at Mount Carmel	\$5,568,000
2181	NY	Queens, Bronx, and Kings, and Richmond County Graffiti Elimination Program including Kings Highway from Ocean Parkway to McDonald Avenue	\$4,750,000
2182	IA	Improvements at the IA 146 and I-80 interchange, Grinnell	\$800,000
2183	TX	Construct Grade separation at U.S. 277 in Eagle Pass	\$4,000,000
2184	LA	Plan, design, and construct the internal roadway at Port of South Louisiana, Saint John the Baptist Parish and LA 22 in Ascension Parish	\$2,200,000
2185	KS	Construction of a 2-lane on a 4-lane right-of-way bypass with controlled access on U.S. 400 at Dodge City	\$10,240,000
2186	MN	Reconstruct CR 203 between U.S. 10 and CSAH 1, Morrison County	\$268,800
2187	NY	Reconstruction of York Street Industrial Corridor Project, Auburn, NY	\$2,800,000
2188	NY	Construction of and improvements to Route 62 in the Village of Hamburg	\$800,000
2189	IN	Convention Center Area Redevelopment Project includes street resurfacing, pedestrian walkway and streetscape improvements, signalization, safety enhancements, plaza and pedestrian area upgrades, and pedestrian bridges on South Street, Capitol Street, West Street, Missouri Street, and McCarty Street, Indianapolis	\$12,280,000
2190	AL	Construct pedestrian urban-edge riverwalk in Montgomery, AL	\$1,200,000
2191	PA	Johnstown, Pennsylvania, West End bypass safety improvements	\$4,000,000
2192	CA	Construction of traffic and pedestrian safety improvements in Yucca Valley	\$1,600,000
2193	CA	710 Freeway Study to Evaluate Technical Feasibility and Impacts of a Tunnel Alternative to Close 710 Freeway Gap	\$2,400,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
2194	CA	Greenleaf right-of-way Community Enhancement Project—design and construct bikeways, pedestrian walkways and upgrade signalization, Compton	\$3,200,000
2195	KY	Improve Prospect Street Pedestrian Access, Berea	\$2,200,000
2196	OH	Construct Crocker Stearns Connection, North Olmsted and Westlake	\$880,000
2197	NY	Construction of and improvements to Seneca Street in Buffalo	\$480,000
2198	CA	Avalon Boulevard/I–405 Interchange modification project, Carson	\$4,800,000
2199	IL	Construct Illinois Route 336 from Macomb to Peoria	\$1,600,000
2200	NC	North Carolina. Pack Square Pedestrian and Roadway Improvements, Asheville	\$3,840,000
2201	PA	Provide pedestrian and water access to Convention Center from surrounding neighborhoods	\$880,000
2202	NY	Reconstruction of Times and Duffy Squares in New York City	\$1,200,000
2203	LA	Construction of I–10 Access Road (Crowley)	\$880,000
2204	NY	Repaving of I–86 in towns of Coldspring, Randolph, Allegany, and Olean; City of Olean; Village of Randolph in Cattaraugus County	\$6,000,000
2205	PA	Replace Bridge, SR 106, Tunkhannock Creek Bridge 2, Clifford Township, Susquehanna County	\$640,000
2206	NJ	Replace Route 7-Wittpen Bridge, Hudson County	\$800,000
2207	MN	Right-of-Way acquisition for 8th Street North and Pinecone Road	\$3,200,000
2208	IL	For Village of Lemont to modernize and improve the intersection of McCarthy Road, Derby Road, and Archer Avenue	\$280,000
2209	CA	Construct I–80 HOV lanes and interchange in Vallejo	\$800,000
2210	PA	Rail Crossing signalization upgrade, East Wesner Road, Maidencreek Twp, Berks County	\$165,040
2211	OH	Construct road projects and transportation enhancements as part of RiverScape Phase III, Montgomery County, Ohio	\$5,184,000
2212	TN	Riverside Drive Cobblestone Restoration and Walkway, Memphis	\$800,000
2213	TX	Reconstruction of West Airport between U.S. 59 and Kirkwood in the City of Meadows Place, Texas	\$320,000
2214	PA	Construct additional northbound lane on Rt. 28 between Harmar and Creighton Interchange	\$1,320,000
2215	NJ	Roadway and intersection modifications on New Jersey Route 82	\$800,000
2216	OH	Jackson Township, Ohio. Intersection improvements at Fulton Drive and Wales	\$1,600,000
2217	GA	Rockdale County Veteran's Park—Create park trails	\$400,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
2218	MA	Construct the Blackstone River Bikeway and Worcester Bikeway Pavilion between Providence, RI and Worcester, MA	\$1,600,000
2219	OH	Improvements to SR 91 in City of Twinsburg, OH	\$1,560,000
2220	TX	Completion of U.S. 77 relief route around City of Robstown	\$2,400,000
2221	NY	Improve Maple Avenue, Smithtown	\$1,000,000
2222	HI	Replace and Rehabilitate Kamehameha Highway Bridges, Island of Oahu	\$800,000
2223	TX	SH 71 from W of FM 20 to Loop 150, Bastrop County	\$1,600,000
2224	IN	Construct U.S. 31 Plymouth to South Bend Freeway Project in Marshall and St. Joseph Counties, Indiana	\$8,800,000
2225	LA	Plan and develop a 4-lane roadway, Jeanerette to U.S. 90 connection	\$160,000
2226	LA	Construct I–12 and LA 1088 Interchange	\$2,400,000
2227	CA	4 lane widening/safety improvements on State Route 25 from Hollister to Gilroy	\$2,928,000
2228	NY	Comprehensive traffic congestion mitigation study of Hauppauge Industrial Park and surrounding area	\$600,000
2229	NY	Develop an identity and signage program for the Erie Canalway National Heritage Corridor	\$800,000
2230	CO	Dillon Drive Overpass at Interstate 25 in Pueblo	\$3,200,000
2231	NY	Improvements at highway-rail crossings along the Southern Tier Extension Railroad in Allegany, Cattaraugus, and Steuben Counties	\$900,000
2232	FL	Depot Ave. Enhancements, Gainesville	\$4,800,000
2233	CA	Interstate 15 and Winchester Road Interchange Project	\$1,600,000
2234	PA	Construct the Eastern Inner Loop in Centre County around State College, PA	\$4,000,000
2235	NJ	Streetscape Improvements along Berlin Road between Gibbsboro Road and White Horse Road in Lindenwold Borough	\$800,000
2236	FL	SR 70 improvements in Highland, DeSoto and Okeechobee Counties	\$1,600,000
2237	GA	Streetscape-Albany	\$400,000
2238	GA	Streetscape-Richland	\$160,000
2239	MO	Construct four lanes for Route 5 in Camden County	\$8,000,000
2240	IL	Improve Cottage Grove intersection, South Chicago Avenue and 71st Street	\$800,000
2241	NY	Study, design, and reconstruction of pedestrian walkways, the Bronx	\$750,000
2242	MS	Upgrade roads in Anguilla and Rolling Fork, Sharkey County	\$600,000
2243	TX	For center to center communication link between highway traffic transportation management centers	\$800,000
2244	OH	Upgrade the interchange of Interstates 270 and 71 in Franklin County, Ohio	\$2,105,600
2245	CA	U.S. 101 Corridor Improvements—Route 280 to the Capitol-Yerba Buena Interchange	\$4,000,000
2246	CA	Rancho Vista Blvd. Widening Project	\$2,800,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
2247	NJ	Newark Access Variable Message Signage System	\$400,000
2248	IA	Construct SW Connector, West Des Moines	\$1,600,000
2249	IA	U.S. 30 reconstruction, near Tama	\$3,200,000
2250	GA	Construction of interchange on I-985 north of SR 13, Hall County, Georgia	\$3,200,000
2251	MI	Marquette County, Realignment of 3200 feet of County Road 492 from U.S. 41 north to County Road HD	\$400,000
2252	WI	Realign U.S. 8 near Cameron, Barron County	\$1,600,000
2253	PA	Restoration of PA422, in Berks County, including slab repair and diamond grinding	\$800,000
2254	CA	Monte Vista Avenue Grade Separation, Montclair, California	\$1,600,000
2255	NY	Deploy intermodal chassis ITS project in New York	\$1,600,000
2256	NY	Reconstruction of Route 590 in the Town of Irondequoit, NY	\$6,000,000
2257	NY	Design and Construction of Downtown Jamestown Connector Trail	\$1,600,000
2258	LA	Further construction to improve draining at Clearview Parkway (LA 3152) and Earhart Expressway (LA 3139)	\$2,640,000
2259	MI	Houghton County, Rehabilitate 2 piers and remove old bridge caissons for Sturgeon River Bridge	\$216,000
2260	AK	Make necessary improvements to Indian River Road in City and Borough of Sitka	\$2,000,000
2261	MN	Reconstruct CSAH 61 from Barnum to TH 210 at Carlton, and improve Munger Trail	\$1,680,000
2262	TX	Build I-30 Trinity River Bridge, Dallas, Texas	\$800,000
2263	AK	Realign rail track to eliminate highway-rail crossings and improve highway safety and transit times	\$5,000,000
2264	MS	Relocate SR 44 from SR 198 to Pierce Road, Columbia	\$3,200,000
2265	AL	Interstate 565 west extension towards Decatur	\$1,600,000
2266	MO	Roadway Improvements on Rt. 21 from Hayden Road to Lake Lorraine	\$4,000,000
2267	IL	Halsted Bridge over North Branch Canal Reconstruction, City of Chicago	\$480,000
2268	VA	Town of Pound Riverwalk—Construction of pedestrian riverwalk in Town of Pound	\$80,000
2269	IL	U.S. 67 west of Jacksonville, IL Bypass to east of IL 100	\$1,600,000
2270	NY	Village of Wappingers Falls North Mesier Ave	\$600,000
2271	AR	War Eagle Bridge Rehabilitation—Benton County, Arkansas	\$640,000
2272	WI	Build additional staircases, landscape, and other improvements to the marsupial bridge at the Holton St. Viaduct in Milwaukee	\$640,000
2273	TN	Washington County, Tennessee SR 36 widening	\$800,000
2274	MI	Westland, Ann Arbor Trail between Farmington and Merriman	\$2,520,000
2275	MI	White Lake and Commerce, pave Cooley Lake Road Between Ripple Way and Havenwood	\$400,000
2276	GA	Bridge replacement on County Road 183—FAS Route 1509, Peach County	\$450,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
2277	NC	I40 I-77 Interchange in Iredell County, NC	\$4,000,000
2278	CA	Construct safe routes to school in Cherryland and Ashland	\$800,000
2279	CA	Install Central Ave. Historic Corridor comprehensive streetscape improvements thus improving traffic, ped safety, and economic development, Los Angeles	\$1,656,000
2280	VA	Whitetop Station—Completion of renovation of Whitetop Station (which serves as trailhead facility) including construction of trail	\$80,000
2281	CT	Make Improvements to Montville-Preston Mogan Bridge	\$1,600,000
2282	IL	Widen and improve Pulaski Road, Alsip	\$560,000
2283	AK	For completion of the Shotgun Cove Road, from Whittier, Alaska to the area of Decision Point, Alaska	\$4,000,000
2284	NY	Study and Implement Intelligent Transportation System Sensor Technology to Improve Safety at Bridges and Tunnels in Metropolitan New York City	\$1,000,000
2285	NY	Warburton Avenue Bridge over Factory Lane, Hastings-on-Hudson, New York	\$500,000
2286	NY	Improve intersection of Old Dock and Church Street, Kings Park	\$400,000
2287	TN	Widen and improve State Route 33, Knox County, Tennessee	\$6,500,000
2288	CA	Reconstruct Paramount Blvd. with medians and improve drainage from north border to south border of city in Lakewood	\$1,080,000
2289	NY	Upgrade Metro North stations in the Bronx and construct station at Yankee Stadium	\$2,400,000
2290	OH	Construct the existing industrial park road from local to State standards near Cadiz	\$4,100,000
2291	LA	Upgrade LA 28 to four lanes from LA 121 to LA 465	\$1,600,000
2292	NY	Reconstruction of Historic Eastern Parkway ...	\$1,920,000
2293	CA	Widen and make ITS improvements on Paramount Blvd. between Telegraph Rd. and Gardendale St. in Downey	\$800,000
2294	VA	Conduct planning and engineering for Hampton Roads Third Crossing and Interconnected Roadways	\$2,400,000
2295	IL	Widen Annie Glidden Road to five lanes with intersection improvements. DeKalb, IL	\$6,400,000
2296	CA	Widen California State Route 132 from California State Route 99 west to Dakota Avenue	\$14,400,000
2297	NC	Widen Derita Road from Poplar Tent Road in Concord to the Cabarrus Mecklenburg County line	\$1,600,000
2298	TX	Widen from 4 to 6 lanes Interstate 35 East from Lake Lewisville to Loop 288	\$5,600,000
2299	CA	Widen Haskell Avenue between Chase St. and Roscoe Blvd	\$160,000
2300	TX	Widen Hempstead Highway from 12th Street to Washington Avenue from four lanes to six lanes	\$800,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
2301	NH	Reconstruction and relocation of the intersection of Maple Avenue and Charleston Road in Claremont	\$400,000
2302	OH	Construct highway-rail crossing safety upgrades at 3 grade crossings in Madison Village, OH	\$240,000
2303	WA	Cultural and Interpretive Center (Hanford Reach National Monument) facility, Richland, WA	\$1,280,000
2304	NY	Implement Improvements for Pedestrian Safety in New York County	\$600,000
2305	NY	Construction of and improvements to Main Street in the Town of Eden	\$320,000
2306	GA	SR 85 widening from Adams DR to I-75 and reconstruct the Forest Parkway interchange, Clayton County	\$1,200,000
2307	GA	Jogging and Bicycle Trails around CSU, Columbus	\$400,000
2308	PA	Design, engineering, ROW acquisition and construction of streetscaping enhancements, paving, lighting, safety improvements, parking and roadway redesign in Throop Borough, Lackawanna County	\$160,000
2309	IL	Reconstruct Winter Ave, existing 1 lane RR subway, and 1 lane bridge to provide access to Winter Park in Danville	\$4,320,000
2310	OR	Construct highway and pedestrian access to Macadam Ave. and street improvements as part of the South Waterfront development, Portland	\$7,200,000
2311	TX	Relocation of 10th Street near McAllen-Miller International Airport	\$600,000
2312	IL	Construct pedestrian tunnel at railroad crossing in Winfield, IL	\$800,000
2313	IN	Construct Margaret Avenue Safety and Capacity Enhancement Project	\$2,400,000
2314	TX	Construct Loop 574 from BU 77 to I-35 in McLennan Co	\$1,600,000
2315	NY	Construction of a bicycle/pedestrian off road scenic pathway from the Niagara Falls City Line to the southerly Lewiston Town/Village Line along the Niagara Gorge, Town of Lewiston, Village of Lewiston, Niagara County	\$1,840,000
2316	FL	Construct new bridge from West-Florida Turnpike to CR 714 to 36th Street—Cross S. Fork of St. Lucie River—Indian Street to U.S. 1 on east side	\$4,000,000
2317	WI	Recondition SH 16 from Columbus to SH 26 (Dodge County, Wisconsin)	\$4,000,000
2318		.....	\$0
2319	NY	Riverwalk in Irvington development	\$200,000
2320	OH	Road resurfacing and improvements in the Village of Bentleyville, OH	\$560,000
2321	PA	Improvements to Stella Street rail-highway crossing in Wormleysburg, PA	\$600,000
2322	CT	Construct Entrance Ramp at Route 8 Exit 11, Shelton, CT	\$800,000
2323	AL	Pedestrian Improvements for Leeds, AL	\$160,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
2324	WA	Federal Way Triangle—Conduct final engineering work for the reconstruction of the I–5—SR 18 interchange	\$1,600,000
2325	MI	Garden City, Reconstruct Maplewood between Inkster and Merriman	\$980,000
2326	OR	Lake Road Reconstruction and Safety Improvements, Milwaukie	\$4,000,000
2327	NY	Resurface Grade Crossing at Old State Road ..	\$200,000
2328	MN	Construction of Cedar Avenue Busway, MN	\$4,800,000
2329	IL	Upgrade streets and implement traffic and pedestrian safety signalization improvements, Oak Lawn	\$3,920,000
2330	GA	Streetscape-Thomasville	\$240,000
2331	AZ	State Route 77/Project funds for the Ore Trail in the Copper Corridor on SR 77	\$240,000
2332	PA	To enhance existing directional markers and increase wayfinding signage infrastructure in Monroe County	\$400,000
2333	CA	Construct and repair lining in four tunnels on Kanan, Kanan Dume, and Malibu Canyon Roads between U.S. 1 and U.S. 101	\$2,400,000
2334	GA	Sidewalk revitalization project in downtown Eastman	\$400,000
2335	TX	Port of Corpus Christi Up River Road for upgrade of roadway to and from docks and IH 37	\$400,000
2336	GA	Construct U.S. 411 Connector from U.S. 41 to I–75, Bartow County, Georgia	\$16,000,000
2337	NY	Construction of U.S. Route 219 Expressway: Sections V and VI	\$4,800,000
2338	PA	Engineering, design and construction of an extension of Park Avenue north to Lakemont Park in Altoona	\$1,600,000
2339	MN	Reconstruct I–35E from I–94 to Maryland Avenue in St. Paul	\$2,800,000
2340	CA	Construct truck ramp linking Interstate 5 to the National City Marine Cargo Terminal, National City	\$2,400,000
2341	GA	Reconstruct the interchange at Interstate 185 and Victory Drive (SR 520), Columbus, GA	\$1,444,800
2342	OH	Streetscaping, bicycle trails, and related improvements to the I–90—SR 615 Interchange in Mentor, OH	\$2,800,000
2343	IN	Preliminary engineering, right-of-way, and construction for Perimeter Parkway-West Lafayette/Purdue University, Indiana	\$4,480,000
2344	TN	Reconstruct Interchange 55 at Mallory Avenue, Memphis, Shelby County	\$800,000
2345	CA	Upgrade first responders signal pre-emption hardware, Culver City	\$25,600
2346	IN	Construction of Maplecrest Rd. Extension—Allen County, Indiana	\$8,800,000
2347	MS	Upgrade roads in Arcola, Leland, Greenville, and Hollandale (U.S. Highway 61 and 18), Washington County	\$1,400,000
2348	MS	Canal Road Intermodal Connector, Gulfport	\$6,400,000
2349	NY	Long Pong Road: Larkins Creek to Lake Ontario State Parkway, Town of Greece	\$1,152,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
2350	NY	Construct the Auburn Connector Road Corridor, Auburn, NY	\$800,000
2351	MA	Engineering and construction of Blackstone Valley Visitors Center at intersection of State Route 146 and Millbury Street, Worcester	\$6,400,000
2352	CA	Improve I–8 off ramp to the Desert Farming Institute, Imperial County	\$800,000
2353	KS	Construct bike and pedestrian path along K–10 between Douglas and Johnson Counties ..	\$400,000
2354	HI	Construct Bike Lanes on Kalanianaʻole Highway, vicinity of Makapuu to Keolu Drive	\$240,000
2355	TX	Donna/Rio Bravo International Bridge	\$1,600,000
2356	IL	Improve Sheridan Road, Evanston	\$1,600,000
2357	MD	Intercounty Connector	\$3,200,000
2358	MI	Resurfacing of Ten Mile Road in St. Clair Shores	\$716,800
2359	NY	Conduct studies to consider transportation planning and community involvement for infrastructure projects that address congestion relief in New York City	\$1,200,000
2360	MO	Construct an extension of MO 740 from U.S. 63 to the I–70 Lake of the Woods Interchange	\$2,000,000
2361	LA	Construct improvements to Enterprise Blvd. in Iberville Parish; and LA 1/I–10 Connector Study; and improvements to LA 10/Zachary Taylor Parkway	\$3,200,000
2362	NY	Monroe County ITS project	\$720,000
2363	MO	Roadway improvement on I–44 in Phelps County, Missouri	\$800,000
2364	MA	Rt. 128/95 ramp Northbound to Kendrick Street, Needham	\$1,400,000
2365	IN	Realign State Road 312, Hammond	\$3,330,313
2366	PA	Design, engineering, ROW acquisition and construction of surface improvements to the area adjacent to Exit 168 of Interstate 81 at the Wachovia Arena in Wilkes-Barre Township	\$200,000
2367	GA	SR 92 relocation from Durelee Road to SR 92 at Malone, including grade separation, Douglas County, Georgia	\$6,400,000
2368	IN	Construct I–69 Evansville to Indianapolis, Indiana	\$11,200,000
2369	CA	Construct fourth bore of Caldecott Tunnel on SR 24, California	\$1,600,000
2370	TN	Construct interchange on I–40 in Wilson County	\$800,000
2371	IN	Construct service road parallel to I–69 in the City of Anderson, Indiana	\$3,200,000
2372	NY	Croton-on-Hudson, NY Restoration of Van Cortlandt Manor entrance road	\$2,000,000
2373	OH	Construction and repair of pedestrian walkways along Lake Shore Blvd. in Lakeline Village, OH	\$231,200
2374	MD	Reconstruct MD 32 from MD 108 to I–70 in Howard County	\$3,040,000
2375	NY	Repair and Improve Streets in Astoria damaged by water main breaks	\$1,400,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
2376	MI	Reconstruct two bridges over Black Creek Drain in Sanilac County	\$570,000
2377	FL	Construction of Little Venice Road, Marathon, FL	\$800,000
2378	CA	Make traffic and safety improvements to Atlantic Blvd. in Maywood	\$400,000
2379	MN	Stearns County Bridge No. 73501 Improvements	\$320,000
2380	LA	Construct LA 16 Interchange at I-12 and improvements, and Cook Road improvements ..	\$10,400,000
2381	MO	Reconstruct Highway 60 and Highway 65 Interchange	\$1,600,000
2382	CO	I-70, Havana, Yosemite Street Interchange Reconstruction Project, Denver	\$1,200,000
2383	CO	Reconstruct C 470–US 85 Interchange	\$3,200,000
2384	VA	Reconstruction of the entranceway to Montpelier on Orange County, Virginia	\$800,000
2385	TN	Construct and widen underpass at intersection of Boydstation, Harvey, and McFee Roads, Knox County, TN	\$395,440
2386	GA	Extend sidewalks, upgrade landscaping in downtown Hawkinsville	\$400,000
2387	OH	Conduct Sarah St. along SR 18 and 101 enhancement project to calm traffic in the City of Tiffin	\$2,080,000
2388	LA	Improvements to Zachary Taylor Parkway	\$1,600,000
2389	CA	Las Tunas Drive Pedestrian Enhancement, San Gabriel	\$120,000
2390	OH	Reconstruction, widening, and bicycle improvements to Pettibone Road in the City of Solon, OH	\$2,400,000
2391	NH	Replacement of Ash Street and Pillsbury Road Bridge	\$1,520,000
2392	PA	Swamp Road Corridor Safety and Roadway Improvements, Bucks County	\$2,400,000
2393	FL	Construct St. Augustine to Palatka Rail Trail, Florida	\$2,320,000
2394	IL	Construction of a traffic circle to reduce traffic congestion, Museum Campus Chicago	\$1,600,000
2395	AL	Pedestrian Improvements for Gardendale, AL	\$533,334
2396	PA	Extension of Second Street from Race to the intersection of Lehigh and Poplar Street in the Borough of Catasauqua	\$880,000
2397	NE	Cuming Street Transportation Improvement Project, Omaha, Nebraska	\$3,600,000
2398	TN	Construct State Route 1 (U.S. 70) to a four lane divided highway on new alignment from Centertown to McMinnville in Warren County	\$9,200,000
2399	CA	Improve access to I-80 at Eureka Road Interchange	\$1,600,000
2400	LA	Expand existing South Central Planning and Development Commission Intelligent Transportation System program in Houma-Thibodaux area by installing signals, sensors and systems	\$1,440,000
2401	IL	Install traffic control devices on traffic signals in Village of Oak Lawn	\$192,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
2402	CA	Interstate 15, California Oaks Road Interchange Project	\$1,600,000
2403	TX	Choate Road overpass to eliminate at-grade intersection between Choate Rd. and SH 146	\$7,840,000
2404	OH	Construction of I-75 Austin Road Interchange, Montgomery County, Ohio	\$6,000,000
2405	CA	Acquire lands for mitigation adjacent to U.S. 101 as part of Southern Santa Clara County Wildlife Corridor Protection and Scenic Enhancement Project	\$400,000
2406	TX	Construct U.S. Business 287 through the Trinity Uptown Project from 7th St. NE to 11th St. NE in Fort Worth	\$6,400,000
2407	KS	Construct K-10 and Lone Elm Road interchange, Lenexa	\$4,000,000
2408	OH	Construct connector road between SR 79 and Thornwood Drive in Licking County	\$5,000,000
2409	NH	Construct Pedestrian, Bicycle bridge in Keene	\$640,000
2410	FL	Coral Way, SR 972 Highway Beautification, Phase One, Miami, Florida	\$1,200,000
2411	TN	Develop historic preservation transportation enhancement project, Sumner Co. and surrounding counties	\$108,000
2412	NY	Develop terminal facilities for water taxi projects in New York City	\$4,400,000
2413	WI	Expand U.S. 151 between Dickeyville and Belmont	\$1,600,000
2414	NY	Improve bicycle and pedestrian safety, NY 25, Jamesport	\$240,000
2415	PA	PA Route 183 widening and ramp enhancement, Bern Township	\$1,600,000
2416	IN	Reconstruct Hoosier Heartland Highway, Wabash, Huntington and Miami County Indiana segments	\$800,000
2417	GA	Replace sidewalks, upgrade lighting, and install landscaping, Soperton	\$400,000
2418	LA	Lafayette, LA Implementation of Intelligent Transportation System	\$8,800,000
2419	NY	Conduct improvements to I-87—Exit 18 Interchange	\$2,000,000
2420	IL	To construct an extension of U.S. 51 from 9 miles south of Moweaqua to 4.6 miles south of Moweaqua	\$1,600,000
2421	IL	Upgrade roads, The Village of Hillside	\$800,000
2422	MS	Upgrade safety devices at Front Street rail crossing, Ellisville	\$40,000
2423	CO	U.S. 287—Ports-to-Plains Corridor in Colorado	\$6,133,333
2424	AZ	Many Farms, Apache County—For the Construction of N8086 and N8084 on the Navajo Nation	\$480,000
2425	VA	Construct I-95 Interchange at Temple Ave, Colonial Heights	\$1,600,000
2426	KS	Route designation, environmental clearance, final design and right-of-way acquisition for Crawford County, KS corridor of U.S. Highway 69	\$3,200,000
2427	CA	U.S. 395 Realignment and Widening Project	\$400,000
2428	IL	To connect about a 2-mile segment through Collinsville at two or three lanes	\$1,600,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
2429	IL	Construct Parking Facility and pedestrian walkways at 94th and S. Oak Park Ave, Oak Lawn	\$192,000
2430	UT	I–15 Freeway Reconstruction—Springville 200 South Interchange	\$3,600,000
2431	MA	Washington St. from High St. to Water St., Walpole	\$1,400,000
2432	VA	White’s Mill Trail and Renovation—Design and construction of recreational trail and preservation of watermill for use as visitors center	\$400,000
2433	CA	Implement San Francisco Street Improvements Program	\$6,400,000
2434	MA	Design, engineering, and construction of Methuen Rotary alternative at I–93 and Routes 110 and 113, Methuen	\$600,000
2435	IL	Improve Mill Street, Rock Island	\$400,000
2436	PA	For the Nanticoke City Redevelopment Authority to design, acquire land, and construct a parking garage, streetscaping enhancements, paving, lighting and safety improvements, and roadway redesign in Nanticoke	\$5,600,000
2437	MI	Widen and reconstruct Walton Boulevard Bridge in Auburn Hills between Opdyke and Squirrel Road	\$4,000,000
2438	OR	Widen Delaura Beach Lane and add a bike lane both directions, Warrenton	\$148,800
2439	MA	Design and construct the 3-mile long Grand Trunk Trail bikeway from Sturbridge to Southbridge	\$560,000
2440	TN	Develop trails, bike paths and recreational facilities on the Crest of Black Mountain, Cumberland County for Cumberland Trail State Park	\$200,000
2441	NY	Study and Improve Traffic Flow Improvement at Atlantic Yard Arena Development	\$2,000,000
2442	MD	Upgrade and widen MD 237 from Pegg Road to MD 235	\$12,000,000
2443	PA	Main Street improvements from Broad Street to Richardson Avenue and Main Street to Madison Avenue, Borough of Lansdale	\$640,000
2444	CA	Widen Highway 101 in Marin and Sonoma Counties from Hwy 37 in Novato to Old Redwood Highway in Petaluma	\$12,000,000
2445	NY	Road and pedestrian safety improvements Main Street, Village of Patchogue	\$1,500,000
2446	UT	Widen Highway 92 from Lehi to Highland	\$2,500,000
2447	AZ	Widen I–10 to 3 lanes in each direction north of Tucson from Marana Interchange to Cortato Interchange	\$1,360,000
2448	CA	Widen I–238 between I–580 and I–880 in Alameda County	\$800,000
2449	VA	Widen I–66 westbound inside the Capital Beltway from the Rosslyn Tunnel to the Dulles Connector Road	\$5,600,000
2450	NC	Construction of I–74 between I–40 and U.S. 220, High Point, North Carolina	\$4,000,000
2451	MD	Widen I–695, Baltimore Beltway, Southwest ...	\$3,440,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
2452	GA	Replace sidewalks, upgrade lighting in downtown Vidalia	\$400,000
2453	MN	Construct bicycle and pedestrian trails in Cuyuna Recreation Area	\$700,000
2454	HI	Construct Kapaa Bypass	\$2,400,000
2455	FL	Temple Terrace Highway Modification	\$1,600,000
2456	TN	Widen Interstate 240 from Poplar Avenue (SR 57) to near Walnut Grove Road (SR 23) East of Memphis, Shelby County	\$800,000
2457	IL	For the Village of Woodridge to resurface Internationale Parkway	\$86,400
2458	OR	I–5 Trade Corridor, Portland, Oregon to Vancouver, Washington segment	\$4,220,000
2459	GA	Streetscape, Pedestrian Improvements in City Center, City of Clarkston	\$4,000,000
2460	KY	Widen KY 1991 from Maysville Road to Midland Trail Industrial Park, Montgomery County	\$1,000,000
2461	NC	Construct new Route from Beach Drive (SR 1104) to NC 211 in Brunswick County	\$3,200,000
2462	NJ	International Trade and Logistics Center Roadway Improvements at Exit 12 of the New Jersey Turnpike, Carteret	\$1,200,000
2463	IL	Interstate 41 and Route 176 Interchange replacement	\$600,000
2464	MA	Northern Avenue Bridge rehabilitation, Boston	\$2,400,000
2465	AK	Planning, design, and construction of Knik Arm Bridge	\$151,000,000
2466	IN	North Calumet Avenue Improvements, Valparaiso	\$960,000
2467	OR	I–205/Highway 213 interchange improvements	\$800,000
2468	TN	Improving Vehicle Efficiencies at highway At-Grade Railroad Crossing in Loudon, TN	\$45,600
2469	AZ	Design, right-of-way acquisition, and construction I–10 Collector Distributor Roadway from 40th Street to Baseline Maricopa County, Arizona	\$3,200,000
2470	LA	Improvements to LA 42 in Ascension Parish; and LA 73 improvements in Ascension Parish	\$8,000,000
2471	MN	Construct Paul Bunyan trail from Mississippi River Bridge Trail to Crow Wing State Park	\$775,000
2472	MN	Construct Mesabi Trail from Grand Rapids to City of Ely	\$2,700,000
2473	GA	Install sidewalks on Highway 23 from Dykes Street to Sarah Street, Cochran	\$300,000
2474	AK	Kodiak, AK Construction of AMHW ferry terminal and approach	\$7,500,000
2475	OK	Reconstruction of SH 66 from Craig and Rogers Counties to SH 66 and U.S. 60 intersection	\$800,000
2476	CA	Enhance pedestrian environment and increase safety along Olympic Blvd. between Vermont and Western Avenues, Los Angeles	\$1,600,000
2477	NY	Enhancement of the Michigan Avenue Corridor, Buffalo	\$1,600,000
2478	NJ	Kapkowski Road Area Improvements in Elizabeth	\$4,560,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
2479	CA	Construct landscape medians along Skyline Drive from Sears Avenue to 58th Street, San Diego	\$800,000
2480	NY	Jamaica Air Train Station Area Infrastructure Improvements	\$4,000,000
2481	MO	Construct Highway 465 to Highway 376 south from Hwy 76 to Hwy 376	\$4,800,000
2482	WA	New Country Road on Whidbey Island	\$960,000
2483	NM	Chaco Wash Bridge and Road Improvements on Navajo Route 46	\$1,600,000
2484	CA	Reconstruct Interstate 880-Route 92 interchange in Hayward	\$1,400,000
2485	MA	Relocate Rt. 79 in Fall River to create 4-lane urban boulevard with landscaped median and developable waterfront	\$1,800,000
2486	IL	Road extension for Highway 22 in Macon County, IL	\$534,400
2487	NY	Portageville Bridge—Purchase existing bridge to convert to pedestrian bridge	\$1,464,000
2488	PA	Rt. 422 complete preliminary engineering and four lane expansion from Ebensburg to Kittanning	\$2,400,000
2489	CA	Upgrade essential road arterials, connectors, bridges and other road infrastructure improvements in the Town of Desert Hot Springs, CA	\$1,600,000
2490	KY	Construct the Heartland Parkway in Adair County	\$960,000
2491	NV	Horse-US-95 Interchange Project	\$4,800,000
2492	CT	Make Improvements to Plainfield Moosup Pond Road	\$200,000
2493	FL	Construction design ROW U.S. 27 from SR 540 to SR 544 and from I-4 to U.S. 192 in Polk County, FL	\$8,000,000
2494	IA	Construction of approaches and viaduct on Edgewood Rd. SW over the UP Railroad, Prairie Creek, and the CRANDIC railroad ...	\$1,280,000
2495	NJ	Construct Hackensack River Walkway in Bergen County	\$1,600,000
2496	TX	Hwy 80/123 Overpass at Hwy 181 in Karnes County	\$240,000
2497	NM	Improvements to U.S. Highway 87 from Clayton, NM to Raton, NM	\$1,600,000
2498	VA	Route 11 Interchange improvements in Lexington, Virginia	\$800,000
2499	CA	Improvements to Ben Maddox Way Bridge	\$1,600,000
2500	WA	SR 18 Widening, Maple Valley to I-90	\$6,000,000
2501	NY	City of Beacon construction of pedestrian and Bicycle trail	\$252,000
2502	TX	FM 544, widen 2-lane roadway to 6-lane roadway from SH 121 to Dozier-Parker Road	\$1,600,000
2503	TX	Construct an alternate truck route to Interstate 35 in Buda	\$500,000
2504	NY	Improvements on the Cross Island Bridge Overpass/212th Street and vicinity, Queens	\$3,376,000
2505	MI	Novi, Reconstruct Grand River between Novi and Haggerty	\$800,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
2506	SD	Resurface U.S. Highway 18 from Lake Andes to U.S. Highway 50 on Yankton Sioux Reservation	\$960,000
2507	TX	Lajitas Relief Route	\$1,200,000
2508	WY	U.S. 85 Passing Lanes	\$1,600,000
2509	MA	Design and Construct Blackstone River Bikeway and Worcester Bikeway Pavilion between Providence, RI and Worcester	\$2,000,000
2510	NY	Little Falls Access: Repair and reconstruct High School and Lower School Road	\$192,000
2511	FL	Replace Columbus Drive Bridge	\$3,200,000
2512		.....	\$0
2513	MI	Construction of two railroad-highway grade separations on Farm Lane north of Mount Hope Road	\$1,840,000
2514	CA	Widen Atlantic Bl bridge over the Los Angeles River in Vernon	\$800,000
2515	CA	Widen Bundy Drive between Wilshire and Santa Monica Boulevards in the City of Los Angeles	\$3,400,000
2516	AL	To provide four lanes on U.S. 80, Perry County, Marengo County, and Sumter County	\$11,200,000
2517	CA	Widen Maine Avenue in Baldwin Park	\$300,000
2518	NM	Ease traffic congestion and improve intersection safety by identifying alternative alignment to U.S. 84/285 and NM 68 through Espanola	\$1,600,000
2519	MS	Widen MS Hwy 19 between Philadelphia and Collinsville, MS	\$10,000,000
2520	NY	Construct the Fire Island ferry terminal facility, Patchogue	\$1,600,000
2521	IL	IL 8 from East Peoria to Washington, IL	\$762,056
2522	NJ	Preliminary engineering for missing connections of NJ 23 and I-80	\$1,200,000
2523	ME	Penobscot Riverfront Development for bicycle trails, amenities, and traffic circulation improvements, Bangor and Brewer	\$2,800,000
2524	IL	Restoration and reconstruction of the central business district street. Cambridge, IL	\$960,000
2525	NC	Widen NC 150 from Cherryville to Lincolnton	\$800,000
2526	NY	Second phase of the Grand Concourse improvements from East 166th St. to East 171st St	\$8,000,000
2527	VT	U.S. Route 7 and U.S. Route 4 road improvements for the City of Rutland	\$2,848,000
2528	IL	Improve 63rd Street, Chicago	\$1,600,000
2529	MI	Alcona County, Reconstruction of Ritchie Road from Village of Lincoln to Hubbard Lake road	\$650,400
2530	SC	Construct roadway btwn I-26 and U/S/ 1 in Lexington County. Intermodal connector from U.S. 1 to I-26 and I-77. SC 302 and SC 602 improvements	\$1,600,000
2531	OR	Agness Road, Curry County	\$2,000,000
2532	NY	Rehabilitation of Sharon Drive in the Town of Poughkeepsie	\$260,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
2533	TX	Conduct study of I–10 and U.S. 190 with a focus on congestion relief and the need for a military and emergency relief transportation corridor	\$160,000
2534	MD	MD 85 at I270	\$4,000,000
2535	GA	SR 36 passing lanes north of Jackson to Newton County line, Butts County, Georgia	\$2,440,000
2536	VA	I–66 and Route 29 Gainesville Interchange Project	\$8,000,000
2537	NY	Construct and extend existing pedestrian streetscape areas in Lynbrook	\$800,000
2538	CA	Construct traffic intersection island improvements on North side of Olympic Blvd. where Irolo St. and Normandie Ave. split in Koreatown, Los Angeles	\$200,000
2539	WA	Improvements in the SR 9 corridor in Snohomish County	\$1,200,000
2540	PA	Replace a highway railcrossing in Osborne Borough, PA	\$1,720,000
2541	AL	Pedestrian Improvements for Centerpoint, AL	\$533,334
2542	CA	Replace twin 2 lane bridge with single 4 lane bridge on SR 138 over Big Rock Wash	\$400,000
2543	CA	State Route 86S and Ave. 50 highway safety grade separation	\$800,000
2544	TX	Construct Fredericksburg Road-Medical Drive grade separation in San Antonio	\$3,040,000
2545	PA	For design, engineering, ROW acquisition, and construction of a connector road between the Valmont Industrial Park and Pennsylvania Rt. 924 at Cranberry Creek	\$400,000
2546	AR	Interstates 30/440/530 Interchanges/For interchange improvements, Little Rock	\$1,200,000
2547	NJ	Rehabilitation of Benigno Boulevard from I295 to Route 168 in Bellmawr	\$320,000
2548	PA	Preconstruction studies for improvement to U.S. 22 from Irving Street to Mickley Road	\$800,000
2549	IL	Establish transportation museum on Navy Pier, Chicago	\$432,000
2550	WA	Continuing construction of I–90, Spokane to Idaho State Line	\$2,640,000
2551	VA	Improve transportation infrastructure for visitors to Jamestown 2007	\$425,520
2552	AR	Highway 67: Kiehl Avenue—Vandenberg Boulevard: rehabilitating and widening Highway 67 from four to six lanes from Kiehl Ave. to Vandenberg Blvd	\$2,960,000
2553	NY	Install Improvements for Pedestrian Safety including in the vicinity of PS X81	\$250,000
2554	GA	Memorial Drive Corridor	\$1,600,000
2555	VA	Route 11 improvements in Maurertown, Virginia	\$800,000
2556	PA	Street improvements, Whitemarsh Township ..	\$1,200,000
2557	VT	Construction of the Lamoille Valley Rail Trail for the Vermont Association of Snow Travelers	\$5,814,789
2558	CO	I–76: Colorados Northeast Gateway	\$6,133,334
2559	VA	Construct Maersk Terminal interchange in Portsmouth	\$1,600,000
2560	GA	I–75 Welcom Project	\$200,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
2561	PA	Improve handicapped accessibility and provide pedestrian overpass in Villanova	\$2,400,000
2562	NY	Install Two Permanent Variable Message Signs (VMS) on Belt Parkway	\$500,000
2563	MI	Re-surfacing Sebewaing Road in Huron County	\$332,800
2564	IN	Complete construction of paths at Hamilton County Riverwalk, Noblesville, Indiana	\$300,000
2565	NY	Study and Implement Traffic and Pedestrian Safety Enhancements to Gerritsen Beach, Brooklyn	\$250,000
2566	PA	Upgrade circuit for gates and lights at Sixth Street in Emmaus, PA USDOT crossing number 592402P to constant warning time devices	\$220,000
2567	TN	Plan and construct a bicycle and pedestrian trail, Eagleville	\$160,000
2568	NY	Improvements for pedestrian and vehicular access to Baychester Avenue and Bartow Avenue	\$600,000
2569	GA	SR 400 reconstruction from I–285 to McFarland Road, Fulton and Forsyth Counties	\$800,000
2570	MI	Construct pedestrian and bicycle pathway at Chippewa Landing River Park in the Village of Caro	\$64,000
2571	GA	Upgrade sidewalks, replace street lights, and landscaping, Metter	\$400,000
2572	AR	Highway 412: Baxter Co. to Ash Flat	\$1,600,000
2573	NY	Town of North Salem improvements and repaving to Hawley Road	\$160,000
2574	IA	U.S. 20 Mississippi River Bridge and approaches, Dubuque Co, IA	\$20,000,000
2575	NY	Construct access road and exit lanes for Center for Advanced Medicine: North Shore LIJ Health System	\$2,000,000
2576	NY	Improve key intersections and highway segments along Rt. 32 between Route 17–6–NYS Thruway interchange in Harriman and Highland Mills	\$600,000
2577	CA	Widen I–5 to 10 Lanes and Improve Corridor Arterials, SR 91 to I–710	\$4,160,000
2578	IL	For the construction of the Grand Avenue Underpass, Village of Franklin Park	\$928,000
2579	NY	Rehabilitation of North and South Ridge Street and Wappanocca Avenue in the Village of Rye Brook and City of Rye	\$1,728,000
2580	NY	NYS DOT Route 55 construction over Fishkill Creek and left turn lane construction	\$1,200,000
2581	AL	Alabama Hwy 36 Extension and Widening-Phase II	\$800,000
2582	OH	Construct Eagle Avenue Viaduct-Demolition bridge, realignment of roadway to replace bridge and reconstruction of two other bridges, Cleveland	\$400,000
2583	NV	Construct U.S. 93 Corridor—Boulder City	\$8,000,000
2584	NY	Reconstruction of NYS 5, 8, 12. Viaduct and Rt. 5A and 5S: City of Utica	\$800,000
2585	CT	Street and streetscape improvements along Campbell Ave., West Haven	\$1,200,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
2586	MA	Reconstruct North Washington Street Bridge to connect Boston and Charlestown	\$4,000,000
2587	MS	Upgrade roads in Fayette (U.S. Highway 61 and 33), Jefferson County	\$320,000
2588	MN	Heritage Center at the Grand Portage National Monument	\$1,400,000
2589	NY	Redesign and reconstruction of the Putnam Rail-Trail, Bronx	\$500,000
2590	OR	Highway 34/Corvallis Bypass Intersection	\$2,100,000
2591	CA	Install traffic signal on Balboa Blvd. at Knollwood Shopping Center	\$96,000
2592	MA	Chelsea Street Bridge Reconstruction	\$9,000,000
2593	AL	Pedestrian Improvements for Northport, AL ...	\$213,334
2594	NV	Construct widening of U.S. 50A from Fernley to Leeteville Junction	\$4,000,000
2595	WA	Rebuild and widen Cemetery Road bridge over U.S. Bureau of Reclamation canal near Othello, WA	\$160,000
2596	FL	Roadway construction of SW 62—SW 24 Avenue in Gainesville	\$1,600,000
2597	WA	SR 2/Kelsey Street Intersection Improvements in Monroe	\$832,000
2598	NY	Town of Southeast construction and repaving of town roads	\$240,000
2599	MI	Reconstruct Third Ave. from Saginaw St. to Flint River, City of Flint	\$2,400,000
2600	PA	Upgrade circuit for gates and lights at 31st Street in Allentown, PA USDOT crossing number 592410G to constant warning time devices	\$220,000
2601	NV	Construct U.S. 95 Widening from Rainbow Blvd. to Kyle Canyon	\$6,400,000
2602	IN	Improve campus streets to increase pedestrian safety and ease vehicular congestion in the City of Anderson, Indiana	\$1,600,000
2603	PA	Schaefferstown Bypass, PA Route 501, Lebanon	\$1,600,000
2604	PA	Design, engineering, ROW acquisition and construction of streetscaping enhancements, paving, lighting, safety improvements, parking and roadway redesign in Dupont Borough, Luzerne County	\$160,000
2605	GA	Intersection improvement at Lake Dow Road and SR 81 Harris Drive at SR 42	\$480,000
2606	CA	Replace South Access to the Golden Gate Bridge—Doyle Drive	\$8,000,000
2607	IL	Resurface Yellow Banks Road, Franklin County	\$320,000
2608	AL	CR 52 from U.S. 31 (Pelham) and continuation of CR 52 in Jefferson County, known as Morgan Road, to I-459, including proposed Highway 261 bypass around old town Helena	\$8,000,000
2609	IL	Intersection Reconstruction at U.S. 12—IL 31 Tryon Grove Road	\$720,000
2610	NY	Streetscape of Herald and Greeley Squares in New York City	\$400,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
2611	NJ	Construct Cape May and Supawna Meadows National Wildlife Refuges Roadway and Parking Improvements	\$600,000
2612	TX	Del Rio-Laughlin Air Force Base Relief Route	\$11,600,000
2613	NC	Study feasibility of widening U.S. 221/NC 226 from Woodlawn to Spruce Pine, start planning and design, and make upgrades to improve safety	\$2,800,000
2614	NY	Transportation improvements to the Far Rockaway Business District, Queens, New York ..	\$1,920,000
2615	AL	Construction of Patton Island Bridge Corridor ..	\$4,000,000
2616	NH	Hampton Bridge Rehabilitation—Hampton, NH	\$1,200,000
2617	CA	Gale Avenue widening between Fullerton Road and Nogales Street, and Nogales Street widening at Gale Avenue	\$80,000
2618	CA	Grade Separation at Cesar Chavez Parkway and Harbor Drive, San Diego	\$400,000
2619	MO	Improve access to I-55 at River Des Peres	\$8,000,000
2620	PA	PA Route 61 enhancements, Schuylkill Haven ..	\$8,000,000
2621	MO	Kansas City SmartPort ITS for highways	\$4,000,000
2622	PA	City of Philadelphia in conjunction with American Cities Foundation for neighborhood transportation enhancement and pedestrian safety projects	\$3,200,000
2623	DE	Reconstructing I-95/SR 1 interchange, adding a fifth lane, and replacing toll plaza on Delaware's portion of I-95 corridor	\$4,400,000
2624	OH	Study possible road upgrades in Tuscarawas County due to flood issues based on dams in Muskingum Watershed District	\$100,000
2625	OR	Sunrise Corridor, Clackamas County	\$3,000,000
2626	CA	Construct Cabot-Camino Capistrano Bridge Project and related roadway improvements in Cities of Mission Viejo and Laguna Niguel, California	\$670,952
2627	TX	Construction of mainlanes and interchanges on SH 121 from Hillcrest to U.S. 75	\$12,800,000
2628	WA	Enumclaw, WA Welcome Center	\$1,200,000
2629	PA	Upgrade narrow existing roads, Plank, Otts, Meyers, Seitz Roads, along 1 mile corridor to 2 lane road with shoulders, improve intersections	\$800,000
2630	GA	Widen Old Petersburg Road-Old Evans Road from Baston Road to Washington Road, Columbia County, Georgia	\$3,200,000
2631	CA	Widen Peyton Drive from Grand Ave. to Chino Hills Pky., construct Eucalyptus Ave. from Peyton Drive to Galloping Hills, improve English Channel	\$5,628,888
2632	TX	New construction for the SH 349 Reliever Route beginning at the SH 191 intersection in Midland	\$2,000,000
2633	PA	Widen Route 22 between Export and Delmont ..	\$1,160,000
2634	CA	Construction of a traffic signal at the intersection of Hamlin St. and Corbin Ave	\$100,000
2635	NY	Design/Environmental work on the Inner Loop from Clinton Avenue to East Main Street, Rochester	\$1,920,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
2636	MO	I–35 access modification planning, City of Kearney	\$1,200,000
2637	OH	Construction and road improvements to Hubbard Road in Burton Township, OH	\$400,000
2638	MN	North-South Corridor with Railroad Overpass, City of Staples	\$1,200,000
2639	CA	Port of Hueneme Intermodal Access Improvement Project, including grade separation at Rice Avenue and State Route 34; widen Hueneme Road	\$3,760,000
2640	CA	Reconstruct and deep-lift asphalt on various roads throughout the district in Ventura County	\$4,800,000
2641	GA	Upgrade sidewalks, parking, street lighting, and landscaping, Claxton	\$400,000
2642	MS	Upgrade roads in Itta Bena (U.S. Highway 82 and 7) and in vicinity of Viking Range Corp. (U.S. Highway 7 and 49), Leflore County	\$1,200,000
2643	VA	Widen Route 262 in Augusta County	\$800,000
2644	CA	Forest Highway 171 Upper Skyway Improvement	\$5,800,000
2645	NV	Construct overpass and exit lane improvements on Lake Mead Parkway to Lake Las Vegas entrance	\$2,400,000
2646	IL	Construct Bridge Overpass, DuSable Museum-Chicago	\$800,000
2647	WA	Expand size and improve safety Lewis and Clark Discovery Trailhead and Scenic Overlook	\$146,000
2648	PA	Construction of access improvement at the I–79 SR 228 interchange in vicinity of Cranberry Town Center	\$520,000
2649	PA	Development of bicycle and pedestrian trails and access links along North Delaware Riverfront	\$8,000,000
2650	OH	Highway—RR grade separation over the Norfolk Southern Rail Line for the Hines Hill Road—Milford Connector project in Hudson, Ohio	\$240,000
2651	CA	Construct crosswalk bump-outs and related streetscape improvements on Temple St. between Hoover St. and Glendale Blvd., Los Angeles	\$400,000
2652	NC	Improve SR 1923 from U.S. 70 Business to U.S. 301 Smithfield	\$4,000,000
2653	MA	Improvements to Mass. Ave, Andover Street, Osgood Street, Salem Street, and Johnson Street in the Old Town Center of North Andover	\$800,000
2654	KY	Reconstruct U.S. 127 at U.S. 127 South, Mercer County	\$480,000
2655	CA	Construct truck lane from Britannia Blvd. to the Otay Mesa Port of Entry, San Diego County	\$1,200,000
2656	PA	Beford, PA Relocation of Old Route 220 and Sweet Road. Complete preliminary engineering, purchase right-of-way, construction	\$12,228,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
2657	GA	Design and construction of 2.2 miles of multiuse trail in the City of Douglas, Georgia	\$160,000
2658	IL	Entry Road to Southern Illinois University Research Park, Carbondale	\$1,000,000
2659	NY	Kingston, Construct pedestrian waterfront walkway	\$1,040,000
2660	MN	Reconstruction of Airport Road from TH 53 to CR 296, Cirrus Drive from Airport Road to TH 53 and TH 53 from Airport Road to Stebner Road	\$1,700,000
2661	KS	Replacement of U.S. 169 bridge in Kansas City	\$6,800,000
2662	PA	Route 313 Turning Lanes and Truck Climbing Lanes, Bucks County	\$1,600,000
2663	CA	Purchase of Rosemead Blvd. ROW, Temple City	\$800,000
2664	NJ	Reconfiguration of Bay Avenue and Polaris Street in Newark, NJ	\$6,400,000
2665	MI	Reconstruct highway under a railroad bridge, Wyoming Ave. from Eagle Pass to Michigan Avenue, Wayne County	\$800,000
2666	OK	Construct vehicular bridge over the Burlington Northern RR at War Bonnet Crossing, Mannford, OK	\$800,000
2667	UT	Construction and Rehabilitation of 13th East in Sandy City	\$7,000,000
2668	VA	Construct 3.6 miles of Interstate 73 near Martinsville	\$615,680
2669	WA	Maple Valley SR 169 and SR 516 improvements	\$800,000
2670	FL	Construct access road to entrances to Opa-Locka Airport at Opa-Locka Airport at N.W. 135th Street and N.W. 47th Avenue, including improvements to N.W. 47th Avenue with median strip, City of Opa-Locka	\$1,600,000
2671	UT	Expand Redhills Parkway from 2 to 5 lanes and improve alignment within rights-of-way in St. George	\$4,000,000
2672	OH	Bethlehem Township, Ohio. Riverland Avenue Bridge Replacement	\$1,040,000
2673	MD	MD 295, BWI Access Improvements	\$3,792,000
2674	OR	Connect Boeckman Road to Tooze Road, Wilsonville	\$800,000
2675	LA	Lincoln Parish, LA/I–20 Transportation Corridor Program	\$4,000,000
2676	TX	FM 937 from SH 164 to FM 3371, Limestone Co	\$1,600,000
2677	MO	Construct additional exit ramp access lane from I–44 to Kings highway and enhance Shaw Ave. corridor	\$3,856,000
2678	IN	Construction of I–64 Interchange, Harrison County, Indiana	\$4,248,000
2679	OH	Bridge Replacement at SR 84 and I–90 on Bishop Road in Willoughby Hills, OH	\$400,000
2680	TN	Continue Shelby Avenue—Demonbreun Street project in Nashville	\$5,200,000
2681	WI	Construct a bicycle/pedestrian path from Waunakee to Westport	\$1,600,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
2682	CT	Construct bike and pedestrian paths along Salem Greenway-Salem, CT	\$80,000
2683	TX	Construct I–635/35E Interchange in Dallas, TX	\$3,600,000
2684	CA	Hwy 199 Narrow Enhancement to reduce active slides that cause significant road closures on primary connecting route from U.S. 101 to I–5	\$1,800,000
2685	MD	Construction of New Interchange at MD5, MD373, and Brandywine Road	\$12,000,000
2686	GA	I–20 West from SR 5 Bill Arp to SR 6—HOV Lanes	\$5,800,000
2687	PA	Install and construct signals, calming devices and signs in Mechanicsburg and surrounding municipalities	\$360,000
2688	FL	44th St. Extension to Golfair Blvd., Jacksonville	\$1,200,000
2689	NJ	Passaic River-Newark Bay Restoration and Pollution Abatement Project, Route 21, River Road, CR 510	\$800,000
2690	CA	San Gabriel Blvd. and Mission Road Intersection Improvements, San Gabriel	\$160,000
2691	NY	Rehabilitate 125th Street Corridor from Old Broadway to Marginal Street/Waterfront	\$2,000,000
2692	MI	Repair M–10 corridor from I–696 to downtown Detroit	\$800,000
2693	FL	Capital Circle Northwest, Tallahassee	\$8,000,000
2694	TN	Installation of Intelligent Transportation System on various major routes in Memphis	\$1,600,000
2695	MI	Planning and Engineering for The American Road, The Henry Ford Museum, Dearborn ..	\$1,200,000
2696	TX	Reconstruct Ella/Wheatley from Little York to West Gulf Bank	\$1,000,000
2697	NY	Implement Improvements for Pedestrian Safety in Richmond County	\$600,000
2698	FL	Palm Bay Parkway from Emerson Drive to U.S. 192, Palm Bay, FL	\$800,000
2699	CA	Construct the Los Angeles River bicycle and pedestrian path in the San Fernando Valley ..	\$460,000
2700	TX	Construct Santa Fe Trail DART LR overpass from Hill St. to Commerce St. along abandoned Santa Fe Rail right-of-way in Dallas ..	\$800,000
2701	CA	Construct Route 101 bicycle/pedestrian overpass at Millbrae Ave. for the San Francisco Bay Trail	\$1,000,000
2702		.....	\$0
2703	LA	New Iberia Rail Grade Separation	\$1,600,000
2704	PA	Design, engineering, ROW acquisition and construction of streetscaping enhancements, paving, lighting, safety improvements, parking and roadway redesign in Ashley Borough, Luzerne County	\$160,000
2705	MN	Reconstruct Grand Avenue (from Central Ave. to 59 Ave. W), Central Ave. (from Grand Ave. to I–35) and Bristol Street (from Central Ave. to Grand Ave), Duluth	\$600,000
2706	TN	Plan and construct a bicycle and pedestrian trail, Cannon County	\$80,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
2707	TX	Develop, deploy and integrate municipal ITS in San Antonio	\$2,560,000
2708	TN	Jefferson, Hamblen Counties, Tennessee SR 66 relocation	\$1,600,000
2709	MD	Rehabilitate Pennington Avenue Drawbridge in Baltimore	\$1,200,000
2710	PA	Construction of I-79 to Mon-Fayette Section of Southern Beltway, Pittsburgh, Pennsylvania	\$1,200,000
2711	FL	Springfield Rd. Improvements, Jacksonville	\$1,200,000
2712	LA	Elimination of highway-rail grade crossings along Louisiana and Delta railroad	\$800,000
2713	CA	Conduct necessary planning and engineering and implement comprehensive Corridor Management Plan for Arroyo Seco Historic Parkway, Los Angeles	\$1,120,000
2714	FL	Plant City Traffic Management System	\$2,400,000
2715	GA	SR 347 widen-new construction from I-985 to SR 211, Hall County, Georgia	\$8,000,000
2716	WA	SR 28 and SR 285 Sellar Bridge Improvements: ramp and roadway network improvements at the west end and a new lane on the Sellar Bridge	\$4,000,000
2717	NY	Stabilize Poughkeepsie Railroad Bridge and construct a pedestrian walkway linking the two sides of the Hudson River, Poughkeepsie	\$874,000
2718	WA	International Mobility and Trade Corridor Project for Whatcom County	\$1,040,000
2719	CA	State Route 76 Road Widening, Melrose Drive to Interstate 15	\$4,000,000
2720	NJ	Streetscape Improvements to Clements Bridge Road from Newton Avenue to New Jersey Turnpike, Barrington	\$400,000
2721	FL	Construct Eastern Connector from SR 417 to I-95, Volusia and Seminole Counties Florida	\$800,000
2722	GA	Construction of the McIntosh Path on SR 99, 7.15 miles between Darien, Georgia and the Sapelo Island Visitor Center	\$160,000
2723	AL	Construction of Sulphur Springs Road Bypass in City of Hoover, Alabama	\$4,000,000
2724	AZ	Pliocene Cliffs reconstruction between Wikieup and the Santa Maria River	\$800,000
2725	MN	Construct roadway improvements to CSAH 76, Little Falls	\$851,200
2726	IN	Study alternatives along 2 miles of railroad to eliminate in-town highway-rail crossings to improve safety and reduce congestion in Delaware County	\$120,000
2727	NV	Design and construct separation of rail-highway crossings in downtown Reno	\$800,000
2728	NJ	Maple Shade Township Streetscape Improvements of Mill Road, Rudderow Ave., North and South Coles Ave. and Schoolhouse Lane	\$800,000
2729	WA	Conduct study for I-5 and SR 503 interchange	\$300,000
2730	WA	Implement Red Mountain Area Vision transportation plan, includes Webber Canyon Road realignment at existing I-82 Kiona-Benton interchange and new Red Mountain I-82 interchange at SR 224	\$2,800,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
2731	TX	Downtown Streetscape Improvements in Beaumont, Texas	\$512,000
2732	NY	Improve Traffic Flow on Lefferts Boulevard by Rehabilitating Facilities Surrounding LIRR/Kew Gardens Eastbound Station	\$500,000
2733	FL	Construct reliever road to SR A–1–A in the City of Deerfield Beach beginning at A–1–A/Hillsboro Blvd. and ending at A–1–A/NE 2nd Street	\$800,000
2734		.....	\$0
2735	CA	SR 52 East Improvements (San Diego)	\$6,000,000
2736	OR	Study to evaluate alternatives in support of an eventual Astoria bypass, Astoria	\$248,000
2737	GA	Commission a study and report regarding the construction and designation of a new Interstate linking Savannah, Augusta, and Knoxville	\$80,000
2738	VT	Construction of the St. Albans, Vermont intermodal connector roadway with I–89 for the City of St. Albans	\$960,000
2739	OR	I–5/Highway 214 interchange improvements, Woodburn	\$800,000
2740	OR	Construction of transportation facilities at the Tualatin River Wildlife Refuge	\$793,600
2741	WY	I–80 Rock Springs Marginal	\$1,520,000
2742		.....	\$0
2743	IL	Improve safety of a horizontal curve on Clarksville St. .25 mile north of 275th Road in Grandview Township, Edgar County, Illinois	\$70,400
2744	UT	Provo Reservoir Canal Trail, Utah	\$6,750,000
2745	MO	South County Riverfront Access and Trails Project, Lemay	\$3,200,000
2746	AK	Road improvements in the City of Fairbanks ..	\$5,000,000
2747	MD	Construct Ferry Terminal, Somerset County, Maryland	\$800,000
2748	MS	Plan and Construct two lanes to SR 6 from SR 342 to Alabama State line	\$2,400,000
2749	CA	Construct bypass along Hwy 101 around Willits, CA to reduce congestion, improve air quality and enhance economic lifeline of No. Coast	\$5,600,000
2750	CA	Engineering support to I–5 Joint Powers Authority to widen I–5 freeway and improve corridor arterials from I–710 to Orange County line	\$120,000
2751	LA	Kerner Ferry Bridge, Jefferson Parish Bayou Barataria	\$1,680,000
2752	WA	Renton, WA SR 167 HOV, Strander Boulevard Connection	\$800,000
2753	NJ	Sussex County, NJ, Vernon Township, Mountain Creek Rt. 94 Traffic Calming, Ped. Safety and Traffic Congestion, Circulation Improvement	\$2,800,000
2754	PA	Linglestown Square, roadway and intersection improvements, Lower Paxton Township	\$2,400,000
2755	MD	Rehabilitate road including bridges over CSX tracks in Baltimore	\$2,320,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
2756	WA	Extend 18th Street between 87th Avenue and NE 192nd Avenue in Vancouver	\$3,200,000
2757	TX	Implement repairs on Old Pleasanton Road Bridge in Atascosa County	\$403,000
2758	CA	Hazel Avenue Improvements, U.S. Highway 50 to Madison Avenue	\$2,400,000
2759	MI	Menominee County, County Road 557 Bridge Replacement over the Big Cedar River	\$224,000
2760	OH	Massillon, Ohio. Tremont Avenue Bridge Rehabilitation	\$1,216,000
2761	MI	Montmorency County, Reconstruction of County Road 612 from W. County Line to County Road 491	\$640,000
2762		.....	\$0
2763	NM	Planning, design and construction of bikeways and walkway at the City of Santa Fe's downtown railyard redevelopment project	\$1,600,000
2764	GA	Streetscape-Bainbridge	\$200,000
2765	PA	Construct SR 706 Corridor, Susquehanna County, Pennsylvania	\$1,600,000
2766	NY	Town of North Salem reconstruction and repaving of Keeler Lane	\$120,000
2767	FL	Conduct planning and engineering for U.S. 17 widening and improvements in Hardee County, Florida	\$3,200,000
2768	IL	Traffic Signalization, Matteson	\$726,000
2769	MS	Upgrade Poe Road in Kilmichael, Montgomery County	\$160,000
2770	NC	Upgrade U.S. 220 to I-73/74 interstate standards in Montgomery County	\$1,600,000
2771	WA	U.S. 2/Sultan Basin Road Improvements in Sultan	\$480,000
2772		.....	\$0
2773	FL	A-1-A Transportation Enhancements, Daytona Beach	\$800,000
2774	MI	City of Menominee, Resurface Hattie Street Bridge deck 250 feet from 9th avenue in Menominee to Riverside Avenue in Marinette, WI	\$180,000
2775	TN	Construct streetscape improvements near TN Theater in Knoxville, TN	\$1,600,000
2776	MI	Emmet County, Ultra thin demonstration project resurfacing of Mitchell Road from the City of Petoskey limits east to Division ..	\$48,000
2777	NY	Gowanus Expressway Project	\$400,000
2778	PA	Design, engineering, ROW acquisition and construction of streetscaping enhancements, paving, lighting, safety improvements, parking and roadway redesign in Moosic Borough, Lackawanna County	\$160,000
2779	AL	Expand to 4 lanes on U.S. 278 from I-65 to U.S. 231	\$2,800,000
2780	IL	Preconstruction and construction McCarthy Road, Bell Road to U.S. 45 and 123rd Street U.S. 45 to 86th Avenue in Palos Park	\$713,600
2781	WY	Riverton: Reconstruct Hwy 26—Main St	\$880,000
2782	MA	Somerville Bicycle Path Improvements—Cedar Street to Central Street	\$900,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
2783	MI	U.S. 31 improvements and relocation between Holland and Grand Haven	\$7,200,000
2784	PA	Replace Messinger Street Bridge in the Borough of Bangor	\$800,000
2785	NY	Owego, Construct pedestrian waterfront walkway	\$1,000,000
2786	KY	Reconstruct U.S. 127 from Hustonville Road to the Mercer County Line, Boyle County	\$1,200,000
2787		.....	\$0
2788	CA	Design and construct access improvements in North Central Business District, Sacramento	\$6,400,000
2789	NC	Construction of the southbound lane of U.S. 321 bridge replacement over the Catawba River	\$5,440,000
2790	FL	Grand Lagoon Bridge Replacement Project. The replacement of a two lane bridge with a four lane bridge	\$5,200,000
2791	FL	Construct SR 9B Extension, St. Johns County, Florida	\$3,520,000
2792	AL	Design and construct a 4-lane highway from Muscle Shoals, AL to I-10	\$800,000
2793	IN	Improve SR 9 Greenfield Corridor, Indiana	\$400,000
2794	NJ	Interstate 280 Interchange Improvements, Harrison	\$8,000,000
2795	KY	Construct Northern Bypass of Somerset, KY and I-66 from the Cumberland Parkway west of Somerset, Kentucky to I-75 south of London, Kentucky	\$28,000,000
2796	VA	Preliminary Engineer, Design, and Construct improvements to Virginia Beach Blvd. in Virginia Beach and Norfolk	\$1,200,000
2797	PA	Fayette County, Pennsylvania, State Road 21 Improvements	\$1,600,000
2798	ME	Replacement of Waldo-Hancock Bridge	\$11,000,000
2799	CT	Reconstruct and widen Homer St. and Chase Ave. in Waterbury from Waterville Ave. to Nottingham Terrace	\$1,600,000
2800	FL	Construct new east-west road from the intersection of Beeline Highway and PGA Boulevard west to Seminole Pratt Whitney Road ..	\$800,000
2801	WI	Enhance West Silver Spring Ave. with lighting enhancement, crosswalk improvements, sign-age, landscaping, Milwaukee	\$320,000
2802	NY	Completion of 1.6 mile trail network in the Utica Marsh, NY	\$99,200
2803	TX	Construct I-635/I-30 Interchange, Dallas, Texas	\$12,000,000
2804	IL	Establish transportation museum on Navy Pier, Chicago	\$400,000
2805	CA	Establish I-15 Interchange at Nisqualli and Mojave River crossing in San Bernardino County	\$1,200,000
2806	MA	Massachusetts Bay Transportation Authority Secure Station, Boston	\$1,000,000
2807	FL	Construct bridges on SR 710 in Palm Beach County	\$2,000,000
2808	PA	Reconstruct intersection of SR 51 and Franklin Ave, Beaver County	\$1,720,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
2809	NJ	Rehabilitation existing structure at the Bridge Street bridge over the CSX Railroad Trenton Line in Manville, NJ	\$800,000
2810	OR	Repair and recoat logging bridge over Highway 99 E, Canby	\$120,000
2811	CA	San Gabriel Blvd. Rehabilitation Project—Broadway to Las Tunas, San Gabriel	\$160,000
2812	CA	Signal upgrades on Avenida de las Flores, Melinda Road, Avenida de las Banderas, and Alma Aldea, Rancho Santa Margarita, California	\$100,160
2813	CA	Construct State Route 905 to connect the Otay Mesa Port of Entry to Interstate 805, San Diego	\$12,000,000
2814	MA	Crosby Drive Improvement Project	\$800,000
2815	WI	Construct North Shore Extension of Friendship State Trail, Calumet and Winnebago Counties, Wisconsin	\$350,000
2816	AR	Construct and rehabilitate Fayetteville Expressway Economic Development Corridor ...	\$5,000,000
2817	PA	Armstrong County, Pennsylvania, construction of the Freeport Bridge	\$1,600,000
2818	IL	Road extension for Redco Drive to Skyline Drive, Williamson County	\$800,000
2819	CA	Rosecrans Avenue and Bridge Arterial Reconstruction Project, Compton	\$3,200,000
2820	MA	Canalside Rail Trail Construction of the Canalside Rail Trail, Deerfield and Montague	\$800,000
2821	CA	Conduct study and construct Daggett Road, Port of Stockton, CA, Access Project	\$7,200,000
2822	WI	Construct a bicycle/pedestrian path, and two bridges across Starkweather Creek, Madison	\$1,600,000
2823	GA	Construct City of Fayetteville, Ga. School Access Bike Ped Project	\$500,000
2824	TN	Sevier County, Tennessee SR 449 extension ...	\$800,000
2825	GA	SR 133 south bound lane bridge replacement over the Georgia Florida Railnet line, Dougherty County	\$800,000
2826	CA	Construct grade separation on State Street and Cajon Boulevard along BNSF tracks in San Bernardino	\$1,600,000
2827	WA	Construct SR 9 Pedestrian Overpass in Arlington	\$880,000
2828	CA	Implement streetscape improvements along Wilbur Avenue to enhance traffic and pedestrian safety	\$80,000
2829	MD	I–95, I–495, MD5 Branch Avenue Metro Access	\$3,200,000
2830	TN	Improving Vehicle Efficiencies at At-Grade highway-Railroad Crossing in Loudon, TN ...	\$45,600
2831	MO	I–470, I–435 and Rt. 71 Completion of Interstate realignment	\$2,400,000
2832	PA	Ridge Avenue Revitalization project in conjunction with Roxborough Dev. Corp. for scenic enhancements and pedestrian safety improvements along a heavily traveled thoroughfare	\$800,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
2833	PA	Corridor improvements for PA 72 from PA 283 to PA Turnpike	\$800,000
2834	AR	Construction of I–49, Highway 71: Highway 22 to Highway 71 near Jenny Lind	\$6,000,000
2835	CA	Provide landscape enhancement of an existing open culvert on Atherton Street, Long Beach	\$1,200,000
2836	NY	Rehabilitate Guy Lombardo Avenue and construct drainage improvements and new sidewalks and curb cuts in Freeport, NY	\$956,000
2837	IA	I–35 interchange improvements, Ankeny	\$4,000,000
2838	PA	Improve Freemansburg Avenue and its intersections at Route 33	\$1,600,000
2839	NJ	Pedestrian facilities and street lighting on Route 551 from Route 130 to Chestnut Street, Brooklawn	\$320,000
2840	IL	I–57 and I–294 Interchange	\$2,400,000
2841	FL	New Kings Rd. Pedestrian Overpass and Enhancements, Jacksonville	\$1,600,000
2842	TX	Grimes Co., TX Bridge Improvement Project ...	\$400,000
2843	CA	Crenshaw Blvd. Rehabilitation, Maricopa St. to Sepulveda Blvd., City of Torrance	\$800,000
2844	VA	Engineering and Right-of-Way for Interstate 73 in Roanoke County	\$1,200,000
2845	GA	Johnson Ferry Road Glenridge Drive Widening, Abernathy Road to Hammond Drive ..	\$2,000,000
2846	GA	Install walkways, bridges, lighting, landscaping in Water Works Park and south along river through Ocmulgee Monument and Central City Park	\$6,160,000
2847	OH	Intersection improvements and related road improvements in the City of Chardon, OH ...	\$489,600
2848	WV	Construct Coalfields Expressway	\$5,760,000
2849	CA	Improve pedestrian and biking trails within East Bay Regional Park District, Contra Costa County	\$800,000
2850	MA	Berkshire County Bike Paths, Design and Construction	\$4,000,000
2851	MI	Ogemaw County, Overlay of Fairview Road to improve network of all-season truck routes ..	\$295,680
2852	VA	Old Mill Road Extension	\$800,000
2853	PA	Construct Campbelltown Connector, Lebanon County	\$2,000,000
2854	NJ	Construct Rt. 40 Reconstruction from Rt. 77 to Elmer Lake, Elmer, Salem County	\$2,400,000
2855	OH	Design and Construct Riverwalk and adjacent facilities, Warren, Trumbull Co	\$1,200,000
2856	CA	Realign SR 4 within the City of Oakley	\$1,600,000
2857	IL	Construct recreational trail from Spring Creek Forest Preserve to Greene Valley Forest Preserve in DuPage County, IL	\$320,000
2858	MN	Construct trail link between Bruce Vento Regional Trail and Mississippi River Corridor in St. Paul	\$1,200,000
2859	FL	Construct Interstate-4/Crosstown Connector ...	\$800,000
2860	UT	Add lights to road from Halchita to Mexican Hat on the Navajo Nation	\$200,000
2861	CA	Construct off ramp at Interstate 8/Imperial Avenue Interchange, El Centro	\$2,400,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
2862	VA	Cranesnest Trail—Construction of hiking, biking, horse trail from Route 83 to Cranesnest Campground	\$520,000
2863	NC	Durham and Chatham Counties, NC Completion of American Tobacco Trail	\$1,600,000
2864	TX	Austin to Manor Rail Trail, Texas	\$1,600,000
2865	PA	Eliminate existing rail line in Indian, PA to eliminate 37 at grade crossings and reconstruct the line outside the town from Glenn Lock to Middletown	\$3,200,000
2866	MN	Extend Cuyuna Range and Great River Road Trails, Aitkin	\$320,000
2867	NY	Conduct planning, engineering, and eventual construction of Rt. 5 in City of Oneida, from Seneca St. to county line	\$400,000
2868	NY	Great Neck Road Traffic Calming Project	\$320,000
2869	NJ	Design and construct new streetscape through Irvington Center	\$800,000
2870	IL	Construct connector road between Collinsville Rd. to IL 3/North 1st St, St. Clair County	\$4,800,000
2871	NJ	Carteret, NJ Ferry Service Terminal	\$1,680,000
2872	AL	Construct I–10/U.S. 231 Connector from Dothan, AL to Florida	\$2,400,000
2873	OH	Bicycle Paths for the Magic Mile in Willoughby, OH	\$640,000
2874	NC	Construct I–73/I–74 in Montgomery County and Richmond County, North Carolina	\$14,400,000
2875	NY	Construct Phase II I–90 Connector ITS Laboratory in Rensselaer County	\$4,800,000
2876	NC	Design and Construction of the Airport Area Roadway Network, High Point	\$2,240,000
2877	WA	Engineering and Construction of the Centennial Trail in Snohomish	\$800,000
2878	OR	I–5 Beltline Interchange	\$20,000,000
2879	IL	Extension North from Rt. 30 to Wheeler Road and Galena Boulevard extension west of Rt. 47 in Sugar Grove, IL	\$3,808,000
2880	NY	Newburgh, Improve East End Roads	\$1,490,800
2881	ME	Construction of the Kennebec River Rail Trail	\$400,000
2882	CA	Construct Bristol Street multimodal corridor in Santa Ana	\$2,800,000
2883	CA	Construct pedestrian sidewalk enhancements in Bellflower	\$400,000
2884	KS	Improvement and expansion for 2.7 miles of K18 in Geary County	\$11,600,000
2885	CA	I–110/SR 47/Harbor Blvd. Interchange Improvements, San Pedro	\$4,000,000
2886	MA	Oxbow National Wildlife Refuge, Design and construction of a Visitor Contact Station	\$1,500,000
2887	AL	Pedestrian Improvements for Pell City, AL	\$266,666
2888	WI	Rehabilitate Highway 51 between CTH S and U.S. 8 in Lincoln County	\$1,600,000
2889	OH	Rehabilitate tunnel and bridge on National Road Bikeway in St. Clairsville	\$700,000
2890	MD	Pennington Ave. Drawbridge, Baltimore	\$800,000
2891	MA	Rehabilitation and paving of Parker River Road	\$200,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
2892	MN	Reconstruct CSAH 7 between Itasca CR 341 and the Scenic State Park entrance to improve safety and structural integrity	\$2,560,000
2893	OH	Grading, paving, roads for the transfer of rail to truck for the intermodal facility at Rick-enbacker Airport	\$5,200,000
2894	PA	Relocation of PA 52 at Longwood Gardens	\$960,000
2895	TX	Construct Interstate 35 improvements in Buda	\$1,000,000
2896	TN	Improve streetscape and signage, McMinn County, TN	\$240,000
2897	OR	Culvert Replacement, Sweet Home	\$130,000
2898	AL	AL 5 Widening in Bibb County	\$2,400,000
2899	CO	Design and build a multimodal corridor on U.S. 36	\$4,000,000
2900	WA	Development of highway-rail crossings in Spokane County, WA and Kootenai County, ID	\$800,000
2901	OH	Acquire right-of-way land along U.S. 24, Lucas County	\$800,000
2902	IL	Improve Streets, Westchester	\$224,000
2903	NY	Enhance road and transportation facilities in the vicinity of W. 65th St. and Broadway, New York City	\$2,000,000
2904	TN	Construction of Knob Creek Road in Washington County, Tennessee	\$400,000
2905	TN	Improve streetscape and pavement repair, Loudon County, TN	\$240,000
2906	CA	Improvement of intersection at Inglewood Ave. and Marine Ave. to reduce congestion, City of Lawndale	\$2,600,000
2907	HI	Interstate Route H1 rehabilitation, Kaahumanu Street to Kaimakani Street	\$5,944,000
2908	ID	Construct Interchange on I-84 at Ten Mile Rd., Meridian, Idaho	\$1,600,000
2909	NJ	Pedestrian facilities and street lighting on Haddon Avenue from Voorhees Township Line to Bate Avenue, Berlin Township	\$277,696
2910	WA	267th Street NW Pedestrian Path in Stanwood	\$480,000
2911	KY	Replace U.S. 68 and U.S. 150 Bridge over Chaplin River, Perryville	\$600,000
2912	UT	Geveva Rd-Provo Center Street, Orem 1600 North to I-15 FWY, Provo-widen from 2 to 4 lanes	\$6,000,000
2913	IL	Construction of a new roadway and grade separation of the UP West Line east of Elburn	\$7,600,000
2914	VA	Haymarket, VA. Washington Street improvements	\$400,000
2915	NJ	Improvements to implement the Readington Tewksbury Transportation Improvement District	\$400,000
2916	IL	Allow IDOT to proceed with engineering and construction of Airport-Lockport Rd. and Illinois Route 126 interchanges on I-55	\$1,600,000
2917	AR	Caraway Bridge Overpass	\$7,200,000
2918	OH	Construction of an Intermodal Facility at University Circle in the City of Cleveland	\$400,000
2919	PA	Jeannette Truck Route	\$400,000
2920	MD	MD45, Cavan to Ridgley Roads	\$4,416,000
2921	MD	MD 30 Hampstead Bypass	\$800,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
2922	MI	Monroe Area Highway-Railway Crossing Improvements, City of Monroe	\$5,120,000
2923	OH	Conduct study of new interchange at Routes 161/37 and Cherry Valley Road in Licking County, Ohio	\$2,000,000
2924	CT	Enfield, Connecticut make improvements to South Maple Street Bridge	\$2,328,000
2925	NY	Conduct studies, if necessary, and construct infrastructure projects for Governor's Island	\$3,200,000
2926	NY	Harlem River Park and Bikeway	\$800,000
2927	CT	Make Improvements to Plainfield Cemetery Road	\$160,000
2928	SC	Construct grade separation and interchange improvements at U.S. 521, Lancaster County	\$800,000
2929	NJ	Replacement of the Magnolia Avenue Bridge over Routes 1 and 9	\$800,000
2930		.....	\$0
2931	MI	Resurfacing of Frazho Road in Roseville	\$1,024,000
2932	CA	Construct 213th Street pedestrian bridge to provide safe passage for pedestrians and wheelchairs, Carson	\$800,000
2933	MO	Conduct impact studies for Missouri River Bridge siting in Kansas City, MO	\$4,000,000
2934	CA	Construction of Lenwood Road Grade Separation in Barstow, CA	\$1,200,000
2935	PA	Improvements to Frankford Avenue from Cottman Avenue to Harbison Avenue	\$1,000,000
2936	IN	Revelop Hazeldell Road, Hamilton County, Indiana	\$800,000
2937	AK	Road Improvements and upgrades to service road areas and miscellaneous projects within Northstar Borough	\$5,000,000
2938	OH	Rehabilitation or replacement of highway-rail grade separations along the West Central Ohio Port Authority route in Champaign and Clark Counties	\$288,000
2939	MI	Otsego County, Resurfacing and widening of Parmater Rd	\$294,400
2940	WA	Realign West Main Street through Kelso	\$2,000,000
2941	TN	Reconstruct State Route 109 from I-40 in Wilson County to Portland in Sumner County ...	\$800,000
2942	PA	Redesigning the intersection of U.S. 322/High Street and Rosedale Ave	\$1,200,000
2943	DE	Replacement of the Indian River Inlet Bridge, Sussex County, Delaware	\$4,800,000
2944	FL	Construct link from I-95 to I-10 through Clay County with terminus points SR 23 to CAR 739B	\$4,000,000
2945	MN	Construct ramps and new bridge over Interstate 35 at CSAH 17, and reconstruct CSAH 17 from west County Line to CSAH 30, Chisago County	\$5,616,595
2946	CT	Conduct multimodal study of Route 8 corridor between Beacon Falls-Seymour town line and Exit 40	\$800,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
2947	AR	Hwy 65 improvements in Van Buren County, including construction of passing lanes, bridge improvements, intersection improvements and other roadway improvements	\$1,200,000
2948	AZ	Scott Ranch Road. Navajo County—Connect White Mountain Road (SR 260) and Penrod Road (SR 77)	\$1,000,000
2949	NY	Construction of Pedestrian and Bike Trail campus access and improvements, St. Bonaventure, NY	\$500,000
2950	NY	Eastern Laurelton Area Improvements, Queens, New York	\$6,880,000
2951	NY	Bicycle and pedestrian safety improvements, Main Street, Riverhead	\$1,200,000
2952	AL	Construct County Road 83 corridor from Foley Beach Express to I-10	\$8,000,000
2953	PA	Design and construct improvements to PA 465 from Walnut Bottom Rd. to PA 641 and at I-81 Exit 44	\$3,096,400
2954	IL	Reconstruct and Widen Route 60 Bridge over I-94 in Lake Forest	\$9,000,000
2955	VA	Improve Downtown Staunton, Virginia, Streetscape	\$1,200,000
2956	PA	Route 322 Halls Run Upgrades from the intersection of Horsecreek Road to Mapleshade Road—Venango County	\$1,360,000
2957	PA	Design, engineering, ROW acquisition and construction of streetscaping enhancements, paving, lighting, safety improvements, parking and roadway redesign in Wilkes-Barre ...	\$2,000,000
2958	IN	SR 56 Reconstruction, Aurora, Indiana	\$4,096,000
2959	MI	Study and implement transportation system alternatives in the vicinity of U.S. 31/M 46 ..	\$2,800,000
2960	MA	Longfellow Bridge Rehabilitation	\$3,000,000
2961	IL	For Village of Bolingbrook to construct Remington Blvd. extension	\$400,000
2962	AZ	Design and Construction of Rio Salado Pedestrian Bridge in Tempe, AZ	\$2,400,000
2963	MI	Study to determine replacement options for obsolete and structurally deteriorating bridge (Trenton-Grosse Isle Bridge) including approach roadways, Charter County of Wayne	\$3,200,000
2964	PA	Mount Joy Bridge Replacement on Route 230	\$360,000
2965	CA	Modifies 9 traffic signals between Willow Road and Middlefield Road and Hamilton Avenue, Menlo Park	\$240,000
2966	OH	Summit County Engineer Reconstruct Access Roads to Cuyahoga Valley National Park	\$400,000
2967	OR	To study the feasibility of widening Hwy 26 from the Hwy 217 interchange to the Cornelius Pass exit	\$992,000
2968	GA	Athens-Clarke County Greenway Enhancement Project	\$1,856,000
2969	WA	Improve Wahkiakum County Ferry landing	\$250,000
2970	IL	Irving Park Bridge over the Chicago River	\$3,200,000
2971	MI	Design, right-of-way and construction of passing relief lanes and improvements necessary on M–55, between M–37 and M–115	\$1,760,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
2972	NE	Design, right-of-way and construction of South and West Beltway in Lincoln, Nebraska	\$3,200,000
2973	TX	Tower 55 CMAQ Congestion and Preliminary Engineering Study	\$1,600,000
2974	NY	Town of Chester, Lake Hill Farms subdivision road improvements	\$120,000
2975	MN	Improvements on TH 169 east and west of East Two Rivers Crossing and TH 135 from Enterprise Drive to TH 169	\$1,772,800
2976	IN	Reconstruct Standard Avenue, Whiting	\$1,040,000
2977	TX	Barron Rd. Interchange at SH 6 (Earl Rudder Freeway) College Station	\$2,400,000
2978	CA	Develop conceptual master plan to improve the efficiency of transportation facilities, Covina	\$172,000
2979	PA	Transportation enhancements along the Delaware Canal between Yardley, PA and Bristol, PA	\$2,400,000
2980	VA	Upgrade DOT crossing #467661K to constant warning time devices	\$137,360
2981	UT	Add lighting on Highway 262 on the Navajo Nation in Aneth	\$175,000
2982	VA	Chestnut Mountain Road—Feasibility study, design, and construction start for road improvement on National Forest lands	\$400,000
2983	MI	Construction of roads and trails Humbug Marsh Unit Linked Greenways System, Detroit International Wildlife Refuge	\$880,000
2984	TX	Construct access road connecting Port of Beaumont property on east bank of Neches River to I–10 access road east of the Neches River	\$1,440,000
2985			\$0
2986	SC	Lexington County, widen U.S. 1 and SC 6, and improve U.S. 1, SC 6, and U.S. 378	\$1,600,000
2987	IL	Midlothian Road Signalization, Lake Zurich	\$480,000
2988	VA	Glen Alton—Design and construction of recreation trails, access and visitor information center	\$800,000
2989	MI	Expansion of Cass Avenue in Clinton Township	\$7,355,200
2990	CO	Bromley Lane and U.S. 85 interchange feasibility study and construction of needed improvements	\$664,000
2991	MD	Constructing Chestertown Trail, Chestertown, MD	\$240,000
2992	IL	Eastern Peoria Bypass and (Ring Road) study and land acquisition	\$2,400,000
2993	VA	Conduct planning and engineering for Mayo Bridge in Richmond	\$1,600,000
2994	NY	Elevation of road and construction of drainage improvements on Sequams Lane Center and Sequams Lane West in the Town of Islip, NY	\$556,000
2995	NM	Improvements to San Juan County Road 7950	\$800,000
2996	WA	116th St/Interstate 5 Interchange Reconstruction in Marysville	\$1,400,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
2997	SC	Construction of public roads at the International Center for Automotive Research and reconstruction of Fairforest Way in Greenville, South Carolina	\$4,800,000
2998	PA	Provide 4 through-lanes on PA 100 by constructing two thru lanes to the east of Ludwigs Corner	\$4,000,000
2999	PA	Completion of construction of final 2 ramps of I–79 interchange with Parkway West; widening of 1 mile of Parkway West leading to ramps	\$1,600,000
3000	CA	Diamond Bar, CA Grand Avenue Rehabilitation	\$1,280,000
3001	NY	Reconfigure intersection of Ridge Street and Hallocks Mill Road and install new traffic signal	\$600,000
3002	WA	Guard Street Reconstruction Project in Friday Harbor	\$640,000
3003	CO	Roadway widening and interchange rebuilding on I–225 from I–70 to Parker Road	\$5,976,000
3004	PA	Roosevelt Boulevard improvements by the Pennsylvania Department of Transportation	\$3,200,000
3005	MN	Construct Paul Bunyan Trail Walker to Bemidji Segment	\$560,000
3006	HI	Upgrades to Farrington Highway	\$800,000
3007	KY	U.S. 41A Phase II Design and Right-of-Way	\$3,200,000
3008	NM	U.S. 54 Corona, Tularosa, and Vaughn Bridges Replacement and Rehabilitation	\$800,000
3009	OH	Construction of access road along east side of SR 8 in Summit County, OH	\$800,000
3010	TX	U.S. 281 from Brooks County Line to FM 3066, Brooks County	\$1,600,000
3011	FL	Construction of an interchange at Florida's Turnpike and Stirling Rd. in Broward County	\$4,431,167
3012	NY	Construction of the City of Watertown Streetscape Enhancement Project	\$2,400,000
3013	IL	Improve Streets, Merrionette Park	\$480,000
3014	NY	Install Improvements for Pedestrian Safety in the vicinity of St. Roberts Bellarmine	\$250,000
3015	NY	Rebuild Queens Plaza, a 250-foot wide roadway on the eastern end of the Queensborough Bridge	\$6,400,000
3016	PA	Upgrade circuit for gates and lights at Seventh Street in Emmaus, PA USDOT crossing number 592401H to constant warning time devices	\$220,000
3017	UT	SR 158 Improvements, Pine View Dam, Weber County, Utah	\$1,680,000
3018	CA	Valley Boulevard Capacity Improvement between 710 Freeway and Marguerita Avenue, Alhambra	\$1,600,000
3019	IL	Offramp and overpass from I–57 outside of Marion and necessary connector roads	\$4,000,000
3020	AK	Construction of and improvements to roads at Alaska Pacific University	\$3,000,000
3021	SC	Upgrade of the I–95/SC 327 Interchange near Florence	\$6,000,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
3022	CA	Valley View/Stage Grade Separation Project, La Mirada and Santa Fe Springs, California	\$720,000
3023	OR	Renewal of Wooden Bridge West of Albany	\$7,500,000
3024	MI	Northville, Taft Road from 8 Mile North to city limits	\$400,000
3025	NY	Village of Pawling Rehabilitation of Grandview Ave. from Lakeside to end	\$80,000
3026	SD	Pave and curb Cheyenne River Tribe Route 900, “Chinatown” in Eagle Butte	\$1,200,000
3027	FL	Church Street Improvements, Orlando	\$11,200,000
3028	MI	Walled Lake, Widen Maple Road, west of Decker to Welch	\$100,000
3029	AR	Washington County, Arkansas—Replace and rebuild Tilly Willy Bridge	\$800,000
3030	AR	Russellville Intermodal Facility construct access roads from AR Hwy 247, purchase Right-of-Way	\$2,000,000
3031	TX	Construct IH 30 Monty Stratton Parkway Interchange in Greenville, TX	\$1,200,000
3032	PA	Design and Construction of Portzer Road Connector, Bucks County	\$1,600,000
3033	IL	For Plainfield Township Park District to construct DuPage River Bike and Pedestrian Trail linking Grand Illinois, Midewin, and I&M Canal Trails	\$80,000
3034	TX	Pedestrian Path and Sidewalk Improvements along U.S. 83 in Rio Grande City	\$400,000
3035	MS	Upgrade roads at Tougaloo College	\$400,000
3036	IL	Washington Street Widening, Gurnee	\$2,688,000
3037	LA	Replacement Bridge for Tunnel, Belle Chasse	\$400,000
3038	FL	Implement Busch Boulevard corridor improvements to improve safety in Tampa	\$2,000,000
3039	MI	Construction of Pittsfield Greenways Bridge—Non-motorized bridge enhancement onto existing Bemis Road Bridge, Pittsfield Charter Township	\$160,800
3040	NC	North Carolina. Repair and improve safety features on U.S. Highway 19 from Maggie Valley to Cherokee	\$11,360,000
3041	NC	Northern Loop Project, City of Wilson	\$800,000
3042	OR	Weaver Road Extension and Bridge Project, Douglas County	\$17,000,000
3043	MI	Complete 58 miles of White Pine Trail from Grand Rapids to Cadillac	\$2,240,000
3044	NY	Elmira Congestion Mitigation	\$1,800,000
3045	IL	Improve Roads and Bridges, Cicero	\$1,200,000
3046	MI	Carlysle Road Reconstruction, Inkster	\$2,000,000
3047	UT	Construct pedestrian safety project on the Navajo Nation in Montezuma Creek	\$325,000
3048	MD	Construct MD5, Hughesville Bypass	\$8,000,000
3049	OH	Repair and Construct Rock Spring Bridge, Portage County	\$500,000
3050	RI	Replace I–195 Washington Bridge Eastbound	\$1,600,000
3051	UT	Bear River Migratory Bird Refuge Access Road Improvements, Box Elder County, UT	\$3,600,000
3052	MA	Reconstruction of Union St. and Rt. 138W, Holbrook	\$1,220,000
3053	MI	Replacement of the interchange at 44th Street and U.S. 131 in Grand Rapids	\$7,200,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
3054	OH	Construct interchange improvements at SR 46 and 82 in Howland Township, Trumbull Co	\$450,000
3055	GA	Widen and construct U.S. 84 Connector Bypass from west of U.S. 84 SR 119 west of Hinesville to U.S. 84 SR 196 south of Flemington, Liberty County, Georgia	\$2,400,000
3056	IL	Project is a stand-alone roadway improvement consisting of the complete reconstruction of the roadway, The Village of Forest Park	\$800,000
3057	MI	Jackson Freeway Modernization Project. I–94 Modernization Project from Michigan State Route 60 [M60] easterly to Sargent Road	\$12,800,000
3058	VA	Smart Travel and Traffic Management Systems in Salem and Staunton District, Virginia	\$400,000
3059	OH	Construct Great Miami River Multi-Use Trail, Miami County, Ohio	\$1,016,000
3060	DC	Rock Creek Recreational Trail study to assess feasibility of constructing recreation trail	\$800,000
3061	MI	Study road runoff in Little Black Creek between U.S. 31 and Seaway Drive	\$320,000
3062	CA	Conducts environmental review of proposed improvements related to the connection of Dumbarton Bridge to Highway 101	\$400,000
3063	NY	Construction of and improvements to Union Road in West Seneca	\$800,000
3064	WI	Upgrade I–43 between State Highway 140 and East County Line in Rock County, Wisconsin	\$2,400,000
3065	NJ	Separation of the intersection of 13th Street and the Lehigh Rail Line through bridge or tunnel in Manville, NJ	\$844,000
3066	CA	Construct parking facility and improve access to Imperial Valley Expo	\$302,000
3067	CA	Develop bicycle paths and pedestrian access to Third Avenue, Chula Vista	\$240,000
3068	IL	Upgrade County Highways 18 and 22 in conjunction with State I–57 interchange plan north of Mattoon	\$1,600,000
3069	CA	Widen and Reconfigure Sepulveda and Culver Boulevards, Culver City	\$2,192,000
3070	OH	Construct interchange or other appropriate access on IR 70 west of existing mall road exit in Belmont County	\$6,935,000
3071	AZ	Widen and expand the existing roadway and railroad overpass in the Houghton Road Corridor	\$4,000,000
3072	OK	Construction of Duncan Bypass Grade Separation	\$2,400,000
3073	SC	Pine Needles Widening and Bridge Replacement	\$1,600,000
3074	CA	Olsen Road widening and roadway improvements in Simi Valley, California	\$1,680,000
3075	GA	Streetscape project to upgrade sidewalks, lighting and streets, Jeffersonville	\$500,000
3076	NY	Implement Diamond Grinding Measures on I–95, I–278, Mosholu Parkway, I–495, Grand Central Parkway, and Richmond Parkway ...	\$700,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
3077	MD	Upgrade Conduit System for Traffic Signal Systems, Street Lighting, and Traffic-related Video Cameras for Baltimore	\$960,000
3078	WA	5th Street/US 2 Signalization Improvements in Sultan	\$80,000
3079	WI	Implementation of recommendations contained in 2005 Safe Routes to School in Superior plan	\$480,000
3080	LA	Widen and improve LaPalco Boulevard from Westwood Drive to U.S. 90, Jefferson Parish	\$3,200,000
3081	NY	Realign Kirk Lake Drive in Carmel	\$88,000
3082	NY	Town of Somers road reconstruction	\$400,000
3083	OH	Upgrade grade crossing safety devices in Elyria and North Ridgeville	\$761,600
3084	MS	Widen and improve Martin Bluff Road, Gautier	\$2,400,000
3085	CA	Widen and reconstruct Washington Blvd. from westerly city boundary at Vernon to I-5 Fwy at Telegraph Rd. in Commerce	\$2,400,000
3086	CA	San Diego, CA Interstate 5, Sorrento Valley Road and Genesee Avenue Interchange Project	\$1,600,000
3087	OR	Widen I-5 between Portland, Oregon and Vancouver, Washington	\$3,200,000
3088	LA	North-South Corridor from Houma/Thibodaux to I-10	\$4,000,000
3089	GA	Warren County I-20 Frontage Road	\$4,000,000
3090	KY	Widen KY 11 from U.S. 460 to the Mount Sterling Bypass, Montgomery County	\$2,000,000
3091	OH	Traffic and safety improvements to county roadways in Geauga County, OH	\$456,000
3092	CA	Develop bicycle paths and public park space adjacent to the New River, Calexico	\$4,000,000
3093	TN	Construction of the Foothills Parkway in the Great Smoky Mountains National Park	\$7,500,000
3094	PA	Improvements to Torresdale Avenue from Harbison Avenue to Cottman Avenue	\$1,000,000
3095	GA	Butner Road and Stonewall Tell Road, Fulton County	\$800,000
3096	OH	Construction of highway-rail grade separations at intersections in Lima to improve motorist and pedestrian safety	\$2,600,000
3097	OR	Siuslaw River Bridge, Florence	\$4,250,000
3098	CA	Construct Cypress Avenue over-pass to separate Interstate 10 and Union Pacific Railroad tracks in Fontana	\$2,400,000
3099	CA	Modify and reconfigure Kanan Road interchange along U.S. 101 in Agoura Hills	\$4,000,000
3100	OH	Upgrade and widen intersection for SR 14 in Washingtonville	\$800,000
3101	NM	Upgrade NM 434 from Mora north to Black Lake	\$1,200,000
3102	NJ	Upgrade of Turnpike/Route 440 Interchange in Bayonne	\$3,200,000
3103	LA	Widen LA 18 from Northrup Grumman/Avondale Shipyards to U.S. 90, Jefferson Parish	\$2,000,000
3104	PA	Widen PA 896 between Strasburg Borough and U.S. 30	\$960,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
3105	MI	Eliminate major roadway on Cleary University campus and establish a new roadway	\$400,000
3106	PA	Reconstruction of 11 mile segment of the Lower Trail between Williamsport and Mt Edna, Blair County, Pa	\$400,000
3107	KY	Construction of interchange connecting US31W to I-65 at mile marker 32 in Warren County	\$1,600,000
3108		.....	\$0
3109	NC	Install Sugar Creek Road Grade Separation, Charlotte	\$2,400,000
3110	LA	Improvements to LA 46 in St. Bernard Parish	\$320,000
3111	IN	Construct Hoham Drive Extension in Plymouth, Indiana	\$400,000
3112	OR	Construct turn lane on Gateway Boulevard, Cottage Grove	\$90,000
3113	TN	Replace Unitia Bridge in Loudon County, TN	\$720,000
3114	VA	Replacement of Robertson Bridge in Danville ..	\$1,456,320
3115	MA	Public Improvements to Springfield Symphony Hall	\$240,000
3116	NY	Realign Union Valley Road in Town of Carmel	\$440,000
3117	NY	Village of Pawling Improvements to Reservoir Road from State Rt. 22 to Prospect St	\$100,000
3118	MS	Build connector between SR 609 and State Highway 15 near I-10, Jackson and Harrison Counties	\$2,400,000
3119	CO	I-70 West Mountain Corridor, Denver to Garfield County	\$3,200,000
3120	CA	Completion of Interstate 5 and Interstate 8 Connectors, San Diego	\$4,800,000
3121	FL	Construct U.S. 1 interchange at CR 210, St. Johns County, Florida	\$5,280,000
3122	OH	Construct roadway improvement project along State Routes 37 and 78 through Fairfield, Perry, Morgan, Noble, Monroe Counties	\$250,000
3123	IL	Construct I-57 Bridge Overpass, City of Markham	\$480,000
3124	NJ	Design, plan and build a permanent pedestrian/bicycle path along the banks of the Elizabeth River	\$400,000
3125	NJ	Improve the U.S. Interstate 78 Interchange at Exit 15 in Franklin Township, Union Township, and Town of Clinton	\$800,000
3126	CA	Reconstruct Rosecrans Ave. and construct bus pads from Garfield Ave. to Century Blvd. in Paramount	\$320,000
3127	TN	Bristol, Tennessee highway-RR crossing grade improvement—USDOT#731120J	\$80,000
3128	CO	Glenwood Springs South Bridge (new, off-system bridge)	\$5,200,000
3129	NJ	Improvements of Newark and First Streets in Hoboken	\$240,000
3130	OH	Feasibility Study to construct a bridge over the Muskingum River in the vicinity of McConnelsville	\$200,000
3131	MN	Construction of Gitchi-Gami State Trail from Silver Bay to Tettegouche State Park	\$1,500,000
3132	CA	Improvements/Widening of SR 99 from Goshen to Kingsburg in Tulare County, California ...	\$6,560,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
3133	CA	Design and implement Harbor Boulevard ITS in Garden Grove	\$800,000
3134	WI	Complete the Glacial Drumlin Trail, from Madison to Waukesha	\$240,000
3135	PA	Design and construct turn lanes, signal upgrades and improvements at PA 34 and 174 intersection	\$464,000
3136	PA	Design, engineering, ROW acquisition and construction of streetscaping enhancements, paving, lighting, safety improvements, parking and roadway redesign in Wright Township, Luzerne County	\$160,000
3137	PA	I–70/I–79 South Interchange Redesign and Upgrade	\$1,600,000
3138	KS	Elimination of highway-railway crossings at the City of Pittsburg Port Authority to increase safety and reduce congestion	\$4,584,000
3139	CA	Improve Access Road to Beale Air Force Base (Smartville Road)	\$3,000,000
3140	CA	Interstate 215, Los Alamos Road Interchange Project	\$1,600,000
3141	NE	Missouri River Bridges between U.S. 34, I–29 in Iowa and U.S. 75 in Nebraska	\$2,800,000
3142	AL	Huntsville Southern Bypass planning and engineering	\$2,400,000
3143	MO	Redesign and reconstruct I–170 interchange at Ladue Rd	\$320,000
3144	NY	Construct Interstate 87 Exit 3 Airport Connector in Albany	\$2,400,000
3145	CA	Citywide traffic signal upgrades requiring the installation of hardware and software at 9 major intersections, Palo Alto	\$400,000
3146	OH	Construct replacement of Morgan Township Road 209 between SR 60 and SR 78 in Morgan County	\$3,300,000
3147			\$0
3148	NY	Construct the Setauket/Port Jefferson Greenway Trail Project	\$5,000,000
3149	AR	Develop a railroad overpass connecting U.S. Highway 67 and U.S. Highway 371 in Prescott	\$2,640,000
3150	FL	Construct SR 312 Extension Bypass, St. Johns County, Florida	\$5,300,000
3151	GA	Construct Welcome Center, and pedestrian trail, Abbeville	\$300,000
3152	VA	Improve Erickson Avenue and Stone Spring Road connection	\$600,000
3153	TX	Reconstruct Loop 12 IH 35E and SH 183 west extension to MacArthur, Irving, Texas	\$4,000,000
3154	OR	Completion of the first of three phases of trails in the Regional Trails Program	\$5,000,000
3155	MN	Construct bridge for Paul Bunyan Trail over Excelsior Road, Baxter	\$1,500,000
3156	KY	Reconstruct U.S. 127 at the U.S. 127 and U.S. 127 North Bypass, Mercer County	\$480,000
3157	CA	Rehabilitate street surface of Addison St. between Kester Ave. and Lemona Ave	\$37,600
3158	IL	City of Springfield, IL for improvements to Cockrell Lane	\$762,058

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
3159	OH	Repair/Construct Mill Street Bridge, Akron	\$1,240,000
3160	MI	Resurface Caseville Road in Huron County	\$153,600
3161	PA	River Trail and Esplanade Development at the Southside Riverfront Park	\$600,000
3162	IL	Construct access roads to National Great Rivers Research Center	\$1,000,000
3163	IL	Construct Roadway from Mississippi River Barge Dock to IL Rt. 3—IL Rt. 157, Cahokia	\$1,600,000
3164	PA	Context Sensitive Design Elements for the Market Street Bridge, Lycoming County, PA	\$1,200,000
3165	NY	Implement Pedestrian Safety Improvements on Queens Boulevard	\$500,000
3166	NV	Design and construct interchange on I–15 in Mesquite	\$800,000
3167	CA	Construct grade separations at Washington Ave. and UPRR crossing east and Washington Ave. and La Cadena Drive in Colton	\$400,000
3168	MD	Intercounty Connector	\$4,800,000
3169	MA	Charlemont Bridge, Route 2, Charlemont	\$3,840,000
3170	MN	CSAH 47 rehabilitation from 165th Ave. to TH 25, Morrison County	\$352,000
3171	MS	Improve Old Augusta Road and construct Kaiser Road, Perry County	\$2,800,000
3172	PA	Reconstruction of U.S. 30 from PA 10 to Business U.S. 30 including travel lanes, shoulders, etc	\$4,000,000
3173	NY	Route 78 (Transit Road), Genesee Street to Main Street, Towns of Amherst, Cheektowaga and Clarence in Erie County ..	\$2,400,000
3174	NY	Planning and design, construction, and relocations for Southtowns Connector—NY Route 5 from Coast Guard Base to Ohio Street, including Fuhrmann Boulevard	\$8,560,000
3175	CA	SR 91 I–605 Needs Assessment Study, Whittier, CA	\$12,800
3176	GA	SR 70/Fulton Industrial Boulevard widening from Camp Creek Parkway to the SCL RR, Fulton County	\$1,200,000
3177	MO	Ste. Genevieve Co., Missouri Rt. 61 bridge replacement over Establishment Creek	\$1,200,000
3178	MN	Construction of intersection at County Road 5 and TH 13 in City of Burnsville	\$2,400,000
3179	GA	SR 307 overpass over Georgia Port Authority rail line, Savannah	\$4,000,000
3180	MO	Study railroad reconfiguration to eliminate highway crossings in and around Springfield, MO	\$800,000
3181	NC	Construct relocated NC 16 in Lincoln and Catawba Counties, NC	\$1,360,000
3182	IL	Construction of highway approaches to the Sullivan Road bridge in Aurora, IL	\$1,280,000
3183	IL	Engineering and construction of 15.1 mile Alliance trail between Lock 14 in LaSalle and Lock 2 in Bureau Junction	\$800,000
3184	CA	Construct parking facility and improve museum pedestrian access from trolley station, San Diego	\$800,000
3185	PA	Relocation and upgrade of Beaner Hallow Rd., Beaver County, PA	\$1,320,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
3186	MN	TH 36-Stillwater Bridge, ROW acquisition and Utility Relocation	\$4,000,000
3187	IL	To construct Veterans Memorial Drive Extension. Will link Mount Vernon on the east side of I-57 with incorporated area lying west	\$800,000
3188	MN	I-494 U.S. 169 Interchange Reconstruction, Twin Cities Metropolitan Area, Minnesota ...	\$4,000,000
3189	AL	Jackson County Industrial Park Access Road, Hollywood	\$800,000
3190	FL	North-South Corridor between Archer Road and Newberry Road	\$2,400,000
3191	AK	Construct access road and a bridge crossing the Naknek River terminus points in South Naknek-King Salmon Highway	\$3,000,000
3192	NY	Route 303 Orangeburg Road and Route 340 and Erie Street intersection	\$800,000
3193	MS	Upgrade roads in Port Gibson (U.S. Highway 61), Claiborne County	\$320,000
3194	GA	Construct Horsestamp Road Interchange on I-95 in Camden County, Georgia	\$800,000
3195	MO	Upgrade Route 94 in St. Charles County from East of Harvester road to West of Mid-Rivers Drive	\$9,600,000
3196	OH	Upgrade the I-71 interchange with SR 665 and widen SR 665 from Hoover Road on the east to a relocated Haughn Road on the west, in Grove City, OH	\$11,200,000
3197	NY	Village of Highland Falls repaving and sidewalk construction of Berry Hill Road	\$60,000
3198	PA	Westmoreland County, Pennsylvania, four lane limited access facility connecting State Road 119 to the Pennsylvania Turnpike (Sony Connector)	\$3,200,000
3199	NJ	Edison National Historic Site Traffic Improvement Project to improve traffic flow and promote safety	\$192,000
3200	IL	Construction of Eldamain Road over the Fox River	\$4,000,000
3201	CA	Construction of a traffic signal at the intersection of Oso Ave. and Vanowen St	\$100,000
3202	OR	Reroute U.S. 97 at Redmond, OR and improve the intersection of U.S. 97 and Oregon 126 ..	\$5,600,000
3203	CA	Widen and realign Cherry Avenue from 19th Street to one block south of Pacific Coast Highway, Signal Hill	\$3,200,000
3204	AR	Fort Smith, Arkansas: Improvements to Jenny Lind Rd. and Ingersoll Rd	\$6,000,000
3205	OH	Widen Pearl Road in Strongsville	\$800,000
3206	CA	Interstate 5 and State Route 78 Interchange Improvements	\$4,000,000
3207	OK	Improvements to SH 3 from Antlers to Broken Bow	\$5,000,000
3208	KY	Construct the Albany Bypass in Clinton County	\$4,800,000
3209	CA	Highway 74 and Interstate 215 Interchange Project	\$800,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
3210	SC	Improve intersection and corridor on U.S. 278 to improve safety. Poss build frontage roads widen road and change traffic controls	\$9,600,000
3211	WA	Port of Bellingham Transportation Enhancement Projects	\$7,280,000
3212	OH	Rehabilitation of SR 53 from Miami St. to North city limits including approaches to the CSX railroad bridge, City of Tiffin	\$800,000
3213	OH	Upgrade U.S. Route 30 between State Route 235 and Upper Sandusky in Hancock and Wyandot Counties	\$8,072,000
3214	MN	Main Street streetscape reconstruction, 2nd Street from Ash Ave. to State Hwy 2, and Grand Utley Ave. from 2nd Street to 6th Street N. across State Hwy 2, Cass Lake	\$1,520,000
3215	NJ	Warren County, NJ Route 57 and County Route 519 Intersection Improvements	\$2,160,000
3216	HI	Widen Queen Kaahumanu Highway	\$2,400,000
3217	CT	Widen Route 34, Derby	\$2,400,000
3218	IN	Construction of County Road 17—Elkhart, IN	\$4,000,000
3219	PA	Widen Route 666 in Forest County	\$1,200,000
3220	CA	Upgrade Jepson Parkway at North and South Gates of Travis Air Force Base and widen Vanden Road segment, Solano County	\$3,200,000
3221	CT	Widen Route 67, Seymour	\$800,000
3222		.....	\$0
3223	CT	Widen Canal Street, Shelton, CT	\$400,000
3224	NJ	Construct CR 521/Ocean Drive and Middle Thoroughfare Bridge Replacement, Cape May County	\$1,600,000
3225	OR	I–205 widening, Clackamas County	\$1,600,000
3226	OK	Construct interchange south of I–40 along Indian Nation Turnpike near Henryetta	\$200,000
3227	MO	Complete upgrade of U.S. 40–61 to interstate status on two section, from I–70 to Lake St. Louis exit and Highway K to Highway DD ..	\$1,600,000
3228	TX	Abilene, TX, Dyess Air Force Base North Entry Access Project with related improvements	\$11,120,000
3229	CA	Construction and enhancements of trails in the Santa Monica Mountains National Recreation Area	\$800,000
3230	KY	Construct South Airfield Road, Boone County, Kentucky	\$2,400,000
3231	LA	Construction of pedestrian and bike path adjacent to Tammany Trace Rails-to-Trails Corridor	\$160,000
3232	NY	Construction of pedestrian walkways in Village of Northport	\$80,000
3233	NV	Design and Construction of I–80 interchange in Fernley	\$1,600,000
3234	OH	Eastgate Area Improvements, I–275 and SR 32, Clermont County	\$3,360,000
3235	PA	Pennsylvania Turnpike-Interstate 95 Interchange Project, Bucks County, PA	\$8,000,000
3236	GA	Commission a study and report regarding construction and designation of a new Interstate linking Augusta, Macon, Columbus, Montgomery, and Natchez	\$80,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
3237	CT	Construct Shoreline Greenway Trail, Madison	\$800,000
3238	NE	New roads and overpasses to relieve congestion and improve traffic flow Antelope Valley—Lincoln, NE	\$7,200,000
3239	CA	Reconstruct Atlantic Ave. and improve drainage from Ardmore St. to Imperial Hwy in South Gate	\$2,600,000
3240	SD	Construct Railroad Underpass on Hwy 34 in Pierre	\$880,000
3241	AR	I40-Highway 89 Interchange	\$2,400,000
3242	WA	Kent, WA Willis Street UP Railroad Grade Separation Project	\$400,000
3243	IL	Replace Interstate 74 Bridge, Moline	\$3,200,000
3244	CA	Implement SFgo Van Ness Corridor Improvements	\$5,600,000
3245	NC	Battleground Avenue Rail to Trail Project, Guilford County, NC	\$800,000
3246	IL	Construction of an Extension of Atkinson Road to Intersect with IL 120 and IL 137	\$4,800,000
3247	OH	I-70, I-71 Split reconfiguration, Columbus	\$6,400,000
3248	MI	Delta County, CR 186 from M-35 at Brampton to U.S. 2 and U.S. 41—Bituminous overlay with super elevation, correction, curb, and gutter	\$192,000
3249	TN	Niota, TN Improving Vehicle Efficiencies at At-Grade highway-Railroad Crossings	\$79,200
3250	NY	Construct access to the NYS Thruway—Montezuma National Wildlife Reserve	\$1,200,000
3251	MN	Corridor design work, I-94 and Radio Drive, Woodbury, MN	\$400,000
3252	TN	Develop trails, bike paths and recreational facilities on Brady Mountain, Cumberland County for Cumberland Trail State Park	\$200,000
3253	WA	Access Downtown Phase II: I-405 Downtown Bellevue Circulation Improvements	\$9,200,000
3254	PA	Reconstruct PA Route 274, at PA Route 11/15, Duncannon	\$800,000
3255	PA	Road and pedestrian improvements and realignment, through construction, in York City NW Triangle	\$1,200,000
3256	NY	Rockland County highway railroad grade crossing safety improvements	\$1,400,000
3257	OH	Calm traffic on Greenfield St. in City of Tiffin and improve intersection of Greenfield St. with Routes 18 and 101	\$1,360,000
3258	IA	Construction of NW 26th St. interchange on I-35, Polk Co	\$800,000
3259	NY	To conduct design and environmental studies along proposed Northern Tier Expressway ..	\$4,800,000
3260	IL	Undertake Traffic Mitigation and Circulation Enhancements on 57th and Lake Shore Drive, Chicago	\$1,600,000
3261	IL	For the construction of a highway on new alignment to create a cross town route across Godfrey	\$1,400,000
3262	MI	Construct Industrial Park Service Road and Caine Road Bridge Replacement. Village of Millington, Tuscola County	\$395,200

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
3263	TX	Loop 281 Mobility and Safety Improvements, Longview, TX	\$2,736,000
3264	TX	Upgrade Fulghum Road Bridge on I–45 in Dallas County (TX) to provide safety and access for expanded intermodal traffic	\$2,480,000
3265	MN	Edge of Wilderness Discovery Center, Marcell	\$471,000
3266	IN	Construction of Star Hill Road, Clark County, Indiana	\$1,772,000
3267	TN	Plan and construct a bicycle and pedestrian trail, Shelbyville	\$320,000
3268	TX	Construct Park Row bypass from Texas State Highway 6 to the Eldridge Parkway in Houston, TX	\$1,600,000
3269	CA	Implement Northwest San Fernando Valley Road and Safety Improvements	\$2,444,800
3270	KY	Construct two bridges across the Ohio River from Louisville to southern Indiana	\$28,000,000
3271	ME	Construction of the Gorham Village Bypass, Gorham	\$11,220,000
3272	OK	Reconstruction of the I–40 Crosstown Expressway from I–44 to I–35 in downtown Oklahoma City, Oklahoma	\$16,000,000
3273	MD	I–695, MD147 to I–695	\$3,792,000
3274	SC	Upgrade Hwy 21 Bypass Grade Crossings	\$560,000
3275	MD	Upgrade MD 175 in Anne Arundel County between MD 170 and the Baltimore Washington Parkway	\$800,000
3276	OK	Construct and widen six lanes on Interstate 44 from the Arkansas River extending east approximately 3.7 miles to Yale Avenue in Tulsa, OK	\$8,800,000
3277	OR	North Bend Waterfront District Boardwalk Construction	\$992,000
3278	CT	Make Improvements to North Stonington, CT Westerly, R.I. Pawcatuck River Bridge	\$240,000
3279	VA	Construct improvements at I–264 interchange in Virginia Beach	\$9,400,000
3280	CA	Construct Western Placerville Interchanges on State Route 50	\$2,400,000
3281	CT	Construction of Housatonic River Walk, Shelton, CT	\$800,000
3282	NY	NYS Route 5, 8, 12 Interchange reconstruction: Town of New Hartford	\$800,000
3283	NY	Implement Improvements for Pedestrian Safety in Bronx County	\$600,000
3284	CA	Improve West Adams Blvd. Streetscape in West Adams Historic District, Los Angeles ..	\$200,000
3285	CA	Improve access from I–8 and construct parking lot for the Imperial Sand Dunes Recreation Area Visitor’s Center, Imperial Valley	\$800,000
3286	PA	Construction of low-impact, spine roadway serving the North Delaware Riverfront corridor, City of Philadelphia	\$8,000,000
3287	AL	Construct interchange on I–59 between I–59 and 49th Street in Fort Payne, AL	\$2,400,000
3288	FL	Coordinated Regional Transportation Study of U.S. 98 from Pensacola Bay Bridge, Escambia County, to Hathaway Bridge, Bay County, Florida	\$1,200,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
3289	GA	Leesburg North Bypass from U.S. 19 to SR 195, Lee County	\$400,000
3290	LA	Peters Road improvements in Plaquemines Parish	\$800,000
3291	GA	Upgrade sidewalks, lighting, landscaping from Cherry Street to Hampton Street, Industrial Park to Dooly Street, Montezuma	\$400,000
3292		.....	\$0
3293	GA	U.S. 27 Reconstruction from Colquit to CR 279	\$800,000
3294	TX	Loop 180 (Project code 1190-01-035) in Whitney, TX from FM 933/FM 1713 to FM 933S of Whitney	\$800,000
3295	IA	U.S. 30 widening, reconstruction in Story and Marshall Counties, Iowa	\$1,840,000
3296	TX	U.S. 377 from SH 144 to the eastern intersection of BUS 377H, Hood Co	\$3,000,000
3297	NY	Construct and improve pedestrian streetscapes along Sunrise Highway in Freeport	\$400,000
3298	IA	Construct Principal Riverwalk, Des Moines	\$4,000,000
3299	NY	Construct access ramps to Rt. 32-6/17-CR 105 in Orange County	\$6,400,000
3300	IL	Resurface Shawnee College Road, Pulaski County	\$1,261,000
3301	MI	Canton, Pave Cherry Hill Rd. between Canton Ctr., and Haggerty	\$1,600,000
3302	AR	Springdale, AR—Improvements to Johnson Road from Hwy 412 to I-540 through Springdale and Johnson	\$9,000,000
3303	NC	Environmental studies and construction of Garden Parkway	\$4,800,000
3304	AZ	U.S. 60 and U.S. 93 connection on the eastern edge of central Wickenburg	\$1,600,000
3305	GA	Construction of I-575 HOV Lanes from Sixes Road to SR 20, Cherokee County, Georgia ...	\$800,000
3306	WA	I-405-SR 167 interchange—Rebuild the interchange and add additional lanes to relieve congestion	\$1,600,000
3307	MN	U.S. 10 corridor improvement between Blaine and St. Cloud: design and ROW acquisition	\$2,000,000
3308	CA	Walnut Grove at Broadway Intersection Capacity Enhancements, San Gabriel	\$200,000
3309	KY	Widen and Reconstruct KY 698 at Mason Gap Road, Lincoln County	\$960,000
3310	OR	Medford, OR to construct sidewalks and improve storm drainage and gutters for the Citys Safe Walk Plan	\$800,000
3311	MN	Construct a pedestrian and bicycle bridge across TH 169, Onamia	\$878,080
3312	NY	Improve Montauk Highway from CR 46 to Barnes Road, Suffolk County	\$6,400,000
3313		.....	\$0
3314	AR	Study and construction of 8th Street, in Bentonville, AR from Interstate 540, (including direct access to I-540) to SW Elm Tree Road	\$35,000,000
3315	MN	Cedar Lake Regional Trail, Minneapolis	\$3,000,000
3316	TX	Reconstruct Union Pacific Railroad bridge over widened Business U.S. 287	\$800,000
3317	AK	Anchorage Traffic Congestion Relief	\$5,000,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
3318	VA	Expansion of Battlefield Parkway from East Market Street at Route 7 to Sycolin Road, SE	\$1,600,000
3319	OR	Construction of the I-84, U.S. 395 Stanfield Interchange Improvement Project	\$1,600,000
3320	IN	Design and reconstruct residential streets in the City of Muncie, Indiana	\$744,000
3321	CA	Improvement of Main Street—Shenandoah Road/SR 49 Intersection, Plymouth	\$800,000
3322	SD	Design and construct new Meridian Bridge across the Missouri River south of Yankton, South Dakota	\$3,200,000
3323	AK	Earthwork and roadway construction Gravina Access Project	\$48,000,000
3324	GA	Improvement and construction of SR 40 from east of St. Marys cutoff at mile post 5.0, Charlton County to County Route 61, Camden County, Georgia	\$800,000
3325	NJ	Route 22 Sustainable Corridor Plan	\$3,000,000
3326	OR	Hood River, OR, Frontage Road Crossing Project	\$400,000
3327	GA	Construct and Improve Westside Parkway, Northern Section, in Fulton County	\$1,600,000
3328		.....	\$0
3329	GA	Widen SR 133 from Spence Field to SR 35 in Colquitt County, Georgia	\$800,000
3330	FL	West Palm Beach, Florida, Flagler Drive Reconfiguration	\$800,000
3331	FL	Implement Snake Road (BIA Route 1281) Widening and Improvements	\$800,000
3332	NY	Reconstruction of Portland Ave. from Rochester City line to Titus Ave. in Irondequoit, NY	\$2,400,000
3333	FL	Alleviate congestion at Atlantic Corridor Greenway Network, City of Miami Beach, FL	\$400,000
3334		.....	\$0
3335	WA	SR 704 Cross-Base Highway, Spanaway Loop Road to SR 7	\$4,000,000
3336	CA	Restoration of Victoria Avenue in the City of Riverside, CA	\$400,000
3337	MN	I-494 Lane Addition	\$1,600,000
3338	GA	Uptown Jogging, Bicycle, Trolley Trail, Columbus, Georgia	\$400,000
3339	CA	Study and construct highway alternatives between Orange and Riverside Counties, directed by the Riverside Orange Corridor Authority working with local government agencies, local transp. authorities, and guided by the current MIS	\$12,600,000
3340	OH	Rehabilitation or replacement of highway-rail grade separations along the West Central Ohio Port Authority route in Champaign and Clark Counties	\$240,000
3341	FL	Improvements to I-75 in the City of Pembroke Pines, Florida	\$1,800,000
3342	LA	Construction of new interchange Causeway at Earhart-LA 3139	\$1,440,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
3343	GA	Construction of infrastructure for inter-parcel access, median upgrades, lighting, and beautification along Highway 78 corridor	\$400,000
3344	MI	Design, Right-of-Way and Construction of the I-196 Chicago Drive (Baldwin Street) Interchange Modification, Michigan	\$2,400,000
3345	VA	I-66 and Route 29 Gainesville Interchange Project	\$5,600,000
3346	FL	SR 688 Ulmerton Road Widening (Lake Seminole Bypass Canal to El Centro Ranchero) ...	\$8,000,000
3347	OK	Navajoe Gateway Improvements Project, U.S. 62 in Altus, OK	\$800,000
3348	NV	Construction of Carson City Freeway	\$800,000
3349	TN	Upgrade lights and gates and motion sensor controlling circuitry at the highway rail grade crossing located on Wenasoga Road/FAS 8224, Middleton, TN	\$160,000
3350	WV	Construct connector road from north end of RHL Boulevard to State Route 601 (Jefferson Road)	\$600,000
3351	NY	Construct Siena College campus perimeter road, Loudonville, NY	\$800,000
3352	AL	Construct additional lanes on SR 77 from Southside, Alabama to Green Valley Road ...	\$1,360,000
3353	TX	Environmental mitigation related to the SH 195 project and related improvements in Williamson County that had adverse effects on the Karst cave system	\$1,600,000
3354	AL	The City of Calera, Alabama—Northern Bypass Segment (U.S. Highway 31 to Alabama State Highway 25)	\$5,440,000
3355	WA	Construct a single point urban interchange (SPUI) under I-5 at South 272nd St	\$1,080,000
3356	IN	Reconstruct bridges at County Roads 200E and 300E in LaPorte County, Indiana	\$400,000
3357	MI	Widen and Reconstruct Walton Blvd. in Auburn Hills from Opdyke to Squirrel Rd	\$5,920,000
3358	GA	Commission a study and report regarding the construction and designation of a new Interstate linking Savannah, Augusta, and Knoxville	\$240,000
3359		.....	\$0
3360	CA	Pedestrian Beach Trail in San Clemente, CA ..	\$800,000
3361	TX	U.S. 90—Construct 6 mainlanes from east of Mercury to east of Wallisville	\$1,600,000
3362	PA	Construct highway safety and capacity improvements to improve the access to the KidsPeace Broadway Campus	\$720,000
3363	GA	GA 400 and McGinnis Ferry Road Interchange, Forsyth County, GA	\$720,000
3364	GA	Construction of bypass around town of Hiram, from SR 92 to U.S. 278, Paulding County, Georgia	\$400,000
3365	GA	Construct U.S. 411 Connector from U.S. 41 to I-75, Bartow County, Georgia	\$800,000
3366	TX	Construct access road connecting Port of Beaumont property on east bank of Neches River to I-10 access road east of the Neches River	\$1,056,000
3367	MD	U.S. 220/MD 53 North-South Corridor	\$800,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
3368	FL	Acquire Right-of-Way for Ludlam Trail, Miami, Florida	\$200,000
3369	NY	Construct Northern State Parkway and LIE access at Marcus Ave. and Lakeville Rd. and associated Park and Ride	\$1,360,000
3370	PA	Construct interim U.S. 422 improvements at Valley Forge river crossing	\$800,000
3371	NY	Design and construction of Renaissance Square in Rochester, NY	\$1,600,000
3372	AL	Alabama Hwy 36 Extension and Widening—Phase II	\$240,000
3373	PA	Northfield site roadway extension from Rt. 60 to Industrial Park near the Pittsburgh International Airport	\$400,000
3374	OH	Plan and construct pedestrian trail along the Ohio and Erie Canal Towpath Trail in downtown Akron, OH	\$760,000
3375	TX	Reconstruct I–30 Trinity River Bridge—Dallas, TX	\$27,200,000
3376	TX	Reconstruct I–30 Trinity River Bridge—Dallas, TX	\$800,000
3377	GA	Construction of interchange on I–985 north of SR 13, Hall County, Georgia	\$800,000
3378		.....	\$0
3379	FL	Temple Terrace Highway Modification	\$800,000
3380	WY	Burma Rd: Extension from I–90 to Lakeway Rd	\$1,600,000
3381	NJ	Construct Western Blvd. extension from Northern Blvd. to S.H. Rt. 9, Ocean County, NJ	\$3,200,000
3382	FL	Powerline Rearvision motor carrier backover motor carrier safety research	\$800,000
3383	NH	Environmental mitigation at Sybiak Farm in Londonderry to offset effects of I–93 improvements	\$1,200,000
3384	MI	East Grand River Improvements, Brighton Township, Michigan	\$1,600,000
3385	KY	Replace Brent Spence Bridge, Kenton County, Kentucky	\$1,600,000
3386	TX	Construction of projects that relieve congestion in and around the Texas Medical Center complex	\$9,600,000
3387	CA	Hazel Avenue ITS Improvements, Folsom Blvd. to Placer County	\$400,000
3388	FL	SR 688 Ulmerton Road widening (west of 38th street to west of I275)	\$8,000,000
3389	NH	Environmental mitigation at Crystal Lake in Manchester to offset effects of I–93 improvements	\$1,520,000
3390	VA	Widening I–95 between Rt. 123 and Fairfax County Parkway	\$800,000
3391	PA	Armstrong County, PA Slatelick Interchange for PA 28 at SR 3017	\$1,920,000
3392	OK	Reconstruct the I–44—Fort Still Key Gate Interchange	\$800,000
3393	GA	Greene County, Georgia conversion of I–20 and Carey Station Road overpass to full interchange	\$1,600,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
3394	OH	Upgrade overpass and interchange at U.S. 24 and SR 66 in the City of Defiance	\$800,000
3395	NE	I–80 Interchange at Pflug Road, Sarpy County, Nebraska	\$800,000
3396	FL	SR 70 improvements in Highland, DeSoto and Okeechobee Counties	\$400,000
3397	VA	Cathodic Bridge Protection for Veterans Memorial Bridge and the Berkely Bridge in the Commonwealth of Virginia	\$560,000
3398	IN	Reconstruct McClung Road from State Road 39 to Park Street in LaPorte, Indiana	\$600,000
3399	OH	Riversouth Street Network Improvements in Columbus	\$2,400,000
3400	GA	National Infantry Museum Transportation Network, Georgia	\$3,000,000
3401	AK	Wideband multimedia mobile emergency communications pilot project Wasilla, Alaska	\$5,000,000
3402	MD	Widen road and improve interchanges of I–81 from south of I–70 to north of Halfway Boulevard	\$800,000
3403	TX	Expansion of U.S. 385 4-lane divide south of Crane to McCarney	\$1,600,000
3404	VA	Old Mill Road Extension	\$1,280,000
3405	GA	Commission a study and report regarding construction and designation of a new Interstate linking Augusta, Macon, Columbus, Montgomery, and Natchez	\$240,000
3406	CO	Improvements on U.S. 36 corridor from I–25 to Boulder. Improvements include interchange and overpass reconstruction	\$1,120,000
3407	AZ	Design and construct bridge and roadway approaches across Tonto Creek at Sheeps Crossing south of Payson, AZ	\$2,960,000
3408	NE	Missouri River Bridges between U.S. 34, I–29 in Iowa and U.S. 75 in Nebraska	\$2,000,000
3409	NY	Reconstruct—Orangeport Road from NYS Rt. 31 to Slayton Settlement Road—Niagara County, NY	\$680,000
3410	TN	Construct sound-walls between I–65 and Harding Place in Davidson County	\$664,000
3411	ID	Reconstruct and Realign SH 55 in Idaho between Mileposts 94 and 102	\$1,600,000
3412	FL	Pinellas Countywide Intelligent Transportation System—Phase 2	\$8,000,000
3413	OK	Realignment of U.S. 287 around Boise City, OK	\$800,000
3414	FL	Replace Heckscher Drive (SR 105) Bridge across Broward River	\$1,600,000
3415	TX	FM 156 Road Relocation at Alliance Airport, Texas	\$6,500,000
3416	TX	Upgrade Caesar Chavez Boulevard from San Antonio Street to Brazos Street	\$2,400,000
3417	FL	Coral Way, SR 972 Highway Beautification, Phase One, Miami, Florida	\$400,000
3418	OR	Cascade Locks Marine Park Underpass to address necessary improvements	\$400,000
3419	NY	Reconstruction of East Genesee Street connective corridor to Syracuse University in Syracuse, NY	\$3,360,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
3420	IL	For Cook County to reconstruct and widen 127th Street between Smith Road and State Street in Lemont	\$360,000
3421	TN	Widen I–65 from SR 840 to SR 96, including interchange modification at Goose Creek Bypass, Williamson County	\$776,000
3422	CA	Auburn Boulevard Improvements, City of Citrus Heights	\$400,000
3423	LA	Bossier Parish Congestion Relief	\$2,400,000
3424	LA	Fund the 8.28 miles of the El Camino East-West Corridor along LA 6 from LA 485 near Robeline, LA to I–49	\$1,600,000
3425	FL	Bryan Dairy Road improvements from Starkey Road to 72nd Street	\$3,200,000
3426	GA	Buckhead Community Improvements to rehabilitate State Road 141, including lane straightening, addition of median, installation of left turn bays at two intersections, addition of bicycle lanes, sidewalks, clear zones and landscape buffers	\$800,000
3427	VA	Purchase specialized tunnel fire safety equipment, Hampton Roads	\$640,000
3428	MI	Holmes Road Reconstruction—From Prospect Road to Michigan Avenue, Charter Township of Ypsilanti	\$1,600,000
3429	TN	Construct a system of greenways in Nashville—Davidson County	\$800,000
3430	UT	Improve pedestrian and traffic safety in Holladay	\$2,000,000
3431	OH	Construction of road improvements from Richmond Road to Cuyahoga Community College, Warrensville Heights	\$1,080,000
3432	OH	Construct road with access to memorial Shoreway, Cleveland	\$800,000
3433	TX	North Cameron County East-West Railroad Relocation Project	\$80,000
3434	OR	Construct Pathway From Multimodal Transit Station to Swanson Park, Albany	\$520,000
3435	NY	Transportation Initiative to provide for a parking facility, in the vicinity of the Manhattan College Community	\$500,000
3436	NY	Phase II Corning Preserve Transportation Enhancement Project	\$4,800,000
3437	NY	Study of goods movement through I–278 in New York City and New Jersey	\$1,200,000
3438	NY	Study and Implement Traffic Improvements to the area surrounding the Stillwell Avenue train station	\$1,000,000
3439	CA	Expand Diesel Emission Reduction Program of Gateway Cities COG	\$2,480,000
3440	TX	Construct pedestrian walkway on Houston Texas' Main Street Corridor	\$1,000,000
3441	CA	Sacramento County, California—Watt Avenue Multimodal Mobility Improvements, Kiefer Boulevard to Fair Oaks Boulevard	\$3,200,000
3442	NJ	Passaic River—Newark Bay Restoration and Pollution Abatement Project, Route 21	\$400,000
3443	NJ	Downtown West Orange streetscape and traffic improvement program	\$1,440,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
3444	NY	High-Speed EZ pass at the New Rochelle Toll Plaza, New Rochelle	\$800,000
3445	TX	Access to Regional Multimodal Center—FM 1016 and SH 115	\$1,600,000
3446	AR	For acquisition and construction of an alternate transportation (pedestrian/bicycle) trail from East Little Rock to Pinnacle Mountain State Park	\$160,000
3447	MN	Construct 4th Street overpass grade separation crossing a BNSF Rail Road, City of Carlton	\$159,835
3448	TX	North Rail Relocation Project, Harlingen	\$1,600,000
3449	MN	Construct Pfeifer Road, remove 10 foot raised crossing, Twin Lakes Township	\$201,374
3450	MS	Safety improvements and to widen Hardy Street at the intersection of U.S. 49 in Hattiesburg	\$640,000
3451		.....	\$0
3452	MN	Safety improvements to TH 169 between Virginia and Winton	\$20,464,331
3453	LA	U.S. 190 (LA 22 to Little Bayou Castine) Widening	\$800,000
3454	NC	Construct bicycle and pedestrian trails, Durham and Durham County	\$1,600,000
3455	MN	TH 61 Reconstruction from 2.7 miles to 6.2 miles north of Tofte	\$8,053,600
3456	MN	Phase II/part II—CSAH 15 to East of Scenic Highway 7 (1.2 miles)	\$2,272,000
3457	MN	Reconstruction with some rehabilitation of roadway with storm water sewer system construction from eastern boundary of the Bois Forte Indian Reservation and ending at “T” intersection of roadway (3.5 miles)	\$800,000
3458	MS	Widen 4th Street in Hattiesburg	\$2,560,000
3459	NJ	Study of safe and efficient commercial multimodal transportation systems serving the East Coast Port Complex	\$400,000
3460	IL	Construct bike/pedestrian paths, Chicago	\$2,480,000
3461	IL	Construct Leon Pass overpass, Hodgkins	\$768,000
3462	IL	Undertake Streetscaping project on Harlem Avenue initiating from 71st Street to I–80, Cook County	\$3,280,000
3463	IL	Construct bike path, parking facility, and related transportation enhancement projects, North Riverside	\$1,920,000
3464	IL	Upgrade Roads, Summit	\$768,000
3465	IL	Undertake streetscaping on Ridgeland Avenue, Oak Park Avenue, and 26th Street, Berwyn	\$768,000
3466	IL	Construct bike/pedestrian paths, facilities and infrastructure improvements in Spring Rock Park, Western Springs Park District	\$576,000
3467	SD	Extend the Sioux Falls Bike Trail to the Great Bear Recreation Area	\$960,000
3468	SD	Redesign T corner on BIA #2 5 miles SW of Kyle on the Pine Ridge Reservation	\$600,000
3469	SD	Extend bike trail in Pine Ridge to the SuAnne Big Crow Boys and Girls Center	\$200,000
3470	SD	Extend bicycle trail system in Aberdeen	\$640,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
3471	GA	City of Moultrie Streetscape Improvements, Phase III	\$750,000
3472	GA	Restore and renovate for historic preservation and museum the 1906 AB&A Railroad Building, Fitzgerald	\$500,000
3473	GA	Improve sidewalks, upgrade lighting, and add landscaping, Ocilla	\$500,000
3474	GA	Improve sidewalks, upgrade lighting, and add landscaping, Newton County	\$750,000
3475	GA	Improve sidewalks, upgrade lighting, and add landscaping, Monticello	\$500,000
3476	GA	City of Sylvester Bicycle and Pedestrian Project	\$400,000
3477	GA	Improve sidewalks, upgrade lighting, and add landscaping, Tifton	\$750,000
3478	GA	Improve sidewalks and curbs on Wheeler Avenue and Carlos Avenues, Ashburn	\$500,000
3479	GA	Improve sidewalks, upgrade lighting, and add landscaping, Jackson	\$500,000
3480	CA	Construct traffic circle in San Ysidro at the intersection of Via de San Ysidro and West San Ysidro Boulevard, San Diego	\$240,000
3481	CA	Construct and resurface unimproved roads in the Children's Village Ranch and improve access from Children's Village Ranch to Lake Morena Drive, San Diego County	\$800,000
3482	CA	Project design and environmental assessment of widening and improving the interchange at "H" Street and I–5, Chula Vista, Chula Vista	\$2,160,000
3483	FL	Jacksonville International Airport Access Rd. to I–95, Jacksonville	\$1,600,000
3484	FL	Mathews Bridge Replacement, Jacksonville	\$800,000
3485	FL	Hecksher Bridge Replacement, Jacksonville	\$800,000
3486	FL	NE 3 Ave. to NE 8th Ave. Rd. Reconstruction, Gainesville	\$800,000
3487	FL	University Ave. to NE 8 Avenue Rd. Reconstruction, Gainesville	\$1,600,000
3488	KY	Central Kentucky Multi-Highway Preservation Project	\$1,840,000
3489	WV	Construct East Beckley Bypass, including \$500,000 for preliminary engineering and design of the Shady Spring connector (Route 3/Airport Road)	\$4,000,000
3490	WV	Construct I–73/I–74 High Priority Corridor, Wayne County	\$4,000,000
3491	KY	Construct Kidville Road (KY 974) Interchange at the Mountain Parkway, Clark County	\$1,360,000
3492	NY	Construction and improvements to Ridge Road, Lackawanna	\$400,000
3493	CA	Construction at I–580 and California SR 84 (Isabel Avenue) Interchange	\$2,000,000
3494	NY	Construction of and improvements to Amherst Street, Buffalo	\$160,000
3495	NY	Construction of and improvements to Grant Street, Buffalo	\$160,000
3496	NY	Construction of and improvements to Hertel Avenue, Buffalo	\$160,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
3497	NY	Construction of and improvements to Hopkins Street, Buffalo	\$160,000
3498	NY	Construction of and improvements to Main Street in the Town of Aurora	\$400,000
3499	NY	Construction of and improvements to McKinley Parkway, Buffalo	\$400,000
3500	NY	Construction of and improvements to Route 5 in the Town of Hamburg	\$400,000
3501	NY	Construction of and improvements to South Park Avenue and Lake Avenue in the Village of Blasdell	\$400,000
3502	NY	Construction of and improvements to South Park Avenue, Buffalo	\$160,000
3503	NY	Construction of Bicycle Path and Pedestrian Trail in City of Buffalo	\$640,000
3504	NY	Construction, redesign, and improvements to Fargo Street in Buffalo	\$1,600,000
3505	TN	Improve existing two lane highway to a five lane facility on State Route 53 from South of I-24 to Near Parks Creek Road, Coffee County	\$4,400,000
3506	ME	Improve portions of Route 116 between Lincoln and Medway to bring road up to modern standard	\$3,500,000
3507	ME	Improve portions of Route 26 between Bethel and Oxford	\$1,000,000
3508	NY	Road improvements and signage in City of Lackawanna	\$400,000
3509	NJ	Belmont Ave. Gateway Community Enhancement Project, Haledon	\$400,000
3510	TX	Conduct feasibility study for an off ramp on I-30 on to Hall Street for direct access to Baylor University Medical Center in Dallas	\$800,000
3511	NJ	Livingston Pedestrian Streetscape Project along Mount Pleasant and Livingston Avenues	\$720,000
3512	MD	MD4 at Suitland Parkway	\$4,000,000
3513	NJ	Pompton Lakes Downtown Streetscape	\$800,000
3514	PA	Street improvements along North Broad Street, Hatfield Borough	\$100,000
3515	PA	Street improvements to Old York Road, Jenkintown Borough	\$800,000
3516	PA	Street improvements to Ridge Pike and Joshua Road, Whitmarsh Township	\$640,000
3517	PA	Street improvements to Skippack Pike (Rt. 73), Whitpain Township	\$480,000
3518	PA	Street Improvements, Upper Dublin Township	\$1,200,000
3519	PA	Street Improvements, Upper Gwynedd Township	\$300,000
3520	VA	Construct access road and roadway improvements to Chessie development site, Clifton Forge	\$1,040,000
3521	WA	Fruitdale and McGarigle Arterial Improvements Project in Sedro Woolley, Washington	\$760,000
3522	MS	Improve Ridge Road, Pearl River County	\$800,000
3523	MS	Port Bienville Intermodal Connector, Hancock County	\$2,400,000
3524	WA	Realign Airport Road/Springhetti Ave./Marsh Road in Snohomish County, Washington	\$250,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
3525	LA	U.S. 61 (Airline Highway) Improvements, Orleans and Jefferson Parishes	\$2,240,000
3526	UT	Widen Redwood Road from Bangerter Highway in Salt Lake County through Saratoga Springs in Utah County	\$1,000,000
3527	VA	Widen Rolfe Highway from near the intersection of Rolfe Highway and Point Pleasant Road to the Surry ferry landing approach bridge	\$400,000
3528	MI	Bristol Road improvement project from Interstate 69 to North Torrey road	\$1,600,000
3529	NJ	Construct parking facility at the Robert Wood Johnson University Hospital and UMDNJ with access to the intermodal train station, New Brunswick	\$1,600,000
3530	WA	Olympia Infrastructure Enhancement Project	\$684,000
3531	IN	Downtown Road Improvements, Indianapolis ..	\$5,720,000
3532	TX	Continuation of item number 92 of the table contained in section 1602 of the Transportation Equity Act for the 21st Century (Public Law 105–178)	\$1,120,000
3533	IL	Upgrade roads, Plainfield	\$240,000
3534	CA	Acquisition of land along CA 86 at the Desert Cahuilla Prehistoric Site, Imperial County for environmental mitigation related to reducing wildlife mortality while maintaining habitat connectivity	\$800,000
3535	NY	Queens and Bronx Counties Graffiti Elimination Program	\$200,000
3536	MA	Cambridge Bicycle Path Improvements	\$1,000,000
3537	CA	Conduct preliminary engineering and design analysis for a dedicated intermodal right-of-way link between San Diego and the proposed Regional International Airport in Imperial Valley including a feasibility study and cost benefit analysis evaluating the comparative options of dedicated highway or highway lanes, Maglev and conventional high speed rail or any combination thereof ..	\$800,000
3538	MA	Chelsea Roadway Improvements	\$2,000,000
3539	NY	Congestion reduction measures in Richmond County	\$2,000,000
3540	NJ	Construct Hudson River Waterfront Walkway over Long Slip Canal—Hoboken and Jersey City	\$800,000
3541	CA	Construct Illinois Street Bridge/Amador Street Connection and Improvements, San Francisco	\$3,200,000
3542	NY	Construct multi-modal facility in the vicinity of Brooklyn Childrens Museum	\$240,000
3543	NJ	Construct Parking Facility at McGinley Square in Jersey City	\$840,000
3544	OR	Construction of access road including sidewalks, bike lanes and railroad crossing from Highway 99W to industrial zoned property, Corvallis	\$814,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
3545	NY	Continuation of the public awareness program to the subcontracting entity which was funded under Section 1212(b) of Public Law 105-178 about infrastructure in Lower Manhattan	\$400,000
3546	OR	Continue bridge repair project authorized under Public Law 105-178, Coos Bay	\$8,000,000
3547	NJ	Expand TRANSCOM Regional ITS System in NJ, NY, and CT	\$800,000
3548	CA	Construct new sidewalks in the City of Heber, CA	\$400,000
3549	NY	Graffiti Elimination Program in Riverdale neighborhood of Bronx County	\$500,000
3550	NY	Graffiti Elimination Program on Smith Street in Kings County	\$500,000
3551		.....	\$0
3552	NJ	Hudson County Fire and Rescue Department, North Bergen: Transportation Critical Incident Mobile Data Collection Device	\$960,000
3553	NJ	Hudson County Pedestrian Safety Improvements	\$800,000
3554	OR	Hwy 199 Safety Improvements, Josephine County	\$2,000,000
3555	OR	Hwy 99E/Geary Street Safety Improvements, Albany	\$1,002,000
3556	NY	Implement Improvements for Pedestrian Safety in Riverdale neighborhood of Bronx County	\$500,000
3557	WA	Improve Mill Plain Blvd. between SE 172nd and SE 192nd in Vancouver	\$1,250,000
3558	WA	Improve signage along scenic highways in Clark, Skamania and Pacific counties	\$60,000
3559		.....	\$0
3560	NJ	Jersey City 6th Street Viaduct Pedestrian and Bicycle Pathway Project	\$1,600,000
3561	OR	Middle Fork Willamette River Path, Springfield	\$3,000,000
3562		.....	\$0
3563	OR	Pedestrian improvements including boardwalk extension and sidewalk construction, Port of Brookings Harbor	\$600,000
3564	NJ	Port Reading—Improvements to air quality through reduction of engine idling behind Rosewood Lane	\$640,000
3565	OR	Purchase communications equipment related to traffic incident management in Linn, Benton, Lane, Douglas, Coos, Curry, and Josephine Counties	\$9,000,000
3566	MA	Reconstruction of the I-95/Rt. 20 Interchange in Waltham	\$1,040,000
3567	NJ	Route 440 Rehabilitation and Boulevard Creation Project in Jersey City	\$1,000,000
3568	MA	Rutherford Avenue Improvements, Boston	\$1,000,000
3569	GA	SR 10/Peters Street/Olympic Drive interchange, Athens	\$1,600,000
3570		.....	\$0
3571	OR	To construct and enhance bikeway between Hood River and McCord Creek	\$500,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
3572	NY	To construct greenway along East River waterfront between East River Park (ERP) and Brooklyn Bridge, and reconstruct South entrance to ERP, in Manhattan	\$1,200,000
3573	OR	Transportation enhancements at Eugene Depot, Eugene	\$1,000,000
3574	OR	U.S. 101 Slide Repair, Curry County	\$2,895,200
3575	OR	U.S. Highway 20 and Airport Road Intersection Improvements, Lebanon	\$837,000
3576	IL	Upgrade 31st Street and Golfview Rd. intersection and construct parking facilities, Brookfield	\$1,200,000
3577	NJ	Weehawken Baldwin Avenue Improvements ...	\$1,600,000
3578	WA	Widen SR 503 through Woodland	\$1,000,000
3579		.....	\$0
3580	NC	Expand Derita Road	\$1,600,000
3581	IL	Construct Rt. 3 Loop Hog Hollow Road to Monsanto Road, St. Clair County	\$600,000
3582	NY	Planning and design, construction, and relocations for Southtowns Connector—NY Route 5 from Coast Guard Base to Ohio Street, including Fuhrmann Boulevard	\$800,000
3583		.....	\$0
3584	NY	Implement a roadway evacuation study for the South Shore of Long Island, Mastic	\$800,000
3585	NY	Improve Brooksite Drive from NY 25/25A to Rt. 347, Smithtown	\$720,000
3586	NY	Improve Clover Ln. from Bay Ave. to Bay Rd., Hamlet of Brookhaven	\$216,000
3587		.....	\$0
3588	NY	Improve Dare Rd. from Old Town Rd. to Rt. 25, Selden	\$352,000
3589		.....	\$0
3590	NY	Improve intersection of Old Dock and Church Street, Kings Park	\$100,000
3591		.....	\$0
3592	NY	Improve Old Town Rd. from Rt. 347 to Slatery Rd., Setauket	\$336,000
3593	NY	Improve Old Willets Path from NY 454 to Rabro Dr., Smithtown	\$812,000
3594	NY	Improve Pipe Stave Hollow Rd. to Harbor Beach Rd., Miller Place	\$200,000
3595	IL	Reconstruction and Improvement of North Lincoln Ave, O'Fallon	\$1,339,996
3596	IL	Reconstruction of 20th Street, Granite City	\$1,200,000
3597	IL	Road Alignment from Caseyville Road to Sullivan Drive, Swansea	\$900,000
3598	NY	Road Improvements Hamlet of Medford, Town of Brookhaven	\$400,000
3599	NY	Road improvements, Hamlet of Gordon Heights, Town of Brookhaven	\$344,000
3600	NY	Road improvements, Village of Patchogue	\$1,200,000
3601	NY	Roadway improvements, Hamlet of Mastic Beach	\$320,000
3602		.....	\$0
3603	NY	WLIU Public Radio Emergency and Evacuation Transportation Information Initiative, Southampton	\$900,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
3604	UT	Reconstruct 500 West, including pedestrian and bicycle access, in Moab	\$250,000
3605	PA	Construct improvements to Chambers Hill Road and Lindle Road (SR 441) at its intersections with Interstate 283 and Eisenhower Boulevard	\$800,000
3606	PA	Construct Regional Trail, Muhlenberg Township	\$600,000
3607	PA	Rail Crossing signalization upgrade, Main Street, Lyons Station, Berks County	\$165,040
3608	PA	Rail Crossing signalization upgrade at Hill Road, Township of Blandon, County of Berks	\$165,040
3609	PA	Safety improvements at Liberty Street intersection with PA Route 61 in W. Brunswick and N. Manheim Twp., Schuylkill County	\$1,524,560
3610	PA	Replace Stossertown Bridge (Main Street) over West Creek in Branch Township, Schuylkill County	\$400,000
3611	PA	Replace bridge over Little Mahantongo Creek at intersection of Hepler and Valley Roads in Upper Mahantongo Twp., Schuylkill County	\$200,000
3612	PA	Replace Union Street Bridge over Middle Creek in the borough of Tremont, Schuylkill County	\$400,000
3613	PA	Replace Burd St. Bridge over Amtrak and Norfolk Southern railroad tracks in the Borough of Royalton, Dauphin County	\$400,000
3614	PA	Hummelstown Borough, PA for intersection and pedestrian realignment and drainage	\$1,600,000
3615	MN	City of Moorhead Southeast Main GSI 34th Street and I-94 interchange	\$1,600,000
3616	MN	Paynesville Highway 23 Bypass	\$1,600,000
3617	AR	Construction of I-530 between Pine Bluff and Wilmer	\$32,000,000
3618	NY	Conduct study to develop regional transit strategy in Herkimer and Oneida counties ..	\$80,000
3619	NY	Improve town weatherization capabilities on Tucker Drive, Poughkeepsie, NY	\$200,000
3620	NY	Bedell Road improvements, Poughkeepsie, NY	\$104,000
3621	NY	Land acquisition and improvements on Main Street, Beacon, NY	\$400,000
3622	NY	Construction of sidewalks in Sugar Loaf	\$80,000
3623	CT	I-84 Expressway Reconstruction from Waterbury to Southbury	\$1,200,000
3624	DC	Road and trail reconstruction and drainage improvements (APHCC)	\$480,000
3625	GA	Central Hall Recreation and Multi-Use Trail, Hall County, GA	\$1,600,000
3626	OH	Land acquisition for construction of pedestrian and bicycle trails at Mentor Marsh in Ohio ..	\$560,000
3627	OH	Design and construct road enhancements Andrews Road and Lakeshore Blvd. in Mentor-on-the-Lake, OH	\$240,000
3628	OH	Design and construct road enhancements Cleveland Port Authority in Cleveland, Ohio	\$2,500,000
3629	LA	Red River National Wildlife Refuge Visitor Center	\$2,400,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
3630	TN	For the advancement of project development activities for SR 33 from Knox County Line to SR 61 at Maynardville, TN	\$1,600,000
3631	CA	To convert a railroad bridge into a highway bridge spanning over the Feather River between Yuba City and Marysville	\$4,000,000
3632		.....	\$0
3633	GA	Construction of interchange on I-985 north of SR 13, Hall County, Georgia	\$800,000
3634		.....	\$0
3635		.....	\$0
3636		.....	\$0
3637	CA	Planning design and construction to widen SR in Kern, CA between San Luis Obispo County Line and I-5	\$92,000,000
3638		.....	\$0
3639		.....	\$0
3640	GA	Design and Construct Railroad Grade Crossing Gates in Acworth, GA	\$300,000
3641		.....	\$0
3642	KS	Northwest Bypass between K96 and 119th Street West	\$1,600,000
3643		.....	\$0
3644	IL	State Rt. 78 to Lathrop Street to 2900 E (Township Road)—A 1.5 mile village street extension, bridges, and upgrading of existing street	\$1,840,000
3645		.....	\$0
3646		.....	\$0
3647		.....	\$0
3648		.....	\$0
3649	CA	Increase Capacity on I-80 between Sacramento/Placer County Line and SR 65	\$21,600,000
3650	IL	Bloomington-Normal East Side Highway Corridor	\$800,000
3651		.....	\$0
3652	OH	Morse Road Corridor Improvements, Phase II, Columbus	\$800,000
3653		.....	\$0
3654		.....	\$0
3655		.....	\$0
3656		.....	\$0
3657		.....	\$0
3658		.....	\$0
3659		.....	\$0
3660	MI	Holland, Michigan, Construct River Avenue Corridor Improvements	\$2,320,000
3661		.....	\$0
3662		.....	\$0
3663		.....	\$0
3664		.....	\$0
3665		.....	\$0
3666		.....	\$0
3667		.....	\$0
3668		.....	\$0
3669		.....	\$0
3670	KY	Central Kentucky Multi-Highway Preservation Project (plus-up)	\$460,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
3671	KY	The Kentucky Multi-Highway Preservation Project (plus-up)	\$320,000
3672	AZ	Pave remaining stretch of the Turquoise Trail, BIA Route 4, which is a north-south road that joins AZ HW 160 in the north to AZ HW 264 in the south portion of BIA Route 4	\$1,600,000
3673	AK	Improve marine intermodal facilities in Ketchikan	\$14,000,000
3674	DC	Highway improvements to improve access to the Kennedy Center	\$4,000,000
3675	KY	Construct two bridges across the Ohio River from Louisville to southern Indiana (plus-up)	\$10,000,000
3676	OR	TransPacific Parkway Realignment Project, Coos County	\$350,000
3677	AK	Planning, Design, and Construction of Knik Arm Bridge	\$28,425,000
3678	AK	Intermodal facility improvements at the Port of Anchorage	\$25,000,000
3679	AK	Upgrade city roads and construct a road and acquire a hovercraft to transit the bay between King Cove and Cold Bay in King Cove	\$3,700,000
3680	AK	Municipal Road Paving—Kotzebue	\$2,000,000
3681	AK	Various Road Improvements in Petersburg	\$2,000,000
3682	AK	Construction and Improvements at Alaska Pacific University	\$3,000,000
3683	AK	Various road improvements in the City of Kenai	\$1,000,000
3684	AK	Float Plane Road in Aleknagik	\$1,000,000
3685	AK	Olympic Circle road paving in Gridwood	\$500,000
3686	AK	Coffman Cove road paving in Coffman Cove	\$375,000
3687	AK	Port Saint Nicholas road improvements in Craig	\$3,000,000
3688	AK	Construction of a road between Lake Lucille and Big Lake in Matanuska-Sustina Borough	\$2,000,000
3689	AK	Hatcher Pass Ski Development Road in Matanuska-Sustina Borough	\$1,000,000
3690	AK	Access roads for the Barrow Arctic Research Center in Barrow	\$3,000,000
3691	AK	Intermodal ferry dock in Hoonah	\$2,000,000
3692	AK	Construction of relocation road in Shishmaref	\$5,000,000
3693	AK	Improvements to Lake Camp Road in Bristol Bay Borough	\$3,000,000
3694	AK	Study on the feasibility of constructing a natural gas pipeline from the North Star Borough to South Central Alaska along the existing transportation corridors	\$2,000,000
3695	AK	Soldotna: Keystone Drive Road improvements in Soldotna	\$3,000,000
3696	AK	Metlakatla: Walden Point Road	\$5,000,000
3697	AK	Anchorage: Traffic Congestion Relief	\$5,000,000
3698	AK	Bristol Bay: Transportation improvements to the access road and a bridge crossing at the Naknek River	\$3,000,000
3699	AK	Statewide: Road culvert replacement and repair to improve fish habitat	\$5,000,000
3700	AK	Construction of a ferry between Anchorage and Port MacKenzie	\$5,000,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
3701	AK	Aleknagik: Wood River Bridge, or design, engineering, permitting, and construction	\$3,000,000
3702	AK	Chignik: Inter-Village Road, for design, engineering, permitting, and construction	\$5,000,000
3703	AK	Kotzebue: Cape Blossom Road, for design, engineering, permitting, and construction	\$5,000,000
3704	AK	Fairbanks: Tanana River Bridge replacement, for design, engineering, permitting, and construction	\$5,000,000
3705	AK	Transportation Improvements in Cook Inlet for the Westside development/Williamsport-Pile Bay Road	\$2,000,000
3706	AK	Fairbanks/North Star Borough: Road improvements to service roads and other misc	\$5,000,000
3707	AK	Upgrades for road access to McCarthy, AK, for design, engineering, permitting, and construction	\$5,000,000
3708	AK	Upgrades on the Dalton Highway, for design, engineering, permitting, and construction	\$4,500,000
3709	AK	Kotzebue: Municipal Road Paving Project	\$2,000,000
3710	AK	Crooked Creek: Road to Donlin Mine, for design, engineering, permitting, and construction	\$2,000,000
3711	AK	Kenai: Borough road improvements	\$2,500,000
3712	AK	Wrangell: Road improvements	\$4,000,000
3713	AK	Petersburg: Road improvements, including but not limited to design, engineering, permitting, and construction	\$1,500,000
3714	AK	Ketchikan: Improve marine dry-dock and facilities	\$2,000,000
3715	AK	Southeast: Planning, design, and EIS of Bradfield Canal Road	\$2,000,000
3716	AK	Gustavus: Dock replacement for the Alaska Marine Highway	\$3,000,000
3717	AK	Upgrades on the Richardson Highway, including but not limited to design, engineering, permitting, and construction	\$4,500,000
3718	AK	Bethel: Dust Control Mitigation for Rural Roads	\$1,500,000
3719	AK	Nome: Dust Control Mitigation for Rural Roads	\$1,500,000
3720	AK	Sitka: Improvements to Indian River Road, including but not limited to design, engineering, permitting, and construction	\$500,000
3721	AK	Anchorage: handicapped and pedestrian access construction, surfacing and other improvements for 2006 National Veterans' Wheelchair Games	\$2,000,000
3722	AK	Statewide: Mobility coalition—Job access transportation	\$250,000
3723	AK	AK-North Pole: Homestead Road/North Pole High School Boulevard Extension Project	\$500,000
3724	AK	Fairbanks: O'Connor Road Bridge Replacement	\$250,000
3725	AK	Anchorage: Transportation Improvements to the Creekside development	\$3,000,000
3726	AK	Anchorage: Dimond Center Intermodal Facility, including but not limited to design, engineering, permitting, and construction	\$2,500,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
3727	AK	Anchorage: Transportation needs for Glacier/ Winner Creek Development	\$1,000,000
3728	AL	Preliminary Engineering, Design, ROW Acquisition and Construction of the Tuscaloosa Bypass	\$25,000,000
3729	AL	Preliminary Engineering, Design, ROW Acquisition and Construction of the I–10 Connector	\$15,000,000
3730	AL	Preliminary Engineering, Design, ROW Acquisition and Construction of the I–85 Extension	\$50,000,000
3731	AL	To construct approximately 13 mile four lane thoroughfare to connect the Foley Beach Express to I–10/Highway 83 Baldwin County ...	\$18,000,000
3732	AL	To construct a new interchange on I–85 at Beehive Road in Auburn, AL	\$18,000,000
3733	AL	To widen Highway 84 to 4 lanes west of I–65 from Evergreen to Monroeville and beyond to the Alabama State line	\$4,000,000
3734	AL	I–65 Widening from U.S. 31 in Alabaster (Exit 238) to AL 25 in Calera (Exit 228)	\$5,000,000
3735	AR	Northeast Arkansas Connector (relocation of Highway 226)	\$10,600,000
3736	AR	Interchange Modification to I–430/I–630	\$15,000,000
3737	AR	Hot Springs Extension, East-West Arterial: Highway 70 to Highways 5/7	\$10,000,000
3738	AR	Caraway Bridge Overpass	\$1,800,000
3739	AR	Highway 67: Kiehl Avenue—Vandenberg Boulevard: rehabilitating and widening Highway 67 from four to six lanes from Kiehl Ave. to Vandenberg Blvd	\$4,000,000
3740	AR	Improve State Hwy 88 (Higdon Ferry Road) in Hot Springs	\$3,000,000
3741	AR	I–40/Highway 89 Interchange Planning and Construction	\$3,000,000
3742	AR	Conway, AR Western Loop—For engineering, rights-of-way, relocations, and continued planning and design	\$2,000,000
3743	AR	Develop a railroad overpass connecting U.S. Highway 67 and U.S. Highway 371 in Prescott	\$528,000
3744	AR	Highway 77 Rail Grade Separation in Marion	\$3,000,000
3745	AR	Maumelle Interchange—For third entrance into Maumelle	\$1,500,000
3746	AR	Rogers—Construct new interchange on I–540 near the existing Perry Road overpass	\$3,372,000
3747	AR	Construction of I–49, Highway 71: Highway 22 to Highway 71 near Jenny Lind	\$1,000,000
3748	AR	Highway 165: Railroad Overpass Construction	\$2,000,000
3749	AR	Improve Highway 412: Baxter Co. to Ash Flat	\$1,000,000
3750	AR	Highway 412 Relocation: Paragould South Bypass	\$1,000,000
3751	AR	Widening of Highway 65/82: Pine Bluff-Greenville Bridge	\$2,000,000
3752	AR	Highway 167 Widening: Fordyce to Sheridan Bypass	\$2,000,000
3753	AR	Fort Smith: Improvements to Jenny Lind Rd. and Ingersoll	\$1,200,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
3754	AR	Van Buren—Widen and reconstruct Rena Road	\$600,000
3755	AR	Russellville Intermodal Facility: construct access roads from AR Hwy 247, purchase Right-of-Way	\$400,000
3756	AR	Springdale—Improvements to Johnson Road from Hwy 412 to I–540 through Springdale and Johnson	\$7,000,000
3757	AR	Construct and rehabilitate Fayetteville Expressway Economic Development Corridor ...	\$4,000,000
3758	AR	Construct and rehabilitate University of Arkansas Technology Corridor Enhancement Project	\$2,000,000
3759	AR	Develop U.S. Highway 71 (I–49) to Interstate standards on new location between Mena, AR and LA State line	\$3,000,000
3760	AZ	Arizona Department of Transportation; for those projects it has identified as its highest priorities	\$41,335,473
3761	AZ	Replacement of Safford Bridge which crosses the Gila River directly north of Safford, AZ on North 8th Avenue	\$3,664,527
3762	CA	Widen Highway 101 in Marin and Sonoma Counties from Hwy 37 in Novato to Old Redwood Highway in Petaluma	\$15,000,000
3763	CA	Construct Hwy 101 bicycle-pedestrian project in Marin and Sonoma Counties from north of Atherton Ave. to south of Petaluma River bridge	\$500,000
3764	CA	ITS and Intersection Improvements, LAX	\$1,000,000
3765	CA	Complete Monterey Bay Sanctuary Scenic Trail between Monterey and Santa Cruz counties	\$1,000,000
3766	CA	Airport Boulevard Interchange Improvements, Salinas and Vicinity, Monterey County	\$4,000,000
3767	CA	Improvements to Bay Road and Northern Access (City of East Palo Alto)	\$6,000,000
3768	CA	Compton Arterial Reconstruction and Improvement Program, Compton	\$2,500,000
3769	CA	University Avenue Overpass: Construction of bicycle and pedestrian lanes—East Palo Alto	\$2,000,000
3770	CA	Sealing unpaved roads in Calaveras County	\$1,000,000
3771	CA	Mission Boulevard/State Route 71 Interchange—Corridor Improvements in Pomona	\$3,000,000
3772	CA	Construct Bristol Street multimodal corridor in Santa Ana	\$1,000,000
3773	CA	Reconstruct I–710 Interchanges at I–405, at SR 91, and at I–105	\$5,500,000
3774	CA	Riverside Highway Grade Separation	\$5,000,000
3775	CA	Hunts Lane Rail Grade Separation, San Bernardino	\$5,000,000
3776	CA	Construct truck lane from Britannia Blvd. to the Otay Mesa Port of Entry, San Diego County	\$3,000,000
3777	CA	Park Boulevard-Harbor Drive Rail Grade Separation, San Diego	\$2,000,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
3778	CA	Virginia Corridor Rails to Trails: Reconstruct Union Pacific Right-of-Way to bicycle and pedestrian trail, City of Modesto, Stanislaus County	\$3,000,000
3779	CA	Construct bicycle and pedestrian trail between Port Costa and Martinez as part of the San Francisco Bay Trail, Contra Costa County ...	\$1,000,000
3780	CA	Improve air quality in the Sacramento region, Sacramento Area Council of Governments ...	\$5,000,000
3781	CA	Builds a pedestrian bridge from Hiller Street to the Bay Trail, Belmont	\$1,000,000
3782	CA	Plan and improve Orange County's transportation system to reduce congestion, Orange County Council of Governments	\$1,000,000
3783	CA	Construct 20 mile managed lanes on Interstate 15 between State Route 163 and State Route 78 (San Diego)	\$5,000,000
3784	CA	Design and construct access improvements in North Central Business District, Sacramento	\$2,000,000
3785	CA	Modify I-880 and Stevens Creek Boulevard Interchange to ease traffic congestion in San Jose	\$3,000,000
3786	CA	Construction of Cross Valley Connector between I-5 and SR 14	\$5,000,000
3787	CA	I-680: Construct High Occupancy Toll Lanes in Alameda County	\$2,000,000
3788	CA	Interchange Improvements: Laval and I-5, City of Lebec	\$4,000,000
3789	CA	Planning, design, engineering, and construction of Naval Air Station, North Island access tunnel on SR 75-282 corridor, San Diego	\$5,000,000
3790	CA	ITS Improvements—City of Pasadena	\$2,000,000
3791	CA	Construct Interchange at Harbor Blvd. and I-80 in West Sacramento	\$1,000,000
3792	CA	Road and signage improvements, Southeast corner of Tahquitz Canyon Way and Hermosa Drive, Agua Caliente Museum, Palm Springs	\$500,000
3793	CA	To improve California Avenue between Willow and Spring Streets, Long Beach	\$1,000,000
3794	CA	For Environmental Review Process at I-5 Interchanges, Stockton, North Grove, Eight Mile Road, Otto Drive, and Hammer Lane ...	\$500,000
3795	CA	Folsom Boulevard Corridor Transportation Enhancements, between Rod Beaudry Drive and Sunrise Boulevard, City of Rancho Cordova	\$1,000,000
3796	CA	Construct I-80 HOV lanes and interchange in Vallejo	\$2,000,000
3797	CA	Alameda Corridor SR 47 Port Access Expressway design	\$2,000,000
3798	CA	Rehabilitation, repair and/or reconstruction of deficient 2-lane roads that connect to Interstate 5, SR 180, SR 41 and SR 99 county-wide, Fresno County	\$1,500,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
3799	CA	Improvement of intersection at Aviation Blvd. and Rosecrans Ave. to reduce congestion (El Segundo)	\$2,000,000
3800	CA	Improvements/Widening of SR 99 from Goshen to Kingsbury in Tulare County, California ...	\$8,000,000
3801	CA	Modesto, Riverbank and Oakdale, CA Improve SR 219 to 4 lanes	\$4,000,000
3802	CA	Improvements of State Route 4 in Calaveras County between Stockton and Angels Camp	\$1,000,000
3803	CA	Expansion of Kelseyville/Lower Lake Expressway in Lake County	\$5,000,000
3804	CA	Widening of State Route 156 in Monterey between Castroville and U.S. 101	\$5,000,000
3805	CA	Planning, design, and preliminary engineering of on/off ramp system at intersection of I–10 and Robertson/National Boulevards in Culver City	\$2,000,000
3806	CA	Construct eastern loop of Campus Parkway in Merced	\$2,000,000
3807	CA	Diesel Emission Reduction Program of South Coast Air Quality Management District	\$2,000,000
3808	CA	Replace South Access to the Golden Gate Bridge—Doyle Drive	\$6,000,000
3809	CO	Transportation Improvements to I–70/Havana/Yosemite Interchange	\$3,000,000
3810	CO	Transportation Improvements to Wadsworth and U.S. 36 Interchange in Broomfield	\$2,000,000
3811	CO	Transportation Improvements to Wadsworth Bypass (Grandview Grade Separation)	\$3,000,000
3812	CO	Transportation Improvements to U.S. 287, Ports-to-Plains Corridor	\$2,000,000
3813	CO	Transportation Improvements to I–70 and SH 58 Interchange	\$5,000,000
3814	CO	Transportation Improvements to Powers Blvd. and Woodman Road Interchange	\$8,000,000
3815	CO	Transportation Improvements to I–25 South, Douglas/Arapahoe Co. line to El Paso Co	\$5,000,000
3816	CO	Transportation Improvements to U.S. 36 Corridor	\$4,000,000
3817	CO	Transportation Improvements to U.S. 24—Tennessee Pass	\$2,000,000
3818	CO	Transportation Improvements to Bromley Lane and U.S. 85 Interchange	\$1,000,000
3819	CO	Transportation Improvements to 104th and U.S. 85 Intersection	\$1,000,000
3820	CO	Transportation Improvements to I–25 North, Denver to Fort Collins	\$4,000,000
3821	CO	Transportation Improvements to I–70 East Multimodal Corridor (Highway Portion)	\$2,000,000
3822	CO	Transportation Improvements to Parker and Arapahoe Road Interchange	\$2,000,000
3823	CO	Transportation Improvements to I–225, Parker Road to I–70	\$6,000,000
3824	CO	Transportation Improvements to I–70 West Mountain Corridor, Denver to Garfield Co ...	\$3,000,000
3825	CO	Transportation Improvements to I–76—Northeast Gateway	\$3,000,000
3826	CO	Transportation Improvements to C 470 and U.S. 85 Interchange	\$2,000,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
3827	CO	Transportation Improvements to Wadsworth and Bowles Intersection	\$2,000,000
3828	CO	Transportation Improvements to U.S. 160—SH 3 to the Florida River	\$2,000,000
3829	CO	Transportation Improvements to U.S. 160, Wolf Creek Pass	\$4,000,000
3830	CO	Transportation Improvements to 56th Avenue and Quebec Street	\$4,000,000
3831	CO	U.S. 287/Ports to Plains/Reconstruction of Existing Roadways/Expansion to Four Lanes/Concrete	\$5,000,000
3832	CO	U.S. 160/Wolf Creek Pass: widen lanes and shoulders	\$5,000,000
3833	CO	U.S. 36/Widen lanes and construct new interchanges	\$5,000,000
3834	CO	Fort Carson: I–25 and Highway 12/Improvements and upgrades of interchange and renovation to handle increased capacity	\$5,000,000
3835	CO	U.S. 50 East/Pueblo to Kansas Border/Road widening and improvements	\$5,000,000
3836	CO	Heartland Expressway improvements	\$5,000,000
3837	CO	I–25 North Denver to Fort Collins/Improved interchanges and road construction	\$5,000,000
3838	CO	Pueblo Dillon Drive at I–25 overpass and ramp—Construction of a Dillon Drive overpass and ramp connections to I–25	\$2,000,000
3839	CO	Denver Union Station/Renovations	\$3,000,000
3840	CO	Improvements to 56th Avenue from Quebec St. to Havana St. and to Quebec St. from I–70 to 56th Ave. in Denver	\$5,000,000
3841	CT	Undertake road improvements associated with Coltsville Area Redevelopment, Hartford	\$7,000,000
3842	CT	Upgrade Mark Twain Drive, Hartford	\$1,750,000
3843	CT	Realign, widen, and reconstruct Arch Street and connect pedestrian walkways to Constitution Plaza in Hartford	\$2,000,000
3844	CT	Construct Farmington Canal Greenway enhancements in New Haven, Connecticut and connect Greenway to waterfront at Longwharf Pier	\$3,500,000
3845	CT	Land acquisition, remediation, improvements and construction for ferry-highway-rail terminal at junction of Interstates 91 and 95 adjacent to East Street and Forbes Avenue in New Haven	\$5,000,000
3846	CT	Planning, design, engineering, and improvements converting Route 34 highway between I–95 and Park Street with corresponding site recovery in New Haven	\$5,000,000
3847	CT	Construct terminal facilities in Bridgeport for high-speed ferry	\$3,000,000
3848	CT	Restructure and widen Seaview Avenue in Bridgeport, to accommodate future developments	\$2,000,000
3849	CT	Construction of Intermodal Transportation facility in Bridgeport	\$5,000,000
3850	CT	Design and widen Route 34 in Derby	\$2,000,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
3851	CT	Streetscape and pedestrian-oriented improvements to and around Campbell Avenue in West Haven	\$2,000,000
3852	CT	Construct high-speed ferry terminal in Stamford, Connecticut to facilitate transportation between Connecticut and New York	\$2,000,000
3853	CT	Construct walking bridge and trail connecting Mill River Revitalization Project with west side of river in Stamford	\$1,500,000
3854	CT	Relocate Route 72 in Bristol	\$3,800,000
3855	CT	Reconfigure four rail underpasses in Stamford, Connecticut to accommodate commuter and commercial traffic	\$7,000,000
3856	CT	Upgrade Storrs Road in Mansfield, Connecticut and accompanying streetscape to improve safety and mitigate congestion	\$2,500,000
3857	CT	Improve roads for Norwalk-Center—West Avenue Corridor Municipal Development Plan area and the Academy Street Extension Project in Norwalk	\$2,000,000
3858	CT	Construct improvements and upgrades to riverwalk in Ansonia	\$2,000,000
3859	CT	Replace existing parking garage in Middletown, with 4-story, handicapped accessible parking garage	\$8,000,000
3860	CT	Acquire and develop Rails-to-Trails project in park next to Willimantic River in Windham	\$2,000,000
3861	CT	Construct access drive to Reidsville Industrial Park in Waterbury	\$4,000,000
3862	CT	Design and construct Quinnipiac River Linear Trail in Meriden	\$1,000,000
3863	CT	Fund University of Connecticut for improving air quality and reducing emissions	\$1,000,000
3864	CT	Construct Farmington Canal Greenway, City of New Haven and City of Hamden	\$3,750,000
3865	CT	Refurbish and upgrade Powder Hollow Bridge connecting State Route 190 and Interstate 91 in Enfield	\$200,000
3866	CT	Construct and expand roads to relieve congestion on Route 6 between Commerce Road and I–84 in Newtown	\$2,000,000
3867	CT	Construct pedestrian and vehicular access road to Riverfront Park in Glastonbury	\$250,000
3868	CT	Widen Route 82 in Norwich	\$1,000,000
3869	CT	Extend Rails-to-Trails project from Southington to Chesire	\$250,000
3870	CT	Reconstruct Pearl Harbor Memorial Bridge, New Haven	\$10,000,000
3871	CT	Widen Interstate 95 between Branford and North Stonington	\$7,500,000
3872	CT	Widen Interstate 84 between Danbury and Waterbury	\$7,500,000
3873	CT	Make improvements to South Maple Street Bridge in Enfield	\$1,000,000
3874	CT	Widen Route 34, Derby	\$1,000,000
3875	CT	Construct and Widen Stamford Rail Underpass and Road Realignment Project	\$1,000,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
3876	CT	Reconstruct and widen Homer St. and Chase Ave. in Waterbury from Waterville Avenue to Nottingham Terrace	\$1,000,000
3877	CT	Make improvements to Groton Bicycle and Pedestrian Trails and Facilities	\$750,000
3878	CT	Street and streetscape improvements along Campbell Ave., West Haven	\$750,000
3879	CT	Construct New Arterial Roadway from Boston Avenue North to proposed Lake Success Business Park in Bridgeport	\$750,000
3880	CT	Make improvements to Plainfield Moosup Pond Road	\$500,000
3881	CT	Construct UCONN Storrs Campus-Hillside Road	\$500,000
3882	CT	Construct Shoreline Greenway Trail, Guilford, Banford, East Haven	\$250,000
3883	DE	Improve Access to the Wilmington Riverfront from I-95 including design and construction of an interchange and street grid redesign ...	\$20,000,000
3884	DE	Replacement of the Indian River Inlet Bridge, Sussex County	\$41,400,000
3885	DE	Reconstructing I-95/SR 1 interchange, adding a fifth lane, and replacing toll plaza on Delaware's portion of I-95 corridor	\$20,000,000
3886	DE	City of Dover Transportation and Community and System Preservation	\$1,000,000
3887	DE	Wilmington Train Station Restoration	\$6,500,000
3888	DE	Replacement of the Lake Gerar Bridge in Rehoboth Beach	\$1,600,000
3889	DE	Wyoming Mill Road Realignment, Dover	\$1,500,000
3890	DE	Replacement of the Woodland Ferry on the Naticoke River between Seaford and Laurel	\$2,500,000
3891	DE	Hydrogen Storage Research at Delaware State University in Dover	\$2,000,000
3892	DE	Northeast Corridor Commuter Rail Project from Wilmington to Newark	\$5,000,000
3893	DE	Replacement of Railroad Crossings in Wilmington and Marshallton	\$1,500,000
3894	DE	Rehabilitate Auto Tour Route at the Bombay Hook National Wildlife Refuge	\$5,000,000
3895	DE	Improve pedestrian and bicycle access at the University of Delaware in Newark	\$1,000,000
3896	DE	Replacement of Fixed Route Transit Buses	\$3,000,000
3897	DE	Enhance and expand the DelTrac Integrated Transportation Management System	\$3,000,000
3898	FL	I-75 Widening and improvements in Collier and Lee County, Florida	\$15,000,000
3899	FL	Sand Lake Road improvements between President's Drive and I-4	\$9,000,000
3900	FL	Construction of Gulf Coast Parkway, Gulf County/Port St. Joe with Bay County/Panama City	\$10,000,000
3901	FL	Improvements to Jacksonville International Airport Access Road to I-95, Jacksonville	\$1,000,000
3902	FL	New systems interchange ramps at SR 417 and Boggy Creek Road in Orange County, Florida	\$2,000,000
3903	FL	Widening (four lanes) of SR 87 North from Whiting Field to the Alabama border	\$4,000,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
3904	FL	Widen SR 710 by two lanes from Congress Avenue to U.S. 1	\$600,000
3905	FL	Widen Palm Coast Parkway and I-95 Interchange and overpass, Flagler County, Florida	\$1,000,000
3906	FL	Construction of new multi-lane tunnel below the channel to link the Port of Miami on Dodge Island with I-395 on Watson Island and I-95 in Downtown Miami	\$1,000,000
3907	FL	Construct Flagler Avenue improvements, City of Key West, Florida	\$500,000
3908	FL	Improvements to SR 52 in Pasco County, FL ..	\$800,000
3909	FL	Four-Laning SR 281 (Avalon Boulevard) in Santa Rosa County from I-10 to north of CSX RR Bridge	\$3,000,000
3910	FL	Widen SR 80, Hendry County	\$3,000,000
3911	FL	Construct new bridge from West Florida Turnpike to CR 714 to 36th Street—Cross S. Fork of St. Lucie River—Indian Street to U.S. 1 on east side	\$1,000,000
3912	FL	Construction of four lane highway around Jacksonville connecting U.S. 1 to Route 9A ..	\$2,000,000
3913	FL	Expansion of Capital Circle, NW/SW (SR 263) from Tallahassee Regional Airport to Interstate 10	\$1,100,000
3914	FL	Construct I-4 crosstown connector in Hillsborough from I-4 to Port of Tampa	\$8,200,000
3915	FL	Gulf Coast Parkway—Design, engineering, and construction of a 2-lane Gulf Coast/US 98 bypass	\$8,000,000
3916	FL	City of Hollywood, U.S. Rt. 1 Young Circle Safety improvements	\$1,000,000
3917	FL	City of Miami Greenway Roadway, construction and design of Miami Greenway Road improvements and 5th St. improvements	\$1,000,000
3918	FL	Orlando, Lake County, widen to four lanes State Road 50 from U.S. 27 to Orange County Line, with interchange U.S. 27	\$5,000,000
3919	FL	Gainesville, Alachua County, Improve North-South corridor between Archer Rd. and Newberry Rd. to provide congestion relief to I-75 corridor, SR 21, SR 24, SR 26	\$1,500,000
3920	FL	I-75 improvements, widen to six lanes I-75 from Golden Gate Parkway in Collier County to Daniels Parkway in Lee County	\$8,500,000
3921	FL	Orlando, Church Street, design and reconstruction of the segment of Church Street from Terry Avenue to Westmoreland in Parramore Neighborhood	\$5,800,000
3922	FL	West Palm Beach, Construction of U.S. 1, Flagler Drive Waterfront Redevelopment and Traffic Calming Project	\$2,000,000
3923	FL	Leon County FL: Capital Circle, NW/SW, widen Capital Circle, NW/SW to 4 lanes from I-10 to West U.S. 90	\$7,000,000
3924	FL	Snake Road, improvements, widen and improve Snake Road (BIA 1281) in Hendry and Broward Counties	\$2,000,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
3925	GA	Hwy 78 Corridor Improvement Gwinnett County	\$4,000,000
3926	GA	Transportation improvements to I-285 interchange at Atlanta Rd. Cobb Co	\$18,000,000
3927	GA	Queens Road widening and reconstruction Cobb Co	\$1,500,000
3928	GA	Widening Cedarcrest Rd. from Paulding Co. to Governor's Towne	\$500,000
3929	GA	City of Duluth sidewalk and streetscape improvements	\$300,000
3930	GA	East Hiram Parkway, from SR 92 to U.S. 278, Paulding County new location	\$1,000,000
3931	GA	Transportation improvements to U.S. 84 Connector/Bypass from west of U.S. 84/SR 119 west of Hinesville to U.S. 84/SR 196 south of Flemington, Liberty County	\$1,000,000
3932	GA	Transportation improvements to SR 746/SE Rome Bypass from SR 101 U.S. 411 Floyd Co	\$1,000,000
3933	GA	Transportation improvements to I-575 from I-75/Cobb north to Sixes Rd/Cherokee for HOV	\$1,000,000
3934	GA	Upgrade SR 316 from I-85 to SR 10 Loop, Gwinnett, Barrow, Oconee Counties new interchanges and HOV lanes	\$1,000,000
3935	GA	SR 204/Abercorn Street from King George Boulevard to Rio Road widening	\$1,000,000
3936	GA	SR 96 from I-75 to old Hawkinsville Road widening and reconstruction	\$1,000,000
3937	GA	SR 40 from west of CR 61 to SR 25/US 17 widening	\$1,000,000
3938	GA	SR 247 Connector Improvements from SR 11/US 41 to SR 247, Warner Robbins widening and intersection	\$2,000,000
3939	GA	I-285/I-20 West—Reconstruct interchange	\$2,000,000
3940	GA	Johnson Ferry Road/Glenridge Drive widening from Abernathy Road to Hammond Drive, Fulton County	\$2,500,000
3941	GA	SR 15 From Clayton City limits to North Carolina lane widening	\$2,000,000
3942	GA	SR 105 from Cannon Bridge Road to Walnut Street widening	\$2,000,000
3943	GA	SR 369 from Cherokee Circle to CR 267/Hightower Circle Truck Lanes, Forsyth County passing lanes	\$1,500,000
3944	GA	SR 369 widening from SR 9 to SR 306 and interchange at SR 400, Forsyth County	\$1,900,000
3945	GA	Widen SR 20 from CR 293 to CS 5231, Forsyth County	\$1,600,000
3946	GA	Transportation improvements to SR 306 at CR 65/Waldrup Road, Forsyth County	\$2,200,000
3947	GA	Transportation improvements to U.S. 411 Connector from U.S. 41 to I-75, Bartow County	\$2,000,000
3948	GA	Construct access roads on Airport Loop road in Hapeville	\$3,000,000
3949	GA	Warren County I-20 Frontage Road	\$5,000,000
3950	GA	Kennesaw National Battlefield Park for land acquisition in carrying out viewshed protection and wildlife abatement	\$3,000,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
3951	GA	State of Georgia road infrastructure improvements associated with capacity increases at statewide military installations	\$10,000,000
3952	GA	State Road 133, widening and improvements from Moultrie to Valdosta	\$2,000,000
3953	GA	Highway 78, improvements to 7 mile corridor, Snellville, GA, Gwinnett County	\$500,000
3954	GA	Greene County, Conversion of I–20 and Carey Station Road to a full interchange	\$800,000
3955	GA	Southeastern Economic Alliance, Next Generation High Speed Rail Development	\$2,000,000
3956	GA	Commission a study and report regarding the construction and designation of a new route linking Savannah, Augusta, and Knoxville ...	\$1,000,000
3957	GA	Commission a study and report regarding construction and designation of a new Interstate linking Augusta, Macon, Columbus, Montgomery, and Natchez	\$1,000,000
3958	GA	Dekalb County, Northlake Streetscape	\$800,000
3959	GA	Dekalb County Schools bicycle and pedestrian upgrades	\$1,000,000
3960	GA	Dekalb County, Buford Highway pedestrian safety improvements	\$1,000,000
3961	GA	Transportation improvements to Dekalb County, Stone Mountain Side/Bike Lanes	\$1,000,000
3962	GA	Dekalb County, Rockbridge Road Corridor improvements	\$2,000,000
3963	GA	Transportation improvements to Dekalb County, Southeast DeKalb Arterial Analysis	\$500,000
3964	GA	City of Macon, Second Street Bridge Replacement, Reconstruction of ROW	\$3,000,000
3965	GA	Middle Georgia Clean Air Coalition for congestion mitigation transportation projects	\$4,500,000
3966	GA	Transportation improvements to Chattahoochee Hill Country Regional Greenway Trail Master Plan	\$2,000,000
3967	GA	City of East Point, Semmes Street Construction	\$1,000,000
3968	GA	Transportation Improvements to Broad Avenue Bridge, Albany, GA	\$500,000
3969	GA	Fulton County, Atlanta, Georgia, right-of-way acquisition to complete a multimodal corridor on SR 1019 by closing property ownership gap	\$2,000,000
3970	GA	Tift County Bypass U.S. 82/SR 520 W to U.S. 319/SR 35 E Truck Route U.S. Highway 82	\$4,500,000
3971	GA	Cherokee County, SR 20 Widening from I–575 to SR 369	\$2,000,000
3972	GA	Transportation improvements to Paulding County, East Hiram Parkway from SR 92 to U.S. 278	\$2,500,000
3973	GA	Columbia County, SR 104, improvements from SR 383 to CR 515	\$2,000,000
3974	GA	Columbia County, Old Petersburg Road/Old Evans Road improvements from Baston Way to Washington Road	\$1,000,000
3975	GA	Transportation improvements to White County, West Cleveland Bypass from U.S. 129 to SR 75	\$2,000,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
3976	GA	Transportation improvements to Stephens County, Toccoa Bypass Extension from SR 17 to SR 365	\$2,000,000
3977	GA	Hall County, Widen SR 53 from Duckett Mill Rd. to Lake Ranch Court and Old Sardis Road from SR 53 to Chestatee Road	\$5,000,000
3978	GA	Bartow County, U.S. 411 Connector from U.S. 41 to I-75	\$3,000,000
3979	GA	Coffee County, Broxton Rocks Restoration Project, Coffee, and Jeff Davis Counties	\$2,200,000
3980	GA	City of Smyrna, Railroad Quiet Zone	\$1,000,000
3981	GA	City of Smyrna, Brawner Park development and construction	\$1,000,000
3982	GA	City of Smyrna, Railroad Pedestrian Bridge	\$1,000,000
3983	GA	City of Duluth, intersection realignment and road extension of Davenport Rd. at Buford Hwy	\$800,000
3984	GA	City of Duluth, sidewalks along Davenport Road	\$500,000
3985	GA	Pickens County, Repair of Steve Tate Road	\$500,000
3986	GA	Gwinnett County, Extension of Sugarloaf Parkway, Hwy 120	\$5,000,000
3987	GA	City of Macon, Bloomfield Road, purchase of right-of-way and engineering	\$1,500,000
3988	GA	City of Macon, Wimbish Road, widening and striping for bike lanes	\$500,000
3989	GA	Pierce Avenue, widening/striping to create bike lanes from Ingelside Ave. to Riverside Drive	\$500,000
3990	GA	City of Macon, Rivoli Drive, widening, striping to create bike lanes	\$900,000
3991	GA	Rockdale County, Georgia Veterans Memorial Park pedestrian walkway	\$500,000
3992	GA	City of Macon, Riverside Drive Streetscapes and Bike Pedestrian Amenities	\$500,000
3993	HI	Kapolei transportation improvements, Island of Oahu	\$35,000,000
3994	HI	Widen Queen Kaahumanu Highway	\$15,000,000
3995	HI	Construct Honoapiilani Highway Realignment	\$10,000,000
3996	HI	Improvements to Saddle Road on the Island of Hawaii	\$40,000,000
3997	IA	Transportation improvements to U.S. 20, 4-lane in Webster, Sac, Calhoun, and Webster Counties	\$11,000,000
3998	IA	Transportation improvements to U.S. 30, 4-lane in Marshall, Story, and Boone Counties	\$12,000,000
3999	IA	Transportation improvements to U.S. 34 Missouri River Bridges, Mills County	\$12,000,000
4000	IA	Transportation improvements to I-74, including Mississippi River preliminary work, in Scott County, Iowa	\$6,000,000
4001	IA	U.S. 63 improvements, Chickasaw, Bremer, and Black Hawk Counties,	\$5,000,000
4002	IA	Transportation improvements to Hoven Corridor/Outer Drive Project, Sioux City	\$8,000,000
4003	IA	Transportation improvements to East Beltway, Pottawattamie County	\$6,000,000
4004	IA	Transportation improvements to U.S. 30 “Liberty Square”, Clinton	\$6,000,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
4005	IA	Transportation improvements to Edgewood Road Viaduct, Cedar Rapids	\$5,000,000
4006	IA	Transportation improvements to I–80 Interchange at Alice’s Road/105th Street, Waukee	\$3,000,000
4007	IA	Transportation improvements to U.S. 61 Bypass, Fort Madison	\$2,000,000
4008	IA	Transportation improvements to U.S. 61 and Hershey Avenue Interchange, Muscatine	\$2,000,000
4009	IA	Transportation improvements to U.S. 63, Waterloo	\$3,000,000
4010	IA	Transportation improvements to Grand Avenue, Ames	\$4,000,000
4011	IA	Transportation improvements to SE Connector/Martin Luther King, Jr., Parkway, Des Moines	\$3,000,000
4012	IA	Transportation improvements to Highland Acres Road, Marshalltown	\$3,000,000
4013	IA	Transportation improvements to 65th/67th Street, Davenport	\$2,000,000
4014	IA	Transportation improvements to Highway 4 underpass in Jefferson	\$1,000,000
4015	IA	Transportation improvements to I–235 reconstruction, Des Moines	\$1,000,000
4016	IA	Transportation improvements to Lake Belva Deer Transportation Project, Sigourney	\$2,000,000
4017	IA	Construct SE Connector/Martin Luther King, Jr., Pkwy, Des Moines	\$5,000,000
4018	IA	I–35 interchange improvements, Ankeny	\$2,000,000
4019	IA	City of Council Bluffs and Pottawattamie County East Beltway Roadway and Connectors Project	\$3,000,000
4020	IA	Trail Planning in the Des Moines MPO area ...	\$100,000
4021	IA	Highway 63 in Waterloo, Iowa improvements	\$3,000,000
4022	IA	Cedar Falls recreational trails including Highway 58 intersection	\$2,000,000
4023	IA	Rail extension to the Eastern Iowa Industrial Center, Davenport, IA	\$3,000,000
4024	IA	Design and construct trails, Carlisle to Des Moines	\$650,000
4025	IA	Improve Great Western Trail, Warren County	\$25,000
4026	IA	Highway 61 improvements, Muscatine	\$1,500,000
4027	IA	Improve, construct, and land acquisition, Central Iowa Loop Trail, Ankeny to Woodward including the Des Moines River High Bridge	\$3,000,000
4028	IA	Collins Road Improvements, Cedar Rapids	\$2,000,000
4029	IA	I–74 improvements in Scott County Iowa including Mississippi River bridge design	\$2,000,000
4030	IA	Access and transportation enhancements to access Lake Belva Deer, Sigourney	\$400,000
4031	IA	Widening of Hwy 44, Grimes	\$200,000
4032	IA	Highway 92 improvements including Design in Warren County	\$200,000
4033	IA	Construction of approaches and viaduct on Edgewood Rd. SW over the UP Railroad, Prairie Creek, and the CRANDIC railroad ...	\$1,500,000
4034	IA	NW 70th Ave. reconstruction, Johnston	\$1,000,000
4035	IA	Construction of Sioux City, Iowa Hoeven Corridor—Outer Drive Project	\$3,000,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
4036	IA	U.S. 34 Missouri River bridge relocation and replacement	\$1,425,000
4037	ID	Transportation improvements to Widen U.S. 95, Worley to Mica Creek	\$20,000,000
4038	ID	Transportation improvements to Improve SH 75, Timmerman to Ketchum	\$16,000,000
4039	ID	Transportation improvements to U.S. 20, Menan-Lorenzo Interchange	\$12,000,000
4040	ID	Construct interchange on I–84 at Ten-Mile Road, Meridian, Idaho	\$16,000,000
4041	ID	Transportation improvements to U.S. 93, Twin Falls Alternate Route, Stages II and III	\$13,000,000
4042	ID	Transportation improvements to U.S. 30, McCammon to Lava East	\$11,000,000
4043	ID	Reconstruct Grangemont Road (ID Forest Hwy 67) from Orofino to MP 9.3, Segment I, II, and III	\$7,000,000
4044	ID	Widen Amity Road from Chestnut St. to Robinson Road, Nampa, Idaho	\$3,000,000
4045	ID	Construct Washington St. North From Addison Ave. to Pole Line Road, Twin Falls, Idaho	\$1,000,000
4046	ID	Transportation improvements to Bridging the Valley, Kootenai County	\$5,000,000
4047	ID	Transportation improvements to Three Cities River Crossing, Eagle	\$3,000,000
4048	ID	Transportation improvements to SH 55, Between Miles Posts 94 and 102	\$4,000,000
4049	ID	Transportation improvements to Amity Road Widening to Kings Overpass, Nampa	\$4,000,000
4050	IL	Construct extension of U.S. 51 from .9 miles south of Moweaqua to 4.6 miles south of Moweaqua	\$5,000,000
4051	IL	Construction of Galena and Freeport bypasses, U.S. 20	\$5,000,000
4052	IL	Widen U.S. 30, Fulton-Rock Falls (Morrison), Whiteside County	\$2,250,000
4053	IL	Construction of 11th Street Extension, Springfield	\$6,000,000
4054	IL	Construction of Capital Avenue Project, 7th—11th Streets, Springfield	\$4,000,000
4055	IL	Design, land acquisition, and construction of West State St. (US Business 20) from Meridian Rd. to Rockton Ave. in Rockford	\$5,000,000
4056	IL	To conduct study of U.S. 67 bridge over Illinois River, Beardstown	\$4,000,000
4057	IL	Construction to improve access of Interstate 57/64, Mount Vernon	\$2,000,000
4058	IL	Expand U.S. 67, Brighton to Bunker Hill Road, Macoupin County	\$1,000,000
4059	IL	Improvements to Harrison Street, Quincy	\$1,500,000
4060	IL	Construction of Joliet Arsenal Road improvements, Will County	\$2,000,000
4061	IL	Continue expansion of IL 336, Macomb-Peoria	\$2,000,000
4062	IL	Construct I–290, The Village of Oak Park	\$2,000,000
4063	IL	Improve U.S. Route 34 from Kewanee to Kentville Road	\$500,000
4064	IL	Construction of IL Route 31—Algonquin Bypass to Rakow Road	\$3,000,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
4065	IL	Road improvements in Elmwood Park, Franklin Park, Northlake, Oak Park, River Forest, River Grove, and Stone Park	\$1,000,000
4066	IL	Bourbonnais road improvements, Bourbonnais	\$1,500,000
4067	IL	Bayview Bridge improvements, Adams County	\$250,000
4068	IL	Improvements to Maple/Manteno Lake Road, Manteno	\$1,000,000
4069	IL	Replace Interstate 74 Bridge, Moline	\$1,500,000
4070	IL	Constitution Trail Extension—Grove Street south to Lafayette Street, Bloomington	\$750,000
4071	IL	Improve transportation accessibility at Chicago Botanic Garden, Glencoe	\$1,500,000
4072	IL	Loyola University-Chicago vehicular-pedestrian right-of-way, Chicago	\$750,000
4073	IL	Construct extension of Route 3 from Loop Hog Hollow Road to Monsanto Road, Cahokia/Sauget	\$1,500,000
4074	IL	Engineering, Preconstruction and Construction of North-South Wacker Drive, Chicago	\$10,000,000
4075	IL	Upgrade Roads, Summit	\$750,000
4076	IL	Widen U.S. Highway 30 in Whiteside County	\$2,200,000
4077	IL	For the construction of the Grand Avenue Underpass, Village of Franklin Park	\$1,000,000
4078	IL	Illinois 31 Roadway improvements, Algonquin Bypass—Rakow Road	\$7,000,000
4079	IL	Road improvements associated with Diversatech Campus, Manteno	\$700,000
4080	IL	Upgrade Veterans Drive in Pekin Illinois	\$4,000,000
4081	IL	Street Resurfacing, City of Centreville	\$500,000
4082	IL	Design, land acquisition, and construction of South Main Street (IL 2) Corridor from Beltline Road to Cedar Street in Rockford	\$5,000,000
4083	IL	Preconstruction and construction activities for U.S. 51	\$7,500,000
4084	IL	Construct I–290, The Village of Oak Park	\$2,000,000
4085	IL	Mitchell Road to Farnsworth Avenue improvements, Aurora	\$2,500,000
4086	IL	Preconstruction and construction, East New York Street, Aurora	\$3,000,000
4087	IL	Improve Great River Road, Mercer County	\$500,000
4088	IL	Improve Great River Road, Warsaw	\$250,000
4089	IL	Undertake traffic mitigation and circulation enhancements on 57th and Lakeshore Drive, Chicago	\$1,200,000
4090	IL	Upgrade 31st Street and Golfview Road intersection and construct parking facilities, Brookfield	\$1,000,000
4091	IL	Phase II Road Construction, Outer Belt West, Effingham	\$1,500,000
4092	IL	Construct four lane extension of IL Rt. 29 from Rochester to Taylorville	\$1,000,000
4093	IL	Preconstruction and construction activities on U.S. 67 from Macomb to Alton	\$7,000,000
4094	IL	Preconstruction and construction activities on U.S. 34 from Monmouth to Plano	\$5,000,000
4095	IL	Improve Lightfoot Road, City of Farmington ...	\$500,000
4096	IL	Pioneer Parkway improvements, Peoria	\$1,000,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
4097	IL	Transportation enhancements and road improvements necessary for Downtown Plaza improvements in Jacksonville	\$1,000,000
4098	IL	City of Havana, Illinois upgrades to Broadway Street	\$500,000
4099	IL	Improvements to County Highway One, Calhoun County	\$1,000,000
4100	IL	Resurfacing of East Main Street in Staunton, Macoupin County	\$500,000
4101	IL	Bike trail extension for the Kankakee River Trail Project, Kankakee	\$400,000
4102	IL	Improve Highway-Railroad Crossings, Galesburg	\$500,000
4103	IL	Improvements to township roads in Shawnee National Forest, Pope County	\$500,000
4104	IL	Associated improvements for the Intersection of IL 13 and 37, Marion	\$500,000
4105	IL	Construction of 11th Street Extension in Springfield	\$800,000
4106	IL	Widen U.S. 30 in Whiteside County	\$550,000
4107	IL	Upgrade 31st Street and Golfview Road and construct parking facilities in Brookfield	\$1,000,000
4108	IL	Bayview Bridge improvements in Adams County	\$250,000
4109	IL	Preconstruction and construction of IL 13 connector in Harrisburg	\$2,000,000
4110	IL	Expansion of U.S. 67 from Brighton to Bunker Hill Road in Macoupin County	\$1,000,000
4111	IL	Loyola University-Chicago vehicular-pedestrian right-of-way in Chicago	\$250,000
4112	IL	Constitution Trail Extension (Grove Street south to Lafayette Street) in Bloomington	\$250,000
4113	IL	Improvements to 11th Avenue streetscape, campus trails and bridges at Augustana College in Rock Island	\$1,500,000
4114	IL	Improvements to Oakland, Main Street, Elderado and Fairview, streetscape in the vicinity of Millikin University, Decatur	\$1,500,000
4115	IL	The extension of MacArthur Boulevard from Wabash to Iron Bridge Road in Springfield ..	\$2,000,000
4116	IL	Restoration of the historic railroad depot and intermodal in Mattoon	\$1,200,000
4117	IL	Construct overpass, U.S. 40 to Southwest Andrews Drive in Greenville	\$1,000,000
4118	IL	Improvements to Cockrell Lane in the City of Springfield	\$1,200,000
4119	IL	Construct extension of Route 3 from Loop Hog Hollow Road to Monsanto Road in Cahokia/Sauget	\$500,000
4120	IN	Construct interchange for 146th and I-69, Hamilton County, Indiana	\$600,000
4121	IN	Construction of Dixon Road from Markland Avenue to Judson Road in Kokomo, Indiana	\$100,000
4122	IN	Widening road (along Gordon Road, 6th Street, and West Shafer Drive) to three-lane street, with sidewalk and improvements to existing bridge, White County/Monticello, Indiana	\$2,880,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
4123	IN	Cyntheanne Road Interchange and corridor improvements, Town of Fishers	\$200,000
4124	IN	Construct interchange at I–65 and 109th Avenue, Crown Point, Indiana	\$1,490,844
4125	IN	Transportation improvements to 126th Street Project, Town of Fishers	\$250,000
4126	IN	Reconstruct 45th Avenue from Colfax Street to Grant Street, Lake County	\$540,000
4127	IN	Construct grade separation underpass on Main Street in Mishawaka	\$400,000
4128	IN	Widen Old Meridian Street from two to four lanes, City of Carmel	\$225,000
4129	IN	Upgrade traffic signals Phase III in the City of Muncie, Indiana	\$128,000
4130	IN	Transportation improvements to 100 South, Porter County	\$200,000
4131	IN	Widen U.S. 31 Hamilton County	\$200,000
4132	IN	Resurface and widen Shelby County, Indiana 400 North Phases IV–V	\$200,000
4133	IN	Reconstruct and widen Shelby County, Indiana 500 East from 1200 North to U.S. 52	\$200,000
4134	IN	Extend Everbrooke Drive from SR 332 to Bethel Avenue in the City of Muncie	\$128,000
4135	IN	Construct U.S. 231 in Spencer and Dubois Counties	\$1,200,000
4136	IN	Widening Wheeling Avenue from Centennial to McGailliard Road in the City of Muncie ...	\$192,000
4137	IN	Upgrade rail crossing at 93rd Avenue, St. John	\$40,000
4138	IN	Study traffic on Muncie bypass from Centennial Avenue to McGailliard Road in the City of Muncie and Delaware County	\$24,000
4139	IN	Design and construct Tanner Creek Bridge on U.S. 50, Dearborn County	\$248,000
4140	IN	Reconstruct Boston Street, from State Road 2 to Bach Street, Larson-Whirlpool Street in LaPorte, Indiana	\$150,000
4141	IN	45th Street improvements, Munster, Indiana ..	\$100,000
4142	IN	Redevelop and complete the Cardinal Greenway and Starr-Genett Area in the City of Richmond	\$600,000
4143	IN	Improve Intersection at Jackson Street and Morrison Road in the City of Muncie, Delaware County	\$112,000
4144	IN	Replace Samuelson Road Underpass, Portage	\$632,578
4145	IN	Design and construct Indiana Ohio River Bridges Project on I–65 and 265	\$4,000,000
4146	IN	Construct Shelby County, Indiana Shelbyville Parkway	\$100,000
4147	IN	Construct Hoosier Heartland Highway in Cass and Carroll County	\$600,000
4148	IN	Improve State Road 332 and Nebo Road Intersection in Delaware County	\$600,000
4149	IN	Design, engineering, right-of-way acquisition, and construction for the Grant County Economic Corridor	\$400,000
4150	IN	Construction of multi-use paths, Town of Fishers	\$50,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
4151	IN	Acquire right-of-way for and construct University Parkway from Upper Mount Vernon Road to SR 66	\$600,000
4152	IN	Conduct study for U.S. 50 Corridor improvements, Dearborn County	\$60,000
4153	IN	Construct U.S. 31 Kokomo Corridor Project for Kokomo and Howard County	\$200,000
4154	IN	Improve Bailie Street, Kentland	\$64,000
4155	IN	Downtown road improvements, Indianapolis ...	\$4,500,000
4156	IN	Construct U.S. 31 Plymouth to South Bend Freeway Project in Marshall and St. Joseph Counties	\$2,200,000
4157	IN	Construct Margaret Avenue Safety and Capacity Enhancement Project	\$600,000
4158	IN	Preliminary engineering, right-of-way and construction for Perimeter Parkway—West Lafayette/Purdue University	\$1,120,000
4159	IN	Construction of Maplecrest Road Extension, Allen County	\$2,200,000
4160	IN	Realign State Road 312, Hammond	\$832,578
4161	IN	Construct I–69 Evansville to Indianapolis	\$2,800,000
4162	IN	Construct service road parallel in the City of Anderson	\$800,000
4163	IN	Reconstruct Hoosier Heartland Highway, Wabash, Huntington and Miami County Indiana segments	\$200,000
4164	IN	North Calumet Avenue improvements, Valparaiso	\$240,000
4165	IN	Complete construction of paths at Hamilton County Riverwalk, Noblesville	\$75,000
4166	IN	Improve campus streets to increase pedestrian safety and ease vehicular congestion in the City of Anderson	\$400,000
4167	IN	Construction of I–64 interchange, Harrison County, Indiana	\$1,062,000
4168	IN	Study alternatives along 2 miles of railroad to eliminate in-town highway-rail crossings to improve safety and reduce congestion in Delaware County	\$30,000
4169	IN	Improve SR 9 Greenfield Corridor	\$100,000
4170	IN	Redevelop Hazeldell Road, Hamilton County ...	\$200,000
4171	IN	SR 56 Reconstruction, Aurora	\$1,024,000
4172	IN	Reconstruct Standard Avenue, Whiting	\$260,000
4173	IN	Construct Hoham Drive Extension in Plymouth	\$100,000
4174	IN	Construction of County Road 17-Elkhart	\$1,000,000
4175	IN	Construction of Star Hill Road, Clark County	\$443,000
4176	IN	Design and reconstruct residential streets in the City of Muncie	\$186,000
4177	IN	Reconstruct bridges at County Roads 200 East and 300 East in LaPorte County	\$100,000
4178	IN	Reconstruct McClung Road from State Road 39 to Park Street in LaPorte	\$150,000
4179	IN	Highway-rail crossing safety related improvements on Route 37 between U.S. 35 and U.S. 50	\$1,400,000
4180	IN	Maintain full funding of TEA–LU HPPs as necessary, with balance for other eligible INDOT projects	\$20,263,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
4181	IN	Removal of I–65/I–70 Market Street Ramp and Streetscaping, Indianapolis	\$5,000,000
4182	IN	Downtown Indianapolis road improvements, transportation enhancements, streetscaping, bicycle paths and pedestrian walkways	\$6,000,000
4183	IN	Relocation of railroad lines at Gary/Chicago Airport in Gary	\$7,000,000
4184	IN	Design, engineering, right-of-way acquisition, and construction for the Grant County Economic Corridor	\$2,000,000
4185	IN	Improve Clinton Street Corridor and Replace Clinton Street Bridge spanning St. Mary's River in downtown Fort Wayne	\$4,000,000
4186	IN	Widen unsafe U.S. 24 between Fort Wayne and Defiance, OH	\$3,000,000
4187	IN	Construct and Improve ISR 62 (Lloyd Expressway) in Evansville	\$4,000,000
4188	IN	Margaret Avenue Safety and Capacity Enhancement—Construct a 4-lane roadway extending from SR 63 on Terre Haute's west side to SR 46	\$4,000,000
4189	KS	Construction of 4-lane improvement on K–18 in Riley County	\$20,000,000
4190	KS	Reconstruction of I–235/U.S.-54 and I–235/Central interchanges and expansion of I–235 to a 6-lane facility between the interchanges in Wichita	\$10,000,000
4191	KS	Replacement or rehabilitation of the Amelia Earhart U.S.–59 Bridge in Atchison County	\$5,000,000
4192	KS	Debt retirement for Dodge City Depot project, Dodge City	\$2,000,000
4193	KS	Reconstruction and rehabilitation of the intersection of K–18 and 12th Street interchange in Riley County, KS	\$10,000,000
4194	KS	Reconstruction of an interchange at U.S. 73 and 20th Street in the City of Leavenworth	\$2,500,000
4195	KS	Replacement of the Spring Creek Bridge on U.S. 160 in Cowley County	\$1,200,000
4196	KS	Construction, improvements, and streetscaping for Wyatt Earp Boulevard/U.S. Business 50 in Dodge City	\$3,500,000
4197	KS	Construction of an interchange at K–7 and 55th Street/Johnson Drive, an overpass structure for Clear Creek Parkway, and other access improvements to K–7 in the City of Shawnee	\$3,000,000
4198	KS	Reconstruction of K–27 in Sherman County	\$5,000,000
4199	KS	Street and sidewalk replacement in downtown Fort Scott	\$1,000,000
4200	KS	Reconstruction or widening of 135th Street from Metcalf to Nall in Overland Park	\$3,000,000
4201	KS	Reconstruction of Desoto Road in the City of Lansing	\$2,000,000
4202	KS	Construct I–35 and Lone Elm Road interchange and widen I–35 from 51st St. to 59th St. in the City of Olathe	\$3,000,000
4203	KS	Reconstruction of I–70 in Saline County	\$2,000,000
4204	KS	Construction of the Prairie State Parkway (KS Hwy 7 to Mize Blvd.) in the City of Lenexa	\$3,000,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
4205	KS	Rehabilitation and reconstruction of U.S. 169 and interchange with U.S. 166 in Montgomery County	\$4,000,000
4206	KS	Rehabilitation of U.S. 54 in Kingman County	\$2,550,000
4207	KS	Replacement of K–39 bridge over SKO Railroad in the City of Chanute	\$1,189,000
4208	KS	Reconstruction and relocation of interchanges on U.S. 156 near RS 255 and the Horse Thief Canyon Reservoir entrance in Hodgeman County	\$561,000
4209	KS	U.S. Highway 50 Shoulder widening between Dodge City and Garden City	\$4,500,000
4210	KS	Research and development of advanced vehicle technology concepts at the University of Kansas Transportation Research Institute, Lawrence	\$4,500,000
4211	KS	Research and development of rural transportation infrastructure at Kansas State University, Manhattan	\$1,500,000
4212	KY	Owensboro Riverfront Development Project in Owensboro	\$30,000,000
4213	KY	Construction of new I–65 Interchange in Warren County	\$23,000,000
4214	KY	Oregon Road Bridge Replacement Project in Mercer County	\$1,000,000
4215	KY	Ashland Riverfront Development Project in Ashland	\$10,220,000
4216	KY	Henderson Riverfront Development Project in Henderson	\$10,000,000
4217	KY	Transportation improvements to Brent Spence Bridge	\$34,000,000
4218	KY	Transportation improvements to AA—I–275 Connector, Campbell County	\$6,000,000
4219	KY	Abraham Lincoln Project, LaRue County	\$3,500,000
4220	KY	Breathitt-Pennyrile Extension, Christian County	\$2,500,000
4221	KY	Transportation improvements to U.S. 60 Owensboro, Daviess County	\$5,500,000
4222	KY	Transportation improvements to Hwy 163 from Hwy 90 to Tompkinsville, Monroe County	\$4,000,000
4223	KY	Feasibility study of construction on U.S. 27 to I–75 connector road, Jessamine County	\$500,000
4224	KY	Reconstruction of KY 61 from U.S. 68 in Greensburg to Columbia (the national highway system truck route) 16.1 miles, Green County	\$3,000,000
4225	KY	Southern Connector from KY 139 to KY 9, Caldwell County	\$1,000,000
4226	LA	Transportation improvements to I–49 North ...	\$22,500,000
4227	LA	Transportation improvements to I–49 South ...	\$16,000,000
4228	LA	Improvements to Louisiana Highway 1 between the Caminada Bridge and the intersection of Louisiana Highway 1 and U.S. 90	\$20,000,000
4229	LA	Upgrade LA 28 to four lanes from LA 121 to LA 465	\$17,400,000
4230	LA	Construct Kansas-Garrett Connector and I–20 interchange improvements	\$8,350,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
4231	LA	Further construction to improve draining at Clearview Parkway (LA 3152) and Earhart Expressway (LA3139)	\$3,585,000
4232	LA	Study of Baton Rouge Loop Project	\$500,000
4233	LA	Water Well Road Gateway Corridor (LA 478)—design, right-of-way, and construction of 3.6 miles from I–49 to LA 1	\$831,000
4234	LA	Widen LA 18 from Northrup Grumman/Avondale Shipyards to U.S. 90, Jefferson Parish	\$1,325,000
4235	LA	Red River National Wildlife Refuge Visitor Center	\$850,000
4236	LA	Construct ROW improvements from Third St. at James St. to LA Hwy One at Broadway St. Acquire property at Third St. and Winn St	\$400,000
4237	LA	West Lake Overpass—To make grade separation interchange improvements at Sampson Street	\$2,200,000
4238	LA	Improve by widening, realigning, and resurface 3.2 miles of LA Hwy 820 between LA Hwy 145 and LA Hwy 821	\$400,000
4239	LA	Connection between Highway 51 By-Pass and Old Baton Rouge Highway 1040—Hammond	\$100,000
4240	LA	LA 3224—Hemlock Street at U.S. 61 improvements—St. John the Baptist Parish	\$519,000
4241	LA	Louisiana Interstate 49 South Corridor	\$7,500,000
4242	LA	Design and acquire right-of-way, Louisiana I–69, Louisiana Segment, SIU 15	\$2,500,000
4243	LA	Construction to improve drainage at Clearview Parkway (LA 3152) and Earhart Expressway (LA 3139)	\$900,000
4244	LA	Shreveport Intelligent Transportation System in Northwest, LA	\$1,500,000
4245	LA	Widen I–10 in New Orleans	\$2,000,000
4246	LA	St. Tammany U.S. 11 bicycle path and sidewalk improvements	\$2,000,000
4247	LA	Bossier Parish Congestion Relief Program	\$1,500,000
4248	LA	I–10 Ryan Street exit ramp and relocation/realignments	\$1,500,000
4249	LA	Improve Zachary Taylor Parkway	\$2,000,000
4250	LA	LA-1 drainage and sidewalk improvements in Grande Isle	\$1,500,000
4251	LA	Construct I–20 interchanges at U.S. 167 at Tarbutton Rd. Construct East West Frontage Roads along I–20	\$1,500,000
4252	LA	Louisiana University Consortium for Smart Growth Study and Educational Outreach	\$2,000,000
4253	LA	Upgrade El Camino East-West Corridor along LA 6	\$1,500,000
4254	LA	Develop and construct St. Martinville Bypass, LA 31 North to LA 96	\$1,000,000
4255	LA	Construct Leeville Bridge from Port Fouchon to Golden Meadow	\$1,000,000
4256	LA	Improve Natchitoches Johnson Chute and Posey Road connection to I–49 to LA 1	\$500,000
4257	LA	LA 50 (Almedia) widening and I–310/U.S. 90 interchange improvements, St. Charles Parish	\$500,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
4258	LA	Upgrade LA 28 to four lanes from LA 121 to LA 465	\$1,000,000
4259	LA	Rehabilitation of Street Routes Project in Bogalusa	\$500,000
4260	LA	Construction of I–10 Access Rd., Crowley, LA	\$500,000
4261	LA	Replace Kerner Ferry Bridge Jefferson Parish Bayou Barataria	\$500,000
4262	LA	Peters Road improvements in Plaquemines Parish	\$500,000
4263	LA	Improvements to LA 46 in St. Bernard Parish	\$100,000
4264	LA	Baton Rouge Intelligent Transportation System	\$1,000,000
4265	MA	Reconstruct Chelsea Street Bridge in Boston ..	\$6,000,000
4266	MA	Design and construct downtown roadway and streetscape enhancements in Worcester	\$4,500,000
4267	MA	Design and construct Rt. 24 Interchange in Fall River and Freetown	\$5,500,000
4268	MA	Design and construct multimodal improvements and facilities in New Bedford	\$5,500,000
4269	MA	Construct access improvements to the Lawrence Gateway Project, Lawrence	\$2,500,000
4270	MA	Construct pedestrian and vehicular access improvements on the existing Brightman Street Bridge in Fall River	\$500,000
4271	MA	Northern Avenue Bridge rehabilitation in Boston	\$6,000,000
4272	MA	Construct Phase II of the Quincy Center Concourse Extension in Quincy	\$6,000,000
4273	MA	Design and construct downtown roadway and streetscape improvements in North Adams ..	\$2,000,000
4274	MA	Construct Holyoke Canalwalk and streetscape improvements in Holyoke	\$3,500,000
4275	MA	Road improvements between Museum Road and Forsyth Way in Boston	\$3,000,000
4276	MA	Design and construct access improvements and intermodal facilities at the former South Weymouth Naval Air Station in South Weymouth	\$8,000,000
4277	MA	Design and construct Boston National Park traveler information system and visitor center in Boston	\$7,000,000
4278	MA	Construct Haverhill intermodal center access and vehicle capacity improvements in Haverhill	\$3,000,000
4279	MA	Design and construct roadway and streetscape improvements in Franklin	\$5,000,000
4280	MA	Construct Lechmere Station area roadway and access improvements in Cambridge	\$5,000,000
4281	MA	Design and construct Assembly Square multimodal access improvements in Somerville	\$5,000,000
4282	MA	Construct downtown roadway and corridor improvements in Gloucester	\$3,000,000
4283	MA	Construct the Blackstone River Bikeway and Worcester Bikeway Pavilion between Providence, RI and Worcester	\$2,000,000
4284	MA	Construct Melnea Cass Corridor improvements in Boston	\$4,000,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
4285	MA	Construct Southeastern Massachusetts freight rail corridor improvements in Bristol County	\$5,000,000
4286	MA	Reconstruct Rt. 24/Rt. 140 Interchange, replace bridge and ramps, widen and extend acceleration and deceleration lanes	\$4,000,000
4287	MA	Design and construct Rt. 20 access road in Westfield	\$2,000,000
4288	MA	Reconfigure Kilby-Gardner-Hammond area road network in Worcester	\$2,000,000
4289	MD	I–70 Improvement Project: Frederick, MD	\$13,400,000
4290	MD	Construction and dualization of MD 404 in Queen Anne’s, Talbot and Caroline Counties	\$11,000,000
4291	MD	Construct U.S. 220 MD 53 North/South Corridor	\$9,200,000
4292	MD	Upgrade MD 175 in Anne Arundel county between MD 170 and BW Parkway	\$6,700,000
4293	MD	Construct a visitor center and related roads, and parking serving Fort McHenry	\$5,300,000
4294	MD	Construct Assateague Island National Seashore visitors center and related road improvements	\$6,300,000
4295	MD	Construction of new interchange at MD 5, MD 373 and Brandywine Rd	\$4,000,000
4296	MD	Rehabilitate Pennington Avenue Drawbridge, Baltimore	\$5,500,000
4297	MD	Construction and dualization of U.S. 113	\$3,200,000
4298	MD	Construct MD 5 Hughesville Bypass	\$3,000,000
4299	MD	Construct U.S. 40, MD 715 interchange at Aberdean Proving Ground	\$3,000,000
4300	MD	Construct MD 4 at Suitland Parkway	\$2,800,000
4301	MD	Baltimore Rail Tunnel improvement study	\$3,000,000
4302	MD	Construct Allegheny Highlands pedestrian/bicycle trail	\$2,000,000
4303	MD	Upgrade MD 210 from MD 228 to I–495	\$2,000,000
4304	MD	Patuxent Research Refuge Road improvements	\$3,000,000
4305	MD	Rehabilitate roadways around East Baltimore Life Science Park	\$2,200,000
4306	MD	Construction of new Baltimore water taxi terminals	\$2,000,000
4307	MD	Upgrade I–95, I–495, MD 5/Branch Avenue Metro Access	\$1,800,000
4308	MD	Construct Blackwater National Wildlife Refuge visitors center, trails and road improvements	\$1,500,000
4309	MD	Edgewood, MD train station streetscaping and parking improvements	\$1,500,000
4310	MD	Roadway improvements from intersection of U.S. 29 in Montgomery Co. along Industrial Parkway thru to FDA access/Cherry Hill Road	\$2,000,000
4311	MD	Roadway access improvements, boardwalks, and pier construction at Hanover Street and West Cromwell, Baltimore	\$1,500,000
4312	MD	MD 295 BWI access improvements	\$1,200,000
4313	MD	Construction of Maryland Ave. and Market St. intermodal access project, including pedestrian safety improvements and Baltimore Rd. corridor, Rockville	\$800,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
4314	MD	Construct Woodrow Wilson Bridge Anacostia River wetlands mitigation project	\$1,600,000
4315	MD	Construct Potomac River Gorge stormwater mitigation project	\$500,000
4316	ME	I–295 improvements in Portland	\$15,000,000
4317	ME	Construction of Calais/St. Stephan Border Crossing Project, Calais	\$4,000,000
4318	ME	Improvements and construction of the Lewiston-Auburn Highway, Lewiston	\$2,000,000
4319	ME	Replacement of Waldo-Hancock bridge and construction of related pedestrian walkways	\$18,000,000
4320	ME	Transportation improvements for Maine East-West Corridor Project	\$18,000,000
4321	ME	Augusta Memorial Bridge improvements, Augusta	\$6,000,000
4322	ME	Plan and construct North-South Aroostook highways, to improve access to St. John Valley, including Presque Isle Bypass and other improvements	\$5,000,000
4323	ME	Construction of an Intermodal Center in Acadia Park, Bar Harbor	\$4,000,000
4324	ME	Replacement of the Route 201–A “covered” bridge, Norridgewock	\$6,000,000
4325	ME	Repair and improvements of Richmond-Dresden Bridge, Richmond-Dresden	\$3,750,000
4326	ME	Access and traffic improvements to Route 15 in Brewer	\$1,250,000
4327	ME	State of Maine Pedestrian and Bicycle Trail Project	\$1,000,000
4328	ME	Plan and construct North-South Aroostook highways, to improve access to St. John Valley, including Presque Isle Bypass and other improvements	\$20,000,000
4329	ME	Construction of the Gorham Village Bypass, Gorham	\$2,000,000
4330	ME	Improvements for statewide bike and pedestrian projects	\$1,000,000
4331	ME	Repair and improvement of Harpswell Cribstone Bridge, Harpswell	\$3,000,000
4332	ME	Repair and improvement of Deer Isle-Sedgwick Bridge, Deer Isle-Sedgwick	\$10,000,000
4333	MI	Plan and construct, land acquisition, Detroit West Riverfront Greenway	\$9,000,000
4334	MI	Reconstruct and widen I–94 in Kalamazoo	\$8,000,000
4335	MI	Construct Interchange at I–675 and M–13 (Washington Avenue), Northbound exit, in Saginaw	\$8,000,000
4336	MI	Rehabilitate bridge lift over Black River on 7th Street Bridge in Port Huron	\$5,000,000
4337	MI	Reconstruct I–75 from North of U.S.–2 to Sault Ste. Marie and reconstruct the existing roadway, Sault Ste. Marie	\$6,000,000
4338	MI	Construct at-grade crossing and I–75 interchange to reconnect Milbocker and McCoy Roads and construct overpass to reconnect Van Tyle to South Wisconsin Road in Gaylord	\$5,000,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
4339	MI	Improvements to Trowbridge Road Extension to Farm Lane, Ingham County, Farm Lane between Mount Hope Road and Trowbridge Road with underpasses for CN and CSX railroad crossings	\$9,000,000
4340	MI	Allen Road under the CN Railroad Grade Separation, Woodhaven	\$6,000,000
4341	MI	Blue Water Bridge Plaza improvements and relocation of segments of I–94 and I–69	\$5,000,000
4342	MI	West Portage Avenue realignment, Sault Ste. Marie	\$2,000,000
4343	MI	Construct road improvements to Van Dyke Road, from I–696 to Red Run Drain, City of Warren	\$8,000,000
4344	MI	Construction of the I–696 and Northwestern Highway Interchange Freeway ramps at Franklin Road in Southfield	\$3,000,000
4345	MI	Construct road improvements to Miller Road from I–75 to Linden Road, Flint Township ...	\$2,500,000
4346	MI	University of Michigan Health Systems auto crash notification system	\$1,500,000
4347	MI	Alger County, repaving a portion of H–58 between Sullivan Creek towards Little Beaver Road	\$1,000,000
4348	MI	Jackson Road Boulevard Extension, utilizing fly ash and recycled concrete in road surface	\$1,000,000
4349	MN	Transportation improvements for City of Moorhead SE Main GSI, 34th St. and I–94 Interchange and Moorhead Comprehensive Rail Safety Program in Moorhead	\$5,000,000
4350	MN	Reconstruct I–35E from University Avenue to Maryland Avenue in St. Paul	\$5,000,000
4351	MN	Construct last segment of the Victory Drive project to link Victory Drive with Highway 14 in Blue Earth County	\$2,000,000
4352	MN	Phase III construction of Trunk Highway 610–10	\$9,000,000
4353	MN	U.S. Trunk Highway 14 from One Mile West of Waseca to Owatonna	\$4,000,000
4354	MN	Construction of 8th Street North: Stearns CR 120 to TH 15 in St. Cloud	\$2,000,000
4355	MN	Design, engineering, and ROW acquisition to reconstruct Trunk Highway 95 bridge in North Branch	\$750,000
4356	MN	Construction and right-of-way acquisition for interchange at TH 65 and TH 242 in Blaine	\$2,000,000
4357	MN	Design, construct, and expand TH 241 in the City of St. Michael	\$2,500,000
4358	MN	Design, construct, and acquire right-of-way for St. Croix River Crossing in Stillwater	\$9,000,000
4359	MN	Design and construction of Cedar Avenue Busway in Dakota County	\$5,000,000
4360	MN	Planning and Pre-Design for Twin Cities Bioscience Corridor in St. Paul	\$3,000,000
4361	MN	TH 23—Construction of 4-Lane Bypass in Paynesville	\$2,500,000
4362	MN	I–494 U.S. 169 interchange reconstruction, Twin Cities Metropolitan Area	\$2,000,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
4363	MN	Replace three at-grade highway-railroad crossings with grade-separated crossings adjacent to Winona State University	\$3,000,000
4364	MN	Reconstruct County Highway 42 Interchange at U.S. Highway 52 in Dakota County	\$3,250,000
4365	MN	34th Street realignment and interchange at 34th Street and I-94 in Moorhead	\$4,000,000
4366	MN	Construct last segment of the Victory Drive project to link Victory Drive with Highway 14 in Blue Earth County	\$2,000,000
4367	MN	Phase III Construction of Trunk Highway 610-10	\$8,000,000
4368	MN	Construction of U.S. Highway 14 from Waseca to Owatonna	\$4,000,000
4369	MN	Reimbursement of 8th Street North in St. Cloud	\$2,000,000
4370	MN	Construction and right-of-way acquisition for interchange at TH 65 and TH 242 in Blaine	\$2,000,000
4371	MN	Construction and widening of TH 241 in the City of St. Michael	\$2,500,000
4372	MN	Program for replacement and upgrade of deficient township signs, statewide	\$3,000,000
4373	MN	Improvement of State Highway 11 to 10 ton-status	\$3,500,000
4374	MN	Reconstruct I-35E from I-94 to Maryland Avenue in St. Paul	\$3,000,000
4375	MN	Right-of-way acquisition for TH 23 Paynesville Bypass	\$1,000,000
4376	MO	Construct four lanes for Hwy 60 from Willow Springs to Van Buren, Missouri	\$25,000,000
4377	MO	Construct four lanes for Hwy 65 North of I-44 from I-44 N to Route EE	\$20,000,000
4378	MO	Construct four lanes on Hwy 50 west of Jefferson City to west of California, Missouri (From St. Martins to California, Missouri) ..	\$20,000,000
4379	MO	Construct Hwy 13 Bypass in Warrensburg	\$5,000,000
4380	MO	Improvements to Hwy 60/65 Interchange	\$10,000,000
4381	MO	Improve Highway 13 from Springfield, MO to Bolivar	\$5,000,000
4382	MO	I-470/Strother Road Interchange in Lee's Summit	\$5,000,000
4383	MO	Improve U.S. 36 to divided four lane expressway from Macon to Route 24	\$30,000,000
4384	MO	Improve Highway 291 from Harrisonville to Lee's Summit in Cass County	\$4,000,000
4385	MO	Route 364, Phase II Page Avenue Extension, St. Charles County	\$5,000,000
4386	MO	Transportation Improvements for U.S. 63 Interchange at Gans Road, Boone County	\$4,000,000
4387	MO	Improve Highway 67 from Fredericktown, MO to Poplar Bluff	\$5,000,000
4388	MO	Upgrade to 4 lanes MO 66 from Duquesne Road to Rt. 249 in Jasper County	\$2,000,000
4389	MO	Interchange design and construction for the Main Street Extension at I-55, Cape Girardeau County	\$5,000,000
4390	MO	Relocation and reconstruction of Rt. MM from Rt. 21 to Rt. 30	\$2,000,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
4391	MO	Upgrade Route 59 at rail crossing in St. Joseph, MO	\$3,000,000
4392	MO	Realignment and bridge replacement over First Creek from east of 2nd Street to Route 169 on MO 92, Clay County	\$2,000,000
4393	MO	Roadway improvements on Rt. 21 from Hayden Road to Lake Lorraine	\$2,000,000
4394	MO	Construct Interstate flyover at Hughes Road and Liberty Drive to 76th Street. Part of Liberty Parkway Project, Liberty	\$4,000,000
4395	MO	I–55 Redesign, Cape Girardeau County	\$2,000,000
4396	MS	Widening of I–55 from Highway 304 in DeSoto County to TN State line	\$20,240,000
4397	MS	Upgrade U.S. 78 to Interstate standards from the MS/TN State line to the MS/AL State line	\$8,000,000
4398	MS	For construction and ROW acquisition U.S. 49 from South of Florence to I–20	\$26,400,000
4399	MS	To upgrade Old Fannin Road connecting Highway 25 to Spillway Road in Rankin County	\$6,400,000
4400	MS	Plan and construct an intermodal connector linking I–20 to Hwy 49, Pearl-Richland	\$10,000,000
4401	MS	Airport Parkway/Pearl River Bridge for ROW acquisition and construction of west segment between I–55 and Highway 475 at Jackson International Airport, with connector to Highway 25	\$8,960,000
4402	MS	Byram-Clinton/Norrell Corridor—Connects the Norrell Road Interchange on I–20 to the Byram-Clinton Multimodal Corridor on I–55	\$15,000,000
4403	MS	Lake Harbour Drive Extension, Ridgeland—Connects U.S. Highway 51 to Highland Colony Parkway	\$10,000,000
4404	MS	Transportation Improvements for Greenville Bypass—Highway 82—U.S. Highway 82 bypass between Greenville and Leland	\$10,000,000
4405	MS	Transportation Improvements for Port Connector Road, Claiborne County	\$10,000,000
4406	MS	Transportation Improvements for South Entrance Loop—Mississippi State University	\$10,000,000
4407	MS	Lynch Street Extension to Metro Parkway, Jackson—An extension of the Metro Parkway that connects intermodal traffic between the Metro Center Area and Jackson State University	\$5,000,000
4408	MS	Transportation improvements for Highway 7 and Highway 49 Connector, Greenwood	\$5,000,000
4409	MS	Transportation improvements for Pearl-Pirates Cove Interchange, Pearl	\$5,000,000
4410	MS	Transportation improvements for Washington Street/Old U.S. Highway 61, Vicksburg	\$5,000,000
4411	MS	Star Landing Corridor, Southaven	\$5,000,000
4412	MT	Transportation improvements for MT 78 Corridor Development	\$10,000,000
4413	MT	Transportation improvements for Bench Boulevard Connection and Corridor Project, Billings	\$17,000,000
4414	MT	Transportation improvements for Babcock to Kagy Project, Bozeman	\$5,000,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
4415	MT	Transportation improvements for Townsend—South Project, U.S. 287	\$10,000,000
4416	MT	Transportation improvements for Cutbank Railroad Overpass, Cutbank	\$6,000,000
4417	MT	Transportation improvements for Havre—East Project, including Glasgow to Poplar, U.S. 2	\$10,000,000
4418	MT	Transportation improvements for Lonepine North and East Project, MT 28	\$7,000,000
4419	MT	U.S. 93 transportation improvement projects between Lolo and Hamilton	\$15,000,000
4420	MT	U.S. 2 transportation improvement projects between North Dakota State Line and Browning	\$20,000,000
4421	MT	MT 3 transportation improvement projects between Billings and Great Falls	\$15,000,000
4422	MT	MT 16, reconstruction of roadway and structures northeast of Glendive	\$7,000,000
4423	MT	Develop and reconstruct Two Medicine Bridge, U.S. 2, East of Glacier National Park	\$25,000,000
4424	MT	U.S. 93 Ninepipe to Ronan transportation improvement projects	\$8,000,000
4425	NC	Construction of the southbound lane of U.S. 321 bridge replacement over the Catawba River in Caldwell and Catawba Counties	\$2,160,000
4426	NC	Construction and expansion of Little Sugar Creek Greenway Charlotte	\$3,155,000
4427	NC	Falls of Neuse Road Widening and Improvement, Raleigh	\$3,000,000
4428	NC	Interstate 20 Extension study	\$5,000,000
4429	NC	Transportation improvements at Piedmont Triad Research Park, Winston Salem	\$2,000,000
4430	NC	Plan, design, and construct the 10th street Connector Project in Greenville	\$1,500,000
4431	NC	Randall Parkway Widening and Improvement, Wilmington	\$3,000,000
4432	NC	Widen Derita Road from Poplar Tent Road in Concord to the Cabarrus Mecklenburg County line, Concord	\$3,400,000
4433	NC	Construction improvements to Highway 10 in Newton	\$1,020,000
4434	NC	U.S. 64 upgrade and improvement between Raleigh, NC and Rocky Mount	\$5,000,000
4435	NC	Construction and improvement of I-73, I-74, U.S. 220, in Montgomery and Randolph Counties	\$2,200,000
4436	NC	U.S. 1 Bypass and improvements around Rockingham	\$1,000,000
4437	NC	Norfolk Southern Intermodal System, Charlotte	\$4,000,000
4438	NC	Design and construction of the Airport Area Roadway Network, High Point	\$1,000,000
4439	NC	Independence Boulevard Extension, Wilmington	\$3,000,000
4440	NC	Design, engineering, and construction of I-77/ Catawba Avenue Interchange Cornelius	\$5,000,000
4441	NC	Eliminate highway-railway crossings in City of Fayetteville	\$4,000,000
4442	NC	Construction of I-74 between I-40 and U.S. 220, High Point	\$6,000,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
4443	NC	Environmental studies and construction of U.S. 74 Bypass Extension, Monroe	\$4,200,000
4444	NC	Greenways Expansion and Improvement Project, Greenville	\$1,600,000
4445	NC	Northern Loop Project, Wilson	\$3,000,000
4446	NC	Rail Track Replacement, Spencer	\$565,000
4447	NC	Construction of Interstate 73 and Interstate 74	\$10,000,000
4448	NC	Construction of Charlotte Douglas International Airport Freight Intermodal Distribution Center	\$7,500,000
4449	NC	Rehabilitate existing roadway, make safety improvements and add lanes to Interstate 95 in North Carolina	\$2,500,000
4450	NC	Construction of the southbound lane of U.S. 321 bridge replacement over the Catawba River in North Carolina	\$2,000,000
4451	NC	Widening of Beckford Drive, City of Henderson	\$192,000
4452	NC	Transportation improvements for Peters Creek Pkwy, 1st St., 2nd St., and Brookstown Ave. in Winston-Salem	\$2,000,000
4453	NC	Environmental studies and construction of U.S. 74 Monroe Bypass Extension	\$5,000,000
4454	NC	To plan, design and construct the 10th Street connector project in Greenville	\$2,500,000
4455	NC	Transportation improvements at Piedmont Triad Research Park, Winston-Salem	\$2,500,000
4456	NC	Acquisition of rail corridors for use as bicycle and pedestrian trails, Durham	\$2,000,000
4457	NC	Northern Loop Project, City of Wilson	\$2,933,000
4458	NC	Widen Derita Road from Poplar Tent Road in Concord to the Cabarrus Mecklenburg County line	\$3,350,000
4459	NC	Winston-Salem Northern Beltway, Eastern Section and Extension	\$1,300,000
4460	NC	To perform a study to be performed by East Carolina University to find the feasibility of constructing a mid-Currituck Sound bridge	\$2,000,000
4461	NC	Transportation improvements at the Marion Diehl Center, Charlotte	\$725,000
4462	NC	Pack Square pedestrian and roadway improvements, Asheville	\$700,000
4463	NC	Study feasibility of widening U.S. 221/NC 226 from Woodlawn to Spruce Pine, start planning and design, and make upgrades to improve safety	\$700,000
4464	NC	Continued development of Cary, NC pedestrian bike paths	\$400,000
4465	NC	Extend M. L. King, Jr., Boulevard in Monroe ..	\$1,000,000
4466	NC	Design and Construction of the Airport Area Roadway Network, High Point	\$900,000
4467	ND	I–29 Reconstruction from Main Avenue N. to County Road 20 in Fargo	\$10,000,000
4468	ND	Reconstruct U.S. 281 in Jamestown—South Corporate limits to 17th St., SW	\$6,000,000
4469	ND	Reconstruction of U.S. 2 from Towner to Rugby—WB	\$7,000,000
4470	ND	Reconstruct ND 1804 from University of Mary to 48th St. South of Bismarck	\$5,900,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
4471	ND	Reconstruction of U.S. 85 north of Grassy Butte to Long-X Bridge near Teddy Roosevelt National Park North Unit	\$6,500,000
4472	ND	ND 22 Reconstruction from 15th St. to North Corporate Limits in Dickinson	\$2,000,000
4473	ND	ND 200 Reconstruction from Jct. ND 49 at Beulah to Hazen	\$3,500,000
4474	ND	North Bound I–29 Reconstruction from south of ND 15 to Near Grand Forks	\$8,000,000
4475	ND	East Bound I–94 Reconstruction from Near South Heart to Dickinson	\$7,000,000
4476	ND	ND 294/12th Avenue N Reconstruction and Bridge Widening in Fargo	\$11,000,000
4477	ND	Replace Red River Valley Bridge at Drayton, ND	\$3,100,000
4478	ND	U.S. 12 improvements between Bowman and Hettinger	\$10,000,000
4479	ND	U.S. 83/North Broadway Reconstruction in Minot	\$10,000,000
4480	ND	Mandan Avenue Reconstruction in Mandan	\$2,000,000
4481	ND	ND 127 Reconstruction from ND 11 N. to Wahpeton	\$3,000,000
4482	ND	U.S. 83 Reconstruction from Max to ND 23 SB	\$6,000,000
4483	ND	U.S. 281 Reconstruction from Carrington to Jct. ND 15	\$4,000,000
4484	NE	Construction of the Columbus, Nebraska North Arterial Road	\$1,400,000
4485	NE	U.S. 34 Missouri River Bridge relocation and replacement	\$500,000
4486	NE	Missouri River Bridges between U.S. 34, I–29 in Iowa and U.S. 75 in Nebraska	\$1,200,000
4487	NE	Design, right-of-way and construction of Nebraska Highway 35 between Norfolk to South Sioux City	\$4,000,000
4488	NE	Transportation improvements for U.S. 81 Meridian Bridge, Yankton	\$1,800,000
4489	NE	Railroad Grade Separation Structures, State-wide	\$6,000,000
4490	NE	Engineering, right-of-way and construction of the 23rd Street Viaduct in Fremont, Nebraska	\$700,000
4491	NE	Design, right-of-way and construction of the Louisville bypass, Nebraska	\$400,000
4492	NE	Construction of I–80/Cherry Avenue Interchange and East bypass, Kearney, Nebraska	\$1,000,000
4493	NE	Interstate 80 Interchange at Pflug Road, Sarpy County, Nebraska	\$600,000
4494	NE	Construction of Heartland Expressway between Alliance and Minatare, NE	\$8,000,000
4495	NE	New roads and overpass to relieve congestion and improve traffic flow for Antelope Valley—Lincoln, NE	\$3,000,000
4496	NE	Design of right-of-way and construction of South and West beltway in Lincoln, NE	\$2,000,000
4497	NE	Cuming Street Transportation improvement project in Omaha, NE	\$900,000
4498	NE	Nebraska Intelligent Transportation Systems Statewide	\$1,000,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
4499	NE	Midwest Roadside Safety Facility, UNL—Lincoln, NE	\$1,000,000
4500	NE	U.S. Highway 75 expressway, Plattsmouth to Bellevue, Nebraska	\$5,000,000
4501	NE	U.S. 275 So. Omaha Veterans Memorial Bridge	\$3,000,000
4502	NE	Lincoln East Beltway, NE	\$500,000
4503	NE	I–80 six lane (I–80 to 56th Street) Lincoln, NE	\$3,000,000
4504	NE	Antelope Valley Transportation Improvement Project in Lincoln	\$10,000,000
4505	NE	Design and construction of the South and West Beltway in Lincoln	\$5,000,000
4506	NE	Cuming Street Transportation Improvement Project in Omaha	\$5,500,000
4507	NE	Design and construction of Highway 35 between Norfolk and South Sioux City	\$9,500,000
4508	NE	I–80/Cherry Avenue Interchange and East Bypass in Kearney	\$8,000,000
4509	NE	Construction of the Heartland Expressway between Alliance and Minatare	\$5,000,000
4510	NE	Plan and design I–80 Interchange at Pflug Road	\$1,000,000
4511	NE	Design and construction of Missouri River Bridges between U.S. 34, I–29 in Iowa and U.S. 75 in Nebraska	\$3,000,000
4512	NE	Construction of the North Arterial Road in Columbus	\$2,000,000
4513	NE	Design and construction of Meridian Bridge between Nebraska and Yankton, South Dakota	\$1,000,000
4514	NH	Construction, including widening and structural improvements, of Little Bay Bridge to eliminate congestion—Portsmouth, NH	\$20,000,000
4515	NH	I–93 water quality study project	\$4,000,000
4516	NH	Reconfiguration of Pelham Intersection to Improve Safety	\$2,000,000
4517	NH	Reconstruction of NH 11 and NH 28 Intersection in Alton	\$1,400,000
4518	NH	Construct and upgrade intersection of Route 3 and Franklin Industrial Drive in Franklin ...	\$2,000,000
4519	NH	Design and construction of intersection of Rt. 101A and Rt. 13 in Milford	\$2,000,000
4520	NH	Relocation and reconstruction of intersection at Route 103 and North Street in Claremont	\$2,600,000
4521	NH	Improve Meredith Village Traffic Rotary	\$1,600,000
4522	NH	Construct intersection at U.S. 3 and Pembroke Hill Road in Pembroke	\$1,400,000
4523	NH	Reconstruction and improvements to NH Route 110 in Berlin	\$3,600,000
4524	NH	South Road Mitigation in Londonderry	\$2,000,000
4525	NH	Construct Park and Ride, Exit 5 on I–93—Londonderry, NH	\$2,000,000
4526	NH	Reconstruction and relocation of the intersection of Maple Avenue and Charleston Road in Claremont	\$1,000,000
4527	NH	Replacement of Ash Street and Pillsbury Road Bridge	\$1,400,000
4528	NH	Hampton Bridge Rehabilitation—Hampton	\$3,000,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
4529	NJ	PATCO Rolling Stock acquisition and/or renovation for use on line between Lindenwold and Locust Street in Philadelphia	\$40,000,000
4530	NJ	Construct new ramps between I-295 and Route 42	\$15,000,000
4531	NJ	Route 46 Corridor upgrades	\$9,500,000
4532	NJ	Route 18 Reconstruction in downtown New Brunswick	\$7,500,000
4533	NJ	Interstate 280 Interchange improvements, Harrison	\$2,000,000
4534	NJ	Construct Waterfront Walkway from North Sinatra Drive and 12th St. south to Sinatra Drive in Hoboken	\$8,000,000
4535	NJ	Widening of Route 1 and intersection improvements in South Brunswick	\$3,500,000
4536	NJ	Route 29 conversion project to a full access freeway	\$4,000,000
4537	NJ	Improvements to River Road in Camden	\$4,000,000
4538	NJ	Design and Construct Newark Waterfront Pedestrian and Bicycle Access	\$2,000,000
4539	NJ	Route 9W operational and safety improvements, including I-95 Southbound entrance alterations	\$4,000,000
4540	NJ	New Jersey Underground Railroad for preservation, enhancement and promotion of sites in New Jersey	\$100,000
4541	NJ	International Trade and Logistics Center roadway improvements at Exit 12 of the New Jersey Turnpike, Carteret	\$1,000,000
4542	NJ	Kapkowski road area improvements in Elizabeth	\$1,000,000
4543	NJ	Expand TRANSCOM Regional ITS System in NJ, NY, and CT	\$1,900,000
4544	NJ	Construct Rt. 49 Cohansey River Bridge Replacement, Cumberland County	\$1,500,000
4545	NM	Double Eagle II aviation facility for road construction	\$8,000,000
4546	NM	Double Eagle II aviation facility for interchange construction	\$12,000,000
4547	NM	Extension of University Blvd. in Albuquerque	\$5,000,000
4548	NM	For construction work on NM-176 in Lea County	\$5,000,000
4549	NM	Rio Rancho, Iris Rd. to U.S. Highway 550	\$14,600,000
4550	NM	For U.S. 62/180 in Carlsbad	\$5,000,000
4551	NM	Transportation improvements for I-10 reconstruction in Las Cruces	\$2,000,000
4552	NM	I-10/I-25 bridge reconstruction in Las Cruces	\$7,000,000
4553	NM	Transportation improvements to FS 235 and access to Magdalena Ridge Observatory	\$1,400,000
4554	NM	Reconstruction of I-25/Paseo del Norte and Jefferson Interchange, Albuquerque	\$20,000,000
4555	NM	Reconstruction of NM 524 South Truck Bypass in Carlsbad	\$5,000,000
4556	NM	Reconstruction of I-10 and I-25 Interchange, Las Cruces	\$7,000,000
4557	NM	Extend College Blvd., Roswell	\$2,000,000
4558	NM	Widen U.S. 64 between Farmington and Bloomfield	\$7,000,000
4559	NM	Rehabilitate Espanola Main Street, Espanola	\$4,000,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
4560	NV	Blue Diamond Hwy/SR 160 Widening	\$20,000,000
4561	NV	I–15 Widening and Interchanges, Las Vegas Valley	\$8,000,000
4562	NV	Transportation improvements to I–80 at Fernley Interchange	\$6,000,000
4563	NV	Transportation improvements to Pyramid Highway Corridor, Sparks	\$12,000,000
4564	NV	U.S. 95 Widening and interchanges, Las Vegas	\$7,000,000
4565	NV	Railroad Reconstruction, Ely and White Pine County	\$2,000,000
4566	NV	I–15 Widening northbound from Primm to Sloan Interchange, Clark County	\$25,000,000
4567	NV	I–580/U.S. 395 Capacity improvements, Washoe County	\$25,000,000
4568	NV	Construct I–15/Las Vegas Beltway Interchange	\$3,000,000
4569	NV	Construct U.S. 95/Las Vegas Beltway Interchange	\$3,000,000
4570	NV	Construct Las Vegas Beltway/Airport Connector Interchange	\$3,000,000
4571	NV	Transportation improvements on Henderson Lake Mead Parkway, Henderson, Nevada	\$2,000,000
4572	NV	Transportation improvements on Laughlin-Bullhead City Colorado Bridge	\$3,000,000
4573	NV	Transportation improvements for Mesquite Airport Access	\$8,000,000
4574	NV	U.S. 395 Design	\$3,000,000
4575	NY	I–86/Route 17 Upgrade for Broome, Delaware, Chemung, Orange, Sullivan, and Cattaraugus Counties	\$9,000,000
4576	NY	Roadway and intermodal improvements to the Nassau County Hub	\$5,000,000
4577	NY	For Studies, Design, and Construction of the High Line Trail Project, New York City	\$9,000,000
4578	NY	Improvements to the Harlem River Bridges	\$7,000,000
4579	NY	Road improvements for the Village of Kyrias Joel	\$2,000,000
4580	NY	I–86/Route 17 Upgrade for Tioga County	\$1,000,000
4581	NY	Reconstruction of Ashburton Avenue in Yonkers	\$4,000,000
4582	NY	To Conduct Scoping and Planning Studies for the Northern Tier Expressway	\$1,500,000
4583	NY	Improvements to Route 12 in Broome and Oneida Counties	\$9,000,000
4584	NY	Improvements for West 125th Street in West Harlem	\$2,500,000
4585	NY	Enhance Road and Transportation Facilities Near W. 65th Street and Broadway, New York City	\$5,000,000
4586	NY	Design and Construction of the Short Clove Crossing in Haverstraw	\$6,000,000
4587	NY	Planning and Construction of Fort Drum Connector Road	\$1,000,000
4588	NY	Design and Construction for a Syracuse University Transportation Facility in Syracuse	\$4,000,000
4589	NY	Road and transportation improvements near the Brooklyn Children’s Museum	\$5,000,000
4590	NY	Construction and improvements to U.S. Route 219 Expressway	\$5,000,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
4591	NY	For research at the Rochester Institute of Technology Alternative Fuels and Life-Cycle Engineering	\$4,000,000
4592	NY	Improve Bronx Zoo Intermodal Facility	\$4,000,000
4593	NY	Conversion of NY Route 15 to I-99 Road improvements	\$3,000,000
4594	NY	University of Buffalo Multidisciplinary Center for Earthquake Engineering Research (MCEER)	\$3,000,000
4595	NY	Tappan Zee Bridge to I-287 Transportation Corridor Study, Assessments, and Design	\$1,500,000
4596	NY	Corning Preserve improvements Phase II	\$2,000,000
4597	NY	Siena College Perimeter Road improvements and construction	\$500,000
4598	NY	Southtown connector improvements on NY Route 5 from the Coast Guard Base to Ohio Street, Buffalo, NY/Buffalo Outer Harbor Road improvements	\$8,000,000
4599	NY	Miller Highway improvements	\$4,000,000
4600	NY	Roadway, pedestrian, and streetscape Improvements for the New Cassel Revitalization Project in North Hempstead	\$2,000,000
4601	NY	Farm to Fork Transportation Distribution Network Study and Support in Upstate	\$200,000
4602	NY	Reconstruction of East Avenue from Main Street to Henry Street in Hornell	\$2,000,000
4603	NY	Improvements to Widmer Road in the Town of Wappinger	\$500,000
4604	NY	Improvements to Erie Boulevard in Schenectady	\$2,000,000
4605	NY	Construction of highway noise suppression barriers bordering I-84 in Newburgh	\$1,500,000
4606	NY	Improve Traffic Flow on Noel Road between Church and Crossbay Boulevard Including Work Necessary to Demolish and Reconstruct the Firehouse Facility in Broad Channel	\$1,000,000
4607	NY	Design, Planning, and Construction of a Community Transportation Center from Broadway to Manhattan College Parkway	\$5,000,000
4608	NY	Construction of Pedestrian and Bike Trail Campus Improvements at St. Bonaventure ..	\$1,500,000
4609	NY	For the CargoWatch Transportation Management Project for Study and Implementation	\$3,500,000
4610	NY	Design and Construction of an Access Road to Plattsburgh International Airport	\$500,000
4611	NY	Improvements and Enhancements for Oak Beach Road in the Town of Babylon	\$2,000,000
4612	NY	Design and Construction of Downtown Jamestown Connector Trail	\$1,000,000
4613	NY	Restoration of the Van Cortlandt Manor Entrance near Croton	\$1,000,000
4614	NY	Sound Shore Medical Center of Westchester Intermodal Facility Improvements	\$1,000,000
4615	NY	Route 17 Widening Study and Design	\$1,000,000
4616	NY	Erie Community College Transportation Improvements	\$1,000,000
4617	NY	Roadway and Traffic Improvements for Suffolk County	\$1,500,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
4618	NY	Construction and Improvements to Soundview Connection Greenway from Bruckner Boulevard to Soundview Park	\$800,000
4619	OH	Reconstruction of Cleveland Inner Belt and rehabilitation of the Central Viaduct Bridge, Cleveland, OH	\$21,970,000
4620	OH	Grading, paving, roads, and the transfer of rail-to-truck for the intermodal facility at Rickenbacker Airport Columbus, OH	\$8,200,000
4621	OH	Ramp and Roadway approaches on I–75 toward Brent Spence Bridge. Cincinnati, OH ..	\$10,000,000
4622	OH	Rehabilitation of the Martin Luther King, Jr., Bridge. Toledo, OH	\$2,000,000
4623	OH	Reconstruction, widening, and interchange upgrades to I–75 between Cincinnati and Dayton. Dayton, OH	\$5,000,000
4624	OH	Replace the Edward N. Waldvogel Viaduct. Cincinnati, OH	\$6,000,000
4625	OH	SR 8 safety improvement and road expansion project in Northern Summit County. OH	\$2,600,000
4626	OH	Reconstruction of the 70/71 split in downtown Columbus, OH	\$8,000,000
4627	OH	Widen U.S. 35 to three contiguous lanes from I–75 to I–675 in Montgomery County, OH ...	\$4,000,000
4628	OH	Construct pedestrian bridge from east of Dock 32 to park. Cleveland, OH	\$3,300,000
4629	OH	South Connector in Waverly from U.S. 23 to SR 104 to SR 220 for new development areas in a depressed Appalachian region. Waverly, OH	\$4,100,000
4630	OH	Construct full movement interchange on I–75 at Austin/Miamisburg-Springboro Rd. and widen Miamisburg-Springboro Rd. from Wood Rd. to SR 741, Dayton, OH	\$750,000
4631	OH	Reconstruct I–75/I–475 Interchange. Toledo, OH	\$5,000,000
4632	OH	Construct 1,100 foot bulkhead/riverwalk connecting Front and Maine Ave. public rights-of-way. Cleveland, OH	\$1,280,000
4633	OH	Construction of new bridges that will replace two unsafe spans that carry U.S. Route 62 across the Scioto River. Columbus, OH	\$3,300,000
4634	OH	Construction of a full 4-way interchange at SR 44 and Shamrock Boulevard to replace current 2-way interchange of SR 44 and Jackson St. Painesville, OH	\$400,000
4635	OH	Construction of interchange at SR 8 and Season Road, Cuyahoga Falls, OH	\$2,800,000
4636	OH	Eliminate at-grade signalized intersections between North Fairfield Road and the Xenia Bypass on U.S. 35 in Greene County, OH	\$3,000,000
4637	OH	Design and construct a Towpath Trail from southern Cuyahoga County through downtown Cleveland to Lake Erie. Cleveland, OH	\$1,800,000
4638	OH	Reconstruct and widen SR 82, North Royalton, OH	\$1,000,000
4639	OH	Construct connector between Crocker and Stearns County Highways. Westlake and North Olmsted, OH	\$500,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
4640	OH	Construct I–75/SR 122 interchange and related improvements. Middletown, OH	\$2,000,000
4641	OH	NW Butler County TID U.S. 27 widening, bypass, intersection improvements, and safety projects	\$14,000,000
4642	OH	Allen County SR 309 road reconstruction and safety improvements	\$5,000,000
4643	OH	Licking County SR 79 service road construction, safety improvements, and congestion relief	\$4,090,000
4644	OH	Clermont County SR 125 turn lane additions and related safety improvements	\$2,400,000
4645	OH	Portage County SR 14 turn lane addition, signalization, and related safety improvements	\$500,000
4646	OH	Mahoning County U.S. 224 turn lane addition, widening, signage, and safety improvements	\$4,000,000
4647	OH	I–75 at Austin/Miamisburg-Springboro interchange construction, Miamisburg-Springboro Rd. from Wood Rd. to SR 741 widening	\$750,000
4648	OH	Delaware County U.S. 23 turn lane addition, realignment, and related safety improvements	\$935,000
4649	OH	Fairfield County U.S. 33 safety improvements and signalization, including section 13.2 to 15.01	\$2,000,000
4650	OH	City of Springfield North Street relocation, land acquisition, utility replacement, and repaving	\$3,715,000
4651	OH	Grading, paving, roads for the transfer of rail to truck for the intermodal facility at Rick-enbacker Airport	\$5,000,000
4652	OH	Knox County SR 13 rail-grade crossing improvements, realignment, and related safety measures	\$480,000
4653	OH	Jackson County SR 93 widening, turn-lane addition, and related safety improvements	\$730,000
4654	OH	Stark County SR 172 safety construction and related improvements	\$2,500,000
4655	OH	City of Cincinnati Waldvogel Viaduct reconstruction project	\$2,500,000
4656	OH	Delaware County SR 750 realignment and safety improvements (PID 79367)	\$1,300,000
4657	OH	Highway rail crossing safety upgrades at three locations in Madison Village, OH	\$110,000
4658	OH	Highway rail grade separation over NS rail line for Hines Hill Road/Milford Connector ..	\$60,000
4659	OH	Mill Street Bridge reconstruction and related improvements, Akron OH	\$3,500,000
4660	OH	Columbiana County Port Authority construct intermodal facility, transportation safety improvements	\$1,000,000
4661	OH	Transportation Improvements to downtown Columb RiverSouth Bridge	\$2,000,000
4662	OH	Transportation Improvements for Ohio River Trail from Salem to Downtown	\$1,000,000
4663	OH	Transportation Improvements for Montgomery County I–75 at South Dixie Drive/Central Avenue Interchange, W. Carrollton	\$2,000,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
4664	OH	Medina County U.S. 224 turn lane addition, resurfacing, signage, and other improvements	\$2,200,000
4665	OH	Washington County SR 7 safety improvements, widening, and signage	\$3,230,000
4666	OH	Establish a Trans-Erie Ferry line from Cleveland, Ohio to Port Stanley, Ontario	\$1,000,000
4667	OK	To the University of OK to conduct research on global tracking methods for intermodal containerized freight	\$5,000,000
4668	OK	Improving the I-35 Interchange at Milepost 1 Near Thackerville	\$400,000
4669	OK	Construction of Norman highway-rail Grade Separation	\$8,400,000
4670	OK	Transportation Improvements for SH 33 Widen SH 33 from the Cimarron River East to U.S. 177 Payne County	\$1,600,000
4671	OK	Reconstruct the Interstate 44 193rd Street Interchange	\$600,000
4672	OK	Widen U.S. 60 from approximately 2 miles east of U.S. 60/U.S. 75 interchange east approximately 5.5 miles	\$400,000
4673	OK	Widen U.S. 54 from North of Optima Northeast to Kansas State Line, Texas County, OK	\$200,000
4674	OK	Improvement to Hereford Lane and U.S. 69 Interchange, McAlester	\$200,000
4675	OK	Construction of rail crossing in Claremore at Blue State Drive and SH 66	\$400,000
4676	OK	Complete Reconstruction of the I-35-SH 9 West Interchange	\$800,000
4677	OK	Texanna Road improvements around Lake Eufaula	\$200,000
4678	OK	Improvements to SH 412P at 412 Interchange	\$10,900,000
4679	OK	Widen U.S. 281 from the new U.S. 281 Spur North to Geary Canadian County	\$200,000
4680	OK	Widen U.S. 60 between, Bartlesville and Pawhuska, Osage County	\$600,000
4681	OK	Construction of Midwest City Pedestrian Walkway	\$200,000
4682	OK	Reconstruction SH 66 from Craig and Rogers Counties to SH 66 and U.S. 60 intersection	\$200,000
4683	OK	Construct vehicular bridge over the Burlington Northern RR at War Bonnet Crossing, Mannford	\$200,000
4684	OK	Construction of Duncan Bypass Grade Separation	\$600,000
4685	OK	Improvements to SH 3 from Antlers to Broken Bow	\$1,250,000
4686	OK	Reconstruction of the I-40 Cross-town Expressway from I-44 to I-35 in downtown Oklahoma City	\$4,000,000
4687	OK	Construct and widen six-lanes on Interstate 44 from the Arkansas River extending east approximately 3.7 miles to Yale Avenue in Tulsa, OK	\$2,200,000
4688	OK	Navajoe Gateway Improvements Projects, U.S. 62 in Altus, OK	\$200,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
4689	OK	Reconstruct the I-44—Fort Sill Key Gate Interchange	\$200,000
4690	OK	Realignment of U.S. 287 around Boise City	\$200,000
4691	OK	To study the feasibility of creating a by-pass around the City of Durant to accommodate the traffic needs of the International Trade Assistance Center	\$300,000
4692	OK	To construct a viaduct on U.S. Highway 70 over the railroad tracks in Durant	\$6,400,000
4693	OK	Enhancement projects for Woodward	\$1,000,000
4694	OK	Improvements to highways and bridges in the State of Oklahoma, divided equally among the eight field divisions	\$53,150,000
4695	OK	For improvements to the State maintained interstate system in the State of Oklahoma	\$45,000,000
4696	OR	Highway 20 Improvements from Pioneer Mountain to Eddyville, Lincoln County	\$5,000,000
4697	OR	For purchase of right-of-way, planning, design and construction of a highway, Newberg	\$15,000,000
4698	OR	Upgrade, to add a southbound lane to a section of I-5 through Portland, between Delta Park and Lombard, Portland	\$7,000,000
4699	OR	Widening of Oregon Highway 217 between Tualatin Valley Highway and the U.S. 26 Interchange, Beaverton	\$1,000,000
4700	OR	Improve Highway 22, Polk County	\$1,700,000
4701	OR	Improve I-5/99W Connector, Washington County	\$10,000,000
4702	OR	Improvements to U.S. 97 from Modoc Point to Algoma	\$3,500,000
4703	OR	Construct Barber Street Extension, Wilsonville	\$700,000
4704	OR	For Interstate 5 interchange, City of Coburg ..	\$1,000,000
4705	OR	Upgrade the I-5 Fern Valley Interchange at Exit 24, Medford	\$5,000,000
4706	OR	Construction of highway and pedestrian access to Macadam Ave. and street improvements as part of South Waterfront Development, Portland	\$2,000,000
4707	OR	Plan, design, and acquire, Sunrise Corridor, Clackamas County	\$15,000,000
4708	OR	Relocate and improve Cascade Locks Southbank Enhancements, Cascade Locks ...	\$1,000,000
4709	OR	Reroute U.S. 97 at Redmond, and improve intersection of U.S. 97 and Oregon 126	\$7,000,000
4710	OR	Construction of I-84, U.S. 395 Stanfield Interchange Improvement Project	\$3,400,000
4711	OR	Plan, design, and construct Frontage Road Crossing Project, Hood River	\$500,000
4712	OR	Improve Marine Park Underpass to address necessary transportation improvements, Cascade Locks	\$400,000
4713	OR	Improve Barnhart Road, Umatilla County	\$3,900,000
4714	OR	P&W Rehabilitation Project, Yamhill County ..	\$700,000
4715	OR	Transportation Improvements Around the Eugene, Oregon Federal Courthouse	\$1,000,000
4716	OR	Plan, design, and construct the Dalles, Oregon Riverfront Access	\$1,800,000
4717	OR	Troutdale Interchange enhancements at I-84 and 257th St, Troutdale	\$1,000,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
4718	OR	Interchange Improvements to I–205 at Airport Way	\$1,000,000
4719	OR	Beaverton Hillsdale/Scholls Ferry/Oleson Rd. Intersection Reconfiguration, Washington County	\$3,000,000
4720	OR	Rehabilitate Sellwood Bridge, Multnomah County, Oregon	\$3,000,000
4721	OR	I–5 Franklin-Glenwood Interchange Study	\$400,000
4722	PA	Road improvements for North Shore Transportation Connection, HOV modification, Pittsburgh	\$1,500,000
4723	PA	Planning, environment and preliminary engineering for East-West Corridor Rapid Transit, Pittsburgh	\$1,000,000
4724	PA	Warrendale-Bayne Road improvements from I–79 to SR 19, in Allegheny County	\$2,000,000
4725	PA	New interchange off Route 60 into proposed industrial park in Neshannock Township	\$200,000
4726	PA	Upgrade of Route 60 Interchange with Route 22/30, Allegheny County	\$1,000,000
4727	PA	Streetscape improvements, Geneva College	\$1,345,000
4728	PA	Construct the Alle-Kiski Bridge and Connector, Pennsylvania	\$1,000,000
4729	PA	Relocation of existing two lane road, Rose Street, Indiana County	\$1,000,000
4730	PA	I–70/I–79 South Interchange Redesign and Upgrade	\$2,000,000
4731	PA	Construct 2 flyover ramps and S Linden St. extension for access to industrial sites in the cities of McKeesport and Duquesne	\$3,000,000
4732	PA	Crows Run Relocation from SR 65 to Freedom Crider Road, Beaver County	\$400,000
4733	PA	Transportation Improvements to Jeannette Truck Route, Westmoreland County	\$100,000
4734	PA	Construction of Central Susquehanna Valley Thruway	\$5,000,000
4735	PA	Construction of ramps on I–95 and U.S. 322 widening of streets and intersections	\$5,000,000
4736	PA	Construct parking facility in Upper Darby	\$2,000,000
4737	PA	Improve Freemansburg Avenue and its intersections at Route 33	\$1,000,000
4738	PA	For design, engineering, ROW acquisition, and construction of the third phase of the Marshalls Creek Bypass Project in Monroe County, Pennsylvania	\$2,000,000
4739	PA	Construct Campbelltown Connector, Lebanon County	\$1,000,000
4740	PA	Widen the Route 412 corridor from I–78 into the City of Bethlehem	\$5,000,000
4741	PA	Asbury Road and associated intersection improvement projects, Erie	\$3,700,000
4742	PA	ROW acquisition and construction for the South Valley Parkway, Luzerne County	\$1,000,000
4743	PA	Widening of SR 68 S. of I–80 interchange, Clarion County	\$1,000,000
4744	PA	State Street Bridge Replacement, Sharon	\$1,000,000
4745	PA	Intersection improvements and upgrades of SR 62/257 in Cranberry Township	\$1,000,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
4746	PA	Design-build in-house, bridge rehabilitation of six bridges in Warren County	\$1,000,000
4747	PA	Engineering, design and construction of an extension of Park Avenue north to Lakemont Park in Altoona	\$2,000,000
4748	PA	Widening of Rt. 22 and SR 26 in Huntingdon, upgrades to the interchange at U.S. Rt. 22 and SR 26	\$1,000,000
4749	PA	Road impact study along Potomac River tributaries, Pennsylvania	\$250,000
4750	PA	Construct Dubois Regional Medical Center Access Road, Clearfield County	\$600,000
4751	PA	Road Improvements and upgrades related to the Pennsylvania State Baseball Stadium	\$750,000
4752	PA	Construction of turn lanes, increase curve radius at the intersection of SR 3041 and Industrial Park Road, Somerset	\$425,000
4753	PA	Construct Johnsonburg Bypass, Elk County	\$2,000,000
4754	PA	DuBois-Jefferson County Airport Access Road Construction	\$2,000,000
4755	PA	Replacement of existing bypass on U.S. 219, McKean County	\$1,000,000
4756	PA	Complete heritage tourism work plans for communities along SR 6, Pennsylvania	\$300,000
4757	PA	Improvements and resurfacing on U.S. 6 through the Borough of Mansfield	\$1,000,000
4758	PA	Construction of a road to join Route 247 and Salem Road, Lackawanna County	\$3,000,000
4759	PA	PA Route 61 enhancements, Schuylkill Haven	\$1,600,000
4760	PA	PA Route 309 roadway construction and signalization improvements in Tamaqua Borough	\$400,000
4761	PA	Design, engineering, ROW acquisition construction of streetscaping enhancements, paving, lighting, safety improvements, parking and roadway redesign in Wilkes-Barre ...	\$1,000,000
4762	PA	Construct Valley Business Park Access Road C, Bradford County	\$400,000
4763	PA	Construct PA 706 Wyalusing Bypass Bradford County, Pennsylvania	\$200,000
4764	PA	Construct SR 29 to River Betterment, Eaton Tunkhannock, Wyoming County	\$340,000
4765	PA	Modernize traffic signals, complete minor roadway realignment, and improve channelization at U.S. 322 and PA 10 intersection ...	\$100,000
4766	PA	Replace Bridge, SR 106, Tunkhannock Creek Bridge 2, Clifford Township, Susquehanna County	\$160,000
4767	PA	Construction SR 3024, Middle Creek Bridge II, South Canaan, Wayne County	\$140,000
4768	PA	Restore Route 222 in Maxatawny and Richmond Townships, Berks County	\$280,000
4769	PA	Widening and improvements to SR 10, New Morgan Borough, Berks County	\$1,000,000
4770	PA	Construct parking facility in Norristown, Montgomery County	\$2,000,000
4771	PA	Design and construct French Creek Parkway and connector roads in Phoenixville	\$1,000,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
4772	PA	Design and Construction of Portzer Road Connector, Bucks County	\$1,600,000
4773	PA	Construction of pedestrian tunnel under Cherry Street in Philadelphia	\$2,000,000
4774	PA	U.S. Route 13 Corridor Reconstruction, Redevelopment and Beautification, Bucks County	\$1,000,000
4775	PA	Two-lane Extension of Bristol Road, Bucks County	\$400,000
4776	PA	Relocation of PA 52 at Longwood Gardens, Chester County	\$200,000
4777	PA	Improvements to SR 39/I–81, West Hanover Township	\$500,000
4778	PA	Construction of alternate truck route for SR 441, Columbia Borough	\$1,000,000
4779	PA	Concord Road Extension, Springettsbury Township	\$500,000
4780	PA	Widen PA 896 between Strasburg Borough and U.S. 30	\$500,000
4781	PA	Design and construct relocation of U.S. 11 between Ridge Hill and Hempt Roads	\$750,000
4782	PA	Construct and widen PA 94 from the Adams and York County line north to Appler Road	\$300,000
4783	PA	Construct a turning lane off Route 16 in McConnellsburg, Fulton County	\$500,000
4784	PA	Improvements from U.S. 11 to southbound ramp to I–81 in Antrim Township	\$250,000
4785	PA	Construction of the Montour Trail, Great Allegheny Passage	\$200,000
4786	PA	Transportation Improvements for Armstrong County, PA Slatelick Interchange for PA 28 at SR 3017	\$500,000
4787	PA	Widening of Route 40 in Wharton Township, Fayette County	\$750,000
4788	PA	Completion of I–79-Kirwin Heights Interchange and construction of retaining walls, bridge and new ramps	\$400,000
4789	PA	Construction of U.S. 22 to I–79 Section of Southern Beltway, Pittsburgh	\$300,000
4790	PA	Reconstruct intersection of SR 51 and Franklin Ave, Beaver County	\$400,000
4791	PA	South Phila. Access Rd. Design and construction of port access road from South Phila Port and intermodal facilities, Philadelphia	\$500,000
4792	PA	Widen Route 22 between Export and Delmont	\$260,000
4793	PA	Construct a new highway interchange between the PA Turnpike and I–95 and widen both routes to six lanes	\$4,000,000
4794	PA	Construct a highway connecting U.S. 119 near Uniontown with SR 88 near Brownsville	\$4,000,000
4795	PA	Construct a road along the North Delaware Riverfront Corridor from Buckius Street to Poquessing Creek	\$4,000,000
4796	PA	Construct an intermodal center at the Philadelphia Zoo	\$2,000,000
4797	PA	Widen Route 412 corridor from I–78 into the City of Bethlehem	\$2,000,000
4798	PA	Improvements to the Erie Airport corridor	\$1,000,000
4799	PA	Widen I–81 from four to six lanes in the Wilkes-Barre/Scranton corridor	\$2,000,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
4800	PA	Construct the South Valley Parkway, Pennsylvania	\$1,500,000
4801	PA	Complete the connection of the American Parkway between the east and west sides of the Lehigh River with bridges and interchanges	\$2,000,000
4802	PA	Construct safety and capacity improvements to Route 309 and Old Packhouse Road	\$2,500,000
4803	PA	Flyover ramps and improvements to I–79 and SR 228, Cranberry Township	\$2,500,000
4804	PA	Construct the Valley View Business Park Access Road	\$1,500,000
4805	PA	Construct the North Delaware River East Coast Greenway Trail	\$3,000,000
4806	PA	Improvements to the Pleasant Valley and Sandy Hill Roads intersection with SR 130 in Penn Township	\$2,000,000
4807	PA	Construct an intermodal facility servicing Children’s Hospital of Pittsburgh	\$1,000,000
4808	PA	Widening and construction of grade-separated interchanges along SR 28 from Pittsburgh to Millvale, Pennsylvania	\$1,000,000
4809	PA	Lafayette Street extension and interchange improvements	\$500,000
4810	PA	Construct the Church Street Transportation Center in Williamsport	\$2,000,000
4811	PA	For the Children’s Hospital of Philadelphia Partners for Child Passenger Safety program	\$1,000,000
4812	PA	Construct improvements to SR 29 and SR 113 in Upper Providence Township, Pennsylvania	\$2,400,000
4813	PA	Construct ramps off of I–95 and U.S. 322 and access improvements to Chester, Pennsylvania	\$1,000,000
4814	PA	Improvements to access roads at the Please Touch Museum, Philadelphia	\$1,000,000
4815	PA	Construction of the Schuylkill Gateway Project in Philadelphia, Pennsylvania	\$1,000,000
4816	PA	Security improvements to the Commodore Barry Bridge, Pennsylvania	\$1,000,000
4817	PA	Improve Freemansburg Avenue and its intersections at Route 33, Pennsylvania	\$1,000,000
4818	PA	Study and construct improvements to the intersection of the Bucknell University main campus entrance road and SR 15, Pennsylvania	\$1,000,000
4819	PA	Improvements to rural corridors in Erie, Pennsylvania	\$450,000
4820	PA	Widen the ramp at the intersection of Peach Street and I–90, Pennsylvania	\$500,000
4821	PA	Implement the Clearfield Cluster Pennsylvania highway grade crossing project, Clearfield and Clinton Counties	\$1,000,000
4822	PA	Rail traffic safety improvements, Homer City, Pennsylvania	\$500,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
4823	PA	Design and construct interchange improvements including sound barriers at I–83, Exit 19, or other projects designated by York County, MPO	\$1,000,000
4824	PA	Construct the Alle-Kiski Bridge and Connector	\$1,000,000
4825	PA	Reconfiguration of the Rochester Riverfront ramp	\$1,000,000
4826	PA	Expand U.S. 422 between Indiana and Kittanning	\$1,000,000
4827	PA	PATCO high-speed line fleet upgrade	\$1,000,000
4828	PA	For interpretive signage and trails in Pittsburgh urban park land	\$300,000
4829	PA	Construct rail crossings to access Schuylkill River Park, Philadelphia	\$600,000
4830	PA	Repair and upgrade Cresheim Valley Drive, Philadelphia	\$450,000
4831	PA	Improvements to Penn's Landing Ferry Terminal, Philadelphia	\$400,000
4832	PA	Shippensburg University campus circulation improvements	\$250,000
4833	PA	To incorporate a portion of Old Delaware Avenue as the South Philadelphia Port Access Road	\$400,000
4834	PA	Construct a new interchange and additional northbound lane along SR 28 near Tarentum	\$400,000
4835	PA	Linglestown Square, Lower Paxton Township	\$250,000
4836	PA	Study the future needs of east-west road infrastructure in Adams County	\$500,000
4837	PA	Completion and enhancements to the Pittsburgh Riverfront trail system	\$500,000
4838	PA	Road impact study along Potomac River tributaries	\$200,000
4839	PA	Da Vinci Center hydrogen fuel-celled transit vehicles	\$200,000
4840	PA	Complete heritage tourism work plans for communities along SR 6	\$100,000
4841	PA	Relocation of East Lake Road in Pyramatuning Township	\$100,000
4842	RI	Transportation Improvements for the Apponaug Bypass	\$22,000,000
4843	RI	Transportation Improvements for the Washington Secondary Bicycle Facility/Coventry Greenway/Trestle Trail (Coventry)	\$4,000,000
4844	RI	Transportation Improvements for the Northwest Biketrail/Woonasquatucket River Greenway (Providence, Johnston)	\$6,000,000
4845	RI	New Interchange constructed from I–195 to Taunton and Warren Avenue in East Providence	\$7,000,000
4846	RI	Transportation Improvements for the Blackstone River Bikeway (Providence, Woonsocket)	\$10,000,000
4847	RI	Transportation Improvements for the Jamestown Bridge Demolition—Bicycle Access/Trestle Span Demolition/Fishing Pier (N. Kingstown)	\$4,000,000
4848	RI	Weybosset Street (200 Block) Streetscape and Drop-off Lane Improvement—Providence	\$750,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
4849	RI	Acquisition of fee or easement, construction of a trail, and site improvements in Foster	\$1,000,000
4850	RI	Open space acquisition to mitigate growth associated with SR 4 and Interstate 95, by non-profit land conservation agencies through acquisition of fee or easement, with a match requirement of 50% of the total purchase price	\$8,000,000
4851	RI	Replace Sakonnet Bridge	\$7,000,000
4852	RI	Transportation Enhancements at Blackstone Valley Heritage Corridor	\$500,000
4853	RI	Bury the Power Lines at India Point	\$2,500,000
4854	RI	Restore and Expand Maritime Heritage site in Bristol	\$500,000
4855	RI	Transportation Improvements for the Colt State Park Bike Path	\$2,000,000
4856	RI	Construct trails and facility improvements within the Rhode Island National Wildlife Refuge complex	\$1,000,000
4857	RI	Improvements for the Commuter rail in Rhode Island	\$5,000,000
4858	RI	Transportation Improvements for the East Main Road in Middletown	\$5,000,000
4859	RI	Downtown Circulation Improvements Providence	\$2,000,000
4860	RI	Transportation Improvements for the Route 138 (South Kingstown)	\$4,000,000
4861	RI	Transportation Improvements for the Route 1 Gilbert Stuart Turnaround (N. Kingstown) ..	\$2,750,000
4862	RI	Rehabilitate and improve Rt. 138 from Rt. 108 to Rt. 2	\$12,000,000
4863	RI	Improve traffic circulation and road surfacing in downtown Providence	\$5,000,000
4864	RI	Improve access to Pell Bridge in Newport	\$5,000,000
4865	RI	Completion of Washington Secondary Bike Path from Coventry to Connecticut Border ..	\$7,000,000
4866	RI	Replace Warren Bridge in Warren	\$11,000,000
4867	RI	Rehabilitation of Stillwater Viaduct in Smithfield	\$5,000,000
4868	RI	Completion of Woonasquatucket River Greenway from Johnston to Providence	\$5,000,000
4869	RI	Replace Natick Bridge in Warwick and West Warwick	\$5,000,000
4870	SC	Construction of I-73 from Myrtle Beach, SC to I-95, ending at the NC State line	\$10,000,000
4871	SC	Widening of U.S. 278 to six lanes in Beaufort County, SC between Hilton Head Island and SC 170	\$15,000,000
4872	SC	Engineering, design and construction of a Port Access Road connecting to I-26 in North Charleston, SC	\$10,000,000
4873	SC	Improvements to U.S. 17 in Beaufort and Colleton Counties to improve safety between U.S. 21 and SC 64	\$10,000,000
4874	SC	Widening of SC 9 in Spartanburg County from SC 292 to Rainbow Lake Road	\$2,000,000
4875	SC	Complete Construction of Palmetto Parkway Extension (I-520) Phase II to I-20	\$3,000,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
4876	SC	Complete a multi-lane widening project on SC Hwy 5 Bypass in York County, SC between I-77 and I-85	\$4,000,000
4877	SC	Re-construction of an existing interchange at I-385 and SC 14, in Laurens County	\$2,000,000
4878	SC	Construction of the Lexington Connector in Lexington County, to alleviate traffic congestion	\$2,000,000
4879	SC	Widening of 4.4 miles of West Georgia Road in Greenville County	\$2,000,000
4880	SC	Extension of Wells Highway in Oconee County	\$2,000,000
4881	SC	Demolition of the old Cooper River Bridges in Charleston	\$5,000,000
4882	SC	Transportation Improvements for the I-73 in South Carolina-Proposed interstate corridor beginning at NC State line continuing to the Grand Strand area of SC	\$5,000,000
4883	SC	Transportation Improvements for the U.S. 278 in Beaufort/Jasper County to alleviate roadway capacity constraints and improve safety and operations	\$2,000,000
4884	SC	ICAR Roads, Greenville, reconstruction of roads around Fairforest Way for better flow into ICAR	\$2,000,000
4885	SC	Harden Street Improvements in Columbia. Specific improvements will include: modern traffic control signals, intersections, improved street lighting, driveways etc	\$5,000,000
4886	SC	Palmetto Parkway, Phase 2 is approximately 6 miles long and begins at U.S. 1/78 and terminates at I-20	\$3,000,000
4887	SC	Lexington Connector in South Carolina, to alleviate traffic congestion along three major thoroughfares in Lexington County: U.S. 1, U.S. 378, and SC 6	\$1,000,000
4888	SC	I-77/Peach Road Interchange in Fairfield County, SC, project would create interchange to encourage development at industrial park	\$3,000,000
4889	SC	I-95/SC 327 in Florence, SC, to construct northbound ramp and expand existing ramps	\$3,000,000
4890	SC	Transportation Improvements for Highway 901, York County, SC	\$1,000,000
4891	SC	The Extension of the Mark Clark Expressway in Charleston County	\$3,000,000
4892	SD	Construction of 4-lane highway on U.S. 79 between Maverick Junction, and the Nebraska border	\$27,000,000
4893	SD	Reconstruct, S. Rochford Road from Rochford to Deerfield Rd	\$9,000,000
4894	SD	Reconstruct SD-50 Cherry Street in Vermillion	\$3,000,000
4895	SD	Construct Rush Lake Crossing U.S. 12 near Webster	\$8,000,000
4896	SD	Construct Phase I/South Connector Broadway to 29th Street, Watertown	\$3,600,000
4897	SD	Construct Intersection of State Hwy 212 and U.S. 81, Watertown	\$2,500,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
4898	SD	Reconstruction of U.S. 14/Medary Ave. to 22nd Ave., Brookings	\$3,000,000
4899	SD	Extension of Main Street and replacement of rail crossing, Mobridge	\$1,500,000
4900	SD	Reconstruction and paving of BIA Route 27, Wounded Knee-Porcupine Butte	\$6,000,000
4901	SD	Purchase critical conservation easements along the Heartland Expressway (Highway 79) adjacent to Custer State Park and Wind Cave National Park	\$2,000,000
4902	SD	Reconstruction and paving of streets on the Flandreau Indian Reservation	\$2,000,000
4903	SD	Construct Exit 61 I–90 Rapid City (Heartland Expressway)	\$15,116,000
4904	SD	Construct SD 1806 from U.S. 83 East/15.6 miles toward Lower Brule	\$862,000
4905	SD	Construct Wagner Community Streets, Yankton Reservation	\$200,000
4906	SD	Construct Marty Community Streets, Yankton Reservation	\$200,000
4907	SD	Construct Riverfront Walking trail between 4th Ave. and Main Street, Mobridge	\$300,000
4908	SD	Reconstruct Exit 79—I–29 in Sioux Falls (12th Street)	\$12,323,000
4909	SD	East Anamosa St. extension to east/north and lacrosse St. road and bridge	\$6,127,000
4910	SD	To replace bridge over Missouri River, I–90 in Chamberlain	\$15,000,000
4911	SD	Winter Maintenance Decision Support System/SD DOT	\$1,000,000
4912	SD	Reconstruct U.S. 14 to U.S. 83 junction, Pierre East	\$2,000,000
4913	SD	Resurface U.S. 12 from McLaughlin east 14.2 miles in Standing Rock Reservation	\$2,472,000
4914	SD	Reconstruct I–90 loop in Mitchell (Burr to Sanborn)	\$3,000,000
4915	SD	Road Construction Activities Turner County ...	\$1,000,000
4916	SD	Pavement restoration U.S. 12 2.1 miles from west of Penn St. to east of Melgaard in Aberdeen	\$1,000,000
4917	SD	BIA route 3/ Tribal Farm Rd. reconstruction and paving	\$6,000,000
4918	SD	BIA route 15 resurfacing between red scaffold and cherry creek to Ziebach county Rd. 33 ...	\$5,000,000
4919	SD	For Okreek to Carter grading and resurfacing U.S. 18 west of Okreek to Carter	\$2,250,000
4920	SD	Acquisition of road maintenance equipment for Oglala, Rosebud and Cheyenne River Sioux Tribes	\$3,000,000
4921	SD	Construct bike path in Vermillion	\$750,000
4922	SD	Construct Rail Spur in Brookings	\$750,000
4923	SD	Asphalt overlay to extend Lewis and Clark Highway 1804 in Charles Mix County leading to Platte Creek Recreation Area	\$600,000
4924	SD	South Dakota Department of Transportation; for those projects it has identified as its highest priorities	\$3,450,000
4925	TN	University of Tennessee Joint Institute for Advanced Materials in Knoxville	\$20,000,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
4926	TN	Center for Advanced Intermodal Transportation Technologies at the University of Memphis	\$5,000,000
4927	TN	College Street Corridor, Phase II, Great Smoky Mountain Heritage Highway Cultural and Visitors Center, Maryville	\$8,000,000
4928	TN	Plan and construct N. Tennessee Boulevard enhancements, Murfreesboro	\$6,000,000
4929	TN	North Second Street Corridor Upgrade, Memphis	\$10,000,000
4930	TN	Engineer, design and construction of connector road from I–75 interchange across Enterprise South Industrial Park to Hwy 58 in Hamilton County	\$10,000,000
4931	TN	Construct force protection barriers along U.S. Highway 41–A at Fort Campbell	\$4,000,000
4932	TN	Upgrade roads for Slack Water Port facility and industrial park, Lake County, TN	\$1,500,000
4933	TN	Plan and construct Rutherford County visitor's center/transportation information hub, City of Murfreesboro	\$2,000,000
4934	TN	Reconstruct connection with Hermitage Avenue to Cumberland River Bluff in Nashville	\$5,000,000
4935	TN	Six lane extension from Airways Boulevard to South Highland Avenue in Jackson	\$4,000,000
4936	TN	Plough Boulevard Interchange with Winchester Road in Memphis	\$2,500,000
4937	TN	Construction of a pedestrian bridge in Alcoa ...	\$200,000
4938	TN	Construct visitor interpretive center at the Gray Fossil Site in Gray	\$1,800,000
4939	TN	Expansion of SR 11W from Rutledge to Bean Station in Grainger County	\$5,000,000
4940	TN	Construction of Knob Creek Road in Washington County, Tennessee	\$2,500,000
4941	TN	Riverside Drive Cobblestone Restoration and Walkway, Memphis	\$2,500,000
4942	TN	Reconstruction of sidewalks, curbs, and streetscape improvements within the Memphis Central Biomedical District, Memphis, Tennessee	\$5,000,000
4943	TN	Develop intelligent transportation signage for access points at Fort Campbell, Tennessee ...	\$2,200,000
4944	TN	Construction of SR 32/U.S. 321 from SR 73 at Wilton Springs road to near I–40 in Cocke County, Tennessee	\$5,000,000
4945	TN	Improvements to I–40 interchange at I–240 East of Memphis (Phase II)	\$5,000,000
4946	TN	Warren County Mountain View Industrial Park access road, Warren County, TN	\$1,500,000
4947	TN	Widen U.S. Highway 127 to 4 lanes between Jamestown, Tennessee and I–40	\$2,000,000
4948	TN	Widen a railroad underpass and make access improvements to the I–275 industrial business park in Knoxville	\$5,000,000
4949	TN	Construct Interpretive Visitor Center for the Cherokee Removal Memorial Park Trail of Tears site in Meigs County	\$500,000
4950	TN	Construct overpass at Highway 321 and Highway 11 Loudon County	\$1,300,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
4951	TN	Construction of an Interchange on Highway 64 (APD 40) adjacent to I-75 Exit 20 in the City of Cleveland, TN for increased safety ...	\$1,250,000
4952	TN	Construct trails and recreational facilities at the Warriors Path State Park in Kingsport ..	\$500,000
4953	TN	Construct the Melton Lake greenway in Oak Ridge	\$650,000
4954	TN	Access road improvements for regional hospital in Morristown	\$1,000,000
4955	TN	Johnson County, Tennessee for a trails system	\$500,000
4956	TN	Access road from the James H. Quillen VA Medical Center to U.S. 11-E in Mountain Home	\$1,000,000
4957	TN	Widen I-65 from SR 840 to SR 96, including interchange modification at Goose Creek bypass, Williamson County	\$2,000,000
4958	TN	Acquire and construct trail and bikeway along S. Chickamauga Creek in Chattanooga	\$500,000
4959	TN	Improve Streetscape and pavement repair, Carter County	\$500,000
4960	TN	Improve Streetscape and pavement repair, McMinn County	\$500,000
4961	TN	Improve Streetscape and pavement repair, Maury County	\$500,000
4962	TN	Improve, Streetscape and pavement repair, Lincoln County	\$500,000
4963	TN	Improve Streetscape and pavement repair, Dyer County	\$500,000
4964	TN	Improve Streetscape and pavement repair, Smith County	\$500,000
4965	TN	Improve Streetscape and pavement repair, Henry County	\$500,000
4966	TN	Improve Streetscape and pavement repair, Obion County	\$500,000
4967	TN	Improve Streetscape and pavement repair, Sumner County	\$500,000
4968	TN	Replace Unitia Bridge in Loudon County	\$200,000
4969	TN	Sullivan, Washington Counties, Tennessee SR 75 widening	\$500,000
4970	TN	Sevier County, TN SR 66 widening	\$500,000
4971	TN	Develop the East Hickman County and Oak Hill Community Greenway Projects, Hickman County	\$200,000
4972	TN	SR 397 extension from SR 96W to U.S. 431N to Franklin	\$500,000
4973	TN	U.S. 412 from the Madison County Line to Parsons TN in Henderson and Decatur Counties	\$500,000
4974	TN	Construction of the Foothills Parkway in Smoky Mountains National Park, Sevier County	\$10,000,000
4975	TN	Construct Transportation and Heritage museum, Townsend	\$400,000
4976	TN	Plan and construct access road for the Overton County Industrial Park, Overton County	\$300,000
4977	TN	Construct system of greenways in Nashville—Davidson County	\$500,000
4978	TN	Improve Streetscape and pavement repair, Roane County	\$500,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
4979	TN	Improve Streetscape and pavement repair, Scott County	\$500,000
4980	TN	Improve Streetscape and pavement repair, Morgan County	\$500,000
4981	TN	Improve Streetscape and pavement repair, Fentress County	\$500,000
4982	TN	Street improvements, streetscape features, signals and signage along 3rd Avenue North and Union Street in downtown Nashville, Tennessee	\$6,000,000
4983	TN	Improvements to the Blount/Sevier Corridor in Knoxville, Tennessee to support the South Waterfront Redevelopment project	\$6,000,000
4984	TX	Replacement of the I–30 Bridge over the Trinity River in Dallas	\$17,000,000
4985	TX	Replacement of the Galveston Causeway Railroad Bridge in Galveston	\$15,000,000
4986	TX	Construction of a new international rail bridge and rail track west of Brownsville	\$4,000,000
4987	TX	Construction of a three mile bypass around central San Marcos	\$10,000,000
4988	TX	Construction of a railroad grade separation at Calton Rd. in Laredo, TX (part of the West Laredo Multimodal Trade Corridor)	\$6,000,000
4989	TX	Transportation Improvements for the San Angelo Ports to Plains Route 306 at FM 388	\$5,000,000
4990	TX	Reconstruct Mile 6 West from U.S. 83 to SH 107 Hidalgo County	\$2,000,000
4991	TX	Tyler Outer Loop 49 Construction	\$3,000,000
4992	TX	Transportation Improvements to Cotton Flat Road Overpass @ Interstate 20	\$3,000,000
4993	TX	Construction of a parking facility at the University of the Incarnate Word, San Antonio, Texas	\$2,000,000
4994	TX	Research and construction, Southwest Center for Transportation Research and Testing, Pecos, TX	\$1,000,000
4995	TX	Construct a reliever route on U.S. 287 south of Dumas to U.S. 287 north of Dumas	\$3,000,000
4996	TX	Widen FM 60 (University Drive) from SH 6 to FM 158, College Station	\$2,000,000
4997	TX	Complete U.S. 77 relief route around City of Robstown	\$4,000,000
4998	TX	North Rail Relocation Harlingen	\$4,000,000
4999	TX	Improvements to KellyUSA 36th Street	\$2,000,000
5000	TX	Beaumont, TX Washington Blvd. Improvements	\$1,000,000
5001	TX	Improvements to Cottonwood Trail	\$1,000,000
5002	TX	Improvements to FM 110 in San Marcos	\$1,000,000
5003	TX	Improvements to SH 71 from W of FM 20 to Loop 150 Bastrop County	\$2,000,000
5004	TX	Construct 6 mainlines from east of Mercury to east of Wallsville	\$2,000,000
5005	UT	Geneva Rd-Provo Center Street, Orem 1600 North to I–15 FWY, Provo-widen from 2 to 4 lanes, Provo	\$2,000,000
5006	UT	Construction of Midvalley Highway, Tooele County	\$3,000,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
5007	UT	Provo, Utah Westside Connector from I–15 to Provo Municipal Airport, Provo	\$1,000,000
5008	UT	Reconstruct 500 West, including pedestrian and bicycle access, in Moab	\$1,500,000
5009	UT	Bear River Migratory Bird Refuge Access Road Improvements, Box Elder County	\$3,000,000
5010	UT	Widen Highway 92 from Lehi to Alpine/Highland	\$2,500,000
5011	UT	I–15 Freeway Reconstruction-Springville 200 South Interchange, Springville	\$6,000,000
5012	UT	Construct 2-lane divided highway from the Atkinville Interchange to the new airport access road in St. George	\$7,000,000
5013	UT	I–15 Reconstruction; Salt Lake County	\$3,500,000
5014	UT	I–15 North and Commuter Rail Coordination, Davis County	\$2,500,000
5015	UT	Streetscape a 2-lane road and add turning lanes at key intersections on Santa Clara Drive in Santa Clara	\$3,000,000
5016	UT	Widen Redwood Road from Saratoga Springs to Bangerter Highway in Utah County	\$2,500,000
5017	UT	Grant Tower Reconfiguration, Salt Lake City ..	\$5,000,000
5018	UT	200 East Minor Arterial, Logan City	\$3,000,000
5019	UT	3200 South Project, Nibley/Cache County	\$3,000,000
5020	UT	Construct Parley's Creek Trail, Salt Lake City	\$5,500,000
5021	UT	SR 158 Improvements, Pine View Dam, Weber County	\$2,100,000
5022	UT	Provo Reservoir Canal Trail, Provo	\$5,000,000
5023	UT	Improve pedestrian and traffic safety in Holladay	\$2,000,000
5024	UT	Forest Street Improvements, Brigham City	\$3,500,000
5025	UT	Reconstruct South Moore Cut-off Road in Emery County, UT	\$8,000,000
5026	UT	Increase lane capacity on bridge over Virgin River on Washington Fields Road in Washington	\$4,000,000
5027	UT	Construct pedestrian safety project on the Navajo Nation in Montezuma Creek	\$500,000
5028	UT	Add lighting on Highway 262 on the Navajo Nation in Aneth	\$500,000
5029	UT	Add lights to road from Halchita to Mexican Hat in the Navajo Nation	\$400,000
5030	UT	Geneva Rd-Provo Center Street, Orem 1600 North to I–15 FWY, Provo-widen from 2 to 4 lanes	\$10,000,000
5031	UT	Transportation Improvements for the Widen Highway 92 from Lehi to Highland	\$5,500,000
5032	UT	Expand Redhills Parkway from 2 to 5 lanes and improve alignment within rights-of-way in St. George	\$8,000,000
5033	UT	I–15 Freeway Reconstruction-Springville 200 South Interchange	\$4,500,000
5034	UT	Construct 2-lane divided highway from the Atkinville Interchange to the new replacement airport access road in St. George	\$6,000,000
5035	UT	Widen Redwood Road from Bangerter Highway in Salt Lake County through Saratoga Springs in Utah County	\$4,000,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
5036	UT	Construction of 200 North Street highway-rail graded crossing separation, Kaysville	\$5,000,000
5037	UT	Forest Street Improvements, Brigham City	\$2,500,000
5038	UT	Bear River Migratory Bird Refuge Access Road Improvements, Box Elder County	\$5,500,000
5039	UT	Construction and Rehabilitation of 13th East in Sandy City	\$5,000,000
5040	UT	Transportation Improvements to 200 East Minor Arterial, Logan City	\$1,000,000
5041	UT	Provo, Utah Westside Connector from I–15 to Provo Municipal Airport	\$1,000,000
5042	UT	Improve pedestrian and traffic safety in Holladay	\$2,000,000
5043	VA	I–66 Improvements and Route 29 Interchange at Gainesville	\$20,000,000
5044	VA	Construct Meadowcreek Parkway Interchange, Charlottesville	\$25,000,000
5045	VA	Construct South Airport Connector Road, Richmond International Airport	\$2,000,000
5046	VA	I–264/Lynnhaven Parkway/Great Neck Road Interchange	\$2,000,000
5047	VA	Improvements to Coalfields Connector, Route 460, Buchanan County	\$12,000,000
5048	VA	Rt. 460 Improvements	\$5,000,000
5049	VA	National Park Service transportation improvements to Historic Jamestowne in FY 2006 ..	\$2,000,000
5050	VA	Manage freight movement and safety improvements to I–81	\$3,500,000
5051	VA	Route 50 Traffic Calming, Gilberts Corner	\$8,000,000
5052	VA	Smart Road Research and Operations, Blacksburg	\$6,000,000
5053	VA	Replacement of Robertson Bridge, Danville	\$5,000,000
5054	VA	I–64/City Line Road Interchange	\$5,000,000
5055	VA	Dominion Boulevard Improvements, Route 17, Chesapeake	\$8,000,000
5056	VA	National Park Service, Appalachian Trail, High Top Mountain land acquisition, FY 2006	\$500,000
5057	VA	Widen I–66 westbound inside the Capital Beltway	\$22,000,000
5058	VA	Construct I–73 near Martinsville,	\$7,000,000
5059	VA	The Journey Through Hallowed Ground Rt. 15 scenic corridor management planning and implementation, FY 2006	\$1,000,000
5060	VA	Widening I–95 between Rt. 123 and Fairfax County Parkway	\$10,000,000
5061	VA	Widen Route 17 in Stafford	\$1,000,000
5062	VA	Construct Old Mill Road extension	\$2,000,000
5063	VA	Improvements to public roadways within the campus boundaries of the Virginia Biotechnology Park, Richmond	\$1,000,000
5064	VA	Widen Route 262 in Augusta County	\$2,000,000
5065	VA	Bristol Train Station—Historic preservation and rehabilitation of former Bristol, VA train station	\$1,000,000
5066	VA	Interstate 81 ITS message signs	\$500,000
5067	VA	Improvements to Route 15, Farmville	\$1,000,000
5068	VA	Route 11 improvements in Maurertown (Shenandoah County)	\$500,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
5069	VA	Improve Route 42 (Main Street) in Bridge-water	\$500,000
5070	VA	Widen Rolfe Highway to the Surry Ferry landing approach bridge in FY 2006	\$1,000,000
5071	VA	Engineering and right-of-way for Interstate 73 in Roanoke County	\$1,000,000
5072	VA	Double stack clearance of tunnels on the Norfolk and Western Mainline in Virginia located on the Heartland Corridor	\$5,000,000
5073	VA	Construction and improvements from Route 60 to Mariners Museum and USS Monitor Center	\$1,000,000
5074	VA	Route 221 improvements in Forest	\$500,000
5075	VT	U.S. Route 2 Improvements in Danville	\$5,000,000
5076	VT	Vermont Statewide Rural Advanced Traveller System and Fiber Construction	\$10,000,000
5077	VT	Main Street Bridge, Johnson	\$3,600,000
5078	VT	Pearl Street Bridge, Johnson	\$1,400,000
5079	VT	Church Street Improvements in Burlington	\$6,000,000
5080	VT	Burlington Waterfront Transportation Improvements	\$3,500,000
5081	VT	Colchester Campus Road Project	\$1,000,000
5082	VT	Essex Junction Downtown Transportation Improvements	\$1,000,000
5083	VT	U.S. Route 2/I–89 Interchange Improvements in South Burlington	\$3,000,000
5084	VT	I–91 Reconstruction at Derby Line, VT Port of Entry	\$6,000,000
5085	VT	Design and Construction of Montpelier Downtown Redevelopment Project	\$4,000,000
5086	VT	Design and construction of dry span bridge in Swanton	\$5,000,000
5087	VT	Vermont Transportation Coordinated Use Facility in Berlin	\$2,000,000
5088	VT	St. Lawrence and Atlantic Railroad Upgrades in Northeastern Vermont	\$5,000,000
5089	VT	Vermont I–89 Exit 14 Upgrades	\$4,000,000
5090	VT	Construct Bennington Bypass (North Leg)	\$20,000,000
5091	VT	Improve Federal Street, St. Albans	\$1,500,000
5092	VT	Improvements to U.S. Rt. 7 from Brandon to Pittsford	\$15,000,000
5093	VT	Improvements to U.S. Rt. 7 in Charlotte	\$4,000,000
5094	VT	Design and construction of roundabouts/traffic circles at U.S. Rt. 7/Rt. 7A in Manchester and U.S. Rt. 7/VT Rt. 103 in Clarendon	\$2,500,000
5095	VT	Improvements to I–91 between Hartford, VT and Derby line	\$15,000,000
5096	VT	Transportation Improvements to Vermont Park and Ride	\$2,500,000
5097	VT	Transportation Improvements to Bellows Falls Tunnel	\$2,000,000
5098	VT	Improvements to River Rd/U.S. Rt. 2 in Lunenburg	\$2,000,000
5099	WA	SR 518 corridor—Improvements to SR 518–509 interchange and addition of eastbound travel lane on a portion of the corridor	\$4,000,000
5100	WA	Design and construct pedestrian land bridge spanning SR 14	\$2,500,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
5101	WA	Riverside Avenue Improvements, Phases 2 and 3, Spokane	\$2,500,000
5102	WA	Hanford Reach National Monument Road Improvement	\$1,500,000
5103	WA	Town Square Roadway and Pedestrian Improvements, Burien	\$2,500,000
5104	WA	SR 704 Cross-Base Highway Improvements, Spanaway Loop Road to SR 7	\$2,000,000
5105	WA	Tukwila Southcenter Parkway Improvements, Tukwila	\$3,000,000
5106	WA	Federal Way Triangle—Conduct final engineering work for the reconstruction of the I–5—SR 18 interchange	\$4,000,000
5107	WA	U.S. 12 Burbank to Walla Walla: Construct new four lane highway for portion of U.S. 12	\$2,500,000
5108	WA	Reconstruction of SR 99 (Aurora Ave. N) between N 145th St. and N 205th St	\$1,000,000
5109	WA	Access Downtown Phase II: I–405 Downtown Bellevue Circulation Improvements	\$1,500,000
5110	WA	Seattle Ferry Terminal Redevelopment and Expansion	\$2,000,000
5111	WA	Port of Bellingham Transportation Enhancement Projects	\$2,500,000
5112	WA	Toroda Creek Road Improvements, Ferry County	\$1,650,000
5113	WA	Toroda Creek Road Improvements, Okanogan County	\$850,000
5114	WA	Conduct preliminary engineering and EIS for Columbia River Crossing in WA and OR	\$1,000,000
5115	WA	U.S. 395, North Spokane Corridor Improvements	\$2,000,000
5116	WA	116th St/Interstate 5 Interchange Reconstruction in Marysville	\$1,000,000
5117	WA	SR 167—Right-of-way acquisition for a new freeway connecting SR 509 to SR 161	\$7,500,000
5118	WA	Roadway and Pedestrian Improvements at Burien Town Square, Burien	\$1,500,000
5119	WA	Complete analysis, permitting and right-of-way procurement for I–5/SR 501 Interchange Replacement in Ridgefield	\$8,400,000
5120	WA	Construct improvements to Multimodal Terminal, Bainbridge Island	\$2,500,000
5121	WA	Construct Intermodal Transit Facility, City of University Place	\$3,250,000
5122	WA	Streetscape University Place Downtown, City of University Place	\$2,800,000
5123	WA	Plan and Improve freight and goods transport—The West Cost Corridor Coalition in Washington State	\$500,000
5124	WA	Continuing construction of I–90, Spokane to Idaho State Line	\$7,300,000
5125	WA	Tukwila Urban Access Improvement—Address necessary improvements to Southcenter Parkway in Tukwila to relieve congestion	\$1,750,000
5126	WA	Takoma—Lincoln Ave. Grade Separation	\$1,500,000
5127	WA	Widen SR 202/SR 520 to Sahalee Way, King County	\$1,750,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
5128	WA	Improve Vancouver traffic management—Vancouver Advanced Traffic Management System, Vancouver	\$500,000
5129	WA	SR 240/Stevens Drive Corridor Improvements, interchange construction and graded rail crossing separation at intersection of SR 240 and Van Giesen Street, Richland	\$2,750,000
5130	WI	Reconstruct Interstate 94/43/794 (Marquette Interchange) in Milwaukee	\$20,800,000
5131	WI	Rehabilitate existing bridge and construct new bridge on Michigan Street in Sturgeon Bay	\$7,500,000
5132	WI	Reconstruct and rebuild St. Croix River Crossing, connecting Wisconsin State Highway 64 in Houlton, Wisconsin to Minnesota State Highway in Stillwater, Minnesota	\$7,500,000
5133	WI	Reconstruct U.S. Highway 151 (East Washington Ave.) in Madison	\$4,000,000
5134	WI	Expand SH 57 between Dyckesville and Sturgeon Bay	\$3,000,000
5135	WI	Rehabilitate Highway 53 between Chippewa Falls and New Auburn	\$2,000,000
5136	WI	Expand U.S. Highway 151 between Dickeyville and Belmont	\$2,500,000
5137	WI	Develop pedestrian and bike connections that link to Hank Aaron State Trail in Milwaukee	\$400,000
5138	WI	Reconstruct SH 78 between Prairie du Sac and Merrimac, WI, including reuse of rubble from Badger Ammunition Plant building demolition	\$500,000
5139	WI	Upgrade Interstate 94 between Wilson Creek and Red Cedar River in Dunn County	\$2,000,000
5140	WI	City of Glendale, WI. Develop and rehabilitate exit ramps on I-43, and improvements at West Silver Spring Drive and North Port Washington Rd	\$2,000,000
5141	WI	Expand U.S. 51 and SH 29 in Marathon County	\$2,500,000
5142	WI	Upgrade U.S. 2 in Ashland County	\$2,100,000
5143	WI	Widen Wisconsin State Highway 64 between Houlton and New Richmond	\$1,500,000
5144	WI	Upgrade U.S. 41 from DePere to Suamico, Brown County	\$2,000,000
5145	WI	Reconstruct and widen CTH AAA/Oneida St. between Hansen Road and Cormier Road including reconstruction of SH 172 overpasses, Brown County	\$2,000,000
5146	WI	Reconstruct SH 33, including the planned bicycle/pedestrian component, between Port Washington and Saukville, Ozaukee County	\$1,000,000
5147	WI	Reconstruct U.S. 41/SH 144 interchange near Slinger	\$1,000,000
5148	WI	Reconstruct Wisconsin State Highway 21 at I-94 Interchange, Monroe County	\$1,000,000
5149	WI	Construct bicycle/pedestrian path and facilities in the Central park area of Madison	\$700,000
5150	WI	Construct a bicycle/pedestrian path, Wisconsin Dells	\$500,000

Highway Projects
High Priority Projects—Continued

No.	State	Project Description	Amount
5151	WI	Construct a bicycle/pedestrian path from Waunakee to Westport	\$500,000
5152	WI	Construct an alternative connection to divert local traffic from I-90, a major highway, and allow movement through the Gateway commercial development project	\$1,000,000
5153	WI	Reconstruct Highway 151 from American Parkway to Main Street, Sun Prairie	\$2,000,000
5154	WI	Replace Highway 10 bridge over the Chippewa River near Durand	\$2,000,000
5155	WI	Construct Eau Claire bypass on U.S. 53 in Eau Claire	\$2,000,000
5156	WI	Replace the 17th Street Lift Bridge, Two Rivers	\$2,000,000
5157	WI	Pioneer Road Rail Grade Separation (Fond du Lac, Wisconsin)	\$1,000,000
5158	WI	Upgrade Highway 26 between Janesville and Watertown	\$3,000,000
5159	WV	Construct King Coal Highway-Red Jacket Segment, Mingo County	\$38,000,000
5160	WV	Plan, design, and construct New Ohio River Bridge, South of Wellsburg, Brooke County	\$18,000,000
5161	WV	Plan, design, and construct Route 9 Martinsburg Bypass	\$13,000,000
5162	WV	Upgrade Route 10 Logan Co	\$7,000,000
5163	WV	Construct Coalfields Expressway	\$11,000,000
5164	WV	Widen and reconstruct U.S. Rt. 35, Putnam County	\$27,000,000
5165	WV	Construct Shawnee Parkway	\$1,000,000
5166	WY	Burma Rd: Extension from I-90 to Lakeway ..	\$2,500,000
5167	WY	U.S. 26–287: repair road from Dubois to Moran Junction, Wyoming to improve access to Yellowstone National Park (Togwotee Pass Reconstruction)	\$25,000,000
5168	WY	WYO 59: add lanes between Gillette and Douglas, Wyoming for improved safety and access	\$10,000,000
5169	WY	Casper West Belt Loop: connect three National Highway System routes (WYO 220, U.S. 20–26 and I-25)	\$21,000,000
5170	WY	I-80: reconstruct section of I-80 near Rock Springs, Wyoming for improved safety	\$19,000,000
5171	WY	I-25: Widen and resurface approximately eight miles of I-25 in Johnson County, Wyoming between Buffalo and Kaycee	\$5,000,000
5172	WY	I-90: create I-90/Burma Road overpass to increase community and emergency access in Gillette, Wyoming	\$2,500,000
5173	WY	U.S. 85: add passing lanes on U.S. 85 between Newcastle and Lusk, Wyoming to increase safety	\$5,000,000

SEC. 1703. TECHNICAL AMENDMENTS TO TRANSPORTATION PROJECTS.

(a) TEA-21.—The table contained in section 1602 of the Transportation Equity Act for the 21st Century (112 Stat. 257) is amended—

(1) in item number 35 by inserting “and for other related purposes” after “Yard”;

(2) in item number 78 by striking “Third” and all that follows through “Bridge” and inserting “Bayview Transportation Improvements Project”;

(3) in item number 312 by inserting “through construction” after “engineering”;

(4) in item number 566 by striking “Prunedale Bypass” and inserting “improvements to Prunedale”;

(5) in item number 732 by striking “reviews and other preliminary work” and inserting “reviews, other preliminary work, and transitional construction”;

(6) in item number 744 by striking “Preliminary” and all that follows through “Fitchburg” and inserting “Design, construction or reconstruction, and right-of-way acquisition for roadway improvements along the Route 12 corridor in Leominster and Fitchburg to enhance access from Route 2 to North Leominster and downtown Fitchburg”;

(7) in item number 800 by striking “Fairview Township” and inserting “or other projects selected by the York County, Pennsylvania MPO”;

(8) in item number 820 by striking “Conduct” and all that follows through “interchange” and inserting “Conduct a transportation needs study and make improvements to I-75 interchanges in the Grayling area”;

(9) in item number 863, by adding at the end the following:
“, including the Cuyahoga-Woodland Avenue Bridge”;

(10) in item number 897 by striking “Road upgrade” and all that follows through “Hills” and inserting “Engineering and construction of a new access road to a development near Interstate Route 57 and 167th Street in Country Club Hills”;

(11) in item 1096 by striking “Construct” and all that follows through “Independence” and inserting “Construction and improvements in Reminderville, Ohio (43 percent); streetscaping, bicycle trails, and related improvements to the I-90/SR 615 Interchange in Mentor, Ohio (20 percent); planning and construction of a bicycle trail adjacent to such Interchange (14 percent); Eastlake Stadium transit intermodal facility (16 percent); and purchase of right-of-way for transportation enhancement activities in Bainbridge Township, Ohio (7 percent)”;

(12) in item number 1121 by striking “Construct” and all that follows through “Douglaston Parkway” and inserting “Provide landscaping along both sides of the Grand Central Parkway from 188th Street to 172nd Street”;

(13) in item number 1225 by striking “Construct SR 9 bypass” and inserting “Study, design, and construct transportation solutions for SR 9 corridor”;

(14) in item number 1349 by inserting “, and improvements to streets and roads providing access to,” after “along”;

(15) in item number 1375 by striking “Preliminary” and all that follows through “Emmet County” and inserting “Petoskey area transportation needs study and trunkline preservation and safety in the Petoskey area”;

(16) in item number 1392 by striking “Construct” and all that follows through “multimodal center” and inserting

“Improve the ramp configuration at the I–476 PA Turnpike Landsdale Interchange”;

(17) in item number 1447 by striking “Extend” and all that follows through “Valparaiso” and inserting “Design and construction of interchange at I–65 and 109th Avenue, Crown Point”; and

(18) in item number 1474 by adding at the end the following: “, widen Cuyahoga SR 87, and \$4,000,000 of the amount authorized to construct grading separation at Front Street, Berea”.

(b) ISTEА.—Item number 32 in the table contained in section 1106(a)(2) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2038) is amended by striking “Extension of 34th Street from IL Rt. 15 to County Road 10” and inserting “Extension and improvements of 34th Street”.

Subtitle H—Environment

SEC. 1801. CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES.

(a) IN GENERAL.—Section 147 of title 23, United States Code, is amended to read as follows:

“§ 147. Construction of ferry boats and ferry terminal facilities

“(a) IN GENERAL.—The Secretary shall carry out a program for construction of ferry boats and ferry terminal facilities in accordance with section 129(c).

“(b) FEDERAL SHARE.—The Federal share of the cost of construction of ferry boats, ferry terminals, and ferry maintenance facilities under this section shall be 80 percent.

“(c) ALLOCATION OF FUNDS.—The Secretary shall give priority in the allocation of funds under this section to those ferry systems, and public entities responsible for developing ferries, that—

“(1) provide critical access to areas that are not well-served by other modes of surface transportation;

“(2) carry the greatest number of passengers and vehicles; or

“(3) carry the greatest number of passengers in passenger-only service.

“(d) SET-ASIDE FOR PROJECTS ON NHS.—

“(1) IN GENERAL.—\$20,000,000 of the amount made available to carry out this section for each of fiscal years 2005 through 2009 shall be obligated for the construction or refurbishment of ferry boats and ferry terminal facilities and approaches to such facilities within marine highway systems that are part of the National Highway System.

“(2) ALASKA.—\$10,000,000 of the \$20,000,000 for a fiscal year made available under paragraph (1) shall be made available to the State of Alaska.

“(3) NEW JERSEY.—\$5,000,000 of the \$20,000,000 for a fiscal year made available under paragraph (1) shall be made available to the State of New Jersey.

“(4) WASHINGTON.—\$5,000,000 of the \$20,000,000 for a fiscal year made available under paragraph (1) shall be made available to the State of Washington.

“(e) PERIOD OF AVAILABILITY.—Notwithstanding section 118(b), funds made available to carry out this section shall remain available until expended.

“(f) APPLICABILITY.—All provisions of this chapter that are applicable to the National Highway System, other than provisions relating to apportionment formula and Federal share, shall apply to funds made available to carry out this section, except as determined by the Secretary to be inconsistent with this section.”.

(b) CLERICAL AMENDMENT.—The analysis for such subchapter is amended by striking the item relating to section 147 and inserting the following:

“147. Construction of ferry boats and ferry terminal facilities.”.

23 USC 129 note. (c) CONFORMING REPEAL.—Section 1064 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2005) is repealed.

23 USC 147 note. (d) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts made available to carry out section 147 of title 23, United States Code, by section 1101 of this Act, there are authorized to be appropriated such sums as may be necessary to carry out such section 147 for fiscal year 2006 and each fiscal year thereafter. Such funds shall remain available until expended.

23 USC 129 note. (e) NATIONAL FERRY DATABASE.—

(1) ESTABLISHMENT.—The Secretary, acting through the Bureau of Transportation Statistics, shall establish and maintain a national ferry database.

(2) CONTENTS.—The database shall contain current information regarding ferry systems, including information regarding routes, vessels, passengers and vehicles carried, funding sources and such other information as the Secretary considers useful.

(3) UPDATE REPORT.—Using information collected through the database, the Secretary shall periodically modify as appropriate the report submitted under section 1207(c) of the Transportation Equity Act for the 21st Century (23 U.S.C. 129 note; 112 Stat. 185–186).

Deadline. (4) REQUIREMENTS.—The Secretary shall—
(A) compile the database not later than 1 year after the date of enactment of this Act and update the database every 2 years thereafter;

Public information. (B) ensure that the database is easily accessible to the public; and

(C) make available, from the amounts made available for the Bureau of Transportation Statistics by section 5101 of this Act, not more than \$500,000 for each of fiscal years 2006 through 2009 to establish and maintain the database.

(f) TERRITORY FERRIES.—Section 129(c)(5) of title 23, United States Code, is amended by striking “the Commonwealth of Puerto Rico” each place it appears and inserting “any territory of the United States”.

SEC. 1802. NATIONAL SCENIC BYWAYS PROGRAM.

(a) IN GENERAL.—Section 162(a) of title 23, United States Code, is amended—

(1) in paragraph (1) by striking “the roads as” and all that follows and inserting “the roads as—

“(A) National Scenic Byways;

“(B) All-American Roads; or
“(C) America’s Byways.”; and

(2) by striking paragraph (3) and inserting the following:

“(3) NOMINATION.—

“(A) IN GENERAL.—To be considered for a designation, a road must be nominated by a State, an Indian tribe, or a Federal land management agency and must first be designated as a State scenic byway, an Indian tribe scenic byway, or, in the case of a road on Federal land, as a Federal land management agency byway.

“(B) NOMINATION BY INDIAN TRIBES.—An Indian tribe may nominate a road as a National Scenic Byway under subparagraph (A) only if a Federal land management agency (other than the Bureau of Indian Affairs), a State, or a political subdivision of a State does not have—

“(i) jurisdiction over the road; or

“(ii) responsibility for managing the road.

“(C) SAFETY.—An Indian tribe shall maintain the safety and quality of roads nominated by the Indian tribe under subparagraph (A).

“(4) RECIPROCAL NOTIFICATION.—States, Indian tribes, and Federal land management agencies shall notify each other regarding nominations made under this subsection for roads that—

“(A) are within the jurisdictional boundary of the State, Federal land management agency, or Indian tribe; or

“(B) directly connect to roads for which the State, Federal land management agency, or Indian tribe is responsible.”.

(b) GRANTS AND TECHNICAL ASSISTANCE.—Section 162(b) of such title is amended—

(1) in paragraph (1) by inserting “and Indian tribes” after “provide technical assistance to States”;

(2) in paragraph (1)(A) by striking “designated as” and all that follows through “; and” and inserting “designated as—

“(i) National Scenic Byways;

“(ii) All-American Roads;

“(iii) America’s Byways;

“(iv) State scenic byways; or

“(v) Indian tribe scenic byways; and”; and

(3) in paragraph (1)(B) by inserting “or Indian tribe” after “State”;

(4) in paragraph (2)(A) by striking “Byway or All-American Road” and inserting “Byway, All-American Road, or 1 of America’s Byways”;

(5) in paragraph (2)(B)—

(A) by striking “State-designated” and inserting “State or Indian tribe”; and

(B) by striking “designation as a” and all that follows through “; and” and inserting “designation as—

“(i) a National Scenic Byway;

“(ii) an All-American Road; or

“(iii) 1 of America’s Byways; and”; and

(6) in paragraph (2)(C) by inserting “or Indian tribe” after “State”.

(c) ELIGIBLE PROJECTS.—Section 162(c) of such title is amended—

(1) in paragraph (1) by inserting “or Indian tribe” after “State”;

(2) in paragraph (3)—

(A) by inserting “Indian tribe scenic byway,” after “improvements to a State scenic byway,”; and

(B) by inserting “Indian tribe scenic byway,” after “designation as a State scenic byway,”; and

(3) in paragraph (4) by striking “passing lane,”.

(d) CONFORMING AMENDMENT.—Section 162(e) of such title is amended by inserting “or Indian tribe” after “State”.

SEC. 1803. AMERICA’S BYWAYS RESOURCE CENTER.

(a) IN GENERAL.—The Secretary shall allocate funds made available to carry out this section to the America’s Byways Resource Center established pursuant to section 1215(b)(1) of the Transportation Equity Act for the 21st Century (112 Stat. 209).

(b) TECHNICAL SUPPORT AND EDUCATION.—

(1) USE OF FUNDS.—The Center shall use funds allocated to the Center under this section to continue to provide technical support and conduct educational activities for the national scenic byways program established under section 162 of title 23, United States Code.

(2) ELIGIBLE ACTIVITIES.—Technical support and educational activities carried out under this subsection shall provide local officials and organizations associated with National Scenic Byways, All-American Roads, and America’s Byways with proactive, technical, and on-site customized assistance, including training, communications (including a public awareness series), publications, conferences, on-site meetings, and other assistance considered appropriate to develop and sustain such byways and roads.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this section \$1,500,000 for fiscal year 2005 and \$3,000,000 for each of fiscal years 2006 through 2009.

(d) APPLICABILITY OF TITLE 23.—Funds authorized by this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of any project or activity carried out under this section shall be 100 percent, and such funds shall remain available until expended and shall not be transferable.

23 USC 144 note.

SEC. 1804. NATIONAL HISTORIC COVERED BRIDGE PRESERVATION.

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) HISTORIC COVERED BRIDGE.—The term “historic covered bridge” means a covered bridge that is listed or eligible for listing on the National Register of Historic Places.

(2) STATE.—The term “State” has the meaning such term has in section 101(a) of title 23, United States Code.

(b) HISTORIC COVERED BRIDGE PRESERVATION.—The Secretary shall—

(1) collect and disseminate information on historic covered bridges;

(2) conduct educational programs relating to the history and construction techniques of historic covered bridges;

(3) conduct research on the history of historic covered bridges; and

(4) conduct research on, and study techniques for, protecting historic covered bridges from rot, fire, natural disasters, or weight-related damage.

(c) GRANTS.—

(1) IN GENERAL.—The Secretary shall make a grant to a State that submits an application to the Secretary that demonstrates a need for assistance in carrying out one or more historic covered bridge projects described in paragraph (2).

(2) ELIGIBLE PROJECTS.—A grant under paragraph (1) may be made for a project—

(A) to rehabilitate or repair a historic covered bridge;

or

(B) to preserve a historic covered bridge, including through—

(i) installation of a fire protection system, including a fireproofing or fire detection system and sprinklers;

(ii) installation of a system to prevent vandalism and arson; or

(iii) relocation of a bridge to a preservation site.

(3) AUTHENTICITY REQUIREMENTS.—A grant under paragraph (1) may be made for a project only if—

(A) to the maximum extent practicable, the project—

(i) is carried out in the most historically appropriate manner; and

(ii) preserves the existing structure of the historic covered bridge; and

(B) the project provides for the replacement of wooden components with wooden components, unless the use of wood is impracticable for safety reasons.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, out of the Highway Trust Fund (other than the Mass Transit Account), \$10,000,000 for each of fiscal years 2006 through 2009.

(e) APPLICABILITY OF TITLE 23.—Funds made available to carry out this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of any project or activity carried out under this section shall be determined in accordance with section 120 of such title, and such funds shall remain available until expended and shall not be transferable.

SEC. 1805. USE OF DEBRIS FROM DEMOLISHED BRIDGES AND OVER-PASSES.

23 USC 144 note.

(a) IN GENERAL.—Any State that demolishes a bridge or an overpass that is eligible for Federal assistance under the highway bridge replacement and rehabilitation program under section 144 of title 23, United States Code, is directed to first make the debris from the demolition of such bridge or overpass available for beneficial use by a Federal, State, or local government, unless such use obstructs navigation.

(b) RECIPIENT RESPONSIBILITIES.—A recipient of the debris described in subsection (a) shall—

(1) bear the additional cost associated with having the debris made available;

(2) ensure that placement of the debris complies with applicable law; and

(3) assume all future legal responsibility arising from the placement of the debris, which may include entering into an agreement to hold the owner of the demolished bridge or overpass harmless in any liability action.

(c) DEFINITION.—In this section, the term “beneficial use” means the application of the debris for purposes of shore erosion control or stabilization, ecosystem restoration, and marine habitat creation.

SEC. 1806. ADDITIONAL AUTHORIZATION OF CONTRACT AUTHORITY FOR STATES WITH INDIAN RESERVATIONS.

Section 1214(d)(5)(A) of the Transportation Equity Act for the 21st Century (23 U.S.C. 202 note; 112 Stat. 206) is amended by striking “\$1,500,000 for each of fiscal years 1998 through 2003” and inserting “\$1,800,000 for each of fiscal years 2005 through 2009”.

SEC. 1807. NONMOTORIZED TRANSPORTATION PILOT PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall establish and carry out a nonmotorized transportation pilot program to construct, in the following 4 communities selected by the Secretary, a network of nonmotorized transportation infrastructure facilities, including sidewalks, bicycle lanes, and pedestrian and bicycle trails, that connect directly with transit stations, schools, residences, businesses, recreation areas, and other community activity centers:

- (1) Columbia, Missouri.
- (2) Marin County, California.
- (3) Minneapolis-St. Paul, Minnesota.
- (4) Sheboygan County, Wisconsin.

(b) PURPOSE.—The purpose of the program shall be to demonstrate the extent to which bicycling and walking can carry a significant part of the transportation load, and represent a major portion of the transportation solution, within selected communities.

(c) GRANTS.—In carrying out the program, the Secretary may make a grant of \$6,250,000 per fiscal year for each of the communities set forth in subsection (a) to State, local, and regional agencies that the Secretary determines are suitably equipped and organized to carry out the objectives and requirements of this section. An agency that receives a grant under this section may suballocate grant funds to a nonprofit organization to carry out the program under this section.

(d) STATISTICAL INFORMATION.—In carrying out the program, the Secretary shall develop statistical information on changes in motor vehicle, nonmotorized transportation, and public transportation usage in communities participating in the program and assess how such changes decrease congestion and energy usage, increase the frequency of bicycling and walking, and promote better health and a cleaner environment.

(e) REPORTS.—The Secretary shall submit to Congress an interim report not later than September 30, 2007, and a final report not later than September 30, 2010, on the results of the program.

(f) FUNDING.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, out of the Highway Trust Fund (other than the Mass Transit Account), \$25,000,000 for each of fiscal years 2006 through 2009.

Missouri.
California.
Minnesota.
Wisconsin.
23 USC 217 note.

(2) **CONTRACT AUTHORITY.**—Funds authorized to be appropriated by this section shall be available for obligation in the same manner and to the same extent as if the funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of the project shall be 100 percent, and the funds shall remain available until expended and shall not be transferable.

(g) **TREATMENT OF PROJECTS.**—Notwithstanding any other provision of law, projects assisted under this subsection shall be treated as projects on a Federal-aid system under chapter 1 of title 23, United States Code.

SEC. 1808. ADDITION TO CMAQ-ELIGIBLE PROJECTS.

(a) **FORMER 1-HOUR MAINTENANCE AREAS.**—Section 149(b) of title 23, United States Code, is amended in the matter preceding paragraph (1)(A) by inserting “or is required to prepare, and file with the Administrator of the Environmental Protection Agency, maintenance plans under the Clean Air Act (42 U.S.C. 7401 et seq.)” after “1997,”.

(b) **ELIGIBLE PROJECTS.**—Section 149(b) of such title is amended—

(1) by striking paragraph (1) and inserting the following:

“(1)(A)(i) if the Secretary, after consultation with the Administrator determines, on the basis of information published by the Environmental Protection Agency pursuant to section 108(f)(1)(A) of the Clean Air Act (other than clause (xvi)) that the project or program is likely to contribute to—

“(I) the attainment of a national ambient air quality standard; or

“(II) the maintenance of a national ambient air quality standard in a maintenance area; and

“(ii) a high level of effectiveness in reducing air pollution, in cases of projects or programs where sufficient information is available in the database established pursuant to subsection (h) to determine the relative effectiveness of such projects or programs; or,

“(B) in any case in which such information is not available, if the Secretary, after such consultation, determines that the project or program is part of a program, method, or strategy described in such section 108(f)(1)(A);”.

(2) in paragraph (4)—

(A) by inserting “, including advanced truck stop electrification systems,” after “facility or program”; and

(B) by striking “or” at the end;

(3) in paragraph (5)—

(A) by inserting “improve transportation systems management and operations that mitigate congestion and improve air quality,” after “intersections,”; and

(B) by striking the period at the end and inserting a semicolon; and

(4) by adding at the end the following:

“(6) if the project or program involves the purchase of integrated, interoperable emergency communications equipment; or

“(7) if the project or program is for—

“(A) the purchase of diesel retrofits that are—

“(i) for motor vehicles (as defined in section 216 of the Clean Air Act (42 U.S.C. 7550)); or

“(ii) published in the list under subsection (f)(2) for non-road vehicles and non-road engines (as defined in section 216 of the Clean Air Act (42 U.S.C. 7550)) that are used in construction projects that are—

“(I) located in nonattainment or maintenance areas for ozone, PM₁₀, or PM_{2.5} (as defined under the Clean Air Act (42 U.S.C. 7401 et seq.)); and

“(II) funded, in whole or in part, under this title; or

“(B) the conduct of outreach activities that are designed to provide information and technical assistance to the owners and operators of diesel equipment and vehicles regarding the purchase and installation of diesel retrofits.”.

(c) STATES RECEIVING MINIMUM APPORTIONMENT.—Section 149(c) of such title is amended—

(1) in paragraph (1) by striking “for any project eligible under the surface transportation program under section 133.” and inserting the following: “for any project in the State that—

“(A) would otherwise be eligible under this section as if the project were carried out in a nonattainment or maintenance area; or

“(B) is eligible under the surface transportation program under section 133.”; and

(2) in paragraph (2) by striking “for any project in the State eligible under section 133.” and inserting the following: “for any project in the State that—

“(A) would otherwise be eligible under this section as if the project were carried out in a nonattainment or maintenance area; or

“(B) is eligible under the surface transportation program under section 133.”.

(d) COST-EFFECTIVE EMISSION REDUCTION GUIDANCE.—Section 149 of such title is amended by adding at the end the following:

“(f) COST-EFFECTIVE EMISSION REDUCTION GUIDANCE.—

“(1) DEFINITIONS.—In this subsection, the following definitions apply:

“(A) ADMINISTRATOR.—The term ‘Administrator’ means the Administrator of the Environmental Protection Agency.

“(B) DIESEL RETROFIT.—The term ‘diesel retrofit’ means a replacement, repowering, rebuilding, after treatment, or other technology, as determined by the Administrator.

“(2) EMISSION REDUCTION GUIDANCE.—The Administrator, in consultation with the Secretary, shall publish a list of diesel retrofit technologies and supporting technical information for—

“(A) diesel emission reduction technologies certified or verified by the Administrator, the California Air Resources Board, or any other entity recognized by the Administrator for the same purpose;

“(B) diesel emission reduction technologies identified by the Administrator as having an application and approvable test plan for verification by the Administrator or the California Air Resources Board that is submitted not later than 18 months of the date of enactment of this subsection;

“(C) available information regarding the emission reduction effectiveness and cost effectiveness of technologies identified in this paragraph, taking into consideration air quality and health effects.

“(3) PRIORITY.—

“(A) IN GENERAL.—States and metropolitan planning organizations shall give priority in distributing funds received for congestion mitigation and air quality projects and programs from apportionments derived from application of sections 104(b)(2)(B) and 104(b)(2)(C) to—

“(i) diesel retrofits, particularly where necessary to facilitate contract compliance, and other cost-effective emission reduction activities, taking into consideration air quality and health effects; and

“(ii) cost-effective congestion mitigation activities that provide air quality benefits.

“(B) SAVINGS.—This paragraph is not intended to disturb the existing authorities and roles of governmental agencies in making final project selections.

“(4) NO EFFECT ON AUTHORITY OR RESTRICTIONS.—Nothing in this subsection modifies or otherwise affects any authority or restriction established under the Clean Air Act (42 U.S.C. 7401 et seq.) or any other law (other than provisions of this title relating to congestion mitigation and air quality).”.

(e) IMPROVED INTERAGENCY CONSULTATION.—Section 149 of such title (as amended by subsection (d)) is amended by adding at the end the following:

“(g) INTERAGENCY CONSULTATION.—The Secretary shall encourage States and metropolitan planning organizations to consult with State and local air quality agencies in nonattainment and maintenance areas on the estimated emission reductions from proposed congestion mitigation and air quality improvement programs and projects.”.

(f) EVALUATION AND ASSESSMENT OF CMAQ PROJECTS.—Section 149 of such title (as amended by subsection (e)) is amended by adding at the end the following:

“(h) EVALUATION AND ASSESSMENT OF PROJECTS.—

“(1) IN GENERAL.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall evaluate and assess a representative sample of projects funded under the congestion mitigation and air quality program to—

“(A) determine the direct and indirect impact of the projects on air quality and congestion levels; and

“(B) ensure the effective implementation of the program.

“(2) DATABASE.—Using appropriate assessments of projects funded under the congestion mitigation and air quality program and results from other research, the Secretary shall maintain and disseminate a cumulative database describing the impacts of the projects.

“(3) CONSIDERATION.—The Secretary, in consultation with the Administrator, shall consider the recommendations and findings of the report submitted to Congress under section 1110(e) of the Transportation Equity Act for the 21st Century (112 Stat. 144), including recommendations and findings that would improve the operation and evaluation of the congestion mitigation and air quality improvement program.”.

(g) FLEXIBILITY IN THE STATE OF MONTANA.—The State of Montana may use funds apportioned under section 104(b)(2) of title 23, United States Code, for the operation of public transit activities that serve a nonattainment or maintenance area.

(h) AVAILABILITY OF FUNDS FOR STATE OF MICHIGAN.—The State of Michigan may use funds apportioned under section 104(b)(2) of such title for the operation and maintenance of intelligent transportation system strategies that serve a nonattainment or maintenance area.

(i) AVAILABILITY OF FUNDS FOR THE STATE OF MAINE.—The State of Maine may use funds apportioned under section 104(b)(2) of such title to support, through September 30, 2009, the operation of passenger rail service between Boston, Massachusetts, and Portland, Maine.

(j) AVAILABILITY OF FUNDS FOR OREGON.—The State of Oregon may use funds apportioned on or before September 30, 2009, under section 104(b)(2) of such title to support the operation of additional passenger rail service between Eugene and Portland.

(k) AVAILABILITY OF FUNDS FOR CERTAIN OTHER STATES.—The States of Missouri, Iowa, Minnesota, Wisconsin, Illinois, Indiana, and Ohio may use funds apportioned under section 104(b)(2) of such title to purchase alternative fuel (as defined in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211)) or biodiesel.

Subtitle I—Miscellaneous

SEC. 1901. INCLUSION OF REQUIREMENTS FOR SIGNS IDENTIFYING FUNDING SOURCES IN TITLE 23.

(a) IN GENERAL.—Chapter 3 of title 23, United States Code, is amended by inserting after section 320—

(1) the following:

“§ 321. Signs identifying funding sources”;

and

(2) the text of section 154 of the Federal-Aid Highway Act of 1987 (23 U.S.C. 101 note).

(b) CLERICAL AMENDMENT.—The analysis for such chapter is amended by inserting after the item relating to section 320 the following:

“321. Signs identifying funding sources.”.

(c) CONFORMING REPEAL.—Section 154 of the Federal-Aid Highway Act of 1987 (23 U.S.C. 101 note; 101 Stat. 209) is repealed.

SEC. 1902. DONATIONS AND CREDITS.

Section 323 of title 23, United States Code, is amended—

(1) in the first sentence of subsection (c) by inserting “, or a local government from offering to donate funds, materials, or services performed by local government employees,” after “services”; and

(2) by striking subsection (e).

SEC. 1903. INCLUSION OF BUY AMERICA REQUIREMENTS IN TITLE 23.

(a) IN GENERAL.—Chapter 3 of title 23, United States Code, is amended by inserting after section 312—

(1) the following:

“§ 313. Buy America”;

and

(2) the text of section 165 of the Highway Improvement Act of 1982 (23 U.S.C. 101 note; 96 Stat. 2136).

(b) CLERICAL AMENDMENT.—The analysis for chapter 3 of such title is amended by inserting after the item relating to section 312 the following:

“313. Buy America.”

(c) CONFORMING AMENDMENTS.—Section 313 of such title (as added by subsection (a)) is amended—

(1) in subsection (a) by striking “by this Act” the first place it appears and all that follows through “of 1978” and inserting “to carry out the Surface Transportation Assistance Act of 1982 (96 Stat. 2097) or this title”;

(2) in subsection (b) by redesignating paragraph (4) as paragraph (3);

(3) in subsection (d) by striking “this Act,” and all that follows through “Code, which” and inserting “the Surface Transportation Assistance Act of 1982 (96 Stat. 2097) or this title that”;

(4) by striking subsection (e); and

(5) by redesignating subsections (f) and (g) as subsections (e) and (f), respectively.

(d) CONFORMING REPEAL.—Section 165 of the Highway Improvement Act of 1982 (23 U.S.C. 101 note; 96 Stat. 2136) is repealed.

SEC. 1904. STEWARDSHIP AND OVERSIGHT.

(a) IN GENERAL.—Section 106 of title 23, United States Code, is amended—

(1) by striking subsection (e) and inserting the following:

“(e) VALUE ENGINEERING ANALYSIS.—

“(1) DEFINITION OF VALUE ENGINEERING ANALYSIS.—

“(A) IN GENERAL.—In this subsection, the term ‘value engineering analysis’ means a systematic process of review and analysis of a project, during the concept and design phases, by a multidisciplined team of persons not involved in the project, that is conducted to provide recommendations such as those described in subparagraph (B) for—

“(i) providing the needed functions safely, reliably, and at the lowest overall cost;

“(ii) improving the value and quality of the project; and

“(iii) reducing the time to complete the project.

“(B) INCLUSIONS.—The recommendations referred to in subparagraph (A) include, with respect to a project—

“(i) combining or eliminating otherwise inefficient use of costly parts of the original proposed design for the project; and

“(ii) completely redesigning the project using different technologies, materials, or methods so as to accomplish the original purpose of the project.

“(2) ANALYSIS.—The State shall provide a value engineering analysis or other cost-reduction analysis for—

“(A) each project on the Federal-aid system with an estimated total cost of \$25,000,000 or more;

“(B) a bridge project with an estimated total cost of \$20,000,000 or more; and

“(C) any other project the Secretary determines to be appropriate.

“(3) MAJOR PROJECTS.—The Secretary may require more than 1 analysis described in paragraph (2) for a major project described in subsection (h).

“(4) REQUIREMENTS.—Analyses described in paragraph (1) for a bridge project shall—

“(A) include bridge substructure requirements based on construction material; and

“(B) be evaluated—

“(i) on engineering and economic bases, taking into consideration acceptable designs for bridges; and

“(ii) using an analysis of life-cycle costs and duration of project construction.”; and

(2) by striking subsections (g) and (h) and inserting the following:

“(g) OVERSIGHT PROGRAM.—

“(1) ESTABLISHMENT.—

“(A) IN GENERAL.—The Secretary shall establish an oversight program to monitor the effective and efficient use of funds authorized to carry out this title.

“(B) MINIMUM REQUIREMENT.—At a minimum, the program shall be responsive to all areas relating to financial integrity and project delivery.

“(2) FINANCIAL INTEGRITY.—

“(A) FINANCIAL MANAGEMENT SYSTEMS.—The Secretary shall perform annual reviews that address elements of the State transportation departments’ financial management systems that affect projects approved under subsection (a).

“(B) PROJECT COSTS.—The Secretary shall develop minimum standards for estimating project costs and shall periodically evaluate the practices of States for estimating project costs, awarding contracts, and reducing project costs.

“(3) PROJECT DELIVERY.—The Secretary shall perform annual reviews that address elements of the project delivery system of a State, which elements include one or more activities that are involved in the life cycle of a project from conception to completion of the project.

“(4) RESPONSIBILITY OF THE STATES.—

“(A) IN GENERAL.—The States shall be responsible for determining that subrecipients of Federal funds under this title have—

“(i) adequate project delivery systems for projects approved under this section; and

“(ii) sufficient accounting controls to properly manage such Federal funds.

“(B) PERIODIC REVIEW.—The Secretary shall periodically review the monitoring of subrecipients by the States.

“(5) SPECIFIC OVERSIGHT RESPONSIBILITIES.—

“(A) EFFECT OF SECTION.—Nothing in this section shall affect or discharge any oversight responsibility of the Secretary specifically provided for under this title or other Federal law.

“(B) APPALACHIAN DEVELOPMENT HIGHWAYS.—The Secretary shall retain full oversight responsibilities for the design and construction of all Appalachian development highways under section 14501 of title 40.

“(h) MAJOR PROJECTS.—

“(1) IN GENERAL.—Notwithstanding any other provision of this section, a recipient of Federal financial assistance for a project under this title with an estimated total cost of \$500,000,000 or more, and recipients for such other projects as may be identified by the Secretary, shall submit to the Secretary for each project—

“(A) a project management plan; and

“(B) an annual financial plan.

“(2) PROJECT MANAGEMENT PLAN.—A project management plan shall document—

“(A) the procedures and processes that are in effect to provide timely information to the project decisionmakers to effectively manage the scope, costs, schedules, and quality of, and the Federal requirements applicable to, the project; and

“(B) the role of the agency leadership and management team in the delivery of the project.

“(3) FINANCIAL PLAN.—A financial plan shall—

“(A) be based on detailed estimates of the cost to complete the project; and

“(B) provide for the annual submission of updates to the Secretary that are based on reasonable assumptions, as determined by the Secretary, of future increases in the cost to complete the project.

“(i) OTHER PROJECTS.—A recipient of Federal financial assistance for a project under this title with an estimated total cost of \$100,000,000 or more that is not covered by subsection (h) shall prepare an annual financial plan. Annual financial plans prepared under this subsection shall be made available to the Secretary for review upon the request of the Secretary.”

Financial plans.

(b) CONFORMING AMENDMENTS.—Section 114(a) of title 23, United States Code, is amended—

(1) in the first sentence by striking “highways or portions of highways located on a Federal-aid system” and inserting “Federal-aid highway or a portion of a Federal-aid highway”; and

(2) by striking the second sentence and inserting “The Secretary shall have the right to conduct such inspections and take such corrective action as the Secretary determines to be appropriate.”.

SEC. 1905. TRANSPORTATION DEVELOPMENT CREDITS.

Section 120(j)(1) of title 23, United States Code, is amended—

(1) by striking “A State” and inserting the following:

“(A) IN GENERAL.—A State”; and

(2) by striking the last sentence and inserting the following:

“(B) SPECIAL RULE FOR USE OF FEDERAL FUNDS.—If the public, quasi-public, or private agency has built, improved, or maintained the facility using Federal funds, the credit under this paragraph shall be reduced by a percentage equal to the percentage of the total cost of

building, improving, or maintaining the facility that was derived from Federal funds.

“(C) FEDERAL FUNDS DEFINED.—In this paragraph, the term ‘Federal funds’ does not include loans of Federal funds or other financial assistance that must be repaid to the Government.”.

23 USC 402 note. **SEC. 1906. GRANT PROGRAM TO PROHIBIT RACIAL PROFILING.**

(a) GRANTS.—Subject to the requirements of this section, the Secretary shall make grants to a State that—

(1)(A) has enacted and is enforcing a law that prohibits the use of racial profiling in the enforcement of State laws regulating the use of Federal-aid highways; and

(B) is maintaining and allows public inspection of statistical information for each motor vehicle stop made by a law enforcement officer on a Federal-aid highway in the State regarding the race and ethnicity of the driver and any passengers; or

(2) provides assurances satisfactory to the Secretary that the State is undertaking activities to comply with the requirements of paragraph (1).

(b) ELIGIBLE ACTIVITIES.—A grant received by a State under subsection (a) shall be used by the State—

(1) in the case of a State eligible under subsection (a)(1), for costs of—

(A) collecting and maintaining of data on traffic stops;

(B) evaluating the results of the data; and

(C) developing and implementing programs to reduce the occurrence of racial profiling, including programs to train law enforcement officers; and

(2) in the case of a State eligible under subsection (a)(2), for costs of—

(A) activities to comply with the requirements of subsection (a)(1); and

(B) any eligible activity under paragraph (1).

(c) RACIAL PROFILING.—

(1) IN GENERAL.—To meet the requirement of subsection (a)(1), a State law shall prohibit, in the enforcement of State laws regulating the use of Federal-aid highways, a State or local law enforcement officer from using the race or ethnicity of the driver or passengers to any degree in making routine or spontaneous law enforcement decisions, such as ordinary traffic stops on Federal-aid highways.

(2) LIMITATION.—Nothing in this subsection shall alter the manner in which a State or local law enforcement officer considers race or ethnicity whenever there is trustworthy information, relevant to the locality or time frame, that links persons of a particular race or ethnicity to an identified criminal incident, scheme, or organization.

(d) LIMITATIONS.—

(1) MAXIMUM AMOUNT OF GRANTS.—The total amount of grants made to a State under this section in a fiscal year may not exceed 5 percent of the amount made available to carry out this section in the fiscal year.

(2) ELIGIBILITY.—A State may not receive a grant under subsection (a)(2) in more than 2 fiscal years.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section \$7,500,000 for each of fiscal years 2005 through 2009.

(2) CONTRACT AUTHORITY.—Funds authorized by this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except the Federal share of the cost of activities carried out using such funds shall be 80 percent, and such funds shall remain available until expended and shall not be transferable.

SEC. 1907. PAVEMENT MARKING SYSTEMS DEMONSTRATION PROJECTS.

Alaska.
Tennessee.

(a) IN GENERAL.—The Secretary shall conduct a demonstration project in the State of Alaska, and a demonstration project in the State of Tennessee, to study the safety impacts, environmental impacts, and cost effectiveness of different pavement marking systems and the effect of State bidding and procurement processes on the quality of pavement marking material employed in highway projects. The demonstration projects shall each include an evaluation of the impacts and effectiveness of increasing the width of pavement marking edge lines from 4 inches to 6 inches and an evaluation of advanced acrylic water-borne pavement markings.

(b) REPORT.—Not later than June 30, 2009, the Secretary shall submit to Congress a report on the results of the demonstration projects, together with findings and recommendations on methods that will optimize the cost-benefit ratio of the use of Federal funds on pavement marking.

(c) FUNDING.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, out of the Highway Trust Fund (other than the Mass Transit Account), \$1,000,000 for each of fiscal years 2006 through 2009.

(2) CONTRACT AUTHORITY.—Funds authorized to be appropriated by this section shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of the demonstration projects shall be 100 percent, and such funds shall remain available until expended and shall not be transferable.

SEC. 1908. INCLUSION OF CERTAIN ROUTE SEGMENTS ON INTERSTATE SYSTEM AND NHS.

(a) INTERSTATE SYSTEM.—

(1) CREEK TURNPIKE, OKLAHOMA.—The Secretary shall designate as part of the Interstate System (as defined in section 101 of title 23, United States Code) in accordance with section 103(c)(4) of such title the portion of the Creek Turnpike connecting Interstate Route 44 east and west of Tulsa, Oklahoma.

(2) CERTAIN SECTION OF INTERSTATE ROUTE 181.—The Secretary shall designate as part of Interstate Route 26 the 11-mile section of Interstate Route 181 lying northwest of the intersection with Interstate Route 81, Tennessee.

Tennessee.

(3) TREATMENT.—The designations under paragraph (2) shall be treated, for purposes of title 23, United States Code, as being made under section 103(c)(4) of such title.

Arkansas.
Oklahoma.

(b) NATIONAL HIGHWAY SYSTEM.—The Secretary shall designate as a component of the National Highway System in accordance with section 103(b)(4) of title 23, United States Code, the portion of United States Route 271 from the Arkansas State line, west to the intersection with United States Route 59, and northwest to the intersection with Interstate Route 40, Sallisaw, Oklahoma.

SEC. 1909. FUTURE OF SURFACE TRANSPORTATION SYSTEM.

(a) DECLARATION OF POLICY.—Section 101(b) of title 23, United States Code, is amended—

(1) by striking “(b) It is hereby declared” and all that follows through the first undesignated paragraph and inserting the following:

“(b) DECLARATION OF POLICY.—

“(1) ACCELERATION OF CONSTRUCTION OF FEDERAL-AID HIGHWAY SYSTEMS.—Congress declares that it is in the national interest to accelerate the construction of Federal-aid highway systems, including the Dwight D. Eisenhower National System of Interstate and Defense, because many of the highways (or portions of the highways) are inadequate to meet the needs of local and interstate commerce for the national and civil defense.”;

(2) in the second undesignated paragraph by striking “It is hereby declared” and all that follows through “objectives of this Act” and inserting the following:

“(2) COMPLETION OF INTERSTATE SYSTEM.—Congress declares that the prompt and early completion of the Dwight D. Eisenhower National System of Interstate and Defense Highways (referred to in this section as the ‘Interstate System’), so named because of its primary importance to the national defense, is essential to the national interest”; and

(3) by striking the third undesignated paragraph and inserting the following:

“(3) TRANSPORTATION NEEDS OF 21ST CENTURY.—Congress declares that—

“(A) it is in the national interest to preserve and enhance the surface transportation system to meet the needs of the United States for the 21st Century;

“(B) the current urban and long distance personal travel and freight movement demands have surpassed the original forecasts and travel demand patterns are expected to continue to change;

“(C) continued planning for and investment in surface transportation is critical to ensure the surface transportation system adequately meets the changing travel demands of the future;

“(D) among the foremost needs that the surface transportation system must meet to provide for a strong and vigorous national economy are safe, efficient, and reliable—

“(i) national and interregional personal mobility (including personal mobility in rural and urban areas) and reduced congestion;

“(ii) flow of interstate and international commerce and freight transportation; and

“(iii) travel movements essential for national security;

“(E) special emphasis should be devoted to providing safe and efficient access for the type and size of commercial and military vehicles that access designated National Highway System intermodal freight terminals;

“(F) the connection between land use and infrastructure is significant;

“(G) transportation should play a significant role in promoting economic growth, improving the environment, and sustaining the quality of life; and

“(H) the Secretary should take appropriate actions to preserve and enhance the Interstate System to meet the needs of the 21st Century.”.

(b) NATIONAL SURFACE TRANSPORTATION POLICY AND REVENUE STUDY COMMISSION.—

(1) ESTABLISHMENT.—There is established a commission to be known as the “National Surface Transportation Policy and Revenue Study Commission” (in this subsection referred to as the “Commission”).

(2) MEMBERSHIP.—

(A) COMPOSITION.—The Commission shall be composed of 12 members, of whom—

(i) 1 member shall be the Secretary, who shall serve as Chairperson;

(ii) 3 members shall be appointed by the President;

(iii) 2 members shall be appointed by the Speaker of the House of Representatives;

(iv) 2 members shall be appointed by the minority leader of the House of Representatives;

(v) 2 members shall be appointed by the majority leader of the Senate; and

(vi) 2 members shall be appointed by the minority leader of the Senate.

(B) QUALIFICATIONS.—Members appointed under subparagraph (A)—

(i) shall include—

(I) individuals representing State and local governments, metropolitan planning organizations, transportation-related industries, and public interest organizations involved with scientific, regulatory, economic, and environmental activities relating to transportation;

(II) individuals with a background in public finance, including experience in developing State and local revenue resources;

(III) individuals involved in surface transportation program administration;

(IV) individuals that have conducted academic research into related issues; and

(V) individuals that provide unique perspectives on current and future requirements for revenue sources to support the Highway Trust Fund and policies impacting those revenues; and

(ii) shall be balanced geographically to the extent consistent with maintaining the highest level of expertise on the Commission.

(C) DATE OF APPOINTMENTS.—The appointment of a member of the Commission shall be made not later than 120 days after the date of establishment of the Commission.

(D) TERMS.—A member shall be appointed for the life of the Commission.

(E) VACANCIES.—A vacancy on the Commission—

(i) shall not affect the powers of the Commission; and

(ii) shall be filled in the same manner as the original appointment was made.

(F) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold the initial meeting of the Commission.

(G) MEETINGS.—The Commission shall meet at the call of the Chairperson.

(H) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(I) VICE CHAIRPERSON.—The Commission shall select a Vice Chairperson from among the appointed members of the Commission.

(3) DUTIES.—

(A) IN GENERAL.—The Commission shall—

(i) conduct a comprehensive study of—

(I) the current condition and future needs of the surface transportation system;

(II) short-term sources of Highway Trust Fund revenues;

(III) long-term alternatives to replace or supplement the fuel tax as the principal revenue source to support the Highway Trust Fund, including new or alternate sources of revenue;

(IV) revenue sources to fund the needs of the surface transportation system over at least the 30-year period beginning on the date of enactment of this Act, including new or alternate sources of revenue;

(V) revenues flowing into the Highway Trust Fund under laws in existence on the date of enactment of this Act, including individual components of the overall flow of the revenues; and

(VI) whether the amount of revenues described in subclause (V) is likely to increase, decrease, or remain constant absent any change in law, taking into consideration the impact of possible changes in public vehicular choice, fuel use, and travel alternatives that could be expected to reduce or increase revenues into the Highway Trust Fund;

(B) develop a conceptual plan, with alternative approaches, to ensure that the surface transportation system will continue to serve the needs of the United States, including specific recommendations regarding design and operational standards, Federal policies, and legislative changes;

(C) consult with the Secretary of the Treasury in conducting the study to ensure that the views of the Secretary

concerning essential attributes of Highway Trust Fund revenue alternatives are considered;

(D) consult with representatives of State departments of transportation and metropolitan planning organizations and other key interested stakeholders in conducting the study to ensure that—

(i) the views of the stakeholders on alternative revenue sources to support State transportation improvement programs are considered; and

(ii) any recommended Federal financing strategy takes into account State financial requirements; and

(E) based on the study, make specific recommendations regarding—

(i) actions that should be taken to develop alternative revenue sources to support the Highway Trust Fund; and

(ii) the time frame for taking those actions.

(4) RELATED WORK.—To the maximum extent practicable, the study shall build on related work that has been completed by—

(A) the Secretary;

(B) the Secretary of Energy;

(C) the Transportation Research Board, including the findings, conclusions, and recommendations of the recent study conducted by the Transportation Research Board on alternatives to the fuel tax to support highway program financing; and

(D) other entities and persons.

(5) SURFACE TRANSPORTATION NEEDS.—With respect to surface transportation needs, the investigation and study shall specifically address—

(A) the current condition and performance of the Interstate System (including the physical condition of bridges and pavements and operational characteristics and performance), relying primarily on existing data sources;

(B) the future of the Interstate System, based on a range of legislative and policy approaches for 15-, 30-, and 50-year time periods;

(C) the expected demographics and business uses that impact the surface transportation system;

(D) the expected use of the surface transportation system, including the effects of changing vehicle types, modes of transportation, fleet size and weights, and traffic volumes;

(E) desirable design policies and standards for future improvements of the surface transportation system, including additional access points;

(F) the identification of urban, rural, national, and interregional needs for the surface transportation system;

(G) the potential for expansion, upgrades, or other changes to the surface transportation system, including—

(i) deployment of advanced materials and intelligent technologies;

(ii) critical multistate, urban, and rural corridors needing capacity, safety, and operational enhancements;

(iii) improvements to intermodal linkages;

- (iv) security and military deployment enhancements;
 - (v) strategies to enhance asset preservation; and
 - (vi) implementation strategies;
 - (H) the improvement of emergency preparedness and evacuation using the surface transportation system, including—
 - (i) examination of the potential use of all modes of the surface transportation system in the safe and efficient evacuation of citizens during times of emergency;
 - (ii) identification of the location of critical bottlenecks; and
 - (iii) development of strategies to improve system redundancy, especially in areas with a high potential for terrorist attacks;
 - (I) alternatives for addressing environmental concerns associated with the future development of the surface transportation system;
 - (J) the assessment of the current and future capabilities for conducting system-wide real-time performance data collection and analysis, traffic monitoring, and transportation systems operations and management; and
 - (K) policy and legislative alternatives for addressing future needs for the surface transportation system.
- (6) FINANCING.—With respect to financing, the study shall address specifically—
- (A) the advantages and disadvantages of alternative revenue sources to meet anticipated Federal surface transportation financial requirements;
 - (B) recommendations concerning the most promising revenue sources to support long-term Federal surface transportation financing requirements;
 - (C) development of a broad transition strategy to move from the current tax base to new funding mechanisms, including the time frame for various components of the transition strategy;
 - (D) recommendations for additional research that may be needed to implement recommended alternatives; and
 - (E) the extent to which revenues should reflect the relative use of the highway system.
- (7) FINANCING RECOMMENDATIONS.—
- (A) FACTORS FOR CONSIDERATION.—In developing financing recommendations under this subsection, the Commission shall consider—
 - (i) the ability to generate sufficient revenues from all modes to meet anticipated long-term surface transportation financing needs;
 - (ii) the roles of the various levels of government and the private sector in meeting future surface transportation financing needs;
 - (iii) administrative costs (including enforcement costs) to implement each option;
 - (iv) the expected increase in nontaxed fuels and the impact of taxing those fuels;
 - (v) the likely technological advances that could ease implementation of each option;

(vi) the equity and economic efficiency of each option;

(vii) the flexibility of different options to allow various pricing alternatives to be implemented; and

(viii) potential compatibility issues with State and local tax mechanisms under each alternative.

(B) NEED AND REVENUE ANALYSIS.—In developing financing recommendations under this subsection, the Commission shall distinguish between—

(i) the needs of, and revenues for, the surface transportation system that are eligible to receive funds from the Highway Trust Fund; and

(ii) the needs for projects and programs that are not eligible to receive funds from the Highway Trust Fund.

(8) TECHNICAL ADVISORY COMMITTEE.—The Secretary shall establish a technical advisory committee, in a manner consistent with the Federal Advisory Committee Act (5 U.S.C. App.), to collect and evaluate technical input from—

(A) appropriate Federal, State, and local officials with responsibility for transportation;

(B) appropriate State and local elected officials;

(C) transportation and trade associations;

(D) emergency management officials;

(E) freight providers;

(F) the general public; and

(G) other entities and persons determined to be appropriate by the Secretary to ensure a diverse range of views.

(9) REPORT AND RECOMMENDATIONS.—Not later than July 1, 2007, the Commission shall submit to Congress—

(A) a final report that contains a detailed statement of the findings and conclusions of the Commission; and

(B) the recommendations of the Commission for such legislation and administrative actions as the Commission considers to be appropriate.

(10) POWERS OF THE COMMISSION.—

(A) HEARINGS.—The Commission may hold such hearings, meet and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this section.

(B) INFORMATION FROM FEDERAL AGENCIES.—

(i) IN GENERAL.—The Commission may secure directly from a Federal agency such information as the Commission considers necessary to carry out this section.

(ii) PROVISION OF INFORMATION.—On request of the Chairperson of the Commission, the head of a Federal agency shall provide the requested information to the Commission.

(C) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other agencies of the Federal Government.

(D) DONATIONS.—The Commission may accept, use, and dispose of donations of services or property.

(11) COMMISSION PERSONNEL MATTERS.—

(A) MEMBERS.—A member of the Commission shall serve without pay but shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Commission.

(B) CONTRACTORS.—The Commission may enter into agreements with appropriate organizations, agencies, and entities to conduct the study required under this section, under the strategic guidance of the Commission.

(C) ADMINISTRATIVE SUPPORT.—On the request of the Commission, the Administrator of the Federal Highway Administration shall provide to the Commission, on a reimbursable basis, the administrative support and services necessary for the Commission to carry out the duties of the Commission under this section.

(D) DETAIL OF PERSONNEL.—

(i) IN GENERAL.—On the request of the Commission, the Secretary may detail, on a reimbursable basis, any of the personnel of the Department to the Commission to assist the Commission in carrying out the duties of the Commission under this section.

(ii) CIVIL SERVICE STATUS.—The detail of the employee shall be without interruption or loss of civil service status or privilege.

(12) COOPERATION.—The staff of the Secretary shall cooperate with the Commission in the study required under this section, including providing such nonconfidential data and information as are necessary to conduct the study.

(13) RELATIONSHIP TO OTHER LAW.—

(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), funds made available to carry out this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

(B) FEDERAL SHARE.—The Federal share of the cost of the study and the Commission under this section shall be 100 percent.

(C) AVAILABILITY.—Funds made available to carry out this section shall remain available until expended.

(14) DEFINITION OF SURFACE TRANSPORTATION SYSTEM.—In this subsection, the term “surface transportation system” includes—

(A) the National Highway System, as defined in section 103(b) of title 23, United States Code;

(B) congressional high priority corridors;

(C) intermodal connectors;

(D) intermodal freight facilities;

(E) public transportation infrastructure and facilities; and

(F) freight and intercity passenger bus and rail infrastructure and facilities.

(15) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section \$1,400,000 for each of fiscal years 2006 and 2007.

(16) **APPLICABILITY OF TITLE 23.**—Funds made available to carry out this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall remain available until expended, and the Federal share of the cost of a project under this section shall be as provided in this section.

(17) **TERMINATION.**—

(A) **IN GENERAL.**—The Commission shall terminate on the date that is 180 days after the date on which the Commission submits the report of the Commission under paragraph (9).

(B) **RECORDS.**—Not later than the date of termination of the Commission under subparagraph (A), all records and papers of the Commission shall be delivered to the Archivist of the United States for deposit in the National Archives.

SEC. 1910. MOTORIST INFORMATION CONCERNING FULL SERVICE RESTAURANTS.

Deadline.

Not later than 180 days after the date of enactment of this Act, the Secretary may initiate a rulemaking to determine whether—

(1) full service restaurants should be given priority on not more than 2 panels of the camping or attractions logo-specific service signs in the Manual on Uniform Traffic Control Devices of the Department of Transportation when the food logo-specific service sign is fully used; and

(2) full service restaurants should be given priority on not more than 2 panels of the food logo-specific service signs in such Manual when the camping or attractions logo-specific service signs are fully used.

SEC. 1911. APPROVAL AND FUNDING FOR CERTAIN CONSTRUCTION PROJECTS.

Georgia.

(a) **PROJECT APPROVAL.**—If the Secretary finds that the project number STP–189–1(15)CT 3 in Gwinnett County, Georgia, was not listed in the current regional transportation plan because of a clerical error, such failure to be listed shall not be a basis for not approving the project. The Secretary shall make a final decision on the approval of the project within 30 days after the date of receipt by the Secretary of a construction authorization request from the department of transportation for the State of Georgia.

Deadline.

(b) **CONFORMITY DETERMINATION.**—

(1) **IN GENERAL.**—Approval, funding, and implementation of the project referred to in subsection (a) shall not be subject to the requirements of part 93 of title 40, Code of Federal Regulations (or successor regulations).

(2) **REGIONAL EMISSIONS.**—Notwithstanding paragraph (1), all subsequent regional emission analyses required by section 93.118 or 93.119 of title 40, Code of Federal Regulations (or successor regulations), shall include the project.

SEC. 1912. LEAD AGENCY DESIGNATION.

The public entity established under California law in 1989 to acquire rights-of-way in northwestern California to maintain surface transportation infrastructure is designated as the lead

agency for the purpose of accepting Federal funds authorized under item 13 of the table contained in section 1108(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2061).

SEC. 1913. BRIDGE CONSTRUCTION, NORTH DAKOTA.

Notwithstanding any other provision of law, and regardless of the source of Federal funds, the Federal share of the eligible costs of construction of a bridge between Bismarck, North Dakota, and Mandan, North Dakota, shall be 90 percent.

23 USC 101 note.

SEC. 1914. MOTORCYCLIST ADVISORY COUNCIL.

(a) IN GENERAL.—The Secretary, acting through the Administrator of the Federal Highway Administration, in consultation with the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate, shall appoint a Motorcyclist Advisory Council to coordinate with and advise the Administrator on infrastructure issues of concern to motorcyclists, including—

- (1) barrier design;
 - (2) road design, construction, and maintenance practices;
- and
- (3) the architecture and implementation of intelligent transportation system technologies.

(b) COMPOSITION.—The Council shall consist of not more than 10 members of the motorcycling community with professional expertise in national motorcyclist safety advocacy, including—

- (1) at least—
 - (A) one member recommended by a national motorcyclist association;
 - (B) one member recommended by a national motorcycle riders foundation;
 - (C) one representative of the National Association of State Motorcycle Safety Administrators;
 - (D) two members of State motorcyclists' organizations;
 - (E) one member recommended by a national organization that represents the builders of highway infrastructure;
 - (F) one member recommended by a national association that represents the traffic safety systems industry; and
 - (G) one member of a national safety organization; and
- (2) at least one, and not more than two, motorcyclists who are traffic system design engineers or State transportation department officials.

SEC. 1915. LOAN FORGIVENESS.

Debt outstanding as of the date of enactment of this Act for project number Q–DPM–0013(001) carried out under section 108(c) of title 23, United States Code, is deemed satisfied.

SEC. 1916. TREATMENT OF OFF RAMP.

Notwithstanding any other provision of law, the New Harbor Boulevard North off-ramp project along the Interstate Route 405 Collector-Distributor Road in Costa Mesa, California (Susan Street Slip-Ramp), shall be treated for purposes of title 23, United States Code, as satisfying all Federal requirements, and the California State department of transportation shall authorize any final environmental, engineering, or design analyses necessary to approve, as expeditiously as possible, construction of the project

consistent with applicable California State operational and safety standards.

SEC. 1917. OPENING OF INTERSTATE RAMPS.

(a) **IN GENERAL.**—The Maryland State highway administration and the Federal Highway Administration shall work cooperatively—

(1) to expedite the project being developed as of the date of enactment of this Act to improve Interstate Route 495 through the area of the Arena Drive interchange to allow for safe exit, including improvements to the adjacent interchanges upstream and downstream along Interstate Route 495; and

(2) to expedite action on the Interstate access request so that the Interstate Route 495/Arena Drive interchange can be opened safely to all vehicles 24 hours per day, 7 days per week.

(b) **REPORT.**—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to Congress a report on the status of opening the Interstate Route 495/Arena Drive interchange to full-time use.

SEC. 1918. CREDIT TO STATE OF LOUISIANA FOR STATE MATCHING FUNDS.

(a) **IN GENERAL.**—The Secretary may provide a credit to the State of Louisiana in an amount equal to non-Federal Share of the cost of any planning, engineering, design, or construction work carried out by the State on any project that the Secretary determines is integral to the project authorized by item number 202 in the table contained in section 1602 of the Transportation Equity Act for the 21st Century (112 Stat. 264).

(b) **ELIGIBILITY OF CREDIT.**—The credit may be used for any future payment relating to the completion of the project referred to in subsection (a) that is required by the State under title 23, United States Code.

SEC. 1919. ROAD USER FEES.

(a) **STUDY.**—The Secretary shall enter into an agreement with the Public Policy Center of the University of Iowa for an analysis and report to the Secretary and the Secretary of the Treasury on a long-term field test of an approach to assessing highway use fees based upon actual mileage driven by a specific vehicle on specific types of highways by use of an onboard computer—

Contracts.

(1) which is linked to satellites to calculate highway mileage traversed;

(2) which computes the appropriate highway use fees for each of the Federal, State, and local governments as the vehicle makes use of the highways;

(3) the data from which is periodically downloaded by the vehicle owner to a collection center for an assessment of highway use fees due in each jurisdiction traversed; and

(4) which includes methods of ensuring privacy of road users.

(b) **COMPONENTS OF FIELD TEST.**—The components of the field test shall include 2 years for preparation, including selection of vendors and test participants, and a 3-year testing period.

(c) **REPORTS.**—The Secretary shall submit annual reports on the status of the analysis and, not later than July 1, 2009, a final report on the results of the analysis, together with findings

and recommendations. The reports shall be submitted to the Secretary of the Treasury, the Committee on Transportation and Infrastructure and the Committee on Ways and Means of the House of Representatives, and the Committee on Environment and Public Works and the Committee on Finance of the Senate.

(d) **AUTHORIZATION OF APPROPRIATION.**—

(1) **IN GENERAL.**—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section \$2,000,000 fiscal year 2006 and \$3,500,000 for each of fiscal years 2007, 2008, and 2009.

(2) **CONTRACT AUTHORITY.**—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code; except the Federal share of the cost of the analysis and report shall be 100 percent, and such funds shall remain available until expended and shall not be transferable.

SEC. 1920. TRANSPORTATION AND LOCAL WORKFORCE INVESTMENT.

(a) **FINDINGS.**—Congress finds the following:

(1) Federal-aid highway programs provide State and local governments and other recipients substantial funds for projects that produce significant employment and job-training opportunities.

(2) Every \$1,000,000,000 in Federal infrastructure investment creates an estimated 47,500 jobs.

(3) Jobs in transportation construction, including apprenticeship positions, typically pay more than twice the minimum wage, and include health and other benefits.

(4) Transportation projects provide the impetus for job training and employment opportunities for low income individuals residing in the area in which a transportation project is planned.

(5) Transportation projects can offer young people, particularly those who are economically disadvantaged, the opportunity to gain productive employment.

(6) The Alameda Corridor, a \$2,400,000,000 transportation project, is an example of a transportation project that included a local hiring provision resulting in a full 30 percent of the project jobs being filled by locally hired and trained men and women.

(b) **SENSE OF CONGRESS.**—It is the sense of Congress that Federal transportation projects should facilitate and encourage the collaboration between interested persons, including Federal, State, and local governments, community colleges, apprentice programs, local high schools, and other community-based organizations that have an interest in improving the job skills of low-income individuals, to help leverage scarce training and community resources and to help ensure local participation in the building of transportation projects.

SEC. 1921. UPDATE OF OBSOLETE TEXT.

Section 137(a) of title 23, United States Code, is amended in the first sentence by striking “on the Federal-aid urban system” and inserting “on a Federal-aid highway”.

SEC. 1922. TECHNICAL AMENDMENTS TO NONDISCRIMINATION SECTION.

(a) **STATE ASSURANCES.**—Section 140(a) of title 23, United States Code, is amended—

(1) in the first sentence by striking “subsection (a) of section 105 of this title” and inserting “section 135”;

(2) in the second sentence by striking “He” and inserting “The Secretary”;

(3) in the third sentence—

(A) by striking “shall, where he considers it necessary to assure” and inserting “if necessary to ensure”; and

(B) by inserting “shall” after “opportunity,”; and

(4) in the last sentence—

(A) by striking “him” and inserting “the Secretary”; and

(B) by striking “he” and inserting “the Secretary of Transportation”.

(b) **HIGHWAY CONSTRUCTION AND TECHNOLOGY TRAINING.**—Section 140(b) of such title is amended—

(1) in the first sentence by striking “highway construction” and inserting “surface transportation”; and

(2) in the second sentence—

(A) by striking “he may deem”; and

(B) by striking “not to exceed \$2,500,000 for the transition quarter ending September 30, 1976, and”.

(c) **MINORITY BUSINESS TRAINING PROGRAMS.**—Section 140(c) of such title is amended in the second sentence—

(1) by striking “subsection 104(b)(3) of this title” and inserting “section 104(b)(3)”; and

(2) by striking “he may deem”.

(d) **TECHNICAL AMENDMENT.**—Section 140(d) of such title is amended in the subsection heading by striking “AND CONTRACTING”.

SEC. 1923. TRANSPORTATION ASSETS AND NEEDS OF DELTA REGION.

State listing.

(a) **AGREEMENT.**—Not later than 180 days after the date of enactment of this Act, the Secretary shall enter into an agreement with the Delta Regional Authority (in this section referred to as the “DRA”) to conduct a comprehensive study of transportation assets and needs for all modes of transportation (including passenger and freight transportation) in the 8 States comprising the Delta region (Alabama, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee).

Deadline.

(b) **CONSULTATION.**—Under the agreement, the DRA, in conducting the study, shall consult with the Department, State transportation departments, local planning and development districts, local and regional governments, and metropolitan planning organizations.

(c) **REPORT.**—Under the agreement, the DRA, not later than 2 years after the date of entry into the agreement, shall submit to the Secretary and the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a final report on the results of the study, together with such recommendations as the DRA considers to be appropriate.

(d) **PLAN.**—Under the agreement, the DRA, upon completion of the report, shall establish a regional strategic plan to implement the recommendations of the report.

(e) FUNDING.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account), to carry out this section \$500,000 for each of the fiscal years 2005 and 2006.

(2) CONTRACT AUTHORITY.—Funds authorized by this section shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall remain available until expended and shall not be transferable.

Washington.

SEC. 1924. ALASKA WAY VIADUCT STUDY.

(a) FINDINGS.—Congress finds that—

(1) in 2001, the Alaska Way Viaduct, a critical segment of the National Highway System in Seattle, Washington, was seriously damaged by the Nisqually earthquake;

(2) an effort to address the possible repair, retrofit, or replacement of the Viaduct that conforms with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) is underway; and

(3) as a result of the efforts referred to in paragraph (2), a locally preferred alternative for the Viaduct is being developed.

(b) STUDY.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary, in cooperation with the Washington State department of transportation and the City of Seattle, Washington, shall conduct a comprehensive study to determine the specific damage to the Alaska Way Viaduct from the Nisqually earthquake of 2001 that contribute to the ongoing degradation of the Viaduct.

(2) REQUIREMENTS.—The study under paragraph (1) shall—

(A) identify any repair, retrofit, and replacement costs for the Viaduct that are eligible for additional assistance from the emergency fund authorized under section 125 of title 23, United States Code, consistent with the emergency relief manual governing eligible expenses from the emergency fund; and

(B) determine the amount of assistance from the emergency fund for which the Viaduct is eligible.

(c) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to Congress a report that describes the findings of the study.

SEC. 1925. COMMUNITY ENHANCEMENT STUDY.

(a) IN GENERAL.—The Secretary shall conduct a study on—

(1) the role of well-designed transportation projects in—

(A) promoting economic development;

(B) protecting public health, safety, and the environment; and

(C) enhancing the architectural design and planning of communities; and

(2) the positive economic, cultural, aesthetic, scenic, architectural, and environmental benefits of such projects for communities.

(b) CONTENTS.—The study shall address the following:

(1) The degree to which well-designed transportation projects have positive economic, cultural, aesthetic, scenic, architectural, and environmental benefits for communities.

(2) The degree to which such projects protect and contribute to improvements in public health and safety.

(3) The degree to which such projects use inclusive public participation processes to achieve quicker, more certain, and better results.

(4) The degree to which positive results are achieved by linking transportation, design, and the implementation of community visions for the future.

(5) Facilitating the use of successful models or best practices in transportation investment or development to accomplish each of the following:

(A) Enhancement of community identity.

(B) Protection of public health and safety.

(C) Provision of a variety of choices in housing, shopping, transportation, employment, and recreation.

(D) Preservation and enhancement of existing infrastructure.

(E) Creation of a greater sense of community through public involvement.

(c) **REPORT.**—Not later than September 20, 2007, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of the study.

(d) **ADMINISTRATION.**—To carry out this section, the Secretary shall make a grant to, or enter into a cooperative agreement or contract with, a national organization representing architects who have expertise in the design of a wide range of transportation and infrastructure projects, which include the design of buildings, public facilities, and surrounding communities.

Grants.
Contracts.

(e) **AUTHORIZATION.**—Of the amounts made available to carry out the transportation, community, and system preservation program by section 1117 of this Act \$1,000,000 shall be available for each of fiscal years 2006 and 2007 to carry out this section; except that, notwithstanding section 1117(g) of this Act, the Federal share of the cost of the study shall be 100 percent.

SEC. 1926. BUDGET JUSTIFICATION.

49 USC 301 note.

The Department of Transportation and each agency in the Department shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a budget justification concurrently with the President's annual budget submission to Congress under section 1105(a) of title 31, United States Code.

SEC. 1927. 14TH AMENDMENT HIGHWAY AND 3RD INFANTRY DIVISION HIGHWAY.

State listing.

Not later than December 31, 2005, any funds made available to commission studies and reports regarding construction of a route linking Augusta, Georgia, Macon, Georgia, Columbus, Georgia, Montgomery, Alabama, and Natchez, Mississippi and a route linking through Savannah, Georgia, Augusta, Georgia, and Knoxville, Tennessee, shall be provided to the Secretary to—

(1) carry out a study and submit to the appropriate committees of Congress a report that describes the steps and estimated

Reports.

funding necessary to construct a route for the 14th Amendment Highway, from Augusta, Georgia, to Natchez, Mississippi (formerly designated the Fall Line Freeway in the State of Georgia); and

(2) carry out a study and submit to the appropriate committees of Congress a report that describes the steps and estimated funding necessary to designate and construct a route for the 3rd Infantry Division Highway, extending from Savannah, Georgia, to Knoxville, Tennessee, by way of Augusta, Georgia (formerly the Savannah River Parkway in the State of Georgia).

SEC. 1928. SENSE OF CONGRESS REGARDING BUY AMERICA.

It is the sense of Congress that—

(1) the Buy America test required by section 165 of the Surface Transportation Assistance Act of 1982 (23 U.S.C. 101 note) needs to be applied to an entire bridge project and not only to component parts of such project;

(2) the law clearly states that domestic materials must be used in Federal highway projects unless there is a finding that the inclusion of domestic materials will increase the cost of the overall project by more than 25 percent;

(3) uncertainty regarding how to apply Buy America laws for major bridge projects threatens the domestic bridge industry;

(4) because the Nation's unemployment rate continues to hover around 5.6 percent, steps are needed to protect American workers and the domestic bridge building industry; and

(5) the Buy American Act (41 U.S.C. 10a et seq.) was designed to ensure that, when taxpayer money is spent on direct Federal Government procurement and infrastructure projects, these expenditures stimulate United States production and job creation.

New York.

SEC. 1929. DESIGNATION OF DANIEL PATRICK MOYNIHAN INTERSTATE HIGHWAY.

(a) DESIGNATION.—The portion of Interstate Route 86 in the State of New York, extending from the Pennsylvania border near Lake Erie through Orange County, New York, shall be known and designated as the “Daniel Patrick Moynihan Interstate Highway”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the highway portion referred to in subsection (a) shall be deemed to be a reference to the “Daniel Patrick Moynihan Interstate Highway”.

Massachusetts.

SEC. 1930. DESIGNATION OF THOMAS P. “TIP” O’NEILL, JR. TUNNEL.

(a) DESIGNATION.—In honor of his service to the Commonwealth of Massachusetts and the United States, and in recognition of his contributions toward the construction of the Central Artery project in Boston, the northbound and southbound tunnel of Interstate Route 93, located in the City of Boston, which extends north of the intersection of Interstate Route 90 and Interstate Route 93 to the Leonard P. Zakim Bunker Hill Bridge, shall be known and designated as the “Thomas P. ‘Tip’ O’Neill, Jr. Tunnel”.

(b) REFERENCES.—Any reference in law, map, regulation, document, paper, or other record of the United States to the tunnel referred to in subsection (a) shall be deemed to be a reference to the “Thomas P. ‘Tip’ O’Neill, Jr. Tunnel”.

SEC. 1931. RICHARD NIXON PARKWAY, CALIFORNIA.

(a) DESIGNATION.—The segment of the Imperial Highway located between California State Route 91 and Esperanza Road in the State of California shall be known and designated as the “Richard Nixon Parkway”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the highway segment referred to in subsection (a) shall be deemed to be a reference to the “Richard Nixon Parkway”.

SEC. 1932. AMO HOUGHTON BYPASS.

New York.

(a) DESIGNATION.—The 3-mile segment of Interstate Route 86 between its interchange with New York State Route 15 in the vicinity of Painted Post, New York, and its interchange with New York State Route 352 in the vicinity of Corning, New York, shall be known and designated as the “Amo Houghton Bypass”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the highway segment referred to in subsection (a) shall be deemed to be a reference to the “Amo Houghton Bypass”.

SEC. 1933. BILLY TAUZIN ENERGY CORRIDOR.

Louisiana.

(a) DESIGNATION.—Louisiana Route 1 shall be known and designated as the “Billy Tauzin Energy Corridor”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the highway segment referred to in subsection (a) shall be deemed to be a reference to the “Billy Tauzin Energy Corridor”.

SEC. 1934. TRANSPORTATION IMPROVEMENTS.

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—For each of fiscal years 2005 through 2009, there are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) such sums as are necessary to make allocations in accordance with paragraph (2) to carry out each project described in the table contained in subsection (c), at the amount specified for each such project in that table.

(2) ALLOCATION PERCENTAGES.—Of the total amount specified for each project described in the table contained in subsection (c), 10 percent for fiscal year 2005, 20 percent for fiscal year 2006, 25 percent for fiscal year 2007, 25 percent for fiscal year 2008, and 20 percent for fiscal year 2009 shall be allocated to carry out each such project in that table.

(b) CONTRACT AUTHORITY.—

(1) IN GENERAL.—Funds authorized to be appropriated to carry out this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except that the funds shall remain available until expended.

(2) FEDERAL SHARE.—The Federal share of the cost of a project under this section shall be determined in accordance with section 120 of such title.

(c) TABLE.—The table referred to in subsections (a) and (b) is as follows:

Transportation Improvements

No.	State	Project Description	Amount
1.	AK	Denali Commission for docks, waterfront development projects and related transportation infrastructure	\$20,000,000
2.	AK	Improvements to the Knik Arm Bridge	\$20,000,000
3.	AK	Upgrades on the Dalton Highway, including but not limited to design, engineering, permitting, and construction	\$500,000
4.	AK	Upgrades on the Richardson Highway, including but not limited to design, engineering, permitting, and construction	\$500,000
5.	AK	Anchorage: Intermodal facility improvements at the Port of Anchorage	\$7,000,000
6.	AK	Petersburg: Road improvements, including but not limited to design, engineering, permitting, and construction	\$500,000
7.	AK	Tanana: Dust Control Mitigation	\$500,000
8.	AK	Anchorage: Dimond Center Intermodal Facility, including but not limited to design, engineering, permitting, and construction	\$500,000
9.	AK	Homer: Intermodal deep-water dock facility improvements	\$2,000,000
10.	AK	Anchorage: Study, design, and engineering of Knik crossing approach routes to minimize traffic congestion	\$2,000,000
11.	AK	Sitka: World War II Causeway Trail and Multi-use Pathway projects	\$1,000,000
12.	AK	McGrath: Road erosion control along the Yukon River	\$500,000
13.	AK	Ketchikan: Improve marine dry-dock and facilities	\$20,000,000
14.	AL	Preliminary Engineering, Design, Right-Of-Way Acquisition and Construction of the Tuscaloosa Bypass, Alabama	\$5,000,000
15.	AL	Preliminary Engineering, Design, Right-Of-Way Acquisition and Construction of the I-10 Connector, Alabama	\$5,000,000
16.	AL	Preliminary Engineering, Design, Right-Of-Way Acquisition and Construction of the I-85 Extension, Alabama	\$50,000,000
17.	CA	Century Boulevard Pedestrian Safety and Transportation Improvements in City of Inglewood	\$3,000,000

Transportation Improvements—Continued

No.	State	Project Description	Amount
18.	CA	Hilmar/Turlock California Highway 99 Interchange Engineering and Construction in Merced County	\$1,000,000
19.	CA	Port of Hueneme Intermodal Access Improvement Access Improvement Project, including grade separation at Rice Avenue and State Route 34; widen Hueneme Road	\$1,000,000
20.	CA	Widen Northbound I–405 between I–10 and U.S. 101 for HOV Lane	\$30,000,000
21.	CA	Alameda Corridor East Construction Authority	\$30,000,000
22.	CO	Improvements to I–70/Havana/Yosemite Interchange	\$3,000,000
23.	CO	Improvements to Wadsworth and U.S. 36 Interchange in Broomfield	\$2,000,000
24.	CO	Improvements to Bromley Lane and U.S. 85 Interchange	\$1,000,000
25.	CO	Improvements to C470 and U.S. 85 Interchange	\$4,000,000
26.	CO	Improvements to Hwy 34 and I–25 Interchange (Loveland/Greeley exit)	\$2,000,000
27.	CO	Improvements to Hwy 16 and I–25 Interchange (Fort Carson—Phase I)	\$3,000,000
28.	CO	Improvements to Hwy 50 from Las Animas to Lamar	\$12,000,000
29.	CO	Improvements to Hwy 395 and I–25 (at Windsor exit)	\$2,000,000
30.	CO	Improvements to Pecos Street Overpass (Adams County)	\$3,000,000
31.	CO	Improvements to U.S. 285 and Deer Creek Interchange	\$1,000,000
32.	CO	Improvements to U.S. 50 and Hwy 115 (safety improvements)	\$2,000,000
33.	CO	Improvements to Glenwood Springs Bridge	\$1,000,000
34.	CO	Improvements to 104th and U.S. 85 Intersection ...	\$1,000,000
35.	CT	Development and demonstration in Connecticut of fuel cell technologies for buses in urban areas	\$5,000,000
36.	CT	Improvements to I–95 in Connecticut, including the Pearl Harbor Memorial/Q Bridge, from the State border with New York to the State border with Rhode Island	\$50,000,000

Transportation Improvements—Continued

No.	State	Project Description	Amount
37.	DE	Planning, Design, and Construction of the Energy Exploration Center at Destination Station in Rehoboth Beach	\$1,000,000
38.	DE	Preliminary Engineering and Environmental Analysis of the Middletown to Newark Rail Connection	\$4,000,000
39.	DE	Develop and construct an alternative route for truck traffic in the core downtown area of Harrington	\$8,500,000
40.	DE	Build the Pomeroy Line Pedestrian/Bicycle Trail and Facility in Newark	\$4,771,000
41.	DE	Infrastructure and Streetscape Improvements on Rehoboth Avenue in Rehoboth	\$6,750,000
42.	DE	University of Delaware's Automotive Based Fuel Cell Hybrid Bus Program in Newark	\$4,979,000
43.	DE	Design and Construct the Indian River Inlet Bridge on SR 1 in Sussex County	\$5,000,000
44.	FL	Tamiami Trail Skyway Transportation Study	\$1,000,000
45.	FL	Sand Lake Road Improvements between President's Drive and I-4	\$3,000,000
46.	FL	New systems interchange ramps at SR 417 and Boggy Creek Road in Orange County, Florida	\$2,000,000
47.	FL	Florida SIS projects in Miami-Dade County	\$5,000,000
48.	FL	Hillsborough County I-4 Crosstown Connector—Construction of I-4 crosstown connector from I-4 to Port of Tampa	\$7,000,000
49.	FL	Sand Lake Road Improvements between Presidents Drive and I-4	\$6,000,000
50.	FL	Gulf Coast Parkway, Final design, engineering, and construction for a 2-lane Gulf Coast/U.S. 98 bypass	\$7,000,000
51.	GA	Queens Road widening and reconstruction Cobb County	\$1,000,000
52.	GA	Widening Cedarcrest Rd. from Paulding County to Governor's Towne	\$1,000,000
53.	GA	U.S. 84 Connector/Bypass from west of U.S. 84/SR 119 west of Hinesville to U.S. 84/SR 196 south of Flemington, Liberty County	\$1,000,000
54.	GA	SR 746/SE Rome Bypass from SR 101 U.S. 411 Floyd County	\$4,000,000

Transportation Improvements—Continued

No.	State	Project Description	Amount
55.	GA	SR 204/Abercorn Street from King George Boulevard to Rio Road widening	\$4,000,000
56.	GA	SR 96 from I–75 to old Hawkinsville Road widening and reconstruction	\$4,000,000
57.	GA	SR 40 from west of CR 61 to SR 25/U.S. 17 widening	\$4,000,000
58.	GA	SR 40 from east of St. Mary's cut off at mile post 5.0, Charlton County, to County Route 61, Camden County Widening	\$2,000,000
59.	GA	I–75 interchanges from north of Tifton to Turner County line interchange reconstruction	\$4,000,000
60.	GA	I–75/Windy Hill Road interchange reconstruction, Cobb County	\$5,000,000
61.	GA	Interchange capacity improvements at I–285 and Ashford-Dunwoody Road	\$3,000,000
62.	GA	I–75/CR 65/Union Grove Road—New interchange, Gordon County	\$3,500,000
63.	GA	SR 85 widening from Adams Drive to I–75 and reconstruct the Forest Parkway interchange	\$3,500,000
64.	GA	City of Jesup, Georgia for transportation improvements	\$2,500,000
65.	GA	Walker County, Georgia for transportation improvements	\$2,500,000
66.	GA	Catoosa County, Georgia for transportation improvements	\$2,500,000
67.	GA	I–75/CR 665/Carbondale Road interchange reconstruction, Whitfield County	\$4,000,000
68.	GA	U.S. 411/SR 20 Access Rights from Floyd County to U.S. 41/SR 3 for transportation improvements	\$3,500,000
69.	HI	Saddle Road traffic improvements on the Island of Hawaii	\$10,000,000
70.	HI	Kapolei traffic improvements on the Island of Oahu	\$5,000,000
71.	HI	Queen Kaahumanu Highway traffic improvements on the Island of Hawaii	\$5,000,000
72.	IA	Iowa State University, National Center for Portland Cement Concrete Pavement Technology	\$10,000,000
73.	IA	University of Northern Iowa, Native Roadside Vegetation Enhancement Center, construction and equipment	\$1,000,000

Transportation Improvements—Continued

No.	State	Project Description	Amount
74.	IA	University of Iowa, Public Policy Center—Field Test of Onboard Computer Assessment of Highway User Fees	\$4,000,000
75.	IA	Drake University, 28th and Carpenter Streets Improvements, Des Moines	\$1,500,000
76.	IA	Loess Hills Scenic Byways/Resource Protection, Western Iowa	\$330,000
77.	IA	Great River Road National Scenic Byway, Rivers to the Sea, Dubuque County	\$5,000,000
78.	IA	Great River Road National Scenic Byway, Mud Lake Road, Dubuque County	\$600,000
79.	IA	Great River Road National Scenic Byway, Renovating Old Fort Madison	\$37,445
80.	IA	Great River Road National Scenic Byway, Louisa County	\$1,700,000
81.	IA	Great River Road National Scenic Byway, Montrose	\$73,500
82.	IA	Wapsi-Great Western Trail System, Mitchell and Howard Counties	\$2,300,000
83.	IA	Lewis and Clark Trail Study	\$250,000
84.	IA	Recreation Trail, Comanche to Clinton	\$2,100,000
85.	IA	Mississippi River Trail, Heritage Trail, Dubuque County	\$1,680,000
86.	IA	Mississippi River Trail, Bridge at Credit Island, Davenport	\$2,000,000
87.	IA	Mississippi River Trail, Leach Park in Bettendorf to Riverdale	\$2,165,000
88.	IA	American Discovery Trail, Hoover Nature Trail connect to Ely	\$200,000
89.	IA	American Discovery Trail, connection to Clear Creek Trail, Coralville	\$450,000
90.	IA	Downtown Improvement Project, DeWitt	\$1,700,000
91.	IA	19th Avenue North Connector, Clinton	\$1,500,000
92.	IA	McCollister Boulevard, Iowa City (HP: 830)	\$3,000,000
93.	IA	County Home Road, Linn County	\$1,200,000
94.	IA	Collins Road, Cedar Rapids	\$6,000,000
95.	IA	I–80/Middle Road Interchange Justification Report with Environmental Assessment, Bettendorf	\$500,000

Transportation Improvements—Continued

No.	State	Project Description	Amount
96.	IA	Highway K–35, Woodbury County	\$1,000,000
97.	IA	National Transportation Heroes Center and Regional Transportation Archival, Research, and Library Center, Grinnell	\$3,600,000
98.	IA	Highway 4 Underpass, Jefferson	\$3,000,000
99.	IA	IA 92 Project, Indianola	\$2,000,000
100.	IA	Rehabilitation and Retrofit of Historic Boone County Wagon Bridge	\$800,000
101.	IA	Lincoln Highway Rehabilitation and Restoration Project, Woodbine	\$203,870
102.	IA	IA 57/West 1st Street Reconstruction, Cedar Falls	\$3,000,000
103.	IA	Scotch Ridge Project, Carlisle	\$2,022,000
104.	IA	U.S. 63 Improvements, Chickasaw, Bremer, and Black Hawk Counties (HP: 858)	\$1,486,185
105.	IA	Study of Direct Link to I–80, Pella (HP: 54)	\$110,000
106.	IA	Construction of 100th Street Interchange on I–35/80, Urbandale (HP: 86)	\$220,000
107.	IA	Central Iowa Trail Loop, Ankeny to Woodward (HP: 146)	\$720,000
108.	IA	Study for NE Beltway, Polk County (HP: 209)	\$110,000
109.	IA	Widening University Boulevard, Clive (HP: 275)	\$220,000
110.	IA	Reconstruction of NW Madrid Drive, Polk County (HP: 396)	\$220,000
111.	IA	Widening of Highway 44, Grimes (HP: 834)	\$2,020,000
112.	IA	NW 70th Avenue Reconstruction, Johnston (HP: 848)	\$2,100,000
113.	IA	U.S. 6 Final Phase of Safety Improvements, Coralville (HP: 1098)	\$440,000
114.	IA	Construct IA–32 Arterial from U.S. 20 to U.S. 61 and 151, Dubuque (HP: 1145)	\$4,180,000
115.	IA	Construct Trail from Musser Park to Weggens Road, Muscatine (HP: 1243)	\$110,000
116.	IA	Reconstruction of Neal Smith Trail, Polk County (HP: 1284)	\$792,000
117.	IA	Reconstruction of NE 56th Street, Eastern Polk County (HP: 1540)	\$220,000
118.	IA	Hoeven Corridor/Outer Drive Project, Sioux City (HP: 1581)	\$440,000

Transportation Improvements—Continued

No.	State	Project Description	Amount
119.	IA	Phase III of Main Street Project, Amana (HP: 1791)	\$220,000
120.	IA	Improvements at IA 146 and I–80 Interchange, Grinnell (HP: 2182)	\$220,000
121.	IA	Construct SW Connector, West Des Moines (HP: 2248)	\$3,440,000
122.	IA	U.S. 20 Mississippi River Bridges and Approaches, Dubuque (HP: 2574)	\$5,500,000
123.	IA	I–35 Interchange Improvements, Ankeny (HP: 2837)	\$1,100,000
124.	IA	Construction of NW 26th Street Interchange I–35, Polk County (HP: 3258)	\$220,000
125.	IA	Construct Principal Riverwalk, Des Moines (HP: 3298)	\$1,100,000
126.	IA	Design, rehabilitation and construction of Clear Creek Greenway and associated trails in Johnson County	\$800,000
127.	IA	Design and construction of Central IA Trail Loop from Ankeny to Woodward	\$1,000,000
128.	IA	Design, ROW and construction of Ely Connector Trail in Linn County	\$400,000
129.	IA	Reconstruction of rail line from Oelwein to DeWar	\$1,000,000
130.	IA	Purchase and rehabilitation of 9 mile Rail spur to Bondurant	\$1,000,000
131.	IA	ROW and construction of Mississippi River Trail and related trails in Dubuque County	\$1,000,000
132.	IA	ROW and construction of Mississippi River Trail and related trails in Scott-Muscatine Counties ...	\$1,000,000
133.	IA	Construction of SW Arterial, IA–32 Dubuque	\$6,800,000
134.	IA	Construction of Cedar Falls trails	\$1,000,000
135.	IA	Construction of Hwy 63 in Waterloo	\$3,000,000
136.	IA	Kimberly Road improvements and construction in Davenport	\$3,000,000
137.	IA	Mississippi River Trail, Allamakee County	\$4,900,000
138.	IA	U.S. 71 Bypass, Spencer	\$5,000,000
139.	ID	Transportation improvements to widen U.S. 95, Worley to Mica Creek	\$5,000,000
140.	ID	Transportation Improvements to Improve SH 75, Timmerman to Ketchum	\$2,000,000

Transportation Improvements—Continued

No.	State	Project Description	Amount
141.	ID	Construct Interchange on I–84 at Ten-Mile Road, Meridian, Idaho	\$2,000,000
142.	ID	Reconstruct Grangemont Road (ID Forest Hwy 67) from Orofino to MP 9.3, Segment I, II, and III	\$1,000,000
143.	IL	Preconstruction and construction activities of U.S. 51 between Decatur and Vandalia	\$7,500,000
144.	IL	Preconstruction and construction of North-South Wacker Drive in Chicago	\$15,000,000
145.	IL	Construct new Mississippi River Bridge and related roads in the vicinity of East St. Louis	\$14,000,000
146.	IL	Replace I–74 Bridge in Quad Cities (Moline)	\$3,500,000
147.	IL	Conduct study of U.S. 67 bridge over Illinois River in Beardstown	\$2,000,000
148.	IL	Improvements to the intersection of IL 13 and 37 in Marion	\$1,000,000
149.	IL	Construction to improve access of Interstate 57/64 in Mount Vernon	\$2,000,000
150.	IL	Construction of Joliet Arsenal Road Improvements in Will County	\$1,000,000
151.	IL	Continue expansion of IL 336 in Macomb-Peoria ...	\$2,000,000
152.	IL	Preconstruction and construction of IL 13 Connector in Harrisburg	\$2,000,000
153.	IN	Improvements to existing roadway/railroad crossings, City of Vincennes, Indiana	\$5,000,000
154.	IN	Improvements to existing rail-highway crossings, City of Elkhart, Indiana	\$5,000,000
155.	KS	Widen South Meridian Street from 47th Street South to 71st Street South in Sedgwick County, KS	\$3,000,000
156.	KS	Widen 21st Street North, eastward from Hwy K–96 to the Butler County line in Sedgwick County	\$2,600,000
157.	KS	Reconstruction of railroad and road grade separation project eliminating four high volume at grade crossings on Ridgeview Street, Santa Fe Street, Loula Street, and Park Street in Olathe, KS	\$2,000,000
158.	KS	Construction of South Bypass for Highway 56 in Great Bend	\$2,000,000
159.	KS	Street and sidewalk replacement in downtown Fort Scott	\$400,000

Transportation Improvements—Continued

No.	State	Project Description	Amount
160.	KS	Construction and improvements to RS 255 south of U.S. Highway 156 associated with the Horse Thief Reservoir in Hodgeman County	\$3,600,000
161.	KS	Bridge replacement on Johnson Drive and Nall Ave. associated with the Rock Creek Project in Mission	\$1,200,000
162.	KS	Reconstruction of the box under U.S. Highway 56 on Windsor Lane associated with the Rock Creek Project in Fairway	\$200,000
163.	KS	Reconstruction of the Mission Road Bridge associated with the Rock Creek Project in Fairway, KS	\$1,000,000
164.	KS	Rehabilitation and reconstruction of U.S. 169 and interchange with U.S. 166 in Montgomery County	\$2,000,000
165.	KS	U.S. Highway 50 Shoulder widening between Dodge City and Garden City, KS	\$2,000,000
166.	KY	21st Century Parks Project in Louisville, Kentucky	\$38,000,000
167.	KY	Construction of new I-65 Interchange in Warren County, Kentucky	\$12,000,000
168.	KY	Owensboro Riverfront Development Project in Owensboro, Kentucky	\$10,000,000
169.	KY	Transportation Improvements to AA-I-275 Connector, Campbell County	\$8,000,000
170.	KY	Transportation Improvements to U.S. 60 Owensboro, Daviess County	\$2,000,000
171.	LA	Construction of the Leeville Bridge from Port Fouchon to Golden Meadow	\$10,000,000
172.	MA	Construct rail freight corridor improvements between Boston and Worcester	\$9,000,000
173.	MA	Design and construct bicycle and pedestrian trails in Barnstable County	\$3,000,000
174.	MA	Rutherford Avenue Improvements in Boston	\$9,000,000
175.	MA	Design and construct roadway and streetscape improvements along State Street in Springfield	\$5,000,000
176.	MA	Construct I-91 Corridor Intelligent Transportation System Communications Network, Hampden, Hampshire, and Franklin Counties	\$4,000,000
177.	MA	Design and construct roadway and streetscape improvements along Main Street and Maywood Street, Worcester, MA	\$2,000,000

Transportation Improvements—Continued

No.	State	Project Description	Amount
178.	MA	Design and construct downtown roadway and streetscape improvements in Brockton	\$2,000,000
179.	MA	Design, engineering, and construction at I–93 The Junction Interchange, Andover, Tewksbury, and Wilmington	\$4,000,000
180.	MA	Gainsborough St. and St. Botolph Street Improvements in Boston	\$2,000,000
181.	MD	Upgrade MD 175 in Anne Arundel County between MD 170 and BW Parkway	\$5,000,000
182.	MD	Improve U.S. 40, MD 715 interchange at Aberdeen Proving Ground	\$5,000,000
183.	MD	Upgrade MD 4 at Suitland Parkway	\$5,000,000
184.	MD	Construct Fort McHenry Visitors Center and related parking facilities	\$2,000,000
185.	ME	Plan and construct North-South Aroostook highways to improve access to the St. John Valley, including Presque Isle Bypass and other improvements	\$5,000,000
186.	ME	Repair and improvement of Deer Isle-Sedgwick Bridge	\$3,000,000
187.	ME	Construction of Calais/St. Stephen Border Crossing Project	\$1,000,000
188.	ME	Replacement of Waldo-Hancock Bridge	\$1,000,000
189.	ME	Improvements and construction of U.S. Route 1A and State Route 9 in Bangor, Maine	\$1,500,000
190.	ME	Planning and construction of the Gorham Bypass, Gorham, Maine	\$2,500,000
191.	ME	Access and Traffic Improvements to Route 15 in Brewer, Maine	\$500,000
192.	ME	Sedgwick—Deer Isle Bridge, Sedgwick, Maine	\$3,000,000
193.	ME	Augusta Memorial Bridge improvements, Augusta, Maine	\$1,000,000
194.	ME	Replacement of Waldo-Hancock and construction of related pedestrian walkways	\$1,000,000
195.	ME	Research development of Cathodic Bridge Protection to extend the life of concrete bridges and Marine structures within varied climates	\$500,000
196.	MI	Detroit Riverfront Conservancy, West Riverfront Walkway, Greenway and Adjacent Land Acquisition, from Riverfront Towers to Ambassador Bridge, Detroit	\$20,000,000

Transportation Improvements—Continued

No.	State	Project Description	Amount
197.	MI	Reconstruct and widen I–94 in Kalamazoo	\$20,000,000
198.	MI	Construction of a new at-grade crossing and I–75 interchange to reconnect Milbocker and McCoy Roads and a new overpass to reconnect Van Tyle to South Wisconsin Road in Gaylord	\$7,000,000
199.	MI	The Trowbridge Road Extension to Farm Lane, Ingham County, MI, Farm Lane between Mount Hope Road and Trowbridge Road with underpasses for CN and CSX railroad crossings	\$6,000,000
200.	MI	East Riverfront, completion of Detroit Riverfront East Walkway, Detroit	\$3,000,000
201.	MI	Alger County, Repaving a portion of H–58 between Sullivan Creek towards Little Beaver Road	\$11,000,000
202.	MI	Jackson Road Boulevard Project, Scio Township	\$5,000,000
203.	MI	Blue Water Bridge Plaza Expansion, Improve Highway connections along I–94 and I–69 Port Huron	\$18,000,000
204.	MI	Midtown Detroit Greenway Loop, Detroit Cultural Center in Detroit	\$2,000,000
205.	MI	Pinnacle Aeropark Access Project in Wayne County	\$2,000,000
206.	MI	Washington Ave. Streetscape and rail relocation in Saginaw	\$1,000,000
207.	MI	U.S. 131 widening from the Manistee River to north of M–113 in Grand Traverse County	\$3,000,000
208.	MI	11 Mile Road Reconstruction—Berkley, Huntington Woods, Oak Park	\$2,000,000
209.	MN	Phase III construction of Trunk Highway 610–10 ..	\$8,000,000
210.	MN	Polk, Pennington, Marshall County 10-Ton Corridor in Northwestern Minnesota	\$2,000,000
211.	MO	Mississippi River Bridge St. Louis, Missouri	\$25,000,000
212.	MO	I–29 Paseo Bridge Kansas City, Missouri	\$50,000,000
213.	MO	Page Ave. Extension, Phase 2, St. Charles County, Missouri	\$20,000,000
214.	MO	U.S. 67 Corridor from Butler to St. Francois County, Missouri line	\$15,000,000
215.	MO	Lewis and Clark Expressway, 39th Street to Hwy 24, Jackson County, Missouri	\$30,000,000
216.	MO	Hwy 54 Lake Ozark Bypass, Miller and Camden Counties, Missouri	\$3,000,000

Transportation Improvements—Continued

No.	State	Project Description	Amount
217.	MO	Hwy 13 Warrensburg Bypass, Johnson County, Missouri	\$10,000,000
218.	MO	I–55 Interchange at Main Street, Cape Girardeau, Missouri	\$5,000,000
219.	MO	Rt. 13 in Polk County, Missouri CR 490 to Pine-wood Drive	\$20,000,000
220.	MO	Widen Rt. 66 Duquesne Rd. to Rt. 249, Jasper County, Missouri	\$10,000,000
221.	MO	Grand Ave. Bridge Replacement, St. Louis City, Missouri	\$15,000,000
222.	MO	Hwy 36 Macon to Rt. 24, Marion, Ralls, Monroe, Shelby and Macon Counties	\$7,000,000
223.	MO	Ramsey Creek Bridge, Scott County, Missouri	\$5,000,000
224.	MO	Upgrades to MO Route 14 between U.S. 160 and U.S. 65 in Christian County	\$6,000,000
225.	MO	Upgrades to Scott Road (MO Route TT) between Rollins Road and Brookview Terrace in Boone County	\$3,500,000
226.	MO	Construction of riverfront trails in the City of Warsaw	\$500,000
227.	MS	Widen State Highway 57 from I–10 through Vancleave	\$32,000,000
228.	MS	Widening of I–55 from Highway 304 in DeSoto County to TN State line	\$8,000,000
229.	MS	Byram-Clinton/Norrell Corridor—Connects the Norrell Road Interchange on I–20 to the Byram-Clinton Multimodal Corridor on I–55	\$5,000,000
230.	MS	South Entrance Loop—Mississippi State University	\$5,000,000
231.	MS	Highway 44 Extension/Pearl River Bridge Project, Lawrence and Marion Counties	\$5,000,000
232.	MS	U.S. Highway 78, New Albany Interchange	\$5,000,000
233.	MS	Interstate 69, Unfinished Sections, Mississippi	\$35,000,000
234.	MT	Zimmerman Trail Project, Billings, Montana	\$7,000,000
235.	MT	Taylor Hill Road reconstruction, Secondary 234, Montana	\$3,000,000
236.	MT	Develop and construct Shiloh Road reconstruction project, Billings	\$10,000,000
237.	MT	Develop and construct U.S. 93 Kalispell Bypass project	\$30,000,000

Transportation Improvements—Continued

No.	State	Project Description	Amount
238.	MT	Develop and construct St. Mary water project road and bridge infrastructure including: New bridge and approaches across St. Mary River, stabilization and improvements to U.S. 89, and road/canal from Siphon Bridge to Spider Lake	\$8,000,000
239.	MT	U.S. 2, corridor feasibility study, environmental review and construction, which may include construction of a 4-lane highway, for roadway sections from Glasgow east to the North Dakota State line, provided that all currently programmed highway improvement projects move forward	\$10,000,000
240.	MT	Develop East Belgrade Interchange and connecting roadways to include environmental review	\$8,000,000
241.	MT	Reconstruct Marysville Road consistent with final environmental document, Lewis and Clark County	\$5,000,000
242.	MT	Develop and construct transportation enhancements including bicycle/pedestrian trails, landscaping, footbridges, parks, and river access on and in the vicinity of the Milltown Dam Site, Missoula County and Deer Lodge County	\$5,000,000
243.	MT	Develop Billings bypass, Yellowstone County	\$7,000,000
244.	MT	Develop Great Falls South Arterial, including environmental review	\$4,500,000
245.	MT	Develop and construct Helena I–15 corridor consistent with final environmental document and record of decision	\$10,000,000
246.	MT	Develop and construct U.S. 212 Red Lodge North ..	\$22,000,000
247.	MT	Develop and construct Whitefish pedestrian and bicycle trails	\$3,000,000
248.	MT	Develop and construct parking lot and transportation enhancements including bicycle/pedestrian trails and urban plaza, serving the City of Bozeman Public Library	\$1,125,000
249.	MT	U.S. 2, Swamp Creek East roadway and bridge reconstruction, Lincoln County	\$6,000,000
250.	MT	Russell Street reconstruction and bridge expansion over the Clark Fork River, Missoula	\$6,000,000
251.	MT	Conrad I–15 North Interchange modifications to provide access east of the current interchange, Pondera County	\$4,000,000
252.	MT	Develop and improve access road and structure serving the Port of Montana and Silicon Mountain Technology Park	\$4,000,000

Transportation Improvements—Continued

No.	State	Project Description	Amount
253.	NC	Construction and expansion of Little Sugar Creek Greenway, Charlotte	\$2,000,000
254.	NC	Falls of Neuse Road Widening and Improvement, Raleigh	\$1,000,000
255.	NC	Transportation Improvements at Piedmont Triad Research Park, Winston Salem	\$1,000,000
256.	NC	Plan, design, and construct the 10th street Connector Project in Greenville	\$1,000,000
257.	NC	Randall Parkway Widening and Improvement, Wilmington	\$1,000,000
258.	NC	Construction and improvement of I–73, I–74, U.S. 220, in Montgomery and Randolph Counties	\$1,000,000
259.	NC	U.S. 1 Bypass and improvements around Rockingham	\$1,000,000
260.	NC	Design, engineering, and construction of I–77/Catawba Avenue Interchange, Cornelius	\$1,000,000
261.	NC	Eliminate highway-railway crossings in City of Fayetteville	\$1,000,000
262.	NC	Right-of-way acquisition and construction of U.S. 74 bypass, Monroe	\$3,000,000
263.	NC	Transportation improvements for the Piedmont Triad Research Park, Winston-Salem	\$2,000,000
264.	NC	Acquire right-of-way and construct a new highway that will begin at NC 58 and follow east to U.S. 301, Wilson	\$2,000,000
265.	NC	Transfer of the Williams Street railroad switching operation to the Milan Yard switching operation site, Fayetteville	\$3,000,000
266.	ND	Reconstruction of the Bismarck-Mandan Liberty Memorial Bridge over Missouri River	\$16,000,000
267.	ND	Develop and construct freight intermodal project in North Dakota, including access road construction	\$2,000,000
268.	ND	Rural transportation safety and security research at the Upper Great Plains Transportation Institute at North Dakota State University	\$2,000,000
269.	ND	U.S. 12 Improvements between Bowman and Hettinger	\$3,000,000
270.	ND	Replace Red River Valley Bridge at Drayton, ND ..	\$3,000,000
271.	ND	U.S. 83 Reconstruction from Max to ND 23 South-bound	\$500,000

Transportation Improvements—Continued

No.	State	Project Description	Amount
272.	ND	U.S. 83 Rehabilitation from Linton to Hazelton	\$4,500,000
273.	ND	I–29 Vertical Clearance Improvements from Bowesmont to the Canadian Border	\$2,000,000
274.	ND	U.S. 281 Reconstruction from Edgely to the junction of ND 46	\$7,000,000
275.	NE	Construction of the Antelope Valley Transportation Improvement Project in Lincoln	\$3,800,000
276.	NE	Design and construction of the Cuming Street Transportation Improvement Project in Omaha ..	\$5,700,000
277.	NE	Design and construction of the I–80-Cherry Avenue Interchange and East Bypass in Kearney	\$2,000,000
278.	NE	Construction of the Heartland Expressway between Alliance and Minatare	\$2,500,000
279.	NE	Design, right-of-way and construction of the North Arterial Road in Columbus	\$2,500,000
280.	NE	Research at the Midwest Roadside Safety Facility at the University of Nebraska, Lincoln, Nebraska	\$3,500,000
281.	NJ	PATCO Rolling Stock acquisition and/or renovation for use on line between Lindenwold and Locust Street in Philadelphia	\$10,000,000
282.	NJ	Construct new ramps between I–295 and Route 42	\$10,000,000
283.	NJ	Route 46 Corridor upgrades	\$500,000
284.	NJ	Route 18 Reconstruction in downtown New Brunswick	\$2,500,000
285.	NJ	Interstate 280 Interchange Improvements, Harrison	\$3,000,000
286.	NJ	Widening of Rt. 1 and intersection improvements in South Brunswick	\$2,500,000
287.	NJ	Route 29 conversion project to a full access freeway	\$2,500,000
288.	NJ	Improvements to River Road in Camden	\$1,000,000
289.	NJ	Design and construct Newark Waterfront Pedestrian and Bicycle Access project	\$1,500,000
290.	NJ	Route 9W operational and safety improvements, including I–95 Southbound entrance alterations	\$1,000,000
291.	NJ	Expand TRANSCOM Regional ITS System in NJ, NY, and CT	\$500,000
292.	NM	I–25/U.S. 64 Interchange rehabilitation in Raton ...	\$2,000,000

Transportation Improvements—Continued

No.	State	Project Description	Amount
293.	NM	Reconstruction of NM18 in Lea County	\$3,000,000
294.	NM	Reconstruction of U.S. 180 in Grant County	\$3,000,000
295.	NM	Reconstruction of U.S. 491 from Tohatchi to Shiprock	\$2,000,000
296.	NV	Hoover Dam Bypass—Boulder City Extension	\$26,500,000
297.	NV	California Trail Interpretive Center roadside improvements and access infrastructure	\$2,000,000
298.	NV	I–15 Widening north from U.S. 95 to Apex Road in Clark County	\$26,500,000
299.	NV	V and T Railroad Reconstruction Project in Carson City	\$10,000,000
300.	NV	Carson City Bypass Enhancement Project (Phase II), Carson City (GROW and NDOT)	\$2,000,000
301.	NV	Laughlin-Bullhead City Colorado River Bridge	\$18,000,000
302.	NV	Rail Access Corridor Enhancement in Reno	\$15,000,000
303.	NY	Peace Bridge Redevelopment Project, Road Improvements, and Construction, Buffalo	\$17,000,000
304.	NY	Improvements to Moynihan Station	\$10,000,000
305.	NY	Design and Construction of Renaissance Square Intermodal Facility in Rochester	\$4,000,000
306.	NY	Repair and Restoration of the Outdoor Area on 82nd Street and 5th Avenue	\$3,000,000
307.	NY	Improvements to the New York Public Library vicinity	\$3,000,000
308.	NY	Construction and Improvements to York Street in Auburn	\$2,000,000
309.	NY	Streetscape, Roadway, and Improvements for the College of New Rochelle	\$1,000,000
310.	NY	South Lexington and Post Road Streetscape Expansion in White Plains	\$1,000,000
311.	NY	Planning and Interim Improvements for the Manhattan, Bronx, Yonkers Hudson River Greenway Link	\$1,000,000
312.	NY	DestiNY USA Design, Research, Construction and Improvements	\$5,000,000
313.	NY	Restoration of Vehicle Traffic to Main Street in Downtown Buffalo	\$2,000,000

Transportation Improvements—Continued

No.	State	Project Description	Amount
314.	NY	Roadway, Streetscape, Pedestrian, and Parking Improvements to the Buffalo Niagara Medical Campus in Buffalo	\$6,000,000
315.	OH	Reconstruction of Cleveland Inner Belt and replacement of the Central Viaduct Bridge. Cleveland, OH	\$85,000,000
316.	OH	SR 3 intersection/interchange improvements and signalization, Franklin County, OH (PID 76279)	\$2,500,000
317.	OH	SR 81 widening, turn lane addition, and safety improvements, Allen County, OH (PID 75928)	\$1,100,000
318.	OH	U.S. 422 turn lane addition and traffic flow improvements at SR 88/SR 528, Geauga County OH (PID 78343)	\$600,000
319.	OH	SR 39 add 2-way left turn lane, signalization, and safety improvements, Tuscarawas County OH (PID 19598)	\$1,600,000
320.	OH	U.S. 36 signal relocation and related safety improvements, Delaware County, OH (PID 76276)	\$2,000,000
321.	OH	SR 39 2-way turn lane addition, signalization, and safety improvements, Holmes County, OH (PID 23913)	\$600,000
322.	OH	Evans Avenue/CSX RR Grade Separation Improvements, Akron, OH	\$1,600,000
323.	OK	State of Oklahoma I–40 Crosstown Realignment in Oklahoma City	\$110,000,000
324.	OK	The University of Oklahoma to conduct research in global tracking methods for intermodal containerized freight	\$7,000,000
325.	OK	State of Oklahoma for control of outdoor advertising	\$1,000,000
326.	OK	Reconstruction of SH 20 in Owasso, Oklahoma	\$2,000,000
327.	OK	Widen Hwy 60 between Ponca City and Bartlesville	\$10,800,000
328.	OK	Trails in Tulsa, Mingo Creek, NCOG—Complete and extend Mingo trail from 41st to 81st St., from 11th St. to Mohawk Park	\$2,000,000
329.	OK	Signalization, Complete update of traffic signals with LED illumination technology	\$2,200,000
330.	OR	To add a southbound lane to a section of I–5 through Portland, OR between Delta Park and Lombard, Portland, Oregon	\$2,000,000
331.	OR	Sunrise Corridor, Clackamas County, Oregon	\$1,000,000

Transportation Improvements—Continued

No.	State	Project Description	Amount
332.	OR	Reroute U.S. 97 at Redmond, Oregon and improvements to intersection of U.S. 97 and Oregon 126	\$1,400,000
333.	OR	Construct Barber Street extension, Wilsonville, Oregon	\$600,000
334.	OR	Construct highway and pedestrian access to Macadam Ave. and street improvements as part of South waterfront development, Portland, Oregon	\$1,800,000
335.	OR	Sellwood Bridge, Multnomah County, Oregon	\$2,000,000
336.	OR	Highway 22-Cascade Highway interchange improvements, Marion County, Oregon	\$1,600,000
337.	OR	I-5 Trade Corridor, Portland, Oregon to Vancouver, Washington Segment	\$2,000,000
338.	OR	Highway 101 Improvements, Oregon	\$500,000
339.	OR	I-205 Widening, Clackamas County, Oregon	\$1,400,000
340.	OR	Phase 1 I-205/Highway 213 Interchange Improvements, Oregon	\$1,500,000
341.	OR	Kuebler Boulevard Improvements, Salem, Oregon	\$500,000
342.	OR	To construct sidewalks and improve storm drainage and gutters for the City's Safe Walk Plan, Medford, Oregon	\$2,000,000
343.	OR	Highway 140 Transportation Improvements, Lake County, Oregon	\$1,700,000
344.	PA	Warrendale-Bayne Road improvements from I-79 to SR 19, in Allegheny County	\$2,800,000
345.	PA	For design, engineering, ROW acquisition, and construction of the third phase of the Marshalls Creek Bypass Project in Monroe County, Pennsylvania	\$1,000,000
346.	PA	Construction of Central Susquehanna Valley Thruway	\$600,000
347.	PA	Improvements to SR 130 and the College Avenue Underpass, Greensburg, PA	\$500,000
348.	PA	Mifflin County Industrial Park Access Road	\$500,000
349.	PA	Improvements to Section 114 of State Route 150, Centre County, PA	\$2,500,000
350.	PA	Upgrade to SR 228, Cranberry Township, PA	\$1,500,000
351.	PA	Purchase of right-of-way, utilities and construction for Northern Access to Altoona from Interstate 99, Blair County, PA	\$600,000
352.	PA	Reconfiguration of the Rochester Riverfront ramp	\$500,000

Transportation Improvements—Continued

No.	State	Project Description	Amount
353.	PA	Construct the Alle-Kiski Bridge and Connector	\$1,500,000
354.	PA	Construct an intermodal center at the Philadelphia Zoo	\$1,000,000
355.	PA	For interpretive signage and trails in Pittsburgh urban park land	\$2,000,000
356.	PA	Construct an intermodal facility in Derry Township	\$1,000,000
357.	PA	Construction of the Schuylkill Gateway Project	\$700,000
358.	PA	Da Vinci Center hydrogen fuel-celled transit vehicles	\$200,000
359.	PA	Construct a road along the North Delaware Riverfront Corridor from Buckius Street to Poquessing Creek	\$1,000,000
360.	PA	Widen I–81 from four to six lanes in the Wilkes-Barre/Scranton corridor	\$1,000,000
361.	PA	Improvements to the Pleasant Valley and Sandy Hill Roads intersection with SR 130 in Penn Township	\$300,000
362.	PA	Improvements to access roads at the Please Touch Museum	\$300,000
363.	PA	Construct the North Delaware River East Coast Greenway Trail	\$500,000
364.	RI	To enhance the infrastructure surrounding and for transportation improvements relative to the intermodal station at Warwick	\$20,000,000
365.	RI	Improvements to Warren Bridge (Warren)	\$11,000,000
366.	RI	Open space acquisition to mitigate growth associated with SR 4 and Interstate 95, by non-profit land conservation agencies through acquisition of fee or easement, with a match requirement of 50% of the total purchase price	\$2,000,000
367.	RI	Ten Mile River Greenway (Pawtucket, E. Providence)	\$3,000,000
368.	RI	Washington Secondary Bicycle Facility/Coventry Greenway/Trestle Trail (Coventry)	\$4,000,000
369.	RI	South County Bike Path (South Kingstown, Narragansett)	\$2,000,000
370.	RI	New Interchange constructed from I–195 to Taunton and Warren Avenue in East Providence	\$1,500,000

Transportation Improvements—Continued

No.	State	Project Description	Amount
371.	RI	Jamestown Bridge Demolition—Bicycle Access/ Trestle Span Demolition/Fishing Pier (N. Kingstown)	\$11,500,000
372.	RI	Sakonnet River Bridge Replacement	\$15,000,000
373.	RI	Rt. 146 Safety Improvements in North Smithfield	\$5,000,000
374.	SD	Construction of 4-lane highway on U.S. 79 between Maverick Junction, and the Nebraska border	\$19,000,000
375.	SD	Rosebud community streets reconstruction and paving	\$6,000,000
376.	SD	Aberdeen bike trail extension	\$1,000,000
377.	SD	Whether or not otherwise eligible in title 23, con- struct Phase II and III of Phillips to the Falls Project. Notwithstanding any other provision of law, with respect to costs for Phase II and III of this project paid for from this \$40 million, the Federal share of project costs shall be 100 per- cent	\$40,000,000
378.	SD	Rapid City Greenway Pedestrian and bike path ex- pansion	\$2,000,000
379.	SD	Brookings bike path	\$100,000
380.	SD	Sioux Falls Bike Path—Dunham Park, Skunk Creek, 12th St., and I–29 to Sertoma Park	\$1,170,000
381.	SD	For bike paths and pedestrian walkways within Yankton, Pierre, Huron, Watertown, and Madi- son. Allocation for such paths will be determined by the State	\$2,500,000
382.	SD	Directed to SD DOT for projects it determines to be of high priority	\$3,230,000
383.	TN	North Second Street Corridor Upgrade, Memphis ..	\$2,000,000
384.	TN	Upgrade roads for Slack Water Port facility and industrial park, Lake County, TN	\$2,000,000
385.	TN	Plan and construct Rutherford County visitor's center/transportation information hub, Ruther- ford County, Tennessee	\$1,000,000
386.	TN	Warren County Mountain View Industrial Park ac- cess road, Warren County, TN	\$1,000,000
387.	TN	Construction of an Interchange on Highway 64 (APD 40) adjacent to I–75 Exit 20 in the City of Cleveland, TN for increased safety	\$2,000,000
388.	TN	Sullivan, Washington Counties, Tennessee SR 75 widening	\$1,000,000

Transportation Improvements—Continued

No.	State	Project Description	Amount
389.	TN	Sevier County, TN SR 66 widening	\$500,000
390.	TN	Reconstruct U.S. 79 between Milan and McKenzie	\$5,000,000
391.	TN	Construct Transportation and Heritage museum, Townsend	\$500,000
392.	UT	Widen Highway 92 from Lehi to Highland	\$3,000,000
393.	UT	Widen Redwood Road from Bangerter Highway in Salt Lake County through Saratoga Springs in Utah County	\$2,000,000
394.	UT	Construction of 200 North Street highway-rail graded crossing separation, Kaysville, Utah	\$2,000,000
395.	UT	Bear River Migratory Bird Refuge Access Road Improvements, Box Elder County, Utah	\$500,000
396.	UT	State Street Reconstruction Project—10600 South to 9400 South, Sandy, Utah	\$2,500,000
397.	UT	Geneva Rd./Provo Center Street, Orem 1600 North to I–15 Fwy, Provo-widen from 2 to 4 lanes, Provo	\$6,000,000
398.	UT	Provo, Utah Westside Connector from I–15 to Provo Municipal Airport, Provo	\$4,000,000
399.	UT	Bear River Migratory Bird Refuge Access Road Improvements, Box Elder County	\$3,000,000
400.	UT	Widen Highway 92 from Lehi to Alpine/Highland ..	\$5,000,000
401.	UT	Construction of 200 North Street highway-rail graded crossing separation, Kaysville	\$7,000,000
402.	UT	Expand Redhills Parkway from 2 to 5 lanes and improve alignment within rights-of-way in St. George	\$8,000,000
403.	UT	Construction and Rehabilitation of 13th East in Sandy City	\$7,000,000
404.	VA	Hampton Roads Third Crossing-Segment 1	\$37,000,000
405.	VA	Manage Freight movement and safety improvements to I–81	\$38,000,000
406.	VA	Construct Old Mill Road extension	\$3,000,000
407.	VA	Widen Route 262 in Augusta County	\$3,000,000
408.	VA	Construct Meadowcreek Parkway Interchange, Charlottesville	\$2,000,000
409.	VA	Widening I–95 between Rt. 123 and Fairfax County Parkway	\$2,000,000
410.	VT	Improvements to Vermont Small Bridges	\$30,000,000

Transportation Improvements—Continued

No.	State	Project Description	Amount
411.	VT	Improvements to Vermont interstates	\$10,000,000
412.	VT	Vermont Institute of Natural Science turning lane on U.S. Rt. 4 in Woodstock	\$300,000
413.	VT	Western Corridor Rail Improvements, ABRB&E, Vermont	\$30,000,000
414.	VT	Design and Construction of the Bennington Welcome Center	\$6,500,000
415.	VT	Improvements to the E. Alburg Railroad Trestle Swing Span	\$5,000,000
416.	VT	Rehabilitation of Hartford Northbound and Southbound rest areas	\$6,500,000
417.	VT	Improvements to the Island Line at South Street in South Hero	\$2,000,000
418.	VT	Property acquisition and improvements for public access and viewshed protection for the Cedar Creek Vermont monument at the Cedar Creek and Belle Grove National Historical Park in Virginia	\$2,000,000
419.	VT	Design and construction of the South Burlington City Center project	\$5,000,000
420.	VT	Rehabilitation of statewide covered bridges	\$6,200,000
421.	VT	Improvements to the Green Mountain Rail Line between Rutland and Bellows Falls	\$2,500,000
422.	VT	Streetscape and road improvements in the Village of Enosburg Falls	\$1,000,000
423.	VT	Signalization and storm drainage improvements to Main Street in Brattleboro	\$3,000,000
424.	VT	Streetscape, trail and road improvements in Lamoille, Caledonia, Grand Isle and Chittenden Counties	\$4,000,000
425.	VT	Vermont Statewide Transportation and Stormwater Projects	\$6,000,000
426.	WV	Improvements to U.S. Rt.–35 in Putnam County ...	\$25,000,000
427.	WV	Raleigh Street Extension Project in Martinsburg ...	\$10,000,000
428.	VA	I–64/City Line Road Interchange in Virginia Beach	\$5,000,000
429.	AS	Shoreline protection and drainage mitigation for Nuuuuli village roads	\$1,000,000
430.	AS	Village road improvements for Ta'u, Ofu, and Olosega-Sili counties in Manu'a district	\$1,400,000

Transportation Improvements—Continued

No.	State	Project Description	Amount
431.	AS	Shoreline protection and drainage mitigation for Aua village roads	\$1,000,000
432.	AS	Drainage mitigation in Malaeloa-Leone village roads	\$1,400,000
433.	AS	To upgrade, repair and continue construction of Ta'u harbor/ferry terminal facility on Manu'a island	\$1,600,000
434.	AS	Village road improvements for Launiusaelua and Ituuau counties in the Central district	\$3,000,000
435.	AS	Village road improvements for Tualauta, Tualatai, Aitulagi, Fofu, and Alatau counties in the Western district	\$3,000,000
436.	AS	Village road improvements for Sua and Vaifanua counties in the Eastern district	\$2,600,000
437.	AS	Drainage mitigation for Pago Pago village roads	\$1,000,000
438.	GU	Reconstruct Hagåtña River Bridges, Municipality of Hagåtña	\$6,600,000
439.	GU	Piti, GU Construct Cabras Island Intermodal Facility	\$6,000,000
440.	GU	Guam Mass Transit Authority Acquisition of transit vehicles for disabled persons	\$400,000
441.	GU	Construct Route 3A Extension, Municipality of Yigo	\$3,000,000
442.	MP	Planning design and construction of East Coast Highway/ Route 36, Saipan	\$12,000,000
443.	PR	Construction of 4 lane connector serving PR 9922, PR 9939 and PR 183	\$1,950,000
444.	PR	Widening of PR 111 at the intersections of PR-444 through PR-423	\$6,000,000
445.	PR	Replacement ferries on Culebra and Vieques routes	\$2,000,000
446.	PR	To build an extension of PR-53 between Yabucoa and Maunabo	\$5,000,000
447.	PR	To build the missing central segment of PR-10, to complete one of only two highways crossing Puerto Rico North to South	\$5,000,000
448.	PR	To revitalize Old San Juan Historic District streets	\$3,000,000
449.	PR	Widen Route 835 to provide ready access to Guaynado and facilitate housing, industrial, commercial, and recreational development	\$6,000,000

Transportation Improvements—Continued

No.	State	Project Description	Amount
450.	PR	Construct sidewalks, curbs and gutters in the Municipality of Loiza. (PR 187 from Mediania Baja to Puente Herrera; Community La Torre, Pinones)	\$500,000
451.	PR	Extension of PR 833, between the PR-177 and the PR 2. The extension is approximately of 0.8km ..	\$1,000,000
452.	PR	Reconstruct various roads throughout the Municipality of Bayamon, including pavings and cold millings as well as construction of gutters. (PR 2; PR 829; PR 830; PR 861; PR 862; PR 840; PR 29)	\$2,000,000
453.	PR	Construct extension of 1.04 km to the “Caridad del Cobre” Avenue in Bayamon between the PR 199 and Urb. Canaa	\$3,000,000
454.	PR	Roadway improvements for municipal roads in Orocovis	\$661,000
455.	VI	Christiansted By-Pass Highway, St. Croix	\$8,000,000
456.	VI	Upgrade West-East Corridor through Charlotte Amalie, St. Thomas	\$8,000,000
457.	MN	Lake Street Access to I-35W, Minneapolis	\$6,000,000
458.	OH	Construction, including design and engineering, of an approximately 30,000 sq. ft. terminal building to accommodate the Trans-Erie ferry service which departs the Cleveland-Cuyahoga County Port Authority, Cleveland, Ohio	\$6,000,000
459.	NY	Various transportation projects related to the DestiNY USA project	\$5,000,000
460.	CA	Construction at Lammers Road and I-205	\$5,000,000
461.	CA	Feasibility study for constructing SR 130 Realignment project connecting the central valley and San Joaquin County and Santa Clara county	\$6,000,000
462.	FL	Coconut Rd. interchange I-75/Lee County	\$10,000,000
463.	AR	Improvements to U.S. 412 in Northwest Arkansas	\$6,500,000
464.	CA	Construction of and improvements to State Route 239 from State Route 4 in Brentwood area to I-205 in the area of Tracy	\$10,000,000
465.	CA	Design and construction of Camino Tassajara Crown Canyon to East Town Project	\$5,000,000
466.	CA	Engineering right-of-way and construction of I-580 in the Livermore Valley	\$6,000,000

SEC. 1935. PROJECT FLEXIBILITY.

(a) IN GENERAL.—Notwithstanding any other provision of law, funds allocated for a project described in subsection (b) in a State

may be obligated for any other project in the State for which funds are so allocated, except that the total amount of funds authorized for any project for which funds are so allocated shall not be reduced.

(b) **PROJECTS.**—The projects described in this subsection are—

(1) the projects numbered greater than 3676 listed in the table contained in section 1702 of this Act;

(2) the projects numbered greater than 18 listed in the table contained in section 1301 of this Act;

(3) the projects numbered greater than 27 listed in the table contained in section 1302 of this Act; and

(4) the projects listed in the table contained in section 1934 of this Act.

23 USC 104 note.

SEC. 1936. ADVANCES.

Notwithstanding any other provision of law, funds apportioned to a State under section 104(b) of title 23, United States Code, may be obligated to carry out a project designated in any of sections 1301, 1302, 1306, and 1934 of this Act and sections 117 and 144(g) of title 23, United States Code, in an amount not to exceed the amount authorized for that project, only from a program under which the project would be eligible, except that any amounts obligated to carry out the project shall be restored from funds allocated for the project.

North Dakota.

SEC. 1937. ROADS IN CLOSED BASINS.

(a) **IN GENERAL.**—The Secretary shall use funds made available to carry out section 125 of title 23, United States Code, through advancement or reimbursement, without further emergency declaration, to construct such measures as the Secretary determines to be necessary for the continuation of roadway services, or the impoundment of water to protect roads, or both, at Devils Lake in the State of North Dakota, as the Secretary determines to be appropriate.

(b) **REQUIREMENTS.**—The Secretary shall carry out construction under subsection (a) in accordance with—

(1) the options and needs identified in the report of the Devils Lake Surface Transportation Task Force of the Federal Highway Administration dated May 4, 2000, and entitled “Roadways Serving as Water Barriers”;

(2) any needs relating to Devils Lake identified after May 4, 2000; and

(3) any monitoring, study, or design or preliminary engineering associated with evaluating or constructing the measures.

(c) **AFFECTED AREAS.**—The Secretary shall carry out construction under this section in an area that has been the subject of an emergency declaration issued during the period beginning on January 1, 1993, and ending on the date of enactment of this Act.

(d) **FUNDING.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), to the extent that expenditures relating to construction under this section could not be made pursuant to any other authority under section 125 of title 23, United States Code, the expenditures shall not exceed—

(A) \$10,000,000 during any fiscal year; and

(B) a total amount of \$70,000,000.

(2) EXCEPTION.—Nothing in paragraph (1) limits any expenditure with respect to—

(A) emergency relief in response to a development occurring after the date of enactment of this Act; or

(B) an authority under any other provision of law (including section 125 of such title).

(e) EFFECT OF SECTION.—Nothing in this section authorizes or provides funding for the construction, operation, or maintenance of an outlet at Devils Lake in the State of North Dakota.

SEC. 1938. TECHNOLOGY.

Bridges.

States are encouraged to consider using a nondestructive technology able to detect cracks including sub-surface flaws as small as 0.005 inches in length or depth in steel bridges.

SEC. 1939. BIA INDIAN ROAD PROGRAM.

Alaska.

(a) LIMITATION ON APPLICABILITY OF CERTAIN RULE.—The final rule effective October 1, 2004, published in the Federal Register, July 19, 2004, at pages 43089, relating to the Indian reservation road program administered by the Bureau of Indian Affairs of the Department of the Interior, shall not apply to the following Alaska villages with respect to the following projects:

(1) Craig, Alaska, Craig Community Association, Point St. Nicholas Road improvements.

(2) Cordova, Alaska, Native Village of Eyak, Shepard's Point Road improvements.

(3) Hydaburg, Alaska, Hydaburg Community Association, Hydaburg community street improvements.

(4) Healy Lake, Alaska, Healy Lake Traditional, Cummings Road improvements.

(b) SPECIAL RULE.—For the villages listed in subsection (a), the Indian reservation road program shall be administered by the Bureau of Indian Affairs under the rules and regulations in effect before the adoption of the final rule referred to in subsection (a), and the Secretary shall pay, from amounts made available to carry out section 202(d) of title 23, United States Code, for fiscal year 2006 each of the tribal organizations referred to in subsection (a) for the Federal share of the costs of the projects listed in subsection (a).

SEC. 1940. GOING-TO-THE-SUN ROAD, GLACIER NATIONAL PARK, MONTANA.

(a) PROJECT AUTHORIZATION.—There is authorized to be appropriated to the Secretary from the Highway Trust Fund (other than the Mass Transit Account) to resurface, repair, rehabilitate, and reconstruct the Going-to-the-Sun Road at Glacier National Park, Montana, in accordance with the framework identified in Alternative 3 (shared use alternative) of the environmental impact statement and record of decision dated 2003 and relating to the Going-to-the-Sun Road, to remain available until expended—

(1) \$10,000,000 for fiscal year 2005;

(2) \$10,000,000 for fiscal year 2006;

(3) \$10,000,000 for fiscal year 2007;

(4) \$10,000,000 for fiscal year 2008; and

(5) \$10,000,000 for fiscal year 2009.

(b) FEDERAL SHARE.—The Federal share of the costs of the project described in subsection (a) shall be 100 percent.

SEC. 1941. BEARTOOTH HIGHWAY, MONTANA.

(a) **PROJECT AUTHORIZATION.**—Of funds made available for the State of Montana for the project for development and construction of United States Route 212, Red Lodge North, Montana, as described in the table contained in section 1934 (including amounts transferred to the project under section 1935), on request of the State of Montana, the Secretary shall obligate such sums as are necessary to reconstruct the Beartooth Highway in the State of Montana.

(b) **REIMBURSEMENT.**—The amounts used for reconstruction under subsection (a) shall be reimbursed to the project relating to United States Route 212 described in subsection (a) on the date or dates on which funding is allocated for the Beartooth Highway under section 125 of title 23, United States Code.

(c) **FEDERAL SHARE.**—The Federal share payable for funds allocated for the Beartooth Highway under section 125 of such title shall be 100 percent.

State listing.

SEC. 1943. GREAT LAKES ITS IMPLEMENTATION.

(a) **IN GENERAL.**—The Secretary shall make grants to the State of Wisconsin to continue intelligent transportation system activities in the corridor serving the Greater Milwaukee, Wisconsin, Chicago, Illinois, and Gary, Indiana, areas initiated under the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240) and other areas of the State of Wisconsin.

(b) **FUNDING.**—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) \$2,000,000 for each of fiscal years 2006 through 2008 and \$3,000,000 for fiscal year 2009 to carry out this section.

(c) **CONTRACT AUTHORITY.**—Funds made available to carry out this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

SEC. 1944. TRANSPORTATION CONSTRUCTION AND REMEDIATION, OTTAWA COUNTY, OKLAHOMA.

(a) **IN GENERAL.**—The Secretary shall allocate to the State of Oklahoma amounts made available to carry out this section for the activities described in subsection (b).

(b) **OKLAHOMA PLAN FOR TAR CREEK.**—The activities referred to in subsection (a) are all activities described in the Oklahoma Plan for Tar Creek, including activities under that Plan that are to be carried out by involved Federal and State entities.

(c) **FUNDING.**—

(1) **AUTHORIZATION OF APPROPRIATIONS.**—

(A) **IN GENERAL.**—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section \$10,000,000 for fiscal year 2006.

(B) **AVAILABILITY.**—Funds authorized to be appropriated under subparagraph (A) shall remain available until expended.

(2) **CONTRACT AUTHORITY.**—Except as otherwise provided in this section, funds authorized to be appropriated under this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

(3) **TITLE 23 ELIGIBILITY.**—Activities described in subsection (b) shall be considered to be eligible for funding under any program for which funds are apportioned under section 104(b) of such title, as in effect on the day before the date of enactment of this section.

SEC. 1945. INFRASTRUCTURE AWARENESS PROGRAM.

(a) **IN GENERAL.**—In cooperation with the subcontracting production entity that received funds under section 1212(b) of the Transportation Equity Act for the 21st Century (112 Stat. 193), the Secretary shall fund the production of a documentary about infrastructure that demonstrates advancements in Alaska, the last frontier.

(b) **FEDERAL SHARE.**—The Federal share of the cost of production of the documentary under subsection (a) shall be 100 percent.

(c) **FUNDING.**—There is authorized to be appropriated out of the Highway Trust fund (other than the Mass Transit Account) to carry out this section \$1,500,000 for fiscal year 2005 and \$1,450,000 for fiscal year 2006. Such fund shall remain available until expended.

(d) **APPLICABILITY OF TITLE 23.**—Funds authorized by this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of production of the documentary under this section shall be determined in accordance with this section.

SEC. 1946. GATEWAY RURAL IMPROVEMENT PILOT PROGRAM.

Vermont.

(a) **IN GENERAL.**—The Secretary shall establish a pilot program in the State of Vermont to be known as the “Gateway Rural Improvement Pilot Program” (referred to in this section as the “program”) to demonstrate the benefits to a rural rail corridor of a freight transportation gateway program.

(b) **ELIGIBLE ACTIVITIES.**—Under the program—

(1) funding preference shall be given to selecting a corridor in the State of Vermont that includes a border crossing; and

(2) individual projects shall provide community and highway benefits by addressing economic, congestion, security, safety, and environmental issues.

(c) **COST SHARING.**—

(1) **FEDERAL SHARE.**—The Federal share of the cost of a project under this section shall be determined in accordance with section 120 of title 23, United States Code.

(2) **NON-FEDERAL SHARE.**—Project user fees may be used to provide all or part of the non-Federal share of the cost of a project funded under this section.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—In addition to such amounts as are otherwise authorized to be appropriated for the Department, there are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 1947. ELIGIBLE SAFETY IMPROVEMENTS.

Section 120(c) of title 23, United States Code, is amended in the first sentence by inserting “traffic circles (also known as ‘roundabouts’),” after “traffic control signalization,”.

Massachusetts.

SEC. 1948. EMERGENCY SERVICE ROUTE.

Notwithstanding any Federal law, regulation, or policy to the contrary, no Federal funds shall be obligated or expended for the demolition of the existing Brightman Street Bridge connecting Fall River and Somerset, Massachusetts, and the existing Brightman Street Bridge shall be maintained for pedestrian and bicycle access, and as an emergency service route.

Alaska.

SEC. 1949. KNIK ARM BRIDGE FUNDING CLARIFICATION.

The Secretary shall provide to the public entity known as the Knik Arm Bridge and Toll Authority, established by the State of Alaska, funds provided in items 2465 and 3677 in the table contained in section 1702, item 2 in the table contained in section 1934, and item 14 in the table contained in section 1302.

Louisiana.

SEC. 1950. LINCOLN PARISH, LA/I-20 TRANSPORTATION CORRIDOR PROGRAM.

(a) IN GENERAL.—The Secretary shall credit non-Federal expenditures paid on or after October 23, 2000, by project sponsors of the Lincoln Parish transportation and community and system preservation project funded by the Department of Transportation and Related Agencies Appropriations Act, 2001 (Public Law 106–346), and the United States Route 167/I–20 interchange Interstate maintenance discretionary project funded by the Department of Transportation and Related Agencies Appropriations Act, 2002 (Public Law 107–87), that are in excess of the non-Federal matching requirements for such projects as non-Federal contributions toward the non-Federal matching requirements for all LA/I–20 Transportation Corridor Program elements between Louisiana Route 149 and Louisiana Route 33.

(b) EXPIRATION OF AUTHORITY.—The authority to provide credit under subsection (a) expires on September 30, 2009.

SEC. 1951. BONDING ASSISTANCE PROGRAM.

Section 332 of title 49, United States Code, is amended by inserting at the end the following:

“(e) BONDING ASSISTANCE.—

“(1) IN GENERAL.—The Secretary, acting through the Minority Resource Center established under subsection (b), shall provide assistance in obtaining bid, payment, and performance bonds by disadvantaged business enterprises pursuant to subsection (b)(4).

“(2) AUTHORIZATION OF APPROPRIATION.—There is authorized to be appropriated such sums as may be necessary for each of fiscal years 2005 through 2009 to carry out activities under this subsection.”.

Virginia.

SEC. 1952. CONGESTION RELIEF.

The Secretary shall conduct a design and feasibility analysis to alleviate southbound traffic congestion along the George Washington Parkway, Virginia, between Interstate Route 495 and the 14th Street Bridge and shall take appropriate action in response to the results of that analysis.

SEC. 1953. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out, in accordance with title 23, United States Code, projects under section 1301 and 1302 of this Act.

SEC. 1954. BICYCLE TRANSPORTATION AND PEDESTRIAN WALKWAYS.

Section 217(c) of title 23, United States Code, is amended by striking “in conjunction with such trails, roads, highways, and parkways”.

SEC. 1955. CONVEYANCE TO THE CITY OF ELY, NEVADA.

Notwithstanding sections 202 and 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1711, 1712), the Secretary of the Interior, acting through the Director of the Bureau of Land Management, shall convey within 45 days after the date of enactment of this Act to the City of Ely, Nevada, subject to valid existing rights, without consideration, all right, title, and interest of the United States in the land located within the railroad corridor described in rights-of-way numbered Nev–043230, Nev–043231, Nev–043232, Nev–43240, Nev–043234, ELKO–03009, ELKO–03514, and CC–05887.

SEC. 1956. BROWNFIELDS GRANTS.

Section 104(k)(4)(B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604(k)(4)(B)) is amended by adding at the end the following:

“(iii) EXCEPTION.—Notwithstanding clause (i)(IV), the Administrator may use up to 25 percent of the funds made available to carry out this subsection to make a grant or loan under this subsection to eligible entities that satisfy all of the elements set forth in section 101(40) to qualify as a bona fide prospective purchaser, except that the date of acquisition of the property was on or before January 11, 2002.”.

SEC. 1957. TRAFFIC CIRCLE CONSTRUCTION, CLARENDON, VERMONT.

(a) IN GENERAL.—The State of Vermont agency of transportation shall—

Deadlines.

(1) not later than August 1, 2005, commence planning for a traffic circle at the intersection of United States Route 7 and Vermont Route 103 in Clarendon, Vermont; and

(2) not later than August 1, 2007, complete construction of that traffic circle.

(b) FUNDING.—From amounts made available to the State of Vermont by this Act, the Secretary shall provide to the State of Vermont agency of transportation \$1,000,000 for use in carrying out this section.

SEC. 1958. LIMITATION ON PROJECT APPROVAL.

Florida.

Notwithstanding any provision of title 23, United States Code, the Secretary is prohibited from approving any Federal-aid highway project in Orange and Seminole Counties, Florida, which provides access from Interstate Route 4 to the right-of-way or median of Interstate Route 4 if tolls or toll facilities are used for the access to the right-of-way or median.

SEC. 1959. CROSS HARBOR FREIGHT MOVEMENT PROJECT.

New York.
New Jersey.

The Secretary shall provide to the public entity known as the Port Authority of New York and New Jersey, established by the States of New York and New Jersey, funds provided for project numbered 12 in section 1301 of this Act.

SEC. 1960. DENALI ACCESS SYSTEM PROGRAM.

The Denali Commission Act of 1998 (42 U.S.C. 3121 note) is amended—

- (1) by redesignating section 309 as section 310; and
- (2) by inserting after section 308 the following:

“SEC. 309. DENALI ACCESS SYSTEM PROGRAM.

Deadline.

“(a) ESTABLISHMENT OF THE DENALI ACCESS SYSTEM PROGRAM.—Not later than 3 months after the date of enactment of the SAFETEA-LU, the Secretary of Transportation shall establish a program to pay the costs of planning, designing, engineering, and constructing road and other surface transportation infrastructure identified for the Denali access system program under this section.

Deadline.

“(b) DENALI ACCESS SYSTEM PROGRAM ADVISORY COMMITTEE.—

“(1) ESTABLISHMENT.—Not later than 3 months after the date of enactment of the SAFETEA-LU, the Denali Commission shall establish a Denali Access System Program Advisory Committee (referred to in this section as the ‘advisory committee’).

“(2) MEMBERSHIP.—The advisory committee shall be composed of nine members to be appointed by the Governor of the State of Alaska as follows:

“(A) The chairman of the Denali Commission.

“(B) Four members who represent existing regional native corporations, native nonprofit entities, or tribal governments, including one member who is a civil engineer.

“(C) Four members who represent rural Alaska regions or villages, including one member who is a civil engineer.

“(3) TERMS.—

“(A) IN GENERAL.—Except for the chairman of the Commission who shall remain a member of the advisory committee, members shall be appointed to serve a term of 4 years.

“(B) INITIAL MEMBERS.—Except for the chairman of the Commission, of the eight initial members appointed to the advisory committee, two shall be appointed for a term of 1 year, two shall be appointed for a term of 2 years, two shall be appointed for a term of 3 years, and two shall be appointed for a term of 4 years. All subsequent appointments shall be for 4 years.

“(4) RESPONSIBILITIES.—The advisory committee shall be responsible for the following activities:

“(A) Advising the Commission on the surface transportation needs of Alaska Native villages and rural communities, including projects for the construction of essential access routes within remote Alaska Native villages and rural communities and for the construction of roads and facilities necessary to connect isolated rural communities to a road system.

“(B) Advising the Commission on considerations for coordinated transportation planning among the Alaska Native villages, Alaska rural villages, the State of Alaska, and other government entities.

“(C) Establishing a list of transportation priorities for Alaska Native village and rural community transportation projects on an annual basis, including funding recommendations.

“(D) Facilitate the Commission’s work on transportation projects involving more than one region.

“(5) FACA EXEMPTION.—The provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the advisory committee.

“(c) ALLOCATION OF FUNDS.—

“(1) IN GENERAL.—The Secretary shall allocate funding authorized and made available for the Denali access system program to the Commission to carry out this section.

“(2) DISTRIBUTION OF FUNDING.—In distributing funds for surface transportation projects funded under the program, the Commission shall consult the list of transportation priorities developed by the advisory committee.

“(d) PREFERENCE TO ALASKA MATERIALS AND PRODUCTS.—To construct a project under this section, the Commission shall encourage, to the maximum extent practicable, the use of employees and businesses that are residents of Alaska.

“(e) DESIGN STANDARDS.—Each project carried out under this section shall use technology and design standards determined by the Commission to be appropriate given the location and the functionality of the project.

“(f) MAINTENANCE.—Funding for a construction project under this section may include an additional amount equal to not more than 10 percent of the total cost of construction, to be retained for future maintenance of the project. All such retained funds shall be dedicated for maintenance of the project and may not be used for other purposes.

“(g) LEAD AGENCY DESIGNATION.—For purposes of projects carried out under this section, the Commission shall be designated as the lead agency for purposes of accepting Federal funds and for purposes of carrying out this project.

“(h) NON-FEDERAL SHARE.—Notwithstanding any other provision of law, funds made available to carry out this section may be used to meet the non-Federal share of the cost of projects under title 23, United States Code.

“(i) SURFACE TRANSPORTATION PROGRAM TRANSFERABILITY.—

“(1) TRANSFERABILITY.—In any fiscal year, up to 15 percent of the amounts made available to the State of Alaska for surface transportation by section 133 of title 23, United States Code, may be transferred to the Denali access system program.

“(2) NO EFFECT ON SET-ASIDE.—Paragraph (2) of section 133(d), United States Code, shall not apply to funds transferred under paragraph (1).

“(j) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this section \$15,000,000 for each of fiscal years 2006 through 2009.

“(2) APPLICABILITY OF TITLE 23.—Funds made available to carry out this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall not be transferable and shall remain available until expended, and the Federal share of the cost of any project carried out using such funds shall be determined in accordance with section 120(b).”.

Maryland.

SEC. 1961. I-95/CONTEE ROAD INTERCHANGE STUDY.

(a) **IN GENERAL.**—The Secretary shall conduct a study on the I-95/Contee Road relocated interchange project located in Prince George's County, Maryland. The study shall assess how the proposed interchange will—

(1) leverage Federal investment in the I-95/Contee Road relocated interchange project by encouraging a public-private partnership between the State of Maryland and the private financial interests supporting the project;

(2) improve overall transportation efficiency in the area and enhance fire, rescue, and emergency response in the area;

(3) complement planned development in the area by providing sufficient access to the Interstate System; and

(4) otherwise provide public benefits and revenues.

(b) **DATA COLLECTION.**—As part of the study, the Secretary shall collect data regarding the economic impact of the project, including new jobs and State and county revenues in the form of real estate property taxes, retail sales taxes, and income and hotel sales and occupancy taxes.

(c) **REPORT.**—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of the study, including any recommendations of the Secretary.

(d) **FUNDING.**—

(1) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this section, out of the Highway Trust Fund (other than the Mass Transit Account), \$1,000,000 for fiscal year 2006.

(2) **CONTRACT AUTHORITY.**—Funds authorized to be appropriated by this section shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of the project shall be 100 percent, and such funds shall remain available until expended and shall not be transferable.

SEC. 1962. MULTIMODAL FACILITY IMPROVEMENTS.

California.

(a) **AUTHORIZATION OF APPROPRIATIONS.**—The Secretary shall make available from funds in the Highway Trust Fund (other than the Mass Transit Account) \$5,000,000 for each of fiscal years 2006 through 2009 for multimodal facility improvements, construction, and ferry acquisition by North Bay Ferry Service, Inc., located at Port Sonoma in Petaluma, California.

(b) **CONTRACT AUTHORITY.**—Funds appropriated to carry out this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except that such funds shall remain available until expended.

(c) **LIMITATION.**—Not more than 50 percent of funds appropriated to carry out this section shall be used for facility improvements and construction.

(d) **FEDERAL SHARE.**—The Federal Share of the cost of a facility improvement or construction project under this section shall be 80 percent.

(e) REQUIREMENT.—Ferries to which assistance is provided under this section shall be purchased by a United States company that designs and builds vessels in the United States.

SEC. 1963. APOLLO THEATER LEASES.

New York.

Notwithstanding the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 et seq.), or any other provision of law, the Economic Development Administration shall, in order to facilitate the further financing of the project, approve, without compensation to the agency, a series of leases of the Apollo Theater, located in Harlem, New York, to be improved by Economic Development Administration project numbers 01–01–7308 and 01–01–07552.

SEC. 1964. PROJECT FEDERAL SHARE.

State listing.

(a) IN GENERAL.—Notwithstanding any other provision of law, only for the States of Alaska, Montana, Nevada, North Dakota, Oregon, and South Dakota, the Federal share of the cost of a project described in subsection (b) shall be determined in accordance with section 120(b) of title 23, United States Code.

(b) PROJECTS.—The projects described in this subsection are—

- (1) the projects listed in section 1702;
- (2) the projects listed in section 1301; and
- (3) the projects listed in section 1934.

TITLE II—HIGHWAY SAFETY

SEC. 2001. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—The following sums are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

(1) HIGHWAY SAFETY PROGRAMS.—For carrying out section 402 of title 23, United States Code, \$163,680,000 for fiscal year 2005, \$217,000,000 for fiscal year 2006, \$220,000,000 for fiscal year 2007, \$225,000,000 for fiscal year 2008, and \$235,000,000 for fiscal year 2009.

(2) HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.—For carrying out section 403 of title 23, United States Code, \$71,424,000 for fiscal year 2005, \$110,000,000 for fiscal year 2006, \$107,750,000 for fiscal year 2007, \$107,750,000 for fiscal year 2008, and \$105,500,000 for fiscal year 2009.

(3) OCCUPANT PROTECTION INCENTIVE GRANTS.—For carrying out section 405 of title 23, United States Code, \$19,840,000 for fiscal year 2005, \$25,000,000 for fiscal year 2006, \$25,000,000 for fiscal year 2007, \$25,000,000 for fiscal year 2008, and \$25,000,000 for fiscal year 2009.

(4) SAFETY BELT PERFORMANCE GRANTS.—For carrying out section 406 of title 23, United States Code, \$124,500,000 for fiscal year 2006, \$124,500,000 for fiscal year 2007, \$124,500,000 for fiscal year 2008, and \$124,500,000 for fiscal year 2009.

(5) STATE TRAFFIC SAFETY INFORMATION SYSTEM IMPROVEMENTS.—For carrying out section 408 of title 23, United States Code, \$34,500,000 for fiscal year 2006, \$34,500,000 for fiscal year 2007, \$34,500,000 for fiscal year 2008, and \$34,500,000 for fiscal year 2009.

(6) ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES INCENTIVE GRANT PROGRAM.—For carrying out section 410 of title

23, United States Code, \$39,680,000 for fiscal year 2005, \$120,000,000 for fiscal year 2006, \$125,000,000 for fiscal year 2007, \$131,000,000 for fiscal year 2008, and \$139,000,000 for fiscal year 2009.

(7) NATIONAL DRIVER REGISTER.—For the National Highway Traffic Safety Administration to carry out chapter 303 of title 49, United States Code, \$3,968,000 for fiscal year 2005, \$4,000,000 for fiscal year 2006, \$4,000,000 for fiscal year 2007, \$4,000,000 for fiscal year 2008, and \$4,000,000 for fiscal year 2009.

(8) HIGH VISIBILITY ENFORCEMENT PROGRAM.—For carrying out section 2009 of this title \$29,000,000 for fiscal year 2006, \$29,000,000 for fiscal year 2007, \$29,000,000 for fiscal year 2008, and \$29,000,000 for fiscal year 2009.

(9) MOTORCYCLIST SAFETY.—For carrying out section 2010 of this title \$6,000,000 for fiscal year 2006, \$6,000,000 for fiscal year 2007, \$6,000,000 for fiscal year 2008, and \$7,000,000 for fiscal year 2009.

(10) CHILD SAFETY AND CHILD BOOSTER SEAT SAFETY INCENTIVE GRANTS.—For carrying out section 2011 of this title \$6,000,000 for fiscal year 2006, \$6,000,000 for fiscal year 2007, \$6,000,000 for fiscal year 2008, and \$7,000,000 for fiscal year 2009.

(11) ADMINISTRATIVE EXPENSES.—For administrative and related operating expenses of the National Highway Traffic Safety Administration in carrying out chapter 4 of title 23, United States Code, and this title \$17,500,000 for fiscal year 2006, \$17,750,000 for fiscal year 2007, \$18,250,000 for fiscal year 2008, and \$18,500,000 for fiscal year 2009.

23 USC 401 note.

(b) PROHIBITION ON OTHER USES.—Except as otherwise provided in chapter 4 of title 23, United States Code, and this title, (including the amendments made by this title), the amounts made available from the Highway Trust Fund (other than the Mass Transit Account) for a program under such chapter shall only be used to carry out such program and may not be used by States or local governments for construction purposes.

(c) APPLICABILITY OF TITLE 23.—Except as otherwise provided in chapter 4 of title 23, United States Code, and this title, amounts made available under subsection (a) for each of fiscal years 2005 through 2009 shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code.

(d) TRANSFERS.—In each fiscal year, the Secretary may transfer any amounts remaining available under paragraph (3), (5), or (6) of subsection (a) to the amounts made available under any other of such paragraphs in order to ensure, to the maximum extent possible, that each State receives the maximum incentive funding for which the State is eligible under sections 405, 408, and 410 of title 23, United States Code.

(e) CLARIFICATIONS.—The amounts made available by each of subsections (a)(1) through (a)(7) shall be less any amounts made available from the Highway Trust Fund (other than the Mass Transit Account) by laws enacted before the date of enactment of this Act for the respective programs referred to in each of such subsections for fiscal year 2005. Amounts authorized by such subsections are post-rescission and shall not be subject to any rescission after the date of enactment of this Act.

SEC. 2002. HIGHWAY SAFETY PROGRAMS.

(a) **PROGRAMS TO BE INCLUDED.**—Section 402(a) of title 23, United States Code, is amended—

(1) in clause (2) by striking “and to increase public awareness of the benefit of motor vehicles equipped with airbags”;

(2) by redesignating clause (6) as clause (7);

(3) by inserting after clause (5) the following: “(6) to reduce accidents resulting from unsafe driving behavior (including aggressive or fatigued driving and distracted driving arising from the use of electronic devices in vehicles)”;

(4) in the 10th sentence by inserting “aggressive driving, fatigued driving, distracted driving,” after “school bus accidents,”

(b) **ADMINISTRATION OF STATE PROGRAMS.**—Section 402(b)(1) of such title is amended—

(1) in subparagraph (C) by striking “and” at the end;

(2) by redesignating clause (6) as clause (7);

(3) in subparagraph (D) by striking “State.” and inserting “State; and”; and

(4) by adding at the end the following:

“(E) provide satisfactory assurances that the State will implement activities in support of national highway safety goals to reduce motor vehicle related fatalities that also reflect the primary data-related crash factors within a State as identified by the State highway safety planning process, including—

“(i) national law enforcement mobilizations;

“(ii) sustained enforcement of statutes addressing impaired driving, occupant protection, and driving in excess of posted speed limits;

“(iii) an annual statewide safety belt use survey in accordance with criteria established by the Secretary for the measurement of State safety belt use rates to ensure that the measurements are accurate and representative; and

“(iv) development of statewide data systems to provide timely and effective data analysis to support allocation of highway safety resources.”.

(c) **DEDUCTION DELETION.**—Section 402(c) of such title is amended—

(1) by striking the second sentence; and

(2) in the sixth sentence by striking “three-fourths of 1 percent” and inserting “2 percent”.

(d) **LAW ENFORCEMENT AND CONSOLIDATION OF APPLICATIONS.**—Section 402 of such title is further amended by adding at the end the following:

“(l) **LAW ENFORCEMENT VEHICULAR PURSUIT TRAINING.**—A State shall actively encourage all relevant law enforcement agencies in such State to follow the guidelines established for vehicular pursuits issued by the International Association of Chiefs of Police that are in effect on the date of enactment of this subsection or as revised and in effect after such date as determined by the Secretary.

“(m) **CONSOLIDATION OF GRANT APPLICATIONS.**—The Secretary shall establish an approval process by which a State may apply for all grants under this chapter through a single application process

with one annual deadline. The Bureau of Indian Affairs shall establish a similar simplified process for applications for grants from Indian tribes under this chapter.”.

(e) CONFORMING REPEAL FOR ADMINISTRATIVE EXPENSES.—Section 405(d) of such title is repealed.

SEC. 2003. HIGHWAY SAFETY RESEARCH AND OUTREACH PROGRAMS.

(a) REVISED AUTHORITY AND REQUIREMENTS.—Section 403(a) of title 23, United States Code, is amended to read as follows:

“(a) AUTHORITY OF THE SECRETARY.—The Secretary is authorized to use funds appropriated to carry out this section to—

“(1) conduct research on all phases of highway safety and traffic conditions, including accident causation, highway or driver characteristics, communications, and emergency care;

“(2) conduct ongoing research into driver behavior and its effect on traffic safety;

“(3) conduct research on, launch initiatives to counter, and conduct demonstration projects on fatigued driving by drivers of motor vehicles and distracted driving in such vehicles, including the effect that the use of electronic devices and other factors deemed relevant by the Secretary have on driving;

“(4) conduct training or education programs in cooperation with other Federal departments and agencies, States, private sector persons, highway safety personnel, and law enforcement personnel;

“(5) conduct research on, and evaluate the effectiveness of, traffic safety countermeasures, including seat belts and impaired driving initiatives;

“(6) conduct research on, evaluate, and develop best practices related to driver education programs (including driver education curricula, instructor training and certification, program administration and delivery mechanisms) and make recommendations for harmonizing driver education and multistage graduated licensing systems;

“(7) conduct research, training, and education programs related to older drivers;

“(8) conduct demonstration projects; and

“(9) conduct research, training, and programs relating to motorcycle safety, including impaired driving.”.

(b) INTERNATIONAL COOPERATION.—Section 403 of such title is amended by adding at the end the following:

“(g) INTERNATIONAL COOPERATION.—The Administrator of the National Highway Traffic Safety Administration may participate and cooperate in international activities to enhance highway safety.”.

(c) ON-SCENE MOTOR VEHICLE COLLISION CAUSATION.—

(1) STUDY.—The Secretary shall conduct under section 403 of title 23, United States Code, a nationally representative study to collect on-scene motor vehicle collision data and to determine crash causation. The Secretary shall enter into a contract with the National Academy of Sciences to conduct a review of the research, design, methodology, and implementation of the study.

(2) CONSULTATION.—The study under this subsection may be conducted in consultation with other Federal departments and agencies with relevant expertise.

(3) FINAL REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit a report on the results of the study conducted under this subsection to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(d) RESEARCH ON DISTRACTED, INATTENTIVE, AND FATIGUED DRIVERS.—In conducting research under section 403(a)(3) of title 23, United States Code, the Secretary shall carry out not less than 2 demonstration projects to evaluate new and innovative means of combating traffic system problems caused by distracted, inattentive, or fatigued drivers. The demonstration projects shall be in addition to any other research carried out under such section. 23 USC 403 note.

(e) PEDESTRIAN SAFETY.—

Reports.

(1) IN GENERAL.—The Secretary shall—

(A) produce a comprehensive report on pedestrian safety that builds on the current level of knowledge of pedestrian safety countermeasures by identifying the most effective advanced technology and intelligent transportation systems, such as automated pedestrian detection and warning systems (infrastructure-based and vehicle-based), road design, and vehicle structural design that could potentially mitigate the crash forces on pedestrians in the event of a crash; and

(B) include in the report recommendations on how new technological developments could be incorporated into educational and enforcement efforts and how they could be integrated into national design guidelines developed by the American Association of State Highway and Transportation Officials.

(2) DUE DATE.—The Secretary shall complete the report under this subsection not less than 2 years after the date of enactment of this Act and submit a copy of the report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(f) REFUSAL OF INTOXICATION TESTING.—

(1) STUDY.—The Secretary shall carry out under section 403 of title 23, United States Code, a study of the frequency with which persons arrested for the offense of operating a motor vehicle while under the influence of alcohol and persons arrested for the offense of operating a motor vehicle while intoxicated refuse to take a test to determine blood alcohol concentration levels and the effect such refusals have on the ability of States to prosecute such persons for those offenses.

(2) CONSULTATION.—In carrying out the study under this subsection, the Secretary shall consult with the Governors of the States, the States' Attorneys General, and the United States Sentencing Commission.

(3) REPORT.—

(A) REQUIREMENT FOR REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall submit a report on the results of the study to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(B) **CONTENT.**—The report shall include any recommendation for legislation, including any recommended model State legislation, and any other recommendations that the Secretary considers appropriate for implementing a program designed to decrease the occurrence of refusals by arrested persons to submit to a test to determine blood alcohol concentration levels.

(g) **IMPAIRED MOTORCYCLE DRIVING.**—

(1) **STUDY.**—In conducting research under section 403(a)(9) of title 23, United States Code, the Secretary shall conduct a study on educational, public information and other activities targeted at reducing motorcycle accidents and resulting fatalities and injuries, where the operator of the motorcycle is impaired.

(2) **REPORT.**—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study, including the data collected and statistics compiled and recommendations to reduce the number of motorcycle accidents described in paragraph (1) and the resulting fatalities and injuries.

(h) **REDUCING IMPAIRED DRIVING RECIDIVISM.**—

(1) **STUDY.**—The Secretary shall conduct a study on reducing the incidence of alcohol-related motor vehicle crashes and fatalities through research of advanced vehicle-based alcohol detection systems, including an assessment of the practicability and cost effectiveness of such systems.

(2) **REPORT.**—Not later than 2 years after the date of enactment of this Act, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study.

SEC. 2004. OCCUPANT PROTECTION INCENTIVE GRANTS.

(a) **GENERAL AUTHORITY.**—Section 405(a) of title 23, United States Code, is amended—

(1) in paragraph (2) by striking “Transportation Equity Act for the 21st Century” and inserting “SAFETEA-LU”;

(2) in paragraph (3) by striking “1997” and inserting “2003”; and

(3) in each of paragraphs (4)(A), (4)(B), and (4)(C) by inserting after “years” the following: “beginning after September 30, 2003,”.

(c) **GRANT AMOUNTS.**—Section 405(c) of such title is amended—

(1) by striking “25 percent” and inserting “100 percent”; and

(2) by striking “1997” and inserting “2003”.

SEC. 2005. GRANTS FOR PRIMARY SAFETY BELT USE LAWS.

(a) **IN GENERAL.**—Section 406 of title 23, United States Code, is amended to read as follows:

“§ 406. Safety belt performance grants

“(a) **IN GENERAL.**—The Secretary shall make grants to States in accordance with the provisions of this section to encourage the

enactment and enforcement of laws requiring the use of safety belts in passenger motor vehicles.

“(b) GRANTS FOR ENACTING PRIMARY SAFETY BELT USE LAWS.—

“(1) IN GENERAL.—The Secretary shall make a single grant to each State that either—

“(A) enacts for the first time after December 31, 2002, and has in effect and is enforcing a conforming primary safety belt use law for all passenger motor vehicles; or

“(B) in the case of a State that does not have such a primary safety belt use law, has after December 31, 2005, a State safety belt use rate of 85 percent or more for each of the 2 calendar years immediately preceding the fiscal year of a grant, as measured under criteria determined by the Secretary.

“(2) AMOUNT.—The amount of a grant available to a State in fiscal year 2006 or in a subsequent fiscal year under paragraph (1) shall equal 475 percent of the amount apportioned to the State under section 402(c) for fiscal year 2003.

“(3) JULY 1 CUT-OFF.—For the purpose of determining the eligibility of a State for a grant under paragraph (1)(A), a conforming primary safety belt use law enacted after June 30th of any year shall—

“(A) not be considered to have been enacted in the Federal fiscal year in which that June 30th falls; but

“(B) be considered as if it were enacted after October 1 of the next Federal fiscal year.

“(4) SHORTFALL.—If the total amount of grants provided for by this subsection for a fiscal year exceeds the amount of funds available for such grants for that fiscal year, the Secretary shall make grants under this subsection to States in the order in which—

“(A) the conforming primary safety belt use law came into effect; or

“(B) the State’s safety belt use rate was 85 percent or more for 2 consecutive calendar years (as measured under by criteria determined by the Secretary), whichever first occurs.

“(5) CATCH-UP GRANTS.—The Secretary shall make a grant to any State eligible for a grant under this subsection that did not receive a grant for a fiscal year because of the application of paragraph (4), in the next fiscal year if the State’s conforming primary safety belt use law remains in effect or its safety belt use rate is 85 percent or more for the 2 consecutive calendar years preceding such next fiscal year (subject to the condition in paragraph (4)).

“(c) GRANTS FOR PRE-2003 LAWS.—

“(1) IN GENERAL.—To the extent that amounts made available for grants under this section for any of fiscal years 2006 through 2009 exceed the total amount of grants to be awarded under subsection (b) for the fiscal year, including amounts to be awarded for catch-up grants under subsection (b)(5), the Secretary shall make a single grant to each State that enacted, has in effect, and is enforcing a conforming primary safety belt use law for all passenger motor vehicles that was in effect before January 1, 2003.

“(2) AMOUNT; INSTALLMENTS.—The amount of a grant available to a State under this subsection shall be equal to 200

percent of the amount of funds apportioned to the State under section 402(c) for fiscal year 2003. The Secretary may award the grant in annual installments.

“(d) ALLOCATION OF UNALLOCATED FUNDS.—

“(1) ADDITIONAL GRANTS.—The Secretary shall make additional grants under this section of any amounts made available for grants under this section that, on July 1, 2009, have not been allocated to States under this section.

“(2) ALLOCATION.—The additional grants made under this subsection shall be allocated among all States that, as of that date, have enacted, have in effect, and are enforcing conforming primary safety belt laws for all passenger motor vehicles. The allocations shall be made in accordance with the formula for apportioning funds among the States under section 402(c).

“(e) USE OF GRANT FUNDS.—

“(1) IN GENERAL.—Subject to paragraph (2), a State may use a grant under this section for any safety purpose under this title or for any project that corrects or improves a hazardous roadway location or feature or proactively addresses highway safety problems, including—

“(A) intersection improvements;

“(B) pavement and shoulder widening;

“(C) installation of rumble strips and other warning devices;

“(D) improving skid resistance;

“(E) improvements for pedestrian or bicyclist safety;

“(F) railway-highway crossing safety;

“(G) traffic calming;

“(H) the elimination of roadside obstacles;

“(I) improving highway signage and pavement marking;

“(J) installing priority control systems for emergency vehicles at signalized intersections;

“(K) installing traffic control or warning devices at locations with high accident potential;

“(L) safety-conscious planning; and

“(M) improving crash data collection and analysis.

“(2) SAFETY ACTIVITY REQUIREMENT.—Notwithstanding paragraph (1), the Secretary shall ensure that at least \$1,000,000 of amounts received by States under this section are obligated for safety activities under this chapter.

“(3) SUPPORT ACTIVITY.—The Secretary or his designee may engage in activities with States and State legislators to consider proposals related to safety belt use laws.

“(f) CARRY-FORWARD OF EXCESS FUNDS.—If the amount available for grants under this section for any fiscal year exceeds the sum of the grants made under this section for that fiscal year, the excess amount and obligational authority shall be carried forward and made available for grants under this section in the succeeding fiscal year.

“(g) FEDERAL SHARE.—The Federal share payable for grants under this section shall be 100 percent.

“(h) PASSENGER MOTOR VEHICLE DEFINED.—In this section, the term ‘passenger motor vehicle’ means—

“(1) a passenger car;

“(2) a pickup truck; and

“(3) a van, minivan, or sport utility vehicle with a gross vehicle weight rating of less than 10,000 pounds.”.

(b) CLERICAL AMENDMENT.—The analysis for chapter 4 of such title is amended by striking the item relating to section 406 and inserting the following:

“406. Safety belt performance grants.”.

SEC. 2006. STATE TRAFFIC SAFETY INFORMATION SYSTEM IMPROVEMENTS.

(a) IN GENERAL.—Section 408 of title 23, United States Code, is amended to read as follows:

“§ 408. State traffic safety information system improvements

“(a) GRANT AUTHORITY.—Subject to the requirements of this section, the Secretary shall make grants to eligible States to support the development and implementation of effective programs by such States to—

“(1) improve the timeliness, accuracy, completeness, uniformity, integration, and accessibility of the safety data of the State that is needed to identify priorities for national, State, and local highway and traffic safety programs;

“(2) evaluate the effectiveness of efforts to make such improvements;

“(3) link the State data systems, including traffic records, with other data systems within the State, such as systems that contain medical, roadway, and economic data; and

“(4) improve the compatibility and interoperability of the data systems of the State with national data systems and data systems of other States and enhance the ability of the Secretary to observe and analyze national trends in crash occurrences, rates, outcomes, and circumstances.

“(b) FIRST-YEAR GRANTS.—To be eligible for a first-year grant under this section in a fiscal year, a State shall demonstrate to the satisfaction of the Secretary that the State has—

“(1) established a highway safety data and traffic records coordinating committee with a multidisciplinary membership that includes, among others, managers, collectors, and users of traffic records and public health and injury control data systems; and

“(2) developed a multiyear highway safety data and traffic records system strategic plan—

“(A) that addresses existing deficiencies in the State’s highway safety data and traffic records system;

“(B) that is approved by the highway safety data and traffic records coordinating committee;

“(C) that specifies how existing deficiencies in the State’s highway safety data and traffic records system were identified;

“(D) that prioritizes, on the basis of the identified highway safety data and traffic records system deficiencies of the State, the highway safety data and traffic records system needs and goals of the State, including the activities under subsection (a);

“(E) that identifies performance-based measures by which progress toward those goals will be determined; and

“(F) that specifies how the grant funds and any other funds of the State are to be used to address needs and goals identified in the multiyear plan.

“(c) SUCCESSIVE YEAR GRANTS.—A State shall be eligible for a grant under this subsection in a fiscal year succeeding the first fiscal year in which the State receives a grant under subsection (b) if the State—

“(1) certifies to the Secretary that an assessment or audit of the State’s highway safety data and traffic records system has been conducted or updated within the preceding 5 years;

“(2) certifies to the Secretary that its highway safety data and traffic records coordinating committee continues to operate and supports the multiyear plan;

“(3) specifies how the grant funds and any other funds of the State are to be used to address needs and goals identified in the multiyear plan;

“(4) demonstrates to the Secretary measurable progress toward achieving the goals and objectives identified in the multiyear plan; and

“(5) submits to the Secretary a current report on the progress in implementing the multiyear plan.

“(d) GRANT AMOUNT.—Subject to subsection (e)(3), the amount of a year grant made to a State for a fiscal year under this section shall equal the higher of—

“(1) the amount determined by multiplying—

“(A) the amount appropriated to carry out this section for such fiscal year, by

“(B) the ratio that the funds apportioned to the State under section 402 for fiscal year 2003 bears to the funds apportioned to all States under such section for fiscal year 2003; or

“(2)(A) \$300,000 in the case of the first fiscal year a grant is made to a State under this section after the date of enactment of this subparagraph; or

“(B) \$500,000 in the case of a succeeding fiscal year a grant is made to the State under this section after such date of enactment.

“(e) ADDITIONAL REQUIREMENTS AND LIMITATIONS.—

“(1) MODEL DATA ELEMENTS.—The Secretary, in consultation with States and other appropriate parties, shall determine the model data elements that are useful for the observation and analysis of State and national trends in occurrences, rates, outcomes, and circumstances of motor vehicle traffic accidents. In order to be eligible for a grant under this section, a State shall submit to the Secretary a certification that the State has adopted and uses such model data elements, or a certification that the State will use grant funds provided under this section toward adopting and using the maximum number of such model data elements as soon as practicable.

“(2) DATA ON USE OF ELECTRONIC DEVICES.—The model data elements required under paragraph (1) shall include data elements, as determined appropriate by the Secretary, in consultation with the States and appropriate elements of the law enforcement community, on the impact on traffic safety of the use of electronic devices while driving.

“(3) MAINTENANCE OF EFFORT.—No grant may be made to a State under this section in any fiscal year unless the

State enters into such agreements with the Secretary as the Secretary may require to ensure that the State will maintain its aggregate expenditures from all other sources for highway safety data programs at or above the average level of such expenditures maintained by such State in the 2 fiscal years preceding the date of enactment of the SAFETEA-LU.

“(4) **FEDERAL SHARE.**—The Federal share of the cost of adopting and implementing in a fiscal year a State program described in subsection (a) may not exceed 80 percent.

“(5) **LIMITATION ON USE OF GRANT PROCEEDS.**—A State may use the proceeds of a grant received under this section only to implement the program described in subsection (a) for which the grant is made.

“(f) **APPLICABILITY OF CHAPTER 1.**—Section 402(d) of this title shall apply in the administration of this section.”.

(b) **CLERICAL AMENDMENT.**—The analysis for chapter 4 of such title is amended by striking the item relating to section 408 and inserting the following:

“408. State traffic safety information system improvements.”.

SEC. 2007. ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES.

(a) **MAINTENANCE OF EFFORT.**—Section 410(a)(2) of title 23, United States Code, is amended—

(1) by striking “under this section” and inserting “under this subsection”; and

(2) by striking “Transportation Equity Act for the 21st Century” and inserting “SAFETEA-LU”.

(b) **REVISED GRANT AUTHORITY.**—Section 410 of such title is amended—

(1) in subsection (a)—

(A) by striking paragraph (3);

(B) by redesignating paragraph (4) as paragraph (3);

and

(C) in paragraph (3) (as so redesignated) by striking the second comma following “sixth”;

(2) by redesignating subsections (e) and (f) as subsections

(h) and (i), respectively;

(3) by striking subsections (b) through (d) and inserting the following:

“(b) **ELIGIBILITY REQUIREMENTS.**—To be eligible for a grant under subsection (a), a State shall—

“(1) have an alcohol related fatality rate of 0.5 or less per 100,000,000 vehicle miles traveled as of the date of the grant, as determined by the Secretary using the most recent Fatality Analysis Reporting System of the National Highway Traffic Safety Administration; or

“(2)(A) for fiscal year 2006 by carrying out 3 of the programs and activities under subsection (c);

“(B) for fiscal year 2007 by carrying out 4 of the programs and activities under subsection (c); or

“(C) for fiscal years 2008 and 2009 by carrying out 5 of the programs and activities under subsection (c).

“(c) **STATE PROGRAMS AND ACTIVITIES.**—The programs and activities referred to in subsection (b) are the following:

“(1) **CHECK POINT, SATURATION PATROL PROGRAM.**—A State program to conduct a series of high visibility, statewide law enforcement campaigns in which law enforcement personnel

monitor for impaired driving, either through the use of sobriety check points or saturation patrols, on a nondiscriminatory, lawful basis for the purpose of determining whether the operators of the motor vehicles are driving while under the influence of alcohol—

“(A) if the State organizes the campaigns in cooperation with related periodic national campaigns organized by the National Highway Traffic Safety Administration, except that this subparagraph does not preclude a State from initiating sustained high visibility, Statewide law enforcement campaigns independently of the cooperative efforts; and

“(B) if, for each fiscal year, the State demonstrates to the Secretary that the State and the political subdivisions of the State that receive funds under this section have increased, in the aggregate, the total number of impaired driving law enforcement activities at high incident locations (or any other similar activity approved by the Secretary) initiated in such State during the preceding fiscal year by a factor that the Secretary determines meaningful for the State over the number of such activities initiated in such State during the preceding fiscal year.

“(2) PROSECUTION AND ADJUDICATION OUTREACH PROGRAM.—A State prosecution and adjudication program under which—

“(A) the State works to reduce the use of diversion programs by educating and informing prosecutors and judges through various outreach methods about the benefits and merits of prosecuting and adjudicating defendants who repeatedly commit impaired driving offenses;

“(B) the courts in a majority of the judicial jurisdictions of the State are monitored on the courts’ adjudication of cases of impaired driving offenses; or

“(C) annual statewide outreach is provided for judges and prosecutors on innovative approaches to the prosecution and adjudication of cases of impaired driving offenses that have the potential for significantly improving the prosecution and adjudication of such cases.

“(3) TESTING OF BAC.—An effective system for increasing from the previous year the rate of blood alcohol concentration testing of motor vehicle drivers involved in fatal accidents.

“(4) HIGH RISK DRIVERS.—A law that establishes stronger sanctions or additional penalties for individuals convicted of operating a motor vehicle while under the influence of alcohol whose blood alcohol concentration is 0.15 percent or more than for individuals convicted of the same offense but with a lower blood alcohol concentration. For purposes of this paragraph, ‘additional penalties’ includes—

“(A) a 1-year suspension of a driver’s license, but with the individual whose license is suspended becoming eligible after 45 days of such suspension to obtain a provisional driver’s license that would permit the individual to drive—

“(i) only to and from the individual’s place of employment or school; and

“(ii) only in an automobile equipped with a certified alcohol ignition interlock device; and

“(B) a mandatory assessment by a certified substance abuse official of whether the individual has an alcohol abuse problem with possible referral to counseling if the official determines that such a referral is appropriate.

“(5) PROGRAMS FOR EFFECTIVE ALCOHOL REHABILITATION AND DWI COURTS.—A program for effective inpatient and outpatient alcohol rehabilitation based on mandatory assessment and appropriate treatment for repeat offenders or a program to refer impaired driving cases to courts that specialize in driving while impaired cases that emphasize the close supervision of high-risk offenders.

“(6) UNDERAGE DRINKING PROGRAM.—An effective strategy, as determined by the Secretary, for preventing operators of motor vehicles under age 21 from obtaining alcoholic beverages and for preventing persons from making alcoholic beverages available to individuals under age 21. Such a strategy may include—

“(A) the issuance of tamper-resistant drivers’ licenses to individuals under age 21 that are easily distinguishable in appearance from drivers’ licenses issued to individuals age 21 or older; and

“(B) a program provided by a nonprofit organization for training point of sale personnel concerning, at a minimum—

“(i) the clinical effects of alcohol;

“(ii) methods of preventing second party sales of alcohol;

“(iii) recognizing signs of intoxication;

“(iv) methods to prevent underage drinking; and

“(v) Federal, State, and local laws that are relevant to such personnel; and

“(C) having a law in effect that creates a 0.02 percent blood alcohol content limit for drivers under 21 years old.

“(7) ADMINISTRATIVE LICENSE REVOCATION.—An administrative driver’s license suspension or revocation system for individuals who operate motor vehicles while under the influence of alcohol that requires that—

“(A) in the case of an individual who, in any 5-year period beginning after the date of enactment of the Transportation Equity Act for the 21st Century, is determined on the basis of a chemical test to have been operating a motor vehicle while under the influence of alcohol or is determined to have refused to submit to such a test as proposed by a law enforcement officer, the State agency responsible for administering drivers’ licenses, upon receipt of the report of the law enforcement officer—

“(i) suspend the driver’s license of such individual for a period of not less than 90 days if such individual is a first offender in such 5-year period; except that under such suspension an individual may operate a motor vehicle, after the 15-day period beginning on the date of the suspension, to and from employment, school, or an alcohol treatment program if an ignition interlock device is installed on each of the motor vehicles owned or operated, or both, by the individual; and

“(ii) suspend the driver’s license of such individual for a period of not less than 1 year, or revoke such license, if such individual is a repeat offender in such 5-year period; except that such individual to operate a motor vehicle, after the 45-day period beginning on the date of the suspension or revocation, to and from employment, school, or an alcohol treatment program if an ignition interlock device is installed on each of the motor vehicles owned or operated, or both, by the individual; and

“(B) the suspension and revocation referred to under clause (i) take effect not later than 30 days after the date on which the individual refused to submit to a chemical test or received notice of having been determined to be driving under the influence of alcohol, in accordance with the procedures of the State.

“(8) SELF SUSTAINING IMPAIRED DRIVING PREVENTION PROGRAM.—A program under which a significant portion of the fines or surcharges collected from individuals who are fined for operating a motor vehicle while under the influence of alcohol are returned to communities for comprehensive programs for the prevention of impaired driving.

“(d) USES OF GRANTS.—Subject to subsection (g)(2), grants made under this section may be used for all programs and activities described in subsection (c), and to defray the following costs:

“(1) Labor costs, management costs, and equipment procurement costs for the high visibility, Statewide law enforcement campaigns under subsection (c)(1).

“(2) The costs of the training of law enforcement personnel and the procurement of technology and equipment, including video equipment and passive alcohol sensors, to counter directly impaired operation of motor vehicles.

“(3) The costs of public awareness, advertising, and educational campaigns that publicize use of sobriety check points or increased law enforcement efforts to counter impaired operation of motor vehicles.

“(4) The costs of public awareness, advertising, and educational campaigns that target impaired operation of motor vehicles by persons under 34 years of age.

“(5) The costs of the development and implementation of a State impaired operator information system.

“(6) The costs of operating programs that result in vehicle forfeiture or impoundment or license plate impoundment.

“(e) ADDITIONAL AUTHORITIES FOR CERTAIN AUTHORIZED USES.—

“(1) COMBINATION OF GRANT PROCEEDS.—Grant funds used for a campaign under subsection (d)(3) may be combined, or expended in coordination, with proceeds of grants under section 402.

“(2) COORDINATION OF USES.—Grant funds used for a campaign under paragraph (3) or (4) of subsection (d) may be expended—

“(A) in coordination with employers, schools, entities in the hospitality industry, and nonprofit traffic safety groups; and

“(B) in coordination with sporting events and concerts and other entertainment events.

“(f) ALLOCATION.—Subject to subsection (g), funds made available to carry out this section shall be allocated among States that meet the eligibility criteria in subsection (b) on the basis of the apportionment formula under section 402(c).

“(g) GRANTS TO HIGH FATALITY RATE STATES.—

“(1) IN GENERAL.—The Secretary shall make a separate grant under this section to each State that—

“(A) is among the 10 States with the highest impaired driving related fatalities as determined by the Secretary using the most recent Fatality Analysis Reporting System of the National Highway Traffic Safety Administration; and

“(B) prepares a plan for grant expenditures under this subsection that is approved by the Administrator of the National Highway Traffic Safety Administration.

“(2) REQUIRED USES.—At least one-half of the amounts allocated to States under this subsection may only be used for the program described in subsection (c)(1).

“(3) ALLOCATION.—Funds made available under this subsection shall be allocated among States described in paragraph (1) on the basis of the apportionment formula under section 402(c), except that no State shall be allocated more than 30 percent of the funds made available to carry out this subsection for a fiscal year.

“(4) FUNDING.—Not more than 15 percent per fiscal year of amounts made available to carry out this section for a fiscal year shall be made available by the Secretary for making grants under this subsection.”; and

(4) by adding at the end of subsection (i) (as redesignated by paragraph (2)) the following:

“(4) IMPAIRED OPERATOR.—The term ‘impaired operator’ means a person who, while operating a motor vehicle—

“(A) has a blood alcohol content of 0.08 percent or higher; or

“(B) is under the influence of a controlled substance.

“(5) IMPAIRED DRIVING RELATED FATALITY RATE.—The term ‘impaired driving related fatality rate’ means the rate of alcohol related fatalities, as calculated in accordance with regulations which the Administrator of the National Highway Traffic Safety Administration shall prescribe.”.

Regulations.

(c) NHTSA TO ISSUE REGULATIONS.—Not later than 12 months after the date of enactment of this Act, the National Highway Traffic Safety Administration shall issue guidelines to the States specifying the types and formats of data that States should collect relating to drivers who are arrested or convicted for violation of laws prohibiting the impaired operation of motor vehicles.

Deadline.
23 USC 410 note.

SEC. 2008. NHTSA ACCOUNTABILITY.

(a) IN GENERAL.—Chapter 4 of title 23, United States Code, is amended by adding at the end the following:

“§ 412. Agency accountability

“(a) TRIENNIAL STATE MANAGEMENT REVIEWS.—At least once every 3 years the Secretary shall conduct a review of each State highway safety program. The review shall include a management evaluation of all grant programs funded under this chapter. The Secretary shall provide review-based recommendations on how each

State could improve the management and oversight of its grant activities and may provide a management and oversight plan for such grant programs.

“(b) RECOMMENDATIONS BEFORE SUBMISSION.—In order to provide guidance to State highway safety agencies on matters that should be addressed in the goals and initiatives of the State highway safety program before the program is submitted for review, the Secretary shall provide data-based recommendations to each State at least 90 days before the date on which the program is to be submitted for approval.

“(c) STATE PROGRAM REVIEW.—The Secretary shall—

“(1) conduct a program improvement review of a highway safety program under this chapter of a State that does not make substantial progress over a 3-year period in meeting its priority program goals; and

“(2) provide technical assistance and safety program requirements to be incorporated in the State highway safety program for any goal not achieved.

Reports.

“(d) REGIONAL HARMONIZATION.—The Secretary and the Inspector General of the Department of Transportation shall undertake an administrative review of the practices and procedures of the management reviews and program reviews of State highway safety programs under this chapter conducted by the regional offices of the National Highway Traffic Safety Administration and prepare a written report of best practices and procedures for use by the regional offices in conducting such reviews. The report shall be completed within 180 days after the date of enactment of this section.

Deadline.

“(e) BEST PRACTICES GUIDELINES.—

“(1) UNIFORM GUIDELINES.—The Secretary shall issue uniform management review guidelines and program review guidelines based on the report under subsection (d). Each regional office shall use the guidelines in executing its State administrative review duties under this section.

Public
information.
Internet.

“(2) PUBLICATION.—The Secretary shall make publicly available on the Web site (or successor electronic facility) of the Administration the following documents upon their completion:

“(A) The Secretary’s management review guidelines and program review guidelines.

“(B) All State highway safety programs submitted under this chapter.

“(C) State annual accomplishment reports.

“(D) The Administration’s Summary Report of findings from Management Reviews and Improvement Plans.

“(3) REPORTS TO STATE HIGHWAY SAFETY AGENCIES.—The Secretary may not make publicly available a program, report, or review under paragraph (2) that is directed to a State highway safety agency until after the date on which the program, report, or review is submitted to that agency under this chapter.

“(f) GAO REVIEW.—

“(1) ANALYSIS.—The Comptroller General shall analyze the effectiveness of the Administration’s oversight of traffic safety grants under this chapter by determining the usefulness of the Administration’s advice to the States regarding administration and State activities under this chapter, the extent to

which the States incorporate the Administration’s recommendations into their highway safety programs, and the improvements that result in a State’s highway safety program that may be attributable to the Administration’s recommendations.

“(2) REPORT.—Not later than September 30, 2008, the Comptroller General shall submit a report on the results of the analysis to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.”.

(b) CLERICAL AMENDMENT.—The analysis for chapter 4 of such title is amended by adding at the end the following:

“412. Agency accountability.”.

SEC. 2009. HIGH VISIBILITY ENFORCEMENT PROGRAM.

23 USC 402 note.

(a) IN GENERAL.—The Administrator of the National Highway Traffic Safety Administration shall establish and administer a program under which at least 2 high-visibility traffic safety law enforcement campaigns will be carried out for the purposes specified in subsection (b) in each of years 2006 through 2009.

(b) PURPOSE.—The purpose of each law enforcement campaign under this section shall be to achieve either or both of the following objectives:

(1) Reduce alcohol-impaired or drug-impaired operation of motor vehicles.

(2) Increase use of seat belts by occupants of motor vehicles.

(c) ADVERTISING.—The Administrator may use, or authorize the use of, funds available to carry out this section to pay for the development, production, and use of broadcast and print media advertising in carrying out traffic safety law enforcement campaigns under this section. Consideration shall be given to advertising directed at non-English speaking populations, including those who listen, read, or watch nontraditional media.

(d) COORDINATION WITH STATES.—The Administrator shall coordinate with the States in carrying out the traffic safety law enforcement campaigns under this section, including advertising funded under subsection (c), with a view to—

(1) relying on States to provide the law enforcement resources for the campaigns out of funding available under this section and sections 402, 405, 406, and 410 of title 23, United States Code; and

(2) providing out of National Highway Traffic Safety Administration resources most of the means necessary for national advertising and education efforts associated with the law enforcement campaigns.

(e) USE OF FUNDS.—Funds made available to carry out this section may only be used for activities described in subsections (a), (c), and (f).

(f) ANNUAL EVALUATION.—The Secretary shall conduct an annual evaluation of the effectiveness of campaigns referred to in subsection (a).

(g) STATE DEFINED.—The term “State” has the meaning such term has under section 401 of title 23, United States Code.

SEC. 2010. MOTORCYCLIST SAFETY.

Grants.
23 USC 402 note.

(a) AUTHORITY TO MAKE GRANTS.—Subject to the requirements of this section, the Secretary shall make grants to States that

adopt and implement effective programs to reduce the number of single- and multi-vehicle crashes involving motorcyclists.

(b) MAINTENANCE OF EFFORT.—No grant may be made to a State under this section in a fiscal year unless the State enters into such agreements with the Secretary as the Secretary may require to ensure that the State will maintain its aggregate expenditures from all the other sources for motorcyclist safety training programs and motorcyclist awareness programs at or above the average level of such expenditures in its 2 fiscal years preceding the date of enactment of this Act.

(c) ALLOCATION.—The amount of a grant made to a State for a fiscal year under this section may not be less than \$100,000 and may not exceed 25 percent of the amount apportioned to the State for fiscal year 2003 under section 402 of title 23, United States Code.

(d) GRANT ELIGIBILITY.—

(1) IN GENERAL.—A State becomes eligible for a grant under this section by adopting or demonstrating to the satisfaction of the Secretary—

(A) for the first fiscal year for which the State will receive a grant under this section, at least 1 of the 6 criteria listed in paragraph (2); and

(B) for the second, third, and fourth fiscal years for which the State will receive a grant under this section, at least 2 of the 6 criteria listed in paragraph (2).

(2) CRITERIA.—The criteria for eligibility for a grant under this section are the following:

(A) MOTORCYCLE RIDER TRAINING COURSES.—An effective motorcycle rider training course that is offered throughout the State, provides a formal program of instruction in accident avoidance and other safety-oriented operational skills to motorcyclists and that may include innovative training opportunities to meet unique regional needs.

(B) MOTORCYCLISTS AWARENESS PROGRAM.—An effective statewide program to enhance motorist awareness of the presence of motorcyclists on or near roadways and safe driving practices that avoid injuries to motorcyclists.

(C) REDUCTION OF FATALITIES AND CRASHES INVOLVING MOTORCYCLES.—A reduction for the preceding calendar year in the number of motorcycle fatalities and the rate of motor vehicle crashes involving motorcycles in the State (expressed as a function of 10,000 motorcycle registrations).

(D) IMPAIRED DRIVING PROGRAM.—Implementation of a statewide program to reduce impaired driving, including specific measures to reduce impaired motorcycle operation.

(E) REDUCTION OF FATALITIES AND ACCIDENTS INVOLVING IMPAIRED MOTORCYCLISTS.—A reduction for the preceding calendar year in the number of fatalities and the rate of reported crashes involving alcohol- or drug-impaired motorcycle operators (expressed as a function of 10,000 motorcycle registrations).

(F) FEES COLLECTED FROM MOTORCYCLISTS.—All fees collected by the State from motorcyclists for the purposes of funding motorcycle training and safety programs will be used for motorcycle training and safety programs.

(e) ELIGIBLE USES.—

(1) IN GENERAL.—A State may use funds from a grant under this section only for motorcyclist safety training and motorcyclist awareness programs, including—

(A) improvements to motorcyclist safety training curricula;

(B) improvements in program delivery of motorcycle training to both urban and rural areas, including—

(i) procurement or repair of practice motorcycles;

(ii) instructional materials;

(iii) mobile training units; and

(iv) leasing or purchasing facilities for closed-course motorcycle skill training;

(C) measures designed to increase the recruitment or retention of motorcyclist safety training instructors; and

(D) public awareness, public service announcements, and other outreach programs to enhance driver awareness of motorcyclists, such as the “share-the-road” safety messages developed under subsection (g).

(2) SUBALLOCATIONS OF FUNDS.—An agency of a State that receives a grant under this section may suballocate funds from the grant to a nonprofit organization incorporated in that State to carry out under this section.

(f) DEFINITIONS.—In this section, the following definitions apply:

(1) MOTORCYCLIST SAFETY TRAINING.—The term “motorcyclist safety training” means a formal program of instruction that is approved for use in a State by the designated State authority having jurisdiction over motorcyclist safety issues, which may include the State motorcycle safety administrator or a motorcycle advisory council appointed by the Governor of the State.

(2) MOTORCYCLIST AWARENESS.—The term “motorcyclist awareness” means individual or collective awareness of—

(A) the presence of motorcycles on or near roadways; and

(B) safe driving practices that avoid injury to motorcyclists.

(3) MOTORCYCLIST AWARENESS PROGRAM.—The term “motorcyclist awareness program” means an informational or public awareness program designed to enhance motorcyclist awareness that is developed by or in coordination with the designated State authority having jurisdiction over motorcyclist safety issues, which may include the State motorcycle safety administrator or a motorcycle advisory council appointed by the Governor of the State.

(4) STATE.—The term “State” has the same meaning such term has in section 101(a) of title 23, United States Code.

(g) SHARE-THE-ROAD MODEL LANGUAGE.—Not later than 1 year after the date of enactment of this Act, the Secretary, in consultation with the Administrator of the National Highway Traffic Safety Administration, shall develop and provide to the States model language for use in traffic safety education courses, driver’s manuals, and other driver’s training materials instructing the drivers of motor vehicles on the importance of sharing the roads safely with motorcyclists. Deadline.

23 USC 405 note. **SEC. 2011. CHILD SAFETY AND CHILD BOOSTER SEAT INCENTIVE GRANTS.**

(a) **GENERAL AUTHORITY.**—Subject to the requirements of this section, the Secretary shall make grants to States that are enforcing a law requiring that any child riding in a passenger motor vehicle in the State who is too large to be secured in a child safety seat be secured in a child restraint that meets the requirements prescribed by the Secretary under section 3 of Anton’s Law (49 U.S.C. 30127 note; 116 Stat. 2772).

(b) **MAINTENANCE OF EFFORT.**—No grant may be made to a State under this section in a fiscal year unless the State enters into such agreements with the Secretary as the Secretary may require to ensure that the State will maintain its aggregate expenditures from all other sources for child safety seat and child restraint programs at or above the average level of such expenditures in its 2 fiscal years preceding the date of enactment of this Act.

(c) **FEDERAL SHARE.**—The Federal share of the costs of activities funded using amounts from grants under this section shall not exceed—

(1) for the first 3 fiscal years for which a State receives a grant under this section, 75 percent; and

(2) for the fourth fiscal year for which a State receives a grant under this section, 50 percent.

(d) **USE OF GRANT AMOUNTS.**—

(1) **ALLOCATIONS.**—Of the amounts received by a State in grants under this section for a fiscal year not more than 50 percent shall be used to fund programs for purchasing and distributing child safety seats and child restraints to low-income families.

(2) **REMAINING AMOUNTS.**—Amounts received by a State in grants under this section, other than amounts subject to paragraph (1), shall be used to carry out child safety seat and child restraint programs, including the following:

(A) A program to support enforcement of child restraint laws.

(B) A program to train child passenger safety professionals, police officers, fire and emergency medical personnel, educators, and parents concerning all aspects of the use of child safety seats and child restraints.

(C) A program to educate the public concerning the proper use and installation of child safety seats and child restraints.

(e) **GRANT AMOUNT.**—The amount of a grant to a State for a fiscal year under this section may not exceed 25 percent of the amount apportioned to the State for fiscal year 2003 under section 402 of title 23, United States Code.

(f) **APPLICABILITY OF CHAPTER 1.**—The provisions contained in section 402(d) of such title shall apply to this section.

(g) **REPORT.**—A State that receives a grant under this section shall transmit to the Secretary a report documenting the manner in which the grant amounts were obligated and expended and identifying the specific programs carried out using the grant funds. The report shall be in a form prescribed by the Secretary and may be combined with other State grant reporting requirements under of chapter 4 of title 23, United States Code.

(h) **DEFINITIONS.**—In this section, the following definitions apply:

(1) **CHILD RESTRAINT.**—The term “child restraint” means any product designed to provide restraint to a child (including booster seats and other products used with a lap and shoulder belt assembly) that meets applicable Federal motor vehicle safety standards prescribed by the National Highway Traffic Safety Administration.

(2) **CHILD SAFETY SEAT.**—The term “child safety seat” has the meaning such term has in section 405(f) of title 23, United States Code.

(3) **PASSENGER MOTOR VEHICLE.**—The term “passenger motor vehicle” has the meaning such term has in section 405(f) of such title.

(4) **STATE.**—The term “State” has the meaning such term has in section 101(a) of such title.

SEC. 2012. SAFETY DATA.

(a) **IN GENERAL.**—Using funds made available to carry out section 403 of title 23, United States Code, for fiscal years 2005 through 2009, the Secretary shall collect data and compile statistics on accidents involving motor vehicles being backed up that result in fatalities and injuries and that occur on public and nonpublic roads and residential and commercial driveways and parking facilities.

(b) **REPORT.**—Not later than January 1, 2009, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on accidents described in subsection (a), including the data collected and statistics compiled under subsection (a) and any recommendations regarding measures to be taken to reduce the number of such accidents and the resulting fatalities and injuries.

SEC. 2013. DRUG-IMPAIRED DRIVING ENFORCEMENT.

23 USC 403 note.

(a) **ILLICIT DRUG.**—In this section, the term “illicit drug” includes substances listed in schedules I through V of section 112(e) of the Controlled Substances Act (21 U.S.C. 812) not obtained by a legal and valid prescription.

(b) **DUTIES.**—The Secretary shall—

(1) advise and coordinate with other Federal agencies on how to address the problem of driving under the influence of an illegal drug; and

(2) conduct research on the prevention, detection, and prosecution of driving under the influence of an illegal drug.

(c) **REPORT.**—

(1) **IN GENERAL.**—Not later than 18 months after the date of enactment of this Act, the Secretary, in cooperation with the National Institutes of Health, shall submit to Congress a report on the problem of drug-impaired driving.

(2) **CONTENTS.**—The report shall include, at a minimum, the following:

(A) An assessment of methodologies and technologies for measuring driver impairment resulting from use of the most common illicit drugs (including the use of such drugs in combination with alcohol).

(B) Effective and efficient methods for training law enforcement personnel, including drug recognition experts, to detect or measure the level of impairment of a driver

who is under the influence of an illicit drug by the use of technology or otherwise.

(C) A description of the role of drugs as causal factor in traffic crashes and the extent of the problem of drug-impaired driving.

(D) A description and assessment of current State and Federal laws relating to drug-impaired driving.

(E) Recommendations for addressing the problem of drug-impaired driving, including recommendations on levels of impairment.

(F) Recommendations for developing a model statute relating to drug-impaired driving.

(d) MODEL STATUTE.—

(1) IN GENERAL.—The Secretary shall develop a model statute for States relating to drug-impaired driving.

(2) CONTENTS.—Based on recommendations and findings contained in the report submitted under subsection (c), the model statute may include—

(A) threshold levels of impairment for illicit drugs;

(B) practicable methods for detecting the presence of illicit drugs; and

(C) penalties for drug impaired driving.

(3) DATE.—The model statute shall be provided to States not later than 1 year after date of submission of the report under subsection (c).

Drugs and drug
abuse.

(e) RESEARCH AND DEVELOPMENT.—Section 403(b) of title 23, United States Code, is amended by adding at the end the following:

“(5) Technology to detect drug use and enable States to efficiently process toxicology evidence.

“(6) Research on the effects of illicit drugs and the compound effects of alcohol and illicit drugs on impairment.”.

(f) FUNDING.—Out of amounts made available to carry out section 403 of title 23, United States Code, for each of fiscal years 2006 through 2009, the Secretary shall make available \$1,200,000 for such fiscal year to carry out this section.

23 USC 402 note.

SEC. 2014. FIRST RESPONDER VEHICLE SAFETY PROGRAM.

Deadline.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary, in consultation with the Administrator of the National Highway Traffic Safety Administration, should—

(1) develop and implement a comprehensive program to promote compliance with State and local laws intended to increase the safe and efficient operation of first responder vehicles;

(2) compile a list of best practices by State and local governments to promote compliance with the laws described in paragraph (1);

(3) analyze State and local laws intended to increase the safe and efficient operation of first responder vehicles; and

(4) develop model legislation to increase the safe and efficient operation of first responder vehicles.

(b) PARTNERSHIPS.—The Secretary may enter into partnerships with qualified organizations to carry out this section.

(c) PUBLIC OUTREACH.—The Secretary shall use a variety of public outreach strategies to carry out this section, including public

service announcements, publication of informational materials, and posting information on the Internet.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this section for fiscal year 2006.

SEC. 2015. DRIVER PERFORMANCE STUDY.

(a) **IN GENERAL.**—Using funds made available to carry out section 403 of title 23, United States Code, for fiscal year 2005, the Secretary shall make \$1,000,000 available to conduct a study on the risks associated with glare to oncoming drivers, including increased risks to drivers on 2-lane highways, increased risks to drivers over the age of 50, and the overall effects of glare on driver performance.

(b) **REPORT.**—Not later than 18 months after the date of enactment of this Act, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study and any recommendations regarding measures to reduce the risks associated with glare to oncoming drivers.

SEC. 2016. RURAL STATE EMERGENCY MEDICAL SERVICES OPTIMIZATION PILOT PROGRAM.

(a) **IN GENERAL.**—From funds made available to carry out section 403 of title 23, United States Code, for fiscal year 2006, the Secretary shall make \$1,000,000 available to conduct a pilot program for optimizing emergency medical services in a rural State.

(b) **COLLECTING DATA.**—The pilot program shall focus on collecting geo-coded data for highway accidents and resulting injuries, analyzing data to develop injury patterns and distributions, and improving placement and management of emergency medical services resources and personnel.

(c) **SELECTION.**—The Secretary shall enter into an agreement with the State of Alaska to conduct the pilot program.

Contracts.
Alaska.

(d) **REPORT.**—Not later than 12 months after the completion of the pilot program, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the pilot program and recommendations for application to other rural States.

SEC. 2017. OLDER DRIVER SAFETY; LAW ENFORCEMENT TRAINING.

(a) **IMPROVING OLDER DRIVER SAFETY.**—

(1) **IN GENERAL.**—Of the funds made available to carry out section 403 of title 23, United States Code, the Secretary shall allocate \$1,700,000 for each of fiscal years 2006 through 2009 to conduct a comprehensive research and demonstration program to improve traffic safety pertaining to older drivers.

(2) **ELEMENTS OF PROGRAM.**—The program shall—

(A) provide information and guidelines to assist older drivers, physicians, and other related medical personnel, families, licensing agencies, enforcement officers, and various public and transit agencies in enhancing the safety of older drivers;

(B) improve the scientific basis of medical standards and screenings strategies used in the licensing of all drivers in a non-discriminatory manner;

(C) conduct field tests to assess the safety benefits and mobility impacts of different driver licensing strategies and driver assessment and rehabilitation methods;

(D) assess the value and improve the safety potential of driver retraining courses of particular benefit to older drivers; and

(E) conduct other activities to accomplish the objectives of this section.

(3) FORMULATION OF PLAN.—After consultation with affected parties, the Secretary shall formulate an older driver traffic safety plan to guide the design and implementation of the program.

Deadline.

(4) SUBMISSION OF PLAN TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit the plan to the Committee on Transportation and Infrastructure House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

23 USC 402 note.

(b) LAW ENFORCEMENT TRAINING.—

(1) REQUIREMENT FOR PROGRAM.—The Secretary shall carry out a program to provide guidance and support to law enforcement agencies in police chase techniques that are consistent with the police chase guidelines issued by the International Association of Chiefs of Police.

(2) AMOUNT FOR PROGRAM.—Of the funds made available to carry out section 403 of title 23, United States Code, the Secretary shall allocate \$500,000 in each of fiscal years 2006 through 2009 to carry out this subsection.

SEC. 2018. SAFE INTERSECTIONS.

(a) IN GENERAL.—Chapter 2 of title 18, United States Code, is amended by adding at the end the following:

“§ 39. Traffic signal preemption transmitters

“(a) OFFENSES.—

“(1) SALE.—Whoever, in or affecting interstate or foreign commerce, knowingly sells a traffic signal preemption transmitter to a nonqualifying user shall be fined under this title, or imprisoned not more than 1 year, or both.

“(2) USE.—Whoever, in or affecting interstate or foreign commerce, being a nonqualifying user makes unauthorized use of a traffic signal preemption transmitter shall be fined under this title, or imprisoned not more than 6 months, or both.

“(b) DEFINITIONS.—In this section, the following definitions apply:

“(1) TRAFFIC SIGNAL PREEMPTION TRANSMITTER.—The term ‘traffic signal preemption transmitter’ means any mechanism that can change or alter a traffic signal’s phase time or sequence.

“(2) NONQUALIFYING USER.—The term ‘nonqualifying user’ means a person who uses a traffic signal preemption transmitter and is not acting on behalf of a public agency or private corporation authorized by law to provide fire protection, law enforcement, emergency medical services, transit services, maintenance, or other services for a Federal, State, or local government entity, but does not include a person using a traffic signal preemption transmitter for classroom or instructional purposes.”.

(b) CLERICAL AMENDMENT.—The analysis for such chapter is amended by adding at the end the following:

“39. Traffic signal preemption transmitters.”.

SEC. 2019. NATIONAL HIGHWAY SAFETY ADVISORY COMMITTEE TECHNICAL CORRECTION.

Section 404(d) of title 23, United States Code, is amended by striking “Commerce” and inserting “Transportation”.

SEC. 2020. PRESIDENTIAL COMMISSION ON ALCOHOL-IMPAIRED DRIVING.

(a) FINDINGS.—Congress finds that—

(1) there has been considerable progress over the past 25 years in reducing the number and rate of alcohol-related highway fatalities;

(2) the National Highway Traffic Safety Administration projects that fatalities in alcohol-related crashes declined in 2003 for the 2nd year in a row;

(3) in spite of this progress, an estimated 17,013 Americans died in 2003, in alcohol-related crashes;

(4) these fatalities comprise 40 percent of the annual total highway fatalities;

(5) about 250,000 are injured each year in alcohol-related crashes;

(6) the past 2 years of decreasing alcohol-related fatalities follows a 3-year increase;

(7) alcohol-impaired driving is the Nation’s most frequently committed violent crime;

(8) the annual cost of alcohol-related crashes is over \$100,000,000,000, including \$9,000,000,000 in costs to employers;

(9) a Presidential Commission on Alcohol Impaired Driving in 1982 and 1983 helped to lead to substantial progress on this issue; and

(10) these facts point to the need to renew the national commitment to preventing these deaths and injuries.

(b) SENSE OF THE CONGRESS.—It is the sense of Congress that, in an effort to further change the culture of alcohol-impaired driving on our Nation’s highways, the President should consider establishing a Presidential Commission on Alcohol-Impaired Driving—

(1) comprised of representatives of—

(A) State and local governments, including State legislators;

(B) law enforcement;

(C) traffic safety experts, including researchers;

(D) victims of alcohol-related crashes;

(E) affected industries, including the alcohol, insurance, motorcycle, and auto industries;

(F) the business community;

(G) labor;

(H) the medical community;

(I) public health; and

(J) Members of Congress; and

(2) that not later than September 30, 2006, would—

(A) conduct a full examination of alcohol-impaired driving issues; and

(B) make recommendations for a broad range of policy and program changes that would serve to further reduce the level of deaths and injuries caused by alcohol impaired driving.

SEC. 2021. SENSE OF THE CONGRESS IN SUPPORT OF INCREASED PUBLIC AWARENESS OF BLOOD ALCOHOL CONCENTRATION LEVELS AND DANGERS OF ALCOHOL-IMPAIRED DRIVING.

(a) **FINDINGS.**—Congress finds that—

(1) in 2003—

(A) 17,013 Americans died in alcohol-related traffic crashes;

(B) 40 percent of the persons killed in traffic crashes died in alcohol-related crashes; and

(C) drivers with blood alcohol concentration levels over 0.15 were involved in 58 percent of alcohol-related traffic fatalities;

(2) research shows that 77 percent of Americans think they have received enough information about alcohol-impaired driving and the way in which alcohol affects individual blood alcohol levels; and

(3) only 28 percent of the American public can correctly identify the legal limit of blood alcohol concentration of the State in which they reside.

(b) **SENSE OF CONGRESS.**—It is the sense of Congress that the National Highway Traffic Safety Administration should work with State and local governments and independent organizations to increase public awareness of—

(1) State legal limits on blood alcohol concentration levels; and

(2) the dangers of alcohol-impaired driving.

23 USC 402 note. **SEC. 2022. EFFECTIVE DATE.**

Sections 2002 through 2007 of this title (and the amendments and repeals made by such sections) shall take effect October 1, 2005.

TITLE III—PUBLIC TRANSPORTATION

Federal Public
Transportation
Act of 2005.
49 USC 5101
note.

SEC. 3001. SHORT TITLE.

This title may be cited as the “Federal Public Transportation Act of 2005”.

SEC. 3002. AMENDMENTS TO TITLE 49, UNITED STATES CODE; UPDATED TERMINOLOGY.

(a) **AMENDMENTS TO TITLE 49.**—Except as otherwise specifically provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision of law, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

49 USC 5301.

(b) **UPDATED TERMINOLOGY.**—Chapter 53 is amended—

(1) in the chapter heading by striking “**MASS**” and inserting “**PUBLIC**”;

(2) in section 5310(h) by striking “Mass” and inserting “Public”;

(3) in the subsection heading for section 5331(b) by striking “MASS” and inserting “PUBLIC”; and

(4) by striking “mass” each place the term appears before “transportation” and inserting “public”, except in sections 5301(f), 5302(a)(7), 5315, and 5323(a)(1).

(c) TABLE OF CHAPTERS.—The table of chapters for subtitle III is amended in the item relating to chapter 53 by striking “Mass” and inserting “Public”.

49 USC 5301,
5302, 5307,
5311–5314, 5318,
5319, 5321–5323,
5330, 5331,
5333–5336.

SEC. 3003. POLICIES, FINDINGS, AND PURPOSES.

(a) IN GENERAL.—Section 5301(a) is amended to read as follows:

“(a) DEVELOPMENT AND REVITALIZATION OF PUBLIC TRANSPORTATION SYSTEMS.—It is in the interest of the United States, including its economic interest, to foster the development and revitalization of public transportation systems that—

“(1) maximize the safe, secure, and efficient mobility of individuals;

“(2) minimize environmental impacts; and

“(3) minimize transportation-related fuel consumption and reliance on foreign oil.”.

(b) GENERAL FINDINGS.—Section 5301(b)(1) is amended—

(1) by striking “70 percent” and inserting “two-thirds”; and

(2) by striking “urban areas” and inserting “urbanized areas”.

(c) PRESERVING THE ENVIRONMENT.—Section 5301(e) is amended—

(1) by striking “an urban” and inserting “a”; and

(2) by striking “under sections 5309 and 5310 of this title”.

(d) GENERAL PURPOSES.—Section 5301(f) is amended—

(1) in paragraph (1)—

(A) by striking “mass” the first place it appears and inserting “public”; and

(B) by striking “public and private mass transportation companies” and inserting “both public transportation companies and private companies engaged in public transportation”;

(2) in paragraph (2)—

(A) by striking “urban mass” and inserting “public”; and

(B) by striking “public and private mass transportation companies” and inserting “both public transportation companies and private companies engaged in public transportation”;

(3) in paragraph (3)—

(A) by striking “urban mass” and inserting “public”; and

(B) by striking “public or private mass transportation companies” and inserting “public transportation companies or private companies engaged in public transportation”;

(4) in paragraph (5) by striking “urban mass” and inserting “public”.

SEC. 3004. DEFINITIONS.

(a) LEAD-IN.—Section 5302(a) is amended in the matter preceding paragraph (1) by striking “In this chapter” and inserting “Except as otherwise specifically provided, in this chapter”.

(b) CAPITAL PROJECT.—Section 5302(a)(1) is amended—

(1) in subparagraph (G) by inserting “construction, renovation, and improvement of intercity bus and intercity rail stations and terminals,” before “and the renovation and improvement of historic transportation facilities,”;

(2) in subparagraph (G)(ii) by inserting “(other than an intercity bus station or terminal)” after “commercial revenue-producing facility”;

(3) in subparagraph (H) by striking “or” at the end;

(4) in subparagraph (I) by striking the period at the end and inserting a semicolon; and

(5) by adding at the end the following:

“(J) crime prevention and security—

“(i) including—

“(I) projects to refine and develop security and emergency response plans;

“(II) projects aimed at detecting chemical and biological agents in public transportation;

“(III) the conduct of emergency response drills with public transportation agencies and local first response agencies; and

“(IV) security training for public transportation employees; but

“(ii) excluding all expenses related to operations, other than such expenses incurred in conducting activities described in clauses (i)(III) and (i)(IV);

“(K) establishing a debt service reserve, made up of deposits with a bondholder’s trustee, to ensure the timely payment of principal and interest on bonds issued by a grant recipient to finance an eligible project under this chapter; or

“(L) mobility management—

“(i) consisting of short-range planning and management activities and projects for improving coordination among public transportation and other transportation service providers carried out by a recipient or sub-recipient through an agreement entered into with a person, including a governmental entity, under this chapter (other than section 5309); but

“(ii) excluding operating public transportation services.”.

(c) INDIVIDUAL WITH A DISABILITY.—Section 5302(a)(5) is amended—

(1) in the paragraph heading by striking “HANDICAPPED INDIVIDUAL” and inserting “INDIVIDUAL WITH A DISABILITY”; and

(2) by striking “handicapped individual” and inserting “individual with a disability”.

(d) MASS TRANSPORTATION.—Section 5302(a)(7) is amended to read as follows:

“(7) MASS TRANSPORTATION.—The term ‘mass transportation’ means public transportation.”.

(e) PUBLIC TRANSPORTATION.—Section 5302(a)(10) is amended to read as follows:

“(10) PUBLIC TRANSPORTATION.—The term ‘public transportation’ means transportation by a conveyance that provides regular and continuing general or special transportation to the public, but does not include schoolbus, charter, or intercity

bus transportation or intercity passenger rail transportation provided by the entity described in chapter 243 (or a successor to such entity).”.

(f) URBANIZED AREA.—Section 5302(a)(17) is amended to read as follows:

“(17) URBANIZED AREA.—The term ‘urbanized area’ means an area encompassing a population of not less than 50,000 people that has been defined and designated in the most recent decennial census as an ‘urbanized area’ by the Secretary of Commerce.”.

(g) AUTHORITY TO MODIFY DEFINITION.—Section 5302(b) is amended—

(1) in the subsection heading by striking “HANDICAPPED INDIVIDUAL” and inserting “INDIVIDUAL WITH A DISABILITY”; and

(2) by striking “handicapped individual” and inserting “individual with a disability”.

SEC. 3005. METROPOLITAN TRANSPORTATION PLANNING.

(a) IN GENERAL.—Section 5303 is amended to read as follows:

“§ 5303. Metropolitan transportation planning

“(a) POLICY.—It is in the national interest to—

“(1) encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight and foster economic growth and development within and between States and urbanized areas, while minimizing transportation-related fuel consumption and air pollution through metropolitan and statewide transportation planning processes identified in this chapter; and

“(2) encourage the continued improvement and evolution of the metropolitan and statewide transportation planning processes by metropolitan planning organizations, State departments of transportation, and public transit operators as guided by the planning factors identified in subsection (h) and section 5304(d).

“(b) DEFINITIONS.—In this section and section 5304, the following definitions apply: Applicability.

“(1) METROPOLITAN PLANNING AREA.—The term ‘metropolitan planning area’ means the geographic area determined by agreement between the metropolitan planning organization for the area and the Governor under subsection (e).

“(2) METROPOLITAN PLANNING ORGANIZATION.—The term ‘metropolitan planning organization’ means the policy board of an organization created as a result of the designation process in subsection (d).

“(3) NONMETROPOLITAN AREA.—The term ‘nonmetropolitan area’ means a geographic area outside a designated metropolitan planning area.

“(4) NONMETROPOLITAN LOCAL OFFICIAL.—The term ‘nonmetropolitan local official’ means elected and appointed officials of general purpose local government in a nonmetropolitan area with responsibility for transportation.

“(5) TIP.—The term ‘TIP’ means a transportation improvement program developed by a metropolitan planning organization under subsection (j).

“(6) URBANIZED AREA.—The term ‘urbanized area’ means a geographic area with a population of 50,000 or more, as designated by the Bureau of the Census.

“(c) GENERAL REQUIREMENTS.—

“(1) DEVELOPMENT OF LONG-RANGE PLANS AND TIPS.—To accomplish the objectives in subsection (a), metropolitan planning organizations designated under subsection (d), in cooperation with the State and public transportation operators, shall develop long-range transportation plans and transportation improvement programs for metropolitan planning areas of the State.

“(2) CONTENTS.—The plans and TIPs for each metropolitan area shall provide for the development and integrated management and operation of transportation systems and facilities (including accessible pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the metropolitan planning area and as an integral part of an intermodal transportation system for the State and the United States.

“(3) PROCESS OF DEVELOPMENT.—The process for developing the plans and TIPs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

“(d) DESIGNATION OF METROPOLITAN PLANNING ORGANIZATIONS.—

“(1) IN GENERAL.—To carry out the transportation planning process required by this section, a metropolitan planning organization shall be designated for each urbanized area with a population of more than 50,000 individuals—

“(A) by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the affected population (including the largest incorporated city (based on population) as named by the Bureau of the Census); or

“(B) in accordance with procedures established by applicable State or local law.

“(2) STRUCTURE.—Each metropolitan planning organization that serves an area designated as a transportation management area, when designated or redesignated under this subsection, shall consist of—

“(A) local elected officials;

“(B) officials of public agencies that administer or operate major modes of transportation in the metropolitan area; and

“(C) appropriate State officials.

“(3) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to interfere with the authority, under any State law in effect on December 18, 1991, of a public agency with multimodal transportation responsibilities to—

“(A) develop the plans and TIPs for adoption by a metropolitan planning organization; and

“(B) develop long-range capital plans, coordinate transit services and projects, and carry out other activities pursuant to State law.

“(4) CONTINUING DESIGNATION.—A designation of a metropolitan planning organization under this subsection or any other provision of law shall remain in effect until the metropolitan planning organization is redesignated under paragraph (5).

“(5) REDESIGNATION PROCEDURES.—A metropolitan planning organization may be redesignated by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the existing planning area population (including the largest incorporated city (based on population) as named by the Bureau of the Census) as appropriate to carry out this section.

“(6) DESIGNATION OF MORE THAN ONE METROPOLITAN PLANNING ORGANIZATION.—More than one metropolitan planning organization may be designated within an existing metropolitan planning area only if the Governor and the existing metropolitan planning organization determine that the size and complexity of the existing metropolitan planning area make designation of more than one metropolitan planning organization for the area appropriate.

“(e) METROPOLITAN PLANNING AREA BOUNDARIES.—

“(1) IN GENERAL.—For the purposes of this section, the boundaries of a metropolitan planning area shall be determined by agreement between the metropolitan planning organization and the Governor.

“(2) INCLUDED AREA.—Each metropolitan planning area—

“(A) shall encompass at least the existing urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period for the transportation plan; and

“(B) may encompass the entire metropolitan statistical area or consolidated metropolitan statistical area, as defined by the Bureau of the Census.

“(3) IDENTIFICATION OF NEW URBANIZED AREAS WITHIN EXISTING PLANNING AREA BOUNDARIES.—The designation by the Bureau of the Census of new urbanized areas within an existing metropolitan planning area shall not require the redesignation of the existing metropolitan planning organization.

“(4) EXISTING METROPOLITAN PLANNING AREAS IN NON-ATTAINMENT.—Notwithstanding paragraph (2), in the case of an urbanized area designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.) as of the date of enactment of the Federal Public Transportation Act of 2005, the boundaries of the metropolitan planning area in existence as of such date of enactment shall be retained; except that the boundaries may be adjusted by agreement of the Governor and affected metropolitan planning organizations in the manner described in subsection (d)(5).

“(5) NEW METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—In the case of an urbanized area designated after the date of enactment of the Federal Public Transportation Act of 2005 as a nonattainment area for ozone or carbon monoxide, the boundaries of the metropolitan planning area—

“(A) shall be established in the manner described in subsection (d)(1);

“(B) shall encompass the areas described in paragraph (2)(A);

“(C) may encompass the areas described in paragraph (2)(B); and

“(D) may address any nonattainment area identified under the Clean Air Act for ozone or carbon monoxide.

“(f) COORDINATION IN MULTISTATE AREAS.—

“(1) IN GENERAL.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate metropolitan area and the appropriate metropolitan planning organizations to provide coordinated transportation planning for the entire metropolitan area.

“(2) INTERSTATE COMPACTS.—The consent of Congress is granted to any two or more States—

“(A) to enter into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section as the activities pertain to interstate areas and localities within the States; and

“(B) to establish such agencies, joint or otherwise, as the States may determine desirable for making the agreements and compacts effective.

“(3) LAKE TAHOE REGION.—

“(A) DEFINITION.—In this paragraph, the term ‘Lake Tahoe region’ has the meaning given the term ‘region’ in subdivision (a) of article II of the Tahoe Regional Planning Compact, as set forth in the first section of Public Law 96-551 (94 Stat. 3234).

“(B) TRANSPORTATION PLANNING PROCESS.—The Secretary shall—

“(i) establish with the Federal land management agencies that have jurisdiction over land in the Lake Tahoe region a transportation planning process for the region; and

“(ii) coordinate the transportation planning process with the planning process required of State and local governments under this section and section 5304.

“(C) INTERSTATE COMPACT.—

“(i) IN GENERAL.—Subject to clause (ii), and notwithstanding subsection (b), to carry out the transportation planning process required by this section, the consent of Congress is granted to the States of California and Nevada to designate a metropolitan planning organization for the Lake Tahoe region, by agreement between the Governors of the States of California and Nevada and units of general purpose local government that together represent at least 75 percent of the affected population (including the central city or cities (as defined by the Bureau of the Census)), or in accordance with procedures established by applicable State or local law.

“(ii) INVOLVEMENT OF FEDERAL LAND MANAGEMENT AGENCIES.—

“(I) REPRESENTATION.—The policy board of a metropolitan planning organization designated under clause (i) shall include a representative of each Federal land management agency that has jurisdiction over land in the Lake Tahoe region.

“(II) FUNDING.—In addition to funds made available to the metropolitan planning organization for the Lake Tahoe region under other provisions of this chapter and title 23, 1 percent of the funds allocated under section 202 of title 23 shall be used to carry out the transportation planning process for the Lake Tahoe region under this subparagraph.

“(D) ACTIVITIES.—Highway projects included in transportation plans developed under this paragraph—

“(i) shall be selected for funding in a manner that facilitates the participation of the Federal land management agencies that have jurisdiction over land in the Lake Tahoe region; and

“(ii) may, in accordance with chapter 2 of title 23, be funded using funds allocated under section 202 of such title.

“(4) RESERVATION OF RIGHTS.—The right to alter, amend, or repeal interstate compacts entered into under this subsection is expressly reserved.

“(g) MPO CONSULTATION IN PLAN AND TIP COORDINATION.—

“(1) NONATTAINMENT AREAS.—If more than one metropolitan planning organization has authority within a metropolitan area or an area which is designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act, each metropolitan planning organization shall consult with the other metropolitan planning organizations designated for such area and the State in the coordination of plans and TIPs required by this section.

“(2) TRANSPORTATION IMPROVEMENTS LOCATED IN MULTIPLE MPOS.—If a transportation improvement, funded from the Highway Trust Fund or authorized under this chapter, is located within the boundaries of more than one metropolitan planning area, the metropolitan planning organizations shall coordinate plans and TIPs regarding the transportation improvement.

“(3) RELATIONSHIP WITH OTHER PLANNING OFFICIALS.—The Secretary shall encourage each metropolitan planning organization to consult with officials responsible for other types of planning activities that are affected by transportation in the area (including State and local planned growth, economic development, environmental protection, airport operations, and freight movements) or to coordinate its planning process, to the maximum extent practicable, with such planning activities. Under the metropolitan planning process, transportation plans and TIPs shall be developed with due consideration of other related planning activities within the metropolitan area, and the process shall provide for the design and delivery of transportation services within the metropolitan area that are provided by—

“(A) recipients of assistance under this chapter;

“(B) governmental agencies and nonprofit organizations (including representatives of the agencies and organizations) that receive Federal assistance from a source other than the Department of Transportation to provide non-emergency transportation services; and

“(C) recipients of assistance under section 204 of title 23.

“(h) SCOPE OF PLANNING PROCESS.—

“(1) IN GENERAL.—The metropolitan planning process for a metropolitan planning area under this section shall provide for consideration of projects and strategies that will—

“(A) support the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency;

“(B) increase the safety of the transportation system for motorized and nonmotorized users;

“(C) increase the security of the transportation system for motorized and nonmotorized users;

“(D) increase the accessibility and mobility of people and for freight;

“(E) protect and enhance the environment, promote energy conservation, improve the quality of life, and promote consistency between transportation improvements and State and local planned growth and economic development patterns;

“(F) enhance the integration and connectivity of the transportation system, across and between modes, for people and freight;

“(G) promote efficient system management and operation; and

“(H) emphasize the preservation of the existing transportation system.

“(2) FAILURE TO CONSIDER FACTORS.—The failure to consider any factor specified in paragraph (1) shall not be reviewable by any court under this chapter, title 23, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a transportation plan, a TIP, a project or strategy, or the certification of a planning process.

“(i) DEVELOPMENT OF TRANSPORTATION PLAN.—

“(1) IN GENERAL.—Each metropolitan planning organization shall prepare a transportation plan for its metropolitan planning area in accordance with the requirements of this subsection. The metropolitan planning organization shall prepare and update such plan every 4 years (or more frequently, if the metropolitan planning organization elects to update more frequently) in the case of each of the following:

“(A) Any area designated as nonattainment, as defined in section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)).

“(B) Any area that was nonattainment and subsequently designated to attainment in accordance with section 107(d)(3) of that Act (42 U.S.C. 7407(d)(3)) and that is subject to a maintenance plan under section 175A of that Act (42 U.S.C. 7505a).

In the case of any other area required to have a transportation plan in accordance with the requirements of this subsection, the metropolitan planning organization shall prepare and update such plan every 5 years unless the metropolitan planning organization elects to update more frequently.

“(2) TRANSPORTATION PLAN.—A transportation plan under this section shall be in a form that the Secretary determines to be appropriate and shall contain, at a minimum, the following:

“(A) IDENTIFICATION OF TRANSPORTATION FACILITIES.—An identification of transportation facilities (including

major roadways, transit, multimodal and intermodal facilities, and intermodal connectors) that should function as an integrated metropolitan transportation system, giving emphasis to those facilities that serve important national and regional transportation functions. In formulating the transportation plan, the metropolitan planning organization shall consider factors described in subsection (h) as such factors relate to a 20-year forecast period.

“(B) MITIGATION ACTIVITIES.—

“(i) IN GENERAL.—A long-range transportation plan shall include a discussion of types of potential environmental mitigation activities and potential areas to carry out these activities, including activities that may have the greatest potential to restore and maintain the environmental functions affected by the plan.

“(ii) CONSULTATION.—The discussion shall be developed in consultation with Federal, State, and tribal wildlife, land management, and regulatory agencies.

“(C) FINANCIAL PLAN.—A financial plan that demonstrates how the adopted transportation plan can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan, and recommends any additional financing strategies for needed projects and programs. The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted transportation plan if reasonable additional resources beyond those identified in the financial plan were available. For the purpose of developing the transportation plan, the metropolitan planning organization, transit operator, and State shall cooperatively develop estimates of funds that will be available to support plan implementation.

“(D) OPERATIONAL AND MANAGEMENT STRATEGIES.—

Operational and management strategies to improve the performance of existing transportation facilities to relieve vehicular congestion and maximize the safety and mobility of people and goods.

“(E) CAPITAL INVESTMENT AND OTHER STRATEGIES.—

Capital investment and other strategies to preserve the existing and projected future metropolitan transportation infrastructure and provide for multimodal capacity increases based on regional priorities and needs.

“(F) TRANSPORTATION AND TRANSIT ENHANCEMENT ACTIVITIES.—Proposed transportation and transit enhancement activities.

“(3) COORDINATION WITH CLEAN AIR ACT AGENCIES.—In metropolitan areas which are in nonattainment for ozone or carbon monoxide under the Clean Air Act, the metropolitan planning organization shall coordinate the development of a transportation plan with the process for development of the transportation control measures of the State implementation plan required by the Clean Air Act.

“(4) CONSULTATION.—

“(A) IN GENERAL.—In each metropolitan area, the metropolitan planning organization shall consult, as appropriate, with State and local agencies responsible for land

use management, natural resources, environmental protection, conservation, and historic preservation concerning the development of a long-range transportation plan.

“(B) ISSUES.—The consultation shall involve, as appropriate—

“(i) comparison of transportation plans with State conservation plans or maps, if available; or

“(ii) comparison of transportation plans to inventories of natural or historic resources, if available.

“(5) PARTICIPATION BY INTERESTED PARTIES.—

“(A) IN GENERAL.—Each metropolitan planning organization shall provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, and other interested parties with a reasonable opportunity to comment on the transportation plan.

“(B) CONTENTS OF PARTICIPATION PLAN.—A participation plan—

“(i) shall be developed in consultation with all interested parties; and

“(ii) shall provide that all interested parties have reasonable opportunities to comment on the contents of the transportation plan.

“(C) METHODS.—In carrying out subparagraph (A), the metropolitan planning organization shall, to the maximum extent practicable—

“(i) hold any public meetings at convenient and accessible locations and times;

“(ii) employ visualization techniques to describe plans; and

“(iii) make public information available in electronically accessible format and means, such as the World Wide Web, as appropriate to afford reasonable opportunity for consideration of public information under subparagraph (A).

“(6) PUBLICATION.—A transportation plan involving Federal participation shall be published or otherwise made readily available by the metropolitan planning organization for public review, including (to the maximum extent practicable) in electronically accessible formats and means, such as the World Wide Web, approved by the metropolitan planning organization and submitted for information purposes to the Governor at such times and in such manner as the Secretary shall establish.

“(7) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—Notwithstanding paragraph (2)(C), a State or metropolitan planning organization shall not be required to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(C).

“(j) METROPOLITAN TIP.—

“(1) DEVELOPMENT.—

“(A) IN GENERAL.—In cooperation with the State and any affected public transportation operator, the metropolitan planning organization designated for a metropolitan

area shall develop a TIP for the area for which the organization is designated.

“(B) OPPORTUNITY FOR COMMENT.—In developing the TIP, the metropolitan planning organization, in cooperation with the State and any affected public transportation operator, shall provide an opportunity for participation by interested parties in the development of the program, in accordance with subsection (i)(5).

“(C) FUNDING ESTIMATES.—For the purpose of developing the TIP, the metropolitan planning organization, public transportation agency, and State shall cooperatively develop estimates of funds that are reasonably expected to be available to support program implementation.

“(D) UPDATING AND APPROVAL.—The TIP shall be updated at least once every 4 years and shall be approved by the metropolitan planning organization and the Governor.

“(2) CONTENTS.—

“(A) PRIORITY LIST.—The TIP shall include a priority list of proposed federally supported projects and strategies to be carried out within each 4-year period after the initial adoption of the TIP.

“(B) FINANCIAL PLAN.—The TIP shall include a financial plan that—

“(i) demonstrates how the TIP can be implemented;

“(ii) indicates resources from public and private sources that are reasonably expected to be available to carry out the program;

“(iii) identifies innovative financing techniques to finance projects, programs, and strategies; and

“(iv) may include, for illustrative purposes, additional projects that would be included in the approved TIP if reasonable additional resources beyond those identified in the financial plan were available.

“(C) DESCRIPTIONS.—Each project in the TIP shall include sufficient descriptive material (such as type of work, termini, length, and other similar factors) to identify the project or phase of the project.

“(3) INCLUDED PROJECTS.—

“(A) PROJECTS UNDER THIS CHAPTER AND TITLE 23.—A TIP developed under this subsection for a metropolitan area shall include the projects within the area that are proposed for funding under this chapter and chapter 1 of title 23.

“(B) PROJECTS UNDER CHAPTER 2 OF TITLE 23.—

“(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 of title 23 shall be identified individually in the transportation improvement program.

“(ii) OTHER PROJECTS.—Projects proposed for funding under chapter 2 of title 23 that are not determined to be regionally significant shall be grouped in one line item or identified individually in the transportation improvement program.

“(C) CONSISTENCY WITH LONG-RANGE TRANSPORTATION PLAN.—Each project shall be consistent with the long-range

transportation plan developed under subsection (i) for the area.

“(D) REQUIREMENT OF ANTICIPATED FULL FUNDING.—The program shall include a project, or an identified phase of a project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

“(4) NOTICE AND COMMENT.—Before approving a TIP, a metropolitan planning organization, in cooperation with the State and any affected public transportation operator, shall provide an opportunity for participation by interested parties in the development of the program, in accordance with subsection (i)(5).

“(5) SELECTION OF PROJECTS.—

“(A) IN GENERAL.—Except as otherwise provided in subsection (k)(4) and in addition to the TIP development required under paragraph (1), the selection of federally funded projects in metropolitan areas shall be carried out, from the approved TIP—

“(i) by—

“(I) in the case of projects under title 23, the State; and

“(II) in the case of projects under this chapter, the designated recipients of public transportation funding; and

“(ii) in cooperation with the metropolitan planning organization.

“(B) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, action by the Secretary shall not be required to advance a project included in the approved TIP in place of another project in the program.

“(6) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—

“(A) NO REQUIRED SELECTION.—Notwithstanding paragraph (2)(B)(iv), a State or metropolitan planning organization shall not be required to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(B)(iv).

“(B) REQUIRED ACTION BY THE SECRETARY.—Action by the Secretary shall be required for a State or metropolitan planning organization to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(B)(iv) for inclusion in an approved TIP.

“(7) PUBLICATION.—

“(A) PUBLICATION OF TIPS.—A TIP involving Federal participation shall be published or otherwise made readily available by the metropolitan planning organization for public review.

“(B) PUBLICATION OF ANNUAL LISTINGS OF PROJECTS.—An annual listing of projects, including investments in pedestrian walkways and bicycle transportation facilities, for which Federal funds have been obligated in the preceding year shall be published or otherwise made available by the cooperative effort of the State, transit operator, and metropolitan planning organization for public review. The listing shall be consistent with the categories identified in the TIP.

“(C) RULEMAKING.—Not later than 180 days after the date of enactment of the Federal Public Transportation Act of 2005, the Secretary shall issue regulations setting standards for the listing required by subparagraph (B) and specifying the types of data to be included in such list, including sufficient information about each project to identify its type, location, and amount obligated. Deadline.

“(k) TRANSPORTATION MANAGEMENT AREAS.—

“(1) IDENTIFICATION AND DESIGNATION.—

“(A) REQUIRED IDENTIFICATION.—The Secretary shall identify as a transportation management area each urbanized area (as defined by the Bureau of the Census) with a population of over 200,000 individuals.

“(B) DESIGNATIONS ON REQUEST.—The Secretary shall designate any additional area as a transportation management area on the request of the Governor and the metropolitan planning organization designated for the area.

“(2) TRANSPORTATION PLANS.—In a metropolitan planning area serving a transportation management area, transportation plans shall be based on a continuing and comprehensive transportation planning process carried out by the metropolitan planning organization in cooperation with the State and public transportation operators.

“(3) CONGESTION MANAGEMENT PROCESS.—Within a metropolitan planning area serving a transportation management area, the transportation planning process under this section shall address congestion management through a process that provides for effective management and operation, based on a cooperatively developed and implemented metropolitan-wide strategy, of new and existing transportation facilities eligible for funding under this chapter and title 23 through the use of travel demand reduction and operational management strategies. The Secretary shall establish an appropriate phase-in schedule for compliance with the requirements of this section but no sooner than one year after the identification of a transportation management area.

“(4) SELECTION OF PROJECTS.—

“(A) IN GENERAL.—All federally funded projects carried out within the boundaries of a metropolitan planning area serving a transportation management area under title 23 (excluding projects carried out on the National Highway System and projects carried out under the bridge program or the Interstate maintenance program) or under this chapter shall be selected for implementation from the approved TIP by the metropolitan planning organization designated for the area in consultation with the State and any affected public transportation operator.

“(B) NATIONAL HIGHWAY SYSTEM PROJECTS.—Projects carried out within the boundaries of a metropolitan planning area serving a transportation management area on the National Highway System and projects carried out within such boundaries under the bridge program or the Interstate maintenance program under title 23 shall be selected for implementation from the approved TIP by the State in cooperation with the metropolitan planning organization designated for the area.

“(5) CERTIFICATION.—

“(A) IN GENERAL.—The Secretary shall—

“(i) ensure that the metropolitan planning process of a metropolitan planning organization serving a transportation management area is being carried out in accordance with applicable provisions of Federal law; and

“(ii) subject to subparagraph (B), certify, not less often than once every 4 years, that the requirements of this paragraph are met with respect to the metropolitan planning process.

“(B) REQUIREMENTS FOR CERTIFICATION.—The Secretary may make the certification under subparagraph (A) if—

“(i) the transportation planning process complies with the requirements of this section and other applicable requirements of Federal law; and

“(ii) there is a TIP for the metropolitan planning area that has been approved by the metropolitan planning organization and the Governor.

“(C) EFFECT OF FAILURE TO CERTIFY.—

“(i) WITHHOLDING OF PROJECT FUNDS.—If a metropolitan planning process of a metropolitan planning organization serving a transportation management area is not certified, the Secretary may withhold up to 20 percent of the funds attributable to the metropolitan planning area of the metropolitan planning organization for projects funded under this chapter and title 23.

“(ii) RESTORATION OF WITHHELD FUNDS.—The withheld funds shall be restored to the metropolitan planning area at such time as the metropolitan planning process is certified by the Secretary.

“(D) REVIEW OF CERTIFICATION.—In making certification determinations under this paragraph, the Secretary shall provide for public involvement appropriate to the metropolitan area under review.

“(1) ABBREVIATED PLANS FOR CERTAIN AREAS.—

“(1) IN GENERAL.—Subject to paragraph (2), in the case of a metropolitan area not designated as a transportation management area under this section, the Secretary may provide for the development of an abbreviated transportation plan and TIP for the metropolitan planning area that the Secretary determines is appropriate to achieve the purposes of this section, taking into account the complexity of transportation problems in the area.

“(2) NONATTAINMENT AREAS.—The Secretary may not permit abbreviated plans or TIPs for a metropolitan area that is in nonattainment for ozone or carbon monoxide under the Clean Air Act.

“(m) ADDITIONAL REQUIREMENTS FOR CERTAIN NONATTAINMENT AREAS.—

“(1) IN GENERAL.—Notwithstanding any other provisions of this chapter or title 23, for transportation management areas classified as nonattainment for ozone or carbon monoxide pursuant to the Clean Air Act, Federal funds may not be advanced in such area for any highway project that will result in a significant increase in the carrying capacity for single-occupant

vehicles unless the project is addressed through a congestion management process.

“(2) APPLICABILITY.—This subsection applies to a nonattainment area within the metropolitan planning area boundaries determined under subsection (e).

“(n) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to confer on a metropolitan planning organization the authority to impose legal requirements on any transportation facility, provider, or project not eligible under this chapter or title 23.

“(o) FUNDING.—Funds set aside under section 5305(g) of this title or section 104(f) of title 23 shall be available to carry out this section.

“(p) CONTINUATION OF CURRENT REVIEW PRACTICE.—Since plans and TIPs described in this section are subject to a reasonable opportunity for public comment, since individual projects included in plans and TIPs are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and since decisions by the Secretary concerning plans and TIPs described in this section have not been reviewed under such Act as of January 1, 1997, any decision by the Secretary concerning a plan or TIP described in this section shall not be considered to be a Federal action subject to review under such Act.”.

(b) SCHEDULE FOR IMPLEMENTATION.—The Secretary shall issue guidance on a schedule for implementation of the changes made by this section, taking into consideration the established planning update cycle for States and metropolitan planning organizations. The Secretary shall not require a State or metropolitan planning organization to deviate from its established planning update cycle to implement changes made by this section. Beginning July 1, 2007, State or metropolitan planning organization plan or program updates shall reflect changes made by this section.

Guidelines.
49 USC 5303
note.

(c) CHAPTER ANALYSIS.—The analysis for chapter 53 is amended by striking the item relating to section 5303 and inserting the following:

49 USC 5301.

“5303. Metropolitan transportation planning.”.

SEC. 3006. STATEWIDE TRANSPORTATION PLANNING.

(a) IN GENERAL.—Section 5304 is amended to read as follows:

“§ 5304. Statewide transportation planning

“(a) GENERAL REQUIREMENTS.—

“(1) DEVELOPMENT OF PLANS AND PROGRAMS.—To accomplish the objectives stated in section 5303(a), each State shall develop a statewide transportation plan and a statewide transportation improvement program for all areas of the State, subject to section 5303.

“(2) CONTENTS.—The statewide transportation plan and the transportation improvement program developed for each State shall provide for the development and integrated management and operation of transportation systems and facilities (including accessible pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the State and an integral part of an intermodal transportation system for the United States.

“(3) PROCESS OF DEVELOPMENT.—The process for developing the statewide plan and the transportation improvement program shall provide for consideration of all modes of transportation and the policies stated in section 5303(a), and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

“(b) COORDINATION WITH METROPOLITAN PLANNING; STATE IMPLEMENTATION PLAN.—A State shall—

“(1) coordinate planning carried out under this section with the transportation planning activities carried out under section 5303 for metropolitan areas of the State and with statewide trade and economic development planning activities and related multistate planning efforts; and

“(2) develop the transportation portion of the State implementation plan as required by the Clean Air Act (42 U.S.C. 7401 et seq.).

“(c) INTERSTATE AGREEMENTS.—

“(1) IN GENERAL.—The consent of Congress is granted to 2 or more States entering into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section related to interstate areas and localities in the States and establishing authorities the States consider desirable for making the agreements and compacts effective.

“(2) RESERVATION OF RIGHTS.—The right to alter, amend, or repeal interstate compacts entered into under this subsection is expressly reserved.

“(d) SCOPE OF PLANNING PROCESS.—

“(1) IN GENERAL.—Each State shall carry out a statewide transportation planning process that provides for consideration and implementation of projects, strategies, and services that will—

“(A) support the economic vitality of the United States, the States, nonmetropolitan areas, and metropolitan areas, especially by enabling global competitiveness, productivity, and efficiency;

“(B) increase the safety of the transportation system for motorized and nonmotorized users;

“(C) increase the security of the transportation system for motorized and nonmotorized users;

“(D) increase the accessibility and mobility of people and freight;

“(E) protect and enhance the environment, promote energy conservation, improve the quality of life, and promote consistency between transportation improvements and State and local planned growth and economic development patterns;

“(F) enhance the integration and connectivity of the transportation system, across and between modes throughout the State, for people and freight;

“(G) promote efficient system management and operation; and

“(H) emphasize the preservation of the existing transportation system.

“(2) FAILURE TO CONSIDER FACTORS.—The failure to consider any factor specified in paragraph (1) shall not be reviewable by any court under this chapter, title 23, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a statewide transportation plan, the transportation improvement program, a project or strategy, or the certification of a planning process.

“(e) ADDITIONAL REQUIREMENTS.—In carrying out planning under this section, each State shall consider, at a minimum—

“(1) with respect to nonmetropolitan areas, the concerns of affected local officials with responsibility for transportation;

“(2) the concerns of Indian tribal governments and Federal land management agencies that have jurisdiction over land within the boundaries of the State; and

“(3) coordination of transportation plans, the transportation improvement program, and planning activities with related planning activities being carried out outside of metropolitan planning areas and between States.

“(f) LONG-RANGE STATEWIDE TRANSPORTATION PLAN.—

“(1) DEVELOPMENT.—Each State shall develop a long-range statewide transportation plan, with a minimum 20-year forecast period for all areas of the State, that provides for the development and implementation of the intermodal transportation system of the State.

“(2) CONSULTATION WITH GOVERNMENTS.—

“(A) METROPOLITAN AREAS.—The statewide transportation plan shall be developed for each metropolitan area in the State in cooperation with the metropolitan planning organization designated for the metropolitan area under section 5303.

“(B) NONMETROPOLITAN AREAS.—With respect to nonmetropolitan areas, the statewide transportation plan shall be developed in consultation with affected nonmetropolitan officials with responsibility for transportation. The Secretary shall not review or approve the consultation process in each State.

“(C) INDIAN TRIBAL AREAS.—With respect to each area of the State under the jurisdiction of an Indian tribal government, the statewide transportation plan shall be developed in consultation with the tribal government and the Secretary of the Interior.

“(D) CONSULTATION, COMPARISON, AND CONSIDERATION.—

“(i) IN GENERAL.—The long-range transportation plan shall be developed, as appropriate, in consultation with State, tribal, and local agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation.

“(ii) COMPARISON AND CONSIDERATION.—Consultation under clause (i) shall involve comparison of transportation plans to State and tribal conservation plans or maps, if available, and comparison of transportation plans to inventories of natural or historic resources, if available.

“(3) PARTICIPATION BY INTERESTED PARTIES.—

“(A) IN GENERAL.—In developing the statewide transportation plan, the State shall provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, private providers of transportation, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, providers of freight transportation services, and other interested parties with a reasonable opportunity to comment on the proposed plan.

“(B) METHODS.—In carrying out subparagraph (A), the State shall, to the maximum extent practicable—

“(i) hold any public meetings at convenient and accessible locations and times;

“(ii) employ visualization techniques to describe plans; and

“(iii) make public information available in electronically accessible format and means, such as the World Wide Web, as appropriate to afford reasonable opportunity for consideration of public information under subparagraph (A).

“(4) MITIGATION ACTIVITIES.—

“(A) IN GENERAL.—A long-range transportation plan shall include a discussion of potential environmental mitigation activities and potential areas to carry out these activities, including activities that may have the greatest potential to restore and maintain the environmental functions affected by the plan.

“(B) CONSULTATION.—The discussion shall be developed in consultation with Federal, State, and tribal wildlife, land management, and regulatory agencies.

“(5) FINANCIAL PLAN.—The statewide transportation plan may include a financial plan that demonstrates how the adopted statewide transportation plan can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan, and recommends any additional financing strategies for needed projects and programs. The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted statewide transportation plan if reasonable additional resources beyond those identified in the financial plan were available.

“(6) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—A State shall not be required to select any project from the illustrative list of additional projects included in the financial plan described in paragraph (5).

“(7) EXISTING SYSTEM.—The statewide transportation plan should include capital, operations and management strategies, investments, procedures, and other measures to ensure the preservation and most efficient use of the existing transportation system.

“(8) PUBLICATION OF LONG-RANGE TRANSPORTATION PLANS.—Each long-range transportation plan prepared by a State shall be published or otherwise made available, including (to the maximum extent practicable) in electronically accessible formats and means, such as the World Wide Web.

“(g) STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM.—

“(1) DEVELOPMENT.—Each State shall develop a statewide transportation improvement program for all areas of the State. Such program shall cover a period of 4 years and be updated every 4 years or more frequently if the Governor elects to update more frequently.

“(2) CONSULTATION WITH GOVERNMENTS.—

“(A) METROPOLITAN AREAS.—With respect to each metropolitan area in the State, the program shall be developed in cooperation with the metropolitan planning organization designated for the metropolitan area under section 5303.

“(B) NONMETROPOLITAN AREAS.—With respect to each nonmetropolitan area in the State, the program shall be developed in consultation with affected nonmetropolitan local officials with responsibility for transportation. The Secretary shall not review or approve the specific consultation process in the State.

“(C) INDIAN TRIBAL AREAS.—With respect to each area of the State under the jurisdiction of an Indian tribal government, the program shall be developed in consultation with the tribal government and the Secretary of the Interior.

“(3) PARTICIPATION BY INTERESTED PARTIES.—In developing the program, the State shall provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, private providers of transportation, providers of freight transportation services, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, and other interested parties with a reasonable opportunity to comment on the proposed program.

“(4) INCLUDED PROJECTS.—

“(A) IN GENERAL.—A transportation improvement program developed under this subsection for a State shall include federally supported surface transportation expenditures within the boundaries of the State.

“(B) LISTING OF PROJECTS.—An annual listing of projects for which funds have been obligated in the preceding year in each metropolitan planning area shall be published or otherwise made available by the cooperative effort of the State, transit operator, and the metropolitan planning organization for public review. The listing shall be consistent with the funding categories identified in each metropolitan transportation improvement program.

“(C) PROJECTS UNDER CHAPTER 2 OF TITLE 23.—

“(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 of title 23 shall be identified individually in the transportation improvement program.

“(ii) OTHER PROJECTS.—Projects proposed for funding under chapter 2 of title 23 that are not determined to be regionally significant shall be grouped in 1 line item or identified individually in the transportation improvement program.

“(D) CONSISTENCY WITH STATEWIDE TRANSPORTATION PLAN.—Each project shall be—

“(i) consistent with the statewide transportation plan developed under this section for the State;

“(ii) identical to the project or phase of the project as described in an approved metropolitan transportation plan; and

“(iii) in conformance with the applicable State air quality implementation plan developed under the Clean Air Act, if the project is carried out in an area designated as nonattainment for ozone, particulate matter, or carbon monoxide under that Act.

“(E) REQUIREMENT OF ANTICIPATED FULL FUNDING.—

The transportation improvement program shall include a project, or an identified phase of a project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

“(F) FINANCIAL PLAN.—The transportation improvement program may include a financial plan that demonstrates how the approved transportation improvement program can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the transportation improvement program, and recommends any additional financing strategies for needed projects and programs. The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted transportation plan if reasonable additional resources beyond those identified in the financial plan were available.

“(G) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—

“(i) NO REQUIRED SELECTION.—Notwithstanding subparagraph (F), a State shall not be required to select any project from the illustrative list of additional projects included in the financial plan under subparagraph (F).

“(ii) REQUIRED ACTION BY THE SECRETARY.—Action by the Secretary shall be required for a State to select any project from the illustrative list of additional projects included in the financial plan under subparagraph (F) for inclusion in an approved transportation improvement program.

“(H) PRIORITIES.—The transportation improvement program shall reflect the priorities for programming and expenditures of funds, including transportation enhancement activities, required by this chapter and title 23.

“(5) PROJECT SELECTION FOR AREAS OF LESS THAN 50,000 POPULATION.—Projects carried out in areas with populations of less than 50,000 individuals shall be selected, from the approved transportation improvement program (excluding projects carried out on the National Highway System and projects carried out under the bridge program or the Interstate maintenance program under title 23 or sections 5310, 5311, 5316, and 5317 of this title) by the State in cooperation with the affected nonmetropolitan local officials with responsibility for transportation. Projects carried out in areas with populations of less than 50,000 individuals on the National Highway

System or under the bridge program or the Interstate maintenance program under title 23 or sections 5310, 5311, 5316, and 5317 of this title shall be selected, from the approved statewide transportation improvement program, by the State in consultation with the affected nonmetropolitan local officials with responsibility for transportation.

“(6) TRANSPORTATION IMPROVEMENT PROGRAM APPROVAL.—Every 4 years, a transportation improvement program developed under this subsection shall be reviewed and approved by the Secretary if based on a current planning finding.

“(7) PLANNING FINDING.—A finding shall be made by the Secretary at least every 4 years that the transportation planning process through which statewide transportation plans and programs are developed is consistent with this section and section 5303.

“(8) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, action by the Secretary shall not be required to advance a project included in the approved transportation improvement program in place of another project in the program.

“(h) FUNDING.—Funds set aside pursuant to section 5305(g) of this title and section 104(i) of title 23 shall be available to carry out this section.

“(i) TREATMENT OF CERTAIN STATE LAWS AS CONGESTION MANAGEMENT PROCESSES.—For purposes of this section and section 5303, and sections 134 and 135 of title 23, State laws, rules, or regulations pertaining to congestion management systems or programs may constitute the congestion management process under this section and section 5303, and sections 134 and 135 of title 23, if the Secretary finds that the State laws, rules, or regulations are consistent with, and fulfill the intent of, the purposes of this section, section 5303, and sections 134 and 135 of title 23, as appropriate.

“(j) CONTINUATION OF CURRENT REVIEW PRACTICE.—Since the statewide transportation plan and the transportation improvement program described in this section are subject to a reasonable opportunity for public comment, since individual projects included in the statewide transportation plans and the transportation improvement program are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and since decisions by the Secretary concerning statewide transportation plans or the transportation improvement program described in this section have not been reviewed under such Act as of January 1, 1997, any decision by the Secretary concerning a metropolitan or statewide transportation plan or the transportation improvement program described in this section shall not be considered to be a Federal action subject to review under such Act.”.

(b) SCHEDULE FOR IMPLEMENTATION.—The Secretary shall issue guidance on a schedule for implementation of the changes made by this section, taking into consideration the established planning update cycle for States and metropolitan planning organizations. The Secretary shall not require a State or metropolitan planning organization to deviate from its established planning update cycle to implement changes made by this section. Beginning July 1, 2007, State or metropolitan planning organization plan or program updates shall reflect changes made by this section.

Guidelines.
49 USC 5304
note.

Effective date.

(c) CHAPTER ANALYSIS.—The analysis for chapter 53 is amended by striking the item relating to section 5304 and inserting the following:

“5304. Statewide transportation planning.”.

SEC. 3007. PLANNING PROGRAMS.

(a) IN GENERAL.—Section 5305 is amended to read as follows:

“§ 5305. Planning programs

“(a) STATE DEFINED.—In this section, the term ‘State’ means a State of the United States, the District of Columbia, and Puerto Rico.

“(b) GENERAL AUTHORITY.—

“(1) GRANTS AND AGREEMENTS.—Under criteria established by the Secretary, the Secretary may award grants to States, authorities of the States, metropolitan planning organizations, and local governmental authorities, and make agreements with other departments, agencies, or instrumentalities of the Government to—

“(A) develop transportation plans and programs;

“(B) plan, engineer, design, and evaluate a public transportation project; and

“(C) conduct technical studies relating to public transportation.

“(2) ELIGIBLE ACTIVITIES.—Activities eligible under paragraph (1) include the following:

“(A) Studies related to management, planning, operations, capital requirements, and economic feasibility.

“(B) Evaluating previously financed projects.

“(C) Peer reviews and exchanges of technical data, information, assistance, and related activities in support of planning and environmental analyses among metropolitan planning organizations and other transportation planners.

“(D) Other similar and related activities preliminary to and in preparation for constructing, acquiring, or improving the operation of facilities and equipment.

“(c) PURPOSE.—To the extent practicable, the Secretary shall ensure that amounts appropriated or made available under section 5338 to carry out this section and sections 5303, 5304, and 5306 are used to support balanced and comprehensive transportation planning that considers the relationships among land use and all transportation modes, without regard to the programmatic source of the planning amounts.

“(d) METROPOLITAN PLANNING PROGRAM.—

“(1) APPORTIONMENT TO STATES.—

“(A) IN GENERAL.—The Secretary shall apportion 80 percent of the amounts made available under subsection (g)(1) among the States to carry out sections 5303 and 5306 in the ratio that—

“(i) the population of urbanized areas in each State, as shown by the latest available decennial census of population; bears to

“(ii) the total population of urbanized areas in all States, as shown by that census.

“(B) MINIMUM APPORTIONMENT.—Notwithstanding subparagraph (A), a State may not receive less than 0.5 percent of the amount apportioned under this paragraph.

“(2) ALLOCATION TO MPO’S.—Amounts apportioned to a State under paragraph (1) shall be made available, not later than 30 days after the date of apportionment, to metropolitan planning organizations in the State designated under this section under a formula that—

“(A) considers population of urbanized areas;

“(B) provides an appropriate distribution for urbanized areas to carry out the cooperative processes described in this section;

“(C) the State develops in cooperation with the metropolitan planning organizations; and

“(D) the Secretary approves.

“(3) SUPPLEMENTAL AMOUNTS.—

“(A) IN GENERAL.—The Secretary shall apportion 20 percent of the amounts made available under subsection (g)(1) among the States to supplement allocations made under paragraph (1) for metropolitan planning organizations.

“(B) FORMULA.—The Secretary shall apportion amounts referred to in subparagraph (A) under a formula that reflects the additional cost of carrying out planning, programming, and project selection responsibilities under sections 5303 and 5306 in certain urbanized areas.

“(e) STATE PLANNING AND RESEARCH PROGRAM.—

“(1) APPORTIONMENT TO STATES.—

“(A) IN GENERAL.—The Secretary shall apportion the amounts made available under subsection (g)(2) among the States for grants and contracts to carry out this section and sections 5304, 5306, 5315, and 5322 in the ratio that—

“(i) the population of urbanized areas in each State, as shown by the latest available decennial census; bears to

“(ii) the population of urbanized areas in all States, as shown by that census.

“(B) MINIMUM APPORTIONMENT.—Notwithstanding subparagraph (A), a State may not receive less than 0.5 percent of the amount apportioned under this paragraph.

“(2) SUPPLEMENTAL AMOUNTS.—A State, as the State considers appropriate, may authorize part of the amount made available under this subsection to be used to supplement amounts made available under subsection (d).

“(f) GOVERNMENT’S SHARE OF COSTS.—The Government’s share of the cost of an activity funded using amounts made available under this section may not exceed 80 percent of the cost of the activity unless the Secretary determines that it is in the interests of the Government not to require a State or local match.

“(g) ALLOCATION OF FUNDS.—Of the funds made available by or appropriated to carry out this section under section 5338(c) for fiscal years 2005 through 2009—

“(1) 82.72 percent shall be available for the metropolitan planning program under subsection (d); and

“(2) 17.28 percent shall be available to carry out subsection (e).

“(h) AVAILABILITY OF FUNDS.—Funds apportioned under this section to a State that have not been obligated in the 3-year period beginning after the last day of the fiscal year for which the funds are authorized shall be reapportioned among the States.”.

(b) CHAPTER ANALYSIS.—The analysis for chapter 53 is amended by striking the item relating to section 5305 and inserting the following:

“5305. Planning programs.”.

SEC. 3008. PRIVATE ENTERPRISE PARTICIPATION.

Section 5306(a) is amended by inserting “, as determined by local policies, criteria, and decisionmaking,” after “feasible”.

SEC. 3009. URBANIZED AREA FORMULA GRANTS.

(a) TECHNICAL AMENDMENTS.—Section 5307 is amended—

(1) by striking subsections (h), (j) and (k); and

(2) by redesignating subsections (i), (l), (m), and (n) as subsections (h), (i), (j), and (k), respectively.

(b) DEFINITIONS.—

(1) ASSOCIATED CAPITAL MAINTENANCE ITEMS.—Section 5307(a)(1) is amended—

(A) by striking “means equipment, tires,” and inserting “means—

“(A) equipment, tires,”;

(B) in subparagraph (A) (as so designated) by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(B) reconstruction of equipment and material, each of which after reconstruction will have a fair market value of at least .5 percent of the current fair market value of rolling stock comparable to the rolling stock for which the equipment and material will be used.”.

(2) DESIGNATED RECIPIENT.—Section 5307(a)(2)(A) is amended to read as follows:

“(A) an entity designated, in accordance with the planning process under sections 5303, 5304, and 5306, by the chief executive officer of a State, responsible local officials, and publicly owned operators of public transportation, to receive and apportion amounts under section 5336 that are attributable to transportation management areas identified under section 5303; or”.

(c) GENERAL AUTHORITY.—Section 5307(b) is amended—

(1) by striking paragraph (1) and inserting the following:

“(1) GRANTS.—The Secretary may make grants under this section for—

“(A) capital projects and associated capital maintenance items;

“(B) planning;

“(C) transit enhancements;

“(D) operating costs of equipment and facilities for use in public transportation in an urbanized area with a population of less than 200,000;

“(E) operating costs of equipment and facilities for use in public transportation in a portion or portions of an urbanized area with a population of at least 200,000, but not more than 225,000, if—

“(i) the urbanized area includes parts of more than one State;

“(ii) the portion of the urbanized area includes only one State;

“(iii) the population of the portion of the urbanized area is less than 30,000; and

“(iv) the grants will not be used to provide public transportation outside of the portion of the urbanized area; and

“(F) operating costs of equipment and facilities for use in public transportation for local governmental authorities in areas which adopted transit operating and financing plans that became a part of the Houston, Texas, urbanized area as a result of the 2000 decennial census of population, but lie outside the service area of the principal public transportation agency that serves the Houston urbanized area.”;

(2) by striking paragraph (2) and inserting the following:

“(2) SPECIAL RULE FOR FISCAL YEARS 2005 THROUGH 2007.—

“(A) INCREASED FLEXIBILITY.—The Secretary may award grants under this section, from funds made available to carry out this section for each of the fiscal years 2005 through 2007, to finance the operating cost of equipment and facilities for use in mass transportation in an urbanized area with a population of at least 200,000, as determined by the 2000 decennial census of population, if—

“(i) the urbanized area had a population of less than 200,000, as determined by the 1990 decennial census of population;

“(ii) a portion of the urbanized area was a separate urbanized area with a population of less than 200,000, as determined by the 1990 decennial census of population;

“(iii) the area was not designated as an urbanized area, as determined by the 1990 decennial census of population; or

“(iv) a portion of the area was not designated as an urbanized area, as determined by the 1990 decennial census, and received assistance under section 5311 in fiscal year 2002.

“(B) MAXIMUM AMOUNTS IN FISCAL YEAR 2005.—In fiscal year 2005—

“(i) amounts made available to any urbanized area under clause (i) or (ii) of subparagraph (A) shall be not more than the amount apportioned in fiscal year 2002 to the urbanized area with a population of less than 200,000, as determined in the 1990 decennial census of population;

“(ii) amounts made available to any urbanized area under subparagraph (A)(iii) shall be not more than the amount apportioned to the urbanized area under this section for fiscal year 2003; and

“(iii) each portion of any area not designated as an urbanized area, as determined by the 1990 decennial census, and eligible to receive funds under subparagraph (A)(iv), shall receive an amount of funds to carry out this section that is not less than the

amount the portion of the area received under section 5311 for fiscal year 2002.

“(C) MAXIMUM AMOUNTS IN FISCAL YEAR 2006.—In fiscal year 2006—

“(i) amounts made available to any urbanized area under clause (i) or (ii) of subparagraph (A) shall be not more than 50 percent of the amount apportioned in fiscal year 2002 to the urbanized area with a population of less than 200,000, as determined in the 1990 decennial census of population;

“(ii) amounts made available to any urbanized area under subparagraph (A)(iii) shall be not more than 50 percent of the amount apportioned to the urbanized area under this section for fiscal year 2003; and

“(iii) each portion of any area not designated as an urbanized area, as determined by the 1990 decennial census, and eligible to receive funds under subparagraph (A)(iv), shall receive an amount of funds to carry out this section that is not less than 50 percent of the amount the portion of the area received under section 5311 for fiscal year 2002.

“(D) MAXIMUM AMOUNTS IN FISCAL YEAR 2007.—In fiscal year 2007—

“(i) amounts made available to any urbanized area under clause (i) or (ii) of subparagraph (A) shall be not more than 25 percent of the amount apportioned in fiscal year 2002 to the urbanized area with a population of less than 200,000, as determined in the 1990 decennial census of population;

“(ii) amounts made available to any urbanized area under subparagraph (A)(iii) shall be not more than 25 percent of the amount apportioned to the urbanized area under this section for fiscal year 2003; and

“(iii) each portion of any area not designated as an urbanized area, as determined by the 1990 decennial census, and eligible to receive funds under subparagraph (A)(iv), shall receive an amount of funds to carry out this section that is not less than 25 percent of the amount the portion of the area received under section 5311 in fiscal year 2002.”; and

(3) by striking paragraph (4).

(d) GRANT RECIPIENT REQUIREMENTS.—Section 5307(d)(1) is amended—

(1) in subparagraph (A) by inserting “, including safety and security aspects of the program” after “program”;

(2) in subparagraph (E)—

(A) by striking “and” at the end of clause (ii);

(B) by inserting “and” at the end of clause (iii); and

(C) by adding at the end the following:

“(iv) will comply with sections 5323 and 5325.”;

(3) in subparagraph (H) by striking “sections 5301(a) and (d), 5303–5306, and 5310(a)–(d) of this title” and inserting “section 5301(a), section 5301(d), and sections 5303 through 5306”;

(4) in subparagraph (I) by striking “and” at the end;

(5) by adding at the end the following:

“(K) in the case of a recipient for an urbanized area with a population of at least 200,000—

“(i) will expend not less than 1 percent of the amount the recipient receives each fiscal year under this section for transit enhancements, as defined in section 5302(a); and

“(ii) will submit an annual report listing projects carried out in the preceding fiscal year with those funds; and”.

(e) GOVERNMENT’S SHARE OF COSTS.—Section 5307(e) is amended to read as follows:

“(e) GOVERNMENT’S SHARE OF COSTS.—

“(1) CAPITAL PROJECTS.—A grant for a capital project (including associated capital maintenance items) under this section shall be for 80 percent of the net project cost of the project. The recipient may provide additional local matching amounts.

“(2) OPERATING EXPENSES.—A grant for operating expenses under this section may not exceed 50 percent of the net project cost of the project.

“(3) REMAINING COSTS.—Subject to paragraph (4), the remainder of the net project cost shall be provided—

“(A) in cash from non-Government sources other than revenues from providing public transportation services;

“(B) from revenues derived from the sale of advertising and concessions;

“(C) from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital; and

“(D) from amounts received under a service agreement with a State or local social service agency or private social service organization.

“(4) USE OF CERTAIN FUNDS.—The prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to the remainder.”.

(f) UNDERTAKING PROJECTS IN ADVANCE.—Section 5307(g) is amended by striking paragraph (4).

(g) RELATIONSHIP TO OTHER LAWS.—Section 5307(k) (as redesignated by subsection (a)(2) of this section) is amended to read as follows:

“(k) RELATIONSHIP TO OTHER LAWS.—

“(1) APPLICABLE PROVISIONS.—Sections 5301, 5302, 5303, 5304, 5306, 5315(c), 5318, 5319, 5323, 5325, 5327, 5329, 5330, 5331, 5332, 5333, and 5335 apply to this section and to any grant made under this section.

“(2) INAPPLICABLE PROVISIONS.—

“(A) IN GENERAL.—Except as provided by this section, no other provision of this chapter applies to this section or to a grant made under this section.

“(B) TITLE 5.—The provision of assistance under this chapter shall not be construed as bringing within the application of chapter 15 of title 5 any nonsupervisory employee of a public transportation system (or any other agency or entity performing related functions) to which such chapter is otherwise inapplicable.”.

(h) TREATMENT.—Section 5307 is amended by adding at the end the following:

“(1) TREATMENT.—For the purposes of this section, the United States Virgin Islands shall be treated as an urbanized area, as defined in section 5302.”.

(i) CONTRACTED PARATRANSIT PILOT.—

(1) IN GENERAL.—Notwithstanding section 5302(a)(1)(I) of title 49, United States Code, for fiscal years 2005 through 2009, a recipient of assistance under section 5307 of such title in urbanized areas with a population of 558,329 or 747,003 according to the 2000 decennial census of population may use not more than 20 percent of such recipient’s annual formula apportionment under section 5307 of such title for the provision of nonfixed route paratransit services in accordance with section 223 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12143), but only if the grant recipient is in compliance with applicable requirements of that Act, including both fixed route and demand responsive service and the service is acquired by contract.

(2) REPORT.—Not later than January 1, 2009, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on the implementation of this subsection and any recommendations of the Secretary regarding the application of this subsection.

SEC. 3010. CLEAN FUELS GRANT PROGRAM.

(a) IN GENERAL.—Section 5308 is amended to read as follows:

“§ 5308. Clean fuels grant program

“(a) DEFINITIONS.—In this section, the following definitions apply:

“(1) CLEAN FUEL BUS.—The term ‘clean fuel bus’ means a passenger vehicle used to provide public transportation that—

“(A) is powered by—

“(i) compressed natural gas;

“(ii) liquefied natural gas;

“(iii) biodiesel fuels;

“(iv) batteries;

“(v) alcohol-based fuels;

“(vi) hybrid electric;

“(vii) fuel cell;

“(viii) clean diesel, to the extent allowed under this section; or

“(ix) other low or zero emissions technology; and

“(B) the Administrator of the Environmental Protection Agency has certified sufficiently reduces harmful emissions.

“(2) ELIGIBLE PROJECT.—The term ‘eligible project’—

“(A) means a project in a nonattainment or maintenance area described in paragraph (4)(A) for—

“(i) purchasing or leasing clean fuel buses, including buses that employ a lightweight composite primary structure;

“(ii) constructing or leasing clean fuel buses or electrical recharging facilities and related equipment for such buses; or

“(iii) constructing new or improving existing public transportation facilities to accommodate clean fuel buses; and

“(B) at the discretion of the Secretary, may include a project located in a nonattainment or maintenance area described in paragraph (4)(A) relating to clean fuel, biodiesel, hybrid electric, or zero emissions technology buses that exhibit equivalent or superior emissions reductions to existing clean fuel or hybrid electric technologies.

“(3) MAINTENANCE AREA.—The term ‘maintenance area’ has the meaning such term has under section 101 of title 23.

“(4) RECIPIENT.—

“(A) IN GENERAL.—The term ‘recipient’ means a designated recipient (as defined in section 5307(a)(2)) for an area that, and a recipient for an urbanized area with a population of less than 200,000 that—

“(i) is designated as a nonattainment area for ozone or carbon monoxide under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)); or

“(ii) is a maintenance area for ozone or carbon monoxide.

“(B) SMALLER URBANIZED AREAS.—In the case of an urbanized area with a population of less than 200,000, the State in which the area is located shall act as the recipient for the area under this section.

“(b) AUTHORITY.—The Secretary shall make grants in accordance with this section to recipients to finance eligible projects.

“(c) CLEAN DIESEL BUSES.—Not more than 25 percent of the amount made available by or appropriated under section 5338 in each fiscal year to carry out this section may be made available to fund clean diesel buses.

“(d) GRANT REQUIREMENTS.—

“(1) IN GENERAL.—A grant under this section shall be subject to the requirements of section 5307.

“(2) GOVERNMENT’S SHARE OF COSTS FOR CERTAIN PROJECTS.—Section 5323(i) applies to projects carried out under this section.

Applicability.

“(e) AVAILABILITY OF FUNDS.—Any amount made available or appropriated under this section—

“(1) shall remain available to a project for 2 years after the fiscal year for which the amount is made available or appropriated; and

“(2) that remains unobligated at the end of the period described in paragraph (1) shall be added to the amount made available in the following fiscal year.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 53 is amended by striking the item relating to section 5308 and inserting the following:

“5308. Clean fuels grant program.”.

SEC. 3011. CAPITAL INVESTMENT GRANTS.

(a) IN GENERAL.—Section 5309 is amended to read as follows:

“§ 5309. Capital investment grants

“(a) DEFINITIONS.—In this section, the following definitions apply:

“(1) **ALTERNATIVES ANALYSIS.**—The term ‘alternatives analysis’ means a study conducted as part of the transportation planning process required under sections 5303 and 5304, which includes—

“(A) an assessment of a wide range of public transportation alternatives designed to address a transportation problem in a corridor or subarea;

“(B) sufficient information to enable the Secretary to make the findings of project justification and local financial commitment required under this section;

“(C) the selection of a locally preferred alternative; and

“(D) the adoption of the locally preferred alternative as part of the long-range transportation plan required under section 5303.

“(2) **MAJOR NEW FIXED GUIDEWAY CAPITAL PROJECT.**—The term ‘major new fixed guideway capital project’ means a new fixed guideway capital project for which the Federal assistance provided or to be provided under this section is \$75,000,000 or more.

“(3) **NEW FIXED GUIDEWAY CAPITAL PROJECT.**—The term ‘new fixed guideway capital project’ means a minimum operable segment of a capital project for a new fixed guideway system or extension to an existing fixed guideway system.

“(b) **GENERAL AUTHORITY.**—The Secretary may make grants under this section to assist State and local governmental authorities in financing—

“(1) new fixed guideway capital projects under subsections (d) and (e), including the acquisition of real property, the initial acquisition of rolling stock for the systems, the acquisition of rights-of-way, and relocation, for fixed guideway corridor development for projects in the advanced stages of alternatives analysis or preliminary engineering;

“(2) capital projects to modernize existing fixed guideway systems;

“(3) capital projects to replace, rehabilitate, and purchase buses and related equipment and to construct bus-related facilities, including programs of bus and bus-related projects for assistance to subrecipients that are public agencies, private companies engaged in public transportation, or private non-profit organizations; and

“(4) the development of corridors to support new fixed guideway capital projects under subsections (d) and (e), including protecting rights-of-way through acquisition, construction of dedicated bus and high occupancy vehicle lanes and park and ride lots, and other nonvehicular capital improvements that the Secretary may decide would result in increased public transportation usage in the corridor.

“(c) **GRANT REQUIREMENTS.**—

“(1) **IN GENERAL.**—The Secretary may not approve a grant for a project under this section unless the Secretary determines that—

“(A) the project is part of an approved transportation plan and program of projects required under sections 5303, 5304, and 5306; and

“(B) the applicant has, or will have—

“(i) the legal, financial, and technical capacity to carry out the project, including safety and security aspects of the project;

“(ii) satisfactory continuing control over the use of the equipment or facilities; and

“(iii) the capability and willingness to maintain the equipment or facilities.

“(2) CERTIFICATION.—An applicant that has submitted the certifications required under subparagraphs (A), (B), (C), and (H) of section 5307(d)(1) shall be deemed to have provided sufficient information upon which the Secretary may make the determinations required under this subsection.

“(3) GRANTEE REQUIREMENTS.—The Secretary shall require that any grant awarded under this section to a recipient be subject to all terms, conditions, requirements, and provisions that the Secretary determines to be necessary or appropriate for the purposes of this section, including requirements for the disposition of net increases in the value of real property resulting from the project assisted under this section.

“(d) MAJOR CAPITAL INVESTMENT GRANTS OF \$75,000,000 OR MORE.—

“(1) FULL FUNDING GRANT AGREEMENT.—

“(A) IN GENERAL.—A major new fixed guideway capital project shall be carried out through a full funding grant agreement.

“(B) CRITERIA.—The Secretary shall enter into a full funding grant agreement, based on the evaluations and ratings required under this subsection, with each grantee receiving assistance for a major new fixed guideway capital project that—

“(i) is authorized for final design and construction; and

“(ii) has been rated as medium, medium-high, or high, in accordance with paragraph (5)(B).

“(2) APPROVAL OF GRANTS.—The Secretary may approve a grant under this section for a major new fixed guideway capital project only if the Secretary, based upon evaluations and considerations set forth in paragraph (3), determines that the project is—

“(A) based on the results of an alternatives analysis and preliminary engineering;

“(B) justified based on a comprehensive review of its mobility improvements, environmental benefits, cost effectiveness, operating efficiencies, economic development effects, and public transportation supportive land use policies and future patterns; and

“(C) supported by an acceptable degree of local financial commitment (including evidence of stable and dependable financing sources) to construct, maintain, and operate the system or extension, and maintain and operate the entire public transportation system without requiring a reduction in existing public transportation services or level of service to operate the proposed project.

“(3) EVALUATION OF PROJECT JUSTIFICATION.—In making the determinations under paragraph (2)(B) for a major capital investment grant, the Secretary shall analyze, evaluate, and consider—

“(A) the results of the alternatives analysis and preliminary engineering for the proposed project;

“(B) the reliability of the forecasting methods used to estimate costs and utilization made by the recipient and the contractors to the recipient;

“(C) the direct and indirect costs of relevant alternatives;

“(D) factors such as—

“(i) congestion relief;

“(ii) improved mobility;

“(iii) air pollution;

“(iv) noise pollution;

“(v) energy consumption; and

“(vi) all associated ancillary and mitigation costs necessary to carry out each alternative analyzed;

“(E) reductions in local infrastructure costs and other benefits achieved through compact land use development, such as positive impacts on the capacity, utilization, or longevity of other surface transportation assets and facilities;

“(F) the cost of suburban sprawl;

“(G) the degree to which the project increases the mobility of the public transportation dependent population or promotes economic development;

“(H) population density and current transit ridership in the transportation corridor;

“(I) the technical capability of the grant recipient to construct the project;

“(J) any adjustment to the project justification necessary to reflect differences in local land, construction, and operating costs; and

“(K) other factors that the Secretary determines to be appropriate to carry out this subsection.

“(4) EVALUATION OF LOCAL FINANCIAL COMMITMENT.—

“(A) IN GENERAL.—In evaluating a project under paragraph (2)(C), the Secretary shall require that—

“(i) the proposed project plan provides for the availability of contingency amounts that the Secretary determines to be reasonable to cover unanticipated cost increases;

“(ii) each proposed local source of capital and operating financing is stable, reliable, and available within the proposed project timetable; and

“(iii) local resources are available to recapitalize and operate the overall proposed public transportation system, including essential feeder bus and other services necessary to achieve the projected ridership levels without requiring a reduction in existing public transportation services or level of service to operate the proposed project.

“(B) EVALUATION CRITERIA.—In assessing the stability, reliability, and availability of proposed sources of local financing under paragraph (2)(C), the Secretary shall consider—

“(i) the reliability of the forecasting methods used to estimate costs and utilization made by the recipient and the contractors to the recipient;

“(ii) existing grant commitments;

“(iii) the degree to which financing sources are dedicated to the proposed purposes;

“(iv) any debt obligation that exists, or is proposed by the recipient, for the proposed project or other public transportation purpose; and

“(v) the extent to which the project has a local financial commitment that exceeds the required non-Federal share of the cost of the project.

“(C) CONSIDERATION OF FISCAL CAPACITY OF STATE AND LOCAL GOVERNMENTS.—If the Secretary gives priority to financing projects under this subsection that include more than the non-Federal share required under subsection (h), the Secretary shall give equal consideration to differences in the fiscal capacity of State and local governments.

“(5) PROJECT ADVANCEMENT AND RATINGS.—

“(A) PROJECT ADVANCEMENT.—A proposed project under this subsection shall not advance from alternatives analysis to preliminary engineering or from preliminary engineering to final design and construction unless the Secretary determines that the project meets the requirements of this section and there is a reasonable likelihood that the project will continue to meet such requirements.

“(B) RATINGS.—In making a determination under subparagraph (A), the Secretary shall evaluate and rate the project on a 5-point scale (high, medium-high, medium, medium-low, or low) based on the results of the alternatives analysis, the project justification criteria, and the degree of local financial commitment, as required under this subsection. In rating the projects, the Secretary shall provide, in addition to the overall project rating, individual ratings for each of the criteria established by regulation.

“(6) POLICY GUIDANCE.—

“(A) PUBLICATION.—The Secretary shall publish policy guidance regarding the new fixed guideway capital project review and evaluation process and criteria—

“(i) not later than 120 days after the date of enactment of the Federal Public Transportation Act of 2005; and

“(ii) each time significant changes are made by the Secretary to the process and criteria, but not less frequently than once every 2 years.

“(B) PUBLIC COMMENT AND RESPONSE.—The Secretary shall—

“(i) invite public comment to the policy guidance published under subparagraph (A); and

“(ii) publish a response to the comments received under clause (i). Publication.

“(e) CAPITAL INVESTMENT GRANTS LESS THAN \$75,000,000.—

“(1) IN GENERAL.—

“(A) APPLICABILITY OF REQUIREMENTS.—Except as provided by subparagraph (B), a new fixed guideway capital project shall be subject to the requirements of this subsection if the Federal assistance provided or to be provided under this section for the project is less than \$75,000,000 and the total estimated net capital cost of the project is less than \$250,000,000.

“(B) PROJECTS RECEIVING LESS THAN \$25,000,000 IN FEDERAL ASSISTANCE.—If the assistance provided under this section with respect to a new fixed guideway capital project is less than \$25,000,000, the requirements of this subsection shall not apply to the project until such date as the final regulation to be issued under paragraph (9) takes effect.

“(2) SELECTION CRITERIA.—The Secretary may provide Federal assistance under this subsection with respect to a proposed project only if the Secretary finds that the project is—

“(A) based on the results of planning and alternatives analysis;

“(B) justified based on a review of its public transportation supportive land use policies, cost effectiveness, and effect on local economic development; and

“(C) supported by an acceptable degree of local financial commitment.

“(3) PLANNING AND ALTERNATIVES.—In evaluating a project under paragraph (2)(A), the Secretary shall analyze and consider the results of planning and alternatives analysis for the project.

“(4) PROJECT JUSTIFICATION.—For purposes of making the finding under paragraph (2)(B), the Secretary shall—

“(A) determine the degree to which the project is consistent with local land use policies and is likely to achieve local developmental goals;

“(B) determine the cost effectiveness of the project at the time of the initiation of revenue service;

“(C) determine the degree to which the project will have a positive effect on local economic development;

“(D) consider the reliability of the forecasting methods used to estimate costs and ridership associated with the project; and

“(E) consider other factors that the Secretary determines appropriate to carry out this subsection.

“(5) LOCAL FINANCIAL COMMITMENT.—

“(A) IN GENERAL.—For purposes of paragraph (2)(C), the Secretary shall require that each proposed local source of capital and operating financing is stable, reliable, and available within the proposed project timetable.

“(B) CONSIDERATION OF FISCAL CAPACITY OF STATE AND LOCAL GOVERNMENTS.—If the Secretary gives priority to financing projects under this subsection that include more than the non-Federal share required under subsection (h), the Secretary shall give equal consideration to differences in the fiscal capacity of State and local governments.

“(6) ADVANCEMENT OF PROJECT TO DEVELOPMENT AND CONSTRUCTION.—

“(A) GENERAL RULE.—A proposed project under this subsection may advance from planning and alternatives analysis to project development and construction only if the Secretary finds that the project meets the requirements of this subsection and there is a reasonable likelihood that the project will continue to meet such requirements.

“(B) EVALUATION.—In making the findings under subparagraph (A), the Secretary shall evaluate and rate the project as high, medium-high, medium, medium-low,

or low based on the results of the analysis of the project justification criteria and the degree of local financial commitment, as required by this subsection.

“(7) CONTENTS OF PROJECT CONSTRUCTION GRANT AGREEMENT.—A project construction grant agreement under this subsection shall specify the scope of the project to be constructed, the estimated net project cost of the project, the schedule under which the project shall be constructed, the maximum amount of funding to be obtained under this subsection, the proposed schedule for obligation of future Federal grants, and the sources of funding from other than the Government. The agreement may include a commitment on the part of the Secretary to provide funding for the project in future fiscal years.

“(8) LIMITATION ON ENTRY INTO CONSTRUCTION GRANT AGREEMENT.—The Secretary may enter into a project construction grant agreement for a project under this subsection only if the project is authorized for construction and has been rated as high, medium-high, or medium under this subsection.

“(9) REGULATIONS.—Not later than 240 days after the date of enactment of the Federal Public Transportation Act of 2005, the Secretary shall issue regulations establishing an evaluation and rating process for proposed projects under this subsection that is based on the results of project justification and local financial commitment, as required under this subsection.

Deadline.

“(10) FIXED GUIDEWAY CAPITAL PROJECT.—In this subsection, the term ‘fixed guideway capital project’ includes a corridor-based bus capital project if—

“(A) a substantial portion of the project operates in a separate right-of-way dedicated for public transit use during peak hour operations; or

“(B) the project represents a substantial investment in a defined corridor as demonstrated by features such as park-and-ride lots, transit stations, bus arrival and departure signage, intelligent transportation systems technology, traffic signal priority, off-board fare collection, advanced bus technology, and other features that support the long-term corridor investment.

“(11) IMPACT REPORT.—

“(A) IN GENERAL.—Not later than 120 days after the date of enactment of the Federal Public Transportation Act of 2005, the Federal Transit Administration shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the methodology to be used in evaluating the land use and economic development impacts of non-fixed guideway or partial fixed guideway projects.

“(B) CONTENTS.—The report submitted under subparagraph (A) shall address any qualitative and quantitative differences between fixed guideway and non-fixed guideway projects with respect to land use and economic development impacts.

“(f) PREVIOUSLY ISSUED LETTER OF INTENT OR FULL FUNDING GRANT AGREEMENT.—Subsections (d) and (e) do not apply to projects for which the Secretary has issued a letter of intent or entered into a full funding grant agreement before the date of enactment of the Federal Public Transportation Act of 2005. Subsection (e)

also does not apply to projects for which the Secretary has received an application for final design before such date of enactment.

“(g) LETTERS OF INTENT, FULL FUNDING GRANT AGREEMENTS, AND EARLY SYSTEMS WORK AGREEMENTS.—

“(1) LETTERS OF INTENT.—

“(A) AMOUNTS INTENDED TO BE OBLIGATED.—The Secretary may issue a letter of intent to an applicant announcing an intention to obligate, for a capital project under this section, an amount from future available budget authority specified in law that is not more than the amount stipulated as the financial participation of the Secretary in the project. When a letter is issued for fixed guideway projects, the amount shall be sufficient to complete at least an operable segment.

“(B) TREATMENT.—The issuance of a letter under subparagraph (A) is deemed not to be an obligation under sections 1108(c), 1108(d), 1501, and 1502(a) of title 31 or an administrative commitment.

“(2) FULL FUNDING GRANT AGREEMENTS.—

“(A) TERMS.—The Secretary may make a full funding grant agreement with an applicant. The agreement shall—

“(i) establish the terms of participation by the Government in a project under this section;

“(ii) establish the maximum amount of Government financial assistance for the project;

“(iii) cover the period of time for completing the project, including a period extending beyond the period of an authorization; and

“(iv) make timely and efficient management of the project easier according to the law of the United States.

“(B) SPECIAL FINANCIAL RULES.—

“(i) IN GENERAL.—A full funding grant agreement under this paragraph obligates an amount of available budget authority specified in law and may include a commitment, contingent on amounts to be specified in law in advance for commitments under this paragraph, to obligate an additional amount from future available budget authority specified in law.

“(ii) STATEMENT OF CONTINGENT COMMITMENT.—The agreement shall state that the contingent commitment is not an obligation of the Government.

“(iii) INTEREST AND OTHER FINANCING COSTS.—Interest and other financing costs of efficiently carrying out a part of the project within a reasonable time are a cost of carrying out the project under a full funding grant agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a way satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

“(iv) COMPLETION OF OPERABLE SEGMENT.—The amount stipulated in an agreement under this paragraph for a fixed guideway project shall be sufficient to complete at least an operable segment.

“(C) BEFORE AND AFTER STUDY.—

“(i) IN GENERAL.—A full funding grant agreement under this paragraph shall require the applicant to conduct a study that—

“(I) describes and analyzes the impacts of the new fixed guideway capital project on transit services and transit ridership;

“(II) evaluates the consistency of predicted and actual project characteristics and performance; and

“(III) identifies sources of differences between predicted and actual outcomes.

“(ii) INFORMATION COLLECTION AND ANALYSIS PLAN.—

“(I) SUBMISSION OF PLAN.—Applicants seeking an agreement under this paragraph shall submit a complete plan for the collection and analysis of information to identify the impacts of the new fixed guideway capital project and the accuracy of the forecasts prepared during the development of the project. Preparation of this plan shall be included in the full funding grant agreement as an eligible activity.

“(II) CONTENTS OF PLAN.—The plan submitted under subclause (I) shall provide for—

“(aa) the collection of data on the current transit system regarding transit service levels and ridership patterns, including origins and destinations, access modes, trip purposes, and rider characteristics;

“(bb) documentation of the predicted scope, service levels, capital costs, operating costs, and ridership of the project;

“(cc) collection of data on the transit system 2 years after the opening of the new fixed guideway capital project, including analogous information on transit service levels and ridership patterns and information on the as-built scope and capital costs of the project; and

“(dd) analysis of the consistency of predicted project characteristics with the after data.

“(D) COLLECTION OF DATA ON CURRENT SYSTEM.—To be eligible for a full funding grant agreement under this paragraph, recipients shall have collected data on the current system, according to the plan required, before the beginning of construction of the proposed new start project. Collection of this data shall be included in the full funding grant agreement as an eligible activity.

“(3) EARLY SYSTEM WORK AGREEMENTS.—

“(A) CONDITIONS.—The Secretary may make an early systems work agreement with an applicant if a record of decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) has been issued on the project and the Secretary finds there is reason to believe—

“(i) a full funding grant agreement for the project will be made; and

“(ii) the terms of the work agreement will promote ultimate completion of the project more rapidly and at less cost.

“(B) CONTENTS.—

“(i) IN GENERAL.—A work agreement under this paragraph obligates an amount of available budget authority specified in law and shall provide for reimbursement of preliminary costs of carrying out the project, including land acquisition, timely procurement of system elements for which specifications are decided, and other activities the Secretary decides are appropriate to make efficient, long-term project management easier.

“(ii) PERIOD COVERED.—A work agreement under this paragraph shall cover the period of time the Secretary considers appropriate. The period may extend beyond the period of current authorization.

“(iii) INTEREST AND OTHER FINANCING COSTS.—Interest and other financing costs of efficiently carrying out the work agreement within a reasonable time are a cost of carrying out the agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a way satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

“(iv) FAILURE TO CARRY OUT PROJECT.—If an applicant does not carry out the project for reasons within the control of the applicant, the applicant shall repay all Government payments made under the work agreement plus reasonable interest and penalty charges the Secretary establishes in the agreement.

“(4) LIMITATION ON AMOUNTS.—

“(A) MAJOR CAPITAL INVESTMENT GRANTS CONTINGENT COMMITMENT AUTHORITY.—The total estimated amount of future obligations of the Government and contingent commitments to incur obligations covered by all outstanding letters of intent, full funding grant agreements, and early systems work agreements under this subsection for major new fixed guideway capital projects may be not more than the greater of the amount authorized under sections 5338(a)(3) and 5338(c) for such projects or an amount equivalent to the last 3 fiscal years of funding allocated under subsections (m)(1)(A) and (m)(2)(A)(ii) for such projects, less an amount the Secretary reasonably estimates is necessary for grants under this section for those of such projects that are not covered by a letter or agreement. The total amount covered by new letters and contingent commitments included in full funding grant agreements and early systems work agreements for such projects may be not more than a limitation specified in law.

“(B) OTHER CONTINGENT COMMITMENT AUTHORITY.—The total estimated amount of future obligations of the Government and contingent commitments to incur obligations covered by all project construction grant agreements

and early system work agreements under this subsection for small capital projects described in subsection (e) may be not more than the greater of the amount allocated under subsection (m)(2)(A)(i) for such projects or an amount equivalent to the last fiscal year of funding allocated under such subsection for such projects, less an amount the Secretary reasonably estimates is necessary for grants under this section for those of such projects that are not covered by an agreement. The total amount covered by new contingent commitments included in project construction grant agreements and early systems work agreements for such projects may be not more than a limitation specified in law.

“(C) INCLUSION OF CERTAIN COMMITMENTS.—Future obligations of the Government and contingent commitments made against the contingent commitment authority under section 3032(g)(2) of the Intermodal Surface Transportation Efficiency Act of 1991 (106 Stat. 2125) for the San Francisco BART to the Airport project for fiscal years 2002, 2003, 2004, 2005, and 2006 shall be charged against section 3032(g)(2) of that Act.

“(D) APPROPRIATION REQUIRED.—An obligation may be made under this subsection only when amounts are appropriated for the obligation.

“(5) NOTIFICATION OF CONGRESS.—At least 60 days before issuing a letter of intent or entering into a full funding grant agreement or project construction grant agreement under this section, the Secretary shall notify, in writing, the Committees on Transportation and Infrastructure and Appropriations of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and Appropriations of the Senate of the proposed letter or agreement. The Secretary shall include with the notification a copy of the proposed letter or agreement as well as the evaluations and ratings for the project. Deadline.

“(h) GOVERNMENT’S SHARE OF NET PROJECT COST.—

“(1) IN GENERAL.—Based on engineering studies, studies of economic feasibility, and information on the expected use of equipment or facilities, the Secretary shall estimate the net project cost. A grant for the project shall be for 80 percent of the net capital project cost, unless the grant recipient requests a lower grant percentage.

“(2) ADJUSTMENT FOR COMPLETION UNDER BUDGET.—The Secretary may adjust the final net project cost of a new fixed guideway capital project evaluated under subsections (d) and (e) to include the cost of eligible activities not included in the originally defined project if the Secretary determines that the originally defined project has been completed at a cost that is significantly below the original estimate.

“(3) MAXIMUM GOVERNMENT SHARE.—The Secretary may provide a higher grant percentage than requested by the grant recipient if—

“(A) the Secretary determines that the net project cost of the project is not more than 10 percent higher than the net project cost estimated at the time the project was approved for advancement into preliminary engineering; and

“(B) the ridership estimated for the project is not less than 90 percent of the ridership estimated for the project at the time the project was approved for advancement into preliminary engineering.

“(4) REMAINDER OF NET PROJECT COST.—The remainder of net project costs shall be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital.

“(5) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section, including paragraph (1) and subsections (d)(4)(B)(v) and (e)(5), shall be construed as authorizing the Secretary to require a non-Federal financial commitment for a project that is more than 20 percent of the net capital project cost.

“(6) SPECIAL RULE FOR ROLLING STOCK COSTS.—In addition to amounts allowed pursuant to paragraph (1), a planned extension to a fixed guideway system may include the cost of rolling stock previously purchased if the applicant satisfies the Secretary that only amounts other than amounts of the Government were used and that the purchase was made for use on the extension. A refund or reduction of the remainder may be made only if a refund of a proportional amount of the grant of the Government is made at the same time.

“(7) LIMITATION ON APPLICABILITY.—This subsection does not apply to projects for which the Secretary has entered into a full funding grant agreement before the date of enactment of the Federal Public Transportation Act of 2005.

“(i) UNDERTAKING PROJECTS IN ADVANCE.—

“(1) IN GENERAL.—The Secretary may pay the Government’s share of the net capital project cost to a State or local governmental authority that carries out any part of a project described in this section without the aid of amounts of the Government and according to all applicable procedures and requirements if—

“(A) the State or local governmental authority applies for the payment;

“(B) the Secretary approves the payment; and

“(C) before carrying out the part of the project, the Secretary approves the plans and specifications for the part in the same way as other projects under this section.

“(2) FINANCING COSTS.—

“(A) IN GENERAL.—The cost of carrying out part of a project includes the amount of interest earned and payable on bonds issued by the State or local governmental authority to the extent proceeds of the bonds are expended in carrying out the part.

“(B) LIMITATION ON AMOUNT OF INTEREST.—The amount of interest under this paragraph may not be more than the most favorable interest terms reasonably available for the project at the time of borrowing.

“(C) CERTIFICATION.—The applicant shall certify, in a manner satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financial terms.

“(j) AVAILABILITY OF AMOUNTS.—

“(1) IN GENERAL.—An amount made available or appropriated under section 5338(a)(3)(C)(iii), 5338(a)(3)(C)(iv),

5338(b)(2)(E), or 5338(c) for replacement, rehabilitation, and purchase of buses and related equipment and construction of bus-related facilities or for new fixed guideway capital projects shall remain available for 3 fiscal years, including the fiscal year in which the amount is made available or appropriated. Any of such amounts that are unobligated at the end of the 3-fiscal-year period may be used by the Secretary for any purpose under this section.

“(2) USE OF DEOBLIGATED AMOUNTS.—An amount available under this section that is deobligated may be used for any purpose under this section.

“(k) REPORTS ON NEW STARTS.—

“(1) ANNUAL REPORT ON FUNDING RECOMMENDATIONS.—Not later than the first Monday in February of each year, the Secretary shall submit to the Committees on Transportation and Infrastructure and Appropriations of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and Appropriations of the Senate a report that includes—

“(A) a proposal of allocations of amounts to be available to finance grants for new fixed guideway capital projects among applicants for these amounts;

“(B) evaluations and ratings, as required under subsections (d) and (e), for each such project that is authorized by the Federal Public Transportation Act of 2005; and

“(C) recommendations of such projects for funding based on the evaluations and ratings and on existing commitments and anticipated funding levels for the next 3 fiscal years based on information currently available to the Secretary.

“(2) ANNUAL GAO REVIEW.—The Comptroller General shall—

“(A) conduct an annual review of—

“(i) the processes and procedures for evaluating, rating, and recommending new fixed guideway capital projects; and

“(ii) the Secretary’s implementation of such processes and procedures; and

“(B) report to Congress on the results of such review by May 31 of each year.

“(l) OTHER REPORTS.—

“(1) BEFORE AND AFTER STUDY REPORTS.—Not later than the first Monday of August of each year, the Secretary shall submit to the committees referred to in subsection (k)(1) a report containing a summary of the results of the studies conducted under subsection (g)(2)(C).

“(2) CONTRACTOR PERFORMANCE ASSESSMENT REPORT.—

“(A) IN GENERAL.—Not later than 180 days after the enactment of the Federal Public Transportation Act of 2005, and each year thereafter, the Secretary shall submit to the committees referred to in subsection (k)(1) a report analyzing the consistency and accuracy of cost and ridership estimates made by each contractor to public transportation agencies developing new fixed guideway capital projects.

“(B) CONTENTS.—The report submitted under subparagraph (A) shall compare the cost and ridership estimates

made at the time projects are approved for entrance into preliminary engineering with—

“(i) estimates made at the time projects are approved for entrance into final design;

“(ii) costs and ridership when the project commences revenue operation; and

“(iii) costs and ridership when the project has been in operation for 2 years.

“(C) CONSIDERATIONS.—In making comparisons under subparagraph (B), the Secretary shall consider factors having an impact on costs and ridership not under the control of the contractor. The Secretary shall also consider the role taken by each contractor in the development of the project.

“(3) CONTRACTOR PERFORMANCE INCENTIVE REPORT.—Not later than 180 days after the enactment of the Federal Public Transportation Act of 2005, the Secretary shall submit to the committees referred to in subsection (k)(1) a report on the suitability of allowing contractors to public transportation agencies that undertake new fixed guideway capital projects under this section to receive performance incentive awards if a project is completed for less than the original estimated cost.

“(m) ALLOCATING AMOUNTS.—

“(1) FISCAL YEAR 2005.—Of the amounts made available or appropriated for fiscal year 2005 under section 5338(a)(3)—

“(A) \$1,437,829,600 shall be allocated for new fixed capital projects under subsection (d);

“(B) \$1,204,684,800 shall be allocated for capital projects for fixed guideway modernization; and

“(C) \$669,600,000 shall be allocated for capital projects for buses and bus-related equipment and facilities.

“(2) FISCAL YEARS 2006 THROUGH 2009.—The amounts made available or appropriated for fiscal years 2006 through 2009 under sections 5338(b) and 5338(c) shall be allocated as follows:

“(A) MAJOR CAPITAL INVESTMENT GRANTS.—Of the amounts appropriated under section 5338(c)—

“(i) \$200,000,000 for each of fiscal years 2007 through 2009 shall be allocated for projects for new fixed guideway capital projects of less than \$75,000,000 in accordance with subsection (e); and

“(ii) the remainder shall be allocated for major new fixed guideway capital projects in accordance with subsection (d).

“(B) FIXED GUIDEWAY MODERNIZATION.—The amounts made available under section 5338(b)(2)(D) shall be allocated for capital projects for fixed guideway modernization.

“(C) BUSES AND BUS-RELATED EQUIPMENT AND FACILITIES.—The amounts made available under section 5338(b)(2)(E) shall be allocated for capital projects for buses and bus-related equipment and facilities.

“(3) FIXED GUIDEWAY MODERNIZATION.—The amounts made available for fixed guideway modernization under section 5338(b)(2)(D) for fiscal year 2006 and each fiscal year thereafter shall be allocated in accordance with section 5337.

“(4) PRELIMINARY ENGINEERING AND ALTERNATIVES ANALYSIS.—Not more than 8 percent of the allocation described in

paragraph (1)(A) may be expended on alternatives analysis and preliminary engineering.

“(5) PRELIMINARY ENGINEERING.—Not more than 8 percent of the allocation described in paragraph (2)(A) may be expended on preliminary engineering.

“(6) FUNDING FOR FERRY BOATS.—Of the amounts described in paragraphs (1)(A) and (2)(A)—

“(A) \$10,400,000 shall be available in fiscal year 2005 for capital projects in Alaska and Hawaii for new fixed guideway systems and extension projects utilizing ferry boats, ferry boat terminals, or approaches to ferry boat terminals;

“(B) \$15,000,000 shall be available in each of fiscal years 2006 through 2009 for capital projects in Alaska and Hawaii for new fixed guideway ferry systems and extension projects utilizing ferry boats, ferry boat terminals, or approaches to ferry boat terminals; and

“(C) \$5,000,000 shall be available for each of fiscal years 2006 through 2009 for payments to the Denali Commission under the terms of section 307(e) of the Denali Commission Act of 1998 (42 U.S.C. 3121 note) for docks, waterfront development projects, and related transportation infrastructure.

“(7) BUS AND BUS FACILITY GRANTS.—The amounts made available under paragraphs (1)(C) and (2)(C) shall be allocated as follows:

“(A) FERRY BOAT SYSTEMS.—\$10,000,000 shall be available in each of fiscal years 2006 through 2009 for ferry boats or ferry terminal facilities. Of such funds, the following amounts shall be set aside for each fiscal year:

“(i) \$2,500,000 for the San Francisco Water Transit Authority.

“(ii) \$2,500,000 for the Massachusetts Bay Transportation Authority Ferry System.

“(iii) \$1,000,000 for the Camden, New Jersey Ferry System.

“(iv) \$1,000,000 for the Governor’s Island, New York Ferry System

“(v) \$1,000,000 for the Philadelphia Penn’s Landing Ferry Terminal.

“(vi) \$1,000,000 for the Staten Island Ferry.

“(vii) \$650,000 for the Maine State Ferry Service, Rockland.

“(viii) \$350,000 for the Swans Island, Maine Ferry Service.

“(B) FUEL CELL BUS PROGRAM.—The following amounts shall be set aside for the national fuel cell bus technology development program under section 3039 of the Federal Public Transportation Act of 2005:

“(i) \$11,250,000 for fiscal year 2006.

“(ii) \$11,500,000 for fiscal year 2007.

“(iii) \$12,750,000 for fiscal year 2008.

“(iv) \$13,500,000 for fiscal year 2009.

“(C) PROJECTS NOT IN URBANIZED AREAS.—Not less than 5.5 percent shall be available in each fiscal year for projects that are not in urbanized areas.

“(D) INTERMODAL TERMINALS.—Not less than \$35,000,000 shall be available in each fiscal year for intermodal terminal projects, including the intercity bus portion of such projects.

“(E) BUS TESTING.—\$3,000,000 shall be available in each fiscal year for bus testing under section 5318.

“(8) BUS AND BUS FACILITY GRANT CONSIDERATIONS.—In making grants under paragraphs (1)(C) and (2)(C), the Secretary shall consider the age and condition of buses, bus fleets, related equipment, and bus-related facilities.”.

49 USC 5301.

(b) CHAPTER ANALYSIS.—The analysis for chapter 53 is amended by striking the item relating to section 5309 and inserting the following:

“5309. Capital investment grants.”.

49 USC 5309
note.

(c) PUBLIC-PRIVATE PARTNERSHIP PILOT PROGRAM.—

(1) ESTABLISHMENT.—The Secretary may establish and implement a pilot program to demonstrate the advantages and disadvantages of public-private partnerships for certain new fixed guideway capital projects.

(2) LIMITATION ON THE NUMBER OF FACILITIES.—The Secretary may permit the establishment of 3 public-private partnerships for new fixed guideway capital projects.

(3) ELIGIBILITY.—To be eligible to participate in the public-private partnership program, a recipient shall submit to the Secretary an application that contains, at a minimum, the following:

(A) An identification of the new fixed guideway capital project that has not entered into a full funding grant agreement or project construction grant agreement with the Federal Transit Administration.

(B) A schedule and finance plan for the construction of and operation of the proposed project.

(C) An analysis of the costs, benefits, and efficiencies of the proposed public-private partnership agreement.

(4) SELECTION CRITERIA.—The Secretary may approve the application of a recipient under this subsection if the Secretary determines that—

(A) State and local laws permit public-private agreements for all phases of project development, construction, and operation of the project;

(B) the recipient is unable to advance the project due to fiscal constraints; and

(C) the plan implementing the public-private partnership is justified.

(5) PROGRAM TERM.—The Secretary may approve an application of a recipient for a public-private partnership for fiscal years 2006 through 2009.

(6) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this Act, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, a report containing an assessment of the costs, benefits, and efficiencies of a public-private partnership program for new fixed guideway capital projects.

(d) **RESTRICTIONS ON USE OF BUS CATEGORY FUNDS FOR FIXED GUIDEWAY PROJECTS.**—Funds provided to grantees under the bus and bus facility category for fixed guideway ferry and gondola projects in the Department of Transportation and Related Agencies Appropriations Acts for any of fiscal years 1998 through 2005, or accompanying committee reports, that remain available and unobligated may be used for new fixed guideway capital projects under section 5309 of title 49, United States Code. Funds made available to the same grantees for similar projects under the bus and bus facility category of section 5309 of title 49, United States Code, in fiscal years 2006 through 2009 may be used for fixed guideway projects under that section.

(e) **MIAMI METRORAIL.**—The Secretary shall credit funds provided by the Florida department of transportation for the extension of the Miami Metrorail System from Earlington Heights to the Miami Intermodal Center to satisfy the matching requirements of section 5309(h)(4) of title 49, United States Code, for the Miami North Corridor and Miami East-West Corridor projects.

(f) **ADJUSTMENTS.**—The adjustments made in the Federal Transit Administrator’s Dear Colleague letter of April 29, 2005, to require a “medium” for the cost-effectiveness rating, in order for fixed guideway projects to be recommended for funding by the Federal Transit Administration, shall not apply to the following:

- (1) San Francisco Muni—Third Street LRT Phase I/II.
- (2) Santa Clara Valley Transit Authority—Silicon Valley Rapid Transit Corridor.
- (3) Washington County, Oregon—Wilsonville to Beaverton Commuter Rail.
- (4) Dulles Corridor Metrorail Project—Extension to Wiehle Avenue.

SEC. 3012. FORMULA GRANTS FOR SPECIAL NEEDS OF ELDERLY INDIVIDUALS AND INDIVIDUALS WITH DISABILITIES.

(a) **IN GENERAL.**—Section 5310 is amended to read as follows:

“§ 5310. Formula grants for special needs of elderly individuals and individuals with disabilities

“(a) GENERAL AUTHORITY.—

“(1) GRANTS.—The Secretary may make grants to States and local governmental authorities under this section for public transportation capital projects planned, designed, and carried out to meet the special needs of elderly individuals and individuals with disabilities.

“(2) SUBRECIPIENTS.—A State that receives a grant under this section may allocate the amounts provided under the grant to—

“(A) a private nonprofit organization, if the public transportation service provided under paragraph (1) is unavailable, insufficient, or inappropriate; or

“(B) a governmental authority that—

“(i) is approved by the State to coordinate services for elderly individuals and individuals with disabilities; or

“(ii) certifies that there are not any nonprofit organizations readily available in the area to provide the services described under paragraph (1).

Certification.

“(3) ACQUIRING PUBLIC TRANSPORTATION SERVICES.—A public transportation capital project under this section may include acquisition of public transportation services as an eligible capital expense.

“(4) ADMINISTRATIVE EXPENSES.—A State or local governmental authority may use not more than 10 percent of the amounts apportioned to the State under this section to administer, plan, and provide technical assistance for a project funded under this section.

“(b) APPORTIONMENT AND TRANSFERS.—

“(1) FORMULA.—The Secretary shall apportion amounts made available to carry out this section under a formula the Secretary administers that considers the number of elderly individuals and individuals with disabilities in each State.

“(2) TRANSFER OF FUNDS.—Any funds apportioned to a State under paragraph (1) may be transferred by the State to the apportionments made under sections 5311(c) and 5336 if such funds are only used for eligible projects selected under this section.

“(c) GOVERNMENT’S SHARE OF COSTS.—

“(1) CAPITAL PROJECTS.—

“(A) IN GENERAL.—A grant for a capital project under this section shall be for 80 percent of the net capital costs of the project, as determined by the Secretary.

“(B) EXCEPTION.—A State described in section 120(b) of title 23 shall receive an increased Government share in accordance with the formula under that section.

“(2) REMAINDER.—The remainder of the net project costs—

“(A) may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital;

“(B) may be derived from amounts appropriated or otherwise made available to a department or agency of the Government (other than the Department of Transportation) that are eligible to be expended for transportation; and

“(C) notwithstanding subparagraph (B), may be derived from amounts made available to carry out the Federal lands highway program established by section 204 of title 23.

“(3) USE OF CERTAIN FUNDS.—For purposes of paragraph (2)(B), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal or State funds to be used for transportation purposes.

“(d) GRANT REQUIREMENTS.—

“(1) IN GENERAL.—A grant under this section shall be subject to all requirements of a grant under section 5307 to the extent the Secretary determines appropriate.

“(2) CERTIFICATION REQUIREMENTS.—

“(A) FUND TRANSFERS.—A grant recipient under this section that transfers funds to a project funded under section 5336 in accordance with subsection (b)(2) shall certify that the project for which the funds are requested has

been coordinated with private nonprofit providers of services under this section.

“(B) PROJECT SELECTION AND PLAN DEVELOPMENT.— Certification.
Beginning in fiscal year 2007, each grant recipient under this section shall certify that—

“(i) the projects selected were derived from a locally developed, coordinated public transit-human services transportation plan; and

“(ii) the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the public.

“(C) ALLOCATIONS TO SUBRECIPIENTS.—Each grant recipient under this section shall certify that allocations of the grant to subrecipients, if any, are distributed on a fair and equitable basis.

“(e) STATE PROGRAM OF PROJECTS.—

“(1) IN GENERAL.—Amounts made available to carry out this section may be used for transportation projects to assist in providing transportation services for elderly individuals and individuals with disabilities that are included in a State program of projects.

“(2) SUBMISSION AND APPROVAL.—A State shall submit to the Secretary annually for approval a program of projects. The program shall contain an assurance that the program provides for maximum feasible coordination of transportation services assisted under this section with transportation services assisted by other Government sources.

“(f) LEASING VEHICLES.—Vehicles acquired under this section may be leased to local governmental authorities to improve transportation services designed to meet the special needs of elderly individuals and individuals with disabilities.

“(g) MEAL DELIVERY FOR HOMEBOUND INDIVIDUALS.—Public transportation service providers receiving assistance under this section or section 5311(c) may coordinate and assist in regularly providing meal delivery service for homebound individuals if the delivery service does not conflict with providing public transportation service or reduce service to public transportation passengers.

“(h) TRANSFERS OF FACILITIES AND EQUIPMENT.—With the consent of the recipient in possession of a facility or equipment acquired with a grant under this section, a State may transfer the facility or equipment to any recipient eligible to receive assistance under this chapter if the facility or equipment will continue to be used as required under this section.”

(b) ELDERLY INDIVIDUALS AND INDIVIDUALS WITH DISABILITIES PILOT PROGRAM.— 49 USC 5310 note.

(1) IN GENERAL.—In fiscal year 2006, the Secretary shall establish a pilot program that will allow Wisconsin, Alaska, Minnesota, Oregon, and 3 other States selected by the Secretary to use not more than 33 percent of the funds apportioned to each State to carry out section 5310 of title 49, United States Code, for operating costs associated with public transportation projects planned, designed, and carried out to meet the special needs of elderly individuals and individuals with disabilities under such section. The Secretary may base the selection of participating States on a State’s exemplary coordination of public transit-human services transportation. The Secretary

Establishment.

may require participants to collect data necessary to support the report to Congress required by paragraph (7).

(2) **PLANNING COORDINATION.**—Recipients of funds made available consistent with this subsection shall certify that—

(A) the projects selected were derived from a locally developed, coordinated public transit-human services transportation plan; and

(B) the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the public.

(3) **GOVERNMENT'S SHARE OF COSTS.**—Operating assistance under this subsection may not exceed 50 percent of the net operating costs of the project, as determined by the Secretary. The credit for any non-Federal share provided under this subsection shall not reduce nor replace State funds required to match Federal funds for formula grants for the special needs of elderly individuals and individuals with disabilities program authorized under section 5310 of title 49, United States Code.

(4) **REMAINDER.**—The remainder of the net project costs—

(A) may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital; and

(B) may be derived from amounts appropriated to or made available to a department or agency of the Government (other than the Department of Transportation) that are eligible to be expended for transportation.

(5) **USE OF CERTAIN FUNDS.**—For purposes of paragraph (4)(B), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal or State funds to be used for transportation purposes.

(6) **ELIGIBLE ACTIVITIES.**—Projects eligible under the pilot program may include the collection of data necessary to support the report to Congress required by paragraph (7).

(7) **REPORT.**—Not later than 2 years after the date of enactment of this Act, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on the pilot program, which may include—

(A) the extent to which funds were used to subsidize existing paratransit service provided in compliance with the Americans with Disabilities Act of 1990;

(B) whether States participating in the pilot program use the funds to provide services to persons with disabilities that exceed those services required by the Americans with Disabilities Act of 1990 differently than States not in the pilot program;

(C) whether States participating in this pilot program use the funds to provide services to individuals with disabilities that exceed those services required by the Americans with Disabilities Act of 1990 to the detriment of other eligible projects;

(D) the percentage of funds used to assist elderly individuals;

(E) the percentage of funds used to assist individuals with disabilities;

(F) the extent to which States participating in this pilot program serve a wider range of elderly, low income, and persons with disabilities populations;

(G) whether the pilot program improves services to elderly individuals and individuals with disabilities;

(H) the extent to which States participating in the pilot program were able to expand the range of transportation alternatives available to elderly individuals and individuals with disabilities; and

(I) whether the pilot program facilitates or discourages coordination with or integration of other funding sources.

(8) SUNSET.—This subsection shall cease to be effective on September 30, 2009.

(c) CHAPTER ANALYSIS.—The analysis for chapter 53 is amended by striking the item relating to section 5310 and inserting the following:

“5310. Formula grants for special needs of elderly individuals and individuals with disabilities.”.

SEC. 3013. FORMULA GRANTS FOR OTHER THAN URBANIZED AREAS.

(a) DEFINITIONS.—Section 5311(a) is amended to read as follows:

“(a) DEFINITIONS.—As used in this section, the following definitions shall apply:

“(1) RECIPIENT.—The term ‘recipient’ means a State or Indian tribe that receives a Federal transit program grant directly from the Federal Government.

“(2) SUBRECIPIENT.—The term ‘subrecipient’ means a State or local governmental authority, a nonprofit organization, or an operator of public transportation or intercity bus service that receives Federal transit program grant funds indirectly through a recipient.”.

(b) GENERAL AUTHORITY.—Section 5311(b) is amended to read as follows:

“(b) GENERAL AUTHORITY.—

“(1) GRANTS AUTHORIZED.—Except as provided by paragraph (2), the Secretary may award grants under this section to recipients located in areas other than urbanized areas for—

“(A) public transportation capital projects;

“(B) operating costs of equipment and facilities for use in public transportation; and

“(C) the acquisition of public transportation services, including service agreements with private providers of public transportation services.

“(2) STATE PROGRAM.—

“(A) IN GENERAL.—A project eligible for a grant under this section shall be included in a State program for public transportation service projects, including agreements with private providers of public transportation service.

“(B) SUBMISSION TO SECRETARY.—Each State shall submit to the Secretary annually the program described in subparagraph (A).

“(C) APPROVAL.—The Secretary may not approve the program unless the Secretary determines that—

“(i) the program provides a fair distribution of amounts in the State, including Indian reservations; and

“(ii) the program provides the maximum feasible coordination of public transportation service assisted under this section with transportation service assisted by other Federal sources.

“(3) RURAL TRANSPORTATION ASSISTANCE PROGRAM.—

“(A) IN GENERAL.—The Secretary shall carry out a rural transportation assistance program in other than urbanized areas.

“(B) GRANTS AND CONTRACTS.—In carrying out this paragraph, the Secretary may use not more than 2 percent of the amount made available to carry out this section to make grants and contracts for transportation research, technical assistance, training, and related support services in other than urbanized areas.

“(C) PROJECTS OF A NATIONAL SCOPE.—Not more than 15 percent of the amounts available under subparagraph (B) may be used by the Secretary to carry out projects of a national scope, with the remaining balance provided to the States.

“(4) DATA COLLECTION.—Each recipient under this section shall submit an annual report to the Secretary containing information on capital investment, operations, and service provided with funds received under this section, including—

“(A) total annual revenue;

“(B) sources of revenue;

“(C) total annual operating costs;

“(D) total annual capital costs;

“(E) fleet size and type, and related facilities;

“(F) revenue vehicle miles; and

“(G) ridership.”.

(c) APPORTIONMENTS.—Section 5311(c) is amended to read as follows:

“(c) APPORTIONMENTS.—

“(1) PUBLIC TRANSPORTATION ON INDIAN RESERVATIONS.—Of the amounts made available or appropriated for each fiscal year pursuant to subsections (a)(1)(C)(v) and (b)(2)(G) of section 5338, the following amounts shall be apportioned for grants to Indian tribes for any purpose eligible under this section, under such terms and conditions as may be established by the Secretary:

“(A) \$8,000,000 for fiscal year 2006.

“(B) \$10,000,000 for fiscal year 2007.

“(C) \$12,000,000 for fiscal year 2008.

“(D) \$15,000,000 for fiscal year 2009.

“(2) REMAINING AMOUNTS.—Of the amounts made available or appropriated for each fiscal year pursuant to subsections (a)(1)(C)(v) and (b)(2)(G) of section 5338 that are not apportioned under paragraph (1)—

“(A) 20 percent shall be apportioned to the States in accordance with paragraph (3); and

“(B) 80 percent shall be apportioned to the States in accordance with paragraph (4).

“(3) APPORTIONMENTS BASED ON LAND AREA IN NONURBANIZED AREAS.—

“(A) IN GENERAL.—Subject to subparagraph (B), each State shall receive an amount that is equal to the amount apportioned under paragraph (2)(A) multiplied by the ratio of the land area in areas other than urbanized areas in that State and divided by the land area in all areas other than urbanized areas in the United States, as shown by the most recent decennial census of population.

“(B) MAXIMUM APPORTIONMENT.—No State shall receive more than 5 percent of the amount apportioned under this paragraph.

“(4) APPORTIONMENTS BASED ON POPULATION IN NONURBANIZED AREAS.—Each State shall receive an amount equal to the amount apportioned under paragraph (2)(B) multiplied by the ratio of the population of areas other than urbanized areas in that State divided by the population of all areas other than urbanized areas in the United States, as shown by the most recent decennial census of population.”.

(d) USE FOR ADMINISTRATION, PLANNING, AND TECHNICAL ASSISTANCE.—Section 5311(e) is amended—

(1) in the subsection heading by inserting “, PLANNING,” after “ADMINISTRATION”;

(2) by striking “(1) The Secretary” and inserting “The Secretary”;

(3) by striking paragraph (2); and

(4) by striking “recipient” and inserting “subrecipient”.

(e) INTERCITY BUS TRANSPORTATION.—Section 5311(f) is amended—

(1) in paragraph (1)—

(A) by striking “(1) A State” and inserting the following:

“(1) IN GENERAL.—A State”;

(B) by striking “after September 30, 1993,”; and

(C) by moving subparagraphs (A) through (D) 2 ems to the right; and

(2) in paragraph (2)—

(A) by striking “(2) A State” and inserting the following:

“(2) CERTIFICATION.—A State”; and

(B) by striking “Secretary of Transportation” and inserting “Secretary, after consultation with affected intercity bus service providers,”.

(f) GOVERNMENT SHARE OF COSTS.—Section 5311(g) is amended to read as follows:

“(g) GOVERNMENT SHARE OF COSTS.—

“(1) CAPITAL PROJECTS.—

“(A) IN GENERAL.—Except as provided by subparagraph (B), a grant awarded under this section for any purpose other than operating assistance shall be for 80 percent of the net capital costs of the project, as determined by the Secretary.

“(B) EXCEPTION.—A State described in section 120(b) of title 23 shall receive a Government share of the net capital costs in accordance with the formula under that section.

“(2) OPERATING ASSISTANCE.—

“(A) IN GENERAL.—Except as provided by subparagraph (B), a grant made under this section for operating assistance may not exceed 50 percent of the net operating costs of the project, as determined by the Secretary.

“(B) EXCEPTION.—A State described in section 120(b) of title 23 shall receive a Government share of the net operating costs equal to 62.5 percent of the Government share provided for under paragraph (1)(B).

“(3) REMAINDER.—The remainder of net project costs—

“(A) may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital;

“(B) may be derived from amounts appropriated or otherwise made available to a department or agency of the Government (other than the Department of Transportation) that are eligible to be expended for transportation; and

“(C) notwithstanding subparagraph (B), may be derived from amounts made available to carry out the Federal lands highway program established by section 204 of title 23.

“(4) USE OF CERTAIN FUNDS.—For purposes of paragraph (3)(B), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal or State funds to be used for transportation purposes.

“(5) LIMITATION ON OPERATING ASSISTANCE.—A State carrying out a program of operating assistance under this section may not limit the level or extent of use of the Government grant for the payment of operating expenses.”.

(g) RELATIONSHIP TO OTHER LAWS.—Section 5311 is amended—

(1) by striking subsection (h); and

(2) by redesignating subsections (i) and (j) as subsections (h) and (i), respectively.

(h) WAIVER CONDITION.—Section 5311(j)(1) is amended by striking “but the Secretary of Labor may waive the application of section 5333(b)” and inserting “if the Secretary of Labor utilizes a special warranty that provides a fair and equitable arrangement to protect the interests of employees”.

(i) CORRECTION TO CHAPTER ANALYSIS.—The analysis for chapter 53 is amended by striking the item relating to section 5311 and inserting the following:

“5311. Formula grants for other than urbanized areas.”.

SEC. 3014. RESEARCH, DEVELOPMENT, DEMONSTRATION, AND DEPLOYMENT PROJECTS.

(a) IN GENERAL.—Section 5312(a) is amended to read as follows:

“(a) RESEARCH, DEVELOPMENT, DEMONSTRATION, AND DEPLOYMENT PROJECTS.—

“(1) IN GENERAL.—The Secretary may make grants, contracts, cooperative agreements, and other agreements (including agreements with departments, agencies, and instrumentalities of the United States Government) for research, development, demonstration, and deployment projects, and evaluation of technology of national significance to public transportation, that

the Secretary determines will improve public transportation service or help public transportation service meet the total transportation needs at a minimum cost.

“(2) INFORMATION.—The Secretary may request and receive appropriate information from any source.

“(3) SAVINGS PROVISION.—This subsection does not limit the authority of the Secretary under any other law.”.

(b) JOINT PARTNERSHIP PROGRAM FOR DEPLOYMENT OF INNOVATION.—Section 5312 is amended by striking subsections (b) and (c) and redesignating subsections (d) and (e) as subsections (b) and (c), respectively.

(c) INTERNATIONAL MASS TRANSPORTATION PROGRAM.—Section 5312(c)(2) (as redesignated by subsection (b) of this section) is amended by striking “public and private” and inserting “public or private”.

(d) FUNDING.—Section 5312(c)(3) (as redesignated by subsection (b) of this section) is amended by striking “shall be accounted for separately within the Mass Transit Account of the Highway Trust Fund and”.

(e) CONFORMING AMENDMENTS.—

(1) SECTION HEADING.—Section 5312 is amended by striking the section heading and inserting the following:

“§ 5312. Research, development, demonstration, and deployment projects”.

(2) CHAPTER ANALYSIS.—The analysis for chapter 53 is amended by striking the item relating to section 5312 and inserting the following:

“5312. Research, development, demonstration, and deployment projects.”.

SEC. 3015. TRANSIT COOPERATIVE RESEARCH PROGRAM.

(a) IN GENERAL.—Section 5313 is amended—

(1) by striking subsection (b);

(2) in subsection (a)—

(A) in paragraph (1) by striking “(1) The amounts made available under paragraphs (1) and (2)(C)(ii) of section 5338(c) of this title” and inserting “The amounts made available under subsections (a)(5)(C)(iii) and (d)(1) of section 5338”; and

(B) in paragraph (2) by striking “(2) The Secretary” and inserting the following:

“(b) FEDERAL ASSISTANCE.—The Secretary”; and

(3) by striking subsection (c) and inserting the following:

“(c) GOVERNMENT’S SHARE.—If there would be a clear and direct financial benefit to an entity under a grant or contract financed under this section, the Secretary shall establish a Government share consistent with that benefit.”.

(b) CONFORMING AMENDMENTS.—

(1) SECTION HEADING.—Section 5313 is amended by striking the section heading and inserting the following:

“§ 5313. Transit cooperative research program”.

(2) CHAPTER ANALYSIS.—The analysis for chapter 53 is amended by striking the item relating to section 5313 and inserting the following:

“5313. Transit cooperative research program.”.

SEC. 3016. NATIONAL RESEARCH AND TECHNOLOGY PROGRAMS.

(a) IN GENERAL.—Section 5314 is amended—

(1) by striking the section heading and inserting the following:

“§ 5314. National research programs”;

(2) in subsection (a)(1)—

(A) by striking “subsections (d) and (h)(7) of section 5338 of this title” and inserting “section 5338(d)”;

(B) by striking “and contracts” and inserting “, contracts, cooperative agreements, or other agreements”;

(C) by striking “5303–5306,”; and

(D) by striking “5317,”;

(3) in subsection (a)(2) by striking “Of the amounts” and all that follows through “\$3,000,000 to” and inserting “The Secretary shall”;

(4) by striking subsection (a)(4)(B);

(5) by redesignating subsection (a)(4)(C) as subsection (a)(4)(B);

(6) by adding at the end of subsection (a) the following:

“(6) MEDICAL TRANSPORTATION DEMONSTRATION GRANTS.—

“(A) GRANTS AUTHORIZED.—The Secretary may award demonstration grants, from funds made available under paragraph (1), to eligible entities to provide transportation services to individuals to access dialysis treatments and other medical treatments for renal disease.

“(B) ELIGIBLE ENTITIES.—An entity shall be eligible to receive a grant under this paragraph if the entity—

“(i) meets the conditions described in section 501(c)(3) of the Internal Revenue Code of 1986; or

“(ii) is an agency of a State or unit of local government.

“(C) USE OF FUNDS.—Grant funds received under this paragraph may be used to provide transportation services to individuals to access dialysis treatments and other medical treatments for renal disease.

“(D) APPLICATION.—

“(i) IN GENERAL.—Each eligible entity desiring a grant under this paragraph shall submit an application to the Secretary at such time, at such place, and containing such information as the Secretary may reasonably require.

“(ii) SELECTION OF GRANTEES.—In awarding grants under this paragraph, the Secretary shall give preference to eligible entities from communities with—

“(I) high incidence of renal disease; and

“(II) limited access to dialysis facilities.

“(E) RULEMAKING.—The Secretary shall issue regulations to implement and administer the grant program established under this paragraph.

“(F) REPORT.—The Secretary shall submit a report on the results of the demonstration projects funded under this paragraph to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.”.

(7) in subsection (b) by striking “or contract” and all that follows through “section,” and inserting “, contract, cooperative agreement, or other agreement under subsection (a) or section 5312,”; and

(b) NATIONAL TECHNICAL ASSISTANCE CENTER FOR SENIOR TRANSPORTATION.—Section 5314 is amended by adding at the end the following:

“(c) NATIONAL TECHNICAL ASSISTANCE CENTER FOR SENIOR TRANSPORTATION.—

“(1) ESTABLISHMENT.—The Secretary shall award grants to a national not-for-profit organization for the establishment and maintenance of a national technical assistance center.

“(2) ELIGIBILITY.—An organization shall be eligible to receive a grant under paragraph (1) if the organization—

“(A) focuses significantly on serving the needs of the elderly;

“(B) has demonstrated knowledge and expertise in senior transportation policy and planning issues;

“(C) has affiliates in a majority of the States;

“(D) has the capacity to convene local groups to consult on operation and development of senior transportation programs; and

“(E) has established close working relationships with the Federal Transit Administration and the Administration on Aging.

“(3) USE OF FUNDS.—The national technical assistance center established under this section shall—

“(A) gather best practices from throughout the Nation and provide such practices to local communities that are implementing senior transportation programs;

“(B) work with teams from local communities to identify how the communities are successfully meeting the transportation needs of senior citizens and any gaps in services in order to create a plan for an integrated senior transportation program;

“(C) provide resources on ways to pay for senior transportation services;

“(D) create a web site to publicize and circulate information on senior transportation programs;

“(E) establish a clearinghouse for print, video, and audio resources on senior mobility; and

“(F) administer the demonstration grant program established under paragraph (4).

“(4) GRANTS AUTHORIZED.—

“(A) IN GENERAL.—The national technical assistance center established under this section, in consultation with the Federal Transit Administration, shall award senior transportation demonstration grants to—

“(i) local transportation organizations;

“(ii) State agencies;

“(iii) units of local government; and

“(iv) nonprofit organizations.

“(B) USE OF FUNDS.—Grant funds received under this paragraph may be used to—

“(i) evaluate the state of transportation services for senior citizens;

“(ii) recognize barriers to mobility that senior citizens encounter in their communities;

“(iii) establish partnerships and promote coordination among community stakeholders, including public, not-for-profit, and for-profit providers of transportation services for senior citizens;

“(iv) identify future transportation needs of senior citizens within local communities; and

“(v) establish strategies to meet the unique needs of healthy and frail senior citizens.

“(C) SELECTION OF GRANTEES.—The Secretary shall select grantees under this paragraph based on a fair representation of various geographical locations throughout the United States.”.

(c) ALTERNATIVE FUELS STUDY.—

(1) STUDY.—The Secretary shall conduct a study of the actions necessary to facilitate the purchase of increased volumes of alternative fuels (as defined in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211)) for use in public transit vehicles.

(2) SCOPE OF STUDY.—The study conducted under this subsection shall focus on the incentives necessary to increase the use of alternative fuels in public transit vehicles, including buses, fixed guideway vehicles, and ferries.

(3) CONTENTS.—The study shall consider—

(A) the environmental benefits of increased use of alternative fuels in transit vehicles;

(B) existing opportunities available to transit system operators that encourage the purchase of alternative fuels for transit vehicle operation;

(C) existing barriers to transit system operators that discourage the purchase of alternative fuels for transit vehicle operation, including situations where alternative fuels that do not require capital improvements to transit vehicles are disadvantaged over fuels that do require such improvements; and

(D) the necessary levels and type of support necessary to encourage additional use of alternative fuels for transit vehicle operation.

(4) RECOMMENDATIONS.—The study shall recommend regulatory and legislative alternatives that will result in the increased use of alternative fuels in transit vehicles.

(5) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report containing the results of the study completed under this subsection.

(d) CONFORMING AMENDMENT.—The analysis for chapter 53 is amended by striking the item relating to section 5314 and inserting the following:

“5314. National research programs.”.

SEC. 3017. NATIONAL TRANSIT INSTITUTE.

(a) ESTABLISHMENT AND DUTIES.—Section 5315 is amended by striking subsections (a) and (b) and inserting the following:

“(a) ESTABLISHMENT.—The Secretary shall award grants to Rutgers University to conduct a national transit institute.

“(b) DUTIES.—

“(1) IN GENERAL.—In cooperation with the Federal Transit Administration, State transportation departments, public transportation authorities, and national and international entities, the institute established under subsection (a) shall develop and conduct training and educational programs for Federal, State, and local transportation employees, United States citizens, and foreign nationals engaged or to be engaged in Government-aid public transportation work.

“(2) TRAINING AND EDUCATIONAL PROGRAMS.—The training and educational programs developed under paragraph (1) may include courses in recent developments, techniques, and procedures related to—

“(A) intermodal and public transportation planning;

“(B) management;

“(C) environmental factors;

“(D) acquisition and joint use rights-of-way;

“(E) engineering and architectural design;

“(F) procurement strategies for public transportation systems;

“(G) turnkey approaches to delivering public transportation systems;

“(H) new technologies;

“(I) emission reduction technologies;

“(J) ways to make public transportation accessible to individuals with disabilities;

“(K) construction, construction management, insurance, and risk management;

“(L) maintenance;

“(M) contract administration;

“(N) inspection;

“(O) innovative finance;

“(P) workplace safety; and

“(Q) public transportation security.”.

(b) AVAILABILITY OF AMOUNTS.—Section 5315(d) is amended by striking “mass” each place it appears.

SEC. 3018. JOB ACCESS AND REVERSE COMMUTE FORMULA GRANTS.

(a) IN GENERAL.—Chapter 53 is amended by inserting after section 5315 the following:

“§ 5316. Job access and reverse commute formula grants

“(a) DEFINITIONS.—In this section, the following definitions apply:

“(1) ACCESS TO JOBS PROJECT.—The term ‘access to jobs project’ means a project relating to the development and maintenance of transportation services designed to transport welfare recipients and eligible low-income individuals to and from jobs and activities related to their employment, including—

“(A) transportation projects to finance planning, capital, and operating costs of providing access to jobs under this chapter;

“(B) promoting public transportation by low-income workers, including the use of public transportation by workers with nontraditional work schedules;

“(C) promoting the use of transit vouchers for welfare recipients and eligible low-income individuals; and

“(D) promoting the use of employer-provided transportation, including the transit pass benefit program under section 132 of the Internal Revenue Code of 1986.

“(2) ELIGIBLE LOW-INCOME INDIVIDUAL.—The term ‘eligible low-income individual’ means an individual whose family income is at or below 150 percent of the poverty line (as that term is defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by that section) for a family of the size involved.

“(3) RECIPIENT.—The term ‘recipient’ means a designated recipient (as defined in section 5307(a)(2)) and a State that receives a grant under this section directly.

“(4) REVERSE COMMUTE PROJECT.—The term ‘reverse commute project’ means a public transportation project designed to transport residents of urbanized areas and other than urbanized areas to suburban employment opportunities, including any projects to—

“(A) subsidize the costs associated with adding reverse commute bus, train, carpool, van routes, or service from urbanized areas and other than urbanized areas to suburban workplaces;

“(B) subsidize the purchase or lease by a nonprofit organization or public agency of a van or bus dedicated to shuttling employees from their residences to a suburban workplace; or

“(C) otherwise facilitate the provision of public transportation services to suburban employment opportunities.

“(5) SUBRECIPIENT.—The term ‘subrecipient’ means a State or local governmental authority, nonprofit organization, or operator of public transportation services that receives a grant under this section indirectly through a recipient.

“(6) WELFARE RECIPIENT.—The term ‘welfare recipient’ means an individual who has received assistance under a State or tribal program funded under part A of title IV of the Social Security Act at any time during the 3-year period before the date on which the applicant applies for a grant under this section.

“(b) GENERAL AUTHORITY.—

“(1) GRANTS.—The Secretary may make grants under this section to a recipient for access to jobs and reverse commute projects carried out by the recipient or a subrecipient.

“(2) ADMINISTRATIVE EXPENSES.—A recipient may use not more than 10 percent of the amounts apportioned to the recipient under this section to administer, plan, and provide technical assistance for a project funded under this section.

“(c) APPORTIONMENTS.—

“(1) FORMULA.—The Secretary shall apportion amounts made available for a fiscal year to carry out this section as follows:

“(A) 60 percent of the funds shall be apportioned among designated recipients (as defined in section 5307(a)(2)) for

urbanized areas with a population of 200,000 or more in the ratio that—

“(i) the number of eligible low-income individuals and welfare recipients in each such urbanized area; bears to

“(ii) the number of eligible low-income individuals and welfare recipients in all such urbanized areas.

“(B) 20 percent of the funds shall be apportioned among the States in the ratio that—

“(i) the number of eligible low-income individuals and welfare recipients in urbanized areas with a population of less than 200,000 in each State; bears to

“(ii) the number of eligible low-income individuals and welfare recipients in urbanized areas with a population of less than 200,000 in all States.

“(C) 20 percent of the funds shall be apportioned among the States in the ratio that—

“(i) the number of eligible low-income individuals and welfare recipients in other than urbanized areas in each State; bears to

“(ii) the number of eligible low-income individuals and welfare recipients in other than urbanized areas in all States.

“(2) USE OF APPORTIONED FUNDS.—Except as provided in paragraph (3)—

“(A) funds apportioned under paragraph (1)(A) shall be used for projects serving urbanized areas with a population of 200,000 or more;

“(B) funds apportioned under paragraph (1)(B) shall be used for projects serving urbanized areas with a population of less than 200,000; and

“(C) funds apportioned under paragraph (1)(C) shall be used for projects serving other than urbanized areas.

“(3) EXCEPTIONS.—A State may use funds apportioned under paragraphs (1)(B) and (1)(C)—

“(A) for projects serving areas other than the area specified in paragraph (2)(B) or (2)(C), as the case may be, if the Governor of the State certifies that all of the objectives of this section are being met in the specified area; or

“(B) for projects anywhere in the State if the State has established a statewide program for meeting the objectives of this section.

“(d) COMPETITIVE PROCESS FOR GRANTS TO SUBRECIPIENTS.—

“(1) AREAWIDE SOLICITATIONS.—A recipient of funds apportioned under subsection (c)(1)(A) shall conduct, in cooperation with the appropriate metropolitan planning organization, an areawide solicitation for applications for grants to the recipient and subrecipients under this section.

“(2) STATEWIDE SOLICITATION.—A recipient of funds apportioned under subsection (c)(1)(B) or (c)(1)(C) shall conduct a statewide solicitation for applications for grants to the recipient and subrecipients under this section.

“(3) APPLICATION.—Recipients and subrecipients seeking to receive a grant from funds apportioned under subsection (c) shall submit to the recipient an application in the form and

in accordance with such requirements as the recipient shall establish.

“(4) GRANT AWARDS.—The recipient shall award grants under paragraphs (1) and (2) on a competitive basis.

“(e) TRANSFERS.—

“(1) IN GENERAL.—A State may transfer any funds apportioned to it under subsection (c)(1)(B) or (c)(1)(C), or both, to an apportionment under section 5311(c) or 5336, or both.

“(2) LIMITED TO ELIGIBLE PROJECTS.—Any apportionment transferred under this subsection shall be made available only for eligible job access and reverse commute projects as described in this section.

“(3) CONSULTATION.—A State may make a transfer of an amount under this subsection only after consulting with responsible local officials and publicly owned operators of public transportation in each area for which the amount originally was awarded under subsection (d)(4).

“(f) GRANT REQUIREMENTS.—

“(1) IN GENERAL.—A grant under this section shall be subject to the requirements of section 5307.

“(2) FAIR AND EQUITABLE DISTRIBUTION.—A recipient of a grant under this section shall certify to the Secretary that allocations of the grant to subrecipients are distributed on a fair and equitable basis.

“(g) COORDINATION.—

“(1) IN GENERAL.—The Secretary shall coordinate activities under this section with related activities under programs of other Federal departments and agencies.

“(2) WITH NONPROFIT PROVIDERS.—A State that transfers funds to an apportionment under section 5336 pursuant to subsection (e) shall certify to the Secretary that any project for which the funds are requested under this section has been coordinated with nonprofit providers of services.

“(3) PROJECT SELECTION AND PLANNING.—A recipient of funds under this section shall certify to the Secretary that—

“(A) the projects selected were derived from a locally developed, coordinated public transit-human services transportation plan; and

“(B) the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the public.

“(h) GOVERNMENT’S SHARE OF COSTS.—

“(1) CAPITAL PROJECTS.—A grant for a capital project under this section may not exceed 80 percent of the net capital costs of the project, as determined by the Secretary.

“(2) OPERATING ASSISTANCE.—A grant made under this section for operating assistance may not exceed 50 percent of the net operating costs of the project, as determined by the Secretary.

“(3) REMAINDER.—The remainder of the net project costs—

“(A) may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital; and

“(B) may be derived from amounts appropriated to or made available to a department or agency of the Government (other than the Department of Transportation) that are eligible to be expended for transportation.

“(4) USE OF CERTAIN FUNDS.—For purposes of paragraph (3)(B), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal or State funds to be used for transportation purposes.

“(5) LIMITATION ON OPERATING ASSISTANCE.—A recipient carrying out a program of operating assistance under this section may not limit the level or extent of use of the Government grant for the payment of operating expenses.

“(i) PROGRAM EVALUATION.—

“(1) COMPTROLLER GENERAL.—Beginning one year after the date of enactment of the Federal Public Transportation Act of 2005, and every 2 years thereafter, the Comptroller General shall—

“(A) conduct a study to evaluate the grant program authorized by this section; and

“(B) transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report describing the results of the study under subparagraph (A).

“(2) DEPARTMENT OF TRANSPORTATION.—Not later than 3 years after the date of enactment of Federal Public Transportation Act of 2005, the Secretary shall—

“(A) conduct a study to evaluate the effectiveness of the grant program authorized by this section and the effectiveness of recipients making grants to subrecipients under this section; and

“(B) transmit to the committees referred to in paragraph (1)(B) a report describing the results of the study under subparagraph (A).”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 53 is amended by inserting after the item relating to section 5315 the following:

“5316. Job access and reverse commute formula grants.”.

(c) REPEAL.—Effective October 1, 2005, section 3037 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5309 note; 112 Stat. 387) is repealed.

SEC. 3019. NEW FREEDOM PROGRAM.

(a) IN GENERAL.—Chapter 53 is amended by inserting after section 5316 the following:

“§ 5317. New freedom program

“(a) DEFINITIONS.—In this section, the following definitions apply:

“(1) RECIPIENT.—The term ‘recipient’ means a designated recipient (as defined in section 5307(a)(2)) and a State that receives a grant under this section directly.

“(2) SUBRECIPIENT.—The term ‘subrecipient’ means a State or local governmental authority, nonprofit organization, or operator of public transportation services that receives a grant under this section indirectly through a recipient.

“(b) GENERAL AUTHORITY.—

“(1) GRANTS.—The Secretary may make grants under this section to a recipient for new public transportation services and public transportation alternatives beyond those required by the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) that assist individuals with disabilities with transportation, including transportation to and from jobs and employment support services.

“(2) ADMINISTRATIVE EXPENSES.—A recipient may use not more than 10 percent of the amounts apportioned to the recipient under this section to administer, plan, and provide technical assistance for a project funded under this section.

“(c) APPORTIONMENTS.—

“(1) FORMULA.—The Secretary shall apportion amounts made available to carry out this section as follows:

“(A) 60 percent of the funds shall be apportioned among designated recipients (as defined in section 5307(a)(2)) for urbanized areas with a population of 200,000 or more in the ratio that—

“(i) the number of individuals with disabilities in each such urbanized area; bears to

“(ii) the number of individuals with disabilities in all such urbanized areas.

“(B) 20 percent of the funds shall be apportioned among the States in the ratio that—

“(i) the number of individuals with disabilities in urbanized areas with a population of less than 200,000 in each State; bears to

“(ii) the number of individuals with disabilities in urbanized areas with a population of less than 200,000 in all States.

“(C) 20 percent of the funds shall be apportioned among the States in the ratio that—

“(i) the number of individuals with disabilities in other than urbanized areas in each State; bears to

“(ii) the number of individuals with disabilities in other than urbanized areas in all States.

“(2) USE OF APPORTIONED FUNDS.—Funds apportioned under paragraph (1) shall be used for projects as follows:

“(A) Funds apportioned under paragraph (1)(A) shall be used for projects serving urbanized areas with a population of 200,000 or more.

“(B) Funds apportioned under paragraph (1)(B) shall be used for projects serving urbanized areas with a population of less than 200,000.

“(C) Funds apportioned under paragraph (1)(C) shall be used for projects serving other than urbanized areas.

“(3) TRANSFERS.—

“(A) IN GENERAL.—A State may transfer any funds apportioned to it under paragraph (1)(B) or (1)(C), or both, to an apportionment under section 5311(c) or 5336, or both.

“(B) LIMITED TO ELIGIBLE PROJECTS.—Any funds transferred pursuant to this paragraph shall be made available only for eligible projects selected under this section.

“(C) CONSULTATION.—A State may make a transfer of an amount under this subsection only after consulting

with responsible local officials and publicly owned operators of public transportation in each area for which the amount originally was awarded under subsection (d)(4).

“(d) COMPETITIVE PROCESS FOR GRANTS TO SUBRECIPIENTS.—

“(1) AREAWIDE SOLICITATIONS.—A recipient of funds apportioned under subsection (c)(1)(A) shall conduct, in cooperation with the appropriate metropolitan planning organization, an areawide solicitation for applications for grants to the recipient and subrecipients under this section.

“(2) STATEWIDE SOLICITATION.—A recipient of funds apportioned under subsection (c)(1)(B) or (c)(1)(C) shall conduct a statewide solicitation for applications for grants to the recipient and subrecipients under this section.

“(3) APPLICATION.—Recipients and subrecipients seeking to receive a grant from funds apportioned under subsection (c) shall submit to the recipient an application in the form and in accordance with such requirements as the recipient shall establish.

“(4) GRANT AWARDS.—The recipient shall award grants under paragraphs (1) and (2) on a competitive basis.

“(e) GRANT REQUIREMENTS.—

“(1) IN GENERAL.—A grant under this section shall be subject to all the requirements of section 5310 to the extent the Secretary considers appropriate.

“(2) FAIR AND EQUITABLE DISTRIBUTION.—A recipient of a grant under this section shall certify that allocations of the grant to subrecipients are distributed on a fair and equitable basis.

“(f) COORDINATION.—

“(1) IN GENERAL.—The Secretary shall coordinate activities under this section with related activities under programs of other Federal departments and agencies.

“(2) WITH NONPROFIT PROVIDERS.—A recipient that transfers funds to an apportionment under section 5336 pursuant to subsection (c)(2) shall certify that the project for which the funds are requested under this section has been coordinated with nonprofit providers of services.

“(3) PROJECT SELECTION AND PLANNING.—Beginning in fiscal year 2007, a recipient of funds under this section shall certify that—

Certification.

“(A) the projects selected were derived from a locally developed, coordinated public transit-human services transportation plan; and

“(B) the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the public.

“(g) GOVERNMENT’S SHARE OF COSTS.—

“(1) CAPITAL PROJECTS.—A grant for a capital project under this section may not exceed 80 percent of the net capital costs of the project, as determined by the Secretary.

“(2) OPERATING ASSISTANCE.—A grant made under this section for operating assistance may not exceed 50 percent of the net operating costs of the project, as determined by the Secretary.

“(3) REMAINDER.—The remainder of the net project costs—

“(A) may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital; and

“(B) may be derived from amounts appropriated to or made available to a department or agency of the Government (other than the Department of Transportation) that are eligible to be expended for transportation.

“(4) USE OF CERTAIN FUNDS.—For purposes of paragraph (3)(B), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal or State funds to be used for transportation purposes.

“(5) LIMITATION ON OPERATING ASSISTANCE.—A recipient carrying out a program of operating assistance under this section may not limit the level or extent of use of the Government grant for the payment of operating expenses.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 53 is amended by inserting after the item relating to section 5316 the following:

“5317. New freedom program.”.

SEC. 3020. BUS TESTING FACILITY.

(a) FACILITY.—Section 5318(a) is amended to read as follows:

“(a) FACILITY.—The Secretary shall maintain one facility for testing a new bus model for maintainability, reliability, safety, performance (including braking performance), structural integrity, fuel economy, emissions, and noise.”.

(b) AVAILABILITY OF AMOUNTS TO PAY FOR TESTING.—Section 5318(d) is amended by striking “under section 5309(m)(1)(C) of this title” and inserting “to carry out this section”.

(c) ACQUIRING NEW BUS MODELS.—Section 5318(e) is amended to read as follows:

“(e) ACQUIRING NEW BUS MODELS.—Amounts appropriated or made available under this chapter may be obligated or expended to acquire a new bus model only if a bus of that model has been tested at the facility maintained by the Secretary under subsection (a).”.

SEC. 3021. ALTERNATIVE TRANSPORTATION IN PARKS AND PUBLIC LANDS.

(a) IN GENERAL.—Chapter 53 is amended by striking section 5320 and inserting the following:

“§ 5320. Alternative transportation in parks and public lands

“(a) IN GENERAL.—

“(1) AUTHORIZATION.—

“(A) IN GENERAL.—The Secretary, in consultation with the Secretary of the Interior, may award a grant or enter into a contract, cooperative agreement, interagency agreement, intra—agency agreement, or other agreement to carry out a qualified project under this section to enhance the protection of national parks and public lands and increase the enjoyment of those visiting the parks and public lands by—

“(i) ensuring access to all, including persons with disabilities;

“(ii) improving conservation and park and public land opportunities in urban areas through partnering with State and local governments; and

“(iii) improving park and public land transportation infrastructure.

“(B) CONSULTATION WITH OTHER AGENCIES.—To the extent that projects are proposed or funded in eligible areas that are not within the jurisdiction of the Department of the Interior, the Secretary of the Interior shall consult with the heads of the relevant Federal land management agencies in carrying out the responsibilities under this section.

“(2) USE OF FUNDS.—A grant, cooperative agreement, inter-agency agreement, intra-agency agreement, or other agreement for a qualified project under this section shall be available to finance the leasing of equipment and facilities for use in public transportation, subject to any regulation that the Secretary may prescribe limiting the grant or agreement to leasing arrangements that are more cost-effective than purchase or construction.

“(3) ALTERNATIVE TRANSPORTATION FACILITIES AND SERVICES.—Projects receiving assistance under this section shall provide alternative transportation facilities and services that complement and enhance existing transportation services in national parks and public lands in a manner that is consistent with Department of Interior and other public land management policies regarding private automobile access to and in such parks and lands.

“(b) DEFINITIONS.—In this section, the following definitions apply:

“(1) ELIGIBLE AREA.—The term ‘eligible area’ means any federally owned or managed park, refuge, or recreational area that is open to the general public, including—

“(A) a unit of the National Park System;

“(B) a unit of the National Wildlife Refuge System;

“(C) a recreational area managed by the Bureau of Land Management;

“(D) a recreation area managed by the Bureau of Reclamation; and

“(E) a unit of the National Forest System.

“(2) FEDERAL LAND MANAGEMENT AGENCY.—The term ‘Federal land management agency’ means a Federal agency that manages an eligible area.

“(3) ALTERNATIVE TRANSPORTATION.—The term ‘alternative transportation’ means transportation by bus, rail, or any other publicly or privately owned conveyance that provides to the public general or special service on a regular basis, including sightseeing service. Such term also includes a nonmotorized transportation system (including the provision of facilities for pedestrians, bicycles, and nonmotorized watercraft).

“(4) QUALIFIED PARTICIPANT.—The term ‘qualified participant’ means—

“(A) a Federal land management agency; or

“(B) a State, tribal, or local governmental authority with jurisdiction over land in the vicinity of an eligible

area acting with the consent of the Federal land management agency, alone or in partnership with a Federal land management agency or other governmental or nongovernmental participant.

“(5) QUALIFIED PROJECT.—The term ‘qualified project’ means a planning or capital project in or in the vicinity of an eligible area that—

“(A) is an activity described in section 5302(a)(1)(A), 5303, 5304, 5305, or 5309(b);

“(B) involves—

“(i) the purchase of rolling stock that incorporates clean fuel technology or the replacement of buses of a type in use on the date of enactment of the Federal Public Transportation Act of 2005 with clean fuel vehicles; or

“(ii) the deployment of alternative transportation vehicles that introduce innovative technologies or methods;

“(C) relates to the capital costs of coordinating the Federal land management agency public transportation systems with other public transportation systems;

“(D) provides a nonmotorized transportation system (including the provision of facilities for pedestrians, bicycles, and nonmotorized watercraft);

“(E) provides waterborne access within or in the vicinity of an eligible area, as appropriate to and consistent with this section; or

“(F) is any other alternative transportation project that—

“(i) enhances the environment;

“(ii) prevents or mitigates an adverse impact on a natural resource;

“(iii) improves Federal land management agency resource management;

“(iv) improves visitor mobility and accessibility and the visitor experience;

“(v) reduces congestion and pollution (including noise pollution and visual pollution); or

“(vi) conserves a natural, historical, or cultural resource (excluding rehabilitation or restoration of a non-transportation facility).

“(c) FEDERAL AGENCY COOPERATIVE ARRANGEMENTS.—The Secretary shall develop cooperative arrangements with the Secretary of the Interior that provide for—

“(1) technical assistance in alternative transportation;

“(2) interagency and multidisciplinary teams to develop Federal land management agency alternative transportation policy, procedures, and coordination; and

“(3) the development of procedures and criteria relating to the planning, selection, and funding of qualified projects and the implementation and oversight of the program of projects in accordance with this section.

“(d) LIMITATION ON USE OF AVAILABLE AMOUNTS.—

“(1) IN GENERAL.—The Secretary, in consultation with the Secretary of the Interior, may use not more than 10 percent of the amount made available for a fiscal year under section 5338(b)(2)(J) to carry out planning, research, and technical

assistance under this section, including the development of technology appropriate for use in a qualified project.

“(2) ADDITIONAL AMOUNTS.—Amounts made available under this subsection are in addition to amounts otherwise available to the Secretary to carry out planning, research, and technical assistance under this chapter or any other provision of law.

“(3) MAXIMUM AMOUNT.—No qualified project shall receive more than 25 percent of the total amount made available to carry out this section under section 5338(b)(2)(J) for any fiscal year.

“(e) PLANNING PROCESS.—In undertaking a qualified project under this section—

“(1) if the qualified participant is a Federal land management agency—

“(A) the Secretary, in cooperation with the Secretary of the Interior, shall develop transportation planning procedures that are consistent with—

“(i) the metropolitan planning provisions under section 5303;

“(ii) the statewide planning provisions under section 5304; and

“(iii) the public participation requirements under section 5307(d); and

“(B) in the case of a qualified project that is at a unit of the National Park System, the planning process shall be consistent with the general management plans of the unit of the National Park System; and

“(2) if the qualified participant is a State or local governmental authority, or more than one State or local governmental authority in more than one State, the qualified participant shall—

“(A) comply with the metropolitan planning provisions under section 5303;

“(B) comply with the statewide planning provisions under section 5304;

“(C) comply with the public participation requirements under section 5307(d); and

“(D) consult with the appropriate Federal land management agency during the planning process.

“(f) COST SHARING.—

“(1) GOVERNMENT’S SHARE.—The Secretary, in cooperation with the Secretary of the Interior, shall establish the Government’s share of the net project cost to be provided to a qualified participant under this section.

“(2) CONSIDERATIONS.—In establishing the Government’s share of the net project cost to be provided under this section, the Secretary shall consider—

“(A) visitation levels and the revenue derived from user fees in the eligible area in which the qualified project is carried out;

“(B) the extent to which the qualified participant coordinates with a public transportation authority or private entity engaged in public transportation;

“(C) private investment in the qualified project, including the provision of contract services, joint development activities, and the use of innovative financing mechanisms;

“(D) the clear and direct benefit to the qualified participant; and

“(E) any other matters that the Secretary considers appropriate to carry out this section.

“(3) SPECIAL RULE.—Notwithstanding any other provision of law, funds appropriated to any Federal land management agency may be counted toward the remainder of the net project cost.

“(g) SELECTION OF QUALIFIED PROJECTS.—

“(1) IN GENERAL.—The Secretary of the Interior, after consultation with and in cooperation with the Secretary, shall determine the final selection and funding of an annual program of qualified projects in accordance with this section.

“(2) CONSIDERATIONS.—In determining whether to include a project in the annual program of qualified projects, the Secretary of the Interior shall consider—

“(A) the justification for the qualified project, including the extent to which the qualified project would conserve resources, prevent or mitigate adverse impact, and enhance the environment;

“(B) the location of the qualified project, to ensure that the selected qualified projects—

“(i) are geographically diverse nationwide; and

“(ii) include qualified projects in eligible areas located in both urban areas and rural areas;

“(C) the size of the qualified project, to ensure that there is a balanced distribution;

“(D) the historical and cultural significance of a qualified project;

“(E) safety;

“(F) the extent to which the qualified project would—

“(i) enhance livable communities;

“(ii) reduce pollution (including noise pollution, air pollution, and visual pollution);

“(iii) reduce congestion; and

“(iv) improve the mobility of people in the most efficient manner; and

“(G) any other matters that the Secretary of the Interior considers appropriate to carry out this section, including—

“(i) visitation levels;

“(ii) the use of innovative financing or joint development strategies; and

“(iii) coordination with gateway communities.

“(h) QUALIFIED PROJECTS CARRIED OUT IN ADVANCE.—

“(1) IN GENERAL.—When a qualified participant carries out any part of a qualified project without assistance under this section in accordance with all applicable procedures and requirements, the Secretary, in consultation with the Secretary of the Interior, may pay the share of the net capital project cost of a qualified project if—

“(A) the qualified participant applies for the payment;

“(B) the Secretary approves the payment; and

“(C) before carrying out that part of the qualified project, the Secretary approves the plans and specifications in the same manner as plans and specifications are approved for other projects assisted under this section.

“(2) FINANCING COSTS.—

“(A) IN GENERAL.—The cost of carrying out part of a qualified project under paragraph (1) includes the amount of interest earned and payable on bonds issued by a State or local governmental authority, to the extent that proceeds of the bond are expended in carrying out that part.

“(B) LIMITATION ON AMOUNT OF INTEREST.—The rate of interest under this paragraph may not exceed the most favorable rate reasonably available for the qualified project at the time of borrowing.

“(C) CERTIFICATION.—The qualified participant shall certify, in a manner satisfactory to the Secretary, that the qualified participant has exercised reasonable diligence in seeking the most favorable interest rate.

“(i) RELATIONSHIP TO OTHER LAWS.—

“(1) SECTION 5307.—A qualified participant under this section shall be subject to the requirements of sections 5307 and 5333(a) to the extent the Secretary determines to be appropriate.

“(2) OTHER REQUIREMENTS.—A qualified participant under this section shall be subject to any other requirements that the Secretary determines to be appropriate to carry out this section, including requirements for the distribution of proceeds on disposition of real property and equipment resulting from a qualified project assisted under this section.

“(3) PROJECT MANAGEMENT PLAN.—If the amount of assistance anticipated to be required for a qualified project under this section is not less than \$25,000,000—

“(A) the qualified project shall, to the extent the Secretary considers appropriate, be carried out through a full funding grant agreement in accordance with section 5309(g); and

“(B) the qualified participant shall prepare a project management plan in accordance with section 5327(a).

“(j) ASSET MANAGEMENT.—The Secretary, in consultation with the Secretary of the Interior, may transfer the interest of the Department of Transportation in, and control over, all facilities and equipment acquired under this section to a qualified participant for use and disposition in accordance with any property management regulations that the Secretary determines to be appropriate.

“(k) COORDINATION OF RESEARCH AND DEPLOYMENT OF NEW TECHNOLOGIES.—

“(1) GRANTS AND OTHER ASSISTANCE.—The Secretary, in cooperation with the Secretary of the Interior, may undertake, or make grants, cooperative agreements, contracts (including agreements with departments, agencies, and instrumentalities of the Federal Government) or other agreements for research, development, and deployment of new technologies in eligible areas that will—

“(A) conserve resources;

“(B) prevent or mitigate adverse environmental impact;

“(C) improve visitor mobility, accessibility, and enjoyment; and

“(D) reduce pollution (including noise pollution and visual pollution).

“(2) INFORMATION.—The Secretary may request and receive appropriate information from any source.

“(3) FUNDING.—Grants, cooperative agreements, contracts, and other agreements under paragraph (1) shall be awarded from amounts allocated under subsection (d)(1).

“(1) INNOVATIVE FINANCING.—A qualified project receiving financial assistance under this section shall be eligible for funding through a State infrastructure bank or other innovative financing mechanism available to finance an eligible project under this chapter.

“(m) REPORTS.—

“(1) IN GENERAL.—The Secretary, in consultation with the Secretary of the Interior, shall annually submit a report on the allocation of amounts made available to assist qualified projects under this section to—

“(A) the Committee on Banking, Housing, and Urban Affairs of the Senate;

“(B) the Committee on Transportation and Infrastructure of the House of Representatives; and

“(C) the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

“(2) ANNUAL REPORTS.—The report required under paragraph (1) shall be included in the report submitted under section 5309(k)(1).”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 53 is amended by striking the item relating to section 5320 and inserting the following:

“5320. Alternative transportation in parks and public lands.”.

SEC. 3022. HUMAN RESOURCES PROGRAMS.

Section 5322 is amended—

(1) by inserting “(a) IN GENERAL.—” before “The Secretary”; and

(2) by adding at the end the following:

“(b) FELLOWSHIPS.—

“(1) AUTHORITY TO MAKE GRANTS.—The Secretary may make grants to States, local governmental authorities, and operators of public transportation systems to provide fellowships to train personnel employed in managerial, technical, and professional positions in the public transportation field.

“(2) TERMS.—

“(A) PERIOD OF TRAINING.—A fellowship under this subsection may not be for more than 1 year of training in an institution that offers a program applicable to the public transportation industry.

“(B) SELECTION OF INDIVIDUALS.—A recipient of a grant for a fellowship under this subsection shall select an individual on the basis of demonstrated ability and for the contribution the individual reasonably can be expected to make to an efficient public transportation operation.

“(C) AMOUNT.—A grant for a fellowship under this subsection may not be more than the lesser of \$65,000 or 75 percent of the sum of—

“(i) tuition and other charges to the fellowship recipient;

“(ii) additional costs incurred by the training institution and billed to the grant recipient; and

“(iii) the regular salary of the fellowship recipient for the period of the fellowship to the extent the salary is actually paid or reimbursed by the grant recipient.”.

SEC. 3023. GENERAL PROVISIONS ON ASSISTANCE.

(a) INTERESTS IN PROPERTY.—Section 5323(a) is amended—

(1) by striking paragraph (1) and inserting the following:

“(1) IN GENERAL.—Financial assistance provided under this chapter to a State or a local governmental authority may be used to acquire an interest in, or to buy property of, a private company engaged in public transportation, for a capital project for property acquired from a private company engaged in public transportation after July 9, 1964, or to operate a public transportation facility or equipment in competition with, or in addition to, transportation service provided by an existing public transportation company, only if—

“(A) the Secretary determines that such financial assistance is essential to a program of projects required under sections 5303, 5304, and 5306;

“(B) the Secretary determines that the program provides for the participation of private companies engaged in public transportation to the maximum extent feasible; and

“(C) just compensation under State or local law will be paid to the company for its franchise or property.”; and

(2) in paragraph (2) by striking “(2) A governmental authority” and inserting the following:

“(2) LIMITATION.—A governmental authority”.

(b) NOTICE AND PUBLIC HEARING.—Section 5323(b) is amended to read as follows:

“(b) NOTICE AND PUBLIC HEARING.—

“(1) IN GENERAL.—For a capital project that will substantially affect a community, or the public transportation service of a community, an applicant shall—

“(A) provide an adequate opportunity for public review and comment on the project;

“(B) after providing notice, hold a public hearing on the project if the project affects significant economic, social, or environmental interests;

“(C) consider the economic, social, and environmental effects of the project; and

“(D) find that the project is consistent with official plans for developing the community.

“(2) NOTICE.—Notice of a hearing under this subsection—

“(A) shall include a concise description of the proposed project; and

“(B) shall be published in a newspaper of general circulation in the geographic area the project will serve.

“(3) APPLICATION REQUIREMENTS.—An application for a grant under this chapter for a capital project described in paragraph (1) shall include—

“(A) a certification that the applicant has complied with the requirements of this subsection; and

“(B) in the environmental record for the project, evidence that the applicant has complied with the requirements of this subsection.”.

Certification.

(c) FARES NOT REQUIRED.—Section 5323(c) is amended to read as follows:

“(c) FARES NOT REQUIRED.—This chapter does not require that elderly individuals and individuals with disabilities be charged a fare.”.

(d) CONDITION ON CHARTER BUS TRANSPORTATION SERVICE.—Section 5323(d) is amended—

(1) by striking “(1) Financial assistance” and inserting the following:

“(1) AGREEMENTS.—Financial assistance”; and

(2) by striking paragraph (2) and inserting the following:

“(2) VIOLATIONS.—

“(A) INVESTIGATIONS.—On receiving a complaint about a violation of the agreement required under paragraph (1), the Secretary shall investigate and decide whether a violation has occurred.

“(B) ENFORCEMENT OF AGREEMENTS.—If the Secretary decides that a violation has occurred, the Secretary shall correct the violation under terms of the agreement.

“(C) ADDITIONAL REMEDIES.—In addition to any remedy specified in the agreement, the Secretary shall bar a recipient or an operator from receiving Federal transit assistance in an amount the Secretary considers appropriate if the Secretary finds a pattern of violations of the agreement.”.

(e) BOND PROCEEDS ELIGIBLE FOR LOCAL SHARE.—Section 5323(e) is amended to read as follows:

“(e) BOND PROCEEDS ELIGIBLE FOR LOCAL SHARE.—

“(1) USE AS LOCAL MATCHING FUNDS.—Notwithstanding any other provision of law, a recipient of assistance under section 5307 or 5309 may use the proceeds from the issuance of revenue bonds as part of the local matching funds for a capital project.

“(2) MAINTENANCE OF EFFORT.—The Secretary shall approve of the use of the proceeds from the issuance of revenue bonds for the remainder of the net project cost only if the Secretary finds that the aggregate amount of financial support for public transportation in the urbanized area provided by the State and affected local governmental authorities during the next 3 fiscal years, as programmed in the State transportation improvement program under section 5304, is not less than the aggregate amount provided by the State and affected local governmental authorities in the urbanized area during the preceding 3 fiscal years.

“(3) DEBT SERVICE RESERVE.—The Secretary may reimburse an eligible recipient for deposits of bond proceeds in a debt service reserve that the recipient establishes pursuant to section 5302(a)(1)(K) from amounts made available to the recipient under section 5309.

“(4) PILOT PROGRAM FOR URBANIZED AREAS.—

“(A) IN GENERAL.—The Secretary shall establish a pilot program to reimburse not to exceed 10 eligible recipients for deposits of bond proceeds in a debt service reserve that the recipient establishes pursuant to section 5302(a)(1)(K) from amounts made available to the recipient under section 5307.

“(B) REPORT.—Not later than July 31, 2008, the Secretary shall submit to the Committee on Banking, Housing,

Establishment.

and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the status and effectiveness of the pilot program established under subparagraph (A).”.

(f) SCHOOLBUS TRANSPORTATION.—Section 5323(f) is amended—
(1) by striking “(1) Financial assistance” and inserting the following:

“(1) AGREEMENTS.—Financial assistance”;

(2) in paragraph (1) by moving subparagraphs (A), (B), and (C) 2 ems to the right; and

(3) by striking paragraph (2) and inserting the following:

“(2) VIOLATIONS.—If the Secretary finds that an applicant, governmental authority, or publicly owned operator has violated the agreement required under paragraph (1), the Secretary shall bar a recipient or an operator from receiving Federal transit assistance in an amount the Secretary considers appropriate.”.

(g) BUYING BUSES UNDER OTHER LAWS.—Section 5323(g) is amended by striking “103(e)(4) and 142(a) or (c)” each place it appears and inserting “133 and 142”.

(h) GOVERNMENT’S SHARE OF COSTS FOR CERTAIN PROJECTS.—Section 5323(i) is amended—

(1) in the subsection heading by striking “GOVERNMENT” and inserting “GOVERNMENT’S”;

(2) by striking “A grant” and inserting the following:

“(1) EQUIPMENT FOR ADA AND CLEAN AIR ACT COMPLIANCE.—A grant”;

(3) by inserting “or facilities” after “equipment” each place it appears; and

(4) by adding at the end the following:

“(2) CERTAIN STATE OWNED RAILROADS.—The Government share for financial assistance under this chapter to a State-owned railroad (as defined in section 603 of the Rail Safety and Service Improvement Act of 1982 (45 U.S.C. 1202)) shall be the same as the Government share under section 120(b) of title 23 for Federal-aid highway funds apportioned to the State in which the railroad operates.”.

(i) BUY AMERICA.—

(1) PUBLIC INTEREST WAIVER.—Section 5323(j) is amended—

(A) by redesignating paragraphs (3) through (7) as paragraphs (4) through (8), respectively; and

(B) by inserting after paragraph (2) the following:

“(3) WRITTEN JUSTIFICATION FOR PUBLIC INTEREST WAIVER.—When issuing a waiver based on a public interest determination under paragraph (2)(A), the Secretary shall issue a detailed written justification as to why the waiver is in the public interest. The Secretary shall publish such justification in the Federal Register and provide the public with a reasonable period of time for notice and comment.”.

Federal Register,
publication.

(2) INELIGIBILITY FOR CONTRACTS.—Section 5323(j)(6) (as so redesignated) is amended by striking “Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240, 105 Stat. 1914)” and inserting “Federal Public Transportation Act of 2005”.

(3) ADMINISTRATIVE REVIEW.—Section 5323(j) is amended by adding at the end the following:

“(9) ADMINISTRATIVE REVIEW.—A party adversely affected by an agency action under this subsection shall have the right to seek review under section 702 of title 5.”.

Effective date.

(4) REPEAL OF GENERAL WAIVER.—Subsections (b) and (c) of Appendix A of section 661.7 of title 49, Code of Federal Regulations, shall cease to be in effect beginning on the date of enactment of this Act.

Deadline.
49 USC 5323
note.

(5) RULEMAKING.—Not later than 180 days after the date of enactment of this Act, the Secretary shall issue a final rule on implementation of the requirements of section 5323(j) of title 49, United States Code (in this paragraph referred to as the “Buy America requirements”). The purposes of the regulations shall be as follows:

(A) MICROPROCESSOR WAIVER.—To clarify that any waiver from the Buy America requirements issued under section 5323(j)(2) of such title for a microprocessor, computer, or microcomputer applies only to a device used solely for the purpose of processing or storing data and does not extend to a product containing a microprocessor, computer, or microcomputer.

(B) DEFINITIONS.—To define the terms “end product”, “negotiated procurement”, and “contractor” for purposes of part 661 of title 49, Code of Federal Regulations. In defining the terms, the Secretary shall develop a list of representative items that are subject to the Buy America requirements, and shall address the procurement of systems under the definition to ensure that major system procurements are not used to circumvent the Buy America requirements.

(C) POST-AWARD WAIVERS.—To permit a grantee to request a non-availability waiver from the Buy America requirements under section 661.7c of title 49, Code of Federal Regulations, after contract award in any case in which the contractor has made a certification of compliance with the requirements in good faith.

(D) CERTIFICATION UNDER NEGOTIATED PROCUREMENT PROCESS.—In any case in which a negotiated procurement process is used, compliance with the Buy America requirements shall be determined on the basis of the certification submitted with the final offer.

(j) RELATIONSHIP TO OTHER LAWS.—Section 5323(l) is amended to read as follows:

Applicability.

“(l) RELATIONSHIP TO OTHER LAWS.—Section 1001 of title 18 applies to a certificate, submission, or statement provided under this chapter. The Secretary may terminate financial assistance under this chapter and seek reimbursement directly, or by offsetting amounts, available under this chapter if the Secretary determines that a recipient of such financial assistance has made a false or fraudulent statement or related act in connection with a Federal transit program.”.

(k) PREAWARD AND POSTDELIVERY REVIEW OF ROLLING STOCK PURCHASES.—Section 5323(m) is amended by adding at the end the following: “Rolling stock procurements of 20 vehicles or fewer made for the purpose of serving other than urbanized areas and urbanized areas with populations of 200,000 or fewer shall be subject to the same requirements as established for procurements

of 10 or fewer buses under the post-delivery purchaser's requirements certification process under section 663.37(c) of title 49, Code of Federal Regulations.”.

(l) GRANT REQUIREMENTS.—Section 5323(o) is amended by striking “the Transportation Infrastructure Finance and Innovation Act of 1998” and inserting “chapter 6 (other than section 609) of title 23”.

(m) ALTERNATIVE FUELING FACILITIES.—Section 5323 is amended by adding at the end the following:

“(p) ALTERNATIVE FUELING FACILITIES.—A recipient of assistance under this chapter may allow the incidental use of federally funded alternative fueling facilities and equipment by nontransit public entities and private entities if—

“(1) the incidental use does not interfere with the recipient's public transportation operations;

“(2) all costs related to the incidental use are fully recaptured by the recipient from the nontransit public entity or private entity;

“(3) the recipient uses revenues received from the incidental use in excess of costs for planning, capital, and operating expenses that are incurred in providing public transportation; and

“(4) private entities pay all applicable excise taxes on fuel.”.

SEC. 3024. SPECIAL PROVISIONS FOR CAPITAL PROJECTS.

(a) IN GENERAL.—Section 5324 is amended to read as follows:

“§ 5324. Special provisions for capital projects

“(a) RELOCATION AND REAL PROPERTY REQUIREMENTS.—The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.) shall apply to financial assistance for capital projects under this chapter.

Applicability.

“(b) CONSIDERATION OF ECONOMIC, SOCIAL, AND ENVIRONMENTAL INTERESTS.—

“(1) COOPERATION AND CONSULTATION.—In carrying out the policy of section 5301(e), the Secretary shall cooperate and consult with the Secretary of the Interior and the Administrator of the Environmental Protection Agency on each project that may have a substantial impact on the environment.

“(2) PUBLIC PARTICIPATION IN ENVIRONMENTAL REVIEWS.—In performing environmental reviews, the Secretary shall review each transcript of a hearing submitted under section 5323(b) to establish that an adequate opportunity to present views was given to all parties having a significant economic, social, or environmental interest in the project, and that the project application includes a record of—

“(A) the environmental impact of the proposal;

“(B) adverse environmental effects that cannot be avoided;

“(C) alternatives to the proposal; and

“(D) irreversible and irretrievable impacts on the environment.

“(3) APPROVAL OF APPLICATIONS FOR ASSISTANCE.—

“(A) FINDINGS BY THE SECRETARY.—The Secretary may approve an application for financial assistance for a capital project in accordance with this chapter only if the Secretary makes written findings, after reviewing the application

and the transcript of any hearing held before a State or local governmental authority under section 5323(b), that—

“(i) an adequate opportunity to present views was given to all parties having a significant economic, social, or environmental interest;

“(ii) the preservation and enhancement of the environment and the interest of the community in which the project is located were considered; and

“(iii) no adverse environmental effect is likely to result from the project, or no feasible and prudent alternative to the effect exists and all reasonable steps have been taken to minimize the effect.

“(B) HEARING.—If a hearing has not been conducted or the Secretary decides that the record of the hearing is inadequate for making the findings required by this subsection, the Secretary shall conduct a hearing on an environmental issue raised by the application after giving adequate notice to interested persons.

“(C) AVAILABILITY OF FINDINGS.—The Secretary’s findings under subparagraph (A) shall be made a matter of public record.

“(c) RAILROAD CORRIDOR PRESERVATION.—

“(1) IN GENERAL.—The Secretary may assist an applicant to acquire railroad right-of-way before the completion of the environmental reviews for any project that may use the right-of-way if the acquisition is otherwise permitted under Federal law. The Secretary may establish restrictions on such an acquisition as the Secretary determines to be necessary and appropriate.

“(2) ENVIRONMENTAL REVIEWS.—Railroad right-of-way acquired under this subsection may not be developed in anticipation of the project until all required environmental reviews for the project have been completed.”

(b) CHAPTER ANALYSIS.—The analysis for chapter 53 is amended by striking the item relating to section 5324 and inserting the following:

“5324. Special provisions for capital projects.”.

SEC. 3025. CONTRACT REQUIREMENTS.

(a) IN GENERAL.—Section 5325 is amended to read as follows:

“§ 5325. Contract requirements

“(a) COMPETITION.—Recipients of assistance under this chapter shall conduct all procurement transactions in a manner that provides full and open competition as determined by the Secretary.

“(b) ARCHITECTURAL, ENGINEERING, AND DESIGN CONTRACTS.—

“(1) PROCEDURES FOR AWARDED CONTRACT.—A contract or requirement for program management, architectural engineering, construction management, a feasibility study, and preliminary engineering, design, architectural, engineering, surveying, mapping, or related services for a project for which Federal assistance is provided under this chapter shall be awarded in the same way as a contract for architectural and engineering services is negotiated under chapter 11 of title 40 or an equivalent qualifications-based requirement of a State.

“(2) EFFECT OF STATE LAWS.—Paragraph (1) does not apply to the extent a State has adopted by law, before the date

of enactment of the Federal Public Transportation Act of 2005, an equivalent State qualifications-based requirement for contracting for architectural, engineering, and design services.

“(3) ADDITIONAL REQUIREMENTS.—When awarding a contract described in paragraph (1), recipients of assistance under this chapter shall comply with the following requirements:

“(A) PERFORMANCE OF AUDITS.—Any contract or sub-contract awarded under this chapter shall be performed and audited in compliance with cost principles contained in part 31 of title 48, Code of Federal Regulations (commonly known as the Federal Acquisition Regulation).

“(B) INDIRECT COST RATES.—A recipient of funds under a contract or subcontract awarded under this chapter shall accept indirect cost rates established in accordance with the Federal Acquisition Regulation for 1-year applicable accounting periods by a cognizant Federal or State government agency, if such rates are not currently under dispute.

“(C) APPLICATION OF RATES.—After a firm’s indirect cost rates are accepted under subparagraph (B), the recipient of the funds shall apply such rates for the purposes of contract estimation, negotiation, administration, reporting, and contract payment, and shall not be limited by administrative or de facto ceilings.

“(D) PRENOTIFICATION; CONFIDENTIALITY OF DATA.—A recipient requesting or using the cost and rate data described in subparagraph (C) shall notify any affected firm before such request or use. Such data shall be confidential and shall not be accessible or provided by the group of agencies sharing cost data under this subparagraph, except by written permission of the audited firm. If prohibited by law, such cost and rate data shall not be disclosed under any circumstances.

“(c) EFFICIENT PROCUREMENT.—A recipient may award a procurement contract under this chapter to other than the lowest bidder if the award furthers an objective consistent with the purposes of this chapter, including improved long-term operating efficiency and lower long-term costs.

“(d) DESIGN-BUILD PROJECTS.—

“(1) TERM DEFINED.—In this subsection, the term ‘design-build project’—

“(A) means a project under which a recipient enters into a contract with a seller, firm, or consortium of firms to design and build a public transportation system, or an operable segment of such system, that meets specific performance criteria; and

“(B) may include an option to finance, or operate for a period of time, the system or segment or any combination of designing, building, operating, or maintaining such system or segment.

“(2) FINANCIAL ASSISTANCE FOR CAPITAL COSTS.—Federal financial assistance under this chapter may be provided for the capital costs of a design-build project after the recipient complies with Government requirements.

“(e) MULTIYEAR ROLLING STOCK.—

“(1) CONTRACTS.—A recipient procuring rolling stock with Government financial assistance under this chapter may make a multiyear contract to buy the rolling stock and replacement

parts under which the recipient has an option to buy additional rolling stock or replacement parts for not more than 5 years after the date of the original contract.

“(2) COOPERATION AMONG RECIPIENTS.—The Secretary shall allow at least two recipients to act on a cooperative basis to procure rolling stock in compliance with this subsection and other Government procurement requirements.

“(f) ACQUIRING ROLLING STOCK.—A recipient of financial assistance under this chapter may enter into a contract to expend that assistance to acquire rolling stock—

“(1) based on—

“(A) initial capital costs; or

“(B) performance, standardization, life cycle costs, and other factors; or

“(2) with a party selected through a competitive procurement process.

“(g) EXAMINATION OF RECORDS.—Upon request, the Secretary and the Comptroller General, or any of their representatives, shall have access to and the right to examine and inspect all records, documents, and papers, including contracts, related to a project for which a grant is made under this chapter.

“(h) GRANT PROHIBITION.—A grant awarded under this chapter or the Federal Public Transportation Act of 2005 may not be used to support a procurement that uses an exclusionary or discriminatory specification.

Applicability.

“(i) BUS DEALER REQUIREMENTS.—No State law requiring buses to be purchased through in-State dealers shall apply to vehicles purchased with a grant under this chapter.

“(j) AWARDS TO RESPONSIBLE CONTRACTORS.—

“(1) IN GENERAL.—Federal financial assistance under this chapter may be provided for contracts only if a recipient awards such contracts to responsible contractors possessing the ability to successfully perform under the terms and conditions of a proposed procurement.

“(2) CRITERIA.—Before making an award to a contractor under paragraph (1), a recipient shall consider—

“(A) the integrity of the contractor;

“(B) the contractor’s compliance with public policy;

“(C) the contractor’s past performance, including the performance reported in the Contractor Performance Assessment Reports required under section 5309(1)(2); and

“(D) the contractor’s financial and technical resources.”.

(b) CONFORMING AMENDMENT.—Section 5326 and the item relating to section 5326 in the analysis for chapter 53 are repealed.

SEC. 3026. PROJECT MANAGEMENT OVERSIGHT AND REVIEW.

(a) PROJECT MANAGEMENT PLAN REQUIREMENTS.—Section 5327(a) is amended—

(1) in paragraph (11) by striking “and” at the end;

(2) in paragraph (12) by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(13) safety and security management.”.

(b) LIMITATIONS.—Section 5327(c) is amended to read as follows:

“(c) LIMITATIONS.—

“(1) LIMITATIONS ON USE OF AVAILABLE AMOUNTS.—Of the amounts made available to carry out this chapter for a fiscal

year, the Secretary may use not more than the following amounts to make contracts for the activities described in paragraph (2):

“(A) 0.5 percent of amounts made available to carry out section 5305.

“(B) 0.75 percent of amounts made available to carry out section 5307.

“(C) 1 percent of amounts made available to carry out section 5309.

“(D) 0.5 percent of amounts made available to carry out section 5310.

“(E) 0.5 percent of amounts made available to carry out section 5311.

“(F) 0.5 percent of amounts made available to carry out section 5320.

“(2) ACTIVITIES.—Paragraph (1) shall apply to the following: Applicability.

“(A) Activities to oversee the construction of a major project.

“(B) Activities to review and audit the safety and security, procurement, management, and financial compliance of a recipient or subrecipient of funds under sections 5305, 5307, 5309, 5310, 5311, and 5320.

“(C) Activities to provide technical assistance to correct deficiencies identified in compliance reviews and audits carried out under this section.

“(3) LIMITATIONS ON APPLICABILITY.—Subsections (a), (b), and (e) do not apply to contracts under this section for activities described in paragraphs (2)(B) and (2)(C).

“(4) GOVERNMENT’S SHARE OF COSTS.—The Government shall pay the entire cost of carrying out a contract under this subsection.

“(5) AVAILABILITY OF CERTAIN FUNDS.—Beginning in fiscal year 2006, funds available under paragraph (1)(C) shall be made available to the Secretary before allocating the funds appropriated to carry out any project under a full funding grant agreement or project construction grant agreement.”.

SEC. 3027. PROJECT REVIEW.

Section 5328(a) is amended—

(1) in paragraph (1) by striking “(1) When the Secretary of Transportation allows a new fixed guideway project to advance into the alternatives analysis stage of project review, the Secretary shall cooperate with the applicant in” and inserting the following:

“(1) ALTERNATIVES ANALYSIS.—The Secretary shall cooperate with an applicant undertaking an alternatives analysis required by subsections (d) and (e) of section 5309 in the”; and

(2) in paragraph (2)—

(A) by striking “(2) After” and inserting the following:

“(2) ADVANCEMENT TO PRELIMINARY ENGINEERING STAGE.—After”; and

(B) by striking “is consistent with section 5309(e)” and inserting “meets the requirements of subsection (d) or (e) of section 5309”;

(3) in paragraph (3)—

(A) by striking “(3) The Secretary” and inserting the following:

“(3) RECORD OF DECISION.—The Secretary”;

(B) by striking “of construction”; and

(C) by adding before the period at the end the following: “if the Secretary determines that the project meets the requirements of subsection (d) or (e) of section 5309”; and

(4) by striking paragraph (4) and inserting the following:

“(4) FUNDING AGREEMENTS.—The Secretary shall enter into a full funding grant agreement or project construction grant agreement, as appropriate, between the Government and the project sponsor if the Secretary determines that the project meets the requirements of subsection (d) or (e) of section 5309.”.

SEC. 3028. INVESTIGATIONS OF SAFETY HAZARDS AND SECURITY RISKS.

(a) IN GENERAL.—Section 5329 is amended to read as follows:

“§ 5329. Investigations of safety hazards and security risks

“(a) IN GENERAL.—The Secretary may conduct investigations into safety hazards and security risks associated with a condition in equipment, a facility, or an operation financed under this chapter to establish the nature and extent of the condition and how to eliminate, mitigate, or correct it.

“(b) SUBMISSION OF CORRECTIVE PLAN.—If the Secretary establishes that a safety hazard or security risk warrants further protective measures, the Secretary shall require the local governmental authority receiving amounts under this chapter to submit a plan for eliminating, mitigating, or correcting it.

“(c) WITHHOLDING FINANCIAL ASSISTANCE.—Financial assistance under this chapter, in an amount to be determined by the Secretary, may be withheld until a plan is approved and carried out.”.

(b) PUBLIC TRANSPORTATION SECURITY.—

(1) IN GENERAL.—Not later than 45 days after the date of enactment of this Act, the Secretary shall execute an annex to the memorandum of understanding between the Secretary and the Secretary of Homeland Security, dated September 28, 2004, to define and clarify the respective roles and responsibilities of the Department of Transportation and the Department of Homeland Security relating to public transportation security.

(2) CONTENTS.—The annex to be executed under paragraph (1) shall—

(A) establish a process to develop security standards for public transportation agencies;

(B) create a method of direct coordination with public transportation agencies on security matters;

(C) address any other issues determined to be appropriate by the Secretary and the Secretary of Homeland Security; and

(D) include a formal and permanent mechanism to ensure coordination and involvement by the Department of Transportation, as appropriate, in public transportation security.

(c) RULEMAKING.—Not later than 180 days after the date of enactment of this Act, the Secretary and the Secretary of Homeland Security shall issue jointly final regulations to establish the

49 USC 5321
note.
Deadline.
Memorandum.

Deadline.
49 USC 5321
note.

characteristics of and requirements for public transportation security grants, including funding priorities, eligible activities, methods for awarding grants, and limitations on administrative expenses.

(d) CHAPTER ANALYSIS.—The analysis for chapter 53 is amended by striking the item relating to section 5329 and inserting the following:

“5329. Investigations of safety hazards and security risks.”.

SEC. 3029. STATE SAFETY OVERSIGHT.

(a) IN GENERAL.—Section 5330 is amended—

(1) by striking the section heading and all that follows through subsection (a) and inserting the following:

“§ 5330. State safety oversight

“(a) APPLICATION.—This section shall only apply to—

“(1) States that have rail fixed guideway public transportation systems that are not subject to regulation by the Federal Railroad Administration; and

“(2) States that are designing rail fixed guideway public transportation systems that will not be subject to regulation by the Federal Railroad Administration.”;

(2) in subsection (d) by striking “may” and inserting “shall ensure uniform safety standards and enforcement or shall”; and

(3) by striking subsection (f).

(b) CHAPTER ANALYSIS.—The analysis for chapter 53 is amended by striking the item relating to section 5330 and inserting the following:

“5330. State safety oversight.”.

SEC. 3030. CONTROLLED SUBSTANCES AND ALCOHOL MISUSE TESTING.

(a) DEFINITIONS.—Section 5331(a)(3) is amended by striking the period at the end and inserting the following: “or section 2303a, 7101(i), or 7302(e) of title 46. The Secretary may also decide that a form of public transportation is covered adequately, for employee alcohol and controlled substances testing purposes, under the alcohol and controlled substance statutes or regulations of an agency within the Department of Transportation or the Coast Guard.”.

(b) TECHNICAL CORRECTIONS.—Subsections (b)(1) and (g) of section 5331 are each amended by striking “or section 103(e)(4) of title 23”.

(c) REGULATIONS.—Section 5331(f) is amended by striking paragraph (3).

SEC. 3031. EMPLOYEE PROTECTIVE ARRANGEMENTS.

Section 5333(b) is amended—

(1) in paragraph (1) by striking “5318(d), 5323(a)(1), (b), (d), and (e), 5328, 5337, and 5338(b)” each place it appears and inserting “5316, 5318, 5323(a)(1), 5323(b), 5323(d), 5328, 5337, and 5338(b)”; and

(2) by adding at the end the following:

“(4) Fair and equitable arrangements to protect the interests of employees utilized by the Secretary of Labor for assistance to purchase like-kind equipment or facilities, and grant amendments which do not materially revise or amend existing assistance agreements, shall be certified without referral.

“(5) When the Secretary is called upon to issue fair and equitable determinations involving assurances of employment when one private transit bus service contractor replaces another through competitive bidding, such decisions shall be based on the principles set forth in the Department of Labor’s decision of September 21, 1994, as clarified by the supplemental ruling of November 7, 1994, with respect to grant NV-90-X021. This paragraph shall not serve as a basis for objections under section 215.3(d) of title 29, Code of Federal Regulations.”.

SEC. 3032. ADMINISTRATIVE PROCEDURES.

Section 5334 is amended—

(1) in subsection (a)—

(A) in paragraph (9) by striking “and” at the end;

(B) in paragraph (10) by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(11) issue regulations as necessary to carry out the purposes of this chapter.”;

(2) by striking subsection (i);

(3) by redesignating subsections (b) through (h) as subsections (c) through (i), respectively;

(4) by inserting after subsection (a) the following:

“(b) PROHIBITIONS AGAINST REGULATING OPERATIONS AND CHARGES.—

“(1) IN GENERAL.—Except for purposes of national defense or in the event of a national or regional emergency, the Secretary may not regulate the operation, routes, or schedules of a public transportation system for which a grant is made under this chapter, nor may the Secretary regulate the rates, fares, tolls, rentals, or other charges prescribed by any provider of public transportation.

“(2) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to prevent the Secretary from requiring a recipient of funds under this chapter to comply with the terms and conditions of its Federal assistance agreement.”; and

(5) by striking subsection (c)(4) (as redesignated by paragraph (3) of this subsection) and inserting the following:

“(4) The Secretary of Transportation shall comply with this section (except subsection (i)) and sections 5318(e), 5323(a)(2), 5325(a), 5325(b), and 5325(f) when proposing or carrying out a regulation governing an activity under this chapter, except for a routine matter or a matter with no significant impact.”; and

(6) by adding at the end the following:

“(k) NOTIFICATION OF PENDING DISCRETIONARY GRANTS.—Not less than 3 full business days before announcement of award by the Secretary of any discretionary grant, letter of intent, or full funding grant agreement totaling \$1,000,000 or more, the Secretary shall notify the Committees on Banking, Housing, and Urban Affairs and Appropriations of the Senate and Committees on Transportation and Infrastructure and Appropriations of the House of Representatives.

“(l) AGENCY STATEMENTS.—

“(1) IN GENERAL.—The Administrator of the Federal Transit Administration shall follow applicable rulemaking procedures

Deadline.

under section 553 of title 5 before the Federal Transit Administration issues a statement that imposes a binding obligation on recipients of Federal assistance under this chapter.

“(2) BINDING OBLIGATION DEFINED.—In this subsection, the term ‘binding obligation’ means a substantive policy statement, rule, or guidance document issued by the Federal Transit Administration that grants rights, imposes obligations, produces significant effects on private interests, or effects a significant change in existing policy.”.

SEC. 3033. NATIONAL TRANSIT DATABASE.

(a) IN GENERAL.—Section 5335 is amended—

(1) by striking the section heading and inserting the following:

“§ 5335. National transit database”;

(2) by striking subsection (b); and

(3) in subsection (a)—

(A) in paragraph (1), by striking “(1)”; and

(B) in paragraph (2), by striking “(2) The Secretary may make a grant under section 5307 of this title” and inserting the following:

“(b) REPORTING AND UNIFORM SYSTEMS.—The Secretary may award a grant under section 5307 or 5311”.

(b) CHAPTER ANALYSIS.—The analysis for chapter 53 is amended by striking the item relating to section 5335 and inserting the following:

“5335. National transit database.”.

SEC. 3034. APPORTIONMENTS OF FORMULA GRANTS.

(a) APPORTIONMENTS.—Section 5336 is amended—

(1) by striking subsections (d), (h), and (k);

(2) by redesignating subsections (e), (f), (g), (i), and (j) as subsections (d), (e), (f), (g), and (h), respectively;

(3) by adding at the end the following:

“(i) APPORTIONMENTS.—Of the amounts made available for each fiscal year under subsections (a)(1)(C)(vi) and (b)(2)(B) of section 5338—

“(1) one percent shall be apportioned, in fiscal year 2006 and each fiscal year thereafter, to certain urbanized areas with populations of less than 200,000 in accordance with subsection (j); and

“(2) any amount not apportioned under paragraph (1) shall be apportioned to urbanized areas in accordance with subsections (a) through (c).”; and

(4) in subsection (a), by striking “Of the amount made available or appropriated under section 5338(a) of this title” and inserting “Of the amount apportioned under subsection (i)(2)”.

(b) SMALL TRANSIT INTENSIVE CITIES FORMULA.—Section 5336 is amended by adding at the end the following:

“(j) SMALL TRANSIT INTENSIVE CITIES FORMULA.—

“(1) DEFINITIONS.—In this subsection, the following definitions apply:

“(A) ELIGIBLE AREA.—The term ‘eligible area’ means an urbanized area with a population of less than 200,000

that meets or exceeds in one or more performance categories the industry average for all urbanized areas with a population of at least 200,000 but not more than 999,999, as determined by the Secretary in accordance with subsection (c)(2).

“(B) PERFORMANCE CATEGORY.—The term ‘performance category’ means each of the following:

“(i) Passenger miles traveled per vehicle revenue mile.

“(ii) Passenger miles traveled per vehicle revenue hour.

“(iii) Vehicle revenue miles per capita.

“(iv) Vehicle revenue hours per capita.

“(v) Passenger miles traveled per capita.

“(vi) Passengers per capita.

“(2) APPORTIONMENT.—

“(A) APPORTIONMENT FORMULA.—The amount to be apportioned under subsection (i)(1) shall be apportioned among eligible areas in the ratio that—

“(i) the number of performance categories for which each eligible area meets or exceeds the industry average in urbanized areas with a population of at least 200,000 but not more than 999,999; bears to

“(ii) the aggregate number of performance categories for which all eligible areas meet or exceed the industry average in urbanized areas with a population of at least 200,000 but not more than 999,999.

“(B) DATA USED IN FORMULA.—The Secretary shall calculate apportionments under this subsection for a fiscal year using data from the national transit database used to calculate apportionments for that fiscal year under this section.”.

(c) STUDY ON INCENTIVES IN FORMULA PROGRAMS.—Section 5336 is amended by adding at the end the following:

“(c) STUDY ON INCENTIVES IN FORMULA PROGRAMS.—

“(1) STUDY.—The Secretary shall conduct a study to assess the feasibility and appropriateness of developing and implementing an incentive funding system under sections 5307 and 5311 for operators of public transportation.

“(2) REPORT.—

“(A) IN GENERAL.—Not later than 2 years after the date of enactment of the Federal Public Transportation Act of 2005, the Secretary shall submit a report on the results of the study conducted under paragraph (1) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

“(B) CONTENTS.—The report submitted under subparagraph (A) shall include—

“(i) an analysis of the availability of appropriate measures to be used as a basis for the distribution of incentive payments;

“(ii) the optimal number and size of any incentive programs;

“(iii) what types of systems should compete for various incentives;

“(iv) how incentives should be distributed; and

“(v) the likely effects of the incentive funding system.”.

(d) TECHNICAL AMENDMENTS.—Section 5336 is amended—

(1) in subsection (a), by striking “of this title” and inserting “to carry out section 5307”;

(2) in paragraph (2), by inserting before the period at the end the following: “, except that the amount apportioned to the Anchorage urbanized area under subsection (b) shall be available to the Alaska Railroad for any costs related to its passenger operations”;

(3) in subsection (b)(1), by inserting “and, beginning in fiscal year 2006, 60 percent of the directional route miles attributable to the Alaska Railroad passenger operations” after “recipient”; and

(4) in subsection (h), by striking “a grant made under” each place it appears and inserting “a grant made with funds apportioned under”.

SEC. 3035. APPORTIONMENTS BASED ON FIXED GUIDEWAY FACTORS.

(a) IN GENERAL.—Section 5337 is amended—

(1) by striking the section designation and heading and inserting the following:

“§ 5337. Apportionment based on fixed guideway factors”;

and

(2) by adding at the end the following:

“(f) ADJUSTMENT.—For purposes of this section, an urbanized area with a population of 55,997, according to the most recent decennial census, shall be treated as an urbanized area eligible for assistance under section 5336(b)(2)(A) to which amounts were apportioned under this section for fiscal year 1997. For the purposes of subsection (e)(1), the number of fixed guideway revenue vehicle miles of service and number of fixed guideway route miles for that urbanized area as of the date of enactment of the Federal Public Transportation Act of 2005 shall be considered to have been used to determine apportionments for fiscal year 1997.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 53 is amended by striking the item relating to section 5337 and inserting the following:

“5337. Apportionment based on fixed guideway factors.”.

SEC. 3036. AUTHORIZATIONS.

Section 5338 is amended to read as follows:

“§ 5338. Authorizations

“(a) FISCAL YEAR 2005.—

“(1) FORMULA GRANTS.—

“(A) TRUST FUND.—For fiscal year 2005, \$3,499,927,776 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5307, 5308, 5310, and 5311 and section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note).

“(B) GENERAL FUND.—In addition to the amounts made available under subparagraph (A), there is authorized to be appropriated \$499,989,824 for fiscal year 2005 to carry out sections 5307, 5308, 5310, and 5311 and section 3038

of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note).

“(C) ALLOCATION OF FUNDS.—Of the amounts made available or appropriated under this paragraph—

“(i) \$4,811,150 shall be available to the Alaska Railroad for improvements to its passenger operations under section 5307;

“(ii) \$5,208,000 shall be available to provide over-the-road bus accessibility grants under section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note) to operators of intercity, fixed-route over-the-road buses;

“(iii) \$1,686,400 shall be available to provide over-the-road bus accessibility grants under section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note) to operators of over-the-road buses providing other than intercity, fixed-route service;

“(iv) \$94,526,689 shall be available to provide transportation services to elderly individuals and individuals with disabilities under section 5310;

“(v) \$250,889,588 shall be available to provide financial assistance for other than urbanized areas under section 5311;

“(vi) \$3,593,195,773 shall be available to provide financial assistance for urbanized areas under section 5307; and

“(vii) \$49,600,000 shall be available to carry out the clean fuels program under section 5308.

“(2) JOB ACCESS AND REVERSE COMMUTE.—

“(A) TRUST FUND.—For fiscal year 2005, \$108,500,000 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 3037 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5309 note).

“(B) GENERAL FUND.—In addition to the amounts made available under subparagraph (A), there is authorized to be appropriated \$15,500,000 for fiscal year 2005 to carry out section 3037 of the Transportation Equity Act of the 21st Century (49 U.S.C. 5309 note).

“(3) CAPITAL PROGRAM GRANTS.—

“(A) TRUST FUND.—For fiscal year 2005, \$2,898,100,224 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5309.

“(B) GENERAL FUND.—In addition to the amounts made available under subparagraph (A), there is authorized to be appropriated \$414,014,176 for fiscal year 2005 to carry out sections 5308, 5309, and 5318 and section 3015(b) of the Transportation Equity Act for the 21st Century (112 Stat. 361).

“(C) ALLOCATION OF FUNDS.—Of the amounts made available or appropriated under this paragraph—

“(i) \$49,600,000 shall be available to carry out the clean fuels program under section 5308;

“(ii) \$669,600,000 shall be available for capital projects to replace, rehabilitate, and purchase bus and

related equipment and to construct bus-related facilities under section 5309;

“(iii) \$1,204,684,800 shall be available for fixed guideway modernization under section 5309;

“(iv) \$1,437,829,600 shall be available for capital projects for new fixed guideway systems and extensions to existing fixed guideway systems under section 5309;

“(v) \$10,213,632 shall be available for capital projects in Alaska and Hawaii under section 5309;

“(vi) \$2,976,000 shall be available to carry out bus testing under section 5318; and

“(vii) \$4,811,200 shall be available to carry out the fuel cell bus and bus facilities program under section 3015(b) of the Transportation Equity Act for the 21st Century (112 Stat. 361).

“(4) PLANNING.—

“(A) TRUST FUND.—For fiscal year 2005, \$63,364,000 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5303, 5304, 5305, and 5313(b), as in effect on the day before the date of enactment of the Federal Public Transportation Act of 2005.

“(B) GENERAL FUND.—In addition to the amounts made available under subparagraph (A), there is authorized to be appropriated \$9,052,000 for fiscal year 2005 to carry out sections 5303, 5304, 5305, and 5313(b), as in effect on the day before the date of enactment of the Federal Public Transportation Act of 2005.

“(C) ALLOCATION OF FUNDS.—Of the amounts made available or appropriated under this paragraph—

“(i) 82.72 percent shall be allocated for metropolitan planning under section 5305; and

“(ii) 17.28 percent shall be allocated for State planning under section 5305.

“(5) RESEARCH.—

“(A) TRUST FUND.—For fiscal year 2005, \$47,740,000 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5311(b)(2), 5312, 5313(a), 5314, 5315, and 5322.

“(B) GENERAL FUND.—In addition to the amounts made available under subparagraph (A), there is authorized to be appropriated \$6,820,000 for fiscal year 2005 to carry out sections 5311(b)(2), 5312, 5313(a), 5314, 5315, and 5322.

“(C) ALLOCATION OF FUNDS.—Of the funds made available or appropriated under this paragraph—

“(i) not less than \$3,968,000 shall be available to carry out programs under the National Transit Institute under section 5315, of which not more than \$992,000 shall be available to carry out section 5315(a)(16);

“(ii) not less than \$5,208,000 shall be available to provide rural transportation assistance under section 5311(b)(2);

“(iii) not less than \$8,184,000 shall be available to carry out transit cooperative research programs under section 5313(a);

“(iv) not less than \$2,976,000 shall be available to carry out Project Action under section 5312; and

“(v) the remainder shall be available to carry out national research and technology programs under sections 5312, 5314, and 5322.

“(6) UNIVERSITY TRANSPORTATION RESEARCH.—

“(A) TRUST FUND.—For fiscal year 2005, \$5,208,000 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5505.

“(B) GENERAL FUND.—In addition to amounts made available under subparagraph (A), there is authorized to be appropriated \$744,000 for fiscal year 2005 to carry out section 5505.

“(C) ALLOCATION OF FUNDS.—Of the amounts made available or appropriated under this paragraph—

“(i) \$1,984,000 shall be available for grants under section 5505(d) to the center identified in section 5505(j)(4)(A), as in effect on the day before the date of enactment of the Federal Public Transportation Act of 2005; and

“(ii) \$1,984,000 shall be available for grants under section 5505(d) to the center identified in section 5505(j)(4)(F), as in effect on the day before the date of enactment of the Federal Public Transportation Act of 2005.

“(D) SPECIAL RULE.—Nothing in this paragraph shall be construed to limit the transportation research conducted by the centers receiving financial assistance under this section.

“(7) ADMINISTRATION.—

“(A) TRUST FUND.—For fiscal year 2005, \$67,704,000 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5334.

“(B) GENERAL FUND.—In addition to amounts made available under subparagraph (A), there is authorized to be appropriated \$9,672,000 for fiscal year 2005 to carry out section 5334.

“(8) AVAILABILITY OF AMOUNTS.—Amounts made available or appropriated under paragraphs (1) through (6) shall remain available until expended.

“(b) FORMULA AND BUS GRANTS.—

“(1) IN GENERAL.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5305, 5307, 5308, 5309, 5310, 5311, 5316, 5317, 5320, 5335, 5339, and 5340 and section 3038 of the Federal Transit Act of 1998 (112 Stat. 387 et seq.)—

“(A) \$6,979,931,000 for fiscal year 2006;

“(B) \$7,262,775,000 for fiscal year 2007;

“(C) \$7,872,893,000 for fiscal year 2008; and

“(D) \$8,360,565,000 for fiscal year 2009.

“(2) ALLOCATION OF FUNDS.—Of the amounts made available under paragraph (1)—

“(A) \$95,000,000 for fiscal year 2006, \$99,000,000 for fiscal year 2007, \$107,000,000 for fiscal year 2008, and \$113,500,000 for fiscal year 2009 shall be available to carry out section 5305;

“(B) \$3,466,681,000 for fiscal year 2006, \$3,606,175,000 for fiscal year 2007, \$3,910,843,000 for fiscal year 2008, and \$4,160,365,000 for fiscal year 2009 shall be allocated in accordance with section 5336 to provide financial assistance for urbanized areas under section 5307;

“(C) \$43,000,000 for fiscal year 2006, \$45,000,000 for fiscal year 2007, \$49,000,000 for fiscal year 2008, and \$51,500,000 for fiscal year 2009 shall be available to carry out section 5308;

“(D) \$1,391,000,000 for fiscal year 2006, \$1,448,000,000 for fiscal year 2007, \$1,570,000,000 for fiscal year 2008, and \$1,666,500,000 for fiscal year 2009 shall be allocated in accordance with section 5337 to provide financial assistance under section 5309(m)(2)(B);

“(E) \$822,250,000 for fiscal year 2006, \$855,500,000 for fiscal year 2007, \$927,750,000 for fiscal year 2008, and \$984,000,000 for fiscal year 2009 shall be available to carry out section 5309(m)(2)(C);

“(F) \$112,000,000 for fiscal year 2006, \$117,000,000 for fiscal year 2007, \$127,000,000 for fiscal year 2008, and \$133,500,000 for fiscal year 2009 shall be available to provide financial assistance for services for elderly persons and persons with disabilities under section 5310;

“(G) \$388,000,000 for fiscal year 2006, \$404,000,000 for fiscal year 2007, \$438,000,000 for fiscal year 2008, and \$465,000,000 for fiscal year 2009 shall be available to provide financial assistance for other than urbanized areas under section 5311;

“(H) \$138,000,000 for fiscal year 2006, \$144,000,000 for fiscal year 2007, \$156,000,000 for fiscal year 2008, and \$164,500,000 for fiscal year 2009 shall be available to carry out section 5316;

“(I) \$78,000,000 for fiscal year 2006, \$81,000,000 for fiscal year 2007, \$87,500,000 for fiscal year 2008, and \$92,500,000 for fiscal year 2009 shall be available to carry out section 5317;

“(J) \$22,000,000 for fiscal year 2006, \$23,000,000 for fiscal year 2007, \$25,000,000 for fiscal year 2008, and \$26,900,000 for fiscal year 2009 shall be available to carry out section 5320;

“(K) \$3,500,000 in fiscal year 2006; \$3,500,000 in fiscal year 2007; \$3,500,000 in fiscal year 2008; and \$3,500,000 in fiscal year 2009 shall be available to carry out section 5335;

“(L) \$25,000,000 in fiscal year 2006; \$25,000,000 in fiscal year 2007; \$25,000,000 in fiscal year 2008; and \$25,000,000 in fiscal year 2009 shall be available to carry out section 5339;

“(M) \$388,000,000 for fiscal year 2006, \$404,000,000 for fiscal year 2007, \$438,000,000 for fiscal year 2008, and \$465,000,000 for fiscal year 2009 shall be allocated in accordance with section 5340 to provide financial assistance for urbanized areas under section 5307 and other than urbanized areas under section 5311; and

“(N) \$7,500,000 for fiscal year 2006, \$7,600,000 for fiscal year 2007, \$8,300,000 for fiscal year 2008, and \$8,800,000 for fiscal year 2009 shall be available to carry

out section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note).

“(c) CAPITAL INVESTMENT GRANTS.—There are authorized to be appropriated to carry out section 5309(m)(2)(A)—

“(1) \$1,503,000,000 for fiscal year 2006;

“(2) \$1,566,000,000 for fiscal year 2007;

“(3) \$1,700,000,000 for fiscal year 2008; and

“(4) \$1,809,250,000 for fiscal year 2009.

“(d) RESEARCH AND UNIVERSITY RESEARCH CENTERS.—

“(1) IN GENERAL.—There is authorized to be appropriated to carry out transit cooperative research programs under section 5313, the National Transit Institute under section 5315, university research centers under section 5506, and national research programs under sections 5312, 5313, 5314, and 5322 \$58,000,000 for fiscal year 2006, \$61,000,000 for fiscal year 2007, \$65,500,000 for fiscal year 2008, and \$69,750,000 for fiscal year 2009, of which—

“(A) \$9,000,000 for fiscal year 2006, \$9,300,000 for fiscal year 2007, \$9,600,000 for fiscal year 2008, and \$10,000,000 for fiscal year 2009 shall be allocated to carry out transit cooperative research programs under section 5313;

“(B) \$4,300,000 shall be allocated for each fiscal year to carry out programs under the National Transit Institute under section 5315, of which not more than \$1,000,000 for each fiscal year shall be used to carry out section 5315(a)(16);

“(C) \$7,000,000 shall be allocated for each fiscal year to carry out the university centers program under section 5506;

“(D) \$3,000,000 shall be allocated for each fiscal year to carry out Project Action under section 5314(a)(2);

“(E) \$1,000,000 shall be allocated for each fiscal year to carry out the National Technical Assistance Center under section 5314(c); and

“(F) any funds made available under this paragraph that are not allocated under subparagraphs (A) through (E) shall be allocated to carry out national research programs under sections 5312, 5313, 5314, and 5322.

“(2) UNIVERSITY CENTERS PROGRAM.—

“(A) ALLOCATION.—Of the amounts allocated under paragraph (1)(C), the following amounts shall be available to provide transportation research, training, and curriculum development:

“(i) \$2,000,000 for each of fiscal years 2006 through 2009 for the University of Tennessee—Knoxville National Transportation Research Center.

“(ii) \$1,500,000 for each of fiscal years 2006 through 2009 for Texas A&M University—Texas Transportation Institute.

“(iii) \$1,000,000 for each of fiscal years 2006 through 2009 for Morgan State University.

“(iv) \$400,000 for each of fiscal years 2006 and 2007 for the Small Urban and Rural Transit Center at North Dakota State University.

“(v) \$550,000 for each of fiscal years 2006 and 2007 and \$650,000 for each of fiscal years 2008 and

2009 for the University Transportation Center at the University of Alabama.

“(vi) \$450,000 for each of fiscal years 2006 and 2007 and \$550,000 for each of fiscal years 2008 and 2009 for the Injury Control Research Center at the University of Alabama Birmingham.

“(vii) \$550,000 for each of fiscal years 2006 and 2007 and \$650,000 for each of fiscal years 2008 and 2009 for the Jackson State University Intermodal Transportation Institute at the Jackson State University.

“(viii) \$550,000 for each of fiscal years 2006 and 2007 and \$650,000 for each of fiscal years 2008 and 2009 for the University Transportation Center at the University of Denver/Mississippi State University.

“(B) REQUIREMENTS.—The universities specified in subparagraph (A) shall be considered to be university transportation centers under section 5506 and shall be subject to the requirements of subsections (b), (h), (i), (k), (l), and (m) of such section.

“(e) ADMINISTRATION.—There is authorized to be appropriated to carry out section 5334—

“(1) \$82,000,000 for fiscal year 2006;

“(2) \$85,000,000 for fiscal year 2007;

“(3) \$92,500,000 for fiscal year 2008; and

“(4) \$98,500,000 for fiscal year 2009.

“(f) GRANTS AS CONTRACTUAL OBLIGATIONS.—

“(1) GRANTS FINANCED FROM HIGHWAY TRUST FUND.—A grant or contract that is approved by the Secretary and financed with amounts made available from the Mass Transit Account of the Highway Trust Fund pursuant to this section is a contractual obligation of the Government to pay the Federal share of the cost of the project.

“(2) GRANTS FINANCED FROM GENERAL FUND.—A grant or contract that is approved by the Secretary and financed with amounts appropriated in advance from the General Fund of the Treasury pursuant to this section is a contractual obligation of the Government to pay the Federal share of the cost of the project only to the extent that amounts are appropriated for such purpose by an Act of Congress.

“(g) AVAILABILITY OF AMOUNTS.—Amounts made available by or appropriated under subsections (b), (c), and (d) shall remain available until expended.”.

SEC. 3037. ALTERNATIVES ANALYSIS PROGRAM.

(a) IN GENERAL.—Section 5339 is amended to read as follows:

“§ 5339. Alternatives analysis program

“(a) GRANTS AND AGREEMENTS.—Under criteria established by the Secretary, the Secretary may award grants to States, authorities of the States, metropolitan planning organizations, and local governmental authorities to develop alternatives analyses as defined by section 5309(a)(1).

Guidelines.

“(b) GOVERNMENT’S SHARE OF COSTS.—The Government’s share of the cost of an activity funded using amounts made available under this section may not exceed 80 percent of the cost of the activity.

“(c) AVAILABILITY OF FUNDS.—An amount made available or appropriated under section 5338(b)(2)(L) for this section shall remain available for 3 fiscal years, including the fiscal year in which the amount is made available or appropriated. Any of such amounts that are unobligated at the end of the 3-fiscal-year period may be used by the Secretary for any purpose under this section.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 53 is amended by striking the item relating to section 5339 and inserting the following:

“5339. Alternatives analysis program.”.

(c) PROJECTS.—For each of fiscal years 2006 and 2007, of the funds authorized under this section, funds shall be made available to the following projects in not less than the amounts specified:

(1) Minnesota Red Rock Corridor/Rush Line/Central Corridors studies, \$2,000,000.

(2) Trans-Hudson Midtown corridor study, \$1,500,000.

(3) Lane County, Oregon Bus Rapid Transit Phase II corridor study, \$500,000.

(4) Portland Streetcar, Oregon corridor study, \$1,500,000.

(5) San Gabriel Valley-Gold Line Foothill Extension corridor study, \$1,250,000.

(6) Monmouth-Ocean-Middlesex Counties, New Jersey corridor study, \$1,250,000.

(7) Metra BNSF Naperville to Aurora corridor study, \$1,250,000.

(8) Madison and Dane Counties, Wisconsin Transport 2020 corridor study, \$750,000.

(9) Sound Transit I-90 Long-Range Plan corridor studies, \$750,000.

(10) Middle Rio Grande Coalition of governments, Albuquerque to Santa Fe corridor study, \$500,000.

(11) Piedmont Authority Regional Transportation East-West corridor study, \$1,000,000.

(12) Baltimore Red Line/Green Line Transit Project study, \$1,500,000.

(13) Metra-West Line Extension, Elgin to Rockford study, \$1,000,000.

(14) Madison-Ridgeland Transportation Commission, Mississippi, Madison Light Rail Transportation Corridor study, \$350,000.

(15) South Carolina Department of Transportation Light Rail study, \$300,000.

(16) Provo Orem BRT study, \$500,000.

(17) Sevierville County Transportation Board, Sevier County BRT study, \$500,000.

(18) New Jersey Transit Access to the Region's Core study, \$2,500,000.

SEC. 3038. APPORTIONMENTS BASED ON GROWING STATES FORMULA FACTORS.

(a) IN GENERAL.—Chapter 53 is amended by adding at the end the following:

“§ 5340. Apportionments based on growing States and high density States formula factors

“(a) DEFINITION.—In this section, the term ‘State’ shall mean each of the 50 States of the United States.

“(b) ALLOCATION.—Of the amounts made available for each fiscal year under section 5338(b)(2)(M), the Secretary shall apportion—

“(1) 50 percent to States and urbanized areas in accordance with subsection (c); and

“(2) 50 percent to States and urbanized areas in accordance with subsection (d).

“(c) GROWING STATE APPORTIONMENTS.—

“(1) APPORTIONMENT AMONG STATES.—The amounts apportioned under subsection (b)(1) shall provide each State with an amount equal to the total amount apportioned multiplied by a ratio equal to the population of that State forecast for the year that is 15 years after the most recent decennial census, divided by the total population of all States forecast for the year that is 15 years after the most recent decennial census. Such forecast shall be based on the population trend for each State between the most recent decennial census and the most recent estimate of population made by the Secretary of Commerce.

“(2) APPORTIONMENTS BETWEEN URBANIZED AREAS AND OTHER THAN URBANIZED AREAS IN EACH STATE.—

“(A) IN GENERAL.—The Secretary shall apportion amounts to each State under paragraph (1) so that urbanized areas in that State receive an amount equal to the amount apportioned to that State multiplied by a ratio equal to the sum of the forecast population of all urbanized areas in that State divided by the total forecast population of that State. In making the apportionment under this subparagraph, the Secretary shall utilize any available forecasts made by the State. If no forecasts are available, the Secretary shall utilize data on urbanized areas and total population from the most recent decennial census.

“(B) REMAINING AMOUNTS.—Amounts remaining for each State after apportionment under subparagraph (A) shall be apportioned to that State and added to the amount made available for grants under section 5311.

“(3) APPORTIONMENTS AMONG URBANIZED AREAS IN EACH STATE.—The Secretary shall apportion amounts made available to urbanized areas in each State under paragraph (2)(A) so that each urbanized area receives an amount equal to the amount apportioned under paragraph (2)(A) multiplied by a ratio equal to the population of each urbanized area divided by the sum of populations of all urbanized areas in the State. Amounts apportioned to each urbanized area shall be added to amounts apportioned to that urbanized area under section 5336, and made available for grants under section 5307.

“(d) HIGH DENSITY STATE APPORTIONMENTS.—Amounts to be apportioned under subsection (b)(2) shall be apportioned as follows:

“(1) ELIGIBLE STATES.—The Secretary shall designate as eligible for an apportionment under this subsection all States with a population density in excess of 370 persons per square mile.

“(2) STATE URBANIZED LAND FACTOR.—For each State qualifying for an apportionment under paragraph (1), the Secretary shall calculate an amount equal to—

“(A) the total land area of the State (in square miles); multiplied by

“(B) 370; multiplied by

“(C)(i) the population of the State in urbanized areas;
divided by

“(ii) the total population of the State.

“(3) STATE APPORTIONMENT FACTOR.—For each State qualifying for an apportionment under paragraph (1), the Secretary shall calculate an amount equal to the difference between the total population of the State less the amount calculated in paragraph (2).

“(4) STATE APPORTIONMENT.—Each State qualifying for an apportionment under paragraph (1) shall receive an amount equal to the amount to be apportioned under this subsection multiplied by the amount calculated for the State under paragraph (3) divided by the sum of the amounts calculated under paragraph (3) for all States qualifying for an apportionment under paragraph (1).

“(5) APPORTIONMENTS AMONG URBANIZED AREAS IN EACH STATE.—The Secretary shall apportion amounts made available to each State under paragraph (4) so that each urbanized area receives an amount equal to the amount apportioned under paragraph (4) multiplied by a ratio equal to the population of each urbanized area divided by the sum of populations of all urbanized areas in the State. Amounts apportioned to each urbanized area shall be added to amounts apportioned to that urbanized area under section 5336, and made available for grants under section 5307.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 53 is amended by adding at the end the following:

“5340. Apportionments based on growing States and high density States formula factors.”.

SEC. 3039. OVER-THE-ROAD BUS ACCESSIBILITY PROGRAM.

(a) IN GENERAL.—Section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note; 112 Stat. 392) is amended—

(1) by striking the section heading and inserting the following:

“SEC. 3038. OVER-THE-ROAD BUS ACCESSIBILITY PROGRAM.”;

(2) by striking subsection (e) and inserting the following:

“(e) FEDERAL SHARE OF COSTS.—The Federal share of costs under this section shall be provided from funds made available to carry out this section and shall be determined in accordance with section 5323(i) of title 49, United States Code.”; and

(3) by striking subsection (g) and inserting the following:

“(g) FUNDING.—

“(1) INTERCITY, FIXED ROUTE OVER-THE-ROAD BUS SERVICE.—Of the amounts made available to carry out this section in each fiscal year, 75 percent shall be available for operators of over-the-road buses used substantially or exclusively in intercity, fixed-route over-the-road bus service to finance the incremental capital and training costs of the Department of Transportation’s final rule regarding accessibility of over-the-road buses. Such amounts shall remain available until expended.

“(2) OTHER OVER-THE-ROAD BUS SERVICE.—Of the amounts made available to carry out this section in each fiscal year,

25 percent shall be available for operators of other over-the-road bus service to finance the incremental capital and training costs of the Department of Transportation's final rule regarding accessibility of over-the-road buses. Such amounts shall remain available until expended.”.

(b) **CONFORMING AMENDMENTS.**—The table of contents contained in section 1(b) of the Transportation Equity Act for the 21st Century (112 Stat. 107) is amended by striking the item relating to section 3038 and inserting the following:

“3038. Over-the-road bus accessibility program.”.

SEC. 3040. OBLIGATION CEILING.

Notwithstanding any other provision of law, the total of all obligations from amounts made available from the Mass Transit Account of the Highway Trust Fund by, and amounts appropriated under, subsections (a) through (f) of section 5338 of title 49, United States Code, shall not exceed—

- (1) \$7,646,336,000 for fiscal year 2005, of which not more than \$6,690,544,000 shall be from the Mass Transit Account;
- (2) \$8,622,931,000 for fiscal year 2006, of which not more than \$6,979,931,000 shall be from the Mass Transit Account;
- (3) \$8,974,775,000 for fiscal year 2007, of which not more than \$7,262,775,000 shall be from the Mass Transit Account;
- (4) \$9,730,893,000 for fiscal year 2008, of which not more than \$7,871,895,000 shall be from the Mass Transit Account; and
- (5) \$10,338,065,000 for fiscal year 2009, of which not more than \$8,360,565,000 shall be from the Mass Transit Account.

SEC. 3041. ADJUSTMENTS FOR FISCAL YEAR 2005.

(a) **IN GENERAL.**—Notwithstanding any other provision of law, the Secretary shall ensure that the total apportionments and allocations made for fiscal year 2005 to each grant recipient under the Federal Transit Administration programs shall not exceed the amount made available under section 5338 of title 49, United States Code, as amended by this title, for fiscal year 2005 plus prior year balances.

(b) **FIXED GUIDEWAY MODERNIZATION ADJUSTMENT.**—In making the apportionments described in subsection (a), the Secretary shall adjust the amount apportioned for fiscal year 2005 to each urbanized area for fixed guideway modernization to reflect the apportionment method set forth in section 5337(a) of title 49, United States Code.

(c) **RECONCILIATION.**—Funds authorized by or made available under section 5338, as amended by this title, for fiscal year 2005—

- (1) shall not be subject to the across-the-board rescissions in section 122 of division J of Public Law 108–477;
- (2) shall be transferred or made available for the purposes as indicated in division H of Public Law 108–477, as amended by Public Law 109–13; and
- (3) shall be administered consistent with the applicable formula authorized under Public Law 105–178, as amended.

SEC. 3042. TERRORIST ATTACKS AND OTHER ACTS OF VIOLENCE AGAINST PUBLIC TRANSPORTATION SYSTEMS.

(a) **IN GENERAL.**—Section 1993 of title 18, United States Code, is amended—

(1) in the section heading by striking “**mass**” and inserting “**public**”;

(2) by striking “mass” each place the term appears and inserting “public”;

(3) in subsection (a)(5) by inserting “controlling,” after “operating,”; and

(4) in subsection (c)(5) by striking “5302(a)(7) of title 49, United States Code,” and inserting “5302(a) of title 49,”.

(b) CHAPTER ANALYSIS.—The analysis for chapter 97 of title 18, United States Code, is amended by striking the item relating to section 1993 and inserting the following:

“1993. Terrorist attacks and other acts of violence against public transportation systems.”.

SEC. 3043. PROJECT AUTHORIZATIONS FOR NEW FIXED GUIDEWAY CAPITAL PROJECTS.

(a) EXISTING FULL FUNDING GRANT AGREEMENTS.—The following projects are authorized for final design and construction for existing full funding grant agreements in not less than the amount specified for each fiscal year:

(1) Atlanta—North Springs Extension \$263,287 for fiscal year 2005.

(2) Baltimore—Central LRT Double Tracking \$28,777,920 for fiscal year 2005 and \$12,655,664 for fiscal year 2006.

(3) Charlotte—South Corridor LRT \$29,760,000 for fiscal year 2005, \$55,000,000 for fiscal year 2006, and \$69,405,565 for fiscal year 2007.

(4) Chicago—Chicago Transit Authority Douglas Branch Reconstruction \$84,320,000 for fiscal year 2005 and \$45,825,190 for fiscal year 2006.

(5) Chicago—Chicago Transit Authority Ravenswood Expansion Project \$39,680,000 for fiscal year 2005, \$40,000,000 for fiscal year 2006, \$40,000,000 for fiscal year 2007, \$40,000,000 for fiscal year 2008, and \$65,152,615 for fiscal year 2009.

(6) Cleveland—Euclid Corridor Transportation Project \$24,800,000 for fiscal year 2005 and \$24,774,513 for fiscal year 2006.

(7) Denver Southeast Corridor LRT \$79,360,000 for fiscal year 2005, \$80,000,000 for fiscal year 2006, \$80,000,000 for fiscal year 2007, and \$77,192,758 for fiscal year 2008.

(8) Fort Lauderdale—Tri-Rail Commuter Rail Upgrade \$11,210,695 for fiscal year 2005.

(9) Los Angeles—Metro Gold Line Eastside Extension \$59,520,000 for fiscal year 2005, \$80,000,000 for fiscal year 2006, \$100,000,000 for fiscal year 2007, \$80,000,000 for fiscal year 2008, and \$80,000,000 for fiscal year 2009.

(10) Los Angeles—North Hollywood MOS–3 \$663,339 in fiscal year 2005.

(11) Metra North Central Corridor Commuter Rail \$24,084,000 for fiscal year 2005 and \$16,529,452 for fiscal year 2006.

(12) Metra South West Corridor Commuter Rail \$15,500,000 for fiscal year 2005 and \$11,781,395 for fiscal year 2006.

(13) Metra Union Pacific West Line Extension \$12,000,000 for fiscal year 2005 and \$14,285,749 for fiscal year 2006.

(14) Minneapolis—Hiawatha Corridor LRT \$33,111,257 for fiscal year 2005.

(15) New Jersey Urban Core—Hudson-Bergen LRT \$313,896.

(16) New Jersey Urban Core—Hudson-Bergen LRT MOS–2 \$99,200,000 for fiscal year 2005, \$100,000,000 for fiscal year 2006, \$100,000,000 for fiscal year 2007, and \$53,202,995 for fiscal year 2008.

(17) New Jersey Urban Core—Newark-Elizabeth Rail Link MOS–1 \$1,342,076 for fiscal year 2005.

(18) New Orleans MOS–1 Canal Street \$16,455,206 for fiscal year 2005.

(19) Phoenix—Central Phoenix/East Valley LRT \$74,400,000 for fiscal year 2005, \$90,000,000 for fiscal year 2006, \$90,000,000 for fiscal year 2007, \$90,000,000 for fiscal year 2008, and \$90,000,000 for fiscal year 2009.

(20) Pittsburgh—North Shore LRT Connector \$54,560,000 in fiscal year 2005, \$55,000,000 in fiscal year 2006, \$55,000,000 in fiscal year 2007, and \$14,421,944 in fiscal year 2008.

(21) Pittsburgh—Stage II LRT Reconstruction \$1,120,854 for fiscal year 2005.

(22) Portland—Interstate MAX LRT Extension \$23,292,160 fiscal year 2005 and \$18,292,550 for fiscal year 2006.

(23) St. Louis—Metrolink Extension St. Clair County, IL \$53,383 for fiscal year 2005.

(24) Salt Lake City—CBD to University LRT \$1,127,405 for fiscal year 2005.

(25) Salt Lake City—Medical Center \$8,682,141 for fiscal year 2005.

(26) San Diego—Mission Valley East LRT Extension \$80,986,880 for fiscal year 2005 and \$8,353,424 for fiscal year 2006.

(27) San Diego—Oceanside Escondido Rail Corridor \$54,560,000 fiscal year 2005 and \$12,651,061 for fiscal year 2006.

(28) San Francisco—BART Extension to San Francisco Airport \$99,200,000 fiscal year 2005 and \$82,655,680 for fiscal year 2006.

(29) San Juan—Tren Urbano \$44,263,040 fiscal year 2005 and \$10,555,900 for fiscal year 2006.

(30) Seattle—Central Link Initial Segment LRT \$79,360,000 for fiscal year 2005, \$80,000,000 for fiscal year 2006, \$80,000,000 for fiscal year 2007, \$70,000,000 for fiscal year 2008, and \$24,028,149 for fiscal year 2009.

(31) Washington DC/MD—Largo Metrorail Extension \$75,432,887 for fiscal year 2005.

(b) FINAL DESIGN AND CONSTRUCTION.—The following projects are authorized for final design and construction for fiscal years 2005 through 2009 under paragraphs (1)(A) and (2)(A) of section 5309(m) of title 49, United States Code:

(1) Baltimore—MARC Commuter Rail Improvements.

(2) Boston—Silver Line BRT Phase III.

(3) Central Florida Commuter Rail System.

(4) Charlotte—South Corridor LRT.

(5) Dallas Area Rapid Transit—Northwest-Southeast LRT Extension.

(6) Delaware—Wilmington-Newark Commuter Rail Improvements.

(7) Denver—West Corridor LRT.

(8) El Paso—Rapid Transit (SMART) Starter Line.

(9) Harrisburg—Corridor One Commuter Rail (MOS-1).

(10) Houston Advanced Transit Program Light Rail.

(11) Kansas City, Missouri—Southtown BRT.

(12) Las Vegas—Resort Corridor Downtown Extension Project.

(13) Los Angeles MTA—Exposition LRT.

(14) Miami-Dade Transit—North Corridor.

(15) Minneapolis—North Star Corridor.

(16) Nashua—Commuter Rail.

(17) Nashville, Tennessee Commuter Rail.

(18) New Britain-Hartford Busway Project.

(19) New Orleans—Desire Corridor Streetcar.

(20) New York—Long Island Railroad East Side Access Project.

(21) New York—Second Avenue Subway.

(22) Norfolk Light Rail.

(23) Northern Virginia—Dulles Corridor Extension to Wiehle Avenue (Phase 1).

(24) Orange County, California—Rapid Transit Project.

(25) Philadelphia—Schuylkill Valley MetroRail.

(26) Pittsburgh—North Shore Connector.

(27) Portland, Oregon—South Corridor I-205/Portland Mall LRT.

(28) Providence—South County Commuter Rail.

(29) Sacramento—South Corridor LRT Extension (Phase 2), Meadowview to Consumnes River College.

(30) Salt Lake City—Weber County to Salt Lake City Commuter Rail.

(31) San Diego—Mid-Coast Extension.

(32) San Francisco Muni—Third Street LRT-Phase I/II.

(33) San Gabriel Valley—Gold Line Foothill Extension Phase I/Phase II, Los Angeles to Montclair.

(34) Santa Clara Valley Transit Authority—Silicon Valley Rapid Transit Corridor.

(35) Tampa Bay—Regional Rail.

(36) Triangle Transit Authority, North Carolina—Regional Rail Project.

(37) Washington County, Oregon—Wilsonville to Beaverton Commuter Rail.

(38) Wasilla-Girdwood, Alaska—Commuter Rail.

(c) PRELIMINARY ENGINEERING.—The following projects are authorized for preliminary engineering for fiscal years 2005 through 2009 under paragraphs (1)(A) and (2)(A) of section 5309(m) of title 49, United States Code:

(1) Alameda, California—Fixed Guideway Corridor Project.

(2) Alameda, California—Transit Improvements and Multimodal Center.

(3) Albuquerque—High Capacity Corridor.

(4) Ann Arbor/Downtown Detroit—Transit Improvement Project.

(5) Atlanta—East Line 1-20 Corridor Project.

(6) Atlanta—MARTA Memorial Drive Bus Rapid Transit.

- (7) Atlanta—GRTA I–75 Corridor, Downtown Atlanta—Cherokee County.
- (8) Atlanta—Interstate 285 Transit Corridor.
- (9) Atlanta—Georgia 400 North Line Corridor Project.
- (10) Atlanta—Belt Line C–Loop.
- (11) Atlanta—I–20 East Line I–20 Corridor Project.
- (12) Atlanta—West Line I–20 Corridor Project.
- (13) Austin—San Antonio I–35 Commuter Rail.
- (14) Austin—Rapid Bus Project.
- (15) Austin—Urban Commuter Rail.
- (16) Baltimore Red Line/Green Line Transit Project.
- (17) Baton Rouge—Bus Rapid Transit.
- (18) Bayonne, New Jersey—Hudson Bergen LRT Extension to NY Harbor.
- (19) Bernalillo-Santa Fe—New Mexico Commuter Rail.
- (20) Birmingham, Alabama—Transit Corridor.
- (21) Boise—Downtown Circulator.
- (22) Boise, Idaho—Valley Regional Transit Rail Corridor Preservation.
- (23) Boston—Assembly Square Orange Line Station.
- (24) Boston—Lechmere Transit Improvement to Somerville and Medford.
- (25) Boston—North Shore Corridor and Blue Line Extension.
- (26) Boston—North/South Rail Link.
- (27) Boston—Urban Ring BRT.
- (28) Bridgeport, Connecticut—Bridgeport Intermodal Facility.
- (29) Broward County, Florida—Bus Rapid Transit.
- (30) Camden, New Jersey—North Ferry Terminal.
- (31) Carrollton, Texas—Regional Intermodal Passenger Rail Facility Project.
- (32) Cedar Rapids, Iowa—River Rail Project.
- (33) Central Phoenix—East Valley Corridor LRT Extensions.
- (34) Charlotte—Charlotte Multimodal Station.
- (35) Charlotte—North Corridor Project.
- (36) Charlotte—Northeast Corridor Project.
- (37) Charlotte—South Corridor LRT Extension to Rock Hill, South Carolina.
- (38) Charlotte—Southeast Corridor Project.
- (39) Charlotte—West Corridor Project.
- (40) Charlotte—Center City Streetcar Project.
- (41) Chicago—Cermack Road BRT.
- (42) Chicago CTA—Red Line Extension.
- (43) Chicago CTA—Chicago Transit Hub (Circle Line–Ogden Streetcar).
- (44) Chicago CTA—Orange Line Extension (Midway Airport to Ford City).
- (45) Chicago CTA—Yellow Line Extension (Dempster–Old Orchard).
- (46) Chicago—Ogden Avenue Corridor.
- (47) Chicago—Pace Golf Road Bus Rapid Transit.
- (48) Chula Vista, California—Bus Rapid Transit.
- (49) Clark County, Washington—MAX Extension.
- (50) Cleveland-Akron-Canton (Northeast Ohio) Commuter Rail.

- (51) Columbia, South Carolina—Light Rail.
- (52) Columbus—North Corridor LRT Project.
- (53) Contra-Costa—BART Extension.
- (54) Corpus Christi—Downtown Rail Trolley.
- (55) Dallas Area Rapid Transit—Dallas Central Business District.
- (56) Dallas Area Rapid Transit—Rowlett LRT Extension.
- (57) Dallas Area Rapid Transit—Beltline to DFW Airport.
- (58) Dayton—Aviation Heritage Corridor Streetcar Project.
- (59) Dayton—Aviation Heritage Corridor Streetcar Project Phase I.
- (60) Denton County Transportation Authority, Texas—Fixed Guideway Project.
- (61) Denver—Gold Line Extension to Arvada.
- (62) Denver—RR Right-of-Way Acquisition.
- (63) Denver—United States Route 36 Transit Corridor.
- (64) Denver—North Metro Corridor to Thornton.
- (65) Denver—East Corridor to DIA Airport.
- (66) Denver—I-225 Transit Corridor.
- (67) Denver—Southeast Corridor Extension to Lone-Tree/Ridgegate.
- (68) Denver—Southwest Corridor Extension to C470/Lucent Boulevard.
- (69) Detroit—Center City Loop.
- (70) Detroit—Woodward Corridor.
- (71) District of Columbia—Light Rail Starter Line.
- (72) Erie, Pennsylvania—Ferry Acquisition.
- (73) Fitchburg, Massachusetts—Commuter Rail Extensions and Improvements.
- (74) Florence-Myrtle Beach, South Carolina—Transit Corridor.
- (75) Fort Lauderdale—Downtown Rail Link.
- (76) Fort Lauderdale—Transit Project from NW 215th and 79th Streets.
- (77) Fort Worth—Cottonbelt Commuter Rail to DFW.
- (78) Fort Worth—Trinity Railway Express Commuter Rail Extensions.
- (79) Galveston—Rail Trolley Extension.
- (80) Glendale, California—Downtown Streetcar.
- (81) Grand Rapids—Fixed Guideway Corridor Project.
- (82) Guam—Tumon Bay-Airport Light Rail.
- (83) Harrisburg, Pennsylvania—Corridor One MOS-2 (East Mechanicsburg to Carlisle).
- (84) Harrison County, Mississippi—Canal Road Intermodal Connector.
- (85) Henderson-Las Vegas-North Las Vegas—Regional Fixed Guideway Project.
- (86) Honolulu—Rapid Transit Project.
- (87) Houston—Commuter Rail Service in Harris & Fort Bend Counties.
- (88) Houston—Advanced Transportation Technology System.
- (89) Indianapolis—System of Metropolitan Area Rapid Transit.
- (90) Jacksonville—East-Southwest BRT.
- (91) Jacksonville—North-Southeast BRT.

- (92) Kansas City, Missouri—Lawrence, Kansas—Commuter Rail.
- (93) Kenosha-Racine-Milwaukee Metra Commuter Rail Extension (Wisconsin).
- (94) Kenosha, Wisconsin Streetcar Expansion Project.
- (95) King County, Washington—I-405 Corridor Bus Rapid Transit.
- (96) Lake Tahoe—Passenger Ferry Service.
- (97) Lakeville, Minnesota—Cedar Avenue Corridor Bus Rapid Transit.
- (98) Lane County, Oregon—Bus Rapid Transit, Phase 2.
- (99) Las Vegas—Boulder Highway MAX Bus Rapid Transit.
- (100) Little Rock—River Rail Streetcar Extensions.
- (101) Little Rock—West Little Rock Commuter Rail.
- (102) Livermore, California—BART Rail Extension to Livermore.
- (103) Long Island Railroad—Nassau Hub.
- (104) Lorain-Cleveland Commuter Rail.
- (105) LOSSAN Del Mar-San Diego—Rail Corridor Improvements.
- (106) Lovejoy to Griffin, Georgia Commuter Rail.
- (107) Madison, Wisconsin—Madison Streetcar.
- (108) Madison, Wisconsin—Light Rail Transportation.
- (109) Madison and Dane Counties, Wisconsin—Transport 2020 Commuter Rail.
- (110) Maryland—I-270 Corridor Cities Transitway.
- (111) Maryland—Route 5 Corridor to Waldorf.
- (112) Maryland—Silver Spring Capacity Improvements.
- (113) Massachusetts—Commuter Rail Extensions to Worcester and New Bedford.
- (114) Memphis—Downtown Airport Corridor.
- (115) Memphis—Intermodal Terminal.
- (116) Memphis Regional Rail Plan.
- (117) Metra BNSF Naperville to Aurora Corridor Extension and Improvements.
- (118) Metra South Suburban Airport Commuter Rail Extension.
- (119) Metra SouthEast Service Line Commuter Rail.
- (120) Metra STAR Line Inter-Suburban Commuter Rail.
- (121) Metra UP Northwest Line Core Capacity Upgrades.
- (122) Metra UP West Line Core Capacity Upgrades.
- (123) Metra-West Line Extension, Elgin to Rockford.
- (124) Miami-Dade Transit—Douglas Road Extension.
- (125) Miami-Dade Transit—East-West Corridor.
- (126) Miami-Dade Transit—Kendall Corridor.
- (127) Miami-Dade Transit—Northeast Corridor.
- (128) Miami-Dade Transit—South Dade Corridor.
- (129) Miami-Dade Transit—Miami Intermodal Center to Earlington Heights.
- (130) Miami—Downtown Streetcar Project.
- (131) Middletown-South Fallsburg, New York, Passenger Rail.
- (132) Milwaukee—Downtown Dedicated Guideway Transit Connector.
- (133) Minneapolis—Northwest Corridor Busway.
- (134) Minneapolis-St. Paul—Central Corridor Transit Project.

- (135) Minneapolis-St. Paul-Hinckley, Minnesota—Rush Line Corridor.
- (136) Missouri/Kansas—Interstate 35 Transit Corridor.
- (137) Monterey County, California—Commuter Rail.
- (138) Montgomery and Prince George's Counties, Maryland—Bi-County Transitway (Purple Line).
- (139) Nashua-Manchester—Commuter Rail Extension.
- (140) Nashville—Area Transit Corridors.
- (141) Nashville—Southeast Rail Corridor.
- (142) Nashville Tennessee Commuter Rail.
- (143) Nassau and Queens Counties, New York—LIRR Main Line Third Track Project.
- (144) New Bedford-Fall River, Massachusetts—Commuter Rail Extension.
- (145) New Haven, Connecticut-Hartford, Connecticut-Springfield, Massachusetts Commuter Line.
- (146) New Jersey Trans-Hudson Midtown Corridor.
- (147) New Jersey Transit—Northeast Corridor Trans-Hudson Commuter Rail Improvements.
- (148) New Jersey Transit—Morris/Essex/Boonton Trans-Hudson Commuter Rail Improvements.
- (149) New Jersey Transit—New York Susquehanna and Western RR Commuter Extension.
- (150) New Jersey Transit—Phillipsburg Extension.
- (151) New Jersey Transit—West Trenton Line Commuter Line Service Extension.
- (152) New Jersey-Pennsylvania Lackawanna Cutoff Rail Restoration.
- (153) New Jersey Urban Core.
- (154) New Orleans—Airport-CBD Commuter Rail.
- (155) New Orleans—Riverfront Streetcar Downriver Extension.
- (156) New Orleans—Riverfront Streetcar Upriver Extension.
- (157) New York—Governors Island Transportation Access.
- (158) New York—Long Island Sound (Long Island) Ferry Service.
- (159) New York—Long Island Sound (Westchester) Ferry Service.
- (160) New York—NYC Bus Rapid Transit.
- (161) New York—NYC Highline.
- (162) New York—Penn Station Access Project.
- (163) New York—Rockaway-Brooklyn Army Terminal-Manhattan Ferry Service.
- (164) New York—Staten Island to Manhattan High-Speed Ferry Service Extension.
- (165) New York—Stewart Airport Rail Access.
- (166) New York—Tappan Zee I-287 Corridor.
- (167) New York—West Harlem Waterfront Ferry Improvements.
- (168) Newburg, New York—LRT System.
- (169) Northern Indiana—Commuter District Line.
- (170) Northern Indiana—West Lake Commuter Rail Link (South Shore Commuter Rail).
- (171) Norfolk—Naval Station Corridor.
- (172) Norfolk-Petersburg—United States Route 460 Commuter Rail Project.

- (173) Northern Virginia—Crystal City Potomac Yards Transit.
- (174) Northern Virginia—Columbia Pike Rapid Transit Project.
- (175) Northern Virginia—Dulles Corridor Extension, Phase 2.
- (176) Northern Virginia—Richmond Highway (Route 1) Rapid Transit Project.
- (177) Oakland—Telegraph Avenue/International Blvd./East 14th Street BRT.
- (178) Ogden—Intermodal-Weber State University Transit Connection.
- (179) Orange County, California—Bus Rapid Transit.
- (180) Orlando-Orange County, Florida—Light Rail Project.
- (181) Ottawa, Illinois—Illinois Valley Commuter Rail Extension.
- (182) Pawtucket, Rhode Island—Commuter Rail Station.
- (183) Philadelphia—Elwyn to Wawa Train Service Restoration.
- (184) Philadelphia—Navy Yard Transit Extension.
- (185) Philadelphia—52nd Street City Connector Project.
- (186) Philadelphia—Route 100 Rapid Trolley Extension.
- (187) Philadelphia—Broad Street Subway Line Extension.
- (188) Piedmont Authority Regional Transportation—East-West Rail Transit Corridor Project.
- (189) Pinellas Mobility Initiative Bus Rapid Transit.
- (190) Pittsburgh—Keystone West Passenger Rail Corridor in Blair, Cambria, West Moreland, and Allegheny Counties.
- (191) Pittsburgh—East-West Corridor Rapid Transit.
- (192) Pittsburgh—Martin Luther King, Jr., Busway Extension.
- (193) Pittsburgh—Oakland Technology Corridor.
- (194) Portland Streetcar Extensions.
- (195) Portland-Yarmouth-Brunswick-Lewiston/Auburn Passenger Rail.
- (196) Providence—South County Commuter Rail Phase II.
- (197) Provo-Orem Utah—Bus Rapid Transit.
- (198) Quakertown-Stoney Creek, Pennsylvania—Rail Restoration.
- (199) Raritan Valley, New Jersey—Commuter Rail.
- (200) Reno, Nevada—Virginia Street Bus Rapid Transit Project.
- (201) Riverside County, California—Perris Valley Line Metrolink Extension.
- (202) Roaring Fork Valley, Colorado—Bus Rapid Transit.
- (203) Rock Island, Illinois—Quad Cities Rapid Transit System.
- (204) Sacramento—Downtown Streetcar Project.
- (205) Sacramento—Regional Rail, Auburn to Oakland.
- (206) Sacramento—Downtown/Natomas Airport Transit Corridor.
- (207) Salt Lake City—Airport to University LRT.
- (208) Salt Lake City—Delta Center to Gateway Intermodal Center LRT Extension.
- (209) Salt Lake City—Draper to Sandy LRT Extension.
- (210) Salt Lake-Provo—Commuter Rail Extension.
- (211) Salt Lake City—TRAX Capacity Improvements.

- (212) Salt Lake City—West Valley City LRT Extension.
- (213) Salt Lake City—West Valley City 3500 South BRT.
- (214) Salt Lake City—West Jordan LRT Extension.
- (215) Salt Lake City to South Davis Transit Connection.
- (216) San Antonio—Bus Rapid Transit.
- (217) San Diego—First Bus Rapid Transit.
- (218) San Diego—San Diego Imperial County Mag-Lev Rail Airport Corridor Project.
- (219) San Diego—Sprinter Rail Line Extension Project.
- (220) San Francisco—BART Extension to Livermore.
- (221) San Francisco—BART Extension to Oakland International Airport.
- (222) San Francisco—MUNI Geary Boulevard Bus Rapid Transit.
- (223) San Francisco—Oyster Point Ferry Terminal.
- (224) San Francisco—Transbay Terminal/Caltrain Downtown Extension Project.
- (225) San Joaquin, California—Regional Rail Commission Central Valley Rail Service.
- (226) San Joaquin Regional Rail Commission Commuter Rail (Altamont Commuter Express).
- (227) San Juan Tren Urbano—Extension from Rio Piedras to Carolina.
- (228) San Juan—Tren Urbano Minillas Extension.
- (229) Santa Fe—El Dorado Rail Link.
- (230) Seattle—Monorail Project Post—Green Line Extensions.
- (231) Seattle—Link LRT Extensions.
- (232) Seattle—Sound Transit Commuter Rail.
- (233) Seattle—Sound Transit Regional Express Bus.
- (234) Sevierville to Pigeon Ford, Tennessee—Bus Rapid Transit.
- (235) Sonoma/Marin (SMART) Commuter Rail, California.
- (236) Southern California High Speed Regional Transit.
- (237) Southern New Jersey to Philadelphia Transit Project.
- (238) St. Louis Metro Link—Scott AFB to Mid America Airport.
- (239) St. Louis—East/West Gateway.
- (240) St. Louis—Metro Link Northside Daniel Boone Project.
- (241) St. Louis—Metro South Corridor.
- (242) St. Louis—University Downtown Trolley.
- (243) St. Paul—Red Rock Corridor Commuter Rail Project.
- (244) Stamford, Connecticut—Boston Post Road Intermodal Center and Capacity Expansion Project.
- (245) Stamford, Connecticut—Urban Transitway Phase II.
- (246) Tampa—Bus Rapid Transit Improvements.
- (247) Tampa—Streetcar Extension to Downtown Tampa.
- (248) Toledo, Ohio—CBD to Zoo.
- (249) Toledo, Ohio—University Corridor.
- (250) Trenton Trolley.
- (251) Tri-Rail Dolphin Extension.
- (252) Tri-Rail Florida East Coast Commuter Rail Extension.
- (253) Tri-Rail Jupiter Extension.
- (254) Tri-Rail Scripps Corridor Extension Project.
- (255) Tucson—Old Pueblo Trolley Expansion.

(256) Vancouver—Interstate MAX Extension to Clark County, Washington.

(257) Virginia Beach—Bus Rapid Transit.

(258) Virginia Railway Express Capacity Improvements.

(259) Washington, D.C.—Woodrow Wilson Bridge Transit Projects.

(260) Washington State Ferries and Ferry Facilities.

(261) Washington State—Issaquah Valley Trolley Project.

(262) Williamsburg-Newport News—Peninsula Rail Transit.

(263) Wilmington, Delaware—Commuter Rail to Middletown.

(264) Winston-Salem—Downtown Streetcar System.

(d) PROJECT AUTHORIZATIONS.—Subject to the requirements of sections 5309(d) and 5309(e) of title 49, United States Code, the following projects are authorized for the following amounts:

(1) Ann Arbor/Downtown Detroit Transit Improvement Project, \$100,000,000.

(2) Baltimore Red Line/Green Line Transit Project, \$102,300,000.

(3) Bernalillo—Santa Fe—New Mexico Commuter Rail, \$75,000,000.

(4) Birmingham-Jefferson Transit Authority—I-65 South BRT, \$100,000,000.

(5) Boston—Assembly Square Orange Line Station, \$25,000,000.

(6) Boston—Silver Line BRT Phase II, \$20,000,000.

(7) Bridgeport, Connecticut—Bridgeport Intermodal Transit Center, \$28,000,000.

(8) Dallas Area Rapid Transit—NW/SW Light Rail Transit Minimal Operable Segment, \$260,000,000.

(9) Delaware—Wilmington-Newark Commuter Rail Improvements, \$14,000,000.

(10) Denver Regional Transit District—West Corridor, \$270,000,000.

(11) Grand Rapids—Fixed Guideway Corridor Project, \$14,400,000.

(12) Harrison County, Mississippi HOV/BRT Canal Road Intermodal Connector, \$70,000,000.

(13) Henderson-Las Vegas-North Las Vegas—Regional Fixed Guideway Project, \$32,000,000.

(14) Houston—Advanced Transportation Technology System in Harris County, \$245,000,000.

(15) Kenosha-Racine-Milwaukee Metra Commuter Rail Extension (Wisconsin), \$80,000,000.

(16) Lake Tahoe—Passenger Ferry Service, \$8,000,000.

(17) Lane County, Oregon—Bus Rapid Transit, Phase 2, \$31,000,000.

(18) Las Vegas—Boulder Highway MAX Bus Rapid Transit, \$12,000,000.

(19) Las Vegas—Resort Corridor Downtown Extension Project, \$16,000,000.

(20) Long Island Railroad—Nassau Hub, \$10,000,000.

(21) Los Angeles County Metropolitan Transportation Authority (LACMTA): Mid-City/Exposition Light Rail Transit Project, \$11,000,000.

(22) Metro Gold Line Foothill Extension Construction Authority: Gold Line Foothill Light Rail Transit Project, \$6,000,000.

(23) Miami—Downtown Streetcar Project, \$50,000,000.

(24) Minneapolis—North Star Corridor, \$80,000,000.

(25) Mississippi—I-69 HOV/BRT, \$70,000,000.

(26) Nashville—Commuter Rail, \$6,200,000.

(27) New Bedford-Fall River, Massachusetts—Commuter Rail Extension, \$10,000,000.

(28) New Britain-Hartford Busway Project, \$55,000,000.

(29) New Jersey Transit/Northeast Corridor Trans-Hudson Commuter Rail Improvements, \$80,000,000.

(30) New Orleans—Airport-CBD Commuter Rail, \$5,000,000.

(31) New Orleans—Desire Corridor Streetcar, \$69,700,000.

(32) New York—Penn Station Access Project, \$15,000,000.

(33) New York—Stewart Airport Rail Access, \$40,000,000.

(34) Providence—South County Commuter Rail, Phase II, \$60,000,000.

(35) Providence—South County Commuter Rail, \$36,000,000.

(36) Pennsylvania—New Jersey Lackawanna Cutoff Rail Restoration, \$120,000,000.

(37) Philadelphia—Schuylkill Valley Metro, \$250,000,000.

(38) Reno, Nevada—Virginia Street Bus Rapid Transit, \$12,000,000.

(39) Sacramento—South Corridor LRT Extension (Phase 2), Meadowview to Consumnes River College, \$11,000,000.

(40) Sacramento Regional Transit District: Downtown Natoma Airport Transit Corridor, \$5,000,000.

(41) San Diego—Mid-Coast Light Rail Transit Extension, \$11,000,000.

(42) San Francisco Muni Third St. Light Rail Transit-Phase I/II, \$15,000,000.

(43) Santa Clara Valley Transportation Authority—Silicon Valley Rapid Transit Corridor Project, \$11,000,000.

(44) Santa Fe—El Dorado Rail Link, \$5,400,000.

(45) Sonoma Marin Area Rail Transit (SMART) Project, \$5,000,000.

(46) St. Louis—Metro South Corridor Metrolink Light Rail Extension, \$135,000,000.

(47) St. Louis—North Side and Daniel Boone Corridors Metrolink Light Rail Extensions, \$275,000,000.

(48) Stamford, Connecticut Urban Transitway, Phase II, \$22,800,000.

(49) Tampa—Streetcar Extension to Downtown Tampa, \$3,000,000.

(50) Utah—Regional Commuter Rail, \$200,000,000.

(51) Washington State Ferries, \$25,000,000.

(52) Wilmington, Delaware—Commuter Rail to Middletown, \$24,900,000.

(e) RULES RELATING TO FUNDING.—

(1) SUBSECTION (a) PROJECTS.—

(A) IN GENERAL.—The Secretary is authorized to expend funds made available under section 5309(m) of

title 49, United States Code, for final design and construction of projects authorized by subsection (a) as existing full funding grant agreements.

(B) MINIMUM FUNDING LEVELS.—The Secretary shall make available not less than the following amounts for projects authorized by subsection (a): \$1,157,400,426 for fiscal year 2005, \$838,360,578 for fiscal year 2006, \$614,405,565 for fiscal year 2007, \$424,817,697 for fiscal year 2008, and \$259,180,764 for fiscal year 2009.

(2) SUBSECTION (b) PROJECTS.—

(A) IN GENERAL.—Projects authorized by subsection (b) for final design and construction are also authorized for alternatives analysis and preliminary engineering.

(B) MINIMUM FUNDING LEVELS.—The Secretary shall make available not less than the following amounts for projects authorized by subsection (b): \$165,402,806 for fiscal year 2005, \$544,399,422 for fiscal year 2006, \$826,314,435 for fiscal year 2007, \$1,139,182,303 for fiscal year 2008, and \$1,405,329,236 for fiscal year 2009.

(C) PRIORITY.—In making funds available under subparagraph (B), the Secretary shall first make such funds available for any full funding grant agreement executed by the Secretary in fiscal year 2005 after the date of enactment of this Act and for any full funding grant agreement executed by the Secretary in the amount indicated in fiscal years 2005 through 2009 in the amount indicated in the “Schedule of Federal Funds for the Project” included in such agreement.

(3) SUBSECTION (c) PROJECTS.—

(A) IN GENERAL.—Effective October 1, 2007, projects authorized by subsection (c) for preliminary engineering are also authorized for final design and construction.

(B) MAXIMUM FUNDING LEVELS.—The Secretary shall make available not more than the following amounts for projects authorized by subsection (c): \$115,026,368 for fiscal year 2005, \$120,240,000 for fiscal year 2006, and \$125,280,000 in fiscal year 2007.

(C) MAXIMUM FUNDING LEVELS FOR PRELIMINARY ENGINEERING.—In fiscal years 2008 and 2009, the Secretary shall make available not more than the following amounts for projects authorized by subsection (b), and projects authorized by subsection (c), to conduct preliminary engineering activities: \$136,000,000 in fiscal year 2008 and \$144,740,000 in fiscal year 2009.

(f) NEW JERSEY URBAN CORE PROJECT.—Section 3031(d) of the Intermodal Surface Transportation Efficiency Act of 1991 (112 Stat. 380; 105 Stat. 2122) is amended—

(1) by striking “associated components to and at the contiguous New Jersey Meadowlands Sports Complex),” and inserting “to and at the contiguous New Jersey Meadowlands Sports Complex), including a connection to the Hudson River Waterfront Transportation System, the Lackawanna Cutoff,”; and

(2) by striking “in Lakewood to Freehold to Matawan or Jamesburg, New Jersey, as described in section 3035(p) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2131)” and inserting “from Lakehurst to the Northeast Corridor or the New Jersey Coast Line”.

(g) **NEW JERSEY TRANS-HUDSON MIDTOWN CORRIDOR.**—Not later than 90 days after the date of enactment of this Act, the Secretary shall permit New Jersey Transit to enter into preliminary engineering on the New Jersey Trans-Hudson Midtown Corridor project. When evaluating the local share of such project in the new starts rating process, the Secretary shall give consideration to project elements of the New Jersey Trans-Hudson Midtown Corridor advanced with 100 percent non-Federal funds, including the purchase of bi-level rail equipment and the New Jersey Transit Light Rail River Line. Based upon the project's evaluations and ratings required under section 5309(d) of title 49, United States Code, the Secretary shall give strong consideration to the project for a full funding grant agreement.

(h) **HOUSTON METRO.**—

(1) **LOCAL SHARE.**—Notwithstanding any other provision of law, for the purpose of calculating the non-Federal share of the net project cost of any new fixed guideway capital project currently included in the Advanced Transit Program (“Metro Solutions Plan”) sponsored by the Metropolitan Transit Authority of Harris County, Texas, the Secretary shall include \$324,000,000 in State and local funds expended for the design and construction of the Red Line Light Rail Transit system that operates in Harris County, Texas.

(2) **SPECIAL RULE.**—No provision of this Act shall be construed to override or nullify the will of the voters who approved the Metro Solutions Plan as described on the ballot and in the accompanying Board resolutions, nor shall any provision of this Act be construed to override or nullify the terms and conditions of Metro Board Resolution No. 2003–77 or any applicable provision of State law or the charter of the City of Houston as in effect as of the date of enactment of this Act.

(3) **AMENDMENT.**—Section 178 of Public Law 108–447, division H (118 Stat. 3230), is amended by striking “49 USC 5309(e)(1)(A), 23 CFR 771.123, and 49 CFR 611.7.” and inserting “49 U.S.C. 5309 and 49 CFR 611.7: *Provided*, That such projects shall retain their status in preliminary engineering should bus rapid transit be chosen as the locally preferred alternative during that phase.”.

(i) **EXEMPTION.**—The Metra BNSF Naperville to Aurora Extension Project authorized under subsection (c) shall be exempted from all requirements related to criteria for grants for new fixed guideway capital projects under section 5309(d) of title 49, United States Code, and from regulations required under that section.

(j) **RAIL CARS.**—The project authorized by subsection (a)(31) includes an additional 52 rapid rail cars and project scope changes from amounts authorized by the Transportation Equity Act for the 21st Century.

SEC. 3044. PROJECTS FOR BUS AND BUS-RELATED FACILITIES AND CLEAN FUELS GRANT PROGRAM.

(a) **PROJECTS.**—Of the amounts made available to carry out section 5309(m)(2)(C) of title 49, United States Code, for each of fiscal years 2006 through 2009, the Secretary shall make funds available for the following projects in not less than the amounts specified for the fiscal year:

Project Description	FY 06	FY 07	FY 08	FY 09
1. Glendale, CA Purchase of CNG Buses for Glendale Beeline Transit System	\$88,833	\$92,696	\$100,420	\$104,283
2. Detroit Fare Collection System	\$769,120	\$802,560	\$869,440	\$902,880
3. Lares, PR—Trolley buses—for the purchase of two trolley buses that will offer transportation through the urban zone in the Municipality of Lares	\$50,762	\$52,969	\$57,383	\$59,590
4. Des Plaines, Wauconda, Cook and Lake Counties, IL Rand Road Transit Signal Priority ..	\$153,824	\$160,512	\$173,888	\$180,576
5. Indianapolis, IN Downtown transit center	\$2,691,920	\$2,808,960	\$3,043,040	\$3,160,080
6. Los Angeles, CA, Construction of Intermodal Transit Center at California State University Los Angeles	\$151,901	\$158,506	\$171,714	\$178,319
7. Columbus, OH—Central Ohio Transit Authority Paratransit Facility	\$1,153,680	\$1,203,840	\$1,304,160	\$1,354,320
8. Silver Spring, MD Construct Silver Spring Transit Center in downtown Silver Spring	\$701,822	\$732,336	\$793,364	\$823,878
9. Detroit, MI Enclosed heavy-duty maintenance facility with full operational functions for up to 300 buses	\$865,260	\$902,880	\$978,120	\$1,015,740
10. Bronx, NY Wildlife Conservation Society intermodal transportation facility at the Bronx Zoo	\$84,123	\$87,780	\$95,095	\$98,753
11. Development of Gold Country Stage Transit Transfer Center, Nevada County, CA	\$178,882	\$186,659	\$202,214	\$209,992
12. Hoboken, NJ Rehabilitation of Hoboken Intermodal Terminal	\$730,664	\$762,432	\$825,968	\$857,736

Project Description	FY 06	FY 07	FY 08	FY 09
13. Newark, NJ Penn Station Intermodal Improvements including the rehabilitation of boarding areas	\$192,280	\$200,640	\$217,360	\$225,720
14. Orlando, Florida—LYNX Bus Fleet Expansion Program	\$173,052	\$180,576	\$195,624	\$203,148
15. Fairfax County, VA Richmond Highway (U.S. Route 1) Public Transportation Improvements	\$384,560	\$401,280	\$434,720	\$451,440
16. Portland, OR Renovation of Union Station, including structural reinforcement and public safety upgrades	\$19,228	\$20,064	\$21,736	\$22,572
17. Davis, CA Davis Multimodal Station to improve entrance to Amtrak Depot and parking lot, provide additional parking and improve service	\$192,280	\$200,640	\$217,360	\$225,720
18. Reno-Sparks, Nevada—Intermodal Transportation Terminals and Related Development	\$769,120	\$802,560	\$869,440	\$902,880
19. Bar Harbor, ME Purchase new buses to enhance commuting near the Jackson Labs	\$57,684	\$60,192	\$65,208	\$67,716
20. Bronx, NY Establish an intermodal transportation facility at the Wildlife Conservation Society Bronx Zoo	\$192,280	\$200,640	\$217,360	\$225,720
21. Hingham, MA Hingham Marine Intermodal Center Improvements: Enhance public transportation infrastructure/parking	\$1,730,520	\$1,805,760	\$1,956,240	\$2,031,480

Project Description	FY 06	FY 07	FY 08	FY 09
22. Philadelphia, PA Philadelphia Zoo Inter- modal Transportation project w/parking con- solidation, pedestrian walkways, public trans- portation complements and landscape improve- ments to surface parking lots	\$961,400	\$1,003,200	\$1,086,800	\$1,128,600
23. Construct intermodal transportation and park- ing facility, City of Win- ter Park, Florida	\$96,140	\$100,320	\$108,680	\$112,860
24. Roma, TX Bus Facility	\$100,947	\$105,336	\$114,114	\$118,503
25. New York City, NY First Phase Implementa- tion of Bus Rapid Tran- sit System	\$192,280	\$200,640	\$217,360	\$225,720
26. Scottsdale, Arizona— Plan, design, and con- struct intermodal center	\$480,700	\$501,600	\$543,400	\$564,300
27. Sonoma County, CA Purchase of CNG buses	\$96,140	\$100,320	\$108,680	\$112,860
28. Camden, NJ Construc- tion of the Camden County Intermodal Fa- cility in Cramer Hill	\$192,280	\$200,640	\$217,360	\$225,720
29. Sandy Hook, NJ Na- tional Park Service Con- struct year-round ferry dock at Sandy Hook Unit of Gateway Na- tional Recreation Area ...	\$192,280	\$200,640	\$217,360	\$225,720
30. Sevier County, Ten- nessee—U.S. 441 bus rapid transit	\$48,070	\$50,160	\$54,340	\$56,430
31. St. Augustine, Flor- ida—Intermodal Trans- portation and Parking Facility	\$192,280	\$200,640	\$217,360	\$225,720
32. Torrington, CT Con- struct bus-related facil- ity (Northwestern Con- necticut Central Transit District)	\$384,560	\$401,280	\$434,720	\$451,440

Project Description	FY 06	FY 07	FY 08	FY 09
33. Warren, PA—Construct Intermodal Transportation Center and related pedestrian and landscape improvements	\$288,420	\$300,960	\$326,040	\$338,580
34. Toledo, OH TARTA/TARPS Passenger Intermodal Facility construction	\$1,442,100	\$1,504,800	\$1,630,200	\$1,692,900
35. Union City, CA Intermodal Station, Phase 1: Modify BART station	\$817,190	\$852,720	\$923,780	\$959,310
36. Los Angeles, CA Wilshire-Vermont subway station reconstruction	\$192,280	\$200,640	\$217,360	\$225,720
37. Lancaster, PA—bus replacement	\$182,666	\$190,608	\$206,492	\$214,434
38. Monmouth County, NJ Construction of main bus facility for Freehold Township, including a terminal and repair shop	\$384,560	\$401,280	\$434,720	\$451,440
39. Monrovia, California—Transit Village Project ..	\$576,840	\$601,920	\$652,080	\$677,160
40. Duluth, MN Downtown Duluth Area Transit facility improvements	\$384,560	\$401,280	\$434,720	\$451,440
41. Brooklyn, NY New Urban Center—Broadway Junction Intermodal Center	\$184,589	\$192,614	\$208,666	\$216,691
42. Medford, MA Downtown revitalization featuring construction of a 200 space Park and Ride Facility	\$384,560	\$401,280	\$434,720	\$451,440
43. Needles, California—El Garces Intermodal Facility	\$384,560	\$401,280	\$434,720	\$451,440
44. Bridgeport, Connecticut—Greater Bridgeport Transit Authority Bus Facility	\$96,140	\$100,320	\$108,680	\$112,860
45. Palm Springs, California—Sunline Transit bus purchase	\$96,140	\$100,320	\$108,680	\$112,860

Project Description	FY 06	FY 07	FY 08	FY 09
46. National Park Service Design and construct 2.1-mile segment to com- plete Sandy Hook multiuse pathway in Sandy Hook, NJ	\$192,280	\$200,640	\$217,360	\$225,720
47. Phoenix, AZ Construct City of Phoenix para- transit facility (Dial-a- Ride)	\$192,280	\$200,640	\$217,360	\$225,720
48. Project provides for the engineering and con- struction of a transpor- tation center in Paoli, Chester County	\$192,280	\$200,640	\$217,360	\$225,720
49. Columbus, Georgia— Buses and Bus Facilities	\$186,319	\$194,420	\$210,622	\$218,723
50. Cleveland, Ohio—Uni- versity Circle intermodal facility	\$1,634,380	\$1,705,440	\$1,847,560	\$1,918,620
51. Cleveland, OH acqui- sition of buses Greater Cleveland Regional Transit Authority	\$192,280	\$200,640	\$217,360	\$225,720
52. Greensboro, North Carolina—Replacement buses	\$1,111,378	\$1,159,699	\$1,256,341	\$1,304,662
53. Johnson Co., KS Bus and bus related facilities (I–35 corridor), Johnson Co. Transit	\$384,560	\$401,280	\$434,720	\$451,440
54. City of Alameda, CA Plan, design, and con- struct intermodal facility	\$384,560	\$401,280	\$434,720	\$451,440
55. New Orleans, LA Intermodal Riverfront Center	\$96,140	\$100,320	\$108,680	\$112,860
56. Brooklyn, NY—Reha- bilitation of Bay Ridge 86th Street Subway Sta- tion	\$769,120	\$802,560	\$869,440	\$902,880
57. Wilmington, NC Build Intermodal Center	\$192,280	\$200,640	\$217,360	\$225,720
58. Yabucoa, Puerto Rico— Trolley buses	\$33,649	\$35,112	\$38,038	\$39,501

Project Description	FY 06	FY 07	FY 08	FY 09
59. Beverly, MA Design and Construct Beverly Depot Intermodal Transportation Center	\$384,560	\$401,280	\$434,720	\$451,440
60. Georgia Statewide Bus Program	\$38,456	\$40,128	\$43,472	\$45,144
61. Trenton, New Jersey—Trenton Train Station Rehabilitation	\$288,420	\$300,960	\$326,040	\$338,580
62. Trenton, NJ Reconstruction and rehabilitation of the Trenton Train Station	\$1,345,960	\$1,404,480	\$1,521,520	\$1,580,040
63. Zapata, Texas Purchase Bus vehicles	\$60,088	\$62,700	\$67,925	\$70,538
64. Zanesville, OH—bus system signage and shelters	\$15,623	\$16,302	\$17,661	\$18,340
65. York, Pennsylvania—Rabbit Transit facilities and communications equipment	\$532,712	\$555,873	\$602,196	\$625,357
66. Canby, OR bus and bus facilities	\$28,842	\$30,096	\$32,604	\$33,858
67. New Orleans, LA Plan and construct New Orleans Union Passenger Terminal intermodal facilities	\$192,280	\$200,640	\$217,360	\$225,720
68. Northern Neck and Middle Peninsula, Virginia—Bay Transit Multimodal Facilities	\$624,910	\$652,080	\$706,420	\$733,590
69. Broward County, FL Buses and Bus Facilities	\$1,249,820	\$1,304,160	\$1,412,840	\$1,467,180
70. Palm Springs, California—Sunline Transit: CalStart-Weststart fuel cell bus program	\$192,280	\$200,640	\$217,360	\$225,720
71. San Juan, Puerto Rico—Buses	\$192,280	\$200,640	\$217,360	\$225,720
72. Hammond, Louisiana—Passenger Intermodal facility at Southeastern University	\$38,456	\$40,128	\$43,472	\$45,144

Project Description	FY 06	FY 07	FY 08	FY 09
73. West Virginia Construct Beckley Intermodal Gateway pursuant to the eligibility provisions for projects listed under section 3030(d)(3) of Public Law 105–178 ..	\$4,614,720	\$4,815,360	\$5,216,640	\$5,417,280
74. Albany-Schenectady, NY Bus Rapid Transit Improvements in NY Route 5 Corridor	\$192,280	\$200,640	\$217,360	\$225,720
75. Alameda County, CA AC Transit Bus Rapid Transit Corridor Project	\$96,140	\$100,320	\$108,680	\$112,860
76. Baldwin Park, CA Construct vehicle and bicycle parking lot and pedestrian rest area at transit center	\$384,560	\$401,280	\$434,720	\$451,440
77. Niagara Falls, NY Relocation, Development, and Enhancement of Niagara Falls International Railway Station/Intermodal Transportation Center	\$1,076,768	\$1,123,584	\$1,217,216	\$1,264,032
78. Utica, New York—Union Station Boehlert Center siding track improvements	\$19,228	\$20,064	\$21,736	\$22,572
79. Ionia County, MI—Purchase and implementation of communication equipment improvements	\$113,445	\$118,378	\$128,242	\$133,175
80. Flagler County, Florida—bus facility	\$115,368	\$120,384	\$130,416	\$135,432
81. Easton, Pennsylvania—Design and construct Intermodal Transportation Center	\$384,560	\$401,280	\$434,720	\$451,440
82. Yamhill County, OR For the construction of bus shelters, park and ride facilities, and a sign-age strategy to increase ridership	\$21,151	\$22,070	\$23,910	\$24,829

Project Description	FY 06	FY 07	FY 08	FY 09
83. Woodland, CA Yolobus operations, maintenance, administration facility expansion and improvements to increase bus service with alternative fuel buses	\$384,560	\$401,280	\$434,720	\$451,440
84. Sacramento, CA Construct intermodal station and related improvements	\$1,345,960	\$1,404,480	\$1,521,520	\$1,580,040
85. Torrance Transit System, CA Acquisition of EPA and CARB-certified low emission replacement buses	\$576,840	\$601,920	\$652,080	\$677,160
86. Burlington County, NJ—BurLink and Burlington County Transportation System vehicles and equipment	\$769,120	\$802,560	\$869,440	\$902,880
87. Niles, OH Acquisition of bus operational and service equipment for Niles Trumbull Transit	\$38,456	\$40,128	\$43,472	\$45,144
88. Rockport, MA Rockport Commuter Rail Station Improvements	\$528,770	\$551,760	\$597,740	\$620,730
89. Cincinnati, Ohio—Metro Regional Transit Hub Network Eastern Neighborhoods	\$177,859	\$185,592	\$201,058	\$208,791
90. Buses and bus related facilities throughout the State of Connecticut	\$1,153,680	\$1,203,840	\$1,304,160	\$1,354,320
91. Columbus, GA Bus replacement	\$57,684	\$60,192	\$65,208	\$67,716
92. Norwalk, CA Transit System Bus Procurement and Los Angeles World Airport Remote Fly-Away Facility Project	\$153,824	\$160,512	\$173,888	\$180,576
93. Salem, OR bus and bus facilities	\$384,560	\$401,280	\$434,720	\$451,440

Project Description	FY 06	FY 07	FY 08	FY 09
94. Ilwaco, WA Procure shuttles for Lewis and Clark National Historical Park	\$19,228	\$20,064	\$21,736	\$22,572
95. Gainesville, FL Bus Replacement	\$769,120	\$802,560	\$869,440	\$902,880
96. SEPTA Montgomery County Intermodal Improvements at Glenside and Jenkintown Station Parking Garages	\$961,400	\$1,003,200	\$1,086,800	\$1,128,600
97. Fredericksburg, Virginia—Improve and repair Fredericksburg Station	\$480,700	\$501,600	\$543,400	\$564,300
98. Birmingham, AL Expansion of Downtown Intermodal Facility, Phase II	\$384,560	\$401,280	\$434,720	\$451,440
99. Gresham, Oregon Construct a new light rail station and transit plaza on Portland MAX system and serve Gresham Civic neighborhood	\$269,192	\$280,896	\$304,304	\$316,008
100. State of Wisconsin buses and bus facilities	\$3,143,778	\$3,280,464	\$3,553,836	\$3,690,522
101. Emeryville, CA Expand and Improve Intermodal Transit Center at Amtrak Station	\$192,280	\$200,640	\$217,360	\$225,720
102. Jersey City, NJ Construct West Entrance to Pavonia-Newport PATH Station	\$384,560	\$401,280	\$434,720	\$451,440
103. Longwood, Florida—Construct Intermodal Transportation Facility	\$96,140	\$100,320	\$108,680	\$112,860
104. Marietta, Ohio Construction of transportation hub to accommodate regional bus traffic	\$96,140	\$100,320	\$108,680	\$112,860
105. Akron, Ohio—West Market Street transit center and related pedestrian improvements ..	\$124,982	\$130,416	\$141,284	\$146,718

Project Description	FY 06	FY 07	FY 08	FY 09
106. Sandy, Oregon Transit Bus Facility	\$134,596	\$140,448	\$152,152	\$158,004
107. Jacksonville, FL Paratransit Vehicles	\$865,260	\$902,880	\$978,120	\$1,015,740
108. Carson, CA Purchase two tripper buses	\$96,140	\$100,320	\$108,680	\$112,860
109. Bloomington, IN—Bus and transfer facility	\$924,867	\$965,078	\$1,045,502	\$1,085,713
110. Cobb County, GA Cobb County Smart Card Technology/Bus Facility Improvements ...	\$192,280	\$200,640	\$217,360	\$225,720
111. Construct West Houston and Fort Bend County, Texas—bus transit corridor	\$384,560	\$401,280	\$434,720	\$451,440
112. Mariposa, CA—Yosemite National Park CNG-Hydrogen transit buses and facilities	\$480,700	\$501,600	\$543,400	\$564,300
113. Snohomish County, WA Community Transit bus purchases and facility enhancement	\$576,840	\$601,920	\$652,080	\$677,160
114. Geneva, Illinois—Construct commuter parking deck for Metra Service	\$769,120	\$802,560	\$869,440	\$902,880
115. Rhode Island Statewide Bus Fleet	\$1,153,680	\$1,203,840	\$1,304,160	\$1,354,320
116. Pleasant Hill, CA Construct Diablo Valley College Bus Transit Center	\$288,420	\$300,960	\$326,040	\$338,580
117. Broward, FL Purchase new articulated buses and bus stop improvements on State Road 7. (SR 7) between Golden Glades Interchange and Glades Road	\$96,140	\$100,320	\$108,680	\$112,860
118. Attleboro, MA Construction, engineering, and site improvements at the Attleboro Intermodal Center	\$384,560	\$401,280	\$434,720	\$451,440

Project Description	FY 06	FY 07	FY 08	FY 09
119. Burbank, CA CNG Transit Vehicles Purchase for Local Transit Network Expansion	\$86,526	\$90,288	\$97,812	\$101,574
120. Dayton Airport Intermodal Rail Feasibility Study	\$144,210	\$150,480	\$163,020	\$169,290
121. Los Angeles, CA Improve transit shelters, sidewalks lighting and landscaping around Cedar's-Sinai Medical Center	\$288,420	\$300,960	\$326,040	\$338,580
122. Baltimore, MD Construct Intercity Bus Intermodal Terminal	\$961,400	\$1,003,200	\$1,086,800	\$1,128,600
123. Cheltenham, PA Glenside Rail Station Parking Garage project involving the construction of a 300–400 space parking lot at Easton Road and Glenside Avenue	\$192,280	\$200,640	\$217,360	\$225,720
124. Haverhill, MA Design and Construct Intermodal Transit Parking Improvements	\$1,076,768	\$1,123,584	\$1,217,216	\$1,264,032
125. Palm Beach County, FL Plan and Construct Belle Glade Combined Passenger Transit Facility	\$672,980	\$702,240	\$760,760	\$790,020
126. Pittsburgh, PA Clean Fuel Bus Procurement ...	\$96,140	\$100,320	\$108,680	\$112,860
127. San Fernando, CA Purchase CNG buses and related equipment and construct facilities ..	\$584,531	\$609,946	\$660,774	\$686,189
128. Bayamon, Puerto Rico—bus terminal	\$115,368	\$120,384	\$130,416	\$135,432
129. Bozeman, Montana—Vehicular Parking Facility	\$769,120	\$802,560	\$869,440	\$902,880

Project Description	FY 06	FY 07	FY 08	FY 09
130. Coahoma County, Mississippi Purchase buses for the Aaron E. Henry Community Health Services Center, Inc./ DARTS transit service	\$28,842	\$30,096	\$32,604	\$33,858
131. Stonington and Mystic, Connecticut—Intermodal Center parking facility and Streetscape	\$469,163	\$489,562	\$530,358	\$550,757
132. Carson, CA Purchase one bus	\$48,070	\$50,160	\$54,340	\$56,430
133. Miami-Dade County, Florida—Transit Security System	\$574,917	\$599,914	\$649,906	\$674,903
134. Town of Chapel Hill, NC Park and Ride Lot ...	\$288,420	\$300,960	\$326,040	\$338,580
135. Wheaton, IL Pace Suburban Bus—Purchase buses	\$192,280	\$200,640	\$217,360	\$225,720
136. Ocala and Marion County, Florida—replacement buses	\$576,840	\$601,920	\$652,080	\$677,160
137. Philadelphia, PA Improvements to the existing Penn's Landing Ferry Terminal	\$769,120	\$802,560	\$869,440	\$902,880
138. Long Branch, NJ Design and construct facilities for ferry service from Long Branch, NJ to New York City and other destinations	\$769,120	\$802,560	\$869,440	\$902,880
139. Quincy, MA MBTA Purchase high speed catamaran ferry for Quincy Harbor Express Service	\$384,560	\$401,280	\$434,720	\$451,440
140. Los Angeles, CA Crenshaw Bus Rapid Transit	\$1,639,764	\$1,711,058	\$1,853,646	\$1,924,940
141. South Bend, Indiana—Construct South Bend Bus Operations Center	\$192,280	\$200,640	\$217,360	\$225,720

Project Description	FY 06	FY 07	FY 08	FY 09
142. Arlington County, VA Crystal City—Potomac Yard Busway, including construction of bus shel- ters	\$576,840	\$601,920	\$652,080	\$677,160
143. Raleigh, NC Purchase eighteen replacement buses to replace buses that have reached their useful life according to Federal Transit Admin- istration regulations	\$384,560	\$401,280	\$434,720	\$451,440
144. Augusta, GA Buses and Bus Facilities	\$76,912	\$80,256	\$86,944	\$90,288
145. Santa Ana, CA Im- prove Santa Ana transit terminal	\$192,280	\$200,640	\$217,360	\$225,720
146. Cooperstown, New York—Intermodal Facil- ity Project	\$961,400	\$1,003,200	\$1,086,800	\$1,128,600
147. Santa Barbara, CA— Expansion of Regional Intermodal Transit Cen- ter	\$57,684	\$60,192	\$65,208	\$67,716
148. Tampa, FL Purchase buses and construct bus facilities	\$432,630	\$451,440	\$489,060	\$507,870
149. Yonkers, NY Trolley Bus Acquisition	\$72,105	\$75,240	\$81,510	\$84,645
150. Phoenix, AZ Con- struct regional heavy bus maintenance facility	\$192,280	\$200,640	\$217,360	\$225,720
151. Thurston County, WA Replace Thurston Coun- ty Buses	\$173,052	\$180,576	\$195,624	\$203,148
152. San Juan, Puerto Rico—bus security equipment	\$576,840	\$601,920	\$652,080	\$677,160
153. Bryan, TX The Dis- trict—Bryan Intermodal Transit Terminal and Parking Facility	\$576,840	\$601,920	\$652,080	\$677,160
154. City of Greenville, NC Expansion Buses and Greenville Intermodal Center	\$685,286	\$715,081	\$774,671	\$804,466

Project Description	FY 06	FY 07	FY 08	FY 09
155. City of Livermore, CA Construct Bus Facility for Livermore Amador Valley Transit Authority	\$432,630	\$451,440	\$489,060	\$507,870
156. Detroit Replacement Buses	\$961,400	\$1,003,200	\$1,086,800	\$1,128,600
157. Bealeton, Virginia— Intermodal Station Depot Refurbishment	\$52,877	\$55,176	\$59,774	\$62,073
158. Covina, El Monte, Baldwin Park, Upland, CA Parking and Elec- tronic Signage Improve- ments	\$336,490	\$351,120	\$380,380	\$395,010
159. Eugene, OR Lane Transit District, Vehicle Replacement	\$686,714	\$716,571	\$776,286	\$806,143
160. Kearney, Nebraska— RYDE Transit Bus Maintenance and Stor- age Facility	\$384,560	\$401,280	\$434,720	\$451,440
161. Revere, MA Inter- modal transit improve- ments in the Wonder- land station (MBTA) area	\$346,104	\$361,152	\$391,248	\$406,296
162. Brownsville, TX Brownsville Urban Sys- tem City-Wide Transit Improvement Project	\$480,700	\$501,600	\$543,400	\$564,300
163. Normal, Illinois— Multimodal Transpor- tation Center, including facilities for adjacent public and nonprofit uses	\$961,400	\$1,003,200	\$1,086,800	\$1,128,600
164. Puerto Rico—Carib- bean National Forest buses and bus facilities	\$576,840	\$601,920	\$652,080	\$677,160
165. Albany, OR Rehabili- tate Building At Multimodal Transit Sta- tion	\$292,998	\$305,737	\$331,215	\$343,954
166. Bronx, NY Hebrew Home for the Aged el- derly and disabled transportation support ..	\$36,053	\$37,620	\$40,755	\$42,323

Project Description	FY 06	FY 07	FY 08	FY 09
167. Denver, CO Denver Union Station Inter-modal Center	\$1,057,540	\$1,103,520	\$1,195,480	\$1,241,460
168. Lane Transit District, Bus Rapid Transit Progressive Corridor Enhancements	\$569,845	\$594,621	\$644,172	\$668,948
169. Delaware—University of Delaware Fuel Cell Bus Deployment	\$96,140	\$100,320	\$108,680	\$112,860
170. Louisiana—Construct pedestrian walkways between Caddo St. and Milam St. along Edwards St. in Shreveport, LA	\$195,280	\$203,640	\$220,360	\$228,720
171. Riverside, California—RTA Advanced Traveler Information System	\$96,140	\$100,320	\$108,680	\$112,860
172. Santa Monica, CA Purchase and service LNG buses for Santa Monica's Big Blue Bus to meet increased ridership needs and reduce emissions	\$721,050	\$752,400	\$815,100	\$846,450
173. Ontario, CA Construct Omnitrans Transcenter	\$192,280	\$200,640	\$217,360	\$225,720
174. Brockton, MA Bus replacement for the Brockton Area Transit Authority	\$288,420	\$300,960	\$326,040	\$338,580
175. Molalla, OR South Clackamas Transportation District, bus purchase	\$19,228	\$20,064	\$21,736	\$22,572
176. Boise, ID—Multimodal facility	\$865,260	\$902,880	\$978,120	\$1,015,740
177. Fond du Lac Reservation, MN Purchase buses	\$28,842	\$30,096	\$32,604	\$33,858
178. Sandy City, UT Construct transit hub station and TRAX station at 9400 South	\$384,560	\$401,280	\$434,720	\$451,440

Project Description	FY 06	FY 07	FY 08	FY 09
179. Cleveland, OH Construct passenger intermodal center near Dock 32	\$165,361	\$172,550	\$186,930	\$194,119
180. Tillamook, OR construction of a transit facility	\$19,228	\$20,064	\$21,736	\$22,572
181. Trenton, NJ Development of Trenton Trolley System	\$192,280	\$200,640	\$217,360	\$225,720
182. Utica, New York—Union Station rehabilitation and related infrastructure improvements	\$96,140	\$100,320	\$108,680	\$112,860
183. San Fernando Valley, CA Reseda Blvd. Bus Rapid Transit Route	\$115,368	\$120,384	\$130,416	\$135,432
184. Richmond, VA Renovation and construction for Main Street Station	\$211,508	\$220,704	\$239,096	\$248,292
185. St. Paul to Hinckley, MN Construct bus amenities along Rush Line Corridor	\$288,420	\$300,960	\$326,040	\$338,580
186. Mattoon, Illinois—Historic railroad depot restoration/intermodal center	\$307,648	\$321,024	\$347,776	\$361,152
187. Columbia County, OR To purchase buses	\$26,919	\$28,090	\$30,430	\$31,601
188. Mountain Express, Crested Butte, CO Bus and Bus Facilities	\$96,140	\$100,320	\$108,680	\$112,860
189. Sacramento, CA Bus enhancement and improvements-construct maintenance facility and purchase clean-fuel buses to improve transit service	\$384,560	\$401,280	\$434,720	\$451,440
190. Calexico, CA Purchase new buses for the Calexico Transit System	\$57,684	\$60,192	\$65,208	\$67,716

Project Description	FY 06	FY 07	FY 08	FY 09
191. Monterey Park, CA Safety improvements at a bus stop including cre- ation of bus loading areas and street im- provements	\$307,648	\$321,024	\$347,776	\$361,152
192. Buffalo, NY Inter- modal Center Parking Facility	\$192,280	\$200,640	\$217,360	\$225,720
193. Mukilteo, WA Multimodal Terminal	\$1,115,224	\$1,163,712	\$1,260,688	\$1,309,176
194. Orange County Tran- sit Authority, Cali- fornia—Security surveil- lance and monitoring equipment	\$1,017,161	\$1,061,386	\$1,149,834	\$1,194,059
195. Woodland Hills, CA Los Angeles Pierce Col- lege Bus Rapid Transit Station Extension	\$192,280	\$200,640	\$217,360	\$225,720
196. Design Downtown Carrollton, Texas Re- gional Multimodal Tran- sit Hub Station	\$384,560	\$401,280	\$434,720	\$451,440
197. Brooklyn, NY Con- struct a multimodal transportation facility	\$269,192	\$280,896	\$304,304	\$316,008
198. Cleveland, Ohio—Eu- clid Avenue University Hospital intermodal fa- cility	\$865,260	\$902,880	\$978,120	\$1,015,740
199. Las Vegas, NV Con- struct Central City Intermodal Transpor- tation Terminal	\$1,153,680	\$1,203,840	\$1,304,160	\$1,354,320
200. Montebello, CA Bus Lines Bus Fleet Replace- ment Project	\$134,596	\$140,448	\$152,152	\$158,004
201. Philadelphia, PA Cruise Terminal Trans- portation Ctr. Phila. Naval Shipyard	\$672,980	\$702,240	\$760,760	\$790,020
202. Cleveland, OH Con- struct Fare Collection System Project, Cuya- hoga County	\$96,140	\$100,320	\$108,680	\$112,860

Project Description	FY 06	FY 07	FY 08	FY 09
203. Tempe, Arizona—Construct East Valley Metro Bus Facility	\$1,249,820	\$1,304,160	\$1,412,840	\$1,467,180
204. Boysville of Michigan Transportation System ..	\$646,061	\$674,150	\$730,330	\$758,419
205. Woburn, MA Construction of an 89 space, park and ride facility to be located on Magazine Hill, in the Heart of Woburn Square	\$346,104	\$361,152	\$391,248	\$406,296
206. Sylvester, GA Intermodal Facility	\$38,456	\$40,128	\$43,472	\$45,144
207. Culver City, CA Purchase compressed natural gas buses and expand natural gas fueling facility	\$711,436	\$742,368	\$804,232	\$835,164
208. Eastern Upper Peninsula, MI Ferry Dock and Facility upgrades for Drummond Island Ferry Services	\$48,070	\$50,160	\$54,340	\$56,430
209. Morristown, New Jersey—Intermodal Historic Station	\$192,280	\$200,640	\$217,360	\$225,720
210. San Antonio, TX Improve VIA bus facility and purchase new buses	\$1,345,960	\$1,404,480	\$1,521,520	\$1,580,040
211. Miami-Dade County, Florida—buses and bus facilities	\$1,153,680	\$1,203,840	\$1,304,160	\$1,354,320
212. Glendale, CA Construction of Downtown Streetcar Project	\$192,280	\$200,640	\$217,360	\$225,720
213. Gainesville, FL Bus Rapid Transit Study	\$96,140	\$100,320	\$108,680	\$112,860
214. Mount Rainier, MD Intermodal and Pedestrian Project	\$86,526	\$90,288	\$97,812	\$101,574
215.	\$0	\$0	\$0	\$0
216. Wilsonville, OR South Metro Area Rapid Transit, bus and bus facilities	\$48,070	\$50,160	\$54,340	\$56,430

Project Description	FY 06	FY 07	FY 08	FY 09
217. Charlotte, NC Construct Charlotte Multimodal Station	\$1,499,784	\$1,564,992	\$1,695,408	\$1,760,616
218. Enfield, Connecticut—intermodal station	\$576,840	\$601,920	\$652,080	\$677,160
219. Chicago, IL Feasibility Study for intermodal station on the Metra Rock Island near Kennedy-King College ...	\$57,684	\$60,192	\$65,208	\$67,716
220. Indianapolis, IN IndySMART program to relieve congestion, improve safety and air quality	\$384,560	\$401,280	\$434,720	\$451,440
221. Chicago, IL Construct intermodal facility at 35th Street at Metra Red Line (Northside)	\$961,400	\$1,003,200	\$1,086,800	\$1,128,600
222. Escondido, CA—Construct Bus Maintenance Facility	\$96,140	\$100,320	\$108,680	\$112,860
223. Los Angeles, CA Design and construct improved transit and pedestrian linkages between Los Angeles Community College and nearby MTA rail stop and bus lines	\$288,420	\$300,960	\$326,040	\$338,580
224. Montgomery County, MD Wheaton CBD Intermodal Access Program	\$96,140	\$100,320	\$108,680	\$112,860
225. Allentown, Pennsylvania—Design and construct Intermodal Transportation Center	\$384,560	\$401,280	\$434,720	\$451,440
226. Champaign, IL—Construct park and ride lot with attached daycare facility	\$288,420	\$300,960	\$326,040	\$338,580
227. Berkeley, CA Construct Ed Roberts Campus Intermodal Transit Disability Center	\$576,840	\$601,920	\$652,080	\$677,160

Project Description	FY 06	FY 07	FY 08	FY 09
228. Charlotte, North Carolina—Multimodal Station	\$769,120	\$802,560	\$869,440	\$902,880
229. Coconino County, Arizona—Bus and bus facilities for the Sedona Transit System	\$182,666	\$190,608	\$206,492	\$214,434
230. Construction of Third Bus Depot on Staten Island	\$2,307,360	\$2,407,680	\$2,608,320	\$2,708,640
231. Harrison, Arkansas—Trolley Barn	\$7,691	\$8,026	\$8,694	\$9,029
232. Alexandria, VA Royal Street Bus Garage Replacement	\$96,140	\$100,320	\$108,680	\$112,860
233. Intermodal Facilities in Bucks County (Croydon and Levittown Stations)	\$576,840	\$601,920	\$652,080	\$677,160
234. Bronx, NY Jacobi Intermodal Center to North Central Bronx Hospital bus system	\$60,088	\$62,700	\$67,925	\$70,538
235. Indianapolis, IN Construct the Ivy Tech State College Multimodal Facility	\$961,400	\$1,003,200	\$1,086,800	\$1,128,600
236. Juneau, Alaska—transit bus acquisition and transit center	\$345,000	\$360,000	\$390,000	\$405,000
237. Knoxville, Tennessee—Central Station Transit Center	\$1,961,256	\$2,046,528	\$2,217,072	\$2,302,344
238. Levy County, Florida—Purchase 2 wheel chair equipped passenger buses and related equipment	\$57,684	\$60,192	\$65,208	\$67,716
239. Lafayette, Louisiana—Lafayette Transit System bus replacement program	\$173,052	\$180,576	\$195,624	\$203,148
240. Nebraska—statewide transit vehicles, facilities, and related equipment	\$769,120	\$802,560	\$869,440	\$902,880

Project Description	FY 06	FY 07	FY 08	FY 09
241. Cincinnati, Ohio— Construct Uptown Crossings Joint Develop- ment Transit Project	\$576,840	\$601,920	\$652,080	\$677,160
242. Des Moines, IA Pur- chase 40 foot buses	\$192,280	\$200,640	\$217,360	\$225,720
243. New Orleans, LA Re- gional Planning Com- mission, bus and bus fa- cilities	\$96,140	\$100,320	\$108,680	\$112,860
244. Orange County, CA Purchase buses for rapid transit	\$192,280	\$200,640	\$217,360	\$225,720
245. Bus to provide York- town, New York internal circulator to provide transportation through- out the Town	\$35,572	\$37,118	\$40,212	\$41,758
246. Providence, RI Ex- pansion of Elmwood Paratransit Mainte- nance Facility	\$961,400	\$1,003,200	\$1,086,800	\$1,128,600
247. Atlanta, GA Inter- modal Passenger Facil- ity Improvements	\$384,560	\$401,280	\$434,720	\$451,440
248. Palm Beach, FL Palm Tran AVL-APC system with smart card fareboxes	\$48,070	\$50,160	\$54,340	\$56,430
249. Grand Rapids, MI— Purchase replacement and expansion buses	\$2,816,902	\$2,939,376	\$3,184,324	\$3,306,798
250. Maywood, IL Pur- chase buses	\$9,614	\$10,032	\$10,868	\$11,286
251. Redondo Beach, CA Capital Equipment pro- curement of 12 Com- pressed Natural Gas (CNG) Transit vehicles for Coastal Shuttle Serv- ices by Beach Cities Transit	\$153,824	\$160,512	\$173,888	\$180,576
252. Rochester, New York—Renaissance Square transit center	\$865,260	\$902,880	\$978,120	\$1,015,740

Project Description	FY 06	FY 07	FY 08	FY 09
253. San Bernardino, CA Implement Santa Fe Depot improvements in San Bernardino	\$96,140	\$100,320	\$108,680	\$112,860
254. San Joaquin, Cali- fornia Regional Rail— Altamont Commuter Ex- press Corridor inter- modal centers	\$769,120	\$802,560	\$869,440	\$902,880
255. Albany, GA Multimodal Facility	\$153,824	\$160,512	\$173,888	\$180,576
256. Savannah, GA Bus and Bus Facilities— Chatham Area Transit ..	\$961,400	\$1,003,200	\$1,086,800	\$1,128,600
257. Newburyport, MA De- sign and Construct Intermodal Facility	\$384,560	\$401,280	\$434,720	\$451,440
258. Cleveland, Ohio—Eu- clid Avenue and East 93rd Street intermodal facility	\$1,634,380	\$1,705,440	\$1,847,560	\$1,918,620
259. St. Charles, IL— Intermodal Parking Structures	\$865,260	\$902,880	\$978,120	\$1,015,740
260. Gardena, CA Pur- chase of alternative fuel buses for service expan- sion, on-board security system and bus facility training equipment	\$1,178,676	\$1,229,923	\$1,332,417	\$1,383,664
261. Thendra-Webb and Utica, New York—In- stall handicap lifts in intermodal centers	\$19,228	\$20,064	\$21,736	\$22,572
262.	\$0	\$0	\$0	\$0
263. Wilmar, AR Develop the Southeast Arkansas Intermodal Facility	\$384,560	\$401,280	\$434,720	\$451,440
264. Westchester County, NY Bus replacement program	\$721,050	\$752,400	\$815,100	\$846,450
265. Village of Tinley Park, Illinois, 80th Ave- nue Commuter Rail Sta- tion reconstruction and site enhancements	\$153,824	\$160,512	\$173,888	\$180,576

Project Description	FY 06	FY 07	FY 08	FY 09
266. Martinez, CA Intermodal Facility Restoration	\$288,420	\$300,960	\$326,040	\$338,580
267. Middletown, CT Construct intermodal center	\$288,420	\$300,960	\$326,040	\$338,580
268. Nashville, TN Construct a parking garage on the campus of Lipscomb University, Nashville	\$384,560	\$401,280	\$434,720	\$451,440
269. New London, Connecticut—Intermodal Transportation Center and Streetscapes	\$96,140	\$100,320	\$108,680	\$112,860
270. Vernon, Connecticut—Intermodal Center, Parking and Streetscapes	\$1,461,328	\$1,524,864	\$1,651,936	\$1,715,472
271. Bronx, NY Botanical Garden metro North Rail station Intermodal Facility	\$192,280	\$200,640	\$217,360	\$225,720
272. Bend, Oregon—replacement vans	\$192,280	\$200,640	\$217,360	\$225,720
273. Boston, MA Harbor Park Pavilion and Intermodal Station	\$240,350	\$250,800	\$271,700	\$282,150
274. Philadelphia, PA SEPTA's Market St. Elevated Rail project in conjunction with Philadelphia Commercial Development Corporation for improvements and assistance to entities along rail corridor	\$269,192	\$280,896	\$304,304	\$316,008
275. Jesup, Georgia—Train Depot intermodal center	\$192,280	\$200,640	\$217,360	\$225,720
276. Long Beach, CA Museum of Latin American Art, Long Beach, to build intermodal park and ride facility	\$384,560	\$401,280	\$434,720	\$451,440
277. Shreveport, LA—Intermodal Transit Facility	\$644,138	\$672,144	\$728,156	\$756,162

Project Description	FY 06	FY 07	FY 08	FY 09
278. Arlington County, VA Columbia Pike Bus Im- provements	\$672,980	\$702,240	\$760,760	\$790,020
279. Bronx, NY Establish an intermodal transpor- tation facility at the Wildlife Conservation Society Bronx Zoo	\$192,280	\$200,640	\$217,360	\$225,720
280. Lowell, MA Imple- mentation of LRTA bus replacement plan	\$192,280	\$200,640	\$217,360	\$225,720
281. Falls Church, VA Falls Church Intermodal Transportation Center ...	\$384,560	\$401,280	\$434,720	\$451,440
282. San Diego, CA Com- pletion of San Diego Joint Transportation Op- erations Center (JTOC)	\$384,560	\$401,280	\$434,720	\$451,440
283. St. Bernard Parish, LA Intermodal facility improvements	\$192,280	\$200,640	\$217,360	\$225,720
284. Cornwall, NY—Pur- chase Bus	\$16,728	\$17,456	\$18,910	\$19,638
285. Metro Gold Line Foot- hill Extension Light Rail Transit Project from Pasadena, CA to Montclair, CA	\$2,884,200	\$3,009,600	\$3,260,400	\$3,385,800
286. Richmond, CA BART Parking Structure	\$961,400	\$1,003,200	\$1,086,800	\$1,128,600
287. San Francisco, CA Implement ITS on Muni Transit System	\$576,840	\$601,920	\$652,080	\$677,160
288. Alameda County, CA AC Transit Bus Rapid Transit Corridor Project	\$384,560	\$401,280	\$434,720	\$451,440
289. Town of Warwick, NY Bus Facility Warwick Transit System	\$105,754	\$110,352	\$119,548	\$124,146
290. Galveston, Texas— Intermodal center and parking facility, The Strand	\$865,260	\$902,880	\$978,120	\$1,015,740
291. Joliet, Illinois—Union Station commuter park- ing facility	\$552,805	\$576,840	\$624,910	\$648,945

Project Description	FY 06	FY 07	FY 08	FY 09
292. Cuyahoga County, Ohio—Ohio Department of Transportation transit improvements	\$28,842	\$30,096	\$32,604	\$33,858
293. Muskegon, Michigan—Muskegon Area Transit Terminal and related improvements	\$384,560	\$401,280	\$434,720	\$451,440
294. Orlando, FL Bus Replacement	\$769,120	\$802,560	\$869,440	\$902,880
295. Long Beach, CA Purchase one larger (75 passengers) and two smaller (40 passengers) ferryboats and construct related dock work to facilitate the use and accessibility of the ferryboats ...	\$576,840	\$601,920	\$652,080	\$677,160
296. Elgin to Rockford, Illinois—Intermodal stations along planned Metra Union Pacific West Line extension alignment, including necessary alternatives analysis	\$96,140	\$100,320	\$108,680	\$112,860
297. Broward County, FL—Purchase Buses and construct bus facilities	\$384,560	\$401,280	\$434,720	\$451,440
298. Thomasville, GA Bus Replacement	\$38,456	\$40,128	\$43,472	\$45,144
299. Corvallis, OR Bus Replacement	\$283,842	\$296,183	\$320,865	\$333,206
300. Geneva, New York—Multimodal facility—Construct passenger rail center	\$96,140	\$100,320	\$108,680	\$112,860
301. Barry County, MI—Barry County Transit equipment and dispatching software	\$28,842	\$30,096	\$32,604	\$33,858
302. Greensboro, North Carolina—Piedmont Authority for Regional Transportation Multimodal Transportation Center	\$2,407,346	\$2,512,013	\$2,721,347	\$2,826,014

Project Description	FY 06	FY 07	FY 08	FY 09
303. Howard County, MD Construct Central Maryland Transit Operations and Maintenance Facility	\$961,400	\$1,003,200	\$1,086,800	\$1,128,600
304. Coconino County buses and bus facilities for Flagstaff, AZ	\$240,350	\$250,800	\$271,700	\$282,150
305. Roanoke, Virginia—Intermodal Facility	\$38,456	\$40,128	\$43,472	\$45,144
306. Jacksonville, FL Bus Replacement	\$1,345,960	\$1,404,480	\$1,521,520	\$1,580,040
307. Los Angeles, CA Improve safety, mobility and access between LATTC, Metro line and nearby bus stops on Grand Ave. between Washington and 23rd	\$96,140	\$100,320	\$108,680	\$112,860
308. Miami Dade, FL N.W. 7th Avenue Transit Hub	\$576,840	\$601,920	\$652,080	\$677,160
309. Elyria, OH Construct the New York Central Train Station into an intermodal transportation hub	\$393,789	\$410,911	\$445,153	\$462,275
310. River Parishes, LA South Central Planning and Development Commission, bus and bus facilities	\$192,280	\$200,640	\$217,360	\$225,720
311. Mammoth Lakes, California—Regional Transit Maintenance Facility	\$96,140	\$100,320	\$108,680	\$112,860
312. Roanoke, Virginia—Improve Virginian Railway Station	\$48,070	\$50,160	\$54,340	\$56,430
313. Solana Beach, CA—Construct Intermodal Facility	\$288,420	\$300,960	\$326,040	\$338,580
314. San Diego, CA Widen sidewalks and bus stop entrance, and provide diagonal parking, in the Skyline Paradise Hills neighborhood (Reo Drive)	\$57,684	\$60,192	\$65,208	\$67,716

Project Description	FY 06	FY 07	FY 08	FY 09
315. Temecula, California—Intermodal Transit Facility	\$96,140	\$100,320	\$108,680	\$112,860
316. Philadelphia, Pennsylvania—SEPTA Market Street Elevated Line parking facility	\$769,120	\$802,560	\$869,440	\$902,880
317. Jamestown, NY Rehabilitation of Intermodal Facility and associated property	\$384,560	\$401,280	\$434,720	\$451,440
318. Akron, Ohio Construct Downtown Multimodal Transportation Center	\$769,120	\$802,560	\$869,440	\$902,880
319. Detroit Bus Maintenance Facility	\$1,730,520	\$1,805,760	\$1,956,240	\$2,031,480
320. Detroit, MI Bus Replacement	\$1,442,100	\$1,504,800	\$1,630,200	\$1,692,900
321. Monterey Park, CA Catch Basins at Transit Stop Installation	\$61,530	\$64,205	\$69,555	\$72,230
322. Oneonta, New York—bus replacement	\$28,842	\$30,096	\$32,604	\$33,858
323. Lincoln County, OR bus purchase	\$48,070	\$50,160	\$54,340	\$56,430
324. Elon, North Carolina—Piedmont Authority for Regional Transportation buses and bus facilities	\$230,736	\$240,768	\$260,832	\$270,864
325. Grants Pass, OR Purchase Vehicles For Use By Josephine Community Transit	\$39,143	\$40,845	\$44,248	\$45,950
326. Los Angeles, CA Install permanent irrigation system and enhanced landscaping on San Fernando Valley rapid bus transitway	\$576,840	\$601,920	\$652,080	\$677,160
327. Cleveland, OH Construct East Side Transit Center	\$576,840	\$601,920	\$652,080	\$677,160

Project Description	FY 06	FY 07	FY 08	FY 09
328. New Jersey Transit Community Shuttle Buses	\$96,140	\$100,320	\$108,680	\$112,860
329. Quitman, Clay, Randolph, Stewart Co., GA Bus project	\$48,070	\$50,160	\$54,340	\$56,430
330. Framingham, MA Local Intra-Framingham Transit System enhancements	\$346,104	\$361,152	\$391,248	\$406,296
331. Gettysburg, Pennsylvania—transit transfer center	\$172,860	\$180,375	\$195,407	\$202,922
332. Long Beach, CA Park and Ride facility	\$192,280	\$200,640	\$217,360	\$225,720
333. Oak Harbor, WA Multimodal Facility	\$192,280	\$200,640	\$217,360	\$225,720
334. North Bend, Washington—Park and Ride ..	\$153,824	\$160,512	\$173,888	\$180,576
335. High Point, North Carolina—Bus Terminal	\$1,153,680	\$1,203,840	\$1,304,160	\$1,354,320
336. Dallas, TX Bus Passenger Facilities	\$2,461,184	\$2,568,192	\$2,782,208	\$2,889,216
337. Island Transit, WA Operations Base Facilities Project	\$461,472	\$481,536	\$521,664	\$541,728
338. Bronx, NY Intermodal facility near Exit 6 of the Bronx River Parkway	\$48,070	\$50,160	\$54,340	\$56,430
339. East San Diego County, California—Bus Maintenance Facility Expansion	\$384,560	\$401,280	\$434,720	\$451,440
340. New Jersey Intermodal Facilities and Bus Rolling Stock	\$576,840	\$601,920	\$652,080	\$677,160
341. San Gabriel Valley, CA—Foothill Transit Park and Rides	\$1,826,660	\$1,906,080	\$2,064,920	\$2,144,340
342. St. Paul, MN Union Depot Multimodal Transit Facility	\$384,560	\$401,280	\$434,720	\$451,440

Project Description	FY 06	FY 07	FY 08	FY 09
343. Kings County, NY Construct a multimodal transportation facility	\$192,280	\$200,640	\$217,360	\$225,720
344. Gainesville, FL Bus Facility Expansion	\$769,120	\$802,560	\$869,440	\$902,880
345. Kansas City, MO Bus Transit Infrastructure ...	\$192,280	\$200,640	\$217,360	\$225,720
346. Phoenix, AZ Con- struct metro bus facility in Phoenix’s West Valley	\$961,400	\$1,003,200	\$1,086,800	\$1,128,600
347. Eastlake, Ohio—East- lake Stadium transit intermodal facility	\$817,190	\$852,720	\$923,780	\$959,310
348. Savannah, Georgia— Water Ferry Riverwalk intermodal facilities	\$384,560	\$401,280	\$434,720	\$451,440
349. Kent, OH Construct Kent State University Intermodal Facility serv- ing students and the general public	\$192,280	\$200,640	\$217,360	\$225,720
350. Milwaukee, WI Reha- bilitate Intermodal transportation facility at downtown Milwaukee’s Amtrak Station, in- crease parking for bus passengers	\$865,260	\$902,880	\$978,120	\$1,015,740
351. Charlotte North Caro- lina—Eastland Commu- nity Transit Center	\$384,560	\$401,280	\$434,720	\$451,440
352. Oakland, CA Con- struct streetscape and intermodal improve- ments at BART Station Transit Villages	\$192,280	\$200,640	\$217,360	\$225,720
353. Suffolk County, NY Purchase four handi- capped accessible vans to transport veterans to and from the VA facility in Northport	\$53,838	\$56,179	\$60,861	\$63,202
354. Norfolk, Virginia— Final Design and Con- struction Southside Bus Facility	\$336,490	\$351,120	\$380,380	\$395,010

Project Description	FY 06	FY 07	FY 08	FY 09
355. Albany, GA Bus replacement	\$57,684	\$60,192	\$65,208	\$67,716
356. Lafayette, Louisiana—Multimodal center, Final Phase	\$576,840	\$601,920	\$652,080	\$677,160
357. Athens, GA Buses and Bus Facilities	\$273,038	\$284,909	\$308,651	\$320,522
358. Cicero, Chicago Establish Transit Signal Priority, Cicero Ave., Pace Suburban Bus	\$192,280	\$200,640	\$217,360	\$225,720
359. Arlington County, VA Pentagon City Multimodal Improvements	\$384,560	\$401,280	\$434,720	\$451,440
360. Richmond, VA Design and construction for a bus operations and maintenance facility for Greater Richmond Transit Company	\$288,420	\$300,960	\$326,040	\$338,580
361. Roanoke, Virginia—Roanoke Railway and Link Passenger facility ..	\$96,140	\$100,320	\$108,680	\$112,860
362. Akron, OH Construct City of Akron Commuter Bus Transit Facility	\$288,420	\$300,960	\$326,040	\$338,580
363. Corning, New York—Transportation Center ...	\$961,400	\$1,003,200	\$1,086,800	\$1,128,600
364. Santa Monica, CA Construct intermodal park-and-ride facility at Santa Monica College campus on South Bundy Drive near Airport Avenue	\$192,280	\$200,640	\$217,360	\$225,720
365. Pace Suburban Bus, IL South Suburban BRT Mobility Network	\$96,140	\$100,320	\$108,680	\$112,860
366. Orange County, CA Transportation Projects to Encourage Use of Transit to Reduce Congestion	\$192,280	\$200,640	\$217,360	\$225,720
367. Palm Beach, FL 20 New Buses for Palm Tran	\$288,420	\$300,960	\$326,040	\$338,580

Project Description	FY 06	FY 07	FY 08	FY 09
368. Nassau County, NY Conduct planning and engineering for transpor- tation system (HUB)	\$1,345,960	\$1,404,480	\$1,521,520	\$1,580,040
369. Norwalk, Con- necticut—Pulse Point Joint Development inter- modal facility	\$96,140	\$100,320	\$108,680	\$112,860
370. Salem, MA Design and Construct Salem Intermodal Transpor- tation Center	\$384,560	\$401,280	\$434,720	\$451,440
371. Las Vegas, NV Con- struct Las Vegas WestCare Intermodal Facility	\$48,070	\$50,160	\$54,340	\$56,430
372. Richmond, KY Pur- chase buses, bus equip- ment, and facilities	\$138,442	\$144,461	\$156,499	\$162,518
373. Niagara Frontier Transportation Author- ity, NY Replacement Buses	\$192,280	\$200,640	\$217,360	\$225,720
374. Metro-Atlanta, GA MARTA Automated Smart-Card Fare Collec- tion system	\$192,280	\$200,640	\$217,360	\$225,720
375. Monterey, CA Pur- chase bus equipment	\$192,280	\$200,640	\$217,360	\$225,720
376. New York City, NY Purchase Handicapped- Accessible Livery Vehi- cles	\$192,280	\$200,640	\$217,360	\$225,720
377. San Francisco, CA Construct San Francisco Muni Islais Creek Main- tenance Facility	\$1,153,680	\$1,203,840	\$1,304,160	\$1,354,320
378. Indianapolis, IN Relo- cate and improve inter- modal transportation for pedestrian to Children's Museum of Indianapolis	\$2,691,920	\$2,808,960	\$3,043,040	\$3,160,080
379. Ramapo, NY Trans- portation Safety Field Bus	\$48,070	\$50,160	\$54,340	\$56,430

Project Description	FY 06	FY 07	FY 08	FY 09
380. Columbiana County, OH Construct Inter-modal Facility	\$961,400	\$1,003,200	\$1,086,800	\$1,128,600
381. San Francisco, CA Redesign and renovate intermodal facility at Glen Park Community ..	\$793,155	\$827,640	\$896,610	\$931,095
382. San Luis Rey, California—Transit Center Project	\$96,140	\$100,320	\$108,680	\$112,860
383. South San Francisco, CA Construction of Ferry Terminal at Oyster Point in South San Francisco to the San Francisco Bay Area Water Transit Authority	\$913,330	\$953,040	\$1,032,460	\$1,072,170
384. Atlanta, GA MARTA Clean Fuel Bus Acquisition	\$1,153,680	\$1,203,840	\$1,304,160	\$1,354,320
385. Springfield, OH—City of Springfield Bus Transfer Station and Associated Parking	\$48,070	\$50,160	\$54,340	\$56,430
386. Suffolk County, NY Design and construction of intermodal transit facility in Wyandanch	\$884,488	\$922,944	\$999,856	\$1,038,312
387. Fresno, CA—Develop program of low-emission transit vehicles	\$192,280	\$200,640	\$217,360	\$225,720
388. Sylmar, CA Los Angeles Mission College Transit Center construction	\$48,070	\$50,160	\$54,340	\$56,430
389. Lakewood, NJ—Ocean County Bus service and parking facilities	\$576,840	\$601,920	\$652,080	\$677,160
390. St. Lucie County, FL Purchase Buses	\$192,280	\$200,640	\$217,360	\$225,720
391. Hampton Roads, VA Final design and construction for a Hampton Roads Transit Southside Bus Facility	\$384,560	\$401,280	\$434,720	\$451,440

Project Description	FY 06	FY 07	FY 08	FY 09
392. Oakland, CA Construct Bay Trail between Coliseum BART station and Martin Luther King, Jr., Regional Shoreline ..	\$173,052	\$180,576	\$195,624	\$203,148
393. South Amboy, NJ Construction of improvements to facilities at South Amboy Station under S Amboy, NJ Regional Intermodal Initiative	\$1,538,240	\$1,605,120	\$1,738,880	\$1,805,760
394. Hartford, CT Buses and bus-related facilities	\$769,120	\$802,560	\$869,440	\$902,880
395. Ilwaco, WA Construct park and ride	\$19,228	\$20,064	\$21,736	\$22,572
396. Burbank, CA Construction of Empire Area Transit Center near Burbank Airport	\$48,070	\$50,160	\$54,340	\$56,430
397. Pottsville, PA Union Street Trade and Transfer Center Intermodal Facility	\$384,560	\$401,280	\$434,720	\$451,440
398. Amador County, California—Regional Transit Center	\$192,280	\$200,640	\$217,360	\$225,720
399. Pasadena, CA ITS Improvements	\$192,280	\$200,640	\$217,360	\$225,720
400. South FL Region, FL Regional Universal Automated Fare Collection System (UAFC) (for bus system)	\$384,560	\$401,280	\$434,720	\$451,440
401. South Pasadena, CA Silent Night Grade Crossing Project	\$173,052	\$180,576	\$195,624	\$203,148
402. Tampa, FL Establish Transit Emphasis Corridor and Improvements	\$144,210	\$150,480	\$163,020	\$169,290
403. San Francisco, CA Implement Transbay Terminal-Caltrain Downtown Extension Project	\$2,691,920	\$2,808,960	\$3,043,040	\$3,160,080

Project Description	FY 06	FY 07	FY 08	FY 09
404. Rock Island, IL Improve Rock Island Mass Transit District Bus Facility	\$96,140	\$100,320	\$108,680	\$112,860
405. Las Vegas, NV Construct Boulder Highway BRT system and purchase vehicles and related equipment	\$384,560	\$401,280	\$434,720	\$451,440
406. Moultrie, GA Intermodal facility	\$57,684	\$60,192	\$65,208	\$67,716
407. Carson, CA Purchase one trolley-bus vehicle ...	\$48,070	\$50,160	\$54,340	\$56,430
408. Brooklyn, NY Construct a multimodal transportation facility in the vicinity of Downstate Medical Center	\$192,280	\$200,640	\$217,360	\$225,720
409. Alexandria, VA Eisenhower Avenue Intermodal Station Improvements, including purchase of buses and construction of bus shelters	\$480,700	\$501,600	\$543,400	\$564,300
410. Long Beach, CA Purchase ten clean fuel buses	\$576,840	\$601,920	\$652,080	\$677,160
411. Cleveland, OH Construction of an intermodal facility and related improvements at University Hospitals facility on Euclid Avenue	\$192,280	\$200,640	\$217,360	\$225,720
412. Nashville, TN Construct Downtown Nashville Transit Transfer Facility	\$288,420	\$300,960	\$326,040	\$338,580
413. Philadelphia, PA Penn's Landing water shuttle parking lot expansion and water shuttle ramp infrastructure construction	\$211,508	\$220,704	\$239,096	\$248,292
414. Hercules, CA Intermodal Rail Station Improvements	\$288,420	\$300,960	\$326,040	\$338,580

Project Description	FY 06	FY 07	FY 08	FY 09
415. Purchase Buses and construct bus facilities in Broward County, FL	\$432,630	\$451,440	\$489,060	\$507,870
416. Improve marine intermodal facilities in Ketchikan	\$3,220,000	\$3,360,000	\$3,640,000	\$3,780,000
417. Indianapolis, Indiana—Childrens Museum Intermodal Center	\$192,280	\$200,640	\$217,360	\$225,720
418. Windham, New Hampshire—Construction of Park and Ride Bus facility at Exit 3	\$711,436	\$742,368	\$804,232	\$835,164
419. Brooklyn, NY—Rehabilitation of Bay Ridge 86th Street Subway Station	\$769,120	\$802,560	\$869,440	\$902,880
420. Purchase Buses and construct bus facilities in Broward County, FL	\$384,560	\$401,280	\$434,720	\$451,440
421. Bayamon, Puerto Rico—Purchase of Trolley Cars	\$163,438	\$170,544	\$184,756	\$191,862
422. C Street Expanded bus facility and intermodal parking garage, Anchorage, AK	\$1,150,000	\$1,200,000	\$1,300,000	\$1,350,000
423. Morris Thompson Cultural and Visitors Center intermodal parking facility, Fairbanks, AK	\$575,000	\$600,000	\$650,000	\$675,000
424. Sharon, PA—Bus Facility Construction	\$96,140	\$100,320	\$108,680	\$112,860
425. CITC Non-profit Services Center intermodal parking facility, Anchorage, AK	\$690,000	\$720,000	\$780,000	\$810,000
426. Abilene, TX Vehicle replacement and facility improvements for transit system	\$76,912	\$80,256	\$86,944	\$90,288
427. Alaska Native Medical Center intermodal parking facility	\$1,150,000	\$1,200,000	\$1,300,000	\$1,350,000

Project Description	FY 06	FY 07	FY 08	FY 09
428. Butler, PA— Multimodal Transit Cen- ter Construction	\$192,280	\$200,640	\$217,360	\$225,720
429. Normal, Illinois— Multimodal Transpor- tation Center	\$384,560	\$401,280	\$434,720	\$451,440
430. Rochester, New York—Renaissance Square transit center	\$432,630	\$451,440	\$489,060	\$507,870
431. Erie, PA—EMTA Ve- hicle Acquisition	\$384,560	\$401,280	\$434,720	\$451,440
432. Miami-Dade County, Florida—Buses and bus facilities	\$769,120	\$802,560	\$869,440	\$902,880
433. Centralia, Illinois— South Central Mass Transit District Im- provements	\$76,912	\$80,256	\$86,944	\$90,288
434. Roanoke, VA—Bus restoration in the City of Roanoke	\$48,070	\$50,160	\$54,340	\$56,430
435. Denver, Colorado— Regional Transportation District Bus Replace- ment	\$384,560	\$401,280	\$434,720	\$451,440
436. Intermodal facility improvements at the Port of Anchorage	\$5,750,000	\$6,000,000	\$6,500,000	\$6,750,000
437. American Village/ Montevallo, Alabama construction of closed loop Access Road, bus lanes and parking facil- ity	\$76,912	\$80,256	\$86,944	\$90,288
438. Corpus Christi, TX Corpus Regional Transit Authority for mainte- nance facility improve- ments	\$480,700	\$501,600	\$543,400	\$564,300
439. Central Florida Com- muter Rail intermodal facilities	\$961,400	\$1,003,200	\$1,086,800	\$1,128,600
440. Ames, Iowa—Expan- sion of CyRide Bus Maintenance Facility	\$384,560	\$401,280	\$434,720	\$451,440

Project Description	FY 06	FY 07	FY 08	FY 09
441. Grand Valley Transit, CO Bus and Bus Facilities	\$96,140	\$100,320	\$108,680	\$112,860
442. Albany, OR North Albany Park and Ride	\$183,124	\$191,086	\$207,010	\$214,971
443. Los Angeles County Metropolitan Transit Authority, CA capital funds for facility im- provements to support the Cal State Northridge tram system	\$62,491	\$65,208	\$70,642	\$73,359
444. Pueblo Transit, CO Bus and Bus Facilities ..	\$48,070	\$50,160	\$54,340	\$56,430
445. Roaring Fork Transit Authority, CO Bus and Bus Facilities	\$144,210	\$150,480	\$163,020	\$169,290
446. Steamboat Springs, CO Bus and Bus Facilities	\$144,210	\$150,480	\$163,020	\$169,290
447. Town of Telluride, CO Bus and Bus Facilities ..	\$62,120	\$64,821	\$70,222	\$72,923
448. City of Durango, CO Bus and Bus Facilities ..	\$48,070	\$50,160	\$54,340	\$56,430
449. City of Aspen, CO Bus and Bus Facilities ..	\$134,596	\$140,448	\$152,152	\$158,004
450. Town of Snowmass Village, CO Bus and Bus Facilities	\$57,684	\$60,192	\$65,208	\$67,716
451. Utica, New York Transit Multimodal Fa- cilities	\$1,150,000	\$1,200,000	\$1,300,000	\$1,350,000
452. State of Wisconsin Transit Intermodal Fa- cilities	\$1,150,000	\$1,200,000	\$1,300,000	\$1,350,000
453. Central Florida Com- muter Rail Intermodal Facilities	\$690,000	\$720,000	\$780,000	\$810,000
454. Miami-Dade, FL Transit Dadeland South Intermodal Center	\$460,000	\$480,000	\$520,000	\$540,000
455. Carrollton, Texas Downtown Regional Multimodal Transit Hub	\$230,000	\$240,000	\$260,000	\$270,000

Project Description	FY 06	FY 07	FY 08	FY 09
456. Altoona Multimodal Transportation Facility Parking Garage	\$230,000	\$240,000	\$260,000	\$270,000
457. Lancaster County, Pennsylvania Intermodal Center and Parking Facility	\$57,500	\$60,000	\$65,000	\$67,500
458. Hershey, Pennsylvania Intermodal Center and Parking Facility	\$57,500	\$60,000	\$65,000	\$67,500
459. Transbay Terminal/Caltrain Downtown Extension Project	\$4,025,000	\$4,200,000	\$4,550,000	\$4,725,000
460.	\$0	\$0	\$0	\$0
461. Alabama Institute for Deaf and Blind-Bus project	\$115,000	\$119,000	\$129,000	\$137,000
462. Alabama State Port Authority-Choctaw Point Terminal	\$4,582,000	\$4,760,000	\$5,173,000	\$5,485,000
463. Albany-Schenectady, NY, Bus Rapid Transit Improvements in NY Route 5	\$500,000	\$800,000	\$1,200,000	\$1,500,000
464. Albuquerque, NM, Ride Bus and Bus Facilities	\$1,500,000	\$1,500,000	\$1,800,000	\$2,100,000
465. AMTRAN Altoona, PA-Buses and Transit System Improvements ...	\$687,000	\$714,000	\$776,000	\$823,000
466. Anchorage-Transit Needs	\$229,000	\$238,000	\$259,000	\$274,000
467. Area Transportation Authority of North Central Pennsylvania-Vehicle Replacements	\$229,000	\$238,000	\$259,000	\$274,000
468. Atlantic City, NJ Jitney	\$750,000	\$750,000	\$750,000	\$750,000
469. Auburn University-Intermodal Parking Garage	\$916,000	\$952,000	\$1,035,000	\$1,097,000
470. Bay County, FL-Transit Facility	\$458,000	\$476,000	\$517,000	\$549,000

Project Description	FY 06	FY 07	FY 08	FY 09
471. Beaver County, PA Transit Authority-Bus Replacement/Related Equipment Replacement	\$229,000	\$238,000	\$259,000	\$274,000
472. Berkshire, MA, Berk- shire Regional Transit Authority Bus Mainte- nance Facility	\$50,000	\$30,000	\$20,000	\$0
473. Bi-State Development Agency-St. Louis Bridge Repair/Reconstruction, for any activity eligible under section 5309	\$1,145,000	\$1,190,000	\$1,293,000	\$1,372,000
474. Bi-State Development Agency-St. Louis Metro Bus Fare Collection Pro- gram	\$3,665,000	\$3,808,000	\$4,139,000	\$4,388,000
475. Black Hawk County, IA, UNI Multimodal Project	\$687,000	\$714,000	\$776,000	\$823,000
476. Bozeman, MT, Inter- modal and parking facil- ity	\$168,000	\$171,000	\$175,000	\$176,000
477. Brattleborough, VT, Intermodal Center	\$600,000	\$200,000	\$200,000	\$0
478. Bridgeport, CT Facil- ity Expansion/Improve- ment	\$350,000	\$400,000	\$500,000	\$750,000
479. Broward County, FL—Bus and Bus Facili- ties	\$458,000	\$476,000	\$517,000	\$549,000
480. Brownsville Urban System, TX—City-Wide Transit Improvement Project	\$916,000	\$952,000	\$1,035,000	\$1,097,000
481. Butler Township, PA- Cranbury Area Transit Service	\$802,000	\$833,000	\$905,000	\$960,000
482. Cambria County, PA Transit Authority-Bus Replacements	\$687,000	\$714,000	\$776,000	\$823,000
483. Campobello Park, ME, Bus Acquisition	\$22,000	\$34,000	\$0	\$0
484. Capital Area Transit System-Baton Rouge BRT	\$687,000	\$714,000	\$776,000	\$823,000

Project Description	FY 06	FY 07	FY 08	FY 09
485. Capital Metropolitan Transportation Authority, TX-Bus Replacements	\$2,291,000	\$2,380,000	\$2,587,000	\$2,742,000
486. CCTA, VT, Bus, Facilities and Equipment ..	\$300,000	\$400,000	\$500,000	\$800,000
487. Central Arkansas Transit Authority Facility Upgrades	\$450,000	\$550,000	\$750,000	\$1,000,000
488. Central Florida Regional Transportation Authority-LYNX Bus Fleet Expansion Program	\$1,145,000	\$1,190,000	\$1,293,000	\$1,372,000
489. Central Ohio Transit Authority-Paratransit and Small Bus Service Facility	\$458,000	\$476,000	\$517,000	\$549,000
490. Charlotte Area Transit System/City of Charlotte-Charlotte Multimodal Station	\$2,291,000	\$2,380,000	\$2,587,000	\$2,742,000
491. Chicago, IL, Cermak Road, Bus Rapid Transit	\$200,000	\$250,000	\$300,000	\$500,000
492. City of Alexandria, VA/City-Wide Transit Improvements	\$229,000	\$238,000	\$259,000	\$274,000
493. City of Alexandria, VA/Potomac Yard Transit Improvements	\$229,000	\$238,000	\$259,000	\$274,000
494. City of Alexandria, VA/Replace Royal Street Bus Garage	\$687,000	\$714,000	\$776,000	\$823,000
495. City of Alexandria, VA/Valley Pedestrian and Transit	\$229,000	\$238,000	\$259,000	\$274,000
496. City of Birmingham, AL/Birmingham Downtown Intermodal Terminal, Phase II	\$1,145,000	\$1,190,000	\$1,293,000	\$1,372,000
497. City of El Paso-Sun Metro-Bus Replacements	\$687,000	\$714,000	\$776,000	\$823,000
498. City of Gainesville, FL Regional Transit System-Facility Expansion	\$229,000	\$238,000	\$259,000	\$274,000

Project Description	FY 06	FY 07	FY 08	FY 09
499. City of Gaithersburg, Maryland—Bus and paratransit vehicle for seniors	\$112,000	\$0	\$0	\$0
500. City of Hazleton, PA/ Hazleton Intermodal Center	\$321,000	\$333,000	\$362,000	\$384,000
501. City of Huntsville, AL—Cummings Park Intermodal Center	\$1,145,000	\$1,190,000	\$1,293,000	\$1,372,000
502. City of Kalamazoo, MI Bus Replacement	\$2,500,000	\$1,800,000	\$1,500,000	\$1,400,000
503. City of Montgomery, AL—ITS Acquisition and Implementation	\$916,000	\$952,000	\$1,035,000	\$1,097,000
504. City of Montgomery, AL—Montgomery Airport Intermodal Center	\$916,000	\$952,000	\$1,035,000	\$1,097,000
505. City of Omaha-Creighton University Intermodal Facility	\$687,000	\$714,000	\$776,000	\$823,000
506. City of Round Rock, TX—Downtown Intermodal Transportation Terminal	\$229,000	\$238,000	\$259,000	\$274,000
507. City of Tuscaloosa, AL/Intermodal Facility ..	\$1,374,000	\$1,428,000	\$1,552,000	\$1,646,000
508. Collier County Transit, FL—Transit Facility	\$229,000	\$238,000	\$259,000	\$274,000
509. Colorado Association of Transit Agencies/Colorado Transit Coalition—Colorado Statewide Buses and Bus Facilities	\$5,956,000	\$6,188,000	\$6,726,000	\$7,130,000
510. Columbus, Georgia/ Phenix City, Alabama—National Infantry Museum Multimodal Facility	\$389,000	\$405,000	\$440,000	\$466,000
511. Commonwealth of Virginia—Statewide Bus Capital Program	\$3,436,000	\$3,570,000	\$3,880,000	\$4,114,000
512. Corning, NY, Phase II Corning Preserve Transportation Enhancement Project	\$350,000	\$450,000	\$550,000	\$650,000

Project Description	FY 06	FY 07	FY 08	FY 09
513. County of Lackawanna Transit System-Scranton Intermodal Transportation Center ...	\$229,000	\$238,000	\$259,000	\$274,000
514. Cumberland-Dauphin-Harrisburg Transit Authority-Purchase of Buses and Spare Units ..	\$229,000	\$238,000	\$259,000	\$274,000
515. Dallas Area Rapid Transit-Bus passenger Facilities	\$229,000	\$238,000	\$259,000	\$274,000
516. Dayton-Wright Stop Plaza	\$458,000	\$476,000	\$517,000	\$549,000
517. Delaware Statewide Bus and Bus Replacement (with Clean Fuel (hybrid) vehicles)	\$1,750,000	\$2,000,000	\$2,000,000	\$2,250,000
518. Denver Regional Transit District-Bus Maintenance Facility	\$687,000	\$714,000	\$776,000	\$823,000
519. Denver Regional Transit District-Bus Replacements	\$916,000	\$952,000	\$1,035,000	\$1,097,000
520. Denver Regional Transit District-Denver Union Station Multimodal Renovations	\$458,000	\$476,000	\$517,000	\$549,000
521. Denver Regional Transit District-U.S. 36 Corridor BRT	\$1,604,000	\$1,666,000	\$1,811,000	\$1,919,000
522. Detroit Department of Transportation Bus Replacement	\$2,000,000	\$2,100,000	\$2,200,000	\$2,300,000
523. Downtown Middletown, CT, Transportation Infrastructure Improvement Project	\$2,000,000	\$2,150,000	\$2,500,000	\$2,850,000
524. Erie, PA Metropolitan Transit Authority-Bus Acquisitions	\$229,000	\$238,000	\$259,000	\$274,000
525. Fairfax County, Virginia-Richmond Highway Initiative	\$458,000	\$476,000	\$517,000	\$549,000

Project Description	FY 06	FY 07	FY 08	FY 09
526. Flint, MI, Mass Transportation Authority Bus Maintenance Facility	\$750,000	\$650,000	\$450,000	\$150,000
527. Florida Department of Transportation-Palm Beach County Replacement Buses	\$229,000	\$238,000	\$259,000	\$274,000
528. Gadsden, AL-Community Buses	\$115,000	\$119,000	\$129,000	\$137,000
529. Gary, Indiana, Gary Airport Station Modernization and Shuttle Service Project	\$350,000	\$400,000	\$450,000	\$500,000
530. Georgia Department of Transportation-Georgia Statewide Bus and Bus Facilities	\$2,062,000	\$2,142,000	\$2,328,000	\$2,468,000
531. Grand Rapids, Michigan, The Rapid, Bus Replacement	\$1,100,000	\$1,100,000	\$1,250,000	\$1,750,000
532. Greater Richmond Transit, VA-Bus Operations/Maintenance Facility	\$1,145,000	\$1,190,000	\$1,293,000	\$1,372,000
533. Greenville, SC Transit Authority-City of Greenville Multimodal Transportation Center Improvements	\$229,000	\$238,000	\$259,000	\$274,000
534. Gulf Shores, AL—Community Buses	\$229,000	\$238,000	\$259,000	\$274,000
535. Hampton Roads Transit, VA—Southside Bus Facility	\$229,000	\$238,000	\$259,000	\$274,000
536. Harris County-West Houston-Fort Bend Bus Transit Corridor: Uptown-Westpark Terminal	\$229,000	\$238,000	\$259,000	\$274,000
537. High Point, NC—Intermodal Facility	\$275,000	\$286,000	\$310,000	\$329,000
538. Hillsborough Area Regional Transit, FL—Bus Rapid Transit Improvements	\$458,000	\$476,000	\$517,000	\$549,000

Project Description	FY 06	FY 07	FY 08	FY 09
539. Hillsborough, FL, Hillsborough Area Re- gional Transit Authority	\$1,000,000	\$1,000,000	\$1,000,000	\$1,000,000
540. Honolulu, HI, Bus Fa- cilities	\$1,350,000	\$1,300,000	\$1,300,000	\$1,300,000
541. Hoonah, AK-Inter- modal Ferry Dock	\$458,000	\$476,000	\$517,000	\$549,000
542. Howard County, MD Construct Central Mary- land Transit Operations and Maintenance Facil- ity	\$250,000	\$220,000	\$200,000	\$200,000
543. Idaho Department of Transportation-Idaho Statewide ITS for Public Transportation	\$344,000	\$357,000	\$388,000	\$411,000
544. Indianapolis Down- town Transit Center	\$800,000	\$900,000	\$1,100,000	\$1,200,000
545. Iowa Department of Transportation-Iowa Statewide Buses and Bus Replacement	\$2,749,000	\$2,856,000	\$3,104,000	\$3,291,000
546. Ivy Tech State Col- lege, Indiana Multimodal Center	\$150,000	\$200,000	\$250,000	\$400,000
547. Jackson State Univer- sity, MS—Busing Project	\$1,145,000	\$1,190,000	\$1,293,000	\$1,372,000
548. Jacksonville Trans- portation Authority, FL—Bus Fleet Replace- ment and Equipment	\$1,145,000	\$1,190,000	\$1,293,000	\$1,372,000
549. Jacksonville, FL Transportation Author- ity Paratransit Program	\$350,000	\$0	\$0	\$0
550. Juneau-Transit Bus Acquisition and Transit Center	\$344,000	\$357,000	\$388,000	\$411,000
551. Kansas City Area Transportation Author- ity-Bus Project	\$2,291,000	\$2,380,000	\$2,587,000	\$2,742,000
552. Kansas Department of Transportation-Kan- sas Statewide Transit Buses, Bus Facilities, and Bus ITS	\$2,749,000	\$2,856,000	\$3,104,000	\$3,291,000

Project Description	FY 06	FY 07	FY 08	FY 09
553. Ketchikan, Alaska- Transit Needs	\$57,000	\$60,000	\$65,000	\$68,000
554. Knoxville, TN-Central Station	\$573,000	\$595,000	\$647,000	\$685,000
555. Lafayette City-Parish Consolidated Govern- ment, LA-Lafayette Multimodal Transpor- tation Facility	\$229,000	\$238,000	\$259,000	\$274,000
556. Lafayette, Indiana, City Bus of Greater La- fayette	\$500,000	\$550,000	\$700,000	\$750,000
557. Lake Tahoe, NV MPO Bus replacement	\$1,000,000	\$1,000,000	\$1,000,000	\$1,000,000
558. Lakeland Area Mass Transit District/Citrus Connection-Capital Funding Needs	\$458,000	\$476,000	\$517,000	\$549,000
559. Lancaster, PA-Inter- modal Project	\$160,000	\$167,000	\$181,000	\$192,000
560. Lansing, MI, Capitol Area Transportation Au- thority, Bus Replace- ment and Bus Related ITS	\$750,000	\$850,000	\$950,000	\$1,050,000
561. Laredo-North Laredo Transit Hub-Bus Main- tenance Facility	\$687,000	\$714,000	\$776,000	\$823,000
562. Las Cruces, NM, Road Runner Bus and Bus Facilities	\$200,000	\$250,000	\$300,000	\$350,000
563. Lawrence, MA, Gate- way Intermodal and Quadrant Area Reuse Project	\$600,000	\$800,000	\$900,000	\$1,150,000
564. Lehigh and North- ampton Transportation Authority, PA-Allentown Intermodal Transpor- tation Center	\$458,000	\$476,000	\$517,000	\$549,000
565. Lipscomb University, TN-Intermodal Parking Garage	\$344,000	\$357,000	\$388,000	\$411,000
566. Los Angeles, CA, Fly- Away Bus System Ex- pansion	\$500,000	\$550,000	\$600,000	\$850,000

Project Description	FY 06	FY 07	FY 08	FY 09
567. Los Angeles, CA, LAX Intermodal Transportation Center Rail and Bus Facilities	\$500,000	\$550,000	\$600,000	\$850,000
568. Louisiana Department of Transportation and Development-Statewide Vehicles and Equipment	\$229,000	\$238,000	\$259,000	\$274,000
569. Lowell, MA, Lowell Regional Transit	\$600,000	\$800,000	\$900,000	\$1,150,000
570. Maine Department of Transportation-Acadia Intermodal Facility	\$687,000	\$714,000	\$776,000	\$823,000
571. MARC Intermodal Odenton and Edgewood Station Improvements ...	\$368,000	\$380,000	\$380,000	\$418,000
572. Marquette County, Michigan Transit Authority Bus passenger facility	\$300,000	\$300,000	\$300,000	\$300,000
573. Maryland Statewide Bus Facilities and Buses	\$5,500,000	\$5,750,000	\$6,500,000	\$7,250,000
574. Matsu, Alaska-Transit Needs	\$115,000	\$119,000	\$129,000	\$137,000
575. METRO of Harris County-Discretionary Bus Program	\$2,291,000	\$2,380,000	\$2,587,000	\$2,742,000
576. Metro Regional Transit Authority/City of Akron-Downtown Transit Center, Akron	\$1,604,000	\$1,666,000	\$1,811,000	\$1,919,000
577. Metro Transit/Metropolitan Council, MN-Bus/Bus Capital	\$2,176,000	\$2,261,000	\$2,457,000	\$2,606,000
578. Metropolitan Atlanta Rapid Transit Authority-Clean Fuel Buses	\$2,291,000	\$2,380,000	\$2,587,000	\$2,742,000
579. Metropolitan Transit Authority-Nashville Downtown Transit Transfer Facility	\$2,749,000	\$2,856,000	\$3,104,000	\$3,291,000
580. Miami-Dade Transit, FL—7th Avenue NW Transit Hub	\$229,000	\$238,000	\$259,000	\$274,000

Project Description	FY 06	FY 07	FY 08	FY 09
581. Michigan Department of Transportation (MDOT) Bus Replacement	\$2,000,000	\$2,200,000	\$2,400,000	\$2,600,000
582. Mobile County, AL Commission-Bus project	\$115,000	\$119,000	\$129,000	\$137,000
583. Monroe Township, PA/Clarion County Buses	\$151,000	\$157,000	\$171,000	\$181,000
584. Montana Department of Transportation/Statewide Bus Facilities and Buses	\$687,000	\$714,000	\$776,000	\$823,000
585. Nassau County, NY, Conduct planning, engineering, and construction for transportation system (HUB)	\$1,000,000	\$1,200,000	\$1,300,000	\$1,500,000
586. Nebraska Department of Roads/Bus Maintenance and Storage Facility for RYDE in Kearney, NE	\$458,000	\$476,000	\$517,000	\$549,000
587. Nebraska Department of Roads-Statewide Vehicles, Facilities, and Related Equipment Purchases	\$916,000	\$952,000	\$1,035,000	\$1,097,000
588. New Castle, PA Area Transit Authority-Bus Purchases/Park and Ride facility	\$170,000	\$176,000	\$191,000	\$203,000
589. New Haven, CT Bus Maintenance Facility	\$2,000,000	\$2,150,000	\$2,500,000	\$2,850,000
590. New York City, NY, Bronx Zoo Intermodal Facility	\$350,000	\$450,000	\$550,000	\$650,000
591. New York City, NY, Enhance Transportation Facilities Near W. 65th Street and Broadway	\$350,000	\$450,000	\$550,000	\$650,000
592. New York City, NY, Highline Project, for Studies, Design, and Construction	\$1,000,000	\$1,200,000	\$1,300,000	\$1,500,000

Project Description	FY 06	FY 07	FY 08	FY 09
593. New York, Improvements to Moynihan Station	\$1,000,000	\$1,200,000	\$1,300,000	\$1,500,000
594. North Carolina Department of Transportation-North Carolina Statewide Bus and Bus Facilities	\$5,727,000	\$5,950,000	\$6,467,000	\$6,856,000
595. North Dakota Department of Transportation Statewide Bus	\$1,000,000	\$1,100,000	\$1,300,000	\$1,600,000
596. North Slope Borough, AK-Transit Purposes	\$458,000	\$476,000	\$517,000	\$549,000
597. North Star Borough, AK-Transit Purposes	\$229,000	\$238,000	\$259,000	\$274,000
598. OATS, Incorporated, MO—ITS Information and Billing System and Bus Facilities	\$3,894,000	\$4,046,000	\$4,397,000	\$4,663,000
599. Omaha, NE, Buses and Fareboxes	\$610,000	\$650,000	\$700,000	\$740,000
600. Pinellas County, FL Metropolitan Planning Organization-Pinellas Mobility Initiative: BRT and Guideway	\$229,000	\$238,000	\$259,000	\$274,000
601. Port Huron, Michigan, Blue Water Area Transportation Commission, Bus Maintenance Facility	\$1,000,000	\$1,250,000	\$1,500,000	\$1,750,000
602. Potomac and Rappahannock Transportation Commission, VA-Buses for Service Expansion	\$229,000	\$238,000	\$259,000	\$274,000
603. Regional Transportation Commission of Southern Nevada-Central City Intermodal Transportation Terminal	\$916,000	\$952,000	\$1,035,000	\$1,097,000
604. Rhode Island, RIPTA Elmwood Facility Expansion	\$1,600,000	\$1,700,000	\$1,750,000	\$1,850,000
605. Rhode Island, Statewide Bus and Van Replacement	\$5,250,000	\$5,500,000	\$6,200,000	\$6,400,000

Project Description	FY 06	FY 07	FY 08	FY 09
606. River Parishes, Louisiana, South Central Planning and Development Commission, Bus and Bus Facilities	\$160,000	\$180,000	\$200,000	\$220,000
607. Rochester, NY, Renaissance Square Intermodal Facility, Design and Construction	\$1,000,000	\$1,400,000	\$1,600,000	\$2,000,000
608. Rock Island, Illinois, Metrolink Transit Maintenance Facility	\$200,000	\$250,000	\$300,000	\$500,000
609. Rockland County, NY Express Bus	\$600,000	\$700,000	\$800,000	\$900,000
610. San Angelo, TX Street Railroad Company-Transit Fleet Replacement	\$229,000	\$238,000	\$259,000	\$274,000
611. San Joaquin Region Transit District, California, Hybrid Diesel-Electric Replacement Buses	\$250,000	\$250,000	\$250,000	\$300,000
612. Santa Fe, NM, Trails Bus and Bus Facilities ..	\$450,000	\$500,000	\$500,000	\$700,000
613. Seattle, WA Multimodal Terminal Redevelopment and Expansion	\$800,000	\$900,000	\$1,000,000	\$1,100,000
614. Sevierville County, TN Transportation Board-Alternative Fuel Buses	\$229,000	\$238,000	\$259,000	\$274,000
615. Silver Spring, Maryland, Transit Center	\$7,000,000	\$6,000,000	\$5,000,000	\$0
616. Sitka, Alaska-Transit Needs	\$57,000	\$60,000	\$65,000	\$68,000
617. South Bend, Indiana, TRANSPO Bus Operations Center	\$800,000	\$900,000	\$1,100,000	\$1,200,000
618. South Brunswick, NJ Transit System	\$1,000,000	\$1,000,000	\$1,000,000	\$1,000,000
619. South Carolina Department of Transportation-Transit Facilities Construction Program ...	\$458,000	\$476,000	\$517,000	\$549,000

Project Description	FY 06	FY 07	FY 08	FY 09
620. South Carolina Department of Transportation-Vehicle Acquisition Program	\$1,833,000	\$1,904,000	\$2,069,000	\$2,194,000
621. South Dakota Department of Transportation—Statewide Buses and Bus Facilities	\$3,166,000	\$3,452,000	\$3,785,000	\$4,097,000
622. South Florida Regional Transportation Authority-Tri-Rail Improvements, for any activity eligible under section 5309	\$3,436,000	\$3,570,000	\$3,880,000	\$4,114,000
623. South Florida Regional Transportation Authority-West Palm Beach Intermodal Facility	\$458,000	\$476,000	\$517,000	\$549,000
624. Southeast Missouri Transportation Service-Bus Project	\$458,000	\$476,000	\$517,000	\$549,000
625. Southeastern Louisiana University Intermodal Facility	\$300,000	\$450,000	\$550,000	\$700,000
626. Southeastern Pennsylvania Transportation Authority-Bucks County Intermodal (Croydon and Levittown)	\$687,000	\$714,000	\$776,000	\$823,000
627. Southeastern Pennsylvania Transportation Authority-Paoli Transportation Center	\$687,000	\$714,000	\$776,000	\$823,000
628. Southeastern Pennsylvania Transportation Authority-Villanova-SEPTA Intermodal	\$687,000	\$714,000	\$776,000	\$823,000
629. Southern Maryland Commuter Initiative	\$2,700,000	\$2,800,000	\$3,000,000	\$3,500,000
630. Southern Nevada Transit Coalition, Public Transit Building Acquisition	\$300,000	\$300,000	\$300,000	\$100,000
631. Southwest Ohio Regional Transit Authority-Bus Replacements	\$687,000	\$714,000	\$776,000	\$823,000

Project Description	FY 06	FY 07	FY 08	FY 09
632. Springfield, IL, Multimodal Transit Ter- minal	\$800,000	\$1,100,000	\$1,300,000	\$1,800,000
633. State of Vermont Buses, Facilities and Equipment	\$250,000	\$350,000	\$480,000	\$520,000
634. Suburban Mobility Authority for Regional Transportation (SMART) Bus Maintenance Facil- ity	\$1,500,000	\$1,750,000	\$2,000,000	\$2,250,000
635. Syracuse, New York, Syracuse University Connective Corridor Transit Project	\$800,000	\$950,000	\$1,100,000	\$1,150,000
636. Tennessee Depart- ment of Transportation- Statewide Tennessee Transit ITS and Bus Re- placement Project	\$2,749,000	\$2,856,000	\$3,104,000	\$3,291,000
637. Terre Haute, Indi- ana—Cherry Street Joint Development Project	\$800,000	\$900,000	\$1,100,000	\$1,200,000
638. The District, The Woodlands, TX—Bus Re- placement Program	\$229,000	\$238,000	\$259,000	\$274,000
639. Transit Authority of Lexington, KY—Reha- bilitation of Building for Maintenance and Ad- ministration	\$916,000	\$952,000	\$1,035,000	\$1,097,000
640. Transit Authority of Northern Kentucky- TANK Bus Replacement Project	\$458,000	\$476,000	\$517,000	\$549,000
641. Transit Authority of River City-New Hybrid Electric Buses	\$687,000	\$714,000	\$776,000	\$823,000
642. Transit Authority of Warren County, PA—Im- pact Warren	\$229,000	\$238,000	\$259,000	\$274,000
643. Trenton Intermodal Station	\$5,500,000	\$4,250,000	\$4,000,000	\$4,000,000
644. University of Ala- bama in Birmingham- Intermodal Facility	\$1,604,000	\$1,666,000	\$1,811,000	\$1,919,000

Project Description	FY 06	FY 07	FY 08	FY 09
645. University of Alabama in Huntsville-Intermodal Facility	\$1,374,000	\$1,428,000	\$1,552,000	\$1,646,000
646. University of Alabama Intermodal Facility South	\$2,062,000	\$2,142,000	\$2,328,000	\$2,468,000
647. University of Alabama Transit System	\$344,000	\$357,000	\$388,000	\$411,000
648. University of Delaware Fuel Cell Bus Program	\$160,000	\$165,000	\$175,000	\$185,000
649. University of Memphis-Pedestrian Bridge ..	\$687,000	\$714,000	\$776,000	\$823,000
650. U.S. Space and Rocket Center, AL-Tramway Expansion	\$229,000	\$238,000	\$259,000	\$274,000
651. Utah Statewide Bus and Bus Facilities	\$6,882,000	\$7,148,000	\$7,757,000	\$8,234,000
652. Valley Regional Transit, ID-Downtown Boise Multimodal	\$1,329,000	\$1,381,000	\$1,500,000	\$1,590,000
653. VIA Metropolitan Transit Authority, TX-Bus and Bus Facility Improvements	\$1,145,000	\$1,190,000	\$1,293,000	\$1,372,000
654. Washington Southworth Terminal Redevelopment	\$1,000,000	\$1,150,000	\$1,350,000	\$1,500,000
655. Washington, King Street Transportation Center-Intercity Bus Terminal Component	\$50,000	\$60,000	\$70,000	\$70,000
656. Washoe County, NV Bus and Bus Facilities ..	\$1,000,000	\$1,500,000	\$2,000,000	\$2,250,000
657. Waterbury, CT Bus Maintenance Facility	\$2,000,000	\$2,300,000	\$2,800,000	\$3,400,000
658. West Virginia, Statewide Bus and Bus Facilities	\$5,000,000	\$5,000,000	\$5,000,000	\$5,000,000
659. Westchester, NY, Bee Line Bus Replacement ...	\$450,000	\$500,000	\$550,000	\$650,000
660. Westmoreland County Transit Authority, PA-Bus Replacement	\$229,000	\$238,000	\$259,000	\$274,000

Project Description	FY 06	FY 07	FY 08	FY 09
661. Wilkes-Barre Inter-modal Facility	\$1,374,000	\$1,428,000	\$1,552,000	\$1,646,000
662. Williamsport, PA Bureau of Transportation-Williamsport Trade and Transit Centre Expansion	\$687,000	\$714,000	\$776,000	\$823,000
663. Wisconsin, Statewide Buses and Bus Facilities	\$600,000	\$610,000	\$650,000	\$700,000
664. Wrangell, AK-Ferry Infrastructure	\$229,000	\$238,000	\$259,000	\$274,000
665. Wyoming Department of Transportation-Wyoming Statewide Bus and Bus Related Facilities	\$687,000	\$714,000	\$776,000	\$823,000

(b) CLEAN FUELS GRANTS PROGRAM PROJECTS.—

(1) FUNDING.—Notwithstanding subsection (a), the Secretary shall make funds available for the projects listed in item numbers 497, 517, 519, 557, 575, 578, 605, 611, 612, 614, 631, 638, 640, 641, 648, and 659 in the table contained in subsection (a), in the amounts specified, from amounts made available to carry out section 5308 of title 49, United States Code.

(2) PURCHASE OF BUSES UNDER SUPPLEMENTAL ENVIRONMENTAL PROJECT.—With respect to the project numbered 605, purchases of buses procured under a supplemental environmental project executed by the Rhode Island Public Transit Authority and the Environmental Protection Agency are eligible for assistance under section 5308 of such title.

(c) SPECIAL RULE.—Notwithstanding any other provision of law, the Secretary shall pay the Federal share of the net project cost to a State or local governmental authority that carries out or has carried out any part of the bus and bus-related facilities projects numbered 258 and 347 under subsection (a).

SEC. 3045. NATIONAL FUEL CELL BUS TECHNOLOGY DEVELOPMENT PROGRAM.

49 USC 5308
note.

(a) ESTABLISHMENT.—The Secretary shall establish a national fuel cell bus technology development program (in this section referred to as the “program”) to facilitate the development of commercially viable fuel cell bus technology and related infrastructure.

(b) GENERAL AUTHORITY.—The Secretary may enter into grants, contracts, and cooperative agreements with no more than 3 geographically diverse nonprofit organizations and recipients under chapter 53 of title 49, United States Code, to conduct fuel cell bus technology and infrastructure projects under the program.

(c) GRANT CRITERIA.—In selecting applicants for grants under the program, the Secretary shall consider the applicant’s—

(1) ability to contribute significantly to furthering fuel cell technology as it relates to transit bus operations, including

hydrogen production, energy storage, fuel cell technologies, vehicle systems integration, and power electronics technologies;

(2) financing plan and cost share potential;

(3) fuel cell technology to ensure that the program advances different fuel cell technologies, including hydrogen-fueled and methanol-powered liquid-fueled fuel cell technologies, that may be viable for public transportation systems; and

(4) other criteria that the Secretary determines are necessary to carry out the program.

(d) **COMPETITIVE GRANT SELECTION.**—The Secretary shall conduct a national solicitation for applications for grants under the program. Grant recipients shall be selected on a competitive basis. The Secretary shall give priority consideration to applicants that have successfully managed advanced transportation technology projects, including projects related to hydrogen and fuel cell public transportation operations for a period of not less than 5 years.

(e) **FEDERAL SHARE.**—The Federal share of costs of the program shall be provided from funds made available to carry out this section. The Federal share of the cost of a project carried out under the program shall not exceed 50 percent of such cost.

(f) **GRANT REQUIREMENTS.**—A grant under this section shall be subject to—

(1) all terms and conditions applicable to a grant made under section 5309 of title 49, United States Code; and

(2) such other terms and conditions as are determined by the Secretary.

49 USC 5338
note.

SEC. 3046. ALLOCATIONS FOR NATIONAL RESEARCH AND TECHNOLOGY PROGRAMS.

(a) **IN GENERAL.**—Amounts appropriated pursuant to section 5338(d) of title 49, United States Code, for national research and technology programs under sections 5312, 5314, and 5322 of such title shall be allocated by the Secretary as follows:

(1) **PUBLIC TRANSPORTATION NATIONAL SECURITY STUDY.**—

(A) **IN GENERAL.**—Not later than 6 months after the date of enactment of this Act, the Secretary shall enter into an agreement with the National Academy of Sciences to conduct a study and evaluation of the value major public transportation systems in the United States serving the 38 urbanized areas that have a population of more than 1,000,000 individuals provide to the Nation's security and the ability of such systems to accommodate the evacuation, egress or ingress of people to or from critical locations in times of emergency.

(B) **ALTERNATIVE ROUTES.**—For each system described in subparagraph (A) the study shall identify—

(i) potential alternative routes for evacuation using other transportation modes such as highway, air, marine, and pedestrian activities; and

(ii) transit routes that, if disrupted, do not have sufficient transit alternatives available.

(C) **REPORT.**—Not later than 24 months after the date of entry into the agreement, the Academy shall submit to the Secretary and the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing and Urban Affairs of the Senate a final report on the results of the study

Deadline.
Contracts.

and evaluation, together with such recommendations as the Academy considers appropriate.

(D) FUNDING.—For each of fiscal year 2006 and 2007 \$250,000 shall be available to carry out this paragraph.

(2) CENTER FOR TRANSIT-ORIENTED DEVELOPMENT.—For each of fiscal years 2006 through 2009, not less than \$1,000,000 shall be made available by the Secretary for establishment and operation of the Center for Transit-Oriented Development—

(A) to develop standards and definitions for transit-oriented development adjacent to public transportation facilities;

(B) to develop system planning guidance, performance criteria, and modeling techniques for metropolitan planning agencies and public transportation agencies to maximize ridership through land use planning and adjacent development; and

(C) to provide research support and technical assistance to public transportation agencies, metropolitan planning agencies, and other persons regarding transit-oriented development.

(3) TRANSPORTATION EQUITY RESEARCH PROGRAM.—For each of fiscal years 2006 through 2009, not less than \$1,000,000 shall be made available by the Secretary for research and demonstration activities that focus on the impacts that transportation planning, investment, and operations have on low-income and minority populations that are transit dependent. Such activities shall include the development of strategies to advance economic and community development in low-income and minority communities and the development of training programs that promote the employment of low-income and minority community residents on Federal-aid transportation projects constructed in their communities.

(4) COGNITIVE IMPAIRMENT STUDY.—For fiscal year 2006, \$1,000,000 shall be made available by the Secretary for research and demonstration activities that focus on the capacity and resources of Oregon public transportation systems to address the needs, barriers, and desires for travel of people with cognitive impairments.

(5) TRANSIT CAREER LADDER TRAINING PROGRAM.—For each of fiscal years 2006 through 2009, not less than \$1,000,000 shall be available for a nationwide career ladder job training partnership program for public transportation employees to respond to technological changes in the public transportation industry, especially in the area of maintenance. Such program shall be carried out by the Secretary through a contract with a national nonprofit organization with a demonstrated capacity to develop and provide such programs.

(6) PILOT PROGRAM FOR REMOTE INFRARED AUDIBLE SIGNS.—

(A) IN GENERAL.—For each of fiscal years 2006 through 2009, not less than \$500,000 shall be made available by the Secretary to carry out a pilot program to determine the benefits of remote infrared audible signage technology for provision of wayfinding and information to people who are visually, cognitively, or learning disabled.

(B) REPORT.—

(i) IN GENERAL.—Not later than September 30, 2009, the Secretary shall transmit to the Committee

on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on the pilot program carried out under this section.

(ii) CONTENTS.—The report—

(I) shall include—

(aa) an evaluation of the effect of the pilot program on multimodal accessibility in public transportation;

(bb) an evaluation of the effect of the program on operators of public transportation and their passengers;

(cc) an evaluation of the effect of making public transportation accessible to people with visual, cognitive, and learning disabilities on ridership of public transportation and use of paratransit; and

(dd) an evaluation of the effect of the program on the education, community integration, work life, and general quality of life of the targeted populations.

Pennsylvania.

(7) HYDROGEN FUEL CELL SHUTTLE DEPLOYMENT DEMONSTRATION PROJECT.—To demonstrate the utility of hydrogen fuel cell vehicles in daily shuttle service, \$800,000 in each of fiscal years 2006 and 2007 shall be provided for hydrogen fuel cell employee shuttle vans, related equipment, operations, public education and outreach in Allentown, Pennsylvania.

(8) WISCONSIN SUPPLEMENTAL TRANSPORTATION RURAL ASSISTANCE PROGRAM (STRAP).—

(A) IN GENERAL.—For capital projects, operations, purchase or lease of vehicles, and integration, planning and coordination of public transportation services in the State of Wisconsin that will supplement and expand existing rural and special public transportation services in that State, \$2,000,000 in each of fiscal years 2006, 2007, 2008, and 2009 shall be provided to the State of Wisconsin Department of Transportation.

(B) PURPOSE.—Funds received under this program may be used to supplement public transportation programs for rural populations for activities authorized under sections 5310, 5311, and 5316 of title 49, United States Code. Funds made available under this program are subject to the requirements of section 5311 of title 49, United States Code, except that funds may be made available for up to 80 percent of net operating costs. In awarding grants made available under this program, the State shall consider—

(i) rural population in the area to be served by the applicant;

(ii) extent to which the applicant demonstrates coordination of existing transportation services or proposed public transportation services;

(iii) need for additional services in the area being serviced by the applicant and the extent to which the proposed services will address those needs and provide accessibility for non-ambulatory recipients;

(iv) extent to which the applicant demonstrates an innovative approach that is responsive to the identified service needs of the rural population; and

(v) extent to which the applicant demonstrates that the communities being served have been consulted in the planning process.

(9) HUMAN SERVICES TRANSPORTATION COORDINATION.—

(A) IN GENERAL.—For the management of a program to improve and enhance the coordination of Federal resources for human services transportation with those of the Department of Transportation, \$1,600,000 in each of fiscal years 2006, 2007, 2008, and 2009 shall be provided to a national non-profit organization that is competitively selected by the Secretary. Such organization shall have demonstrated expertise in issues of transportation coordination and in providing technical assistance to local transportation organizations.

(B) ELIGIBLE ACTIVITIES.—Under this program, the organization selected by the Secretary shall—

Reports.

(i) establish an advisory panel consisting of Federal, State, and local officials and organizations;

Establishment.

(ii) prepare an inventory of human service transportation agencies operating in the United States;

(iii) prepare an inventory of Federal transportation spending;

(iv) develop a program of technical assistance and training for human services transportation organizations that shall include on-site technical assistance, a resource clearinghouse, and preparation of technical manuals;

(v) prepare an annual report for the Secretary on activities under this program and make recommendations for improving coordination.

(10) PORTLAND, OREGON STREETCAR PROTOTYPE PURCHASE AND DEPLOYMENT.—Not less than \$1,000,000 shall be made available in each of fiscal years 2006, 2007, 2008, and 2009 by the Secretary to TriMet for the purchase and deployment of a domestically manufactured streetcar.

(11) PUBLIC TRANSPORTATION PARTICIPATION PILOT PROGRAM.—

(A) IN GENERAL.—Of the funds allocated under this section for each of fiscal years 2006 through 2009, \$1,000,000 for each fiscal year shall be made available by the Secretary to establish a pilot program to support planning and public participation activities related to public transportation projects.

(B) ELIGIBLE ACTIVITIES.—Activities eligible to be carried out under the pilot program may include the following:

(i) Improving data collection analysis and transportation access for all users of the public transportation systems.

(ii) Supporting public participation through the project development phases.

(iii) Using innovative techniques to improve the coordination of transportation alternatives.

(iv) Enhancing the coordination of public transportation benefits and services.

(v) Contracting with stakeholders to focus on the delivery of transportation plans and programs.

(vi) Measuring and reporting on the annual performance of the transportation systems.

(12) TRANSPORTATION HYBRID ELECTRIC VEHICLE AND FUEL CELL RESEARCH.—\$500,000 in each of fiscal years 2006 through 2009 for a transportation hybrid electric vehicle and fuel cell research program at the University of Alabama.

(13) TRAUMA CARE SYSTEM RESEARCH AND DEVELOPMENT.—\$500,000 in each of fiscal years 2006 through 2009 for trauma care system research and development at the University of Alabama in Birmingham.

(14) TRANSPORTATION INFRASTRUCTURE AND LOGISTICS RESEARCH.—\$500,000 in each of fiscal years 2006 through 2009 for transportation infrastructure and logistics research at the University of Alabama in Huntsville.

(15) NATIONAL BUS RAPID TRANSIT INSTITUTE.—\$1,750,000 in each of fiscal years 2006 through 2009 for the National Bus Rapid Transit Institute at the University of South Florida.

(16) APPLICATION OF INFORMATION TECHNOLOGY TO TRANSPORTATION LOGISTICS AND SECURITY.—\$400,000 in each of fiscal years 2006 through 2009 for research on the application of information technology to transportation logistics and security at the Northern Kentucky University.

(17) INTELLIGENT TRANSPORTATION SYSTEM PILOT PROJECT.—\$465,000 in each of fiscal years 2006 through 2009 for an intelligent transportation system pilot project with the National Consortium on Remote Sensing in Transportation Flows at the Ohio State University.

(18) REGIONAL PUBLIC SAFETY TRAINING CENTER.—\$500,000 in each of fiscal years 2006 through 2009 for a regional public safety training center at the Lehigh-Carbon Community College.

(19) TRANSIT SECURITY TRAINING FACILITY.—\$750,000 in each of fiscal years 2006 through 2009 for a transit security training facility in Chester County, Pennsylvania.

(20) SMALL URBAN AND RURAL TRANSIT CENTER.—\$800,000 in fiscal year 2006, \$800,000 in fiscal year 2007, \$1,200,000 in fiscal year 2008, and \$1,200,000 in fiscal year 2009 for the Small Urban and Rural Transit Center at North Dakota State University.

(21) ADVANCED TECHNOLOGY BUS RAPID TRANSIT PROJECT.—\$500,000 in fiscal year 2006, \$540,000 in fiscal year 2007, \$550,000 in fiscal year 2008, and \$625,000 in fiscal year 2009 for the Southeastern Connecticut Advanced Technology Bus Rapid Transit Project.

(22) GREATER NEW HAVEN TRANSIT DISTRICT FUEL CELL-POWERED BUS RESEARCH.—\$500,000 in fiscal year 2006, \$540,000 in fiscal year 2007, \$550,000 in fiscal year 2008, and \$625,000 in fiscal year 2009 for the Greater New Haven Transit District Fuel Cell-Powered Bus Research.

(23) CENTER FOR ADVANCED TRANSPORTATION INITIATIVES.—\$500,000 in fiscal year 2006, \$540,000 in fiscal year 2007, \$540,000 in fiscal year 2008, and \$625,000 in fiscal year 2009 for the Rutgers Center for Advanced Transportation Initiatives (CAIT).

(24) INSTITUTE OF TECHNOLOGY'S TRANSPORTATION, ECONOMIC, AND LAND USE SYSTEM.—\$500,000 in fiscal year 2006, \$540,000 in fiscal year 2007, \$540,000 in fiscal year 2008, and \$625,000 in fiscal year 2009 for the New Jersey Institute of Technology's Transportation, Economic, and Land Use System program (TELUS).

(25) REGIONAL TRANSIT TRAINING CONSORTIUM PILOT PROGRAM.—\$270,000 in fiscal year 2006, \$380,000 in fiscal year 2007, \$380,000 in fiscal year 2008, and \$450,000 in fiscal year 2009 for the Southern California Regional Transit Training Consortium Pilot Program.

(b) REMAINDER.—After making allocations under subsection (a), the remainder of funds made available by section 5338(d) of title 49, United States Code, for national research and technology programs under sections 5312, 5314, and 5322 for a fiscal year shall be allocated at the discretion of the Secretary to other transit research, development, demonstration and deployment projects authorized by sections 5312, 5314, and 5322 of such title.

SEC. 3047. FORGIVENESS OF GRANT AGREEMENT.

(a) LANE COUNTY TRANSIT DISTRICT.—Notwithstanding any other provision of law (including any regulation), any outstanding balances on the following grant agreements made to the Lane County Transit District, Oregon, do not have to be repaid:

(1) Federal Contract Number OR–03–0087.

(2) Federal Contract Number OR–90–X094.

(b) PEE DEE REGIONAL TRANSIT AUTHORITY.—The debt identified in the 2000 Triennial Review of the Pee Dee Regional Transit Authority as owed to the Federal Transit Administration by the Pee Dee Regional Transit Authority does not have to be repaid.

SEC. 3048. COOPERATIVE PROCUREMENT.

Deadline.

Not later than 6 months after the date of enactment of this Act, the Secretary shall undertake a 30-day review of efforts to use cooperative procurement to determine whether benefits are sufficient to formally incorporate cooperative procurement into the mass transit program. In particular, the Secretary shall review the progress made under the pilot program authorized under section 166 of division F of the Consolidated Appropriations Act, 2004 (49 U.S.C. 5397 note; 118 Stat. 309), based on experience to date in the pilot program and any available reports to Congress submitted under such section 166. The Secretary shall also consider information gathered from grantees about cooperative procurement, whether or not related to the pilot program.

49 USC 5307.

SEC. 3049. TRANSPORTATION FRINGE BENEFITS.

5 USC 7905 note.

(a) TRANSIT PASS TRANSPORTATION FRINGE BENEFITS.—

(1) IN GENERAL.—Effective as of the first day of the next fiscal year beginning after the date of the enactment of this Act, each covered agency shall implement a program under which all qualified Federal employees serving in or under such agency shall be offered transit pass transportation fringe benefits, as described in paragraph (2).

Effective date.

(2) BENEFITS DESCRIBED.—The benefits described in this paragraph are the transit pass transportation fringe benefits which, under section 2 of Executive Order No. 13150, are required to be offered by Federal agencies in the National Capital Region on the date of the enactment of this Act.

(3) DEFINITIONS.—In this subsection—

(A) the term “covered agency” means any agency, to the extent of its facilities in the National Capital Region;

(B) the term “agency” means any agency (as defined by 7905(a)(2) of title 5, United States Code), the Postal Rate Commission, and the Smithsonian Institution;

(C) the term “National Capital Region” includes the District of Columbia and every county or other geographic area covered by section 2 of Executive Order No. 13150;

(D) the term “Executive Order No. 13150” refers to Executive Order No. 13150 (5 U.S.C. 7905 note);

(E) the term “Federal agency” is used in the same way as under section 2 of Executive Order No. 13150; and

(F) any determination as to whether or not one is a “qualified Federal employee” shall be made applying the same criteria as would apply under section 2 of Executive Order No. 13150.

(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall be considered to require that a covered agency—

(A) terminate any program or benefits in existence on the date of the enactment of this Act, or postpone any plans to implement (before the effective date referred to in paragraph (1)) any program or benefits permitted or required under any other provision of law; or

(B) discontinue (on or after the effective date referred to in paragraph (1)) any program or benefits referred to in subparagraph (A), so long as such program or benefits satisfy the requirements of paragraphs (1) through (3).

(b) AUTHORITY TO TRANSPORT FEDERAL EMPLOYEES BETWEEN THEIR PLACE OF EMPLOYMENT AND MASS TRANSIT FACILITIES.—

(1) IN GENERAL.—Section 1344 of title 31, United States Code, is amended—

(A) by redesignating subsections (g) and (h) as subsections (h) and (i), respectively; and

(B) by inserting after subsection (f) the following:

“(g)(1) If and to the extent that the head of a Federal agency, in his or her sole discretion, deems it appropriate, a passenger carrier may be used to transport an officer or employee of a Federal agency between the officer’s or employee’s place of employment and a mass transit facility (whether or not publicly owned) in accordance with succeeding provisions of this subsection.

“(2) Notwithstanding section 1343, a Federal agency that provides transportation services under this subsection (including by passenger carrier) may absorb the costs of such services using any funds available to such agency, whether by appropriation or otherwise.

“(3) In carrying out this subsection, a Federal agency, to the maximum extent practicable and consistent with sound budget policy, should—

“(A) use alternative fuel vehicles for the provision of transportation services;

“(B) to the extent consistent with the purposes of this subsection, provide transportation services in a manner that does not result in additional gross income for Federal income tax purposes; and

“(C) coordinate with other Federal agencies to share, and otherwise avoid duplication of, transportation services provided under this subsection.

“(4) For purposes of any determination under chapter 81 of title 5 or chapter 171 of title 28, an individual shall not be considered to be in the ‘performance of duty’ or ‘acting within the scope of his or her office or employment’ by virtue of the fact that such individual is receiving transportation services under this subsection. Nor shall any time during which an individual uses such services be considered when calculating the hours of work or employment for that individual for purposes of title 5 of the United States Code, including chapter 55 of that title.

“(5)(A) The Administrator of General Services, after consultation with the appropriate agencies, shall prescribe any regulations necessary to carry out this subsection.

Regulations.

“(B) Transportation services under this subsection shall be subject neither to the last sentence of subsection (d)(3) nor to any regulations under the last sentence of subsection (e)(1).

“(6) In this subsection, the term ‘passenger carrier’ means a passenger motor vehicle or similar means of transportation that is owned, leased, or provided pursuant to contract by the United States Government.”

(2) FUNDS FOR MAINTENANCE, REPAIR, ETC.—Subsection (a) of section 1344 of title 31, United States Code, is amended by adding at the end the following:

“(3) For purposes of paragraph (1), the transportation of an individual between such individual’s place of employment and a mass transit facility pursuant to subsection (g) is transportation for an official purpose.”

(3) COORDINATION.—The authority to provide transportation services under section 1344(g) of title 31, United States Code (as amended by paragraph (1)) shall be in addition to any authority otherwise available to the agency involved.

31 USC 1344
note.

SEC. 3050. COMMUTER RAIL.

(a) IN GENERAL.—The Federal Transit Administration shall approve final design for the projects authorized under section 3030(c)(1)(A)(xlv) of the Federal Transit Act of 1998 and section 1214(g) of the Transportation Equity Act for the 21st Century (16 U.S.C. 668dd note) in the absence of an access agreement with the owner of the railroad right-of-way.

(b) TIMELY RESOLUTION OF ISSUES.—The Secretary shall timely resolve any issues delaying the completion of the projects authorized under section 1214(g) of the Transportation Equity Act for the 21st Century (16 U.S.C. 668dd note) and section 3030(c)(1)(A)(xlv) of the Federal Transit Act of 1998.

SEC. 3051. PARATRANSIT SERVICE IN ILLINOIS.

In the State of Illinois, a regional or State agency, or another transit agency, may be responsible for providing the complementary paratransit services that would otherwise be provided by a transit agency under the Americans with Disabilities Act of 1990. Where a regional or State agency, or another transit agency, undertakes to provide such services, either by agreement or pursuant to State legislation, the Secretary may audit the paratransit services provided, make recommendations, and take appropriate enforcement action directed to such regional, State, or transit agency providing the services, to ensure that the requirements of the Americans

with Disabilities Act of 1990 are met. Nothing in this Act shall be construed to conflict with the requirements of the Americans with Disabilities Act of 1990 and its implementing regulations.

Motor Carrier
Safety
Reauthorization
Act of 2005.
49 USC 30101.

TITLE IV—MOTOR CARRIER SAFETY

SEC. 4001. SHORT TITLE.

This title may be cited as the “Motor Carrier Safety Reauthorization Act of 2005”.

Subtitle A—Commercial Motor Vehicle Safety

SEC. 4101. AUTHORIZATION OF APPROPRIATIONS.

(a) **MOTOR CARRIER SAFETY GRANTS.**—Section 31104(a) of title 49, United States Code, is amended to read as follows:

“(a) **IN GENERAL.**—Subject to subsection (f), there are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out section 31102—

- “(1) \$188,480,000 for fiscal year 2005;
- “(2) \$188,000,000 for fiscal year 2006;
- “(3) \$197,000,000 for fiscal year 2007;
- “(4) \$202,000,000 for fiscal year 2008; and
- “(5) \$209,000,000 for fiscal year 2009.”.

(b) **ADMINISTRATIVE EXPENSES.**—Section 31104 of such title is amended by adding the following at the end:

“(i) **ADMINISTRATIVE EXPENSES.**—

“(1) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for the Secretary of Transportation to pay administrative expenses of the Federal Motor Carrier Safety Administration—

- “(A) \$254,849,000 for fiscal year 2005;
- “(B) \$213,000,000 for fiscal year 2006;
- “(C) \$223,000,000 for fiscal year 2007;
- “(D) \$228,000,000 for fiscal year 2008; and
- “(E) \$234,000,000 for fiscal year 2009.

“(2) **USE OF FUNDS.**—The funds authorized by this subsection shall be used for personnel costs; administrative infrastructure; rent; information technology; programs for research and technology, information management, regulatory development, the administration of the performance and registration information system management, and outreach and education; other operating expenses; and such other expenses as may from time to time become necessary to implement statutory mandates of the Administration not funded from other sources.

“(j) **AVAILABILITY OF FUNDS; CONTRACT AUTHORITY.**—

“(1) **PERIOD OF AVAILABILITY.**—The amounts made available under this section shall remain available until expended.

“(2) **INITIAL DATE OF AVAILABILITY.**—Authorizations from the Highway Trust Fund (other than the Mass Transit Account) by this section shall be available for obligation on the date of their apportionment or allocation or on October 1 of the fiscal year for which they are authorized, whichever occurs first.

“(3) CONTRACT AUTHORITY.—Approval by the Secretary of a grant with funds made available under this section imposes upon the United States a contractual obligation for payment of the Government’s share of costs incurred in carrying out the objectives of the grant.”.

(c) GRANT PROGRAMS.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) the following sums for the following Federal Motor Carrier Safety Administration programs:

(1) COMMERCIAL DRIVER’S LICENSE PROGRAM IMPROVEMENT GRANTS.—For commercial driver’s license program improvement grants under section 31313 of title 49, United States Code \$25,000,000 for each of fiscal years 2006 through 2009.

(2) BORDER ENFORCEMENT GRANTS.—For border enforcement grants under section 31107 of such title \$32,000,000 for each of fiscal years 2006, 2007, 2008, and 2009.

(3) PERFORMANCE AND REGISTRATION INFORMATION SYSTEM MANAGEMENT GRANT PROGRAM.—For the performance and registration information system management grant program under section 31109 of such title \$5,000,000 for each of fiscal years 2006, 2007, 2008, and 2009.

(4) COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS DEPLOYMENT.—For carrying out the commercial vehicle information systems and networks deployment program under section 4126 of this Act, \$25,000,000 for each of fiscal years 2006 through 2009.

(5) SAFETY DATA IMPROVEMENT GRANTS.—For safety data improvement grants under section 4128 of this Act \$2,000,000 for fiscal year 2006 and \$3,000,000 for each of fiscal years 2007 through 2009.

(d) PERIOD OF AVAILABILITY.—The amounts made available under subsection (c) of this section shall remain available until expended.

(e) INITIAL DATE OF AVAILABILITY.—Amounts authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) by subsection (c) shall be available for obligation on the date of their apportionment or allocation or on October 1 of the fiscal year for which they are authorized, whichever occurs first.

(f) CONTRACT AUTHORITY.—Approval by the Secretary of a grant with funds made available under subsection (c) imposes upon the United States a contractual obligation for payment of the Government’s share of costs incurred in carrying out the objectives of the grant.

SEC. 4102. INCREASED PENALTIES FOR OUT-OF-SERVICE VIOLATIONS AND FALSE RECORDS.

(a) RECORDKEEPING AND REPORTING VIOLATIONS.—Section 521(b)(2)(B) of title 49, United States Code, is amended—

(1) in clause (i) by striking “\$500” and inserting “\$1,000”; and

(2) by striking “\$5,000” each place it appears and inserting “\$10,000”.

(b) VIOLATIONS OF OUT-OF-SERVICE ORDERS.—Section 31310(i)(2) of title 49, United States Code, is amended—

(1) by striking “Not later than December 18, 1992, the” and inserting “The”;

- (2) in subparagraph (A)—
 - (A) by striking “90 days” and inserting “180 days”; and
 - (B) by striking “\$1,000” and inserting “\$2,500”;
- (3) in subparagraph (B)—
 - (A) by striking “one year” and inserting “2 years”; and
 - (B) by striking “\$1,000; and” and inserting “\$5,000;”;
- (4) in subparagraph (C) by striking “\$10,000.” and inserting “\$25,000; and”; and
- (5) by adding at the end the following:
 - “(D) an employer that knowingly and willfully allows or requires an employee to operate a commercial motor vehicle in violation of an out-of-service order shall, upon conviction, be subject for each offense to imprisonment for a term not to exceed one year or a fine under title 18, or both.”.

SEC. 4103. PENALTY FOR DENIAL OF ACCESS TO RECORDS.

Section 521(b) of title 49, United States Code, is amended—

- (1) by striking “(b)(1)(A) If the Secretary” and inserting the following:

“(b) VIOLATIONS RELATING TO COMMERCIAL MOTOR VEHICLE SAFETY REGULATION AND OPERATORS.—

“(1) NOTICE.—

“(A) IN GENERAL.—If the Secretary”; and

- (2) by adding at the end of paragraph (2) the following:

“(E) COPYING OF RECORDS AND ACCESS TO EQUIPMENT, LANDS, AND BUILDINGS.—A person subject to chapter 51 or a motor carrier, broker, freight forwarder, or owner or operator of a commercial motor vehicle subject to part B of subtitle VI who fails to allow promptly, upon demand, the Secretary (or an employee designated by the Secretary) to inspect and copy any record or inspect and examine equipment, lands, buildings and other property in accordance with sections 504(c), 5121(c), and 14122(b) shall be liable to the United States for a civil penalty not to exceed \$1,000 for each offense. Each day the Secretary is denied the right to inspect and copy any record or inspect and examine equipment, lands, buildings and other property shall constitute a separate offense, except that the total of all civil penalties against any violator for all offenses related to a single violation shall not exceed \$10,000. It shall be a defense to such penalty that the records did not exist at the time of the Secretary’s request or could not be timely produced without unreasonable expense or effort. Nothing in this subparagraph amends or supersedes any remedy available to the Secretary under section 502(d), section 507(c), or any other provision of this title.”.

SEC. 4104. REVOCATION OF OPERATING AUTHORITY.

Section 13905(e) of title 49, United States Code, is amended—

- (1) by striking paragraph (1) and inserting the following:

“(1) PROTECTION OF SAFETY.—Notwithstanding subchapter II of chapter 5 of title 5, the Secretary—

“(A) may suspend the registration of a motor carrier, a freight forwarder, or a broker for failure to comply with requirements of the Secretary pursuant to section 13904(c)

or 13906 or an order or regulation of the Secretary prescribed under those sections; and

“(B) shall revoke the registration of a motor carrier that has been prohibited from operating in interstate commerce for failure to comply with the safety fitness requirements of section 31144.”;

(2) in paragraph (2) by striking “may suspend a registration” and inserting “shall revoke the registration”; and

(3) by striking paragraph (3) and inserting the following:

“(3) NOTICE; PERIOD OF SUSPENSION.—The Secretary may suspend or revoke under this subsection the registration only after giving notice of the suspension or revocation to the registrant. A suspension remains in effect until the registrant complies with the applicable sections or, in the case of a suspension under paragraph (2), until the Secretary revokes the suspension.”.

SEC. 4105. STATE LAWS RELATING TO VEHICLE TOWING.

(a) STATE LAWS RELATING TO VEHICLE TOWING.—Section 14501(c) of title 49, United States Code, is amended by adding at the end the following:

“(5) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to prevent a State from requiring that, in the case of a motor vehicle to be towed from private property without the consent of the owner or operator of the vehicle, the person towing the vehicle have prior written authorization from the property owner or lessee (or an employee or agent thereof) or that such owner or lessee (or an employee or agent thereof) be present at the time the vehicle is towed from the property, or both.”.

(b) PREDATORY TOW TRUCK OPERATIONS.—

(1) STUDY.—The Secretary shall conduct a study—

(A) to identify issues related to the protection of the rights of individuals whose motor vehicles are towed;

(B) to establish the scope and geographic reach of any issues so identified, and

(C) to identify potential remedies for those issues.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the results of the study.

SEC. 4106. MOTOR CARRIER SAFETY GRANTS.

(a) STATE PLAN CONTENTS.—Section 31102(b)(1) of title 49, United States Code, is amended—

(1) by striking subparagraph (A) and inserting the following:

“(A) implements performance-based activities, including deployment of technology to enhance the efficiency and effectiveness of commercial motor vehicle safety programs;”;

(2) by striking subparagraph (E) and inserting the following:

“(E) provides that the total expenditure of amounts of the State and its political subdivisions (not including amounts of the Government) for commercial motor vehicle safety programs for enforcement of commercial motor vehicle size and weight limitations, drug interdiction, and State traffic safety

laws and regulations under subsection (c) of this section will be maintained at a level at least equal to the average level of that expenditure for the 3 full fiscal years beginning after October 1 of the year 5 years prior to the beginning of each Government fiscal year.”;

(3) by striking subparagraph (Q) and inserting the following:

“(Q) provides that the State has established a program to ensure that—

“(i) accurate, complete, and timely motor carrier safety data is collected and reported to the Secretary; and

“(ii) the State will participate in a national motor carrier safety data correction system prescribed by the Secretary;”;

(4) by aligning subparagraph (R) with subparagraph (S);

(5) by striking “and” at the end of subparagraph (S);

(6) by striking the period at the end of subparagraph (T) and inserting a semicolon; and

(7) by adding at the end the following:

“(U) provides that the State will include in the training manual for the licensing examination to drive a noncommercial motor vehicle and a commercial motor vehicle, information on best practices for driving safely in the vicinity of noncommercial and commercial motor vehicles;

“(V) provides that the State will enforce the registration requirements of section 13902 by prohibiting the operation of any vehicle discovered to be operated by a motor carrier without a registration issued under such section or to operate beyond the scope of such registration;

“(W) provides that the State will conduct comprehensive and highly visible traffic enforcement and commercial motor vehicle safety inspection programs in high-risk locations and corridors; and

“(X) except in the case of an imminent or obvious safety hazard, ensures that an inspection of a vehicle transporting passengers for a motor carrier of passengers is conducted at a station, terminal, border crossing, maintenance facility, destination, or other location where a motor carrier may make a planned stop.”.

(b) USE OF GRANTS TO ENFORCE OTHER LAWS.—Section 31102 of such title is amended—

(1) by striking subsection (c) and inserting the following:

“(c) USE OF GRANTS TO ENFORCE OTHER LAWS.—A State may use amounts received under a grant under subsection (a)—

“(1) for the following activities if the activities are carried out in conjunction with an appropriate inspection of the commercial motor vehicle to enforce Government or State commercial motor vehicle safety regulations:

“(A) enforcement of commercial motor vehicle size and weight limitations at locations other than fixed weight facilities, at specific locations such as steep grades or mountainous terrains where the weight of a commercial motor vehicle can significantly affect the safe operation of the vehicle, or at ports where intermodal shipping containers enter and leave the United States; and

“(B) detection of the unlawful presence of a controlled substance (as defined under section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802)) in a commercial motor vehicle or on the person of any occupant (including the operator) of the vehicle; and

“(2) for documented enforcement of State traffic laws and regulations designed to promote the safe operation of commercial motor vehicles, including documented enforcement of such laws and regulations relating to noncommercial motor vehicles when necessary to promote the safe operation of commercial motor vehicles if the number of motor carrier safety activities (including roadside safety inspections) conducted in the State is maintained at a level at least equal to the average level of such activities conducted in the State in fiscal years 2003, 2004, and 2005; except that the State may not use more than 5 percent of the basic amount the State receives under the grant under subsection (a) for enforcement activities relating to noncommercial motor vehicles described in this paragraph unless the Secretary determines a higher percentage will result in significant increases in commercial motor vehicle safety.”; and

(2) by adding at the end the following:

“(e) ANNUAL REPORT.—The Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science and Transportation of the Senate an annual report that—

“(1) analyzes commercial motor vehicle safety trends among the States and documents the most effective commercial motor vehicle safety programs implemented with grants under this section; and

“(2) describes the effect of activities carried out with grants made under this section on commercial motor vehicle safety.”.

SEC. 4107. HIGH PRIORITY ACTIVITIES AND NEW ENTRANTS AUDITS.

(a) HIGH PRIORITY ACTIVITIES.—Section 31104 of title 49, United States Code (as amended by section 4101 of this Act), is amended by adding at the end the following:

“(k) HIGH-PRIORITY ACTIVITIES.—

“(1) CRITERIA.—The Secretary shall establish safety performance criteria to be used to distribute high priority program funds under this subsection.

“(2) SET ASIDE.—The Secretary may set aside from amounts made available by subsection (a) up to \$15,000,000 for each of fiscal years 2006 through 2009 for States, local governments, and organizations representing government agencies or officials described in paragraph (3) for carrying out high priority activities and projects that improve commercial motor vehicle safety and compliance with commercial motor vehicle safety regulations (including activities and projects that are national in scope), increase public awareness and education, demonstrate new technologies, and reduce the number and rate of accidents involving commercial motor vehicles.

“(3) DESCRIPTION OF RECIPIENTS.—Amounts set aside under this subsection shall be allocated by the Secretary only to State agencies, local governments, and organizations representing government agencies or officials that use and train

qualified officers and employees in coordination with State motor vehicle safety agencies.

“(4) LIMITATION.—At least 90 percent of the amounts set aside for a fiscal year under this subsection shall be awarded in grants to State agencies and local government agencies.”.

(b) NEW ENTRANT AUDITS.—Section 31104 of such title is amended—

(1) by redesignating the second subsection as subsection (f); and

(2) by adding at the end of such subsection the following:

“(5) NEW ENTRANT AUDITS.—

“(A) GRANTS.—The Secretary may make grants to States and local governments for new entrant motor carrier audits under this subsection without requiring a matching contribution from such States and local governments.

“(B) SET ASIDE.—The Secretary shall set aside from amounts made available by section 31104(a) up to \$29,000,000 per fiscal year for audits of new entrant motor carriers conducted pursuant to this paragraph.

“(C) DETERMINATION.—If the Secretary determines that a State or local government is not able to use government employees to conduct new entrant motor carrier audits, the Secretary may use the funds set aside under this paragraph to conduct audits for such States or local governments.”.

SEC. 4108. DATA QUALITY IMPROVEMENT.

(a) IN GENERAL.—Section 31106(a)(3) of title 49, United States Code, is amended—

(1) by striking “and” at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting a semicolon; and

(3) by adding at the end the following:

“(F) ensure, to the maximum extent practical, all the data is complete, timely, and accurate across all information systems and initiatives; and

“(G) establish and implement a national motor carrier safety data correction system.”.

(b) REPORT ON STATUS OF SAFETY FITNESS RATING SYSTEM REVISION.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the status of revision of the safety fitness rating system of motor carriers.

SEC. 4109. PERFORMANCE AND REGISTRATION INFORMATION SYSTEM MANAGEMENT.

(a) DESIGN AND CONDITIONS FOR PARTICIPATION.—Section 31106(b) of title 49, United States Code, is amended by striking paragraphs (2), (3), and (4) and inserting the following:

“(2) DESIGN.—The program shall link Federal motor carrier safety information systems with State commercial vehicle registration and licensing systems and shall be designed to enable a State to—

“(A) determine the safety fitness of a motor carrier or registrant when licensing or registering the registrant

or motor carrier or while the license or registration is in effect; and

“(B) deny, suspend, or revoke the commercial motor vehicle registrations of a motor carrier or registrant that has been issued an operations out-of-service order by the Secretary.

“(3) CONDITIONS FOR PARTICIPATION.—The Secretary shall require States, as a condition of participation in the program, to—

“(A) comply with the uniform policies, procedures, and technical and operational standards prescribed by the Secretary under subsection (a)(4);

“(B) possess or seek the authority to possess for a time period no longer than determined reasonable by the Secretary, to impose sanctions relating to commercial motor vehicle registration on the basis of a Federal safety fitness determination; and

“(C) establish and implement a process to cancel the motor vehicle registration and seize the registration plates of a vehicle when an employer is found liable under section 31310(i)(2)(C) for knowingly allowing or requiring an employee to operate such a commercial motor vehicle in violation of an out-of-service order.

“(4) GRANTS.—From the funds authorized by section 31104(i), the Secretary may make a grant in a fiscal year to a State to implement the performance and registration information system management requirements of this subsection.”.

(b) PERFORMANCE AND REGISTRATION INFORMATION SYSTEM MANAGEMENT GRANTS.—

(1) IN GENERAL.—Subchapter I of chapter 311 of title 49, United States Code, is further amended by adding at the end the following:

“§ 31109. Performance and registration information system management

“The Secretary of Transportation may make a grant to a State to implement the performance and registration information system management requirements of section 31106(b).”.

(2) CONFORMING AMENDMENT.—The analysis for such subchapter is amended by adding at the end the following:

“31109. Performance and registration information system management.”.

SEC. 4110. BORDER ENFORCEMENT GRANTS.

(a) IN GENERAL.—Chapter 311 of title 49, United States Code, is amended—

(1) by striking the heading for subchapter I and inserting 49 USC 31100. the following:

“SUBCHAPTER I—GENERAL AUTHORITY AND STATE GRANTS”;

and

(2) by striking section 31107 and inserting the following:

“§ 31107. Border enforcement grants

“(a) GENERAL AUTHORITY.—The Secretary of Transportation may make a grant in a fiscal year to an entity or State that shares a land border with another country for carrying out border commercial motor vehicle safety programs and related enforcement activities and projects.

“(b) MAINTENANCE OF EXPENDITURES.—The Secretary may make a grant to a State under this section only if the State agrees that the total expenditure of amounts of the State and political subdivisions of the State, exclusive of amounts from the United States, for carrying out border commercial motor vehicle safety programs and related enforcement activities and projects will be maintained at a level at least equal to the average level of that expenditure by the State and political subdivisions of the State for the last 2 fiscal years of the State or the Federal Government ending before October 1, 2005, whichever the State designates.

“(c) GOVERNMENTS SHARE OF COSTS.—The Secretary shall reimburse a State under a grant made under this section an amount that is not more than 100 percent of the costs incurred by the State in a fiscal year for carrying out border commercial motor vehicle safety programs and related enforcement activities and projects.

“(d) AVAILABILITY AND REALLOCATION OF AMOUNTS.—Allocations to a State remain available for expenditure in the State for the fiscal year in which they are allocated and for the next fiscal year. Amounts not expended by a State during those 2 fiscal years are available to the Secretary for reallocation under this section.”.

(b) CLERICAL AMENDMENTS.—

(1) ITEM RELATING TO SUBCHAPTER I.—The analysis for such chapter is amended by striking the item relating to subchapter I and inserting the following:

“SUBCHAPTER I—GENERAL AUTHORITY AND STATE GRANTS”.

(2) ITEM RELATING TO SECTION 31107.—The analysis for such chapter is amended by striking the item relating to section 31107 and inserting the following:

“31107. Border enforcement grants.”.

SEC. 4111. MOTOR CARRIER RESEARCH AND TECHNOLOGY PROGRAM.

(a) IN GENERAL.—Section 31108 of title 49, United States Code, is amended to read as follows:

“§ 31108. Motor carrier research and technology program

“(a) RESEARCH, TECHNOLOGY, AND TECHNOLOGY TRANSFER ACTIVITIES.—

“(1) ESTABLISHMENT.—The Secretary of Transportation shall establish and carry out a motor carrier and motor coach research and technology program.

“(2) MULTIYEAR PLAN.—The program must include a multi-year research plan that focuses on nonredundant innovative research and shall be coordinated with other research programs or projects ongoing or planned within the Department of Transportation, as appropriate.

“(3) RESEARCH, DEVELOPMENT, AND TECHNOLOGY TRANSFER ACTIVITIES.—The Secretary may carry out under the program

research, development, technology, and technology transfer activities with respect to—

“(A) the causes of accidents, injuries, and fatalities involving commercial motor vehicles;

“(B) means of reducing the number and severity of accidents, injuries, and fatalities involving commercial motor vehicles;

“(C) improving the safety and efficiency of commercial motor vehicles through technological innovation and improvement;

“(D) improving technology used by enforcement officers when conducting roadside inspections and compliance reviews to increase efficiency and information transfers; and

“(E) increasing the safety and security of hazardous materials transportation.

“(4) TESTS AND DEVELOPMENT.—The Secretary may test, develop, or assist in testing and developing any material, invention, patented article, or process related to the research and technology program.

“(5) TRAINING.—The Secretary may use the funds made available to carry out this section for training or education of commercial motor vehicle safety personnel, including training in accident reconstruction and detection of controlled substances or other contraband and stolen cargo or vehicles.

“(6) PROCEDURES.—The Secretary may carry out this section—

“(A) independently;

“(B) in cooperation with other Federal departments, agencies, and instrumentalities and Federal laboratories; or

“(C) by making grants to, or entering into contracts and cooperative agreements with, any Federal laboratory, State agency, authority, association, institution, for-profit or nonprofit corporation, organization, foreign country, or person.

“(7) DEVELOPMENT AND PROMOTION OF USE OF PRODUCTS.—The Secretary shall use funds made available to carry out this section to develop, administer, communicate, and promote the use of products of research, technology, and technology transfer programs under this section.

“(b) COLLABORATIVE RESEARCH AND DEVELOPMENT.—

“(1) IN GENERAL.—To advance innovative solutions to problems involving commercial motor vehicle and motor carrier safety, security, and efficiency, and to stimulate the deployment of emerging technology, the Secretary may carry out, on a cost-shared basis, collaborative research and development with—

“(A) non-Federal entities, including State and local governments, foreign governments, colleges and universities, corporations, institutions, partnerships, and sole proprietorships that are incorporated or established under the laws of any State; and

“(B) Federal laboratories.

“(2) COOPERATIVE AGREEMENTS.—In carrying out this subsection, the Secretary may enter into cooperative research and

development agreements (as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a)).

“(3) COST SHARING.—

“(A) FEDERAL SHARE.—The Federal share of the cost of activities carried out under a cooperative research and development agreement entered into under this subsection shall not exceed 50 percent; except that, if there is substantial public interest or benefit associated with any such activity, the Secretary may approve a greater Federal share.

“(B) TREATMENT OF DIRECTLY INCURRED NON-FEDERAL COSTS.—All costs directly incurred by the non-Federal partners, including personnel, travel, and hardware or software development costs, shall be credited toward the non-Federal share of the cost of the activities described in subparagraph (A).

“(4) USE OF TECHNOLOGY.—The research, development, or use of a technology under a cooperative research and development agreement entered into under this subsection, including the terms under which the technology may be licensed and the resulting royalties may be distributed, shall be subject to the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.).”

(b) CLERICAL AMENDMENT.—The analysis for chapter 311 of such title is amended by striking the item relating to section 31108 and inserting the following:

“31108. Motor carrier research and technology program.”

SEC. 4112. NEBRASKA CUSTOM HARVESTERS LENGTH EXEMPTION.

(a) IN GENERAL.—Section 31112(c) of title 49, United States Code, is amended by adding at the end the following:

“(5) Nebraska may allow the operation of a truck tractor and 2 trailers or semitrailers not in actual lawful operation on a regular or periodic basis on June 1, 1991, if the length of the property-carrying units does not exceed 81 feet 6 inches and such combination is used only to transport equipment utilized by custom harvesters under contract to agricultural producers to harvest one or more of wheat, soybeans, and milo during the harvest months for such crops, as defined by the State of Nebraska.”

(b) CONFORMING AMENDMENT.—Such section 31112(c) is amended by striking the subsection designation and heading and inserting the following:

“(c) SPECIAL RULES FOR WYOMING, OHIO, ALASKA, IOWA, AND NEBRASKA.—”

SEC. 4113. PATTERN OF SAFETY VIOLATIONS BY MOTOR CARRIER MANAGEMENT.

(a) DUTIES OF EMPLOYERS AND EMPLOYEES.—Section 31135 of title 49, United States Code, is amended—

(1) by inserting “(a) IN GENERAL.—” before “Each”; and

(2) by adding at the end the following:

“(b) PATTERN OF NONCOMPLIANCE.—If the Secretary finds that an officer of a motor carrier engages or has engaged in a pattern or practice of avoiding compliance, or masking or otherwise concealing noncompliance, with regulations on commercial motor

vehicle safety prescribed under this subchapter, while serving as an officer of any motor carrier, the Secretary may suspend, amend, or revoke any part of the motor carrier's registration under section 13905.

“(c) REGULATIONS.—Not later than 1 year after the date of enactment of this subsection, the Secretary shall by regulation establish standards to implement subsection (b). Deadline.

“(d) DEFINITIONS.—In this section, the following definitions apply:

“(1) MOTOR CARRIER.—The term ‘motor carrier’ has the meaning such term has under section 13102.

“(2) OFFICER.—The term ‘officer’ means an owner, director, chief executive officer, chief operating officer, chief financial officer, safety director, vehicle maintenance supervisor, and driver supervisor of a motor carrier, regardless of the title attached to those functions, and any person, however designated, exercising controlling influence over the operations of a motor carrier.”.

(b) CROSS REFERENCE.—Section 13902(a)(1)(B) of such title is amended to read as follows:

“(B)(i) any safety regulations imposed by the Secretary;

“(ii) the duties of employers and employees established by the Secretary under section 31135; and

“(iii) the safety fitness requirements established by the Secretary under section 31144; and”.

SEC. 4114. INTRASTATE OPERATIONS OF INTERSTATE MOTOR CARRIERS.

(a) IN GENERAL.—Section 31144(a) of title 49, United States Code, is amended to read as follows:

“(a) IN GENERAL.—The Secretary shall—

“(1) determine whether an owner or operator is fit to operate safely commercial motor vehicles, utilizing among other things the accident record of an owner or operator operating in interstate commerce and the accident record and safety inspection record of such owner or operator—

“(A) in operations that affect interstate commerce within the United States; and

“(B) in operations in Canada and Mexico if the owner or operator also conducts operations within the United States;

“(2) periodically update such safety fitness determinations;

“(3) make such final safety fitness determinations readily available to the public; and

“(4) prescribe by regulation penalties for violations of this section consistent with section 521.”.

(b) PROHIBITED TRANSPORTATION.—The first subsection (c) of section 31144 of such title is amended by adding at the end the following:

“(5) TRANSPORTATION AFFECTING INTERSTATE COMMERCE.—Owners or operators of commercial motor vehicles prohibited from operating in interstate commerce pursuant to paragraphs (1) through (3) of this section may not operate any commercial motor vehicle that affects interstate commerce until the Secretary determines that such owner or operator is fit.”.

(c) DETERMINATION OF UNFITNESS BY STATE.—Section 31144 of such title is amended—

Public
information.
Regulations.

(1) by redesignating subsections (d), (e), and the second subsection (c) as subsections (e), (f), and (g), respectively; and
 (2) by inserting after subsection (c) the following:

“(d) DETERMINATION OF UNFITNESS BY STATE.—If a State that receives motor carrier safety assistance program funds under section 31102 determines, by applying the standards prescribed by the Secretary under subsection (b), that an owner or operator of a commercial motor vehicle that has its principal place of business in that State and operates in intrastate commerce is unfit under such standards and prohibits the owner or operator from operating such vehicle in the State, the Secretary shall prohibit the owner or operator from operating such vehicle in interstate commerce until the State determines that the owner or operator is fit.”.

SEC. 4115. TRANSFER PROVISION.

49 USC 31136
note.

(a) IN GENERAL.—Title II of the Motor Carrier Safety Improvement Act of 1999 (113 Stat. 1748–1773) is amended by inserting after section 228—

(1) the following:

“SEC. 229. CERTAIN EXEMPTIONS.”;

and

(2) the text of section 345 of the National Highway System Designation Act of 1995 (49 U.S.C. 31136 note).

(b) CLERICAL AMENDMENT.—The table of contents for such Act is amended by inserting after the item relating to section 228 the following:

“Sec. 229. Certain exemptions.”.

49 USC 31136
note.

(c) CONFORMING AMENDMENT.—Section 229 of such Act (as added by this section) is amended by striking subsection (f).

(d) CONFORMING REPEAL.—Section 345 of the National Highway System Designation Act of 1995 (49 U.S.C. 31136 note; 109 Stat. 613) is repealed.

SEC. 4116. MEDICAL PROGRAM.

49 USC 31131.

(a) IN GENERAL.—Subchapter III of chapter 311 of title 49, United States Code, is amended by adding at the end the following:

“§ 31149. Medical program

“(a) MEDICAL REVIEW BOARD.—

“(1) ESTABLISHMENT AND FUNCTION.—The Secretary of Transportation shall establish a Medical Review Board to provide the Federal Motor Carrier Safety Administration with medical advice and recommendations on medical standards and guidelines for the physical qualifications of operators of commercial motor vehicles, medical examiner education, and medical research.

“(2) COMPOSITION.—The Medical Review Board shall be appointed by the Secretary and shall consist of 5 members selected from medical institutions and private practice. The membership shall reflect expertise in a variety of medical specialties relevant to the driver fitness requirements of the Federal Motor Carrier Safety Administration.

“(b) CHIEF MEDICAL EXAMINER.—The Secretary shall appoint a chief medical examiner who shall be an employee of the Federal Motor Carrier Safety Administration and who shall hold a position

under section 3104 of title 5, United States Code, relating to employment of specially qualified scientific and professional personnel, and shall be paid under section 5376 of title 5, United States Code, relating to pay for certain senior-level positions.

“(c) MEDICAL STANDARDS AND REQUIREMENTS.—

“(1) IN GENERAL.—The Secretary, with the advice of the Medical Review Board and the chief medical examiner, shall—

“(A) establish, review, and revise—

“(i) medical standards for operators of commercial motor vehicles that will ensure that the physical condition of operators of commercial motor vehicles is adequate to enable them to operate the vehicles safely; and

“(ii) requirements for periodic physical examinations of such operators performed by medical examiners who have, at a minimum, self-certified that they have completed training in physical and medical examination standards and are listed on a national registry maintained by the Department of Transportation;

“(B) require each such operator to have a current valid medical certificate;

“(C) conduct periodic reviews of a select number of medical examiners on the national registry to ensure that proper examinations of such operators are being conducted;

“(D) develop, as appropriate, specific courses and materials for medical examiners listed in the national registry established under this section, and require those medical examiners to, at a minimum, self-certify that they have completed specific training, including refresher courses, to be listed in the registry;

“(E) require medical examiners to transmit the name of the applicant and numerical identifier, as determined by the Administrator of the Federal Motor Carrier Safety Administration, for any completed medical examination report required under section 391.43 of title 49, Code of Federal Regulations, electronically to the chief medical examiner on monthly basis; and

“(F) periodically review a representative sample of the medical examination reports associated with the name and numerical identifiers of applicants transmitted under subparagraph (E) for errors, omissions, or other indications of improper certification.

“(2) MONITORING PERFORMANCE.—The Secretary shall investigate patterns of errors or improper certification by a medical examiner. If the Secretary finds that a medical examiner has issued a medical certificate to an operator of a commercial motor vehicle who fails to meet the applicable standards at the time of the examination or that a medical examiner has falsely claimed to have completed training in physical and medical examination standards as required by this section, the Secretary may remove such medical examiner from the registry and may void the medical certificate of the applicant or holder.

“(d) NATIONAL REGISTRY OF MEDICAL EXAMINERS.—The Secretary, acting through the Federal Motor Carrier Safety Administration—

Establishment.

“(1) shall establish and maintain a current national registry of medical examiners who are qualified to perform examinations and issue medical certificates;

“(2) shall remove from the registry the name of any medical examiner that fails to meet or maintain the qualifications established by the Secretary for being listed in the registry or otherwise does not meet the requirements of this section or regulation issued under this section;

“(3) shall accept as valid only medical certificates issued by persons on the national registry of medical examiners; and

“(4) may make participation of medical examiners in the national registry voluntary if such a change will enhance the safety of operators of commercial motor vehicles.

“(e) REGULATIONS.—The Secretary shall issue such regulations as may be necessary to carry out this section.”.

(b) MEDICAL EXAMINERS.—Section 31136(a)(3) of such title is amended to read as follows:

“(3) the physical condition of operators of commercial motor vehicles is adequate to enable them to operate the vehicles safely and the periodic physical examinations required of such operators are performed by medical examiners who have received training in physical and medical examination standards and, after the national registry maintained by the Department of Transportation under section 31149(d) is established, are listed on such registry; and”.

(c) DEFINITION OF MEDICAL EXAMINER.—Section 31132 of such title is amended—

(1) by redesignating paragraphs (6) through (10) as paragraphs (7) through (11), respectively; and

(2) by inserting after paragraph (5) the following:

“(6) ‘medical examiner’ means an individual licensed, certified, or registered in accordance with regulations issued by the Federal Motor Carrier Safety Administration as a medical examiner.”.

49 USC 31104
note.

(d) FUNDING.—Amounts made available pursuant to section 31104(i) of title 49, United States Code, shall be used by the Secretary to carry out section 31149 of title 49, United States Code.

(e) CLERICAL AMENDMENT.—The analysis for such subchapter is amended by inserting after the item relating to section 31148 the following:

“31149. Medical program.”.

49 USC 31149
note.

(f) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 365th day following the date of enactment of this Act.

SEC. 4117. SAFETY PERFORMANCE HISTORY SCREENING.

(a) IN GENERAL.—Subchapter III of chapter 311 of title 49, United States Code (as amended by section 4116 of this Act), is amended by adding at the end the following:

“§ 31150. Safety performance history screening

“(a) IN GENERAL.—The Secretary of Transportation shall provide persons conducting preemployment screening services for the motor carrier industry electronic access to the following reports contained in the Motor Carrier Management Information System:

“(1) Commercial motor vehicle accident reports.

“(2) Inspection reports that contain no driver-related safety violations.

“(3) Serious driver-related safety violation inspection reports.

“(b) CONDITIONS ON PROVIDING ACCESS.—Before providing a person access to the Motor Carrier Management Information System under subsection (a), the Secretary shall—

“(1) ensure that any information that is released to such person will be in accordance with the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) and all other applicable Federal law;

“(2) ensure that such person will not conduct a screening without the operator-applicant’s written consent;

“(3) ensure that any information that is released to such person will not be released to any person or entity, other than the motor carrier requesting the screening services or the operator-applicant, unless expressly authorized or required by law; and

“(4) provide a procedure for the operator-applicant to correct inaccurate information in the System in a timely manner.

“(c) DESIGN.—The process for providing access to the Motor Carrier Management Information System under subsection (a) shall be designed to assist the motor carrier industry in assessing an individual operator’s crash and serious safety violation inspection history as a preemployment condition. Use of the process shall not be mandatory and may only be used during the preemployment assessment of an operator-applicant.

“(d) SERIOUS DRIVER-RELATED SAFETY VIOLATION DEFINED.—In this section, the term ‘serious driver-related violation’ means a violation by an operator of a commercial motor vehicle that the Secretary determines will result in the operator being prohibited from continuing to operate a commercial motor vehicle until the violation is corrected.”

(b) CLERICAL AMENDMENT.—The analysis for such subchapter (as amended by section 4116 of this Act) is amended by adding at the end the following:

“31150. Safety performance history screening.”.

SEC. 4118. ROADABILITY.

(a) IN GENERAL.—Subchapter III of chapter 311 of title 49, United States Code (as amended by sections 4116 and 4117 of this Act) is amended by adding at the end the following:

“§ 31151. Roadability

“(a) INSPECTION, REPAIR, AND MAINTENANCE OF INTERMODAL EQUIPMENT.—

“(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Secretary of Transportation, after providing notice and opportunity for comment, shall issue regulations establishing a program to ensure that intermodal equipment used to transport intermodal containers is safe and systematically maintained.

Deadline.

“(2) INTERMODAL EQUIPMENT SAFETY REGULATIONS.—The Secretary shall issue the regulations under this section as a subpart of the Federal motor carrier safety regulations.

“(3) CONTENTS.—The regulations issued under this section shall include, at a minimum—

“(A) a requirement to identify intermodal equipment providers responsible for the inspection and maintenance of intermodal equipment that is interchanged or intended for interchange to motor carriers in intermodal transportation;

“(B) a requirement to match intermodal equipment readily to an intermodal equipment provider through a unique identifying number;

“(C) a requirement that an intermodal equipment provider identified under subparagraph (A) systematically inspect, repair, and maintain, or cause to be systematically inspected, repaired, and maintained, intermodal equipment described in subparagraph (A) that is intended for interchange with a motor carrier;

“(D) a requirement to ensure that each intermodal equipment provider identified under subparagraph (A) maintains a system of maintenance and repair records for such equipment;

“(E) requirements that—

“(i) a specific list of intermodal equipment components or items be identified for the visual or audible inspection of which a driver is responsible before operating the equipment over the road; and

“(ii) the inspection under clause (i) be conducted as part of the Federal requirement in effect on the date of enactment of this Act that a driver be satisfied that the intermodal equipment components are in good working order before the equipment is operated over the road;

“(F) a requirement that a facility at which an intermodal equipment provider regularly makes intermodal equipment available for interchange have an operational process and space readily available for a motor carrier to have an equipment defect identified pursuant to subparagraph (E) repaired or the equipment replaced prior to departure;

“(G) a program for the evaluation and audit of compliance by intermodal equipment providers with applicable Federal motor carrier safety regulations;

“(H) a civil penalty structure consistent with section 521(b) of title 49, United States Code, for intermodal equipment providers that fail to attain satisfactory compliance with applicable Federal motor carrier safety regulations; and

“(I) a prohibition on intermodal equipment providers from placing intermodal equipment in service on the public highways to the extent such providers or their equipment are found to pose an imminent hazard;

“(J) a process by which motor carriers and agents of motor carriers shall be able to request the Federal Motor Carrier Safety Administration to undertake an investigation of an intermodal equipment provider identified under subparagraph (A) that is alleged to be not in compliance with the regulations under this section;

“(K) a process by which equipment providers and agents of equipment providers shall be able to request the Administration to undertake an investigation of a motor

carrier that is alleged to be not in compliance with the regulations issued under this section;

“(L) a process by which a driver or motor carrier transporting intermodal equipment is required to report to the intermodal equipment provider or the provider’s designated agent any actual damage or defect in the intermodal equipment of which the driver or motor carrier is aware at the time the intermodal equipment is returned to the intermodal equipment provider or the provider’s designated agent;

“(M) a requirement that any actual damage or defect identified in the process established under subparagraph (L) be repaired before the equipment is made available for interchange to a motor carrier and that repairs of equipment made pursuant to the requirements of this subparagraph and reports made pursuant to the subparagraph (L) process be documented in the maintenance records for such equipment; and

“(N) a procedure under which motor carriers, drivers and intermodal equipment providers may seek correction of their motor carrier safety records through the deletion from those records of violations of safety regulations attributable to deficiencies in the intermodal chassis or trailer for which they should not have been held responsible.

“(4) DEADLINE FOR RULEMAKING PROCEEDING.—Not later than 120 days after the date of enactment of this section, the Secretary shall initiate a rulemaking proceeding for issuance of the regulations under this section.

“(b) INSPECTION, REPAIR, AND MAINTENANCE OF INTERMODAL EQUIPMENT.—The Secretary or an employee of the Department of Transportation designated by the Secretary may inspect intermodal equipment, and copy related maintenance and repair records for such equipment, on demand and display of proper credentials.

“(c) OUT-OF-SERVICE UNTIL REPAIR.—Any intermodal equipment that is determined under this section to fail to comply with applicable Federal safety regulations may be placed out of service by the Secretary or a Federal, State, or government official designated by the Secretary and may not be used on a public highway until the repairs necessary to bring such equipment into compliance have been completed. Repairs of equipment taken out of service shall be documented in the maintenance records for such equipment.

“(d) PREEMPTION GENERALLY.—Except as provided in subsection (e), a law, regulation, order, or other requirement of a State, a political subdivision of a State, or a tribal organization relating to commercial motor vehicle safety is preempted if such law, regulation, order, or other requirement exceeds or is inconsistent with a requirement imposed under or pursuant to this section.

“(e) PRE-EXISTING STATE REQUIREMENTS.—

“(1) IN GENERAL.—Except as provided in paragraph (2), a State requirement for the periodic inspection of intermodal chassis by intermodal equipment providers that was in effect on January 1, 2005, shall remain in effect only until the date on which requirements prescribed under this section take effect.

“(2) NONPREEMPTION DETERMINATIONS.—

“(A) IN GENERAL.—Notwithstanding subsection (d), a State requirement described in paragraph (1) is not preempted by a Federal requirement prescribed under this

section if the Secretary determines that the State requirement is as effective as the Federal requirement and does not unduly burden interstate commerce.

Deadline.

“(B) APPLICATION REQUIRED.—Subparagraph (A) applies to a State requirement only if the State applies to the Secretary for a determination under this paragraph with respect to the requirement before the date on which the regulations issued under this section take effect. The Secretary shall make a determination with respect to any such application within 6 months after the date on which the Secretary receives the application.

“(C) AMENDED STATE REQUIREMENTS.—Any amendment to a State requirement not preempted under this subsection because of a determination by the Secretary under subparagraph (A) may not take effect unless—

“(i) it is submitted to the Secretary before the effective date of the amendment; and

“(ii) the Secretary determines that the amendment would not cause the State requirement to be less effective than the Federal requirement and would not unduly burden interstate commerce.

“(f) DEFINITIONS.—In this section, the following definitions apply:

“(1) INTERMODAL EQUIPMENT.—The term ‘intermodal equipment’ means trailing equipment that is used in the intermodal transportation of containers over public highways in interstate commerce, including trailers and chassis.

“(2) INTERMODAL EQUIPMENT INTERCHANGE AGREEMENT.—The term ‘intermodal equipment interchange agreement’ means the Uniform Intermodal Interchange and Facilities Access Agreement or any other written document executed by an intermodal equipment provider or its agent and a motor carrier or its agent, the primary purpose of which is to establish the responsibilities and liabilities of both parties with respect to the interchange of the intermodal equipment.

“(3) INTERMODAL EQUIPMENT PROVIDER.—The term ‘intermodal equipment provider’ means any person that interchanges intermodal equipment with a motor carrier pursuant to a written interchange agreement or has a contractual responsibility for the maintenance of the intermodal equipment.

“(4) INTERCHANGE.—The term ‘interchange’—

“(A) means the act of providing intermodal equipment to a motor carrier pursuant to an intermodal equipment interchange agreement for the purpose of transporting the equipment for loading or unloading by any person or repositioning the equipment for the benefit of the equipment provider; but

“(B) does not include the leasing of equipment to a motor carrier for primary use in the motor carrier’s freight hauling operations.”.

(b) CLERICAL AMENDMENT.—The analysis for such subchapter (as amended by sections 4116 and 4117 of this Act) is amended by adding at the end the following:

“31151. Roadability.”.

SEC. 4119. INTERNATIONAL COOPERATION.

(a) IN GENERAL.—Chapter 311 of title 49, United States Code, is amended by adding at the end the following:

“SUBCHAPTER IV—MISCELLANEOUS

“§ 31161. International cooperation

“The Secretary of Transportation is authorized to use funds made available by section 31104(i) to participate and cooperate in international activities to enhance motor carrier, commercial motor vehicle, driver, and highway safety by such means as exchanging information, conducting research, and examining needs, best practices, and new technology.”.

(b) CLERICAL AMENDMENT.—The analysis for such chapter is amended by adding at the end the following:

“SUBCHAPTER IV—MISCELLANEOUS

“31161. International cooperation.”.

SEC. 4120. FINANCIAL RESPONSIBILITY FOR PRIVATE MOTOR CARRIERS.

(a) TRANSPORTATION OF PASSENGERS.—

(1) GENERAL REQUIREMENT.—Section 31138(a) of title 49, United States Code, is amended—

(A) by striking “for compensation”; and

(B) by inserting “commercial” before “motor vehicle”.

(2) OTHER PERSONS.—Section 31138(c) of such title is amended by adding at the end the following:

“(4) OTHER PERSONS.—The Secretary may require a person, other than a motor carrier (as defined in section 13102), transporting passengers by commercial motor vehicle to file with the Secretary the evidence of financial responsibility specified in subsection (c)(1) in an amount not less than the greater of the amount required by subsection (b)(1) or the amount required for such person to transport passengers under the laws of the State or States in which the person is operating; except that the amount of the financial responsibility must be sufficient to pay not more than the amount of the financial responsibility for each final judgment against the person for bodily injury to, or death of, an individual resulting from the negligent operation, maintenance, or use of the commercial motor vehicle, or for loss or damage to property, or both.”.

(b) TRANSPORTATION OF PROPERTY.—Section 31139 of such title is amended—

(1) in subsection (b)(1)—

(A) by striking “for compensation”; and

(B) by inserting “commercial” before “motor vehicle”;

(2) by redesignating subsections (c) through (g) as subsections (d) through (h), respectively; and

(3) by inserting after subsection (b) the following:

“(c) FILING OF EVIDENCE OF FINANCIAL RESPONSIBILITY.—The Secretary may require a motor private carrier (as defined in section 13102) to file with the Secretary the evidence of financial responsibility specified in subsection (b) in an amount not less than the greater of the minimum amount required by this section or the amount required for such motor private carrier to transport property under the laws of the State or States in which the motor private

carrier is operating; except that the amount of the financial responsibility must be sufficient to pay not more than the amount of the financial responsibility for each final judgment against the motor private carrier for bodily injury to, or death of, an individual resulting from negligent operation, maintenance, or use of the commercial motor vehicle, or for loss or damage to property, or both.”.

SEC. 4121. DEPOSIT OF CERTAIN CIVIL PENALTIES INTO HIGHWAY TRUST FUND.

Sections 31138(d)(5) and 31139(f)(5) of title 49, United States Code, are each amended by striking “Treasury as miscellaneous receipts” and inserting “Highway Trust Fund (other than the Mass Transit Account)”.

SEC. 4122. CDL LEARNER’S PERMIT PROGRAM.

Chapter 313 of title 49, United States Code, is amended—

(1) in section 31302 by inserting “and may have only one learner’s permit at any time” after “time”;

(2) in section 31308—

(A) by inserting after “license” the first place it appears “and learner’s permits”;

(B) by striking “licenses.” and inserting “licenses and permits.”;

(C) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(D) by inserting after paragraph (1) the following:

“(2) before a commercial driver’s license learner’s permit may be issued to an individual, the individual must pass a written test, that complies with the minimum standards prescribed by the Secretary under section 31305(a), on the operation of the commercial motor vehicle that the individual will be operating under the permit;”;

(E) in paragraphs (3) and (4) of section 31308 (as so redesignated) and in section 31309 (b) by inserting after “license” each place it appears “or learner’s permit”.

SEC. 4123. COMMERCIAL DRIVER’S LICENSE INFORMATION SYSTEM MODERNIZATION.

(a) MODERNIZATION PLAN.—Section 31309 of title 49, United States Code, is amended by adding at the end the following:

“(e) MODERNIZATION PLAN.—

“(1) IN GENERAL.—Not later than 120 days after the date of enactment of this subsection, the Secretary shall develop and publish a comprehensive national plan to modernize the information system under this section that—

“(A) complies with applicable Federal information technology security standards;

“(B) provides for the electronic exchange of all information including the posting of convictions;

“(C) contains self auditing features to ensure that data is being posted correctly and consistently by the States;

“(D) integrates the commercial driver’s license and the medical certificate; and

“(E) provides a schedule for modernization of the system.

“(2) CONSULTATION.—The plan shall be developed in consultation with representatives of the motor carrier industry,

Deadline.
Publication.

State safety enforcement agencies, and State licensing agencies designated by the Secretary.

“(3) STATE FUNDING OF FUTURE EFFORTS.—The plan shall specify that States will fund future efforts to modernize the commercial driver’s information system.

“(4) DEADLINE FOR STATE PARTICIPATION.—

“(A) IN GENERAL.—The Secretary shall establish in the plan a date by which all States must be operating commercial driver’s license information systems that are compatible with the modernized information system under this section.

“(B) FACTORS TO CONSIDER.—In establishing the date under subparagraph (A), the Secretary shall consider the following:

“(i) Availability and cost of technology and equipment needed to comply with subparagraph (A).

“(ii) Time necessary to install, and test the operation of, such technology and equipment.

“(5) IMPLEMENTATION.—The Secretary shall implement the plan developed under subsection (a) and modernize the information system under this section to meet the requirements of the plan.

“(f) FUNDING.—At the Secretary’s discretion, a State may use the funds made available to the State under section 31318 to modernize its commercial driver’s license information system to be compatible with the modernized information system under this section.”.

(b) STATE PARTICIPATIONS.—Section 31311(a) of such title is amended—

(1) in paragraph (15) by striking “(g)(1)(A), and (g)(2)” and inserting “(i)(1)(A) and (i)(2)”;

(2) in paragraph (17) by striking “section 31310(h)” and inserting “as 31310(j)”; and

(3) by adding at the end the following:

“(21) By the date established by the Secretary under section 31309(e)(4), the State shall be operating a commercial driver’s license information system that is compatible with the modernized commercial driver’s license information system under section 31309.”.

(c) GRANTS.—

(1) IN GENERAL.—The Secretary may make a grant to a State or organization representing agencies and officials of a State in a fiscal year to modernize the commercial driver’s license information system of the State to be compatible with the modernized commercial driver’s license information system under section 31309 of title 49, United States Code, if the State is in substantial compliance with the requirements of section 31311 of such title and this section, as determined by the Secretary.

(2) CRITERIA.—The Secretary shall establish criteria for the distribution of grants and notify each State annually of such criteria.

(3) USE OF GRANT.—A State may use a grant under this subsection only to implement improvements that are consistent with the modernization plan developed by the Secretary.

(4) GOVERNMENT SHARE.—A grant under this subsection to a State or organization may not be for more than 80 percent

49 USC 31309
note.

of the costs incurred by the State or organization in a fiscal year in modernizing the commercial driver's license information system of the State to be compatible with the modernized commercial driver's license information system under section 31309 of title 49, United States Code. In determining these costs, the Secretary shall include in-kind contributions of the State.

(d) FUNDING.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section—

- (1) \$5,000,000 for fiscal year 2006;
- (2) \$7,000,000 for fiscal year 2007;
- (3) \$8,000,000 for fiscal year 2008; and
- (4) \$8,000,000 for fiscal year 2009.

(e) CONTRACT AUTHORITY AND AVAILABILITY.—

(1) PERIOD OF AVAILABILITY.—The amounts made available under subsection (d) shall remain available until expended.

(2) INITIAL DATE OF AVAILABILITY.—Amounts authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) by subsection (d) shall be available for obligation on the date of their apportionment or allocation or on October 1 of the fiscal year for which they are authorized, whichever occurs first.

(3) CONTRACT AUTHORITY.—Approval by the Secretary of a grant with funds made available under subsection (d) imposes upon the United States a contractual obligation for payment of the Government's share of costs incurred in carrying out the objectives of the grant.

Deadline.

(f) BASELINE AUDIT.—Not later than 1 year after the date of enactment of this Act, the Secretary, in consultation with the Inspector General of the Department of Transportation, shall perform a baseline audit of the information system maintained under section 31309 of title 49, United States Code. The audit shall include—

- (1) an assessment of the validity of data in the information system on a State-by-State basis;
- (2) an assessment of the extent to which convictions are validly posted on a driver's record;
- (3) recommendations to the Secretary on how to update the baseline audit annually to ensure that any shortcomings in the information system are addressed, and a methodology for conducting the update;
- (4) identification, on a State-by-State basis, of any actions that the Inspector General finds necessary to improve the integrity of data collected by the system and to ensure the proper posting of convictions; and
- (5) an analysis of amounts and use of the revenues derived from fees charged for use of the commercial driver's license information system.

SEC. 4124. COMMERCIAL DRIVER'S LICENSE IMPROVEMENTS.

(a) STATE GRANTS.—Chapter 313 of title 49, United States Code, is amended by inserting after section 31312 the following:

“§ 31313. Grants for commercial driver’s license program improvements

“(a) GRANTS FOR COMMERCIAL DRIVER’S LICENSE PROGRAM IMPROVEMENTS.—

“(1) GENERAL AUTHORITY.—The Secretary of Transportation may make a grant to a State in a fiscal year—

“(A) to comply with the requirements of section 31311;

and

“(B) in the case of a State that is making a good faith effort toward substantial compliance with the requirements of section 31311 and this section, to improve its implementation of its commercial driver’s license program.

“(2) PURPOSES FOR WHICH GRANTS MAY BE USED.—

“(A) IN GENERAL.—A State may use grants under paragraphs (1)(A) and (1)(B) only for expenses directly related to its compliance with section 31311; except that a grant under paragraph (1)(B) may be used for improving implementation of the State’s commercial driver’s license program, including expenses for computer hardware and software, publications, testing, personnel, training, and quality control. The grant may not be used to rent, lease, or buy land or buildings.

“(B) PRIORITY.—In making grants under paragraph (1)(B), the Secretary shall give priority to States that will use such grants to achieve compliance with the requirements of the Motor Carrier Safety Improvement Act of 1999, including the amendments made by such Act.

“(3) APPLICATION.—In order to receive a grant under this section, a State shall submit an application for such grant that is in such form, and contains such information, as the Secretary may require. The application shall include the State’s assessment of its commercial driver’s license program.

“(4) MAINTENANCE OF EXPENDITURES.—The Secretary may make a grant to a State under this subsection only if the State agrees that the total expenditure of amounts of the State and political subdivisions of the State, exclusive of amounts from the United States, for the State’s commercial driver’s license program will be maintained at a level at least equal to the average level of that expenditure by the State and political subdivisions of the State for the last 2 fiscal years of the State ending before the date of enactment of this section.

“(5) GOVERNMENT SHARE.—The Secretary shall reimburse a State under a grant made under this subsection an amount that is not more than 100 percent of the costs incurred by the State in a fiscal year in complying with section 31311 and improving its implementation of its commercial driver’s license program. In determining such costs, the Secretary shall include in-kind contributions by the State. Amounts required to be expended by the State under paragraph (4) may not be included as part of the non-Federal share of such costs.

“(b) HIGH-PRIORITY ACTIVITIES.—

“(1) GRANTS FOR NATIONAL CONCERNS.—The Secretary may make a grant to a State agency, local government, or other person for 100 percent of the costs of research, development, demonstration projects, public education, and other special activities and projects relating to commercial driver licensing and motor vehicle safety that are of benefit to all jurisdictions

of the United States or are designed to address national safety concerns and circumstances.

“(2) FUNDING.—The Secretary may deduct up to 10 percent of the amounts made available to carry out this section for a fiscal year to make grants under this subsection.

“(c) EMERGING ISSUES.—The Secretary may designate up to 10 percent of the amounts made available to carry out this section for a fiscal year for allocation to a State agency, local government, or other person at the discretion of the Secretary to address emerging issues relating to commercial driver’s license improvements.

“(d) APPORTIONMENT.—Except as otherwise provided in subsection (c), all amounts made available to carry out this section for a fiscal year shall be apportioned to States according to criteria prescribed by the Secretary.”.

(b) CLERICAL AMENDMENT.—The analysis for such chapter is amended by inserting after the item relating to section 31312 the following:

“31313. Grants for commercial driver’s license program improvements.”.

(c) AMOUNTS WITHHELD.—Subsections (a) and (b) of section 31314 of such title are each amended by inserting “up to” after “withhold”.

SEC. 4125. HOBBS ACT.

(a) JURISDICTION OF COURT OF APPEALS OVER COMMERCIAL MOTOR VEHICLE SAFETY REGULATION AND OPERATORS AND MOTOR CARRIER SAFETY.—Section 2342(3)(A) of title 28, United States Code, is amended by inserting before “of title 49” the following: “, subchapter III of chapter 311, chapter 313, or chapter 315”.

(b) JUDICIAL REVIEW.—Section 351(a) of title 49, United States Code, is amended by striking “Federal Highway Administration” and inserting “Federal Motor Carrier Safety Administration”.

(c) AUTHORITY TO CARRY OUT CERTAIN TRANSFERRED DUTIES AND POWERS.—Section 352 of title 49, United States Code, is amended by striking “Federal Highway Administration” and inserting “Federal Motor Carrier Safety Administration”.

SEC. 4126. COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS DEPLOYMENT.

(a) IN GENERAL.—The Secretary shall carry out a commercial vehicle information systems and networks program to—

(1) improve the safety and productivity of commercial vehicles and drivers; and

(2) reduce costs associated with commercial vehicle operations and Federal and State commercial vehicle regulatory requirements.

(b) PURPOSE.—The program shall advance the technological capability and promote the deployment of intelligent transportation system applications for commercial vehicle operations, including commercial vehicle, commercial driver, and carrier-specific information systems and networks.

(c) CORE DEPLOYMENT GRANTS.—

(1) IN GENERAL.—The Secretary shall make grants to eligible States for the core deployment of commercial vehicle information systems and networks.

(2) AMOUNT OF GRANTS.—The maximum aggregate amount the Secretary may grant to a State for the core deployment

of commercial vehicle information systems and networks under this subsection and sections 5001(a)(5) and 5001(a)(6) of the Transportation Equity Act for the 21st Century (112 Stat. 420) may not exceed \$2,500,000.

(3) USE OF FUNDS.—Funds from a grant under this subsection may only be used for the core deployment of commercial vehicle information systems and networks. An eligible State that has either completed the core deployment of commercial vehicle information systems and networks or completed such deployment before grant funds are expended under this subsection may use the grant funds for the expanded deployment of commercial vehicle information systems and networks in the State.

(d) EXPANDED DEPLOYMENT GRANTS.—

(1) IN GENERAL.—For each fiscal year, from the funds remaining after the Secretary has made grants under subsection (c), the Secretary may make grants to each eligible State, upon request, for the expanded deployment of commercial vehicle information systems and networks.

(2) ELIGIBILITY.—Each State that has completed the core deployment of commercial vehicle information systems and networks in such State is eligible for an expanded deployment grant under this subsection.

(3) AMOUNT OF GRANTS.—Each fiscal year, the Secretary may distribute funds available for expanded deployment grants equally among the eligible States, but not to exceed \$1,000,000 per State.

(4) USE OF FUNDS.—A State may use funds from a grant under this subsection only for the expanded deployment of commercial vehicle information systems and networks.

(e) ELIGIBILITY.—To be eligible for a grant under this section, a State—

(1) shall have a commercial vehicle information systems and networks program plan approved by the Secretary that describes the various systems and networks at the State level that need to be refined, revised, upgraded, or built to accomplish deployment of core capabilities;

(2) shall certify to the Secretary that its commercial vehicle information systems and networks deployment activities, including hardware procurement, software and system development, and infrastructure modifications—

Certification.

(A) are consistent with the national intelligent transportation systems and commercial vehicle information systems and networks architectures and available standards; and

(B) promote interoperability and efficiency to the extent practicable; and

(3) shall agree to execute interoperability tests developed by the Federal Motor Carrier Safety Administration to verify that its systems conform with the national intelligent transportation systems architecture, applicable standards, and protocols for commercial vehicle information systems and networks.

(f) FEDERAL SHARE.—The Federal share of the cost of a project payable from funds made available to carry out this section shall not exceed 50 percent. The total Federal share of the cost of a project payable from all eligible Federal sources shall not exceed 80 percent.

(g) DEFINITIONS.—In this section, the following definitions apply:

(1) COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS.—The term “commercial vehicle information systems and networks” means the information systems and communications networks that provide the capability to—

(A) improve the safety of commercial motor vehicle operations;

(B) increase the efficiency of regulatory inspection processes to reduce administrative burdens by advancing technology to facilitate inspections and increase the effectiveness of enforcement efforts;

(C) advance electronic processing of registration information, driver licensing information, fuel tax information, inspection and crash data, and other safety information;

(D) enhance the safe passage of commercial motor vehicles across the United States and across international borders; and

(E) promote the communication of information among the States and encourage multistate cooperation and corridor development.

(2) COMMERCIAL MOTOR VEHICLE OPERATIONS.—The term “commercial motor vehicle operations”—

(A) means motor carrier operations and motor vehicle regulatory activities associated with the commercial motor vehicle movement of goods, including hazardous materials, and passengers; and

(B) with respect to the public sector, includes the issuance of operating credentials, the administration of motor vehicle and fuel taxes, and roadside safety and border crossing inspection and regulatory compliance operations.

(3) CORE DEPLOYMENT.—The term “core deployment” means the deployment of systems in a State necessary to provide the State with the following capabilities:

(A) Safety information exchange to—

(i) electronically collect and transmit commercial motor vehicle and driver inspection data at a majority of inspection sites in the State;

(ii) connect to the safety and fitness electronic records system for access to interstate carrier and commercial motor vehicle data, summaries of past safety performance, and commercial motor vehicle credentials information; and

(iii) exchange carrier data and commercial motor vehicle safety and credentials information within the State and connect to such system for access to interstate carrier and commercial motor vehicle data.

(B) Interstate credentials administration to—

(i) perform end-to-end processing, including carrier application, jurisdiction application processing, and credential issuance, of at least the international registration plan and international fuel tax agreement credentials and extend this processing to other credentials, including intrastate registration, vehicle titling,

oversize vehicle permits, overweight vehicle permits, carrier registration, and hazardous materials permits;

(ii) connect to such plan and agreement clearing-houses; and

(iii) have at least 10 percent of the credentialing transaction volume in the State handled electronically and have the capability to add more carriers and to extend to branch offices where applicable.

(C) Roadside electronic screening to electronically screen transponder-equipped commercial vehicles at a minimum of one fixed or mobile inspection site in the State and to replicate this screening at other sites in the State.

(4) EXPANDED DEPLOYMENT.—The term “expanded deployment” means the deployment of systems in a State that exceed the requirements of a core deployment of commercial vehicle information systems and networks, improve safety and the productivity of commercial motor vehicle operations, and enhance transportation security.

SEC. 4127. OUTREACH AND EDUCATION.

(a) IN GENERAL.—The Secretary shall conduct, through any combination of grants, contracts, or cooperative agreements, an outreach and education program to be administered by the Federal Motor Carrier Safety Administration and the National Highway Traffic Safety Administration.

(b) PROGRAM ELEMENTS.—The program shall include, at a minimum, the following:

(1) A program to promote a more comprehensive and national effort to educate commercial motor vehicle drivers and passenger vehicle drivers about how commercial motor vehicle drivers and passenger vehicle drivers can more safely share the road with each other.

(2) A program to promote enhanced traffic enforcement efforts aimed at reducing the incidence of the most common unsafe driving behaviors that cause or contribute to crashes involving commercial motor vehicles and passenger vehicles.

(3) A program to establish a public-private partnership to provide resources and expertise for the development and dissemination of information relating to sharing the road referred to in paragraphs (1) and (2) to each partner’s constituents and to the general public through the use of brochures, videos, paid and public advertisements, the Internet, and other media.

(c) FEDERAL SHARE.—The Federal share of a program or activity for which a grant is made under this section shall be 100 percent of the cost of such program or activity.

(d) ANNUAL REPORT.—The Secretary shall prepare and transmit to Congress an annual report on the programs and activities carried out under this section. The final annual report shall be submitted not later than September 30, 2009.

(e) FUNDING.—From amounts made available under section 31104(i) of title 49, United States Code, the Secretary shall make available \$1,000,000 to the Federal Motor Carrier Safety Administration, and \$3,000,000 to the National Highway Traffic Safety Administration, for each of fiscal years 2006, 2007, 2008, and 2009 to carry out this section (other than subsection (f)).

Reports.
Deadline.

(f) **STUDY.**—The Comptroller General shall update the Government Accountability Office’s evaluation of the “Share the Road Safely” program to determine if it has achieved reductions in the number and severity of commercial motor vehicle crashes, including reductions in the number of deaths and the severity of injuries sustained in these crashes and shall report its updated evaluation to Congress no later than June 30, 2006.

SEC. 4128. SAFETY DATA IMPROVEMENT PROGRAM.

Grants.

(a) **IN GENERAL.**—The Secretary shall make grants to States for projects and activities to improve the accuracy, timeliness, and completeness of commercial motor vehicle safety data reported to the Secretary.

(b) **ELIGIBILITY.**—A State shall be eligible for a grant under this section in a fiscal year if the Secretary determines that the State has—

(1) conducted a comprehensive audit of its commercial motor vehicle safety data system within the preceding 2 years;

(2) developed a plan that identifies and prioritizes its commercial motor vehicle safety data needs and goals; and

(3) identified performance-based measures to determine progress toward those goals.

(c) **FEDERAL SHARE.**—The Federal share of a grant under this section shall be 80 percent of the cost of the activities for which the grant is made.

(d) **BIENNIAL REPORT.**—Not later than 2 years after the date of enactment of this Act, and biennially thereafter, the Secretary shall transmit to Congress a report on the activities and results of the program carried out under this section, together with any recommendations the Secretary determines appropriate.

SEC. 4129. OPERATION OF COMMERCIAL MOTOR VEHICLES BY INDIVIDUALS WHO USE INSULIN TO TREAT DIABETES MELLITUS.

Deadline.

(a) **REVISION OF FINAL RULE.**—Not later than 90 days after the date of the enactment of this Act, the Secretary shall begin revising the final rule published in the Federal Register on September 3, 2003, relating to persons with diabetes, to allow individuals who use insulin to treat their diabetes to operate commercial motor vehicles in interstate commerce. The revised final rule shall provide for the individual assessment of applicants who use insulin to treat their diabetes and who are, except for their use of insulin, otherwise qualified under the Federal motor carrier safety regulations. The revised final rule shall be consistent with the criteria described in section 4018 of the Transportation Equity Act for the 21st Century (49 U.S.C. 31305 note) and shall conclude the rulemaking process in the Federal Motor Carrier Safety Administration docket relating to qualifications of drivers with diabetes.

Applicability.

(b) **NO PERIOD OF COMMERCIAL DRIVING WHILE USING INSULIN REQUIRED FOR QUALIFICATION.**—After the earlier of the date of issuance of the revised final rule under subsection (a) or the 90th day following the date of enactment of this Act, the Secretary may not require individuals with insulin-treated diabetes mellitus who are applying for an exemption from the physical qualification standards to have experience operating commercial motor vehicles while using insulin in order to be exempted from the physical qualification standards to operate a commercial motor vehicle in interstate commerce.

(c) **MINIMUM PERIOD OF INSULIN USE.**—Subject to subsection (b), the Secretary shall require individuals with insulin-treated diabetes mellitus to have a minimum period of insulin use to demonstrate stable control of diabetes before operating a commercial motor vehicle in interstate commerce. Such demonstration shall be consistent with the findings reported in July 2000, by the expert medical panel established by the Secretary, in “A Report to Congress on the Feasibility of a Program to Qualify Individuals with Insulin-Treated Diabetes Mellitus to Operate Commercial Motor Vehicles in Interstate Commerce as Directed by the Transportation Equity Act for the 21st Century”. For individuals who have been newly diagnosed with type 1 diabetes, the minimum period of insulin use may not exceed 2 months, unless directed by the treating physician. For individuals who have type 2 diabetes and are converting to insulin use, the minimum period of insulin use may not exceed 1 month, unless directed by the treating physician.

(d) **LIMITATIONS.**—Insulin-treated individuals may not be held by the Secretary to a higher standard of physical qualification in order to operate a commercial motor vehicle in interstate commerce than other individuals applying to operate, or operating, a commercial motor vehicle in interstate commerce; except to the extent that limited operating, monitoring, and medical requirements are deemed medically necessary under regulations issued by the Secretary.

SEC. 4130. OPERATORS OF VEHICLES TRANSPORTING AGRICULTURAL COMMODITIES AND FARM SUPPLIES.

(a) **AGRICULTURAL EXEMPTION.**—Section 229(a)(1) of the Federal Motor Carrier Safety Improvement Act of 1999 (as added by section 4115 of this Act), is amended to read as follows:

49 USC 31136
note.

“(1) **TRANSPORTATION OF AGRICULTURAL COMMODITIES AND FARM SUPPLIES.**—Regulations prescribed by the Secretary under sections 31136 and 31502 regarding maximum driving and on-duty time for drivers used by motor carriers shall not apply during planting and harvest periods, as determined by each State, to drivers transporting agricultural commodities or farm supplies for agricultural purposes in a State if such transportation is limited to an area within a 100 air mile radius from the source of the commodities or the distribution point for the farm supplies.”.

(b) **REVIEW BY THE SECRETARY.**—Section 229(c) of such Act is amended by striking “paragraph (2)” and inserting “paragraph (1), (2), or (4)”.

(c) **DEFINITIONS.**—Section 229(e) of such Act is amended by adding at the end the following:

“(7) **AGRICULTURAL COMMODITY.**—The term ‘agricultural commodity’ means any agricultural commodity, non-processed food, feed, fiber, or livestock (including livestock as defined in section 602 of the Emergency Livestock Feed Assistance Act of 1988 (7 U.S.C. 1471) and insects).

“(8) **FARM SUPPLIES FOR AGRICULTURAL PURPOSES.**—The term ‘farm supplies for agricultural purposes’ means products directly related to the growing or harvesting of agricultural commodities during the planting and harvesting seasons within each State, as determined by the State, and livestock feed at any time of the year.”.

SEC. 4131. MAXIMUM HOURS OF SERVICE FOR OPERATORS OF GROUND WATER WELL DRILLING RIGS.

49 USC 31136 note. Section 229(a)(2) of the Motor Carrier Safety Improvement Act of 1999 (as added by section 4115 of this Act), is amended by adding at the end the following: “Except as required in section 395.3 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this sentence, no additional off-duty time shall be required in order to operate such vehicle.”.

SEC. 4132. HOURS OF SERVICE FOR OPERATORS OF UTILITY SERVICE VEHICLES.

49 USC 31136 note. Section 229 of the Federal Motor Carrier Safety Improvements Act of 1999 (as added by section 4115 of this Act), is amended—
(1) in subsection (a) by striking paragraph (4) and inserting the following:

“(4) OPERATORS OF UTILITY SERVICE VEHICLES.—

“(A) INAPPLICABILITY OF FEDERAL REGULATIONS.—Such regulations shall not apply to a driver of a utility service vehicle.

“(B) PROHIBITION ON STATE REGULATIONS.—A State, a political subdivision of a State, an interstate agency, or other entity consisting of two or more States, shall not enact or enforce any law, rule, regulation, or standard that imposes requirements on a driver of a utility service vehicle that are similar to the requirements contained in such regulations.”; and

(2) in subsection (b) by striking “Nothing” and inserting “Except as provided in subsection (a)(4), nothing”.

49 USC 31136 note.

SEC. 4133. HOURS OF SERVICE RULES FOR OPERATORS PROVIDING TRANSPORTATION TO MOVIE PRODUCTION SITES.

Notwithstanding sections 31136 and 31502 of title 49, United States Code, and any other provision of law, the maximum daily hours of service for an operator of a commercial motor vehicle providing transportation of property or passengers to or from a theatrical or television motion picture production site located within a 100 air mile radius of the work reporting location of such operator shall be those in effect under the regulations in effect under such sections on April 27, 2003.

49 USC 31301 note.

SEC. 4134. GRANT PROGRAM FOR COMMERCIAL MOTOR VEHICLE OPERATORS.

(a) ESTABLISHMENT.—The Secretary shall establish a grant program for persons to train operators of commercial motor vehicles (as defined in section 31301 of title 49, United States Code). The purpose of the program shall be to train operators and future operators in the safe use of such vehicles.

(b) FEDERAL SHARE.—The Federal share of the cost for which a grant is made under this section shall be 80 percent.

(c) FUNDING.—From amounts made available under section 31104(i) of title 49, United States Code, the Secretary shall make available \$1,000,000 for each of fiscal years 2005 through 2009 to carry out this section.

49 USC 31301 note.

SEC. 4135. CDL TASK FORCE.

(a) IN GENERAL.—The Secretary shall convene a task force to study and address current impediments and foreseeable challenges to the commercial driver’s license program’s effectiveness

and measures needed to realize the full safety potential of the commercial driver's license program, including such issues as—

- (1) State enforcement practices;
- (2) operational procedures to detect and deter fraud;
- (3) needed improvements for seamless information sharing between States;
- (4) effective methods for accurately sharing electronic data between States;
- (5) adequate proof of citizenship;
- (6) updated technology; and
- (7) timely notification from judicial bodies concerning traffic and criminal convictions of commercial driver's license holders.

(b) **MEMBERSHIP.**—Members of the task force should include State motor vehicle administrators, organizations representing government agencies or officials, members of the Judicial Conference, representatives of the trucking industry, representatives of labor organizations, safety advocates, and other significant stakeholders.

(c) **REPORT.**—Not later than 2 years after the date of enactment of this Act, the Secretary, on behalf of the task force, shall complete a report of the task forces findings and recommendations for legislative, regulatory, and enforcement changes to improve the commercial drivers license program and submit such the report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(d) **FUNDING.**—From the funds amounts made available by section 4101(c)(1), \$200,000 shall be available for each of fiscal years 2006 and 2007 to carry out this section.

SEC. 4136. INTERSTATE VAN OPERATIONS.

49 USC 31136
note.

The Federal motor carrier safety regulations that apply to interstate operations of commercial motor vehicles designed to transport between 9 and 15 passengers (including the driver) shall apply to all interstate operations of such carriers regardless of the distance traveled.

SEC. 4137. DECALS.

The Commercial Vehicle Safety Alliance may not restrict the sale of any inspection decal to the Federal Motor Carrier Safety Administration unless the Administration fails to meet its responsibilities under its memorandum of understanding with the Alliance (other than a failure due to the Administration's compliance with Federal law).

SEC. 4138. HIGH RISK CARRIER COMPLIANCE REVIEWS.

49 USC 31144
note.

From the funds authorized by section 31104(i) of title 49, United States Code, the Secretary shall ensure that compliance reviews are completed on motor carriers that have demonstrated through performance data that they pose the highest safety risk. At a minimum, a compliance review shall be conducted whenever a motor carrier is rated as category A or B for 2 consecutive months.

SEC. 4139. FOREIGN COMMERCIAL MOTOR VEHICLES.

(a) **OPERATING AUTHORITY ENFORCEMENT ASSISTANCE FOR STATES.**—

49 USC 31100
note.

(1) **TRAINING AND OUTREACH.**—Not later than 180 days after the date of enactment of this Act, the Administrator

Deadline.

of the Federal Motor Carrier Safety Administration shall conduct outreach and provide training as necessary to State personnel engaged in the enforcement of Federal motor carrier safety regulations to ensure their awareness of the process to be used for verification of the operating authority of motor carriers, including motor carriers of passengers, and to ensure proper enforcement when motor carriers are found to be in violation of operating authority requirements.

(2) ASSESSMENT.—The Inspector General of the Department of Transportation may periodically assess the implementation and effectiveness of the training and outreach program.

(b) STUDY OF FOREIGN COMMERCIAL MOTOR VEHICLES.—

Deadline.

(1) REVIEW.—Not later than 1 year after the date of enactment of this Act, the Administrator shall conduct a review to determine the degree to which Canadian and Mexican commercial motor vehicles, including motor carriers of passengers, currently operating or expected to operate in the United States comply with the Federal motor vehicle safety standards.

(2) REPORTS.—Not later than 1 year after the date of enactment, the Administrator shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives containing the findings and conclusions of the review. Not later than 4 months after the date on which the report is submitted to the Committees, the Inspector General of the Department shall provide comments and observations to the Committees on the scope and methodology of the review.

SEC. 4140. SCHOOL BUS DRIVER QUALIFICATIONS AND ENDORSEMENT KNOWLEDGE TEST.

(a) RECOGNITION OF TEST.—The Secretary shall recognize any driver who passes a test approved by the Federal Motor Carrier Safety Administration as meeting the knowledge test requirement for a school bus endorsement under section 383.123 of title 49, Code of Federal Regulations.

Effective date.
Termination
date.

(b) DRIVER QUALIFICATIONS.—Section 383.123 of such title (as in effect on the date of enactment of this Act) shall not be in effect during the period beginning on the date of enactment of this Act and ending on September 30, 2006.

SEC. 4141. DRIVEAWAY SADDLEMOUNT VEHICLES.

(a) DEFINITION.—Section 31111(a) title 49, United States Code, is amended by adding at the end the following:

“(4) DRIVE-AWAY SADDLEMOUNT WITH FULLMOUNT VEHICLE TRANSPORTER COMBINATION.—The term ‘drive-away saddlemount with fullmount vehicle transporter combination’ means a vehicle combination designed and specifically used to tow up to 3 trucks or truck tractors, each connected by a saddle to the frame or fifth-wheel of the forward vehicle of the truck or truck tractor in front of it.”.

(b) GENERAL LIMITATIONS.—Section 31111(b)(1) of such title is amended—

(1) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively; and

(2) by inserting after subparagraph (C) the following:

“(D) imposes a vehicle length limitation of not less than or more than 97 feet on a driveway saddlemount with fullmount vehicle transporter combinations;”.

SEC. 4142. REGISTRATION OF MOTOR CARRIERS AND FREIGHT FORWARDERS.

(a) **DEFINITIONS RELATING TO MOTOR CARRIERS.**—Paragraphs (6), (7), (12), and (13) of section 13102 of title 49, United States Code, are each amended by striking “motor vehicle” and inserting “commercial motor vehicle (as defined in section 31132)”.

(b) **FREIGHT FORWARDERS.**—Section 13903(a) of such title is amended—

(1) by striking “The Secretary” and inserting the following:

“(1) **HOUSEHOLD GOODS.**—The Secretary”;

(2) by inserting “of household goods” after “freight forwarder”; and

(3) by adding at the end the following:

“(2) **OTHERS.**—The Secretary may register a person to provide service subject to jurisdiction under subchapter III of chapter 135 as a freight forwarder (other than a freight forwarder of household goods) if the Secretary finds that such registration is needed for the protection of shippers and that the person is fit, willing, and able to provide the service and to comply with this part and applicable regulations of the Secretary and Board.”.

(c) **BROKERS.**—Section 13904(a) of such title is amended—

(1) by striking “The Secretary” and inserting the following:

“(1) **HOUSEHOLD GOODS.**—The Secretary”;

(2) by inserting “of household goods” after “broker”; and

(3) by adding at the end the following:

“(2) **OTHERS.**—The Secretary may register a person to provide service subject to jurisdiction under subchapter III of chapter 135 as a broker (other than a broker of household goods) if the Secretary finds that such registration is needed for the protection of shippers and that the person is fit, willing, and able to provide the service and to comply with this part and applicable regulations of the Secretary and Board.”.

SEC. 4143. AUTHORITY TO STOP COMMERCIAL MOTOR VEHICLES.

(a) **IN GENERAL.**—Chapter 2 of title 18, United States Code, is amended by adding at the end the following:

“§ 39. Commercial motor vehicles required to stop for inspections

“(a) A driver of a commercial motor vehicle (as defined in section 31132 of title 49) shall stop and submit to inspection of the vehicle, driver, cargo, and required records when directed to do so by an authorized employee of the Federal Motor Carrier Safety Administration of the Department of Transportation, at or in the vicinity of an inspection site. The driver shall not leave the inspection site until authorized to do so by an authorized employee.

“(b) A driver of a commercial motor vehicle, as defined in subsection (a), who knowingly fails to stop for inspection when directed to do so by an authorized employee of the Administration at or in the vicinity of an inspection site, or leaves the inspection site without authorization, shall be fined under this title or imprisoned not more than 1 year, or both.”.

Penalty.

(b) **AUTHORITY OF FMCSA.**—Chapter 203 of such title is amended by adding at the end the following:

“§ 3064. Powers of Federal Motor Carrier Safety Administration

“Authorized employees of the Federal Motor Carrier Safety Administration may direct a driver of a commercial motor vehicle (as defined in section 31132 of title 49) to stop for inspection of the vehicle, driver, cargo, and required records at or in the vicinity of an inspection site.”.

(c) **CLERICAL AMENDMENTS.**—

(1) The analysis for chapter 2 of such title is amended by inserting after the item relating to section 38 the following:

“39. Commercial motor vehicles required to stop for inspections.”.

(2) The analysis for chapter 203 of such title is amended by inserting after the item relating to section 3063 the following:

“3064. Powers of Federal Motor Carrier Safety Administration.”.

49 USC 31100
note.

SEC. 4144. MOTOR CARRIER SAFETY ADVISORY COMMITTEE.

(a) **ESTABLISHMENT AND DUTIES.**—The Secretary shall establish in the Federal Motor Carrier Safety Administration a motor carrier safety advisory committee. The committee shall—

(1) provide advice and recommendations to the Administrator of the Federal Motor Carrier Safety Administration about needs, objectives, plans, approaches, content, and accomplishments of the motor carrier safety programs carried out by the Administration; and

(2) provide advice and recommendations to the Administrator on motor carrier safety regulations.

(b) **MEMBERS, CHAIRMAN, PAY, AND EXPENSES.**—

(1) **IN GENERAL.**—The committee shall be composed of not more than 20 members appointed by the Administrator from among individuals who are not employees of the Administration and who are specially qualified to serve on the committee because of their education, training, or experience. The members shall include representatives of the motor carrier industry, safety advocates, and safety enforcement officials. Representatives of a single enumerated interest group may not constitute a majority of the members of the advisory committee.

(2) **CHAIRMAN.**—The Administrator shall designate the chairman of the committee.

(3) **PAY.**—A member of the committee shall serve without pay; except that the Administrator may allow a member, when attending meetings of the committee or a subcommittee of the committee, expenses authorized under section 5703 of title 5, relating to per diem, travel, and transportation expenses.

(c) **SUPPORT STAFF, INFORMATION, AND SERVICES.**—The Administrator shall provide support staff for the committee. On request of the committee, the Administrator shall provide information, administrative services, and supplies that the Administrator considers necessary for the committee to carry out its duties and powers.

(d) **TERMINATION DATE.**—Notwithstanding the Federal Advisory Committee Act (5 U.S.C. App.), the advisory committee shall terminate on September 30, 2010.

SEC. 4145. TECHNICAL CORRECTIONS.

(a) INTERMODAL TRANSPORTATION ADVISORY BOARD.—Section 5502(b) of title 49, United States Code, is amended—

(1) by striking “and” at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting “; and”; and

(3) by adding at the end the following:

“(6) the Federal Motor Carrier Safety Administration.”.

(b) REFERENCE TO AGENCY.—Section 31502(e) of such title is amended—

(1) in paragraph (2) by striking “Regional Director of the Federal Highway Administration” and inserting “Field Administrator of the Federal Motor Carrier Safety Administration”; and

(2) in paragraph (3) by striking “Regional Director” and inserting “Field Administrator”.

SEC. 4146. EXEMPTION DURING HARVEST PERIODS.

Regulations issued by the Secretary under sections 31136 and 31502 of title 49, United States Code, regarding maximum driving and on-duty time for a driver used by a motor carrier, shall not apply, beginning on the date of enactment of this Act and ending at the end of fiscal year 2009, for the transportation of grapes west of Interstate 81 in the State of New York if such transportation—

(1) is during a harvesting period, as determined by the State; and

(2) is limited to a 150-air mile radius from where the grapes are picked or distributed.

Grapes.
Applicability.
Effective date.
Termination
date.
New York.

SEC. 4147. EMERGENCY CONDITION REQUIRING IMMEDIATE RESPONSE.

Section 229 of the Motor Carrier Safety Improvement Act of 1999 (as added and amended by section 4115 of this Act) is amended by adding at the end the following:

“(f) EMERGENCY CONDITION REQUIRING IMMEDIATE RESPONSE.—

“(1) PROPANE OR PIPELINE EMERGENCY.—A regulation prescribed under section 31136 or 31502 of title 49, United States Code, shall not apply to a driver of a commercial motor vehicle which is used primarily in the transportation of propane winter heating fuel or a driver of a motor vehicle used to respond to a pipeline emergency if such regulations would prevent the driver from responding to an emergency condition requiring immediate response.

“(2) DEFINITION.—An emergency condition requiring immediate response is any condition that, if left unattended, is reasonably likely to result in immediate serious bodily harm, death, or substantial damage to property. In the case of propane such conditions shall include (but are not limited to) the detection of gas odor, the activation of carbon monoxide alarms, the detection of carbon monoxide poisoning, and any real or suspected damage to a propane gas system following a severe storm or flooding. An ‘emergency condition requiring an immediate response’ does not include requests to re-fill empty gas tanks. In the case of pipelines such conditions include (but are not limited to) indication of an abnormal pressure event, leak, release or rupture.”.

49 USC 31136
note.

SEC. 4148. SUBSTANCE ABUSE PROFESSIONALS.

The Secretary shall conduct a rulemaking to permit a State licensed or certified marriage and family therapist, to act as a substance abuse professional under subpart O of part 40 of title 49, Code of Federal Regulations.

SEC. 4149. OFFICE OF INTERMODALISM.

Section 5503 of title 49, United States Code, is amended—

(1) in subsection (e) by inserting “Amounts reserved under section 5504(d) not awarded to States as grants may be used by the Director to provide technical assistance under this subsection.” after “organizations.”;

(2) by redesignating subsection (f) as subsection (h); and

(3) by inserting after subsection (e) the following:

“(f) NATIONAL INTERMODAL SYSTEM IMPROVEMENT PLAN.—

“(1) IN GENERAL.—The Director, in consultation with the advisory board established under section 5502 and other public and private transportation interests, shall develop a plan to improve the national intermodal transportation system. The plan shall include—

“(A) an assessment and forecast of the national intermodal transportation system’s impact on mobility, safety, energy consumption, the environment, technology, international trade, economic activity, and quality of life in the United States;

“(B) an assessment of the operational and economic attributes of each passenger and freight mode of transportation and the optimal role of each mode in the national intermodal transportation system;

“(C) a description of recommended intermodal and multimodal research and development projects;

“(D) a description of emerging trends that have an impact on the national intermodal transportation system;

“(E) recommendations for improving intermodal policy, transportation decision-making, and financing to maximize mobility and the return on investment of Federal spending on transportation;

“(F) an estimate of the impact of current Federal and State transportation policy on the national intermodal transportation system; and

“(G) specific near and long-term goals for the national intermodal transportation system.

“(2) PROGRESS REPORTS.—The Director shall submit an initial report on the plan to improve the national intermodal transportation system 2 years after the date of enactment of the Surface Transportation Safety Improvement Act of 2005, and a follow-up report 2 years after that, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives. The progress report shall—

“(A) describe progress made toward achieving the plan’s goals;

“(B) describe challenges and obstacles to achieving the plan’s goals;

“(C) update the plan to reflect changed circumstances or new developments; and

“(D) make policy and legislative recommendations the Director believes are necessary and appropriate to achieve the goals of the plan.

“(3) PLAN DEVELOPMENT FUNDING.—Such sums as may be necessary from the administrative expenses of the Research and Innovative Technology Administration shall be reserved by the Secretary of Transportation each year for the purpose of completing and updating the plan to improve the national intermodal transportation plan.

“(g) IMPACT MEASUREMENT METHODOLOGY; IMPACT REVIEW.—The Director and the Director of the Bureau of Transportation Statistics shall jointly—

“(1) develop, in consultation with the modal administrations, and State and local planning organizations, common measures to compare transportation investment decisions across the various modes of transportation; and

“(2) formulate a methodology for measuring the impact of intermodal transportation on—

“(A) the environment;

“(B) public health and welfare;

“(C) energy consumption;

“(D) the operation and efficiency of the transportation system;

“(E) congestion, including congestion at the Nation’s ports; and

“(F) the economy and employment.

“(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Transportation such sums as may be necessary for fiscal years 2006 through 2009 to carry out this chapter.”.

Subtitle B—Household Goods Transportation

SEC. 4201. SHORT TITLE.

This subtitle may be cited as the “Household Goods Mover Oversight Enforcement and Reform Act of 2005”

SEC. 4202. DEFINITIONS; APPLICATION OF PROVISIONS.

(a) TERMS USED IN THIS CHAPTER.—In this subtitle, the terms “carrier”, “household goods”, “motor carrier”, “Secretary”, and “transportation” have the meaning given to such terms in section 13102 of title 49, United States Code.

(b) HOUSEHOLD GOODS MOTOR CARRIER AND INDIVIDUAL SHIPPER IN PART B OF SUBTITLE IV OF TITLE 49.—Section 13102 of title 49, United States Code (as amended by section 4141 of this Act) is amended by redesignating paragraphs (12) through (24) as paragraphs (14) through (26) and by inserting after paragraph (11) the following:

“(12) HOUSEHOLD GOODS MOTOR CARRIER.—

“(A) IN GENERAL.—The term ‘household goods motor carrier’ means a motor carrier that, in the ordinary course of its business of providing transportation of household goods, offers some or all of the following additional services:

“(i) Binding and nonbinding estimates.

“(ii) Inventorying.

Household Goods
Mover Oversight
Enforcement
and Reform Act
of 2005.
49 USC 10101
note.

49 USC 13102
note.

“(iii) Protective packing and unpacking of individual items at personal residences.

“(iv) Loading and unloading at personal residences.

“(B) INCLUSION.—The term includes any person that is considered to be a household goods motor carrier under regulations, determinations, and decisions of the Federal Motor Carrier Safety Administration that are in effect on the date of enactment of the Household Goods Mover Oversight Enforcement and Reform Act of 2005.

“(C) LIMITED SERVICE EXCLUSION.—The term does not include a motor carrier when the motor carrier provides transportation of household goods in containers or trailers that are entirely loaded and unloaded by an individual (other than an employee or agent of the motor carrier).

“(13) INDIVIDUAL SHIPPER.—The term ‘individual shipper’ means any person who—

“(A) is the shipper, consignor, or consignee of a household goods shipment;

“(B) is identified as the shipper, consignor, or consignee on the face of the bill of lading;

“(C) owns the goods being transported; and

“(D) pays his or her own tariff transportation charges.”.

49 USC 13102
note.

(c) APPLICATION OF CERTAIN PROVISIONS OF LAW.—The provisions of title 49, United States Code, and this subtitle (including any amendments made by this subtitle), that relate to the transportation of household goods apply only to a household goods motor carrier (as defined in section 13102 of title 49, United States Code).

SEC. 4203. PAYMENT OF RATES.

Section 13707(b) of title 49, United States Code, is amended by adding at the end the following:

“(3) SHIPMENTS OF HOUSEHOLD GOODS.—

“(A) IN GENERAL.—A carrier providing transportation of a shipment of household goods shall give up possession of the household goods being transported at the destination upon payment of—

“(i) 100 percent of the charges contained in a binding estimate provided by the carrier;

“(ii) not more than 110 percent of the charges contained in a nonbinding estimate provided by the carrier; or

“(iii) in the case of a partial delivery of the shipment, the prorated percentage of the charges calculated in accordance with subparagraph (B).

“(B) CALCULATION OF PRORATED CHARGES.—For purposes of subparagraph (A)(iii), the prorated percentage of the charges shall be the percentage of the total charges due to the carrier as described in clause (i) or (ii) of subparagraph (A) that is equal to the percentage of the weight of that portion of the shipment delivered to the total weight of the shipment.

“(C) POST-CONTRACT SERVICES.—Subparagraph (A) does not apply to additional services requested by a shipper after the contract of service is executed that were not included in the estimate.

“(D) IMPRACTICABLE OPERATIONS.—Subparagraph (A) does not apply to impracticable operations, as defined by

the applicable carrier tariff, except that the charges collected at delivery for such operations shall not exceed 15 percent of all other charges due at delivery. Any remaining charges due shall be paid within 30 days after the carrier presents its freight bill.”.

Deadline.

SEC. 4204. ADDITIONAL REGISTRATION REQUIREMENTS FOR MOTOR CARRIERS OF HOUSEHOLD GOODS.

Section 13902(a) of title 49, United States Code, is amended—

- (1) by striking paragraphs (2) and (3);
- (2) by redesignating paragraph (4) as paragraph (5);
- (3) by inserting after paragraph (1) the following:

“(2) **ADDITIONAL REGISTRATION REQUIREMENTS FOR HOUSEHOLD GOODS MOTOR CARRIERS.**—In addition to meeting the requirements of paragraph (1), the Secretary may register a person to provide transportation of household goods as a household goods motor carrier only after that person—

“(A) provides evidence of participation in an arbitration program and provides a copy of the notice of the arbitration program as required by section 14708(b)(2);

“(B) identifies its tariff and provides a copy of the notice of the availability of that tariff for inspection as required by section 13702(c);

“(C) provides evidence that it has access to, has read, is familiar with, and will observe all applicable Federal laws relating to consumer protection, estimating, consumers’ rights and responsibilities, and options for limitations of liability for loss and damage; and

“(D) discloses any relationship involving common stock, common ownership, common management, or common familial relationships between that person and any other motor carrier, freight forwarder, or broker of household goods within 3 years of the proposed date of registration.

“(3) **CONSIDERATION OF EVIDENCE; FINDINGS.**—The Secretary shall consider, and to the extent applicable, make findings on any evidence demonstrating that the registrant is unable to comply with any applicable requirement of paragraph (1) or, in the case of a registrant to which paragraph (2) applies, paragraph (1) or (2).

“(4) **WITHHOLDING.**—If the Secretary determines that a registrant under this section does not meet, or is not able to meet, any requirement of paragraph (1) or, in the case of a registrant to which paragraph (2) applies, paragraph (1) or (2), the Secretary shall withhold registration.”; and

(4) by adding at the end of paragraph (5) (as redesignated by paragraph (2) of this section) “In the case of a registration for the transportation of household goods as a household goods motor carrier, the Secretary may also hear a complaint on the ground that the registrant fails or will fail to comply with the requirements of paragraph (2) of this subsection.”.

SEC. 4205. HOUSEHOLD GOODS CARRIER OPERATIONS.

Section 14104(b) of title 49, United States Code, is amended—

- (1) by redesignating paragraph (2) as paragraph (3); and
- (2) by striking paragraph (1) and inserting the following:

“(1) **REQUIRED TO BE IN WRITING.**—

“(A) IN GENERAL.—Except as otherwise provided in this subsection, every motor carrier providing transportation of household goods described in section 13102(10)(A) as a household goods motor carrier and subject to jurisdiction under subchapter I of chapter 135 shall conduct a physical survey of the household goods to be transported on behalf of a prospective individual shipper and shall provide the shipper with a written estimate of charges for the transportation and all related services.

“(B) WAIVER.—A shipper may elect to waive a physical survey under this paragraph by written agreement signed by the shipper before the shipment is loaded. A copy of the waiver agreement must be retained as an addendum to the bill of lading and shall be subject to the same record inspection and preservation requirements of the Secretary as are applicable to bills of lading.

“(C) ESTIMATE.—

“(i) IN GENERAL.—Notwithstanding a waiver under subparagraph (B), a carrier’s statement of charges for transportation must be submitted to the shipper in writing and must indicate whether it is binding or nonbinding. The written estimate shall be based on a physical survey of the household goods if the household goods are located within a 50-mile radius of the location of the carrier’s household goods agent preparing the estimate.

“(ii) BINDING.—A binding estimate under this paragraph must indicate that the carrier and shipper are bound by such charges. The carrier may impose a charge for providing a written binding estimate.

“(iii) NONBINDING.—A nonbinding estimate under this paragraph must indicate that the actual charges will be based upon the actual weight of the individual shipper’s shipment and the carrier’s lawful tariff charges. The carrier may not impose a charge for providing a nonbinding estimate.

“(2) OTHER INFORMATION.—At the time that a motor carrier provides the written estimate required by paragraph (1), the motor carrier shall provide the shipper a copy of the Department of Transportation publication FMCSA-ESA-03-005 (or its successor publication) entitled ‘Ready to Move?’. Before the execution of a contract for service, the motor carrier shall provide the shipper copy of the Department of Transportation publication OCE 100, entitled ‘Your Rights and Responsibilities When You Move’ required by section 375.213 of title 49, Code of Federal Regulations (or any successor regulation).”.

SEC. 4206. ENFORCEMENT OF REGULATIONS RELATED TO TRANSPORTATION OF HOUSEHOLD GOODS.

(a) NONPREEMPTION OF INTRASTATE TRANSPORTATION OF HOUSEHOLD GOODS.—Section 14501(c)(2)(B) of title 49, United States Code, is amended by inserting “intrastate” before “transportation”.

(b) ENFORCEMENT OF FEDERAL LAW WITH RESPECT TO INTERSTATE HOUSEHOLD GOODS CARRIERS.—

(1) IN GENERAL.—Chapter 147 of such title is amended by adding at the end the following:

“§ 14710. Enforcement of Federal laws and regulations with respect to transportation of household goods

“(a) ENFORCEMENT BY STATES.—Notwithstanding any other provision of this title, a State authority may enforce the consumer protection provisions of this title that apply to individual shippers, as determined by the Secretary, and are related to the delivery and transportation of household goods in interstate commerce. Any fine or penalty imposed on a carrier in a proceeding under this subsection shall be paid, notwithstanding any other provision of law, to and retained by the State.

“(b) NOTICE.—The State shall serve written notice to the Secretary or the Board, as the case may be, of any civil action under subsection (a) prior to initiating such civil action. The notice shall include a copy of the complaint to be filed to initiate such civil action, except that if it is not feasible for the State to provide such prior notice, the State shall provide the notice immediately upon instituting such civil action.

“(c) ENFORCEMENT ASSISTANCE OUTREACH PLAN.—The Federal Motor Carrier Safety Administration shall implement an outreach plan to enhance the coordination and effective enforcement of Federal laws and regulations with respect to transportation of household goods between and among Federal and State law enforcement and consumer protection authorities. The outreach shall include, as appropriate, local law enforcement and consumer protection authorities.

“(d) STATE AUTHORITY DEFINED.—In this section, the term ‘State authority’ means an agency of a State that has authority under the laws of the State to regulate the intrastate movement of household goods.

“§ 14711. Enforcement by State attorneys general

“(a) IN GENERAL.—A State, as *parens patriae*, may bring a civil action on behalf of its residents in an appropriate district court of the United States to enforce the consumer protection provisions of this title that apply to individual shippers, as determined by the Secretary, and are related to the delivery and transportation of household goods by a household goods motor carrier subject to jurisdiction under subchapter I of chapter 135 or regulations or orders of the Secretary or the Board issued under such provisions or to impose the civil penalties authorized by this part or such regulations or orders, whenever the attorney general of the State has reason to believe that the interests of the residents of the State have been or are being threatened or adversely affected by a carrier or broker providing transportation subject to jurisdiction under subchapter I or III of chapter 135 or a foreign motor carrier providing transportation that is registered under section 13902 and is engaged in household goods transportation that violates this part or a regulation or order of the Secretary or Board, as applicable, issued under this part.

“(b) NOTICE AND CONSENT.—

“(1) IN GENERAL.—The State shall serve written notice to the Secretary or the Board, as the case may be, of any civil action under subsection (a) prior to initiating such civil action. The notice shall include a copy of the complaint to be filed to initiate such civil action.

“(2) CONDITIONS.—The Secretary or the Board—

“(A) shall review the initiation of a civil action under this section by a State if—

“(i) the carrier or broker that is the subject of the action is not registered with the Department of Transportation;

“(ii) the license of the carrier or broker for failure to file proof of required bodily injury or cargo liability insurance is pending, or the license has been revoked for any other reason by the Department;

“(iii) the carrier is not rated or has received a conditional or unsatisfactory safety rating by the Department; or

“(iv) the carrier or broker has been licensed with the Department for less than 5 years; and

“(B) may review if the carrier or broker fails to meet criteria developed by the Secretary that are consistent with this section.

“(3) CONGRESSIONAL NOTIFICATION.—The Secretary shall notify the Committee on Commerce, Science, and Transportation, of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives of any criteria developed by the Secretary under paragraph (2)(B).

“(4) 60-DAY DEADLINE.—The Secretary or the Board shall be considered to have consented to any civil action of a State under this section if the Secretary or the Board has taken no action with respect to the notice within 60 calendar days after the date on which the Secretary or the Board received notice under paragraph (1).

“(c) AUTHORITY TO INTERVENE.—Upon receiving the notice required by subsection (b), the Secretary or board may intervene in a civil action of a State under this section and upon intervening—

“(1) be heard on all matters arising in such civil action; and

“(2) file petitions for appeal of a decision in such civil actions.

“(d) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this section shall—

“(1) convey a right to initiate or maintain a class action lawsuit in the enforcement of a Federal law or regulation; or

“(2) prevent the attorney general of a State from exercising the powers conferred on the attorney general by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

“(e) VENUE; SERVICE OF PROCESS.—In a civil action brought under subsection (a)—

“(1) the venue shall be a Federal judicial district in which—

“(A) the carrier, foreign motor carrier, or broker operates;

“(B) the carrier, foreign motor carrier, or broker was authorized to provide transportation at the time the complaint arose; or

“(C) where the defendant in the civil action is found;

“(2) process may be served without regard to the territorial limits of the district or of the State in which the civil action is instituted; and

“(3) a person who participated with a carrier or broker in an alleged violation that is being litigated in the civil action may be joined in the civil action without regard to the residence of the person.

“(f) ENFORCEMENT OF STATE LAW.—Nothing contained in this section shall prohibit an authorized State official from proceeding in State court to enforce a criminal statute of such State.”.

(c) CLERICAL AMENDMENT.—The analysis for such chapter 147 is amended by inserting after the item relating to section 14709 the following:

“14710. Enforcement of Federal laws and regulations with respect to transportation of household goods.

“14711. Enforcement by State attorneys general.”.

SEC. 4207. LIABILITY OF CARRIERS UNDER RECEIPTS AND BILLS OF LADING.

Section 14706(f) of title 49, United States Code, is amended—

(1) by striking “A carrier” and inserting the following:

“(1) IN GENERAL.—A carrier”; and

(2) by adding at the end the following:

“(2) FULL VALUE PROTECTION OBLIGATION.—Unless the carrier receives a waiver in writing under paragraph (3), a carrier’s maximum liability for household goods that are lost, damaged, destroyed, or otherwise not delivered to the final destination is an amount equal to the replacement value of such goods, subject to a maximum amount equal to the declared value of the shipment and to rules issued by the Surface Transportation Board and applicable tariffs.

“(3) APPLICATION OF RATES.—The released rates established by the Board under paragraph (1) (commonly known as ‘released rates’) shall not apply to the transportation of household goods by a carrier unless the liability of the carrier for the full value of such household goods under paragraph (2) is waived, in writing, by the shipper.”.

SEC. 4208. ARBITRATION REQUIREMENTS.

(a) OFFERING SHIPPERS ARBITRATION.—Section 14708(a) of title 49, United States Code, is amended by inserting before the period at the end the following: “and to determine whether carrier charges, in addition to those collected at delivery, must be paid by shippers for transportation and services related to transportation of household goods”.

(b) THRESHOLD FOR BINDING ARBITRATION.—Section 14708(b)(6) of such title is amended by striking “\$5,000” each place it appears and inserting “\$10,000”.

(c) DEADLINE FOR DECISION.—Section 14708(b)(8) of such title is amended in last sentence—

(1) by striking “and”; and

(2) by inserting after “for damages” the following: “, and an order requiring the payment of additional carrier charges”.

(d) ATTORNEY’S FEES TO SHIPPERS.—Section 14708(d)(3) of such title is amended—

(1) by redesignating subparagraph (B) as subparagraph (C); and

(2) by striking “(3)(A) a decision resolving the dispute was not” and inserting the following:

“(3)(A) the shipper was not advised by the carrier during the claim settlement process that a dispute settlement program was available to resolve the dispute;

“(B) a decision resolving the dispute was not”.

SEC. 4209. CIVIL PENALTIES RELATING TO HOUSEHOLD GOODS BROKERS AND UNAUTHORIZED TRANSPORTATION.

Section 14901(d) of title 49, United States Code, is amended—

(1) by striking “If a carrier” and inserting the following:

“(1) IN GENERAL.—If a carrier”; and

(2) by adding at the end the following:

“(2) ESTIMATE OF BROKER WITHOUT CARRIER AGREEMENT.—

If a broker for transportation of household goods subject to jurisdiction under subchapter I of chapter 135 makes an estimate of the cost of transporting any such goods before entering into an agreement with a carrier to provide transportation of household goods subject to such jurisdiction, the broker is liable to the United States for a civil penalty of not less than \$10,000 for each violation.

“(3) UNAUTHORIZED TRANSPORTATION.—If a person provides transportation of household goods subject to jurisdiction under subchapter I of chapter 135 or provides broker services for such transportation without being registered under chapter 139 to provide such transportation or services as a motor carrier or broker, as the case may be, such person is liable to the United States for a civil penalty of not less than \$25,000 for each violation.”.

SEC. 4210. PENALTIES FOR HOLDING HOUSEHOLD GOODS HOSTAGE.

(a) IN GENERAL.—Chapter 149 of title 49, United States Code, is amended by adding at the end the following:

“§ 14915. Penalties for failure to give up possession of household goods

“(a) CIVIL PENALTY.—

“(1) IN GENERAL.—Whoever is found holding a household goods shipment hostage is liable to the United States for a civil penalty of not less than \$10,000 for each violation.

“(2) EACH DAY, A SEPARATE VIOLATION.—Each day a carrier is found to have failed to give up possession of household goods may constitute a separate violation.

“(3) SUSPENSION.—If the person found holding a shipment hostage is a carrier or broker, the Secretary may suspend for a period of not less than 12 months nor more than 36 months the registration of such carrier or broker under chapter 139. The force and effect of such suspension of a carrier or broker shall extend to and include any carrier or broker having the same ownership or operational control as the suspended carrier or broker.

“(b) CRIMINAL PENALTY.—Whoever has been convicted of having failed to give up possession of household goods shall be fined under title 18 or imprisoned for not more than 2 years, or both.

“(c) FAILURE TO GIVE UP POSSESSION OF HOUSEHOLD GOODS DEFINED.—For purposes of this section, the term ‘failed to give up possession of household goods’ means the knowing and willful failure, in violation of a contract, to deliver to, or unload at, the destination of a shipment of household goods that is subject to jurisdiction under subchapter I or III of chapter 135 of this title,

for which charges have been estimated by the motor carrier providing transportation of such goods, and for which the shipper has tendered a payment described in clause (i), (ii), or (iii) of section 13707(b)(3)(A).”.

(b) CLERICAL AMENDMENT.—The analysis for such chapter is amended by adding at the end the following:

“14915. Penalties for failure to give up possession of household goods.”.

SEC. 4211. CONSUMER HANDBOOK ON DOT WEB SITE.

Deadline.

Not later than 1 year after the date of enactment of this Act, the Secretary shall take such action as may be necessary to ensure that publication ESA 03005 of the Federal Motor Carrier Safety Administration entitled “Your Rights and Responsibilities When You Move”, is prominently displayed, and available in language that is readily understandable by the general public, on the Web site of the Department of Transportation.

SEC. 4212. RELEASE OF HOUSEHOLD GOODS BROKER INFORMATION.

Deadline.
Regulations.

Not later than 1 year after the date of enactment of this Act, the Secretary shall modify the regulations contained in part 375 of title 49, Code of Federal Regulations, to require a broker that is subject to such regulations to provide shippers with the following information whenever they have contact with a shipper or potential shipper:

(1) The Department of Transportation number of the broker.

(2) The ESA 03005 publication referred to in section 4211 of this Act.

(3) A list of all motor carriers providing transportation of household goods used by the broker and a statement that the broker is not a motor carrier providing transportation of household goods.

SEC. 4213. WORKING GROUP FOR DEVELOPMENT OF PRACTICES AND PROCEDURES TO ENHANCE FEDERAL-STATE RELATIONS.

49 USC 14710
note.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary shall establish a working group of State attorneys general, State consumer protection administrators, and Federal and local law enforcement officials for the purpose of developing practices and procedures to enhance the Federal-State partnership in enforcement efforts, exchange of information, and coordination of enforcement efforts with respect to interstate transportation of household goods and of making legislative and regulatory recommendations to the Secretary concerning such enforcement efforts.

Deadline.

(b) CONSULTATION.—In carrying out subsection (a), the working group shall consult with industries involved in the transportation of household goods, the public, and other interested parties.

(c) FEDERAL ADVISORY COMMITTEE ACT EXEMPTION.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the working group established under subsection (a).

(d) TERMINATION DATE.—The working group shall remain in effect until September 30, 2009.

SEC. 4214. CONSUMER COMPLAINT INFORMATION.

49 USC 14701
note.
Deadline.

(a) ESTABLISHMENT OF SYSTEM.—Not later than 1 year after the date of enactment of this Act, the Secretary shall—

Regulations.

(1) establish (A) a system for filing and logging consumer complaints relating to household goods motor carriers for the purpose of compiling or linking complaint information gathered by the Department of Transportation and the States with regard to such carriers, (B) a database of the complaints, and (C) a procedure for the public to have access, subject to section 552(a) of title 5, United States Code, to aggregated information and for carriers to challenge duplicate or fraudulent information in the database;

(2) issue regulations requiring each motor carrier of household goods to submit on a quarterly basis a report summarizing—

(A) the number of shipments that originate and are delivered for individual shippers during the reporting period by the carrier;

(B) the number and general category of complaints lodged by consumers with the carrier;

(C) the number of claims filed with the carrier for loss and damage in excess of \$500;

(D) the number of such claims resolved during the reporting period;

(E) the number of such claims declined in the reporting period; and

(F) the number of such claims that are pending at the close of the reporting period; and

(3) develop a procedure to forward a complaint, including the motor carrier bill of lading number, if known, related to the complaint to a motor carrier named in such complaint and to an appropriate State authority (as defined in section 14710(d) of title 49, United States Code) in the State in which the complainant resides.

(b) USE OF INFORMATION.—The Secretary shall consider information in the data base established under subsection (a) in its household goods compliance and enforcement program.

49 USC 14706
note.
Deadline.
Regulations.

SEC. 4215. REVIEW OF LIABILITY OF CARRIERS.

(a) REVIEW.—Not later than 1 year after the date of enactment of this Act, the Surface Transportation Board shall complete a review of the current Federal regulations regarding the level of liability protection provided by motor carriers that provide transportation of household goods and revise such regulations, if necessary, to provide enhanced protection in the case of loss or damage.

(b) DETERMINATIONS.—The review required by subsection (a) shall include a determination of—

(1) whether the current regulations provide adequate protection;

(2) the benefits of purchase by a shipper of insurance to supplement the carrier's limitations on liability; and

(3) whether there are abuses of the current regulations that leave the shipper unprotected in the event of loss and damage to a shipment of household goods.

SEC. 4216. APPLICATION OF STATE CONSUMER PROTECTION LAWS TO CERTAIN HOUSEHOLD GOODS CARRIERS.

(a) STUDY.—The Comptroller General shall conduct a study on the current consumer protection authorities and actions of the Department of Transportation and the impact on shippers and carriers of household goods involved in interstate transportation

of allowing State attorneys general to apply State consumer protection laws to such transportation.

(b) **MATTERS TO BE CONSIDERED.**—In conducting the study, the Comptroller General shall consider, at a minimum—

(1) the level of consumer protection being provided to consumers through Federal household goods regulations and how household goods regulations relating to consumer protection compare to regulations relating to consumer protection for other modes of transportation regulated by the Department of Transportation;

(2) the history and background of State enforcement of State consumer protection laws on household goods carriers providing intrastate transportation and what effects such laws have on the ability of intrastate household goods carriers to operate;

(3) what operational impacts, if any, would result on household goods carriers engaged in interstate commerce being subject to the State consumer protection laws; and

(4) the potential for States to regulate rates or other business operations if State consumer protection laws applied to interstate household goods movements.

(c) **CONSULTATION.**—In conducting the study, the Comptroller General shall consult with the Secretary, State attorneys general, consumer protection agencies, and the household goods industry.

(d) **REPORT.**—Not later than 18 months after the date of enactment of this Act, the Comptroller General shall transmit to the Committee of Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science and Transportation of the Senate a report on the results of the study.

Subtitle C—Unified Carrier Registration Act of 2005

Unified Carrier
Registration Act
of 2005.

SEC. 4301. SHORT TITLE.

This subtitle may be cited as the “Unified Carrier Registration Act of 2005”.

49 USC 10101
note.

SEC. 4302. RELATIONSHIP TO OTHER LAWS.

Except as provided in section 14504 of title 49, United States Code, and sections 14504a and 14506 of title 49, United States Code, as added by this subtitle, this subtitle is not intended to prohibit any State or any political subdivision of any State from enacting, imposing, or enforcing any law or regulation with respect to a motor carrier, motor private carrier, broker, freight forwarder, or leasing company that is not otherwise prohibited by law.

49 USC 13902
note.

SEC. 4303. INCLUSION OF MOTOR PRIVATE AND EXEMPT CARRIERS.

(a) **PERSONS REGISTERED TO PROVIDE TRANSPORTATION OR SERVICE AS A MOTOR CARRIER OR MOTOR PRIVATE CARRIER.**—Section 13905 of title 49, United States Code, is amended—

(1) by redesignating subsections (b), (c), (d), and (e) as subsections (c), (d), (e), and (f), respectively; and

(2) by inserting after subsection (a) the following:

“(b) **PERSON REGISTERED WITH SECRETARY.**—

“(1) **IN GENERAL.**—Except as provided in paragraph (2), any person having registered with the Secretary to provide

transportation or service as a motor carrier or motor private carrier under this title, as in effect on January 1, 2005, but not having registered pursuant to section 13902(a), shall be treated, for purposes of this part, to be registered to provide such transportation or service for purposes of sections 13908 and 14504a.

“(2) EXCLUSIVELY INTRASTATE OPERATORS.—Paragraph (1) does not apply to a motor carrier or motor private carrier (including a transporter of waste or recyclable materials) engaged exclusively in intrastate transportation operations.”.

(b) SECURITY REQUIREMENT.—Section 13906(a) of such title is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(2) by inserting after paragraph (1) the following:

Deadline.

“(2) SECURITY REQUIREMENT.—Not later than 120 days after the date of enactment of the Unified Carrier Registration Act of 2005, any person, other than a motor private carrier, registered with the Secretary to provide transportation or service as a motor carrier under section 13905(b) shall file with the Secretary a bond, insurance policy, or other type of security approved by the Secretary, in an amount not less than required by sections 31138 and 31139.”.

(c) TERMINATION OF TRANSITION RULE.—Section 13902 of such title is amended—

(1) by adding at the end of subsection (d) the following:

“(3) TERMINATION.—This subsection shall cease to be in effect on the transition termination date.”; and

(2) by redesignating subsection (f) as subsection (g), and inserting after subsection (e) the following:

“(f) MODIFICATION OF CARRIER REGISTRATION.—

“(1) IN GENERAL.—On and after the transition termination date, the Secretary—

“(A) may not register a motor carrier under this section as a motor common carrier or a motor contract carrier;

“(B) shall register applicants under this section as motor carriers; and

“(C) shall issue any motor carrier registered under this section after that date a motor carrier certificate of registration that specifies whether the holder of the certificate may provide transportation of persons, household goods, other property, or any combination thereof.

“(2) PRE-EXISTING CERTIFICATES AND PERMITS.—The Secretary shall redesignate any motor carrier certificate or permit issued before the transition termination date as a motor carrier certificate of registration. On and after the transition termination date, any person holding a motor carrier certificate of registration redesignated under this paragraph may provide both contract carriage (as defined in section 13102(4)(B)) and transportation under terms and conditions meeting the requirements of section 13710(a)(1). The Secretary may not, pursuant to any regulation or form issued before or after the transition termination date, make any distinction among holders of motor carrier certificates of registration on the basis of whether the holder would have been classified as a common carrier or as a contract carrier under—

“(A) subsection (d) of this section, as that section was in effect before the transition termination date; or

“(B) any other provision of this title that was in effect before the transition termination date.

“(3) TRANSITION TERMINATION DATE DEFINED.—In this section, the term ‘transition termination date’ means the first day of January occurring more than 12 months after the date of enactment of the Unified Carrier Registration Act of 2005.”.

(d) CLERICAL AMENDMENTS.—

(1) HEADING FOR SECTION 13906.—Section 13906 of such title is amended by striking the section designation and heading and inserting the following:

“§ 13906. Security of motor carriers, motor private carriers, brokers, and freight forwarders”.

(2) CHAPTER ANALYSIS.—The analysis for chapter 139 of such title is amended by striking the item relating to section 13906 and inserting the following:

“13906. Security of motor carriers, motor private carriers, brokers, and freight forwarders.”.

SEC. 4304. UNIFIED CARRIER REGISTRATION SYSTEM.

Section 13908 of title 49, United States Code, is amended to read as follows:

“§ 13908. Registration and other reforms

“(a) ESTABLISHMENT OF UNIFIED CARRIER REGISTRATION SYSTEM.—The Secretary, in cooperation with the States, representatives of the motor carrier, motor private carrier, freight forwarder, and broker industries and after notice and opportunity for public comment, shall issue within 1 year after the date of enactment of the Unified Carrier Registration Act of 2005 regulations to establish an online Federal registration system, to be named the ‘Unified Carrier Registration System’, to replace—

Regulations.
Deadline.

“(1) the current Department of Transportation identification number system, the single State registration system under section 14504;

“(2) the registration system contained in this chapter and the financial responsibility information system under section 13906; and

“(3) the service of process agent systems under sections 503 and 13304.

“(b) ROLE AS CLEARINGHOUSE AND DEPOSITORY OF INFORMATION.—The Unified Carrier Registration System shall serve as a clearinghouse and depository of information on, and identification of, all foreign and domestic motor carriers, motor private carriers, brokers, freight forwarders, and others required to register with the Department of Transportation, including information with respect to a carrier’s safety rating, compliance with required levels of financial responsibility, and compliance with the provisions of section 14504a. The Secretary shall ensure that Federal agencies, States, representatives of the motor carrier industry, and the public have access to the Unified Carrier Registration System, including the records and information contained in the System.

“(c) PROCEDURES FOR CORRECTING INFORMATION.—Not later than 60 days after the effective date of this section, the Secretary shall prescribe regulations establishing procedures that enable a

Regulations.
Deadline.

motor carrier to correct erroneous information contained in any part of the Unified Carrier Registration System.

“(d) FEE SYSTEM.—The Secretary shall establish, under section 9701 of title 31, a fee system for the Unified Carrier Registration System according to the following guidelines:

“(1) REGISTRATION AND FILING EVIDENCE OF FINANCIAL RESPONSIBILITY.—The fee for new registrants shall as nearly as possible cover the costs of processing the registration but shall not exceed \$300.

“(2) EVIDENCE OF FINANCIAL RESPONSIBILITY.—The fee for filing evidence of financial responsibility pursuant to this section shall not exceed \$10 per filing. No fee shall be charged for a filing for purposes of designating an agent for service of process or the filing of other information relating to financial responsibility.

“(3) ACCESS AND RETRIEVAL FEES.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the fee system shall include a nominal fee for the access to or retrieval of information from the Unified Carrier Registration System to cover the costs of operating and upgrading the System, including the personnel costs incurred by the Department and the costs of administration of the unified carrier registration agreement.

“(B) EXCEPTIONS.—There shall be no fee charged under this paragraph—

“(i) to any agency of the Federal Government or a State government or any political subdivision of any such government for the access to or retrieval of information and data from the Unified Carrier Registration System for its own use; or

“(ii) to any representative of a motor carrier, motor private carrier, leasing company, broker, or freight forwarder (as each is defined in section 14504a) for the access to or retrieval of the individual information related to such entity from the Unified Carrier Registration System for the individual use of such entity.

“(e) APPLICATION TO CERTAIN INTRASTATE OPERATIONS.—Nothing in this section requires the registration of a motor carrier, a motor private carrier of property, or a transporter of waste or recyclable materials operating exclusively in intrastate transportation not otherwise required to register with the Secretary under another provision of this title.”.

SEC. 4305. REGISTRATION OF MOTOR CARRIERS BY STATES.

(a) TERMINATION OF REGISTRATION PROVISIONS.—Section 14504, and the item relating to such section in the analysis for chapter 145, of title 49, United States Code, are repealed effective on the first January 1st occurring more than 12 months after the date of enactment of this Act.

(b) UNIFIED CARRIER REGISTRATION SYSTEM PLAN AND AGREEMENT.—Chapter 145 of title 49, United States Code, is amended by inserting after section 14504 the following:

“§ 14504a. Unified Carrier Registration System plan and agreement

“(a) DEFINITIONS.—In this section and section 14506, the following definitions apply:

“(1) COMMERCIAL MOTOR VEHICLE.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the term ‘commercial motor vehicle’ has the meaning such term has under section 31101.

“(B) EXCEPTION.—With respect to a motor carrier required to make any filing or pay any fee to a State with respect to the motor carrier’s authority or insurance related to operation within such State, the motor carrier shall have the option to include, in addition to commercial motor vehicles as defined in subparagraph (A), any self-propelled vehicle used on the highway in commerce to transport passengers or property for compensation regardless of the gross vehicle weight rating of the vehicle or the number of passengers transported by such vehicle.

“(2) BASE-STATE.—

“(A) IN GENERAL.—Subject to subparagraph (B), the term ‘base-State’ means, with respect to a unified carrier registration agreement, a State—

“(i) that is in compliance with the requirements of subsection (e); and

“(ii) in which the motor carrier, motor private carrier, broker, freight forwarder, or leasing company to which the agreement applies maintains its principal place of business.

“(B) DESIGNATION OF BASE-STATE.—A motor carrier, motor private carrier, broker, freight forwarder, or leasing company may designate another State in which it maintains an office or operating facility to be its base-State in the event that—

“(i) the State in which the motor carrier, motor private carrier, broker, freight forwarder, or leasing company maintains its principal place of business is not in compliance with the requirements of subsection (e); or

“(ii) the motor carrier, motor private carrier, broker, freight forwarder, or leasing company does not have a principal place of business in the United States.

“(3) INTRASTATE FEE.—The term ‘intrastate fee’ means any fee, tax, or other type of assessment, including per vehicle fees and gross receipts taxes, imposed on a motor carrier or motor private carrier for the renewal of the intrastate authority or insurance filings of such carrier with a State.

“(4) LEASING COMPANY.—The term ‘leasing company’ means a lessor that is engaged in the business of leasing or renting for compensation motor vehicles without drivers to a motor carrier, motor private carrier, or freight forwarder.

“(5) MOTOR CARRIER.—The term ‘motor carrier’ includes all carriers that are otherwise exempt from this part under subchapter I of chapter 135 or exemption actions by the former Interstate Commerce Commission under this title.

“(6) PARTICIPATING STATE.—The term ‘participating State’ means a State that has complied with the requirements of subsection (e).

“(7) SSRS.—The term ‘SSRS’ means the single state registration system in effect on the date of enactment of this section.

“(8) UNIFIED CARRIER REGISTRATION AGREEMENT.—The terms ‘unified carrier registration agreement’ and ‘UCR agreement’ mean the interstate agreement developed under the unified carrier registration plan governing the collection and distribution of registration and financial responsibility information provided and fees paid by motor carriers, motor private carriers, brokers, freight forwarders, and leasing companies pursuant to this section.

“(9) UNIFIED CARRIER REGISTRATION PLAN.—The terms ‘unified carrier registration plan’ and ‘UCR plan’ mean the organization of State, Federal, and industry representatives responsible for developing, implementing, and administering the unified carrier registration agreement.

“(10) VEHICLE REGISTRATION.—The term ‘vehicle registration’ means the registration of any commercial motor vehicle under the International Registration Plan (as defined in section 31701) or any other registration law or regulation of a jurisdiction.

“(b) APPLICABILITY OF PROVISIONS TO FREIGHT FORWARDERS.—A freight forwarder that operates commercial motor vehicles and is not required to register as a carrier pursuant to section 13903(b) shall be subject to the provisions of this section as if the freight forwarder is a motor carrier.

“(c) UNREASONABLE BURDEN.—For purposes of this section, it shall be considered an unreasonable burden upon interstate commerce for any State or any political subdivision of a State, or any political authority of two or more States—

“(1) to enact, impose, or enforce any requirement or standards with respect to, or levy any fee or charge on, any motor carrier or motor private carrier providing transportation or service subject to jurisdiction under subchapter I of chapter 135 (in this section referred to as an ‘interstate motor carrier’ and an ‘interstate motor private carrier’, respectively) in connection with—

“(A) the registration with the State of the interstate operations of the motor carrier or motor private carrier;

“(B) the filing with the State of information relating to the financial responsibility of the a motor carrier or motor private carrier pursuant to sections 31138 or 31139;

“(C) the filing with the State of the name of the local agent for service of process of the motor carrier or motor private carrier pursuant to sections 503 or 13304; or

“(D) the annual renewal of the intrastate authority, or the insurance filings, of the motor carrier or motor private carrier, or other intrastate filing requirement necessary to operate within the State if the motor carrier or motor private carrier is—

“(i) registered under section 13902 or section 13905(b); and

“(ii) in compliance with the laws and regulations of the State authorizing the carrier to operate in the State in accordance with section 14501(c)(2)(A); except with respect to—

“(I) intrastate service provided by motor carriers of passengers that is not subject to the preemption provisions of section 14501(a);

“(II) motor carriers of property, motor private carriers, brokers, or freight forwarders, or their services or operations, that are described in subparagraphs (B) and (C) of section 14501(c)(2).

“(III) the intrastate transportation of waste or recyclable materials by any carrier; or

“(2) to require any interstate motor carrier or motor private carrier that also performs intrastate operations to pay any fee or tax which a carrier engaged exclusively in interstate operations is exempt.

“(d) UNIFIED CARRIER REGISTRATION PLAN.—

“(1) BOARD OF DIRECTORS.—

“(A) GOVERNANCE OF PLAN; ESTABLISHMENT.—The unified carrier registration plan shall have a board of directors consisting of representatives of the Department of Transportation, participating States, and the motor carrier industry. The Secretary shall establish the board.

“(B) COMPOSITION.—The board shall consist of 15 directors appointed by the Secretary as follows:

“(i) FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION.—One director from each of the Federal Motor Carrier Safety Administration’s 4 service areas (as those areas were defined by the Federal Motor Carrier Safety Administration on January 1, 2005) from among the chief administrative officers of the State agencies responsible for overseeing the administration of the UCR agreement.

“(ii) STATE AGENCIES.—Five directors from the professional staffs of State agencies responsible for overseeing the administration of the UCR agreement in their respective States. Nominees for these 5 directorships shall be submitted to the Secretary by the national association of professional employees of the State agencies responsible for overseeing the administration of the UCR agreement in their respective States.

“(iii) MOTOR CARRIER INDUSTRY.—Five directors from the motor carrier industry. At least 1 of the appointees under this clause shall be a representative of a national trade association representing the general motor carrier of property industry. At least 1 of the appointees under this clause shall represent a motor carrier that falls within the smallest fleet fee bracket.

“(iv) DEPARTMENT OF TRANSPORTATION.—The Deputy Administrator of the Federal Motor Carrier Safety Administration, or such other presidential appointee from the Department, as the Secretary may appoint.

“(C) CHAIRPERSON AND VICE-CHAIRPERSON.—The Secretary shall designate 1 director as chairperson and 1 director as vice-chairperson of the board. The chairperson and vice-chairperson shall serve in such capacity for the term of their appointment as directors.

“(D) TERMS.—

“(i) INITIAL TERMS.—In appointing the initial board, the Secretary shall designate 5 of the appointed directors for initial terms of 3 years, 5 of the appointed

directors for initial terms of 2 years, and 5 of the appointed directors for initial terms of 1 year.

“(ii) THEREAFTER.—After the initial term, all directors shall be appointed for terms of 3 years; except that the term of the Deputy Administrator or other individual designated by the Secretary under subparagraph (B)(iv) shall be at the discretion of the Secretary.

“(iii) SUCCESSION.—A director may be appointed to succeed himself or herself.

“(iv) END OF SERVICE.—A director may continue to serve on the board until his or her successor is appointed.

“(2) RULES AND REGULATIONS GOVERNING THE UCR AGREEMENT.—The board of directors shall issue rules and regulations to govern the UCR agreement. The rules and regulations shall—

“(A) prescribe uniform forms and formats, for—

“(i) the annual submission of the information required by a base-State of a motor carrier, motor private carrier, leasing company, broker, or freight forwarder;

“(ii) the transmission of information by a participating State to the Unified Carrier Registration System;

“(iii) the payment of excess fees by a State to the designated depository and the distribution of fees by the depository to those States so entitled; and

“(iv) the providing of notice by a motor carrier, motor private carrier, broker, freight forwarder, or leasing company to the board of the intent of such entity to change its base-State, and the procedures for a State to object to such a change under subparagraph (C);

“(B) provide for the administration of the unified carrier registration agreement, including procedures for amending the agreement and obtaining clarification of any provision of the Agreement;

“(C) provide procedures for dispute resolution under the agreement that provide due process for all involved parties; and

“(D) designate a depository.

“(3) COMPENSATION AND EXPENSES.—

“(A) IN GENERAL.—Except for the representative of the Department appointed under paragraph (1)(B)(iv), no director shall receive any compensation or other benefits from the Federal Government for serving on the board or be considered a Federal employee as a result of such service.

“(B) EXPENSES.—All directors shall be reimbursed for expenses they incur attending meetings of the board. In addition, the board may approve the reimbursement of expenses incurred by members of any subcommittee or task force appointed under paragraph (5) for carrying out the duties of the subcommittee or task force. The reimbursement of expenses to directors and subcommittee and task force members shall be under subchapter II of chapter 57 of title 5, United States Code, governing reimbursement of expenses for travel by Federal employees.

“(4) MEETINGS.—

“(A) IN GENERAL.—The board shall meet at least once per year. Additional meetings may be called, as needed, by the chairperson of the board, a majority of the directors, or the Secretary.

“(B) QUORUM.—A majority of directors shall constitute a quorum.

“(C) VOTING.—Approval of any matter before the board shall require the approval of a majority of all directors present at the meeting.

“(D) OPEN MEETINGS.—Meetings of the board and any subcommittees or task forces appointed under paragraph (5) shall be subject to the provisions of section 552b of title 5.

“(5) SUBCOMMITTEES.—

“(A) INDUSTRY ADVISORY SUBCOMMITTEE.—The chairperson shall appoint an industry advisory subcommittee. The industry advisory subcommittee shall consider any matter before the board and make recommendations to the board.

“(B) OTHER SUBCOMMITTEES.—The chairperson shall appoint an audit subcommittee, a dispute resolution subcommittee, and any additional subcommittees and task forces that the board determines to be necessary.

“(C) MEMBERSHIP.—The chairperson of each subcommittee shall be a director. The other members of subcommittees and task forces may be directors or nondirectors.

“(D) REPRESENTATION ON SUBCOMMITTEES.—Except for the industry advisory subcommittee (the membership of which shall consist solely of representatives of entities subject to the fee requirements of subsection (f)), each subcommittee and task force shall include representatives of the participating States and the motor carrier industry.

“(6) DELEGATION OF AUTHORITY.—The board may contract with any person or any agency of a State to perform administrative functions required under the unified carrier registration agreement, but may not delegate its decision or policy-making responsibilities.

“(7) DETERMINATION OF FEES.—

“(A) RECOMMENDATION BY BOARD.—The board shall recommend to the Secretary the initial annual fees to be assessed carriers, leasing companies, brokers, and freight forwarders under the unified carrier registration agreement. In making its recommendation to the Secretary for the level of fees to be assessed in any agreement year, and in setting the fee level, the board and the Secretary shall consider—

“(i) the administrative costs associated with the unified carrier registration plan and the agreement;

“(ii) whether the revenues generated in the previous year and any surplus or shortage from that or prior years enable the participating States to achieve the revenue levels set by the board; and

“(iii) the provisions governing fees under subsection (f)(1).

<p>Deadline.</p> <p>Notification. Public information.</p>	<p>“(B) SETTING FEES.—The Secretary shall set the initial annual fees for the next agreement year and any subsequent adjustment of those fees—</p> <p>“(i) within 90 days after receiving the board’s recommendation under subparagraph (A); and</p> <p>“(ii) after notice and opportunity for public comment.</p> <p>“(8) LIABILITY PROTECTIONS FOR DIRECTORS.—No individual appointed to serve on the board shall be liable to any other director or to any other party for harm, either economic or non-economic, caused by an act or omission of the individual arising from the individual’s service on the board if—</p> <p>“(A) the individual was acting within the scope of his or her responsibilities as a director; and</p> <p>“(B) the harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the right or safety of the party harmed by the individual.</p> <p>“(9) INAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the unified carrier registration plan, the board, or its committees.</p> <p>“(10) CERTAIN FEES NOT AFFECTED.—This section does not limit the amount of money a State may charge for vehicle registration or the amount of any fuel use tax a State may impose pursuant to the International Fuel Tax Agreement (as defined in section 31701).</p> <p>“(e) STATE PARTICIPATION.—</p> <p>“(1) STATE PLAN.—No State shall be eligible to participate in the unified carrier registration plan or to receive any revenues derived under the UCR agreement, unless the State submits to the Secretary, not later than 3 years after the date of enactment of the Unified Carrier Registration Act of 2005, a plan—</p> <p>“(A) identifying the State agency that has or will have the legal authority, resources, and qualified personnel necessary to administer the agreement in accordance with the rules and regulations promulgated by the board of directors; and</p> <p>“(B) demonstrating that an amount at least equal to the revenue derived by the State from the unified carrier registration agreement shall be used for motor carrier safety programs, enforcement, or the administration of the UCR plan and UCR agreement.</p> <p>“(2) AMENDED PLANS.—A State that submits a plan under this subsection may change the agency designated in the plan by filing an amended plan with the Secretary and the chairperson of the board of directors.</p> <p>“(3) WITHDRAWAL OF PLAN.—If a State withdraws, or notifies the Secretary that it is withdrawing, the plan it submitted under this subsection, the State may no longer participate in the unified carrier registration agreement or receive any portion of the revenues derived under the agreement. The Secretary shall notify the chairperson upon receiving notice from a State that it is withdrawing its plan or withdrawing from the agreement, or both.</p>
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“(4) TERMINATION OF ELIGIBILITY.—If a State fails to submit a plan to the Secretary in accordance with paragraph (1) or withdraws its plan under paragraph (3), the State may not submit or resubmit a plan or participate in the agreement.

“(5) PROVISION OF PLAN TO CHAIRPERSON.—The Secretary shall provide a copy of each plan submitted under this subsection to the chairperson of the board of directors not later than 10 days after date of submission of the plan.

Deadline.

“(f) CONTENTS OF UNIFIED CARRIER REGISTRATION AGREEMENT.—The unified carrier registration agreement shall provide the following:

“(1) FEES.—(A) Fees charged—

“(i) to a motor carrier, motor private carrier, or freight forwarder in connection with the filing of proof of financial responsibility under the UCR agreement shall be based on the number of commercial motor vehicles owned or operated by the motor carrier, motor private carrier, or freight forwarder; and

“(ii) to a broker or leasing company in connection with such a filing shall be equal to the smallest fee charged to a motor carrier, motor private carrier, and freight forwarder or under this paragraph.

“(B) The fees shall be determined by the Secretary based upon the recommendation of the board under subsection (d)(7).

“(C) The board shall develop for purposes of charging fees no more than 6 and no less than 4 brackets of carriers (including motor private carriers) based on the size of fleet.

“(D) The fee scale shall be progressive in the amount of the fee.

“(E) The board may ask the Secretary to adjust the fees within a reasonable range on an annual basis if the revenues derived from the fees—

“(i) are insufficient to provide the revenues to which the States are entitled under this section; or

“(ii) exceed those revenues.

“(2) DETERMINATION OF OWNERSHIP OR OPERATION.—For purposes of this subsection, a commercial motor vehicle is owned or operated by a motor carrier, motor private carrier, or freight forwarder if the vehicle is registered under Federal law or State law, or both, in the name of the motor carrier, motor private carrier, or freight forwarder or is controlled by the motor carrier, motor private carrier, or freight forwarder under a long term lease during a vehicle registration year.

“(3) CALCULATION OF NUMBER OF COMMERCIAL MOTOR VEHICLES OWNED OR OPERATED.—The number of commercial motor vehicles owned or operated by a motor carrier, motor private carrier, or freight forwarder for purposes of paragraph (1) shall be based either on the number of commercial motor vehicles the motor carrier, motor private carrier, or freight forwarder has indicated it operates on its most recently filed MCS-150 or the total number of such vehicles it owned or operated for the 12-month period ending on June 30 of the year immediately prior to the registration year of the Unified Carrier Registration System. A motor carrier may include in the calculation of its fleet size for purposes of paragraph (1) any commercial motor vehicle. Motor carriers and motor private carriers in the calculation of their fleet size for purposes of

paragraph (1) may elect not to include commercial motor vehicles used exclusively in the intrastate transportation of property, waste, or recyclable material.

“(4) PAYMENT OF FEES.—Motor carriers, motor private carriers, leasing companies, brokers, and freight forwarders shall pay all fees required under this section to their base-State pursuant to the UCR Agreement.

“(g) PAYMENT OF FEES.—Revenues derived under the UCR Agreement shall be allocated to participating States as follows:

“(1) A State that participated in the SSRS in the last registration year under the SSRS ending before the date of enactment of the Unified Carrier Registration Act of 2005 and complies with subsection (e) is entitled to receive under this section a portion of the revenues generated under the UCR agreement equivalent to the revenues it received under the SSRS in such last registration year, as long as the State continues to comply with subsection (e).

“(2) A State that collected intrastate registration fees from interstate motor carriers, interstate motor private carriers, or interstate exempt carriers and complies with subsection (e) is entitled to receive under this section an additional portion of the revenues generated under the UCR agreement equivalent to the revenues it received from such carriers in the last calendar year ending before the date of enactment of the Unified Carrier Registration Act of 2005, as long as the State continues to comply with subsection (e).

“(3) States that comply with subsection (e) but did not participate in SSRS during such last registration year shall be entitled under this section to an annual allotment not to exceed \$500,000 from the revenues generated under the UCR agreement, as long as the State continues to comply with the provisions of subsection (e).

“(4) The amount of revenues generated under the UCR agreement to which a State is entitled under this section shall be calculated by the board and approved by the Secretary.

“(h) DISTRIBUTION OF UCR AGREEMENT REVENUES.—

“(1) ELIGIBILITY.—Each State that is in compliance with subsection (e) shall be entitled under this section to a portion of the revenues derived from the UCR Agreement in accordance with subsection (g).

“(2) ENTITLEMENT TO REVENUES.—A State that is in compliance with subsection (e) may retain an amount of the gross revenues it collects from motor carriers, motor private carriers, brokers, freight forwarders and leasing companies under the UCR agreement equivalent to the portion of revenues to which the State is entitled under subsection (g). All revenues a participating State collects in excess of the amount to which the State is so entitled shall be forwarded to the depository designated by the board under subsection (d)(2)(D).

“(3) DISTRIBUTION OF FUNDS FROM DEPOSITORY.—The excess funds deposited in the depository shall be distributed by the board of directors as follows:

“(A) On a pro rata basis to each participating State that did not collect revenues under the UCR agreement equivalent to the amount such State is entitled under subsection (g), except that the sum of the gross revenues collected under the UCR agreement by a participating State

and the amount distributed to it from the depository shall not exceed the amount to which the State is entitled under subsection (g).

“(B) After all distributions under subparagraph (A) have been made, to pay the administrative costs of the UCR plan and the UCR agreement.

“(4) RETENTION OF CERTAIN EXCESS FUNDS.—Any excess funds held by the depository after distributions and payments under paragraphs (3)(A) and (3)(B) shall be retained in the depository, and the fees charged under the UCR agreement to motor carriers, motor private carriers, leasing companies, freight forwarders, and brokers for the next fee year shall be reduced by the Secretary accordingly.

“(i) ENFORCEMENT.—

“(1) CIVIL ACTIONS.—Upon request by the Secretary, the Attorney General may bring a civil action in the United States district court described in paragraph (2) to enforce an order issued to require compliance with this section and with the terms of the UCR agreement.

“(2) VENUE.—An action under this section may be brought only in a United States district court in the State in which compliance with the order is required.

“(3) RELIEF.—Subject to section 1341 of title 28, the court, on a proper showing shall issue a temporary restraining order or a preliminary or permanent injunction requiring that the State or any person comply with this section.

“(4) ENFORCEMENT BY STATES.—Nothing in this section—

“(A) prohibits a participating State from issuing citations and imposing reasonable fines and penalties pursuant to the applicable laws and regulations of the State on any motor carrier, motor private carrier, freight forwarder, broker, or leasing company for failure to—

“(i) submit information documents as required under subsection (d)(2); or

“(ii) pay the fees required under subsection (f);

or

“(B) authorizes a State to require a motor carrier, motor private carrier, or freight forwarder to display as evidence of compliance any form of identification in excess of those permitted under section 14506 on or in a commercial motor vehicle.

“(j) APPLICATION TO INTRASTATE CARRIERS.—Notwithstanding any other provision of this section, a State may elect to apply the provisions of the UCR agreement to motor carriers and motor private carriers and freight forwarders subject to its jurisdiction that operate solely in intrastate commerce within the borders of the State.”

(c) CLERICAL AMENDMENT.—The analysis for such chapter is amended by inserting after the item relating to section 14504 the following:

“14504a. Unified Carrier Registration System plan and agreement.”.

SEC. 4306. IDENTIFICATION OF VEHICLES.

(a) IN GENERAL.—Chapter 145 of title 49, United States Code; is amended by adding at the end the following:

“§ 14506. Identification of vehicles

“(a) **RESTRICTION ON REQUIREMENTS.**—No State, political subdivision of a State, interstate agency, or other political agency of two or more States may enact or enforce any law, rule, regulation standard, or other provision having the force and effect of law that requires a motor carrier, motor private carrier, freight forwarder, or leasing company to display any form of identification on or in a commercial motor vehicle (as defined in section 14504a), other than forms of identification required by the Secretary of Transportation under section 390.21 of title 49, Code of Federal Regulations.

“(b) **EXCEPTION.**—Notwithstanding subsection (a), a State may continue to require display of credentials that are required—

“(1) under the International Registration Plan under section 31704;

“(2) under the International Fuel Tax Agreement under section 31705;

“(3) under a State law regarding motor vehicle license plates or other displays that the Secretary determines are appropriate;

“(4) in connection with Federal requirements for hazardous materials transportation under section 5103; or

“(5) in connection with the Federal vehicle inspection standards under section 31136.”.

(b) **CLERICAL AMENDMENT.**—The analysis for such chapter is amended by inserting after the item relating to section 14505 the following:

“14506. Identification of vehicles.”.

SEC. 4307. USE OF UCR AGREEMENT REVENUES AS MATCHING FUNDS.

(a) **IN GENERAL.**—Section 31103(a) of title 49, United States Code, is amended—

(1) by striking “31102(b)(1)(D)” inserting “31102(b)(1)(E)”; and

(2) by inserting “Amounts generated under the unified carrier registration agreement under section 14504a and received by a State and used for motor carrier safety purposes may be included as part of the State’s share not provided by the United States.” after “United States Government.”.

(b) **TECHNICAL CORRECTION.**—Sections 31102(b)(3) of such title is amended by striking “paragraph (1)(D)” and inserting “paragraph (1)(E)”.

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note.

SEC. 4308. REGULATIONS.

The Secretary may issue such regulations as the Secretary determines are necessary to carry out this subtitle and the amendments made by this subtitle.

Subtitle D—Miscellaneous Provisions**SEC. 4401. TECHNICAL ADJUSTMENT.**

(a) **DEFINITIONS.**—In this section the following definitions:

(1) The term “Administrator” means the Administrator of General Services.

(2) The term “donee” means the corporation to which the Administrator donated the vessel.

(3) The term “vessel” means the vessel with Unit Identification number 13862.

(b) TRANSFER.—Not later than 30 days after the date of enactment of this Act, the donee shall transfer all of the rights, title, and interest of the donee in and to the vessel to the Administrator. Deadline.

(c) FUTURE CONVEYANCE.—Within 30 days after the transfer of the vessel under subsection (b), the Administrator shall remove the vessel to a Federal facility. Within 60 days after the date of the transfer of the vessel under subsection (b), the Administrator shall sell the vessel for fair market value. The Administrator shall require as a condition of any conveyance of the vessel that the vessel shall not be used within the United States, as defined in section 2101(44) of title 46, United States Code, or within the territorial sea of the United States as described in Presidential Proclamation No. 5928 of December 27, 1988. The donee shall not be required to pay any amounts for removing the vessel to a Federal facility under this subsection. Deadline.

(d) EFFECT ON PENDING LAWSUITS.—Nothing in this section shall have any effect on any lawsuit relating to transfer or use of the vessel.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary \$4,000,000 for a grant to the donee. The Secretary shall transfer any funds appropriated under this subsection to the Secretary of the Interior, who shall obligate such funds through instruments and procedures that are equivalent to the instruments and procedures required to be used by the Bureau of Indian Affairs pursuant to title IV of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458aa et seq.). Amounts paid to the donee under this section shall be treated as revenues originating from the Alaska Native Fund for purposes of section 21(a) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(a)).

SEC. 4402. TRANSFER.

Section 407(b) of the Coast Guard Authorization Act of 1998 (112 Stat. 3430) is amended—

(1) by striking “made—” and all that follows through “(1) subject” and inserting “made subject”; and

(2) by striking “; and” and all that follows and inserting a period.

SEC. 4403. EXTENSION OF ASSISTANCE.

Section 206(c) of Public Law 89–702 (16 U.S.C. 1166(c)) is amended—

(1) by striking “for fiscal years 2001, 2002, 2003, 2004, and 2005” the first place it appears; and

(2) in paragraph (1) by inserting “, for fiscal years 2001, 2002, 2003, 2004, 2005, 2006, and 2007” after “subsection (a)”.

SEC. 4404. DESIGNATIONS.

(a) DESIGNATION.—In the States of Alaska and Hawaii, members of the State legislature may serve on the policy board of a metropolitan planning organization designated under section 134 of title 23, United States Code, if such service is allowed by State law.

(b) REDESIGNATION.—In the States of Alaska and Hawaii, a metropolitan planning organization designated under section 134 of title 23, United States Code, may be redesignated as a result

Alaska.
Hawaii.

of changes in State law that define new requirements for the metropolitan planning organization policy board.

SEC. 4405. LIMITED EXCEPTION.

Section 44704(a) of title 49, United States Code, is amended—

(1) in paragraph (1) by striking “The” the first place it appears and inserting “ISSUANCE, INVESTIGATIONS, AND TESTS.—The”;

(2) in paragraph (2) by striking “The” and inserting “SPECIFICATIONS.—The”;

(3) in paragraph (3) by striking “If” and inserting “SPECIAL RULES FOR NEW AIRCRAFT AND APPLIANCES.—Except as provided in paragraph (4), if”;

(4) by adding at the end the following:

“(4) LIMITATION FOR AIRCRAFT MANUFACTURED BEFORE AUGUST 5, 2004.—Paragraph (3) shall not apply to a person who began the manufacture of an aircraft before August 5, 2004, and who demonstrates to the satisfaction of the Administrator that such manufacture began before August 5, 2004, if the name of the holder of the type certificate for the aircraft does not appear on the airworthiness certificate or identification plate of the aircraft. The holder of the type certificate for the aircraft shall not be responsible for the continued airworthiness of the aircraft. A person may invoke the exception provided by this paragraph with regard to the manufacture of only one aircraft.”;

(5) by indenting paragraph (1); and

(6) by aligning the left margin of paragraphs (1), (2), and (3) with the left margin of paragraph (4) (as added by paragraph (4) of this section).

Alaska.

SEC. 4406. AIRPORT LAND AMENDMENT.

(a) RELEASE OF REVERTER CONDITION.—The Secretary of the Interior shall execute such instruments as are necessary to release the condition on a portion of land situated adjacent to the community of Beaver, Alaska, conveyed pursuant to Patent No. 50-69-0130 and dated August 23, 1968, requiring that such land reverts to the United States if the land is not used for airport purposes. The Secretary shall ensure that the release executed pursuant to this subsection—

(1) applies only to approximately 33 acres of land identified as tracts II through VI of the Beaver Airport, a part of U.S. Survey No. 3798, Alaska (referred to in this section as the “community expansion land”);

(2) is without any requirement for receipt of fair market value for the release and conveyance of the conditions otherwise applicable to the community expansion land; and

(3) is contingent on the conveyance by the State of Alaska of the community expansion land to the Beaver Kwit’chin Corporation, the Village Corporation of the village of Beaver, Alaska.

(b) RECONVEYANCE.—The Beaver Kwit’chin Corporation—

(1) shall reconvey to any individual who currently occupies a portion of the land referred to in subsection (a) or successor in interest to such an individual, all right, title, and interest of the Kwit’chin Corporation in and to such land as is currently occupied;

(2) may subsequently—

(A) convey the remaining land to other individuals or persons for community expansion purposes; or

(B) retain the remaining land in whole or in part for community uses.

SEC. 4407. RIGHTS-OF-WAY.

Enactment.

Notwithstanding any other provision of law, the reciprocal rights-of-way and easements identified on the map numbered 92337 and dated June 15, 2005, are hereby enacted into law.

SEC. 4408. RIALTO MUNICIPAL AIRPORT.

California.

(a) FINDINGS.—Congress finds that—

(1) Rialto Municipal Airport/Art Scholl Memorial Airport (Rialto Municipal Airport) is a general aviation airport located within a 20-mile radius of 10 other general aviation airports;

(2) Rialto Municipal Airport is located approximately 8.5 nautical miles from the former Norton Air Force Base which was selected for closure by the Base Realignment and Closure Commission in 1988 and was closed in 1994;

(3) there has been a significant decline in based aircraft and aviation operations at Rialto Municipal Airport due to the unexpected impact of increased capacity in the immediate vicinity of the airport;

(4) the transfer of Rialto Municipal Airport's operations, assets and liabilities is supported by the general aviation operators at the airport and will not compromise service or safety; and

(5) the closure of Rialto Municipal Airport shall be in compliance with applicable Federal laws and regulations.

(b) IN GENERAL.—Notwithstanding any law, regulation or grant assurance, but subject to the requirements of this section, the United States shall release all restrictions, conditions, and limitations on the use, encumbrance, conveyance, or closure of the Rialto Municipal Airport, in Rialto, California, to the extent such restrictions, conditions, and limitations are enforceable by the United States.

(c) CONDITIONS.—A release under subsection (b) shall be subject to the following conditions:

(1) Upon conveyance of the land or transfer of any interest or rights of use or occupancy of the land—

(A) the City of Rialto will pay the United States 45 percent of the current fair market value of the property, and this amount shall be used for projects eligible under chapter 471 of title 49, United States Code, at a commercial airport—

(i) for which a certificate is issued under part 139 of title 14, Code of Federal Regulations;

(ii) that is located within 10 nautical miles of Rialto Municipal Airport; and

(iii) that was included on the Department of Defense base closure list of 1988;

(B) the remaining 55 percent of the fair market value referred to in subparagraph (A) shall be retained by the City of Rialto;

(C) the city shall pay to the United States 90 percent of the unamortized portion of any Federal development grant for airport facilities other than land, amortized over a 20-year term, with interest. These funds shall be payable

over a period of 5 years and deposited into the Airport and Airway Trust Fund and available for projects eligible under chapter 471 of title 49, United States Code.

(2) The United States will not be responsible for any environmental cleanup of any land with respect to which such release is made.

(3) All airport and aviation-related equipment located at Rialto Municipal Airport and owned by the City of Rialto before the date of the release will be transferred to a commercial airport referred to in paragraph (1)(A).

SEC. 4409. CONFORMING AMENDMENTS.

Section 218 of title 23, United States Code, is amended—

(1) in subsection (a) by striking “prior to the date of the enactment of the reauthorization of the Transportation Equity Act for the 21st Century”; and

(2) by adding at the end the following:

Alaska.

“(c) For purposes of this section, the term ‘Alaska Marine Highway System’ includes all existing or planned transportation facilities and equipment in Alaska, including the lease, purchase, or construction of vessels, terminals, docks, floats, ramps, staging areas, parking lots, bridges and approaches thereto, and necessary roads.”.

Alaska.

SEC. 4410. RALPH M. BARTHOLOMEW VETERANS’ MEMORIAL BRIDGE.

(a) DESIGNATION.—The bridge joining the Island of Gravina to the community of Ketchikan, Alaska, constructed pursuant to section 144(g)(1)(E) of title 23, United States Code, is designated as the “Ralph M. Bartholomew Veterans’ Memorial Bridge”.

(b) REFERENCES.—Any reference in law, map, regulation, document, paper, or other record of the United States to the bridge referred to in subsection (a) shall be deemed to be a reference to the “Ralph M. Bartholomew Veterans’ Memorial Bridge”.

Alaska.
Bridge.

SEC. 4411. DON YOUNG’S WAY.

(a) DESIGNATION.—The Knik Arm bridge in Alaska to be planned, designed, and constructed pursuant to section 117 of title 23, United States Code, as high priority project number 2465 under section 1702 of this Act, is designated as “Don Young’s Way”.

(b) REFERENCES.—Any reference in law, map, regulation, document, paper, or other record of the United States to the bridge referred to in subsection (a) shall be deemed to be a reference to “Don Young’s Way”.

SEC. 4412. QUALITY BANK ADJUSTMENTS.

(a) DEFINITION OF TAPS QUALITY BANK ADJUSTMENTS.—In this section, the term “TAPS quality bank adjustments” means monetary adjustments paid by or to a shipper of oil on the Trans Alaska Pipeline System through the operation of a quality bank to compensate for the value of the oil of the shipper that is commingled in the Pipeline.

(b) PROCEEDINGS.—

(1) IN GENERAL.—In a proceeding commenced before the date of enactment of this Act, the Federal Energy Regulatory Commission may not order retroactive changes in TAPS quality bank adjustments for any period before February 1, 2000.

(2) PROCEEDINGS COMMENCED AFTER THE DATE OF ENACTMENT.—In a proceeding commenced after the date of enactment

of this Act, the Commission may not order retroactive changes in TAPS quality bank adjustments for any period that exceeds the 15-month period immediately preceding the earliest date of the first order of the Federal Energy Regulatory Commission imposing quality bank adjustments in the proceeding.

(c) DEADLINE FOR CLAIMS.—

(1) IN GENERAL.—A claim relating to a quality bank under this section shall be filed with the Federal Energy Regulatory Commission not later than 2 years after the date on which the claim arose.

(2) FINAL ORDER.—Not later than 15 months after the date on which a claim is filed under paragraph (1), the Federal Energy Regulatory Commission shall issue a final order with respect to the claim.

SEC. 4413. TECHNICAL AMENDMENT.

Section 5006(d) of Public Law 101–380 is amended by inserting “annual” before “amount”. 33 USC 2736.

TITLE V—RESEARCH

Subtitle A—Funding

SEC. 5101. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—The following sums are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

(1) SURFACE TRANSPORTATION RESEARCH, DEVELOPMENT, AND DEPLOYMENT PROGRAM.—To carry out sections 502, 503, 506, 507, 509, and 510 of title 23, United States Code, and sections 5201, 5203, 5204, 5309, 5501, 5502, 5503, 5504, 5506, 5511, 5512, and 5513 of this title \$196,400,000 for each of fiscal years 2005 through 2009 shall be available.

(2) TRAINING AND EDUCATION.—To carry out section 504 of title 23, United States Code, and section 5502 of this Act \$26,700,000 for each of fiscal years 2005 through 2009.

(3) BUREAU OF TRANSPORTATION STATISTICS.—For the Bureau of Transportation Statistics to carry out section 111 of title 49, United States Code, \$27,000,000 for each of fiscal years 2005 through 2009.

(4) UNIVERSITY TRANSPORTATION RESEARCH.—To carry out sections 5505 and 5506 of title 49, United States Code, \$69,700,000 for each of fiscal years 2005 through 2009.

(5) INTELLIGENT TRANSPORTATION SYSTEMS (ITS) RESEARCH.—To carry out subtitle C of this title, and section 511 of title 23, United States Code, \$110,000,000 for each of fiscal years 2005 through 2009.

(6) ITS DEPLOYMENT.—To carry out sections 5208 and 5209 of the Transportation Equity Act for the 21st Century (112 Stat. 458; 112 Stat. 460), \$122,000,000 for fiscal year 2005.

(b) APPLICABILITY OF TITLE 23, UNITED STATES CODE.—Funds authorized to be appropriated by subsection (a) shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of a project or activity carried out using such funds shall be 50 percent, unless otherwise expressly provided

by this Act (including the amendments made by this Act) or otherwise determined by the Secretary, and such funds shall remain available until expended and shall not be transferable.

SEC. 5102. OBLIGATION CEILING.

Notwithstanding any other provision of law, the total of all obligations from amounts made available from the Highway Trust Fund (other than the Mass Transit Account) by section 5101(a) of this Act shall be \$410,888,888 for each of fiscal years 2005 through 2009.

SEC. 5103. FINDINGS.

Congress finds the following:

(1) Research and development are critical to developing and maintaining a transportation system that meets the goals of safety, mobility, economic vitality, efficiency, equity, and environmental protection.

(2) Federally sponsored surface transportation research and development has produced many successes. The development of rumble strips has increased safety; research on materials has increased the lifespan of pavements, saving money and reducing the disruption caused by construction; and Geographic Information Systems have improved the management and efficiency of transit fleets.

(3) Despite these important successes, the Federal surface transportation research and development investment represents less than 1 percent of overall Government spending on surface transportation.

(4) While Congress increased funding for overall transportation programs by about 40 percent in the Transportation Equity Act for the 21st Century, funding for transportation research and development remained relatively flat.

(5) The Federal investment in research and development should be balanced between short-term applied and long-term fundamental research and development. The investment should also cover a wide range of research areas, including research on materials and construction, research on operations, research on transportation trends and human factors, and research addressing the institutional barriers to deployment of new technologies.

(6) That it is in the United States interest to increase the Federal investment in transportation research and development, and to conduct research in critical research gaps, in order to ensure that the transportation system meets the goals of safety, mobility, economic vitality, efficiency, equity, and environmental protection.

Subtitle B—Research, Technology, and Education

SEC. 5201. RESEARCH, TECHNOLOGY, AND EDUCATION.

(a) RESEARCH, TECHNOLOGY, AND EDUCATION.—Title 23, United States Code, is amended—

(1) in the table of chapters by striking the item relating to chapter 5 and inserting the following:

“5. Research, Technology, and Education 501”;

and

(2) by striking the heading for chapter 5 and inserting the following:

“CHAPTER 5—RESEARCH, TECHNOLOGY, AND EDUCATION”.

(b) STATEMENT OF PRINCIPLES GOVERNING RESEARCH AND TECHNOLOGY INVESTMENTS.—Section 502 of such title is amended—

(1) by redesignating subsections (a) through (g) as subsections (b) through (h), respectively; and

(2) by inserting before subsection (b) (as so redesignated) the following:

“(a) BASIC PRINCIPLES GOVERNING RESEARCH AND TECHNOLOGY INVESTMENTS.—

“(1) COVERAGE.—Surface transportation research and technology development shall include all activities leading to technology development and transfer, as well as the introduction of new and innovative ideas, practices, and approaches, through such mechanisms as field applications, education and training, and technical support.

“(2) FEDERAL RESPONSIBILITY.—Funding and conducting surface transportation research and technology transfer activities shall be considered a basic responsibility of the Federal Government when the work—

“(A) is of national significance;

“(B) supports research in which there is a clear public benefit and private sector investment is less than optimal;

“(C) supports a Federal stewardship role in assuring that State and local governments use national resources efficiently; or

“(D) presents the best means to support Federal policy goals compared to other policy alternatives.

“(3) ROLE.—Consistent with these Federal responsibilities, the Secretary shall—

“(A) conduct research;

“(B) support and facilitate research and technology transfer activities by State highway agencies;

“(C) share results of completed research; and

“(D) support and facilitate technology and innovation deployment.

“(4) PROGRAM CONTENT.—A surface transportation research program shall include—

“(A) fundamental, long-term highway research;

“(B) research aimed at significant highway research gaps and emerging issues with national implications; and

“(C) research related to policy and planning.

“(5) STAKEHOLDER INPUT.—Federal surface transportation research and development activities shall address the needs of stakeholders. Stakeholders include States, metropolitan planning organizations, local governments, the private sector, researchers, research sponsors, and other affected parties, including public interest groups.

“(6) COMPETITION AND PEER REVIEW.—Except as otherwise provided in this chapter, the Secretary shall award, to the

Public
information.

maximum extent practicable, all grants, contracts, and cooperative agreements for research and development under this chapter based on open competition and peer review of proposals.

“(7) PERFORMANCE REVIEW AND EVALUATION.—To the maximum extent practicable, all surface transportation research and development projects shall include a component of performance measurement and evaluation. Performance measures shall be established during the proposal stage of a research and development project and shall, to the maximum extent possible, be outcome-based. All evaluations shall be made readily available to the public.

“(8) TECHNOLOGICAL INNOVATION.—The programs and activities carried out under this section shall be consistent with the surface transportation research and technology development strategic plan developed under section 508.”.

(c) PROCUREMENT FOR RESEARCH, DEVELOPMENT, AND TECHNOLOGY TRANSFER ACTIVITIES.—Section 502(b)(3) of such title (as redesignated by subsection (b) of this section) is amended to read as follows:

“(3) COOPERATION, GRANTS, AND CONTRACTS.—The Secretary may carry out research, development, and technology transfer activities related to transportation—

“(A) independently;

“(B) in cooperation with other Federal departments, agencies, and instrumentalities and Federal laboratories; or

“(C) by making grants to, or entering into contracts and cooperative agreements with one or more of the following: the National Academy of Sciences, the American Association of State Highway and Transportation Officials, any Federal laboratory, Federal agency, State agency, authority, association, institution, for-profit or nonprofit corporation, organization, foreign country, or any other person.”.

(d) TRANSPORTATION POOLED FUND PROGRAM.—Section 502(b) of such title (as redesignated by subsection (b) of this section) is amended by adding at the end the following:

“(6) POOLED FUNDING.—

“(A) COOPERATION.—To promote effective utilization of available resources, the Secretary may cooperate with a State and an appropriate agency in funding research, development, and technology transfer activities of mutual interest on a pooled funds basis.

“(B) SECRETARY AS AGENT.—The Secretary may enter into contracts, cooperative agreements, and grants as the agent for all participating parties in carrying out such research, development, or technology transfer activities.”.

(e) OPERATIONS ELEMENTS IN RESEARCH ACTIVITIES.—Section 502 of such title is further amended—

(1) in subsection (b)(1)(B) (as redesignated by subsection (b) of this section) by inserting “transportation system management and operations,” after “operation,”;

(2) in subsection (d)(5)(C) (as redesignated by subsection (b) of this section) by inserting “system management and” after “transportation”; and

(3) by inserting at the end of subsection (d) (as redesignated by subsection (b) of this section) the following:

“(12) Investigation and development of various operational methodologies to reduce the occurrence and impact of recurrent congestion and nonrecurrent congestion and increase transportation system reliability.

“(13) Investigation of processes, procedures, and technologies to secure container and hazardous material transport, including the evaluation of regulations and the impact of good security practices on commerce and productivity.

“(14) Research, development, and technology transfer related to asset management.”.

(f) FACILITATING TRANSPORTATION RESEARCH AND TECHNOLOGY DEPLOYMENT PARTNERSHIPS.—Section 502(c)(2) of such title (as redesignated by subsection (b) of this section) is amended to read as follows:

“(2) COOPERATION, GRANTS, CONTRACTS, AND AGREEMENTS.—Notwithstanding any other provision of law, the Secretary may directly initiate contracts, cooperative research and development agreements (as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a)) to fund, and accept funds from, the Transportation Research Board of the National Research Council of the National Academy of Sciences, State departments of transportation, cities, counties, and their agents to conduct joint transportation research and technology efforts.”.

(g) EXPLORATORY ADVANCED RESEARCH PROGRAM.—Section 502(e) of such title (as redesignated by subsection (b) of this section) is amended to read as follows:

“(e) EXPLORATORY ADVANCED RESEARCH.—

“(1) IN GENERAL.—The Secretary shall establish an exploratory advanced research program, consistent with the surface transportation research and technology development strategic plan developed under section 508 that addresses longer-term, higher-risk research with potentially dramatic breakthroughs for improving the durability, efficiency, environmental impact, productivity, and safety (including bicycle and pedestrian safety) aspects of highway and intermodal transportation systems. In carrying out the program, the Secretary shall strive to develop partnerships with public and private sector entities.

“(2) RESEARCH AREAS.—In carrying out the program, the Secretary may make grants and enter into cooperative agreements and contracts in such areas of surface transportation research and technology as the Secretary determines appropriate, including the following:

“(A) Characterization of materials used in highway infrastructure, including analytical techniques, microstructure modeling, and the deterioration processes.

“(B) Assessment of the effects of transportation decisions on human health.

“(C) Development of surrogate measures of safety.

“(D) Environmental research.

“(E) Data acquisition techniques for system condition and performance monitoring.

“(F) System performance data and information processing needed to assess the day-to-day operational performance of the system in support of hour-to-hour operational decisionmaking.”.

(h) FUNDING.—Of the amounts made available by section 5101(a) of this Act, \$14,000,000 for each of fiscal years 2005 through 2009 shall be available to carry out section 502(e) of such title.

(i) LONG-TERM PAVEMENT PERFORMANCE PROGRAM.—

(1) IN GENERAL.—Section 502(f) of such title (as redesignated by subsection (b) of this section) is amended to read as follows:

“(f) LONG-TERM PAVEMENT PERFORMANCE PROGRAM.—

“(1) AUTHORITY.—The Secretary shall continue to carry out, through September 30, 2009, tests, monitoring, and data analysis under the long-term pavement performance program.

“(2) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—Under the program, the Secretary shall make grants and enter into cooperative agreements and contracts to—

“(A) monitor, material-test, and evaluate highway test sections in existence as of the date of the grant, agreement, or contract;

“(B) analyze the data obtained under subparagraph (A); and

“(C) prepare products to fulfill program objectives and meet future pavement technology needs.”.

(2) FUNDING.—Of the amounts made available by section 5101(a)(1) of this Act, \$10,120,000 for each of fiscal years 2005 through 2009 shall be available to carry out section 502(f) of such title.

(j) SEISMIC RESEARCH.—

(1) IN GENERAL.—Section 502(g) of such title (as redesignated by subsection (b) of this section) is amended to read as follows:

“(g) SEISMIC RESEARCH.—The Secretary shall—

“(1) in consultation and cooperation with Federal agencies participating in the National Earthquake Hazards Reduction Program established by section 5 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7704), coordinate the conduct of seismic research;

“(2) take such actions as are necessary to ensure that the coordination of the research is consistent with—

“(A) planning and coordination activities of the National Institute of Standards and Technology under section 5(b)(1) of that Act (42 U.S.C. 7704(b)(1)); and

“(B) the plan developed by the Director of the National Institute of Standards and Technology under section 8(b) of that Act (42 U.S.C. 7705b(b)); and

“(3) in cooperation with the Center for Civil Engineering Research at the University of Nevada, Reno, and the National Center for Earthquake Engineering Research at the University of Buffalo, carry out a seismic research program—

“(A) to study the vulnerability of the Federal-aid system and other surface transportation systems to seismic activity;

“(B) to develop and implement cost-effective methods to reduce the vulnerability; and

“(C) to conduct seismic research and upgrade earthquake simulation facilities as necessary to carry out the program.”.

(2) FUNDING.—Of the amounts made available by section 5101(a)(1) of this Act, \$2,500,000 for each of fiscal years 2005

through 2009 shall be available to carry out section 502(g) of such title.

(k) INFRASTRUCTURE INVESTMENT NEEDS REPORT.—Section 502 of such title is further amended by adding at the end the following:

“(h) INFRASTRUCTURE INVESTMENT NEEDS REPORT.—

“(1) IN GENERAL.—Not later than July 31, 2006, and July 31 of every second year thereafter, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that describes—

“(A) estimates of the future highway, transit, and bridge needs of the United States; and

“(B) the backlog of current highway, transit, and bridge needs.

“(2) COMPARISON WITH PRIOR REPORTS.—Each report under paragraph (1) shall provide the means, including all necessary information, to relate and compare the conditions and service measures used in the previous biennial reports.”.

(l) TURNER-FAIRBANK HIGHWAY RESEARCH CENTER.—Section 502 of such title is further amended by adding at the end the following:

“(i) TURNER-FAIRBANK HIGHWAY RESEARCH CENTER.—

“(1) IN GENERAL.—The Secretary shall operate in the Federal Highway Administration a Turner-Fairbank Highway Research Center.

“(2) USES OF THE CENTER.—The Turner-Fairbank Highway Research Center shall support—

“(A) the conduct of highway research and development related to new highway technology;

“(B) the development of understandings, tools, and techniques that provide solutions to complex technical problems through the development of economical and environmentally sensitive designs, efficient and quality-controlled construction practices, and durable materials; and

“(C) the development of innovative highway products and practices.”.

(m) BIOBASED TRANSPORTATION RESEARCH.—Of the amounts made available by section 5101(a)(1) of this Act, \$12,500,000 for each of fiscal years 2006 through 2009, equally divided and available, shall be available to carry out biobased research of national importance at the National Biodiesel Board and at research centers identified in section 9011 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8109).

SEC. 5202. LONG-TERM BRIDGE PERFORMANCE PROGRAM; INNOVATIVE BRIDGE RESEARCH AND DEPLOYMENT PROGRAM.

(a) LONG-TERM BRIDGE PERFORMANCE PROGRAM.—

(1) IN GENERAL.—Section 502 of title 23, United States Code, is further amended by adding at the end the following:

“(j) LONG-TERM BRIDGE PERFORMANCE PROGRAM.—

“(1) AUTHORITY.—The Secretary shall establish a 20-year long-term bridge performance program.

“(2) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—Under the program, the Secretary shall make grants and enter into cooperative agreements and contracts to—

“(A) monitor, material-test, and evaluate test bridges;

“(B) analyze the data obtained under subparagraph (A); and

“(C) prepare products to fulfill program objectives and meet future bridge technology needs.”.

(2) FUNDING.—Of the amounts made available by section 5101(a)(1) of this Act, \$7,750,000 for each of fiscal years 2006 through 2009 shall be available to carry out section 502(j) of such title.

(b) INNOVATIVE BRIDGE RESEARCH AND DEPLOYMENT PROGRAM.—

(1) IN GENERAL.—Section 503(b)(1) of such title is amended to read as follows:

“(1) IN GENERAL.—The Secretary shall establish and carry out a program to promote, demonstrate, evaluate, and document the application of innovative designs, materials, and construction methods in the construction, repair, and rehabilitation of bridges and other highway structures.”.

(2) GOALS.—Section 503(b)(2) of such title is amended to read as follows:

“(2) GOALS.—The goals of the program shall include—

“(A) the development of new, cost-effective, innovative highway bridge applications;

“(B) the development of construction techniques to increase safety and reduce construction time and traffic congestion;

“(C) the development of engineering design criteria for innovative products, materials, and structural systems for use in highway bridges and structures;

“(D) the reduction of maintenance costs and life-cycle costs of bridges, including the costs of new construction, replacement, or rehabilitation of deficient bridges;

“(E) the development of highway bridges and structures that will withstand natural disasters;

“(F) the documentation and wide dissemination of objective evaluations of the performance and benefits of these innovative designs, materials, and construction methods;

“(G) the effective transfer of resulting information and technology; and

“(H) the development of improved methods to detect bridge scour and economical bridge foundation designs that will withstand bridge scour.”.

(3) FUNDING.—

(A) IN GENERAL.—Of the amounts made available by section 5101(a)(1) of this Act, \$13,100,000 for each of fiscal years 2005 through 2009 shall be available to carry out section 503(b) of such title.

(B) HIGH-PERFORMANCE CONCRETE BRIDGE TECHNOLOGY RESEARCH AND DEPLOYMENT.—The Secretary shall obligate \$4,125,000 of the amount described in subparagraph (A) for each of fiscal years 2006 through 2009 to conduct research and deploy technology related to high-performance concrete bridges.

23 USC 503 note.

(c) HIGH PERFORMING STEEL BRIDGE RESEARCH AND TECHNOLOGY TRANSFER.—

(1) IN GENERAL.—The Secretary shall carry out a program to demonstrate the application of high-performing steel in the construction and rehabilitation of bridges.

(2) FUNDING.—Of the amounts made available by section 5101(a)(1) of this Act, \$4,100,000 for each of fiscal years 2006 through 2009 shall be available to carry out this subsection.

(d) STEEL BRIDGE TESTING.—

23 USC 503 note.

(1) IN GENERAL.—The Secretary shall carry out a program to test steel bridges using a nondestructive technology that is able to detect growing cracks, including subsurface flaws as small as 0.010 inches in length or depth, in the bridges.

(2) FUNDING.—Of the amounts made available by section 5101(a)(1) of this Act, \$1,250,000 for each of fiscal years 2006 through 2009 shall be available to carry out this subsection.

(3) FEDERAL SHARE.—The Federal share of the cost of activities carried out in accordance with this subsection shall be 80 percent.

SEC. 5203. TECHNOLOGY DEPLOYMENT.

(a) TECHNOLOGY DEPLOYMENT PROGRAM.—Section 503(a) of title 23, United States Code, is amended—

(1) in the subsection heading by striking “INITIATIVES AND PARTNERSHIPS”;

(2) by striking paragraph (1) and inserting the following: “(1) ESTABLISHMENT.—The Secretary shall develop and administer a national technology deployment program.”;

(3) by striking paragraph (7) and inserting the following: “(7) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—

“(A) IN GENERAL.—Under the program, the Secretary may make grants to, and enter into cooperative agreements and contracts with, States, other Federal agencies, universities and colleges, private sector entities, and nonprofit organizations to pay the Federal share of the cost of research, development, and technology transfer activities concerning innovative materials.

“(B) APPLICATIONS.—To receive a grant under this subsection, an entity described in subparagraph (A) shall submit an application to the Secretary. The application shall be in such form and contain such information as the Secretary may require. The Secretary shall select and approve an application based on whether the project that is the subject of the grant meets the purpose of the program described in paragraph (2).”; and

(4) by striking paragraph (8) and inserting the following:

“(8) TECHNOLOGY AND INFORMATION TRANSFER.—The Secretary shall ensure that the information and technology resulting from research conducted under paragraph (7) is made available to State and local transportation departments and other interested parties as specified by the Secretary.”.

(b) INNOVATIVE PAVEMENT RESEARCH AND DEPLOYMENT PROGRAM.—

(1) IN GENERAL.—Section 503 of such title is further amended by adding at the end the following:

“(c) INNOVATIVE PAVEMENT RESEARCH AND DEPLOYMENT PROGRAM.—

“(1) IN GENERAL.—The Secretary shall establish and implement a program to promote, demonstrate, support, and document the application of innovative pavement technologies, practices, performance, and benefits.

“(2) GOALS.—The goals of the innovative pavement research and deployment program shall include—

“(A) the deployment of new, cost-effective, innovative designs, materials, recycled materials (including taconite tailings and foundry sand), and practices to extend pavement life and performance and to improve customer satisfaction;

“(B) the reduction of initial costs and life-cycle costs of pavements, including the costs of new construction, replacement, maintenance, and rehabilitation;

“(C) the deployment of accelerated construction techniques to increase safety and reduce construction time and traffic disruption and congestion;

“(D) the deployment of engineering design criteria and specifications for innovative practices, products, and materials for use in highway pavements;

“(E) the deployment of new nondestructive and real-time pavement evaluation technologies and techniques;

“(F) the evaluation, refinement, and documentation of the performance and benefits of innovative technologies deployed to improve life, performance, cost effectiveness, safety, and customer satisfaction;

“(G) effective technology transfer and information dissemination to accelerate implementation of innovative technologies and to improve life, performance, cost effectiveness, safety, and customer satisfaction; and

“(H) the development of designs and materials to reduce storm water runoff.

“(3) RESEARCH TO IMPROVE NHS PAVEMENT.—The Secretary shall obligate for each of fiscal years 2006 through 2009 from funds made available to carry out this subsection, \$4,100,000 to conduct research to improve asphalt pavement, \$4,100,000 to conduct research to improve concrete pavement, \$4,100,000 to conduct research to improve alternative materials used in highways (including alternative materials used in highway drainage applications), and \$2,450,000 to conduct research to improve aggregates used in highways on the National Highway System.”.

(2) FUNDING.—Of the amounts made available by section 5101(a)(1) of this Act, \$22,625,000 for each of fiscal years 2006 through 2009 shall be available to carry out section 503(c) of such title.

(c) SAFETY INNOVATION DEPLOYMENT PROGRAM.—

(1) IN GENERAL.—Section 503 of such title is further amended by adding at the end the following:

“(d) SAFETY INNOVATION DEPLOYMENT PROGRAM.—

“(1) IN GENERAL.—The Secretary shall establish and implement a program to demonstrate the application of innovative technologies in highway safety.

“(2) GOALS.—The goals of the program shall include—

“(A) the deployment and evaluation of safety technologies and innovations at State and local levels; and

“(B) the deployment of best practices in training, management, design, and planning.

“(3) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—

“(A) IN GENERAL.—Under the program, the Secretary shall make grants to, and enter into cooperative agreements and contracts with, States, other Federal agencies, universities and colleges, private sector entities, and nonprofit organizations for research, development, and technology transfer for innovative safety technologies.

“(B) APPLICATIONS.—To receive a grant under this subsection, an entity described in subparagraph (A) shall submit to the Secretary an application at such time and containing such information as the Secretary may require. The Secretary shall select and approve an application based on whether the project that is the subject of the application meets the goals of the program described in paragraph (2).

“(4) TECHNOLOGY AND INFORMATION TRANSFER.—The Secretary shall take such action as is necessary to ensure that the information and technology resulting from research conducted under paragraph (3) is made available to State and local transportation departments and other interested parties as specified by the Secretary.”.

(2) FUNDING.—Of the amounts made available by section 5101(a)(1) of this Act, \$12,750,000 for each of fiscal years 2006 through 2009 shall be available to carry out section 503(d) of such title.

(d) AUTHORITY TO PURCHASE PROMOTIONAL ITEMS.—Section 503 of such title is further amended by adding at the end the following:

“(e) PROMOTIONAL AUTHORITY.—Funds authorized to be appropriated for necessary expenses for administration and operation of the Federal Highway Administration shall be available to purchase promotional items of nominal value for use in the recruitment of individuals and to promote the programs of the Federal Highway Administration.”.

(e) DEMONSTRATION PROJECTS AND STUDIES.—

(1) WOOD COMPOSITE MATERIALS DEMONSTRATION PROJECT.—Of the funds made available by section 5101(a)(1) of this Act, \$1,000,000 for each of fiscal years 2006 and 2007 shall be made available for conducting a demonstration at the University of Maine of the durability and potential effectiveness of wood composite materials in multimodal transportation facilities.

(2) ASPHALT RECLAMATION STUDY.—Of the funds made available by section 5101(a)(1) of this Act, \$1,500,000 for fiscal year 2006 shall be available for asphalt and asphalt-related reclamation research at the South Dakota School of Mines.

(3) ALKALI SILICA REACTIVITY.—Of the funds made available by section 5101(a)(1) of this Act, \$2,450,000 shall be made available by the Secretary for each of fiscal years 2006 through 2009 for further development and deployment of techniques to prevent and mitigate alkali silica reactivity.

(4) FEDERAL SHARE.—The Federal share of the cost of the projects—

(A) under paragraph (1) shall be 100 percent; and

(B) under paragraphs (2) and (3) shall be the share applicable under section 120(b) of such title unless otherwise specified or determined by the Secretary.

(f) **TURNER-FAIRBANK FACILITY.**—Of the funds made available by section 5101(a)(1) of this Act, \$625,000 shall be available for each of fiscal years 2006 through 2009 to provide for physical demonstrations of the ongoing work at the Turner-Fairbank facility with respect to ultra-high performance concrete with ductility.

SEC. 5204. TRAINING AND EDUCATION.

(a) **NATIONAL HIGHWAY INSTITUTE.**—

(1) **COURSES.**—Section 504(a)(3) of title 23, United States Code, is amended to read as follows:

“(3) **COURSES.**—

“(A) **IN GENERAL.**—The Institute shall—

“(i) develop or update existing courses in asset management, including courses that include such components as—

“(I) the determination of life-cycle costs;

“(II) the valuation of assets;

“(III) benefit-to-cost ratio calculations; and

“(IV) objective decisionmaking processes for project selection; and

“(ii) continually develop courses relating to the application of emerging technologies for—

“(I) transportation infrastructure applications and asset management;

“(II) intelligent transportation systems;

“(III) operations (including security operations);

“(IV) the collection and archiving of data;

“(V) expediting the planning and development of transportation projects; and

“(VI) the intermodal movement of individuals and freight.

“(B) **ADDITIONAL COURSES.**—In addition to the courses developed under subparagraph (A), the Institute, in consultation with State transportation departments, metropolitan planning organizations, and the American Association of State Highway and Transportation Officials, may develop courses relating to technology, methods, techniques, engineering, construction, safety, maintenance, environmental mitigation and compliance, regulations, management, inspection, and finance.

“(C) **REVISION OF COURSES OFFERED.**—The Institute shall periodically—

“(i) review the course inventory of the Institute; and

“(ii) revise or cease to offer courses based on course content, applicability, and need.”.

(2) **FUNDING.**—Of the amounts made available by section 5101(a)(2) of this Act, \$9,600,000 for each of fiscal years 2005 through 2009 shall be available to carry out section 504(a) of such title.

(b) **LOCAL TECHNICAL ASSISTANCE PROGRAM.**—Section 504(b) of such title is amended to read as follows:

“(b) **LOCAL TECHNICAL ASSISTANCE PROGRAM.**—

“(1) **AUTHORITY.**—The Secretary shall carry out a local technical assistance program that will provide access to surface transportation technology to—

“(A) highway and transportation agencies in urbanized and rural areas;

“(B) contractors that perform work for the agencies; and

“(C) infrastructure security staff.

“(2) **GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.**—The Secretary may make grants and enter into cooperative agreements and contracts to provide education and training, technical assistance, and related support services to—

“(A) assist rural, local transportation agencies and tribal governments, and the consultants and construction personnel working for the agencies and governments, to—

“(i) develop and expand expertise in road and transportation areas (including pavement, bridge, concrete structures, intermodal connections, safety management systems, intelligent transportation systems, incident response, operations, and traffic safety countermeasures);

“(ii) improve roads and bridges;

“(iii) enhance—

“(I) programs for the movement of passengers and freight; and

“(II) intergovernmental transportation planning and project selection; and

“(iv) deal effectively with special transportation-related problems by preparing and providing training packages, manuals, guidelines, and technical resource materials;

“(B) develop technical assistance for tourism and recreational travel;

“(C) identify, package, and deliver transportation technology and traffic safety information to local jurisdictions to assist urban transportation agencies in developing and expanding their ability to deal effectively with transportation-related problems (particularly the promotion of regional cooperation);

“(D) operate, in cooperation with State transportation departments and universities—

“(i) local technical assistance program centers designated to provide transportation technology transfer services to rural areas and to urbanized areas; and

“(ii) local technical assistance program centers designated to provide transportation technical assistance to tribal governments; and

“(E) allow local transportation agencies and tribal governments, in cooperation with the private sector, to enhance new technology implementation.

“(3) **FEDERAL SHARE.**—The Federal share of the cost of activities carried out by the tribal technical assistance centers under paragraph (2)(D)(ii) shall be 100 percent.”.

(c) **FUNDING.**—Of the funds made available by section 5101(a)(2) of this Act, \$11,100,000 for each of fiscal years 2005 through 2009 shall be available to carry out section 504(b) of such title.

(d) GARRETT A. MORGAN TECHNOLOGY AND TRANSPORTATION EDUCATION PROGRAM.—

(1) IN GENERAL.—Section 504 of such title, is further amended by adding at the end the following new subsection:

“(d) GARRETT A. MORGAN TECHNOLOGY AND TRANSPORTATION EDUCATION PROGRAM.—

Women.
Minorities.

“(1) IN GENERAL.—The Secretary shall establish the Garrett A. Morgan Technology and Transportation Education Program to improve the preparation of students, particularly women and minorities, in science, technology, engineering, and mathematics through curriculum development and other activities related to transportation.

Grants.

“(2) AUTHORIZED ACTIVITIES.—The Secretary shall award grants under this subsection on the basis of competitive peer review. Grants awarded under this subsection may be used for enhancing science, technology, engineering, and mathematics at the elementary and secondary school level through such means as—

“(A) internships that offer students experience in the transportation field;

“(B) programs that allow students to spend time observing scientists and engineers in the transportation field; and

“(C) developing relevant curriculum that uses examples and problems related to transportation.

“(3) APPLICATION AND REVIEW PROCEDURES.—

“(A) IN GENERAL.—An entity described in subparagraph (C) seeking funding under this subsection shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require. Such application, at a minimum, shall include a description of how the funds will be used to serve the purposes described in paragraph (2).

“(B) PRIORITY.—In making awards under this subsection, the Secretary shall give priority to applicants that will encourage the participation of women and minorities.

“(C) ELIGIBILITY.—Local educational agencies and State educational agencies, which may enter into a partnership agreement with institutions of higher education, businesses, or other entities, shall be eligible to apply for grants under this subsection.

“(4) DEFINITIONS.—In this subsection, the following definitions apply:

“(A) INSTITUTION OF HIGHER EDUCATION.—The term ‘institution of higher education’ has the meaning given that term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

“(B) LOCAL EDUCATIONAL AGENCY.—The term ‘local educational agency’ has the meaning given that term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

“(C) STATE EDUCATIONAL AGENCY.—The term ‘State educational agency’ has the meaning given that term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).”.

(2) FUNDING.—Of the amounts made available by section 5101(a)(2) of this Act, \$1,250,000 for each of fiscal years 2006

through 2009 shall be available to carry out section 504(d) of such title.

(3) FEDERAL SHARE.—The Federal share of the cost of activities carried out in accordance with this section 504(d) of such title shall be 100 percent.

(e) SURFACE TRANSPORTATION WORKFORCE DEVELOPMENT, TRAINING, AND EDUCATION.—Section 504 of such title is further amended by adding at the end the following:

“(e) SURFACE TRANSPORTATION WORKFORCE DEVELOPMENT, TRAINING, AND EDUCATION.—

“(1) FUNDING.—Subject to project approval by the Secretary, a State may obligate funds apportioned to the State under sections 104(b)(1), 104(b)(2), 104(b)(3), 104(b)(4), and 144(e) for surface transportation workforce development, training, and education, including—

“(A) tuition and direct educational expenses, excluding salaries, in connection with the education and training of employees of State and local transportation agencies;

“(B) employee professional development;

“(C) student internships;

“(D) university or community college support; and

“(E) education activities, including outreach, to develop interest and promote participation in surface transportation careers.

“(2) FEDERAL SHARE.—The Federal share of the cost of activities carried out in accordance with this subsection shall be 100 percent.

“(3) SURFACE TRANSPORTATION WORKFORCE DEVELOPMENT, TRAINING, AND EDUCATION DEFINED.—In this subsection, the term ‘surface transportation workforce development, training, and education’ means activities associated with surface transportation career awareness, student transportation career preparation, and training and professional development for surface transportation workers, including activities for women and minorities.

“(f) TRANSPORTATION EDUCATION DEVELOPMENT PILOT PROGRAM.— Grants.

“(1) ESTABLISHMENT.—The Secretary shall establish a program to make grants to institutions of higher education that, in partnership with industry or State departments of transportation, will develop, test, and revise new curricula and education programs to train individuals at all levels of the transportation workforce.

“(2) SELECTION OF GRANT RECIPIENTS.—In selecting applications for awards under this subsection, the Secretary shall consider—

“(A) the degree to which the new curricula or education program meets the specific needs of a segment of the transportation industry, States, or regions;

“(B) providing for practical experience and on-the-job training;

“(C) proposals oriented toward practitioners in the field rather than the support and growth of the research community;

“(D) the degree to which the new curricula or program will provide training in areas other than engineering, such

as business administration, economics, information technology, environmental science, and law;

“(E) programs or curricula in nontraditional departments that train professionals for work in the transportation field, such as materials, information technology, environmental science, urban planning, and industrial technology; and

“(F) the commitment of industry or a State’s department of transportation to the program.

“(3) LIMITATIONS.—The amount of a grant under this subsection shall not exceed \$300,000 per year. After a recipient has received 3 years of Federal funding under this subsection, Federal funding may equal not more than 75 percent of a grantee’s program costs.”.

(f) FUNDING.—

(1) IN GENERAL.—Of the amounts made available by section 5101(a)(2) of this Act, \$1,875,000 for each of fiscal years 2006 through 2009 shall be available to carry out section 504(f) of such title.

(2) FEDERAL SHARE.—The Federal share of the cost of activities carried out in accordance with section 504(f) of such title shall be 100 percent.

(g) TRANSPORTATION TECHNOLOGY INNOVATIONS.—

(1) FUNDAMENTAL PROPERTIES OF ASPHALTS AND MODIFIED ASPHALTS.—The Secretary shall continue to carry out section 5117(b)(5) of the Transportation Equity Act for the 21st Century (112 Stat. 450).

(2) TRANSPORTATION, ECONOMIC, AND LAND USE SYSTEM.—The Secretary shall continue to carry out section 5117(b)(7) of the Transportation Equity Act for the 21st Century (112 Stat. 450).

(3) FUNDING.—Of the amounts made available by section 5101(a)(1) of this Act, for each of fiscal years 2005 through 2009 \$4,200,000 shall be available to carry out paragraph (1) and \$1,000,000 shall be available to carry out paragraph (2).

(h) FREIGHT PLANNING CAPACITY BUILDING.—

(1) IN GENERAL.—Section 504 of title 23, United States Code, is further amended by adding at the end the following:

“(g) FREIGHT CAPACITY BUILDING PROGRAM.—

“(1) ESTABLISHMENT.—The Secretary shall establish a freight planning capacity building initiative to support enhancements in freight transportation planning in order to—

“(A) better target investments in freight transportation systems to maintain efficiency and productivity; and

“(B) strengthen the decisionmaking capacity of State transportation departments and local transportation agencies with respect to freight transportation planning and systems.

“(2) AGREEMENTS.—The Secretary shall enter into agreements to support and carry out administrative and management activities relating to the governance of the freight planning capacity initiative.

“(3) STAKEHOLDER INVOLVEMENT.—In carrying out this section, the Secretary shall consult with the Association of Metropolitan Planning Organizations, the American Association of State Highway and Transportation Officials, and other freight planning stakeholders, including the other Federal agencies,

State transportation departments, local governments, nonprofit entities, academia, and the private sector.

“(4) ELIGIBLE ACTIVITIES.—The freight planning capacity building initiative shall include research, training, and education in the following areas:

“(A) The identification and dissemination of best practices in freight transportation.

“(B) Providing opportunities for freight transportation staff to engage in peer exchange.

“(C) Refinement of data and analysis tools used in conjunction with assessing freight transportation needs.

“(D) Technical assistance to State transportation departments and local transportation agencies reorganizing to address freight transportation issues.

“(E) Facilitating relationship building between governmental and private entities involved in freight transportation.

“(F) Identifying ways to target the capacity of State transportation departments and local transportation agencies to address freight considerations in operations, security, asset management, and environmental excellence in connection with long-range multimodal transportation planning and project implementation.

“(5) FEDERAL SHARE.—The Federal share of the cost of an activity carried out under this section shall be up to 100 percent, and such funds shall remain available until expended.

“(6) USE OF FUNDS.—Funds made available for the program established under this subsection may be used for research, program development, information collection and dissemination, and technical assistance. The Secretary may use such funds independently or make grants or to and enter into contracts and cooperative agreements with a Federal agency, State agency, local agency, federally recognized Indian tribal government or tribal consortium, authority, association, nonprofit or for-profit corporation, or institution of higher education, to carry out the purposes of this subsection.”

(2) FUNDING.—Of the amounts made available under section 5101(a)(2) of this Act, \$875,000 for each of fiscal years 2006 through 2009 shall be available to carry out section 504(g) of such title.

(i) EISENHOWER TRANSPORTATION FELLOWSHIP PROGRAM.—Of the amounts made available by section 5101(a)(2) of this Act, \$2,200,000 for each of fiscal years 2005 through 2009 shall be available to carry out section 504(c)(2) of such title.

SEC. 5205. STATE PLANNING AND RESEARCH.

Section 505 of title 23, United States Code, is amended—

(1) in subsection (a) by adding at the end the following—

“(7) The conduct of activities relating to the planning of real-time monitoring elements.”; and

(2) in subsection (d) by striking “for the same” and all that follows through the period and inserting the following: “for the period described in section 118(b)(2).”.

SEC. 5206. INTERNATIONAL HIGHWAY TRANSPORTATION OUTREACH PROGRAM.

(a) IN GENERAL.—Section 506 of title 23, United States Code, is amended to read as follows:

“§ 506. International highway transportation outreach program

“(a) ESTABLISHMENT.—The Secretary may establish an international highway transportation outreach program—

“(1) to inform the United States highway community of technological innovations in foreign countries that could significantly improve highway transportation in the United States;

“(2) to promote United States highway transportation expertise, goods, and services in foreign countries; and

“(3) to increase transfers of United States highway transportation technology to foreign countries.

“(b) ACTIVITIES.—Activities carried out under the program may include—

“(1) the development, monitoring, assessment, and dissemination in the United States of information about highway transportation innovations in foreign countries that could significantly improve highway transportation in the United States;

“(2) research, development, demonstration, training, and other forms of technology transfer and exchange;

“(3) the provision to foreign countries, through participation in trade shows, seminars, expositions, and other similar activities, of information relating to the technical quality of United States highway transportation goods and services;

“(4) the offering of technical services of the Federal Highway Administration that cannot be readily obtained from private sector firms in the United States for incorporation into the proposals of those firms undertaking highway transportation projects outside the United States, if the costs of the technical services will be recovered under the terms of the project;

“(5) the conduct of studies to assess the need for, or feasibility of, highway transportation improvements in foreign countries; and

“(6) the gathering and dissemination of information on foreign transportation markets and industries.

“(c) COOPERATION.—The Secretary may carry out this section in cooperation with any appropriate—

“(1) Federal, State, or local agency;

“(2) authority, association, institution, or organization;

“(3) for-profit or nonprofit corporation;

“(4) national or international entity;

“(5) foreign country; or

“(6) person.

“(d) FUNDS.—

“(1) CONTRIBUTIONS.—Funds available to carry out this section shall include funds deposited by any cooperating organization or person into a special account of the Treasury established for this purpose.

“(2) ELIGIBLE USES OF FUNDS.—The funds deposited into the account, and other funds available to carry out this section, shall be available to cover the cost of any activity eligible under this section, including the cost of—

“(A) promotional materials;

“(B) travel;

“(C) reception and representation expenses; and

“(D) salaries and benefits.

“(3) REIMBURSEMENTS FOR SALARIES AND BENEFITS.—Reimbursements for salaries and benefits of Department employees providing services under this section shall be credited to the account.

“(e) REPORT.—For each fiscal year, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that describes the destinations and individual trip costs of international travel conducted in carrying out activities described in this section.”.

(b) FUNDING.—Of the amounts made available by section 5101(a)(1) of this Act, \$300,000 for each of fiscal years 2005 through 2009 shall be available to carry out section 506 of such title.

SEC. 5207. SURFACE TRANSPORTATION ENVIRONMENT AND PLANNING COOPERATIVE RESEARCH PROGRAM.

(a) IN GENERAL.—Section 507 of title 23, United States Code, is amended to read as follows:

“§ 507. Surface transportation-environmental cooperative research program

“(a) IN GENERAL.—The Secretary shall establish and carry out a surface transportation-environmental cooperative research program.

“(b) CONTENTS.—The program carried out under this section may include research—

“(1) to develop more accurate models for evaluating transportation control measures and transportation system designs that are appropriate for use by State and local governments (including metropolitan planning organizations) in designing implementation plans to meet Federal, State, and local environmental requirements;

“(2) to improve understanding of the factors that contribute to the demand for transportation;

“(3) to develop indicators of economic, social, and environmental performance of transportation systems to facilitate analysis of potential alternatives;

“(4) to meet additional priorities as determined by the Secretary in the strategic planning process under section 508; and

“(5) to refine, through the conduct of workshops, symposia, and panels, and in consultation with stakeholders (including the Department of Energy, the Environmental Protection Agency, and other appropriate Federal and State agencies and associations) the scope and research emphases of the program.

“(c) PROGRAM ADMINISTRATION.—The Secretary shall—

“(1) administer the program established under this section; and

“(2) ensure, to the maximum extent practicable, that—

“(A) the best projects and researchers are selected to conduct research in the priority areas described in subsection (b)—

“(i) on the basis of merit of each submitted proposal; and

“(ii) through the use of open solicitations and selection by a panel of appropriate experts;

“(B) a qualified, permanent core staff with the ability and expertise to manage a large multiyear budget is used;

“(C) the stakeholders are involved in the governance of the program, at the executive, overall program, and technical levels, through the use of expert panels and committees; and

“(D) there is no duplication of research effort between the program established under this section and the new strategic highway research program established under section 510.

“(d) NATIONAL ACADEMY OF SCIENCES.—The Secretary may make grants to, and enter into cooperative agreements with, the National Academy of Sciences to carry out such activities relating to the research, technology, and technology transfer activities described in subsections (b) and (c) as the Secretary determines to be appropriate.”.

(b) FUNDING.—Of the amounts made available by section 5101(a)(1) of this Act, \$16,875,000 for each of fiscal years 2006 through 2009 shall be available to carry out section 507 of such title.

(c) CONFORMING AMENDMENT.—The analysis for chapter 5 of such title is amended by striking the item relating to section 507 and inserting the following:

“507. Surface transportation environment and planning cooperative research program.”.

SEC. 5208. TRANSPORTATION RESEARCH AND DEVELOPMENT STRATEGIC PLANNING.

(a) IN GENERAL.—Section 508 of title 23, United States Code, is amended to read as follows:

“§ 508. Transportation research and development strategic planning

“(a) IN GENERAL.—

“(1) DEVELOPMENT.—Not later than 1 year after the date of enactment of the SAFETEA-LU, the Secretary shall develop a 5-year transportation research and development strategic plan to guide Federal transportation research and development activities. This plan shall be consistent with section 306 of title 5, sections 1115 and 1116 of title 31, and any other research and development plan within the Department of Transportation.

“(2) CONTENTS.—The strategic plan developed under paragraph (1) shall—

“(A) describe the primary purposes of the transportation research and development program, which shall include, at a minimum—

“(i) reducing congestion and improving mobility;

“(ii) promoting safety;

“(iii) promoting security;

“(iv) protecting and enhancing the environment;

“(v) preserving the existing transportation system;

and

“(vi) improving the durability and extending the life of transportation infrastructure;

“(B) for each purpose, list the primary research and development topics that the Department intends to pursue

Deadline.

to accomplish that purpose, which may include the fundamental research in the physical and natural sciences, applied research, technology development, and social science research intended for each topic; and

“(C) for each research and development topic, describe—

“(i) the anticipated annual funding levels for the period covered by the strategic plan; and

“(ii) the additional information the Department expects to gain at the end of the period covered by the strategic plan as a result of the research and development in that topic area.

“(3) CONSIDERATIONS.—In developing the strategic plan, the Secretary shall ensure that the plan—

“(A) reflects input from a wide range of stakeholders;

“(B) includes and integrates the research and development programs of all the Department’s operating administrations, including aviation, transit, rail, and maritime; and

“(C) takes into account how research and development by other Federal, State, private sector, and nonprofit institutions contributes to the achievement of the purposes identified under paragraph (2)(A), and avoids unnecessary duplication with these efforts.

“(4) PERFORMANCE PLANS AND REPORTS.—In reports submitted under sections 1115 and 1116 of title 31, the Secretary shall include—

“(A) a summary of the Federal transportation research and development activities for the previous fiscal year in each topic area;

“(B) the amount of funding spent in each topic area;

“(C) a description of the extent to which the research and development is meeting the expectations set forth in paragraph (2)(C)(ii); and

“(D) any amendments to the strategic plan.

“(b) ANNUAL REPORT.—The Secretary shall submit to appropriate committees of Congress an annual report, in conjunction with the President’s annual budget request as set forth in section 1105 of title 31, describing the amount spent in the last completed fiscal year on transportation research and development and the amount proposed in the current budget for transportation research and development.

“(c) NATIONAL RESEARCH COUNCIL REVIEW.—The Secretary shall enter into an agreement for the review by the National Research Council of the details of each—

“(1) strategic plan under this section;

“(2) performance plan required under section 1115 of title 31; and

“(3) program performance report required under section 1116 of title 31, with respect to transportation research and development.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 5 of such title is amended by striking the item relating to section 508 and inserting the following:

“508. Transportation research and development strategic planning.”.

SEC. 5209. NATIONAL COOPERATIVE FREIGHT TRANSPORTATION RESEARCH PROGRAM.

(a) IN GENERAL.—Chapter 5 of title 23, United States Code, is amended by adding at the end the following:

“§ 509. National cooperative freight transportation research program

“(a) ESTABLISHMENT.—The Secretary shall establish and support a national cooperative freight transportation research program.

“(b) AGREEMENT.—The Secretary shall enter into an agreement with the National Academy of Sciences to support and carry out administrative and management activities relating to the governance of the national cooperative freight transportation research program.

“(c) ADVISORY COMMITTEE.—The National Academy of Sciences shall select an advisory committee consisting of a representative cross-section of freight stakeholders, including the Department of Transportation, other Federal agencies, State transportation departments, local governments, nonprofit entities, academia, and the private sector.

“(d) GOVERNANCE.—The national cooperative freight transportation research program established under this section shall include the following administrative and management elements:

“(1) NATIONAL RESEARCH AGENDA.—The advisory committee, in consultation with interested parties, shall recommend a national research agenda for the program. The agenda shall include a multiyear strategic plan.

“(2) INVOLVEMENT.—Interested parties may—

“(A) submit research proposals to the advisory committee;

“(B) participate in merit reviews of research proposals and peer reviews of research products; and

“(C) receive research results.

“(3) OPEN COMPETITION AND PEER REVIEW OF RESEARCH PROPOSALS.—The National Academy of Sciences may award research contracts and grants under the program through open competition and merit review conducted on a regular basis.

“(4) EVALUATION OF RESEARCH.—

“(A) PEER REVIEW.—Research contracts and grants under the program may allow peer review of the research results.

“(B) PROGRAMMATIC EVALUATIONS.—The National Academy of Sciences may conduct periodic programmatic evaluations on a regular basis of research contracts and grants.

“(5) DISSEMINATION OF RESEARCH FINDINGS.—The National Academy of Sciences shall disseminate research findings to researchers, practitioners, and decisionmakers, through conferences and seminars, field demonstrations, workshops, training programs, presentations, testimony to government officials, the World Wide Web, publications for the general public, and other appropriate means.

“(e) CONTENTS.—The national research agenda required under subsection (d)(1) shall include research in the following areas:

“(1) Techniques for estimating and quantifying public benefits derived from freight transportation projects.

“(2) Alternative approaches to calculating the contribution of truck and rail traffic to congestion on specific highway segments.

“(3) The feasibility of consolidating origins and destinations for freight movement.

“(4) Methods for incorporating estimates of international trade into landside transportation planning.

“(5) The use of technology applications to increase capacity of highway lanes dedicated to truck-only traffic.

“(6) Development of physical and policy alternatives for separating car and truck traffic.

“(7) Ways to synchronize infrastructure improvements with freight transportation demand.

“(8) The effect of changing patterns of freight movement on transportation planning decisions relating to rest areas.

“(9) Other research areas to identify and address emerging and future research needs related to freight transportation by all modes.

“(f) FUNDING.—

“(1) FEDERAL SHARE.—The Federal share of the cost of an activity carried out under this section shall be up to 100 percent.

“(2) USE OF NON-FEDERAL FUNDS.—In addition to using funds authorized for this section, the National Academy of Sciences may seek and accept additional funding sources from public and private entities capable of accepting funding from the Department of Transportation, States, local governments, nonprofit foundations, and the private sector.

“(3) PERIOD OF AVAILABILITY.—Amounts made available to carry out this section shall remain available until expended.”.

(b) FUNDING.—Of the amounts made available by section 5101(a)(1) of this Act, \$3,750,000 for each of fiscal years 2006 through 2009 shall be available to carry out section 509 of such title.

(c) CONFORMING AMENDMENT.—The analysis for such chapter is further amended by adding at the end the following:

“509. National cooperative freight transportation research program.”.

SEC. 5210. FUTURE STRATEGIC HIGHWAY RESEARCH PROGRAM.

(a) IN GENERAL.—Chapter 5 of title 23, United States Code, is further amended by adding at the end the following:

“§ 510. Future strategic highway research program

“(a) ESTABLISHMENT.—The Secretary, in consultation with the American Association of State Highway and Transportation Officials, shall establish and carry out, acting through the National Research Council of the National Academy of Sciences, the future strategic highway research program.

“(b) COOPERATIVE AGREEMENTS.—The Secretary may make grants to, and enter into cooperative agreements with, the American Association of State Highway and Transportation Officials and the National Academy of Sciences to carry out such activities under this section as the Secretary determines are appropriate.

“(c) PROGRAM PRIORITIES.—

“(1) PROGRAM ELEMENTS.—The program established under this section shall be based on the National Research Council Special Report 260, entitled ‘Strategic Highway Research:

Saving Lives, Reducing Congestion, Improving Quality of Life’ and the results of the detailed planning work subsequently carried out in 2002 and 2003 to identify the research areas through National Cooperative Research Program Project 20–58. The research program shall include an analysis of the following:

“(A) Renewal of aging highway infrastructure with minimal impact to users of the facilities.

“(B) Driving behavior and likely crash causal factors to support improved countermeasures.

“(C) Reducing highway congestion due to nonrecurring congestion.

“(D) Planning and designing new road capacity to meet mobility, economic, environmental, and community needs.

“(2) DISSEMINATION OF RESULTS.—The research results of the program, expressed in terms of technologies, methodologies, and other appropriate categorizations, shall be disseminated to practicing engineers for their use, as soon as practicable.

“(d) PROGRAM ADMINISTRATION.—In carrying out the program under this section, the National Research Council shall ensure, to the maximum extent practicable, that—

“(1) projects and researchers are selected to conduct research for the program on the basis of merit and open solicitation of proposals and review by panels of appropriate experts;

“(2) State department of transportation officials and other stakeholders, as appropriate, are involved in the governance of the program at the overall program level and technical level through the use of expert panels and committees;

“(3) the Council acquires a qualified, permanent core staff with the ability and expertise to manage the program and multiyear budget; and

“(4) there is no duplication of research effort between the program and any other research effort of the Department.

“(e) REPORT ON IMPLEMENTATION OF RESULTS.—

“(1) REPORT.—The Transportation Research Board of the National Research Council shall complete a report on the strategies and administrative structure to be used for implementation of the results of the future strategic highway research program.

“(2) COMPONENTS.—The report under paragraph (1) shall include with respect to the program—

“(A) an identification of the most promising results of research under the program (including the persons most likely to use the results);

“(B) a discussion of potential incentives for, impediments to, and methods of, implementing those results;

“(C) an estimate of costs of implementation of those results; and

“(D) recommendations on methods by which implementation of those results should be conducted, coordinated, and supported in future years, including a discussion of the administrative structure and organization best suited to carry out those recommendations.

“(3) CONSULTATION.—In developing the report, the Transportation Research Board shall consult with a wide variety of stakeholders, including—

“(A) the Federal Highway Administration;

“(B) the National Highway Traffic Safety Administration; and

“(C) the American Association of State Highway and Transportation Officials.

“(4) SUBMISSION.—Not later than February 1, 2009, the report shall be submitted to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

“(f) FUNDING.—

“(1) FEDERAL SHARE.—The Federal share of the cost of an activity carried out using amounts made available under a grant or cooperative agreement under this section shall be 100 percent, and such funds shall remain available until expended.

“(2) ADVANCE PAYMENTS.—The Secretary may make advance payments as necessary to carry out the program under this section.

“(g) LIMITATION OF REMEDIES.—

“(1) SAME REMEDY AS IF UNITED STATES.—The remedy against the United States provided by sections 1346(b) and 2672 of title 28 for injury, loss of property, personal injury, or death shall apply to any claim against the National Academy of Sciences for money damages for injury, loss of property, personal injury, or death caused by any negligent or wrongful act or omission by employees and individuals described in paragraph (3) arising from activities conducted under or in connection with this section. Any such claim shall be subject to the limitations and exceptions which would be applicable to such claim if such claim were against the United States. With respect to any such claim, the Secretary shall be treated as the head of the appropriate Federal agency for purposes of sections 2672 and 2675 of title 28.

“(2) EXCLUSIVENESS OF REMEDY.—The remedy referred to in paragraph (1) shall be exclusive of any other civil action or proceeding for the purpose of determining liability arising from any such act or omission without regard to when the act or omission occurred.

“(3) TREATMENT.—Employees of the National Academy of Sciences and other individuals appointed by the president of the National Academy of Sciences and acting on its behalf in connection with activities carried out under this section shall be treated as if they are employees of the Federal Government under section 2671 of title 28 for purposes of a civil action or proceeding with respect to a claim described in paragraph (1). The civil action or proceeding shall proceed in the same manner as any proceeding under chapter 171 of title 28 or action against the United States filed pursuant to section 1346(b) of title 28 and shall be subject to the limitations and exceptions applicable to such a proceeding or action.

“(4) SOURCES OF PAYMENTS.—Payment of any award, compromise, or settlement of a civil action or proceeding with respect to a claim described in paragraph (1) shall be paid first out of insurance maintained by the National Academy of Sciences, second from funds made available to carry out this section, and then from sums made available under section 1304 of title 31. For purposes of such section, such an award,

compromise, or settlement shall be deemed to be a judgment, award, or settlement payable under section 2414 or 2672 of title 28. The Secretary may establish a reserve of funds to carry out this section for making payments under this paragraph.”.

Deadline.

(b) PROGRAMMATIC EVALUATIONS.—Not later than 3 years after the first research and development project grants, cooperative agreements, or contracts are awarded under section 510 of title 23, United States Code, the Comptroller General shall review the program under such section and recommend improvements to the program. The review shall assess the degree to which projects funded under such section have addressed the research and development topics identified in the Transportation Research Board Special Report 260, including identifying those topics that have not yet been addressed.

(c) FUNDING.—Of the amounts made available by section 5101(a)(1) of this Act, \$51,250,000 for each of fiscal years 2006 through 2009, shall be available to carry out section 510 of such title.

(d) CONFORMING AMENDMENT.—The analysis for chapter 5 of such title is further amended by adding at the end the following:

“510. Future strategic highway research program.”.

SEC. 5211. MULTISTATE CORRIDOR OPERATIONS AND MANAGEMENT.

(a) IN GENERAL.—Chapter 5 of title 23, United States Code, is further amended by adding at the end the following:

“§ 511. Multistate corridor operations and management

“(a) IN GENERAL.—The Secretary shall encourage multistate cooperative agreements, coalitions, or other arrangements to promote regional cooperation, planning, and shared project implementation for programs and projects to improve transportation system management and operations.

Grants.

“(b) INTERSTATE ROUTE 95 CORRIDOR COALITION TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS.—The Secretary shall make grants under this subsection to States to continue intelligent transportation system management and operations in the Interstate Route 95 corridor coalition region initiated under the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240).”.

(b) FUNDING.—Of the amounts made available under section 5101(a)(5) of this Act \$7,000,000 for each of fiscal years 2005 through 2009 shall be available to carry out section 511 of such title.

(c) CONFORMING AMENDMENT.—The analysis for such chapter is further amended by adding at the end the following:

“511. Multistate corridor operations and management.”.

Subtitle C—Intelligent Transportation System Research

SEC. 5301. NATIONAL ITS PROGRAM PLAN.

(a) IN GENERAL.—Chapter 5 of title 23, United States Code, is further amended by adding at the end the following:

“§ 512. National ITS program plan

“(a) IN GENERAL.—

“(1) UPDATES.—Not later than 1 year after the date of enactment of the SAFETEA–LU, the Secretary, in consultation with interested stakeholders (including State transportation departments) shall develop a 5-year National Intelligent Transportation System (in this section referred to as ‘ITS’) program plan. Deadline.

“(2) SCOPE.—The National ITS program plan shall—

“(A) specify the goals, objectives, and milestones for the research and deployment of intelligent transportation systems in the contexts of—

“(i) major metropolitan areas;

“(ii) smaller metropolitan and rural areas; and

“(iii) commercial vehicle operations;

“(B) specify the manner in which specific programs and projects will achieve the goals, objectives, and milestones referred to in subparagraph (A), including consideration of a 5-year timeframe for the goals and objectives;

“(C) identify activities that provide for the dynamic development, testing, and necessary revision of standards and protocols to promote and ensure interoperability in the implementation of intelligent transportation system technologies, including actions taken to establish standards; and

“(D) establish a cooperative process with State and local governments for—

“(i) determining desired surface transportation system performance levels; and

“(ii) developing plans for accelerating the incorporation of specific intelligent transportation system capabilities into surface transportation systems.

“(b) REPORTING.—The National ITS program plan shall be submitted and biennially updated as part of the transportation research and development strategic plan developed under section 508.”.

(b) CONFORMING AMENDMENT.—The analysis for such chapter is further amended by adding at the end the following:

“512. National ITS Program Plan.”.

SEC. 5302. USE OF FUNDS.

(a) IN GENERAL.—Chapter 5 of title 23, United States Code, is further amended by adding at the end the following:

“§ 513. Use of funds for ITS activities

“(a) IN GENERAL.—For each fiscal year, not more than \$250,000 of the funds made available to carry out this subtitle C of title V of the SAFETEA–LU shall be used for intelligent transportation system outreach, public relations, displays, tours, and brochures.

“(b) APPLICABILITY.—Subsection (a) shall not apply to intelligent transportation system training, scholarships, or the publication or distribution of research findings, technical guidance, or similar documents.”.

(b) CONFORMING AMENDMENT.—The analysis for such chapter is further amended by adding at the end the following:

“513. Use of funds for ITS activities.”.

23 USC 512 note. **SEC. 5303. GOALS AND PURPOSES.**

(a) GOALS.—The goals of the intelligent transportation system program include—

(1) enhancement of surface transportation efficiency and facilitation of intermodalism and international trade to enable existing facilities to meet a significant portion of future transportation needs, including public access to employment, goods, and services and to reduce regulatory, financial, and other transaction costs to public agencies and system users;

(2) achievement of national transportation safety goals, including the enhancement of safe operation of motor vehicles and nonmotorized vehicles and improved emergency response to a crash, with particular emphasis on decreasing the number and severity of collisions;

(3) protection and enhancement of the natural environment and communities affected by surface transportation, with particular emphasis on assisting State and local governments to achieve national environmental goals;

(4) accommodation of the needs of all users of surface transportation systems, including operators of commercial motor vehicles, passenger motor vehicles, motorcycles, bicycles and pedestrians, including individuals with disabilities; and

(5) improvement of the Nation's ability to respond to security-related or other manmade emergencies and natural disasters and enhancement of national defense mobility.

(b) PURPOSES.—The Secretary shall implement activities under the intelligent system transportation program to, at a minimum—

(1) expedite, in both metropolitan and rural areas, deployment and integration of intelligent transportation systems for consumers of passenger and freight transportation;

(2) ensure that Federal, State, and local transportation officials have adequate knowledge of intelligent transportation systems for consideration in the transportation planning process;

(3) improve regional cooperation and operations planning for effective intelligent transportation system deployment;

(4) promote the innovative use of private resources;

(5) facilitate, in cooperation with the motor vehicle industry, the introduction of vehicle-based safety enhancing systems;

(6) support the application of intelligent transportation systems that increase the safety and efficiency of commercial motor vehicle operations;

(7) develop a workforce capable of developing, operating, and maintaining intelligent transportation systems; and

(8) provide continuing support for operations and maintenance of intelligent transportation systems.

23 USC 512 note. **SEC. 5304. INFRASTRUCTURE DEVELOPMENT.**

Funds made available to carry out this subtitle for operational tests—

(1) shall be used primarily for the development of intelligent transportation system infrastructure; and

(2) to the maximum extent practicable, shall not be used for the construction of physical highway and public transportation infrastructure unless the construction is incidental and

critically necessary to the implementation of an intelligent transportation system project.

SEC. 5305. GENERAL AUTHORITIES AND REQUIREMENTS.

23 USC 512 note.

(a) **SCOPE.**—Subject to the provisions of this subtitle, the Secretary shall conduct an ongoing intelligent transportation system program to research, develop, and operationally test intelligent transportation systems and to provide technical assistance in the nationwide application of those systems as a component of the surface transportation systems of the United States.

(b) **POLICY.**—Intelligent transportation system research projects and operational tests funded pursuant to this subtitle shall encourage and not displace public-private partnerships or private sector investment in such tests and projects.

(c) **COOPERATION WITH GOVERNMENTAL, PRIVATE, AND EDUCATIONAL ENTITIES.**—The Secretary shall carry out the intelligent transportation system program in cooperation with State and local governments and other public entities, the private sector firms of the United States, the Federal laboratories, and colleges and universities, including historically Black colleges and universities and other minority institutions of higher education.

(d) **CONSULTATION WITH FEDERAL OFFICIALS.**—In carrying out the intelligent transportation system program, the Secretary shall consult with the heads of other Federal departments and agencies, as appropriate.

(e) **TECHNICAL ASSISTANCE, TRAINING, AND INFORMATION.**—The Secretary may provide technical assistance, training, and information to State and local governments seeking to implement, operate, maintain, or evaluate intelligent transportation system technologies and services.

(f) **TRANSPORTATION PLANNING.**—The Secretary may provide funding to support adequate consideration of transportation systems management and operations, including intelligent transportation systems, within metropolitan and statewide transportation planning processes.

(g) **INFORMATION CLEARINGHOUSE.**—

(1) **IN GENERAL.**—The Secretary shall—

(A) maintain a repository for technical and safety data collected as a result of federally sponsored projects carried out under this subtitle (including the amendments made by this subtitle); and

(B) make, on request, that information (except for proprietary information and data) readily available to all users of the repository at an appropriate cost.

(2) **AGREEMENT.**—

(A) **IN GENERAL.**—The Secretary may enter into an agreement with a third party for the maintenance of the repository for technical and safety data under paragraph (1)(A).

(B) **FEDERAL FINANCIAL ASSISTANCE.**—If the Secretary enters into an agreement with an entity for the maintenance of the repository, the entity shall be eligible for Federal financial assistance under this section.

(3) **AVAILABILITY OF INFORMATION.**—Information in the repository shall not be subject to sections 552 and 555 of title 5, United States Code.

(h) **ADVISORY COMMITTEE.**—

Establishment.

(1) IN GENERAL.—The Secretary shall establish an Advisory Committee to advise the Secretary on carrying out this subtitle.

(2) MEMBERSHIP.—The Advisory Committee shall have no more than 20 members, be balanced between metropolitan and rural interests, and include, at a minimum—

(A) a representative from a State highway department;

(B) a representative from a local highway department who is not from a metropolitan planning organization;

(C) a representative from a State, local, or regional transit agency;

(D) a representative from a metropolitan planning organization;

(E) a private sector user of intelligent transportation system technologies;

(F) an academic researcher with expertise in computer science or another information science field related to intelligent transportation systems, and who is not an expert on transportation issues;

(G) an academic researcher who is a civil engineer;

(H) an academic researcher who is a social scientist with expertise in transportation issues;

(I) a representative from a nonprofit group representing the intelligent transportation system industry;

(J) a representative from a public interest group concerned with safety;

(K) a representative from a public interest group concerned with the impact of the transportation system on land use and residential patterns; and

(L) members with expertise in planning, safety, and operations.

(3) DUTIES.—The Advisory Committee shall, at a minimum, perform the following duties:

(A) Provide input into the development of the Intelligent Transportation System aspects of the strategic plan under section 508 of title 23, United States Code.

(B) Review, at least annually, areas of intelligent transportation systems research being considered for funding by the Department, to determine—

(i) whether these activities are likely to advance either the state-of-the-practice or state-of-the-art in intelligent transportation systems;

(ii) whether the intelligent transportation system technologies are likely to be deployed by users, and if not, to determine the barriers to deployment; and

(iii) the appropriate roles for government and the private sector in investing in the research and technologies being considered.

(4) REPORT.—Not later than February 1 of each year after the date of enactment of this Act, the Secretary shall transmit to the Congress a report including—

(A) all recommendations made by the Advisory Committee during the preceding calendar year;

(B) an explanation of how the Secretary has implemented those recommendations; and

(C) for recommendations not implemented, the reasons for rejecting the recommendations.

(5) **APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.**—The Advisory Committee shall be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

(i) **REPORTING.**—

(1) **GUIDELINES AND REQUIREMENTS.**—

(A) **IN GENERAL.**—The Secretary shall issue guidelines and requirements for the reporting and evaluation of operational tests and deployment projects carried out under this subtitle.

(B) **OBJECTIVITY AND INDEPENDENCE.**—The guidelines and requirements issued under subparagraph (A) shall include provisions to ensure the objectivity and independence of the reporting entity so as to avoid any real or apparent conflict of interest or potential influence on the outcome by parties to any such test or deployment project or by any other formal evaluation carried out under this subtitle.

(C) **FUNDING.**—The guidelines and requirements issued under subparagraph (A) shall establish reporting funding levels based on the size and scope of each test or project that ensure adequate reporting of the results of the test or project.

(2) **SPECIAL RULE.**—Any survey, questionnaire, or interview that the Secretary considers necessary to carry out the reporting of any test, deployment project, or program assessment activity under this subtitle shall not be subject to chapter 35 of title 44, United States Code.

SEC. 5306. RESEARCH AND DEVELOPMENT.

23 USC 512 note.

(a) **IN GENERAL.**—The Secretary shall carry out a comprehensive program of intelligent transportation system research, development, and operational tests of intelligent vehicles and intelligent infrastructure systems and other similar activities that are necessary to carry out this subtitle.

(b) **PRIORITY AREAS.**—Under the program, the Secretary shall give higher priority to funding projects that—

(1) enhance mobility and productivity through improved traffic management, incident management, transit management, freight management, road weather management, toll collection, traveler information, or highway operations systems and remote sensing products;

(2) utilize interdisciplinary approaches to develop traffic management strategies and tools to address multiple impacts of congestion concurrently;

(3) address traffic management, incident management, transit management, toll collection traveler information, or highway operations systems with goals of—

(A) reducing metropolitan congestion by not less than 5 percent by 2010;

(B) ensuring that a national, interoperable 5–1–1 system, along with a national traffic information system that includes a user-friendly, comprehensive website, is fully implemented for use by travelers throughout the United States by September 30, 2010; and

(C)(i) improving incident management response, particularly in rural areas, so that rural emergency

response times are reduced by an average of 10 minutes; and

(ii) improving communication between emergency care providers and trauma centers;

(4) incorporate research on the impact of environmental, weather, and natural conditions on intelligent transportation systems, including the effects of cold climates;

(5) enhance intermodal use of intelligent transportation systems for diverse groups, including for emergency and health-related services;

(6) enhance safety through improved crash avoidance and protection, crash and other notification, commercial motor vehicle operations, and infrastructure-based or cooperative safety systems; and

(7) facilitate the integration of intelligent infrastructure, vehicle, and control technologies.

(c) **FEDERAL SHARE.**—The Federal share of the cost of operational tests and demonstrations under subsection (a) shall not exceed 80.

23 USC 512 note.

SEC. 5307. NATIONAL ARCHITECTURE AND STANDARDS.

(a) **IN GENERAL.**—

(1) **DEVELOPMENT, IMPLEMENTATION, AND MAINTENANCE.**—Consistent with section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note; 110 Stat. 783), the Secretary shall develop, implement, and maintain a national architecture and supporting standards and protocols to promote the widespread use and evaluation of intelligent transportation system technology as a component of the surface transportation systems of the United States.

(2) **INTEROPERABILITY AND EFFICIENCY.**—To the maximum extent practicable, the national architecture shall promote interoperability among, and efficiency of, intelligent transportation system technologies implemented throughout the United States.

(3) **USE OF STANDARDS DEVELOPMENT ORGANIZATIONS.**—In carrying out this section, the Secretary shall use the services of such standards development organizations as the Secretary determines to be appropriate.

(4) **USE OF EXPERT PANEL.**—

(A) **DESIGNATION.**—The Secretary shall designate a panel of experts to recommend ways to expedite and streamline the process for developing the standards and protocols to be developed pursuant to paragraph (1).

(B) **NONAPPLICABILITY OF ADVISORY COMMITTEE ACT.**—The expert panel shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

(C) **DEADLINE FOR RECOMMENDATION.**—Not later than September 30, 2007, the expert panel shall provide the Secretary with a recommendation relating to such standards development.

(b) **PROVISIONAL STANDARDS.**—

(1) **IN GENERAL.**—If the Secretary finds that the development or balloting of an intelligent transportation system standard jeopardizes the timely achievement of the objectives identified in subsection (a), the Secretary may establish a provisional standard, after consultation with affected parties, using,

to the extent practicable, the work product of appropriate standards development organizations.

(2) PERIOD OF EFFECTIVENESS.—A provisional standard established under paragraph (1) shall be published in the Federal Register and remain in effect until the appropriate standards development organization adopts and publishes a standard.

(c) CONFORMITY WITH NATIONAL ARCHITECTURE.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the Secretary shall ensure that intelligent transportation system projects carried out using funds made available from the Highway Trust Fund, including funds made available under this subtitle to deploy intelligent transportation system technologies, conform to the national architecture, applicable standards or provisional standards, and protocols developed under subsection (a).

(2) SECRETARY'S DISCRETION.—The Secretary may authorize exceptions to paragraph (1) for—

(A) projects designed to achieve specific research objectives outlined in the national intelligent transportation system program plan or the surface transportation research and development strategic plan developed under section 508 of title 23, United States Code; or

(B) the upgrade or expansion of an intelligent transportation system in existence on the date of enactment of this Act if the Secretary determines that the upgrade or expansion—

(i) would not adversely affect the goals or purposes of this subtitle;

(ii) is carried out before the end of the useful life of such system; and

(iii) is cost-effective as compared to alternatives that would meet the conformity requirement of paragraph (1).

(3) EXCEPTIONS.—Paragraph (1) shall not apply to funds used for operation or maintenance of an intelligent transportation system in existence on the date of enactment of this Act.

SEC. 5308. ROAD WEATHER RESEARCH AND DEVELOPMENT PROGRAM. 23 USC 512 note.

(a) ESTABLISHMENT.—The Secretary shall establish a road weather research and development program to—

(1) maximize use of available road weather information and technologies;

(2) expand road weather research and development efforts to enhance roadway safety, capacity, and efficiency while minimizing environmental impacts; and

(3) promote technology transfer of effective road weather scientific and technological advances.

(b) STAKEHOLDER INPUT.—In carrying out this section, the Secretary shall consult with the National Oceanic and Atmospheric Administration, the National Science Foundation, the American Association of State Highway and Transportation Officials, non-profit organizations, and the private sector.

(c) CONTENTS.—The program established under this section shall solely carry out research and development called for in the National Research Council's report entitled "A Research Agenda

for Improving Road Weather Services”. Such research and development includes—

- (1) integrating existing observational networks and data management systems for road weather applications;
- (2) improving weather modeling capabilities and forecast tools, such as the road surface and atmospheric interface;
- (3) enhancing mechanisms for communicating road weather information to users, such as transportation officials and the public; and
- (4) integrating road weather technologies into an information infrastructure.

(d) **ACTIVITIES.**—In carrying out this section, the Secretary shall—

- (1) enable efficient technology transfer;
- (2) improve education and training of road weather information users, such as State and local transportation officials and private sector transportation contractors; and
- (3) coordinate with transportation weather research programs in other modes, such as aviation.

(e) **FUNDING.**—

(1) **IN GENERAL.**—In awarding funds under this section, the Secretary shall give preference to applications with significant matching funds from non-Federal sources.

(2) **FUNDS FOR ROAD WEATHER RESEARCH AND DEVELOPMENT.**—Of the amounts made available by section 5101(a)(5) of this Act, \$5,000,000 for each of fiscal years 2006 through 2009 shall be available to carry out this section.

23 USC 512 note.

SEC. 5309. CENTERS FOR SURFACE TRANSPORTATION EXCELLENCE.

(a) **ESTABLISHMENT.**—The Secretary shall establish 4 centers for surface transportation excellence.

(b) **GOALS.**—The goals of the centers for surface transportation excellence are to promote and support strategic national surface transportation programs and activities relating to the work of State departments of transportation in the areas of environment, surface transportation safety, rural safety, and project finance.

(c) **ROLE OF CENTERS.**—To achieve the goals set forth in subsection (b), the Secretary shall establish the 4 centers as follows:

(1) **ENVIRONMENTAL EXCELLENCE.**—To provide technical assistance, information sharing of best practices, and training in the use of tools and decision-making processes that can assist States in planning and delivering environmentally sound surface transportation projects.

(2) **SURFACE TRANSPORTATION SAFETY.**—To develop and disseminate advanced transportation safety techniques and innovations in both rural areas and urban communities. The center will use a controlled access highway with state-of-the-art features, to test safety devices and techniques that enhance driver performance, examine advanced pavement and lighting systems, and develop techniques to address older driver and fatigue driver issues.

(3) **RURAL SAFETY.**—To provide research, training, and outreach on innovative uses of technology to enhance rural safety and economic development, assess local community needs to improve access to mobile emergency treatment, and develop online and seminar training needs of rural transportation practitioners and policy-makers.

(4) **PROJECT FINANCE.**—To provide support to State transportation departments in the development of finance plans and project oversight tools and to develop and offer training in state-of-the-art financing methods to advance projects and leverage funds.

(d) **FUNDING.**—

(1) **IN GENERAL.**—Of the amounts made available by section 5101(a)(1) of this Act, \$3,750,000 for each of fiscal years 2006 through 2009 shall be available to carry out this section.

(2) **ALLOCATION OF FUNDS.**—Of the funds made available under paragraph (1) the Secretary shall use such amounts as follows:

(A) \$1,250,000 to establish the Center for Environmental Excellence.

(B) \$750,000 to establish the Center for Excellence in Surface Transportation Safety at the Virginia Tech Transportation Institute.

(C) \$875,000 to establish the Center for Excellence in Rural Safety at the Hubert H. Humphrey Institute, Minnesota.

(D) \$875,000 to establish the Center for Excellence in Project Finance.

(3) **APPLICABILITY OF TITLE 23.**—Funds authorized by this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share shall be 100 percent.

(e) **PROGRAM ADMINISTRATION.**—

(1) **COMPETITION.**—A party entering into a contract, cooperative agreement, or other transaction with the Secretary, or receiving a grant to perform research or provide technical assistance under subsections (d)(2)(A) and (d)(2)(D) shall be selected on a competitive basis, to the maximum extent practicable.

(2) **STRATEGIC PLAN.**—The Secretary shall require each center to develop a multiyear strategic plan that describes—

(A) the activities to be undertaken; and

(B) how the work of the center is coordinated with the activities of the Federal Highway Administration and the various other research, development, and technology transfer activities authorized by this title. Such plans shall be submitted to the Secretary by January 1, 2006, and each year thereafter.

Deadline.

SEC. 5310. DEFINITIONS.

23 USC 512 note.

In this subtitle, the following definitions apply:

(1) **INCIDENT.**—The term “incident” means a crash, a natural disaster, workzone activity, special event, or other emergency road user occurrence that adversely affects or impedes the normal flow of traffic.

(2) **INTELLIGENT TRANSPORTATION INFRASTRUCTURE.**—The term “intelligent transportation infrastructure” means fully integrated public sector intelligent transportation system components, as defined by the Secretary.

(3) **INTELLIGENT TRANSPORTATION SYSTEM.**—The term “intelligent transportation system” means electronics, photonics, communications, or information processing used

singly or in combination to improve the efficiency or safety of a surface transportation system.

(4) NATIONAL ARCHITECTURE.—The term “national architecture” means the common framework for interoperability that defines—

(A) the functions associated with intelligent transportation system user services;

(B) the physical entities or subsystems within which the functions reside;

(C) the data interfaces and information flows between physical subsystems; and

(D) the communications requirements associated with the information flows.

(5) PROJECT.—The term “project” means an undertaking to research, develop, or operationally test intelligent transportation systems or any other undertaking eligible for assistance under this subtitle.

(6) STANDARD.—The term “standard” means a document that—

(A) contains technical specifications or other precise criteria for intelligent transportation systems that are to be used consistently as rules, guidelines, or definitions of characteristics so as to ensure that materials, products, processes, and services are fit for their purposes; and

(B) may support the national architecture and promote—

(i) the widespread use and adoption of intelligent transportation system technology as a component of the surface transportation systems of the United States; and

(ii) interoperability among intelligent transportation system technologies implemented throughout the States.

(7) STATE.—The term “State” has the meaning given the term under section 101 of title 23, United States Code.

(8) TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS.—The term “transportation systems management and operations” has the meaning given the term under section 101(a) of title 23, United States Code.

Grants.

Subtitle D—University Transportation Research; Scholarship Opportunities

SEC. 5401. NATIONAL UNIVERSITY TRANSPORTATION CENTERS.

(a) IN GENERAL.—Section 5505 of title 49, United States Code, is amended to read as follows:

“SEC. 5505. NATIONAL UNIVERSITY TRANSPORTATION CENTERS.

“(a) IN GENERAL.—

“(1) ESTABLISHMENT AND OPERATION.—The Secretary of Transportation shall make grants under this section to eligible nonprofit institutions of higher learning to establish and operate national university transportation centers.

“(2) ROLE OF CENTERS.—The role of each center shall be to advance significant transportation research on critical

national transportation issues and to expand the workforce of transportation professionals.

“(b) **APPLICABILITY OF REQUIREMENTS.**—A grant received by an eligible nonprofit institution of higher learning under this section shall be available for the same purposes, and shall be subject to the same terms and conditions, as a grant made to a nonprofit institution of higher learning under section 5506.

“(c) **ELIGIBLE NONPROFIT INSTITUTION OF HIGHER LEARNING DEFINED.**—In this section, the term ‘eligible nonprofit institution of higher learning’ means each of the following:

“(1) University of Alaska.

“(2) Marshall University, West Virginia, on behalf of a consortium of West Virginia colleges and universities.

“(3) University of Minnesota.

“(4) University of Missouri, Rolla.

“(5) Northwestern University.

“(6) Oklahoma Transportation Center.

“(7) Portland State University, in partnership with the University of Oregon, Oregon State University, and the Oregon Institute of Technology.

“(8) University of Vermont.

“(9) Western Transportation Institute at Montana State University.

“(10) University of Wisconsin.

“(d) **GRANTS.**—The Secretary shall make a grant under this section to each eligible nonprofit institution of higher learning in an amount \$2,000,000 in fiscal year 2005 and \$3,500,000 in each of fiscal years 2006 through 2009 to carry out this section.”.

(b) **FUNDING.**—Of the amounts made available by section 5101(a)(4) of this Act, \$20,000,000 for fiscal year 2005 and \$35,000,000 for each of fiscal years 2006 through 2009 shall be available to carry out section 5505 of such title.

(c) **CONFORMING AMENDMENT.**—The analysis for subchapter I of chapter 55 of such title is amended by striking the item relating to section 5505 and inserting the following:

“5505. National university transportation centers.”.

SEC. 5402. UNIVERSITY TRANSPORTATION RESEARCH.

(a) **IN GENERAL.**—Section 5506 of title 49, United States Code, is amended to read as follows:

“SEC. 5506. UNIVERSITY TRANSPORTATION RESEARCH.

“(a) **IN GENERAL.**—The Secretary of Transportation shall make grants under this section to nonprofit institutions of higher learning to establish and operate university transportation centers.

“(b) **OBJECTIVES.**—Grants received under this section shall be used by nonprofit institutions of higher learning to advance significantly the state-of-the-art in transportation research and expand the workforce of transportation professionals through the following programs and activities:

“(1) **RESEARCH.**—Basic and applied research, the products of which are judged by peers or other experts in the field of transportation to advance the body of knowledge in transportation.

“(2) **EDUCATION.**—An education program relating to transportation that includes multidisciplinary course work and participation in research.

“(3) TECHNOLOGY TRANSFER.—An ongoing program of technology transfer that makes transportation research results available to potential users in a form that can be implemented, utilized, or otherwise applied.

“(c) REGIONAL, TIER I, AND TIER II CENTERS.—

“(1) REGIONAL AND TIER I CENTERS.—For each of fiscal years 2005 through 2009, the Secretary shall make grants under subsection (a) to nonprofit institutions of higher learning to establish and operate—

“(A) 10 regional university transportation centers; and

“(B) 10 Tier I university transportation centers.

“(2) TIER II CENTERS.—

“(A) For each of fiscal years 2006 through 2009, the Secretary shall make grants under subsection (a) to nonprofit institutions of higher learning to establish and operate 22 Tier II university transportation centers.

“(B) The tier II centers consist of the following:

“(i) University of Arkansas, Mack-Blackwell Rural Transportation Center.

“(ii) University of California, Davis.

“(iii) California State University, San Bernardino.

“(iv) Cleveland State University, Work Zone Safety Institute.

“(v) University of Connecticut.

“(vi) University of Delaware in Newark.

“(vii) University of Detroit Mercy (including the coalition partners of the university).

“(viii) George Mason University.

“(ix) Hampton University, Eastern Seaboard Intermodal Transportation Applications Center (ESITAC).

“(x) Kansas State University.

“(xi) Louisiana State University, LTRC-TTEC.

“(xii) University of Massachusetts Amherst.

“(xiii) Michigan Technological University.

“(xiv) University of Nevada Las Vegas.

“(xv) North Carolina State University, Center for Transportation and the Environment.

“(xvi) Northwestern University.

“(xvii) Ohio Higher Education Transportation Consortium University of Akron.

“(xviii) University of Rhode Island.

“(xix) University of Toledo.

“(xx) Utah State University.

“(xxi) Youngstown State University.

“(xxii) University of Memphis.

“(3) LOCATION OF REGIONAL CENTERS.—One regional university transportation center shall be located in each of the 10 United States Government regions that comprise the Standard Federal Regional Boundary System.

“(4) LIMITATION.—A nonprofit institution of higher learning may not directly receive a grant under this section for a fiscal year for more than one university transportation center.

“(d) COMPETITIVE SELECTION PROCESS.—

“(1) APPLICATIONS.—In order to be eligible to receive a grant under subsection (c)(1), a nonprofit institution of higher learning shall submit to the Secretary an application that is

in such form and contains such information as the Secretary may require.

“(2) GENERAL SELECTION CRITERIA.—Except as otherwise provided by this section, the Secretary shall select each recipient of a grant under subsection (c)(1) through a competitive process on the basis of the following:

“(A) The demonstrated research and extension resources available to the recipient to carry out this section.

“(B) The capability of the recipient to provide leadership in making national and regional contributions to the solution of immediate and long-range transportation problems.

“(C) The recipient’s demonstrated commitment of at least \$400,000 each year in regularly budgeted institutional amounts to support ongoing transportation research and education programs.

“(D) The recipient’s demonstrated ability to disseminate results of transportation research and education programs through a statewide or regionwide continuing education program.

“(E) The strategic plan the recipient proposes to carry out under the grant.

“(e) REGIONAL UNIVERSITY TRANSPORTATION CENTERS.—

“(1) COMPETITION.—Not later than March 31, 2006, and not later than March 31st of every 4th year thereafter, the Secretary shall complete a competition among nonprofit institutions of higher learning for grants to establish and operate the 10 regional university transportation centers referred to in subsection (c)(1)(A).

Deadlines.

“(2) SELECTION CRITERIA.—In conducting a competition under paragraph (1), the Secretary shall select a nonprofit institution of higher learning on the basis of—

“(A) the criteria described in subsection (d)(2);

“(B) the location of the center within the Federal region to be served; and

“(C) whether or not the institution (or, in the case of a consortium of institutions, the lead institution) demonstrates that it has a well-established, nationally recognized program in transportation research and education, as evidenced by—

“(i) not less than \$2,000,000 in highway or public transportation research expenditures each year for each of the preceding 5 years;

“(ii) not less than 10 graduate degrees awarded in professional fields closely related to highways and public transportation each year for each of the preceding 5 years; and

“(iii) not less than 5 tenured or tenure-track faculty members who specialize on a full-time basis in professional fields closely related to highways and public transportation who, as a group, have published a total at least 50 refereed journal publications on highway or public transportation research during the preceding 5 years.

“(3) GRANT RECIPIENTS.—After selecting a nonprofit institution of higher learning as a grant recipient on the basis of a competition conducted under this subsection, the Secretary

shall make a grant to the recipient to establish and operate a regional university transportation center in each of the first 4 fiscal years beginning after the date of the competition.

“(4) SPECIAL RULE FOR FISCAL YEARS 2005 AND 2006.—For fiscal years 2005 and 2006, the Secretary shall make a grant under this section to each of the 10 nonprofit institutions of higher learning that were competitively selected for grants by the Secretary under this section in July 1999 to operate regional university transportation centers.

“(5) AMOUNT OF GRANTS.—The Secretary shall make a grant to a nonprofit institution of higher learning to establish and operate a regional university transportation center of—

“(A) \$1,000,000 for fiscal year 2005;

“(B) \$2,000,000 for each of fiscal years 2006 through 2008; and

“(C) \$2,225,000 for fiscal year 2009.

“(f) TIER I UNIVERSITY TRANSPORTATION CENTERS.—

Deadline.

“(1) COMPETITION.—Not later than June 30, 2006, and not later than June 30 of every 4th year thereafter, the Secretary shall complete a competition among nonprofit institutions of higher learning for grants to establish and operate the 10 Tier I university transportation centers referred to in subsection (c)(1)(B).

“(2) SELECTION CRITERIA.—In conducting a competition under paragraph (1), the Secretary shall select a nonprofit institution of higher learning on the basis of—

“(A) the criteria described in subsection (d)(2); and

“(B) whether or not the institution (or, in the case of a consortium of institutions, the lead institution) can demonstrate that it has an established, recognized program in transportation research and education, as evidenced by—

“(i) not less than \$1,000,000 in highway or public transportation research expenditures each year for each of the preceding 5 years or not less than \$6,000,000 in such expenditures during the 5 preceding years;

“(ii) not less than 5 graduate degrees awarded in professional fields closely related to highways and public transportation each year for each of the preceding 5 years; and

“(iii) not less than 3 tenured or tenure-track faculty members who specialize on a full-time basis in professional fields closely related to highways and public transportation who, as a group, have published a total at least 20 refereed journal publications on highway or public transportation research during the preceding 5 years.

“(3) GRANT RECIPIENTS.—After selecting a nonprofit institution of higher learning as a grant recipient on the basis of a competition conducted under this subsection, the Secretary shall make a grant to the recipient to establish and operate a Tier I university transportation center in each of the first 4 fiscal years beginning after the date of the competition.

“(4) SPECIAL RULE FOR FISCAL YEARS 2005 AND 2006.—For fiscal years 2005 and 2006, the Secretary shall make a grant under this section to each of the 10 nonprofit institutions of higher learning that were competitively selected for grant

awards by the Secretary under this section in May 2002 to operate university transportation centers (other than regional centers).

“(5) AMOUNT OF GRANTS.—The Secretary shall make a grant of \$1,000,000 for each of fiscal years 2005 through 2009 to a nonprofit institution of higher learning to establish and operate a Tier I university transportation center.

“(g) TIER II UNIVERSITY TRANSPORTATION CENTERS.—

“(1) SELECTION.—The Secretary shall make grants to the nonprofit institutions of higher learning to establish and operate the 22 Tier II university transportation centers referred to in subsection (c)(2)(B).

“(2) AMOUNT OF GRANTS.—The Secretary shall make a grant of \$500,000 for each of fiscal years 2006 through 2009 to a nonprofit institution of higher learning to establish and operate a Tier II university transportation center.

“(h) SUPPORT OF NATIONAL STRATEGY FOR SURFACE TRANSPORTATION RESEARCH.—In order to be eligible to receive a grant under this section, a nonprofit institution of higher learning shall provide assurances satisfactory to the Secretary that the research and education activities of its university transportation center will support the national strategy for surface transportation research, as identified by—

“(1) the report of the National Highway Research and Technology Partnership entitled ‘Highway Research and Technology: The Need for Greater Investment’, dated April 2002; and

“(2) the programs of the National Research and Technology Program of the Federal Transit Administration.

“(i) MAINTENANCE OF EFFORT.—In order to be eligible to receive a grant under this section, a nonprofit institution of higher learning shall enter into an agreement with the Secretary to ensure that the institution will maintain total expenditures from all other sources to establish and operate a university transportation center and related research activities at a level at least equal to the average level of such expenditures in its 2 fiscal years prior to award of a grant under this section.

“(j) FEDERAL SHARE.—The Federal share of the costs of activities carried out using a grant made under this section shall be 50 percent of such costs. The non-Federal share may include funds provided to a recipient under section 503, 504(b), or 505 of title 23.

“(k) PROGRAM COORDINATION.—

“(1) COORDINATION.—The Secretary shall coordinate the research, education, and technology transfer activities that grant recipients carry out under this section, disseminate the results of the research, and establish and operate a clearinghouse to disseminate the results of the research.

“(2) ANNUAL REVIEW AND EVALUATION.—At least annually, and consistent with the plan developed under section 508 of title 23, the Secretary shall review and evaluate programs of grant recipients.

“(3) MANAGEMENT AND OVERSIGHT.—The Secretary shall expend not more than \$400,000 for each of fiscal years 2005 through 2009 from amounts made available to carry out this section to carry out management and oversight of the centers receiving assistance under this section and section 5505.

“(l) PROGRAM ADMINISTRATION.—The Secretary shall carry out this section acting through the Administrator of the Research and Innovative Technology Administration.

“(m) LIMITATION ON AVAILABILITY OF FUNDS.—Funds made available to carry out this section shall remain available for obligation by the Secretary for a period of 2 years after the last day of the fiscal year for which such funds are authorized.”.

(b) FUNDING.—Of the amounts made available by section 5101(a)(4) of this Act, the following amounts shall be available to carry out section 5506 of such title.

(1) \$20,400,000 for fiscal year 2005.

(2) \$41,400,000 for each of fiscal years 2006 through 2008.

(3) \$43,900,000 for fiscal year 2009.

(c) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 55 of such title is amended by striking the item relating to section 5506 and inserting the following:

“5506. University transportation research.”.

Subtitle E—Other Programs

SEC. 5501. TRANSPORTATION SAFETY INFORMATION MANAGEMENT SYSTEM PROJECT.

(a) IN GENERAL.—The Secretary shall fund and carry out a project to further the development of a comprehensive transportation safety information management system (in this section referred to as “TSIMS”).

23 USC 502 note.

(b) PURPOSES.—The purpose of the TSIMS project is to further the development of a software application to provide for the collection, integration, management, and dissemination of safety data from and for use among State and local safety and transportation agencies, including driver licensing, vehicle registration, emergency management system, injury surveillance, roadway inventory, and motor carrier databases.

(c) FUNDING.—

(1) FEDERAL FUNDING.—Of the amounts made available by section 5101(a)(1) of this Act, \$1,000,000 for fiscal years 2006 and 2007 shall be available to carry out the TSIMS project under this section.

(2) STATE CONTRIBUTION.—The sums authorized in paragraph (1) are intended to supplement voluntary contributions to be made by State departments of transportation and other State safety and transportation agencies.

23 USC 502 note.

SEC. 5502. SURFACE TRANSPORTATION CONGESTION RELIEF SOLUTIONS RESEARCH INITIATIVE.

(a) ESTABLISHMENT.—The Secretary shall establish a surface transportation congestion solutions research initiative consisting of 2 independent research programs described in subsections (b)(1) and (b)(2) and designed to develop information to assist State transportation departments and metropolitan planning organizations measure and address surface transportation congestion problems.

(b) SURFACE TRANSPORTATION CONGESTION SOLUTIONS RESEARCH PROGRAM.—

(1) **IMPROVED SURFACE TRANSPORTATION CONGESTION MANAGEMENT SYSTEM MEASURES.**—The purposes of the first research program established under this section shall be—

(A) to examine the effectiveness of surface transportation congestion management systems since enactment of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240);

(B) to identify best case examples of locally designed reporting methods and incorporate such methods in research on national models for developing and recommending improved surface transportation congestion measurement and reporting; and

(C) to incorporate such methods in the development of national models and methods to monitor, measure, and report surface transportation congestion information.

(2) **ANALYTICAL TECHNIQUES FOR ACTION ON SURFACE TRANSPORTATION CONGESTION.**—The purposes of the second research program established under this section shall be—

(A) to analyze the effectiveness of procedures used by State transportation departments and metropolitan planning organizations to assess surface transportation congestion problems and communicate those problems to decisionmakers; and

(B) to identify methods to ensure that the results of surface transportation congestion analyses lead to the targeting of funding for programs, projects, or services with demonstrated effectiveness in reducing travel delay, congestion, and system unreliability.

(c) **TECHNICAL ASSISTANCE AND TRAINING.**—In fiscal year 2006, the Secretary shall develop a technical assistance and training program to disseminate the results of the surface transportation congestion solutions research initiative for the purpose of assisting State transportation departments and local transportation agencies with improving their approaches to surface transportation congestion measurement, analysis, and project programming.

(d) **FUNDING.**—Of the amounts made available by section 5101(a)(1) of this Act, \$9,000,000 for each of fiscal years 2006 through 2009 shall be available to carry out subsections (a) and (b) of this section. Of the amounts made available by section 5101(a)(2), \$750,000 for each of fiscal years 2006 through 2009 shall be available to carry out subsection (c) of this subsection.

SEC. 5503. MOTOR CARRIER EFFICIENCY STUDY.

23 USC 509 note.

(a) **IN GENERAL.**—The Secretary, in coordination with the motor carrier and wireless technology industry, shall conduct a study to—

(1) identify inefficiencies in the transportation of freight;

(2) evaluate the safety, productivity, and reduced cost improvements that may be achieved through the use of wireless technologies to address the inefficiencies identified in paragraph (1); and

(3) conduct, as appropriate, field tests demonstrating the technologies identified in paragraph (2).

(b) **PROGRAM ELEMENTS.**—The program shall include, at a minimum, the following:

(1) Fuel monitoring and management systems.

(2) Radio frequency identification technology.

(3) Electronic manifest systems.

(4) Cargo theft prevention.

(c) **FEDERAL SHARE.**—The Federal share of the cost of the study under this section shall be 100 percent.

(d) **ANNUAL REPORT.**—The Secretary shall prepare and submit to Congress an annual report on the programs and activities carried out under this section.

(e) **FUNDING.**—Of the amounts made available under section 5101(a)(1) of this Act, the Secretary shall make available \$1,250,000 to the Federal Motor Carrier Safety Administration for each of fiscal years 2006 through 2009 to carry out this section.

Urban and rural
areas.
23 USC 504 note.

SEC. 5504. CENTER FOR TRANSPORTATION ADVANCEMENT AND REGIONAL DEVELOPMENT.

(a) **ESTABLISHMENT.**—The Secretary shall establish a Center for Transportation Advancement and Regional Development (referred to in this section as the “Center”) to assist, through training, education, and research, in the comprehensive development of small metropolitan and rural regional transportation systems that are responsive to the needs of businesses and local communities.

(b) **ACTIVITIES.**—In carrying out this section, the Center shall—

(1) provide training, information, and professional resources for small metropolitan and rural regions to pursue innovative strategies to expand the capabilities, capacity, and effectiveness of a region’s transportation network, including activities related to freight projects, transit system upgrades, roadways and bridges, and intermodal transfer facilities and operations;

(2) assist local officials, rural transportation and economic development planners, officials from State departments of transportation and economic development, business leaders, and other stakeholders in developing public-private partnerships to enhance their transportation systems; and

(3) promote the leveraging of regional transportation planning with regional economic and business development planning to assure that appropriate transportation systems are created.

Grants.
Contracts.

(c) **PROGRAM ADMINISTRATION.**—To carry out this section, the Secretary shall make a grant to, or enter into a cooperative agreement or contract with the National Association of Development Organizations.

(d) **FUNDING.**—

(1) **IN GENERAL.**—Of the amounts made available by section 5101(a)(1) of this Act, \$625,000 shall be available for each of fiscal years 2006 through 2009 to carry out this section.

(2) **FEDERAL SHARE.**—The Federal share of the cost of activities carried out in accordance with this subsection shall be 100 percent.

23 USC 504 note.

SEC. 5505. TRANSPORTATION SCHOLARSHIP OPPORTUNITIES PROGRAM.

(a) **IN GENERAL.**—

(1) **ESTABLISHMENT OF PROGRAM.**—The Secretary may establish and implement a scholarship program for the purpose of attracting qualified students for transportation-related critical jobs.

(2) **PARTNERSHIP.**—The Secretary may establish the program in partnership with appropriate nongovernmental institutions.

(b) **PARTICIPATION.**—An operating administration of the Department and the Office of Inspector General may participate in the scholarship program.

(c) **FUNDING.**—Notwithstanding any other provision of law, the Secretary may use funds available to an operating administration or from the Office of Inspector General of the Department for the purpose of carrying out this section.

SEC. 5506. COMMERCIAL REMOTE SENSING PRODUCTS AND SPATIAL INFORMATION TECHNOLOGIES. 23 USC 502 note.

(a) **IN GENERAL.**—The Secretary shall establish and carry out a program to validate commercial remote sensing products and spatial information technologies for application to national transportation infrastructure development and construction.

(b) **PROGRAM.**—

(1) **NATIONAL POLICY.**—The Secretary shall establish and maintain a national policy for the use of commercial remote sensing products and spatial information technologies in national transportation infrastructure development and construction.

(2) **POLICY IMPLEMENTATION.**—The Secretary shall develop new applications of commercial remote sensing products and spatial information technologies for the implementation of the national policy established and maintained under paragraph (1).

(c) **COOPERATION.**—The Secretary shall carry out this section in cooperation with a consortium of university research centers.

(d) **FUNDING.**—Of the amounts made available by section 5101(a)(1) of this Act, \$7,750,000 for each of fiscal years 2006 through 2009 shall be available to carry out this section.

SEC. 5507. RURAL INTERSTATE CORRIDOR COMMUNICATIONS STUDY.

(a) **STUDY.**—The Secretary, in cooperation with the Secretary of Commerce, State departments of transportation, and other appropriate State, regional, and local officials, shall conduct a study on the feasibility of installing fiber optic cabling and wireless communication infrastructure along multistate Interstate System route corridors for improved communications services to rural communities along such corridors.

(b) **CONTENTS OF STUDY.**—In conducting the study, the Secretary shall identify—

(1) impediments to installation of the infrastructure described in subsection (a) along multistate Interstate System route corridors and to connecting such infrastructure to the rural communities along such corridors;

(2) the effective geographic range of such infrastructure;

(3) potential opportunities for the private sector to fund, wholly or partially, the installation of such infrastructure;

(4) potential benefits fiber optic cabling and wireless communication infrastructure may provide to rural communities along such corridors, including the effects of the installation of such infrastructure on economic development, deployment of intelligent transportation systems technologies and applications, homeland security precaution and response, and education and health systems in those communities;

- (5) rural broadband access points for such infrastructure;
 - (6) areas of environmental conflict with such installation;
 - (7) real estate ownership issues relating to such installation;
 - (8) preliminary design for placement of fiber optic cable and wireless towers;
 - (9) monetary value of the rights-of-way necessary for such installation;
 - (10) applicability and transferability of the benefits of such installation to other rural corridors; and
 - (11) safety and other operational issues associated with the installation and maintenance of fiber optic cabling and wire infrastructure within Interstate System rights-of-way and other publicly owned rights-of-way.
- (c) CORRIDOR LOCATIONS.—The study required under subsection (a) shall be conducted for corridors along—
- (1) Interstate Route 90 through rural Wisconsin, southern Minnesota, northern Iowa, and South Dakota;
 - (2) Interstate Route 20 through Alabama, Mississippi, and northern Louisiana;
 - (3) Interstate Route 91 through Vermont, New Hampshire, and Massachusetts; and
 - (4) any other rural corridor the Secretary considers appropriate.
- (d) REPORT TO CONGRESS.—Not later than September 30, 2007, the Secretary shall submit to Congress a report on the results of the study, including any recommendations of the Secretary.
- (e) FEDERAL SHARE.—The Federal share of the cost of the study shall be 100 percent.
- (f) FUNDING.—Of the amounts made available under section 5101(a)(5) of this Act, \$1,000,000 shall be available for fiscal year 2006, and \$2,000,000 shall be available for fiscal year 2007 to carry out this section.

SEC. 5508. TRANSPORTATION TECHNOLOGY INNOVATION AND DEMONSTRATION PROGRAM.

Section 5117(b) of the Transportation Equity Act for the 21st Century (112 Stat 449; 112 Stat. 864; 115 Stat. 2330) is amended by striking paragraph (3) and inserting the following:

“(3) INTELLIGENT TRANSPORTATION INFRASTRUCTURE.—

“(A) DEFINITIONS.—In this paragraph:

“(i) CONGESTED AREA.—The term ‘congested area’ means a metropolitan area that experiences significant traffic congestion, as determined by the Secretary on an annual basis, including the metropolitan areas of Albany, Atlanta, Austin, Burlington, Charlotte, Columbus, Greensboro, Hartford, Jacksonville, Kansas City, Louisville, Milwaukee, Minneapolis-St. Paul, Nashville, New Orleans, Norfolk, Raleigh, Richmond, Sacramento, San Jose, Tucson, and Tulsa.

“(ii) DEPLOYMENT AREA.—The term ‘deployment area’ means any of the metropolitan areas of Baltimore, Birmingham, Boston, Chicago, Cleveland, Dallas/Fort Worth, Denver, Detroit, Houston, Indianapolis, Las Vegas, Los Angeles, Miami, New York/Northern New Jersey, Northern Kentucky/Cincinnati, Oklahoma City, Orlando, Philadelphia, Phoenix, Pittsburgh, Portland,

Providence, Salt Lake, San Diego, San Francisco, St. Louis, Seattle, Tampa, and Washington, District of Columbia.

“(iii) METROPOLITAN AREA.—The term ‘metropolitan area’, including a major transportation corridor serving a metropolitan area, means any area that—

“(I) has a population exceeding 300,000; and

“(II) meets criteria established by the Secretary in conjunction with the intelligent vehicle highway systems corridors program.

“(iv) ORIGINAL CONTRACT.—The term ‘original contract’ means the Department of Transportation contract numbered DTTS 59–99–D–00445 T020013.

“(v) PROGRAM.—The term ‘program’ means the 2-part intelligent transportation infrastructure program carried out under this paragraph.

“(vi) STATE TRANSPORTATION DEPARTMENT.—The term ‘State transportation department’ means—

“(I) a State transportation department (as defined in section 101 of title 23, United States Code); and

“(II) a designee of a State transportation department (as so defined) for the purpose of entering into contracts.

“(vii) UNCOMMITTED FUNDS.—The term ‘uncommitted funds’ means the total amount of funds that, as of the date that is 180 days after the date of enactment of the SAFETEA–LU, remain uncommitted under the original contract.

“(B) INTELLIGENT TRANSPORTATION INFRASTRUCTURE PROGRAM.—

“(i) IN GENERAL.—The Secretary shall carry out a 2-part intelligent transportation infrastructure program in accordance with this paragraph to advance the deployment of an operational intelligent transportation infrastructure system, through measurement of various transportation system activities, to simultaneously—

“(I) aid in transportation planning and analysis; and

“(II) make a significant contribution to the ITS program under this title.

“(ii) OBJECTIVES.—The objectives of the program are—

“(I) to build or integrate an infrastructure of the measurement of various transportation system metrics to aid in planning, analysis, and maintenance of the Department of Transportation, including the buildout, maintenance, and operation of greater than 40 metropolitan area systems with a total cost not to exceed \$2,000,000 for each metropolitan area;

“(II) to provide private technology commercialization initiatives to generate revenues that will be reinvested in the intelligent transportation infrastructure system;

“(III) to aggregate data into reports for multipoint data distribution techniques; and

“(IV) with respect to part I of the program under subparagraph (C), to use an advanced information system designed and monitored by an entity with experience with the Department of Transportation in the design and monitoring of high-reliability, mission-critical voice and data systems.

“(C) PART I.—

“(i) IN GENERAL.—In carrying out part I of the program, the Secretary shall permit the entity to which the original contract was awarded to use uncommitted funds to deploy intelligent transportation infrastructure systems that have been accepted by the Secretary—

“(I) in accordance with the terms of the original contract; and

“(II) in any deployment area, with the consent of the State transportation department for the deployment area.

“(ii) APPLICABLE CONDITIONS.—The same asset ownership, maintenance, fixed price contract, and revenue sharing model, and the same competitively selected consortium leader, as were used for the deployment of intelligent transportation infrastructure systems under the original contract before the date of enactment of the SAFETEA-LU shall apply to each deployment carried out under clause (i).

“(iii) DEPLOYMENT IN CONGESTED AREAS.—If the entity referred to in clause (i) is unable to use the uncommitted funds by deploying intelligent transportation infrastructure systems in deployment areas, as determined by the Secretary, the entity may deploy the systems in accordance with this paragraph in one or more congested areas, with the consent of the State transportation departments for the congested areas.

“(D) PART II.—

“(i) IN GENERAL.—In carrying out part II of the program, the Secretary shall award, on a competitive basis, contracts for the deployment of intelligent transportation infrastructure systems that have been accepted by the Secretary in congested areas, with the consent of the State transportation departments for the congested areas.

“(ii) REQUIREMENTS.—The Secretary shall award contracts under clause (i)—

“(I) for individual congested areas among entities that seek to deploy intelligent transportation infrastructure systems in the congested areas; and

“(II) on the condition that the terms of each contract awarded requires the entity deploying such system to ensure that the deployed system is compatible (as determined by the Secretary) with systems deployed in other congested areas under this paragraph.

Contracts.

“(iii) PROVISIONS IN CONTRACTS.—The Secretary shall require that each contract for the deployment of an intelligent transportation infrastructure system under this subparagraph contain such provisions relating to asset ownership, maintenance, fixed price, and revenue sharing as the Secretary considers to be appropriate.

“(E) USE OF FUNDS FOR UNDEPLOYED SYSTEMS.—

“(i) IN GENERAL.—If, under part I or part II of the program, a State transportation department for a deployment area or congested area does not consent by the later of the date that is 180 days after the date of enactment of the SAFETEA–LU, or another date determined jointly by the State transportation department and the deployment area or congested area, to participate in the deployment of an intelligent transportation infrastructure system in the deployment area or congested area, upon application by any other deployment area or congested area that has consented by that date to participate in the deployment of such a system, the Secretary shall distribute any such unused funds to any other deployment or congested area that has consented by that date to participate in the deployment of such a system.

“(ii) NO INCLUSION IN COST LIMITATION.—Costs paid using funds provided through a distribution under clause (i) shall not be considered in determining the limitation on maximum cost described in subparagraph (F)(ii).

“(F) FEDERAL SHARE; LIMITS ON COSTS OF SYSTEMS FOR METROPOLITAN AREAS.—

“(i) FEDERAL SHARE.—Subject to clause (ii), the Federal share of the cost of any project or activity carried out under the program shall be 80 percent.

“(ii) LIMIT ON COSTS OF SYSTEM FOR EACH METROPOLITAN AREA.—

“(I) IN GENERAL.—Not more than \$2,000,000 may be provided under this paragraph for deployment of an intelligent transportation infrastructure system for a metropolitan area.

“(II) FUNDING UNDER EACH PART.—A metropolitan area in which an intelligent transportation infrastructure system is deployed under part I or part II under subparagraphs (C) and (D), respectively, including through a distribution of funds under subparagraph (E), may not receive any additional deployment under the other part of the program.

“(G) USE OF RIGHTS-OF-WAY.—

“(i) IN GENERAL.—An intelligent transportation system project described in this paragraph or paragraph (6) that involves privately owned intelligent transportation system components and is carried out using funds made available from the Highway Trust Fund shall not be subject to any law (including a regulation) of a State or political subdivision of a State prohibiting or regulating commercial activities in the

rights-of-way of a highway for which Federal-aid highway funds have been used for planning, design, construction, or maintenance for the project, if the Secretary determines that such use is in the public interest.

“(ii) EFFECT OF SUBPARAGRAPH.—Nothing in this subparagraph affects the authority of a State or political subdivision of a State—

“(I) to regulate highway safety; or

“(II) under sections 253 and 332(c)(7) of the Communications Act of 1934 (47 U.S.C. 253, 332(c)(7)).

“(H) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary for each of fiscal years 2005 through 2009 to carry out this paragraph.”.

SEC. 5509. REPEAL.

Effective October 1 of 2005, sections 5208 and 5209 of subtitle C of title V of The Transportation Equity Act for the 21st Century (23 U.S.C. 502 note; 112 Stat. 452–463) is repealed.

49 USC 102 note.

SEC. 5510. NOTICE.

(a) NOTICE OF REPROGRAMMING.—If any funds authorized for carrying out this title or the amendments made by this title are subject to a reprogramming action that requires notice to be provided to the Committees on Appropriations, Transportation and Infrastructure, and Science of the House of Representatives and the Committees on Appropriations and Environment and Public Works of the Senate, notice of that action shall be concurrently provided to the Committee of Transportation and Infrastructure and the Committee on Science of the House of Representatives and the Committee on Environment and Public Works of the Senate.

(b) NOTICE OF REORGANIZATION.—On or before the 15th day preceding the date of any major reorganization of a program, project, or activity of the Department for which funds are authorized by this title or the amendments made by this title, the Secretary shall provide notice of the reorganization to the Committees on Transportation and Infrastructure and Science of the House of Representatives and the Committee on Environment and Public Works of the Senate.

SEC. 5511. MOTORCYCLE CRASH CAUSATION STUDY GRANTS.

(a) GRANTS.—The Secretary shall provide grants to the Oklahoma Transportation Center for the purpose of conducting a comprehensive, in-depth motorcycle crash causation study that employs the common international methodology for in-depth motorcycle accident investigation of the Organization for Economic Cooperation and Development.

(b) FUNDING.—Of the amounts made available under section 5101(a)(1) of this Act, \$1,408,000 for each of fiscal years 2006 and 2007 shall be available to carry out this section.

23 USC 135 note.

SEC. 5512. ADVANCED TRAVEL FORECASTING PROCEDURES PROGRAM.

(a) CONTINUATION AND ACCELERATION OF TRANSIMS DEPLOYMENT.—

(1) IN GENERAL.—The Secretary shall accelerate the deployment of the advanced transportation model known as the

“Transportation Analysis Simulation System” (in this section referred to as “TRANSIMS”), developed by the Los Alamos National Laboratory.

(2) PROGRAM APPRECIATION.—The purpose of the program is to assist State departments of transportation and metropolitan planning organizations—

(A) to implement TRANSIMS;

(B) to develop methods for TRANSIMS applications to transportation planning, air quality analysis, regulatory compliance, and response to natural disasters and other transportation disruptions; and

(C) to provide training and technical assistance for the implementation of TRANSIMS.

(b) REQUIRED ACTIVITIES.—The Secretary shall use funds made available to carry out this section to—

(1) provide funding to State departments of transportation and metropolitan planning organizations serving transportation management areas designated under chapter 52 of title 49, United States Code, representing a diversity of populations, geographic regions, and analytic needs to implement TRANSIMS;

(2) develop methods to demonstrate a wide spectrum of TRANSIMS applications to support local, metropolitan, state-wide transportation planning, including integrating highway and transit operational considerations into the transportation Planning process, and estimating the effects of induced travel demand and transit ridership in making transportation conformity determinations where applicable;

(3) provide training and technical assistance with respect to the implementation and application of TRANSIMS to States, local governments, and metropolitan planning organizations with responsibility for travel modeling;

(4) to further develop TRANSIMS for additional applications, including—

(A) congestion analyses;

(B) major investment studies;

(C) economic impact analyses;

(D) alternative analyses;

(E) freight movement studies;

(F) emergency evacuation studies;

(G) port studies;

(H) airport access studies;

(I) induced demand studies; and

(J) transit ridership analysis.

(c) ELIGIBLE ACTIVITIES.—The program may support the development of methods to plan for the transportation response to chemical and biological terrorism and other security concerns.

(d) ALLOCATION OF FUNDS.—Not more than 75 percent of the funds made available to carry out this section may be allocated to activities described in subsection (b)(1).

(e) FUNDING.—Of the amounts made available by section 5101(a)(1) of this Act, \$2,625,000 for each of fiscal years 2006 through 2009 shall be available to carry out this section.

SEC. 5513. RESEARCH GRANTS.

(a) THERMAL IMAGING.—

23 USC 502 note.

(1) IN GENERAL.—The Secretary shall make a grant to carry out a demonstration project that uses a thermal imaging inspection system (TIIS) that leverages state-of-the-art thermal imagery technology, integrated with signature recognition software, providing the capability to identify, in real time, faults and failures in tires, brakes and bearings mounted on commercial motor vehicles.

(2) USE OF FUNDS.—Funds shall be used—

(A) to employ a TIIS in a field environment, along the Interstate, to further assess the system's ability to identify faults in tires, brakes, and bearings mounted on commercial motor vehicles;

(B) to establish, through statistical analysis, the probability of failure for each component; and

(C) to develop and integrate a predictive tool into the TIIS, which identifies an impending tire, brake, or bearing failure and provides the use of a time frame in which this failure may occur.

(3) FUNDING.—Of the amounts made available under section 5101(a)(1) of this Act, \$2,000,000 in fiscal year 2006 shall be available to carry out this subsection.

(b) TRANSPORTATION INJURY RESEARCH.—

(1) GRANT.—The Secretary shall make a grant to maintain a center for transportation injury research at the Calspan University of Buffalo Research Center, through the North Campus facility located in Amherst, New York, and affiliated with the State University of New York at Buffalo.

(2) RECOUP COSTS.—Notwithstanding current law, Federal regulations, or Office of Management and Budget circulars or guidance, the Center shall be permitted to recoup direct and indirect costs and apply a 7 percent fee to the grant made under this subsection.

(3) FUNDING.—Of the amounts made available under section 5101(a)(1) of this Act, \$1,250,000 in each of fiscal years 2006 through 2009 shall be available to carry out this subsection.

(c) TECHNOLOGY TRANSFER GRANT.—

(1) GRANT.—The Secretary shall make grants to the Argonne National Laboratory-Advanced Transportation Technology Center for the purpose of conducting transportation research and demonstration projects that would lead to the exchange of research results with the private sector and collaboration with universities at a centralized location conducive for technology transfer.

(2) FUNDING.—Of the amounts made available under section 5101(a)(1) of this Act, \$4,000,000 in each of fiscal years 2006 through 2009 shall be available to carry out this subsection.

(d) APPALACHIAN REGIONAL COMMISSION.—

(1) GRANT.—The Secretary shall make a grant to the Appalachian Regional Commission to conduct a feasibility study for the creation of a system of inland ports and distribution centers in Appalachia.

(2) FUNDING.—Of the amounts made available under section 5101(a)(1) of this Act, \$500,000 in fiscal year 2006 shall be available to carry out this subsection.

(e) AUTOMOBILE ACCIDENT INJURY RESEARCH.—

(1) GRANTS.—The Secretary shall make a grant to the Forsyth Institute for research and technology development for preventing and minimizing head, craniofacial, and spinal cord injuries resulting from automobile accidents.

(2) FUNDING.—Of the amounts made available under section 5101(a)(1) of this Act, \$500,000 in each of fiscal years 2006 through 2009 shall be available to carry out this subsection.

(f) RURAL TRANSPORTATION RESEARCH.—

(1) GRANTS.—The Secretary shall make grants to the New England Transportation Institute in White River Junction, Vermont for rural transportation research.

(2) FUNDING.—

(A) IN GENERAL.—Of the amounts made available by section 5101(a)(1) of this Act, \$1,000,000 for fiscal year 2006 shall be available to carry out this subsection and shall remain available until expended.

(B) COST-SHARING.—

(i) FEDERAL SHARE.—The Federal share of the cost of activities carried out under this subsection shall be 80 percent.

(ii) NON-FEDERAL SHARE.—The fair market value of any materials or services provided by the non-Federal sponsor for activities under this subsection shall be credited to the non-Federal share.

(g) RURAL TRANSPORTATION RESEARCH INITIATIVE.—

(1) GRANTS.—For each of fiscal years 2006 through 2009, the Secretary shall provide a grant to the Upper Great Plains Transportation Institute at North Dakota State University for use in carrying out the Rural Transportation Research Initiative.

(2) FUNDING.—

(A) IN GENERAL.—Of the amounts made available by section 5101(a)(1) of this Act, \$500,000 for each of fiscal years 2006 through 2009 shall be available to carry out this subsection, and shall remain available until expended.

(B) COST-SHARING.—

(i) FEDERAL SHARE.—The Federal share of the cost of the activities carried out under this subsection shall be 80 percent.

(ii) NON-FEDERAL SHARE.—The fair market value of any materials or services provided by the non-Federal project sponsor for any activity under this subsection shall be credited to the non-Federal share.

(h) HYDROGEN-POWERED TRANSPORTATION RESEARCH INITIATIVE.—

(1) GRANTS.—For each of fiscal years 2006 through 2009, the Secretary shall provide a grant to the University of Montana for use in carrying out the Hydrogen-Powered Transportation Research Initiative.

(2) FUNDING.—

(A) IN GENERAL.—Of the amounts made available by section 5101(a)(1) of this Act, \$750,000 for each of fiscal years 2006 through 2009 shall be available to carry out this subsection, and shall remain available until expended.

(B) COST-SHARING.—

(i) **FEDERAL SHARE.**—The Federal share of the cost of the activities carried out under this subsection shall be 80 percent.

(ii) **NON-FEDERAL SHARE.**—The fair market value of any materials or services provided by the non-Federal project sponsor for an activity under this subsection shall be credited to the non-Federal share.

(i) **COLD REGION AND RURAL TRANSPORTATION RESEARCH, MAINTENANCE, AND OPERATIONS.**—

(1) **GRANTS.**—The Secretary shall provide grants to the Western Transportation Institute at Montana State University, for use in developing a research facility in Lewistown, Montana, for basic and applied research and testing on surface transportation issues facing rural and cold regions.

(2) **FUNDING.**—

(A) **IN GENERAL.**—Of the amounts made available by section 5101(a)(1) of this Act, \$1,000,000 for each of fiscal years 2006 through 2009 shall be available to carry out this subsection, to remain available until expended.

(B) **COST-SHARING.**—

(i) **FEDERAL SHARE.**—The Federal share of the cost of the activities carried out under this subsection shall be 80 percent.

(ii) **NON-FEDERAL SHARE.**—The fair market value of any materials or services provided by the non-Federal project sponsor for an activity under this section shall be credited to the non-Federal share.

(j) **ADVANCED VEHICLE TECHNOLOGY.**—

(1) **GRANT.**—The Secretary shall make a grant to the University of Kansas Transportation Research Institute for research and development of advanced vehicle technology concepts, focused on vehicle emissions, fuel cells and catalytic processes, and intelligent transportation systems.

(2) **FUNDING.**—Of the amounts made available under section 5101(a)(1) of this Act, \$2,500,000 in each of fiscal years 2006 through 2009 shall be available to carry out this subsection.

(k) **ASPHALT RESEARCH CONSORTIUM.**—

(1) **GRANT.**—The Secretary shall make a grant to the asphalt research consortium lead by the Western Research Institute to research flexible pavement and extending the life-cycle of asphalts.

(2) **FUNDING.**—Of the amounts made available under section 5101(a)(1) of this Act, \$7,500,000 in each of fiscal years 2006 through 2009 shall be available to carry out this subsection.

(l) **RENEWABLE TRANSPORTATION SYSTEMS RESEARCH.**—

(1) **GRANTS.**—The Secretary shall make grants to the University of Vermont for research, development and field testing of hydrogen fuel cell and biofuel transportation technology.

(2) **FUNDING.**—

(A) **IN GENERAL.**—Of the amounts made available for section 5101(a)(1) of this Act, \$1,000,000 for fiscal year 2006 to remain available until expended.

(B) **COST-SHARING.**—

(i) **FEDERAL SHARE.**—The Federal Share of the cost of activities carried out under this section shall be 80 percent.

(ii) **NON-FEDERAL SHARE.**—The fair market value of any materials or services provided by the non-Federal sponsor for activities under this section shall be credited to the non-Federal share.

(m) **FEDERAL SHARE.**—The Federal share of the cost of activities carried out in accordance with this section shall be 80 percent unless otherwise expressly provided by this section or otherwise determined by the Secretary.

SEC. 5514. COMPETITION FOR SPECIFICATION OF ALTERNATIVE TYPES OF CULVERT PIPES. Deadline.

Notwithstanding any contrary interpretation of appendix A of subpart D of section 635.411 of volume 23, Code of Federal Regulations (as in existence on the date of enactment of this Act), not later than 180 days after the date of enactment of this Act, the Secretary shall ensure that States provide for competition with respect to the specification of alternative types of culvert pipes through requirements that are commensurate with competition requirements for other construction materials, as determined by the Secretary.

Subtitle F—Bureau of Transportation Statistics

SEC. 5601. BUREAU OF TRANSPORTATION STATISTICS.

(a) **IN GENERAL.**—Section 111 of title 49, United States Code, is amended to read as follows:

“§ 111. Bureau of Transportation Statistics

“(a) **ESTABLISHMENT.**—There is established in the Research and Innovative Technology Administration a Bureau of Transportation Statistics.

“(b) **DIRECTOR.**—

“(1) **APPOINTMENT.**—The Bureau shall be headed by a Director who shall be appointed in the competitive service by the Secretary of Transportation.

“(2) **QUALIFICATIONS.**—The Director shall be appointed from among individuals who are qualified to serve as the Director by virtue of their training and experience in the collection, analysis, and use of transportation statistics.

“(c) **RESPONSIBILITIES.**—The Director of the Bureau shall serve as the Secretary’s senior advisor on data and statistics and shall be responsible for carrying out the following duties:

“(1) **PROVIDING DATA, STATISTICS, AND ANALYSIS TO TRANSPORTATION DECISIONMAKERS.**—Ensuring that the statistics compiled under paragraph (5) are designed to support transportation decisionmaking by the Federal Government, State and local governments, metropolitan planning organizations, transportation-related associations, the private sector (including the freight community), and the public.

“(2) **COORDINATING COLLECTION OF INFORMATION.**—Working with the operating administrations of the Department to establish and implement the Bureau’s data programs and to improve

the coordination of information collection efforts with other Federal agencies.

“(3) DATA MODERNIZATION.—Continually improving surveys and data collection methods to improve the accuracy and utility of transportation statistics.

“(4) ENCOURAGING DATA STANDARDIZATION.—Encouraging the standardization of data, data collection methods, and data management and storage technologies for data collected by the Bureau, the operating administrations of the Department of Transportation, States, local governments, metropolitan planning organizations, and private sector entities.

“(5) TRANSPORTATION STATISTICS.—Collecting, compiling, analyzing, and publishing a comprehensive set of transportation statistics on the performance and impacts of the national transportation system, including statistics on—

“(A) productivity in various parts of the transportation sector;

“(B) traffic flows for all modes of transportation;

“(C) other elements of the intermodal transportation database established under subsection (e);

“(D) travel times and measures of congestion;

“(E) vehicle weights and other vehicle characteristics;

“(F) demographic, economic, and other variables influencing traveling behavior, including choice of transportation mode and goods movement;

“(G) transportation costs for passenger travel and goods movement;

“(H) availability and use of mass transit (including the number of passengers served by each mass transit authority) and other forms of for-hire passenger travel;

“(I) frequency of vehicle and transportation facility repairs and other interruptions of transportation service;

“(J) safety and security for travelers, vehicles, and transportation systems;

“(K) consequences of transportation for the human and natural environment;

“(L) the extent, connectivity, and condition of the transportation system, building on the national transportation atlas database developed under subsection (g); and

“(M) transportation-related variables that influence the domestic economy and global competitiveness.

“(6) NATIONAL SPATIAL DATA INFRASTRUCTURE.—Building and disseminating the transportation layer of the National Spatial Data Infrastructure developed under Executive Order No. 12906, including coordinating the development of transportation geospatial data standards, compiling intermodal geospatial data, and collecting geospatial data that is not being collected by others.

“(7) ISSUING GUIDELINES.—Issuing guidelines for the collection of information by the Department required for statistics to be compiled under paragraph (5) in order to ensure that such information is accurate, reliable, relevant, and in a form that permits systematic analysis.

“(8) REVIEW SOURCES AND RELIABILITY OF STATISTICS.—Reviewing and reporting to the Secretary on the sources and reliability of the statistics proposed by the heads of the operating administrations of the Department to measure outputs

and outcomes as required by the Government Performance and Results Act of 1993 (Public Law 103–62; 107 Stat. 285), and the amendments made by such Act, and carrying out such other reviews of the sources and reliability of other data collected or statistical information published by the heads of the operating administrations of the Department as shall be requested by the Secretary.

“(9) MAKING STATISTICS ACCESSIBLE.—Making the statistics published under this subsection readily accessible to the public.

“(d) INFORMATION NEEDS ASSESSMENT.—

“(1) IN GENERAL.—Not later than 60 days after the date of enactment of the SAFETEA–LU, the Secretary shall enter into an agreement with the National Research Council to develop and publish a National transportation information needs assessment (referred to in this subsection as the ‘assessment’). The assessment shall be submitted to the Secretary and the appropriate committees of Congress not later than 24 months after such agreement is entered into.

“(2) CONTENT.—The assessment shall—

“(A) identify, in order of priority, the transportation data that is not being collected by the Bureau, operating administrations of the Department, or other Federal, State, or local entities, but is needed to improve transportation decisionmaking at the Federal, State, and local levels and to fulfill the requirements of subsection (c)(5);

“(B) recommend whether the data identified in subparagraph (A) should be collected by the Bureau, other parts of the Department, or by other Federal, State, or local entities, and whether any data is of a higher priority than data currently being collected;

“(C) identify any data the Bureau or other Federal, State, or local entity is collecting that is not needed;

“(D) describe new data collection methods (including changes in surveys) and other changes the Bureau or other Federal, State, or local entity should implement to improve the standardization, accuracy, and utility of transportation data and statistics; and

“(E) estimate the cost of implementing any recommendations.

“(3) CONSULTATION.—In developing the assessment, the National Research Council shall consult with the Department’s Advisory Council on Transportation Statistics and a representative cross-section of transportation community stakeholders as well as other Federal agencies, including the Environmental Protection Agency, the Department of Energy, and the Department of Housing and Urban Development.

“(4) REPORT TO CONGRESS.—Not later than 180 days after the date on which the National Research Council submits the assessment under paragraph (1), the Secretary shall submit a report to Congress that describes—

“(A) how the Department plans to fill the data gaps identified under paragraph (2)(A);

“(B) how the Department plans to stop collecting data identified under paragraph (2)(C);

“(C) how the Department plans to implement improved data collection methods and other changes identified under paragraph (2)(D);

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“(D) the expected costs of implementing subparagraphs (A), (B), and (C) of this paragraph;

“(E) any findings of the assessment under paragraph (1) with which the Secretary disagrees, and why; and

“(F) any proposed statutory changes needed to implement the findings of the assessment under paragraph (1).

“(e) INTERMODAL TRANSPORTATION DATABASE.—

“(1) IN GENERAL.—In consultation with the Under Secretary for Policy, the Assistant Secretaries, and the heads of the operating administrations of the Department, the Director shall establish and maintain a transportation database for all modes of transportation.

“(2) USE.—The database shall be suitable for analyses carried out by the Federal Government, the States, and metropolitan planning organizations.

“(3) CONTENTS.—The database shall include—

“(A) information on the volumes and patterns of movement of goods, including local, interregional, and international movement, by all modes of transportation and intermodal combinations and by relevant classification;

“(B) information on the volumes and patterns of movement of people, including local, interregional, and international movements, by all modes of transportation (including bicycle and pedestrian modes) and intermodal combinations and by relevant classification;

“(C) information on the location and connectivity of transportation facilities and services; and

“(D) a national accounting of expenditures and capital stocks on each mode of transportation and intermodal combination.

“(f) NATIONAL TRANSPORTATION LIBRARY.—

“(1) IN GENERAL.—The Director shall establish and maintain a National Transportation Library, which shall contain a collection of statistical and other information needed for transportation decisionmaking at the Federal, State, and local levels.

“(2) ACCESS.—The Director shall facilitate and promote access to the Library, with the goal of improving the ability of the transportation community to share information and the ability of the Director to make statistics readily accessible under subsection (c)(9).

“(3) COORDINATION.—The Director shall work with other transportation libraries and transportation information providers, both public and private, to achieve the goal specified in paragraph (2).

“(g) NATIONAL TRANSPORTATION ATLAS DATABASE.—

“(1) IN GENERAL.—The Director shall develop and maintain a national transportation atlas database that is comprised of geospatial databases that depict—

“(A) transportation networks;

“(B) flows of people, goods, vehicles, and craft over the networks; and

“(C) social, economic, and environmental conditions that affect or are affected by the networks.

“(2) INTERMODAL NETWORK ANALYSIS.—The databases shall be able to support intermodal network analysis.

“(h) MANDATORY RESPONSE AUTHORITY FOR FREIGHT DATA COLLECTION.—Whoever, being the owner, official, agent, person in charge, or assistant to the person in charge of any freight corporation, company, business, institution, establishment, or organization of any nature whatsoever, neglects or refuses, when requested by the Director or other authorized officer, employee, or contractor of the Bureau, to answer completely and correctly to the best of the individual’s knowledge all questions relating to the corporation, company, business, institution, establishment, or other organization, or to make available records or statistics in the individual’s official custody, contained in a data collection request prepared and submitted under the authority of subsection (c)(1), shall be fined not more than \$500; but if the individual willfully gives a false answer to such a question, the individual shall be fined not more than \$10,000. Penalty.

“(i) RESEARCH AND DEVELOPMENT GRANTS.—The Secretary may make grants to, or enter into cooperative agreements or contracts with, public and nonprofit private entities (including State transportation departments, metropolitan planning organizations, and institutions of higher education) for—

“(1) investigation of the subjects specified in subsection (c)(5) and research and development of new methods of data collection, standardization, management, integration, dissemination, interpretation, and analysis;

“(2) demonstration programs by States, local governments, and metropolitan planning organizations to coordinate data collection, reporting, management, storage, and archiving to simplify data comparisons across jurisdictions;

“(3) development of electronic clearinghouses of transportation data and related information, as part of the National Transportation Library under subsection (f); and

“(4) development and improvement of methods for sharing geographic data, in support of the database under subsection (g) and the National Spatial Data Infrastructure.

“(j) LIMITATIONS ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed—

“(1) to authorize the Bureau to require any other department or agency to collect data; or

“(2) to reduce the authority of any other officer of the Department to collect and disseminate data independently.

“(k) PROHIBITION ON CERTAIN DISCLOSURES.—

“(1) IN GENERAL.—An officer, employee, or contractor of the Bureau may not—

“(A) make any disclosure in which the data provided by an individual or organization under subsection (c) can be identified;

“(B) use the information provided under subsection (c) for a nonstatistical purpose; or

“(C) permit anyone other than an individual authorized by the Director to examine any individual report provided under subsection (c).

“(2) COPIES OF REPORTS.—

“(A) IN GENERAL.—No department, bureau, agency, officer, or employee of the United States (except the Director in carrying out this section) may require, for any reason, a copy of any report that has been filed under

subsection (c) with the Bureau or retained by an individual respondent.

“(B) LIMITATION ON JUDICIAL PROCEEDINGS.—A copy of a report described in subparagraph (A) that has been retained by an individual respondent or filed with the Bureau or any of its employees, contractors, or agents—

“(i) shall be immune from legal process; and

“(ii) shall not, without the consent of the individual concerned, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceedings.

“(C) APPLICABILITY.—This paragraph shall apply only to reports that permit information concerning an individual or organization to be reasonably determined by direct or indirect means.

“(3) INFORMING RESPONDENT OF USE OF DATA.—In a case in which the Bureau is authorized by statute to collect data or information for a nonstatistical purpose, the Director shall clearly distinguish the collection of the data or information, by rule and on the collection instrument, so as to inform a respondent who is requested or required to supply the data or information of the nonstatistical purpose.

“(1) TRANSPORTATION STATISTICS ANNUAL REPORT.—The Director shall submit to the President and Congress a transportation statistics annual report which shall include information on items referred to in subsection (c)(5), documentation of methods used to obtain and ensure the quality of the statistics presented in the report, and recommendations for improving transportation statistical information.

“(m) DATA ACCESS.—The Director shall have access to transportation and transportation-related information in the possession of any Federal agency, except information—

“(1) the disclosure of which to another Federal agency is expressly prohibited by law; or

“(2) the disclosure of which the agency possessing the information determines would significantly impair the discharge of authorities and responsibilities which have been delegated to, or vested by law, in such agency.

“(n) PROCEEDS OF DATA PRODUCT SALES.—Notwithstanding section 3302 of title 31, funds received by the Bureau from the sale of data products, for necessary expenses incurred, may be credited to the Highway Trust Fund (other than the Mass Transit Account) for the purpose of reimbursing the Bureau for the expenses.

“(o) ADVISORY COUNCIL ON TRANSPORTATION STATISTICS.—

“(1) ESTABLISHMENT.—The Director shall establish an advisory council on transportation statistics.

“(2) FUNCTION.—The function of the advisory council established under this subsection is to—

“(A) advise the Director on the quality, reliability, consistency, objectivity, and relevance of transportation statistics and analyses collected, supported, or disseminated by the Bureau and the Department;

“(B) provide input to and review the report to Congress under subsection (d)(4); and

“(C) advise the Director on methods to encourage cooperation and interoperability of transportation data collected by the Bureau, the operating administrations of

the Department, States, local governments, metropolitan planning organizations, and private sector entities.

“(3) **MEMBERSHIP.**—The advisory council established under this subsection shall be composed of not fewer than 9 and not more than 11 members appointed by the Director, who are not officers or employees of the United States. Each member shall have expertise in transportation data collection or analysis or application; except that 1 member shall have expertise in economics, 1 member shall have expertise in statistics, and 1 member shall have experience in transportation safety. At least 1 member shall be a senior official of a State department of transportation. Members shall include representation of a cross-section of transportation community stakeholders.

“(4) **TERMS OF APPOINTMENT.**—

“(A) **IN GENERAL.**—Except as provided in subparagraph (B), members of the advisory council shall be appointed to staggered terms not to exceed 3 years. A member may be renominated for 1 additional 3-year term.

“(B) **CURRENT MEMBERS.**—Members serving on the Advisory Council on Transportation Statistics as of the date of enactment of the SAFETEA-LU shall serve until the end of their appointed terms.

“(5) **APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.**—

The Federal Advisory Committee Act shall apply to the advisory council established under this subsection, except that section 14 of such Act shall not apply.”.

TITLE VI—TRANSPORTATION PLANNING AND PROJECT DELIVERY

SEC. 6001. TRANSPORTATION PLANNING.

(a) **IN GENERAL.**—Sections 134 and 135 of title 23, United States Code, are amended to read as follows:

“§ 134. Metropolitan transportation planning

“(a) **POLICY.**—It is in the national interest to—

“(1) encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight and foster economic growth and development within and between States and urbanized areas, while minimizing transportation-related fuel consumption and air pollution through metropolitan and statewide transportation planning processes identified in this chapter; and

“(2) encourage the continued improvement and evolution of the metropolitan and statewide transportation planning processes by metropolitan planning organizations, State departments of transportation, and public transit operators as guided by the planning factors identified in subsection (h) and section 135(d).

“(b) **DEFINITIONS.**—In this section and section 135, the following definitions apply:

“(1) **METROPOLITAN PLANNING AREA.**—The term ‘metropolitan planning area’ means the geographic area determined by agreement between the metropolitan planning organization for the area and the Governor under subsection (e).

“(2) METROPOLITAN PLANNING ORGANIZATION.—The term ‘metropolitan planning organization’ means the policy board of an organization created as a result of the designation process in subsection (d).

“(3) NONMETROPOLITAN AREA.—The term ‘nonmetropolitan area’ means a geographic area outside designated metropolitan planning areas.

“(4) NONMETROPOLITAN LOCAL OFFICIAL.—The term ‘nonmetropolitan local official’ means elected and appointed officials of general purpose local government in a nonmetropolitan area with responsibility for transportation.

“(5) TIP.—The term ‘TIP’ means a transportation improvement program developed by a metropolitan planning organization under subsection (j).

“(6) URBANIZED AREA.—The term ‘urbanized area’ means a geographic area with a population of 50,000 or more, as designated by the Bureau of the Census.

“(c) GENERAL REQUIREMENTS.—

“(1) DEVELOPMENT OF LONG-RANGE PLANS AND TIPS.—To accomplish the objectives in subsection (a), metropolitan planning organizations designated under subsection (d), in cooperation with the State and public transportation operators, shall develop long-range transportation plans and transportation improvement programs for metropolitan planning areas of the State.

“(2) CONTENTS.—The plans and TIPs for each metropolitan area shall provide for the development and integrated management and operation of transportation systems and facilities (including accessible pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the metropolitan planning area and as an integral part of an intermodal transportation system for the State and the United States.

“(3) PROCESS OF DEVELOPMENT.—The process for developing the plans and TIPs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

“(d) DESIGNATION OF METROPOLITAN PLANNING ORGANIZATIONS.—

Urban and rural areas.

“(1) IN GENERAL.—To carry out the transportation planning process required by this section, a metropolitan planning organization shall be designated for each urbanized area with a population of more than 50,000 individuals—

“(A) by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the affected population (including the largest incorporated city (based on population) as named by the Bureau of the Census); or

“(B) in accordance with procedures established by applicable State or local law.

“(2) STRUCTURE.—Each metropolitan planning organization that serves an area designated as a transportation management area, when designated or redesignated under this subsection, shall consist of—

“(A) local elected officials;

“(B) officials of public agencies that administer or operate major modes of transportation in the metropolitan area; and

“(C) appropriate State officials.

“(3) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to interfere with the authority, under any State law in effect on December 18, 1991, of a public agency with multimodal transportation responsibilities to—

“(A) develop the plans and TIPs for adoption by a metropolitan planning organization; and

“(B) develop long-range capital plans, coordinate transit services and projects, and carry out other activities pursuant to State law.

“(4) CONTINUING DESIGNATION.—A designation of a metropolitan planning organization under this subsection or any other provision of law shall remain in effect until the metropolitan planning organization is redesignated under paragraph (5).

“(5) REDESIGNATION PROCEDURES.—A metropolitan planning organization may be redesignated by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the existing planning area population (including the largest incorporated city (based on population) as named by the Bureau of the Census) as appropriate to carry out this section.

“(6) DESIGNATION OF MORE THAN 1 METROPOLITAN PLANNING ORGANIZATION.—More than 1 metropolitan planning organization may be designated within an existing metropolitan planning area only if the Governor and the existing metropolitan planning organization determine that the size and complexity of the existing metropolitan planning area make designation of more than 1 metropolitan planning organization for the area appropriate.

“(e) METROPOLITAN PLANNING AREA BOUNDARIES.—

“(1) IN GENERAL.—For the purposes of this section, the boundaries of a metropolitan planning area shall be determined by agreement between the metropolitan planning organization and the Governor.

“(2) INCLUDED AREA.—Each metropolitan planning area—

“(A) shall encompass at least the existing urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period for the transportation plan; and

“(B) may encompass the entire metropolitan statistical area or consolidated metropolitan statistical area, as defined by the Bureau of the Census.

“(3) IDENTIFICATION OF NEW URBANIZED AREAS WITHIN EXISTING PLANNING AREA BOUNDARIES.—The designation by the Bureau of the Census of new urbanized areas within an existing metropolitan planning area shall not require the redesignation of the existing metropolitan planning organization.

“(4) EXISTING METROPOLITAN PLANNING AREAS IN NON-ATTAINMENT.—Notwithstanding paragraph (2), in the case of an urbanized area designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.) as of the date of enactment of the SAFETEA—

LU, the boundaries of the metropolitan planning area in existence as of such date of enactment shall be retained; except that the boundaries may be adjusted by agreement of the Governor and affected metropolitan planning organizations in the manner described in subsection (d)(5).

“(5) NEW METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—In the case of an urbanized area designated after the date of enactment of the SAFETEA-LU, as a nonattainment area for ozone or carbon monoxide, the boundaries of the metropolitan planning area—

“(A) shall be established in the manner described in subsection (d)(1);

“(B) shall encompass the areas described in paragraph (2)(A);

“(C) may encompass the areas described in paragraph (2)(B); and

“(D) may address any nonattainment area identified under the Clean Air Act for ozone or carbon monoxide.

“(f) COORDINATION IN MULTISTATE AREAS.—

“(1) IN GENERAL.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate metropolitan area and the appropriate metropolitan planning organizations to provide coordinated transportation planning for the entire metropolitan area.

“(2) INTERSTATE COMPACTS.—The consent of Congress is granted to any two or more States—

“(A) to enter into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section as the activities pertain to interstate areas and localities within the States; and

“(B) to establish such agencies, joint or otherwise, as the States may determine desirable for making the agreements and compacts effective.

“(3) LAKE TAHOE REGION.—

“(A) DEFINITION.—In this paragraph, the term ‘Lake Tahoe region’ has the meaning given the term ‘region’ in subdivision (a) of article II of the Tahoe Regional Planning Compact, as set forth in the first section of Public Law 96-551 (94 Stat. 3234).

“(B) TRANSPORTATION PLANNING PROCESS.—The Secretary shall—

“(i) establish with the Federal land management agencies that have jurisdiction over land in the Lake Tahoe region a transportation planning process for the region; and

“(ii) coordinate the transportation planning process with the planning process required of State and local governments under this section and section 135.

“(C) INTERSTATE COMPACT.—

“(i) IN GENERAL.—Subject to clause (ii), and notwithstanding subsection (b), to carry out the transportation planning process required by this section, the consent of Congress is granted to the States of California and Nevada to designate a metropolitan planning organization for the Lake Tahoe region, by agreement between the Governors of the States of California

and Nevada and units of general purpose local government that together represent at least 75 percent of the affected population (including the central city or cities (as defined by the Bureau of the Census)), or in accordance with procedures established by applicable State or local law.

“(ii) INVOLVEMENT OF FEDERAL LAND MANAGEMENT AGENCIES.—

“(I) REPRESENTATION.—The policy board of a metropolitan planning organization designated under clause (i) shall include a representative of each Federal land management agency that has jurisdiction over land in the Lake Tahoe region.

“(II) FUNDING.—In addition to funds made available to the metropolitan planning organization for the Lake Tahoe region under other provisions of this title and under chapter 53 of title 49, 1 percent of the funds allocated under section 202 shall be used to carry out the transportation planning process for the Lake Tahoe region under this subparagraph.

“(D) ACTIVITIES.—Highway projects included in transportation plans developed under this paragraph—

“(i) shall be selected for funding in a manner that facilitates the participation of the Federal land management agencies that have jurisdiction over land in the Lake Tahoe region; and

“(ii) may, in accordance with chapter 2, be funded using funds allocated under section 202.

“(4) RESERVATION OF RIGHTS.—The right to alter, amend, or repeal interstate compacts entered into under this subsection is expressly reserved.

“(g) MPO CONSULTATION IN PLAN AND TIP COORDINATION.—

“(1) NONATTAINMENT AREAS.—If more than 1 metropolitan planning organization has authority within a metropolitan area or an area which is designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act, each metropolitan planning organization shall consult with the other metropolitan planning organizations designated for such area and the State in the coordination of plans and TIPs required by this section.

“(2) TRANSPORTATION IMPROVEMENTS LOCATED IN MULTIPLE MPOS.—If a transportation improvement, funded from the Highway Trust Fund or authorized under chapter 53 of title 49, is located within the boundaries of more than 1 metropolitan planning area, the metropolitan planning organizations shall coordinate plans and TIPs regarding the transportation improvement.

“(3) RELATIONSHIP WITH OTHER PLANNING OFFICIALS.—The Secretary shall encourage each metropolitan planning organization to consult with officials responsible for other types of planning activities that are affected by transportation in the area (including State and local planned growth, economic development, environmental protection, airport operations, and freight movements) or to coordinate its planning process, to the maximum extent practicable, with such planning activities. Under the metropolitan planning process, transportation plans

and TIPs shall be developed with due consideration of other related planning activities within the metropolitan area, and the process shall provide for the design and delivery of transportation services within the metropolitan area that are provided by—

“(A) recipients of assistance under chapter 53 of title 49;

“(B) governmental agencies and nonprofit organizations (including representatives of the agencies and organizations) that receive Federal assistance from a source other than the Department of Transportation to provide non-emergency transportation services; and

“(C) recipients of assistance under section 204.

“(h) SCOPE OF PLANNING PROCESS.—

“(1) IN GENERAL.—The metropolitan planning process for a metropolitan planning area under this section shall provide for consideration of projects and strategies that will—

“(A) support the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency;

“(B) increase the safety of the transportation system for motorized and nonmotorized users;

“(C) increase the security of the transportation system for motorized and nonmotorized users;

“(D) increase the accessibility and mobility of people and for freight;

“(E) protect and enhance the environment, promote energy conservation, improve the quality of life, and promote consistency between transportation improvements and State and local planned growth and economic development patterns;

“(F) enhance the integration and connectivity of the transportation system, across and between modes, for people and freight;

“(G) promote efficient system management and operation; and

“(H) emphasize the preservation of the existing transportation system.

“(2) FAILURE TO CONSIDER FACTORS.—The failure to consider any factor specified in paragraph (1) shall not be reviewable by any court under this title or chapter 53 of title 49, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a transportation plan, a TIP, a project or strategy, or the certification of a planning process.

“(i) DEVELOPMENT OF TRANSPORTATION PLAN.—

“(1) IN GENERAL.—Each metropolitan planning organization shall prepare and update a transportation plan for its metropolitan planning area in accordance with the requirements of this subsection. The metropolitan planning organization shall prepare and update such plan every 4 years (or more frequently, if the metropolitan planning organization elects to update more frequently) in the case of each of the following:

“(A) Any area designated as nonattainment, as defined in section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)).

“(B) Any area that was nonattainment and subsequently designated to attainment in accordance with section 107(d)(3) of that Act (42 U.S.C. 7407(d)(3)) and that

is subject to a maintenance plan under section 175A of that Act (42 U.S.C. 7505a).

In the case of any other area required to have a transportation plan in accordance with the requirements of this subsection, the metropolitan planning organization shall prepare and update such plan every 5 years unless the metropolitan planning organization elects to update more frequently.

“(2) TRANSPORTATION PLAN.—A transportation plan under this section shall be in a form that the Secretary determines to be appropriate and shall contain, at a minimum, the following:

“(A) IDENTIFICATION OF TRANSPORTATION FACILITIES.—

An identification of transportation facilities (including major roadways, transit, multimodal and intermodal facilities, and intermodal connectors) that should function as an integrated metropolitan transportation system, giving emphasis to those facilities that serve important national and regional transportation functions. In formulating the transportation plan, the metropolitan planning organization shall consider factors described in subsection (h) as such factors relate to a 20-year forecast period.

“(B) MITIGATION ACTIVITIES.—

“(i) IN GENERAL.—A long-range transportation plan shall include a discussion of types of potential environmental mitigation activities and potential areas to carry out these activities, including activities that may have the greatest potential to restore and maintain the environmental functions affected by the plan.

“(ii) CONSULTATION.—The discussion shall be developed in consultation with Federal, State, and tribal wildlife, land management, and regulatory agencies.

“(C) FINANCIAL PLAN.—A financial plan that demonstrates how the adopted transportation plan can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan, and recommends any additional financing strategies for needed projects and programs. The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted transportation plan if reasonable additional resources beyond those identified in the financial plan were available. For the purpose of developing the transportation plan, the metropolitan planning organization, transit operator, and State shall cooperatively develop estimates of funds that will be available to support plan implementation.

“(D) OPERATIONAL AND MANAGEMENT STRATEGIES.—

Operational and management strategies to improve the performance of existing transportation facilities to relieve vehicular congestion and maximize the safety and mobility of people and goods.

“(E) CAPITAL INVESTMENT AND OTHER STRATEGIES.—

Capital investment and other strategies to preserve the existing and projected future metropolitan transportation infrastructure and provide for multimodal capacity increases based on regional priorities and needs.

“(F) TRANSPORTATION AND TRANSIT ENHANCEMENT ACTIVITIES.—Proposed transportation and transit enhancement activities.

“(3) COORDINATION WITH CLEAN AIR ACT AGENCIES.—In metropolitan areas which are in nonattainment for ozone or carbon monoxide under the Clean Air Act, the metropolitan planning organization shall coordinate the development of a transportation plan with the process for development of the transportation control measures of the State implementation plan required by the Clean Air Act.

“(4) CONSULTATION.—

“(A) IN GENERAL.—In each metropolitan area, the metropolitan planning organization shall consult, as appropriate, with State and local agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation concerning the development of a long-range transportation plan.

“(B) ISSUES.—The consultation shall involve, as appropriate—

“(i) comparison of transportation plans with State conservation plans or maps, if available; or

“(ii) comparison of transportation plans to inventories of natural or historic resources, if available.

“(5) PARTICIPATION BY INTERESTED PARTIES.—

“(A) IN GENERAL.—Each metropolitan planning organization shall provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, and other interested parties with a reasonable opportunity to comment on the transportation plan.

“(B) CONTENTS OF PARTICIPATION PLAN.—A participation plan—

“(i) shall be developed in consultation with all interested parties; and

“(ii) shall provide that all interested parties have reasonable opportunities to comment on the contents of the transportation plan.

“(C) METHODS.—In carrying out subparagraph (A), the metropolitan planning organization shall, to the maximum extent practicable—

“(i) hold any public meetings at convenient and accessible locations and times;

“(ii) employ visualization techniques to describe plans; and

“(iii) make public information available in electronically accessible format and means, such as the World Wide Web, as appropriate to afford reasonable opportunity for consideration of public information under subparagraph (A).

“(6) PUBLICATION.—A transportation plan involving Federal participation shall be published or otherwise made readily available by the metropolitan planning organization for public

review, including (to the maximum extent practicable) in electronically accessible formats and means, such as the World Wide Web, approved by the metropolitan planning organization and submitted for information purposes to the Governor at such times and in such manner as the Secretary shall establish.

“(7) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—Notwithstanding paragraph (2)(C), a State or metropolitan planning organization shall not be required to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(C).

“(j) METROPOLITAN TIP.—

“(1) DEVELOPMENT.—

“(A) IN GENERAL.—In cooperation with the State and any affected public transportation operator, the metropolitan planning organization designated for a metropolitan area shall develop a TIP for the area for which the organization is designated.

“(B) OPPORTUNITY FOR COMMENT.—In developing the TIP, the metropolitan planning organization, in cooperation with the State and any affected public transportation operator, shall provide an opportunity for participation by interested parties in the development of the program, in accordance with subsection (i)(5).

“(C) FUNDING ESTIMATES.—For the purpose of developing the TIP, the metropolitan planning organization, public transportation agency, and State shall cooperatively develop estimates of funds that are reasonably expected to be available to support program implementation.

“(D) UPDATING AND APPROVAL.—The TIP shall be updated at least once every 4 years and shall be approved by the metropolitan planning organization and the Governor.

“(2) CONTENTS.—

“(A) PRIORITY LIST.—The TIP shall include a priority list of proposed federally supported projects and strategies to be carried out within each 4-year period after the initial adoption of the TIP.

“(B) FINANCIAL PLAN.—The TIP shall include a financial plan that—

“(i) demonstrates how the TIP can be implemented;

“(ii) indicates resources from public and private sources that are reasonably expected to be available to carry out the program;

“(iii) identifies innovative financing techniques to finance projects, programs, and strategies; and

“(iv) may include, for illustrative purposes, additional projects that would be included in the approved TIP if reasonable additional resources beyond those identified in the financial plan were available.

“(C) DESCRIPTIONS.—Each project in the TIP shall include sufficient descriptive material (such as type of work, termini, length, and other similar factors) to identify the project or phase of the project.

“(3) INCLUDED PROJECTS.—

“(A) PROJECTS UNDER THIS TITLE AND CHAPTER 53 OF TITLE 49.—A TIP developed under this subsection for a metropolitan area shall include the projects within the

area that are proposed for funding under chapter 1 of this title and chapter 53 of title 49.

“(B) PROJECTS UNDER CHAPTER 2.—

“(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 shall be identified individually in the transportation improvement program.

“(ii) OTHER PROJECTS.—Projects proposed for funding under chapter 2 that are not determined to be regionally significant shall be grouped in one line item or identified individually in the transportation improvement program.

“(C) CONSISTENCY WITH LONG-RANGE TRANSPORTATION PLAN.—Each project shall be consistent with the long-range transportation plan developed under subsection (i) for the area.

“(D) REQUIREMENT OF ANTICIPATED FULL FUNDING.—The program shall include a project, or an identified phase of a project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

“(4) NOTICE AND COMMENT.—Before approving a TIP, a metropolitan planning organization, in cooperation with the State and any affected public transportation operator, shall provide an opportunity for participation by interested parties in the development of the program, in accordance with subsection (i)(5).

“(5) SELECTION OF PROJECTS.—

“(A) IN GENERAL.—Except as otherwise provided in subsection (k)(4) and in addition to the TIP development required under paragraph (1), the selection of federally funded projects in metropolitan areas shall be carried out, from the approved TIP—

“(i) by—

“(I) in the case of projects under this title, the State; and

“(II) in the case of projects under chapter 53 of title 49, the designated recipients of public transportation funding; and

“(ii) in cooperation with the metropolitan planning organization.

“(B) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, action by the Secretary shall not be required to advance a project included in the approved TIP in place of another project in the program.

“(6) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—

“(A) NO REQUIRED SELECTION.—Notwithstanding paragraph (2)(B)(iv), a State or metropolitan planning organization shall not be required to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(B)(iv).

“(B) REQUIRED ACTION BY THE SECRETARY.—Action by the Secretary shall be required for a State or metropolitan planning organization to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(B)(iv) for inclusion in an approved TIP.

“(7) PUBLICATION.—

“(A) PUBLICATION OF TIPS.—A TIP involving Federal participation shall be published or otherwise made readily available by the metropolitan planning organization for public review.

“(B) PUBLICATION OF ANNUAL LISTINGS OF PROJECTS.—

An annual listing of projects, including investments in pedestrian walkways and bicycle transportation facilities, for which Federal funds have been obligated in the preceding year shall be published or otherwise made available by the cooperative effort of the State, transit operator, and metropolitan planning organization for public review. The listing shall be consistent with the categories identified in the TIP.

“(k) TRANSPORTATION MANAGEMENT AREAS.—

“(1) IDENTIFICATION AND DESIGNATION.—

“(A) REQUIRED IDENTIFICATION.—The Secretary shall identify as a transportation management area each urbanized area (as defined by the Bureau of the Census) with a population of over 200,000 individuals.

“(B) DESIGNATIONS ON REQUEST.—The Secretary shall designate any additional area as a transportation management area on the request of the Governor and the metropolitan planning organization designated for the area.

“(2) TRANSPORTATION PLANS.—In a metropolitan planning area serving a transportation management area, transportation plans shall be based on a continuing and comprehensive transportation planning process carried out by the metropolitan planning organization in cooperation with the State and public transportation operators.

“(3) CONGESTION MANAGEMENT PROCESS.—Within a metropolitan planning area serving a transportation management area, the transportation planning process under this section shall address congestion management through a process that provides for effective management and operation, based on a cooperatively developed and implemented metropolitan-wide strategy, of new and existing transportation facilities eligible for funding under this title and chapter 53 of title 49 through the use of travel demand reduction and operational management strategies. The Secretary shall establish an appropriate phase-in schedule for compliance with the requirements of this section but no sooner than 1 year after the identification of a transportation management area.

“(4) SELECTION OF PROJECTS.—

“(A) IN GENERAL.—All federally funded projects carried out within the boundaries of a metropolitan planning area serving a transportation management area under this title (excluding projects carried out on the National Highway System and projects carried out under the bridge program or the Interstate maintenance program) or under chapter 53 of title 49 shall be selected for implementation from the approved TIP by the metropolitan planning organization designated for the area in consultation with the State and any affected public transportation operator.

“(B) NATIONAL HIGHWAY SYSTEM PROJECTS.—Projects carried out within the boundaries of a metropolitan planning area serving a transportation management area on

the National Highway System and projects carried out within such boundaries under the bridge program or the Interstate maintenance program under this title shall be selected for implementation from the approved TIP by the State in cooperation with the metropolitan planning organization designated for the area.

“(5) CERTIFICATION.—

“(A) IN GENERAL.—The Secretary shall—

“(i) ensure that the metropolitan planning process of a metropolitan planning organization serving a transportation management area is being carried out in accordance with applicable provisions of Federal law; and

“(ii) subject to subparagraph (B), certify, not less often than once every 4 years, that the requirements of this paragraph are met with respect to the metropolitan planning process.

“(B) REQUIREMENTS FOR CERTIFICATION.—The Secretary may make the certification under subparagraph (A) if—

“(i) the transportation planning process complies with the requirements of this section and other applicable requirements of Federal law; and

“(ii) there is a TIP for the metropolitan planning area that has been approved by the metropolitan planning organization and the Governor.

“(C) EFFECT OF FAILURE TO CERTIFY.—

“(i) WITHHOLDING OF PROJECT FUNDS.—If a metropolitan planning process of a metropolitan planning organization serving a transportation management area is not certified, the Secretary may withhold up to 20 percent of the funds attributable to the metropolitan planning area of the metropolitan planning organization for projects funded under this title and chapter 53 of title 49.

“(ii) RESTORATION OF WITHHELD FUNDS.—The withheld funds shall be restored to the metropolitan planning area at such time as the metropolitan planning process is certified by the Secretary.

“(D) REVIEW OF CERTIFICATION.—In making certification determinations under this paragraph, the Secretary shall provide for public involvement appropriate to the metropolitan area under review.

“(1) ABBREVIATED PLANS FOR CERTAIN AREAS.—

“(1) IN GENERAL.—Subject to paragraph (2), in the case of a metropolitan area not designated as a transportation management area under this section, the Secretary may provide for the development of an abbreviated transportation plan and TIP for the metropolitan planning area that the Secretary determines is appropriate to achieve the purposes of this section, taking into account the complexity of transportation problems in the area.

“(2) NONATTAINMENT AREAS.—The Secretary may not permit abbreviated plans or TIPs for a metropolitan area that is in nonattainment for ozone or carbon monoxide under the Clean Air Act.

“(m) ADDITIONAL REQUIREMENTS FOR CERTAIN NONATTAINMENT AREAS.—

“(1) IN GENERAL.—Notwithstanding any other provisions of this title or chapter 53 of title 49, for transportation management areas classified as nonattainment for ozone or carbon monoxide pursuant to the Clean Air Act, Federal funds may not be advanced in such area for any highway project that will result in a significant increase in the carrying capacity for single-occupant vehicles unless the project is addressed through a congestion management process.

“(2) APPLICABILITY.—This subsection applies to a nonattainment area within the metropolitan planning area boundaries determined under subsection (e).

“(n) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to confer on a metropolitan planning organization the authority to impose legal requirements on any transportation facility, provider, or project not eligible under this title or chapter 53 of title 49.

“(o) FUNDING.—Funds set aside under section 104(f) of this title or section 5305(g) of title 49 shall be available to carry out this section.

“(p) CONTINUATION OF CURRENT REVIEW PRACTICE.—Since plans and TIPs described in this section are subject to a reasonable opportunity for public comment, since individual projects included in plans and TIPs are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and since decisions by the Secretary concerning plans and TIPs described in this section have not been reviewed under such Act as of January 1, 1997, any decision by the Secretary concerning a plan or TIP described in this section shall not be considered to be a Federal action subject to review under such Act.

“§ 135. Statewide transportation planning

“(a) GENERAL REQUIREMENTS.—

“(1) DEVELOPMENT OF PLANS AND PROGRAMS.—To accomplish the objectives stated in section 134(a), each State shall develop a statewide transportation plan and a statewide transportation improvement program for all areas of the State, subject to section 134.

“(2) CONTENTS.—The statewide transportation plan and the transportation improvement program developed for each State shall provide for the development and integrated management and operation of transportation systems and facilities (including accessible pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the State and an integral part of an intermodal transportation system for the United States.

“(3) PROCESS OF DEVELOPMENT.—The process for developing the statewide plan and the transportation improvement program shall provide for consideration of all modes of transportation and the policies stated in section 134(a), and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

“(b) COORDINATION WITH METROPOLITAN PLANNING; STATE IMPLEMENTATION PLAN.—A State shall—

“(1) coordinate planning carried out under this section with the transportation planning activities carried out under section 134 for metropolitan areas of the State and with statewide trade and economic development planning activities and related multistate planning efforts; and

“(2) develop the transportation portion of the State implementation plan as required by the Clean Air Act (42 U.S.C. 7401 et seq.).

“(c) INTERSTATE AGREEMENTS.—

“(1) IN GENERAL.—The consent of Congress is granted to two or more States entering into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section related to interstate areas and localities in the States and establishing authorities the States consider desirable for making the agreements and compacts effective.

“(2) RESERVATION OF RIGHTS.—The right to alter, amend, or repeal interstate compacts entered into under this subsection is expressly reserved.

“(d) SCOPE OF PLANNING PROCESS.—

“(1) IN GENERAL.—Each State shall carry out a statewide transportation planning process that provides for consideration and implementation of projects, strategies, and services that will—

“(A) support the economic vitality of the United States, the States, nonmetropolitan areas, and metropolitan areas, especially by enabling global competitiveness, productivity, and efficiency;

“(B) increase the safety of the transportation system for motorized and nonmotorized users;

“(C) increase the security of the transportation system for motorized and nonmotorized users;

“(D) increase the accessibility and mobility of people and freight;

“(E) protect and enhance the environment, promote energy conservation, improve the quality of life, and promote consistency between transportation improvements and State and local planned growth and economic development patterns;

“(F) enhance the integration and connectivity of the transportation system, across and between modes throughout the State, for people and freight;

“(G) promote efficient system management and operation; and

“(H) emphasize the preservation of the existing transportation system.

“(2) FAILURE TO CONSIDER FACTORS.—The failure to consider any factor specified in paragraph (1) shall not be reviewable by any court under this title or chapter 53 of title 49, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a statewide transportation plan, the transportation improvement program, a project or strategy, or the certification of a planning process.

“(e) ADDITIONAL REQUIREMENTS.—In carrying out planning under this section, each State shall consider, at a minimum—

“(1) with respect to nonmetropolitan areas, the concerns of affected local officials with responsibility for transportation;

“(2) the concerns of Indian tribal governments and Federal land management agencies that have jurisdiction over land within the boundaries of the State; and

“(3) coordination of transportation plans, the transportation improvement program, and planning activities with related planning activities being carried out outside of metropolitan planning areas and between States.

“(f) LONG-RANGE STATEWIDE TRANSPORTATION PLAN.—

“(1) DEVELOPMENT.—Each State shall develop a long-range statewide transportation plan, with a minimum 20-year forecast period for all areas of the State, that provides for the development and implementation of the intermodal transportation system of the State.

“(2) CONSULTATION WITH GOVERNMENTS.—

“(A) METROPOLITAN AREAS.—The statewide transportation plan shall be developed for each metropolitan area in the State in cooperation with the metropolitan planning organization designated for the metropolitan area under section 134.

“(B) NONMETROPOLITAN AREAS.—With respect to non-metropolitan areas, the statewide transportation plan shall be developed in consultation with affected nonmetropolitan officials with responsibility for transportation. The Secretary shall not review or approve the consultation process in each State.

“(C) INDIAN TRIBAL AREAS.—With respect to each area of the State under the jurisdiction of an Indian tribal government, the statewide transportation plan shall be developed in consultation with the tribal government and the Secretary of the Interior.

“(D) CONSULTATION, COMPARISON, AND CONSIDERATION.—

“(i) IN GENERAL.—The long-range transportation plan shall be developed, as appropriate, in consultation with State, tribal, and local agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation.

“(ii) COMPARISON AND CONSIDERATION.—Consultation under clause (i) shall involve comparison of transportation plans to State and tribal conservation plans or maps, if available, and comparison of transportation plans to inventories of natural or historic resources, if available.

“(3) PARTICIPATION BY INTERESTED PARTIES.—

“(A) IN GENERAL.—In developing the statewide transportation plan, the State shall provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, private providers of transportation, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, providers of freight transportation services, and other interested parties with a reasonable opportunity to comment on the proposed plan.

“(B) METHODS.—In carrying out subparagraph (A), the State shall, to the maximum extent practicable—

“(i) hold any public meetings at convenient and accessible locations and times;

“(ii) employ visualization techniques to describe plans; and

“(iii) make public information available in electronically accessible format and means, such as the World Wide Web, as appropriate to afford reasonable opportunity for consideration of public information under subparagraph (A).

“(4) MITIGATION ACTIVITIES.—

“(A) IN GENERAL.—A long-range transportation plan shall include a discussion of potential environmental mitigation activities and potential areas to carry out these activities, including activities that may have the greatest potential to restore and maintain the environmental functions affected by the plan.

“(B) CONSULTATION.—The discussion shall be developed in consultation with Federal, State, and tribal wildlife, land management, and regulatory agencies.

“(5) FINANCIAL PLAN.—The statewide transportation plan may include a financial plan that demonstrates how the adopted statewide transportation plan can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan, and recommends any additional financing strategies for needed projects and programs. The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted statewide transportation plan if reasonable additional resources beyond those identified in the financial plan were available.

“(6) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—A State shall not be required to select any project from the illustrative list of additional projects included in the financial plan described in paragraph (5).

“(7) EXISTING SYSTEM.—The statewide transportation plan should include capital, operations and management strategies, investments, procedures, and other measures to ensure the preservation and most efficient use of the existing transportation system.

“(8) PUBLICATION OF LONG-RANGE TRANSPORTATION PLANS.—Each long-range transportation plan prepared by a State shall be published or otherwise made available, including (to the maximum extent practicable) in electronically accessible formats and means, such as the World Wide Web.

“(g) STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM.—

“(1) DEVELOPMENT.—Each State shall develop a statewide transportation improvement program for all areas of the State. Such program shall cover a period of 4 years and be updated every 4 years or more frequently if the Governor elects to update more frequently.

“(2) CONSULTATION WITH GOVERNMENTS.—

“(A) METROPOLITAN AREAS.—With respect to each metropolitan area in the State, the program shall be developed in cooperation with the metropolitan planning organization designated for the metropolitan area under section 134.

“(B) NONMETROPOLITAN AREAS.—With respect to each nonmetropolitan area in the State, the program shall be developed in consultation with affected nonmetropolitan local officials with responsibility for transportation. The Secretary shall not review or approve the specific consultation process in the State.

“(C) INDIAN TRIBAL AREAS.—With respect to each area of the State under the jurisdiction of an Indian tribal government, the program shall be developed in consultation with the tribal government and the Secretary of the Interior.

“(3) PARTICIPATION BY INTERESTED PARTIES.—In developing the program, the State shall provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, private providers of transportation, providers of freight transportation services, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, and other interested parties with a reasonable opportunity to comment on the proposed program.

“(4) INCLUDED PROJECTS.—

“(A) IN GENERAL.—A transportation improvement program developed under this subsection for a State shall include federally supported surface transportation expenditures within the boundaries of the State.

“(B) LISTING OF PROJECTS.—An annual listing of projects for which funds have been obligated in the preceding year in each metropolitan planning area shall be published or otherwise made available by the cooperative effort of the State, transit operator, and the metropolitan planning organization for public review. The listing shall be consistent with the funding categories identified in each metropolitan transportation improvement program.

“(C) PROJECTS UNDER CHAPTER 2.—

“(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 shall be identified individually in the transportation improvement program.

“(ii) OTHER PROJECTS.—Projects proposed for funding under chapter 2 that are not determined to be regionally significant shall be grouped in one line item or identified individually in the transportation improvement program.

“(D) CONSISTENCY WITH STATEWIDE TRANSPORTATION PLAN.—Each project shall be—

“(i) consistent with the statewide transportation plan developed under this section for the State;

“(ii) identical to the project or phase of the project as described in an approved metropolitan transportation plan; and

“(iii) in conformance with the applicable State air quality implementation plan developed under the Clean Air Act, if the project is carried out in an area designated as nonattainment for ozone, particulate matter, or carbon monoxide under such Act.

“(E) REQUIREMENT OF ANTICIPATED FULL FUNDING.—The transportation improvement program shall include a

project, or an identified phase of a project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

“(F) FINANCIAL PLAN.—The transportation improvement program may include a financial plan that demonstrates how the approved transportation improvement program can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the transportation improvement program, and recommends any additional financing strategies for needed projects and programs. The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted transportation plan if reasonable additional resources beyond those identified in the financial plan were available.

“(G) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—

“(i) NO REQUIRED SELECTION.—Notwithstanding subparagraph (F), a State shall not be required to select any project from the illustrative list of additional projects included in the financial plan under subparagraph (F).

“(ii) REQUIRED ACTION BY THE SECRETARY.—Action by the Secretary shall be required for a State to select any project from the illustrative list of additional projects included in the financial plan under subparagraph (F) for inclusion in an approved transportation improvement program.

“(H) PRIORITIES.—The transportation improvement program shall reflect the priorities for programming and expenditures of funds, including transportation enhancement activities, required by this title and chapter 53 of title 49.

“(5) PROJECT SELECTION FOR AREAS OF LESS THAN 50,000 POPULATION.—Projects carried out in areas with populations of less than 50,000 individuals shall be selected, from the approved transportation improvement program (excluding projects carried out on the National Highway System and projects carried out under the bridge program or the Interstate maintenance program under this title or under sections 5310, 5311, 5316, and 5317 of title 49), by the State in cooperation with the affected nonmetropolitan local officials with responsibility for transportation. Projects carried out in areas with populations of less than 50,000 individuals on the National Highway System or under the bridge program or the Interstate maintenance program under this title or under sections 5310, 5311, 5316, and 5317 of title 49 shall be selected, from the approved statewide transportation improvement program, by the State in consultation with the affected nonmetropolitan local officials with responsibility for transportation.

“(6) TRANSPORTATION IMPROVEMENT PROGRAM APPROVAL.—Every 4 years, a transportation improvement program developed under this subsection shall be reviewed and approved by the Secretary if based on a current planning finding.

“(7) PLANNING FINDING.—A finding shall be made by the Secretary at least every 4 years that the transportation planning process through which statewide transportation plans and programs are developed is consistent with this section and section 134.

“(8) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, action by the Secretary shall not be required to advance a project included in the approved transportation improvement program in place of another project in the program.

“(h) FUNDING.—Funds set aside pursuant to section 104(f) of this title and section 5305(g) of title 49, shall be available to carry out this section.

“(i) TREATMENT OF CERTAIN STATE LAWS AS CONGESTION MANAGEMENT PROCESSES.—For purposes of this section and section 134, and sections 5303 and 5304 of title 49, State laws, rules, or regulations pertaining to congestion management systems or programs may constitute the congestion management process under this section and section 134, and sections 5303 and 5304 of title 49, if the Secretary finds that the State laws, rules, or regulations are consistent with, and fulfill the intent of, the purposes of this section and section 134 and sections 5303 and 5304 of title 49, as appropriate.

“(j) CONTINUATION OF CURRENT REVIEW PRACTICE.—Since the statewide transportation plan and the transportation improvement program described in this section are subject to a reasonable opportunity for public comment, since individual projects included in the statewide transportation plans and the transportation improvement program are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and since decisions by the Secretary concerning statewide transportation plans or the transportation improvement program described in this section have not been reviewed under such Act as of January 1, 1997, any decision by the Secretary concerning a metropolitan or statewide transportation plan or the transportation improvement program described in this section shall not be considered to be a Federal action subject to review under such Act.”.

(b) SCHEDULE FOR IMPLEMENTATION.—The Secretary shall issue guidance on a schedule for implementation of the changes made by this section, taking into consideration the established planning update cycle for States and metropolitan planning organizations. The Secretary shall not require a State or metropolitan planning organization to deviate from its established planning update cycle to implement changes made by this section. Beginning July 1, 2007, State or metropolitan planning organization plan or program updates shall reflect changes made by this section.

Guidelines.
23 USC 134 note.

Effective date.

(c) CONFORMING AMENDMENT.—The analysis for chapter 1 of such title is amended by striking the items relating to sections 134 and 135 and inserting the following:

“134. Metropolitan transportation planning.

“135. Statewide transportation planning.”.

SEC. 6002. EFFICIENT ENVIRONMENTAL REVIEWS FOR PROJECT DECISIONMAKING.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code, is amended by inserting after section 138 the following:

“§ 139. Efficient environmental reviews for project decision-making

“(a) DEFINITIONS.—In this section, the following definitions apply:

“(1) AGENCY.—The term ‘agency’ means any agency, department, or other unit of Federal, State, local, or Indian tribal government.

“(2) ENVIRONMENTAL IMPACT STATEMENT.—The term ‘environmental impact statement’ means the detailed statement of environmental impacts required to be prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

“(3) ENVIRONMENTAL REVIEW PROCESS.—

“(A) IN GENERAL.—The term ‘environmental review process’ means the process for preparing for a project an environmental impact statement, environmental assessment, categorical exclusion, or other document prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

“(B) INCLUSIONS.—The term ‘environmental review process’ includes the process for and completion of any environmental permit, approval, review, or study required for a project under any Federal law other than the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

“(4) LEAD AGENCY.—The term ‘lead agency’ means the Department of Transportation and, if applicable, any State or local governmental entity serving as a joint lead agency pursuant to this section.

“(5) MULTIMODAL PROJECT.—The term ‘multimodal project’ means a project funded, in whole or in part, under this title or chapter 53 of title 49 and involving the participation of more than one Department of Transportation administration or agency.

“(6) PROJECT.—The term ‘project’ means any highway project, public transportation capital project, or multimodal project that requires the approval of the Secretary.

“(7) PROJECT SPONSOR.—The term ‘project sponsor’ means the agency or other entity, including any private or public-private entity, that seeks approval of the Secretary for a project.

“(8) STATE TRANSPORTATION DEPARTMENT.—The term ‘State transportation department’ means any statewide agency of a State with responsibility for one or more modes of transportation.

“(b) APPLICABILITY.—

“(1) IN GENERAL.—The project development procedures in this section are applicable to all projects for which an environmental impact statement is prepared under the National Environmental Policy Act of 1969 and may be applied, to the extent determined appropriate by the Secretary, to other projects for which an environmental document is prepared pursuant to such Act.

“(2) FLEXIBILITY.—Any authorities granted in this section may be exercised for a project, class of projects, or program of projects.

“(c) LEAD AGENCIES.—

“(1) FEDERAL LEAD AGENCY.—The Department of Transportation shall be the Federal lead agency in the environmental review process for a project.

“(2) JOINT LEAD AGENCIES.—Nothing in this section precludes another agency from being a joint lead agency in accordance with regulations under the National Environmental Policy Act of 1969.

“(3) PROJECT SPONSOR AS JOINT LEAD AGENCY.—Any project sponsor that is a State or local governmental entity receiving funds under this title or chapter 53 of title 49 for the project shall serve as a joint lead agency with the Department for purposes of preparing any environmental document under the National Environmental Policy Act of 1969 and may prepare any such environmental document required in support of any action or approval by the Secretary if the Federal lead agency furnishes guidance in such preparation and independently evaluates such document and the document is approved and adopted by the Secretary prior to the Secretary taking any subsequent action or making any approval based on such document, whether or not the Secretary’s action or approval results in Federal funding.

“(4) ENSURING COMPLIANCE.—The Secretary shall ensure that the project sponsor complies with all design and mitigation commitments made jointly by the Secretary and the project sponsor in any environmental document prepared by the project sponsor in accordance with this subsection and that such document is appropriately supplemented if project changes become necessary.

“(5) ADOPTION AND USE OF DOCUMENTS.—Any environmental document prepared in accordance with this subsection may be adopted or used by any Federal agency making any approval to the same extent that such Federal agency could adopt or use a document prepared by another Federal agency.

“(6) ROLES AND RESPONSIBILITY OF LEAD AGENCY.—With respect to the environmental review process for any project, the lead agency shall have authority and responsibility—

“(A) to take such actions as are necessary and proper, within the authority of the lead agency, to facilitate the expeditious resolution of the environmental review process for the project; and

“(B) to prepare or ensure that any required environmental impact statement or other document required to be completed under the National Environmental Policy Act of 1969 is completed in accordance with this section and applicable Federal law.

“(d) PARTICIPATING AGENCIES.—

“(1) IN GENERAL.—The lead agency shall be responsible for inviting and designating participating agencies in accordance with this subsection.

“(2) INVITATION.—The lead agency shall identify, as early as practicable in the environmental review process for a project, any other Federal and non-Federal agencies that may have an interest in the project, and shall invite such agencies to become participating agencies in the environmental review process for the project. The invitation shall set a deadline for responses to be submitted. The deadline may be extended by the lead agency for good cause.

“(3) FEDERAL PARTICIPATING AGENCIES.—Any Federal agency that is invited by the lead agency to participate in the environmental review process for a project shall be designated as a participating agency by the lead agency unless the invited agency informs the lead agency, in writing, by the deadline specified in the invitation that the invited agency—

“(A) has no jurisdiction or authority with respect to the project;

“(B) has no expertise or information relevant to the project; and

“(C) does not intend to submit comments on the project.

“(4) EFFECT OF DESIGNATION.—Designation as a participating agency under this subsection shall not imply that the participating agency—

“(A) supports a proposed project; or

“(B) has any jurisdiction over, or special expertise with respect to evaluation of, the project.

“(5) COOPERATING AGENCY.—A participating agency may also be designated by a lead agency as a ‘cooperating agency’ under the regulations contained in part 1500 of title 40, Code of Federal Regulations.

“(6) DESIGNATIONS FOR CATEGORIES OF PROJECTS.—The Secretary may exercise the authorities granted under this subsection for a project, class of projects, or program of projects.

“(7) CONCURRENT REVIEWS.—Each Federal agency shall, to the maximum extent practicable—

“(A) carry out obligations of the Federal agency under other applicable law concurrently, and in conjunction, with the review required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), unless doing so would impair the ability of the Federal agency to carry out those obligations; and

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“(B) formulate and implement administrative, policy, and procedural mechanisms to enable the agency to ensure completion of the environmental review process in a timely, coordinated, and environmentally responsible manner.

Notification.

“(e) PROJECT INITIATION.—The project sponsor shall notify the Secretary of the type of work, termini, length and general location of the proposed project, together with a statement of any Federal approvals anticipated to be necessary for the proposed project, for the purpose of informing the Secretary that the environmental review process should be initiated.

“(f) PURPOSE AND NEED.—

“(1) PARTICIPATION.—As early as practicable during the environmental review process, the lead agency shall provide an opportunity for involvement by participating agencies and the public in defining the purpose and need for a project.

“(2) DEFINITION.—Following participation under paragraph (1), the lead agency shall define the project’s purpose and need for purposes of any document which the lead agency is responsible for preparing for the project.

“(3) OBJECTIVES.—The statement of purpose and need shall include a clear statement of the objectives that the proposed action is intended to achieve, which may include—

“(A) achieving a transportation objective identified in an applicable statewide or metropolitan transportation plan;

“(B) supporting land use, economic development, or growth objectives established in applicable Federal, State, local, or tribal plans; and

“(C) serving national defense, national security, or other national objectives, as established in Federal laws, plans, or policies.

“(4) ALTERNATIVES ANALYSIS.—

“(A) PARTICIPATION.—As early as practicable during the environmental review process, the lead agency shall provide an opportunity for involvement by participating agencies and the public in determining the range of alternatives to be considered for a project.

“(B) RANGE OF ALTERNATIVES.—Following participation under paragraph (1), the lead agency shall determine the range of alternatives for consideration in any document which the lead agency is responsible for preparing for the project.

“(C) METHODOLOGIES.—The lead agency also shall determine, in collaboration with participating agencies at appropriate times during the study process, the methodologies to be used and the level of detail required in the analysis of each alternative for a project.

“(D) PREFERRED ALTERNATIVE.—At the discretion of the lead agency, the preferred alternative for a project, after being identified, may be developed to a higher level of detail than other alternatives in order to facilitate the development of mitigation measures or concurrent compliance with other applicable laws if the lead agency determines that the development of such higher level of detail will not prevent the lead agency from making an impartial decision as to whether to accept another alternative which is being considered in the environmental review process.

“(g) COORDINATION AND SCHEDULING.—

“(1) COORDINATION PLAN.—

“(A) IN GENERAL.—The lead agency shall establish a plan for coordinating public and agency participation in and comment on the environmental review process for a project or category of projects. The coordination plan may be incorporated into a memorandum of understanding.

“(B) SCHEDULE.—

“(i) IN GENERAL.—The lead agency may establish as part of the coordination plan, after consultation with each participating agency for the project and with the State in which the project is located (and, if the State is not the project sponsor, with the project sponsor), a schedule for completion of the environmental review process for the project.

“(ii) FACTORS FOR CONSIDERATION.—In establishing the schedule, the lead agency shall consider factors such as—

“(I) the responsibilities of participating agencies under applicable laws;

“(II) resources available to the cooperating agencies;

“(III) overall size and complexity of the project;

“(IV) the overall schedule for and cost of the project; and

“(V) the sensitivity of the natural and historic resources that could be affected by the project.

“(C) CONSISTENCY WITH OTHER TIME PERIODS.—A schedule under subparagraph (B) shall be consistent with any other relevant time periods established under Federal law.

“(D) MODIFICATION.—The lead agency may—

“(i) lengthen a schedule established under subparagraph (B) for good cause; and

“(ii) shorten a schedule only with the concurrence of the affected cooperating agencies.

“(E) DISSEMINATION.—A copy of a schedule under subparagraph (B), and of any modifications to the schedule, shall be—

“(i) provided to all participating agencies and to the State transportation department of the State in which the project is located (and, if the State is not the project sponsor, to the project sponsor); and

“(ii) made available to the public.

“(2) COMMENT DEADLINES.—The lead agency shall establish the following deadlines for comment during the environmental review process for a project:

“(A) For comments by agencies and the public on a draft environmental impact statement, a period of not more than 60 days after publication in the Federal Register of notice of the date of public availability of such document, unless—

“(i) a different deadline is established by agreement of the lead agency, the project sponsor, and all participating agencies; or

“(ii) the deadline is extended by the lead agency for good cause.

“(B) For all other comment periods established by the lead agency for agency or public comments in the environmental review process, a period of no more than 30 days from availability of the materials on which comment is requested, unless—

“(i) a different deadline is established by agreement of the lead agency, the project sponsor, and all participating agencies; or

“(ii) the deadline is extended by the lead agency for good cause.

“(3) DEADLINES FOR DECISIONS UNDER OTHER LAWS.—In any case in which a decision under any Federal law relating to a project (including the issuance or denial of a permit or license) is required to be made by the later of the date that is 180 days after the date on which the Secretary made all final decisions of the lead agency with respect to the project, or 180 days after the date on which an application was submitted for the permit or license, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives—

“(A) as soon as practicable after the 180-day period, an initial notice of the failure of the Federal agency to make the decision; and

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Notice.

“(B) every 60 days thereafter until such date as all decisions of the Federal agency relating to the project have been made by the Federal agency, an additional notice that describes the number of decisions of the Federal agency that remain outstanding as of the date of the additional notice. Notice.

“(4) INVOLVEMENT OF THE PUBLIC.—Nothing in this subsection shall reduce any time period provided for public comment in the environmental review process under existing Federal law, including a regulation.

“(h) ISSUE IDENTIFICATION AND RESOLUTION.—

“(1) COOPERATION.—The lead agency and the participating agencies shall work cooperatively in accordance with this section to identify and resolve issues that could delay completion of the environmental review process or could result in denial of any approvals required for the project under applicable laws.

“(2) LEAD AGENCY RESPONSIBILITIES.—The lead agency shall make information available to the participating agencies as early as practicable in the environmental review process regarding the environmental and socioeconomic resources located within the project area and the general locations of the alternatives under consideration. Such information may be based on existing data sources, including geographic information systems mapping.

“(3) PARTICIPATING AGENCY RESPONSIBILITIES.—Based on information received from the lead agency, participating agencies shall identify, as early as practicable, any issues of concern regarding the project’s potential environmental or socioeconomic impacts. In this paragraph, issues of concern include any issues that could substantially delay or prevent an agency from granting a permit or other approval that is needed for the project.

“(4) ISSUE RESOLUTION.—

“(A) MEETING OF PARTICIPATING AGENCIES.—At any time upon request of a project sponsor or the Governor of a State in which the project is located, the lead agency shall promptly convene a meeting with the relevant participating agencies, the project sponsor, and the Governor (if the meeting was requested by the Governor) to resolve issues that could delay completion of the environmental review process or could result in denial of any approvals required for the project under applicable laws.

“(B) NOTICE THAT RESOLUTION CANNOT BE ACHIEVED.—If a resolution cannot be achieved within 30 days following such a meeting and a determination by the lead agency that all information necessary to resolve the issue has been obtained, the lead agency shall notify the heads of all participating agencies, the project sponsor, the Governor, the Committee on Environment and Public Works of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, and the Council on Environmental Quality, and shall publish such notification in the Federal Register.

Deadline.
Federal Register,
publication.

“(i) PERFORMANCE MEASUREMENT.—The Secretary shall establish a program to measure and report on progress toward improving and expediting the planning and environmental review process.

“(j) ASSISTANCE TO AFFECTED STATE AND FEDERAL AGENCIES.—

“(1) IN GENERAL.—For a project that is subject to the environmental review process established under this section and for which funds are made available to a State under this title or chapter 53 of title 49, the Secretary may approve a request by the State to provide funds so made available under this title or such chapter 53 to affected Federal agencies (including the Department of Transportation), State agencies, and Indian tribes participating in the environmental review process for the projects in that State or participating in a State process that has been approved by the Secretary for that State. Such funds may be provided only to support activities that directly and meaningfully contribute to expediting and improving transportation project planning and delivery for projects in that State.

“(2) ACTIVITIES ELIGIBLE FOR FUNDING.—Activities for which funds may be provided under paragraph (1) include transportation planning activities that precede the initiation of the environmental review process, dedicated staffing, training of agency personnel, information gathering and mapping, and development of programmatic agreements.

“(3) USE OF FEDERAL LANDS HIGHWAY FUNDS.—The Secretary may also use funds made available under section 204 for a project for the purposes specified in this subsection with respect to the environmental review process for the project.

“(4) AMOUNTS.—Requests under paragraph (1) may be approved only for the additional amounts that the Secretary determines are necessary for the Federal agencies, State agencies, or Indian tribes participating in the environmental review process to meet the time limits for environmental review.

“(5) CONDITION.—A request under paragraph (1) to expedite time limits for environmental review may be approved only if such time limits are less than the customary time necessary for such review.

“(k) JUDICIAL REVIEW AND SAVINGS CLAUSE.—

“(1) JUDICIAL REVIEW.—Except as set forth under subsection (l), nothing in this section shall affect the reviewability of any final Federal agency action in a court of the United States or in the court of any State.

“(2) SAVINGS CLAUSE.—Nothing in this section shall be construed as superseding, amending, or modifying the National Environmental Policy Act of 1969 or any other Federal environmental statute or affect the responsibility of any Federal officer to comply with or enforce any such statute.

“(3) LIMITATIONS.—Nothing in this section shall preempt or interfere with—

“(A) any practice of seeking, considering, or responding to public comment; or

“(B) any power, jurisdiction, responsibility, or authority that a Federal, State, or local government agency, metropolitan planning organization, Indian tribe, or project sponsor has with respect to carrying out a project or any other provisions of law applicable to projects, plans, or programs.

“(l) LIMITATIONS ON CLAIMS.—

“(1) IN GENERAL.—Notwithstanding any other provision of law, a claim arising under Federal law seeking judicial review of a permit, license, or approval issued by a Federal agency

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publication.

for a highway or public transportation capital project shall be barred unless it is filed within 180 days after publication of a notice in the Federal Register announcing that the permit, license, or approval is final pursuant to the law under which the agency action is taken, unless a shorter time is specified in the Federal law pursuant to which judicial review is allowed. Nothing in this subsection shall create a right to judicial review or place any limit on filing a claim that a person has violated the terms of a permit, license, or approval.

“(2) NEW INFORMATION.—The Secretary shall consider new information received after the close of a comment period if the information satisfies the requirements for a supplemental environmental impact statement under section 771.130 of title 23, Code of Federal Regulations. The preparation of a supplemental environmental impact statement when required shall be considered a separate final agency action and the deadline for filing a claim for judicial review of such action shall be 180 days after the date of publication of a notice in the Federal Register announcing such action.”.

(b) EXISTING ENVIRONMENTAL REVIEW PROCESS.—Nothing in this section affects any existing State environmental review process, program, agreement, or funding arrangement approved by the Secretary under section 1309 of the Transportation Equity Act for the 21st Century (112 Stat. 232; 23 U.S.C. 109 note) as such section was in effect on the day preceding the date of enactment of the SAFETEA–LU. 23 USC 139 note.

(c) CONFORMING AMENDMENT.—The analysis for such subchapter is amended by inserting after the item relating to section 138 the following:

“139. Efficient environmental reviews for project decisionmaking.”.

(d) REPEAL.—Section 1309 of the Transportation Equity Act for the 21st Century (112 Stat. 232) is repealed. 23 USC 109 note.

SEC. 6003. STATE ASSUMPTION OF RESPONSIBILITIES FOR CERTAIN PROGRAMS AND PROJECTS.

(a) IN GENERAL.—Chapter 3 of title 23, United States Code, is amended by inserting after section 324 the following:

“§ 325. State assumption of responsibilities for certain programs and projects

“(a) ASSUMPTION OF SECRETARY’S RESPONSIBILITIES UNDER APPLICABLE FEDERAL LAWS.—

“(1) PILOT PROGRAM.—

“(A) ESTABLISHMENT.—The Secretary may establish a pilot program under which States may assume the responsibilities of the Secretary under any Federal laws subject to the requirements of this section.

“(B) FIRST 3 FISCAL YEARS.—In the first 3 fiscal years following the date of enactment of the SAFETEA–LU, the Secretary may allow up to 5 States to participate in the pilot program.

“(2) SCOPE OF PROGRAM.—Under the pilot program, the Secretary may assign, and a State may assume, any of the Secretary’s responsibilities (other than responsibilities relating to federally recognized Indian tribes) for environmental reviews, consultation, or decisionmaking or other actions required under

any Federal law as such requirements apply to the following projects:

“(A) Projects funded under section 104(h).

“(B) Transportation enhancement activities under section 133, as such term is defined in section 101(a)(35).
“(b) AGREEMENTS.—

Memorandum.

“(1) IN GENERAL.—The Secretary shall enter into a memorandum of understanding with a State participating in the pilot program setting forth the responsibilities to be assigned under subsection (a)(2) and the terms and conditions under which the assignment is being made.

“(2) CERTIFICATION.—Before the Secretary enters into a memorandum of understanding with a State under paragraph (1), the State shall certify that the State has in effect laws (including regulations) applicable to projects carried out and funded under this title and chapter 53 of title 49 that authorize the State to carry out the responsibilities being assumed.

Deadlines.

“(3) MAXIMUM DURATION.—A memorandum of understanding with a State under this section shall be established for an initial period of no more than 3 years and may be renewed by mutual agreement on a periodic basis for periods of not more than 3 years.

“(4) COMPLIANCE.—

“(A) IN GENERAL.—After entering into a memorandum of understanding under paragraph (1), the Secretary shall review and determine compliance by the State with the memorandum of understanding.

“(B) RENEWALS.—The Secretary shall take into account the performance of a State under the pilot program when considering renewal of a memorandum of understanding with the State under the program.

“(5) SOLE RESPONSIBILITY.—A State that assumes responsibility under subsection (a)(2) with respect to a Federal law shall be solely responsible and solely liable for complying with and carrying out that law, and the Secretary shall have no such responsibility or liability.

“(6) ACCEPTANCE OF JURISDICTION.—In a memorandum of understanding, the State shall consent to accept the jurisdiction of the Federal courts for the compliance, discharge, and enforcement of any responsibility of the Secretary that the State assumes.

“(c) SELECTION OF STATES FOR PILOT PROGRAM.—

“(1) APPLICATION.—To be eligible to participate in the pilot program, a State shall submit to the Secretary an application that contains such information as the Secretary may require. At a minimum, an application shall include—

“(A) a description of the projects or classes of projects for which the State seeks to assume responsibilities under subsection (a)(2); and

Certification.

“(B) a certification that the State has the capability to assume such responsibilities.

“(2) PUBLIC NOTICE.—Before entering into a memorandum of understanding allowing a State to participate in the pilot program, the Secretary shall—

Federal Register,
publication.

“(A) publish notice in the Federal Register of the Secretary's intent to allow the State to participate in the program, including a copy of the State's application to

the Secretary and the terms of the proposed agreement with the State; and

“(B) provide an opportunity for public comment.

“(3) SELECTION CRITERIA.—The Secretary may approve the application of a State to assume responsibilities under the program only if—

“(A) the requirements under paragraph (2) have been met; and

“(B) the Secretary determines that the State has the capability to assume the responsibilities.

“(4) OTHER FEDERAL AGENCY VIEWS.—Before assigning to a State a responsibility of the Secretary that requires the Secretary to consult with another Federal agency, the Secretary shall solicit the views of the Federal agency.

“(d) STATE DEFINED.—With respect to the recreational trails program, the term ‘State’ means the State agency designated by the Governor of the State in accordance with section 206(c)(1).

“(e) PRESERVATION OF PUBLIC INTEREST CONSIDERATION.—Nothing in this section shall be construed to limit the requirements under any applicable law providing for the consideration and preservation of the public interest, including public participation and community values in transportation decisionmaking.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of title 23, United States Code, is amended by adding after the item relating to section 324 the following: 23 USC 301.

“325. State assumption of responsibilities for certain programs and projects.”.

SEC. 6004. STATE ASSUMPTION OF RESPONSIBILITY FOR CATEGORICAL EXCLUSIONS.

(a) IN GENERAL.—Chapter 3 of title 23, United States Code, is further amended by inserting after section 325 the following:

“§ 326. State assumption of responsibility for categorical exclusions

“(a) CATEGORICAL EXCLUSION DETERMINATIONS.—

“(1) IN GENERAL.—The Secretary may assign, and a State may assume, responsibility for determining whether certain designated activities are included within classes of action identified in regulation by the Secretary that are categorically excluded from requirements for environmental assessments or environmental impact statements pursuant to regulations promulgated by the Council on Environmental Quality under part 1500 of title 40, Code of Federal Regulations (as in effect on October 1, 2003).

“(2) SCOPE OF AUTHORITY.—A determination described in paragraph (1) shall be made by a State in accordance with criteria established by the Secretary and only for types of activities specifically designated by the Secretary.

“(3) CRITERIA.—The criteria under paragraph (2) shall include provisions for public availability of information consistent with section 552 of title 5 and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

“(b) OTHER APPLICABLE FEDERAL LAWS.—

“(1) IN GENERAL.—If a State assumes responsibility under subsection (a), the Secretary may also assign and the State may assume all or part of the responsibilities of the Secretary for environmental review, consultation, or other related actions

required under any Federal law applicable to activities that are classified by the Secretary as categorical exclusions, with the exception of government-to-government consultation with Indian tribes, subject to the same procedural and substantive requirements as would be required if that responsibility were carried out by the Secretary.

“(2) SOLE RESPONSIBILITY.—A State that assumes responsibility under paragraph (1) with respect to a Federal law shall be solely responsible and solely liable for complying with and carrying out that law, and the Secretary shall have no such responsibility or liability.

“(c) MEMORANDA OF UNDERSTANDING.—

“(1) IN GENERAL.—The Secretary and the State, after providing public notice and opportunity for comment, shall enter into a memorandum of understanding setting forth the responsibilities to be assigned under this section and the terms and conditions under which the assignments are made, including establishment of the circumstances under which the Secretary would reassume responsibility for categorical exclusion determinations.

“(2) TERM.—A memorandum of understanding—

“(A) shall have a term of not more than 3 years; and

“(B) shall be renewable.

“(3) ACCEPTANCE OF JURISDICTION.—In a memorandum of understanding, the State shall consent to accept the jurisdiction of the Federal courts for the compliance, discharge, and enforcement of any responsibility of the Secretary that the State assumes.

“(4) MONITORING.—The Secretary shall—

“(A) monitor compliance by the State with the memorandum of understanding and the provision by the State of financial resources to carry out the memorandum of understanding; and

“(B) take into account the performance by the State when considering renewal of the memorandum of understanding.

“(d) TERMINATION.—The Secretary may terminate any assumption of responsibility under a memorandum of understanding on a determination that the State is not adequately carrying out the responsibilities assigned to the State.

“(e) STATE AGENCY DEEMED TO BE FEDERAL AGENCY.—A State agency that is assigned a responsibility under a memorandum of understanding shall be deemed to be a Federal agency for the purposes of the Federal law under which the responsibility is exercised.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of title 23, United States Code, is further amended by adding after the item relating to section 325 the following:

“326. State assumption of responsibility for categorical exclusions.”.

SEC. 6005. SURFACE TRANSPORTATION PROJECT DELIVERY PILOT PROGRAM.

(a) IN GENERAL.—Chapter 3 of title 23, United States Code, is further amended by inserting after section 326 the following:

Public
information.
Notice.

23 USC 301.

“§ 327. Surface transportation project delivery pilot program

“(a) ESTABLISHMENT.—

“(1) IN GENERAL.—The Secretary shall carry out a surface transportation project delivery pilot program (referred to in this section as the ‘program’).

“(2) ASSUMPTION OF RESPONSIBILITY.—

“(A) IN GENERAL.—Subject to the other provisions of this section, with the written agreement of the Secretary and a State, which may be in the form of a memorandum of understanding, the Secretary may assign, and the State may assume, the responsibilities of the Secretary with respect to one or more highway projects within the State under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

“(B) ADDITIONAL RESPONSIBILITY.—If a State assumes responsibility under subparagraph (A)—

“(i) the Secretary may assign to the State, and the State may assume, all or part of the responsibilities of the Secretary for environmental review, consultation, or other action required under any Federal environmental law pertaining to the review or approval of a specific project; but

“(ii) the Secretary may not assign—

“(I) responsibility for any conformity determination required under section 176 of the Clean Air Act (42 U.S.C. 7506); or

“(II) any responsibility imposed on the Secretary by section 134 or 135.

“(C) PROCEDURAL AND SUBSTANTIVE REQUIREMENTS.—

A State shall assume responsibility under this section subject to the same procedural and substantive requirements as would apply if that responsibility were carried out by the Secretary.

“(D) FEDERAL RESPONSIBILITY.—Any responsibility of the Secretary not explicitly assumed by the State by written agreement under this section shall remain the responsibility of the Secretary.

“(E) NO EFFECT ON AUTHORITY.—Nothing in this section preempts or interferes with any power, jurisdiction, responsibility, or authority of an agency, other than the Department of Transportation, under applicable law (including regulations) with respect to a project.

“(b) STATE PARTICIPATION.—

“(1) NUMBER OF PARTICIPATING STATES.—The Secretary may permit not more than 5 States (including the States of Alaska, California, Ohio, Oklahoma, and Texas) to participate in the program.

“(2) APPLICATION.—Not later than 270 days after the date of enactment of this section, the Secretary shall promulgate regulations that establish requirements relating to information required to be contained in any application of a State to participate in the program, including, at a minimum—

“(A) the projects or classes of projects for which the State anticipates exercising the authority that may be granted under the program;

Deadline.
Regulations.

“(B) verification of the financial resources necessary to carry out the authority that may be granted under the program; and

“(C) evidence of the notice and solicitation of public comment by the State relating to participation of the State in the program, including copies of comments received from that solicitation.

“(3) PUBLIC NOTICE.—

Deadline.

“(A) IN GENERAL.—Each State that submits an application under this subsection shall give notice of the intent of the State to participate in the program not later than 30 days before the date of submission of the application.

“(B) METHOD OF NOTICE AND SOLICITATION.—The State shall provide notice and solicit public comment under this paragraph by publishing the complete application of the State in accordance with the appropriate public notice law of the State.

“(4) SELECTION CRITERIA.—The Secretary may approve the application of a State under this section only if—

“(A) the regulatory requirements under paragraph (2) have been met;

“(B) the Secretary determines that the State has the capability, including financial and personnel, to assume the responsibility; and

“(C) the head of the State agency having primary jurisdiction over highway matters enters into a written agreement with the Secretary described in subsection (c).

“(5) OTHER FEDERAL AGENCY VIEWS.—If a State applies to assume a responsibility of the Secretary that would have required the Secretary to consult with another Federal agency, the Secretary shall solicit the views of the Federal agency before approving the application.

“(c) WRITTEN AGREEMENT.—A written agreement under this section shall—

“(1) be executed by the Governor or the top-ranking transportation official in the State who is charged with responsibility for highway construction;

“(2) be in such form as the Secretary may prescribe;

“(3) provide that the State—

“(A) agrees to assume all or part of the responsibilities of the Secretary described in subsection (a);

“(B) expressly consents, on behalf of the State, to accept the jurisdiction of the Federal courts for the compliance, discharge, and enforcement of any responsibility of the Secretary assumed by the State;

“(C) certifies that State laws (including regulations) are in effect that—

“(i) authorize the State to take the actions necessary to carry out the responsibilities being assumed; and

“(ii) are comparable to section 552 of title 5, including providing that any decision regarding the public availability of a document under those State laws is reviewable by a court of competent jurisdiction; and

“(D) agrees to maintain the financial resources necessary to carry out the responsibilities being assumed.

“(d) JURISDICTION.—

“(1) IN GENERAL.—The United States district courts shall have exclusive jurisdiction over any civil action against a State for failure to carry out any responsibility of the State under this section.

“(2) LEGAL STANDARDS AND REQUIREMENTS.—A civil action under paragraph (1) shall be governed by the legal standards and requirements that would apply in such a civil action against the Secretary had the Secretary taken the actions in question.

“(3) INTERVENTION.—The Secretary shall have the right to intervene in any action described in paragraph (1).

“(e) EFFECT OF ASSUMPTION OF RESPONSIBILITY.—A State that assumes responsibility under subsection (a)(2) shall be solely responsible and solely liable for carrying out, in lieu of the Secretary, the responsibilities assumed under subsection (a)(2), until the program is terminated as provided in subsection (i).

“(f) LIMITATIONS ON AGREEMENTS.—Nothing in this section permits a State to assume any rulemaking authority of the Secretary under any Federal law.

“(g) AUDITS.—

“(1) IN GENERAL.—To ensure compliance by a State with any agreement of the State under subsection (c) (including compliance by the State with all Federal laws for which responsibility is assumed under subsection (a)(2)), for each State participating in the program under this section, the Secretary shall conduct—

“(A) semiannual audits during each of the first 2 years of State participation; and

“(B) annual audits during each subsequent year of State participation.

“(2) PUBLIC AVAILABILITY AND COMMENT.—

“(A) IN GENERAL.—An audit conducted under paragraph (1) shall be provided to the public for comment.

“(B) RESPONSE.—Not later than 60 days after the date on which the period for public comment ends, the Secretary shall respond to public comments received under subparagraph (A).

Deadline.

“(h) REPORT TO CONGRESS.—The Secretary shall submit to Congress an annual report that describes the administration of the program.

“(i) TERMINATION.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the program shall terminate on the date that is 6 years after the date of enactment of this section.

“(2) TERMINATION BY SECRETARY.—The Secretary may terminate the participation of any State in the program if—

“(A) the Secretary determines that the State is not adequately carrying out the responsibilities assigned to the State;

“(B) the Secretary provides to the State—

“(i) notification of the determination of noncompliance; and

“(ii) a period of at least 30 days during which to take such corrective action as the Secretary determines is necessary to comply with the applicable agreement; and

“(C) the State, after the notification and period provided under subparagraph (B), fails to take satisfactory corrective action, as determined by Secretary.”.

23 USC 301.

(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of title 23, United States Code, is further amended by adding after the item relating to section 326 the following:

“327. Surface transportation project delivery pilot program.”.

SEC. 6006. ENVIRONMENTAL RESTORATION AND POLLUTION ABATEMENT; CONTROL OF NOXIOUS WEEDS AND AQUATIC NOXIOUS WEEDS AND ESTABLISHMENT OF NATIVE SPECIES.

(a) MODIFICATION TO NHS/STP FOR ENVIRONMENTAL RESTORATION, POLLUTION ABATEMENT, CONTROL OF NOXIOUS WEEDS AND AQUATIC NOXIOUS WEEDS.—

(1) MODIFICATIONS TO NATIONAL HIGHWAY SYSTEM.—Section 103(b)(6) of title 23, United States Code, is amended by adding at the end the following:

“(Q) Environmental restoration and pollution abatement in accordance with section 328.

“(R) Control of noxious weeds and aquatic noxious weeds and establishment of native species in accordance with section 329.”.

(2) MODIFICATIONS TO SURFACE TRANSPORTATION PROGRAM.—Section 133(b) of title 23, is amended by striking paragraph (14) and inserting the following:

“(14) Environmental restoration and pollution abatement in accordance with section 328.

“(15) Control of noxious weeds and aquatic noxious weeds and establishment of native species in accordance with section 329.”.

(b) ELIGIBLE ACTIVITIES.—Chapter 3 of title 23, United States Code, is further amended by adding after section 327 the following:

“§ 328. Eligibility for environmental restoration and pollution abatement

“(a) IN GENERAL.—Subject to subsection (b), environmental restoration and pollution abatement to minimize or mitigate the impacts of any transportation project funded under this title (including retrofitting and construction of stormwater treatment systems to meet Federal and State requirements under sections 401 and 402 of the Federal Water Pollution Control Act (33 U.S.C. 1341; 1342)) may be carried out to address water pollution or environmental degradation caused wholly or partially by a transportation facility.

“(b) MAXIMUM EXPENDITURE.—In a case in which a transportation facility is undergoing reconstruction, rehabilitation, resurfacing, or restoration, the expenditure of funds under this section for environmental restoration or pollution abatement described in subsection (a) shall not exceed 20 percent of the total cost of the reconstruction, rehabilitation, resurfacing, or restoration of the facility.

“§ 329. Eligibility for control of noxious weeds and aquatic noxious weeds and establishment of native species

“(a) IN GENERAL.—In accordance with all applicable Federal law (including regulations), funds made available to carry out this

section may be used for the following activities if such activities are related to transportation projects funded under this title:

“(1) Establishment of plants selected by State and local transportation authorities to perform one or more of the following functions: abatement of stormwater runoff, stabilization of soil, and aesthetic enhancement.

“(2) Management of plants which impair or impede the establishment, maintenance, or safe use of a transportation system.

“(b) INCLUDED ACTIVITIES.—The establishment and management under subsection (a)(1) and (a)(2) may include—

“(1) right-of-way surveys to determine management requirements to control Federal or State noxious weeds as defined in the Plant Protection Act (7 U.S.C. 7701 et seq.) or State law, and brush or tree species, whether native or nonnative, that may be considered by State or local transportation authorities to be a threat with respect to the safety or maintenance of transportation systems;

“(2) establishment of plants, whether native or nonnative with a preference for native to the maximum extent possible, for the purposes defined in subsection (a)(1);

“(3) control or elimination of plants as defined in subsection (a)(2);

“(4) elimination of plants to create fuel breaks for the prevention and control of wildfires; and

“(5) training.

“(c) CONTRIBUTIONS.—

“(1) IN GENERAL.—Subject to paragraph (2), an activity described in subsection (a) may be carried out concurrently with, in advance of, or following the construction of a project funded under this title.

“(2) CONDITION FOR ACTIVITIES CONDUCTED IN ADVANCE OF PROJECT CONSTRUCTION.—An activity described in subsection (a) may be carried out in advance of construction of a project only if the activity is carried out in accordance with all applicable requirements of Federal law (including regulations) and State transportation planning processes.”.

(c) CONFORMING AMENDMENT.—The analysis for chapter 3 of title 23 is further amended by adding after the item relating to section 327 the following: 23 USC 301.

“328. Eligibility for environmental restoration and pollution abatement.

“329. Eligibility for control of noxious weeds and aquatic noxious weeds and establishment of native species.”.

SEC. 6007. EXEMPTION OF INTERSTATE SYSTEM.

Section 103(c) of title 23, United States Code, is amended by adding at the end the following:

“(5) EXEMPTION OF INTERSTATE SYSTEM.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the Interstate System shall not be considered to be a historic site under section 303 of title 49 or section 138 of this title, regardless of whether the Interstate System or portions or elements of the Interstate System are listed on, or eligible for listing on, the National Register of Historic Places.

“(B) INDIVIDUAL ELEMENTS.—Subject to subparagraph (C), the Secretary shall determine, through the administrative process established for exempting the Interstate System from section 106 of the National Historic Preservation Act (16 U.S.C. 470f), those individual elements of the Interstate System that possess national or exceptional historic significance (such as a historic bridge or a highly significant engineering feature). Such elements shall be considered to be a historic site under section 303 of title 49 or section 138 of this title, as applicable.

“(C) CONSTRUCTION, MAINTENANCE, RESTORATION, AND REHABILITATION ACTIVITIES.—Subparagraph (B) does not prohibit a State from carrying out construction, maintenance, restoration, or rehabilitation activities for a portion of the Interstate System referred to in subparagraph (B) upon compliance with section 303 of title 49 or section 138 of this title, as applicable, and section 106 of the National Historic Preservation Act (16 U.S.C. 470f).”.

SEC. 6008. INTEGRATION OF NATURAL RESOURCE CONCERNS INTO TRANSPORTATION PROJECT PLANNING.

Section 109(c)(2) of title 23, United States Code, is amended—

(1) by striking “consider the results” and inserting “consider—

“(A) the results”;

(2) by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

“(B) the publication entitled ‘Flexibility in Highway Design’ of the Federal Highway Administration;

“(C) ‘Eight Characteristics of Process to Yield Excellence and the Seven Qualities of Excellence in Transportation Design’ developed by the conference held during 1998 entitled ‘Thinking Beyond the Pavement National Workshop on Integrating Highway Development with Communities and the Environment while Maintaining Safety and Performance’; and

“(D) any other material that the Secretary determines to be appropriate.”.

SEC. 6009. PARKS, RECREATION AREAS, WILDLIFE AND WATERFOWL REFUGES, AND HISTORIC SITES.

(a) PROGRAMS AND PROJECTS WITH DE MINIMIS IMPACTS.—

(1) TITLE 23.—Section 138 of title 23, United States Code, is amended—

(A) in the first sentence, by striking “it is hereby” and inserting the following: “(a) DECLARATION OF POLICY.—It is”; and

(B) by adding at the end the following:

“(b) DE MINIMIS IMPACTS.—

“(1) REQUIREMENTS.—

“(A) REQUIREMENTS FOR HISTORIC SITES.—The requirements of this section shall be considered to be satisfied with respect to an area described in paragraph (2) if the Secretary determines, in accordance with this subsection, that a transportation program or project will have a de minimis impact on the area.

“(B) REQUIREMENTS FOR PARKS, RECREATION AREAS, AND WILDLIFE OR WATERFOWL REFUGES.—The requirements of subsection (a)(1) shall be considered to be satisfied with respect to an area described in paragraph (3) if the Secretary determines, in accordance with this subsection, that a transportation program or project will have a de minimis impact on the area. The requirements of subsection (a)(2) with respect to an area described in paragraph (3) shall not include an alternatives analysis.

“(C) CRITERIA.—In making any determination under this subsection, the Secretary shall consider to be part of a transportation program or project any avoidance, minimization, mitigation, or enhancement measures that are required to be implemented as a condition of approval of the transportation program or project.

“(2) HISTORIC SITES.—With respect to historic sites, the Secretary may make a finding of de minimis impact only if—

“(A) the Secretary has determined, in accordance with the consultation process required under section 106 of the National Historic Preservation Act (16 U.S.C. 470f), that—

“(i) the transportation program or project will have no adverse effect on the historic site; or

“(ii) there will be no historic properties affected by the transportation program or project;

“(B) the finding of the Secretary has received written concurrence from the applicable State historic preservation officer or tribal historic preservation officer (and from the Advisory Council on Historic Preservation if the Council is participating in the consultation process); and

“(C) the finding of the Secretary has been developed in consultation with parties consulting as part of the process referred to in subparagraph (A).

“(3) PARKS, RECREATION AREAS, AND WILDLIFE OR WATERFOWL REFUGES.—With respect to parks, recreation areas, or wildlife or waterfowl refuges, the Secretary may make a finding of de minimis impact only if—

“(A) the Secretary has determined, after public notice and opportunity for public review and comment, that the transportation program or project will not adversely affect the activities, features, and attributes of the park, recreation area, or wildlife or waterfowl refuge eligible for protection under this section; and

“(B) the finding of the Secretary has received concurrence from the officials with jurisdiction over the park, recreation area, or wildlife or waterfowl refuge.”.

(2) TITLE 49.—Section 303 of title 49, United States Code, is amended—

(A) by striking “(c) The Secretary” and inserting the following:

“(c) APPROVAL OF PROGRAMS AND PROJECTS.—Subject to subsection (d), the Secretary”; and

(B) by adding at the end the following:

“(d) DE MINIMIS IMPACTS.—

“(1) REQUIREMENTS.—

“(A) REQUIREMENTS FOR HISTORIC SITES.—The requirements of this section shall be considered to be satisfied with respect to an area described in paragraph (2) if the

Secretary determines, in accordance with this subsection, that a transportation program or project will have a de minimis impact on the area.

“(B) REQUIREMENTS FOR PARKS, RECREATION AREAS, AND WILDLIFE OR WATERFOWL REFUGES.—The requirements of subsection (c)(1) shall be considered to be satisfied with respect to an area described in paragraph (3) if the Secretary determines, in accordance with this subsection, that a transportation program or project will have a de minimis impact on the area. The requirements of subsection (c)(2) with respect to an area described in paragraph (3) shall not include an alternatives analysis.

“(C) CRITERIA.—In making any determination under this subsection, the Secretary shall consider to be part of a transportation program or project any avoidance, minimization, mitigation, or enhancement measures that are required to be implemented as a condition of approval of the transportation program or project.

“(2) HISTORIC SITES.—With respect to historic sites, the Secretary may make a finding of de minimis impact only if—

“(A) the Secretary has determined, in accordance with the consultation process required under section 106 of the National Historic Preservation Act (16 U.S.C. 470f), that—

“(i) the transportation program or project will have no adverse effect on the historic site; or

“(ii) there will be no historic properties affected by the transportation program or project;

“(B) the finding of the Secretary has received written concurrence from the applicable State historic preservation officer or tribal historic preservation officer (and from the Advisory Council on Historic Preservation if the Council is participating in the consultation process); and

“(C) the finding of the Secretary has been developed in consultation with parties consulting as part of the process referred to in subparagraph (A).

“(3) PARKS, RECREATION AREAS, AND WILDLIFE OR WATERFOWL REFUGES.—With respect to parks, recreation areas, or wildlife or waterfowl refuges, the Secretary may make a finding of de minimis impact only if—

“(A) the Secretary has determined, after public notice and opportunity for public review and comment, that the transportation program or project will not adversely affect the activities, features, and attributes of the park, recreation area, or wildlife or waterfowl refuge eligible for protection under this section; and

“(B) the finding of the Secretary has received concurrence from the officials with jurisdiction over the park, recreation area, or wildlife or waterfowl refuge.”.

(b) CLARIFICATION OF EXISTING STANDARDS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall (in consultation with affected agencies and interested parties) promulgate regulations that clarify the factors to be considered and the standards to be applied in determining the prudence and feasibility of alternatives under section 138 of title 23 and section 303 of title 49, United States Code.

(2) REQUIREMENTS.—The regulations—

Notice.

23 USC 138 note.
Deadline.
Regulations.

(A) shall clarify the application of the legal standards to a variety of different types of transportation programs and projects depending on the circumstances of each case; and

(B) may include, as appropriate, examples to facilitate clear and consistent interpretation by agency decision-makers.

(c) IMPLEMENTATION STUDY.—

(1) IN GENERAL.—The Secretary shall—

(A) conduct a study on the implementation of this section and the amendments made by this section; and

(B) commission an independent review of the study plan and methodology, and any associated conclusions, by the Transportation Research Board of the National Academy of Sciences.

(2) COMPONENTS.—In conducting the study, the Secretary shall evaluate—

(A) the processes developed under this section and the amendments made by this section and the efficiencies that may result;

(B) the post-construction effectiveness of impact mitigation and avoidance commitments adopted as part of projects conducted under this section and the amendments made by this section; and

(C) the quantity of projects with impacts that are considered de minimis under this section and the amendments made by this section, including information on the location, size, and cost of the projects.

(3) REPORT REQUIREMENT.—The Secretary shall prepare—

(A) not earlier than the date that is 3 years after the date of enactment of this Act, a report on the results of the study conducted under this subsection; and

(B) not later than March 1, 2010, an update on the report required under subparagraph (A).

(4) REPORT RECIPIENTS.—The Secretary shall—

(A) submit the report, review of the report, and update required under paragraph (3) to—

(i) the appropriate committees of Congress;

(ii) the Secretary of the Interior; and

(iii) the Advisory Council on Historic Preservation;

and

(B) make the report and update available to the public.

SEC. 6010. ENVIRONMENTAL REVIEW OF ACTIVITIES THAT SUPPORT DEPLOYMENT OF INTELLIGENT TRANSPORTATION SYSTEMS.

23 USC 512 note.

(a) CATEGORICAL EXCLUSIONS.—Not later than one year after the date of enactment of this Act, the Secretary shall initiate a rulemaking process to establish, to the extent appropriate, categorical exclusions for activities that support the deployment of intelligent transportation infrastructure and systems from the requirement that an environmental assessment or an environmental impact statement be prepared under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) in compliance with the standards for categorical exclusions established by that Act.

Regulations.
Deadline.

(b) NATIONWIDE PROGRAMMATIC AGREEMENT.—

(1) DEVELOPMENT.—The Secretary shall develop a nationwide programmatic agreement governing the review of activities that support the deployment of intelligent transportation infrastructure and systems in accordance with section 106 of the National Historic Preservation Act (16 U.S.C. 470f) and the regulations of the Advisory Council on Historic Preservation.

(2) CONSULTATION.—The Secretary shall develop the agreement under paragraph (1) in consultation with the National Conference of State Historic Preservation Officers and the Advisory Council on Historic Preservation established under title II of the National Historic Preservation Act (26 U.S.C. 470i et seq.) and after soliciting the views of other interested parties.

(c) INTELLIGENT TRANSPORTATION INFRASTRUCTURE AND SYSTEMS DEFINED.—In this section, the term “intelligent transportation infrastructure and systems” means intelligent transportation infrastructure and intelligent transportation systems, as such terms are defined in subtitle C of title V of this Act.

SEC. 6011. TRANSPORTATION CONFORMITY.

(a) CONFORMITY REDETERMINATIONS.—Section 176(c)(2) of the Clean Air Act (42 U.S.C. 7506(c)(2)) is amended by adding at the end the following:

“(E) The appropriate metropolitan planning organization shall redetermine conformity of existing transportation plans and programs not later than 2 years after the date on which the Administrator—

“(i) finds a motor vehicle emissions budget to be adequate in accordance with section 93.118(e)(4) of title 40, Code of Federal Regulations (as in effect on October 1, 2004);

“(ii) approves an implementation plan that establishes a motor vehicle emissions budget if that budget has not yet been determined to be adequate in accordance with clause (i); or

“(iii) promulgates an implementation plan that establishes or revises a motor vehicle emissions budget.”.

(b) FREQUENCY OF CONFORMITY DETERMINATION UPDATES.—Section 176(c)(4)(B)(ii) of the Clean Air Act (42 U.S.C. 7506(c)(4)(B)(ii)) is amended to read as follows:

“(ii) address the appropriate frequency for making conformity determinations, but the frequency for making conformity determinations on updated transportation plans and programs shall be every 4 years, except in a case in which—

“(I) the metropolitan planning organization elects to update a transportation plan or program more frequently; or

“(II) the metropolitan planning organization is required to determine conformity in accordance with paragraph (2)(E); and”.

(c) TIME HORIZON FOR CONFORMITY DETERMINATIONS IN NON-ATTAINMENT AREAS.—Section 176(c) of the Clean Air Act (42 U.S.C. 7506(c)) is amended by adding at the end the following:

“(7) CONFORMITY HORIZON FOR TRANSPORTATION PLANS.—

“(A) IN GENERAL.—Each conformity determination required under this section for a transportation plan under

section 134(i) of title 23, United States Code, or section 5303(i) of title 49, United States Code, shall require a demonstration of conformity for the period ending on either the final year of the transportation plan, or at the election of the metropolitan planning organization, after consultation with the air pollution control agency and solicitation of public comments and consideration of such comments, the longest of the following periods:

“(i) The first 10-year period of any such transportation plan.

“(ii) The latest year in the implementation plan applicable to the area that contains a motor vehicle emission budget.

“(iii) The year after the completion date of a regionally significant project if the project is included in the transportation improvement program or the project requires approval before the subsequent conformity determination.

“(B) REGIONAL EMISSIONS ANALYSIS.—The conformity determination shall be accompanied by a regional emissions analysis for the last year of the transportation plan and for any year shown to exceed emission budgets by a prior analysis, if such year extends beyond the applicable period as determined under subparagraph (A).

“(C) EXCEPTION.—In any case in which an area has a revision to an implementation plan under section 175A(b) and the Administrator has found the motor vehicles emissions budgets from that revision to be adequate in accordance with section 93.118(e)(4) of title 40, Code of Federal Regulations (as in effect on October 1, 2004), or has approved the revision, the demonstration of conformity at the election of the metropolitan planning organization, after consultation with the air pollution control agency and solicitation of public comments and consideration of such comments, shall be required to extend only through the last year of the implementation plan required under section 175A(b).

“(D) EFFECT OF ELECTION.—Any election by a metropolitan planning organization under this paragraph shall continue in effect until the metropolitan planning organization elects otherwise.

“(E) AIR POLLUTION CONTROL AGENCY DEFINED.—In this paragraph, the term ‘air pollution control agency’ means an air pollution control agency (as defined in section 302(b)) that is responsible for developing plans or controlling air pollution within the area covered by a transportation plan.”.

(d) SUBSTITUTION OF TRANSPORTATION CONTROL MEASURES.—Section 176(c) of the Clean Air Act (42 U.S.C. 7506(c)) (as amended by subsection (c)) is amended by inserting after paragraph (7) the following:

“(8) SUBSTITUTION OF TRANSPORTATION CONTROL MEASURES.—

“(A) IN GENERAL.—Transportation control measures that are specified in an implementation plan may be replaced or added to the implementation plan with alternate or additional transportation control measures—

“(i) if the substitute measures achieve equivalent or greater emissions reductions than the control measure to be replaced, as demonstrated with an emissions impact analysis that is consistent with the current methodology used for evaluating the replaced control measure in the implementation plan;

“(ii) if the substitute control measures are implemented—

“(I) in accordance with a schedule that is consistent with the schedule provided for control measures in the implementation plan; or

“(II) if the implementation plan date for implementation of the control measure to be replaced has passed, as soon as practicable after the implementation plan date but not later than the date on which emission reductions are necessary to achieve the purpose of the implementation plan;

“(iii) if the substitute and additional control measures are accompanied with evidence of adequate personnel and funding and authority under State or local law to implement, monitor, and enforce the control measures;

“(iv) if the substitute and additional control measures were developed through a collaborative process that included—

“(I) participation by representatives of all affected jurisdictions (including local air pollution control agencies, the State air pollution control agency, and State and local transportation agencies);

“(II) consultation with the Administrator; and

“(III) reasonable public notice and opportunity for comment; and

“(v) if the metropolitan planning organization, State air pollution control agency, and the Administrator concur with the equivalency of the substitute or additional control measures.

“(B) ADOPTION.—(i) Concurrence by the metropolitan planning organization, State air pollution control agency and the Administrator as required by subparagraph (A)(v) shall constitute adoption of the substitute or additional control measures so long as the requirements of subparagraphs (A)(i), (A)(ii), (A)(iii) and (A)(iv) are met.

“(ii) Once adopted, the substitute or additional control measures become, by operation of law, part of the State implementation plan and become federally enforceable.

“(iii) Within 90 days of its concurrence under subparagraph (A)(v), the State air pollution control agency shall submit the substitute or additional control measure to the Administrator for incorporation in the codification of the applicable implementation plan. Notwithstanding any other provision of this Act, no additional State process shall be necessary to support such revision to the applicable plan.

“(C) NO REQUIREMENT FOR EXPRESS PERMISSION.—The substitution or addition of a transportation control measure

Notice.

Deadline.

in accordance with this paragraph and the funding or approval of such a control measure shall not be contingent on the existence of any provision in the applicable implementation plan that expressly permits such a substitution or addition.

“(D) NO REQUIREMENT FOR NEW CONFORMITY DETERMINATION.—The substitution or addition of a transportation control measure in accordance with this paragraph shall not require—

“(i) a new conformity determination for the transportation plan; or

“(ii) a revision of the implementation plan.

“(E) CONTINUATION OF CONTROL MEASURE BEING REPLACED.—A control measure that is being replaced by a substitute control measure under this paragraph shall remain in effect until the substitute control measure is adopted by the State pursuant to subparagraph (B).

“(F) EFFECT OF ADOPTION.—Adoption of a substitute control measure shall constitute rescission of the previously applicable control measure.”.

(e) LAPSE OF CONFORMITY.—Section 176(c) of the Clean Air Act (42 U.S.C. 7506(c)) (as amended by subsections (c) and (d)) is amended by inserting after paragraph (8) the following:

“(9) LAPSE OF CONFORMITY.—If a conformity determination required under this subsection for a transportation plan under section 134(i) of title 23, United States Code, or section 5303(i) of title 49, United States Code, or a transportation improvement program under section 134(j) of such title 23 or under section 5303(j) of such title 49 is not made by the applicable deadline and such failure is not corrected by additional measures to either reduce motor vehicle emissions sufficient to demonstrate compliance with the requirements of this subsection within 12 months after such deadline or other measures sufficient to correct such failures, the transportation plan shall lapse.

Deadline.

“(10) LAPSE.—In this subsection, the term ‘lapse’ means that the conformity determination for a transportation plan or transportation improvement program has expired, and thus there is no currently conforming transportation plan or transportation improvement program.”.

(f) CONFORMING AMENDMENTS.—Section 176(c)(4) of the Clean Air Act (42 U.S.C. 7506(c)(4)) (as amended by subsection (b)) is amended—

(1) by redesignating subparagraphs (B), (C), and (D) as subparagraphs (D), (E), and (F), respectively;

(2) by striking “(4)(A) No later than one year after the date of enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate” and inserting the following:

“(4) CRITERIA AND PROCEDURES FOR DETERMINING CONFORMITY.—

“(A) IN GENERAL.—The Administrator shall promulgate, and periodically update,”;

(3) in the second sentence of subparagraph (A)—

(A) by striking “No later than one year after such date of enactment, the Administrator, with the concurrence of the Secretary of Transportation, shall promulgate” and inserting the following:

“(B) TRANSPORTATION PLANS, PROGRAMS, AND PROJECTS.—The Administrator, with the concurrence of the Secretary of Transportation, shall promulgate, and periodically update,”; and

(B) in the third sentence, by striking “A suit” and inserting the following:

“(C) CIVIL ACTION TO COMPEL PROMULGATION.—A civil action”; and

(4) by striking subparagraph (E) (as redesignated by paragraph (1)) and inserting the following:

Deadline.

“(E) INCLUSION OF CRITERIA AND PROCEDURES IN SIP.—Not later than 2 years after the date of enactment of the SAFETEA–LU the procedures under subparagraph (A) shall include a requirement that each State include in the State implementation plan criteria and procedures for consultation required by subparagraph (D)(i), and enforcement and enforceability (pursuant to sections 93.125(c) and 93.122(a)(4)(ii) of title 40, Code of Federal Regulations) in accordance with the Administrator’s criteria and procedures for consultation, enforcement and enforceability.”.

Deadline.
42 USC 7506
note.

(g) REGULATIONS.—Not later than 2 years after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall promulgate revised regulations to implement the changes made by this section.

SEC. 6012. FEDERAL REFERENCE METHOD.

(a) IN GENERAL.—Section 6102(e) of the Transportation Equity Act for the 21st Century (42 U.S.C. 7407 note; 112 Stat. 464–465) is amended to read as follows:

Deadline.

“(e) FIELD STUDY.—Not later than 2 years after the date of enactment of the SAFETEA–LU, the Administrator shall—

“(1) conduct a field study of the ability of the PM_{2.5} Federal Reference Method to differentiate those particles that are larger than 2.5 micrometers in diameter;

“(2) develop a Federal reference method to measure directly particles that are larger than 2.5 micrometers in diameter without reliance on subtracting from coarse particle measurements those particles that are equal to or smaller than 2.5 micrometers in diameter;

“(3) develop a method of measuring the composition of coarse particles; and

Reports.

“(4) submit a report on the study and responsibilities of the Administrator under paragraphs (1) through (3) to—

“(A) the Committee on Energy and Commerce of the House of Representatives; and

“(B) the Committee on Environment and Public Works of the Senate.”.

SEC. 6013. AIR QUALITY MONITORING DATA INFLUENCED BY EXCEPTIONAL EVENTS.

(a) IN GENERAL.—Section 319 of the Clean Air Act (42 U.S.C. 7619) is amended—

(1) by striking the section heading and all that follows through “after notice and opportunity for public hearing” and inserting the following:

“SEC. 319. AIR QUALITY MONITORING.

“(a) IN GENERAL.—After notice and opportunity for public hearing”; and Notice.

(2) by adding at the end the following:

“(b) AIR QUALITY MONITORING DATA INFLUENCED BY EXCEPTIONAL EVENTS.—

“(1) DEFINITION OF EXCEPTIONAL EVENT.—In this section:

“(A) IN GENERAL.—The term ‘exceptional event’ means an event that—

“(i) affects air quality;

“(ii) is not reasonably controllable or preventable;

“(iii) is an event caused by human activity that is unlikely to recur at a particular location or a natural event; and

“(iv) is determined by the Administrator through the process established in the regulations promulgated under paragraph (2) to be an exceptional event.

“(B) EXCLUSIONS.—In this subsection, the term ‘exceptional event’ does not include—

“(i) stagnation of air masses or meteorological inversions;

“(ii) a meteorological event involving high temperatures or lack of precipitation; or

“(iii) air pollution relating to source noncompliance.

“(2) REGULATIONS.—

“(A) PROPOSED REGULATIONS.—Not later than March 1, 2006, after consultation with Federal land managers and State air pollution control agencies, the Administrator shall publish in the Federal Register proposed regulations governing the review and handling of air quality monitoring data influenced by exceptional events.

“(B) FINAL REGULATIONS.—Not later than 1 year after the date on which the Administrator publishes proposed regulations under subparagraph (A), and after providing an opportunity for interested persons to make oral presentations of views, data, and arguments regarding the proposed regulations, the Administrator shall promulgate final regulations governing the review and handling of air quality monitoring data influenced by an exceptional event that are consistent with paragraph (3).

“(3) PRINCIPLES AND REQUIREMENTS.—

“(A) PRINCIPLES.—In promulgating regulations under this section, the Administrator shall follow—

“(i) the principle that protection of public health is the highest priority;

“(ii) the principle that timely information should be provided to the public in any case in which the air quality is unhealthy;

“(iii) the principle that all ambient air quality data should be included in a timely manner, an appropriate Federal air quality database that is accessible to the public;

“(iv) the principle that each State must take necessary measures to safeguard public health regardless of the source of the air pollution; and

“(v) the principle that air quality data should be carefully screened to ensure that events not likely to

Deadlines.
Federal Register,
publication.

recur are represented accurately in all monitoring data and analyses.

“(B) REQUIREMENTS.—Regulations promulgated under this section shall, at a minimum, provide that—

“(i) the occurrence of an exceptional event must be demonstrated by reliable, accurate data that is promptly produced and provided by Federal, State, or local government agencies;

“(ii) a clear causal relationship must exist between the measured exceedances of a national ambient air quality standard and the exceptional event to demonstrate that the exceptional event caused a specific air pollution concentration at a particular air quality monitoring location;

“(iii) there is a public process for determining whether an event is exceptional; and

“(iv) there are criteria and procedures for the Governor of a State to petition the Administrator to exclude air quality monitoring data that is directly due to exceptional events from use in determinations by the Administrator with respect to exceedances or violations of the national ambient air quality standards.

Applicability.

“(4) INTERIM PROVISION.—Until the effective date of a regulation promulgated under paragraph (2), the following guidance issued by the Administrator shall continue to apply:

“(A) Guidance on the identification and use of air quality data affected by exceptional events (July 1986).

“(B) Areas affected by PM–10 natural events, May 30, 1996.

“(C) Appendices I, K, and N to part 50 of title 40, Code of Federal Regulations.”.

SEC. 6014. FEDERAL PROCUREMENT OF RECYCLED COOLANT.

Deadline.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the President shall conduct a review of Federal procurement policy of recycled coolant.

President.

(b) ELEMENTS.—In conducting the review under subsection (a), the President shall consider recycled coolant produced from processes that—

(1) are energy efficient;

(2) generate no hazardous waste (as defined in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903));

(3) produce no emissions of air pollutants;

(4) present lower health and safety risks to employees at a plant or facility; and

(5) recover at least 97 percent of the glycols from used antifreeze feedstock.

42 USC 16091a.

SEC. 6015. CLEAN SCHOOL BUS PROGRAM.

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) ADMINISTRATOR.—The term “Administrator” means the Administrator of the Environmental Protection Agency.

(2) ALTERNATIVE FUEL.—The term “alternative fuel” means—

(A) liquefied natural gas, compressed natural gas, liquefied petroleum gas, hydrogen, or propane;

(B) methanol or ethanol at no less than 85 percent by volume; or

(C) biodiesel conforming with standards published by the American Society for Testing and Materials as of the date of enactment of this Act.

(3) CLEAN SCHOOL BUS.—The term “clean school bus” means a school bus with a gross vehicle weight of greater than 14,000 pounds that—

(A) is powered by a heavy duty engine; and

(B) is operated solely on an alternative fuel or ultra-low sulfur diesel fuel.

(4) ELIGIBLE RECIPIENT.—

(A) IN GENERAL.—Subject to subparagraph (B), the term “eligible recipient” means—

(i) one or more local or State governmental entities responsible for providing school bus service to one or more public school systems or the purchase of school buses;

(ii) one or more contracting entities that provide school bus service to one or more public school systems; or

(iii) a nonprofit school transportation association.

(B) SPECIAL REQUIREMENTS.—In the case of eligible recipients identified under clauses (ii) and (iii) of subparagraph (A), the Administrator shall establish timely and appropriate requirements for notice and may establish timely and appropriate requirements for approval by the public school systems that would be served by buses purchased or retrofit using grant funds made available under this section. Notice.

(5) RETROFIT TECHNOLOGY.—The term “retrofit technology” means a particulate filter or other emissions control equipment that is verified or certified by the Administrator or the California Air Resources Board as an effective emission reduction technology when installed on an existing school bus.

(6) SECRETARY.—The term “Secretary” means the Secretary of Energy.

(7) ULTRA-LOW SULFUR DIESEL FUEL.—The term “ultra-low sulfur diesel fuel” means diesel fuel that contains sulfur at not more than 15 parts per million.

(b) PROGRAM FOR RETROFIT OR REPLACEMENT OF CERTAIN EXISTING SCHOOL BUSES WITH CLEAN SCHOOL BUSES.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—The Administrator, in consultation with the Secretary and other appropriate Federal departments and agencies, shall establish a program for awarding grants on a competitive basis to eligible recipients for the replacement of, retrofit (including repowering, aftertreatment, and remanufactured engines) of, or purchase of alternative fuels for, certain existing school buses. The awarding of grants for the purchase of alternative fuels should be consistent with the historic funding levels of the program for such purchase.

(B) BALANCING.—In awarding grants under this section, the Administrator shall achieve, to the maximum extent practicable, achieve an appropriate balance between awarding grants—

- (i) to replace school buses;
- (ii) to install retrofit technologies; and
- (iii) to purchase and use alternative fuel.

(2) PRIORITY OF GRANT APPLICATIONS.—

(A) REPLACEMENT.—In the case of grant applications to replace school buses, the Administrator shall give priority to applicants that propose to replace school buses manufactured before model year 1977.

(B) RETROFITTING.—In the case of grant applications to retrofit school buses, the Administrator shall give priority to applicants that propose to retrofit school buses manufactured in or after model year 1991.

(3) USE OF SCHOOL BUS FLEET.—

(A) IN GENERAL.—All school buses acquired or retrofitted with funds provided under this section shall be operated as part of the school bus fleet for which the grant was made for not less than 5 years.

(B) MAINTENANCE, OPERATION, AND FUELING.—New school buses and retrofit technology shall be maintained, operated, and fueled according to manufacturer recommendations or State requirements.

(4) RETROFIT GRANTS.—The Administrator may award grants under this section for up to 100 percent of the retrofit technologies and installation costs.

(5) REPLACEMENT GRANTS.—

(A) ELIGIBILITY FOR 50 PERCENT GRANTS.—The Administrator may award grants under this section for replacement of school buses in the amount of up to one-half of the acquisition costs (including fueling infrastructure) for—

(i) clean school buses with engines manufactured in model year 2005 or 2006 that emit not more than—

(I) 1.8 grams per brake horsepower-hour of non-methane hydrocarbons and oxides of nitrogen; and

(II) .01 grams per brake horsepower-hour of particulate matter; or

(ii) clean school buses with engines manufactured in model year 2007, 2008, or 2009 that satisfy regulatory requirements established by the Administrator for emissions of oxides of nitrogen and particulate matter to be applicable for school buses manufactured in model year 2010.

(B) ELIGIBILITY FOR 25 PERCENT GRANTS.—The Administrator may award grants under this section for replacement of school buses in the amount of up to one-fourth of the acquisition costs (including fueling infrastructure) for—

(i) clean school buses with engines manufactured in model year 2005 or 2006 that emit not more than—

(I) 2.5 grams per brake horsepower-hour of non-methane hydrocarbons and oxides of nitrogen; and

(II) .01 grams per brake horsepower-hour of particulate matter; or

(ii) clean school buses with engines manufactured in model year 2007 or thereafter that satisfy regulatory

requirements established by the Administrator for emissions of oxides of nitrogen and particulate matter from school buses manufactured in that model year.

(6) ULTRA-LOW SULFUR DIESEL FUEL.—

(A) IN GENERAL.—In the case of a grant recipient receiving a grant for the acquisition of ultra-low sulfur diesel fuel school buses with engines manufactured in model year 2005 or 2006, the grant recipient shall provide, to the satisfaction of the Administrator—

(i) documentation that diesel fuel containing sulfur at not more than 15 parts per million is available for carrying out the purposes of the grant; and

(ii) a commitment by the applicant to use that fuel in carrying out the purposes of the grant.

(7) DEPLOYMENT AND DISTRIBUTION.—The Administrator, to the maximum extent practicable, shall—

(A) achieve nationwide deployment of clean school buses through the program under this section; and

(B) ensure a broad geographic distribution of grant awards, with no State receiving more than 10 percent of the grant funding made available under this section during a fiscal year.

(8) ANNUAL REPORT.—

(A) IN GENERAL.—Not later than January 31 of each year, the Administrator shall submit to Congress a report that—

(i) evaluates the implementation of this section; and

(ii) describes—

(I) the total number of grant applications received;

(II) the number and types of alternative fuel school buses, ultra-low sulfur diesel fuel school buses, and retrofitted buses requested in grant applications;

(III) grants awarded and the criteria used to select the grant recipients;

(IV) certified engine emission levels of all buses purchased or retrofitted under this section;

(V) an evaluation of the in-use emission level of buses purchased or retrofitted under this section; and

(VI) any other information the Administrator considers appropriate.

(c) EDUCATION.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Administrator shall develop an education outreach program to promote and explain the grant program. Deadline.

(2) COORDINATION WITH STAKEHOLDERS.—The outreach program shall be designed and conducted in conjunction with national school bus transportation associations and other stakeholders.

(3) COMPONENTS.—The outreach program shall—

(A) inform potential grant recipients on the process of applying for grants;

(B) describe the available technologies and the benefits of the technologies;

(C) explain the benefits of participating in the grant program; and

(D) include, as appropriate, information from the annual report required under subsection (b)(8).

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Administrator to carry out this section, to remain available until expended—

(1) \$55,000,000 for each of fiscal years 2006 and 2007; and

(2) such sums as are necessary for each of fiscal years 2008, 2009, and 2010.

Oklahoma.

SEC. 6016. SPECIAL DESIGNATION.

For the purpose of any applicable program under title 23, United States Code, the city of Norman, Oklahoma, shall be considered to be part of the Oklahoma City urbanized area.

SEC. 6017. INCREASED USE OF RECOVERED MINERAL COMPONENT IN FEDERALLY FUNDED PROJECTS INVOLVING PROCUREMENT OF CEMENT OR CONCRETE.

(a) **IN GENERAL.**—Subtitle F of the Solid Waste Disposal Act (42 U.S.C. 6961 et seq.) is amended by adding at the end the following:

42 USC 6966a.

“SEC. 6005. INCREASED USE OF RECOVERED MINERAL COMPONENT IN FEDERALLY FUNDED PROJECTS INVOLVING PROCUREMENT OF CEMENT OR CONCRETE.

“(a) **DEFINITIONS.**—In this section:

“(1) **AGENCY HEAD.**—The term ‘agency head’ means—

“(A) the Secretary of Transportation; and

“(B) the head of each other Federal agency that on a regular basis procures, or provides Federal funds to pay or assist in paying the cost of procuring, material for cement or concrete projects.

“(2) **CEMENT OR CONCRETE PROJECT.**—The term ‘cement or concrete project’ means a project for the construction or maintenance of a highway or other transportation facility or a Federal, State, or local government building or other public facility that—

“(A) involves the procurement of cement or concrete; and

“(B) is carried out in whole or in part using Federal funds.

“(3) **RECOVERED MINERAL COMPONENT.**—The term ‘recovered mineral component’ means—

“(A) ground granulated blast furnace slag other than lead slag;

“(B) coal combustion fly ash;

“(C) blast furnace slag aggregate other than lead slag aggregate;

“(D) silica fume; and

“(E) any other waste material or byproduct recovered or diverted from solid waste that the Administrator, in consultation with an agency head, determines should be treated as recovered mineral component under this section

for use in cement or concrete projects paid for, in whole or in part, by the agency head.

“(b) IMPLEMENTATION OF REQUIREMENTS.—

“(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Administrator and each agency head shall take such actions as are necessary to implement fully all procurement requirements and incentives in effect as of the date of enactment of this section (including guidelines under section 6002) that provide for the use of cement and concrete incorporating recovered mineral component in cement or concrete projects. Deadline.

“(2) PRIORITY.—In carrying out paragraph (1) an agency head shall give priority to achieving greater use of recovered mineral component in cement or concrete projects for which recovered mineral components historically have not been used or have been used only minimally.

“(3) CONFORMANCE.—The Administrator and each agency head shall carry out this subsection in accordance with section 6002.

“(c) FULL IMPLEMENTATION STUDY.—

“(1) IN GENERAL.—The Administrator, in cooperation with the Secretary of Transportation and the Secretary of Energy, shall conduct a study to determine the extent to which current procurement requirements, when fully implemented in accordance with subsection (b), may realize energy savings and environmental benefits attainable with substitution of recovered mineral component in cement used in cement or concrete projects.

“(2) MATTERS TO BE ADDRESSED.—The study shall—

“(A) quantify the extent to which recovered mineral components are being substituted for Portland cement, particularly as a result of current procurement requirements, and the energy savings and environmental benefits associated with that substitution;

“(B) identify all barriers in procurement requirements to greater realization of energy savings and environmental benefits, including barriers resulting from exceptions from current law; and

“(C)(i) identify potential mechanisms to achieve greater substitution of recovered mineral component in types of cement or concrete projects for which recovered mineral components historically have not been used or have been used only minimally;

“(ii) evaluate the feasibility of establishing guidelines or standards for optimized substitution rates of recovered mineral component in those cement or concrete projects; and

“(iii) identify any potential environmental or economic effects that may result from greater substitution of recovered mineral component in those cement or concrete projects.

“(3) REPORT.—Not later than 30 months after the date of enactment of this section, the Administrator shall submit to Congress a report on the study.

“(d) ADDITIONAL PROCUREMENT REQUIREMENTS.—Unless the study conducted under subsection (c) identifies any effects or other problems described in subsection (c)(2)(C)(iii) that warrant further

review or delay, the Administrator and each agency head shall, not later than 1 year after the release of the report in accordance with subsection (c)(3), take additional actions authorized under this Act to establish procurement requirements and incentives that provide for the use of cement and concrete with increased substitution of recovered mineral component in the construction and maintenance of cement or concrete projects, so as to—

“(1) realize more fully the energy savings and environmental benefits associated with increased substitution; and

“(2) eliminate barriers identified under subsection (c).

“(e) EFFECT OF SECTION.—Nothing in this section affects the requirements of section 6002 (including the guidelines and specifications for implementing those requirements).”.

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents in section 1001 of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) is amended by adding after the item relating to section 6004 the following:

“Sec. 6005. Increased use of recovered mineral component in federally funded projects involving procurement of cement or concrete.”.

SEC. 6018. USE OF GRANULAR MINE TAILINGS.

(a) IN GENERAL.—Subtitle F of the Solid Waste Disposal Act (42 U.S.C. 6961 et seq.) (as amended by section 6017(a)) is amended by adding at the end the following:

“SEC. 6006. USE OF GRANULAR MINE TAILINGS.

“(a) MINE TAILINGS.—

“(1) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Administrator, in consultation with the Secretary of Transportation and heads of other Federal agencies, shall establish criteria (including an evaluation of whether to establish a numerical standard for concentration of lead and other hazardous substances) for the safe and environmentally protective use of granular mine tailings from the Tar Creek, Oklahoma Mining District, known as ‘chat’, for—

“(A) cement or concrete projects; and

“(B) transportation construction projects (including transportation construction projects involving the use of asphalt) that are carried out, in whole or in part, using Federal funds.

“(2) REQUIREMENTS.—In establishing criteria under paragraph (1), the Administrator shall consider—

“(A) the current and previous uses of granular mine tailings as an aggregate for asphalt; and

“(B) any environmental and public health risks and benefits derived from the removal, transportation, and use in transportation projects of granular mine tailings.

“(3) PUBLIC PARTICIPATION.—In establishing the criteria under paragraph (1), the Administrator shall solicit and consider comments from the public.

“(4) APPLICABILITY OF CRITERIA.—On the establishment of the criteria under paragraph (1), any use of the granular mine tailings described in paragraph (1) in a transportation project that is carried out, in whole or in part, using Federal funds, shall meet the criteria established under paragraph (1).

Oklahoma.
42 USC 6966b.

Deadline.

“(b) EFFECT OF SECTIONS.—Nothing in this section or section 6005 affects any requirement of any law (including a regulation) in effect on the date of enactment of this section.”

(b) CONFORMING AMENDMENT.—The table of contents in section 1001 of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) (as amended by section 6017(b)) is amended by adding after the item relating to section 6005 the following:

“Sec. 6006. Use of granular mine tailings.”

TITLE VII—HAZARDOUS MATERIALS TRANSPORTATION

Hazardous
Materials
Transportation
Safety and
Security
Reauthorization
Act of 2005.
49 USC 5101
note.

SEC. 7001. SHORT TITLE.

This title may be cited as the “Hazardous Materials Transportation Safety and Security Reauthorization Act of 2005”.

SEC. 7002. AMENDMENT OF TITLE 49, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

Subtitle A—General Authorities on Transportation of Hazardous Materials

SEC. 7101. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds with respect to hazardous materials transportation that—

49 USC 5101
note.

(1) approximately 4,000,000,000 tons of regulated hazardous materials are transported each year and approximately 1,200,000 movements of hazardous materials occur each day, according to Department of Transportation estimates;

(2) the movement of hazardous materials in commerce is necessary to maintain economic vitality and meet consumer demands and must be conducted in a safe, secure, and efficient manner;

(3) accidents involving, or unauthorized access to, hazardous materials in transportation may result in a release of such materials and pose a serious threat to public health and safety;

(4) because of the potential risks to life, property, and the environment posed by unintentional releases of hazardous materials, consistency in laws and regulations governing the transportation of hazardous materials is necessary and desirable; and

(5) in order to provide reasonable, adequate, and cost-effective protection from the risks posed by the transportation of hazardous materials, a network of well-trained State and local emergency response personnel and hazmat employees is essential.

(b) PURPOSE.—Section 5101 is amended by striking “The purpose” and all that follows through the period at the end and inserting the following: “The purpose of this chapter is to protect

49 USC 5101.

against the risks to life, property, and the environment that are inherent in the transportation of hazardous material in intrastate, interstate, and foreign commerce.”.

SEC. 7102. DEFINITIONS.

Section 5102 is amended as follows:

(1) **COMMERCE.**—Paragraph (1) is amended—

(A) by striking “or” after the semicolon in subparagraph (A);

(B) by striking “State.” in subparagraph (B) and inserting “State; or”; and

(C) by adding at the end the following:

“(C) on a United States-registered aircraft.”.

(2) **HAZMAT EMPLOYEE.**—Paragraph (3)(A) is amended—

(A) by striking clause (i) and inserting the following:

“(i) who—

“(I) is employed on a full time, part time, or temporary basis by a hazmat employer; or

“(II) is self-employed (including an owner-operator of a motor vehicle, vessel, or aircraft) transporting hazardous material in commerce; and”;

(B) in clause (ii)—

(i) by striking “course of employment” and inserting “course of such full time, part time, or temporary employment, or such self employment,”; and

(ii) by adding “and” after the semicolon;

(C) by striking subparagraph (B) and redesignating subparagraph (C) as subparagraph (B); and

(D) in subparagraph (B), as so redesignated—

(i) by striking “employed by a hazmat employer,” and inserting “employed on a full time, part time, or temporary basis by a hazmat employer, or self employed,”; and

(ii) by striking clause (ii) and inserting the following:

“(ii) designs, manufactures, fabricates, inspects, marks, maintains, reconditions, repairs, or tests a package, container, or packaging component that is represented, marked, certified, or sold as qualified for use in transporting hazardous material in commerce;”.

(3) **HAZMAT EMPLOYER.**—Paragraph (4) is amended to read as follows:

“(4) ‘hazmat employer’—

“(A) means a person—

“(i) who—

“(I) employs or uses at least 1 hazmat employee on a full time, part time, or temporary basis; or

“(II) is self-employed (including an owner-operator of a motor vehicle, vessel, or aircraft) transporting hazardous material in commerce; and

“(ii) who—

“(I) transports hazardous material in commerce;

“(II) causes hazardous material to be transported in commerce; or

“(III) designs, manufactures, fabricates, inspects, marks, maintains, reconditions, repairs, or tests a package, container, or packaging component that is represented, marked, certified, or sold as qualified for use in transporting hazardous material in commerce; and

“(B) includes a department, agency, or instrumentality of the United States Government, or an authority of a State, political subdivision of a State, or Indian tribe, carrying out an activity described in clause (ii).”.

(4) IMMINENT HAZARD.—Paragraph (5) is amended by inserting “relating to hazardous material” after “of a condition”.

(5) MOTOR CARRIER.—Paragraph (7) is amended to read as follows:

“(7) ‘motor carrier’—

“(A) means a motor carrier, motor private carrier, and freight forwarder as those terms are defined in section 13102; but

“(B) does not include a freight forwarder, as so defined, if the freight forwarder is not performing a function relating to highway transportation.”.

(6) NATIONAL RESPONSE TEAM.—Paragraph (8) is amended—

(A) by striking “national response team” both places it appears and inserting “National Response Team”; and

(B) by striking “national contingency plan” and inserting “National Contingency Plan”.

(7) PERSON.—Paragraph (9)(A) is amended to read as follows:

“(A) includes a government, Indian tribe, or authority of a government or tribe that—

“(i) offers hazardous material for transportation in commerce;

“(ii) transports hazardous material to further a commercial enterprise; or

“(iii) designs, manufactures, fabricates, inspects, marks, maintains, reconditions, repairs, or tests a package, container, or packaging component that is represented, marked, certified, or sold as qualified for use in transporting hazardous material in commerce; but”.

(8) SECRETARY OF TRANSPORTATION.—Section 5102 is further amended—

(A) by redesignating paragraphs (11), (12), and (13) as paragraphs (12), (13), and (14), respectively; and

(B) by inserting after paragraph (10) the following:

“(11) ‘Secretary’ means the Secretary of Transportation except as otherwise provided.”.

SEC. 7103. GENERAL REGULATORY AUTHORITY.

(a) DESIGNATING MATERIAL AS HAZARDOUS.—Section 5103(a) is amended—

(1) by striking “etiologic agent” and all that follows through “corrosive material,” and inserting “infectious substance, flammable or combustible liquid, solid, or gas, toxic, oxidizing, or corrosive material,”; and

(2) by striking “decides” and inserting “determines”.

(b) REGULATIONS FOR SAFE TRANSPORTATION.—Section 5103(b)(1)(A) is amended to read as follows:

“(A) apply to a person who—

“(i) transports hazardous material in commerce;

“(ii) causes hazardous material to be transported in commerce;

“(iii) designs, manufactures, fabricates, inspects, marks, maintains, reconditions, repairs, or tests a package, container, or packaging component that is represented, marked, certified, or sold as qualified for use in transporting hazardous material in commerce;

“(iv) prepares or accepts hazardous material for transportation in commerce;

“(v) is responsible for the safety of transporting hazardous material in commerce;

“(vi) certifies compliance with any requirement under this chapter; or

“(vii) misrepresents whether such person is engaged in any activity under clause (i) through (vi); and”.

(c) TECHNICAL AMENDMENT REGARDING CONSULTATION.—Section 5103 is amended—

(1) by striking subsection (b)(1)(C); and

(2) by adding at the end the following:

“(c) CONSULTATION.—When prescribing a security regulation or issuing a security order that affects the safety of the transportation of hazardous material, the Secretary of Homeland Security shall consult with the Secretary of Transportation.”.

SEC. 7104. LIMITATION ON ISSUANCE OF HAZMAT LICENSES.

(a) COVERED HAZARDOUS MATERIALS.—Section 5103a(b) is amended by striking “with respect to—” and all that follows and inserting “with respect to any material defined as hazardous material by the Secretary for which the Secretary requires placarding of a commercial motor vehicle transporting that material in commerce.”.

(b) RECOMMENDATIONS ON CHEMICAL OR BIOLOGICAL MATERIALS.—Section 5103a is further amended—

(1) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively; and

(2) by inserting after subsection (b) the following:

“(c) RECOMMENDATIONS ON CHEMICAL AND BIOLOGICAL MATERIALS.—The Secretary of Health and Human Services shall recommend to the Secretary of Transportation any chemical or biological material or agent for regulation as a hazardous material under section 5103(a) if the Secretary of Health and Human Services determines that such material or agent poses a significant risk to the health of individuals.”.

(c) CONFORMING AMENDMENT.—Section 5103a(a)(1) is amended by striking “subsection (c)(1)(B),” and inserting “subsection (d)(1)(B),”.

SEC. 7105. BACKGROUND CHECKS FOR DRIVERS HAULING HAZARDOUS MATERIALS.

Section 5103a is further amended by adding at the end the following:

“(g) BACKGROUND CHECKS FOR DRIVERS HAULING HAZARDOUS MATERIALS.—

“(1) IN GENERAL.—

“(A) EMPLOYER NOTIFICATION.—Not later than 90 days after the date of enactment of this subsection, the Director of the Transportation Security Administration, after receiving comments from interested parties, shall develop and implement a process for notifying hazmat employers designated by an applicant of the results of the applicant’s background record check, if—

Deadline.

“(i) such notification is appropriate considering the potential security implications; and

“(ii) the Director, in a final notification of threat assessment, served on the applicant determines that the applicant does not meet the standards set forth in regulations issued to carry out this section.

“(B) RELATIONSHIP TO OTHER BACKGROUND RECORDS CHECKS.—

“(i) ELIMINATION OF REDUNDANT CHECKS.—An individual with respect to whom the Transportation Security Administration—

“(I) has performed a security threat assessment under this section; and

“(II) has issued a final notification of no security threat, is deemed to have met the requirements of any other background check that is required for purposes of any Federal law applicable to transportation workers if that background check is equivalent to, or less stringent than, the background check required under this section.

“(ii) DETERMINATION BY DIRECTOR.—Not later than 60 days after the date of issuance of the report under paragraph (5), but no later than 120 days after the date of enactment of this Act, the Director shall initiate a rulemaking proceeding, including notice and opportunity for comment, to determine which background checks required for purposes of Federal laws applicable to transportation workers are equivalent to, or less stringent than, those required under this section.

Deadline.

“(iii) FUTURE RULEMAKINGS.—The Director shall make a determination under the criteria established under clause (ii) with respect to any rulemaking proceeding to establish or modify required background checks for transportation workers initiated after the date of enactment of this subsection.

“(2) APPEALS PROCESS FOR MORE STRINGENT STATE PROCEDURES.—If a State establishes its own standards for applicants for a hazardous materials endorsement to a commercial driver’s license, the State shall also provide—

“(A) an appeals process similar to and to the same extent as the process provided under part 1572 of title 49, Code of Federal Regulations, by which an applicant denied a hazardous materials endorsement to a commercial driver’s license by that State may appeal that denial; and

“(B) a waiver process similar to and to the same extent as the process provided under part 1572 of title 49, Code of Federal Regulations, by which an applicant denied a

hazardous materials endorsement to a commercial driver's license by that State may apply for a waiver.

Deadline.

“(3) CLARIFICATION OF TERM DEFINED IN REGULATIONS.—The term ‘transportation security incident’, as defined in part 1572 of title 49, Code of Federal Regulations, does not include a work stoppage or other nonviolent employee-related action resulting from an employer-employee dispute. Not later than 30 days after the date of enactment of this subsection, the Director shall modify the definition of that term to reflect the preceding sentence.

Deadline.
Reports.

“(4) BACKGROUND CHECK CAPACITY.—Not later than October 1, 2005, the Director shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committees on Transportation and Infrastructure and Homeland Security of the House of Representatives a report on the implementation of fingerprint-based security threat assessments and the adequacy of fingerprinting locations, personnel, and resources to accomplish the timely processing of fingerprint-based security threat assessments for individuals holding commercial driver's licenses who are applying to renew hazardous materials endorsements.

“(5) REPORT.—

“(A) IN GENERAL.—Not later than 60 days after the date of enactment of this subsection, the Director shall transmit to the committees referred to in paragraph (4) a report on the Director's plans to reduce or eliminate redundant background checks for holders of hazardous materials endorsements performed under this section.

“(B) CONTENTS.—The report shall—

“(i) include a list of background checks and other security or threat assessment requirements applicable to transportation workers under Federal laws for which the Department of Homeland Security is responsible and the process by which the Secretary of Homeland Security will determine whether such checks or assessments are equivalent to, or less stringent than, the background check performed under this section; and

“(ii) provide an analysis of how the Director plans to reduce or eliminate redundant background checks in a manner that will continue to ensure the highest level of safety and security.

“(h) COMMERCIAL MOTOR VEHICLE OPERATORS REGISTERED TO OPERATE IN MEXICO OR CANADA.—

Effective date.

“(1) IN GENERAL.—Beginning on the date that is 6 months after the date of enactment of this subsection, a commercial motor vehicle operator registered to operate in Mexico or Canada shall not operate a commercial motor vehicle transporting a hazardous material in commerce in the United States until the operator has undergone a background records check similar to the background records check required for commercial motor vehicle operators licensed in the United States to transport hazardous materials in commerce.

“(2) EXTENSION.—The Director of the Transportation Security Administration may extend the deadline established by paragraph (1) for a period not to exceed 6 months if the Director determines that such an extension is necessary.

“(3) COMMERCIAL MOTOR VEHICLE DEFINED.—In this subsection, the term ‘commercial motor vehicle’ has the meaning given that term by section 31101.”.

SEC. 7106. REPRESENTATION AND TAMPERING.

(a) REPRESENTATION.—Section 5104(a)(1) is amended—

(1) by striking “a container,” and all that follows through “packaging) for” and inserting “a package, component of a package, or packaging for”; and

(2) by striking “the container” and all that follows through “packaging) meets” and inserting “the package, component of a package, or packaging meets”.

(b) TAMPERING.—Section 5104(b) is amended—

(1) by striking “A person may not” and inserting “No person may”; and

(2) in paragraph (2) by inserting “component of a package, or packaging,” after “package,”.

SEC. 7107. TECHNICAL AMENDMENTS.

Section 5105 is amended—

(1) by striking subsection (d); and

(2) by redesignating subsection (e) as subsection (d).

SEC. 7108. TRAINING OF CERTAIN EMPLOYEES.

Section 5107 is amended—

(1) by striking subsection (e) and inserting the following:

“(e) TRAINING GRANTS.—

“(1) IN GENERAL.—Subject to the availability of funds under section 5128(c), the Secretary shall make grants under this subsection—

“(A) for training instructors to train hazmat employees;

and

“(B) to the extent determined appropriate by the Secretary, for such instructors to train hazmat employees.

“(2) ELIGIBILITY.—A grant under this subsection shall be made to a nonprofit hazmat employee organization that demonstrates—

“(A) expertise in conducting a training program for hazmat employees; and

“(B) the ability to reach and involve in a training program a target population of hazmat employees.”;

(2) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively;

(3) by inserting after subsection (e) the following:

“(f) TRAINING OF CERTAIN EMPLOYEES.—The Secretary shall ensure that maintenance-of-way employees and railroad signalmen receive general awareness and familiarization training and safety training pursuant to section 172.704 of title 49, Code of Federal Regulations.”; and

(4) in subsection (g)(2) (as redesignated by paragraph (2) of this subsection) by striking “sections 5106, 5108(a)–(g)(1) and (h), and 5109 of this title” and inserting “section 5106”.

SEC. 7109. REGISTRATION.

(a) PERSONS REQUIRED TO FILE.—

(1) REQUIREMENT TO FILE.—Section 5108(a)(1)(B) is amended by striking “class A or B explosive” and inserting “Division 1.1, 1.2, or 1.3 explosive material”.

(2) **AUTHORITY TO REQUIRE TO FILE.**—Section 5108(a)(2)(B) is amended to read as follows:

“(B) a person designing, manufacturing, fabricating, inspecting, marking, maintaining, reconditioning, repairing, or testing a package, container, or packaging component that is represented, marked, certified, or sold as qualified for use in transporting hazardous material in commerce.”.

(3) **NO TRANSPORTATION WITHOUT FILING.**—Section 5108(a)(3) is amended by striking “manufacture,” and all that follows through “package or” and inserting “design, manufacture, fabricate, inspect, mark, maintain, recondition, repair, or test a package, container packaging component, or”.

(b) **FORM AND CONTENT OF FILINGS.**—Section 5108(b)(1)(C) is amended by striking “the activity.” and inserting “any of the activities.”.

(c) **FILING.**—Section 5108(c) is amended to read as follows:

“(c) **FILING.**—Each person required to file a registration statement under subsection (a) shall file the statement in accordance with regulations prescribed by the Secretary.”.

(d) **REGISTRATION.**—As soon as practicable, the Administrator of the Pipeline and Hazardous Materials Safety Administration shall transmit to the Federal Motor Carrier Safety Administration hazardous material registrant information obtained before, on, or after the date of enactment of this Act under section 5108 of title 49, United States Code, together with any Department of Transportation identification number for each registrant.

(e) **RELATIONSHIP TO OTHER LAWS.**—Section 5108(i)(2)(B) is amended by inserting “an Indian tribe,” after “subdivision of a State.”.

(f) **FEES.**—Section 5108(g) is amended—

(1) in paragraph (1) by striking “may” and inserting “shall”;

(2) in paragraph (2)(A) by striking “\$5,000” and inserting “\$3,000”; and

(3) by adding at the end the following:

“(3) **FEES ON EXEMPT PERSONS.**—Notwithstanding subsection (a)(4), the Secretary shall impose and collect a fee of \$25 from a person who is required to register under this section but who is otherwise exempted by the Secretary from paying any fee under this section. The fee shall be used to pay the costs incurred by the Secretary in processing registration statements filed by such persons.”.

SEC. 7110. SHIPPING PAPERS AND DISCLOSURE.

(a) **DISCLOSURE CONSIDERATIONS AND REQUIREMENTS.**—Section 5110 is amended—

(1) by striking “under subsection (b) of this section.” in subsection (a) and inserting “in regulations.”;

(2) by striking subsection (b); and

(3) by redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d), respectively.

(b) **RETENTION OF PAPERS.**—Subsection (d) of section 5110, as redesignated by subsection (a)(3) of this section, is amended to read as follows:

“(d) **RETENTION OF PAPERS.**—

“(1) **SHIPPERS.**—The person who provides the shipping paper under this section shall retain the paper, or an electronic format of it, for a period of 2 years after the date that the

Records.
49 USC 5108
note.

Records.

shipping paper is provided to the carrier, with the paper or electronic format to be accessible through the shipper's principal place of business.

“(2) CARRIERS.—The carrier required to keep the shipping paper under this section, shall retain the paper, or an electronic format of it, for a period of 1 year after the date that the shipping paper is provided to the carrier, with the paper or electronic format to be accessible through the carrier's principal place of business.

Records.

“(3) AVAILABILITY TO GOVERNMENT AGENCIES.—Any person required to keep a shipping paper under this subsection shall, upon request, make it available to a Federal, State, or local government agency at reasonable times and locations.”.

SEC. 7111. RAIL TANK CARS.

Section 5111, and the item relating to section 5111 in the analysis for chapter 51, are repealed.

49 USC 5101.

SEC. 7112. UNSATISFACTORY SAFETY RATINGS.

(a) IN GENERAL.—The text of section 5113 is amended to read as follows: “A violation of section 31144(c)(3) shall be considered a violation of this chapter, and shall be subject to the penalties in sections 5123 and 5124.”.

(b) CONFORMING AMENDMENTS.—The first subsection (c) of section 31144, relating to prohibited transportation, is amended—

(1) in paragraph (1) by striking “sections 521(b)(5)(A) and 5113” and inserting “section 521(b)(5)(A)”; and

(2) by adding at the end of paragraph (3) the following: “A violation of this paragraph by an owner or operator transporting hazardous material shall be considered a violation of chapter 51, and shall be subject to the penalties in sections 5123 and 5124.”.

(c) TECHNICAL CORRECTION.—The second subsection (c) of section 31144, relating to safety reviews of new operators, is redesignated as subsection (f).

SEC. 7113. TRAINING CURRICULUM FOR THE PUBLIC SECTOR.

(a) IN GENERAL.—Section 5115(a) is amended by striking the subsection designation and all that follows through the period at the end of the first sentence and inserting the following:

“(a) IN GENERAL.—In coordination with the Director of the Federal Emergency Management Agency, the Chairman of the Nuclear Regulatory Commission, the Administrator of the Environmental Protection Agency, the Secretaries of Labor, Energy, and Health and Human Services, and the Director of the National Institute of Environmental Health Sciences, and using existing coordinating mechanisms of the National Response Team and, for radioactive material, the Federal Radiological Preparedness Coordinating Committee, the Secretary of Transportation shall maintain, and update periodically, a current curriculum of courses necessary to train public sector emergency response and preparedness teams in matters relating to the transportation of hazardous material.”.

(b) REQUIREMENTS.—Section 5115(b) is amended—

(1) in the matter preceding paragraph (1) by striking “developed” and inserting “maintained and updated”; and

(2) in paragraph (1)(C) by striking “under other United States Government grant programs, including those” and

inserting “with Federal financial assistance, including programs”.

(c) TRAINING ON COMPLYING WITH LEGAL REQUIREMENTS.—Section 5115(c)(3) is amended by inserting before the period at the end the following: “and such other voluntary consensus standard-setting organizations as the Secretary of Transportation determines appropriate”.

(d) DISTRIBUTION AND PUBLICATION.—Section 5115(d) is amended—

(1) in the matter preceding paragraph (1) by striking “national response team” and inserting “National Response Team”;

(2) in paragraph (1) by striking “Director of the Federal Emergency Management Agency” and inserting “Secretary”; and

(3) in paragraph (2)—

(A) by inserting “and distribute” after “publish”; and

(B) by striking “programs that uses” and all that follows before the period at the end and inserting “programs and courses maintained and updated under this section and of any programs utilizing such courses”.

SEC. 7114. PLANNING AND TRAINING GRANTS; HAZARDOUS MATERIALS EMERGENCY PREPAREDNESS FUND.

(a) MAINTENANCE OF EFFORT.—Sections 5116(a)(2)(A) and 5116(b)(2)(A) are amended by striking “2 fiscal years” and inserting “5 fiscal years”.

(b) MONITORING AND TECHNICAL ASSISTANCE.—Section 5116(f) is amended by striking “national response team” and inserting “National Response Team”.

(c) DELEGATION OF AUTHORITY.—Section 5116(g) is amended by striking “Government grant programs” and inserting “Federal financial assistance”.

(d) HAZARDOUS MATERIALS EMERGENCY PREPAREDNESS FUND.—

(1) NAME OF FUND.—Section 5116(i) is amended by inserting after “an account in the Treasury” the following: “(to be known as the ‘Hazardous Materials Emergency Preparedness Fund’)”.

(2) PUBLICATION OF EMERGENCY RESPONSE GUIDE.—Section 5116(i) is further amended—

(A) by striking “collects under section 5108(g)(2)(A) of this title and”;

(B) by striking “and” after the semicolon in paragraph (2);

(C) by redesignating paragraph (3) as paragraph (4);

(D) by inserting after paragraph (2) the following:

“(3) to publish and distribute an emergency response guide; and”;

(E) in paragraph (4) (as redesignated by subparagraph (C) of this paragraph) by striking “10 percent” and inserting “2 percent”.

(3) CONFORMING AMENDMENT.—Section 5108(g)(2)(C) is amended by striking “the account the Secretary of the Treasury establishes” and inserting “the Hazardous Materials Emergency Preparedness Fund established”.

(e) REPORTS.—Section 5116(k) is amended—

(1) by striking the first sentence and inserting the following: “The Secretary shall submit annually to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate and make available to the public information on the allocation and uses of the planning grants allocated under subsection (a), training grants under subsection (b), and grants under subsection (j) of this section and under section 5107.”; and

(2) by striking “Such report” in the second sentence and inserting “The report”.

SEC. 7115. SPECIAL PERMITS AND EXCLUSIONS.

(a) SECTION HEADING.—

(1) IN GENERAL.—Section 5117 is amended by striking the section designation and heading and inserting the following:

“§ 5117. Special permits and exclusions”.

(2) CONFORMING AMENDMENT.—The item relating to section 5117 in the analysis for chapter 51 is amended to read as follows:

“5117. Special permits and exclusions.”.

(b) SUBSECTION HEADING.—The heading for subsection (a) of section 5117 is amended by striking “EXEMPT” and inserting “ISSUE SPECIAL PERMITS”.

(c) AUTHORITY TO ISSUE SPECIAL PERMITS.—Section 5117(a)(1) is amended—

(1) by striking “an exemption” and inserting “, modify, or terminate a special permit authorizing a variance”; and

(2) by striking “transporting, or causing to be transported, hazardous material” and inserting “performing a function regulated by the Secretary under section 5103(b)(1)”.

(d) PERIOD OF SPECIAL PERMIT.—Section 5117(a)(2) is amended to read as follows:

“(2) A special permit issued under this section shall be effective for an initial period of not more than 2 years and may be renewed by the Secretary upon application for successive periods of not more than 4 years each or, in the case of a special permit relating to section 5112, for an additional period of not more than 2 years.”.

(e) APPLICATIONS.—Section 5117(b) is amended—

(1) by striking “an exemption” each place it appears and inserting “a special permit”; and

(2) by striking “the exemption” and inserting “the special permit”.

(f) DEALING WITH APPLICATIONS PROMPTLY.—Section 5117(c) is amended by striking “the exemption” each place it appears and inserting “the special permit”.

(g) LIMITATION ON AUTHORITY.—Section 5117(e) is amended—

(1) by striking “an exemption” and inserting “a special permit”; and

(2) by striking “be exempt” and inserting “be granted a variance”.

(h) REPEAL OF SECTION 5118.—Section 5118, and the item relating to such section in the analysis for chapter 51, are repealed.

SEC. 7116. UNIFORM FORMS AND PROCEDURES.

Section 5119 is amended to read as follows:

“§ 5119. Uniform forms and procedures

“(a) ESTABLISHMENT OF WORKING GROUP.—The Secretary shall establish a working group of State and local government officials, including representatives of the National Governors’ Association, the National Association of Counties, the National League of Cities, the United States Conference of Mayors, the National Conference of State Legislatures, and the Alliance for Uniform Hazmat Transportation Procedures.

“(b) PURPOSE OF WORKING GROUP.—The purpose of the working group shall be to develop uniform forms and procedures for a State to register, and to issue permits to, persons that transport, or cause to be transported, hazardous material by motor vehicle in the State.

“(c) LIMITATION ON WORKING GROUP.—The working group may not propose to define or limit the amount of a fee a State may impose or collect.

“(d) PROCEDURE.—The Secretary shall develop a procedure for the working group to employ in developing recommendations for the Secretary to harmonize existing State registration and permit laws and regulations relating to the transportation of hazardous materials, with special attention paid to each State’s unique safety concerns and interest in maintaining strong hazmat safety standards.

“(e) REPORT OF WORKING GROUP.—Not later than 18 months after the date of enactment of this subsection, the working group shall transmit to the Secretary a report containing recommendations for establishing uniform forms and procedures described in subsection (b).

Deadline.

“(f) REGULATIONS.—Not later than 18 months after the date the working group’s report is delivered to the Secretary, the Secretary shall issue regulations to carry out such recommendations of the working group as the Secretary considers appropriate. In developing such regulations, the Secretary shall consider the State needs associated with the transition to and implementation of a uniform forms and procedures program.

“(g) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as prohibiting a State from voluntarily participating in a program of uniform forms and procedures until such time as the Secretary issues regulations under subsection (f).”.

SEC. 7117. INTERNATIONAL UNIFORMITY OF STANDARDS AND REQUIREMENTS.

(a) CONSULTATION.—Section 5120(b) is amended by inserting “and requirements” after “standards”.

(b) DIFFERENCES WITH INTERNATIONAL STANDARDS AND REQUIREMENTS.—Section 5120(c) is amended—

(1) in paragraph (1) by inserting “or requirement” after “standard” each place it appears; and

(2) in paragraph (2)—

(A) by inserting “standard or” before “requirement” each place it appears; and

(B) by striking “included in a standard”.

SEC. 7118. ADMINISTRATIVE AUTHORITY.

(a) GENERAL AUTHORITY.—Section 5121(a) is amended—

(1) in the first sentence by inserting “conduct tests,” after “investigate,”;

(2) in the second sentence by striking “After” and inserting “Except as provided in subsections (c) and (d), after”; and

(3) by striking “regulation prescribed” and inserting “regulation prescribed, or an order, special permit, or approval issued.”.

(b) RECORDS, REPORTS, AND INFORMATION.—Section 5121(b) is amended—

(1) in paragraph (1) by inserting “and property” after “records”; and

(2) in paragraph (2)—

(A) by inserting “property,” after “records,”;

(B) by inserting “for inspection” after “available”; and

(C) by striking “requests” and inserting “undertakes an investigation or makes a request”.

(c) ENHANCED AUTHORITY TO DISCOVER HIDDEN SHIPMENTS OF HAZARDOUS MATERIAL.—Section 5121(c) is amended to read as follows:

“(c) INSPECTIONS AND INVESTIGATIONS.—

“(1) IN GENERAL.—A designated officer, employee, or agent of the Secretary—

“(A) may inspect and investigate, at a reasonable time and in a reasonable manner, records and property relating to a function described in section 5103(b)(1);

“(B) except in the case of packaging immediately adjacent to its hazardous material contents, may gain access to, open, and examine a package offered for, or in, transportation when the officer, employee, or agent has an objectively reasonable and articulable belief that the package may contain a hazardous material;

“(C) may remove from transportation a package or related packages in a shipment offered for or in transportation for which—

“(i) such officer, employee, or agent has an objectively reasonable and articulable belief that the package may pose an imminent hazard; and

“(ii) such officer, employee, or agent contemporaneously documents such belief in accordance with procedures set forth in guidance or regulations prescribed under subsection (e);

“(D) may gather information from the offeror, carrier, packaging manufacturer or tester, or other person responsible for the package, to ascertain the nature and hazards of the contents of the package;

“(E) as necessary, under terms and conditions specified by the Secretary, may order the offeror, carrier, packaging manufacturer or tester, or other person responsible for the package to have the package transported to, opened, and the contents examined and analyzed, at a facility appropriate for the conduct of such examination and analysis; and

“(F) when safety might otherwise be compromised, may authorize properly qualified personnel to assist in the activities conducted under this subsection.

“(2) DISPLAY OF CREDENTIALS.—An officer, employee, or agent acting under this subsection shall display proper credentials when requested.

“(3) SAFE RESUMPTION OF TRANSPORTATION.—In instances when, as a result of an inspection or investigation under this subsection, an imminent hazard is not found to exist, the Secretary, in accordance with procedures set forth in regulations prescribed under subsection (e), shall assist—

“(A) in the safe and prompt resumption of transportation of the package concerned; or

“(B) in any case in which the hazardous material being transported is perishable, in the safe and expeditious resumption of transportation of the perishable hazardous material.”

(d) EMERGENCY AUTHORITY FOR HAZARDOUS MATERIAL TRANSPORTATION.—Section 5121 is amended—

(1) by redesignating subsections (d) and (e) as subsections (f) and (h), respectively; and

(2) by inserting after subsection (c) the following:

“(d) EMERGENCY ORDERS.—

“(1) IN GENERAL.—If, upon inspection, investigation, testing, or research, the Secretary determines that a violation of a provision of this chapter, or a regulation prescribed under this chapter, or an unsafe condition or practice, constitutes or is causing an imminent hazard, the Secretary may issue or impose emergency restrictions, prohibitions, recalls, or out-of-service orders, without notice or an opportunity for a hearing, but only to the extent necessary to abate the imminent hazard.

“(2) WRITTEN ORDERS.—The action of the Secretary under paragraph (1) shall be in a written emergency order that—

“(A) describes the violation, condition, or practice that constitutes or is causing the imminent hazard;

“(B) states the restrictions, prohibitions, recalls, or out-of-service orders issued or imposed; and

“(C) describes the standards and procedures for obtaining relief from the order.

“(3) OPPORTUNITY FOR REVIEW.—After taking action under paragraph (1), the Secretary shall provide for review of the action under section 554 of title 5 if a petition for review is filed within 20 calendar days of the date of issuance of the order for the action.

“(4) EXPIRATION OF EFFECTIVENESS OF ORDER.—If a petition for review of an action is filed under paragraph (3) and the review under that paragraph is not completed by the end of the 30-day period beginning on the date the petition is filed, the action shall cease to be effective at the end of such period unless the Secretary determines, in writing, that the imminent hazard providing a basis for the action continues to exist.

“(5) OUT-OF-SERVICE ORDER DEFINED.—In this subsection, the term ‘out-of-service order’ means a requirement that an aircraft, vessel, motor vehicle, train, railcar, locomotive, other vehicle, transport unit, transport vehicle, freight container, potable tank, or other package not be moved until specified conditions have been met.

“(e) REGULATIONS.—

“(1) TEMPORARY REGULATIONS.—Not later than 60 days after the date of enactment of the Hazardous Materials

Deadline.

Deadline.

Transportation Safety and Security Reauthorization Act of 2005, the Secretary shall issue temporary regulations to carry out subsections (c) and (d). The temporary regulations shall expire on the date of issuance of the regulations under paragraph (2).

“(2) FINAL REGULATIONS.—Not later than 1 year after such date of enactment, the Secretary shall issue regulations to carry out subsections (c) and (d) in accordance with subchapter II of chapter 5 of title 5.” Deadline.

(e) GRANTS AND COOPERATIVE AGREEMENTS.—Section 5121 is amended by inserting after subsection (f) (as redesignated by subsection (d)(1) of this section) the following:

“(g) GRANTS AND COOPERATIVE AGREEMENTS.—The Secretary may enter into grants and cooperative agreements with a person, agency, or instrumentality of the United States, a unit of State or local government, an Indian tribe, a foreign government (in coordination with the Department of State), an educational institution, or other appropriate entity—

“(1) to expand risk assessment and emergency response capabilities with respect to the security of transportation of hazardous material;

“(2) to enhance emergency communications capacity as determined necessary by the Secretary, including the use of integrated, interoperable emergency communications technologies where appropriate;

“(3) to conduct research, development, demonstration, risk assessment, and emergency response planning and training activities; or

“(4) to otherwise carry out this chapter.”

(f) REPORT.—Section 5121(h) (as redesignated by subsection (d)(1) of this section) is amended—

(1) in the matter preceding paragraph (1) by striking “submit to the President for transmittal to the Congress” and inserting “transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate”; and

(2) in paragraph (4) by inserting “relating to a function regulated by the Secretary under section 5103(b)(1)” after “activities”.

SEC. 7119. ENFORCEMENT.

(a) IN GENERAL.—Section 5122(a) is amended—

(1) in the first sentence by striking “chapter or a regulation prescribed or order” and inserting “chapter or a regulation prescribed or order, special permit, or approval”; and

(2) by striking the second sentence and inserting the following: “The court may award appropriate relief, including a temporary or permanent injunction, punitive damages, and assessment of civil penalties considering the same penalty amounts and factors as prescribed for the Secretary in an administrative case under section 5123.”

(b) IMMINENT HAZARDS.—Section 5122(b)(1)(B) is amended by striking “or ameliorate the” and inserting “or mitigate the”.

SEC. 7120. CIVIL PENALTY.

(a) PENALTY.—Section 5123(a) is amended—

(1) in paragraph (1)—

(A) by striking “regulation prescribed or order issued” and inserting “regulation, order, special permit, or approval issued”; and

(B) by striking “\$25,000” and inserting “\$50,000”;

(2) by redesignating paragraph (2) as paragraph (4); and

(3) by inserting after paragraph (1) the following:

“(2) If the Secretary finds that a violation under paragraph (1) results in death, serious illness, or severe injury to any person or substantial destruction of property, the Secretary may increase the amount of the civil penalty for such violation to not more than \$100,000.

“(3) If the violation is related to training, paragraph (1) shall be applied by substituting ‘\$450’ for ‘\$250’.”.

(b) HEARING REQUIREMENT.—Section 5123(b) is amended by striking “regulation prescribed” and inserting “regulation prescribed or order, special permit, or approval issued”.

(c) CIVIL ACTIONS TO COLLECT.—Section 5123(d) is amended by striking “section.” and inserting “section and any accrued interest on the civil penalty as calculated in accordance with section 1005 of the Oil Pollution Act of 1990 (33 U.S.C. 2705). In the civil action, the amount and appropriateness of the civil penalty shall not be subject to review.”.

(d) EFFECTIVE DATES.—

(1) HEARING REQUIREMENT.—The amendment made by subsection (b) shall take effect on the date of enactment of this Act, and shall apply with respect to violations described in section 5123(a) of title 49, United States Code (as amended by this section), that occur on or after that date.

(2) CIVIL ACTIONS TO COLLECT.—The amendment made by subsection (c) shall apply with respect to civil penalties imposed on violations described in section 5123(a) of title 49, United States Code (as amended by this section), that occur on or after the date of enactment of this Act.

Applicability.
49 USC 5123
note.

SEC. 7121. CRIMINAL PENALTY.

Section 5124 is amended to read as follows:

“§ 5124. Criminal penalty

“(a) IN GENERAL.—A person knowingly violating section 5104(b) or willfully or recklessly violating this chapter or a regulation, order, special permit, or approval issued under this chapter shall be fined under title 18, imprisoned for not more than 5 years, or both; except that the maximum amount of imprisonment shall be 10 years in any case in which the violation involves the release of a hazardous material that results in death or bodily injury to any person.

“(b) KNOWING VIOLATIONS.—For purposes of this section—

“(1) a person acts knowingly when—

“(A) the person has actual knowledge of the facts giving rise to the violation; or

“(B) a reasonable person acting in the circumstances and exercising reasonable care would have that knowledge; and

“(2) knowledge of the existence of a statutory provision, or a regulation or a requirement required by the Secretary, is not an element of an offense under this section.

“(c) **WILLFUL VIOLATIONS.**—For purposes of this section, a person acts willfully when—

“(1) the person has knowledge of the facts giving rise to the violation; and

“(2) the person has knowledge that the conduct was unlawful.

“(d) **RECKLESS VIOLATIONS.**—For purposes of this section, a person acts recklessly when the person displays a deliberate indifference or conscious disregard to the consequences of that person’s conduct.”.

SEC. 7122. PREEMPTION.

(a) **SUBSTANTIVE DIFFERENCES.**—Section 5125(b) is amended—
(1) by striking subparagraph (E) of paragraph (1) and inserting the following:

“(E) the designing, manufacturing, fabricating, inspecting, marking, maintaining, reconditioning, repairing, or testing a package, container, or packaging component that is represented, marked, certified, or sold as qualified for use in transporting hazardous material in commerce.”; and

(2) by striking “prescribes after November 16, 1990. However, the” in paragraph (2) and inserting “prescribes. The”.

(b) **DECISIONS ON PREEMPTION.**—Section 5125(d)(1) is amended in the first sentence by inserting before the period at the end “or section 5119(e)”.

(c) **WAIVER OF PREEMPTION.**—Section 5125(e) is amended in the first sentence by inserting before the period at the end “or section 5119(b)”.

(d) **STANDARDS.**—Section 5125 is amended by adding at the end the following:

“(h) **APPLICATION OF EACH PREEMPTION STANDARD.**—Each standard for preemption in subsection (b), (c)(1), or (d), and in section 5119(b), is independent in its application to a requirement of a State, political subdivision of a State, or Indian tribe.

“(i) **NON-FEDERAL ENFORCEMENT STANDARDS.**—This section does not apply to any procedure, penalty, required mental state, or other standard utilized by a State, political subdivision of a State, or Indian tribe to enforce a requirement applicable to the transportation of hazardous material.”.

SEC. 7123. JUDICIAL REVIEW.

(a) **REPEAL.**—Section 5125 (as amended by section 7122 of this Act) is further amended—

(1) by striking subsection (f);

(2) by redesignating subsections (g), (h), and (i) as subsections (f), (g), and (h), respectively; and

(3) in subsection (f) (as so redesignated) by moving paragraph (2) (including subparagraphs (A) through (D)) 2 ems to the left.

(b) **JUDICIAL REVIEW.**—Chapter 51 is amended by redesignating section 5127 as section 5128 and by inserting after section 5126 the following:

“§ 5127. Judicial review

“(a) **FILING AND VENUE.**—Except as provided in section 20114(c), a person adversely affected or aggrieved by a final action of the Secretary under this chapter may petition for review of the final action in the United States Court of Appeals for the District of

Deadline. Columbia or in the court of appeals for the United States for the circuit in which the person resides or has its principal place of business. The petition must be filed not more than 60 days after the Secretary's action becomes final.

Records. “(b) JUDICIAL PROCEDURES.—When a petition is filed under subsection (a), the clerk of the court immediately shall send a copy of the petition to the Secretary. The Secretary shall file with the court a record of any proceeding in which the final action was issued, as provided in section 2112 of title 28.

“ (c) AUTHORITY OF COURT.—The court has exclusive jurisdiction, as provided in subchapter II of chapter 5 of title 5, to affirm or set aside any part of the Secretary's final action and may order the Secretary to conduct further proceedings.

“ (d) REQUIREMENT FOR PRIOR OBJECTION.—In reviewing a final action under this section, the court may consider an objection to a final action of the Secretary only if the objection was made in the course of a proceeding or review conducted by the Secretary or if there was a reasonable ground for not making the objection in the proceeding.”.

(c) CONFORMING AMENDMENT.—The analysis for chapter 51 is amended by striking the item relating to section 5127 and inserting the following:

“5127. Judicial review.

“5128. Authorization of appropriations.”.

SEC. 7124. RELATIONSHIP TO OTHER LAWS.

Section 5126(a) is amended—

(1) by striking “or causes to be transported hazardous material,” and inserting “hazardous material, or causes hazardous material to be transported,”;

(2) by striking “manufactures,” and all that follows through “or sells” and inserting “designs, manufactures, fabricates, inspects, marks, maintains, reconditions, repairs, or tests a package, container, or packaging component that is represented”;

(3) by striking “must” and inserting “shall”; and

(4) by striking “manufacturing,” and all that follows through “testing” and inserting “designing, manufacturing, fabricating, inspecting, marking, maintaining, reconditioning, repairing, or testing”.

SEC. 7125. AUTHORIZATION OF APPROPRIATIONS.

Section 5128 (as redesignated by section 7123(b) of this Act) is amended to read as follows:

“§ 5128. Authorizations of appropriations

“(a) IN GENERAL.—In order to carry out this chapter (except sections 5107(e), 5108(g)(2), 5113, 5115, 5116, and 5119), the following amounts are authorized to be appropriated to the Secretary:

“(1) For fiscal year 2005, \$24,940,000.

“(2) For fiscal year 2006, \$29,000,000.

“(3) For fiscal year 2007, \$30,000,000.

“(4) For fiscal year 2008, \$30,000,000.

“(b) HAZARDOUS MATERIALS EMERGENCY PREPAREDNESS FUND.—There shall be available to the Secretary, from the account established pursuant to section 5116(i), for each of fiscal years 2005 through 2008 the following:

“(1) To carry out section 5115, \$200,000.

“(2) To carry out sections 5116(a) and (b), \$21,800,000 to be allocated as follows:

“(A) \$5,000,000 to carry out section 5116(a).

“(B) \$7,800,000 to carry out section 5116(b).

“(C) Of the amount provided for by this paragraph for a fiscal year in excess of the suballocations in subparagraphs (A) and (B)—

“(i) 35 percent shall be used to carry out section 5116(a); and

“(ii) 65 percent shall be used to carry out section 5116(b),

except that the Secretary may increase the proportion to carry out section 5116(b) and decrease the proportion to carry out section 5116(a) if the Secretary determines that such reallocation is appropriate to carry out the intended uses of these funds as described in the applications submitted by States and Indian tribes.

“(3) To carry out section 5116(f), \$150,000.

“(4) To publish and distribute the Emergency Response Guidebook under section 5116(i)(3), \$625,000.

“(5) To carry out section 5116(j), \$1,000,000.

“(c) HAZMAT TRAINING GRANTS.—There shall be available to the Secretary, from the account established pursuant to section 5116(i), to carry out section 5107(e) \$4,000,000 for each of fiscal years 2005 through 2008.

“(d) ISSUANCE OF HAZMAT LICENSES.—There are authorized to be appropriated for the Department of Transportation such amounts as may be necessary to carry out section 5103a.

“(e) CREDITS TO APPROPRIATIONS.—The Secretary may credit to any appropriation to carry out this chapter an amount received from a State, Indian tribe, or other public authority or private entity for expenses the Secretary incurs in providing training to the State, authority, or entity.

“(f) AVAILABILITY OF AMOUNTS.—Amounts made available by or under this section remain available until expended.”.

SEC. 7126. REFERENCES TO THE SECRETARY OF TRANSPORTATION.

Chapter 51 is amended by striking “Secretary of Transportation” each place it appears (other than the second place it appears in section 5108(g)(2)(C) and in sections 5102(11), 5103(c), 5103a(c), 5115(a), 5115(c)(3), 5116(i), and 5120(a)) and inserting “Secretary”.

49 USC 5102,
5103, 5103a,
5105–5110, 5112,
5114–5117,
5120–5123, 5125.

SEC. 7127. CRIMINAL MATTERS.

Section 845(a)(1) of title 18, United States Code, is amended to read as follows:

“(1) aspects of the transportation of explosive materials via railroad, water, highway, or air that pertain to safety, including security, and are regulated by the Department of Transportation or the Department of Homeland Security;”.

SEC. 7128. ADDITIONAL CIVIL AND CRIMINAL PENALTIES.

(a) TITLE 49 PENALTIES.—Section 46312 is amended—

(1) by striking “part—” in subsection (a) and inserting “part or chapter 51—”; and

(2) by inserting “or chapter 51” in subsection (b) after “under this part”.

(b) TITLE 18 PENALTIES.—Section 3663(a)(1)(A) of title 18, United States Code, is amended by inserting “5124,” before “46312,”.

SEC. 7129. HAZARDOUS MATERIAL TRANSPORTATION PLAN REQUIREMENT.

(a) IN GENERAL.—Subpart I of part 172 of the Department of Transportation’s regulations (49 CFR 172.800 et seq.), or any subsequent Department of Transportation regulation in pari materia, does not apply to the surface transportation activities of a farmer that are—

- (1) in direct support of the farmer’s farming operations; and
- (2) conducted within a 150-mile radius of those operations.

(b) FARMER DEFINED.—In this section, the term “farmer” means a person—

- (1) actively engaged in the production or raising of crops, poultry, livestock, or other agricultural commodities; and
- (2) whose gross receipts from the sale of such agricultural commodities or products do not exceed \$500,000 annually.

SEC. 7130. DETERMINING AMOUNT OF UNDECLARED SHIPMENTS OF HAZARDOUS MATERIALS ENTERING THE UNITED STATES.

(a) STUDY.—The Comptroller General shall review existing options and determine additional options for discovering the amount of undeclared shipments of hazardous materials (as defined in section 5101 of title 49, United States Code) entering the United States.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study.

SEC. 7131. HAZARDOUS MATERIALS RESEARCH PROJECTS.

(a) IN GENERAL.—The Administrator of the Pipeline and Hazardous Materials Safety Administration shall enter into a contract with the National Academy of Sciences to carry out the 9 research projects called for in the 2005 Special Report 283 of the Transportation Research Board entitled “Cooperative Research for Hazardous Materials Transportation: Defining the Need, Converging on Solutions”. In carrying out the research projects, the National Academy of Sciences shall consult with the Administrator.

(b) REPORT.—Not later than 6 months after the date of enactment of this Act, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the need to establish a cooperative research program on hazardous materials transportation.

(c) FUNDING.—Of the amounts made available by section 5101(a)(1) of this Act, \$1,250,000 for each of fiscal years 2006 through 2009 shall be available to carry out this section.

SEC. 7132. NATIONAL FIRST RESPONDER TRANSPORTATION INCIDENT RESPONSE SYSTEM.

(a) **IN GENERAL.**—The Secretary shall provide funding to the Operation Respond Institute to design, build, and operate a seamless first responder hazardous materials incident detection, preparedness, and response system.

(b) **EXPANSION.**—This system shall include an expansion of the Operation Respond Emergency Information System (OREIS).

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to the Secretary to carry out this section \$2,500,000 for each of fiscal years 2005 through 2008.

SEC. 7133. COMMON CARRIER PIPELINE SYSTEM.

(a) **STUDY.**—The Secretary shall conduct a study of the economic, environmental, and homeland security advantages and disadvantages of operating a common carrier pipeline system in the States of Texas, Louisiana, Mississippi, and Alabama for the transportation of aromatic chemicals.

(b) **EVALUATION.**—In conducting the study, the Secretary shall evaluate the appropriateness of different Federal incentives for the construction and operation of such a pipeline system, including loan guarantees, other types of financial assistance, and various types of tax incentives.

(c) **REPORT.**—Not later than December 31, 2005, the Secretary shall transmit to Congress a report on the results of the study, including recommendations, if any, for legislation.

Subtitle B—Sanitary Food Transportation

Sanitary Food
Transportation
Act of 2005.
21 USC 301 note.

SEC. 7201. SHORT TITLE.

This subtitle may be cited as the “Sanitary Food Transportation Act of 2005”.

SEC. 7202. RESPONSIBILITIES OF SECRETARY OF HEALTH AND HUMAN SERVICES.

(a) **UNSANITARY TRANSPORT DEEMED ADULTERATION.**—Section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342) is amended by adding at the end the following:

“(i) If it is transported or offered for transport by a shipper, carrier by motor vehicle or rail vehicle, receiver, or any other person engaged in the transportation of food under conditions that are not in compliance with regulations promulgated under section 416.”.

(b) **SANITARY TRANSPORTATION REQUIREMENTS.**—Chapter IV of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341 et seq.) is amended by adding at the end the following:

21 USC 350e.

“SEC. 416. SANITARY TRANSPORTATION PRACTICES.

“(a) **DEFINITIONS.**—In this section:

“(1) **BULK VEHICLE.**—The term ‘bulk vehicle’ includes a tank truck, hopper truck, rail tank car, hopper car, cargo tank, portable tank, freight container, or hopper bin, and any other vehicle in which food is shipped in bulk, with the food coming into direct contact with the vehicle.

“(2) **TRANSPORTATION.**—The term ‘transportation’ means any movement in commerce by motor vehicle or rail vehicle.

“(b) REGULATIONS.—The Secretary shall by regulation require shippers, carriers by motor vehicle or rail vehicle, receivers, and other persons engaged in the transportation of food to use sanitary transportation practices prescribed by the Secretary to ensure that food is not transported under conditions that may render the food adulterated.

“(c) CONTENTS.—The regulations under subsection (b) shall—

“(1) prescribe such practices as the Secretary determines to be appropriate relating to—

“(A) sanitation;

“(B) packaging, isolation, and other protective measures;

“(C) limitations on the use of vehicles;

“(D) information to be disclosed—

“(i) to a carrier by a person arranging for the transport of food; and

“(ii) to a manufacturer or other person that—

“(I) arranges for the transportation of food by a carrier; or

“(II) furnishes a tank vehicle or bulk vehicle for the transportation of food; and

“(E) recordkeeping; and

“(2) include—

“(A) a list of nonfood products that the Secretary determines may, if shipped in a bulk vehicle, render adulterated food that is subsequently transported in the same vehicle; and

“(B) a list of nonfood products that the Secretary determines may, if shipped in a motor vehicle or rail vehicle (other than a tank vehicle or bulk vehicle), render adulterated food that is simultaneously or subsequently transported in the same vehicle.

“(d) WAIVERS.—

“(1) IN GENERAL.—The Secretary may waive any requirement under this section, with respect to any class of persons, vehicles, food, or nonfood products, if the Secretary determines that the waiver—

“(A) will not result in the transportation of food under conditions that would be unsafe for human or animal health; and

“(B) will not be contrary to the public interest.

“(2) PUBLICATION.—The Secretary shall publish in the Federal Register any waiver and the reasons for the waiver.

“(e) PREEMPTION.—

“(1) IN GENERAL.—A requirement of a State or political subdivision of a State that concerns the transportation of food is preempted if—

“(A) complying with a requirement of the State or political subdivision and a requirement of this section, or a regulation prescribed under this section, is not possible; or

“(B) the requirement of the State or political subdivision as applied or enforced is an obstacle to accomplishing and carrying out this section or a regulation prescribed under this section.

“(2) APPLICABILITY.—This subsection applies to transportation that occurs on or after the effective date of the regulations promulgated under subsection (b).

“(f) ASSISTANCE OF OTHER AGENCIES.—The Secretary of Transportation, the Secretary of Agriculture, the Administrator of the Environmental Protection Agency, and the heads of other Federal agencies, as appropriate, shall provide assistance on request, to the extent resources are available, to the Secretary for the purposes of carrying out this section.”

(c) INSPECTION OF TRANSPORTATION RECORDS.—

(1) REQUIREMENT.—Section 703 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 373) is amended—

(A) by striking the section heading and all that follows through “For the purpose” and inserting the following:

“SEC. 703. RECORDS.

“(a) IN GENERAL.—For the purpose”; and

(B) by adding at the end the following:

“(b) FOOD TRANSPORTATION RECORDS.—A shipper, carrier by motor vehicle or rail vehicle, receiver, or other person subject to section 416 shall, on request of an officer or employee designated by the Secretary, permit the officer or employee, at reasonable times, to have access to and to copy all records that the Secretary requires to be kept under section 416(c)(1)(E).”

(2) CONFORMING AMENDMENT.—Subsection (a) of section 703 of the Federal Food, Drug, and Cosmetic Act (as designated by paragraph (1)(A)) is amended by striking “carriers.” and inserting “carriers, except as provided in subsection (b).”

(d) PROHIBITED ACTS; RECORDS INSPECTION.—Section 301(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(e)) is amended by inserting “416,” before “504,” each place it appears.

(e) UNSAFE FOOD TRANSPORTATION.—Section 301 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331) is amended by adding at the end the following:

“(hh) The failure by a shipper, carrier by motor vehicle or rail vehicle, receiver, or any other person engaged in the transportation of food to comply with the sanitary transportation practices prescribed by the Secretary under section 416.”

SEC. 7203. DEPARTMENT OF TRANSPORTATION REQUIREMENTS.

Chapter 57 is amended to read as follows:

“CHAPTER 57—SANITARY FOOD TRANSPORTATION

“5701. Food Transportation safety inspections.

“§ 5701. Food transportation safety inspections

49 USC 5701.

“(a) INSPECTION PROCEDURES.—

“(1) IN GENERAL.—The Secretary of Transportation, in consultation with the Secretary of Health and Human Services and the Secretary of Agriculture, shall establish procedures for transportation safety inspections for the purpose of identifying suspected incidents of contamination or adulteration of—

“(A) food in violation of regulations promulgated under section 416 of the Federal Food, Drug, and Cosmetic Act;

“(B) a carcass, part of a carcass, meat, meat food product, or animal subject to detention under section 402 of the Federal Meat Inspection Act (21 U.S.C. 672); and

“(C) poultry products or poultry subject to detention under section 19 of the Poultry Products Inspection Act (21 U.S.C. 467a).

“(2) TRAINING.—

“(A) IN GENERAL.—The Secretary of Transportation shall develop and carry out a training program to conduct enforcement of this chapter and regulations prescribed under this chapter or compatible State laws and regulations.

“(B) CONDUCT.—In carrying out this paragraph, the Secretary of Transportation shall train inspectors, including Department of Transportation personnel, State employees described under subsection (c), or personnel paid with funds authorized under sections 31102 and 31104, in the recognition of adulteration problems associated with the transportation of cosmetics, devices, drugs, food, and food additives and in the procedures for obtaining assistance of the appropriate departments, agencies, and instrumentalities of the Government and State authorities to support the enforcement.

“(3) APPLICABILITY.—The procedures established under paragraph (1) shall apply, at a minimum, to Department of Transportation personnel that perform commercial motor vehicle or railroad safety inspections.

“(b) NOTIFICATION OF SECRETARY OF HEALTH AND HUMAN SERVICES OR SECRETARY OF AGRICULTURE.—The Secretary of Transportation shall promptly notify the Secretary of Health and Human Services or the Secretary of Agriculture, as applicable, of any instances of potential food contamination or adulteration of a food identified during transportation safety inspections.

“(c) USE OF STATE EMPLOYEES.—The means by which the Secretary of Transportation carries out subsection (b) may include inspections conducted by State employees using funds authorized to be appropriated under sections 31102 through 31104.”.

21 USC 331 note. **SEC. 7204. EFFECTIVE DATE.**

This subtitle takes effect on October 1, 2005.

Subtitle C—Research and Innovative Technology Administration

SEC. 7301. ADMINISTRATIVE AUTHORITY.

Section 112 is amended by adding at the end the following:

“(e) ADMINISTRATIVE AUTHORITIES.—The Administrator may enter into grants and cooperative agreements with Federal agencies, State and local government agencies, other public entities, private organizations, and other persons—

“(1) to conduct research into transportation service and infrastructure assurance; and

“(2) to carry out other research activities of the Administration.”.

TITLE VIII—TRANSPORTATION DISCRETIONARY SPENDING GUARANTEE

SEC. 8001. DISCRETIONARY SPENDING LIMITS FOR THE HIGHWAY AND MASS TRANSIT CATEGORIES.

(a) LIMITS.—Redesignate paragraphs (2) through (9) of section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 as paragraphs (6) through (13), respectively, and strike paragraph (1) of such section 251(c) and insert the following new paragraphs: 2 USC 901.

“(1) with respect to fiscal year 2005—

“(A) for the highway category: \$31,277,000,000 in outlays;

“(B) for the mass transit category: \$955,792,000 in new budget authority and \$6,674,000,000 in outlays;

“(2) with respect to fiscal year 2006—

“(A) for the highway category: \$33,942,000,000 in outlays;

“(B) for the mass transit category: \$1,643,000,000 in new budget authority and \$7,359,000,000 in outlays;

“(3) with respect to fiscal year 2007—

“(A) for the highway category: \$36,960,000,000 in outlays;

“(B) for the mass transit category: \$1,712,000,000 in new budget authority and \$8,120,000,000 in outlays;

“(4) with respect to fiscal year 2008—

“(A) for the highway category: \$39,123,000,000 in outlays;

“(B) for the mass transit category: \$1,858,000,000 in new budget authority and \$8,742,000,000 in outlays;

“(5) with respect to fiscal year 2009—

“(A) for the highway category: \$40,660,000,000 in outlays;

“(B) for the mass transit category: \$1,977,500,000 in new budget authority and \$9,180,000,000 in outlays;”.

(b) DEFINITIONS.—Section 250(c)(4) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended— 2 USC 900.

(1) in subparagraph (B)—

(A) by striking “the Transportation Equity Act for the 21st Century” and all that follows through the colon and inserting: “the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users.”; and

(B) by adding at the end thereof the following new clauses:

“(v) 69–8362–0–7–401 (National Driver Registry).

“(vi) 69–8159–0–7–401 (Motor Carrier Safety Operations and Programs).

“(vii) 06–8158–0–7–401 (Motor Carrier Safety Grants).”; and

(2) by striking subparagraph (C) and inserting the following:

“(C) MASS TRANSIT CATEGORY.—The term ‘mass transit category’ means the following budget accounts, or portions of the accounts, that are subject to the obligation limitations on contract authority provided in the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A

Legacy for Users or for which appropriations are provided in accordance with authorizations contained in that Act:

- “(i) 69-1120-0-1-401 (Administrative Expenses).
- “(ii) 69-1134-0-1-401 (Capital Investment Grants).
- “(iii) 69-8191-0-7-401 (Discretionary Grants).
- “(iv) 69-1129-0-1-401 (Formula Grants).
- “(v) 69-1127-0-1-401 (Interstate Transfer Grants—Transit).
- “(vi) 69-1125-0-1-401 (Job Access and Reverse Commute).
- “(vii) 69-1122-0-1-401 (Miscellaneous Expired Accounts).
- “(viii) 69-1121-0-1-401 (Research, Training and Human Resources).
- “(ix) 69-8350-0-7-401 (Trust Fund Share of Expenses).
- “(x) 69-1137-0-1-401 (Transit Planning and Research).
- “(xi) 69-1136-0-1-401 (University Transportation Research).
- “(xii) 69-1128-0-1-401 (Washington Metropolitan Area Transit Authority).”.

SEC. 8002. ADJUSTMENTS TO ALIGN HIGHWAY SPENDING WITH REVENUES.

2 USC 901.

Subparagraphs (B) through (E) of section 251(b)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 are amended to read as follows:

“(B) ADJUSTMENT TO ALIGN HIGHWAY SPENDING WITH REVENUES.—(i) When the President submits the budget under section 1105 of title 31, United States Code, OMB shall calculate and the budget shall make adjustments to the highway category for the budget year and each outyear as provided in clause (ii)(I)(cc).

“(ii)(I)(aa) OMB shall take the actual level of highway receipts for the year before the current year and subtract the sum of the estimated level of highway receipts in subclause (II) plus any amount previously calculated under item (bb) for that year.

“(bb) OMB shall take the current estimate of highway receipts for the current year and subtract the estimated level of receipts for that year.

“(cc) OMB shall add one-half of the sum of the amount calculated under items (aa) and (bb) to the obligation limitations set forth in the section 8003 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users and, using current estimates, calculate the outlay change resulting from the change in obligations for the budget year and the first outyear and the outlays flowing therefrom through subsequent fiscal years. After making the calculations under the preceding sentence, OMB shall adjust the amount of obligations set forth in that section for the budget year and the first outyear by adding one-half of the sum of the amount calculated under items (aa) and (bb) to each such year.

“(II) The estimated level of highway receipts for the purposes of this clause are—

“(aa) for fiscal year 2005, \$31,562,000,000;

“(bb) for fiscal year 2006, \$33,712,000,000;

“(cc) for fiscal year 2007, \$34,623,000,000

“(dd) for fiscal year 2008, \$35,449,000,000; and

“(ee) for fiscal year 2009, \$36,220,000,000.

“(III) In this clause, the term ‘highway receipts’ means the governmental receipts credited to the highway account of the Highway Trust Fund.

“(C) In addition to the adjustment required by subparagraph (B), when the President submits the budget under section 1105 of title 31, United States Code, for fiscal year 2007, 2008, or 2009, OMB shall calculate and the budget shall include for the budget year and each outyear an adjustment to the limits on outlays for the highway category and the mass transit category equal to—

“(i) the outlays for the applicable category calculated assuming obligation levels consistent with the estimates prepared pursuant to subparagraph (D), as adjusted, using current technical assumptions; minus

“(ii) the outlays for the applicable category set forth in the subparagraph (D) estimates, as adjusted.

“(D)(i) When OMB and CBO submit their final sequester report for fiscal year 2006, that report shall include an estimate of the outlays for each of the categories that would result in fiscal years 2007 through 2010 from obligations at the levels specified in section 8003 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users using current assumptions.

“(ii) When the President submits the budget under section 1105 of title 31, United States Code, for fiscal year 2007, 2008, 2009, or 2010, OMB shall adjust the estimates made in clause (i) by the adjustments by subparagraphs (B) and (C).

“(E) OMB shall consult with the Committees on the Budget and include a report on adjustments under subparagraphs (B) and (C) in the preview report.”.

Reports.

SEC. 8003. LEVEL OF OBLIGATION LIMITATIONS.

2 USC 901 note.

(a) HIGHWAY CATEGORY.—For the purposes of section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985, the level of obligation limitations for the highway category is—

(1) for fiscal year 2005, \$35,164,292,000;

(2) for fiscal year 2006, \$37,220,843,903;

(3) for fiscal year 2007, \$39,460,710,516;

(4) for fiscal year 2008, \$40,824,075,404; and

(5) for fiscal year 2009, \$42,469,970,178.

(b) MASS TRANSIT CATEGORY.—For the purposes of section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985, the level of obligation limitations for the mass transit category is—

(1) for fiscal year 2005, \$7,646,336,000;

(2) for fiscal year 2006, \$8,622,931,000;

(3) for fiscal year 2007, \$8,974,775,000;

(4) for fiscal year 2008, \$9,730,893,000; and

(5) for fiscal year 2009, \$10,338,065,000.

For purposes of this subsection, the term “obligation limitations” means the sum of budget authority and obligation limitations.

SEC. 8004. ENFORCEMENT OF GUARANTEE.

Clause 3 of rule XXI of the Rules of the House of Representatives is amended—

(1) by striking “section 8103 of the Transportation Equity Act for the 21st Century” and inserting “section 8003 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users”; and

(2) by adding at the end the following: “For purposes of this clause, any obligation limitation relating to surface transportation projects under section 1602 of the Transportation Equity Act for the 21st Century and section 1702 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users shall be assumed to be administered on the basis of sound program management practices that are consistent with past practices of the administering agency permitting States to decide High Priority Project funding priorities within State program allocations.”.

SEC. 8005. TRANSFER OF FEDERAL TRANSIT ADMINISTRATIVE EXPENSES.

For purposes of clauses 2 and 3 of rule XXI of the House of Representatives, it shall be in order to transfer funds, in amounts specified in annual appropriation Acts to carry out the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (including the amendments made by that Act), from the Federal Transit Administration’s administrative expenses account to other mass transit budget accounts under section 250(c)(4)(C) of the Balanced Budget and Emergency Deficit Control Act of 1985.

TITLE IX—RAIL TRANSPORTATION

SEC. 9001. HIGH-SPEED RAIL CORRIDOR DEVELOPMENT.

(a) CORRIDOR DEVELOPMENT.—

(1) AMENDMENTS.—Section 26101 of title 49, United States Code, is amended—

(A) in the section heading, by striking “**planning**” and inserting “**development**”;

(B) in the heading of subsection (a), by striking “**PLANNING**” and inserting “**DEVELOPMENT**”;

(C) by striking “corridor planning” each place it appears and inserting “corridor development”;

(D) in subsection (b)(1)—

(i) by inserting “, or if it is an activity described in subparagraph (M)” after “high-speed rail improvements”;

(ii) by striking “and” at the end of subparagraph (K);

(iii) by striking the period at the end of subparagraph (L) and inserting “; and”;

(iv) by adding at the end the following new subparagraph:

“(M) the acquisition of locomotives, rolling stock, track, and signal equipment.”; and

(E) in subsection (c)(2), by striking “planning” and inserting “development”.

(2) CONFORMING AMENDMENT.—The item relating to section 26101 in the table of sections of chapter 261 of title 49, United States Code, is amended by striking “planning” and inserting “development”. 49 USC 26101.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 26104 of title 49, United States Code, is amended to read as follows:

“§ 26104. Authorization of appropriations

“(a) FISCAL YEARS 2006 THROUGH 2013.—There are authorized to be appropriated to the Secretary—

“(1) \$70,000,000 for carrying out section 26101; and

“(2) \$30,000,000 for carrying out section 26102, for each of the fiscal years 2006 through 2013.

“(b) FUNDS TO REMAIN AVAILABLE.—Funds made available under this section shall remain available until expended.”.

(c) DEFINITION.—Section 26105(1) of title 49, United States Code, is amended by striking “and cooperative agreements” and inserting “, cooperative agreements, and other transactions”.

SEC. 9002. CAPITAL GRANTS FOR RAIL LINE RELOCATION PROJECTS.

(a) ESTABLISHMENT OF PROGRAM.—

(1) PROGRAM REQUIREMENTS.—Chapter 201 of title 49, United States Code, is amended by adding at the end of subchapter II the following: 49 USC 20101.

“§ 20154. Capital grants for rail line relocation projects

“(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Transportation shall carry out a grant program to provide financial assistance for local rail line relocation and improvement projects.

“(b) ELIGIBILITY.—A State is eligible for a grant under this section for any construction project for the improvement of the route or structure of a rail line that either—

“(1) is carried out for the purpose of mitigating the adverse effects of rail traffic on safety, motor vehicle traffic flow, community quality of life, or economic development; or

“(2) involves a lateral or vertical relocation of any portion of the rail line.

“(c) CONSIDERATIONS FOR APPROVAL OF GRANT APPLICATIONS.—In determining whether to award a grant to an eligible State under this section, the Secretary shall consider the following factors:

“(1) The capability of the State to fund the rail line relocation project without Federal grant funding.

“(2) The requirement and limitation relating to allocation of grant funds provided in subsection (d).

“(3) Equitable treatment of the various regions of the United States.

“(4) The effects of the rail line, relocated or improved as proposed, on motor vehicle and pedestrian traffic, safety, community quality of life, and area commerce.

“(5) The effects of the rail line, relocated as proposed, on the freight and passenger rail operations on the rail line.

“(d) ALLOCATION REQUIREMENTS.—At least 50 percent of all grant funds awarded under this section out of funds appropriated for a fiscal year shall be provided as grant awards of not more than \$20,000,000 each. The \$20,000,000 amount shall be adjusted

by the Secretary to reflect inflation for fiscal years beginning after fiscal year 2006.

“(e) NON-FEDERAL SHARE.—

“(1) PERCENTAGE.—A State or other non-Federal entity shall pay at least 10 percent of the shared costs of a project that is funded in part by a grant awarded under this section.

“(2) FORMS OF CONTRIBUTIONS.—The share required by paragraph (1) may be paid in cash or in kind.

“(3) IN-KIND CONTRIBUTIONS.—The in-kind contributions that are permitted to be counted under paragraph (2) for a project for a State or other non-Federal entity are as follows:

“(A) A contribution of real property or tangible personal property (whether provided by the State or a person for the State).

“(B) A contribution of the services of employees of the State or other non-Federal entity, calculated on the basis of costs incurred by the State or other non-Federal entity for the pay and benefits of the employees, but excluding overhead and general administrative costs.

“(C) A payment of any costs that were incurred for the project before the filing of an application for a grant for the project under this section, and any in-kind contributions that were made for the project before the filing of the application, if and to the extent that the costs were incurred or in-kind contributions were made, as the case may be, to comply with a provision of a statute required to be satisfied in order to carry out the project.

“(4) FINANCIAL CONTRIBUTION FROM PRIVATE ENTITIES.—

“(A) The Secretary shall require a State to submit a description of the anticipated public and private benefits associated with each rail line relocation or improvement project described in subsection (a). The determination of such benefits shall be developed in consultation with the owner and user of the rail line being relocated or improved or other private entity involved in the project.

“(B) The Secretary shall consider the feasibility of seeking financial contributions or commitments from private entities involved with the project in proportion to the expected benefits determined under subparagraph (A) that accrue to such entities from the project.

“(f) AGREEMENTS TO COMBINE AMOUNTS.—Two or more States (not including political subdivisions of States) may, pursuant to an agreement entered into by the States, combine any part of the amounts provided through grants for a project under this section if—

“(1) the project will benefit each of the States entering into the agreement; and

“(2) the agreement is not a violation of a law of any such State.

“(g) REGULATIONS.—The Secretary shall prescribe regulations for carrying out this section.

“(h) DEFINITIONS.—In this section:

“(1) CONSTRUCTION.—The term ‘construction’ means the supervising, inspecting, actual building, and incurrence of all costs incidental to the construction or reconstruction of a project described under subsection (b)(1) of this section, including bond costs and other costs relating to the issuance of bonds or other

Reports.

debt financing instruments and costs incurred by the State in performing project related audits, and includes—

“(A) locating, surveying, and mapping;

“(B) track installation, restoration, and rehabilitation;

“(C) acquisition of rights-of-way;

“(D) relocation assistance, acquisition of replacement housing sites, and acquisition and rehabilitation, relocation, and construction of replacement housing;

“(E) elimination of obstacles and relocation of utilities; and

“(F) other activities defined by the Secretary.

“(2) QUALITY OF LIFE.—The term ‘quality of life’ includes first responders’ emergency response time, the environment, noise levels, and other factors as determined by the Secretary.

“(3) STATE.—The term ‘State’ includes, except as otherwise specifically provided, a political subdivision of a State, and the District of Columbia.

“(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for use in carrying out this section \$350,000,000 for each of the fiscal years 2006 through 2009.”.

(2) CLERICAL AMENDMENT.—The chapter analysis for such chapter is amended by adding at the end the following:

49 USC 20101.

“20154. Capital grants for rail line relocation projects.”.

(b) REGULATIONS.—

(1) TEMPORARY REGULATIONS.—Not later than April 1, 2006, the Secretary of Transportation shall issue temporary regulations to implement the grant program under section 20154 of title 49, United States Code, as added by subsection (a). Subchapter II of chapter 5 of title 5, United States Code, shall not apply to the issuance of a temporary regulation under this subsection or of any amendment of such a temporary regulation.

(2) FINAL REGULATIONS.—Not later than October 1, 2006, the Secretary shall issue final regulations implementing the program.

Deadlines.
49 USC 21054
note.

SEC. 9003. REHABILITATION AND IMPROVEMENT FINANCING.

(a) DEFINITION.—Section 102(7) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 802(7)) is amended to read as follows:

“(7) ‘railroad’ has the meaning given that term in section 20102 of title 49, United States Code; and”.

(b) GENERAL AUTHORITY.—Section 502(a) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822(a)) is amended to read as follows:

“(a) GENERAL AUTHORITY.—The Secretary shall provide direct loans and loan guarantees to—

“(1) State and local governments;

“(2) interstate compacts consented to by Congress under section 410(a) of the Amtrak Reform and Accountability Act of 1997 (49 U.S.C. 24101 note);

“(3) government sponsored authorities and corporations;

“(4) railroads;

“(5) joint ventures that include at least one railroad; and

“(6) solely for the purpose of constructing a rail connection between a plant or facility and a second rail carrier, limited

option rail freight shippers that own or operate a plant or other facility that is served by no more than a single railroad.”.

(c) PRIORITY PROJECTS.—Section 502(c) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822(c)) is amended—

(1) by striking “or” after the semicolon in paragraph (5);

(2) by striking “areas.” in paragraph (6) and inserting “areas;”; and

(3) by adding at the end the following:

“(7) enhance service and capacity in the national rail system; or

“(8) would materially alleviate rail capacity problems which degrade the provision of service to shippers and would fulfill a need in the national transportation system.”.

(d) EXTENT OF AUTHORITY.—Section 502(d) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822(d)) is amended—

(1) by striking “\$3,500,000,000” and inserting “\$35,000,000,000”;.

(2) by striking “\$1,000,000,000” and inserting “\$7,000,000,000”; and

(3) by adding at the end the following “The Secretary shall not establish any limit on the proportion of the unused amount authorized under this subsection that may be used for 1 loan or loan guarantee.”.

(e) COHORTS OF LOANS.—Section 502(f) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822(f)) is amended—

(1) by striking “and” after the semicolon in subparagraph (D) of paragraph (2);

(2) by redesignating subparagraph (E) of paragraph (2) as subparagraph (F);

(3) by adding after subparagraph (D) of paragraph (2) the following:

“(E) the size and characteristics of the cohort of which the loan or loan guarantee is a member; and”; and

(4) by adding at the end of paragraph (4) the following: “A cohort may include loans and loan guarantees. The Secretary shall not establish any limit on the proportion of a cohort that may be used for 1 loan or loan guarantee.”.

(f) CONDITIONS OF ASSISTANCE.—

(1) ASSURANCES.—Section 502(h) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822(h)) is amended—

(A) by inserting “(1)” before “The Secretary”;.

(B) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C); and

(C) by adding at the end the following:

“(2) The Secretary shall not require an applicant for a direct loan or loan guarantee under this section to provide collateral. Any collateral provided or thereafter enhanced shall be valued as a going concern after giving effect to the present value of improvements contemplated by the completion and operation of the project. The Secretary shall not require that an applicant for a direct loan or loan guarantee under this section have previously sought the financial assistance requested from another source.

“(3) The Secretary shall require recipients of direct loans or loan guarantees under this section to comply with—

“(A) the standards of section 24312 of title 49, United States Code, as in effect on September 1, 2002, with respect to the project in the same manner that the National Railroad Passenger Corporation is required to comply with such standards for construction work financed under an agreement made under section 24308(a) of that title; and

“(B) the protective arrangements established under section 504 of this Act, with respect to employees affected by actions taken in connection with the project to be financed by the loan or loan guarantee.”.

(2) TECHNICAL CORRECTION.—Section 502 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822) is amended by striking “offered;” in subsection (f)(2)(A) and inserting “offered, if any;”.

(g) TIME LIMIT AND REPAYMENT SCHEDULES.—Section 502 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822) is amended by adding at the end the following:

“(i) TIME LIMIT FOR APPROVAL OR DISAPPROVAL.—Not later than 90 days after receiving a complete application for a direct loan or loan guarantee under this section, the Secretary shall approve or disapprove the application.

“(j) REPAYMENT SCHEDULES.—

“(1) IN GENERAL.—The Secretary shall establish a repayment schedule requiring payments to commence not later than the sixth anniversary date of the original loan disbursement.

“(2) ACCRUAL.—Interest shall accrue as of the date of disbursement, and shall be amortized over the remaining term of the loan beginning at the time the payments begin.”.

(h) EVALUATION CHARGE.—Section 503(k) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 823(k)) is amended—

(1) in the subsection heading, by striking “INVESTIGATION” and inserting “EVALUATION”;

(2) by inserting “the cost of evaluating the application, including” after “reasonable charge for”; and

(3) by adding at the end the following: “Amounts collected under this subsection shall be credited directly to the Safety and Operations account of the Federal Railroad Administration, and shall remain available until expended to pay for the evaluation costs described in this subsection.”.

(i) FEES AND CHARGES.—Section 503 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 823) is amended by adding at the end the following new subsection:

“(1) FEES AND CHARGES.—Except as provided in this title, the Secretary may not assess any fees, including user fees, or charges in connection with a direct loan or loan guarantee provided under section 502.”.

(j) SUBSTANTIVE CRITERIA AND STANDARDS.—Not later than 30 days after the date of enactment of this Act, the Secretary of Transportation shall publish in the Federal Register and post on the Department of Transportation Web site the substantive criteria and standards used by the Secretary to determine whether to approve or disapprove applications submitted under section 502 of the Railroad Revitalization and Regulatory Reform Act of 1976

Deadlines.
Federal Register,
publication.
Internet.
45 USC 822 note.

Procedures.
Guidelines.

(45 U.S.C. 822). The Secretary of Transportation shall ensure adequate procedures and guidelines are in place to permit the filing of complete applications within 30 days of such publication.

SEC. 9004. REPORT REGARDING IMPACT ON PUBLIC SAFETY OF TRAIN TRAVEL IN COMMUNITIES WITHOUT GRADE SEPARATION.

(a) **STUDY.**—The Secretary of Transportation shall, in consultation with State and local government officials, conduct a study of the impact of blocked highway-railroad grade crossings on the ability of emergency responders to perform public safety and security duties.

(b) **REPORT ON THE IMPACT OF BLOCKED HIGHWAY-RAILROAD GRADE CROSSINGS ON EMERGENCY RESPONDERS.**—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit the results of the study and recommendations for reducing the impact of blocked crossings on emergency response to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

SEC. 9005. WELDED RAIL AND TANK CAR SAFETY IMPROVEMENTS.

(a) **TRACK STANDARDS.**—Section 20142 of title 49, United States Code, is amended by adding at the end the following new subsection:

“(e) **TRACK STANDARDS.**—

“(1) **IN GENERAL.**—Within 90 days after the date of enactment of this subsection, the Federal Railroad Administration shall—

“(A) require each track owner using continuous welded rail track to include procedures (in its procedures filed with the Administration pursuant to section 213.119 of title 49, Code of Federal Regulations) to improve the identification of cracks in rail joint bars;

“(B) instruct Administration track inspectors to obtain copies of the most recent continuous welded rail programs of each railroad within the inspectors’ areas of responsibility and require that inspectors use those programs when conducting track inspections; and

“(C) establish a program to review continuous welded rail joint bar inspection data from railroads and Administration track inspectors periodically.

“(2) **INSPECTION.**—Whenever the Administration determines that it is necessary or appropriate, the Administration may require railroads to increase the frequency of inspection, or improve the methods of inspection, of joint bars in continuous welded rail.”.

(b) **TANK CAR STANDARDS.**—

(1) **AMENDMENT.**—Subchapter II of chapter 201 of title 49, United States Code, is amended by adding at the end the following new section:

“§ 20155. Tank cars

“(a) **STANDARDS.**—The Federal Railroad Administration shall—

“(1) validate a predictive model to quantify the relevant dynamic forces acting on railroad tank cars under accident conditions within 1 year after the date of enactment of this section; and

Deadline.

Deadlines.

“(2) initiate a rulemaking to develop and implement appropriate design standards for pressurized tank cars within 18 months after the date of enactment of this section.

Regulations.

“(b) OLDER TANK CAR IMPACT RESISTANCE ANALYSIS AND REPORT.—Within 1 year after the date of enactment of this section the Federal Railroad Administration shall conduct a comprehensive analysis to determine the impact resistance of the steels in the shells of pressure tank cars constructed before 1989. Within 6 months after completing that analysis the Administration shall transmit a report, including recommendations for reducing any risk of catastrophic fracture and separation of such cars, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.”.

(2) TABLE OF SECTIONS AMENDMENT.—The table of sections for subchapter II of chapter 201 of title 49, United States Code, is amended by adding at the end the following new item:

“20155. Tank cars.”.

SEC. 9006. ALASKA RAILROAD.

45 USC 1207
note.

(a) GRANTS.—The Secretary shall make grants to the Alaska Railroad for capital rehabilitation and improvements benefiting its passenger operations.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary.

SEC. 9007. STUDY OF RAIL TRANSPORTATION AND REGULATION.

(a) REQUIREMENT.—Not later than 180 days after the date of enactment of this Act, the Secretary of Transportation shall enter into an arrangement with the Transportation Research Board of the National Academy of Sciences to conduct a comprehensive study of the Nation’s railroad transportation system since the enactment of the Staggers Rail Act of 1980. The study shall address and make recommendations on—

Deadline.

(1) the performance of the Nation’s major railroads regarding service levels, service quality, and rates;

(2) the projected demand for freight transportation over the next two decades and the constraints limiting the railroads’ ability to meet that demand;

(3) the effectiveness of public policy in balancing the need for railroads to earn adequate returns with those of shippers for reasonable rates and adequate service; and

(4) the future role of the Surface Transportation Board in regulating railroad rates, service levels, and the railroads’ common carrier obligations, particularly as railroads may become revenue adequate.

(b) REPORT TO CONGRESS.—Not later than 1 year after the Secretary and the Transportation Research Board enter into the arrangement for the study, the Secretary shall transmit the results of the study conducted under subsection (a) to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation \$1,000,000

for fiscal year 2006 and \$800,000 for fiscal year 2007 to carry out this section. Such sums are to remain available until expended.

SEC. 9008. HAWAII PORT INFRASTRUCTURE EXPANSION PROGRAM.

(a) **IN GENERAL.**—Amounts appropriated or otherwise made available for any fiscal year for an intermodal or marine facility comprising a component of the Hawaii Port Infrastructure Expansion Program, and any non-Federal contributions made available for that program, shall be—

(1) transferred to and administered by the Administrator of the Maritime Administration; and

(2) subject only to such conditions and requirements as may be required by the Maritime Administration.

(b) **INTERMODAL AUTHORIZATIONS.**—

(1) **INTERMODAL CENTERS.**—Notwithstanding any other provision of law, an intermodal or marine facility described in subsection (a) is eligible for funding under section 5309(m)(1)(C) of title 49, United States Code.

(2) **INTERMODAL SURFACE FREIGHT TRANSFER FACILITY ELIGIBILITY.**—Notwithstanding any other provision of law, an intermodal or marine facility described in subsection (a) is deemed to be eligible to be an intermodal surface freight transfer facility for the purposes of section 181(9)(D) of title 23, United States Code.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—

(1) **IN GENERAL.**—There are authorized to be appropriated to the Secretary of Transportation such sums as may be necessary to carry out this section.

(2) **NO LIMITATION.**—Nothing in paragraph (1) shall be construed—

(A) to limit or prevent the transfer or administration under subsection (a) of any funds appropriated or otherwise made available pursuant to any other authorization of appropriations or by any appropriations Act; or

(B) to limit the application of subsection (b) to title 49, United States Code.

TITLE X—MISCELLANEOUS PROVISIONS

Subtitle A—Sportfishing and Recreational Boating Safety

Sportfishing and
Recreational
Boating Safety
Act of 2005.

16 USC 777 note.

SEC. 10101. SHORT TITLE.

This subtitle may be cited as the “Sportfishing and Recreational Boating Safety Act of 2005”.

CHAPTER 1—DINGELL-JOHNSON SPORT FISH RESTORATION ACT AMENDMENTS

SEC. 10111. AMENDMENT OF DINGELL-JOHNSON SPORT FISH RESTORATION ACT.

Except as otherwise expressly provided, whenever in this chapter an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision

of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777 et seq.).

SEC. 10112. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 3 (16 U.S.C. 777b) is amended—

(1) by striking “the succeeding fiscal year.” in the third sentence and inserting “succeeding fiscal years.”; and

(2) by striking “in carrying on the research program of the Fish and Wildlife Service in respect to fish of material value for sport and recreation.” and inserting “to supplement the 57 percent of the balance of each annual appropriation to be apportioned among the States, as provided for in section 4(c).”.

(b) CONFORMING AMENDMENTS.—

(1) IN GENERAL.—The first sentence of section 3 (16 U.S.C. 777b) is amended—

(A) by striking “Sport Fish Restoration Account” and inserting “Sport Fish Restoration and Boating Trust Fund”; and

(B) by striking “that Account” and inserting “that Trust Fund, except as provided in section 9504(c) of the Internal Revenue Code of 1986”.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) take effect on October 1, 2005.

16 USC 777b
note.

SEC. 10113. DIVISION OF ANNUAL APPROPRIATIONS.

Section 4 (16 U.S.C. 777c) is amended—

(1) by striking subsections (a) through (c) and redesignating subsections (d), (e), (f), and (g) as subsections (b), (c), (d), and (e), respectively;

(2) by inserting before subsection (b), as redesignated by paragraph (1), the following:

“(a) IN GENERAL.—For each of fiscal years 2006 through 2009, the balance of each annual appropriation made in accordance with the provisions of section 3 remaining after the distributions for administrative expenses and other purposes under subsection (b) and for multistate conservation grants under section 14 shall be distributed as follows:

“(1) COASTAL WETLANDS.—An amount equal to 18.5 percent to the Secretary of the Interior for distribution as provided in the Coastal Wetlands Planning, Protection, and Restoration Act (16 U.S.C. 3951 et seq.).

“(2) BOATING SAFETY.—An amount equal to 18.5 percent to the Secretary of the department in which the Coast Guard is operating for State recreational boating safety programs under section 13106 of title 46, United States Code.

“(3) CLEAN VESSEL ACT.—An amount equal to 2.0 percent to the Secretary of the Interior for qualified projects under section 5604(c) of the Clean Vessel Act of 1992 (33 U.S.C. 1322 note).

“(4) BOATING INFRASTRUCTURE.—An amount equal to 2.0 percent to the Secretary of the Interior for obligation for qualified projects under section 7404(d) of the Sportfishing and Boating Safety Act of 1998 (16 U.S.C. 777g–1(d)).

“(5) NATIONAL OUTREACH AND COMMUNICATIONS.—An amount equal to 2.0 percent to the Secretary of the Interior for the National Outreach and Communications Program under section 8(d) of this Act. Such amounts shall remain available

for 3 fiscal years, after which any portion thereof that is unobligated by the Secretary for that program may be expended by the Secretary under subsection (c) of this section.”;

(3) by striking (b)(1)(A), as redesignated by paragraph (1), and inserting the following:

“(A) SET-ASIDE FOR ADMINISTRATION.—From the annual appropriation made in accordance with section 3, for each of fiscal years 2006 through 2009, the Secretary of the Interior may use no more than the amount specified in subparagraph (B) for the fiscal year for expenses for administration incurred in the implementation of this Act, in accordance with this section and section 9. The amount specified in subparagraph (B) for a fiscal year may not be included in the amount of the annual appropriation distributed under subsection (a) for the fiscal year.”;

(4) by striking “Secretary of the Interior, after the distribution, transfer, use, and deduction under subsections (a), (b), (c), and (d), respectively, and after deducting amounts used for grants under section 14, shall apportion the remainder” in subsection (c), as redesignated by paragraph (1), and inserting “Secretary, for each of fiscal years 2006 through 2009, after the distribution, transfer, use and deduction under subsection (b), and after deducting amounts used for grants under section 14 of this title, shall apportion 57 percent of the balance”;

(5) by striking “per centum” each place it appears in subsection (c), as redesignated by paragraph (1), and inserting “percent”;

(6) by striking “subsections (a), (b)(3)(A), (b)(3)(B), and (c)” in paragraph (1) of subsection (e), as redesignated by paragraph (1), and inserting “paragraphs (1), (3), (4), and (5) of subsection (a)”;

(7) by adding at the end the following:

“(f) TRANSFER OF CERTAIN FUNDS.—Amounts available under paragraphs (3) and (4) of subsection (a) that are unobligated by the Secretary of the Interior after 3 fiscal years shall be transferred to the Secretary of the department in which the Coast Guard is operating and shall be expended for State recreational boating safety programs under section 13106(a) of title 46, United States Code.”.

SEC. 10114. MAINTENANCE OF PROJECTS.

Section 8 (16 U.S.C. 777g) is amended—

(1) by striking “in carrying out the research program of the Fish and Wildlife Service in respect to fish of material value for sport or recreation.” in subsection (b)(2) and inserting “to supplement the 57 percent of the balance of each annual appropriation to be apportioned among the States under section 4(c).”; and

(2) by striking “subsection (c) or (d)” in subsection (d)(3) and inserting “subsection (a)(5) or subsection (b)”.

SEC. 10115. BOATING INFRASTRUCTURE.

Section 7404(d)(1) of the Sportfishing and Boating Safety Act of 1998 (16 U.S.C. 777g–1(d)(1)) is amended by striking “section 4(b)(3)(B) of the Act entitled ‘An Act to provide that the United States shall aid the States in fish restoration and management projects, and for other purposes,’ approved August 9, 1950, as

amended by this Act,” and inserting “section 4(a)(4) of the Dingell-Johnson Sport Fish Restoration Act”.

SEC. 10116. REQUIREMENTS AND RESTRICTIONS CONCERNING USE OF AMOUNTS FOR EXPENSES FOR ADMINISTRATION.

Section 9 (16 U.S.C. 777h) is amended—

(1) by striking “section 4(d)(1)” in subsection (a) and inserting “section 4(b)”; and

(2) by striking “section 4(d)(1)” in subsection (b)(1) and inserting “section 4(b)”.

SEC. 10117. PAYMENTS OF FUNDS TO AND COOPERATION WITH PUERTO RICO, THE DISTRICT OF COLUMBIA, GUAM, AMERICAN SAMOA, THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS, AND THE VIRGIN ISLANDS.

Section 12 (16 U.S.C. 777k) is amended by striking “in carrying on the research program of the Fish and Wildlife Service in respect to fish of material value for sport or recreation.” and inserting “to supplement the 57 percent of the balance of each annual appropriation to be apportioned among the States under section 4(b) of this Act.”.

SEC. 10118. MULTISTATE CONSERVATION GRANT PROGRAM.

Section 14 (16 U.S.C. 777m) is amended—

(1) by striking so much of subsection (a) as precedes paragraph (2) and inserting the following:

“(a) IN GENERAL.—

“(1) AMOUNT FOR GRANTS.—For each of fiscal years 2006 through 2009, not more than \$3,000,000 of each annual appropriation made in accordance with the provisions of section 3 shall be distributed to the Secretary of the Interior for making multistate conservation project grants in accordance with this section.”;

(2) by striking “section 4(e)” each place it appears in subsection (a)(2)(B) and inserting “section 4(c)”; and

(3) by striking “Of the balance of each annual appropriation made under section 3 remaining after the distribution and use under subsections (a), (b), and (c) of section 4 for each fiscal year and after deducting amounts used for grants under subsection (a)—” in subsection (e) and inserting “Of amounts made available under section 4(b) for each fiscal year—”.

SEC. 10119. EXPENDITURE OF REMAINING BALANCE IN BOAT SAFETY ACCOUNT.

The Act is amended by redesignating section 15 (16 U.S.C. 777 note) as section 16, and by inserting after section 14 the following:

“SEC. 15. EXPENDITURE OF REMAINING BALANCE IN BOAT SAFETY ACCOUNT. 16 USC 777n.

“Amounts remaining in the Boat Safety Account on October 1, 2005, and amounts thereafter credited to the Account under section 9602(b) of the Internal Revenue Code of 1986, shall be available, without further appropriation, for making expenditures before October 1, 2010, to carry out the purposes of this section and shall be distributed as follows:

“(1) In fiscal year 2006, \$28,155,000 shall be distributed—

- “(A) under section 4 of this Act in the following manner:
- “(i) \$11,200,000 to be added to funds available under subsection (a)(2) of that section;
 - “(ii) \$1,245,000 to be added to funds available under subsection (a)(3) of that section;
 - “(iii) \$1,245,000 to be added to funds available under subsection (a)(4) of that section;
 - “(iv) \$1,245,000 to be added to funds available under subsection (a)(5) of that section; and
 - “(v) \$12,800,000 to be added to funds available under subsection (b) of that section; and
- “(B) under section 14 of this Act, \$420,000, to be added to funds available under subsection (a)(1) of that section.
- “(2) In fiscal year 2007, \$22,419,000 shall be distributed—
- “(A) under section 4 of this Act in the following manner:
- “(i) \$8,075,000 to be added to funds available under subsection (a)(2) of that section;
 - “(ii) \$713,000 to be added to funds available under subsection (a)(3) of that section;
 - “(iii) \$713,000 to be added to funds available under subsection (a)(4) of that section;
 - “(iv) \$713,000 to be added to funds available under subsection (a)(5) of that section; and
 - “(v) \$11,925,000 to be added to funds available under subsection (b) of this Act; and
- “(B) under section 14 of this Act, \$280,000 to be added to funds available under subsection (a)(1) of that section.
- “(3) In fiscal year 2008, \$17,139,000 shall be distributed—
- “(A) under section 4 of this Act in the following manner:
- “(i) \$6,800,000 to be added to funds available under subsection (a)(2) of that section;
 - “(ii) \$333,000 to be added to funds available under subsection (a)(3) of that section;
 - “(iii) \$333,000 to be added to funds available under subsection (a)(4) of that section;
 - “(iv) \$333,000 to be added to funds available under subsection (a)(5) of that section; and
 - “(v) \$9,200,000 to be added to funds available under subsection (b) of that section; and
- “(B) under section 14 of this Act, \$140,000, to be added to funds available under subsection (a)(1) of that section.
- “(4) In fiscal year 2009, \$12,287,000 shall be distributed—
- “(A) under section 4 of this Act in the following manner:
- “(i) \$5,100,000 to be added to funds available under subsection (a)(2) of that section;
 - “(ii) \$48,000 to be added to funds available under subsection (a)(3) of that section;
 - “(iii) \$48,000 to be added to funds available under subsection (a)(4) of that section;
 - “(iv) \$48,000 to be added to funds available under subsection (a)(5) of that section; and
 - “(v) \$6,900,000 to be added to funds available under subsection (b) of that section; and
- “(B) under section 14 of this Act, \$143,000, to be added to funds available under subsection (a)(1) of that section.

“(5) In fiscal year 2010, all remaining funds in the Account shall be distributed under section 4 of this Act in the following manner:

“(A) one-third to be added to funds available under subsection (b); and

“(B) two-thirds to be added to funds available under subsection (h).”.

CHAPTER 2—CLEAN VESSEL ACT OF 1992 AMENDMENTS

SEC. 10131. GRANT PROGRAM.

Section 5604(c)(2) of the Clean Vessel Act of 1992 (33 U.S.C. 1322 note) is amended—

(1) by striking subparagraph (A);

(2) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively; and

(3) in subparagraph (A), as so redesignated, by striking “receptions” and inserting “reception”.

CHAPTER 3—RECREATIONAL BOATING SAFETY PROGRAM AMENDMENTS

SEC. 10141. TECHNICAL CORRECTION.

Section 13102(a) of title 46, United States Code, is amended by striking “the Boat Safety Account” and inserting “the Sport Fish Restoration and Boating Trust Fund”.

SEC. 10142. AVAILABILITY OF ALLOCATIONS.

Section 13104(a) of title 46, United States Code, is amended—

(1) by striking “2 years” in paragraph (1) and inserting “3 years”; and

(2) by striking “2-year” in paragraph (2) and inserting “3-year”.

SEC. 10143. AUTHORIZATION OF APPROPRIATIONS FOR STATE RECREATIONAL BOATING SAFETY PROGRAMS.

Section 13106 of title 46, United States Code, is amended—

(1) in subsection (a)(1) by striking “the amount appropriated from the Boat Safety Account for that fiscal year” and inserting “the amount made available from the Boat Safety Account for that fiscal year under section 10119 of the Sportfishing and Recreational Boating Safety Act of 2005”;

(2) in subsection (a)(1) by striking “section 4(b) of the Act of August 9, 1950 (16 U.S.C. 777c(b))” and inserting “subsection (a)(2) of section 4 of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777c(a)(2))”;

(3) in subsection (a)(2) by striking “not less than one percent and”;

(4) in subsection (c)(1)—

(A) by striking “Secretary of Transportation under paragraph (5)(C) of section 4(b)” and inserting “Secretary under subsection (a)(2) of section 4”;

(B) by striking “(16 U.S.C. 777c(b))” and inserting “(16 U.S.C. 777c(a)(2))”;

(C) by striking “\$3,333,336” and inserting “\$4,266,666”;

(D) by striking “\$1,333,336” and inserting “not less than \$2,083,333”; and

(5) in subsection (c)(3) by striking “until expended.” and inserting “during the 2 succeeding fiscal years. Any amount that is unexpected or unobligated at the end of the 3-year period during which it is available shall be withdrawn by the Secretary and allocated to the States in addition to any other amounts available for allocation in the fiscal year in which they are withdrawn or the following fiscal year.”.

Subtitle B—Other Miscellaneous Provisions

15 USC 657g
note.

SEC. 10201. NOTICE REGARDING PARTICIPATION OF SMALL BUSINESS CONCERNS.

The Secretary shall notify each State or political subdivision of a State to which the Secretary awards a grant or other Federal funds of the criteria for participation by a small business concern in any program or project that is funded, in whole or in part, by the Federal Government under section 155 of the Small Business Reauthorization and Manufacturing Assistance Act of 2004 (15 U.S.C. 567g).

42 USC 300d–4.

SEC. 10202. EMERGENCY MEDICAL SERVICES.

(a) FEDERAL INTERAGENCY COMMITTEE ON EMERGENCY MEDICAL SERVICES.—

(1) ESTABLISHMENT.—The Secretary of Transportation, the Secretary of Health and Human Services, and the Secretary of Homeland Security, acting through the Under Secretary for Emergency Preparedness and Response, shall establish a Federal Interagency Committee on Emergency Medical Services.

(2) MEMBERSHIP.—The Interagency Committee shall consist of the following officials, or their designees:

(A) The Administrator, National Highway Traffic Safety Administration.

(B) The Director, Preparedness Division, Directorate of Emergency Preparedness and Response of the Department of Homeland Security.

(C) The Administrator, Health Resources and Services Administration, Department of Health and Human Services.

(D) The Director, Centers for Disease Control and Prevention, Department of Health and Human Services.

(E) The Administrator, United States Fire Administration, Directorate of Emergency Preparedness and Response of the Department of Homeland Security.

(F) The Administrator, Centers for Medicare and Medicaid Services, Department of Health and Human Services.

(G) The Under Secretary of Defense for Personnel and Readiness.

(H) The Director, Indian Health Service, Department of Health and Human Services.

(I) The Chief, Wireless Telecommunications Bureau, Federal Communications Commission.

(J) A representative of any other Federal agency appointed by the Secretary of Transportation or the Secretary of Homeland Security through the Under Secretary

for Emergency Preparedness and Response, in consultation with the Secretary of Health and Human Services, as having a significant role in relation to the purposes of the Interagency Committee.

(K) A State emergency medical services director appointed by the Secretary.

(3) PURPOSES.—The purposes of the Interagency Committee are as follows:

(A) To ensure coordination among the Federal agencies involved with State, local, tribal, or regional emergency medical services and 9–1–1 systems.

(B) To identify State, local, tribal, or regional emergency medical services and 9–1–1 needs.

(C) To recommend new or expanded programs, including grant programs, for improving State, local, tribal, or regional emergency medical services and implementing improved emergency medical services communications technologies, including wireless 9–1–1.

(D) To identify ways to streamline the process through which Federal agencies support State, local, tribal or regional emergency medical services.

(E) To assist State, local, tribal or regional emergency medical services in setting priorities based on identified needs.

(F) To advise, consult, and make recommendations on matters relating to the implementation of the coordinated State emergency medical services programs.

(4) ADMINISTRATION.—The Administrator of the National Highway Traffic Safety Administration, in cooperation with the Administrator of the Health Resources and Services Administration of the Department of Health and Human Services and the Director of the Preparedness Division, Directorate of Emergency Preparedness and Response of the Department of Homeland Security, shall provide administrative support to the Interagency Committee, including scheduling meetings, setting agendas, keeping minutes and records, and producing reports.

(5) LEADERSHIP.—The members of the Interagency Committee shall select a chairperson of the Committee each year.

(6) MEETINGS.—The Interagency Committee shall meet as frequently as is determined necessary by the chairperson of the Committee.

(7) ANNUAL REPORTS.—The Interagency Committee shall prepare an annual report to Congress regarding the Committee's activities, actions, and recommendations.

SEC. 10203. HUBZONE PROGRAM.

Section 3(p)(4)(B)(ii) of the Small Business Act (15 U.S.C. 632(p)(4)(B)(ii)) is amended—

(1) in subclause (I) by striking “or” at the end;

(2) in subclause (II) by striking the period at the end and inserting “; or”; and

(3) by adding after subclause (II) the following:

“(III) there is located a difficult development area, as designated by the Secretary of Housing and Urban Development in accordance with section 42(d)(5)(C)(iii) of the Internal Revenue Code of

1986, within Alaska, Hawaii, or any territory or possession of the United States outside the 48 contiguous States.”.

SEC. 10204. CATASTROPHIC HURRICANE EVACUATION PLANS.

(a) **IN GENERAL.**—The Secretary and the Secretary of Homeland Security (referred to in this section as the “Secretaries”), in coordination with the Gulf Coast States and contiguous States, shall jointly review and assess Federal and State evacuation plans for catastrophic hurricanes impacting the Gulf Coast Region and report its findings and recommendations to Congress.

(b) **CONSULTATION.**—In carrying out this section, the Secretaries shall consult with appropriate Federal, State, and local transportation and emergency management agencies.

(c) **CONTENTS.**—In conducting the review, the Secretaries shall consider, at a minimum—

(1) all practical modes of transportation available for evacuations;

(2) the extent to which evacuation plans are coordinated with neighboring States;

(3) methods of communicating evacuation plans and preparing citizens in advance of evacuations; and

(4) methods of coordinating communication with evacuees during plan execution.

(d) **REPORT.**—The Secretaries shall submit to Congress a report of their findings under this section and recommendations not later than October 1, 2006.

SEC. 10205. INTERMODAL TRANSPORTATION FACILITY EXPANSION.

Any funds provided for the Federal share, and any funds provided for the non-Federal share, for an intermodal transportation maritime facility at the Port of Anchorage, Alaska, or for access to that facility shall be transferred to and administered by the Administrator of the Maritime Administration.

16 USC 1855
note.

SEC. 10206. ELIGIBILITY TO PARTICIPATE IN WESTERN ALASKA COMMUNITY DEVELOPMENT QUOTA PROGRAM.

A community shall be eligible to participate in the western Alaska community development quota program established under section 305(i) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1855(i)) if the community—

(1) is listed in table 7 to part 679 of title 50, Code of Federal Regulations, as in effect on March 8, 2004; or

(2) was determined to be eligible to participate in such program by the National Marine Fisheries Service on April 19, 1999.

Alabama.

SEC. 10207. RAIL REHABILITATION AND BRIDGE REPAIR.

There are authorized to be appropriated to the Secretary of Transportation for rail rehabilitation and bridge repair in the State of Alabama for the period encompassing fiscal years 2006 through 2010 such sums as may be necessary, for work on—

(1) the Luxapalila Valley Railroad from the Mississippi and Alabama State line east to Belk, Alabama;

(2) the Meridian and Bigbee Railroad from the Mississippi and Alabama State line east to Burkeville, Alabama;

(3) the Three Notch Railroad from Georgiana, Alabama, to Andalusia, Alabama;

- (4) the Wiregrass Railroad in Alabama;
- (5) the Alabama and Gulf Coast Railroad from the Mississippi and Alabama State line southeast to Mobile and Atmore in Alabama; and
- (6) the railroad bridge that spans the Coosa River, connecting the east and west sides of the City of Gadsden, Alabama.

SEC. 10208. RENTED OR LEASED MOTOR VEHICLES.

(a) IN GENERAL.—Subchapter I of chapter 301 of title 49, United States Code, is amended by adding at the end the following: 49 USC 30101.

“§ 30106. Rented or leased motor vehicle safety and responsibility

“(a) IN GENERAL.—An owner of a motor vehicle that rents or leases the vehicle to a person (or an affiliate of the owner) shall not be liable under the law of any State or political subdivision thereof, by reason of being the owner of the vehicle (or an affiliate of the owner), for harm to persons or property that results or arises out of the use, operation, or possession of the vehicle during the period of the rental or lease, if—

“(1) the owner (or an affiliate of the owner) is engaged in the trade or business of renting or leasing motor vehicles; and

“(2) there is no negligence or criminal wrongdoing on the part of the owner (or an affiliate of the owner).

“(b) FINANCIAL RESPONSIBILITY LAWS.—Nothing in this section supersedes the law of any State or political subdivision thereof—

“(1) imposing financial responsibility or insurance standards on the owner of a motor vehicle for the privilege of registering and operating a motor vehicle; or

“(2) imposing liability on business entities engaged in the trade or business of renting or leasing motor vehicles for failure to meet the financial responsibility or liability insurance requirements under State law.

“(c) APPLICABILITY AND EFFECTIVE DATE.—Notwithstanding any other provision of law, this section shall apply with respect to any action commenced on or after the date of enactment of this section without regard to whether the harm that is the subject of the action, or the conduct that caused the harm, occurred before such date of enactment.

“(d) DEFINITIONS.—In this section, the following definitions apply:

“(1) AFFILIATE.—The term ‘affiliate’ means a person other than the owner that directly or indirectly controls, is controlled by, or is under common control with the owner. In the preceding sentence, the term ‘control’ means the power to direct the management and policies of a person whether through ownership of voting securities or otherwise.

“(2) OWNER.—The term ‘owner’ means a person who is—

“(A) a record or beneficial owner, holder of title, lessor, or lessee of a motor vehicle;

“(B) entitled to the use and possession of a motor vehicle subject to a security interest in another person; or

“(C) a lessor, lessee, or a bailee of a motor vehicle, in the trade or business of renting or leasing motor vehicles,

having the use or possession thereof, under a lease, bailment, or otherwise.

“(3) PERSON.—The term ‘person’ means any individual, corporation, company, limited liability company, trust, association, firm, partnership, society, joint stock company, or any other entity.”.

(b) CLERICAL AMENDMENT.—The analysis for such chapter is amended by inserting after the item relating to section 30105 the following:

“30106. Rented or leased motor vehicle safety and responsibility.”.

SEC. 10209. MIDWAY ISLAND.

(a) GRANTS.—In order to provide for both the safety of commercial and military aviation operations and the support of resource management in the remote Pacific, the Commandant of the Coast Guard, in consultation with the Secretary of Transportation and the Undersecretary of Commerce for Oceans and Atmosphere, shall develop such memoranda of understanding as may be necessary, and to make grants or otherwise provide funding, to provide for the operation of the Midway Airport, the rightsizing of necessary infrastructure and support facilities, the maintenance and development of the Airport, and other related matters.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the United States Coast Guard, the Department of Transportation, and the National Oceanic and Atmospheric Administration such sums as may be necessary to carry out this section for fiscal years 2006 through 2009.

SEC. 10210. DEMONSTRATION OF DIGITAL PROJECT SIMULATION.

(a) IN GENERAL.—

(1) DIGITAL PROJECT SIMULATION DEMONSTRATION PROJECT.—The Secretary shall establish a demonstration initiative using digital project simulation to plan, design, and construct the project listed in item 459 designated in section 1934 of the SAFETEA-LU.

(2) COOPERATION.—To be eligible to receive funds made available for the project referred to in paragraph (1), the project sponsor, including private entities working with the project sponsor on the project, and the State shall enter into an agreement to work cooperatively with the Secretary to use digital project simulation for such project and to evaluate the effectiveness of using such simulation.

(b) SIMULATION PROGRAM DEVELOPMENT.—

(1) IN GENERAL.—In establishing the demonstration initiative under subsection (a), the Secretary shall provide, to the extent practicable, that—

(A) the planning, design, and construction of the project is carried out by using digital project simulation to achieve savings and efficiency in investment planning, project delivery coordination, and facility management; and

(B) in constructing such project, the project sponsor use digital lifecycle management techniques, including the use of embedded electronics and software to monitor performance of the infrastructure and provide safety and security information to the project sponsor.

(2) COLLABORATION.—The Secretary, the State, and the project sponsor may consult with technology companies and

educational institutions that strive to develop and enhance technologies, including digital project simulation, that save money and time by using efficient methods of design, construction, and operation for transportation infrastructure projects.

(c) REPORT.—

(1) IN GENERAL.—Not later than one year after completion of the project described in subsection (a), the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a detailed report comparing the application of digital project simulation for such project to more traditional approaches to planning, design, and construction.

(2) PERFORMANCE MEASURES AND RECOMMENDATIONS.—The report shall also include—

(A) a description of the performance measures applied, including cost comparisons and length of construction; and

(B) recommendations, if any, for administrative or legislative action.

(d) DEFINITION.—For purposes of this section, the term “digital project simulation” means computer-assisted three-dimensional technology and digital lifecycle management.

SEC. 10211. ENVIRONMENTAL PROGRAMS.

(a) OKLAHOMA.—Notwithstanding any other provision of law, if the Administrator of the Environmental Protection Agency (referred to in this section as the “Administrator”) determines that a regulatory program submitted by the State of Oklahoma for approval by the Administrator under a law administered by the Administrator meets applicable requirements of the law, and the Administrator approves the State to administer the State program under the law with respect to areas in the State that are not Indian country, on request of the State, the Administrator shall approve the State to administer the State program in the areas of the State that are in Indian country, without any further demonstration of authority by the State.

(b) TREATMENT AS STATE.—Notwithstanding any other provision of law, the Administrator may treat an Indian tribe in the State of Oklahoma as a State under a law administered by the Administrator only if—

(1) the Indian tribe meets requirements under the law to be treated as a State; and

(2) the Indian tribe and the agency of the State of Oklahoma with federally delegated program authority enter into a cooperative agreement, subject to review and approval of the Administrator after notice and opportunity for public hearing, under which the Indian tribe and that State agency agree to treatment of the Indian tribe as a State and to jointly plan administer program requirements.

SEC. 10212. RESCISSION OF UNOBLIGATED BALANCES.

(a) IN GENERAL.—On September 30, 2009, \$8,543,000,000 of the unobligated balances of funds apportioned before such date to the States for the Interstate maintenance, national highway system, bridge, congestion mitigation and air quality improvement, surface transportation (other than the STP set-aside programs), metropolitan planning, minimum guarantee, Appalachian development highway system, recreational trails, safe routes to school,

freight intermodal connectors, coordinated border infrastructure, high risk rural road, and highway safety improvement programs, and each of the STP set-aside programs, is rescinded.

(b) ALLOCATION AMONG STATES.—The Secretary shall determine each State's share of the amount to be rescinded by subsection (a) on September 30, 2009, by multiplying \$8,543,000,000 by the ratio of the aggregate amount apportioned to such State for fiscal years 2004 through 2009 for all the programs referred to in subsection (a) to the aggregate amount apportioned to all States for such fiscal years for those programs.

(c) CALCULATIONS.—To determine the allocation of the amount to be rescinded for a State under subsection (b) among the programs referred to in subsection (a), the Secretary shall make the following calculations:

(1) The Secretary shall multiply such amount to be rescinded by the ratio that the aggregate amount of unobligated funds available to the State on September 30, 2009, for each such program bears to the aggregate amount of unobligated funds available to the State on September 30, 2009, for all such programs.

(2) The Secretary shall multiply such amount to be rescinded by the ratio that the aggregate of the amount apportioned to the State for each such program for fiscal years 2004 through 2009 bears to the aggregate amount apportioned to the State for all such programs for fiscal years 2004 through 2009.

(d) ALLOCATION AMONG PROGRAMS.—

(1) IN GENERAL.—The Secretary, in consultation with the State, shall rescind for the State from each program referred to in subsection (a) the amount determined for the program under subsection (c)(1).

(2) SPECIAL RULE.—

(A) RESTORATION OF FUNDS FOR COVERED PROGRAMS.—

If the rescission calculated under subsection (c)(1) for a covered program exceeds the amount calculated for the covered program under subsection (c)(2), the State shall immediately restore to the apportionment account for the covered program from the unobligated balances of programs referred to in subsection (a) (other than covered programs) the amount of funds required so that the net rescission from the covered program does not exceed the amount calculated for the covered program under subsection (c)(2).

(B) TREATMENT OF RESTORED FUNDS.—Any funds restored under subparagraph (A) shall be deemed to be the funds that were rescinded for the purposes of obligation.

(3) COVERED PROGRAM DEFINED.—In paragraph (2), the term “covered program” means a program authorized under sections 130 and 152 of title 23, United States Code, paragraph (2) or (3) of section 133(d) of that title, section 144 of that title, section 149 of that title, or section 1404 of this Act.

(e) TREATMENT OF SAFETY PROGRAMS.—In making calculations under subsections (c)(1), (c)(2), and (d)(2), the Secretary shall treat the STP set-aside program for safety programs and the highway safety improvement program as a single program.

(f) STP SET-ASIDE PROGRAM DEFINED.—In this section, the term “STP set-aside program” means the amount set aside under section 133(d) of title 23, United States Code, for each of the

safety programs, transportation enhancement activities, and division between urbanized areas of over 200,000 population and other areas.

SEC. 10213. TRIBAL LAND.

Section 707(a) of Public Law 106–568 (25 U.S.C. 1041e(a)) is amended—

- (1) in paragraph (1) by striking “(1) IN GENERAL.—”; and
- (2) by striking paragraph (2).

Subtitle C—Specific Vehicle Safety-related Rulings

SEC. 10301. VEHICLE ROLLOVER PREVENTION AND CRASH MITIGATION.

(a) IN GENERAL.—Subchapter II of chapter 301 is amended by adding at the end the following:

“§ 30128. Vehicle rollover prevention and crash mitigation 49 USC 30128.

“(a) IN GENERAL.—The Secretary shall initiate rulemaking proceedings, for the purpose of establishing rules or standards that will reduce vehicle rollover crashes and mitigate deaths and injuries associated with such crashes for motor vehicles with a gross vehicle weight rating of not more than 10,000 pounds.

“(b) ROLLOVER PREVENTION.—One of the rulemaking proceedings initiated under subsection (a) shall be to establish performance criteria to reduce the occurrence of rollovers consistent with stability enhancing technologies. The Secretary shall issue a proposed rule in this proceeding by rule by October 1, 2006, and a final rule by April 1, 2009.

Deadlines.

“(c) OCCUPANT EJECTION PREVENTION.—

Deadlines.

“(1) IN GENERAL.—The Secretary shall also initiate a rulemaking proceeding to establish performance standards to reduce complete and partial ejections of vehicle occupants from outboard seating positions. In formulating the standards the Secretary shall consider various ejection mitigation systems. The Secretary shall issue a final rule under this paragraph no later than October 1, 2009.

“(2) DOOR LOCKS AND DOOR RETENTION.—The Secretary shall complete the rulemaking proceeding initiated to upgrade Federal Motor Vehicle Safety Standard No. 206, relating to door locks and door retention, no later than 30 months after the date of enactment of this section.

“(d) PROTECTION OF OCCUPANTS.—One of the rulemaking proceedings initiated under subsection (a) shall be to establish performance criteria to upgrade Federal Motor Vehicle Safety Standard No. 216 relating to roof strength for driver and passenger sides. The Secretary may consider industry and independent dynamic tests that realistically duplicate the actual forces transmitted during a rollover crash. The Secretary shall issue a proposed rule by December 31, 2005, and a final rule by July 1, 2008.

Deadlines.

“(e) DEADLINES.—If the Secretary determines that the deadline for a final rule under this section cannot be met, the Secretary shall—

Notification.	<p>“(1) notify the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce and explain why that deadline cannot be met; and</p> <p>“(2) establish a new deadline.”.</p>
49 USC 30101 note.	<p>SEC. 10302. SIDE-IMPACT CRASH PROTECTION RULEMAKING.</p> <p>(a) RULEMAKING.—The Secretary shall complete a rulemaking proceeding under chapter 301 of title 49, United States Code, to establish a standard designed to enhance passenger motor vehicle occupant protection, in all seating positions, in side impact crashes. The Secretary shall issue a final rule by July 1, 2008.</p> <p>(b) DEADLINES.—If the Secretary determines that the deadline for a final rule under this section cannot be met, the Secretary shall—</p> <p>(1) notify the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce and explain why that deadline cannot be met; and</p> <p>(2) establish a new deadline.</p>
Deadlines.	
Notification.	
Deadlines. Reports.	<p>SEC. 10303. TIRE RESEARCH.</p> <p>Within 2 years after the date of enactment of this Act, the Secretary shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce on research conducted to address tire aging. The report shall include a summary of any Federal agency findings, activities, conclusions, and recommendations concerning tire aging and recommendations for potential rulemaking regarding tire aging.</p> <p>(a) CONFORMING AMENDMENT.—The chapter analysis for chapter 301 is amended by inserting after the item relating to section 30127 the following:</p> <p>“30128. Vehicle accident ejection protection.”.</p>
49 USC 30101 note.	<p>SEC. 10304. VEHICLE BACKOVER AVOIDANCE TECHNOLOGY STUDY.</p> <p>(a) IN GENERAL.—The Administrator of the National Highway Traffic Safety Administration shall conduct a study of effective methods for reducing the incidence of injury and death outside of parked passenger motor vehicles with a gross vehicle weight rating of not more than 10,000 pounds attributable to movement of such vehicles. The Administrator shall complete the study within 1 year after the date of enactment of this Act and report its findings to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce not later than 15 months after the date of enactment of this Act.</p> <p>(b) SPECIFIC ISSUES TO BE COVERED.—The study required by subsection (a) shall—</p> <p>(1) include an analysis of backover prevention technology;</p> <p>(2) identify, evaluate, and compare the available technologies for detecting people or objects behind a motor vehicle with a gross vehicle weight rating of not more than 10,000 pounds for their accuracy, effectiveness, cost, and feasibility for installation; and</p>
Reports. Deadlines.	

(3) provide an estimate of cost savings that would result from widespread use of backover prevention devices and technologies in motor vehicles with a gross vehicle weight rating of not more than 10,000 pounds, including savings attributable to the prevention of—

(A) injuries and fatalities; and

(B) damage to bumpers and other motor vehicle parts and damage to other objects.

SEC. 10305. NONTRAFFIC INCIDENT DATA COLLECTION.

49 USC 30101
note.

(a) **IN GENERAL.**—In conjunction with the study required in section 10304, the National Highway Traffic Safety Administration shall establish a method to collect and maintain data on the number and types of injuries and deaths involving motor vehicles with a gross vehicle weight rating of not more than 10,000 pounds in non-traffic incidents.

(b) **DATA COLLECTION AND PUBLICATION.**—The Secretary of Transportation shall publish the data collected under subsection (a) no less frequently than biennially.

SEC. 10306. STUDY OF SAFETY BELT USE TECHNOLOGIES.

The Secretary shall conduct a review of safety belt use technologies to consider possible revisions in strategies for achieving further gains in safety belt use. The Secretary shall complete the study by July 1, 2008.

SEC. 10307. AMENDMENT OF AUTOMOBILE INFORMATION DISCLOSURE ACT.

(a) **SAFETY LABELING REQUIREMENT.**—Section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232) is amended—

(1) by striking “and” after the semicolon in subsection (e);

(2) by inserting “and” after the semicolon in subsection (f)(3);

(3) by striking “(3).” in subsection (f)(4) and inserting “(3);”;

and

(4) by adding at the end the following:

“(g) if one or more safety ratings for such automobile have been assigned and formally published or released by the National Highway Traffic Safety Administration under the New Car Assessment Program, information about safety ratings that—

“(1) includes a graphic depiction of the number of stars, or other applicable rating, that corresponds to each such assigned safety rating displayed in a clearly differentiated fashion indicating the maximum possible safety rating;

“(2) refers to frontal impact crash tests, side impact crash tests, and rollover resistance tests (whether or not such automobile has been assigned a safety rating for such tests);

“(3) contains information describing the nature and meaning of the crash test data presented and a reference to additional vehicle safety resources, including <http://www.safecar.gov>; and

“(4) is presented in a legible, visible, and prominent fashion and covers at least—

“(A) 8 percent of the total area of the label; or

“(B) an area with a minimum length of 4½ inches and a minimum height of 3½ inches; and

“(h) if an automobile has not been tested by the National Highway Traffic Safety Administration under the New Car Assessment Program, or safety ratings for such automobile have not been assigned in one or more rating categories, a statement to that effect.”.

Deadline.
15 USC 1232
note.

(b) REGULATIONS.—The Secretary of Transportation shall issue regulations to ensure that the labeling requirements under subsections (g) and (h) of section 3 of the Automobile Information Disclosure Act, as added by subsection (a), are implemented by September 1, 2007.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation, to accelerate the testing processes and increasing the number of vehicles tested under the New Car Assessment Program of the National Highway Traffic Safety Administration—

- (1) \$15,000,000 for fiscal year 2006;
- (2) \$8,134,065 for fiscal year 2007;
- (3) \$8,418,760 for fiscal year 2008;
- (4) \$8,713,410 for fiscal year 2009; and
- (5) \$9,018,385 for fiscal year 2010.

SEC. 10308. POWER WINDOW SWITCHES.

The Secretary shall upgrade Federal Motor Vehicle Safety Standard 118 to require that power windows in motor vehicles not in excess of 10,000 pounds have switches that raise the window only when the switch is pulled up or out. The Secretary shall issue a final rule implementing this section by April 1, 2007.

Deadline.

49 USC 30117.

SEC. 10309. 15-PASSENGER VAN SAFETY.

(a) TESTING.—

(1) IN GENERAL.—The Secretary of Transportation shall require the testing of 15-passenger vans as part of the rollover resistance program of the National Highway Traffic Safety Administration's new car assessment program.

(2) 15-PASSENGER VAN DEFINED.—In this subsection, the term “15-passenger van” means a vehicle that seats 10 to 14 passengers, not including the driver.

49 USC 30112.

(b) PROHIBITION OF PURCHASE, RENTAL, OR LEASE OF NONCOMPLYING 15-PASSENGER VANS FOR SCHOOL USE.—Section 30112(a) is amended—

(1) by inserting “(1)” before “Except as provided”; and

(2) by adding at the end the following:

“(2) Except as provided in this section, sections 30113 and 30114 of this title, and subchapter III of this chapter, a school or school system may not purchase or lease a new 15-passenger van if it will be used significantly by, or on behalf of, the school or school system to transport preprimary, primary, or secondary school students to or from school or an event related to school, unless the 15-passenger van complies with the motor vehicle standards prescribed for school buses and multifunction school activity buses under this title. This paragraph does not apply to the purchase or lease of a 15-passenger van under a contract executed before the date of enactment of this paragraph.”.

49 USC 30165.

(c) PENALTY.—Section 30165(a) is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following:

“(2) SCHOOL BUSES.—

“(A) IN GENERAL.—Notwithstanding paragraph (1), the maximum amount of a civil penalty under this paragraph shall be \$10,000 in the case of—

“(i) the manufacture, sale, offer for sale, introduction or delivery for introduction into interstate commerce, or importation of a school bus or school bus equipment (as those terms are defined in section 30125(a) of this title) in violation of section 30112(a)(1) of this title; or

“(ii) a violation of section 30112(a)(2) of this title.

“(B) RELATED SERIES OF VIOLATIONS.—A separate violation occurs for each motor vehicle or item of motor vehicle equipment and for each failure or refusal to allow or perform an act required by that section. The maximum penalty under this paragraph for a related series of violations is \$15,000,000.”.

SEC. 10310. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary to carry out this subtitle, chapter 301 of title 49, and part C of subtitle VI of title 49, United States Code—

- (1) \$136,000,000 for fiscal year 2006;
- (2) \$142,800,000 for fiscal year 2007;
- (3) \$149,900,000 for fiscal year 2008; and
- (4) \$157,400,000 for fiscal year 2009.

TITLE XI—HIGHWAY REAUTHORIZATION AND EXCISE TAX SIMPLIFICATION

SEC. 11100. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Trust Fund Reauthorization

SEC. 11101. EXTENSION OF HIGHWAY-RELATED TAXES AND TRUST FUNDS.

(a) EXTENSION OF TAXES.—

(1) IN GENERAL.—The following provisions are each amended by striking “2005” each place it appears and inserting “2011”:

(A) Section 4041(a)(1)(C)(iii)(I) (relating to rate of tax on certain buses). 26 USC 4041.

(B) Section 4041(a)(2)(B) (relating to rate of tax on special motor fuels).

(C) Section 4041(m)(1) (relating to certain alcohol fuels).

(D) Section 4051(c) (relating to termination of tax on heavy trucks and trailers).

(E) Section 4071(d) (relating to termination of tax on tires).

(F) Section 4081(d)(1) (relating to termination of tax on gasoline, diesel fuel, and kerosene).

(2) EXTENSION OF TAX, ETC., ON USE OF CERTAIN HEAVY VEHICLES.—The following provisions are each amended by striking “2006” each place it appears and inserting “2011”:

(A) Section 4481(f) (relating to period tax in effect).

(B) Section 4482(c)(4) (relating to taxable period).

(C) Section 4482(d) (relating to special rule for taxable period in which termination date occurs).

(3) FLOOR STOCKS REFUNDS.—Section 6412(a)(1) (relating to floor stocks refunds) is amended—

(A) by striking “2005” each place it appears and inserting “2011”, and

(B) by striking “2006” each place it appears and inserting “2012”.

(b) EXTENSION OF CERTAIN EXEMPTIONS.—

(1) CERTAIN TAX-FREE SALES.—Section 4221(a) (relating to certain tax-free sales) is amended by striking “2005” and inserting “2011”.

(2) TERMINATION OF EXEMPTIONS FOR HIGHWAY USE TAX.—Section 4483(h) (relating to termination of exemptions for highway use tax) is amended by striking “2006” and inserting “2011”.

(c) EXTENSION OF TRANSFERS OF CERTAIN TAXES.—

(1) IN GENERAL.—Paragraphs (1) and (2) of subsection (b), and paragraphs (2) and (3) of subsection (c), of section 9503 (relating to the Highway Trust Fund) are each amended—

(A) by striking “2005” each place it appears and inserting “2011”, and

(B) by striking “2006” each place it appears and inserting “2012”.

(2) MOTORBOAT AND SMALL-ENGINE FUEL TAX TRANSFERS.—

(A) IN GENERAL.—Subparagraph (A) of section 9503(c)(5) is amended by striking “2005” and inserting “2011”.

(B) CONFORMING AMENDMENTS TO LAND AND WATER CONSERVATION FUND.—Section 201(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–11(b)) is amended—

(i) by striking “2003” and inserting “2011”, and

(ii) by striking “2004” each place it appears and inserting “2012”.

(d) EXTENSION AND EXPANSION OF EXPENDITURES FROM TRUST FUNDS.—

(1) HIGHWAY TRUST FUND.—

(A) HIGHWAY ACCOUNT.—Paragraph (1) of section 9503(c) of such Code is amended to read as follows:

“(1) FEDERAL-AID HIGHWAY PROGRAM.—Except as provided in subsection (e), amounts in the Highway Trust Fund shall be available, as provided by appropriation Acts, for making expenditures before September 30, 2009 (October 1, 2009, in the case of expenditures for administrative expenses), to meet those obligations of the United States heretofore or hereafter incurred which are authorized to be paid out of the Highway Trust Fund under the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users or any other provision of law which was referred to in this paragraph before

the date of the enactment of such Act (as such Act and provisions of law are in effect on the date of the enactment of such Act).”.

(B) MASS TRANSIT ACCOUNT.—Paragraph (3) of section 9503(e) of such Code is amended to read as follows:

“(3) EXPENDITURES FROM ACCOUNT.—Amounts in the Mass Transit Account shall be available, as provided by appropriation Acts, for making capital or capital related expenditures (including capital expenditures for new projects) before October 1, 2009, in accordance with the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users or any other provision of law which was referred to in this paragraph before the date of the enactment of such Act (as such Act and provisions of law are in effect on the date of the enactment of such Act).”.

(C) EXCEPTION TO LIMITATION ON TRANSFERS.—Subparagraph (B) of section 9503(b)(6) is amended by striking “July 31, 2005” and inserting “September 30, 2009 (October 1, 2009, in the case of expenditures for administrative expenses)”.

(2) AQUATIC RESOURCES TRUST FUND.—

(A) SPORT FISH RESTORATION ACCOUNT.—Paragraph (2) of section 9504(b) is amended by striking “Surface Transportation Extension Act of 2005, Part V” each place it appears and inserting “Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users”.

(B) EXCEPTION TO LIMITATION ON TRANSFERS.—Paragraph (2) of section 9504(d) is amended by striking “July 31, 2005” and inserting “October 1, 2009”.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

26 USC 4041
note.

SEC. 11102. MODIFICATION OF ADJUSTMENTS OF APPORTIONMENTS.

(a) IN GENERAL.—Section 9503(d) (relating to adjustments for apportionments) is amended—

(1) by striking “24-month” in paragraph (1)(B) and inserting “48-month”, and

(2) by striking “2 YEARS” IN THE HEADING FOR PARAGRAPH (3) AND INSERTING “4 YEARS”.

(b) MEASUREMENT OF NET HIGHWAY RECEIPTS.—Section 9503(d) is amended by redesignating paragraph (6) as paragraph (7) and by inserting after paragraph (5) the following new paragraph:

“(6) MEASUREMENT OF NET HIGHWAY RECEIPTS.—For purposes of making any estimate under paragraph (1) of net highway receipts for periods ending after the date specified in subsection (b)(1), the Secretary shall treat—

“(A) each expiring provision of subsection (b) which is related to appropriations or transfers to the Highway Trust Fund to have been extended through the end of the 48-month period referred to in paragraph (1)(B), and

“(B) with respect to each tax imposed under the sections referred to in subsection (b)(1), the rate of such tax during the 48-month period referred to in paragraph (1)(B) to be the same as the rate of such tax as in effect on the date of such estimate.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

26 USC 9503
note.

Subtitle B—Excise Tax Reform and Simplification

PART 1—HIGHWAY EXCISE TAXES

SEC. 11111. MODIFICATION OF GAS GUZZLER TAX.

(a) UNIFORM APPLICATION OF TAX.—Subparagraph (A) of section 4064(b)(1) (defining automobile) is amended by striking the second sentence.

26 USC 4064
note.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on October 1, 2005.

SEC. 11112. EXCLUSION FOR TRACTORS WEIGHING 19,500 POUNDS OR LESS FROM FEDERAL EXCISE TAX ON HEAVY TRUCKS AND TRAILERS.

(a) IN GENERAL.—Subsection (a) of section 4051 (relating to imposition of tax) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

“(4) EXCLUSION FOR TRACTORS WEIGHING 19,500 POUNDS OR LESS.—The tax imposed by paragraph (1) shall not apply to tractors of the kind chiefly used for highway transportation in combination with a trailer or semitrailer if—

“(A) such tractor has a gross vehicle weight of 19,500 pounds or less (as determined by the Secretary), and

“(B) such tractor, in combination with a trailer or semitrailer, has a gross combined weight of 33,000 pounds or less (as determined by the Secretary).”.

26 USC 4051
note.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to sales after September 30, 2005.

SEC. 11113. VOLUMETRIC EXCISE TAX CREDIT FOR ALTERNATIVE FUELS.

(a) IMPOSITION OF TAX.—

(1) IN GENERAL.—Section 4041(a)(2)(B) (relating to rate of tax) is amended—

(A) by adding “and” at the end of clause (i),

(B) by striking clauses (ii) and (iii),

(C) by striking the last sentence, and

(D) by adding after clause (i) the following new clause:

“(ii) in the case of liquefied natural gas, any liquid fuel (other than ethanol and methanol) derived from coal (including peat), and liquid hydrocarbons derived from biomass (as defined in section 29(c)(3)), 24.3 cents per gallon.”.

(2) TREATMENT OF COMPRESSED NATURAL GAS.—Section 4041(a)(3) (relating to compressed natural gas) is amended—

(A) by striking “48.54 cents per MCF (determined at standard temperature and pressure)” in subparagraph (A) and inserting “18.3 cents per energy equivalent of a gallon of gasoline”, and

(B) by striking “MCF” in subparagraph (C) and inserting “energy equivalent of a gallon of gasoline”.

(3) NEW REFERENCE.—The heading for paragraph (2) of section 4041(a) is amended by striking “SPECIAL MOTOR FUELS” and inserting “ALTERNATIVE FUELS”.

(b) CREDIT FOR ALTERNATIVE FUEL AND ALTERNATIVE FUEL MIXTURES.—

(1) IN GENERAL.—Section 6426(a) (relating to allowance of credits) is amended to read as follows:

“(a) ALLOWANCE OF CREDITS.—There shall be allowed as a credit—

“(1) against the tax imposed by section 4081 an amount equal to the sum of the credits described in subsections (b), (c), and (e), and

“(2) against the tax imposed by section 4041 an amount equal to the sum of the credits described in subsection (d). No credit shall be allowed in the case of the credits described in subsections (d) and (e) unless the taxpayer is registered under section 4101.”.

(2) ALTERNATIVE FUEL AND ALTERNATIVE FUEL MIXTURE CREDIT.—Section 6426 (relating to credit for alcohol fuel and biodiesel mixtures) is amended by redesignating subsections (d) and (e) as subsections (f) and (g) and by inserting after subsection (c) the following new subsections:

“(d) ALTERNATIVE FUEL CREDIT.—

“(1) IN GENERAL.—For purposes of this section, the alternative fuel credit is the product of 50 cents and the number of gallons of an alternative fuel or gasoline gallon equivalents of a nonliquid alternative fuel sold by the taxpayer for use as a fuel in a motor vehicle or motorboat, or so used by the taxpayer.

“(2) ALTERNATIVE FUEL.—For purposes of this section, the term ‘alternative fuel’ means—

“(A) liquefied petroleum gas,

“(B) P Series Fuels (as defined by the Secretary of Energy under section 13211(2) of title 42, United States Code),

“(C) compressed or liquefied natural gas,

“(D) liquefied hydrogen,

“(E) any liquid fuel derived from coal (including peat) through the Fischer-Tropsch process, and

“(F) liquid hydrocarbons derived from biomass (as defined in section 29(c)(3)).

Such term does not include ethanol, methanol, or biodiesel.

“(3) GASOLINE GALLON EQUIVALENT.—For purposes of this subsection, the term ‘gasoline gallon equivalent’ means, with respect to any nonliquid alternative fuel, the amount of such fuel having a Btu content of 124,800 (higher heating value).

“(4) TERMINATION.—This subsection shall not apply to any sale or use for any period after September 30, 2009 (September 30, 2014, in the case of any sale or use involving liquefied hydrogen).

“(e) ALTERNATIVE FUEL MIXTURE CREDIT.—

“(1) IN GENERAL.—For purposes of this section, the alternative fuel mixture credit is the product of 50 cents and the number of gallons of alternative fuel used by the taxpayer in producing any alternative fuel mixture for sale or use in a trade or business of the taxpayer.

“(2) ALTERNATIVE FUEL MIXTURE.—For purposes of this section, the term ‘alternative fuel mixture’ means a mixture of alternative fuel and taxable fuel (as defined in subparagraph (A), (B), or (C) of section 4083(a)(1)) which—

“(A) is sold by the taxpayer producing such mixture to any person for use as fuel, or

“(B) is used as a fuel by the taxpayer producing such mixture.

“(3) TERMINATION.—This subsection shall not apply to any sale or use for any period after September 30, 2009 (September 30, 2014, in the case of any sale or use involving liquefied hydrogen).”.

(3) CONFORMING AMENDMENTS.—

(A) The section heading for section 6426 is amended by striking “**ALCOHOL FUEL AND BIODIESEL**” and inserting “**ALCOHOL FUEL, BIODIESEL, AND ALTERNATIVE FUEL**”.

(B) The table of sections for subchapter B of chapter 65 is amended by striking “alcohol fuel and biodiesel” in the item relating to section 6426 and inserting “alcohol fuel, biodiesel, and alternative fuel”.

(C) Section 6427(e) is amended—

(i) by inserting “or the alternative fuel mixture credit” after “biodiesel mixture credit” in paragraph (1),

(ii) by redesignating paragraph (2) as paragraph (3) and paragraph (4) as paragraph (5),

(iii) by inserting after paragraph (1) the following new paragraph:

“(2) ALTERNATIVE FUEL.—If any person sells or uses an alternative fuel (as defined in section 6426(d)(2)) for a purpose described in section 6426(d)(1) in such person’s trade or business, the Secretary shall pay (without interest) to such person an amount equal to the alternative fuel credit with respect to such fuel.”.

(iv) by striking “under paragraph (1) with respect to any mixture” in paragraph (3) (as redesignated by clause (ii)) and inserting “under paragraph (1) or (2) with respect to any mixture or alternative fuel”,

(v) by inserting after paragraph (3) (as so redesignated) the following new paragraph:

“(4) REGISTRATION REQUIREMENT FOR ALTERNATIVE FUELS.—The Secretary shall not make any payment under this subsection to any person with respect to any alternative fuel credit or alternative fuel mixture credit unless the person is registered under section 4101.”.

(vi) by striking “and” at the end of paragraph (5)(A) (as redesignated by clause (ii)),

(vii) by striking the period at the end of paragraph

(5)(B) (as so redesignated) and inserting a comma,

(viii) by adding at the end of paragraph (5) (as so redesignated) the following new subparagraphs:

“(C) except as provided in subparagraph (D), any alternative fuel or alternative fuel mixture (as defined in subsection (d)(2) or (e)(3) of section 6426) sold or used after September 30, 2009, and

“(D) any alternative fuel or alternative fuel mixture (as so defined) involving liquefied hydrogen sold or used after September 30, 2014.”, and

(ix) by striking “OR BIODIESEL USED TO PRODUCE ALCOHOL FUEL AND BIODIESEL MIXTURES” in the

heading and inserting “, BIODIESEL, OR ALTERNATIVE FUEL”.

(c) **ADDITIONAL REGISTRATION REQUIREMENTS.**—Section 4101(a)(1) (relating to registration) is amended by striking “4041(a)(1)” and inserting “4041(a)”.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply to any sale or use for any period after September 30, 2006. 26 USC 4041 note.

PART 2—AQUATIC EXCISE TAXES

SEC. 11115. ELIMINATION OF AQUATIC RESOURCES TRUST FUND AND TRANSFORMATION OF SPORT FISH RESTORATION ACCOUNT.

(a) **SIMPLIFICATION OF FUNDING FOR BOAT SAFETY ACCOUNT.**—
(1) **IN GENERAL.**—Paragraph (4) of section 9503(c) (relating to transfers from Trust Fund for motorboat fuel taxes) is amended—

(A) by striking so much of that paragraph as precedes subparagraph (D),

(B) by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively, and

(C) by inserting before subparagraph (C) (as so redesignated) the following:

“(4) **TRANSFERS FROM THE TRUST FUND FOR MOTORBOAT FUEL TAXES.**—

“(A) **TRANSFER TO LAND AND WATER CONSERVATION FUND.**—

“(i) **IN GENERAL.**—The Secretary shall pay from time to time from the Highway Trust Fund into the land and water conservation fund provided for in title I of the Land and Water Conservation Fund Act of 1965 amounts (as determined by the Secretary) equivalent to the motorboat fuel taxes received on or after October 1, 2005, and before October 1, 2011.

“(ii) **LIMITATION.**—The aggregate amount transferred under this subparagraph during any fiscal year shall not exceed \$1,000,000.

“(B) **EXCESS FUNDS TRANSFERRED TO SPORT FISH RESTORATION AND BOATING TRUST FUND.**—Any amounts in the Highway Trust Fund—

“(i) which are attributable to motorboat fuel taxes, and

“(ii) which are not transferred from the Highway Trust Fund under subparagraph (A), shall be transferred by the Secretary from the Highway Trust Fund into the Sport Fish Restoration and Boating Trust Fund.”.

(2) **CONFORMING AMENDMENT.**—Paragraph (5) of section 9503(c) is amended by striking “Account in the Aquatic Resources” in subparagraph (A) and inserting “and Boating”.

(b) **MERGING OF ACCOUNTS.**—

(1) **IN GENERAL.**—Subsection (a) of section 9504 is amended to read as follows:

“(a) **CREATION OF TRUST FUND.**—There is hereby established in the Treasury of the United States a trust fund to be known as the ‘Sport Fish Restoration and Boating Trust Fund’. Such

Trust Fund shall consist of such amounts as may be appropriated, credited, or paid to it as provided in this section, section 9503(c)(4), section 9503(c)(5), or section 9602(b).”

(2) CONFORMING AMENDMENTS.—

(A) Subsection (b) of section 9504, as amended by section 11101 of this Act, is amended—

(i) by striking “ACCOUNT” in the heading thereof and inserting “AND BOATING TRUST FUND”,

(ii) by striking “Account” both places it appears in paragraphs (1) and (2) and inserting “and Boating Trust Fund”, and

(iii) by striking “ACCOUNT” both places it appears in the headings for paragraphs (1) and (2) and inserting “TRUST FUND”.

(B) Subsection (d) of section 9504, as amended by section 11101 of this Act, is amended—

(i) by striking “AQUATIC RESOURCES” in the heading thereof,

(ii) by striking “any Account in the Aquatic Resources” in paragraph (1) and inserting “the Sport Fish Restoration and Boating”, and

(iii) by striking “any such Account” in paragraph (1) and inserting “such Trust Fund”.

(C) Subsection (e) of section 9504 is amended by striking “Boat Safety Account and Sport Fish Restoration Account” and inserting “Sport Fish Restoration and Boating Trust Fund”.

(D) Section 9504 is amended by striking “AQUATIC RESOURCES” in the heading thereof and inserting “SPORT FISH RESTORATION AND BOATING”.

(E) The item relating to section 9504 in the table of sections for subchapter A of chapter 98 is amended by striking “aquatic resources” and inserting “sport fish restoration and boating”.

(F) Paragraph (2) of section 1511(e) of the Homeland Security Act of 2002 (6 U.S.C. 551(e)) is amended by striking “Aquatic Resources Trust Fund of the Highway Trust Fund” and inserting “Sport Fish Restoration and Boating Trust Fund”.

(c) PHASEOUT OF BOAT SAFETY ACCOUNT.—Subsection (c) of section 9504 is amended to read as follows:

“(c) EXPENDITURES FROM BOAT SAFETY ACCOUNT.—Amounts remaining in the Boat Safety Account on October 1, 2005, and amounts thereafter credited to the Account under section 9602(b), shall be available, without further appropriation, for making expenditures before October 1, 2010, to carry out the purposes of section 15 of the Dingell-Johnson Sport Fish Restoration Act (as in effect on the date of the enactment of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users). For purposes of section 9602, the Boat Safety Account shall be treated as a Trust Fund established by this subchapter.”

6 USC 551 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2005.

SEC. 11116. REPEAL OF HARBOR MAINTENANCE TAX ON EXPORTS.

(a) IN GENERAL.—Subsection (d) of section 4462 (relating to definitions and special rules) is amended to read as follows:

“(d) NONAPPLICABILITY OF TAX TO EXPORTS.—The tax imposed by section 4461(a) shall not apply to any port use with respect to any commercial cargo to be exported from the United States.”.

(b) CONFORMING AMENDMENTS.—

(1) Section 4461(c)(1) is amended by adding “or” at the end of subparagraph (A), by striking subparagraph (B), and by redesignating subparagraph (C) as subparagraph (B).

(2) Section 4461(c)(2) is amended by striking “imposed—” and all that follows through “in any other case,” and inserting “imposed”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect before, on, and after the date of the enactment of this Act. 26 USC 4461 note.

SEC. 11117. CAP ON EXCISE TAX ON CERTAIN FISHING EQUIPMENT.

(a) IN GENERAL.—Paragraph (1) of section 4161(a) (relating to sport fishing equipment) is amended to read as follows:

“(1) IMPOSITION OF TAX.—

“(A) IN GENERAL.—There is hereby imposed on the sale of any article of sport fishing equipment by the manufacturer, producer, or importer a tax equal to 10 percent of the price for which so sold.

“(B) LIMITATION ON TAX IMPOSED ON FISHING RODS AND POLES.—The tax imposed by subparagraph (A) on any fishing rod or pole shall not exceed \$10.”.

(b) CONFORMING AMENDMENTS.—Section 4161(a)(2) is amended by striking “paragraph (1)” both places it appears and inserting “paragraph (1)(A)”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer after September 30, 2005. 26 USC 4161 note.

PART 3—AERIAL EXCISE TAXES

SEC. 11121. CLARIFICATION OF EXCISE TAX EXEMPTIONS FOR AGRICULTURAL AERIAL APPLICATORS AND EXEMPTION FOR FIXED-WING AIRCRAFT ENGAGED IN FORESTRY OPERATIONS.

(a) NO WAIVER BY FARM OWNER, TENANT, OR OPERATOR NECESSARY.—Subparagraph (B) of section 6420(c)(4) (relating to certain farming use other than by owner, etc.) is amended to read as follows:

“(B) if the person so using the gasoline is an aerial or other applicator of fertilizers or other substances and is the ultimate purchaser of the gasoline, then subparagraph (A) of this paragraph shall not apply and the aerial or other applicator shall be treated as having used such gasoline on a farm for farming purposes.”.

(b) EXEMPTION INCLUDES FUEL USED BETWEEN AIRFIELD AND FARM.—Section 6420(c)(4), as amended by subsection (a), is amended by adding at the end the following new flush sentence: “In the case of an aerial applicator, gasoline shall be treated as used on a farm for farming purposes if the gasoline is used for the direct flight between the airfield and one or more farms.”.

(c) EXEMPTION FROM TAX ON AIR TRANSPORTATION OF PERSONS FOR FORESTRY PURPOSES EXTENDED TO FIXED-WING AIRCRAFT.—

Subsection (f) of section 4261 (relating to tax on air transportation of persons) is amended to read as follows:

“(f) EXEMPTION FOR CERTAIN USES.—No tax shall be imposed under subsection (a) or (b) on air transportation—

“(1) by helicopter for the purpose of transporting individuals, equipment, or supplies in the exploration for, or the development or removal of, hard minerals, oil, or gas, or

“(2) by helicopter or by fixed-wing aircraft for the purpose of the planting, cultivation, cutting, or transportation of, or caring for, trees (including logging operations), but only if the helicopter or fixed-wing aircraft does not take off from, or land at, a facility eligible for assistance under the Airport and Airway Development Act of 1970, or otherwise use services provided pursuant to section 44509 or 44913(b) or subchapter I of chapter 471 of title 49, United States Code, during such use. In the case of helicopter transportation described in paragraph (1), this subsection shall be applied by treating each flight segment as a distinct flight.”.

Applicability.

26 USC 4261
note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel use or air transportation after September 30, 2005.

SEC. 11122. MODIFICATION OF RURAL AIRPORT DEFINITION.

(a) IN GENERAL.—Section 4261(e)(1)(B) (defining rural airport) is amended—

(1) by inserting “(in the case of any airport described in clause (ii)(III), on flight segments of at least 100 miles)” after “by air” in clause (i), and

(2) by striking “or” at the end of subclause (I) of clause (ii), by striking the period at the end of subclause (II) of clause (ii) and inserting “, or”, and by adding at the end of clause (ii) the following new subclause:

“(III) is not connected by paved roads to another airport.”.

26 USC 4261
note.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2005.

SEC. 11123. EXEMPTION FROM TAXES ON TRANSPORTATION PROVIDED BY SEAPLANES.

(a) IN GENERAL.—Section 4261 (relating to imposition of tax) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

“(i) EXEMPTION FOR SEAPLANES.—No tax shall be imposed by this section or section 4271 on any air transportation by a seaplane with respect to any segment consisting of a takeoff from, and a landing on, water, but only if the places at which such takeoff and landing occur have not received and are not receiving financial assistance from the Airport and Airways Trust Fund.”.

(b) RATE OF FUEL TAX FOR SEAPLANES SUBJECT TO EXEMPTION.—Subsection (b) of section 4083 is amended by striking “section 4261(h)” and inserting “subsection (h) or (i) of section 4261”.

26 USC 4083
note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transportation beginning after September 30, 2005.

SEC. 11124. CERTAIN SIGHTSEEING FLIGHTS EXEMPT FROM TAXES ON AIR TRANSPORTATION.

(a) IN GENERAL.—Section 4281 (relating to small aircraft on nonestablished lines) is amended by adding at the end the following

new sentence: “For purposes of this section, an aircraft shall not be considered as operated on an established line at any time during which such aircraft is being operated on a flight the sole purpose of which is sightseeing.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to transportation beginning after September 30, 2005, but shall not apply to any amount paid before such date for such transportation. 26 USC 4281 note.

PART 4—TAXES RELATING TO ALCOHOL

SEC. 11125. REPEAL OF SPECIAL OCCUPATIONAL TAXES ON PRODUCERS AND MARKETERS OF ALCOHOLIC BEVERAGES.

(a) REPEAL OF OCCUPATIONAL TAXES.—

(1) IN GENERAL.—The following provisions of part II of subchapter A of chapter 51 (relating to occupational taxes) are hereby repealed:

(A) Subpart A (relating to proprietors of distilled spirits plants, bonded wine cellars, etc.). 26 USC 5081.

(B) Subpart B (relating to brewer).

(C) Subpart D (relating to wholesale dealers) (other than sections 5114 and 5116). 26 USC 5091–5093.

(D) Subpart E (relating to retail dealers) (other than section 5124). 26 USC 5111–5113, 5117.

(E) Subpart G (relating to general provisions) (other than sections 5142, 5143, 5145, and 5146). 26 USC 5121–5123.

(2) NONBEVERAGE DOMESTIC DRAWBACK.—Section 5131 is amended by striking “, on payment of a special tax per annum,”.

(3) INDUSTRIAL USE OF DISTILLED SPIRITS.—Section 5276 is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1)(A) The heading for part II of subchapter A of chapter 51 and the table of subparts for such part are amended to read as follows:

“PART II—MISCELLANEOUS PROVISIONS

“Subpart A. Manufacturers of stills.

“Subpart B. Nonbeverage domestic drawback claimants.

“Subpart C. Recordkeeping by dealers.

“Subpart D. Other provisions.”.

(B) The table of parts for such subchapter A is amended by striking the item relating to part II and inserting the following new item:

“Part II. Miscellaneous provisions.”.

(2) Subpart C of part II of such subchapter (relating to manufacturers of stills) is redesignated as subpart A.

(3)(A) Subpart F of such part II (relating to nonbeverage domestic drawback claimants) is redesignated as subpart B and sections 5131 through 5134 are redesignated as sections 5111 through 5114, respectively.

(B) The table of sections for such subpart B, as so redesignated, is amended—

(i) by redesignating the items relating to sections 5131 through 5134 as relating to sections 5111 through 5114, respectively, and

(ii) by striking “and rate of tax” in the item relating to section 5111, as so redesignated.

(C) Section 5111, as redesignated by subparagraph (A), is amended—

(i) by striking “AND RATE OF TAX” in the section heading,

(ii) by striking the subsection heading for subsection (a), and

(iii) by striking subsection (b).

(4) Part II of subchapter A of chapter 51 is amended by adding after subpart B, as redesignated by paragraph (3), the following new subpart:

“Subpart C—Recordkeeping and Registration by Dealers

“Sec. 5121. Recordkeeping by wholesale dealers.

“Sec. 5122. Recordkeeping by retail dealers.

“Sec. 5123. Preservation and inspection of records, and entry of premises for inspection.

“Sec. 5124. Registration by dealers.”.

(5)(A) Section 5114 (relating to records) is moved to subpart C of such part II and inserted after the table of sections for such subpart.

(B) Section 5114 is amended—

(i) by striking the section heading and inserting the following new heading:

“SEC. 5432. RECORDKEEPING BY WHOLESALE DEALERS.”;

and

(ii) by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

“(c) WHOLESALE DEALERS.—For purposes of this part—

“(1) WHOLESALE DEALER IN LIQUORS.—The term ‘wholesale dealer in liquors’ means any dealer (other than a wholesale dealer in beer) who sells, or offers for sale, distilled spirits, wines, or beer, to another dealer.

“(2) WHOLESALE DEALER IN BEER.—The term ‘wholesale dealer in beer’ means any dealer who sells, or offers for sale, beer, but not distilled spirits or wines, to another dealer.

“(3) DEALER.—The term ‘dealer’ means any person who sells, or offers for sale, any distilled spirits, wines, or beer.

“(4) PRESUMPTION IN CASE OF SALE OF 20 WINE GALLONS OR MORE.—The sale, or offer for sale, of distilled spirits, wines, or beer, in quantities of 20 wine gallons or more to the same person at the same time, shall be presumptive evidence that the person making such sale, or offer for sale, is engaged in or carrying on the business of a wholesale dealer in liquors or a wholesale dealer in beer, as the case may be. Such presumption may be overcome by evidence satisfactorily showing that such sale, or offer for sale, was made to a person other than a dealer.”.

(C) Paragraph (3) of section 5121(d), as so redesignated, is amended by striking “section 5146” and inserting “section 5123”.

(6)(A) Section 5124 (relating to records) is moved to subpart C of part II of subchapter A of chapter 51 and inserted after section 5121.

(B) Section 5124 is amended—

(i) by striking the section heading and inserting the following new heading:

“SEC. 5122. RECORDKEEPING BY RETAIL DEALERS.”,

(ii) by striking “section 5146” in subsection (c) and inserting “section 5123”, and 26 USC 5122.

(iii) by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following new subsection: 26 USC 5122.

“(c) RETAIL DEALERS.—For purposes of this section—

“(1) RETAIL DEALER IN LIQUORS.—The term ‘retail dealer in liquors’ means any dealer (other than a retail dealer in beer or a limited retail dealer) who sells, or offers for sale, distilled spirits, wines, or beer, to any person other than a dealer.

“(2) RETAIL DEALER IN BEER.—The term ‘retail dealer in beer’ means any dealer (other than a limited retail dealer) who sells, or offers for sale, beer, but not distilled spirits or wines, to any person other than a dealer.

“(3) LIMITED RETAIL DEALER.—The term ‘limited retail dealer’ means any fraternal, civic, church, labor, charitable, benevolent, or ex-servicemen’s organization making sales of distilled spirits, wine or beer on the occasion of any kind of entertainment, dance, picnic, bazaar, or festival held by it, or any person making sales of distilled spirits, wine or beer to the members, guests, or patrons of bona fide fairs, reunions, picnics, carnivals, or other similar outings, if such organization or person is not otherwise engaged in business as a dealer.

“(4) DEALER.—The term ‘dealer’ has the meaning given such term by section 5121(c)(3).”.

(7) Section 5146 is moved to subpart C of part II of subchapter A of chapter 51, inserted after section 5122, and redesignated as section 5123.

(8) Subpart C of part II of subchapter A of chapter 51, as amended by paragraph (7), is amended by adding at the end the following new section:

“SEC. 5124. REGISTRATION BY DEALERS.

“Every dealer who is subject to the recordkeeping requirements under section 5121 or 5122 shall register with the Secretary such dealer’s name or style, place of residence, trade or business, and the place where such trade or business is to be carried on. In the case of a firm or company, the names of the several persons constituting the same, and the places of residence, shall be so registered.”.

(9) Section 7012 is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

“(4) For provisions relating to registration by dealers in distilled spirits, wines, and beer, see section 5124.”.

(10) Part II of subchapter A of chapter 51 is amended by inserting after subpart C the following new subpart:

“Subpart D—Other Provisions

“Sec. 5131. Packaging distilled spirits for industrial uses.

“Sec. 5132. Prohibited purchases by dealers.”.

(11) Section 5116 is moved to subpart D of part II of subchapter A of chapter 51, inserted after the table of sections, redesignated as section 5131, and amended by inserting “(as defined in section 5121(c))” after “dealer” in subsection (a).

(12) Subpart D of part II of subchapter A of chapter 51 is amended by adding at the end the following new section:

“SEC. 5132. PROHIBITED PURCHASES BY DEALERS.

“(a) IN GENERAL.—Except as provided in regulations prescribed by the Secretary, it shall be unlawful for a dealer to purchase distilled spirits for resale from any person other than a wholesale dealer in liquors who is required to keep the records prescribed by section 5121.

“(b) LIMITED RETAIL DEALERS.—A limited retail dealer may lawfully purchase distilled spirits for resale from a retail dealer in liquors.

“(c) PENALTY AND FORFEITURE.—

“For penalty and forfeiture provisions applicable to violations of subsection (a), see sections 5687 and 7302.”.

(13) Subsection (b) of section 5002 is amended—

(A) by striking “section 5112(a)” and inserting “section 5121(c)(3)”,

(B) by striking “section 5112” and inserting “section 5121(c)”, and

(C) by striking “section 5122” and inserting “section 5122(c)”.

(14) Subparagraph (A) of section 5010(c)(2) is amended by striking “section 5134” and inserting “section 5114”.

(15) Subsection (d) of section 5052 is amended to read as follows:

“(d) BREWER.—For purposes of this chapter, the term ‘brewer’ means any person who brews beer or produces beer for sale. Such term shall not include any person who produces only beer exempt from tax under section 5053(e).”.

(16) The text of section 5182 is amended to read as follows:

“For provisions requiring recordkeeping by wholesale liquor dealers, see section 5112, and by retail liquor dealers, see section 5122.”.

(17) Subsection (b) of section 5402 is amended by striking “section 5092” and inserting “section 5052(d)”.

(18) Section 5671 is amended by striking “or 5091”.

(19)(A) Part V of subchapter J of chapter 51 is hereby repealed.

(B) The table of parts for such subchapter J is amended by striking the item relating to part V.

(20)(A) Sections 5142, 5143, and 5145 are moved to subchapter D of chapter 52, inserted after section 5731, redesignated as sections 5732, 5733, and 5734, respectively, and amended by striking “this part” each place it appears and inserting “this subchapter”.

(B) Section 5732, as redesignated by subparagraph (A), is amended by striking “(except the tax imposed by section 5131)” each place it appears.

(C) Paragraph (2) of section 5733(c), as redesignated by subparagraph (A), is amended by striking “liquors” both places it appears and inserting “tobacco products and cigarette papers and tubes”.

(D) The table of sections for subchapter D of chapter 52 is amended by adding at the end the following:

“Sec. 5732. Payment of tax.

“Sec. 5733. Provisions relating to liability for occupational taxes.

“Sec. 5734. Application of State laws.”.

(E) Section 5731 is amended by striking subsection (c) and by redesignating subsection (d) as subsection (c).

(21) Subsection (c) of section 6071 is amended by striking “section 5142” and inserting “section 5732”.

(22) Paragraph (1) of section 7652(g) is amended—

(A) by striking “subpart F” and inserting “subpart B”, and

(B) by striking “section 5131(a)” and inserting “section 5111”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on July 1, 2008, but shall not apply to taxes imposed for periods before such date. 26 USC 5002 note.

**SEC. 11126. INCOME TAX CREDIT FOR DISTILLED SPIRITS WHOLESALE-
SALERS AND FOR DISTILLED SPIRITS IN CONTROL STATE
BAILMENT WAREHOUSES FOR COSTS OF CARRYING FED-
ERAL EXCISE TAXES ON BOTTLED DISTILLED SPIRITS.**

(a) **IN GENERAL.**—Subpart A of part I of subchapter A of chapter 51 (relating to gallonage and occupational taxes) is amended by adding at the end the following new section:

**“SEC. 5011. INCOME TAX CREDIT FOR AVERAGE COST OF CARRYING
EXCISE TAX.**

“(a) **IN GENERAL.**—For purposes of section 38, the amount of the distilled spirits credit for any taxable year is the amount equal to the product of—

“(1) in the case of—

“(A) any eligible wholesaler, the number of cases of bottled distilled spirits—

“(i) which were bottled in the United States, and

“(ii) which are purchased by such wholesaler during the taxable year directly from the bottler of such spirits, or

“(B) any person which is subject to section 5005 and which is not an eligible wholesaler, the number of cases of bottled distilled spirits which are stored in a warehouse operated by, or on behalf of, a State or political subdivision thereof, or an agency of either, on which title has not passed on an unconditional sale basis, and

“(2) the average tax-financing cost per case for the most recent calendar year ending before the beginning of such taxable year.

“(b) **ELIGIBLE WHOLESALER.**—For purposes of this section, the term ‘eligible wholesaler’ means any person which holds a permit under the Federal Alcohol Administration Act as a wholesaler of distilled spirits which is not a State or political subdivision thereof, or an agency of either.

“(c) **AVERAGE TAX-FINANCING COST.**—

“(1) IN GENERAL.—For purposes of this section, the average tax-financing cost per case for any calendar year is the amount of interest which would accrue at the deemed financing rate during a 60-day period on an amount equal to the deemed Federal excise tax per case.

“(2) DEEMED FINANCING RATE.—For purposes of paragraph (1), the deemed financing rate for any calendar year is the average of the corporate overpayment rates under paragraph (1) of section 6621(a) (determined without regard to the last sentence of such paragraph) for calendar quarters of such year.

“(3) DEEMED FEDERAL EXCISE TAX PER CASE.—For purposes of paragraph (1), the deemed Federal excise tax per case is \$25.68.

“(d) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

“(1) CASE.—The term ‘case’ means 12 80-proof 750-milliliter bottles.

“(2) NUMBER OF CASES IN LOT.—The number of cases in any lot of distilled spirits shall be determined by dividing the number of liters in such lot by 9.”

(b) CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit) is amended by striking “plus” at the end of paragraph (18), by striking the period at the end of paragraph (19), and inserting “, plus”, and by adding at the end the following new paragraph:

“(20) the distilled spirits credit determined under section 5011(a).”

(c) CONFORMING AMENDMENT.—The table of sections for subpart A of part I of subchapter A of chapter 51 is amended by adding at the end the following new item:

“Sec. 5011. Income tax credit for average cost of carrying excise tax.”

26 USC 38 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after September 30, 2005.

SEC. 11127. QUARTERLY EXCISE TAX FILING FOR SMALL ALCOHOL EXCISE TAXPAYERS.

(a) IN GENERAL.—Subsection (d) of section 5061 (relating to time for collecting tax on distilled spirits, wines, and beer) is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

“(4) TAXPAYERS LIABLE FOR TAXES OF NOT MORE THAN \$50,000.—

“(A) IN GENERAL.—In the case of any taxpayer who reasonably expects to be liable for not more than \$50,000 in taxes imposed with respect to distilled spirits, wines, and beer under subparts A, C, and D and section 7652 for the calendar year and who was liable for not more than \$50,000 in such taxes in the preceding calendar year, the last day for the payment of tax on withdrawals, removals, and entries (and articles brought into the United States from Puerto Rico) under bond for deferred payment shall be the 14th day after the last day of the calendar quarter during which the action giving rise to the imposition of such tax occurs.

Deadline.

“(B) NO APPLICATION AFTER LIMIT EXCEEDED.—Subparagraph (A) shall not apply to any taxpayer for any

portion of the calendar year following the first date on which the aggregate amount of tax due under subparts A, C, and D and section 7652 from such taxpayer during such calendar year exceeds \$50,000, and any tax under such subparts which has not been paid on such date shall be due on the 14th day after the last day of the semi-monthly period in which such date occurs.

“(C) CALENDAR QUARTER.—For purposes of this paragraph, the term ‘calendar quarter’ means the three-month period ending on March 31, June 30, September 30, or December 31.”.

(b) CONFORMING AMENDMENT.—Section 5061(d)(6), as redesignated by subsection (a), is amended by striking “paragraph (4)” and inserting “paragraph (5)”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to quarterly periods beginning on and after January 1, 2006. 26 USC 5061 note.

PART 5—SPORT EXCISE TAXES

SEC. 11131. CUSTOM GUNSMITHS.

(a) SMALL MANUFACTURERS EXEMPT FROM FIREARMS EXCISE TAX.—Section 4182 (relating to exemptions) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

“(c) SMALL MANUFACTURERS, ETC.—

“(1) IN GENERAL.—The tax imposed by section 4181 shall not apply to any pistol, revolver, or firearm described in such section if manufactured, produced, or imported by a person who manufactures, produces, and imports less than an aggregate of 50 of such articles during the calendar year.

“(2) CONTROLLED GROUPS.—All persons treated as a single employer for purposes of subsection (a) or (b) of section 52 shall be treated as one person for purposes of paragraph (1).”.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer after September 30, 2005.

(2) NO INFERENCE.—Nothing in the amendments made by this section shall be construed to create any inference with respect to the proper tax treatment of any sales before the effective date of such amendments.

26 USC 4182 note.

Subtitle C—Miscellaneous Provisions

SEC. 11141. MOTOR FUEL TAX ENFORCEMENT ADVISORY COMMISSION.

26 USC 4081 note.

(a) ESTABLISHMENT.—There is established a Motor Fuel Tax Enforcement Advisory Commission (in this section referred to as the “Commission”).

(b) FUNCTION.—The Commission shall—

(1) review motor fuel revenue collections, historical and current;

(2) review the progress of investigations with respect to motor fuel taxes;

(3) develop and review legislative proposals with respect to motor fuel taxes;

(4) monitor the progress of administrative regulation projects relating to motor fuel taxes;

(5) review the results of Federal and State agency cooperative efforts regarding motor fuel taxes;

(6) review the results of Federal interagency cooperative efforts regarding motor fuel taxes; and

(7) evaluate and make recommendations to the President and Congress regarding—

(A) the effectiveness of existing Federal enforcement programs regarding motor fuel taxes,

(B) enforcement personnel allocation, and

(C) proposals for regulatory projects, legislation, and funding.

(c) MEMBERSHIP.—

(1) APPOINTMENT.—The Commission shall be composed of the following representatives appointed by the Chairmen and the Ranking Members of the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives:

(A) At least one representative from each of the following Federal entities: the Department of Homeland Security, the Department of Transportation—Office of Inspector General, the Federal Highway Administration, the Department of Defense, and the Department of Justice.

(B) At least one representative from the Federation of State Tax Administrators.

(C) At least one representative from any State department of transportation.

(D) Two representatives from the highway construction industry.

(E) Six representatives from industries relating to fuel distribution—refiners (two representatives), distributors (one representative), pipelines (one representative), and terminal operators (two representatives).

(F) One representative from the retail fuel industry.

(G) Two representatives from the staff of the Committee on Finance of the Senate and two representatives from the staff of the Committee on Ways and Means of the House of Representatives.

(2) TERMS.—Members shall be appointed for the life of the Commission.

(3) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(4) TRAVEL EXPENSES.—Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(5) CHAIRMAN.—The Chairman of the Commission shall be elected by the members.

(d) FUNDING.—Such sums as are necessary shall be available from the Highway Trust fund for the expenses of the Commission.

(e) CONSULTATION.—Upon request of the Commission, representatives of the Department of the Treasury and the Internal Revenue Service shall be available for consultation to assist the Commission in carrying out its duties under this section.

(f) **OBTAINING DATA.**—The Commission may secure directly from any department or agency of the United States, information (other than information required by any law to be kept confidential by such department or agency) necessary for the Commission to carry out its duties under this section. Upon request of the Commission, the head of that department or agency shall furnish such nonconfidential information to the Commission. The Commission shall also gather evidence through such means as it may deem appropriate, including through holding hearings and soliciting comments by means of Federal Register notices.

(g) **TERMINATION.**—The Commission shall terminate as of the close of September 30, 2009.

SEC. 11142. NATIONAL SURFACE TRANSPORTATION INFRASTRUCTURE FINANCING COMMISSION.

(a) **ESTABLISHMENT.**—There is established a National Surface Transportation Infrastructure Financing Commission (in this section referred to as the “Commission”). The Commission shall hold its first meeting within 90 days of the appointment of the eighth individual to be named to the Commission.

(b) **FUNCTION.**—

(1) **IN GENERAL.**—The Commission shall, with respect to the period beginning on the date of the enactment of this Act and ending before 2016—

(A) make a thorough investigation and study of revenues flowing into the Highway Trust Fund under current law, including the individual components of the overall flow of such revenues;

(B) consider whether the amount of such revenues is likely to increase, decline, or remain unchanged, absent changes in the law, particularly by taking into account the impact of possible changes in public vehicular choice, fuel use, or travel alternatives that could be expected to reduce or increase revenues into the Highway Trust Fund;

(C) consider alternative approaches to generating revenues for the Highway Trust Fund, and the level of revenues that such alternatives would yield;

(D) consider highway and transit needs and whether additional revenues into the Highway Trust Fund, or other Federal revenues dedicated to highway and transit infrastructure, would be required in order to meet such needs;

(E) consider a program that would exempt all or a portion of gasoline or other motor fuels used in a State from the Federal excise tax on such gasoline or other motor fuels if such State elects not to receive all or a portion of Federal transportation funding, including—

(i) whether such State should be required to increase State gasoline or other motor fuels taxes by the amount of the decrease in the Federal excise tax on such gasoline or other motor fuels;

(ii) whether any Federal transportation funding should not be reduced or eliminated for States participating in such program; and

(iii) whether there are any compliance problems related to enforcement of Federal transportation-related excise taxes under such program; and

(F) study such other matters closely related to the subjects described in the preceding subparagraphs as it may deem appropriate.

(2) PREPARATION OF REPORT.—Based on such investigation and study, the Commission shall develop a final report, with recommendations and the bases for those recommendations, indicating policies that should be adopted, or not adopted, to achieve various levels of annual revenue for the Highway Trust Fund and to enable the Highway Trust Fund to receive revenues sufficient to meet highway and transit needs. Such recommendations shall address, among other matters as the Commission may deem appropriate—

(A) what levels of revenue are required by the Federal Highway Trust Fund in order for it to meet needs to maintain and improve the condition and performance of the Nation's highway and transit systems;

(B) what levels of revenue are required by the Federal Highway Trust Fund in order to ensure that Federal levels of investment in highways and transit do not decline in real terms; and

(C) the extent, if any, to which the Highway Trust Fund should be augmented by other mechanisms or funds as a Federal means of financing highway and transit infrastructure investments.

(c) MEMBERSHIP.—

(1) APPOINTMENT.—The Commission shall be composed of 15 members, appointed as follows:

(A) Seven members appointed by the Secretary of Transportation, in consultation with the Secretary of the Treasury.

(B) Two members appointed by the Chairman of the Committee on Ways and Means of the House of Representatives.

(C) Two members appointed by the Ranking Minority Member of the Committee on Ways and Means of the House of Representatives.

(D) Two members appointed by the Chairman of the Committee on Finance of the Senate.

(E) Two members appointed by the Ranking Minority Member of the Committee on Finance of the Senate.

(2) QUALIFICATIONS.—Members appointed pursuant to paragraph (1) shall be appointed from among individuals knowledgeable in the fields of public transportation finance or highway and transit programs, policy, and needs, and may include representatives of interested parties, such as State and local governments or other public transportation authorities or agencies, representatives of the transportation construction industry (including suppliers of technology, machinery, and materials), transportation labor (including construction and providers), transportation providers, the financial community, and users of highway and transit systems.

(3) TERMS.—Members shall be appointed for the life of the Commission.

(4) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(5) TRAVEL EXPENSES.—Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(6) CHAIRMAN.—The Chairman of the Commission shall be elected by the members.

(d) STAFF.—The Commission may appoint and fix the pay of such personnel as it considers appropriate.

(e) FUNDING.—Funding for the Commission shall be provided by the Secretary of the Treasury and by the Secretary of Transportation, out of funds available to those agencies for administrative and policy functions.

(f) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the head of any department or agency of the United States may detail any of the personnel of that department or agency to the Commission to assist in carrying out its duties under this section.

(g) OBTAINING DATA.—The Commission may secure directly from any department or agency of the United States, information (other than information required by any law to be kept confidential by such department or agency) necessary for the Commission to carry out its duties under this section. Upon request of the Commission, the head of that department or agency shall furnish such nonconfidential information to the Commission. The Commission shall also gather evidence through such means as it may deem appropriate, including through holding hearings and soliciting comments by means of Federal Register notices.

(h) REPORT.—Not later than 2 years after the date of its first meeting, the Commission shall transmit its final report, including recommendations, to the Secretary of Transportation, the Secretary of the Treasury, and the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Environment and Public Works of the Senate, and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(i) TERMINATION.—The Commission shall terminate on the 180th day following the date of transmittal of the report under subsection (h). All records and papers of the Commission shall thereupon be delivered to the Administrator of General Services for deposit in the National Archives.

SEC. 11143. TAX-EXEMPT FINANCING OF HIGHWAY PROJECTS AND RAIL-TRUCK TRANSFER FACILITIES.

(a) TREATMENT AS EXEMPT FACILITY BOND.—Subsection (a) of section 142 (relating to exempt facility bond) is amended by striking “or” at the end of paragraph (13), by striking the period at the end of paragraph (14) and inserting “, or”, and by adding at the end the following new paragraph:

“(15) qualified highway or surface freight transfer facilities.”.

(b) QUALIFIED HIGHWAY OR SURFACE FREIGHT TRANSFER FACILITIES.—Section 142 is amended by adding at the end the following:

“(m) QUALIFIED HIGHWAY OR SURFACE FREIGHT TRANSFER FACILITIES.—

“(1) IN GENERAL.—For purposes of subsection (a)(15), the term ‘qualified highway or surface freight transfer facilities’ means—

“(A) any surface transportation project which receives Federal assistance under title 23, United States Code (as in effect on the date of the enactment of this subsection),

“(B) any project for an international bridge or tunnel for which an international entity authorized under Federal or State law is responsible and which receives Federal assistance under title 23, United States Code (as so in effect), or

“(C) any facility for the transfer of freight from truck to rail or rail to truck (including any temporary storage facilities directly related to such transfers) which receives Federal assistance under either title 23 or title 49, United States Code (as so in effect).

“(2) NATIONAL LIMITATION ON AMOUNT OF TAX-EXEMPT FINANCING FOR FACILITIES.—

“(A) NATIONAL LIMITATION.—The aggregate amount allocated by the Secretary of Transportation under subparagraph (C) shall not exceed \$15,000,000,000.

“(B) ENFORCEMENT OF NATIONAL LIMITATION.—An issue shall not be treated as an issue described in subsection (a)(15) if the aggregate face amount of bonds issued pursuant to such issue for any qualified highway or surface freight transfer facility (when added to the aggregate face amount of bonds previously so issued for such facility) exceeds the amount allocated to such facility under subparagraph (C).

“(C) ALLOCATION BY SECRETARY OF TRANSPORTATION.—The Secretary of Transportation shall allocate the amount described in subparagraph (A) among qualified highway or surface freight transfer facilities in such manner as the Secretary determines appropriate.

“(3) EXPENDITURE OF PROCEEDS.—An issue shall not be treated as an issue described in subsection (a)(15) unless at least 95 percent of the net proceeds of the issue is expended for qualified highway or surface freight transfer facilities within the 5-year period beginning on the date of issuance. If at least 95 percent of such net proceeds is not expended within such 5-year period, an issue shall be treated as continuing to meet the requirements of this paragraph if the issuer uses all unspent proceeds of the issue to redeem bonds of the issue within 90 days after the end of such 5-year period. The Secretary, at the request of the issuer, may extend such 5-year period if the issuer establishes that any failure to meet such period is due to circumstances beyond the control of the issuer.

“(4) EXCEPTION FOR CURRENT REFUNDING BONDS.—Paragraph (2) shall not apply to any bond (or series of bonds) issued to refund a bond issued under subsection (a)(15) if—

“(A) the average maturity date of the issue of which the refunding bond is a part is not later than the average maturity date of the bonds to be refunded by such issue,

“(B) the amount of the refunding bond does not exceed the outstanding amount of the refunded bond, and

“(C) the refunded bond is redeemed not later than 90 days after the date of the issuance of the refunding bond.

For purposes of subparagraph (A), average maturity shall be determined in accordance with section 147(b)(2)(A).”.

(c) EXEMPTION FROM GENERAL STATE VOLUME CAPS.—Paragraph (3) of section 146(g) of the Internal Revenue Code of 1986 (relating to exception for certain bonds) is amended by striking “or (14)” and all that follows through the end of the paragraph and inserting “(14), or (15) of section 142(a), and”.

(d) EFFECTIVE DATE.—The amendments made by this section apply to bonds issued after the date of the enactment of this Act. 26 USC 142 note.

SEC. 11144. TREASURY STUDY OF HIGHWAY FUELS USED BY TRUCKS FOR NON-TRANSPORTATION PURPOSES.

(a) STUDY.—The Secretary of the Treasury shall conduct a study regarding the use of highway motor fuel by trucks that is not used for the propulsion of the vehicle. As part of such study—

(1) in the case of vehicles carrying equipment that is unrelated to the transportation function of the vehicle—

(A) the Secretary of the Treasury, in consultation with the Secretary of Transportation, and with public notice and comment, shall determine the average annual amount of tax-paid fuel consumed per vehicle, by type of vehicle, used by the propulsion engine to provide the power to operate the equipment attached to the highway vehicle, and

(B) the Secretary of the Treasury shall review the technical and administrative feasibility of exempting such nonpropulsive use of highway fuels from the highway motor fuels excise taxes, and, if such exemptions are technically and administratively feasible, shall propose options for implementing such exemptions for—

(i) mobile machinery (as defined in section 4053(8) of the Internal Revenue Code of 1986) whose nonpropulsive fuel use exceeds 50 percent, and

(ii) any highway vehicle which consumes fuel for both transportation and non-transportation-related equipment, using a single motor,

(2) in the case where non-transportation equipment is run by a separate motor—

(A) the Secretary of the Treasury shall determine the annual average amount of fuel exempted from tax in the use of such equipment by equipment type, and

(B) the Secretary of the Treasury shall review issues of administration and compliance related to the present-law exemption provided for such fuel use, and

(3) the Secretary of the Treasury shall—

(A) estimate the amount of taxable fuel consumed by trucks and the emissions of various pollutants due to the long-term idling of diesel engines, and

(B) determine the cost of reducing such long-term idling through the use of plug-ins at truck stops, auxiliary power units, or other technologies.

(b) **REPORT.**—Not later than January 1, 2007, the Secretary of the Treasury shall report the findings of the study required under subsection (a) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

SEC. 11145. DIESEL FUEL TAX EVASION REPORT.

Not later than 360 days after the date of the enactment of this Act, the Commissioner of the Internal Revenue shall report to the Committees on Finance and Environment and Public Works of the Senate and the Committees on Ways and Means and Transportation and Infrastructure of the House of Representatives on—

(1) the availability of new technologies, including forensic or chemical molecular markers, that can be employed to enhance collections of the excise tax on diesel fuel and the plans of the Internal Revenue Service to employ such technologies,

(2) the design of a test to place forensic or chemical molecular markers in any excluded liquid (as defined in section 48.4081-1(b) of title 26, Code of Federal Regulations),

(3) the design of a test, in consultation with the Department of Defense, to place forensic or chemical molecular markers in all nonstrategic bulk fuel deliveries of diesel fuel to the military, and

(4) the design of a test to place forensic or chemical molecular markers in all diesel fuel bound for export utilizing the Gulf of Mexico.

26 USC 115 note.

SEC. 11146. TAX TREATMENT OF STATE OWNERSHIP OF RAILROAD REAL ESTATE INVESTMENT TRUST.

(a) **IN GENERAL.**—If a State owns all of the outstanding stock of a corporation—

(1) which is a real estate investment trust on the date of the enactment of this Act,

(2) which is a non-operating class III railroad, and

(3) substantially all of the activities of which consist of the ownership, leasing, and operation by such corporation of facilities, equipment, and other property used by the corporation or other persons for railroad transportation and for economic development purposes for the benefit of the State and its citizens, then, to the extent such activities are of a type which are an essential governmental function within the meaning of section 115 of the Internal Revenue Code of 1986, income derived from such activities by the corporation shall be treated as accruing to the State for purposes of section 115 of such Code.

(b) **GAIN OR LOSS NOT RECOGNIZED ON CONVERSION.**—Notwithstanding section 337(d) of the Internal Revenue Code of 1986—

(1) no gain or loss shall be recognized under section 336 or 337 of such Code, and

(2) no change in basis of the property of such corporation shall occur, because of any change of status of a corporation to a tax-exempt entity by reason of the application of subsection (a).

(c) **TAX-EXEMPT FINANCING.**—

(1) IN GENERAL.—Any obligation issued by a corporation described in subsection (a) at least 95 percent of the net proceeds (as defined in section 150(a) of the Internal Revenue Code of 1986) of which are to be used to provide for the acquisition, construction, or improvement of railroad transportation infrastructure (including railroad terminal facilities)—

(A) shall be treated as a State or local bond (within the meaning of section 103(c) of such Code), and

(B) shall not be treated as a private activity bond (within the meaning of section 103(b)(1) of such Code) solely by reason of the ownership or use of such railroad transportation infrastructure by the corporation.

(2) NO INFERENCE.—Except as provided in paragraph (1), nothing in this subsection shall be construed to affect the treatment of the private use of proceeds or property financed with obligations issued by the corporation for purposes of section 103 of the Internal Revenue Code of 1986 and part IV of subchapter B of such Code.

(d) DEFINITIONS.—For purposes of this section:

(1) REAL ESTATE INVESTMENT TRUST.—The term “real estate investment trust” has the meaning given such term by section 856(a) of the Internal Revenue Code of 1986.

(2) NON-OPERATING CLASS III RAILROAD.—The term “non-operating class III railroad” has the meaning given such term by part A of subtitle IV of title 49, United States Code (49 U.S.C. 10101 et seq.), and the regulations thereunder.

(3) STATE.—The term “State” includes—

(A) the District of Columbia and any possession of the United States, and

(B) any authority, agency, or public corporation of a State.

(e) APPLICABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), this section shall apply on and after the date on which a State becomes the owner of all of the outstanding stock of a corporation described in subsection (a) through action of such corporation’s board of directors.

(2) EXCEPTION.—This section shall not apply to any State which—

(A) becomes the owner of all of the voting stock of a corporation described in subsection (a) after December 31, 2003, or

(B) becomes the owner of all of the outstanding stock of a corporation described in subsection (a) after December 31, 2006.

SEC. 11147. LIMITATION ON TRANSFERS TO THE LEAKING UNDERGROUND STORAGE TANK TRUST FUND.

(a) IN GENERAL.—Section 9508 is amended by adding at the end the following new subsection:

“(e) LIMITATION ON TRANSFERS TO LEAKING UNDERGROUND STORAGE TANK TRUST FUND.—

“(1) IN GENERAL.—Except as provided in paragraph (2), no amount may be appropriated to the Leaking Underground Storage Tank Trust Fund on and after the date of any expenditure from the Leaking Underground Storage Tank Trust Fund which is not permitted by this section. The determination of

whether an expenditure is so permitted shall be made without regard to—

“(A) any provision of law which is not contained or referenced in this title or in a revenue Act, and

“(B) whether such provision of law is a subsequently enacted provision or directly or indirectly seeks to waive the application of this paragraph.

“(2) EXCEPTION FOR PRIOR OBLIGATIONS.—Paragraph (1) shall not apply to any expenditure to liquidate any contract entered into (or for any amount otherwise obligated) before October 1, 2011, in accordance with the provisions of this section.”.

26 USC 9508
note.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

Subtitle D—Highway-Related Technical Corrections

SEC. 11151. HIGHWAY-RELATED TECHNICAL CORRECTIONS.

(a) AMENDMENTS RELATED TO SECTION 301 OF THE AMERICAN JOBS CREATION ACT OF 2004.—Section 6427 is amended—

(1) by striking subsection (f), and

(2) by striking subsection (o) and redesignating subsection (p) as subsection (o).

(b) AMENDMENTS RELATED TO SECTION 853 OF THE AMERICAN JOBS CREATION ACT OF 2004.—

(1) Subparagraph (C) of section 4081(a)(2) is amended by striking “for use in commercial aviation” and inserting “for use in commercial aviation by a person registered for such use under section 4101”.

(2) So much of paragraph (2) of section 4081(d) as precedes subparagraph (A) is amended to read as follows:

“(2) AVIATION FUELS.—The rates of tax specified in clauses (ii) and (iv) of subsection (a)(2)(A) shall be 4.3 cents per gallon—”.

(3) Section 6421(f)(2) is amended—

(A) by striking “noncommercial aviation (as defined in section 4041(c)(2))” in subparagraph (A) and inserting “aviation which is not commercial aviation (as defined in section 4083(b))”, and

(B) by striking “aviation which is not noncommercial aviation” in subparagraph (B) and inserting “commercial aviation”.

(c) AMENDMENT RELATED TO SECTION 9005 OF THE TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY.—The last sentence of paragraph (2) of section 9504(b) is amended by striking “subparagraph (B)”, and inserting “subparagraph (C)”.

(d) AMENDMENT RELATED TO SECTION 1306 OF THE ENERGY POLICY ACT OF 2005.—

26 USC 38.

(1) Subsection (b) of section 1306 of the Energy Tax Incentives Act of 2005 is amended by striking “Transportation Equity Act: A Legacy for Users” and inserting “Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users”.

Effective date.
26 USC 38 note.

(2) If the Energy Policy Act of 2005 is enacted before the date of the enactment of this Act, for purposes of executing

any amendments made by the Energy Policy Act of 2005 to section 38(b) of the Internal Revenue Code of 1986, the amendments made by section 11126(b) of this Act shall be treated as having been executed before such amendments made by the Energy Policy Act of 2005.

(e) CLERICAL AMENDMENTS.—

(1) Subparagraph (A) of section 9504(b)(2) is amended by striking “the Act entitled ‘An Act to provide that the United States shall aid the States in fish restoration and management projects, and for other purposes’, approved August 9, 1950” and inserting “the Dingell-Johnson Sport Fish Restoration Act”.

(2) Sections 6426(d)(2)(F) and 4041(a)(2)(B)(ii) are both amended by striking “section 29(c)(3)” and inserting “section 45K(c)(3)”.

(f) EFFECTIVE DATES.—

(1) AMERICAN JOBS CREATION ACT OF 2004.—The amendments made by subsections (a) and (b) shall take effect as if included in the provisions of the American Jobs Creation Act of 2004 to which they relate.

26 USC 4081
note.

(2) TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY.—The amendment made by subsection (c) shall take effect as if included in the provision of the Transportation Equity Act for the 21st Century to which it relates.

26 USC 9504
note.

(3) ENERGY POLICY ACT OF 2005.—The amendments made by subsections (d)(1) and (e)(2) shall take effect as if included in the provision of the Energy Tax Incentives Act of 2005 to which they relate.

26 USC 38 note.

Subtitle E—Preventing Fuel Fraud

SEC. 11161. TREATMENT OF KEROSENE FOR USE IN AVIATION.

(a) ALL KEROSENE TAXED AT HIGHEST RATE.—

(1) IN GENERAL.—Section 4081(a)(2)(A) (relating to rates of tax) is amended by adding “and” at the end of clause (ii), by striking “, and” at the end of clause (iii) and inserting a period, and by striking clause (iv).

(2) EXCEPTION FOR USE IN AVIATION.—Subparagraph (C) of section 4081(a)(2) is amended to read as follows:

“(C) TAXES IMPOSED ON FUEL USED IN AVIATION.—In the case of kerosene which is removed from any refinery or terminal directly into the fuel tank of an aircraft for use in aviation, the rate of tax under subparagraph (A)(iii) shall be—

“(i) in the case of use for commercial aviation by a person registered for such use under section 4101, 4.3 cents per gallon, and

“(ii) in the case of use for aviation not described in clause (i), 21.8 cents per gallon.”.

(3) APPLICABLE RATE IN CASE OF CERTAIN REFUELER TRUCKS, TANKERS, AND TANK WAGONS.—Section 4081(a)(3) (relating to certain refueler trucks, tankers, and tank wagons treated as terminals) is amended—

(A) by striking “a secured area of” in subparagraph (A)(i), and

(B) by adding at the end the following new subparagraph:

“(D) APPLICABLE RATE.—For purposes of paragraph (2)(C), in the case of any kerosene treated as removed from a terminal by reason of this paragraph—

“(i) the rate of tax specified in paragraph (2)(C)(i) in the case of use described in such paragraph shall apply if such terminal is located within a secured area of an airport, and

“(ii) the rate of tax specified in paragraph (2)(C)(ii) shall apply in all other cases.”.

(4) CONFORMING AMENDMENTS.—

(A) Sections 4081(a)(3)(A) and 4082(b) are amended by striking “aviation-grade” each place it appears.

(B) Section 4081(a)(4) is amended by striking “paragraph (2)(C)” and inserting “paragraph (2)(C)(i)”.

(C) The heading for paragraph (4) of section 4081(a) is amended by striking “AVIATION-GRADE”.

(D) Section 4081(d)(2) is amended by striking so much as precedes subparagraph (A) and inserting the following:

“(2) AVIATION FUELS.—The rates of tax specified in subsection (a)(2)(A)(ii) and (a)(2)(C)(ii) shall be 4.3 cents per gallon—”.

(E) Subsection (e) of section 4082 is amended—

(i) by striking “aviation-grade”,

(ii) by striking “section 4081(a)(2)(A)(iv)” and inserting “section 4081(a)(2)(A)(iii)”,

(iii) by adding at the end the following new sentence: “For purposes of this subsection, any removal described in section 4081(a)(3)(A) shall be treated as a removal from a terminal but only if such terminal is located within a secure area of an airport.”, and

(iv) by striking “AVIATION-GRADE KEROSENE” in the heading thereof and inserting “KEROSENE REMOVED INTO AN AIRCRAFT”.

(b) REDUCED RATE FOR USE OF CERTAIN LIQUIDS IN AVIATION.—

(1) IN GENERAL.—Subsection (c) of section 4041 (relating to imposition of tax) is amended—

(A) by striking “aviation-grade kerosene” in paragraph (1) and inserting “any liquid for use as a fuel other than aviation gasoline”,

(B) by striking “aviation-grade kerosene” in paragraph (2) and inserting “liquid for use as a fuel other than aviation gasoline”,

(C) by striking paragraph (3) and inserting the following new paragraph:

“(3) RATE OF TAX.—The rate of tax imposed by this subsection shall be 21.8 cents per gallon (4.3 cents per gallon with respect to any sale or use for commercial aviation).”, and

(D) by striking “AVIATION-GRADE KEROSENE” in the heading thereof and inserting “CERTAIN LIQUIDS USED AS A FUEL IN AVIATION”.

(2) PARTIAL REFUND OF FULL RATE.—

(A) IN GENERAL.—Paragraph (2) of section 6427(l) (relating to nontaxable uses of diesel fuel, kerosene and aviation fuel) is amended to read as follows:

“(2) NONTAXABLE USE.—For purposes of this subsection, the term ‘nontaxable use’ means any use which is exempt

from the tax imposed by section 4041(a)(1) other than by reason of a prior imposition of tax.”

(B) REFUNDS FOR NONCOMMERCIAL AVIATION.—Section 6427(l) (relating to nontaxable uses of diesel fuel, kerosene and aviation fuel) is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

“(5) REFUNDS FOR KEROSENE USED IN NONCOMMERCIAL AVIATION.—

“(A) IN GENERAL.—In the case of kerosene used in aviation not described in paragraph (4)(A) (other than any use which is exempt from the tax imposed by section 4041(c) other than by reason of a prior imposition of tax), paragraph (1) shall not apply to so much of the tax imposed by section 4081 as is attributable to—

“(i) the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section, and

“(ii) so much of the rate of tax specified in section 4081(a)(2)(A)(iii) as does not exceed the rate specified in section 4081(a)(2)(C)(ii).

“(B) PAYMENT TO ULTIMATE, REGISTERED VENDOR.—The amount which would be paid under paragraph (1) with respect to any kerosene shall be paid only to the ultimate vendor of such kerosene. A payment shall be made to such vendor if such vendor—

“(i) is registered under section 4101, and

“(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).”.

(3) CONFORMING AMENDMENTS.—

(A) Section 4041(a)(1)(B) is amended by striking the last sentence.

(B) The heading for subsection (l) of section 6427 is amended by striking “, KEROSENE AND AVIATION FUEL” and inserting “AND KEROSENE”.

(C) Section 4082(d)(2)(B) is amended by striking “section 6427(l)(5)(B)” and inserting “section 6427(l)(6)(B)”.

(D) Section 6427(i)(4)(A) is amended—

(i) by striking “paragraph (4)(B) or (5)” both places it appears and inserting “paragraph (4)(B), (5), or (6)”, and

(ii) by striking “subsection (b)(4) and subsection (l)(5)” in the last sentence and inserting “subsections (b)(4), (l)(5), and (l)(6)”.

(E) Paragraph (4) of section 6427(l) is amended—

(i) by striking “aviation-grade” in subparagraph (A),

(ii) by striking “section 4081(a)(2)(A)(iv)” and inserting “section 4081(a)(2)(iii)”,

(iii) by striking “aviation-grade kerosene” in subparagraph (B) and inserting “kerosene used in commercial aviation as described in subparagraph (A)”, and

(iv) by striking “AVIATION-GRADE KEROSENE” in the heading thereof and inserting “KEROSENE USED IN COMMERCIAL AVIATION”.

(F) Section 6427(l)(6)(B), as redesignated by paragraph (2)(B), is amended by striking “aviation-grade kerosene” and inserting “kerosene used in aviation”.

(c) TRANSFERS FROM HIGHWAY TRUST FUND OF TAXES ON FUELS USED IN AVIATION TO AIRPORT AND AIRWAY TRUST FUND.—

(1) IN GENERAL.—Section 9503(c) (relating to expenditures from Highway Trust Fund) is amended by adding at the end the following new paragraph:

“(7) TRANSFERS FROM THE TRUST FUND FOR CERTAIN AVIATION FUEL TAXES.—The Secretary shall pay at least monthly from the Highway Trust Fund into the Airport and Airway Trust Fund amounts (as determined by the Secretary) equivalent to the taxes received on or after October 1, 2005, and before October 1, 2011, under section 4081 with respect to so much of the rate of tax as does not exceed—

“(A) 4.3 cents per gallon of kerosene with respect to which a payment has been made by the Secretary under section 6427(l)(4), and

“(B) 21.8 cents per gallon of kerosene with respect to which a payment has been made by the Secretary under section 6427(l)(5).

Transfers under the preceding sentence shall be made on the basis of estimates by the Secretary, and proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred. Any amount allowed as a credit under section 34 by reason of paragraph (4) or (5) of section 6427(l) shall be treated for purposes of subparagraphs (A) and (B) as a payment made by the Secretary under such paragraph.”.

(2) CONFORMING AMENDMENTS.—

(A) Section 9502(a) is amended by striking “appropriated or credited to the Airport and Airway Trust Fund as provided in this section or section 9602(b)” and inserting “appropriated, credited, or paid into the Airport and Airway Trust Fund as provided in this section, section 9503(c)(7), or section 9602(b)”.

(B) Section 9502(b)(1) is amended—

(i) by striking “subsections (c) and (e) of section 4041” in subparagraph (A) and inserting “section 4041(c)”, and

(ii) by striking “and aviation-grade kerosene” in subparagraph (C) and inserting “and kerosene to the extent attributable to the rate specified in section 4081(a)(2)(C)”.

(C) Section 9503(b) is amended by striking paragraph

(3).

(d) CERTAIN REFUNDS NOT TRANSFERRED FROM AIRPORT AND AIRWAY TRUST FUND.—

(1) Section 9502(d)(2) (relating to transfers from Airport and Airway Trust Fund on account of certain refunds) is amended by inserting “(other than subsection (l)(4) and (l)(5) thereof)” after “or 6427 (relating to fuels not used for taxable purposes)”.

(2) The text of section 9502(d)(3) (relating to transfers from Airport and Airway Trust Fund on account of certain

Effective date.
Termination
date.

section 34 credits) is amended by inserting “(other than payments made by reason of paragraph (4) or (5) of section 6427(l))” after “section 34”.

(e) **EFFECTIVE DATE.**—The amendments made by this section shall apply to fuels or liquids removed, entered, or sold after September 30, 2005. 26 USC 4041 note.

SEC. 11162. REPEAL OF ULTIMATE VENDOR REFUND CLAIMS WITH RESPECT TO FARMING.

(a) **IN GENERAL.**—Subparagraph (A) of section 6427(l)(6) (relating to registered vendors to administer claims for refund of diesel fuel or kerosene sold to farmers and State and local governments), as redesignated by section 11161, is amended to read as follows:

“(A) **IN GENERAL.**—Paragraph (1) shall not apply to diesel fuel or kerosene used by a State or local government.”.

(b) **CONFORMING AMENDMENT.**—The heading of paragraph (6) of section 6427(l), as so redesignated, is amended by striking “FARMERS AND”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to sales after September 30, 2005. 26 USC 6427 note.

SEC. 11163. REFUNDS OF EXCISE TAXES ON EXEMPT SALES OF FUEL BY CREDIT CARD.

(a) **REGISTRATION OF PERSON EXTENDING CREDIT ON CERTAIN EXEMPT SALES OF FUEL.**—Section 4101(a) (relating to registration) is amended by adding at the end the following new paragraph:

“(4) **REGISTRATION OF PERSONS EXTENDING CREDIT ON CERTAIN EXEMPT SALES OF FUEL.**—The Secretary shall require registration by any person which—

“(A) extends credit by credit card to any ultimate purchaser described in subparagraph (C) or (D) of section 6416(b)(2) for the purchase of taxable fuel upon which tax has been imposed under section 4041 or 4081, and

“(B) does not collect the amount of such tax from such ultimate purchaser.”.

(b) **REFUNDS OF TAX ON GASOLINE.**—

(1) **IN GENERAL.**—Paragraph (4) of section 6416(a) (relating to condition to allowance) is amended—

(A) by inserting “except as provided in subparagraph (B),” after “For purposes of this subsection,” in subparagraph (A),

(B) by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

“(B) **CREDIT CARD ISSUER.**—For purposes of this subsection, if the purchase of gasoline described in subparagraph (A) (determined without regard to the registration status of the ultimate vendor) is made by means of a credit card issued to the ultimate purchaser, paragraph (1) shall not apply and the person extending the credit to the ultimate purchaser shall be treated as the person (and the only person) who paid the tax, but only if such person—

“(i) is registered under section 4101,

“(ii) has established, under regulations prescribed by the Secretary, that such person—

“(I) has not collected the amount of the tax from the person who purchased such article, or

“(II) has obtained the written consent from the ultimate purchaser to the allowance of the credit or refund, and

“(iii) has so established that such person—

“(I) has repaid or agreed to repay the amount of the tax to the ultimate vendor,

“(II) has obtained the written consent of the ultimate vendor to the allowance of the credit or refund, or

“(III) has otherwise made arrangements which directly or indirectly provides the ultimate vendor with reimbursement of such tax.

If clause (i), (ii), or (iii) is not met by such person extending the credit to the ultimate purchaser, then such person shall collect an amount equal to the tax from the ultimate purchaser and only such ultimate purchaser may claim such credit or payment.”,

(C) by striking “subparagraph (A)” in subparagraph (C), as redesignated by paragraph (2), and inserting “subparagraph (A) or (B)”,

(D) by inserting “or credit card issuer” after “vendor” in subparagraph (C), as so redesignated, and

(E) by inserting “OR CREDIT CARD ISSUER” after “VENDOR” in the heading thereof.

(2) CONFORMING AMENDMENT.—Section 6416(b)(2) is amended by adding at the end the following new sentence: “Subparagraphs (C) and (D) shall not apply in the case of any tax imposed on gasoline under section 4081 if the requirements of subsection (a)(4) are not met.”.

(c) DIESEL FUEL OR KEROSENE.—Paragraph (6) of section 6427(l) (relating to nontaxable uses of diesel fuel and kerosene), as redesignated by section 11161, is amended—

(1) by striking “The amount” in subparagraph (C) and inserting “Except as provided in subparagraph (D), the amount”, and

(2) by adding at the end the following new subparagraph:

“(D) CREDIT CARD ISSUER.—For purposes of this paragraph, if the purchase of any fuel described in subparagraph (A) (determined without regard to the registration status of the ultimate vendor) is made by means of a credit card issued to the ultimate purchaser, the Secretary shall pay to the person extending the credit to the ultimate purchaser the amount which would have been paid under paragraph (1) (but for subparagraph (A)), but only if such person meets the requirements of clauses (i), (ii), and (iii) of section 6416(a)(4)(B). If such clause (i), (ii), or (iii) is not met by such person extending the credit to the ultimate purchaser, then such person shall collect an amount equal to the tax from the ultimate purchaser and only such ultimate purchaser may claim such amount.”.

(d) CONFORMING PENALTY AMENDMENTS.—

(1) Section 6206 (relating to special rules applicable to excessive claims under sections 6420, 6421, and 6427) is amended—

(A) by striking “Any portion” in the first sentence and inserting “Any portion of a refund made under section 6416(a)(4) and any portion”,

(B) by striking “payments under sections 6420” in the first sentence and inserting “refunds under section 6416(a)(4) and payments under sections 6420”,

(C) by striking “section 6420” in the second sentence and inserting “section 6416(a)(4), 6420”, and

(D) by striking “**SECTIONS 6420, 6421, AND 6427**” in the heading thereof and inserting “**CERTAIN SECTIONS**”.

(2) Section 6675(a) is amended by inserting “section 6416(a)(4) (relating to certain sales of gasoline),” after “made under”.

(3) Section 6675(b)(1) is amended by inserting “6416(a)(4),” after “under section”.

(4) The item relating to section 6206 in the table of sections for subchapter A of chapter 63 is amended by striking “sections 6420, 6421, and 6427” and inserting “certain sections”.

(e) **EFFECTIVE DATE.**—The amendments made by this section shall apply to sales after December 31, 2005.

26 USC 4101
note.

SEC. 11164. REREGISTRATION IN EVENT OF CHANGE IN OWNERSHIP.

(a) **IN GENERAL.**—Section 4101(a) (relating to registration) is amended by adding at the end the following new paragraph:

“(4) **REREGISTRATION IN EVENT OF CHANGE IN OWNERSHIP.**—Under regulations prescribed by the Secretary, a person (other than a corporation the stock of which is regularly traded on an established securities market) shall be required to reregister under this section if after a transaction (or series of related transactions) more than 50 percent of ownership interests in, or assets of, such person are held by persons other than persons (or persons related thereto) who held more than 50 percent of such interests or assets before the transaction (or series of related transactions).”.

(b) **CONFORMING AMENDMENTS.**—

(1) **CIVIL PENALTY.**—Section 6719 (relating to failure to register) is amended—

(A) by inserting “or reregister” after “register” each place it appears,

(B) by inserting “**OR REREGISTER**” after “**REGISTER**” in the heading for subsection (a), and

(C) by inserting “**OR REREGISTER**” after “**REGISTER**” in the heading thereof.

(2) **CRIMINAL PENALTY.**—Section 7232 (relating to failure to register under section 4101, false representations of registration status, etc.) is amended—

(A) by inserting “or reregister” after “register”,

(B) by inserting “or reregistration” after “registration”, and

(C) by inserting “**OR REREGISTER**” after “**REGISTER**” in the heading thereof.

(3) **ADDITIONAL CIVIL PENALTY.**—Section 7272 (relating to penalty for failure to register) is amended—

(A) by inserting “or reregister” after “failure to register” in subsection (a), and

(B) by inserting “**OR REREGISTER**” after “**REGISTER**” in the heading thereof.

(4) CLERICAL AMENDMENTS.—The item relating to section 6719 in the table of sections for part I of subchapter B of chapter 68, the item relating to section 7232 in the table of sections for part II of subchapter A of chapter 75, and the item relating to section 7272 in the table of sections for subchapter B of chapter 75 are each amended by inserting “or reregister” after “register”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to actions, or failures to act, after the date of the enactment of this Act.

SEC. 11165. RECONCILIATION OF ON-LOADED CARGO TO ENTERED CARGO.

(a) IN GENERAL.—Subsection (a) of section 343 of the Trade Act of 2002 is amended by inserting at the end the following new paragraph:

“(4) TRANSMISSION OF DATA.—Pursuant to paragraph (2), not later than 1 year after the date of enactment of this paragraph, the Secretary of Homeland Security, after consultation with the Secretary of the Treasury, shall establish an electronic data interchange system through which the United States Customs and Border Protection shall transmit to the Internal Revenue Service information pertaining to cargoes of any taxable fuel (as defined in section 4083 of the Internal Revenue Code of 1986) that the United States Customs and Border Protection has obtained electronically under its regulations adopted in accordance with paragraph (1). For this purpose, not later than 1 year after the date of enactment of this paragraph, all filers of required cargo information for such taxable fuels (as so defined) must provide such information to the United States Customs and Border Protection through such electronic data interchange system.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 11166. TREATMENT OF DEEP-DRAFT VESSELS.

(a) IN GENERAL.—On and after the date of the enactment of this Act, the Secretary of the Treasury shall require that a vessel described in section 4042(c)(1) of the Internal Revenue Code of 1986 be considered a vessel for purposes of the registration of the operator of such vessel under section 4101 of such Code, unless such operator uses such vessel exclusively for purposes of the entry of taxable fuel.

(b) EXEMPTION FOR DOMESTIC BULK TRANSFERS BY DEEP-DRAFT VESSELS.—

(1) IN GENERAL.—Subparagraph (B) of section 4081(a)(1) (relating to tax on removal, entry, or sale) is amended to read as follows:

“(B) EXEMPTION FOR BULK TRANSFERS TO REGISTERED TERMINALS OR REFINERIES.—

“(i) IN GENERAL.—The tax imposed by this paragraph shall not apply to any removal or entry of a taxable fuel transferred in bulk by pipeline or vessel to a terminal or refinery if the person removing or entering the taxable fuel, the operator of such pipeline or vessel (except as provided in clause (ii)), and the operator of such terminal or refinery are registered under section 4101.

“(ii) NONAPPLICATION OF REGISTRATION TO VESSEL OPERATORS ENTERING BY DEEP-DRAFT VESSEL.—For purposes of clause (i), a vessel operator is not required to be registered with respect to the entry of a taxable fuel transferred in bulk by a vessel described in section 4042(c)(1).”.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect on the date of the enactment of this Act. 26 USC 4081 note.

SEC. 11167. PENALTY WITH RESPECT TO CERTAIN ADULTERATED FUELS.

(a) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end the following new section:

“SEC. 6720A. PENALTY WITH RESPECT TO CERTAIN ADULTERATED FUELS.

“(a) IN GENERAL.—Any person who knowingly transfers for resale, sells for resale, or holds out for resale any liquid for use in a diesel-powered highway vehicle or a diesel-powered train which does not meet applicable EPA regulations (as defined in section 45H(c)(3)), shall pay a penalty of \$10,000 for each such transfer, sale, or holding out for resale, in addition to the tax on such liquid (if any).

“(b) PENALTY IN THE CASE OF RETAILERS.—Any person who knowingly holds out for sale (other than for resale) any liquid described in subsection (a), shall pay a penalty of \$10,000 for each such holding out for sale, in addition to the tax on such liquid (if any).”.

(b) DEDICATION OF REVENUE.—Paragraph (5) of section 9503(b) (relating to certain penalties) is amended by inserting “6720A,” after “6719,”.

(c) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by adding at the end the following new item:

“Sec. 6720A. Penalty with respect to certain adulterated fuels.”.

26 USC 6720A
note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to any transfer, sale, or holding out for sale or resale occurring after the date of the enactment of this Act.

Approved August 10, 2005.

LEGISLATIVE HISTORY—H.R. 3 (S. 732):

HOUSE REPORTS: Nos. 109–12 and Pt. 2 (both from Comm. on Transportation and Infrastructure) and 109–203 (Comm. of Conference).

SENATE REPORTS: No. 109–53 accompanying S. 732 (Comm. on Environment and Public Works).

CONGRESSIONAL RECORD, Vol. 151 (2005):

Mar. 9, 10, considered and passed House.

Apr. 26–28, May 9–13, 16, 17, considered and passed Senate, amended.

July 29, House and Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 41 (2005):

Aug. 10, Presidential remarks and statement.



Public Law 109–60
109th Congress

An Act

To provide for the establishment of a controlled substance monitoring program
in each State.

Aug. 11, 2005
[H.R. 1132]

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the “National All Schedules Prescription Electronic Reporting Act of 2005”.

SEC. 2. PURPOSE.

It is the purpose of this Act to—

(1) foster the establishment of State-administered controlled substance monitoring systems in order to ensure that health care providers have access to the accurate, timely prescription history information that they may use as a tool for the early identification of patients at risk for addiction in order to initiate appropriate medical interventions and avert the tragic personal, family, and community consequences of untreated addiction; and

(2) establish, based on the experiences of existing State controlled substance monitoring programs, a set of best practices to guide the establishment of new State programs and the improvement of existing programs.

SEC. 3. CONTROLLED SUBSTANCE MONITORING PROGRAM.

Part P of title III of the Public Health Service Act (42 U.S.C. 280g et seq.) is amended by adding after section 399N the following:

“SEC. 399O. CONTROLLED SUBSTANCE MONITORING PROGRAM.

42 USC 280g–3.

“(a) GRANTS.—

“(1) IN GENERAL.—Each fiscal year, the Secretary shall award a grant to each State with an application approved under this section to enable the State—

“(A) to establish and implement a State controlled substance monitoring program; or

“(B) to make improvements to an existing State controlled substance monitoring program.

“(2) DETERMINATION OF AMOUNT.—

“(A) MINIMUM AMOUNT.—In making payments under a grant under paragraph (1) for a fiscal year, the Secretary shall allocate to each State with an application approved under this section an amount that equals 1.0 percent of the amount appropriated to carry out this section for that fiscal year.

National All
Schedules
Prescription
Electronic
Reporting Act
of 2005.
Health and
health care.
42 USC 201 note.
42 USC 280g–3
note.

“(B) ADDITIONAL AMOUNTS.—In making payments under a grant under paragraph (1) for a fiscal year, the Secretary shall allocate to each State with an application approved under this section an additional amount which bears the same ratio to the amount appropriated to carry out this section for that fiscal year and remaining after amounts are made available under subparagraph (A) as the number of pharmacies of the State bears to the number of pharmacies of all States with applications approved under this section (as determined by the Secretary), except that the Secretary may adjust the amount allocated to a State under this subparagraph after taking into consideration the budget cost estimate for the State’s controlled substance monitoring program.

“(3) TERM OF GRANTS.—Grants awarded under this section shall be obligated in the year in which funds are allotted.

Deadline.
Federal Register,
publication.

“(b) DEVELOPMENT OF MINIMUM REQUIREMENTS.—Prior to awarding a grant under this section, and not later than 6 months after the date on which funds are first appropriated to carry out this section, after seeking consultation with States and other interested parties, the Secretary shall, after publishing in the Federal Register proposed minimum requirements and receiving public comments, establish minimum requirements for criteria to be used by States for purposes of clauses (ii), (v), (vi), and (vii) of subsection (c)(1)(A).

“(c) APPLICATION APPROVAL PROCESS.—

“(1) IN GENERAL.—To be eligible to receive a grant under this section, a State shall submit an application to the Secretary at such time, in such manner, and containing such assurances and information as the Secretary may reasonably require. Each such application shall include—

“(A) with respect to a State that intends to use funds under the grant as provided for in subsection (a)(1)(A)—

“(i) a budget cost estimate for the controlled substance monitoring program to be implemented under the grant;

“(ii) criteria for security for information handling and for the database maintained by the State under subsection (e) generally including efforts to use appropriate encryption technology or other appropriate technology to protect the security of such information;

“(iii) an agreement to adopt health information interoperability standards, including health vocabulary and messaging standards, that are consistent with any such standards generated or identified by the Secretary or his or her designee;

“(iv) criteria for meeting the uniform electronic format requirement of subsection (h);

“(v) criteria for availability of information and limitation on access to program personnel;

“(vi) criteria for access to the database, and procedures to ensure that information in the database is accurate;

“(vii) criteria for the use and disclosure of information, including a description of the certification process to be applied to requests for information under subsection (f);

“(viii) penalties for the unauthorized use and disclosure of information maintained in the State controlled substance monitoring program in violation of applicable State law or regulation;

“(ix) information on the relevant State laws, policies, and procedures, if any, regarding purging of information from the database; and

“(x) assurances of compliance with all other requirements of this section; or

“(B) with respect to a State that intends to use funds under the grant as provided for in subsection (a)(1)(B)—

“(i) a budget cost estimate for the controlled substance monitoring program to be improved under the grant;

“(ii) a plan for ensuring that the State controlled substance monitoring program is in compliance with the criteria and penalty requirements described in clauses (ii) through (viii) of subparagraph (A);

“(iii) a plan to enable the State controlled substance monitoring program to achieve interoperability with at least one other State controlled substance monitoring program; and

“(iv) assurances of compliance with all other requirements of this section or a statement describing why such compliance is not feasible or is contrary to the best interests of public health in such State.

“(2) STATE LEGISLATION.—As part of an application under paragraph (1), the Secretary shall require a State to demonstrate that the State has enacted legislation or regulations to permit the implementation of the State controlled substance monitoring program and the imposition of appropriate penalties for the unauthorized use and disclosure of information maintained in such program.

“(3) INTEROPERABILITY.—If a State that submits an application under this subsection geographically borders another State that is operating a controlled substance monitoring program under subsection (a)(1) on the date of submission of such application, and such applicant State has not achieved interoperability for purposes of information sharing between its monitoring program and the monitoring program of such border State, such applicant State shall, as part of the plan under paragraph (1)(B)(iii), describe the manner in which the applicant State will achieve interoperability between the monitoring programs of such States.

“(4) APPROVAL.—If a State submits an application in accordance with this subsection, the Secretary shall approve such application.

“(5) RETURN OF FUNDS.—If the Secretary withdraws approval of a State’s application under this section, or the State chooses to cease to implement or improve a controlled substance monitoring program under this section, a funding agreement for the receipt of a grant under this section is that the State will return to the Secretary an amount which bears the same ratio to the overall grant as the remaining time period for expending the grant funds bears to the overall time period for expending the grant (as specified by the Secretary at the time of the grant).

“(d) REPORTING REQUIREMENTS.—In implementing or improving a controlled substance monitoring program under this section, a State shall comply, or with respect to a State that applies for a grant under subsection (a)(1)(B) submit to the Secretary for approval a statement of why such compliance is not feasible or is contrary to the best interests of public health in such State, with the following:

Deadline.

“(1) The State shall require dispensers to report to such State each dispensing in the State of a controlled substance to an ultimate user not later than 1 week after the date of such dispensing.

“(2) The State may exclude from the reporting requirement of this subsection—

“(A) the direct administration of a controlled substance to the body of an ultimate user;

“(B) the dispensing of a controlled substance in a quantity limited to an amount adequate to treat the ultimate user involved for 48 hours or less; or

“(C) the administration or dispensing of a controlled substance in accordance with any other exclusion identified by the Secretary for purposes of this paragraph.

“(3) The information to be reported under this subsection with respect to the dispensing of a controlled substance shall include the following:

“(A) Drug Enforcement Administration Registration Number (or other identifying number used in lieu of such Registration Number) of the dispenser.

“(B) Drug Enforcement Administration Registration Number (or other identifying number used in lieu of such Registration Number) and name of the practitioner who prescribed the drug.

“(C) Name, address, and telephone number of the ultimate user or such contact information of the ultimate user as the Secretary determines appropriate.

“(D) Identification of the drug by a national drug code number.

“(E) Quantity dispensed.

“(F) Number of refills ordered.

“(G) Whether the drug was dispensed as a refill of a prescription or as a first-time request.

“(H) Date of the dispensing.

“(I) Date of origin of the prescription.

“(J) Such other information as may be required by State law to be reported under this subsection.

“(4) The State shall require dispensers to report information under this section in accordance with the electronic format specified by the Secretary under subsection (h), except that the State may waive the requirement of such format with respect to an individual dispenser that is unable to submit such information by electronic means.

“(e) DATABASE.—In implementing or improving a controlled substance monitoring program under this section, a State shall comply with the following:

“(1) The State shall establish and maintain an electronic database containing the information reported to the State under subsection (d).

“(2) The database must be searchable by any field or combination of fields.

“(3) The State shall include reported information in the database in a manner consistent with criteria established by the Secretary, with appropriate safeguards for ensuring the accuracy and completeness of the database.

“(4) The State shall take appropriate security measures to protect the integrity of, and access to, the database.

“(f) USE AND DISCLOSURE OF INFORMATION.—

“(1) IN GENERAL.—Subject to subsection (g), in implementing or improving a controlled substance monitoring program under this section, a State may disclose information from the database established under subsection (e) and, in the case of a request under subparagraph (D), summary statistics of such information, only in response to a request by—

“(A) a practitioner (or the agent thereof) who certifies, under the procedures determined by the State, that the requested information is for the purpose of providing medical or pharmaceutical treatment or evaluating the need for such treatment to a bona fide current patient;

Certification.

“(B) any local, State, or Federal law enforcement, narcotics control, licensure, disciplinary, or program authority, who certifies, under the procedures determined by the State, that the requested information is related to an individual investigation or proceeding involving the unlawful diversion or misuse of a schedule II, III, or IV substance, and such information will further the purpose of the investigation or assist in the proceeding;

“(C) the controlled substance monitoring program of another State or group of States with whom the State has established an interoperability agreement;

“(D) any agent of the Department of Health and Human Services, a State medicaid program, a State health department, or the Drug Enforcement Administration who certifies that the requested information is necessary for research to be conducted by such department, program, or administration, respectively, and the intended purpose of the research is related to a function committed to such department, program, or administration by law that is not investigative in nature; or

“(E) an agent of the State agency or entity of another State that is responsible for the establishment and maintenance of that State’s controlled substance monitoring program, who certifies that—

“(i) the State has an application approved under this section; and

“(ii) the requested information is for the purpose of implementing the State’s controlled substance monitoring program under this section.

“(2) DRUG DIVERSION.—In consultation with practitioners, dispensers, and other relevant and interested stakeholders, a State receiving a grant under subsection (a)—

“(A) shall establish a program to notify practitioners and dispensers of information that will help identify and prevent the unlawful diversion or misuse of controlled substances; and

“(B) may, to the extent permitted under State law, notify the appropriate authorities responsible for carrying out drug diversion investigations if the State determines that information in the database maintained by the State under subsection (e) indicates an unlawful diversion or abuse of a controlled substance.

“(g) LIMITATIONS.—In implementing or improving a controlled substance monitoring program under this section, a State—

“(1) shall limit the information provided pursuant to a valid request under subsection (f)(1) to the minimum necessary to accomplish the intended purpose of the request; and

“(2) shall limit information provided in response to a request under subsection (f)(1)(D) to nonidentifiable information.

Records.

“(h) ELECTRONIC FORMAT.—The Secretary shall specify a uniform electronic format for the reporting, sharing, and disclosure of information under this section.

“(i) RULES OF CONSTRUCTION.—

“(1) FUNCTIONS OTHERWISE AUTHORIZED BY LAW.—Nothing in this section shall be construed to restrict the ability of any authority, including any local, State, or Federal law enforcement, narcotics control, licensure, disciplinary, or program authority, to perform functions otherwise authorized by law.

“(2) NO PREEMPTION.—Nothing in this section shall be construed as preempting any State law, except that no such law may relieve any person of a requirement otherwise applicable under this Act.

“(3) ADDITIONAL PRIVACY PROTECTIONS.—Nothing in this section shall be construed as preempting any State from imposing any additional privacy protections.

“(4) FEDERAL PRIVACY REQUIREMENTS.—Nothing in this section shall be construed to supersede any Federal privacy or confidentiality requirement, including the regulations promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191; 110 Stat. 2033) and section 543 of the Public Health Service Act.

“(5) NO FEDERAL PRIVATE CAUSE OF ACTION.—Nothing in this section shall be construed to create a Federal private cause of action.

“(j) STUDIES AND REPORTS.—

“(1) IMPLEMENTATION REPORT.—

“(A) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Secretary, based on a review of existing State controlled substance monitoring programs and other relevant information, shall determine whether the implementation of such programs has had a substantial negative impact on—

“(i) patient access to treatment, including therapy for pain or controlled substance abuse;

“(ii) pediatric patient access to treatment; or

“(iii) patient enrollment in research or clinical trials in which, following the protocol that has been approved by the relevant institutional review board for the research or clinical trial, the patient has obtained a controlled substance from either the scientific investigator conducting such research or clinical trial or the agent thereof.

“(B) ADDITIONAL CATEGORIES OF EXCLUSION.—If the Secretary determines under subparagraph (A) that a substantial negative impact has been demonstrated with regard to one or more of the categories of patients described in such subparagraph, the Secretary shall identify additional appropriate categories of exclusion from reporting as authorized under subsection (d)(2)(C).

“(2) PROGRESS REPORT.—Not later than 3 years after the date on which funds are first appropriated under this section, the Secretary shall—

“(A) complete a study that—

“(i) determines the progress of States in establishing and implementing controlled substance monitoring programs under this section;

“(ii) provides an analysis of the extent to which the operation of controlled substance monitoring programs have reduced inappropriate use, abuse, or diversion of controlled substances or affected patient access to appropriate pain care in States operating such programs;

“(iii) determines the progress of States in achieving interoperability between controlled substance monitoring programs, including an assessment of technical and legal barriers to such activities and recommendations for addressing these barriers;

“(iv) determines the feasibility of implementing a real-time electronic controlled substance monitoring program, including the costs associated with establishing such a program;

“(v) provides an analysis of the privacy protections in place for the information reported to the controlled substance monitoring program in each State receiving a grant for the establishment or operation of such program, and any recommendations for additional requirements for protection of this information;

“(vi) determines the feasibility of implementing technological alternatives to centralized data storage, such as peer-to-peer file sharing or data pointer systems, in controlled substance monitoring programs and the potential for such alternatives to enhance the privacy and security of individually identifiable data; and

“(vii) evaluates the penalties that States have enacted for the unauthorized use and disclosure of information maintained in the controlled substance monitoring program, and reports on the criteria used by the Secretary to determine whether such penalties qualify as appropriate pursuant to this section; and

“(B) submit a report to the Congress on the results of the study.

“(k) PREFERENCE.—Beginning 3 years after the date on which funds are first appropriated to carry out this section, the Secretary, in awarding any competitive grant that is related to drug abuse (as determined by the Secretary) and for which only States are eligible to apply, shall give preference to any State with an application approved under this section. The Secretary shall have the discretion to apply such preference to States with existing controlled substance monitoring programs that meet minimum requirements

Effective date.

under this section or to States that put forth a good faith effort to meet those requirements (as determined by the Secretary).

“(l) ADVISORY COUNCIL.—

“(1) ESTABLISHMENT.—A State may establish an advisory council to assist in the establishment, implementation, or improvement of a controlled substance monitoring program under this section.

“(2) LIMITATION.—A State may not use amounts received under a grant under this section for the operations of an advisory council established under paragraph (1).

“(3) SENSE OF CONGRESS.—It is the sense of the Congress that, in establishing an advisory council under this subsection, a State should consult with appropriate professional boards and other interested parties.

“(m) DEFINITIONS.—For purposes of this section:

“(1) The term ‘bona fide patient’ means an individual who is a patient of the practitioner involved.

“(2) The term ‘controlled substance’ means a drug that is included in schedule II, III, or IV of section 202(c) of the Controlled Substance Act.

“(3) The term ‘dispense’ means to deliver a controlled substance to an ultimate user by, or pursuant to the lawful order of, a practitioner, irrespective of whether the dispenser uses the Internet or other means to effect such delivery.

“(4) The term ‘dispenser’ means a physician, pharmacist, or other person that dispenses a controlled substance to an ultimate user.

“(5) The term ‘interoperability’ with respect to a State controlled substance monitoring program means the ability of the program to electronically share reported information, including each of the required report components described in subsection (d), with another State if the information concerns either the dispensing of a controlled substance to an ultimate user who resides in such other State, or the dispensing of a controlled substance prescribed by a practitioner whose principal place of business is located in such other State.

“(6) The term ‘nonidentifiable information’ means information that does not identify a practitioner, dispenser, or an ultimate user and with respect to which there is no reasonable basis to believe that the information can be used to identify a practitioner, dispenser, or an ultimate user.

“(7) The term ‘practitioner’ means a physician, dentist, veterinarian, scientific investigator, pharmacy, hospital, or other person licensed, registered, or otherwise permitted, by the United States or the jurisdiction in which he or she practices or does research, to distribute, dispense, conduct research with respect to, administer, or use in teaching or chemical analysis, a controlled substance in the course of professional practice or research.

“(8) The term ‘State’ means each of the 50 States and the District of Columbia.

“(9) The term ‘ultimate user’ means a person who has obtained from a dispenser, and who possesses, a controlled substance for his or her own use, for the use of a member of his or her household, or for the use of an animal owned by him or her or by a member of his or her household.

“(n) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated—

“(1) \$15,000,000 for each of fiscal years 2006 and 2007;
and

“(2) \$10,000,000 for each of fiscal years 2008, 2009, and 2010.”.

Approved August 11, 2005.

LEGISLATIVE HISTORY—H.R. 1132 (S. 518):

HOUSE REPORTS: No. 109–191 (Comm. on Energy and Commerce).

SENATE REPORTS: No. 109–117 accompanying S. 518 (Comm. on Health, Education, Labor, and Pensions).

CONGRESSIONAL RECORD, Vol. 151 (2005):

July 27, considered and passed House.

July 29, considered and passed Senate.



Public Law 109–61
109th Congress

An Act

Sept. 2, 2005
[H.R. 3645]

Making emergency supplemental appropriations to meet immediate needs arising from the consequences of Hurricane Katrina, for the fiscal year ending September 30, 2005, and for other purposes.

Emergency
Supplemental
Appropriations
Act to Meet
Immediate Needs
Arising From the
Consequences of
Hurricane
Katrina, 2005.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2005, namely:

DEPARTMENT OF HOMELAND SECURITY
EMERGENCY PREPAREDNESS AND RESPONSE

DISASTER RELIEF

For an additional amount for “Disaster Relief”, \$10,000,000,000, to remain available until expended: *Provided*, That the amount provided herein is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress).

DEPARTMENT OF DEFENSE

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, DEFENSE-WIDE

(INCLUDING TRANSFER OF FUNDS)

Expiration date.

For an additional amount for “Operation and Maintenance, Defense-Wide”, \$500,000,000 for emergency hurricane expenses, to support costs of evacuation, emergency repairs, deployment of personnel, and other costs resulting from immediate relief efforts, to remain available until September 30, 2006: *Provided*, That the Secretary of Defense may transfer these funds to appropriations for military personnel, operation and maintenance, procurement, family housing, Defense Health Program, and working capital funds: *Provided further*, That funds transferred shall be merged with and be available for the same purposes and for the same time period as the appropriation or fund to which transferred: *Provided further*, That this transfer authority is in addition to any other transfer authority available to the Department of Defense: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further*, That the Secretary of Defense

Notification.
Deadline.

shall, not more than 5 days after making transfers from this appropriation, notify the congressional defense committees in writing of any such transfer: *Provided further*, That the amount provided herein is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress).

This Act may be cited as the “Emergency Supplemental Appropriations Act to Meet Immediate Needs Arising From the Consequences of Hurricane Katrina, 2005”.

Approved September 2, 2005.

LEGISLATIVE HISTORY—H.R. 3645:

CONGRESSIONAL RECORD, Vol. 151 (2005):

Sept. 2, considered and passed House and Senate.



Public Law 109–62
109th Congress

An Act

Sept. 8, 2005
[H.R. 3673]

Making further emergency supplemental appropriations to meet immediate needs arising from the consequences of Hurricane Katrina, for the fiscal year ending September 30, 2005, and for other purposes.

Second
Emergency
Supplemental
Appropriations
Act to Meet
Immediate Needs
Arising From the
Consequences of
Hurricane
Katrina, 2005.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2005, namely:

DEPARTMENT OF DEFENSE—MILITARY

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, DEFENSE-WIDE

(INCLUDING TRANSFERS OF FUNDS)

Expiration date.

For an additional amount for “Operation and Maintenance, Defense-Wide”, \$1,400,000,000 for emergency hurricane expenses, to support costs of evacuation, emergency repairs, deployment of personnel, and other costs resulting from immediate relief efforts, to remain available until September 30, 2006: *Provided*, That the Secretary of Defense may transfer these funds to appropriations for military personnel, operation and maintenance, procurement, family housing, Defense Health Program, and working capital funds: *Provided further*, That not to exceed \$6,000,000 may be transferred to “Armed Forces Retirement Home” for emergency hurricane expenses: *Provided further*, That funds transferred shall be merged with and be available for the same purposes and for the same time period as the appropriation or fund to which transferred: *Provided further*, That this transfer authority is in addition to any other transfer authority available to the Department of Defense: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further*, That the Secretary of Defense shall, not more than 5 days after making transfers from this appropriation, notify the Committees on Appropriations in writing of any such transfer: *Provided further*, That the amounts provided herein are designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress).

Deadline.
Notification.

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

OPERATION AND MAINTENANCE

For an additional amount for “Operation and Maintenance” for emergency expenses for repair of storm damage to authorized projects in the Gulf states affected by Hurricane Katrina, \$200,000,000, to remain available until expended: *Provided*, That the Chief of Engineers, acting through the Assistant Secretary of the Army for Civil Works, shall provide, at a minimum, a weekly report to the Committees on Appropriations detailing the allocation and obligation of these funds, beginning not later than September 15, 2005: *Provided further*, That the amount provided herein is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress).

Reports.
Deadline.

FLOOD CONTROL AND COASTAL EMERGENCIES

For an additional amount for “Flood Control and Coastal Emergencies”, as authorized by section 5 of the Flood Control Act of August 16, 1941 (33 U.S.C. 701), for emergency expenses for repair of damage to flood control and hurricane shore protection projects in the Gulf states caused by Hurricane Katrina, \$200,000,000, to remain available until expended: *Provided*, That the Chief of Engineers, acting through the Assistant Secretary of the Army for Civil Works, shall provide, at a minimum, a weekly report to the Committees on Appropriations detailing the allocation and obligation of these funds, beginning not later than September 15, 2005: *Provided further*, That the amount provided herein is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress).

Reports.
Deadline.

DEPARTMENT OF HOMELAND SECURITY

EMERGENCY PREPAREDNESS AND RESPONSE

DISASTER RELIEF

(INCLUDING TRANSFERS OF FUNDS)

For an additional amount for “Disaster Relief”, \$50,000,000,000, to remain available until expended: *Provided*, That up to \$100,000,000 may be transferred to and merged with “Emergency Preparedness and Response, Public Health Programs” for the National Disaster Medical System to support medical care as authorized by the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (42 U.S.C. 300hh–11): *Provided further*, That \$15,000,000 shall be transferred to and merged with “Departmental Management and Operations, Office of Inspector General” for necessary expenses of the Office of Inspector General for audits and investigations as authorized by law for Hurricane Katrina response and recovery activities: *Provided further*, That the Secretary of Homeland Security shall provide, at a minimum, a weekly report to the Committees on Appropriations detailing the allocation and obligation of these funds,

Reports.
Deadline.

beginning not later than September 15, 2005: *Provided further*, That the amounts provided herein are designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress).

GENERAL PROVISION

SEC. 101. For procurements of property or services determined by the head of an executive agency to be used in support of Hurricane Katrina rescue and relief operations—

(1) the emergency procurement authority in subsection 32A(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 428a(c)) may be used; and

(2) the amount specified in subsections (c), (d), and (f) of section 32 of the Office of Federal Procurement Policy Act (41 U.S.C. 428) shall be \$250,000.

This Act may be cited as the “Second Emergency Supplemental Appropriations Act to Meet Immediate Needs Arising From the Consequences of Hurricane Katrina, 2005”.

Approved September 8, 2005.

LEGISLATIVE HISTORY—H.R. 3673:

CONGRESSIONAL RECORD, Vol. 151 (2005):

Sept. 8, considered and passed House and Senate.



Public Law 109–63
109th Congress

An Act

To allow United States courts to conduct business during emergency conditions,
and for other purposes.

Sept. 9, 2005
[H.R. 3650]

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the “Federal Judiciary Emergency
Special Sessions Act of 2005”.

Federal Judiciary
Emergency
Special Sessions
Act of 2005.
28 USC 1 note.

**SEC. 2. EMERGENCY AUTHORITY TO CONDUCT COURT PROCEEDINGS
OUTSIDE THE TERRITORIAL JURISDICTION OF THE
COURT.**

(a) **CIRCUIT COURTS.**—Section 48 of title 28, United States
Code, is amended by adding at the end the following:

“(e) Each court of appeals may hold special sessions at any
place within the United States outside the circuit as the nature
of the business may require and upon such notice as the court
orders, upon a finding by either the chief judge of the court of
appeals (or, if the chief judge is unavailable, the most senior avail-
able active judge of the court of appeals) or the judicial council
of the circuit that, because of emergency conditions, no location
within the circuit is reasonably available where such special ses-
sions could be held. The court may transact any business at a
special session outside the circuit which it might transact at a
regular session.

“(f) If a court of appeals issues an order exercising its authority
under subsection (e), the court—

“(1) through the Administrative Office of the United States
Courts, shall—

“(A) send notice of such order, including the reasons
for the issuance of such order, to the Committee on the
Judiciary of the Senate and the Committee on the Judiciary
of the House of Representatives; and

Notice.

“(B) not later than 180 days after the expiration of
such court order submit a brief report to the Committee
on the Judiciary of the Senate and the Committee on
the Judiciary of the House of Representatives describing
the impact of such order, including—

Deadline.
Reports.

“(i) the reasons for the issuance of such order;

“(ii) the duration of such order;

“(iii) the impact of such order on litigants; and

“(iv) the costs to the judiciary resulting from such
order; and

Notice.

“(2) shall provide reasonable notice to the United States Marshals Service before the commencement of any special session held pursuant to such order.”.

(b) DISTRICT COURTS.—Section 141 of title 28, United States Code, is amended—

(1) by inserting “(a)(1)” before “Special”;

(2) by inserting “(2)” before “Any”; and

(3) by adding at the end the following:

“(b)(1) Special sessions of the district court may be held at such places within the United States outside the district as the nature of the business may require and upon such notice as the court orders, upon a finding by either the chief judge of the district court (or, if the chief judge is unavailable, the most senior available active judge of the district court) or the judicial council of the circuit that, because of emergency conditions, no location within the district is reasonably available where such special sessions could be held.

“(2) Pursuant to this subsection, any business which may be transacted at a regular session of a district court may be transacted at a special session conducted outside the district, except that a criminal trial may not be conducted at a special session outside the State in which the crime has been committed unless the defendant consents to such a criminal trial.

“(3) Notwithstanding any other provision of law, in any case in which special sessions are conducted pursuant to this section, the district court may summon jurors—

“(A) in civil proceedings, from any part of the district in which the court ordinarily conducts business or the district in which it is holding a special session; and

“(B) in criminal trials, from any part of the district in which the crime has been committed and, if the defendant so consents, from any district in which the court is conducting business pursuant to this section.

“(4) If a district court issues an order exercising its authority under paragraph (1), the court—

“(A) through the Administrative Office of the United States Courts, shall—

Notice.

“(i) send notice of such order, including the reasons for the issuance of such order, to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives; and

Deadline.
Reports.

“(ii) not later than 180 days after the expiration of such court order submit a brief report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives describing the impact of such order, including—

“(I) the reasons for the issuance of such order;

“(II) the duration of such order;

“(III) the impact of such order on litigants; and

“(IV) the costs to the judiciary resulting from such order; and

Notice.

“(B) shall provide reasonable notice to the United States Marshals Service before the commencement of any special session held pursuant to such order.”.

(c) BANKRUPTCY COURTS.—Section 152(c) of title 28, United States Code, is amended—

(1) by inserting “(1)” after “(c)”; and

(2) by adding at the end the following:

“(2)(A) Bankruptcy judges may hold court at such places within the United States outside the judicial district as the nature of the business of the court may require, and upon such notice as the court orders, upon a finding by either the chief judge of the bankruptcy court (or, if the chief judge is unavailable, the most senior available bankruptcy judge) or by the judicial council of the circuit that, because of emergency conditions, no location within the district is reasonably available where the bankruptcy judges could hold court.

“(B) Bankruptcy judges may transact any business at special sessions of court held outside the district pursuant to this paragraph that might be transacted at a regular session.

“(C) If a bankruptcy court issues an order exercising its authority under subparagraph (A), the court—

“(i) through the Administrative Office of the United States Courts, shall—

“(I) send notice of such order, including the reasons for the issuance of such order, to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives; and

“(II) not later than 180 days after the expiration of such court order submit a brief report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives describing the impact of such order, including—

“(aa) the reasons for the issuance of such order;

“(bb) the duration of such order;

“(cc) the impact of such order on litigants; and

“(dd) the costs to the judiciary resulting from such order; and

“(ii) shall provide reasonable notice to the United States Marshals Service before the commencement of any special session held pursuant to such order.”.

(d) UNITED STATES MAGISTRATE JUDGES.—Section 636 of title 28, United States Code, is amended in subsection (a) by striking “territorial jurisdiction prescribed by his appointment—” and inserting “district in which sessions are held by the court that

Notice.

Deadline.
Reports.

Notice.

appointed the magistrate judge, at other places where that court may function, and elsewhere as authorized by law—”.

Approved September 9, 2005.

LEGISLATIVE HISTORY—H.R. 3650 (S. 1634):
CONGRESSIONAL RECORD, Vol. 151 (2005):
Sept. 7, considered and passed House.
Sept. 8, considered and passed Senate.



Public Law 109–64
109th Congress

An Act

To exclude from consideration as income certain payments under the national flood insurance program.

Sept. 20, 2005
[H.R. 804]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TREATMENT OF CERTAIN PAYMENTS UNDER NATIONAL FLOOD INSURANCE PROGRAM.

Chapter I of the National Flood Insurance Act of 1968 (42 U.S.C. 4011 et seq.) is amended by adding at the end the following new section:

“TREATMENT OF CERTAIN PAYMENTS

“SEC. 1324. Assistance provided under a program under this title for flood mitigation activities (including any assistance provided under the mitigation pilot program under section 1361A, any assistance provided under the mitigation assistance program under section 1366, and any funding provided under section 1323) with respect to a property shall not be considered income or a resource of the owner of the property when determining eligibility for or benefit levels under any income assistance or resource-tested program that is funded in whole or in part by an agency of the United States or by appropriated funds of the United States.”.

42 USC 4031.

Approved September 20, 2005.

LEGISLATIVE HISTORY—H.R. 804:

HOUSE REPORTS: No. 109–44 (Comm. on Financial Services).

CONGRESSIONAL RECORD, Vol. 151 (2005):

July 12, considered and passed House.

Sept. 8, considered and passed Senate.



Public Law 109–65
109th Congress

An Act

Sept. 20, 2005
[H.R. 3669]

To temporarily increase the borrowing authority of the Federal Emergency Management Agency for carrying out the national flood insurance program.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National Flood
Insurance
Program
Enhanced
Borrowing
Authority Act
of 2005.
42 USC 4001
note.

SECTION 1. SHORT TITLE.

This Act may be cited as the “National Flood Insurance Program Enhanced Borrowing Authority Act of 2005”.

SEC. 2. INCREASE IN BORROWING AUTHORITY.

The first sentence of subsection (a) of section 1309 of the National Flood Insurance Act of 1968 (42 U.S.C. 4016(a)) is amended by inserting before the period at the end the following: “; except that, through September 30, 2008, clause (2) of this sentence shall be applied by substituting ‘\$3,500,000,000’ for ‘\$1,500,000,000’”.

Approved September 20, 2005.

LEGISLATIVE HISTORY—H.R. 3669:

CONGRESSIONAL RECORD, Vol. 151 (2005):

Sept. 8, considered and passed House.

Sept. 12, considered and passed Senate.



Public Law 109–66
109th Congress

An Act

To provide the Secretary of Education with waiver authority for students who are eligible for Pell Grants who are adversely affected by a natural disaster.

Sept. 21, 2005
[H.R. 3169]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Pell Grant Hurricane and Disaster Relief Act”.

Pell Grant
Hurricane and
Disaster Relief
Act.
20 USC 1001
note.

SEC. 2. WAIVERS OF FEDERAL PELL GRANT REPAYMENT BY STUDENTS AFFECTED BY DISASTERS.

Section 484B(b)(2) of the Higher Education Act of 1965 (20 U.S.C. 1091b(b)(2)) is amended by adding at the end the following new subparagraph:

“(D) WAIVERS OF FEDERAL PELL GRANT REPAYMENT BY STUDENTS AFFECTED BY DISASTERS.—The Secretary may waive the amounts that students are required to return under this section with respect to Federal Pell Grants if the withdrawals on which the returns are based are withdrawals by students—

“(i) who were residing in, employed in, or attending an institution of higher education that is located in an area in which the President has declared that a major disaster exists, in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170);

“(ii) whose attendance was interrupted because of the impact of the disaster on the student or the institution; and

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PUBLIC LAW 109–66—SEPT. 21, 2005

“(iii) whose withdrawal ended within the academic year during which the designation occurred or during the next succeeding academic year.”.

Approved September 21, 2005.

LEGISLATIVE HISTORY—H.R. 3169:

CONGRESSIONAL RECORD, Vol. 151 (2005):

Sept. 7, considered and passed House.

Sept. 15, considered and passed Senate.



Public Law 109–67
109th Congress

An Act

To provide the Secretary of Education with waiver authority for students who are eligible for Federal student grant assistance who are adversely affected by a major disaster.

Sept. 21, 2005
[H.R. 3668]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Student Grant Hurricane and Disaster Relief Act”.

Student Grant
Hurricane and
Disaster Relief
Act.
20 USC 1001
note.

SEC. 2. WAIVERS OF STUDENT GRANT ASSISTANCE REPAYMENT BY STUDENTS AFFECTED BY DISASTERS.

Section 484B(b)(2) of the Higher Education Act of 1965 (20 U.S.C. 1091b(b)(2)) is amended by adding at the end the following new subparagraph:

“(E) **WAIVERS OF GRANT ASSISTANCE REPAYMENT BY STUDENTS AFFECTED BY DISASTERS.**—In addition to the waivers authorized by subparagraph (D), the Secretary may waive the amounts that students are required to return under this section with respect to any other grant assistance under this title if the withdrawals on which the returns are based are withdrawals by students—

“(i) who were residing in, employed in, or attending an institution of higher education that is located in an area in which the President has declared that a major disaster exists, in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170);

“(ii) whose attendance was interrupted because of the impact of the disaster on the student or the institution; and

“(iii) whose withdrawal ended within the academic year during which the designation occurred or during the next succeeding academic year.”.

Approved September 21, 2005.

LEGISLATIVE HISTORY—H.R. 3668:

CONGRESSIONAL RECORD, Vol. 151 (2005):

Sept. 8, considered and passed House.

Sept. 15, considered and passed Senate.



Public Law 109–68
109th Congress

An Act

To provide assistance to families affected by Hurricane Katrina, through the program of block grants to States for temporary assistance for needy families.

Sept. 21, 2005
[H.R. 3672]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “TANF Emergency Response and Recovery Act of 2005”.

TANF
Emergency
Response and
Recovery Act of
2005.
42 USC 1305
note.

SEC. 2. ADVANCE PAYMENT OF TANF BLOCK GRANTS FOR THE FIRST QUARTER OF FISCAL YEAR 2006.

(a) **IN GENERAL.**—Notwithstanding section 405 of the Social Security Act, the Secretary of Health and Human Services shall pay each grant payable under section 403 of such Act for the first quarter of fiscal year 2006, as soon as practicable after the date of the enactment of this Act.

(b) **EXTENSION OF THE TEMPORARY ASSISTANCE FOR NEEDY FAMILIES BLOCK GRANT PROGRAM THROUGH DECEMBER 31, 2005.**—

(1) **IN GENERAL.**—Activities authorized by part A of title IV of the Social Security Act, and by section 1108(b) of such Act, shall continue through December 31, 2005, in the manner authorized for fiscal year 2005, and out of any money in the Treasury of the United States not otherwise appropriated, there are hereby appropriated such sums as may be necessary for such purpose. Grants and payments may be made pursuant to this authority through the first quarter of fiscal year 2006 at the level provided for such activities through the first quarter of fiscal year 2005.

(2) **CONFORMING AMENDMENTS.**—

(A) **SUPPLEMENTAL GRANTS FOR POPULATION INCREASES IN CERTAIN STATES.**—Section 403(a)(3)(H)(ii) of the Social Security Act (42 U.S.C. 603(a)(3)(H)(ii)) is amended by striking “September 30” and inserting “December 31”.

(B) **CONTINGENCY FUND.**—Section 403(b)(3)(C)(ii) of such Act (42 U.S.C. 603(b)(3)(C)(ii)) is amended by striking “2005” and inserting “2006”.

(C) **MAINTENANCE OF EFFORT.**—Section 409(a)(7) of such Act (42 U.S.C. 609(a)(7)) is amended—

(i) in subparagraph (A), by striking “or 2006” and inserting “2006, or 2007”; and

(ii) in subparagraph (B)(ii), by striking “2005” and inserting “2006”.

(c) **EXTENSION OF THE NATIONAL RANDOM SAMPLE STUDY OF CHILD WELFARE AND CHILD WELFARE WAIVER AUTHORITY THROUGH**

DECEMBER 31, 2005.—Activities authorized by sections 429A and 1130(a) of the Social Security Act shall continue through December 31, 2005, in the manner authorized for fiscal year 2005, and out of any money in the Treasury of the United States not otherwise appropriated, there are hereby appropriated such sums as may be necessary for such purpose. Grants and payments may be made pursuant to this authority through the first quarter of fiscal year 2006 at the level provided for such activities through the first quarter of fiscal year 2005.

SEC. 3. REIMBURSEMENT OF STATES FOR TANF BENEFITS PROVIDED TO ASSIST FAMILIES FROM OTHER STATES AFFECTED BY HURRICANE KATRINA.

Effective date.
Termination
date.

(a) **ELIGIBILITY FOR PAYMENTS FROM THE CONTINGENCY FUND.**—Beginning with the date of the enactment of this Act and ending with August 31, 2006, a State shall be considered a needy State for purposes of section 403(b) of the Social Security Act if—

(1) cash benefits under the State program funded under part A of title IV of the Social Security Act have been provided on a short-term, nonrecurring basis, to a family which—

(A) has resided in another State that includes an area for which a major disaster has been declared under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) as a result of Hurricane Katrina; and

(B) has travelled (not necessarily directly) to the State from such other State as a result of the hurricane; and

(2) the State has determined that the family is not receiving cash benefits from any program funded under such part of any other State.

(b) **LIMITATION ON FUNDING.**—Subject to section 403(b)(3)(C)(i) of the Social Security Act, the total amount paid under section 403(b)(3)(A) of such Act to a State which is a needy State for purposes of section 403(b) of such Act by reason of subsection (a) of this section shall not exceed the total amount of cash benefits provided as described in subsection (a)(1) of this section, to the extent that the condition of subsection (a)(2) of this section has been met with respect to the families involved.

(c) **NO STATE MATCH REQUIRED.**—Sections 403(b)(6) and 409(a)(10) of the Social Security Act shall not apply with respect to a payment made to a State by reason of this section.

SEC. 4. AVAILABILITY OF ADDITIONAL TANF FUNDS FOR HURRICANE-DAMAGED STATES.

Effective date.
Termination
date.

(a) **CERTAIN STATES MADE ELIGIBLE FOR LOANS.**—Beginning with the date of the enactment of this Act and ending with the end of fiscal year 2006:

(1) The States of Louisiana, Mississippi, and Alabama shall be considered loan-eligible States for purposes of section 406 of the Social Security Act.

(2) Notwithstanding section 406(d) of the Social Security Act, the cumulative dollar amount of all loans made to such a State under such section by reason of this section shall not exceed 20 percent of the State family assistance grant payable to the State under section 403 of such Act for fiscal year 2006.

(b) **FORGIVENESS OF LOANS.**—Notwithstanding section 406 of the Social Security Act, a penalty may not be imposed against any of the States of Louisiana, Mississippi, or Alabama for failure to—

(1) repay a loan made to the State under such section on or after the date of the enactment of this Act and before October 1, 2007; or

(2) make any interest payment on such a loan.

SEC. 5. AVAILABILITY OF UNSPENT TANF FUNDS TO PROVIDE BENEFITS AND SERVICES TO SUPPORT NEEDY FAMILIES AFFECTED BY HURRICANE KATRINA.

A State or tribe may use a grant made to the State or tribe under part A of title IV of the Social Security Act for any fiscal year to provide, without fiscal year limitation, any benefit or service that may be provided under the State or tribal program funded under such part to support needy families affected by Hurricane Katrina.

SEC. 6. WORK REQUIREMENTS AND TIME LIMITS UNDER TANF PROGRAM NOT TRIGGERED BY RECEIPT OF TEMPORARY TANF BENEFITS BY FAMILIES AFFECTED BY HURRICANE KATRINA.

Benefits provided on a short-term, nonrecurring basis under a State program funded under part A of title IV of the Social Security Act, during the period that begins with the date of the enactment of this Act and ends with the end of fiscal year 2006, to meet a subsistence need of a family resulting from Hurricane Katrina shall not be considered assistance for purposes of sections 407 and 408(a)(7) of the Social Security Act.

SEC. 7. WAIVER OF TANF PENALTIES IN HURRICANE-DAMAGED STATES.

The Secretary of Health and Human Services shall not impose a penalty on any of the States of Louisiana, Mississippi, or Alabama under any of paragraphs (2) through (6), or (8) through (14) of section 409(a) of the Social Security Act with respect to a failure to comply with a provision of part A of title IV of such Act during the period that begins with the date of the enactment of this Act and ends with the end of fiscal year 2006, if the Secretary determines that the failure resulted from Hurricane Katrina or reasonable conduct of the State in addressing needs of victims of Hurricane Katrina.

SEC. 8. EMERGENCY DESIGNATION.

Each amount provided in this Act (other than in section 2) is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress).

Approved September 21, 2005.

LEGISLATIVE HISTORY—H.R. 3672:

CONGRESSIONAL RECORD, Vol. 151 (2005):

Sept. 8, considered and passed House.

Sept. 15, considered and passed Senate.



Public Law 109–69
109th Congress

An Act

To direct the Secretary of the Interior to convey certain land in Washoe County, Nevada, to the Board of Regents of the University and Community College System of Nevada.

Sept. 21, 2005
[S. 252]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Dandini
Research Park
Conveyance Act.

SECTION 1. SHORT TITLE.

This Act may be cited as the “Dandini Research Park Conveyance Act”.

SEC. 2. DEFINITIONS.

In this Act:

(1) **BOARD OF REGENTS.**—The term “Board of Regents” means the Board of Regents of the University and Community College System of Nevada.

(2) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior.

SEC. 3. CONVEYANCE TO THE UNIVERSITY AND COMMUNITY COLLEGE SYSTEM OF NEVADA.

(a) **CONVEYANCE.**—

(1) **IN GENERAL.**—The Secretary shall convey to the Board of Regents, without consideration, all right, title, and interest of the United States in and to the approximately 467 acres of land located in Washoe County, Nevada, patented to the University of Nevada under the Act of June 14, 1926 (commonly known as the “Recreation and Public Purposes Act”) (43 U.S.C. 869 et seq.), and described in paragraph (2).

(2) **DESCRIPTION OF LAND.**—The land referred to in paragraph (1) is—

(A) the parcel of land consisting of approximately 309.11 acres and more particularly described as T. 20 N., R. 19 E., Sec. 25, lots 1, 2, 3, 4, 5, and 11, SE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, Mount Diablo Meridian, Nevada; and

(B) the parcel of land consisting of approximately 158.22 acres and more particularly described as T. 20 N., R. 19 E., Sec. 25, lots 6 and 7, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, Mount Diablo Meridian, Nevada.

(b) **COSTS.**—The Board of Regents shall pay to the United States an amount equal to the costs of the Secretary associated with the conveyance under subsection (a)(1).

(c) **CONDITIONS.**—If the Board of Regents sells any portion of the land conveyed to the Board of Regents under subsection (a)(1)—

(1) the amount of consideration for the sale shall reflect fair market value, as determined by an appraisal; and

(2) the Board of Regents shall pay to the Secretary an amount equal to the net proceeds of the sale, for use by the Director of the Bureau of Land Management in the State of Nevada, without further appropriation.

Approved September 21, 2005.

LEGISLATIVE HISTORY—S. 252:

SENATE REPORTS: No. 109–38 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 151 (2005):

July 26, considered and passed Senate.

Sept. 13, considered and passed House.



Public Law 109–70
109th Congress

An Act

To amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize certain projects in the State of Hawaii.

Sept. 21, 2005
[S. 264]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Hawaii Water Resources Act of 2005”.

Hawaii Water
Resources Act of
2005.
43 USC 390h
note.

SEC. 2. HAWAII RECLAMATION PROJECTS.

(a) IN GENERAL.—The Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h et seq.) is amended—

(1) by redesignating the second section 1636 (as added by section 1(b) of Public Law 108–316 (118 Stat. 1202)) as section 1637; and

(2) by adding at the end the following:

43 USC
390h–17a,
390h–19.

“SEC. 1638. HAWAII RECLAMATION PROJECTS.

43 USC 390h–20.

“(a) AUTHORIZATION.—The Secretary may—

“(1) in cooperation with the Board of Water Supply, City and County of Honolulu, Hawaii, participate in the design, planning, and construction of a project in Kalaeloa, Hawaii, to desalinate and distribute seawater for direct potable use within the service area of the Board;

“(2) in cooperation with the County of Hawaii Department of Environmental Management, Hawaii, participate in the design, planning, and construction of facilities in Kealahou, Hawaii, for the treatment and distribution of recycled water and for environmental purposes within the County; and

“(3) in cooperation with the County of Maui Wastewater Reclamation Division, Hawaii, participate in the design, planning, and construction of, and acquire land for, facilities in Lahaina, Hawaii, for the distribution of recycled water from the Lahaina Wastewater Reclamation Facility for non-potable uses within the County.

“(b) COST SHARE.—The Federal share of the cost of a project described in subsection (a) shall not exceed 25 percent of the total cost of the project.

“(c) LIMITATION.—Funds provided by the Secretary shall not be used for the operation and maintenance of a project described in subsection (a).

“(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.”.

(b) CONFORMING AMENDMENT.—The table of sections in section 2 of the Reclamation Projects Authorization and Adjustment Act of 1992 (43 U.S.C. prec. 371) is amended by striking the item relating to the second section 1636 (as added by section 2 of Public Law 108–316 (118 Stat. 1202)) and inserting the following:

“Sec. 1637. Williamson County, Texas, Water Recycling and Reuse Project.
“Sec. 1638. Hawaii reclamation projects.”.

Approved September 21, 2005.

LEGISLATIVE HISTORY—S. 264:

SENATE REPORTS: No. 109–33 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 151 (2005):

July 26, considered and passed Senate.

Sept. 13, considered and passed House.



Public Law 109–71
109th Congress

An Act

To revise the boundary of the Wind Cave National Park in the State of South Dakota.

Sept. 21, 2005
[S. 276]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Wind Cave National Park Boundary Revision Act of 2005”.

SEC. 2. DEFINITIONS.

In this Act:

(1) MAP.—The term “map” means the map entitled “Wind Cave National Park Boundary Revision”, numbered 108/80,030, and dated June 2002.

(2) PARK.—The term “Park” means the Wind Cave National Park in the State.

(3) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(4) STATE.—The term “State” means the State of South Dakota.

SEC. 3. LAND ACQUISITION.

(a) AUTHORITY.—

(1) IN GENERAL.—The Secretary may acquire the land or interest in land described in subsection (b)(1) for addition to the Park.

(2) MEANS.—An acquisition of land under paragraph (1) may be made by donation, purchase from a willing seller with donated or appropriated funds, or exchange.

(b) BOUNDARY.—

(1) MAP AND ACREAGE.—The land referred to in subsection (a)(1) shall consist of approximately 5,675 acres, as generally depicted on the map.

(2) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(3) REVISION.—The boundary of the Park shall be adjusted to reflect the acquisition of land under subsection (a)(1).

SEC. 4. ADMINISTRATION.

(a) IN GENERAL.—The Secretary shall administer any land acquired under section 3(a)(1) as part of the Park in accordance with laws (including regulations) applicable to the Park.

(b) TRANSFER OF ADMINISTRATIVE JURISDICTION.—

Wind Cave
National Park
Boundary
Revision Act of
2005.
16 USC 141a
note.
16 USC 141a
note.

16 USC 141a
note.

16 USC 141a
note.

(1) IN GENERAL.—The Secretary shall transfer from the Director of the Bureau of Land Management to the Director of the National Park Service administrative jurisdiction over the land described in paragraph (2).

(2) MAP AND ACREAGE.—The land referred to in paragraph (1) consists of the approximately 80 acres of land identified on the map as “Bureau of Land Management land”.

16 USC 141a
note.

SEC. 5. GRAZING.

(a) GRAZING PERMITTED.—Subject to any permits or leases in existence as of the date of acquisition, the Secretary may permit the continuation of livestock grazing on land acquired under section 3(a)(1).

(b) LIMITATION.—Grazing under subsection (a) shall be at not more than the level existing on the date on which the land is acquired under section 3(a)(1).

(c) PURCHASE OF PERMIT OR LEASE.—The Secretary may purchase the outstanding portion of a grazing permit or lease on any land acquired under section 3(a)(1).

(d) TERMINATION OF LEASES OR PERMITS.—The Secretary may accept the voluntary termination of a permit or lease for grazing on any acquired land.

Approved September 21, 2005.

LEGISLATIVE HISTORY—S. 276:

SENATE REPORTS: No. 109–21 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 151 (2005):

July 26, considered and passed Senate.

Sept. 13, considered and passed House.



Public Law 109–72
109th Congress

An Act

To provide special rules for disaster relief employment under the Workforce Investment Act of 1998 for individuals displaced by Hurricane Katrina.

Sept. 23, 2005
[H.R. 3761]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Flexibility for
Displaced
Workers Act.

SECTION 1. SHORT TITLE.

This Act may be cited as the “Flexibility for Displaced Workers Act”.

SEC. 2. SPECIAL RULES FOR NATIONAL EMERGENCY GRANTS RELATED TO HURRICANE KATRINA.

(a) **USE OF GRANTS FOR PROJECTS OUTSIDE DISASTER AREA.**—Funds provided to States that submit applications for assistance described in section 173(a)(2) of the Workforce Investment Act of 1998 (29 U.S.C. 2918(a)(2)) to address the effects of Hurricane Katrina may be used to provide disaster relief employment and other assistance under section 173(d)(1) of such Act (29 U.S.C. 2918(d)(1)) on projects that provide assistance in areas outside of the disaster area (as such term is defined in section 173(a)(2) of such Act).

(b) **EXPANDED ELIGIBILITY FOR DISASTER RELIEF EMPLOYMENT.**—Funds provided to States that submit applications for assistance described under section 173(a)(2) of the Workforce Investment Act of 1998 (29 U.S.C. 2918(a)(2)) to address the effects of Hurricane Katrina may be used to provide disaster relief employment and other assistance under section 173(d)(1) of such Act, or public sector employment authorized under subsection (c) of this Act, to individuals affected by Hurricane Katrina, including those who have relocated from States in which a major disaster was declared under section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122) due to the effects of Hurricane Katrina, who were unemployed at the time of the disaster or who are without employment history, in addition to individuals who are eligible for such employment under section 173(d)(2) of the Workforce Investment Act of 1998.

(c) **AUTHORIZATION FOR GENERAL PUBLIC SECTOR EMPLOYMENT.**—Funds provided to States that submit applications for assistance described in section 173(a)(2) of the Workforce Investment Act of 1998 to address the effects of Hurricane Katrina may be used to provide to eligible individuals temporary employment by public sector entities for a period not to exceed 6 months in addition to disaster relief employment described in section 173(d)(1) of such Act.

(d) **EXTENSION OF THE DURATION OF DISASTER RELIEF EMPLOYMENT.**—The Secretary of Labor may extend the 6-month maximum duration of employment under this Act and under section 173(d) of the Workforce Investment Act of 1998 (29 U.S.C. 2918(d)) for not more than an additional 6 months due to extraordinary circumstances.

(e) **PRIORITY FOR DISASTER RELIEF EMPLOYMENT FUNDS.**—In awarding national emergency grants to States under section 173(a)(2) of the Workforce Investment Act of 1998 (29 U.S.C. 2918(a)(2)) to address the effects of Hurricane Katrina by providing disaster relief employment, the Secretary of Labor shall—

(1) first, give priority to States in which areas that have suffered major disasters (as defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)) are located; and

(2) second, give priority to the remaining States that have been most heavily impacted by the demand for services by workers affected by Hurricane Katrina.

(f) **ELIGIBILITY FOR NEEDS-RELATED PAYMENTS.**—Funds provided to States that submit applications for assistance described in section 173(a)(2) of the Workforce Investment Act of 1998 (29 U.S.C. 2918(a)(2)) to address the effects of Hurricane Katrina may be used to provide needs-related payments (described in section 134(e)(3) of such Act (29 U.S.C. 2864(e)(3))) to individuals described in subsection (b) who do not qualify for (or have ceased to qualify for) unemployment compensation, and who are not employed on a project described under section 173(d) of such Act, for the purpose of enabling such individuals to participate in activities described in paragraphs (2), (3), or (4) of section 134(d) of such Act.

(g) **USE OF AVAILABLE FUNDS.**—With the approval of the Secretary of Labor, any State may use funds that remain available for expenditure under any grants awarded to the State under section 173 of the Workforce Investment Act of 1998 (29 U.S.C. 2918) or under this section, to provide any assistance authorized under such section 173 or this section, or personal protective equipment not otherwise available through public funds or private contributions, to assist workers affected by Hurricane Katrina, including workers who have relocated from areas for which an emergency or major disaster (as defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)) was declared, due to the effects of Hurricane Katrina.

(h) **EXPANDED ELIGIBILITY FOR EMPLOYMENT AND TRAINING ACTIVITIES.**—

(1) **IN GENERAL.**—In awarding national emergency grants under section 173(a)(1) of the Workforce Investment Act of 1998 (29 U.S.C. 2918(a)(1)), the Secretary may award such a grant to an entity to provide employment and training assistance available under section 173(a)(1) of such Act to workers affected by Hurricane Katrina, including workers who have relocated from areas for which an emergency or major disaster (as defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)) was declared, due to the effects of Hurricane Katrina.

(2) **ELIGIBLE ENTITY.**—In this subsection, the term “entity” means a State, a local board (as defined in section 101 of the Workforce Investment Act of 1998 (29 U.S.C. 2801)), or an entity described in section 166(c) of such Act (29 U.S.C.

2911(c)), that submits an application for assistance described in section 173(a)(1) of the Workforce Investment Act of 1998 to address the effects of Hurricane Katrina.

SEC. 3. SENSE OF CONGRESS.

(a) **MOBILE ONE-STOP CENTERS.**—It is the sense of Congress that States that operate mobile one-stop centers, established as part of one-stop delivery systems authorized under subtitle B of title I of the Workforce Investment Act of 1998 (29 U.S.C. 2811 et seq.) should, where possible, make such centers available for use in the areas affected by Hurricane Katrina, and areas where large numbers of workers affected by Hurricane Katrina have been relocated.

(b) **EXPANDED OPERATIONAL HOURS.**—It is the sense of Congress that one-stop operators (as such term is defined in section 101 of the Workforce Investment Act of 1998 (29 U.S.C. 2801) should increase access for workers affected by Hurricane Katrina to the one-stop delivery systems authorized under subtitle B of title I of such Act, including through the implementation of expanded operational hours at one-stop centers and on-site services for individuals in temporary housing locations.

Approved September 23, 2005.

LEGISLATIVE HISTORY—H.R. 3761:

CONGRESSIONAL RECORD, Vol. 151 (2005):

Sept. 20, considered and passed House.

Sept. 21, considered and passed Senate.



Public Law 109–73
109th Congress

An Act

Sept. 23, 2005
[H.R. 3768]

Katrina
Emergency Tax
Relief Act of
2005.
26 USC 1 note.

To provide emergency tax relief for persons affected by Hurricane Katrina.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE, ETC.

(a) **SHORT TITLE.**—This Act may be cited as the “Katrina Emergency Tax Relief Act of 2005”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

Sec. 1. Short title, etc.

Sec. 2. Hurricane Katrina disaster area.

TITLE I—SPECIAL RULES FOR USE OF RETIREMENT FUNDS FOR RELIEF RELATING TO HURRICANE KATRINA

Sec. 101. Tax-favored withdrawals from retirement plans for relief relating to Hurricane Katrina.

Sec. 102. Recontributions of withdrawals for home purchases cancelled due to Hurricane Katrina.

Sec. 103. Loans from qualified plans for relief relating to Hurricane Katrina.

Sec. 104. Provisions relating to plan amendments.

TITLE II—EMPLOYMENT RELIEF

Sec. 201. Work opportunity tax credit for Hurricane Katrina employees.

Sec. 202. Employee retention credit for employers affected by Hurricane Katrina.

TITLE III—CHARITABLE GIVING INCENTIVES

Sec. 301. Temporary suspension of limitations on charitable contributions.

Sec. 302. Additional exemption for housing Hurricane Katrina displaced individuals.

Sec. 303. Increase in standard mileage rate for charitable use of vehicles.

Sec. 304. Mileage reimbursements to charitable volunteers excluded from gross income.

Sec. 305. Charitable deduction for contributions of food inventory.

Sec. 306. Charitable deduction for contributions of book inventories to public schools.

TITLE IV—ADDITIONAL TAX RELIEF PROVISIONS

Sec. 401. Exclusions of certain cancellations of indebtedness by reason of Hurricane Katrina.

Sec. 402. Suspension of certain limitations on personal casualty losses.

Sec. 403. Required exercise of authority under section 7508A for tax relief relating to Hurricane Katrina.

Sec. 404. Special rules for mortgage revenue bonds.

Sec. 405. Extension of replacement period for nonrecognition of gain for property located in Hurricane Katrina disaster area.

Sec. 406. Special rule for determining earned income.

Sec. 407. Secretarial authority to make adjustments regarding taxpayer and dependency status.

TITLE V—EMERGENCY REQUIREMENT

Sec. 501. Emergency requirement.

SEC. 2. HURRICANE KATRINA DISASTER AREA.

For purposes of this Act—

(1) **HURRICANE KATRINA DISASTER AREA.**—The term “Hurricane Katrina disaster area” means an area with respect to which a major disaster has been declared by the President before September 14, 2005, under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act by reason of Hurricane Katrina.

(2) **CORE DISASTER AREA.**—The term “core disaster area” means that portion of the Hurricane Katrina disaster area determined by the President to warrant individual or individual and public assistance from the Federal Government under such Act.

TITLE I—SPECIAL RULES FOR USE OF RETIREMENT FUNDS FOR RELIEF RE- LATING TO HURRICANE KATRINA

**SEC. 101. TAX-FAVORED WITHDRAWALS FROM RETIREMENT PLANS
FOR RELIEF RELATING TO HURRICANE KATRINA.**

(a) **IN GENERAL.**—Section 72(t) of the Internal Revenue Code of 1986 shall not apply to any qualified Hurricane Katrina distribution.

(b) **AGGREGATE DOLLAR LIMITATION.**—

(1) **IN GENERAL.**—For purposes of this section, the aggregate amount of distributions received by an individual which may be treated as qualified Hurricane Katrina distributions for any taxable year shall not exceed the excess (if any) of—

(A) \$100,000, over

(B) the aggregate amounts treated as qualified Hurricane Katrina distributions received by such individual for all prior taxable years.

(2) **TREATMENT OF PLAN DISTRIBUTIONS.**—If a distribution to an individual would (without regard to paragraph (1)) be a qualified Hurricane Katrina distribution, a plan shall not be treated as violating any requirement of the Internal Revenue Code of 1986 merely because the plan treats such distribution as a qualified Hurricane Katrina distribution, unless the aggregate amount of such distributions from all plans maintained by the employer (and any member of any controlled group which includes the employer) to such individual exceeds \$100,000.

(3) **CONTROLLED GROUP.**—For purposes of paragraph (2), the term “controlled group” means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of such Code.

(c) **AMOUNT DISTRIBUTED MAY BE REPAID.**—

(1) **IN GENERAL.**—Any individual who receives a qualified Hurricane Katrina distribution may, at any time during the 3-year period beginning on the day after the date on which such distribution was received, make one or more contributions in an aggregate amount not to exceed the amount of such distribution to an eligible retirement plan of which such individual is a beneficiary and to which a rollover contribution of such distribution could be made under section 402(c),

403(a)(4), 403(b)(8), 408(d)(3), or 457(e)(16) of such Code, as the case may be.

(2) TREATMENT OF REPAYMENTS OF DISTRIBUTIONS FROM ELIGIBLE RETIREMENT PLANS OTHER THAN IRAS.—For purposes of such Code, if a contribution is made pursuant to paragraph (1) with respect to a qualified Hurricane Katrina distribution from an eligible retirement plan other than an individual retirement plan, then the taxpayer shall, to the extent of the amount of the contribution, be treated as having received the qualified Hurricane Katrina distribution in an eligible rollover distribution (as defined in section 402(c)(4) of such Code) and as having transferred the amount to the eligible retirement plan in a direct trustee to trustee transfer within 60 days of the distribution.

(3) TREATMENT OF REPAYMENTS FOR DISTRIBUTIONS FROM IRAS.—For purposes of such Code, if a contribution is made pursuant to paragraph (1) with respect to a qualified Hurricane Katrina distribution from an individual retirement plan (as defined by section 7701(a)(37) of such Code), then, to the extent of the amount of the contribution, the qualified Hurricane Katrina distribution shall be treated as a distribution described in section 408(d)(3) of such Code and as having been transferred to the eligible retirement plan in a direct trustee to trustee transfer within 60 days of the distribution.

(d) DEFINITIONS.—For purposes of this section—

(1) QUALIFIED HURRICANE KATRINA DISTRIBUTION.—Except as provided in subsection (b), the term “qualified Hurricane Katrina distribution” means any distribution from an eligible retirement plan made on or after August 25, 2005, and before January 1, 2007, to an individual whose principal place of abode on August 28, 2005, is located in the Hurricane Katrina disaster area and who has sustained an economic loss by reason of Hurricane Katrina.

(2) ELIGIBLE RETIREMENT PLAN.—The term “eligible retirement plan” shall have the meaning given such term by section 402(c)(8)(B) of such Code.

(e) INCOME INCLUSION SPREAD OVER 3 YEAR PERIOD FOR QUALIFIED HURRICANE KATRINA DISTRIBUTIONS.—

(1) IN GENERAL.—In the case of any qualified Hurricane Katrina distribution, unless the taxpayer elects not to have this subsection apply for any taxable year, any amount required to be included in gross income for such taxable year shall be so included ratably over the 3-taxable year period beginning with such taxable year.

(2) SPECIAL RULE.—For purposes of paragraph (1), rules similar to the rules of subparagraph (E) of section 408A(d)(3) of such Code shall apply.

(f) SPECIAL RULES.—

(1) EXEMPTION OF DISTRIBUTIONS FROM TRUSTEE TO TRUSTEE TRANSFER AND WITHHOLDING RULES.—For purposes of sections 401(a)(31), 402(f), and 3405 of such Code, qualified Hurricane Katrina distributions shall not be treated as eligible rollover distributions.

(2) QUALIFIED HURRICANE KATRINA DISTRIBUTIONS TREATED AS MEETING PLAN DISTRIBUTION REQUIREMENTS.—For purposes of such Code, a qualified Hurricane Katrina distribution shall be treated as meeting the requirements of sections

Applicability.

401(k)(2)(B)(i), 403(b)(7)(A)(ii), 403(b)(11), and 457(d)(1)(A) of such Code.

SEC. 102. RECONTRIBUTIONS OF WITHDRAWALS FOR HOME PURCHASES CANCELLED DUE TO HURRICANE KATRINA.

(a) RECONTRIBUTIONS.—

(1) **IN GENERAL.**—Any individual who received a qualified distribution may, during the period beginning on August 25, 2005, and ending on February 28, 2006, make one or more contributions in an aggregate amount not to exceed the amount of such qualified distribution to an eligible retirement plan (as defined in section 402(c)(8)(B) of the Internal Revenue Code of 1986) of which such individual is a beneficiary and to which a rollover contribution of such distribution could be made under section 402(c), 403(a)(4), 403(b)(8), or 408(d)(3) of such Code, as the case may be.

(2) **TREATMENT OF REPAYMENTS.**—Rules similar to the rules of paragraphs (2) and (3) of section 101(c) of this Act shall apply for purposes of this section.

Applicability.

(b) QUALIFIED DISTRIBUTION DEFINED.—For purposes of this section, the term “qualified distribution” means any distribution—

(1) described in section 401(k)(2)(B)(i)(IV), 403(b)(7)(A)(ii) (but only to the extent such distribution relates to financial hardship), 403(b)(11)(B), or 72(t)(2)(F) of such Code,

(2) received after February 28, 2005, and before August 29, 2005, and

(3) which was to be used to purchase or construct a principal residence in the Hurricane Katrina disaster area, but which was not so purchased or constructed on account of Hurricane Katrina.

SEC. 103. LOANS FROM QUALIFIED PLANS FOR RELIEF RELATING TO HURRICANE KATRINA.

(a) INCREASE IN LIMIT ON LOANS NOT TREATED AS DISTRIBUTIONS.—In the case of any loan from a qualified employer plan (as defined under section 72(p)(4) of the Internal Revenue Code of 1986) to a qualified individual made after the date of enactment of this Act and before January 1, 2007—

Applicability.

(1) clause (i) of section 72(p)(2)(A) of such Code shall be applied by substituting “\$100,000” for “\$50,000”, and

(2) clause (ii) of such section shall be applied by substituting “the present value of the nonforfeitable accrued benefit of the employee under the plan” for “one-half of the present value of the nonforfeitable accrued benefit of the employee under the plan”.

(b) DELAY OF REPAYMENT.—In the case of a qualified individual with an outstanding loan on or after August 25, 2005, from a qualified employer plan (as defined in section 72(p)(4) of such Code)—

(1) if the due date pursuant to subparagraph (B) or (C) of section 72(p)(2) of such Code for any repayment with respect to such loan occurs during the period beginning on August 25, 2005, and ending on December 31, 2006, such due date shall be delayed for 1 year,

(2) any subsequent repayments with respect to any such loan shall be appropriately adjusted to reflect the delay in the due date under paragraph (1) and any interest accruing during such delay, and

(3) in determining the 5-year period and the term of a loan under subparagraph (B) or (C) of section 72(p)(2) of such Code, the period described in paragraph (1) shall be disregarded.

(c) **QUALIFIED INDIVIDUAL.**—For purposes of this section, the term “qualified individual” means an individual whose principal place of abode on August 28, 2005, is located in the Hurricane Katrina disaster area and who has sustained an economic loss by reason of Hurricane Katrina.

SEC. 104. PROVISIONS RELATING TO PLAN AMENDMENTS.

(a) **IN GENERAL.**—If this section applies to any amendment to any plan or annuity contract, such plan or contract shall be treated as being operated in accordance with the terms of the plan during the period described in subsection (b)(2)(A).

(b) **AMENDMENTS TO WHICH SECTION APPLIES.**—

(1) **IN GENERAL.**—This section shall apply to any amendment to any plan or annuity contract which is made—

(A) pursuant to any amendment made by this title, or pursuant to any regulation issued by the Secretary of the Treasury or the Secretary of Labor under this title, and

Effective date.

(B) on or before the last day of the first plan year beginning on or after January 1, 2007, or such later date as the Secretary of the Treasury may prescribe.

In the case of a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986), subparagraph (B) shall be applied by substituting the date which is 2 years after the date otherwise applied under subparagraph (B).

(2) **CONDITIONS.**—This section shall not apply to any amendment unless—

(A) during the period—

(i) beginning on the date the legislative or regulatory amendment described in paragraph (1)(A) takes effect (or in the case of a plan or contract amendment not required by such legislative or regulatory amendment, the effective date specified by the plan), and

(ii) ending on the date described in paragraph (1)(B) (or, if earlier, the date the plan or contract amendment is adopted),

the plan or contract is operated as if such plan or contract amendment were in effect; and

(B) such plan or contract amendment applies retroactively for such period.

TITLE II—EMPLOYMENT RELIEF

SEC. 201. WORK OPPORTUNITY TAX CREDIT FOR HURRICANE KATRINA EMPLOYEES.

(a) **IN GENERAL.**—For purposes of section 51 of the Internal Revenue Code of 1986, a Hurricane Katrina employee shall be treated as a member of a targeted group.

(b) **HURRICANE KATRINA EMPLOYEE.**—For purposes of this section, the term “Hurricane Katrina employee” means—

(1) any individual who on August 28, 2005, had a principal place of abode in the core disaster area and who is hired

during the 2-year period beginning on such date for a position the principal place of employment of which is located in the core disaster area, and

(2) any individual who on such date had a principal place of abode in the core disaster area, who is displaced from such abode by reason of Hurricane Katrina, and who is hired during the period beginning on such date and ending on December 31, 2005.

(c) REASONABLE IDENTIFICATION ACCEPTABLE.—In lieu of the certification requirement under subparagraph (A) of section 51(d)(12) of such Code, an individual may provide to the employer reasonable evidence that the individual is a Hurricane Katrina employee, and subparagraph (B) of such section shall be applied as if such evidence were a certification described in such subparagraph. Applicability.

(d) SPECIAL RULES FOR DETERMINING CREDIT.—For purposes of applying subpart F of part IV of subchapter A of chapter 1 of such Code to wages paid or incurred to any Hurricane Katrina employee— Applicability.

(1) section 51(c)(4) of such Code shall not apply, and

(2) section 51(i)(2) of such Code shall not apply with respect to the first hire of such employee as a Hurricane Katrina employee, unless such employee was an employee of the employer on August 28, 2005.

SEC. 202. EMPLOYEE RETENTION CREDIT FOR EMPLOYERS AFFECTED BY HURRICANE KATRINA.

(a) IN GENERAL.—In the case of an eligible employer, there shall be allowed as a credit against the tax imposed by chapter 1 of the Internal Revenue Code of 1986 for the taxable year an amount equal to 40 percent of the qualified wages with respect to each eligible employee of such employer for such taxable year. For purposes of the preceding sentence, the amount of qualified wages which may be taken into account with respect to any individual shall not exceed \$6,000.

(b) DEFINITIONS.—For purposes of this section—

(1) ELIGIBLE EMPLOYER.—The term “eligible employer” means any employer—

(A) which conducted an active trade or business on August 28, 2005, in a core disaster area, and

(B) with respect to whom the trade or business described in subparagraph (A) is inoperable on any day after August 28, 2005, and before January 1, 2006, as a result of damage sustained by reason of Hurricane Katrina.

(2) ELIGIBLE EMPLOYEE.—The term “eligible employee” means with respect to an eligible employer an employee whose principal place of employment on August 28, 2005, with such eligible employer was in a core disaster area.

(3) QUALIFIED WAGES.—The term “qualified wages” means wages (as defined in section 51(c)(1) of such Code, but without regard to section 3306(b)(2)(B) of such Code) paid or incurred by an eligible employer with respect to an eligible employee on any day after August 28, 2005, and before January 1, 2006, which occurs during the period—

(A) beginning on the date on which the trade or business described in paragraph (1) first became inoperable

at the principal place of employment of the employee immediately before Hurricane Katrina, and

(B) ending on the date on which such trade or business has resumed significant operations at such principal place of employment.

Such term shall include wages paid without regard to whether the employee performs no services, performs services at a different place of employment than such principal place of employment, or performs services at such principal place of employment before significant operations have resumed.

(c) CREDIT NOT ALLOWED FOR LARGE BUSINESSES.—The term “eligible employer” shall not include any trade or business for any taxable year if such trade or business employed an average of more than 200 employees on business days during the taxable year.

(d) CERTAIN RULES TO APPLY.—For purposes of this section, rules similar to the rules of sections 51(i)(1), 52, and 280C(a) of such Code shall apply.

(e) EMPLOYEE NOT TAKEN INTO ACCOUNT MORE THAN ONCE.—An employee shall not be treated as an eligible employee for purposes of this section for any period with respect to any employer if such employer is allowed a credit under section 51 of such Code with respect to such employee for such period.

(f) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—The credit allowed under this section shall be added to the current year business credit under section 38(b) of such Code and shall be treated as a credit allowed under subpart D of part IV of subchapter A of chapter 1 of such Code.

TITLE III—CHARITABLE GIVING INCENTIVES

SEC. 301. TEMPORARY SUSPENSION OF LIMITATIONS ON CHARITABLE CONTRIBUTIONS.

(a) IN GENERAL.—Except as otherwise provided in subsection (b), section 170(b) of the Internal Revenue Code of 1986 shall not apply to qualified contributions and such contributions shall not be taken into account for purposes of applying subsections (b) and (d) of section 170 of such Code to other contributions.

(b) TREATMENT OF EXCESS CONTRIBUTIONS.—For purposes of section 170 of such Code—

(1) INDIVIDUALS.—In the case of an individual—

(A) LIMITATION.—Any qualified contribution shall be allowed only to the extent that the aggregate of such contributions does not exceed the excess of the taxpayer’s contribution base (as defined in subparagraph (F) of section 170(b)(1) of such Code) over the amount of all other charitable contributions allowed under such section 170(b)(1).

(B) CARRYOVER.—If the aggregate amount of qualified contributions made in the contribution year (within the meaning of section 170(d)(1) of such Code) exceeds the limitation of subparagraph (A), such excess shall be added to the excess described in the portion of subparagraph (A) of such section which precedes clause (i) thereof for purposes of applying such section.

(2) CORPORATIONS.—In the case of a corporation—

(A) LIMITATION.—Any qualified contribution shall be allowed only to the extent that the aggregate of such contributions does not exceed the excess of the taxpayer's taxable income (as determined under paragraph (2) of section 170(b) of such Code) over the amount of all other charitable contributions allowed under such paragraph.

(B) CARRYOVER.—Rules similar to the rules of paragraph (1)(B) shall apply for purposes of this paragraph.

Applicability.

(c) EXCEPTION TO OVERALL LIMITATION ON ITEMIZED DEDUCTIONS.—So much of any deduction allowed under section 170 of such Code as does not exceed the qualified contributions paid during the taxable year shall not be treated as an itemized deduction for purposes of section 68 of such Code.

(d) QUALIFIED CONTRIBUTIONS.—

(1) IN GENERAL.—For purposes of this section, the term “qualified contribution” means any charitable contribution (as defined in section 170(c) of such Code)—

(A) paid during the period beginning on August 28, 2005, and ending on December 31, 2005, in cash to an organization described in section 170(b)(1)(A) of such Code (other than an organization described in section 509(a)(3) of such Code),

(B) in the case of a contribution paid by a corporation, such contribution is for relief efforts related to Hurricane Katrina, and

(C) with respect to which the taxpayer has elected the application of this section.

(2) EXCEPTION.—Such term shall not include a contribution if the contribution is for establishment of a new, or maintenance in an existing, segregated fund or account with respect to which the donor (or any person appointed or designated by such donor) has, or reasonably expects to have, advisory privileges with respect to distributions or investments by reason of the donor's status as a donor.

(3) APPLICATION OF ELECTION TO PARTNERSHIPS AND S CORPORATIONS.—In the case of a partnership or S corporation, the election under paragraph (1)(C) shall be made separately by each partner or shareholder.

SEC. 302. ADDITIONAL EXEMPTION FOR HOUSING HURRICANE KATRINA DISPLACED INDIVIDUALS.

(a) IN GENERAL.—In the case of taxable years of a natural person beginning in 2005 or 2006, for purposes of the Internal Revenue Code of 1986, taxable income shall be reduced by \$500 for each Hurricane Katrina displaced individual of the taxpayer for the taxable year.

(b) LIMITATIONS.—

(1) DOLLAR LIMITATION.—The reduction under subsection (a) shall not exceed \$2,000, reduced by the amount of the reduction under this section for all prior taxable years.

(2) INDIVIDUALS TAKEN INTO ACCOUNT ONLY ONCE.—An individual shall not be taken into account under subsection (a) if such individual was taken into account under such subsection by the taxpayer for any prior taxable year.

(3) IDENTIFYING INFORMATION REQUIRED.—An individual shall not be taken into account under subsection (a) for a taxable year unless the taxpayer identification number of such

individual is included on the return of the taxpayer for such taxable year.

(c) **HURRICANE KATRINA DISPLACED INDIVIDUAL.**—For purposes of this section, the term “Hurricane Katrina displaced individual” means, with respect to any taxpayer for any taxable year, any natural person if—

(1) such person’s principal place of abode on August 28, 2005, was in the Hurricane Katrina disaster area,

(2)(A) in the case of such an abode located in the core disaster area, such person is displaced from such abode, or

(B) in the case of such an abode located outside of the core disaster area, such person is displaced from such abode, and

(i) such abode was damaged by Hurricane Katrina, or

(ii) such person was evacuated from such abode by reason of Hurricane Katrina, and

(3) such person is provided housing free of charge by the taxpayer in the principal residence of the taxpayer for a period of 60 consecutive days which ends in such taxable year.

Such term shall not include the spouse or any dependent of the taxpayer.

(d) **COMPENSATION FOR HOUSING.**—No deduction shall be allowed under this section if the taxpayer receives any rent or other amount (from any source) in connection with the providing of such housing.

SEC. 303. INCREASE IN STANDARD MILEAGE RATE FOR CHARITABLE USE OF VEHICLES.

Notwithstanding section 170(i) of the Internal Revenue Code of 1986, for purposes of computing the deduction under section 170 of such Code for use of a vehicle described in subsection (f)(12)(E)(i) of such section for provision of relief related to Hurricane Katrina during the period beginning on August 25, 2005, and ending on December 31, 2006, the standard mileage rate shall be 70 percent of the standard mileage rate in effect under section 162(a) of such Code at the time of such use. Any increase under this section shall be rounded to the next highest cent.

SEC. 304. MILEAGE REIMBURSEMENTS TO CHARITABLE VOLUNTEERS EXCLUDED FROM GROSS INCOME.

(a) **IN GENERAL.**—For purposes of the Internal Revenue Code of 1986, gross income of an individual for taxable years ending on or after August 25, 2005, does not include amounts received, from an organization described in section 170(c) of such Code, as reimbursement of operating expenses with respect to use of a passenger automobile for the benefit of such organization in connection with providing relief relating to Hurricane Katrina during the period beginning on August 25, 2005, and ending on December 31, 2006. The preceding sentence shall apply only to the extent that the expenses which are reimbursed would be deductible under chapter 1 of such Code if section 274(d) of such Code were applied—

(1) by using the standard business mileage rate in effect under section 162(a) at the time of such use, and

(2) as if the individual were an employee of an organization not described in section 170(c) of such Code.

Applicability.

(b) APPLICATION TO VOLUNTEER SERVICES ONLY.—Subsection (a) shall not apply with respect to any expenses relating to the performance of services for compensation.

(c) NO DOUBLE BENEFIT.—No deduction or credit shall be allowed under any other provision of such Code with respect to the expenses excludable from gross income under subsection (a).

SEC. 305. CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF FOOD INVENTORY.

(a) IN GENERAL.—Paragraph (3) of section 170(e) of the Internal Revenue Code of 1986 (relating to special rule for certain contributions of inventory and other property) is amended by redesignating subparagraph (C) as subparagraph (D) and by inserting after subparagraph (B) the following new subparagraph:

26 USC 170.

“(C) SPECIAL RULE FOR CONTRIBUTIONS OF FOOD INVENTORY.—

“(i) GENERAL RULE.—In the case of a charitable contribution of food from any trade or business of the taxpayer, this paragraph shall be applied—

Applicability.

“(I) without regard to whether the contribution is made by a C corporation, and

“(II) only to food that is apparently wholesome food.

“(ii) LIMITATION.—In the case of a taxpayer other than a C corporation, the aggregate amount of such contributions for any taxable year which may be taken into account under this section shall not exceed 10 percent of the taxpayer’s aggregate net income for such taxable year from all trades or businesses from which such contributions were made for such year, computed without regard to this section.

“(iii) APPARENTLY WHOLESOME FOOD.—For purposes of this subparagraph, the term ‘apparently wholesome food’ has the meaning given to such term by section 22(b)(2) of the Bill Emerson Good Samaritan Food Donation Act (42 U.S.C. 1791(b)(2)), as in effect on the date of the enactment of this subparagraph.

“(iv) TERMINATION.—This subparagraph shall not apply to contributions made after December 31, 2005.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made on or after August 28, 2005, in taxable years ending after such date.

26 USC 170 note.

SEC. 306. CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF BOOK INVENTORIES TO PUBLIC SCHOOLS.

(a) IN GENERAL.—Paragraph (3) of section 170(e) of the Internal Revenue Code of 1986 (relating to certain contributions of ordinary income and capital gain property), as amended by section 305, is amended by redesignating subparagraph (D) as subparagraph (E) and by inserting after subparagraph (C) the following new subparagraph:

“(D) SPECIAL RULE FOR CONTRIBUTIONS OF BOOK INVENTORY TO PUBLIC SCHOOLS.—

“(i) CONTRIBUTIONS OF BOOK INVENTORY.—In determining whether a qualified book contribution is a qualified contribution, subparagraph (A) shall be applied without regard to whether the donee is an organization

Applicability.

described in the matter preceding clause (i) of subparagraph (A).

“(ii) **QUALIFIED BOOK CONTRIBUTION.**—For purposes of this paragraph, the term ‘qualified book contribution’ means a charitable contribution of books to a public school which is an educational organization described in subsection (b)(1)(A)(ii) and which provides elementary education or secondary education (kindergarten through grade 12).

“(iii) **CERTIFICATION BY DONEE.**—Subparagraph (A) shall not apply to any contribution unless (in addition to the certifications required by subparagraph (A) (as modified by this subparagraph)), the donee certifies in writing that—

“(I) the books are suitable, in terms of currency, content, and quantity, for use in the donee’s educational programs, and

“(II) the donee will use the books in its educational programs.

“(iv) **TERMINATION.**—This subparagraph shall not apply to contributions made after December 31, 2005.”.

26 USC 170 note.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply to contributions made on or after August 28, 2005, in taxable years ending after such date.

TITLE IV—ADDITIONAL TAX RELIEF PROVISIONS

SEC. 401. EXCLUSIONS OF CERTAIN CANCELLATIONS OF INDEBTEDNESS BY REASON OF HURRICANE KATRINA.

(a) **IN GENERAL.**—For purposes of the Internal Revenue Code of 1986, gross income shall not include any amount which (but for this section) would be includible in gross income by reason of the discharge (in whole or in part) of indebtedness of a natural person described in subsection (b) by an applicable entity (as defined in section 6050P(c)(1) of such Code).

(b) **PERSONS DESCRIBED.**—A natural person is described in this subsection if the principal place of abode of such person on August 25, 2005, was located—

(1) in the core disaster area, or

(2) in the Hurricane Katrina disaster area (but outside the core disaster area) and such person suffered economic loss by reason of Hurricane Katrina.

(c) **EXCEPTIONS.**—

(1) **BUSINESS INDEBTEDNESS.**—Subsection (a) shall not apply to any indebtedness incurred in connection with a trade or business.

(2) **REAL PROPERTY OUTSIDE CORE DISASTER AREA.**—Subsection (a) shall not apply to any discharge of indebtedness to the extent that real property constituting security for such indebtedness is located outside of the Hurricane Katrina disaster area.

(d) **DENIAL OF DOUBLE BENEFIT.**—For purposes of the Internal Revenue Code of 1986, the amount excluded from gross income under subsection (a) shall be treated in the same manner as an amount excluded under section 108(a) of such Code.

(e) **EFFECTIVE DATE.**—This section shall apply to discharges made on or after August 25, 2005, and before January 1, 2007.

SEC. 402. SUSPENSION OF CERTAIN LIMITATIONS ON PERSONAL CASUALTY LOSSES.

Paragraphs (1) and (2)(A) of section 165(h) of the Internal Revenue Code of 1986 shall not apply to losses described in section 165(c)(3) of such Code which arise in the Hurricane Katrina disaster area on or after August 25, 2005, and which are attributable to Hurricane Katrina. In the case of any other losses, section 165(h)(2)(A) of such Code shall be applied without regard to the losses referred to in the preceding sentence.

Applicability.

SEC. 403. REQUIRED EXERCISE OF AUTHORITY UNDER SECTION 7508A FOR TAX RELIEF RELATING TO HURRICANE KATRINA.

(a) **AUTHORITY INCLUDES SUSPENSION OF PAYMENT OF EMPLOYMENT AND EXCISE TAXES.**—Subparagraphs (A) and (B) of section 7508(a)(1) of the Internal Revenue Code of 1986 are amended to read as follows:

26 USC 7508.

“(A) Filing any return of income, estate, gift, employment, or excise tax;

“(B) Payment of any income, estate, gift, employment, or excise tax or any installment thereof or of any other liability to the United States in respect thereof;”.

(b) **APPLICATION WITH RESPECT TO HURRICANE KATRINA.**—In the case of any taxpayer determined by the Secretary of the Treasury to be affected by the Presidentially declared disaster relating to Hurricane Katrina, any relief provided by the Secretary of the Treasury under section 7508A of the Internal Revenue Code of 1986 shall be for a period ending not earlier than February 28, 2006, and shall be treated as applying to the filing of returns relating to, and the payment of, employment and excise taxes.

(c) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply for any period for performing an act which has not expired before August 25, 2005.

26 USC 7508 note.

SEC. 404. SPECIAL RULES FOR MORTGAGE REVENUE BONDS.

(a) **IN GENERAL.**—In the case of financing provided with respect to a qualified Hurricane Katrina recovery residence, subsection (d) of section 143 of the Internal Revenue Code of 1986 shall be applied as if such residence were a targeted area residence.

Applicability.

(b) **QUALIFIED HURRICANE KATRINA RECOVERY RESIDENCE.**—For purposes of this section, the term “qualified Hurricane Katrina recovery residence” means—

(1) any residence in the core disaster area, and

(2) any other residence if—

(A) such other residence is located in the same State as the principal residence referred to in subparagraph (B), and

(B) the mortgagor with respect to such other residence owned a principal residence on August 28, 2005, which—

(i) was located in the Hurricane Katrina disaster area, and

(ii) was rendered uninhabitable by reason of Hurricane Katrina.

(c) **SPECIAL RULE FOR HOME IMPROVEMENT LOANS.**—In the case of any loan with respect to a residence in the Hurricane Katrina disaster area, section 143(k)(4) of such Code shall be applied

Applicability.

by substituting \$150,000 for the dollar amount contained therein to the extent such loan is for the repair of damage by reason of Hurricane Katrina.

(d) APPLICATION.—Subsection (a) shall not apply to financing provided after December 31, 2007.

Applicability.

SEC. 405. EXTENSION OF REPLACEMENT PERIOD FOR NONRECOGNITION OF GAIN FOR PROPERTY LOCATED IN HURRICANE KATRINA DISASTER AREA.

Clause (i) of section 1033(a)(2)(B) of the Internal Revenue Code of 1986 shall be applied by substituting “5 years” for “2 years” with respect to property in the Hurricane Katrina disaster area which is compulsorily or involuntarily converted on or after August 25, 2005, by reason of Hurricane Katrina, but only if substantially all of the use of the replacement property is in such area.

SEC. 406. SPECIAL RULE FOR DETERMINING EARNED INCOME.

(a) IN GENERAL.—In the case of a qualified individual, if the earned income of the taxpayer for the taxable year which includes August 25, 2005, is less than the earned income of the taxpayer for the preceding taxable year, the credits allowed under sections 24(d) and 32 of the Internal Revenue Code of 1986 may, at the election of the taxpayer, be determined by substituting—

(1) such earned income for the preceding taxable year, for

(2) such earned income for the taxable year which includes August 25, 2005.

(b) QUALIFIED INDIVIDUAL.—For purposes of this section, the term “qualified individual” means any individual whose principal place of abode on August 25, 2005, was located—

(1) in the core disaster area, or

(2) in the Hurricane Katrina disaster area (but outside the core disaster area) and such individual was displaced from such principal place of abode by reason of Hurricane Katrina.

(c) EARNED INCOME.—For purposes of this section, the term “earned income” has the meaning given such term under section 32(c) of such Code.

(d) SPECIAL RULES.—

(1) APPLICATION TO JOINT RETURNS.—For purposes of subsection (a), in the case of a joint return for a taxable year which includes August 25, 2005—

(A) such subsection shall apply if either spouse is a qualified individual, and

(B) the earned income of the taxpayer for the preceding taxable year shall be the sum of the earned income of each spouse for such preceding taxable year.

(2) UNIFORM APPLICATION OF ELECTION.—Any election made under subsection (a) shall apply with respect to both section 24(d) and section 32 of such Code.

(3) ERRORS TREATED AS MATHEMATICAL ERROR.—For purposes of section 6213 of such Code, an incorrect use on a return of earned income pursuant to subsection (a) shall be treated as a mathematical or clerical error.

Applicability.

(4) NO EFFECT ON DETERMINATION OF GROSS INCOME, ETC.—Except as otherwise provided in this section, the Internal Revenue Code of 1986 shall be applied without regard to any substitution under subsection (a).

**SEC. 407. SECRETARIAL AUTHORITY TO MAKE ADJUSTMENTS
REGARDING TAXPAYER AND DEPENDENCY STATUS.**

With respect to taxable years beginning in 2005 or 2006, the Secretary of the Treasury or the Secretary's delegate may make such adjustments in the application of the internal revenue laws as may be necessary to ensure that taxpayers do not lose any deduction or credit or experience a change of filing status by reason of temporary relocations by reason of Hurricane Katrina. Any adjustments made under the preceding sentence shall ensure that an individual is not taken into account by more than one taxpayer with respect to the same tax benefit.

TITLE V—EMERGENCY REQUIREMENT**SEC. 501. EMERGENCY REQUIREMENT.**

Any provision of this Act causing an effect on receipts, budget authority, or outlays is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress).

Approved September 23, 2005.

LEGISLATIVE HISTORY—H.R. 3768 (S. 1696):**CONGRESSIONAL RECORD, Vol. 151 (2005):**

Sept. 15, considered and passed House. Considered and passed Senate, amended.

Sept. 21, House agreed to Senate amendment with an amendment pursuant to H. Res. 454. Senate concurred in House amendment.



Public Law 109–74
109th Congress

An Act

Sept. 29, 2005
[H.R. 3649]

To ensure funding for sportfishing and boating safety programs funded out of the Highway Trust Fund through the end of fiscal year 2005, and for other purposes.

Sportfishing and
Recreational
Boating Safety
Amendments Act
of 2005.
16 USC 777 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Sportfishing and Recreational Boating Safety Amendments Act of 2005”.

**TITLE I—CORRECTIONS TO THE
SPORTFISHING AND RECREATIONAL
BOATING SAFETY ACT OF 2005**

SEC. 101. EFFECTIVE DATE OF AMENDMENTS.

(a) IN GENERAL.—The Sportfishing and Recreational Boating Safety Act of 2005 (Public Law 109–59) is amended—

Ante, p. 1927.

- (1) by striking section 10112(b)(2); and
- (2) by inserting after section 10101 the following:

16 USC 777b
note.

“SEC. 10102. EFFECTIVE DATE.

“The amendments made by this subtitle shall take effect October 1, 2005.”.

16 USC 777b
note.

(b) TEMPORARY PRESERVATION OF EXISTING LAW.—Except as provided by the amendments made by title II of this Act, during the period beginning on the date of the enactment of the Sportfishing and Recreational Boating Safety Act of 2005, and ending upon the expiration of fiscal year 2005, the provisions of law amended by the Sportfishing and Recreational Boating Safety Act of 2005 (as amended by this Act) shall be considered to read as such laws read immediately before the enactment of that Act.

SEC. 102. RECREATIONAL BOATING SAFETY FUNDS.

Section 10143 of the Sportfishing and Recreational Boating Safety Act of 2005 (Public Law 109–59) is amended—

Ante, p. 1931.

- (1) in paragraph (1) by striking “under section 10119 of the Sportfishing and Recreational Boating Safety Act of 2005” and inserting “under section 15 of the Dingell-Johnson Sport Fish Restoration Act”;

- (2) in paragraph (2) by striking “subsection (a)(2) of section 4 of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777c(a)(2))” and inserting “subsections (a)(2) and (f) of section

4 of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777c(a)(2) and (f));

(3) in paragraph (4)—

(A) in subparagraph (B) by inserting a closed parenthesis after “(16 U.S.C. 777c(a)(2)”; and

(B) by striking subparagraphs (C) and (D) and inserting the following:

“(C) by striking ‘\$5,000,000’ and inserting ‘\$5,500,000’; and

“(D) by inserting ‘not less than’ before ‘\$2,000,000’; and”; and

(4) in paragraph (5) by striking “unexpected” and inserting “unexpended”.

SEC. 103. EXPENDITURE OF REMAINING BALANCE IN BOAT SAFETY ACCOUNT.

Section 10119 of the Sportfishing and Recreational Boating Safety Act of 2005 (Public Law 109–59) is amended in the text proposed to be inserted as section 15 of the Dingell-Johnson Sport Fish Restoration Act—

Ante, p. 1929.

(1) in paragraph (2)(A)(v) of such text by striking “of this Act” and inserting “of that section”;

(2) in paragraphs (1) through (4) of such text by striking “subsection (b) of that section” each place it appears in such text and inserting “subsection (c) of that section”; and

(3) in paragraph (5)—

(A) in subparagraph (A) by striking “subsection (b)” and inserting “subsection (a)(2) of that section”; and

(B) in subparagraph (B) by striking “subsection (h)” and inserting “subsection (c) of that section”.

TITLE II—EXTENSION OF RECREATIONAL BOATING FUNDING THROUGH THE END OF FISCAL YEAR 2005

SEC. 201. NATIONAL OUTREACH AND COMMUNICATIONS PROGRAM FUNDING.

Section 4(c)(7) of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777c(c)(7)) is amended to read as follows:

“(7) \$10,000,000 for fiscal year 2005;”.

SEC. 202. CLEAN VESSEL ACT FUNDING.

Section 4(b)(4) of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777c(b)(4)) is amended—

(1) in the section heading by striking “FIRST 303 DAYS OF FISCAL” and inserting “FISCAL”;

(2) by striking “July 30, 2005” and inserting “September 30, 2005”;

(3) by striking “\$68,071,233” and inserting “\$82,000,000”;

(4) in subparagraph (A), by striking “\$8,301,370” and inserting “\$10,000,000”; and

(5) in subparagraph (B), by striking “\$6,641,096” and inserting “\$8,000,000”.

SEC. 203. COAST GUARD EXPENSES.

Section 13106(c)(1) of title 46, United States Code, is amended—
(1) by striking “\$4,150,685” and inserting “\$5,000,000”; and
(2) by striking “\$1,660,274” and inserting “\$2,000,000”.

TITLE III—EXTENSION OF AUTHORIZATION FOR USE OF FUNDS IN BOAT SAFETY ACCOUNT**SEC. 301. EXTENSION OF AUTHORIZATION FOR USE OF FUNDS IN BOAT SAFETY ACCOUNT FOR OBLIGATIONS BEFORE OCTOBER 1, 2005.**

26 USC 9504. (a) BOAT SAFETY ACCOUNT.—Subsection (c) of section 9504 of the Internal Revenue Code of 1986 (relating to expenditures from boat safety account) is amended—

(1) by striking “August 15, 2005” and inserting “October 1, 2005”; and

(2) by striking “Surface Transportation Extension Act of 2005, Part VI” and inserting “Sportfishing and Recreational Boating Safety Amendments Act of 2005”.

26 USC 9504
note.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 302. CORRECTION OF DISTRIBUTION OF OBLIGATION AUTHORITY UNDER SECTION 1102(c)(4)(A) OF PUBLIC LAW 109–59.

Notwithstanding section 1102(c)(4)(A) of Public Law 109–59; 119 Stat. 1144, et seq., or any other provision of law, for fiscal year 2005, obligation authority for funds made available under title I of division H of Public Law 108–447; 118 Stat. 3216 for expenses necessary to discharge the functions of the Secretary of Transportation with respect to traffic and highway safety under chapter 301 of title 49, United States Code, and part C of subtitle VI of title 49, United States Code, shall be made available in an amount equal to the funds provided therein: *Provided*, That the additional obligation authority needed to meet the requirements of this section shall be withdrawn from the obligation authority previously distributed to the other programs, projects, and activities

funded by the amount deducted under section 117 of title I of division H of Public Law 108–447.

Approved September 29, 2005.

LEGISLATIVE HISTORY—H.R. 3649:

CONGRESSIONAL RECORD, Vol. 151 (2005):

Sept. 13, considered and passed House.

Sept. 15, considered and passed Senate, amended.

Sept. 20, House concurred in Senate amendment.



Public Law 109–75
109th Congress

An Act

Sept. 29, 2005
[S. 1340]

To amend the Pittman-Robertson Wildlife Restoration Act to extend the date after which surplus funds in the wildlife restoration fund become available for apportionment.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AVAILABILITY OF SURPLUS FUNDS IN WILDLIFE RESTORATION FUND.

Section 3(b)(2)(C) of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669b(b)(2)(C)) is amended by striking “2006” and inserting “2016”.

Approved September 29, 2005.

LEGISLATIVE HISTORY—S. 1340:

SENATE REPORTS: No. 109–125 (Comm. on Environment and Public Works).

CONGRESSIONAL RECORD, Vol. 151 (2005):

Sept. 9, considered and passed Senate.

Sept. 20, considered and passed House.



Public Law 109–76
109th Congress

An Act

To extend the existence of the Parole Commission, and for other purposes.

Sept. 29, 2005

[S. 1368]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “United States Parole Commission Extension and Sentencing Commission Authority Act of 2005”.

SEC. 2. EXTENSION OF EXISTENCE OF THE PAROLE COMMISSION.

For purposes of section 235(b) of the Sentencing Reform Act of 1984 (98 Stat. 2032) as such section relates to chapter 311 of title 18, United States Code, and the United States Parole Commission, each reference in such section to “eighteen years” or “eighteen-year period” shall be deemed a reference to “21 years” or “21-year period”, respectively.

United States
Parole
Commission
Extension and
Sentencing
Commission
Authority Act of
2005.
18 USC 3551
note.
18 USC 3551
note.

SEC. 3. PROVISION OF EMERGENCY AMENDMENT AUTHORITY FOR SENTENCING COMMISSION.

In accordance with the procedure set forth in section 21(a) of the Sentencing Act of 1987 (Public Law 100–182), as though the authority under that Act had not expired, the United States Sentencing Commission shall—

(1) not later than 60 days after the date of the enactment of this Act, amend the Federal sentencing guidelines, commentary, and policy statements to implement section 6703 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458); and

Deadlines.
28 USC 994 note.

(2) not later than 180 days after the date of the enactment of this Act, amend the Federal sentencing guidelines, commentary, and policy statements to implement section 3 of the Anabolic Steroid Control Act of 2004 (Public Law 108–358).

Approved September 29, 2005.

LEGISLATIVE HISTORY—S. 1368 (H.R. 3020):

HOUSE REPORTS: No. 109–176 accompanying H.R. 3020 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 151 (2005):

July 1, considered and passed Senate.

Sept. 21, considered and passed House.



Public Law 109–77
109th Congress

Joint Resolution

Making continuing appropriations for the fiscal year 2006, and for other purposes.

Sept. 30, 2005

[H.J. Res. 68]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of Government for fiscal year 2006, and for other purposes, namely:

SEC. 101. (a) Such amounts as may be necessary under the authority and conditions provided in the applicable appropriations Act for fiscal year 2005 for continuing projects or activities (including the costs of direct loans and loan guarantees) that are not otherwise specifically provided for in this joint resolution, that were conducted in fiscal year 2005, and for which appropriations, funds, or other authority would be available in the following appropriations Acts:

(1) The Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2006.

(2) The Department of Defense Appropriations Act, 2006.

(3) The Energy and Water Development Appropriations Act, 2006.

(4) The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2006 (in the House of Representatives), or the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2006 (in the Senate).

(5) The Department of Homeland Security Appropriations Act, 2006.

(6) The Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2006.

(7) The Military Quality of Life and Veterans Affairs Appropriations Act, 2006 (in the House of Representatives), or the Military Construction and Veterans Affairs, and Related Agencies Appropriations Act, 2006 (in the Senate).

(8) The Science, State, Justice, Commerce, and Related Agencies Appropriations Act, 2006 (in the House of Representatives), or the Departments of Commerce and Justice, Science, and Related Agencies Appropriations Act, 2006 (in the Senate).

(9) The Transportation, Treasury, Housing and Urban Development, the Judiciary, the District of Columbia, and Independent Agencies Appropriations Act, 2006 (in the House of Representatives), or the Transportation, Treasury, the

Judiciary, Housing and Urban Development, and Related Agencies Appropriations Act, 2006 (in the Senate) and the District of Columbia Appropriations Act, 2006 (in the Senate).

(b) Whenever the amount that would be made available or the authority that would be granted for a project or activity under an Act listed in subsection (a) as passed by the House of Representatives as of October 1, 2005, is the same as the amount or authority that would be available or granted under the same or other pertinent Act as passed by the Senate as of October 1, 2005—

(1) the project or activity shall be continued at a rate for operations not exceeding the current rate or the rate permitted by the actions of the House and the Senate, whichever is lower, and under the authority and conditions provided in applicable appropriations Acts for fiscal year 2005; or

(2) if no amount or authority is made available or granted for the project or activity by the actions of the House and the Senate, the project or activity shall not be continued.

(c) Whenever the amount that would be made available or the authority that would be granted for a project or activity under an Act listed in subsection (a) as passed by the House of Representatives as of October 1, 2005, is different from the amount or authority that would be available or granted under the same or other pertinent Act as passed by the Senate as of October 1, 2005—

(1) the project or activity shall be continued at a rate for operations not exceeding the current rate or the rate permitted by the action of the House or the Senate, whichever is lowest, and under the authority and conditions provided in applicable appropriations Acts for fiscal year 2005; or

(2) if the project or activity is included in the pertinent Act of only one of the Houses, the project or activity shall be continued under the appropriation, fund, or authority granted by the one House, but at a rate for operations not exceeding the current rate or the rate permitted by the action of the one House, whichever is lower, and under the authority and conditions provided in applicable appropriations Acts for fiscal year 2005.

(d) Whenever the pertinent Act covering a project or activity has been passed by only the House of Representatives as of October 1, 2005—

(1) the project or activity shall be continued under the appropriation, fund, or authority granted by the House, at a rate for operations not exceeding the current rate or the rate permitted by the action of the House, whichever is lower, and under the authority and conditions provided in applicable appropriations Acts for fiscal year 2005; or

(2) if the project or activity is funded in applicable appropriations Acts for fiscal year 2005 and not included in the pertinent Act of the House as of October 1, 2005, the project or activity shall be continued under the appropriation, fund, or authority granted by applicable appropriations Acts for fiscal year 2005 at a rate for operations not exceeding the current rate and under the authority and conditions provided in applicable appropriations Acts for fiscal year 2005.

SEC. 102. (a) No appropriation or funds made available or authority granted pursuant to section 101 for the Department of Defense shall be used for: (1) the new production of items not funded for production in fiscal year 2005 or prior years; (2) the

increase in production rates above those sustained with fiscal year 2005 funds; or (3) the initiation, resumption, or continuation of any project, activity, operation, or organization (defined as any project, subproject, activity, budget activity, program element, and subprogram within a program element, and for any investment items defined as a P–1 line item in a budget activity within an appropriation account and an R–1 line item that includes a program element and subprogram element within an appropriation account) for which appropriations, funds, or other authority were not available during fiscal year 2005.

(b) No appropriation or funds made available or authority granted pursuant to section 101 for the Department of Defense shall be used to initiate multi-year procurements utilizing advance procurement funding for economic order quantity procurement unless specifically appropriated later.

(c) Notwithstanding this section, the Secretary of Defense may, following notification of the congressional defense committees, initiate projects or activities required to be undertaken for force protection purposes using funds made available from the Iraq Freedom Fund.

SEC. 103. Appropriations made by section 101 shall be available to the extent and in the manner that would be provided by the pertinent appropriations Act.

SEC. 104. No appropriation or funds made available or authority granted pursuant to section 101 shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during fiscal year 2005.

SEC. 105. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any project or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 106. Unless otherwise provided for in this joint resolution or in the applicable appropriations Act, appropriations and funds made available and authority granted pursuant to this joint resolution shall be available until whichever of the following first occurs: (1) the enactment into law of an appropriation for any project or activity provided for in this joint resolution; (2) the enactment into law of the applicable appropriations Act by both Houses without any provision for such project or activity; or (3) November 18, 2005.

Expiration date.

SEC. 107. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 108. Appropriations and funds made available by or authority granted pursuant to this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in section 1513 of title 31, United States Code, but nothing in this joint resolution may be construed to waive any other provision of law governing the apportionment of funds.

SEC. 109. Notwithstanding any other provision of this joint resolution, except section 106, for those programs that had high initial rates of operation or complete distribution of fiscal year 2005 appropriations at the beginning of that fiscal year because of distributions of funding to States, foreign countries, grantees

or others, similar distributions of funds for fiscal year 2006 shall not be made and no grants shall be awarded for such programs funded by this joint resolution that would impinge on final funding prerogatives.

SEC. 110. This joint resolution shall be implemented so that only the most limited funding action of that permitted in the joint resolution shall be taken in order to provide for continuation of projects and activities.

Applicability.

SEC. 111. No provision that is included in an appropriations Act listed in section 101(a), but that was not included in the applicable appropriations Act for fiscal year 2005 and by its terms is applicable to more than one appropriation, fund, or authority, shall be applicable to any appropriation, fund, or authority provided in this joint resolution.

SEC. 112. No provision that is included in an appropriations Act listed in section 101(a), and that makes the availability of any appropriation provided therein dependent upon the enactment of additional authorizing or other legislation, shall be effective before the date set forth in section 106(3).

SEC. 113. Funds appropriated by this joint resolution may be obligated and expended notwithstanding section 10 of Public Law 91–672 (22 U.S.C. 2412), section 15 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2680), section 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 6212), and section 504(a)(1) of the National Security Act of 1947 (50 U.S.C. 414(a)(1)).

SEC. 114. (a) For entitlements and other mandatory payments whose budget authority was provided in appropriations Acts for fiscal year 2005, and for activities under the Food Stamp Act of 1977, activities shall be continued at the rate to maintain program levels under current law, under the authority and conditions provided in the applicable appropriations Act for fiscal year 2005, to be continued through the date specified in section 106(3) of this joint resolution.

(b) Notwithstanding section 106 of this joint resolution, funds shall be available and obligations for mandatory payments due on or about November 1, 2005, and December 1, 2005, may continue to be made.

10 USC 1478
note, 37 USC
411h note, 38
USC 1967 note.

SEC. 115. The provisions of, and amendments made by, sections 1011, 1012, 1013, 1023, and 1026 of Public Law 109–13 shall continue in effect, notwithstanding the fiscal year limitation in section 1011 and the provisions of sections 1012(i), 1013(e), 1023(c), and 1026(e) of that Public Law, through the earlier of: (1) the date specified in section 106(3) of this joint resolution; or (2) with respect to any such section of Public Law 109–13, the date of the enactment into law of legislation that supersedes the provisions of, or the amendments made by, that section.

SEC. 116. The authorities provided by section 1306 of Public Law 107–314 shall continue in effect through the date specified in section 106(3) of this joint resolution or the date of the enactment into law of a defense authorization Act for fiscal year 2006, whichever is earlier.

Applicability.

SEC. 117. Section 6 of Public Law 107–57, as amended, shall be applied by substituting the date specified in section 106 of this joint resolution for “October 1, 2005”, and sections 508 and 512 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (Public Law 108–447, division D),

as made applicable to fiscal year 2006 by the provisions of this joint resolution, shall not apply with respect to Pakistan through the date specified in section 106(3) of this joint resolution.

SEC. 118. (a) Funds provided in section 101 of this joint resolution for “Social Security Administration, Limitation on Administrative Expenses” may be used to complete the processing of appeals received prior to July 1, 2005, under sections 1852 and 1869 of the Social Security Act, notwithstanding section 931(b) of Public Law 108–173.

(b) The Commissioner of Social Security may enter into a reimbursable agreement with the Secretary of Health and Human Services to process, during fiscal year 2006, appeals received after June 30, 2005, and prior to October 1, 2005.

SEC. 119. For the purposes of section 101 of this joint resolution, amounts obligated in fiscal year 2005 from funding provided in section 1015 of Public Law 108–173 shall be deemed to have been provided in an applicable appropriations Act for fiscal year 2005.

SEC. 120. Notwithstanding section 101 of this joint resolution, amounts are provided for “Department of Health and Human Services, Office of the Secretary, Medicare Appeals” at a rate for operations not exceeding the rate set forth for such account in title II of H.R. 3010 of the 109th Congress, as passed by the House of Representatives.

SEC. 121. Section 1015(b) of Public Law 108–173 is amended 117 Stat. 2446.
by striking “2005” and inserting “2006”.

SEC. 122. The authority provided by section 2011 of title 38, United States Code, shall continue in effect through the date specified in section 106(3) of this joint resolution.

SEC. 123. The authority provided by section 2808 of Public Law 108–136, as amended by section 2810 of Public Law 108–375, shall continue in effect through the date specified in section 106(3) of this joint resolution.

SEC. 124. The amendment made by section 1022 of Public Law 109–13 shall continue in effect through the date specified in section 106(3) of this joint resolution. 37 USC 403 note.

SEC. 125. Funds appropriated by section 101 of this joint resolution for the National Aeronautics and Space Administration may be obligated in the account and budget structure set forth in the pertinent Acts specified in section 101(a)(8).

SEC. 126. Funds appropriated by section 101 of this joint resolution for “National Science Foundation, Research and Related Activities” may be used for Arctic and Antarctic icebreaking maintenance and operations.

SEC. 127. (a) Notwithstanding any other provision of this joint resolution, except section 106, the District of Columbia may expend local funds for programs and activities under the heading “District of Columbia Funds” at the rate set forth for such programs and activities under title V of H.R. 3058, One Hundred Ninth Congress, as passed by the House of Representatives, and in addition, funds under “District of Columbia Funds, Enterprise and Other Funds, Capital Outlay” as included in the Fiscal Year 2006 Proposed Budget and Financial Plan submitted to the Congress by the District of Columbia on June 6, 2005.

(b) Section 2302 of Public Law 108–11, as amended by section 336 of Public Law 108–335 shall be applied by substituting the date specified in section 106(3) of this joint resolution for “September 30, 2005”. Applicability.

SEC. 128. The provisions of title II of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11311 et seq.) shall continue in effect, notwithstanding section 209 of such Act, through the earlier of: (1) the date specified in section 106(3) of this joint resolution; or (2) the date of the enactment into law of an authorization Act relating to the McKinney-Vento Homeless Assistance Act.

SEC. 129. Notwithstanding section 101 of this joint resolution, amounts are provided for “Department of Transportation, Federal Transit Administration, Administrative Expenses” at a rate for operations not exceeding the total of budgetary resources made available for obligation for fiscal year 2005.

Applicability.

SEC. 130. Section 403(f) of Public Law 103–356 (31 U.S.C. 501 note) shall be applied by substituting the date specified in section 106(3) of this joint resolution for “October 1, 2005”.

SEC. 131. Amounts made available by this joint resolution for the Department of Defense that are related to amounts provided in title IX of the Department of Defense Appropriations Act, 2006, as passed by the House, or related to amounts designated as emergency requirements in previous defense appropriations Acts or supplemental appropriations Acts, are designated as appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006, except that amounts so designated under this section shall not exceed \$50,000,000,000.

Approved September 30, 2005.

LEGISLATIVE HISTORY—H.J. Res. 68:

CONGRESSIONAL RECORD, Vol. 151 (2005):

Sept. 29, considered and passed House.

Sept. 30, considered and passed Senate.



Public Law 109–78
109th Congress

An Act

To extend the waiver authority of the Secretary of Education with respect to student financial assistance during a war or other military operation or national emergency.

Sept. 30, 2005
[H.R. 2132]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF WAIVER AUTHORITY.

Section 6 of the Higher Education Relief Opportunities for Students Act of 2003 (20 U.S.C. 1070, note) is amended by striking “September 30, 2005” and inserting “September 30, 2007”.

Approved September 30, 2005.

LEGISLATIVE HISTORY—H.R. 2132:

CONGRESSIONAL RECORD, Vol. 151 (2005):

Sept. 20, considered and passed House.

Sept. 27, considered and passed Senate.



Public Law 109–79
109th Congress

An Act

Sept. 30, 2005
[H.R. 2385]

To extend by 10 years the authority of the Secretary of Commerce to conduct the quarterly financial report program.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TEN-YEAR EXTENSION OF AUTHORITY FOR SECRETARY OF COMMERCE TO CONDUCT THE QUARTERLY FINANCIAL REPORT PROGRAM.

Section 4(b) of the Act entitled “An Act to amend title 13, United States Code, to transfer responsibility for the quarterly financial report from the Federal Trade Commission to the Secretary of Commerce, and for other purposes”, approved January 12, 1983 (Public Law 97–454; 13 U.S.C. 91 note), is amended by striking “2005” and inserting “2015”.

Approved September 30, 2005.

LEGISLATIVE HISTORY—H.R. 2385:

HOUSE REPORTS: No. 109–164 (Comm. on Government Reform).

CONGRESSIONAL RECORD, Vol. 151 (2005):

July 13, considered and passed House.

Sept. 26, considered and passed Senate.



Public Law 109–80
109th Congress

An Act

To amend title 38, United States Code, to enhance the Servicemembers' Group Life Insurance program, and for other purposes.

Sept. 30, 2005
[H.R. 3200]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Servicemembers’ Group Life Insurance Enhancement Act of 2005”.

Servicemembers’
Group Life
Insurance
Enhancement
Act of 2005.
38 USC 101 note.

SEC. 2. REPEALER.

Effective as of August 31, 2005, section 1012 of division A of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (Public Law 109–13; 119 Stat. 244), including the amendments made by that section, are repealed, and sections 1967, 1969, 1970, and 1977 of title 38, United States Code, shall be applied as if that section had not been enacted.

38 USC 1967
note.
Effective date.
Applicability.

SEC. 3. INCREASE FROM \$250,000 TO \$400,000 IN AUTOMATIC MAXIMUM COVERAGE UNDER SERVICEMEMBERS’ GROUP LIFE INSURANCE AND VETERANS’ GROUP LIFE INSURANCE.

(a) MAXIMUM UNDER SGLI.—Section 1967 of title 38, United States Code, is amended—

(1) in subsection (a)(3)(A)(i), by striking “\$250,000” and inserting “\$400,000”; and

(2) in subsection (d), by striking “of \$250,000” and inserting “in effect under paragraph (3)(A)(i) of that subsection”.

(b) MAXIMUM UNDER VGLI.—Section 1977(a) of such title is amended—

(1) in paragraph (1), by striking “in excess of \$250,000 at any one time” and inserting “at any one time in excess of the maximum amount for Servicemembers’ Group Life Insurance in effect under section 1967(a)(3)(A)(i) of this title”; and

(2) in paragraph (2)—

(A) by striking “for less than \$250,000 under Servicemembers’ Group Life Insurance” and inserting “under Servicemembers’ Group Life Insurance for less than the maximum amount for such insurance in effect under section 1967(a)(3)(A)(i) of this title”; and

(B) by striking “does not exceed \$250,000” and inserting “does not exceed such maximum amount in effect under such section”.

38 USC 1967
note.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect as of September 1, 2005, and shall apply with respect to deaths occurring on or after that date.

38 USC 1967
note.

SEC. 4. SPOUSAL NOTIFICATIONS RELATING TO SERVICEMEMBERS' GROUP LIFE INSURANCE PROGRAM.

Effective date.

Effective as of September 1, 2005, section 1967 of title 38, United States Code, is amended by adding at the end the following new subsection:

“(f)(1) If a member who is married and who is eligible for insurance under this section makes an election under subsection (a)(2)(A) not to be insured under this subchapter, the Secretary concerned shall notify the member’s spouse, in writing, of that election.

“(2) In the case of a member who is married and who is insured under this section and whose spouse is designated as a beneficiary of the member under this subchapter, whenever the member makes an election under subsection (a)(3)(B) for insurance of the member in an amount that is less than the maximum amount provided under subsection (a)(3)(A)(i), the Secretary concerned shall notify the member’s spouse, in writing, of that election—

“(A) in the case of the first such election; and

“(B) in the case of any subsequent such election if the effect of such election is to reduce the amount of insurance coverage of the member from that in effect immediately before such election.

“(3) In the case of a member who is married and who is insured under this section, if the member makes a designation under section 1970(a) of this title of any person other than the spouse or a child of the member as the beneficiary of the member for any amount of insurance under this subchapter, the Secretary concerned shall notify the member’s spouse, in writing, that such a beneficiary designation has been made by the member, except that such a notification is not required if the spouse has previously received such a notification under this paragraph and if immediately before the new designation by the member under section 1970(a) of this title the spouse is not a designated beneficiary of the member for any amount of insurance under this subchapter.

“(4) A notification required by this subsection is satisfied by a good faith effort to provide the required information to the spouse at the last address of the spouse in the records of the Secretary concerned. Failure to provide a notification required under this subsection in a timely manner does not affect the validity of any election specified in paragraph (1) or (2) or beneficiary designation specified in paragraph (3).”.

SEC. 5. INCREMENTS OF INSURANCE THAT MAY BE ELECTED.

(a) **INCREASE IN INCREMENT AMOUNT.**—Subsection (a)(3)(B) of section 1967 of title 38, United States Code, is amended by striking “member or spouse” in the last sentence and inserting “member, be evenly divisible by \$50,000 and, in the case of a member’s spouse,”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as of September 1, 2005. 38 USC 1967 note.

Approved September 30, 2005.

LEGISLATIVE HISTORY—H.R. 3200:

HOUSE REPORTS: No. 109–177 (Comm. on Veterans' Affairs).

CONGRESSIONAL RECORD, Vol. 151 (2005):

July 26, considered and passed House.

Sept. 27, considered and passed Senate, amended.

Sept. 28, House concurred in Senate amendment.



Public Law 109–81
109th Congress

An Act

Sept. 30, 2005
[H.R. 3784]

To temporarily extend the programs under the Higher Education Act of 1965,
and for other purposes.

Higher Education
Extension Act of
2005.
20 USC 1001
note.

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the “Higher Education Extension
Act of 2005”.

20 USC 1001
note.

SEC. 2. EXTENSION OF PROGRAMS.

(a) **EXTENSION OF DURATION.**—The authorization of appropri-
ations for, and the duration of, each program authorized under
the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) shall
be extended through December 31, 2005.

(b) **PERFORMANCE OF REQUIRED AND AUTHORIZED FUNCTIONS.**—
If the Secretary of Education, a State, an institution of higher
education, a guaranty agency, a lender, or another person or
entity—

(1) is required, in or for fiscal year 2004, to carry out
certain acts or make certain determinations or payments under
a program under the Higher Education Act of 1965, such acts,
determinations, or payments shall be required to be carried
out, made, or continued during the period of the extension
under this section; or

(2) is permitted or authorized, in or for fiscal year 2004,
to carry out certain acts or make certain determinations or
payments under a program under the Higher Education Act
of 1965, such acts, determinations, or payments are permitted
or authorized to be carried out, made, or continued during
the period of the extension under this section.

(c) **EXTENSION AT CURRENT LEVELS.**—The amount authorized
to be appropriated for a program described in subsection (a) during
the period of extension under this section shall be the amount
authorized to be appropriated for such program for fiscal year
2004, or the amount appropriated for such program for such fiscal
year, whichever is greater. Except as provided in any amendment
to the Higher Education Act of 1965 enacted during fiscal year
2005 or 2006, the amount of any payment required or authorized
under subsection (b) in or for the period of the extension under
this section shall be determined in the same manner as the amount
of the corresponding payment required or authorized in or for
fiscal year 2004.

(d) **ADVISORY COMMITTEES AND OTHER ENTITIES CONTINUED.**—
Any advisory committee, interagency organization, or other entity

that was, during fiscal year 2004, authorized or required to perform any function under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), or in relation to programs under that Act, shall continue to exist and is authorized or required, respectively, to perform such function for the period of the extension under this section.

(e) **ADDITIONAL EXTENSION NOT PERMITTED.**—Section 422 of the General Education Provisions Act (20 U.S.C. 1226a) shall not apply to further extend the authorization of appropriations for any program described in subsection (a) on the basis of the extension of such program under this section.

(f) **EXCEPTION.**—The programs described in subsection (a) for which the authorization of appropriations, or the duration of which, is extended by this section include provisions applicable to institutions in, and students in or from, the Freely Associated States, except that those provisions shall be applicable with respect to institutions in, and students in or from, the Federated States of Micronesia and the Republic of the Marshall Islands only to the extent specified in Public Law 108–188.

Approved September 30, 2005.

LEGISLATIVE HISTORY—H.R. 3784:

CONGRESSIONAL RECORD, Vol. 151 (2005):

Sept. 20, considered and passed House.

Sept. 26, considered and passed Senate.



Public Law 109–82
109th Congress

An Act

Sept. 30, 2005
[H.R. 3864]

To assist individuals with disabilities affected by Hurricane Katrina or Rita through vocational rehabilitation services.

Assistance for
Individuals with
Disabilities
Affected by
Hurricane
Katrina or Rita
Act of 2005.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Assistance for Individuals with Disabilities Affected by Hurricane Katrina or Rita Act of 2005”.

SEC. 2. ASSISTANCE FOR INDIVIDUALS WITH DISABILITIES.

(a) **DEFINITIONS.**—In this section:

(1) **AFFECTED STATE.**—The term “affected State” means a State that contains an area, or that received a significant number of individuals who resided in an area, in which the President has declared that a major disaster exists.

(2) **COMMISSIONER.**—The term “Commissioner” means the Commissioner of the Rehabilitation Services Administration.

(3) **INDIVIDUAL WITH A DISABILITY.**—The term “individual with a disability” has the meaning given the term in section 7(20)(A) of the Rehabilitation Act of 1973 (29 U.S.C. 705(20)(A)).

(4) **INDIVIDUAL WITH A DISABILITY AFFECTED BY HURRICANE KATRINA.**—The term “individual with a disability affected by Hurricane Katrina” means an individual with a disability who resided on August 22, 2005, in an area in which the President has declared that a major disaster related to Hurricane Katrina exists.

(5) **INDIVIDUAL WITH A DISABILITY AFFECTED BY HURRICANE RITA.**—The term “individual with a disability affected by Hurricane Rita” means an individual with a disability who resided in an area on the date that was 7 days before the date on which the President declared that a major disaster related to Hurricane Rita exists in such area.

(6) **MAJOR DISASTER.**—The term “major disaster” means a major disaster declared by the President in accordance with the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), related to Hurricane Katrina or Rita.

(b) **REALLOTMENTS OF AMOUNTS.**—

(1) **IN GENERAL.**—In reallocating amounts to States under section 110(b)(2) of the Rehabilitation Act of 1973 (29 U.S.C. 730(b)(2)) for fiscal year 2005, the Commissioner shall give preference to affected States.

(2) **WAIVERS.**—If the Commissioner reallocates amounts under section 110(b)(2) of the Rehabilitation Act of 1973 to an affected

State for fiscal year 2005, or returns to the State of Louisiana for fiscal year 2005 the funds that Louisiana had previously relinquished pursuant to section 110(b)(1) of that Act (29 U.S.C. 730(b)(1)) due to an inability to meet the non-Federal share requirements requiring Louisiana to contribute \$3,942,821 for fiscal year 2005, the Commissioner may grant a waiver of non-Federal share requirements for fiscal year 2005 for the affected State or Louisiana, respectively.

(3) DEFINITION.—In this subsection, the term “non-Federal share requirements” means non-Federal share requirements applicable to programs under title I of such Act (29 U.S.C. 720 et seq.).

(c) USE OF AMOUNTS REALLOTTED UNDER TITLE I OF THE REHABILITATION ACT OF 1973.—An affected State that receives amounts reallocated under section 110(b)(2) of the Rehabilitation Act of 1973 (29 U.S.C. 730(b)(2)) for fiscal year 2005 (as described in subsection (b)) or returned under subsection (b) may use the amounts—

(1) to pay for vocational rehabilitation services described in section 103 of the Rehabilitation Act of 1973 (29 U.S.C. 723) (which may include training, mentoring, or job shadowing opportunities), for individuals with disabilities affected by Hurricane Katrina or individuals with disabilities affected by Hurricane Rita, that contribute to the economic growth and development of communities;

(2) to enable—

(A) individuals with disabilities affected by Hurricane Katrina to participate in reconstruction or other major disaster assistance activities in the areas in which the individuals resided on August 22, 2005; and

(B) individuals with disabilities affected by Hurricane Rita to participate in reconstruction or other major disaster assistance activities in the areas in which the individuals resided on the date that was 7 days before the date on which the President declared that a major disaster related to Hurricane Rita exists in such areas;

(3) to pay for vocational rehabilitation services described in section 103 of the Rehabilitation Act of 1973 for individuals with disabilities affected by Hurricane Katrina, or individuals with disabilities affected by Hurricane Rita, who do not meet the affected State’s order of selection criteria for the affected State’s order of selection under section 101(a)(5) of the Rehabilitation Act of 1973 (29 U.S.C. 721(a)(5)); or

(4) to carry out other activities in accordance with title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.).

Approved September 30, 2005.

LEGISLATIVE HISTORY—H.R. 3864:

CONGRESSIONAL RECORD, Vol. 151 (2005):

Sept. 28, considered and passed House and Senate.



Public Law 109–83
109th Congress

An Act

To amend the United States Grain Standards Act to reauthorize that Act.

Sept. 30, 2005

[S. 1752]

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. REAUTHORIZATION OF ACT.

(a) **IN GENERAL.**—Sections 7(j)(4), 7A(l)(3), 7D, 19, and 21(e) of the United States Grains Standards Act (7 U.S.C. 79(j)(4), 79a(l)(3), 79d, 87h, 87j(e)) are amended by striking “2005” each place it appears and inserting “2015”.

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) take effect on September 30, 2005. 7 USC 79 note.

Approved September 30, 2005.

LEGISLATIVE HISTORY—S. 1752:

CONGRESSIONAL RECORD, Vol. 151 (2005):

Sept. 22, considered and passed Senate.

Sept. 28, considered and passed House.



Public Law 109–84
109th Congress

An Act

Oct. 4, 2005
[H.R. 3667]

To designate the facility of the United States Postal Service located at 200 South Barrington Street in Los Angeles, California, as the “Karl Malden Station”.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The facility of the United States Postal Service located at 200 South Barrington Street in Los Angeles, California, shall be known and designated as the “Karl Malden Station”.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the “Karl Malden Station”.

Approved October 4, 2005.

LEGISLATIVE HISTORY—H.R. 3667:

CONGRESSIONAL RECORD, Vol. 151 (2005):

Sept. 21, considered and passed House.

Sept. 27, considered and passed Senate.



Public Law 109–85
109th Congress

An Act

To designate the facility of the United States Postal Service located at 2600 Oak Street in St. Charles, Illinois, as the “Jacob L. Frazier Post Office Building”.

Oct. 4, 2005
[H.R. 3767]

SECTION 1. DESIGNATION.

The facility of the United States Postal Service located at 2600 Oak Street in St. Charles, Illinois, shall be known and designated as the “Jacob L. Frazier Post Office Building”.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the “Jacob L. Frazier Post Office Building”.

Approved October 4, 2005.

LEGISLATIVE HISTORY—H.R. 3767:

CONGRESSIONAL RECORD, Vol. 151 (2005):
Sept. 21, considered and passed House.
Sept. 27, considered and passed Senate.



Public Law 109–86
109th Congress

An Act

Oct. 7, 2005
[H.R. 3863]

To provide the Secretary of Education with waiver authority for the reallocation rules in the Campus-Based Aid programs, and to extend the deadline by which funds have to be reallocated to institutions of higher education due to a natural disaster.

Natural Disaster
Student Aid
Fairness Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES.

(a) **SHORT TITLE.**—This Act may be cited as the “Natural Disaster Student Aid Fairness Act”.

(b) **REFERENCES.**—References in this Act to “the Act” are references to the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.).

SEC. 2. ALLOCATION AND USE OF CAMPUS-BASED HIGHER EDUCATION ASSISTANCE.

(a) **WAIVER OF MATCHING REQUIREMENTS.**—Notwithstanding sections 413C(a)(2), 443(b)(5), and 463(a)(2) of the Act (20 U.S.C. 1070b–2(a)(2); 42 U.S.C. 2753(b)(5); 20 U.S.C. 1087cc(a)(2)), with respect to funds made available for academic years 2004–2005 and 2005–2006—

(1) in the case of an institution of higher education located in an area affected by a Gulf hurricane disaster, the Secretary shall waive the requirement that a participating institution of higher education provide a non-Federal share or a capital contribution, as the case may be, to match Federal funds provided to the institution for the programs authorized pursuant to subpart 3 of part A, part C, and part E of title IV of the Act; and

(2) in the case of an institution of higher education that has accepted for enrollment any affected students, the Secretary may waive that matching requirement after considering the institution’s student population and existing resources, using consistent and objective criteria.

(b) **WAIVER OF REALLOCATION RULES.**—

(1) **AUTHORITY TO REALLOCATE.**—Notwithstanding sections 413D(d), 442(d), and 462(I) of the Act (20 U.S.C. 1070b–3(d); 42 U.S.C. 2752(d); 20 U.S.C. 1087bb(I)), the Secretary shall—

(A) reallocate any funds returned under any of those sections that were allocated to institutions of higher education for award year 2004–2005 to an institution of higher education that is eligible under paragraph (2) of this subsection; and

(B) waive the allocation reduction for award year 2006–2007 for an institution returning more than 10 percent of its allocation under any of those sections.

(2) ELIGIBLE INSTITUTIONS FOR REALLOCATION.—An institution of higher education may receive a reallocation of excess allocations under this subsection if the institution—

(A) participates in the program for which excess allocations are being reallocated; and

(B)(i) is located in an area affected by a Gulf hurricane disaster; or

(ii) has accepted for enrollment any affected students in academic year 2005–2006.

(3) BASIS OF REALLOCATION.—The Secretary shall determine the manner in which excess allocations shall be reallocated to institutions under paragraph (1), and shall give additional consideration to the needs of institutions located in an area affected by a Gulf hurricane disaster.

(4) ADDITIONAL WAIVER AUTHORITY.—Notwithstanding any other provision of law, in order to carry out this subsection, the Secretary may waive or modify any statutory or regulatory provision relating to the reallocation of excess allocations under subpart 3 of part A, part C, or part E of title IV of the Act in order to ensure that assistance is received by affected institutions for affected students.

(c) AVAILABILITY OF FUNDS DATE EXTENSION.—Notwithstanding any other provision of law—

(1) any funds available to the Secretary under sections 413A, 441, and 461 of the Act (20 U.S.C. 1070b; 42 U.S.C. 2751; 20 U.S.C. 1087aa) for which the period of availability would otherwise expire on September 30, 2005, shall be available for obligation by the Secretary until September 30, 2006 for the purposes of the programs authorized pursuant to subpart 3 of part A, part C, and part E of title IV of the Act, respectively; and

(2) the Secretary may recall any funds allocated to an institution of higher education for award year 2004–2005 under section 413D, 442, or 462 of the Act that, if not returned to the Secretary as excess allocations pursuant to any of those sections, would otherwise lapse on September 30, 2005, and reallocate those funds in accordance with subsection (b)(1).

SEC. 3. EMERGENCY DESIGNATION.

Section 2 of this Act is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress).

SEC. 4. TERMINATION OF AUTHORITY.

The provisions of this Act shall cease to be effective one year after the date of the enactment of this Act.

SEC. 5. DEFINITIONS.

In this Act:

(1) SECRETARY.—The term “Secretary” means the Secretary of Education.

(2) AFFECTED STUDENT.—The term “affected student” means an individual who has applied for or received student financial assistance under title IV of the Act, and who—

(A) was enrolled or accepted for enrollment, as of August 29, 2005, at an institution of higher education in an area affected by a Gulf hurricane disaster;

(B) was a dependent student enrolled or accepted for enrollment at an institution of higher education that is not in an area affected by a Gulf hurricane disaster, but whose parents resided or were employed, as of August 29, 2005, in an area affected by a Gulf hurricane disaster; or

(C) suffered direct economic hardship as a direct result of a Gulf hurricane disaster, as determined by the Secretary using consistent and objective criteria.

(3) GULF HURRICANE DISASTER.—The term “Gulf hurricane disaster” means a major disaster that the President declared to exist, in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170), and that was caused by Hurricane Katrina or Hurricane Rita.

(4) AREA AFFECTED BY A GULF HURRICANE DISASTER.—The term “area affected by a Gulf hurricane disaster” means a county or parish, in an affected State, that has been designated by the Federal Emergency Management Agency for disaster assistance for individuals and households as a result of Hurricane Katrina or Hurricane Rita.

(5) AFFECTED STATE.—The term “affected State” means the State of Alabama, Louisiana, Mississippi, or Texas.

(6) INSTITUTION OF HIGHER EDUCATION.—The term “institution of higher education” has the meaning given that term in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002).

Approved October 7, 2005.

LEGISLATIVE HISTORY—H.R. 3863:

CONGRESSIONAL RECORD, Vol. 151 (2005):

Sept. 27, considered and passed House.

Sept. 30, considered and passed Senate.



Public Law 109–87
109th Congress

An Act

To authorize the Secretary of Transportation to make emergency airport improvement project grants-in-aid under title 49, United States Code, for repairs and costs related to damage from Hurricanes Katrina and Rita.

Oct. 7, 2005
[S. 1786]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EMERGENCY USE OF GRANTS-IN-AID FOR AIRPORT IMPROVEMENTS FOR FISCAL YEARS 2005 AND 2006.

State listing.

(a) IN GENERAL.—The Secretary of Transportation may make project grants under part B, subtitle VII, of title 49, United States Code, from amounts that remain unobligated after the date of enactment of this Act for fiscal years 2005 and 2006—

(1) from apportioned funds under section 47114 of that title apportioned to an airport described in subsection (b)(1) or to a State in which such airport is located; or

(2) from funds available for discretionary grants to such an airport under section 47115 of such title.

(b) ELIGIBLE AIRPORTS AND USES.—The Secretary may make grants under subsection (a) for—

(1) emergency capital costs incurred by a public use airport in Louisiana, Mississippi, Alabama, or Texas that is listed in the Federal Aviation Administration's National Plan of Integrated Airport Systems of repairing or replacing public use facilities that have been damaged as a result of Hurricane Katrina or Hurricane Rita; and

(2) emergency operating costs incurred by an airport described in paragraph (1) as a result of Hurricane Katrina or Hurricane Rita.

(c) PRIORITIES.—In making grants authorized by subsection (a), the Secretary shall give priority to—

(1) airport development within the meaning of section 47102 of title 49, United States Code;

(2) terminal development within the meaning of section 47110 of that title;

(3) repair or replacement of other public use airport facilities; and

(4) emergency operating costs incurred at public use airports in Louisiana, Mississippi, Alabama, and Texas.

(d) MODIFICATION OF CERTAIN OTHERWISE APPLICABLE REQUIREMENTS.—For purposes of any grant authorized by subsection (a)—

(1) the Secretary may waive any otherwise applicable limitation on, or requirement for, grants under section 47102, 47107(a)(17), 47110, or 47119 of title 49, United States Code,

if the Secretary determines that the waiver is necessary to respond, in as timely and efficient a manner as possible, to the urgent needs of the region damaged by Hurricane Katrina or Hurricane Rita;

(2) the United States Government's share of allowable project costs shall be 100 percent, notwithstanding the provisions of section 47109 of that title;

(3) any project funded by such a grant shall be deemed to be an airport development project (within the meaning of section 47102 of that title), except for the purpose of establishing priorities under subsection (c) of this section among projects to be funded by such grants; and

(4) no project funded by such a grant may be considered, for the purpose of any other provision of law, to be a major Federal action significantly affecting the quality of the human environment.

Approved October 7, 2005.

LEGISLATIVE HISTORY—S. 1786:

CONGRESSIONAL RECORD, Vol. 151 (2005):

Sept. 28, considered and passed Senate.

Oct. 6, considered and passed House.



Public Law 109–88
109th Congress

An Act

To provide for community disaster loans.

Oct. 7, 2005

[S. 1858]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Community Disaster Loan Act of 2005”.

Community
Disaster Loan
Act of 2005.

SEC. 2. DISASTER LOANS.

(a) **ESSENTIAL SERVICES.**—Of the amounts provided in Public Law 109–62 for “Disaster Relief”, up to \$750,000,000 may be transferred to the Disaster Assistance Direct Loan Program for the cost of direct loans as authorized under section 417 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5184) to be used to assist local governments in providing essential services: *Provided*, That such transfer may be made to subsidize gross obligations for the principal amount of direct loans not to exceed \$1,000,000,000 under section 417 of the Stafford Act: *Provided further*, That notwithstanding section 417(b) of the Stafford Act, the amount of any such loan issued pursuant to this section may exceed \$5,000,000: *Provided further*, That notwithstanding section 417(c)(1) of the Stafford Act, such loans may not be canceled: *Provided further*, That the cost of modifying such loans shall be as defined in section 502 of the Congressional Budget Act of 1974 (2 U.S.C. 661a).

(b) **ADMINISTRATIVE EXPENSES.**—Of the amounts provided in Public Law 109–62 for “Disaster Relief”, up to \$1,000,000 may be transferred to the Disaster Assistance Direct Loan Program

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for administrative expenses to carry out the direct loan program,
as authorized by section 417 of the Stafford Act.

Approved October 7, 2005.

LEGISLATIVE HISTORY—S. 1858:

CONGRESSIONAL RECORD, Vol. 151 (2005):

Oct. 7, considered and passed Senate and House.



Public Law 109–89
109th Congress

An Act

To redesignate the Crowne Plaza in Kingston, Jamaica as the Colin L. Powell
Residential Plaza.

Oct. 13, 2005
[S. 1413]

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. DESIGNATION OF COLIN L. POWELL RESIDENTIAL PLAZA.

(a) DESIGNATION.—The Federal building in Kingston, Jamaica, formerly known as the Crowne Plaza and now a staff housing facility for the United States mission in Jamaica, shall be known and designated as the “Colin L. Powell Residential Plaza”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in subsection (a) shall be deemed to be a reference to the Colin L. Powell Residential Plaza.

Approved October 13, 2005.

LEGISLATIVE HISTORY—S. 1413:

CONGRESSIONAL RECORD, Vol. 151 (2005):
July 15, considered and passed Senate.
Oct. 6, considered and passed House.



Public Law 109–90
109th Congress

An Act

Oct. 18, 2005
[H.R. 2360]

Making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes.

Department of
Homeland
Security
Appropriations
Act, 2006.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes, namely:

TITLE I—DEPARTMENTAL MANAGEMENT AND OPERATIONS

OFFICE OF THE SECRETARY AND EXECUTIVE MANAGEMENT

Deadline.
Immigration.

For necessary expenses of the Office of the Secretary of Homeland Security, as authorized by section 102 of the Homeland Security Act of 2002 (6 U.S.C. 112), and executive management of the Department of Homeland Security, as authorized by law, \$79,409,000: *Provided*, That not to exceed \$40,000 shall be for official reception and representation expenses: *Provided further*, That, not more than 180 days from the date of the enactment of this Act, the Secretary of Homeland Security shall submit to the Committees on Appropriations of the Senate and the House of Representatives an integrated immigration enforcement strategy to reduce the number of undocumented aliens by ten percent per year based on the most recent United States Census Bureau data.

OFFICE OF SCREENING COORDINATION AND OPERATIONS

For necessary expenses of the Office of Screening Coordination and Operations, \$4,000,000.

OFFICE OF THE UNDER SECRETARY FOR MANAGEMENT

For necessary expenses of the Office of the Under Secretary for Management, as authorized by sections 701–705 of the Homeland Security Act of 2002 (6 U.S.C. 341–345), \$168,835,000: *Provided*, That not to exceed \$3,000 shall be for official reception and representation expenses: *Provided further*, That of the total amount provided, \$26,070,000 shall remain available until expended solely for the alteration and improvement of facilities, tenant improvements, and relocation costs to consolidate Department headquarters operations.

OFFICE OF THE CHIEF FINANCIAL OFFICER

For necessary expenses of the Office of the Chief Financial Officer, as authorized by section 103 of the Homeland Security Act of 2002 (6 U.S.C. 113), \$19,405,000.

OFFICE OF THE CHIEF INFORMATION OFFICER

For necessary expenses of the Office of the Chief Information Officer, as authorized by section 103 of the Homeland Security Act of 2002 (6 U.S.C. 113), and Department-wide technology investments, \$297,229,000; of which \$75,756,000 shall be available for salaries and expenses; and of which \$221,473,000 shall be available for development and acquisition of information technology equipment, software, services, and related activities for the Department of Homeland Security, and for the costs of conversion to narrowband communications, including the cost for operation of the land mobile radio legacy systems, to remain available until expended: *Provided*, That none of the funds appropriated shall be used to support or supplement the appropriations provided for the United States Visitor and Immigrant Status Indicator Technology project or the Automated Commercial Environment: *Provided further*, That the Chief Information Officer shall submit to the Committees on Appropriations of the Senate and the House of Representatives, not more than 60 days from the date of enactment of this Act, an expenditure plan for all information technology projects that: (1) are funded by the “Office of the Chief Information Officer”; or (2) are funded by multiple components of the Department of Homeland Security through reimbursable agreements: *Provided further*, That such expenditure plan shall include each specific project funded, key milestones, all funding sources for each project, details of annual and lifecycle costs, and projected cost savings or cost avoidance to be achieved by the project: *Provided further*, That the Chief Information Officer shall submit to the Committees on Appropriations of the Senate and the House of Representatives, not more than 180 days from the date of enactment of this Act, a report that has been approved by the Office of Management and Budget and reviewed by the Government Accountability Office that includes: (1) an enterprise architecture; (2) an Information Technology Human Capital Plan; (3) a capital investment plan for implementing the enterprise architecture; and (4) a description of the information technology capital planning and investment control process.

Deadline.
Information
technology.

Deadline.
Reports.

ANALYSIS AND OPERATIONS

For necessary expenses for information analysis and operations coordination activities, as authorized by title II of the Homeland Security Act of 2002 (6 U.S.C. et seq.), \$255,495,000, to remain available until September 30, 2007.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978 (5 U.S.C. App.), \$83,017,000, of which not to exceed \$100,000 may be used for certain confidential operational expenses, including

the payment of informants, to be expended at the direction of the Inspector General.

TITLE II—SECURITY, ENFORCEMENT, AND INVESTIGATIONS

UNITED STATES VISITOR AND IMMIGRANT STATUS INDICATOR TECHNOLOGY

For necessary expenses for the development of the United States Visitor and Immigrant Status Indicator Technology project, as authorized by section 110 of the Illegal Immigration Reform and Immigration Responsibility Act of 1996 (8 U.S.C. 1221 note), \$340,000,000, to remain available until expended: *Provided*, That of the total amount made available under this heading, \$159,658,000 may not be obligated for the United States Visitor and Immigrant Status Indicator Technology project until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a plan for expenditure prepared by the Secretary of Homeland Security that—

(1) meets the capital planning and investment control review requirements established by the Office of Management and Budget, including Circular A–11, part 7;

(2) complies with the Department of Homeland Security information systems enterprise architecture;

(3) complies with the acquisition rules, requirements, guidelines, and systems acquisition management practices of the Federal Government;

(4) includes a certification by the Chief Information Officer of the Department of Homeland Security that an independent verification and validation agent is currently under contract for the project;

(5) is reviewed and approved by the Department of Homeland Security Investment Review Board, the Secretary of Homeland Security, and the Office of Management and Budget; and

(6) is reviewed by the Government Accountability Office.

CUSTOMS AND BORDER PROTECTION

SALARIES AND EXPENSES

For necessary expenses for enforcement of laws relating to border security, immigration, customs, and agricultural inspections and regulatory activities related to plant and animal imports; acquisition, lease, maintenance and operation of aircraft; purchase and lease of up to 4,500 (3,935 for replacement only) police-type vehicles; and contracting with individuals for personal services abroad; \$4,826,323,000; of which \$3,000,000 shall be derived from the Harbor Maintenance Trust Fund for administrative expenses related to the collection of the Harbor Maintenance Fee pursuant to section 9505(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 9505(c)(3)) and notwithstanding section 1511(e)(1) of the Homeland Security Act of 2002 (6 U.S.C. 551(e)(1)); of which not to exceed \$45,000 shall be for official reception and representation expenses; of which not less than \$163,560,000 shall be for Air and Marine Operations; of which such sums as become available in the Customs User Fee Account, except sums subject to section 13031(f)(3) of the Consolidated Omnibus Budget Reconciliation Act

of 1985 (19 U.S.C. 58c(f)(3)), shall be derived from that account; of which not to exceed \$150,000 shall be available for payment for rental space in connection with preclearance operations; of which not to exceed \$1,000,000 shall be for awards of compensation to informants, to be accounted for solely under the certificate of the Secretary of Homeland Security: *Provided*, That for fiscal year 2006, the overtime limitation prescribed in section 5(c)(1) of the Act of February 13, 1911 (19 U.S.C. 267(c)(1)) shall be \$35,000; and notwithstanding any other provision of law, none of the funds appropriated by this Act may be available to compensate any employee of United States Customs and Border Protection for overtime, from whatever source, in an amount that exceeds such limitation, except in individual cases determined by the Secretary of Homeland Security, or the designee of the Secretary, to be necessary for national security purposes, to prevent excessive costs, or in cases of immigration emergencies: *Provided further*, That of the total amount provided, \$10,000,000 may not be obligated until the Secretary submits to the Committees on Appropriations of the Senate and the House of Representatives all required reports related to air and marine operations: *Provided further*, That no funds shall be available for the site acquisition, design, or construction of any Border Patrol checkpoint in the Tucson sector: *Provided further*, That the Border Patrol shall relocate its checkpoints in the Tucson sector at least once every seven days in a manner designed to prevent persons subject to inspection from predicting the location of any such checkpoint.

AUTOMATION MODERNIZATION

For expenses for customs and border protection automated systems, \$456,000,000, to remain available until expended, of which not less than \$320,000,000 shall be for the development of the Automated Commercial Environment: *Provided*, That none of the funds made available under this heading may be obligated for the Automated Commercial Environment until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a plan for expenditure prepared by the Secretary of Homeland Security that—

(1) meets the capital planning and investment control review requirements established by the Office of Management and Budget, including Circular A–11, part 7;

(2) complies with the Department of Homeland Security information systems enterprise architecture;

(3) complies with the acquisition rules, requirements, guidelines, and systems acquisition management practices of the Federal Government;

(4) includes a certification by the Chief Information Officer of the Department of Homeland Security that an independent verification and validation agent is currently under contract for the project;

(5) is reviewed and approved by the Department of Homeland Security Investment Review Board, the Secretary of Homeland Security, and the Office of Management and Budget; and

(6) is reviewed by the Government Accountability Office.

AIR AND MARINE INTERDICTION, OPERATIONS, MAINTENANCE, AND
PROCUREMENT

For necessary expenses for the operations, maintenance, and procurement of marine vessels, aircraft, unmanned aerial vehicles, and other related equipment of the air and marine program, including operational training and mission-related travel, and rental payments for facilities occupied by the air or marine interdiction and demand reduction programs, the operations of which include the following: the interdiction of narcotics and other goods; the provision of support to Federal, State, and local agencies in the enforcement or administration of laws enforced by the Department of Homeland Security; and at the discretion of the Secretary of Homeland Security, the provision of assistance to Federal, State, and local agencies in other law enforcement and emergency humanitarian efforts, \$400,231,000, to remain available until expended: *Provided*, That no aircraft or other related equipment, with the exception of aircraft that are one of a kind and have been identified as excess to United States Customs and Border Protection requirements and aircraft that have been damaged beyond repair, shall be transferred to any other Federal agency, department, or office outside of the Department of Homeland Security during fiscal year 2006 without the prior approval of the Committees on Appropriations of the Senate and the House of Representatives.

CONSTRUCTION

For necessary expenses to plan, construct, renovate, equip, and maintain buildings and facilities necessary for the administration and enforcement of the laws relating to customs and immigration, \$270,000,000, to remain available until expended: *Provided*, That of the total amount provided under this heading, \$35,000,000 shall be available for the San Diego sector fence; \$35,000,000 shall be available for Tucson sector tactical infrastructure; and \$26,000,000 shall be available for the Advanced Training Center.

IMMIGRATION AND CUSTOMS ENFORCEMENT

SALARIES AND EXPENSES

For necessary expenses for enforcement of immigration and customs laws, detention and removals, and investigations; and purchase and lease of up to 2,740 (2,000 for replacement only) police-type vehicles; \$3,108,499,000, of which not to exceed \$7,500,000 shall be available until expended for conducting special operations pursuant to section 3131 of the Customs Enforcement Act of 1986 (19 U.S.C. 2081); of which not to exceed \$15,000 shall be for official reception and representation expenses; of which not to exceed \$1,000,000 shall be for awards of compensation to informants, to be accounted for solely under the certificate of the Secretary of Homeland Security; of which not less than \$102,000 shall be for promotion of public awareness of the child pornography tipline; of which not less than \$203,000 shall be for Project Alert; of which not less than \$5,000,000 may be used to facilitate agreements consistent with section 287(g) of the Immigration and Nationality Act (8 U.S.C. 1357(g)); and of which not to exceed \$11,216,000 shall be available to fund or reimburse other Federal agencies for the costs associated with the care, maintenance, and repatriation

of smuggled illegal aliens: *Provided*, That none of the funds made available under this heading shall be available to compensate any employee for overtime in an annual amount in excess of \$35,000, except that the Secretary of Homeland Security, or the designee of the Secretary, may waive that amount as necessary for national security purposes and in cases of immigration emergencies: *Provided further*, That of the total amount provided, \$15,770,000 shall be for activities to enforce laws against forced child labor in fiscal year 2006, of which not to exceed \$6,000,000 shall remain available until expended: *Provided further*, That of the amounts appropriated, \$5,000,000 shall not be available for obligation until the Secretary of Homeland Security submits to the Committees on Appropriations of the Senate and the House of Representatives a national detention management plan, including the use of regional detention contracts and alternatives to detention.

FEDERAL PROTECTIVE SERVICE

The revenues and collections of security fees credited to this account, not to exceed \$487,000,000, shall be available until expended for necessary expenses related to the protection of federally-owned and leased buildings and for the operations of the Federal Protective Service.

AUTOMATION MODERNIZATION

For expenses of immigration and customs enforcement automated systems, \$40,150,000, to remain available until expended: *Provided*, That none of the funds made available under this heading may be obligated until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a plan for expenditure prepared by the Secretary of Homeland Security that—

(1) meets the capital planning and investment control review requirements established by the Office of Management and Budget, including Circular A–11, part 7;

(2) complies with the Department of Homeland Security information systems enterprise architecture;

(3) complies with the acquisition rules, requirements, guidelines, and systems acquisition management practices of the Federal Government;

(4) includes a certification by the Chief Information Officer of the Department of Homeland Security that an independent verification and validation agent is currently under contract for the project;

(5) is reviewed and approved by the Department of Homeland Security Investment Review Board, the Secretary of Homeland Security, and the Office of Management and Budget; and

(6) is reviewed by the Government Accountability Office.

CONSTRUCTION

For necessary expenses to plan, construct, renovate, equip, and maintain buildings and facilities necessary for the administration and enforcement of the laws relating to customs and immigration, \$26,546,000, to remain available until expended.

TRANSPORTATION SECURITY ADMINISTRATION

AVIATION SECURITY

For necessary expenses of the Transportation Security Administration related to providing civil aviation security services pursuant to the Aviation and Transportation Security Act (Public Law 107–71; 115 Stat. 597; 49 U.S.C. 40101 note), \$4,607,386,000, to remain available until September 30, 2007, of which not to exceed \$3,000 shall be for official reception and representation expenses: *Provided*, That of the total amount made available under this heading, not to exceed \$3,605,438,000 shall be for screening operations, of which \$175,000,000 shall be available only for procurement of checked baggage explosive detection systems and \$45,000,000 shall be available only for installation of checked baggage explosive detection systems; and not to exceed \$1,001,948,000 shall be for aviation security direction and enforcement presence: *Provided further*, That security service fees authorized under section 44940 of title 49, United States Code, shall be credited to this appropriation as offsetting collections and shall be available only for aviation security: *Provided further*, That the sum herein appropriated from the General Fund shall be reduced on a dollar-for-dollar basis as such offsetting collections are received during fiscal year 2006, so as to result in a final fiscal year appropriation from the General Fund estimated at not more than \$2,617,386,000: *Provided further*, That any security service fees collected in excess of the amount made available under this heading shall become available during fiscal year 2007: *Provided further*, That notwithstanding section 44923 of title 49, United States Code, the share of the cost of the Federal Government for a project under any letter of intent shall be 75 percent for any medium or large hub airport and 90 percent for any other airport, and all funding provided by section 44923(h) of title 49 United States Code, or from appropriations authorized under section 44923(i)(1) of title 49 United States Code, may be distributed in any manner deemed necessary to ensure aviation security and to fulfill the Government's planned cost share under existing letters of intent: *Provided further*, That heads of Federal agencies and commissions shall not be exempt from Federal passenger and baggage screening: *Provided further*, That reimbursement for security services and related equipment and supplies provided in support of general aviation access to the Ronald Reagan Washington National Airport shall be credited to this appropriation and shall be available until expended solely for these purposes: *Provided further*, That none of the funds in this Act shall be used to recruit or hire personnel into the Transportation Security Administration which would cause the agency to exceed a staffing level of 45,000 full-time equivalent screeners.

SURFACE TRANSPORTATION SECURITY

For necessary expenses of the Transportation Security Administration related to providing surface transportation security activities, \$36,000,000, to remain available until September 30, 2007.

TRANSPORTATION VETTING AND CREDENTIALING

For necessary expenses for the development and implementation of screening programs of the Office of Transportation Vetting

and Credentialing, \$74,996,000, to remain available until September 30, 2007.

TRANSPORTATION SECURITY SUPPORT

For necessary expenses of the Transportation Security Administration related to providing transportation security support and intelligence pursuant to the Aviation and Transportation Security Act (Public Law 107–71; 115 Stat. 597; 49 U.S.C. 40101 note), \$510,483,000, to remain available until September 30, 2007: *Provided*, That of the funds appropriated under this heading, \$5,000,000 may not be obligated until the Secretary submits to the Committees on Appropriations of the Senate and the House of Representatives: (1) a plan for optimally deploying explosive detection equipment, either in-line or to replace explosive trace detection machines, at the Nation's airports on a priority basis to enhance security, reduce Transportation Security Administration staffing requirements, and reduce long-term costs; and (2) a detailed expenditure plan for explosive detection systems procurement and installations on an airport-by-airport basis for fiscal year 2006: *Provided further*, That these plans shall be submitted no later than 60 days from the date of enactment of this Act.

Explosive
detection.

Deadline.

FEDERAL AIR MARSHALS

For necessary expenses of the Federal Air Marshals, \$686,200,000.

UNITED STATES COAST GUARD

OPERATING EXPENSES

(INCLUDING RESCISSION OF FUNDS)

For necessary expenses for the operation and maintenance of the United States Coast Guard not otherwise provided for; purchase or lease of not to exceed 25 passenger motor vehicles, which shall be for replacement only; payments pursuant to section 156 of Public Law 97–377 (42 U.S.C. 402 note); and recreation and welfare; \$5,492,331,000, of which \$1,200,000,000 shall be for defense-related activities; of which \$24,500,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(5)); and of which not to exceed \$3,000 shall be for official reception and representation expenses: *Provided*, That none of the funds made available by this or any other Act shall be available for administrative expenses in connection with shipping commissioners in the United States: *Provided further*, That none of the funds made available by this Act shall be for expenses incurred for yacht documentation under section 12109 of title 46, United States Code, except to the extent fees are collected from yacht owners and credited to this appropriation.

In addition, of the funds appropriated under this heading in Public Law 108–11 (117 Stat. 583), \$15,103,569 are rescinded.

ENVIRONMENTAL COMPLIANCE AND RESTORATION

For necessary expenses to carry out the environmental compliance and restoration functions of the United States Coast Guard

under chapter 19 of title 14, United States Code, \$12,000,000, to remain available until expended.

RESERVE TRAINING

For necessary expenses of the Coast Guard Reserve, as authorized by law; operations and maintenance of the reserve program; personnel and training costs; and equipment and services; \$119,000,000.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

For necessary expenses of acquisition, construction, renovation, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto; and maintenance, rehabilitation, lease and operation of facilities and equipment, as authorized by law; \$1,141,800,000, of which \$20,000,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(5)); of which \$18,500,000 shall be available until September 30, 2010, to acquire, repair, renovate, or improve vessels, small boats, and related equipment; of which \$20,000,000 shall be available until September 30, 2010, to increase aviation capability; of which \$65,000,000 shall be available until September 30, 2008, for other equipment; of which \$31,700,000 shall be available until September 30, 2008, for shore facilities and aids to navigation facilities; of which \$73,500,000 shall be available for personnel compensation and benefits and related costs; and of which \$933,100,000 shall be available until September 30, 2010, for the Integrated Deepwater Systems program: *Provided*, That the Commandant of the Coast Guard is authorized to dispose of surplus real property, by sale or lease, and the proceeds shall be credited to this appropriation as offsetting collections and shall be available until September 30, 2008: *Provided further*, That the Secretary of Homeland Security shall submit to the Committees on Appropriations of the Senate and the House of Representatives, in conjunction with the President's fiscal year 2007 budget, a review of the Revised Deepwater Implementation Plan that identifies any changes to the plan for the fiscal year; an annual performance comparison of Deepwater assets to pre-Deepwater legacy assets; a status report of legacy assets; a detailed explanation of how the costs of legacy assets are being accounted for within the Deepwater program; an explanation of why many assets that are elements of the Integrated Deepwater System are not accounted for within the Deepwater appropriation under this heading; a description of the competitive process conducted in all contracts and subcontracts exceeding \$5,000,000 within the Deepwater program; a description of how the Coast Guard is planning for the human resource needs of Deepwater assets; and the earned value management system gold card data for each Deepwater asset: *Provided further*, That the Secretary shall submit to the Committees on Appropriations of the Senate and the House of Representatives a comprehensive review of the Revised Deepwater Implementation Plan every five years, beginning in fiscal year 2011, that includes a complete projection of the acquisition costs and schedule for the duration of the plan through fiscal year 2027: *Provided further*, That the Secretary shall annually submit to the Committees on Appropriations of the Senate and the House of Representatives, at the time that the

Reports.

Reports.
Deadline.
14 USC 663 note.

Reports.
Deadline.
14 USC 663 note.

President's budget is submitted under section 1105(a) of title 31, a future-years capital investment plan for the Coast Guard that identifies for each capital budget line item—

- (1) the proposed appropriation included in that budget;
- (2) the total estimated cost of completion;
- (3) projected funding levels for each fiscal year for the next five fiscal years or until project completion, whichever is earlier;
- (4) an estimated completion date at the projected funding levels; and
- (5) changes, if any, in the total estimated cost of completion or estimated completion date from previous future-years capital investment plans submitted to the Committees on Appropriations of the Senate and the House of Representatives:

Provided further, That the Secretary shall ensure that amounts specified in the future-years capital investment plan are consistent to the maximum extent practicable with proposed appropriations necessary to support the programs, projects, and activities of the Coast Guard in the President's budget as submitted under section 1105(a) of title 31 for that fiscal year: *Provided further*, That any inconsistencies between the capital investment plan and proposed appropriations shall be identified and justified.

ALTERATION OF BRIDGES

For necessary expenses for alteration or removal of obstructive bridges, as authorized by section 6 of the Truman-Hobbs Act (33 U.S.C. 516), \$15,000,000, to remain available until expended.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

For necessary expenses for applied scientific research, development, test, and evaluation; and for maintenance, rehabilitation, lease, and operation of facilities and equipment; as authorized by law; \$17,750,000, to remain available until expended, of which \$2,000,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(5)): *Provided*, That there may be credited to and used for the purposes of this appropriation funds received from State and local governments, other public authorities, private sources, and foreign countries for expenses incurred for research, development, testing, and evaluation.

RETIRED PAY

For retired pay, including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose, payments under the Retired Serviceman's Family Protection and Survivor Benefits Plans, payment for career status bonuses, concurrent receipts and combat-related special compensation under the National Defense Authorization Act, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, \$1,014,080,000.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Secret Service, including purchase of not to exceed 614 vehicles for police-type use, which shall be for replacement only, and hire of passenger motor vehicles; purchase of American-made motorcycles; hire of aircraft; services of expert witnesses at such rates as may be determined by the Director of the Secret Service; rental of buildings in the District of Columbia, and fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control, as may be necessary to perform protective functions; payment of per diem or subsistence allowances to employees where a protective assignment during the actual day or days of the visit of a protectee requires an employee to work 16 hours per day or to remain overnight at a post of duty; conduct of and participation in firearms matches; presentation of awards; travel of Secret Service employees on protective missions without regard to the limitations on such expenditures in this or any other Act if approval is obtained in advance from the Committees on Appropriations of the Senate and the House of Representatives; research and development; grants to conduct behavioral research in support of protective research and operations; and payment in advance for commercial accommodations as may be necessary to perform protective functions; \$1,208,310,000, of which not to exceed \$25,000 shall be for official reception and representation expenses; of which not to exceed \$100,000 shall be to provide technical assistance and equipment to foreign law enforcement organizations in counterfeit investigations; of which \$2,389,000 shall be for forensic and related support of investigations of missing and exploited children; and of which \$5,500,000 shall be a grant for activities related to the investigations of missing and exploited children and shall remain available until expended: *Provided*, That up to \$18,000,000 provided for protective travel shall remain available until September 30, 2007: *Provided further*, That of the total amount appropriated, not less than \$2,500,000 shall be available solely for the unanticipated costs related to security operations for National Special Security Events, to remain available until September 30, 2007: *Provided further*, That the United States Secret Service is authorized to obligate funds in anticipation of reimbursements from Federal agencies and entities, as defined in section 105 of title 5, United States Code, receiving training sponsored by the James J. Rowley Training Center, except that total obligations at the end of the fiscal year shall not exceed total budgetary resources available under this heading at the end of the fiscal year.

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED
EXPENSES

For necessary expenses for acquisition, construction, repair, alteration, and improvement of facilities, \$3,699,000, to remain available until expended.

TITLE III—PREPAREDNESS AND RECOVERY

PREPAREDNESS

MANAGEMENT AND ADMINISTRATION

For salaries and expenses of the Office of the Under Secretary for Preparedness, the Office of the Chief Medical Officer, and the Office of National Capital Region Coordination, \$16,079,000: *Provided*, That not to exceed \$7,000 shall be for official reception and representation expenses.

OFFICE FOR DOMESTIC PREPAREDNESS

SALARIES AND EXPENSES

For necessary expenses for the Office for Domestic Preparedness, \$5,000,000.

STATE AND LOCAL PROGRAMS

For grants, contracts, cooperative agreements, and other activities, including grants to State and local governments for terrorism prevention activities, notwithstanding any other provision of law, \$2,501,300,000, which shall be allocated as follows:

(1) \$550,000,000 for formula-based grants and \$400,000,000 for law enforcement terrorism prevention grants pursuant to section 1014 of the USA PATRIOT ACT (42 U.S.C. 3714): *Provided*, That the application for grants shall be made available to States within 45 days from the date of enactment of this Act; that States shall submit applications within 90 days after the grant announcement; and that the Office for Domestic Preparedness shall act within 90 days after receipt of an application: *Provided further*, That no less than 80 percent of any grant under this paragraph to a State shall be made available by the State to local governments within 60 days after the receipt of the funds.

Deadlines.

Deadline.

(2) \$1,155,000,000 for discretionary grants, as determined by the Secretary of Homeland Security, of which—

(A) \$765,000,000 shall be for use in high-threat, high-density urban areas: *Provided*, That \$25,000,000 shall be available until expended for assistance to organizations (as described under section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax section 501(a) of such Code) determined by the Secretary to be at high-risk of international terrorist attack, and that these determinations shall not be delegated to any Federal, State, or local government official: *Provided further*, That the Secretary shall certify to the Committees on Appropriations of the Senate and the House of Representatives the threat to each designated tax exempt grantee at least 3 full business days in advance of the announcement of any grant award;

Certification.

(B) \$175,000,000 shall be for port security grants pursuant to the purposes of 46 United States Code 70107(a) through (h), which shall be awarded based on risk and threat notwithstanding subsection (a), for eligible costs as defined in subsections (b)(2)–(4);

(C) \$5,000,000 shall be for trucking industry security grants;

(D) \$10,000,000 shall be for intercity bus security grants;

(E) \$150,000,000 shall be for intercity passenger rail transportation (as defined in section 24102 of title 49, United States Code), freight rail, and transit security grants; and

(F) \$50,000,000 shall be for buffer zone protection grants:

Deadlines. *Provided*, That for grants under subparagraph (A), the application for grants shall be made available to States within 45 days from the date of enactment of this Act; that States shall submit applications within 90 days after the grant announcement; and that the Office for Domestic Preparedness shall act within 90 days after receipt of an application: *Provided further*, That no less than 80 percent of any grant under this paragraph to a State shall be made available by the State to local governments within 60 days after the receipt of the funds.

(3) \$50,000,000 shall be available for the Commercial Equipment Direct Assistance Program.

(4) \$346,300,000 for training, exercises, technical assistance, and other programs:

Provided, That none of the grants provided under this heading shall be used for the construction or renovation of facilities, except for a minor perimeter security project, not to exceed \$1,000,000, as determined necessary by the Secretary of Homeland Security:

Reports. *Provided further*, That the proceeding proviso shall not apply to grants under subparagraphs (B), (E), and (F) of paragraph (2) of this heading: *Provided further*, That grantees shall provide additional reports on their use of funds, as determined necessary by the Secretary of Homeland Security: *Provided further*, That funds appropriated for law enforcement terrorism prevention grants under paragraph (1) and discretionary grants under paragraph (2)(A) of this heading shall be available for operational costs, to include personnel overtime and overtime associated with Office for Domestic Preparedness certified training, as needed: *Provided further*, That in accordance with the Department's implementation plan for Homeland Security Presidential Directive 8, the Office for Domestic Preparedness shall issue the final National Preparedness Goal no later than December 31, 2005; and no funds provided under paragraphs (1) and (2)(A) shall be awarded to States that have not submitted to the Office for Domestic Preparedness an updated State homeland strategy based on the interim National Preparedness Goal, dated March 31, 2005: *Provided further*, That the Government Accountability Office shall review the validity of the threat and risk factors used by the Secretary for the purposes of allocating discretionary grants funded under this heading, and the application of those factors in the allocation of funds, and report to the Committees on Appropriations of the Senate and the House of Representatives on the findings of its review by November 17, 2005: *Provided further*, That within seven days from the date of enactment of this Act, the Secretary shall provide the Government Accountability Office with the threat and risk methodology and factors that will be used to allocate discretionary grants funded under this heading.

FIREFIGHTER ASSISTANCE GRANTS

For necessary expenses for programs authorized by the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.), \$655,000,000, of which \$545,000,000 shall be available to carry out section 33 (15 U.S.C. 2229) and \$110,000,000 shall be available to carry out section 34 (15 U.S.C. 2229a) of such Act, to remain available until September 30, 2007: *Provided*, That not to exceed 5 percent of this amount shall be available for program administration.

EMERGENCY MANAGEMENT PERFORMANCE GRANTS

For necessary expenses for emergency management performance grants, as authorized by the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), and Reorganization Plan No. 3 of 1978 (5 U.S.C. App.), \$185,000,000: *Provided*, That total administrative costs shall not exceed 3 percent of the total appropriation.

RADIOLOGICAL EMERGENCY PREPAREDNESS PROGRAM

The aggregate charges assessed during fiscal year 2006, as authorized in title III of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999 (42 U.S.C. 5196e), shall not be less than 100 percent of the amounts anticipated by the Department of Homeland Security necessary for its radiological emergency preparedness program for the next fiscal year: *Provided*, That the methodology for assessment and collection of fees shall be fair and equitable and shall reflect costs of providing such services, including administrative costs of collecting such fees: *Provided further*, That fees received under this heading shall be deposited in this account as offsetting collections and will become available for authorized purposes on October 1, 2006, and remain available until expended.

UNITED STATES FIRE ADMINISTRATION AND TRAINING

For necessary expenses of the United States Fire Administration and for other purposes, as authorized by 15 U.S.C. 2201 et seq. and 6 U.S.C. 101 et seq., \$44,948,000.

INFRASTRUCTURE PROTECTION AND INFORMATION SECURITY

For necessary expenses for infrastructure protection and information security programs and activities, as authorized by title II of the Homeland Security Act of 2002 (6 U.S.C. 121 et seq.), \$625,499,000, of which \$542,157,000 shall remain available until September 30, 2007.

COUNTERTERRORISM FUND

For necessary expenses, as determined by the Secretary of Homeland Security, to reimburse any Federal agency for the costs of providing support to counter, investigate, or respond to unexpected threats or acts of terrorism, including payment of rewards in connection with these activities, \$2,000,000, to remain available

Notification.
Deadline.

until expended: *Provided*, That the Secretary shall notify the Committees on Appropriations of the Senate and the House of Representatives 15 days prior to the obligation of any amount of these funds in accordance with section 503 of this Act.

FEDERAL EMERGENCY MANAGEMENT AGENCY

ADMINISTRATIVE AND REGIONAL OPERATIONS

For necessary expenses for administrative and regional operations, \$221,240,000, including activities authorized by the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.), the Defense Production Act of 1950 (50 U.S.C. App. 2061 et seq.), sections 107 and 303 of the National Security Act of 1947 (50 U.S.C. 404, 405), Reorganization Plan No. 3 of 1978 (5 U.S.C. App.), and the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.): *Provided*, That not to exceed \$3,000 shall be for official reception and representation expenses.

PREPAREDNESS, MITIGATION, RESPONSE, AND RECOVERY

For necessary expenses for preparedness, mitigation, response, and recovery activities, \$204,058,000, including activities authorized by the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.), the Defense Production Act of 1950 (50 U.S.C. App. 2061 et seq.), sections 107 and 303 of the National Security Act of 1947 (50 U.S.C. 404, 405), Reorganization Plan No. 3 of 1978 (5 U.S.C. App.), and the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.): *Provided*, That of the total amount made available under this heading, \$20,000,000 shall be for Urban Search and Rescue Teams, of which not to exceed \$1,600,000 may be made available for administrative costs.

PUBLIC HEALTH PROGRAMS

For necessary expenses for countering potential biological, disease, and chemical threats to civilian populations, \$34,000,000.

DISASTER RELIEF

For necessary expenses in carrying out the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), \$1,770,000,000, to remain available until expended.

DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT

For administrative expenses to carry out the direct loan program, as authorized by section 319 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5162), \$567,000: *Provided*, That gross obligations for the principal amount of direct loans shall not exceed \$25,000,000: *Provided further*, That the cost

of modifying such loans shall be as defined in section 502 of the Congressional Budget Act of 1974 (2 U.S.C. 661a).

FLOOD MAP MODERNIZATION FUND

For necessary expenses pursuant to section 1360 of the National Flood Insurance Act of 1968 (42 U.S.C. 4101), \$200,000,000, and such additional sums as may be provided by State and local governments or other political subdivisions for cost-shared mapping activities under section 1360(f)(2) of such Act, to remain available until expended: *Provided*, That total administrative costs shall not exceed 3 percent of the total appropriation.

NATIONAL FLOOD INSURANCE FUND

(INCLUDING TRANSFER OF FUNDS)

For activities under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), not to exceed \$36,496,000 for salaries and expenses associated with flood mitigation and flood insurance operations; not to exceed \$40,000,000 for financial assistance under section 1361A of such Act to States and communities for taking actions under such section with respect to severe repetitive loss properties, to remain available until expended; not to exceed \$10,000,000 for mitigation actions under section 1323 of such Act; and not to exceed \$99,358,000 for flood hazard mitigation, to remain available until September 30, 2007, including up to \$40,000,000 for expenses under section 1366 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c), which amount shall be available for transfer to the National Flood Mitigation Fund until September 30, 2007, and which amount shall be derived from offsetting collections assessed and collected pursuant to section 1307 of that Act (42 U.S.C. 4014), and shall be retained and used for necessary expenses under this heading: *Provided*, That in fiscal year 2006, no funds in excess of: (1) \$55,000,000 for operating expenses; (2) \$660,148,000 for commissions and taxes of agents; and (3) \$30,000,000 for interest on Treasury borrowings shall be available from the National Flood Insurance Fund.

NATIONAL FLOOD MITIGATION FUND

Notwithstanding subparagraphs (B) and (C) of subsection (b)(3), and subsection (f), of section 1366 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c), \$40,000,000, to remain available until September 30, 2007, for activities designed to reduce the risk of flood damage to structures pursuant to such Act, of which \$40,000,000 shall be derived from the National Flood Insurance Fund.

NATIONAL PREDISASTER MITIGATION FUND

For a predisaster mitigation grant program under title II of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5131 et seq.), \$50,000,000, to remain available until expended: *Provided*, That grants made for predisaster mitigation shall be awarded on a competitive basis subject to the criteria in section 203(g) of such Act (42 U.S.C. 5133(g)), and notwithstanding section 203(f) of such Act, shall be made without reference

to State allocations, quotas, or other formula-based allocation of funds: *Provided further*, That total administrative costs shall not exceed 3 percent of the total appropriation.

EMERGENCY FOOD AND SHELTER

To carry out an emergency food and shelter program pursuant to title III of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11331 et seq.), \$153,000,000, to remain available until expended: *Provided*, That total administrative costs shall not exceed 3.5 percent of the total appropriation.

TITLE IV—RESEARCH AND DEVELOPMENT, TRAINING, AND SERVICES

UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES

Reports.

For necessary expenses for citizenship and immigration services, \$115,000,000: *Provided*, That the Director of United States Citizenship and Immigration Services shall submit to the Committees on Appropriations of the Senate and the House of Representatives a report on its information technology transformation efforts and how these efforts align with the enterprise architecture standards of the Department of Homeland Security within 90 days from the date of enactment of this Act.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

For necessary expenses of the Federal Law Enforcement Training Center, including materials and support costs of Federal law enforcement basic training; purchase of not to exceed 117 vehicles for police-type use and hire of passenger motor vehicles; expenses for student athletic and related activities; the conduct of and participation in firearms matches and presentation of awards; public awareness and enhancement of community support of law enforcement training; room and board for student interns; a flat monthly reimbursement to employees authorized to use personal mobile phones for official duties; and services as authorized by section 3109 of title 5, United States Code; \$194,000,000, of which up to \$42,119,000 for materials and support costs of Federal law enforcement basic training shall remain available until September 30, 2007; and of which not to exceed \$12,000 shall be for official reception and representation expenses: *Provided*, That the Center is authorized to obligate funds in anticipation of reimbursements from agencies receiving training sponsored by the Center, except that total obligations at the end of the fiscal year shall not exceed total budgetary resources available at the end of the fiscal year.

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

For acquisition of necessary additional real property and facilities, construction, and ongoing maintenance, facility improvements, and related expenses of the Federal Law Enforcement Training Center, \$88,358,000, to remain available until expended: *Provided*, That the Center is authorized to accept reimbursement to this

appropriation from government agencies requesting the construction of special use facilities.

SCIENCE AND TECHNOLOGY

MANAGEMENT AND ADMINISTRATION

For salaries and expenses of the Office of the Under Secretary for Science and Technology and for management and administration of programs and activities, as authorized by title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.), \$81,099,000: *Provided*, That not to exceed \$3,000 shall be for official reception and representation expenses.

RESEARCH, DEVELOPMENT, ACQUISITION, AND OPERATIONS

For necessary expenses for science and technology research, including advanced research projects; development; test and evaluation; acquisition; and operations; as authorized by title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.); \$1,420,997,000, to remain available until expended: *Provided*, That of the total amount provided under this heading, \$23,000,000 is available to select a site for the National Bio and Agrodefense Facility and perform other pre-construction activities to establish research capabilities to protect animal and public health from high consequence animal and zoonotic diseases in support of Homeland Security Presidential Directives 9 and 10: *Provided further*, That of the amount provided under this heading, \$318,014,000 shall be for activities of the Domestic Nuclear Detection Office, of which \$125,000,000 shall be for the purchase and deployment of radiation portal monitors for United States ports of entry and of which no less than \$81,000,000 shall be for radiological and nuclear research and development activities: *Provided further*, That excluding the funds made available under the preceding proviso for radiation portal monitors, \$144,760,500 of the total amount made available under this heading for the Domestic Nuclear Detection Office shall not be obligated until the Committees on Appropriations of the Senate and the House of Representatives receive and approve an expenditure plan for the Domestic Nuclear Detection Office: *Provided further*, That the expenditure plan shall include funding by program, project, and activity for each of fiscal years 2006 through 2010 prepared by the Secretary of Homeland Security that has been reviewed by the Government Accountability Office.

TITLE V—GENERAL PROVISIONS

SEC. 501. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 502. Subject to the requirements of section 503 of this Act, the unexpended balances of prior appropriations provided for activities in this Act may be transferred to appropriation accounts for such activities established pursuant to this Act: *Provided*, That balances so transferred may be merged with funds in the applicable established accounts and thereafter may be accounted for as one fund for the same time period as originally enacted.

SEC. 503. (a) None of the funds provided by this Act, provided by previous appropriations Acts to the agencies in or transferred

to the Department of Homeland Security that remain available for obligation or expenditure in fiscal year 2006, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure through a reprogramming of funds that: (1) creates a new program; (2) eliminates a program, project, or activity; (3) increases funds for any program, project, or activity for which funds have been denied or restricted by the Congress; (4) proposes to use funds directed for a specific activity by either of the Committees on Appropriations of the Senate or House of Representatives for a different purpose; or (5) contracts out any functions or activities for which funds have been appropriated for Federal full-time equivalent positions; unless the Committees on Appropriations of the Senate and the House of Representatives are notified 15 days in advance of such reprogramming of funds.

Notification.

(b) None of the funds provided by this Act, provided by previous appropriations Acts to the agencies in or transferred to the Department of Homeland Security that remain available for obligation or expenditure in fiscal year 2006, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure for programs, projects, or activities through a reprogramming of funds in excess of \$5,000,000 or 10 percent, whichever is less, that: (1) augments existing programs, projects, or activities; (2) reduces by 10 percent funding for any existing program, project, or activity, or numbers of personnel by 10 percent as approved by the Congress; or (3) results from any general savings from a reduction in personnel that would result in a change in existing programs, projects, or activities as approved by the Congress; unless the Committees on Appropriations of the Senate and the House of Representatives are notified 15 days in advance of such reprogramming of funds.

Notification.

(c) Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of Homeland Security by this Act or provided by previous appropriations Acts may be transferred between such appropriations, but no such appropriations, except as otherwise specifically provided, shall be increased by more than 10 percent by such transfers: *Provided*, That any transfer under this section shall be treated as a reprogramming of funds under subsection (b) of this section and shall not be available for obligation unless the Committees on Appropriations of the Senate and the House of Representatives are notified 15 days in advance of such transfer.

Notification.

(d) Notwithstanding subsections (a), (b), and (c) of this section, no funds shall be reprogrammed within or transferred between appropriations after June 30, except in extraordinary circumstances which imminently threaten the safety of human life or the protection of property.

Deadline.

(e) Hereafter, notwithstanding any other provision of law, notifications pursuant to this section or any other authority for reprogramming or transfer of funds shall be made solely to the Committees on Appropriations of the Senate and the House of Representatives.

6 USC 103 note.

SEC. 504. None of the funds appropriated or otherwise made available to the Department of Homeland Security may be used to make payments to the “Department of Homeland Security

Working Capital Fund”, except for the activities and amounts allowed in section 6024 of Public Law 109–13, excluding the Homeland Secure Data Network: *Provided*, That any additional activities and amounts must be approved by the Committees on Appropriations of the Senate and the House of Representatives 30 days in advance of obligation.

SEC. 505. Except as otherwise specifically provided by law, not to exceed 50 percent of unobligated balances remaining available at the end of fiscal year 2006 from appropriations for salaries and expenses for fiscal year 2006 in this Act shall remain available through September 30, 2007, in the account and for the purposes for which the appropriations were provided: *Provided*, That prior to the obligation of such funds, a request shall be submitted to the Committees on Appropriations of the Senate and the House of Representatives for approval in accordance with section 503 of this Act.

SEC. 506. Funds made available by this Act for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) during fiscal year 2006 until the enactment of an Act authorizing intelligence activities for fiscal year 2006.

SEC. 507. The Federal Law Enforcement Training Center shall lead the Federal law enforcement training accreditation process, to include representatives from the Federal law enforcement community and non-Federal accreditation experts involved in law enforcement training, to continue the implementation of measuring and assessing the quality and effectiveness of Federal law enforcement training programs, facilities, and instructors.

SEC. 508. None of the funds in this Act may be used to make a grant allocation, discretionary grant award, discretionary contract award, or to issue a letter of intent totaling in excess of \$1,000,000, or to announce publicly the intention to make such an award, unless the Secretary of Homeland Security notifies the Committees on Appropriations of the Senate and the House of Representatives at least 3 full business days in advance: *Provided*, That no notification shall involve funds that are not available for obligation.

Notification.

SEC. 509. Notwithstanding any other provision of law, no agency shall purchase, construct, or lease any additional facilities, except within or contiguous to existing locations, to be used for the purpose of conducting Federal law enforcement training without the advance approval of the Committees on Appropriations of the Senate and the House of Representatives, except that the Federal Law Enforcement Training Center is authorized to obtain the temporary use of additional facilities by lease, contract, or other agreement for training which cannot be accommodated in existing Center facilities.

SEC. 510. The Director of the Federal Law Enforcement Training Center shall schedule basic and/or advanced law enforcement training at all four training facilities under the control of the Federal Law Enforcement Training Center to ensure that these training centers are operated at the highest capacity throughout the fiscal year.

SEC. 511. None of the funds appropriated or otherwise made available by this Act may be used for expenses of any construction, repair, alteration, or acquisition project for which a prospectus, if required by the Public Buildings Act of 1959 (40 U.S.C. 3301), has not been approved, except that necessary funds may be

expended for each project for required expenses for the development of a proposed prospectus.

SEC. 512. None of the funds in this Act may be used in contravention of the applicable provisions of the Buy American Act (41 U.S.C. 10a et seq.).

Reports.

SEC. 513. The Secretary of Homeland Security shall take all actions necessary to ensure that the Department of Homeland Security is in compliance with the second proviso of section 513 of Public Law 108–334 and shall report to the Committees on Appropriations of the Senate and House of Representatives biweekly beginning on October 1, 2005, on any reasons for non-compliance: *Provided*, That, furthermore, the Secretary shall take all possible actions, including the procurement of certified systems to inspect and screen air cargo on passenger aircraft, to increase the level of air cargo inspected beyond that mandated in section 513 of Public Law 108–334 and shall report to the Committees on Appropriations of the Senate and the House of Representatives every six months on the actions taken and the percentage of air cargo inspected at each airport.

Reports.

49 USC 114 note.

SEC. 514. Notwithstanding section 3302 of title 31, United States Code, for fiscal year 2006 and thereafter, the Administrator of the Transportation Security Administration may impose a reasonable charge for the lease of real and personal property to Transportation Security Administration employees and for use by Transportation Security Administration employees and may credit amounts received to the appropriation or fund initially charged for operating and maintaining the property, which amounts shall be available, without fiscal year limitation, for expenditure for property management, operation, protection, construction, repair, alteration, and related activities.

Applicability.
49 USC 114 note.

SEC. 515. For fiscal year 2006 and thereafter, the acquisition management system of the Transportation Security Administration shall apply to the acquisition of services, as well as equipment, supplies, and materials.

6 USC 111 note.

SEC. 516. Notwithstanding any other provision of law, the authority of the Office of Personnel Management to conduct personnel security and suitability background investigations, update investigations, and periodic reinvestigations of applicants for, or appointees in, positions in the Office of the Secretary and Executive Management, the Office of the Under Secretary for Management, Analysis and Operations, Immigration and Customs Enforcement, Directorate for Preparedness, and the Directorate of Science and Technology of the Department of Homeland Security is transferred to the Department of Homeland Security: *Provided*, That on request of the Department of Homeland Security, the Office of Personnel Management shall cooperate with and assist the Department in any investigation or reinvestigation under this section: *Provided further*, That this section shall cease to be effective at such time as the President has selected a single agency to conduct security clearance investigations pursuant to section 3001(c) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 50 U.S.C. 435b) and the entity selected under section 3001(b) of such Act has reported to Congress that the agency selected pursuant to such section 3001(c) is capable of conducting all necessary investigations in a timely manner or has authorized the entities within the Department of Homeland Security covered

by this section to conduct their own investigations pursuant to section 3001 of such Act.

SEC. 517. Hereafter, notwithstanding any other provision of law, funds appropriated under paragraphs (1) and (2) of the State and Local Programs heading under title III of this Act are exempt from section 6503(a) of title 31, United States Code.

SEC. 518. (a) None of the funds provided by this or previous appropriations Acts may be obligated for deployment or implementation, on other than a test basis, of the Secure Flight program or any other follow on or successor passenger prescreening programs, until the Secretary of Homeland Security certifies, and the Government Accountability Office reports, to the Committees on Appropriations of the Senate and the House of Representatives, that all ten of the elements contained in paragraphs (1) through (10) of section 522(a) of Public Law 108–334 (118 Stat. 1319) have been successfully met.

Certification.
Reports.

(b) The report required by subsection (a) shall be submitted within 90 days after the certification required by such subsection is provided, and periodically thereafter, if necessary, until the Government Accountability Office confirms that all ten elements have been successfully met.

(c) During the testing phase permitted by subsection (a), no information gathered from passengers, foreign or domestic air carriers, or reservation systems may be used to screen aviation passengers, or delay or deny boarding to such passengers, except in instances where passenger names are matched to a Government watch list.

(d) None of the funds provided in this or previous appropriations Acts may be utilized to develop or test algorithms assigning risk to passengers whose names are not on Government watch lists.

(e) None of the funds provided in this or previous appropriations Acts may be utilized for data or a database that is obtained from or remains under the control of a non-Federal entity: *Provided*, That this restriction shall not apply to Passenger Name Record data obtained from air carriers.

SEC. 519. None of the funds made available in this Act may be used to amend the oath of allegiance required by section 337 of the Immigration and Nationality Act (8 U.S.C. 1448).

SEC. 520. None of the funds appropriated by this Act may be used to process or approve a competition under Office of Management and Budget Circular A–76 for services provided as of June 1, 2004, by employees (including employees serving on a temporary or term basis) of United States Citizenship and Immigration Services of the Department of Homeland Security who are known as of that date as Immigration Information Officers, Contact Representatives, or Investigative Assistants.

SEC. 521. None of the funds appropriated by this Act shall be available to maintain the United States Secret Service as anything but a distinct entity within the Department of Homeland Security and shall not be used to merge the United States Secret Service with any other department function, cause any personnel and operational elements of the United States Secret Service to report to an individual other than the Director of the United States Secret Service, or cause the Director to report directly to any individual other than the Secretary of Homeland Security.

SEC. 522. None of the funds appropriated to the United States Secret Service by this Act or by previous appropriations Acts may

be made available for the protection of the head of a Federal agency other than the Secretary of Homeland Security: *Provided*, That the Director of the United States Secret Service may enter into an agreement to perform such service on a fully reimbursable basis.

Federal buildings
and facilities.

SEC. 523. The Department of Homeland Security processing and data storage facilities at the John C. Stennis Space Center shall hereafter be known as the “National Center for Critical Information Processing and Storage”.

49 USC 44901
note.

SEC. 524. The Secretary, in consultation with industry stakeholders, shall develop standards and protocols for increasing the use of explosive detection equipment to screen air cargo when appropriate.

49 USC 44901
note.

SEC. 525. The Transportation Security Administration (TSA) shall utilize existing checked baggage explosive detection equipment and screeners to screen cargo carried on passenger aircraft to the greatest extent practicable at each airport: *Provided*, That beginning with November 2005, TSA shall provide a monthly report to the Committees on Appropriations of the Senate and the House of Representatives detailing, by airport, the amount of cargo carried on passenger aircraft that was screened by TSA in August 2005 and each month thereafter.

Reports.

SEC. 526. None of the funds available for obligation for the transportation worker identification credential program shall be used to develop a personalization system that is decentralized or a card production capability that does not utilize an existing government card production facility: *Provided*, That no funding can be obligated for the next phase of production until the Committees on Appropriations of the Senate and the House of Representatives have been fully briefed on the results of the prototype phase and agree that the program should move forward.

SEC. 527. (a) From the unexpended balances of the United States Coast Guard “Acquisition, Construction, and Improvements” account specifically identified in the Joint Explanatory Statement (House Report 108–10) accompanying Public Law 108–7 for the 110–123 foot patrol boat upgrade, the Joint Explanatory Statement (House Report 108–280) accompanying Public Law 108–90 for the Fast Response Cutter/110–123 foot patrol boat conversion, and in the Joint Explanatory Statement (House Report 108–774) accompanying Public Law 108–334 for the Integrated Deepwater System patrol boats 110–123 foot conversion, \$78,630,689 are rescinded.

(b) For necessary expenses of the United States Coast Guard for “Acquisition, Construction, and Improvements”, an additional \$78,630,689, to remain available until September 30, 2009, for the service life extension program of the current 110-foot Island Class patrol boat fleet and accelerated design and production of the Fast Response Cutter.

Records.

SEC. 528. The Secretary of Homeland Security shall utilize the Transportation Security Clearinghouse as the central identity management system for the deployment and operation of the registered traveler program and the transportation worker identification credential program for the purposes of collecting and aggregating biometric data necessary for background vetting; providing all associated record-keeping, customer service, and related functions; ensuring interoperability between different airports and vendors; and acting as a central activation, revocation, and transaction hub for participating airports, ports, and other points of presence.

SEC. 529. None of the funds made available in this Act may be used by any person other than the privacy officer appointed pursuant to section 222 of the Homeland Security Act of 2002 (6 U.S.C. 142) to alter, direct that changes be made to, delay, or prohibit the transmission to Congress of any report prepared pursuant to paragraph (5) of such section.

SEC. 530. No funding provided by this or previous appropriation Acts shall be available to pay the salary of any employee serving as a contracting officer's technical representative (COTR) or anyone acting in a similar or like capacity who has not received COTR training.

SEC. 531. Except as provided in section 44945 of title 49, United States Code, funds appropriated or transferred to Transportation Security Administration "Aviation Security" and "Administration" in fiscal years 2004 and 2005 that are recovered or deobligated shall be available only for procurement and installation of explosive detection systems for air cargo, baggage, and checkpoint screening systems: *Provided*, That these funds shall be subject to section 503 of this Act.

SEC. 532. Not later than 60 days from the date of the enactment of this Act, the Secretary of Homeland Security shall conduct a survey of all ports of entry in the United States and designate an airport as a port of entry in each State that does not have a port of entry.

Reports.

SEC. 533. Notwithstanding any other provision of law, the Secretary of Homeland Security shall consider eligible under the Federal Emergency Management Agency Public Assistance Program the costs sufficient to enable the city to repair and upgrade all damaged and undamaged elements of the Carnegie Library in the City of Paso Robles, California, which was damaged by the 2003 San Simeon earthquake, so that the library is brought into conformance with all local code requirements for new construction: *Provided*, That the appropriate Federal share shall apply to approval for this project.

California.

SEC. 534. Notwithstanding any other provision of law, the Secretary of Homeland Security shall consider eligible under the Federal Emergency Management Agency Public Assistance Program costs for the damage to canals and wooden flumes, which was incurred during a 1996 storm and subsequent mudslide in El Dorado County, California, to the El Dorado Irrigation District, based on fifty percent of the costs of the Improved Project for the Mill Creek to Bull Creek tunnel proposed in a November 2001 Carleton Engineering Report: *Provided*, That the appropriate Federal share shall apply to approval for this project.

SEC. 535. Notwithstanding any other provision of law, the Secretary of Homeland Security shall consider eligible under the Federal Emergency Management Agency Public Assistance Program the costs sufficient to enable replacement of research and education materials and library collections and for other non-covered losses at the University of Hawaii Manoa campus, Hawaii, resulting from an October 30, 2004, flood event.

SEC. 536. Section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)) is amended by striking "the Internal Revenue Code of 1954 and agriculture as defined in section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f))," and inserting "the Internal Revenue Code of

	1986, agriculture as defined in section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)), and the pressing of apples for cider on a farm.”.
6 USC 114 note.	SEC. 537. Using funds made available in this Act, the Secretary of Homeland Security shall provide that each office within the Department that handles documents marked as Sensitive Security Information (SSI) shall have at least one employee in that office with authority to coordinate and make determinations on behalf of the agency that such documents meet the criteria for marking as SSI: <i>Provided</i> , That not later than December 31, 2005, the Secretary shall submit to the Committees on Appropriations of the Senate and the House of Representatives: (1) Department-wide policies for designating, coordinating and marking documents as SSI; (2) Department-wide auditing and accountability procedures for documents designated and marked as SSI; (3) the total number of SSI Coordinators within the Department; and (4) the total number of staff authorized to designate SSI documents within the Department: <i>Provided further</i> , That not later than January 31, 2006, the Secretary shall provide to the Committees on Appropriations of the Senate and the House of Representatives the title of all DHS documents that are designated as SSI in their entirety during the period October 1, 2005, through December 31, 2005: <i>Provided further</i> , That not later than January 31 of each succeeding year, starting on January 31, 2007, the Secretary shall provide annually a similar report to the Committees on Appropriations of the Senate and the House of Representatives on the titles of all DHS documents that are designated as SSI in their entirety during the period of January 1 through December 31 for the preceding year: <i>Provided further</i> , That the Secretary shall promulgate guidance that includes common but extensive examples of SSI that further define the individual categories of information cited under 49 CFR 1520(b)(1) through (16) and eliminates judgment by covered persons in the application of the SSI marking: <i>Provided further</i> , That such guidance shall serve as the primary basis and authority for the marking of DHS information as SSI by covered persons.
Deadline. Procedures.	
Reports.	
Reports.	
Guidelines.	
	SEC. 538. For grants to States pursuant to section 204(a) of the REAL ID Act of 2005 (Division B of Public Law 109–13), \$40,000,000, to remain available until expended: <i>Provided</i> , That of the funds provided under this section, \$34,000,000 may not be obligated or allocated for grants until the Committees on Appropriations of the Senate and the House of Representatives receive and approve an implementation plan for the responsibilities of the Department of Homeland Security under the REAL ID Act of 2005 (Division B of Public Law 109–13), including the proposed uses of the grant monies: <i>Provided further</i> , That of the funds provided under this section, not less than \$6,000,000 shall be made available within 60 days from the date of enactment of this Act to States for pilot projects on integrating hardware, software, and information management systems.
Deadline.	
	SEC. 539. For activities related to the Department of Homeland Security Working Capital Fund, subsection (f) of section 403 of Public Law 103–356 (31 U.S.C. 501 note), is amended by striking “October 1, 2005” and inserting “October 1, 2006”.
Notice. Federal Register, publication. 49 USC 114 note.	SEC. 540. For fiscal year 2006 and thereafter, notwithstanding section 553 of title 5, United States Code, the Secretary of Homeland Security shall impose a fee for any registered traveler program undertaken by the Department of Homeland Security by notice

in the Federal Register, and may modify the fee from time to time by notice in the Federal Register: *Provided*, That such fees shall not exceed the aggregate costs associated with the program and shall be credited to the Transportation Security Administration registered traveler fee account, to be available until expended.

SEC. 541. A person who has completed a security awareness training course approved by or operated under a cooperative agreement with the Department of Homeland Security using funds made available in fiscal year 2006 and thereafter or in any prior appropriations Acts, who is enrolled in a program recognized or acknowledged by an Information Sharing and Analysis Center, and who reports a situation, activity or incident pursuant to that program to an appropriate authority, shall not be liable for damages in any action brought in a Federal or State court which result from any act or omission unless such person is guilty of gross negligence or willful misconduct. 6 USC 486.

SEC. 542. Of the unobligated balances available in the “Department of Homeland Security Working Capital Fund”, \$15,000,000 are rescinded.

SEC. 543. Of the unobligated balances from prior year appropriations made available for Transportation Security Administration “Aviation Security”, \$5,500,000 are rescinded.

SEC. 544. Of funds made available for the United States Coast Guard in previous appropriations Acts, \$6,369,118 are rescinded, as follows: (1) \$499,489 provided for “Coast Guard, Acquisition, Construction, and Improvements” in Public Law 105–277; (2) \$87,097 provided for “Coast Guard, Operating Expenses” in Public Law 105–277; (3) \$269,217 provided for “Coast Guard, Acquisition, Construction, and Improvements” in Public Law 107–87; (4) \$8,315 provided for “Coast Guard, Acquisition, Construction, and Improvements” in Public Law 106–69; and (5) \$5,505,000 for “Coast Guard, Acquisition, Construction, and Improvements” in Public Law 108–90.

SEC. 545. Of the unobligated balances from prior year appropriations made available for the “Counterterrorism Fund”, \$8,000,000 are rescinded.

SEC. 546. Of the unobligated balances from prior year appropriations made available for Science and Technology “Research, Development, Acquisition, and Operations”, \$20,000,000 are rescinded.

SEC. 547. SECURITY SCREENING OPT-OUT PROGRAM. Section 44920 of title 49, United States Code, is amended by adding at the end the following:

“(g) OPERATOR OF AIRPORT.—Notwithstanding any other provision of law, an operator of an airport shall not be liable for any claims for damages filed in State or Federal court (including a claim for compensatory, punitive, contributory, or indemnity damages) relating to—

“(1) such airport operator’s decision to submit an application to the Secretary of Homeland Security under subsection (a) or section 44919 or such airport operator’s decision not to submit an application; and

“(2) any act of negligence, gross negligence, or intentional wrongdoing by—

“(A) a qualified private screening company or any of its employees in any case in which the qualified private screening company is acting under a contract entered into

with the Secretary of Homeland Security or the Secretary's designee; or

“(B) employees of the Federal Government providing passenger and property security screening services at the airport.

“(3) Nothing in this section shall relieve any airport operator from liability for its own acts or omissions related to its security responsibilities, nor except as may be provided by the Support Anti-Terrorism by Fostering Effective Technologies Act of 2002 shall it relieve any qualified private screening company or its employees from any liability related to its own acts of negligence, gross negligence, or intentional wrongdoing.”.

Reports.

SEC. 548. The weekly report required by Public Law 109–62 detailing the allocation and obligation of funds for “Disaster Relief” shall include: (1) detailed information on each allocation, obligation, or expenditure that totals more than \$50,000,000, categorized by increments of not larger than \$50,000,000; (2) the amount of credit card purchases by agency and mission assignment; (3) obligations, allocations, and expenditures, categorized by agency, by State, and for New Orleans, and by purpose and mission assignment; (4) status of the Disaster Relief Fund; and (5) specific reasons for all waivers granted and a description of each waiver: *Provided*, That the detailed information required by paragraph (1) shall include the purpose; whether the work will be performed by a governmental agency or a contractor; and, if the work is to be performed by a contractor, the name of the contractor, the type of contract let, and whether the contract is sole-source, full and open competition, or limited competition.

Contracts.

This Act may be cited as the “Department of Homeland Security Appropriations Act, 2006”.

Approved October 18, 2005.

LEGISLATIVE HISTORY—H.R. 2360:

HOUSE REPORTS: Nos. 109–79 (Comm. on Appropriations) and 109–241 (Comm. of Conference).

SENATE REPORTS: No. 109–83 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 151 (2005):

May 17, considered and passed House.

July 11–14, considered and passed Senate, amended.

Oct. 6, House agreed to conference report.

Oct. 7, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 41 (2005):

Oct. 18, Presidential remarks and statement.



Public Law 109–91
109th Congress

An Act

To extend medicare cost-sharing for qualifying individuals through September 2007, to extend transitional medical assistance and the program for abstinence education through December 2005, to provide unemployment relief for States and individuals affected by Hurricane Katrina, and for other purposes.

Oct. 20, 2005
[H.R. 3971]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “**QI, TMA, and Abstinence Programs Extension and Hurricane Katrina Unemployment Relief Act of 2005**”.

QI, TMA, and
Abstinence
Programs
Extension and
Hurricane
Katrina
Unemployment
Relief Act of
2005.
42 USC 1305
note.

TITLE I—HEALTH PROVISIONS

SEC. 101. EXTENSION OF QUALIFIED INDIVIDUAL (QI) PROGRAM.

(a) **THROUGH SEPTEMBER 2007.**—Section 1902(a)(10)(E)(iv) of the Social Security Act (42 U.S.C. 1396a(a)(10)(E)(iv)) is amended by striking “September 2005” and inserting “September 2007”.

(b) **EXTENDING TOTAL AMOUNT AVAILABLE FOR ALLOCATION.**—Section 1933(g) of such Act (42 U.S.C. 1396u–3(g)) is amended—

(1) in paragraph (2)—

(A) by striking “and” at the end of subparagraph (B);

(B) by striking the period at the end of subparagraph (C) and inserting a semicolon; and

(C) by adding at the end the following new subparagraphs:

“(D) for the period that begins on October 1, 2005, and ends on December 31, 2005, the total allocation amount is \$100,000,000;

“(E) for the period that begins on January 1, 2006, and ends on September 30, 2006, the total allocation amount is \$300,000,000;

“(F) for the period that begins on October 1, 2006, and ends on December 31, 2006, the total allocation amount is \$100,000,000; and

“(G) for the period that begins on January 1, 2007, and ends on September 30, 2007, the total allocation amount is \$300,000,000.”; and

(2) in paragraph (3), in the matter preceding subparagraph (A), by inserting “, (D), or (F)” after “subparagraph (B)”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall be effective as of September 30, 2005.

42 USC 1396a
note.

Effective date.

SEC. 102. EXTENSION OF TRANSITIONAL MEDICAL ASSISTANCE (TMA) AND ABSTINENCE EDUCATION PROGRAM.

Effective as if enacted on September 30, 2005, activities authorized by sections 510 and 1925 of the Social Security Act shall continue through December 31, 2005, in the manner authorized for fiscal year 2005, notwithstanding section 1902(e)(1)(A) of such Act, and out of any money in the Treasury of the United States not otherwise appropriated, there are hereby appropriated such sums as may be necessary for such purpose. Grants and payments may be made pursuant to this authority through the first quarter of fiscal year 2006 at the level provided for such activities through the first quarter of fiscal year 2005.

SEC. 103. ELIMINATION OF MEDICARE COVERAGE OF DRUGS USED FOR TREATMENT OF SEXUAL OR ERECTILE DYSFUNCTION.

(a) IN GENERAL.—Section 1860D–2(e)(2)(A) of the Social Security Act (42 U.S.C. 1395w–102(e)(2)(A)) is amended—

(1) by striking the period at the end and inserting “, as such sections were in effect on the date of the enactment of this part.”; and

(2) by adding at the end the following: “Such term also does not include a drug when used for the treatment of sexual or erectile dysfunction, unless such drug were used to treat a condition, other than sexual or erectile dysfunction, for which the drug has been approved by the Food and Drug Administration.”.

42 USC
1395w–102 note.

(b) CONSTRUCTION.—Nothing in this section shall be construed as preventing a prescription drug plan or an MA–PD plan from providing coverage of drugs for the treatment of sexual or erectile dysfunction as supplemental prescription drug coverage under section 1860D–2(a)(2)(A)(ii) of the Social Security Act (42 U.S.C. 1395w–102(a)(2)(A)(ii)).

42 USC
1395w–102 note.

(c) EFFECTIVE DATES.—The amendment made by subsection (a)(1) shall take effect as if included in the enactment of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173) and the amendment made by subsection (a)(2) shall apply to coverage for drugs dispensed on or after January 1, 2007.

SEC. 104. ELIMINATION OF MEDICAID COVERAGE OF DRUGS USED FOR TREATMENT OF SEXUAL OR ERECTILE DYSFUNCTION.

(a) IN GENERAL.—Section 1927(d)(2) of the Social Security Act (42 U.S.C. 1396r–8(d)(2)) is amended by adding at the end the following new subparagraph:

“(K) Agents when used for the treatment of sexual or erectile dysfunction, unless such agents are used to treat a condition, other than sexual or erectile dysfunction, for which the agents have been approved by the Food and Drug Administration.”.

(b) ELIMINATION OF FEDERAL PAYMENT UNDER MEDICAID PROGRAM.—Section 1903(i) of such Act (42 U.S.C. 1396b(i)) is amended—

(1) by striking “or” at the end of paragraph (19);

(2) by striking the period at the end of paragraph (20) and inserting “; or”; and

(3) by inserting after paragraph (20) the following new paragraph:

“(21) with respect to amounts expended for covered outpatient drugs described in section 1927(d)(2)(K) (relating to drugs when used for treatment of sexual or erectile dysfunction).”.

(c) CLARIFICATION OF NO EFFECT ON DETERMINATION OF BASE EXPENDITURES.—Section 1935(c)(3)(B)(ii)(II) of such Act (42 U.S.C. 1396v(c)(3)(B)(ii)(II)) is amended by inserting “, including drugs described in subparagraph (K) of section 1927(d)(2)” after “1860D–2(e)”. 42 USC 1396u–5.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to drugs dispensed on or after January 1, 2006. 42 USC 1396b note.

TITLE II—ASSISTANCE RELATING TO UNEMPLOYMENT

SEC. 201. SPECIAL TRANSFER IN FISCAL YEAR 2006.

Section 903 of the Social Security Act (42 U.S.C. 1103) is amended by adding at the end the following:

“(e) SPECIAL TRANSFER IN FISCAL YEAR 2006.—Not later than 10 days after the date of the enactment of this subsection, the Secretary of the Treasury shall transfer from the Federal unemployment account— Deadline.

“(1) \$15,000,000 to the account of Alabama in the Unemployment Trust Fund;

“(2) \$400,000,000 to the account of Louisiana in the Unemployment Trust Fund; and

“(3) \$85,000,000 to the account of Mississippi in the Unemployment Trust Fund.”.

SEC. 202. FLEXIBILITY IN UNEMPLOYMENT COMPENSATION ADMINISTRATION TO ADDRESS HURRICANE KATRINA.

Notwithstanding any provision of section 302(a) or 303(a)(8) of the Social Security Act, any State may, on or after August 28, 2005, use any amounts received by such State pursuant to title III of the Social Security Act to assist in the administration of claims for compensation on behalf of any other State if a major disaster was declared with respect to such other State or any area within such other State under the Robert T. Stafford Disaster Relief and Emergency Assistance Act by reason of Hurricane Katrina.

42 USC 1103
note.

SEC. 203. REGULATIONS.

The Secretary of Labor may prescribe any operating instructions or regulations necessary to carry out this title and any amendment made by this title.

Approved October 20, 2005.

LEGISLATIVE HISTORY—H.R. 3971:

CONGRESSIONAL RECORD, Vol. 151 (2005):

Oct. 6, considered and passed House.

Oct. 7, considered and passed Senate, amended.

Oct. 19, House concurred in Senate amendment with amendments, pursuant to H. Res. 501. Senate concurred in House amendments.



Public Law 109–92
109th Congress

An Act

To prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others.

Oct. 26, 2005
[S. 397]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Protection of Lawful Commerce in Arms Act”.

Protection of
Lawful
Commerce in
Arms Act.
15 USC 7901
note.

SEC. 2. FINDINGS; PURPOSES.

15 USC 7901.

(a) **FINDINGS.**—Congress finds the following:

(1) The Second Amendment to the United States Constitution provides that the right of the people to keep and bear arms shall not be infringed.

(2) The Second Amendment to the United States Constitution protects the rights of individuals, including those who are not members of a militia or engaged in military service or training, to keep and bear arms.

(3) Lawsuits have been commenced against manufacturers, distributors, dealers, and importers of firearms that operate as designed and intended, which seek money damages and other relief for the harm caused by the misuse of firearms by third parties, including criminals.

(4) The manufacture, importation, possession, sale, and use of firearms and ammunition in the United States are heavily regulated by Federal, State, and local laws. Such Federal laws include the Gun Control Act of 1968, the National Firearms Act, and the Arms Export Control Act.

(5) Businesses in the United States that are engaged in interstate and foreign commerce through the lawful design, manufacture, marketing, distribution, importation, or sale to the public of firearms or ammunition products that have been shipped or transported in interstate or foreign commerce are not, and should not, be liable for the harm caused by those who criminally or unlawfully misuse firearm products or ammunition products that function as designed and intended.

(6) The possibility of imposing liability on an entire industry for harm that is solely caused by others is an abuse of the legal system, erodes public confidence in our Nation’s laws, threatens the diminution of a basic constitutional right and civil liberty, invites the disassembly and destabilization of other industries and economic sectors lawfully competing

in the free enterprise system of the United States, and constitutes an unreasonable burden on interstate and foreign commerce of the United States.

(7) The liability actions commenced or contemplated by the Federal Government, States, municipalities, and private interest groups and others are based on theories without foundation in hundreds of years of the common law and jurisprudence of the United States and do not represent a bona fide expansion of the common law. The possible sustaining of these actions by a maverick judicial officer or petit jury would expand civil liability in a manner never contemplated by the framers of the Constitution, by Congress, or by the legislatures of the several States. Such an expansion of liability would constitute a deprivation of the rights, privileges, and immunities guaranteed to a citizen of the United States under the Fourteenth Amendment to the United States Constitution.

(8) The liability actions commenced or contemplated by the Federal Government, States, municipalities, private interest groups and others attempt to use the judicial branch to circumvent the Legislative branch of government to regulate interstate and foreign commerce through judgments and judicial decrees thereby threatening the Separation of Powers doctrine and weakening and undermining important principles of federalism, State sovereignty and comity between the sister States.

(b) PURPOSES.—The purposes of this Act are as follows:

(1) To prohibit causes of action against manufacturers, distributors, dealers, and importers of firearms or ammunition products, and their trade associations, for the harm solely caused by the criminal or unlawful misuse of firearm products or ammunition products by others when the product functioned as designed and intended.

(2) To preserve a citizen's access to a supply of firearms and ammunition for all lawful purposes, including hunting, self-defense, collecting, and competitive or recreational shooting.

(3) To guarantee a citizen's rights, privileges, and immunities, as applied to the States, under the Fourteenth Amendment to the United States Constitution, pursuant to section 5 of that Amendment.

(4) To prevent the use of such lawsuits to impose unreasonable burdens on interstate and foreign commerce.

(5) To protect the right, under the First Amendment to the Constitution, of manufacturers, distributors, dealers, and importers of firearms or ammunition products, and trade associations, to speak freely, to assemble peaceably, and to petition the Government for a redress of their grievances.

(6) To preserve and protect the Separation of Powers doctrine and important principles of federalism, State sovereignty and comity between sister States.

(7) To exercise congressional power under article IV, section 1 (the Full Faith and Credit Clause) of the United States Constitution.

15 USC 7902.

SEC. 3. PROHIBITION ON BRINGING OF QUALIFIED CIVIL LIABILITY ACTIONS IN FEDERAL OR STATE COURT.

(a) IN GENERAL.—A qualified civil liability action may not be brought in any Federal or State court.

(b) **DISMISSAL OF PENDING ACTIONS.**—A qualified civil liability action that is pending on the date of enactment of this Act shall be immediately dismissed by the court in which the action was brought or is currently pending.

SEC. 4. DEFINITIONS.

15 USC 7903.

In this Act:

(1) **ENGAGED IN THE BUSINESS.**—The term “engaged in the business” has the meaning given that term in section 921(a)(21) of title 18, United States Code, and, as applied to a seller of ammunition, means a person who devotes time, attention, and labor to the sale of ammunition as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of ammunition.

(2) **MANUFACTURER.**—The term “manufacturer” means, with respect to a qualified product, a person who is engaged in the business of manufacturing the product in interstate or foreign commerce and who is licensed to engage in business as such a manufacturer under chapter 44 of title 18, United States Code.

(3) **PERSON.**—The term “person” means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity, including any governmental entity.

(4) **QUALIFIED PRODUCT.**—The term “qualified product” means a firearm (as defined in subparagraph (A) or (B) of section 921(a)(3) of title 18, United States Code), including any antique firearm (as defined in section 921(a)(16) of such title), or ammunition (as defined in section 921(a)(17)(A) of such title), or a component part of a firearm or ammunition, that has been shipped or transported in interstate or foreign commerce.

(5) **QUALIFIED CIVIL LIABILITY ACTION.**—

(A) **IN GENERAL.**—The term “qualified civil liability action” means a civil action or proceeding or an administrative proceeding brought by any person against a manufacturer or seller of a qualified product, or a trade association, for damages, punitive damages, injunctive or declaratory relief, abatement, restitution, fines, or penalties, or other relief, resulting from the criminal or unlawful misuse of a qualified product by the person or a third party, but shall not include—

(i) an action brought against a transferor convicted under section 924(h) of title 18, United States Code, or a comparable or identical State felony law, by a party directly harmed by the conduct of which the transferee is so convicted;

(ii) an action brought against a seller for negligent entrustment or negligence per se;

(iii) an action in which a manufacturer or seller of a qualified product knowingly violated a State or Federal statute applicable to the sale or marketing of the product, and the violation was a proximate cause of the harm for which relief is sought, including—

(I) any case in which the manufacturer or seller knowingly made any false entry in, or failed to make appropriate entry in, any record required

to be kept under Federal or State law with respect to the qualified product, or aided, abetted, or conspired with any person in making any false or fictitious oral or written statement with respect to any fact material to the lawfulness of the sale or other disposition of a qualified product; or

(II) any case in which the manufacturer or seller aided, abetted, or conspired with any other person to sell or otherwise dispose of a qualified product, knowing, or having reasonable cause to believe, that the actual buyer of the qualified product was prohibited from possessing or receiving a firearm or ammunition under subsection (g) or (n) of section 922 of title 18, United States Code;

(iv) an action for breach of contract or warranty in connection with the purchase of the product;

(v) an action for death, physical injuries or property damage resulting directly from a defect in design or manufacture of the product, when used as intended or in a reasonably foreseeable manner, except that where the discharge of the product was caused by a volitional act that constituted a criminal offense, then such act shall be considered the sole proximate cause of any resulting death, personal injuries or property damage; or

(vi) an action or proceeding commenced by the Attorney General to enforce the provisions of chapter 44 of title 18 or chapter 53 of title 26, United States Code.

(B) **NEGLIGENT ENTRUSTMENT.**—As used in subparagraph (A)(ii), the term “negligent entrustment” means the supplying of a qualified product by a seller for use by another person when the seller knows, or reasonably should know, the person to whom the product is supplied is likely to, and does, use the product in a manner involving unreasonable risk of physical injury to the person or others.

(C) **RULE OF CONSTRUCTION.**—The exceptions enumerated under clauses (i) through (v) of subparagraph (A) shall be construed so as not to be in conflict, and no provision of this Act shall be construed to create a public or private cause of action or remedy.

(D) **MINOR CHILD EXCEPTION.**—Nothing in this Act shall be construed to limit the right of a person under 17 years of age to recover damages authorized under Federal or State law in a civil action that meets 1 of the requirements under clauses (i) through (v) of subparagraph (A).

(6) **SELLER.**—The term “seller” means, with respect to a qualified product—

(A) an importer (as defined in section 921(a)(9) of title 18, United States Code) who is engaged in the business as such an importer in interstate or foreign commerce and who is licensed to engage in business as such an importer under chapter 44 of title 18, United States Code;

(B) a dealer (as defined in section 921(a)(11) of title 18, United States Code) who is engaged in the business as such a dealer in interstate or foreign commerce and

who is licensed to engage in business as such a dealer under chapter 44 of title 18, United States Code; or

(C) a person engaged in the business of selling ammunition (as defined in section 921(a)(17)(A) of title 18, United States Code) in interstate or foreign commerce at the wholesale or retail level.

(7) STATE.—The term “State” includes each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States, and any political subdivision of any such place.

(8) TRADE ASSOCIATION.—The term “trade association” means—

(A) any corporation, unincorporated association, federation, business league, professional or business organization not organized or operated for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual;

(B) that is an organization described in section 501(c)(6) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code; and

(C) 2 or more members of which are manufacturers or sellers of a qualified product.

(9) UNLAWFUL MISUSE.—The term “unlawful misuse” means conduct that violates a statute, ordinance, or regulation as it relates to the use of a qualified product.

SEC. 5. CHILD SAFETY LOCKS.

(a) SHORT TITLE.—This section may be cited as the “Child Safety Lock Act of 2005”.

(b) PURPOSES.—The purposes of this section are—

(1) to promote the safe storage and use of handguns by consumers;

(2) to prevent unauthorized persons from gaining access to or use of a handgun, including children who may not be in possession of a handgun; and

(3) to avoid hindering industry from supplying firearms to law abiding citizens for all lawful purposes, including hunting, self-defense, collecting, and competitive or recreational shooting.

(c) FIREARMS SAFETY.—

(1) MANDATORY TRANSFER OF SECURE GUN STORAGE OR SAFETY DEVICE.—Section 922 of title 18, United States Code, is amended by inserting at the end the following:

“(z) SECURE GUN STORAGE OR SAFETY DEVICE.—

“(1) IN GENERAL.—Except as provided under paragraph (2), it shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell, deliver, or transfer any handgun to any person other than any person licensed under this chapter, unless the transferee is provided with a secure gun storage or safety device (as defined in section 921(a)(34)) for that handgun.

“(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

“(A)(i) the manufacture for, transfer to, or possession by, the United States, a department or agency of the United

Child Safety
Lock Act of 2005.
18 USC 921 note.

18 USC 922 note.

States, a State, or a department, agency, or political subdivision of a State, of a handgun; or

“(ii) the transfer to, or possession by, a law enforcement officer employed by an entity referred to in clause (i) of a handgun for law enforcement purposes (whether on or off duty); or

“(B) the transfer to, or possession by, a rail police officer employed by a rail carrier and certified or commissioned as a police officer under the laws of a State of a handgun for purposes of law enforcement (whether on or off duty);

“(C) the transfer to any person of a handgun listed as a curio or relic by the Secretary pursuant to section 921(a)(13); or

“(D) the transfer to any person of a handgun for which a secure gun storage or safety device is temporarily unavailable for the reasons described in the exceptions stated in section 923(e), if the licensed manufacturer, licensed importer, or licensed dealer delivers to the transferee within 10 calendar days from the date of the delivery of the handgun to the transferee a secure gun storage or safety device for the handgun.

“(3) LIABILITY FOR USE.—

“(A) IN GENERAL.—Notwithstanding any other provision of law, a person who has lawful possession and control of a handgun, and who uses a secure gun storage or safety device with the handgun, shall be entitled to immunity from a qualified civil liability action.

“(B) PROSPECTIVE ACTIONS.—A qualified civil liability action may not be brought in any Federal or State court.

“(C) DEFINED TERM.—As used in this paragraph, the term ‘qualified civil liability action’—

“(i) means a civil action brought by any person against a person described in subparagraph (A) for damages resulting from the criminal or unlawful misuse of the handgun by a third party, if—

“(I) the handgun was accessed by another person who did not have the permission or authorization of the person having lawful possession and control of the handgun to have access to it; and

“(II) at the time access was gained by the person not so authorized, the handgun had been made inoperable by use of a secure gun storage or safety device; and

“(ii) shall not include an action brought against the person having lawful possession and control of the handgun for negligent entrustment or negligence per se.”.

(2) CIVIL PENALTIES.—Section 924 of title 18, United States Code, is amended—

(A) in subsection (a)(1), by striking “or (f)” and inserting “(f), or (p)”; and

(B) by adding at the end the following:

“(p) PENALTIES RELATING TO SECURE GUN STORAGE OR SAFETY DEVICE.—

“(1) IN GENERAL.—

“(A) **SUSPENSION OR REVOCATION OF LICENSE; CIVIL PENALTIES.**—With respect to each violation of section 922(z)(1) by a licensed manufacturer, licensed importer, or licensed dealer, the Secretary may, after notice and opportunity for hearing—

“(i) suspend for not more than 6 months, or revoke, the license issued to the licensee under this chapter that was used to conduct the firearms transfer; or

“(ii) subject the licensee to a civil penalty in an amount equal to not more than \$2,500.

“(B) **REVIEW.**—An action of the Secretary under this paragraph may be reviewed only as provided under section 923(f).

“(2) **ADMINISTRATIVE REMEDIES.**—The suspension or revocation of a license or the imposition of a civil penalty under paragraph (1) shall not preclude any administrative remedy that is otherwise available to the Secretary.”.

(3) **LIABILITY; EVIDENCE.**—

18 USC 922 note.

(A) **LIABILITY.**—Nothing in this section shall be construed to—

(i) create a cause of action against any Federal firearms licensee or any other person for any civil liability; or

(ii) establish any standard of care.

(B) **EVIDENCE.**—Notwithstanding any other provision of law, evidence regarding compliance or noncompliance with the amendments made by this section shall not be admissible as evidence in any proceeding of any court, agency, board, or other entity, except with respect to an action relating to section 922(z) of title 18, United States Code, as added by this subsection.

(C) **RULE OF CONSTRUCTION.**—Nothing in this paragraph shall be construed to bar a governmental action to impose a penalty under section 924(p) of title 18, United States Code, for a failure to comply with section 922(z) of that title.

(d) **EFFECTIVE DATE.**—This section and the amendments made by this section shall take effect 180 days after the date of enactment of this Act.

18 USC 922 note.

SEC. 6. ARMOR PIERCING AMMUNITION.

(a) **UNLAWFUL ACTS.**—Section 922(a) of title 18, United States Code, is amended by striking paragraphs (7) and (8) and inserting the following:

“(7) for any person to manufacture or import armor piercing ammunition, unless—

“(A) the manufacture of such ammunition is for the use of the United States, any department or agency of the United States, any State, or any department, agency, or political subdivision of a State;

“(B) the manufacture of such ammunition is for the purpose of exportation; or

“(C) the manufacture or importation of such ammunition is for the purpose of testing or experimentation and has been authorized by the Attorney General;

“(8) for any manufacturer or importer to sell or deliver armor piercing ammunition, unless such sale or delivery—

“(A) is for the use of the United States, any department or agency of the United States, any State, or any department, agency, or political subdivision of a State;

“(B) is for the purpose of exportation; or

“(C) is for the purpose of testing or experimentation and has been authorized by the Attorney General;”.

(b) PENALTIES.—Section 924(c) of title 18, United States Code, is amended by adding at the end the following:

“(5) Except to the extent that a greater minimum sentence is otherwise provided under this subsection, or by any other provision of law, any person who, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime that provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which the person may be prosecuted in a court of the United States, uses or carries armor piercing ammunition, or who, in furtherance of any such crime, possesses armor piercing ammunition, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime or conviction under this section—

“(A) be sentenced to a term of imprisonment of not less than 15 years; and

“(B) if death results from the use of such ammunition—

“(i) if the killing is murder (as defined in section 1111), be punished by death or sentenced to a term of imprisonment for any term of years or for life; and

“(ii) if the killing is manslaughter (as defined in section 1112), be punished as provided in section 1112.”.

(c) STUDY AND REPORT.—

(1) STUDY.—The Attorney General shall conduct a study to determine whether a uniform standard for the testing of projectiles against Body Armor is feasible.

(2) ISSUES TO BE STUDIED.—The study conducted under paragraph (1) shall include—

(A) variations in performance that are related to the length of the barrel of the handgun or center-fire rifle from which the projectile is fired; and

(B) the amount of powder used to propel the projectile.

(3) REPORT.—Not later than 2 years after the date of enactment of this Act, the Attorney General shall submit a report containing the results of the study conducted under this subsection to—

(A) the chairman and ranking member of the Committee on the Judiciary of the Senate; and

(B) the chairman and ranking member of the Committee on the Judiciary of the House of Representatives.

Approved October 26, 2005.

LEGISLATIVE HISTORY—S. 397:

CONGRESSIONAL RECORD, Vol. 151 (2005):

July 27–29, considered and passed Senate.

Oct. 20, considered and passed House.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 41 (2005):

Oct. 26, Presidential statement.



Public Law 109–93
109th Congress

An Act

Oct. 26, 2005

[S. 55]

Rocky Mountain
National Park
Boundary
Adjustment Act
of 2005.
16 USC 191 note.

To adjust the boundary of Rocky Mountain National Park in the State of Colorado.

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the “Rocky Mountain National Park
Boundary Adjustment Act of 2005”.

SEC. 2. DEFINITIONS.

In this Act:

(1) **FEDERAL PARCEL.**—The term “Federal parcel” means
the parcel of approximately 70 acres of Federal land near
MacGregor Ranch, Larimer County, Colorado, as depicted on
the map.

(2) **MAP.**—The term “map” means the map numbered 121/
80,154, dated June 2004.

(3) **NON-FEDERAL PARCELS.**—The term “non-Federal par-
cels” means the 3 parcels of non-Federal land comprising
approximately 5.9 acres that are located near MacGregor
Ranch, Larimer County, Colorado, as depicted on the map.

(4) **PARK.**—The term “Park” means Rocky Mountain
National Park in the State of Colorado.

SEC. 3. ROCKY MOUNTAIN NATIONAL PARK BOUNDARY ADJUSTMENT.

(a) **EXCHANGE OF LAND.**—

(1) **IN GENERAL.**—The Secretary shall accept an offer to
convey all right, title, and interest in and to the non-Federal
parcels to the United States in exchange for the Federal parcel.

(2) **CONVEYANCE.**—Not later than 60 days after the date
on which the Secretary receives an offer under paragraph (1),
the Secretary shall convey the Federal parcel in exchange for
the non-Federal parcels.

(3) **CONSERVATION EASEMENT.**—As a condition of the
exchange of land under paragraph (2), the Secretary shall
reserve a perpetual easement to the Federal parcel for the
purposes of protecting, preserving, and enhancing the conserva-
tion values of the Federal parcel.

(b) **BOUNDARY ADJUSTMENT; MANAGEMENT OF LAND.**—On
acquisition of the non-Federal parcels under subsection (a)(2), the
Secretary shall—

(1) adjust the boundary of the Park to reflect the acquisition
of the non-Federal parcels; and

Deadline.

(2) manage the non-Federal parcels as part of the Park, in accordance with any laws (including regulations) applicable to the Park.

Approved October 26, 2005.

LEGISLATIVE HISTORY—S. 55 (H.R. 774):

HOUSE REPORTS: No. 109–108 accompanying H.R. 774 (Comm. on Resources).

SENATE REPORTS: No. 109–19 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 151 (2005):

July 26, considered and passed Senate.

Oct. 18, considered and passed House.



Public Law 109–94
109th Congress

An Act

Oct. 26, 2005
[S. 156]

To designate the Ojito Wilderness Study Area as wilderness, to take certain land into trust for the Pueblo of Zia, and for other purposes.

Ojito Wilderness
Act.
Native
Americans.
New Mexico.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Ojito Wilderness Act”.

SEC. 2. DEFINITIONS.

In this Act:

(1) MAP.—The term “map” means the map entitled “Ojito Wilderness Act” and dated October 1, 2004.

(2) PUEBLO.—The term “Pueblo” means the Pueblo of Zia.

(3) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(4) STATE.—The term “State” means the State of New Mexico.

SEC. 3. DESIGNATION OF THE OJITO WILDERNESS.

16 USC 1132
note.

(a) IN GENERAL.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.), there is hereby designated as wilderness, and, therefore, as a component of the National Wilderness Preservation System, certain land in the Albuquerque District-Bureau of Land Management, New Mexico, which comprises approximately 11,183 acres, as generally depicted on the map, and which shall be known as the “Ojito Wilderness”.

(b) MAP AND LEGAL DESCRIPTION.—The map and a legal description of the wilderness area designated by this Act shall—

(1) be filed by the Secretary with the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives as soon as practicable after the date of enactment of this Act;

(2) have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in the legal description and map; and

(3) be on file and available for public inspection in the appropriate offices of the Bureau of Land Management.

(c) MANAGEMENT OF WILDERNESS.—Subject to valid existing rights, the wilderness area designated by this Act shall be managed by the Secretary in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.) and this Act, except that, with respect to the wilderness area designated by this Act, any reference in the Wilderness Act to the effective date of the Wilderness Act shall be deemed to be a reference to the date of enactment of this Act.

(d) **MANAGEMENT OF NEWLY ACQUIRED LAND.**—If acquired by the United States, the following land shall become part of the wilderness area designated by this Act and shall be managed in accordance with this Act and other applicable law:

(1) Section 12 of township 15 north, range 01 west, New Mexico Principal Meridian.

(2) Any land within the boundaries of the wilderness area designated by this Act.

(e) **MANAGEMENT OF LANDS TO BE ADDED.**—The lands generally depicted on the map as “Lands to be Added” shall become part of the wilderness area designated by this Act if the United States acquires, or alternative adequate access is available to, section 12 of township 15 north, range 01 west, New Mexico Principal Meridian.

(f) **RELEASE.**—The Congress hereby finds and directs that the lands generally depicted on the map as “Lands to be Released” have been adequately studied for wilderness designation pursuant to section 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782) and no longer are subject to the requirement of section 603(c) of such Act (43 U.S.C. 1782(c)) pertaining to the management of wilderness study areas in a manner that does not impair the suitability of such areas for preservation as wilderness.

(g) **GRAZING.**—Grazing of livestock in the wilderness area designated by this Act, where established before the date of enactment of this Act, shall be administered in accordance with the provisions of section 4(d)(4) of the Wilderness Act (16 U.S.C. 1133(d)(4)) and the guidelines set forth in Appendix A of the Report of the Committee on Interior and Insular Affairs to accompany H.R. 2570 of the One Hundred First Congress (H. Rept. 101-405).

(h) **FISH AND WILDLIFE.**—As provided in section 4(d)(7) of the Wilderness Act (16 U.S.C. 1133(d)(7)), nothing in this section shall be construed as affecting the jurisdiction or responsibilities of the State with respect to fish and wildlife in the State.

(i) **WATER RIGHTS.**—

(1) **FINDINGS.**—Congress finds that—

(A) the land designated as wilderness by this Act is arid in nature and is generally not suitable for use or development of new water resource facilities; and

(B) because of the unique nature and hydrology of the desert land designated as wilderness by this Act, it is possible to provide for proper management and protection of the wilderness and other values of lands in ways different from those used in other legislation.

(2) **STATUTORY CONSTRUCTION.**—Nothing in this Act—

(A) shall constitute or be construed to constitute either an express or implied reservation by the United States of any water or water rights with respect to the land designated as wilderness by this Act;

(B) shall affect any water rights in the State existing on the date of enactment of this Act, including any water rights held by the United States;

(C) shall be construed as establishing a precedent with regard to any future wilderness designations;

(D) shall affect the interpretation of, or any designation made pursuant to, any other Act; or

(E) shall be construed as limiting, altering, modifying, or amending any of the interstate compacts or equitable apportionment decrees that apportion water among and between the State and other States.

(3) STATE WATER LAW.—The Secretary shall follow the procedural and substantive requirements of the law of the State in order to obtain and hold any water rights not in existence on the date of enactment of this Act with respect to the wilderness area designated by this Act.

(4) NEW PROJECTS.—

(A) WATER RESOURCE FACILITY.—As used in this subsection, the term “water resource facility”—

(i) means irrigation and pumping facilities, reservoirs, water conservation works, aqueducts, canals, ditches, pipelines, wells, hydropower projects, and transmission and other ancillary facilities, and other water diversion, storage, and carriage structures; and

(ii) does not include wildlife guzzlers.

(B) RESTRICTION ON NEW WATER RESOURCE FACILITIES.—Except as otherwise provided in this Act, on and after the date of enactment of this Act, neither the President nor any other officer, employee, or agent of the United States shall fund, assist, authorize, or issue a license or permit for the development of any new water resource facility within the wilderness area designated by this Act.

(j) WITHDRAWAL.—Subject to valid existing rights, the wilderness area designated by this Act, the lands to be added under subsection (e), and lands identified on the map as the “BLM Lands Authorized to be Acquired by the Pueblo of Zia” are withdrawn from—

(1) all forms of entry, appropriation, and disposal under the public land laws;

(2) location, entry, and patent under the mining laws; and

(3) operation of the mineral leasing, mineral materials, and geothermal leasing laws.

(k) EXCHANGE.—Not later than 3 years after the date of enactment of this Act, the Secretary shall seek to complete an exchange for State land within the boundaries of the wilderness area designated by this Act.

Deadline.

SEC. 4. LAND HELD IN TRUST.

(a) IN GENERAL.—Subject to valid existing rights and the conditions under subsection (d), all right, title, and interest of the United States in and to the lands (including improvements, appurtenances, and mineral rights to the lands) generally depicted on the map as “BLM Lands Authorized to be Acquired by the Pueblo of Zia” shall, on receipt of consideration under subsection (c) and adoption and approval of regulations under subsection (d), be declared by the Secretary to be held in trust by the United States for the Pueblo and shall be part of the Pueblo’s Reservation.

(b) DESCRIPTION OF LANDS.—The boundary of the lands authorized by this section for acquisition by the Pueblo where generally depicted on the map as immediately adjacent to CR906, CR923, and Cucho Arroyo Road shall be 100 feet from the center line of the road.

(c) CONSIDERATION.—

(1) IN GENERAL.—In consideration for the conveyance authorized under subsection (a), the Pueblo shall pay to the Secretary the amount that is equal to the fair market value of the land conveyed, as subject to the terms and conditions in subsection (d), as determined by an independent appraisal.

(2) APPRAISAL.—To determine the fair market value, the Secretary shall conduct an appraisal paid for by the Pueblo that is performed in accordance with the Uniform Appraisal Standards for Federal Land Acquisitions and the Uniform Standards of Professional Appraisal Practice.

(3) AVAILABILITY.—Any amounts paid under paragraph (1) shall be available to the Secretary, without further appropriation and until expended, for the acquisition from willing sellers of land or interests in land in the State.

(d) PUBLIC ACCESS.—

(1) IN GENERAL.—Subject to paragraph (2), the declaration of trust and conveyance under subsection (a) shall be subject to the continuing right of the public to access the land for recreational, scenic, scientific, educational, paleontological, and conservation uses, subject to any regulations for land management and the preservation, protection, and enjoyment of the natural characteristics of the land that are adopted by the Pueblo and approved by the Secretary: *Provided*, That the Secretary shall ensure that the rights provided for in this paragraph are protected and that a process for resolving any complaints by an aggrieved party is established.

Procedures.

(2) CONDITIONS.—Except as provided in subsection (e)—

(A) the land conveyed under subsection (a) shall be maintained as open space and the natural characteristics of the land shall be preserved in perpetuity; and

(B) the use of motorized vehicles (except on existing roads or as is necessary for the maintenance and repair of facilities used in connection with grazing operations), mineral extraction, housing, gaming, and other commercial enterprises shall be prohibited within the boundaries of the land conveyed under subsection (a).

(e) RIGHTS-OF-WAY.—

(1) EXISTING RIGHTS-OF-WAY.—Nothing in this section shall affect—

(A) any validly issued right-of-way or the renewal thereof; or

(B) the access for customary construction, operation, maintenance, repair, and replacement activities in any right-of-way issued, granted, or permitted by the Secretary.

(2) NEW RIGHTS-OF-WAY AND RENEWALS.—

(A) IN GENERAL.—The Pueblo shall grant any reasonable request for rights-of-way for utilities and pipelines over the land acquired under subsection (a) that is designated as the “Rights-of-Way corridor #1” in the Rio Puerco Resource Management Plan that is in effect on the date of the grant.

(B) ADMINISTRATION.—Any right-of-way issued or renewed after the date of enactment of this Act located on land authorized to be acquired under this section shall be administered in accordance with the rules, regulations, and fee payment schedules of the Department of the Interior, including the Rio Puerco Resources Management

Plan that is in effect on the date of issuance or renewal of the right-of-way.

(f) JUDICIAL RELIEF.—

(1) IN GENERAL.—To enforce subsection (d), any person may bring a civil action in the United States District Court for the District of New Mexico seeking declaratory or injunctive relief.

(2) SOVEREIGN IMMUNITY.—The Pueblo shall not assert sovereign immunity as a defense or bar to a civil action brought under paragraph (1).

(3) EFFECT.—Nothing in this section—

(A) authorizes a civil action against the Pueblo for money damages, costs, or attorneys fees; or

(B) except as provided in paragraph (2), abrogates the sovereign immunity of the Pueblo.

Approved October 26, 2005.

LEGISLATIVE HISTORY—S. 156 (H.R. 362):

HOUSE REPORTS: No. 109–149 accompanying H.R. 362 (Comm. on Resources).

SENATE REPORTS: No. 109–13 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 151 (2005):

July 26, considered and passed Senate.

Oct. 18, considered and passed House.



Public Law 109–95
109th Congress

An Act

To amend the Foreign Assistance Act of 1961 to provide assistance for orphans and other vulnerable children in developing countries, and for other purposes.

Nov. 8, 2005
[H.R. 1409]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Assistance for Orphans and Other Vulnerable Children in Developing Countries Act of 2005”.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) As of July 2004, there were more than 143,000,000 children living in sub-Saharan Africa, Asia, Latin America, and the Caribbean who were identified as orphans, having lost one or both of their parents. Of this number, approximately 16,200,000 children were identified as double orphans, having lost both parents—the vast majority of whom died of AIDS. These children often are disadvantaged in numerous and devastating ways and most households with orphans cannot meet the basic needs of health care, food, clothing, and educational expenses.

(2) It is estimated that 121,000,000 children worldwide do not attend school and that the majority of such children are young girls. According to the United Nations Children’s Fund (UNICEF), orphans are less likely to be in school and more likely to be working full time.

(3) School food programs, including take-home rations, in developing countries provide strong incentives for children to remain in school and continue their education. School food programs can reduce short-term hunger, improve cognitive functions, and enhance learning, behavior, and achievement.

(4) Financial barriers, such as school fees and other costs of education, prevent many orphans and other vulnerable children in developing countries from attending school. Providing children with free primary school education, while simultaneously ensuring that adequate resources exist for teacher training and infrastructure, would help more orphans and other vulnerable children obtain a quality education.

(5) The trauma that results from the loss of a parent can trigger behavior problems of aggression or emotional withdrawal and negatively affect a child’s performance in school and the child’s social relations. Children living in families affected by HIV/AIDS or who have been orphaned by AIDS

Assistance for
Orphans and
Other Vulnerable
Children in
Developing
Countries Act
of 2005.
22 USC 2151
note.
22 USC 2152f
note.

often face stigmatization and discrimination. Providing culturally appropriate psychosocial support to such children can assist them in successfully accepting and adjusting to their circumstances.

(6) Orphans and other vulnerable children in developing countries routinely are denied their inheritance or encounter difficulties in claiming the land and other property which they have inherited. Even when the inheritance rights of women and children are spelled out in law, such rights are difficult to claim and are seldom enforced. In many countries it is difficult or impossible for a widow, even if she has young children, to claim property after the death of her husband.

(7) The HIV/AIDS pandemic has had a devastating affect on children and is deepening poverty in entire communities and jeopardizing the health, safety, and survival of all children in affected areas.

(8) The HIV/AIDS pandemic has increased the number of orphans worldwide and has exacerbated the poor living conditions of the world's poorest and most vulnerable children. AIDS has created an unprecedented orphan crisis, especially in sub-Saharan Africa, where children have been hardest hit. An estimated 14,000,000 orphans have lost 1 or both parents to AIDS. By 2010, it is estimated that over 25,000,000 children will have been orphaned by AIDS.

(9) Approximately 2,500,000 children under the age of 15 worldwide have HIV/AIDS. Every day another 2,000 children under the age of 15 are infected with HIV. Without treatment, most children born with HIV can expect to die by age two, but with sustained drug treatment through childhood, the chances of long-term survival and a productive adulthood improve dramatically.

(10) Few international development programs specifically target the treatment of children with HIV/AIDS in developing countries. Reasons for this include the perceived low priority of pediatric treatment, a lack of pediatric health care professionals, lack of expertise and experience in pediatric drug dosing and monitoring, the perceived complexity of pediatric treatment, and mistaken beliefs regarding the risks and benefits of pediatric treatment.

(11) Although a number of organizations seek to meet the needs of orphans or other vulnerable children, extended families and local communities continue to be the primary providers of support for such children.

(12) The HIV/AIDS pandemic is placing huge burdens on communities and is leaving many orphans with little support. Alternatives to traditional orphanages, such as community-based resource centers, continue to evolve in response to the massive number of orphans that has resulted from the pandemic.

(13) The AIDS orphans crisis in sub-Saharan Africa has implications for political stability, human welfare, and development that extend far beyond the region, affecting governments and people worldwide, and this crisis requires an accelerated response from the international community.

(14) Although section 403(b) of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (22 U.S.C. 7673(b)) establishes the requirement that not less

than 10 percent of amounts appropriated for HIV/AIDS assistance for each of fiscal years 2006 through 2008 shall be expended for assistance for orphans and other vulnerable children affected by HIV/AIDS, there is an urgent need to provide assistance to such children prior to 2006.

(15) Numerous United States and indigenous private voluntary organizations, including faith-based organizations, provide assistance to orphans and other vulnerable children in developing countries. Many of these organizations have submitted applications for grants to the Administrator of the United States Agency for International Development to provide increased levels of assistance for orphans and other vulnerable children in developing countries.

(16) Increasing the amount of assistance that is provided by the Administrator of the United States Agency for International Development through United States and indigenous private voluntary organizations, including faith-based organizations, will provide greater protection for orphans and other vulnerable children in developing countries.

(17) It is essential that the United States Government adopt a comprehensive approach for the provision of assistance to orphans and other vulnerable children in developing countries. A comprehensive approach would ensure that important services, such as basic care, psychosocial support, school food programs, increased educational opportunities and employment training and related services, the protection and promotion of inheritance rights for such children, and the treatment of orphans and other vulnerable children with HIV/AIDS, are made more accessible.

(18) Assistance for orphans and other vulnerable children can best be provided by a comprehensive approach of the United States Government that—

(A) ensures that Federal agencies and the private sector coordinate efforts to prevent and eliminate duplication of efforts and waste in the provision of such assistance; and

(B) to the maximum extent possible, focuses on community-based programs that allow orphans and other vulnerable children to remain connected to the traditions and rituals of their families and communities.

SEC. 3. ASSISTANCE FOR ORPHANS AND OTHER VULNERABLE CHILDREN IN DEVELOPING COUNTRIES.

Chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) is amended by adding at the end the following section:

“SEC. 135. ASSISTANCE FOR ORPHANS AND OTHER VULNERABLE CHILDREN.

22 USC 2152f.

“(a) FINDINGS.—Congress finds the following:

“(1) There are more than 143,000,000 orphans living sub-Saharan Africa, Asia, Latin America, and the Caribbean. Of this number, approximately 16,200,000 children have lost both parents.

“(2) The HIV/AIDS pandemic has created an unprecedented orphan crisis, especially in sub-Saharan Africa, where children have been hardest hit. The pandemic is deepening poverty in entire communities, and is jeopardizing the health, safety,

and survival of all children in affected countries. It is estimated that 14,000,000 children have lost one or both parents to AIDS.

“(3) The orphans crisis in sub-Saharan Africa has implications for human welfare, development, and political stability that extend far beyond the region, affecting governments and people worldwide.

“(4) Extended families and local communities are struggling to meet the basic needs of orphans and vulnerable children by providing food, health care including treatment of children living with HIV/AIDS, education expenses, and clothing.

“(5) Famines, natural disasters, chronic poverty, ongoing conflicts, and civil wars in developing countries are adversely affecting children in these countries, the vast majority of whom currently do not receive humanitarian assistance or other support from the United States.

“(6) The United States Government administers various assistance programs for orphans and other vulnerable children in developing countries. In order to improve targeting and programming of resources, the United States Agency for International Development should develop methods to adequately track the overall number of orphans and other vulnerable children receiving assistance, the kinds of programs for such children by sector and location, and any other such related data and analysis.

“(7) The United States Agency for International Development should improve its capabilities to deliver assistance to orphans and other vulnerable children in developing countries through partnerships with private volunteer organizations, including community and faith-based organizations.

“(8) The United States Agency for International Development should be the primary United States Government agency responsible for identifying and assisting orphans and other vulnerable children in developing countries.

“(9) Providing assistance to such children is an important expression of the humanitarian concern and tradition of the people of the United States.

“(b) DEFINITIONS.—In this section:

“(1) AIDS.—The term ‘AIDS’ has the meaning given the term in section 104A(g)(1) of this Act.

“(2) CHILDREN.—The term ‘children’ means persons who have not attained 18 years of age.

“(3) HIV/AIDS.—The term ‘HIV/AIDS’ has the meaning given the term in section 104A(g)(3) of this Act.

“(4) ORPHAN.—The term ‘orphan’ means a child deprived by death of one or both parents.

“(5) PSYCHOSOCIAL SUPPORT.—The term ‘psychosocial support’ includes care that addresses the ongoing psychological and social problems that affect individuals, their partners, families, and caregivers in order to alleviate suffering, strengthen social ties and integration, provide emotional support, and promote coping strategies.

President.

“(c) ASSISTANCE.—The President is authorized to provide assistance, including providing such assistance through international or nongovernmental organizations, for programs in developing countries to provide basic care and services for orphans and other vulnerable children. Such programs should provide assistance—

“(1) to support families and communities to mobilize their own resources through the establishment of community-based organizations to provide basic care for orphans and other vulnerable children;

“(2) for school food programs, including the purchase of local or regional foodstuffs where appropriate;

“(3) to increase primary school enrollment through the elimination of school fees, where appropriate, or other barriers to education while ensuring that adequate resources exist for teacher training and infrastructure;

“(4) to provide employment training and related services for orphans and other vulnerable children who are of legal working age;

“(5) to protect and promote the inheritance rights of orphans, other vulnerable children, and widows;

“(6) to provide culturally appropriate psychosocial support to orphans and other vulnerable children; and

“(7) to treat orphans and other vulnerable children with HIV/AIDS through the provision of pharmaceuticals, the recruitment and training of individuals to provide pediatric treatment, and the purchase of pediatric-specific technologies.

“(d) MONITORING AND EVALUATION.—

“(1) ESTABLISHMENT.—To maximize the sustainable development impact of assistance authorized under this section, and pursuant to the strategy required in section 4 of the Assistance for Orphans and Other Vulnerable Children in Developing Countries Act of 2005, the President shall establish a monitoring and evaluation system to measure the effectiveness of United States assistance to orphans and other vulnerable children.

President.

“(2) REQUIREMENTS.—The monitoring and evaluation system shall—

“(A) establish performance goals for the assistance and expresses such goals in an objective and quantifiable form, to the extent feasible;

“(B) establish performance indicators to be used in measuring or assessing the achievement of the performance goals described in subparagraph (A); and

“(C) provide a basis for recommendations for adjustments to the assistance to enhance the impact of assistance.

“(e) SPECIAL ADVISOR FOR ASSISTANCE TO ORPHANS AND VULNERABLE CHILDREN.—

“(1) APPOINTMENT.—

“(A) IN GENERAL.—The Secretary of State, in consultation with the Administrator of the United States Agency for International Development, shall appoint a Special Advisor for Assistance to Orphans and Vulnerable Children.

“(B) DELEGATION.—At the discretion of the Secretary of State, the authority to appoint a Special Advisor under subparagraph (A) may be delegated by the Secretary of State to the Administrator of the United States Agency for International Development.

“(2) DUTIES.—The duties of the Special Advisor for Assistance to Orphans and Vulnerable Children shall include the following:

“(A) Coordinate assistance to orphans and other vulnerable children among the various offices, bureaus, and field missions within the United States Agency for International Development.

“(B) Advise the various offices, bureaus, and field missions within the United States Agency for International Development to ensure that programs approved for assistance under this section are consistent with best practices, meet the requirements of this Act, and conform to the strategy outlined in section 4 of the Assistance for Orphans and Other Vulnerable Children in Developing Countries Act of 2005.

“(C) Advise the various offices, bureaus, and field missions within the United States Agency for International Development in developing any component of their annual plan, as it relates to assistance for orphans or other vulnerable children in developing countries, to ensure that each program, project, or activity relating to such assistance is consistent with best practices, meets the requirements of this Act, and conforms to the strategy outlined in section 4 of the Assistance for Orphans and Other Vulnerable Children in Developing Countries Act of 2005.

“(D) Coordinate all United States assistance to orphans and other vulnerable children among United States departments and agencies, including the provision of assistance relating to HIV/AIDS authorized under the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (Public Law 108–25), and the amendments made by such Act (including section 102 of such Act, and the amendments made by such section, relating to the coordination of HIV/AIDS programs).

“(E) Establish priorities that promote the delivery of assistance to the most vulnerable populations of orphans and children, particularly in those countries with a high rate of HIV infection among women.

“(F) Disseminate a collection of best practices to field missions of the United States Agency for International Development to guide the development and implementation of programs to assist orphans and vulnerable children.

“(G) Administer the monitoring and evaluation system established in subsection (d).

“(H) Prepare the annual report required by section 5 of the Assistance for Orphans and Other Vulnerable Children in Developing Countries Act of 2005.

“(f) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—There is authorized to be appropriated to the President to carry out this section such sums as may be necessary for each of the fiscal years 2006 and 2007.

“(2) AVAILABILITY OF FUNDS.—Amounts made available under paragraph (1) are authorized to remain available until expended.”.

22 USC 2152f
note.
Deadline.
President.

SEC. 4. STRATEGY OF THE UNITED STATES.

(a) REQUIREMENT FOR STRATEGY.—Not later than 180 days after the date of enactment of this Act, the President shall develop, and transmit to the appropriate congressional committees, a

strategy for coordinating, implementing, and monitoring assistance programs for orphans and vulnerable children.

(b) CONSULTATION.—The strategy described in subsection (a) should be developed in consultation with the Special Advisor for Assistance to Orphans and Vulnerable Children (appointed pursuant to section 135(e)(1) of the Foreign Assistance Act of 1961 (as added by section 3 of this Act)) and with employees of the field missions of the United States Agency for International Development to ensure that the strategy—

(1) will not impede the efficiency of implementing assistance programs for orphans and vulnerable children; and

(2) addresses the specific needs of indigenous populations.

(c) CONTENT.—The strategy required by subsection (a) shall include—

(1) the identity of each agency or department of the Federal Government that is providing assistance for orphans and vulnerable children in foreign countries;

(2) a description of the efforts of the head of each such agency or department to coordinate the provision of such assistance with other agencies or departments of the Federal Government or nongovernmental entities;

(3) a description of a coordinated strategy, including coordination with other bilateral and multilateral donors, to provide the assistance authorized in section 135 of the Foreign Assistance Act of 1961, as added by section 3 of this Act;

(4) an analysis of additional coordination mechanisms or procedures that could be implemented to carry out the purposes of such section;

(5) a description of a monitoring system that establishes performance goals for the provision of such assistance and expresses such goals in an objective and quantifiable form, to the extent feasible; and

(6) a description of performance indicators to be used in measuring or assessing the achievement of the performance goals described in paragraph (5).

SEC. 5. ANNUAL REPORT.

22 USC 2152g.

(a) REPORT.—Not later than one year after the date on which the President transmits to the appropriate congressional committees the strategy required by section 4(a), and annually thereafter, the President shall transmit to the appropriate congressional committees a report on the implementation of this Act and the amendments made by this Act.

President.

(b) CONTENTS.—The report shall contain the following information for grants, cooperative agreements, contracts, contributions, and other forms of assistance awarded or entered into under section 135 of the Foreign Assistance Act of 1961 (as added by section 3 of this Act):

(1) The amount of funding, the name of recipient organizations, the location of programs and activities, the status of progress of programs and activities, and the estimated number of orphans and other vulnerable children who received direct or indirect assistance under the programs and activities.

(2) The results of the monitoring and evaluation system with respect to assistance for orphans and other vulnerable children.

(3) The percentage of assistance provided in support of orphans or other vulnerable children affected by HIV/AIDS.

(4) Any other appropriate information relating to the needs of orphans and other vulnerable children in developing countries that could be addressed through the provision of assistance authorized in section 135 of the Foreign Assistance Act of 1961, as added by section 3 of this Act, or under any other provision of law.

22 USC 2152g
note.

SEC. 6. APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.

In this Act, the term “appropriate congressional committees” means the Committee on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on Appropriations and the Committee on International Relations of the House of Representatives.

Approved November 8, 2005.

LEGISLATIVE HISTORY—H.R. 1409:

CONGRESSIONAL RECORD, Vol. 151 (2005):

Oct. 18, considered and passed House.

Oct. 24, considered and passed Senate.



Public Law 109–96
109th Congress

An Act

To amend the Federal Food, Drug, and Cosmetic Act to provide for the regulation of all contact lenses as medical devices, and for other purposes.

Nov. 9, 2005
[S. 172]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REGULATION OF CERTAIN ARTICLES AS MEDICAL DEVICES.

Section 520 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360j) is amended by adding at the end the following subsection:

“Regulation of Contact Lens as Devices

“(n)(1) All contact lenses shall be deemed to be devices under section 201(h).

“(2) Paragraph (1) shall not be construed as bearing on or being relevant to the question of whether any product other than a contact lens is a device as defined by section 201(h) or a drug as defined by section 201(g).”.

Approved November 9, 2005.

LEGISLATIVE HISTORY—S. 172:

SENATE REPORTS: No. 109–110 (Comm. on Health, Education, Labor, and Pensions).

CONGRESSIONAL RECORD, Vol. 151 (2005):
July 29, considered and passed Senate.
Oct. 26, considered and passed House.



Public Law 109–97
109th Congress

An Act

Nov. 10, 2005
[H.R. 2744]

Making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes.

Agriculture,
Rural
Development,
Food and Drug
Administration,
and Related
Agencies
Appropriations
Act, 2006.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2006, and for other purposes, namely:

TITLE I

AGRICULTURAL PROGRAMS

PRODUCTION, PROCESSING AND MARKETING

OFFICE OF THE SECRETARY

For necessary expenses of the Office of the Secretary of Agriculture, \$5,127,000: *Provided*, That not to exceed \$11,000 of this amount shall be available for official reception and representation expenses, not otherwise provided for, as determined by the Secretary.

EXECUTIVE OPERATIONS

CHIEF ECONOMIST

For necessary expenses of the Chief Economist, including economic analysis, risk assessment, cost-benefit analysis, energy and new uses, and the functions of the World Agricultural Outlook Board, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1622g), \$10,539,000.

NATIONAL APPEALS DIVISION

For necessary expenses of the National Appeals Division, \$14,524,000.

OFFICE OF BUDGET AND PROGRAM ANALYSIS

For necessary expenses of the Office of Budget and Program Analysis, \$8,298,000.

HOMELAND SECURITY STAFF

For necessary expenses of the Homeland Security Staff, \$934,000.

OFFICE OF THE CHIEF INFORMATION OFFICER

For necessary expenses of the Office of the Chief Information Officer, \$16,462,000.

COMMON COMPUTING ENVIRONMENT

For necessary expenses to acquire a Common Computing Environment for the Natural Resources Conservation Service, the Farm and Foreign Agricultural Service, and Rural Development mission areas for information technology, systems, and services, \$110,072,000, to remain available until expended, for the capital asset acquisition of shared information technology systems, including services as authorized by 7 U.S.C. 6915–16 and 40 U.S.C. 1421–28: *Provided*, That obligation of these funds shall be consistent with the Department of Agriculture Service Center Modernization Plan of the county-based agencies, and shall be with the concurrence of the Department's Chief Information Officer: *Provided further*, That of the funds provided under this section, the Secretary shall acquire one meter natural color digital ortho-imagery of the entire state of Utah. Utah.

OFFICE OF THE CHIEF FINANCIAL OFFICER

For necessary expenses of the Office of the Chief Financial Officer, \$5,874,000: *Provided*, That hereafter the Chief Financial Officer shall actively market and expand cross-servicing activities of the National Finance Center: *Provided further*, That no funds made available by this appropriation may be obligated for FAIR Act or Circular A–76 activities until the Secretary has submitted to the Committees on Appropriations of both Houses of Congress and the Committee on Government Reform of the House of Representatives a report on the Department's contracting out policies, including agency budgets for contracting out. 7 USC 2279h.

OFFICE OF THE ASSISTANT SECRETARY FOR CIVIL RIGHTS

For necessary salaries and expenses of the Office of the Assistant Secretary for Civil Rights, \$821,000.

OFFICE OF CIVIL RIGHTS

For necessary expenses of the Office of Civil Rights, \$20,109,000.

OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION

For necessary salaries and expenses of the Office of the Assistant Secretary for Administration, \$676,000.

AGRICULTURE BUILDINGS AND FACILITIES AND RENTAL PAYMENTS

(INCLUDING TRANSFERS OF FUNDS)

Notification.

For payment of space rental and related costs pursuant to Public Law 92-313, including authorities pursuant to the 1984 delegation of authority from the Administrator of General Services to the Department of Agriculture under 40 U.S.C. 486, for programs and activities of the Department which are included in this Act, and for alterations and other actions needed for the Department and its agencies to consolidate unneeded space into configurations suitable for release to the Administrator of General Services, and for the operation, maintenance, improvement, and repair of Agriculture buildings and facilities, and for related costs, \$187,734,000, to remain available until expended, as follows: for payments to the General Services Administration and the Department of Homeland Security for building security, \$147,734,000, and for buildings operations and maintenance, \$40,000,000: *Provided*, That amounts which are made available for space rental and related costs for the Department of Agriculture in this Act may be transferred between such appropriations to cover the costs of additional, new, or replacement space 15 days after notice thereof is transmitted to the Appropriations Committees of both Houses of Congress.

HAZARDOUS MATERIALS MANAGEMENT

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Department of Agriculture, to comply with the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601 et seq.) and the Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.), \$12,000,000, to remain available until expended: *Provided*, That appropriations and funds available herein to the Department for Hazardous Materials Management may be transferred to any agency of the Department for its use in meeting all requirements pursuant to the above Acts on Federal and non-Federal lands.

DEPARTMENTAL ADMINISTRATION

(INCLUDING TRANSFERS OF FUNDS)

For Departmental Administration, \$23,103,000, to provide for necessary expenses for management support services to offices of the Department and for general administration, security, repairs and alterations, and other miscellaneous supplies and expenses not otherwise provided for and necessary for the practical and efficient work of the Department: *Provided*, That this appropriation shall be reimbursed from applicable appropriations in this Act for travel expenses incident to the holding of hearings as required by 5 U.S.C. 551-558.

OFFICE OF THE ASSISTANT SECRETARY FOR CONGRESSIONAL
RELATIONS

(INCLUDING TRANSFERS OF FUNDS)

For necessary salaries and expenses of the Office of the Assistant Secretary for Congressional Relations to carry out the programs

funded by this Act, including programs involving intergovernmental affairs and liaison within the executive branch, \$3,821,000: *Provided*, That these funds may be transferred to agencies of the Department of Agriculture funded by this Act to maintain personnel at the agency level: *Provided further*, That no funds made available by this appropriation may be obligated after 30 days from the date of enactment of this Act, unless the Secretary has notified the Committees on Appropriations of both Houses of Congress on the allocation of these funds by USDA agency: *Provided further*, That no other funds appropriated to the Department by this Act shall be available to the Department for support of activities of congressional relations.

Notification.
Deadline.

OFFICE OF COMMUNICATIONS

For necessary expenses to carry out services relating to the coordination of programs involving public affairs, for the dissemination of agricultural information, and the coordination of information, work, and programs authorized by Congress in the Department, \$9,509,000: *Provided*, That not to exceed \$2,000,000 may be used for farmers' bulletins.

OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General, including employment pursuant to the Inspector General Act of 1978, \$80,336,000, including such sums as may be necessary for contracting and other arrangements with public agencies and private persons pursuant to section 6(a)(9) of the Inspector General Act of 1978, and including not to exceed \$125,000 for certain confidential operational expenses, including the payment of informants, to be expended under the direction of the Inspector General pursuant to Public Law 95–452 and section 1337 of Public Law 97–98.

OFFICE OF THE GENERAL COUNSEL

For necessary expenses of the Office of the General Counsel, \$39,351,000.

OFFICE OF THE UNDER SECRETARY FOR RESEARCH, EDUCATION AND ECONOMICS

For necessary salaries and expenses of the Office of the Under Secretary for Research, Education and Economics to administer the laws enacted by the Congress for the Economic Research Service, the National Agricultural Statistics Service, the Agricultural Research Service, and the Cooperative State Research, Education, and Extension Service, \$598,000.

ECONOMIC RESEARCH SERVICE

For necessary expenses of the Economic Research Service in conducting economic research and analysis, \$75,931,000: *Provided*, That none of the funds made available by this Act or any other Act may be used by the Department of Agriculture to publish, disseminate, or distribute, internally or externally, Agriculture Information Bulletin Number 787: *Provided further*, That of the

Contracts.
Reports.

funds provided to the Economic Research Service, the Secretary of Agriculture shall use \$350,000 to enter into an agreement for a comprehensive report on the economic development and current status of the sheep industry in the United States to be prepared by the National Academy of Sciences.

NATIONAL AGRICULTURAL STATISTICS SERVICE

For necessary expenses of the National Agricultural Statistics Service in conducting statistical reporting and service work, \$140,700,000, of which up to \$29,115,000 shall be available until expended for the Census of Agriculture.

AGRICULTURAL RESEARCH SERVICE

SALARIES AND EXPENSES

For necessary expenses to enable the Agricultural Research Service to perform agricultural research and demonstration relating to production, utilization, marketing, and distribution (not otherwise provided for); home economics or nutrition and consumer use including the acquisition, preservation, and dissemination of agricultural information; and for acquisition of lands by donation, exchange, or purchase at a nominal cost not to exceed \$100, and for land exchanges where the lands exchanged shall be of equal value or shall be equalized by a payment of money to the grantor which shall not exceed 25 percent of the total value of the land or interests transferred out of Federal ownership, \$1,135,004,000: *Provided*, That appropriations hereunder shall be available for the operation and maintenance of aircraft and the purchase of not to exceed one for replacement only: *Provided further*, That appropriations hereunder shall be available pursuant to 7 U.S.C. 2250 for the construction, alteration, and repair of buildings and improvements, but unless otherwise provided, the cost of constructing any one building shall not exceed \$375,000, except for headhouses or greenhouses which shall each be limited to \$1,200,000, and except for 10 buildings to be constructed or improved at a cost not to exceed \$750,000 each, and the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building or \$375,000, whichever is greater: *Provided further*, That the limitations on alterations contained in this Act shall not apply to modernization or replacement of existing facilities at Beltsville, Maryland: *Provided further*, That appropriations hereunder shall be available for granting easements at the Beltsville Agricultural Research Center: *Provided further*, That the foregoing limitations shall not apply to replacement of buildings needed to carry out the Act of April 24, 1948 (21 U.S.C. 113a): *Provided further*, That the foregoing limitations shall not apply to the purchase of land at Florence, South Carolina: *Provided further*, That funds may be received from any State, other political subdivision, organization, or individual for the purpose of establishing or operating any research facility or research project of the Agricultural Research Service, as authorized by law: *Provided further*, That the Secretary, through the Agricultural Research Service, or successor, is authorized to lease approximately 40 acres of land at the Central Plains Experiment Station, Nunn, Colorado, to the Board of Governors of the Colorado State University System, for its Shortgrass Steppe Biological Field Station, on such terms

7 USC 2254.

Maryland.

Colorado.
Contracts.

and conditions as the Secretary deems in the public interest: *Provided further*, That the Secretary understands that it is the intent of the University to construct research and educational buildings on the subject acreage and to conduct agricultural research and educational activities in these buildings: *Provided further*, That as consideration for a lease, the Secretary may accept the benefits of mutual cooperative research to be conducted by the Colorado State University and the Government at the Shortgrass Steppe Biological Field Station: *Provided further*, That the term of any lease shall be for no more than 20 years, but a lease may be renewed at the option of the Secretary on such terms and conditions as the Secretary deems in the public interest: *Provided further*, That the Agricultural Research Service may convey all rights and title of the United States, to a parcel of land comprising 19 acres, more or less, located in Section 2, Township 18 North, Range 14 East in Oktibbeha County, Mississippi, originally conveyed by the Board of Trustees of the Institution of Higher Learning of the State of Mississippi, and described in instruments recorded in Deed Book 306 at pages 553–554, Deed Book 319 at page 219, and Deed Book 33 at page 115, of the public land records of Oktibbeha County, Mississippi, including facilities, and fixed equipment, to the Mississippi State University, Starkville, Mississippi, in their “as is” condition, when vacated by the Agricultural Research Service: *Provided further*, That none of the funds appropriated under this heading shall be available to carry out research related to the production, processing, or marketing of tobacco or tobacco products.

Tobacco and
tobacco products.

BUILDINGS AND FACILITIES

For acquisition of land, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities as necessary to carry out the agricultural research programs of the Department of Agriculture, where not otherwise provided, \$131,195,000, to remain available until expended.

COOPERATIVE STATE RESEARCH, EDUCATION, AND EXTENSION SERVICE

RESEARCH AND EDUCATION ACTIVITIES

For payments to agricultural experiment stations, for cooperative forestry and other research, for facilities, and for other expenses, \$676,849,000, as follows: to carry out the provisions of the Hatch Act of 1887 (7 U.S.C. 361a–i), \$178,757,000; for grants for cooperative forestry research (16 U.S.C. 582a through a–7), \$22,230,000; for payments to the 1890 land-grant colleges, including Tuskegee University and West Virginia State University (7 U.S.C. 3222), \$37,591,000, of which \$1,507,496 shall be made available only for the purpose of ensuring that each institution shall receive no less than \$1,000,000; for special grants for agricultural research (7 U.S.C. 450i(c)), \$128,223,000; for special grants for agricultural research on improved pest control (7 U.S.C. 450i(c)), \$14,798,000; for competitive research grants (7 U.S.C. 450i(b)), \$183,000,000; for the support of animal health and disease programs (7 U.S.C. 3195), \$5,057,000; for supplemental and alternative crops and products (7 U.S.C. 3319d), \$1,187,000; for grants for research pursuant to the Critical Agricultural Materials Act (7 U.S.C. 178 et seq.),

Tobacco and
tobacco products.

\$1,102,000, to remain available until expended; for the 1994 research grants program for 1994 institutions pursuant to section 536 of Public Law 103-382 (7 U.S.C. 301 note), \$1,039,000, to remain available until expended; for rangeland research grants (7 U.S.C. 3333), \$1,000,000; for higher education graduate fellowship grants (7 U.S.C. 3152(b)(6)), \$3,738,000, to remain available until expended (7 U.S.C. 2209b); for a veterinary medicine loan repayment program pursuant to section 1415A of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3101 et seq.), \$500,000; for higher education challenge grants (7 U.S.C. 3152(b)(1)), \$5,478,000; for a higher education multicultural scholars program (7 U.S.C. 3152(b)(5)), \$998,000, to remain available until expended (7 U.S.C. 2209b); for an education grants program for Hispanic-serving Institutions (7 U.S.C. 3241), \$6,000,000; for noncompetitive grants for the purpose of carrying out all provisions of 7 U.S.C. 3242 (section 759 of Public Law 106-78) to individual eligible institutions or consortia of eligible institutions in Alaska and in Hawaii, with funds awarded equally to each of the States of Alaska and Hawaii, \$3,250,000; for a secondary agriculture education program and 2-year post-secondary education (7 U.S.C. 3152(j)), \$1,000,000; for aquaculture grants (7 U.S.C. 3322), \$3,968,000; for sustainable agriculture research and education (7 U.S.C. 5811), \$12,400,000; for a program of capacity building grants (7 U.S.C. 3152(b)(4)) to colleges eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321-326 and 328), including Tuskegee University and West Virginia State University, \$12,312,000, to remain available until expended (7 U.S.C. 2209b); for payments to the 1994 Institutions pursuant to section 534(a)(1) of Public Law 103-382, \$2,250,000; for resident instruction grants for insular areas under section 1491 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3363), \$500,000; and for necessary expenses of Research and Education Activities, \$50,471,000, of which \$2,587,000 for the Research, Education, and Economics Information System and \$2,051,000 for the Electronic Grants Information System, are to remain available until expended: *Provided*, That none of the funds appropriated under this heading shall be available to carry out research related to the production, processing, or marketing of tobacco or tobacco products: *Provided further*, That this paragraph shall not apply to research on the medical, biotechnological, food, and industrial uses of tobacco.

NATIVE AMERICAN INSTITUTIONS ENDOWMENT FUND

For the Native American Institutions Endowment Fund authorized by Public Law 103-382 (7 U.S.C. 301 note), \$12,000,000, to remain available until expended.

EXTENSION ACTIVITIES

For payments to States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, Micronesia, Northern Marianas, and American Samoa, \$455,955,000, as follows: payments for cooperative extension work under the Smith-Lever Act, to be distributed under sections 3(b) and 3(c) of said Act, and under section 208(c) of Public Law 93-471, for retirement and employees' compensation costs for extension agents, \$275,730,000; payments for extension work at the 1994 Institutions under the Smith-Lever Act (7 U.S.C.

343(b)(3)), \$3,273,000; payments for the nutrition and family education program for low-income areas under section 3(d) of the Act, \$62,634,000; payments for the pest management program under section 3(d) of the Act, \$9,960,000; payments for the farm safety program under section 3(d) of the Act, \$4,563,000; payments for New Technologies for Ag Extension under Section 3(d) of the Act, \$1,500,000; payments to upgrade research, extension, and teaching facilities at the 1890 land-grant colleges, including Tuskegee University and West Virginia State University, as authorized by section 1447 of Public Law 95–113 (7 U.S.C. 3222b), \$16,777,000, to remain available until expended; payments for youth-at-risk programs under section 3(d) of the Smith-Lever Act, \$7,728,000; for youth farm safety education and certification extension grants, to be awarded competitively under section 3(d) of the Act, \$444,000; payments for carrying out the provisions of the Renewable Resources Extension Act of 1978 (16 U.S.C. 1671 et seq.), \$4,060,000; payments for Indian reservation agents under section 3(d) of the Smith-Lever Act, \$1,996,000; payments for sustainable agriculture programs under section 3(d) of the Act, \$4,067,000; payments for rural health and safety education as authorized by section 502(i) of Public Law 92–419 (7 U.S.C. 2662(i)), \$1,965,000; payments for cooperative extension work by the colleges receiving the benefits of the second Morrill Act (7 U.S.C. 321–326 and 328) and Tuskegee University and West Virginia State University, \$33,868,000, of which \$1,724,884 shall be made available only for the purpose of ensuring that each institution shall receive no less than \$1,000,000; for grants to youth organizations pursuant to section 7630 of title 7, United States Code, \$2,000,000; and for necessary expenses of Extension Activities, \$25,390,000.

INTEGRATED ACTIVITIES

For the integrated research, education, and extension grants programs, including necessary administrative expenses, \$55,792,000, as follows: for competitive grants programs authorized under section 406 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7626), \$45,792,000, including \$12,867,000 for the water quality program, \$14,847,000 for the food safety program, \$4,167,000 for the regional pest management centers program, \$4,464,000 for the Food Quality Protection Act risk mitigation program for major food crop systems, \$1,389,000 for the crops affected by Food Quality Protection Act implementation, \$3,106,000 for the methyl bromide transition program, and \$1,874,000 for the organic transition program; for a competitive international science and education grants program authorized under section 1459A of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3292b), to remain available until expended, \$1,000,000; for grants programs authorized under section 2(c)(1)(B) of Public Law 89–106, as amended, \$744,000, to remain available until September 30, 2007 for the critical issues program, and \$1,334,000 for the regional rural development centers program; and \$10,000,000 for the Food and Agriculture Defense Initiative authorized under section 1484 of the National Agricultural Research, Extension, and Teaching Act of 1977, to remain available until September 30, 2007.

OUTREACH FOR SOCIALLY DISADVANTAGED FARMERS

For grants and contracts pursuant to section 2501 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279), \$6,000,000, to remain available until expended.

OFFICE OF THE UNDER SECRETARY FOR MARKETING AND
REGULATORY PROGRAMS

For necessary salaries and expenses of the Office of the Under Secretary for Marketing and Regulatory Programs to administer programs under the laws enacted by the Congress for the Animal and Plant Health Inspection Service; the Agricultural Marketing Service; and the Grain Inspection, Packers and Stockyards Administration; \$724,000.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For expenses, not otherwise provided for, necessary to prevent, control, and eradicate pests and plant and animal diseases; to carry out inspection, quarantine, and regulatory activities; and to protect the environment, as authorized by law, \$815,461,000, of which \$4,140,000 shall be available for the control of outbreaks of insects, plant diseases, animal diseases and for control of pest animals and birds to the extent necessary to meet emergency conditions; of which \$39,000,000 shall be used for the boll weevil eradication program for cost share purposes or for debt retirement for active eradication zones; of which \$33,340,000 shall be available for a National Animal Identification program: *Provided*, That no funds shall be used to formulate or administer a brucellosis eradication program for the current fiscal year that does not require minimum matching by the States of at least 40 percent: *Provided further*, That this appropriation shall be available for the operation and maintenance of aircraft and the purchase of not to exceed four, of which two shall be for replacement only: *Provided further*, That, in addition, in emergencies which threaten any segment of the agricultural production industry of this country, the Secretary may transfer from other appropriations or funds available to the agencies or corporations of the Department such sums as may be deemed necessary, to be available only in such emergencies for the arrest and eradication of contagious or infectious disease or pests of animals, poultry, or plants, and for expenses in accordance with sections 10411 and 10417 of the Animal Health Protection Act (7 U.S.C. 8310 and 8316) and sections 431 and 442 of the Plant Protection Act (7 U.S.C. 7751 and 7772), and any unexpended balances of funds transferred for such emergency purposes in the preceding fiscal year shall be merged with such transferred amounts: *Provided further*, That appropriations hereunder shall be available pursuant to law (7 U.S.C. 2250) for the repair and alteration of leased buildings and improvements, but unless otherwise provided the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building.

In fiscal year 2006, the agency is authorized to collect fees to cover the total costs of providing technical assistance, goods, or services requested by States, other political subdivisions, domestic and international organizations, foreign governments, or individuals, provided that such fees are structured such that any entity's liability for such fees is reasonably based on the technical assistance, goods, or services provided to the entity by the agency, and such fees shall be credited to this account, to remain available until expended, without further appropriation, for providing such assistance, goods, or services.

BUILDINGS AND FACILITIES

For plans, construction, repair, preventive maintenance, environmental support, improvement, extension, alteration, and purchase of fixed equipment or facilities, as authorized by 7 U.S.C. 2250, and acquisition of land as authorized by 7 U.S.C. 428a, \$4,996,000, to remain available until expended.

AGRICULTURAL MARKETING SERVICE

MARKETING SERVICES

For necessary expenses to carry out services related to consumer protection, agricultural marketing and distribution, transportation, and regulatory programs, as authorized by law, and for administration and coordination of payments to States, \$75,376,000, including funds for the wholesale market development program for the design and development of wholesale and farmer market facilities for the major metropolitan areas of the country: *Provided*, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building.

Fees may be collected for the cost of standardization activities, as established by regulation pursuant to law (31 U.S.C. 9701).

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed \$65,667,000 (from fees collected) shall be obligated during the current fiscal year for administrative expenses: *Provided*, That if crop size is understated and/or other uncontrollable events occur, the agency may exceed this limitation by up to 10 percent with notification to the Committees on Appropriations of both Houses of Congress.

Notification.

FUNDS FOR STRENGTHENING MARKETS, INCOME, AND SUPPLY (SECTION 32)

(INCLUDING TRANSFERS OF FUNDS)

Funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), shall be used only for commodity program expenses as authorized therein, and other related operating expenses, including not less than \$20,000,000 for replacement of a system to support commodity purchases, except for: (1) transfers to the Department of Commerce as authorized by the Fish and Wildlife Act of August 8, 1956; (2) transfers otherwise provided

in this Act; and (3) not more than \$16,055,000 for formulation and administration of marketing agreements and orders pursuant to the Agricultural Marketing Agreement Act of 1937 and the Agricultural Act of 1961.

PAYMENTS TO STATES AND POSSESSIONS

For payments to departments of agriculture, bureaus and departments of markets, and similar agencies for marketing activities under section 204(b) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1623(b)), \$3,847,000, of which not less than \$2,500,000 shall be used to make a grant under this heading.

GRAIN INSPECTION, PACKERS AND STOCKYARDS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of the United States Grain Standards Act, for the administration of the Packers and Stockyards Act, for certifying procedures used to protect purchasers of farm products, and the standardization activities related to grain under the Agricultural Marketing Act of 1946, \$38,443,000: *Provided*, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building.

LIMITATION ON INSPECTION AND WEIGHING SERVICES EXPENSES

Notification.

Not to exceed \$42,463,000 (from fees collected) shall be obligated during the current fiscal year for inspection and weighing services: *Provided*, That if grain export activities require additional supervision and oversight, or other uncontrollable factors occur, this limitation may be exceeded by up to 10 percent with notification to the Committees on Appropriations of both Houses of Congress.

OFFICE OF THE UNDER SECRETARY FOR FOOD SAFETY

For necessary salaries and expenses of the Office of the Under Secretary for Food Safety to administer the laws enacted by the Congress for the Food Safety and Inspection Service, \$602,000.

FOOD SAFETY AND INSPECTION SERVICE

Notification.

For necessary expenses to carry out services authorized by the Federal Meat Inspection Act, the Poultry Products Inspection Act, and the Egg Products Inspection Act, including not to exceed \$50,000 for representation allowances and for expenses pursuant to section 8 of the Act approved August 3, 1956 (7 U.S.C. 1766), \$837,756,000, of which no less than \$753,252,000 shall be available for Federal food safety inspection; and in addition, \$1,000,000 may be credited to this account from fees collected for the cost of laboratory accreditation as authorized by section 1327 of the Food, Agriculture, Conservation and Trade Act of 1990 (7 U.S.C. 138f): *Provided*, That no fewer than 63 full time equivalent positions above the fiscal year 2002 level shall be employed during fiscal year 2006 for purposes dedicated solely to inspections and enforcement related to the Humane Methods of Slaughter Act: *Provided further*,

That of the amount available under this heading, notwithstanding section 704 of this Act \$4,000,000, available until September 30, 2007, shall be obligated to include the Humane Animal Tracking System as part of the Field Automation and Information Management System following notification to the Committees on Appropriations, which shall include a detailed explanation of the components of such system: *Provided further*, That of the total amount made available under this heading, no less than \$20,653,000 shall be obligated for regulatory and scientific training: *Provided further*, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building.

OFFICE OF THE UNDER SECRETARY FOR FARM AND FOREIGN
AGRICULTURAL SERVICES

For necessary salaries and expenses of the Office of the Under Secretary for Farm and Foreign Agricultural Services to administer the laws enacted by Congress for the Farm Service Agency, the Foreign Agricultural Service, the Risk Management Agency, and the Commodity Credit Corporation, \$635,000.

FARM SERVICE AGENCY

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses for carrying out the administration and implementation of programs administered by the Farm Service Agency, \$1,030,000,000: *Provided*, That the Secretary is authorized to use the services, facilities, and authorities (but not the funds) of the Commodity Credit Corporation to make program payments for all programs administered by the Agency: *Provided further*, That other funds made available to the Agency for authorized activities may be advanced to and merged with this account: *Provided further*, That none of the funds made available by this Act may be used to pay the salaries or expenses of any officer or employee of the Department of Agriculture to close any local or county office of the Farm Service Agency unless the Secretary of Agriculture, not later than 30 days after the date on which the Secretary proposed the closure, holds a public meeting about the proposed closure in the county in which the local or county office is located, and, after the public meeting but not later than 120 days before the date on which the Secretary approves the closure, notifies the Committee on Agriculture and the Committee on Appropriations of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry and the Committee on Appropriations of the Senate, and the members of Congress from the State in which the local or county office is located of the proposed closure.

Deadlines.
Public
information.
Notification.

STATE MEDIATION GRANTS

For grants pursuant to section 502(b) of the Agricultural Credit Act of 1987, as amended (7 U.S.C. 5101–5106), \$4,250,000.

GRASSROOTS SOURCE WATER PROTECTION PROGRAM

For necessary expenses to carry out wellhead or groundwater protection activities under section 1240O of the Food Security Act of 1985 (16 U.S.C. 3839bb–2), \$3,750,000, to remain available until expended.

DAIRY INDEMNITY PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses involved in making indemnity payments to dairy farmers and manufacturers of dairy products under a dairy indemnity program, \$100,000, to remain available until expended: *Provided*, That such program is carried out by the Secretary in the same manner as the dairy indemnity program described in the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 106–387, 114 Stat. 1549A–12).

AGRICULTURAL CREDIT INSURANCE FUND PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For gross obligations for the principal amount of direct and guaranteed farm ownership (7 U.S.C. 1922 et seq.) and operating (7 U.S.C. 1941 et seq.) loans, Indian tribe land acquisition loans (25 U.S.C. 488), and boll weevil loans (7 U.S.C. 1989), to be available from funds in the Agricultural Credit Insurance Fund, as follows: farm ownership loans, \$1,608,000,000, of which \$1,400,000,000 shall be for guaranteed loans and \$208,000,000 shall be for direct loans; operating loans, \$2,074,632,000, of which \$1,150,000,000 shall be for unsubsidized guaranteed loans, \$274,632,000 shall be for subsidized guaranteed loans and \$650,000,000 shall be for direct loans; Indian tribe land acquisition loans, \$2,020,000; and for boll weevil eradication program loans, \$100,000,000: *Provided*, That the Secretary shall deem the pink bollworm to be a boll weevil for the purpose of boll weevil eradication program loans.

For the cost of direct and guaranteed loans, including the cost of modifying loans as defined in section 502 of the Congressional Budget Act of 1974, as follows: farm ownership loans, \$17,370,000, of which \$6,720,000 shall be for guaranteed loans, and \$10,650,000 shall be for direct loans; operating loans, \$133,849,000, of which \$34,845,000 shall be for unsubsidized guaranteed loans, \$34,329,000 shall be for subsidized guaranteed loans, and \$64,675,000 shall be for direct loans; and Indian tribe land acquisition loans, \$81,000.

In addition, for administrative expenses necessary to carry out the direct and guaranteed loan programs, \$312,591,000, of which \$304,591,000 shall be transferred to and merged with the appropriation for “Farm Service Agency, Salaries and Expenses”.

Funds appropriated by this Act to the Agricultural Credit Insurance Program Account for farm ownership and operating direct loans and guaranteed loans may be transferred among these programs: *Provided*, That the Committees on Appropriations of both Houses of Congress are notified at least 15 days in advance of any transfer.

Notification.

RISK MANAGEMENT AGENCY

For administrative and operating expenses, as authorized by section 226A of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6933), \$77,048,000: *Provided*, That not to exceed \$1,000 shall be available for official reception and representation expenses, as authorized by 7 U.S.C. 1506(i).

CORPORATIONS

The following corporations and agencies are hereby authorized to make expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act as may be necessary in carrying out the programs set forth in the budget for the current fiscal year for such corporation or agency, except as hereinafter provided.

FEDERAL CROP INSURANCE CORPORATION FUND

For payments as authorized by section 516 of the Federal Crop Insurance Act (7 U.S.C. 1516), such sums as may be necessary, to remain available until expended.

COMMODITY CREDIT CORPORATION FUND

REIMBURSEMENT FOR NET REALIZED LOSSES

For the current fiscal year, such sums as may be necessary to reimburse the Commodity Credit Corporation for net realized losses sustained, but not previously reimbursed, pursuant to section 2 of the Act of August 17, 1961 (15 U.S.C. 713a–11): *Provided*, That of the funds available to the Commodity Credit Corporation under section 11 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714i) for the conduct of its business with the Foreign Agricultural Service, up to \$5,000,000 may be transferred to and used by the Foreign Agricultural Service for information resource management activities of the Foreign Agricultural Service that are not related to Commodity Credit Corporation business.

HAZARDOUS WASTE MANAGEMENT

(LIMITATION ON EXPENSES)

For the current fiscal year, the Commodity Credit Corporation shall not expend more than \$5,000,000 for site investigation and cleanup expenses, and operations and maintenance expenses to comply with the requirement of section 107(g) of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9607(g)), and section 6001 of the Resource Conservation and Recovery Act (42 U.S.C. 6961).

TITLE II

CONSERVATION PROGRAMS

OFFICE OF THE UNDER SECRETARY FOR NATURAL RESOURCES AND ENVIRONMENT

For necessary salaries and expenses of the Office of the Under Secretary for Natural Resources and Environment to administer the laws enacted by the Congress for the Forest Service and the Natural Resources Conservation Service, \$744,000.

NATURAL RESOURCES CONSERVATION SERVICE

CONSERVATION OPERATIONS

For necessary expenses for carrying out the provisions of the Act of April 27, 1935 (16 U.S.C. 590a–f), including preparation of conservation plans and establishment of measures to conserve soil and water (including farm irrigation and land drainage and such special measures for soil and water management as may be necessary to prevent floods and the siltation of reservoirs and to control agricultural related pollutants); operation of conservation plant materials centers; classification and mapping of soil; dissemination of information; acquisition of lands, water, and interests therein for use in the plant materials program by donation, exchange, or purchase at a nominal cost not to exceed \$100 pursuant to the Act of August 3, 1956 (7 U.S.C. 428a); purchase and erection or alteration or improvement of permanent and temporary buildings; and operation and maintenance of aircraft, \$839,519,000, to remain available until May 31, 2007, of which not less than \$10,650,000 is for snow survey and water forecasting, and not less than \$10,547,000 is for operation and establishment of the plant materials centers, and of which not less than \$27,500,000 shall be for the grazing lands conservation initiative: *Provided*, That appropriations hereunder shall be available pursuant to 7 U.S.C. 2250 for construction and improvement of buildings and public improvements at plant materials centers, except that the cost of alterations and improvements to other buildings and other public improvements shall not exceed \$250,000: *Provided further*, That when buildings or other structures are erected on non-Federal land, that the right to use such land is obtained as provided in 7 U.S.C. 2250a: *Provided further*, That this appropriation shall be available for technical assistance and related expenses to carry out programs authorized by section 202(c) of title II of the Colorado River Basin Salinity Control Act of 1974 (43 U.S.C. 1592(c)): *Provided further*, That qualified local engineers may be temporarily employed at per diem rates to perform the technical planning work of the Service.

WATERSHED SURVEYS AND PLANNING

For necessary expenses to conduct research, investigation, and surveys of watersheds of rivers and other waterways, and for small watershed investigations and planning, in accordance with the Watershed Protection and Flood Prevention Act (16 U.S.C. 1001–1009), \$6,083,000.

WATERSHED AND FLOOD PREVENTION OPERATIONS

For necessary expenses to carry out preventive measures, including but not limited to research, engineering operations, methods of cultivation, the growing of vegetation, rehabilitation of existing works and changes in use of land, in accordance with the Watershed Protection and Flood Prevention Act (16 U.S.C. 1001–1005 and 1007–1009), the provisions of the Act of April 27, 1935 (16 U.S.C. 590a–f), and in accordance with the provisions of laws relating to the activities of the Department, \$75,000,000, to remain available until expended; of which up to \$10,000,000 may be available for the watersheds authorized under the Flood Control Act (33 U.S.C. 701 and 16 U.S.C. 1006a): *Provided*, That not to exceed \$30,000,000 of this appropriation shall be available for technical assistance: *Provided further*, That not to exceed \$1,000,000 of this appropriation is available to carry out the purposes of the Endangered Species Act of 1973 (Public Law 93–205), including cooperative efforts as contemplated by that Act to relocate endangered or threatened species to other suitable habitats as may be necessary to expedite project construction.

WATERSHED REHABILITATION PROGRAM

For necessary expenses to carry out rehabilitation of structural measures, in accordance with section 14 of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1012), and in accordance with the provisions of laws relating to the activities of the Department, \$31,561,000, to remain available until expended.

RESOURCE CONSERVATION AND DEVELOPMENT

For necessary expenses in planning and carrying out projects for resource conservation and development and for sound land use pursuant to the provisions of sections 31 and 32 of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1010–1011; 76 Stat. 607); the Act of April 27, 1935 (16 U.S.C. 590a–f); and subtitle H of title XV of the Agriculture and Food Act of 1981 (16 U.S.C. 3451–3461), \$51,300,000, to remain available until expended: *Provided*, That the Secretary shall enter into a cooperative or contribution agreement, within 45 days of enactment of this Act, with a national association regarding a Resource Conservation and Development program and such agreement shall contain the same matching, contribution requirements, and funding level, set forth in a similar cooperative or contribution agreement with a national association in fiscal year 2002: *Provided further*, That not to exceed \$3,411,000 shall be available for national headquarters activities.

Contracts.
Deadline.

TITLE III

RURAL DEVELOPMENT PROGRAMS

OFFICE OF THE UNDER SECRETARY FOR RURAL DEVELOPMENT

For necessary salaries and expenses of the Office of the Under Secretary for Rural Development to administer programs under the laws enacted by the Congress for the Rural Housing Service, the Rural Business-Cooperative Service, and the Rural Utilities Service, \$635,000.

RURAL COMMUNITY ADVANCEMENT PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For the cost of direct loans, loan guarantees, and grants, as authorized by 7 U.S.C. 1926, 1926a, 1926c, 1926d, and 1932, except for sections 381E–H and 381N of the Consolidated Farm and Rural Development Act, \$701,941,000, to remain available until expended, of which \$82,620,000 shall be for rural community programs described in section 381E(d)(1) of such Act; of which \$530,100,000 shall be for the rural utilities programs described in sections 381E(d)(2), 306C(a)(2), and 306D of such Act, of which not to exceed \$500,000 shall be available for the rural utilities program described in section 306(a)(2)(B) of such Act, and of which not to exceed \$1,000,000 shall be available for the rural utilities program described in section 306E of such Act; and of which \$89,221,000 shall be for the rural business and cooperative development programs described in sections 381E(d)(3) and 310B(f) of such Act: *Provided*, That of the total amount appropriated in this account, \$25,000,000 shall be for loans and grants to benefit Federally Recognized Native American Tribes, including grants for drinking water and waste disposal systems pursuant to section 306C of such Act, of which \$4,464,000 shall be available for community facilities grants to tribal colleges, as authorized by section 306(a)(19) of the Consolidated Farm and Rural Development Act, and of which \$250,000 shall be available for a grant to a qualified national organization to provide technical assistance for rural transportation in order to promote economic development: *Provided further*, That of the amount appropriated for rural community programs, \$6,350,000 shall be available for a Rural Community Development Initiative: *Provided further*, That such funds shall be used solely to develop the capacity and ability of private, nonprofit community-based housing and community development organizations, low-income rural communities, and Federally Recognized Native American Tribes to undertake projects to improve housing, community facilities, community and economic development projects in rural areas: *Provided further*, That such funds shall be made available to qualified private, nonprofit and public intermediary organizations proposing to carry out a program of financial and technical assistance: *Provided further*, That such intermediary organizations shall provide matching funds from other sources, including Federal funds for related activities, in an amount not less than funds provided: *Provided further*, That of the amount appropriated for the rural business and cooperative development programs, not to exceed \$500,000 shall be made available for a grant to a qualified national organization to provide technical assistance for rural transportation in order to promote economic development; \$2,000,000 shall be for grants to the Delta Regional Authority (7 U.S.C. 1921 et seq.) for any purpose under this heading: *Provided further*, That of the amount appropriated for rural utilities programs, not to exceed \$25,000,000 shall be for water and waste disposal systems to benefit the Colonias along the United States/Mexico border, including grants pursuant to section 306C of such Act; \$25,000,000 shall be for water and waste disposal systems for rural and native villages in Alaska pursuant to section 306D of such Act, with up to 2 percent available to administer the program and/or improve inter-agency coordination may be transferred to and merged with the appropriation for “Rural Development, Salaries and Expenses”, of

which \$100,000 shall be provided to develop a regional system for centralized billing, operation, and management of rural water and sewer utilities through regional cooperatives, of which 25 percent shall be provided for water and sewer projects in regional hubs, and the State of Alaska shall provide a 25 percent cost share, and grantees may use up to 5 percent of grant funds, not to exceed \$35,000 per community, for the completion of comprehensive community safe water plans; not to exceed \$18,250,000 shall be for technical assistance grants for rural water and waste systems pursuant to section 306(a)(14) of such Act, unless the Secretary makes a determination of extreme need, of which \$5,600,000 shall be for Rural Community Assistance Programs and not less than \$850,000 shall be for a qualified national Native American organization to provide technical assistance for rural water systems for tribal communities; and not to exceed \$13,750,000 shall be for contracting with qualified national organizations for a circuit rider program to provide technical assistance for rural water systems: *Provided further*, That of the total amount appropriated, not to exceed \$21,367,000 shall be available through June 30, 2006, for authorized empowerment zones and enterprise communities and communities designated by the Secretary of Agriculture as Rural Economic Area Partnership Zones; of which \$1,067,000 shall be for the rural community programs described in section 381E(d)(1) of such Act, of which \$12,000,000 shall be for the rural utilities programs described in section 381E(d)(2) of such Act, and of which \$8,300,000 shall be for the rural business and cooperative development programs described in section 381E(d)(3) of such Act: *Provided further*, That of the amount appropriated for rural community programs, \$18,000,000 shall be to provide grants for facilities in rural communities with extreme unemployment and severe economic depression (Public Law 106–387), with 5 percent for administration and capacity building in the State rural development offices: *Provided further*, That of the amount appropriated, \$26,000,000 shall be transferred to and merged with the “Rural Utilities Service, High Energy Cost Grants Account” to provide grants authorized under section 19 of the Rural Electrification Act of 1936 (7 U.S.C. 918a): *Provided further*, That any prior year balances for high cost energy grants authorized by section 19 of the Rural Electrification Act of 1936 (7 U.S.C. 901(19)) shall be transferred to and merged with the “Rural Utilities Service, High Energy Costs Grants Account”.

RURAL DEVELOPMENT SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses for carrying out the administration and implementation of programs in the Rural Development mission area, including activities with institutions concerning the development and operation of agricultural cooperatives; and for cooperative agreements; \$164,625,000: *Provided*, That of the funds appropriated under this title for salaries and expenses, \$11,147,000, to remain available until September 30, 2007, shall be used to complete the consolidation of Rural Development activities in St. Louis, Missouri: *Provided further*, That notwithstanding any other provision of law, funds appropriated under this section may be used for advertising and promotional activities that support the Rural Development mission area: *Provided further*, That not more than \$10,000 may

be expended to provide modest nonmonetary awards to non-USDA employees: *Provided further*, That any balances available from prior years for the Rural Utilities Service, Rural Housing Service, and the Rural Business-Cooperative Service salaries and expenses accounts shall be transferred to and merged with this appropriation.

RURAL HOUSING SERVICE

RURAL HOUSING INSURANCE FUND PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For gross obligations for the principal amount of direct and guaranteed loans as authorized by title V of the Housing Act of 1949, to be available from funds in the rural housing insurance fund, as follows: \$4,821,832,000 for loans to section 502 borrowers, as determined by the Secretary, of which \$1,140,799,000 shall be for direct loans, and of which \$3,681,033,000 shall be for unsubsidized guaranteed loans; \$35,000,000 for section 504 housing repair loans; \$100,000,000 for section 515 rental housing; \$100,000,000 for section 538 guaranteed multi-family housing loans; \$5,000,000 for section 524 site loans; \$11,500,000 for credit sales of acquired property, of which up to \$1,500,000 may be for multi-family credit sales; and \$5,048,000 for section 523 self-help housing land development loans.

For the cost of direct and guaranteed loans, including the cost of modifying loans, as defined in section 502 of the Congressional Budget Act of 1974, as follows: section 502 loans, \$170,837,000, of which \$129,937,000 shall be for direct loans, and of which \$40,900,000, to remain available until expended, shall be for unsubsidized guaranteed loans; section 504 housing repair loans, \$10,238,000; repair, rehabilitation, and new construction of section 515 rental housing, \$45,880,000; section 538 multi-family housing guaranteed loans, \$5,420,000; multi-family credit sales of acquired property, \$681,000; and section 523 self-help housing and development loans, \$52,000: *Provided*, That of the total amount appropriated in this paragraph, \$2,500,000 shall be available through June 30, 2006, for authorized empowerment zones and enterprise communities and communities designated by the Secretary of Agriculture as Rural Economic Area Partnership Zones: *Provided further*, That any funds under this paragraph initially allocated by the Secretary for housing projects in the State of Alaska that are not obligated by September 30, 2006, shall be carried over until September 30, 2007, and made available for such housing projects only in the State of Alaska.

Alaska.

For additional costs to conduct a demonstration program for the preservation and revitalization of the section 515 multi-family rental housing properties, \$9,000,000: *Provided*, That funding made available under this heading shall be used to restructure existing section 515 loans, as the Secretary deems appropriate, expressly for the purposes of ensuring the project has sufficient resources to preserve the project for the purpose of providing safe and affordable housing for low-income residents including reducing or eliminating interest; deferring loan payments, subordinating, reducing or reamortizing loan debt; and other financial assistance including advances and incentives required by the Secretary.

In addition, for administrative expenses necessary to carry out the direct and guaranteed loan programs, \$454,809,000, which

shall be transferred to and merged with the appropriation for “Rural Development, Salaries and Expenses”, of which not less than \$1,000,000 shall be made available for the Secretary to contract with third parties to acquire the necessary automation and technical services needed to restructure section 515 mortgages.

RENTAL ASSISTANCE PROGRAM

For rental assistance agreements entered into or renewed pursuant to the authority under section 521(a)(2) or agreements entered into in lieu of debt forgiveness or payments for eligible households as authorized by section 502(c)(5)(D) of the Housing Act of 1949, \$653,102,000; and, in addition, such sums as may be necessary, as authorized by section 521(c) of the Act, to liquidate debt incurred prior to fiscal year 1992 to carry out the rental assistance program under section 521(a)(2) of the Act: *Provided*, That of this amount, up to \$8,000,000 shall be available for debt forgiveness or payments for eligible households as authorized by section 502(c)(5)(D) of the Act, and not to exceed \$50,000 per project for advances to nonprofit organizations or public agencies to cover direct costs (other than purchase price) incurred in purchasing projects pursuant to section 502(c)(5)(C) of the Act: *Provided further*, That agreements entered into or renewed during the current fiscal year shall be funded for a four-year period: *Provided further*, That any unexpended balances remaining at the end of such four-year agreements may be transferred and used for the purposes of any debt reduction; maintenance, repair, or rehabilitation of any existing projects; preservation; and rental assistance activities authorized under title V of the Act: *Provided further*, That rental assistance that is recovered from projects that are subject to prepayment shall be deobligated and reallocated for vouchers and debt forgiveness or payments consistent with the requirements of this Act for purposes authorized under section 542 and section 502(c)(5)(D) of the Housing Act of 1949, as amended.

RURAL HOUSING VOUCHER PROGRAM

For the rural housing voucher program as authorized under section 542 of the Housing Act of 1949, (without regard to section 542(b)), \$16,000,000, to remain available until expended: *Provided*, That such vouchers shall be available to any low-income household (including those not receiving rental assistance) residing in a property financed with a section 515 loan which has been prepaid after September 30, 2005: *Provided further*, That the amount of the voucher shall be the difference between comparable market rent for the section 515 unit and the tenant paid rent for such unit: *Provided further*, That funds made available for such vouchers, shall be subject to the availability of annual appropriations: *Provided further*, That the Secretary shall, to the maximum extent practicable, administer such vouchers with current regulations and administrative guidance applicable for section 8 housing vouchers administered by the Secretary of the Department of Housing and Urban Development (including the ability to pay administrative costs related to delivery of the voucher funds).

MUTUAL AND SELF-HELP HOUSING GRANTS

For grants and contracts pursuant to section 523(b)(1)(A) of the Housing Act of 1949 (42 U.S.C. 1490c), \$34,000,000, to remain available until expended: *Provided*, That of the total amount appropriated, \$1,000,000 shall be available through June 30, 2006, for authorized empowerment zones and enterprise communities and communities designated by the Secretary of Agriculture as Rural Economic Area Partnership Zones.

RURAL HOUSING ASSISTANCE GRANTS

For grants and contracts for very low-income housing repair, supervisory and technical assistance, compensation for construction defects, and rural housing preservation made by the Rural Housing Service, as authorized by 42 U.S.C. 1474, 1479(c), 1490e, and 1490m, \$43,976,000, to remain available until expended: *Provided*, That \$2,976,000 shall be made available for loans to private non-profit organizations, or such non-profit organizations' affiliate loan funds and State and local housing finance agencies, to carry out a housing demonstration program to provide revolving loans for the preservation of low-income multi-family housing projects: *Provided further*, That loans under such demonstration program shall have an interest rate of not more than 1 percent direct loan to the recipient: *Provided further*, That the Secretary may defer the interest and principal payment to the Rural Housing Service for up to 3 years and the term of such loans shall not exceed 30 years: *Provided further*, That of the total amount appropriated, \$1,200,000 shall be available through June 30, 2006, for authorized empowerment zones and enterprise communities and communities designated by the Secretary of Agriculture as Rural Economic Area Partnership Zones.

FARM LABOR PROGRAM ACCOUNT

For the cost of direct loans, grants, and contracts, as authorized by 42 U.S.C. 1484 and 1486, \$31,168,000, to remain available until expended, for direct farm labor housing loans and domestic farm labor housing grants and contracts.

RURAL BUSINESS—COOPERATIVE SERVICE

RURAL DEVELOPMENT LOAN FUND PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the principal amount of direct loans, as authorized by the Rural Development Loan Fund (42 U.S.C. 9812(a)), \$34,212,000.

For the cost of direct loans, \$14,718,000, as authorized by the Rural Development Loan Fund (42 U.S.C. 9812(a)), of which \$1,724,000 shall be available through June 30, 2006, for Federally Recognized Native American Tribes and of which \$3,449,000 shall be available through June 30, 2006, for Mississippi Delta Region counties (as determined in accordance with Public Law 100–460): *Provided*, That of such amount made available, the Secretary may provide up to \$1,500,000 for the Delta Regional Authority (7 U.S.C. 1921 et seq.): *Provided further*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That

of the total amount appropriated, \$887,000 shall be available through June 30, 2006, for the cost of direct loans for authorized empowerment zones and enterprise communities and communities designated by the Secretary of Agriculture as Rural Economic Area Partnership Zones.

In addition, for administrative expenses to carry out the direct loan programs, \$4,793,000 shall be transferred to and merged with the appropriation for “Rural Development, Salaries and Expenses”.

RURAL ECONOMIC DEVELOPMENT LOANS PROGRAM ACCOUNT

(INCLUDING RESCISSION OF FUNDS)

For the principal amount of direct loans, as authorized under section 313 of the Rural Electrification Act, for the purpose of promoting rural economic development and job creation projects, \$25,003,000.

For the cost of direct loans, including the cost of modifying loans as defined in section 502 of the Congressional Budget Act of 1974, \$4,993,000, to remain available until expended.

Of the funds derived from interest on the cushion of credit payments, as authorized by section 313 of the Rural Electrification Act of 1936, \$170,000,000 shall not be obligated and \$170,000,000 are rescinded.

RURAL COOPERATIVE DEVELOPMENT GRANTS

For rural cooperative development grants authorized under section 310B(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932), \$29,488,000, of which \$500,000 shall be for a cooperative research agreement with a qualified academic institution to conduct research on the national economic impact of all types of cooperatives; and of which \$2,500,000 shall be for cooperative agreements for the appropriate technology transfer for rural areas program: *Provided*, That not to exceed \$1,488,000 shall be for cooperatives or associations of cooperatives whose primary focus is to provide assistance to small, minority producers and whose governing board and/or membership is comprised of at least 75 percent minority; and of which \$20,500,000, to remain available until expended, shall be for value-added agricultural product market development grants, as authorized by section 6401 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 1621 note).

RURAL EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES GRANTS

For grants in connection with second and third rounds of empowerment zones and enterprise communities, \$11,200,000, to remain available until expended, for designated rural empowerment zones and rural enterprise communities, as authorized by the Taxpayer Relief Act of 1997 and the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105–277): *Provided*, That of the funds appropriated, \$1,000,000 shall be made available to third round empowerment zones, as authorized by the Community Renewal Tax Relief Act (Public Law 106–554).

RENEWABLE ENERGY PROGRAM

For the cost of a program of direct loans, loan guarantees, and grants, under the same terms and conditions as authorized

by section 9006 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8106), \$23,000,000 for direct and guaranteed renewable energy loans and grants: *Provided*, That the cost of direct loans and loan guarantees, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974.

RURAL UTILITIES SERVICE

RURAL ELECTRIFICATION AND TELECOMMUNICATIONS LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

Insured loans pursuant to the authority of section 305 of the Rural Electrification Act of 1936 (7 U.S.C. 935) shall be made as follows: 5 percent rural electrification loans, \$100,000,000; municipal rate rural electric loans, \$100,000,000; loans made pursuant to section 306 of that Act, rural electric, \$2,700,000,000; Treasury rate direct electric loans, \$1,000,000,000; guaranteed underwriting loans pursuant to section 313A, \$1,500,000,000; 5 percent rural telecommunications loans, \$145,000,000; cost of money rural telecommunications loans, \$424,000,000; and for loans made pursuant to section 306 of that Act, rural telecommunications loans, \$125,000,000.

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, including the cost of modifying loans, of direct and guaranteed loans authorized by sections 305 and 306 of the Rural Electrification Act of 1936 (7 U.S.C. 935 and 936), as follows: cost of rural electric loans, \$6,160,000, and the cost of telecommunications loans, \$212,000: *Provided*, That notwithstanding section 305(d)(2) of the Rural Electrification Act of 1936, borrower interest rates may exceed 7 percent per year.

In addition, for administrative expenses necessary to carry out the direct and guaranteed loan programs, \$38,784,000 which shall be transferred to and merged with the appropriation for “Rural Development, Salaries and Expenses”.

RURAL TELEPHONE BANK PROGRAM ACCOUNT

(INCLUDING TRANSFER AND RESCISSION OF FUNDS)

The Rural Telephone Bank is hereby authorized to make such expenditures, within the limits of funds available to such corporation in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as may be necessary in carrying out its authorized programs.

For administrative expenses, including audits, necessary to continue to service existing loans, \$2,500,000, which shall be transferred to and merged with the appropriation for “Rural Development, Salaries and Expenses”.

Of the unobligated balances from the Rural Telephone Bank Liquidating Account, \$2,500,000 shall not be obligated and \$2,500,000 are rescinded.

DISTANCE LEARNING, TELEMEDICINE, AND BROADBAND PROGRAM

For the principal amount of direct distance learning and telemedicine loans, \$25,000,000; and for the principal amount of broadband telecommunication loans, \$500,000,000.

For the cost of direct loans and grants for telemedicine and distance learning services in rural areas, as authorized by 7 U.S.C. 950aaa et seq., \$30,375,000, to remain available until expended, of which \$375,000 shall be for direct loans: *Provided*, That the cost of direct loans shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That \$5,000,000 shall be made available to convert analog to digital operation those noncommercial educational television broadcast stations that serve rural areas and are qualified for Community Service Grants by the Corporation for Public Broadcasting under section 396(k) of the Communications Act of 1934, including associated translators and repeaters, regardless of the location of their main transmitter, studio-to-transmitter links, and equipment to allow local control over digital content and programming through the use of high-definition broadcast, multi-casting and datacasting technologies.

For the cost of broadband loans, as authorized by 7 U.S.C. 901 et seq., \$10,750,000, to remain available until September 30, 2007: *Provided*, That the interest rate for such loans shall be the cost of borrowing to the Department of the Treasury for obligations of comparable maturity: *Provided further*, That the cost of direct loans shall be as defined in section 502 of the Congressional Budget Act of 1974.

In addition, \$9,000,000, to remain available until expended, for a grant program to finance broadband transmission in rural areas eligible for Distance Learning and Telemedicine Program benefits authorized by 7 U.S.C. 950aaa.

TITLE IV

DOMESTIC FOOD PROGRAMS

OFFICE OF THE UNDER SECRETARY FOR FOOD, NUTRITION AND
CONSUMER SERVICES

For necessary salaries and expenses of the Office of the Under Secretary for Food, Nutrition and Consumer Services to administer the laws enacted by the Congress for the Food and Nutrition Service, \$599,000.

FOOD AND NUTRITION SERVICE

CHILD NUTRITION PROGRAMS

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the National School Lunch Act (42 U.S.C. 1751 et seq.), except section 21, and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), except sections 17 and 21; \$12,660,829,000, to remain available through September 30, 2007, of which \$7,473,208,000 is hereby appropriated and \$5,187,621,000 shall be derived by transfer from funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c): *Provided*, That none of the funds made available under this heading

shall be used for studies and evaluations: *Provided further*, That up to \$5,235,000 shall be available for independent verification of school food service claims.

SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS,
AND CHILDREN (WIC)

For necessary expenses to carry out the special supplemental nutrition program as authorized by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), \$5,257,000,000, to remain available through September 30, 2007, of which such sums as are necessary to restore the contingency reserve to \$125,000,000 shall be placed in reserve, to remain available until expended, to be allocated as the Secretary deems necessary, notwithstanding section 17(i) of such Act, to support participation should cost or participation exceed budget estimates: *Provided*, That of the total amount available, the Secretary shall obligate not less than \$15,000,000 for a breastfeeding support initiative in addition to the activities specified in section 17(h)(3)(A): *Provided further*, That only the provisions of section 17(h)(10)(B)(i) and section 17(h)(10)(B)(ii) shall be effective in 2006; including \$14,000,000 for the purposes specified in section 17(h)(10)(B)(i) and \$20,000,000 for the purposes specified in section 17(h)(10)(B)(ii): *Provided further*, That funds made available for the purposes specified in section 17(h)(10)(B)(ii) shall only be made available upon a determination by the Secretary that funds are available to meet caseload requirements without the use of the contingency reserve funds: *Provided further*, That none of the funds made available under this heading shall be used for studies and evaluations: *Provided further*, That none of the funds in this Act shall be available to pay administrative expenses of WIC clinics except those that have an announced policy of prohibiting smoking within the space used to carry out the program: *Provided further*, That none of the funds provided in this account shall be available for the purchase of infant formula except in accordance with the cost containment and competitive bidding requirements specified in section 17 of such Act: *Provided further*, That none of the funds provided shall be available for activities that are not fully reimbursed by other Federal Government departments or agencies unless authorized by section 17 of such Act.

FOOD STAMP PROGRAM

For necessary expenses to carry out the Food Stamp Act (7 U.S.C. 2011 et seq.), \$40,711,395,000, of which \$3,000,000,000 to remain available through September 30, 2007, shall be placed in reserve for use only in such amounts and at such times as may become necessary to carry out program operations: *Provided*, That none of the funds made available under this heading shall be used for studies and evaluations: *Provided further*, That of the funds made available under this heading and not already appropriated to the Food Distribution Program on Indian Reservations (FDPIR) established under section 4(b) of the Food Stamp Act of 1977 (7 U.S.C. 2013(b)), not less than \$3,000,000 shall be used to purchase bison meat for the FDPIR from Native American bison producers as well as from producer-owned cooperatives of bison ranchers: *Provided further*, That funds provided herein shall be expended in accordance with section 16 of the Food Stamp Act: *Provided further*, That this appropriation shall be subject to any

work registration or workfare requirements as may be required by law: *Provided further*, That funds made available for Employment and Training under this heading shall remain available until expended, as authorized by section 16(h)(1) of the Food Stamp Act: *Provided further*, That notwithstanding section 5(d) of the Food Stamp Act of 1977, any additional payment received under chapter 5 of title 37, United States Code, by a member of the United States Armed Forces deployed to a designated combat zone shall be excluded from household income for the duration of the member's deployment if the additional pay is the result of deployment to or while serving in a combat zone, and it was not received immediately prior to serving in the combat zone.

COMMODITY ASSISTANCE PROGRAM

For necessary expenses to carry out disaster assistance and the commodity supplemental food program as authorized by section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note); the Emergency Food Assistance Act of 1983; special assistance (in a form determined by the Secretary of Agriculture) for the nuclear affected islands, as authorized by section 103(f)(2) of the Compact of Free Association Amendments Act of 2003 (Public Law 108–188); and the Farmers' Market Nutrition Program, as authorized by section 17(m) of the Child Nutrition Act of 1966, \$179,366,000, to remain available through September 30, 2007: *Provided*, That none of these funds shall be available to reimburse the Commodity Credit Corporation for commodities donated to the program: *Provided further*, That notwithstanding any other provision of law, effective with funds made available in fiscal year 2006 to support the Seniors Farmers' Market Nutrition Program, as authorized by section 4402 of Public Law 107–171, such funds shall remain available through September 30, 2007: *Provided further*, That of the funds made available under section 27(a) of the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), the Secretary may use up to \$10,000,000 for costs associated with the distribution of commodities.

NUTRITION PROGRAMS ADMINISTRATION

For necessary administrative expenses of the domestic nutrition assistance programs funded under this Act, \$140,761,000.

TITLE V

FOREIGN ASSISTANCE AND RELATED PROGRAMS

FOREIGN AGRICULTURAL SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Foreign Agricultural Service, including carrying out title VI of the Agricultural Act of 1954 (7 U.S.C. 1761–1768), market development activities abroad, and for enabling the Secretary to coordinate and integrate activities of the Department in connection with foreign agricultural work, including not to exceed \$158,000 for representation allowances and for expenses pursuant to section 8 of the Act approved August

3, 1956 (7 U.S.C. 1766), \$147,901,000: *Provided*, That the Service may utilize advances of funds, or reimburse this appropriation for expenditures made on behalf of Federal agencies, public and private organizations and institutions under agreements executed pursuant to the agricultural food production assistance programs (7 U.S.C. 1737) and the foreign assistance programs of the United States Agency for International Development.

PUBLIC LAW 480 TITLE I DIRECT CREDIT AND FOOD FOR PROGRESS
PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, of agreements under the Agricultural Trade Development and Assistance Act of 1954, and the Food for Progress Act of 1985, including the cost of modifying credit arrangements under said Acts, \$65,040,000, to remain available until expended: *Provided*, That the Secretary of Agriculture may implement a commodity monetization program under existing provisions of the Food for Progress Act of 1985 to provide no less than \$5,000,000 in local-currency funding support for rural electrification development overseas.

In addition, for administrative expenses to carry out the credit program of title I, Public Law 83-480, and the Food for Progress Act of 1985, to the extent funds appropriated for Public Law 83-480 are utilized, \$3,385,000, of which \$168,000 may be transferred to and merged with the appropriation for "Foreign Agricultural Service, Salaries and Expenses", and of which \$3,217,000 may be transferred to and merged with the appropriation for "Farm Service Agency, Salaries and Expenses".

PUBLIC LAW 480 TITLE I OCEAN FREIGHT DIFFERENTIAL GRANTS

(INCLUDING TRANSFER OF FUNDS)

For ocean freight differential costs for the shipment of agricultural commodities under title I of the Agricultural Trade Development and Assistance Act of 1954 and under the Food for Progress Act of 1985, \$11,940,000, to remain available until expended: *Provided*, That funds made available for the cost of agreements under title I of the Agricultural Trade Development and Assistance Act of 1954 and for title I ocean freight differential may be used interchangeably between the two accounts with prior notice to the Committees on Appropriations of both Houses of Congress.

PUBLIC LAW 480 TITLE II GRANTS

For expenses during the current fiscal year, not otherwise recoverable, and unrecovered prior years' costs, including interest thereon, under the Agricultural Trade Development and Assistance Act of 1954, for commodities supplied in connection with dispositions abroad under title II of said Act, \$1,150,000,000, to remain available until expended.

COMMODITY CREDIT CORPORATION EXPORT LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For administrative expenses to carry out the Commodity Credit Corporation's export guarantee program, GSM 102 and GSM 103, \$5,279,000; to cover common overhead expenses as permitted by section 11 of the Commodity Credit Corporation Charter Act and in conformity with the Federal Credit Reform Act of 1990, of which \$3,440,000 may be transferred to and merged with the appropriation for "Foreign Agricultural Service, Salaries and Expenses", and of which \$1,839,000 may be transferred to and merged with the appropriation for "Farm Service Agency, Salaries and Expenses".

MC GOVERN-DOLE INTERNATIONAL FOOD FOR EDUCATION AND CHILD
NUTRITION PROGRAM GRANTS

For necessary expenses to carry out the provisions of section 3107 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 1736o–1), \$100,000,000, to remain available until expended: *Provided*, That the Commodity Credit Corporation is authorized to provide the services, facilities, and authorities for the purpose of implementing such section, subject to reimbursement from amounts provided herein.

TITLE VI

RELATED AGENCIES AND FOOD AND DRUG
ADMINISTRATION

DEPARTMENT OF HEALTH AND HUMAN SERVICES

FOOD AND DRUG ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Food and Drug Administration, including hire and purchase of passenger motor vehicles; for payment of space rental and related costs pursuant to Public Law 92–313 for programs and activities of the Food and Drug Administration which are included in this Act; for rental of special purpose space in the District of Columbia or elsewhere; for miscellaneous and emergency expenses of enforcement activities, authorized and approved by the Secretary and to be accounted for solely on the Secretary's certificate, not to exceed \$25,000; and notwithstanding section 521 of Public Law 107–188; \$1,838,567,000: *Provided*, That of the amount provided under this heading, \$305,332,000 shall be derived from prescription drug user fees authorized by 21 U.S.C. 379h, shall be credited to this account and remain available until expended, and shall not include any fees pursuant to 21 U.S.C. 379h(a)(2) and (a)(3) assessed for fiscal year 2007 but collected in fiscal year 2006; \$40,300,000 shall be derived from medical device user fees authorized by 21 U.S.C. 379j, and shall be credited to this account and remain available until expended; and \$11,318,000 shall be derived from animal drug user fees authorized by 21 U.S.C. 379j, and shall be credited to this account and remain available until expended: *Provided further*, That fees derived from prescription drug, medical device, and animal drug assessments received during fiscal year 2006, including any such fees assessed

prior to the current fiscal year but credited during the current year, shall be subject to the fiscal year 2006 limitation: *Provided further*, That none of these funds shall be used to develop, establish, or operate any program of user fees authorized by 31 U.S.C. 9701: *Provided further*, That of the total amount appropriated: (1) \$443,153,000 shall be for the Center for Food Safety and Applied Nutrition and related field activities in the Office of Regulatory Affairs; (2) \$520,564,000 shall be for the Center for Drug Evaluation and Research and related field activities in the Office of Regulatory Affairs; (3) \$178,714,000 shall be for the Center for Biologics Evaluation and Research and for related field activities in the Office of Regulatory Affairs; (4) \$99,787,000 shall be for the Center for Veterinary Medicine and for related field activities in the Office of Regulatory Affairs; (5) \$245,770,000 shall be for the Center for Devices and Radiological Health and for related field activities in the Office of Regulatory Affairs; (6) \$41,152,000 shall be for the National Center for Toxicological Research; (7) \$58,515,000 shall be for Rent and Related activities, of which \$21,974,000 is for White Oak Consolidation, other than the amounts paid to the General Services Administration for rent; (8) \$134,853,000 shall be for payments to the General Services Administration for rent; and (9) \$116,059,000 shall be for other activities, including the Office of the Commissioner; the Office of Management; the Office of External Relations; the Office of Policy and Planning; and central services for these offices: *Provided further*, That funds may be transferred from one specified activity to another with the prior approval of the Committees on Appropriations of both Houses of Congress.

In addition, mammography user fees authorized by 42 U.S.C. 263b may be credited to this account, to remain available until expended.

In addition, export certification user fees authorized by 21 U.S.C. 381 may be credited to this account, to remain available until expended.

BUILDINGS AND FACILITIES

For plans, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities of or used by the Food and Drug Administration, where not otherwise provided, \$8,000,000, to remain available until expended.

INDEPENDENT AGENCIES

COMMODITY FUTURES TRADING COMMISSION

For necessary expenses to carry out the provisions of the Commodity Exchange Act (7 U.S.C. 1 et seq.), including the purchase and hire of passenger motor vehicles, and the rental of space (to include multiple year leases) in the District of Columbia and elsewhere, \$98,386,000, including not to exceed \$3,000 for official reception and representation expenses.

FARM CREDIT ADMINISTRATION

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed \$44,250,000 (from assessments collected from farm credit institutions and from the Federal Agricultural Mortgage Corporation) shall be obligated during the current fiscal year for administrative expenses as authorized under 12 U.S.C. 2249: *Provided*, That this limitation shall not apply to expenses associated with receiverships.

TITLE VII

GENERAL PROVISIONS

(INCLUDING RESCISSIONS AND TRANSFERS OF FUNDS)

SEC. 701. Within the unit limit of cost fixed by law, appropriations and authorizations made for the Department of Agriculture for the current fiscal year under this Act shall be available for the purchase, in addition to those specifically provided for, of not to exceed 320 passenger motor vehicles, of which 320 shall be for replacement only, and for the hire of such vehicles.

SEC. 702. Hereafter, funds appropriated by this or any other Appropriations Act to the Department of Agriculture (excluding the Forest Service) shall be available for uniforms or allowances as authorized by law (5 U.S.C. 5901–5902). 7 USC 2209g.

SEC. 703. Hereafter, funds appropriated by this or any other Appropriations Act to the Department of Agriculture (excluding the Forest Service) shall be available for employment pursuant to the second sentence of section 706(a) of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 2225) and 5 U.S.C. 3109. 7 USC 2225a.

SEC. 704. New obligational authority provided for the following appropriation items in this Act shall remain available until expended: Animal and Plant Health Inspection Service, the contingency fund to meet emergency conditions, information technology infrastructure, fruit fly program, emerging plant pests, boll weevil program, low pathogen avian influenza program, up to \$33,340,000 in animal health monitoring and surveillance for the animal identification system, up to \$1,500,000 in the scrapie program for indemnities, up to \$3,000,000 in the emergency management systems program for the vaccine bank, up to \$1,000,000 for wildlife services methods development, up to \$1,000,000 of the wildlife services operations program for aviation safety, and up to 25 percent of the screwworm program; Food Safety and Inspection Service, field automation and information management project; Cooperative State Research, Education, and Extension Service, funds for competitive research grants (7 U.S.C. 450i(b)), funds for the Research, Education, and Economics Information System, and funds for the Native American Institutions Endowment Fund; Farm Service Agency, salaries and expenses funds made available to county committees; Foreign Agricultural Service, middle-income country training program, and up to \$2,000,000 of the Foreign Agricultural Service appropriation solely for the purpose of offsetting fluctuations in international currency exchange rates, subject to documentation by the Foreign Agricultural Service. 7 USC 2209b.

SEC. 705. The Secretary of Agriculture may transfer unobligated balances of discretionary funds appropriated by this Act or other available unobligated discretionary balances of the Department of Agriculture to the Working Capital Fund for the acquisition of plant and capital equipment necessary for the delivery of financial, administrative, and information technology services of primary benefit to the agencies of the Department of Agriculture: *Provided*, That none of the funds made available by this Act or any other Act shall be transferred to the Working Capital Fund without the prior approval of the agency administrator: *Provided further*, That none of the funds transferred to the Working Capital Fund pursuant to this section shall be available for obligation without the prior approval of the Committees on Appropriations of both Houses of Congress.

SEC. 706. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

7 USC 1766b
note.

SEC. 707. Hereafter, not to exceed \$50,000 in each fiscal year of the funds appropriated by this or any other Appropriations Act to the Department of Agriculture (excluding the Forest Service) shall be available to provide appropriate orientation and language training pursuant to section 606C of the Act of August 28, 1954 (7 U.S.C. 1766b).

SEC. 708. No funds appropriated by this Act may be used to pay negotiated indirect cost rates on cooperative agreements or similar arrangements between the United States Department of Agriculture and nonprofit institutions in excess of 10 percent of the total direct cost of the agreement when the purpose of such cooperative arrangements is to carry out programs of mutual interest between the two parties. This does not preclude appropriate payment of indirect costs on grants and contracts with such institutions when such indirect costs are computed on a similar basis for all agencies for which appropriations are provided in this Act.

SEC. 709. None of the funds in this Act shall be available to pay indirect costs charged against competitive agricultural research, education, or extension grant awards issued by the Cooperative State Research, Education, and Extension Service that exceed 20 percent of total Federal funds provided under each award: *Provided*, That notwithstanding section 1462 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3310), funds provided by this Act for grants awarded competitively by the Cooperative State Research, Education, and Extension Service shall be available to pay full allowable indirect costs for each grant awarded under section 9 of the Small Business Act (15 U.S.C. 638).

7 USC 2208a.

SEC. 710. Hereafter, loan levels provided in this or any other Appropriations Act to the Department of Agriculture shall be considered estimates, not limitations.

SEC. 711. Appropriations to the Department of Agriculture for the cost of direct and guaranteed loans made available in the current fiscal year shall remain available until expended to cover obligations made in the current fiscal year for the following accounts: the Rural Development Loan Fund program account, the Rural Electrification and Telecommunication Loans program account, and the Rural Housing Insurance Fund program account.

SEC. 712. Of the funds made available by this Act, not more than \$1,800,000 shall be used to cover necessary expenses of activities related to all advisory committees, panels, commissions, and task forces of the Department of Agriculture, except for panels used to comply with negotiated rule makings and panels used to evaluate competitively awarded grants.

SEC. 713. None of the funds appropriated by this Act may be used to carry out section 410 of the Federal Meat Inspection Act (21 U.S.C. 679a) or section 30 of the Poultry Products Inspection Act (21 U.S.C. 471).

SEC. 714. No employee of the Department of Agriculture may be detailed or assigned from an agency or office funded by this Act to any other agency or office of the Department for more than 30 days unless the individual's employing agency or office is fully reimbursed by the receiving agency or office for the salary and expenses of the employee for the period of assignment.

SEC. 715. None of the funds appropriated or otherwise made available to the Department of Agriculture or the Food and Drug Administration shall be used to transmit or otherwise make available to any non-Department of Agriculture or non-Department of Health and Human Services employee questions or responses to questions that are a result of information requested for the appropriations hearing process.

SEC. 716. None of the funds made available to the Department of Agriculture by this Act may be used to acquire new information technology systems or significant upgrades, as determined by the Office of the Chief Information Officer, without the approval of the Chief Information Officer and the concurrence of the Executive Information Technology Investment Review Board: *Provided*, That notwithstanding any other provision of law, none of the funds appropriated or otherwise made available by this Act may be transferred to the Office of the Chief Information Officer without the prior approval of the Committees on Appropriations of both Houses of Congress: *Provided further*, That none of the funds available to the Department of Agriculture for information technology shall be obligated for projects over \$25,000 prior to receipt of written approval by the Chief Information Officer.

SEC. 717. (a) None of the funds provided by this Act, or provided by previous Appropriations Acts to the agencies funded by this Act that remain available for obligation or expenditure in the current fiscal year, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure through a reprogramming of funds which—

- (1) creates new programs;
- (2) eliminates a program, project, or activity;
- (3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted;
- (4) relocates an office or employees;
- (5) reorganizes offices, programs, or activities; or
- (6) contracts out or privatizes any functions or activities presently performed by Federal employees; unless the Committees on Appropriations of both Houses of Congress are notified 15 days in advance of such reprogramming of funds.

Notification.

(b) None of the funds provided by this Act, or provided by previous Appropriations Acts to the agencies funded by this Act

Notification.

that remain available for obligation or expenditure in the current fiscal year, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure for activities, programs, or projects through a reprogramming of funds in excess of \$500,000 or 10 percent, whichever is less, that: (1) augments existing programs, projects, or activities; (2) reduces by 10 percent funding for any existing program, project, or activity, or numbers of personnel by 10 percent as approved by Congress; or (3) results from any general savings from a reduction in personnel which would result in a change in existing programs, activities, or projects as approved by Congress; unless the Committees on Appropriations of both Houses of Congress are notified 15 days in advance of such reprogramming of funds.

Notification.

(c) The Secretary of Agriculture, the Secretary of Health and Human Services, or the Chairman of the Commodity Futures Trading Commission shall notify the Committees on Appropriations of both Houses of Congress before implementing a program or activity not carried out during the previous fiscal year unless the program or activity is funded by this Act or specifically funded by any other Act.

SEC. 718. With the exception of funds needed to administer and conduct oversight of grants awarded and obligations incurred in prior fiscal years, none of the funds appropriated or otherwise made available by this or any other Act may be used to pay the salaries and expenses of personnel to carry out the provisions of section 401 of Public Law 105–185, the Initiative for Future Agriculture and Food Systems (7 U.S.C. 7621).

SEC. 719. None of the funds appropriated by this or any other Act shall be used to pay the salaries and expenses of personnel who prepare or submit appropriations language as part of the President's Budget submission to the Congress of the United States for programs under the jurisdiction of the Appropriations Subcommittees on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies that assumes revenues or reflects a reduction from the previous year due to user fees proposals that have not been enacted into law prior to the submission of the Budget unless such Budget submission identifies which additional spending reductions should occur in the event the user fees proposals are not enacted prior to the date of the convening of a committee of conference for the fiscal year 2007 appropriations Act.

SEC. 720. None of the funds made available by this or any other Act may be used to close or relocate a State Rural Development office unless or until cost effectiveness and enhancement of program delivery have been determined.

SEC. 721. In addition to amounts otherwise appropriated or made available by this Act, \$2,500,000 is appropriated for the purpose of providing Bill Emerson and Mickey Leland Hunger Fellowships, through the Congressional Hunger Center.

7 USC 1736f
note.

SEC. 722. Hereafter, notwithstanding section 412 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736f), any balances available to carry out title III of such Act as of the date of enactment of this Act, and any recoveries and reimbursements that become available to carry out title III of such Act, may be used to carry out title II of such Act.

SEC. 723. There is hereby appropriated \$1,250,000 for a grant to the National Sheep Industry Improvement Center, to remain available until expended.

SEC. 724. The Secretary of Agriculture shall—

(1) as soon as practicable after the date of enactment of this Act, conduct an evaluation of any impacts of the court decision in *Harvey v. Veneman*, 396 F.3d 28 (1st Cir. Me. 2005); and

(2) not later than 90 days after the date of enactment of this Act, submit to Congress a report that—

Deadline.
Reports.

(A) describes the results of the evaluation conducted under paragraph (1);

(B) includes a determination by the Secretary on whether restoring the National Organic Program, as in effect on the day before the date of the court decision described in paragraph (1), would adversely affect organic farmers, organic food processors, and consumers;

(C) analyzes issues regarding the use of synthetic ingredients in processing and handling;

(D) analyzes the utility of expedited petitions for commercially unavailable agricultural commodities and products; and

(E) considers the use of crops and forage from land included in the organic system plan of dairy farms that are in the third year of organic management.

SEC. 725. Hereafter, of any shipments of commodities made pursuant to section 416(b) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)), the Secretary of Agriculture shall, to the extent practicable, direct that tonnage equal in value to not more than \$25,000,000 shall be made available to foreign countries to assist in mitigating the effects of the Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome on communities, including the provision of—

HIV/AIDS.
7 USC 1431f.

(1) agricultural commodities to—

(A) individuals with Human Immunodeficiency Virus or Acquired Immune Deficiency Syndrome in the communities; and

(B) households in the communities, particularly individuals caring for orphaned children; and

(2) agricultural commodities monetized to provide other assistance (including assistance under microcredit and micro-enterprise programs) to create or restore sustainable livelihoods among individuals in the communities, particularly individuals caring for orphaned children.

SEC. 726. Notwithstanding any other provision of law, the Natural Resources Conservation Service shall provide financial and technical assistance—

(1) from funds available for the Watershed and Flood Prevention Operations program—

(A) to the Kane County, Illinois, Indian Creek Watershed Flood Prevention Project, in an amount not to exceed \$1,000,000;

(B) for the Muskingam River Watershed, Mohican River, Jerome and Muddy Fork, Ohio, obstruction removal projects, in an amount not to exceed \$1,800,000;

(C) to the Hickory Creek Special Drainage District, Bureau County, Illinois, in an amount not to exceed \$50,000; and

(D) to the Little Red River Irrigation project, Arkansas, in an amount not to exceed \$210,000;

(2) through the Watershed and Flood Prevention Operations program for—

(A) the Matanuska River erosion control project in Alaska;

(B) the Little Otter Creek project in Missouri;

(C) the Manoa Watershed project in Hawaii;

(D) the West Tarkio project in Iowa;

(E) the Steeple Run and West Branch DuPage River Watershed projects in DuPage County, Illinois; and

(F) the Coal Creek project in Utah;

(3) through the Watershed and Flood Prevention Operations program to carry out the East Locust Creek Watershed Plan Revision in Missouri, including up to 100 percent of the engineering assistance and 75 percent cost share for construction cost of site RW1; and

(4) through funds of the Conservation Operations program provided for the Utah Conservation Initiative for completion of the American Fork water quality and habitat restoration project in Utah.

SEC. 727. Hereafter, none of the funds made available in this Act may be transferred to any department, agency, or instrumentality of the United States Government, except pursuant to a transfer made by, or transfer authority provided in, this or any other appropriation Act.

SEC. 728. Notwithstanding any other provision of law, of the funds made available in this Act for competitive research grants (7 U.S.C. 450i(b)), the Secretary may use up to 22 percent of the amount provided to carry out a competitive grants program under the same terms and conditions as those provided in section 401 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7621).

SEC. 729. None of the funds appropriated or made available by this or any other Act may be used to pay the salaries and expenses of personnel to carry out section 14(h)(1) of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1012(h)(1)).

Missouri.

SEC. 730. None of the funds made available to the Food and Drug Administration by this Act shall be used to close or relocate, or to plan to close or relocate, the Food and Drug Administration Division of Pharmaceutical Analysis in St. Louis, Missouri, outside the city or county limits of St. Louis, Missouri.

SEC. 731. None of the funds appropriated or made available by this or any other Act may be used to pay the salaries and expenses of personnel to carry out subtitle I of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009dd through dd-7).

7 USC 2209h.

SEC. 732. Hereafter, agencies and offices of the Department of Agriculture may utilize any unobligated salaries and expenses funds to reimburse the Office of the General Counsel for salaries and expenses of personnel, and for other related expenses, incurred in representing such agencies and offices in the resolution of complaints by employees or applicants for employment, and in cases

and other matters pending before the Equal Employment Opportunity Commission, the Federal Labor Relations Authority, or the Merit Systems Protection Board with the prior approval of the Committees on Appropriations of both Houses of Congress.

SEC. 733. None of the funds appropriated or made available by this or any other Act may be used to pay the salaries and expenses of personnel to carry out section 6405 of Public Law 107–171 (7 U.S.C. 2655).

SEC. 734. None of the funds appropriated or otherwise made available by this or any other Act shall be used to pay the salaries and expenses of personnel to enroll in excess of 150,000 acres in the calendar year 2006 wetlands reserve program as authorized by 16 U.S.C. 3837.

SEC. 735. None of the funds appropriated or otherwise made available by this or any other Act shall be used to pay the salaries and expenses of personnel who carry out an environmental quality incentives program authorized by chapter 4 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3839aa et seq.) in excess of \$1,017,000,000.

SEC. 736. None of the funds appropriated or otherwise made available by this or any other Act shall be used to pay the salaries and expenses of personnel to expend the \$23,000,000 made available by section 9006(f) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8106(f)).

SEC. 737. None of the funds appropriated or otherwise made available under this or any other Act shall be used to pay the salaries and expenses of personnel to expend the \$80,000,000 made available by section 601(j)(1) of the Rural Electrification Act of 1936 (7 U.S.C. 950bb(j)(1)).

SEC. 738. None of the funds made available in fiscal year 2006 or preceding fiscal years for programs authorized under the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.) in excess of \$20,000,000 shall be used to reimburse the Commodity Credit Corporation for the release of eligible commodities under section 302(f)(2)(A) of the Bill Emerson Humanitarian Trust Act (7 U.S.C. 1736f–1): *Provided*, That any such funds made available to reimburse the Commodity Credit Corporation shall only be used pursuant to section 302(b)(2)(B)(i) of the Bill Emerson Humanitarian Trust Act.

SEC. 739. None of the funds appropriated or otherwise made available by this or any other Act shall be used to pay the salaries and expenses of personnel to expend the \$120,000,000 made available by section 6401(a) of Public Law 107–171.

SEC. 740. Notwithstanding subsections (c) and (e)(2) of section 313A of the Rural Electrification Act (7 U.S.C. 940c(c) and (e)(2)) in implementing section 313A of that Act, the Secretary shall, with the consent of the lender, structure the schedule for payment of the annual fee, not to exceed an average of 30 basis points per year for the term of the loan, to ensure that sufficient funds are available to pay the subsidy costs for note guarantees under that section.

SEC. 741. None of the funds appropriated or otherwise made available by this or any other Act shall be used to pay the salaries and expenses of personnel to carry out a Conservation Security Program authorized by 16 U.S.C. 3838 et seq., in excess of \$259,000,000.

SEC. 742. None of the funds appropriated or otherwise made available by this or any other Act shall be used to pay the salaries and expenses of personnel to carry out section 2502 of Public Law 107-171 in excess of \$43,000,000.

SEC. 743. Of the unobligated balances available in the Special Supplemental Nutrition Program for Women, Infants, and Children reserve account, \$32,000,000 is hereby rescinded.

SEC. 744. None of the funds appropriated or otherwise made available by this or any other Act shall be used to pay the salaries and expenses of personnel to carry out section 2503 of Public Law 107-171 in excess of \$73,500,000.

SEC. 745. With the exception of funds provided in fiscal year 2005, none of the funds appropriated or otherwise made available by this or any other Act shall be used to carry out section 6029 of Public Law 107-171.

SEC. 746. Hereafter, none of the funds appropriated or otherwise made available in this Act shall be expended to violate Public Law 105-264.

SEC. 747. None of the funds appropriated or otherwise made available by this or any other Act shall be used to pay the salaries and expenses of personnel to carry out a ground and surface water conservation program authorized by section 2301 of Public Law 107-171 in excess of \$51,000,000.

SEC. 748. None of the funds made available by this Act may be used to issue a final rule in furtherance of, or otherwise implement, the proposed rule on cost-sharing for animal and plant health emergency programs of the Animal and Plant Health Inspection Service published on July 8, 2003 (Docket No. 02-062-1; 68 Fed. Reg. 40541).

7 USC 426d.

SEC. 749. Hereafter, notwithstanding any other provision of law, the Secretary of Agriculture may use appropriations available to the Secretary for activities authorized under sections 426-426c of title 7, United States Code, under this or any other Act, to enter into cooperative agreements, with a State, political subdivision, or agency thereof, a public or private agency, organization, or any other person, to lease aircraft if the Secretary determines that the objectives of the agreement will: (1) serve a mutual interest of the parties to the agreement in carrying out the programs administered by the Animal and Plant Health Inspection Service, Wildlife Services; and (2) all parties will contribute resources to the accomplishment of these objectives; award of a cooperative agreement authorized by the Secretary may be made for an initial term not to exceed 5 years.

SEC. 750. None of the funds appropriated or otherwise made available by this or any other Act shall be used to pay the salaries and expenses of personnel to carry out section 9010 of Public Law 107-171 in excess of \$60,000,000.

7 USC 2209i.

SEC. 751. Hereafter, agencies and offices of the Department of Agriculture may utilize any available discretionary funds to cover the costs of preparing, or contracting for the preparation of, final agency decisions regarding complaints of discrimination in employment or program activities arising within such agencies and offices.

SEC. 752. Funds made available under section 1240I and section 1241(a) of the Food Security Act of 1985 in the current fiscal year shall remain available until expended to cover obligations

made in the current fiscal year, and are not available for new obligations.

SEC. 753. There is hereby appropriated \$750,000, to remain available until expended, for the Denali Commission to address deficiencies in solid waste disposal sites which threaten to contaminate rural drinking water supplies.

SEC. 754. Notwithstanding any other provision of law—

Alaska.
Grants.

(1) the City of Palmer, Alaska shall be eligible to receive a water and waste disposal grant under section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)) in an amount that is equal to not more than 75 percent of the total cost of providing water and sewer service to the proposed hospital in the Matanuska-Susitna Borough, Alaska;

(2) or any percentage of cost limitation in current law or regulations, the construction projects known as the Tri-Valley Community Center addition in Healy, Alaska; the Cold Climate Housing Research Center in Fairbanks, Alaska; and the University of Alaska-Fairbanks Allied Health Learning Center skill labs/classrooms shall be eligible to receive Community Facilities grants in amounts that are equal to not more than 75 percent of the total facility costs: *Provided*, That for the purposes of this paragraph, the Cold Climate Housing Research Center is designated an “essential community facility” for rural Alaska;

(3) for any fiscal year and hereafter, in the case of a high cost isolated rural area in Alaska that is not connected to a road system, the maximum level for the single family housing assistance shall be 150 percent of the median household income level in the nonmetropolitan areas of the State and 115 percent of all other eligible areas of the State; and

42 USC 1472
note.

(4) any former RUS borrower that has repaid or prepaid an insured, direct or guaranteed loan under the Rural Electrification Act, or any not-for-profit utility that is eligible to receive an insured or direct loan under such Act, shall be eligible for assistance under Section 313(b)(2)(B) of such Act in the same manner as a borrower under such Act.

SEC. 755. There is hereby appropriated \$1,000,000, to remain available until expended, for a grant to the Ohio Livestock Expo Center in Springfield, Ohio.

SEC. 756. Hereafter, notwithstanding the provisions of the Consolidated Farm and Rural Development Act (including the associated regulations) governing the Community Facilities Program, the Secretary may allow all Community Facility Program facility borrowers and grantees to enter into contracts with not-for-profit third parties for services consistent with the requirements of the Program, grant, and/or loan: *Provided*, That the contracts protect the interests of the Government regarding cost, liability, maintenance, and administrative fees.

7 USC 1926f.

SEC. 757. None of the funds appropriated or otherwise made available by this or any other Act shall be used to pay the salaries and expenses of personnel to carry out an Agricultural Management Assistance Program as authorized by section 524 of the Federal Crop Insurance Act in excess of \$6,000,000 (7 U.S.C. 1524).

SEC. 758. Notwithstanding any other provision of law, the Secretary of Agriculture is authorized to make funding and other assistance available through the emergency watershed protection

program under section 403 of the Agricultural Credit Act of 1978 (16 U.S.C. 2203) to repair and prevent damage to non-Federal land in watersheds that have been impaired by fires initiated by the Federal Government and shall waive cost sharing requirements for the funding and assistance.

SEC. 759. None of the funds appropriated or otherwise made available by this or any other Act shall be used to pay the salaries and expenses of personnel to carry out a Biomass Research and Development Program in excess of \$12,000,000, as authorized by Public Law 106-224 (7 U.S.C. 7624 note).

SEC. 760. None of the funds provided in this Act may be used for salaries and expenses to carry out any regulation or rule insofar as it would make ineligible for enrollment in the conservation reserve program established under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.) land that is planted to hardwood trees as of the date of enactment of this Act and was enrolled in the conservation reserve program under a contract that expired prior to calendar year 2002.

Arizona.

SEC. 761. Notwithstanding 40 U.S.C. 524, 571, and 572, the Secretary of Agriculture may sell the US Water Conservation Laboratory, Phoenix, Arizona, and credit the net proceeds of such sale as offsetting collections to its Agricultural Research Service Buildings and Facilities account. Such funds shall be available until September 30, 2007 to be used to replace these facilities and to improve other USDA-owned facilities.

SEC. 762. None of the funds provided in this Act may be used for salaries and expenses to draft or implement any regulation or rule insofar as it would require recertification of rural status for each electric and telecommunications borrower for the Rural Electrification and Telecommunication Loans program.

SEC. 763. The Secretary of Agriculture may use any unobligated carryover funds made available for any program administered by the Rural Utilities Service (not including funds made available under the heading “Rural Community Advancement Program” in any Act of appropriation) to carry out section 315 of the Rural Electrification Act of 1936 (7 U.S.C. 940e).

SEC. 764. There is hereby appropriated \$650,000, to remain available until expended, to carry out provisions of section 751 of division A of Public Law 108-7.

State listing.
Loans.
Grants.

SEC. 765. (a) Notwithstanding any other provision of law, and until the receipt of the decennial Census in the year 2010, the Secretary of Agriculture shall consider—

(1) the City of Bridgeton, New Jersey, the City of Kinston, North Carolina, and the City of Portsmouth, Ohio as rural areas for the purposes of Rural Housing Service Community Facilities Program loans and grants;

(2) the Township of Bloomington, Illinois (including individuals and entities with projects within Township) shall be eligible for Rural Housing Service Community Facilities Programs loans and grants;

(3) the City of Lone Grove, Oklahoma (including individuals and entities with projects within the city) shall be eligible for Rural Housing Service Community Facilities Program loans and grants;

(4) the City of Butte/Silverbow, Montana, rural areas for purposes of eligibility for Rural Utilities Service water and

waste water loans and grants and Rural Housing Service Community Facilities Program loans and grants;

(5) Cleburne County, Arkansas, rural areas for purposes of eligibility of Rural Utilities Service water and waste water loans and grants;

(6) the designated Census tract areas for the Upper Kanawha Valley Enterprise Community, West Virginia, rural areas for purposes of eligibility for rural empowerment zones and enterprise community programs in the rural development mission area;

(7) the Municipality of Carolina, Puerto Rico, as meeting the eligibility requirements for Rural Utilities Service water and waste water loans and grants;

(8) the Municipalities of Vega Baja, Manati, Guayama, Fajardo, Humacao, and Naguabo, Puerto Rico, (including individuals and entities with projects within the Municipalities) shall be eligible for Rural Community Advancement Program loans and grants and intermediate relending programs;

(9) the City of Hidalgo, Texas as a rural area for the purpose of the Rural Business-Cooperative Service Rural Business Enterprise Grant Program;

(10) the City of Elgin, Oklahoma (including individuals and entities with projects within the city) shall be eligible for Rural Utilities Service water and waste water loans and grants; and

(11) the City of Lodi, California, the City of Atchison, Kansas, and the City of Belle Glade, Florida as rural areas for the purposes of the Rural Utilities Service water and waste water loans and grants.

SEC. 766. There is hereby appropriated \$200,000 for a grant to Alaska Village Initiatives for the purpose of administering a private lands wildlife management program in Alaska.

SEC. 767. There is hereby appropriated \$2,250,000, to remain available until expended, for a grant to the Wisconsin Federation of Cooperatives for pilot Wisconsin-Minnesota health care cooperative purchasing alliances.

SEC. 768. The counties of Burlington and Camden, New Jersey (including individuals and entities with projects within these counties) shall be eligible for loans and grants under the Rural Community Advancement Program for fiscal year 2006 to the same extent they were eligible for such assistance during the fiscal year 2005 under section 106 of Chapter 1 of Division B of Public Law 108-324 (188 Stat. 1236).

New Jersey.
Loans.
Grants.

SEC. 769. Hereafter, notwithstanding any other provision of law, funds made available to States administering the Child and Adult Care Food Program, for the purpose of conducting audits of participating institutions, funds identified by the Secretary as having been unused during the initial fiscal year of availability may be recovered and reallocated by the Secretary: *Provided*, That States may use the reallocated funds until expended for the purpose of conducting audits of participating institutions.

42 USC 1766
note.

SEC. 770. The Secretary of Agriculture is authorized and directed to quitclaim to the City of Elkhart, Kansas, all rights, title and interests of the United States in that tract of land comprising 151.7 acres, more or less, located in Morton County, Kansas, and more specifically described in a deed dated March 11, 1958, from the United States of America to the City of Elkhart, State

Kansas.

of Kansas, and filed of record April 4, 1958 at Book 34 at Page 520 in the office of the Register of Deeds of Morton County, Kansas.

SEC. 771. There is hereby appropriated \$2,500,000 to carry out the Healthy Forests Reserve Program authorized under Title V of Public Law 108-148 (16 U.S.C. 6571-6578).

SEC. 772. Unless otherwise authorized by existing law, none of the funds provided in this Act, may be used by an executive branch agency to produce any prepackaged news story intended for broadcast or distribution in the United States unless the story includes a clear notification within the text or audio of the prepackaged news story that the prepackaged news story was prepared or funded by that executive branch agency.

SEC. 773. In addition to other amounts appropriated or otherwise made available by this Act, there is hereby appropriated to the Secretary of Agriculture \$7,000,000, of which not to exceed 5 percent may be available for administrative expenses, to remain available until expended, to make specialty crop block grants under section 101 of the Specialty Crops Competitiveness Act of 2004 (Public Law 108-465; 7 U.S.C. 1621 note).

SEC. 774. The Rural Electrification Act of 1936 is amended by inserting after section 315 (7 U.S.C. 940e) the following:

7 USC 940f.

“SEC. 316. EXTENSION OF PERIOD OF EXISTING GUARANTEE. (a) IN GENERAL.—Subject to the limitations in this section and the provisions of the Federal Credit Reform Act of 1990, as amended, a borrower of a loan made by the Federal Financing Bank and guaranteed under this Act may request an extension of the final maturity of the outstanding principal balance of such loan or any loan advance thereunder. If the Secretary and the Federal Financing Bank approve such an extension, then the period of the existing guarantee shall also be considered extended.

“(b) LIMITATIONS.—

“(1) FEASIBILITY AND SECURITY.—Extensions under this section shall not be made unless the Secretary first finds and certifies that, after giving effect to the extension, in his judgment the security for all loans to the borrower made or guaranteed under this Act is reasonably adequate and that all such loans will be repaid within the time agreed.

“(2) EXTENSION OF USEFUL LIFE OR COLLATERAL.—Extensions under this section shall not be granted unless the borrower first submits with its request either—

“(A) evidence satisfactory to the Secretary that a Federal or State agency with jurisdiction and expertise has made an official determination, such as through a licensing proceeding, extending the useful life of a generating plant or transmission line pledged as collateral to or beyond the new final maturity date being requested by the borrower, or

“(B) a certificate from an independent licensed engineer concluding, on the basis of a thorough engineering analysis satisfactory to the Secretary, that the useful life of the generating plant or transmission line pledged as collateral extends to or beyond the new final maturity date being requested by the borrower.

“(3) AMOUNT ELIGIBLE FOR EXTENSION.—Extensions under this section shall not be granted if the principal balance extended exceeds the appraised value of the generating plant or transmission line referred to in subsection paragraph (2).

“(4) PERIOD OF EXTENSION.—Extensions under this section shall in no case result in a final maturity greater than 55 years from the time of original disbursement and shall in no case result in a final maturity greater than the useful life of the plant.

“(5) NUMBER OF EXTENSIONS.—Extensions under this section shall not be granted more than once per loan advance.

“(c) FEES.—

“(1) IN GENERAL.—A borrower that receives an extension under this section shall pay a fee to the Secretary which shall be credited to the Rural Electrification and Telecommunications Loans Program account. Such fees shall remain available without fiscal year limitation to pay the modification costs for extensions.

“(2) AMOUNT.—The amount of the fee paid shall be equal to the modification cost, calculated in accordance with section 502 of the Federal Credit Reform Act of 1990, as amended, of such extension.

“(3) PAYMENT.—The borrower shall pay the fee required under this section at the time the existing guarantee is extended by making a payment in the amount of the required fee.”.

SEC. 775. (a) IN GENERAL.—The Secretary of Health and Human Services, on behalf of the United States may, whenever the Secretary deems desirable, relinquish to the State of Arkansas all or part of the jurisdiction of the United States over the lands and properties encompassing the Jefferson Labs campus in the State of Arkansas that are under the supervision or control of the Secretary.

Arkansas.

(b) TERMS.—Relinquishment of jurisdiction under this section may be accomplished, under terms and conditions that the Secretary deems advisable,

(1) by filing with the Governor of the State of Arkansas a notice of relinquishment to take effect upon acceptance thereof; or

Notice.

(2) as the laws of such State may otherwise provide.

(c) DEFINITION.—In this section, the term “Jefferson Labs campus” means the lands and properties of the National Center for Toxicological Research and the Arkansas Regional Laboratory.

SEC. 776. Section 204(b)(3)(A) of the Child Nutrition and WIC Reauthorization Act of 2004 (118 Stat. 781; 42 U.S.C. 1751 note) is amended by striking “July 1, 2006” and inserting “October 1, 2005”.

SEC. 777. (a) Section 18(f)(1)(B) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769(f)(1)(B)) is amended—

(1) by striking “April 2004” and inserting “June 2005”; and

(2) in clause (ii), by striking “66.67” and inserting “75”.

(b) The amendments made by subsection (a) take effect on January 1, 2006.

Effective date.
42 USC 1769
note.

SEC. 778. None of the funds in this Act may be used to retire more than 5 percent of the Class A stock of the Rural Telephone Bank, except in the event of liquidation or dissolution of the telephone bank during fiscal year 2006, pursuant to section 411 of the Rural Electrification Act of 1936, as amended, or to maintain any account or subaccount within the accounting records of the Rural Telephone Bank the creation of which has not specifically

been authorized by statute: *Provided*, That notwithstanding any other provision of law, none of the funds appropriated or otherwise made available in this Act may be used to transfer to the Treasury or to the Federal Financing Bank any unobligated balance of the Rural Telephone Bank telephone liquidating account which is in excess of current requirements and such balance shall receive interest as set forth for financial accounts in section 505(c) of the Federal Credit Reform Act of 1990.

SEC. 779. There is hereby appropriated \$6,000,000 to carry out Section 120 of Public Law 108–265 in Utah, Wisconsin, New Mexico, Texas, Connecticut, and Idaho.

SEC. 780. Section 508(a)(4)(B) of the Federal Crop Insurance Act (7 U.S.C. 1508(a)(4)(B)) is amended by inserting “or similar commodities” after “the commodity”.

SEC. 781. (a) Notwithstanding subtitles B and C of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4501 et seq.), during fiscal year 2006, the National Dairy Promotion and Research Board may obligate and expend funds for any activity to improve the environment and public health.

(b) The Secretary of Agriculture shall review the impact of any expenditures under subsection (a) and include the review in the 2007 report of the Secretary to Congress on the dairy promotion program established under subtitle B of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4501 et seq.).

Federal buildings
and facilities.
Mississippi.

SEC. 782. The Federal facility located at the South Mississippi Branch Experiment Station in Poplarville, Mississippi, and known as the “Southern Horticultural Laboratory”, shall be known and designated as the “Thad Cochran Southern Horticultural Laboratory”: *Provided*, That any reference in law, map, regulation, document, paper, or other record of the United States to such Federal facility shall be deemed to be a reference to the “Thad Cochran Southern Horticultural Laboratory”.

Arizona.
Real property.

SEC. 783. As soon as practicable after the Agricultural Research Service operations at the Western Cotton Research Laboratory located at 4135 East Broadway Road in Phoenix, Arizona, have ceased, the Secretary of Agriculture shall convey, without consideration, to the Arizona Cotton Growers Association and Supima all right, title, and interest of the United States in and to the real property at that location, including improvements.

7 USC 1471 note.

SEC. 784. (a) IN GENERAL.—In carrying out a livestock assistance, compensation, or feed program, the Secretary of Agriculture shall include horses and deer within the definition of “livestock” covered by the program.

(b) CONFORMING AMENDMENTS.—

(1) Section 602(2) of the Agricultural Act of 1949 (7 U.S.C. 1471(2)) is amended—

(A) by inserting “horses, deer,” after “bison,”; and

(B) by striking “equine animals used for food or in the production of food,”.

(2) Section 806 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 106–387; 114 Stat. 1549A–51) is amended by inserting “(including losses to elk, reindeer, bison, horses, and deer)” after “livestock losses”.

(3) Section 10104(a) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 1472(a)) is amended by striking “and bison” and inserting “bison, horses, and deer”.

(4) Section 203(d)(2) of the Agricultural Assistance Act of 2003 (Public Law 108–7; 117 Stat. 541) is amended by striking “and bison” and inserting “bison, horses, and deer”.

(c) APPLICABILITY.—

7 USC 1471 note.

(1) IN GENERAL.—This section and the amendments made by this section apply to losses resulting from a disaster that occurs on or after July 28, 2005.

(2) PRIOR LOSSES.—This section and the amendments made by this section do not apply to losses resulting from a disaster that occurred before July 28, 2005.

SEC. 785. Amounts made available for the Plant Materials Center in Fallon, Nevada, under the heading “Conservation Operations” under the heading “Natural Resources Conservation Service” of title II of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2005 (Public Law 108–447; 118 Stat. 2823) shall remain available until expended.

SEC. 786. None of the funds made available in this Act may be used to study, complete a study of, or enter into a contract with a private party to carry out, without specific authorization in a subsequent Act of Congress, a competitive sourcing activity of the Secretary of Agriculture, including support personnel of the Department of Agriculture, relating to rural development or farm loan programs.

SEC. 787. None of the funds made available under this Act shall be available to pay the administrative expenses of a State agency that, after the date of enactment of this Act and prior to receiving certification in accordance with the provisions set forth in section 17(h)(11)(E) of the Child Nutrition Act of 1966, authorizes any new for-profit vendor(s) to transact food instruments under the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) if it is expected that more than 50 percent of the annual revenue of the vendor from the sale of food items will be derived from the sale of supplemental foods that are obtained with WIC food instruments, except that the Secretary may approve the authorization of such a vendor if the approval is necessary to assure participant access to program benefits.

SEC. 788. Of the unobligated balances under section 32 of the Act of August 24, 1935, \$37,601,000 are hereby rescinded.

SEC. 789. None of the funds provided in this Act may be obligated or expended for any activity the purpose of which is to require a recipient of any grant that was funded in Public Law 102–368 and Public Law 103–50 for “Rural Housing for Domestic Farm Labor” in response to Hurricane Andrew to pay the United States any portion of any interest earned with respect to such grants: *Provided*, That such funds are expended by the grantee within 18 months of the date of enactment of this section for the purposes of providing farm labor housing consistent with the purpose authorized in title V of the Housing Act of 1949, as determined by the Secretary.

Deadline.

SEC. 790. There is hereby appropriated \$140,000 to remain available until expended, for a grant to the University of Nevada at Reno; \$400,000 to remain available until expended for a grant to the Ohio Center for Farmland Policy Innovation at Ohio State University, Columbus, Ohio; \$200,000 to remain available until expended, for a grant to Utah State University for a farming and dairy training initiative; \$500,000, to remain available until

expended, for a grant to the Nueces County, Texas Regional Fair-ground; and \$350,000 to provide administrative support for a world hunger organization: *Provided*, That none of the funds may be used for a monetary award to an individual.

Deadline.
Reports.

SEC. 791. There is hereby appropriated \$1,000,000 to establish a demonstration intermediate relending program for the construction and rehabilitation of housing for the Mississippi Band of Choctaw Indians: *Provided*, That the interest rate for direct loans shall be 1 percent: *Provided further*, That no later than 1 year after the establishment of this program the Secretary shall provide the Committees on Appropriations with a report providing information on the program structure, management, and general demographic information on the loan recipients.

SEC. 792. Section 285 of the Agricultural Marketing Act of 1946 (7 U.S.C. 1638d) is amended by striking “2006” and inserting “2008”.

SEC. 793. None of the funds appropriated or otherwise made available by this Act shall be used to pay salaries and expenses of personnel who implement or administer section 508(e)(3) of the Federal Crop Insurance Act (7 U.S.C. 1508(e)(3)) or any regulation, bulletin, policy or agency guidance issued pursuant to section 508(e)(3) of such Act for the 2007 reinsurance year.

Effective date.

SEC. 794. Effective 120 days after the date of enactment of this Act, none of the funds made available in this Act may be used to pay the salaries or expenses of personnel to inspect horses under section 3 of the Federal Meat Inspection Act (21 U.S.C. 603) or under the guidelines issued under section 903 the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 1901 note; Public Law 104–127).

SEC. 795. (a) Subject to subsection (b), none of the funds made available in this Act may be used to—

(1) grant a waiver of a financial conflict of interest requirement pursuant to section 505(n)(4) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(n)(4)) for any voting member of an advisory committee or panel of the Food and Drug Administration; or

(2) make a certification under section 208(b)(3) of title 18, United States Code, for any such voting member.

(b) Subsection (a) shall not apply to a waiver or certification if—

Deadline.
Internet.

(1) not later than 15 days prior to a meeting of an advisory committee or panel to which such waiver or certification applies, the Secretary of Health and Human Services discloses on the Internet website of the Food and Drug Administration—

(A) the nature of the conflict of interest at issue; and

(B) the nature and basis of such waiver or certification (other than information exempted from disclosure under section 552 of title 5, United States Code (popularly known as the Freedom of Information Act)); or

Public
information.

(2) in the case of a conflict of interest that becomes known to the Secretary less than 15 days prior to a meeting to which such waiver or certification applies, the Secretary shall make such public disclosure as soon as possible thereafter, but in no event later than the date of such meeting.

Reports.

(c) None of the funds made available in this Act may be used to make a new appointment to an advisory committee or panel of the Food and Drug Administration unless the Commissioner

of Food and Drugs submits a quarterly report to the Inspector General of the Department of Health and Human Services and the Committees on Appropriations of the House and Senate on the efforts made to identify qualified persons for such appointment with minimal or no potential conflicts of interest.

SEC. 796. Section 274(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1324(a)(1)) is amended by adding at the end the following:

“(C) It is not a violation of clauses (ii) or (iii) of subparagraph (A), or of clause (iv) of subparagraph (A) except where a person encourages or induces an alien to come to or enter the United States, for a religious denomination having a bona fide nonprofit, religious organization in the United States, or the agents or officers of such denomination or organization, to encourage, invite, call, allow, or enable an alien who is present in the United States to perform the vocation of a minister or missionary for the denomination or organization in the United States as a volunteer who is not compensated as an employee, notwithstanding the provision of room, board, travel, medical assistance, and other basic living expenses, provided the minister or missionary has been a member of the denomination for at least one year.”.

SEC. 797. (a) Section 2111(a)(1) of the Organic Foods Production Act of 1990 (7 U.S.C. 6510(a)(1)) is amended by inserting “not appearing on the National List” after “ingredient”.

(b) Section 2118 of the Organic Foods Production Act of 1990 (7 U.S.C. 6517) is amended—

(1) in subsection (c)(1)—

(A) in the paragraph heading, by inserting “IN ORGANIC PRODUCTION AND HANDLING OPERATIONS” after “SUBSTANCES”;

(B) in subparagraph (B)—

(i) in clause (i), by inserting “or” at the end; and

(ii) in clause (ii), by striking “or” at the end and inserting “and”; and

(C) by striking clause (iii); and

(2) in subsection (d), by adding at the end the following:

“(6) EXPEDITED PETITIONS FOR COMMERCIALLY UNAVAILABLE ORGANIC AGRICULTURAL PRODUCTS CONSTITUTING LESS THAN 5 PERCENT OF AN ORGANIC PROCESSED PRODUCT.—The Secretary may develop emergency procedures for designating agricultural products that are commercially unavailable in organic form for placement on the National List for a period of time not to exceed 12 months.”.

(c) Section 2110(e)(2) of the Organic Foods Production Act of 1990 (7 U.S.C. 6509(e)(2)) is amended—

(1) by striking “A dairy” and inserting the following:

“(A) IN GENERAL.—Except as provided in subparagraph (B), a dairy”; and

(2) by adding at the end the following:

“(B) TRANSITION GUIDELINE.—Crops and forage from land included in the organic system plan of a dairy farm that is in the third year of organic management may be consumed by the dairy animals of the farm during the 12-month period immediately prior to the sale of organic milk and milk products.”.

SEC. 798. AMENABLE SPECIES.—The Federal Meat Inspection Act (21 U.S.C. 601 et seq.) is amended—

21 USC 603–605,
608, 609, 615,
617, 618, 620,
621.
21 USC 601.

(1) by striking “cattle, sheep, swine, goats, horses, mules, and other equines” each place it appears and inserting “amenable species”;

(2) in section 1, by adding at the end the following new subsection:

“(w) The term ‘amenable species’ means—

“(1) those species subject to the provisions of this Act on the day before the date of the enactment of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2006; and

“(2) any additional species of livestock that the Secretary considers appropriate.”; and

21 USC 619.

(3) in section 19—

(A) by striking “horses, mules, or other equines” and inserting “species designated by regulations in effect on the day before the date of the enactment of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2006”; and

(B) by striking “cattle, sheep, swine, or goats” and inserting “other amenable species”.

21 USC 601 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the day after the effective date of section 794 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2006.

SEC. 799. Public Law 109-54, the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2006, is amended as follows:

Ante, p. 508.

(1) Under the heading “National Park Service, Construction”—

(A) by striking “of which” after “\$301,291,000, to remain available until expended,” and inserting “and”;

(B) in the sixth proviso, by striking “hereinafter” and inserting “hereafter” and, after “Annex”, inserting the following: “and the Blue Ridge Parkway Regional Destination Visitor Center”; and

(C) in the seventh proviso, by striking “solicitation and contract” and inserting “solicitations and contracts”.

Ante, p. 509.

(2) Under the heading “National Park Service, Land Acquisition and State Assistance” by striking “\$74,824,000” and inserting “\$64,909,000”.

Ante, p. 518.

(3) Under the heading “Departmental Management, Salaries and Expenses” by striking “\$127,183,000” and inserting “\$117,183,000”.

Ante, p. 528.

(4) In title II, under the heading “Environmental Protection Agency, State and Tribal Assistance Grants”—

(A) before the period at the end of the first paragraph, insert “: *Provided further*, That of the funds made available under this heading in division I of Public Law 108-447, \$300,000 is for the Haleyville, Alabama, North Industrial Area Water Storage Tank project: *Provided further*, That the referenced statement of the managers under the heading “Environmental Protection Agency, State and Tribal Assistance Grants” in Public Law 107-73, in reference to item 184, is deemed to be amended by striking “\$2,000,000” and inserting “\$29,945” and by inserting after

“improvements” the following: “, \$500,000 to the City of Sheridan for water system improvements, \$500,000 to Meagher County/Martinsdale Water and Sewer District for Martinsdale Water System Improvements, and \$970,055 to the City of Bozeman for Hyalite Waterline and Intake”; and

(B) in the second paragraph strike “original”.

Ante, p. 530.

(5) Under the heading “Forest Service, Land Acquisition” by striking “land that are encumbered” and all that follows through “under this section,” and inserting the following: “lands that are encumbered by unpatented claims acquired under this section, or with previously appropriated funds,”.

Ante, p. 535.

(6) At the end of title IV—General Provisions, insert the following:

Ante, p. 559.

“SEC. 440. REDESIGNATION OF WILDERNESS.

“(a) REDESIGNATION.—Section 140(c)(4) of division E of Public Law 108–447 is amended by striking ‘National’.

16 USC 1132
note.

“(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the ‘Gaylord A. Nelson National Wilderness’ shall be deemed to be a reference to the ‘Gaylord A. Nelson Wilderness’.”.

This Act may be cited as the “Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2006”.

Approved November 10, 2005.

LEGISLATIVE HISTORY—H.R. 2744:

HOUSE REPORTS: Nos. 109–102 (Comm. on Appropriations) and 109–255 (Comm. of Conference).

SENATE REPORTS: No. 109–92 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 151 (2005):

June 8, considered and passed House.

Sept. 15, 19–22, considered and passed Senate, amended.

Oct. 28, House agreed to conference report.

Nov. 2, 3, Senate considered and agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 41 (2005):

Nov. 10, Presidential statement.



Public Law 109–98
109th Congress

An Act

Nov. 11, 2005
[H.R. 2967]

To designate the Federal building located at 333 Mt. Elliott Street in Detroit, Michigan, as the “Rosa Parks Federal Building”.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal building located at 333 Mt. Elliott Street in Detroit, Michigan, shall be known and designated as the “Rosa Parks Federal Building”.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the “Rosa Parks Federal Building”.

Approved November 11, 2005.

LEGISLATIVE HISTORY—H.R. 2967:

CONGRESSIONAL RECORD, Vol. 151 (2005):

Oct. 26, considered and passed House.

Nov. 1, considered and passed Senate.



Public Law 109–99
109th Congress

An Act

To extend through March 31, 2006, the authority of the Secretary of the Army to accept and expend funds contributed by non-Federal public entities and to expedite the processing of permits.

Nov. 11, 2005
[H.R. 3765]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FUNDING TO PROCESS PERMITS.

Section 214 of the Water Resources Development Act of 2000 (33 U.S.C. 2201 note; 114 Stat. 2594; 117 Stat. 1836) is amended—

(1) in subsection (a) by striking “In fiscal years 2001 through 2005, the” and inserting “The”; and

(2) by adding at the end the following:

“(c) DURATION OF AUTHORITY.—The authority provided under this section shall be in effect from October 1, 2000, through March 31, 2006.”.

Approved November 11, 2005.

LEGISLATIVE HISTORY—H.R. 3765:

CONGRESSIONAL RECORD, Vol. 151 (2005):

Sept. 20, considered and passed House.

Oct. 7, considered and passed Senate, amended.

Oct. 18, House concurred in Senate amendments.



Public Law 109–100
109th Congress

An Act

Nov. 11, 2005

[S. 37]

To extend the special postage stamp for breast cancer research for 2 years.

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

**SECTION 1. 2-YEAR EXTENSION OF POSTAGE STAMP FOR BREAST
CANCER RESEARCH.**

Section 414(h) of title 39, United States Code, is amended
by striking “2005” and inserting “2007”.

Approved November 11, 2005.

LEGISLATIVE HISTORY—S. 37:

SENATE REPORTS: No. 109–140 (Comm. on Homeland Security and Governmental
Affairs).

CONGRESSIONAL RECORD, Vol. 151 (2005):

Sept. 27, considered and passed Senate.

Oct. 27, considered and passed House.



Public Law 109–101
109th Congress

An Act

To designate the Federal building located at 333 Mt. Elliott Street in Detroit, Michigan, as the “Rosa Parks Federal Building”.

Nov. 11, 2005
[S. 1285]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF ROSA PARKS FEDERAL BUILDING.

The Federal building located at 333 Mt. Elliott Street in Detroit, Michigan, shall be known and designated as the “Rosa Parks Federal Building”.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the “Rosa Parks Federal Building”.

SEC. 3. DESIGNATION OF WILLIAM B. BRYANT ANNEX.

The annex, located on the 200 block of 3rd Street Northwest in the District of Columbia, to the E. Barrett Prettyman Federal Building and United States Courthouse located at Constitution Avenue Northwest in the District of Columbia shall be known and designated as the “William B. Bryant Annex”.

40 USC 8164
note.

SEC. 4. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the annex referred to in section 3 shall be deemed to be a reference to the “William B. Bryant Annex”.

40 USC 8164
note.

Approved November 11, 2005.

LEGISLATIVE HISTORY—S. 1285:

CONGRESSIONAL RECORD, Vol. 151 (2005):
Oct. 26, considered and passed Senate.
Nov. 2, considered and passed House.



Public Law 109–102
109th Congress

An Act

Nov. 14, 2005
[H.R. 3057]

Making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2006, and for other purposes.

Foreign
Operations,
Export
Financing, and
Related
Programs
Appropriations
Act, 2006.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2006, and for other purposes, namely:

TITLE I—EXPORT AND INVESTMENT ASSISTANCE

EXPORT-IMPORT BANK OF THE UNITED STATES

INSPECTOR GENERAL OF THE EXPORT-IMPORT BANK

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, \$1,000,000, to remain available until September 30, 2007.

EXPORT-IMPORT BANK PROGRAM ACCOUNT

The Export-Import Bank of the United States is authorized to make such expenditures within the limits of funds and borrowing authority available to such corporation, and in accordance with law, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 104 of the Government Corporation Control Act, as may be necessary in carrying out the program for the current fiscal year for such corporation: *Provided*, That none of the funds available during the current fiscal year may be used to make expenditures, contracts, or commitments for the export of nuclear equipment, fuel, or technology to any country, other than a nuclear-weapon state as defined in Article IX of the Treaty on the Non-Proliferation of Nuclear Weapons eligible to receive economic or military assistance under this Act, that has detonated a nuclear explosive after the date of the enactment of this Act: *Provided further*, That notwithstanding section 1(c) of Public Law 103–428, as amended, sections 1(a) and (b) of Public Law 103–428 shall remain in effect through October 1, 2006.

Termination
date.
12 USC 635 note.

SUBSIDY APPROPRIATION

For the cost of direct loans, loan guarantees, insurance, and tied-aid grants as authorized by section 10 of the Export-Import Bank Act of 1945, as amended, \$100,000,000, to remain available

until September 30, 2009: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That such sums shall remain available until September 30, 2024, for the disbursement of direct loans, loan guarantees, insurance and tied-aid grants obligated in fiscal years 2006, 2007, 2008, and 2009: *Provided further*, That none of the funds appropriated by this Act or any prior Act appropriating funds for foreign operations, export financing, and related programs for tied-aid credits or grants may be used for any other purpose except through the regular notification procedures of the Committees on Appropriations: *Provided further*, That funds appropriated by this paragraph are made available notwithstanding section 2(b)(2) of the Export-Import Bank Act of 1945, in connection with the purchase or lease of any product by any Eastern European country, any Baltic State or any agency or national thereof.

ADMINISTRATIVE EXPENSES

For administrative expenses to carry out the direct and guaranteed loan and insurance programs, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, and not to exceed \$30,000 for official reception and representation expenses for members of the Board of Directors, \$73,200,000: *Provided*, That the Export-Import Bank may accept, and use, payment or services provided by transaction participants for legal, financial, or technical services in connection with any transaction for which an application for a loan, guarantee or insurance commitment has been made: *Provided further*, That, notwithstanding subsection (b) of section 117 of the Export Enhancement Act of 1992, subsection (a) thereof shall remain in effect until October 1, 2006.

Termination
date.
12 USC 635a
note.

OVERSEAS PRIVATE INVESTMENT CORPORATION

NONCREDIT ACCOUNT

The Overseas Private Investment Corporation is authorized to make, without regard to fiscal year limitations, as provided by 31 U.S.C. 9104, such expenditures and commitments within the limits of funds available to it and in accordance with law as may be necessary: *Provided*, That the amount available for administrative expenses to carry out the credit and insurance programs (including an amount for official reception and representation expenses which shall not exceed \$35,000) shall not exceed \$42,274,000: *Provided further*, That project-specific transaction costs, including direct and indirect costs incurred in claims settlements, and other direct costs associated with services provided to specific investors or potential investors pursuant to section 234 of the Foreign Assistance Act of 1961, shall not be considered administrative expenses for the purposes of this heading.

PROGRAM ACCOUNT

For the cost of direct and guaranteed loans, \$20,276,000, as authorized by section 234 of the Foreign Assistance Act of 1961, to be derived by transfer from the Overseas Private Investment Corporation Non-Credit Account: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined

Iraq.

in section 502 of the Congressional Budget Act of 1974: *Provided further*, That such sums shall be available for direct loan obligations and loan guaranty commitments incurred or made during fiscal years 2006 and 2007: *Provided further*, That such sums shall remain available through fiscal year 2014 for the disbursement of direct and guaranteed loans obligated in fiscal year 2006, and through fiscal year 2015 for the disbursement of direct and guaranteed loans obligated in fiscal year 2007: *Provided further*, That notwithstanding any other provision of law, the Overseas Private Investment Corporation is authorized to undertake any program authorized by title IV of the Foreign Assistance Act of 1961 in Iraq: *Provided further*, That funds made available pursuant to the authority of the previous proviso shall be subject to the regular notification procedures of the Committees on Appropriations.

In addition, such sums as may be necessary for administrative expenses to carry out the credit program may be derived from amounts available for administrative expenses to carry out the credit and insurance programs in the Overseas Private Investment Corporation Noncredit Account and merged with said account.

FUNDS APPROPRIATED TO THE PRESIDENT

TRADE AND DEVELOPMENT AGENCY

For necessary expenses to carry out the provisions of section 661 of the Foreign Assistance Act of 1961, \$50,900,000, to remain available until September 30, 2007.

TITLE II—BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

For expenses necessary to enable the President to carry out the provisions of the Foreign Assistance Act of 1961, and for other purposes, to remain available until September 30, 2006, unless otherwise specified herein, as follows:

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

CHILD SURVIVAL AND HEALTH PROGRAMS FUND

(INCLUDING TRANSFER OF FUNDS)

Immunizations.
HIV/AIDS.

For necessary expenses to carry out the provisions of chapters 1 and 10 of part I of the Foreign Assistance Act of 1961, for child survival, health, and family planning/reproductive health activities, in addition to funds otherwise available for such purposes, \$1,585,000,000, to remain available until September 30, 2007: *Provided*, That this amount shall be made available for such activities as: (1) immunization programs; (2) oral rehydration programs; (3) health, nutrition, water and sanitation programs which directly address the needs of mothers and children, and related education programs; (4) assistance for children displaced or orphaned by causes other than AIDS; (5) programs for the prevention, treatment, control of, and research on HIV/AIDS, tuberculosis, polio, malaria, and other infectious diseases, and for assistance to communities severely affected by HIV/AIDS, including children displaced or orphaned by AIDS; and (6) family planning/reproductive health: *Provided further*, That none of the funds appropriated under this

heading may be made available for nonproject assistance, except that funds may be made available for such assistance for ongoing health activities: *Provided further*, That of the funds appropriated under this heading, not to exceed \$350,000, in addition to funds otherwise available for such purposes, may be used to monitor and provide oversight of child survival, maternal and family planning/reproductive health, and infectious disease programs: *Provided further*, That the following amounts should be allocated as follows: \$360,000,000 for child survival and maternal health; \$30,000,000 for vulnerable children; \$350,000,000 for HIV/AIDS; \$220,000,000 for other infectious diseases; and \$375,000,000 for family planning/reproductive health, including in areas where population growth threatens biodiversity or endangered species: *Provided further*, That of the funds appropriated under this heading, and in addition to funds allocated under the previous proviso, not less than \$250,000,000 shall be made available, notwithstanding any other provision of law, except for the United States Leadership Against HIV/AIDS, Tuberculosis and Malaria Act of 2003 (Public Law 108–25), for a United States contribution to the Global Fund to Fight AIDS, Tuberculosis and Malaria (the “Global Fund”), and shall be expended at the minimum rate necessary to make timely payment for projects and activities: *Provided further*, That up to 5 percent of the aggregate amount of funds made available to the Global Fund in fiscal year 2006 may be made available to the United States Agency for International Development for technical assistance related to the activities of the Global Fund: *Provided further*, That of the funds appropriated under this heading, \$70,000,000 should be made available for a United States contribution to The Vaccine Fund, and up to \$6,000,000 may be transferred to and merged with funds appropriated by this Act under the heading “Operating Expenses of the United States Agency for International Development” for costs directly related to international health, but funds made available for such costs may not be derived from amounts made available for contribution under this and preceding provisos: *Provided further*, That none of the funds made available in this Act nor any unobligated balances from prior appropriations may be made available to any organization or program which, as determined by the President of the United States, supports or participates in the management of a program of coercive abortion or involuntary sterilization: *Provided further*, That none of the funds made available under this Act may be used to pay for the performance of abortion as a method of family planning or to motivate or coerce any person to practice abortions: *Provided further*, That nothing in this paragraph shall be construed to alter any existing statutory prohibitions against abortion under section 104 of the Foreign Assistance Act of 1961: *Provided further*, That none of the funds made available under this Act may be used to lobby for or against abortion: *Provided further*, That in order to reduce reliance on abortion in developing nations, funds shall be available only to voluntary family planning projects which offer, either directly or through referral to, or information about access to, a broad range of family planning methods and services, and that any such voluntary family planning project shall meet the following requirements: (1) service providers or referral agents in the project shall not implement or be subject to quotas, or other numerical targets, of total number of births, number of family planning acceptors, or acceptors of a particular method of family

Abortion.
Sterilization.

Family planning.

planning (this provision shall not be construed to include the use of quantitative estimates or indicators for budgeting and planning purposes); (2) the project shall not include payment of incentives, bribes, gratuities, or financial reward to: (A) an individual in exchange for becoming a family planning acceptor; or (B) program personnel for achieving a numerical target or quota of total number of births, number of family planning acceptors, or acceptors of a particular method of family planning; (3) the project shall not deny any right or benefit, including the right of access to participate in any program of general welfare or the right of access to health care, as a consequence of any individual's decision not to accept family planning services; (4) the project shall provide family planning acceptors comprehensible information on the health benefits and risks of the method chosen, including those conditions that might render the use of the method inadvisable and those adverse side effects known to be consequent to the use of the method; and (5) the project shall ensure that experimental contraceptive drugs and devices and medical procedures are provided only in the context of a scientific study in which participants are advised of potential risks and benefits; and, not less than 60 days after the date on which the Administrator of the United States Agency for International Development determines that there has been a violation of the requirements contained in paragraph (1), (2), (3), or (5) of this proviso, or a pattern or practice of violations of the requirements contained in paragraph (4) of this proviso, the Administrator shall submit to the Committees on Appropriations a report containing a description of such violation and the corrective action taken by the Agency: *Provided further*, That in awarding grants for natural family planning under section 104 of the Foreign Assistance Act of 1961 no applicant shall be discriminated against because of such applicant's religious or conscientious commitment to offer only natural family planning; and, additionally, all such applicants shall comply with the requirements of the previous proviso: *Provided further*, That for purposes of this or any other Act authorizing or appropriating funds for foreign operations, export financing, and related programs, the term "motivate", as it relates to family planning assistance, shall not be construed to prohibit the provision, consistent with local law, of information or counseling about all pregnancy options: *Provided further*, That to the maximum extent feasible, taking into consideration cost, timely availability, and best health practices, funds appropriated in this Act or prior appropriations Acts that are made available for condom procurement shall be made available only for the procurement of condoms manufactured in the United States: *Provided further*, That information provided about the use of condoms as part of projects or activities that are funded from amounts appropriated by this Act shall be medically accurate and shall include the public health benefits and failure rates of such use.

Contraceptives.
Deadline.
Reports.

Non-
discrimination.

Condoms.

DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of sections 103, 105, 106, and sections 251 through 255, and chapter 10 of part I of the Foreign Assistance Act of 1961, \$1,524,000,000, to remain available until September 30, 2007: *Provided*, That \$214,000,000 should be allocated for trade capacity building, of which at least \$20,000,000 shall be made available for labor and environmental capacity building activities relating to the free trade

agreement with the countries of Central America and the Dominican Republic: *Provided further*, That \$365,000,000 should be allocated for basic education: *Provided further*, That of the funds appropriated under this heading and managed by the United States Agency for International Development Bureau of Democracy, Conflict, and Humanitarian Assistance, not less than \$15,000,000 shall be made available only for programs to improve women's leadership capacity in recipient countries: *Provided further*, That such funds may not be made available for construction: *Provided further*, That of the funds appropriated under this heading that are made available for assistance programs for displaced and orphaned children and victims of war, not to exceed \$42,500, in addition to funds otherwise available for such purposes, may be used to monitor and provide oversight of such programs: *Provided further*, That funds appropriated under this heading should be made available for programs in sub-Saharan Africa to address sexual and gender-based violence: *Provided further*, That of the aggregate amount of the funds appropriated by this Act that are made available for agriculture and rural development programs, \$30,000,000 should be made available for plant biotechnology research and development: *Provided further*, That not less than \$2,300,000 should be made available for core support for the International Fertilizer Development Center: *Provided further*, That of the funds appropriated under this heading, not less than \$20,000,000 should be made available for the American Schools and Hospitals Abroad program: *Provided further*, That of the funds appropriated under this heading, \$10,000,000 may be made available for cooperative development programs within the Office of Private and Voluntary Cooperation: *Provided further*, That of the funds appropriated under this heading, \$2,000,000 shall be made available for reconstruction and development programs in South Asia: *Provided further*, That funds should be made available for activities to reduce the incidence of child marriage in developing countries: *Provided further*, That of the funds appropriated under this heading, up to \$20,000,000 should be made available to develop clean water treatment activities in developing countries: *Provided further*, That of the funds appropriated by this Act, not less than \$200,000,000 shall be made available for drinking water supply projects and related activities, of which not less than \$50,000,000 should be made available for programs in Africa.

INTERNATIONAL DISASTER AND FAMINE ASSISTANCE

For necessary expenses to carry out the provisions of section 491 of the Foreign Assistance Act of 1961 for international disaster relief, rehabilitation, and reconstruction assistance, \$365,000,000, to remain available until expended, of which \$20,000,000 should be for famine prevention and relief.

TRANSITION INITIATIVES

For necessary expenses for international disaster rehabilitation and reconstruction assistance pursuant to section 491 of the Foreign Assistance Act of 1961, \$40,000,000, to remain available until expended, to support transition to democracy and to long-term development of countries in crisis: *Provided*, That such support may include assistance to develop, strengthen, or preserve democratic institutions and processes, revitalize basic infrastructure, and foster the peaceful resolution of conflict: *Provided further*, That

Reports.
Deadline.

the United States Agency for International Development shall submit a report to the Committees on Appropriations at least 5 days prior to beginning a new program of assistance: *Provided further*, That if the President determines that it is important to the national interests of the United States to provide transition assistance in excess of the amount appropriated under this heading, up to \$15,000,000 of the funds appropriated by this Act to carry out the provisions of part I of the Foreign Assistance Act of 1961 may be used for purposes of this heading and under the authorities applicable to funds appropriated under this heading: *Provided further*, That funds made available pursuant to the previous proviso shall be made available subject to prior consultation with the Committees on Appropriations.

DEVELOPMENT CREDIT AUTHORITY

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans and loan guarantees provided by the United States Agency for International Development, as authorized by sections 256 and 635 of the Foreign Assistance Act of 1961, up to \$21,000,000 may be derived by transfer from funds appropriated by this Act to carry out part I of such Act and under the heading “Assistance for Eastern Europe and the Baltic States”: *Provided*, That such funds shall be made available only for micro and small enterprise programs, urban programs, and other programs which further the purposes of part I of the Act: *Provided further*, That such costs, including the cost of modifying such direct and guaranteed loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: *Provided further*, That funds made available by this paragraph may be used for the cost of modifying any such guaranteed loans under this Act or prior Acts, and funds used for such costs shall be subject to the regular notification procedures of the Committees on Appropriations: *Provided further*, That the provisions of section 107A(d) (relating to general provisions applicable to the Development Credit Authority) of the Foreign Assistance Act of 1961, as contained in section 306 of H.R. 1486 as reported by the House Committee on International Relations on May 9, 1997, shall be applicable to direct loans and loan guarantees provided under this heading: *Provided further*, That these funds are available to subsidize total loan principal, any portion of which is to be guaranteed, of up to \$700,000,000.

Applicability.
Loans.

In addition, for administrative expenses to carry out credit programs administered by the United States Agency for International Development, \$8,000,000, which may be transferred to and merged with the appropriation for Operating Expenses of the United States Agency for International Development: *Provided*, That funds made available under this heading shall remain available until September 30, 2008.

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY
FUND

For payment to the “Foreign Service Retirement and Disability Fund”, as authorized by the Foreign Service Act of 1980, \$41,700,000.

OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR
INTERNATIONAL DEVELOPMENT

For necessary expenses to carry out the provisions of section 667 of the Foreign Assistance Act of 1961, \$630,000,000, of which up to \$25,000,000 may remain available until September 30, 2007: *Provided*, That none of the funds appropriated under this heading and under the heading “Capital Investment Fund” may be made available to finance the construction (including architect and engineering services), purchase, or long-term lease of offices for use by the United States Agency for International Development, unless the Administrator has identified such proposed construction (including architect and engineering services), purchase, or long-term lease of offices in a report submitted to the Committees on Appropriations at least 15 days prior to the obligation of these funds for such purposes: *Provided further*, That the previous proviso shall not apply where the total cost of construction (including architect and engineering services), purchase, or long-term lease of offices does not exceed \$1,000,000: *Provided further*, That contracts or agreements entered into with funds appropriated under this heading may entail commitments for the expenditure of such funds through fiscal year 2007: *Provided further*, That none of the funds in this Act may be used to open a new overseas mission of the United States Agency for International Development without the prior written notification of the Committees on Appropriations: *Provided further*, That the authority of sections 610 and 109 of the Foreign Assistance Act of 1961 may be exercised by the Secretary of State to transfer funds appropriated to carry out chapter 1 of part I of such Act to “Operating Expenses of the United States Agency for International Development” in accordance with the provisions of those sections.

Reports.
Deadline.

CAPITAL INVESTMENT FUND

For necessary expenses for overseas construction and related costs, and for the procurement and enhancement of information technology and related capital investments, pursuant to section 667 of the Foreign Assistance Act of 1961, \$70,000,000, to remain available until expended: *Provided*, That this amount is in addition to funds otherwise available for such purposes: *Provided further*, That funds appropriated under this heading shall be available for obligation only pursuant to the regular notification procedures of the Committees on Appropriations: *Provided further*, That of the funds appropriated under this heading, not to exceed \$48,100,000 may be made available for the purposes of implementing the Capital Security Cost Sharing Program.

OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR
INTERNATIONAL DEVELOPMENT OFFICE OF INSPECTOR GENERAL

For necessary expenses to carry out the provisions of section 667 of the Foreign Assistance Act of 1961, \$36,000,000, to remain available until September 30, 2007, which sum shall be available for the Office of the Inspector General of the United States Agency for International Development.

OTHER BILATERAL ECONOMIC ASSISTANCE

ECONOMIC SUPPORT FUND

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out the provisions of chapter 4 of part II, \$2,634,000,000, to remain available until September 30, 2007: *Provided*, That of the funds appropriated under this heading, not less than \$240,000,000 shall be available only for Israel, which sum shall be available on a grant basis as a cash transfer and shall be disbursed within 30 days of the enactment of this Act: *Provided further*, That not less than \$495,000,000 shall be available only for Egypt, which sum shall be provided on a grant basis, and of which sum cash transfer assistance shall not be provided with the understanding that Egypt will undertake significant economic and political reforms which are additional to those which were undertaken in previous fiscal years: *Provided further*, That with respect to the provision of assistance for Egypt for democracy and governance activities, the organizations implementing such assistance and the specific nature of that assistance shall not be subject to the prior approval by the Government of Egypt: *Provided further*, That of the funds appropriated under this heading for assistance for Egypt, not less than \$135,000,000 shall be made available for project assistance, of which not less than \$50,000,000 shall be made available for democracy, human rights and governance programs and not less than \$50,000,000 shall be used for education programs, of which not less than \$5,000,000 shall be made available for scholarships for disadvantaged Egyptian students to attend American accredited institutions of higher education in Egypt: *Provided further*, That of the funds appropriated under this heading for assistance for Egypt for economic reform activities, \$227,600,000 shall be withheld from obligation until the Secretary of State determines and reports to the Committees on Appropriations that Egypt has met the calendar year 2005 benchmarks accompanying the “Financial Sector Reform Memorandum of Understanding” dated March 20, 2005: *Provided further*, That \$20,000,000 of the funds appropriated under this heading should be made available for Cyprus to be used only for scholarships, administrative support of the scholarship program, bicommunal projects, and measures aimed at reunification of the island and designed to reduce tensions and promote peace and cooperation between the two communities on Cyprus: *Provided further*, That in exercising the authority to provide cash transfer assistance for Israel, the President shall ensure that the level of such assistance does not cause an adverse impact on the total level of nonmilitary exports from the United States to such country and that Israel enters into a side letter agreement in an amount proportional to the fiscal year 1999 agreement: *Provided further*, That of the funds appropriated under this heading, not less than \$250,000,000 should be made available only for assistance for Jordan: *Provided further*, That of the funds appropriated under this heading that are available for assistance for the West Bank and Gaza, not to exceed \$2,000,000 may be used for administrative expenses of the United States Agency for International Development, in addition to funds otherwise available for such purposes, to carry out programs in the West Bank and Gaza: *Provided further*, That not more than

Deadline.

Egypt.

Reports.

Israel.
President.

Certification.
Afghanistan.
Poppies.

\$225,000,000 of the funds made available for assistance for Afghanistan under this heading may be obligated for such assistance until the Secretary of State certifies to the Committees on Appropriations that the Government of Afghanistan at both the national and local level is cooperating fully with United States funded poppy eradication and interdiction efforts in Afghanistan: *Provided further*, That the President may waive the previous proviso if he determines and reports to the Committees on Appropriations that to do so is vital to the national security interests of the United States: *Provided further*, That such report shall include an analysis of the steps being taken by the Government of Afghanistan, at the national and local level, to cooperate fully with United States funded poppy eradication and interdiction efforts in Afghanistan: *Provided further*, That \$40,000,000 of the funds appropriated under this heading shall be made available for assistance for Lebanon, of which not less than \$6,000,000 should be made available for scholarships and direct support of American educational institutions in Lebanon: *Provided further*, That of the funds appropriated under this heading that are made available for assistance for Iraq, not less than \$5,000,000 shall be transferred to and merged with funds appropriated under the heading “Iraq Relief and Reconstruction Fund” in chapter 2 of title II of Public Law 108–106 and shall be made available for the Marla Ruzicka Iraqi War Victims Fund: *Provided further*, That of the funds appropriated under this heading that are made available for assistance for Iraq, not less than \$56,000,000 shall be made available for democracy, governance and rule of law programs in Iraq: *Provided further*, That of the funds appropriated under this heading, not less than \$19,000,000 shall be made available for assistance for the Democratic Republic of Timor-Leste, of which up to \$1,000,000 may be available for administrative expenses of the United States Agency for International Development: *Provided further*, That notwithstanding any other provision of law, funds appropriated under this heading shall be made available for programs and activities for the Central Highlands of Vietnam: *Provided further*, That funds appropriated under this heading that are made available for a Middle East Financing Facility, Middle East Enterprise Fund, or any other similar entity in the Middle East shall be subject to the regular notification procedures of the Committees on Appropriations: *Provided further*, That of funds appropriated under this heading, \$13,000,000 should be made available for a United States contribution to the Special Court for Sierra Leone: *Provided further*, That with respect to funds appropriated under this heading in this Act or prior Acts making appropriations for foreign operations, export financing, and related programs, the responsibility for policy decisions and justifications for the use of such funds, including whether there will be a program for a country that uses those funds and the amount of each such program, shall be the responsibility of the Secretary of State and the Deputy Secretary of State and this responsibility shall not be delegated.

INTERNATIONAL FUND FOR IRELAND

For necessary expenses to carry out the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961, \$13,500,000, which shall be available for the United States contribution to the International Fund for Ireland and shall be made available in

accordance with the provisions of the Anglo-Irish Agreement Support Act of 1986 (Public Law 99-415): *Provided*, That such amount shall be expended at the minimum rate necessary to make timely payment for projects and activities: *Provided further*, That funds made available under this heading shall remain available until September 30, 2007.

ASSISTANCE FOR EASTERN EUROPE AND THE BALTIC STATES

(a) For necessary expenses to carry out the provisions of the Foreign Assistance Act of 1961 and the Support for East European Democracy (SEED) Act of 1989, \$361,000,000, to remain available until September 30, 2007, which shall be available, notwithstanding any other provision of law, for assistance and for related programs for Eastern Europe and the Baltic States: *Provided*, That of the funds appropriated under this heading \$5,000,000 should be made available for rule of law programs for the training of judges and prosecutors.

(b) Funds appropriated under this heading shall be considered to be economic assistance under the Foreign Assistance Act of 1961 for purposes of making available the administrative authorities contained in that Act for the use of economic assistance.

Applicability.

(c) The provisions of section 529 of this Act shall apply to funds appropriated under this heading: *Provided*, That notwithstanding any provision of this or any other Act, including provisions in this subsection regarding the application of section 529 of this Act, local currencies generated by, or converted from, funds appropriated by this Act and by previous appropriations Acts and made available for the economic revitalization program in Bosnia may be used in Eastern Europe and the Baltic States to carry out the provisions of the Foreign Assistance Act of 1961 and the Support for East European Democracy (SEED) Act of 1989.

President.

(d) The President is authorized to withhold funds appropriated under this heading made available for economic revitalization programs in Bosnia and Herzegovina, if he determines and certifies to the Committees on Appropriations that the Federation of Bosnia and Herzegovina has not complied with article III of annex 1-A of the General Framework Agreement for Peace in Bosnia and Herzegovina concerning the withdrawal of foreign forces, and that intelligence cooperation on training, investigations, and related activities between state sponsors of terrorism and terrorist organizations and Bosnian officials has not been terminated.

ASSISTANCE FOR THE INDEPENDENT STATES OF THE FORMER SOVIET UNION

(a) For necessary expenses to carry out the provisions of chapters 11 and 12 of part I of the Foreign Assistance Act of 1961 and the FREEDOM Support Act, for assistance for the Independent States of the former Soviet Union and for related programs, \$514,000,000, to remain available until September 30, 2007: *Provided*, That the provisions of such chapters shall apply to funds appropriated by this paragraph: *Provided further*, That funds made available for the Southern Caucasus region may be used, notwithstanding any other provision of law, for confidence-building measures and other activities in furtherance of the peaceful resolution of the regional conflicts, especially those in the vicinity of Abkhazia and Nagorno-Karabagh: *Provided further*, That notwithstanding any

Applicability.

other provision of law, funds appropriated under this heading in this Act or prior Acts making appropriations for foreign operations, export financing, and related programs, that are made available pursuant to the provisions of section 807 of Public Law 102–511 shall be subject to a 6 percent ceiling on administrative expenses.

(b) Of the funds appropriated under this heading, not less than \$50,000,000 should be made available, in addition to funds otherwise available for such purposes, for assistance for child survival, environmental and reproductive health, and to combat HIV/AIDS, tuberculosis and other infectious diseases, and for related activities.

(c) Of the funds appropriated under this heading that are made available for assistance for Ukraine, not less than \$5,000,000 should be made available for nuclear reactor safety initiatives, and not less than \$1,500,000 shall be made available for coal mine safety programs.

(d) Of the funds appropriated under this heading, \$2,500,000 shall be made available for the Business Information Service for the Newly Independent States.

(e)(1) Of the funds appropriated under this heading that are allocated for assistance for the Government of the Russian Federation, 60 percent shall be withheld from obligation until the President determines and certifies in writing to the Committees on Appropriations that the Government of the Russian Federation—

President.
Certification.
Russian
Federation.

(A) has terminated implementation of arrangements to provide Iran with technical expertise, training, technology, or equipment necessary to develop a nuclear reactor, related nuclear research facilities or programs, or ballistic missile capability; and

(B) is providing full access to international non-government organizations providing humanitarian relief to refugees and internally displaced persons in Chechnya.

(2) Paragraph (1) shall not apply to—

(A) assistance to combat infectious diseases, child survival activities, or assistance for victims of trafficking in persons; and

(B) activities authorized under title V (Nonproliferation and Disarmament Programs and Activities) of the FREEDOM Support Act.

(f) Section 907 of the FREEDOM Support Act shall not apply to—

(1) activities to support democracy or assistance under title V of the FREEDOM Support Act and section 1424 of Public Law 104–201 or non-proliferation assistance;

(2) any assistance provided by the Trade and Development Agency under section 661 of the Foreign Assistance Act of 1961 (22 U.S.C. 2421);

(3) any activity carried out by a member of the United States and Foreign Commercial Service while acting within his or her official capacity;

(4) any insurance, reinsurance, guarantee or other assistance provided by the Overseas Private Investment Corporation under title IV of chapter 2 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2191 et seq.);

(5) any financing provided under the Export-Import Bank Act of 1945; or

(6) humanitarian assistance.

INDEPENDENT AGENCIES

INTER-AMERICAN FOUNDATION

For necessary expenses to carry out the functions of the Inter-American Foundation in accordance with the provisions of section 401 of the Foreign Assistance Act of 1969, \$19,500,000, to remain available until September 30, 2007.

AFRICAN DEVELOPMENT FOUNDATION

For necessary expenses to carry out title V of the International Security and Development Cooperation Act of 1980, Public Law 96–533, \$23,000,000, to remain available until September 30, 2007: *Provided*, That funds made available to grantees may be invested pending expenditure for project purposes when authorized by the Board of Directors of the Foundation: *Provided further*, That interest earned shall be used only for the purposes for which the grant was made: *Provided further*, That notwithstanding section 505(a)(2) of the African Development Foundation Act, in exceptional circumstances the Board of Directors of the Foundation may waive the \$250,000 limitation contained in that section with respect to a project: *Provided further*, That the Foundation shall provide a report to the Committees on Appropriations after each time such waiver authority is exercised.

Reports.

PEACE CORPS

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out the provisions of the Peace Corps Act (75 Stat. 612), including the purchase of not to exceed five passenger motor vehicles for administrative purposes for use outside of the United States, \$322,000,000, to remain available until September 30, 2007: *Provided*, That none of the funds appropriated under this heading shall be used to pay for abortions: *Provided further*, That the Director may transfer to the Foreign Currency Fluctuations Account, as authorized by 22 U.S.C. 2515, an amount not to exceed \$2,000,000: *Provided further*, That funds transferred pursuant to the previous proviso may not be derived from amounts made available for Peace Corps overseas operations.

Abortion.

MILLENNIUM CHALLENGE CORPORATION

For necessary expenses for the “Millennium Challenge Corporation”, \$1,770,000,000 to remain available until expended: *Provided*, That of the funds appropriated under this heading, up to \$75,000,000 may be available for administrative expenses of the Millennium Challenge Corporation: *Provided further*, That up to 10 percent of the funds appropriated under this heading may be made available to carry out the purposes of section 616 of the Millennium Challenge Act of 2003 for candidate countries for fiscal year 2006: *Provided further*, That none of the funds available to carry out section 616 of such Act may be made available until the Chief Executive Officer of the Millennium Challenge Corporation provides a report to the Committees on Appropriations listing the candidate countries that will be receiving assistance under section 616 of such Act, the level of assistance proposed for each such country, a description of the proposed programs, projects and

Reports.

activities, and the implementing agency or agencies of the United States Government: *Provided further*, That section 605(e)(4) of the Millennium Challenge Act of 2003 shall apply to funds appropriated under this heading: *Provided further*, That funds appropriated under this heading may be made available for a Millennium Challenge Compact entered into pursuant to section 609 of the Millennium Challenge Act of 2003 only if such Compact obligates, or contains a commitment to obligate subject to the availability of funds and the mutual agreement of the parties to the Compact to proceed, the entire amount of the United States Government funding anticipated for the duration of the Compact.

Applicability.

DEPARTMENT OF STATE

GLOBAL HIV/AIDS INITIATIVE

For necessary expenses to carry out the provisions of the Foreign Assistance Act of 1961 for the prevention, treatment, and control of, and research on, HIV/AIDS, \$1,995,000,000, to remain available until expended, of which \$200,000,000 shall be made available, notwithstanding any other provision of law, except for the United States Leadership Against HIV/AIDS, Tuberculosis and Malaria Act of 2003 (Public Law 108–25) for a United States contribution to the Global Fund to Fight AIDS, Tuberculosis and Malaria, and shall be expended at the minimum rate necessary to make timely payment for projects and activities.

DEMOCRACY FUND

(a) For necessary expenses to carry out the provisions of the Foreign Assistance Act of 1961 for the promotion of democracy, governance, human rights, independent media, and the rule of law globally, \$95,000,000, to remain available until September 30, 2008: *Provided*, That funds appropriated under this heading shall be made available notwithstanding any other provision of law, and of such funds \$63,200,000 shall be made available for the Human Rights and Democracy Fund of the Bureau of Democracy, Human Rights and Labor, Department of State, and not less than \$15,250,000 shall be made available for the National Endowment for Democracy: *Provided further*, That funds appropriated under this heading are in addition to funds otherwise available for such purposes: *Provided further*, That funds made available by title II of this Act for purposes of this section for any contract, grant, or cooperative agreement (or any amendment to any contract, grant, or cooperative agreement) in excess of \$10,000,000 shall be subject to the regular notification procedures of the Committees on Appropriations.

(b) Funds appropriated in subsection (a) should be made available for assistance for Taiwan for the purposes of furthering political and legal reforms: *Provided*, That such funds shall only be made available to the extent that they are matched from sources other than the United States Government.

(c) Funds appropriated in subsection (a) shall be made available for programs and activities to foster democracy, governance, human rights, civic education, women's development, press freedom, and the rule of law in countries located outside the Middle East region with a significant Muslim population, and where such programs and activities would be important to United States efforts to respond

to, deter, or prevent acts of international terrorism: *Provided*, That such funds should support new initiatives and activities in those countries: *Provided further*, That of the funds appropriated in subsection (a) \$5,000,000 shall be made available for continuing programs and activities that provide professional training for journalists.

(d) Notwithstanding any other provision of law, funds appropriated by this Act may be made available for democracy, governance, human rights, and rule of law programs for Syria and Iran: *Provided*, That not less than \$6,550,000 of the funds appropriated in subsection (a) shall be made available for programs and activities that support the advancement of democracy in Iran and Syria.

(e) Funds made available for purposes of this section that are made available to the National Endowment for Democracy may be made available notwithstanding any other provision of law or regulation.

(f) Funds made available pursuant to the authority of subsections (b), (c) and (d) shall be subject to the regular notification procedures of the Committees on Appropriations.

INTERNATIONAL NARCOTICS CONTROL AND LAW ENFORCEMENT

For necessary expenses to carry out section 481 of the Foreign Assistance Act of 1961, \$477,200,000, to remain available until September 30, 2008: *Provided*, That during fiscal year 2006, the Department of State may also use the authority of section 608 of the Foreign Assistance Act of 1961, without regard to its restrictions, to receive excess property from an agency of the United States Government for the purpose of providing it to a foreign country under chapter 8 of part I of that Act subject to the regular notification procedures of the Committees on Appropriations: *Provided further*, That the Secretary of State shall provide to the Committees on Appropriations not later than 45 days after the date of the enactment of this Act and prior to the initial obligation of funds appropriated under this heading, a report on the proposed uses of all funds under this heading on a country-by-country basis for each proposed program, project, or activity: *Provided further*, That of the funds appropriated under this heading, not less than \$16,000,000 shall be made available for training programs and activities of the International Law Enforcement Academies: *Provided further*, That \$10,000,000 of the funds appropriated under this heading should be made available for demand reduction programs: *Provided further*, That of the funds appropriated under this heading, not more than \$33,484,000 may be available for administrative expenses.

Deadline.
Reports.

ANDEAN COUNTERDRUG INITIATIVE

For necessary expenses to carry out section 481 of the Foreign Assistance Act of 1961 to support counterdrug activities in the Andean region of South America, \$734,500,000, to remain available until September 30, 2008: *Provided*, That in fiscal year 2006, funds available to the Department of State for assistance to the Government of Colombia shall be available to support a unified campaign against narcotics trafficking, against activities by organizations designated as terrorist organizations such as the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), and the United Self-Defense Forces of Colombia (AUC), and to

take actions to protect human health and welfare in emergency circumstances, including undertaking rescue operations: *Provided further*, That this authority shall cease to be effective if the Secretary of State has credible evidence that the Colombian Armed Forces are not conducting vigorous operations to restore government authority and respect for human rights in areas under the effective control of paramilitary and guerrilla organizations: *Provided further*, That the President shall ensure that if any helicopter procured with funds under this heading is used to aid or abet the operations of any illegal self-defense group or illegal security cooperative, such helicopter shall be immediately returned to the United States: *Provided further*, That the Secretary of State, in consultation with the Administrator of the United States Agency for International Development, shall provide to the Committees on Appropriations not later than 45 days after the date of the enactment of this Act and prior to the initial obligation of funds appropriated under this heading, a report on the proposed uses of all funds under this heading on a country-by-country basis for each proposed program, project, or activity: *Provided further*, That funds made available in this Act for demobilization/reintegration of members of foreign terrorist organizations in Colombia shall be subject to prior consultation with, and the regular notification procedures of, the Committees on Appropriations: *Provided further*, That section 482(b) of the Foreign Assistance Act of 1961 shall not apply to funds appropriated under this heading: *Provided further*, That assistance provided with funds appropriated under this heading that is made available notwithstanding section 482(b) of the Foreign Assistance Act of 1961 shall be made available subject to the regular notification procedures of the Committees on Appropriations: *Provided further*, That of the funds appropriated under this heading that are available for alternative development/institution building, not less than \$228,772,000 shall be apportioned directly to the United States Agency for International Development including \$131,232,000 for assistance for Colombia: *Provided further*, That with respect to funds apportioned to the United States Agency for International Development under the previous proviso, the responsibility for policy decisions for the use of such funds, including what activities will be funded and the amount of funds that will be provided for each of those activities, shall be the responsibility of the Administrator of the United States Agency for International Development in consultation with the Assistant Secretary of State for International Narcotics and Law Enforcement Affairs: *Provided further*, That of the funds appropriated under this heading, in addition to funds made available for judicial reform programs in Colombia, not less than \$8,000,000 shall be made available to the United States Agency for International Development for organizations and programs to protect human rights: *Provided further*, That not more than 20 percent of the funds appropriated by this Act that are used for the procurement of chemicals for aerial coca and poppy fumigation programs may be made available for such programs unless the Secretary of State certifies to the Committees on Appropriations that: (1) the herbicide is being used in accordance with EPA label requirements for comparable use in the United States and with Colombian laws; and (2) the herbicide, in the manner it is being used, does not pose unreasonable risks or adverse effects to humans or the environment including endemic species: *Provided further*, That such funds may

President.

Deadline.
Reports.

not be made available unless the Secretary of State certifies to the Committees on Appropriations that complaints of harm to health or licit crops caused by such fumigation are evaluated and fair compensation is being paid for meritorious claims: *Provided further*, That such funds may not be made available for such purposes unless programs are being implemented by the United States Agency for International Development, the Government of Colombia, or other organizations, in consultation with local communities, to provide alternative sources of income in areas where security permits for small-acreage growers whose illicit crops are targeted for fumigation: *Provided further*, That of the funds appropriated under this heading, not less than \$2,000,000 should be made available for programs to protect biodiversity and indigenous reserves in Colombia: *Provided further*, That funds appropriated by this Act may be used for aerial fumigation in Colombia's national parks or reserves only if the Secretary of State determines that it is in accordance with Colombian laws and that there are no effective alternatives to reduce drug cultivation in these areas: *Provided further*, That no United States Armed Forces personnel or United States civilian contractor employed by the United States will participate in any combat operation in connection with assistance made available by this Act for Colombia: *Provided further*, That funds appropriated under this heading that are made available for assistance for the Bolivian military may be made available for such purposes only if the Secretary of State certifies that the Bolivian military is respecting human rights, and civilian judicial authorities are investigating and prosecuting, with the military's cooperation, military personnel who have been implicated in gross violations of human rights: *Provided further*, That of the funds appropriated under this heading, not more than \$19,015,000 may be available for administrative expenses of the Department of State, and not more than \$7,800,000 may be available, in addition to amounts otherwise available for such purposes, for administrative expenses of the United States Agency for International Development.

MIGRATION AND REFUGEE ASSISTANCE

For expenses, not otherwise provided for, necessary to enable the Secretary of State to provide, as authorized by law, a contribution to the International Committee of the Red Cross, assistance to refugees, including contributions to the International Organization for Migration and the United Nations High Commissioner for Refugees, and other activities to meet refugee and migration needs; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1980; allowances as authorized by sections 5921 through 5925 of title 5, United States Code; purchase and hire of passenger motor vehicles; and services as authorized by section 3109 of title 5, United States Code, \$791,000,000, to remain available until expended: *Provided*, That not more than \$23,000,000 may be available for administrative expenses: *Provided further*, That not less than \$40,000,000 of the funds made available under this heading shall be made available for refugees from the former Soviet Union and Eastern Europe and other refugees resettling in Israel: *Provided further*, That funds appropriated under this heading may be made available for a headquarters contribution to the International Committee of the Red Cross only if the Secretary of State determines (and so reports

to the appropriate committees of Congress) that the Magen David Adom Society of Israel is not being denied participation in the activities of the International Red Cross and Red Crescent Movement: *Provided further*, That funds appropriated under this heading should be made available to develop effective responses to protracted refugee situations, including the development of programs to assist long-term refugee populations within and outside traditional camp settings that support refugees living or working in local communities such as integration of refugees into local schools and services, resource conservation projects and other projects designed to diminish conflict between refugee hosting communities and refugees, and encouraging dialogue among refugee hosting communities, the United Nations High Commissioner for Refugees, and international and nongovernmental refugee assistance organizations to promote the rights to which refugees are entitled under the Convention Relating to the Status of Refugees of July 28, 1951 and the Protocol Relating to the Status of Refugees, done at New York January 31, 1967.

UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE
FUND

For necessary expenses to carry out the provisions of section 2(c) of the Migration and Refugee Assistance Act of 1962, as amended (22 U.S.C. 2601(c)), \$30,000,000, to remain available until expended.

NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND RELATED
PROGRAMS

For necessary expenses for nonproliferation, anti-terrorism, demining and related programs and activities, \$410,100,000, to carry out the provisions of chapter 8 of part II of the Foreign Assistance Act of 1961 for anti-terrorism assistance, chapter 9 of part II of the Foreign Assistance Act of 1961, section 504 of the FREEDOM Support Act, section 23 of the Arms Export Control Act or the Foreign Assistance Act of 1961 for demining activities, the clearance of unexploded ordnance, the destruction of small arms, and related activities, notwithstanding any other provision of law, including activities implemented through nongovernmental and international organizations, and section 301 of the Foreign Assistance Act of 1961 for a voluntary contribution to the International Atomic Energy Agency (IAEA), and for a United States contribution to the Comprehensive Nuclear Test Ban Treaty Preparatory Commission: *Provided*, That of this amount not to exceed \$37,500,000, to remain available until expended, may be made available for the Nonproliferation and Disarmament Fund, notwithstanding any other provision of law, to promote bilateral and multilateral activities relating to nonproliferation and disarmament: *Provided further*, That such funds may also be used for such countries other than the Independent States of the former Soviet Union and international organizations when it is in the national security interest of the United States to do so: *Provided further*, That funds appropriated under this heading may be made available for the International Atomic Energy Agency only if the Secretary of State determines (and so reports to the Congress) that Israel is not being denied its right to participate in the activities of that Agency: *Provided further*, That of the funds made available for demining

and related activities, not to exceed \$705,000, in addition to funds otherwise available for such purposes, may be used for administrative expenses related to the operation and management of the demining program: *Provided further*, That funds appropriated under this heading that are available for “Anti-terrorism Assistance” and “Export Control and Border Security” shall remain available until September 30, 2007.

DEPARTMENT OF THE TREASURY

INTERNATIONAL AFFAIRS TECHNICAL ASSISTANCE

For necessary expenses to carry out the provisions of section 129 of the Foreign Assistance Act of 1961, \$20,000,000, to remain available until September 30, 2008, which shall be available notwithstanding any other provision of law.

DEBT RESTRUCTURING

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, of modifying loans and loan guarantees, as the President may determine, for which funds have been appropriated or otherwise made available for programs within the International Affairs Budget Function 150, including the cost of selling, reducing, or canceling amounts owed to the United States as a result of concessional loans made to eligible countries, pursuant to parts IV and V of the Foreign Assistance Act of 1961, of modifying concessional credit agreements with least developed countries, as authorized under section 411 of the Agricultural Trade Development and Assistance Act of 1954, as amended, of concessional loans, guarantees and credit agreements, as authorized under section 572 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461), and of canceling amounts owed, as a result of loans or guarantees made pursuant to the Export-Import Bank Act of 1945, by countries that are eligible for debt reduction pursuant to title V of H.R. 3425 as enacted into law by section 1000(a)(5) of Public Law 106–113, \$65,000,000, to remain available until September 30, 2008: *Provided*, That not less than \$20,000,000 of the funds appropriated under this heading shall be made available to carry out the provisions of part V of the Foreign Assistance Act of 1961: *Provided further*, That amounts paid to the HIPC Trust Fund may be used only to fund debt reduction under the enhanced HIPC initiative by—

- (1) the Inter-American Development Bank;
- (2) the African Development Fund;
- (3) the African Development Bank; and
- (4) the Central American Bank for Economic Integration:

Provided further, That funds may not be paid to the HIPC Trust Fund for the benefit of any country if the Secretary of State has credible evidence that the government of such country is engaged in a consistent pattern of gross violations of internationally recognized human rights or in military or civil conflict that undermines its ability to develop and implement measures to alleviate poverty and to devote adequate human and financial resources to that end: *Provided further*, That on the basis of final appropriations, the Secretary of the Treasury shall consult with the Committees on Appropriations concerning which countries and international

financial institutions are expected to benefit from a United States contribution to the HIPC Trust Fund during the fiscal year: *Provided further*, That the Secretary of the Treasury shall inform the Committees on Appropriations not less than 15 days in advance of the signature of an agreement by the United States to make payments to the HIPC Trust Fund of amounts for such countries and institutions: *Provided further*, That the Secretary of the Treasury may disburse funds designated for debt reduction through the HIPC Trust Fund only for the benefit of countries that—

Notification.
Deadline.

(1) have committed, for a period of 24 months, not to accept new market-rate loans from the international financial institution receiving debt repayment as a result of such disbursement, other than loans made by such institutions to export-oriented commercial projects that generate foreign exchange which are generally referred to as “enclave” loans; and

(2) have documented and demonstrated their commitment to redirect their budgetary resources from international debt repayments to programs to alleviate poverty and promote economic growth that are additional to or expand upon those previously available for such purposes:

Provided further, That any limitation of subsection (e) of section 411 of the Agricultural Trade Development and Assistance Act of 1954 shall not apply to funds appropriated under this heading: *Provided further*, That none of the funds made available under this heading in this or any other appropriations Act shall be made available for Sudan or Burma unless the Secretary of the Treasury determines and notifies the Committees on Appropriations that a democratically elected government has taken office.

Notification.

TITLE III—MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL MILITARY EDUCATION AND TRAINING

For necessary expenses to carry out the provisions of section 541 of the Foreign Assistance Act of 1961, \$86,744,000, of which up to \$3,000,000 may remain available until expended: *Provided*, That the civilian personnel for whom military education and training may be provided under this heading may include civilians who are not members of a government whose participation would contribute to improved civil-military relations, civilian control of the military, or respect for human rights: *Provided further*, That funds appropriated under this heading for military education and training for Guatemala may only be available for expanded international military education and training, and funds made available for Haiti, the Democratic Republic of the Congo, and Nigeria may only be provided through the regular notification procedures of the Committees on Appropriations.

FOREIGN MILITARY FINANCING PROGRAM

For expenses necessary for grants to enable the President to carry out the provisions of section 23 of the Arms Export Control Act, \$4,500,000,000: *Provided*, That of the funds appropriated under this heading, not less than \$2,280,000,000 shall be available for grants only for Israel, and not less than \$1,300,000,000 shall be

Israel.
Deadline.

made available for grants only for Egypt: *Provided further*, That the funds appropriated by this paragraph for Israel shall be disbursed within 30 days of the enactment of this Act: *Provided further*, That to the extent that the Government of Israel requests that funds be used for such purposes, grants made available for Israel by this paragraph shall, as agreed by Israel and the United States, be available for advanced weapons systems, of which not less than \$595,000,000 shall be available for the procurement in Israel of defense articles and defense services, including research and development: *Provided further*, That of the funds appropriated by this paragraph, \$210,000,000 shall be made available for assistance for Jordan: *Provided further*, That funds appropriated or otherwise made available by this paragraph shall be nonrepayable notwithstanding any requirement in section 23 of the Arms Export Control Act: *Provided further*, That funds made available under this paragraph shall be obligated upon apportionment in accordance with paragraph (5)(C) of title 31, United States Code, section 1501(a).

None of the funds made available under this heading shall be available to finance the procurement of defense articles, defense services, or design and construction services that are not sold by the United States Government under the Arms Export Control Act unless the foreign country proposing to make such procurements has first signed an agreement with the United States Government specifying the conditions under which such procurements may be financed with such funds: *Provided*, That all country and funding level increases in allocations shall be submitted through the regular notification procedures of section 515 of this Act: *Provided further*, That none of the funds appropriated under this heading shall be available for assistance for Sudan and Guatemala: *Provided further*, That none of the funds appropriated under this heading may be made available for assistance for Haiti except pursuant to the regular notification procedures of the Committees on Appropriations: *Provided further*, That funds made available under this heading may be used, notwithstanding any other provision of law, for demining, the clearance of unexploded ordnance, and related activities, and may include activities implemented through non-governmental and international organizations: *Provided further*, That only those countries for which assistance was justified for the “Foreign Military Sales Financing Program” in the fiscal year 1989 congressional presentation for security assistance programs may utilize funds made available under this heading for procurement of defense articles, defense services or design and construction services that are not sold by the United States Government under the Arms Export Control Act: *Provided further*, That funds appropriated under this heading shall be expended at the minimum rate necessary to make timely payment for defense articles and services: *Provided further*, That not more than \$42,500,000 of the funds appropriated under this heading may be obligated for necessary expenses, including the purchase of passenger motor vehicles for replacement only for use outside of the United States, for the general costs of administering military assistance and sales: *Provided further*, That not more than \$373,000,000 of funds realized pursuant to section 21(e)(1)(A) of the Arms Export Control Act may be obligated for expenses incurred by the Department of Defense during fiscal year 2006 pursuant to section 43(b) of the Arms Export Control Act, except that this limitation may be exceeded only through the regular notification procedures of the

Committees on Appropriations: *Provided further*, That foreign military financing program funds estimated to be outlayed for Egypt during fiscal year 2006 shall be transferred to an interest bearing account for Egypt in the Federal Reserve Bank of New York within 30 days of enactment of this Act.

Egypt.
Deadline.

PEACEKEEPING OPERATIONS

For necessary expenses to carry out the provisions of section 551 of the Foreign Assistance Act of 1961, \$175,000,000: *Provided*, That none of the funds appropriated under this heading shall be obligated or expended except as provided through the regular notification procedures of the Committees on Appropriations.

TITLE IV—MULTILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL FINANCIAL INSTITUTIONS

GLOBAL ENVIRONMENT FACILITY

For the United States contribution for the Global Environment Facility, \$80,000,000 to the International Bank for Reconstruction and Development as trustee for the Global Environment Facility (GEF), by the Secretary of the Treasury, to remain available until expended.

CONTRIBUTION TO THE INTERNATIONAL DEVELOPMENT ASSOCIATION

For payment to the International Development Association by the Secretary of the Treasury, \$950,000,000, to remain available until expended.

CONTRIBUTION TO THE MULTILATERAL INVESTMENT GUARANTEE AGENCY

For payment to the Multilateral Investment Guarantee Agency by the Secretary of the Treasury, \$1,300,000, to remain available until expended.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the Multilateral Investment Guarantee Agency may subscribe without fiscal year limitation to the callable capital portion of the United States share of such capital in an amount not to exceed \$8,126,527.

CONTRIBUTION TO THE INTER-AMERICAN INVESTMENT CORPORATION

For payment to the Inter-American Investment Corporation by the Secretary of the Treasury, \$1,741,515, to remain available until expended.

CONTRIBUTION TO THE ENTERPRISE FOR THE AMERICAS MULTILATERAL INVESTMENT FUND

For payment to the Enterprise for the Americas Multilateral Investment Fund by the Secretary of the Treasury, for the United States contribution to the fund, \$1,741,515, to remain available until expended.

CONTRIBUTION TO THE ASIAN DEVELOPMENT FUND

For the United States contribution by the Secretary of the Treasury to the increase in resources of the Asian Development Fund, as authorized by the Asian Development Bank Act, as amended, \$100,000,000, to remain available until expended.

CONTRIBUTION TO THE AFRICAN DEVELOPMENT BANK

For payment to the African Development Bank by the Secretary of the Treasury, \$3,638,000, for the United States paid-in share of the increase in capital stock, to remain available until expended.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the African Development Bank may subscribe without fiscal year limitation for the callable capital portion of the United States share of such capital stock in an amount not to exceed \$88,333,855.

CONTRIBUTION TO THE AFRICAN DEVELOPMENT FUND

For the United States contribution by the Secretary of the Treasury to the increase in resources of the African Development Fund, \$135,700,000, to remain available until expended.

CONTRIBUTION TO THE EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT

For payment to the European Bank for Reconstruction and Development by the Secretary of the Treasury, \$1,015,677 for the United States share of the paid-in portion of the increase in capital stock, to remain available until expended.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the European Bank for Reconstruction and Development may subscribe without fiscal year limitation to the callable capital portion of the United States share of such capital stock in an amount not to exceed \$2,249,888.

CONTRIBUTION TO THE INTERNATIONAL FUND FOR AGRICULTURAL DEVELOPMENT

For the United States contribution by the Secretary of the Treasury to increase the resources of the International Fund for Agricultural Development, \$15,000,000, to remain available until expended.

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

For necessary expenses to carry out the provisions of section 301 of the Foreign Assistance Act of 1961, and of section 2 of the United Nations Environment Program Participation Act of 1973, \$329,458,000: *Provided*, That none of the funds appropriated under this heading may be made available to the International Atomic Energy Agency (IAEA).

TITLE V—GENERAL PROVISIONS

COMPENSATION FOR UNITED STATES EXECUTIVE DIRECTORS TO
INTERNATIONAL FINANCIAL INSTITUTIONS

SEC. 501. (a) No funds appropriated by this Act may be made as payment to any international financial institution while the United States Executive Director to such institution is compensated by the institution at a rate which, together with whatever compensation such Director receives from the United States, is in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while any alternate United States Director to such institution is compensated by the institution at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(b) For purposes of this section “international financial institutions” are: the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, the Asian Development Fund, the African Development Bank, the African Development Fund, the International Monetary Fund, the North American Development Bank, and the European Bank for Reconstruction and Development.

RESTRICTIONS ON VOLUNTARY CONTRIBUTIONS TO UNITED NATIONS
AGENCIES

SEC. 502. None of the funds appropriated by this Act may be made available to pay any voluntary contribution of the United States to the United Nations (including the United Nations Development Program) if the United Nations implements or imposes any taxation on any United States persons.

LIMITATION ON RESIDENCE EXPENSES

SEC. 503. Of the funds appropriated or made available pursuant to this Act, not to exceed \$100,500 shall be for official residence expenses of the United States Agency for International Development during the current fiscal year: *Provided*, That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars.

UNOBLIGATED BALANCES REPORT

SEC. 504. Any Department or Agency to which funds are appropriated or otherwise made available by this Act shall provide to the Committees on Appropriations a quarterly accounting by program, project, and activity of the funds received by such Department or Agency in this fiscal year or any previous fiscal year that remain unobligated and unexpended.

LIMITATION ON REPRESENTATIONAL ALLOWANCES

SEC. 505. Of the funds appropriated or made available pursuant to this Act, not to exceed \$250,000 shall be available for representation and entertainment allowances, of which not to exceed \$2,500 shall be available for entertainment allowances, for the United

States Agency for International Development during the current fiscal year: *Provided*, That no such entertainment funds may be used for the purposes listed in section 548 of this Act: *Provided further*, That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars: *Provided further*, That of the funds made available by this Act for general costs of administering military assistance and sales under the heading “Foreign Military Financing Program”, not to exceed \$4,000 shall be available for entertainment expenses and not to exceed \$130,000 shall be available for representation allowances: *Provided further*, That of the funds made available by this Act under the heading “International Military Education and Training”, not to exceed \$55,000 shall be available for entertainment allowances: *Provided further*, That of the funds made available by this Act for the Inter-American Foundation, not to exceed \$2,000 shall be available for entertainment and representation allowances: *Provided further*, That of the funds made available by this Act for the Peace Corps, not to exceed a total of \$4,000 shall be available for entertainment expenses: *Provided further*, That of the funds made available by this Act under the heading “Trade and Development Agency”, not to exceed \$4,000 shall be available for representation and entertainment allowances: *Provided further*, That of the funds made available by this Act under the heading “Millennium Challenge Corporation”, not to exceed \$115,000 shall be available for representation and entertainment allowances.

PROHIBITION ON TAXATION OF UNITED STATES ASSISTANCE

SEC. 506. (a) PROHIBITION ON TAXATION.—None of the funds appropriated by this Act may be made available to provide assistance for a foreign country under a new bilateral agreement governing the terms and conditions under which such assistance is to be provided unless such agreement includes a provision stating that assistance provided by the United States shall be exempt from taxation, or reimbursed, by the foreign government, and the Secretary of State shall expeditiously seek to negotiate amendments to existing bilateral agreements, as necessary, to conform with this requirement.

Certification.
Reports.

(b) REIMBURSEMENT OF FOREIGN TAXES.—An amount equivalent to 200 percent of the total taxes assessed during fiscal year 2006 on funds appropriated by this Act by a foreign government or entity against commodities financed under United States assistance programs for which funds are appropriated by this Act, either directly or through grantees, contractors and subcontractors shall be withheld from obligation from funds appropriated for assistance for fiscal year 2007 and allocated for the central government of such country and for the West Bank and Gaza Program to the extent that the Secretary of State certifies and reports in writing to the Committees on Appropriations that such taxes have not been reimbursed to the Government of the United States.

(c) DE MINIMIS EXCEPTION.—Foreign taxes of a de minimis nature shall not be subject to the provisions of subsection (b).

(d) REPROGRAMMING OF FUNDS.—Funds withheld from obligation for each country or entity pursuant to subsection (b) shall be reprogrammed for assistance to countries which do not assess taxes on United States assistance or which have an effective

arrangement that is providing substantial reimbursement of such taxes.

(e) DETERMINATIONS.—

(1) The provisions of this section shall not apply to any country or entity the Secretary of State determines—

(A) does not assess taxes on United States assistance or which has an effective arrangement that is providing substantial reimbursement of such taxes; or

(B) the foreign policy interests of the United States outweigh the policy of this section to ensure that United States assistance is not subject to taxation.

(2) The Secretary of State shall consult with the Committees on Appropriations at least 15 days prior to exercising the authority of this subsection with regard to any country or entity.

Deadline.

(f) IMPLEMENTATION.—The Secretary of State shall issue rules, regulations, or policy guidance, as appropriate, to implement the prohibition against the taxation of assistance contained in this section.

Regulations.

(g) DEFINITIONS.—As used in this section—

(1) the terms “taxes” and “taxation” refer to value added taxes and customs duties imposed on commodities financed with United States assistance for programs for which funds are appropriated by this Act; and

(2) the term “bilateral agreement” refers to a framework bilateral agreement between the Government of the United States and the government of the country receiving assistance that describes the privileges and immunities applicable to United States foreign assistance for such country generally, or an individual agreement between the Government of the United States and such government that describes, among other things, the treatment for tax purposes that will be accorded the United States assistance provided under that agreement.

PROHIBITION AGAINST DIRECT FUNDING FOR CERTAIN COUNTRIES

SEC. 507. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance or reparations to Cuba, Libya, North Korea, Iran, or Syria: *Provided*, That for purposes of this section, the prohibition on obligations or expenditures shall include direct loans, credits, insurance and guarantees of the Export-Import Bank or its agents: *Provided further*, That for purposes of this section, the prohibition shall not include activities of the Overseas Private Investment Corporation in Libya: *Provided further*, That the prohibition shall not include direct loans, credits, insurance and guarantees made available by the Export-Import Bank or its agents for or in Libya.

MILITARY COUPS

SEC. 508. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance to the government of any country whose duly elected head of government is deposed by military coup or decree: *Provided*, That assistance may be resumed to such

President.
Certification.

government if the President determines and certifies to the Committees on Appropriations that subsequent to the termination of assistance a democratically elected government has taken office: *Provided further*, That the provisions of this section shall not apply to assistance to promote democratic elections or public participation in democratic processes: *Provided further*, That funds made available pursuant to the previous provisos shall be subject to the regular notification procedures of the Committees on Appropriations.

TRANSFERS

SEC. 509. (a)(1) LIMITATION ON TRANSFERS BETWEEN AGENCIES.—None of the funds made available by this Act may be transferred to any department, agency, or instrumentality of the United States Government, except pursuant to a transfer made by, or transfer authority provided in, this Act or any other appropriation Act.

(2) Notwithstanding paragraph (1), in addition to transfers made by, or authorized elsewhere in, this Act, funds appropriated by this Act to carry out the purposes of the Foreign Assistance Act of 1961 may be allocated or transferred to agencies of the United States Government pursuant to the provisions of sections 109, 610, and 632 of the Foreign Assistance Act of 1961.

President.
Deadline.

(b) TRANSFERS BETWEEN ACCOUNTS.—None of the funds made available by this Act may be obligated under an appropriation account to which they were not appropriated, except for transfers specifically provided for in this Act, unless the President, not less than 5 days prior to the exercise of any authority contained in the Foreign Assistance Act of 1961 to transfer funds, consults with and provides a written policy justification to the Committees on Appropriations of the House of Representatives and the Senate.

(c) AUDIT OF INTER-AGENCY TRANSFERS.—Any agreement for the transfer or allocation of funds appropriated by this Act, or prior Acts, entered into between the United States Agency for International Development and another agency of the United States Government under the authority of section 632(a) of the Foreign Assistance Act of 1961 or any comparable provision of law, shall expressly provide that the Office of the Inspector General for the agency receiving the transfer or allocation of such funds shall perform periodic program and financial audits of the use of such funds: *Provided*, That funds transferred under such authority may be made available for the cost of such audits.

COMMERCIAL LEASING OF DEFENSE ARTICLES

SEC. 510. Notwithstanding any other provision of law, and subject to the regular notification procedures of the Committees on Appropriations, the authority of section 23(a) of the Arms Export Control Act may be used to provide financing to Israel, Egypt and NATO and major non-NATO allies for the procurement by leasing (including leasing with an option to purchase) of defense articles from United States commercial suppliers, not including Major Defense Equipment (other than helicopters and other types of aircraft having possible civilian application), if the President determines that there are compelling foreign policy or national security reasons for those defense articles being provided by commercial lease rather than by government-to-government sale under such Act.

AVAILABILITY OF FUNDS

SEC. 511. No part of any appropriation contained in this Act shall remain available for obligation after the expiration of the current fiscal year unless expressly so provided in this Act: *Provided*, That funds appropriated for the purposes of chapters 1, 8, 11, and 12 of part I, section 667, chapters 4, 6, 8, and 9 of part II of the Foreign Assistance Act of 1961, section 23 of the Arms Export Control Act, and funds provided under the heading “Assistance for Eastern Europe and the Baltic States”, shall remain available for an additional 4 years from the date on which the availability of such funds would otherwise have expired, if such funds are initially obligated before the expiration of their respective periods of availability contained in this Act: *Provided further*, That, notwithstanding any other provision of this Act, any funds made available for the purposes of chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961 which are allocated or obligated for cash disbursements in order to address balance of payments or economic policy reform objectives, shall remain available until expended.

LIMITATION ON ASSISTANCE TO COUNTRIES IN DEFAULT

SEC. 512. No part of any appropriation contained in this Act shall be used to furnish assistance to the government of any country which is in default during a period in excess of 1 calendar year in payment to the United States of principal or interest on any loan made to the government of such country by the United States pursuant to a program for which funds are appropriated under this Act unless the President determines, following consultations with the Committees on Appropriations, that assistance to such country is in the national interest of the United States.

COMMERCE AND TRADE

SEC. 513. (a) None of the funds appropriated or made available pursuant to this Act for direct assistance and none of the funds otherwise made available pursuant to this Act to the Export-Import Bank and the Overseas Private Investment Corporation shall be obligated or expended to finance any loan, any assistance or any other financial commitments for establishing or expanding production of any commodity for export by any country other than the United States, if the commodity is likely to be in surplus on world markets at the time the resulting productive capacity is expected to become operative and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity: *Provided*, That such prohibition shall not apply to the Export-Import Bank if in the judgment of its Board of Directors the benefits to industry and employment in the United States are likely to outweigh the injury to United States producers of the same, similar, or competing commodity, and the Chairman of the Board so notifies the Committees on Appropriations.

(b) None of the funds appropriated by this or any other Act to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 shall be available for any testing or breeding feasibility study, variety improvement or introduction, consultancy, publication, conference, or training in connection with the growth or production in a foreign country of an agricultural commodity for

export which would compete with a similar commodity grown or produced in the United States: *Provided*, That this subsection shall not prohibit—

(1) activities designed to increase food security in developing countries where such activities will not have a significant impact on the export of agricultural commodities of the United States; or

(2) research activities intended primarily to benefit American producers.

SURPLUS COMMODITIES

22 USC 262h
note.

SEC. 514. The Secretary of the Treasury shall instruct the United States Executive Directors of the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the International Monetary Fund, the Asian Development Bank, the Inter-American Investment Corporation, the North American Development Bank, the European Bank for Reconstruction and Development, the African Development Bank, and the African Development Fund to use the voice and vote of the United States to oppose any assistance by these institutions, using funds appropriated or made available pursuant to this Act, for the production or extraction of any commodity or mineral for export, if it is in surplus on world markets and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity.

NOTIFICATION REQUIREMENTS

President.

SEC. 515. For the purposes of providing the executive branch with the necessary administrative flexibility, none of the funds made available under this Act for “Child Survival and Health Programs Fund”, “Development Assistance”, “International Organizations and Programs”, “Trade and Development Agency”, “International Narcotics Control and Law Enforcement”, “Andean Counterdrug Initiative”, “Assistance for Eastern Europe and the Baltic States”, “Assistance for the Independent States of the Former Soviet Union”, “Economic Support Fund”, “Global HIV/AIDS Initiative”, “Democracy Fund”, “Peacekeeping Operations”, “Capital Investment Fund”, “Operating Expenses of the United States Agency for International Development”, “Operating Expenses of the United States Agency for International Development Office of Inspector General”, “Nonproliferation, Anti-terrorism, Demining and Related Programs”, “Millennium Challenge Corporation” (by country only), “Foreign Military Financing Program”, “International Military Education and Training”, “Peace Corps”, and “Migration and Refugee Assistance”, shall be available for obligation for activities, programs, projects, type of materiel assistance, countries, or other operations not justified or in excess of the amount justified to the Committees on Appropriations for obligation under any of these specific headings unless the Committees on Appropriations of both Houses of Congress are previously notified 15 days in advance: *Provided*, That the President shall not enter into any commitment of funds appropriated for the purposes of section 23 of the Arms Export Control Act for the provision of major defense equipment, other than conventional ammunition, or other major defense items defined to be aircraft, ships, missiles, or combat

vehicles, not previously justified to Congress or 20 percent in excess of the quantities justified to Congress unless the Committees on Appropriations are notified 15 days in advance of such commitment: *Provided further*, That this section shall not apply to any reprogramming for an activity, program, or project for which funds are appropriated under title II of this Act of less than 10 percent of the amount previously justified to the Congress for obligation for such activity, program, or project for the current fiscal year: *Provided further*, That the requirements of this section or any similar provision of this Act or any other Act, including any prior Act requiring notification in accordance with the regular notification procedures of the Committees on Appropriations, may be waived if failure to do so would pose a substantial risk to human health or welfare: *Provided further*, That in case of any such waiver, notification to the Congress, or the appropriate congressional committees, shall be provided as early as practicable, but in no event later than 3 days after taking the action to which such notification requirement was applicable, in the context of the circumstances necessitating such waiver: *Provided further*, That any notification provided pursuant to such a waiver shall contain an explanation of the emergency circumstances.

LIMITATION ON AVAILABILITY OF FUNDS FOR INTERNATIONAL
ORGANIZATIONS AND PROGRAMS

SEC. 516. Subject to the regular notification procedures of the Committees on Appropriations, funds appropriated under this Act or any previously enacted Act making appropriations for foreign operations, export financing, and related programs, which are returned or not made available for organizations and programs because of the implementation of section 307(a) of the Foreign Assistance Act of 1961, shall remain available for obligation until September 30, 2007.

INDEPENDENT STATES OF THE FORMER SOVIET UNION

SEC. 517. (a) None of the funds appropriated under the heading “Assistance for the Independent States of the Former Soviet Union” shall be made available for assistance for a government of an Independent State of the former Soviet Union if that government directs any action in violation of the territorial integrity or national sovereignty of any other Independent State of the former Soviet Union, such as those violations included in the Helsinki Final Act: *Provided*, That such funds may be made available without regard to the restriction in this subsection if the President determines that to do so is in the national security interest of the United States.

22 USC 5814
note.

(b) None of the funds appropriated under the heading “Assistance for the Independent States of the Former Soviet Union” shall be made available for any state to enhance its military capability: *Provided*, That this restriction does not apply to demilitarization, demining or nonproliferation programs.

(c) Funds appropriated under the heading “Assistance for the Independent States of the Former Soviet Union” for the Russian Federation, Armenia, Kazakhstan, and Uzbekistan shall be subject to the regular notification procedures of the Committees on Appropriations.

(d) Funds made available in this Act for assistance for the Independent States of the former Soviet Union shall be subject to the provisions of section 117 (relating to environment and natural resources) of the Foreign Assistance Act of 1961.

(e) In issuing new task orders, entering into contracts, or making grants, with funds appropriated in this Act or prior appropriations Acts under the heading “Assistance for the Independent States of the Former Soviet Union” and under comparable headings in prior appropriations Acts, for projects or activities that have as one of their primary purposes the fostering of private sector development, the Coordinator for United States Assistance to Europe and Eurasia and the implementing agency shall encourage the participation of and give significant weight to contractors and grantees who propose investing a significant amount of their own resources (including volunteer services and in-kind contributions) in such projects and activities.

PROHIBITION ON FUNDING FOR ABORTIONS AND INVOLUNTARY STERILIZATION

SEC. 518. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of involuntary sterilization as a method of family planning or to coerce or provide any financial incentive to any person to undergo sterilizations. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for any biomedical research which relates in whole or in part, to methods of, or the performance of, abortions or involuntary sterilization as a means of family planning. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be obligated or expended for any country or organization if the President certifies that the use of these funds by any such country or organization would violate any of the above provisions related to abortions and involuntary sterilizations.

EXPORT FINANCING TRANSFER AUTHORITIES

SEC. 519. Not to exceed 5 percent of any appropriation other than for administrative expenses made available for fiscal year 2006, for programs under title I of this Act may be transferred between such appropriations for use for any of the purposes, programs, and activities for which the funds in such receiving account may be used, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 25 percent by any such transfer: *Provided*, That the exercise of such authority shall be subject to the regular notification procedures of the Committees on Appropriations.

SPECIAL NOTIFICATION REQUIREMENTS

SEC. 520. None of the funds appropriated by this Act shall be obligated or expended for assistance for Liberia, Serbia, Sudan, Zimbabwe, Pakistan, or Cambodia except as provided through the

regular notification procedures of the Committees on Appropriations.

DEFINITION OF PROGRAM, PROJECT, AND ACTIVITY

SEC. 521. For the purpose of this Act “program, project, and activity” shall be defined at the appropriations Act account level and shall include all appropriations and authorizations Acts earmarks, ceilings, and limitations with the exception that for the following accounts: Economic Support Fund and Foreign Military Financing Program, “program, project, and activity” shall also be considered to include country, regional, and central program level funding within each such account; for the development assistance accounts of the United States Agency for International Development “program, project, and activity” shall also be considered to include central, country, regional, and program level funding, either as: (1) justified to the Congress; or (2) allocated by the executive branch in accordance with a report, to be provided to the Committees on Appropriations within 30 days of the enactment of this Act, as required by section 653(a) of the Foreign Assistance Act of 1961.

Reports.
Deadline.

CHILD SURVIVAL AND HEALTH ACTIVITIES

SEC. 522. Up to \$13,500,000 of the funds made available by this Act for assistance under the heading “Child Survival and Health Programs Fund”, may be used to reimburse United States Government agencies, agencies of State governments, institutions of higher learning, and private and voluntary organizations for the full cost of individuals (including for the personal services of such individuals) detailed or assigned to, or contracted by, as the case may be, the United States Agency for International Development for the purpose of carrying out activities under that heading: *Provided*, That up to \$3,500,000 of the funds made available by this Act for assistance under the heading “Development Assistance” may be used to reimburse such agencies, institutions, and organizations for such costs of such individuals carrying out other development assistance activities: *Provided further*, That funds appropriated by titles II and III of this Act that are made available for bilateral assistance for child survival activities or disease programs including activities relating to research on, and the prevention, treatment and control of, HIV/AIDS may be made available notwithstanding any other provision of law except for the provisions under the heading “Child Survival and Health Programs Fund” and the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (117 Stat. 711; 22 U.S.C. 7601 et seq.), as amended: *Provided further*, That of the funds appropriated under title II of this Act, not less than \$440,000,000 shall be made available for family planning/reproductive health: *Provided further*, That the Comptroller General of the United States shall conduct an audit on the use of funds appropriated for fiscal years 2004 and 2005 under the heading “Child Survival and Health Programs Fund”, to include specific recommendations on improving the effectiveness of such funds.

HIV/AIDS.

Audit.

AFGHANISTAN

SEC. 523. Of the funds appropriated by titles II and III of this Act, not less than \$931,400,000 should be made available for humanitarian, reconstruction, and related assistance for Afghanistan: *Provided*, That of the funds made available pursuant to this section, not less than \$3,000,000 should be made available for reforestation activities: *Provided further*, That funds made available pursuant to the previous proviso should be matched, to the maximum extent possible, with contributions from American and Afghan businesses: *Provided further*, That of the funds allocated for assistance for Afghanistan from this Act and other Acts making appropriations for foreign operations, export financing, and related programs for fiscal year 2006, not less than \$50,000,000 should be made available to support programs that directly address the needs of Afghan women and girls, of which not less than \$7,500,000 shall be made available for grants to support training and equipment to improve the capacity of women-led Afghan nongovernmental organizations and to support the activities of such organizations: *Provided further*, That of the funds made available pursuant to this section, not less than \$2,000,000 should be made available for the Afghan Independent Human Rights Commission and for other Afghan human rights organizations.

NOTIFICATION ON EXCESS DEFENSE EQUIPMENT

SEC. 524. Prior to providing excess Department of Defense articles in accordance with section 516(a) of the Foreign Assistance Act of 1961, the Department of Defense shall notify the Committees on Appropriations to the same extent and under the same conditions as are other committees pursuant to subsection (f) of that section: *Provided*, That before issuing a letter of offer to sell excess defense articles under the Arms Export Control Act, the Department of Defense shall notify the Committees on Appropriations in accordance with the regular notification procedures of such Committees if such defense articles are significant military equipment (as defined in section 47(9) of the Arms Export Control Act) or are valued (in terms of original acquisition cost) at \$7,000,000 or more, or if notification is required elsewhere in this Act for the use of appropriated funds for specific countries that would receive such excess defense articles: *Provided further*, That such Committees shall also be informed of the original acquisition cost of such defense articles.

HIV/AIDS

Certification.

SEC. 525. (a) Notwithstanding any other provision of this Act, 20 percent of the funds that are appropriated by this Act for a contribution to support the Global Fund to Fight AIDS, Tuberculosis and Malaria (the “Global Fund”) shall be withheld from obligation to the Global Fund until the Secretary of State certifies to the Committees on Appropriations that the Global Fund—

(1) has established clear progress indicators upon which to determine the release of incremental disbursements;

(2) is releasing such incremental disbursements only if progress is being made based on those indicators; and

(3) is providing support and oversight to country-level entities, such as country coordinating mechanisms, principal recipients, and local Fund agents, to enable them to fulfill their mandates.

(b) The Secretary of State may waive subsection (a) if the Secretary determines and reports to the Committees on Appropriations that such waiver is important to the national interest of the United States.

BURMA

SEC. 526. (a) The Secretary of the Treasury shall instruct the United States executive director to each appropriate international financial institution in which the United States participates, to oppose and vote against the extension by such institution of any loan or financial or technical assistance or any other utilization of funds of the respective bank to and for Burma. 50 USC 1701 note.

(b) Of the funds appropriated under the heading “Economic Support Fund”, not less than \$11,000,000 shall be made available to support democracy activities in Burma, along the Burma-Thailand border, for activities of Burmese student groups and other organizations located outside Burma, and for the purpose of supporting the provision of humanitarian assistance to displaced Burmese along Burma’s borders: *Provided*, That funds made available under this heading may be made available notwithstanding any other provision of law: *Provided further*, That in addition to assistance for Burmese refugees provided under the heading “Migration and Refugee Assistance” in this Act, not less than \$3,000,000 shall be made available for assistance for community-based organizations operating in Thailand to provide food, medical and other humanitarian assistance to internally displaced persons in eastern Burma: *Provided further*, That funds made available under this section shall be subject to the regular notification procedures of the Committees on Appropriations.

(c) The President shall include amounts expended by the Global Fund to Fight AIDS, Tuberculosis and Malaria to the State Peace and Development Council in Burma, directly or through groups and organizations affiliated with the Global Fund, in making determinations regarding the amount to be withheld by the United States from its contribution to the Global Fund pursuant to section 202(d)(4)(A)(ii) of Public Law 108–25. President.

PROHIBITION ON BILATERAL ASSISTANCE TO TERRORIST COUNTRIES

SEC. 527. (a) Funds appropriated for bilateral assistance under any heading of this Act and funds appropriated under any such heading in a provision of law enacted prior to the enactment of this Act, shall not be made available to any country which the President determines— President.

(1) grants sanctuary from prosecution to any individual or group which has committed an act of international terrorism; or

(2) otherwise supports international terrorism.

(b) The President may waive the application of subsection (a) to a country if the President determines that national security or humanitarian reasons justify such waiver. The President shall publish each waiver in the Federal Register and, at least 15 days

President.
Federal Register,
publication.
Deadline.
Notification.

before the waiver takes effect, shall notify the Committees on Appropriations of the waiver (including the justification for the waiver) in accordance with the regular notification procedures of the Committees on Appropriations.

DEBT-FOR-DEVELOPMENT

SEC. 528. In order to enhance the continued participation of nongovernmental organizations in debt-for-development and debt-for-nature exchanges, a nongovernmental organization which is a grantee or contractor of the United States Agency for International Development may place in interest bearing accounts local currencies which accrue to that organization as a result of economic assistance provided under title II of this Act and, subject to the regular notification procedures of the Committees on Appropriations, any interest earned on such investment shall be used for the purpose for which the assistance was provided to that organization.

SEPARATE ACCOUNTS

22 USC 2362
note.

SEC. 529. (a) SEPARATE ACCOUNTS FOR LOCAL CURRENCIES.—

(1) If assistance is furnished to the government of a foreign country under chapters 1 and 10 of part I or chapter 4 of part II of the Foreign Assistance Act of 1961 under agreements which result in the generation of local currencies of that country, the Administrator of the United States Agency for International Development shall—

(A) require that local currencies be deposited in a separate account established by that government;

(B) enter into an agreement with that government which sets forth—

(i) the amount of the local currencies to be generated; and

(ii) the terms and conditions under which the currencies so deposited may be utilized, consistent with this section; and

(C) establish by agreement with that government the responsibilities of the United States Agency for International Development and that government to monitor and account for deposits into and disbursements from the separate account.

(2) USES OF LOCAL CURRENCIES.—As may be agreed upon with the foreign government, local currencies deposited in a separate account pursuant to subsection (a), or an equivalent amount of local currencies, shall be used only—

(A) to carry out chapter 1 or 10 of part I or chapter 4 of part II (as the case may be), for such purposes as—

(i) project and sector assistance activities; or

(ii) debt and deficit financing; or

(B) for the administrative requirements of the United States Government.

(3) PROGRAMMING ACCOUNTABILITY.—The United States Agency for International Development shall take all necessary steps to ensure that the equivalent of the local currencies disbursed pursuant to subsection (a)(2)(A) from the separate account established pursuant to subsection (a)(1) are used for the purposes agreed upon pursuant to subsection (a)(2).

(4) **TERMINATION OF ASSISTANCE PROGRAMS.**—Upon termination of assistance to a country under chapter 1 or 10 of part I or chapter 4 of part II (as the case may be), any unencumbered balances of funds which remain in a separate account established pursuant to subsection (a) shall be disposed of for such purposes as may be agreed to by the government of that country and the United States Government.

(5) **REPORTING REQUIREMENT.**—The Administrator of the United States Agency for International Development shall report on an annual basis as part of the justification documents submitted to the Committees on Appropriations on the use of local currencies for the administrative requirements of the United States Government as authorized in subsection (a)(2)(B), and such report shall include the amount of local currency (and United States dollar equivalent) used and/or to be used for such purpose in each applicable country.

(b) **SEPARATE ACCOUNTS FOR CASH TRANSFERS.**—

(1) If assistance is made available to the government of a foreign country, under chapter 1 or 10 of part I or chapter 4 of part II of the Foreign Assistance Act of 1961, as cash transfer assistance or as nonproject sector assistance, that country shall be required to maintain such funds in a separate account and not commingle them with any other funds.

(2) **APPLICABILITY OF OTHER PROVISIONS OF LAW.**—Such funds may be obligated and expended notwithstanding provisions of law which are inconsistent with the nature of this assistance including provisions which are referenced in the Joint Explanatory Statement of the Committee of Conference accompanying House Joint Resolution 648 (House Report No. 98-1159).

(3) **NOTIFICATION.**—At least 15 days prior to obligating any such cash transfer or nonproject sector assistance, the President shall submit a notification through the regular notification procedures of the Committees on Appropriations, which shall include a detailed description of how the funds proposed to be made available will be used, with a discussion of the United States interests that will be served by the assistance (including, as appropriate, a description of the economic policy reforms that will be promoted by such assistance).

President.

(4) **EXEMPTION.**—Nonproject sector assistance funds may be exempt from the requirements of subsection (b)(1) only through the notification procedures of the Committees on Appropriations.

ENTERPRISE FUND RESTRICTIONS

SEC. 530. (a) Prior to the distribution of any assets resulting from any liquidation, dissolution, or winding up of an Enterprise Fund, in whole or in part, the President shall submit to the Committees on Appropriations, in accordance with the regular notification procedures of the Committees on Appropriations, a plan for the distribution of the assets of the Enterprise Fund.

President.

(b) Funds made available by this Act for Enterprise Funds shall be expended at the minimum rate necessary to make timely payment for projects and activities.

FINANCIAL MARKET ASSISTANCE IN TRANSITION COUNTRIES

SEC. 531. Of the funds appropriated by this Act under the headings “Trade and Development Agency”, “Development Assistance”, “Transition Initiatives”, “Economic Support Fund”, “International Affairs Technical Assistance”, “Assistance for the Independent States of the Former Soviet Union”, “Nonproliferation, Anti-terrorism, Demining and Related Programs”, and “Assistance for Eastern Europe and Baltic States”, not less than \$40,000,000 should be made available for building capital markets and financial systems in countries in transition.

AUTHORITIES FOR THE PEACE CORPS, INTER-AMERICAN FOUNDATION
AND AFRICAN DEVELOPMENT FOUNDATION

Reports.

SEC. 532. Unless expressly provided to the contrary, provisions of this or any other Act, including provisions contained in prior Acts authorizing or making appropriations for foreign operations, export financing, and related programs, shall not be construed to prohibit activities authorized by or conducted under the Peace Corps Act, the Inter-American Foundation Act or the African Development Foundation Act. The agency shall promptly report to the Committees on Appropriations whenever it is conducting activities or is proposing to conduct activities in a country for which assistance is prohibited.

IMPACT ON JOBS IN THE UNITED STATES

SEC. 533. None of the funds appropriated by this Act may be obligated or expended to provide—

(1) any financial incentive to a business enterprise currently located in the United States for the purpose of inducing such an enterprise to relocate outside the United States if such incentive or inducement is likely to reduce the number of employees of such business enterprise in the United States because United States production is being replaced by such enterprise outside the United States; or

(2) assistance for any program, project, or activity that contributes to the violation of internationally recognized workers rights, as defined in section 507(4) of the Trade Act of 1974, of workers in the recipient country, including any designated zone or area in that country: *Provided*, That the application of section 507(4)(D) and (E) of such Act should be commensurate with the level of development of the recipient country and sector, and shall not preclude assistance for the informal sector in such country, micro and small-scale enterprise, and smallholder agriculture.

SPECIAL AUTHORITIES

SEC. 534. (a) AFGHANISTAN, IRAQ, PAKISTAN, LEBANON, MONTENEGRO, VICTIMS OF WAR, DISPLACED CHILDREN, AND DISPLACED BURMESE.—Funds appropriated by this Act that are made available for assistance for Afghanistan may be made available notwithstanding section 512 of this Act or any similar provision of law and section 660 of the Foreign Assistance Act of 1961, and funds appropriated in titles I and II of this Act that are made available for Iraq, Lebanon, Montenegro, Pakistan, and for victims of war, displaced children, and displaced Burmese, and to assist victims

of trafficking in persons and, subject to the regular notification procedures of the Committees on Appropriations, to combat such trafficking, may be made available notwithstanding any other provision of law.

(b) TROPICAL FORESTRY AND BIODIVERSITY CONSERVATION ACTIVITIES.—Funds appropriated by this Act to carry out the provisions of sections 103 through 106, and chapter 4 of part II, of the Foreign Assistance Act of 1961 may be used, notwithstanding any other provision of law, for the purpose of supporting tropical forestry and biodiversity conservation activities and energy programs aimed at reducing greenhouse gas emissions: *Provided*, That such assistance shall be subject to sections 116, 502B, and 620A of the Foreign Assistance Act of 1961.

(c) PERSONAL SERVICES CONTRACTORS.—Funds appropriated by this Act to carry out chapter 1 of part I, chapter 4 of part II, and section 667 of the Foreign Assistance Act of 1961, and title II of the Agricultural Trade Development and Assistance Act of 1954, may be used by the United States Agency for International Development to employ up to 25 personal services contractors in the United States, notwithstanding any other provision of law, for the purpose of providing direct, interim support for new or expanded overseas programs and activities managed by the agency until permanent direct hire personnel are hired and trained: *Provided*, That not more than 10 of such contractors shall be assigned to any bureau or office: *Provided further*, That such funds appropriated to carry out title II of the Agricultural Trade Development and Assistance Act of 1954, may be made available only for personal services contractors assigned to the Office of Food for Peace.

(d)(1) WAIVER.—The President may waive the provisions of section 1003 of Public Law 100–204 if the President determines and certifies in writing to the Speaker of the House of Representatives and the President pro tempore of the Senate that it is important to the national security interests of the United States.

(2) PERIOD OF APPLICATION OF WAIVER.—Any waiver pursuant to paragraph (1) shall be effective for no more than a period of 6 months at a time and shall not apply beyond 12 months after the enactment of this Act.

(e) SMALL BUSINESS.—In entering into multiple award indefinite-quantity contracts with funds appropriated by this Act, the United States Agency for International Development may provide an exception to the fair opportunity process for placing task orders under such contracts when the order is placed with any category of small or small disadvantaged business.

(f) VIETNAMESE REFUGEES.—Section 594(a) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (enacted as division D of Public Law 108–447; 118 Stat. 3038) is amended by striking “and 2005” and inserting “through 2007”.

(g) RECONSTITUTING CIVILIAN POLICE AUTHORITY.—In providing assistance with funds appropriated by this Act under section 660(b)(6) of the Foreign Assistance Act of 1961, support for a nation emerging from instability may be deemed to mean support for regional, district, municipal, or other sub-national entity emerging from instability, as well as a nation emerging from instability.

(h) WORLD FOOD PROGRAM.—Of the funds managed by the Bureau for Democracy, Conflict, and Humanitarian Assistance of

the United States Agency for International Development, from this or any other Act, not less than \$10,000,000 shall be made available as a general contribution to the World Food Program, notwithstanding any other provision of law.

(i) UNIVERSITY PROGRAMS.—Notwithstanding any other provision of law, of the funds appropriated under the heading “Development Assistance” in this Act, up to \$5,000,000 shall be made available to American educational institutions for programs and activities in the People’s Republic of China relating to the environment, democracy, and the rule of law: *Provided*, That funds made available pursuant to this authority shall be subject to the regular notification procedures of the Committees on Appropriations.

(j) EXTENSION OF AUTHORITY.—

(1) With respect to funds appropriated by this Act that are available for assistance for Pakistan, the President may waive the prohibition on assistance contained in section 508 of this Act subject to the requirements contained in section 1(b) of Public Law 107–57, as amended, for a determination and certification, and consultation, by the President prior to the exercise of such waiver authority.

(2) Section 512 of this Act and section 620(q) of the Foreign Assistance Act of 1961 shall not apply with respect to assistance for Pakistan from funds appropriated by this Act.

(3) Notwithstanding the date contained in section 6 of Public Law 107–57, as amended, the provisions of sections 2 and 4 of that Act shall remain in effect through the current fiscal year.

(k) MIDDLE EAST FOUNDATION.—Of the funds appropriated by this Act under the heading “Economic Support Fund” that are available for the Middle East Partnership Initiative, up to \$35,000,000 may be made available, including as an endowment, notwithstanding any other provision of law and following consultations with the Committees on Appropriations, to establish and operate a Middle East Foundation, or any other similar entity, whose purpose is to support democracy, governance, human rights, and the rule of law in the Middle East region: *Provided*, That such funds may be made available to the Foundation only to the extent that the Foundation has commitments from sources other than the United States Government to at least match the funds provided under the authority of this subsection: *Provided further*, That provisions contained in section 201 of the Support for East European Democracy (SEED) Act of 1989 (excluding the authorizations of appropriations provided in subsection (b) of that section) shall be deemed to apply to any such foundation or similar entity referred to under this subsection, and to funds made available to such entity, in order to enable it to provide assistance for purposes of this section: *Provided further*, That prior to the initial obligation of funds for any such foundation or similar entity pursuant to the authorities of this subsection, other than for administrative support, the Secretary of State shall take steps to ensure, on an ongoing basis, that any such funds made available pursuant to such authorities are not provided to or through any individual or group that the management of the foundation or similar entity knows or has reason to believe, advocates, plans, sponsors, or otherwise engages in terrorist activities: *Provided further*, That section 530 of this Act shall apply to any such foundation or similar entity established pursuant to this subsection: *Provided further*,

Applicability.

Termination
date.

That the authority of the Foundation, or any similar entity, to provide assistance shall cease to be effective on September 30, 2010.

(1) EXTENSION OF AUTHORITY.—(1) Section 21(h)(1)(A) of the Arms Export Control Act (22 U.S.C. 2761(h)(1)(A)) is amended by inserting after “North Atlantic Treaty Organization” the following: “or the Governments of Australia, New Zealand, Japan, or Israel”.

(2) Section 21(h)(2) of the Arms Export Control Act (22 U.S.C. 2761(h)(2)) is amended by striking “or to any member government that Organization if that Organization or member government” and inserting the following: “, to any member of that Organization, or to the Governments of Australia, New Zealand, Japan, or Israel if that Organization, member government, or the Governments of Australia, New Zealand, Japan, or Israel”.

(3) Section 541 of the Foreign Assistance Act of 1961 (22 U.S.C. 2347) is amended—

(A) in the first sentence, by striking “The President” and inserting “(a) The President”; and

(B) by adding at the end the following new subsection:

“(b) The President shall seek reimbursement for military education and training furnished under this chapter from countries using assistance under section 23 of the Arms Export Control Act (22 U.S.C. 2763, relating to the Foreign Military Financing Program) to purchase such military education and training at a rate comparable to the rate charged to countries receiving grant assistance for military education and training under this chapter.”.

President.

(m) EXTENSION OF AUTHORITY.—The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101–167) is amended—

(1) in section 599D (8 U.S.C. 1157 note)—

(A) in subsection (b)(3), by striking “and 2005” and inserting “2005, and 2006”; and

(B) in subsection (e), by striking “2005” each place it appears and inserting “2006”; and

(2) in section 599E (8 U.S.C. 1255 note) in subsection (b)(2), by striking “2005” and inserting “2006”.

ARAB LEAGUE BOYCOTT OF ISRAEL

SEC. 535. It is the sense of the Congress that—

(1) the Arab League boycott of Israel, and the secondary boycott of American firms that have commercial ties with Israel, is an impediment to peace in the region and to United States investment and trade in the Middle East and North Africa;

(2) the Arab League boycott, which was regrettably reinstated in 1997, should be immediately and publicly terminated, and the Central Office for the Boycott of Israel immediately disbanded;

(3) all Arab League states should normalize relations with their neighbor Israel;

(4) the President and the Secretary of State should continue to vigorously oppose the Arab League boycott of Israel and find concrete steps to demonstrate that opposition by, for example, taking into consideration the participation of any recipient country in the boycott when determining to sell weapons to said country; and

(5) the President should report to Congress annually on specific steps being taken by the United States to encourage Arab League states to normalize their relations with Israel to bring about the termination of the Arab League boycott of Israel, including those to encourage allies and trading partners of the United States to enact laws prohibiting businesses from complying with the boycott and penalizing businesses that do comply.

ELIGIBILITY FOR ASSISTANCE

President.
Notification.

SEC. 536. (a) ASSISTANCE THROUGH NONGOVERNMENTAL ORGANIZATIONS.—Restrictions contained in this or any other Act with respect to assistance for a country shall not be construed to restrict assistance in support of programs of nongovernmental organizations from funds appropriated by this Act to carry out the provisions of chapters 1, 10, 11, and 12 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961, and from funds appropriated under the heading “Assistance for Eastern Europe and the Baltic States”: *Provided*, That before using the authority of this subsection to furnish assistance in support of programs of nongovernmental organizations, the President shall notify the Committees on Appropriations under the regular notification procedures of those committees, including a description of the program to be assisted, the assistance to be provided, and the reasons for furnishing such assistance: *Provided further*, That nothing in this subsection shall be construed to alter any existing statutory prohibitions against abortion or involuntary sterilizations contained in this or any other Act.

(b) PUBLIC LAW 480.—During fiscal year 2006, restrictions contained in this or any other Act with respect to assistance for a country shall not be construed to restrict assistance under the Agricultural Trade Development and Assistance Act of 1954: *Provided*, That none of the funds appropriated to carry out title I of such Act and made available pursuant to this subsection may be obligated or expended except as provided through the regular notification procedures of the Committees on Appropriations.

(c) EXCEPTION.—This section shall not apply—

(1) with respect to section 620A of the Foreign Assistance Act of 1961 or any comparable provision of law prohibiting assistance to countries that support international terrorism; or

(2) with respect to section 116 of the Foreign Assistance Act of 1961 or any comparable provision of law prohibiting assistance to the government of a country that violates internationally recognized human rights.

RESERVATIONS OF FUNDS

SEC. 537. (a) Funds appropriated by this Act which are earmarked may be reprogrammed for other programs within the same account notwithstanding the earmark if compliance with the earmark is made impossible by operation of any provision of this or any other Act: *Provided*, That any such reprogramming shall be subject to the regular notification procedures of the Committees on Appropriations: *Provided further*, That assistance that is reprogrammed pursuant to this subsection shall be made available under the same terms and conditions as originally provided.

(b) In addition to the authority contained in subsection (a), the original period of availability of funds appropriated by this Act and administered by the United States Agency for International Development that are earmarked for particular programs or activities by this or any other Act shall be extended for an additional fiscal year if the Administrator of such agency determines and reports promptly to the Committees on Appropriations that the termination of assistance to a country or a significant change in circumstances makes it unlikely that such earmarked funds can be obligated during the original period of availability: *Provided*, That such earmarked funds that are continued available for an additional fiscal year shall be obligated only for the purpose of such earmark.

CEILINGS AND EARMARKS

SEC. 538. Ceilings and earmarks contained in this Act shall not be applicable to funds or authorities appropriated or otherwise made available by any subsequent Act unless such Act specifically so directs. Earmarks or minimum funding requirements contained in any other Act shall not be applicable to funds appropriated by this Act.

PROHIBITION ON PUBLICITY OR PROPAGANDA

SEC. 539. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes within the United States not authorized before the date of the enactment of this Act by the Congress: *Provided*, That not to exceed \$25,000 may be made available to carry out the provisions of section 316 of Public Law 96–533.

PROHIBITION OF PAYMENTS TO UNITED NATIONS MEMBERS

SEC. 540. None of the funds appropriated or made available pursuant to this Act for carrying out the Foreign Assistance Act of 1961, may be used to pay in whole or in part any assessments, arrearages, or dues of any member of the United Nations or, from funds appropriated by this Act to carry out chapter 1 of part I of the Foreign Assistance Act of 1961, the costs for participation of another country's delegation at international conferences held under the auspices of multilateral or international organizations.

NGOVERNMENTAL ORGANIZATIONS—DOCUMENTATION

SEC. 541. None of the funds appropriated or made available pursuant to this Act shall be available to a nongovernmental organization which fails to provide upon timely request any document, file, or record necessary to the auditing requirements of the United States Agency for International Development.

PROHIBITION ON ASSISTANCE TO FOREIGN GOVERNMENTS THAT EXPORT LETHAL MILITARY EQUIPMENT TO COUNTRIES SUPPORTING INTERNATIONAL TERRORISM

SEC. 542. (a) None of the funds appropriated or otherwise made available by this Act may be available to any foreign government which provides lethal military equipment to a country the government of which the Secretary of State has determined is

Termination date.	a terrorist government for purposes of section 6(j) of the Export Administration Act of 1979. The prohibition under this section with respect to a foreign government shall terminate 12 months after that government ceases to provide such military equipment.
Applicability.	This section applies with respect to lethal military equipment provided under a contract entered into after October 1, 1997.
	(b) Assistance restricted by subsection (a) or any other similar provision of law, may be furnished if the President determines that furnishing such assistance is important to the national interests of the United States.
President. Reports.	(c) Whenever the waiver authority of subsection (b) is exercised, the President shall submit to the appropriate congressional committees a report with respect to the furnishing of such assistance. Any such report shall include a detailed explanation of the assistance to be provided, including the estimated dollar amount of such assistance, and an explanation of how the assistance furthers United States national interests.

WITHHOLDING OF ASSISTANCE FOR PARKING FINES AND REAL
PROPERTY TAXES OWED BY FOREIGN COUNTRIES

Certification.	<p>SEC. 543. (a) Subject to subsection (c), of the funds appropriated by this Act that are made available for assistance for a foreign country, an amount equal to 110 percent of the total amount of the unpaid fully adjudicated parking fines and penalties and unpaid property taxes owed by the central government of such country shall be withheld from obligation for assistance for the central government of such country until the Secretary of State submits a certification to the appropriate congressional committees stating that such parking fines and penalties and unpaid property taxes are fully paid.</p> <p>(b) Funds withheld from obligation pursuant to subsection (a) may be made available for other programs or activities funded by this Act, after consultation with and subject to the regular notification procedures of the appropriate congressional committees, provided that no such funds shall be made available for assistance for the central government of a foreign country that has not paid the total amount of the fully adjudicated parking fines and penalties and unpaid property taxes owed by such country.</p> <p>(c) Subsection (a) shall not include amounts that have been withheld under any other provision of law.</p> <p>(d)(1) The Secretary of State may waive the requirements set forth in subsection (a) with respect to parking fines and penalties no sooner than 60 days from the date of enactment of this Act, or at any time with respect to a particular country, if the Secretary determines that it is in the national interests of the United States to do so.</p> <p>(2) The Secretary of State may waive the requirements set forth in subsection (a) with respect to the unpaid property taxes if the Secretary of State determines that it is in the national interests of the United States to do so.</p>
Deadline. Reports.	(e) Not later than 6 months after the initial exercise of the waiver authority in subsection (d), the Secretary of State, after consultations with the City of New York, shall submit a report to the Committees on Appropriations describing a strategy, including a timetable and steps currently being taken, to collect the parking fines and penalties and unpaid property taxes and

interest owed by nations receiving foreign assistance under this Act.

(f) In this section:

(1) The term “appropriate congressional committees” means the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives.

(2) The term “fully adjudicated” includes circumstances in which the person to whom the vehicle is registered—

(A)(i) has not responded to the parking violation summons; or

(ii) has not followed the appropriate adjudication procedure to challenge the summons; and

(B) the period of time for payment of or challenge to the summons has lapsed.

(3) The term “parking fines and penalties” means parking fines and penalties—

(A) owed to—

(i) the District of Columbia; or

(ii) New York, New York; and

(B) incurred during the period April 1, 1997, through September 30, 2005.

(4) The term “unpaid property taxes” means the amount of unpaid taxes and interest determined to be owed by a foreign country on real property in the District of Columbia or New York, New York in a court order or judgment entered against such country by a court of the United States or any State or subdivision thereof.

LIMITATION ON ASSISTANCE FOR THE PLO FOR THE WEST BANK AND GAZA

SEC. 544. None of the funds appropriated by this Act may be obligated for assistance for the Palestine Liberation Organization for the West Bank and Gaza unless the President has exercised the authority under section 604(a) of the Middle East Peace Facilitation Act of 1995 (title VI of Public Law 104–107) or any other legislation to suspend or make inapplicable section 307 of the Foreign Assistance Act of 1961 and that suspension is still in effect: *Provided*, That if the President fails to make the certification under section 604(b)(2) of the Middle East Peace Facilitation Act of 1995 or to suspend the prohibition under other legislation, funds appropriated by this Act may not be obligated for assistance for the Palestine Liberation Organization for the West Bank and Gaza.

WAR CRIMES TRIBUNALS DRAWDOWN

SEC. 545. If the President determines that doing so will contribute to a just resolution of charges regarding genocide or other violations of international humanitarian law, the President may direct a drawdown pursuant to section 552(c) of the Foreign Assistance Act of 1961 of up to \$30,000,000 of commodities and services for the United Nations War Crimes Tribunal established with regard to the former Yugoslavia by the United Nations Security Council or such other tribunals or commissions as the Council may establish or authorize to deal with such violations, without regard to the ceiling limitation contained in paragraph (2) thereof: *Provided*, That the determination required under this section shall be in lieu of any determinations otherwise required under section

552(c): *Provided further*, That the drawdown made under this section for any tribunal shall not be construed as an endorsement or precedent for the establishment of any standing or permanent international criminal tribunal or court: *Provided further*, That funds made available for tribunals other than Yugoslavia, Rwanda, or the Special Court for Sierra Leone shall be made available subject to the regular notification procedures of the Committees on Appropriations.

LANDMINES

SEC. 546. Notwithstanding any other provision of law, demining equipment available to the United States Agency for International Development and the Department of State and used in support of the clearance of landmines and unexploded ordnance for humanitarian purposes may be disposed of on a grant basis in foreign countries, subject to such terms and conditions as the President may prescribe.

RESTRICTIONS CONCERNING THE PALESTINIAN AUTHORITY

SEC. 547. None of the funds appropriated by this Act may be obligated or expended to create in any part of Jerusalem a new office of any department or agency of the United States Government for the purpose of conducting official United States Government business with the Palestinian Authority over Gaza and Jericho or any successor Palestinian governing entity provided for in the Israel-PLO Declaration of Principles: *Provided*, That this restriction shall not apply to the acquisition of additional space for the existing Consulate General in Jerusalem: *Provided further*, That meetings between officers and employees of the United States and officials of the Palestinian Authority, or any successor Palestinian governing entity provided for in the Israel-PLO Declaration of Principles, for the purpose of conducting official United States Government business with such authority should continue to take place in locations other than Jerusalem. As has been true in the past, officers and employees of the United States Government may continue to meet in Jerusalem on other subjects with Palestinians (including those who now occupy positions in the Palestinian Authority), have social contacts, and have incidental discussions.

PROHIBITION OF PAYMENT OF CERTAIN EXPENSES

SEC. 548. None of the funds appropriated or otherwise made available by this Act under the heading “International Military Education and Training” or “Foreign Military Financing Program” for Informational Program activities or under the headings “Child Survival and Health Programs Fund”, “Development Assistance”, and “Economic Support Fund” may be obligated or expended to pay for—

- (1) alcoholic beverages; or
- (2) entertainment expenses for activities that are substantially of a recreational character, including but not limited to entrance fees at sporting events, theatrical and musical productions, and amusement parks.

HAITI

SEC. 549. (a) Of the funds appropriated by this Act, the following amounts shall be made available for assistance for Haiti—

(1) \$20,000,000 from “Child Survival and Health Programs Fund”;

(2) \$30,000,000 from “Development Assistance”;

(3) \$50,000,000 from “Economic Support Fund”;

(4) \$15,000,000 from “International Narcotics Control and Law Enforcement”;

(5) \$1,000,000 from “Foreign Military Financing Program”; and

(6) \$215,000 from “International Military Education and Training”.

(b) The Government of Haiti shall be eligible to purchase defense articles and services under the Arms Export Control Act (22 U.S.C. 2751 et seq.), for the Coast Guard.

(c) None of the funds made available in this Act under the heading “International Narcotics Control and Law Enforcement” may be used to transfer excess weapons, ammunition or other lethal property of an agency of the United States Government to the Government of Haiti for use by the Haitian National Police until the Secretary of State certifies to the Committees on Appropriations that: (1) the United Nations Mission in Haiti (MINUSTAH) has carried out the vetting of the senior levels of the Haitian National Police and has ensured that those credibly alleged to have committed serious crimes, including drug trafficking and human rights violations, have been suspended; and (2) the Transitional Haitian National Government is cooperating in a reform and restructuring plan for the Haitian National Police and the reform of the judicial system as called for in United Nations Security Council Resolution 1608 adopted on June 22, 2005.

Certification.

LIMITATION ON ASSISTANCE TO THE PALESTINIAN AUTHORITY

SEC. 550. (a) PROHIBITION OF FUNDS.—None of the funds appropriated by this Act to carry out the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961 may be obligated or expended with respect to providing funds to the Palestinian Authority.

(b) WAIVER.—The prohibition included in subsection (a) shall not apply if the President certifies in writing to the Speaker of the House of Representatives and the President pro tempore of the Senate that waiving such prohibition is important to the national security interests of the United States.

President.
Certification.

(c) PERIOD OF APPLICATION OF WAIVER.—Any waiver pursuant to subsection (b) shall be effective for no more than a period of 6 months at a time and shall not apply beyond 12 months after the enactment of this Act.

Termination
date.

(d) REPORT.—Whenever the waiver authority pursuant to subsection (b) is exercised, the President shall submit a report to the Committees on Appropriations detailing the steps the Palestinian Authority has taken to arrest terrorists, confiscate weapons and dismantle the terrorist infrastructure. The report shall also include a description of how funds will be spent and the accounting procedures in place to ensure that they are properly disbursed.

President.

LIMITATION ON ASSISTANCE TO SECURITY FORCES

Human rights.

SEC. 551. None of the funds made available by this Act may be provided to any unit of the security forces of a foreign country if the Secretary of State has credible evidence that such unit has committed gross violations of human rights, unless the Secretary determines and reports to the Committees on Appropriations that the government of such country is taking effective measures to bring the responsible members of the security forces unit to justice: *Provided*, That nothing in this section shall be construed to withhold funds made available by this Act from any unit of the security forces of a foreign country not credibly alleged to be involved in gross violations of human rights: *Provided further*, That in the event that funds are withheld from any unit pursuant to this section, the Secretary of State shall promptly inform the foreign government of the basis for such action and shall, to the maximum extent practicable, assist the foreign government in taking effective measures to bring the responsible members of the security forces to justice.

FOREIGN MILITARY TRAINING REPORT

SEC. 552. The annual foreign military training report required by section 656 of the Foreign Assistance Act of 1961 shall be submitted by the Secretary of Defense and the Secretary of State to the Committees on Appropriations of the House of Representatives and the Senate by the date specified in that section.

AUTHORIZATION REQUIREMENT

SEC. 553. Funds appropriated by this Act, except funds appropriated under the headings “Trade and Development Agency”, “Overseas Private Investment Corporation”, and “Global HIV/AIDS Initiative”, may be obligated and expended notwithstanding section 10 of Public Law 91–672 and section 15 of the State Department Basic Authorities Act of 1956.

CAMBODIA

SEC. 554. (a)(1) None of the funds appropriated by this Act may be made available for assistance for the Central Government of Cambodia.

(2) Paragraph (1) shall not apply to assistance for basic education, reproductive and maternal and child health, cultural and historic preservation, programs for the prevention, treatment, and control of, and research on, HIV/AIDS, tuberculosis, malaria, polio and other infectious diseases, development and implementation of legislation and implementation of procedures on inter-country adoptions consistent with international standards, rule of law programs, counternarcotics programs, programs to combat human trafficking that are provided through nongovernmental organizations, anti-corruption programs, and for the Ministry of Women and Veterans Affairs to combat human trafficking.

(b) Notwithstanding any provision of this or any other Act, of the funds appropriated by this Act under the heading “Economic Support Fund”, \$15,000,000 shall be made available for activities to support democracy, the rule of law, and human rights, including assistance for democratic political parties in Cambodia.

(c) Funds appropriated by this Act to carry out provisions of section 541 of the Foreign Assistance Act of 1961 may be made available notwithstanding subsection (a).

PALESTINIAN STATEHOOD

SEC. 555. (a) LIMITATION ON ASSISTANCE.—None of the funds appropriated by this Act may be provided to support a Palestinian state unless the Secretary of State determines and certifies to the appropriate congressional committees that—

(1) a new leadership of a Palestinian governing entity has been democratically elected through credible and competitive elections;

(2) the elected governing entity of a new Palestinian state—
(A) has demonstrated a firm commitment to peaceful co-existence with the State of Israel;

(B) is taking appropriate measures to counter terrorism and terrorist financing in the West Bank and Gaza, including the dismantling of terrorist infrastructures;

(C) is establishing a new Palestinian security entity that is cooperative with appropriate Israeli and other appropriate security organizations; and

(3) the Palestinian Authority (or the governing body of a new Palestinian state) is working with other countries in the region to vigorously pursue efforts to establish a just, lasting, and comprehensive peace in the Middle East that will enable Israel and an independent Palestinian state to exist within the context of full and normal relationships, which should include—

(A) termination of all claims or states of belligerency;

(B) respect for and acknowledgement of the sovereignty, territorial integrity, and political independence of every state in the area through measures including the establishment of demilitarized zones;

(C) their right to live in peace within secure and recognized boundaries free from threats or acts of force;

(D) freedom of navigation through international waterways in the area; and

(E) a framework for achieving a just settlement of the refugee problem.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the newly-elected governing entity should enact a constitution assuring the rule of law, an independent judiciary, and respect for human rights for its citizens, and should enact other laws and regulations assuring transparent and accountable governance.

(c) WAIVER.—The President may waive subsection (a) if he determines that it is vital to the national security interests of the United States to do so.

(d) EXEMPTION.—The restriction in subsection (a) shall not apply to assistance intended to help reform the Palestinian Authority and affiliated institutions, or a newly-elected governing entity, in order to help meet the requirements of subsection (a), consistent with the provisions of section 550 of this Act (“Limitation on Assistance to the Palestinian Authority”).

COLOMBIA

SEC. 556. (a) DETERMINATION AND CERTIFICATION REQUIRED.—Funds appropriated by this Act that are available for assistance for the Colombian Armed Forces, may be made available as follows:

(1) Up to 75 percent of such funds may be obligated prior to a determination and certification by the Secretary of State pursuant to paragraph (2).

(2) Up to 12.5 percent of such funds may be obligated only after the Secretary of State certifies and reports to the appropriate congressional committees that:

(A) The Commander General of the Colombian Armed Forces is suspending from the Armed Forces those members, of whatever rank who, according to the Minister of Defense or the Procuraduria General de la Nacion, have been credibly alleged to have committed gross violations of human rights, including extra-judicial killings, or to have aided or abetted paramilitary organizations.

(B) The Colombian Government is vigorously investigating and prosecuting those members of the Colombian Armed Forces, of whatever rank, who have been credibly alleged to have committed gross violations of human rights, including extra-judicial killings, or to have aided or abetted paramilitary organizations, and is promptly punishing those members of the Colombian Armed Forces found to have committed such violations of human rights or to have aided or abetted paramilitary organizations.

(C) The Colombian Armed Forces have made substantial progress in cooperating with civilian prosecutors and judicial authorities in such cases (including providing requested information, such as the identity of persons suspended from the Armed Forces and the nature and cause of the suspension, and access to witnesses, relevant military documents, and other requested information).

(D) The Colombian Armed Forces have made substantial progress in severing links (including denying access to military intelligence, vehicles, and other equipment or supplies, and ceasing other forms of active or tacit cooperation) at the command, battalion, and brigade levels, with paramilitary organizations, especially in regions where these organizations have a significant presence.

(E) The Colombian Government is dismantling paramilitary leadership and financial networks by arresting commanders and financial backers, especially in regions where these networks have a significant presence.

(F) The Colombian Government is taking effective steps to ensure that the Colombian Armed Forces are not violating the land and property rights of Colombia's indigenous communities.

(3) The balance of such funds may be obligated after July 31, 2006, if the Secretary of State certifies and reports to the appropriate congressional committees, after such date, that the Colombian Armed Forces are continuing to meet the conditions contained in paragraph (2) and are conducting vigorous operations to restore government authority and respect for human rights in areas under the effective control of paramilitary and guerrilla organizations.

(b) CONGRESSIONAL NOTIFICATION.—Funds made available by this Act for the Colombian Armed Forces shall be subject to the regular notification procedures of the Committees on Appropriations.

(c) CONSULTATIVE PROCESS.—Not later than 60 days after the date of enactment of this Act, and every 90 days thereafter until September 30, 2007, the Secretary of State shall consult with internationally recognized human rights organizations regarding progress in meeting the conditions contained in subsection (a).

Deadlines.
Termination
date.
Human rights.

(d) DEFINITIONS.—In this section:

(1) AIDED OR ABETTED.—The term “aided or abetted” means to provide any support to paramilitary groups, including taking actions which allow, facilitate, or otherwise foster the activities of such groups.

(2) PARAMILITARY GROUPS.—The term “paramilitary groups” means illegal self-defense groups and illegal security cooperatives.

ILLEGAL ARMED GROUPS

SEC. 557. (a) DENIAL OF VISAS TO SUPPORTERS OF COLOMBIAN ILLEGAL ARMED GROUPS.—Subject to subsection (b), the Secretary of State shall not issue a visa to any alien who the Secretary determines, based on credible evidence—

(1) has willfully provided any support to the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), or the United Self-Defense Forces of Colombia (AUC), including taking actions or failing to take actions which allow, facilitate, or otherwise foster the activities of such groups; or

(2) has committed, ordered, incited, assisted, or otherwise participated in the commission of gross violations of human rights, including extra-judicial killings, in Colombia.

(b) WAIVER.—Subsection (a) shall not apply if the Secretary of State determines and certifies to the appropriate congressional committees, on a case-by-case basis, that the issuance of a visa to the alien is necessary to support the peace process in Colombia or for urgent humanitarian reasons.

PROHIBITION ON ASSISTANCE TO THE PALESTINIAN BROADCASTING CORPORATION

SEC. 558. None of the funds appropriated or otherwise made available by this Act may be used to provide equipment, technical support, consulting services, or any other form of assistance to the Palestinian Broadcasting Corporation.

WEST BANK AND GAZA PROGRAM

SEC. 559. (a) OVERSIGHT.—For fiscal year 2006, 30 days prior to the initial obligation of funds for the bilateral West Bank and Gaza Program, the Secretary of State shall certify to the appropriate committees of Congress that procedures have been established to assure the Comptroller General of the United States will have access to appropriate United States financial information in order to review the uses of United States assistance for the Program funded under the heading “Economic Support Fund” for the West Bank and Gaza.

Deadline.
Certification.
Procedures.

(b) VETTING.—Prior to the obligation of funds appropriated by this Act under the heading “Economic Support Fund” for assistance for the West Bank and Gaza, the Secretary of State shall take all appropriate steps to ensure that such assistance is not provided to or through any individual, private or government entity, or educational institution that the Secretary knows or has reason to believe advocates, plans, sponsors, engages in, or has engaged in, terrorist activity. The Secretary of State shall, as appropriate, establish procedures specifying the steps to be taken in carrying out this subsection and shall terminate assistance to any individual, entity, or educational institution which he has determined to be involved in or advocating terrorist activity.

(c) PROHIBITION.—None of the funds appropriated by this Act for assistance under the West Bank and Gaza program may be made available for the purpose of recognizing or otherwise honoring individuals who commit, or have committed, acts of terrorism.

(d) AUDITS.—

(1) The Administrator of the United States Agency for International Development shall ensure that Federal or non-Federal audits of all contractors and grantees, and significant subcontractors and subgrantees, under the West Bank and Gaza Program, are conducted at least on an annual basis to ensure, among other things, compliance with this section.

(2) Of the funds appropriated by this Act under the heading “Economic Support Fund” that are made available for assistance for the West Bank and Gaza, up to \$1,000,000 may be used by the Office of the Inspector General of the United States Agency for International Development for audits, inspections, and other activities in furtherance of the requirements of this subsection. Such funds are in addition to funds otherwise available for such purposes.

Audits.

(e) Subsequent to the certification specified in subsection (a), the Comptroller General of the United States shall conduct an audit and an investigation of the treatment, handling, and uses of all funds for the bilateral West Bank and Gaza Program in fiscal year 2006 under the heading “Economic Support Fund”. The audit shall address—

(1) the extent to which such Program complies with the requirements of subsections (b) and (c), and

(2) an examination of all programs, projects, and activities carried out under such Program, including both obligations and expenditures.

Deadline.
Reports.

(f) Not later than 180 days after enactment of this Act, the Secretary of State shall submit a report to the Committees on Appropriations updating the report contained in section 2106 of chapter 2 of title II of Public Law 109–13.

CONTRIBUTIONS TO UNITED NATIONS POPULATION FUND

SEC. 560. (a) LIMITATIONS ON AMOUNT OF CONTRIBUTION.—Of the amounts made available under “International Organizations and Programs” and “Child Survival and Health Programs Fund” for fiscal year 2006, \$34,000,000 shall be made available for the United Nations Population Fund (hereafter in this section referred to as the “UNFPA”): *Provided*, That of this amount, not less than \$22,500,000 shall be derived from funds appropriated under the heading “International Organizations and Programs”.

(b) AVAILABILITY OF FUNDS.—Funds appropriated under the heading “International Organizations and Programs” in this Act that are available for UNFPA, that are not made available for UNFPA because of the operation of any provision of law, shall be transferred to “Child Survival and Health Programs Fund” and shall be made available for family planning, maternal, and reproductive health activities, subject to the regular notification procedures of the Committees on Appropriations.

(c) PROHIBITION ON USE OF FUNDS IN CHINA.—None of the funds made available under “International Organizations and Programs” may be made available for the UNFPA for a country program in the People’s Republic of China.

(d) CONDITIONS ON AVAILABILITY OF FUNDS.—Amounts made available under “International Organizations and Programs” for fiscal year 2006 for the UNFPA may not be made available to UNFPA unless—

(1) the UNFPA maintains amounts made available to the UNFPA under this section in an account separate from other accounts of the UNFPA;

(2) the UNFPA does not commingle amounts made available to the UNFPA under this section with other sums; and

(3) the UNFPA does not fund abortions.

WAR CRIMINALS

SEC. 561. (a)(1) None of the funds appropriated or otherwise made available pursuant to this Act may be made available for assistance, and the Secretary of the Treasury shall instruct the United States executive directors to the international financial institutions to vote against any new project involving the extension by such institutions of any financial or technical assistance, to any country, entity, or municipality whose competent authorities have failed, as determined by the Secretary of State, to take necessary and significant steps to implement its international legal obligations to apprehend and transfer to the International Criminal Tribunal for the former Yugoslavia (the “Tribunal”) all persons in their territory who have been indicted by the Tribunal and to otherwise cooperate with the Tribunal.

(2) The provisions of this subsection shall not apply to humanitarian assistance or assistance for democratization.

(b) The provisions of subsection (a) shall apply unless the Secretary of State determines and reports to the appropriate congressional committees that the competent authorities of such country, entity, or municipality are—

(1) cooperating with the Tribunal, including access for investigators to archives and witnesses, the provision of documents, and the surrender and transfer of indictees or assistance in their apprehension; and

(2) are acting consistently with the Dayton Accords.

(c) Not less than 10 days before any vote in an international financial institution regarding the extension of any new project involving financial or technical assistance or grants to any country or entity described in subsection (a), the Secretary of the Treasury, in consultation with the Secretary of State, shall provide to the Committees on Appropriations a written justification for the proposed assistance, including an explanation of the United States position regarding any such vote, as well as a description of the

Applicability.
Reports.

Deadline.
Justification.

location of the proposed assistance by municipality, its purpose, and its intended beneficiaries.

(d) In carrying out this section, the Secretary of State, the Administrator of the United States Agency for International Development, and the Secretary of the Treasury shall consult with representatives of human rights organizations and all government agencies with relevant information to help prevent indicted war criminals from benefiting from any financial or technical assistance or grants provided to any country or entity described in subsection (a).

(e) The Secretary of State may waive the application of subsection (a) with respect to projects within a country, entity, or municipality upon a written determination to the Committees on Appropriations that such assistance directly supports the implementation of the Dayton Accords.

(f) DEFINITIONS.—As used in this section:

(1) COUNTRY.—The term “country” means Bosnia and Herzegovina, Croatia and Serbia.

(2) ENTITY.—The term “entity” refers to the Federation of Bosnia and Herzegovina, Kosovo, Montenegro and the Republika Srpska.

(3) MUNICIPALITY.—The term “municipality” means a city, town or other subdivision within a country or entity as defined herein.

(4) DAYTON ACCORDS.—The term “Dayton Accords” means the General Framework Agreement for Peace in Bosnia and Herzegovina, together with annexes relating thereto, done at Dayton, November 10 through 16, 1995.

USER FEES

SEC. 562. The Secretary of the Treasury shall instruct the United States Executive Director at each international financial institution (as defined in section 1701(c)(2) of the International Financial Institutions Act) and the International Monetary Fund to oppose any loan, grant, strategy or policy of these institutions that would require user fees or service charges on poor people for primary education or primary healthcare, including prevention and treatment efforts for HIV/AIDS, malaria, tuberculosis, and infant, child, and maternal well-being, in connection with the institutions’ financing programs.

FUNDING FOR SERBIA

SEC. 563. (a) Funds appropriated by this Act may be made available for assistance for the central Government of Serbia after May 31, 2006, if the President has made the determination and certification contained in subsection (c).

(b) After May 31, 2006, the Secretary of the Treasury should instruct the United States executive directors to the international financial institutions to support loans and assistance to the Government of Serbia and Montenegro subject to the conditions in subsection (c): *Provided*, That section 576 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997, as amended, shall not apply to the provision of loans and assistance to the Government of Serbia and Montenegro through international financial institutions.

(c) The determination and certification referred to in subsection (a) is a determination by the President and a certification to the Committees on Appropriations that the Government of Serbia and Montenegro is—

President.
Certification.

(1) cooperating with the International Criminal Tribunal for the former Yugoslavia including access for investigators, the provision of documents, and the surrender and transfer of indictees or assistance in their apprehension, including Ratko Mladic and Radovan Karadzic, unless the Secretary of State determines and reports to the Committees on Appropriations that these individuals are no longer residing in Serbia;

(2) taking steps that are consistent with the Dayton Accords to end Serbian financial, political, security and other support which has served to maintain separate Republika Srpska institutions; and

(3) taking steps to implement policies which reflect a respect for minority rights and the rule of law.

(d) This section shall not apply to Montenegro, Kosovo, humanitarian assistance or assistance to promote democracy.

COMMUNITY-BASED POLICE ASSISTANCE

SEC. 564. (a) **AUTHORITY.**—Funds made available by this Act to carry out the provisions of chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961, may be used, notwithstanding section 660 of that Act, to enhance the effectiveness and accountability of civilian police authority through training and technical assistance in human rights, the rule of law, strategic planning, and through assistance to foster civilian police roles that support democratic governance including assistance for programs to prevent conflict, respond to disasters, address gender-based violence, and foster improved police relations with the communities they serve.

22 USC 2151
note.

(b) **NOTIFICATION.**—Assistance provided under subsection (a) shall be subject to prior consultation with, and the regular notification procedures of, the Committees on Appropriations.

SPECIAL DEBT RELIEF FOR THE POOREST

SEC. 565. (a) **AUTHORITY TO REDUCE DEBT.**—The President may reduce amounts owed to the United States (or any agency of the United States) by an eligible country as a result of—

(1) guarantees issued under sections 221 and 222 of the Foreign Assistance Act of 1961;

(2) credits extended or guarantees issued under the Arms Export Control Act; or

(3) any obligation or portion of such obligation, to pay for purchases of United States agricultural commodities guaranteed by the Commodity Credit Corporation under export credit guarantee programs authorized pursuant to section 5(f) of the Commodity Credit Corporation Charter Act of June 29, 1948, as amended, section 4(b) of the Food for Peace Act of 1966, as amended (Public Law 89–808), or section 202 of the Agricultural Trade Act of 1978, as amended (Public Law 95–501).

(b) **LIMITATIONS.**—

(1) The authority provided by subsection (a) may be exercised only to implement multilateral official debt relief and

referendum agreements, commonly referred to as “Paris Club Agreed Minutes”.

(2) The authority provided by subsection (a) may be exercised only in such amounts or to such extent as is provided in advance by appropriations Acts.

(3) The authority provided by subsection (a) may be exercised only with respect to countries with heavy debt burdens that are eligible to borrow from the International Development Association, but not from the International Bank for Reconstruction and Development, commonly referred to as “IDA-only” countries.

(c) CONDITIONS.—The authority provided by subsection (a) may be exercised only with respect to a country whose government—

(1) does not have an excessive level of military expenditures;

(2) has not repeatedly provided support for acts of international terrorism;

(3) is not failing to cooperate on international narcotics control matters;

(4) (including its military or other security forces) does not engage in a consistent pattern of gross violations of internationally recognized human rights; and

(5) is not ineligible for assistance because of the application of section 527 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995.

(d) AVAILABILITY OF FUNDS.—The authority provided by subsection (a) may be used only with regard to the funds appropriated by this Act under the heading “Debt Restructuring”.

(e) CERTAIN PROHIBITIONS INAPPLICABLE.—A reduction of debt pursuant to subsection (a) shall not be considered assistance for the purposes of any provision of law limiting assistance to a country. The authority provided by subsection (a) may be exercised notwithstanding section 620(r) of the Foreign Assistance Act of 1961 or section 321 of the International Development and Food Assistance Act of 1975.

AUTHORITY TO ENGAGE IN DEBT BUYBACKS OR SALES

SEC. 566. (a) LOANS ELIGIBLE FOR SALE, REDUCTION, OR CANCELLATION.—

(1) AUTHORITY TO SELL, REDUCE, OR CANCEL CERTAIN LOANS.—Notwithstanding any other provision of law, the President may, in accordance with this section, sell to any eligible purchaser any concessional loan or portion thereof made before January 1, 1995, pursuant to the Foreign Assistance Act of 1961, to the government of any eligible country as defined in section 702(6) of that Act or on receipt of payment from an eligible purchaser, reduce or cancel such loan or portion thereof, only for the purpose of facilitating—

(A) debt-for-equity swaps, debt-for-development swaps, or debt-for-nature swaps; or

(B) a debt buyback by an eligible country of its own qualified debt, only if the eligible country uses an additional amount of the local currency of the eligible country, equal to not less than 40 percent of the price paid for such debt by such eligible country, or the difference between the price paid for such debt and the face value of such debt, to support activities that link conservation and

sustainable use of natural resources with local community development, and child survival and other child development, in a manner consistent with sections 707 through 710 of the Foreign Assistance Act of 1961, if the sale, reduction, or cancellation would not contravene any term or condition of any prior agreement relating to such loan.

(2) TERMS AND CONDITIONS.—Notwithstanding any other provision of law, the President shall, in accordance with this section, establish the terms and conditions under which loans may be sold, reduced, or canceled pursuant to this section.

President.

(3) ADMINISTRATION.—The Facility, as defined in section 702(8) of the Foreign Assistance Act of 1961, shall notify the administrator of the agency primarily responsible for administering part I of the Foreign Assistance Act of 1961 of purchasers that the President has determined to be eligible, and shall direct such agency to carry out the sale, reduction, or cancellation of a loan pursuant to this section. Such agency shall make adjustment in its accounts to reflect the sale, reduction, or cancellation.

Notification.

(4) LIMITATION.—The authorities of this subsection shall be available only to the extent that appropriations for the cost of the modification, as defined in section 502 of the Congressional Budget Act of 1974, are made in advance.

(b) DEPOSIT OF PROCEEDS.—The proceeds from the sale, reduction, or cancellation of any loan sold, reduced, or canceled pursuant to this section shall be deposited in the United States Government account or accounts established for the repayment of such loan.

(c) ELIGIBLE PURCHASERS.—A loan may be sold pursuant to subsection (a)(1)(A) only to a purchaser who presents plans satisfactory to the President for using the loan for the purpose of engaging in debt-for-equity swaps, debt-for-development swaps, or debt-for-nature swaps.

(d) DEBTOR CONSULTATIONS.—Before the sale to any eligible purchaser, or any reduction or cancellation pursuant to this section, of any loan made to an eligible country, the President should consult with the country concerning the amount of loans to be sold, reduced, or canceled and their uses for debt-for-equity swaps, debt-for-development swaps, or debt-for-nature swaps.

President.

(e) AVAILABILITY OF FUNDS.—The authority provided by subsection (a) may be used only with regard to funds appropriated by this Act under the heading “Debt Restructuring”.

BASIC EDUCATION

SEC. 567. Of the funds appropriated by title II of this Act, not less than \$465,000,000 shall be made available for basic education, of which not less than \$250,000 shall be provided to the Comptroller General of the United States to prepare an analysis of United States funded international basic education programs, which should be submitted to the Committees on Appropriations by May 1, 2006.

RECONCILIATION PROGRAMS

SEC. 568. Of the funds appropriated under the heading “Economic Support Fund”, not less than \$15,000,000 should be made available to support reconciliation programs and activities which

bring together individuals of different ethnic, religious, and political backgrounds from areas of civil conflict and war.

SUDAN

SEC. 569. (a) AVAILABILITY OF FUNDS.—Of the funds appropriated under the heading “Development Assistance” up to \$70,000,000 may be made available for assistance for Sudan, of which not to exceed \$6,000,000 may be made available for administrative expenses of the United States Agency for International Development associated with assistance programs for Sudan.

(b) LIMITATION ON ASSISTANCE.—Subject to subsection (c):

(1) Notwithstanding section 501(a) of the International Malaria Control Act of 2000 (Public Law 106–570) or any other provision of law, none of the funds appropriated by this Act may be made available for assistance for the Government of Sudan.

(2) None of the funds appropriated by this Act may be made available for the cost, as defined in section 502, of the Congressional Budget Act of 1974, of modifying loans and loan guarantees held by the Government of Sudan, including the cost of selling, reducing, or canceling amounts owed to the United States, and modifying concessional loans, guarantees, and credit agreements.

Certification.

(c) Subsection (b) shall not apply if the Secretary of State determines and certifies to the Committees on Appropriations that—

(1) the Government of Sudan has taken significant steps to disarm and disband government-supported militia groups in the Darfur region;

(2) the Government of Sudan and all government-supported militia groups are honoring their commitments made in the cease-fire agreement of April 8, 2004; and

(3) the Government of Sudan is allowing unimpeded access to Darfur to humanitarian aid organizations, the human rights investigation and humanitarian teams of the United Nations, including protection officers, and an international monitoring team that is based in Darfur and that has the support of the United States.

(d) EXCEPTIONS.—The provisions of subsection (b) shall not apply to—

(1) humanitarian assistance;

(2) assistance for Darfur and for areas outside the control of the Government of Sudan; and

(3) assistance to support implementation of the Comprehensive Peace Agreement.

(e) DEFINITIONS.—For the purposes of this Act and section 501 of Public Law 106–570, the terms “Government of Sudan”, “areas outside of control of the Government of Sudan”, and “area in Sudan outside of control of the Government of Sudan” shall have the same meaning and application as was the case immediately prior to June 5, 2004, and, Southern Kordofan/Nuba Mountains State, Blue Nile State and Abyei shall be deemed “areas outside of control of the Government of Sudan”.

TRADE CAPACITY BUILDING

SEC. 570. Of the funds appropriated by this Act, under the headings “Trade and Development Agency”, “Development Assistance”, “Transition Initiatives”, “Economic Support Fund”, “International Affairs Technical Assistance”, and “International Organizations and Programs”, not less than \$522,000,000 should be made available for trade capacity building assistance: *Provided*, That \$20,000,000 of the funds appropriated in this Act under the heading “Economic Support Fund” shall be made available for labor and environmental capacity building activities relating to the free trade agreement with the countries of Central America and the Dominican Republic.

EXCESS DEFENSE ARTICLES FOR CENTRAL AND SOUTH EUROPEAN COUNTRIES AND CERTAIN OTHER COUNTRIES

SEC. 571. Notwithstanding section 516(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j(e)), during fiscal year 2006, funds available to the Department of Defense may be expended for crating, packing, handling, and transportation of excess defense articles transferred under the authority of section 516 of such Act to Albania, Afghanistan, Bulgaria, Croatia, Estonia, Former Yugoslavian Republic of Macedonia, Georgia, India, Iraq, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Moldova, Mongolia, Pakistan, Romania, Slovakia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan.

ZIMBABWE

SEC. 572. The Secretary of the Treasury shall instruct the United States executive director to each international financial institution to vote against any extension by the respective institution of any loans to the Government of Zimbabwe, except to meet basic human needs or to promote democracy, unless the Secretary of State determines and certifies to the Committees on Appropriations that the rule of law has been restored in Zimbabwe, including respect for ownership and title to property, freedom of speech and association.

Certification.
22 USC 2151
note.

GENDER-BASED VIOLENCE

SEC. 573. Programs funded under titles II and III of this Act that provide training for foreign police, judicial, and military officials, shall include, where appropriate, programs and activities that address gender-based violence.

LIMITATION ON ECONOMIC SUPPORT FUND ASSISTANCE FOR CERTAIN FOREIGN GOVERNMENTS THAT ARE PARTIES TO THE INTERNATIONAL CRIMINAL COURT

SEC. 574. (a) None of the funds made available in this Act in title II under the heading “Economic Support Fund” may be used to provide assistance to the government of a country that is a party to the International Criminal Court and has not entered into an agreement with the United States pursuant to Article 98 of the Rome Statute preventing the International Criminal Court from proceeding against United States personnel present in such country.

(b) The President may, with prior notice to Congress, waive the prohibition of subsection (a) with respect to a North Atlantic Treaty Organization (“NATO”) member country, a major non-NATO ally (including Australia, Egypt, Israel, Japan, Jordan, Argentina, the Republic of Korea, and New Zealand), Taiwan, or such other country as he may determine if he determines and reports to the appropriate congressional committees that it is important to the national interests of the United States to waive such prohibition.

(c) The President may, with prior notice to Congress, waive the prohibition of subsection (a) with respect to a particular country if he determines and reports to the appropriate congressional committees that such country has entered into an agreement with the United States pursuant to Article 98 of the Rome Statute preventing the International Criminal Court from proceeding against United States personnel present in such country.

(d) The prohibition of this section shall not apply to countries otherwise eligible for assistance under the Millennium Challenge Act of 2003, notwithstanding section 606(a)(2)(B) of such Act.

(e) Funds appropriated for fiscal year 2005 under the heading “Economic Support Fund” may be made available for democracy and rule of law programs and activities, notwithstanding the provisions of section 574 of division D of Public Law 108–447.

TIBET

SEC. 575. (a) The Secretary of the Treasury should instruct the United States executive director to each international financial institution to use the voice and vote of the United States to support projects in Tibet if such projects do not provide incentives for the migration and settlement of non-Tibetans into Tibet or facilitate the transfer of ownership of Tibetan land and natural resources to non-Tibetans; are based on a thorough needs-assessment; foster self-sufficiency of the Tibetan people and respect Tibetan culture and traditions; and are subject to effective monitoring.

(b) Notwithstanding any other provision of law, not less than \$4,000,000 of the funds appropriated by this Act under the heading “Economic Support Fund” should be made available to nongovernmental organizations to support activities which preserve cultural traditions and promote sustainable development and environmental conservation in Tibetan communities in the Tibetan Autonomous Region and in other Tibetan communities in China, and not less than \$250,000 should be made available to the National Endowment for Democracy for human rights and democracy programs relating to Tibet.

CENTRAL AMERICA

SEC. 576. (a) Of the funds appropriated by this Act under the headings “Child Survival and Health Programs Fund” and “Development Assistance”, not less than the amount of funds initially allocated pursuant to section 653(a) of the Foreign Assistance Act of 1961 for fiscal year 2005 should be made available for El Salvador, Guatemala, Nicaragua and Honduras.

(b) In addition to the amounts requested under the heading “Economic Support Fund” for assistance for Nicaragua and Guatemala in fiscal year 2006, not less than \$1,500,000 should be made available for electoral assistance, media and civil society programs, and activities to combat corruption and strengthen democracy in

Nicaragua, and not less than \$1,500,000 should be made available for programs and activities to combat organized crime, crimes of violence specifically targeting women, and corruption in Guatemala.

(c) Funds made available pursuant to subsection (b) shall be subject to prior consultation with the Committees on Appropriations.

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT
MANAGEMENT

(INCLUDING TRANSFER OF FUNDS)

SEC. 577. (a) AUTHORITY.—Up to \$75,000,000 of the funds made available in this Act to carry out the provisions of part I of the Foreign Assistance Act of 1961, including funds appropriated under the heading “Assistance for Eastern Europe and the Baltic States”, may be used by the United States Agency for International Development (USAID) to hire and employ individuals in the United States and overseas on a limited appointment basis pursuant to the authority of sections 308 and 309 of the Foreign Service Act of 1980.

22 USC 3948
note.

(b) RESTRICTIONS.—

(1) The number of individuals hired in any fiscal year pursuant to the authority contained in subsection (a) may not exceed 175.

(2) The authority to hire individuals contained in subsection (a) shall expire on September 30, 2008.

Expiration date.

(c) CONDITIONS.—The authority of subsection (a) may only be used to the extent that an equivalent number of positions that are filled by personal services contractors or other nondirect-hire employees of USAID, who are compensated with funds appropriated to carry out part I of the Foreign Assistance Act of 1961, including funds appropriated under the heading “Assistance for Eastern Europe and the Baltic States”, are eliminated.

(d) PRIORITY SECTORS.—In exercising the authority of this section, primary emphasis shall be placed on enabling USAID to meet personnel positions in technical skill areas currently encumbered by contractor or other nondirect-hire personnel.

(e) CONSULTATIONS.—The USAID Administrator shall consult with the Committees on Appropriations at least on a quarterly basis concerning the implementation of this section.

(f) PROGRAM ACCOUNT CHARGED.—The account charged for the cost of an individual hired and employed under the authority of this section shall be the account to which such individual’s responsibilities primarily relate. Funds made available to carry out this section may be transferred to and merged and consolidated with funds appropriated for “Operating Expenses of the United States Agency for International Development”.

(g) MANAGEMENT REFORM PILOT.—Of the funds made available in subsection (a), USAID may use, in addition to funds otherwise available for such purposes, up to \$10,000,000 to fund overseas support costs of members of the Foreign Service with a Foreign Service rank of four or below: *Provided*, That such authority is only used to reduce USAID’s reliance on overseas personal services contractors or other nondirect-hire employees compensated with funds appropriated to carry out part I of the Foreign Assistance Act of 1961, including funds appropriated under the heading “Assistance for Eastern Europe and the Baltic States”.

(h) **DISASTER SURGE CAPACITY.**—Funds appropriated by this Act to carry out part I of the Foreign Assistance Act of 1961, including funds appropriated under the heading “Assistance for Eastern Europe and the Baltic States”, may be used, in addition to funds otherwise available for such purposes, for the cost (including the support costs) of individuals detailed to or employed by the United States Agency for International Development whose primary responsibility is to carry out programs in response to natural disasters.

HIPC DEBT REDUCTION

22 USC 2395a
note.

SEC. 578. Section 501(b) of H.R. 3425, as enacted into law by section 1000(a)(5) of division B of Public Law 106-113 (113 Stat. 1501A-311), is amended by adding at the end the following new paragraph:

“(5) The Act of March 11, 1941 (chapter 11; 55 Stat. 31; 22 U.S.C. 411 et seq.; commonly known as the ‘Lend-Lease Act’).”.

OPIC TRANSFER AUTHORITY

(INCLUDING TRANSFER OF FUNDS)

President.

SEC. 579. Whenever the President determines that it is in furtherance of the purposes of the Foreign Assistance Act of 1961, up to a total of \$20,000,000 of the funds appropriated under title II of this Act may be transferred to and merged with funds appropriated by this Act for the Overseas Private Investment Corporation Program Account, to be subject to the terms and conditions of that account: *Provided*, That such funds shall not be available for administrative expenses of the Overseas Private Investment Corporation: *Provided further*, That funds earmarked by this Act shall not be transferred pursuant to this section: *Provided further*, That the exercise of such authority shall be subject to the regular notification procedures of the Committees on Appropriations.

LIMITATION ON FUNDS RELATING TO ATTENDANCE OF FEDERAL EMPLOYEES AT CONFERENCES OCCURRING OUTSIDE THE UNITED STATES

SEC. 580. None of the funds made available in this Act may be used to send or otherwise pay for the attendance of more than 50 employees of agencies or departments of the United States Government who are stationed in the United States, at any single international conference occurring outside the United States, unless the Secretary of State determines that such attendance is in the national interest: *Provided*, That for purposes of this section the term “international conference” shall mean a conference attended by representatives of the United States Government and representatives of foreign governments, international organizations, or non-governmental organizations.

LIMITATION ON ASSISTANCE TO FOREIGN COUNTRIES THAT REFUSE TO EXTRADITE TO THE UNITED STATES ANY INDIVIDUAL ACCUSED IN THE UNITED STATES OF KILLING A LAW ENFORCEMENT OFFICER

SEC. 581. None of the funds made available in this Act for the Department of State may be used to provide assistance to

the central government of a country which has notified the Department of State of its refusal to extradite to the United States any individual indicted in the United States for killing a law enforcement officer, as specified in a United States extradition request, unless the Secretary of State certifies to the Committees on Appropriations in writing that the application of the restriction to a country or countries is contrary to the national interest of the United States.

PROHIBITION AGAINST DIRECT FUNDING FOR SAUDI ARABIA

SEC. 582. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance any assistance to Saudi Arabia: *Provided*, That the President may waive the prohibition of this section if he certifies to the Committees on Appropriations, 15 days prior to the obligation of funds for assistance for Saudi Arabia, that Saudi Arabia is cooperating with efforts to combat international terrorism and that the proposed assistance will help facilitate that effort.

GOVERNMENTS THAT HAVE FAILED TO PERMIT CERTAIN EXTRADITIONS

SEC. 583. None of the funds made available in this Act for the Department of State, other than funds provided under the heading “International Narcotics Control and Law Enforcement”, may be used to provide assistance to the central government of a country with which the United States has an extradition treaty and which government has notified the Department of State of its refusal to extradite to the United States any individual indicted for a criminal offense for which the maximum penalty is life imprisonment without the possibility of parole, unless the Secretary of State certifies to the Committees on Appropriations in writing that the application of this restriction to a country or countries is contrary to the national interest of the United States.

REPORTING REQUIREMENT

SEC. 584. The Secretary of State shall provide the Committees on Appropriations, not later than April 1, 2006, and for each fiscal quarter, a report in writing on the uses of funds made available under the headings “Foreign Military Financing Program”, “International Military Education and Training”, and “Peacekeeping Operations”: *Provided*, That such report shall include a description of the obligation and expenditure of funds, and the specific country in receipt of, and the use or purpose of the assistance provided by such funds.

ENVIRONMENT PROGRAMS

SEC. 585. (a) FUNDING.—Of the funds appropriated under the heading “Development Assistance”, not less than \$165,500,000 shall be made available for programs and activities which directly protect biodiversity, including forests, in developing countries, of which not less than \$10,000,000 should be made available to implement the United States Agency for International Development’s biodiversity conservation strategy for the Amazon basin, which amount shall be in addition to the amounts requested for biodiversity activities in these countries in fiscal year 2006: *Provided*, That of the funds appropriated by this Act, not less than \$17,500,000 should

be made available for the Congo Basin Forest Partnership of which not less than \$2,500,000 should be made available to the United States Fish and Wildlife Service for the protection of great apes in Central Africa: *Provided further*, That of the funds appropriated by this Act, not less than \$180,000,000 shall be made available to support clean energy and other climate change policies and programs in developing countries, of which \$100,000,000 should be made available to directly promote and deploy energy conservation, energy efficiency, and renewable and clean energy technologies, and of which the balance should be made available to directly: (1) measure, monitor, and reduce greenhouse gas emissions; (2) increase carbon sequestration activities; and (3) enhance climate change mitigation and adaptation programs.

President.

(b) CLIMATE CHANGE REPORT.—Not later than 60 days after the date on which the President's fiscal year 2007 budget request is submitted to Congress, the President shall submit a report to the Committees on Appropriations describing in detail the following—

(1) all Federal agency obligations and expenditures, domestic and international, for climate change programs and activities in fiscal year 2006, including an accounting of expenditures by agency with each agency identifying climate change activities and associated costs by line item as presented in the President's Budget Appendix; and

(2) all fiscal year 2005 obligations and estimated expenditures, fiscal year 2006 estimated expenditures and estimated obligations, and fiscal year 2007 requested funds by the United States Agency for International Development, by country and central program, for each of the following: (i) to promote the transfer and deployment of a wide range of United States clean energy and energy efficiency technologies; (ii) to assist in the measurement, monitoring, reporting, verification, and reduction of greenhouse gas emissions; (iii) to promote carbon capture and sequestration measures; (iv) to help meet such countries' responsibilities under the Framework Convention on Climate Change; and (v) to develop assessments of the vulnerability to impacts of climate change and mitigation and adaptation response strategies.

(c) EXTRACTION OF NATURAL RESOURCES.—

(1) The Secretary of the Treasury shall inform the managers of the international financial institutions and the public that it is the policy of the United States that any assistance by such institutions (including but not limited to any loan, credit, grant, or guarantee) for the extraction and export of oil, gas, coal, timber, or other natural resource should not be provided unless the government of the country has in place or is taking the necessary steps to establish functioning systems for: (A) accurately accounting for revenues and expenditures in connection with the extraction and export of the type of natural resource to be extracted or exported; (B) the independent auditing of such accounts and the widespread public dissemination of the audits; and (C) verifying government receipts against company payments including widespread dissemination of such payment information, and disclosing such

documents as Host Government Agreements, Concession Agreements, and bidding documents, allowing in any such dissemination or disclosure for the redaction of, or exceptions for, information that is commercially proprietary or that would create competitive disadvantage.

(2) Not later than 180 days after the enactment of this Act, the Secretary of the Treasury shall submit a report to the Committees on Appropriations describing, for each international financial institution, the amount and type of assistance provided, by country, for the extraction and export of oil, gas, coal, timber, or other national resource since September 30, 2005.

Deadline.
Reports.

UZBEKISTAN

SEC. 586. Assistance may be provided to the central Government of Uzbekistan only if the Secretary of State determines and reports to the Committees on Appropriations that the Government of Uzbekistan is making substantial and continuing progress in meeting its commitments under the “Declaration on the Strategic Partnership and Cooperation Framework Between the Republic of Uzbekistan and the United States of America”, including respect for human rights, establishing a genuine multi-party system, and ensuring free and fair elections, freedom of expression, and the independence of the media, and that a credible international investigation of the May 31, 2005, shootings in Andijan is underway with the support of the Government of Uzbekistan: *Provided*, That for the purposes of this section “assistance” shall include excess defense articles.

CENTRAL ASIA

SEC. 587. (a) Funds appropriated by this Act may be made available for assistance for the Government of Kazakhstan only if the Secretary of State determines and reports to the Committees on Appropriations that the Government of Kazakhstan has made significant improvements in the protection of human rights during the preceding 6 month period.

Reports.

(b) The Secretary of State may waive subsection (a) if he determines and reports to the Committees on Appropriations that such a waiver is important to the national security of the United States.

(c) Not later than October 1, 2006, the Secretary of State shall submit a report to the Committees on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives describing the following:

Deadline.

(1) The defense articles, defense services, and financial assistance provided by the United States to the countries of Central Asia during the 6-month period ending 30 days prior to submission of such report.

(2) The use during such period of defense articles, defense services, and financial assistance provided by the United States by units of the armed forces, border guards, or other security forces of such countries.

(d) Prior to the initial obligation of assistance for the Government of Kyrgyzstan, the Secretary of State shall submit a report to the Committees on Appropriations describing: (1) whether the

Government of Kyrgyzstan is forcibly returning Uzbeks who have fled violence and political persecution, in violation of the 1951 Geneva Convention relating to the status of refugees, and the Convention Against Torture and Other Forms of Cruel, Inhuman, or Degrading Treatment; (2) efforts made by the United States to prevent such returns; and (3) the response of the Government of Kyrgyzstan.

(e) For purposes of this section, the term “countries of Central Asia” means Uzbekistan, Kazakhstan, Kyrgyz Republic, Tajikistan, and Turkmenistan.

DISABILITY PROGRAMS

SEC. 588. (a) Of the funds appropriated by this Act under the heading “Economic Support Fund”, not less than \$4,000,000 shall be made available for programs and activities administered by the United States Agency for International Development (USAID) to address the needs and protect the rights of people with disabilities in developing countries.

(b) Funds appropriated under the heading “Operating Expenses of the United States Agency for International Development” shall be made available to develop and implement training for staff in overseas USAID missions to promote the full inclusion and equal participation of people with disabilities in developing countries.

(c) The Secretary of State, the Secretary of the Treasury, and the Administrator of USAID shall seek to ensure that, where appropriate, construction projects funded by this Act are accessible to people with disabilities and in compliance with the USAID Policy on Standards for Accessibility for the Disabled, or other similar accessibility standards.

(d) Of the funds made available pursuant to subsection (a), not more than 7 percent may be for management, oversight and technical support.

(e) Not later than 180 days after the date of enactment of this Act, and 180 days thereafter, the Administrator of USAID shall submit a report describing the programs, activities, and organizations funded pursuant to this section.

Deadlines.
Reports.

DISCRIMINATION AGAINST MINORITY RELIGIOUS FAITHS IN THE RUSSIAN FEDERATION

SEC. 589. None of the funds appropriated for assistance under this Act may be made available for the Government of the Russian Federation, after 180 days from the date of the enactment of this Act, unless the President determines and certifies in writing to the Committees on Appropriations that the Government of the Russian Federation has implemented no statute, Executive order, regulation or similar government action that would discriminate, or which has as its principal effect discrimination, against religious groups or religious communities in the Russian Federation in violation of accepted international agreements on human rights and religious freedoms to which the Russian Federation is a party.

WAR CRIMES IN AFRICA

SEC. 590. (a) The Congress reaffirms its support for the efforts of the International Criminal Tribunal for Rwanda (ICTR) and

the Special Court for Sierra Leone (SCSL) to bring to justice individuals responsible for war crimes and crimes against humanity in a timely manner.

(b) Funds appropriated by this Act, including funds for debt restructuring, may be made available for assistance to the central government of a country in which individuals indicted by ICTR and SCSL are credibly alleged to be living, if the Secretary of State determines and reports to the Committees on Appropriations that such government is cooperating with ICTR and SCSL, including the surrender and transfer of indictees in a timely manner: *Provided*, That this subsection shall not apply to assistance provided under section 551 of the Foreign Assistance Act of 1961 or to project assistance under title II of this Act: *Provided further*, That the United States shall use its voice and vote in the United Nations Security Council to fully support efforts by ICTR and SCSL to bring to justice individuals indicted by such tribunals in a timely manner.

(c) The prohibition in subsection (b) may be waived on a country by country basis if the President determines that doing so is in the national security interest of the United States: *Provided*, That prior to exercising such waiver authority, the President shall submit a report to the Committees on Appropriations, in classified form if necessary, on: (1) the steps being taken to obtain the cooperation of the government in surrendering the indictee in question to the court of jurisdiction; (2) a strategy, including a timeline, for bringing the indictee before such court; and (3) the justification for exercising the waiver authority.

President.

Reports.

(d) Notwithstanding subsections (b) and (c), assistance may be made available for the central Government of Nigeria after 120 days following enactment of this Act only if the President submits a report to the Committees on Appropriations, in classified form if necessary, on: (1) the steps taken in fiscal years 2003, 2004 and 2005 to obtain the cooperation of the Government of Nigeria in surrendering Charles Taylor to the SCSL; and (2) a strategy, including a timeline, for bringing Charles Taylor before the SCSL.

Charles Taylor.

SECURITY IN ASIA

SEC. 591. (a) Of the funds appropriated under the heading “Foreign Military Financing Program”, not less than the following amounts shall be made available to enhance security in Asia, consistent with democratic principles and the rule of law—

- (1) \$30,000,000 for assistance for the Philippines;
- (2) \$1,000,000 for assistance for Indonesia;
- (3) \$1,000,000 for assistance for Bangladesh;
- (4) \$3,000,000 for assistance for Mongolia;
- (5) \$1,500,000 for assistance for Thailand;
- (6) \$1,000,000 for assistance for Sri Lanka;
- (7) \$1,000,000 for assistance for Cambodia;
- (8) \$500,000 for assistance for Fiji; and
- (9) \$250,000 for assistance for Tonga.

(b) In addition to amounts appropriated elsewhere in this Act, \$10,000,000 is hereby appropriated for “Foreign Military Financing Program”: *Provided*, That these funds shall be available only to assist the Philippines in addressing the critical deficiencies identified in the Joint Defense Assessment of 2003.

(c) Funds made available for assistance for Indonesia pursuant to subsection (a) may only be made available for the Indonesian Navy, notwithstanding section 599F of this Act: *Provided*, That such funds shall only be made available subject to the regular notification procedures of the Committees on Appropriations.

(d) Funds made available for assistance for Cambodia pursuant to subsection (a) shall be made available notwithstanding section 554 of this Act: *Provided*, That such funds shall only be made available subject to the regular notification procedures of the Committees on Appropriations.

NEPAL

SEC. 592. (a) Funds appropriated under the heading “Foreign Military Financing Program” may be made available for assistance for Nepal only if the Secretary of State certifies to the Committees on Appropriations that the Government of Nepal, including its security forces, has restored civil liberties, is protecting human rights, and has demonstrated, through dialogue with Nepal’s political parties, a commitment to a clear timetable to restore multiparty democratic government consistent with the 1990 Nepalese Constitution.

(b) The Secretary of State may waive the requirements of this section if the Secretary certifies to the Committees on Appropriations that to do so is in the national security interests of the United States.

NEGLECTED DISEASES

SEC. 593. Of the funds appropriated under the heading “Child Survival and Health Programs Fund”, not less than \$15,000,000 shall be made available to support an integrated response to the control of neglected diseases including intestinal parasites, schistosomiasis, lymphatic filariasis, onchocerciasis, trachoma and leprosy: *Provided*, That the Administrator of the United States Agency for International Development shall consult with the Committees on Appropriations, representatives from the relevant international technical and nongovernmental organizations addressing the specific diseases, recipient countries, donor countries, the private sector, UNICEF and the World Health Organization: (1) on the most effective uses of such funds to demonstrate the health and economic benefits of such an approach; and (2) to develop a multilateral, integrated initiative to control these diseases that will enhance coordination and effectiveness and maximize the leverage of United States contributions with those of other donors: *Provided further*, That funds made available pursuant to this section shall be subject to the regular notification procedures of the Committees on Appropriations.

ORPHANS, DISPLACED AND ABANDONED CHILDREN

SEC. 594. Of the funds appropriated under title II of this Act, not less than \$3,000,000 should be made available for activities to improve the capacity of foreign government agencies and nongovernmental organizations to prevent child abandonment, address the needs of orphans, displaced and abandoned children and provide permanent homes through family reunification, guardianship and domestic adoptions: *Provided*, That funds made available under

title II of this Act should be made available, as appropriate, consistent with—

(1) the goal of enabling children to remain in the care of their family of origin, but when not possible, placing children in permanent homes through adoption;

(2) the principle that such placements should be based on informed consent which has not been induced by payment or compensation;

(3) the view that long-term foster care or institutionalization are not permanent options and should be used when no other suitable permanent options are available; and

(4) the recognition that programs that protect and support families can reduce the abandonment and exploitation of children.

ADVISOR FOR INDIGENOUS PEOPLES ISSUES

SEC. 595. (a) After consultation with the Committees on Appropriations and not later than 120 days after enactment of this Act, the Administrator of the United States Agency for International Development shall designate an “Advisor for Indigenous Peoples Issues” whose responsibilities shall include—

Deadline.
Designation.

(1) consulting with representatives of indigenous peoples organizations;

(2) ensuring that the rights and needs of indigenous peoples are being respected and addressed in United States Agency for International Development policies, programs and activities;

(3) monitoring the design and implementation of United States Agency for International Development policies, programs and activities which affect indigenous peoples; and

(4) coordinating with other Federal agencies on relevant issues relating to indigenous peoples.

STATEMENT

SEC. 596. (a) Funds provided in this Act for the following accounts shall be made available for programs and countries in the amounts contained in the respective tables included in the report accompanying this Act:

“Child Survival and Health Programs Fund”.

“Economic Support Fund”.

“Assistance for Eastern Europe and the Baltic States”.

“Assistance for the Independent States of the Former Soviet Union”.

“Global HIV/AIDS Initiative”.

“Democracy Fund”.

“International Narcotics Control and Law Enforcement”.

“Andean Counterdrug Initiative”.

“Nonproliferation, Anti-Terrorism, Demining and Related Programs”.

“Foreign Military Financing Program”.

“International Organizations and Programs”.

(b) Any proposed increases or decreases to the amounts contained in such tables in the accompanying report shall be subject to the regular notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961.

COMBATTING PIRACY OF UNITED STATES COPYRIGHTED MATERIALS

SEC. 597. (a) PROGRAM AUTHORIZED.—The Secretary of State may carry out a program of activities to combat piracy in countries that are not members of the Organization for Economic Cooperation and Development (OECD), including activities as follows:

(1) The provision of equipment and training for law enforcement, including in the interpretation of intellectual property laws.

(2) The provision of training for judges and prosecutors, including in the interpretation of intellectual property laws.

(3) The provision of assistance in complying with obligations under applicable international treaties and agreements on copyright and intellectual property.

(b) CONSULTATION WITH WORLD INTELLECTUAL PROPERTY ORGANIZATION.—In carrying out the program authorized by subsection (a), the Secretary shall, to the maximum extent practicable, consult with and provide assistance to the World Intellectual Property Organization in order to promote the integration of countries described in subsection (a) into the global intellectual property system.

(c) FUNDING.—Of the amount appropriated or otherwise made available under the heading “International Narcotics Control and Law Enforcement”, \$5,000,000 may be made available in fiscal year 2006 for the program authorized by subsection (a).

MALARIA

SEC. 598. Of the funds appropriated under the heading “Child Survival and Health Programs Fund”, not less than \$100,000,000 should be made available for programs and activities to combat malaria: *Provided*, That such funds should be made available in accordance with country strategic plans incorporating best public health practices, which should include considerable support for the purchase of commodities and equipment including: (1) insecticides for indoor residual spraying that are proven to reduce the transmission of malaria; (2) pharmaceuticals that are proven effective treatments to combat malaria; (3) long-lasting insecticide-treated nets used to combat malaria; and (4) other activities to strengthen the public health capacity of malaria-affected countries: *Provided further*, That no later than 90 days after the date of enactment of this Act, and every 90 days thereafter until September 30, 2006, the Administrator of the United States Agency for International Development shall submit to the Committees on Appropriations a report describing in detail expenditures to combat malaria during fiscal year 2006.

Deadlines.
Termination
date.
Reports.

OVERSIGHT OF IRAQ RECONSTRUCTION

SEC. 599. Subsection (o) of section 3001 of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106; 117 Stat. 1234; 5 U.S.C. App. 3 section 8G note), as amended by section 1203(j) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2081), is amended by striking “obligated” and inserting “expended”.

5 USC app. 8G
note.

NONPROLIFERATION AND COUNTERPROLIFERATION EFFORTS

SEC. 599A. Funds appropriated under title II under the heading “Nonproliferation, Anti-Terrorism, Demining and Related Programs” may be made available to the Under Secretary of State for Arms Control and International Security for use in certain nonproliferation efforts and counterproliferation efforts such as increased voluntary dues to the International Atomic Energy Agency and Proliferation Security Initiative activities.

PROMOTION OF POLICY GOALS AT MULTILATERAL DEVELOPMENT BANKS

SEC. 599B. Title XV of the International Financial Institutions Act (22 U.S.C. 262o et seq.) is amended by adding at the end the following:

“SEC. 1505. PROMOTION OF POLICY GOALS.

22 USC 262o–4.

“(a) The Secretary of the Treasury shall instruct the United States Executive Director at each multilateral development bank to inform each such bank and the executive directors of each such bank of the policy of the United States as set out in this section and to actively promote this policy and the goals set forth in section 1504 of this Act. It is the policy of the United States that each bank should—

“(1) require the bank’s employees, officers and consultants to make an annual disclosure of their financial interests and income and of any other potential source of conflict of interest;

“(2) link project and program design and results to management and staff performance appraisals, salaries, and bonuses;

“(3) implement voluntary disclosure programs for firms and individuals participating in projects financed by such bank;

“(4) ensure that all loan, credit, guarantee, and grant documents and other agreements with borrowers include provisions for the financial resources and conditionality necessary to ensure that a person or country that obtains financial support from a bank complies with applicable bank policies and national and international laws in carrying out the terms and conditions of such documents and agreements, including bank policies and national and international laws pertaining to the comprehensive assessment and transparency of the activities related to access to information, public health, safety, and environmental protection;

“(5) implement clear anti-corruption procedures setting forth the circumstances under which a person will be barred from receiving a loan, contract, grant, guarantee or credit from such bank, make such procedures available to the public, and make the identity of such person available to the public;

“(6) coordinate policies across multilateral development banks on issues including debarment, cross-debarment, procurement guidelines, consultant guidelines, and fiduciary standards so that a person that is debarred by one such bank is subject to a rebuttable presumption of ineligibility to conduct business with any other such bank during the specific ineligibility period;

“(7) require each bank borrower and grantee and each bidder, supplier and contractor for MDB projects to comply

with the highest standard of ethics prohibiting coercive, collusive, corrupt and fraudulent practices, such as are defined in the World Bank's Procurement Guidelines of May, 2004;

“(8) maintain a functionally independent Investigations Office, Auditor General Office and Evaluation Office that are free from interference in determining the scope of investigations (including forensic audits), internal auditing (including assessments of management controls for meeting operational objectives and complying with bank policies), performing work and communicating results, and that regularly report to such bank's board of directors and, as appropriate and in a manner consistent with such functional independence of the Investigations Office and the Auditor General Office, to the bank's President;

“(9) require that each candidate for adjustment or budget support loans demonstrate transparent budgetary and procurement processes including budget publication and public scrutiny prior to loan or grant approval;

“(10) require that for each project where compensation is to be provided to persons adversely affected by the project, such persons have recourse to an impartial and responsive mechanism to receive and resolve complaints. The mechanism should be easily accessible to all segments of the affected community without impeding access to other judicial or administrative remedies and without retribution;

“(11) implement best practices in domestic laws and international conventions against corruption for whistleblower and witness disclosures and protections against retaliation for internal and lawful public disclosures by the bank's employees and others affected by such bank's operations who challenge illegality or other misconduct that could threaten the bank's mission, including: (1) best practices for legal burdens of proof; (2) access to independent adjudicative bodies, including external arbitration based on consensus selection and shared costs; and (3) results that eliminate the effects of proven retaliation; and

“(12) require, to the maximum extent possible, that all draft country strategies are issued for public consideration no less than 45 days before the country strategy is considered by the multilateral development bank board of directors.

Deadline.
Internet.

“(b) The Secretary of the Treasury shall, beginning thirty days after the enactment of this Act and within sixty calendar days of the meeting of the respective bank's Board of Directors at which such decisions are made, publish on the Department of the Treasury website a statement or explanation of the United States position on decisions related to: (1) operational policies; and (2) any proposal which would result or be likely to result in a significant effect on the environment.

“(c) In this section the term ‘multilateral development bank’ has the meaning given that term in section 1307 of the International Financial Institutions Act (22 U.S.C. 262m–7) and also includes the European Bank for Reconstruction and Development and the Global Environment Facility.”.

AUTHORIZATIONS

SEC. 599C. (a) To authorize the United States participation in and appropriations for the United States contribution to the fourteenth replenishment of the resources of the International

Development Association, the International Development Association Act, Public Law 86–565, as amended (22 U.S.C. 284 et seq.), is further amended by adding at the end thereof the following new section:

“SEC. 23. FOURTEENTH REPLENISHMENT.

22 USC 284u.

“(a) The United States Governor of the International Development Association is authorized to contribute on behalf of the United States \$2,850,000,000 to the fourteenth replenishment of the resources of the Association, subject to obtaining the necessary appropriations.

“(b) In order to pay for the United States contribution provided for in subsection (a), there are authorized to be appropriated, without fiscal year limitation, \$2,850,000,000 for payment by the Secretary of the Treasury.”.

(b) To authorize the United States participation in and appropriations for the United States contribution to the tenth replenishment of the resources of the African Development Fund, the African Development Fund Act, Public Law 94–302, as amended (22 U.S.C. 290g et seq.), is further amended by adding at the end thereof the following new section:

“SEC. 218. TENTH REPLENISHMENT.

22 USC 290g–17.

“(a) The United States Governor of the Fund is authorized to contribute on behalf of the United States \$407,000,000 to the tenth replenishment of the resources of the Fund, subject to obtaining the necessary appropriations.

“(b) In order to pay for the United States contribution provided for in subsection (a), there are authorized to be appropriated, without fiscal year limitation, \$407,000,000 for payment by the Secretary of the Treasury.”.

(c) To authorize the United States participation in and appropriations for the United States contribution to the eighth replenishment of the resources of the Asian Development Fund, the Asian Development Fund Act, Public Law 92–245, as amended (22 U.S.C. 285 et seq.), is further amended by adding at the end thereof the following new section:

“SEC. 32. EIGHTH REPLENISHMENT.

22 USC 285cc.

“(a) The United States Governor of the Bank is authorized to contribute on behalf of the United States \$461,000,000 to the eighth replenishment of the resources of the Fund, subject to obtaining the necessary appropriations.

“(b) In order to pay for the United States contribution provided for in subsection (a), there are authorized to be appropriated, without fiscal year limitation, \$461,000,000 for payment by the Secretary of the Treasury.”.

ANTICORRUPTION PROVISIONS

SEC. 599D. Twenty percent of the funds appropriated by this Act under the heading “International Development Association”, shall be withheld from disbursement until the Secretary of the Treasury certifies to the appropriate congressional committees that—

Certification.

(1) World Bank procurement guidelines are applied to all procurement financed in whole or in part by a loan from the International Bank for Reconstruction and Development (IBRD)

or a credit agreement or grant from the International Development Association (IDA);

(2) the World Bank proposal “Increasing the Use of Country Systems in Procurement” dated March 2005 has been withdrawn;

(3) the World Bank is maintaining a strong central procurement office staffed with senior experts who are designated to address commercial concerns, questions, and complaints regarding procurement procedures and payments under IDA and IBRD projects;

(4) thresholds for international competitive bidding are established to maximize international competitive bidding in accordance with sound procurement practices, including transparency, competition, and cost-effective results for the Borrowers;

(5) all tenders under the World Bank’s national competitive bidding provisions are subject to the same advertisement requirements as tenders under international competitive bidding; and

(6) loan agreements are made public between the World Bank and the Borrowers.

ASSISTANCE FOR DEMOBILIZATION AND DISARMAMENT OF FORMER
IRREGULAR COMBATANTS IN COLOMBIA

SEC. 599E. (a) AVAILABILITY OF FUNDS.—Of the funds appropriated in this Act, up to \$20,000,000 may be made available in fiscal year 2006 for assistance for the demobilization and disarmament of former members of foreign terrorist organizations (FTOs) in Colombia, specifically the United Self-Defense Forces of Colombia (AUC), the Revolutionary Armed Forces of Colombia (FARC) and the National Liberation Army (ELN), if the Secretary of State makes a certification described in subsection (b) to the appropriate congressional committees prior to the initial obligation of amounts for such assistance for the fiscal year involved.

(b) CERTIFICATION.—A certification described in this subsection is a certification that—

(1) assistance for the fiscal year will be provided only for individuals who have: (A) verifiably renounced and terminated any affiliation or involvement with FTOs or other illegal armed groups; and (B) are meeting all the requirements of the Colombia Demobilization Program, including having disclosed their involvement in past crimes and their knowledge of the FTO’s structure, financing sources, illegal assets, and the location of kidnapping victims and bodies of the disappeared;

(2) the Government of Colombia is providing full cooperation to the Government of the United States to extradite the leaders and members of the FTOs who have been indicted in the United States for murder, kidnapping, narcotics trafficking, and other violations of United States law;

(3) the Government of Colombia is implementing a concrete and workable framework for dismantling the organizational structures of foreign terrorist organizations; and

(4) funds shall not be made available as cash payments to individuals and are available only for activities under the following categories: verification, reintegration (including

training and education), vetting, recovery of assets for reparations for victims, and investigations and prosecutions.

(c) DEFINITIONS.—In this section:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means—

(A) the Committee on Appropriations and the Committee on International Relations of the House of Representatives; and

(B) the Committee on Appropriations and the Committee on Foreign Relations of the Senate.

(2) FOREIGN TERRORIST ORGANIZATION.—The term “foreign terrorist organization” means an organization designated as a terrorist organization under section 219 of the Immigration and Nationality Act.

INDONESIA

SEC. 599F. (a) Funds appropriated by this Act under the heading “Foreign Military Financing Program” may be made available for assistance for Indonesia, and licenses may be issued for the export of lethal defense articles for the Indonesian Armed Forces, only if the Secretary of State certifies to the appropriate congressional committees that—

(1) the Indonesian Government is prosecuting and punishing, in a manner proportional to the crime, members of the Armed Forces who have been credibly alleged to have committed gross violations of human rights;

(2) at the direction of the President of Indonesia, the Armed Forces are cooperating with civilian judicial authorities and with international efforts to resolve cases of gross violations of human rights in East Timor and elsewhere; and

(3) at the direction of the President of Indonesia, the Government of Indonesia is implementing reforms to improve civilian control of the military.

(b) The Secretary of State may waive subsection (a) if the Secretary determines and reports to the Committees on Appropriations that to do so is in the national security interests of the United States.

REPORT ON INDONESIAN COOPERATION

SEC. 599G. Not later than 90 days after enactment of this Act, the Secretary of State shall submit a report to the Committees on Appropriations that describes—

(1) the status of the investigation of the murders of two United States citizens and one Indonesian citizen that occurred on August 31, 2002 in Timika, Indonesia, the status of any individuals indicted within the United States or Indonesia for crimes relating to those murders, and the status of judicial proceedings relating to those murders;

(2) the efforts by the Government of Indonesia to arrest individuals indicted for crimes relating to those murders and any other actions taken by the Government of Indonesia, including the Indonesian judiciary, police and Armed Forces, to bring the individuals responsible for those murders to justice; and

(3) the cooperation provided by the Government of Indonesia, including the Indonesian judiciary, police and Armed

Forces, to requests related to those murders made by the Secretary of State or the Director of the Federal Bureau of Investigation.

This Act may be cited as the “Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2006”.

Approved November 14, 2005.

LEGISLATIVE HISTORY—H.R. 3057:

HOUSE REPORTS: Nos. 109–152 (Comm. on Appropriations) and 109–265 (Comm. of Conference).

SENATE REPORTS: No. 109–96 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 151 (2005):

June 28, considered and passed House.

July 15, 19, 20, considered and passed Senate, amended.

Nov. 4, House agreed to conference report.

Nov. 10, Senate agreed to conference report.



Public Law 109–103
109th Congress

An Act

Making appropriations for energy and water development for the fiscal year ending September 30, 2006, and for other purposes.

Nov. 19, 2005
[H.R. 2419]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2006, for energy and water development and for other purposes, namely:

Energy and
Water
Development
Appropriations
Act, 2006.

TITLE I

CORPS OF ENGINEERS—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

The following appropriations shall be expended under the direction of the Secretary of the Army and the supervision of the Chief of Engineers for authorized civil functions of the Department of the Army pertaining to rivers and harbors, flood control, shore protection and storm damage reduction, aquatic ecosystem restoration, and related purposes.

INVESTIGATIONS

For expenses necessary for the collection and study of basic information pertaining to river and harbor, flood control, shore protection and storm damage reduction, aquatic ecosystem restoration, and related projects, restudy of authorized projects, miscellaneous investigations, and, when authorized by law, surveys and detailed studies and plans and specifications of projects prior to construction, \$164,000,000, to remain available until expended: *Provided*, That, notwithstanding any other provision of law, within the funds provided under this heading, \$1,000,000 shall be available for planning assistance to the state of Ohio for Stark County watershed basin study: *Provided further*, That using \$8,000,000 of the funds provided herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to conduct a comprehensive hurricane protection study at full Federal expense to develop and present a full range of flood, coastal and hurricane protection measures exclusive of normal policy considerations for south Louisiana and the Secretary shall submit a feasibility report for short-term

Reports.
Deadlines.

Louisiana.

protection within 6 months of enactment of this Act, interim protection within 12 months of enactment of this Act and long-term comprehensive protection within 24 months of enactment of this Act: *Provided further*, That the Secretary shall consider providing protection for a storm surge equivalent to a Category 5 hurricane within the project area and may submit reports on component areas of the larger protection program for authorization as soon as practicable: *Provided further*, That the analysis shall be conducted in close coordination with the State of Louisiana and its appropriate agencies.

CONSTRUCTION

For expenses necessary for the construction of river and harbor, flood control, shore protection and storm damage reduction, aquatic ecosystem restoration, and related projects authorized by law; for conducting detailed studies, and plans and specifications, of such projects (including those involving participation by States, local governments, or private groups) authorized or made eligible for selection by law (but such detailed studies, and plans and specifications, shall not constitute a commitment of the Government to construction); \$2,372,000,000, to remain available until expended; of which such sums as are necessary to cover the Federal share of construction costs for facilities under the Dredged Material Disposal Facilities program shall be derived from the Harbor Maintenance Trust Fund as authorized by Public Law 104-303; and of which such sums as are necessary pursuant to Public Law 99-662 shall be derived from the Inland Waterways Trust Fund, to cover one-half of the costs of construction and rehabilitation of inland waterways projects, (including the rehabilitation costs for Lock and Dam 11, Mississippi River, Iowa; Lock and Dam 19, Mississippi River, Iowa; Lock and Dam 24, Mississippi River, Illinois and Missouri; Lock 27, Mississippi River, Illinois; and Lock and Dam 3, Mississippi River, Minnesota) shall be derived from the Inland Waterways Trust Fund; and of which \$12,000,000 shall be exclusively for projects and activities authorized under section 107 of the River and Harbor Act of 1960; and of which \$500,000 shall be exclusively for projects and activities authorized under section 111 of the River and Harbor Act of 1968; and of which \$7,000,000 shall be exclusively for projects and activities authorized under section 103 of the River and Harbor Act of 1962; and of which \$40,000,000 shall be exclusively available for projects and activities authorized under section 205 of the Flood Control Act of 1948; and of which \$15,000,000 shall be exclusively for projects and activities authorized under section 14 of the Flood Control Act of 1946; and of which \$300,000 shall be exclusively for projects and activities authorized under section 208 of the Flood Control Act of 1954; and of which \$30,000,000 shall be exclusively for projects and activities authorized under section 1135 of the Water Resources Development Act of 1986; and of which \$30,000,000 shall be exclusively for projects and activities authorized under section 206 of the Water Resources Development Act of 1996; and of which \$5,000,000 shall be exclusively for projects and activities authorized under sections 204 and 207 of the Water Resources Development Act of 1992 and section 933 of the Water Resources Development Act of 1986: *Provided*, That the Chief of Engineers is directed to use \$11,250,000 of the funds appropriated herein for the Dallas Floodway Extension, Texas, project, including the Cadillac Heights

feature, generally in accordance with the Chief of Engineers report dated December 7, 1999: *Provided further*, That the Chief of Engineers is directed to use \$1,500,000 of the funds provided herein for the Hawaii Water Management Project: *Provided further*, That the Chief of Engineers is directed to use \$13,000,000 of the funds appropriated herein for the navigation project at Kaumalapau Harbor, Hawaii: *Provided further*, That the Chief of Engineers is directed to use \$4,000,000 of the funds provided herein for the Dam Safety and Seepage/Stability Correction Program for seepage control features and repairs to the tainter gates at Waterbury Dam, Vermont: *Provided further*, That \$600,000 of the funds provided herein for the Dam Safety and Seepage/Stability Correction Program shall be available for Dover Dam, Ohio: *Provided further*, That the Chief of Engineers is directed to use \$9,500,000 of the funds appropriated herein for planning, engineering, design or construction of the Grundy, Buchanan County, and Dickenson County, Virginia, elements of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River Project: *Provided further*, That the Chief of Engineers is directed to use \$5,600,000 of the funds appropriated herein for planning, engineering, design or construction of the Lower Mingo County, Upper Mingo County, Wayne County, McDowell County, West Virginia, elements of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River Project: *Provided further*, That the Chief of Engineers is directed to continue the Dickenson County Detailed Project Report as generally defined in Plan 4 of the Huntington District Engineer's Draft Supplement to the section 202 General Plan for Flood Damage Reduction dated April 1997, including all Russell Fork tributary streams within the County and special considerations as may be appropriate to address the unique relocations and resettlement needs for the flood prone communities within the County: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use \$16,000,000 of the funds appropriated herein for the Clover Fork, City of Cumberland, Town of Martin, Pike County (including Levisa Fork and Tug Fork Tributaries), Bell County, Harlan County in accordance with the Draft Detailed Project Report dated January 2002, Floyd County, Martin County, Johnson County, and Knox County, Kentucky, detailed project report, elements of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River: *Provided further*, That the Chief of Engineers is directed to proceed with work on the permanent bridge to replace Folsom Bridge Dam Road, Folsom, California, as authorized by the Energy and Water Development Appropriations Act, 2004 (Public Law 108–137), and, of the \$15,000,000 available for the American River Watershed (Folsom Dam Mini-Raise), California, project, \$10,000,000 of those funds be directed for the permanent bridge, with all remaining devoted to the Mini-Raise: *Provided further*, That \$300,000 is provided for the Chief of Engineers to conduct a General Reevaluation Study on the Mount St. Helens project to determine if ecosystem restoration actions are prudent in the Cowlitz and Toutle watersheds for species that have been listed as being of economic importance and threatened or endangered: *Provided further*, That \$35,000,000 shall be available for projects and activities authorized under 16 U.S.C. 410–r–8: *Provided further*, That the Secretary is directed to use \$2,000,000 of the funds appropriated herein to provide a grant to the City of Caliente, Nevada, for the City

to expend for the purpose of purchasing construction equipment to be used by the City in constructing local flood control measures.

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES, ARKANSAS, ILLINOIS, KENTUCKY, LOUISIANA, MISSISSIPPI, MISSOURI, AND TENNESSEE

For expenses necessary for the flood damage reduction program for the Mississippi River alluvial valley below Cape Girardeau, Missouri, as authorized by law, \$400,000,000, to remain available until expended, of which such sums as are necessary to cover the Federal share of operation and maintenance costs for inland harbors shall be derived from the Harbor Maintenance Trust Fund: *Provided*, That the Chief of Engineers is directed to use \$20,000,000 of the funds provided herein for design and real estate activities and pump supply elements for the Yazoo Basin, Yazoo Backwater Pumping Plant, Mississippi: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers is directed to use \$9,000,000 appropriated herein for construction of water withdrawal features of the Grand Prairie, Arkansas, project, of which such sums as are necessary to cover the Federal share of operation and maintenance costs for inland harbors shall be derived from the Harbor Maintenance Trust Fund.

OPERATION AND MAINTENANCE

For expenses necessary for the operation, maintenance, and care of existing river and harbor, flood and storm damage reduction, aquatic ecosystem restoration, and related projects authorized by law; for providing security for infrastructure owned and operated by, or on behalf of, the United States Army Corps of Engineers (the "Corps"), including administrative buildings and facilities, laboratories, and the Washington Aqueduct; for the maintenance of harbor channels provided by a State, municipality, or other public agency that serve essential navigation needs of general commerce, where authorized by law; and for surveys and charting of northern and northwestern lakes and connecting waters, clearing and straightening channels, and removal of obstructions to navigation, \$1,989,000,000, to remain available until expended, of which such sums to cover the Federal share of operation and maintenance costs for coastal harbors and channels, and inland harbors shall be derived from the Harbor Maintenance Trust Fund, pursuant to Public Law 99-662 may be derived from that fund; of which such sums as become available from the special account for the Corps established by the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 460l-6a(i)), may be derived from that account for resource protection, research, interpretation, and maintenance activities related to resource protection in the areas at which outdoor recreation is available; and of which such sums as become available under section 217 of the Water Resources Development Act of 1996, Public Law 104-303, shall be used to cover the cost of operation and maintenance of the dredged material disposal facilities for which fees have been collected: *Provided*, That utilizing funds appropriated herein, for the Intracoastal Waterway, Delaware River to Chesapeake Bay, Delaware and Maryland, the Chief of Engineers, is directed to reimburse the State of Delaware for normal operation and maintenance costs incurred by the State of Delaware for the SR1 Bridge from station 58+00 to station

293 + 00 between October 1, 2005, and September 30, 2006: *Provided further*, That the Chief of Engineers is authorized to undertake, at full Federal expense, a detailed evaluation of the Albuquerque levees for purposes of determining structural integrity, impacts of vegetative growth, and performance under current hydrological conditions: *Provided further*, That using \$275,000 provided herein, the Chief of Engineers is authorized to remove the sunken vessel State of Pennsylvania from the Christina River in Delaware.

REGULATORY PROGRAM

For expenses necessary for administration of laws pertaining to regulation of navigable waters and wetlands, \$160,000,000, to remain available until expended.

REVOLVING FUND

None of the funds in title I of this Act or otherwise available to the Corps of Engineers shall be available for the rehabilitation and lead and asbestos abatement of the dredge McFarland.

FORMERLY UTILIZED SITES REMEDIAL ACTION PROGRAM

For expenses necessary to clean up contamination from sites in the United States resulting from work performed as part of the Nation's early atomic energy program, \$140,000,000, to remain available until expended.

GENERAL EXPENSES

For expenses necessary for general administration and related civil works functions in the headquarters of the United States Army Corps of Engineers, the offices of the Division Engineers, the Humphreys Engineer Center Support Activity, the Institute for Water Resources, the United States Army Engineer Research and Development Center, and the United States Army Corps of Engineers Finance Center, \$154,000,000, to remain available until expended: *Provided*, That no part of any other appropriation provided in title I of this Act shall be available to fund the civil works activities of the Office of the Chief of Engineers or the civil works executive direction and management activities of the division offices: *Provided further*, That the Secretary is directed to use \$4,500,000 of the funds appropriated herein to conduct, at full Federal expense and in close cooperation with state and local governments, comprehensive analyses that examine multi-jurisdictional use and management of water resources on a watershed or regional scale.

OFFICE OF ASSISTANT SECRETARY OF THE ARMY (CIVIL WORKS)

For expenses necessary for the Office of Assistant Secretary of the Army (Civil Works), as authorized by 10 U.S.C. 3016(b)(3), \$4,000,000.

ADMINISTRATIVE PROVISION

Appropriations in this title shall be available for official reception and representation expenses not to exceed \$5,000; and during the current fiscal year the Revolving Fund, Corps of Engineers,

shall be available for purchase not to exceed 100 for replacement only and hire of passenger motor vehicles.

GENERAL PROVISIONS, CORPS OF ENGINEERS—CIVIL

SEC. 101. (a) None of the funds provided in title I of this Act, or provided by previous appropriations Acts to the agencies or entities funded in title I of this Act that remain available for obligation or expenditure in fiscal year 2006, shall be available for obligation or expenditure through a reprogramming of funds that—

- (1) creates or initiates a new program, project, or activity;
- (2) eliminates a program, project or activity;
- (3) increases funds or personnel for any program, project or activity for which funds have been denied or restricted by this Act;
- (4) proposes to use funds directed for a specific activity by either the House or the Senate Committees on Appropriations for a different purpose;
- (5) augments existing programs, projects or activities in excess of \$2,000,000 or 50 percent, whichever is less, unless prior approval is received from the House and Senate Committees on Appropriations;
- (6) reduces existing programs, projects or activities in excess of \$2,000,000 or 50 percent, whichever is less, unless prior approval is received from the House and Senate Committees on Appropriations; or
- (7) creates, reorganizes, or restructures a branch, division, office, bureau, board, commission, agency, administration, or department different from the budget justifications submitted to the Committees on Appropriations or the table accompanying the Statement of Managers accompanying this Act, whichever is more detailed, unless prior approval is received from the House and Senate Committees on Appropriations.

(b) Subsection (a)(1) shall not apply to any project or activity authorized under section 205 of the Flood Control Act of 1948; section 14 of the Flood Control Act of 1946; section 208 of the Flood Control Act of 1954; section 107 of the River and Harbor Act of 1960; section 103 of the River and Harbor Act of 1962; section 111 of the River and Harbor Act of 1968; section 1135 of the Water Resources Development Act of 1986; section 206 of the Water Resources Development Act of 1996; sections 204 and 207 of the Water Resources Development Act of 1992 or section 933 of the Water Resources Development Act of 1986.

(c) Not later than 60 days after the date of enactment of this Act, the Corps of Engineers shall submit a report to the Committees on Appropriations of the Senate and the House of Representatives to establish the baseline for application of reprogramming and transfer authorities for the current fiscal year: *Provided*, That the report shall include—

- (1) a table for each appropriation with a separate column to display the President's budget request, adjustments made by Congress, adjustments due to enacted rescissions, if appropriate, and the fiscal year enacted level;
- (2) a delineation in the table for each appropriation both by object class and program, project and activity as detailed in the budget appendix for the respective appropriations; and

Deadline.
Reports.

(3) an identification of items of special congressional interest: *Provided further*, That the amount appropriated for salaries and expenses of the Corps of Engineers shall be reduced by \$100,000 per day for each day after the required date that the report has not been submitted to the Congress.

(d) None of the funds received as a non-Federal share for project costs by any agency funded in title I of this Act shall be available for reprogramming.

SEC. 102. Beginning in fiscal year 2006 and thereafter, agreements proposed for execution by the Assistant Secretary of the Army for Civil Works or the United States Army Corps of Engineers after the date of the enactment of this Act pursuant to section 4 of the River and Harbor Act of 1915, Public Law 64–291; section 11 of the River and Harbor Act of 1925, Public Law 68–585; the Civil Functions Appropriations Act, 1936, Public Law 75–208; section 215 of the Flood Control Act of 1968, as amended, Public Law 90–483; sections 104, 203, and 204 of the Water Resources Development Act of 1986, as amended, Public Law 99–662; section 206 of the Water Resources Development Act of 1992, as amended, Public Law 102–580; section 211 of the Water Resources Development Act of 1996, Public Law 104–303; and any other specific project authority, shall be limited to total credits and reimbursements for all applicable projects not to exceed \$100,000,000 in each fiscal year.

33 USC 2221.

SEC. 103. In order to protect and preserve the integrity of the water supply against further degradation, none of the funds made available under this Act and any other Act hereafter may be used by the Army Corps of Engineers to support activities related to any proposed new landfill in the Muskingum Watershed if such landfill—

(1) has not received a permit to construct from the State agency with responsibility for solid waste management in the watershed;

(2) has not received waste for disposal during 2005; and

(3) is not contiguous or adjacent to a portion of a landfill that has received waste for disposal in 2005 and each landfill is owned by the same person or entity.

SEC. 104. None of the funds appropriated in this or any other Act shall be used to demonstrate or implement any plans divesting or transferring any Civil Works missions, functions, or responsibilities of the United States Army Corps of Engineers to other government agencies without specific direction in a subsequent Act of Congress.

SEC. 105. ST. GEORGES BRIDGE, DELAWARE.—None of the funds made available in this Act may be used to carry out any activity relating to closure or removal of the St. Georges Bridge across the Intracoastal Waterway, Delaware River to Chesapeake Bay, Delaware and Maryland, including a hearing or any other activity relating to preparation of an environmental impact statement concerning the closure or removal.

SEC. 106. Notwithstanding any other provision of law, the requirements regarding the use of continuing contracts under the authority of section 206 of the Water Resources Development Act of 1999 (33 U.S.C. 2331) shall apply only to projects funded under the Operation and Maintenance account and the Operation and Maintenance subaccount of the Flood Control, Mississippi River and Tributaries account.

Applicability.
Mississippi.

Deadline.
Reports.

SEC. 107. Within 75 days of the date of the Chief of Engineers Report on a water resource matter, the Assistant Secretary of the Army (Civil Works) shall submit the report to the appropriate authorizing and appropriating committees of the Congress.

SEC. 108. None of the funds made available in title I of this Act may be used to award any continuing contract or to make modifications to any existing continuing contract that commits an amount for a project in excess of the amount appropriated for such project pursuant to this Act: *Provided*, That the amounts appropriated in this Act may be modified pursuant to the authorities provided in section 101 of this Act or through the application of unobligated balances for such project.

Deadline.
Reports.

SEC. 109. Within 90 days of the date of enactment of this Act, the Assistant Secretary of the Army (Civil Works) shall transmit to Congress his report on any water resources matter on which the Chief of Engineers has reported.

SEC. 110. Section 123 of Public Law 108–137 (117 Stat. 1837) is amended by striking “in accordance with the Baltimore Metropolitan Water Resources-Gwynns Falls Watershed Feasibility Report” and all that follows and inserting the following language in lieu thereof: “in accordance with the Baltimore Metropolitan Water Resources Gwynns Falls Watershed Study—Draft Feasibility Report and Integrated Environmental Assessment prepared by the Corps of Engineers and the City of Baltimore, Maryland, dated April 2004. The non-Federal sponsor shall receive credit toward its share of project costs for work carried out by the non-Federal sponsor prior to execution of a project cooperation agreement, if the Secretary determines that the work is integral to the project. The non-Federal sponsor may also receive credit for any work performed by the non-Federal sponsor pursuant to a project cooperation agreement. The non-Federal sponsor shall be reimbursed for any work performed by the non-Federal sponsor that is in excess of the non-Federal share of project costs.”.

SEC. 111. None of the funds in this Act may be expended by the Secretary of the Army to construct the Port Jersey element of the New York and New Jersey Harbor or to reimburse the local sponsor for the construction of the Port Jersey element until commitments for construction of container handling facilities are obtained from the non-Federal sponsor for a second user along the Port Jersey element.

SEC. 112. MARMET LOCK, KANAWHA RIVER, WEST VIRGINIA. Section 101(a)(31) of the Water Resources Development Act of 1996 (110 Stat. 3666), is amended by striking “\$229,581,000” and inserting “\$358,000,000”.

SEC. 113. Truckee Meadows Flood Control Project, Nevada.—The non-Federal funds expended for purchase of lands, easements and rights-of-way, implementation of project monitoring and assessment, and construction and implementation of recreation, ecosystem restoration, and water quality improvement features, including the provision of 6700 acre-feet of water rights no later than the effective date of the Truckee River Operating Agreement for re-vegetation, reestablishment and maintenance of riverine and riparian habitat of the Lower Truckee River and Pyramid Lake, whether expended prior to or after the signing of the Project Cooperation Agreement (PCA), shall be fully credited to the non-Federal sponsor’s share of costs for the project: *Provided*, That for the purposes of benefit-cost ratio calculations in the General Reevaluation Report (GRR),

the Truckee Meadows Nevada Flood Control Project shall be defined as a single unit and non-separable.

SEC. 114. WATER REALLOCATION, LAKE CUMBERLAND, KENTUCKY. (a) IN GENERAL.—Subject to subsection (b), none of the funds made available by this Act may be used to carry out any water reallocation project or component under the Wolf Creek Project, Lake Cumberland, Kentucky, authorized under the Act of June 28, 1938 (52 Stat. 1215, chapter 795) and the Act of July 24, 1946 (60 Stat. 636, chapter 595).

(b) EXISTING REALLOCATIONS.—Subsection (a) shall not apply to any water reallocation for Lake Cumberland, Kentucky, that is carried out subject to an agreement or payment schedule in effect on the date of enactment of this Act.

SEC. 115. Section 529(b)(3) of Public Law 106–541 is amended by striking “\$10,000,000” and inserting “\$20,000,000” in lieu thereof. 114 Stat. 2658.

SEC. 116. YAZOO BASIN, BIG SUNFLOWER RIVER, MISSISSIPPI.—The Yazoo Basin, Big Sunflower River, Mississippi, project authorized by the Flood Control Act of 1944, as amended and modified, is further modified to include the design and construction at full Federal expense of such measures as determined by the Chief of Engineers to be advisable for the control and reduction of sedimentation, erosion and headcutting in watersheds of the Yazoo Basin: Yazoo Headwater and Big Sunflower.

SEC. 117. LOWER MISSISSIPPI RIVER MUSEUM AND RIVERFRONT INTERPRETIVE SITE, MISSISSIPPI.—The Water Resources Development Act of 1992 (106 Stat. 4811) is amended by—

(1) in section 103(c)(2) by striking “property currently held by the Resolution Trust Corporation in the vicinity of the Mississippi River Bridge” and inserting “riverfront property”; and

(2) in section 103(c)(7)—

(A) by striking “There is” and inserting the following: “(A) IN GENERAL.—There is”; and

(B) by striking “\$2,000,000” and all that follows and inserting the following: “\$15,000,000 to plan, design, and construct generally in accordance with the conceptual plan to be prepared by the Corps of Engineers.

“(B) FUNDING.—The planning, design, and construction of the Lower Mississippi River Museum and Riverfront Interpretive Site shall be carried out using funds appropriated as part of the Mississippi River Levees feature of the Mississippi River and Tributaries Project, authorized by the Act of May 15, 1928 (45 Stat. 534, chapter 569).”.

SEC. 118. Section 593(h) of Public Law 106–541 is amended by striking “\$25,000,000” and inserting “\$50,000,000” in lieu thereof. 113 Stat. 380.

SEC. 119. The project for navigation, Los Angeles Harbor, California, authorized by section 101(b)(5) of the Water Resources Development Act of 2000 (114 Stat. 2577) is modified to authorize the Chief of Engineers to carry out the project at a total cost of \$222,000,000.

SEC. 120. Section 219(f) of the Water Resources Development Act of 1992 (Public Law 102–580; 106 Stat. 4835), as amended by section 502(b) of the Water Resources Development Act of 1999 (Public Law 106–53) and section 108(d) of title I of division B of the Miscellaneous Appropriations Act, 2001 (as enacted by Public

Law 106-554; 114 Stat. 2763A-220), is further amended by adding at the end the following:

“(72) ALPINE, CALIFORNIA.—\$10,000,000 is authorized for a water transmission main, Alpine, CA.”.

SEC. 121. (a) The Secretary of the Army may carry out and fund projects to comply with the 2003 Biological Opinion described in section 205(b) of the Energy and Water Development Appropriations Act, 2005 (Public Law 108-447; 118 Stat. 2949) as amended by subsection (b) and may award grants and enter into contracts, cooperative agreements, or interagency agreements with participants in the Endangered Species Act Collaborative Program Workgroup referenced in section 209(a) of the Energy and Water Development Appropriations Act, 2004 (Public Law 108-137; 117 Stat. 1850) in order to carry out such projects. Any project undertaken under this subsection shall require a non-Federal cost share of 25 percent, which may be provided through in-kind services or direct cash contributions and which shall be credited on a programmatic basis instead of on a project-by-project basis, with reconciliation of total project costs and total non-Federal cost share calculated on a three year incremental basis. Non-Federal cost share that exceeds that which is required in any calculated three year increment shall be credited to subsequent three year increments.

(b) Section 205(b) of Public Law 108-447 (118 Stat. 2949) is amended by adding “and any amendments thereto” after the word “2003”.

SEC. 122. BLUESTONE, WEST VIRGINIA. Section 547 of the Water Resources Development Act of 2000 (114 Stat. 2676) is amended—

(1) in subsection (b)(1)(A) by striking “4 years” and inserting “5 years”;

(2) in subsection (b)(1)(B)(iii) by striking “if all” and all that follows through “facility” and inserting “assurance project”;

(3) in subsection (b)(1)(C) by striking “and construction” and inserting “, construction, and operation and maintenance”;

(4) by adding at the end of subsection (b) the following:

“(3) OPERATION AND OWNERSHIP.—The Tri-Cities Power Authority shall be the owner and operator of the hydropower facilities referred to in subsection (a).”;

(5) in subsection (c)(1)—

(A) by striking “No” and inserting “Unless otherwise provided, no”;

(B) by inserting “planning,” before “design”; and

(C) by striking “prior to” and all that follows through “subsection (d)”;

(6) in subsection (c)(2) by striking “design” and inserting “planning, design,”;

(7) in subsection (d)—

(A) by striking paragraphs (1) and (2) and inserting the following:

“(1) APPROVAL.—The Secretary shall review the design and construction activities for all features of the hydroelectric project that pertain to and affect stability of the dam and control the release of water from Bluestone Dam to ensure that the quality of construction of those features meets all standards established for similar facilities constructed by the Secretary.”;

(B) by redesignating paragraph (3) as paragraph (2);

(C) by striking the period at the end of paragraph (2) (as so redesignated) and inserting “, except that hydroelectric power is no longer a project purpose of the facility so long as Tri-Cities Power Authority continues to exercise its responsibilities as the builder, owner, and operator of the hydropower facilities at Bluestone Dam. Water flow releases and flood control from the hydropower facilities shall be determined and directed by the Corps of Engineers.”; and

(D) by adding at the end the following:

“(3) COORDINATION.—Construction of the hydroelectric generating facilities shall be coordinated with the dam safety assurance project currently in the design and construction phases.”;

(8) in subsection (e) by striking “in accordance” and all that follows through “58 Stat. 890”;

(9) in subsection (f)—

(A) by striking “facility of the interconnected systems of reservoirs operated by the Secretary” each place it appears and inserting “facilities under construction under such agreements”; and

(B) by striking “design” and inserting “planning, design”;

(10) in subsection (f)(2)—

(A) by “Secretary” each place it appears and inserting “Tri-Cities Power Authority”; and

(B) by striking “facilities referred to in subsection (a)” and inserting “such facilities”;

(11) by striking paragraph (1) of subsection (g) and inserting the following:

“(1) to arrange for the transmission of power to the market or to construct such transmission facilities as necessary to market the power produced at the facilities referred to in subsection (a) with funds contributed by the Tri-Cities Power Authority; and”;

(12) in subsection (g)(2) by striking “such facilities” and all that follows through “the Secretary” and inserting “the generating facility”; and

(13) by adding at the end the following:

“(i) TRI-CITIES POWER AUTHORITY DEFINED.—In this section, the ‘Tri-Cities Power Authority’ refers to the entity established by the City of Hinton, West Virginia, the City of White Sulphur Springs, West Virginia, and the City of Philippi, West Virginia, pursuant to a document entitled ‘Second Amended and Restated Intergovernmental Agreement’ approved by the Attorney General of West Virginia on February 14, 2002.”.

SEC. 123. (a) IN GENERAL.—

(1) After the date of enactment of this Act, the Secretary of the Army shall carry out the project for wastewater infrastructure, DeSoto County, Mississippi, authorized by section 219(f)(30) of Public Law 102-580, as amended, in accordance with the provisions of this subsection.

Mississippi.

(2) The non-Federal interest shall be primarily responsible for carrying out work on the project referred to in paragraph (1) that is not covered by the Project Cooperation Agreement executed on May 13, 2002 or any amendments thereto, including work associated with the design, construction,

management, and administration of the project. The non-Federal interest may carry out work on the project subject to obtaining any permits required pursuant to Federal and State laws and subject to general supervision and administrative oversight by the Secretary of the Army.

(3) The Federal share of project costs incurred by the non-Federal interest in carrying out work on the project as provided for in paragraph (2) shall equal 75 percent of the total cost of the work and shall be in the form of grants or reimbursements, except that the total amount of Federal funds available for the project, including that portion of the project carried out as provided for in paragraph (2), may not exceed \$55,000,000.

(b) TECHNICAL AMENDMENT.—Section 6006 of the Emergency Supplemental Appropriations Act, 2005 (119 Stat. 282) is amended by striking “between May 13, 2002, and September 30, 2005” and inserting “after May 13, 2002” in lieu thereof.

SEC. 124. The project for flood control, Las Vegas Wash and Tributaries (Flamingo and Tropicana Washes), Nevada, authorized by section 101(13) of Public Law 102–580 and modified by Public Law 108–7 (H.J. Res. 2) Consolidated Appropriations Resolution, 2003, section 107 is further modified to provide that the costs incurred for design and construction of the project channel crossings in the reach of the channels from Shelbourne Avenue proceeding north along the alignment of Durango Drive and continuing east along the Southern Beltway to Martin Avenue shall be added to the authorized cost of the project and such costs shall be cost shared and shall not be considered part of the non-Federal sponsor’s responsibility to provide lands, easements, and rights-of-way, and to perform relocations for the project.

SEC. 125. RESTORATION OF THE LAKE MICHIGAN WATERFRONT AND RELATED AREAS, LAKE AND PORTER COUNTIES, INDIANA.—The Secretary of the Army, acting through the Chief of Engineers is authorized and directed to carry out a continuing program for the restoration of the Lake Michigan Waterfront and Related Areas, Lake and Porter Counties, Indiana.

(1) DEFINITIONS.—

(A) Related areas are defined as adjacent or close sites that have an impact or influence on the waterfront areas or aquatic habitat.

(B) Restore is defined as—

(i) activities that improve a site’s ecosystem function, structure, and dynamic processes to a less degraded and more natural condition, and/or

(ii) the management of contaminants that allow the site to be safely used for ecological and/or economic purposes.

(2) JUSTIFICATION.—Projects can be justified by ecosystem benefits, clean-up of contaminated sites, public health, safety, economic benefits or any combination of these. Sites restored for economic purposes can be redeveloped by others. Restoration sites may include compatible recreation facilities that do not diminish the restoration purpose and do not increase the Federal cost share by more than 10 percent.

(3) COST SHARING.—The construction of projects are cost shared at 65 percent Federal and 35 percent non-Federal except when there is a demonstration of innovative technology. The

cost share is then 85 percent Federal and 15 percent non-Federal.

(4) CREDIT.—

(A) The Secretary shall credit the non-Federal interest for the value of any lands, easements, rights-of-way, relocations, excavated and/or dredged material disposal areas required for carrying out a project. When the cost of the provision of all lands, easements, rights-of-way, relocations, excavated and/or dredged material disposal areas exceeds the non-Federal share, as identified in paragraph (3), the non-Federal interest may waive any right under Federal cost-sharing policy to receive cash reimbursement for any such value in excess of the non-Federal share as identified in paragraph (3).

(B) The non-Federal interest may provide up to 100 percent of the non-Federal share required under paragraph (3) in the form of services, materials, supplies, or other in-kind contributions including monies paid pursuant to, or the value of any in-kind service performed under, an administrative order on consent or jurisdictional consent decree but may not include any monies paid pursuant to, or the value of any in-kind service performed under, a unilateral administrative order or court order.

(C) The total of non-Federal credit for services, materials, supplies, or other in-kind contributions when combined with lands, easements, rights-of-way, relocations, excavated and/or dredged material disposal areas shall not exceed the non-Federal share identified in paragraph (3).

(5) OPERATION, MAINTENANCE, REPAIR, REPLACEMENT AND REHABILITATION.—Operation, maintenance, repair, replacement and rehabilitation is 100 percent non-Federal cost.

(6) HOLD HARMLESS.—Non-Federal interests hold and save harmless the United States free from claims or damages due to implementation of the project except for negligence of the government.

(7) AUTHORIZED APPROPRIATIONS.—There is authorized to be appropriated to carry out this program \$20,000,000 for each fiscal year.

SEC. 126. CHESAPEAKE BAY OYSTER RESTORATION, MARYLAND AND VIRGINIA.—The second sentence of section 704(b) of the Water Resources Development Act of 1986 (33 U.S.C. 2263(b)) is amended by striking “\$20,000,000” and inserting “\$30,000,000”.

SEC. 127. The project for flood control, Little Calumet River, Indiana, authorized by section 401(a) of Public Law 99-662 (100 Stat. 4115) is modified to authorize the Secretary of the Army to complete the project in accordance with the post authorization change report dated August 2000 at a total cost of \$198,000,000 with an estimated Federal cost of \$148,500,000 and an estimated non-Federal cost of \$49,500,000.

SEC. 128. AMERICAN RIVER WATERSHED, CALIFORNIA (FOLSOM DAM AND PERMANENT BRIDGE).—(a) COORDINATION OF FLOOD DAMAGE REDUCTION AND DAM SAFETY.—The Secretary of the Army and the Secretary of the Interior are directed to collaborate on authorized activities to maximize flood damage reduction improvements and address dam safety needs at Folsom Dam and Reservoir, California. The Secretaries shall expedite technical reviews for flood damage reduction and dam safety improvements. In developing

improvements under this section, the Secretaries shall consider reasonable modifications to existing authorized activities, including a potential auxiliary spillway. In conducting such activities, the Secretaries are authorized to expend funds for coordinated technical reviews and joint planning, and preliminary design activities.

(b) SECRETARY'S ROLE.—Section 134 of Public Law 108–137 (117 Stat. 1842) is modified to read as follows:

“SEC. 134. BRIDGE AUTHORIZATION.

“There is authorized to be appropriated to the Secretary of the Army \$30,000,000 for the construction of the permanent bridge described in section 128(a), above the \$36,000,000 provided for in the recommended plan for bridge construction. The \$30,000,000 shall not be subject to cost sharing requirements with non-Federal interests.”

(c) CONFORMING CHANGE.—Section 128(a) of Public Law 108–137 (117 Stat. 1838) is modified by deleting “above the \$36,000,000 provided for in the recommended plan for bridge construction,” and inserting in lieu thereof the following: “above the sum of the \$36,000,000 provided for in the recommended plan for bridge construction and the amount authorized to be appropriated by section 134, as amended,”.

(d) MAXIMUM COST OF PROJECT.—The costs cited in subsections (b) and (c) shall be adjusted to allow for increases pursuant to section 902 of Public Law 99–662 (100 Stat. 4183). For purposes of making adjustments pursuant to this subsection, the date of authorization of the bridge project shall be December 1, 2003.

(e) EXPEDITED CONSTRUCTION.—The Secretary, in coordination with the Secretary of the Interior and affected non-Federal officials (including the City of Folsom, California), shall expedite construction of a new bridge and associated roadway authorized in Public Law 108–137. The Secretary, to the extent practicable, may construct such work in a manner that is compatible with the design and construction of authorized projects for flood damage reduction and dam safety. The Secretary and the Secretary of the Interior shall expedite actions under their respective jurisdictions to facilitate timely completion of construction.

(f) REPORT TO CONGRESS.—The Secretary of the Army, in consultation with the Secretary of the Interior and non-Federal interests, shall report to Congress within ninety days of the date of enactment of this Act, and at four-month intervals thereafter, on the status and schedule of planning, design and construction activity.

SEC. 129. JACKSONVILLE HARBOR, FLORIDA.—(a) The project for navigation, Jacksonville Harbor, Florida, authorized by section 101(a)(17) of the Water Resources Development Act of 1999 (113 Stat. 276), is modified to authorize the Secretary to extend the navigation features in accordance with the Report of the Chief of Engineers, dated July 22, 2003, at a total cost of \$14,658,000, with an estimated Federal cost of \$9,636,000 and an estimated non-Federal cost of \$5,022,000.

(b) The non-Federal share of the costs of the General Reevaluation Reports on the Jacksonville Harbor which were begun prior to August 2004, shall be consistent with the non-Federal costs in implementing the overall construction project.

Effective date.

SEC. 130. Section 594(g) of the Water Resources Development Act of 1999 (113 Stat. 383) is amended by striking “\$60,000,000” and inserting “\$240,000,000”.

SEC. 131. ONONDAGA LAKE, NEW YORK.—Section 573 of the Water Resources Development Act of 1999 (113 Stat. 372) is amended—

(1) in subsection (f) by striking “\$10,000,000” and inserting “\$30,000,000”;

(2) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(3) by inserting after subsection (e) the following:

“(f) NONPROFIT ENTITIES.—Notwithstanding section 221(b) of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b(b)), for any project carried out under this section, a non-Federal interest may include a nonprofit entity, with the consent of the affected local government.”.

SEC. 132. WHITE RIVER BASIN, ARKANSAS.—(a) MINIMUM FLOWS.—

(1) IN GENERAL.—The Secretary is authorized and directed to implement alternatives BS-3 and NF-7, as described in the White River Minimum Flows Reallocation Study Report, Arkansas and Missouri, dated July 2004.

(2) COST SHARING AND ALLOCATION.—Reallocation of storage and planning, design and construction of White River Minimum Flows project facilities shall be considered fish and wildlife enhancement that provides national benefits and shall be a Federal expense in accordance with section 906(e) of the Water Resources Development Act of 1986 (33 U.S.C. 2283(e)). The non-Federal interests shall provide relocations or modifications to public and private lakeside facilities at Bull Shoals Lake and Norfolk Lake to allow reasonable continued use of the facilities with the storage reallocation as determined by the Secretary in consultation with the non-Federal interests. Operations and maintenance costs of the White River Minimum Flows project facilities shall be 100 percent Federal. All Federal costs for the White River Minimum Flows project shall be considered non-reimbursable.

(3) IMPACTS ON NON-FEDERAL PROJECT.—The Administrator of Southwestern Power Administration, in consultation with the project licensee and the relevant state public utility commissions, shall determine any impacts on electric energy and capacity generated at Federal Energy Regulatory Commission Project No. 2221 caused by the storage reallocation at Bull Shoals Lake, based on data and recommendations provided by the relevant state public utility commissions. The licensee of Project No. 2221 shall be fully compensated by the Corps of Engineers for those impacts on the basis of the present value of the estimated future lifetime replacement costs of the electrical energy and capacity at the time of implementation of the White River Minimum Flows project. Such costs shall be included in the costs of implementing the White River Minimum Flows project and allocated in accordance with subsection (a)(2) above.

(4) OFFSET.—In carrying out this subsection, losses to the Federal hydropower purpose of the Bull Shoals and Norfolk Projects shall be offset by a reduction in the costs allocated to the Federal hydropower purpose. Such reduction shall be

determined by the Administrator of the Southwestern Power Administration on the basis of the present value of the estimated future lifetime replacement cost of the electrical energy and capacity at the time of implementation of the White River Minimum Flows project.

(b) FISH HATCHERY.—In constructing, operating, and maintaining the fish hatchery at Beaver Lake, Arkansas, authorized by section 105 of the Water Resources Development Act of 1976 (90 Stat. 2921), losses to the Federal hydropower purpose of the Beaver Lake Project shall be offset by a reduction in the costs allocated to the Federal hydropower purpose. Such reduction shall be determined by the Administrator of the Southwestern Power Administration based on the present value of the estimated future lifetime replacement cost of the electrical energy and capacity at the time operation of the hatchery begins.

(c) REPEAL.—Section 374 of the Water Resources Development Act of 1999 (113 Stat. 321) and section 304 of the Water Resources Development Act of 2000 (Public Law 106-541) are repealed.

SEC. 133. CALCASIEU SHIP CHANNEL, LOUISIANA. (a) IN GENERAL.—At such time as Pujo Heirs and Westland Corporation convey all right, title, and interest in and to the real property described in paragraph (b)(1) to the United States, the Secretary shall convey all right, title, and interest of the United States in and to the real property described in paragraph (b)(2) to Pujo Heirs and Westland Corporation.

(b) LAND DESCRIPTION.—The parcels of land referred to in paragraph (a) are the following:

(1) NON-FEDERAL INTEREST IN LAND.—An easement for placement of dredged materials over a contiguous equivalent area to the real property described in subparagraph (2). The parcels on which such an easement may be exchanged is all of the area within the diked or confined boundaries of the Corps of Engineers Dredge Material Placement Area M comprising Tract 128E, Tract 129E, Tract 131E, Tract 41A, Tract 42, Tract 132E, Tract 130E, Tract 134E, Tract 133E-3, Tract 140E, or some combination thereof.

(2) FEDERAL INTEREST IN LAND.—An easement for placement of dredged materials over an area in Cameron Parish, Louisiana, known as portions of Government Tract Numbers 139E-2 and 48 (both tracts on the west shore of the Calcasieu Ship Channel), and other tracts known as Corps of Engineers Dredge Material Placement Area O.

(c) CONDITIONS.—The exchange of real property under paragraph (1) shall be subject to the following conditions:

(1) DEEDS.—

(A) NON-FEDERAL LAND.—The conveyance of the real property described in paragraph (b)(1) to the Secretary shall be by a warranty deed acceptable to the Secretary.

(B) FEDERAL LAND.—The conveyance of the real property described in paragraph (b)(2) to Pujo Heirs and Westland Corporation shall be by a quitclaim deed.

(2) TIME LIMIT FOR EXCHANGE.—The land exchange under paragraph (a) shall be completed not later than six months after the date of enactment of this Act.

(3) INCREMENTAL COSTS.—As determined by the Secretary, incremental costs to the Lake Charles Harbor and Terminal District associated with the preparation of the area and the

placement of dredge material in the new disposal easement area, paragraph (b)(1), including, site preparation costs, associated testing, permitting, mitigation and diking costs associated with such new disposal easement over the costs that would have been incurred in the placement of dredge material in the old disposal easement area, paragraph (b)(2) (comprising all of Corps of Engineers Dredge Material Placement Area O) up to the disposal capacity equivalent of the property described in paragraph (b)(2), shall be made available by the Owners. Owners shall make appropriated guarantees, as agreed to by the Secretary, that funds will be available as needed to cover such incremental costs. The Lake Charles Harbor and Terminal District, as local sponsor for the Calcasieu Ship Channel Project, shall not be assessed or caused to incur any costs arising out of, associated with or as a consequence of the land exchange authorized under paragraph (a).

(d) **VALUE OF PROPERTIES.**—If the appraised fair market value, as determined by the Secretary, of the real property conveyed to Pujo Heirs and Westland Corporation by the Secretary under paragraph (a) exceeds the appraised fair market value, as determined by the Secretary, of the real property conveyed to the United States by Pujo Heirs and Westland Corporation under paragraph (a), Pujo Heirs and Westland Corporation shall make a payment to the United States equal to the excess in cash or a cash equivalent that is satisfactory to the Secretary.

SEC. 134. PROJECT MODIFICATION.—(a) **IN GENERAL.**—The project for flood damage reduction, environmental restoration, recreation, Johnson Creek, Arlington, Texas, authorized by section 101(b)(14) of the Water Resources Development Act of 1999 (113 Stat. 280–281) is modified—

(1) to deauthorize the ecosystem restoration portion of the project that consists of approximately 90 acres of land located between Randol Mill and the Union Pacific East/West line; and

(2) to authorize the Secretary of the Army to design and construct an ecosystem restoration project on lands identified in subsection (c) that will provide the same or greater level of national ecosystem restoration benefits as the portion of the project described in paragraph (1).

(b) **CREDIT TOWARD FEDERAL SHARE.**—The Secretary of the Army shall credit toward the Federal share of the cost of the modified project the costs incurred by the Secretary to carry out the project as originally authorized under section 101(b)(14) of the Water Resources Development Act of 1999 (113 Stat. 280). The non-Federal interest shall not be responsible for reimbursing the Secretary for any amount credited under this subsection.

(c) **COMPARABLE PROPERTY.**—Not later than 6 months after the date of enactment of this Act, the City of Arlington, Texas, shall identify lands, acceptable to the Secretary of the Army, amounting to not less than 90 acres within the City, where an ecosystem restoration project may be constructed to provide the same or greater level of National ecosystem restoration benefits as the land described in subsection (a)(1).

Deadline.
Texas.

SEC. 135. Funds made available in Public Law 105-62 and Public Law 105-245 for Hudson River, Athens, New York, shall be available for projects in the Catskill/Delaware watersheds in Delaware and Greene Counties, New York, under the authority

of the New York City Watershed Environmental Assistance Program.

SEC. 136. None of the funds contained in title I of this Act shall be available to permanently reassign or to temporarily reassign in excess of 180 days personnel from the Charleston, South Carolina district office: *Provided*, That this limitation shall not apply to voluntary change of station.

SEC. 137. The Secretary of the Army, acting through the Chief of Engineers, is hereby authorized and directed to design and construct until hereafter completed, the recreation and access features designated as Phase II of the Louisville Waterfront Park, Kentucky, as described in the Louisville Waterfront Park, Phases II and III, Detailed Project Report, by the Louisville District of the Corps of Engineers dated May 2002. The project shall be cost shared 50 percent Federal and 50 percent non-Federal. The cost of project work undertaken by the non-Federal interests, including but not limited to prior planning, design, and construction, shall be credited toward the non-Federal share of project design and construction costs.

SEC. 138. AKUTAN, ALASKA.—(a) IN GENERAL.—The Secretary of the Army is authorized to carry out the project for navigation, Akutan, Alaska, substantially in accordance with the plans, and subject to the conditions, described in the Report of the Chief of Engineers dated December 20, 2004, at a total cost of \$19,700,000.

(b) TREATMENT OF CERTAIN DREDGING.—The headlands dredging for the mooring basin shall be considered a general navigation feature for purposes of estimating the non-Federal share of the cost of the project.

Designation.
Maryland.

SEC. 139. (a) IN GENERAL.—The project for the beneficial use of dredged material at Poplar Island, Maryland, authorized by section 537 of the Water Resources Development Act of 1996 (110 Stat. 3776) shall be known as and designated as the “Paul S. Sarbanes Ecosystem Restoration Project at Poplar Island”.

(b) REFERENCE.—Any reference in a law, map, regulation, document, paper or other record of the United States (including reference by the Corps of Engineers) to the project referred to in subsection (a) shall be deemed to be a reference to the “Paul S. Sarbanes Ecosystem Restoration Project at Poplar Island”.

(c) EFFECTIVE DATE.—The project designation in this section shall become effective on January 4, 2007.

TITLE II

DEPARTMENT OF THE INTERIOR

CENTRAL UTAH PROJECT

CENTRAL UTAH PROJECT COMPLETION ACCOUNT

For carrying out activities authorized by the Central Utah Project Completion Act, \$32,614,000, to remain available until expended, of which \$946,000 shall be deposited into the Utah Reclamation Mitigation and Conservation Account for use by the Utah Reclamation Mitigation and Conservation Commission.

In addition, for necessary expenses incurred in carrying out related responsibilities of the Secretary of the Interior, \$1,736,000, to remain available until expended.

BUREAU OF RECLAMATION

The following appropriations shall be expended to execute authorized functions of the Bureau of Reclamation:

WATER AND RELATED RESOURCES

(INCLUDING TRANSFER OF FUNDS)

For management, development, and restoration of water and related natural resources and for related activities, including the operation, maintenance, and rehabilitation of reclamation and other facilities, participation in fulfilling related Federal responsibilities to Native Americans, and related grants to, and cooperative and other agreements with, State and local governments, Indian tribes, and others, \$883,514,000, to remain available until expended, of which \$59,544,000 shall be available for transfer to the Upper Colorado River Basin Fund and \$21,998,000 shall be available for transfer to the Lower Colorado River Basin Development Fund; of which such amounts as may be necessary may be advanced to the Colorado River Dam Fund; of which not more than \$500,000 is for high priority projects which shall be carried out by the Youth Conservation Corps, as authorized by 16 U.S.C. 1706: *Provided*, That such transfers may be increased or decreased within the overall appropriation under this heading: *Provided further*, That of the total appropriated, the amount for program activities that can be financed by the Reclamation Fund or the Bureau of Reclamation special fee account established by 16 U.S.C. 460l–6a(i) shall be derived from that Fund or account: *Provided further*, That funds contributed under 43 U.S.C. 395 are available until expended for the purposes for which contributed: *Provided further*, That funds advanced under 43 U.S.C. 397a shall be credited to this account and are available until expended for the same purposes as the sums appropriated under this heading: *Provided further*, That funds available for expenditure for the Departmental Irrigation Drainage Program may be expended by the Bureau of Reclamation for site remediation on a non-reimbursable basis: *Provided further*, That \$500,000 of the funds provided herein shall be used on a non-reimbursable basis to fund the collection of technical and environmental data to be used to evaluate potential rehabilitation of the St. Mary Storage Unit facilities, Milk River Project, Montana, and that Reclamation shall enter into cooperative agreements with the State of Montana or the Blackfeet Tribe to carry out such work if the Secretary determines such agreements would be cost-effective and efficient.

CENTRAL VALLEY PROJECT RESTORATION FUND

For carrying out the programs, projects, plans, and habitat restoration, improvement, and acquisition provisions of the Central Valley Project Improvement Act, \$52,219,000, to be derived from such sums as may be collected in the Central Valley Project Restoration Fund pursuant to sections 3407(d), 3404(c)(3), 3405(f), and 3406(c)(1) of Public Law 102–575, to remain available until expended: *Provided*, That the Bureau of Reclamation is directed to assess and collect the full amount of the additional mitigation and restoration payments authorized by section 3407(d) of Public

Law 102–575: *Provided further*, That none of the funds made available under this heading may be used for the acquisition or leasing of water for in-stream purposes if the water is already committed to in-stream purposes by a court adopted decree or order.

CALIFORNIA BAY-DELTA RESTORATION

(INCLUDING TRANSFER OF FUNDS)

For carrying out activities authorized by the Water Supply, Reliability, and Environmental Improvement Act, consistent with plans to be approved by the Secretary of the Interior, \$37,000,000, to remain available until expended, of which such amounts as may be necessary to carry out such activities may be transferred to appropriate accounts of other participating Federal agencies to carry out authorized purposes: *Provided*, That funds appropriated herein may be used for the Federal share of the costs of CALFED Program management: *Provided further*, That the use of any funds provided to the California Bay-Delta Authority for program-wide management and oversight activities shall be subject to the approval of the Secretary of the Interior: *Provided further*, That CALFED implementation shall be carried out in a balanced manner with clear performance measures demonstrating concurrent progress in achieving the goals and objectives of the Program: *Provided further*, That \$500,000 shall be transferred to the Army Corps of Engineers to carry out the report on levee stability reconstruction projects and priorities authorized under section 103(f)(3) of Public Law 108–361.

POLICY AND ADMINISTRATION

For necessary expenses of policy, administration, and related functions in the office of the Commissioner, the Denver office, and offices in the five regions of the Bureau of Reclamation, to remain available until expended, \$57,917,000, to be derived from the Reclamation Fund and be nonreimbursable as provided in 43 U.S.C. 377: *Provided*, That no part of any other appropriation in this Act shall be available for activities or functions budgeted as policy and administration expenses.

ADMINISTRATIVE PROVISION

Appropriations for the Bureau of Reclamation shall be available for purchase of not to exceed 14 passenger motor vehicles, of which 11 are for replacement only.

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

SEC. 201. (a) None of the funds appropriated or otherwise made available by this Act may be used to determine the final point of discharge for the interceptor drain for the San Luis Unit until development by the Secretary of the Interior and the State of California of a plan, which shall conform to the water quality standards of the State of California as approved by the Administrator of the Environmental Protection Agency, to minimize any detrimental effect of the San Luis drainage waters.

(b) The costs of the Kesterson Reservoir Cleanup Program and the costs of the San Joaquin Valley Drainage Program shall be classified by the Secretary of the Interior as reimbursable or

nonreimbursable and collected until fully repaid pursuant to the “Cleanup Program-Alternative Repayment Plan” and the “SJVDP-Alternative Repayment Plan” described in the report entitled “Repayment Report, Kesterson Reservoir Cleanup Program and San Joaquin Valley Drainage Program, February 1995”, prepared by the Department of the Interior, Bureau of Reclamation. Any future obligations of funds by the United States relating to, or providing for, drainage service or drainage studies for the San Luis Unit shall be fully reimbursable by San Luis Unit beneficiaries of such service or studies pursuant to Federal reclamation law.

SEC. 202. None of the funds appropriated or otherwise made available by this or any other Act may be used to pay the salaries and expenses of personnel to purchase or lease water in the Middle Rio Grande or the Carlsbad Projects in New Mexico unless said purchase or lease is in compliance with the purchase requirements of section 202 of Public Law 106-60.

New Mexico.

SEC. 203. (a) Section 1(a) of the Lower Colorado Water Supply Act (Public Law 99-655) is amended by adding at the end the following: “The Secretary is authorized to enter into an agreement or agreements with the city of Needles or the Imperial Irrigation District for the design and construction of the remaining stages of the Lower Colorado Water Supply Project on or after November 1, 2004, and the Secretary shall ensure that any such agreement or agreements include provisions setting forth: (1) the responsibilities of the parties to the agreement for design and construction; (2) the locations of the remaining wells, discharge pipelines, and power transmission lines; (3) the remaining design capacity of up to 5,000 acre-feet per year which is the authorized capacity less the design capacity of the first stage constructed; (4) the procedures and requirements for approval and acceptance by the Secretary of the remaining stages, including approval of the quality of construction, measures to protect the public health and safety, and procedures for protection of such stages; (5) the rights, responsibilities, and liabilities of each party to the agreement; and (6) the term of the agreement.”.

Contracts.

100 Stat. 3665.

(b) Section 2(b) of the Lower Colorado Water Supply Act (Public Law 99-655) is amended by adding at the end the following: “Subject to the demand of such users along or adjacent to the Colorado River for Project water, the Secretary is further authorized to contract with additional persons or entities who hold Boulder Canyon Project Act section 5 contracts for municipal and industrial uses within the State of California for the use or benefit of Project water under such terms as the Secretary determines will benefit the interest of Project users along the Colorado River.”.

100 Stat. 3665.

SEC. 204. Funds under this title for Drought Emergency Assistance shall be made available primarily for leasing of water for specified drought related purposes from willing lessors, in compliance with existing State laws and administered under State water priority allocation. Such leases may be entered into with an option to purchase: *Provided*, That such purchase is approved by the State in which the purchase takes place and the purchase does not cause economic harm within the State in which the purchase is made.

SEC. 205. The Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation, is authorized to enter into grants, cooperative agreements, and other agreements with irrigation or water districts and States to fund up to 50 percent

Grants.

Contracts.

of the cost of planning, designing, and constructing improvements that will conserve water, increase water use efficiency, or enhance water management through measurement or automation, at existing water supply projects within the States identified in the Act of June 17, 1902, as amended, and supplemented: *Provided*, That when such improvements are to federally owned facilities, such funds may be provided in advance on a non-reimbursable basis to an entity operating affected transferred works or may be deemed non-reimbursable for non-transferred works: *Provided further*, That the calculation of the non-Federal contribution shall provide for consideration of the value of any in-kind contributions, but shall not include funds received from other Federal agencies: *Provided further*, That the cost of operating and maintaining such improvements shall be the responsibility of the non-Federal entity: *Provided further*, That this section shall not supercede any existing project-specific funding authority: *Provided further*, That the Secretary is also authorized to enter into grants or cooperative agreements with universities or non-profit research institutions to fund water use efficiency research.

SEC. 206. WATER DESALINATION ACT.—Section 8 of Public Law 104–298 (The Water Desalination Act of 1996) (110 Stat. 3624) as amended by section 210 of Public Law 108–7 (117 Stat. 146) and by section 6015 of Public Law 109–13 is amended by—

(1) in paragraph (a) by striking “2005” and inserting in lieu thereof “2006”; and

(2) in paragraph (b) by striking “2005” and inserting in lieu thereof “2006”.

SEC. 207. Section 17(b) of the Colorado Ute Indian Water Rights Settlement Act of 1988 as amended (Public Law 100–585, 102 Stat. 2973; Public Law 106–554, 114 Stat. 2763A–266) is amended by striking “within 7 years” and all that follows through “following the date of enactment of this section” and inserting “for each of fiscal years 2006 through 2012”.

SEC. 208. (a)(1) Using amounts made available under section 2507 of the Farm and Security Rural Investment Act of 2002 (43 U.S.C. 2211 note; Public Law 107–171), the Secretary shall provide not more than \$70,000,000 to the University of Nevada—

(A) to acquire from willing sellers land, water appurtenant to the land, and related interests in the Walker River Basin, Nevada; and

(B) to establish and administer an agricultural and natural resources center, the mission of which shall be to undertake research, restoration, and educational activities in the Walker River Basin relating to—

- (i) innovative agricultural water conservation;
- (ii) cooperative programs for environmental restoration;
- (iii) fish and wildlife habitat restoration; and
- (iv) wild horse and burro research and adoption marketing.

(2) In acquiring interests under paragraph (1)(A), the University of Nevada shall make acquisitions that the University determines are the most beneficial to—

(A) the establishment and operation of the agricultural and natural resources research center authorized under paragraph (1)(B); and

(B) environmental restoration in the Walker River Basin.

(b)(1) Using amounts made available under section 2507 of the Farm and Security Rural Investment Act of 2002 (43 U.S.C. 2211 note; Public Law 107–171), the Secretary shall provide not more than \$10,000,000 for a water lease and purchase program for the Walker River Paiute Tribe.

(2) Water acquired under paragraph (1) shall be—

(A) acquired only from willing sellers;

(B) designed to maximize water conveyances to Walker Lake; and

(C) located only within the Walker River Paiute Indian Reservation.

(c) Using amounts made available under section 2507 of the Farm and Security Rural Investment Act of 2002 (43 U.S.C. 2211 note; Public Law 107–171), the Secretary, acting through the Commissioner of Reclamation, shall provide—

(1) \$10,000,000 for tamarisk eradication, riparian area restoration, and channel restoration efforts within the Walker River Basin that are designed to enhance water delivery to Walker Lake, with priority given to activities that are expected to result in the greatest increased water flows to Walker Lake; and

(2) \$5,000,000 to the United States Fish and Wildlife Service, the Walker River Paiute Tribe, and the Nevada Division of Wildlife to undertake activities, to be coordinated by the Director of the United States Fish and Wildlife Service, to complete the design and implementation of the Western Inland Trout Initiative and Fishery Improvements in the State of Nevada with an emphasis on the Walker River Basin.

(d) For each day after June 30, 2006, on which the Bureau of Reclamation fails to comply with subsections (a), (b), and (c), the total amount made available for salaries and expenses of the Bureau of Reclamation shall be reduced by \$100,000 per day.

Effective date.

SEC. 209. (a) The Secretary of the Interior is authorized to complete a special report to update the analysis of costs and associated benefits of the Auburn-Folsom South Unit, Central Valley Project, California authorized under Federal reclamation laws and the Act of September 2, 1965, Public Law 89–161, 79 Stat. 615 in order to—

Reports.

(1) identify those project features that are still relevant;

(2) identify changes in benefit values from previous analyses and update to current levels;

(3) identify design standard changes from the 1978 Reclamation design which require updated project engineering;

(4) assess risks and uncertainties associated with the 1978 Reclamation design;

(5) update design and reconnaissance-level cost estimate for features identified under paragraph (1); and

(6) perform other analyses that the Secretary deems appropriate to assist in the determination of whether a full feasibility study is warranted.

(b) There are authorized to be appropriated \$1,000,000 to carry out this section. The cost of completing this update shall be non-reimbursable.

TITLE III

DEPARTMENT OF ENERGY

ENERGY PROGRAMS

ENERGY SUPPLY AND CONSERVATION

For Department of Energy expenses including the purchase, construction, and acquisition of plant and capital equipment, and other expenses necessary for energy supply and energy conservation activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, \$1,830,936,000, to remain available until expended.

CLEAN COAL TECHNOLOGY

(DEFERRAL AND RESCISSION)

Of the funds made available under this heading for obligation in prior years, \$257,000,000 shall not be available until October 1, 2006: *Provided*, That funds made available in previous appropriations Acts shall be made available for any ongoing project regardless of the separate request for proposal under which the project was selected: *Provided further*, That \$20,000,000 of uncommitted balances is rescinded.

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

For necessary expenses in carrying out fossil energy research and development activities, under the authority of the Department of Energy Organization Act (Public Law 95–91), including the acquisition of interest, including defeasible and equitable interests in any real property or any facility or for plant or facility acquisition or expansion, the hire of passenger motor vehicles, the hire, maintenance, and operation of aircraft, the purchase, repair, and cleaning of uniforms, the reimbursement to the General Services Administration for security guard services, and for conducting inquiries, technological investigations and research concerning the extraction, processing, use, and disposal of mineral substances without objectionable social and environmental costs (30 U.S.C. 3, 1602, and 1603), \$597,994,000, to remain available until expended, of which \$18,000,000 is to continue a multi-year project coordinated with the private sector for FutureGen, without regard to the terms and conditions applicable to clean coal technological projects: *Provided*, That the initial planning and research stages of the FutureGen project shall include a matching requirement from non-Federal sources of at least 20 percent of the costs: *Provided further*, That any demonstration component of such project shall require a matching requirement from non-Federal sources of at least 50 percent of the costs of the component: *Provided further*, That of the amounts provided, \$50,000,000 is available, after coordination with the private sector, for a request for proposals for a Clean Coal Power Initiative providing for competitively-awarded research, development, and demonstration projects to reduce the barriers to continued and expanded coal use: *Provided further*, That no

project may be selected for which sufficient funding is not available to provide for the total project: *Provided further*, That funds shall be expended in accordance with the provisions governing the use of funds contained under the heading “Clean Coal Technology” in 42 U.S.C. 5903d as well as those contained under the heading “Clean Coal Technology” in prior appropriations: *Provided further*, That the Department may include provisions for repayment of Government contributions to individual projects in an amount up to the Government contribution to the project on terms and conditions that are acceptable to the Department including repayments from sale and licensing of technologies from both domestic and foreign transactions: *Provided further*, That such repayments shall be retained by the Department for future coal-related research, development and demonstration projects: *Provided further*, That any technology selected under this program shall be considered a Clean Coal Technology, and any project selected under this program shall be considered a Clean Coal Technology Project, for the purposes of 42 U.S.C. 7651n, and chapters 51, 52, and 60 of title 40 of the Code of Federal Regulations: *Provided further*, That no part of the sum herein made available shall be used for the field testing of nuclear explosives in the recovery of oil and gas: *Provided further*, That up to 4 percent of program direction funds available to the National Energy Technology Laboratory may be used to support Department of Energy activities not included in this account: *Provided further*, That for fiscal year 2006 salaries for Federal employees performing research and development activities at the National Energy Technology Laboratory can continue to be funded from program accounts: *Provided further*, That the Secretary of Energy is authorized to accept fees and contributions from public and private sources, to be deposited in a contributed funds account, and prosecute projects using such fees and contributions in cooperation with other Federal, State, or private agencies or concerns: *Provided further*, That revenues and other moneys received by or for the account of the Department of Energy or otherwise generated by sale of products in connection with projects of the Department appropriated under the Fossil Energy Research and Development account may be retained by the Secretary of Energy, to be available until expended, and used only for plant construction, operation, costs, and payments to cost-sharing entities as provided in appropriate cost-sharing contracts or agreements.

NAVAL PETROLEUM AND OIL SHALE RESERVES

For expenses necessary to carry out naval petroleum and oil shale reserve activities, including the hire of passenger motor vehicles, \$21,500,000, to remain available until expended: *Provided*, That, notwithstanding any other provision of law, unobligated funds remaining from prior years shall be available for all naval petroleum and oil shale reserve activities.

ELK HILLS SCHOOL LANDS FUND

For necessary expenses in fulfilling installment payments under the Settlement Agreement entered into by the United States and the State of California on October 11, 1996, as authorized by section 3415 of Public Law 104–106, \$48,000,000, for payment to the State of California for the State Teachers’ Retirement Fund, of which \$46,000,000 will be derived from the Elk Hills School Lands Fund.

STRATEGIC PETROLEUM RESERVE

For necessary expenses for Strategic Petroleum Reserve facility development and operations and program management activities pursuant to the Energy Policy and Conservation Act of 1975, as amended (42 U.S.C. 6201 et seq.), including the hire of passenger motor vehicles, the hire, maintenance, and operation of aircraft, the purchase, repair, and cleaning of uniforms, the reimbursement to the General Services Administration for security guard services, \$166,000,000, to remain available until expended.

ENERGY INFORMATION ADMINISTRATION

For necessary expenses in carrying out the activities of the Energy Information Administration, \$86,176,000, to remain available until expended.

NON-DEFENSE ENVIRONMENTAL CLEANUP

For Department of Energy expenses, including the purchase, construction, and acquisition of plant and capital equipment and other expenses necessary for non-defense environmental cleanup activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, and the purchase of not to exceed six passenger motor vehicles, of which five shall be for replacement only, \$353,219,000, to remain available until expended.

URANIUM ENRICHMENT DECONTAMINATION AND DECOMMISSIONING
FUND

For necessary expenses in carrying out uranium enrichment facility decontamination and decommissioning, remedial actions, and other activities of title II of the Atomic Energy Act of 1954, as amended, and title X, subtitle A, of the Energy Policy Act of 1992, \$562,228,000, to be derived from the Fund, to remain available until expended, of which \$20,000,000 shall be available in accordance with title X, subtitle A, of the Energy Policy Act of 1992.

SCIENCE

For Department of Energy expenses including the purchase, construction and acquisition of plant and capital equipment, and other expenses necessary for science activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or facility or for plant or facility acquisition, construction, or expansion, and purchase of not to exceed forty-seven passenger motor vehicles for replacement only, including not to exceed one ambulance and two buses, \$3,632,718,000, to remain available until expended.

NUCLEAR WASTE DISPOSAL

For nuclear waste disposal activities to carry out the purposes of the Nuclear Waste Policy Act of 1982, Public Law 97–425, as

amended (the “Act”), including the acquisition of real property or facility construction or expansion, \$150,000,000, to remain available until expended, of which \$100,000,000 shall be derived from the Nuclear Waste Fund: *Provided*, That of the funds made available in this Act for Nuclear Waste Disposal, \$2,000,000 shall be provided to the State of Nevada solely for expenditures, other than salaries and expenses of State employees, to conduct scientific oversight responsibilities and participate in licensing activities pursuant to the Act: *Provided further*, That notwithstanding the lack of a written agreement with the State of Nevada under section 117(c) of the Nuclear Waste Policy Act of 1982, Public Law 97-425, as amended, not less than \$500,000 shall be provided to Nye County, Nevada, for on-site oversight activities under section 117(d) of that Act: *Provided further*, That \$7,500,000 shall be provided to affected units of local government, as defined in the Act, to conduct appropriate activities and participate in licensing activities: *Provided further*, That 7.5 percent of the funds provided shall be made available to affected units of local government in California with the balance made available to affected units of local government in Nevada for distribution as determined by the Nevada units of local government: *Provided further*, That notwithstanding the provisions of chapters 65 and 75 of title 31, the Department shall have no monitoring, auditing or other oversight rights or responsibilities over amounts provided to affected units of local government under this heading: *Provided further*, That the funds for the State of Nevada shall be made available solely to the Nevada Division of Emergency Management by direct payment and units of local government by direct payment: *Provided further*, That within 90 days of the completion of each Federal fiscal year, the Nevada Division of Emergency Management and the Governor of the State of Nevada shall provide certification to the Department of Energy that all funds expended from such payments have been expended for activities authorized by the Act and this Act: *Provided further*, That failure to provide such certification shall cause such entity to be prohibited from any further funding provided for similar activities: *Provided further*, That none of the funds herein appropriated may be: (1) used directly or indirectly to influence legislative action on any matter pending before Congress or a State legislature or for lobbying activity as provided in 18 U.S.C. 1913; (2) used for litigation expenses; or (3) used to support multi-State efforts or other coalition building activities inconsistent with the restrictions contained in this Act: *Provided further*, That all proceeds and recoveries realized by the Secretary in carrying out activities authorized by the Act, including but not limited to, any proceeds from the sale of assets, shall be available without further appropriation and shall remain available until expended: *Provided further*, That no funds provided in this Act may be used to pursue repayment or collection of funds provided in any fiscal year to affected units of local government for oversight activities that had been previously approved by the Department of Energy, or to withhold payment of any such funds.

Deadline.
Certification.

Lobbying.

DEPARTMENTAL ADMINISTRATION

For salaries and expenses of the Department of Energy necessary for departmental administration in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101

Deadline.
Reports.

et seq.), including the hire of passenger motor vehicles and official reception and representation expenses not to exceed \$35,000, \$252,817,000, to remain available until expended, plus such additional amounts as necessary to cover increases in the estimated amount of cost of work for others notwithstanding the provisions of the Anti-Deficiency Act (31 U.S.C. 1511 et seq.): *Provided*, That such increases in cost of work are offset by revenue increases of the same or greater amount, to remain available until expended: *Provided further*, That moneys received by the Department for miscellaneous revenues estimated to total \$123,000,000 in fiscal year 2006 may be retained and used for operating expenses within this account, and may remain available until expended, as authorized by section 201 of Public Law 95–238, notwithstanding the provisions of 31 U.S.C. 3302: *Provided further*, That the sum herein appropriated shall be reduced by the amount of miscellaneous revenues received during 2006, and any related appropriated receipt account balances remaining from prior years' miscellaneous revenues, so as to result in a final fiscal year 2006 appropriation from the general fund estimated at not more than \$129,817,000: *Provided further*, That not later than 90 days after the date of the enactment of this Act, the Secretary of Energy shall submit to the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives a report, in unclassified form but with a classified appendix if necessary, on the Department of Energy's plan to bring security for Building 3019 at the Oak Ridge National Laboratory, Oak Ridge, Tennessee, into full compliance with the Department's Design Basis Threat Policy: *Provided further*, That the report shall include—

(1) a detailed description of any element of the Department's Design Basis Threat Policy that is not to be fully addressed throughout the remaining lifetime of Building 3019;

(2) a detailed description of the security implementation plan, including security personnel, perimeter detection capability, response capabilities, use of security technology, and methods of meeting physical standoff requirements;

(3) a schedule with specific dates describing the milestones to achieve compliance with the Department's Design Basis Threat Policy;

(4) a security management plan signed by the Secretary of Energy specifying the program secretarial offices responsible for implementing and funding the security program, including any incremental funding requirements to upgrade security levels for the period during the material handling and processing activities leading to complete disposition of the stored inventory of special nuclear material; and

(5) the justification for failing to fully comply with the Design Basis Threat Policy, if the Secretary does not intend to implement a security program at Building 3019 that fully complies with the Department's Design Basis Threat requirements for new, continuing operations.

OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, \$42,000,000, to remain available until expended.

ATOMIC ENERGY DEFENSE ACTIVITIES

NATIONAL NUCLEAR SECURITY ADMINISTRATION

WEAPONS ACTIVITIES

For Department of Energy expenses, including the purchase, construction, and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense weapons activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; and the purchase of not to exceed 40 passenger motor vehicles, for replacement only, including not to exceed two buses; \$6,433,936,000, to remain available until expended: *Provided*, That \$81,350,000 is authorized to be appropriated for Project 01–D–124 HEU materials facility, Y–12 Plant, Oak Ridge, Tennessee: *Provided further*, That \$7,000,000 is authorized to be appropriated for Project 05–D–140 Project engineering and design (PED), various locations.

DEFENSE NUCLEAR NONPROLIFERATION

For Department of Energy expenses, including the purchase, construction, and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense, defense nuclear nonproliferation activities, in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, \$1,631,151,000, to remain available until expended.

NAVAL REACTORS

For Department of Energy expenses necessary for naval reactors activities to carry out the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition (by purchase, condemnation, construction, or otherwise) of real property, plant, and capital equipment, facilities, and facility expansion, \$789,500,000, to remain available until expended.

OFFICE OF THE ADMINISTRATOR

For necessary expenses of the Office of the Administrator in the National Nuclear Security Administration, including official reception and representation expenses not to exceed \$12,000, \$341,869,000, to remain available until expended.

ENVIRONMENTAL AND OTHER DEFENSE ACTIVITIES

DEFENSE ENVIRONMENTAL CLEANUP

For Department of Energy expenses, including the purchase, construction, and acquisition of plant and capital equipment and other expenses necessary for atomic energy defense environmental cleanup activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including

the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, \$6,192,371,000, to remain available until expended.

OTHER DEFENSE ACTIVITIES

For Department of Energy expenses, including the purchase, construction, and acquisition of plant and capital equipment and other expenses, necessary for atomic energy defense, other defense activities, and classified activities, in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, and the purchase of not to exceed ten passenger motor vehicles for replacement only, including not to exceed two buses; \$641,998,000, to remain available until expended.

DEFENSE NUCLEAR WASTE DISPOSAL

For nuclear waste disposal activities to carry out the purposes of Public Law 97–425, as amended, including the acquisition of real property or facility construction or expansion, \$350,000,000, to remain available until expended.

POWER MARKETING ADMINISTRATIONS

BONNEVILLE POWER ADMINISTRATION FUND

Expenditures from the Bonneville Power Administration Fund, established pursuant to Public Law 93–454, are approved for official reception and representation expenses in an amount not to exceed \$1,500. During fiscal year 2006, no new direct loan obligations may be made.

OPERATION AND MAINTENANCE, SOUTHEASTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of electric power and energy, including transmission wheeling and ancillary services pursuant to section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southeastern power area, \$5,600,000, to remain available until expended: *Provided*, That, notwithstanding 31 U.S.C. 3302, up to \$32,713,000 collected by the Southeastern Power Administration pursuant to the Flood Control Act of 1944 to recover purchase power and wheeling expenses shall be credited to this account as offsetting collections, to remain available until expended for the sole purpose of making purchase power and wheeling expenditures.

OPERATION AND MAINTENANCE, SOUTHWESTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy, for construction and acquisition of transmission lines, substations and appurtenant facilities, and for administrative expenses, including official reception and representation expenses in an

amount not to exceed \$1,500 in carrying out section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southwestern power administration, \$30,166,000, to remain available until expended: *Provided*, That, notwithstanding 31 U.S.C. 3302, up to \$3,000,000 collected by the Southwestern Power Administration pursuant to the Flood Control Act to recover purchase power and wheeling expenses shall be credited to this account as offsetting collections, to remain available until expended for the sole purpose of making purchase power and wheeling expenditures.

CONSTRUCTION, REHABILITATION, OPERATION AND MAINTENANCE,
WESTERN AREA POWER ADMINISTRATION

For carrying out the functions authorized by title III, section 302(a)(1)(E) of the Act of August 4, 1977 (42 U.S.C. 7152), and other related activities including conservation and renewable resources programs as authorized, including official reception and representation expenses in an amount not to exceed \$1,500; \$233,992,000, to remain available until expended, of which \$229,596,000 shall be derived from the Department of the Interior Reclamation Fund: *Provided*, That of the amount herein appropriated, \$6,700,000 is for deposit into the Utah Reclamation Mitigation and Conservation Account pursuant to title IV of the Reclamation Projects Authorization and Adjustment Act of 1992: *Provided further*, That of the amount herein appropriated, \$6,000,000 shall be available until expended on a nonreimbursable basis to the Western Area Power Administration for Topock-Davis-Mead Transmission Line Upgrades: *Provided further*, That notwithstanding the provision of 31 U.S.C. 3302, up to \$279,000,000 collected by the Western Area Power Administration pursuant to the Flood Control Act of 1944 and the Reclamation Project Act of 1939 to recover purchase power and wheeling expenses shall be credited to this account as offsetting collections, to remain available until expended for the sole purpose of making purchase power and wheeling expenditures.

FALCON AND AMISTAD OPERATING AND MAINTENANCE FUND

For operation, maintenance, and emergency costs for the hydroelectric facilities at the Falcon and Amistad Dams, \$2,692,000, to remain available until expended, and to be derived from the Falcon and Amistad Operating and Maintenance Fund of the Western Area Power Administration, as provided in section 423 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995.

FEDERAL ENERGY REGULATORY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Energy Regulatory Commission to carry out the provisions of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including services as authorized by 5 U.S.C. 3109, the hire of passenger motor vehicles, and official reception and representation expenses not to exceed \$3,000, \$220,400,000, to remain available until expended: *Provided*, That notwithstanding any other provision of law, not to exceed \$220,400,000 of revenues from fees and annual charges, and other

42 USC 7171
note.

services and collections in fiscal year 2006 shall be retained and used for necessary expenses in this account, and shall remain available until expended: *Provided further*, That the sum herein appropriated from the general fund shall be reduced as revenues are received during fiscal year 2006 so as to result in a final fiscal year 2006 appropriation from the general fund estimated at not more than \$0.

GENERAL PROVISIONS

DEPARTMENT OF ENERGY

Contracts.

SEC. 301. (a)(1) None of the funds in this or any other appropriations Act for fiscal year 2006 or any previous fiscal year may be used to make payments for a noncompetitive management and operating contract unless the Secretary of Energy has published in the Federal Register and submitted to the Committees on Appropriations of the House of Representatives and the Senate a written notification, with respect to each such contract, of the Secretary's decision to use competitive procedures for the award of the contract, or to not renew the contract, when the term of the contract expires.

(2) Paragraph (1) does not apply to an extension for up to 2 years of a noncompetitive management and operating contract, if the extension is for purposes of allowing time to award competitively a new contract, to provide continuity of service between contracts, or to complete a contract that will not be renewed.

(b) In this section:

(1) The term “noncompetitive management and operating contract” means a contract that was awarded more than 50 years ago without competition for the management and operation of Ames Laboratory, Argonne National Laboratory, Lawrence Berkeley National Laboratory, Lawrence Livermore National Laboratory, and Los Alamos National Laboratory.

(2) The term “competitive procedures” has the meaning provided in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403) and includes procedures described in section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253) other than a procedure that solicits a proposal from only one source.

(c) For all management and operating contracts other than those listed in subsection (b)(1), none of the funds appropriated by this Act may be used to award a management and operating contract, or award a significant extension or expansion to an existing management and operating contract, unless such contract is awarded using competitive procedures or the Secretary of Energy grants, on a case-by-case basis, a waiver to allow for such a deviation. The Secretary may not delegate the authority to grant such a waiver. At least 60 days before a contract award for which the Secretary intends to grant such a waiver, the Secretary shall submit to the Committees on Appropriations of the House of Representatives and the Senate a report notifying the Committees of the waiver and setting forth, in specificity, the substantive reasons why the Secretary believes the requirement for competition should be waived for this particular award.

Deadline.
Reports.

SEC. 302. None of the funds appropriated by this Act may be used to—

(1) develop or implement a workforce restructuring plan that covers employees of the Department of Energy; or

(2) provide enhanced severance payments or other benefits for employees of the Department of Energy, under section 3161 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 42 U.S.C. 7274h).

SEC. 303. None of the funds appropriated by this Act may be used to augment the funds made available for obligation by this Act for severance payments and other benefits and community assistance grants under section 3161 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 42 U.S.C. 7274h) unless the Department of Energy submits a reprogramming request to the appropriate congressional committees.

SEC. 304. None of the funds appropriated by this Act may be used to prepare or initiate Requests For Proposals (RFPs) for a program if the program has not been funded by Congress.

SEC. 305. The unexpended balances of prior appropriations provided for activities in this Act may be available to the same appropriation accounts for such activities established pursuant to this title. Available balances may be merged with funds in the applicable established accounts and thereafter may be accounted for as one fund for the same time period as originally enacted.

SEC. 306. None of the funds in this or any other Act for the Administrator of the Bonneville Power Administration may be used to enter into any agreement to perform energy efficiency services outside the legally defined Bonneville service territory, with the exception of services provided internationally, including services provided on a reimbursable basis, unless the Administrator certifies in advance that such services are not available from private sector businesses.

SEC. 307. When the Department of Energy makes a user facility available to universities or other potential users, or seeks input from universities or other potential users regarding significant characteristics or equipment in a user facility or a proposed user facility, the Department shall ensure broad public notice of such availability or such need for input to universities and other potential users. When the Department of Energy considers the participation of a university or other potential user as a formal partner in the establishment or operation of a user facility, the Department shall employ full and open competition in selecting such a partner. For purposes of this section, the term “user facility” includes, but is not limited to: (1) a user facility as described in section 2203(a)(2) of the Energy Policy Act of 1992 (42 U.S.C. 13503(a)(2)); (2) a National Nuclear Security Administration Defense Programs Technology Deployment Center/User Facility; and (3) any other Departmental facility designated by the Department as a user facility.

SEC. 308. Funds appropriated by this or any other Act, or made available by the transfer of funds in this Act, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) during fiscal year 2006 until the enactment of the Intelligence Authorization Act for fiscal year 2006.

SEC. 309. None of the funds in this Act may be used to dispose of transuranic waste in the Waste Isolation Pilot Plant which contains concentrations of plutonium in excess of 20 percent by weight for the aggregate of any material category on the date of enactment of this Act, or is generated after such date. For the purpose of

this section, the material categories of transuranic waste from the Rocky Flats Environmental Technology Site include: (1) ash residues; (2) salt residue; (3) wet residues; (4) direct repackaging residues; and (5) scrub alloy as referenced in the “Final Environmental Impact Statement on Management of Certain Plutonium Residues and Scrub Alloy Stored at the Rocky Flats Environmental Technology Site”.

SEC. 310. RENO HYDROGEN FUEL PROJECT FUNDING.—(a) The non-Federal share of project costs shall be 20 percent.

(b) The cost of project vehicles, related facilities, and other activities funded from the Federal Transit Administration Sections 5307, 5308, 5309, and 5314 program, including the non-Federal share for the FTA funds, is an eligible component of the non-Federal share for this project.

(c) Contribution of the non-Federal share of project costs for all grants made for this project may be deferred until the entire project is completed.

(d) All operations and maintenance costs associated with vehicles, equipment, and facilities utilized for this project are eligible project costs.

Applicability.

(e) This section applies to project appropriations beginning in fiscal year 2004.

50 USC 2791a.

SEC. 311. LABORATORY DIRECTED RESEARCH AND DEVELOPMENT.—Of the funds made available by the Department of Energy for activities at government-owned, contractor-operator operated laboratories funded in this Act or subsequent Energy and Water Development Appropriations Acts, the Secretary may authorize a specific amount, not to exceed 8 percent of such funds, to be used by such laboratories for laboratory-directed research and development: *Provided*, That the Secretary may also authorize a specific amount not to exceed 3 percent of such funds, to be used by the plant manager of a covered nuclear weapons production plant or the manager of the Nevada Site Office for plant or site-directed research and development: *Provided further*, That notwithstanding Department of Energy order 413.2A, dated January 8, 2001, beginning in fiscal year 2006 and thereafter, all DOE laboratories may be eligible for laboratory directed research and development funding.

SEC. 312. Of amounts appropriated to the Secretary of Energy for the Rocky Flats Environmental Technology Site for fiscal year 2006, the Secretary may provide, subject to authorization, up to \$10,000,000 for the purchase of mineral rights at the Rocky Flats Environmental Technology Site.

SEC. 313. Section 4306 of the Atomic Energy Defense Act (50 U.S.C. 2566) is amended—

(1) in subsection (a)—

(A) in paragraph (2)(A), by striking “2009” each place it appears and inserting “2012”; and

(B) in paragraph (3)—

(i) in subparagraph (B)(ii), by striking “2009” and inserting “2012”; and

(ii) in subparagraph (C), by striking “2009” and inserting “2012”;

(2) in subsection (b)—

(A) in paragraph (1)—

(i) by striking “(a)(2)” and inserting “(g)”; and

(ii) by striking “2009” and inserting “2012”;

(B) in paragraph (4), by striking “2009” each place it appears and inserting “2012”; and

(C) in paragraph (5), by striking “2009” and inserting “2012”;

(3) in subsection (c)—

(A) in the matter preceding paragraph (1), by striking “2009” and inserting “2012”;

(B) in paragraph (1), by striking “2011” and inserting “2014”; and

(C) in paragraph (2), by striking “2017” each place it appears and inserting “2020”;

(4) in subsection (d)—

(A) in paragraph (1)—

(i) by striking “2011” and inserting “2014”;

(ii) by striking “from funds available to the Secretary” and inserting “subject to the availability of appropriations”; and

(iii) by striking “2016” and inserting “2019”; and

(B) in paragraph (2)(A), by striking “2017” each place it appears and inserting “2020”;

(5) in subsection (e), by striking “2020” and inserting “2023”;

(6) by redesignating subsection (g) as subsection (h); and

(7) by inserting after subsection (f) the following:

“(g) BASELINE.—Not later than December 31, 2006, the Secretary shall submit to Congress a report on the construction and operation of the MOX facility that includes a schedule for revising the requirements of this section during fiscal year 2007 to conform with the schedule established by the Secretary for the MOX facility, which shall be based on estimated funding levels for the fiscal year.”.

Deadline.
Reports.

SEC. 314. SALES OF URANIUM.—(a) IN GENERAL.—Notwithstanding any other provision of Federal law, including section 3112 of the USEC Privatization Act (42 U.S.C. 2297h–2) and section 3302 of title 31, United States Code, the Secretary of Energy is authorized to barter, transfer or sell uranium (including natural uranium concentrates, natural uranium hexafluoride, or in any form or assay) and to use any proceeds, without fiscal year limitation, to remediate uranium inventories held by the Secretary.

(b) ADDITIONAL REQUIREMENTS.—Any barter, transfer or sale of uranium under subsection (a) shall to the extent possible, be competitive and comply with all applicable Federal procurement laws (including regulations); and shall not exceed 10 percent of the total annual fuel requirements of all licensed nuclear power plants located in the United States for uranium concentrates, uranium conversion, or uranium enrichment.

SEC. 315. Section 130 of division H (Miscellaneous Appropriations and Offsets) of the Consolidated Appropriations Act, 2004, Public Law 108–199, is hereby amended by striking “is provided for the Coralville, Iowa, project” and all that follows and inserting: “is provided for the Iowa Environmental and Education project to be located in Iowa. No further funds may be disbursed by the Department of Energy until a one hundred percent non-Federal cash and in-kind match of the appropriated Federal funds has been secured for the project by the non-Federal project sponsor: *Provided*, That the match shall exclude land donations: *Provided further*, That if the match is not secured by the non-Federal project

118 Stat. 441.

Expiration date.

sponsor by December 1, 2007, the remaining Federal funds shall cease to be available for the Iowa Environmental and Education project.”.

TITLE IV

INDEPENDENT AGENCIES

APPALACHIAN REGIONAL COMMISSION

For expenses necessary to carry out the programs authorized by the Appalachian Regional Development Act of 1965, as amended, for necessary expenses for the Federal Co-Chairman and the alternate on the Appalachian Regional Commission, for payment of the Federal share of the administrative expenses of the Commission, including services as authorized by 5 U.S.C. 3109, and hire of passenger motor vehicles, \$65,472,000, to remain available until expended.

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

SALARIES AND EXPENSES

For necessary expenses of the Defense Nuclear Facilities Safety Board in carrying out activities authorized by the Atomic Energy Act of 1954, as amended by Public Law 100–456, section 1441, \$22,032,000, to remain available until expended.

DELTA REGIONAL AUTHORITY

SALARIES AND EXPENSES

For necessary expenses of the Delta Regional Authority and to carry out its activities, as authorized by the Delta Regional Authority Act of 2000, as amended, notwithstanding sections 382C(b)(2), 382F(d), and 382M(b) of said Act, \$12,000,000, to remain available until expended.

DENALI COMMISSION

For expenses of the Denali Commission including the purchase, construction and acquisition of plant and capital equipment as necessary and other expenses, \$50,000,000, to remain available until expended, notwithstanding the limitations contained in section 306(g) of the Denali Commission Act of 1998.

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Commission in carrying out the purposes of the Energy Reorganization Act of 1974, as amended, and the Atomic Energy Act of 1954, as amended, including official representation expenses (not to exceed \$15,000), purchase of promotional items for use in the recruitment of individuals for employment, \$734,376,000, to remain available until expended: *Provided*, That of the amount appropriated herein, \$46,118,000 shall be derived from the Nuclear Waste Fund: *Provided further*, That revenues from licensing fees, inspection services, and other services

and collections estimated at \$617,182,000 in fiscal year 2006 shall be retained and used for necessary salaries and expenses in this account, notwithstanding 31 U.S.C. 3302, and shall remain available until expended: *Provided further*, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 2006 so as to result in a final fiscal year 2006 appropriation estimated at not more than \$117,194,000: *Provided further*, That section 6101 of the Omnibus Budget Reconciliation Act of 1990 is amended by inserting before the period in subsection (c)(2)(B)(v) the words “and fiscal year 2006”. 42 USC 2214.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, \$8,316,000, to remain available until expended: *Provided*, That revenues from licensing fees, inspection services, and other services and collections estimated at \$7,485,000 in fiscal year 2006 shall be retained and be available until expended, for necessary salaries and expenses in this account, notwithstanding 31 U.S.C. 3302: *Provided further*, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 2006 so as to result in a final fiscal year 2006 appropriation estimated at not more than \$831,000.

NUCLEAR WASTE TECHNICAL REVIEW BOARD

SALARIES AND EXPENSES

For necessary expenses of the Nuclear Waste Technical Review Board, as authorized by Public Law 100–203, section 5051, \$3,608,000, to be derived from the Nuclear Waste Fund, and to remain available until expended.

TITLE V

GENERAL PROVISIONS

SEC. 501. None of the funds appropriated by this Act may be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before Congress, other than to communicate to Members of Congress as described in 18 U.S.C. 1913.

SEC. 502. None of the funds made available in this Act may be transferred to any department, agency, or instrumentality of the United States Government, except pursuant to a transfer made by, or transfer authority provided in this Act or any other appropriation Act.

This Act may be cited as the “Energy and Water Development Appropriations Act, 2006”.

Approved November 19, 2005.

LEGISLATIVE HISTORY—H.R. 2419:

HOUSE REPORTS: Nos. 109–86 (Comm. on Appropriations) and 109–275 (Comm. of Conference).

SENATE REPORTS: No. 109–84 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 151 (2005):

May 24, considered and passed House.

June 30, considered and passed Senate, amended.

Nov. 9, House agreed to conference report.

Nov. 14, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 41 (2005):

Nov. 19, Presidential statement.



Public Law 109–104
109th Congress

An Act

To authorize the Secretary of the Navy to enter into a contract for the nuclear refueling and complex overhaul of the U.S.S. Carl Vinson (CVN–70).

Nov. 19, 2005

[H.R. 4326]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REFUELING AND COMPLEX OVERHAUL OF THE U.S.S. CARL VINSON.

(a) **CONTRACT AUTHORIZED.**—Notwithstanding section 1502 of title 31, United States Code, the Secretary of the Navy may, subject to subsection (c), enter into a contract for the nuclear refueling and complex overhaul of the U.S.S. Carl Vinson (CVN–70).

(b) **FISCAL YEAR 2006 LIMITATION.**—Funds available to the Secretary of the Navy for fiscal year 2006 may be used for the commencement of work on the contract authorized by subsection (a) during fiscal year 2006, but only for obligations in an amount not to exceed \$89,000,000. Additional amounts may be obligated for such work for fiscal year 2006 only to the extent to which authority is expressly provided by law, and funds are appropriated by law, for such obligations after the date of the enactment of this Act.

(c) **CONDITION ON SUBSEQUENT CONTRACT PAYMENTS.**—A contract entered into under subsection (a) shall provide that any obligation of the United States to make a payment under the contract—

(1) for fiscal year 2006 for an amount that would result in the total of the amounts so paid being in excess of the amount specified in subsection (b) is subject to the availability of appropriations for that purpose made in an Act making appropriations for the Department of Defense for that fiscal year; and

(2) for a fiscal year after fiscal year 2006 is subject to the availability of appropriations for that purpose for that fiscal year.

(d) **WAIVER OF PROHIBITION OF NEW STARTS UNDER CONTINUING RESOLUTION AUTHORITY.**—The contract authorized by this section

119 STAT. 2286

PUBLIC LAW 109–104—NOV. 19, 2005

may be entered into without regard to section 102(a) of Public Law 109–77 (119 Stat. 2038).

Approved November 19, 2005.

LEGISLATIVE HISTORY—H.R. 4326:

CONGRESSIONAL RECORD, Vol. 151 (2005):

Nov. 16, considered and passed House.

Nov. 17, considered and passed Senate.



Public Law 109–105
109th Congress

Joint Resolution

Making further continuing appropriations for the fiscal year 2006, and for other purposes.

Nov. 19, 2005
[H.J. Res. 72]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Public Law 109–77 is amended by striking the date specified in section 106(3) and inserting the following: “December 17, 2005”. *Ante*, p. 2039.

Approved November 19, 2005.

LEGISLATIVE HISTORY—H.J. Res. 72:

CONGRESSIONAL RECORD, Vol. 151 (2005):

Nov. 17, considered and passed House.

Nov. 18, considered and passed Senate.



Public Law 109–106
109th Congress

An Act

Nov. 21, 2005
[H.R. 4133]

To temporarily increase the borrowing authority of the Federal Emergency Management Agency for carrying out the national flood insurance program.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National Flood
Insurance
Program Further
Enhanced
Borrowing
Authority Act
of 2005.
42 USC 4001
note.

SECTION 1. SHORT TITLE.

This Act may be cited as the “National Flood Insurance Program Further Enhanced Borrowing Authority Act of 2005”.

SEC. 2. INCREASE IN BORROWING AUTHORITY.

The first sentence of subsection (a) of section 1309 of the National Flood Insurance Act of 1968 (42 U.S.C. 4016(a)), as amended by the National Flood Insurance Program Enhanced Borrowing Authority Act of 2005 (Public Law 109–65; 119 Stat. 1998), is amended by striking “\$3,500,000,000” and inserting “\$18,500,000,000”.

SEC. 3. EMERGENCY SPENDING.

The amendment made under section 2 is designated as emergency spending, as provided under section 402 of H. Con. Res. 95 (109th Congress).

Approved November 21, 2005.

LEGISLATIVE HISTORY—H.R. 4133:

HOUSE REPORTS: No. 109–274 (Comm. on Financial Services).

CONGRESSIONAL RECORD, Vol. 151 (2005):

Nov. 16, considered and passed House.

Nov. 18, considered and passed Senate.



Public Law 109–107
109th Congress

An Act

To designate the facility of the United States Postal Service located at 442 West Hamilton Street, Allentown, Pennsylvania, as the “Mayor Joseph S. Daddona Memorial Post Office”.

Nov. 22, 2005
[H.R. 2490]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The facility of the United States Postal Service located at 442 West Hamilton Street, Allentown, Pennsylvania, shall be known and designated as the “Mayor Joseph S. Daddona Memorial Post Office”.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the “Mayor Joseph S. Daddona Memorial Post Office”.

Approved November 22, 2005.

LEGISLATIVE HISTORY—H.R. 2490:

CONGRESSIONAL RECORD, Vol. 151 (2005):
June 27, considered and passed House.
Nov. 8, considered and passed Senate.



Public Law 109–108
109th Congress

An Act

Nov. 22, 2005
[H.R. 2862]

Making appropriations for Science, the Departments of State, Justice, and Commerce, and related agencies for the fiscal year ending September 30, 2006, and for other purposes.

Science, State,
Justice,
Commerce, and
Related Agencies
Appropriations
Act, 2006.
Department of
Justice
Appropriations
Act, 2006.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2006, and for other purposes, namely:

TITLE I—DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For expenses necessary for the administration of the Department of Justice, \$124,456,000, of which not to exceed \$3,317,000 is for the Facilities Program 2000, to remain available until expended: *Provided*, That not to exceed 45 permanent positions and 46 full-time equivalent workyears and \$11,821,000 shall be expended for the Department Leadership Program exclusive of augmentation that occurred in these offices in fiscal year 2005: *Provided further*, That not to exceed 26 permanent positions, 21 full-time equivalent workyears and \$3,480,000 shall be expended for the Office of Legislative Affairs: *Provided further*, That not to exceed 17 permanent positions, 22 full-time equivalent workyears and \$2,764,000 shall be expended for the Office of Public Affairs: *Provided further*, That the Offices of Legislative Affairs and Public Affairs may utilize, on a non-reimbursable basis details of career employees within the ceilings provided for the Office of Legislative Affairs and the Office of Public Affairs: *Provided further*, That not less than \$500,000 shall be used to contract with an independent party to carry out a privacy assessment.

JUSTICE INFORMATION SHARING TECHNOLOGY

For necessary expenses for information sharing technology, including planning, development, deployment and Departmental direction, \$125,000,000, to remain available until expended: *Provided*, That, of the funds available \$10,000,000 is for the unified financial management system to be administered by the Unified Financial Management System Executive Council: *Provided further*, That of the funds provided, \$20,000,000 is unavailable for obligation until the Department Chief Information Officer submits the plan described in section 110 of this title.

NARROWBAND COMMUNICATIONS/INTEGRATED WIRELESS NETWORK

For the costs of conversion to narrowband communications, including the cost for operation and maintenance of Land Mobile Radio legacy systems, \$90,000,000, to remain available until September 30, 2007: *Provided*, That the Attorney General shall transfer to this account all funds made available to the Department of Justice for the purchase of portable and mobile radios: *Provided further*, That any transfer made under the preceding proviso shall be subject to section 605 of this Act.

ADMINISTRATIVE REVIEW AND APPEALS

For expenses necessary for the administration of pardon and clemency petitions and immigration-related activities, \$215,685,000.

DETENTION TRUSTEE

For necessary expenses of the Federal Detention Trustee, \$1,222,000,000, of which \$45,000,000 shall be derived from prior year unobligated balances from funds previously appropriated, to remain available until expended: *Provided*, That the Trustee shall be responsible for managing the Justice Prisoner and Alien Transportation System and for overseeing housing related to such detention: *Provided further*, That any unobligated balances available in prior years from the funds appropriated under the heading “Federal Prisoner Detention” shall be transferred to and merged with the appropriation under the heading “Detention Trustee” and shall be available until expended.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General, \$68,801,000, including not to exceed \$10,000 to meet unforeseen emergencies of a confidential character.

UNITED STATES PAROLE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the United States Parole Commission as authorized, \$11,000,000.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For expenses necessary for the legal activities of the Department of Justice, not otherwise provided for, including not to exceed \$20,000 for expenses of collecting evidence, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; and rent of private or Government-owned space in the District of Columbia, \$661,959,000, of which not to exceed \$10,000,000 for litigation support contracts shall remain available until expended: *Provided*, That of the total amount appropriated, not to exceed \$1,000 shall be available to the United States National Central Bureau, INTERPOL, for official reception and representation expenses: *Provided further*, That notwithstanding section 105 of this Act, upon a determination by the Attorney General that emergent circumstances require additional

funding for litigation activities of the Civil Division, the Attorney General may transfer such amounts to “Salaries and Expenses, General Legal Activities” from available appropriations for the current fiscal year for the Department of Justice, as may be necessary to respond to such circumstances: *Provided further*, That any transfer pursuant to the previous proviso shall be treated as a reprogramming under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

In addition, for reimbursement of expenses of the Department of Justice associated with processing cases under the National Childhood Vaccine Injury Act of 1986, not to exceed \$6,333,000, to be appropriated from the Vaccine Injury Compensation Trust Fund.

SALARIES AND EXPENSES, ANTITRUST DIVISION

For expenses necessary for the enforcement of antitrust and kindred laws, \$144,451,000, to remain available until expended: *Provided*, That, notwithstanding any other provision of law, not to exceed \$116,000,000 of offsetting collections derived from fees collected for premerger notification filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (15 U.S.C. 18a), regardless of the year of collection, shall be retained and used for necessary expenses in this appropriation, and shall remain available until expended: *Provided further*, That the sum herein appropriated from the general fund shall be reduced as such offsetting collections are received during fiscal year 2006, so as to result in a final fiscal year 2006 appropriation from the general fund estimated at not more than \$28,451,000.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For necessary expenses of the Offices of the United States Attorneys, including inter-governmental and cooperative agreements, \$1,600,000,000: *Provided*, That of the total amount appropriated, not to exceed \$8,000 shall be available for official reception and representation expenses: *Provided further*, That not to exceed \$20,000,000 shall remain available until expended: *Provided further*, That of the funds made available under this heading, \$1,500,000 shall only be available to continue “Operation Streetsweeper”.

UNITED STATES TRUSTEE SYSTEM FUND

For necessary expenses of the United States Trustee Program, as authorized, \$214,402,000, to remain available until expended and to be derived from the United States Trustee System Fund: *Provided*, That, notwithstanding any other provision of law, deposits to the Fund shall be available in such amounts as may be necessary to pay refunds due depositors: *Provided further*, That, notwithstanding any other provision of law, \$214,402,000 of offsetting collections pursuant to 28 U.S.C. 589a(b) shall be retained and used for necessary expenses in this appropriation and remain available until expended: *Provided further*, That the sum herein appropriated from the Fund shall be reduced as such offsetting collections are received during fiscal year 2006, so as to result in a final fiscal year 2006 appropriation from the Fund estimated at \$0.

SALARIES AND EXPENSES, FOREIGN CLAIMS SETTLEMENT COMMISSION

For expenses necessary to carry out the activities of the Foreign Claims Settlement Commission, including services as authorized by 5 U.S.C. 3109, \$1,320,000.

UNITED STATES MARSHALS SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Marshals Service, \$793,031,000; of which not to exceed \$6,000 shall be available for official reception and representation expenses; of which \$4,000,000 for information technology systems shall remain available until expended; and of which not less than \$12,000,000 shall be available for the costs of courthouse security equipment, including furnishings, relocations, and telephone systems and cabling, and shall remain available until expended.

CONSTRUCTION

For construction in space controlled, occupied or utilized by the United States Marshals Service in United States courthouses and Federal buildings, \$8,883,000, to remain available until expended.

FEES AND EXPENSES OF WITNESSES

For fees and expenses of witnesses, for expenses of contracts for the procurement and supervision of expert witnesses, for private counsel expenses, including advances, such sums as are necessary, to remain available until expended: *Provided*, That not to exceed \$10,000,000 may be made available for construction of buildings for protected witness safesites: *Provided further*, That not to exceed \$1,000,000 may be made available for the purchase and maintenance of armored vehicles for transportation of protected witnesses: *Provided further*, That not to exceed \$9,000,000 may be made available for the purchase, installation, maintenance and upgrade of secure telecommunications equipment and a secure automated information network to store and retrieve the identities and locations of protected witnesses.

SALARIES AND EXPENSES, COMMUNITY RELATIONS SERVICE

For necessary expenses of the Community Relations Service, \$9,659,000: *Provided*, That notwithstanding section 105 of this Act, upon a determination by the Attorney General that emergent circumstances require additional funding for conflict resolution and violence prevention activities of the Community Relations Service, the Attorney General may transfer such amounts to the Community Relations Service, from available appropriations for the current fiscal year for the Department of Justice, as may be necessary to respond to such circumstances: *Provided further*, That any transfer pursuant to the previous proviso shall be treated as a reprogramming under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

ASSETS FORFEITURE FUND

For expenses authorized by 28 U.S.C. 524(c)(1)(B), (F), and (G), \$21,468,000, to be derived from the Department of Justice Assets Forfeiture Fund.

INTERAGENCY LAW ENFORCEMENT

INTERAGENCY CRIME AND DRUG ENFORCEMENT

For necessary expenses for the identification, investigation, and prosecution of individuals associated with the most significant drug trafficking and affiliated money laundering organizations not otherwise provided for, to include inter-governmental agreements with State and local law enforcement agencies engaged in the investigation and prosecution of individuals involved in organized crime drug trafficking, \$489,440,000, of which \$50,000,000 shall remain available until expended: *Provided*, That any amounts obligated from appropriations under this heading may be used under authorities available to the organizations reimbursed from this appropriation.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For necessary expenses of the Federal Bureau of Investigation for detection, investigation, and prosecution of crimes against the United States; including purchase for police-type use of not to exceed 3,868 passenger motor vehicles, of which 3,039 will be for replacement only; and not to exceed \$70,000 to meet unforeseen emergencies of a confidential character pursuant to 28 U.S.C. 530C, \$5,728,737,000; of which not to exceed \$150,000,000 shall remain available until expended; of which \$2,288,897,000 shall be for counterterrorism investigations, foreign counterintelligence, and other activities related to our national security; and of which not to exceed \$25,000,000 is authorized to be made available for making advances for expenses arising out of contractual or reimbursable agreements with State and local law enforcement agencies while engaged in cooperative activities related to violent crime, terrorism, organized crime, gang-related crime, cybercrime, and drug investigations: *Provided*, That not to exceed \$205,000 shall be available for official reception and representation expenses.

CONSTRUCTION

For necessary expenses to construct or acquire buildings and sites by purchase, or as otherwise authorized by law (including equipment for such buildings); conversion and extension of Federally-owned buildings; and preliminary planning and design of projects; \$37,608,000, to remain available until expended: *Provided*, That \$15,108,000 shall be available for the planning, design, and construction of the Federal Bureau of Investigation Center for Integrated Training and Technology Transfer in Redstone Arsenal: *Provided further*, That \$5,000,000 shall be available for a chemical and biological evidence handling and storage facility to be co-located with comparable facilities in existence for sample, handling and receipt of hazardous material by the Department of the Army: *Provided further*, That \$10,000,000 shall be available for equipment

and associated costs for a permanent central records complex in Frederick County, Virginia.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Drug Enforcement Administration, including not to exceed \$70,000 to meet unforeseen emergencies of a confidential character pursuant to 28 U.S.C. 530C; expenses for conducting drug education and training programs, including travel and related expenses for participants in such programs and the distribution of items of token value that promote the goals of such programs; and purchase of not to exceed 1,043 passenger motor vehicles, of which 937 will be for replacement only, for police-type use, \$1,686,457,000; of which not to exceed \$75,000,000 shall remain available until expended; and of which not to exceed \$100,000 shall be available for official reception and representation expenses.

BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES

SALARIES AND EXPENSES

For necessary expenses of the Bureau of Alcohol, Tobacco, Firearms and Explosives, including the purchase of not to exceed 822 vehicles for police-type use, of which 650 shall be for replacement only; not to exceed \$40,000 for official reception and representation expenses; for training of State and local law enforcement agencies with or without reimbursement, including training in connection with the training and acquisition of canines for explosives and fire accelerants detection; and for provision of laboratory assistance to State and local law enforcement agencies, with or without reimbursement, \$923,613,000, of which not to exceed \$1,000,000 shall be available for the payment of attorneys' fees as provided by 18 U.S.C. 924(d)(2); and of which \$10,000,000 shall remain available until expended: *Provided*, That no funds appropriated herein shall be available for salaries or administrative expenses in connection with consolidating or centralizing, within the Department of Justice, the records, or any portion thereof, of acquisition and disposition of firearms maintained by Federal firearms licensees: *Provided further*, That no funds appropriated herein shall be used to pay administrative expenses or the compensation of any officer or employee of the United States to implement an amendment or amendments to 27 CFR 178.118 or to change the definition of "Curios or relics" in 27 CFR 178.11 or remove any item from ATF Publication 5300.11 as it existed on January 1, 1994: *Provided further*, That none of the funds appropriated herein shall be available to investigate or act upon applications for relief from Federal firearms disabilities under 18 U.S.C. 925(c): *Provided further*, That such funds shall be available to investigate and act upon applications filed by corporations for relief from Federal firearms disabilities under section 925(c) of title 18, United States Code: *Provided further*, That no funds made available by this or any other Act may be used to transfer the functions, missions, or activities of the Bureau of Alcohol, Tobacco, Firearms and Explosives to other agencies or Departments in fiscal year 2006: *Provided further*, That no funds appropriated under this or any other Act

18 USC 923 note.

with respect to any fiscal year may be used to disclose part or all of the contents of the Firearms Trace System database maintained by the National Trace Center of the Bureau of Alcohol, Tobacco, Firearms and Explosives or any information required to be kept by licensees pursuant to section 923(g) of title 18, United States Code, or required to be reported pursuant to paragraphs (3) and (7) of such section 923(g), to anyone other than a Federal, State, or local law enforcement agency or a prosecutor solely in connection with and for use in a bona fide criminal investigation or prosecution and then only such information as pertains to the geographic jurisdiction of the law enforcement agency requesting the disclosure and not for use in any civil action or proceeding other than an action or proceeding commenced by the Bureau of Alcohol, Tobacco, Firearms and Explosives, or a review of such an action or proceeding, to enforce the provisions of chapter 44 of such title, and all such data shall be immune from legal process and shall not be subject to subpoena or other discovery, shall be inadmissible in evidence, and shall not be used, relied on, or disclosed in any manner, nor shall testimony or other evidence be permitted based upon such data, in any civil action pending on or filed after the effective date of this Act in any State (including the District of Columbia) or Federal court or in any administrative proceeding other than a proceeding commenced by the Bureau of Alcohol, Tobacco, Firearms and Explosives to enforce the provisions of that chapter, or a review of such an action or proceeding; except that this proviso shall not be construed to prevent the disclosure of statistical information concerning total production, importation, and exportation by each licensed importer (as defined in section 921(a)(9) of such title) and licensed manufacturer (as defined in section 921(a)(10) of such title): *Provided further*, That no funds made available by this or any other Act shall be expended to promulgate or implement any rule requiring a physical inventory of any business licensed under section 923 of title 18, United States Code: *Provided further*, That no funds under this Act may be used to electronically retrieve information gathered pursuant to 18 U.S.C. 923(g)(4) by name or any personal identification code: *Provided further*, That no funds authorized or made available under this or any other Act may be used to deny any application for a license under section 923 of title 18, United States Code, or renewal of such a license due to a lack of business activity, provided that the applicant is otherwise eligible to receive such a license, and is eligible to report business income or to claim an income tax deduction for business expenses under the Internal Revenue Code of 1986: *Provided further*, That of the amount provided under this heading, \$5,000,000, to remain available until expended, shall be for the expenses necessary for site selection, architectural design, site preparation and the development of a total cost estimate for the construction of a permanent site for the National Center for Explosives Training and Research: *Provided further*, That any funds remaining shall be applied to the construction of the Center: *Provided further*, That the Director of the ATF, when considering site selection shall consider a site collocated with other law enforcement and Federal Government entities that provide similar training and research.

Applicability.

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

For expenses necessary of the Federal Prison System for the administration, operation, and maintenance of Federal penal and correctional institutions, including purchase (not to exceed 768, of which 701 are for replacement only) and hire of law enforcement and passenger motor vehicles, and for the provision of technical assistance and advice on corrections related issues to foreign governments, \$4,892,649,000: *Provided*, That the Attorney General may transfer to the Health Resources and Services Administration such amounts as may be necessary for direct expenditures by that Administration for medical relief for inmates of Federal penal and correctional institutions: *Provided further*, That the Director of the Federal Prison System, where necessary, may enter into contracts with a fiscal agent/fiscal intermediary claims processor to determine the amounts payable to persons who, on behalf of the Federal Prison System, furnish health services to individuals committed to the custody of the Federal Prison System: *Provided further*, That not to exceed \$6,000 shall be available for official reception and representation expenses: *Provided further*, That not to exceed \$50,000,000 shall remain available for necessary operations until September 30, 2007: *Provided further*, That, of the amounts provided for Contract Confinement, not to exceed \$20,000,000 shall remain available until expended to make payments in advance for grants, contracts and reimbursable agreements, and other expenses authorized by section 501(c) of the Refugee Education Assistance Act of 1980, for the care and security in the United States of Cuban and Haitian entrants: *Provided further*, That the Director of the Federal Prison System may accept donated property and services relating to the operation of the prison card program from a not-for-profit entity which has operated such program in the past notwithstanding the fact that such not-for-profit entity furnishes services under contracts to the Federal Prison System relating to the operation of pre-release services, halfway houses or other custodial facilities.

42 USC 250a.

BUILDINGS AND FACILITIES

For planning, acquisition of sites and construction of new facilities; purchase and acquisition of facilities and remodeling, and equipping of such facilities for penal and correctional use, including all necessary expenses incident thereto, by contract or force account; and constructing, remodeling, and equipping necessary buildings and facilities at existing penal and correctional institutions, including all necessary expenses incident thereto, by contract or force account, \$90,112,000, to remain available until expended, of which not to exceed \$14,000,000 shall be available to construct areas for inmate work programs: *Provided*, That labor of United States prisoners may be used for work performed under this appropriation.

FEDERAL PRISON INDUSTRIES, INCORPORATED

The Federal Prison Industries, Incorporated, is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available, and in accord with the law, and

to make such contracts and commitments, without regard to fiscal year limitations as provided by section 9104 of title 31, United States Code, as may be necessary in carrying out the program set forth in the budget for the current fiscal year for such corporation, including purchase (not to exceed five for replacement only) and hire of passenger motor vehicles.

LIMITATION ON ADMINISTRATIVE EXPENSES, FEDERAL PRISON
INDUSTRIES, INCORPORATED

Not to exceed \$3,365,000 of the funds of the corporation shall be available for its administrative expenses, and for services as authorized by 5 U.S.C. 3109, to be computed on an accrual basis to be determined in accordance with the corporation's current prescribed accounting system, and such amounts shall be exclusive of depreciation, payment of claims, and expenditures which such accounting system requires to be capitalized or charged to cost of commodities acquired or produced, including selling and shipping expenses, and expenses in connection with acquisition, construction, operation, maintenance, improvement, protection, or disposition of facilities and other property belonging to the corporation or in which it has an interest.

OFFICE ON VIOLENCE AGAINST WOMEN

VIOLENCE AGAINST WOMEN PREVENTION AND PROSECUTION
PROGRAMS

For grants, contracts, cooperative agreements, and other assistance for the prevention and prosecution of violence against women as authorized by the Omnibus Crime Control and Safe Streets Act of 1968 ("the 1968 Act"); the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322) ("the 1994 Act"); the Victims of Child Abuse Act of 1990 ("the 1990 Act"); the Prosecutorial Remedies and Other Tools to End the Exploitation of Children Today Act of 2003 (Public Law 108–21); the Juvenile Justice and Delinquency Prevention Act of 1974 ("the 1974 Act"); and the Victims of Trafficking and Violence Protection Act of 2000 (Public Law 106–386); \$386,502,000, including amounts for administrative costs, to remain available until expended: *Provided*, That except as otherwise provided by law, not to exceed three percent of funds made available under this heading may be used for expenses related to evaluation, training and technical assistance: *Provided further*, That of the amount provided—

(1) \$11,897,000 for the court-appointed special advocate program, as authorized by section 217 of the 1990 Act;

(2) \$2,287,000 for child abuse training programs for judicial personnel and practitioners, as authorized by section 222 of the 1990 Act;

(3) \$986,000 for grants for televised testimony, as authorized by part N of the 1968 Act;

(4) \$187,308,000 for grants to combat violence against women, as authorized by part T of the 1968 Act, of which—

(A) \$5,100,000 shall be for the National Institute of Justice for research and evaluation of violence against women;

(B) \$10,000,000 shall be for the Office of Juvenile Justice and Delinquency Prevention for the Safe Start Program, as authorized by the 1974 Act; and

(C) \$15,000,000 shall be for transitional housing assistance grants for victims of domestic violence, stalking or sexual assault as authorized by Public Law 108–21;

(5) \$63,075,000 for grants to encourage arrest policies as authorized by part U of the 1968 Act;

(6) \$39,166,000 for rural domestic violence and child abuse enforcement assistance grants, as authorized by section 40295(a) of the 1994 Act;

(7) \$4,958,000 for training programs as authorized by section 40152 of the 1994 Act, and for related local demonstration projects;

(8) \$2,962,000 for grants to improve the stalking and domestic violence databases, as authorized by section 40602 of the 1994 Act;

(9) \$9,054,000 to reduce violent crimes against women on campus, as authorized by section 1108(a) of Public Law 106–386;

(10) \$39,220,000 for legal assistance for victims, as authorized by section 1201(c) of Public Law 106–386;

(11) \$4,540,000 for enhancing protection for older and disabled women from domestic violence and sexual assault, as authorized by section 40802 of the 1994 Act;

(12) \$13,894,000 for the safe havens for children pilot program, as authorized by section 1301(a) of Public Law 106–386; and

(13) \$7,155,000 for education and training to end violence against and abuse of women with disabilities, as authorized by section 1402(a) of Public Law 106–386.

OFFICE OF JUSTICE PROGRAMS

JUSTICE ASSISTANCE

For grants, contracts, cooperative agreements, and other assistance authorized by title I of the Omnibus Crime Control and Safe Streets Act of 1968, the Missing Children’s Assistance Act, including salaries and expenses in connection therewith, the Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today Act of 2003 (Public Law 108–21), the Justice for All Act of 2004 (Public Law 108–405), and the Victims of Crime Act of 1984, \$233,233,000, to remain available until expended.

STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

For grants, contracts, cooperative agreements, and other assistance authorized by the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322) (“the 1994 Act”); the Omnibus Crime Control and Safe Streets Act of 1968 (“the 1968 Act”); and the Victims of Trafficking and Violence Protection Act of 2000 (Public Law 106–386); and other programs; \$1,142,707,000 (including amounts for administrative costs, which shall be transferred to and merged with the “Justice Assistance” account): *Provided*, That funding provided under this heading shall remain available until expended, as follows—

(1) \$416,478,000 for the Edward Byrne Memorial Justice Assistance Grant program pursuant to the amendments made by section 201 of H.R. 3036 of the 108th Congress, as passed by the House of Representatives on March 30, 2004 (except that the special rules for Puerto Rico established pursuant to such amendments shall not apply for purposes of this Act), of which—

(A) \$10,000,000 is for the National Institute of Justice in assisting units of local government to identify, select, develop, modernize, and purchase new technologies for use by law enforcement; and

(B) \$85,000,000 for Boys and Girls Clubs in public housing facilities and other areas in cooperation with State and local law enforcement, as authorized by section 401 of Public Law 104–294 (42 U.S.C. 13751 note);

(2) \$405,000,000 for the State Criminal Alien Assistance Program, as authorized by section 242(j) of the Immigration and Nationality Act;

(3) \$30,000,000 for the Southwest Border Prosecutor Initiative to reimburse State, county, parish, tribal, or municipal governments only for costs associated with the prosecution of criminal cases declined by local United States Attorneys offices;

(4) \$191,704,000 for discretionary grants authorized by subpart 2 of part E, of title I of the 1968 Act, notwithstanding the provisions of section 511 of said Act;

(5) \$10,000,000 for victim services programs for victims of trafficking, as authorized by section 107(b)(2) of Public Law 106–386;

(6) \$850,000 for the Missing Alzheimer’s Disease Patient Alert Program, as authorized by section 240001(c) of the 1994 Act;

(7) \$10,000,000 for Drug Courts, as authorized by part EE of the 1968 Act;

(8) \$7,500,000 for a prescription drug monitoring program;

(9) \$18,175,000 for prison rape prevention and prosecution programs, as authorized by the Prison Rape Elimination Act of 2003 (Public Law 108–79), of which \$2,175,000 shall be transferred to the National Prison Rape Elimination Commission for authorized activities;

(10) \$10,000,000 for grants for residential substance abuse treatment for State prisoners, as authorized by part S of the 1968 Act;

(11) \$10,000,000 for a program to improve State and local law enforcement intelligence capabilities including antiterrorism training and training to ensure that constitutional rights, civil liberties, civil rights, and privacy interests are protected throughout the intelligence process;

(12) \$1,000,000 for a capital litigation improvement grant program;

(13) \$5,000,000 for a cannabis eradication program to be administered by the Drug Enforcement Administration;

(14) \$22,000,000 for assistance to Indian tribes, of which—

(A) \$9,000,000 shall be available for grants under section 20109(a)(2) of subtitle A of title II of the 1994 Act;

(B) \$8,000,000 shall be available for the Tribal Courts Initiative; and

(C) \$5,000,000 shall be available for demonstration projects on alcohol and crime in Indian Country; and

(15) \$5,000,000 for mental health courts and adult and juvenile collaboration program grants, as authorized by parts V and HH of title I of the 1968 Act:

Provided, That, if a unit of local government uses any of the funds made available under this title to increase the number of law enforcement officers, the unit of local government will achieve a net gain in the number of law enforcement officers who perform nonadministrative public safety service.

WEED AND SEED PROGRAM FUND

For necessary expenses, including salaries and related expenses of the Executive Office for Weed and Seed, to implement “Weed and Seed” program activities, \$50,000,000, to remain available until September 30, 2007, for inter-governmental agreements, including grants, cooperative agreements, and contracts, with State and local law enforcement agencies, non-profit organizations, and agencies of local government engaged in the investigation and prosecution of violent and gang-related crimes and drug offenses in “Weed and Seed” designated communities, and for either reimbursements or transfers to appropriation accounts of the Department of Justice and other Federal agencies which shall be specified by the Attorney General to execute the “Weed and Seed” program strategy: *Provided*, That funds designated by Congress through language for other Department of Justice appropriation accounts for “Weed and Seed” program activities shall be managed and executed by the Attorney General through the Executive Office for Weed and Seed: *Provided further*, That the Attorney General may direct the use of other Department of Justice funds and personnel in support of “Weed and Seed” program activities only after the Attorney General notifies the Committees on Appropriations of the House of Representatives and the Senate in accordance with section 605 of this Act: *Provided further*, That of the funds appropriated for the Executive Office for Weed and Seed, not to exceed \$2,000,000 shall be directed for comprehensive community development training and technical assistance.

Notification.

COMMUNITY ORIENTED POLICING SERVICES

(INCLUDING TRANSFERS OF FUNDS)

For activities authorized by the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322) (including administrative costs), \$478,300,000, to remain available until expended: *Provided*, That of the funds under this heading, not to exceed \$2,575,000 shall be available for the Office of Justice Programs for reimbursable services associated with programs administered by the Community Oriented Policing Services Office: *Provided further*, That section 1703(b) and (c) of the Omnibus Crime Control and Safe Streets Act of 1968 (“the 1968 Act”) shall not apply to non-hiring grants made pursuant to part Q of title I thereof (42 U.S.C. 3796dd et seq.): *Provided further*, That up to \$34,000,000 of balances made available as a result of prior year deobligations may be obligated for program management and administration, of which \$5,000,000 shall be available for transfer to the National Institute of Standards and Technology: *Provided*

further, That any balances made available as a result of prior year deobligations in excess of \$34,000,000 shall only be obligated in accordance with section 605 of this Act. Of the amounts provided—

(1) \$30,000,000 is for the matching grant program for law enforcement armor vests as authorized by section 2501 of part Y of the 1968 Act, of which not to exceed \$3,000,000 may be for the National Institute of Justice to test and evaluate vests;

(2) \$63,590,000 is for policing initiatives to combat methamphetamine production and trafficking and to enhance policing initiatives in “drug hot spots”;

(3) \$139,904,000 is for a law enforcement technologies and interoperable communications program;

(4) \$10,000,000 is for grants to upgrade criminal records, as authorized under the Crime Identification Technology Act of 1998 (42 U.S.C. 14601);

(5) \$5,000,000 is for an offender re-entry program;

(6) \$108,531,000 is for a DNA analysis and capacity enhancement program, and for other State, local and Federal forensic activities, of which \$4,000,000 shall be for grant programs as authorized by sections 412 and 413 of Public Law 108-405;

(7) \$15,000,000 is for law enforcement assistance to Indian tribes;

(8) \$40,000,000 for a national program to reduce gang violence;

(9) \$4,000,000 is for training and technical assistance;

(10) \$18,500,000 is for Paul Coverdell Forensic Sciences Improvement Grants under part BB of title I of the 1968 Act (42 U.S.C. 3797j et seq.);

(11) \$28,775,000 is for grants, contracts and other assistance to States under section 102(b) of the Crime Identification Technology Act of 1998 (42 U.S.C. 14601); and

(12) \$15,000,000 is for Project Safe Neighborhoods, of which \$4,500,000 is for the National District Attorneys Association to conduct prosecutorial training by the National Advocacy Center.

JUVENILE JUSTICE PROGRAMS

For grants, contracts, cooperative agreements, and other assistance authorized by the Juvenile Justice and Delinquency Prevention Act of 1974 (“the Act”), and other juvenile justice programs, including salaries and expenses in connection therewith to be transferred to and merged with the appropriations for Justice Assistance, \$342,739,000, to remain available until expended, as follows—

(1) \$712,000 for concentration of Federal efforts, as authorized by section 204 of the Act;

(2) \$80,000,000 for State and local programs authorized by section 221 of the Act, including training and technical assistance to assist small, non-profit organizations with the Federal grants process;

(3) \$106,027,000 for demonstration projects, as authorized by sections 261 and 262 of the Act;

(4) \$10,000,000 for juvenile mentoring programs;

(5) \$65,000,000 for delinquency prevention, as authorized by section 505 of the Act, of which—

(A) \$10,000,000 shall be for the Tribal Youth Program;
 (B) \$25,000,000 shall be for a gang resistance education and training program; and

(C) \$25,000,000 shall be for grants of \$360,000 to each State and \$6,640,000 shall be available for discretionary grants to States, for programs and activities to enforce State laws prohibiting the sale of alcoholic beverages to minors or the purchase or consumption of alcoholic beverages by minors, prevention and reduction of consumption of alcoholic beverages by minors, and for technical assistance and training;

(6) \$1,000,000 for Project Childsafe;

(7) \$15,000,000 for the Secure Our Schools Act as authorized by Public Law 106-386;

(8) \$15,000,000 for programs authorized by the Victims of Child Abuse Act of 1990; and

(9) \$50,000,000 for the Juvenile Accountability Block Grants program as authorized by Public Law 107-273 and Guam shall be considered a State:

Provided, That not more than 10 percent of each amount may be used for research, evaluation, and statistics activities designed to benefit the programs or activities authorized: *Provided further*, That not more than 2 percent of each amount may be used for training and technical assistance: *Provided further*, That the previous two provisos shall not apply to demonstration projects, as authorized by sections 261 and 262 of the Act: *Provided further*, That section 702(a) of Public Law 88-352 shall apply to any grants for World Vision, described in House Report No. 108-792 and the statement of managers accompanying this Act, and awarded by the Attorney General.

Applicability.
Grants.

PUBLIC SAFETY OFFICERS BENEFITS

To remain available until expended, for payments authorized by part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796), such sums as are necessary, as authorized by section 6093 of Public Law 100-690 (102 Stat. 4339-4340); and \$4,884,000, to remain available until expended for payments as authorized by section 1201(b) of said Act; and \$4,064,000 for educational assistance, as authorized by section 1212 of the 1968 Act.

GENERAL PROVISIONS—DEPARTMENT OF JUSTICE

SEC. 101. In addition to amounts otherwise made available in this title for official reception and representation expenses, a total of not to exceed \$60,000 from funds appropriated to the Department of Justice in this title shall be available to the Attorney General for official reception and representation expenses.

SEC. 102. None of the funds appropriated by this title shall be available to pay for an abortion, except where the life of the mother would be endangered if the fetus were carried to term, or in the case of rape: *Provided*, That should this prohibition be declared unconstitutional by a court of competent jurisdiction, this section shall be null and void.

Abortion.

SEC. 103. None of the funds appropriated under this title shall be used to require any person to perform, or facilitate in any way the performance of, any abortion.

SEC. 104. Nothing in the preceding section shall remove the obligation of the Director of the Bureau of Prisons to provide escort services necessary for a female inmate to receive such service outside the Federal facility: *Provided*, That nothing in this section in any way diminishes the effect of section 103 intended to address the philosophical beliefs of individual employees of the Bureau of Prisons.

SEC. 105. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of Justice in this Act may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 10 percent by any such transfers: *Provided*, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation except in compliance with the procedures set forth in that section: *Provided further*, That none of the funds appropriated to “Buildings and Facilities, Federal Prison System” in this or any other Act may be transferred to “Salaries and Expenses, Federal Prison System”, or any other Department of Justice account, unless the President certifies that such a transfer is necessary to the national security interests of the United States, and such authority shall not be delegated, and shall be subject to section 605 of this Act.

5 USC 3104 note.

SEC. 106. The Attorney General is authorized to extend through September 30, 2007, the Personnel Management Demonstration Project transferred to the Attorney General pursuant to section 1115 of the Homeland Security Act of 2002, Public Law 107-296 (6 U.S.C. 533) without limitation on the number of employees or the positions covered.

Applicability.
28 USC 533 note.

SEC. 107. Notwithstanding any other provision of law, Public Law 102-395 section 102(b) shall extend to the Bureau of Alcohol, Tobacco, Firearms and Explosives in the conduct of undercover investigative operations and shall apply without fiscal year limitation with respect to any undercover investigative operation initiated by the Bureau of Alcohol, Tobacco, Firearms and Explosives that is necessary for the detection and prosecution of crimes against the United States.

SEC. 108. None of the funds made available to the Department of Justice in this Act may be used for the purpose of transporting an individual who is a prisoner pursuant to conviction for crime under State or Federal law and is classified as a maximum or high security prisoner, other than to a prison or other facility certified by the Federal Bureau of Prisons as appropriately secure for housing such a prisoner.

SEC. 109. (a) None of the funds appropriated by this Act may be used by Federal prisons to purchase cable television services, to rent or purchase videocassettes, videocassette recorders, or other audiovisual or electronic equipment used primarily for recreational purposes.

(b) The preceding sentence does not preclude the renting, maintenance, or purchase of audiovisual or electronic equipment for inmate training, religious, or educational programs.

Establishment.

SEC. 110. Within the funds provided under “Justice Information Sharing Technology”, the Attorney General shall establish an investment review board, which the Deputy Attorney General shall head: *Provided*, That within 90 days of enactment of this Act, the Department shall submit a plan that outlines the governance

Deadline.

structure and membership of the board: *Provided further*, That the Department shall submit to the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives, within 90 days of enactment of this Act, the project criteria that will initiate the board’s oversight, to include a listing of all projects to be reviewed during fiscal year 2006. Deadline.

SEC. 111. Section 3151(b) of title 5, United States Code, is amended by—

- (1) striking paragraph (2)(A) and (B);
- (2) in paragraph (1) by striking “(1)”; and
- (3) redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively.

SEC. 112. Within the funds provided for the Drug Enforcement Administration, the Attorney General shall establish a Methamphetamine Task Force within the Drug Enforcement Administration which shall be responsible for improving and targeting the Federal Government’s policies with respect to the production and trafficking of methamphetamine: *Provided*, That within 90 days of enactment of this Act, the Drug Enforcement Administration shall submit a plan that outlines the governance structure and membership of the task force: *Provided further*, That within 120 days the Drug Enforcement Administration shall submit to the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives the membership of the task force and powers established for the task force. Establishment. Deadline. Deadline.

SEC. 113. (a) Section 4(a) of the Prison Rape Elimination Act of 2003 (42 U.S.C. 15603(a)) is amended—

- (1) in paragraph (5), by inserting “, except as authorized in paragraph (7)” before the period at the end; and

(2) by adding at the end the following new paragraph:
“(7) REPORTING ON CHILD ABUSE AND NEGLECT.—Nothing in section 304 or 812 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3735, 3789g) or any other provision of law, including paragraph (5), shall prevent the Bureau (including its agents), in carrying out the review and analysis under paragraph (1), from reporting to the designated public officials such information (and only such information) regarding child abuse or child neglect with respect to which the statutes or regulations of a State (or a political subdivision thereof) require prompt reporting.”.

(b) Section 7(d)(3)(A) of the Prison Rape Elimination Act of 2003 (42 U.S.C. 15606(d)(3)(A)) is amended by striking “2 years” and inserting “3 years”.

SEC. 114. The Attorney General shall waive the matching requirement for the purchase of bulletproof vests of the Bulletproof Vest Partnership Grant Act of 1998 for any law enforcement agency that purchased defective Zylon-based body armor with Federal funds pursuant to such Act between October 1, 1998, and September 30, 2005, and seeks to replace that Zylon-based body armor, provided that the law enforcement agency can present documentation to prove the purchase of Zylon-based body armor with funds awarded to it under such Act. Bulletproof vests.

This title may be cited as the “Department of Justice Appropriations Act, 2006”.

Department of
Commerce and
Related Agencies
Appropriations
Act, 2006.

TITLE II—DEPARTMENT OF COMMERCE AND RELATED AGENCIES

TRADE AND INFRASTRUCTURE DEVELOPMENT

RELATED AGENCIES

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

SALARIES AND EXPENSES

For necessary expenses of the Office of the United States Trade Representative, including the hire of passenger motor vehicles and the employment of experts and consultants as authorized by 5 U.S.C. 3109, \$44,779,000, of which \$1,000,000 shall remain available until expended: *Provided*, That not to exceed \$124,000 shall be available for official reception and representation expenses: *Provided further*, That not less than \$2,000,000 provided under this heading shall be for expenses authorized by 19 U.S.C. 2451 and 1677b(c): *Provided further*, That negotiations shall be conducted within the World Trade Organization to recognize the right of members to distribute monies collected from antidumping and countervailing duties: *Provided further*, That negotiations shall be conducted within the World Trade Organization consistent with the negotiating objectives contained in the Trade Act of 2002, Public Law 107–210.

INTERNATIONAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the International Trade Commission, including hire of passenger motor vehicles, and services as authorized by 5 U.S.C. 3109, and not to exceed \$2,500 for official reception and representation expenses, \$62,752,000, to remain available until expended.

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

OPERATIONS AND ADMINISTRATION

For necessary expenses for international trade activities of the Department of Commerce provided for by law, and for engaging in trade promotional activities abroad, including expenses of grants and cooperative agreements for the purpose of promoting exports of United States firms, without regard to 44 U.S.C. 3702 and 3703; full medical coverage for dependent members of immediate families of employees stationed overseas and employees temporarily posted overseas; travel and transportation of employees of the United States and Foreign Commercial Service between two points abroad, without regard to 49 U.S.C. 40118; employment of Americans and aliens by contract for services; rental of space abroad for periods not exceeding 10 years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to

exceed \$327,000 for official representation expenses abroad; purchase of passenger motor vehicles for official use abroad, not to exceed \$45,000 per vehicle; obtaining insurance on official motor vehicles; and rental of tie lines, \$406,925,000, to remain available until September 30, 2007, of which \$8,000,000 is to be derived from fees to be retained and used by the International Trade Administration, notwithstanding 31 U.S.C. 3302: *Provided*, That \$47,434,000 shall be for Manufacturing and Services; \$39,815,000 shall be for Market Access and Compliance; \$62,134,000 shall be for the Import Administration of which not less than \$3,000,000 is for the Office of China Compliance; \$231,722,000 shall be for the United States and Foreign Commercial Service; and \$25,820,000 shall be for Executive Direction and Administration: *Provided further*, That negotiations shall be conducted within the World Trade Organization to recognize the right of members to distribute monies collected from antidumping and countervailing duties: *Provided further*, That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities without regard to section 5412 of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 4912); and that for the purpose of this Act, contributions under the provisions of the Mutual Educational and Cultural Exchange Act of 1961 shall include payment for assessments for services provided as part of these activities: *Provided further*, That the International Trade Administration shall be exempt from the requirements of Circular A–25 (or any successor administrative regulation or policy) issued by the Office of Management and Budget: *Provided further*, That negotiations shall be conducted within the World Trade Organization consistent with the negotiating objectives contained in the Trade Act of 2002, Public Law 107–210.

Applicability.

BUREAU OF INDUSTRY AND SECURITY

OPERATIONS AND ADMINISTRATION

For necessary expenses for export administration and national security activities of the Department of Commerce, including costs associated with the performance of export administration field activities both domestically and abroad; full medical coverage for dependent members of immediate families of employees stationed overseas; employment of Americans and aliens by contract for services abroad; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed \$15,000 for official representation expenses abroad; awards of compensation to informers under the Export Administration Act of 1979, and as authorized by 22 U.S.C. 401(b); and purchase of passenger motor vehicles for official use and motor vehicles for law enforcement use with special requirement vehicles eligible for purchase without regard to any price limitation otherwise established by law, \$76,000,000, to remain available until expended, of which \$14,767,000 shall be for inspections and other activities related to national security: *Provided*, That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying

Applicability.

out these activities: *Provided further*, That payments and contributions collected and accepted for materials or services provided as part of such activities may be retained for use in covering the cost of such activities, and for providing information to the public with respect to the export administration and national security activities of the Department of Commerce and other export control programs of the United States and other governments.

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For grants for economic development assistance as provided by the Public Works and Economic Development Act of 1965, and for trade adjustment assistance, \$253,985,000, to remain available until expended.

SALARIES AND EXPENSES

For necessary expenses of administering the economic development assistance programs as provided for by law, \$30,075,000: *Provided*, That these funds may be used to monitor projects approved pursuant to title I of the Public Works Employment Act of 1976, title II of the Trade Act of 1974, and the Community Emergency Drought Relief Act of 1977.

MINORITY BUSINESS DEVELOPMENT AGENCY

MINORITY BUSINESS DEVELOPMENT

For necessary expenses of the Department of Commerce in fostering, promoting, and developing minority business enterprise, including expenses of grants, contracts, and other agreements with public or private organizations, \$30,024,000.

ECONOMIC AND INFORMATION INFRASTRUCTURE

ECONOMIC AND STATISTICAL ANALYSIS

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, of economic and statistical analysis programs of the Department of Commerce, \$80,304,000, to remain available until September 30, 2007.

BUREAU OF THE CENSUS

SALARIES AND EXPENSES

For expenses necessary for collecting, compiling, analyzing, preparing, and publishing statistics, provided for by law, \$198,029,000.

PERIODIC CENSUSES AND PROGRAMS

For necessary expenses related to the 2010 decennial census, \$453,596,000, to remain available until September 30, 2007.

In addition, for expenses to collect and publish statistics for other periodic censuses and programs provided for by law, \$160,612,000, to remain available until September 30, 2007: *Provided*, That none of the funds provided in this or any other Act

for any fiscal year may be used for the collection of Census data on race identification that does not include “some other race” as a category.

NATIONAL TELECOMMUNICATIONS AND INFORMATION
ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses, as provided for by law, of the National Telecommunications and Information Administration (NTIA), \$18,068,000, to remain available until September 30, 2007: *Provided*, That, notwithstanding 31 U.S.C. 1535(d), the Secretary of Commerce shall charge Federal agencies for costs incurred in spectrum management, analysis, and operations, and related services and such fees shall be retained and used as offsetting collections for costs of such spectrum services, to remain available until expended: *Provided further*, That the Secretary of Commerce is authorized to retain and use as offsetting collections all funds transferred, or previously transferred, from other Government agencies for all costs incurred in telecommunications research, engineering, and related activities by the Institute for Telecommunication Sciences of NTIA, in furtherance of its assigned functions under this paragraph, and such funds received from other Government agencies shall remain available until expended.

PUBLIC TELECOMMUNICATIONS FACILITIES, PLANNING AND
CONSTRUCTION

For the administration of grants authorized by section 392 of the Communications Act of 1934, \$22,000,000, to remain available until expended as authorized by section 391 of the Act: *Provided*, That not to exceed \$2,000,000 shall be available for program administration as authorized by section 391 of the Act: *Provided further*, That, notwithstanding the provisions of section 391 of the Act, the prior year unobligated balances may be made available for grants for projects for which applications have been submitted and approved during any fiscal year.

UNITED STATES PATENT AND TRADEMARK OFFICE

SALARIES AND EXPENSES

For necessary expenses of the United States Patent and Trademark Office provided for by law, including defense of suits instituted against the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office, \$1,683,086,000, to remain available until expended: *Provided*, That the sum herein appropriated from the general fund shall be reduced as offsetting collections assessed and collected pursuant to 15 U.S.C. 1113 and 35 U.S.C. 41 and 376 are received during fiscal year 2006, so as to result in a fiscal year 2006 appropriation from the general fund estimated at \$0: *Provided further*, That during fiscal year 2006, should the total amount of offsetting fee collections be less than \$1,683,086,000, this amount shall be reduced accordingly: *Provided further*, That not less than 657 full-time equivalents, 690 positions and \$85,017,000 shall be for the examination of trademark applications; and not less than 5,810 full-time equivalents, 6,241 positions and \$906,142,000 shall be for the examination and

searching of patent applications: *Provided further*, That not more than 265 full-time equivalents, 272 positions and \$37,490,000 shall be for the Office of the General Counsel: *Provided further*, That not more than 82 full-time equivalents, 83 positions and \$25,393,000 shall be for the Office of the Administrator for External Affairs: *Provided further*, That any deviation from the full-time equivalent, position, and funding designations set forth in the preceding four provisos shall be subject to the procedures set forth in section 605 of this Act: *Provided further*, That from amounts provided herein, not to exceed \$1,000 shall be made available in fiscal year 2006 for official reception and representation expenses: *Provided further*, That notwithstanding section 1353 of title 31, United States Code, no employee of the United States Patent and Trademark Office may accept payment or reimbursement from a non-Federal entity for travel, subsistence, or related expenses for the purpose of enabling an employee to attend and participate in a convention, conference, or meeting when the entity offering payment or reimbursement is a person or corporation subject to regulation by the Office, or represents a person or corporation subject to regulation by the Office, unless the person or corporation is an organization exempt from taxation pursuant to section 501(c)(3) of the Internal Revenue Code of 1986: *Provided further*, That in fiscal year 2006, from the amounts made available for “Salaries and Expenses” for the United States Patent and Trademark Office (PTO), the amounts necessary to pay: (1) the difference between the percentage of basic pay contributed by the PTO and employees under section 8334(a) of title 5, United States Code, and the normal cost percentage (as defined by section 8331(17) of that title) of basic pay, of employees subject to subchapter III of chapter 83 of that title; and (2) the present value of the otherwise unfunded accruing costs, as determined by the Office of Personnel Management, of post-retirement life insurance and post-retirement health benefits coverage for all PTO employees, shall be transferred to the Civil Service Retirement and Disability Fund, the Employees Life Insurance Fund, and the Employees Health Benefits Fund, as appropriate, and shall be available for the authorized purposes of those accounts.

SCIENCE AND TECHNOLOGY

TECHNOLOGY ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Under Secretary for Technology Office of Technology Policy, \$6,000,000.

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For necessary expenses of the National Institute of Standards and Technology, \$399,869,000, to remain available until expended, of which not to exceed \$1,300,000 may be transferred to the “Working Capital Fund”.

INDUSTRIAL TECHNOLOGY SERVICES

For necessary expenses of the Hollings Manufacturing Extension Partnership of the National Institute of Standards and Technology, \$106,000,000, to remain available until expended.

In addition, for necessary expenses of the Advanced Technology Program of the National Institute of Standards and Technology, \$80,000,000, to remain available until expended.

CONSTRUCTION OF RESEARCH FACILITIES

For construction of new research facilities, including architectural and engineering design, and for renovation and maintenance of existing facilities, not otherwise provided for the National Institute of Standards and Technology, as authorized by 15 U.S.C. 278c–278e, \$175,898,000, to remain available until expended: *Provided*, That beginning in fiscal year 2007 and for each fiscal year thereafter, the Secretary of Commerce shall include in the budget justification materials that the Secretary submits to Congress in support of the Department of Commerce budget (as submitted with the budget of the President under section 1105(a) of title 31, United States Code) an estimate for each National Institute of Standards and Technology construction project having a total multiyear program cost of more than \$5,000,000 and simultaneously the budget justification materials shall include an estimate of the budgetary requirements for each such project for each of the five subsequent fiscal years.

15 USC 1513b.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of activities authorized by law for the National Oceanic and Atmospheric Administration, including maintenance, operation, and hire of aircraft and vessels; grants, contracts, or other payments to nonprofit organizations for the purposes of conducting activities pursuant to cooperative agreements; and relocation of facilities, \$2,763,222,000, to remain available until September 30, 2007, except for funds provided for cooperative enforcement which shall remain available until September 30, 2008: *Provided*, That fees and donations received by the National Ocean Service for the management of national marine sanctuaries may be retained and used for the salaries and expenses associated with those activities, notwithstanding 31 U.S.C. 3302: *Provided further*, That in addition, \$3,000,000 shall be derived by transfer from the fund entitled “Coastal Zone Management” and in addition \$67,000,000 shall be derived by transfer from the fund entitled “Promote and Develop Fishery Products and Research Pertaining to American Fisheries”: *Provided further*, That of the \$2,833,222,000 provided for in direct obligations under this heading \$2,763,222,000 is appropriated from the general fund and \$70,000,000 is provided by transfer: *Provided further*, That no general administrative charge shall be applied against an assigned activity included in this Act or the report accompanying this Act: *Provided further*, That the total amount available for the National Oceanic and Atmospheric Administration corporate services administrative support costs shall

not exceed \$179,036,000: *Provided further*, That payments of funds made available under this heading to the Department of Commerce Working Capital Fund including Department of Commerce General Counsel legal services shall not exceed \$34,000,000: *Provided further*, That any deviation from the amounts designated for specific activities in the report accompanying this Act, or any use of deobligated balances of funds provided under this heading in previous years, shall be subject to the procedures set forth in section 605 of this Act: *Provided further*, That grants to States pursuant to sections 306 and 306A of the Coastal Zone Management Act of 1972, as amended, shall not exceed \$2,000,000, unless funds provided for “Coastal Zone Management Grants” exceed funds provided in the previous fiscal year: *Provided further*, That if funds provided for “Coastal Zone Management Grants” exceed funds provided in the previous fiscal year, then no State shall receive more than 5 percent or less than 1 percent of the additional funds: *Provided further*, That the personnel management demonstration project established at the National Oceanic and Atmospheric Administration pursuant to 5 U.S.C. 4703 may be expanded by 3,500 full-time positions to include up to 6,925 full-time positions and may be extended indefinitely: *Provided further*, That the Administrator of the National Oceanic and Atmospheric Administration may engage in formal and informal education activities, including primary and secondary education, related to the agency’s mission goals: *Provided further*, That, in accordance with the Federal Credit Reform Act of 1990 (2 U.S.C. 611 et seq.), within funds appropriated under this heading, \$2,000,000 shall remain available until expended, for the cost of loans under section 211(e) of title II of division C of Public Law 105-277, such loans to have terms of up to 30 years and to be available for use in any of the Bering Sea and Aleutian Islands fisheries.

In addition, for necessary retired pay expenses under the Retired Serviceman’s Family Protection and Survivor Benefits Plan, and for payments for the medical care of retired personnel and their dependents under the Dependents Medical Care Act (10 U.S.C. ch. 55), such sums as may be necessary.

PROCUREMENT, ACQUISITION AND CONSTRUCTION

For procurement, acquisition and construction of capital assets, including alteration and modification costs, of the National Oceanic and Atmospheric Administration, \$1,124,278,000, to remain available until September 30, 2008, except funds provided for construction of facilities which shall remain available until expended: *Provided*, That of the amounts provided for the National Polar-orbiting Operational Environmental Satellite System, funds shall only be made available on a dollar for dollar matching basis with funds provided for the same purpose by the Department of Defense: *Provided further*, That except to the extent expressly prohibited by any other law, the Department of Defense may delegate procurement functions related to the National Polar-orbiting Operational Environmental Satellite System to officials of the Department of Commerce pursuant to section 2311 of title 10, United States Code: *Provided further*, That any deviation from the amounts designated for specific activities in the report accompanying this Act, or any use of deobligated balances of funds provided under this heading in previous years, shall be subject to the procedures set forth in section 605 of this Act: *Provided further*, That beginning in

fiscal year 2007 and for each fiscal year thereafter, the Secretary of Commerce shall include in the budget justification materials that the Secretary submits to Congress in support of the Department of Commerce budget (as submitted with the budget of the President under section 1105(a) of title 31, United States Code) an estimate for each National Oceanic and Atmospheric Administration procurement, acquisition and construction program having a total multiyear program cost of more than \$5,000,000 and an estimate of the budgetary requirements for each such program for each of the five subsequent fiscal years: *Provided further*, That subject to amounts provided in advance in appropriations Acts, the Secretary of Commerce is authorized to enter into a lease with The Regents of the University of California for land at the San Diego Campus in La Jolla for a term not less than 55 years: *Provided further*, That funds appropriated for the construction of the National Oceanic and Atmospheric Administration Pacific Regional Center are an additional increment in the incremental funding planned for the Center, and may be expended incrementally, through multi-year contracts for construction and related activities, provided that obligations under any such multi-year contract shall be subject to the availability of appropriations.

Contracts.
California.

PACIFIC COASTAL SALMON RECOVERY

For necessary expenses associated with the restoration of Pacific salmon populations, \$67,500,000.

COASTAL ZONE MANAGEMENT FUND

(INCLUDING TRANSFER OF FUNDS)

Of amounts collected pursuant to section 308 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456a), not to exceed \$3,000,000 shall be transferred to the “Operations, Research, and Facilities” account to offset the costs of implementing such Act.

FISHERIES FINANCE PROGRAM ACCOUNT

For the costs of direct loans, \$287,000, as authorized by the Merchant Marine Act of 1936: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in the Federal Credit Reform Act of 1990: *Provided further*, That these funds are only available to subsidize gross obligations for the principal amount of direct loans not to exceed \$5,000,000 for Individual Fishing Quota loans, and not to exceed \$59,000,000 for traditional direct loans, of which \$19,000,000 may be used for direct loans to the United States menhaden fishery: *Provided further*, That none of the funds made available under this heading may be used for direct loans for any new fishing vessel that will increase the harvesting capacity in any United States fishery.

OTHER

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For expenses necessary for the departmental management of the Department of Commerce provided for by law, including not

to exceed \$5,000 for official entertainment, \$47,466,000: *Provided*, That not to exceed 11 full-time equivalents and \$1,490,000 shall be expended for the legislative affairs function of the Department.

UNITED STATES TRAVEL AND TOURISM PROMOTION

For necessary expenses of the United States Travel and Tourism Promotion Program, as authorized by section 210 of Public Law 108-7, for programs promoting travel to the United States including grants, contracts, cooperative agreements and related costs, \$4,000,000, to remain available until September 30, 2007.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978 (5 U.S.C. App.), \$22,758,000.

GENERAL PROVISIONS—DEPARTMENT OF COMMERCE

(INCLUDING TRANSFER OF FUNDS)

SEC. 201. During the current fiscal year, applicable appropriations and funds made available to the Department of Commerce by this Act shall be available for the activities specified in the Act of October 26, 1949 (15 U.S.C. 1514), to the extent and in the manner prescribed by the Act, and, notwithstanding 31 U.S.C. 3324, may be used for advanced payments not otherwise authorized only upon the certification of officials designated by the Secretary of Commerce that such payments are in the public interest.

SEC. 202. During the current fiscal year, appropriations made available to the Department of Commerce by this Act for salaries and expenses shall be available for hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344; services as authorized by 5 U.S.C. 3109; and uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902).

SEC. 203. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of Commerce in this Act may be transferred between such appropriations, but no such appropriation shall be increased by more than 10 percent by any such transfers: *Provided*, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section: *Provided further*, That the Secretary of Commerce shall notify the Committees on Appropriations at least 15 days in advance of the acquisition or disposal of any capital asset (including land, structures, and equipment) not specifically provided for in this or any other Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act: *Provided further*, That for the National Oceanic and Atmospheric Administration this section shall provide for transfers among appropriations made only to the National Oceanic and Atmospheric Administration and such appropriations may not be transferred and reprogrammed to other Department of Commerce bureaus and appropriation accounts.

SEC. 204. Any costs incurred by a department or agency funded under this title resulting from personnel actions taken in response

Notification.
Deadline.

to funding reductions included in this title or from actions taken for the care and protection of loan collateral or grant property shall be absorbed within the total budgetary resources available to such department or agency: *Provided*, That the authority to transfer funds between appropriations accounts as may be necessary to carry out this section is provided in addition to authorities included elsewhere in this Act: *Provided further*, That use of funds to carry out this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 205. Funds made available for salaries and administrative expenses to administer the Emergency Steel Loan Guarantee Program in section 211(b) of Public Law 108–199 shall remain available until expended: *Provided*, That section 101(k) of the Emergency Steel Loan Guarantee Act of 1999 (Public Law 106–51; 15 U.S.C. 1841 note) is amended by striking “2005” and inserting “2007”.

SEC. 206. Notwithstanding any other provision of this Act, no funds appropriated under this Act shall be used to register, issue, transfer, or enforce any trademark of the phrase “Last Best Place”.

SEC. 207. Notwithstanding any other provision of law, of the amounts made available elsewhere in this title to the “National Institute of Standards and Technology, Construction of Research Facilities”, \$8,000,000 is for a cooperative agreement with the Medical University of South Carolina; \$20,000,000 is for the National Formulation Science Laboratory at the University of Southern Mississippi; \$20,000,000 is for the University of Mississippi Research Park; \$5,000,000 is for the Alabama State University Science and Education Building; \$8,000,000 is for Tuscaloosa, Alabama, revitalization; \$20,000,000 is for the Biomedical Research Center at the University of Alabama at Birmingham; \$3,000,000 is for the Institute for Security Technology Studies; \$1,000,000 is for the Thayer School of Engineering; \$12,000,000 is for the WVHTCF Research Facility; and \$30,000,000 is for the University of Alabama for the design and construction of the Science and Engineering Center.

SEC. 208. Of the amount available from the fund entitled “Promote and Develop Fishery Products and Research Pertaining to American Fisheries”, \$7,000,000 shall be provided to the Alaska Fisheries Marketing Board, \$5,000,000 shall be available to the Southern Shrimp Alliance for its “Wild American Shrimp Marketing Program”.

SEC. 209. Of the amounts made available under the heading “Procurement, Acquisition and Construction, National Oceanic and Atmospheric Administration”, \$27,000,000 shall be transferred to the National Aeronautics and Space Administration for the planning, design, and construction of Building 3203, for the planning and design of Buildings 3205 and 3216, and for certain infrastructure improvements.

This title may be cited as the “Department of Commerce and Related Agencies Appropriations Act, 2006”.

Science
Appropriations
Act, 2006.

TITLE III—SCIENCE

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

For necessary expenses of the Office of Science and Technology Policy, in carrying out the purposes of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601–6671), hire of passenger motor vehicles, and services as authorized by 5 U.S.C. 3109, not to exceed \$2,500 for official reception and representation expenses, and rental of conference rooms in the District of Columbia, \$5,564,000.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

SCIENCE, AERONAUTICS AND EXPLORATION

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses, not otherwise provided for, in the conduct and support of science, aeronautics and exploration research and development activities, including research, development, operations, support and services; maintenance; construction of facilities including repair, rehabilitation, revitalization, and modification of facilities, construction of new facilities and additions to existing facilities, facility planning and design, and restoration, and acquisition or condemnation of real property, as authorized by law; environmental compliance and restoration; space flight, spacecraft control and communications activities including operations, production, and services; program management; personnel and related costs, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; travel expenses; purchase and hire of passenger motor vehicles; not to exceed \$35,000 for official reception and representation expenses; and purchase, lease, charter, maintenance and operation of mission and administrative aircraft, \$9,761,400,000, to remain available until September 30, 2007, of which amounts as determined by the Administrator for salaries and benefits; training, travel and awards; facility and related costs; information technology services; science, engineering, fabricating and testing services; and other administrative services may be transferred to “Exploration Capabilities” in accordance with section 312(b) of the National Aeronautics and Space Act of 1958, as amended by Public Law 106–377.

EXPLORATION CAPABILITIES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses, not otherwise provided for, in the conduct and support of exploration capabilities research and development activities, including research, development, operations, support and services; maintenance; construction of facilities including repair, rehabilitation, revitalization and modification of facilities, construction of new facilities and additions to existing facilities, facility planning and design, and acquisition or condemnation of real property, as authorized by law; environmental compliance and restoration; space flight, spacecraft control and communications activities including operations, production, and services; program management; personnel and related costs, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–

5902; travel expenses; purchase and hire of passenger motor vehicles; not to exceed \$35,000 for official reception and representation expenses; and purchase, lease, charter, maintenance and operation of mission and administrative aircraft, \$6,663,000,000, to remain available until September 30, 2007, of which amounts as determined by the Administrator for salaries and benefits; training, travel and awards; facility and related costs; information technology services; science, engineering, fabricating and testing services; and other administrative services may be transferred to “Science, Aeronautics and Exploration” in accordance with section 312(b) of the National Aeronautics and Space Act of 1958, as amended by Public Law 106–377.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the Inspector General Act of 1978, as amended, \$32,400,000, to remain available until September 30, 2007.

ADMINISTRATIVE PROVISIONS

Notwithstanding the limitation on the availability of funds appropriated for “Science, Aeronautics and Exploration”, or “Exploration Capabilities” by this appropriations Act, when any activity has been initiated by the incurrence of obligations for construction of facilities or environmental compliance and restoration activities as authorized by law, such amount available for such activity shall remain available until expended. This provision does not apply to the amounts appropriated for institutional minor revitalization and construction of facilities, and institutional facility planning and design.

Notwithstanding the limitation on the availability of funds appropriated for “Science, Aeronautics and Exploration”, or “Exploration Capabilities” by this appropriations Act, the amounts appropriated for construction of facilities shall remain available until September 30, 2008.

Funds for announced prizes otherwise authorized shall remain available, without fiscal year limitation, until the prize is claimed or the offer is withdrawn. Funding shall not be made available for Centennial Challenges unless authorized.

Funding made available under the headings “Exploration Capabilities” and “Science, Aeronautics and Exploration” in this Act shall be governed by the terms and conditions specified in the statement of managers accompanying the conference report for this Act.

The unexpired balances of prior appropriations to National Aeronautics and Space Administration for activities for which funds are provided under this Act may be transferred to the new account established for the appropriation that provides such activity under this Act. Balances so transferred may be merged with funds in the newly established account and thereafter may be accounted for as one fund under the same terms and conditions.

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

For necessary expenses in carrying out the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875), and the Act to establish a National Medal of Science (42 U.S.C. 1880-1881); services as authorized by 5 U.S.C. 3109; maintenance and operation of aircraft and purchase of flight services for research support; acquisition of aircraft; and authorized travel; \$4,387,520,000, to remain available until September 30, 2007, of which not to exceed \$425,000,000 shall remain available until expended for Polar research and operations support, and for reimbursement to other Federal agencies for operational and science support and logistical and other related activities for the United States Antarctic program: *Provided*, That from funds specified in the fiscal year 2006 budget request for icebreaking services, such sums shall be available for the procurement of polar icebreaking services: *Provided further*, That the National Science Foundation shall reimburse the Coast Guard according to the existing memorandum of agreement: *Provided further*, That receipts for scientific support services and materials furnished by the National Research Centers and other National Science Foundation supported research facilities may be credited to this appropriation: *Provided further*, That to the extent that the amount appropriated is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally: *Provided further*, That funds under this heading may be available for innovation inducement prizes.

MAJOR RESEARCH EQUIPMENT AND FACILITIES CONSTRUCTION

For necessary expenses for the acquisition, construction, commissioning, and upgrading of major research equipment, facilities, and other such capital assets pursuant to the National Science Foundation Act of 1950, as amended, including authorized travel, \$193,350,000, to remain available until expended.

EDUCATION AND HUMAN RESOURCES

For necessary expenses in carrying out science and engineering education and human resources programs and activities pursuant to the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875), including services as authorized by 5 U.S.C. 3109, authorized travel, and rental of conference rooms in the District of Columbia, \$807,000,000, to remain available until September 30, 2007: *Provided*, That to the extent that the amount of this appropriation is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally.

SALARIES AND EXPENSES

For salaries and expenses necessary in carrying out the National Science Foundation Act of 1950, as amended (42 U.S.C.

1861–1875); services authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; not to exceed \$9,000 for official reception and representation expenses; uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; rental of conference rooms in the District of Columbia; and reimbursement of the General Services Administration for security guard services; \$250,000,000: *Provided*, That contracts may be entered into under “Salaries and Expenses” in fiscal year 2006 for maintenance and operation of facilities, and for other services, to be provided during the next fiscal year.

OFFICE OF THE NATIONAL SCIENCE BOARD

For necessary expenses (including payment of salaries, authorized travel, hire of passenger motor vehicles, the rental of conference rooms in the District of Columbia, and the employment of experts and consultants under section 3109 of title 5, United States Code) involved in carrying out section 4 of the National Science Foundation Act of 1950 (42 U.S.C. 1863) and Public Law 86–209 (42 U.S.C. 1880 et seq.), \$4,000,000: *Provided*, That not more than \$9,000 shall be available for official reception and representation expenses.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General as authorized by the Inspector General Act of 1978, as amended, \$11,500,000, to remain available until September 30, 2007.

This title may be cited as the “Science Appropriations Act, 2006”.

TITLE IV—DEPARTMENT OF STATE AND RELATED AGENCY

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Department of State and the Foreign Service not otherwise provided for, including employment, without regard to civil service and classification laws, of persons on a temporary basis (not to exceed \$700,000 of this appropriation), as authorized by section 801 of the United States Information and Educational Exchange Act of 1948; representation to certain international organizations in which the United States participates pursuant to treaties ratified pursuant to the advice and consent of the Senate or specific Acts of Congress; arms control, non-proliferation and disarmament activities as authorized; acquisition by exchange or purchase of passenger motor vehicles as authorized by law; and for expenses of general administration, \$3,680,019,000: *Provided*, That not to exceed 71 permanent positions and \$9,804,000 shall be for the Bureau of Legislative Affairs: *Provided further*, That of the amount made available under this heading, not to exceed \$4,000,000 may be transferred to, and merged with, funds in the “Emergencies in the Diplomatic and Consular Service” appropriations account, to be available only for emergency evacuations and terrorism rewards: *Provided further*, That of the amount made

Department of
State and
Related Agency
Appropriations
Act, 2006.

Deadline.
Notification.

available under this heading, not less than \$334,000,000 shall be available only for public diplomacy international information programs: *Provided further*, That of the amount made available under this heading, not less than \$2,000,000 shall be for a contribution to the Scholar Rescue Fund endowment: *Provided further*, That of the amount made available under this heading, \$3,000,000 shall be available only for the operations of the Office on Right-Sizing the United States Government Overseas Presence: *Provided further*, That funds available under this heading may be available for a United States Government interagency task force to examine, coordinate and oversee United States participation in the United Nations headquarters renovation project: *Provided further*, That no funds may be obligated or expended for processing licenses for the export of satellites of United States origin (including commercial satellites and satellite components) to the People's Republic of China unless, at least 15 days in advance, the Committees on Appropriations of the House of Representatives and the Senate are notified of such proposed action: *Provided further*, That funds appropriated under this heading are available, pursuant to 31 U.S.C. 1108(g), for the field examination of programs and activities in the United States funded from any account contained in this title.

In addition, not to exceed \$1,469,000 shall be derived from fees collected from other executive agencies for lease or use of facilities located at the International Center in accordance with section 4 of the International Center Act; in addition, as authorized by section 5 of such Act, \$490,000, to be derived from the reserve authorized by that section, to be used for the purposes set out in that section; in addition, as authorized by section 810 of the United States Information and Educational Exchange Act, not to exceed \$6,000,000, to remain available until expended, may be credited to this appropriation from fees or other payments received from English teaching, library, motion pictures, and publication programs and from fees from educational advising and counseling and exchange visitor programs; and, in addition, not to exceed \$15,000, which shall be derived from reimbursements, surcharges, and fees for use of Blair House facilities.

In addition, for the costs of worldwide security upgrades, \$689,523,000, to remain available until expended.

CAPITAL INVESTMENT FUND

For necessary expenses of the Capital Investment Fund, \$58,895,000, to remain available until expended, as authorized: *Provided*, That section 135(e) of Public Law 103-236 shall not apply to funds available under this heading.

CENTRALIZED INFORMATION TECHNOLOGY MODERNIZATION PROGRAM

For expenses relating to the modernization of the information technology systems and networks of the Department of State, \$69,368,000, to remain available until expended.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General, \$30,029,000, notwithstanding section 209(a)(1) of the Foreign

Service Act of 1980 (Public Law 96–465), as it relates to post inspections.

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

For expenses of educational and cultural exchange programs, as authorized, \$431,790,000, to remain available until expended: *Provided*, That not to exceed \$2,000,000, to remain available until expended, may be credited to this appropriation from fees or other payments received from or in connection with English teaching, educational advising and counseling programs, and exchange visitor programs as authorized.

REPRESENTATION ALLOWANCES

For representation allowances as authorized, \$8,281,000.

PROTECTION OF FOREIGN MISSIONS AND OFFICIALS

For expenses, not otherwise provided, to enable the Secretary of State to provide for extraordinary protective services, as authorized, \$9,390,000, to remain available until September 30, 2007.

EMBASSY SECURITY, CONSTRUCTION, AND MAINTENANCE

For necessary expenses for carrying out the Foreign Service Buildings Act of 1926 (22 U.S.C. 292–303), preserving, maintaining, repairing, and planning for buildings that are owned or directly leased by the Department of State, renovating, in addition to funds otherwise available, the Harry S Truman Building, and carrying out the Diplomatic Security Construction Program as authorized, \$598,800,000, to remain available until expended as authorized, of which not to exceed \$25,000 may be used for domestic and overseas representation as authorized: *Provided*, That none of the funds appropriated in this paragraph shall be available for acquisition of furniture, furnishings, or generators for other departments and agencies.

In addition, for the costs of worldwide security upgrades, acquisition, and construction as authorized, \$910,200,000, to remain available until expended.

EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary to enable the Secretary of State to meet unforeseen emergencies arising in the Diplomatic and Consular Service, \$10,000,000, to remain available until expended as authorized, of which not to exceed \$1,000,000 may be transferred to and merged with the “Repatriation Loans Program Account”, subject to the same terms and conditions.

REPATRIATION LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, \$712,000, as authorized: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974.

In addition, for administrative expenses necessary to carry out the direct loan program, \$607,000, which may be transferred to and merged with funds in the “Diplomatic and Consular Programs” account.

PAYMENT TO THE AMERICAN INSTITUTE IN TAIWAN

For necessary expenses to carry out the Taiwan Relations Act (Public Law 96–8), \$19,751,000.

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For payment to the Foreign Service Retirement and Disability Fund, as authorized by law, \$131,700,000.

INTERNATIONAL ORGANIZATIONS

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

22 USC 269a
note.

Notification.
Deadline.

For expenses, not otherwise provided for, necessary to meet annual obligations of membership in international multilateral organizations, pursuant to treaties ratified pursuant to the advice and consent of the Senate, conventions or specific Acts of Congress, \$1,166,212,000: *Provided*, That the Secretary of State shall, at the time of the submission of the President’s budget to Congress under section 1105(a) of title 31, United States Code, transmit to the Committees on Appropriations the most recent biennial budget prepared by the United Nations for the operations of the United Nations: *Provided further*, That the Secretary of State shall notify the Committees on Appropriations at least 15 days in advance (or in an emergency, as far in advance as is practicable) of any United Nations action to increase funding for any United Nations program without identifying an offsetting decrease elsewhere in the United Nations budget and cause the United Nations budget for the biennium 2006–2007 to exceed the revised United Nations budget level for the biennium 2004–2005 of \$3,695,480,000: *Provided further*, That any payment of arrearages under this title shall be directed toward special activities that are mutually agreed upon by the United States and the respective international organization: *Provided further*, That none of the funds appropriated in this paragraph shall be available for a United States contribution to an international organization for the United States share of interest costs made known to the United States Government by such organization for loans incurred on or after October 1, 1984, through external borrowings.

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

Deadline.
Notification.

For necessary expenses to pay assessed and other expenses of international peacekeeping activities directed to the maintenance or restoration of international peace and security, \$1,035,500,000, of which 15 percent shall remain available until September 30, 2007: *Provided*, That none of the funds made available under this Act shall be obligated or expended for any new or expanded United Nations peacekeeping mission unless, at least 15 days in advance of voting for the new or expanded mission in the United Nations Security Council (or in an emergency as far in advance as is

practicable): (1) the Committees on Appropriations and other appropriate committees of the Congress are notified of the estimated cost and length of the mission, the national interest that will be served, and the planned exit strategy; (2) the Committees on Appropriations and other appropriate committees of the Congress are notified that the United Nations has taken appropriate measures to prevent United Nations employees, contractor personnel, and peacekeeping forces serving in any United Nations peacekeeping mission from trafficking in persons, exploiting victims of trafficking, or committing acts of illegal sexual exploitation, and to hold accountable individuals who engage in such acts while participating in the peacekeeping mission; and (3) a reprogramming of funds pursuant to section 605 of this Act is submitted, and the procedures therein followed, setting forth the source of funds that will be used to pay for the cost of the new or expanded mission: *Provided further*, That funds shall be available for peacekeeping expenses only upon a certification by the Secretary of State to the appropriate committees of the Congress that American manufacturers and suppliers are being given opportunities to provide equipment, services, and material for United Nations peacekeeping activities equal to those being given to foreign manufacturers and suppliers: *Provided further*, That none of the funds made available under this heading are available to pay the United States share of the cost of court monitoring that is part of any United Nations peacekeeping mission.

Certification.

INTERNATIONAL COMMISSIONS

For necessary expenses, not otherwise provided for, to meet obligations of the United States arising under treaties, or specific Acts of Congress, as follows:

22 USC 269a
note.INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES
AND MEXICO

For necessary expenses for the United States Section of the International Boundary and Water Commission, United States and Mexico, and to comply with laws applicable to the United States Section, including not to exceed \$6,000 for representation; as follows:

SALARIES AND EXPENSES

For salaries and expenses, not otherwise provided for, \$28,000,000.

CONSTRUCTION

For detailed plan preparation and construction of authorized projects, \$5,300,000, to remain available until expended, as authorized.

AMERICAN SECTIONS, INTERNATIONAL COMMISSIONS

For necessary expenses, not otherwise provided, for the International Joint Commission and the International Boundary Commission, United States and Canada, as authorized by treaties between the United States and Canada or Great Britain, and for the Border Environment Cooperation Commission as authorized

by Public Law 103–182, \$10,039,000, of which not to exceed \$9,000 shall be available for representation expenses incurred by the International Joint Commission.

INTERNATIONAL FISHERIES COMMISSIONS

For necessary expenses for international fisheries commissions, not otherwise provided for, as authorized by law, \$24,000,000: *Provided*, That the United States' share of such expenses may be advanced to the respective commissions pursuant to 31 U.S.C. 3324.

OTHER

PAYMENT TO THE ASIA FOUNDATION

For a grant to the Asia Foundation, as authorized by the Asia Foundation Act (22 U.S.C. 4402), \$14,000,000, to remain available until expended, as authorized.

CENTER FOR MIDDLE EASTERN-WESTERN DIALOGUE TRUST FUND

For a grant to the Center for Middle Eastern-Western Dialogue Trust Fund (22 U.S.C. 2078), \$5,000,000 for operation of the Center for Middle Eastern-Western Dialogue in Istanbul, Turkey.

In addition, for necessary expenses of the Center for Middle Eastern-Western Dialogue Trust Fund, the total amount of the interest and earnings accruing to such Fund on or before September 30, 2006, to remain available until expended.

EISENHOWER EXCHANGE FELLOWSHIP PROGRAM

For necessary expenses of Eisenhower Exchange Fellowships, Incorporated, as authorized by sections 4 and 5 of the Eisenhower Exchange Fellowship Act of 1990 (20 U.S.C. 5204–5205), all interest and earnings accruing to the Eisenhower Exchange Fellowship Program Trust Fund on or before September 30, 2006, to remain available until expended: *Provided*, That none of the funds appropriated herein shall be used to pay any salary or other compensation, or to enter into any contract providing for the payment thereof, in excess of the rate authorized by 5 U.S.C. 5376; or for purposes which are not in accordance with OMB Circulars A–110 (Uniform Administrative Requirements) and A–122 (Cost Principles for Non-profit Organizations), including the restrictions on compensation for personal services.

ISRAELI ARAB SCHOLARSHIP PROGRAM

For necessary expenses of the Israeli Arab Scholarship Program as authorized by section 214 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (22 U.S.C. 2452), all interest and earnings accruing to the Israeli Arab Scholarship Fund on or before September 30, 2006, to remain available until expended.

EAST-WEST CENTER

To enable the Secretary of State to provide for carrying out the provisions of the Center for Cultural and Technical Interchange Between East and West Act of 1960, by grant to the Center for Cultural and Technical Interchange Between East and West in the State of Hawaii, \$19,240,000: *Provided*, That none of the funds

appropriated herein shall be used to pay any salary, or enter into any contract providing for the payment thereof, in excess of the rate authorized by 5 U.S.C. 5376.

NATIONAL ENDOWMENT FOR DEMOCRACY

For grants made by the Department of State to the National Endowment for Democracy as authorized by the National Endowment for Democracy Act, \$75,000,000, to remain available until expended.

RELATED AGENCY

BROADCASTING BOARD OF GOVERNORS

INTERNATIONAL BROADCASTING OPERATIONS

For expenses necessary to enable the Broadcasting Board of Governors, as authorized, to carry out international communication activities, including the purchase, rent, construction, and improvement of facilities for radio and television transmission and reception and purchase, lease, and installation of necessary equipment for radio and television transmission and reception to Cuba, and to make and supervise grants for radio and television broadcasting to the Middle East, \$641,450,000: *Provided*, That of the total amount in this heading, not to exceed \$16,000 may be used for official receptions within the United States as authorized, not to exceed \$35,000 may be used for representation abroad as authorized, and not to exceed \$39,000 may be used for official reception and representation expenses of Radio Free Europe/Radio Liberty; and in addition, notwithstanding any other provision of law, not to exceed \$2,000,000 in receipts from advertising and revenue from business ventures, not to exceed \$500,000 in receipts from cooperating international organizations, and not to exceed \$1,000,000 in receipts from privatization efforts of the Voice of America and the International Broadcasting Bureau, to remain available until expended for carrying out authorized purposes.

BROADCASTING CAPITAL IMPROVEMENTS

For the purchase, rent, construction, and improvement of facilities for radio and television transmission and reception, and purchase and installation of necessary equipment for radio and television transmission and reception as authorized, \$10,893,000, to remain available until expended, as authorized.

GENERAL PROVISIONS—DEPARTMENT OF STATE AND RELATED AGENCY

SEC. 401. Funds appropriated under this title shall be available, except as otherwise provided, for allowances and differentials as authorized by subchapter 59 of title 5, United States Code; for services as authorized by 5 U.S.C. 3109; and for hire of passenger transportation pursuant to 31 U.S.C. 1343(b).

SEC. 402. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of State in this title may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 10 percent by any such transfers:

Provided, That not to exceed 5 percent of any appropriation made available for the current fiscal year for the Broadcasting Board of Governors in this title may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 10 percent by any such transfers: *Provided further*, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

Palestinian
Broadcasting
Corporation.

SEC. 403. None of the funds made available in this title may be used by the Department of State or the Broadcasting Board of Governors to provide equipment, technical support, consulting services, or any other form of assistance to the Palestinian Broadcasting Corporation.

SEC. 404. (a) The Senior Policy Operating Group on Trafficking in Persons, established under section 406 of division B of Public Law 108-7 to coordinate agency activities regarding policies (including grants and grant policies) involving the international trafficking in persons, shall coordinate all such policies related to the activities of traffickers and victims of severe forms of trafficking.

(b) None of the funds provided in this or any other Act shall be expended to perform functions that duplicate coordinating responsibilities of the Operating Group.

(c) The Operating Group shall continue to report only to the authorities that appointed them pursuant to section 406 of division B of Public Law 108-7.

Records.
Israel.

SEC. 405. For the purposes of registration of birth, certification of nationality, or issuance of a passport of a United States citizen born in the city of Jerusalem, the Secretary of State shall, upon request of the citizen, record the place of birth as Israel.

SEC. 406. Notwithstanding any other provision of law, of the funds appropriated by this Act under the heading "Diplomatic and Consular Programs": \$5,000,000 shall be made available for an endowment for the Center for Asian Democracy; \$100,000 shall be made available for a grant to the Center for the Study of the Presidency for a public diplomacy initiative; \$300,000 shall be made available for a grant to Operation Smile for a public diplomacy program; and \$350,000 shall be made available for a grant to MiraMed for programs to combat human trafficking.

SEC. 407. Funds appropriated under this title for the Broadcasting Board of Governors and the Department of State may be obligated and expended notwithstanding section 15 of the State Department Basic Authorities Act of 1956, section 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236), and section 504(a)(1) of the National Security Act of 1947 (50 U.S.C. 414(a)(1)).

SEC. 408. (a) Funds provided in this title for the following accounts shall be made available for programs in the amounts contained in the respective tables included in the report accompanying this Act:

- "Educational and Cultural Exchange Programs".
- "National Endowment for Democracy".
- "International Broadcasting Operations".
- "Broadcasting Capital Improvements".

(b) Any proposed increases or decreases to the amounts contained in such tables in the accompanying report shall be subject to the regular notification procedures in section 605 of this Act.

(c) The Secretary of State shall notify the Committees on Appropriations 15 days in advance of recommending the issuance of any license subject to Executive Order No. 13067.

Notification.
Deadline.

SEC. 409. Notwithstanding any other provision of law, of the funds appropriated or otherwise made available in this title, not more than \$1,035,500,000 shall be available for payment to the United Nations for assessed and other expenses of international peacekeeping activities.

SEC. 410. Section 1334 of the Foreign Affairs Reform and Restructuring Act of 1998 (22 U.S.C. 6553) is amended by striking “October 1, 2005” and inserting “October 1, 2006”.

SEC. 411. None of the funds appropriated under this title may be made available to pay any contribution of the United States to the United Nations if the United Nations implements or imposes any taxation on any United States persons.

United Nations.

SEC. 412. It is the sense of the Congress that the amount of any loan for the renovation of the United Nations headquarters building located in New York, New York, should not exceed \$600,000,000: *Provided*, That if any loan exceeds \$600,000,000, the Secretary of State shall notify the Congress of the current cost of the renovation and cost containment measures.

Notification.

SEC. 413. None of the funds made available by this title may be used for any United Nations undertaking when it is made known to the Federal official having authority to obligate or expend such funds that: (1) the United Nations undertaking is a peacekeeping mission; (2) such undertaking will involve United States Armed Forces under the command or operational control of a foreign national; and (3) the President’s military advisors have not submitted to the President a recommendation that such involvement is in the national security interests of the United States and the President has not submitted to the Congress such a recommendation.

United Nations.

SEC. 414. (a) None of the funds appropriated or otherwise made available under this title shall be expended for any purpose for which appropriations are prohibited by section 609 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1999.

(b) The requirements in subparagraphs (A) and (B) of section 609 of that Act shall continue to apply during fiscal year 2006.

Applicability.

SEC. 415. (a) None of the funds appropriated or otherwise made available under this title shall be expended for any purpose for which appropriations are prohibited by section 616 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1999.

(b) The requirements in subsections (b) and (c) of section 616 of that Act shall continue to apply during fiscal year 2006.

Applicability.

SEC. 416. (a) Except as provided in subsection (b), a project to construct a diplomatic facility of the United States may not include office space or other accommodations for an employee of a Federal agency or department if the Secretary of State determines that such department or agency has not provided to the Department of State the full amount of funding required by subsection (e) of section 604 of the Secure Embassy Construction and Counterterrorism Act of 1999 (as enacted into law by section

1000(a)(7) of Public Law 106–113 and contained in appendix G of that Act; 113 Stat. 1501A–453), as amended by section 629 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2005.

(b) Notwithstanding the prohibition in subsection (a), a project to construct a diplomatic facility of the United States may include office space or other accommodations for members of the Marine Corps.

SEC. 417. Ceilings and earmarks contained in this title shall not be applicable to funds or authorities appropriated or otherwise made available by any subsequent Act unless such Act specifically so directs. Earmarks or minimum funding requirements contained in any other Act shall not be applicable to funds appropriated by this title.

This title may be cited as the “Department of State and Related Agency Appropriations Act, 2006”.

TITLE V—RELATED AGENCIES

ANTITRUST MODERNIZATION COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Antitrust Modernization Commission, as authorized by Public Law 107–273, \$1,172,000, to remain available until expended.

COMMISSION FOR THE PRESERVATION OF AMERICA’S HERITAGE ABROAD

SALARIES AND EXPENSES

For expenses for the Commission for the Preservation of America’s Heritage Abroad, \$499,000, as authorized by section 1303 of Public Law 99–83.

COMMISSION ON CIVIL RIGHTS

SALARIES AND EXPENSES

For necessary expenses of the Commission on Civil Rights, including hire of passenger motor vehicles, \$9,048,000: *Provided*, That none of the funds appropriated in this paragraph shall be used to employ in excess of four full-time individuals under Schedule C of the Excepted Service exclusive of one special assistant for each Commissioner: *Provided further*, That none of the funds appropriated in this paragraph shall be used to reimburse Commissioners for more than 75 billable days, with the exception of the chairperson, who is permitted 125 billable days.

COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM

SALARIES AND EXPENSES

For necessary expenses for the United States Commission on International Religious Freedom, as authorized by title II of the International Religious Freedom Act of 1998 (Public Law 105–292), \$3,300,000, to remain available until September 30, 2007.

COMMISSION ON SECURITY AND COOPERATION IN EUROPE

SALARIES AND EXPENSES

For necessary expenses of the Commission on Security and Cooperation in Europe, as authorized by Public Law 94–304, \$2,030,000, to remain available until September 30, 2007.

CONGRESSIONAL-EXECUTIVE COMMISSION ON THE PEOPLE'S
REPUBLIC OF CHINA

SALARIES AND EXPENSES

For necessary expenses of the Congressional-Executive Commission on the People's Republic of China, as authorized, \$1,900,000, including not more than \$3,000 for the purpose of official representation, to remain available until September 30, 2007.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Equal Employment Opportunity Commission as authorized by title VII of the Civil Rights Act of 1964 (29 U.S.C. 206(d) and 621–634), the Americans with Disabilities Act of 1990, and the Civil Rights Act of 1991, including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles as authorized by 31 U.S.C. 1343(b); non-monetary awards to private citizens; and not to exceed \$33,000,000 for payments to State and local enforcement agencies for services to the Commission pursuant to title VII of the Civil Rights Act of 1964, sections 6 and 14 of the Age Discrimination in Employment Act, the Americans with Disabilities Act of 1990, and the Civil Rights Act of 1991, \$331,228,000: *Provided*, That the Commission is authorized to make available for official reception and representation expenses not to exceed \$2,500 from available funds: *Provided further*, That the Commission may take no action to implement any workforce repositioning, restructuring, or reorganization until such time as the Committees on Appropriations have been notified of such proposals, in accordance with the reprogramming provisions of section 605 of this Act.

Notification.

FEDERAL COMMUNICATIONS COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Communications Commission, as authorized by law, including uniforms and allowances therefor, as authorized by 5 U.S.C. 5901–5902; not to exceed \$4,000 for official reception and representation expenses; purchase and hire of motor vehicles; special counsel fees; and services as authorized by 5 U.S.C. 3109, \$289,771,000: *Provided*, That \$288,771,000 of offsetting collections shall be assessed and collected pursuant to section 9 of title I of the Communications Act of 1934, shall be retained and used for necessary expenses in this appropriation, and shall remain available until expended: *Provided further*, That the sum herein appropriated shall be reduced as such offsetting collections are received during fiscal year 2006 so as to result in a final fiscal year 2006 appropriation estimated

at \$1,000,000: *Provided further*, That any offsetting collections received in excess of \$288,771,000 in fiscal year 2006 shall remain available until expended, but shall not be available for obligation until October 1, 2006: *Provided further*, That notwithstanding 47 U.S.C. 309(j)(8)(B), proceeds from the use of a competitive bidding system that may be retained and made available for obligation shall not exceed \$85,000,000 for fiscal year 2006.

FEDERAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Trade Commission, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and not to exceed \$2,000 for official reception and representation expenses, \$211,000,000, to remain available until expended: *Provided*, That not to exceed \$300,000 shall be available for use to contract with a person or persons for collection services in accordance with the terms of 31 U.S.C. 3718: *Provided further*, That, notwithstanding any other provision of law, not to exceed \$116,000,000 of offsetting collections derived from fees collected for premerger notification filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (15 U.S.C. 18a), regardless of the year of collection, shall be retained and used for necessary expenses in this appropriation: *Provided further*, That, notwithstanding any other provision of law, \$23,000,000 in offsetting collections derived from fees sufficient to implement and enforce the Telemarketing Sales Rule, promulgated under the Telephone Consumer Fraud and Abuse Prevention Act (15 U.S.C. 6101 et seq.), shall be credited to this account, and be retained and used for necessary expenses in this appropriation: *Provided further*, That the sum herein appropriated from the general fund shall be reduced as such offsetting collections are received during fiscal year 2006, so as to result in a final fiscal year 2006 appropriation from the general fund estimated at not more than \$72,000,000: *Provided further*, That none of the funds made available to the Federal Trade Commission may be used to enforce subsection (e) of section 43 of the Federal Deposit Insurance Act (12 U.S.C. 1831t) or section 151(b)(2) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 1831t note).

LEGAL SERVICES CORPORATION

PAYMENT TO THE LEGAL SERVICES CORPORATION

For payment to the Legal Services Corporation to carry out the purposes of the Legal Services Corporation Act of 1974, \$330,803,000, of which \$312,375,000 is for basic field programs and required independent audits; \$2,539,000 is for the Office of Inspector General, of which such amounts as may be necessary may be used to conduct additional audits of recipients; \$12,825,000 is for management and administration; \$1,255,000 is for client self-help and information technology; and \$1,809,000 is for grants to offset losses due to census adjustments.

ADMINISTRATIVE PROVISION—LEGAL SERVICES CORPORATION

None of the funds appropriated in this Act to the Legal Services Corporation shall be expended for any purpose prohibited or limited by, or contrary to any of the provisions of, sections 501, 502, 503, 504, 505, and 506 of Public Law 105–119, and all funds appropriated in this Act to the Legal Services Corporation shall be subject to the same terms and conditions set forth in such sections, except that all references in sections 502 and 503 to 1997 and 1998 shall be deemed to refer instead to 2005 and 2006, respectively, and except that section 501(a)(1) of Public Law 104–134 (110 Stat. 1321–51 et seq.) shall not apply to the use of the \$1,809,000 to address loss of funding due to Census-based reallocations.

MARINE MAMMAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Marine Mammal Commission as authorized by title II of Public Law 92–522, \$2,920,000, of which \$920,000 shall remain available until September 30, 2007.

NATIONAL VETERANS BUSINESS DEVELOPMENT CORPORATION

For necessary expenses of the National Veterans Business Development Corporation as authorized under section 33(a) of the Small Business Act, \$1,500,000, to remain available until expended.

SECURITIES AND EXCHANGE COMMISSION

SALARIES AND EXPENSES

For necessary expenses for the Securities and Exchange Commission, including services as authorized by 5 U.S.C. 3109, the rental of space (to include multiple year leases) in the District of Columbia and elsewhere, and not to exceed \$3,000 for official reception and representation expenses, \$888,117,000, to remain available until expended; of which not to exceed \$10,000 may be used toward funding a permanent secretariat for the International Organization of Securities Commissions; and of which not to exceed \$100,000 shall be available for expenses for consultations and meetings hosted by the Commission with foreign governmental and other regulatory officials, members of their delegations, appropriate representatives and staff to exchange views concerning developments relating to securities matters, development and implementation of cooperation agreements concerning securities matters and provision of technical assistance for the development of foreign securities markets, such expenses to include necessary logistic and administrative expenses and the expenses of Commission staff and foreign invitees in attendance at such consultations and meetings including: (1) such incidental expenses as meals taken in the course of such attendance; (2) any travel and transportation to or from such meetings; and (3) any other related lodging or subsistence: *Provided*, That fees and charges authorized by sections 6(b) of the Securities Exchange Act of 1933 (15 U.S.C. 77f(b)), and 13(e), 14(g) and 31 of the Securities Exchange Act of 1934 (15 U.S.C. 78m(e), 78n(g), and 78ee), shall be credited to this account as offsetting collections: *Provided further*, That not to exceed

\$863,117,000 of such offsetting collections shall be available until expended for necessary expenses of this account: *Provided further*, That \$25,000,000 shall be derived from prior year unobligated balances from funds previously appropriated to the Securities and Exchange Commission: *Provided further*, That the total amount appropriated under this heading from the general fund for fiscal year 2006 shall be reduced as such offsetting fees are received so as to result in a final total fiscal year 2006 appropriation from the general fund estimated at not more than \$0.

SMALL BUSINESS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, of the Small Business Administration as authorized by Public Law 108–447, including hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344, and not to exceed \$3,500 for official reception and representation expenses, \$313,029,000: *Provided*, That the Administrator is authorized to charge fees to cover the cost of publications developed by the Small Business Administration, and certain loan servicing activities: *Provided further*, That, notwithstanding 31 U.S.C. 3302, revenues received from all such activities shall be credited to this account, to be available for carrying out these purposes without further appropriations: *Provided further*, That \$89,000,000 shall be available to fund grants for performance in fiscal year 2006 or fiscal year 2007 as authorized: *Provided further*, That the Small Business Administration is authorized to award grants under the Women’s Business Center Sustainability Pilot Program established by section 4(a) of Public Law 106–165 (15 U.S.C. 656(l)): *Provided further*, That, of the amounts provided for Women’s Business Centers, not less than 41 percent shall be available to continue Women’s Business Centers in sustainability status.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, \$13,900,000.

SURETY BOND GUARANTEES REVOLVING FUND

For additional capital for the Surety Bond Guarantees Revolving Fund, authorized by the Small Business Investment Act, as amended, \$2,861,000, to remain available until expended.

BUSINESS LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For the cost of direct loans, \$1,300,000, to remain available until expended: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That subject to section 502 of the Congressional Budget Act of 1974, during fiscal year 2006 commitments to guarantee loans under section 503 of the Small Business Investment Act of 1958, shall not exceed the levels established under 20(e)(1)(B)(ii) of the Small Business

Act: *Provided further*, That during fiscal year 2006 commitments for general business loans authorized under section 7(a) of the Small Business Act, shall not exceed the levels established under 20(e)(1)(B)(i) of the Small Business Act: *Provided further*, That during fiscal year 2006 commitments to guarantee loans for debentures under section 303(b) of the Small Business Investment Act of 1958, shall not exceed \$3,000,000,000: *Provided further*, That during fiscal year 2006 guarantees of trust certificates authorized by section 5(g) of the Small Business Act shall not exceed a principal amount of \$12,000,000,000.

In addition, for administrative expenses to carry out the direct and guaranteed loan programs, \$125,307,000, which may be transferred to and merged with the appropriations for Salaries and Expenses: *Provided*, That, of the funds previously made available under Public Law 105–135, section 507(g), for the Delta Loan program, up to \$500,000 may be transferred to and merged with the appropriation for Salaries and Expenses.

DISASTER LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

From unobligated balances under this heading, in fiscal year 2006, not to exceed \$9,000,000 may be transferred to and merged with appropriations for Salaries and Expenses for indirect administrative expenses, of which \$1,500,000 is for the Office of Inspector General of the Small Business Administration for audits and reviews of disaster loans and the disaster loan program and shall be transferred to and merged with appropriations for the Office of Inspector General.

ADMINISTRATIVE PROVISION—SMALL BUSINESS ADMINISTRATION

Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Small Business Administration in this Act may be transferred between such appropriations, but no such appropriation shall be increased by more than 10 percent by any such transfers: *Provided*, That any transfer pursuant to this paragraph shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

STATE JUSTICE INSTITUTE

SALARIES AND EXPENSES

For necessary expenses of the State Justice Institute, as authorized by the State Justice Institute Authorization Act of 1992 (Public Law 102–572), \$3,500,000: *Provided*, That not to exceed \$2,500 shall be available for official reception and representation expenses.

UNITED STATES-CHINA ECONOMIC AND SECURITY REVIEW COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the United States-China Economic and Security Review Commission, \$3,000,000, including not more

than \$5,000 for the purpose of official representation, to remain available until September 30, 2007.

UNITED STATES INSTITUTE OF PEACE

OPERATING EXPENSES

For necessary expenses of the United States Institute of Peace as authorized in the United States Institute of Peace Act, \$22,350,000, to remain available until September 30, 2007.

UNITED STATES SENATE-CHINA INTERPARLIAMENTARY GROUP

SALARIES AND EXPENSES

For necessary expenses of the United States Senate-China Interparliamentary Group, as authorized under section 153 of the Consolidated Appropriations Act, 2004 (22 U.S.C. 276n; Public Law 108–99; 118 Stat. 448), \$150,000, to remain available until September 30, 2007.

TITLE VI—GENERAL PROVISIONS

SEC. 601. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 602. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

Contracts.
Public
information.

SEC. 603. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 604. If any provision of this Act or the application of such provision to any person or circumstances shall be held invalid, the remainder of the Act and the application of each provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

Notification.
Deadline.

SEC. 605. (a) None of the funds provided under this Act, or provided under previous appropriations Acts to the agencies funded by this Act that remain available for obligation or expenditure in fiscal year 2006, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure through a reprogramming of funds that: (1) creates new programs; (2) eliminates a program, project, or activity; (3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted; (4) relocates an office or employees; (5) reorganizes or renames offices; (6) reorganizes, programs or activities; or (7) contracts out or privatizes any functions or activities presently performed by Federal employees; unless the Appropriations Committees of both Houses of Congress are notified 15 days in advance of such reprogramming of funds.

(b) None of the funds provided under this Act, or provided under previous appropriations Acts to the agencies funded by this Act that remain available for obligation or expenditure in fiscal year 2006, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure for activities, programs, or projects through a reprogramming of funds in excess of \$750,000 or 10 percent, whichever is less, that: (1) augments existing programs, projects, or activities; (2) reduces by 10 percent funding for any existing program, project, or activity, or numbers of personnel by 10 percent as approved by Congress; or (3) results from any general savings, including savings from a reduction in personnel, which would result in a change in existing programs, activities, or projects as approved by Congress; unless the Appropriations Committees of both Houses of Congress are notified 15 days in advance of such reprogramming of funds.

Notification.
Deadline.

SEC. 606. Hereafter, none of the funds made available in this Act may be used to implement, administer, or enforce any guidelines of the Equal Employment Opportunity Commission covering harassment based on religion, when it is made known to the Federal entity or official to which such funds are made available that such guidelines do not differ in any respect from the proposed guidelines published by the Commission on October 1, 1993 (58 Fed. Reg. 51266).

Religious
harrasment.

SEC. 607. If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a “Made in America” inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 608. The Departments of Commerce, Justice, and State, the Broadcasting Board of Governors, the National Science Foundation, the National Aeronautics and Space Administration, the Federal Communications Commission, the Securities and Exchange Commission and the Small Business Administration shall provide to the Committees on Appropriations of the Senate and of the House of Representatives a quarterly accounting of the cumulative balances of any unobligated funds that were received by such agency during any previous fiscal year.

Records.

SEC. 609. Any costs incurred by a department or agency funded under this Act resulting from personnel actions taken in response to funding reductions included in this Act shall be absorbed within the total budgetary resources available to such department or agency: *Provided*, That the authority to transfer funds between appropriations accounts as may be necessary to carry out this section is provided in addition to authorities included elsewhere in this Act: *Provided further*, That use of funds to carry out this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

Tobacco and
tobacco products.

SEC. 610. None of the funds provided by this Act shall be available to promote the sale or export of tobacco or tobacco products, or to seek the reduction or removal by any foreign country of restrictions on the marketing of tobacco or tobacco products, except for restrictions which are not applied equally to all tobacco or tobacco products of the same type.

Firearms.

SEC. 611. None of the funds appropriated pursuant to this Act or any other provision of law may be used for—

(1) the implementation of any tax or fee in connection with the implementation of subsection 922(t) of title 18, United States Code; and

(2) any system to implement subsection 922(t) of title 18, United States Code, that does not require and result in the destruction of any identifying information submitted by or on behalf of any person who has been determined not to be prohibited from possessing or receiving a firearm no more than 24 hours after the system advises a Federal firearms licensee that possession or receipt of a firearm by the prospective transferee would not violate subsection (g) or (n) of section 922 of title 18, United States Code, or State law.

42 USC 10601
note.

SEC. 612. Notwithstanding any other provision of law, amounts deposited or available in the Fund established under 42 U.S.C. 10601 in any fiscal year in excess of \$625,000,000 shall not be available for obligation until the following fiscal year.

SEC. 613. For additional amounts under the heading “Small Business Administration, Salaries and Expenses”, \$1,000,000 shall be available for the Adelante Development Center, Inc., NM; \$850,000 shall be available for the Alabama Department of Archives and History, Montgomery, AL; \$500,000 shall be available for the Alabama Humanities Foundation for a Statewide Initiative; \$1,500,000 shall be available for Alabama State Docks Economic Development; \$200,000 shall be available for the Alaska Small Business Development Center; \$1,000,000 shall be available for the Alcorn State University Judicial Threat Analysis Center; \$775,000 shall be available for Ben Franklin Technology Partners Translational Action Research Boards, Philadelphia, PA; \$1,000,000 shall be available for the Bring Back Broad Street Initiative, Mobile, AL; \$450,000 shall be available for the City of Guin, AL, Industrial Development Initiative; \$250,000 shall be available for the City of Monroeville, AL, Community Enrichment Project; \$300,000 shall be available for the City of Oneonta, AL, for industrial development; \$500,000 shall be available for the City of Richland Revitalization Project; \$100,000 shall be available for community development in Randolph County, AL; \$275,000 shall be available for the Community Development Project, Huntsville, AL; \$500,000 shall be available for economic development in Lamar County, AL; \$100,000 shall be available for the Great Lakes Business Growth and Development Center at Lorain County Community College; \$200,000 shall be available for the Greenville Waterfront Industrial Enhancement Project; \$50,000 shall be available for the Houston Community College Multi-Cultural Business Center; \$75,000 shall be available for the Idaho Virtual Incubator at Lewis-Clark State College; \$500,000 shall be available for Industrial Infrastructure in Hartselle, AL; \$5,000,000 shall be available for the Industrial Outreach Service at Mississippi State University; \$450,000 shall be available for infrastructure development in Chambers County,

AL; \$200,000 shall be available for the Investnet/Technology Venture Center partnership for Alaska and Montana; \$200,000 shall be available for the Knoxville College Small Business Incubator Program; \$350,000 shall be available for the LeFleur Lakes Flood Control/Pearl River Watershed project; \$750,000 shall be available for the Manufacturing Technology Initiative at Mississippi State University; \$500,000 shall be available for the Mississippi Children's Museum; \$1,000,000 shall be available for the Mississippi Film Enterprise Zone; \$1,250,000 shall be available for the Mississippi Technology Alliance Economic Development Plan; \$500,000 shall be available for the Mitchell Memorial Library for the digitization of special collections; \$500,000 shall be available for the Montgomery, AL, Downtown Revitalization Project; \$650,000 shall be available for the New Product Development and Commercialization Center for Rural Manufacturers; \$2,100,000 shall be available for the Oak Ridge National Laboratory for the Southeastern fiber optic project (Lambda Rail); \$500,000 shall be available for the Old Fort McClellan Economic Development Initiative, Anniston, AL; \$75,000 shall be available for the Pro-Tech Program at the College of Southern Idaho; \$500,000 shall be available for the Shelby County, AL, Environmental Education Center; \$2,000,000 shall be available for Small Business Development Centers in Mississippi; \$100,000 shall be available for the South Carolina International Center for Automotive Research Park Innovation Center; \$250,000 shall be available for the Technology Venture Center, MT; \$25,000 shall be available for the Town of Millry, AL, for community development; \$1,000,000 shall be available for the Toxin Alert Development Project at the University of Southern Mississippi; \$500,000 shall be available for the Troy University Center for International Business and Economic Development; \$900,000 shall be available for the Tuck School of Business/MBDA Partnership; \$150,000 shall be available for the University of Alabama Community Development project; \$350,000 shall be available for the University of West Alabama Regional Center for Community and Economic Development; \$1,000,000 shall be available for the Women's Entrepreneurship Initiative at the Mississippi University for Women; \$500,000 shall be available for the Montana Department of Administration for spatial data to enable economic development; \$500,000 shall be available for the City of Fort Wayne, Indiana for the Institute for Orthopedic Biomaterials Research; \$1,000,000 shall be available for the New Mexico State University Arrowhead Center; \$1,000,000 shall be available for the New Mexico Community Development Loan Fund/WESSTCorp. Cooperative; \$1,500,000 shall be available for the Inland Northwest Regional GigaPop Network Connectivity project; \$300,000 shall be available for the Brooklyn, NY Chamber of Commerce for the Brooklyn Goes Global program; \$500,000 shall be available for the Institute for Technology and Business Development at Central Connecticut State University; \$500,000 shall be available for the Iowa Department of Economic Development for the Entrepreneurial Venture Assistance Project; \$400,000 shall be available for the New Ventures Center in Davenport in Iowa; \$400,000 shall be available for the Pappajohn Higher Education Center in Des Moines, Iowa; \$250,000 shall be available for the University of Vermont Small Enterprise Research Initiative; \$200,000 shall be available for the Genesis of Innovation in Rapid City, South Dakota; \$500,000 shall be available for the Wisconsin Security Research Consortium, a collaboration between

the University of Wisconsin System and the Wisconsin Technology Council; \$500,000 shall be available for the Rowan University Technology Center and Business Incubator; \$1,500,000 shall be available for the Vermont Center for Emerging Technologies; \$500,000 shall be available for the Vermont Employee Ownership Center; \$820,000 shall be available for the Central Michigan University Center for Applied Research and Technology; \$500,000 shall be available for the Nanotechnology Economic Development Program at the University of Arkansas at Little Rock; \$1,100,000 shall be available for the University of Arkansas' Research and Technology Park; \$600,000 shall be available for the Maryland Technology Development Corporation for the Minority R&D Initiative; \$1,000,000 shall be available for the University of West Florida's Statewide Small Business Development Center Network; \$200,000 shall be available for the Nevada's Commission on Economic Development; \$1,000,000 shall be available for the Clark County Department of Aviation, Las Vegas, Nevada to study and operate the international air trade show; \$250,000 shall be available for the Corona-Elmhurst Center for Economic Development, New York; \$180,000 shall be available for the Sephardic Angel Fund, New York City; \$500,000 shall be available for the Detroit Economic Growth Business Attraction Program; \$250,000 shall be available for the Oregon Department of Consumer and Business Services' One-Stop Permitting Portal; \$250,000 shall be available for the Fossil Bed Park and Ancient Lands Field House; \$100,000 shall be for a grant to Cedar Creek Battlefield Foundation; \$100,000 shall be for a grant to Belle Grove Plantation; \$250,000 shall be for a grant to Shenandoah University for a facility; \$100,000 shall be for a grant to Winchester-Frederick Convention and Visitor Bureau; \$2,000,000 shall be for a grant to Virginia Community College System for a web portal; \$200,000 shall be for a grant to Americans at War; \$500,000 shall be for a grant to Warren County, Virginia, for a community enhancement project; \$2,000,000 shall be available for the United States-China Economic and Security Review Commission for projects to study Chinese policies and practices and their impacts on American interests, the American economy, and small businesses; \$200,000 shall be for a grant to the Myrtle Beach International Trade and Convention Center; \$575,000 shall be for a grant to the Innovation and Outreach Center at the University of Mississippi; \$500,000 shall be for a grant to Competitive Manufacturing through Innovation Management at the University of Wisconsin Oshkosh; \$200,000 shall be for a grant to Business and Industrial Incubator in Cushing, Oklahoma; \$500,000 shall be for a grant to Patrick Henry Community College for a workforce development program; \$500,000 shall be for a grant to Danville Community College for a workforce development program; \$500,000 shall be for a grant to Advanced and Applied Polymer Processing Institute; \$1,000,000 shall be for a grant to the Industrial Development Authority of Halifax, VA; \$1,000,000 shall be for a grant to the University of Illinois for the Information Trust Initiative; \$1,000,000 shall be for a grant to Aurora, IL, for construction and other activities related to community development; \$200,000 shall be for a grant to Carnegie Mellon University for a Community-Based Demonstration Project; \$500,000 shall be for a grant to REI Rural Business and Resource Center in Seminole, Oklahoma; \$1,000,000 shall be for a grant to Appalachian State University; \$1,000,000 shall be for a grant to Western Carolina University for a computer engineering program; \$1,000,000

shall be for a grant to International Small Business and Trade Institute; \$500,000 shall be for a grant to the Illinois Institute for Technology to examine and assess advancements in biotechnologies; \$3,000,000 shall be for a grant to the Southern and Eastern Kentucky Tourism Development Association; \$2,500,000 shall be for a grant to the Southern and Eastern Kentucky Economic Development Corporation; \$1,000,000 shall be for a grant to the National Center for Community Renewal; \$250,000 shall be for a grant to Advanced Business Technology Incubator at College of the Canyons; \$250,000 shall be for a grant to the Applied Competitive Technologies Program of the California Community Colleges; \$250,000 shall be for a grant to Adirondack Champlain Fiber Network; \$100,000 shall be for a grant to Amoskeag Business Incubator; \$500,000 shall be for a grant to the Montana World Trade Center; \$1,000,000 shall be for a grant to the Fairplex Trade and Conference Center; \$220,000 shall be for a grant to Virtual Business Incubator in Southeast Pennsylvania; \$250,000 shall be for a grant to the Rochester Tooling and Machining Association; \$600,000 shall be for a grant to Wittenberg University to expand business education; \$500,000 shall be for a grant to Experience Works to expand opportunities for older workers; \$1,000,000 shall be for a grant to Innovation Center in Peoria, Illinois; \$1,250,000 shall be for a grant to North Iowa Area Community College business incubator; \$1,000,000 shall be for a grant to University of Redlands for development of a center to assist small business; \$500,000 shall be for a grant to McHenry County Economic Development Corporation; \$300,000 shall be for a grant to Rockford Area Ventures in Rockford, Illinois; \$1,100,000 shall be for a grant to Ohio Ready to Work program; \$530,000 shall be for a grant to Michigan State University for the Institute for Trade in the Americas; \$500,000 shall be for a grant to Bridgeport Regional Business Council for an economic integration initiative; \$100,000 shall be for a grant to Cedarbridge Development Corporation for a redevelopment initiative; \$100,000 shall be for a grant to the Heart of Florida Regional Coalition; \$150,000 shall be for a grant to Syracuse, NY, for a small business community support program; \$500,000 shall be for a grant to the Connect the Valley initiative; \$500,000 shall be for a grant to the Chattanooga Enterprise Center for a demonstration project; \$150,000 shall be available for a grant to St. Jerome Church for their community center project and programs in the Bronx, New York; \$50,000 shall be available for a grant to establish the Tito Puente Legacy Project at Hostos Community College in New York; \$150,000 shall be available for a grant to the Bronx Council on the Arts for its Arts Cultural Corridor Project to promote local arts initiatives; \$50,000 shall be available for a grant to the South Bronx Action Group to provide housing related services to the community; \$100,000 shall be available for a grant to Pro Co Technology, Inc. for their programs in the Bronx, New York; \$150,000 shall be available for a grant to Bronx Shepherds for community programs; \$200,000 shall be available for a grant to HOGAR, Inc. in the Bronx, New York; \$50,000 shall be available for a grant to the Promesa Foundation to provide financial assistance to New York area families under a youth sports and recreational initiative; \$100,000 shall be available for a grant to Promesa Enterprises in New York for infrastructure program support; \$100,000 shall be available for a grant to Presbyterian Senior Services for capital costs for their Grandparent

Family Apartments project in the Bronx, New York; \$50,000 shall be available for a grant to World Vision's Bronx Storehouse for services in the community; \$50,000 shall be available for a grant to the Bronx River Alliance for its services in the Bronx, New York; \$600,000 shall be available to the Downtown Huntsville Small Business Enhancement Initiative; \$150,000 shall be available for the Rhode Island College for the Project FLIP (Financial and Functional Literacy Incentive Program); \$750,000 shall be available for the Rhode Island School of Design in Providence, Rhode Island; \$100,000 shall be available for the Newport County Chamber of Commerce for the Aquidneck Island Corporate Park Capital Program; \$700,000 shall be available for the American Cities Foundation (ACF) Economic Development Initiative; \$300,000 shall be available for CAP Services in Stevens Point, WI; \$500,000 shall be available for the Northwest Regional Planning Commission; \$400,000 shall be available for the Wisconsin Procurement Institute; \$250,000 shall be for the JARI Workforce Development Program; \$250,000 shall be for the JARI Small Business Technology Center; \$400,000 shall be for the Economic Growth Connection Procurement Assistance Program; \$300,000 shall be for the Franklin County, Massachusetts Community Development Corporation for a rural economic growth program; \$1,870,000 shall be available for a grant to the MountainMade Foundation to fulfill its charter purposes and to continue the initiative developed by the NTTCC for outreach and promotion, business and sites development, the education of artists and craftspeople, and to promote small businesses, artisans and their products through market development, advertisement, commercial sale and other promotional means; \$1,000,000 shall be available for the INNOVA small business incubator; \$30,000 shall be available for the Town of Hambleton for upgrades and renovations to the town hall; \$100,000 shall be available for the Parsons Revitalization Organization for planning purposes; \$100,000 shall be available for Rowlesburg Revitalization Committee for neighborhood revitalization; \$500,000 shall be available for the Institute for Entrepreneurship, Small Business Development and Global Logistics at California State University at Dominguez Hills, California; \$300,000 shall be available for Brooklyn Economic Development Corporation in Brooklyn, New York to support and expand the Initiative for a Competitive Brooklyn; and \$200,000 shall be available for the Local Development Corporation of East New York for the Brooklyn Enterprise Center.

Discrimination.

SEC. 614. None of the funds made available to the Department of Justice in this Act may be used to discriminate against or denigrate the religious or moral beliefs of students who participate in programs for which financial assistance is provided from those funds, or of the parents or legal guardians of such students.

Loans.
Alaska.
North Dakota.

SEC. 615. All disaster loans issued in Alaska or North Dakota shall be administered by the Small Business Administration and shall not be sold during fiscal year 2006.

SEC. 616. None of the funds made available in this Act may be transferred to any department, agency, or instrumentality of the United States Government, except pursuant to a transfer made by, or transfer authority provided in, this Act or any other appropriations Act.

Deadline.
Certification.
Telecommuting.
5 USC 6120 note.

SEC. 617. The Departments of Commerce, Justice, and State, the Securities and Exchange Commission and the Small Business Administration shall, not later than two months after the date

of the enactment of this Act, certify that telecommuting opportunities have increased over levels certified to the Committees on Appropriations for fiscal year 2005: *Provided*, That, of the total amounts appropriated to the Departments of Commerce, Justice, and State, the Securities and Exchange Commission and the Small Business Administration, \$5,000,000 shall be available to each only upon such certification: *Provided further*, That each Department or agency shall provide quarterly reports to the Committees on Appropriations on the status of telecommuting programs, including the number and percentage of Federal employees eligible for, and participating in, such programs: *Provided further*, That each Department or agency shall maintain a “Telework Coordinator” to be responsible for overseeing the implementation and operations of telecommuting programs, and serve as a point of contact on such programs for the Committees on Appropriations.

Reports.

Designation.

SEC. 618. With the consent of the President, the Secretary of Commerce shall represent the United States Government in negotiating and monitoring international agreements regarding fisheries, marine mammals, or sea turtles: *Provided*, That the Secretary of Commerce shall be responsible for the development and interdepartmental coordination of the policies of the United States with respect to the international negotiations and agreements referred to in this section.

SEC. 619. The National Aeronautics and Space Administration and the National Science Foundation shall, not later than two months after the date of the enactment of this Act, certify that telecommuting opportunities are made available to 100 percent of the eligible workforce: *Provided*, That, of the total amounts appropriated to the National Aeronautics and Space Administration and the National Science Foundation, \$5,000,000 shall be available to each agency only upon such certification: *Provided further*, That both agencies shall provide quarterly reports to the Committees on Appropriations on the status of telecommuting programs, including the number of Federal employees eligible for, and participating in, such programs: *Provided further*, That both agencies shall designate a “Telework Coordinator” to be responsible for overseeing the implementation and operations of telecommuting programs, and serve as a point of contact on such programs for the Committees on Appropriations.

Deadline.
Certification.
Telecommuting.

Reports.

Designation.

SEC. 620. Any funds provided in this Act used to implement E-Government Initiatives shall be subject to the procedures set forth in section 605 of this Act.

SEC. 621. (a) Tracing studies conducted by the Bureau of Alcohol, Tobacco, Firearms and Explosives are released without adequate disclaimers regarding the limitations of the data.

Firearms.

(b) The Bureau of Alcohol, Tobacco, Firearms and Explosives shall include in all such data releases, language similar to the following that would make clear that trace data cannot be used to draw broad conclusions about firearms-related crime:

(1) Firearm traces are designed to assist law enforcement authorities in conducting investigations by tracking the sale and possession of specific firearms. Law enforcement agencies may request firearms traces for any reason, and those reasons are not necessarily reported to the Federal Government. Not all firearms used in crime are traced and not all firearms traced are used in crime.

(2) Firearms selected for tracing are not chosen for purposes of determining which types, makes or models of firearms are used for illicit purposes. The firearms selected do not constitute a random sample and should not be considered representative of the larger universe of all firearms used by criminals, or any subset of that universe. Firearms are normally traced to the first retail seller, and sources reported for firearms traced do not necessarily represent the sources or methods by which firearms in general are acquired for use in crime.

SEC. 622. None of the funds appropriated by this Act may be used by the Federal Communications Commission to modify, amend, or change its rules or regulations for universal service support payments to implement the February 27, 2004 recommendations of the Federal-State Joint Board on Universal Service regarding single connection or primary line restrictions on universal service support payments.

SEC. 623. None of the funds appropriated or otherwise made available under this Act may be used to issue patents on claims directed to or encompassing a human organism.

Torture.

SEC. 624. None of the funds made available in this Act shall be used in any way whatsoever to support or justify the use of torture by any official or contract employee of the United States Government.

SEC. 625. Of the amounts made available in this Act, \$393,616,321 from “Department of State”; \$27,938,072 from “Department of Justice”; \$14,107,754 from “Department of Commerce”; \$426,314 from “United States Trade Representative”; \$575,116 from “Broadcasting Board of Governors”; \$291,855 from “National Aeronautics and Space Administration”; and \$79,754 from “National Science Foundation” shall be available for the purposes of implementing the Capital Security Cost Sharing program.

Certification.

SEC. 626. None of the funds made available to NASA in this Act may be used for voluntary separation incentive payments as provided for in subchapter II of chapter 35 of title 5, United States Code, unless the Administrator of NASA has first certified to Congress that such payments would not result in the loss of skills related to the safety of the Space Shuttle or the International Space Station or to the conduct of independent safety oversight in the National Aeronautics and Space Administration.

SEC. 627. Notwithstanding 40 U.S.C. 524, 571, and 572, the Administrator of the National Aeronautics and Space Administration may sell the National Aeronautics and Space Administration-owned property on the Camp Parks Military Reservation, Alameda County, California.

President.
Guidelines.
42 USC 2451
note.

SEC. 628. (a) IN GENERAL.—The President of the United States through his designee the Administrator of the National Aeronautics and Space Administration and in consultation with other Federal agencies shall develop a national aeronautics policy to guide the aeronautics programs of the Administration through 2020.

(b) CONTENT.—At a minimum, the national aeronautics policy shall describe—

(1) the priority areas of research for aeronautics through fiscal year 2011;

(2) the basis on which and the process by which priorities for ensuing fiscal years will be selected;

(3) the facilities and personnel needed to carry out the program through fiscal year 2011; and

(4) the budget assumptions on which the national aeronautics policy is based.

(c) CONSIDERATIONS.—In developing the national aeronautics policy, the President shall consider the following questions, which shall be discussed in the policy statement—

President.

(1) the extent to which NASA should focus on long-term, high-risk research or more incremental research or both and the expected impact on the U.S. aircraft and airline industries of those decisions;

(2) the extent to which NASA should address military and commercial needs;

(3) how NASA will coordinate its aeronautics program with other Federal agencies; and

(4) the extent to which NASA will fund university research and the expected impact of that funding on the supply of U.S. workers for the aeronautics industry.

(d) CONSULTATION.—In developing the national aeronautics policy, the Administrator shall consult widely with academic and industry experts and with other Federal agencies. The Administrator may enter into an arrangement with the National Academy of Sciences to help develop the national aeronautics policy.

(e) SCHEDULE.—The Administrator shall submit the new national aeronautics policy to the House and Senate Committees on Appropriations and to the House Committee on Science and the Senate Committee on Commerce, Science, and Transportation within one year of enactment of this Act. The Administrator shall make available to the Congress any study done by a non-governmental entity that was used in the development of the national aeronautics policy.

SEC. 629. (a) Notwithstanding any other provision of law or treaty, none of the funds appropriated or otherwise made available under this Act or any other Act may be expended or obligated by a department, agency, or instrumentality of the United States to pay administrative expenses or to compensate an officer or employee of the United States in connection with requiring an export license for the export to Canada of components, parts, accessories or attachments for firearms listed in Category I, section 121.1 of title 22, Code of Federal Regulations (International Trafficking in Arms Regulations (ITAR), part 121, as it existed on April 1, 2005) with a total value not exceeding \$500 wholesale in any transaction, provided that the conditions of subsection (b) of this section are met by the exporting party for such articles.

(b) The foregoing exemption from obtaining an export license—

(1) does not exempt an exporter from filing any Shipper's Export Declaration or notification letter required by law, or from being otherwise eligible under the laws of the United States to possess, ship, transport, or export the articles enumerated in subsection (a); and

(2) does not permit the export without a license of—

(A) fully automatic firearms and components and parts for such firearms, other than for end use by the Federal Government, or a Provincial or Municipal Government of Canada;

(B) barrels, cylinders, receivers (frames) or complete breech mechanisms for any firearm listed in Category I, other than for end use by the Federal Government, or a Provincial or Municipal Government of Canada; or

(C) articles for export from Canada to another foreign destination.

Canada.

(c) In accordance with this section, the District Directors of Customs and postmasters shall permit the permanent or temporary export without a license of any unclassified articles specified in subsection (a) to Canada for end use in Canada or return to the United States, or temporary import of Canadian-origin items from Canada for end use in the United States or return to Canada for a Canadian citizen.

President.
Federal Register,
publication.

(d) The President may require export licenses under this section on a temporary basis if the President determines, upon publication first in the Federal Register, that the Government of Canada has implemented or maintained inadequate import controls for the articles specified in subsection (a), such that a significant diversion of such articles has and continues to take place for use in international terrorism or in the escalation of a conflict in another nation. The President shall terminate the requirements of a license when reasons for the temporary requirements have ceased.

President.

SEC. 630. Notwithstanding any other provision of law, no department, agency, or instrumentality of the United States receiving appropriated funds under this Act or any other Act shall obligate or expend in any way such funds to pay administrative expenses or the compensation of any officer or employee of the United States to deny any application submitted pursuant to 22 U.S.C. 2778(b)(1)(B) and qualified pursuant to 27 CFR Sec. 478.112 or .113, for a permit to import United States origin “curios or relics” firearms, parts, or ammunition.

SEC. 631. None of the funds made available in this Act may be used to include in any new bilateral or multilateral trade agreement the text of—

(1) paragraph 2 of article 16.7 of the United States-Singapore Free Trade Agreement;

(2) paragraph 4 of article 17.9 of the United States-Australia Free Trade Agreement; or

(3) paragraph 4 of article 15.9 of the United States-Morocco Free Trade Agreement.

Gasoline and
petroleum.

SEC. 632. Of the funds appropriated to the Federal Trade Commission by this Act, not less than \$1,000,000 shall be used by the Commission to conduct an immediate investigation into nationwide gasoline prices in the aftermath of Hurricane Katrina: *Provided*, That the investigation shall include: (1) any evidence of price-gouging by companies with total United States wholesale sales of gasoline and petroleum distillates for calendar 2004 in excess of \$500,000,000 and by any retail distributor of gasoline and petroleum distillates against which multiple formal complaints (that identify the location of a particular retail distributor and provide contact information for the complainant) of price-gouging were filed in August or September, 2005, with a Federal or State consumer protection agency; (2) a comparison of, and an explanation of the reasons for changes in, profit levels of such companies during the 12-month period ending on August 31, 2005, and their profit levels for the month of September, 2005, including information for particular companies on a basis that does not permit the identification of any company to which the information relates; (3) a summary of tax expenditures (as defined in section 3(3) of the Congressional Budget and Impoundment Control Act of 1974 (2

U.S.C. 622(3)) for such companies; (4) the effects of increased gasoline prices and gasoline price-gouging on economic activity in the United States; and (5) the overall cost of increased gasoline prices and gasoline price-gouging to the economy, including the impact on consumers' purchasing power in both declared State and National disaster areas and elsewhere: *Provided further*, That, in conducting its investigation, the Commission shall treat as evidence of price-gouging any finding that the average price of gasoline available for sale to the public in September, 2005, or thereafter in a market area located in an area designated as a State or National disaster area because of Hurricane Katrina, or in any other area where price-gouging complaints have been filed because of Hurricane Katrina with a Federal or State consumer protection agency, exceeded the average price of such gasoline in that area for the month of August, 2005, unless the Commission finds substantial evidence that the increase is substantially attributable to additional costs in connection with the production, transportation, delivery, and sale of gasoline in that area or to national or international market trends: *Provided further*, That in any areas of markets in which the Commission determines price increases are due to factors other than the additional costs, it shall also notify the appropriate State agency of its findings: *Provided further*, That the Commission shall provide information on the progress of the investigation to the Senate and House Appropriations Committees, the Senate Committee on Commerce, Science, and Transportation, and the House of Representatives Committee on Energy and Commerce every 30 days after the date of enactment of this Act, shall provide those Committees a written interim report 90 days after such date, and shall transmit a final report to those Committees, together with its findings and recommendations, no later than 180 days after the date of enactment of this Act: *Provided further*, That the Commission shall transmit recommendations, based on its findings, to the Congress for any legislation necessary to protect consumers from gasoline price-gouging in both State and National disaster areas and elsewhere: *Provided further*, That chapter 35 of title 44, United States Code, does not apply to the collection of information for the investigation required by this section: *Provided further*, That if, during the investigation, the Commission obtains evidence that a person may have violated a criminal law, the Commission may transmit that evidence to appropriate Federal or State authorities: *Provided further*, That nothing in this section affects any other authority of the Commission to disclose information.

Notification.

Reports.
Deadlines.

SEC. 633. Section 302 of the Universal Service Antideficiency Temporary Suspension Act is amended by striking "December 31, 2005," each place it appears and inserting "December 31, 2006,".

118 Stat. 3998.

SEC. 634. None of the funds made available in this Act may be used to send or otherwise pay for the attendance of more than 50 employees of agencies or departments of the United States Government who are stationed in the United States, at any single international conference occurring outside the United States, unless the Secretary of State determines that such attendance is in the national interest: *Provided*, That for purposes of this section the term "international conference" shall mean a conference attended by representatives of the United States Government and representatives of foreign governments, international organizations, or non-governmental organizations.

Reports.
22 USC 7002
note.

SEC. 635. (a) MODIFICATION OF RESPONSIBILITIES.—Notwithstanding any provision of section 1238 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (22 U.S.C. 7002), or any other provision of law, the United States–China Economic and Security Review Commission established by subsection (b) of that section shall investigate and report exclusively on each of the following areas:

(1) PROLIFERATION PRACTICES.—The role of the People’s Republic of China in the proliferation of weapons of mass destruction and other weapons (including dual use technologies), including actions the United States might take to encourage the People’s Republic of China to cease such practices.

(2) ECONOMIC TRANSFERS.—The qualitative and quantitative nature of the transfer of United States production activities to the People’s Republic of China, including the relocation of high technology, manufacturing, and research and development facilities, the impact of such transfers on United States national security, the adequacy of United States export control laws, and the effect of such transfers on United States economic security and employment.

(3) ENERGY.—The effect of the large and growing economy of the People’s Republic of China on world energy supplies and the role the United States can play (including through joint research and development efforts and technological assistance) in influencing the energy policy of the People’s Republic of China.

(4) ACCESS TO UNITED STATES CAPITAL MARKETS.—The extent of access to and use of United States capital markets by the People’s Republic of China, including whether or not existing disclosure and transparency rules are adequate to identify People’s Republic of China companies engaged in harmful activities.

(5) REGIONAL ECONOMIC AND SECURITY IMPACTS.—The triangular economic and security relationship among the United States, Taipei, and the People’s Republic of China (including the military modernization and force deployments of the People’s Republic of China aimed at Taipei), the national budget of the People’s Republic of China, and the fiscal strength of the People’s Republic of China in relation to internal instability in the People’s Republic of China and the likelihood of the externalization of problems arising from such internal instability.

(6) UNITED STATES-CHINA BILATERAL PROGRAMS.—Science and technology programs, the degree of non-compliance by the People’s Republic of China with agreements between the United States and the People’s Republic of China on prison labor imports and intellectual property rights, and United States enforcement policies with respect to such agreements.

(7) WORLD TRADE ORGANIZATION COMPLIANCE.—The compliance of the People’s Republic of China with its accession agreement to the World Trade Organization (WTO).

(8) FREEDOM OF EXPRESSION.—The implications of restrictions on speech and access to information in the People’s Republic of China for its relations with the United States in the areas of economic and security policy.

(b) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—Subsection (g) of section 1238 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 is amended to read as follows: 22 USC 7002.

“(g) APPLICABILITY OF FACA.—The provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the activities of the Commission.”.

SEC. 636. Section 635 of division B of Public Law 108–447 is amended by striking “balance” and inserting “and unexpended balances”. 118 Stat. 2922.

SEC. 637. None of the funds made available in this Act may be used to pay expenses for any United States delegation to any specialized agency, body, or commission of the United Nations if such commission is chaired or presided over by a country, the government of which the Secretary of State has determined, for purposes of section 6(j)(1) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)), has provided support for acts of international terrorism.

(RESCISSION)

SEC. 638. (a) There is hereby rescinded an amount equal to 0.28 percent of the budget authority provided for in fiscal year 2006 for any discretionary account in this Act.

(b) Any rescission made by subsection (a) shall be applied proportionately—

(1) to each discretionary account and each item of budget authority described in subsection (a); and

(2) within each such account and item, to each program, project, and activity (with programs, projects, and activities as delineated in the appropriation Act or accompanying reports for the relevant fiscal year covering such account or item, or for accounts and items not included in appropriation Acts, as delineated in the most recently submitted President’s budget).

TITLE VII—RESCISSIONS

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

WORKING CAPITAL FUND

(RESCISSION)

Of the unobligated balances available under this heading, \$2,500,000 are rescinded.

LEGAL ACTIVITIES

ASSETS FORFEITURE FUND

(RESCISSION)

Of the unobligated balances available under this heading, \$102,000,000 are rescinded.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

(RESCISSION)

Of the unobligated balances available under this heading, \$25,000,000 are rescinded.

OFFICE OF JUSTICE PROGRAMS

(RESCISSION)

Of the unobligated balances available under this heading, \$110,500,000 are rescinded.

COMMUNITY ORIENTED POLICING SERVICES

(RESCISSION)

Of the unobligated balances available under this heading, \$86,500,000 are rescinded.

DEPARTMENT OF COMMERCE

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

(RESCISSION)

Of the unobligated balances available in accounts under this heading from prior year appropriations, \$25,000,000 are rescinded.

RELATED AGENCIES

FEDERAL COMMUNICATIONS COMMISSION

SALARIES AND EXPENSES

(RESCISSION)

Of the unobligated balances available under this heading, \$25,300,000 are rescinded.

FEDERAL TRADE COMMISSION

SALARIES AND EXPENSES

(RESCISSION)

Of the unobligated balances available under this heading, \$12,000,000 are rescinded.

MARINE MAMMAL COMMISSION

SALARIES AND EXPENSES

(RESCISSION)

Of the unobligated balances available under this heading, \$920,000 are rescinded.

SMALL BUSINESS ADMINISTRATION

SALARIES AND EXPENSES

(RESCISSION)

Of the unobligated balances available under this heading, \$3,000,000 are rescinded.

BUSINESS LOANS PROGRAM ACCOUNT

(RESCISSION)

Of the unobligated balances available under this heading, \$4,000,000 are rescinded.

This Act may be cited as the “Science, State, Justice, Commerce, and Related Agencies Appropriations Act, 2006”.

Approved November 22, 2005.

LEGISLATIVE HISTORY—H.R. 2862:

HOUSE REPORTS: Nos. 109–118 (Comm. on Appropriations) and 109–272 (Comm. of Conference).

SENATE REPORTS: No. 109–88 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 151 (2005):

June 14–16, considered and passed House.

Sept. 8, 9, 12–15, considered and passed Senate, amended.

Nov. 9, House agreed to conference report.

Nov. 16, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 41 (2005):

Nov. 22, Presidential statement.



Public Law 109–109
109th Congress

An Act

Nov. 22, 2005
[H.R. 3339]

To designate the facility of the United States Postal Service located at 2061 South Park Avenue in Buffalo, New York, as the “James T. Molloy Post Office Building”.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The facility of the United States Postal Service located at 2061 South Park Avenue in Buffalo, New York, shall be known and designated as the “James T. Molloy Post Office Building”.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the “James T. Molloy Post Office Building”.

Approved November 22, 2005.

LEGISLATIVE HISTORY—H.R. 3339:

CONGRESSIONAL RECORD, Vol. 151 (2005):

July 25, 26, considered and passed House.

Nov. 8, considered and passed Senate.



Public Law 109–110
109th Congress

An Act

To provide for a land exchange in the State of Arizona between the Secretary of Agriculture and Yavapai Ranch Limited Partnership.

Nov. 22, 2005
[S. 161]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Northern Arizona Land Exchange and Verde River Basin Partnership Act of 2005”.

(b) **TABLE OF CONTENTS.**—The table of contents of this Act is as follows:

Northern Arizona
Land Exchange
and Verde
River Basin
Partnership Act
of 2005.

Sec. 1. Short title; table of contents.

TITLE I—NORTHERN ARIZONA LAND EXCHANGE

- Sec. 101. Definitions.
- Sec. 102. Land exchange.
- Sec. 103. Description of non-Federal land.
- Sec. 104. Description of Federal land.
- Sec. 105. Status and management of land after exchange.
- Sec. 106. Miscellaneous provisions.
- Sec. 107. Conveyance of additional land.

TITLE II—VERDE RIVER BASIN PARTNERSHIP

- Sec. 201. Purpose.
- Sec. 202. Definitions.
- Sec. 203. Verde River Basin Partnership.
- Sec. 204. Verde River Basin studies.
- Sec. 205. Verde River Basin Partnership final report.
- Sec. 206. Memorandum of understanding.
- Sec. 207. Effect.

**TITLE I—NORTHERN ARIZONA LAND
EXCHANGE**

SEC. 101. DEFINITIONS.

In this title:

(1) **CAMP.**—The term “camp” means Camp Pearlstein, Friendly Pines, Patterdale Pines, Pine Summit, Sky Y, and Young Life Lost Canyon camps in the State of Arizona.

(2) **CITIES.**—The term “cities” means the cities of Flagstaff, Williams, and Camp Verde, Arizona.

(3) **FEDERAL LAND.**—The term “Federal land” means the land described in section 104.

(4) **NON-FEDERAL LAND.**—The term “non-Federal land” means the land described in section 103.

(5) SECRETARY.—The term “Secretary” means the Secretary of Agriculture.

(6) YAVAPAI RANCH.—The term “Yavapai Ranch” means the Yavapai Ranch Limited Partnership, an Arizona Limited Partnership, and the Northern Yavapai, L.L.C., an Arizona Limited Liability Company.

SEC. 102. LAND EXCHANGE.

(a) IN GENERAL.—(1) Upon the conveyance by Yavapai Ranch of title to the non-Federal land identified in section 103, the Secretary shall simultaneously convey to Yavapai Ranch title to the Federal land identified in section 104.

(2) Title to the lands to be exchanged shall be in a form acceptable to the Secretary and Yavapai Ranch.

(3) The Federal and non-Federal lands to be exchanged under this title may be modified prior to the exchange as provided in this title.

(4)(A) By mutual agreement, the Secretary and Yavapai Ranch may make minor and technical corrections to the maps and legal descriptions of the lands and interests therein exchanged or retained under this title, including changes, if necessary to conform to surveys approved by the Bureau of Land Management.

(B) In the case of any discrepancy between a map and legal description, the map shall prevail unless the Secretary and Yavapai Ranch agree otherwise.

(b) EXCHANGE PROCESS.—(1) Except as otherwise provided in this title, the land exchange under subsection (a) shall be undertaken in accordance with section 206 of the Federal Land Policy and Management Act (43 U.S.C. 1716).

(2) Before completing the land exchange under this title, the Secretary shall perform any necessary land surveys and pre-exchange inventories, clearances, reviews, and approvals, including those relating to hazardous materials, threatened and endangered species, cultural and historic resources, and wetlands and flood plains.

(c) EQUAL VALUE EXCHANGE.—(1) The value of the Federal land and the non-Federal land shall be equal, or equalized by the Secretary by adjusting the acreage of the Federal land in accordance with paragraph (2).

(2) If the final appraised value of the Federal land exceeds the final appraised value of the non-Federal land, prior to making other adjustments, the Federal lands shall be adjusted by deleting all or part of the parcels or portions of the parcels in the following order:

(A) A portion of the Camp Verde parcel described in section 104(a)(4), comprising approximately 316 acres, located in the Prescott National Forest, and more particularly described as lots 1, 5, and 6 of section 26, the NE $\frac{1}{4}$ NE $\frac{1}{4}$ portion of section 26 and the N $\frac{1}{2}$ N $\frac{1}{2}$ portion of section 27, Township 14 North, Range 4 East, Gila and Salt River Base and Meridian, Yavapai County, Arizona.

(B) A portion of the Camp Verde parcel described in section 104(a)(4), comprising approximately 314 acres, located in the Prescott National Forest, and more particularly described as lots 2, 7, 8, and 9 of section 26, the SE $\frac{1}{4}$ NE $\frac{1}{4}$ portion of section 26, and the S $\frac{1}{2}$ N $\frac{1}{2}$ of section 27, Township 14 North,

Range 4 East, Gila and Salt River Base and Meridian, Yavapai County, Arizona.

(C) Beginning at the south boundary of section 31, Township 20 North, Range 5 West, Gila and Salt River Base and Meridian, Yavapai County, Arizona, and sections 33 and 35, Township 20 North, Range 6 West, Gila and Salt River Base and Meridian, Yavapai County, Arizona, by adding to the non-Federal land to be conveyed to the United States in $\frac{1}{8}$ -section increments (E–W 64th line) while deleting from the conveyance to Yavapai Ranch Federal land in the same incremental portions of section 32, Township 20 North, Range 5 West, Gila and Salt River Base and Meridian, Yavapai County, Arizona, and sections 32, 34, and 36 in Township 20 North, Range 6 West, Gila and Salt River Base and Meridian, Yavapai County, Arizona, to establish a linear and continuous boundary that runs east-to-west across the sections.

(D) Any other parcels, or portions thereof, agreed to by the Secretary and Yavapai Ranch.

(3) If any parcel of Federal land or non-Federal land is not conveyed because of any reason, that parcel of land, or portion thereof, shall be excluded from the exchange and the remaining lands shall be adjusted as provided in this subsection.

(4) If the value of the Federal land exceeds the value of the non-Federal land by more than \$50,000, the Secretary and Yavapai Ranch shall, by mutual agreement, delete additional Federal land from the exchange until the value of the Federal land and non-Federal land is, to the maximum extent practicable, equal.

(d) APPRAISALS.—(1) The value of the Federal land and non-Federal land shall be determined by appraisals prepared in accordance with the Uniform Appraisal Standards for Federal Land Acquisitions and the Uniform Standards of Professional Appraisal Practice.

(2)(A) After the Secretary has reviewed and approved the final appraised values of the Federal land and non-Federal land to be exchanged, the Secretary shall not be required to reappraise or update the final appraised values before the completion of the land exchange.

(B) This paragraph shall apply during the three-year period following the approval by the Secretary of the final appraised values of the Federal land and non-Federal land unless the Secretary and Yavapai Ranch have entered into an agreement to implement the exchange.

Applicability.

(3) During the appraisal process, the appraiser shall determine the value of each parcel of Federal land and non-Federal land (including the contributory value of each individual section of the intermingled Federal and non-Federal land of the property described in sections 103(a) and 104(a)(1)) as an assembled transaction.

(4)(A) To ensure the timely and full disclosure to the public of the final appraised values of the Federal land and non-Federal land, the Secretary shall provide public notice of any appraisals approved by the Secretary and copies of such appraisals shall be available for public inspection in appropriate offices of the Prescott, Coconino, and Kaibab National Forests.

Notice.

(B) The Secretary shall also provide copies of any approved appraisals to the cities and the owners of the camps described in section 101(1).

Records.

(e) CONTRACTING.—(1) If the Secretary lacks adequate staff or resources to complete the exchange by the date specified in section 106(c), Yavapai Ranch, subject to the agreement of the Secretary, may contract with independent third-party contractors to carry out any work necessary to complete the exchange by that date.

(2) If, in accordance with this subsection, Yavapai Ranch contracts with an independent third-party contractor to carry out any work that would otherwise be performed by the Secretary, the Secretary shall reimburse Yavapai Ranch for the costs for the third-party contractors.

(f) EASEMENTS.—(1) The exchange of non-Federal and Federal land under this title shall be subject to any easements, rights-of-way, utility lines, and any other valid encumbrances in existence on the date of enactment of this Act, including acquired easements for water pipelines as generally depicted on the map entitled “Yavapai Ranch Land Exchange, YRLP Acquired Easements for Water Lines” dated August 2004, and any other reservations that may be agreed to by the Secretary and Yavapai Ranch.

(2) Upon completion of the land exchange under this title, the Secretary and Yavapai Ranch shall grant each other at no charge reciprocal easements for access and utilities across, over, and through—

(A) the routes depicted on the map entitled “Yavapai Ranch Land Exchange, Road and Trail Easements, Yavapai Ranch Area” dated August 2004; and

(B) any relocated routes that are agreed to by the Secretary and Yavapai Ranch.

(3) An easement described in paragraph (2) shall be unrestricted and non-exclusive in nature and shall run with and benefit the land.

(g) CONVEYANCE OF FEDERAL LAND TO CITIES AND CAMPS.—(1) Prior to the completion of the land exchange between Yavapai Ranch and the Secretary, the cities and the owners of the camps may enter into agreements with Yavapai Ranch whereby Yavapai Ranch, upon completion of the land exchange, will convey to the cities or the owners of the camps the applicable parcel of Federal land or portion thereof.

(2) If Yavapai Ranch and the cities or camp owners have not entered into agreements in accordance with paragraph (1), the Secretary shall, on notification by the cities or owners of the camps no later than 30 days after the date the relevant approved appraisal is made publicly available, delete the applicable parcel or portion thereof from the land exchange between Yavapai Ranch and the United States as follows:

(A) Upon request of the City of Flagstaff, Arizona, the parcels, or portion thereof, described in section 104(a)(2).

(B) Upon request of the City of Williams, Arizona, the parcels, or portion thereof, described in section 104(a)(3).

(C) Upon request of the City of Camp Verde, Arizona, a portion of the parcel described in section 104(a)(4), comprising approximately 514 acres located southeast of the southeastern boundary of the I–17 right-of-way, and more particularly described as the SE $\frac{1}{4}$ portion of the southeast quarter of section 26, the E $\frac{1}{2}$ and the E $\frac{1}{2}$ W $\frac{1}{2}$ portions of section 35, and lots 5 through 7 of section 36, Township 14 North, Range 4 East,

Deadline.
Public
information.

Gila and Salt River Base and Meridian, Yavapai County, Arizona.

(D) Upon request of the owners of the Younglife Lost Canyon camp, the parcel described in section 104(a)(5).

(E) Upon request of the owner of Friendly Pines Camp, Patterdale Pines Camp, Camp Pearlstein, Pine Summit, or Sky Y Camp, as applicable, the corresponding parcel described in section 104(a)(6).

(3)(A) Upon request of the specific city or camp referenced in paragraph (2), the Secretary shall convey to such city or camp all right, title, and interest of the United States in and to the applicable parcel of Federal land or portion thereof, upon payment of the fair market value of the parcel and subject to any terms and conditions the Secretary may require.

(B) A conveyance under this paragraph shall not require new administrative or environmental analyses or appraisals beyond those prepared for the land exchange.

(4) A city or owner of a camp purchasing land under this subsection shall reimburse Yavapai Ranch for any costs incurred which are directly associated with surveys and appraisals of the specific property conveyed.

(5) A conveyance of land under this subsection shall not affect the timing of the land exchange.

(6) Nothing in this subsection limits the authority of the Secretary or Yavapai Ranch to delete any of the parcels referenced in this subsection from the land exchange.

(7)(A) The Secretary shall deposit the proceeds of any sale under paragraph (2) in a special account in the fund established under Public Law 90–171 (commonly known as the “Sisk Act”) (16 U.S.C. 484a).

(B) Amounts deposited under subparagraph (A) shall be available to the Secretary, without further appropriation, to be used for the acquisition of land in the State of Arizona for addition to the National Forest System, including the land to be exchanged under this title.

SEC. 103. DESCRIPTION OF NON-FEDERAL LAND.

(a) **IN GENERAL.**—The non-Federal land referred to in this title consists of approximately 35,000 acres of privately-owned land within the boundaries of the Prescott National Forest, as generally depicted on the map entitled “Yavapai Ranch Land Exchange, Non-Federal Lands”, dated August 2004.

(b) **EASEMENTS.**—(1) The conveyance of non-Federal land to the United States under section 102 shall be subject to the reservation of—

(A) water rights and perpetual easements that run with and benefit the land retained by Yavapai Ranch for—

(i) the operation, maintenance, repair, improvement, development, and replacement of not more than 3 wells in existence on the date of enactment of this Act;

(ii) related storage tanks, valves, pumps, and hardware; and

(iii) pipelines to point of use; and

(B) easements for reasonable access to accomplish the purposes of the easements described in subparagraph (A).

(2) Each easement for an existing well referred to in paragraph (1) shall be 40 acres in area, and to the maximum extent practicable, centered on the existing well.

(3) The United States shall be entitled to one-half the production of each existing or replacement well, not to exceed a total of 3,100,000 gallons of water annually for National Forest System purposes.

(4) The locations of the easements and wells shall be as generally depicted on the map entitled “Yavapai Ranch Land Exchange, Reserved Easements for Water Lines and Wells”, dated August 2004.

SEC. 104. DESCRIPTION OF FEDERAL LAND.

(a) **IN GENERAL.**—The Federal land referred to in this title consists of the following:

(1) Certain land comprising approximately 15,300 acres located in the Prescott National Forest, as generally depicted on the map entitled “Yavapai Ranch Land Exchange, Yavapai Ranch Area Federal Lands”, dated August 2004.

(2) Certain land located in the Coconino National Forest—
(A) comprising approximately 1,500 acres as generally depicted on the map entitled “Yavapai Ranch Land Exchange, Flagstaff Federal Lands Airport Parcel”, dated August 2004; and

(B) comprising approximately 28.26 acres in two separate parcels, as generally depicted on the map entitled “Yavapai Ranch Land Exchange, Flagstaff Federal Lands Wetzel School and Mt. Elden Parcels”, dated August 2004.

(3) Certain land located in the Kaibab National Forest, and referred to as the Williams Airport, Williams golf course, Williams Sewer, Buckskinner Park, Williams Railroad, and Well parcels number 2, 3, and 4, cumulatively comprising approximately 950 acres, as generally depicted on the map entitled “Yavapai Ranch Land Exchange, Williams Federal Lands”, dated August 2004.

(4) Certain land located in the Prescott National Forest, comprising approximately 2,200 acres, as generally depicted on the map entitled “Yavapai Ranch Land Exchange, Camp Verde Federal Land General Crook Parcel”, dated August 2004.

(5) Certain land located in the Kaibab National Forest, comprising approximately 237.5 acres, as generally depicted on the map entitled “Yavapai Ranch Land Exchange, Younglife Lost Canyon”, dated August 2004.

(6) Certain land located in the Prescott National Forest, including the “Friendly Pines”, “Patterdale Pines”, “Camp Pearlstein”, “Pine Summit”, and “Sky Y” camps, cumulatively comprising approximately 200 acres, as generally depicted on the map entitled “Yavapai Ranch Land Exchange, Prescott Federal Lands, Summer Youth Camp Parcels”, dated August 2004.

Conservation.

(b) **CONDITION OF CONVEYANCE OF CAMP VERDE PARCEL.**—(1) To conserve water in the Verde Valley, Arizona, and to minimize the adverse impacts from future development of the Camp Verde General Crook parcel described in subsection (a)(4) on current and future holders of water rights in existence of the date of enactment of this Act and the Verde River and National Forest System lands retained by the United States, the United States shall limit in

perpetuity the use of water on the parcel by reserving conservation easements that—

- (A) run with the land;
- (B) prohibit golf course development on the parcel;
- (C) require that any public park or greenbelt on the parcel be watered with treated wastewater;
- (D) limit total post-exchange water use on the parcel to not more than 300 acre-feet of water per year;
- (E) provide that any water supplied by municipalities or private water companies shall count towards the post-exchange water use limitation described in subparagraph (D); and
- (F) except for water supplied to the parcel by municipal water service providers or private water companies, require that any water used for the parcel not be withdrawn from wells perforated in the saturated Holocene alluvium of the Verde River.

(2) If Yavapai Ranch conveys the Camp Verde parcel described in subsection (a)(4), or any portion thereof, the terms of conveyance shall include a recorded and binding agreement of the quantity of water available for use on the land conveyed, as determined by Yavapai Ranch, except that total water use on the Camp Verde parcel may not exceed the amount specified in paragraph (1)(D).

(3) The Secretary may enter into a memorandum of understanding with the State or political subdivision of the State to enforce the terms of the conservation easement.

SEC. 105. STATUS AND MANAGEMENT OF LAND AFTER EXCHANGE.

(a) **IN GENERAL.**—Land acquired by the United States under this title shall become part of the Prescott National Forest and shall be administered by the Secretary in accordance with this title and the laws applicable to the National Forest System.

(b) **GRAZING.**—Where grazing on non-Federal land acquired by the Secretary under this title occurs prior to the date of enactment of this Act, the Secretary may manage the land to allow for continued grazing use, in accordance with the laws generally applicable to domestic livestock grazing on National Forest System land.

(c) **TIMBER HARVESTING.**—(1) After completion of the land exchange under this title, except as provided in paragraph (2), commercial timber harvesting shall be prohibited on the non-Federal land acquired by the United States.

(2) Timber harvesting may be conducted on the non-Federal land acquired under this title if the Secretary determines that such harvesting is necessary—

- (A) to prevent or control fires, insects, and disease through forest thinning or other forest management techniques;
- (B) to protect or enhance grassland habitat, watershed values, native plants and wildlife species; or
- (C) to improve forest health.

SEC. 106. MISCELLANEOUS PROVISIONS.

(a) **REVOCATION OF ORDERS.**—Any public orders withdrawing any of the Federal land from appropriation or disposal under the public land laws are revoked to the extent necessary to permit disposal of the Federal land.

(b) **WITHDRAWAL OF FEDERAL LAND.**—Subject to valid existing rights, the Federal land is withdrawn from all forms of entry and appropriation under the public land laws; location, entry, and patent under the mining laws; and operation of the mineral leasing

and geothermal leasing laws, until the date on which the land exchange is completed.

Deadline.

(c) **COMPLETION OF EXCHANGE.**—It is the intent of Congress that the land exchange authorized and directed under this title be completed not later than 18 months after the date of enactment of this Act.

SEC. 107. CONVEYANCE OF ADDITIONAL LAND.

(a) **IN GENERAL.**—The Secretary shall convey to a person that represents the majority of landowners with encroachments on the lot by quitclaim deed the parcel of land described in subsection (b).

(b) **DESCRIPTION OF LAND.**—The parcel of land referred to in subsection (a) is lot 8 in section 11, T. 21 N., R. 7 E., Gila and Salt River Base and Meridian, Coconino County, Arizona.

(c) **AMOUNT OF CONSIDERATION.**—In exchange for the land described in subsection (b), the person acquiring the land shall pay to the Secretary consideration in the amount of—

(1) \$2500; plus

(2) any costs of re-monumenting the boundary of land.

(d) **TIMING.**—(1) Not later than 90 days after the date on which the Secretary receives a power of attorney executed by the person acquiring the land, the Secretary shall convey to the person the land described in subsection (b).

(2) If, by the date that is 270 days after the date of enactment of this Act, the Secretary does not receive the power of attorney described in paragraph (1)—

(A) the authority provided under this section shall terminate; and

(B) any conveyance of the land shall be made under Public Law 97–465 (16 U.S.C. 521c et seq.).

TITLE II—VERDE RIVER BASIN PARTNERSHIP

Conservation.

SEC. 201. PURPOSE.

The purpose of this title is to authorize assistance for a collaborative and science-based water resource planning and management partnership for the Verde River Basin in the State of Arizona, consisting of members that represent—

(1) Federal, State, and local agencies; and

(2) economic, environmental, and community water interests in the Verde River Basin.

SEC. 202. DEFINITIONS.

In this title:

(1) **DIRECTOR.**—The term “Director” means the Director of the Arizona Department of Water Resources.

(2) **PARTNERSHIP.**—The term “Partnership” means the Verde River Basin Partnership.

(3) **PLAN.**—The term “plan” means the plan for the Verde River Basin required by section 204(a)(1).

(4) **SECRETARY.**—The term “Secretary” means the Secretary of Agriculture.

(5) **STATE.**—The term “State” means the State of Arizona.

(6) VERDE RIVER BASIN.—The term “Verde River Basin” means the land area designated by the Arizona Department of Water Resources as encompassing surface water and groundwater resources, including drainage and recharge areas with a hydrologic connection to the Verde River.

(7) WATER BUDGET.—The term “water budget” means the accounting of—

(A) the quantities of water leaving the Verde River Basin—

- (i) as discharge to the Verde River and tributaries;
- (ii) as subsurface outflow;
- (iii) as evapotranspiration by riparian vegetation;
- (iv) as surface evaporation;
- (v) for agricultural use; and
- (vi) for human consumption; and

(B) the quantities of water replenishing the Verde River Basin by precipitation, infiltration, and subsurface inflows.

SEC. 203. VERDE RIVER BASIN PARTNERSHIP.

(a) IN GENERAL.—The Secretary may participate in the establishment of a partnership, to be known as the “Verde River Basin Partnership”, made up of Federal, State, local governments, and other entities with responsibilities and expertise in water to coordinate and cooperate in the identification and implementation of comprehensive science-based policies, projects, and management activities relating to the Verde River Basin.

(b) AUTHORIZATION OF APPROPRIATIONS.—On establishment of the Partnership, there are authorized to be appropriated to the Secretary and the Secretary of the Interior such sums as are necessary to carry out the activities of the Partnership for each of fiscal years 2006 through 2010.

SEC. 204. VERDE RIVER BASIN STUDIES.

(a) STUDIES.—

(1) IN GENERAL.—The Partnership shall prepare a plan for conducting water resource studies in the Verde River Basin that identifies—

(A) the primary study objectives to fulfill water resource planning and management needs for the Verde River Basin; and

(B) the water resource studies, hydrologic models, surface and groundwater monitoring networks, and other analytical tools helpful in the identification of long-term water supply management options within the Verde River Basin.

(2) REQUIREMENTS.—At a minimum, the plan shall—

(A) include a list of specific studies and analyses that are needed to support Partnership planning and management decisions;

(B) identify any ongoing or completed water resource or riparian studies that are relevant to water resource planning and management for the Verde River Basin;

(C) describe the estimated cost and duration of the proposed studies and analyses; and

(D) designate as a study priority the compilation of a water budget analysis for the Verde Valley.

(b) VERDE VALLEY WATER BUDGET ANALYSIS.—

Deadline.
Reports.

(1) **IN GENERAL.**—Subject to the availability of appropriations, not later than 14 months after the date of enactment of this Act, the Director of the United States Geological Survey, in cooperation with the Director, shall prepare and submit to the Partnership a report that provides a water budget analysis of the portion of the Verde River Basin within the Verde Valley.

(2) **COMPONENTS.**—The report submitted under paragraph (1) shall include—

(A) a summary of the information available on the hydrologic flow regime for the portion of the Middle Verde River from the Clarkdale streamgauging station to the city of Camp Verde at United States Geological Survey Stream Gauge 09506000;

(B) with respect to the portion of the Middle Verde River described in subparagraph (A), estimates of—

(i) the inflow and outflow of surface water and groundwater;

(ii) annual consumptive water use; and

(iii) changes in groundwater storage; and

(C) an analysis of the potential long-term consequences of various water use scenarios on groundwater levels and Verde River flows.

(c) **PRELIMINARY REPORT AND RECOMMENDATIONS.**—

(1) **IN GENERAL.**—Not later than 16 months after the date of enactment of this Act, using the information provided in the report submitted under subsection (b) and any other relevant information, the Partnership shall submit to the Secretary, the Governor of Arizona, and representatives of the Verde Valley communities, a preliminary report that sets forth the findings and recommendations of the Partnership regarding the long-term available water supply within the Verde Valley.

(2) **CONSIDERATION OF RECOMMENDATIONS.**—The Secretary may take into account the recommendations included in the report submitted under paragraph (1) with respect to decisions affecting land under the jurisdiction of the Secretary, including any future sales or exchanges of Federal land in the Verde River Basin after the date of enactment of this Act.

(3) **EFFECT.**—Any recommendations included in the report submitted under paragraph (1) shall not affect the land exchange process or the appraisals of the Federal land and non-Federal land conducted under sections 103 and 104.

SEC. 205. VERDE RIVER BASIN PARTNERSHIP FINAL REPORT.

Not later than 4 years after the date of enactment of this Act, the Partnership shall submit to the Secretary and the Governor of Arizona a final report that—

(1) includes a summary of the results of any water resource assessments conducted under this title in the Verde River Basin;

(2) identifies any areas in the Verde River Basin that are determined to have groundwater deficits or other current or potential water supply problems;

(3) identifies long-term water supply management options for communities and water resources within the Verde River Basin; and

(4) identifies water resource analyses and monitoring needed to support the implementation of management options.

SEC. 206. MEMORANDUM OF UNDERSTANDING.

The Secretary (acting through the Chief of the Forest Service) and the Secretary of the Interior, shall enter into a memorandum of understanding authorizing the United States Geological Survey to access Forest Service land (including stream gauges, weather stations, wells, or other points of data collection on the Forest Service land) to carry out this title.

SEC. 207. EFFECT.

Nothing in this title diminishes or expands State or local jurisdiction, responsibilities, or rights with respect to water resource management or control.

Approved November 22, 2005.

LEGISLATIVE HISTORY—S. 161:

SENATE REPORTS: No. 109–40 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 151 (2005):

July 26, considered and passed Senate.

Nov. 15, considered and passed House.



Public Law 109–111
109th Congress

An Act

Nov. 22, 2005
[S. 1234]

Veterans’
Compensation
Cost-of-Living
Adjustment Act
of 2005.
38 USC 101 note.

To increase, effective as of December 1, 2005, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Veterans’ Compensation Cost-of-Living Adjustment Act of 2005”.

SEC. 2. INCREASE IN RATES OF DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION.

(a) VETERANS’ DISABILITY COMPENSATION.—Section 1114 of title 38, United States Code, is amended—

(1) in subsection (a), by striking “\$106” and inserting “\$112”;

(2) in subsection (b), by striking “\$205” and inserting “\$218”;

(3) in subsection (c), by striking “\$316” and inserting “\$337”;

(4) in subsection (d), by striking “\$454” and inserting “\$485”;

(5) in subsection (e), by striking “\$646” and inserting “\$690”;

(6) in subsection (f), by striking “\$817” and inserting “\$873”;

(7) in subsection (g), by striking “\$1,029” and inserting “\$1,099”;

(8) in subsection (h), by striking “\$1,195” and inserting “\$1,277”;

(9) in subsection (i), by striking “\$1,344” and inserting “\$1,436”;

(10) in subsection (j), by striking “\$2,239” and inserting “\$2,393”;

(11) in subsection (k)—

(A) by striking “\$82” both places it appears and inserting “\$87”; and

(B) by striking “\$2,785” and “\$3,907” and inserting “\$2,977” and “\$4,176”, respectively;

(12) in subsection (l), by striking “\$2,785” and inserting “\$2,977”;

(13) in subsection (m), by striking “\$3,073” and inserting “\$3,284”;

(14) in subsection (n), by striking “\$3,496” and inserting “\$3,737”;

(15) in subsections (o) and (p), by striking “\$3,907” each place it appears and inserting “\$4,176”;

(16) in subsection (r), by striking “\$1,677” and “\$2,497” and inserting “\$1,792” and “\$2,669”, respectively; and

(17) in subsection (s), by striking “\$2,506” and inserting “\$2,678”.

(b) ADDITIONAL COMPENSATION FOR DEPENDENTS.—Section 1115(1) of such title is amended—

(1) in subparagraph (A), by striking “\$127” and inserting “\$135”;

(2) in subparagraph (B), by striking “\$219” and “\$65” and inserting “\$233” and “\$68”, respectively;

(3) in subparagraph (C), by striking “\$86” and “\$65” and inserting “\$91” and “\$68”, respectively;

(4) in subparagraph (D), by striking “\$103” and inserting “\$109”;

(5) in subparagraph (E), by striking “\$241” and inserting “\$257”; and

(6) in subparagraph (F), by striking “\$202” and inserting “\$215”.

(c) CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS.—Section 1162 of such title is amended by striking “\$600” and inserting “\$641”.

(d) DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES.—

(1) NEW LAW DIC.—Section 1311(a) of such title is amended—

(A) in paragraph (1), by striking “\$967” and inserting “\$1,033”; and

(B) in paragraph (2), by striking “\$208” and inserting “\$221”.

(2) OLD LAW DIC.—The table in paragraph (3) of such section is amended to read as follows:

“Pay grade	Monthly rate	Pay grade	Monthly rate
E-1	\$1,033	W-4	\$1,236
E-2	\$1,033	O-1	\$1,092
E-3	\$1,033	O-2	\$1,128
E-4	\$1,033	O-3	\$1,207
E-5	\$1,033	O-4	\$1,277
E-6	\$1,033	O-5	\$1,406
E-7	\$1,069	O-6	\$1,585
E-8	\$1,128	O-7	\$1,712
E-9	\$1,177 ¹	O-8	\$1,879
W-1	\$1,092	O-9	\$2,010
W-2	\$1,135	O-10	\$2,204 ²
W-3	\$1,169	.....	.....

¹ If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse’s rate shall be \$1,271.

² If the veteran served as Chairman or Vice-Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse's rate shall be \$2,365."

(3) ADDITIONAL DIC FOR CHILDREN OR DISABILITY.—Section 1311 of such title is amended—

(A) in subsection (b), by striking "\$241" and inserting "\$257";

(B) in subsection (c), by striking "\$241" and inserting "\$257"; and

(C) in subsection (d), by striking "\$115" and inserting "\$122".

(e) DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN.—

(1) DIC WHEN NO SURVIVING SPOUSE.—Section 1313(a) of such title is amended—

(A) in paragraph (1), by striking "\$410" and inserting "\$438";

(B) in paragraph (2), by striking "\$590" and inserting "\$629";

(C) in paragraph (3), by striking "\$767" and inserting "\$819"; and

(D) in paragraph (4), by striking "\$767" and "\$148" and inserting "\$819" and "\$157", respectively.

(2) SUPPLEMENTAL DIC FOR CERTAIN CHILDREN.—Section 1314 of such title is amended—

(A) in subsection (a), by striking "\$241" and inserting "\$257";

(B) in subsection (b), by striking "\$410" and inserting "\$438"; and

(C) in subsection (c), by striking "\$205" and inserting "\$218".

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on December 1, 2005.

(g) SPECIAL RULE.—The Secretary may adjust administratively, consistent with the increases made under subsection (a), the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85–857 (72 Stat. 1263) who are not

38 USC 1114
note.

38 USC 1114
note.

in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

Approved November 22, 2005.

LEGISLATIVE HISTORY—S. 1234 (H.R. 1220):

HOUSE REPORTS: No. 109–162 accompanying H.R. 1220 (Comm. on Veterans' Affairs).

SENATE REPORTS: No. 109–138 (Comm. on Veterans' Affairs).

CONGRESSIONAL RECORD, Vol. 151 (2005):

Nov. 16, considered and passed Senate and House.



Public Law 109–112
109th Congress

An Act

Nov. 22, 2005
[S. 1713]

To make amendments to the Iran Nonproliferation Act of 2000 related to International Space Station payments, and for other purposes.

Iran
Nonproliferation
Amendments Act
of 2005.
Russian
Federation.
50 USC 1701
note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Iran Nonproliferation Amendments Act of 2005”.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The Director of Central Intelligence’s most recent Unclassified Report to Congress on the Acquisition of Technology Relating to Weapons of Mass Destruction and Advanced Conventional Munitions, 1 July Through 31 December 2003, states “Russian entities during the reporting period continued to supply a variety of ballistic missile-related goods and technical know-how to countries such as Iran, India, and China. Iran’s earlier success in gaining technology and materials from Russian entities helped accelerate Iranian development of the Shahab-3 MRBM, and continuing Russian entity assistance has supported Iranian efforts to develop new missiles and increase Tehran’s self-sufficiency in missile production.”

Lowell E. Jacoby.

(2) Vice Admiral Lowell E. Jacoby, the Director of the Defense Intelligence Agency, stated in testimony before the Select Committee on Intelligence of the Senate on February 16, 2005, that “Tehran probably will have the ability to produce nuclear weapons early in the next decade”.

(3) Iran has—

(A) failed to act in accordance with the Agreement Between Iran and the International Atomic Energy Agency for the Application of Safeguards in Connection with the Treaty on the Non-Proliferation of Nuclear Weapons, done at Vienna June 19, 1973 (commonly referred to as the “Safeguards Agreement”);

(B) acted in a manner inconsistent with the Protocol Additional to the Agreement Between Iran and the International Atomic Energy Agency for the Application of Safeguards, signed at Vienna December 18, 2003 (commonly referred to as the “Additional Protocol”);

(C) acted in a manner inconsistent with its obligations under the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow July

1, 1968, and entered into force March 5, 1970 (commonly referred to as the “Nuclear Non-Proliferation Treaty”); and

(D) resumed uranium conversion activities, thus ending the confidence building measures it adopted in its November 2003 agreement with the foreign ministers of the United Kingdom, France, and Germany.

(4) On September 24, 2005, the Board of Governors of the International Atomic Energy Agency (IAEA) formally declared that Iranian actions constituted noncompliance with its nuclear safeguards obligations, and that Iran’s history of concealment of its nuclear activities has given rise to questions that are within the purview of the United Nations Security Council.

(5) The executive branch has on multiple occasions used the authority provided under section 3 of the Iran Nonproliferation Act of 2000 (Public Law 106–178; 50 U.S.C. 1701 note) to impose sanctions on entities that have engaged in activities in violation of restrictions in the Act relating to—

(A) the export of equipment and technology controlled under multilateral export control lists, including under the Australia Group, Chemical Weapons Convention, Missile Technology Control Regime, Nuclear Suppliers Group, and the Wassenaar Arrangement or otherwise having the potential to make a material contribution to the development of weapons of mass destruction or cruise or ballistic missile systems to Iran; and

(B) the export of other items to Iran with the potential of making a material contribution to Iran’s weapons of mass destruction programs or on United States national control lists for reasons related to the proliferation of weapons of mass destruction or missiles.

(6) The executive branch has never made a determination pursuant to section 6(b) of the Iran Nonproliferation Act of 2000 that—

(A) it is the policy of the Government of the Russian Federation to oppose the proliferation to Iran of weapons of mass destruction and missile systems capable of delivering such weapons;

(B) the Government of the Russian Federation (including the law enforcement, export promotion, export control, and intelligence agencies of such government) has demonstrated and continues to demonstrate a sustained commitment to seek out and prevent the transfer to Iran of goods, services, and technology that could make a material contribution to the development of nuclear, biological, or chemical weapons, or of ballistic or cruise missile systems; and

(C) no entity under the jurisdiction or control of the Government of the Russian Federation, has, during the 1-year period prior to the date of the determination pursuant to section 6(b) of such Act, made transfers to Iran reportable under section 2(a) of the Act.

(7) On June 29, 2005, President George W. Bush issued Executive Order 13382 blocking property of weapons of mass destruction proliferators and their supporters, and used the authority of such order against 4 Iranian entities, Aerospace Industries Organization, Shahid Hemmat Industrial Group,

George W. Bush.

Shahid Bakeri Industrial Group, and the Atomic Energy Organization of Iran, that have engaged, or attempted to engage, in activities or transactions that have materially contributed to, or pose a risk of materially contributing to, the proliferation of weapons of mass destruction or their means of delivery (including missiles capable of delivering such weapons), including efforts to manufacture, acquire, possess, develop, transport, transfer, or use such items.

**SEC. 3. AMENDMENTS TO IRAN NONPROLIFERATION ACT OF 2000
RELATED TO INTERNATIONAL SPACE STATION PAY-
MENTS.**

(a) **TREATMENT OF CERTAIN PAYMENTS.**—Section 7(1)(B) of the Iran Nonproliferation Act of 2000 (Public Law 106–178; 50 U.S.C. 1701 note) is amended—

(1) by striking the period at the end and inserting a comma; and

(2) by adding at the end the following:
“except that such term does not mean payments in cash or in kind made or to be made by the United States Government prior to January 1, 2012, for work to be performed or services to be rendered prior to that date necessary to meet United States obligations under the Agreement Concerning Cooperation on the Civil International Space Station, with annex, signed at Washington January 29, 1998, and entered into force March 27, 2001, or any protocol, agreement, memorandum of understanding, or contract related thereto.”.

(b) **EXCEPTION.**—Section 6(h) of the Iran Nonproliferation Act of 2000 (Public Law 106–178; 50 U.S.C. 1701 note) is amended by inserting after “extraordinary payments in connection with the International Space Station” the following: “, or any other payments in connection with the International Space Station,”.

(c) **REPORTING REQUIREMENTS.**—Section 6 of the Iran Nonproliferation Act of 2000 (Public Law 106–178; 50 U.S.C. 1701 note) is amended by adding at the end the following new subsection:

“(i) **REPORT ON CERTAIN PAYMENTS RELATED TO INTERNATIONAL SPACE STATION.**—

President.

“(1) **IN GENERAL.**—The President shall, together with each report submitted under section 2(a), submit to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives a report that identifies each Russian entity or person to whom the United States Government has, since the date of the enactment of the Iran Nonproliferation Amendments Act of 2005, made a payment in cash or in kind for work to be performed or services to be rendered under the Agreement Concerning Cooperation on the Civil International Space Station, with annex, signed at Washington January 29, 1998, and entered into force March 27, 2001, or any protocol, agreement, memorandum of understanding, or contract related thereto.

“(2) **CONTENT.**—Each report submitted under paragraph (1) shall include—

“(A) the specific purpose of each payment made to each entity or person identified in the report; and

“(B) with respect to each such payment, the assessment of the President that the payment was not prejudicial to the achievement of the objectives of the United States

Government to prevent the proliferation of ballistic or cruise missile systems in Iran and other countries that have repeatedly provided support for acts of international terrorism, as determined by the Secretary of State under section 620A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2371(a)), section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)), or section 40(d) of the Arms Export Control Act (22 U.S.C. 2780(d)).”.

**SEC. 4. AMENDMENTS TO THE IRAN NONPROLIFERATION ACT OF 2000
TO MAKE SUCH ACT APPLICABLE TO IRAN AND SYRIA.**

(a) **REPORTS ON PROLIFERATION RELATING TO IRAN OR SYRIA.**—Section 2 of the Iran Nonproliferation Act of 2000 (Public Law 106–178; 50 U.S.C. 1701 note) is amended—

(1) in the heading, by striking **“TO IRAN”** and inserting **“RELATING TO IRAN AND SYRIA”**; and

(2) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) by inserting “or acquired from” after “transferred to”; and

(ii) by inserting after “Iran” the following: “, or on or after January 1, 2005, transferred to or acquired from Syria”; and

(B) in paragraph (2), by inserting after “Iran” the following: “or Syria, as the case may be,”.

(b) **DETERMINATION EXEMPTING FOREIGN PERSONS FROM CERTAIN MEASURES.**—Section 5(a) of the Iran Nonproliferation Act of 2000 (Public Law 106–178; 50 U.S.C. 1701 note) is amended—

(1) in paragraph (1), by striking “transfer to Iran” and inserting “transfer to or acquire from Iran or Syria, as the case may be,”; and

(2) in paragraph (2), by striking “Iran’s efforts” and inserting “the efforts of Iran or Syria, as the case may be,”.

(c) **RESTRICTION ON EXTRAORDINARY PAYMENTS IN CONNECTION WITH THE INTERNATIONAL SPACE STATION.**—Section 6(b) of the Iran Nonproliferation Act of 2000 (Public Law 106–178; 50 U.S.C. 1701 note) is amended—

(1) in the heading, by striking “TO IRAN” and inserting **“RELATING TO IRAN AND SYRIA”**;

(2) in paragraphs (1) and (2), by striking “to Iran” each place it appears and inserting “to or from Iran and Syria”; and

(3) in paragraph (3), by striking “to Iran” and inserting “to or from Iran or Syria”.

(d) **DEFINITIONS.**—Section 7(2) of the Iran Nonproliferation Act of 2000 (Public Law 106–178; 50 U.S.C. 1701 note) is amended—

(1) in subparagraph (C) to read as follows:

“(C) any foreign government, including any foreign governmental entity; and”; and

(2) in subparagraph (D), by striking “subparagraph (B) or (C)” and inserting “subparagraph (A), (B), or (C), including any entity in which any entity described in any such subparagraph owns a controlling interest”.

(e) **SHORT TITLE.**—

(1) **AMENDMENT.**—Section 1 of the Iran Nonproliferation Act of 2000 (Public Law 106–178; 50 U.S.C. 1701 note) is

amended by striking “Iran Nonproliferation Act of 2000” and inserting “Iran and Syria Nonproliferation Act”.

22 USC 2797b
note; 50 USC
1701 note.

(2) REFERENCES.—Any reference in a law, regulation, document, or other record of the United States to the Iran Nonproliferation Act of 2000 shall be deemed to be a reference to the Iran and Syria Nonproliferation Act.

Approved November 22, 2005.

LEGISLATIVE HISTORY—S. 1713:

CONGRESSIONAL RECORD, Vol. 151 (2005):

Sept. 21, considered and passed Senate.

Oct. 26, considered and passed House, amended.

Nov. 8, Senate concurred in House amendments.



Public Law 109–113
109th Congress

An Act

To amend part E of title IV of the Social Security Act to provide for the making of foster care maintenance payments to private for-profit agencies.

Nov. 22, 2005
[S. 1894]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Fair Access Foster Care Act of 2005”.

Fair Access
Foster Care Act
of 2005.
42 USC 1305
note.

SEC. 2. FOSTER CARE MAINTENANCE PAYMENTS TO PRIVATE FOR-PROFIT AGENCIES.

Section 472(b) of the Social Security Act (42 U.S.C. 672(b)) is amended by striking “nonprofit” each place it appears.

Approved November 22, 2005.

LEGISLATIVE HISTORY—S. 1894:

CONGRESSIONAL RECORD, Vol. 151 (2005):

Oct. 19, considered and passed Senate.

Nov. 8, 9, considered and passed House.



Public Law 109–114
109th Congress

An Act

Nov. 30, 2005
[H.R. 2528]

Making appropriations for military quality of life functions of the Department of Defense, military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2006, and for other purposes.

Military Quality
of Life and
Veterans Affairs
Appropriations
Act, 2006.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated for military quality of life functions of the Department of Defense, military construction, the Department of Veterans Affairs, and related agencies, for the fiscal year ending September 30, 2006, and for other purposes, namely:

TITLE I

DEPARTMENT OF DEFENSE

MILITARY CONSTRUCTION, ARMY

(INCLUDING RESCISSIONS OF FUNDS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Army as currently authorized by law, including personnel in the Army Corps of Engineers and other personal services necessary for the purposes of this appropriation, and for construction and operation of facilities in support of the functions of the Commander in Chief, \$1,775,260,000, to remain available until September 30, 2010: *Provided*, That of this amount, not to exceed \$170,021,000 shall be available for study, planning, design, architect and engineer services, and host nation support, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of the determination and the reasons therefor: *Provided further*, That of the funds provided, \$50,000,000, to remain available until September 30, 2007, shall be for overhead cover systems to support force protection activities in Iraq: *Provided further*, That of the funds appropriated for “Military Construction, Army” under Public Law 107–249, \$3,046,000 are hereby rescinded: *Provided further*, That of the funds appropriated for “Military Construction, Army” under Public Law 108–324, \$16,700,000 are hereby rescinded.

MILITARY CONSTRUCTION, NAVY AND MARINE CORPS

(INCLUDING RESCISSIONS OF FUNDS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, naval installations, facilities, and real property for the Navy and Marine Corps as currently authorized by law, including personnel in the Naval Facilities Engineering Command and other personal services necessary for the purposes of this appropriation, \$1,157,141,000, to remain available until September 30, 2010: *Provided*, That of this amount, not to exceed \$34,893,000 shall be available for study, planning, design, and architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of the determination and the reasons therefor: *Provided further*, That of the funds appropriated for “Military Construction, Navy and Marine Corps” under Public Law 108–132, \$5,767,000 are hereby rescinded: *Provided further*, That of the funds appropriated for “Military Construction, Navy and Marine Corps” under Public Law 108–324, \$44,270,000 are hereby rescinded.

Notification.

MILITARY CONSTRUCTION, AIR FORCE

(INCLUDING RESCISSIONS OF FUNDS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Air Force as currently authorized by law, \$1,288,530,000, to remain available until September 30, 2010: *Provided*, That of this amount, not to exceed \$95,537,000 shall be available for study, planning, design, and architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of the determination and the reasons therefor: *Provided further*, That of the funds appropriated for “Military Construction, Air Force” under Public Law 108–11, \$13,000,000 are hereby rescinded: *Provided further*, That of the funds appropriated for “Military Construction, Air Force” under Public Law 108–132, \$6,600,000 are hereby rescinded: *Provided further*, That of the funds appropriated for “Military Construction, Air Force” under Public Law 108–324, \$9,500,000 are hereby rescinded: *Provided further*, That of the funds appropriated for “Military Construction, Air Force” under Public Law 109–13, \$46,500,000 are hereby rescinded.

Notification.

MILITARY CONSTRUCTION, DEFENSE-WIDE

(INCLUDING TRANSFER AND RESCISSION OF FUNDS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, installations, facilities, and real property for activities and agencies of the Department of Defense (other than the military departments), as currently authorized by law, \$1,008,855,000, to remain available until September 30, 2010: *Provided*, That such amounts of this appropriation as may be determined by the Secretary of Defense may be transferred

Notification.

to such appropriations of the Department of Defense available for military construction or family housing as the Secretary may designate, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided further*, That of the amount appropriated, not to exceed \$136,406,000 shall be available for study, planning, design, and architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of the determination and the reasons therefor: *Provided further*, That of the funds appropriated for “Military Construction, Defense-Wide” under Public Law 108–324, \$20,000,000 are hereby rescinded.

MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army National Guard, and contributions therefor, as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, \$523,151,000, to remain available until September 30, 2010.

MILITARY CONSTRUCTION, AIR NATIONAL GUARD

(INCLUDING RESCISSION OF FUNDS)

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air National Guard, and contributions therefor, as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, \$316,117,000, to remain available until September 30, 2010: *Provided*, That of the funds appropriated for “Military Construction, Air National Guard” under Public Law 108–324, \$13,700,000 are hereby rescinded.

MILITARY CONSTRUCTION, ARMY RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army Reserve as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, \$152,569,000, to remain available until September 30, 2010.

MILITARY CONSTRUCTION, NAVAL RESERVE

(INCLUDING RESCISSIONS OF FUNDS)

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the reserve components of the Navy and Marine Corps as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, \$46,864,000, to remain available until September 30, 2010: *Provided*, That of the funds appropriated for “Military Construction, Naval Reserve” under Public Law 108–132, \$5,368,000 are hereby rescinded: *Provided further*, That of the funds appropriated for “Military Construction, Naval Reserve” under Public Law 108–324, \$11,192,000 are hereby rescinded.

MILITARY CONSTRUCTION, AIR FORCE RESERVE

(INCLUDING RESCISSION OF FUNDS)

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air Force Reserve as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, \$105,883,000, to remain available until September 30, 2010: *Provided*, That of the funds appropriated for “Military Construction, Air Force Reserve” under Public Law 108–324, \$13,815,000 are hereby rescinded.

NORTH ATLANTIC TREATY ORGANIZATION

SECURITY INVESTMENT PROGRAM

(INCLUDING RESCISSION OF FUNDS)

For the United States share of the cost of the North Atlantic Treaty Organization Security Investment Program for the acquisition and construction of military facilities and installations (including international military headquarters) and for related expenses for the collective defense of the North Atlantic Treaty Area as authorized by section 2806 of title 10, United States Code, and Military Construction Authorization Acts, \$206,858,000, to remain available until expended: *Provided*, That of the funds appropriated for “North Atlantic Treaty Organization Security Investment Program” under Public Law 108–324, \$30,000,000 are hereby rescinded.

FAMILY HOUSING CONSTRUCTION, ARMY

(INCLUDING RESCISSION OF FUNDS)

For expenses of family housing for the Army for construction, including acquisition, replacement, addition, expansion, extension, and alteration, as authorized by law, \$549,636,000, to remain available until September 30, 2010: *Provided*, That of the funds appropriated for “Family Housing Construction, Army” under Public Law 108–324, \$16,000,000 are hereby rescinded.

FAMILY HOUSING OPERATION AND MAINTENANCE, ARMY

For expenses of family housing for the Army for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, \$803,993,000.

FAMILY HOUSING CONSTRUCTION, NAVY AND MARINE CORPS

For expenses of family housing for the Navy and Marine Corps for construction, including acquisition, replacement, addition, expansion, extension, and alteration, as authorized by law, \$218,942,000, to remain available until September 30, 2010.

FAMILY HOUSING OPERATION AND MAINTENANCE, NAVY AND
MARINE CORPS

For expenses of family housing for the Navy and Marine Corps for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, \$588,660,000.

FAMILY HOUSING CONSTRUCTION, AIR FORCE

(INCLUDING RESCISSIONS OF FUNDS)

For expenses of family housing for the Air Force for construction, including acquisition, replacement, addition, expansion, extension, and alteration, as authorized by law, \$1,101,887,000, to remain available until September 30, 2010: *Provided*, That of the funds appropriated for “Family Housing Construction, Air Force” under Public Law 107–249, \$7,700,000 are hereby rescinded: *Provided further*, That of the funds appropriated for “Family Housing Construction, Air Force” under Public Law 108–132, \$4,500,000 are hereby rescinded: *Provided further*, That of the funds appropriated for “Family Housing Construction, Air Force” under Public Law 108–324, \$31,700,000 are hereby rescinded.

FAMILY HOUSING OPERATION AND MAINTENANCE, AIR FORCE

For expenses of family housing for the Air Force for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, \$766,939,000.

FAMILY HOUSING OPERATION AND MAINTENANCE, DEFENSE-WIDE

For expenses of family housing for the activities and agencies of the Department of Defense (other than the military departments) for operation and maintenance, leasing, and minor construction, as authorized by law, \$46,391,000.

DEPARTMENT OF DEFENSE FAMILY HOUSING IMPROVEMENT FUND

For the Department of Defense Family Housing Improvement Fund, \$2,500,000, to remain available until expended, for family housing initiatives undertaken pursuant to section 2883 of title 10, United States Code, providing alternative means of acquiring and improving military family housing and supporting facilities.

DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT 1990

For deposit into the Department of Defense Base Closure Account 1990, established by section 2906(a)(1) of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note), \$254,827,000, to remain available until expended.

DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT 2005

For deposit into the Department of Defense Base Closure Account 2005, established by section 2906A(a)(1) of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note), \$1,504,466,000, to remain available until expended: *Provided*, That

these funds may not be obligated or expended until the Secretary of Defense submits to the congressional defense committees and receives approval of a report describing the specific programs, projects, and activities for which such funds are to be obligated.

ADMINISTRATIVE PROVISIONS

SEC. 101. None of the funds made available in this title shall be expended for payments under a cost-plus-a-fixed-fee contract for construction, where cost estimates exceed \$25,000, to be performed within the United States, except Alaska, without the specific approval in writing of the Secretary of Defense setting forth the reasons therefor. Contracts.

SEC. 102. Funds made available in this title for construction shall be available for hire of passenger motor vehicles.

SEC. 103. Funds made available in this title for construction may be used for advances to the Federal Highway Administration, Department of Transportation, for the construction of access roads as authorized by section 210 of title 23, United States Code, when projects authorized therein are certified as important to the national defense by the Secretary of Defense.

SEC. 104. None of the funds made available in this title may be used to begin construction of new bases in the United States for which specific appropriations have not been made.

SEC. 105. None of the funds made available in this title shall be used for purchase of land or land easements in excess of 100 percent of the value as determined by the Army Corps of Engineers or the Naval Facilities Engineering Command, except: (1) where there is a determination of value by a Federal court; (2) purchases negotiated by the Attorney General or the designee of the Attorney General; (3) where the estimated value is less than \$25,000; or (4) as otherwise determined by the Secretary of Defense to be in the public interest.

SEC. 106. None of the funds made available in this title shall be used to: (1) acquire land; (2) provide for site preparation; or (3) install utilities for any family housing, except housing for which funds have been made available in annual Acts making appropriations for military construction.

SEC. 107. None of the funds made available in this title for minor construction may be used to transfer or relocate any activity from one base or installation to another, without prior notification to the Committees on Appropriations of both Houses of Congress. Notification.

SEC. 108. None of the funds made available in this title may be used for the procurement of steel for any construction project or activity for which American steel producers, fabricators, and manufacturers have been denied the opportunity to compete for such steel procurement.

SEC. 109. None of the funds available to the Department of Defense for military construction or family housing during the current fiscal year may be used to pay real property taxes in any foreign nation.

SEC. 110. None of the funds made available in this title may be used to initiate a new installation overseas without prior notification to the Committees on Appropriations of both Houses of Congress. Notification.

SEC. 111. None of the funds made available in this title may be obligated for architect and engineer contracts estimated by the Contracts.

Government to exceed \$500,000 for projects to be accomplished in Japan, in any North Atlantic Treaty Organization member country, or in countries bordering the Arabian Sea, unless such contracts are awarded to United States firms or United States firms in joint venture with host nation firms.

Contracts.

SEC. 112. None of the funds made available in this title for military construction in the United States territories and possessions in the Pacific and on Kwajalein Atoll, or in countries bordering the Arabian Sea, may be used to award any contract estimated by the Government to exceed \$1,000,000 to a foreign contractor: *Provided*, That this section shall not be applicable to contract awards for which the lowest responsive and responsible bid of a United States contractor exceeds the lowest responsive and responsible bid of a foreign contractor by greater than 20 percent: *Provided further*, That this section shall not apply to contract awards for military construction on Kwajalein Atoll for which the lowest responsive and responsible bid is submitted by a Marshallese contractor.

Notification.
Deadline.

SEC. 113. The Secretary of Defense is to inform the appropriate committees of both Houses of Congress, including the Committees on Appropriations, of the plans and scope of any proposed military exercise involving United States personnel 30 days prior to its occurring, if amounts expended for construction, either temporary or permanent, are anticipated to exceed \$100,000.

SEC. 114. Not more than 20 percent of the funds made available in this title which are limited for obligation during the current fiscal year shall be obligated during the last two months of the fiscal year.

(TRANSFER OF FUNDS)

SEC. 115. Funds appropriated to the Department of Defense for construction in prior years shall be available for construction authorized for each such military department by the authorizations enacted into law during the current session of Congress.

SEC. 116. For military construction or family housing projects that are being completed with funds otherwise expired or lapsed for obligation, expired or lapsed funds may be used to pay the cost of associated supervision, inspection, overhead, engineering and design on those projects and on subsequent claims, if any.

10 USC 2860
note.

SEC. 117. Notwithstanding any other provision of law, any funds made available to a military department or defense agency for the construction of military projects may be obligated for a military construction project or contract, or for any portion of such a project or contract, at any time before the end of the fourth fiscal year after the fiscal year for which funds for such project were made available, if the funds obligated for such project: (1) are obligated from funds available for military construction projects; and (2) do not exceed the amount appropriated for such project, plus any amount by which the cost of such project is increased pursuant to law.

Reports.
Deadline.

SEC. 118. The Secretary of Defense is to provide the Committees on Appropriations of both Houses of Congress with an annual report by February 15, containing details of the specific actions proposed to be taken by the Department of Defense during the current fiscal year to encourage other member nations of the North Atlantic Treaty Organization, Japan, Korea, and United States

allies bordering the Arabian Sea to assume a greater share of the common defense burden of such nations and the United States.

(TRANSFER OF FUNDS)

SEC. 119. In addition to any other transfer authority available to the Department of Defense, proceeds deposited to the Department of Defense Base Closure Account established by section 207(a)(1) of the Defense Authorization Amendments and Base Closure and Realignment Act (10 U.S.C. 2687 note) pursuant to section 207(a)(2)(C) of such Act, may be transferred to the account established by section 2906(a)(1) of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note), to be merged with, and to be available for the same purposes and the same time period as that account.

(TRANSFER OF FUNDS)

SEC. 120. Subject to 30 days prior notification to the Committees on Appropriations of both Houses of Congress, such additional amounts as may be determined by the Secretary of Defense may be transferred to: (1) the Department of Defense Family Housing Improvement Fund from amounts appropriated for construction in “Family Housing” accounts, to be merged with and to be available for the same purposes and for the same period of time as amounts appropriated directly to the Fund; or (2) the Department of Defense Military Unaccompanied Housing Improvement Fund from amounts appropriated for construction of military unaccompanied housing in “Military Construction” accounts, to be merged with and to be available for the same purposes and for the same period of time as amounts appropriated directly to the Fund: *Provided*, That appropriations made available to the Funds shall be available to cover the costs, as defined in section 502(5) of the Congressional Budget Act of 1974, of direct loans or loan guarantees issued by the Department of Defense pursuant to the provisions of subchapter IV of chapter 169 of title 10, United States Code, pertaining to alternative means of acquiring and improving military family housing, military unaccompanied housing, and supporting facilities.

Deadline.
Notification.

SEC. 121. None of the funds made available in this title may be obligated for Partnership for Peace Programs in the New Independent States of the former Soviet Union.

SEC. 122. (a) Not later than 60 days before issuing any solicitation for a contract with the private sector for military family housing the Secretary of the military department concerned shall submit to the Committees on Appropriations of both Houses of Congress the notice described in subsection (b).

Deadline.
Contracts.
Notice.

(b)(1) A notice referred to in subsection (a) is a notice of any guarantee (including the making of mortgage or rental payments) proposed to be made by the Secretary to the private party under the contract involved in the event of—

(A) the closure or realignment of the installation for which housing is provided under the contract;

(B) a reduction in force of units stationed at such installation; or

(C) the extended deployment overseas of units stationed at such installation.

(2) Each notice under this subsection shall specify the nature of the guarantee involved and assess the extent and likelihood,

if any, of the liability of the Federal Government with respect to the guarantee.

(TRANSFER OF FUNDS)

SEC. 123. In addition to any other transfer authority available to the Department of Defense, amounts may be transferred from the account established by section 2906(a)(1) of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note), to the fund established by section 1013(d) of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374) to pay for expenses associated with the Homeowners Assistance Program. Any amounts transferred shall be merged with and be available for the same purposes and for the same time period as the fund to which transferred.

10 USC 2821
note.

SEC. 124. Notwithstanding this or any other provision of law, funds made available in this title for operation and maintenance of family housing shall be the exclusive source of funds for repair and maintenance of all family housing units, including general or flag officer quarters: *Provided*, That not more than \$35,000 per unit may be spent annually for the maintenance and repair of any general or flag officer quarters without 30 days prior notification to the Committees on Appropriations of both Houses of Congress, except that an after-the-fact notification shall be submitted if the limitation is exceeded solely due to costs associated with environmental remediation that could not be reasonably anticipated at the time of the budget submission: *Provided further*, That the Under Secretary of Defense (Comptroller) is to report annually to the Committees on Appropriations of both Houses of Congress all operation and maintenance expenditures for each individual general or flag officer quarters for the prior fiscal year.

Reports.

SEC. 125. None of the funds made available in this title under the heading “North Atlantic Treaty Organization Security Investment Program”, and no funds appropriated for any fiscal year before fiscal year 2006 for that program that remain available for obligation, may be obligated or expended for the conduct of studies of missile defense.

Deadline.

SEC. 126. Whenever the Secretary of Defense or any other official of the Department of Defense is requested by the subcommittee on Military Quality of Life and Veterans Affairs, and Related Agencies of the Committee on Appropriations of the House of Representatives or the subcommittee on Military Construction and Veterans Affairs, and Related Agencies of the Committee on Appropriations of the Senate to respond to a question or inquiry submitted by the chairman or another member of that subcommittee pursuant to a subcommittee hearing or other activity, the Secretary (or other official) shall respond to the request, in writing, within 21 days of the date on which the request is transmitted to the Secretary (or other official).

SEC. 127. Amounts contained in the Ford Island Improvement Account established by subsection (h) of section 2814 of title 10, United States Code, are appropriated and shall be available until expended for the purposes specified in subsection (i)(1) of such section or until transferred pursuant to subsection (i)(3) of such section.

(TRANSFER OF FUNDS)

SEC. 128. None of the funds made available in this title, or in any Act making appropriations for military construction which remain available for obligation, may be obligated or expended to carry out a military construction, land acquisition, or family housing project at or for a military installation approved for closure, or at a military installation for the purposes of supporting a function that has been approved for realignment to another installation, in 2005 under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note), unless such a project at a military installation approved for realignment will support a new mission or function that is planned for that installation, or unless the Secretary of Defense certifies that the cost to the United States of carrying out such project would be less than the cost to the United States of cancelling such project, or if the project is at an active component base that shall be established as an enclave or in the case of projects having multi-agency use, that another Government agency has indicated it will assume ownership of the completed project. The Secretary of Defense may not transfer funds made available as a result of this limitation from any military construction project, land acquisition, or family housing project to another account or use such funds for another purpose or project without the prior approval of the Committees on Appropriations of both Houses of Congress.

Certification.

SEC. 129. (a) Of the amount in the Department of Defense Base Closure Account 1990 under section 2906(a)(1) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) that is derived from the disposal of Department of the Navy property under that Act, not less than \$300,000,000 shall be available exclusively to the Department of the Navy for the costs of environmental restoration and property management and disposal of property at installations of the Department of the Navy closed or realigned under that Act.

(b) The amount available under subsection (a) shall remain available for the costs specified in that subsection until expended.

(c) Not later than 45 days after the date of enactment of this Act, the Secretary of the Navy shall submit to the Committees on Appropriations of both Houses of Congress a report containing a plan for the use of the funds made available under subsection (a) for environmental restoration, and for property management and disposal, at covered Navy installations, including specific sites and work to be accomplished at those sites. None of the funds made available under subsection (a) shall be obligated until both of such committees approve such report or the expiration of the 30-day period beginning on the date such committees receive such report, whichever occurs earlier.

Reports.
Deadlines.

SEC. 130. Not later than 45 days after the date of the enactment of this Act, the Secretary of the Air Force shall submit to the Committees on Appropriations of both of Houses of Congress a report containing a housing plan for Spangdahlem Air Base, Germany, as outlined in the Statement of Managers accompanying the Conference report for H.R. 2528 of the 109th Congress. None of the funds made available in this title shall be used for the construction of family housing at Spangdahlem Air Base, Germany, until both of such committees approve such report or the expiration

Deadlines.
Reports.

of the 30-day period beginning on the date such committees receive such report, whichever occurs earlier.

TITLE II

DEPARTMENT OF VETERANS AFFAIRS

VETERANS BENEFITS ADMINISTRATION

COMPENSATION AND PENSIONS

(INCLUDING TRANSFER OF FUNDS)

For the payment of compensation benefits to or on behalf of veterans and a pilot program for disability examinations as authorized by law (38 U.S.C. 107, chapters 11, 13, 18, 51, 53, 55, and 61); pension benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 15, 51, 53, 55, and 61; 92 Stat. 2508); and burial benefits, the Reinstated Entitlement Program for Survivors, emergency and other officers' retirement pay, adjusted-service credits and certificates, payment of premiums due on commercial life insurance policies guaranteed under the provisions of title IV of the Servicemembers Civil Relief Act (50 U.S.C. App. 540 et seq.) and for other benefits as authorized by law (38 U.S.C. 107, 1312, 1977, and 2106, chapters 23, 51, 53, 55, and 61; 43 Stat. 122, 123; 45 Stat. 735; 76 Stat. 1198), \$33,897,787,000, to remain available until expended: *Provided*, That not to exceed \$23,491,000 of the amount appropriated under this heading shall be reimbursed to "General operating expenses" and "Medical administration" for necessary expenses in implementing the provisions of chapters 51, 53, and 55 of title 38, United States Code, the funding source for which is specifically provided as the "Compensation and pensions" appropriation: *Provided further*, That such sums as may be earned on an actual qualifying patient basis, shall be reimbursed to "Medical care collections fund" to augment the funding of individual medical facilities for nursing home care provided to pensioners as authorized.

READJUSTMENT BENEFITS

For the payment of readjustment and rehabilitation benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 21, 30, 31, 34, 35, 36, 39, 51, 53, 55, and 61), \$3,309,234,000, to remain available until expended: *Provided*, That expenses for rehabilitation program services and assistance which the Secretary is authorized to provide under section 3104(a) of title 38, United States Code, other than under subsection (a)(1), (2), (5), and (11) of that section, shall be charged to this account.

VETERANS INSURANCE AND INDEMNITIES

For military and naval insurance, national service life insurance, servicemen's indemnities, service-disabled veterans insurance, and veterans mortgage life insurance as authorized by title 38, United States Code, chapter 19; 70 Stat. 887; 72 Stat. 487, \$45,907,000, to remain available until expended.

VETERANS HOUSING BENEFIT PROGRAM FUND PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct and guaranteed loans, such sums as may be necessary to carry out the program, as authorized by chapter 37 of title 38, United States Code: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That during fiscal year 2006, within the resources available, not to exceed \$500,000 in gross obligations for direct loans are authorized for specially adapted housing loans.

In addition, for administrative expenses to carry out the direct and guaranteed loan programs, \$153,575,000, which may be transferred to and merged with the appropriation for “General operating expenses”.

VOCATIONAL REHABILITATION LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, \$53,000, as authorized by chapter 31 of title 38, United States Code: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That funds made available under this heading are available to subsidize gross obligations for the principal amount of direct loans not to exceed \$4,242,000.

In addition, for administrative expenses necessary to carry out the direct loan program, \$305,000, which may be transferred to and merged with the appropriation for “General operating expenses”.

NATIVE AMERICAN VETERAN HOUSING LOAN PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For administrative expenses to carry out the direct loan program authorized by subchapter V of chapter 37 of title 38, United States Code, \$580,000, which may be transferred to and merged with the appropriation for “General operating expenses”: *Provided*, That no new loans in excess of \$30,000,000 may be made in fiscal year 2006.

GUARANTEED TRANSITIONAL HOUSING LOANS FOR HOMELESS
VETERANS PROGRAM ACCOUNT

For the administrative expenses to carry out the guaranteed transitional housing loan program authorized by subchapter VI of chapter 37 of title 38, United States Code, not to exceed \$750,000 of the amounts appropriated by this Act for “General operating expenses” and “Medical administration” may be expended.

VETERANS HEALTH ADMINISTRATION

MEDICAL SERVICES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for furnishing, as authorized by law, inpatient and outpatient care and treatment to beneficiaries of the Department of Veterans Affairs and veterans described in section 1705(a) of title 38, United States Code, including care and treatment in facilities not under the jurisdiction of the Department, and including medical supplies and equipment and salaries and expenses of health-care employees hired under title 38, United States Code, and aid to State homes as authorized by section 1741 of title 38, United States Code; \$22,547,141,000, plus reimbursements, of which not less than \$2,200,000,000 shall be expended for specialty mental health care: *Provided*, That \$1,225,000,000 of the amount provided under this heading is designated by the Congress as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006: *Provided further*, That such \$1,225,000,000 shall be available only if an official budget request is transmitted by the President to the Congress that revises the President's budget amendment of July 14, 2005, to designate the entire \$1,225,000,000 as an emergency requirement: *Provided further*, That of the funds made available under this heading, not to exceed \$1,100,000,000 shall be available until September 30, 2007: *Provided further*, That, notwithstanding any other provision of law, the Secretary of Veterans Affairs shall establish a priority for treatment for veterans who are service-connected disabled, lower income, or have special needs: *Provided further*, That, notwithstanding any other provision of law, the Secretary of Veterans Affairs shall give priority funding for the provision of basic medical benefits to veterans in enrollment priority groups 1 through 6: *Provided further*, That, notwithstanding any other provision of law, the Secretary of Veterans Affairs may authorize the dispensing of prescription drugs from Veterans Health Administration facilities to enrolled veterans with privately written prescriptions based on requirements established by the Secretary: *Provided further*, That the implementation of the program described in the previous proviso shall incur no additional cost to the Department of Veterans Affairs: *Provided further*, That for the Department of Defense/Department of Veterans Affairs Health Care Sharing Incentive Fund, as authorized by section 721 of Public Law 107–314, a minimum of \$15,000,000, to remain available until expended, for any purpose authorized by section 8111 of title 38, United States Code.

MEDICAL ADMINISTRATION

For necessary expenses in the administration of the medical, hospital, nursing home, domiciliary, construction, supply, and research activities, as authorized by law; administrative expenses in support of capital policy activities; uniforms or allowances therefor, as authorized by sections 5901–5902 of title 5, United States Code; and administrative and legal expenses of the Department for collecting and recovering amounts owed the Department as authorized under chapter 17 of title 38, United States Code, and the Federal Medical Care Recovery Act (42 U.S.C. 2651 et

seq.); \$2,858,442,000, plus reimbursements, of which \$250,000,000 shall be available until September 30, 2007.

MEDICAL FACILITIES

For necessary expenses for the maintenance and operation of hospitals, nursing homes, and domiciliary facilities and other necessary facilities for the Veterans Health Administration; for administrative expenses in support of planning, design, project management, real property acquisition and disposition, construction and renovation of any facility under the jurisdiction or for the use of the Department; for oversight, engineering and architectural activities not charged to project costs; for repairing, altering, improving or providing facilities in the several hospitals and homes under the jurisdiction of the Department, not otherwise provided for, either by contract or by the hire of temporary employees and purchase of materials; for leases of facilities; and for laundry and food services, \$3,297,669,000, plus reimbursements, of which \$250,000,000 shall be available until September 30, 2007.

MEDICAL AND PROSTHETIC RESEARCH

For necessary expenses in carrying out programs of medical and prosthetic research and development as authorized by chapter 73 of title 38, United States Code, to remain available until September 30, 2007, \$412,000,000, plus reimbursements, of which not less than \$15,000,000 shall be used for Gulf War Illness research.

DEPARTMENTAL ADMINISTRATION

GENERAL OPERATING EXPENSES

For necessary operating expenses of the Department of Veterans Affairs, not otherwise provided for, including administrative expenses in support of Department-Wide capital planning, management and policy activities, uniforms or allowances therefor; not to exceed \$25,000 for official reception and representation expenses; hire of passenger motor vehicles; and reimbursement of the General Services Administration for security guard services, and the Department of Defense for the cost of overseas employee mail, \$1,410,520,000: *Provided*, That expenses for services and assistance authorized under paragraphs (1), (2), (5), and (11) of section 3104(a) of title 38, United States Code, that the Secretary of Veterans Affairs determines are necessary to enable entitled veterans: (1) to the maximum extent feasible, to become employable and to obtain and maintain suitable employment; or (2) to achieve maximum independence in daily living, shall be charged to this account: *Provided further*, That the Veterans Benefits Administration shall be funded at not less than \$1,053,938,000: *Provided further*, That of the funds made available under this heading, not to exceed \$70,000,000 shall be available for obligation until September 30, 2007: *Provided further*, That from the funds made available under this heading, the Veterans Benefits Administration may purchase up to two passenger motor vehicles for use in operations of that Administration in Manila, Philippines.

INFORMATION TECHNOLOGY SYSTEMS

Deadline.
Notification.

For necessary expenses for information technology systems and telecommunications support, including developmental information systems and operational information systems; for the capital asset acquisition of information technology systems, including management and related contractual costs of said acquisitions, including contractual costs associated with operations authorized by chapter 3109 of title 5, United States Code, \$1,213,820,000, to remain available until September 30, 2007: *Provided*, That none of these funds may be obligated until the Department of Veterans Affairs submits to the Committees on Appropriations of both Houses of Congress, and such Committees approve, a plan for expenditure that: (1) meets the capital planning and investment control review requirements established by the Office of Management and Budget; (2) complies with the Department of Veterans Affairs enterprise architecture; (3) conforms with an established enterprise life cycle methodology; and (4) complies with the acquisition rules, requirements, guidelines, and systems acquisition management practices of the Federal Government: *Provided further*, That within 30 days of enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committees on Appropriations of both Houses of Congress a reprogramming base letter which provides, by project, the costs included in this appropriation.

NATIONAL CEMETERY ADMINISTRATION

For necessary expenses of the National Cemetery Administration for operations and maintenance, not otherwise provided for, including uniforms or allowances therefor; cemeterial expenses as authorized by law; purchase of one passenger motor vehicle for use in cemeterial operations; and hire of passenger motor vehicles, \$156,447,000: *Provided*, That of the funds made available under this heading, not to exceed \$7,800,000 shall be available until September 30, 2007.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, \$70,174,000, to remain available until September 30, 2007.

CONSTRUCTION, MAJOR PROJECTS

For constructing, altering, extending and improving any of the facilities including parking projects under the jurisdiction or for the use of the Department of Veterans Affairs, or for any of the purposes set forth in sections 316, 2404, 2406, 8102, 8103, 8106, 8108, 8109, 8110, and 8122 of title 38, United States Code, including planning, architectural and engineering services, construction management services, maintenance or guarantee period services costs associated with equipment guarantees provided under the project, services of claims analysts, offsite utility and storm drainage system construction costs, and site acquisition, where the estimated cost of a project is more than the amount set forth in section 8104(a)(3)(A) of title 38, United States Code, or where funds for a project were made available in a previous major project appropriation, \$607,100,000, to remain available until expended, of which \$532,010,000 shall be for Capital Asset Realignment for Enhanced

Services (CARES) activities; and of which \$2,500,000 shall be to make reimbursements as provided in section 13 of the Contract Disputes Act of 1978 (41 U.S.C. 612) for claims paid for contract disputes: *Provided*, That except for advance planning activities, including needs assessments which may or may not lead to capital investments, and other capital asset management related activities, such as portfolio development and management activities, and investment strategy studies funded through the advance planning fund and the planning and design activities funded through the design fund and CARES funds, including needs assessments which may or may not lead to capital investments, none of the funds appropriated under this heading shall be used for any project which has not been approved by the Congress in the budgetary process: *Provided further*, That funds provided in this appropriation for fiscal year 2006, for each approved project (except those for CARES activities referenced above) shall be obligated: (1) by the awarding of a construction documents contract by September 30, 2006; and (2) by the awarding of a construction contract by September 30, 2007: *Provided further*, That the Secretary of Veterans Affairs shall promptly report in writing to the Committees on Appropriations of both Houses of Congress any approved major construction project in which obligations are not incurred within the time limitations established above: *Provided further*, That none of the funds in this or any other Act may be used to reduce the mission, services or infrastructure, including land, of the 18 facilities on the Capital Asset Realignment for Enhanced Services (CARES) list requiring further study as specified by the Secretary of Veterans Affairs without prior approval of the Committees on Appropriations of both Houses of Congress.

Contracts.
Deadlines.

Reports.

CONSTRUCTION, MINOR PROJECTS

For constructing, altering, extending, and improving any of the facilities including parking projects under the jurisdiction or for the use of the Department of Veterans Affairs, including planning and assessments of needs which may lead to capital investments, architectural and engineering services, maintenance or guarantee period services costs associated with equipment guarantees provided under the project, services of claims analysts, offsite utility and storm drainage system construction costs, and site acquisition, or for any of the purposes set forth in sections 316, 2404, 2406, 8102, 8103, 8106, 8108, 8109, 8110, 8122, and 8162 of title 38, United States Code, where the estimated cost of a project is equal to or less than the amount set forth in section 8104(a)(3)(A) of title 38, United States Code, \$198,937,000, to remain available until expended, along with unobligated balances of previous “Construction, minor projects” appropriations which are hereby made available for any project where the estimated cost is equal to or less than the amount set forth in such section, of which \$155,000,000 shall be for Capital Asset Realignment for Enhanced Services (CARES) activities: *Provided*, That funds in this account shall be available for: (1) repairs to any of the nonmedical facilities under the jurisdiction or for the use of the Department which are necessary because of loss or damage caused by any natural disaster or catastrophe; and (2) temporary measures necessary to prevent or to minimize further loss by such causes.

GRANTS FOR CONSTRUCTION OF STATE EXTENDED CARE FACILITIES

For grants to assist States to acquire or construct State nursing home and domiciliary facilities and to remodel, modify or alter existing hospital, nursing home and domiciliary facilities in State homes, for furnishing care to veterans as authorized by sections 8131–8137 of title 38, United States Code, \$85,000,000, to remain available until expended.

GRANTS FOR THE CONSTRUCTION OF STATE VETERANS CEMETERIES

For grants to aid States in establishing, expanding, or improving State veterans cemeteries as authorized by section 2408 of title 38, United States Code, \$32,000,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS

(INCLUDING TRANSFER OF FUNDS)

SEC. 201. Any appropriation for fiscal year 2006 for “Compensation and pensions”, “Readjustment benefits”, and “Veterans insurance and indemnities” may be transferred as necessary to any other of the mentioned appropriations: *Provided*, That before a transfer may take place, the Secretary of Veterans Affairs shall request from the Committees on Appropriations of both Houses of Congress the authority to make the transfer and an approval is issued, or absent a response, a period of 30 days has elapsed.

SEC. 202. Appropriations available in this title for salaries and expenses shall be available for services authorized by section 3109 of title 5, United States Code, hire of passenger motor vehicles; lease of a facility or land or both; and uniforms or allowances therefore, as authorized by sections 5901–5902 of title 5, United States Code.

SEC. 203. No appropriations in this title (except the appropriations for “Construction, major projects”, and “Construction, minor projects”) shall be available for the purchase of any site for or toward the construction of any new hospital or home.

SEC. 204. No appropriations in this title shall be available for hospitalization or examination of any persons (except beneficiaries entitled under the laws bestowing such benefits to veterans, and persons receiving such treatment under sections 7901–7904 of title 5, United States Code or the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.)), unless reimbursement of cost is made to the “Medical services” account at such rates as may be fixed by the Secretary of Veterans Affairs.

SEC. 205. Appropriations available in this title for “Compensation and pensions”, “Readjustment benefits”, and “Veterans insurance and indemnities” shall be available for payment of prior year accrued obligations required to be recorded by law against the corresponding prior year accounts within the last quarter of fiscal year 2005.

SEC. 206. Appropriations available in this title shall be available to pay prior year obligations of corresponding prior year appropriations accounts resulting from sections 3328(a), 3334, and 3712(a) of title 31, United States Code, except that if such obligations

are from trust fund accounts they shall be payable from “Compensation and pensions”.

SEC. 207. Notwithstanding any other provision of law, during fiscal year 2006, the Secretary of Veterans Affairs shall, from the National Service Life Insurance Fund (38 U.S.C. 1920), the Veterans’ Special Life Insurance Fund (38 U.S.C. 1923), and the United States Government Life Insurance Fund (38 U.S.C. 1955), reimburse the “General operating expenses” account for the cost of administration of the insurance programs financed through those accounts: *Provided*, That reimbursement shall be made only from the surplus earnings accumulated in an insurance program in fiscal year 2006 that are available for dividends in that program after claims have been paid and actuarially determined reserves have been set aside: *Provided further*, That if the cost of administration of an insurance program exceeds the amount of surplus earnings accumulated in that program, reimbursement shall be made only to the extent of such surplus earnings: *Provided further*, That the Secretary shall determine the cost of administration for fiscal year 2006 which is properly allocable to the provision of each insurance program and to the provision of any total disability income insurance included in such insurance program.

SEC. 208. The paragraph under the heading “Franchise Fund” in title I of Public Law 104–204 (31 U.S.C. 501 note) is amended—

(1) by striking “franchise fund pilot, as authorized by section 403 of Public Law 103–356, to be available as provided in such section” and inserting “Department of Veterans Affairs franchise fund, to be available without fiscal year limitation”; and

(2) by striking the final proviso.

SEC. 209. Amounts deducted from enhanced-use lease proceeds to reimburse an account for expenses incurred by that account during a prior fiscal year for providing enhanced-use lease services, may be obligated during the fiscal year in which the proceeds are received.

SEC. 210. Funds available in this title or funds for salaries and other administrative expenses shall also be available to reimburse the Office of Resolution Management and the Office of Employment Discrimination Complaint Adjudication for all services provided at rates which will recover actual costs but not exceed \$29,758,000 for the Office of Resolution Management and \$3,059,000 for the Office of Employment and Discrimination Complaint Adjudication: *Provided*, That payments may be made in advance for services to be furnished based on estimated costs: *Provided further*, That amounts received shall be credited to “General operating expenses” for use by the office that provided the service.

SEC. 211. No appropriations in this title shall be available to enter into any new lease of real property if the estimated annual rental is more than \$300,000 unless the Secretary submits a report which the Committees on Appropriations of both Houses of Congress approve within 30 days following the date on which the report is received.

Contracts.
Reports.
Deadline.

SEC. 212. No funds of the Department of Veterans Affairs shall be available for hospital care, nursing home care, or medical services provided to any person under chapter 17 of title 38, United States Code, for a non-service-connected disability described in section 1729(a)(2) of such title, unless that person has disclosed to

the Secretary of Veterans Affairs, in such form as the Secretary may require, current, accurate third-party reimbursement information for purposes of section 1729 of such title: *Provided*, That the Secretary may recover, in the same manner as any other debt due the United States, the reasonable charges for such care or services from any person who does not make such disclosure as required: *Provided further*, That any amounts so recovered for care or services provided in a prior fiscal year may be obligated by the Secretary during the fiscal year in which amounts are received.

SEC. 213. Notwithstanding any other provision of law, at the discretion of the Secretary of Veterans Affairs, proceeds or revenues derived from enhanced-use leasing activities (including disposal) may be deposited into the “Construction, major projects” and “Construction, minor projects” accounts and be used for construction (including site acquisition and disposition), alterations and improvements of any medical facility under the jurisdiction or for the use of the Department of Veterans Affairs. Such sums as realized are in addition to the amount provided for in “Construction, major projects” and “Construction, minor projects”.

SEC. 214. Amounts made available under “Medical services” are available—

(1) for furnishing recreational facilities, supplies, and equipment; and

(2) for funeral expenses, burial expenses, and other expenses incidental to funerals and burials for beneficiaries receiving care in the Department.

(INCLUDING TRANSFER OF FUNDS)

SEC. 215. That such sums as may be deposited to the Medical Care Collections Fund pursuant to section 1729A of title 38, United States Code, may be transferred to “Medical services”, to remain available until expended for the purposes of this account.

(INCLUDING TRANSFER OF FUNDS)

SEC. 216. Amounts made available for fiscal year 2006 under the “Medical services”, “Medical administration”, and “Medical facilities” accounts may be transferred among the accounts to the extent necessary to implement the restructuring of the Veterans Health Administration accounts: *Provided*, That before a transfer may take place, the Secretary of Veterans Affairs shall request from the Committees on Appropriations of both Houses of Congress the authority to make the transfer and an approval is issued.

(INCLUDING TRANSFER OF FUNDS)

SEC. 217. Any appropriation for fiscal year 2006 for the Veterans Benefits Administration made available under the heading “General operating expenses” may be transferred to the “Veterans Housing Benefit Program Fund Program Account” for the purpose of providing funds for the nationwide property management contract if the administrative costs of such contract exceed \$8,800,000 in the fiscal year.

Alaska.

SEC. 218. Notwithstanding any other provision of law, the Secretary of Veterans Affairs shall allow veterans eligible under existing Department of Veterans Affairs medical care requirements and who reside in Alaska to obtain medical care services from

medical facilities supported by the Indian Health Service or tribal organizations. The Secretary shall: (1) limit the application of this provision to rural Alaskan veterans in areas where an existing Department of Veterans Affairs facility or Veterans Affairs-contracted service is unavailable; (2) require participating veterans and facilities to comply with all appropriate rules and regulations, as established by the Secretary; (3) require this provision to be consistent with Capital Asset Realignment for Enhanced Services activities; and (4) result in no additional cost to the Department of Veterans Affairs or the Indian Health Service.

(INCLUDING TRANSFER OF FUNDS)

SEC. 219. That such sums as may be deposited to the Department of Veterans Affairs Capital Asset Fund pursuant to section 8118 of title 38, United States Code, may be transferred to the “Construction, major projects” and “Construction, minor projects” accounts, to remain available until expended for the purposes of these accounts.

SEC. 220. None of the funds available to the Department of Veterans Affairs, in this Act or any other Act, may be used to replace the current system by which the Veterans Integrated Service Networks select and contract for diabetes monitoring supplies and equipment.

SEC. 221. None of the funds made available in this Act may be used to implement any policy prohibiting the Directors of the Veterans Integrated Service Networks from conducting outreach or marketing to enroll new veterans within their respective Networks.

SEC. 222. The Secretary of Veterans Affairs shall submit to the Committees on Appropriations of both Houses of Congress a quarterly report on the financial status of the Veterans Health Administration. Reports.

SEC. 223. None of the funds made available in this Act or any other Act may be used—

(1) with respect to the 2,100 compensation cases identified in the Scope and Methodology description in VA Inspector General Report No. 05–00765–137 as having been reviewed by the Office of Inspector General—

(A) to retroactively revoke or reduce a veteran’s disability compensation payments for post traumatic stress disorder based on a finding that the Department of Veterans Affairs failed to collect justifying documentation unless the award of compensation was the direct result of fraud by the applicant; or

(B) to prospectively revoke or reduce a veteran’s disability compensation payments for post traumatic stress disorder, based on a finding that the Department of Veterans Affairs failed to collect justifying documentation, effective before the date on which the veteran’s time to exhaust all available administrative and judicial appeals has expired or such administrative and judicial appeals are finally decided; or

(2) for the implementation of Recommendation 3 of VA Inspector General Report No. 05–00765–137 or any related review and investigation of post traumatic stress, individual unemployability, and schedular 100 percent ratings cases, until the Department of Veterans Affairs reports to the Committees Reports.

on Appropriations of both Houses of Congress on its plans for implementing this recommendation, and outlines the staffing and funding requirements.

SEC. 224. CLINICAL TRAINING AND PROTOCOLS. (a) FINDINGS.—Congress finds that—

(1) the Iraq War Clinician Guide has tremendous value; and

(2) the Secretary of Defense and the National Center on Post Traumatic Stress Disorder should continue to work together to ensure that the mental health care needs of servicemembers and veterans are met.

(b) COLLABORATION.—The National Center on Post Traumatic Stress Disorder shall collaborate with the Secretary of Defense—

(1) to enhance the clinical skills of military clinicians through training, treatment protocols, web-based interventions, and the development of evidence-based interventions; and

(2) to promote pre-deployment resilience and post-deployment readjustment among servicemembers serving in Operation Iraqi Freedom and Operation Enduring Freedom.

(c) TRAINING.—The National Center on Post Traumatic Stress Disorder shall work with the Secretary of Defense to ensure that clinicians in the Department of Defense are provided with the training and protocols developed pursuant to subsection (b)(1).

(INCLUDING TRANSFER OF FUNDS)

SEC. 225. Amounts made available under the “Medical administration”, “Medical services”, “Medical facilities”, “General operating expenses”, “National Cemetery Administration” and “Office of Inspector General” accounts for fiscal year 2006, may be transferred to or from the “Information technology systems” account: *Provided*, That before a transfer may take place, the Secretary of Veterans Affairs shall request from the Committees on Appropriations of both Houses of Congress the authority to make the transfer and an approval is issued.

(INCLUDING TRANSFER OF FUNDS)

SEC. 226. For purposes of perfecting the funding sources of the Department of Veterans Affairs’ new “Information technology systems” account, funds made available for fiscal year 2006 may be transferred from the “General operating expenses”, “National Cemetery Administration”, and “Office of Inspector General” accounts to the “Medical administration” account: *Provided*, That before a transfer may take place, the Secretary of Veterans Affairs shall request from the Committees on Appropriations of both Houses of Congress the authority to make the transfer and an approval is issued.

(INCLUDING TRANSFER OF FUNDS)

SEC. 227. Amounts made available for the “Information technology systems” account may be transferred between projects: *Provided*, That no project may be increased or decreased by more than \$1,000,000 of cost prior to submitting a request to the Committees on Appropriations of both Houses of Congress the authority to make the transfer and an approval is issued, or absent a response, a period of 30 days has elapsed.

SEC. 228. The Department of Veterans Affairs shall conduct an information campaign in States with an average annual disability compensation payment of less than \$7,300 (according to the report issued by the Department of Veterans Affairs Office of Inspector General on May 19, 2005), to inform all veterans receiving disability compensation, by direct mail, of the history of below average disability compensation payments to veterans in such States, and to provide all veterans in each such State, through broadcast or print advertising, with the aforementioned historical information and instructions for submitting new claims and requesting review of past disability claims and ratings.

SEC. 229. Of the funds available to the Department of Veterans Affairs in this Act or any other Act, no more than \$50,000,000 shall be available for the HealtheVetVista project, for fiscal year 2006: *Provided*, That none of the funds made available for the HealtheVetVista project may be obligated until the Committees on Appropriations of both Houses of Congress approve a financial expenditure plan for the entire project.

SEC. 230. The authority provided by section 2011 of title 38, United States Code, shall continue in effect through September 30, 2006.

Termination
date.
38 USC 2011
note.

TITLE III

RELATED AGENCIES

AMERICAN BATTLE MONUMENTS COMMISSION

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, of the American Battle Monuments Commission, including the acquisition of land or interest in land in foreign countries; purchases and repair of uniforms for caretakers of national cemeteries and monuments outside of the United States and its territories and possessions; rent of office and garage space in foreign countries; purchase (one for replacement only) and hire of passenger motor vehicles; not to exceed \$7,500 for official reception and representation expenses; and insurance of official motor vehicles in foreign countries, when required by law of such countries, \$36,250,000, to remain available until expended.

FOREIGN CURRENCY FLUCTUATIONS ACCOUNT

For necessary expenses, not otherwise provided for, of the American Battle Monuments Commission, \$15,250,000, to remain available until expended, for purposes authorized by section 2109 of title 36, United States Code.

UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

SALARIES AND EXPENSES

For necessary expenses for the operation of the United States Court of Appeals for Veterans Claims as authorized by sections 7251–7298 of title 38, United States Code, \$18,795,000, of which \$1,260,000 shall be available for the purpose of providing financial assistance as described, and in accordance with the process and

reporting procedures set forth, under this heading in Public Law 102-229.

DEPARTMENT OF DEFENSE—CIVIL

CEMETERIAL EXPENSES, ARMY

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, for maintenance, operation, and improvement of Arlington National Cemetery and Soldiers' and Airmen's Home National Cemetery, including the purchase of two passenger motor vehicles for replacement only, and not to exceed \$1,000 for official reception and representation expenses, \$29,050,000, to remain available until expended. In addition, such sums as may be necessary for parking maintenance, repairs and replacement, to be derived from the Lease of Department of Defense Real Property for Defense Agencies account.

ARMED FORCES RETIREMENT HOME

For expenses necessary for the Armed Forces Retirement Home to operate and maintain the Armed Forces Retirement Home—Washington, District of Columbia and the Armed Forces Retirement Home—Gulfport, Mississippi, to be paid from funds available in the Armed Forces Retirement Home Trust Fund, \$58,281,000, of which \$1,248,000 shall remain available until expended for construction and renovation of the physical plants at the Armed Forces Retirement Home—Washington, District of Columbia and the Armed Forces Retirement Home—Gulfport, Mississippi.

TITLE IV

GENERAL PROVISIONS

SEC. 401. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 402. Such sums as may be necessary for fiscal year 2006 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 403. None of the funds made available in this Act may be used for any program, project, or activity, when it is made known to the Federal entity or official to which the funds are made available that the program, project, or activity is not in compliance with any Federal law relating to risk assessment, the protection of private property rights, or unfunded mandates.

SEC. 404. No part of any funds appropriated in this Act shall be used by an agency of the executive branch, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, and for the preparation, distribution or use of any kit, pamphlet, booklet, publication, radio, television or film presentation designed to support or defeat legislation pending before Congress, except in presentation to Congress itself.

SEC. 405. All departments and agencies funded under this Act are encouraged, within the limits of the existing statutory

authorities and funding, to expand their use of “E-Commerce” technologies and procedures in the conduct of their business practices and public service activities.

SEC. 406. None of the funds made available in this Act may be transferred to any department, agency, or instrumentality of the United States Government except pursuant to a transfer made by, or transfer authority provided in, this Act or any other appropriations Act.

SEC. 407. Unless stated otherwise, all reports and notifications required by this Act shall be submitted to the Subcommittee on Military Quality of Life and Veterans Affairs, and Related Agencies of the Committee on Appropriations of the House of Representatives and the Subcommittee on Military Construction and Veterans Affairs, and Related Agencies of the Committee on Appropriations of the Senate.

SEC. 408. (a) Section 613 of the Science, State, Justice, Commerce, and Related Agencies Appropriations Act, 2006, is amended by striking “the United States-China Economic and Security Review Commission”, and inserting “a grant for the Trade Lawyers Advisory Group”.

Ante, p. 2336.

(b) The amendment made by paragraph (1) shall take effect on the date of enactment of the Science, State, Justice, Commerce, and Related Agencies Appropriations Act, 2006.

Effective date.

This Act may be cited as the “Military Quality of Life and Veterans Affairs Appropriations Act, 2006”.

Approved November 30, 2005.

LEGISLATIVE HISTORY—H.R. 2528:

HOUSE REPORTS: Nos. 109–95 (Comm. on Appropriations) and 109–305 (Comm. of Conference).

SENATE REPORTS: No. 109–105 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 151 (2005):

May 26, considered and passed House.

Sept. 22, considered and passed Senate, amended.

Nov. 18, House and Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 41 (2005):

Nov. 30, Presidential statement.



Public Law 109–115
109th Congress

An Act

Nov. 30, 2005
[H.R. 3058]

Making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Transportation,
Treasury,
Housing and
Urban
Development, the
Judiciary, the
District of
Columbia, and
Independent
Agencies
Appropriations
Act, 2006.

DIVISION A—TRANSPORTATION, TREASURY, HOUSING AND
URBAN DEVELOPMENT, THE JUDICIARY, AND INDE-
PENDENT AGENCIES APPROPRIATIONS ACT, 2006

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Transportation, Treasury, Housing and Urban Development, the Judiciary, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes, namely:

Transportation,
Treasury,
Housing and
Urban
Development, the
Judiciary, and
Independent
Agencies
Appropriations
Act, 2006.

TITLE I

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

Department of
Transportation
Appropriations
Act, 2006.

For necessary expenses of the Office of the Secretary, \$84,900,000, of which not to exceed \$2,198,000 shall be available for the immediate Office of the Secretary; not to exceed \$698,000 shall be available for the immediate Office of the Deputy Secretary; not to exceed \$15,183,000 shall be available for the Office of the General Counsel; not to exceed \$11,650,000 shall be available for the Office of the Under Secretary of Transportation for Policy; not to exceed \$8,485,000 shall be available for the Office of the Assistant Secretary for Budget and Programs; not to exceed \$2,293,000 shall be available for the Office of the Assistant Secretary for Governmental Affairs; not to exceed \$22,031,000 shall be available for the Office of the Assistant Secretary for Administration; not to exceed \$1,910,000 shall be available for the Office of Public Affairs; not to exceed \$1,442,000 shall be available for the Office of the Executive Secretariat; not to exceed \$697,000 shall be available for the Board of Contract Appeals; not to exceed \$1,265,000 shall be available for the Office of Small and Disadvantaged Business Utilization; not to exceed \$2,033,000 for the Office of Intelligence and Security; not to exceed \$11,895,000 shall be available for the Office of the Chief Information Officer; and not to exceed \$3,120,000 shall be available for the Office of Emergency

Transportation: *Provided*, That the Secretary of Transportation is authorized to transfer funds appropriated for any office of the Office of the Secretary to any other office of the Office of the Secretary: *Provided further*, That no appropriation for any office shall be increased or decreased by more than 5 percent by all such transfers: *Provided further*, That notice of any change in funding greater than 5 percent shall be submitted for approval to the House and Senate Committees on Appropriations: *Provided further*, That not to exceed \$60,000 shall be for allocation within the Department for official reception and representation expenses as the Secretary may determine: *Provided further*, That notwithstanding any other provision of law, excluding fees authorized in Public Law 107-71, there may be credited to this appropriation up to \$2,500,000 in funds received in user fees: *Provided further*, That none of the funds provided in this Act shall be available for the position of Assistant Secretary for Public Affairs. Notice.

OFFICE OF CIVIL RIGHTS

For necessary expenses of the Office of Civil Rights, \$8,550,000.

TRANSPORTATION PLANNING, RESEARCH, AND DEVELOPMENT

For necessary expenses for conducting transportation planning, research, systems development, development activities, and making grants, to remain available until expended, \$15,000,000.

WORKING CAPITAL FUND

Necessary expenses for operating costs and capital outlays of the Working Capital Fund, not to exceed \$118,014,000, shall be paid from appropriations made available to the Department of Transportation: *Provided*, That such services shall be provided on a competitive basis to entities within the Department of Transportation: *Provided further*, That the above limitation on operating expenses shall not apply to non-DOT entities: *Provided further*, That no funds appropriated in this Act to an agency of the Department shall be transferred to the Working Capital Fund without the approval of the agency modal administrator: *Provided further*, That no assessments may be levied against any program, budget activity, subactivity or project funded by this Act unless notice of such assessments and the basis therefor are presented to the House and Senate Committees on Appropriations and are approved by such Committees. Notice.

MINORITY BUSINESS RESOURCE CENTER PROGRAM

For the cost of guaranteed loans, \$500,000, as authorized by 49 U.S.C. 332: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed \$18,367,000. In addition, for administrative expenses to carry out the guaranteed loan program, \$400,000.

MINORITY BUSINESS OUTREACH

For necessary expenses of Minority Business Resource Center outreach activities, \$3,000,000, to remain available until September 30, 2007: *Provided*, That notwithstanding 49 U.S.C. 332, these funds may be used for business opportunities related to any mode of transportation.

PAYMENTS TO AIR CARRIERS

(AIRPORT AND AIRWAY TRUST FUND)

(INCLUDING TRANSFER OF FUNDS)

In addition to funds made available from any other source to carry out the essential air service program under 49 U.S.C. 41731 through 41742, \$60,000,000, to be derived from the Airport and Airway Trust Fund, to remain available until expended: *Provided*, That, in determining between or among carriers competing to provide service to a community, the Secretary may consider the relative subsidy requirements of the carriers: *Provided further*, That, if the funds under this heading are insufficient to meet the costs of the essential air service program in the current fiscal year, the Secretary shall transfer such sums as may be necessary to carry out the essential air service program from any available amounts appropriated to or directly administered by the Office of the Secretary for such fiscal year.

NEW HEADQUARTERS BUILDING

For necessary expenses of the Department of Transportation's new headquarters building and related services, \$50,000,000, to remain available until expended.

FEDERAL AVIATION ADMINISTRATION

OPERATIONS

For necessary expenses of the Federal Aviation Administration, not otherwise provided for, including operations and research activities related to commercial space transportation, administrative expenses for research and development, establishment of air navigation facilities, the operation (including leasing) and maintenance of aircraft, subsidizing the cost of aeronautical charts and maps sold to the public, lease or purchase of passenger motor vehicles for replacement only, in addition to amounts made available by Public Law 108–176, \$8,036,000,000, of which \$5,541,000,000 shall be derived from the Airport and Airway Trust Fund, of which not to exceed \$6,629,000,000 shall be available for air traffic organization activities; not to exceed \$958,542,000 shall be available for aviation regulation and certification activities; not to exceed \$11,759,000 shall be available for commercial space transportation activities; not to exceed \$50,983,000 shall be available for financial services activities; not to exceed \$69,943,000 shall be available for human resources program activities; not to exceed \$150,744,000 shall be available for region and center operations and regional coordination activities; not to exceed \$142,000,000 shall be available for staff offices; and not to exceed \$36,112,000 shall be available for information services: *Provided*, That not to exceed 2 percent

of any budget activity, except for aviation regulation and certification budget activity, may be transferred to any budget activity under this heading: *Provided further*, That no transfer may increase or decrease any appropriation by more than 2 percent: *Provided further*, That any transfer in excess of 2 percent shall be treated as a reprogramming of funds under section 710 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section: *Provided further*, That none of the funds in this Act shall be available for the Federal Aviation Administration to finalize or implement any regulation that would promulgate new aviation user fees not specifically authorized by law after the date of the enactment of this Act: *Provided further*, That there may be credited to this appropriation funds received from States, counties, municipalities, foreign authorities, other public authorities, and private sources, for expenses incurred in the provision of agency services, including receipts for the maintenance and operation of air navigation facilities, and for issuance, renewal or modification of certificates, including airman, aircraft, and repair station certificates, or for tests related thereto, or for processing major repair or alteration forms: *Provided further*, That of the funds appropriated under this heading, not less than \$7,500,000 shall be for the contract tower cost-sharing program: *Provided further*, That funds may be used to enter into a grant agreement with a nonprofit standard-setting organization to assist in the development of aviation safety standards: *Provided further*, That none of the funds in this Act shall be available for new applicants for the second career training program: *Provided further*, That none of the funds in this Act shall be available for paying premium pay under 5 U.S.C. 5546(a) to any Federal Aviation Administration employee unless such employee actually performed work during the time corresponding to such premium pay: *Provided further*, That none of the funds in this Act may be obligated or expended to operate a manned auxiliary flight service station in the contiguous United States: *Provided further*, That none of the funds in this Act for aeronautical charting and cartography are available for activities conducted by, or coordinated through, the Working Capital Fund: *Provided further*, That none of the funds in this Act may be obligated or expended for an employee of the Federal Aviation Administration to purchase a store gift card or gift certificate through use of a Government-issued credit card. In addition, \$150,000,000 is for costs associated with the flight service station transition.

FACILITIES AND EQUIPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For necessary expenses, not otherwise provided for, for acquisition, establishment, technical support services, improvement by contract or purchase, and hire of air navigation and experimental facilities and equipment, as authorized under part A of subtitle VII of title 49, United States Code, including initial acquisition of necessary sites by lease or grant; engineering and service testing, including construction of test facilities and acquisition of necessary sites by lease or grant; construction and furnishing of quarters and related accommodations for officers and employees of the Federal Aviation Administration stationed at remote localities where such accommodations are not available; and the purchase, lease,

or transfer of aircraft from funds available under this heading; to be derived from the Airport and Airway Trust Fund, \$2,540,000,000, of which \$2,110,789,500 shall remain available until September 30, 2008, and of which \$429,210,500 shall remain available until September 30, 2006: *Provided*, That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred in the establishment and modernization of air navigation facilities: *Provided further*, That upon initial submission to the Congress of the fiscal year 2007 President's budget, the Secretary of Transportation shall transmit to the Congress a comprehensive capital investment plan for the Federal Aviation Administration which includes funding for each budget line item for fiscal years 2007 through 2011, with total funding for each year of the plan constrained to the funding targets for those years as estimated and approved by the Office of Management and Budget.

RESEARCH, ENGINEERING, AND DEVELOPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For necessary expenses, not otherwise provided for, for research, engineering, and development, as authorized under part A of subtitle VII of title 49, United States Code, including construction of experimental facilities and acquisition of necessary sites by lease or grant, \$138,000,000, to be derived from the Airport and Airway Trust Fund and to remain available until September 30, 2008: *Provided*, That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred for research, engineering, and development.

GRANTS-IN-AID FOR AIRPORTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(LIMITATION ON OBLIGATIONS)

(AIRPORT AND AIRWAY TRUST FUND)

For liquidation of obligations incurred for grants-in-aid for airport planning and development, and noise compatibility planning and programs as authorized under subchapter I of chapter 471 and subchapter I of chapter 475 of title 49, United States Code, and under other law authorizing such obligations; for procurement, installation, and commissioning of runway incursion prevention devices and systems at airports of such title; for grants authorized under section 41743 of title 49, United States Code; and for inspection activities and administration of airport safety programs, including those related to airport operating certificates under section 44706 of title 49, United States Code, \$3,399,000,000 to be derived from the Airport and Airway Trust Fund and to remain available until expended: *Provided*, That none of the funds under this heading shall be available for the planning or execution of programs the obligations for which are in excess of \$3,550,000,000 in fiscal year 2006, notwithstanding section 47117(g) of title 49, United States Code: *Provided further*, That none of the funds under this heading shall be available for the replacement of baggage conveyor systems, reconfiguration of terminal baggage areas, or

other airport improvements that are necessary to install bulk explosive detection systems: *Provided further*, That notwithstanding any other provision of law, of funds limited under this heading, not more than \$71,096,000 shall be obligated for administration, not less than \$10,000,000 shall be available for the airport cooperative research program, and not less than \$10,000,000 shall be available to carry out the Small Community Air Service Development Program, to remain available until expended: *Provided further*, That not later than December 31, 2015, the owner or operator of an airport certificated under 49 U.S.C. 44706 shall improve the airport's runway safety areas to comply with the Federal Aviation Administration design standards required by 14 CFR part 139: *Provided further*, That the Federal Aviation Administration shall report annually to the Congress on the agency's progress toward improving the runway safety areas at 49 U.S.C. 44706 airports.

Deadline.
49 USC 44706
note.

Reports.

GRANTS-IN-AID FOR AIRPORTS

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION OF CONTRACT AUTHORIZATION)

Of the amounts authorized for the fiscal year ending September 30, 2006 and prior years under sections 48103 and 48112 of title 49, United States Code, \$1,032,000,000 are rescinded.

ADMINISTRATIVE PROVISIONS—FEDERAL AVIATION ADMINISTRATION

SEC. 101. Notwithstanding any other provision of law, airports may transfer without consideration to the Federal Aviation Administration (FAA) instrument landing systems (along with associated approach lighting equipment and runway visual range equipment) which conform to FAA design and performance specifications, the purchase of which was assisted by a Federal airport-aid program, airport development aid program or airport improvement program grant: *Provided*, That the Federal Aviation Administration shall accept such equipment, which shall thereafter be operated and maintained by FAA in accordance with agency criteria.

49 USC 44502
note.

SEC. 102. None of the funds in this Act may be used to compensate in excess of 375 technical staff-years under the federally funded research and development center contract between the Federal Aviation Administration and the Center for Advanced Aviation Systems Development during fiscal year 2006.

SEC. 103. None of the funds in this Act shall be used to pursue or adopt guidelines or regulations requiring airport sponsors to provide to the Federal Aviation Administration without cost building construction, maintenance, utilities and expenses, or space in airport sponsor-owned buildings for services relating to air traffic control, air navigation, or weather reporting: *Provided*, That the prohibition of funds in this section does not apply to negotiations between the agency and airport sponsors to achieve agreement on “below-market” rates for these items or to grant assurances that require airport sponsors to provide land without cost to the FAA for air traffic control facilities.

SEC. 104. The Administrator of the Federal Aviation Administration may reimburse amounts made available to satisfy 49 U.S.C. 41742(a)(1) from fees credited under 49 U.S.C. 45303: *Provided*, That during fiscal year 2006, 49 U.S.C. 41742(b) shall not apply, and any amount remaining in such account at the close of that

fiscal year may be made available to satisfy section 41742(a)(1) for the subsequent fiscal year.

SEC. 105. Amounts collected under section 40113(e) of title 49, United States Code, shall be credited to the appropriation current at the time of collection, to be merged with and available for the same purposes of such appropriation.

SEC. 106. None of the funds appropriated or limited by this Act may be used to change weight restrictions or prior permission rules at Teterboro Airport in Teterboro, New Jersey.

SEC. 107. None of the funds made available in this Act shall be used for engineering work related to an additional runway at Louis Armstrong New Orleans International Airport.

SEC. 108. (a) Section 44302(f)(1) of title 49, United States Code, is amended by striking “2005,” each place it appears and inserting “2006,”.

(b) Section 44303(b) of such title is amended by striking “2005,” and inserting “2006,”.

SEC. 109. Section 47114(c)(1) of title 49, United States Code, is amended by adding the following new paragraph at the end:

“(G) SPECIAL RULE FOR FISCAL YEAR 2006.—Notwithstanding subparagraph (A) and the absence of scheduled passenger aircraft service at an airport, the Secretary may apportion in fiscal year 2006 to the sponsor of the airport an amount equal to \$500,000, if the Secretary finds that—

“(i) the passenger boardings at the airport were below 10,000 in calendar year 2004;

“(ii) the airport had at least 10,000 passenger boardings and scheduled passenger aircraft service in either calendar year 2000 or 2001; and

“(iii) the reason that passenger boardings described in clause (i) were below 10,000 was the decrease in passengers following the terrorist attacks of September 11, 2001.”.

FEDERAL HIGHWAY ADMINISTRATION

LIMITATION ON ADMINISTRATIVE EXPENSES

Necessary expenses for administration and operation of the Federal Highway Administration, not to exceed \$364,638,000, shall be paid in accordance with law from appropriations made available by this Act to the Federal Highway Administration together with advances and reimbursements received by the Federal Highway Administration.

FEDERAL-AID HIGHWAYS

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

23 USC 104 note.

None of the funds in this Act shall be available for the implementation or execution of programs, the obligations for which are in excess of \$36,032,343,903 for Federal-aid highways and highway safety construction programs for fiscal year 2006: *Provided*, That within the \$36,032,343,903 obligation limitation on Federal-aid highways and highway safety construction programs, not more than \$429,800,000 shall be available for the implementation or execution of programs for transportation research (chapter 5 of

title 23, United States Code; sections 111, 5505, and 5506 of title 49, United States Code; and title 5 of Public Law 109–59) for fiscal year 2006: *Provided further*, That this limitation on transportation research programs shall not apply to any authority previously made available for obligation: *Provided further*, That the Secretary may, as authorized by section 605(b) of title 23, United States Code, collect and spend fees to cover the costs of services of expert firms, including counsel, in the field of municipal and project finance to assist in the underwriting and servicing of Federal credit instruments and all or a portion of the costs to the Federal government of servicing such credit instruments: *Provided further*, That such fees are available until expended to pay for such costs: *Provided further*, That such amounts are in addition to administrative expenses that are also available for such purpose, and are not subject to any obligation limitation or the limitation on administrative expenses under section 608 of title 23, United States Code.

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

Notwithstanding any other provision of law, for carrying out the provisions of title 23, United States Code, that are attributable to Federal-aid highways, not otherwise provided, including reimbursement for sums expended pursuant to the provisions of 23 U.S.C. 308, \$36,032,343,903 or so much thereof as may be available in and derived from the Highway Trust Fund (other than the Mass Transit Account), to remain available until expended.

(RESCISSION)

(HIGHWAY TRUST FUND)

Of the unobligated balances of funds apportioned to each State under chapter 1 of title 23, United States Code, \$1,999,999,000 are rescinded: *Provided*, That such rescission shall not apply to the funds distributed in accordance with 23 U.S.C. 130(f), 23 U.S.C. 133(d)(1) as in effect prior to the date of enactment of Public Law 109–59, the first sentence of 23 U.S.C. 133(d)(3)(A), 23 U.S.C. 104(b)(5), or 23 U.S.C. 163 as in effect prior to the enactment of Public Law 109–59.

APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM

For necessary expenses for the Appalachian Development Highway System as authorized under section 1069(y) of Public Law 102–240, as amended, \$20,000,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS—FEDERAL HIGHWAY ADMINISTRATION

SEC. 110. (a) For fiscal year 2006, the Secretary of Transportation shall— 23 USC 104 note.

(1) not distribute from the obligation limitation for Federal-aid highways amounts authorized for administrative expenses and programs by section 104(a) of title 23, United States Code; programs funded from the administrative takedown authorized by section 104(a)(1) of title 23, United States Code (as in effect on the date before the date of enactment of the Safe,

Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users); the highway use tax evasion program; the Bureau of Transportation Statistics; the programs, projects, and activities funded from the takedown authorized by section 112 of this Act; and the unobligated balances of funds made available for programs, projects, and activities funded from the takedown authorized by section 117 of title I of division H of the Consolidated Appropriations Act, 2005 (Public Law 108–447) for which no obligation limitation has previously been made available;

(2) not distribute an amount from the obligation limitation for Federal-aid highways that is equal to the unobligated balance of amounts made available from the Highway Trust Fund (other than the Mass Transit Account) for Federal-aid highways and highway safety programs for previous fiscal years the funds for which are allocated by the Secretary;

(3) determine the ratio that—

(A) the obligation limitation for Federal-aid highways, less the aggregate of amounts not distributed under paragraphs (1) and (2), bears to

(B) the total of the sums authorized to be appropriated for Federal-aid highways and highway safety construction programs (other than sums authorized to be appropriated for provisions of law described in paragraphs (1) through (9) of subsection (b) and sums authorized to be appropriated for section 105 of title 23, United States Code, equal to the amount referred to in subsection (b)(10) for such fiscal year), less the aggregate of the amounts not distributed under paragraphs (1) and (2) of this subsection;

(4)(A) distribute the obligation limitation for Federal-aid highways, less the aggregate amounts not distributed under paragraphs (1) and (2), for sections 1301, 1302, and 1934 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users; sections 117 (but individually for each project numbered 1 through 3676 listed in the table contained in section 1702 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users) and 144(g) of title 23, United States Code; and section 14501 of title 40, United States Code, so that the amount of obligation authority available for each of such sections is equal to the amount determined by multiplying the ratio determined under paragraph (3) by the sums authorized to be appropriated for that section for the fiscal year; and

(B) distribute \$2,000,000,000 for section 105 of title 23, United States Code;

(5) distribute the obligation limitation provided for Federal-aid highways, less the aggregate amounts not distributed under paragraphs (1) and (2) and amounts distributed under paragraph (4), for each of the programs that are allocated by the Secretary under the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users and title 23, United States Code (other than to programs to which paragraphs (1) and (4) apply), by multiplying the ratio determined under paragraph (3) by the amounts authorized to be appropriated for each such program for such fiscal year; and

(6) distribute the obligation limitation provided for Federal-aid highways, less the aggregate amounts not distributed under

paragraphs (1) and (2) and amounts distributed under paragraphs (4) and (5), for Federal-aid highways and highway safety construction programs (other than the amounts apportioned for the equity bonus program, but only to the extent that the amounts apportioned for the equity bonus program for the fiscal year are greater than \$2,639,000,000, and the Appalachian development highway system program) that are apportioned by the Secretary under the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users and title 23, United States Code, in the ratio that—

(A) amounts authorized to be appropriated for such programs that are apportioned to each State for such fiscal year, bear to

(B) the total of the amounts authorized to be appropriated for such programs that are apportioned to all States for such fiscal year.

(b) EXCEPTIONS FROM OBLIGATION LIMITATION.—The obligation limitation for Federal-aid highways shall not apply to obligations: (1) under section 125 of title 23, United States Code; (2) under section 147 of the Surface Transportation Assistance Act of 1978; (3) under section 9 of the Federal-Aid Highway Act of 1981; (4) under subsections (b) and (j) of section 131 of the Surface Transportation Assistance Act of 1982; (5) under subsections (b) and (c) of section 149 of the Surface Transportation and Uniform Relocation Assistance Act of 1987; (6) under sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991; (7) under section 157 of title 23, United States Code, as in effect on the day before the date of the enactment of the Transportation Equity Act for the 21st Century; (8) under section 105 of title 23, United States Code, as in effect for fiscal years 1998 through 2004, but only in an amount equal to \$639,000,000 for each of those fiscal years; (9) for Federal-aid highway programs for which obligation authority was made available under the Transportation Equity Act for the 21st Century or subsequent public laws for multiple years or to remain available until used, but only to the extent that the obligation authority has not lapsed or been used; (10) under section 105 of title 23, United States Code, but only in an amount equal to \$639,000,000 for each of fiscal years 2005 and 2006; and (11) under section 1603 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, to the extent that funds obligated in accordance with that section were not subject to a limitation on obligations at the time at which the funds were initially made available for obligation.

(c) REDISTRIBUTION OF UNUSED OBLIGATION AUTHORITY.—Notwithstanding subsection (a), the Secretary shall, after August 1 of such fiscal year, revise a distribution of the obligation limitation made available under subsection (a) if the amount distributed cannot be obligated during that fiscal year and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during that fiscal year, giving priority to those States having large unobligated balances of funds apportioned under sections 104 and 144 of title 23, United States Code.

Effective date.

(d) APPLICABILITY OF OBLIGATION LIMITATIONS TO TRANSPORTATION RESEARCH PROGRAMS.—The obligation limitation shall apply to transportation research programs carried out under chapter 5 of title 23, United States Code, and title V (research title) of

the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, except that obligation authority made available for such programs under such limitation shall remain available for a period of 3 fiscal years and shall be in addition to the amount of any limitation imposed on obligations for Federal-aid highway and highway safety construction programs for future fiscal years.

Deadline.

(e) REDISTRIBUTION OF CERTAIN AUTHORIZED FUNDS.—

(1) IN GENERAL.—Not later than 30 days after the date of the distribution of obligation limitation under subsection (a), the Secretary shall distribute to the States any funds that—

(A) are authorized to be appropriated for such fiscal year for Federal-aid highways programs; and

(B) the Secretary determines will not be allocated to the States, and will not be available for obligation, in such fiscal year due to the imposition of any obligation limitation for such fiscal year.

(2) RATIO.—Funds shall be distributed under paragraph (1) in the same ratio as the distribution of obligation authority under subsection (a)(6).

(3) AVAILABILITY.—Funds distributed under paragraph (1) shall be available for any purposes described in section 133(b) of title 23, United States Code.

(f) SPECIAL LIMITATION CHARACTERISTICS.—Obligation limitation distributed for a fiscal year under subsection (a)(1) for programs, projects, and activities funded from the takedown authorized by section 117 of title I of division H of Public Law 108–447 and under subsection (a)(4) for the provision specified in subsection (a)(4) shall—

(1) remain available until used for obligation of funds for that provision; and

(2) be in addition to the amount of any limitation imposed on obligations for Federal-aid highway and highway safety construction programs for future fiscal years.

(g) HIGH PRIORITY PROJECT FLEXIBILITY.—

(1) IN GENERAL.—Subject to paragraph (2), obligation authority distributed for such fiscal year under subsection (a)(4) for each project numbered 1 through 3676 listed in the table contained in section 1702 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users may be obligated for any other project in such section in the same State.

(2) RESTORATION.—Obligation authority used as described in paragraph (1) shall be restored to the original purpose on the date on which obligation authority is distributed under this section for the next fiscal year following obligation under paragraph (1).

(h) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to limit the distribution of obligation authority under subsection (a)(4)(A) for each of the individual projects numbered greater than 3676 listed in the table contained in section 1702 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users.

SEC. 111. Notwithstanding 31 U.S.C. 3302, funds received by the Bureau of Transportation Statistics from the sale of data products, for necessary expenses incurred pursuant to 49 U.S.C. 111

may be credited to the Federal-aid highways account for the purpose of reimbursing the Bureau for such expenses: *Provided*, That such funds shall be subject to the obligation limitation for Federal-aid highways and highway safety construction.

SEC. 112. Notwithstanding any other provision of law, whenever an allocation is made of the sums authorized to be appropriated for expenditure on the Federal lands highway program, and whenever an apportionment is made of the sums authorized to be appropriated for the surface transportation program, the congestion mitigation and air quality improvement program, the National Highway System, the Interstate maintenance program, the bridge program, the Appalachian development highway system, and the equity bonus program, the Secretary of Transportation shall deduct a sum in such amount not to exceed 2.75 percent of all sums so authorized: *Provided*, That of the amount so deducted in accordance with this section, \$600,000,000 shall be made available for surface transportation projects and \$25,000,000 shall be made available for highway priority projects as identified under this section in the statement of the managers accompanying this Act: *Provided further*, That notwithstanding any other provision of law and the preceding clauses of this provision, the Secretary of Transportation may use amounts made available by this section to make grants for any surface transportation project otherwise eligible for funding under title 23 or title 49, United States Code: *Provided further*, That funds made available under this section, at the request of a State, shall be transferred by the Secretary to another Federal agency: *Provided further*, That the Federal share payable on account of any program, project, or activity carried out with funds made available under this section shall be 100 percent: *Provided further*, That the sum deducted in accordance with this section shall remain available until expended: *Provided further*, That all funds made available under this section shall be subject to any limitation on obligations for Federal-aid highways and highway safety construction programs set forth in this Act or any other Act: *Provided further*, That the obligation limitation made available for the programs, projects, and activities for which funds are made available under this section shall remain available until used and shall be in addition to the amount of any limitation imposed on obligations for Federal-aid highway and highway safety construction programs for future fiscal years.

SEC. 113. Notwithstanding any other provision of law, projects and activities described in the statement of managers accompanying this Act under the headings “Federal-Aid Highways” and “Federal Transit Administration” shall be eligible for fiscal year 2006 funds made available for the project for which each project or activity is so designated: *Provided*, That the Federal share payable on account of any such projects and activities subject to this section shall be the same as the share required by the Federal program under which each project or activity is designated unless otherwise provided in this Act.

SEC. 114. BYPASS BRIDGE AT HOOVER DAM. (a) IN GENERAL.—Subject to subsection (b), the Secretary of Transportation may expend from any funds appropriated for expenditure in accordance with title 23, United States Code, for payment of debt service by the States of Arizona and Nevada on notes issued for the bypass bridge project at Hoover Dam, pending appropriation or replenishment for that project.

(b) REIMBURSEMENT.—Funds expended under subsection (a) shall be reimbursed from the funds made available to the States of Arizona and Nevada for payment of debt service on notes issued for the bypass bridge project at Hoover Dam.

SEC. 115. Section 1023(h) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 127 note; 105 Stat. 1951) is amended by striking paragraphs (2) and (3) and inserting the following:

“(2) STATE ACTION.—

“(A) WEIGHT LIMITATIONS.—For the period beginning on the date of enactment of this subparagraph and ending on September 30, 2009, a covered State, including any political subdivision of such State, may not enforce a single axle weight limitation of less than 24,000 pounds, including enforcement tolerances, on any vehicle referred to in paragraph (1) in any case in which the vehicle is using the Interstate System.

“(B) COVERED STATE DEFINED.—In this paragraph, the term ‘covered State’ means a State that has enforced, in the period beginning on October 6, 1992, and ending on the date of enactment of this subparagraph, a single axle weight limitation of 20,000 pounds or greater but less than 24,000 pounds, including enforcement tolerances, on any vehicle referred to in paragraph (1) in any case in which the vehicle is using the Interstate System.”.

Effective date.
Termination
date.

Washington.

SEC. 116. Notwithstanding any other provision of law, access to the I–5 “Transit Only” ramps at NE 163rd in Shoreline, Washington, shall be expanded to include King County Solid Waste Division transfer vehicles upon the determination of the Federal Highway Administrator that necessary safety improvements have been completed.

Michigan.

SEC. 117. DESIGNATION OF MAX M. FISHER MEMORIAL HIGHWAY.
(a) DESIGNATION.—The portion of highway US–24 in the State of Michigan, beginning at Interstate 96 and extending north to Interstate 75 at exit 93 west of Clarkston, shall be known and designated as the “Max M. Fisher Memorial Highway”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the highway portion referred to in subsection (a) shall be deemed to be a reference to the “Max M. Fisher Memorial Highway”.

Pennsylvania.

SEC. 118. Notwithstanding any other provision of law, funds provided in Public Law 108–7 under the heading “Federal-aid Highways” for intelligent transportation system projects and designated for Gettysburg Borough Signal Coordination and Upgrade-Signalization; Adams County, Pennsylvania shall be available for Gettysburg Borough and Surrounding Municipalities Signal Coordination and Upgrade-Signalization; Adams County, Pennsylvania.

FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION

MOTOR CARRIER SAFETY OPERATIONS AND PROGRAMS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

For payment of obligations incurred for administration of motor carrier safety operations and programs pursuant to section 31104(i) of title 49, United States Code, and sections 4127 and 4134 of Public Law 109–59, \$213,000,000, to be derived from the Highway Trust Fund (other than the Mass Transit Account), together with advances and reimbursements received by the Federal Motor Carrier Safety Administration, the sum of which shall remain available until expended: *Provided*, That none of the funds derived from the Highway Trust Fund in this Act shall be available for the implementation, execution or administration of programs, the obligations for which are in excess of \$213,000,000, for “Motor Carrier Safety Operations and Programs”, of which \$10,084,000, to remain available for obligation until September 30, 2008, is for the research and technology program and \$1,000,000 shall be available for commercial motor vehicle operator’s grants to carry out section 4134 of Public Law 109–59: *Provided further*, That notwithstanding any other provision of law, none of the funds under this heading for outreach and education shall be available for transfer.

MOTOR CARRIER SAFETY GRANTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out sections 31102, 31104, 31106, 31107, 31109, 31309, 31313 of title 49, United States Code, and sections 4126 and 4128 of Public Law 109–59, \$282,000,000, to be derived from the Highway Trust Fund (other than the Mass Transit Account) and to remain available until expended: *Provided*, That none of the funds in this Act shall be available for the implementation or execution of programs, the obligations for which are in excess of \$282,000,000, for “Motor Carrier Safety Grants”; of which \$188,000,000 shall be available for the motor carrier safety assistance program to carry out sections 31102 and 31104 of title 49, United States Code; \$25,000,000 shall be available for the commercial driver’s license improvements program to carry out section 31313 of title 49, United States Code; \$32,000,000 shall be available for the border enforcement grants program to carry out section 31107 of title 49, United States Code; \$5,000,000 shall be available for the performance and registration information system management program to carry out sections 31106 and 31109 of title 49, United States Code; \$25,000,000 shall be available for the commercial vehicle information systems and networks deployment program to carry out section 4126 of Public Law 109–59; \$2,000,000 shall be available for the safety data

improvement program to carry out section 4128 of Public Law 109–59; and \$5,000,000 shall be available for the commercial driver's license information system modernization program to carry out section 31309 of title 49, United States Code: *Provided further*, That of the funds made available for the motor carrier safety assistance program, \$29,000,000 shall be available for audits of new entrant motor carriers.

ADMINISTRATIVE PROVISION—FEDERAL MOTOR CARRIER SAFETY
ADMINISTRATION

Applicability.
Reports.

SEC. 120. Funds appropriated or limited in this Act shall be subject to the terms and conditions stipulated in section 350 of Public Law 107–87, including that the Secretary submit a report to the House and Senate Appropriations Committees annually on the safety and security of transportation into the United States by Mexico-domiciled motor carriers.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

OPERATIONS AND RESEARCH

(HIGHWAY TRUST FUND)

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary to discharge the functions of the Secretary, with respect to traffic and highway safety under chapter 301 of title 49, United States Code, and part C of subtitle VI of title 49, United States Code, \$122,457,000, to be derived from the sum authorized to be deducted under section 112 of this Act and transferred to the National Highway Traffic Safety Administration upon enactment of this Act, of which \$96,301,000 shall remain available until September 30, 2006 and \$26,156,000 shall remain available until September 30, 2008: *Provided*, That such funds shall be transferred to and administered by the National Highway Traffic Safety Administration: *Provided further*, That none of the funds appropriated by this Act may be obligated or expended to plan, finalize, or implement any rulemaking to add to section 575.104 of title 49 of the Code of Federal Regulations any requirement pertaining to a grading standard that is different from the three grading standards (treadwear, traction, and temperature resistance) already in effect: *Provided further*, That all funds made available under this heading shall be subject to any limitation on obligations for Federal-aid highways and highway safety construction programs set forth in this Act or any other Act: *Provided further*, That the obligation limitation made available for the programs, projects, and activities for which funds are made available under this heading shall remain available as specified and shall be in addition to the amount of any limitation imposed on obligations for Federal-aid highway and highway safety construction programs for future fiscal years.

OPERATIONS AND RESEARCH

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out the provisions of 23 U.S.C. 403, to remain available until expended, \$110,000,000, to be derived from the Highway Trust Fund: *Provided*, That none of the funds in this Act shall be available for the planning or execution of programs the total obligations for which, in fiscal year 2006, are in excess of \$110,000,000 for programs authorized under 23 U.S.C. 403.

NATIONAL DRIVER REGISTER

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out chapter 303 of title 49, United States Code, \$4,000,000, to be derived from the Highway Trust Fund and remain available until September 30, 2007: *Provided*, That none of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of \$4,000,000 for the National Driver Register authorized under chapter 303 of title 49, United States Code.

HIGHWAY TRAFFIC SAFETY GRANTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out the provisions of 23 U.S.C. 402, 405, 406, 408, and 410 and sections 2001(a)(11), 2009, 2010, and 2011 of Public Law 109–59, to remain available until expended, \$578,176,000 to be derived from the Highway Trust Fund (other than the Mass Transit Account): *Provided*, That none of the funds in this Act shall be available for the planning or execution of programs the total obligations for which, in fiscal year 2006, are in excess of \$578,176,000 for programs authorized under 23 U.S.C. 402, 405, 406, 408, and 410 and sections 2001(a)(11), 2009, 2010, and 2011 of Public Law 109–59, of which \$217,000,000 shall be for “Highway Safety Programs” under 23 U.S.C. 402, \$25,000,000 shall be for “Occupant Protection Incentive Grants” under 23 U.S.C. 405, \$124,500,000 shall be for “Safety Belt Performance Grants” under 23 U.S.C. 406, \$34,500,000 shall be for “State Traffic Safety Information System Improvements” under 23 U.S.C. 408, \$120,000,000 shall be for “Alcohol-Impaired Driving Countermeasures Incentive Grant Program” under 23 U.S.C. 410, \$16,176,000 shall be for “Administrative Expenses” under section 2001(a)(11) of Public Law 109–59, \$29,000,000 shall

be for “High Visibility Enforcement Program” under section 2009 of Public Law 109–59, \$6,000,000 shall be for “Motorcyclist Safety” under section 2010 of Public Law 109–59, and \$6,000,000 shall be for “Child Safety and Child Booster Seat Safety Incentive Grants” under section 2011 of Public Law 109–59: *Provided further*, That none of these funds shall be used for construction, rehabilitation, or remodeling costs, or for office furnishings and fixtures for State, local or private buildings or structures: *Provided further*, That not to exceed \$500,000 of the funds made available for section 410 “Alcohol-Impaired Driving Countermeasures Grants” shall be available for technical assistance to the States: *Provided further*, That not to exceed \$750,000 of the funds made available for the “High Visibility Enforcement Program” shall be available for the evaluation required under section 2009(f) of Public Law 109–59.

ADMINISTRATIVE PROVISION—NATIONAL HIGHWAY TRAFFIC SAFETY
ADMINISTRATION

SEC. 125. Notwithstanding any other provision of law or limitation on the use of funds made available under section 403 of title 23, United States Code, an additional \$130,000 shall be made available to the National Highway Traffic Safety Administration, out of the amount limited for section 402 of title 23, United States Code, to pay for travel and related expenses for State management reviews and to pay for core competency development training and related expenses for highway safety staff.

FEDERAL RAILROAD ADMINISTRATION

SAFETY AND OPERATIONS

For necessary expenses of the Federal Railroad Administration, not otherwise provided for, \$145,949,000, of which \$13,856,000 shall remain available until expended.

RAILROAD RESEARCH AND DEVELOPMENT

For necessary expenses for railroad research and development, \$55,075,000, to remain available until expended, of which \$6,500,000 shall be available for positive train control projects and \$7,190,000 shall be available for grants for rail corridor planning, development and improvement and Federal share payable under such grants shall be 50 percent.

RAILROAD REHABILITATION AND IMPROVEMENT PROGRAM

The Secretary of Transportation is authorized to issue to the Secretary of the Treasury notes or other obligations pursuant to section 512 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94–210), as amended, in such amounts and at such times as may be necessary to pay any amounts required pursuant to the guarantee of the principal amount of obligations under sections 511 through 513 of such Act, such authority to exist as long as any such guaranteed obligation is outstanding: *Provided*, That pursuant to section 502 of such Act, as amended, no new direct loans or loan guarantee commitments shall be made using Federal funds for the credit risk premium during fiscal year 2006.

ALASKA RAILROAD REHABILITATION

To enable the Secretary of Transportation to make grants to the Alaska Railroad, \$10,000,000, for capital rehabilitation and improvements benefiting its passenger operations, to remain available until expended.

OPERATING SUBSIDY GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

To enable the Secretary of Transportation to make quarterly grants to the National Railroad Passenger Corporation for operation of intercity passenger rail, \$495,000,000, to remain available until expended: *Provided*, That the Secretary of Transportation shall approve funding to cover operating losses for the National Railroad Passenger Corporation only after receiving and reviewing a grant request for each specific train route: *Provided further*, That each such grant request shall be accompanied by a detailed financial analysis, revenue projection, and capital expenditure projection justifying the Federal support to the Secretary's satisfaction: *Provided further*, That the Secretary of Transportation shall reserve \$60,000,000 of the funds provided under this heading and is authorized to transfer such sums to the Surface Transportation Board, upon request from said Board, to carry out directed service orders issued pursuant to section 11123 of title 49, United States Code, to respond to the cessation of commuter rail operations by the National Railroad Passenger Corporation: *Provided further*, That the Secretary of Transportation shall make the reserved funds available to the National Railroad Passenger Corporation through an appropriate grant instrument not earlier than September 1, 2006 to the extent that no directed service orders have been issued by the Surface Transportation Board as of the date of transfer or there is a balance of reserved funds not needed by the Board to pay for any directed service order issued through September 30, 2006: *Provided further*, That the Corporation is directed to achieve savings through operating efficiencies including, but not limited to, modifications to food and beverage service and first class service: *Provided further*, That the Inspector General of the Department of Transportation shall report to the House and Senate Committees on Appropriations beginning on January 3, 2006 and quarterly thereafter with estimates of the savings accrued as a result of all operational reforms instituted by the National Railroad Passenger Corporation: *Provided further*, That if the Inspector General cannot certify that the Corporation has achieved operational savings by July 1, 2006, none of the funds in this Act may be used after July 1, 2006, to subsidize the net losses of food and beverage service and sleeper car service on any Amtrak route: *Provided further*, That of the funds provided under this section, not less than \$5,000,000 shall be expended for the development and implementation of a managerial cost accounting system, which includes average and marginal unit cost capability: *Provided further*, That within 30 days of development of the managerial cost accounting system, the Department of Transportation Inspector General shall review and comment to the Secretary of Transportation and the House and Senate Committees on Appropriations upon the strengths and weaknesses of the system and how it best can be implemented to improve decision making by the Board of Directors and management of the Corporation: *Provided further*,

Reports.
Deadlines.

Deadline.

Deadline.

Reports.
Contracts.

Internet.
Public
information.

That not later than 60 days after enactment of this Act, Amtrak shall transmit, in electronic format, to the Secretary of Transportation, the House and Senate Committees on Appropriations, the House Committee on Transportation and Infrastructure and the Senate Committee on Commerce, Science, and Transportation a comprehensive business plan approved by the Board of Directors for fiscal year 2006 under section 24104(a) of title 49, United States Code: *Provided further*, That the business plan shall include, as applicable, targets for ridership, revenues, and capital and operating expenses: *Provided further*, That the plan shall also include a separate accounting of such targets for the Northeast Corridor; commuter service; long-distance Amtrak service; State-supported service; each intercity train route, including Autotrain; and commercial activities including contract operations: *Provided further*, That the business plan shall include a description of the work to be funded, along with cost estimates and an estimated timetable for completion of the projects covered by this business plan: *Provided further*, That the Corporation shall continue to provide monthly reports in electronic format regarding the pending business plan, which shall describe the work completed to date, any changes to the business plan, and the reasons for such changes, and shall identify all sole source contract awards which shall be accompanied by a justification as to why said contract was awarded on a sole source basis: *Provided further*, That none of the funds in this Act may be used for operating expenses, including advance purchase orders, not approved by the Secretary of Transportation or on the National Railroad Passenger Corporation's fiscal year 2006 business plan: *Provided further*, That Amtrak shall display the business plan and all subsequent supplemental plans on the Corporation's website within a reasonable timeframe following their submission to the appropriate entities: *Provided further*, That none of the funds under this heading may be obligated or expended until the National Railroad Passenger Corporation agrees to continue abiding by the provisions of paragraphs 1, 2, 3, 5, 9, and 11 of the summary of conditions for the direct loan agreement of June 28, 2002, in the same manner as in effect on the date of enactment of this Act: *Provided further*, That none of the funds provided in this Act may be used after March 1, 2006, to support any route on which Amtrak offers a discounted fare of more than 50 percent off the normal, peak fare.

CAPITAL AND DEBT SERVICE GRANTS TO THE NATIONAL RAILROAD
PASSENGER CORPORATION

To enable the Secretary of Transportation to make quarterly grants to the National Railroad Passenger Corporation for the maintenance and repair of capital infrastructure owned by the National Railroad Passenger Corporation, including railroad equipment, rolling stock, legal mandates and other services, \$780,000,000, to remain available until expended, of which not to exceed \$280,000,000 shall be for debt service obligations: *Provided*, That the Secretary of Transportation shall approve funding for capital expenditures, including advance purchase orders, for the National Railroad Passenger Corporation only after receiving and reviewing a grant request for each specific capital grant justifying the Federal support to the Secretary's satisfaction: *Provided further*, That none of the funds under this heading may be used to subsidize operating losses of the National Railroad Passenger

Corporation: *Provided further*, That none of the funds under this heading may be used for capital projects not approved by the Secretary of Transportation or on the National Railroad Passenger Corporation's fiscal year 2006 business plan: *Provided further*, That the Secretary shall determine the cost to the Corporation for the annual Northeast Corridor capital and maintenance costs attributable to commuter rail operations over said Corridor: *Provided further*, That these costs shall be calculated by the Secretary based on the train mile usage of each commuter rail authority as a percentage of the total number of annual train miles used by all users of the Northeast Corridor or by whatever measure the Secretary believes to be most appropriate: *Provided further*, That, notwithstanding any other provision of law, the Secretary shall assess fees to each commuter rail authority for any direct capital or maintenance costs associated with that rail authority's usage of the corridor: *Provided further*, That such assessments shall account fully for whatever direct annual contributions are already being made by each commuter authority for such Northeast Corridor capital and maintenance expenses in that fiscal year: *Provided further*, That the revenues from such fees shall be merged with this appropriation and be available for obligation and expenditure consistent with the terms and conditions of this paragraph: *Provided further*, That the Secretary shall transmit to Congress a monthly accounting of charges levied in accordance with the preceding proviso.

Fees.

Records.

EFFICIENCY INCENTIVE GRANTS TO THE NATIONAL RAILROAD
PASSENGER CORPORATION

For an additional amount to be made available to the Secretary for efficiency incentive grants to the National Railroad Passenger Corporation, \$40,000,000, to remain available until expended: *Provided*, That the Secretary may make grants to the National Railroad Passenger Corporation for an additional sum for operating subsidies at any time during the fiscal year for the purpose of maintaining the operation of existing Amtrak routes: *Provided further*, That nothing in the previous proviso should be interpreted either to encourage or discourage the Corporation with respect to adjusting existing routes or frequencies: *Provided further*, That the Secretary may make grants for operating subsidies at any time during the fiscal year in order to avert the Corporation's entry into bankruptcy proceedings: *Provided further*, That prior to awarding additional operating grants for the purpose of the preceding proviso, the Secretary and the Inspector General of the Department of Transportation shall certify to the Committees on Appropriations of the House of Representatives and the Senate that such grants are necessary to prevent the Corporation from entering bankruptcy: *Provided further*, That if the Secretary and the Inspector General deem that sufficient operating funds are available to continue operations through the end of fiscal year 2006, then, as of September 1, 2006, the Secretary may make grants to the National Railroad Passenger Corporation at such times and in such amounts for capital improvements that have a direct and measurable short-term impact on reducing operating losses of the National Railroad Passenger Corporation.

Certification.

ADMINISTRATIVE PROVISIONS—FEDERAL RAILROAD ADMINISTRATION

Guidelines. SEC. 130. The Secretary may purchase promotional items of nominal value for use in public outreach activities to accomplish the purposes of 49 U.S.C. 20134: *Provided*, That the Secretary shall prescribe guidelines for the administration of such purchases and use.

Grants.
Maine. SEC. 131. Notwithstanding any other provision of law, from funds made available to the Federal Railroad Administration under the heading “Next Generation High-Speed Rail” in the Consolidated Appropriations Act of 2005 (Public Law 108–447), the Secretary of Transportation shall award a grant in the amount of \$500,000 to the Maine Department of Transportation for Safety and Mitigation Rail Relocation in Auburn, Maine.

Illinois. SEC. 132. Notwithstanding any other provision of law, funds made available to the Federal Railroad Administration for the Illinois statewide highway-rail crossing safety program on page 1420 of the Joint Explanatory Statement of the Committee of Conference for Public Law 108–447 (House Report 108–792) shall be made available to the Illinois Commerce Commission for the Public Education and Enforcement Research (PEERS) program to improve rail-grade crossing safety through education and enforcement initiatives.

SEC. 133. Notwithstanding any existing Federal legislation, from funds available to the Federal Railroad Administration under the heading of “Next Generation High-Speed Rail” in the Consolidated Appropriations Act of 2004, Public Law 108–199; the Secretary of Transportation may award a grant of \$1,000,000 to the New Orleans Regional Planning Commission, New Orleans, Louisiana for site planning and an update of the Master Plan for the Union Passenger Terminal, located at New Orleans, Louisiana.

Washington. SEC. 134. Notwithstanding any other provision of law, funds made available to the Federal Railroad Administration for the Spokane Region High Speed Rail Corridor Study on page 1420 of the Joint Explanatory Statement of the Committee of Conference for Public Law 108–447 (House Report 108–792) shall be made available to the Washington State Department of Transportation for grade crossing and related improvements under the Bridging the Valley project between Spokane County, Washington and Kootenai County, Idaho.

SEC. 135. Of the \$40,000,000 provided under the heading “Efficiency Incentive Grants to the National Railroad Passenger Corporation”, and notwithstanding limitation language contained therein, \$8,300,000 shall be made available immediately upon enactment of this Act only for a revenue service demonstration of not less than 5,500 carload shipments of premium temperature-controlled express.

FEDERAL TRANSIT ADMINISTRATION

ADMINISTRATIVE EXPENSES

For necessary administrative expenses of the Federal Transit Administration’s programs authorized by chapter 53 of title 49, United States Code, \$80,000,000: *Provided*, That of the funds available under this heading, not to exceed \$925,000 shall be available for the Office of the Administrator; not to exceed \$7,325,000 shall be available for the Office of Administration; not to exceed

\$4,058,200 shall be available for the Office of the Chief Counsel; not to exceed \$1,359,300 shall be available for the Office of Communication and Congressional Affairs; not to exceed \$7,985,900 shall be available for the Office of Program Management; not to exceed \$8,732,500 shall be available for the Office of Budget and Policy; not to exceed \$4,763,900 shall be available for the Office of Demonstration and Innovation; not to exceed \$3,153,100 shall be available for the Office of Civil Rights; not to exceed \$4,127,300 shall be available for the Office of Planning; not to exceed \$20,754,000 shall be available for regional offices; and not to exceed \$16,815,800 shall be available for the central account: *Provided further*, That the Administrator is authorized to transfer funds appropriated for an office of the Federal Transit Administration: *Provided further*, That no appropriation for an office shall be increased or decreased by more than a total of 5 percent during the fiscal year by all such transfers: *Provided further*, That any change in funding greater than 5 percent shall be submitted for approval to the House and Senate Committees on Appropriations: *Provided further*, That any funding transferred from the central account shall be submitted for approval to the House and Senate Committees on Appropriations: *Provided further*, That none of the funds provided or limited in this Act may be used to create a permanent office of transit security under this heading: *Provided further*, That of the funds in this Act available for the execution of contracts under section 5327(c) of title 49, United States Code, \$2,000,000 shall be reimbursed to the Department of Transportation's Office of Inspector General for costs associated with audits and investigations of transit-related issues, including reviews of new fixed guideway systems: *Provided further*, That upon submission to the Congress of the fiscal year 2007 President's budget, the Secretary of Transportation shall transmit to Congress the annual report on new starts, including proposed allocations of funds for fiscal year 2007.

Reports.

FORMULA AND BUS GRANTS

(LIQUIDATION OF CONTRACT AUTHORITY)

(LIMITATION ON OBLIGATIONS)

(INCLUDING TRANSFER OF FUNDS)

For payment of obligations incurred in carrying out the provisions of 49 U.S.C. 5305, 5307, 5308, 5309, 5310, 5311, 5317, 5320, 5335, 5339, and 5340 and section 3038 of Public Law 105–178, as amended, \$1,500,000,000, to be derived from the Mass Transit Account of the Highway Trust Fund and to remain available until expended: *Provided*, That funds available for the implementation or execution of programs authorized under 49 U.S.C. 5305, 5307, 5308, 5309, 5310, 5311, 5317, 5320, 5335, 5339, and 5340 and section 3038 of Public Law 105–178, as amended, shall not exceed total obligations of \$6,979,931,000 in fiscal year 2006: *Provided further*, That of the funds made available to carry out capital projects to modernize fixed guideway systems authorized under 49 U.S.C. 5309(b)(2), \$47,766,000 shall be transferred to the Capital Investment Grants account and made available to carry out new fixed guideway capital projects identified in this Act and in accordance with the applicable provisions of 49 U.S.C. 5309: *Provided further*, That except as provided in section 3044(b)(1) of Public

Law 109-59, funds made available to carry out 49 U.S.C. 5308 shall instead be available to carry out 49 U.S.C. 5309(b)(3).

RESEARCH AND UNIVERSITY RESEARCH CENTERS

For necessary expenses to carry out 49 U.S.C. 5306, 5312-5315, 5322, and 5506, \$75,200,000, to remain available until expended: *Provided*, That \$9,000,000 is available to carry out the transit cooperative research program under section 5313 of title 49, United States Code, \$4,300,000 is available for the National Transit Institute under section 5315 of title 49, United States Code, \$7,000,000 is available for university transportation centers program under section 5506 of title 49, United States Code: *Provided further*, That \$54,200,000 is available to carry out national research programs under sections 5312, 5313, 5314, and 5322 of title 49, United States Code.

CAPITAL INVESTMENT GRANTS

For necessary expenses to carry out section 5309 of title 49, United States Code, \$1,455,234,000, to remain available until expended as follows:

ACE Gap Closure San Joaquin County, California, \$5,000,000.

Alaska and Hawaii ferry projects, \$15,000,000.

Ann Arbor/Detroit Commuter Rail, Michigan, \$5,000,000.

Atlanta Beltline/C-Loop, Georgia, \$1,000,000.

Baltimore Central Light Rail Double Track Project, Maryland, \$12,420,000.

Baltimore Red Line and Green Line, Maryland, \$2,000,000.

Boston/Fitchburg, Massachusetts Rail Corridor, \$2,000,000.

Central Corridor/St. Paul—Minneapolis, Minnesota, \$2,000,000.

Central Florida Commuter Rail, \$11,000,000.

Central Phoenix/East Valley LRT, Arizona, \$90,000,000.

Charlotte South Corridor Light Rail Project, North Carolina, \$55,000,000.

City of Miami Streetcar, Florida, \$2,000,000.

City of Rock Hill Trolley Study, South Carolina, \$400,000.

Commuter Rail, Albuquerque to Santa Fe, New Mexico, \$500,000.

Commuter Rail, Utah, \$9,000,000.

CORRIDORone Regional Rail Project, Pennsylvania, \$1,500,000.

CTA Douglas Blue Line, Illinois, \$45,150,000.

CTA Ravenswood Brown Line, Illinois, \$40,000,000.

CTA Yellow Line, Illinois, \$1,000,000.

Dallas Northwest/Southeast Light Rail MOS, Texas, \$12,000,000.

Denali Commission, Alaska, \$5,000,000.

Detroit Center City Loop, Michigan, \$4,000,000.

Dulles Corridor Rapid Transit Project, Virginia, \$26,000,000.

East Corridor Commuter Rail, Nashville, Tennessee, \$6,000,000.

East Side Access Project, New York, \$340,000,000.

Euclid Corridor Transportation Project, Ohio, \$24,774,513.

Fort Lauderdale Downtown Rail Link, Florida, \$1,000,000.

Gainesville-Haymarket VRE Service Extension, Virginia, \$1,450,000.
Hartford-New Britain Busway, Connecticut, \$6,000,000.
Houston METRO, Texas, \$12,000,000.
Hudson-Bergen Light Rail MOS 2, New Jersey, \$100,000,000.
Kansas City, Missouri, Southtown BRT, \$12,300,000.
Metra, Illinois, \$42,180,000.
Metro Gold Line Eastside Light Rail Extension, California, \$80,000,000.
Miami Dade County Metrorail Extension, Florida, \$10,000,000.
Mid-Coast Light Rail Transit Extension, California, \$7,160,000.
Mid-Jordan Light Rail Transit Line, Utah, \$500,000.
Mission Valley East, California, \$7,700,000.
N. Indiana Commuter Transit District Recapitalization, \$5,000,000.
New Jersey Trans-Hudson Midtown Corridor, New Jersey, \$12,315,000.;
North Corridor Interstate MAX Light Rail Project, Oregon, \$18,110,000.
North Shore Connector, Pennsylvania, \$55,000,000.
North Shore Corridor and Blue Line Extension, Massachusetts, \$2,000,000.
Northeast Corridor Commuter Rail Project, Delaware, \$1,425,000.
Northern Branch Bergen County, New Jersey, \$2,500,000.
Northstar Corridor Commuter Rail Project, Minnesota, \$2,000,000.
Northwest New Jersey—Northeast Pennsylvania Passenger Rail, \$10,000,000.
Oceanside Escondido Rail Project, California, \$12,210,000.
Odgen Avenue Transit Corridor/Circle Line, Illinois, \$1,000,000.
Regional Fixed Guideway Project, Nevada, \$3,000,000.
Rhode Island Integrated Commuter Rail Project, Rhode Island, \$6,000,000.
San Francisco BART Extension to San Francisco International Airport, California, \$81,860,000.
San Francisco Muni Third Street Light Rail Project, California, \$25,000,000.
San Juan Tren Urbano, Puerto Rico, \$8,045,487.
Santa Barbara Coast Rail Track Improvement Project, California, \$1,000,000.
Schuylkill Valley Metro, Pennsylvania, \$4,000,000.
Seattle Sound Transit, Washington, \$80,000,000.
Second Avenue Subway, New York, \$25,000,000.
Silicon Valley Rapid Transit Corridor Project, Santa Clara County, California, \$6,500,000.
Silver Line Phase III, Massachusetts, \$4,000,000.
Sounder Commuter Rail, Washington, \$5,000,000.
Southeast Corridor Multi-Modal Project (T-REX), Colorado, \$80,000,000.
Stamford Urban Transitway, Connecticut, \$10,000,000.
Triangle Transit Authority Regional Rail System (Raleigh-Durham), North Carolina, \$20,000,000.

Washington County Commuter Rail Project, Oregon,
\$15,000,000.

West Corridor Light Rail, Colorado, \$5,000,000.

ADMINISTRATIVE PROVISIONS—FEDERAL TRANSIT ADMINISTRATION

49 USC 5338
note.

SEC. 140. The limitations on obligations for the programs of the Federal Transit Administration shall not apply to any authority under 49 U.S.C. 5338, previously made available for obligation, or to any other authority previously made available for obligation.

SEC. 141. Notwithstanding any other provision of law, and except for fixed guideway modernization projects, funds made available by this Act under “Federal Transit Administration, Capital investment grants” for projects specified in this Act or identified in reports accompanying this Act not obligated by September 30, 2008, and other recoveries, shall be made available for other projects under 49 U.S.C. 5309.

SEC. 142. Notwithstanding any other provision of law, any funds appropriated before October 1, 2005, under any section of chapter 53 of title 49, United States Code, that remain available for expenditure may be transferred to and administered under the most recent appropriation heading for any such section.

SEC. 143. Notwithstanding any other provision of law, unobligated funds made available for a new fixed guideway systems projects under the heading “Federal Transit Administration, Capital Investment Grants” in any appropriations Act prior to this Act may be used during this fiscal year to satisfy expenses incurred for such projects.

SEC. 144. Funds made available for Alaska or Hawaii ferry boats or ferry terminal facilities pursuant to 49 U.S.C. 5309(m)(2)(B) may be used to construct new vessels and facilities, or to improve existing vessels and facilities, including both the passenger and vehicle-related elements of such vessels and facilities, and for repair facilities: *Provided*, That not more than \$3,000,000 of the funds made available pursuant to 49 U.S.C. 5309(m)(2)(B) may be used by the State of Hawaii to initiate and operate a passenger ferryboat services demonstration project to test the viability of different intra-island and inter-island ferry boat routes and technology: *Provided further*, That notwithstanding 49 U.S.C. 5302(a)(7), funds made available for Alaska or Hawaii ferry boats may be used to acquire passenger ferry boats and to provide passenger ferry transportation services within areas of the State of Hawaii under the control or use of the National Park Service.

SEC. 145. Amounts made available from the bus category of the Capital Investment Grants Account or Discretionary Grants Account in this or any other previous Appropriations Act that remain unobligated or unexpended in a grant for a multimodal transportation facility in Burlington, Vermont, may be used for site-preparation and design purposes of a multimodal transportation facility in a different location within Burlington, Vermont, than originally intended notwithstanding previous expenditures incurred such purposes at the original location.

Washington.

SEC. 146. Notwithstanding any other provision of law, funds designated in the conference report accompanying Public Law 108–447 and Public Law 108–199 for the King County Metro Park and Ride on First Hill, Seattle, Washington, shall be available

to the Swedish Hospital parking garage, Seattle, Washington, subject to the same conditions and requirements of section 125 of division H of Public Law 108–447.

SEC. 147. Funds in this Act that are apportioned to the Charleston Area Regional Transportation Authority to carry out section 5307 of title 49, United States Code, may be used to acquire land, equipment, or facilities used in public transportation from another governmental authority in the same geographic area: *Provided*, That the non-Federal share under section 5307 may include revenues from the sale of advertising and concessions.

SEC. 148. Notwithstanding any other provision of law, any unobligated funds designated to the Jacksonville Transportation Authority, Community Transportation Coordinator Program under the heading “Job Access and Reverse Commute Grants” in the statement of the managers accompanying Public Law 108–199 may be made available to the Jacksonville Transportation Authority for any purpose authorized under the Job Access and Reverse Commute program.

SEC. 149. Notwithstanding any other provision of law, any funds made available to the South Shore Commuter Rail, Indiana, project under the Federal Transit Administration Capital Investment Grants Account in division H of Public Law 108–447 that remain available may be used for remodernization of the South Shore Commuter Rail system.

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

The Saint Lawrence Seaway Development Corporation is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to the Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the Corporation’s budget for the current fiscal year.

OPERATIONS AND MAINTENANCE

(HARBOR MAINTENANCE TRUST FUND)

For necessary expenses for operations and maintenance of those portions of the Saint Lawrence Seaway operated and maintained by the Saint Lawrence Seaway Development Corporation, \$16,284,000, to be derived from the Harbor Maintenance Trust Fund, pursuant to Public Law 99–662.

MARITIME ADMINISTRATION

MARITIME SECURITY PROGRAM

For necessary expenses to maintain and preserve a U.S.-flag merchant fleet to serve the national security needs of the United States, \$156,000,000, to remain available until expended.

OPERATIONS AND TRAINING

For necessary expenses of operations and training activities authorized by law, \$122,249,000 of which \$23,750,000 shall remain available until September 30, 2006, for salaries and benefits of

employees of the United States Merchant Marine Academy; of which \$15,000,000 shall remain available until expended for capital improvements at the United States Merchant Marine Academy; and of which \$8,211,000 shall remain available until expended for the State Maritime Schools Schoolship Maintenance and Repair.

SHIP DISPOSAL

For necessary expenses related to the disposal of obsolete vessels in the National Defense Reserve Fleet of the Maritime Administration, \$21,000,000, to remain available until expended.

MARITIME GUARANTEED LOAN (TITLE XI) PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For administrative expenses to carry out the guaranteed loan program, not to exceed \$4,126,000, which shall be transferred to and merged with the appropriation for Operations and Training.

SHIP CONSTRUCTION

(RESCISSION)

Of the unobligated balances available under this heading, \$2,071,280 are rescinded.

ADMINISTRATIVE PROVISIONS—MARITIME ADMINISTRATION

Contracts.

SEC. 150. Notwithstanding any other provision of this Act, the Maritime Administration is authorized to furnish utilities and services and make necessary repairs in connection with any lease, contract, or occupancy involving Government property under control of the Maritime Administration, and payments received therefore shall be credited to the appropriation charged with the cost thereof: *Provided*, That rental payments under any such lease, contract, or occupancy for items other than such utilities, services, or repairs shall be covered into the Treasury as miscellaneous receipts.

SEC. 151. No obligations shall be incurred during the current fiscal year from the construction fund established by the Merchant Marine Act, 1936 (46 App. U.S.C. 1101 et seq.), or otherwise, in excess of the appropriations and limitations contained in this Act or in any prior appropriations Act.

PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION

ADMINISTRATIVE EXPENSES

For necessary administrative expenses of the Pipeline and Hazardous Materials Safety Administration, \$16,877,000, of which \$645,000 shall be derived from the Pipeline Safety Fund.

HAZARDOUS MATERIALS SAFETY

For expenses necessary to discharge the hazardous materials safety functions of the Pipeline and Hazardous Materials Safety Administration, \$26,138,000, of which \$1,847,000 shall remain available until September 30, 2008: *Provided*, That up to \$1,200,000 in fees collected under 49 U.S.C. 5108(g) shall be deposited in the general fund of the Treasury as offsetting receipts: *Provided*

further, That there may be credited to this appropriation, to be available until expended, funds received from States, counties, municipalities, other public authorities, and private sources for expenses incurred for training, for reports publication and dissemination, and for travel expenses incurred in performance of hazardous materials exemptions and approvals functions.

PIPELINE SAFETY

(PIPELINE SAFETY FUND)

(OIL SPILL LIABILITY TRUST FUND)

For expenses necessary to conduct the functions of the pipeline safety program, for grants-in-aid to carry out a pipeline safety program, as authorized by 49 U.S.C. 60107, and to discharge the pipeline program responsibilities of the Oil Pollution Act of 1990, \$73,010,000, of which \$15,000,000 shall be derived from the Oil Spill Liability Trust Fund and shall remain available until September 30, 2008; of which \$58,010,000 shall be derived from the Pipeline Safety Fund, of which \$24,000,000 shall remain available until September 30, 2008: *Provided*, That not less than \$1,000,000 of the funds provided under this heading shall be for the one-call State grant program.

EMERGENCY PREPAREDNESS GRANTS

(EMERGENCY PREPAREDNESS FUND)

For necessary expenses to carry out 49 U.S.C. 5127(c), \$200,000, to be derived from the Emergency Preparedness Fund, to remain available until September 30, 2007: *Provided*, That not more than \$14,300,000 shall be made available for obligation in fiscal year 2006 from amounts made available by 49 U.S.C. 5116(i) and 5127(d): *Provided further*, That none of the funds made available by 49 U.S.C. 5116(i), 5127(c), and 5127(d) shall be made available for obligation by individuals other than the Secretary of Transportation, or his designee.

RESEARCH AND INNOVATIVE TECHNOLOGY ADMINISTRATION

RESEARCH AND DEVELOPMENT

For necessary expenses of the Research and Innovative Technology Administration, \$5,774,000, of which \$1,121,000 shall remain available until September 30, 2008: *Provided*, That there may be credited to this appropriation, to be available until expended, funds received from States, counties, municipalities, other public authorities, and private sources for expenses incurred for training.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For necessary expenses of the Office of Inspector General to carry out the provisions of the Inspector General Act of 1978, as amended, \$62,499,000: *Provided*, That the Inspector General shall have all necessary authority, in carrying out the duties specified in the Inspector General Act, as amended (5 U.S.C. App. 3), to investigate allegations of fraud, including false statements

Air carriers.
Ticket agents.

to the government (18 U.S.C. 1001), by any person or entity that is subject to regulation by the Department: *Provided further*, That the funds made available under this heading shall be used to investigate, pursuant to section 41712 of title 49, United States Code: (1) unfair or deceptive practices and unfair methods of competition by domestic and foreign air carriers and ticket agents; and (2) the compliance of domestic and foreign air carriers with respect to item (1) of this proviso.

SURFACE TRANSPORTATION BOARD

SALARIES AND EXPENSES

For necessary expenses of the Surface Transportation Board, including services authorized by 5 U.S.C. 3109, \$26,450,000: *Provided*, That notwithstanding any other provision of law, not to exceed \$1,250,000 from fees established by the Chairman of the Surface Transportation Board shall be credited to this appropriation as offsetting collections and used for necessary and authorized expenses under this heading: *Provided further*, That the sum herein appropriated from the general fund shall be reduced on a dollar-for-dollar basis as such offsetting collections are received during fiscal year 2006, to result in a final appropriation from the general fund estimated at no more than \$25,200,000.

ADMINISTRATIVE PROVISIONS—DEPARTMENT OF TRANSPORTATION

(INCLUDING TRANSFERS OF FUNDS)

SEC. 160. During the current fiscal year applicable appropriations to the Department of Transportation shall be available for maintenance and operation of aircraft; hire of passenger motor vehicles and aircraft; purchase of liability insurance for motor vehicles operating in foreign countries on official department business; and uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902).

SEC. 161. Appropriations contained in this Act for the Department of Transportation shall be available for services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for an Executive Level IV.

SEC. 162. None of the funds in this Act shall be available for salaries and expenses of more than 108 political and Presidential appointees in the Department of Transportation: *Provided*, That none of the personnel covered by this provision may be assigned on temporary detail outside the Department of Transportation.

SEC. 163. None of the funds in this Act shall be used to implement section 404 of title 23, United States Code.

SEC. 164. (a) No recipient of funds made available in this Act shall disseminate personal information (as defined in 18 U.S.C. 2725(3)) obtained by a State department of motor vehicles in connection with a motor vehicle record as defined in 18 U.S.C. 2725(1), except as provided in 18 U.S.C. 2721 for a use permitted under 18 U.S.C. 2721.

(b) Notwithstanding subsection (a), the Secretary shall not withhold funds provided in this Act for any grantee if a State is in noncompliance with this provision.

SEC. 165. Funds received by the Federal Highway Administration, Federal Transit Administration, and Federal Railroad

Administration from States, counties, municipalities, other public authorities, and private sources for expenses incurred for training may be credited respectively to the Federal Highway Administration's "Federal-Aid Highways" account, the Federal Transit Administration's "Transit Planning and Research" account, and to the Federal Railroad Administration's "Safety and Operations" account, except for State rail safety inspectors participating in training pursuant to 49 U.S.C. 20105.

SEC. 166. Notwithstanding any other provisions of law, rule or regulation, the Secretary of Transportation is authorized to allow the issuer of any preferred stock heretofore sold to the Department to redeem or repurchase such stock upon the payment to the Department of an amount determined by the Secretary.

SEC. 167. None of the funds in this Act to the Department of Transportation may be used to make a grant unless the Secretary of Transportation notifies the House and Senate Committees on Appropriations not less than 3 full business days before any discretionary grant award, letter of intent, or full funding grant agreement totaling \$1,000,000 or more is announced by the department or its modal administrations from: (1) any discretionary grant program of the Federal Highway Administration other than the emergency relief program; (2) the airport improvement program of the Federal Aviation Administration; or (3) any program of the Federal Transit Administration other than the formula grants and fixed guideway modernization programs: *Provided*, That no notification shall involve funds that are not available for obligation.

Notification.
Deadline.

SEC. 168. Rebates, refunds, incentive payments, minor fees and other funds received by the Department of Transportation from travel management centers, charge card programs, the subleasing of building space, and miscellaneous sources are to be credited to appropriations of the Department of Transportation and allocated to elements of the Department of Transportation using fair and equitable criteria and such funds shall be available until expended.

SEC. 169. Amounts made available in this or any other Act that the Secretary determines represent improper payments by the Department of Transportation to a third party contractor under a financial assistance award, which are recovered pursuant to law, shall be available—

(1) to reimburse the actual expenses incurred by the Department of Transportation in recovering improper payments; and

(2) to pay contractors for services provided in recovering improper payments: *Provided*, That amounts in excess of that required for paragraphs (1) and (2)—

(A) shall be credited to and merged with the appropriation from which the improper payments were made, and shall be available for the purposes and period for which such appropriations are available; or

(B) if no such appropriation remains available, shall be deposited in the Treasury as miscellaneous receipts: *Provided*, That prior to the transfer of any such recovery to an appropriations account, the Secretary shall notify the House and Senate Committees on Appropriations of the amount and reasons for such transfer: *Provided further*,

Notification.

That for purposes of this section, the term “improper payments”, has the same meaning as that provided in section 2(d)(2) of Public Law 107–300.

SEC. 170. The Secretary of Transportation is authorized to transfer the unexpended balances available for the bonding assistance program from “Office of the Secretary, Salaries and expenses” to “Minority Business Outreach”.

SEC. 171. None of the funds made available in this Act to the Department of Transportation may be obligated for the Office of the Secretary of Transportation to approve assessments or reimbursable agreements pertaining to funds appropriated to the modal administrations in this Act, except for activities underway on the date of enactment of this Act, unless such assessments or agreements have completed the normal reprogramming process for Congressional notification.

SEC. 172. None of the funds made available under this Act may be obligated or expended to establish or implement a pilot program under which not more than 10 designated essential air service communities located in proximity to hub airports are required to assume 10 percent of their essential air subsidy costs for a 4-year period commonly referred to as the EAS local participation program.

SEC. 173. (a) Section 14710(a) of title 49, United States Code, is amended—

(1) by striking “a State authority may” and inserting “a State authority other than the attorney general of the state may, as parens patriae,”; and

(2) by inserting the following after the first sentence: “Any civil action for injunctive relief to enjoin such delivery or transportation or to compel a person to pay a fine or penalty assessed under chapter 149 shall be brought in an appropriate district court of the United States.”.

(b) Section 14710(b) of title 49, United States Code, is amended to read as follows:

“(b) EXERCISE OF ENFORCEMENT AUTHORITY.—The authority of this section shall be exercised subject to the requirements of sections 14711(b)–(f) of this title.”.

(c) Section 14711(b)(1) of title 49, United States Code, is amended by inserting the following at the end: “The State may initiate a civil action under subsection (a) if it is reviewable under subsection (b)(2).”.

(d) Section 14711(b)(4) of title 49, United States Code, is amended by inserting “that is subject to review under subsection (b)(2)” before “if the Secretary”.

(e) The amendments made by this section shall cease to be in effect after September 30, 2006.

SEC. 174. Section 112(b)(2) of title 23, United States Code, is amended—

(1) in subparagraph (A), by striking “title 40” and all that follows through the period and inserting “title 40.”;

(2) by striking subparagraph (B);

(3) by redesignating subparagraphs (C) through (G) as subparagraphs (B) through (F), respectively;

(4) in subparagraph (E) (as redesignated by paragraph (3)), in the first sentence, by striking “subparagraph (E)” and inserting “subparagraph (D)”;

Termination
date.
49 USC 14710
note.

(5) in subparagraph (F) (as redesignated by paragraph (3)), by striking “State Option” and all that follows through the period and inserting “(F) Subparagraphs (B), (C), (D) and (E) herein shall not apply to the States of West Virginia or Minnesota.”.

SEC. 175. Notwithstanding any provision of law, the Secretary of Transportation is authorized and directed to make project grants under chapter 471 of title 49, United States Code, from funds available for fiscal year 2006 and thereafter under 49 U.S.C. 48103, for the cost of acquisition of land, or reimbursement of the cost of land if purchased prior to enactment of this provision and prior to a grant agreement, for non-exclusive use aeronautical purposes on an airport layout plan that has been approved by the Secretary on January 23, 2004, pursuant to section 49 U.S.C. 47107(a)(16), for any small hub airport as defined in 49 U.S.C. 47102, and had scheduled or chartered direct international flights totaling at least 200 million pounds gross aircraft landed weight for calendar year 2002.

SEC. 176. (a) Section 47108 of title 49, United States Code, is amended in subsection (e) by adding the following new paragraph at the end:

“(3) CHANGES TO NONHUB PRIMARY STATUS.—If the status of a nonhub primary airport changes to a small hub primary airport at a time when the airport has received discretionary funds under this chapter for a terminal development project in accordance with section 47110(d)(2), and the project is not yet completed, the project shall remain eligible for funding from the discretionary fund and the small airport fund to pay costs allowable under section 47110(d). Such project shall remain eligible for such funds for three fiscal years after the start of construction of the project, or if the Secretary determines that a further extension of eligibility is justified, until the project is completed.”.

(b) CONFORMING AMENDMENT.—Section 47110(d)(2)(A) is amended by striking “(A) the” and inserting “(A) except as provided in section 47108(e)(3), the”. 49 USC 47110.

SEC. 177. Section 40128(e) of title 49, United States Code, is amended by adding at the end the following: “For purposes of this subsection, an air tour operator flying over the Hoover Dam in the Lake Mead National Recreation Area en route to the Grand Canyon National Park shall be deemed to be flying solely as a transportation route.”. Nothing in this provision shall allow exemption from overflight rules for the Grand Canyon.

49 USC 40128
note.

SEC. 178. Section 145(c) of the Aviation and Transportation Security Act (49 U.S.C. 40101 note) is amended by striking “November 19, 2005.” and inserting “November 30, 2006.”.

SEC. 179. (a)(1) This section shall apply to a former employee of the Federal Aviation Administration, who—

Applicability.

(A) was involuntarily separated as a result of the reorganization of the Flight Services Unit following the outsourcing of flight service duties to a contractor;

(B) was not eligible by October 3, 2005 for an immediate annuity under a Federal retirement system; and

(C) assuming continued Federal employment, would attain eligibility for an immediate annuity under section 8336(d) or 8414(b) of title 5, United States Code, not later than October 4, 2007.

Effective date.
Termination
date.

(2) Notwithstanding any other provision of law, during the period beginning on the date of enactment of this Act and ending October 4, 2007, an employee described under paragraph (1) may, with the approval of the Administrator of the Federal Aviation Administration or the designee of the Administrator, accept an assignment to such contractor within 14 days after the date of enactment of this section.

(3) Except as provided in subsection (c), an employee appointed under paragraph (1)—

(A) shall be a temporary Federal employee for the duration of the assignment;

(B) notwithstanding such temporary status, shall retain previous enrollment or participation in Federal employee benefits programs under chapters 83, 84, 87, and 89 of title 5, United States Code; and

(C) shall be considered to have not had a break in service for purposes of chapters 83, 84, and sections 8706(b) and 8905(b) of title 5, United States Code, except no service credit or benefits shall be extended retroactively.

Termination
date.

(4) An assignment and temporary appointment under this section shall terminate on the earlier of—

(A) October 4, 2007; or

(B) the date on which the employee first becomes eligible for an immediate annuity under section 8336(d) or 8414(b) of title 5, United States Code.

(5) Such funds as may be necessary are authorized for the Federal Aviation Administration to pay the salary and benefits of an employee assigned under this section, but no funds are authorized to reimburse the employing contractor for the salary and benefits of an employee so assigned.

(b) An employee who was involuntarily separated as a result of the reorganization of the Flight Services Unit following the outsourcing of flight service duties to a contractor, and was eligible to use annual leave under the conditions of section 6302(g) of title 5, United States Code, may use such leave to—

(1) qualify for an immediate annuity or to meet the age or service requirements for an enhanced annuity that the employee could qualify for under sections 8336, 8412, or 8414; or

(2) to meet the requirements under section 8905(b) of title 5, United States Code, to qualify to continue health benefits coverage after retirement from service.

(c)(1) Nothing in this section shall—

(A) affect the validity or legality of the reduction-in-force actions of the Federal Aviation Administration effective October 3, 2005; or

(B) create any individual rights of actions regarding such reduction-in-force or any other actions related to or arising under the competitive sourcing of flight services.

(2) An employee subject to this section shall not be—

(A) covered by chapter 71 of title 5, United States Code, while on the assignment authorized by this section; or

(B) subject to section 208 of title 18, United States Code.

(3) Temporary employees assigned under this section shall not be Federal employees for purposes of chapter 171 of title 28, United States Code (commonly referred to as the Federal Tort Claims Act). Chapter 171 of title 28, United States Code (commonly referred

to as the Federal Tort Claims Act) and any other Federal tort liability statute shall not apply to an employee who is assigned to a contractor under subsection (a).

SEC. 180. (a) In this section:

(1) The term “Conservation Area” means the Sloan Canyon National Conservation Area established by section 604(a) of the Clark County Conservation of Public Land and Natural Resources Act of 2002 (116 Stat. 2010).

(2) The term “County” means Clark County, Nevada.

(3)(A) The term “helicopter tour” means a commercial helicopter tour operated for profit.

(B) The term “helicopter tour” does not include a helicopter tour that is carried out to assist a Federal, State, or local agency.

(4) The term “Secretary” means the Secretary of the Interior.

(5) The term “Wilderness” means the North McCullough Mountains Wilderness established by section 202(a)(13) of the Clark County Conservation of Public Land and Natural Resources Act of 2002 (116 Stat. 2000).

(b) As soon as practicable after the date of enactment of this Act, the Secretary shall convey to the County, subject to valid existing rights, for no consideration, all right, title, and interest of the United States in and to the parcel of land described in subsection (c).

(c) The parcel of land to be conveyed under subsection (b) is the parcel of approximately 229 acres of land depicted as tract A on the map entitled “Clark County Public Heliport Facility” and dated May 3, 2004.

(d)(1) The parcel of land conveyed under subsection (b)—

(A) shall be used by the County for the operation of a heliport facility under the conditions stated in paragraphs (2), (3), and (4); and

(B) shall not be disposed of by the County.

(2)(A) Any operator of a helicopter tour originating from or concluding at the parcel of land described in subsection (c) shall pay to the Clark County Department of Aviation a \$3 conservation fee for each passenger on the helicopter tour if any portion of the helicopter tour occurs over the Conservation Area.

(B)(i) Not earlier than 10 years after the date of enactment of this Act and every 10 years thereafter, the Secretary shall conduct a review to determine whether to raise the amount of the conservation fee.

Deadlines.
Fees.

(ii) After conducting a review under clause (i) and providing an opportunity for public comment, the Secretary may raise the amount of the conservation fee in an amount determined to be appropriate by the Secretary, but by not more than 50 percent of the amount of the conservation fee in effect on the day before the date of the increase.

Public comment.

(3)(A) The amounts collected under paragraph (2) shall be deposited in a special account in the Treasury of the United States.

(B) Of the amounts deposited under subparagraph (A)—

(i) $\frac{2}{3}$ of the amounts shall be available to the Secretary, without further appropriation, for the management of cultural, wildlife, and wilderness resources on public land in the State of Nevada; and

(ii) $\frac{1}{3}$ of the amounts shall be available to the Director of the Bureau of Land Management, without further appropriation, for the conduct of Bureau of Land Management operations for the Conservation Area and the Red Rock Canyon National Conservation Area.

(4)(A) Except for safety reasons, any helicopter tour originating or concluding at the parcel of land described in subsection (c) that flies over the Conservation Area shall not fly—

(i) over any area in the Conservation Area except the area that is between 3 and 5 miles north of the latitude of the southernmost boundary of the Conservation Area;

(ii) lower than 1,000 feet over the eastern segments of the boundary of the Conservation Area; or

(iii) lower than 500 feet over the western segments of the boundary of the Conservation Area.

Regulations.

(B) The Administrator of the Federal Aviation Administration shall establish a special flight rules area and any operating procedures that the Administrator determines to be necessary to implement subparagraph (A).

(5) If the County ceases to use any of the land described in subsection (c) for the purpose described in paragraph (1)(A) and under the conditions stated in paragraph (2)—

(A) title to the parcel shall revert to the United States, at the option of the United States; and

(B) the County shall be responsible for any reclamation necessary to revert the parcel to the United States.

(e) The Secretary shall require, as a condition of the conveyance under subsection (b), that the County pay the administrative costs of the conveyance, including survey costs and any other costs associated with the transfer of title.

SEC. 181. The first sentence of section 29(c) of the International Air Transportation Competition Act of 1979 (Public Law 96-192; 94 Stat. 48) is amended by inserting “Missouri,” before “and Texas”.

SEC. 182. Notwithstanding any other provision of law, none of the funds provided in or limited by this Act may be obligated or expended to provide a budget justification for fiscal year 2007 concurrently with the President’s annual budget submission to Congress under section 1105(a) of title 31, United States Code, to any congressional committee other than the House and Senate Committees on Appropriations prior to May 31, 2006.

SEC. 183. Notwithstanding any other provision of law, if any funds provided in or limited by this Act are subject to a reprogramming action that requires notice to be provided to the House and Senate Committees on Appropriations, said reprogramming action shall be approved or denied solely by the Committees on Appropriations: *Provided*, That the Secretary may provide notice to other congressional committees of the action of the Committees on Appropriations on such reprogramming but not sooner than 30 days following the date on which the reprogramming action has been approved or denied by the House and Senate Committees on Appropriations.

SEC. 184. Notwithstanding any other provision of law, the projects numbered 5094 and 5096 in the table contained in section 1702 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Public Law 109-59; 119 Stat. 1144) shall be subject to section 120(c) of title 23, United States Code.

SEC. 185. For necessary expenses, including an independent verification regime, to reimburse fixed-based general aviation operators and the providers of general aviation ground support services at Ronald Reagan Washington National Airport; College Park Airport in College Park, Maryland; Potomac Airpark in Fort Washington, Maryland; Washington Executive/Hyde Field in Clinton, Maryland; and Washington South Capitol Street Heliport in Washington, DC; for direct and incremental financial losses incurred while such airports were closed to general aviation operations, or as of the date of enactment of this provision in the case of airports that have not reopened to such operations, by these operators and service providers solely due to the actions of the Federal Government following the terrorist attacks on the United States that occurred on September 11, 2001, not to exceed \$17,000,000, to be available until expended: *Provided*, That of this amount not to exceed \$5,000,000 shall be available on a pro-rata basis, if necessary, to fixed-based general aviation operators and the providers of general aviation ground support services located at College Park Airport in College Park, Maryland; Potomac Airpark in Fort Washington, Maryland; and Washington Executive/Hyde Field in Clinton, Maryland: *Provided further*, That no funds shall be obligated or distributed to fixed-based general aviation operators and providers of general aviation ground support services until an independent audit is completed: *Provided further*, That losses incurred as a result of violations of law, or through fault or negligence, of such operators and service providers or of third parties (including airports) are not eligible for reimbursements: *Provided further*, That obligation and expenditure of funds are conditional upon full release of the United States Government for all claims for financial losses resulting from such actions.

SEC. 186. Notwithstanding any other provision of law, any amounts made available pursuant to Public Law 109–59 for the Gravina Island bridge and the Knik Arm bridge shall be made available to the Alaska Department of Transportation and Public Facilities for any purpose eligible under section 133(b) of title 23, United States Code: *Provided*, That in allocating funds for the equity bonus program under section 105 of such title, the Secretary shall make the calculations required under that section as if this section had not been enacted: *Provided further*, That the descriptions for High Priority Projects #406, the Gravina Island bridge, and #2465, the Knik Arm bridge, in section 1702 of Public Law 109–59 are hereby deleted and in their place is inserted “the Alaska Department of Transportation and Public Facilities”.

Ante, p. 1256.

SEC. 187. (a) In addition to amounts available to carry out section 10204 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Public Law 109–59) as of the date of enactment of this Act, of the amounts made available by section 112 of this Act, \$1,000,000 shall be used by the Secretary of Transportation and the Secretary of Homeland Security to jointly—

(1) complete the review and assessment of catastrophic hurricane evacuation plans under that section; and

(2) submit to Congress, not later than June 1, 2006, the report described in subsection (d) of that section.

Deadline.
Reports.

(b) Section 10204 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Public Law 109–59) is amended—

Ante, p. 1934.

- (1) in subsection (a)—
 - (A) by inserting after “evacuation plans” the following: “(including the costs of the plans)”; and
 - (B) by inserting “and other catastrophic events” before “impacting”;
- (2) in subsection (b), by striking “and local” and inserting “parish, county, and municipal”; and
- (3) in subsection (c)—
 - (A) in paragraph (1), by inserting “safe and” before “practical”;
 - (B) in paragraph (2), by inserting after “States” the following: “and adjoining jurisdictions”;
 - (C) in paragraph (3), by striking “and” after the semicolon at the end;
 - (D) in paragraph (4), by striking the period at the end and inserting a semicolon; and
 - (E) by adding at the end the following:
 - “(5) the availability of food, water, restrooms, fueling stations, and shelter opportunities along the evacuation routes;
 - “(6) the time required to evacuate under the plan; and
 - “(7) the physical and mental strains associated with the evacuation.”.

This title may be cited as the “Department of Transportation Appropriations Act, 2006”.

Department of
the Treasury
Appropriations
Act, 2006.

TITLE II

DEPARTMENT OF THE TREASURY

DEPARTMENTAL OFFICES

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Departmental Offices including operation and maintenance of the Treasury Building and Annex; hire of passenger motor vehicles; maintenance, repairs, and improvements of, and purchase of commercial insurance policies for, real properties leased or owned overseas, when necessary for the performance of official business, not to exceed \$3,000,000 for official travel expenses; \$196,592,000, of which not to exceed \$8,642,000 is for executive direction program activities; not to exceed \$7,852,000 is for general counsel program activities; not to exceed \$32,011,000 is for economic policies and programs activities; not to exceed \$26,574,000 is for financial policies and programs activities; pursuant to section 3004(b) of the Exchange Rates and International Economic Policy Coordination Act of 1988 (22 U.S.C. 5304(b)), not to exceed \$1,000,000, to remain available until expended, is for the Secretary of the Treasury, in conjunction with the President, to implement said subsection as it pertains to governments and trade violations involving currency manipulation and other trade violations; not to exceed \$39,939,000 is for financial crimes policies and programs activities; not to exceed \$16,843,000 is for Treasury-wide management policies and programs activities; and not to exceed \$63,731,000 is for administration programs activities: *Provided*, That of the amount appropriated for financial crimes policies and programs activities, \$22,032,016 is for the Office of

Foreign Assets Control and shall support no less than 125 full time equivalent positions: *Provided further*, That the Secretary of the Treasury is authorized to transfer funds appropriated for any program activity of the Departmental Offices to any other program activity of the Departmental Offices upon notification to the House and Senate Committees on Appropriations: *Provided further*, That no appropriation for any program activity shall be increased or decreased by more than two percent by all such transfers: *Provided further*, That any change in funding greater than two percent shall be submitted for approval to the House and Senate Committees on Appropriations: *Provided further*, That of the amount appropriated under this heading, not to exceed \$3,000,000, to remain available until September 30, 2007, for information technology modernization requirements; not to exceed \$100,000 for official reception and representation expenses; and not to exceed \$258,000 for unforeseen emergencies of a confidential nature, to be allocated and expended under the direction of the Secretary of the Treasury and to be accounted for solely on his certificate: *Provided further*, That of the amount appropriated under this heading, \$5,173,000, to remain available until September 30, 2007, is for the Treasury-wide Financial Statement Audit Program, of which such amounts as may be necessary may be transferred to accounts of the Department's offices and bureaus to conduct audits: *Provided further*, That this transfer authority shall be in addition to any other provided in this Act.

Notification.

DEPARTMENT-WIDE SYSTEMS AND CAPITAL INVESTMENTS PROGRAMS

(INCLUDING TRANSFER OF FUNDS)

For development and acquisition of automatic data processing equipment, software, and services for the Department of the Treasury, \$24,412,000, to remain available until September 30, 2008: *Provided*, That these funds shall be transferred to accounts and in amounts as necessary to satisfy the requirements of the Department's offices, bureaus, and other organizations: *Provided further*, That this transfer authority shall be in addition to any other transfer authority provided in this Act: *Provided further*, That none of the funds appropriated shall be used to support or supplement "Internal Revenue Service, Information Systems" or "Internal Revenue Service, Business Systems Modernization".

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, not to exceed \$2,000,000 for official travel expenses, including hire of passenger motor vehicles; and not to exceed \$100,000 for unforeseen emergencies of a confidential nature, to be allocated and expended under the direction of the Inspector General of the Treasury, \$17,000,000, of which not to exceed \$2,500 shall be available for official reception and representation expenses.

TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Treasury Inspector General for Tax Administration in carrying out the Inspector General Act of 1978, as amended, including purchase (not to exceed 150 for replacement only for police-type use) and hire of passenger motor vehicles (31 U.S.C. 1343(b)); services authorized by 5 U.S.C. 3109, at such rates as may be determined by the Inspector General for Tax Administration; not to exceed \$6,000,000 for official travel expenses; and not to exceed \$500,000 for unforeseen emergencies of a confidential nature, to be allocated and expended under the direction of the Inspector General for Tax Administration, \$133,286,000; and of which not to exceed \$1,500 shall be available for official reception and representation expenses.

AIR TRANSPORTATION STABILIZATION PROGRAM ACCOUNT

For necessary expenses to administer the Air Transportation Stabilization Board established by section 102 of the Air Transportation Safety and System Stabilization Act (Public Law 107–42), \$2,750,000, to remain available until expended.

TREASURY BUILDING AND ANNEX REPAIR AND RESTORATION

For the repair, alteration, and improvement of the Treasury Building and Annex, \$10,000,000, to remain available until September 30, 2008.

FINANCIAL CRIMES ENFORCEMENT NETWORK

SALARIES AND EXPENSES

For necessary expenses of the Financial Crimes Enforcement Network, including hire of passenger motor vehicles; travel expenses of non-Federal law enforcement personnel to attend meetings concerned with financial intelligence activities, law enforcement, and financial regulation; not to exceed \$14,000 for official reception and representation expenses; and for assistance to Federal law enforcement agencies, with or without reimbursement, \$73,630,000 of which not to exceed \$6,944,000 shall remain available until September 30, 2008; and of which \$8,521,000 shall remain available until September 30, 2007: *Provided*, That funds appropriated in this account may be used to procure personal services contracts.

FINANCIAL MANAGEMENT SERVICE

SALARIES AND EXPENSES

For necessary expenses of the Financial Management Service, \$236,243,000, of which not to exceed \$9,220,000 shall remain available until September 30, 2008, for information systems modernization initiatives; and of which not to exceed \$2,500 shall be available for official reception and representation expenses.

ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

SALARIES AND EXPENSES

For necessary expenses of carrying out section 1111 of the Homeland Security Act of 2002, including hire of passenger motor vehicles, \$91,126,000; of which not to exceed \$6,000 for official reception and representation expenses; not to exceed \$50,000 for cooperative research and development programs for laboratory services; and provision of laboratory assistance to State and local agencies with or without reimbursement.

UNITED STATES MINT

UNITED STATES MINT PUBLIC ENTERPRISE FUND

Pursuant to section 5136 of title 31, United States Code, the United States Mint is provided funding through the United States Mint Public Enterprise Fund for costs associated with the production of circulating coins, numismatic coins, and protective services, including both operating expenses and capital investments. The aggregate amount of new liabilities and obligations incurred during fiscal year 2006 under such section 5136 for circulating coinage and protective service capital investments of the United States Mint shall not exceed \$26,768,000.

BUREAU OF THE PUBLIC DEBT

ADMINISTERING THE PUBLIC DEBT

For necessary expenses connected with any public-debt issues of the United States, \$179,923,000, of which not to exceed \$2,500 shall be available for official reception and representation expenses, and of which not to exceed \$2,000,000 shall remain available until expended for systems modernization: *Provided*, That the sum appropriated herein from the general fund for fiscal year 2006 shall be reduced by not more than \$3,000,000 as definitive security issue fees and Treasury Direct Investor Account Maintenance fees are collected, so as to result in a final fiscal year 2006 appropriation from the general fund estimated at \$176,923,000. In addition, \$70,000 to be derived from the Oil Spill Liability Trust Fund to reimburse the Bureau for administrative and personnel expenses for financial management of the Fund, as authorized by section 1012 of Public Law 101–380.

COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS FUND

COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS FUND PROGRAM
ACCOUNT

To carry out the Community Development Banking and Financial Institutions Act of 1994 (Public Law 103–325), including services authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for ES–3, \$55,000,000, to remain available until September 30, 2007, of which \$4,000,000 shall be for financial assistance, technical assistance, training and outreach programs designed to benefit Native American, Native Hawaiian, and Alaskan Native communities and provided primarily through qualified community development lender

organizations with experience and expertise in community development banking and lending in Indian country, Native American organizations, tribes and tribal organizations and other suitable providers, and up to \$13,500,000 may be used for administrative expenses, including administration of the New Markets Tax Credit, up to \$6,000,000 may be used for the cost of direct loans, and up to \$250,000 may be used for administrative expenses to carry out the direct loan program: *Provided*, That the cost of direct loans, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: *Provided further*, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed \$11,000,000.

INTERNAL REVENUE SERVICE

PROCESSING, ASSISTANCE, AND MANAGEMENT

(INCLUDING RESCISSION OF FUNDS)

For necessary expenses of the Internal Revenue Service for pre-filing taxpayer assistance and education, filing and account services, shared services support, general management and administration; and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner, \$4,136,578,000, of which up to \$4,100,000 shall be for the Tax Counseling for the Elderly Program, of which \$8,000,000 shall be available for low-income taxpayer clinic grants, of which \$1,500,000 shall be for the Internal Revenue Service Oversight Board; and of which not to exceed \$25,000 shall be for official reception and representation expenses: *Provided*, That of unobligated amounts available under this heading from previous appropriations Acts, \$20,000,000 shall be rescinded.

TAX LAW ENFORCEMENT

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Internal Revenue Service for determining and establishing tax liabilities; providing litigation support; conducting criminal investigation and enforcement activities; securing unfiled tax returns; collecting unpaid accounts; conducting a document matching program; resolving taxpayer problems through prompt identification, referral and settlement; expanded customer service and public outreach programs, strengthened enforcement activities, and enhanced research efforts to reduce erroneous filings associated with the earned income tax credit; compiling statistics of income and conducting compliance research; purchase (for police-type use, not to exceed 850) and hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner, \$4,725,756,000, of which not to exceed \$1,000,000 shall remain available until September 30, 2008, for research; and of which \$55,584,000 shall be for the Interagency Crime and Drug Enforcement program: *Provided*, That up to \$10,000,000 may be transferred as necessary from this account to the IRS Processing, Assistance, and Management appropriation

or the IRS Information Systems appropriation solely for the purposes of management of the Interagency Crime and Drug Enforcement Program: *Provided further*, That up to \$10,000,000 may be transferred as necessary from this account to the IRS Processing, Assistance, and Management appropriation or the IRS Information Systems appropriation solely for the purposes of management of the Earned Income Tax Credit compliance program and to reimburse the Social Security Administration for the cost of implementing section 1090 of the Taxpayer Relief Act of 1997 (Public Law 105–33): *Provided further*, That this transfer authority shall be in addition to any other transfer authority provided in this Act.

INFORMATION SYSTEMS

For necessary expenses of the Internal Revenue Service for information systems and telecommunications support, including developmental information systems and operational information systems; the hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner, \$1,598,967,000, of which \$75,000,000 shall remain available until September 30, 2007.

BUSINESS SYSTEMS MODERNIZATION

For necessary expenses of the Internal Revenue Service, \$199,000,000, to remain available until September 30, 2008, for the capital asset acquisition of information technology systems, including management and related contractual costs of said acquisitions, including contractual costs associated with operations authorized by 5 U.S.C. 3109: *Provided*, That none of these funds may be obligated until the Internal Revenue Service submits to the Committees on Appropriations, and such Committees approve, a plan for expenditure that: (1) meets the capital planning and investment control review requirements established by the Office of Management and Budget, including Circular A–11; (2) complies with the Internal Revenue Service’s enterprise architecture, including the modernization blueprint; (3) conforms with the Internal Revenue Service’s enterprise life cycle methodology; (4) is approved by the Internal Revenue Service, the Department of the Treasury, and the Office of Management and Budget; (5) has been reviewed by the Government Accountability Office; and (6) complies with the acquisition rules, requirements, guidelines, and systems acquisition management practices of the Federal Government.

HEALTH INSURANCE TAX CREDIT ADMINISTRATION

(INCLUDING RESCISSION OF FUNDS)

For expenses necessary to implement the health insurance tax credit included in the Trade Act of 2002 (Public Law 107–210), \$20,210,000: *Provided*, That of unobligated amounts available under this heading from previous appropriations acts, \$9,000,000 shall be rescinded.

ADMINISTRATIVE PROVISIONS—INTERNAL REVENUE SERVICE

(INCLUDING TRANSFER OF FUNDS)

SEC. 201. Not to exceed 5 percent of any appropriation made available in this Act to the Internal Revenue Service or not to exceed 3 percent of appropriations under the heading “Tax Law Enforcement” may be transferred to any other Internal Revenue Service appropriation upon the advance approval of the Committees on Appropriations.

26 USC 7804
note.

SEC. 202. The Internal Revenue Service shall maintain a training program to ensure that Internal Revenue Service employees are trained in taxpayers’ rights, in dealing courteously with taxpayers, and in cross-cultural relations.

Procedures.
26 USC 6103
note.

SEC. 203. The Internal Revenue Service shall institute and enforce policies and procedures that will safeguard the confidentiality of taxpayer information.

SEC. 204. Funds made available by this or any other Act to the Internal Revenue Service shall be available for improved facilities and increased manpower to provide sufficient and effective 1–800 help line service for taxpayers. The Commissioner shall continue to make the improvement of the Internal Revenue Service 1–800 help line service a priority and allocate resources necessary to increase phone lines and staff to improve the Internal Revenue Service 1–800 help line service.

SEC. 205. None of the funds appropriated or otherwise made available in this or any other Act or source to the Internal Revenue Service may be used to reduce taxpayer services as proposed in fiscal year 2006 until the Treasury Inspector General for Tax Administration completes a study detailing the impact of such proposed reductions on taxpayer compliance and taxpayer services, and the Internal Revenue Service’s plans for providing adequate alternative services, and submits such study and plans to the Committees on Appropriations of the House of Representatives and the Senate for approval: *Provided*, That no funds shall be obligated by the Internal Revenue Service for such purposes for 60 days after receipt of such study: *Provided further*, That the Internal Revenue Service shall consult with stakeholder organizations, including but not limited to, the National Taxpayer Advocate, the Internal Revenue Service Oversight Board, the Treasury Inspector General for Tax Administration, and Internal Revenue Service employees with respect to any proposed or planned efforts by the Internal Revenue Service to terminate or reduce significantly any taxpayer service activity.

SEC. 206. Of the funds made available by this Act to the Internal Revenue Service, not less than \$6,447,000,000 shall be available only for tax enforcement. In addition, of the funds made available by this Act to the Internal Revenue Service, and subject to the same terms and conditions, \$446,000,000 shall be available for enhanced tax enforcement.

SEC. 207. Of the funds made available by this Act to the Internal Revenue Service, not less than \$166,249,000 shall be available for operating expenses of the Taxpayer Advocate Service, of which not less than \$141,311,650 shall be made available from the “Tax Law Enforcement” account.

SEC. 208. The Internal Revenue Service shall submit its fiscal year 2007 congressional budget justifications to the Committees on Appropriations of the House of Representatives and the Senate

using the identical structure provided under this Act and only in accordance with the direction specified in the report accompanying this Act.

SEC. 209. Section 3 under the heading “Administrative Provisions—Internal Revenue Service” of title I of Public Law 103–329 is amended by striking the last proviso.

26 USC 7801
note.

ADMINISTRATIVE PROVISIONS—DEPARTMENT OF THE TREASURY

(INCLUDING TRANSFER OF FUNDS)

SEC. 210. Appropriations to the Department of the Treasury in this Act shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901), including maintenance, repairs, and cleaning; purchase of insurance for official motor vehicles operated in foreign countries; purchase of motor vehicles without regard to the general purchase price limitations for vehicles purchased and used overseas for the current fiscal year; entering into contracts with the Department of State for the furnishing of health and medical services to employees and their dependents serving in foreign countries; and services authorized by 5 U.S.C. 3109.

SEC. 211. Not to exceed 2 percent of any appropriations in this Act made available to the Departmental Offices—Salaries and Expenses, Office of Inspector General, Financial Management Service, Alcohol and Tobacco Tax and Trade Bureau, Financial Crimes Enforcement Network, and Bureau of the Public Debt, may be transferred between such appropriations upon the advance approval of the Committees on Appropriations: *Provided*, That no transfer may increase or decrease any such appropriation by more than 2 percent.

SEC. 212. Not to exceed 2 percent of any appropriation made available in this Act to the Internal Revenue Service may be transferred to the Treasury Inspector General for Tax Administration’s appropriation upon the advance approval of the Committees on Appropriations: *Provided*, That no transfer may increase or decrease any such appropriation by more than 2 percent.

SEC. 213. Of the funds available for the purchase of law enforcement vehicles, no funds may be obligated until the Secretary of the Treasury certifies that the purchase by the respective Treasury bureau is consistent with Departmental vehicle management principles: *Provided*, That the Secretary may delegate this authority to the Assistant Secretary for Management.

Certification.

SEC. 214. None of the funds appropriated in this Act or otherwise available to the Department of the Treasury or the Bureau of Engraving and Printing may be used to redesign the \$1 Federal Reserve note.

Currency.

SEC. 215. The Secretary of the Treasury may transfer funds from Financial Management Services, Salaries and Expenses to Debt Collection Fund as necessary to cover the costs of debt collection: *Provided*, That such amounts shall be reimbursed to such salaries and expenses account from debt collections received in the Debt Collection Fund.

SEC. 216. Section 122(g)(1) of Public Law 105–119 (5 U.S.C. 3104 note), is further amended by striking “7 years” and inserting “8 years”.

SEC. 217. None of the funds appropriated or otherwise made available by this or any other Act may be used by the United

States Mint to construct or operate any museum without the explicit approval of the House Committee on Financial Services and the Senate Committee on Banking, Housing, and Urban Affairs.

SEC. 218. None of the funds appropriated or otherwise made available by this or any other Act or source to the Department of the Treasury, the Bureau of Engraving and Printing, and the United States Mint, individually or collectively, may be used to consolidate any or all functions of the Bureau of Engraving and Printing and the United States Mint without the explicit approval of the House Committee on Financial Services; the Senate Committee on Banking, Housing, and Urban Affairs; the House Committee on Appropriations; and the Senate Committee on Appropriations.

SEC. 219. None of the funds appropriated or otherwise made available by this or any other Act or source to the Secretary of the Treasury may be expended to develop, study, or implement any plan to reallocate the resources of, or merge the Financial Crimes Enforcement Network into the Departmental Offices—Salaries and Expenses, or any other office within the Department of the Treasury.

This title may be cited as the “Department of the Treasury Appropriations Act, 2006”.

Department of
Housing and
Urban
Development
Appropriations
Act, 2006.

TITLE III

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

PUBLIC AND INDIAN HOUSING

TENANT-BASED RENTAL ASSISTANCE

(INCLUDING TRANSFER OF FUNDS)

For activities and assistance for the provision of tenant-based rental assistance authorized under the United States Housing Act of 1937, as amended (42 U.S.C. 1437 et seq.) (“the Act” herein), not otherwise provided for, \$15,573,655,725, to remain available until expended, of which \$11,373,656,000 shall be available on October 1, 2005, and \$4,200,000,000 shall be available on October 1, 2006: *Provided*, That the amounts made available under this heading are provided as follows:

(1) \$14,089,755,725 for renewals of expiring section 8 tenant-based annual contributions contracts (including renewals of enhanced vouchers under any provision of law authorizing such assistance under section 8(t) of the Act): *Provided*, That notwithstanding any other provision of law, from amounts provided under this paragraph, the Secretary for the calendar year 2006 funding cycle shall provide renewal funding for each public housing agency based on each public housing agency’s 2005 annual budget for renewal funding as calculated by HUD, prior to prorations, and by applying the 2006 Annual Adjustment Factor as established by the Secretary, and by making any necessary adjustments for the costs associated with the first-time renewal of tenant protection or HOPE VI vouchers or vouchers that were not in use during the 12-month period in order to be available to meet a commitment pursuant to section 8(o)(13) of the Act: *Provided further*, That the Secretary

shall, to the extent necessary to stay within the amount provided under this paragraph, pro rate each public housing agency's allocation otherwise established pursuant to this paragraph: *Provided further*, That except as provided in the following proviso, the entire amount provided under this paragraph shall be obligated to the public housing agencies based on the allocation and pro rata method described above: *Provided further*, That public housing agencies participating in the Moving to Work demonstration shall be funded pursuant to their Moving to Work agreements and shall be subject to the same pro rata adjustments under the previous proviso: *Provided further*, That up to \$45,000,000 shall be available only: (1) to adjust the allocations for public housing agencies, after application for an adjustment by a public housing agency and verification by HUD, whose allocations under this heading for contract renewals for the calendar year 2005 funding cycle were based on verified VMS leasing and cost data averaged for the months of May, June, and July of 2004 and solely because of temporarily low leasing levels during such 3-month period did not accurately reflect leasing levels and costs for the 2004 fiscal year of the agencies; and (2) for adjustments for public housing agencies that experienced a significant increase, as determined by the Secretary, in renewal costs resulting from unforeseen circumstances or from the portability under section 8(r) of the United States Housing Act of 1937 of tenant-based rental assistance: *Provided further*, That none of the funds provided in this paragraph may be used to support a total number of unit months under lease which exceeds a public housing agency's authorized level of units under contract;

(2) \$180,000,000 for section 8 rental assistance for relocation and replacement of housing units that are demolished or disposed of pursuant to the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Public Law 104–134), conversion of section 23 projects to assistance under section 8, the family unification program under section 8(x) of the Act, relocation of witnesses in connection with efforts to combat crime in public and assisted housing pursuant to a request from a law enforcement or prosecution agency, enhanced vouchers under any provision of law authorizing such assistance under section 8(t) of the Act, HOPE VI vouchers, mandatory and voluntary conversions, and tenant protection assistance including replacement and relocation assistance: *Provided*, That no more than \$12,000,000 can be used for section 8 assistance to cover the cost of judgments and settlement agreements;

(3) \$48,000,000 for family self-sufficiency coordinators under section 23 of the Act;

(4) \$5,900,000 shall be transferred to the Working Capital Fund; and

(5) \$1,250,000,000 for administrative and other expenses of public housing agencies in administering the section 8 tenant-based rental assistance program, of which up to \$10,000,000 shall be available to the Secretary to allocate to public housing agencies that need additional funds to administer their section 8 programs: *Provided*, That \$1,240,000,000 of the amount provided in this paragraph shall be allocated for the calendar year 2006 funding cycle on a pro rata basis to public housing

agencies based on the amount public housing agencies were eligible to receive in calendar year 2005: *Provided further*, That all amounts provided under this paragraph shall be only for activities related to the provision of tenant-based rental assistance authorized under section 8, including related development activities.

HOUSING CERTIFICATE FUND

(RESCISSION)

Notification.
Deadline.

Of the unobligated balances, including recaptures and carry-over, remaining from funds appropriated to the Department of Housing and Urban Development under this heading, the heading “Annual contributions for assisted housing”, the heading “Tenant-based rental assistance”, and the heading “Project-based rental assistance”, for fiscal year 2005 and prior years, \$2,050,000,000 is rescinded, to be effected by the Secretary no later than September 30, 2006: *Provided*, That, if insufficient funds exist under these headings, the remaining balance may be derived from any other heading under this title: *Provided further*, That the Secretary shall notify the Committees on Appropriations 30 days in advance of the rescission of any funds derived from the headings specified above: *Provided further*, That any such balances governed by reallocation provisions under the statute authorizing the program for which the funds were originally appropriated shall be available for the rescission: *Provided further*, That any obligated balances of contract authority from fiscal year 1974 and prior that have been terminated shall be cancelled: *Provided further*, That no amounts recaptured from amounts appropriated in prior years under this heading or the heading “Annual contributions for assisted housing” and no carryover of such appropriated amounts for project-based assistance shall be available for the calendar year 2006 funding cycle for activities provided for under the heading “Tenant-based rental assistance”.

PROJECT-BASED RENTAL ASSISTANCE

(INCLUDING TRANSFER OF FUNDS)

For activities and assistance for the provision of project-based subsidy contracts under the United States Housing Act of 1937, as amended (42 U.S.C. 1437 et seq.) (“the Act” herein), not otherwise provided for, \$5,088,300,000, to remain available until expended: *Provided*, That the amounts made available under this heading are provided as follows:

(1) \$4,939,700,000 for expiring or terminating section 8 project-based subsidy contracts (including section 8 moderate rehabilitation contracts), for amendments to section 8 project-based subsidy contracts (including section 8 moderate rehabilitation contracts), for contracts entered into pursuant to section 441 of the McKinney-Vento Homeless Assistance Act, for renewal of section 8 contracts for units in projects that are subject to approved plans of action under the Emergency Low Income Housing Preservation Act of 1987 or the Low-Income Housing Preservation and Resident Homeownership Act of 1990, and for administrative and other expenses associated with project-based activities and assistance funded under this paragraph.

(2) \$147,200,000 for performance-based contract administrators for section 8 project-based assistance: *Provided*, That the Secretary may also use such amounts for performance-based contract administrators for: interest reduction payments pursuant to section 236(a) of the National Housing Act (12 U.S.C. 1715z–1(a)); rent supplement payments pursuant to section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s); section 236(f)(2) rental assistance payments (12 U.S.C. 1715z–1(f)(2)); project rental assistance contracts for the elderly under section 202(c)(2) of the Housing Act of 1959, as amended (12 U.S.C. 1701q, 1701q–1); project rental assistance contracts for supportive housing for persons with disabilities under section 811(d)(2) of the Cranston-Gonzalez National Affordable Housing Act; project assistance contracts pursuant to section 202(h) of the Housing Act of 1959 (Public Law 86–372; 73 Stat. 667); and loans under section 202 of the Housing Act of 1959 (Public Law 86–372; 73 Stat. 667).

(3) \$1,400,000 shall be transferred to the Working Capital Fund: *Provided further*, That amounts recaptured under this heading, the heading “Annual Contributions for Assisted Housing”, or the heading “Housing Certificate Fund”, for project-based section 8 activities may be used for renewals of or amendments to section 8 project-based subsidy contracts or for performance-based contract administrators, notwithstanding the purposes for which such amounts were appropriated.

(4) amounts recaptured under this heading, the heading “Annual Contributions for Assisted Housing”, or the heading “Housing Certificate Fund” may be used for renewals of or amendments to section 8 project-based contracts, notwithstanding the purposes for which such amounts were appropriated.

PUBLIC HOUSING CAPITAL FUND

(INCLUDING TRANSFER OF FUNDS)

For the Public Housing Capital Fund Program to carry out capital and management activities for public housing agencies, as authorized under section 9 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437g) (the “Act”) \$2,463,600,000, to remain available until September 30, 2009: *Provided*, That notwithstanding any other provision of law or regulation, during fiscal year 2006, the Secretary may not delegate to any Department official other than the Deputy Secretary and the Assistant Secretary for Public and Indian Housing any authority under paragraph (2) of section 9(j) regarding the extension of the time periods under such section: *Provided further*, That for purposes of such section 9(j), the term “obligate” means, with respect to amounts, that the amounts are subject to a binding agreement that will result in outlays, immediately or in the future: *Provided further*, That of the total amount provided under this heading, up to \$11,000,000 shall be for carrying out activities under section 9(h) of such Act: *Provided further*, That \$11,000,000 shall be transferred to the Working Capital Fund: *Provided further*, That no funds may be used under this heading for the purposes specified in section 9(k) of the United States Housing Act of 1937, as amended: *Provided further*, That of the total amount provided under this heading,

up to \$17,000,000 shall be available for the Secretary of Housing and Urban Development to make grants, notwithstanding section 305 of this Act, to public housing agencies for emergency capital needs resulting from unforeseen or unpreventable emergencies and natural disasters occurring in fiscal year 2006: *Provided further*, That of the total amount provided under this heading, \$38,000,000 shall be for supportive services, service coordinators and congregate services as authorized by section 34 of the Act and the Native American Housing Assistance and Self-Determination Act of 1996: *Provided further*, That of the total amount provided under this heading up to \$8,820,000 is to support the costs of administrative and judicial receiverships: *Provided further*, That of the total amount provided under this heading, \$7,500,000 shall be for Neighborhood Networks grants for activities authorized in section 9(d)(1)(E) of the United States Housing Act of 1937, as amended: *Provided further*, That notwithstanding any other provision of law, amounts made available in the previous proviso shall be awarded to public housing agencies on a competitive basis: *Provided further*, That notwithstanding section 9(d)(1)(E) of the United States Housing Act of 1937, any Neighborhood Networks computer center established with funding made available under this heading in this or any other Act, shall be available for use by residents of public housing and residents of other housing assisted with funding made available under this title in this Act or any other Act.

PUBLIC HOUSING OPERATING FUND

42 USC 1437g
note.

For 2006 payments to public housing agencies for the operation and management of public housing, as authorized by section 9(e) of the United States Housing Act of 1937, as amended (42 U.S.C. 1437g(e)), \$3,600,000,000: *Provided*, That, in fiscal year 2006 and all fiscal years hereafter, no amounts under this heading in any appropriations Act may be used for payments to public housing agencies for the costs of operation and management of public housing for any year prior to the current year of such Act: *Provided further*, That no funds may be used under this heading for the purposes specified in section 9(k) of the United States Housing Act of 1937, as amended.

REVITALIZATION OF SEVERELY DISTRESSED PUBLIC HOUSING (HOPE VI)

For grants to public housing agencies for demolition, site revitalization, replacement housing, and tenant-based assistance grants to projects as authorized by section 24 of the United States Housing Act of 1937, as amended, \$100,000,000, to remain available until September 30, 2007, of which the Secretary may use up to \$2,000,000 for technical assistance and contract expertise, to be provided directly or indirectly by grants, contracts or cooperative agreements, including training and cost of necessary travel for participants in such training, by or to officials and employees of the department and of public housing agencies and to residents: *Provided*, That none of such funds shall be used directly or indirectly by granting competitive advantage in awards to settle litigation or pay judgments, unless expressly permitted herein.

NATIVE AMERICAN HOUSING BLOCK GRANTS

(INCLUDING TRANSFER OF FUNDS)

For the Native American Housing Block Grants program, as authorized under title I of the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) (25 U.S.C. 4111 et seq.), \$630,000,000, to remain available until expended: *Provided*, That, notwithstanding the Native American Housing Assistance and Self-Determination Act of 1996, to determine the amount of the allocation under title I of such Act for each Indian tribe, the Secretary shall apply the formula under section 302 of such Act with the need component based on single-race Census data and with the need component based on multi-race Census data, and the amount of the allocation for each Indian tribe shall be the greater of the two resulting allocation amounts: *Provided further*, That of the amounts made available under this heading, \$1,000,000 shall be contracted through the Secretary as technical assistance and capacity building to be used by the National American Indian Housing Council in support of the implementation of NAHASDA; \$4,500,000 shall be to support the inspection of Indian housing units, contract expertise, training, and technical assistance in the training, oversight, and management of Indian housing and tenant-based assistance, including up to \$300,000 for related travel; up to \$4,000,000 may be used for emergencies that constitute imminent threats to health and safety, notwithstanding any other provision of law (including section 305 of this Act): *Provided further*, That of the amount provided under this heading, \$2,000,000 shall be made available for the cost of guaranteed notes and other obligations, as authorized by title VI of NAHASDA: *Provided further*, That such costs, including the costs of modifying such notes and other obligations, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: *Provided further*, That these funds are available to subsidize the total principal amount of any notes and other obligations, any part of which is to be guaranteed, not to exceed \$17,926,000: *Provided further*, That for administrative expenses to carry out the guaranteed loan program, up to \$150,000 from amounts in the third proviso, which shall be transferred to and merged with the appropriation for “Salaries and Expenses”.

NATIVE HAWAIIAN HOUSING BLOCK GRANT

For the Native Hawaiian Housing Block Grant program, as authorized under title VIII of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4111 et seq.), \$8,815,000, to remain available until expended, of which \$352,606 shall be for training and technical assistance activities.

INDIAN HOUSING LOAN GUARANTEE FUND PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of guaranteed loans, as authorized by section 184 of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z–13a), \$4,000,000, to remain available until expended: *Provided*, That such costs, including the costs of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: *Provided further*, That these funds are

available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed \$116,276,000.

In addition, for administrative expenses to carry out the guaranteed loan program, up to \$250,000 from amounts in the first paragraph which shall be transferred to and merged with the appropriation for “Salaries and Expenses”.

NATIVE HAWAIIAN HOUSING LOAN GUARANTEE FUND PROGRAM
ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of guaranteed loans, as authorized by section 184A of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z–13b), \$900,000, to remain available until expended: *Provided*, That such costs, including the costs of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: *Provided further*, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed \$35,714,290.

In addition, for administrative expenses to carry out the guaranteed loan program, up to \$35,000 from amounts in the first paragraph which shall be transferred to and merged with the appropriation for “Salaries and Expenses”.

COMMUNITY PLANNING AND DEVELOPMENT

HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS

For carrying out the Housing Opportunities for Persons with AIDS program, as authorized by the AIDS Housing Opportunity Act (42 U.S.C. 12901 et seq.), \$289,000,000, to remain available until September 30, 2007, except that amounts allocated pursuant to section 854(c)(3) of such Act shall remain available until September 30, 2008: *Provided*, That the Secretary shall renew all expiring contracts for permanent supportive housing that were funded under section 854(c)(3) of such Act that meet all program requirements before awarding funds for new contracts and activities authorized under this section: *Provided further*, That the Secretary may use up to \$1,500,000 of the funds under this heading for training, oversight, and technical assistance activities.

Contracts.

RURAL HOUSING AND ECONOMIC DEVELOPMENT

For the Office of Rural Housing and Economic Development in the Department of Housing and Urban Development, \$17,000,000, to remain available until expended, which amount shall be competitively awarded by September 1, 2006, to Indian tribes, State housing finance agencies, State community and/or economic development agencies, local rural nonprofits and community development corporations to support innovative housing and economic development activities in rural areas.

COMMUNITY DEVELOPMENT FUND
(INCLUDING TRANSFER OF FUNDS)

For assistance to units of State and local government, and to other entities, for economic and community development activities, and for other purposes, \$4,220,000,000, to remain available until September 30, 2008, unless otherwise specified: *Provided*, That of the amount provided, \$3,748,400,000 is for carrying out the community development block grant program under title I of the Housing and Community Development Act of 1974, as amended (the “Act” herein) (42 U.S.C. 5301 et seq.): *Provided further*, That unless explicitly provided for under this heading (except for planning grants provided in the second paragraph and amounts made available under the third paragraph), not to exceed 20 percent of any grant made with funds appropriated under this heading shall be expended for planning and management development and administration: *Provided further*, That \$1,600,000 shall be transferred to the Working Capital Fund: *Provided further*, That \$60,000,000 shall be for grants to Indian tribes notwithstanding section 106(a)(1) of such Act, of which, notwithstanding any other provision of law (including section 305 of this Act), up to \$4,000,000 may be used for emergencies that constitute imminent threats to health and safety; \$50,000,000 shall be available for YouthBuild program activities authorized by subtitle D of title IV of the Cranston-Gonzalez National Affordable Housing Act, as amended, and such activities shall be an eligible activity with respect to any funds made available under this heading: *Provided*, That local YouthBuild programs that demonstrate an ability to leverage private and nonprofit funding shall be given a priority for YouthBuild funding: *Provided further*, That no more than eight percent of any grant award under the YouthBuild program may be used for administrative costs: *Provided further*, That of the amount made available for YouthBuild not less than \$4,000,000 is for grants to establish YouthBuild programs in underserved and rural areas and \$1,000,000 is to be made available for a grant to YouthBuild USA for capacity building for community development and affordable housing activities as specified in section 4 of the HUD Demonstration Act of 1993, as amended.

Of the amount made available under this heading, \$310,000,000 shall be available for grants for the Economic Development Initiative (EDI) to finance a variety of targeted economic investments in accordance with the terms and conditions specified in the statement of managers accompanying this Act: *Provided*, That none of the funds provided under this paragraph may be used for program operations: *Provided further*, That, for fiscal years 2004, 2005 and 2006, no unobligated funds for EDI grants may be used for any purpose except acquisition, planning, design, purchase of equipment, revitalization, redevelopment or construction.

Of the amount made available under this heading, \$50,000,000 shall be available for neighborhood initiatives that are utilized to improve the conditions of distressed and blighted areas and neighborhoods, to stimulate investment, economic diversification, and community revitalization in areas with population outmigration or a stagnating or declining economic base, or to determine whether housing benefits can be integrated more effectively with welfare reform initiatives: *Provided*, That amounts made available under this paragraph shall be provided in accordance with the terms

and conditions specified in the statement of managers accompanying this Act.

The referenced statement of the managers under the heading “Community Development Fund” in title II of division G of Public Law 108-199 is deemed to be amended with respect to item number 181 striking “Volusia County” and inserting “Lively Arts Center in Volusia County”.

The referenced statement of the managers under the heading “Community Development Fund” in title II of division G of Public Law 108-199 is deemed to be amended with respect to item number 216 by striking “for construction” and inserting “for planning, design, and engineering”.

The referenced statement of the managers under this heading in Public Law 108-447 is deemed to be amended with respect to item number 369 by striking “for the construction of HomeAid America temporary homeless shelters in Costa Mesa, California” and inserting “for the construction of shelters for the temporarily homeless in New York City, New York”.

The referenced statement of the managers under this heading in Public Law 108-447 is deemed to be amended with respect to item number 502 by striking “for acquisition of” and inserting “for renovations of”.

The referenced statement of the managers under this heading in Public Law 108-447 is deemed to be amended with respect to item number 405 by striking “Willington Senior Center” and inserting “buildings and facilities associated with the Willington Senior Housing Center”.

The referenced statement of the managers under this heading in Public Law 108-447 is deemed to be amended with respect to item number 674 by striking “City of Big Island, Virginia for the Sedalia Center restoration” and inserting “to restore the Sedalia Center in Bedford County, Virginia”.

The referenced statement of the managers under this heading in Public Law 108-447 is deemed to be amended with respect to item number 469 by striking “to the City of Havana, Illinois” and inserting “Havana, Illinois, Rural Fire District”.

The referenced statement of the managers under this heading in Public Law 108-447 is deemed to be amended with respect to item number 554 by striking “\$250,000 to the Town of Monroe, New York for construction of the Monroe Free Library” and inserting “\$150,000 for the Town of Lewisboro, New York for infrastructure improvements for the Onatru Farm Community Center and \$100,000 for the Town of Poughkeepsie, New York for streetscape and related improvements in the Arlington Business District”.

The referenced statement of the managers under this heading in Public Law 108-447 is deemed to be amended with respect to item number 445 by striking “City of St. Petersburg, Florida” and inserting “Catholic Charities, Diocese of St. Petersburg, Florida”.

The referenced statement of the managers under this heading in Public Law 108-199 is deemed to be amended with respect to item number 103 for the Mission Preservation Foundation in San Juan Capistrano, California by striking “for the Great Stone Church restoration project” and inserting “to construct and install environment controls and security measures”.

The referenced statement of the managers under this heading in division A of the Emergency Appropriations Act for Defense, Global War on Terror, and Tsunami Relief, 2005 (Public Law 109–13) is amended—

(1) in section 6070 (119 Stat. 299), by striking paragraph (1); and

(2) in section 6071 (119 Stat. 299), by striking paragraph (1).

The referenced statement of the managers under the heading “Community Development Fund” in title II of division I of Public Law 108–447 is deemed to be amended with respect to item number 83 by striking “construction” and inserting “planning, design, engineering, and construction”.

The referenced statement of the managers under the heading “Community Development Fund” in title II of division G of Public Law 108–199 is deemed to be amended with respect to item number 216 by striking “for construction” and inserting “for planning, design, and engineering”.

The referenced statement of the managers under the heading “Community Development Fund” in title II of division I of Public Law 108–447 is deemed to be amended with respect to item 9 by striking “for costs associated with the construction” and inserting “to be used for the planning and design”.

The referenced statement of the managers under the heading “Community Development Fund” in title II of division I of Public Law 108–447 is deemed to be amended with respect to item 260 by adding before the period “including \$120,000 for property renovation at 754 Broad Street for the Family Center emergency shelter for families and children”.

The referenced statement of the managers accompanying Public Law 106–74 is deemed to be amended by inserting on page 113 “, of which \$47,500 may be used for physical improvements at the South Providence Development Corporation business incubator facility or CleanScape, including associated project management costs” after “\$100,000 for the South Providence Development Corporation in Providence, Rhode Island for a child care facility”.

The referenced statement of the managers under the heading “Community Development Fund” in title II of division I of Public Law 108–447 is deemed to be amended with respect to item number 30 by striking “City of San Francisco” and inserting “San Francisco Museum and Historical Society”.

The referenced statement of the managers under the heading “Community Development Fund” in title II of division G of Public Law 108–199 is deemed to be amended with respect to item number 122 by striking “City of San Francisco” and inserting “San Francisco Museum and Historical Society”.

The referenced statement of the managers under this heading in Public Law 108–199 is deemed to be amended with respect to item number 855 by striking “the Skagit County Children’s Museum in Mount Vernon, Washington for facilities improvements and renovation” and inserting “the Children’s Museum of Skagit County in Mount Vernon, Washington to purchase and renovate a building”.

The referenced statement of the managers under this heading in Public Law 108–447 is deemed to be amended with respect to item number 1027 by striking “planning and design” and inserting “planning, design, construction and buildout”.

The referenced statement of the managers under this heading in Public Law 108–447 is deemed to be amended with respect to item number 946 by striking “capital” and inserting “planning, design, engineering, and construction”.

The referenced statement of the managers under this heading in Public Law 108–447 is deemed to be amended with respect to item number 731 by striking “rehabilitation and buildout” and inserting “planning, evaluation, design, engineering and construction”.

COMMUNITY DEVELOPMENT LOAN GUARANTEES PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of guaranteed loans, \$3,000,000, to remain available until September 30, 2007, as authorized by section 108 of the Housing and Community Development Act of 1974, as amended: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: *Provided further*, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed \$137,500,000, notwithstanding any aggregate limitation on outstanding obligations guaranteed in section 108(k) of the Housing and Community Development Act of 1974, as amended.

In addition, for administrative expenses to carry out the guaranteed loan program, \$750,000 shall be transferred to and merged with the appropriation for “Salaries and expenses”.

BROWNFIELDS REDEVELOPMENT

(INCLUDING RESCISSION OF FUNDS)

For competitive economic development grants, as authorized by section 108(q) of the Housing and Community Development Act of 1974, as amended, for Brownfields redevelopment projects, \$10,000,000, to remain available until September 30, 2007: *Provided*, That \$10,000,000 shall be rescinded from unobligated balances from prior years appropriations under this heading and, to the extent there are insufficient balances, any additional rescission amounts shall be rescinded from funds appropriated under this heading for fiscal year 2006.

HOME INVESTMENT PARTNERSHIPS PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For the HOME investment partnerships program, as authorized under title II of the Cranston-Gonzalez National Affordable Housing Act, as amended, \$1,750,000,000, to remain available until September 30, 2008: *Provided*, That of the total amount provided in this paragraph, up to \$42,000,000 shall be available for housing counseling under section 106 of the Housing and Urban Development Act of 1968, and \$1,000,000 shall be transferred to the Working Capital Fund.

In addition to amounts otherwise made available under this heading, \$25,000,000, to remain available until September 30, 2008, for assistance to homebuyers as authorized under title I of the American Dream Downpayment Act.

SELF-HELP AND ASSISTED HOMEOWNERSHIP OPPORTUNITY PROGRAM

For the Self-Help and Assisted Homeownership Opportunity Program, \$61,000,000, to remain available until September 30, 2008: *Provided*, That of the total amount provided in this heading \$20,000,000 shall be made available to the Self Help Homeownership Opportunity Program as authorized under section 11 of the Housing Opportunity Program Extension Act of 1996, as amended: *Provided further*, That \$30,000,000 shall be made available for capacity building, of which \$26,500,000 shall be for capacity building for Community Development and affordable Housing for LISC and the Enterprise Foundation for activities authorized by section 4 of the HUD Demonstration Act of 1993 (42 U.S.C. 9816 note), as in effect immediately before June 12, 1997, and \$3,500,000 shall be made available for capacity building activities administered by Habitat for Humanity International: *Provided further*, That \$3,000,000 shall be made available to the Housing Assistance Council; \$1,000,000 shall be made available to the National American Indian Housing Council; \$4,000,000 shall be available as a grant to the Raza Development Fund of La Raza for the HOPE Fund, of which \$500,000 is for technical assistance and fund management, and \$3,500,000 is for investments in the HOPE Fund and financing to affiliated organizations; \$2,000,000 shall be available as a grant to the National Housing Development Corporation for operating expenses and a program of affordable housing acquisition and rehabilitation; and \$1,000,000 shall be made available to the Special Olympics National Organizing Committee for planning, equipment and operational expenses associated with the 2006 games in Ames, Iowa.

HOMELESS ASSISTANCE GRANTS

(INCLUDING TRANSFER OF FUNDS)

For the emergency shelter grants program as authorized under subtitle B of title IV of the McKinney-Vento Homeless Assistance Act, as amended; the supportive housing program as authorized under subtitle C of title IV of such Act; the section 8 moderate rehabilitation single room occupancy program as authorized under the United States Housing Act of 1937, as amended, to assist homeless individuals pursuant to section 441 of the McKinney-Vento Homeless Assistance Act; and the shelter plus care program as authorized under subtitle F of title IV of such Act, \$1,340,000,000, of which \$1,320,000,000 shall remain available until September 30, 2008, and of which \$20,000,000 shall remain available until expended: *Provided*, That not less than 30 percent of funds made available, excluding amounts provided for renewals under the shelter plus care program, shall be used for permanent housing: *Provided further*, That all funds awarded for services shall be matched by 25 percent in funding by each grantee: *Provided further*, That the Secretary shall renew on an annual basis expiring contracts or amendments to contracts funded under the shelter plus care program if the program is determined to be needed under the applicable continuum of care and meets appropriate program requirements and financial standards, as determined by the Secretary: *Provided further*, That all awards of assistance under this heading shall be required to coordinate and integrate homeless programs with other mainstream health, social services, and

Contracts.

employment programs for which homeless populations may be eligible, including Medicaid, State Children's Health Insurance Program, Temporary Assistance for Needy Families, Food Stamps, and services funding through the Mental Health and Substance Abuse Block Grant, Workforce Investment Act, and the Welfare-to-Work grant program: *Provided further*, That up to \$11,674,000 of the funds appropriated under this heading shall be available for the national homeless data analysis project and technical assistance: *Provided further*, That \$1,000,000 of the funds appropriated under this heading shall be transferred to the Working Capital Fund: *Provided further*, That all balances for Shelter Plus Care renewals previously funded from the Shelter Plus Care Renewal account and transferred to this account shall be available, if recaptured, for Shelter Plus Care renewals in fiscal year 2006.

HOUSING PROGRAMS

HOUSING FOR THE ELDERLY

(INCLUDING TRANSFER OF FUNDS)

For capital advances, including amendments to capital advance contracts, for housing for the elderly, as authorized by section 202 of the Housing Act of 1959, as amended, and for project rental assistance for the elderly under section 202(c)(2) of such Act, including amendments to contracts for such assistance and renewal of expiring contracts for such assistance for up to a 1-year term, and for supportive services associated with the housing, \$742,000,000, to remain available until September 30, 2009, of which amount \$51,600,000 shall be for service coordinators and the continuation of existing congregate service grants for residents of assisted housing projects, and of which amount up to \$24,800,000 shall be for grants under section 202b of the Housing Act of 1959 (12 U.S.C. 1701q–2) for conversion of eligible projects under such section to assisted living or related use and for emergency capital repairs as determined by the Secretary: *Provided*, That of the amount made available under this heading, \$4,000,000 shall be made available to carry out section 203 of Public Law 108–186: *Provided further*, That of the amount made available under this heading, \$20,000,000 shall be available to the Secretary of Housing and Urban Development only for making competitive grants to private nonprofit organizations and consumer cooperatives for covering costs of architectural and engineering work, site control, and other planning relating to the development of supportive housing for the elderly that is eligible for assistance under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q): *Provided further*, That amounts under this heading shall be available for Real Estate Assessment Center inspections and inspection-related activities associated with section 202 capital advance projects: *Provided further*, That \$400,000 of the total amount made available under this heading shall be transferred to the Working Capital Fund: *Provided further*, That the Secretary may waive the provisions of section 202 governing the terms and conditions of project rental assistance, except that the initial contract term for such assistance shall not exceed 5 years in duration.

HOUSING FOR PERSONS WITH DISABILITIES

(INCLUDING TRANSFER OF FUNDS)

For capital advance contracts, including amendments to capital advance contracts, for supportive housing for persons with disabilities, as authorized by section 811 of the Cranston-Gonzalez National Affordable Housing Act, for project rental assistance for supportive housing for persons with disabilities under section 811(d)(2) of such Act, including amendments to contracts for such assistance and renewal of expiring contracts for such assistance for up to a 1-year term, and for supportive services associated with the housing for persons with disabilities as authorized by section 811(b)(1) of such Act, and for tenant-based rental assistance contracts entered into pursuant to section 811 of such Act, \$239,000,000 to remain available until September 30, 2009: *Provided*, That \$400,000 shall be transferred to the Working Capital Fund: *Provided further*, That, of the amount provided under this heading \$78,300,000 shall be for amendments or renewal of tenant-based assistance contracts entered into prior to fiscal year 2005 (only one amendment authorized for any such contract): *Provided further*, That of the amount provided under this heading, the Secretary may make available up to \$5,000,000 for incremental tenant-based rental assistance, as authorized by section 811 of such Act (which assistance is 5 years in duration): *Provided further*, That all tenant-based assistance made available under this heading shall continue to remain available only to persons with disabilities: *Provided further*, That the Secretary may waive the provisions of section 811 governing the terms and conditions of project rental assistance and tenant-based assistance, except that the initial contract term for such assistance shall not exceed 5 years in duration: *Provided further*, That amounts made available under this heading shall be available for Real Estate Assessment Center Inspections and inspection-related activities associated with section 811 Capital Advance Projects.

OTHER ASSISTED HOUSING PROGRAMS

RENTAL HOUSING ASSISTANCE

For amendments to contracts under section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s) and section 236(f)(2) of the National Housing Act (12 U.S.C. 1715z–1) in State-aided, non-insured rental housing projects, \$26,400,000, to remain available until expended: *Provided*, That amendments to such contracts hereafter may be for a period less than the term of the respective contracts.

12 USC 1701s
note.

FLEXIBLE SUBSIDY FUND

(TRANSFER OF FUNDS)

From the Rental Housing Assistance Fund, all uncommitted balances of excess rental charges as of September 30, 2005, and any collections made during fiscal year 2006 and all subsequent fiscal years, shall be transferred to the Flexible Subsidy Fund, as authorized by section 236(g) of the National Housing Act, as amended.

12 USC 1715z–1
note.

MANUFACTURED HOUSING FEES TRUST FUND

For necessary expenses as authorized by the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended (42 U.S.C. 5401 et seq.), up to \$13,000,000, to remain available until expended, to be derived from the Manufactured Housing Fees Trust Fund: *Provided*, That not to exceed the total amount appropriated under this heading shall be available from the general fund of the Treasury to the extent necessary to incur obligations and make expenditures pending the receipt of collections to the Fund pursuant to section 620 of such Act: *Provided further*, That the amount made available under this heading from the general fund shall be reduced as such collections are received during fiscal year 2006 so as to result in a final fiscal year 2006 appropriation from the general fund estimated at not more than \$0 and fees pursuant to such section 620 shall be modified as necessary to ensure such a final fiscal year 2006 appropriation.

FEDERAL HOUSING ADMINISTRATION

MUTUAL MORTGAGE INSURANCE PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

During fiscal year 2006, commitments to guarantee loans to carry out the purposes of section 203(b) of the National Housing Act, as amended, shall not exceed a loan principal of \$185,000,000,000.

During fiscal year 2006, obligations to make direct loans to carry out the purposes of section 204(g) of the National Housing Act, as amended, shall not exceed \$50,000,000: *Provided*, That the foregoing amount shall be for loans to nonprofit and governmental entities in connection with sales of single family real properties owned by the Secretary and formerly insured under the Mutual Mortgage Insurance Fund.

For administrative expenses necessary to carry out the guaranteed and direct loan program, \$355,000,000, of which not to exceed \$351,000,000 shall be transferred to the appropriation for “Salaries and expenses”; and not to exceed \$4,000,000 shall be transferred to the appropriation for “Office of Inspector General”. In addition, for administrative contract expenses, \$62,600,000, of which \$18,281,000 shall be transferred to the Working Capital Fund: *Provided*, That to the extent guaranteed loan commitments exceed \$65,500,000,000 on or before April 1, 2006, an additional \$1,400 for administrative contract expenses shall be available for each \$1,000,000 in additional guaranteed loan commitments (including a pro rata amount for any amount below \$1,000,000), but in no case shall funds made available by this proviso exceed \$30,000,000.

GENERAL AND SPECIAL RISK PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For the cost of guaranteed loans, as authorized by sections 238 and 519 of the National Housing Act (12 U.S.C. 1715z–3 and 1735c), including the cost of loan guarantee modifications, as that term is defined in section 502 of the Congressional Budget Act of 1974, as amended, \$8,800,000, to remain available until expended: *Provided*, That commitments to guarantee loans shall

not exceed \$35,000,000,000 in total loan principal, any part of which is to be guaranteed.

Gross obligations for the principal amount of direct loans, as authorized by sections 204(g), 207(l), 238, and 519(a) of the National Housing Act, shall not exceed \$50,000,000, of which not to exceed \$30,000,000 shall be for bridge financing in connection with the sale of multifamily real properties owned by the Secretary and formerly insured under such Act; and of which not to exceed \$20,000,000 shall be for loans to nonprofit and governmental entities in connection with the sale of single-family real properties owned by the Secretary and formerly insured under such Act.

In addition, for administrative expenses necessary to carry out the guaranteed and direct loan programs, \$231,400,000, of which \$211,400,000 shall be transferred to the appropriation for “Salaries and Expenses”; and of which \$20,000,000 shall be transferred to the appropriation for “Office of Inspector General”.

In addition, for administrative contract expenses necessary to carry out the guaranteed and direct loan programs, \$71,900,000, of which \$10,800,000 shall be transferred to the Working Capital Fund: *Provided*, That to the extent guaranteed loan commitments exceed \$8,426,000,000 on or before April 1, 2006, an additional \$1,980 for administrative contract expenses shall be available for each \$1,000,000 in additional guaranteed loan commitments over \$8,426,000,000 (including a pro rata amount for any increment below \$1,000,000), but in no case shall funds made available by this proviso exceed \$14,400,000.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

GUARANTEES OF MORTGAGE-BACKED SECURITIES LOAN GUARANTEE PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

New commitments to issue guarantees to carry out the purposes of section 306 of the National Housing Act, as amended (12 U.S.C. 1721(g)), shall not exceed \$200,000,000,000, to remain available until September 30, 2007.

For administrative expenses necessary to carry out the guaranteed mortgage-backed securities program, \$10,700,000, to be derived from the GNMA guarantees of mortgage-backed securities guaranteed loan receipt account, of which not to exceed \$10,700,000, shall be transferred to the appropriation for “Salaries and Expenses”.

POLICY DEVELOPMENT AND RESEARCH

RESEARCH AND TECHNOLOGY

For contracts, grants, and necessary expenses of programs of research and studies relating to housing and urban problems, not otherwise provided for, as authorized by title V of the Housing and Urban Development Act of 1970, as amended (12 U.S.C. 1701z–1 et seq.), including carrying out the functions of the Secretary under section 1(a)(1)(i) of Reorganization Plan No. 2 of 1968, \$56,350,000, to remain available until September 30, 2007: *Provided*, That of the total amount provided under this heading, \$5,000,000 shall be for the Partnership for Advancing Technology in Housing (PATH) Initiative: *Provided further*, That of the amounts

made available for PATH under this heading, \$2,500,000 shall not be subject to the requirements of section 305 of this title: *Provided further*, That the Office of Housing shall administer PATH: *Provided further*, That of funds made available under this heading, \$750,000 shall be transferred to the National Research Council for a study in accordance with the statement of the managers accompanying this Act: *Provided further*, That of the funds made available under this heading, \$20,600,000 is for grants pursuant to section 107 of the Housing and Community Development Act of 1974, as amended, as follows: \$3,000,000 to support Alaska Native serving institutions and Native Hawaiian serving institutions as defined under the Higher Education Act, as amended; \$2,600,000 for tribal colleges and universities to build, expand, renovate, and equip their facilities and to expand the role of the colleges into the community through the provision of needed services such as health programs, job training and economic development activities; \$9,000,000 for the Historically Black Colleges and Universities program, of which up to \$2,000,000 may be used for technical assistance; and \$6,000,000 for the Hispanic Serving Institutions Program.

FAIR HOUSING AND EQUAL OPPORTUNITY

FAIR HOUSING ACTIVITIES

For contracts, grants, and other assistance, not otherwise provided for, as authorized by title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, and section 561 of the Housing and Community Development Act of 1987, as amended, \$46,000,000, to remain available until September 30, 2007, of which \$20,000,000 shall be to carry out activities pursuant to such section 561: *Provided*, That no funds made available under this heading shall be used to lobby the executive or legislative branches of the Federal Government in connection with a specific contract, grant or loan.

OFFICE OF LEAD HAZARD CONTROL

LEAD HAZARD REDUCTION

For the Lead Hazard Reduction Program, as authorized by section 1011 of the Residential Lead-Based Paint Hazard Reduction Act of 1992, \$152,000,000, to remain available until September 30, 2007, of which \$9,500,000 shall be for the Healthy Homes Initiative, pursuant to sections 501 and 502 of the Housing and Urban Development Act of 1970 that shall include research, studies, testing, and demonstration efforts, including education and outreach concerning lead-based paint poisoning and other housing-related diseases and hazards: *Provided*, That for purposes of environmental review, pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other provisions of law that further the purposes of such Act, a grant under the Healthy Homes Initiative, Operation Lead Elimination Action Plan (LEAP), or the Lead Technical Studies program under this heading or under prior appropriations Acts for such purposes under this heading, shall be considered to be funds for a special project for purposes of section 305(c) of the Multifamily Housing Property Disposition Reform Act of 1994: *Provided further*, That of the total amount made available

under this heading, \$48,000,000 shall be made available on a competitive basis for areas with the highest lead paint abatement needs, as identified by the Secretary as having: (1) the highest number of occupied pre-1940 units of rental housing; and (2) a disproportionately high number of documented cases of lead-poisoned children: *Provided further*, That each grantee receiving funds under the previous proviso shall target those privately owned units and multifamily buildings that are occupied by low-income families as defined under section 3(b)(2) of the United States Housing Act of 1937: *Provided further*, That not less than 90 percent of the funds made available under this paragraph shall be used exclusively for abatement, inspections, risk assessments, temporary relocations and interim control of lead-based hazards as defined by 42 U.S.C. 4851: *Provided further*, That each recipient of funds provided under the first proviso shall make a matching contribution in an amount not less than 25 percent: *Provided further*, That each applicant shall submit a detailed plan and strategy that demonstrates adequate capacity that is acceptable to the Secretary to carry out the proposed use of funds pursuant to a Notice of Funding Availability.

MANAGEMENT AND ADMINISTRATION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary administrative and non-administrative expenses of the Department of Housing and Urban Development, not otherwise provided for, including purchase of uniforms, or allowances therefore, as authorized by 5 U.S.C. 5901–5902; hire of passenger motor vehicles; services as authorized by 5 U.S.C. 3109; and not to exceed \$25,000 for official reception and representation expenses, \$1,153,285,000, of which \$562,400,000 shall be provided from the various funds of the Federal Housing Administration, \$10,700,000 shall be provided from funds of the Government National Mortgage Association, \$750,000 shall be from the “community development loan guarantee program” account, \$150,000 shall be provided by transfer from the “Native American housing block grants” account, \$250,000 shall be provided by transfer from the “Indian housing loan guarantee fund program” account and \$35,000 shall be transferred from the “Native Hawaiian housing loan guarantee fund” account: *Provided*, That funds made available under this heading shall only be allocated in the manner specified in the statement of the managers accompanying this Act unless the Committees on Appropriations of both the House of Representatives and the Senate are notified of any changes in an operating plan or re-programming: *Provided further*, That no official or employee of the Department shall be designated as an allotment holder unless the Office of the Chief Financial Officer (OCFO) has determined that such allotment holder has implemented an adequate system of funds control and has received training in funds control procedures and directives: *Provided further*, That the Chief Financial Officer shall establish positive control of and maintain adequate systems of accounting for appropriations and other available funds as required by 31 U.S.C. 1514: *Provided further*, That for purposes of funds control and determining whether a violation exists under

Records.
42 USC 3549
note.

Requirements.
Guidelines.
Procedures.

Government
organization.
Employment.

the Anti-Deficiency Act (31 U.S.C. 1341 et seq.), the point of obligation shall be the executed agreement or contract, except with respect to insurance and guarantee programs, certain types of salaries and expenses funding, and incremental funding that is authorized under an executed agreement or contract, and shall be designated in the approved funds control plan: *Provided further*, That the Chief Financial Officer shall: (1) appoint qualified personnel to conduct investigations of potential or actual violations; (2) establish minimum training requirements and other qualifications for personnel that may be appointed to conduct investigations; (3) establish guidelines and timeframes for the conduct and completion of investigations; (4) prescribe the content, format and other requirements for the submission of final reports on violations; and (5) prescribe such additional policies and procedures as may be required for conducting investigations of, and administering, processing, and reporting on, potential and actual violations of the Anti-Deficiency Act and all other statutes and regulations governing the obligation and expenditure of funds made available in this or any other Act: *Provided further*, That up to \$15,000,000 may be transferred to the Working Capital Fund: *Provided further*, That the Secretary shall fill 7 out of 10 vacancies at the GS-14 and GS-15 levels until the total number of GS-14 and GS-15 positions in the Department has been reduced from the number of GS-14 and GS-15 positions on the date of enactment of Public Law 106-377 by 2½ percent.

WORKING CAPITAL FUND

For additional capital for the Working Capital Fund (42 U.S.C. 3535) for the development of, modifications to, and infrastructure for Department-wide information technology systems, for the continuing operation of both Department-wide and program-specific information systems, and for program-related development activities, \$197,000,000, to remain available until September 30, 2007: *Provided*, That any amounts transferred to this Fund under this Act shall remain available until expended: *Provided further*, That any amounts transferred to this Fund from amounts appropriated by previously enacted appropriations Acts or from within this Act may be used only for the purposes specified under this Fund, in addition to the purposes for which such amounts were appropriated.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the Inspector General Act of 1978, as amended, \$106,000,000, of which \$24,000,000 shall be provided from the various funds of the Federal Housing Administration: *Provided*, That the Inspector General shall have independent authority over all personnel issues within this office.

OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For carrying out the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, including not to exceed \$500 for official reception and representation expenses, \$60,000,000, to remain available until expended, to be derived from the Federal Housing Enterprises Oversight Fund: *Provided*, That the Director shall submit a spending plan for the amounts provided under this heading no later than January 15, 2006: *Provided further*, That not less than 80 percent of the total amount made available under this heading shall be used only for examination, supervision, and capital oversight of the enterprises (as such term is defined in section 1303 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4502)) to ensure that the enterprises are operating in a financially safe and sound manner and complying with the capital requirements under Subtitle B of such Act: *Provided further*, That not to exceed the amount provided herein shall be available from the general fund of the Treasury to the extent necessary to incur obligations and make expenditures pending the receipt of collections to the Fund: *Provided further*, That the general fund amount shall be reduced as collections are received during the fiscal year so as to result in a final appropriation from the general fund estimated at not more than \$0.

Deadline.

ADMINISTRATIVE PROVISIONS

SEC. 301. Fifty percent of the amounts of budget authority, or in lieu thereof 50 percent of the cash amounts associated with such budget authority, that are recaptured from projects described in section 1012(a) of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (42 U.S.C. 1437 note) shall be rescinded, or in the case of cash, shall be remitted to the Treasury, and such amounts of budget authority or cash recaptured and not rescinded or remitted to the Treasury shall be used by State housing finance agencies or local governments or local housing agencies with projects approved by the Secretary of Housing and Urban Development for which settlement occurred after January 1, 1992, in accordance with such section. Notwithstanding the previous sentence, the Secretary may award up to 15 percent of the budget authority or cash recaptured and not rescinded or remitted to the Treasury to provide project owners with incentives to refinance their project at a lower interest rate.

Rescission.

SEC. 302. None of the amounts made available under this Act may be used during fiscal year 2006 to investigate or prosecute under the Fair Housing Act any otherwise lawful activity engaged in by one or more persons, including the filing or maintaining of a non-frivolous legal action, that is engaged in solely for the purpose of achieving or preventing action by a Government official or entity, or a court of competent jurisdiction.

SEC. 303. (a) Notwithstanding section 854(c)(1)(A) of the AIDS Housing Opportunity Act (42 U.S.C. 12903(c)(1)(A)), from any amounts made available under this title for fiscal year 2006 that are allocated under such section, the Secretary of Housing and

HIV/AIDS.
Grants.

Urban Development shall allocate and make a grant, in the amount determined under subsection (b), for any State that—

(1) received an allocation in a prior fiscal year under clause (ii) of such section; and

(2) is not otherwise eligible for an allocation for fiscal year 2006 under such clause (ii) because the areas in the State outside of the metropolitan statistical areas that qualify under clause (i) in fiscal year 2006 do not have the number of cases of acquired immunodeficiency syndrome (AIDS) required under such clause.

(b) The amount of the allocation and grant for any State described in subsection (a) shall be an amount based on the cumulative number of AIDS cases in the areas of that State that are outside of metropolitan statistical areas that qualify under clause (i) of such section 854(c)(1)(A) in fiscal year 2006, in proportion to AIDS cases among cities and States that qualify under clauses (i) and (ii) of such section and States deemed eligible under subsection (a).

New Jersey.

(c) Notwithstanding any other provision of law, the amount allocated for fiscal year 2006 under section 854(c) of the AIDS Housing Opportunity Act (42 U.S.C. 12903(c)), to the City of New York, New York, on behalf of the New York-Wayne-White Plains, New York-New Jersey Metropolitan Division (hereafter “metropolitan division”) of the New York-Newark-Edison, NY-NJ-PA Metropolitan Statistical Area, shall be adjusted by the Secretary of Housing and Urban Development by: (1) allocating to the City of Jersey City, New Jersey, the proportion of the metropolitan area’s or division’s amount that is based on the number of cases of AIDS reported in the portion of the metropolitan area or division that is located in Hudson County, New Jersey, and adjusting for the proportion of the metropolitan division’s high incidence bonus if this area in New Jersey also has a higher than average per capita incidence of AIDS; and (2) allocating to the City of Paterson, New Jersey, the proportion of the metropolitan area’s or division’s amount that is based on the number of cases of AIDS reported in the portion of the metropolitan area or division that is located in Bergen County and Passaic County, New Jersey, and adjusting for the proportion of the metropolitan division’s high incidence bonus if this area in New Jersey also has a higher than average per capita incidence of AIDS. The recipient cities shall use amounts allocated under this subsection to carry out eligible activities under section 855 of the AIDS Housing Opportunity Act (42 U.S.C. 12904) in their respective portions of the metropolitan division that is located in New Jersey.

(d) Notwithstanding any other provision of law, the amount allocated for fiscal year 2006 under section 854(c) of the AIDS Housing Opportunity Act (42 U.S.C. 12903(c)) to areas with a higher than average per capita incidence of AIDS, shall be adjusted by the Secretary on the basis of area incidence reported over a three year period.

SEC. 304. (a) During fiscal year 2006, in the provision of rental assistance under section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) in connection with a program to demonstrate the economy and effectiveness of providing such assistance for use in assisted living facilities that is carried out in the counties of the State of Michigan notwithstanding paragraphs (3) and (18)(B)(iii) of such section 8(o), a family residing in an assisted

living facility in any such county, on behalf of which a public housing agency provides assistance pursuant to section 8(o)(18) of such Act, may be required, at the time the family initially receives such assistance, to pay rent in an amount exceeding 40 percent of the monthly adjusted income of the family by such a percentage or amount as the Secretary of Housing and Urban Development determines to be appropriate.

SEC. 305. Except as explicitly provided in law, any grant, cooperative agreement or other assistance made pursuant to title III of this Act shall be made on a competitive basis and in accordance with section 102 of the Department of Housing and Urban Development Reform Act of 1989.

SEC. 306. Funds of the Department of Housing and Urban Development subject to the Government Corporation Control Act or section 402 of the Housing Act of 1950 shall be available, without regard to the limitations on administrative expenses, for legal services on a contract or fee basis, and for utilizing and making payment for services and facilities of the Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Financing Bank, Federal Reserve banks or any member thereof, Federal Home Loan banks, and any insured bank within the meaning of the Federal Deposit Insurance Corporation Act, as amended (12 U.S.C. 1811–1831).

SEC. 307. Unless otherwise provided for in this Act or through a reprogramming of funds, no part of any appropriation for the Department of Housing and Urban Development shall be available for any program, project or activity in excess of amounts set forth in the budget estimates submitted to Congress.

SEC. 308. Corporations and agencies of the Department of Housing and Urban Development which are subject to the Government Corporation Control Act, as amended, are hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accordance with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of such Act as may be necessary in carrying out the programs set forth in the budget for 2006 for such corporation or agency except as hereinafter provided: *Provided*, That collections of these corporations and agencies may be used for new loan or mortgage purchase commitments only to the extent expressly provided for in this Act (unless such loans are in support of other forms of assistance provided for in this or prior appropriations Acts), except that this proviso shall not apply to the mortgage insurance or guaranty operations of these corporations, or where loans or mortgage purchases are necessary to protect the financial interest of the United States Government.

SEC. 309. None of the funds provided in this title for technical assistance, training, or management improvements may be obligated or expended unless HUD provides to the Committees on Appropriations a description of each proposed activity and a detailed budget estimate of the costs associated with each program, project or activity as part of the Budget Justifications. For fiscal year 2006, HUD shall transmit this information to the Committees by March 15, 2006 for 30 days of review.

Deadline.

SEC. 310. The Secretary of Housing and Urban Development shall provide quarterly reports to the House and Senate Committees

Reports.

on Appropriations regarding all uncommitted, unobligated, recaptured and excess funds in each program and activity within the jurisdiction of the Department and shall submit additional, updated budget information to these Committees upon request.

SEC. 311. Notwithstanding any other provision of law, in fiscal year 2006, in managing and disposing of any multifamily property that is owned or held by the Secretary of Housing and Urban Development, the Secretary shall maintain any rental assistance payments under section 8 of the United States Housing Act of 1937 that are attached to any dwelling units in the property. To the extent the Secretary determines that such a multifamily property owned or held by the Secretary is not feasible for continued rental assistance payments under such section 8, based on consideration of the costs of maintaining such payments for that property or other factors, the Secretary may, in consultation with the tenants of that property, contract for project-based rental assistance payments with an owner or owners of other existing housing properties, or provide other rental assistance.

HIV/AIDS.
New Jersey.

SEC. 312. (a) Notwithstanding any other provision of law, the amount allocated for fiscal year 2006 under section 854(c) of the AIDS Housing Opportunity Act (42 U.S.C. 12903(c)), to the City of Wilmington, Delaware, on behalf of the Wilmington, Delaware-Maryland-New Jersey Metropolitan Division (hereafter “metropolitan division”), shall be adjusted by the Secretary of Housing and Urban Development by allocating to the State of New Jersey the proportion of the metropolitan division’s amount that is based on the number of cases of AIDS reported in the portion of the metropolitan division that is located in New Jersey, and adjusting for the proportion of the metropolitan division’s high incidence bonus if this area in New Jersey also has a higher than average per capita incidence of AIDS. The State of New Jersey shall use amounts allocated to the State under this subsection to carry out eligible activities under section 855 of the AIDS Housing Opportunity Act (42 U.S.C. 12904) in the portion of the metropolitan division that is located in New Jersey.

North Carolina.

(b) Notwithstanding any other provision of law, the Secretary of Housing and Urban Development shall allocate to Wake County, North Carolina, the amounts that otherwise would be allocated for fiscal year 2006 under section 854(c) of the AIDS Housing Opportunity Act (42 U.S.C. 12903(c)) to the City of Raleigh, North Carolina, on behalf of the Raleigh-Cary, North Carolina Metropolitan Statistical Area. Any amounts allocated to Wake County shall be used to carry out eligible activities under section 855 of such Act (42 U.S.C. 12904) within such metropolitan statistical area.

(c) Notwithstanding section 854(c) of the AIDS Housing Opportunity Act (42 U.S.C. 12903(c)), the Secretary of Housing and Urban Development may adjust the allocation of the amounts that otherwise would be allocated for fiscal year 2006 under section 854(c) of such Act, upon the written request of an applicant, in conjunction with the State(s), for a formula allocation on behalf of a metropolitan statistical area, to designate the State or States in which the metropolitan statistical area is located as the eligible grantee(s) of the allocation. In the case that a metropolitan statistical area involves more than one State, such amounts allocated to each State shall be in proportion to the number of cases of AIDS reported in the portion of the metropolitan statistical area located in that State. Any amounts allocated to a State under this section shall

be used to carry out eligible activities within the portion of the metropolitan statistical area located in that State.

SEC. 313. Notwithstanding any other provision of law, for this fiscal year and every fiscal year thereafter, funds appropriated for housing for the elderly, as authorized by section 202 of the Housing Act of 1959, as amended, and for supportive housing for persons with disabilities, as authorized by section 811 of the Cranston-Gonzalez National Affordable Housing Act, shall be available for the cost of maintaining and disposing of such properties that are acquired or otherwise become the responsibility of the Department.

12 USC 1701q–3.

SEC. 314. The Secretary of Housing and Urban Development shall submit an annual report no later than August 30, 2006 and annually thereafter to the House and Senate Committees on Appropriations regarding the number of Federally assisted units under lease and the per unit cost of these units to the Department of Housing and Urban Development.

Reports.
Deadlines.
42 USC 1437
note.

SEC. 315. The Department of Housing and Urban Development shall submit the Department's fiscal year 2007 congressional budget justifications to the Committees on Appropriations of the House of Representatives and the Senate using the identical structure provided under this Act and only in accordance with the direction specified in the report accompanying this Act.

SEC. 316. That incremental vouchers previously made available under the heading "Housing Certificate Fund" or renewed under the heading, "Tenant-Based Rental Assistance," for non-elderly disabled families shall, to the extent practicable, continue to be provided to non-elderly disabled families upon turnover.

SEC. 317. A public housing agency or such other entity that administers Federal housing assistance in the States of Alaska, Iowa, and Mississippi shall not be required to include a resident of public housing or a recipient of assistance provided under section 8 of the United States Housing Act of 1937 on the board of directors or a similar governing board of such agency or entity as required under section (2)(b) of such Act. Each public housing agency or other entity that administers Federal housing assistance under section 8 in the States of Alaska, Iowa and Mississippi shall establish an advisory board of not less than 6 residents of public housing or recipients of section 8 assistance to provide advice and comment to the public housing agency or other administering entity on issues related to public housing and section 8. Such advisory board shall meet not less than quarterly.

Establishment.
State listing.

SEC. 318. (a) Notwithstanding any other provision of law, subject to the conditions listed in subsection (b), for fiscal years 2006 and 2007, the Secretary may authorize the transfer of project-based assistance, debt and statutorily required low-income and very low-income use restrictions, associated with one multifamily housing project to another multifamily housing project.

(b) The transfer authorized in subsection (a) is subject to the following conditions:

(1) the number of low-income and very low-income units and the net dollar amount of Federal assistance provided by the transferring project shall remain the same in the receiving project;

(2) the transferring project shall, as determined by the Secretary, be either physically obsolete or economically non-viable;

Notification.
Certification.

(3) the receiving project shall meet or exceed applicable physical standards established by the Secretary;

(4) the owner or mortgagor of the transferring project shall notify and consult with the tenants residing in the transferring project and provide a certification of approval by all appropriate local governmental officials;

(5) the tenants of the transferring project who remain eligible for assistance to be provided by the receiving project shall not be required to vacate their units in the transferring project until new units in the receiving project are available for occupancy;

(6) the Secretary determines that this transfer is in the best interest of the tenants;

(7) if either the transferring project or the receiving project meets the condition specified in subsection (c)(2)(A), any lien on the receiving project resulting from additional financing obtained by the owner shall be subordinate to any FHA-insured mortgage lien transferred to, or placed on, such project by the Secretary;

(8) if the transferring project meets the requirements of subsection (c)(2)(E), the owner or mortgagor of the receiving project shall execute and record either a continuation of the existing use agreement or a new use agreement for the project where, in either case, any use restrictions in such agreement are of no lesser duration than the existing use restrictions;

(9) any financial risk to the FHA General and Special Risk Insurance Fund, as determined by the Secretary, would be reduced as a result of a transfer completed under this section; and

(10) the Secretary determines that Federal liability with regard to this project will not be increased.

(c) For purposes of this section—

(1) the terms “low-income” and “very low-income” shall have the meanings provided by the statute and/or regulations governing the program under which the project is insured or assisted;

(2) the term “multifamily housing project” means housing that meets one of the following conditions—

(A) housing that is subject to a mortgage insured under the National Housing Act;

(B) housing that has project-based assistance attached to the structure;

(C) housing that is assisted under section 202 of the Housing Act of 1959 as amended by section 801 of the Cranston-Gonzales National Affordable Housing Act;

(D) housing that is assisted under section 202 of the Housing Act of 1959, as such section existed before the enactment of the Cranston-Gonzales National Affordable Housing Act; or

(E) housing or vacant land that is subject to a use agreement;

(3) the term “project-based assistance” means—

(A) assistance provided under section 8(b) of the United States Housing Act of 1937;

(B) assistance for housing constructed or substantially rehabilitated pursuant to assistance provided under section

8(b)(2) of such Act (as such section existed immediately before October 1, 1983);

(C) rent supplement payments under section 101 of the Housing and Urban Development Act of 1965;

(D) additional assistance payments under section 236(f)(2) of the National Housing Act; and,

(E) assistance payments made under section 202(c)(2) of the Housing Act of 1959;

(4) the term “receiving project” means the multifamily housing project to which the project-based assistance, debt, and statutorily required use low-income and very low-income restrictions are to be transferred;

(5) the term “transferring project” means the multifamily housing project which is transferring the project-based assistance, debt and the statutorily required low-income and very low-income use restrictions to the receiving project; and,

(6) the term “Secretary” means the Secretary of Housing and Urban Development.

SEC. 319. The funds made available for Native Alaskans under the heading “Native American Housing Block Grants” in title III of this Act shall be allocated to the same Native Alaskan housing block grant recipients that received funds in fiscal year 2005.

SEC. 320. (a) EXTENSION.—The Secretary of Housing and Urban Development shall extend the term of the Moving to Work Demonstration Agreement entered into between a public housing agency and the Secretary under section 204, title V, of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Public Law 104–134, April 26, 1996) if—

(1) the public housing agency requests such extension in writing;

(2) the public housing agency is not at the time of such request for extension in default under its Moving to Work Demonstration Agreement; and

(3) the Moving to Work Demonstration Agreement to be extended would otherwise expire on or before September 30, 2006.

(b) TERMS.—Unless the Secretary of Housing and Urban Development and the public housing agency otherwise agree, the extension under subsection (a) shall be upon the identical terms and conditions set forth in the extending agency’s existing Moving to Work Demonstration Agreement, except that for each public housing agency that has been or will be granted an extension to its original Moving to Work Agreement, the Secretary shall require that data be collected so that the effect of Moving to Work policy changes on residents can be measured.

(c) EXTENSION PERIOD.—The extension under subsection (a) shall be for such period as is requested by the public housing agency, not to exceed 3 years from the date of expiration of the extending agency’s existing Moving to Work Demonstration Agreement.

(d) BREACH OF AGREEMENT.—Nothing contained in this section shall limit the authority of the Secretary of Housing and Urban Development to terminate any Moving to Work Demonstration Agreement of a public housing agency if the public housing agency is in breach of the provisions of such agreement.

SEC. 321. No funds provided under this title may be used for an audit of the Government National Mortgage Association

that makes applicable requirements under the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).

SEC. 322. Incremental vouchers previously made available under the heading, “Housing Certificate Fund” or renewed under the heading, “Tenant-Based Rental Assistance”, for family unification shall, to the extent practicable, continue to be provided for family unification.

12 USC 1715n.

SEC. 323. Section 223(f)(1) of the National Housing Act is amended by inserting “purchase or” immediately before “refinancing of existing debt”.

SEC. 324. Section 421 of the Housing and Community Development Act of 1987 (12 U.S.C. § 1715z–4a) is amended—

(1) in subsection (a)(1)(A), by inserting after “is” the following: “or, at the time of the violations, was”; and

(2) in subsection (a)(1)(C), by inserting after “held” the following: “or, at the time of the violations, was insured or held”.

Records.
12 USC 1715z–1
note.

SEC. 325. Notwithstanding any other provision of law, for fiscal year 2006 and thereafter, all mortgagees receiving interest reduction payments under section 236 of the National Housing Act (12 U.S.C. 1715z–1) shall submit only electronic invoices to the Department of Housing and Development in order to receive such payments. The mortgagees shall comply with this requirement no later than 90 days from the date of enactment of this provision.

Deadline.

SEC. 326. Notwithstanding any other provision of law, the recipient of a grant under section 202b of the Housing Act of 1959 (12 U.S.C. 1701q–2) after December 26, 2000, in accordance with the unnumbered paragraph at the end of section 202b(b) of such Act, may, at its option, establish a single-asset nonprofit entity to own the project and may lend the grant funds to such entity, which may be a private nonprofit organization described in section 831 of the American Homeownership and Economic Opportunity Act of 2000.

SEC. 327. (a) No assistance shall be provided under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) to any individual who—

(1) is enrolled as a student at an institution of higher education (as defined under section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002));

(2) is under 24 years of age;

(3) is not a veteran;

(4) is unmarried;

(5) does not have a dependent child; and

(6) is not otherwise individually eligible, or has parents who, individually or jointly, are not eligible, to receive assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f).

(b) For purposes of determining the eligibility of a person to receive assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), any financial assistance (in excess of amounts received for tuition) that an individual receives under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), from private sources, or an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall be considered income to that individual, except for a person over the age of 23 with dependent children.

(c) Not later than 30 days after the date of enactment of this Act, the Secretary of Housing and Urban Development shall issue final regulations to carry out the provisions of this section.

Deadline.
Regulations.

SEC. 328. The Secretary of Housing and Urban Development shall give priority consideration to applications from the housing authorities of the Counties of San Bernardino and Santa Clara and the City of San Jose, California to participate in the Moving to Work Demonstration Agreement under section 204, title V, of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Public Law 104–134, April 26, 1996): *Provided*, That upon turnover, existing requirements on the re-issuance of Section 8 vouchers shall be maintained to ensure that not less than 75 percent of all vouchers shall be made available to extremely low-income families.

California.

This title may be cited as the “Department of Housing and Urban Development Appropriations Act, 2006”.

TITLE IV

Judiciary
Appropriations
Act, 2006.

THE JUDICIARY

SUPREME COURT OF THE UNITED STATES

SALARIES AND EXPENSES

For expenses necessary for the operation of the Supreme Court, as required by law, excluding care of the building and grounds, including purchase or hire, driving, maintenance, and operation of an automobile for the Chief Justice, not to exceed \$10,000 for the purpose of transporting Associate Justices, and hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344; not to exceed \$10,000 for official reception and representation expenses; and for miscellaneous expenses, to be expended as the Chief Justice may approve, \$60,730,000, of which \$2,000,000 shall remain available until expended.

CARE OF THE BUILDING AND GROUNDS

For such expenditures as may be necessary to enable the Architect of the Capitol to carry out the duties imposed upon the Architect by the Act approved May 7, 1934 (40 U.S.C. 13a–13b), \$5,624,000, which shall remain available until expended.

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

SALARIES AND EXPENSES

For salaries of the chief judge, judges, and other officers and employees, and for necessary expenses of the court, as authorized by law, \$24,000,000.

UNITED STATES COURT OF INTERNATIONAL TRADE

SALARIES AND EXPENSES

For salaries of the chief judge and eight judges, salaries of the officers and employees of the court, services, and necessary expenses of the court, as authorized by law, \$15,480,000.

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL
SERVICES

SALARIES AND EXPENSES

For the salaries of circuit and district judges (including judges of the territorial courts of the United States), justices and judges retired from office or from regular active service, judges of the United States Court of Federal Claims, bankruptcy judges, magistrate judges, and all other officers and employees of the Federal Judiciary not otherwise specifically provided for, and necessary expenses of the courts, as authorized by law, \$4,348,780,000 (including the purchase of firearms and ammunition); of which not to exceed \$27,817,000 shall remain available until expended for space alteration projects and for furniture and furnishings related to new space alteration and construction projects.

In addition, for expenses of the United States Court of Federal Claims associated with processing cases under the National Childhood Vaccine Injury Act of 1986 (Public Law 99–660), not to exceed \$3,833,000, to be appropriated from the Vaccine Injury Compensation Trust Fund.

DEFENDER SERVICES

For the operation of Federal Defender organizations; the compensation and reimbursement of expenses of attorneys appointed to represent persons under the Criminal Justice Act of 1964, as amended (18 U.S.C. 3006A); the compensation and reimbursement of expenses of persons furnishing investigative, expert and other services under the Criminal Justice Act of 1964 (18 U.S.C. 3006A(e)); the compensation (in accordance with Criminal Justice Act maximums) and reimbursement of expenses of attorneys appointed to assist the court in criminal cases where the defendant has waived representation by counsel; the compensation and reimbursement of travel expenses of guardians ad litem acting on behalf of financially eligible minor or incompetent offenders in connection with transfers from the United States to foreign countries with which the United States has a treaty for the execution of penal sentences; the compensation of attorneys appointed to represent jurors in civil actions for the protection of their employment, as authorized by 28 U.S.C. 1875(d); and for necessary training and general administrative expenses, \$717,000,000, to remain available until expended.

FEES OF JURORS AND COMMISSIONERS

For fees and expenses of jurors as authorized by 28 U.S.C. 1871 and 1876; compensation of jury commissioners as authorized by 28 U.S.C. 1863; and compensation of commissioners appointed in condemnation cases pursuant to rule 71A(h) of the Federal Rules of Civil Procedure (28 U.S.C. Appendix Rule 71A(h)), \$61,318,000, to remain available until expended: *Provided*, That the compensation of land commissioners shall not exceed the daily equivalent of the highest rate payable under section 5332 of title 5, United States Code.

COURT SECURITY

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses, not otherwise provided for, incident to the provision of protective guard services for United States courthouses and other facilities housing Federal court operations, and the procurement, installation, and maintenance of security systems and equipment for United States courthouses and other facilities housing Federal court operations, including building ingress-egress control, inspection of mail and packages, directed security patrols, perimeter security, basic security services provided by the Federal Protective Service, and other similar activities as authorized by section 1010 of the Judicial Improvement and Access to Justice Act (Public Law 100–702), \$372,000,000, of which not to exceed \$15,000,000 shall remain available until expended, to be expended directly or transferred to the United States Marshals Service, which shall be responsible for administering the Judicial Facility Security Program consistent with standards or guidelines agreed to by the Director of the Administrative Office of the United States Courts and the Attorney General, and of which not to exceed \$65,500,000 shall remain available until expended, to be expended directly or transferred to the United States Federal Protective Service for costs associated with building security.

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

SALARIES AND EXPENSES

For necessary expenses of the Administrative Office of the United States Courts as authorized by law, including travel as authorized by 31 U.S.C. 1345, hire of a passenger motor vehicle as authorized by 31 U.S.C. 1343(b), advertising and rent in the District of Columbia and elsewhere, \$70,262,000, of which not to exceed \$8,500 is authorized for official reception and representation expenses and of which up to \$1,000,000 shall be made available to the National Academy of Public Administration for a review of the financial and management procedures of the Federal Judiciary.

FEDERAL JUDICIAL CENTER

SALARIES AND EXPENSES

For necessary expenses of the Federal Judicial Center, as authorized by Public Law 90–219, \$22,350,000; of which \$1,800,000 shall remain available through September 30, 2007, to provide education and training to Federal court personnel; and of which not to exceed \$1,500 is authorized for official reception and representation expenses.

JUDICIAL RETIREMENT FUNDS

PAYMENT TO JUDICIARY TRUST FUNDS

For payment to the Judicial Officers' Retirement Fund, as authorized by 28 U.S.C. 377(o), \$36,800,000; to the Judicial Survivors' Annuities Fund, as authorized by 28 U.S.C. 376(c), \$600,000;

and to the United States Court of Federal Claims Judges' Retirement Fund, as authorized by 28 U.S.C. 178(l), \$3,200,000.

UNITED STATES SENTENCING COMMISSION

SALARIES AND EXPENSES

For the salaries and expenses necessary to carry out the provisions of chapter 58 of title 28, United States Code, \$14,400,000, of which not to exceed \$1,000 is authorized for official reception and representation expenses.

ADMINISTRATIVE PROVISIONS—THE JUDICIARY

SEC. 401. Appropriations and authorizations made in this title which are available for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

SEC. 402. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Judiciary in this Act may be transferred between such appropriations, but no such appropriation, except "Courts of Appeals, District Courts, and Other Judicial Services, Defender Services" and "Courts of Appeals, District Courts, and Other Judicial Services, Fees of Jurors and Commissioners", shall be increased by more than 10 percent by any such transfers: *Provided*, That any transfer pursuant to this section shall be treated as a reprogramming of funds under sections 705 and 710 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 403. Notwithstanding any other provision of law, the salaries and expenses appropriation for "Courts of Appeals, District Courts, and Other Judicial Services" shall be available for official reception and representation expenses of the Judicial Conference of the United States: *Provided*, That such available funds shall not exceed \$11,000 and shall be administered by the Director of the Administrative Office of the United States Courts in the capacity as Secretary of the Judicial Conference.

Deadline.

SEC. 404. Within 90 days of enactment of this Act, the Administrative Office of the U.S. Courts shall submit to the Committees on Appropriations a comprehensive financial plan for the Judiciary allocating all sources of available funds including appropriations, fee collections, and carryover balances, to include a separate and detailed plan for the Judiciary Information Technology fund.

28 USC 461 note.

SEC. 405. Pursuant to section 140 of Public Law 97–92, and from funds appropriated in this Act, Justices and judges of the United States are authorized during fiscal year 2006, to receive a salary adjustment in accordance with 28 U.S.C. 461.

Missouri.
Extension.
28 USC 133 note.

SEC. 406. The existing judgeship for the eastern district of Missouri authorized by section 203(c) of the Judicial Improvements Act of 1990 (Public Law 101–650, 104 Stat. 5089) as amended by Public Law 105–53, as of the effective date of this Act, shall be extended. The first vacancy in the office of district judge in this district occurring 20 years or more after the confirmation date of the judge named to fill the temporary judgeship created by section 203(c) shall not be filled.

SEC. 407. (a) Section 604 of title 28, United States Code, is amended by adding section (4) at the end of section "(g)":

Contracts.

"(4) The Director is hereby authorized:

“(A) to enter into contracts for the acquisition of severable services for a period that begins in one fiscal year and ends in the next fiscal year to the same extent as the head of an executive agency under the authority of section 253l of title 41, United States Code;

“(B) to enter into contracts for multiple years for the acquisition of property and services to the same extent as executive agencies under the authority of section 254c of title 41, United States Code; and

“(C) to make advance, partial, progress or other payments under contracts for property or services to the same extent as executive agencies under the authority of section 255 of title 41, United States Code.”.

(b) Section 612 of title 28, United States Code, is amended by striking the current language in section (e)(2)(B) and inserting “such contract is in accordance with the Director’s authority in section 604(g) of 28 U.S.C.; and,”.

(c) The authorities granted in this section shall expire on September 30, 2010.

SEC. 408. (a) The division of the court shall release to the Congress and to the public not later than 60 days after the date of enactment of this Act all portions of the final report of the independent counsel of the investigation of Henry Cisneros made under section 594(h) of title 28, United States Code. The division of the court shall make such orders as are appropriate to protect the rights of any individual named in such report and to prevent undue interference with any pending prosecution. Upon the release of the final report, the final report shall be published pursuant to section 594(h)(3) of title 28, United States Code.

(b)(1) After the release and publication of the final report referred to in subsection (a), the independent counsel shall continue his office only to the extent necessary and appropriate to perform the noninvestigative and nonprosecutorial tasks remaining of his statutory duties as required to conclude the functions of his office.

(2) The duties referred to in paragraph (1) shall specifically include—

(A) the evaluation of claims for attorney fees, pursuant to section 593(l) of title 28, United States Code;

(B) the transfer of records to the Archivist of the United States pursuant to section 594(k) of title 28, United States Code;

(C) compliance with oversight obligations pursuant to section 595(a) of title 28, United States Code; and

(D) preparation of statements of expenditures pursuant to section 595(c) of title 28, United States Code.

(c)(1) The independent counsel shall have not more than 90 days after the release and publication of the final report referred to in subsection (a) to complete his remaining statutory duties unless the division of the court determines that it is necessary for the independent counsel to have additional time to complete his remaining statutory duties.

(2) If the division of the court finds that the independent counsel needs additional time under paragraph (1), the division of the court shall issue a public report stating the grounds for the extension and a proposed date for completion of all aspects of the investigation of Henry Cisneros and termination of the office of the independent counsel.

Expiration date.
26 USC 604 note.

Deadline.
Public
information.
Reports.
Henry Cisneros.

Publication.

Deadline.

Reports.
Public
information.

This title may be cited as the “Judiciary Appropriations Act, 2006”.

Executive Office
of the President
Appropriations
Act, 2006.

TITLE V

EXECUTIVE OFFICE OF THE PRESIDENT AND FUNDS APPROPRIATED TO THE PRESIDENT

COMPENSATION OF THE PRESIDENT

3 USC 102 note. For compensation of the President, including an expense allowance at the rate of \$50,000 per annum as authorized by 3 U.S.C. 102, \$450,000: *Provided*, That none of the funds made available for official expenses shall be expended for any other purpose and any unused amount shall revert to the Treasury pursuant to section 1552 of title 31, United States Code.

WHITE HOUSE OFFICE

SALARIES AND EXPENSES

For necessary expenses for the White House as authorized by law, including not to exceed \$3,850,000 for services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 105; subsistence expenses as authorized by 3 U.S.C. 105, which shall be expended and accounted for as provided in that section; hire of passenger motor vehicles, newspapers, periodicals, teletype news service, and travel (not to exceed \$100,000 to be expended and accounted for as provided by 3 U.S.C. 103); and not to exceed \$19,000 for official entertainment expenses, to be available for allocation within the Executive Office of the President, \$53,830,000: *Provided*, That of the funds appropriated under this heading, \$1,500,000 shall be for the Privacy and Civil Liberties Oversight Board.

EXECUTIVE RESIDENCE AT THE WHITE HOUSE

OPERATING EXPENSES

For the care, maintenance, repair and alteration, refurnishing, improvement, heating, and lighting, including electric power and fixtures, of the Executive Residence at the White House and official entertainment expenses of the President, \$12,436,000, to be expended and accounted for as provided by 3 U.S.C. 105, 109, 110, and 112–114.

REIMBURSABLE EXPENSES

For the reimbursable expenses of the Executive Residence at the White House, such sums as may be necessary: *Provided*, That all reimbursable operating expenses of the Executive Residence shall be made in accordance with the provisions of this paragraph: *Provided further*, That, notwithstanding any other provision of law, such amount for reimbursable operating expenses shall be the exclusive authority of the Executive Residence to incur obligations and to receive offsetting collections, for such expenses: *Provided further*, That the Executive Residence shall require each person sponsoring a reimbursable political event to pay in advance an amount equal to the estimated cost of the event, and all such advance payments shall be credited to this account and remain available until

expended: *Provided further*, That the Executive Residence shall require the national committee of the political party of the President to maintain on deposit \$25,000, to be separately accounted for and available for expenses relating to reimbursable political events sponsored by such committee during such fiscal year: *Provided further*, That the Executive Residence shall ensure that a written notice of any amount owed for a reimbursable operating expense under this paragraph is submitted to the person owing such amount within 60 days after such expense is incurred, and that such amount is collected within 30 days after the submission of such notice: *Provided further*, That the Executive Residence shall charge interest and assess penalties and other charges on any such amount that is not reimbursed within such 30 days, in accordance with the interest and penalty provisions applicable to an outstanding debt on a United States Government claim under section 3717 of title 31, United States Code: *Provided further*, That each such amount that is reimbursed, and any accompanying interest and charges, shall be deposited in the Treasury as miscellaneous receipts: *Provided further*, That the Executive Residence shall prepare and submit to the Committees on Appropriations, by not later than 90 days after the end of the fiscal year covered by this Act, a report setting forth the reimbursable operating expenses of the Executive Residence during the preceding fiscal year, including the total amount of such expenses, the amount of such total that consists of reimbursable official and ceremonial events, the amount of such total that consists of reimbursable political events, and the portion of each such amount that has been reimbursed as of the date of the report: *Provided further*, That the Executive Residence shall maintain a system for the tracking of expenses related to reimbursable events within the Executive Residence that includes a standard for the classification of any such expense as political or nonpolitical: *Provided further*, That no provision of this paragraph may be construed to exempt the Executive Residence from any other applicable requirement of subchapter I or II of chapter 37 of title 31, United States Code.

Notice.
Deadlines.

Deadline.

Deadline.
Reports.

Records.

WHITE HOUSE REPAIR AND RESTORATION

For the repair, alteration, and improvement of the Executive Residence at the White House, \$1,700,000, to remain available until expended, for required maintenance, safety and health issues, and continued preventative maintenance.

COUNCIL OF ECONOMIC ADVISERS

SALARIES AND EXPENSES

For necessary expenses of the Council of Economic Advisers in carrying out its functions under the Employment Act of 1946 (15 U.S.C. 1021), \$4,040,000.

OFFICE OF POLICY DEVELOPMENT

SALARIES AND EXPENSES

For necessary expenses of the Office of Policy Development, including services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 107, \$3,500,000.

NATIONAL SECURITY COUNCIL

SALARIES AND EXPENSES

For necessary expenses of the National Security Council, including services as authorized by 5 U.S.C. 3109, \$8,705,000.

OFFICE OF ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Office of Administration, including services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 107, and hire of passenger motor vehicles, \$89,322,000, of which \$11,768,000 shall remain available until expended for the Capital Investment Plan for continued modernization of the information technology infrastructure within the Executive Office of the President.

OFFICE OF MANAGEMENT AND BUDGET

SALARIES AND EXPENSES

For necessary expenses of the Office of Management and Budget, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109 and to carry out the provisions of chapter 35 of title 44, United States Code, \$76,930,000, of which not to exceed \$3,000 shall be available for official representation expenses: *Provided*, That, as provided in 31 U.S.C. 1301(a), appropriations shall be applied only to the objects for which appropriations were made and shall be allocated in accordance with the terms and conditions set forth in the accompanying statement of the managers except as otherwise provided by law: *Provided further*, That none of the funds appropriated in this Act for the Office of Management and Budget may be used for the purpose of reviewing any agricultural marketing orders or any activities or regulations under the provisions of the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 601 et seq.): *Provided further*, That none of the funds made available for the Office of Management and Budget by this Act may be expended for the altering of the transcript of actual testimony of witnesses, except for testimony of officials of the Office of Management and Budget, before the Committees on Appropriations or their subcommittees: *Provided further*, That the preceding shall not apply to printed hearings released by the Committees on Appropriations: *Provided further*, That none of the funds provided in this or prior Acts shall be used, directly or indirectly, by the Office of Management and Budget, for evaluating or determining if water resource project or study reports submitted by the Chief of Engineers acting through the Secretary of the Army are in compliance with all applicable laws, regulations, and requirements relevant to the Civil Works water resource planning process: *Provided further*, That the Office of Management and Budget shall have not more than 60 days in which to perform budgetary policy reviews of water resource matters on which the Chief of Engineers has reported. The Director of the Office of Management and Budget shall notify the appropriate authorizing and Appropriations Committees when the 60-day review is initiated. If water resource reports have not been transmitted to the appropriate authorizing and appropriating committees within

Applicability.

Deadlines.

Notification.

Deadline.

15 days of the end of the OMB review period based on the notification from the Director, Congress shall assume OMB concurrence with the report and act accordingly.

OFFICE OF NATIONAL DRUG CONTROL POLICY

SALARIES AND EXPENSES

For necessary expenses of the Office of National Drug Control Policy; for research activities pursuant to the Office of National Drug Control Policy Reauthorization Act of 1998 (21 U.S.C. 1701 et seq.); not to exceed \$10,000 for official reception and representation expenses; and for participation in joint projects or in the provision of services on matters of mutual interest with nonprofit, research, or public organizations or agencies, with or without reimbursement, \$26,908,000; of which \$1,316,000 shall remain available until expended for policy research and evaluation: *Provided*, That the Office is authorized to accept, hold, administer, and utilize gifts, both real and personal, public and private, without fiscal year limitation, for the purpose of aiding or facilitating the work of the Office.

21 USC 1702
note.

COUNTERDRUG TECHNOLOGY ASSESSMENT CENTER

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for the Counterdrug Technology Assessment Center for research activities pursuant to the Office of National Drug Control Policy Reauthorization Act of 1998 (21 U.S.C. 1701 et seq.), \$30,000,000, which shall remain available until expended, consisting of \$14,000,000 for counternarcotics research and development projects, of which up to \$1,000,000 is to be directed to supply reduction activities, and \$16,000,000 for the continued operation of the technology transfer program: *Provided*, That the \$14,000,000 for counternarcotics research and development projects shall be available for transfer to other Federal departments or agencies.

FEDERAL DRUG CONTROL PROGRAMS

HIGH INTENSITY DRUG TRAFFICKING AREAS PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of National Drug Control Policy's High Intensity Drug Trafficking Areas Program, \$227,000,000 for drug control activities consistent with the approved strategy for each of the designated High Intensity Drug Trafficking Areas, of which no less than 51 percent shall be transferred to State and local entities for drug control activities, which shall be obligated within 120 days of the date of the enactment of this Act: *Provided*, That up to 49 percent, to remain available until September 30, 2007, may be transferred to Federal agencies and departments at a rate to be determined by the Director, of which not less than \$2,000,000 shall be used for auditing services and associated activities, and at least \$500,000 of the \$2,000,000 shall be used to develop and implement a data collection system to measure the performance of the High Intensity Drug Trafficking

Deadline.

Areas Program: *Provided further*, That High Intensity Drug Trafficking Areas programs designated as of September 30, 2005, shall be funded at no less than the fiscal year 2005 initial allocation levels unless the Director submits to the Committees on Appropriations, and the Committees approve, justification for changes in those levels based on clearly articulated priorities for the High Intensity Drug Trafficking Areas programs, as well as published Office of National Drug Control Policy performance measures of effectiveness: *Provided further*, That a request shall be submitted in compliance with the reprogramming guidelines to the Committees on Appropriations for approval prior to the obligation of funds of an amount in excess of the fiscal year 2005 budget request: *Provided further*, That none of the funds made available under this heading shall be available for the Consolidated Priority Organization Target program.

OTHER FEDERAL DRUG CONTROL PROGRAMS

(INCLUDING TRANSFER OF FUNDS)

For activities to support a national anti-drug campaign for youth, and for other purposes, authorized by the Office of National Drug Control Policy Reauthorization Act of 1998 (21 U.S.C. 1701 et seq.), \$194,900,000, to remain available until expended, of which the amounts are available as follows: \$100,000,000 to support a national media campaign, as authorized by the Drug-Free Media Campaign Act of 1998: *Provided*, That the Office of National Drug Control Policy shall maintain funding for non-advertising services for the media campaign at no less than the fiscal year 2003 ratio of service funding to total funds and shall continue the corporate outreach program as it operated prior to its cancellation; \$80,000,000 to continue a program of matching grants to drug-free communities, of which \$2,000,000 shall be a directed grant to the Community Anti-Drug Coalitions of America for the National Community Anti-Drug Coalition Institute, as authorized in chapter 2 of the National Narcotics Leadership Act of 1988, as amended; \$1,000,000 for the National Drug Court Institute; \$1,000,000 for the National Alliance for Model State Drug Laws; \$8,500,000 for the United States Anti-Doping Agency for anti-doping activities; \$2,900,000 for the United States membership dues to the World Anti-Doping Agency; and \$1,500,000 for evaluations and research related to National Drug Control Program performance measures: *Provided further*, That such funds may be transferred to other Federal departments and agencies to carry out such activities: *Provided further*, That of the amounts appropriated for a national media campaign, not to exceed 10 percent shall be for administration, advertising production, research and testing, labor and related costs of the national media campaign.

UNANTICIPATED NEEDS

For expenses necessary to enable the President to meet unanticipated needs, in furtherance of the national interest, security, or defense which may arise at home or abroad during the current fiscal year, as authorized by 3 U.S.C. 108, \$1,000,000.

SPECIAL ASSISTANCE TO THE PRESIDENT

SALARIES AND EXPENSES

For necessary expenses to enable the Vice President to provide assistance to the President in connection with specially assigned functions; services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 106, including subsistence expenses as authorized by 3 U.S.C. 106, which shall be expended and accounted for as provided in that section; and hire of passenger motor vehicles, \$4,455,000.

OFFICIAL RESIDENCE OF THE VICE PRESIDENT

OPERATING EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For the care, operation, refurbishing, improvement, and to the extent not otherwise provided for, heating and lighting, including electric power and fixtures, of the official residence of the Vice President; the hire of passenger motor vehicles; and not to exceed \$90,000 for official entertainment expenses of the Vice President, to be accounted for solely on his certificate, \$325,000: *Provided*, That advances or repayments or transfers from this appropriation may be made to any department or agency for expenses of carrying out such activities.

This title may be cited as the “Executive Office of the President Appropriations Act, 2006”.

TITLE VI

INDEPENDENT AGENCIES

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE
BOARD

SALARIES AND EXPENSES

For expenses necessary for the Architectural and Transportation Barriers Compliance Board, as authorized by section 502 of the Rehabilitation Act of 1973, as amended, \$5,941,000: *Provided*, That, notwithstanding any other provision of law, there may be credited to this appropriation funds received for publications and training expenses.

CONSUMER PRODUCT SAFETY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Consumer Product Safety Commission, including hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the maximum rate payable under 5 U.S.C. 5376, purchase of nominal awards to recognize non-Federal officials’ contributions to Commission activities, and not to exceed \$500 for official reception and representation expenses, \$63,000,000 of which up to \$500,000 shall be used to coordinate with the Administrator of the Environmental Protection Agency in the Agency’s study pursuant to H.R. 2361, as passed by the

Senate in the first session of the 109th Congress, to assess safety risks to both persons and the environment with regard to small engines, as required in Public Law 108–199, including real-world scenarios involving, among other things, operator burn, fire due to contact with flammable items, and refueling.

ELECTION ASSISTANCE COMMISSION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out the Help America Vote Act of 2002, \$14,200,000, of which \$2,800,000 shall be transferred to the National Institute of Standards and Technology for election reform activities authorized under the Help America Vote Act of 2002.

FEDERAL DEPOSIT INSURANCE CORPORATION

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, \$31,000,000, to be derived from the Bank Insurance Fund, the Savings Association Insurance Fund, and the FSLIC Resolution Fund.

FEDERAL ELECTION COMMISSION

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of the Federal Election Campaign Act of 1971, as amended, \$54,700,000, of which no less than \$4,700,000 shall be available for internal automated data processing systems, and of which not to exceed \$5,000 shall be available for reception and representation expenses.

FEDERAL LABOR RELATIONS AUTHORITY

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Federal Labor Relations Authority, pursuant to Reorganization Plan Numbered 2 of 1978, and the Civil Service Reform Act of 1978, including services authorized by 5 U.S.C. 3109, and including hire of experts and consultants, hire of passenger motor vehicles, and rental of conference rooms in the District of Columbia and elsewhere, \$25,468,000: *Provided*, That public members of the Federal Service Impasses Panel may be paid travel expenses and per diem in lieu of subsistence as authorized by law (5 U.S.C. 5703) for persons employed intermittently in the Government service, and compensation as authorized by 5 U.S.C. 3109: *Provided further*, That notwithstanding 31 U.S.C. 3302, funds received from fees charged to non-Federal participants at labor-management relations conferences shall be credited to and merged with this account, to be available without further appropriation for the costs of carrying out these conferences.

FEDERAL MARITIME COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Maritime Commission as authorized by section 201(d) of the Merchant Marine Act, 1936, as amended (46 U.S.C. App. 1111), including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles as authorized by 31 U.S.C. 1343(b); and uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902, \$20,499,000: *Provided*, That not to exceed \$2,000 shall be available for official reception and representation expenses.

GENERAL SERVICES ADMINISTRATION

REAL PROPERTY ACTIVITIES

FEDERAL BUILDINGS FUND

LIMITATIONS ON AVAILABILITY OF REVENUE

(INCLUDING TRANSFER OF FUNDS)

To carry out the purposes of the Fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 592), the revenues and collections deposited into the Fund shall be available for necessary expenses of real property management and related activities not otherwise provided for, including operation, maintenance, and protection of federally owned and leased buildings; rental of buildings in the District of Columbia; restoration of leased premises; moving governmental agencies (including space adjustments and telecommunications relocation expenses) in connection with the assignment, allocation and transfer of space; contractual services incident to cleaning or servicing buildings, and moving; repair and alteration of federally owned buildings including grounds, approaches and appurtenances; care and safeguarding of sites; maintenance, preservation, demolition, and equipment; acquisition of buildings and sites by purchase, condemnation, or as otherwise authorized by law; acquisition of options to purchase buildings and sites; conversion and extension of federally owned buildings; preliminary planning and design of projects by contract or otherwise; construction of new buildings (including equipment for such buildings); and payment of principal, interest, and any other obligations for public buildings acquired by installment purchase and purchase contract; in the aggregate amount of \$7,752,745,000, of which: (1) \$792,056,000 shall remain available until expended for construction (including funds for sites and expenses and associated design and construction services) of additional projects at the following locations:

New Construction:

Alabama:

Tuscaloosa, Federal Building, \$34,500,000.

California:

San Diego, United States Courthouse,
\$230,803,000.

Colorado:

Lakewood, Denver Federal Center Infrastructure,
\$4,658,000.

District of Columbia:

Coast Guard Consolidation, \$24,900,000.
 St. Elizabeths West Campus Infrastructure,
 \$13,095,000.
 Southeast Federal Center Site Remediation,
 \$15,000,000.

Illinois:

Rockford Federal Courthouse, \$34,500,000.

Maine:

Calais, Border Station, \$50,146,000.
 Jackman, Border Station, \$12,788,000.

Maryland:

Montgomery County, Food and Drug Administra-
 tion Consolidation, \$127,600,000.

Mississippi:

Jackson, United States Courthouse, \$8,750,000.

Missouri:

Jefferson City, United States Courthouse,
 \$5,200,000.

New York:

Champlain, Border Station, \$52,510,000.
 Massena, Border Station, \$49,783,000.

Texas:

Austin, United States Courthouse, \$3,000,000.

Washington:

Blaine, Peace Arch Border Station, \$46,534,000.

Material Price Increases for the following existing projects:
 U.S. Mission to the United Nations, New York City, New York;
 FBI Office, Houston, Texas; Border Station, Del Rio, Texas;
 United States Courthouse, Cape Girardeau, Missouri; United
 States Courthouse, El Paso, Texas; Border Station, El Paso,
 Texas; and United States Courthouse, Las Cruces, New Mexico,
 \$66,789,000.

Non-prospectus Construction, \$9,500,000:

Provided, That each of the foregoing limits of costs on new construc-
 tion projects may be exceeded to the extent that savings are effected
 in other such projects, but not to exceed 10 percent of the amounts
 included in an approved prospectus, if required, unless advance
 approval is obtained from the Committees on Appropriations of
 a greater amount: *Provided further*, That all funds for direct
 construction projects shall expire on September 30, 2007 and remain
 in the Federal Buildings Fund except for funds for projects as
 to which funds for design or other funds have been obligated in
 whole or in part prior to such date; (2) \$861,376,000 shall remain
 available until expended for repairs and alterations, which includes
 associated design and construction services:

Repairs and Alterations:

Arizona:

Tucson, James A. Walsh United States Court-
 house, \$16,136,000.

District of Columbia:

For transfer to the Navy for certain permanent
 relocation expenses pursuant to section 1(e) of Public
 Law 108-268, \$2,000,000.

Eisenhower Executive Office Building,
 \$33,417,000.

Federal Office Building 8, \$47,769,000.

Expiration date.

Heating, Operation, and Transmission District Repair, \$18,783,000.

Herbert C. Hoover Building, \$54,491,000.

Main Interior Federal Building, \$41,399,000.

Georgia:

Atlanta, Martin Luther King, Jr., Federal Building, \$30,129,000.

New York:

Brooklyn, Emanuel Celler Courthouse, \$96,924,000.

New York City, James Watson Federal Building and United States Courthouse, \$9,721,000.

Special Emphasis Programs:

Chlorofluorocarbons Program, \$10,000,000.

Energy Program, \$28,000,000.

Glass Fragmentation Program, \$15,700,000.

Design Program, \$21,915,000.

Basic Repairs and Alterations, \$434,992,000:

Provided further, That funds made available in this or any previous Act in the Federal Buildings Fund for Repairs and Alterations shall, for prospectus projects, be limited to the amount identified for each project, except each project in this or any previous Act may be increased by an amount not to exceed 10 percent unless advance approval is obtained from the Committees on Appropriations of a greater amount: *Provided further*, That additional projects for which prospectuses have been fully approved may be funded under this category only if advance approval is obtained from the Committees on Appropriations: *Provided further*, That the amounts provided in this or any prior Act for “Repairs and Alterations” may be used to fund costs associated with implementing security improvements to buildings necessary to meet the minimum standards for security in accordance with current law and in compliance with the reprogramming guidelines of the appropriate Committees of the House and Senate: *Provided further*, That the difference between the funds appropriated and expended on any projects in this or any prior Act, under the heading “Repairs and Alterations”, may be transferred to Basic Repairs and Alterations or used to fund authorized increases in prospectus projects: *Provided further*, That all funds for repairs and alterations prospectus projects shall expire on September 30, 2007 and remain in the Federal Buildings Fund except funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date: *Provided further*, That the amount provided in this or any prior Act for Basic Repairs and Alterations may be used to pay claims against the Government arising from any projects under the heading “Repairs and Alterations” or used to fund authorized increases in prospectus projects; (3) \$168,180,000 for installment acquisition payments including payments on purchase contracts which shall remain available until expended; (4) \$4,046,031,000 for rental of space which shall remain available until expended; and (5) \$1,885,102,000 for building operations which shall remain available until expended: *Provided further*, That funds available to the General Services Administration shall not be available for expenses of any construction, repair, alteration and acquisition project for which a prospectus, if required by the Public Buildings Act of 1959, as amended, has not been approved, except that necessary funds may be expended for each project for required expenses

Expiration date.

Missouri.

for the development of a proposed prospectus: *Provided further*, That funds available in the Federal Buildings Fund may be expended for emergency repairs when advance approval is obtained from the Committees on Appropriations: *Provided further*, That, notwithstanding any other provision of law, the Administrator of the General Services Administration is authorized and directed to proceed with site, design, acquisition, and construction for a new courthouse in Jefferson City, Missouri, of which planning and design funding is provided in this Act: *Provided further*, That amounts necessary to provide reimbursable special services to other agencies under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 592(b)(2)) and amounts to provide such reimbursable fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control as may be appropriate to enable the United States Secret Service to perform its protective functions pursuant to 18 U.S.C. 3056, shall be available from such revenues and collections: *Provided further*, That revenues and collections and any other sums accruing to this Fund during fiscal year 2006, excluding reimbursements under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 592(b)(2)) in excess of the aggregate new obligational authority authorized for Real Property Activities of the Federal Buildings Fund in this Act shall remain in the Fund and shall not be available for expenditure except as authorized in appropriations Acts.

GENERAL ACTIVITIES

GOVERNMENT-WIDE POLICY

For expenses authorized by law, not otherwise provided for, for Government-wide policy and evaluation activities associated with the management of real and personal property assets and certain administrative services; Government-wide policy support responsibilities relating to acquisition, telecommunications, information technology management, and related technology activities; and services as authorized by 5 U.S.C. 3109, \$52,796,000.

OPERATING EXPENSES

For expenses authorized by law, not otherwise provided for, for Government-wide activities associated with utilization and donation of surplus personal property; disposal of real property; providing Internet access to Federal information and services; agency-wide policy direction and management, and Board of Contract Appeals; accounting, records management, and other support services incident to adjudication of Indian Tribal Claims by the United States Court of Federal Claims; services as authorized by 5 U.S.C. 3109; and not to exceed \$7,500 for official reception and representation expenses, \$99,890,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General and service authorized by 5 U.S.C. 3109, \$43,410,000: *Provided*, That not to exceed \$15,000 shall be available for payment for information and detection of fraud against the Government, including payment for recovery of stolen Government property: *Provided further*, That

not to exceed \$2,500 shall be available for awards to employees of other Federal agencies and private citizens in recognition of efforts and initiatives resulting in enhanced Office of Inspector General effectiveness.

ELECTRONIC GOVERNMENT FUND

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses in support of interagency projects that enable the Federal Government to expand its ability to conduct activities electronically, through the development and implementation of innovative uses of the Internet and other electronic methods, \$3,000,000, to remain available until expended: *Provided*, That these funds may be transferred to Federal agencies to carry out the purposes of the Fund: *Provided further*, That this transfer authority shall be in addition to any other transfer authority provided in this Act: *Provided further*, That such transfers may not be made until 10 days after a proposed spending plan and justification for each project to be undertaken has been submitted to the Committees on Appropriations.

Deadline.

ALLOWANCES AND OFFICE STAFF FOR FORMER PRESIDENTS

(INCLUDING TRANSFER OF FUNDS)

For carrying out the provisions of the Act of August 25, 1958, as amended (3 U.S.C. 102 note), and Public Law 95–138, \$2,952,000: *Provided*, That the Administrator of General Services shall transfer to the Secretary of the Treasury such sums as may be necessary to carry out the provisions of such Acts.

FEDERAL CITIZEN INFORMATION CENTER FUND

For necessary expenses of the Federal Citizen Information Center, including services authorized by 5 U.S.C. 3109, \$15,000,000, to be deposited into the Federal Citizen Information Center Fund: *Provided*, That the appropriations, revenues, and collections deposited into the Fund shall be available for necessary expenses of Federal Citizen Information Center activities in the aggregate amount not to exceed \$32,000,000. Appropriations, revenues, and collections accruing to this Fund during fiscal year 2006 in excess of such amount shall remain in the Fund and shall not be available for expenditure except as authorized in appropriations Acts.

ADMINISTRATIVE PROVISIONS—GENERAL SERVICES ADMINISTRATION

(INCLUDING TRANSFERS OF FUNDS)

SEC. 601. The appropriate appropriation or fund available to the General Services Administration shall be credited with the cost of operation, protection, maintenance, upkeep, repair, and improvement, included as part of rentals received from Government corporations pursuant to law (40 U.S.C. 129).

SEC. 602. Funds available to the General Services Administration shall be available for the hire of passenger motor vehicles.

SEC. 603. Funds in the Federal Buildings Fund made available for fiscal year 2006 for Federal Buildings Fund activities may be transferred between such activities only to the extent necessary

to meet program requirements: *Provided*, That any proposed transfers shall be approved in advance by the Committees on Appropriations.

SEC. 604. Except as otherwise provided in this title, no funds made available by this Act shall be used to transmit a fiscal year 2007 request for United States Courthouse construction that: (1) does not meet the design guide standards for construction as established and approved by the General Services Administration, the Judicial Conference of the United States, and the Office of Management and Budget; and (2) does not reflect the priorities of the Judicial Conference of the United States as set out in its approved 5-year construction plan: *Provided*, That the fiscal year 2007 request must be accompanied by a standardized courtroom utilization study of each facility to be constructed, replaced, or expanded.

SEC. 605. None of the funds provided in this Act may be used to increase the amount of occupiable square feet, provide cleaning services, security enhancements, or any other service usually provided through the Federal Buildings Fund, to any agency that does not pay the rate per square foot assessment for space and services as determined by the General Services Administration in compliance with the Public Buildings Amendments Act of 1972 (Public Law 92–313).

SEC. 606. From funds made available under the heading “Federal Buildings Fund, Limitations on Availability of Revenue”, claims against the Government of less than \$250,000 arising from direct construction projects and acquisition of buildings may be liquidated from savings effected in other construction projects with prior notification to the Committees on Appropriations.

SEC. 607. The General Services Administration shall conduct a program to promote the use of stairs in all Federal buildings.

SEC. 608. No funds shall be used by the General Services Administration to reorganize its organizational structure without approval by the House and Senate Committees on Appropriations through an operating plan change.

SEC. 609. In the case of any General Services Administration (GSA) project subject to its published design criteria or specifications of any solicitations for offers issued for construction of a Federal building or courthouse and to the extent GSA utilizes, references or relies on any sustainable building rating systems that award credit for certified wood products, GSA shall ensure credit under its procedures and requirements to any project that uses wood or wood products certified by a credible third party sustainable forest certification program, including the Sustainable Forestry Initiative and the Forest Stewardship Council: *Provided*, That not later than 60 days after enactment of this Act, the Administrator shall report to the relevant congressional committees of jurisdiction on the progress and next steps toward recognition of other credible sustainable building rating systems within the GSA sustainable building procurement process.

SEC. 610. For purposes of the eTravel system, no less than 23 percent of all subcontracted dollars shall be allocated to small businesses.

Deadline.
Reports.

MERIT SYSTEMS PROTECTION BOARD

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out functions of the Merit Systems Protection Board pursuant to Reorganization Plan Numbered 2 of 1978, the Civil Service Reform Act of 1978, and the Whistleblower Protection Act of 1989 (5 U.S.C. 5509 note), as amended, including services as authorized by 5 U.S.C. 3109, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles, direct procurement of survey printing, and not to exceed \$2,000 for official reception and representation expenses, \$35,600,000 together with not to exceed \$2,605,000 for administrative expenses to adjudicate retirement appeals to be transferred from the Civil Service Retirement and Disability Fund in amounts determined by the Merit Systems Protection Board.

MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION

MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY TRUST FUND

(INCLUDING TRANSFER OF FUNDS)

For payment to the Morris K. Udall Scholarship and Excellence in National Environmental Policy Trust Fund, pursuant to the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 (20 U.S.C. 5601 et seq.), \$2,000,000, to remain available until expended, of which up to \$50,000 shall be used to conduct financial audits pursuant to the Accountability of Tax Dollars Act of 2002 (Public Law 107–289) notwithstanding sections 8 and 9 of Public Law 102–259: *Provided*, That up to 60 percent of such funds may be transferred by the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation for the necessary expenses of the Native Nations Institute.

ENVIRONMENTAL DISPUTE RESOLUTION FUND

For payment to the Environmental Dispute Resolution Fund to carry out activities authorized in the Environmental Policy and Conflict Resolution Act of 1998, \$1,900,000, to remain available until expended.

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

OPERATING EXPENSES

For necessary expenses in connection with the administration of the National Archives and Records Administration (including the Information Security Oversight Office) and archived Federal records and related activities, as provided by law, and for expenses necessary for the review and declassification of documents, and for the hire of passenger motor vehicles, \$283,045,000: *Provided*, That the Archivist of the United States is authorized to use any

excess funds available from the amount borrowed for construction of the National Archives facility, for expenses necessary to provide adequate storage for holdings: *Provided further*, That of the funds provided in this paragraph, \$2,000,000 shall be for initial move of records, staffing, and operations of the Nixon Library.

ELECTRONIC RECORDS ARCHIVES

For necessary expenses in connection with the development of the electronic records archives, to include all direct project costs associated with research, analysis, design, development, and program management, \$37,914,000, of which \$22,000,000 shall remain available until September 30, 2008: *Provided*, That none of the multi-year funds may be obligated until the National Archives and Records Administration submits to the Committees on Appropriations, and such Committees approve, a plan for expenditure that: (1) meets the capital planning and investment control review requirements established by the Office of Management and Budget, including Circular A–11; (2) complies with the National Archives and Records Administration’s enterprise architecture; (3) conforms with the National Archives and Records Administration’s enterprise life cycle methodology; (4) is approved by the National Archives and Records Administration and the Office of Management and Budget; (5) has been reviewed by the Government Accountability Office; and (6) complies with the acquisition rules, requirements, guidelines, and systems acquisition management practices of the Federal Government.

REPAIRS AND RESTORATION

For the repair, alteration, and improvement of archives facilities, and to provide adequate storage for holdings, \$9,682,000, to remain available until expended, of which \$1,500,000 is to construct a new regional archives and records facility in Anchorage, Alaska, and of which \$1,000,000 is for the repair and restoration of the plaza that surrounds the Lyndon Baines Johnson Presidential Library that is under the joint control and custody of the University of Texas: *Provided*, That such funds may be transferred directly to the University and used, together with University funds, for repair and restoration of the plaza and remain available until expended for this purpose: *Provided further*, That such funds shall be spent in accordance with the construction plan submitted to the Committees on Appropriations on March 14, 2005: *Provided further*, That the Archivist shall be prohibited from entering into any agreement with the University or any other party that requires additional funding commitments on behalf of the Federal Government.

NATIONAL HISTORICAL PUBLICATIONS AND RECORDS COMMISSION

GRANTS PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for allocations and grants for historical publications and records as authorized by 44 U.S.C. 2504, as amended, \$7,500,000, to remain available until expended: *Provided*, That of the funds provided in this paragraph, \$2,000,000 shall be transferred to the operating expenses account for operating

expenses of the National Historical Publications and Records Administration.

NATIONAL CREDIT UNION ADMINISTRATION

CENTRAL LIQUIDITY FACILITY

During fiscal year 2006, gross obligations of the Central Liquidity Facility for the principal amount of new direct loans to member credit unions, as authorized by 12 U.S.C. 1795 et seq., shall not exceed \$1,500,000,000: *Provided*, That administrative expenses of the Central Liquidity Facility in fiscal year 2006 shall not exceed \$323,000.

COMMUNITY DEVELOPMENT REVOLVING LOAN FUND

For the Community Development Revolving Loan Fund program as authorized by 42 U.S.C. 9812, 9822 and 9910, \$950,000 shall be available until September 30, 2007 for technical assistance to low-income designated credit unions, and amounts of principal and interest on loans repaid shall be available until expended for low-income designated credit unions.

NATIONAL TRANSPORTATION SAFETY BOARD

SALARIES AND EXPENSES

For necessary expenses of the National Transportation Safety Board, including hire of passenger motor vehicles and aircraft; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for a GS–15; uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901–5902) \$76,700,000, of which not to exceed \$2,000 may be used for official reception and representation expenses.

(RESCISSION)

Of the available unobligated balances made available under Public Law 106–246, \$1,000,000 are rescinded.

NEIGHBORHOOD REINVESTMENT CORPORATION

PAYMENT TO THE NEIGHBORHOOD REINVESTMENT CORPORATION

For payment to the Neighborhood Reinvestment Corporation for use in neighborhood reinvestment activities, as authorized by the Neighborhood Reinvestment Corporation Act (42 U.S.C. 8101–8107), \$118,000,000, of which \$5,000,000 shall be for a multi-family rental housing program.

OFFICE OF GOVERNMENT ETHICS

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Office of Government Ethics pursuant to the Ethics in Government Act of 1978, as amended, and the Ethics Reform Act of 1989, including services as authorized by 5 U.S.C. 3109, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor

vehicles, and not to exceed \$1,500 for official reception and representation expenses, \$11,148,000.

OFFICE OF PERSONNEL MANAGEMENT

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF TRUST FUNDS)

For necessary expenses to carry out functions of the Office of Personnel Management pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109; medical examinations performed for veterans by private physicians on a fee basis; rental of conference rooms in the District of Columbia and elsewhere; hire of passenger motor vehicles; not to exceed \$2,500 for official reception and representation expenses; advances for reimbursements to applicable funds of the Office of Personnel Management and the Federal Bureau of Investigation for expenses incurred under Executive Order No. 10422 of January 9, 1953, as amended; and payment of per diem and/or subsistence allowances to employees where Voting Rights Act activities require an employee to remain overnight at his or her post of duty, \$122,521,000, of which \$6,983,000 shall remain available until expended for the Enterprise Human Resources Integration project; \$1,450,000 shall remain available until expended for the Human Resources Line of Business project; \$500,000 shall remain available until expended for the E-Training project; and \$1,412,000 shall remain available until expended until September 30, 2007 for the E-Payroll project; and in addition \$100,017,000 for administrative expenses, to be transferred from the appropriate trust funds of the Office of Personnel Management without regard to other statutes, including direct procurement of printed materials, for the retirement and insurance programs: *Provided*, That the provisions of this appropriation shall not affect the authority to use applicable trust funds as provided by sections 8348(a)(1)(B), and 9004(f)(2)(A) of title 5, United States Code: *Provided further*, That no part of this appropriation shall be available for salaries and expenses of the Legal Examining Unit of the Office of Personnel Management established pursuant to Executive Order No. 9358 of July 1, 1943, or any successor unit of like purpose: *Provided further*, That the President's Commission on White House Fellows, established by Executive Order No. 11183 of October 3, 1964, may, during fiscal year 2006, accept donations of money, property, and personal services: *Provided further*, That such donations, including those from prior years, may be used for the development of publicity materials to provide information about the White House Fellows, except that no such donations shall be accepted for travel or reimbursement of travel expenses, or for the salaries of employees of such Commission.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF TRUST FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act, as amended, including services as authorized by 5 U.S.C. 3109, hire

of passenger motor vehicles, \$2,071,000, and in addition, not to exceed \$16,329,000 for administrative expenses to audit, investigate, and provide other oversight of the Office of Personnel Management's retirement and insurance programs, to be transferred from the appropriate trust funds of the Office of Personnel Management, as determined by the Inspector General: *Provided*, That the Inspector General is authorized to rent conference rooms in the District of Columbia and elsewhere.

GOVERNMENT PAYMENT FOR ANNUITANTS, EMPLOYEES HEALTH
BENEFITS

For payment of Government contributions with respect to retired employees, as authorized by chapter 89 of title 5, United States Code, and the Retired Federal Employees Health Benefits Act (74 Stat. 849), as amended, such sums as may be necessary.

GOVERNMENT PAYMENT FOR ANNUITANTS, EMPLOYEE LIFE
INSURANCE

For payment of Government contributions with respect to employees retiring after December 31, 1989, as required by chapter 87 of title 5, United States Code, such sums as may be necessary.

PAYMENT TO CIVIL SERVICE RETIREMENT AND DISABILITY FUND

For financing the unfunded liability of new and increased annuity benefits becoming effective on or after October 20, 1969, as authorized by 5 U.S.C. 8348, and annuities under special Acts to be credited to the Civil Service Retirement and Disability Fund, such sums as may be necessary: *Provided*, That annuities authorized by the Act of May 29, 1944, as amended, and the Act of August 19, 1950, as amended (33 U.S.C. 771–775), may hereafter be paid out of the Civil Service Retirement and Disability Fund.

33 USC 776.

OFFICE OF SPECIAL COUNSEL

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Office of Special Counsel pursuant to Reorganization Plan Numbered 2 of 1978, the Civil Service Reform Act of 1978 (Public Law 95–454), as amended, the Whistleblower Protection Act of 1989 (Public Law 101–12), as amended, Public Law 107–304, and the Uniformed Services Employment and Reemployment Act of 1994 (Public Law 103–353), including services as authorized by 5 U.S.C. 3109, payment of fees and expenses for witnesses, rental of conference rooms in the District of Columbia and elsewhere, and hire of passenger motor vehicles; \$15,325,000.

SELECTIVE SERVICE SYSTEM

SALARIES AND EXPENSES

For necessary expenses of the Selective Service System, including expenses of attendance at meetings and of training for uniformed personnel assigned to the Selective Service System, as authorized by 5 U.S.C. 4101–4118 for civilian employees; purchase of uniforms, or allowances therefor, as authorized by 5 U.S.C.

5901–5902; hire of passenger motor vehicles; services as authorized by 5 U.S.C. 3109; and not to exceed \$750 for official reception and representation expenses; \$25,000,000: *Provided*, That during the current fiscal year, the President may exempt this appropriation from the provisions of 31 U.S.C. 1341, whenever the President deems such action to be necessary in the interest of national defense: *Provided further*, That none of the funds appropriated by this Act may be expended for or in connection with the induction of any person into the Armed Forces of the United States.

UNITED STATES INTERAGENCY COUNCIL ON HOMELESSNESS

OPERATING EXPENSES

For necessary expenses (including payment of salaries, authorized travel, hire of passenger motor vehicles, the rental of conference rooms, and the employment of experts and consultants under section 3109 of title 5, United States Code) of the United States Interagency Council on Homelessness in carrying out the functions pursuant to title II of the McKinney-Vento Homeless Assistance Act, as amended, \$1,800,000.

42 USC 11319. Title II of the McKinney-Vento Homeless Assistance Act, as amended, is amended in section 209 by striking “2005” and inserting “2006”.

UNITED STATES POSTAL SERVICE

PAYMENT TO THE POSTAL SERVICE FUND

39 USC 403 note. For payment to the Postal Service Fund for revenue forgone on free and reduced rate mail, pursuant to subsections (c) and (d) of section 2401 of title 39, United States Code, \$116,350,000, of which \$73,000,000 shall not be available for obligation until October 1, 2006: *Provided*, That mail for overseas voting and mail for the blind shall continue to be free: *Provided further*, That 6-day delivery and rural delivery of mail shall continue at not less than the 1983 level: *Provided further*, That none of the funds made available to the Postal Service by this Act shall be used to implement any rule, regulation, or policy of charging any officer or employee of any State or local child support enforcement agency, or any individual participating in a State or local program of child support enforcement, a fee for information requested or provided concerning an address of a postal customer: *Provided further*, That none of the funds provided in this Act shall be used to consolidate or close small rural and other small post offices in fiscal year 2006.

UNITED STATES TAX COURT

SALARIES AND EXPENSES

26 USC 7443 note. For necessary expenses, including contract reporting and other services as authorized by 5 U.S.C. 3109, \$47,998,000: *Provided*, That travel expenses of the judges shall be paid upon the written certificate of the judge.

TITLE VII

GENERAL PROVISIONS THIS ACT

(INCLUDING TRANSFERS OF FUNDS)

SEC. 701. Such sums as may be necessary for fiscal year 2006 pay raises for programs funded in this Act shall be absorbed within the levels appropriated in this Act or previous appropriations Acts.

SEC. 702. None of the funds in this Act shall be used for the planning or execution of any program to pay the expenses of, or otherwise compensate, non-Federal parties intervening in regulatory or adjudicatory proceedings funded in this Act.

SEC. 703. None of the funds appropriated in this Act shall remain available for obligation beyond the current fiscal year, nor may any be transferred to other appropriations, unless expressly so provided herein.

SEC. 704. The expenditure of any appropriation under this Act for any consulting service through procurement contract pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

Contracts.

SEC. 705. None of the funds made available in this Act may be transferred to any department, agency, or instrumentality of the United States Government, except pursuant to a transfer made by, or transfer authority provided in, this Act or any other appropriations Act.

SEC. 706. None of the funds made available by this Act shall be available for any activity or for paying the salary of any Government employee where funding an activity or paying a salary to a Government employee would result in a decision, determination, rule, regulation, or policy that would prohibit the enforcement of section 307 of the Tariff Act of 1930 (19 U.S.C. 1307).

SEC. 707. No part of any appropriation contained in this Act shall be available to pay the salary for any person filling a position, other than a temporary position, formerly held by an employee who has left to enter the Armed Forces of the United States and has satisfactorily completed his period of active military or naval service, and has within 90 days after his release from such service or from hospitalization continuing after discharge for a period of not more than 1 year, made application for restoration to his former position and has been certified by the Office of Personnel Management as still qualified to perform the duties of his former position and has not been restored thereto.

SEC. 708. No funds appropriated pursuant to this Act may be expended by an entity unless the entity agrees that in expending the assistance the entity will comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a–10c, popularly known as the “Buy American Act”).

SEC. 709. No funds appropriated or otherwise made available under this Act shall be made available to any person or entity that has been convicted of violating the Buy American Act (41 U.S.C. 10a–10c).

SEC. 710. Except as otherwise provided in this Act, none of the funds provided in this Act, provided by previous appropriations Acts to the agencies or entities funded in this Act that remain

Deadline.
Reports.

available for obligation or expenditure in fiscal year 2006, or provided from any accounts in the Treasury derived by the collection of fees and available to the agencies funded by this Act, shall be available for obligation or expenditure through a reprogramming of funds that: (1) creates a new program; (2) eliminates a program, project, or activity; (3) increases funds or personnel for any program, project, or activity for which funds have been denied or restricted by the Congress; (4) proposes to use funds directed for a specific activity by either the House or Senate Committees on Appropriations for a different purpose; (5) augments existing programs, projects, or activities in excess of \$5,000,000 or 10 percent, whichever is less; (6) reduces existing programs, projects, or activities by \$5,000,000 or 10 percent, whichever is less; or (7) creates, reorganizes, or restructures a branch, division, office, bureau, board, commission, agency, administration, or department different from the budget justifications submitted to the Committees on Appropriations or the table accompanying the statement of the managers accompanying this Act, whichever is more detailed, unless prior approval is received from the House and Senate Committees on Appropriations: *Provided*, That not later than 60 days after the date of enactment of this Act, each agency funded by this Act shall submit a report to the Committees on Appropriations of the Senate and of the House of Representatives to establish the baseline for application of reprogramming and transfer authorities for the current fiscal year: *Provided further*, That the report shall include: (1) a table for each appropriation with a separate column to display the President's budget request, adjustments made by Congress, adjustments due to enacted rescissions, if appropriate, and the fiscal year enacted level; (2) a delineation in the table for each appropriation both by object class and program, project, and activity as detailed in the budget appendix for the respective appropriation; and (3) an identification of items of special congressional interest: *Provided further*, That the amount appropriated or limited for salaries and expenses for an agency shall be reduced by \$100,000 per day for each day after the required date that the report has not been submitted to the Congress.

SEC. 711. Except as otherwise specifically provided by law, not to exceed 50 percent of unobligated balances remaining available at the end of fiscal year 2006 from appropriations made available for salaries and expenses for fiscal year 2006 in this Act, shall remain available through September 30, 2007, for each such account for the purposes authorized: *Provided*, That a request shall be submitted to the Committees on Appropriations for approval prior to the expenditure of such funds: *Provided further*, That these requests shall be made in compliance with reprogramming guidelines.

SEC. 712. None of the funds made available in this Act may be used by the Executive Office of the President to request from the Federal Bureau of Investigation any official background investigation report on any individual, except when—

(1) such individual has given his or her express written consent for such request not more than 6 months prior to the date of such request and during the same presidential administration; or

(2) such request is required due to extraordinary circumstances involving national security.

SEC. 713. The cost accounting standards promulgated under section 26 of the Office of Federal Procurement Policy Act (Public Law 93–400; 41 U.S.C. 422) shall not apply with respect to a contract under the Federal Employees Health Benefits Program established under chapter 89 of title 5, United States Code.

SEC. 714. For the purpose of resolving litigation and implementing any settlement agreements regarding the nonforeign area cost-of-living allowance program, the Office of Personnel Management may accept and utilize (without regard to any restriction on unanticipated travel expenses imposed in an Appropriations Act) funds made available to the Office pursuant to court approval.

SEC. 715. No funds appropriated by this Act shall be available to pay for an abortion, or the administrative expenses in connection with any health plan under the Federal employees health benefits program which provides any benefits or coverage for abortions.

Abortions.

SEC. 716. The provision of section 715 shall not apply where the life of the mother would be endangered if the fetus were carried to term, or the pregnancy is the result of an act of rape or incest.

SEC. 717. In order to promote Government access to commercial information technology, the restriction on purchasing nondomestic articles, materials, and supplies set forth in the Buy American Act (41 U.S.C. 10a et seq.), shall not apply to the acquisition by the Federal Government of information technology (as defined in section 11101 of title 40, United States Code), that is a commercial item (as defined in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12))).

SEC. 718. None of the funds made available in the Act may be used to finalize, implement, administer, or enforce—

(1) the proposed rule relating to the determination that real estate brokerage is an activity that is financial in nature or incidental to a financial activity published in the Federal Register on January 3, 2001 (66 Fed. Reg. 307 et seq.); or

(2) the revision proposed in such rule to section 1501.2 of title 12 of the Code of Federal Regulations.

SEC. 719. All Federal agencies and departments that are funded under this Act shall issue a report to the House and Senate Committees on Appropriations on all sole source contracts by no later than July 31, 2006. Such report shall include the contractor, the amount of the contract and the rationale for using a sole source contract.

Reports.
Deadline.
Contracts.

SEC. 720. The Secretary of the Treasury may transfer funds from amounts appropriated under title II of this Act for any costs necessary to pay for both career and non-career senior Treasury officials and support staff in locations of economic strategic interest throughout the world. Such positions would be used to advocate positions of interest to the United States Government, including open and fair financial markets, consistent with the Secretary's obligation under the Gold Reserve Act of 1934 (48 Stat. 337) to promote orderly exchange arrangements and an orderly system of exchange rates. Any transfer shall not be made available until approved in an operating plan request by the House and Senate Committees on Appropriations.

SEC. 721. Section 640(c) of the Treasury and General Government Appropriations Act, 2000 (Public Law 106–58; 2 U.S.C. 437g note), as amended by section 642 of the Treasury and General Government Appropriations Act, 2002 (Public Law 107–67) and by section 639 of the Transportation, Treasury, and Independent

2 USC 437g note. Agencies Appropriations Act, 2004 (Public Law 108–199), is amended by striking “December 31, 2005” and inserting “December 31, 2008”.

Records. SEC. 722. The Secretary of the Treasury may make payments from the Treasury Forfeiture Fund to reimburse the United States Secret Service for costs of protecting the Secretary of the Treasury: *Provided*, That the United States Secret Service shall provide the Department of the Treasury with a detailed, itemized list of expenses associated with such protection: *Provided further*, That the Comptroller General shall review all expenditures related to such protection and shall determine if each expense is a reasonable and unavoidable cost of this protection: *Provided further*, That all such reimbursable expenses shall be subject to a memorandum of understanding between the Department of the Treasury and the United States Secret Service.

Memorandum.

SEC. 723. Section 101 of the Second Emergency Supplemental Appropriations Act to Meet Immediate Needs Arising From the Consequences of Hurricane Katrina, 2005 (Public Law 109–62; 119 Stat. 1992) is repealed.

SEC. 724. (a) IN GENERAL.—None of the funds appropriated or otherwise made available by this Act may be used for any Federal Government contract with any foreign incorporated entity which is treated as an inverted domestic corporation under section 835(b) of the Homeland Security Act of 2002 (6 U.S.C. 395(b)) or any subsidiary of such an entity.

(b) WAIVERS.—

(1) IN GENERAL.—Any Secretary shall waive subsection (a) with respect to any Federal Government contract under the authority of such Secretary if the Secretary determines that the waiver is required in the interest of national security.

(2) REPORT TO CONGRESS.—Any Secretary issuing a waiver under paragraph (1) shall report such issuance to Congress.

(c) EXCEPTION.—This section shall not apply to any Federal Government contract entered into before the date of the enactment of this Act, or to any task order issued pursuant to such contract.

SEC. 725. From funds made available in this Act under the headings “White House Office”, “Executive Residence at the White House”, “White House Repair and Restoration”, “Council of Economic Advisors”, “National Security Council”, “Office of Administration”, “Office of Policy Development”, “Special Assistance to the President”, and “Official Residence of the Vice President”, the Director of the Office of Management and Budget (or such other officer as the President may designate in writing), may, fifteen days after giving notice to the House and Senate Committees on Appropriations, transfer not to exceed 10 percent of any such appropriation to any other such appropriation, to be merged with and available for the same time and for the same purposes as the appropriation to which transferred: *Provided*, That the amount of an appropriation shall not be increased by more than 50 percent by such transfers: *Provided further*, That no amount shall be transferred from “Special Assistance to the President” or “Official Residence of the Vice President” without the approval of the Vice President.

Eminent domain.

SEC. 726. No funds in this Act may be used to support any Federal, State, or local projects that seek to use the power of eminent domain, unless eminent domain is employed only for a public use: *Provided*, That for purposes of this section, public use

shall not be construed to include economic development that primarily benefits private entities: *Provided further*, That any use of funds for mass transit, railroad, airport, seaport or highway projects as well as utility projects which benefit or serve the general public (including energy-related, communication-related, water-related and wastewater-related infrastructure), other structures designated for use by the general public or which have other common-carrier or public-utility functions that serve the general public and are subject to regulation and oversight by the government, and projects for the removal of an immediate threat to public health and safety or brownsfield as defined in the Small Business Liability Relief and Brownsfield Revitalization Act (Public Law 107–118) shall be considered a public use for purposes of eminent domain: *Provided further*, That the Government Accountability Office, in consultation with the National Academy of Public Administration, organizations representing State and local governments, and property rights organizations, shall conduct a study to be submitted to the Congress within 12 months of the enactment of this Act on the nationwide use of eminent domain, including the procedures used and the results accomplished on a state-by-state basis as well as the impact on individual property owners and on the affected communities.

Deadline.

TITLE VIII

GENERAL PROVISIONS GOVERNMENT-WIDE

DEPARTMENTS, AGENCIES, AND CORPORATIONS

SEC. 801. Funds appropriated in this or any other Act may be used to pay travel to the United States for the immediate family of employees serving abroad in cases of death or life threatening illness of said employee.

SEC. 802. No department, agency, or instrumentality of the United States receiving appropriated funds under this or any other Act for fiscal year 2006 shall obligate or expend any such funds, unless such department, agency, or instrumentality has in place, and will continue to administer in good faith, a written policy designed to ensure that all of its workplaces are free from the illegal use, possession, or distribution of controlled substances (as defined in the Controlled Substances Act (21 U.S.C. 802)) by the officers and employees of such department, agency, or instrumentality.

SEC. 803. Unless otherwise specifically provided, the maximum amount allowable during the current fiscal year in accordance with section 16 of the Act of August 2, 1946 (60 Stat. 810), for the purchase of any passenger motor vehicle (exclusive of buses, ambulances, law enforcement, and undercover surveillance vehicles), is hereby fixed at \$8,100 except station wagons for which the maximum shall be \$9,100: *Provided*, That these limits may be exceeded by not to exceed \$3,700 for police-type vehicles, and by not to exceed \$4,000 for special heavy-duty vehicles: *Provided further*, That the limits set forth in this section may not be exceeded by more than 5 percent for electric or hybrid vehicles purchased for demonstration under the provisions of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976: *Provided further*, That the limits set forth in this section may

31 USC 1343
note.

be exceeded by the incremental cost of clean alternative fuels vehicles acquired pursuant to Public Law 101-549 over the cost of comparable conventionally fueled vehicles.

SEC. 804. Appropriations of the executive departments and independent establishments for the current fiscal year available for expenses of travel, or for the expenses of the activity concerned, are hereby made available for quarters allowances and cost-of-living allowances, in accordance with 5 U.S.C. 5922-5924.

5 USC 3101 note.

SEC. 805. Unless otherwise specified during the current fiscal year, no part of any appropriation contained in this or any other Act shall be used to pay the compensation of any officer or employee of the Government of the United States (including any agency the majority of the stock of which is owned by the Government of the United States) whose post of duty is in the continental United States unless such person: (1) is a citizen of the United States; (2) is a person in the service of the United States on the date of the enactment of this Act who, being eligible for citizenship, has filed a declaration of intention to become a citizen of the United States prior to such date and is actually residing in the United States; (3) is a person who owes allegiance to the United States; (4) is an alien from Cuba, Poland, South Vietnam, the countries of the former Soviet Union, or the Baltic countries lawfully admitted to the United States for permanent residence; (5) is a South Vietnamese, Cambodian, or Laotian refugee paroled in the United States after January 1, 1975; or (6) is a national of the People's Republic of China who qualifies for adjustment of status pursuant to the Chinese Student Protection Act of 1992 (Public Law 102-404): *Provided*, That for the purpose of this section, an affidavit signed by any such person shall be considered prima facie evidence that the requirements of this section with respect to his or her status have been complied with: *Provided further*, That any person making a false affidavit shall be guilty of a felony, and, upon conviction, shall be fined no more than \$4,000 or imprisoned for not more than 1 year, or both: *Provided further*, That the above penal clause shall be in addition to, and not in substitution for, any other provisions of existing law: *Provided further*, That any payment made to any officer or employee contrary to the provisions of this section shall be recoverable in action by the Federal Government. This section shall not apply to citizens of Ireland, Israel, or the Republic of the Philippines, or to nationals of those countries allied with the United States in a current defense effort, or to international broadcasters employed by the United States Information Agency, or to temporary employment of translators, or to temporary employment in the field service (not to exceed 60 days) as a result of emergencies.

Penalty.

SEC. 806. Appropriations available to any department or agency during the current fiscal year for necessary expenses, including maintenance or operating expenses, shall also be available for payment to the General Services Administration for charges for space and services and those expenses of renovation and alteration of buildings and facilities which constitute public improvements performed in accordance with the Public Buildings Act of 1959 (73 Stat. 749), the Public Buildings Amendments of 1972 (87 Stat. 216), or other applicable law.

SEC. 807. In addition to funds provided in this or any other Act, all Federal agencies are authorized to receive and use funds

resulting from the sale of materials, including Federal records disposed of pursuant to a records schedule recovered through recycling or waste prevention programs. Such funds shall be available until expended for the following purposes:

(1) Acquisition, waste reduction and prevention, and recycling programs as described in Executive Order No. 13101 (September 14, 1998), including any such programs adopted prior to the effective date of the Executive order.

(2) Other Federal agency environmental management programs, including, but not limited to, the development and implementation of hazardous waste management and pollution prevention programs.

(3) Other employee programs as authorized by law or as deemed appropriate by the head of the Federal agency.

SEC. 808. Funds made available by this or any other Act for administrative expenses in the current fiscal year of the corporations and agencies subject to chapter 91 of title 31, United States Code, shall be available, in addition to objects for which such funds are otherwise available, for rent in the District of Columbia; services in accordance with 5 U.S.C. 3109; and the objects specified under this head, all the provisions of which shall be applicable to the expenditure of such funds unless otherwise specified in the Act by which they are made available: *Provided*, That in the event any functions budgeted as administrative expenses are subsequently transferred to or paid from other funds, the limitations on administrative expenses shall be correspondingly reduced.

SEC. 809. No part of any appropriation for the current fiscal year contained in this or any other Act shall be paid to any person for the filling of any position for which he or she has been nominated after the Senate has voted not to approve the nomination of said person.

SEC. 810. No part of any appropriation contained in this or any other Act shall be available for interagency financing of boards (except Federal Executive Boards), commissions, councils, committees, or similar groups (whether or not they are interagency entities) which do not have a prior and specific statutory approval to receive financial support from more than one agency or instrumentality.

SEC. 811. Funds made available by this or any other Act to the Postal Service Fund (39 U.S.C. 2003) shall be available for employment of guards for all buildings and areas owned or occupied by the Postal Service or under the charge and control of the Postal Service. The Postal Service may give such guards, with respect to such property, any of the powers of special policemen provided under 40 U.S.C. 1315. The Postmaster General, or his designee, may take any action that the Secretary of Homeland Security may take under such section with respect to that property.

SEC. 812. None of the funds made available pursuant to the provisions of this Act shall be used to implement, administer, or enforce any regulation which has been disapproved pursuant to a joint resolution duly adopted in accordance with the applicable law of the United States.

SEC. 813. (a) Notwithstanding any other provision of law, and except as otherwise provided in this section, no part of any of the funds appropriated for fiscal year 2006, by this or any other Act, may be used to pay any prevailing rate employee described in section 5342(a)(2)(A) of title 5, United States Code—

5 USC 5343 note.

(1) during the period from the date of expiration of the limitation imposed by the comparable section for previous fiscal years until the normal effective date of the applicable wage survey adjustment that is to take effect in fiscal year 2006, in an amount that exceeds the rate payable for the applicable grade and step of the applicable wage schedule in accordance with such section; and

(2) during the period consisting of the remainder of fiscal year 2006, in an amount that exceeds, as a result of a wage survey adjustment, the rate payable under paragraph (1) by more than the sum of—

(A) the percentage adjustment taking effect in fiscal year 2006 under section 5303 of title 5, United States Code, in the rates of pay under the General Schedule; and

(B) the difference between the overall average percentage of the locality-based comparability payments taking effect in fiscal year 2006 under section 5304 of such title (whether by adjustment or otherwise), and the overall average percentage of such payments which was effective in the previous fiscal year under such section.

(b) Notwithstanding any other provision of law, no prevailing rate employee described in subparagraph (B) or (C) of section 5342(a)(2) of title 5, United States Code, and no employee covered by section 5348 of such title, may be paid during the periods for which subsection (a) is in effect at a rate that exceeds the rates that would be payable under subsection (a) were subsection (a) applicable to such employee.

Regulations.

(c) For the purposes of this section, the rates payable to an employee who is covered by this section and who is paid from a schedule not in existence on September 30, 2005, shall be determined under regulations prescribed by the Office of Personnel Management.

(d) Notwithstanding any other provision of law, rates of premium pay for employees subject to this section may not be changed from the rates in effect on September 30, 2005, except to the extent determined by the Office of Personnel Management to be consistent with the purpose of this section.

Applicability.

(e) This section shall apply with respect to pay for service performed after September 30, 2005.

(f) For the purpose of administering any provision of law (including any rule or regulation that provides premium pay, retirement, life insurance, or any other employee benefit) that requires any deduction or contribution, or that imposes any requirement or limitation on the basis of a rate of salary or basic pay, the rate of salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

(g) Nothing in this section shall be considered to permit or require the payment to any employee covered by this section at a rate in excess of the rate that would be payable were this section not in effect.

(h) The Office of Personnel Management may provide for exceptions to the limitations imposed by this section if the Office determines that such exceptions are necessary to ensure the recruitment or retention of qualified employees.

SEC. 814. During the period in which the head of any department or agency, or any other officer or civilian employee of the

Government appointed by the President of the United States, holds office, no funds may be obligated or expended in excess of \$5,000 to furnish or redecorate the office of such department head, agency head, officer, or employee, or to purchase furniture or make improvements for any such office, unless advance notice of such furnishing or redecoration is expressly approved by the Committees on Appropriations. For the purposes of this section, the term “office” shall include the entire suite of offices assigned to the individual, as well as any other space used primarily by the individual or the use of which is directly controlled by the individual.

SEC. 815. Notwithstanding section 1346 of title 31, United States Code, or section 809 of this Act, funds made available for the current fiscal year by this or any other Act shall be available for the interagency funding of national security and emergency preparedness telecommunications initiatives which benefit multiple Federal departments, agencies, or entities, as provided by Executive Order No. 12472 (April 3, 1984).

SEC. 816. (a) None of the funds appropriated by this or any other Act may be obligated or expended by any Federal department, agency, or other instrumentality for the salaries or expenses of any employee appointed to a position of a confidential or policy-determining character excepted from the competitive service pursuant to section 3302 of title 5, United States Code, without a certification to the Office of Personnel Management from the head of the Federal department, agency, or other instrumentality employing the Schedule C appointee that the Schedule C position was not created solely or primarily in order to detail the employee to the White House.

(b) The provisions of this section shall not apply to Federal employees or members of the armed services detailed to or from—

- (1) the Central Intelligence Agency;
- (2) the National Security Agency;
- (3) the Defense Intelligence Agency;
- (4) the offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs;
- (5) the Bureau of Intelligence and Research of the Department of State;
- (6) any agency, office, or unit of the Army, Navy, Air Force, and Marine Corps, the Department of Homeland Security, the Federal Bureau of Investigation and the Drug Enforcement Administration of the Department of Justice, the Department of Transportation, the Department of the Treasury, and the Department of Energy performing intelligence functions; and
- (7) the Director of National Intelligence or the Office of the Director of National Intelligence.

SEC. 817. No department, agency, or instrumentality of the United States receiving appropriated funds under this or any other Act for the current fiscal year shall obligate or expend any such funds, unless such department, agency, or instrumentality has in place, and will continue to administer in good faith, a written policy designed to ensure that all of its workplaces are free from discrimination and sexual harassment and that all of its workplaces are not in violation of title VII of the Civil Rights Act of 1964 (Public Law 88–352, 78 Stat. 241), as amended, the Age Discrimination in Employment Act of 1967 (Public Law 90–202, 81 Stat.

602), and the Rehabilitation Act of 1973 (Public Law 93-112, 87 Stat. 355).

SEC. 818. No part of any appropriation contained in this or any other Act shall be available for the payment of the salary of any officer or employee of the Federal Government, who—

(1) prohibits or prevents, or attempts or threatens to prohibit or prevent, any other officer or employee of the Federal Government from having any direct oral or written communication or contact with any Member, committee, or subcommittee of the Congress in connection with any matter pertaining to the employment of such other officer or employee or pertaining to the department or agency of such other officer or employee in any way, irrespective of whether such communication or contact is at the initiative of such other officer or employee or in response to the request or inquiry of such Member, committee, or subcommittee; or

(2) removes, suspends from duty without pay, demotes, reduces in rank, seniority, status, pay, or performance of efficiency rating, denies promotion to, relocates, reassigns, transfers, disciplines, or discriminates in regard to any employment right, entitlement, or benefit, or any term or condition of employment of, any other officer or employee of the Federal Government, or attempts or threatens to commit any of the foregoing actions with respect to such other officer or employee, by reason of any communication or contact of such other officer or employee with any Member, committee, or subcommittee of the Congress as described in paragraph (1).

SEC. 819. (a) None of the funds made available in this or any other Act may be obligated or expended for any employee training that—

(1) does not meet identified needs for knowledge, skills, and abilities bearing directly upon the performance of official duties;

(2) contains elements likely to induce high levels of emotional response or psychological stress in some participants;

(3) does not require prior employee notification of the content and methods to be used in the training and written end of course evaluation;

(4) contains any methods or content associated with religious or quasi-religious belief systems or “new age” belief systems as defined in Equal Employment Opportunity Commission Notice N-915.022, dated September 2, 1988; or

(5) is offensive to, or designed to change, participants’ personal values or lifestyle outside the workplace.

(b) Nothing in this section shall prohibit, restrict, or otherwise preclude an agency from conducting training bearing directly upon the performance of official duties.

SEC. 820. No funds appropriated in this or any other Act may be used to implement or enforce the agreements in Standard Forms 312 and 4414 of the Government or any other nondisclosure policy, form, or agreement if such policy, form, or agreement does not contain the following provisions: “These restrictions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by Executive Order No. 12958; section 7211 of title 5, United States Code (governing disclosures to Congress); section 1034 of title 10, United States Code, as amended by the Military Whistleblower Protection

Act (governing disclosure to Congress by members of the military); section 2302(b)(8) of title 5, United States Code, as amended by the Whistleblower Protection Act (governing disclosures of illegality, waste, fraud, abuse or public health or safety threats); the Intelligence Identities Protection Act of 1982 (50 U.S.C. 421 et seq.) (governing disclosures that could expose confidential Government agents); and the statutes which protect against disclosure that may compromise the national security, including sections 641, 793, 794, 798, and 952 of title 18, United States Code, and section 4(b) of the Subversive Activities Act of 1950 (50 U.S.C. 783(b)). The definitions, requirements, obligations, rights, sanctions, and liabilities created by said Executive order and listed statutes are incorporated into this agreement and are controlling.”: *Provided*, That notwithstanding the preceding paragraph, a nondisclosure policy form or agreement that is to be executed by a person connected with the conduct of an intelligence or intelligence-related activity, other than an employee or officer of the United States Government, may contain provisions appropriate to the particular activity for which such document is to be used. Such form or agreement shall, at a minimum, require that the person will not disclose any classified information received in the course of such activity unless specifically authorized to do so by the United States Government. Such nondisclosure forms shall also make it clear that they do not bar disclosures to Congress or to an authorized official of an executive agency or the Department of Justice that are essential to reporting a substantial violation of law.

SEC. 821. No part of any funds appropriated in this or any other Act shall be used by an agency of the executive branch, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, and for the preparation, distribution or use of any kit, pamphlet, booklet, publication, radio, television or film presentation designed to support or defeat legislation pending before the Congress, except in presentation to the Congress itself.

SEC. 822. None of the funds appropriated by this or any other Act may be used by an agency to provide a Federal employee’s home address to any labor organization except when the employee has authorized such disclosure or when such disclosure has been ordered by a court of competent jurisdiction.

SEC. 823. None of the funds made available in this Act or any other Act may be used to provide any non-public information such as mailing or telephone lists to any person or any organization outside of the Federal Government without the approval of the Committees on Appropriations.

SEC. 824. No part of any appropriation contained in this or any other Act shall be used directly or indirectly, including by private contractor, for publicity or propaganda purposes within the United States not heretofor authorized by the Congress.

SEC. 825. (a) In this section the term “agency”—

(1) means an Executive agency as defined under section 105 of title 5, United States Code;

(2) includes a military department as defined under section 102 of such title, the Postal Service, and the Postal Rate Commission; and

(3) shall not include the Government Accountability Office.

(b) Unless authorized in accordance with law or regulations to use such time for other purposes, an employee of an agency

shall use official time in an honest effort to perform official duties. An employee not under a leave system, including a Presidential appointee exempted under section 6301(2) of title 5, United States Code, has an obligation to expend an honest effort and a reasonable proportion of such employee's time in the performance of official duties.

SEC. 826. Notwithstanding 31 U.S.C. 1346 and section 810 of this Act, funds made available for the current fiscal year by this or any other Act to any department or agency, which is a member of the Federal Accounting Standards Advisory Board (FASAB), shall be available to finance an appropriate share of FASAB administrative costs.

SEC. 827. Notwithstanding 31 U.S.C. 1346 and section 910 of this Act, the head of each Executive department and agency is hereby authorized to transfer to or reimburse "General Services Administration, Government-wide Policy" with the approval of the Director of the Office of Management and Budget, funds made available for the current fiscal year by this or any other Act, including rebates from charge card and other contracts: *Provided*, That these funds shall be administered by the Administrator of General Services to support Government-wide financial, information technology, procurement, and other management innovations, initiatives, and activities, as approved by the Director of the Office of Management and Budget, in consultation with the appropriate interagency groups designated by the Director (including the Chief Financial Officers Council and the Joint Financial Management Improvement Program for financial management initiatives, the Chief Information Officers Council for information technology initiatives, the Chief Human Capital Officers Council for human capital initiatives, and the Federal Acquisition Council for procurement initiatives). The total funds transferred or reimbursed shall not exceed \$10,000,000. Such transfers or reimbursements may only be made 15 days following notification of the Committees on Appropriations by the Director of the Office of Management and Budget.

Breastfeeding.

SEC. 828. Notwithstanding any other provision of law, a woman may breastfeed her child at any location in a Federal building or on Federal property, if the woman and her child are otherwise authorized to be present at the location.

Reports.
Deadline.

SEC. 829. Notwithstanding section 1346 of title 31, United States Code, or section 810 of this Act, funds made available for the current fiscal year by this or any other Act shall be available for the interagency funding of specific projects, workshops, studies, and similar efforts to carry out the purposes of the National Science and Technology Council (authorized by Executive Order No. 12881), which benefit multiple Federal departments, agencies, or entities: *Provided*, That the Office of Management and Budget shall provide a report describing the budget of and resources connected with the National Science and Technology Council to the Committees on Appropriations, the House Committee on Science, and the Senate Committee on Commerce, Science, and Transportation 90 days after enactment of this Act.

SEC. 830. Any request for proposals, solicitation, grant application, form, notification, press release, or other publications involving the distribution of Federal funds shall indicate the agency providing the funds, the Catalog of Federal Domestic Assistance Number,

as applicable, and the amount provided: *Provided*, That this provision shall apply to direct payments, formula funds, and grants received by a State receiving Federal funds.

Applicability.

SEC. 831. Subsection (f) of section 403 of Public Law 103–356 (31 U.S.C. 501 note), as amended, is further amended by striking “October 1, 2005” and inserting “October 1, 2006”: *Provided*, That this provision shall not apply to the Department of Homeland Security.

31 USC 501 note.

SEC. 832. (a) PROHIBITION OF FEDERAL AGENCY MONITORING OF INDIVIDUALS’ INTERNET USE.—None of the funds made available in this or any other Act may be used by any Federal agency—

(1) to collect, review, or create any aggregation of data, derived from any means, that includes any personally identifiable information relating to an individual’s access to or use of any Federal Government Internet site of the agency; or

(2) to enter into any agreement with a third party (including another government agency) to collect, review, or obtain any aggregation of data, derived from any means, that includes any personally identifiable information relating to an individual’s access to or use of any nongovernmental Internet site.

(b) EXCEPTIONS.—The limitations established in subsection (a) shall not apply to—

(1) any record of aggregate data that does not identify particular persons;

(2) any voluntary submission of personally identifiable information;

(3) any action taken for law enforcement, regulatory, or supervisory purposes, in accordance with applicable law; or

(4) any action described in subsection (a)(1) that is a system security action taken by the operator of an Internet site and is necessarily incident to providing the Internet site services or to protecting the rights or property of the provider of the Internet site.

(c) DEFINITIONS.—For the purposes of this section:

(1) The term “regulatory” means agency actions to implement, interpret or enforce authorities provided in law.

(2) The term “supervisory” means examinations of the agency’s supervised institutions, including assessing safety and soundness, overall financial condition, management practices and policies and compliance with applicable standards as provided in law.

SEC. 833. (a) None of the funds appropriated by this Act may be used to enter into or renew a contract which includes a provision providing prescription drug coverage, except where the contract also includes a provision for contraceptive coverage.

Contracts.
Prescription
drugs.

(b) Nothing in this section shall apply to a contract with—

(1) any of the following religious plans:

(A) Personal Care’s HMO; and

(B) OSF HealthPlans, Inc.; and

(2) any existing or future plan, if the carrier for the plan objects to such coverage on the basis of religious beliefs.

(c) In implementing this section, any plan that enters into or renews a contract under this section may not subject any individual to discrimination on the basis that the individual refuses to prescribe or otherwise provide for contraceptives because such

	activities would be contrary to the individual's religious beliefs or moral convictions.
Abortions.	(d) Nothing in this section shall be construed to require coverage of abortion or abortion-related services.
Sports. Drugs and drug abuse.	SEC. 834. The Congress of the United States recognizes the United States Anti-Doping Agency (USADA) as the official anti-doping agency for Olympic, Pan American, and Paralympic sport in the United States.
	SEC. 835. Notwithstanding any other provision of law, funds appropriated for official travel by Federal departments and agencies may be used by such departments and agencies, if consistent with Office of Management and Budget Circular A–126 regarding official travel for Government personnel, to participate in the fractional aircraft ownership pilot program.
	SEC. 836. Notwithstanding any other provision of law, none of the funds appropriated or made available under this Act or any other appropriations Act may be used to implement or enforce restrictions or limitations on the Coast Guard Congressional Fellowship Program, or to implement the proposed regulations of the Office of Personnel Management to add sections 300.311 through 300.316 to part 300 of title 5 of the Code of Federal Regulations, published in the Federal Register, volume 68, number 174, on September 9, 2003 (relating to the detail of executive branch employees to the legislative branch).
Deadline. Reports.	SEC. 837. (a) Not later than 180 days after the end of the fiscal year, the head of each Federal agency shall submit a report to Congress on the amount of the acquisitions made by the agency from entities that manufacture the articles, materials, or supplies outside of the United States in that fiscal year.
	(b) The report required by subsection (a) shall separately indicate—
	(1) the dollar value of any articles, materials, or supplies purchased that were manufactured outside of the United States;
	(2) an itemized list of all waivers granted with respect to such articles, materials, or supplies under the Buy American Act (41 U.S.C. 10a et seq.); and
	(3) a summary of the total procurement funds spent on goods manufactured in the United States versus funds spent on goods manufactured outside of the United States.
Public information.	(c) The head of each Federal agency submitting a report under subsection (a) shall make the report publicly available to the maximum extent practicable.
	(d) This section shall not apply to acquisitions made by an agency, or component thereof, that is an element of the intelligence community as set forth in or designated under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).
	SEC. 838. Notwithstanding any other provision of law, no executive branch agency shall purchase, construct, and/or lease any additional facilities, except within or contiguous to existing locations, to be used for the purpose of conducting Federal law enforcement training without the advance approval of the Committees on Appropriations, except that the Federal Law Enforcement Training Center is authorized to obtain the temporary use of additional facilities by lease, contract, or other agreement for training which cannot be accommodated in existing Center facilities.
	SEC. 839. Notwithstanding section 1346 of title 31, United States Code, and section 809 of this Act and any other provision

of law, the head of each appropriate executive department and agency shall transfer to or reimburse the Federal Aviation Administration, upon the direction of the Director of the Office of Management and Budget, funds made available by this or any other Act for the purposes described below, and shall submit budget requests for such purposes. These funds shall be administered by the Federal Aviation Administration, in consultation with the appropriate inter-agency groups designated by the Director and shall be used to ensure the uninterrupted, continuous operation of the Midway Atoll Airfield by the Federal Aviation Administration pursuant to an operational agreement with the Department of the Interior for the entirety of fiscal year 2006 and any period thereafter that precedes the enactment of the Transportation, Treasury, the Judiciary, Housing and Urban Development, and Related Agencies Appropriations Act, 2007. The Director of the Office of Management and Budget shall mandate the necessary transfers after determining an equitable allocation between the appropriate executive departments and agencies of the responsibility for funding the continuous operation of the Midway Atoll Airfield based on, but not limited to, potential use, interest in maintaining aviation safety, and applicability to governmental operations and agency mission. The total funds transferred or reimbursed shall not exceed \$6,000,000 for any twelve-month period. Such sums shall be sufficient to ensure continued operation of the airfield throughout the period cited above. Funds shall be available for operation of the airfield or airfield-related capital upgrades. The Director of the Office of Management and Budget shall notify the Committees on Appropriations of such transfers or reimbursements within 15 days of this Act. Such transfers or reimbursements shall begin within 30 days of enactment of this Act.

Midway Atoll
Airfield.
Contracts.

Notification.
Deadline.

Deadline.

SEC. 840. Section 4(b) of the Federal Activities Inventory Reform Act of 1998 (Public Law 105–270) is amended by adding at the end the following new paragraph:

31 USC 501 note.

“(5) Executive agencies with fewer than 100 full-time employees as of the first day of the fiscal year. However, such an agency shall be subject to section 2 to the extent it plans to conduct a public-private competition for the performance of an activity that is not inherently governmental.”.

SEC. 841. (a) No funds shall be available for transfers or reimbursements to the E-Government Initiatives sponsored by the Office of Management and Budget (OMB) prior to 15 days following submission of a report to the Committees on Appropriations by the Director of the Office of Management and Budget and receipt of approval to transfer funds by the House and Senate Committees on Appropriations.

Reports.

(b) The report in (a) shall detail—

(1) the amount proposed for transfer for any department and agency by program office, bureau, or activity, as appropriate;

(2) the specific use of funds;

(3) the relevance of that use to that department or agency and each bureau or office within, which is contributing funds; and

(4) a description on any such activities for which funds were appropriated that will not be implemented or partially implemented by the department or agency as a result of the transfer.

SEC. 842. (a) REQUIREMENT FOR PUBLIC-PRIVATE COMPETITION.—

(1) Notwithstanding any other provision of law, none of the funds appropriated by this or any other Act shall be available to convert to contractor performance an activity or function of an executive agency, that on or after the date of enactment of this Act, is performed by more than 10 Federal employees unless—

(A) the conversion is based on the result of a public-private competition that includes a most efficient and cost effective organization plan developed by such activity or function; and

(B) the Competitive Sourcing Official determines that, over all performance periods stated in the solicitation of offers for performance of the activity or function, the cost of performance of the activity or function by a contractor would be less costly to the executive agency by an amount that equals or exceeds the lesser of—

(i) 10 percent of the most efficient organization's personnel-related costs for performance of that activity or function by Federal employees; or

(ii) \$10,000,000.

(2) This paragraph shall not apply to—

(A) the Department of Defense;

(B) section 44920 of title 49, United States Code;

(C) a commercial or industrial type function that—

(i) is included on the procurement list established pursuant to section 2 of the Javits-Wagner-O'Day Act (41 U.S.C. 47); or

(ii) is planned to be converted to performance by a qualified nonprofit agency for the blind or by a qualified nonprofit agency for other severely handicapped individuals in accordance with that Act;

(D) depot contracts or contracts for depot maintenance as provided in sections 2469 and 2474 of title 10, United States Code; or

(E) activities that are the subject of an ongoing competition that was publicly announced prior to the date of enactment of this Act.

Contracts.
Procedures.

(b) USE OF PUBLIC-PRIVATE COMPETITION.—Nothing in Office of Management and Budget Circular A–76 shall prevent the head of an executive agency from conducting a public-private competition to evaluate the benefits of converting work from contract performance to performance by Federal employees in appropriate instances. The Circular shall provide procedures and policies for these competitions that are similar to those applied to competitions that may result in the conversion of work from performance by Federal employees to performance by a contractor.

Pay increase.
Effective date.
5 USC 5303 note.

SEC. 843. (a) The adjustment in rates of basic pay for employees under the statutory pay systems that takes effect in fiscal year 2006 under sections 5303 and 5304 of title 5, United States Code, shall be an increase of 3.1 percent, and this adjustment shall apply to civilian employees in the Department of Defense and the Department of Homeland Security and such adjustments shall be effective as of the first day of the first applicable pay period beginning on or after January 1, 2006.

(b) Notwithstanding section 813 of this Act, the adjustment in rates of basic pay for the statutory pay systems that take place in fiscal year 2006 under sections 5344 and 5348 of title 5, United States Code, shall be no less than the percentage in paragraph (a) as employees in the same location whose rates of basic pay are adjusted pursuant to the statutory pay systems under section 5303 and 5304 of title 5, United States Code. Prevailing rate employees at locations where there are no employees whose pay is increased pursuant to sections 5303 and 5304 of title 5 and prevailing rate employees described in section 5343(a)(5) of title 5 shall be considered to be located in the pay locality designated as “Rest of US” pursuant to section 5304 of title 5 for purposes of this paragraph.

(c) Funds used to carry out this section shall be paid from appropriations, which are made to each applicable department or agency for salaries and expenses for fiscal year 2006.

SEC. 844. Unless otherwise authorized by existing law, none of the funds provided in this Act or any other Act may be used by an executive branch agency to produce any prepackaged news story intended for broadcast or distribution in the United States, unless the story includes a clear notification within the text or audio of the prepackaged news story that the prepackaged news story was prepared or funded by that executive branch agency.

SEC. 845. None of the funds made available in this Act may be used in contravention of section 552a of title 5, United States Code (popularly known as the Privacy Act) or of section 552.224 of title 48 of the Code of Federal Regulations.

SEC. 846. Each executive department and agency shall evaluate the creditworthiness of an individual before issuing the individual a government travel charge card. The department or agency may not issue a government travel charge card to an individual that either lacks a credit history or is found to have an unsatisfactory credit history as a result of this evaluation: *Provided*, That this restriction shall not preclude issuance of a restricted-use charge, debit, or stored value card made in accordance with agency procedures to: (1) an individual with an unsatisfactory credit history where such card is used to pay travel expenses and the agency determines there is no suitable alternative payment mechanism available before issuing the card; or (2) an individual who lacks a credit history. Each executive department and agency shall establish guidelines and procedures for disciplinary actions to be taken against agency personnel for improper, fraudulent, or abusive use of government charge cards, which shall include appropriate disciplinary actions for use of charge cards for purposes, and at establishments, that are inconsistent with the official business of the Department or agency or with applicable standards of conduct.

5 USC 5701 note.

Guidelines.
Procedures.

SEC. 847. Except as expressly provided otherwise, any reference to “this Act” contained in this division shall be treated as referring only to the provisions of this division.

1 USC 1 note.

This division may be cited as the “Transportation, Treasury, Housing and Urban Development, the Judiciary, and Independent Agencies Appropriations Act, 2006”.

District of
Columbia
Appropriations
Act, 2006.

DIVISION B—DISTRICT OF COLUMBIA APPROPRIATIONS
ACT, 2006

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the District of Columbia and related agencies for the fiscal year ending September 30, 2006, and for other purposes, namely:

DISTRICT OF COLUMBIA

FEDERAL FUNDS

FEDERAL PAYMENT FOR RESIDENT TUITION SUPPORT

For a Federal payment to the District of Columbia, to be deposited into a dedicated account, for a nationwide program to be administered by the Mayor, for District of Columbia resident tuition support, \$33,200,000, to remain available until expended: *Provided*, That such funds, including any interest accrued thereon, may be used on behalf of eligible District of Columbia residents to pay an amount based upon the difference between in-State and out-of-State tuition at public institutions of higher education, or to pay up to \$2,500 each year at eligible private institutions of higher education: *Provided further*, That the awarding of such funds may be prioritized on the basis of a resident's academic merit, the income and need of eligible students and such other factors as may be authorized: *Provided further*, That the District of Columbia government shall maintain a dedicated account for the Resident Tuition Support Program that shall consist of the Federal funds appropriated to the Program in this Act and any subsequent appropriations, any unobligated balances from prior fiscal years, and any interest earned in this or any fiscal year: *Provided further*, That the account shall be under the control of the District of Columbia Chief Financial Officer, who shall use those funds solely for the purposes of carrying out the Resident Tuition Support Program: *Provided further*, That the Office of the Chief Financial Officer shall provide a quarterly financial report to the Committees on Appropriations of the House of Representatives and Senate for these funds showing, by object class, the expenditures made and the purpose therefor: *Provided further*, That not more than \$1,200,000 of the total amount appropriated for this program may be used for administrative expenses.

Reports.

FEDERAL PAYMENT FOR EMERGENCY PLANNING AND SECURITY COSTS
IN THE DISTRICT OF COLUMBIA

For necessary expenses, as determined by the Mayor of the District of Columbia in written consultation with the elected county or city officials of surrounding jurisdictions, \$13,500,000, to remain available until expended, to reimburse the District of Columbia for the costs of providing public safety at events related to the presence of the national capital in the District of Columbia and for the costs of providing support to respond to immediate and specific terrorist threats or attacks in the District of Columbia or surrounding jurisdictions: *Provided*, That any amount provided under this heading shall be available only after such amount has been apportioned pursuant to chapter 15 of title 31, United States Code.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA COURTS

For salaries and expenses for the District of Columbia Courts, \$218,912,000, to be allocated as follows: for the District of Columbia Court of Appeals, \$9,198,000, of which not to exceed \$1,500 is for official reception and representation expenses; for the District of Columbia Superior Court, \$87,342,000, of which not to exceed \$1,500 is for official reception and representation expenses; for the District of Columbia Court System, \$41,643,000, of which not to exceed \$1,500 is for official reception and representation expenses; and \$80,729,000, to remain available until September 30, 2007, for capital improvements for District of Columbia courthouse facilities: *Provided*, That notwithstanding any other provision of law, a single contract or related contracts for development and construction of facilities may be employed which collectively include the full scope of the project: *Provided further*, That the solicitation and contract shall contain the clause “availability of Funds” found at 48 CFR 52.232–18: *Provided further*, That funds made available for capital improvements shall be expended consistent with the General Services Administration master plan study and building evaluation report: *Provided further*, That notwithstanding any other provision of law, all amounts under this heading shall be apportioned quarterly by the Office of Management and Budget and obligated and expended in the same manner as funds appropriated for salaries and expenses of other Federal agencies, with payroll and financial services to be provided on a contractual basis with the General Services Administration (GSA), and such services shall include the preparation of monthly financial reports, copies of which shall be submitted directly by GSA to the President and to the Committees on Appropriations of the House of Representatives and Senate, the Committee on Government Reform of the House of Representatives, and the Committee on Governmental Affairs of the Senate: *Provided further*, That 30 days after providing written notice to the Committees on Appropriations of the House of Representatives and Senate, the District of Columbia Courts may reallocate not more than \$1,000,000 of the funds provided under this heading among the items and entities funded under this heading for operations, and not more than 4 percent of the funds provided under this heading for facilities.

Contracts.
Reports.

Deadline.
Notification.

DEFENDER SERVICES IN DISTRICT OF COLUMBIA COURTS

For payments authorized under section 11–2604 and section 11–2605, D.C. Official Code (relating to representation provided under the District of Columbia Criminal Justice Act), payments for counsel appointed in proceedings in the Family Court of the Superior Court of the District of Columbia under chapter 23 of title 16, D.C. Official Code, or pursuant to contractual agreements to provide guardian ad litem representation, training, technical assistance and such other services as are necessary to improve the quality of guardian ad litem representation, payments for counsel appointed in adoption proceedings under chapter 3 of title 16, D.C. Code, and payments for counsel authorized under section 21–2060, D.C. Official Code (relating to representation provided under the District of Columbia Guardianship, Protective Proceedings, and Durable Power of Attorney Act of 1986), \$44,000,000, to remain available until expended: *Provided*, That the funds provided in this Act under the heading “Federal Payment to the

Contracts.
Reports.

District of Columbia Courts” (other than the \$80,729,000 provided under such heading for capital improvements for District of Columbia courthouse facilities) may also be used for payments under this heading: *Provided further*, That in addition to the funds provided under this heading, the Joint Committee on Judicial Administration in the District of Columbia may use funds provided in this Act under the heading “Federal Payment to the District of Columbia Courts” (other than the \$80,729,000 provided under such heading for capital improvements for District of Columbia courthouse facilities), to make payments described under this heading for obligations incurred during any fiscal year: *Provided further*, That funds provided under this heading shall be administered by the Joint Committee on Judicial Administration in the District of Columbia: *Provided further*, That notwithstanding any other provision of law, this appropriation shall be apportioned quarterly by the Office of Management and Budget and obligated and expended in the same manner as funds appropriated for expenses of other Federal agencies, with payroll and financial services to be provided on a contractual basis with the General Services Administration (GSA), and such services shall include the preparation of monthly financial reports, copies of which shall be submitted directly by GSA to the President and to the Committees on Appropriations of the House of Representatives and Senate, the Committee on Government Reform of the House of Representatives, and the Committee on Governmental Affairs of the Senate.

FEDERAL PAYMENT TO THE COURT SERVICES AND OFFENDER
SUPERVISION AGENCY FOR THE DISTRICT OF COLUMBIA

(INCLUDING TRANSFER OF FUNDS)

Records.
Public
information.

For salaries and expenses, including the transfer and hire of motor vehicles, of the Court Services and Offender Supervision Agency for the District of Columbia and the Public Defender Service for the District of Columbia, as authorized by the National Capital Revitalization and Self-Government Improvement Act of 1997, \$201,388,000, of which not to exceed \$2,000 is for official receptions and representation expenses related to Community Supervision and Pretrial Services Agency programs; of which not to exceed \$25,000 is for dues and assessments relating to the implementation of the Court Services and Offender Supervision Agency Interstate Supervision Act of 2002; of which \$129,360,000 shall be for necessary expenses of Community Supervision and Sex Offender Registration, to include expenses relating to the supervision of adults subject to protection orders or the provision of services for or related to such persons; of which \$42,195,000 shall be available to the Pretrial Services Agency; and of which \$29,833,000 shall be transferred to the Public Defender Service for the District of Columbia: *Provided*, That notwithstanding any other provision of law, all amounts under this heading shall be apportioned quarterly by the Office of Management and Budget and obligated and expended in the same manner as funds appropriated for salaries and expenses of other Federal agencies: *Provided further*, That the Director is authorized to accept and use gifts in the form of in-kind contributions of space and hospitality to support offender and defendant programs, and equipment and vocational training services to educate and train offenders and defendants: *Provided further*, That

the Director shall keep accurate and detailed records of the acceptance and use of any gift or donation under the previous proviso, and shall make such records available for audit and public inspection: *Provided further*, That the Court Services and Offender Supervision Agency Director is authorized to accept and use reimbursement from the D.C. Government for space and services provided on a cost reimbursable basis: *Provided further*, That for this fiscal year and subsequent fiscal years, the Public Defender Service is authorized to charge fees to cover costs of materials distributed and training provided to attendees of educational events, including conferences, sponsored by the Public Defender Service, and notwithstanding section 3302 of title 31, United States Code, said fees shall be credited to the Public Defender Service account to be available for use without further appropriation.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA WATER AND
SEWER AUTHORITY

For a Federal payment to the District of Columbia Water and Sewer Authority, \$7,000,000, to remain available until expended, to continue implementation of the Combined Sewer Overflow Long-Term Plan: *Provided*, That the District of Columbia Water and Sewer Authority provides a 100 percent match for this payment.

FEDERAL PAYMENT FOR THE ANACOSTIA WATERFRONT INITIATIVE

For a Federal payment to the District of Columbia Department of Transportation, \$3,000,000, to remain available until September 30, 2007, for design and construction of a continuous pedestrian and bicycle trail system from the Potomac River to the District's border with Maryland.

FEDERAL PAYMENT TO THE CRIMINAL JUSTICE COORDINATING
COUNCIL

For a Federal payment to the Criminal Justice Coordinating Council, \$1,300,000, to remain available until expended, to support initiatives related to the coordination of Federal and local criminal justice resources in the District of Columbia.

FEDERAL PAYMENT FOR TRANSPORTATION ASSISTANCE

For a Federal payment to the District of Columbia Department of Transportation, \$1,000,000, to operate a downtown circulator transit system.

FEDERAL PAYMENT FOR FOSTER CARE IMPROVEMENTS IN THE
DISTRICT OF COLUMBIA

For the Federal payment to the District of Columbia for foster care improvements, \$2,000,000 to remain available until expended: *Provided*, That \$1,750,000 shall be for the Child and Family Services Agency, of which \$1,000,000 shall be for a loan repayment program for social workers; of which \$750,000 shall be for post-adoption services: *Provided further*, That \$250,000 shall be for the Washington Metropolitan Council of Governments, to continue a program in conjunction with the Foster and Adoptive Parents Advocacy Center, to provide respite care for and recruitment of foster parents: *Provided further*, That these Federal funds shall

supplement and not supplant local funds for the purposes described under this heading.

FEDERAL PAYMENT TO THE OFFICE OF THE CHIEF FINANCIAL OFFICER
OF THE DISTRICT OF COLUMBIA

Reports.
Deadlines.

For a Federal payment to the Office of the Chief Financial Officer of the District of Columbia, \$29,200,000: *Provided*, That these funds shall be available for the projects and in the amounts specified in the Statement of the Managers on the conference report accompanying this Act: *Provided further*, That each entity that receives funding under this heading shall submit to the Office of the Chief Financial Officer of the District of Columbia (CFO) a report on the activities to be carried out with such funds no later than March 15, 2006, and the CFO shall submit a comprehensive report to the Committees on Appropriations of the House of Representatives and the Senate no later than June 1, 2006.

FEDERAL PAYMENT FOR SCHOOL IMPROVEMENT

For a Federal payment for a school improvement program in the District of Columbia, \$40,000,000, to be allocated as follows: for the District of Columbia Public Schools, \$13,000,000 to improve public school education in the District of Columbia; for the State Education Office, \$13,000,000 to expand quality public charter schools in the District of Columbia, to remain available until September 30, 2007; for the Secretary of the Department of Education, \$14,000,000 to provide opportunity scholarships for students in the District of Columbia in accordance with division C, title III of the District of Columbia Appropriations Act, 2004 (Public Law 108–199; 118 Stat. 126), of which up to \$1,000,000 may be used to administer and fund assessments.

FEDERAL PAYMENT FOR BIOTERRORISM AND FORENSICS LABORATORY

For a Federal payment to the District of Columbia, \$5,000,000, to remain available until September 30, 2007, for costs associated with the construction of a bioterrorism and forensics laboratory: *Provided*, That the District of Columbia shall provide an additional \$1,500,000 with local funds as a condition of receiving this payment.

FEDERAL PAYMENT FOR THE NATIONAL GUARD YOUTH CHALLENGE
PROGRAM

For a Federal payment for the District of Columbia National Guard Youth Challenge program, \$500,000: *Provided*, That the amount appropriated by this heading shall be transferred to the Secretary of Defense and made available to the Commanding General of the District of Columbia National Guard for activities under the National Guard Youth Challenge Program under section 509 of title 32, United States Code, and shall be in addition to any matching funds otherwise required of the District of Columbia for that Program in fiscal year 2006 under subsection (d)(4) of such section.

FEDERAL PAYMENT FOR MARRIAGE DEVELOPMENT AND IMPROVEMENT

For a Federal payment for marriage development and improvement in the District of Columbia, \$3,000,000, to remain available

until expended: *Provided*, That \$1,500,000 shall be for the Capital Area Asset Building Corporation for the establishment of marriage development accounts in accordance with the requirements in the accompanying report, of which \$400,000 shall be for program planning, marketing, evaluation, and account administration: *Provided further*, That \$1,500,000 shall be for mentoring, counseling, community outreach, and training and technical assistance, of which \$850,000 shall be for the National Center for Fathering and \$650,000 shall be for the East Capitol Center for Change to carry out these activities: *Provided further*, That within 30 days of enactment of this Act, the entities receiving funds under this title shall submit to the Committees on Appropriations of the House and Senate, a detailed expenditure plan and program requirements that comport with the guidance in the accompanying report.

Deadline.
Reports.

DISTRICT OF COLUMBIA FUNDS

The following amounts are appropriated for the District of Columbia for the current fiscal year out of the general fund of the District of Columbia, except as otherwise specifically provided: *Provided*, That notwithstanding any other provision of law, except as provided in section 450A of the District of Columbia Home Rule Act (D.C. Official Code, section 1–204.50a) and provisions of this Act, the total amount appropriated in this Act for operating expenses for the District of Columbia for fiscal year 2006 under this heading shall not exceed the lesser of the sum of the total revenues of the District of Columbia for such fiscal year or \$8,700,158,000 (of which \$5,007,344,000 shall be from local funds, \$1,921,287,000 shall be from Federal grant funds, \$1,754,399,000 shall be from other funds, and \$17,129,000 shall be from private funds), in addition, \$163,116,000 from funds previously appropriated in this Act as Federal payments: *Provided further*, That of the local funds, \$466,894,000 shall be derived from the District's general fund balance: *Provided further*, That of these funds the District's intradistrict authority shall be \$468,486,000: in addition for capital construction projects there is appropriated an increase of \$2,820,637,000, of which \$1,072,671,000 shall be from local funds, \$49,551,000 from Highway Trust funds, \$172,183,000 from the Local Street Maintenance fund, \$378,000,000 from securitization of future revenue streams, \$400,000,000 from Certificates of Participation financing, \$534,800,000 from financing for construction of a baseball stadium, \$213,432,000 from Federal grant funds, and a rescission of \$295,032,000 from local funds appropriated under this heading in prior fiscal years, for a net amount of \$2,525,605,000, to remain available until expended: *Provided further*, That the amounts provided under this heading are to be allocated and expended as proposed under "Title II—District of Columbia Funds" of the Fiscal Year 2006 Proposed Budget and Financial Plan submitted to the Congress of the United States by the District of Columbia on June 6, 2005: *Provided further*, That this amount may be increased by proceeds of one-time transactions, which are expended for emergency or unanticipated operating or capital needs: *Provided further*, That such increases shall be approved by enactment of local District law and shall comply with all reserve requirements contained in the District of Columbia Home Rule Act as amended by this Act: *Provided further*, That the Chief Financial Officer of the District of Columbia shall take such steps as are necessary to assure that

the District of Columbia meets these requirements, including the apportioning by the Chief Financial Officer of the appropriations and funds made available to the District during fiscal year 2006, except that the Chief Financial Officer may not reprogram for operating expenses any funds derived from bonds, notes, or other obligations issued for capital projects.

GENERAL PROVISIONS

SEC. 101. Whenever in this Act, an amount is specified within an appropriation for particular purposes or objects of expenditure, such amount, unless otherwise specified, shall be considered as the maximum amount that may be expended for said purpose or object rather than an amount set apart exclusively therefor.

SEC. 102. Appropriations in this Act shall be available for expenses of travel and for the payment of dues of organizations concerned with the work of the District of Columbia government, when authorized by the Mayor, or, in the case of the Council of the District of Columbia, funds may be expended with the authorization of the Chairman of the Council.

SEC. 103. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making refunds and for the payment of legal settlements or judgments that have been entered against the District of Columbia government.

SEC. 104. (a) Except as provided in subsection (b), no part of this appropriation shall be used for publicity or propaganda purposes or implementation of any policy including boycott designed to support or defeat legislation pending before Congress or any State legislature.

(b) The District of Columbia may use local funds provided in this title to carry out lobbying activities on any matter other than—

(1) the promotion or support of any boycott; or

(2) statehood for the District of Columbia or voting representation in Congress for the District of Columbia.

(c) Nothing in this section may be construed to prohibit any elected official from advocating with respect to any of the issues referred to in subsection (b).

SEC. 105. (a) None of the funds provided under this title to the agencies funded by this title, both Federal and District government agencies, that remain available for obligation or expenditure in fiscal year 2006, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this title, shall be available for obligation or expenditures for an agency through a reprogramming of funds which—

(1) creates new programs;

(2) eliminates a program, project, or responsibility center;

(3) establishes or changes allocations specifically denied, limited or increased under this Act;

(4) increases funds or personnel by any means for any program, project, or responsibility center for which funds have been denied or restricted;

(5) reestablishes any program or project previously deferred through reprogramming;

Statehood.

(6) augments any existing program, project, or responsibility center through a reprogramming of funds in excess of \$3,000,000 or 10 percent, whichever is less; or

(7) increases by 20 percent or more personnel assigned to a specific program, project or responsibility center, unless the Committees on Appropriations of the House of Representatives and Senate are notified in writing 15 days in advance of the reprogramming.

Notification.
Deadline.

(b) None the local funds contained in this Act may be available for obligation or expenditure for an agency through a transfer of any local funds in excess of \$3,000,000 from one appropriation heading to another unless the Committees on Appropriations of the House of Representatives and Senate are notified in writing 15 days in advance of the transfer, except that in no event may the amount of any funds transferred exceed 4 percent of the local funds in the appropriations.

SEC. 106. Consistent with the provisions of section 1301(a) of title 31, United States Code, appropriations under this Act shall be applied only to the objects for which the appropriations were made except as otherwise provided by law.

Applicability.

SEC. 107. Notwithstanding any other provisions of law, the provisions of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (D.C. Law 2–139; D.C. Official Code, section 1–601.01 et seq.), enacted pursuant to section 422(3) of the District of Columbia Home Rule Act (D.C. Official Code, section 1–2041.22(3)), shall apply with respect to the compensation of District of Columbia employees. For pay purposes, employees of the District of Columbia government shall not be subject to the provisions of title 5, United States Code.

Applicability.

SEC. 108. No later than 30 days after the end of the first quarter of fiscal year 2006, the Mayor of the District of Columbia shall submit to the Council of the District of Columbia and the Committees on Appropriations of the House of Representatives and Senate the new fiscal year 2006 revenue estimates as of the end of such quarter. These estimates shall be used in the budget request for fiscal year 2007. The officially revised estimates at midyear shall be used for the midyear report.

Deadline.
Estimates.

SEC. 109. No sole source contract with the District of Columbia government or any agency thereof may be renewed or extended without opening that contract to the competitive bidding process as set forth in section 303 of the District of Columbia Procurement Practices Act of 1985 (D.C. Law 6–85; D.C. Official Code, section 2–303.03), except that the District of Columbia government or any agency thereof may renew or extend sole source contracts for which competition is not feasible or practical, but only if the determination as to whether to invoke the competitive bidding process has been made in accordance with duly promulgated rules and procedures and has been reviewed and certified by the Chief Financial Officer of the District of Columbia.

Contracts.
Certification.

SEC. 110. None of the Federal funds provided in this Act may be used by the District of Columbia to provide for salaries, expenses, or other costs associated with the offices of United States Senator or United States Representative under section 4(d) of the District of Columbia Statehood Constitutional Convention Initiatives of 1979 (D.C. Law 3–171; D.C. Official Code, section 1–123).

SEC. 111. None of the Federal funds made available in this Act may be used to implement or enforce the Health Care Benefits

Expansion Act of 1992 (D.C. Law 9–114; D.C. Official Code, section 32–701 et seq.) or to otherwise implement or enforce any system of registration of unmarried, cohabiting couples, including but not limited to registration for the purpose of extending employment, health, or governmental benefits to such couples on the same basis that such benefits are extended to legally married couples.

SEC. 112. (a) Notwithstanding any other provision of this Act, the Mayor, in consultation with the Chief Financial Officer of the District of Columbia may accept, obligate, and expend Federal, private, and other grants received by the District government that are not reflected in the amounts appropriated in this Act.

(b)(1) No such Federal, private, or other grant may be obligated, or expended pursuant to subsection (a) until—

Reports.

(A) the Chief Financial Officer of the District of Columbia submits to the Council a report setting forth detailed information regarding such grant; and

(B) the Council has reviewed and approved the obligation, and expenditure of such grant.

Notices.
Deadlines.

(2) For purposes of paragraph (1)(B), the Council shall be deemed to have reviewed and approved the obligation, and expenditure of a grant if—

(A) no written notice of disapproval is filed with the Secretary of the Council within 14 calendar days of the receipt of the report from the Chief Financial Officer under paragraph (1)(A); or

(B) if such a notice of disapproval is filed within such deadline, the Council does not by resolution disapprove the obligation, or expenditure of the grant within 30 calendar days of the initial receipt of the report from the Chief Financial Officer under paragraph (1)(A).

(c) No amount may be obligated or expended from the general fund or other funds of the District of Columbia government in anticipation of the approval or receipt of a grant under subsection (b)(2) or in anticipation of the approval or receipt of a Federal, private, or other grant not subject to such subsection.

(d) The Chief Financial Officer of the District of Columbia may adjust the budget for Federal, private, and other grants received by the District government reflected in the amounts appropriated in this title, or approved and received under subsection (b)(2) to reflect a change in the actual amount of the grant.

Reports.

Deadline.

(e) The Chief Financial Officer of the District of Columbia shall prepare a quarterly report setting forth detailed information regarding all Federal, private, and other grants subject to this section. Each such report shall be submitted to the Council of the District of Columbia and to the Committees on Appropriations of the House of Representatives and Senate not later than 15 days after the end of the quarter covered by the report.

SEC. 113. (a) Except as otherwise provided in this section, none of the funds made available by this Act or by any other Act may be used to provide any officer or employee of the District of Columbia with an official vehicle unless the officer or employee uses the vehicle only in the performance of the officer's or employee's official duties. For purposes of this paragraph, the term "official duties" does not include travel between the officer's or employee's residence and workplace, except in the case of—

(1) an officer or employee of the Metropolitan Police Department who resides in the District of Columbia or is otherwise designated by the Chief of the Department;

(2) at the discretion of the Fire Chief, an officer or employee of the District of Columbia Fire and Emergency Medical Services Department who resides in the District of Columbia and is on call 24 hours a day or is otherwise designated by the Fire Chief;

(3) the Mayor of the District of Columbia; and

(4) the Chairman of the Council of the District of Columbia.

(b) The Chief Financial Officer of the District of Columbia shall submit by March 1, 2006, an inventory, as of September 30, 2005, of all vehicles owned, leased or operated by the District of Columbia government. The inventory shall include, but not be limited to, the department to which the vehicle is assigned; the year and make of the vehicle; the acquisition date and cost; the general condition of the vehicle; annual operating and maintenance costs; current mileage; and whether the vehicle is allowed to be taken home by a District officer or employee and if so, the officer or employee's title and resident location.

Deadline.
Records.

SEC. 114. None of the funds contained in this Act may be used for purposes of the annual independent audit of the District of Columbia government for fiscal year 2006 unless—

Audits.

(1) the audit is conducted by the Inspector General of the District of Columbia, in coordination with the Chief Financial Officer of the District of Columbia, pursuant to section 208(a)(4) of the District of Columbia Procurement Practices Act of 1985 (D.C. Official Code, section 2–302.8); and

(2) the audit includes as a basic financial statement a comparison of audited actual year-end results with the revenues submitted in the budget document for such year and the appropriations enacted into law for such year using the format, terminology, and classifications contained in the law making the appropriations for the year and its legislative history.

SEC. 115. (a) None of the funds contained in this Act may be used by the District of Columbia Corporation Counsel or any other officer or entity of the District government to provide assistance for any petition drive or civil action which seeks to require Congress to provide for voting representation in Congress for the District of Columbia.

Voting rights.

(b) Nothing in this section bars the District of Columbia Corporation Counsel from reviewing or commenting on briefs in private lawsuits, or from consulting with officials of the District government regarding such lawsuits.

SEC. 116. (a) None of the funds contained in this Act may be used for any program of distributing sterile needles or syringes for the hypodermic injection of any illegal drug.

Hypodermic
needle exchange.

(b) Any individual or entity who receives any funds contained in this Act and who carries out any program described in subsection (a) shall account for all funds used for such program separately from any funds contained in this Act.

SEC. 117. None of the funds contained in this Act may be used after the expiration of the 60-day period that begins on the date of the enactment of this Act to pay the salary of any chief financial officer of any office of the District of Columbia government (including any independent agency of the District of Columbia) who has not filed a certification with the Mayor and the Chief

Expiration date.

Deadlines. Records.	Financial Officer of the District of Columbia that the officer understands the duties and restrictions applicable to the officer and the officer's agency as a result of this Act (and the amendments made by this Act), including any duty to prepare a report requested either in the Act or in any of the reports accompanying the Act and the deadline by which each report must be submitted: <i>Provided</i> , That the Chief Financial Officer of the District of Columbia shall provide to the Committees on Appropriations of the House of Representatives and Senate by April 1, 2006 and October 1, 2006, a summary list showing each report, the due date, and the date submitted to the Committees.
Contraceptives.	SEC. 118. Nothing in this Act may be construed to prevent the Council or Mayor of the District of Columbia from addressing the issue of the provision of contraceptive coverage by health insurance plans, but it is the intent of Congress that any legislation enacted on such issue should include a "conscience clause" which provides exceptions for religious beliefs and moral convictions.
Reports.	SEC. 119. The Mayor of the District of Columbia shall submit to the Committees on Appropriations of the House of Representatives and Senate, the Committee on Government Reform of the House of Representatives, and the Committee on Governmental Affairs of the Senate quarterly reports addressing— (1) crime, including the homicide rate, implementation of community policing, the number of police officers on local beats, and the closing down of open-air drug markets; (2) access to substance and alcohol abuse treatment, including the number of treatment slots, the number of people served, the number of people on waiting lists, and the effectiveness of treatment programs; (3) management of parolees and pre-trial violent offenders, including the number of halfway houses escapes and steps taken to improve monitoring and supervision of halfway house residents to reduce the number of escapes to be provided in consultation with the Court Services and Offender Supervision Agency for the District of Columbia; (4) education, including access to special education services and student achievement to be provided in consultation with the District of Columbia Public Schools and the District of Columbia public charter schools; (5) improvement in basic District services, including rat control and abatement; (6) application for and management of Federal grants, including the number and type of grants for which the District was eligible but failed to apply and the number and type of grants awarded to the District but for which the District failed to spend the amounts received; and (7) indicators of child well-being.
Deadline.	SEC. 120. (a) No later than 30 calendar days after the date of the enactment of this Act, the Chief Financial Officer of the District of Columbia shall submit to the appropriate committees of Congress, the Mayor, and the Council of the District of Columbia a revised appropriated funds operating budget in the format of the budget that the District of Columbia government submitted pursuant to section 442 of the District of Columbia Home Rule Act (D.C. Official Code, section 1-204.42), for all agencies of the District of Columbia government for fiscal year 2006 that is in the total amount of the approved appropriation and that realigns

all budgeted data for personal services and other-than-personal-services, respectively, with anticipated actual expenditures.

(b) This section shall apply only to an agency where the Chief Financial Officer of the District of Columbia certifies that a reallocation is required to address unanticipated changes in program requirements.

Applicability.
Certification.

SEC. 121. Notwithstanding any other law, in fiscal year 2006 and in each subsequent fiscal year, the District of Columbia Courts shall transfer to the general treasury of the District of Columbia all fines levied and collected by the Courts under section 10(b)(1) and (2) of the District of Columbia Traffic Act (D.C. Official Code, section 50–2201.05(b)(1) and (2)): *Provided*, that the transferred funds are hereby made available and shall remain available until expended and shall be used by the Office of the Attorney General of the District of Columbia for enforcement and prosecution of District traffic alcohol laws in accordance with section 10(b)(3) of the District of Columbia Traffic Act (D.C. Official Code, section 50–2201.05(b)(3)).

SEC. 122. (a) None of the funds contained in this Act may be made available to pay—

(1) the fees of an attorney who represents a party in an action or an attorney who defends an action brought against the District of Columbia Public Schools under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) in excess of \$4,000 for that action; or

(2) the fees of an attorney or firm whom the Chief Financial Officer of the District of Columbia determines to have a pecuniary interest, either through an attorney, officer, or employee of the firm, in any special education diagnostic services, schools, or other special education service providers.

(b) In this section, the term “action” includes an administrative proceeding and any ensuing or related proceedings before a court of competent jurisdiction.

SEC. 123. The Chief Financial Officer of the District of Columbia shall require attorneys in special education cases brought under the Individuals with Disabilities Education Act (IDEA) in the District of Columbia to certify in writing that the attorney or representative rendered any and all services for which they receive awards, including those received under a settlement agreement or as part of an administrative proceeding, under the IDEA from the District of Columbia. As part of the certification, the Chief Financial Officer of the District of Columbia shall require all attorneys in IDEA cases to disclose any financial, corporate, legal, memberships on boards of directors, or other relationships with any special education diagnostic services, schools, or other special education service providers to which the attorneys have referred any clients as part of this certification. The Chief Financial Officer shall prepare and submit quarterly reports to the Committees on Appropriations of the House of Representatives and Senate on the certification of and the amount paid by the government of the District of Columbia, including the District of Columbia Public Schools, to attorneys in cases brought under IDEA. The Inspector General of the District of Columbia may conduct investigations to determine the accuracy of the certifications.

Certification.

Reports.

SEC. 124. The amount appropriated by this Act may be increased by no more than \$42,000,000 from funds identified in the comprehensive annual financial report as the District’s fiscal

year 2005 unexpended general fund surplus. The District may obligate and expend these amounts only in accordance with the following conditions:

Certification.

(1) The Chief Financial Officer of the District of Columbia shall certify that the use of any such amounts is not anticipated to have a negative impact on the District's long-term financial, fiscal, and economic vitality.

(2) The District of Columbia may only use these funds for the following expenditures:

(A) One-time expenditures.

(B) Expenditures to avoid deficit spending.

(C) Debt Reduction.

(D) Program needs.

(E) Expenditures to avoid revenue shortfalls.

(3) The amounts shall be obligated and expended in accordance with laws enacted by the Council in support of each such obligation or expenditure.

(4) The amounts may not be used to fund the agencies of the District of Columbia government under court ordered receivership.

Notification.
Deadline.

(5) The amounts may not be obligated or expended unless the Mayor notifies the Committees on Appropriations of the House of Representatives and Senate not fewer than 30 days in advance of the obligation or expenditure.

SEC. 125. (a) The fourth proviso in the item relating to "Federal Payment for School Improvement" in the District of Columbia Appropriations Act, 2005 (Public Law 108–335; 118 Stat. 1327) is amended—

(1) by striking "\$4,000,000" and inserting "\$4,000,000, to remain available until expended,"; and

(2) by striking "\$2,000,000 shall be for a new incentive fund" and inserting "\$2,000,000, to remain available until expended, shall be for a new incentive fund".

Effective date.

(b) The amendments made by subsection (a) shall take effect as if included in the enactment of the District of Columbia Appropriations Act, 2005.

SEC. 126. (a) To account for an unanticipated growth of revenue collections, the amount appropriated as District of Columbia Funds pursuant to this Act may be increased—

(1) by an aggregate amount of not more than 25 percent, in the case of amounts proposed to be allocated as "Other-Type Funds" in the Fiscal Year 2006 Proposed Budget and Financial Plan submitted to Congress by the District of Columbia on June 6, 2005; and

(2) by an aggregate amount of not more than 6 percent, in the case of any other amounts proposed to be allocated in such Proposed Budget and Financial Plan.

(b) The District of Columbia may obligate and expend any increase in the amount of funds authorized under this section only in accordance with the following conditions:

Certification.

(1) The Chief Financial Officer of the District of Columbia shall certify—

(A) the increase in revenue; and

(B) that the use of the amounts is not anticipated to have a negative impact on the long-term financial, fiscal, or economic health of the District.

(2) The amounts shall be obligated and expended in accordance with laws enacted by the Council of the District of Columbia in support of each such obligation and expenditure, consistent with the requirements of this Act.

(3) The amounts may not be used to fund any agencies of the District government operating under court-ordered receivership.

(4) The amounts may not be obligated or expended unless the Mayor has notified the Committees on Appropriations of the House of Representatives and Senate not fewer than 30 days in advance of the obligation or expenditure.

Notification.
Deadline.

SEC. 127. The Chief Financial Officer for the District of Columbia may, for the purpose of cash flow management, conduct short-term borrowing from the emergency reserve fund and from the contingency reserve fund established under section 450A of the District of Columbia Home Rule Act (Public Law 98–198): *Provided*, That the amount borrowed shall not exceed 50 percent of the total amount of funds contained in both the emergency and contingency reserve funds at the time of borrowing; *Provided further*, That the borrowing shall not deplete either fund by more than 50 percent; *Provided further*, That 100 percent of the funds borrowed shall be replenished within 9 months of the time of the borrowing or by the end of the fiscal year, whichever occurs earlier; *Provided further*, That in the event that short-term borrowing has been conducted and the emergency or the contingency funds are later depleted below 50 percent as a result of an emergency or contingency, an amount equal to the amount necessary to restore reserve levels to 50 percent of the total amount of funds contained in both the emergency and contingency reserve fund must be replenished from the amount borrowed within 60 days.

SEC. 128. (a) None of the funds contained in this Act may be used to enact or carry out any law, rule, or regulation to legalize or otherwise reduce penalties associated with the possession, use, or distribution of any schedule I substance under the Controlled Substances Act (21 U.S.C. 802) or any tetrahydrocannabinols derivative.

Drugs and drug
abuse.

(b) The Legalization of Marijuana for Medical Treatment Initiative of 1998, also known as Initiative 59, approved by the electors of the District of Columbia on November 3, 1998, shall not take effect.

Marijuana.

SEC. 129. None of the funds appropriated under this Act shall be expended for any abortion except where the life of the mother would be endangered if the fetus were carried to term or where the pregnancy is the result of an act of rape or incest.

Abortions.

SEC. 130. Section 7 of the District of Columbia Stadium Act of 1957 (Public Law 85–300, 71 Stat. 619), as amended, is further amended by inserting after paragraph (d)(4) the following:

“(e)(1) Upon receipt of a written description from the District of Columbia of not more than 15 contiguous acres (hereinafter referred to as ‘the 15 acres’), within the area designated ‘D’ on the revised map entitled ‘Map to Designate Transfer of Stadium and Lease of Parking Lots to the District’ and bound by 21st Street, NE, Oklahoma Avenue, NE, Benning Road, NE, the Metro line, and C Street, NE, and execution of a long-term lease by the Mayor of the District of Columbia that is contingent upon the Secretary’s conveyance of the 15 acres and for the purpose consistent with this paragraph, the Secretary shall convey the 15

acres described land to the District of Columbia for the purpose of siting, developing, and operating an educational institution for the public welfare, with first preference given to a pre-collegiate public boarding school.

“(2) Upon conveyance, the portion of the stadium lease that affects the 15 acres on the property and all the conditions associated therewith shall terminate, and the 15 acres property shall be removed from the ‘Map to Designate Transfer of Stadium and Lease of Parking Lots to the District’, and the long-term lease described in paragraph (1) shall take effect immediately. The Mayor of the District of Columbia shall execute and deliver a quitclaim deed to effectuate the District’s responsibilities under this section.”.

Termination
date.

SEC. 131. The authority that the Chief Financial Officer of the District of Columbia exercised with respect to personnel and the preparation of fiscal impact statements during a control period (as defined in Public Law 104-8) shall remain in effect until September 30, 2006.

Contracts.

SEC. 132. The entire process used by the Chief Financial Officer to acquire any and all kinds of goods, works and services by any contractual means, including but not limited to purchase, lease or rental, shall be exempt from all of the provisions of the District of Columbia’s Procurement Practices Act: *Provided*, That provisions made by this subsection shall take effect as if enacted in D.C. Law 11-259 and shall remain in effect until September 30, 2006.

Effective date.
Termination
date.

Enactment.

SEC. 133. Section 4013 of the Uniform Per Student Funding Formula for Public Schools and Public Charter Schools Amendment Act of 2005, passed on first reading on May 10, 2005 (engrossed version of Bill 16-200), is hereby enacted into law.

SEC. 134. The Chief Financial Officer of the District is hereby authorized to transfer \$5,000,000 from the local funds appropriated for the Deputy Mayor for Economic Development to the Anacostia Waterfront Corporation and to reallocate the appropriation authority for such funds to a heading to be entitled “Anacostia Waterfront Corporation” in addition, an amount of \$3,200,000 is hereby appropriated from the local funds made available to the Anacostia Waterfront Corporation in fiscal year 2005. *Provided*, That all of the funds made available herein to the Anacostia Waterfront Corporation shall remain available until expended.

SEC. 135. Amounts appropriated in the Act for the Department of Health may be increased by \$250,000 in local funds to remain available until expended to conduct a health study in Spring Valley.

Effective date.

SEC. 136. Notwithstanding section 602(c)(1) of the District of Columbia Home Rule Act, amendments to the Ballpark Technical Amendments Act of 2005 and the Ballpark Fee Rebate Act of 2005 shall take effect on the date of the enactment by the District of Columbia.

SEC. 137. Except as expressly provided otherwise, any reference to “this Act” contained in this division shall be treated as referring only to the provisions of this division.

This division may be cited as the “District of Columbia Appropriations Act, 2006”.

This Act (including divisions A and B) may be cited as the “Transportation, Treasury, Housing and Urban Development, the Judiciary, the District of Columbia, and Independent Agencies Appropriations Act, 2006”.

Approved November 30, 2005.

LEGISLATIVE HISTORY—H.R. 3058 (S. 1446):

HOUSE REPORTS: Nos. 109–153 (Comm. on Appropriations) and 109–307 (Comm. of Conference).

SENATE REPORTS: Nos. 109–106 accompanying S. 1446 and 109–109 (both from Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 151 (2005):

June 29, 30, considered and passed House.

Oct. 17–20, considered and passed Senate, amended.

Nov. 18, House agreed to conference report.

Nov. 21, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 41 (2005):

Nov. 30, Presidential statement.



Public Law 109–116
109th Congress

An Act

Dec. 1, 2005
[H.R. 4145]

To direct the Joint Committee on the Library to obtain a statue of Rosa Parks and to place the statue in the United States Capitol in National Statuary Hall, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

2 USC 2131a
note.

SECTION 1. PLACEMENT OF STATUE OF ROSA PARKS IN NATIONAL STATUARY HALL.

Deadline.

(a) **OBTAINING STATUE.**—Not later than 2 years after the date of the enactment of this Act, the Joint Committee on the Library shall enter into an agreement to obtain a statue of Rosa Parks, under such terms and conditions as the Joint Committee considers appropriate consistent with applicable law.

(b) **PLACEMENT.**—The Joint Committee shall place the statue obtained under subsection (a) in the United States Capitol in a suitable permanent location in National Statuary Hall.

2 USC 2131a.

SEC. 2. ELIGIBILITY FOR PLACEMENT OF STATUES IN NATIONAL STATUARY HALL.

(a) **ELIGIBILITY.**—No statue of any individual may be placed in National Statuary Hall until after the expiration of the 10-year period which begins on the date of the individual's death.

(b) **EXCEPTIONS.**—Subsection (a) does not apply with respect to—

(1) the statue obtained and placed in National Statuary Hall under this Act; or

(2) any statue provided and furnished by a State under section 1814 of the Revised Statutes of the United States (2 U.S.C. 2131) or any replacement statue provided by a State under section 311 of the Legislative Branch Appropriations Act, 2001 (2 U.S.C. 2132).

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act, and any amounts so appropriated shall remain available until expended.

Approved December 1, 2005.

LEGISLATIVE HISTORY—H.R. 4145:

CONGRESSIONAL RECORD, Vol. 151 (2005):

Nov. 17, considered and passed House.

Nov. 18, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 41 (2005):

Dec. 1, Presidential remarks.



Public Law 109–117
109th Congress

An Act

Dec. 1, 2005
[H.R. 126]

To amend Public Law 89–366 to allow for an adjustment in the number of free roaming horses permitted in Cape Lookout National Seashore.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADJUSTMENT IN NUMBER OF FREE ROAMING HORSES PERMITTED IN CAPE LOOKOUT NATIONAL SEASHORE, NORTH CAROLINA.

(a) IN GENERAL.—The first subsection (b) of section 5 of Public Law 89–366 (16 U.S.C. 459g–4) is amended—

(1) in paragraph (1), by striking “100 free roaming horses” and inserting “not less than 110 free roaming horses, with a target population of between 120 and 130 free roaming horses,”;

(2) in paragraph (3), by striking subparagraph (B) and inserting the following new subparagraph:

“(B) unless removal is carried out as part of a plan to maintain the viability of the herd; or”; and

(3) in paragraph (5), by striking “100” and inserting “110”.

(b) REPEAL OF DUPLICATE SUBSECTION.—Section 5 of Public Law 89–366 is further amended—

(1) in subsection (a), by striking “(a)” after “(a)”; and

(2) by striking the second subsection (b).

Approved December 1, 2005.

LEGISLATIVE HISTORY—H.R. 126:

SENATE REPORTS: No. 109–154 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 151 (2005):

Mar. 14, considered and passed House.

Nov. 16, considered and passed Senate.



Public Law 109–118
109th Congress

An Act

To designate certain National Forest System land in the Commonwealth of Puerto Rico as a component of the National Wilderness Preservation System.

Dec. 1, 2005
[H.R. 539]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Caribbean
National Forest
Act of 2005.

SECTION 1. SHORT TITLE.

This Act may be cited as the “Caribbean National Forest Act of 2005”.

SEC. 2. DEFINITIONS.

In this Act:

- (1) MAP.—The term “map” means the map dated April 13, 2004, and entitled “El Toro Proposed Wilderness Area”.
- (2) SECRETARY.—The term “Secretary” means the Secretary of Agriculture.

SEC. 3. WILDERNESS DESIGNATION, CARIBBEAN NATIONAL FOREST, PUERTO RICO.

(a) EL TORO WILDERNESS.—

16 USC 1132
note.

(1) IN GENERAL.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.), the approximately 10,000 acres of land in the Caribbean National Forest/Luquillo Experimental Forest in the Commonwealth of Puerto Rico as generally depicted on the map are designated as wilderness and as a component of the National Wilderness Preservation System.

(2) DESIGNATION.—The land designated in paragraph (1) shall be known as the El Toro Wilderness.

(3) WILDERNESS BOUNDARIES.—The El Toro Wilderness shall consist of the land generally depicted on the map.

(b) MAP AND BOUNDARY DESCRIPTION.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall—

(A) prepare a boundary description of the El Toro Wilderness; and

(B) submit the map and the boundary description to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives.

(2) PUBLIC INSPECTION AND TREATMENT.—The map and the boundary description prepared under paragraph (1)(A)—

(A) shall be on file and available for public inspection in the office of the Chief of the Forest Service; and

(B) shall have the same force and effect as if included in this Act.

(3) ERRORS.—The Secretary may correct clerical and typographical errors in the map and the boundary description prepared under paragraph (1)(A).

(c) ADMINISTRATION.—

(1) IN GENERAL.—Subject to valid existing rights, the Secretary shall administer the El Toro Wilderness in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.) and this Act.

(2) EFFECTIVE DATE OF WILDERNESS ACT.—With respect to the El Toro Wilderness, any reference in the Wilderness Act (16 U.S.C. 1131 et seq.) to the effective date of that Act shall be deemed to be a reference to the date of the enactment of this Act.

(d) SPECIAL MANAGEMENT CONSIDERATIONS.—Consistent with the Wilderness Act (16 U.S.C. 1131 et seq.), nothing in this Act precludes the installation and maintenance of hydrologic, meteorological, climatological, or atmospheric data collection and remote transmission facilities, or any combination of those facilities, in any case in which the Secretary determines that the facilities are essential to the scientific research purposes of the Luquillo Experimental Forest.

Approved December 1, 2005.

LEGISLATIVE HISTORY—H.R. 539 (S. 272):

HOUSE REPORTS: No. 109–126 (Comm. on Resources).

SENATE REPORTS: Nos. 109–34 accompanying S. 272 and 109–155 (both from Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 151 (2005):

Sept. 13, considered and passed House.

Nov. 16, considered and passed Senate.



Public Law 109–119
109th Congress

An Act

To authorize appropriations to the Secretary of the Interior for the restoration of the Angel Island Immigration Station in the State of California.

Dec. 1, 2005
[H.R. 606]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Angel Island Immigration Station Restoration and Preservation Act”.

Angel Island
Immigration
Station
Restoration and
Preservation Act.

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) The Angel Island Immigration Station, also known as the Ellis Island of the West, is a National Historic Landmark.

(2) Between 1910 and 1940, the Angel Island Immigration Station processed more than 1,000,000 immigrants and emigrants from around the world.

(3) The Angel Island Immigration Station contributes greatly to our understanding of our Nation’s rich and complex immigration history.

(4) The Angel Island Immigration Station was built to enforce the Chinese Exclusion Act of 1882 and subsequent immigration laws, which unfairly and severely restricted Asian immigration.

(5) During their detention at the Angel Island Immigration Station, Chinese detainees carved poems into the walls of the detention barracks. More than 140 poems remain today, representing the unique voices of immigrants awaiting entry to this country.

(6) More than 50,000 people, including 30,000 school-children, visit the Angel Island Immigration Station annually to learn more about the experience of immigrants who have traveled to our shores.

(7) The restoration of the Angel Island Immigration Station and the preservation of the writings and drawings at the Angel Island Immigration Station will ensure that future generations also have the benefit of experiencing and appreciating this great symbol of the perseverance of the immigrant spirit, and of the diversity of this great Nation.

SEC. 3. RESTORATION.

(a) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary of the Interior \$15,000,000 for restoring the Angel Island Immigration Station in the San Francisco Bay, in coordination with the Angel Island Immigration

Station Foundation and the California Department of Parks and Recreation.

(b) **FEDERAL FUNDING.**—Federal funding under this Act shall not exceed 50 percent of the total funds from all sources spent to restore the Angel Island Immigration Station.

(c) **PRIORITY.**—(1) Except as provided in paragraph (2), the funds appropriated pursuant to this Act shall be used for the restoration of the Immigration Station Hospital on Angel Island.

(2) Any remaining funds in excess of the amount required to carry out paragraph (1) shall be used solely for the restoration of the Angel Island Immigration Station.

Approved December 1, 2005.

LEGISLATIVE HISTORY—H.R. 606:

SENATE REPORTS: No. 109–157 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 151 (2005):

May 23, considered and passed House.

Nov. 16, considered and passed Senate.



Public Law 109–120
109th Congress

An Act

To direct the Secretary of the Interior to conduct a special resource study to determine the suitability and feasibility of including in the National Park System certain sites in Williamson County, Tennessee, relating to the Battle of Franklin.

Dec. 1, 2005
[H.R. 1972]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Franklin National Battlefield Study Act”.

Franklin
National
Battlefield
Study Act.

SEC. 2. DEFINITIONS.

In this Act:

(1) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(2) STUDY AREA.—The term “study area” means the cities of Brentwood, Franklin, Triune, Thompson’s Station, and Spring Hill, Tennessee.

SEC. 3. SPECIAL RESOURCE STUDY.

(a) IN GENERAL.—The Secretary shall conduct a special resource study of sites in the study area relating to the Battle of Franklin to determine—

(1) the national significance of the sites; and

(2) the suitability and feasibility of including the sites in the National Park System.

(b) REQUIREMENTS.—The study conducted under subsection (a) shall include the analysis and recommendations of the Secretary on—

(1) the effect on the study area of including the sites in the National Park System; and

(2) whether the sites could be included in an existing unit of the National Park System or other federally designated unit in the State of Tennessee.

(c) CONSULTATION.—In conducting the study under subsection (a), the Secretary shall consult with—

(1) appropriate Federal agencies and State and local government entities; and

(2) interested groups and organizations.

(d) APPLICABLE LAW.—The study required under subsection (a) shall be conducted in accordance with Public Law 91–383 (16 U.S.C. 1a–1 et seq.).

SEC. 4. REPORT.

Not later than 3 years after the date funds are made available for the study, the Secretary shall submit to the Committee on

Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report that describes—

- (1) the findings of the study; and
- (2) any conclusions and recommendations of the Secretary.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

Approved December 1, 2005.

LEGISLATIVE HISTORY—H.R. 1972:

HOUSE REPORTS: No. 109–289 (Comm. on Resources).

CONGRESSIONAL RECORD, Vol. 151 (2005):

Nov. 15, considered and passed House.

Nov. 16, considered and passed Senate.



Public Law 109–121
109th Congress

An Act

To make access to safe water and sanitation for developing countries a specific policy objective of the United States foreign assistance programs, and for other purposes.

Dec. 1, 2005
[H.R. 1973]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Senator Paul Simon Water for the Poor Act of 2005”.

Senator Paul
Simon Water
for the Poor
Act of 2005.
22 USC 2152h
note.

SEC. 2. FINDINGS.

22 USC 2152h
note.

Congress makes the following findings:

(1) Water-related diseases are a human tragedy, killing up to five million people annually, preventing millions of people from leading healthy lives, and undermining development efforts.

(2) A child dies an average of every 15 seconds because of lack of access to safe water and adequate sanitation.

(3) In the poorest countries in the world, one out of five children dies from a preventable, water-related disease.

(4) Lack of access to safe drinking water, inadequate sanitation, and poor hygiene practices are directly responsible for the vast majority of diarrheal diseases which kill over two million children each year.

(5) At any given time, half of all people in the developing world are suffering from one or more of the main diseases associated with inadequate provision of water supply and sanitation services.

(6) Over 1.1 billion people, one in every six people in the world, lack access to safe drinking water.

(7) Nearly 2.6 billion people, two in every five people in the world, lack access to basic sanitation services.

(8) Half of all schools in the world do not have access to safe drinking water and basic sanitation.

(9) Over the past 20 years, two billion people have gained access to safe drinking water and 600 million people have gained access to basic sanitation services.

(10) Access to safe water and sanitation and improved hygiene are significant factors in controlling the spread of disease in the developing world and positively affecting worker productivity and economic development.

(11) Increasing access to safe water and sanitation advances efforts toward other development objectives, such as fighting poverty and hunger, promoting primary education and

gender equality, reducing child mortality, promoting environmental stability, improving the lives of slum dwellers, and strengthening national security.

(12) Providing safe supplies of water and sanitation and hygiene improvements would save millions of lives by reducing the prevalence of water-borne diseases, water-based diseases, water-privation diseases, and water-related vector diseases.

(13) Because women and girls in developing countries are often the carriers of water, lack of access to safe water and sanitation disproportionately affects women and limits women's opportunities at education, livelihood, and financial independence.

(14) Between 20 percent and 50 percent of existing water systems in developing countries are not operating or are operating poorly.

(15) In developing world water delivery systems, an average of 50 percent of all water is lost before it gets to the end-user.

(16) Every \$1 invested in safe water and sanitation would yield an economic return of between \$3 and \$34, depending on the region.

(17) Developing sustainable financing mechanisms, such as pooling mechanisms and revolving funds, is necessary for the long-term viability of improved water and sanitation services.

(18) The annual level of investment needed to meet the water and sanitation needs of developing countries far exceeds the amount of Official Development Assistance (ODA) and spending by governments of developing countries, so facilitating and attracting greater public and private investment is essential.

(19) Meeting the water and sanitation needs of the lowest-income developing countries will require an increase in the resources available as grants from donor countries.

(20) The long-term sustainability of improved water and sanitation services can be advanced by promoting community level action and engagement with civil society.

(21) Target 10 of the United Nations Millennium Development Goals is to reduce by half the proportion of people without sustainable access to safe drinking water by 2015.

(22) The participants in the 2002 World Summit on Sustainable Development, held in Johannesburg, South Africa, including the United States, agreed to the Plan of Implementation of the World Summit on Sustainable Development which included an agreement to work to reduce by one-half “the proportion of people who are unable to reach or afford safe drinking water,” and “the proportion of people without access to basic sanitation” by 2015.

(23) At the World Summit on Sustainable Development, the United States announced the Water for the Poor Initiative, committing \$970 million for fiscal years 2003 through 2005 to improve sustainable management of fresh water resources and accelerate and expand international efforts to achieve the goal of cutting in half by 2015 the proportion of people who are unable to reach or to afford safe drinking water.

(24) United Nations General Assembly Resolution 58/217 (February 9, 2004) proclaimed “the period from 2005 to 2015

the International Decade for Action, ‘Water for Life’, to commence on World Water Day, 22 March 2005” for the purpose of increasing the focus of the international community on water-related issues at all levels and on the implementation of water-related programs and projects.

(25) Around the world, 263 river basins are shared by two or more countries, and many more basins and watersheds cross political or ethnic boundaries.

(26) Water scarcity can contribute to insecurity and conflict on subnational, national, and international levels, thus endangering the national security of the United States.

(27) Opportunities to manage water problems can be leveraged in ways to build confidence, trust, and peace between parties in conflict.

(28) Cooperative water management can help resolve conflicts caused by other problems and is often a crucial component in resolving such conflicts.

(29) Cooperative water management can help countries recover from conflict and, by promoting dialogue and cooperation among former parties in conflict, can help prevent the reemergence of conflict.

SEC. 3. STATEMENT OF POLICY.

22 USC 2152h
note.

It is the policy of the United States—

(1) to increase the percentage of water and sanitation assistance targeted toward countries designated as high priority countries under section 6(f) of this Act;

(2) to ensure that water and sanitation assistance reflect an appropriate balance of grants, loans, contracts, investment insurance, loan guarantees, and other assistance to further ensure affordability and equity in the provision of access to safe water and sanitation for the very poor;

(3) to ensure that the targeting of water and sanitation assistance reflect an appropriate balance between urban, periurban, and rural areas to meet the purposes of assistance described in section 135 of the Foreign Assistance Act of 1961, as added by section 5(a) of this Act;

(4) to ensure that forms of water and sanitation assistance provided reflect the level of existing resources and markets for investment in water and sanitation within recipient countries;

(5) to ensure that water and sanitation assistance, to the extent possible, supports the poverty reduction strategies of recipient countries and, when appropriate, encourages the inclusion of water and sanitation within such poverty reduction strategies;

(6) to promote country and local ownership of safe water and sanitation programs, to the extent appropriate;

(7) to promote community-based approaches in the provision of affordable and equitable access to safe water and sanitation, including the involvement of civil society;

(8) to mobilize and leverage the financial and technical capacity of businesses, governments, nongovernmental organizations, and civil society in the form of public-private alliances;

(9) to encourage reforms and increase the capacity of foreign governments to formulate and implement policies that

expand access to safe water and sanitation in an affordable, equitable, and sustainable manner, including integrated strategic planning; and

(10) to protect the supply and availability of safe water through sound environmental management, including preventing the destruction and degradation of ecosystems and watersheds.

22 USC 2152h
note.

SEC. 4. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) in order to make the most effective use of amounts of Official Development Assistance for water and sanitation and avoid waste and duplication, the United States should seek to establish innovative international coordination mechanisms based on best practices in other development sectors; and

(2) the United States should greatly increase the amount of Official Development Assistance made available to carry out section 135 of the Foreign Assistance Act of 1961, as added by section 5(a) of this Act.

22 USC 2152h
note.

SEC. 5. ASSISTANCE TO PROVIDE SAFE WATER AND SANITATION.

(a) IN GENERAL.—Chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) is amended by adding at the end the following new section:

22 USC 2152h.

“SEC. 135. ASSISTANCE TO PROVIDE SAFE WATER AND SANITATION.

“(a) PURPOSES.—The purposes of assistance authorized by this section are—

“(1) to promote good health, economic development, poverty reduction, women’s empowerment, conflict prevention, and environmental sustainability by providing assistance to expand access to safe water and sanitation, promoting integrated water resource management, and improving hygiene for people around the world;

“(2) to seek to reduce by one-half from the baseline year 1990 the proportion of people who are unable to reach or afford safe drinking water and the proportion of people without access to basic sanitation by 2015;

“(3) to focus water and sanitation assistance toward the countries, locales, and people with the greatest need;

“(4) to promote affordability and equity in the provision of access to safe water and sanitation for the very poor, women, and other vulnerable populations;

“(5) to improve water efficiency through water demand management and reduction of unaccounted-for water;

“(6) to promote long-term sustainability in the affordable and equitable provision of access to safe water and sanitation through the creation of innovative financing mechanisms such as national revolving funds, and by strengthening the capacity of recipient governments and communities to formulate and implement policies that expand access to safe water and sanitation in a sustainable fashion, including integrated planning;

“(7) to secure the greatest amount of resources possible, encourage private investment in water and sanitation infrastructure and services, particularly in lower middle-income countries, without creating unsustainable debt for low-income

countries or unaffordable water and sanitation costs for the very poor; and

“(8) to promote the capacity of recipient governments to provide affordable, equitable, and sustainable access to safe water and sanitation.

“(b) AUTHORIZATION.—To carry out the purposes of subsection (a), the President is authorized to furnish assistance for programs in developing countries to provide affordable and equitable access to safe water and sanitation. President.

“(c) ACTIVITIES SUPPORTED.—Assistance provided under subsection (b) shall, to the maximum extent practicable, be used to—

“(1) expand affordable and equitable access to safe water and sanitation for underserved populations;

“(2) support the design, construction, maintenance, upkeep, repair, and operation of water delivery and sanitation systems;

“(3) improve the safety and reliability of water supplies, including environmental management; and

“(4) improve the capacity of recipient governments and local communities, including capacity-building programs for improved water resource management.

“(d) LOCAL CURRENCY.—The President may use payments made in local currencies under an agreement made under title I of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1701 et seq.) to provide assistance under this section.”.

(b) CONFORMING AMENDMENT.—Section 104(c) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1704(c)) is amended by adding at the end the following new paragraph:

“(9) SAFE WATER AND SANITATION.—To provide assistance under section 135 of the Foreign Assistance Act of 1961 to promote good health, economic development, poverty reduction, women’s empowerment, conflict prevention, and environmental sustainability by increasing affordable and equitable access to safe water and sanitation.”.

SEC. 6. SAFE WATER AND SANITATION STRATEGY.

(a) STRATEGY.—The President, acting through the Secretary of State, shall develop a strategy to further the United States foreign assistance objective to provide affordable and equitable access to safe water and sanitation in developing countries, as described in section 135 of the Foreign Assistance Act of 1961, as added by section 5(a) of this Act.

(b) CONSULTATION.—The strategy required by subsection (a) shall be developed in consultation with the Administrator of the United States Agency for International Development, the heads of other appropriate Federal departments and agencies, international organizations, international financial institutions, recipient governments, United States and international nongovernmental organizations, indigenous civil society, and other appropriate entities.

(c) IMPLEMENTATION.—The Secretary of State, acting through the Administrator of the United States Agency for International Development, shall implement the strategy required by subsection (a). The strategy may also be implemented in part by other Federal departments and agencies, as appropriate.

22 USC 2152h
note.
President.

(d) **CONSISTENT WITH SAFE WATER AND SANITATION POLICY.**—The strategy required by subsection (a) shall be consistent with the policy stated in section 3 of this Act.

(e) **CONTENT.**—The strategy required by subsection (a) shall include—

(1) an assessment of the activities that have been carried out, or that are planned to be carried out, by all appropriate Federal departments and agencies to improve affordable and equitable access to safe water and sanitation in all countries that receive assistance from the United States;

(2) specific and measurable goals, benchmarks, and timetables to achieve the objective described in subsection (a);

(3) an assessment of the level of funding and other assistance for United States water and sanitation programs needed each year to achieve the goals, benchmarks, and timetables described in paragraph (2);

(4) methods to coordinate and integrate United States water and sanitation assistance programs with other United States development assistance programs to achieve the objective described in subsection (a);

(5) methods to better coordinate United States water and sanitation assistance programs with programs of other donor countries and entities to achieve the objective described in subsection (a); and

(6) an assessment of the commitment of governments of countries that receive assistance under section 135 of the Foreign Assistance Act of 1961, as added by section 5(a) of this Act, to policies or policy reforms that support affordable and equitable access by the people of such countries to safe water and sanitation.

(f) **DESIGNATION OF HIGH PRIORITY COUNTRIES.**—The strategy required by subsection (a) shall further include the designation of high priority countries for assistance under section 135 of the Foreign Assistance Act of 1961, as added by section 5(a) of this Act. This designation shall be made on the basis of—

(1) countries in which the need for increased access to safe water and sanitation is greatest; and

(2) countries in which assistance under such section can be expected to make the greatest difference in promoting good health, economic development, poverty reduction, women's empowerment, conflict prevention, and environmental sustainability.

(g) **REPORTS.**—

(1) **INITIAL REPORT.**—Not later than 180 days after the date of the enactment of this Act, the Secretary of State shall submit to the appropriate congressional committees a report that describes the strategy required by subsection (a).

(2) **SUBSEQUENT REPORTS.**—

(A) **IN GENERAL.**—Not less than once every year after the submission of the initial report under paragraph (1) until 2015, the Secretary of State shall submit to the appropriate congressional committees a report on the status of the implementation of the strategy, progress made in achieving the objective described in subsection (a), and any changes to the strategy since the date of the submission of the last report.

(B) **ADDITIONAL INFORMATION.**—Such reports shall include information on the amount of funds expended in each country or program, disaggregated by purpose of assistance, including information on capital investments, and the source of such funds by account.

(3) **DEFINITION.**—In this subsection, the term “appropriate congressional committees” means—

(A) the Committee on International Relations and the Committee on Appropriations of the House of Representatives; and

(B) the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

SEC. 7. MONITORING REQUIREMENT.

22 USC 2152h
note.

The Secretary of State and the Administrator of the United States Agency for International Development shall monitor the implementation of assistance under section 135 of the Foreign Assistance Act of 1961, as added by section 5(a) of this Act, to ensure that the assistance is reaching its intended targets and meeting the intended purposes of assistance.

SEC. 8. SENSE OF CONGRESS REGARDING DEVELOPMENT OF LOCAL CAPACITY.

22 USC 2152h
note.

It is the sense of Congress that the Secretary of State should expand current programs and develop new programs, as necessary, to train local water and sanitation managers and other officials of countries that receive assistance under section 135 of the Foreign Assistance Act of 1961, as added by section 5(a) of this Act.

SEC. 9. SENSE OF CONGRESS REGARDING ADDITIONAL WATER AND SANITATION PROGRAMS.

22 USC 2152h
note.

It is the sense of the Congress that—

(1) the United States should further support, as appropriate, water and sanitation activities of United Nations agencies, such as the United Nations Children’s Fund (UNICEF), the United Nations Development Programme (UNDP), and the United Nations Environment Programme (UNEP); and

(2) the Secretary of the Treasury should instruct each United States Executive Director at the multilateral development banks (within the meaning of section 1701(c) of the International Financial Institutions Act) to encourage the inclusion of water and sanitation programs as a critical element of their development assistance.

SEC. 10. REPORT REGARDING WATER FOR PEACE AND SECURITY.

22 USC 2152h
note.

(a) **SENSE OF CONGRESS.**—It is the sense of Congress that United States programs to support and encourage efforts around the world to develop river basin, aquifer, and other watershed-wide mechanisms for governance and cooperation are critical components of long-term United States national security and should be expanded.

(b) **REPORT.**—The Secretary of State, in consultation with the Administrator of the United States Agency for International Development, shall submit to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate a report on efforts that the United States is making to support and promote programs that develop river

basin, aquifer, and other watershed-wide mechanisms for governance and cooperation.

22 USC 2152h
note.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

(a) **IN GENERAL.**—There are authorized to be appropriated for fiscal year 2006 and each subsequent fiscal year such sums as may be necessary to carry out this Act and the amendments made by this Act.

(b) **OTHER AMOUNTS.**—Amounts appropriated pursuant to the authorization of appropriations in subsection (a) shall be in addition to the amounts otherwise available to carry out this Act and the amendments made by this Act.

(c) **AVAILABILITY.**—Amounts appropriated pursuant to the authorization of appropriations under subsection (a) are authorized to remain available until expended.

Approved December 1, 2005.

LEGISLATIVE HISTORY—H.R. 1973:

HOUSE REPORTS: No. 109–260 (Comm. on International Relations).

CONGRESSIONAL RECORD, Vol. 151 (2005):

Nov. 7, considered and passed House.

Nov. 16, considered and passed Senate.



Public Law 109–122
109th Congress

An Act

To designate the facility of the United States Postal Service located at 57 West Street in Newville, Pennsylvania, as the “Randall D. Shughart Post Office Building”.

Dec. 1, 2005
[H.R. 2062]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The facility of the United States Postal Service located at 57 West Street in Newville, Pennsylvania, shall be known and designated as the “Randall D. Shughart Post Office Building”.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the “Randall D. Shughart Post Office Building”.

Approved December 1, 2005.

LEGISLATIVE HISTORY—H.R. 2062:

CONGRESSIONAL RECORD, Vol. 151 (2005):
Sept. 27, considered and passed House.
Nov. 18, considered and passed Senate.



Public Law 109–123
109th Congress

An Act

Dec. 1, 2005
[H.R. 2183]

To designate the facility of the United States Postal Service located at 567 Tompkins Avenue in Staten Island, New York, as the “Vincent Palladino Post Office”.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The facility of the United States Postal Service located at 567 Tompkins Avenue in Staten Island, New York, shall be known and designated as the “Vincent Palladino Post Office”.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the “Vincent Palladino Post Office”.

Approved December 1, 2005.

LEGISLATIVE HISTORY—H.R. 2183:

CONGRESSIONAL RECORD, Vol. 151 (2005):
July 13, considered and passed House.
Nov. 18, considered and passed Senate.



Public Law 109–124
109th Congress

An Act

To designate the facility of the United States Postal Service located at 208 South Main Street in Parkdale, Arkansas, as the Willie Vaughn Post Office.

Dec. 1, 2005
[H.R. 3853]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The facility of the United States Postal Service located at 208 South Main Street in Parkdale, Arkansas, shall be known and designated as the “Willie Vaughn Post Office”.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the “Willie Vaughn Post Office”.

Approved December 1, 2005.

LEGISLATIVE HISTORY—H.R. 3853:

CONGRESSIONAL RECORD, Vol. 151 (2005):

Oct. 18, considered and passed House.

Nov. 18, considered and passed Senate.



Public Law 109–125
109th Congress

An Act

Dec. 7, 2005
[H.R. 584]

To authorize the Secretary of the Interior to recruit volunteers to assist with, or facilitate, the activities of various agencies and offices of the Department of the Interior.

Department of
the Interior
Volunteer
Recruitment Act
of 2005.
43 USC 1451
note.
43 USC 1475b
note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Department of the Interior Volunteer Recruitment Act of 2005”.

SEC. 2. PURPOSE.

The purpose of this Act is to authorize the Secretary of the Interior to recruit and use volunteers to assist with, or facilitate, the programs of the Bureau of Indian Affairs, the United States Geological Survey, the Bureau of Reclamation, and the Office of the Secretary.

43 USC 1475b.

SEC. 3. VOLUNTEER AUTHORITY.

(a) **IN GENERAL.**—The Secretary of the Interior may recruit, train, and accept, without regard to the civil service classification laws, rules, or regulations, the services of individuals, contributed without compensation as volunteers, for aiding in or facilitating the activities administered by the Secretary through the Bureau of Indian Affairs, the United States Geological Survey, the Bureau of Reclamation, and the Office of the Secretary.

(b) **RESTRICTIONS ON ACTIVITIES OF VOLUNTEERS.**—

(1) **IN GENERAL.**—In accepting such services of individuals as volunteers, the Secretary shall not permit the use of volunteers in law enforcement work, in regulatory and enforcement work, in policymaking processes, or to displace any employee.

(2) **PRIVATE PROPERTY.**—No volunteer services authorized by this Act may be conducted on private property unless the officer or employee charged with supervising the volunteer obtains appropriate consent to enter the property from the property owner.

(3) **HAZARDOUS DUTY.**—The Secretary may accept the services of individuals in hazardous duty only upon a determination by the Secretary that such individuals are skilled in performing hazardous duty activities.

(4) **SUPERVISION.**—The Secretary shall ensure that an appropriate officer or employee of the United States provides adequate and appropriate supervision of each volunteer whose services the Secretary accepts.

(c) **PROVISION OF SERVICES AND COSTS.**—The Secretary may provide for services and costs incidental to the utilization of volunteers, including transportation, supplies, uniforms, lodging, subsistence (without regard to place of residence), recruiting, training, supervision, and awards and recognition (including nominal cash awards).

(d) **FEDERAL EMPLOYMENT STATUS OF VOLUNTEERS.**—

(1) Except as otherwise provided in this subsection, a volunteer shall not be deemed a Federal employee and shall not be subject to the provisions of law relating to Federal employment, including those provisions relating to hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits.

(2) Volunteers shall be deemed employees of the United States for the purposes of—

(A) the tort claims provisions of title 28, United States Code;

(B) subchapter I of chapter 81 of title 5, United States Code; and

(C) claims relating to damage to, or loss of, personal property of a volunteer incident to volunteer service, in which case the provisions of section 3721 of title 31, United States Code, shall apply.

(3) Volunteers under this Act shall be subject to chapter 11 of title 18, United States Code, unless the Secretary, with the concurrence of the Director of the Office of Government Ethics, determines in writing published in the Federal Register that the provisions of that chapter, except section 201, shall not apply to the actions of a class or classes of volunteers who carry out only those duties or functions specified in the determination.

Federal Register,
publication.

Approved December 7, 2005.

LEGISLATIVE HISTORY—H.R. 584:

SENATE REPORTS: No. 109–156 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 151 (2005):

Mar. 14, considered and passed House.

Nov. 16, considered and passed Senate.



Public Law 109–126
109th Congress

An Act

Dec. 7, 2005
[H.R. 680]

To direct the Secretary of Interior to convey certain land held in trust for the Paiute Indian Tribe of Utah to the City of Richfield, Utah, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

25 USC 766 note.

SECTION 1. LAND CONVEYANCE TO CITY.

Deadline.

(a) **AUTHORIZATION FOR CONVEYANCE.**—Not later than 90 days after the Secretary receives a request from the Tribe and the City to convey all right, title, and interest of the United States and the Tribe in and to the Property to the City, the Secretary shall take the Property out of trust status and convey the Property to the City.

(b) **TERMS AND CONDITIONS.**—The conveyance under subsection (a) shall be subject to the following conditions:

(1) **TRIBAL RESOLUTION.**—Prior to conveying the Property under subsection (a), the Secretary shall ensure that the terms of the sale have been approved by a tribal resolution of the Tribe.

(2) **CONSIDERATION.**—Consideration given by the City for the Property shall be not less than the appraised fair market value of the Property.

(3) **NO FEDERAL COST.**—The City shall pay all costs related to the conveyance authorized under this section.

(c) **PROCEEDS OF SALE.**—The proceeds from the conveyance of the Property under this section shall be given immediately to the Tribe.

(d) **FAILURE TO MAKE CONVEYANCE.**—If after the Secretary takes the Property out of trust status pursuant to subsection (a) the City or the Tribe elect not to carry out the conveyance under that subsection, the Secretary shall take the Property back into trust for the benefit of the Tribe.

25 USC 766 note.

SEC. 2. TRIBAL RESERVATION.

Land acquired by the United States in trust for the Tribe after February 17, 1984, shall be part of the Tribe's reservation.

25 USC 766 note.

SEC. 3. TRUST LAND FOR SHIVWITS OR KANOSH BANDS.

If requested to do so by a tribal resolution of the Tribe, the Secretary shall take land held in trust by the United States for the benefit of the Tribe out of such trust status and take that land into trust for the Shivwits or Kanosh Bands of the Paiute Indian Tribe of Utah, as so requested by the Tribe.

SEC. 4. CEDAR BAND OF PAIUTES TECHNICAL CORRECTION.25 USC 761–763,
766 and note.

The Paiute Indian Tribe of Utah Restoration Act (25 U.S.C. 761) is amended by striking “Cedar City” each place it appears and inserting “Cedar”. Any reference in a law, map, regulation, document, paper, or other record of the United States to the “Cedar City Band of Paiute Indians” shall be deemed to be a reference to the “Cedar Band of Paiute Indians”.

SEC. 5. DEFINITIONS.

25 USC 766 note.

For the purposes of this Act:

(1) CITY.—The term “City” means the City of Richfield, Utah.

(2) PROPERTY.—The term “Property” means the parcel of land held by the United States in trust for the Paiute Indian Tribe of Utah located in Section 2, Township 24 South, Range 3 West, Salt Lake Base and Meridian, Sevier County, Utah and more particularly described as follows: Beginning at a point on the East line of the Highway which is West 0.50 chains, more or less, and South 8° 21° West, 491.6 feet from the Northeast Corner of the Southwest Quarter of Section 2, Township 24 South, Range 3 West, Salt Lake Base and Meridian, and running thence South 81° 39° East, perpendicular to the highway, 528.0 feet; thence South 26° 31° West, 354.6 feet; thence North 63° 29° West, 439.3 feet to said highway; thence North 8° 21° East, along Easterly line of said highway 200.0 feet to the point of beginning, containing 3.0 acres more or less.

(3) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(4) TRIBE.—The term “Tribe” means the Paiute Indian Tribe of Utah.

Approved December 7, 2005.

LEGISLATIVE HISTORY—H.R. 680:

SENATE REPORTS: No. 109–175 (Comm. on Indian Affairs).

CONGRESSIONAL RECORD, Vol. 151 (2005):

Mar. 14, considered and passed House.

Nov. 18, considered and passed Senate.



Public Law 109–127
109th Congress

An Act

Dec. 7, 2005
[H.R. 1101]

To revoke a Public Land Order with respect to certain lands erroneously included in the Cibola National Wildlife Refuge, California.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

16 USC 668dd
note.

SECTION 1. REVOCATION OF PUBLIC LAND ORDER WITH RESPECT TO LANDS ERRONEOUSLY INCLUDED IN CIBOLA NATIONAL WILDLIFE REFUGE, CALIFORNIA.

Public Land Order 3442, dated August 21, 1964, is revoked insofar as it applies to the following described lands: San Bernardino Meridian, T11S, R22E, sec. 6, all of lots 1, 16, and 17, and SE $\frac{1}{4}$ of SW $\frac{1}{4}$ in Imperial County, California, aggregating approximately 140.32 acres.

Deadline.
16 USC 668dd
note.

SEC. 2. RESURVEY AND NOTICE OF MODIFIED BOUNDARIES.

The Secretary of the Interior shall, by not later than 6 months after the date of the enactment of this Act—

(1) resurvey the boundaries of the Cibola National Wildlife Refuge, as modified by the revocation under section 1;

(2) publish notice of, and post conspicuous signs marking, the boundaries of the refuge determined in such resurvey; and

(3) prepare and publish a map showing the boundaries of the refuge.

Approved December 7, 2005.

LEGISLATIVE HISTORY—H.R. 1101:

SENATE REPORTS: No. 109–172 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 151 (2005):

May 23, considered and passed House.

Nov. 16, considered and passed Senate.



Public Law 109–128
109th Congress

Joint Resolution

Making further continuing appropriations for the fiscal year 2006, and for other purposes.

Dec. 18, 2005
[H.J. Res. 75]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Public Law 109–77 is further amended by striking the date specified in section 106(3) and inserting the following: “December 31, 2005”.

Ante, p. 2287.

SEC. 2. Section 114(b) of Public Law 109–77 is amended by striking “and December 1, 2005,” and inserting “December 1, 2005, and January 1, 2006”.

Ante, p. 2040.

Approved December 18, 2005.

LEGISLATIVE HISTORY—H.J. Res. 75:

CONGRESSIONAL RECORD, Vol. 151 (2005):

Dec. 17, considered and passed House and Senate.



Public Law 109–129
109th Congress

An Act

Dec. 20, 2005
[H.R. 2520]

To provide for the collection and maintenance of human cord blood stem cells for the treatment of patients and research, and to amend the Public Health Service Act to authorize the C.W. Bill Young Cell Transplantation Program.

Stem Cell
Therapeutic and
Research Act of
2005.
42 USC 201 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Stem Cell Therapeutic and Research Act of 2005”.

42 USC 274k
note.
Contracts.

SEC. 2. CORD BLOOD INVENTORY.

(a) **IN GENERAL.**—The Secretary of Health and Human Services shall enter into one-time contracts with qualified cord blood banks to assist in the collection and maintenance of 150,000 new units of high-quality cord blood to be made available for transplantation through the C.W. Bill Young Cell Transplantation Program and to carry out the requirements of subsection (b).

(b) **REQUIREMENTS.**—The Secretary shall require each recipient of a contract under this section—

(1) to acquire, tissue-type, test, cryopreserve, and store donated units of cord blood acquired with the informed consent of the donor, as determined by the Secretary pursuant to section 379(c) of the Public Health Service Act, in a manner that complies with applicable Federal and State regulations;

(2) to encourage donation from a genetically diverse population;

(3) to make cord blood units that are collected pursuant to this section or otherwise and meet all applicable Federal standards available to transplant centers for transplantation;

(4) to make cord blood units that are collected, but not appropriate for clinical use, available for peer-reviewed research;

Records.

(5) to make data available, as required by the Secretary and consistent with section 379(d)(3) of the Public Health Service Act (42 U.S.C. 274k(d)(3)), as amended by this Act, in a standardized electronic format, as determined by the Secretary, for the C.W. Bill Young Cell Transplantation Program; and

Records.

(6) to submit data in a standardized electronic format for inclusion in the stem cell therapeutic outcomes database maintained under section 379A of the Public Health Service Act, as amended by this Act.

(c) **RELATED CORD BLOOD DONORS.**—

(1) IN GENERAL.—The Secretary shall establish a 3-year demonstration project under which qualified cord blood banks receiving a contract under this section may use a portion of the funding under such contract for the collection and storage of cord blood units for a family where a first-degree relative has been diagnosed with a condition that will benefit from transplantation (including selected blood disorders, malignancies, metabolic storage disorders, hemoglobinopathies, and congenital immunodeficiencies) at no cost to such family. Qualified cord blood banks collecting cord blood units under this paragraph shall comply with the requirements of paragraphs (1), (2), (3), and (5) of subsection (b).

(2) AVAILABILITY.—Qualified cord blood banks that are operating a program under paragraph (1) shall provide assurances that the cord blood units in such banks will be available for directed transplantation until such time that the cord blood unit is released for transplantation or is transferred by the family to the C.W. Bill Young Cell Transplantation Program in accordance with guidance or regulations promulgated by the Secretary.

Regulations.

(3) INVENTORY.—Cord blood units collected through the program under this section shall not be counted toward the 150,000 inventory goal under the C.W. Bill Young Cell Transplantation Program.

(4) REPORT.—Not later than 90 days after the date on which the project under paragraph (1) is terminated by the Secretary, the Secretary shall submit to Congress a report on the outcomes of the project that shall include the recommendations of the Secretary with respect to the continuation of such project.

(d) APPLICATION.—To seek to enter into a contract under this section, a qualified cord blood bank shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require. At a minimum, an application for a contract under this section shall include a requirement that the applicant—

(1) will participate in the C.W. Bill Young Cell Transplantation Program for a period of at least 10 years;

(2) will make cord blood units collected pursuant to this section available through the C.W. Bill Young Cell Transplantation Program in perpetuity or for such time as determined viable by the Secretary; and

(3) if the Secretary determines through an assessment, or through petition by the applicant, that a cord blood bank is no longer operational or does not meet the requirements of section 379(d)(4) of the Public Health Service Act (as added by this Act) and as a result may not distribute the units, transfer the units collected pursuant to this section to another qualified cord blood bank approved by the Secretary to ensure continued availability of cord blood units.

(e) DURATION OF CONTRACTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the term of each contract entered into by the Secretary under this section shall be for 10 years. The Secretary shall ensure that no Federal funds shall be obligated under any such contract after the earlier of—

(A) the date that is 3 years after the date on which the contract is entered into; or

(B) September 30, 2010.

(2) EXTENSIONS.—Subject to paragraph (1)(B), the Secretary may extend the period of funding under a contract under this section to exceed a period of 3 years if—

(A) the Secretary finds that 150,000 new units of high-quality cord blood have not yet been collected pursuant to this section; and

(B) the Secretary does not receive an application for a contract under this section from any qualified cord blood bank that has not previously entered into a contract under this section or the Secretary determines that the outstanding inventory need cannot be met by the one or more qualified cord blood banks that have submitted an application for a contract under this section.

(3) PREFERENCE.—In considering contract extensions under paragraph (2), the Secretary shall give preference to qualified cord blood banks that the Secretary determines have demonstrated a superior ability to satisfy the requirements described in subsection (b) and to achieve the overall goals for which the contract was awarded.

(f) REGULATIONS.—The Secretary may promulgate regulations to carry out this section.

(g) DEFINITIONS.—In this section:

(1) The term “C.W. Bill Young Cell Transplantation Program” means the C.W. Bill Young Cell Transplantation Program under section 379 of the Public Health Service Act, as amended by this Act.

(2) The term “cord blood donor” means a mother who has delivered a baby and consents to donate the neonatal blood remaining in the placenta and umbilical cord after separation from the newborn baby.

(3) The term “cord blood unit” means the neonatal blood collected from the placenta and umbilical cord of a single newborn baby.

(4) The term “first-degree relative” means a sibling or parent who is one meiosis away from a particular individual in a family.

(5) The term “qualified cord blood bank” has the meaning given to that term in section 379(d)(4) of the Public Health Service Act, as amended by this Act.

(6) The term “Secretary” means the Secretary of Health and Human Services.

(h) AUTHORIZATION OF APPROPRIATIONS.—

(1) EXISTING FUNDS.—Any amounts appropriated to the Secretary for fiscal year 2004 or 2005 for the purpose of assisting in the collection or maintenance of cord blood shall remain available to the Secretary until the end of fiscal year 2007.

(2) SUBSEQUENT FISCAL YEARS.—There are authorized to be appropriated to the Secretary \$15,000,000 for each of fiscal years 2007, 2008, 2009, and 2010 to carry out this section.

(3) LIMITATION.—Not to exceed 5 percent of the amount appropriated under this section in each of fiscal years 2007 through 2009 may be used to carry out the demonstration project under subsection (c).

SEC. 3. C.W. BILL YOUNG CELL TRANSPLANTATION PROGRAM.

(a) NATIONAL PROGRAM.—Section 379 of the Public Health Service Act (42 U.S.C. 274k) is amended to read as follows:

“SEC. 379. NATIONAL PROGRAM.

“(a) ESTABLISHMENT.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, shall by one or more contracts establish and maintain a C.W. Bill Young Cell Transplantation Program (referred to in this section as the ‘Program’), successor to the National Bone Marrow Donor Registry, that has the purpose of increasing the number of transplants for recipients suitably matched to biologically unrelated donors of bone marrow and cord blood, and that meets the requirements of this section. The Secretary may award a separate contract to perform each of the major functions of the Program described in paragraphs (1) and (2) of subsection (d) if deemed necessary by the Secretary to operate an effective and efficient system that is in the best interest of patients. The Secretary shall conduct a separate competition for the initial establishment of the cord blood functions of the Program. The Program shall be under the general supervision of the Secretary. The Secretary shall establish an Advisory Council to advise, assist, consult with, and make recommendations to the Secretary on matters related to the activities carried out by the Program. The members of the Advisory Council shall be appointed in accordance with the following: Contracts.

“(1) Each member of the Advisory Council shall serve for a term of 2 years, and each such member may serve as many as 3 consecutive 2-year terms, except that—

“(A) such limitations shall not apply to the Chair of the Advisory Council (or the Chair-elect) or to the member of the Advisory Council who most recently served as the Chair; and

“(B) one additional consecutive 2-year term may be served by any member of the Advisory Council who has no employment, governance, or financial affiliation with any donor center, recruitment organization, transplant center, or cord blood bank.

“(2) A member of the Advisory Council may continue to serve after the expiration of the term of such member until a successor is appointed.

“(3) In order to ensure the continuity of the Advisory Council, the Advisory Council shall be appointed so that each year the terms of approximately one-third of the members of the Advisory Council expire.

“(4) The membership of the Advisory Council—

“(A) shall include as voting members a balanced number of representatives including representatives of marrow donor centers and marrow transplant centers, representatives of cord blood banks and participating birthing hospitals, recipients of a bone marrow transplant, recipients of a cord blood transplant, persons who require such transplants, family members of such a recipient or family members of a patient who has requested the assistance of the Program in searching for an unrelated donor of bone marrow or cord blood, persons with expertise in bone

marrow and cord blood transplantation, persons with expertise in typing, matching, and transplant outcome data analysis, persons with expertise in the social sciences, basic scientists with expertise in the biology of adult stem cells, and members of the general public; and

“(B) shall include as nonvoting members representatives from the Department of Defense Marrow Donor Recruitment and Research Program operated by the Department of the Navy, the Division of Transplantation of the Health Resources and Services Administration, the Food and Drug Administration, and the National Institutes of Health.

“(5) Members of the Advisory Council shall be chosen so as to ensure objectivity and balance and reduce the potential for conflicts of interest. The Secretary shall establish bylaws and procedures—

“(A) to prohibit any member of the Advisory Council who has an employment, governance, or financial affiliation with a donor center, recruitment organization, transplant center, or cord blood bank from participating in any decision that materially affects the center, recruitment organization, transplant center, or cord blood bank; and

“(B) to limit the number of members of the Advisory Council with any such affiliation.

Reports.

“(6) The Secretary, acting through the Advisory Council, shall submit to the Congress—

“(A) an annual report on the activities carried out under this section; and

Deadline.

“(B) not later than 6 months after the date of the enactment of the Stem Cell Therapeutic and Research Act of 2005, a report of recommendations on the scientific factors necessary to define a cord blood unit as a high-quality unit.

“(b) ACCREDITATION.—The Secretary shall, through a public process, recognize one or more accreditation entities for the accreditation of cord blood banks.

“(c) INFORMED CONSENT.—The Secretary shall, through a public process, examine issues of informed consent, including—

“(1) the appropriate timing of such consent; and

“(2) the information provided to the maternal donor regarding all of her medically appropriate cord blood options. Based on such examination, the Secretary shall require that the standards used by the accreditation entities recognized under subsection (b) ensure that a cord blood unit is acquired with the informed consent of the maternal donor.

“(d) FUNCTIONS.—

“(1) BONE MARROW FUNCTIONS.—With respect to bone marrow, the Program shall—

“(A) operate a system for identifying, matching, and facilitating the distribution of bone marrow that is suitably matched to candidate patients;

“(B) consistent with paragraph (3), permit transplant physicians, other appropriate health care professionals, and patients to search by means of electronic access all available bone marrow donors listed in the Program;

“(C) carry out a program for the recruitment of bone marrow donors in accordance with subsection (e), including

with respect to increasing the representation of racial and ethnic minority groups (including persons of mixed ancestry) in the enrollment of the Program;

“(D) maintain and expand medical contingency response capabilities, in coordination with Federal programs, to prepare for and respond effectively to biological, chemical, or radiological attacks, and other public health emergencies that can damage marrow, so that the capability of supporting patients with marrow damage from disease can be used to support casualties with marrow damage;

“(E) carry out informational and educational activities in accordance with subsection (e);

“(F) at least annually update information to account for changes in the status of individuals as potential donors of bone marrow;

“(G) provide for a system of patient advocacy through the office established under subsection (h);

“(H) provide case management services for any potential donor of bone marrow to whom the Program has provided a notice that the potential donor may be suitably matched to a particular patient through the office established under subsection (h);

“(I) with respect to searches for unrelated donors of bone marrow that are conducted through the system under subparagraph (A), collect, analyze, and publish data in a standardized electronic format on the number and percentage of patients at each of the various stages of the search process, including data regarding the furthest stage reached, the number and percentage of patients who are unable to complete the search process, and the reasons underlying such circumstances;

“(J) support studies and demonstration and outreach projects for the purpose of increasing the number of individuals who are willing to be marrow donors to ensure a genetically diverse donor pool; and

“(K) facilitate research with the appropriate Federal agencies to improve the availability, efficiency, safety, and cost of transplants from unrelated donors and the effectiveness of Program operations.

“(2) CORD BLOOD FUNCTIONS.—With respect to cord blood, the Program shall—

“(A) operate a system for identifying, matching, and facilitating the distribution of donated cord blood units that are suitably matched to candidate patients and meet all applicable Federal and State regulations (including informed consent and Food and Drug Administration regulations) from a qualified cord blood bank;

“(B) consistent with paragraph (3), allow transplant physicians, other appropriate health care professionals, and patients to search by means of electronic access all available cord blood units made available through the Program;

“(C) allow transplant physicians and other appropriate health care professionals to reserve, as defined by the Secretary, a cord blood unit for transplantation;

Records.

“(D) support studies and demonstration and outreach projects for the purpose of increasing cord blood donation to ensure a genetically diverse collection of cord blood units;

“(E) provide for a system of patient advocacy through the office established under subsection (h);

“(F) coordinate with the qualified cord blood banks to support informational and educational activities in accordance with subsection (g);

“(G) maintain and expand medical contingency response capabilities, in coordination with Federal programs, to prepare for and respond effectively to biological, chemical, or radiological attacks, and other public health emergencies that can damage marrow, so that the capability of supporting patients with marrow damage from disease can be used to support casualties with marrow damage; and

“(H) with respect to the system under subparagraph (A), collect, analyze, and publish data in a standardized electronic format, as required by the Secretary, on the number and percentage of patients at each of the various stages of the search process, including data regarding the furthest stage reached, the number and percentage of patients who are unable to complete the search process, and the reasons underlying such circumstances.

“(3) SINGLE POINT OF ACCESS; STANDARD DATA.—

“(A) SINGLE POINT OF ACCESS.—The Secretary shall ensure that health care professionals and patients are able to search electronically for and facilitate access to, in the manner and to the extent defined by the Secretary and consistent with the functions described in paragraphs (1)(A) and (2)(A), cells from bone marrow donors and cord blood units through a single point of access.

“(B) STANDARD DATA.—The Secretary shall require all recipients of contracts under this section to make available a standard dataset for purposes of subparagraph (A) in a standardized electronic format that enables transplant physicians to compare among and between bone marrow donors and cord blood units to ensure the best possible match for the patient.

“(4) DEFINITION.—The term ‘qualified cord blood bank’ means a cord blood bank that—

“(A) has obtained all applicable Federal and State licenses, certifications, registrations (including pursuant to the regulations of the Food and Drug Administration), and other authorizations required to operate and maintain a cord blood bank;

“(B) has implemented donor screening, cord blood collection practices, and processing methods intended to protect the health and safety of donors and transplant recipients to improve transplant outcomes, including with respect to the transmission of potentially harmful infections and other diseases;

“(C) is accredited by an accreditation entity recognized by the Secretary under subsection (b);

“(D) has established a system of strict confidentiality to protect the identity and privacy of patients and donors in accordance with existing Federal and State law;

Publication.
Records.

“(E) has established a system for encouraging donation by a genetically diverse group of donors; and

“(F) has established a system to confidentially maintain linkage between a cord blood unit and a maternal donor.

“(e) BONE MARROW RECRUITMENT; PRIORITIES; INFORMATION AND EDUCATION.—

“(1) RECRUITMENT; PRIORITIES.—The Program shall carry out activities for the recruitment of bone marrow donors. Such recruitment program shall identify populations that are underrepresented among potential donors enrolled with the Program. In the case of populations that are identified under the preceding sentence:

“(A) The Program shall give priority to carrying out activities under this part to increase representation for such populations in order to enable a member of such a population, to the extent practicable, to have a probability of finding a suitable unrelated donor that is comparable to the probability that an individual who is not a member of an underrepresented population would have.

“(B) The Program shall consider racial and ethnic minority groups (including persons of mixed ancestry) to be populations that have been identified for purposes of this paragraph, and shall carry out subparagraph (A) with respect to such populations.

Minorities.

“(2) INFORMATION AND EDUCATION REGARDING RECRUITMENT; TESTING AND ENROLLMENT.—

“(A) IN GENERAL.—The Program shall carry out informational and educational activities, in coordination with organ donation public awareness campaigns operated through the Department of Health and Human Services, for purposes of recruiting individuals to serve as donors of bone marrow, and shall test and enroll with the Program potential bone marrow donors. Such information and educational activities shall include the following:

“(i) Making information available to the general public, including information describing the needs of patients with respect to donors of bone marrow.

“(ii) Educating and providing information to individuals who are willing to serve as potential bone marrow donors.

“(iii) Training individuals in requesting individuals to serve as potential bone marrow donors.

“(B) PRIORITIES.—In carrying out informational and educational activities under subparagraph (A), the Program shall give priority to recruiting individuals to serve as donors of bone marrow for populations that are identified under paragraph (1).

“(3) TRANSPLANTATION AS TREATMENT OPTION.—In addition to activities regarding recruitment, the recruitment program under paragraph (1) shall provide information to physicians, other health care professionals, and the public regarding bone marrow transplants from unrelated donors as a treatment option.

“(4) IMPLEMENTATION OF SUBSECTION.—The requirements of this subsection shall be carried out by the entity that has been awarded a contract by the Secretary under subsection (a) to carry out the functions described in subsection (d)(1).

“(f) BONE MARROW CRITERIA, STANDARDS, AND PROCEDURES.—The Secretary shall enforce, for participating entities, including the Program, individual marrow donor centers, marrow donor registries, marrow collection centers, and marrow transplant centers—

“(1) quality standards and standards for tissue typing, obtaining the informed consent of donors, and providing patient advocacy;

“(2) donor selection criteria, based on established medical criteria, to protect both the donor and the recipient and to prevent the transmission of potentially harmful infectious diseases such as the viruses that cause hepatitis and the etiologic agent for Acquired Immune Deficiency Syndrome;

“(3) procedures to ensure the proper collection and transportation of the marrow;

“(4) standards for the system for patient advocacy operated under subsection (h), including standards requiring the provision of appropriate information (at the start of the search process and throughout the process) to patients and their families and physicians;

“(5) standards that—

“(A) require the establishment of a system of strict confidentiality of records relating to the identity, address, HLA type, and managing marrow donor center for marrow donors and potential marrow donors; and

“(B) prescribe the purposes for which the records described in subparagraph (A) may be disclosed, and the circumstances and extent of the disclosure; and

“(6) in the case of a marrow donor center or marrow donor registry participating in the program, procedures to ensure the establishment of a method for integrating donor files, searches, and general procedures of the center or registry with the Program.

Records.
Confidentiality.

“(g) CORD BLOOD RECRUITMENT; PRIORITIES; INFORMATION AND EDUCATION.—

“(1) RECRUITMENT; PRIORITIES.—The Program shall support activities, in cooperation with qualified cord blood banks, for the recruitment of cord blood donors. Such recruitment program shall identify populations that are underrepresented among cord blood donors. In the case of populations that are identified under the preceding sentence:

“(A) The Program shall give priority to supporting activities under this part to increase representation for such populations in order to enable a member of such a population, to the extent practicable, to have a probability of finding a suitable cord blood unit that is comparable to the probability that an individual who is not a member of an underrepresented population would have.

Minorities.

“(B) The Program shall consider racial and ethnic minority groups (including persons of mixed ancestry) to be populations that have been identified for purposes of this paragraph, and shall support activities under subparagraph (A) with respect to such populations.

“(2) INFORMATION AND EDUCATION REGARDING RECRUITMENT; TESTING AND DONATION.—

“(A) IN GENERAL.—In carrying out the recruitment program under paragraph (1), the Program shall support informational and educational activities in coordination

with qualified cord blood banks and organ donation public awareness campaigns operated through the Department of Health and Human Services, for purposes of recruiting pregnant women to serve as donors of cord blood. Such information and educational activities shall include the following:

“(i) Making information available to the general public, including information describing the needs of patients with respect to cord blood units.

“(ii) Educating and providing information to pregnant women who are willing to donate cord blood units.

“(iii) Training individuals in requesting pregnant women to serve as cord blood donors.

“(B) PRIORITIES.—In carrying out informational and educational activities under subparagraph (A), the Program shall give priority to supporting the recruitment of pregnant women to serve as donors of cord blood for populations that are identified under paragraph (1).

“(3) TRANSPLANTATION AS TREATMENT OPTION.—In addition to activities regarding recruitment, the recruitment program under paragraph (1) shall provide information to physicians, other health care professionals, and the public regarding cord blood transplants from donors as a treatment option.

“(4) IMPLEMENTATION OF SUBSECTION.—The requirements of this subsection shall be carried out by the entity that has been awarded a contract by the Secretary under subsection (a) to carry out the functions described in subsection (d)(2).

“(h) PATIENT ADVOCACY AND CASE MANAGEMENT FOR BONE MARROW AND CORD BLOOD.—

“(1) IN GENERAL.—The Secretary shall establish and maintain, through a contract or other means determined appropriate by the Secretary, an office of patient advocacy (in this subsection referred to as the ‘Office’).

Establishment.

“(2) GENERAL FUNCTIONS.—The Office shall meet the following requirements:

“(A) The Office shall be headed by a director.

“(B) The Office shall be staffed by individuals with expertise in bone marrow and cord blood therapy covered under the Program.

“(C) The Office shall operate a system for patient advocacy, which shall be separate from mechanisms for donor advocacy, and which shall serve patients for whom the Program is conducting, or has been requested to conduct, a search for a bone marrow donor or cord blood unit.

“(D) In the case of such a patient, the Office shall serve as an advocate for the patient by directly providing to the patient (or family members, physicians, or other individuals acting on behalf of the patient) individualized services with respect to efficiently utilizing the system under paragraphs (1) and (2) of subsection (d) to conduct an ongoing search for a bone marrow donor or cord blood unit and assist with information regarding third party payor matters.

“(E) In carrying out subparagraph (D), the Office shall monitor the system under paragraphs (1) and (2) of subsection (d) to determine whether the search needs of the

patient involved are being met, including with respect to the following:

“(i) Periodically providing to the patient (or an individual acting on behalf of the patient) information regarding bone marrow donors or cord blood units that are suitably matched to the patient, and other information regarding the progress being made in the search.

“(ii) Informing the patient (or such other individual) if the search has been interrupted or discontinued.

“(iii) Identifying and resolving problems in the search, to the extent practicable.

“(F) The Office shall ensure that the following data are made available to patients:

“(i) The resources available through the Program.

“(ii) A comparison of transplant centers regarding search and other costs that prior to transplantation are charged to patients by transplant centers.

“(iii) The post-transplant outcomes for individual transplant centers.

“(iv) Information concerning issues that patients may face after a transplant.

“(v) Such other information as the Program determines to be appropriate.

Surveys.

“(G) The Office shall conduct surveys of patients (or family members, physicians, or other individuals acting on behalf of patients) to determine the extent of satisfaction with the system for patient advocacy under this subsection, and to identify ways in which the system can be improved to best meet the needs of patients.

“(3) CASE MANAGEMENT.—

“(A) IN GENERAL.—In serving as an advocate for a patient under paragraph (2), the Office shall provide individualized case management services directly to the patient (or family members, physicians, or other individuals acting on behalf of the patient), including—

“(i) individualized case assessment; and

“(ii) the functions described in paragraph (2)(D) (relating to progress in the search process).

“(B) POSTSEARCH FUNCTIONS.—In addition to the case management services described in paragraph (1) for patients, the Office shall, on behalf of patients who have completed the search for a bone marrow donor or cord blood unit, provide information and education on the process of receiving a transplant, including the post-transplant process.

Public
information.

“(i) COMMENT PROCEDURES.—The Secretary shall establish and provide information to the public on procedures under which the Secretary shall receive and consider comments from interested persons relating to the manner in which the Program is carrying out the duties of the Program. The Secretary may promulgate regulations under this section.

“(j) CONSULTATION.—In developing policies affecting the Program, the Secretary shall consult with the Advisory Council, the Department of Defense Marrow Donor Recruitment and Research Program operated by the Department of the Navy, and the board of directors of each entity awarded a contract under this section.

“(k) CONTRACTS.—

“(1) APPLICATION.—To be eligible to enter into a contract under this section, an entity shall submit to the Secretary and obtain approval of an application at such time, in such manner, and containing such information as the Secretary shall by regulation prescribe. Regulations.

“(2) CONSIDERATIONS.—In awarding contracts under this section, the Secretary shall give consideration to the continued safety of donors and patients and other factors deemed appropriate by the Secretary.

“(l) ELIGIBILITY.—Entities eligible to receive a contract under this section shall include private nonprofit entities.

“(m) RECORDS.—

“(1) RECORDKEEPING.—Each recipient of a contract or subcontract under subsection (a) shall keep such records as the Secretary shall prescribe, including records that fully disclose the amount and disposition by the recipient of the proceeds of the contract, the total cost of the undertaking in connection with which the contract was made, and the amount of the portion of the cost of the undertaking supplied by other sources, and such other records as will facilitate an effective audit.

“(2) EXAMINATION OF RECORDS.—The Secretary and the Comptroller General of the United States shall have access to any books, documents, papers, and records of the recipient of a contract or subcontract entered into under this section that are pertinent to the contract, for the purpose of conducting audits and examinations.

“(n) PENALTIES FOR DISCLOSURE.—Any person who discloses the content of any record referred to in subsection (d)(4)(D) or (f)(5)(A) without the prior written consent of the donor or potential donor with respect to whom the record is maintained, or in violation of the standards described in subsection (f)(5)(B), shall be imprisoned for not more than 2 years or fined in accordance with title 18, United States Code, or both.”.

(b) STEM CELL THERAPEUTIC OUTCOMES DATABASE.—Section 379A of the Public Health Service Act (42 U.S.C. 274l) is amended to read as follows:

“SEC. 379A. STEM CELL THERAPEUTIC OUTCOMES DATABASE.

“(a) ESTABLISHMENT.—The Secretary shall by contract establish and maintain a scientific database of information relating to patients who have been recipients of a stem cell therapeutics product (including bone marrow, cord blood, or other such product) from a donor. Contracts.

“(b) INFORMATION.—The outcomes database shall include information in a standardized electronic format with respect to patients described in subsection (a), diagnosis, transplant procedures, results, long-term follow-up, and such other information as the Secretary determines to be appropriate, to conduct an ongoing evaluation of the scientific and clinical status of transplantation involving recipients of a stem cell therapeutics product from a donor.

“(c) ANNUAL REPORT ON PATIENT OUTCOMES.—The Secretary shall require the entity awarded a contract under this section to submit to the Secretary an annual report concerning patient outcomes with respect to each transplant center, based on data collected and maintained by the entity pursuant to this section.

“(d) PUBLICLY AVAILABLE DATA.—The outcomes database shall make relevant scientific information not containing individually identifiable information available to the public in the form of summaries and data sets to encourage medical research and to provide information to transplant programs, physicians, patients, entities awarded a contract under section 379 donor registries, and cord blood banks.”.

(c) DEFINITIONS.—Part I of title III of the Public Health Service Act (42 U.S.C. 274k et seq.) is amended by inserting after section 379A the following:

42 USC 274l-1.

“SEC. 379A-1. DEFINITIONS.

“In this part:

“(1) The term ‘Advisory Council’ means the advisory council established by the Secretary under section 379(a)(1).

“(2) The term ‘bone marrow’ means the cells found in adult bone marrow and peripheral blood.

“(3) The term ‘outcomes database’ means the database established by the Secretary under section 379A.

“(4) The term ‘Program’ means the C.W. Bill Young Cell Transplantation Program established under section 379.”.

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 379B of the Public Health Service Act (42 U.S.C. 274m) is amended to read as follows:

“SEC. 379B. AUTHORIZATION OF APPROPRIATIONS.

“For the purpose of carrying out this part, there are authorized to be appropriated \$34,000,000 for fiscal year 2006 and \$38,000,000 for each of fiscal years 2007 through 2010.”.

42 USC prec.
274k.

(e) CONFORMING AMENDMENTS.—Part I of title III of the Public Health Service Act (42 U.S.C. 274k et seq.) is amended in the part heading, by striking “**NATIONAL BONE MARROW DONOR REGISTRY**” and inserting “**C.W. BILL YOUNG CELL TRANSPLANTATION PROGRAM**”.

SEC. 4. REPORT ON LICENSURE OF CORD BLOOD UNITS.

Not later than 90 days after the date of enactment of this Act, the Secretary of Health and Human Services, in consultation with the Commissioner of Food and Drugs, shall submit to Congress a report concerning the progress made by the Food and Drug

Administration in developing requirements for the licensing of cord blood units.

Approved December 20, 2005.

LEGISLATIVE HISTORY—H.R. 2520 (S. 1317):

SENATE REPORTS: No. 109–129 accompanying S. 1317 (Comm. on Health, Education, Labor, and Pensions).

CONGRESSIONAL RECORD, Vol. 151 (2005):

May 24, considered and passed House.

Dec. 16, considered and passed Senate, amended.

Dec. 17, House concurred in Senate amendment.



Public Law 109–130
109th Congress

An Act

Dec. 20, 2005
[S. 52]

To direct the Secretary of the Interior to convey a parcel of real property to
Beaver County, Utah.

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. CONVEYANCE TO BEAVER COUNTY, UTAH.

(a) **IN GENERAL.**—As soon as practicable after the date of enactment of this Act, the Secretary of the Interior shall, without consideration and subject to valid existing rights, convey to Beaver County, Utah (referred to in this Act as the “County”), all right, title, and interest of the United States in and to the approximately 200 acres depicted as “Minersville State Park” on the map entitled “S. 2285, Minersville State Park” and dated April 30, 2004, for use for public recreation.

(b) **RECONVEYANCE BY BEAVER COUNTY.**—

(1) **IN GENERAL.**—Notwithstanding subsection (a), Beaver County may sell, for not less than fair market value, a portion of the property conveyed to the County under this section, if the proceeds of such sale are used by the County solely for maintenance of public recreation facilities located on the remainder of the property conveyed to the County under this section.

(2) **LIMITATION.**—If the County does not comply with the requirements of paragraph (1) in the conveyance of the property under that paragraph—

(A) the County shall pay to the United States the proceeds of the conveyance; and

(B) the Secretary of the Interior may require that all property conveyed under subsection (a) (other than the

property sold by the County under paragraph (1)) revert
to the United States.

Approved December 20, 2005.

LEGISLATIVE HISTORY—S. 52:

SENATE REPORTS: No. 109–43 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 151 (2005):

July 26, considered and passed Senate.

Dec. 6, considered and passed House.



Public Law 109–131
109th Congress

An Act

Dec. 20, 2005
[S. 136]

To authorize the Secretary of the Interior to provide supplemental funding and other services that are necessary to assist certain local school districts in the State of California in providing educational services for students attending schools located within Yosemite National Park, to authorize the Secretary of the Interior to adjust the boundaries of the Golden Gate National Recreation Area, to adjust the boundaries of Redwood National Park, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

Sec. 1. Table of contents.

TITLE I—YOSEMITE NATIONAL PARK AUTHORIZED PAYMENTS

Sec. 101. Payments for educational services.

Sec. 102. Authorization for park facilities to be located outside the boundaries of Yosemite National Park.

TITLE II—RANCHO CORRAL DE TIERRA GOLDEN GATE NATIONAL RECREATION AREA BOUNDARY ADJUSTMENT

Sec. 201. Short title.

Sec. 202. Golden Gate National Recreation Area, California.

TITLE III—REDWOOD NATIONAL PARK BOUNDARY ADJUSTMENT

Sec. 301. Short title.

Sec. 302. Redwood National Park boundary adjustment.

**TITLE I—YOSEMITE NATIONAL PARK
AUTHORIZED PAYMENTS**

SEC. 101. PAYMENTS FOR EDUCATIONAL SERVICES.

(a) IN GENERAL.—(1) For fiscal years 2006 through 2009, the Secretary of the Interior may provide funds to the Bass Lake Joint Union Elementary School District and the Mariposa Unified School District in the State of California for educational services to students—

(A) who are dependents of persons engaged in the administration, operation, and maintenance of Yosemite National Park; or

(B) who live within or near the park upon real property owned by the United States.

(2) The Secretary's authority to make payments under this section shall terminate if the State of California or local education agencies do not continue to provide funding to the schools referred

to in subsection (a) at per student levels that are no less than the amount provided in fiscal year 2005.

(b) **LIMITATION ON USE OF FUNDS.**—Payments made under this section shall only be used to pay public employees for educational services provided in accordance with subsection (a). Payments may not be used for construction, construction contracts, or major capital improvements.

(c) **LIMITATION ON AMOUNT OF FUNDS.**—Payments made under this section shall not exceed the lesser of—

(1) \$400,000 in any fiscal year; or

(2) the amount necessary to provide students described in subsection (a) with educational services that are normally provided and generally available to students who attend public schools elsewhere in the State of California.

(d) **SOURCE OF PAYMENTS.**—(1) Except as otherwise provided in this subsection, the Secretary may use funds available to the National Park Service from appropriations, donations, or fees.

(2) Funds from the following sources shall not be used to make payments under this section:

(A) Any law authorizing the collection or expenditure of entrance or use fees at units of the National Park System, including—

(i) the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-4 et seq.); and

(ii) the Federal Lands Recreation Enhancement Act (16 U.S.C. 6801 et seq.).

(B) Any unexpended receipts collected through—

(i) the recreational fee demonstration program established under section 315 of the Department of the Interior and Related Agencies Appropriations Act, 1996 (16 U.S.C. 460l-6a note; Public Law 104-134); or

(ii) the national park passport program established under section 602 of the National Parks Omnibus Management Act of 1998 (16 U.S.C. 5992).

(C) Emergency appropriations for flood recovery at Yosemite National Park.

(3)(A) The Secretary may use an authorized funding source to make payments under this section only if the funding available to Yosemite National Park from such source (after subtracting any payments to the school districts authorized under this section) is greater than or equal to the amount made available to the park for the prior fiscal year, or in fiscal year 2005, whichever is greater.

(B) It is the sense of Congress that any payments made under this section should not result in a reduction of funds to Yosemite National Park from any specific funding source, and that with respect to appropriated funds, funding levels should reflect annual increases in the park's operating base funds that are generally made to units of the National Park System.

SEC. 102. AUTHORIZATION FOR PARK FACILITIES TO BE LOCATED OUTSIDE THE BOUNDARIES OF YOSEMITE NATIONAL PARK.

(a) **FUNDING AUTHORITY FOR TRANSPORTATION SYSTEMS AND EXTERNAL FACILITIES.**—Section 814(c) of the Omnibus Parks and Public Lands Management Act of 1996 (16 U.S.C. 346e) is amended—

(1) in the heading by inserting “**AND YOSEMITE NATIONAL PARK**” after “**ZION NATIONAL PARK**”;

(2) in the first sentence—

(A) by inserting “and Yosemite National Park” after “Zion National Park”; and

(B) by inserting “for transportation systems or” after “appropriated funds”; and

(3) in the second sentence by striking “facilities” and inserting “systems or facilities”.

(b) **CLARIFYING AMENDMENT FOR TRANSPORTATION FEE AUTHORITY.**—Section 501 of the National Parks Omnibus Management Act of 1998 (16 U.S.C. 5981) is amended in the first sentence by striking “service contract” and inserting “service contract, cooperative agreement, or other contractual arrangement”.

Rancho Corral de
Tierra Golden
Gate National
Recreation Area
Boundary
Adjustment Act.

TITLE II—RANCHO CORRAL DE TIERRA GOLDEN GATE NATIONAL RECRE- ATION AREA BOUNDARY ADJUST- MENT

16 USC 460bb
note.

SEC. 201. SHORT TITLE.

This title may be cited as the “Rancho Corral de Tierra Golden Gate National Recreation Area Boundary Adjustment Act”.

SEC. 202. GOLDEN GATE NATIONAL RECREATION AREA, CALIFORNIA.

Section 2(a) of Public Law 92–589 (16 U.S.C. 460bb–1(a)) is amended—

(1) by striking “The recreation area shall comprise” and inserting the following:

“(1) **INITIAL LANDS.**—The recreation area shall comprise”; and

(2) by striking “The following additional lands are also” and all that follows through the period at the end of the subsection and inserting the following new paragraphs:

“(2) **ADDITIONAL LANDS.**—In addition to the lands described in paragraph (1), the recreation area shall include the following:

“(A) The parcels numbered by the Assessor of Marin County, California, 119–040–04, 119–040–05, 119–040–18, 166–202–03, 166–010–06, 166–010–07, 166–010–24, 166–010–25, 119–240–19, 166–010–10, 166–010–22, 119–240–03, 119–240–51, 119–240–52, 119–240–54, 166–010–12, 166–010–13, and 119–235–10.

“(B) Lands and waters in San Mateo County generally depicted on the map entitled ‘Sweeney Ridge Addition, Golden Gate National Recreation Area’, numbered NRA GG–80,000–A, and dated May 1980.

“(C) Lands acquired under the Golden Gate National Recreation Area Addition Act of 1992 (16 U.S.C. 460bb–1 note; Public Law 102–299).

“(D) Lands generally depicted on the map entitled ‘Additions to Golden Gate National Recreation Area’, numbered NPS–80–076, and dated July 2000/PWR–PLRPC.

“(E) Lands generally depicted on the map entitled ‘Rancho Corral de Tierra Additions to the Golden Gate

National Recreation Area’, numbered NPS–80,079E, and dated March 2004.

“(3) ACQUISITION LIMITATION.—The Secretary may acquire land described in paragraph (2)(E) only from a willing seller.”.

TITLE III—REDWOOD NATIONAL PARK BOUNDARY ADJUSTMENT

Redwood
National Park
Boundary
Adjustment Act
of 2005.
16 USC 79a note.

SEC. 301. SHORT TITLE.

This title may be cited as the “Redwood National Park Boundary Adjustment Act of 2005”.

SEC. 302. REDWOOD NATIONAL PARK BOUNDARY ADJUSTMENT.

Section 2(a) of the Act of Public Law 90–545 (16 U.S.C. 79b(a)) is amended—

(1) in the first sentence, by striking “(a) The area” and all that follows through the period at the end and inserting the following: “(a)(1) The Redwood National Park consists of the land generally depicted on the map entitled ‘Redwood National Park, Revised Boundary’, numbered 167/60502, and dated February, 2003.”;

(2) by inserting after paragraph (1) (as designated by paragraph (1)) the following:

“(2) The map referred to in paragraph (1) shall be—

“(A) on file and available for public inspection in the appropriate offices of the National Park Service; and

“(B) provided by the Secretary of the Interior to the appropriate officers of Del Norte and Humboldt Counties, California.”; and

(3) in the second sentence—

(A) by striking “The Secretary” and inserting the following:

“(3) The Secretary;” and

(B) by striking “one hundred and six thousand acres” and inserting “133,000 acres”.

Approved December 20, 2005.

LEGISLATIVE HISTORY—S. 136:

SENATE REPORTS: No. 109–63 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 151 (2005):

July 26, considered and passed Senate.

Dec. 6, considered and passed House.



Public Law 109–132
109th Congress

An Act

Dec. 20, 2005
[S. 212]

To amend the Valles Caldera Preservation Act to improve the preservation of the Valles Caldera, and for other purposes.

Valles Caldera
Preservation Act
of 2005.
16 USC 698v
note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Valles Caldera Preservation Act of 2005”.

SEC. 2. AMENDMENTS TO THE VALLES CALDERA PRESERVATION ACT.

(a) **ACQUISITION OF OUTSTANDING MINERAL INTERESTS.**—Section 104(e) of the Valles Caldera Preservation Act (16 U.S.C. 698v–2(e)) is amended—

(1) by striking “The acquisition” and inserting the following:

“(1) **IN GENERAL.**—The acquisition”;

(2) by striking “The Secretary” and inserting the following:

“(2) **ACQUISITION.**—The Secretary”;

(3) by striking “on a willing seller basis”;

(4) by striking “Any such” and inserting the following:

“(3) **ADMINISTRATION.**—Any such”; and

(5) by adding at the end the following:

“(4) **AVAILABLE FUNDS.**—Any such interests shall be acquired with available funds.

“(5) **DECLARATION OF TAKING.**—

“(A) **IN GENERAL.**—If negotiations to acquire the interests are unsuccessful by the date that is 60 days after the date of enactment of this paragraph, the Secretary shall acquire the interests pursuant to section 3114 of title 40, United States Code.

“(B) **SOURCE OF FUNDS.**—Any difference between the sum of money estimated to be just compensation by the Secretary and the amount awarded shall be paid from the permanent judgment appropriation under section 1304 of title 31, United States Code.”.

(b) **OBLIGATIONS AND EXPENDITURES.**—Section 106(e) of the Valles Caldera Preservation Act (16 U.S.C. 698v–4(e)) is amended by adding at the end the following:

“(4) **OBLIGATIONS AND EXPENDITURES.**—Subject to the laws applicable to Government corporations, the Trust shall determine—

“(A) the character of, and the necessity for, any obligations and expenditures of the Trust; and

“(B) the manner in which obligations and expenditures shall be incurred, allowed, and paid.”.

Deadline.

(c) SOLICITATION OF DONATIONS.—Section 106(g) of the Valles Caldera Preservation Act (16 U.S.C. 698v-4(g)) is amended by striking “The Trust may solicit” and inserting “The members of the Board of Trustees, the executive director, and one additional employee of the Trust in an executive position designated by the Board of Trustees or the executive director may solicit”.

(d) USE OF PROCEEDS.—Section 106(h)(1) of the Valles Caldera Preservation Act (16 U.S.C. 698v-4(h)(1)) is amended by striking “subsection (g)” and inserting “subsection (g), from claims, judgments, or settlements arising from activities occurring on the Baca Ranch or the Preserve after October 27, 1999,”.

SEC. 3. BOARD OF TRUSTEES.

16 USC 698v-5.

Section 107(e) of the Valles Caldera Preservation Act (U.S.C. 698v-5(e)) is amended—

(1) in paragraph (2), by striking “Trustees” and inserting “Except as provided in paragraph (3), trustees”; and

(2) in paragraph (3)—

(A) by striking “Trustees” and inserting the following:
“(A) SELECTION.—Trustees”; and

(B) by adding at the end the following:

“(B) COMPENSATION.—On request of the chair, the chair may be compensated at a rate determined by the Board of Trustees, but not to exceed the daily equivalent of the annual rate of pay for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) in which the chair is engaged in the performance of duties of the Board of Trustees.

“(C) MAXIMUM RATE OF PAY.—The total amount of compensation paid to the chair for a fiscal year under subparagraph (B) shall not exceed 25 percent of the annual rate of pay for level IV of the Executive Schedule under section 5315 of title 5, United States Code.”.

SEC. 4. RESOURCE MANAGEMENT.

(a) PROPERTY DISPOSAL LIMITATIONS.—Section 108(c)(3) of the Valles Caldera Preservation Act (16 U.S.C. 698v-6(c)(3)) is amended—

(1) in the first sentence, by striking “The Trust may not dispose” and inserting the following:

“(A) IN GENERAL.—The Trust may not dispose”;

(2) in the second sentence, by striking “The Trust” and inserting the following:

“(B) MAXIMUM DURATION.—The Trust”;

(3) in the last sentence, by striking “Any such” and inserting the following:

“(C) TERMINATION.—The”; and

(4) by adding at the end the following:

“(D) EXCLUSIONS.—For the purposes of this paragraph, the disposal of real property does not include the sale or other disposal of forage, forest products, or marketable renewable resources.”.

(b) LAW ENFORCEMENT AND FIRE MANAGEMENT.—Section 108(g) of the Valles Caldera Preservation Act (16 U.S.C. 698v-6(g)) is amended—

(1) in the first sentence, by striking “The Secretary” and inserting the following:

“(1) LAW ENFORCEMENT.—

“(A) IN GENERAL.—The Secretary”;
(2) in the second sentence, by striking “The Trust” and inserting the following:

“(B) FEDERAL AGENCY.—The Trust”; and
(3) by striking “At the request of the Trust” and all that follows through the end of the paragraph and inserting the following:

“(2) FIRE MANAGEMENT.—

“(A) NON-REIMBURSABLE SERVICES.—

“(i) DEVELOPMENT OF PLAN.—The Secretary shall, in consultation with the Trust, develop a plan to carry out fire preparedness, suppression, and emergency rehabilitation services on the Preserve.

“(ii) CONSISTENCY WITH MANAGEMENT PROGRAM.—The plan shall be consistent with the management program developed pursuant to subsection (d).

“(iii) COOPERATIVE AGREEMENT.—To the extent generally authorized at other units of the National Forest System, the Secretary shall provide the services to be carried out pursuant to the plan under a cooperative agreement entered into between the Secretary and the Trust.

“(B) REIMBURSABLE SERVICES.—To the extent generally authorized at other units of the National Forest System, the Secretary may provide presuppression and non-emergency rehabilitation and restoration services for the Trust at any time on a reimbursable basis.”.

Approved December 20, 2005.

LEGISLATIVE HISTORY—S. 212:

SENATE REPORTS: No. 109–10 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 151 (2005):

July 26, considered and passed Senate.

Dec. 6, considered and passed House.



Public Law 109–133
109th Congress

An Act

To amend the Act of June 7, 1924, to provide for the exercise of criminal jurisdiction.

Dec. 20, 2005

[S. 279]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INDIAN PUEBLO LAND ACT AMENDMENTS.

The Act of June 7, 1924 (43 Stat. 636, chapter 331), is amended by adding at the end the following:

Native
Americans.
New Mexico.

“SEC. 20. CRIMINAL JURISDICTION.

25 USC 331 note.

“(a) IN GENERAL.—Except as otherwise provided by Congress, jurisdiction over offenses committed anywhere within the exterior boundaries of any grant from a prior sovereign, as confirmed by Congress or the Court of Private Land Claims to a Pueblo Indian tribe of New Mexico, shall be as provided in this section.

“(b) JURISDICTION OF THE PUEBLO.—The Pueblo has jurisdiction, as an act of the Pueblos’ inherent power as an Indian tribe, over any offense committed by a member of the Pueblo or an Indian as defined in title 25, sections 1301(2) and 1301(4), or by any other Indian-owned entity.

“(c) JURISDICTION OF THE UNITED STATES.—The United States has jurisdiction over any offense described in chapter 53 of title 18, United States Code, committed by or against an Indian as defined in title 25, sections 1301(2) and 1301(4) or any Indian-owned entity, or that involves any Indian property or interest.

“(d) JURISDICTION OF THE STATE OF NEW MEXICO.—The State of New Mexico shall have jurisdiction over any offense committed by a person who is not a member of a Pueblo or an Indian as

defined in title 25, sections 1301(2) and 1301(4), which offense is not subject to the jurisdiction of the United States.”.

Approved December 20, 2005.

LEGISLATIVE HISTORY—S. 279:

CONGRESSIONAL RECORD, Vol. 151 (2005):

July 26, considered and passed Senate.

Dec. 6, considered and passed House.



Public Law 109–134
109th Congress

An Act

To authorize the transfer of naval vessels to certain foreign recipients.

Dec. 20, 2005

[S. 1886]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Naval Vessels
Transfer Act of
2005.

SECTION 1. SHORT TITLE.

This Act may be cited as the “Naval Vessels Transfer Act of 2005”.

SEC. 2. TRANSFERS BY GRANT.

President.

The President is authorized to transfer vessels to foreign recipients on a grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j), as follows:

(1) GREECE.—To the Government of Greece, the OSPREY class minehunter coastal ship PELICAN (MHC–53).

(2) EGYPT.—To the Government of Egypt, the OSPREY class minehunter coastal ships CARDINAL (MHC–60) and RAVEN (MHC–61).

(3) PAKISTAN.—To the Government of Pakistan, the SPRUANCE class destroyer ship FLETCHER (DD–992).

(4) TURKEY.—To the Government of Turkey, the SPRUANCE class destroyer ship CUSHING (DD–985).

SEC. 3. TRANSFERS BY SALE.

President.

The President is authorized to transfer vessels to foreign recipients on a sale basis under section 21 of the Arms Export Control Act (22 U.S.C. 2761), as follows:

(1) INDIA.—To the Government of India, the AUSTIN class amphibious transport dock ship TRENTON (LPD–14).

(2) GREECE.—To the Government of Greece, the OSPREY class minehunter coastal ship HERON (MHC–52).

(3) TURKEY.—To the Government of Turkey, the SPRUANCE class destroyer ship O'BANNON (DD–987).

SEC. 4. GRANTS NOT COUNTED IN ANNUAL TOTAL OF TRANSFERRED EXCESS DEFENSE ARTICLES.

The value of a vessel transferred to another country on a grant basis pursuant to authority provided by section 2 shall not be counted against the aggregate value of excess defense articles transferred to countries in any fiscal year under section 516 of the Foreign Assistance Act of 1961.

SEC. 5. COSTS OF CERTAIN TRANSFERS.

Notwithstanding section 516(e)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j(e)(1)), any expense incurred by the

United States in connection with a transfer authorized under section 2 shall be charged to the recipient.

President.

SEC. 6. REPAIR AND REFURBISHMENT IN UNITED STATES SHIPYARDS.

To the maximum extent practicable, the President shall require, as a condition of the transfer of a vessel under this section, that the country to which the vessel is transferred have such repair or refurbishment of the vessel as is needed before the vessel joins the naval forces of that country be performed at a shipyard located in the United States, including a United States Navy shipyard.

SEC. 7. EXPIRATION OF AUTHORITY.

The authority to transfer a vessel under this section shall expire at the end of the 2-year period beginning on the date of the enactment of this Act.

Approved December 20, 2005.

LEGISLATIVE HISTORY—S. 1886:

CONGRESSIONAL RECORD, Vol. 151 (2005):

Oct. 18, considered and passed Senate.

Dec. 6, considered and passed House.



Public Law 109–135
109th Congress

An Act

To amend the Internal Revenue Code of 1986 to provide tax benefits for the Gulf Opportunity Zone and certain areas affected by Hurricanes Rita and Wilma, and for other purposes.

Dec. 21, 2005
[H.R. 4440]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Gulf Opportunity
Zone Act of 2005.

SECTION 1. SHORT TITLE; ETC.

(a) **SHORT TITLE.**—This Act may be cited as the “Gulf Opportunity Zone Act of 2005”.

26 USC 1 note.

(b) **AMENDMENT OF 1986 CODE.**—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) **TABLE OF CONTENTS.**—The table of contents of this Act is as follows:

Sec. 1. Short title; etc.

TITLE I—ESTABLISHMENT OF GULF OPPORTUNITY ZONE

Sec. 101. Tax benefits for Gulf Opportunity Zone.

Sec. 102. Expansion of Hope Scholarship and Lifetime Learning Credit for students in the Gulf Opportunity Zone.

Sec. 103. Housing relief for individuals affected by Hurricane Katrina.

Sec. 104. Extension of special rules for mortgage revenue bonds.

Sec. 105. Special extension of bonus depreciation placed in service date for taxpayers affected by Hurricanes Katrina, Rita, and Wilma.

TITLE II—TAX BENEFITS RELATED TO HURRICANES RITA AND WILMA

Sec. 201. Extension of certain emergency tax relief for Hurricane Katrina to Hurricanes Rita and Wilma.

TITLE III—OTHER PROVISIONS

Sec. 301. Gulf Coast Recovery Bonds.

Sec. 302. Election to include combat pay as earned income for purposes of earned income credit.

Sec. 303. Modification of effective date of exception from suspension rules for certain listed and reportable transactions.

Sec. 304. Authority for undercover operations.

Sec. 305. Disclosures of certain tax return information.

TITLE IV—TECHNICALS

Subtitle A—Tax Technicals

Sec. 401. Short title.

Sec. 402. Amendments related to Energy Policy Act of 2005.

Sec. 403. Amendments related to the American Jobs Creation Act of 2004.

Sec. 404. Amendments related to the Working Families Tax Relief Act of 2004.

Sec. 405. Amendments related to the Jobs and Growth Tax Relief Reconciliation Act of 2003.

Sec. 406. Amendment related to the Victims of Terrorism Tax Relief Act of 2001.

- Sec. 407. Amendments related to the Economic Growth and Tax Relief Reconciliation Act of 2001.
- Sec. 408. Amendments related to the Internal Revenue Service Restructuring and Reform Act of 1998.
- Sec. 409. Amendments related to the Taxpayer Relief Act of 1997.
- Sec. 410. Amendment related to the Omnibus Budget Reconciliation Act of 1990.
- Sec. 411. Amendment related to the Omnibus Budget Reconciliation Act of 1987.
- Sec. 412. Clerical corrections.
- Sec. 413. Other corrections related to the American Jobs Creation Act of 2004.

Subtitle B—Trade Technicals

- Sec. 421. Technical corrections to regional value content methods for rules of origin under Public Law 109–53.

TITLE V—EMERGENCY REQUIREMENT

- Sec. 501. Emergency requirement.

TITLE I—ESTABLISHMENT OF GULF OPPORTUNITY ZONE

SEC. 101. TAX BENEFITS FOR GULF OPPORTUNITY ZONE.

(a) IN GENERAL.—Subchapter Y of chapter 1 is amended by adding at the end the following new part:

“PART II—TAX BENEFITS FOR GO ZONES

“Sec. 1400M. Definitions.

“Sec. 1400N. Tax benefits for Gulf Opportunity Zone.

“SEC. 1400M. DEFINITIONS.

“For purposes of this part—

“(1) GULF OPPORTUNITY ZONE.—The terms ‘Gulf Opportunity Zone’ and ‘GO Zone’ mean that portion of the Hurricane Katrina disaster area determined by the President to warrant individual or individual and public assistance from the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act by reason of Hurricane Katrina.

“(2) HURRICANE KATRINA DISASTER AREA.—The term ‘Hurricane Katrina disaster area’ means an area with respect to which a major disaster has been declared by the President before September 14, 2005, under section 401 of such Act by reason of Hurricane Katrina.

“(3) RITA GO ZONE.—The term ‘Rita GO Zone’ means that portion of the Hurricane Rita disaster area determined by the President to warrant individual or individual and public assistance from the Federal Government under such Act by reason of Hurricane Rita.

“(4) HURRICANE RITA DISASTER AREA.—The term ‘Hurricane Rita disaster area’ means an area with respect to which a major disaster has been declared by the President before October 6, 2005, under section 401 of such Act by reason of Hurricane Rita.

“(5) WILMA GO ZONE.—The term ‘Wilma GO Zone’ means that portion of the Hurricane Wilma disaster area determined by the President to warrant individual or individual and public assistance from the Federal Government under such Act by reason of Hurricane Wilma.

“(6) HURRICANE WILMA DISASTER AREA.—The term ‘Hurricane Wilma disaster area’ means an area with respect to which

a major disaster has been declared by the President before November 14, 2005, under section 401 of such Act by reason of Hurricane Wilma.

“SEC. 1400N. TAX BENEFITS FOR GULF OPPORTUNITY ZONE.

“(a) **TAX-EXEMPT BOND FINANCING.**—

“(1) **IN GENERAL.**—For purposes of this title—

“(A) any qualified Gulf Opportunity Zone Bond described in paragraph (2)(A)(i) shall be treated as an exempt facility bond, and

“(B) any qualified Gulf Opportunity Zone Bond described in paragraph (2)(A)(ii) shall be treated as a qualified mortgage bond.

“(2) **QUALIFIED GULF OPPORTUNITY ZONE BOND.**—For purposes of this subsection, the term ‘qualified Gulf Opportunity Zone Bond’ means any bond issued as part of an issue if—

“(A)(i) 95 percent or more of the net proceeds (as defined in section 150(a)(3)) of such issue are to be used for qualified project costs, or

“(ii) such issue meets the requirements of a qualified mortgage issue, except as otherwise provided in this subsection,

“(B) such bond is issued by the State of Alabama, Louisiana, or Mississippi, or any political subdivision thereof,

“(C) such bond is designated for purposes of this section by—

“(i) in the case of a bond which is required under State law to be approved by the bond commission of such State, such bond commission, and

“(ii) in the case of any other bond, the Governor of such State,

“(D) such bond is issued after the date of the enactment of this section and before January 1, 2011, and

“(E) no portion of the proceeds of such issue is to be used to provide any property described in section 144(c)(6)(B).

“(3) **LIMITATIONS ON BONDS.**—

“(A) **AGGREGATE AMOUNT DESIGNATED.**—The maximum aggregate face amount of bonds which may be designated under this subsection with respect to any State shall not exceed the product of \$2,500 multiplied by the portion of the State population which is in the Gulf Opportunity Zone (as determined on the basis of the most recent census estimate of resident population released by the Bureau of Census before August 28, 2005).

“(B) **MOVABLE PROPERTY.**—No bonds shall be issued which are to be used for movable fixtures and equipment.

“(4) **QUALIFIED PROJECT COSTS.**—For purposes of this subsection, the term ‘qualified project costs’ means—

“(A) the cost of any qualified residential rental project (as defined in section 142(d)) located in the Gulf Opportunity Zone, and

“(B) the cost of acquisition, construction, reconstruction, and renovation of—

Applicability.

- “(i) nonresidential real property (including fixed improvements associated with such property) located in the Gulf Opportunity Zone, and
- “(ii) public utility property (as defined in section 168(i)(10)) located in the Gulf Opportunity Zone.
- “(5) SPECIAL RULES.—In applying this title to any qualified Gulf Opportunity Zone Bond, the following modifications shall apply:
- “(A) Section 142(d)(1) (defining qualified residential rental project) shall be applied—
- “(i) by substituting ‘60 percent’ for ‘50 percent’ in subparagraph (A) thereof, and
- “(ii) by substituting ‘70 percent’ for ‘60 percent’ in subparagraph (B) thereof.
- “(B) Section 143 (relating to mortgage revenue bonds: qualified mortgage bond and qualified veterans’ mortgage bond) shall be applied—
- “(i) only with respect to owner-occupied residences in the Gulf Opportunity Zone,
- “(ii) by treating any such residence in the Gulf Opportunity Zone as a targeted area residence,
- “(iii) by applying subsection (f)(3) thereof without regard to subparagraph (A) thereof, and
- “(iv) by substituting ‘\$150,000’ for ‘\$15,000’ in subsection (k)(4) thereof.
- “(C) Except as provided in section 143, repayments of principal on financing provided by the issue of which such bond is a part may not be used to provide financing.
- “(D) Section 146 (relating to volume cap) shall not apply.
- “(E) Section 147(d)(2) (relating to acquisition of existing property not permitted) shall be applied by substituting ‘50 percent’ for ‘15 percent’ each place it appears.
- “(F) Section 148(f)(4)(C) (relating to exception from rebate for certain proceeds to be used to finance construction expenditures) shall apply to the available construction proceeds of bonds which are part of an issue described in paragraph (2)(A)(i).
- “(G) Section 57(a)(5) (relating to tax-exempt interest) shall not apply.
- “(6) SEPARATE ISSUE TREATMENT OF PORTIONS OF AN ISSUE.—This subsection shall not apply to the portion of an issue which (if issued as a separate issue) would be treated as a qualified bond or as a bond that is not a private activity bond (determined without regard to paragraph (1)), if the issuer elects to so treat such portion.
- “(b) ADVANCE REFUNDINGS OF CERTAIN TAX-EXEMPT BONDS.—
- “(1) IN GENERAL.—With respect to a bond described in paragraph (3), one additional advance refunding after the date of the enactment of this section and before January 1, 2011, shall be allowed under the applicable rules of section 149(d) if—
- “(A) the Governor of the State designates the advance refunding bond for purposes of this subsection, and
- “(B) the requirements of paragraph (5) are met.
- “(2) CERTAIN PRIVATE ACTIVITY BONDS.—With respect to a bond described in paragraph (3) which is an exempt facility

bond described in paragraph (1) or (2) of section 142(a), one advance refunding after the date of the enactment of this section and before January 1, 2011, shall be allowed under the applicable rules of section 149(d) (notwithstanding paragraph (2) thereof) if the requirements of subparagraphs (A) and (B) of paragraph (1) are met.

“(3) BONDS DESCRIBED.—A bond is described in this paragraph if such bond was outstanding on August 28, 2005, and is issued by the State of Alabama, Louisiana, or Mississippi, or a political subdivision thereof.

“(4) AGGREGATE LIMIT.—The maximum aggregate face amount of bonds which may be designated under this subsection by the Governor of a State shall not exceed—

“(A) \$4,500,000,000 in the case of the State of Louisiana,

“(B) \$2,250,000,000 in the case of the State of Mississippi, and

“(C) \$1,125,000,000 in the case of the State of Alabama.

“(5) ADDITIONAL REQUIREMENTS.—The requirements of this paragraph are met with respect to any advance refunding of a bond described in paragraph (3) if—

“(A) no advance refundings of such bond would be allowed under this title on or after August 28, 2005,

“(B) the advance refunding bond is the only other outstanding bond with respect to the refunded bond, and

“(C) the requirements of section 148 are met with respect to all bonds issued under this subsection.

“(6) USE OF PROCEEDS REQUIREMENT.—This subsection shall not apply to any advance refunding of a bond which is issued as part of an issue if any portion of the proceeds of such issue (or any prior issue) was (or is to be) used to provide any property described in section 144(c)(6)(B).

“(c) LOW-INCOME HOUSING CREDIT.—

“(1) ADDITIONAL HOUSING CREDIT DOLLAR AMOUNT FOR GULF OPPORTUNITY ZONE.—

“(A) IN GENERAL.—For purposes of section 42, in the case of calendar years 2006, 2007, and 2008, the State housing credit ceiling of each State, any portion of which is located in the Gulf Opportunity Zone, shall be increased by the lesser of—

“(i) the aggregate housing credit dollar amount allocated by the State housing credit agency of such State to buildings located in the Gulf Opportunity Zone for such calendar year, or

“(ii) the Gulf Opportunity housing amount for such State for such calendar year.

“(B) GULF OPPORTUNITY HOUSING AMOUNT.—For purposes of subparagraph (A), the term ‘Gulf Opportunity housing amount’ means, for any calendar year, the amount equal to the product of \$18.00 multiplied by the portion of the State population which is in the Gulf Opportunity Zone (as determined on the basis of the most recent census estimate of resident population released by the Bureau of Census before August 28, 2005).

“(C) ALLOCATIONS TREATED AS MADE FIRST FROM ADDITIONAL ALLOCATION AMOUNT FOR PURPOSES OF DETERMINING CARRYOVER.—For purposes of determining the

unused State housing credit ceiling under section 42(h)(3)(C) for any calendar year, any increase in the State housing credit ceiling under subparagraph (A) shall be treated as an amount described in clause (ii) of such section.

“(2) ADDITIONAL HOUSING CREDIT DOLLAR AMOUNT FOR TEXAS AND FLORIDA.—For purposes of section 42, in the case of calendar year 2006, the State housing credit ceiling of Texas and Florida shall each be increased by \$3,500,000.

“(3) DIFFICULT DEVELOPMENT AREA.—

“(A) IN GENERAL.—For purposes of section 42, in the case of property placed in service during 2006, 2007, or 2008, the Gulf Opportunity Zone, the Rita GO Zone, and the Wilma GO Zone—

“(i) shall be treated as difficult development areas designated under subclause (I) of section 42(d)(5)(C)(iii), and

“(ii) shall not be taken into account for purposes of applying the limitation under subclause (II) of such section.

“(B) APPLICATION.—Subparagraph (A) shall apply only to—

“(i) housing credit dollar amounts allocated during the period beginning on January 1, 2006, and ending on December 31, 2008, and

“(ii) buildings placed in service during such period to the extent that paragraph (1) of section 42(h) does not apply to any building by reason of paragraph (4) thereof, but only with respect to bonds issued after December 31, 2005.

“(4) SPECIAL RULE FOR APPLYING INCOME TESTS.—In the case of property placed in service—

“(A) during 2006, 2007, or 2008,

“(B) in the Gulf Opportunity Zone, and

“(C) in a nonmetropolitan area (as defined in section 42(d)(5)(C)(iv)(IV)),

section 42 shall be applied by substituting ‘national nonmetropolitan median gross income (determined under rules similar to the rules of section 142(d)(2)(B))’ for ‘area median gross income’ in subparagraphs (A) and (B) of section 42(g)(1).

“(5) DEFINITIONS.—Any term used in this subsection which is also used in section 42 shall have the same meaning as when used in such section.

“(d) SPECIAL ALLOWANCE FOR CERTAIN PROPERTY ACQUIRED ON OR AFTER AUGUST 28, 2005.—

“(1) ADDITIONAL ALLOWANCE.—In the case of any qualified Gulf Opportunity Zone property—

“(A) the depreciation deduction provided by section 167(a) for the taxable year in which such property is placed in service shall include an allowance equal to 50 percent of the adjusted basis of such property, and

“(B) the adjusted basis of the qualified Gulf Opportunity Zone property shall be reduced by the amount of such deduction before computing the amount otherwise allowable as a depreciation deduction under this chapter for such taxable year and any subsequent taxable year.

“(2) QUALIFIED GULF OPPORTUNITY ZONE PROPERTY.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘qualified Gulf Opportunity Zone property’ means property—

“(i)(I) which is described in section 168(k)(2)(A)(i),
or

“(II) which is nonresidential real property or residential rental property,

“(ii) substantially all of the use of which is in the Gulf Opportunity Zone and is in the active conduct of a trade or business by the taxpayer in such Zone,

“(iii) the original use of which in the Gulf Opportunity Zone commences with the taxpayer on or after August 28, 2005,

“(iv) which is acquired by the taxpayer by purchase (as defined in section 179(d)) on or after August 28, 2005, but only if no written binding contract for the acquisition was in effect before August 28, 2005, and

“(v) which is placed in service by the taxpayer on or before December 31, 2007 (December 31, 2008, in the case of nonresidential real property and residential rental property).

“(B) EXCEPTIONS.—

“(i) ALTERNATIVE DEPRECIATION PROPERTY.—Such term shall not include any property described in section 168(k)(2)(D)(i).

“(ii) TAX-EXEMPT BOND-FINANCED PROPERTY.—Such term shall not include any property any portion of which is financed with the proceeds of any obligation the interest on which is exempt from tax under section 103.

“(iii) QUALIFIED REVITALIZATION BUILDINGS.—Such term shall not include any qualified revitalization building with respect to which the taxpayer has elected the application of paragraph (1) or (2) of section 1400I(a).

“(iv) ELECTION OUT.—If a taxpayer makes an election under this clause with respect to any class of property for any taxable year, this subsection shall not apply to all property in such class placed in service during such taxable year.

“(3) SPECIAL RULES.—For purposes of this subsection, rules similar to the rules of subparagraph (E) of section 168(k)(2) shall apply, except that such subparagraph shall be applied—

“(A) by substituting ‘August 27, 2005’ for ‘September 10, 2001’ each place it appears therein,

“(B) by substituting ‘January 1, 2008’ for ‘January 1, 2005’ in clause (i) thereof, and

“(C) by substituting ‘qualified Gulf Opportunity Zone property’ for ‘qualified property’ in clause (iv) thereof.

“(4) ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.—For purposes of this subsection, rules similar to the rules of section 168(k)(2)(G) shall apply.

“(5) RECAPTURE.—For purposes of this subsection, rules similar to the rules under section 179(d)(10) shall apply with respect to any qualified Gulf Opportunity Zone property which ceases to be qualified Gulf Opportunity Zone property.

“(e) INCREASE IN EXPENSING UNDER SECTION 179.—

“(1) IN GENERAL.—For purposes of section 179—

Applicability.

Applicability.

Applicability.

“(A) the dollar amount in effect under section 179(b)(1) for the taxable year shall be increased by the lesser of—

“(i) \$100,000, or

“(ii) the cost of qualified section 179 Gulf Opportunity Zone property placed in service during the taxable year, and

“(B) the dollar amount in effect under section 179(b)(2) for the taxable year shall be increased by the lesser of—

“(i) \$600,000, or

“(ii) the cost of qualified section 179 Gulf Opportunity Zone property placed in service during the taxable year.

“(2) QUALIFIED SECTION 179 GULF OPPORTUNITY ZONE PROPERTY.—For purposes of this subsection, the term ‘qualified section 179 Gulf Opportunity Zone property’ means section 179 property (as defined in section 179(d)) which is qualified Gulf Opportunity Zone property (as defined in subsection (d)(2)).

“(3) COORDINATION WITH EMPOWERMENT ZONES AND RENEWAL COMMUNITIES.—For purposes of sections 1397A and 1400J, qualified section 179 Gulf Opportunity Zone property shall not be treated as qualified zone property or qualified renewal property, unless the taxpayer elects not to take such qualified section 179 Gulf Opportunity Zone property into account for purposes of this subsection.

Applicability.

“(4) RECAPTURE.—For purposes of this subsection, rules similar to the rules under section 179(d)(10) shall apply with respect to any qualified section 179 Gulf Opportunity Zone property which ceases to be qualified section 179 Gulf Opportunity Zone property.

“(f) EXPENSING FOR CERTAIN DEMOLITION AND CLEAN-UP COSTS.—

“(1) IN GENERAL.—A taxpayer may elect to treat 50 percent of any qualified Gulf Opportunity Zone clean-up cost as an expense which is not chargeable to capital account. Any cost so treated shall be allowed as a deduction for the taxable year in which such cost is paid or incurred.

“(2) QUALIFIED GULF OPPORTUNITY ZONE CLEAN-UP COST.—For purposes of this subsection, the term ‘qualified Gulf Opportunity Zone clean-up cost’ means any amount paid or incurred during the period beginning on August 28, 2005, and ending on December 31, 2007, for the removal of debris from, or the demolition of structures on, real property which is located in the Gulf Opportunity Zone and which is—

“(A) held by the taxpayer for use in a trade or business or for the production of income, or

“(B) property described in section 1221(a)(1) in the hands of the taxpayer.

For purposes of the preceding sentence, amounts paid or incurred shall be taken into account only to the extent that such amount would (but for paragraph (1)) be chargeable to capital account.

“(g) EXTENSION OF EXPENSING FOR ENVIRONMENTAL REMEDIATION COSTS.—With respect to any qualified environmental remediation expenditure (as defined in section 198(b)) paid or incurred on or after August 28, 2005, in connection with a qualified contaminated site located in the Gulf Opportunity Zone, section 198

(relating to expensing of environmental remediation costs) shall be applied—

“(1) in the case of expenditures paid or incurred on or after August 28, 2005, and before January 1, 2008, by substituting ‘December 31, 2007’ for the date contained in section 198(h), and

“(2) except as provided in section 198(d)(2), by treating petroleum products (as defined in section 4612(a)(3)) as a hazardous substance.

“(h) INCREASE IN REHABILITATION CREDIT.—In the case of qualified rehabilitation expenditures (as defined in section 47(c)) paid or incurred during the period beginning on August 28, 2005, and ending on December 31, 2008, with respect to any qualified rehabilitated building or certified historic structure (as defined in section 47(c)) located in the Gulf Opportunity Zone, subsection (a) of section 47 (relating to rehabilitation credit) shall be applied—

“(1) by substituting ‘13 percent’ for ‘10 percent’ in paragraph (1) thereof, and

“(2) by substituting ‘26 percent’ for ‘20 percent’ in paragraph (2) thereof.

“(i) SPECIAL RULES FOR SMALL TIMBER PRODUCERS.—

“(1) INCREASED EXPENSING FOR QUALIFIED TIMBER PROPERTY.—In the case of qualified timber property any portion of which is located in the Gulf Opportunity Zone, in that portion of the Rita GO Zone which is not part of the Gulf Opportunity Zone, or in the Wilma GO Zone, the limitation under subparagraph (B) of section 194(b)(1) shall be increased by the lesser of—

“(A) the limitation which would (but for this subsection) apply under such subparagraph, or

“(B) the amount of reforestation expenditures (as defined in section 194(c)(3)) paid or incurred by the taxpayer with respect to such qualified timber property during the specified portion of the taxable year.

“(2) 5 YEAR NOL CARRYBACK OF CERTAIN TIMBER LOSSES.—For purposes of determining any farming loss under section 172(i), income and deductions which are allocable to the specified portion of the taxable year and which are attributable to qualified timber property any portion of which is located in the Gulf Opportunity Zone, in that portion of the Rita GO Zone which is not part of the Gulf Opportunity Zone, or in the Wilma GO Zone shall be treated as attributable to farming businesses.

“(3) RULES NOT APPLICABLE TO CERTAIN ENTITIES.—Paragraphs (1) and (2) shall not apply to any taxpayer which—

“(A) is a corporation the stock of which is publicly traded on an established securities market, or

“(B) is a real estate investment trust.

“(4) RULES NOT APPLICABLE TO LARGE TIMBER PRODUCERS.—

“(A) EXPENSING.—Paragraph (1) shall not apply to any taxpayer if such taxpayer holds more than 500 acres of qualified timber property at any time during the taxable year.

“(B) NOL CARRYBACK.—Paragraph (2) shall not apply with respect to any qualified timber property unless—

“(i) such property was held by the taxpayer—

“(I) on August 28, 2005, in the case of qualified timber property any portion of which is located in the Gulf Opportunity Zone,

“(II) on September 23, 2005, in the case of qualified timber property (other than property described in subclause (I)) any portion of which is located in that portion of the Rita GO Zone which is not part of the Gulf Opportunity Zone, or

“(III) on October 23, 2005, in the case of qualified timber property (other than property described in subclause (I) or (II)) any portion of which is located in the Wilma GO Zone, and

“(ii) such taxpayer held not more than 500 acres of qualified timber property on such date.

“(5) DEFINITIONS.—For purposes of this subsection—

“(A) SPECIFIED PORTION.—

“(i) IN GENERAL.—The term ‘specified portion’ means—

“(I) in the case of qualified timber property any portion of which is located in the Gulf Opportunity Zone, that portion of the taxable year which is on or after August 28, 2005, and before the termination date,

“(II) in the case of qualified timber property (other than property described in clause (i)) any portion of which is located in the Rita GO Zone, that portion of the taxable year which is on or after September 23, 2005, and before the termination date, or

“(III) in the case of qualified timber property (other than property described in clause (i) or (ii)) any portion of which is located in the Wilma GO Zone, that portion of the taxable year which is on or after October 23, 2005, and before the termination date.

“(ii) TERMINATION DATE.—The term ‘termination date’ means—

“(I) for purposes of paragraph (1), January 1, 2008, and

“(II) for purposes of paragraph (2), January 1, 2007.

“(B) QUALIFIED TIMBER PROPERTY.—The term ‘qualified timber property’ has the meaning given such term in section 194(c)(1).

“(j) SPECIAL RULE FOR GULF OPPORTUNITY ZONE PUBLIC UTILITY CASUALTY LOSSES.—

“(1) IN GENERAL.—The amount described in section 172(f)(1)(A) for any taxable year shall be increased by the Gulf Opportunity Zone public utility casualty loss for such taxable year.

“(2) GULF OPPORTUNITY ZONE PUBLIC UTILITY CASUALTY LOSS.—For purposes of this subsection, the term ‘Gulf Opportunity Zone public utility casualty loss’ means any casualty loss of public utility property (as defined in section 168(i)(10)) located in the Gulf Opportunity Zone if—

“(A) such loss is allowed as a deduction under section 165 for the taxable year,

“(B) such loss is by reason of Hurricane Katrina, and

“(C) the taxpayer elects the application of this subsection with respect to such loss.

“(3) REDUCTION FOR GAINS FROM INVOLUNTARY CONVERSION.—The amount of any Gulf Opportunity Zone public utility casualty loss which would (but for this paragraph) be taken into account under paragraph (1) for any taxable year shall be reduced by the amount of any gain recognized by the taxpayer for such year from the involuntary conversion by reason of Hurricane Katrina of public utility property (as so defined) located in the Gulf Opportunity Zone.

“(4) COORDINATION WITH GENERAL DISASTER LOSS RULES.—Subsection (k) and section 165(i) shall not apply to any Gulf Opportunity Zone public utility casualty loss to the extent such loss is taken into account under paragraph (1).

“(5) ELECTION.—Any election under paragraph (2)(C) shall be made in such manner as may be prescribed by the Secretary and shall be made by the due date (including extensions of time) for filing the taxpayer’s return for the taxable year of the loss. Such election, once made for any taxable year, shall be irrevocable for such taxable year.

“(k) TREATMENT OF NET OPERATING LOSSES ATTRIBUTABLE TO GULF OPPORTUNITY ZONE LOSSES.—

“(1) IN GENERAL.—If a portion of any net operating loss of the taxpayer for any taxable year is a qualified Gulf Opportunity Zone loss, the following rules shall apply: Applicability.

“(A) EXTENSION OF CARRYBACK PERIOD.—Section 172(b)(1) shall be applied with respect to such portion—

“(i) by substituting ‘5 taxable years’ for ‘2 taxable years’ in subparagraph (A)(i), and

“(ii) by not taking such portion into account in determining any eligible loss of the taxpayer under subparagraph (F) thereof for the taxable year.

“(B) SUSPENSION OF 90 PERCENT AMT LIMITATION.—Section 56(d)(1) shall be applied by increasing the amount determined under subparagraph (A)(ii)(I) thereof by the sum of the carrybacks and carryovers of any net operating loss attributable to such portion.

“(2) QUALIFIED GULF OPPORTUNITY ZONE LOSS.—For purposes of paragraph (1), the term ‘qualified Gulf Opportunity Zone loss’ means the lesser of—

“(A) the excess of—

“(i) the net operating loss for such taxable year, over

“(ii) the specified liability loss for such taxable year to which a 10-year carryback applies under section 172(b)(1)(C), or

“(B) the aggregate amount of the following deductions to the extent taken into account in computing the net operating loss for such taxable year:

“(i) Any deduction for any qualified Gulf Opportunity Zone casualty loss.

“(ii) Any deduction for moving expenses paid or incurred after August 27, 2005, and before January

1, 2008, and allowable under this chapter to any taxpayer in connection with the employment of any individual—

“(I) whose principal place of abode was located in the Gulf Opportunity Zone before August 28, 2005,

“(II) who was unable to remain in such abode as the result of Hurricane Katrina, and

“(III) whose principal place of employment with the taxpayer after such expense is located in the Gulf Opportunity Zone.

For purposes of this clause, the term ‘moving expenses’ has the meaning given such term by section 217(b), except that the taxpayer’s former residence and new residence may be the same residence if the initial vacating of the residence was as the result of Hurricane Katrina.

“(iii) Any deduction allowable under this chapter for expenses paid or incurred after August 27, 2005, and before January 1, 2008, to temporarily house any employee of the taxpayer whose principal place of employment is in the Gulf Opportunity Zone.

“(iv) Any deduction for depreciation (or amortization in lieu of depreciation) allowable under this chapter with respect to any qualified Gulf Opportunity Zone property (as defined in subsection (d)(2), but without regard to subparagraph (B)(iv) thereof) for the taxable year such property is placed in service.

“(v) Any deduction allowable under this chapter for repair expenses (including expenses for removal of debris) paid or incurred after August 27, 2005, and before January 1, 2008, with respect to any damage attributable to Hurricane Katrina and in connection with property which is located in the Gulf Opportunity Zone.

“(3) QUALIFIED GULF OPPORTUNITY ZONE CASUALTY LOSS.—

“(A) IN GENERAL.—For purposes of paragraph (2)(B)(i), the term ‘qualified Gulf Opportunity Zone casualty loss’ means any uncompensated section 1231 loss (as defined in section 1231(a)(3)(B)) of property located in the Gulf Opportunity Zone if—

“(i) such loss is allowed as a deduction under section 165 for the taxable year, and

“(ii) such loss is by reason of Hurricane Katrina.

“(B) REDUCTION FOR GAINS FROM INVOLUNTARY CONVERSION.—The amount of qualified Gulf Opportunity Zone casualty loss which would (but for this subparagraph) be taken into account under subparagraph (A) for any taxable year shall be reduced by the amount of any gain recognized by the taxpayer for such year from the involuntary conversion by reason of Hurricane Katrina of property located in the Gulf Opportunity Zone.

“(C) COORDINATION WITH GENERAL DISASTER LOSS RULES.—Section 165(i) shall not apply to any qualified Gulf Opportunity Zone casualty loss to the extent such loss is taken into account under this subsection.

“(4) SPECIAL RULES.—For purposes of paragraph (1), rules similar to the rules of paragraphs (2) and (3) of section 172(i) shall apply with respect to such portion. Applicability.

“(1) CREDIT TO HOLDERS OF GULF TAX CREDIT BONDS.—

“(1) ALLOWANCE OF CREDIT.—If a taxpayer holds a Gulf tax credit bond on one or more credit allowance dates of the bond occurring during any taxable year, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of the credits determined under paragraph (2) with respect to such dates.

“(2) AMOUNT OF CREDIT.—

“(A) IN GENERAL.—The amount of the credit determined under this paragraph with respect to any credit allowance date for a Gulf tax credit bond is 25 percent of the annual credit determined with respect to such bond.

“(B) ANNUAL CREDIT.—The annual credit determined with respect to any Gulf tax credit bond is the product of—

“(i) the credit rate determined by the Secretary under subparagraph (C) for the day on which such bond was sold, multiplied by

“(ii) the outstanding face amount of the bond.

“(C) DETERMINATION.—For purposes of subparagraph (B), with respect to any Gulf tax credit bond, the Secretary shall determine daily or cause to be determined daily a credit rate which shall apply to the first day on which there is a binding, written contract for the sale or exchange of the bond. The credit rate for any day is the credit rate which the Secretary or the Secretary’s designee estimates will permit the issuance of Gulf tax credit bonds with a specified maturity or redemption date without discount and without interest cost to the issuer.

“(D) CREDIT ALLOWANCE DATE.—For purposes of this subsection, the term ‘credit allowance date’ means March 15, June 15, September 15, and December 15. Such term also includes the last day on which the bond is outstanding.

“(E) SPECIAL RULE FOR ISSUANCE AND REDEMPTION.—In the case of a bond which is issued during the 3-month period ending on a credit allowance date, the amount of the credit determined under this paragraph with respect to such credit allowance date shall be a ratable portion of the credit otherwise determined based on the portion of the 3-month period during which the bond is outstanding. A similar rule shall apply when the bond is redeemed or matures.

“(3) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under paragraph (1) for any taxable year shall not exceed the excess of—

“(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

“(B) the sum of the credits allowable under part IV of subchapter A (other than subpart C and this subsection).

“(4) GULF TAX CREDIT BOND.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘Gulf tax credit bond’ means any bond issued as part of an issue if—

“(i) the bond is issued by the State of Alabama, Louisiana, or Mississippi,

“(ii) 95 percent or more of the proceeds of such issue are to be used to—

“(I) pay principal, interest, or premiums on qualified bonds issued by such State or any political subdivision of such State, or

“(II) make a loan to any political subdivision of such State to pay principal, interest, or premiums on qualified bonds issued by such political subdivision,

“(iii) the Governor of such State designates such bond for purposes of this subsection,

“(iv) the bond is a general obligation of such State and is in registered form (within the meaning of section 149(a)),

“(v) the maturity of such bond does not exceed 2 years, and

“(vi) the bond is issued after December 31, 2005, and before January 1, 2007.

“(B) STATE MATCHING REQUIREMENT.—A bond shall not be treated as a Gulf tax credit bond unless—

“(i) the issuer of such bond pledges as of the date of the issuance of the issue an amount equal to the face amount of such bond to be used for payments described in subclause (I) of subparagraph (A)(ii), or loans described in subclause (II) of such subparagraph, as the case may be, with respect to the issue of which such bond is a part, and

“(ii) any such payment or loan is made in equal amounts from the proceeds of such issue and from the amount pledged under clause (i).

The requirement of clause (ii) shall be treated as met with respect to any such payment or loan made during the 1-year period beginning on the date of the issuance (or any successor 1-year period) if such requirement is met when applied with respect to the aggregate amount of such payments and loans made during such period.

“(C) AGGREGATE LIMIT ON BOND DESIGNATIONS.—The maximum aggregate face amount of bonds which may be designated under this subsection by the Governor of a State shall not exceed—

“(i) \$200,000,000 in the case of the State of Louisiana,

“(ii) \$100,000,000 in the case of the State of Mississippi, and

“(iii) \$50,000,000 in the case of the State of Alabama.

“(D) SPECIAL RULES RELATING TO ARBITRAGE.—A bond which is part of an issue shall not be treated as a Gulf tax credit bond unless, with respect to the issue of which the bond is a part, the issuer satisfies the arbitrage requirements of section 148 with respect to proceeds of the issue and any loans made with such proceeds.

“(5) QUALIFIED BOND.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘qualified bond’ means any obligation of a State or political subdivision thereof which was outstanding on August 28, 2005.

“(B) EXCEPTION FOR PRIVATE ACTIVITY BONDS.—Such term shall not include any private activity bond.

“(C) EXCEPTION FOR ADVANCE REFUNDINGS.—Such term shall not include any bond with respect to which there is any outstanding refunded or refunding bond during the period in which a Gulf tax credit bond is outstanding with respect to such bond.

“(D) USE OF PROCEEDS REQUIREMENT.—Such term shall not include any bond issued as part of an issue if any portion of the proceeds of such issue was (or is to be) used to provide any property described in section 144(c)(6)(B).

“(6) CREDIT INCLUDED IN GROSS INCOME.—Gross income includes the amount of the credit allowed to the taxpayer under this subsection (determined without regard to paragraph (3)) and the amount so included shall be treated as interest income.

“(7) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

“(A) BOND.—The term ‘bond’ includes any obligation.

“(B) PARTNERSHIP; S CORPORATION; AND OTHER PASS-THRU ENTITIES.—

“(i) IN GENERAL.—Under regulations prescribed by the Secretary, in the case of a partnership, trust, S corporation, or other pass-thru entity, rules similar to the rules of section 41(g) shall apply with respect to the credit allowable under paragraph (1).

“(ii) NO BASIS ADJUSTMENT.—In the case of a bond held by a partnership or an S corporation, rules similar to the rules under section 1397E(i) shall apply.

“(C) BONDS HELD BY REGULATED INVESTMENT COMPANIES.—If any Gulf tax credit bond is held by a regulated investment company, the credit determined under paragraph (1) shall be allowed to shareholders of such company under procedures prescribed by the Secretary.

“(D) REPORTING.—Issuers of Gulf tax credit bonds shall submit reports similar to the reports required under section 149(e).

“(E) CREDIT TREATED AS NONREFUNDABLE BONDHOLDER CREDIT.—For purposes of this title, the credit allowed by this subsection shall be treated as a credit allowable under subpart H of part IV of subchapter A of this chapter.

“(m) APPLICATION OF NEW MARKETS TAX CREDIT TO INVESTMENTS IN COMMUNITY DEVELOPMENT ENTITIES SERVING GULF OPPORTUNITY ZONE.—For purposes of section 45D—

“(1) a qualified community development entity shall be eligible for an allocation under subsection (f)(2) thereof of the increase in the new markets tax credit limitation described in paragraph (2) only if a significant mission of such entity is the recovery and redevelopment of the Gulf Opportunity Zone.

“(2) the new markets tax credit limitation otherwise determined under subsection (f)(1) thereof shall be increased by an amount equal to—

Applicability.

Regulations.

Procedures.

“(A) \$300,000,000 for 2005 and 2006, to be allocated among qualified community development entities to make qualified low-income community investments within the Gulf Opportunity Zone, and

“(B) \$400,000,000 for 2007, to be so allocated, and

“(3) subsection (f)(3) thereof shall be applied separately with respect to the amount of the increase under paragraph (2).

“(n) TREATMENT OF REPRESENTATIONS REGARDING INCOME ELIGIBILITY FOR PURPOSES OF QUALIFIED RESIDENTIAL RENTAL PROJECT REQUIREMENTS.—For purposes of determining if any residential rental project meets the requirements of section 142(d)(1) and if any certification with respect to such project meets the requirements under section 142(d)(7), the operator of the project may rely on the representations of any individual applying for tenancy in such project that such individual’s income will not exceed the applicable income limits of section 142(d)(1) upon commencement of the individual’s tenancy if such tenancy begins during the 6-month period beginning on and after the date such individual was displaced by reason of Hurricane Katrina.

“(o) TREATMENT OF PUBLIC UTILITY PROPERTY DISASTER LOSSES.—

“(1) IN GENERAL.—Upon the election of the taxpayer, in the case of any eligible public utility property loss—

“(A) section 165(i) shall be applied by substituting ‘the fifth taxable year immediately preceding’ for ‘the taxable year immediately preceding’,

“(B) an application for a tentative carryback adjustment of the tax for any prior taxable year affected by the application of subparagraph (A) may be made under section 6411, and

“(C) section 6611 shall not apply to any overpayment attributable to such loss.

“(2) ELIGIBLE PUBLIC UTILITY PROPERTY LOSS.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘eligible public utility property loss’ means any loss with respect to public utility property located in the Gulf Opportunity Zone and attributable to Hurricane Katrina.

“(B) PUBLIC UTILITY PROPERTY.—The term ‘public utility property’ has the meaning given such term by section 168(i)(10) without regard to the matter following subparagraph (D) thereof.

“(3) WAIVER OF LIMITATIONS.—If refund or credit of any overpayment of tax resulting from the application of paragraph (1) is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this section by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.

“(p) TAX BENEFITS NOT AVAILABLE WITH RESPECT TO CERTAIN PROPERTY.—

“(1) QUALIFIED GULF OPPORTUNITY ZONE PROPERTY.—For purposes of subsections (d), (e), and (k)(2)(B)(iv), the term ‘qualified Gulf Opportunity Zone property’ shall not include any property described in paragraph (3).

“(2) QUALIFIED GULF OPPORTUNITY ZONE CASUALTY LOSSES.—For purposes of subsection (k)(2)(B)(i), the term ‘qualified Gulf Opportunity Zone casualty loss’ shall not include any loss with respect to any property described in paragraph (3).

“(3) PROPERTY DESCRIBED.—

“(A) IN GENERAL.—For purposes of this subsection, property is described in this paragraph if such property is—

“(i) any property used in connection with any private or commercial golf course, country club, massage parlor, hot tub facility, suntan facility, or any store the principal business of which is the sale of alcoholic beverages for consumption off premises, or

“(ii) any gambling or animal racing property.

“(B) GAMBLING OR ANIMAL RACING PROPERTY.—For purposes of subparagraph (A)(ii)—

“(i) IN GENERAL.—The term ‘gambling or animal racing property’ means—

“(I) any equipment, furniture, software, or other property used directly in connection with gambling, the racing of animals, or the on-site viewing of such racing, and

“(II) the portion of any real property (determined by square footage) which is dedicated to gambling, the racing of animals, or the on-site viewing of such racing.

“(ii) DE MINIMIS PORTION.—Clause (i)(II) shall not apply to any real property if the portion so dedicated is less than 100 square feet.”.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 54(c) is amended by inserting “, section 1400N(l),” after “subpart C”. 26 USC 54.

(2) Subparagraph (A) of section 6049(d)(8) is amended—

(A) by inserting “or 1400N(l)(6)” after “section 54(g)”, and

(B) by inserting “or 1400N(l)(2)(D), as the case may be” after “section 54(b)(4)”.

(3) So much of subchapter Y of chapter 1 as precedes section 1400L is amended to read as follows:

“Subchapter Y—Short-Term Regional Benefits

“PART I—TAX BENEFITS FOR NEW YORK LIBERTY ZONE

“PART II—TAX BENEFITS FOR GO ZONES

“PART I—TAX BENEFITS FOR NEW YORK LIBERTY ZONE

“Sec. 1400L. Tax benefits for New York Liberty Zone.”.

(4) The item relating to subchapter Y in the table of subchapters for chapter 1 is amended to read as follows:

“SUBCHAPTER Y—SHORT-TERM REGIONAL BENEFITS”.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years ending on or after August 28, 2005.

26 USC 1400N note.

(2) CARRYBACKS.—Subsections (i)(2), (j), and (k) of section 1400N of the Internal Revenue Code of 1986 (as added by this section) shall apply to losses arising in such taxable years.

SEC. 102. EXPANSION OF HOPE SCHOLARSHIP AND LIFETIME LEARNING CREDIT FOR STUDENTS IN THE GULF OPPORTUNITY ZONE.

(a) IN GENERAL.—Part II of subchapter Y of chapter 1 (as added by this Act) is amended by adding at the end the following new section:

“SEC. 1400O. EDUCATION TAX BENEFITS.

“In the case of an individual who attends an eligible educational institution (as defined in section 25A(f)(2)) located in the Gulf Opportunity Zone for any taxable year beginning during 2005 or 2006—

“(1) in applying section 25A, the term ‘qualified tuition and related expenses’ shall include any costs which are qualified higher education expenses (as defined in section 529(e)(3)),

“(2) each of the dollar amounts in effect under of subparagraphs (A) and (B) of section 25A(b)(1) shall be twice the amount otherwise in effect before the application of this subsection, and

“(3) section 25A(c)(1) shall be applied by substituting ‘40 percent’ for ‘20 percent’.”.

(b) CONFORMING AMENDMENT.—The table of sections for part II of subchapter Y of chapter 1 is amended by adding at the end the following new item:

“Sec. 1400O. Education tax benefits.”.

SEC. 103. HOUSING RELIEF FOR INDIVIDUALS AFFECTED BY HURRICANE KATRINA.

(a) IN GENERAL.—Part II of subchapter Y of chapter 1 (as added by this Act) is amended by adding at the end the following new section:

“SEC. 1400P. HOUSING TAX BENEFITS .

“(a) EXCLUSION OF EMPLOYER PROVIDED HOUSING FOR INDIVIDUAL AFFECTED BY HURRICANE KATRINA.—

“(1) IN GENERAL.—Gross income of a qualified employee shall not include the value of any lodging furnished in-kind to such employee (and such employee’s spouse or any of such employee’s dependents) by or on behalf of a qualified employer for any month during the taxable year.

“(2) LIMITATION.—The amount which may be excluded under paragraph (1) for any month for which lodging is furnished during the taxable year shall not exceed \$600.

“(3) TREATMENT OF EXCLUSION.—The exclusion under paragraph (1) shall be treated as an exclusion under section 119 (other than for purposes of sections 3121(a)(19) and 3306(b)(14)).

“(b) EMPLOYER CREDIT FOR HOUSING EMPLOYEES AFFECTED BY HURRICANE KATRINA.—For purposes of section 38, in the case of a qualified employer, the Hurricane Katrina housing credit for any month during the taxable year is an amount equal to 30 percent of any amount which is excludable from the gross income of a qualified employee of such employer under subsection (a) and not otherwise excludable under section 119.

“(c) **QUALIFIED EMPLOYEE.**—For purposes of this section, the term ‘qualified employee’ means, with respect to any month, an individual—

“(1) who had a principal residence (as defined in section 121) in the Gulf Opportunity Zone on August 28, 2005, and

“(2) who performs substantially all employment services—

“(A) in the Gulf Opportunity Zone, and

“(B) for the qualified employer which furnishes lodging to such individual.

“(d) **QUALIFIED EMPLOYER.**—For purposes of this section, the term ‘qualified employer’ means any employer with a trade or business located in the Gulf Opportunity Zone.

“(e) **CERTAIN RULES TO APPLY.**—For purposes of this subsection, rules similar to the rules of sections 51(i)(1) and 52 shall apply.

“(f) **APPLICATION OF SECTION.**—This section shall apply to lodging furnished during the period—

“(1) beginning on the first day of the first month beginning after the date of the enactment of this section, and

“(2) ending on the date which is 6 months after the first day described in paragraph (1).”.

(b) **CONFORMING AMENDMENTS.**—

(1) Subsection (b) of section 38 is amended by striking “and” at the end of paragraph (25), by striking the period at the end of paragraph (26) and inserting “, and”, and by adding at the end the following new paragraph: 26 USC 38.

“(27) the Hurricane Katrina housing credit determined under section 1400P(b).”.

(2) Section 280C(a) is amended by striking “and 1396(a)” and inserting “1396(a), and 1400P(b)”.

(3) The table of sections for part II of subchapter Y of chapter 1 is amended by adding at the end the following new item:

“Sec. 1400P. Housing tax benefits.”.

SEC. 104. EXTENSION OF SPECIAL RULES FOR MORTGAGE REVENUE BONDS.

Section 404(d) of the Katrina Emergency Tax Relief Act of 2005 is amended by striking “December 31, 2007” and inserting “December 31, 2010”. *Ante*, p. 2027.

SEC. 105. SPECIAL EXTENSION OF BONUS DEPRECIATION PLACED IN SERVICE DATE FOR TAXPAYERS AFFECTED BY HURRICANES KATRINA, RITA, AND WILMA.

In applying the rule under section 168(k)(2)(A)(iv) of the Internal Revenue Code of 1986 to any property described in subparagraph (B) or (C) of section 168(k)(2) of such Code—

(1) the placement in service of which—

(A) is to be located in the GO Zone (as defined in section 1400M(1) of such Code), the Rita GO Zone (as defined in section 1400M(3) of such Code), or the Wilma GO Zone (as defined in section 1400M(5) of such Code), and

(B) is to be made by any taxpayer affected by Hurricane Katrina, Rita, or Wilma, or

(2) which is manufactured in such Zone by any person affected by Hurricane Katrina, Rita, or Wilma,

the Secretary of the Treasury may, on a taxpayer by taxpayer basis, extend the required date of the placement in service of such property under such section by such period of time as is determined necessary by the Secretary but not to exceed 1 year. For purposes of the preceding sentence, the determination shall be made by only taking into account the effect of one or more hurricanes on the date of such placement by the taxpayer.

TITLE II—TAX BENEFITS RELATED TO HURRICANES RITA AND WILMA

SEC. 201. EXTENSION OF CERTAIN EMERGENCY TAX RELIEF FOR HURRICANE KATRINA TO HURRICANES RITA AND WILMA.

(a) **IN GENERAL.**—Part II of subchapter Y of chapter 1 (as added by this Act) is amended by adding at the end the following new sections:

“SEC. 1400Q. SPECIAL RULES FOR USE OF RETIREMENT FUNDS.

“(a) **TAX-FAVORED WITHDRAWALS FROM RETIREMENT PLANS.**—

“(1) **IN GENERAL.**—Section 72(t) shall not apply to any qualified hurricane distribution.

“(2) **AGGREGATE DOLLAR LIMITATION.**—

“(A) **IN GENERAL.**—For purposes of this subsection, the aggregate amount of distributions received by an individual which may be treated as qualified hurricane distributions for any taxable year shall not exceed the excess (if any) of—

“(i) \$100,000, over

“(ii) the aggregate amounts treated as qualified hurricane distributions received by such individual for all prior taxable years.

“(B) **TREATMENT OF PLAN DISTRIBUTIONS.**—If a distribution to an individual would (without regard to subparagraph (A)) be a qualified hurricane distribution, a plan shall not be treated as violating any requirement of this title merely because the plan treats such distribution as a qualified hurricane distribution, unless the aggregate amount of such distributions from all plans maintained by the employer (and any member of any controlled group which includes the employer) to such individual exceeds \$100,000.

“(C) **CONTROLLED GROUP.**—For purposes of subparagraph (B), the term ‘controlled group’ means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414.

“(3) **AMOUNT DISTRIBUTED MAY BE REPAID.**—

“(A) **IN GENERAL.**—Any individual who receives a qualified hurricane distribution may, at any time during the 3-year period beginning on the day after the date on which such distribution was received, make one or more contributions in an aggregate amount not to exceed the amount of such distribution to an eligible retirement plan of which such individual is a beneficiary and to which a rollover contribution of such distribution could be made under section 402(c), 403(a)(4), 403(b)(8), 408(d)(3), or 457(e)(16), as the case may be.

“(B) TREATMENT OF REPAYMENTS OF DISTRIBUTIONS FROM ELIGIBLE RETIREMENT PLANS OTHER THAN IRAS.—For purposes of this title, if a contribution is made pursuant to subparagraph (A) with respect to a qualified hurricane distribution from an eligible retirement plan other than an individual retirement plan, then the taxpayer shall, to the extent of the amount of the contribution, be treated as having received the qualified hurricane distribution in an eligible rollover distribution (as defined in section 402(c)(4)) and as having transferred the amount to the eligible retirement plan in a direct trustee to trustee transfer within 60 days of the distribution.

“(C) TREATMENT OF REPAYMENTS FOR DISTRIBUTIONS FROM IRAS.—For purposes of this title, if a contribution is made pursuant to subparagraph (A) with respect to a qualified hurricane distribution from an individual retirement plan (as defined by section 7701(a)(37)), then, to the extent of the amount of the contribution, the qualified hurricane distribution shall be treated as a distribution described in section 408(d)(3) and as having been transferred to the eligible retirement plan in a direct trustee to trustee transfer within 60 days of the distribution.

“(4) DEFINITIONS.—For purposes of this subsection—

“(A) QUALIFIED HURRICANE DISTRIBUTION.—Except as provided in paragraph (2), the term ‘qualified hurricane distribution’ means—

“(i) any distribution from an eligible retirement plan made on or after August 25, 2005, and before January 1, 2007, to an individual whose principal place of abode on August 28, 2005, is located in the Hurricane Katrina disaster area and who has sustained an economic loss by reason of Hurricane Katrina,

“(ii) any distribution (which is not described in clause (i)) from an eligible retirement plan made on or after September 23, 2005, and before January 1, 2007, to an individual whose principal place of abode on September 23, 2005, is located in the Hurricane Rita disaster area and who has sustained an economic loss by reason of Hurricane Rita, and

“(iii) any distribution (which is not described in clause (i) or (ii)) from an eligible retirement plan made on or after October 23, 2005, and before January 1, 2007, to an individual whose principal place of abode on October 23, 2005, is located in the Hurricane Wilma disaster area and who has sustained an economic loss by reason of Hurricane Wilma.

“(B) ELIGIBLE RETIREMENT PLAN.—The term ‘eligible retirement plan’ shall have the meaning given such term by section 402(c)(8)(B).

“(5) INCOME INCLUSION SPREAD OVER 3-YEAR PERIOD.—

“(A) IN GENERAL.—In the case of any qualified hurricane distribution, unless the taxpayer elects not to have this paragraph apply for any taxable year, any amount required to be included in gross income for such taxable year shall be so included ratably over the 3-taxable year period beginning with such taxable year.

Applicability.

“(B) SPECIAL RULE.—For purposes of subparagraph (A), rules similar to the rules of subparagraph (E) of section 408A(d)(3) shall apply.

“(6) SPECIAL RULES.—

“(A) EXEMPTION OF DISTRIBUTIONS FROM TRUSTEE TO TRUSTEE TRANSFER AND WITHHOLDING RULES.—For purposes of sections 401(a)(31), 402(f), and 3405, qualified hurricane distributions shall not be treated as eligible rollover distributions.

“(B) QUALIFIED HURRICANE DISTRIBUTIONS TREATED AS MEETING PLAN DISTRIBUTION REQUIREMENTS.—For purposes this title, a qualified hurricane distribution shall be treated as meeting the requirements of sections 401(k)(2)(B)(i), 403(b)(7)(A)(ii), 403(b)(11), and 457(d)(1)(A).

“(b) RECONTRIBUTIONS OF WITHDRAWALS FOR HOME PURCHASES.—

“(1) RECONTRIBUTIONS.—

“(A) IN GENERAL.—Any individual who received a qualified distribution may, during the applicable period, make one or more contributions in an aggregate amount not to exceed the amount of such qualified distribution to an eligible retirement plan (as defined in section 402(c)(8)(B)) of which such individual is a beneficiary and to which a rollover contribution of such distribution could be made under section 402(c), 403(a)(4), 403(b)(8), or 408(d)(3), as the case may be.

“(B) TREATMENT OF REPAYMENTS.—Rules similar to the rules of subparagraphs (B) and (C) of subsection (a)(3) shall apply for purposes of this subsection.

“(2) QUALIFIED DISTRIBUTION.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘qualified distribution’ means any qualified Katrina distribution, any qualified Rita distribution, and any qualified Wilma distribution.

“(B) QUALIFIED KATRINA DISTRIBUTION.—The term ‘qualified Katrina distribution’ means any distribution—

“(i) described in section 401(k)(2)(B)(i)(IV), 403(b)(7)(A)(ii) (but only to the extent such distribution relates to financial hardship), 403(b)(11)(B), or 72(t)(2)(F),

“(ii) received after February 28, 2005, and before August 29, 2005, and

“(iii) which was to be used to purchase or construct a principal residence in the Hurricane Katrina disaster area, but which was not so purchased or constructed on account of Hurricane Katrina.

“(C) QUALIFIED RITA DISTRIBUTION.—The term ‘qualified Rita distribution’ means any distribution (other than a qualified Katrina distribution)—

“(i) described in section 401(k)(2)(B)(i)(IV), 403(b)(7)(A)(ii) (but only to the extent such distribution relates to financial hardship), 403(b)(11)(B), or 72(t)(2)(F),

“(ii) received after February 28, 2005, and before September 24, 2005, and

“(iii) which was to be used to purchase or construct a principal residence in the Hurricane Rita disaster

area, but which was not so purchased or constructed on account of Hurricane Rita.

“(D) QUALIFIED WILMA DISTRIBUTION.—The term ‘qualified Wilma distribution’ means any distribution (other than a qualified Katrina distribution or a qualified Rita distribution)—

“(i) described in section 401(k)(2)(B)(i)(IV), 403(b)(7)(A)(ii) (but only to the extent such distribution relates to financial hardship), 403(b)(11)(B), or 72(t)(2)(F),

“(ii) received after February 28, 2005, and before October 24, 2005, and

“(iii) which was to be used to purchase or construct a principal residence in the Hurricane Wilma disaster area, but which was not so purchased or constructed on account of Hurricane Wilma.

“(3) APPLICABLE PERIOD.—For purposes of this subsection, the term ‘applicable period’ means—

“(A) with respect to any qualified Katrina distribution, the period beginning on August 25, 2005, and ending on February 28, 2006,

“(B) with respect to any qualified Rita distribution, the period beginning on September 23, 2005, and ending on February 28, 2006, and

“(C) with respect to any qualified Wilma distribution, the period beginning on October 23, 2005, and ending on February 28, 2006.

“(c) LOANS FROM QUALIFIED PLANS.—

“(1) INCREASE IN LIMIT ON LOANS NOT TREATED AS DISTRIBUTIONS.—In the case of any loan from a qualified employer plan (as defined under section 72(p)(4)) to a qualified individual made during the applicable period—

“(A) clause (i) of section 72(p)(2)(A) shall be applied by substituting ‘\$100,000’ for ‘\$50,000’, and

“(B) clause (ii) of such section shall be applied by substituting ‘the present value of the nonforfeitable accrued benefit of the employee under the plan’ for ‘one-half of the present value of the nonforfeitable accrued benefit of the employee under the plan’.

“(2) DELAY OF REPAYMENT.—In the case of a qualified individual with an outstanding loan on or after the qualified beginning date from a qualified employer plan (as defined in section 72(p)(4))—

“(A) if the due date pursuant to subparagraph (B) or (C) of section 72(p)(2) for any repayment with respect to such loan occurs during the period beginning on the qualified beginning date and ending on December 31, 2006, such due date shall be delayed for 1 year,

“(B) any subsequent repayments with respect to any such loan shall be appropriately adjusted to reflect the delay in the due date under paragraph (1) and any interest accruing during such delay, and

“(C) in determining the 5-year period and the term of a loan under subparagraph (B) or (C) of section 72(p)(2), the period described in subparagraph (A) shall be disregarded.

Applicability.

“(3) QUALIFIED INDIVIDUAL.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘qualified individual’ means any qualified Hurricane Katrina individual, any qualified Hurricane Rita individual, and any qualified Hurricane Wilma individual.

“(B) QUALIFIED HURRICANE KATRINA INDIVIDUAL.—The term ‘qualified Hurricane Katrina individual’ means an individual whose principal place of abode on August 28, 2005, is located in the Hurricane Katrina disaster area and who has sustained an economic loss by reason of Hurricane Katrina.

“(C) QUALIFIED HURRICANE RITA INDIVIDUAL.—The term ‘qualified Hurricane Rita individual’ means an individual (other than a qualified Hurricane Katrina individual) whose principal place of abode on September 23, 2005, is located in the Hurricane Rita disaster area and who has sustained an economic loss by reason of Hurricane Rita.

“(D) QUALIFIED HURRICANE WILMA INDIVIDUAL.—The term ‘qualified Hurricane Wilma individual’ means an individual (other than a qualified Hurricane Katrina individual or a qualified Hurricane Rita individual) whose principal place of abode on October 23, 2005, is located in the Hurricane Wilma disaster area and who has sustained an economic loss by reason of Hurricane Wilma.

“(4) APPLICABLE PERIOD; QUALIFIED BEGINNING DATE.—For purposes of this subsection—

“(A) HURRICANE KATRINA.—In the case of any qualified Hurricane Katrina individual—

“(i) the applicable period is the period beginning on September 24, 2005, and ending on December 31, 2006, and

“(ii) the qualified beginning date is August 25, 2005.

“(B) HURRICANE RITA.—In the case of any qualified Hurricane Rita individual—

“(i) the applicable period is the period beginning on the date of the enactment of this subsection and ending on December 31, 2006, and

“(ii) the qualified beginning date is September 23, 2005.

“(C) HURRICANE WILMA.—In the case of any qualified Hurricane Wilma individual—

“(i) the applicable period is the period beginning on the date of the enactment of this subparagraph and ending on December 31, 2006, and

“(ii) the qualified beginning date is October 23, 2005.

“(d) PROVISIONS RELATING TO PLAN AMENDMENTS.—

“(1) IN GENERAL.—If this subsection applies to any amendment to any plan or annuity contract, such plan or contract shall be treated as being operated in accordance with the terms of the plan during the period described in paragraph (2)(B)(i).

“(2) AMENDMENTS TO WHICH SUBSECTION APPLIES.—

“(A) IN GENERAL.—This subsection shall apply to any amendment to any plan or annuity contract which is made—

“(i) pursuant to any provision of this section, or pursuant to any regulation issued by the Secretary or the Secretary of Labor under any provision of this section, and

“(ii) on or before the last day of the first plan year beginning on or after January 1, 2007, or such later date as the Secretary may prescribe.

In the case of a governmental plan (as defined in section 414(d)), clause (ii) shall be applied by substituting the date which is 2 years after the date otherwise applied under clause (ii).

“(B) CONDITIONS.—This subsection shall not apply to any amendment unless—

“(i) during the period—

“(I) beginning on the date that this section or the regulation described in subparagraph (A)(i) takes effect (or in the case of a plan or contract amendment not required by this section or such regulation, the effective date specified by the plan), and

“(II) ending on the date described in subparagraph (A)(ii) (or, if earlier, the date the plan or contract amendment is adopted),

the plan or contract is operated as if such plan or contract amendment were in effect; and

“(ii) such plan or contract amendment applies retroactively for such period.

“SEC. 1400R. EMPLOYMENT RELIEF.

“(a) EMPLOYEE RETENTION CREDIT FOR EMPLOYERS AFFECTED BY HURRICANE KATRINA.—

“(1) IN GENERAL.—For purposes of section 38, in the case of an eligible employer, the Hurricane Katrina employee retention credit for any taxable year is an amount equal to 40 percent of the qualified wages with respect to each eligible employee of such employer for such taxable year. For purposes of the preceding sentence, the amount of qualified wages which may be taken into account with respect to any individual shall not exceed \$6,000.

“(2) DEFINITIONS.—For purposes of this subsection—

“(A) ELIGIBLE EMPLOYER.—The term ‘eligible employer’ means any employer—

“(i) which conducted an active trade or business on August 28, 2005, in the GO Zone, and

“(ii) with respect to whom the trade or business described in clause (i) is inoperable on any day after August 28, 2005, and before January 1, 2006, as a result of damage sustained by reason of Hurricane Katrina.

“(B) ELIGIBLE EMPLOYEE.—The term ‘eligible employee’ means with respect to an eligible employer an employee whose principal place of employment on August 28, 2005, with such eligible employer was in the GO Zone.

“(C) QUALIFIED WAGES.—The term ‘qualified wages’ means wages (as defined in section 51(c)(1), but without regard to section 3306(b)(2)(B)) paid or incurred by an eligible employer with respect to an eligible employee on any day after August 28, 2005, and before January 1, 2006, which occurs during the period—

“(i) beginning on the date on which the trade or business described in subparagraph (A) first became inoperable at the principal place of employment of the employee immediately before Hurricane Katrina, and

“(ii) ending on the date on which such trade or business has resumed significant operations at such principal place of employment.

Such term shall include wages paid without regard to whether the employee performs no services, performs services at a different place of employment than such principal place of employment, or performs services at such principal place of employment before significant operations have resumed.

“(3) CERTAIN RULES TO APPLY.—For purposes of this subsection, rules similar to the rules of sections 51(i)(1) and 52 shall apply.

“(4) EMPLOYEE NOT TAKEN INTO ACCOUNT MORE THAN ONCE.—An employee shall not be treated as an eligible employee for purposes of this subsection for any period with respect to any employer if such employer is allowed a credit under section 51 with respect to such employee for such period.

“(b) EMPLOYEE RETENTION CREDIT FOR EMPLOYERS AFFECTED BY HURRICANE RITA.—

“(1) IN GENERAL.—For purposes of section 38, in the case of an eligible employer, the Hurricane Rita employee retention credit for any taxable year is an amount equal to 40 percent of the qualified wages with respect to each eligible employee of such employer for such taxable year. For purposes of the preceding sentence, the amount of qualified wages which may be taken into account with respect to any individual shall not exceed \$6,000.

“(2) DEFINITIONS.—For purposes of this subsection—

“(A) ELIGIBLE EMPLOYER.—The term ‘eligible employer’ means any employer—

“(i) which conducted an active trade or business on September 23, 2005, in the Rita GO Zone, and

“(ii) with respect to whom the trade or business described in clause (i) is inoperable on any day after September 23, 2005, and before January 1, 2006, as a result of damage sustained by reason of Hurricane Rita.

“(B) ELIGIBLE EMPLOYEE.—The term ‘eligible employee’ means with respect to an eligible employer an employee whose principal place of employment on September 23, 2005, with such eligible employer was in the Rita GO Zone.

“(C) QUALIFIED WAGES.—The term ‘qualified wages’ means wages (as defined in section 51(c)(1), but without regard to section 3306(b)(2)(B)) paid or incurred by an eligible employer with respect to an eligible employee on

any day after September 23, 2005, and before January 1, 2006, which occurs during the period—

“(i) beginning on the date on which the trade or business described in subparagraph (A) first became inoperable at the principal place of employment of the employee immediately before Hurricane Rita, and

“(ii) ending on the date on which such trade or business has resumed significant operations at such principal place of employment.

Such term shall include wages paid without regard to whether the employee performs no services, performs services at a different place of employment than such principal place of employment, or performs services at such principal place of employment before significant operations have resumed.

“(3) CERTAIN RULES TO APPLY.—For purposes of this subsection, rules similar to the rules of sections 51(i)(1) and 52 shall apply.

“(4) EMPLOYEE NOT TAKEN INTO ACCOUNT MORE THAN ONCE.—An employee shall not be treated as an eligible employee for purposes of this subsection for any period with respect to any employer if such employer is allowed a credit under subsection (a) or section 51 with respect to such employee for such period.

“(c) EMPLOYEE RETENTION CREDIT FOR EMPLOYERS AFFECTED BY HURRICANE WILMA.—

“(1) IN GENERAL.—For purposes of section 38, in the case of an eligible employer, the Hurricane Wilma employee retention credit for any taxable year is an amount equal to 40 percent of the qualified wages with respect to each eligible employee of such employer for such taxable year. For purposes of the preceding sentence, the amount of qualified wages which may be taken into account with respect to any individual shall not exceed \$6,000.

“(2) DEFINITIONS.—For purposes of this subsection—

“(A) ELIGIBLE EMPLOYER.—The term ‘eligible employer’ means any employer—

“(i) which conducted an active trade or business on October 23, 2005, in the Wilma GO Zone, and

“(ii) with respect to whom the trade or business described in clause (i) is inoperable on any day after October 23, 2005, and before January 1, 2006, as a result of damage sustained by reason of Hurricane Wilma.

“(B) ELIGIBLE EMPLOYEE.—The term ‘eligible employee’ means with respect to an eligible employer an employee whose principal place of employment on October 23, 2005, with such eligible employer was in the Wilma GO Zone.

“(C) QUALIFIED WAGES.—The term ‘qualified wages’ means wages (as defined in section 51(c)(1), but without regard to section 3306(b)(2)(B)) paid or incurred by an eligible employer with respect to an eligible employee on any day after October 23, 2005, and before January 1, 2006, which occurs during the period—

“(i) beginning on the date on which the trade or business described in subparagraph (A) first became inoperable at the principal place of employment of

the employee immediately before Hurricane Wilma, and

“(ii) ending on the date on which such trade or business has resumed significant operations at such principal place of employment.

Such term shall include wages paid without regard to whether the employee performs no services, performs services at a different place of employment than such principal place of employment, or performs services at such principal place of employment before significant operations have resumed.

“(3) CERTAIN RULES TO APPLY.—For purposes of this subsection, rules similar to the rules of sections 51(i)(1) and 52 shall apply.

“(4) EMPLOYEE NOT TAKEN INTO ACCOUNT MORE THAN ONCE.—An employee shall not be treated as an eligible employee for purposes of this subsection for any period with respect to any employer if such employer is allowed a credit under subsection (a) or (b) or section 51 with respect to such employee for such period.

“SEC. 1400S. ADDITIONAL TAX RELIEF PROVISIONS.

“(a) TEMPORARY SUSPENSION OF LIMITATIONS ON CHARITABLE CONTRIBUTIONS.—

“(1) IN GENERAL.—Except as otherwise provided in paragraph (2), section 170(b) shall not apply to qualified contributions and such contributions shall not be taken into account for purposes of applying subsections (b) and (d) of section 170 to other contributions.

“(2) TREATMENT OF EXCESS CONTRIBUTIONS.—For purposes of section 170—

“(A) INDIVIDUALS.—In the case of an individual—

“(i) LIMITATION.—Any qualified contribution shall be allowed only to the extent that the aggregate of such contributions does not exceed the excess of the taxpayer’s contribution base (as defined in subparagraph (F) of section 170(b)(1)) over the amount of all other charitable contributions allowed under section 170(b)(1).

“(ii) CARRYOVER.—If the aggregate amount of qualified contributions made in the contribution year (within the meaning of section 170(d)(1)) exceeds the limitation of clause (i), such excess shall be added to the excess described in the portion of subparagraph (A) of such section which precedes clause (i) thereof for purposes of applying such section.

“(B) CORPORATIONS.—In the case of a corporation—

“(i) LIMITATION.—Any qualified contribution shall be allowed only to the extent that the aggregate of such contributions does not exceed the excess of the taxpayer’s taxable income (as determined under paragraph (2) of section 170(b)) over the amount of all other charitable contributions allowed under such paragraph.

“(ii) CARRYOVER.—Rules similar to the rules of subparagraph (A)(i) shall apply for purposes of this subparagraph.

“(3) EXCEPTION TO OVERALL LIMITATION ON ITEMIZED DEDUCTIONS.—So much of any deduction allowed under section 170 as does not exceed the qualified contributions paid during the taxable year shall not be treated as an itemized deduction for purposes of section 68.

“(4) QUALIFIED CONTRIBUTIONS.—

“(A) IN GENERAL.—For purposes of this subsection, the term ‘qualified contribution’ means any charitable contribution (as defined in section 170(c)) if—

“(i) such contribution is paid during the period beginning on August 28, 2005, and ending on December 31, 2005, in cash to an organization described in section 170(b)(1)(A) (other than an organization described in section 509(a)(3)),

“(ii) in the case of a contribution paid by a corporation, such contribution is for relief efforts related to Hurricane Katrina, Hurricane Rita, or Hurricane Wilma, and

“(iii) the taxpayer has elected the application of this subsection with respect to such contribution.

“(B) EXCEPTION.—Such term shall not include a contribution if the contribution is for establishment of a new, or maintenance in an existing, segregated fund or account with respect to which the donor (or any person appointed or designated by such donor) has, or reasonably expects to have, advisory privileges with respect to distributions or investments by reason of the donor’s status as a donor.

“(C) APPLICATION OF ELECTION TO PARTNERSHIPS AND S CORPORATIONS.—In the case of a partnership or S corporation, the election under subparagraph (A)(iii) shall be made separately by each partner or shareholder.

“(b) SUSPENSION OF CERTAIN LIMITATIONS ON PERSONAL CASUALTY LOSSES.—Paragraphs (1) and (2)(A) of section 165(h) shall not apply to losses described in section 165(c)(3)—

“(1) which arise in the Hurricane Katrina disaster area on or after August 25, 2005, and which are attributable to Hurricane Katrina,

“(2) which arise in the Hurricane Rita disaster area on or after September 23, 2005, and which are attributable to Hurricane Rita, or

“(3) which arise in the Hurricane Wilma disaster area on or after October 23, 2005, and which are attributable to Hurricane Wilma.

In the case of any other losses, section 165(h)(2)(A) shall be applied without regard to the losses referred to in the preceding sentence.

“(c) REQUIRED EXERCISE OF AUTHORITY UNDER SECTION 7508A.—In the case of any taxpayer determined by the Secretary to be affected by the Presidentially declared disaster relating to Hurricane Katrina, Hurricane Rita, or Hurricane Wilma, any relief provided by the Secretary under section 7508A shall be for a period ending not earlier than February 28, 2006.

“(d) SPECIAL RULE FOR DETERMINING EARNED INCOME.—

“(1) IN GENERAL.—In the case of a qualified individual, if the earned income of the taxpayer for the taxable year which includes the applicable date is less than the earned income of the taxpayer for the preceding taxable year, the

Termination
date.

credits allowed under sections 24(d) and 32 may, at the election of the taxpayer, be determined by substituting—

“(A) such earned income for the preceding taxable year, for

“(B) such earned income for the taxable year which includes the applicable date.

“(2) QUALIFIED INDIVIDUAL.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘qualified individual’ means any qualified Hurricane Katrina individual, any qualified Hurricane Rita individual, and any qualified Hurricane Wilma individual.

“(B) QUALIFIED HURRICANE KATRINA INDIVIDUAL.—The term ‘qualified Hurricane Katrina individual’ means any individual whose principal place of abode on August 25, 2005, was located—

“(i) in the GO Zone, or

“(ii) in the Hurricane Katrina disaster area (but outside the GO Zone) and such individual was displaced from such principal place of abode by reason of Hurricane Katrina.

“(C) QUALIFIED HURRICANE RITA INDIVIDUAL.—The term ‘qualified Hurricane Rita individual’ means any individual (other than a qualified Hurricane Katrina individual) whose principal place of abode on September 23, 2005, was located—

“(i) in the Rita GO Zone, or

“(ii) in the Hurricane Rita disaster area (but outside the Rita GO Zone) and such individual was displaced from such principal place of abode by reason of Hurricane Rita.

“(D) QUALIFIED HURRICANE WILMA INDIVIDUAL.—The term ‘qualified Hurricane Wilma individual’ means any individual whose principal place of abode on October 23, 2005, was located—

“(i) in the Wilma GO Zone, or

“(ii) in the Hurricane Wilma disaster area (but outside the Wilma GO Zone) and such individual was displaced from such principal place of abode by reason of Hurricane Wilma.

“(3) APPLICABLE DATE.—For purposes of this subsection, the term ‘applicable date’ means—

“(A) in the case of a qualified Hurricane Katrina individual, August 25, 2005,

“(B) in the case of a qualified Hurricane Rita individual, September 23, 2005, and

“(C) in the case of a qualified Hurricane Wilma individual, October 23, 2005.

“(4) EARNED INCOME.—For purposes of this subsection, the term ‘earned income’ has the meaning given such term under section 32(c).

“(5) SPECIAL RULES.—

“(A) APPLICATION TO JOINT RETURNS.—For purposes of paragraph (1), in the case of a joint return for a taxable year which includes the applicable date—

“(i) such paragraph shall apply if either spouse is a qualified individual, and

“(ii) the earned income of the taxpayer for the preceding taxable year shall be the sum of the earned income of each spouse for such preceding taxable year.

“(B) UNIFORM APPLICATION OF ELECTION.—Any election made under paragraph (1) shall apply with respect to both sections 24(d) and section 32.

“(C) ERRORS TREATED AS MATHEMATICAL ERROR.—For purposes of section 6213, an incorrect use on a return of earned income pursuant to paragraph (1) shall be treated as a mathematical or clerical error.

“(D) NO EFFECT ON DETERMINATION OF GROSS INCOME, ETC.—Except as otherwise provided in this subsection, this title shall be applied without regard to any substitution under paragraph (1).

“(e) SECRETARIAL AUTHORITY TO MAKE ADJUSTMENTS REGARDING TAXPAYER AND DEPENDENCY STATUS.—With respect to taxable years beginning in 2005 or 2006, the Secretary may make such adjustments in the application of the internal revenue laws as may be necessary to ensure that taxpayers do not lose any deduction or credit or experience a change of filing status by reason of temporary relocations by reason of Hurricane Katrina, Hurricane Rita, or Hurricane Wilma. Any adjustments made under the preceding sentence shall ensure that an individual is not taken into account by more than one taxpayer with respect to the same tax benefit.

“SEC. 1400T. SPECIAL RULES FOR MORTGAGE REVENUE BONDS.

“(a) IN GENERAL.—In the case of financing provided with respect to owner-occupied residences in the GO Zone, the Rita GO Zone, or the Wilma GO Zone, section 143 shall be applied— Applicability.

“(1) by treating any such residence in the Rita GO Zone or the Wilma GO Zone as a targeted area residence,

“(2) by applying subsection (f)(3) thereof without regard to subparagraph (A) thereof, and

“(3) by substituting ‘\$150,000’ for ‘\$15,000’ in subsection (k)(4) thereof.

“(b) APPLICATION.—Subsection (a) shall not apply to financing provided after December 31, 2010.”.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (b) of section 38, as amended by this Act, 26 USC 38. is amended by striking “and” at the end of paragraph (26), by striking the period at the end of paragraph (27) and inserting a comma, and by adding at the end the following new paragraphs:

“(28) the Hurricane Katrina employee retention credit determined under section 1400R(a),

“(29) the Hurricane Rita employee retention credit determined under section 1400R(b), and

“(30) the Hurricane Wilma employee retention credit determined under section 1400R(c).”.

(2) Section 280C(a), as amended by this Act, is amended by striking “and 1400P(b)” and inserting “1400P(b), and 1400R”.

(3) The table of sections for part II of subchapter Y of chapter 1 is amended by adding at the end the following new items:

“Sec. 1400Q. Special rules for use of retirement funds.

“Sec. 1400R. Employment relief.

“Sec. 1400S. Additional tax relief provisions.”.

Repeal.

(4) The following provisions of the Katrina Emergency Tax Relief Act of 2005 are hereby repealed:

Ante, p. 2017.

Ante, pp. 2021,
2022, 2027–2029.

(A) Title I.

(B) Sections 202, 301, 402, 403(b), 406, and 407.

TITLE III—OTHER PROVISIONS

SEC. 301. GULF COAST RECOVERY BONDS.

It is the sense of the Congress that the Secretary of the Treasury, or the Secretary's delegate, should designate one or more series of bonds or certificates (or any portion thereof) issued under section 3105 of title 31, United States Code, as "Gulf Coast Recovery Bonds" in response to Hurricanes Katrina, Rita, and Wilma.

SEC. 302. ELECTION TO INCLUDE COMBAT PAY AS EARNED INCOME FOR PURPOSES OF EARNED INCOME CREDIT.

(a) IN GENERAL.—Subclause (II) of section 32(c)(2)(B)(vi) is amended by striking "January 1, 2006" and inserting "January 1, 2007".

26 USC 32 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2005.

SEC. 303. MODIFICATION OF EFFECTIVE DATE OF EXCEPTION FROM SUSPENSION RULES FOR CERTAIN LISTED AND REPORTABLE TRANSACTIONS.

(a) EFFECTIVE DATE MODIFICATION.—

26 USC 6404
note.

(1) IN GENERAL.—Paragraph (2) of section 903(d) of the American Jobs Creation Act of 2004 is amended to read as follows:

"(2) EXCEPTION FOR REPORTABLE OR LISTED TRANSACTIONS.—

"(A) IN GENERAL.—The amendments made by subsection (c) shall apply with respect to interest accruing after October 3, 2004.

"(B) SPECIAL RULE FOR CERTAIN LISTED AND REPORTABLE TRANSACTIONS.—

"(i) IN GENERAL.—Except as provided in clauses (ii), (iii), and (iv), the amendments made by subsection (c) shall also apply with respect to interest accruing on or before October 3, 2004.

"(ii) PARTICIPANTS IN SETTLEMENT INITIATIVES.—Clause (i) shall not apply to any transaction if, as of January 23, 2006—

"(I) the taxpayer is participating in a settlement initiative described in Internal Revenue Service Announcement 2005–80 with respect to such transaction, or

"(II) the taxpayer has entered into a settlement agreement pursuant to such an initiative. Subclause (I) shall not apply to any taxpayer if, after January 23, 2006, the taxpayer withdraws from, or terminates, participation in the initiative or the Secretary of the Treasury or the Secretary's delegate determines that a settlement agreement will not be reached pursuant to the initiative within a reasonable period of time.

“(iii) TAXPAYERS ACTING IN GOOD FAITH.—The Secretary of the Treasury may except from the application of clause (i) any transaction in which the taxpayer has acted reasonably and in good faith.

“(iv) CLOSED TRANSACTIONS.—Clause (i) shall not apply to a transaction if, as of December 14, 2005—

“(I) the assessment of all Federal income taxes for the taxable year in which the tax liability to which the interest relates arose is prevented by the operation of any law or rule of law, or

“(II) a closing agreement under section 7121 has been entered into with respect to the tax liability arising in connection with the transaction.”.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect as if included in the provisions of the American Jobs Creation Act of 2004 to which it relates.

26 USC 6404
note.

(b) TREATMENT OF AMENDED RETURNS AND OTHER SIMILAR NOTICES OF ADDITIONAL TAX OWED.—

(1) IN GENERAL.—Section 6404(g)(1) (relating to suspension) is amended by adding at the end the following new sentence: “If, after the return for a taxable year is filed, the taxpayer provides to the Secretary 1 or more signed written documents showing that the taxpayer owes an additional amount of tax for the taxable year, clause (i) shall be applied by substituting the date the last of the documents was provided for the date on which the return is filed.”.

26 USC 6404.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to documents provided on or after the date of the enactment of this Act.

26 USC 6404
note.

SEC. 304. AUTHORITY FOR UNDERCOVER OPERATIONS.

Paragraph (6) of section 7608(c) (relating to application of section) is amended by striking “January 1, 2006” both places it appears and inserting “January 1, 2007”.

SEC. 305. DISCLOSURES OF CERTAIN TAX RETURN INFORMATION.

(a) DISCLOSURES TO FACILITATE COMBINED EMPLOYMENT TAX REPORTING.—

(1) IN GENERAL.—Subparagraph (B) of section 6103(d)(5) (relating to termination) is amended by striking “December 31, 2005” and inserting “December 31, 2006”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to disclosures after December 31, 2005.

26 USC 6103
note.

(b) DISCLOSURES RELATING TO TERRORIST ACTIVITIES.—

(1) IN GENERAL.—Clause (iv) of section 6103(i)(3)(C) and subparagraph (E) of section 6103(i)(7) are each amended by striking “December 31, 2005” and inserting “December 31, 2006”.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to disclosures after December 31, 2005.

26 USC 6103
note.

(c) DISCLOSURES RELATING TO STUDENT LOANS.—

(1) IN GENERAL.—Subparagraph (D) of section 6103(l)(13) (relating to termination) is amended by striking “December 31, 2005” and inserting “December 31, 2006”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to requests made after December 31, 2005.

26 USC 6103
note.

TITLE IV—TECHNICALS

Subtitle A—Tax Technicals

Tax Technical
Corrections Act
of 2005.
26 USC 1 note.

SEC. 401. SHORT TITLE.

This subtitle may be cited as the “Tax Technical Corrections Act of 2005”.

SEC. 402. AMENDMENTS RELATED TO ENERGY POLICY ACT OF 2005.

(a) AMENDMENTS RELATED TO SECTION 1263.—

(1) Part VI of subchapter O of chapter 1 is repealed.

(2) Section 1223 is amended by striking paragraph (3) and by redesignating paragraphs (4) through (16) as paragraphs (3) through (15), respectively.

(3) Section 121(g) is amended by striking “1223(7)” and inserting “1223(6)”.

(4) Section 246(c)(3)(B) is amended by striking “paragraph (4) of section 1223” and inserting “paragraph (3) of section 1223”.

(5) Section 247(b)(2)(D) is amended by inserting “as in effect before its repeal” after “part VI of subchapter O”.

(6)(A) Section 1245(b) is amended by striking paragraph (5) and redesignating paragraphs (6) through (9) as paragraphs (5) through (8), respectively.

(B) Section 1245(b)(3) is amended by striking “paragraph (7)” and inserting “paragraph (6)”.

(7)(A) Section 1250(d) is amended by striking paragraph (5) and redesignating paragraphs (6) through (8) as paragraphs (5) through (7), respectively.

(B) Section 1250(e)(2) is amended by striking “(3), or (5)” and inserting “or (3)”.

(b) AMENDMENT RELATED TO SECTION 1301.—Clause (ii) of section 45(c)(3)(A) is amended by striking “nonhazardous lignin waste material” and inserting “lignin material”.

(c) AMENDMENTS RELATED TO SECTION 1303.—

(1) Subsection (l) of section 54 is amended by striking paragraph (5), and by redesignating paragraphs (6) and (7) as paragraphs (5) and (6), respectively.

(2) Subsection (e) of section 1303 of the Energy Policy Act of 2005 is amended to read as follows:

“(e) EFFECTIVE DATES.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to bonds issued after December 31, 2005.

“(2) SUBSECTION (C).—The amendments made by subsection (c) shall apply to taxable years beginning after December 31, 2005.”.

(d) AMENDMENTS RELATED TO SECTION 1306.—

(1) Paragraph (2) of section 45J(c) is amended to read as follows:

“(2) PHASEOUT OF CREDIT.—

“(A) IN GENERAL.—The amount of the credit determined under subsection (a) shall be reduced by an amount which bears the same ratio to the amount of the credit (determined without regard to this paragraph) as—

Repeal.
26 USC
1081–1083.

Ante, p. 991.

“(i) the amount by which the reference price (as defined in section 45(e)(2)(C)) for the calendar year in which the sale occurs exceeds 8 cents, bears to
“(ii) 3 cents.

“(B) PHASEOUT ADJUSTMENT BASED ON INFLATION.—

The 8 cent amount in subparagraph (A) shall be adjusted by multiplying such amount by the inflation adjustment factor (as defined in section 45(e)(2)(B)) for the calendar year in which the sale occurs. If any amount as increased under the preceding sentence is not a multiple of 0.1 cent, such amount shall be rounded to the nearest multiple of 0.1 cent.”.

(2) Subsection (e) of section 45J is amended by striking 26 USC 45J.

“(2),”.

(e) AMENDMENT RELATED TO SECTION 1309.—Subparagraph (B) of section 169(d)(5) is amended by adding at beginning thereof “in the case of facility placed in service in connection with a plant or other property placed in operation after December 31, 1975,”.

(f) AMENDMENTS RELATED TO SECTION 1311.—

(1) Clause (i) of section 172(b)(1)(I) is amended to read as follows:

“(i) IN GENERAL.—At the election of the taxpayer for any taxable year ending after December 31, 2005, and before January 1, 2009, in the case of a net operating loss for a taxable year ending after December 31, 2002, and before January 1, 2006, there shall be a net operating loss carryback to each of the 5 taxable years preceding the taxable year of such loss to the extent that such loss does not exceed 20 percent of the sum of the electric transmission property capital expenditures and the pollution control facility capital expenditures of the taxpayer for the taxable year preceding the taxable year for which such election is made.”.

(2) Clause (ii) of section 172(b)(1)(I) is amended by striking “in a taxable year” and inserting “for a taxable year”.

(3) Subparagraph (I) of section 172(b)(1) is amended by striking clause (iv) and (v), by redesignating clause (vi) as clause (v), and by inserting after clause (iii) the following:

“(iv) SPECIAL RULES RELATING TO CREDIT OR REFUND.—In the case of the portion of the loss which is carried back 5 years by reason of clause (i)—

“(I) an application under section 6411(a) with respect to such portion shall not fail to be treated as timely filed if filed within 24 months after the due date specified under such section, and

“(II) references in sections 6501(h), 6511(d)(2)(A), and 6611(f)(1) to the taxable year in which such net operating loss arises or results in a net operating loss carryback shall be treated as references to the taxable year for which such election is made.”.

(g) AMENDMENT RELATED TO SECTION 1322.—Subsection (a) of section 45K is amended by striking “if the taxpayer elects to have this section apply,”.

(h) AMENDMENT RELATED TO SECTION 1331.—Paragraph (3) of section 1250(b) is amended by striking “or by section 179D”.

26 USC 25D.

(i) AMENDMENTS RELATED TO SECTION 1335.—

(1) Paragraph (1) of section 25D(b) is amended by inserting “(determined without regard to subsection (c))” after “subsection (a)”.

(2) Subparagraphs (A) and (B) of section 25D(e)(4) are amended to read as follows:

“(A) MAXIMUM EXPENDITURES.—The maximum amount of expenditures which may be taken into account under subsection (a) by all such individuals with respect to such dwelling unit during such calendar year shall be—

“(i) \$6,667 in the case of any qualified photovoltaic property expenditures,

“(ii) \$6,667 in the case of any qualified solar water heating property expenditures, and

“(iii) \$1,667 in the case of each half kilowatt of capacity of qualified fuel cell property (as defined in section 48(c)(1)) for which qualified fuel cell property expenditures are made.

“(B) ALLOCATION OF EXPENDITURES.—The expenditures allocated to any individual for the taxable year in which such calendar year ends shall be an amount equal to the lesser of—

“(i) the amount of expenditures made by such individual with respect to such dwelling during such calendar year, or

“(ii) the maximum amount of such expenditures set forth in subparagraph (A) multiplied by a fraction—

“(I) the numerator of which is the amount of such expenditures with respect to such dwelling made by such individual during such calendar year, and

“(II) the denominator of which is the total expenditures made by all such individuals with respect to such dwelling during such calendar year.”.

(3)(A)(i) The matter preceding subparagraph (A) of section 23(b)(4) is amended by striking “The credit” and inserting “In the case of a taxable year to which section 26(a)(2) does not apply, the credit”.

(ii) Subsection (c) of section 23 is amended to read as follows:

“(c) CARRYFORWARDS OF UNUSED CREDIT.—

“(1) RULE FOR YEARS IN WHICH ALL PERSONAL CREDITS ALLOWED AGAINST REGULAR AND ALTERNATIVE MINIMUM TAX.—In the case of a taxable year to which section 26(a)(2) applies, if the credit allowable under subsection (a) for any taxable year exceeds the limitation imposed by section 26(a)(2) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section and sections 25D and 1400C), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year.

“(2) RULE FOR OTHER YEARS.—In the case of a taxable year to which section 26(a)(2) does not apply, if the credit allowable under subsection (a) for any taxable year exceeds the limitation imposed by subsection (b)(4) for such taxable year, such excess shall be carried to the succeeding taxable

year and added to the credit allowable under subsection (a) for such taxable year.

“(3) LIMITATION.—No credit may be carried forward under this subsection to any taxable year following the fifth taxable year after the taxable year in which the credit arose. For purposes of the preceding sentence, credits shall be treated as used on a first-in first-out basis.”.

(B)(i) The matter preceding subparagraph (A) of section 24(b)(3) is amended by striking “The credit” and inserting “In the case of a taxable year to which section 26(a)(2) does not apply, the credit”.

26 USC 24.

(ii) Paragraph (1) of section 24(d) is amended to read as follows:

“(1) IN GENERAL.—The aggregate credits allowed to a taxpayer under subpart C shall be increased by the lesser of—

“(A) the credit which would be allowed under this section without regard to this subsection and the limitation under section 26(a)(2) or subsection (b)(3), as the case may be, or

“(B) the amount by which the aggregate amount of credits allowed by this subpart (determined without regard to this subsection) would increase if the limitation imposed by section 26(a)(2) or subsection (b)(3), as the case may be, were increased by the excess (if any) of—

“(i) 15 percent of so much of the taxpayer’s earned income (within the meaning of section 32) which is taken into account in computing taxable income for the taxable year as exceeds \$10,000, or

“(ii) in the case of a taxpayer with 3 or more qualifying children, the excess (if any) of—

“(I) the taxpayer’s social security taxes for the taxable year, over

“(II) the credit allowed under section for the taxable year.

The amount of the credit allowed under this subsection shall not be treated as a credit allowed under this subpart and shall reduce the amount of credit otherwise allowable under subsection (a) without regard to section 26(a)(2) or subsection (b)(3), as the case may be. For purposes of subparagraph (B), any amount excluded from gross income by reason of section 112 shall be treated as earned income which is taken into account in computing taxable income for the taxable year.”.

(C) Subparagraph (C) of section 25(e)(1) is amended to read as follows:

“(C) APPLICABLE TAX LIMIT.—For purposes of this paragraph, the term ‘applicable tax limit’ means—

“(i) in the case of a taxable year to which section 26(a)(2) applies, the limitation imposed by section 26(a)(2) for the taxable year reduced by the sum of the credits allowable under this subpart (other than this section and sections 23, 25D, and 1400C), and

“(ii) in the case of a taxable year to which section 26(a)(2) does not apply, the limitation imposed by section 26(a)(1) for the taxable year reduced by the sum of the credits allowable under this subpart (other than this section and sections 23, 24, 25B, 25D, and 1400C).”.

26 USC 25B.

(D) The matter preceding paragraph (1) of section 25B(g) is amended by striking “The credit” and inserting “In the case of a taxable year to which section 26(a)(2) does not apply, the credit”.

(E) Subsection (c) of section 25D is amended to read as follows:

“(c) CARRYFORWARD OF UNUSED CREDIT.—

“(1) RULE FOR YEARS IN WHICH ALL PERSONAL CREDITS ALLOWED AGAINST REGULAR AND ALTERNATIVE MINIMUM TAX.—In the case of a taxable year to which section 26(a)(2) applies, if the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a)(2) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

“(2) RULE FOR OTHER YEARS.—In the case of a taxable year to which section 26(a)(2) does not apply, if the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a)(1) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section and sections 23, 24, and 25B), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.”.

(F) Subsection (d) of section 1400C is amended to read as follows:

“(d) CARRYFORWARD OF UNUSED CREDIT.—

“(1) RULE FOR YEARS IN WHICH ALL PERSONAL CREDITS ALLOWED AGAINST REGULAR AND ALTERNATIVE MINIMUM TAX.—In the case of a taxable year to which section 26(a)(2) applies, if the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a)(2) for such taxable year reduced by the sum of the credits allowable under subpart A of part IV of subchapter A (other than this section and section 25D), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year.

“(2) RULE FOR OTHER YEARS.—In the case of a taxable year to which section 26(a)(2) does not apply, if the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a)(1) for such taxable year reduced by the sum of the credits allowable under subpart A of part IV of subchapter A (other than this section and sections 23, 24, 25B, and 25D), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year.”.

(G) Subsection (i) of section 904 is amended to read as follows:

“(i) COORDINATION WITH NONREFUNDABLE PERSONAL CREDITS.—In the case of any taxable year of an individual to which section 26(a)(2) does not apply, for purposes of subsection (a), the tax against which the credit is taken is such tax reduced by the sum of the credits allowable under subpart A of part IV of subchapter A of this chapter (other than sections 23, 24, and 25B).”.

(H) APPLICATION OF EGTRRA SUNSET.—The amendments made by this paragraph (and each part thereof) shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 in the same manner as the provisions of such Act to which such amendment (or part thereof) relates. 26 USC 23 note.

(4) Subsection (b) of section 1335 of the Energy Policy Act of 2005 is amended by striking paragraphs (1), (2), and (3). The Internal Revenue Code of 1986 shall be applied and administered as if the amendments made such paragraphs had never been enacted. *Ante*, p. 1033.
Applicability.

(j) AMENDMENT RELATED TO SECTION 1341.—Paragraph (6) of section 30B(h) is amended by adding at the end the following sentence: “For purposes of subsection (g), property to which this paragraph applies shall be treated as of a character subject to an allowance for depreciation.”. 26 USC 30B.

(k) AMENDMENT RELATED TO SECTION 1342.—Paragraph (2) of section 30C(e) is amended by adding at the end the following sentence: “For purposes of subsection (d), property to which this paragraph applies shall be treated as of a character subject to an allowance for depreciation.”.

(l) AMENDMENTS RELATED TO SECTION 1351.—

(1) Paragraph (6) of section 41(f) (relating to special rules) is amended by adding at the end the following:

“(C) FOREIGN RESEARCH.—For purposes of subsection (a)(3), amounts paid or incurred for any energy research conducted outside the United States, the Commonwealth of Puerto Rico, or any possession of the United States shall not be taken into account.

“(D) DENIAL OF DOUBLE BENEFIT.—Any amount taken into account under subsection (a)(3) shall not be taken into account under paragraph (1) or (2) of subsection (a).”.

(2) Clause (ii) of section 41(b)(3)(C) is amended by striking “(other than an energy research consortium)”.

(m) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by this section shall take effect as if included in the provisions of the Energy Policy Act of 2005 to which they relate. 26 USC 23 note.

(2) REPEAL OF PUBLIC UTILITY HOLDING COMPANY ACT OF 1935.—The amendments made by subsection (a) shall not apply with respect to any transaction ordered in compliance with the Public Utility Holding Company Act of 1935 before its repeal.

(3) COORDINATION OF PERSONAL CREDITS.—The amendments made by subsection (i)(3) shall apply to taxable years beginning after December 31, 2005.

SEC. 403. AMENDMENTS RELATED TO THE AMERICAN JOBS CREATION ACT OF 2004.

(a) AMENDMENTS RELATED TO SECTION 102 OF THE ACT.—

(1) Paragraph (1) of section 199(b) is amended by striking “the employer” and inserting “the taxpayer”.

(2) Paragraph (2) of section 199(b) is amended to read as follows:

“(2) W–2 WAGES.—For purposes of this section, the term ‘W–2 wages’ means, with respect to any person for any taxable year of such person, the sum of the amounts described in

paragraphs (3) and (8) of section 6051(a) paid by such person with respect to employment of employees by such person during the calendar year ending during such taxable year. Such term shall not include any amount which is not properly included in a return filed with the Social Security Administration on or before the 60th day after the due date (including extensions) for such return.”.

26 USC 199.

(3) Subparagraph (B) of section 199(c)(1) is amended by inserting “and” at the end of clause (i), by striking clauses (ii) and (iii), and by inserting after clause (i) the following:

“(ii) other expenses, losses, or deductions (other than the deduction allowed under this section), which are properly allocable to such receipts.”.

(4) Paragraph (2) of section 199(c) is amended to read as follows:

Regulations.

“(2) ALLOCATION METHOD.—The Secretary shall prescribe rules for the proper allocation of items described in paragraph (1) for purposes of determining qualified production activities income. Such rules shall provide for the proper allocation of items whether or not such items are directly allocable to domestic production gross receipts.”.

(5) Subparagraph (A) of section 199(c)(4) is amended by striking clauses (ii) and (iii) and inserting the following new clauses:

“(ii) in the case of a taxpayer engaged in the active conduct of a construction trade or business, construction of real property performed in the United States by the taxpayer in the ordinary course of such trade or business, or

“(iii) in the case of a taxpayer engaged in the active conduct of an engineering or architectural services trade or business, engineering or architectural services performed in the United States by the taxpayer in the ordinary course of such trade or business with respect to the construction of real property in the United States.”.

(6) Subparagraph (B) of section 199(c)(4) is amended by striking “and” at the end of clause (i), by striking the period at the end of clause (ii) and inserting “, or”, and by adding at the end the following:

“(iii) the lease, rental, license, sale, exchange, or other disposition of land.”.

(7) Paragraph (4) of section 199(c) is amended by adding at the end the following new subparagraphs:

“(C) SPECIAL RULE FOR CERTAIN GOVERNMENT CONTRACTS.—Gross receipts derived from the manufacture or production of any property described in subparagraph (A)(i)(I) shall be treated as meeting the requirements of subparagraph (A)(i) if—

“(i) such property is manufactured or produced by the taxpayer pursuant to a contract with the Federal Government, and

“(ii) the Federal Acquisition Regulation requires that title or risk of loss with respect to such property be transferred to the Federal Government before the manufacture or production of such property is complete.

“(D) PARTNERSHIPS OWNED BY EXPANDED AFFILIATED GROUPS.—For purposes of this paragraph, if all of the interests in the capital and profits of a partnership are owned by members of a single expanded affiliated group at all times during the taxable year of such partnership, the partnership and all members of such group shall be treated as a single taxpayer during such period.”.

(8) Paragraph (1) of section 199(d) is amended to read as follows: 26 USC 199.

“(1) APPLICATION OF SECTION TO PASS-THRU ENTITIES.—

“(A) PARTNERSHIPS AND S CORPORATIONS.—In the case of a partnership or S corporation—

“(i) this section shall be applied at the partner or shareholder level,

“(ii) each partner or shareholder shall take into account such person’s allocable share of each item described in subparagraph (A) or (B) of subsection (c)(1) (determined without regard to whether the items described in such subparagraph (A) exceed the items described in such subparagraph (B)), and

“(iii) each partner or shareholder shall be treated for purposes of subsection (b) as having W-2 wages for the taxable year in an amount equal to the lesser of—

“(I) such person’s allocable share of the W-2 wages of the partnership or S corporation for the taxable year (as determined under regulations prescribed by the Secretary), or

“(II) 2 times 9 percent of so much of such person’s qualified production activities income as is attributable to items allocated under clause (ii) for the taxable year.

“(B) TRUSTS AND ESTATES.—In the case of a trust or estate—

“(i) the items referred to in subparagraph (A)(ii) (as determined therein) and the W-2 wages of the trust or estate for the taxable year, shall be apportioned between the beneficiaries and the fiduciary (and among the beneficiaries) under regulations prescribed by the Secretary, and

“(ii) for purposes of paragraph (2), adjusted gross income of the trust or estate shall be determined as provided in section 67(e) with the adjustments described in such paragraph.

“(C) REGULATIONS.—The Secretary may prescribe rules requiring or restricting the allocation of items and wages under this paragraph and may prescribe such reporting requirements as the Secretary determines appropriate.”.

(9) Paragraph (3) of section 199(d) is amended to read as follows:

“(3) AGRICULTURAL AND HORTICULTURAL COOPERATIVES.—

“(A) DEDUCTION ALLOWED TO PATRONS.—Any person who receives a qualified payment from a specified agricultural or horticultural cooperative shall be allowed for the taxable year in which such payment is received a deduction under subsection (a) equal to the portion of the deduction

allowed under subsection (a) to such cooperative which is—

“(i) allowed with respect to the portion of the qualified production activities income to which such payment is attributable, and

“(ii) identified by such cooperative in a written notice mailed to such person during the payment period described in section 1382(d).

“(B) COOPERATIVE DENIED DEDUCTION FOR PORTION OF QUALIFIED PAYMENTS.—The taxable income of a specified agricultural or horticultural cooperative shall not be reduced under section 1382 by reason of that portion of any qualified payment as does not exceed the deduction allowable under subparagraph (A) with respect to such payment.

“(C) TAXABLE INCOME OF COOPERATIVES DETERMINED WITHOUT REGARD TO CERTAIN DEDUCTIONS.—For purposes of this section, the taxable income of a specified agricultural or horticultural cooperative shall be computed without regard to any deduction allowable under subsection (b) or (c) of section 1382 (relating to patronage dividends, per-unit retain allocations, and nonpatronage distributions).

“(D) SPECIAL RULE FOR MARKETING COOPERATIVES.—For purposes of this section, a specified agricultural or horticultural cooperative described in subparagraph (F)(ii) shall be treated as having manufactured, produced, grown, or extracted in whole or significant part any qualifying production property marketed by the organization which its patrons have so manufactured, produced, grown, or extracted.

“(E) QUALIFIED PAYMENT.—For purposes of this paragraph, the term ‘qualified payment’ means, with respect to any person, any amount which—

“(i) is described in paragraph (1) or (3) of section 1385(a),

“(ii) is received by such person from a specified agricultural or horticultural cooperative, and

“(iii) is attributable to qualified production activities income with respect to which a deduction is allowed to such cooperative under subsection (a).

“(F) SPECIFIED AGRICULTURAL OR HORTICULTURAL COOPERATIVE.—For purposes of this paragraph, the term ‘specified agricultural or horticultural cooperative’ means an organization to which part I of subchapter T applies which is engaged—

“(i) in the manufacturing, production, growth, or extraction in whole or significant part of any agricultural or horticultural product, or

“(ii) in the marketing of agricultural or horticultural products.”.

26 USC 199.

(10) Clause (i) of section 199(d)(4)(B) is amended—

(A) by striking “50 percent” and inserting “more than 50 percent”, and

(B) by striking “80 percent” and inserting “at least 80 percent”.

(11)(A) Paragraph (6) of section 199(d) is amended to read as follows:

“(6) COORDINATION WITH MINIMUM TAX.—For purposes of determining alternative minimum taxable income under section 55—

“(A) qualified production activities income shall be determined without regard to any adjustments under sections 56 through 59, and

“(B) in the case of a corporation, subsection (a)(1)(B) shall be applied by substituting ‘alternative minimum taxable income’ for ‘taxable income’.”

(B) Paragraph (2) of section 199(a) is amended by striking “subsections (d)(1) and (d)(6)” and inserting “subsection (d)(1)”. 26 USC 199.

(12) Subsection (d) of section 199 is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

“(7) UNRELATED BUSINESS TAXABLE INCOME.—For purposes of determining the tax imposed by section 511, subsection (a)(1)(B) shall be applied by substituting ‘unrelated business taxable income’ for ‘taxable income’.”. Applicability.

(13) Paragraph (8) of section 199(d), as redesignated by paragraph (12), is amended by inserting “, including regulations which prevent more than 1 taxpayer from being allowed a deduction under this section with respect to any activity described in subsection (c)(4)(A)(i)” before the period at the end.

(14) Clauses (i)(II) and (ii)(II) of section 56(d)(1)(A) are each amended by striking “such deduction” and inserting “such deduction and the deduction under section 199”.

(15) Clause (i) of section 163(j)(6)(A) is amended by striking “and” at the end of subclause (II), by redesignating subclause (III) as subclause (IV), and by inserting after subclause (II) the following new subclause:

“(III) any deduction allowable under section 199, and”.

(16) Paragraph (2) of section 170(b) is amended by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively, and by inserting after subparagraph (B) the following new subparagraph:

“(C) section 199.”.

(17) Subsection (d) of section 172 is amended by adding at the end the following new paragraph:

“(7) MANUFACTURING DEDUCTION.—The deduction under section 199 shall not be allowed.”.

(18) Paragraph (1) of section 613A(d) is amended by redesignating subparagraphs (B), (C), and (D) as subparagraphs (C), (D), and (E), respectively, and by inserting after subparagraph (A) the following new subparagraph:

“(B) any deduction allowable under section 199.”.

(19) Subsection (e) of section 102 of the American Jobs Creation Act of 2004 is amended to read as follows:

“(e) EFFECTIVE DATE.—

“(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

“(2) APPLICATION TO PASS-THRU ENTITIES, ETC.—In determining the deduction under section 199 of the Internal Revenue Code of 1986 (as added by this section), items arising from

26 USC 56 note.

a taxable year of a partnership, S corporation, estate, or trust beginning before January 1, 2005, shall not be taken into account for purposes of subsection (d)(1) of such section.”

26 USC 1361. (b) AMENDMENT RELATED TO SECTION 231 OF THE ACT.—Paragraph (1) of section 1361(c) is amended to read as follows:

“(1) MEMBERS OF A FAMILY TREATED AS 1 SHAREHOLDER.—

“(A) IN GENERAL.—For purposes of subsection (b)(1)(A), there shall be treated as one shareholder—

“(i) a husband and wife (and their estates), and

“(ii) all members of a family (and their estates).

“(B) MEMBERS OF A FAMILY.—For purposes of this paragraph—

“(i) IN GENERAL.—The term ‘members of a family’ means a common ancestor, any lineal descendant of such common ancestor, and any spouse or former spouse of such common ancestor or any such lineal descendant.

“(ii) COMMON ANCESTOR.—An individual shall not be considered to be a common ancestor if, on the applicable date, the individual is more than 6 generations removed from the youngest generation of shareholders who would (but for this subparagraph) be members of the family. For purposes of the preceding sentence, a spouse (or former spouse) shall be treated as being of the same generation as the individual to whom such spouse is (or was) married.

“(iii) APPLICABLE DATE.—The term ‘applicable date’ means the latest of—

“(I) the date the election under section 1362(a) is made,

“(II) the earliest date that an individual described in clause (i) holds stock in the S corporation, or

“(III) October 22, 2004.

“(C) EFFECT OF ADOPTION, ETC.—Any legally adopted child of an individual, any child who is lawfully placed with an individual for legal adoption by the individual, and any eligible foster child of an individual (within the meaning of section 152(f)(1)(C)), shall be treated as a child of such individual by blood.”

26 USC 1366 note. (c) AMENDMENT RELATED TO SECTION 235 OF THE ACT.—Subsection (b) of section 235 of the American Jobs Creation Act of 2004 is amended by striking “taxable years beginning” and inserting “transfers”.

(d) AMENDMENTS RELATED TO SECTION 243 OF THE ACT.—

(1) Paragraph (7) of section 856(c) is amended to read as follows:

“(7) RULES OF APPLICATION FOR FAILURE TO SATISFY PARAGRAPH (4).—

“(A) IN GENERAL.—A corporation, trust, or association that fails to meet the requirements of paragraph (4) (other than a failure to meet the requirements of paragraph (4)(B)(iii) which is described in subparagraph (B)(i) of this paragraph) for a particular quarter shall nevertheless be considered to have satisfied the requirements of such paragraph for such quarter if—

“(i) following the corporation, trust, or association’s identification of the failure to satisfy the requirements of such paragraph for a particular quarter, a description of each asset that causes the corporation, trust, or association to fail to satisfy the requirements of such paragraph at the close of such quarter of any taxable year is set forth in a schedule for such quarter filed in accordance with regulations prescribed by the Secretary,

“(ii) the failure to meet the requirements of such paragraph for a particular quarter is due to reasonable cause and not due to willful neglect, and

“(iii)(I) the corporation, trust, or association disposes of the assets set forth on the schedule specified in clause (i) within 6 months after the last day of the quarter in which the corporation, trust or association’s identification of the failure to satisfy the requirements of such paragraph occurred or such other time period prescribed by the Secretary and in the manner prescribed by the Secretary, or

“(II) the requirements of such paragraph are otherwise met within the time period specified in subclause (I).

“(B) RULE FOR CERTAIN DE MINIMIS FAILURES.—A corporation, trust, or association that fails to meet the requirements of paragraph (4)(B)(iii) for a particular quarter shall nevertheless be considered to have satisfied the requirements of such paragraph for such quarter if—

“(i) such failure is due to the ownership of assets the total value of which does not exceed the lesser of—

“(I) 1 percent of the total value of the trust’s assets at the end of the quarter for which such measurement is done, and

“(II) \$10,000,000, and

“(ii)(I) the corporation, trust, or association, following the identification of such failure, disposes of assets in order to meet the requirements of such paragraph within 6 months after the last day of the quarter in which the corporation, trust or association’s identification of the failure to satisfy the requirements of such paragraph occurred or such other time period prescribed by the Secretary and in the manner prescribed by the Secretary, or

“(II) the requirements of such paragraph are otherwise met within the time period specified in subclause (I).

“(C) TAX.—

“(i) TAX IMPOSED.—If subparagraph (A) applies to a corporation, trust, or association for any taxable year, there is hereby imposed on such corporation, trust, or association a tax in an amount equal to the greater of—

“(I) \$50,000, or

“(II) the amount determined (pursuant to regulations promulgated by the Secretary) by multiplying the net income generated by the assets

Regulations.

described in the schedule specified in subparagraph (A)(i) for the period specified in clause (ii) by the highest rate of tax specified in section 11.

“(ii) PERIOD.—For purposes of clause (i)(II), the period described in this clause is the period beginning on the first date that the failure to satisfy the requirements of such paragraph (4) occurs as a result of the ownership of such assets and ending on the earlier of the date on which the trust disposes of such assets or the end of the first quarter when there is no longer a failure to satisfy such paragraph (4).

“(iii) ADMINISTRATIVE PROVISIONS.—For purposes of subtitle F, the taxes imposed by this subparagraph shall be treated as excise taxes with respect to which the deficiency procedures of such subtitle apply.”.

26 USC 856.

(2) Subsection (m) of section 856 is amended by adding at the end the following new paragraph:

“(6) TRANSITION RULE.—

“(A) IN GENERAL.—Notwithstanding paragraph (2)(C), securities held by a trust shall not be considered securities held by the trust for purposes of subsection (c)(4)(B)(iii)(III) during any period beginning on or before October 22, 2004, if such securities—

“(i) are held by such trust continuously during such period, and

“(ii) would not be taken into account for purposes of such subsection by reason of paragraph (7)(C) of subsection (c) (as in effect on October 22, 2004) if the amendments made by section 243 of the American Jobs Creation Act of 2004 had never been enacted.

“(B) RULE NOT TO APPLY TO SECURITIES HELD AFTER MATURITY DATE.—Subparagraph (A) shall not apply with respect to any security after the later of October 22, 2004, or the latest maturity date under the contract (as in effect on October 22, 2004) taking into account any renewal or extension permitted under the contract if such renewal or extension does not significantly modify any other terms of the contract.

“(C) SUCCESSORS.—If the successor of a trust to which this paragraph applies acquires securities in a transaction to which section 381 applies, such trusts shall be treated as a single entity for purposes of determining the holding period of such securities under subparagraph (A).”.

(3) Subparagraph (E) of section 857(b)(2) is amended by striking “section 856(c)(7)(B)(iii), and section 856(g)(1).” and inserting “section 856(c)(7)(C), and section 856(g)(5)”.

26 USC 856 note.

(4) Subsection (g) of section 243 of the American Jobs Creation Act of 2004 is amended to read as follows:

“(g) EFFECTIVE DATES.—

“(1) SUBSECTIONS (a) AND (b).—The amendments made by subsections (a) and (b) shall apply to taxable years beginning after December 31, 2000.

“(2) SUBSECTIONS (c) AND (e).—The amendments made by subsections (c) and (e) shall apply to taxable years beginning after the date of the enactment of this Act.

“(3) SUBSECTION (d).—The amendment made by subsection (d) shall apply to transactions entered into after December 31, 2004.

“(4) SUBSECTION (f).—

“(A) The amendment made by paragraph (1) of subsection (f) shall apply to failures with respect to which the requirements of subparagraph (A) or (B) of section 856(c)(7) of the Internal Revenue Code of 1986 (as added by such paragraph) are satisfied after the date of the enactment of this Act.

“(B) The amendment made by paragraph (2) of subsection (f) shall apply to failures with respect to which the requirements of paragraph (6) of section 856(c) of the Internal Revenue Code of 1986 (as amended by such paragraph) are satisfied after the date of the enactment of this Act.

“(C) The amendments made by paragraph (3) of subsection (f) shall apply to failures with respect to which the requirements of paragraph (5) of section 856(g) of the Internal Revenue Code of 1986 (as added by such paragraph) are satisfied after the date of the enactment of this Act.

“(D) The amendment made by paragraph (4) of subsection (f) shall apply to taxable years ending after the date of the enactment of this Act.

“(E) The amendments made by paragraph (5) of subsection (f) shall apply to statements filed after the date of the enactment of this Act.”.

(e) AMENDMENTS RELATED TO SECTION 244 OF THE ACT.—

(1) Paragraph (2) of section 181(d) is amended by striking the last sentence in subparagraph (A), by redesignating subparagraph (B) as subparagraph (C), and by inserting after subparagraph (A) the following new subparagraph: 26 USC 181.

“(B) SPECIAL RULES FOR TELEVISION SERIES.—In the case of a television series—

“(i) each episode of such series shall be treated as a separate production, and

“(ii) only the first 44 episodes of such series shall be taken into account.”.

(2) Subparagraph (C) of section 1245(a)(2) is amended by inserting “181,” after “179B,”.

(f) AMENDMENTS RELATED TO SECTION 245 OF THE ACT.—

(1) Subsection (b) of section 45G is amended to read as follows:

“(b) LIMITATION.—

“(1) IN GENERAL.—The credit allowed under subsection (a) for any taxable year shall not exceed the product of—

“(A) \$3,500, multiplied by

“(B) the sum of—

“(i) the number of miles of railroad track owned or leased by the eligible taxpayer as of the close of the taxable year, and

“(ii) the number of miles of railroad track assigned for purposes of this subsection to the eligible taxpayer by a Class II or Class III railroad which owns or leases such railroad track as of the close of the taxable year.

“(2) ASSIGNMENTS.—With respect to any assignment of a mile of railroad track under paragraph (1)(B)(ii)—

“(A) such assignment may be made only once per taxable year of the Class II or Class III railroad and shall be treated as made as of the close of such taxable year,

“(B) such mile may not be taken into account under this section by such railroad for such taxable year, and

“(C) such assignment shall be taken into account for the taxable year of the assignee which includes the date that such assignment is treated as effective.”.

26 USC 45G.

(2) Paragraph (2) of section 45G(c) is amended to read as follows:

“(2) any person who transports property using the rail facilities of a Class II or Class III railroad or who furnishes railroad-related property or services to a Class II or Class III railroad, but only with respect to miles of railroad track assigned to such person by such Class II or Class III railroad for purposes of subsection (b).”.

(g) AMENDMENTS RELATED TO SECTION 248 OF THE ACT.—

(1)(A) Subsection (d) of section 1353 is amended by striking “ownership and charter interests” and inserting “ownership, charter, and operating agreement interests”.

(B) Subsection (a) of section 1355 is amended by striking paragraph (8).

(C) Paragraph (1) of section 1355(b) is amended to read as follows:

“(1) IN GENERAL.—Except as provided in paragraph (2), a person is treated as operating any vessel during any period if—

“(A)(i) such vessel is owned by, or chartered (including a time charter) to, the person, or

“(ii) the person provides services for such vessel pursuant to an operating agreement, and

“(B) such vessel is in use as a qualifying vessel during such period.”.

(D) Paragraph (3) of section 1355(d) is amended to read as follows:

“(3) the extent of a partner’s ownership, charter, or operating agreement interest in any vessel operated by the partnership shall be determined on the basis of the partner’s interest in the partnership.”.

(2) Paragraph (3) of section 1355(c) is amended by striking “determined—” and all that follows and inserting “determined by treating all members of such group as 1 person.”.

(3) Subsection (c) of section 1356 is amended—

(A) by striking paragraph (3), and

(B) by adding at the end of paragraph (2) the following new flush sentence:

“Such term shall not include any core qualifying activities.”.

(4) The last sentence of section 1354(b) is amended by inserting “on or” after “only if made”.

(h) AMENDMENT RELATED TO SECTION 314 OF THE ACT.—Paragraph (2) of section 55(c) is amended by striking “regular tax” and inserting “regular tax liability”.

(i) AMENDMENTS RELATED TO SECTION 322 OF THE ACT.—

(1)(A) Subparagraph (B) of section 194(b)(1) is amended to read as follows:

“(B) DOLLAR LIMITATION.—The aggregate amount of reforestation expenditures which may be taken into account under subparagraph (A) with respect to each qualified timber property for any taxable year shall not exceed—

“(i) except as provided in clause (ii) or (iii), \$10,000,

“(ii) in the case of a separate return by a married individual (as defined in section 7703), \$5,000, and

“(iii) in the case of a trust, zero.”.

(B) Paragraph (4) of section 194(c) is amended to read 26 USC 194.
as follows:

“(4) TREATMENT OF TRUSTS AND ESTATES.—The aggregate amount of reforestation expenditures incurred by any trust or estate shall be apportioned between the income beneficiaries and the fiduciary under regulations prescribed by the Secretary. Any amount so apportioned to a beneficiary shall be taken into account as expenditures incurred by such beneficiary in applying this section to such beneficiary.”.

(2) Subparagraph (C) of section 1245(a)(2) is amended by striking “or 193” and inserting “193, or 194”.

(j) AMENDMENTS RELATED TO SECTION 336 OF THE ACT.—

(1) Clause (iv) of section 168(k)(2)(A) is amended by striking “subparagraphs (B) and (C)” and inserting “subparagraph (B) or (C)”.

(2) Clause (iii) of section 168(k)(4)(B) is amended by striking “and paragraph (2)(C)” and inserting “or paragraph (2)(C) (as so modified)”.

(k) AMENDMENT RELATED TO SECTION 402 OF THE ACT.—Paragraph (2) of section 904(g) is amended to read as follows:

“(2) OVERALL DOMESTIC LOSS.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘overall domestic loss’ means—

“(i) with respect to any qualified taxable year, the domestic loss for such taxable year to the extent such loss offsets taxable income from sources without the United States for the taxable year or for any preceding qualified taxable year by reason of a carryback, and

“(ii) with respect to any other taxable year, the domestic loss for such taxable year to the extent such loss offsets taxable income from sources without the United States for any preceding qualified taxable year by reason of a carryback.

“(B) DOMESTIC LOSS.—For purposes of subparagraph (A), the term ‘domestic loss’ means the amount by which the gross income for the taxable year from sources within the United States is exceeded by the sum of the deductions properly apportioned or allocated thereto (determined without regard to any carryback from a subsequent taxable year).

“(C) QUALIFIED TAXABLE YEAR.—For purposes of subparagraph (A), the term ‘qualified taxable year’ means any taxable year for which the taxpayer chose the benefits of this subpart.”.

(l) AMENDMENT RELATED TO SECTION 403 OF THE ACT.—Section 403 of the American Jobs Creation Act of 2004 is amended by adding at the end the following new subsection: 26 USC 864 note.

Applicability.

“(d) TRANSITION RULE.—If the taxpayer elects (at such time and in such form and manner as the Secretary of the Treasury may prescribe) to have the rules of this subsection apply—

“(1) the amendments made by this section shall not apply to taxable years beginning after December 31, 2002, and before January 1, 2005, and

“(2) in the case of taxable years beginning after December 31, 2004, clause (iv) of section 904(d)(4)(C) of the Internal Revenue Code of 1986 (as amended by this section) shall be applied by substituting ‘January 1, 2005’ for ‘January 1, 2003’ both places it appears.”.

26 USC 954.

(m) AMENDMENT RELATED TO SECTION 412 OF THE ACT.—Subparagraph (B) of section 954(c)(4) is amended by adding at the end the following: “If a controlled foreign corporation is treated as owning a capital or profits interest in a partnership under constructive ownership rules similar to the rules of section 958(b), the controlled foreign corporation shall be treated as owning such interest directly for purposes of this subparagraph.”.

(n) AMENDMENTS RELATED TO SECTION 413 OF THE ACT.—

(1) Subsection (b) of section 532 is amended by striking paragraph (2) and redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(2) Subsection (b) of section 535 is amended by adding at the end the following new paragraph:

“(10) CONTROLLED FOREIGN CORPORATIONS.—There shall be allowed as a deduction the amount of the corporation’s income for the taxable year which is included in the gross income of a United States shareholder under section 951(a). In the case of any corporation the accumulated taxable income of which would (but for this sentence) be determined without allowance of any deductions, the deduction under this paragraph shall be allowed and shall be appropriately adjusted to take into account any deductions which reduced such inclusion.”.

(3)(A) Section 6683 is repealed.

(B) The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6683.

(o) AMENDMENT RELATED TO SECTION 415 OF THE ACT.—Subparagraph (D) of section 904(d)(2) is amended by inserting “as in effect before its repeal” after “section 954(f)”.

(p) AMENDMENTS RELATED TO SECTION 418 OF THE ACT.—

(1) The second sentence of section 897(h)(1) is amended—

(A) by striking “any distribution” and all that follows through “any class of stock” and inserting “any distribution by a real estate investment trust with respect to any class of stock”, and

(B) by striking “the taxable year” and inserting “the 1-year period ending on the date of the distribution”.

(2) Subsection (c) of section 418 of the American Jobs Creation Act of 2004 is amended to read as follows:

26 USC 857 note.

“(c) EFFECTIVE DATE.—The amendments made by this section shall apply to—

“(1) any distribution by a real estate investment trust which is treated as a deduction for a taxable year of such trust beginning after the date of the enactment of this Act, and

“(2) any distribution by a real estate investment trust made after such date which is treated as a deduction under section 860 for a taxable year of such trust beginning on or before such date.”.

(q) AMENDMENTS RELATED TO SECTION 422 OF THE ACT.—

(1) Subparagraph (B) of section 965(a)(2) is amended by inserting “from another controlled foreign corporation in such chain of ownership” before “, but only to the extent”. 26 USC 965.

(2) Subparagraph (A) of section 965(b)(2) is amended by inserting “cash” before “dividends”.

(3) Paragraph (3) of section 965(b) is amended by adding at the end the following: “The Secretary may prescribe such regulations as may be necessary or appropriate to prevent the avoidance of the purposes of this paragraph, including regulations which provide that cash dividends shall not be taken into account under subsection (a) to the extent such dividends are attributable to the direct or indirect transfer (including through the use of intervening entities or capital contributions) of cash or other property from a related person (as so defined) to a controlled foreign corporation.”.

(4) Paragraph (1) of section 965(c) is amended to read as follows:

“(1) APPLICABLE FINANCIAL STATEMENT.—The term ‘applicable financial statement’ means—

“(A) with respect to a United States shareholder which is required to file a financial statement with the Securities and Exchange Commission (or which is included in such a statement so filed by another person), the most recent audited annual financial statement (including the notes which form an integral part of such statement) of such shareholder (or which includes such shareholder)—

“(i) which was so filed on or before June 30, 2003, and

“(ii) which was certified on or before June 30, 2003, as being prepared in accordance with generally accepted accounting principles, and

“(B) with respect to any other United States shareholder, the most recent audited financial statement (including the notes which form an integral part of such statement) of such shareholder (or which includes such shareholder)—

“(i) which was certified on or before June 30, 2003, as being prepared in accordance with generally accepted accounting principles, and

“(ii) which is used for the purposes of a statement or report—

“(I) to creditors,

“(II) to shareholders, or

“(III) for any other substantial nontax purpose.”.

(5) Paragraph (2) of section 965(d) is amended by striking “properly allocated and apportioned” and inserting “directly allocable”.

(6) Subsection (d) of section 965 is amended by adding at the end the following new paragraph:

“(4) COORDINATION WITH SECTION 78.—Section 78 shall not apply to any tax which is not allowable as a credit under section 901 by reason of this subsection.”.

26 USC 965.

(7) The last sentence of section 965(e)(1) is amended by inserting “which are imposed by foreign countries and possessions of the United States and are” after “taxes”.

(8) Subsection (f) of section 965 is amended by inserting “on or” before “before the due date”.

(r) AMENDMENTS RELATED TO SECTION 501 OF THE ACT.—

(1) Subparagraph (A) of section 164(b)(5) is amended to read as follows:

Applicability.

“(A) ELECTION TO DEDUCT STATE AND LOCAL SALES TAXES IN LIEU OF STATE AND LOCAL INCOME TAXES.—At the election of the taxpayer for the taxable year, subsection (a) shall be applied—

“(i) without regard to the reference to State and local income taxes, and

“(ii) as if State and local general sales taxes were referred to in a paragraph thereof.”.

(2) Clause (ii) of section 56(b)(1)(A) is amended by inserting “or clause (ii) of section 164(b)(5)(A)” before the period at the end.

26 USC 460 note.

(s) AMENDMENTS RELATED TO SECTION 708 OF THE ACT.—Section 708 of the American Jobs Creation Act of 2004 is amended—

(1) in subsection (a), by striking “contract commencement date” and inserting “construction commencement date”, and

(2) by redesignating subsection (d) as subsection (e) and inserting after subsection (c) the following new subsection:

“(d) CERTAIN ADJUSTMENTS NOT TO APPLY.—Section 481 of the Internal Revenue Code of 1986 shall not apply with respect to any change in the method of accounting which is required by this section.”.

(t) AMENDMENT RELATED TO SECTION 710 OF THE ACT.—Clause (i) of section 45(c)(7)(A) is amended by striking “synthetic”.

(u) AMENDMENT RELATED TO SECTION 801 OF THE ACT.—Paragraph (3) of section 7874(a) is amended to read as follows:

“(3) COORDINATION WITH SUBSECTION (b).—A corporation which is treated as a domestic corporation under subsection (b) shall not be treated as a surrogate foreign corporation for purposes of paragraph (2)(A).”.

(v) AMENDMENTS RELATED TO SECTION 804 OF THE ACT.—

(1) Subparagraph (C) of section 877(g)(2) is amended by striking “section 7701(b)(3)(D)(ii)” and inserting “section 7701(b)(3)(D)”.

(2) Subsection (n) of section 7701 is amended to read as follows:

“(n) SPECIAL RULES FOR DETERMINING WHEN AN INDIVIDUAL IS NO LONGER A UNITED STATES CITIZEN OR LONG-TERM RESIDENT.—For purposes of this chapter—

“(1) UNITED STATES CITIZENS.—An individual who would (but for this paragraph) cease to be treated as a citizen of the United States shall continue to be treated as a citizen of the United States until such individual—

“(A) gives notice of an expatriating act (with the requisite intent to relinquish citizenship) to the Secretary of State, and

“(B) provides a statement in accordance with section 6039G (if such a statement is otherwise required).

“(2) LONG-TERM RESIDENTS.—A long-term resident (as defined in section 877(e)(2)) who would (but for this paragraph) be described in section 877(e)(1) shall be treated as a lawful permanent resident of the United States and as not described in section 877(e)(1) until such individual—

“(A) gives notice of termination of residency (with the requisite intent to terminate residency) to the Secretary of Homeland Security, and

“(B) provides a statement in accordance with section 6039G (if such a statement is otherwise required).”.

(w) AMENDMENT RELATED TO SECTION 811 OF THE ACT.—Subsection (c) of section 811 of the American Jobs Creation Act of 2004 is amended by inserting “and which were not filed before such date” before the period at the end.

26 USC 6707A
note.

(x) AMENDMENTS RELATED TO SECTION 812 OF THE ACT.—

(1) Subsection (b) of section 6662 is amended by adding at the end the following new sentence: “Except as provided in paragraph (1) or (2)(B) of section 6662A(e), this section shall not apply to the portion of any underpayment which is attributable to a reportable transaction understatement on which a penalty is imposed under section 6662A.”.

26 USC 6662.

(2) Paragraph (2) of section 6662A(e) is amended to read as follows:

“(2) COORDINATION WITH OTHER PENALTIES.—

“(A) COORDINATION WITH FRAUD PENALTY.—This section shall not apply to any portion of an understatement on which a penalty is imposed under section 6663.

“(B) COORDINATION WITH GROSS VALUATION MISSTATEMENT PENALTY.—This section shall not apply to any portion of an understatement on which a penalty is imposed under section 6662 if the rate of the penalty is determined under section 6662(h).”.

(3) Subsection (f) of section 812 of the American Jobs Creation Act of 2004 is amended to read as follows:

26 USC 6662
note.

“(f) EFFECTIVE DATES.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

“(2) DISQUALIFIED OPINIONS.—Section 6664(d)(3)(B) of the Internal Revenue Code of 1986 (as added by subsection (c)) shall not apply to the opinion of a tax advisor if—

“(A) the opinion was provided to the taxpayer before the date of the enactment of this Act,

“(B) the opinion relates to one or more transactions all of which were entered into before such date, and

“(C) the tax treatment of items relating to each such transaction was included on a return or statement filed by the taxpayer before such date.”.

(y) AMENDMENT RELATED TO SECTION 814 OF THE ACT.—Subparagraph (B) of section 6501(c)(10) is amended by striking “(as defined in section 6111)”.

(z) AMENDMENT RELATED TO SECTION 815 OF THE ACT.—Paragraph (1) of section 6112(b) is amended by inserting “(or was required to maintain a list under subsection (a) as in effect before

the enactment of the American Jobs Creation Act of 2004)” after “a list under subsection (a)”.

26 USC 853.

(aa) AMENDMENTS RELATED TO SECTION 832 OF THE ACT.—

(1) Subsection (e) of section 853 is amended to read as follows:

“(e) TREATMENT OF CERTAIN TAXES NOT ALLOWED AS A CREDIT UNDER SECTION 901.—This section shall not apply to any tax with respect to which the regulated investment company is not allowed a credit under section 901 by reason of subsection (k) or (l) of such section.”.

(2) Clause (i) of section 901(1)(2)(C) is amended by striking “if such security were stock”.

(bb) AMENDMENTS RELATED TO SECTION 833 OF THE ACT.—

(1) Subsection (a) of section 734 is amended by inserting “with respect to such distribution” before the period at the end.

(2) So much of subsection (b) of section 734 as precedes paragraph (1) is amended to read as follows:

“(b) METHOD OF ADJUSTMENT.—In the case of a distribution of property to a partner by a partnership with respect to which the election provided in section 754 is in effect or with respect to which there is a substantial basis reduction, the partnership shall—”.

(cc) AMENDMENT RELATED TO SECTION 835 OF THE ACT.—Paragraph (3) of section 860G(a) is amended—

(1) in subparagraph (A)(iii)(I), by striking “the obligation” and inserting “a reverse mortgage loan or other obligation”, and

(2) by striking all that follows subparagraph (C) and inserting the following:

“For purposes of subparagraph (A), any obligation secured by stock held by a person as a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as so defined) shall be treated as secured by an interest in real property. For purposes of subparagraph (A), any obligation originated by the United States or any State (or any political subdivision, agency, or instrumentality of the United States or any State) shall be treated as principally secured by an interest in real property if more than 50 percent of such obligations which are transferred to, or purchased by, the REMIC are principally secured by an interest in real property (determined without regard to this sentence).”.

(dd) AMENDMENTS RELATED TO SECTION 836 OF THE ACT.—

(1) Paragraph (1) of section 334(b) is amended by striking “except that” and all that follows and inserting “except that, in the hands of such distributee—

“(A) the basis of such property shall be the fair market value of the property at the time of the distribution in any case in which gain or loss is recognized by the liquidating corporation with respect to such property, and

“(B) the basis of any property described in section 362(e)(1)(B) shall be the fair market value of the property at the time of the distribution in any case in which such distributee’s aggregate adjusted basis of such property would (but for this subparagraph) exceed the fair market value of such property immediately after such liquidation.”.

(2) Clause (ii) of section 362(e)(2)(C) is amended to read as follows: 26 USC 362.

“(ii) ELECTION.—Any election under clause (i) shall be made at such time and in such form and manner as the Secretary may prescribe, and, once made, shall be irrevocable.”.

(ee) AMENDMENT RELATED TO SECTION 840 OF THE ACT.—Subsection (d) of section 121 is amended—

(1) by redesignating the paragraph (10) relating to property acquired from a decedent as paragraph (11) and by moving such paragraph to the end of such subsection, and

(2) by amending the paragraph (10) relating to property acquired in like-kind exchange to read as follows:

“(10) PROPERTY ACQUIRED IN LIKE-KIND EXCHANGE.—If a taxpayer acquires property in an exchange with respect to which gain is not recognized (in whole or in part) to the taxpayer under subsection (a) or (b) of section 1031, subsection (a) shall not apply to the sale or exchange of such property by such taxpayer (or by any person whose basis in such property is determined, in whole or in part, by reference to the basis in the hands of such taxpayer) during the 5-year period beginning with the date of such acquisition.”.

(ff) AMENDMENT RELATED TO SECTION 849 OF THE ACT.—Subsection (a) of section 849 of the American Jobs Creation Act of 2004 is amended by inserting “, and in the case of property treated as tax-exempt use property other than by reason of a lease, to property acquired after March 12, 2004” before the period at the end.

26 USC 470 note.

(gg) AMENDMENT RELATED TO SECTION 884 OF THE ACT.—Subparagraph (B) of section 170(f)(12) is amended by adding at the end the following new clauses:

“(v) Whether the donee organization provided any goods or services in consideration, in whole or in part, for the qualified vehicle.

“(vi) A description and good faith estimate of the value of any goods or services referred to in clause (v) or, if such goods or services consist solely of intangible religious benefits (as defined in paragraph (8)(B)), a statement to that effect.”.

(hh) AMENDMENTS RELATED TO SECTION 885 OF THE ACT.—

(1) Paragraph (2) of section 26(b) is amended by striking “and” at the end of subparagraph (R), by striking the period at the end of subparagraph (S) and inserting “, and”, and by adding at the end the following new subparagraph:

“(T) subsections (a)(1)(B)(i) and (b)(4)(A) of section 409A (relating to interest and additional tax with respect to certain deferred compensation).”.

(2) Clause (ii) of section 409A(a)(4)(C) is amended by striking “first”.

(3)(A) Notwithstanding section 885(d)(1) of the American Jobs Creation Act of 2004, subsection (b) of section 409A of the Internal Revenue Code of 1986 shall take effect on January 1, 2005.

Effective date.
26 USC 409A
note.

(B) Not later than 90 days after the date of the enactment of this Act, the Secretary of the Treasury shall issue guidance under which a nonqualified deferred compensation plan which is in violation of the requirements of section 409A(b) of such

Deadline.
Guidance.

Code shall be treated as not having violated such requirements if such plan comes into conformance with such requirements during such limited period as the Secretary may specify in such guidance.

26 USC 409A
note.

(4) Subsection (f) of section 885 of the American Jobs Creation Act of 2004 is amended by striking “December 31, 2004” the first place it appears and inserting “January 1, 2005”.

26 USC 1092.

(ii) AMENDMENT RELATED TO SECTION 888 OF THE ACT.—Paragraph (2) of section 1092(a) is amended by striking the last sentence and adding at the end the following new subparagraph:

“(C) REGULATIONS.—The Secretary shall prescribe such regulations or other guidance as may be necessary or appropriate to carry out the purposes of this paragraph. Such regulations or other guidance may specify the proper methods for clearly identifying a straddle as an identified straddle (and for identifying the positions comprising such straddle), the rules for the application of this section to a taxpayer which fails to comply with those identification requirements, and the ordering rules in cases where a taxpayer disposes (or otherwise ceases to be the holder) of any part of any position which is part of an identified straddle.”.

(jj) AMENDMENTS RELATED TO SECTION 898 OF THE ACT.—

(1) Paragraph (3) of section 361(b) is amended by inserting “(reduced by the amount of the liabilities assumed (within the meaning of section 357(c)))” before the period at the end.

(2) Paragraph (1) of section 357(d) is amended by inserting “section 361(b)(3),” after “section 358(h),”.

(kk) AMENDMENT RELATED TO SECTION 899 OF THE ACT.—

Subparagraph (A) of section 351(g)(3) is amended by adding at the end the following: “If there is not a real and meaningful likelihood that dividends beyond any limitation or preference will actually be paid, the possibility of such payments will be disregarded in determining whether stock is limited and preferred as to dividends.”.

(ll) AMENDMENT RELATED TO SECTION 902 OF THE ACT.—Paragraph (1) of section 709(b) is amended by striking “taxpayer” both places it appears and inserting “partnership”.

(mm) AMENDMENTS RELATED TO SECTION 907 OF THE ACT.—Clause (ii) of section 274(e)(2)(B) is amended—

(1) in subclause (I), by inserting “or a related party to the taxpayer” after “the taxpayer”,

(2) in subclause (II), by inserting “(or such related party)” after “the taxpayer”, and

(3) by adding at the end the following new flush sentence:

“For purposes of this clause, a person is a related party with respect to another person if such person bears a relationship to such other person described in section 267(b) or 707(b).”.

26 USC 26 note.

(nn) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of the American Jobs Creation Act of 2004 to which they relate.

SEC. 404. AMENDMENTS RELATED TO THE WORKING FAMILIES TAX RELIEF ACT OF 2004.

(a) AMENDMENT RELATED TO SECTION 201 OF THE ACT.—Subsection (e) of section 152 is amended to read as follows:

“(e) SPECIAL RULE FOR DIVORCED PARENTS, ETC.—

“(1) IN GENERAL.—Notwithstanding subsection (c)(1)(B), (c)(4), or (d)(1)(C), if—

“(A) a child receives over one-half of the child’s support during the calendar year from the child’s parents—

“(i) who are divorced or legally separated under a decree of divorce or separate maintenance,

“(ii) who are separated under a written separation agreement, or

“(iii) who live apart at all times during the last 6 months of the calendar year, and—

“(B) such child is in the custody of 1 or both of the child’s parents for more than one-half of the calendar year, such child shall be treated as being the qualifying child or qualifying relative of the noncustodial parent for a calendar year if the requirements described in paragraph (2) or (3) are met.

“(2) EXCEPTION WHERE CUSTODIAL PARENT RELEASES CLAIM TO EXEMPTION FOR THE YEAR.—For purposes of paragraph (1), the requirements described in this paragraph are met with respect to any calendar year if—

“(A) the custodial parent signs a written declaration (in such manner and form as the Secretary may by regulations prescribe) that such custodial parent will not claim such child as a dependent for any taxable year beginning in such calendar year, and

Regulations.

“(B) the noncustodial parent attaches such written declaration to the noncustodial parent’s return for the taxable year beginning during such calendar year.

“(3) EXCEPTION FOR CERTAIN PRE-1985 INSTRUMENTS.—

“(A) IN GENERAL.—For purposes of paragraph (1), the requirements described in this paragraph are met with respect to any calendar year if—

“(i) a qualified pre-1985 instrument between the parents applicable to the taxable year beginning in such calendar year provides that the noncustodial parent shall be entitled to any deduction allowable under section 151 for such child, and

“(ii) the noncustodial parent provides at least \$600 for the support of such child during such calendar year.

For purposes of this subparagraph, amounts expended for the support of a child or children shall be treated as received from the noncustodial parent to the extent that such parent provided amounts for such support.

“(B) QUALIFIED PRE-1985 INSTRUMENT.—For purposes of this paragraph, the term ‘qualified pre-1985 instrument’ means any decree of divorce or separate maintenance or written agreement—

“(i) which is executed before January 1, 1985,

“(ii) which on such date contains the provision described in subparagraph (A)(i), and

“(iii) which is not modified on or after such date in a modification which expressly provides that this paragraph shall not apply to such decree or agreement.

“(4) CUSTODIAL PARENT AND NONCUSTODIAL PARENT.—For purposes of this subsection—

“(A) CUSTODIAL PARENT.—The term ‘custodial parent’ means the parent having custody for the greater portion of the calendar year.

“(B) NONCUSTODIAL PARENT.—The term ‘noncustodial parent’ means the parent who is not the custodial parent.

“(5) EXCEPTION FOR MULTIPLE-SUPPORT AGREEMENT.—This subsection shall not apply in any case where over one-half of the support of the child is treated as having been received from a taxpayer under the provision of subsection (d)(3).

“(6) SPECIAL RULE FOR SUPPORT RECEIVED FROM NEW SPOUSE OF PARENT.—For purposes of this subsection, in the case of the remarriage of a parent, support of a child received from the parent’s spouse shall be treated as received from the parent.”.

26 USC 21.

(b) AMENDMENT RELATED TO SECTION 203 OF THE ACT.—Subparagraph (B) of section 21(b)(1) is amended by inserting “(as defined in section 152, determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B))” after “dependent of the taxpayer”.

(c) AMENDMENT RELATED TO SECTION 207 OF THE ACT.—Subparagraph (A) of section 223(d)(2) is amended by inserting “, determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof” after “section 152”.

26 USC 21 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of the Working Families Tax Relief Act of 2004 to which they relate.

SEC. 405. AMENDMENTS RELATED TO THE JOBS AND GROWTH TAX RELIEF RECONCILIATION ACT OF 2003.

(a) AMENDMENTS RELATED TO SECTION 201 OF THE ACT.—

(1) Clause (ii) of section 168(k)(4)(B) is amended to read as follows:

“(ii) which is—

“(I) acquired by the taxpayer after May 5, 2003, and before January 1, 2005, but only if no written binding contract for the acquisition was in effect before May 6, 2003, or

“(II) acquired by the taxpayer pursuant to a written binding contract which was entered into after May 5, 2003, and before January 1, 2005, and”.

(2) Subparagraph (D) of section 1400L(b)(2) is amended by striking “September 11, 2004” and inserting “January 1, 2005”.

26 USC 168 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in section 201 of the Jobs and Growth Tax Relief and Reconciliation Act of 2003.

SEC. 406. AMENDMENT RELATED TO THE VICTIMS OF TERRORISM TAX RELIEF ACT OF 2001.

(a) AMENDMENT RELATED TO SECTION 201 OF THE ACT.—Paragraph (17) of section 6103(l) is amended by striking “subsection (f), (i)(7), or (p)” and inserting “subsection (f), (i)(8), or (p)”.

26 USC 6103 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in section 201 of the Victims of Terrorism Tax Relief Act of 2001.

SEC. 407. AMENDMENTS RELATED TO THE ECONOMIC GROWTH AND TAX RELIEF RECONCILIATION ACT OF 2001.**(a) AMENDMENTS RELATED TO SECTION 617 OF THE ACT.—**

(1) Clause (ii) of section 402(g)(7)(A) is amended to read 26 USC 402.
as follows:

“(ii) \$15,000 reduced by the sum of—

“(I) the amounts not included in gross income for prior taxable years by reason of this paragraph, plus

“(II) the aggregate amount of designated Roth contributions (as defined in section 402A(c)) for prior taxable years, or”.

(2) Subparagraph (A) of section 402(g)(1) is amended by inserting “to” after “shall not apply”.

(b) AMENDMENT RELATED TO SECTION 632 OF THE ACT.—

Subparagraph (C) of section 415(c)(7) is amended by striking “the greater of \$3,000” and all that follows and inserting “\$3,000. This subparagraph shall not apply with respect to any taxable year to any individual whose adjusted gross income for such taxable year (determined separately and without regard to community property laws) exceeds \$17,000.”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect as if included in the provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 to which they relate. 26 USC 402 note.

SEC. 408. AMENDMENTS RELATED TO THE INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998.**(a) AMENDMENTS RELATED TO SECTION 3415 OF THE ACT.—**

(1) Paragraph (2) of section 7609(c) is amended by inserting “or” at the end of subparagraph (D), by striking “; or” at the end of subparagraph (E) and inserting a period, and by striking subparagraph (F).

(2) Subsection (c) of section 7609 is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

“(3) **JOHN DOE AND CERTAIN OTHER SUMMONSES.**—Subsection (a) shall not apply to any summons described in subsection (f) or (g).”.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall take effect as if included in section 3415 of the Internal Revenue Service Restructuring and Reform Act of 1998. 26 USC 7609 note.

SEC. 409. AMENDMENTS RELATED TO THE TAXPAYER RELIEF ACT OF 1997.**(a) AMENDMENTS RELATED TO SECTION 1055 OF THE ACT.—**

(1) The last sentence of section 6411(a) is amended by striking “6611(f)(3)(B)” and inserting “6611(f)(4)(B)”.

(2) Paragraph (4) of section 6601(d) is amended by striking “6611(f)(3)(A)” and inserting “6611(f)(4)(A)”.

(b) AMENDMENT RELATED TO SECTION 1112 OF THE ACT.—

Subsection (c) of section 961 is amended to read as follows:

“(c) **BASIS ADJUSTMENTS IN STOCK HELD BY FOREIGN CORPORATIONS.**—Under regulations prescribed by the Secretary, if a United States shareholder is treated under section 958(a)(2) as owning stock in a controlled foreign corporation which is owned by another controlled foreign corporation, then adjustments similar to the Regulations.

adjustments provided by subsections (a) and (b) shall be made to—

“(1) the basis of such stock, and

“(2) the basis of stock in any other controlled foreign corporation by reason of which the United States shareholder is considered under section 958(a)(2) as owning the stock described in paragraph (1),

but only for the purposes of determining the amount included under section 951 in the gross income of such United States shareholder (or any other United States shareholder who acquires from any person any portion of the interest of such United States shareholder by reason of which such shareholder was treated as owning such stock, but only to the extent of such portion, and subject to such proof of identity of such interest as the Secretary may prescribe by regulations). The preceding sentence shall not apply with respect to any stock to which a basis adjustment applies under subsection (a) or (b).”.

26 USC 6038B. (c) AMENDMENT RELATED TO SECTION 1144 OF THE ACT.—Subparagraph (B) of section 6038B(a)(1) is amended by inserting “or” at the end.

26 USC 961 note. (d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of the Taxpayer Relief Act of 1997 to which they relate.

SEC. 410. AMENDMENT RELATED TO THE OMNIBUS BUDGET RECONCILIATION ACT OF 1990.

(a) AMENDMENT RELATED TO SECTION 11813 OF THE ACT.—Subclause (I) of section 168(e)(3)(B)(vi) is amended by striking “if ‘solar and wind’ were substituted for ‘solar’ in clause (i) thereof” and inserting “if ‘solar or wind energy’ were substituted for ‘solar energy’ in clause (i) thereof”.

26 USC 168 note. (b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in section 11813 of the Omnibus Budget Reconciliation Act of 1990.

SEC. 411. AMENDMENT RELATED TO THE OMNIBUS BUDGET RECONCILIATION ACT OF 1987.

(a) AMENDMENT RELATED TO SECTION 10227 OF THE ACT.—Section 1363(d) is amended by adding at the end the following new paragraph:

“(5) SPECIAL RULE.—Sections 1367(a)(2)(D) and 1371(c)(1) shall not apply with respect to any increase in the tax imposed by reason of this subsection.”.

26 USC 1363 note. (b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in section 10227 of the Omnibus Budget Reconciliation Act of 1987.

SEC. 412. CLERICAL CORRECTIONS.

(a) Subparagraph (C) of section 2(b)(2) is amended by striking “subparagraph (C)” and inserting “subparagraph (B)”.

(b) Paragraph (2) of section 25C(b) is amended by striking “subsection (c)(3)(B)” and inserting “subsection (c)(2)(B)”.

(c) Subparagraph (E) of section 26(b)(2) is amended by striking “section 530(d)(3)” and inserting “section 530(d)(4)”.

(d) Subparagraph (A) of section 30B(g)(2) and subparagraph (A) of section 30C(d)(2) are each amended by striking “regular tax” and inserting “regular tax liability (as defined in section 26(b))”.

(e) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 30C and inserting the following new item:

“Sec. 30C. Alternative fuel vehicle refueling property credit.”.

(f)(1) Subclause (II) of section 38(c)(2)(A)(ii) is amended by striking “or the New York Liberty Zone business employee credit or the specified credits” and inserting “, the New York Liberty Zone business employee credit, and the specified credits”. 26 USC 38.

(2) Subclause (II) of section 38(c)(3)(A)(ii) is amended by striking “or the specified credits” and inserting “and the specified credits”.

(3) Subparagraph (B) of section 38(c)(4) is amended—

(A) by striking “includes” and inserting “means”, and

(B) by inserting “and” at the end of clause (i).

(g)(1) Subparagraph (A) of section 39(a)(1) is amended by striking “each of the 1 taxable years” and inserting “the taxable year”.

(2) Subparagraph (B) of section 39(a)(3) is amended to read as follows:

“(B) paragraph (1) shall be applied by substituting ‘each of the 5 taxable years’ for ‘the taxable year’ in subparagraph (A) thereof, and”.

Applicability.

(h) Subparagraph (B) of section 40A(b)(5) is amended by striking “(determined without regard to the last sentence of subsection (d)(2))”.

(i) Paragraph (5) of section 43(c) is amended to read as follows:

“(5) ALASKA NATURAL GAS.—For purposes of paragraph (1)(D)—

“(A) IN GENERAL.—The term ‘Alaska natural gas’ means natural gas entering the Alaska natural gas pipeline (as defined in section 168(i)(16) (determined without regard to subparagraph (B) thereof)) which is produced from a well—

“(i) located in the area of the State of Alaska lying north of 64 degrees North latitude, determined by excluding the area of the Alaska National Wildlife Refuge (including the continental shelf thereof within the meaning of section 638(1)), and

“(ii) pursuant to the applicable State and Federal pollution prevention, control, and permit requirements from such area (including the continental shelf thereof within the meaning of section 638(1)).

“(B) NATURAL GAS.—The term ‘natural gas’ has the meaning given such term by section 613A(e)(2).”.

(j) Subsection (d) of section 45 is amended—

(1) in paragraph (8) by striking “The term” and inserting “In the case of a facility that produces refined coal, the term”, and

(2) in paragraph (10) by striking “The term” and inserting “In the case of a facility that produces Indian coal, the term”.

(k) Paragraph (2) of section 45I(a) is amended by striking “qualified credit oil production” and inserting “qualified crude oil production”.

(l) Subsection (g) of section 45K, as redesignated by section 1322 of the Energy Policy Act of 2005, is amended—

(1) in the matter preceding paragraph (1), by striking “subsection (f)” and inserting “subsection (e)”, and

Ante, p. 1011.

- (2) in paragraph (2)(C), by striking “subsection (g)” and inserting “subsection (f)”.
- Ante*, p. 1036. (m) Paragraph (1) of section 48(a), as amended by section 1336 of the Energy Policy Act of 2005, is amended by striking “paragraph (1)(B) or (2)(B) of subsection (d)” and inserting “paragraphs (1)(B) and (2)(B) of subsection (c)”.
- (n) Subparagraph (A) of section 48(a)(3) is amended—
- (1) by redesignating clause (iii) (relating to qualified fuel cell property or qualified microturbine property), as added by section 1336 of the Energy Policy Act of 2005, as clause (iv) and by moving such clause to the end of such subparagraph, and
- (2) by striking “or” at the end of clause (ii).
- 26 USC 50. (o) Subparagraph (E) of section 50(a)(2) is amended by striking “section 48(a)(5)” and inserting “section 48(b)”.
- (p)(1) Paragraph (3) of section 55(c) is amended by inserting “30B(g)(2), 30C(d)(2),” after “30(b)(3).”.
- Repeal. (2) Section 1341(b)(3) of the Energy Policy Act of 2005 is repealed.
Ante, p. 1038.
- Repeal. (3) Section 1342(b)(3) of the Energy Policy Act of 2005 is repealed.
Ante, p. 1049.
- (q)(1) Subsection (a) of section 62 is amended—
- (A) by redesignating paragraph (19) (relating to costs involving discrimination suits, etc.), as added by section 703 of the American Jobs Creation Act of 2004, as paragraph (20), and
- (B) by moving such paragraph after paragraph (19) (relating to health savings accounts).
- (2) Subsection (e) of section 62 is amended by striking “subsection (a)(19)” and inserting “subsection (a)(20)”.
- (r) Paragraph (3) of section 167(f) is amended by striking “section 197(e)(7)” and inserting “section 197(e)(6)”.
- (s) Subparagraph (D) of section 168(i)(15) is amended by striking “This paragraph shall not apply to” and inserting “Such term shall not include”.
- (t) Paragraph (2) of section 221(d) is amended by striking “this Act” and inserting “the Taxpayer Relief Act of 1997”.
- (u) Paragraph (8) of section 318(b) is amended by striking “section 6038(d)(2)” and inserting “section 6038(e)(2)”.
- (v) Subparagraph (B) of section 332(d)(1) is amended by striking “distribution to which section 301 applies” and inserting “distribution of property to which section 301 applies”.
- (w) Subparagraph (B) of section 403(b)(9) is amended by inserting “or” before “a convention”.
- (x)(1) Clause (i) of section 412(m)(4)(B) is amended by striking “subsection (c)” and inserting “subsection (d)”.
- (2) Clause (i) of section 302(e)(4)(B) of the Employee Retirement Income Security Act of 1974 is amended by striking “subsection (c)” and inserting “subsection (d)”.
- 29 USC 1082. (y) Paragraph (1) of section 415(l) is amended by striking “individual medical account” and inserting “individual medical benefit account”.
- (z) The matter following clause (iv) of section 415(n)(3)(C) is amended by striking “clauses” and inserting “clause”.
- (aa) Subparagraph (C) of section 461(i)(3) is amended by striking “section 6662(d)(2)(C)(iii)” and inserting “section 6662(d)(2)(C)(ii)”.

(bb) Paragraph (12) of section 501(c) is amended—

26 USC 501.

(1) by striking “subparagraph (C)(iii)” in subparagraph (F) and inserting “subparagraph (C)(iv)”, and

(2) by striking “subparagraph (C)(iv)” in subparagraph (G) and inserting “subparagraph (C)(v)”.

(cc) Clause (ii) of section 501(c)(22)(B) is amended by striking “clause (ii) of paragraph (21)(B)” and inserting “clause (ii) of paragraph (21)(D)”.

(dd) Paragraph (1) of section 512(b) is amended by striking “section 512(a)(5)” and inserting “subsection (a)(5)”.

(ee)(1) Subsection (b) of section 512 is amended—

(A) by redesignating paragraph (18) (relating to the treatment of gain or loss on sale or exchange of certain brownfield sites), as added by section 702 of the American Jobs Creation Act of 2004, as paragraph (19), and

(B) by moving such paragraph to the end of such subsection.

(2) Subparagraph (E) of section 514(b)(1) is amended by striking “section 512(b)(18)” and inserting “section 512(b)(19)”.

(3) Paragraph (6) of section 529(c) is amended by striking “education individual retirement account” and inserting “Coverdell education savings account”.

(ff)(1) Subsection (b) of section 530 is amended by striking paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(2) Clause (ii) of section 530(b)(2)(A) is amended by striking “paragraph (4)” and inserting “paragraph (3)”.

(gg) Subparagraph (H) of section 613(c)(4) is amended by inserting “(including in situ retorting)” after “and retorting”.

(hh) Subparagraph (A) of section 856(g)(5) is amended by striking “subsection (c)(6) or (c)(7) of section 856” and inserting “paragraph (2), (3), or (4) of subsection (c)”.

(ii) Paragraph (6) of section 857(b) is amended—

(1) in subparagraph (E), by striking “subparagraph (C)” and inserting “subparagraphs (C) and (D)”, and

(2) in subparagraph (F)—

(A) by striking “subparagraph (C) of this paragraph” and inserting “subparagraph (C) or (D)”, and

(B) by striking “subparagraphs (C) and (D)” and inserting “subparagraphs (C), (D), and (E)”.

(jj) Subparagraph (C) of section 881(e)(1) is amended by inserting “interest-related dividend received by a controlled foreign corporation” after “shall apply to any”.

(kk) Clause (ii) of section 952(c)(1)(B) is amended—

(1) by striking “clause (iii)(III) or (IV)” and inserting “subclause (II) or (III) of clause (iii)”, and

(2) by striking “clause (iii)(II)” and inserting “clause (iii)(I)”.

(ll) Clause (i) of section 954(c)(1)(C) is amended by striking “paragraph (4)(A)” and inserting “paragraph (5)(A)”.

(mm) Subparagraph (F) of section 954(c)(1) is amended by striking “Net income from notional principal contracts.” after “Income from notional principal contracts.—”.

(nn) Paragraph (23) of section 1016(a) is amended by striking “1045(b)(4)” and inserting “1045(b)(3)”.

(oo) Paragraph (1) of section 1256(f) is amended by striking “subsection (e)(2)(C)” and inserting “subsection (e)(2)”.

26 USC 1031.

(pp) The matter preceding clause (i) of section 1031(h)(2)(B) is amended by striking “subparagraph” and inserting “subparagraphs”.

(qq) Paragraphs (1) and (2) of section 1375(d) are each amended by striking “subchapter C” and inserting “accumulated”.

(rr) Each of the following provisions are amended by striking “General Accounting Office” each place it appears therein and inserting “Government Accountability Office”:

(1) Clause (ii) of section 1400E(c)(4)(A).

(2) Paragraph (1) of section 6050M(b).

(3) Subparagraphs (A), (B)(i), and (B)(ii) of section 6103(i)(8).

(4) Paragraphs (3)(C)(i), (4), (5), and (6)(B) of section 6103(p).

(5) Subsection (e) of section 8021.

(ss)(1) Clause (ii) of section 1400L(b)(2)(C) is amended by striking “section 168(k)(2)(C)(i)” and inserting “section 168(k)(2)(D)(i)”.

(2) Clause (iv) of section 1400L(b)(2)(C) is amended by striking “section 168(k)(2)(C)(iii)” and inserting “section 168(k)(2)(D)(iii)”.

(3) Subparagraph (D) of section 1400L(b)(2) is amended by striking “section 168(k)(2)(D)” and inserting “section 168(k)(2)(E)”.

(4) Subparagraph (E) of section 1400L(b)(2) is amended by striking “section 168(k)(2)(F)” and inserting “section 168(k)(2)(G)”.

(5) Paragraph (5) of section 1400L(c) is amended by striking “section 168(k)(2)(C)(iii)” and inserting “section 168(k)(2)(D)(iii)”.

(tt) Section 3401 is amended by redesignating subsection (h) as subsection (g).

(uu) Paragraph (2) of section 4161(a) is amended to read as follows:

“(2) 3 PERCENT RATE OF TAX FOR ELECTRIC OUTBOARD MOTORS.—In the case of an electric outboard motor, paragraph (1) shall be applied by substituting ‘3 percent’ for ‘10 percent’.”.

Applicability.

(vv) Subparagraph (C) of section 4261(e)(4) is amended by striking “imposed subsection (b)” and inserting “imposed by subsection (b)”.

(ww) Subsection (a) of section 4980D is amended by striking “plans” and inserting “plan”.

(xx) The matter following clause (iii) of section 6045(e)(5)(A) is amended by striking “for ‘\$250,000’.” and all that follows through “to the Treasury.” and inserting “for ‘\$250,000’. The Secretary may by regulation increase the dollar amounts under this subparagraph if the Secretary determines that such an increase will not materially reduce revenues to the Treasury.”.

(yy) Subsection (p) of section 6103 is amended—

(1) by striking so much of paragraph (4) as precedes subparagraph (A) and inserting the following:

“(4) SAFEGUARDS.—Any Federal agency described in subsection (h)(2), (h)(5), (i)(1), (2), (3), (5), or (7), (j)(1), (2), or (5), (k)(8), (l)(1), (2), (3), (5), (10), (11), (13), (14), or (17) or (o)(1), the Government Accountability Office, the Congressional Budget Office, or any agency, body, or commission described in subsection (d), (i)(3)(B)(i) or 7(A)(ii), or (l)(6), (7), (8), (9), (12), (15), or (16) or any other person described in subsection (l)(16), (18), (19), or (20) shall, as a condition for receiving returns or return information—”.

(2) by amending paragraph (4)(F)(i) to read as follows:

“(i) in the case of an agency, body, or commission described in subsection (d), (i)(3)(B)(i), or (l)(6), (7), (8), (9), or (16), or any other person described in subsection (l)(16), (18), (19), or (20) return to the Secretary such returns or return information (along with any copies made therefrom) or make such returns or return information undisclosable in any manner and furnish a written report to the Secretary describing such manner,” and

(3) by striking the first full sentence in the matter following subparagraph (F) of paragraph (4) and inserting the following: “If the Secretary determines that any such agency, body, or commission, including an agency or any other person described in subsection (l)(16), (18), (19), or (20), or the Government Accountability Office or the Congressional Budget Office, has failed to, or does not, meet the requirements of this paragraph, he may, after any proceedings for review established under paragraph (7), take such actions as are necessary to ensure such requirements are met, including refusing to disclose returns or return information to such agency, body, or commission, including an agency or any other person described in subsection (l)(16), (18), (19), or (20), or the Government Accountability Office or the Congressional Budget Office, until he determines that such requirements have been or will be met.”.

(zz) Clause (ii) of section 6111(b)(1)(A) is amended by striking “advice or assistance” and inserting “aid, assistance, or advice”.
(aaa) Paragraph (3) of section 6662(d) is amended by striking “the” before “1 or more”.

26 USC 6111.

SEC. 413. OTHER CORRECTIONS RELATED TO THE AMERICAN JOBS CREATION ACT OF 2004.

(a) AMENDMENTS RELATED TO SECTION 233 OF THE ACT.—

(1) Clause (vi) of section 1361(c)(2)(A) is amended—

(A) by inserting “or a depository institution holding company (as defined in section 3(w)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(w)(1)))” after “a bank (as defined in section 581)”, and

(B) by inserting “or company” after “such bank”.

(2) Paragraph (16) of section 4975(d) is amended—

(A) in subparagraph (A), by inserting “or a depository institution holding company (as defined in section 3(w)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(w)(1)))” after “a bank (as defined in section 581)”, and

(B) in subparagraph (C), by inserting “or company” after “such bank”.

(b) AMENDMENT RELATED TO SECTION 237 OF THE ACT.—

Subparagraph (F) of section 1362(d)(3) is amended by striking “a bank holding company” and all that follows through “section 2(p) of such Act)” and inserting “a depository institution holding company (as defined in section 3(w)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(w)(1)))”.

(c) AMENDMENTS RELATED TO SECTION 239 OF THE ACT.—Paragraph (3) of section 1361(b) is amended—

(1) in subparagraph (A), by striking “and in the case of information returns required under part III of subchapter A of chapter 61”, and

(2) by adding at the end the following new subparagraph:

“(E) INFORMATION RETURNS.—Except to the extent provided by the Secretary, this paragraph shall not apply to part III of subchapter A of chapter 61 (relating to information returns).”.

26 USC 1361
note.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of the American Jobs Creation Act of 2004 to which they relate.

Subtitle B—Trade Technicals

SEC. 421. TECHNICAL CORRECTIONS TO REGIONAL VALUE-CONTENT METHODS FOR RULES OF ORIGIN UNDER PUBLIC LAW 109–53.

Section 203(c) of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act (Public Law 109–53; 19 U.S.C. 4033(c)) is amended as follows:

(1) In paragraph (2)(A), by striking all that follows “the following build-down method:” and inserting the following:

$$\text{“RVC} = \frac{\text{AV}-\text{VNM}}{\text{AV}} \times 100\text{”}.$$

(2) In paragraph (3)(A), by striking all that follows “the following build-up method:” and inserting the following:

$$\text{“RVC} = \frac{\text{VOM}}{\text{AV}} \times 100\text{”}.$$

(3) In paragraph (4)(A), by striking all that follows “the following net cost method:” and inserting the following:

$$\text{“RVC} = \frac{\text{NC}-\text{VNM}}{\text{NC}} \times 100\text{”}.$$

TITLE V—EMERGENCY REQUIREMENT

SEC. 501. EMERGENCY REQUIREMENT.

Any provision of this Act causing an effect on receipts, budget authority, or outlays is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress).

Approved December 21, 2005.

LEGISLATIVE HISTORY—H.R. 4440:

CONGRESSIONAL RECORD, Vol. 151 (2005):

Dec. 7, considered and passed House.

Dec. 16, considered and passed Senate, amended. House concurred in Senate amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 41 (2005):

Dec. 21, Presidential remarks.



Public Law 109–136
109th Congress

An Act

To amend the Native American Housing Assistance and Self-Determination Act of 1996 and other Acts to improve housing programs for Indians.

Dec. 22, 2005

[H.R. 797]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Native American Housing Enhancement Act of 2005”.

Native American
Housing
Enhancement
Act of 2005.
25 USC 4101
note.

SEC. 2. FINDINGS.

25 USC 4101
note.

Congress finds that—

(1) there exist—

(A) a unique relationship between the Government of the United States and the governments of Indian tribes; and

(B) a unique Federal trust responsibility to Indian people;

(2) Native Americans experience some of the worst housing conditions in the country, with—

(A) 32.6 percent of Native homes being overcrowded;

(B) 33 percent lacking adequate solid waste management systems;

(C) 8 percent lacking a safe indoor water supply; and

(D) approximately 90,000 Native families who are homeless or underhoused;

(3) the poverty rate for Native Americans is twice that of the rest of the population of the United States;

(4) the population growth of Native Americans that began in the latter part of the 20th century increased the need for Federal housing services;

(5)(A) under the requirements of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.), members of Indian tribes are given preference for housing programs;

(B) a primary purpose of the Act is to allow Indian tribes to leverage funds with other Federal and private funds;

(C) the Department of Agriculture has been a significant funding source for housing for Indian tribes;

(D) to allow assistance provided under the Act and assistance provided by the Secretary of Agriculture under other law to be combined to meet the severe housing needs of Indian tribes, the Housing Act of 1949 (42 U.S.C. 1471 et seq.) should be amended to allow for the preference referred to in subparagraph (A) by granting an exemption from title VI of the Civil

Rights Act of 1964 (42 U.S.C. 2000d et seq.) and title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.); and

(E) federally recognized Indian tribes exercising powers of self-government are governed by the Indian Civil Rights Act (25 U.S.C. 1301 et seq.); and

(6) section 457 of the Cranston-Gonzales National Affordable Housing Act (42 U.S.C. 12899f) should be amended to include Indian tribes, tribally designated housing entities, or other agencies that primarily serve Indians as eligible applicants for YouthBuild grants.

SEC. 3. TREATMENT OF PROGRAM INCOME.

Section 104(a)(2) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4114(a)(2)) is amended by inserting “restrict access to or” after “not”.

SEC. 4. CIVIL RIGHTS COMPLIANCE.

Title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.) is amended by adding at the end the following:

42 USC 1490t.

“SEC. 544. INDIAN TRIBES.

“Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.) shall not apply to actions by federally recognized Indian tribes (including instrumentalities of such Indian tribes) under this Act.”.

SEC. 5. ELIGIBILITY OF INDIAN TRIBES FOR YOUTHBUILD GRANTS.

Section 457(2) of the Cranston-Gonzales National Affordable Housing Act (42 U.S.C. 12899f(2)) is amended—

(1) in subparagraph (F), by striking “and” at the end;

(2) by redesignating subparagraph (G) as subparagraph (H); and

(3) by inserting after subparagraph (F) the following:

“(G) an Indian tribe, tribally designated housing entity (as defined in section 4 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103)), or other agency primarily serving Indians; and”.

SEC. 6. YOUTHBUILD ELIGIBILITY.

Section 460 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12899h–1) is amended by striking “for

fiscal year 1998 and fiscal years thereafter” and inserting “for fiscal years 1998 through 2005”.

Approved December 22, 2005.

LEGISLATIVE HISTORY—H.R. 797:

SENATE REPORTS: No. 109–160 (Comm. on Indian Affairs).

CONGRESSIONAL RECORD, Vol. 151 (2005):

Apr. 6, considered and passed House.

Nov. 8, considered and passed Senate, amended.

Dec. 18, House concurred in Senate amendments.



Public Law 109–137
109th Congress

An Act

To amend the Federal Water Pollution Control Act to extend the authorization
of appropriations for Long Island Sound.

Dec. 22, 2005
[H.R. 3963]

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

**SECTION 1. LONG ISLAND SOUND AUTHORIZATION OF APPROPRIA-
TIONS.**

Section 119(f) of the Federal Water Pollution Control Act (33
U.S.C. 1269(f)) is amended by striking “2005” each place it appears
and inserting “2010”.

Approved December 22, 2005.

LEGISLATIVE HISTORY—H.R. 3963:

HOUSE REPORTS: No. 109–293 (Comm. on Transportation and Infrastructure).

CONGRESSIONAL RECORD, Vol. 151 (2005):

Dec. 7, considered and passed House.

Dec. 16, considered and passed Senate.



Public Law 109–138
109th Congress

An Act

To authorize early repayment of obligations to the Bureau of Reclamation within
Rogue River Valley Irrigation District or within Medford Irrigation District.

Dec. 22, 2005

[H.R. 4195]

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the “Southern Oregon Bureau of
Reclamation Repayment Act of 2005”.

Southern Oregon
Bureau of
Reclamation
Repayment Act of
2005.

SEC. 2. EARLY REPAYMENT.

Notwithstanding the provisions of section 213 of the Reclamation Reform Act of 1982 (43 U.S.C. 390mm), any landowner within Rogue River Valley Irrigation District or within Medford Irrigation District, in Oregon, may repay, at any time, the construction costs of the project facilities allocated to that landowner’s lands within the district in question. Upon discharge, in full, of the obligation for repayment of the construction costs allocated to all lands the landowner owns in the district in question, those lands shall not be subject to the ownership and full-cost pricing limitations of the Act of June 17, 1902 (43 U.S.C. 371 et seq.), and Acts supplemental to and amendatory of that Act, including the Reclamation Reform Act of 1982 (43 U.S.C. 390aa et seq.).

SEC. 3. LIMITATION.

Nothing herein modifies contractual rights that may exist between Rogue River Valley Irrigation District and Medford Irrigation District and the United States under their respective Reclamation contracts, or amends or reopens those contracts; nor does it modify any rights, obligations or relationships that may exist between the districts and their landowners as may be provided or governed by Oregon State law.

SEC. 4. CERTIFICATION.

Upon the request of a landowner who has repaid, in full, the construction costs of the project facilities allocated to that landowner’s lands owned within the district, the Secretary of the Interior shall provide the certification provided for in subsection

(b)(1) of section 213 of the Reclamation Reform Act of 1982 (43 U.S.C. 390mm(b)(1)).

Approved December 22, 2005.

LEGISLATIVE HISTORY—H.R. 4195 (S. 1760):

HOUSE REPORTS: No. 109–323 (Comm. on Resources).

SENATE REPORTS: No. 109–197 accompanying S. 1760 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 151 (2005):

Dec. 6, considered and passed House.

Dec. 16, considered and passed Senate.



Public Law 109–139
109th Congress

An Act

To amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to reauthorize the predisaster mitigation program, and for other purposes.

Dec. 22, 2005
[H.R. 4324]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Predisaster Mitigation Program Reauthorization Act of 2005”.

Predisaster
Mitigation
Program
Reauthorization
Act of 2005.
42 USC 5121
note.

SEC. 2. PREDISASTER HAZARD MITIGATION.

Section 203(m) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133(m)) is amended by striking “December 31, 2005” and inserting “September 30, 2008”.

SEC. 3. STUDY REGARDING COST REDUCTION.

Section 209 of the Disaster Mitigation Act of 2000 (42 U.S.C. 5121 note; 114 Stat. 1571) is amended by striking “3 years after the date of the enactment of this Act” and inserting “September 30, 2007”.

42 USC 5121
note.

Approved December 22, 2005.

LEGISLATIVE HISTORY—H.R. 4324:

CONGRESSIONAL RECORD, Vol. 151 (2005):
Nov. 18, considered and passed House.
Dec. 15, considered and passed Senate.



Public Law 109–140
109th Congress

An Act

Dec. 22, 2005
[H.R. 4436]

To provide certain authorities for the Department of State, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REDI CENTER.

(a) **AUTHORIZATION.**—The Secretary of State is authorized to provide for the participation by the United States in the Regional Emerging Diseases Intervention Center (in this section referred to as “REDI Center”) in Singapore, as established by the Agreement described in subsection (c).

(b) **CONSULTATION AND REPORT.**—

(1) **CONSULTATION.**—Prior to the review required under Article 6.3 of the Agreement described in subsection (c), the Secretary shall consult with the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate.

(2) **REPORT.**—In connection with the submission of the annual congressional budget justification, the Secretary shall report on efforts undertaken at the REDI Center with regard to bioterrorism concerns.

(c) **AGREEMENT DESCRIBED.**—The Agreement referred to in this section is the Agreement between the Governments of the United States of America and the Republic of Singapore Establishing the Regional Emerging Diseases Intervention Center, done at Singapore, November 22, 2005.

SEC. 2. RETENTION OF MEDICAL REIMBURSEMENTS.

Section 904 of the Foreign Service Act of 1980 (22 U.S.C. 4084) is amended by adding at the end the following new subsection:

“(g) Reimbursements paid to the Department of State for funding the costs of medical care abroad for employees and eligible family members shall be credited to the currently available applicable appropriation account. Such reimbursements shall be available for obligation and expenditure during the fiscal year in which they are received or for such longer period of time as may be provided in law.”.

SEC. 3. ACCOUNTABILITY REVIEW BOARDS.

Section 301(a) of the Diplomatic Security Act (22 U.S.C. 4831(a)) is amended—

(1) in paragraph (1), by striking “paragraph (2)” and inserting “paragraphs (2) and (3)”; and

(2) by adding at the end the following new paragraph:
“(3) **FACILITIES IN AFGHANISTAN AND IRAQ.**—

“(A) LIMITED EXEMPTIONS FROM REQUIREMENT TO CON-
VENE BOARD.—The Secretary of State is not required to
convene a Board in the case of an incident that—

“(i) involves serious injury, loss of life, or signifi-
cant destruction of property at, or related to, a United
States Government mission in Afghanistan or Iraq;
and

“(ii) occurs during the period beginning on October
1, 2005, and ending on September 30, 2009.

“(B) REPORTING REQUIREMENTS.—In the case of an
incident described in subparagraph (A), the Secretary
shall—

“(i) promptly notify the Committee on Inter-
national Relations of the House of Representatives and
the Committee on Foreign Relations of the Senate of
the incident;

Notification.

“(ii) conduct an inquiry of the incident; and

“(iii) upon completion of the inquiry required by
clause (ii), submit to each such Committee a report
on the findings and recommendations related to such
inquiry and the actions taken with respect to such
recommendations.”.

SEC. 4. INCREASED LIMITS APPLICABLE TO POST DIFFERENTIALS AND DANGER PAY ALLOWANCES.

(a) REPEAL OF LIMITED-SCOPE EFFECTIVE DATE FOR PREVIOUS
INCREASE.—Subsection (c) of section 591 of the Foreign Operations,
Export Financing, and Related Programs Appropriations Act, 2004
(division D of Public Law 108–199) is repealed.

5 USC 5925 note.

(b) POST DIFFERENTIALS.—Section 5925(a) of title 5, United
States Code, is amended in the third sentence by striking “25
percent of the rate of basic pay or, in the case of an employee
of the United States Agency for International Development,”.

(c) DANGER PAY ALLOWANCES.—Section 5928 of title 5, United
States Code, is amended by striking “25 percent of the basic pay
of the employee or 35 percent of the basic pay of the employee
in the case of an employee of the United States Agency for Inter-
national Development” both places that it appears and inserting
“35 percent of the basic pay of the employee”.

5 USC 5925 note.

(d) CRITERIA.—The Secretary of State shall inform the Com-
mittee on International Relations of the House of Representatives
and the Committee on Foreign Relations of the Senate of the
criteria to be used in determinations of appropriate adjustments
in post differentials under section 5925(a) of title 5, United States
Code, as amended by subsection (b), and danger pay allowances
under section 5928 of title 5, United States Code, as amended
by subsection (c).

(e) STUDY AND REPORT.—Not later than two years after the
date of the enactment of this Act, the Secretary of State shall
conduct a study assessing the effect of the increases in post differ-
entials and danger pay allowances made by the amendments in sub-
sections (b) and (c), respectively, in filling “hard-to-fill” posi-
tions and shall submit a report of such study to the committees specified
in subsection (d) and to the Committee on Government Reform
of the House of Representatives and the Committee on Homeland
Security and Governmental Affairs of the Senate.

SEC. 5. CLARIFICATION OF FOREIGN SERVICE GRIEVANCE BOARD PROCEDURES.

Section 1106(8) of the Foreign Service Act of 1980 (22 U.S.C. 4136(8)) is amended in the first sentence—

(1) by inserting “the involuntary separation of the grievant (other than an involuntary separation for cause under section 610(a)),” after “considering”; and

(2) by striking “the grievant or” and inserting “the grievant, or”.

SEC. 6. PERSONAL SERVICES CONTRACTING PILOT PROGRAM.

22 USC 6206
note.

Section 504(c) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228) is amended by striking “December 31, 2005” and inserting “December 31, 2006”.

SEC. 7. OFFICIAL RESIDENCE EXPENSES.

Section 5913 of title 5, United States Code, is amended by adding at the end the following new subsection:

“(c) Funds made available under subsection (b) may be provided in advance to persons eligible to receive reimbursements.”.

SEC. 8. COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS EDUCATION BENEFITS.

Section 305(a) of the United States International Broadcasting Act of 1994 (22 U.S.C. 6204(a)) is amended by inserting after paragraph (18) the following new paragraph:

“(19)(A) To provide for the payment of primary and secondary school expenses for dependents of personnel stationed in the Commonwealth of the Northern Mariana Islands (CNMI) at a cost not to exceed expenses authorized by the Department of Defense for such schooling for dependents of members of the Armed Forces stationed in the Commonwealth, if the Board determines that schools available in the Commonwealth are unable to provide adequately for the education of the dependents of such personnel.

“(B) To provide transportation for dependents of such personnel between their places of residence and those schools for which expenses are provided under subparagraph (A), if

the Board determines that such schools are not accessible by public means of transportation.”.

Approved December 22, 2005.

LEGISLATIVE HISTORY—H.R. 4436:

CONGRESSIONAL RECORD, Vol. 151 (2005):

Dec. 14, considered and passed House.

Dec. 15, considered and passed Senate.



Public Law 109–141
109th Congress

An Act

Dec. 22, 2005
[H.R. 4508]

Coast Guard
Hurricane Relief
Act of 2005.

To commend the outstanding efforts in response to Hurricane Katrina by members and employees of the Coast Guard, to provide temporary relief to certain persons affected by such hurricane with respect to certain laws administered by the Coast Guard, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Coast Guard Hurricane Relief Act of 2005”.

SEC. 2. COMMENDATION, RECOGNITION, AND THANKS FOR COAST GUARD PERSONNEL.

(a) FINDINGS.—The Congress finds the following:

(1) On August 29, 2005, Hurricane Katrina struck the Gulf of Mexico coastal region of Louisiana, Mississippi, and Alabama, causing the worst natural disaster in United States history.

(2) The Coast Guard strategically positioned its aircraft, vessels, and personnel the day before Hurricane Katrina made landfall and launched search and rescue teams within hours after Hurricane Katrina struck.

(3) The Coast Guard moved its operations in areas threatened by Hurricane Katrina to higher ground and mobilized cutters, small boats, and aircraft from all around the United States to help in the response to Hurricane Katrina.

(4) The response to Hurricane Katrina by members and employees of the Coast Guard has been immediate, invaluable, and courageous.

(5) The Coast Guard rescued more than 33,000 people affected by Hurricane Katrina through the air and by water, including evacuations of hospitals, and has been at the center of efforts to restore commerce to areas affected by Hurricane Katrina by clearing shipping channels, replacing aids to navigation, and securing uprooted oil rigs.

(6) The Coast Guard was at the forefront of the Federal response to the numerous oil and chemical spills in the area affected by Hurricane Katrina.

(7) Members and employees of the Coast Guard—

(A) have shown great leadership in helping to coordinate relief efforts with respect to Hurricane Katrina;

(B) have used their expertise and specialized skills to provide immediate assistance to victims and survivors of the hurricane; and

(C) have set up remote assistance operations in the affected areas in order to best provide service to the Gulf of Mexico coastal region.

(8) Members and employees of the Coast Guard have worked together to bring clean water, food, and resources to victims and survivors in need.

(b) COMMENDATION, RECOGNITION, AND THANKS.—The Congress—

(1) commends the outstanding efforts in response to Hurricane Katrina by members and employees of the Coast Guard;

(2) recognizes that the actions of these individuals went above and beyond the call of duty; and

(3) thanks them for their continued dedication and service.

(c) SENSE OF CONGRESS.—It is the sense of Congress that the Coast Guard should play a major role in response to any future national emergency or disaster caused by a natural event in the United States in a coastal or offshore area.

SEC. 3. TEMPORARY AUTHORIZATION TO EXTEND THE DURATION OF LICENSES, CERTIFICATES OF REGISTRY, AND MERCHANT MARINERS' DOCUMENTS.

(a) LICENSES AND CERTIFICATES OF REGISTRY.—Notwithstanding sections 7106 and 7107 of title 46, United States Code, the Secretary of the department in which the Coast Guard is operating may temporarily extend the duration of a license or certificate of registry issued for an individual under chapter 71 of that title until not later than February 28, 2006, if—

(1) the individual is a resident of Alabama, Mississippi, or Louisiana; or

(2) the individual is a resident of any other State, and the records of the individual—

(A) are located at the Coast Guard facility in New Orleans that was damaged by Hurricane Katrina; or

(B) were damaged or lost as a result of Hurricane Katrina.

(b) MERCHANT MARINERS' DOCUMENTS.—Notwithstanding section 7302(g) of title 46, United States Code, the Secretary of the department in which the Coast Guard is operating may temporarily extend the duration of a merchant mariners' document issued for an individual under chapter 73 of that title until not later than February 28, 2006, if—

(1) the individual is a resident of Alabama, Mississippi, or Louisiana; or

(2) the individual is a resident of any other State, and the records of the individual—

(A) are located at the Coast Guard facility in New Orleans that was damaged by Hurricane Katrina; or

(B) were damaged or lost as a result of Hurricane Katrina.

(c) MANNER OF EXTENSION.—Any extensions granted under this section may be granted to individual seamen or a specifically identified group of seamen.

SEC. 4. TEMPORARY AUTHORIZATION TO EXTEND THE DURATION OF VESSEL CERTIFICATES OF INSPECTION.

(a) AUTHORITY TO EXTEND.—Notwithstanding section 3307 and 3711(b) of title 46, United States Code, the Secretary of the department in which the Coast Guard is operating may temporarily extend

the duration or the validity of a certificate of inspection or a certificate of compliance issued under chapter 33 or 37, respectively, of title 46, United States Code, for up to 3 months for a vessel inspected by a Coast Guard Marine Safety Office located in Alabama, Mississippi, or Louisiana.

(b) EXPIRATION OF AUTHORITY.—The authority provided under this section expires February 28, 2006.

SEC. 5. PRESERVATION OF LEAVE LOST DUE TO HURRICANE KATRINA OPERATIONS.

(a) PRESERVATION OF LEAVE.—Notwithstanding section 701(b) of title 10, United States Code, any member of the Coast Guard who serves on active duty for a continuous period of 30 days, who is assigned to duty or otherwise detailed in support of units or operations in the Eighth Coast Guard District area of responsibility for activities to mitigate the consequences of, or assist in the recovery from, Hurricane Katrina, during the period beginning on August 28, 2005, and ending on January 1, 2006, and who would otherwise lose any accumulated leave in excess of 60 days as a consequence of such assignment, is authorized to retain an accumulated total of up to 90 days of leave.

(b) EXCESS LEAVE.—Leave in excess of 60 days accumulated under subsection (a) shall be lost unless used by the member before the commencement of the second fiscal year following the fiscal year in which the assignment commences, or in the case of a Reserve members, the year in which the period of active service is completed.

Approved December 22, 2005.

LEGISLATIVE HISTORY—H.R. 4508:

CONGRESSIONAL RECORD, Vol. 151 (2005):

Dec. 14, considered and passed House.

Dec. 16, considered and passed Senate.



Public Law 109–142
109th Congress

Joint Resolution

Recognizing Commodore John Barry as the first flag officer of the United States Navy.

Dec. 22, 2005

[H.J. Res. 38]

- Whereas John Barry, American merchant marine captain and native of County Wexford, Ireland, volunteered his services to the Continental Navy during the American War for Independence and was assigned by the Continental Congress as captain of the Lexington, taking command of that vessel on March 14, 1776, and later participating in the victorious Trenton campaign;
- Whereas the quality and effectiveness of Captain John Barry's service to the American war effort was recognized not only by George Washington but also by the enemies of the new Nation;
- Whereas Captain John Barry rejected British General Lord Howe's flattering offer to desert Washington and the patriot cause, stating: "Not the value and command of the whole British fleet can lure me from the cause of my country.";
- Whereas Captain John Barry, while in command of the frigate Alliance, successfully transported French gold to America to help finance the American War for Independence and also won numerous victories at sea;
- Whereas when the First Congress, acting under the new Constitution of the United States, authorized the raising and construction of the United States Navy, it was to Captain John Barry that President George Washington turned to build and lead the new Nation's infant Navy, the successor to the Continental Navy of the War for Independence;
- Whereas Captain John Barry supervised the building of his flagship, the U.S.S. United States;
- Whereas on February 22, 1797, President Washington personally conferred upon Captain John Barry, by and with the advice and consent of the Senate, the rank of Captain, with "Commission No. 1", United States Navy, dated June 7, 1794;
- Whereas John Barry served as the senior officer of the United States Navy, with the title of "Commodore" (in official correspondence), under Presidents Washington, John Adams, and Jefferson;
- Whereas as commander of the first United States naval squadron under the Constitution of the United States, which included the U.S.S. Constitution ("Old Ironsides"), John Barry was a Commodore, with the right to fly a broad pendant, which made him a flag officer; and

Whereas in this sense it can be said that Commodore John Barry was the first flag officer of the United States Navy: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Commodore John Barry is recognized, and is hereby honored, as the first flag officer of the United States Navy.

Approved December 22, 2005.

LEGISLATIVE HISTORY—H.J. Res. 38:

CONGRESSIONAL RECORD, Vol. 151 (2005):

Dec. 14, considered and passed House.

Dec. 16, considered and passed Senate.



Public Law 109–143
109th Congress

An Act

To reauthorize the Congressional Award Act.

Dec. 22, 2005

[S. 335]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REAUTHORIZATION OF THE CONGRESSIONAL AWARD ACT.

(a) **EXTENSION OF REQUIREMENTS REGARDING FINANCIAL OPERATIONS OF CONGRESSIONAL AWARD PROGRAM; NONCOMPLIANCE WITH REQUIREMENTS.**—Section 104(c)(2)(A) of the Congressional Award Act (2 U.S.C. 804(c)(2)(A)) is amended by striking “and 2004” and inserting “2004, 2005, 2006, 2007, 2008, and 2009”.

(b) **TERMINATION.**—

(1) **IN GENERAL.**—Section 108 of the Congressional Award Act (2 U.S.C. 808) is amended by striking “October 1, 2004” and inserting “October 1, 2009”.

(2) **SAVINGS PROVISION.**—During the period of October 1, 2004, through the date of the enactment of this section, all actions and functions of the Congressional Award Board under the Congressional Award Act (2 U.S.C. 801 et seq.) shall have the same effect as though no lapse or termination of the Board ever occurred.

2 USC 808 note.

(c) **TECHNICAL AMENDMENTS.**—The Congressional Award Act is amended—

(1) in section 103 (2 U.S.C. 803)—

(A) in subsection (a)(1)(B) and (C), by striking “a a local” and inserting “a local”; and

(B) in subsection (b)(3)(B), by striking “section” each place it appears and inserting “subsection”; and

(2) in section 104(c)(2)(A) (2 U.S.C. 804(c)(2)(A)), by inserting a comma after “1993”.

Approved December 22, 2005.

LEGISLATIVE HISTORY—S. 335:

SENATE REPORTS: No. 109–87 (Comm. on Homeland Security and Governmental Affairs).

CONGRESSIONAL RECORD, Vol. 151 (2005):

July 14, considered and passed Senate.

Dec. 14, considered and passed House.

Public Law 109–144
109th Congress

An Act

Dec. 22, 2005
[S. 467]

Terrorism Risk
Insurance
Extension Act of
2005.
15 USC 6701
note.

To extend the applicability of the Terrorism Risk Insurance Act of 2002.

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the “Terrorism Risk Insurance Extension Act of 2005”.

SEC. 2. EXTENSION OF TERRORISM RISK INSURANCE PROGRAM.

(a) **PROGRAM EXTENSION.**—Section 108(a) of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note; 116 Stat. 2336) is amended by striking “2005” and inserting “2007”.

(b) **MANDATORY AVAILABILITY.**—Section 103(c) of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note; 116 Stat. 2327) is amended—

(1) by striking paragraph (2);

(2) by striking “**AVAILABILITY.**—” and all that follows through “each entity” and inserting “**AVAILABILITY.**—During each Program Year, each entity”; and

(3) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively, and moving the margins 2 ems to the left.

SEC. 3. AMENDMENTS TO DEFINED TERMS.

(a) **PROGRAM YEARS.**—Section 102(11) of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note; 116 Stat. 2326) is amended by adding at the end the following:

“(E) **PROGRAM YEAR 4.**—The term ‘Program Year 4’ means the period beginning on January 1, 2006 and ending on December 31, 2006.

“(F) **PROGRAM YEAR 5.**—The term ‘Program Year 5’ means the period beginning on January 1, 2007 and ending on December 31, 2007.”.

(b) **EXCLUSIONS FROM COVERED LINES.**—

(1) **IN GENERAL.**—Section 102(12)(B) of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note; 116 Stat. 2326) is amended—

(A) in clause (vi), by striking “or” at the end;

(B) in clause (vii), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

“(viii) commercial automobile insurance;

“(ix) burglary and theft insurance;

“(x) surety insurance;

“(xi) professional liability insurance; or
“(xii) farm owners multiple peril insurance.”.

(2) CONFORMING AMENDMENT.—Section 102(12)(A) of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note; 116 Stat. 2326) is amended by striking “surety insurance” and inserting “directors and officers liability insurance”.

(c) INSURER DEDUCTIBLES.—Section 102(7) of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note; 116 Stat. 2325) is amended—

- (1) in subparagraph (D), by striking “and” at the end;
- (2) by redesignating subparagraph (E) as subparagraph (G);
- (3) by inserting after subparagraph (D), the following:

“(E) for Program Year 4, the value of an insurer’s direct earned premiums over the calendar year immediately preceding Program Year 4, multiplied by 17.5 percent;
“(F) for Program Year 5, the value of an insurer’s direct earned premiums over the calendar year immediately preceding Program Year 5, multiplied by 20 percent; and”;

and
- (4) in subparagraph (G), as so redesignated, by striking “through (D)” and all that follows through “Year 3” and inserting the following: “through (F), for the Transition Period or any Program Year”.

SEC. 4. INSURED LOSS SHARED COMPENSATION.

Section 103(e) of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note; 116 Stat. 2328) is amended—

- (1) in paragraph (1)—
 - (A) by inserting “through Program Year 4” before “shall be equal”; and
 - (B) by inserting “, and during Program Year 5 shall be equal to 85 percent,” after “90 percent”; and
- (2) in each of paragraphs (2) and (3), by striking “Program Year 2 or Program Year 3” each place that term appears and inserting “any of Program Years 2 through 5”.

SEC. 5. AGGREGATE RETENTION AMOUNTS AND RECOUPMENT OF FEDERAL SHARE.

(a) AGGREGATE RETENTION AMOUNTS.—Section 103(e)(6) of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note; 116 Stat. 2329) is amended—

- (1) in subparagraph (B), by striking “and” at the end;
- (2) in subparagraph (C), by striking the period at the end and inserting a semicolon; and
- (3) by adding at the end the following:

“(D) for Program Year 4, the lesser of—
“(i) \$25,000,000,000; and
“(ii) the aggregate amount, for all insurers, of insured losses during such Program Year; and
“(E) for Program Year 5, the lesser of—
“(i) \$27,500,000,000; and
“(ii) the aggregate amount, for all insurers, of insured losses during such Program Year.”.

(b) RECOUPMENT OF FEDERAL SHARE.—Section 103(e)(7) of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note; 116 Stat. 2329) is amended—

(1) in subparagraph (A), by striking “, (B), and (C)” and inserting “through (E)”; and

(2) in each of subparagraphs (B) and (C), by striking “subparagraph (A), (B), or (C)” each place that term appears and inserting “any of subparagraphs (A) through (E)”.

SEC. 6. PROGRAM TRIGGER.

15 USC 6701
note.

Section 103(e)(1) of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. note, 116 Stat. 2328) is amended—

(1) by redesignating subparagraph (B) as subparagraph (C); and

Effective date.

(2) by inserting after subparagraph (A) the following:

“(B) PROGRAM TRIGGER.—In the case of a certified act of terrorism occurring after March 31, 2006, no compensation shall be paid by the Secretary under subsection (a), unless the aggregate industry insured losses resulting from such certified act of terrorism exceed—

“(i) \$50,000,000, with respect to such insured losses occurring in Program Year 4; or

“(ii) \$100,000,000, with respect to such insured losses occurring in Program Year 5.”.

SEC. 7. LITIGATION MANAGEMENT.

Section 107(a) of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note; 116 Stat. 2335) is amended by adding at the end the following:

Applicability.

“(6) AUTHORITY OF THE SECRETARY.—Procedures and requirements established by the Secretary under section 50.82 of part 50 of title 31 of the Code of Federal Regulations (as in effect on the date of issuance of that section in final form) shall apply to any cause of action described in paragraph (1) of this subsection.”.

SEC. 8. ANALYSIS AND REPORT ON TERRORISM RISK COVERAGE CONDITIONS AND SOLUTIONS.

Section 108 of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note; 116 Stat. 2336) is amended by adding at the end the following:

“(e) ANALYSIS OF MARKET CONDITIONS FOR TERRORISM RISK INSURANCE.—

“(1) IN GENERAL.—The President’s Working Group on Financial Markets, in consultation with the National Association of Insurance Commissioners, representatives of the insurance industry, representatives of the securities industry, and representatives of policy holders, shall perform an analysis regarding the long-term availability and affordability of insurance for terrorism risk, including—

“(A) group life coverage; and

“(B) coverage for chemical, nuclear, biological, and radiological events.

“(2) REPORT.—Not later than September 30, 2006, the President’s Working Group on Financial Markets shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services

of the House of Representatives on its findings pursuant to the analysis conducted under subsection (a).”.

Approved December 22, 2005.

LEGISLATIVE HISTORY—S. 467 (H.R. 4314):

HOUSE REPORTS: No. 109–327 accompanying H.R. 4314 (Comm. on Financial Services).

CONGRESSIONAL RECORD, Vol. 151 (2005):

Nov. 17, considered and passed Senate.

Dec. 7, considered and passed House, amended.

Dec. 16, Senate concurred in House amendment with an amendment.

Dec. 17, House concurred in Senate amendment.



Public Law 109–145
109th Congress

An Act

Dec. 22, 2005
[S. 1047]

To require the Secretary of the Treasury to mint coins in commemoration of each of the Nation's past Presidents and their spouses, respectively, to improve circulation of the \$1 coin, to create a new bullion coin, and for other purposes.

Presidential \$1
Coin Act of 2005.
31 USC 5101
note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Presidential \$1 Coin Act of 2005”.

TITLE I—PRESIDENTIAL \$1 COINS

31 USC 5112
note.

SEC. 101. FINDINGS.

Congress finds the following:

(1) There are sectors of the United States economy, including public transportation, parking meters, vending machines, and low-dollar value transactions, in which the use of a \$1 coin is both useful and desirable for keeping costs and prices down.

(2) For a variety of reasons, the new \$1 coin introduced in 2000 has not been widely sought-after by the public, leading to higher costs for merchants and thus higher prices for consumers.

(3) The success of the 50 States Commemorative Coin Program (31 U.S.C. 5112(l)) for circulating quarter dollars shows that a design on a United States circulating coin that is regularly changed in a manner similar to the systematic change in designs in such Program radically increases demand for the coin, rapidly pulling it through the economy.

(4) The 50 States Commemorative Coin Program also has been an educational tool, teaching both Americans and visitors something about each State for which a quarter has been issued.

(5) A national survey and study by the Government Accountability Office has indicated that many Americans who do not seek, or who reject, the new \$1 coin for use in commerce would actively seek the coin if an attractive, educational rotating design were to be struck on the coin.

(6) The President is the leader of our tripartite government and the President's spouse has often set the social tone for the White House while spearheading and highlighting important issues for the country.

(7) Sacagawea, as currently represented on the new \$1 coin, is an important symbol of American history. Sacagawea.

(8) Many people cannot name all of the Presidents, and fewer can name the spouses, nor can many people accurately place each President in the proper time period of American history.

(9) First Spouses have not generally been recognized on American coinage.

(10) In order to revitalize the design of United States coinage and return circulating coinage to its position as not only a necessary means of exchange in commerce, but also as an object of aesthetic beauty in its own right, it is appropriate to move many of the mottos and emblems, the inscription of the year, and the so-called “mint marks” that currently appear on the 2 faces of each circulating coin to the edge of the coin, which would allow larger and more dramatic artwork on the coins reminiscent of the so-called “Golden Age of Coinage” in the United States, at the beginning of the Twentieth Century, initiated by President Theodore Roosevelt, with the assistance of noted sculptors and medallist artists James Earle Fraser and Augustus Saint-Gaudens.

Theodore
Roosevelt.
Earle Fraser.
Augustus
Saint-Gaudens.

(11) Placing inscriptions on the edge of coins, known as edge-incusing, is a hallmark of modern coinage and is common in large-volume production of coinage elsewhere in the world, such as the 2,700,000,000 2-Euro coins in circulation, but it has not been done on a large scale in United States coinage in recent years.

(12) Although the Congress has authorized the Secretary of the Treasury to issue gold coins with a purity of 99.99 percent, the Secretary has not done so.

(13) Bullion coins are a valuable tool for the investor and, in some cases, an important aspect of coin collecting.

SEC. 102. PRESIDENTIAL \$1 COIN PROGRAM.

Section 5112 of title 31, United States Code, is amended by adding at the end the following:

“(n) REDESIGN AND ISSUANCE OF CIRCULATING \$1 COINS HONORING EACH OF THE PRESIDENTS OF THE UNITED STATES.—

“(1) REDESIGN BEGINNING IN 2007.—

“(A) IN GENERAL.—Notwithstanding subsection (d) and in accordance with the provisions of this subsection, \$1 coins issued during the period beginning January 1, 2007, and ending upon the termination of the program under paragraph (8), shall—

“(i) have designs on the obverse selected in accordance with paragraph (2)(B) which are emblematic of the Presidents of the United States; and

“(ii) have a design on the reverse selected in accordance with paragraph (2)(A).

“(B) CONTINUITY PROVISIONS.—

“(i) IN GENERAL.—Notwithstanding subparagraph (A), the Secretary shall continue to mint and issue \$1 coins which bear any design in effect before the issuance of coins as required under this subsection (including the so-called ‘Sacagawea-design’ \$1 coins).

“(ii) CIRCULATION QUANTITY.—Beginning January 1, 2007, and ending upon the termination of the program under paragraph (8), the Secretary annually shall mint and issue such ‘Sacagawea-design’ \$1 coins for circulation in quantities of no less than $\frac{1}{3}$ of the total \$1 coins minted and issued under this subsection.”.

“(2) DESIGN REQUIREMENTS.—The \$1 coins issued in accordance with paragraph (1)(A) shall meet the following design requirements:

“(A) COIN REVERSE.—The design on the reverse shall bear—

“(i) a likeness of the Statue of Liberty extending to the rim of the coin and large enough to provide a dramatic representation of Liberty while not being large enough to create the impression of a ‘2-headed’ coin;

“(ii) the inscription ‘\$1’; and

“(iii) the inscription ‘United States of America’.

“(B) COIN OBVERSE.—The design on the obverse shall contain—

“(i) the name and likeness of a President of the United States; and

“(ii) basic information about the President, including—

“(I) the dates or years of the term of office of such President; and

“(II) a number indicating the order of the period of service in which the President served.

“(C) EDGE-INCUSED INSCRIPTIONS.—

“(i) IN GENERAL.—The inscription of the year of minting or issuance of the coin and the inscriptions ‘E Pluribus Unum’ and ‘In God We Trust’ shall be edge-incused into the coin.

“(ii) PRESERVATION OF DISTINCTIVE EDGE.—The edge-incusing of the inscriptions under clause (i) on coins issued under this subsection shall be done in a manner that preserves the distinctive edge of the coin so that the denomination of the coin is readily discernible, including by individuals who are blind or visually impaired.

“(D) INSCRIPTIONS OF ‘LIBERTY’.—Notwithstanding the second sentence of subsection (d)(1), because the use of a design bearing the likeness of the Statue of Liberty on the reverse of the coins issued under this subsection adequately conveys the concept of Liberty, the inscription of ‘Liberty’ shall not appear on the coins.

“(E) LIMITATION IN SERIES TO DECEASED PRESIDENTS.—No coin issued under this subsection may bear the image of a living former or current President, or of any deceased former President during the 2-year period following the date of the death of that President.

“(3) ISSUANCE OF COINS COMMEMORATING PRESIDENTS.—

“(A) ORDER OF ISSUANCE.—The coins issued under this subsection commemorating Presidents of the United States shall be issued in the order of the period of service of each President, beginning with President George Washington.

“(B) TREATMENT OF PERIOD OF SERVICE.—

“(i) IN GENERAL.—Subject to clause (ii), only 1 coin design shall be issued for a period of service for any President, no matter how many consecutive terms of office the President served.

“(ii) NONCONSECUTIVE TERMS.—If a President has served during 2 or more nonconsecutive periods of service, a coin shall be issued under this subsection for each such nonconsecutive period of service.

“(4) ISSUANCE OF COINS COMMEMORATING 4 PRESIDENTS DURING EACH YEAR OF THE PERIOD.—

“(A) IN GENERAL.—The designs for the \$1 coins issued during each year of the period referred to in paragraph (1) shall be emblematic of 4 Presidents until each President has been so honored, subject to paragraph (2)(E).

“(B) NUMBER OF 4 CIRCULATING COIN DESIGNS IN EACH YEAR.—The Secretary shall prescribe, on the basis of such factors as the Secretary determines to be appropriate, the number of \$1 coins that shall be issued with each of the designs selected for each year of the period referred to in paragraph (1).

“(5) LEGAL TENDER.—The coins minted under this title shall be legal tender, as provided in section 5103.

“(6) TREATMENT AS NUMISMATIC ITEMS.—For purposes of section 5134 and 5136, all coins minted under this subsection shall be considered to be numismatic items.

“(7) ISSUANCE OF NUMISMATIC COINS.—The Secretary may mint and issue such number of \$1 coins of each design selected under this subsection in uncirculated and proof qualities as the Secretary determines to be appropriate.

“(8) TERMINATION OF PROGRAM.—The issuance of coins under this subsection shall terminate when each President has been so honored, subject to paragraph (2)(E), and may not be resumed except by an Act of Congress.

“(9) REVERSION TO PRECEDING DESIGN.—Upon the termination of the issuance of coins under this subsection, the design of all \$1 coins shall revert to the so-called ‘Sacagawea-design’ \$1 coins.”.

SEC. 103. FIRST SPOUSE BULLION COIN PROGRAM.

Section 5112 of title 31, United States Code, as amended by section 102, is amended by adding at the end the following:

“(o) FIRST SPOUSE BULLION COIN PROGRAM.—

“(1) IN GENERAL.—During the same period described in subsection (n), the Secretary shall issue bullion coins under this subsection that are emblematic of the spouse of each such President.

“(2) SPECIFICATIONS.—The coins issued under this subsection shall—

“(A) have the same diameter as the \$1 coins described in subsection (n);

“(B) weigh 0.5 ounce; and

“(C) contain 99.99 percent pure gold.

“(3) DESIGN REQUIREMENTS.—

“(A) COIN OBVERSE.—The design on the obverse of each coin issued under this subsection shall contain—

“(i) the name and likeness of a person who was a spouse of a President during the President’s period of service;

“(ii) an inscription of the years during which such person was the spouse of a President during the President’s period of service; and

“(iii) a number indicating the order of the period of service in which such President served.

“(B) COIN REVERSE.—The design on the reverse of each coin issued under this subsection shall bear—

“(i) images emblematic of the life and work of the First Spouse whose image is borne on the obverse; and

“(ii) the inscription ‘United States of America’.

“(C) DESIGNATED DENOMINATION.—Each coin issued under this subsection shall bear, on the reverse, an inscription of the nominal denomination of the coin which shall be ‘\$10’.

“(D) DESIGN IN CASE OF NO FIRST SPOUSE.—In the case of any President who served without a spouse—

“(i) the image on the obverse of the bullion coin corresponding to the \$1 coin relating to such President shall be an image emblematic of the concept of ‘Liberty’—

“(I) as represented on a United States coin issued during the period of service of such President; or

“(II) as represented, in the case of President Chester Alan Arthur, by a design incorporating the name and likeness of Alice Paul, a leading strategist in the suffrage movement, who was instrumental in gaining women the right to vote upon the adoption of the 19th amendment and thus the ability to participate in the election of future Presidents, and who was born on January 11, 1885, during the term of President Arthur; and

“(ii) the reverse of such bullion coin shall be of a design representative of themes of such President, except that in the case of the bullion coin referred to in clause (i)(II) the reverse of such coin shall be representative of the suffrage movement.

“(E) DESIGN AND COIN FOR EACH SPOUSE.—A separate coin shall be designed and issued under this section for each person who was the spouse of a President during any portion of a term of office of such President.

“(F) INSCRIPTIONS.—Each bullion coin issued under this subsection shall bear the inscription of the year of minting or issuance of the coin and such other inscriptions as the Secretary may determine to be appropriate.

“(4) SALE OF BULLION COINS.—Each bullion coin issued under this subsection shall be sold by the Secretary at a price that is equal to or greater than the sum of—

“(A) the face value of the coins; and

“(B) the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

“(5) ISSUANCE OF COINS COMMEMORATING FIRST SPOUSES.—

“(A) IN GENERAL.—The bullion coins issued under this subsection with respect to any spouse of a President shall be issued on the same schedule as the \$1 coin issued under subsection (n) with respect to each such President.

“(B) MAXIMUM NUMBER OF BULLION COINS FOR EACH DESIGN.—The Secretary shall—

“(i) prescribe, on the basis of such factors as the Secretary determines to be appropriate, the maximum number of bullion coins that shall be issued with each of the designs selected under this subsection; and

“(ii) announce, before the issuance of the bullion coins of each such design, the maximum number of bullion coins of that design that will be issued.

“(C) TERMINATION OF PROGRAM.—No bullion coin may be issued under this subsection after the termination, in accordance with subsection (n)(8), of the \$1 coin program established under subsection (n).

“(6) QUALITY OF COINS.—The bullion coins minted under this Act shall be issued in both proof and uncirculated qualities.

“(7) SOURCE OF GOLD BULLION.—

“(A) IN GENERAL.—The Secretary shall acquire gold for the coins issued under this subsection by purchase of gold mined from natural deposits in the United States, or in a territory or possession of the United States, within 1 year after the month in which the ore from which it is derived was mined.

“(B) PRICE OF GOLD.—The Secretary shall pay not more than the average world price for the gold mined under subparagraph (A).

“(8) BRONZE MEDALS.—The Secretary may strike and sell bronze medals that bear the likeness of the bullion coins authorized under this subsection, at a price, size, and weight, and with such inscriptions, as the Secretary determines to be appropriate.

“(9) LEGAL TENDER.—The coins minted under this title shall be legal tender, as provided in section 5103.

“(10) TREATMENT AS NUMISMATIC ITEMS.—For purposes of section 5134 and 5136, all coins minted under this subsection shall be considered to be numismatic items.”.

SEC. 104. REMOVAL OF BARRIERS TO CIRCULATION.

Section 5112 of title 31, United States Code, as amended by sections 102 and 103, by adding at the end the following:

“(p) REMOVAL OF BARRIERS TO CIRCULATION OF \$1 COIN.—

“(1) ACCEPTANCE BY AGENCIES AND INSTRUMENTALITIES.—Beginning January 1, 2006, all agencies and instrumentalities of the United States, the United States Postal Service, all nonappropriated fund instrumentalities established under title 10, United States Code, all transit systems that receive operational subsidies or any disbursement of funds from the Federal Government, such as funds from the Federal Highway Trust Fund, including the Mass Transit Account, and all entities that operate any business, including vending machines, on any premises owned by the United States or under the control of any agency or instrumentality of the United States, including the legislative and judicial branches of the Federal Government,

Effective date.

shall take such action as may be appropriate to ensure that by the end of the 2-year period beginning on such date—

“(A) any business operations conducted by any such agency, instrumentality, system, or entity that involve coins or currency will be fully capable of accepting and dispensing \$1 coins in connection with such operations; and

“(B) displays signs and notices denoting such capability on the premises where coins or currency are accepted or dispensed, including on each vending machine.

“(2) PUBLICITY.—The Director of the United States Mint, shall work closely with consumer groups, media outlets, and schools to ensure an adequate amount of news coverage, and other means of increasing public awareness, of the inauguration of the Presidential \$1 Coin Program established in subsection (n) to ensure that consumers know of the availability of the coin.

“(3) COORDINATION.—The Board of Governors of the Federal Reserve System and the Secretary shall take steps to ensure that an adequate supply of \$1 coins is available for commerce and collectors at such places and in such quantities as are appropriate by—

“(A) consulting, to accurately gauge demand for coins and to anticipate and eliminate obstacles to the easy and efficient distribution and circulation of \$1 coins as well as all other circulating coins, from time to time but no less frequently than annually, with a coin users group, which may include—

“(i) representatives of merchants who would benefit from the increased usage of \$1 coins;

“(ii) vending machine and other coin acceptor manufacturers;

“(iii) vending machine owners and operators;

“(iv) transit officials;

“(v) municipal parking officials;

“(vi) depository institutions;

“(vii) coin and currency handlers;

“(viii) armored-car operators;

“(ix) car wash operators; and

“(x) coin collectors and dealers;

“(B) submitting an annual report to the Congress containing—

“(i) an assessment of the remaining obstacles to the efficient and timely circulation of coins, particularly \$1 coins;

“(ii) an assessment of the extent to which the goals of subparagraph (C) are being met; and

“(iii) such recommendations for legislative action the Board and the Secretary may determine to be appropriate;

“(C) consulting with industry representatives to encourage operators of vending machines and other automated coin-accepting devices in the United States to accept coins issued under the Presidential \$1 Coin Program established under subsection (n) and any coins bearing any design in effect before the issuance of coins required under subsection (n) (including the so-called ‘Sacagawea-design’ \$1

Reports.

coins), and to include notices on the machines and devices of such acceptability;

“(D) ensuring that—

“(i) during an introductory period, all institutions that want unmixed supplies of each newly-issued design of \$1 coins minted under subsections (n) and (o) are able to obtain such unmixed supplies; and

“(ii) circulating coins will be available for ordinary commerce in packaging of sizes and types appropriate for and useful to ordinary commerce, including rolled coins;

“(E) working closely with any agency, instrumentality, system, or entity referred to in paragraph (1) to facilitate compliance with the requirements of such paragraph; and

“(F) identifying, analyzing, and overcoming barriers to the robust circulation of \$1 coins minted under subsections (n) and (o), including the use of demand prediction, improved methods of distribution and circulation, and improved public education and awareness campaigns.

“(4) BULLION DEALERS.—The Director of the United States Mint shall take all steps necessary to ensure that a maximum number of reputable, reliable, and responsible dealers are qualified to offer for sale all bullion coins struck and issued by the United States Mint.

“(5) REVIEW OF CO-CIRCULATION.—At such time as the Secretary determines to be appropriate, and after consultation with the Board of Governors of the Federal Reserve System, the Secretary shall notify the Congress of its assessment of issues related to the co-circulation of any circulating \$1 coin bearing any design, other than the so-called ‘Sacagawea-design’ \$1 coin, in effect before the issuance of coins required under subsection (n), including the effect of co-circulation on the acceptance and use of \$1 coins, and make recommendations to the Congress for improving the circulation of \$1 coins.”.

Notification.

SEC. 105. SENSE OF THE CONGRESS.

It is the sense of the Congress that—

(1) the enactment of this Act will serve to increase the use of \$1 coins generally, which will increase the circulation of the so-called “Sacagawea-design” \$1 coins that have been and will continue to be minted and issued;

(2) the continued minting and issuance of the so-called “Sacagawea-design” \$1 coins will serve as a lasting tribute to the role of women and Native Americans in the history of the United States;

(3) the full circulation potential and cost-savings benefit projections for the \$1 coins are not likely to be achieved unless the coins are delivered in ways useful to ordinary commerce;

(4) the coins issued in connection with this title should not be introduced with an overly expensive taxpayer-funded public relations campaign;

(5) in order for the circulation of \$1 coins to achieve maximum potential—

(A) the coins should be as attractive as possible; and

(B) the Director of the United States Mint should take all reasonable steps to ensure that all \$1 coins minted

and issued remain tarnish-free for as long as possible without incurring undue expense; and

(6) if the Secretary of the Treasury determines to include on any \$1 coin minted under section 102 of this Act a mark denoting the United States Mint facility at which the coin was struck, such mark should be edge-incused.

TITLE II—BUFFALO GOLD BULLION COINS

SEC. 201. GOLD BULLION COINS.

Section 5112 of title 31, United States Code, is amended—

(1) in subsection (a), by adding at the end the following:

“(11) A \$50 gold coin that is of an appropriate size and thickness, as determined by the Secretary, weighs 1 ounce, and contains 99.99 percent pure gold.”; and

(2) by adding at the end, the following:

“(q) GOLD BULLION COINS.—

“(1) IN GENERAL.—Not later than 6 months after the date of enactment of the Presidential \$1 Coin Act of 2005, the Secretary shall commence striking and issuing for sale such number of \$50 gold bullion and proof coins as the Secretary may determine to be appropriate, in such quantities, as the Secretary, in the Secretary’s discretion, may prescribe.

“(2) INITIAL DESIGN.—

“(A) IN GENERAL.—Except as provided under subparagraph (B), the obverse and reverse of the gold bullion coins struck under this subsection during the first year of issuance shall bear the original designs by James Earle Fraser, which appear on the 5-cent coin commonly referred to as the ‘Buffalo nickel’ or the ‘1913 Type 1’.

“(B) VARIATIONS.—The coins referred to in subparagraph (A) shall—

“(i) have inscriptions of the weight of the coin and the nominal denomination of the coin incused in that portion of the design on the reverse of the coin commonly known as the ‘grassy mound’; and

“(ii) bear such other inscriptions as the Secretary determines to be appropriate.

“(3) SUBSEQUENT DESIGNS.—After the 1-year period described to in paragraph (2), the Secretary may—

“(A) after consulting with the Commission of Fine Arts, and subject to the review of the Citizens Coinage Advisory Committee, change the design on the obverse or reverse of gold bullion coins struck under this subsection; and

“(B) change the maximum number of coins issued in any year.

“(4) SOURCE OF GOLD BULLION.—

“(A) IN GENERAL.—The Secretary shall acquire gold for the coins issued under this subsection by purchase of gold mined from natural deposits in the United States, or in a territory or possession of the United States, within 1 year after the month in which the ore from which it is derived was mined.

Deadline.

James Earle
Fraser.

“(B) PRICE OF GOLD.—The Secretary shall pay not more than the average world price for the gold mined under subparagraph (A).

“(5) SALE OF COINS.—Each gold bullion coin issued under this subsection shall be sold for an amount the Secretary determines to be appropriate, but not less than the sum of—

“(A) the market value of the bullion at the time of sale; and

“(B) the cost of designing and issuing the coins, including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping.

“(6) LEGAL TENDER.—The coins minted under this title shall be legal tender, as provided in section 5103.

“(7) TREATMENT AS NUMISMATIC ITEMS.—For purposes of section 5134 and 5136, all coins minted under this subsection shall be considered to be numismatic items.

“(8) PROTECTIVE COVERING.—

“(A) IN GENERAL.—Each bullion coin having a metallic content as described in subsection (a)(11) and a design specified in paragraph (2) shall be sold in an inexpensive covering that will protect the coin from damage due to ordinary handling or storage.

“(B) DESIGN.—The protective covering required under subparagraph (A) shall be readily distinguishable from any coin packaging that may be used to protect proof coins minted and issued under this subsection.”.

TITLE III—ABRAHAM LINCOLN BICENTENNIAL 1-CENT COIN REDESIGN

SEC. 301. FINDINGS.

31 USC 5112
note.

Congress finds the following:

(1) Abraham Lincoln, the 16th President, was one of the Nation’s greatest leaders, demonstrating true courage during the Civil War, one of the greatest crises in the Nation’s history.

(2) Born of humble roots in Hardin County (present-day LaRue County), Kentucky, on February 12, 1809, Abraham Lincoln rose to the Presidency through a combination of honesty, integrity, intelligence, and commitment to the United States.

(3) With the belief that all men are created equal, Abraham Lincoln led the effort to free all slaves in the United States.

(4) Abraham Lincoln had a generous heart, with malice toward none, and with charity for all.

(5) Abraham Lincoln gave the ultimate sacrifice for the country he loved, dying from an assassin’s bullet on April 15, 1865.

(6) All Americans could benefit from studying the life of Abraham Lincoln, for Lincoln’s life is a model for accomplishing the “American dream” through honesty, integrity, loyalty, and a lifetime of education.

(7) The year 2009 will be the bicentennial anniversary of the birth of Abraham Lincoln.

(8) Abraham Lincoln was born in Kentucky, grew to adulthood in Indiana, achieved fame in Illinois, and led the nation in Washington, D.C.

(9) The so-called “Lincoln cent” was introduced in 1909 on the 100th anniversary of Lincoln’s birth, making the obverse design the most enduring on the nation’s coinage.

(10) President Theodore Roosevelt was so impressed by the talent of Victor David Brenner that the sculptor was chosen to design the likeness of President Lincoln for the coin, adapting a design from a plaque Brenner had prepared earlier.

(11) In the nearly 100 years of production of the “Lincoln cent”, there have been only 2 designs on the reverse: the original, featuring 2 wheat-heads in memorial style enclosing mottoes, and the current representation of the Lincoln Memorial in Washington, D.C.

(12) On the occasion of the bicentennial of President Lincoln’s birth and the 100th anniversary of the production of the Lincoln cent, it is entirely fitting to issue a series of 1-cent coins with designs on the reverse that are emblematic of the 4 major periods of President Lincoln’s life.

31 USC 5112
note.

SEC. 302. REDESIGN OF LINCOLN CENT FOR 2009.

(a) IN GENERAL.—During the year 2009, the Secretary of the Treasury shall issue 1-cent coins in accordance with the following design specifications:

Victor David
Brenner.

(1) OBVERSE.—The obverse of the 1-cent coin shall continue to bear the Victor David Brenner likeness of President Abraham Lincoln.

(2) REVERSE.—The reverse of the coins shall bear 4 different designs each representing a different aspect of the life of Abraham Lincoln, such as—

- (A) his birth and early childhood in Kentucky;
- (B) his formative years in Indiana;
- (C) his professional life in Illinois; and
- (D) his presidency, in Washington, D.C.

(b) ISSUANCE OF REDESIGNED LINCOLN CENTS IN 2009.—

(1) ORDER.—The 1-cent coins to which this section applies shall be issued with 1 of the 4 designs referred to in subsection (a)(2) beginning at the start of each calendar quarter of 2009.

(2) NUMBER.—The Secretary shall prescribe, on the basis of such factors as the Secretary determines to be appropriate, the number of 1-cent coins that shall be issued with each of the designs selected for each calendar quarter of 2009.

(c) DESIGN SELECTION.—The designs for the coins specified in this section shall be chosen by the Secretary—

(1) after consultation with the Abraham Lincoln Bicentennial Commission and the Commission of Fine Arts; and

(2) after review by the Citizens Coinage Advisory Committee.

31 USC 5112
note.

SEC. 303. REDESIGN OF REVERSE OF 1-CENT COINS AFTER 2009.

The design on the reverse of the 1-cent coins issued after December 31, 2009, shall bear an image emblematic of President Lincoln’s preservation of the United States of America as a single and united country.

31 USC 5112
note.

SEC. 304. NUMISMATIC PENNIES WITH THE SAME METALLIC CONTENT AS THE 1909 PENNY.

The Secretary of the Treasury shall issue 1-cent coins in 2009 with the exact metallic content as the 1-cent coin contained in

1909 in such number as the Secretary determines to be appropriate for numismatic purposes.

SEC. 305. SENSE OF THE CONGRESS.

31 USC 5112
note.

It is the sense of the Congress that the original Victor David Brenner design for the 1-cent coin was a dramatic departure from previous American coinage that should be reproduced, using the original form and relief of the likeness of Abraham Lincoln, on the 1-cent coins issued in 2009.

Approved December 22, 2005.

LEGISLATIVE HISTORY—S. 1047 (H.R. 902):

HOUSE REPORTS: No. 109–39 accompanying H.R. 902 (Comm. on Financial Services).

CONGRESSIONAL RECORD, Vol. 151 (2005):

Nov. 18, considered and passed Senate.

Dec. 13, considered and passed House.



Public Law 109–146
109th Congress

An Act

Dec. 22, 2005
[H.R. 358]

Little Rock
Central High
School
Desegregation
50th Anniversary
Commemorative
Coin Act.
31 USC 5112
note.

To require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the desegregation of the Little Rock Central High School in Little Rock, Arkansas, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Little Rock Central High School Desegregation 50th Anniversary Commemorative Coin Act”.

SEC. 2. FINDINGS.

Congress finds the following:

(1) September 2007, marks the 50th anniversary of the desegregation of Little Rock Central High School in Little Rock, Arkansas.

(2) In 1957, Little Rock Central High was the site of the first major national test for the implementation of the historic decision of the United States Supreme Court in *Brown, et al. v. Board of Education of Topeka, et al.*, 347 U.S. 483 (1954).

(3) The courage of the “Little Rock Nine” (Ernest Green, Elizabeth Eckford, Melba Pattillo, Jefferson Thomas, Carlotta Walls, Terrence Roberts, Gloria Ray, Thelma Mothershed, and Minnijean Brown) who stood in the face of violence, was influential to the Civil Rights movement and changed American history by providing an example on which to build greater equality.

(4) The desegregation of Little Rock Central High by the 9 African American students was recognized by Dr. Martin Luther King, Jr. as such a significant event in the struggle for civil rights that in May 1958, he attended the graduation of the first African American from Little Rock Central High School.

(5) A commemorative coin will bring national and international attention to the lasting legacy of this important event.

SEC. 3. COIN SPECIFICATIONS.

(a) DENOMINATIONS.—The Secretary of the Treasury (hereinafter in this Act referred to as the “Secretary”) shall mint and issue not more than 500,000 \$1 coins each of which shall—

- (1) weigh 26.73 grams;
- (2) have a diameter of 1.500 inches; and
- (3) contain 90 percent silver and 10 percent copper.

(b) **LEGAL TENDER.**—The coins minted under this Act shall be legal tender, as provided in section 5103 of title 31, United States Code.

(c) **NUMISMATIC ITEMS.**—For purposes of section 5136 of title 31, United States Code, all coins minted under this Act shall be considered to be numismatic items.

SEC. 4. DESIGN OF COINS.

(a) **DESIGN REQUIREMENTS.**—The design of the coins minted under this Act shall be emblematic of the desegregation of the Little Rock Central High School and its contribution to civil rights in America.

(b) **DESIGNATION AND INSCRIPTIONS.**—On each coin minted under this Act there shall be—

(1) a designation of the value of the coin;

(2) an inscription of the year “2007”; and

(3) inscriptions of the words “Liberty”, “In God We Trust”, “United States of America”, and “E Pluribus Unum”.

(c) **SELECTION.**—The design for the coins minted under this Act shall be—

(1) selected by the Secretary after consultation with the Commission of Fine Arts; and

(2) reviewed by the Citizens Coinage Advisory Committee established under section 5135 of title 31, United States Code.

SEC. 5. ISSUANCE OF COINS.

(a) **QUALITY OF COINS.**—Coins minted under this Act shall be issued in uncirculated and proof qualities.

(b) **COMMENCEMENT OF ISSUANCE.**—The Secretary may issue coins minted under this Act beginning January 1, 2007, except that the Secretary may initiate sales of such coins, without issuance, before such date.

(c) **TERMINATION OF MINTING AUTHORITY.**—No coins shall be minted under this Act after December 31, 2007.

SEC. 6. SALE OF COINS.

(a) **SALE PRICE.**—Notwithstanding any other provision of law, the coins issued under this Act shall be sold by the Secretary at a price equal to the sum of the face value of the coins, the surcharge required under section 7(a) for the coins, and the cost of designing and issuing such coins (including labor, materials, dies, use of machinery, overhead expenses, and marketing).

(b) **BULK SALES.**—The Secretary shall make bulk sales of the coins issued under this Act at a reasonable discount.

(c) **PREPAID ORDERS AT A DISCOUNT.**—

(1) **IN GENERAL.**—The Secretary shall accept prepaid orders for the coins minted under this Act before the issuance of such coins.

(2) **DISCOUNT.**—Sale prices with respect to prepaid orders under paragraph (1) shall be at a reasonable discount.

SEC. 7. SURCHARGES.

(a) **SURCHARGE REQUIRED.**—All sales shall include a surcharge of \$10 per coin.

(b) **DISTRIBUTION.**—Subject to section 5134(f) of title 31, United States Code, and subsection (d), all surcharges which are received by the Secretary from the sale of coins issued under this Act shall be promptly paid by the Secretary to the Secretary of the

Interior for the protection, preservation, and interpretation of resources and stories associated with Little Rock Central High School National Historic Site, including the following:

(1) Site improvements at Little Rock Central High School National Historic Site.

(2) Development of interpretive and education programs and historic preservation projects.

(3) Establishment of cooperative agreements to preserve or restore the historic character of the Park Street and Daisy L. Gatson Bates Drive corridors adjacent to the site.

(c) LIMITATION.—Notwithstanding subsection (a), no surcharge may be included with respect to the issuance under this Act of any coin during a calendar year if, as of the time of such issuance, the issuance of such coin would result in the number of commemorative coin programs issued during such year to exceed the annual 2 commemorative coin program issuance limitation under section 5112(m)(1) of title 31, United States Code (as in effect on the date of the enactment of this Act). The Secretary of the Treasury may issue guidance to carry out this subsection.

(d) CREDITABLE FUNDS.—Notwithstanding any other provision of the law and recognizing the unique partnership nature of the Department of the Interior and the Little Rock School District at the Little Rock Central High School National Historic Site and the significant contributions made by the Little Rock School District to preserve and maintain the historic character of the high school, any non-Federal funds expended by the school district (regardless of the source of the funds) for improvements at the Little Rock Central High School National Historic Site, to the extent such funds were used for the purposes described in paragraph (1), (2), or (3) of subsection (b), shall be deemed to meet the requirement of funds from private sources of section 5134(f)(1)(A)(ii) of title 31, United States Code, with respect to the Secretary of the Interior.

Approved December 22, 2005.

LEGISLATIVE HISTORY—H.R. 358:

HOUSE REPORTS: No. 109–134, Pt. 1 (Comm. on Financial Services).
CONGRESSIONAL RECORD, Vol. 151 (2005):

June 27, considered and passed House.

Nov. 18, considered and passed Senate, amended.

Dec. 18, House concurred in Senate amendment.



Public Law 109–147
109th Congress

An Act

To allow binding arbitration clauses to be included in all contracts affecting land within the Gila River Indian Community Reservation.

Dec. 22, 2005
[H.R. 327]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. BINDING ARBITRATION FOR GILA RIVER INDIAN COMMUNITY RESERVATION CONTRACTS.

(a) **AMENDMENTS.**—Subsection (f) of the first section of the Act of August 9, 1955 (25 U.S.C. 415(f)), is amended—

(1) in the first sentence—

(A) by striking “Any lease” and all that follows through “affecting land” and inserting “Any contract, including a lease, affecting land”; and

(B) by striking “such lease or contract” and inserting “such contract”; and

(2) in the second sentence, by striking “Such leases or contracts entered into pursuant to such Acts” and inserting “Such contracts”.

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall take effect as if included in Public Law 107–159 (116 Stat. 122). 25 USC 415 note.

Approved December 22, 2005.

LEGISLATIVE HISTORY—H.R. 327 (S. 1482):

CONGRESSIONAL RECORD, Vol. 151 (2005):

Dec. 7, considered and passed House.

Dec. 14, considered and passed Senate.



Public Law 109–148
109th Congress

An Act

Dec. 30, 2005
[H.R. 2863]

Making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Department of
Defense,
Emergency
Supplemental
Appropriations to
Address
Hurricanes in the
Gulf of Mexico,
and Pandemic
Influenza Act,
2006.
Department of
Defense
Appropriations
Act, 2006.

DIVISION A

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2006

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2006, for military functions administered by the Department of Defense and for other purposes, namely:

TITLE I

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Army on active duty, (except members of reserve components provided for elsewhere), cadets, and aviation cadets; for members of the Reserve Officers' Training Corps; and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, \$28,191,287,000.

MILITARY PERSONNEL, NAVY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Navy on active duty (except members of the Reserve provided for elsewhere), midshipmen, and aviation cadets; for members of the Reserve Officers' Training Corps; and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, \$22,788,101,000.

MILITARY PERSONNEL, MARINE CORPS

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Marine Corps on active duty (except members of the Reserve provided for elsewhere); and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, \$8,968,884,000.

MILITARY PERSONNEL, AIR FORCE

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Air Force on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; for members of the Reserve Officers' Training Corps; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, \$23,199,850,000.

RESERVE PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army Reserve on active duty under sections 10211, 10302, and 3038 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, \$3,172,669,000.

RESERVE PERSONNEL, NAVY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Navy Reserve on active duty under section 10211 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, \$1,686,099,000.

RESERVE PERSONNEL, MARINE CORPS

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Marine Corps Reserve on active duty under section 10211 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified

in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Marine Corps platoon leaders class, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, \$513,001,000.

RESERVE PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air Force Reserve on active duty under sections 10211, 10305, and 8038 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, \$1,296,646,000.

NATIONAL GUARD PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army National Guard while on duty under section 10211, 10302, or 12402 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 12301(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, \$4,912,794,000.

NATIONAL GUARD PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air National Guard on duty under section 10211, 10305, or 12402 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 12301(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, \$2,267,732,000.

TITLE II

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Army, as authorized by law; and not to exceed \$11,478,000 can be used for emergencies and

extraordinary expenses, to be expended on the approval or authority of the Secretary of the Army, and payments may be made on his certificate of necessity for confidential military purposes, \$24,105,470,000: *Provided*, That of funds made available under this heading, \$2,000,000 shall be available for Fort Baker, in accordance with the terms and conditions as provided under the heading “Operation and Maintenance, Army”, in Public Law 107-117: *Provided further*, That notwithstanding any other provision of law, the Secretary of the Army may provide a grant of up to \$10,000,000 from funds made available in this or any other Department of Defense Appropriations Act to the Army Distaff Foundation.

OPERATION AND MAINTENANCE, NAVY

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Navy and the Marine Corps, as authorized by law; and not to exceed \$6,003,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Navy, and payments may be made on his certificate of necessity for confidential military purposes, \$29,995,383,000.

OPERATION AND MAINTENANCE, MARINE CORPS

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Marine Corps, as authorized by law, \$3,695,256,000.

OPERATION AND MAINTENANCE, AIR FORCE

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Air Force, as authorized by law; and not to exceed \$7,699,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Air Force, and payments may be made on his certificate of necessity for confidential military purposes, \$30,313,136,000.

OPERATION AND MAINTENANCE, DEFENSE-WIDE

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operation and maintenance of activities and agencies of the Department of Defense (other than the military departments), as authorized by law, \$18,500,716,000: *Provided*, That not more than \$25,000,000 may be used for the Combatant Commander Initiative Fund authorized under section 166a of title 10, United States Code: *Provided further*, That not to exceed \$36,000,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of Defense, and payments may be made on his certificate of necessity for confidential military purposes: *Provided further*, That notwithstanding any other provision of law, of the funds provided in this Act for Civil Military programs under this heading, \$500,000 shall be available for a grant for Outdoor Odyssey, Roaring Run, Pennsylvania, to support the Youth Development and Leadership program and Department of Defense STARBASE program: *Provided further*, That of the funds

made available under this heading, \$4,250,000 is available for contractor support to coordinate a wind test demonstration project on an Air Force installation using wind turbines manufactured in the United States that are new to the United States market and to execute the renewable energy purchasing plan: *Provided further*, That of the funds provided under this heading, not less than \$27,009,000 shall be made available for the Procurement Technical Assistance Cooperative Agreement Program, of which not less than \$3,600,000 shall be available for centers defined in 10 U.S.C. 2411(1)(D): *Provided further*, That none of the funds appropriated or otherwise made available by this Act may be used to plan or implement the consolidation of a budget or appropriations liaison office of the Office of the Secretary of Defense, the office of the Secretary of a military department, or the service headquarters of one of the Armed Forces into a legislative affairs or legislative liaison office: *Provided further*, That \$4,000,000, to remain available until expended, is available only for expenses relating to certain classified activities, and may be transferred as necessary by the Secretary to operation and maintenance appropriations or research, development, test and evaluation appropriations, to be merged with and to be available for the same time period as the appropriations to which transferred: *Provided further*, That any ceiling on the investment item unit cost of items that may be purchased with operation and maintenance funds shall not apply to the funds described in the preceding proviso: *Provided further*, That the transfer authority provided under this heading is in addition to any other transfer authority provided elsewhere in this Act.

OPERATION AND MAINTENANCE, ARMY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Army Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, \$1,973,382,000.

OPERATION AND MAINTENANCE, NAVY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Navy Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, \$1,244,795,000.

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Marine Corps Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, \$202,734,000.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Air Force Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, \$2,499,286,000.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For expenses of training, organizing, and administering the Army National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; hire of passenger motor vehicles; personnel services in the National Guard Bureau; travel expenses (other than mileage), as authorized by law for Army personnel on active duty, for Army National Guard division, regimental, and battalion commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau; supplying and equipping the Army National Guard as authorized by law; and expenses of repair, modification, maintenance, and issue of supplies and equipment (including aircraft), \$4,491,109,000: *Provided*, That \$8,500,000 shall be available for the operations and development of training and technology for the Joint Interagency Training Center-East and the affiliated Center for National Response at the Memorial Tunnel and for providing homeland defense/security and traditional warfighting training to the Department of Defense, other federal agency, and state and local first responder personnel at the Joint Interagency Training Center-East.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For expenses of training, organizing, and administering the Air National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; transportation of things, hire of passenger motor vehicles; supplying and equipping the Air National Guard, as authorized by law; expenses for repair, modification, maintenance, and issue of supplies and equipment, including those furnished from stocks under the control of agencies of the Department of Defense; travel expenses (other than mileage) on the same basis as authorized by law for Air National Guard personnel on active Federal duty, for Air National Guard commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau, \$4,701,306,000.

UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES

For salaries and expenses necessary for the United States Court of Appeals for the Armed Forces, \$11,236,000, of which not to exceed \$5,000 may be used for official representation purposes.

ENVIRONMENTAL RESTORATION, ARMY

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Army, \$407,865,000, to remain available until transferred: *Provided*, That the Secretary of the Army shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Army, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Army, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

ENVIRONMENTAL RESTORATION, NAVY

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Navy, \$305,275,000, to remain available until transferred: *Provided*, That the Secretary of the Navy shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Navy, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Navy, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

ENVIRONMENTAL RESTORATION, AIR FORCE

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Air Force, \$406,461,000, to remain available until transferred: *Provided*, That the Secretary of the Air Force shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Air Force, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Air Force, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

ENVIRONMENTAL RESTORATION, DEFENSE-WIDE

(INCLUDING TRANSFER OF FUNDS)

For the Department of Defense, \$28,167,000, to remain available until transferred: *Provided*, That the Secretary of Defense shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of Defense, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of Defense, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

ENVIRONMENTAL RESTORATION, FORMERLY USED DEFENSE SITES

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Army, \$256,921,000, to remain available until transferred: *Provided*, That the Secretary of the Army shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris at sites formerly used by the Department of Defense, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Army, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

OVERSEAS HUMANITARIAN, DISASTER, AND CIVIC AID

For expenses relating to the Overseas Humanitarian, Disaster, and Civic Aid programs of the Department of Defense (consisting of the programs provided under sections 401, 402, 404, 2557, and 2561 of title 10, United States Code), \$61,546,000, to remain available until September 30, 2007.

FORMER SOVIET UNION THREAT REDUCTION ACCOUNT

For assistance to the republics of the former Soviet Union, including assistance provided by contract or by grants, for facilitating the elimination and the safe and secure transportation and storage of nuclear, chemical and other weapons; for establishing programs to prevent the proliferation of weapons, weapons components, and weapon-related technology and expertise; for programs relating to the training and support of defense and military personnel for demilitarization and protection of weapons, weapons components and weapons technology and expertise, and for defense and military contacts, \$415,549,000, to remain available until September 30, 2008: *Provided*, That of the amounts provided under this heading, \$15,000,000 shall be available only to support the dismantling and disposal of nuclear submarines, submarine reactor

components, and security enhancements for transport and storage of nuclear warheads in the Russian Far East.

TITLE III

PROCUREMENT

AIRCRAFT PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, \$2,653,280,000, to remain available for obligation until September 30, 2008: *Provided*, That \$75,000,000 of the funds provided in this paragraph are available only for the purpose of acquiring four (4) HH-60L medical evacuation variant Blackhawk helicopters for the Army Reserve: *Provided further*, That three (3) UH-60 Blackhawk helicopters in addition to those referred to in the preceding proviso shall be available only for the Army Reserve.

MISSILE PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of missiles, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, \$1,208,919,000, to remain available for obligation until September 30, 2008.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

For construction, procurement, production, and modification of weapons and tracked combat vehicles, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, \$1,391,615,000, to remain available for obligation until September 30, 2008.

PROCUREMENT OF AMMUNITION, ARMY

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities, authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, \$1,733,020,000, to remain available for obligation until September 30, 2008.

OTHER PROCUREMENT, ARMY

For construction, procurement, production, and modification of vehicles, including tactical, support, and non-tracked combat vehicles; the purchase of passenger motor vehicles for replacement only; and the purchase of 14 vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed \$255,000 per vehicle; communications and electronic equipment; other support equipment; spare parts, ordnance, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, \$4,594,031,000, to remain available for obligation until September 30, 2008.

AIRCRAFT PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, \$9,774,749,000, to remain available for obligation until September 30, 2008.

WEAPONS PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of missiles, torpedoes, other weapons, and related support equipment including spare parts, and accessories therefor; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and

machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, \$2,659,978,000, to remain available for obligation until September 30, 2008.

PROCUREMENT OF AMMUNITION, NAVY AND MARINE CORPS

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities, authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, \$851,841,000, to remain available for obligation until September 30, 2008.

SHIPBUILDING AND CONVERSION, NAVY

For expenses necessary for the construction, acquisition, or conversion of vessels as authorized by law, including armor and armament thereof, plant equipment, appliances, and machine tools and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; procurement of critical, long leadtime components and designs for vessels to be constructed or converted in the future; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, as follows:

Carrier Replacement Program (AP), \$626,913,000;
NSSN, \$1,637,698,000;
NSSN (AP), \$763,786,000;
SSGN, \$286,516,000;
CVN Refuelings, \$1,318,563,000;
CVN Refuelings (AP), \$20,000,000;
SSBN Submarine Refuelings, \$230,193,000;
SSBN Submarine Refuelings (AP), \$62,248,000;
DD(X) (AP), \$715,992,000;
DDG-51 Destroyer, \$150,000,000;
DDG-51 Destroyer Modernization, \$50,000,000;
LCS, \$440,000,000;
LHD-8, \$197,769,000;
LPD-17, \$1,344,741,000;
LHA-R, \$150,447,000;
LCAC Landing Craft Air Cushion, \$100,000,000;
Prior year shipbuilding costs, \$517,523,000;
Service Craft, \$45,455,000; and

For outfitting, post delivery, conversions, and first destination transportation, \$369,387,000.

In all: \$9,027,231,000, to remain available for obligation until September 30, 2010: *Provided*, That additional obligations may be incurred after September 30, 2010, for engineering services, tests, evaluations, and other such budgeted work that must be performed in the final stage of ship construction: *Provided further*,

That none of the funds provided under this heading for the construction or conversion of any naval vessel to be constructed in shipyards in the United States shall be expended in foreign facilities for the construction of major components of such vessel: *Provided further*, That none of the funds provided under this heading shall be used for the construction of any naval vessel in foreign shipyards.

OTHER PROCUREMENT, NAVY

For procurement, production, and modernization of support equipment and materials not otherwise provided for, Navy ordnance (except ordnance for new aircraft, new ships, and ships authorized for conversion); the purchase of passenger motor vehicles for replacement only, and the purchase of 9 vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed \$255,000 per vehicle; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, \$5,444,294,000, to remain available for obligation until September 30, 2008.

PROCUREMENT, MARINE CORPS

For expenses necessary for the procurement, manufacture, and modification of missiles, armament, military equipment, spare parts, and accessories therefor; plant equipment, appliances, and machine tools, and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; vehicles for the Marine Corps, including the purchase of passenger motor vehicles for replacement only; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, \$1,398,955,000, to remain available for obligation until September 30, 2008.

AIRCRAFT PROCUREMENT, AIR FORCE

For construction, procurement, and modification of aircraft and equipment, including armor and armament, specialized ground handling equipment, and training devices, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things, \$12,737,215,000, to remain available for obligation until September 30, 2008.

MISSILE PROCUREMENT, AIR FORCE

For construction, procurement, and modification of missiles, spacecraft, rockets, and related equipment, including spare parts and accessories therefor, ground handling equipment, and training devices; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things, \$5,174,474,000, to remain available for obligation until September 30, 2008.

PROCUREMENT OF AMMUNITION, AIR FORCE

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities, authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, \$1,016,887,000, to remain available for obligation until September 30, 2008.

OTHER PROCUREMENT, AIR FORCE

For procurement and modification of equipment (including ground guidance and electronic control equipment, and ground electronic and communication equipment), and supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of passenger motor vehicles for replacement only, and the purchase of 2 vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed \$255,000 per vehicle; lease of passenger motor vehicles; and expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon, prior to approval of title; reserve plant and Government and contractor-owned equipment layaway, \$14,060,714,000, to remain available for obligation until September 30, 2008.

PROCUREMENT, DEFENSE-WIDE

For expenses of activities and agencies of the Department of Defense (other than the military departments) necessary for procurement, production, and modification of equipment, supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of passenger motor vehicles for replacement only, and the purchase of 5 vehicles required for physical security of personnel, notwithstanding prior limitations applicable to passenger

vehicles but not to exceed \$255,000 per vehicle; expansion of public and private plants, equipment, and installation thereof in such plants, erection of structures, and acquisition of land for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway, \$2,573,964,000, to remain available for obligation until September 30, 2008.

NATIONAL GUARD AND RESERVE EQUIPMENT

For procurement of aircraft, missiles, tracked combat vehicles, ammunition, other weapons, and other procurement for the reserve components of the Armed Forces, \$180,000,000, to remain available for obligation until September 30, 2008: *Provided*, That the Chiefs of the Reserve and National Guard components shall, not later than 30 days after the enactment of this Act, individually submit to the congressional defense committees the modernization priority assessment for their respective Reserve or National Guard component.

DEFENSE PRODUCTION ACT PURCHASES

For activities by the Department of Defense pursuant to sections 108, 301, 302, and 303 of the Defense Production Act of 1950 (50 U.S.C. App. 2078, 2091, 2092, and 2093), \$58,248,000, to remain available until expended.

TITLE IV

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, \$11,172,397,000, to remain available for obligation until September 30, 2007.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, \$18,993,135,000, to remain available for obligation until September 30, 2007: *Provided*, That funds appropriated in this paragraph which are available for the V–22 may be used to meet unique operational requirements of the Special Operations Forces: *Provided further*, That funds appropriated in this paragraph shall be available for the Cobra Judy program.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment,

\$21,999,649,000, to remain available for obligation until September 30, 2007.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE

For expenses of activities and agencies of the Department of Defense (other than the military departments), necessary for basic and applied scientific research, development, test and evaluation; advanced research projects as may be designated and determined by the Secretary of Defense, pursuant to law; maintenance, rehabilitation, lease, and operation of facilities and equipment, \$19,798,599,000, to remain available for obligation until September 30, 2007.

OPERATIONAL TEST AND EVALUATION, DEFENSE

For expenses, not otherwise provided for, necessary for the independent activities of the Director, Operational Test and Evaluation, in the direction and supervision of operational test and evaluation, including initial operational test and evaluation which is conducted prior to, and in support of, production decisions; joint operational testing and evaluation; and administrative expenses in connection therewith, \$168,458,000, to remain available for obligation until September 30, 2007.

TITLE V

REVOLVING AND MANAGEMENT FUNDS

DEFENSE WORKING CAPITAL FUNDS

For the Defense Working Capital Funds, \$1,154,940,000.

NATIONAL DEFENSE SEALIFT FUND

For National Defense Sealift Fund programs, projects, and activities, and for expenses of the National Defense Reserve Fleet, as established by section 11 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1744), and for the necessary expenses to maintain and preserve a U.S.-flag merchant fleet to serve the national security needs of the United States, \$1,089,056,000, to remain available until expended: *Provided*, That none of the funds provided in this paragraph shall be used to award a new contract that provides for the acquisition of any of the following major components unless such components are manufactured in the United States: auxiliary equipment, including pumps, for all shipboard services; propulsion system components (that is; engines, reduction gears, and propellers); shipboard cranes; and spreaders for shipboard cranes: *Provided further*, That the exercise of an option in a contract awarded through the obligation of previously appropriated funds shall not be considered to be the award of a new contract: *Provided further*, That the Secretary of the military department responsible for such procurement may waive the restrictions in the first proviso on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a

timely basis and that such an acquisition must be made in order to acquire capability for national security purposes.

TITLE VI

OTHER DEPARTMENT OF DEFENSE PROGRAMS

DEFENSE HEALTH PROGRAM

For expenses, not otherwise provided for, for medical and health care programs of the Department of Defense, as authorized by law, \$20,221,212,000, of which \$19,299,787,000 shall be for Operation and maintenance, of which not to exceed 2 percent shall remain available until September 30, 2007, and of which up to \$10,212,427,000 may be available for contracts entered into under the TRICARE program; of which \$379,119,000, to remain available for obligation until September 30, 2008, shall be for Procurement; and of which \$542,306,000, to remain available for obligation until September 30, 2007, shall be for Research, development, test and evaluation: *Provided*, That notwithstanding any other provision of law, of the amount made available under this heading for Research, development, test and evaluation, not less than \$5,300,000 shall be available for HIV prevention educational activities undertaken in connection with U.S. military training, exercises, and humanitarian assistance activities conducted primarily in African nations.

CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, ARMY

For expenses, not otherwise provided for, necessary for the destruction of the United States stockpile of lethal chemical agents and munitions, to include construction of facilities, in accordance with the provisions of section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521), and for the destruction of other chemical warfare materials that are not in the chemical weapon stockpile, \$1,400,827,000, of which \$1,216,514,000 shall be for Operation and maintenance; \$116,527,000 shall be for Procurement to remain available until September 30, 2008; \$67,786,000 shall be for Research, development, test and evaluation, of which \$53,026,000 shall only be for the Assembled Chemical Weapons Alternatives (ACWA) program, to remain available until September 30, 2007; and no less than \$119,300,000 may be for the Chemical Stockpile Emergency Preparedness Program, of which \$36,800,000 shall be for activities on military installations and \$82,500,000 shall be to assist State and local governments.

DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE

(INCLUDING TRANSFER OF FUNDS)

For drug interdiction and counter-drug activities of the Department of Defense, for transfer to appropriations available to the Department of Defense for military personnel of the reserve components serving under the provisions of title 10 and title 32, United States Code; for Operation and maintenance; for Procurement; and for Research, development, test and evaluation, \$917,651,000: *Provided*, That the funds appropriated under this heading shall be available for obligation for the same time period and for the same

purpose as the appropriation to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further*, That the transfer authority provided under this heading is in addition to any other transfer authority contained elsewhere in this Act.

OFFICE OF THE INSPECTOR GENERAL

For expenses and activities of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, \$209,687,000, of which \$208,687,000 shall be for Operation and maintenance, of which not to exceed \$700,000 is available for emergencies and extraordinary expenses to be expended on the approval or authority of the Inspector General, and payments may be made on the Inspector General's certificate of necessity for confidential military purposes; and of which \$1,000,000, to remain available until September 30, 2008, shall be for Procurement.

TITLE VII

RELATED AGENCIES

CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM FUND

For payment to the Central Intelligence Agency Retirement and Disability System Fund, to maintain the proper funding level for continuing the operation of the Central Intelligence Agency Retirement and Disability System, \$244,600,000.

INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Intelligence Community Management Account, \$422,344,000, of which \$27,454,000 for the Advanced Research and Development Committee shall remain available until September 30, 2007: *Provided*, That of the funds appropriated under this heading, \$39,000,000 shall be transferred to the Department of Justice for the National Drug Intelligence Center to support the Department of Defense's counter-drug intelligence responsibilities, and of the said amount, \$1,500,000 for Procurement shall remain available until September 30, 2008 and \$1,000,000 for Research, development, test and evaluation shall remain available until September 30, 2007: *Provided further*, That the National Drug Intelligence Center shall maintain the personnel and technical resources to provide timely support to law enforcement authorities and the intelligence community by conducting document and computer exploitation of materials collected in Federal, State, and local law enforcement activity associated with counter-drug, counter-terrorism, and national security investigations and operations.

TITLE VIII

GENERAL PROVISIONS

SEC. 8001. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 8002. During the current fiscal year, provisions of law prohibiting the payment of compensation to, or employment of, any person not a citizen of the United States shall not apply to personnel of the Department of Defense: *Provided*, That salary increases granted to direct and indirect hire foreign national employees of the Department of Defense funded by this Act shall not be at a rate in excess of the percentage increase authorized by law for civilian employees of the Department of Defense whose pay is computed under the provisions of section 5332 of title 5, United States Code, or at a rate in excess of the percentage increase provided by the appropriate host nation to its own employees, whichever is higher: *Provided further*, That this section shall not apply to Department of Defense foreign service national employees serving at United States diplomatic missions whose pay is set by the Department of State under the Foreign Service Act of 1980: *Provided further*, That the limitations of this provision shall not apply to foreign national employees of the Department of Defense in the Republic of Turkey.

10 USC 1584
note.

SEC. 8003. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year, unless expressly so provided herein.

SEC. 8004. No more than 20 percent of the appropriations in this Act which are limited for obligation during the current fiscal year shall be obligated during the last 2 months of the fiscal year: *Provided*, That this section shall not apply to obligations for support of active duty training of reserve components or summer camp training of the Reserve Officers' Training Corps.

(TRANSFER OF FUNDS)

SEC. 8005. Upon determination by the Secretary of Defense that such action is necessary in the national interest, he may, with the approval of the Office of Management and Budget, transfer not to exceed \$3,750,000,000 of working capital funds of the Department of Defense or funds made available in this Act to the Department of Defense for military functions (except military construction) between such appropriations or funds or any subdivision thereof, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided*, That such authority to transfer may not be used unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which funds are requested has been denied by the Congress: *Provided further*, That the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority or any other authority in this Act: *Provided further*, That no part of the funds in this Act shall be available to prepare or present a request to the Committees on Appropriations for reprogramming of funds, unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the

Notification.

item for which reprogramming is requested has been denied by the Congress: *Provided further*, That a request for multiple reprogrammings of funds using authority provided in this section must be made prior to June 30, 2006: *Provided further*, That transfers among military personnel appropriations shall not be taken into account for purposes of the limitation on the amount of funds that may be transferred under this section.

(TRANSFER OF FUNDS)

SEC. 8006. During the current fiscal year, cash balances in working capital funds of the Department of Defense established pursuant to section 2208 of title 10, United States Code, may be maintained in only such amounts as are necessary at any time for cash disbursements to be made from such funds: *Provided*, That transfers may be made between such funds: *Provided further*, That transfers may be made between working capital funds and the “Foreign Currency Fluctuations, Defense” appropriation and the “Operation and Maintenance” appropriation accounts in such amounts as may be determined by the Secretary of Defense, with the approval of the Office of Management and Budget, except that such transfers may not be made unless the Secretary of Defense has notified the Congress of the proposed transfer. Except in amounts equal to the amounts appropriated to working capital funds in this Act, no obligations may be made against a working capital fund to procure or increase the value of war reserve material inventory, unless the Secretary of Defense has notified the Congress prior to any such obligation.

Notification.

SEC. 8007. Funds appropriated by this Act may not be used to initiate a special access program without prior notification 30 calendar days in session in advance to the congressional defense committees.

Contracts.
Notification.
10 USC 2306b
note.

SEC. 8008. None of the funds provided in this Act shall be available to initiate: (1) a multiyear contract that employs economic order quantity procurement in excess of \$20,000,000 in any 1 year of the contract or that includes an unfunded contingent liability in excess of \$20,000,000; or (2) a contract for advance procurement leading to a multiyear contract that employs economic order quantity procurement in excess of \$20,000,000 in any 1 year, unless the congressional defense committees have been notified at least 30 days in advance of the proposed contract award: *Provided*, That no part of any appropriation contained in this Act shall be available to initiate a multiyear contract for which the economic order quantity advance procurement is not funded at least to the limits of the Government’s liability: *Provided further*, That no part of any appropriation contained in this Act shall be available to initiate multiyear procurement contracts for any systems or component thereof if the value of the multiyear contract would exceed \$500,000,000 unless specifically provided in this Act: *Provided further*, That no multiyear procurement contract can be terminated without 10-day prior notification to the congressional defense committees: *Provided further*, That the execution of multiyear authority shall require the use of a present value analysis to determine lowest cost compared to an annual procurement: *Provided further*, That none of the funds provided in this Act may be used for a multiyear contract executed after the date of the enactment of this Act unless in the case of any such contract—

(1) the Secretary of Defense has submitted to Congress a budget request for full funding of units to be procured through the contract;

(2) cancellation provisions in the contract do not include consideration of recurring manufacturing costs of the contractor associated with the production of unfunded units to be delivered under the contract;

(3) the contract provides that payments to the contractor under the contract shall not be made in advance of incurred costs on funded units; and

(4) the contract does not provide for a price adjustment based on a failure to award a follow-on contract.

Funds appropriated in title III of this Act may be used for a multiyear procurement contract as follows:

UH-60/MH-60 Helicopters;

C-17 Globemaster;

Apache Block II Conversion; and

Modernized Target Acquisition Designation Sight/Pilot Night Vision Sensor (MTADS/PNVS).

SEC. 8009. Within the funds appropriated for the operation and maintenance of the Armed Forces, funds are hereby appropriated pursuant to section 401 of title 10, United States Code, for humanitarian and civic assistance costs under chapter 20 of title 10, United States Code. Such funds may also be obligated for humanitarian and civic assistance costs incidental to authorized operations and pursuant to authority granted in section 401 of chapter 20 of title 10, United States Code, and these obligations shall be reported as required by section 401(d) of title 10, United States Code: *Provided*, That funds available for operation and maintenance shall be available for providing humanitarian and similar assistance by using Civic Action Teams in the Trust Territories of the Pacific Islands and freely associated states of Micronesia, pursuant to the Compact of Free Association as authorized by Public Law 99-239: *Provided further*, That upon a determination by the Secretary of the Army that such action is beneficial for graduate medical education programs conducted at Army medical facilities located in Hawaii, the Secretary of the Army may authorize the provision of medical services at such facilities and transportation to such facilities, on a nonreimbursable basis, for civilian patients from American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, Palau, and Guam.

10 USC 401 note.

Reports.

SEC. 8010. (a) During fiscal year 2006, the civilian personnel of the Department of Defense may not be managed on the basis of any end-strength, and the management of such personnel during that fiscal year shall not be subject to any constraint or limitation (known as an end-strength) on the number of such personnel who may be employed on the last day of such fiscal year.

(b) The fiscal year 2007 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 2007 Department of Defense budget request shall be prepared and submitted to the Congress as if subsections (a) and (b) of this provision were effective with regard to fiscal year 2007.

(c) Nothing in this section shall be construed to apply to military (civilian) technicians.

Notification.

SEC. 8011. None of the funds appropriated in this or any other Act may be used to initiate a new installation overseas without 30-day advance notification to the Committees on Appropriations.

Lobbying.

SEC. 8012. None of the funds made available by this Act shall be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before the Congress.

Applicability.

SEC. 8013. None of the funds appropriated by this Act shall be available for the basic pay and allowances of any member of the Army participating as a full-time student and receiving benefits paid by the Secretary of Veterans Affairs from the Department of Defense Education Benefits Fund when time spent as a full-time student is credited toward completion of a service commitment: *Provided*, That this subsection shall not apply to those members who have reenlisted with this option prior to October 1, 1987: *Provided further*, That this subsection applies only to active components of the Army.

SEC. 8014. (a) LIMITATION ON CONVERSION TO CONTRACTOR PERFORMANCE.—None of the funds appropriated by this Act shall be available to convert to contractor performance an activity or function of the Department of Defense that, on or after the date of the enactment of this Act, is performed by more than 10 Department of Defense civilian employees unless—

(1) the conversion is based on the result of a public-private competition that includes a most efficient and cost effective organization plan developed by such activity or function;

(2) the Competitive Sourcing Official determines that, over all performance periods stated in the solicitation of offers for performance of the activity or function, the cost of performance of the activity or function by a contractor would be less costly to the Department of Defense by an amount that equals or exceeds the lesser of—

(A) 10 percent of the most efficient organization's personnel-related costs for performance of that activity or function by Federal employees; or

(B) \$10,000,000; and

(3) the contractor does not receive an advantage for a proposal that would reduce costs for the Department of Defense by—

(A) not making an employer-sponsored health insurance plan available to the workers who are to be employed in the performance of that activity or function under the contract; or

(B) offering to such workers an employer-sponsored health benefits plan that requires the employer to contribute less towards the premium or subscription share than the amount that is paid by the Department of Defense for health benefits for civilian employees under chapter 89 of title 5, United States Code.

(b) EXCEPTIONS.—

(1) The Department of Defense, without regard to subsection (a) of this section or subsections (a), (b), or (c) of section 2461 of title 10, United States Code, and notwithstanding any administrative regulation, requirement, or policy to the contrary shall have full authority to enter into a contract for

the performance of any commercial or industrial type function of the Department of Defense that—

(A) is included on the procurement list established pursuant to section 2 of the Javits-Wagner-O'Day Act (41 U.S.C. 47);

(B) is planned to be converted to performance by a qualified nonprofit agency for the blind or by a qualified nonprofit agency for other severely handicapped individuals in accordance with that Act; or

(C) is planned to be converted to performance by a qualified firm under at least 51 percent ownership by an Indian tribe, as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)), or a Native Hawaiian Organization, as defined in section 8(a)(15) of the Small Business Act (15 U.S.C. 637(a)(15)).

(2) This section shall not apply to depot contracts or contracts for depot maintenance as provided in sections 2469 and 2474 of title 10, United States Code.

(c) TREATMENT OF CONVERSION.—The conversion of any activity or function of the Department of Defense under the authority provided by this section shall be credited toward any competitive or outsourcing goal, target, or measurement that may be established by statute, regulation, or policy and is deemed to be awarded under the authority of, and in compliance with, subsection (h) of section 2304 of title 10, United States Code, for the competition or outsourcing of commercial activities.

(TRANSFER OF FUNDS)

SEC. 8015. Funds appropriated in title III of this Act for the Department of Defense Pilot Mentor-Protege Program may be transferred to any other appropriation contained in this Act solely for the purpose of implementing a Mentor-Protege Program developmental assistance agreement pursuant to section 831 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 10 U.S.C. 2302 note), as amended, under the authority of this provision or any other transfer authority contained in this Act.

SEC. 8016. None of the funds in this Act may be available for the purchase by the Department of Defense (and its departments and agencies) of welded shipboard anchor and mooring chain 4 inches in diameter and under unless the anchor and mooring chain are manufactured in the United States from components which are substantially manufactured in the United States: *Provided*, That for the purpose of this section manufactured will include cutting, heat treating, quality control, testing of chain and welding (including the forging and shot blasting process): *Provided further*, That for the purpose of this section substantially all of the components of anchor and mooring chain shall be considered to be produced or manufactured in the United States if the aggregate cost of the components produced or manufactured in the United States exceeds the aggregate cost of the components produced or manufactured outside the United States: *Provided further*, That when adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis, the Secretary of the service responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on

Certification.

Appropriations that such an acquisition must be made in order to acquire capability for national security purposes.

SEC. 8017. None of the funds available to the Department of Defense may be used to demilitarize or dispose of M-1 Carbines, M-1 Garand rifles, M-14 rifles, .22 caliber rifles, .30 caliber rifles, or M-1911 pistols.

SEC. 8018. None of the funds appropriated by this Act available for the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) or TRICARE shall be available for the reimbursement of any health care provider for inpatient mental health service for care received when a patient is referred to a provider of inpatient mental health care or residential treatment care by a medical or health care professional having an economic interest in the facility to which the patient is referred: *Provided*, That this limitation does not apply in the case of inpatient mental health services provided under the program for persons with disabilities under subsection (d) of section 1079 of title 10, United States Code, provided as partial hospital care, or provided pursuant to a waiver authorized by the Secretary of Defense because of medical or psychological circumstances of the patient that are confirmed by a health professional who is not a Federal employee after a review, pursuant to rules prescribed by the Secretary, which takes into account the appropriate level of care for the patient, the intensity of services required by the patient, and the availability of that care.

Regulations.

SEC. 8019. No more than \$500,000 of the funds appropriated or made available in this Act shall be used during a single fiscal year for any single relocation of an organization, unit, activity or function of the Department of Defense into or within the National Capital Region: *Provided*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the congressional defense committees that such a relocation is required in the best interest of the Government.

Certification.

SEC. 8020. In addition to the funds provided elsewhere in this Act, \$8,000,000 is appropriated only for incentive payments authorized by section 504 of the Indian Financing Act of 1974 (25 U.S.C. 1544): *Provided*, That a prime contractor or a subcontractor at any tier that makes a subcontract award to any subcontractor or supplier as defined in section 1544 of title 25, United States Code or a small business owned and controlled by an individual or individuals defined under section 4221(9) of title 25, United States Code shall be considered a contractor for the purposes of being allowed additional compensation under section 504 of the Indian Financing Act of 1974 (25 U.S.C. 1544) whenever the prime contract or subcontract amount is over \$500,000 and involves the expenditure of funds appropriated by an Act making Appropriations for the Department of Defense with respect to any fiscal year: *Provided further*, That notwithstanding section 430 of title 41, United States Code, this section shall be applicable to any Department of Defense acquisition of supplies or services, including any contract and any subcontract at any tier for acquisition of commercial items produced or manufactured, in whole or in part by any subcontractor or supplier defined in section 1544 of title 25, United States Code or a small business owned and controlled by an individual or individuals defined under section 4221(9) of title 25, United States Code: *Provided further*, That, during the current fiscal year and hereafter, businesses certified as 8(a) by the Small

Contracts.

Applicability.

15 USC 637 note.

Business Administration pursuant to section 8(a)(15) of Public Law 85-536, as amended, shall have the same status as other program participants under section 602 of Public Law 100-656, 102 Stat. 3825 (Business Opportunity Development Reform Act of 1988) for purposes of contracting with agencies of the Department of Defense.

SEC. 8021. None of the funds appropriated by this Act shall be available to perform any cost study pursuant to the provisions of OMB Circular A-76 if the study being performed exceeds a period of 24 months after initiation of such study with respect to a single function activity or 30 months after initiation of such study for a multi-function activity.

SEC. 8022. Funds appropriated by this Act for the American Forces Information Service shall not be used for any national or international political or psychological activities.

SEC. 8023. Notwithstanding any other provision of law or regulation, the Secretary of Defense may adjust wage rates for civilian employees hired for certain health care occupations as authorized for the Secretary of Veterans Affairs by section 7455 of title 38, United States Code.

SEC. 8024. During the current fiscal year, the Department of Defense is authorized to incur obligations of not to exceed \$350,000,000 for purposes specified in section 2350j(c) of title 10, United States Code, in anticipation of receipt of contributions, only from the Government of Kuwait, under that section: *Provided*, That upon receipt, such contributions from the Government of Kuwait shall be credited to the appropriations or fund which incurred such obligations. Kuwait.

SEC. 8025. (a) Of the funds made available in this Act, not less than \$31,109,000 shall be available for the Civil Air Patrol Corporation, of which—

(1) \$24,288,000 shall be available from “Operation and Maintenance, Air Force” to support Civil Air Patrol Corporation operation and maintenance, readiness, counterdrug activities, and drug demand reduction activities involving youth programs;

(2) \$6,000,000 shall be available from “Aircraft Procurement, Air Force”; and

(3) \$821,000 shall be available from “Other Procurement, Air Force” for vehicle procurement.

(b) The Secretary of the Air Force should waive reimbursement for any funds used by the Civil Air Patrol for counter-drug activities in support of Federal, State, and local government agencies.

SEC. 8026. (a) None of the funds appropriated in this Act are available to establish a new Department of Defense (department) federally funded research and development center (FFRDC), either as a new entity, or as a separate entity administrated by an organization managing another FFRDC, or as a nonprofit membership corporation consisting of a consortium of other FFRDCs and other non-profit entities.

(b) No member of a Board of Directors, Trustees, Overseers, Advisory Group, Special Issues Panel, Visiting Committee, or any similar entity of a defense FFRDC, and no paid consultant to any defense FFRDC, except when acting in a technical advisory capacity, may be compensated for his or her services as a member of such entity, or as a paid consultant by more than one FFRDC in a fiscal year: *Provided*, That a member of any such entity referred to previously in this subsection shall be allowed travel expenses and per diem as authorized under the Federal Joint Travel

Regulations, when engaged in the performance of membership duties.

(c) Notwithstanding any other provision of law, none of the funds available to the department from any source during fiscal year 2006 may be used by a defense FFRDC, through a fee or other payment mechanism, for construction of new buildings, for payment of cost sharing for projects funded by Government grants, for absorption of contract overruns, or for certain charitable contributions, not to include employee participation in community service and/or development.

(d) Notwithstanding any other provision of law, of the funds available to the department during fiscal year 2006, not more than 5,517 staff years of technical effort (staff years) may be funded for defense FFRDCs: *Provided*, That of the specific amount referred to previously in this subsection, not more than 1,050 staff years may be funded for the defense studies and analysis FFRDCs: *Provided further*, That this subsection shall not apply to staff years funded in the National Intelligence Program (NIP).

Reports.

(e) The Secretary of Defense shall, with the submission of the department's fiscal year 2007 budget request, submit a report presenting the specific amounts of staff years of technical effort to be allocated for each defense FFRDC during that fiscal year.

(f) Notwithstanding any other provision of this Act, the total amount appropriated in this Act for FFRDCs is hereby reduced by \$46,000,000.

SEC. 8027. None of the funds appropriated or made available in this Act shall be used to procure carbon, alloy or armor steel plate for use in any Government-owned facility or property under the control of the Department of Defense which were not melted and rolled in the United States or Canada: *Provided*, That these procurement restrictions shall apply to any and all Federal Supply Class 9515, American Society of Testing and Materials (ASTM) or American Iron and Steel Institute (AISI) specifications of carbon, alloy or armor steel plate: *Provided further*, That the Secretary of the military department responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes: *Provided further*, That these restrictions shall not apply to contracts which are in being as of the date of the enactment of this Act.

10 USC 101 note.

SEC. 8028. For the purposes of this Act, the term "congressional defense committees" means the Armed Services Committee of the House of Representatives, the Armed Services Committee of the Senate, the Subcommittee on Defense of the Committee on Appropriations of the Senate, and the Subcommittee on Defense of the Committee on Appropriations of the House of Representatives. In addition, for any matter pertaining to basic allowance for housing, facilities sustainment, restoration and modernization, environmental restoration and the Defense Health Program, "congressional defense committees" also means the Subcommittee on Military Quality of Life and Veterans Affairs, and Related Agencies of the Committee on Appropriations of the House of Representatives.

SEC. 8029. During the current fiscal year, the Department of Defense may acquire the modification, depot maintenance and

repair of aircraft, vehicles and vessels as well as the production of components and other Defense-related articles, through competition between Department of Defense depot maintenance activities and private firms: *Provided*, That the Senior Acquisition Executive of the military department or Defense Agency concerned, with power of delegation, shall certify that successful bids include comparable estimates of all direct and indirect costs for both public and private bids: *Provided further*, That Office of Management and Budget Circular A-76 shall not apply to competitions conducted under this section.

Certification.

SEC. 8030. (a)(1) If the Secretary of Defense, after consultation with the United States Trade Representative, determines that a foreign country which is party to an agreement described in paragraph (2) has violated the terms of the agreement by discriminating against certain types of products produced in the United States that are covered by the agreement, the Secretary of Defense shall rescind the Secretary's blanket waiver of the Buy American Act with respect to such types of products produced in that foreign country.

41 USC 10b-2
note.

(2) An agreement referred to in paragraph (1) is any reciprocal defense procurement memorandum of understanding, between the United States and a foreign country pursuant to which the Secretary of Defense has prospectively waived the Buy American Act for certain products in that country.

(b) The Secretary of Defense shall submit to the Congress a report on the amount of Department of Defense purchases from foreign entities in fiscal year 2006. Such report shall separately indicate the dollar value of items for which the Buy American Act was waived pursuant to any agreement described in subsection (a)(2), the Trade Agreement Act of 1979 (19 U.S.C. 2501 et seq.), or any international agreement to which the United States is a party.

Reports.
Customs duties.

(c) For purposes of this section, the term "Buy American Act" means title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1933 (41 U.S.C. 10a et seq.).

SEC. 8031. Appropriations contained in this Act that remain available at the end of the current fiscal year, and at the end of each fiscal year hereafter, as a result of energy cost savings realized by the Department of Defense shall remain available for obligation for the next fiscal year to the extent, and for the purposes, provided in section 2865 of title 10, United States Code.

SEC. 8032. The President shall include with each budget for a fiscal year submitted to the Congress under section 1105 of title 31, United States Code, and hereafter, materials that shall identify clearly and separately the amounts requested in the budget for appropriation for that fiscal year for salaries and expenses related to administrative activities of the Department of Defense, the military departments, and the defense agencies.

President.
10 USC 221 note.

SEC. 8033. Notwithstanding any other provision of law, funds available during the current fiscal year and hereafter for "Drug Interdiction and Counter-Drug Activities, Defense" may be obligated for the Young Marines program.

10 USC 374 note.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8034. During the current fiscal year, amounts contained in the Department of Defense Overseas Military Facility Investment Recovery Account established by section 2921(c)(1) of the National Defense Authorization Act of 1991 (Public Law 101-510; 10 U.S.C. 2687 note) shall be available until expended for the payments specified by section 2921(c)(2) of that Act.

SEC. 8035. (a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of the Air Force may convey at no cost to the Air Force, without consideration, to Indian tribes located in the States of North Dakota, South Dakota, Montana, and Minnesota relocatable military housing units located at Grand Forks Air Force Base and Minot Air Force Base that are excess to the needs of the Air Force.

Housing.
Native
Americans.
State listing.

(b) PROCESSING OF REQUESTS.—The Secretary of the Air Force shall convey, at no cost to the Air Force, military housing units under subsection (a) in accordance with the request for such units that are submitted to the Secretary by the Operation Walking Shield Program on behalf of Indian tribes located in the States of North Dakota, South Dakota, Montana, and Minnesota.

(c) RESOLUTION OF HOUSING UNIT CONFLICTS.—The Operation Walking Shield Program shall resolve any conflicts among requests of Indian tribes for housing units under subsection (a) before submitting requests to the Secretary of the Air Force under subsection (b).

(d) INDIAN TRIBE DEFINED.—In this section, the term “Indian tribe” means any recognized Indian tribe included on the current list published by the Secretary of the Interior under section 104 of the Federally Recognized Indian Tribe Act of 1994 (Public Law 103-454; 108 Stat. 4792; 25 U.S.C. 479a-1).

SEC. 8036. During the current fiscal year, appropriations which are available to the Department of Defense for operation and maintenance may be used to purchase items having an investment item unit cost of not more than \$250,000.

SEC. 8037. (a) During the current fiscal year, none of the appropriations or funds available to the Department of Defense Working Capital Funds shall be used for the purchase of an investment item for the purpose of acquiring a new inventory item for sale or anticipated sale during the current fiscal year or a subsequent fiscal year to customers of the Department of Defense Working Capital Funds if such an item would not have been chargeable to the Department of Defense Business Operations Fund during fiscal year 1994 and if the purchase of such an investment item would be chargeable during the current fiscal year to appropriations made to the Department of Defense for procurement.

(b) The fiscal year 2007 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 2007 Department of Defense budget shall be prepared and submitted to the Congress on the basis that any equipment which was classified as an end item and funded in a procurement appropriation contained in this Act shall be budgeted for in a proposed fiscal year 2007 procurement appropriation and not in the supply management business area or any other area or category of the Department of Defense Working Capital Funds.

SEC. 8038. None of the funds appropriated by this Act for programs of the Central Intelligence Agency shall remain available for obligation beyond the current fiscal year, except for funds appropriated for the Reserve for Contingencies, which shall remain available until September 30, 2007: *Provided*, That funds appropriated, transferred, or otherwise credited to the Central Intelligence Agency Central Services Working Capital Fund during this or any prior or subsequent fiscal year shall remain available until expended: *Provided further*, That any funds appropriated or transferred to the Central Intelligence Agency for advanced research and development acquisition, for agent operations, and for covert action programs authorized by the President under section 503 of the National Security Act of 1947, as amended, shall remain available until September 30, 2007.

50 USC 403u
note.

SEC. 8039. Notwithstanding any other provision of law, funds made available in this Act for the Defense Intelligence Agency may be used for the design, development, and deployment of General Defense Intelligence Program intelligence communications and intelligence information systems for the Services, the Unified and Specified Commands, and the component commands.

SEC. 8040. Of the funds appropriated to the Department of Defense under the heading “Operation and Maintenance, Defense-Wide”, not less than \$10,000,000 shall be made available only for the mitigation of environmental impacts, including training and technical assistance to tribes, related administrative support, the gathering of information, documenting of environmental damage, and developing a system for prioritization of mitigation and cost to complete estimates for mitigation, on Indian lands resulting from Department of Defense activities.

SEC. 8041. (a) None of the funds appropriated in this Act may be expended by an entity of the Department of Defense unless the entity, in expending the funds, complies with the Buy American Act. For purposes of this subsection, the term “Buy American Act” means title III of the Act entitled “An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes”, approved March 3, 1933 (41 U.S.C. 10a et seq.).

(b) If the Secretary of Defense determines that a person has been convicted of intentionally affixing a label bearing a “Made in America” inscription to any product sold in or shipped to the United States that is not made in America, the Secretary shall determine, in accordance with section 2410f of title 10, United States Code, whether the person should be debarred from contracting with the Department of Defense.

(c) In the case of any equipment or products purchased with appropriations provided under this Act, it is the sense of the Congress that any entity of the Department of Defense, in expending the appropriation, purchase only American-made equipment and products, provided that American-made equipment and products are cost-competitive, quality-competitive, and available in a timely fashion.

SEC. 8042. None of the funds appropriated by this Act shall be available for a contract for studies, analysis, or consulting services entered into without competition on the basis of an unsolicited proposal unless the head of the activity responsible for the procurement determines—

(1) as a result of thorough technical evaluation, only one source is found fully qualified to perform the proposed work;

(2) the purpose of the contract is to explore an unsolicited proposal which offers significant scientific or technological promise, represents the product of original thinking, and was submitted in confidence by one source; or

(3) the purpose of the contract is to take advantage of unique and significant industrial accomplishment by a specific concern, or to insure that a new product or idea of a specific concern is given financial support: *Provided*, That this limitation shall not apply to contracts in an amount of less than \$25,000, contracts related to improvements of equipment that is in development or production, or contracts as to which a civilian official of the Department of Defense, who has been confirmed by the Senate, determines that the award of such contract is in the interest of the national defense.

SEC. 8043. (a) Except as provided in subsection (b) and (c), none of the funds made available by this Act may be used—

(1) to establish a field operating agency; or

(2) to pay the basic pay of a member of the Armed Forces or civilian employee of the department who is transferred or reassigned from a headquarters activity if the member or employee's place of duty remains at the location of that headquarters.

(b) The Secretary of Defense or Secretary of a military department may waive the limitations in subsection (a), on a case-by-case basis, if the Secretary determines, and certifies to the Committees on Appropriations of the House of Representatives and Senate that the granting of the waiver will reduce the personnel requirements or the financial requirements of the department.

(c) This section does not apply to—

(1) field operating agencies funded within the National Intelligence Program; or

(2) an Army field operating agency established to eliminate, mitigate, or counter the effects of improvised explosive devices, and, as determined by the Secretary of the Army, other similar threats.

SEC. 8044. The Secretary of Defense, acting through the Office of Economic Adjustment of the Department of Defense, may use funds made available in this Act under the heading "Operation and Maintenance, Defense-Wide" to make grants and supplement other Federal funds in accordance with the guidance provided in the Joint Explanatory Statement of the Committee of Conference to accompany the conference report on the bill H.R. 2863, and the projects specified in such guidance shall be considered to be authorized by law.

(RESCISSIONS)

SEC. 8045. Of the funds appropriated in Department of Defense Appropriations Acts, the following funds are hereby rescinded from the following accounts and programs in the specified amounts:

"Missile Procurement, Army, 2004/2006", \$20,000,000;

"Missile Procurement, Army, 2005/2007", \$14,931,000;

"Other Procurement, Army, 2005/2007", \$68,637,000;

"Aircraft Procurement, Navy, 2005/2007", \$16,800,000;

"Shipbuilding and Conversion, Navy, 2005/2009", \$42,200,000;

“Other Procurement, Navy, 2005/2007”, \$43,000,000;
“Procurement, Marine Corps, 2005/2007”, \$4,300,000;
“Missile Procurement, Air Force, 2005/2007”, \$92,000,000;
“Other Procurement, Air Force, 2005/2007”, \$3,400,000;
“Research, Development, Test and Evaluation, Army, 2005/2006”, \$4,300,000;
“Research, Development, Test and Evaluation, Navy, 2005/2006”, \$32,755,000; and
“Research, Development, Test and Evaluation, Air Force, 2005/2006”, \$63,400,000.

SEC. 8046. None of the funds available in this Act may be used to reduce the authorized positions for military (civilian) technicians of the Army National Guard, the Air National Guard, Army Reserve and Air Force Reserve for the purpose of applying any administratively imposed civilian personnel ceiling, freeze, or reduction on military (civilian) technicians, unless such reductions are a direct result of a reduction in military force structure.

SEC. 8047. None of the funds appropriated or otherwise made available in this Act may be obligated or expended for assistance to the Democratic People’s Republic of North Korea unless specifically appropriated for that purpose.

SEC. 8048. Funds appropriated in this Act for operation and maintenance of the Military Departments, Combatant Commands and Defense Agencies shall be available for reimbursement of pay, allowances and other expenses which would otherwise be incurred against appropriations for the National Guard and Reserve when members of the National Guard and Reserve provide intelligence or counterintelligence support to Combatant Commands, Defense Agencies and Joint Intelligence Activities, including the activities and programs included within the National Intelligence Program, the Joint Military Intelligence Program, and the Tactical Intelligence and Related Activities aggregate: *Provided*, That nothing in this section authorizes deviation from established Reserve and National Guard personnel and training procedures.

SEC. 8049. During the current fiscal year, none of the funds appropriated in this Act may be used to reduce the civilian medical and medical support personnel assigned to military treatment facilities below the September 30, 2003, level: *Provided*, That the Service Surgeons General may waive this section by certifying to the congressional defense committees that the beneficiary population is declining in some catchment areas and civilian strength reductions may be consistent with responsible resource stewardship and capitation-based budgeting.

Certification.

SEC. 8050. Up to \$2,000,000 of the funds appropriated under the heading “Operation and Maintenance, Navy” may be made available to contract for the installation, repair, and maintenance of an on-base and adjacent off-base wastewater/treatment facility and infrastructure critical to base operations and the public health and safety of community residents in the vicinity of the NCTAMS.

SEC. 8051. Notwithstanding any other provision of law, that not more than 35 percent of funds provided in this Act for environmental remediation may be obligated under indefinite delivery/indefinite quantity contracts with a total contract value of \$130,000,000 or higher.

SEC. 8052. (a) None of the funds available to the Department of Defense for any fiscal year for drug interdiction or counter-drug activities may be transferred to any other department or

10 USC 374 note.

agency of the United States except as specifically provided in an appropriations law.

50 USC 403f
note.

(b) None of the funds available to the Central Intelligence Agency for any fiscal year for drug interdiction and counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law.

SEC. 8053. Up to \$3,000,000 of the funds appropriated in title II of this Act under the heading “Operation and Maintenance, Army”, may be made available to contract with the Army Historical Foundation, a nonprofit organization, for services required to solicit non-Federal donations to support construction and operation of the National Museum of the United States Army at Fort Belvoir, Virginia: *Provided*, That notwithstanding any other provision of law, the Army is authorized to receive future payments in this or the subsequent fiscal year from any nonprofit organization chartered to support the National Museum of the United States Army to reimburse amounts expended by the Army pursuant to this section: *Provided further*, That any reimbursements received pursuant to this section shall be merged with “Operation and Maintenance, Army” and shall be made available for the same purposes and for the same time period as that appropriation account.

(TRANSFER OF FUNDS)

10 USC 2865
note.

SEC. 8054. Appropriations available under the heading “Operation and Maintenance, Defense-Wide” for the current fiscal year and hereafter for increasing energy and water efficiency in Federal buildings may, during their period of availability, be transferred to other appropriations or funds of the Department of Defense for projects related to increasing energy and water efficiency, to be merged with and to be available for the same general purposes, and for the same time period, as the appropriation or fund to which transferred.

SEC. 8055. None of the funds appropriated by this Act may be used for the procurement of ball and roller bearings other than those produced by a domestic source and of domestic origin: *Provided*, That the Secretary of the military department responsible for such procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate, that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes: *Provided further*, That this restriction shall not apply to the purchase of “commercial items”, as defined by section 4(12) of the Office of Federal Procurement Policy Act, except that the restriction shall apply to ball or roller bearings purchased as end items.

SEC. 8056. None of the funds in this Act may be used to purchase any supercomputer which is not manufactured in the United States, unless the Secretary of Defense certifies to the congressional defense committees that such an acquisition must be made in order to acquire capability for national security purposes that is not available from United States manufacturers.

Contracts.
Employment.

SEC. 8057. Notwithstanding any other provision of law, each contract awarded by the Department of Defense during the current fiscal year for construction or service performed in whole or in

part in a State (as defined in section 381(d) of title 10, United States Code) which is not contiguous with another State and has an unemployment rate in excess of the national average rate of unemployment as determined by the Secretary of Labor, shall include a provision requiring the contractor to employ, for the purpose of performing that portion of the contract in such State that is not contiguous with another State, individuals who are residents of such State and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills: *Provided*, That the Secretary of Defense may waive the requirements of this section, on a case-by-case basis, in the interest of national security.

SEC. 8058. None of the funds made available in this or any other Act may be used to pay the salary of any officer or employee of the Department of Defense who approves or implements the transfer of administrative responsibilities or budgetary resources of any program, project, or activity financed by this Act to the jurisdiction of another Federal agency not financed by this Act without the express authorization of Congress: *Provided*, That this limitation shall not apply to transfers of funds expressly provided for in Defense Appropriations Acts, or provisions of Acts providing supplemental appropriations for the Department of Defense.

SEC. 8059. (a) LIMITATION ON TRANSFER OF DEFENSE ARTICLES AND SERVICES.—Notwithstanding any other provision of law, none of the funds available to the Department of Defense for the current fiscal year may be obligated or expended to transfer to another nation or an international organization any defense articles or services (other than intelligence services) for use in the activities described in subsection (b) unless the congressional defense committees, the Committee on International Relations of the House of Representatives, and the Committee on Foreign Relations of the Senate are notified 15 days in advance of such transfer.

Notification.

(b) COVERED ACTIVITIES.—This section applies to—

(1) any international peacekeeping or peace-enforcement operation under the authority of chapter VI or chapter VII of the United Nations Charter under the authority of a United Nations Security Council resolution; and

(2) any other international peacekeeping, peace-enforcement, or humanitarian assistance operation.

(c) REQUIRED NOTICE.—A notice under subsection (a) shall include the following:

(1) A description of the equipment, supplies, or services to be transferred.

(2) A statement of the value of the equipment, supplies, or services to be transferred.

(3) In the case of a proposed transfer of equipment or supplies—

(A) a statement of whether the inventory requirements of all elements of the Armed Forces (including the reserve components) for the type of equipment or supplies to be transferred have been met; and

(B) a statement of whether the items proposed to be transferred will have to be replaced and, if so, how the President proposes to provide funds for such replacement.

SEC. 8060. None of the funds available to the Department of Defense under this Act shall be obligated or expended to pay a contractor under a contract with the Department of Defense

for costs of any amount paid by the contractor to an employee when—

- (1) such costs are for a bonus or otherwise in excess of the normal salary paid by the contractor to the employee; and
- (2) such bonus is part of restructuring costs associated with a business combination.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8061. During the current fiscal year, no more than \$30,000,000 of appropriations made in this Act under the heading “Operation and Maintenance, Defense-Wide” may be transferred to appropriations available for the pay of military personnel, to be merged with, and to be available for the same time period as the appropriations to which transferred, to be used in support of such personnel in connection with support and services for eligible organizations and activities outside the Department of Defense pursuant to section 2012 of title 10, United States Code.

SEC. 8062. During the current fiscal year, in the case of an appropriation account of the Department of Defense for which the period of availability for obligation has expired or which has closed under the provisions of section 1552 of title 31, United States Code, and which has a negative unliquidated or unexpended balance, an obligation or an adjustment of an obligation may be charged to any current appropriation account for the same purpose as the expired or closed account if—

(1) the obligation would have been properly chargeable (except as to amount) to the expired or closed account before the end of the period of availability or closing of that account;

(2) the obligation is not otherwise properly chargeable to any current appropriation account of the Department of Defense; and

(3) in the case of an expired account, the obligation is not chargeable to a current appropriation of the Department of Defense under the provisions of section 1405(b)(8) of the National Defense Authorization Act for Fiscal Year 1991, Public Law 101-510, as amended (31 U.S.C. 1551 note): *Provided*, That in the case of an expired account, if subsequent review or investigation discloses that there was not in fact a negative unliquidated or unexpended balance in the account, any charge to a current account under the authority of this section shall be reversed and recorded against the expired account: *Provided further*, That the total amount charged to a current appropriation under this section may not exceed an amount equal to 1 percent of the total appropriation for that account.

SEC. 8063. (a) Notwithstanding any other provision of law, the Chief of the National Guard Bureau may permit the use of equipment of the National Guard Distance Learning Project by any person or entity on a space-available, reimbursable basis. The Chief of the National Guard Bureau shall establish the amount of reimbursement for such use on a case-by-case basis.

(b) Amounts collected under subsection (a) shall be credited to funds available for the National Guard Distance Learning Project and be available to defray the costs associated with the use of equipment of the project under that subsection. Such funds shall be available for such purposes without fiscal year limitation.

SEC. 8064. Using funds available by this Act or any other Act, the Secretary of the Air Force, pursuant to a determination under section 2690 of title 10, United States Code, may implement cost-effective agreements for required heating facility modernization in the Kaiserslautern Military Community in the Federal Republic of Germany: *Provided*, That in the City of Kaiserslautern such agreements will include the use of United States anthracite as the base load energy for municipal district heat to the United States Defense installations: *Provided further*, That at Landstuhl Army Regional Medical Center and Ramstein Air Base, furnished heat may be obtained from private, regional or municipal services, if provisions are included for the consideration of United States coal as an energy source.

SEC. 8065. None of the funds appropriated in title IV of this Act may be used to procure end-items for delivery to military forces for operational training, operational use or inventory requirements: *Provided*, That this restriction does not apply to end-items used in development, prototyping, and test activities preceding and leading to acceptance for operational use: *Provided further*, That this restriction does not apply to programs funded within the National Intelligence Program: *Provided further*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that it is in the national security interest to do so.

SEC. 8066. Notwithstanding any other provision of law, funds available to the Department of Defense shall be made available to provide transportation of medical supplies and equipment, on a nonreimbursable basis, to American Samoa, and funds available to the Department of Defense shall be made available to provide transportation of medical supplies and equipment, on a nonreimbursable basis, to the Indian Health Service when it is in conjunction with a civil-military project.

SEC. 8067. None of the funds made available in this Act may be used to approve or license the sale of the F/A-22 advanced tactical fighter to any foreign government.

SEC. 8068. (a) The Secretary of Defense may, on a case-by-case basis, waive with respect to a foreign country each limitation on the procurement of defense items from foreign sources provided in law if the Secretary determines that the application of the limitation with respect to that country would invalidate cooperative programs entered into between the Department of Defense and the foreign country, or would invalidate reciprocal trade agreements for the procurement of defense items entered into under section 2531 of title 10, United States Code, and the country does not discriminate against the same or similar defense items produced in the United States for that country.

(b) Subsection (a) applies with respect to—

Applicability.

(1) contracts and subcontracts entered into on or after the date of the enactment of this Act; and

(2) options for the procurement of items that are exercised after such date under contracts that are entered into before such date if the option prices are adjusted for any reason other than the application of a waiver granted under subsection (a).

(c) Subsection (a) does not apply to a limitation regarding construction of public vessels, ball and roller bearings, food, and

clothing or textile materials as defined by section 11 (chapters 50–65) of the Harmonized Tariff Schedule and products classified under headings 4010, 4202, 4203, 6401 through 6406, 6505, 7019, 7218 through 7229, 7304.41 through 7304.49, 7306.40, 7502 through 7508, 8105, 8108, 8109, 8211, 8215, and 9404.

SEC. 8069. (a) PROHIBITION.—None of the funds made available by this Act may be used to support any training program involving a unit of the security forces of a foreign country if the Secretary of Defense has received credible information from the Department of State that the unit has committed a gross violation of human rights, unless all necessary corrective steps have been taken.

Human rights.

(b) MONITORING.—The Secretary of Defense, in consultation with the Secretary of State, shall ensure that prior to a decision to conduct any training program referred to in subsection (a), full consideration is given to all credible information available to the Department of State relating to human rights violations by foreign security forces.

(c) WAIVER.—The Secretary of Defense, after consultation with the Secretary of State, may waive the prohibition in subsection (a) if he determines that such waiver is required by extraordinary circumstances.

(d) REPORT.—Not more than 15 days after the exercise of any waiver under subsection (c), the Secretary of Defense shall submit a report to the congressional defense committees describing the extraordinary circumstances, the purpose and duration of the training program, the United States forces and the foreign security forces involved in the training program, and the information relating to human rights violations that necessitates the waiver.

SEC. 8070. None of the funds appropriated or made available in this Act to the Department of the Navy shall be used to develop, lease or procure the T-AKE class of ships unless the main propulsion diesel engines and propulsors are manufactured in the United States by a domestically operated entity: *Provided*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes or there exists a significant cost or quality difference.

SEC. 8071. None of the funds appropriated or otherwise made available by this or other Department of Defense Appropriations Acts may be obligated or expended for the purpose of performing repairs or maintenance to military family housing units of the Department of Defense, including areas in such military family housing units that may be used for the purpose of conducting official Department of Defense business.

Reports.

SEC. 8072. Notwithstanding any other provision of law, funds appropriated in this Act under the heading “Research, Development, Test and Evaluation, Defense-Wide” for any new start advanced concept technology demonstration project may only be obligated 30 days after a report, including a description of the project, the planned acquisition and transition strategy and its estimated annual and total cost, has been provided in writing to the congressional defense committees: *Provided*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying

to the congressional defense committees that it is in the national interest to do so.

SEC. 8073. The Secretary of Defense shall provide a classified quarterly report beginning 30 days after enactment of this Act, to the House and Senate Appropriations Committees, Subcommittees on Defense on certain matters as directed in the classified annex accompanying this Act.

Reports.
Deadline.

SEC. 8074. During the current fiscal year, refunds attributable to the use of the Government travel card, refunds attributable to the use of the Government Purchase Card and refunds attributable to official Government travel arranged by Government Contracted Travel Management Centers may be credited to operation and maintenance, and research, development, test and evaluation accounts of the Department of Defense which are current when the refunds are received.

SEC. 8075. (a) REGISTERING FINANCIAL MANAGEMENT INFORMATION TECHNOLOGY SYSTEMS WITH DOD CHIEF INFORMATION OFFICER.—None of the funds appropriated in this Act may be used for a mission critical or mission essential financial management information technology system (including a system funded by the defense working capital fund) that is not registered with the Chief Information Officer of the Department of Defense. A system shall be considered to be registered with that officer upon the furnishing to that officer of notice of the system, together with such information concerning the system as the Secretary of Defense may prescribe. A financial management information technology system shall be considered a mission critical or mission essential information technology system as defined by the Under Secretary of Defense (Comptroller).

(b) CERTIFICATIONS AS TO COMPLIANCE WITH FINANCIAL MANAGEMENT MODERNIZATION PLAN.—

(1) During the current fiscal year, a financial management automated information system, a mixed information system supporting financial and non-financial systems, or a system improvement of more than \$1,000,000 may not receive Milestone A approval, Milestone B approval, or full rate production, or their equivalent, within the Department of Defense until the Under Secretary of Defense (Comptroller) certifies, with respect to that milestone, that the system is being developed and managed in accordance with the Department's Financial Management Modernization Plan. The Under Secretary of Defense (Comptroller) may require additional certifications, as appropriate, with respect to any such system.

(2) The Chief Information Officer shall provide the congressional defense committees timely notification of certifications under paragraph (1).

Notification.

(c) CERTIFICATIONS AS TO COMPLIANCE WITH CLINGER-COHEN ACT.—

(1) During the current fiscal year, a major automated information system may not receive Milestone A approval, Milestone B approval, or full rate production approval, or their equivalent, within the Department of Defense until the Chief Information Officer certifies, with respect to that milestone, that the system is being developed in accordance with the Clinger-Cohen Act of 1996 (40 U.S.C. 1401 et seq.). The Chief Information Officer may require additional certifications, as appropriate, with respect to any such system.

Notification.

(2) The Chief Information Officer shall provide the congressional defense committees timely notification of certifications under paragraph (1). Each such notification shall include, at a minimum, the funding baseline and milestone schedule for each system covered by such a certification and confirmation that the following steps have been taken with respect to the system:

- (A) Business process reengineering.
- (B) An analysis of alternatives.
- (C) An economic analysis that includes a calculation of the return on investment.
- (D) Performance measures.
- (E) An information assurance strategy consistent with the Department's Global Information Grid.

(d) DEFINITIONS.—For purposes of this section:

(1) The term “Chief Information Officer” means the senior official of the Department of Defense designated by the Secretary of Defense pursuant to section 3506 of title 44, United States Code.

(2) The term “information technology system” has the meaning given the term “information technology” in section 5002 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401).

SEC. 8076. During the current fiscal year, none of the funds available to the Department of Defense may be used to provide support to another department or agency of the United States if such department or agency is more than 90 days in arrears in making payment to the Department of Defense for goods or services previously provided to such department or agency on a reimbursable basis: *Provided*, That this restriction shall not apply if the department is authorized by law to provide support to such department or agency on a nonreimbursable basis, and is providing the requested support pursuant to such authority: *Provided further*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that it is in the national security interest to do so.

SEC. 8077. Notwithstanding section 12310(b) of title 10, United States Code, a Reserve who is a member of the National Guard serving on full-time National Guard duty under section 502(f) of title 32 may perform duties in support of the ground-based elements of the National Ballistic Missile Defense System.

SEC. 8078. None of the funds provided in this Act may be used to transfer to any nongovernmental entity ammunition held by the Department of Defense that has a center-fire cartridge and a United States military nomenclature designation of “armor penetrator”, “armor piercing (AP)”, “armor piercing incendiary (API)”, or “armor-piercing incendiary-tracer (API-T)”, except to an entity performing demilitarization services for the Department of Defense under a contract that requires the entity to demonstrate to the satisfaction of the Department of Defense that armor piercing projectiles are either: (1) rendered incapable of reuse by the demilitarization process; or (2) used to manufacture ammunition pursuant to a contract with the Department of Defense or the manufacture of ammunition for export pursuant to a License for Permanent Export of Unclassified Military Articles issued by the Department of State.

SEC. 8079. Notwithstanding any other provision of law, the Chief of the National Guard Bureau, or his designee, may waive payment of all or part of the consideration that otherwise would be required under section 2667 of title 10, United States Code, in the case of a lease of personal property for a period not in excess of 1 year to any organization specified in section 508(d) of title 32, United States Code, or any other youth, social, or fraternal non-profit organization as may be approved by the Chief of the National Guard Bureau, or his designee, on a case-by-case basis.

SEC. 8080. None of the funds appropriated by this Act shall be used for the support of any nonappropriated funds activity of the Department of Defense that procures malt beverages and wine with nonappropriated funds for resale (including such alcoholic beverages sold by the drink) on a military installation located in the United States unless such malt beverages and wine are procured within that State, or in the case of the District of Columbia, within the District of Columbia, in which the military installation is located: *Provided*, That in a case in which the military installation is located in more than one State, purchases may be made in any State in which the installation is located: *Provided further*, That such local procurement requirements for malt beverages and wine shall apply to all alcoholic beverages only for military installations in States which are not contiguous with another State: *Provided further*, That alcoholic beverages other than wine and malt beverages, in contiguous States and the District of Columbia shall be procured from the most competitive source, price and other factors considered.

Alcohol and
alcoholic
beverages.
10 USC 2488
note.

Contracts.
Applicability.

SEC. 8081. Funds available to the Department of Defense for the Global Positioning System during the current fiscal year may be used to fund civil requirements associated with the satellite and ground control segments of such system's modernization program.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8082. Of the amounts appropriated in this Act under the heading "Operation and Maintenance, Army", \$147,900,000 shall remain available until expended: *Provided*, That notwithstanding any other provision of law, the Secretary of Defense is authorized to transfer such funds to other activities of the Federal Government: *Provided further*, That the Secretary of Defense is authorized to enter into and carry out contracts for the acquisition of real property, construction, personal services, and operations related to projects described in further detail in the Classified Annex accompanying the Department of Defense Appropriations Act, 2006, consistent with the terms and conditions set forth therein: *Provided further*, That contracts entered into under the authority of this section may provide for such indemnification as the Secretary determines to be necessary: *Provided further*, That projects authorized by this section shall comply with applicable Federal, State, and local law to the maximum extent consistent with the national security, as determined by the Secretary of Defense.

SEC. 8083. Section 8106 of the Department of Defense Appropriations Act, 1997 (titles I through VIII of the matter under subsection 101(b) of Public Law 104-208; 110 Stat. 3009-111; 10 U.S.C. 113 note) shall continue in effect to apply to disbursements that are made by the Department of Defense in fiscal year 2006.

Applicability.
10 USC 113 note.

SEC. 8084. In addition to amounts provided elsewhere in this Act, \$2,200,000 is hereby appropriated to the Department of Defense, to remain available for obligation until expended: *Provided*, That notwithstanding any other provision of law, these funds shall be available only for a grant to the Fisher House Foundation, Inc., only for the construction and furnishing of additional Fisher Houses to meet the needs of military family members when confronted with the illness or hospitalization of an eligible military beneficiary.

SEC. 8085. (a) The Secretary of Defense, in coordination with the Secretary of Health and Human Services, may carry out a program to distribute surplus dental and medical equipment of the Department of Defense, at no cost to the Department of Defense, to Indian Health Service facilities and to federally-qualified health centers (within the meaning of section 1905(1)(2)(B) of the Social Security Act (42 U.S.C. 1396d(1)(2)(B))).

Gifts and
property.

(b) In carrying out this provision, the Secretary of Defense shall give the Indian Health Service a property disposal priority equal to the priority given to the Department of Defense and its twelve special screening programs in distribution of surplus dental and medical supplies and equipment.

SEC. 8086. Amounts appropriated in title II of this Act are hereby reduced by \$265,000,000 to reflect savings attributable to efficiencies and management improvements in the funding of miscellaneous or other contracts in the military departments, as follows:

(1) From “Operation and Maintenance, Army”, \$26,000,000.

(2) From “Operation and Maintenance, Navy”, \$85,000,000.

(3) From “Operation and Maintenance, Air Force”, \$154,000,000.

SEC. 8087. The total amount appropriated or otherwise made available in this Act is hereby reduced by \$100,000,000 to limit excessive growth in the procurement of advisory and assistance services, to be distributed as follows:

“Operation and Maintenance, Army”, \$25,000,000.

“Operation and Maintenance, Navy”, \$10,000,000.

“Operation and Maintenance, Air Force”, \$30,000,000.

“Operation and Maintenance, Defense-Wide”, \$35,000,000.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8088. Of the amounts appropriated in this Act under the heading “Research, Development, Test and Evaluation, Defense-Wide”, \$132,866,000 shall be made available for the Arrow missile defense program: *Provided*, That of this amount, \$60,250,000 shall be available for the purpose of producing Arrow missile components in the United States and Arrow missile components and missiles in Israel to meet Israel’s defense requirements, consistent with each nation’s laws, regulations and procedures, and \$10,000,000 shall be available for the purpose of the initiation of a joint feasibility study designated the Short Range Ballistic Missile Defense (SRBMD) initiative: *Provided further*, That funds made available under this provision for production of missiles and missile components may be transferred to appropriations available for the procurement of weapons and equipment, to be merged with and to be available for the same time period and the same purposes as the appropriation to which transferred: *Provided further*, That the transfer authority provided under this provision is in addition to any other transfer authority contained in this Act.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8089. Of the amounts appropriated in this Act under the heading “Shipbuilding and Conversion, Navy”, \$517,523,000 shall be available until September 30, 2006, to fund prior year shipbuilding cost increases: *Provided*, That upon enactment of this Act, the Secretary of the Navy shall transfer such funds to the following appropriations in the amounts specified: *Provided further*, That the amounts transferred shall be merged with and be available for the same purposes as the appropriations to which transferred:

To:

Under the heading “Shipbuilding and Conversion, Navy, 1998/2006”:

New SSN, \$28,000,000.

Under the heading “Shipbuilding and Conversion, Navy, 1999/2006”:

LPD-17 Amphibious Transport Dock Ship Program, \$95,000,000;

New SSN, \$72,000,000.

Under the heading “Shipbuilding and Conversion, Navy, 2000/2006”:

LPD-17 Amphibious Transport Dock Ship Program, \$94,800,000.

Under the heading “Shipbuilding and Conversion, Navy, 2001/2006”:

Carrier Replacement Program, \$145,023,000;

New SSN, \$82,700,000.

SEC. 8090. The Secretary of the Navy may settle, or compromise, and pay any and all admiralty claims under section 7622 of title 10, United States Code arising out of the collision involving the U.S.S. GREENEVILLE and the EHIME MARU, in any amount and without regard to the monetary limitations in subsections (a) and (b) of that section: *Provided*, That such payments shall be made from funds available to the Department of the Navy for operation and maintenance.

SEC. 8091. Notwithstanding any other provision of law or regulation, the Secretary of Defense may exercise the provisions of section 7403(g) of title 38, United States Code for occupations listed in section 7403(a)(2) of title 38, United States Code as well as the following:

Pharmacists, Audiologists, and Dental Hygienists.

(A) The requirements of section 7403(g)(1)(A) of title 38, United States Code shall apply. Applicability.

(B) The limitations of section 7403(g)(1)(B) of title 38, United States Code shall not apply.

SEC. 8092. Funds appropriated by this Act, or made available by the transfer of funds in this Act, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) during fiscal year 2006 until the enactment of the Intelligence Authorization Act for fiscal year 2006.

SEC. 8093. None of the funds in this Act may be used to initiate a new start program without prior written notification to the Office of Secretary of Defense and the congressional defense committees.

SEC. 8094. The amounts appropriated in title II of this Act are hereby reduced by \$250,000,000 to reflect cash balance and

rate stabilization adjustments in Department of Defense Working Capital Funds, as follows:

(1) From “Operation and Maintenance, Army”, \$100,000,000.

(2) From “Operation and Maintenance, Navy”, \$50,000,000.

(3) From “Operation and Maintenance, Air Force”, \$100,000,000.

Grants.

SEC. 8095. (a) In addition to the amounts provided elsewhere in this Act, the amount of \$5,100,000 is hereby appropriated to the Department of Defense for “Operation and Maintenance, Army National Guard”. Such amount shall be made available to the Secretary of the Army only to make a grant in the amount of \$5,100,000 to the entity specified in subsection (b) to facilitate access by veterans to opportunities for skilled employment in the construction industry.

(b) The entity referred to in subsection (a) is the Center for Military Recruitment, Assessment and Veterans Employment, a nonprofit labor-management co-operation committee provided for by section 302(c)(9) of the Labor-Management Relations Act, 1947 (29 U.S.C. 186(c)(9)), for the purposes set forth in section 6(b) of the Labor Management Cooperation Act of 1978 (29 U.S.C. 175a note).

SEC. 8096. FINANCING AND FIELDING OF KEY ARMY CAPABILITIES.—The Department of Defense and the Department of the Army shall make future budgetary and programming plans to fully finance the Non-Line of Sight Future Force cannon and resupply vehicle program (NLOS-C) in order to field this system in fiscal year 2010, consistent with the broader plan to field the Future Combat System (FCS) in fiscal year 2010: *Provided*, That if the Army is precluded from fielding the FCS program by fiscal year 2010, then the Army shall develop the NLOS-C independent of the broader FCS development timeline to achieve fielding by fiscal year 2010. In addition the Army will deliver eight (8) combat operational pre-production NLOS-C systems by the end of calendar year 2008. These systems shall be in addition to those systems necessary for developmental and operational testing: *Provided further*, That the Army shall ensure that budgetary and programmatic plans will provide for no fewer than seven (7) Stryker Brigade Combat Teams.

SEC. 8097. Up to \$2,125,000 of the funds appropriated under the heading “Operation and Maintenance, Navy” in this Act for the Pacific Missile Range Facility may be made available to contract for the repair, maintenance, and operation of adjacent off-base water, drainage, and flood control systems, electrical upgrade to support additional missions critical to base operations, and support for a range footprint expansion to further guard against encroachment.

Grants.

SEC. 8098. In addition to the amounts appropriated or otherwise made available elsewhere in this Act, \$33,350,000 is hereby appropriated to the Department of Defense, to remain available until September 30, 2006: *Provided*, That the Secretary of Defense shall make grants in the amounts specified as follows: \$3,850,000 to the Intrepid Sea-Air-Space Foundation; \$1,000,000 to the Pentagon Memorial Fund, Inc.; \$4,400,000 to the Center for Applied Science and Technologies at Jordan Valley Innovation Center; \$1,000,000 to the Vietnam Veterans Memorial Fund for the Teach Vietnam initiative; \$500,000 to the Westchester County World Trade Center

Memorial; \$1,000,000 to the Women in Military Service for America Memorial Foundation; \$2,000,000 to The Presidio Trust; \$500,000 to George Mason University for the Clinic for Legal Assistance to Servicemembers; \$850,000 to the Fort Des Moines Memorial Park and Education Center; \$1,000,000 to the American Civil War Center at Historic Tredegar; \$1,500,000 to the Museum of Flight, American Heroes Collection; \$1,000,000 to the National Guard Youth Foundation; \$2,550,000 to the United Services Organization; \$1,700,000 to the Dwight D. Eisenhower Memorial Commission; \$1,000,000 to the Iraq Cultural Heritage Assistance Project; \$1,350,000 to the Pacific Aviation Museum-Pearl Harbor; \$1,500,000 to the Red Cross Consolidated Blood Services Facility; \$150,000 to the Telluride Adaptive Sports Program; \$4,000,000 to T.H.A.N.K.S USA; \$1,500,000 to the Battleship Texas Foundation to Restore and Preserve the Battleship Texas; and \$1,000,000 to the Pennsylvania Veterans Museum Media Armory.

SEC. 8099. Notwithstanding section 2583(a) of title 10, United States Code, but subject to the limitations of section 2583(e) of title 10, United States Code, during the current fiscal year the Secretary of the military department concerned may make a military working dog available for adoption by its former handler.

Military working dog.

SEC. 8100. The budget of the President for fiscal year 2007 submitted to the Congress pursuant to section 1105 of title 31, United States Code shall include separate budget justification documents for costs of United States Armed Forces' participation in contingency operations for the Military Personnel accounts, the Operation and Maintenance accounts, and the Procurement accounts: *Provided*, That these documents shall include a description of the funding requested for each contingency operation, for each military service, to include all Active and Reserve components, and for each appropriations account: *Provided further*, That these documents shall include estimated costs for each element of expense or object class, a reconciliation of increases and decreases for each contingency operation, and programmatic data including, but not limited to, troop strength for each Active and Reserve component, and estimates of the major weapons systems deployed in support of each contingency: *Provided further*, That these documents shall include budget exhibits OP-5 and OP-32 (as defined in the Department of Defense Financial Management Regulation) for all contingency operations for the budget year and the two preceding fiscal years.

Federal budget.
10 USC 221 note.

SEC. 8101. None of the funds in this Act may be used for research, development, test, evaluation, procurement or deployment of nuclear armed interceptors of a missile defense system.

SEC. 8102. Of the amounts provided in title II of this Act under the heading "Operation and Maintenance, Defense-Wide", \$20,000,000 is available for the Regional Defense Counter-terrorism Fellowship Program, to fund the education and training of foreign military officers, ministry of defense civilians, and other foreign security officials, to include United States military officers and civilian officials whose participation directly contributes to the education and training of these foreign students.

SEC. 8103. None of the funds appropriated or made available in this Act shall be used to reduce or disestablish the operation of the 53rd Weather Reconnaissance Squadron of the Air Force Reserve, if such action would reduce the WC-130 Weather Reconnaissance mission below the levels funded in this Act: *Provided*,

That the Air Force shall allow the 53rd Weather Reconnaissance Squadron to perform other missions in support of national defense requirements during the non-hurricane season.

SEC. 8104. None of the funds provided in this Act shall be available for integration of foreign intelligence information unless the information has been lawfully collected and processed during the conduct of authorized foreign intelligence activities: *Provided*, That information pertaining to United States persons shall only be handled in accordance with protections provided in the Fourth Amendment of the United States Constitution as implemented through Executive Order No. 12333.

California.

SEC. 8105. (a) From within amounts made available in title II of this Act, under the heading “Operation and Maintenance, Army”, and notwithstanding any other provision of law, up to \$7,000,000 shall be available only for repairs and safety improvements to the segment of Fort Irwin Road which extends from Interstate 15 northeast toward the boundary of Fort Irwin, California and the originating intersection of Irwin Road: *Provided*, That these funds shall remain available until expended: *Provided further*, That the authorized scope of work includes, but is not limited to, environmental documentation and mitigation, engineering and design, improving safety, resurfacing, widening lanes, enhancing shoulders, and replacing signs and pavement markings: *Provided further*, That these funds may be used for advances to the Federal Highway Administration, Department of Transportation, for the authorized scope of work.

Grants.

(b) From within amounts made available in title II of this Act under the heading “Operation and Maintenance, Marine Corps”, the Secretary of the Navy shall make a grant in the amount of \$4,800,000, notwithstanding any other provision of law, to the City of Twentynine Palms, California, for the widening of off-base Adobe Road, which is used by members of the Marine Corps stationed at the Marine Corps Air Ground Task Force Training Center, Twentynine Palms, California, and their dependents, and for construction of pedestrian and bike lanes for the road, to provide for the safety of the Marines stationed at the installation.

SEC. 8106. None of the funds available to the Department of Defense may be obligated to modify command and control relationships to give Fleet Forces Command administrative and operational control of U.S. Navy forces assigned to the Pacific fleet: *Provided*, That the command and control relationships which existed on October 1, 2004, shall remain in force unless changes are specifically authorized in a subsequent Act.

Notification.

SEC. 8107. (a) At the time members of reserve components of the Armed Forces are called or ordered to active duty under section 12302(a) of title 10, United States Code, each member shall be notified in writing of the expected period during which the member will be mobilized.

(b) The Secretary of Defense may waive the requirements of subsection (a) in any case in which the Secretary determines that it is necessary to do so to respond to a national security emergency or to meet dire operational requirements of the Armed Forces.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8108. The Secretary of Defense may transfer funds from any available Department of the Navy appropriation to any available Navy ship construction appropriation for the purpose of liquidating necessary changes resulting from inflation, market fluctuations, or rate adjustments for any ship construction program appropriated in law: *Provided*, That the Secretary may transfer not to exceed \$100,000,000 under the authority provided by this section: *Provided further*, That the funding transferred shall be available for the same time period as the appropriation to which transferred: *Provided further*, That the Secretary may not transfer any funds until 30 days after the proposed transfer has been reported to the Committees on Appropriations of the Senate and the House of Representatives, unless sooner notified by the Committees that there is no objection to the proposed transfer: *Provided further*, That the transfer authority provided by this section is in addition to any other transfer authority contained elsewhere in this Act.

Reports.

SEC. 8109. (a) The total amount appropriated or otherwise made available in title II of this Act is hereby reduced by \$92,000,000 to limit excessive growth in the travel and transportation of persons.

(b) The Secretary of Defense shall allocate this reduction proportionately to each budget activity, activity group, subactivity group, and each program, project, and activity within each applicable appropriation account.

SEC. 8110. In addition to funds made available elsewhere in this Act, \$5,500,000 is hereby appropriated and shall remain available until expended to provide assistance, by grant or otherwise (such as, but not limited to, the provision of funds for repairs, maintenance, construction, and/or for the purchase of information technology, text books, teaching resources), to public schools that have unusually high concentrations of special needs military dependents enrolled: *Provided*, That in selecting school systems to receive such assistance, special consideration shall be given to school systems in States that are considered overseas assignments, and all schools within these school systems shall be eligible for assistance: *Provided further*, That up to 2 percent of the total appropriated funds under this section shall be available to support the administration and execution of the funds or program and/or events that promote the purpose of this appropriation (e.g. payment of travel and per diem of school teachers attending conferences or a meeting that promotes the purpose of this appropriation and/or consultant fees for on-site training of teachers, staff, or Joint Venture Education Forum (JVEF) Committee members): *Provided further*, That up to \$2,000,000 shall be available for the Department of Defense to establish a non-profit trust fund to assist in the public-private funding of public school repair and maintenance projects, or provide directly to non-profit organizations who in return will use these monies to provide assistance in the form of repair, maintenance, or renovation to public school systems that have high concentrations of special needs military dependents and are located in States that are considered overseas assignments: *Provided further*, That to the extent a Federal agency provides this assistance, by contract, grant, or otherwise, it may accept and expend non-Federal funds in combination with these Federal funds to provide assistance for the authorized purpose, if the non-

Federal entity requests such assistance and the non-Federal funds are provided on a reimbursable basis.

SEC. 8111. Of the funds appropriated or otherwise made available in this Act, a reduction of \$361,000,000 is hereby taken from title III, Procurement, from the following accounts in the specified amounts:

“Missile Procurement, Army”, \$9,000,000;

“Other Procurement, Army”, \$297,000,000; and

“Procurement, Marine Corps”, \$55,000,000:

Reports.
Deadline.

Provided, That within 30 days of enactment of this Act, the Secretary of the Army and the Secretary of the Navy shall provide a report to the House Committee on Appropriations and the Senate Committee on Appropriations which describes the application of these reductions to programs, projects or activities within these accounts.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8112. (a) THREE-YEAR EXTENSION.—During the current fiscal year and each of fiscal years 2007 and 2008, the Secretary of Defense may transfer not more than \$20,000,000 of unobligated balances remaining in the expiring RDT&E, Army, appropriation account to a current Research, Development, Test and Evaluation, Army, appropriation account to be used only for the continuation of the Army Venture Capital Fund demonstration.

(b) EXPIRING RDT&E, ARMY, ACCOUNT.—For purposes of this section, for any fiscal year, the expiring RDT&E, Army, account is the Research, Development, Test and Evaluation, Army, appropriation account that is then in its last fiscal year of availability for obligation before the account closes under section 1552 of title 31, United States Code.

(c) ARMY VENTURE CAPITAL FUND DEMONSTRATION.—For purposes of this section, the Army Venture Capital Fund demonstration is the program for which funds were initially provided in section 8150 of the Department of Defense Appropriations Act, 2002 (division A of Public Law 107-117; 115 Stat. 2281), as extended and revised in section 8105 of Department of Defense Appropriations Act, 2003 (Public Law 107-248; 116 Stat. 1562).

Applicability.

(d) ADMINISTRATIVE PROVISIONS.—The provisos in section 8105 of the Department of Defense Appropriations Act, 2003 (Public Law 107-248; 116 Stat. 1562), shall apply with respect to amounts transferred under this section in the same manner as to amounts transferred under that section.

SEC. 8113. Of the funds made available in this Act, not less than \$76,100,000 shall be available to maintain an attrition reserve force of 18 B-52 aircraft, of which \$3,900,000 shall be available from “Military Personnel, Air Force”, \$44,300,000 shall be available from “Operation and Maintenance, Air Force”, and \$27,900,000 shall be available from “Aircraft Procurement, Air Force”: *Provided*, That the Secretary of the Air Force shall maintain a total force of 94 B-52 aircraft, including 18 attrition reserve aircraft, during fiscal year 2006: *Provided further*, That the Secretary of Defense shall include in the Air Force budget request for fiscal year 2007 amounts sufficient to maintain a B-52 force totaling 94 aircraft.

SEC. 8114. The Secretary of the Air Force is authorized, using funds available under the heading “Operation and Maintenance, Air Force”, to complete a phased repair project, which repairs may include upgrades and additions, to the infrastructure of the

operational ranges managed by the Air Force in Alaska: *Provided*, That the total cost of such phased projects shall not exceed \$32,000,000.

SEC. 8115. For purposes of section 612 of title 41, United States Code, any subdivision of appropriations made under the heading “Shipbuilding and Conversion, Navy” that is not closed at the time reimbursement is made shall be available to reimburse the Judgment Fund and shall be considered for the same purposes as any subdivision under the heading “Shipbuilding and Conversion, Navy” appropriations in the current fiscal year or any prior fiscal year.

(TRANSFER OF FUNDS)

SEC. 8116. Upon enactment of this Act, the Secretary of Defense shall make the following transfer of funds: *Provided*, That funds so transferred shall be merged with and shall be available for the same purpose and for the same time period as the appropriation to which transferred: *Provided further*, That the amounts shall be transferred between the following appropriations in the amounts specified:

From:

Under the heading “Shipbuilding and Conversion, Navy, 2003/2007”:

For outfitting, post delivery, conversions, and first destination transportation, \$3,300,000;

Under the heading “Shipbuilding and Conversion, Navy, 2004/2008”:

For outfitting, post delivery, conversions, and first destination transportation, \$6,100,000;

To:

Under the heading “Shipbuilding and Conversion, Navy, 2003/2007”:

SSGN, \$3,300,000;

Under the heading “Shipbuilding and Conversion, Navy, 2004/2008”:

SSGN, \$6,100,000.

SEC. 8117. (a) FINDINGS.—The Senate makes the following findings:

Iraq.
Afghanistan.

(1) The Department of Defense Appropriations Act, 2004 (Public Law 108–87), the Department of Defense Appropriations Act, 2005 (Public Law 108–287), and the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (Public Law 109–13) each contain a sense of the Senate provision urging the President to provide in the annual budget requests of the President for a fiscal year under section 1105(a) of title 31, United States Code, an estimate of the cost of ongoing military operations in Iraq and Afghanistan in such fiscal year.

(2) The budget for fiscal year 2006 submitted to Congress by the President on February 7, 2005, requests no funds for fiscal year 2006 for ongoing military operations in Iraq or Afghanistan.

(3) According to the Congressional Research Service, there exists historical precedent for including the cost of ongoing military operations in the annual budget requests of the President following initial funding for such operations by emergency or supplemental appropriations Acts, including—

(A) funds for Operation Noble Eagle, beginning in the budget request of President George W. Bush for fiscal year 2005;

(B) funds for operations in Kosovo, beginning in the budget request of President George W. Bush for fiscal year 2001;

(C) funds for operations in Bosnia, beginning in the budget request of President Clinton for fiscal year 1997;

(D) funds for operations in Southwest Asia, beginning in the budget request of President Clinton for fiscal year 1997;

(E) funds for operations in Vietnam, beginning in the budget request of President Johnson for fiscal year 1966; and

(F) funds for World War II, beginning in the budget request of President Roosevelt for fiscal year 1943.

(4) In section 1024(b) of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (119 Stat. 252), the Senate requested that the President submit to Congress, not later than September 1, 2005, an amendment to the budget of the President for fiscal year 2006 setting forth detailed cost estimates for ongoing military operations overseas during such fiscal year.

(5) The President has yet to submit such an amendment.

(6) In February 2005, the Congressional Budget Office estimated that fiscal year 2006 cost of ongoing military operations in Iraq and Afghanistan could total \$85,000,000,000.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) any request for funds for a fiscal year after fiscal year 2006 for an ongoing military operation overseas, including operations in Afghanistan and Iraq, should be included in the annual budget of the President for such fiscal year as submitted to Congress under section 1105(a) of title 31, United States Code;

(2) the President should submit a budget request for fiscal year 2006 setting forth estimates for ongoing military operations overseas during such fiscal year; and

(3) any funds provided for a fiscal year for ongoing military operations overseas should be provided in appropriations Acts for such fiscal year through appropriations to specific accounts set forth in such appropriations Acts.

SEC. 8118. Section 351(a)(3) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108-375; 118 Stat. 1858) is amended by striking “July 31, 2004” and inserting “April 1, 2006”.

SEC. 8119. (a) None of the funds appropriated by this Act may be used to transfer research and development, acquisition, or other program authority relating to current tactical unmanned aerial vehicles (TUAVs) from the Army.

(b) The Army shall retain responsibility for and operational control of the Extended Range Multi-Purpose (ERMP) Unmanned Aerial Vehicle (UAV) in order to support the Secretary of Defense in matters relating to the employment of unmanned aerial vehicles.

SEC. 8120. (a) REPORT.—Not later than February 15, 2006, the Secretary of Defense shall submit to the congressional defense committees a report on the status of the review of, and actions

taken to implement, the recommendations of the Comptroller General of the United States in the report of the Comptroller General entitled “Military and Veterans Benefits: Enhanced Services Could Improve Transition Assistance for Reserves and National Guard” (GAO 05-544).

(b) PARTICULAR INFORMATION.—If the Secretary has determined in the course of the review described in subsection (a) not to implement any recommendation of the Comptroller General described in that subsection, the report under that subsection shall include a justification of such determination.

SEC. 8121. (a) The Secretary of the Navy may, subject to the terms and conditions of the Secretary, donate the World War II-era marine railway located at the United States Naval Academy, Annapolis, Maryland, to the Richardson Maritime Heritage Center, Cambridge, Maryland.

(b) The marine railway donated under subsection (a) may not be used for commercial purposes.

SEC. 8122. The Secretary of Defense may present promotional materials, including a United States flag, to any member of an Active or Reserve component under the Secretary’s jurisdiction who, as determined by the Secretary, participates in Operation Enduring Freedom or Operation Iraqi Freedom, along with other recognition items in conjunction with any week-long national observation and day of national celebration, if established by Presidential proclamation, for any such members returning from such operations.

SEC. 8123. Section 8013 of the Department of Defense Appropriations Act, 1994 (Public Law 103-139; 107 Stat. 1440) is amended by striking “the report to the President from the Defense Base Closure and Realignment Commission, July 1991” and inserting “the reports to the President from the Defense Base Closure and Realignment Commission, July 1991 and July 1993”.

SEC. 8124. (a) INCREASE IN RATE OF BASIC PAY.—

(1) INCREASE.—Footnote 2 to the table on Enlisted Members in section 601(b) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108-136; 37 U.S.C. 1009 note) is amended by striking “or Master Chief Petty Officer of the Coast Guard” and inserting “Master Chief Petty Officer of the Coast Guard, or Senior Enlisted Advisor to the Chairman of the Joint Chiefs of Staff”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on September 1, 2005, and shall apply with respect to months beginning on or after that date.

(b) PERSONAL MONEY ALLOWANCE.—Section 414(c) of title 37, United States Code, is amended by striking “or the Master Chief Petty Officer of the Coast Guard” and inserting “the Master Chief Petty Officer of the Coast Guard, or the Senior Enlisted Advisor to the Chairman of the Joint Chiefs of Staff”.

SEC. 8125. Notwithstanding any other provision of this Act, to reflect savings from revised economic assumptions the total amount appropriated in title II of this Act is hereby reduced by \$195,260,000, the total amount appropriated in title III of this Act is hereby reduced by \$263,875,000, and the total amount appropriated in title IV of this Act is hereby reduced by \$312,165,000: *Provided*, That the Secretary of Defense shall allocate this reduction proportionally to each budget activity, activity group, subactivity group, and each program, project, and activity, within each appropriation account.

37 USC 1009
note.

Support Our
Scouts Act of
2005.
10 USC 101 note.
5 USC 301 note.

SEC. 8126. SUPPORT FOR YOUTH ORGANIZATIONS. (a) SHORT TITLE.—This Act may be cited as the “Support Our Scouts Act of 2005”.

(b) SUPPORT FOR YOUTH ORGANIZATIONS.—

(1) DEFINITIONS.—In this subsection—

(A) the term “Federal agency” means each department, agency, instrumentality, or other entity of the United States Government; and

(B) the term “youth organization”—

(i) means any organization that is designated by the President as an organization that is primarily intended to—

(I) serve individuals under the age of 21 years;

(II) provide training in citizenship, leadership, physical fitness, service to community, and teamwork; and

(III) promote the development of character and ethical and moral values; and

(ii) shall include—

(I) the Boy Scouts of America;

(II) the Girl Scouts of the United States of America;

(III) the Boys Clubs of America;

(IV) the Girls Clubs of America;

(V) the Young Men’s Christian Association;

(VI) the Young Women’s Christian Association;

(VII) the Civil Air Patrol;

(VIII) the United States Olympic Committee;

(IX) the Special Olympics;

(X) Campfire USA;

(XI) the Young Marines;

(XII) the Naval Sea Cadets Corps;

(XIII) 4-H Clubs;

(XIV) the Police Athletic League;

(XV) Big Brothers—Big Sisters of America;

and

(XVI) National Guard Youth Challenge.

(2) IN GENERAL.—

(A) SUPPORT FOR YOUTH ORGANIZATIONS.—

(i) SUPPORT.—No Federal law (including any rule, regulation, directive, instruction, or order) shall be construed to limit any Federal agency from providing any form of support for a youth organization (including the Boy Scouts of America or any group officially affiliated with the Boy Scouts of America) that would result in that Federal agency providing less support to that youth organization (or any similar organization chartered under the chapter of title 36, United States Code, relating to that youth organization) than was provided during the preceding fiscal year. This clause shall be subject to the availability of appropriations.

(ii) YOUTH ORGANIZATIONS THAT CEASE TO EXIST.—Clause (i) shall not apply to any youth organization that ceases to exist.

(iii) WAIVERS.—The head of a Federal agency may waive the application of clause (i) to any youth

organization with respect to each conviction or investigation described under subclause (I) or (II) for a period of not more than 2 fiscal years if—

(I) any senior officer (including any member of the board of directors) of the youth organization is convicted of a criminal offense relating to the official duties of that officer or the youth organization is convicted of a criminal offense; or

(II) the youth organization is the subject of a criminal investigation relating to fraudulent use or waste of Federal funds.

(B) TYPES OF SUPPORT.—Support described under this paragraph shall include—

(i) holding meetings, camping events, or other activities on Federal property;

(ii) hosting any official event of such organization;

(iii) loaning equipment; and

(iv) providing personnel services and logistical support.

(c) SUPPORT FOR SCOUT JAMBOREES.—

(1) FINDINGS.—Congress makes the following findings:

(A) Section 8 of article I of the Constitution of the United States commits exclusively to Congress the powers to raise and support armies, provide and maintain a Navy, and make rules for the government and regulation of the land and naval forces.

(B) Under those powers conferred by section 8 of article I of the Constitution of the United States to provide, support, and maintain the Armed Forces, it lies within the discretion of Congress to provide opportunities to train the Armed Forces.

(C) The primary purpose of the Armed Forces is to defend our national security and prepare for combat should the need arise.

(D) One of the most critical elements in defending the Nation and preparing for combat is training in conditions that simulate the preparation, logistics, and leadership required for defense and combat.

(E) Support for youth organization events simulates the preparation, logistics, and leadership required for defending our national security and preparing for combat.

(F) For example, Boy Scouts of America's National Scout Jamboree is a unique training event for the Armed Forces, as it requires the construction, maintenance, and disassembly of a "tent city" capable of supporting tens of thousands of people for a week or longer. Camporees at the United States Military Academy for Girl Scouts and Boy Scouts provide similar training opportunities on a smaller scale.

(2) SUPPORT.—Section 2554 of title 10, United States Code, is amended by adding at the end the following:

"(i)(1) The Secretary of Defense shall provide at least the same level of support under this section for a national or world Boy Scout Jamboree as was provided under this section for the preceding national or world Boy Scout Jamboree.

"(2) The Secretary of Defense may waive paragraph (1), if the Secretary—

10 USC 2554
note.

“(A) determines that providing the support subject to paragraph (1) would be detrimental to the national security of the United States; and

“(B) reports such a determination to the Congress in a timely manner, and before such support is not provided.”.

(d) **EQUAL ACCESS FOR YOUTH ORGANIZATIONS.**—Section 109 of the Housing and Community Development Act of 1974 (42 U.S.C. 5309) is amended—

(1) in the first sentence of subsection (b) by inserting “or (e)” after “subsection (a)”; and

(2) by adding at the end the following:

“(e) **EQUAL ACCESS.**—

“(1) **DEFINITION.**—In this subsection, the term ‘youth organization’ means any organization described under part B of subtitle II of title 36, United States Code, that is intended to serve individuals under the age of 21 years.

“(2) **IN GENERAL.**—No State or unit of general local government that has a designated open forum, limited public forum, or nonpublic forum and that is a recipient of assistance under this chapter shall deny equal access or a fair opportunity to meet to, or discriminate against, any youth organization, including the Boy Scouts of America or any group officially affiliated with the Boy Scouts of America, that wishes to conduct a meeting or otherwise participate in that designated open forum, limited public forum, or nonpublic forum.”.

10 USC note
prec. 2601.

SEC. 8127. REGULATIONS TO CLARIFY GIFT ACCEPTANCE POLICY FOR SERVICE MEMBERS AND THEIR FAMILIES. (a) **REGULATIONS.**—The Secretary of Defense shall prescribe regulations to provide that, subject to such limitations as may be specified in such regulations, members of the Armed Forces described in subsection (c), and the family members of such a member, may accept gifts from non-profit organizations, private parties, and other sources outside the Department of Defense, other than foreign governments and their agents. Such regulations shall apply uniformly to the Army, Navy, Air Force, and Marine Corps, and, to the maximum extent feasible, to the Coast Guard, and shall apply uniformly to the active and reserve components.

(b) **AUTHORITY.**—A member of the Armed Forces described in subsection (c) may accept gifts as provided in the regulations authorized in subsection (a), notwithstanding section 7353 of title 5, United States Code.

(c) **COVERED MEMBERS.**—A member of the Armed Forces is described in this subsection in the case of a member who is on active duty and who on or after September 11, 2001, and while on active duty, incurred an injury or illness—

(1) as described in section 1413a(e)(2) of title 10, United States Code; or

(2) in an operation or area designated as a combat operation or a combat zone, respectively, by the Secretary of Defense in accordance with the regulations prescribed under subsection (a).

(d) **DEADLINE FOR REGULATIONS.**—Regulations under subsection (a) shall be prescribed not later than 90 days after the date of the enactment of this Act.

(e) RETROACTIVE APPLICABILITY OF REGULATIONS.—Regulations under subsection (a) shall, to the extent provided in such regulations, also apply to the acceptance of gifts during the period beginning on September 11, 2001, and ending on the date on which such regulations go into effect.

SEC. 8128. Section 106(g) of the Alaska Natural Gas Pipeline Act (15 U.S.C. 720d) is amended by striking “later” and inserting “earlier”.

SEC. 8129. The present incumbent Attending Physician at the U.S. Capitol shall be continued on active duty until ten years after the enactment of this Act. Termination date.

TITLE IX

ADDITIONAL APPROPRIATIONS

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For an additional amount for “Military Personnel, Army”, \$4,713,245,000.

MILITARY PERSONNEL, NAVY

For an additional amount for “Military Personnel, Navy”, \$144,000,000.

MILITARY PERSONNEL, MARINE CORPS

For an additional amount for “Military Personnel, Marine Corps”, \$455,000,000.

MILITARY PERSONNEL, AIR FORCE

For an additional amount for “Military Personnel, Air Force”, \$508,000,000.

RESERVE PERSONNEL, ARMY

For an additional amount for “Reserve Personnel, Army”, \$138,755,000.

RESERVE PERSONNEL, NAVY

For an additional amount for “Reserve Personnel, Navy”, \$10,000,000.

NATIONAL GUARD PERSONNEL, ARMY

For an additional amount for “National Guard Personnel, Army”, \$234,400,000.

NATIONAL GUARD PERSONNEL, AIR FORCE

For an additional amount for “National Guard Personnel, Air Force”, \$3,200,000.

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For an additional amount for “Operation and Maintenance, Army”, \$21,348,886,000.

OPERATION AND MAINTENANCE, NAVY

For an additional amount for “Operation and Maintenance, Navy”, \$1,810,500,000.

OPERATION AND MAINTENANCE, MARINE CORPS

For an additional amount for “Operation and Maintenance, Marine Corps”, \$1,833,126,000.

OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for “Operation and Maintenance, Air Force”, \$2,483,900,000.

OPERATION AND MAINTENANCE, DEFENSE-WIDE

For an additional amount for “Operation and Maintenance, Defense-Wide”, \$805,000,000, of which up to \$195,000,000, to remain available until expended, may be used for payments to reimburse Pakistan, Jordan, and other key cooperating nations, for logistical, military, and other support provided, or to be provided, to United States military operations, notwithstanding any other provision of law: *Provided*, That such payments may be made in such amounts as the Secretary of Defense, with the concurrence of the Secretary of State, and in consultation with the Director of the Office of Management and Budget, may determine, in his discretion, based on documentation determined by the Secretary of Defense to adequately account for the support provided, and such determination is final and conclusive upon the accounting officers of the United States, and 15 days following notification to the appropriate congressional committees: *Provided further*, That the Secretary of Defense shall provide quarterly reports to the congressional defense committees on the use of funds provided in this paragraph.

Reports.

OPERATION AND MAINTENANCE, ARMY RESERVE

For an additional amount for “Operation and Maintenance, Army Reserve”, \$48,200,000.

OPERATION AND MAINTENANCE, NAVY RESERVE

For an additional amount for “Operation and Maintenance, Navy Reserve”, \$6,400,000.

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For an additional amount for “Operation and Maintenance, Marine Corps Reserve”, \$27,950,000.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For an additional amount for “Operation and Maintenance, Air Force Reserve”, \$5,000,000.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For an additional amount for “Operation and Maintenance, Army National Guard”, \$183,000,000.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For an additional amount for “Operation and Maintenance, Air National Guard”, \$7,200,000.

IRAQ FREEDOM FUND

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for “Iraq Freedom Fund”, \$4,658,686,000, to remain available for transfer until September 30, 2007, only to support operations in Iraq or Afghanistan and classified activities: *Provided*, That the Secretary of Defense may transfer the funds provided herein to appropriations for military personnel; operation and maintenance; Overseas Humanitarian, Disaster, and Civic Aid; procurement; research, development, test and evaluation; and working capital funds: *Provided further*, That of the amounts provided under this heading, \$3,048,686,000 shall only be for classified programs, described in further detail in the classified annex accompanying this Act: *Provided further*, That up to \$100,000,000 shall be available for the Department of Homeland Security, “United States Coast Guard, Operating Expenses”: *Provided further*, That not less than \$1,360,000,000 shall be available for the Joint IED Defeat Task Force: *Provided further*, That funds transferred shall be merged with and be available for the same purposes and for the same time period as the appropriation or fund to which transferred: *Provided further*, That this transfer authority is in addition to any other transfer authority available to the Department of Defense: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further*, That the Secretary of Defense shall, not fewer than 5 days prior to making transfers from this appropriation, notify the congressional defense committees in writing of the details of any such transfer: *Provided further*, That the Secretary shall submit a report no later than 30 days after the end of each fiscal quarter to the congressional defense committees summarizing the details of the transfer of funds from this appropriation.

Notification.

Reports.
Deadline.

PROCUREMENT

AIRCRAFT PROCUREMENT, ARMY

For an additional amount for “Aircraft Procurement, Army”, \$232,100,000, to remain available until September 30, 2008.

MISSILE PROCUREMENT, ARMY

For an additional amount for “Missile Procurement, Army”, \$55,000,000, to remain available until September 30, 2008.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES,
ARMY

For an additional amount for “Procurement of Weapons and Tracked Combat Vehicles, Army”, \$860,190,000, to remain available until September 30, 2008.

PROCUREMENT OF AMMUNITION, ARMY

For an additional amount for “Procurement of Ammunition, Army”, \$273,000,000, to remain available until September 30, 2008.

OTHER PROCUREMENT, ARMY

For an additional amount for “Other Procurement, Army”, \$3,174,900,000, to remain available until September 30, 2008.

AIRCRAFT PROCUREMENT, NAVY

For an additional amount for “Aircraft Procurement, Navy”, \$138,837,000, to remain available until September 30, 2008.

WEAPONS PROCUREMENT, NAVY

For an additional amount for “Weapons Procurement, Navy”, \$116,900,000, to remain available until September 30, 2008.

PROCUREMENT OF AMMUNITION, NAVY AND MARINE CORPS

For an additional amount for “Procurement of Ammunition, Navy and Marine Corps”, \$38,885,000, to remain available until September 30, 2008.

OTHER PROCUREMENT, NAVY

For an additional amount for “Other Procurement, Navy”, \$49,100,000, to remain available until September 30, 2008.

PROCUREMENT, MARINE CORPS

For an additional amount for “Procurement, Marine Corps”, \$1,710,145,000, to remain available until September 30, 2008.

AIRCRAFT PROCUREMENT, AIR FORCE

For an additional amount for “Aircraft Procurement, Air Force”, \$115,300,000, to remain available until September 30, 2008.

MISSILE PROCUREMENT, AIR FORCE

For an additional amount for “Missile Procurement, Air Force”, \$17,000,000, to remain available until September 30, 2008.

OTHER PROCUREMENT, AIR FORCE

For an additional amount for “Other Procurement, Air Force”, \$17,500,000, to remain available until September 30, 2008.

PROCUREMENT, DEFENSE-WIDE

For an additional amount for “Procurement, Defense-Wide”, \$182,075,000, to remain available until September 30, 2008.

NATIONAL GUARD AND RESERVE EQUIPMENT

For an additional amount for “National Guard and Reserve Equipment”, \$1,000,000,000, to remain available until September 30, 2008.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

For an additional amount for “Research, Development, Test and Evaluation, Army”, \$13,100,000, to remain available until September 30, 2007.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

For an additional amount for “Research, Development, Test and Evaluation, Air Force”, \$12,500,000, to remain available until September 30, 2007.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE

For an additional amount for “Research, Development, Test and Evaluation, Defense-Wide”, \$25,000,000, to remain available until September 30, 2007.

REVOLVING AND MANAGEMENT FUNDS

DEFENSE WORKING CAPITAL FUNDS

For an additional amount for “Defense Working Capital Funds”, \$2,516,400,000.

OTHER DEPARTMENT OF DEFENSE PROGRAMS

DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE

For an additional amount for “Drug Interdiction and Counter-Drug Activities, Defense”, \$27,620,000.

GENERAL PROVISIONS

SEC. 9001. Appropriations provided in this title are available for obligation until September 30, 2006, unless otherwise so provided in this title.

SEC. 9002. Notwithstanding any other provision of law or of this Act, funds made available in this title are in addition to amounts provided elsewhere in this Act.

(TRANSFER OF FUNDS)

Notification.

SEC. 9003. Upon his determination that such action is necessary in the national interest, the Secretary of Defense may transfer between appropriations up to \$2,500,000,000 of the funds made available to the Department of Defense in this title: *Provided*, That the Secretary shall notify the Congress promptly of each transfer made pursuant to the authority in this section: *Provided further*, That the authority provided in this section is in addition to any other transfer authority available to the Department of Defense and is subject to the same terms and conditions as the authority provided in section 8005 of this Act.

SEC. 9004. Funds appropriated in this title, or made available by the transfer of funds in or pursuant to this title, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414).

SEC. 9005. None of the funds provided in this title may be used to finance programs or activities denied by Congress in fiscal years 2005 or 2006 appropriations to the Department of Defense or to initiate a procurement or research, development, test and evaluation new start program without prior written notification to the congressional defense committees.

Notification.
Deadline.

SEC. 9006. Notwithstanding any other provision of law, of the funds made available in this title to the Department of Defense for operation and maintenance, not to exceed \$500,000,000 may be used by the Secretary of Defense, with the concurrence of the Secretary of State, to train, equip and provide related assistance only to military or security forces of Iraq and Afghanistan to enhance their capability to combat terrorism and to support United States military operations in Iraq and Afghanistan: *Provided*, That such assistance may include the provision of equipment, supplies, services, training, and funding: *Provided further*, That the authority to provide assistance under this section is in addition to any other authority to provide assistance to foreign nations: *Provided further*, That the Secretary of Defense shall notify the congressional defense committees, the Committee on International Relations of the House of Representatives, and the Committee on Foreign Relations of the Senate not less than 15 days before providing assistance under the authority of this section.

SEC. 9007. (a) From funds made available in this title to the Department of Defense, not to exceed \$500,000,000 may be used, notwithstanding any other provision of law, to fund the Commander's Emergency Response Program, for the purpose of enabling military commanders in Iraq to respond to urgent humanitarian relief and reconstruction requirements within their areas of responsibility by carrying out programs that will immediately assist the Iraqi people, and to fund a similar program to assist the people of Afghanistan.

(b) QUARTERLY REPORTS.—Not later than 15 days after the end of each fiscal year quarter (beginning with the first quarter of fiscal year 2006), the Secretary of Defense shall submit to the congressional defense committees a report regarding the source of funds and the allocation and use of funds during that quarter that were made available pursuant to the authority provided in this section or under any other provision of law for the purposes of the programs under subsection (a).

SEC. 9008. Amounts provided in this title for operations in Iraq and Afghanistan may be used by the Department of Defense for the purchase of up to 20 heavy and light armored vehicles for force protection purposes, notwithstanding price or other limitations specified elsewhere in this Act, or any other provision of law: *Provided*, That the Secretary of Defense shall submit a report in writing no later than 30 days after the end of each fiscal quarter notifying the congressional defense committees of any purchase described in this section, including the cost, purposes, and quantities of vehicles purchased.

Reports.
Deadline.

SEC. 9009. During the current fiscal year, funds available to the Department of Defense for operation and maintenance may be used, notwithstanding any other provision of law, to provide supplies, services, transportation, including airlift and sealift, and other logistical support to coalition forces supporting military and stability operations in Iraq and Afghanistan: *Provided*, That the Secretary of Defense shall provide quarterly reports to the congressional defense committees regarding support provided under this section.

Reports.

SEC. 9010. (a) Not later than 60 days after the date of the enactment of this Act and every 90 days thereafter through the end of fiscal year 2006, the Secretary of Defense shall set forth in a report to Congress a comprehensive set of performance indicators and measures for progress toward military and political stability in Iraq.

Reports.
Deadline.

(b) The report shall include performance standards and goals for security, economic, and security force training objectives in Iraq together with a notional timetable for achieving these goals.

(c) In specific, the report requires, at a minimum, the following:

(1) With respect to stability and security in Iraq, the following:

(A) Key measures of political stability, including the important political milestones that must be achieved over the next several years.

(B) The primary indicators of a stable security environment in Iraq, such as number of engagements per day, numbers of trained Iraqi forces, and trends relating to numbers and types of ethnic and religious-based hostile encounters.

(C) An assessment of the estimated strength of the insurgency in Iraq and the extent to which it is composed of non-Iraqi fighters.

(D) A description of all militias operating in Iraq, including the number, size, equipment strength, military effectiveness, sources of support, legal status, and efforts to disarm or reintegrate each militia.

(E) Key indicators of economic activity that should be considered the most important for determining the prospects of stability in Iraq, including—

- (i) unemployment levels;
- (ii) electricity, water, and oil production rates; and
- (iii) hunger and poverty levels.

(F) The criteria the Administration will use to determine when it is safe to begin withdrawing United States forces from Iraq.

(2) With respect to the training and performance of security forces in Iraq, the following:

(A) The training provided Iraqi military and other Ministry of Defense forces and the equipment used by such forces.

(B) Key criteria for assessing the capabilities and readiness of the Iraqi military and other Ministry of Defense forces, goals for achieving certain capability and readiness levels (as well as for recruiting, training, and equipping these forces), and the milestones and notional timetable for achieving these goals.

(C) The operational readiness status of the Iraqi military forces, including the type, number, size, and organizational structure of Iraqi battalions that are—

(i) capable of conducting counterinsurgency operations independently;

(ii) capable of conducting counterinsurgency operations with the support of United States or coalition forces; or

(iii) not ready to conduct counterinsurgency operations.

(D) The rates of absenteeism in the Iraqi military forces and the extent to which insurgents have infiltrated such forces.

(E) The training provided Iraqi police and other Ministry of Interior forces and the equipment used by such forces.

(F) Key criteria for assessing the capabilities and readiness of the Iraqi police and other Ministry of Interior forces, goals for achieving certain capability and readiness levels (as well as for recruiting, training, and equipping), and the milestones and notional timetable for achieving these goals, including—

(i) the number of police recruits that have received classroom training and the duration of such instruction;

(ii) the number of veteran police officers who have received classroom instruction and the duration of such instruction;

(iii) the number of police candidates screened by the Iraqi Police Screening Service, the number of candidates derived from other entry procedures, and the success rates of those groups of candidates;

(iv) the number of Iraqi police forces who have received field training by international police trainers and the duration of such instruction; and

(v) attrition rates and measures of absenteeism and infiltration by insurgents.

(G) The estimated total number of Iraqi battalions needed for the Iraqi security forces to perform duties now being undertaken by coalition forces, including defending the borders of Iraq and providing adequate levels of law and order throughout Iraq.

(H) The effectiveness of the Iraqi military and police officer cadres and the chain of command.

(I) The number of United States and coalition advisors needed to support the Iraqi security forces and associated ministries.

(J) An assessment, in a classified annex if necessary, of United States military requirements, including planned force rotations, through the end of calendar year 2006.

SEC. 9011. Supervision and administration costs associated with a construction project funded with appropriations available for operation and maintenance, and executed in direct support of the Global War on Terrorism only in Iraq and Afghanistan, may be obligated at the time a construction contract is awarded: *Provided*, That for the purpose of this section, supervision and administration costs include all in-house Government costs.

SEC. 9012. Amounts appropriated or otherwise made available in this title are designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

TITLE X—MATTERS RELATING TO DETAINEES

Detainee
Treatment Act of
2005.

SEC. 1001. SHORT TITLE.

This title may be cited as the “Detainee Treatment Act of 2005”.

42 USC 2000dd
note.

SEC. 1002. UNIFORM STANDARDS FOR THE INTERROGATION OF PERSONS UNDER THE DETENTION OF THE DEPARTMENT OF DEFENSE.

10 USC 801 note.

(a) IN GENERAL.—No person in the custody or under the effective control of the Department of Defense or under detention in a Department of Defense facility shall be subject to any treatment or technique of interrogation not authorized by and listed in the United States Army Field Manual on Intelligence Interrogation.

(b) APPLICABILITY.—Subsection (a) shall not apply with respect to any person in the custody or under the effective control of the Department of Defense pursuant to a criminal law or immigration law of the United States.

(c) CONSTRUCTION.—Nothing in this section shall be construed to affect the rights under the United States Constitution of any person in the custody or under the physical jurisdiction of the United States.

SEC. 1003. PROHIBITION ON CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT OF PERSONS UNDER CUSTODY OR CONTROL OF THE UNITED STATES GOVERNMENT.

42 USC 2000dd.

(a) IN GENERAL.—No individual in the custody or under the physical control of the United States Government, regardless of nationality or physical location, shall be subject to cruel, inhuman, or degrading treatment or punishment.

(b) CONSTRUCTION.—Nothing in this section shall be construed to impose any geographical limitation on the applicability of the prohibition against cruel, inhuman, or degrading treatment or punishment under this section.

(c) LIMITATION ON SUPERSEDITION.—The provisions of this section shall not be superseded, except by a provision of law enacted after the date of the enactment of this Act which specifically repeals, modifies, or supersedes the provisions of this section.

(d) CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT DEFINED.—In this section, the term “cruel, inhuman, or degrading treatment or punishment” means the cruel, unusual, and inhumane treatment or punishment prohibited by the Fifth, Eighth, and Fourteenth Amendments to the Constitution of the United States, as defined in the United States Reservations, Declarations and Understandings to the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment done at New York, December 10, 1984.

42 USC
2000dd-1.

SEC. 1004. PROTECTION OF UNITED STATES GOVERNMENT PERSONNEL ENGAGED IN AUTHORIZED INTERROGATIONS.

(a) PROTECTION OF UNITED STATES GOVERNMENT PERSONNEL.—In any civil action or criminal prosecution against an officer, employee, member of the Armed Forces, or other agent of the United States Government who is a United States person, arising out of the officer, employee, member of the Armed Forces, or other agent’s engaging in specific operational practices, that involve detention and interrogation of aliens who the President or his designees have determined are believed to be engaged in or associated with international terrorist activity that poses a serious, continuing threat to the United States, its interests, or its allies, and that were officially authorized and determined to be lawful at the time that they were conducted, it shall be a defense that such officer, employee, member of the Armed Forces, or other agent did not know that the practices were unlawful and a person of ordinary sense and understanding would not know the practices were unlawful. Good faith reliance on advice of counsel should be an important factor, among others, to consider in assessing whether a person of ordinary sense and understanding would have known the practices to be unlawful. Nothing in this section shall be construed to limit or extinguish any defense or protection otherwise available to any person or entity from suit, civil or criminal liability, or damages, or to provide immunity from prosecution for any criminal offense by the proper authorities.

(b) COUNSEL.—The United States Government may provide or employ counsel, and pay counsel fees, court costs, bail, and other expenses incident to the representation of an officer, employee, member of the Armed Forces, or other agent described in subsection (a), with respect to any civil action or criminal prosecution arising out of practices described in that subsection, under the same conditions, and to the same extent, to which such services and payments are authorized under section 1037 of title 10, United States Code.

10 USC 801 note.

SEC. 1005. PROCEDURES FOR STATUS REVIEW OF DETAINEES OUTSIDE THE UNITED STATES.

(a) SUBMITTAL OF PROCEDURES FOR STATUS REVIEW OF DETAINEES AT GUANTANAMO BAY, CUBA, AND IN AFGHANISTAN AND IRAQ.—

Reports.
Deadline.

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committee on Armed Services and the Committee on the Judiciary of the Senate and the Committee on Armed Services and the Committee on the Judiciary of the House of Representatives a report setting forth—

(A) the procedures of the Combatant Status Review Tribunals and the Administrative Review Boards established by direction of the Secretary of Defense that are

in operation at Guantanamo Bay, Cuba, for determining the status of the detainees held at Guantanamo Bay or to provide an annual review to determine the need to continue to detain an alien who is a detainee; and

(B) the procedures in operation in Afghanistan and Iraq for a determination of the status of aliens detained in the custody or under the physical control of the Department of Defense in those countries.

(2) DESIGNATED CIVILIAN OFFICIAL.—The procedures submitted to Congress pursuant to paragraph (1)(A) shall ensure that the official of the Department of Defense who is designated by the President or Secretary of Defense to be the final review authority within the Department of Defense with respect to decisions of any such tribunal or board (referred to as the “Designated Civilian Official”) shall be a civilian officer of the Department of Defense holding an office to which appointments are required by law to be made by the President, by and with the advice and consent of the Senate.

(3) CONSIDERATION OF NEW EVIDENCE.—The procedures submitted under paragraph (1)(A) shall provide for periodic review of any new evidence that may become available relating to the enemy combatant status of a detainee.

(b) CONSIDERATION OF STATEMENTS DERIVED WITH COERCION.—

(1) ASSESSMENT.—The procedures submitted to Congress pursuant to subsection (a)(1)(A) shall ensure that a Combatant Status Review Tribunal or Administrative Review Board, or any similar or successor administrative tribunal or board, in making a determination of status or disposition of any detainee under such procedures, shall, to the extent practicable, assess—

(A) whether any statement derived from or relating to such detainee was obtained as a result of coercion; and

(B) the probative value (if any) of any such statement.

(2) APPLICABILITY.—Paragraph (1) applies with respect to any proceeding beginning on or after the date of the enactment of this Act.

(c) REPORT ON MODIFICATION OF PROCEDURES.—The Secretary of Defense shall submit to the committees specified in subsection (a)(1) a report on any modification of the procedures submitted under subsection (a). Any such report shall be submitted not later than 60 days before the date on which such modification goes into effect.

(d) ANNUAL REPORT.—

(1) REPORT REQUIRED.—The Secretary of Defense shall submit to Congress an annual report on the annual review process for aliens in the custody of the Department of Defense outside the United States. Each such report shall be submitted in unclassified form, with a classified annex, if necessary. The report shall be submitted not later than December 31 each year.

(2) ELEMENTS OF REPORT.—Each such report shall include the following with respect to the year covered by the report:

(A) The number of detainees whose status was reviewed.

(B) The procedures used at each location.

(e) JUDICIAL REVIEW OF DETENTION OF ENEMY COMBATANTS.—

(1) IN GENERAL.—Section 2241 of title 28, United States Code, is amended by adding at the end the following:

“(e) Except as provided in section 1005 of the Detainee Treatment Act of 2005, no court, justice, or judge shall have jurisdiction to hear or consider—

“(1) an application for a writ of habeas corpus filed by or on behalf of an alien detained by the Department of Defense at Guantanamo Bay, Cuba; or

“(2) any other action against the United States or its agents relating to any aspect of the detention by the Department of Defense of an alien at Guantanamo Bay, Cuba, who—

“(A) is currently in military custody; or

“(B) has been determined by the United States Court of Appeals for the District of Columbia Circuit in accordance with the procedures set forth in section 1005(e) of the Detainee Treatment Act of 2005 to have been properly detained as an enemy combatant.”.

(2) REVIEW OF DECISIONS OF COMBATANT STATUS REVIEW TRIBUNALS OF PROPRIETY OF DETENTION.—

(A) IN GENERAL.—Subject to subparagraphs (B), (C), and (D), the United States Court of Appeals for the District of Columbia Circuit shall have exclusive jurisdiction to determine the validity of any final decision of a Combatant Status Review Tribunal that an alien is properly detained as an enemy combatant.

(B) LIMITATION ON CLAIMS.—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit under this paragraph shall be limited to claims brought by or on behalf of an alien—

(i) who is, at the time a request for review by such court is filed, detained by the Department of Defense at Guantanamo Bay, Cuba; and

(ii) for whom a Combatant Status Review Tribunal has been conducted, pursuant to applicable procedures specified by the Secretary of Defense.

(C) SCOPE OF REVIEW.—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit on any claims with respect to an alien under this paragraph shall be limited to the consideration of—

(i) whether the status determination of the Combatant Status Review Tribunal with regard to such alien was consistent with the standards and procedures specified by the Secretary of Defense for Combatant Status Review Tribunals (including the requirement that the conclusion of the Tribunal be supported by a preponderance of the evidence and allowing a rebuttable presumption in favor of the Government's evidence); and

(ii) to the extent the Constitution and laws of the United States are applicable, whether the use of such standards and procedures to make the determination is consistent with the Constitution and laws of the United States.

(D) TERMINATION ON RELEASE FROM CUSTODY.—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit with respect to the claims of an alien under this paragraph shall cease upon the

release of such alien from the custody of the Department of Defense.

(3) REVIEW OF FINAL DECISIONS OF MILITARY COMMISSIONS.—

(A) IN GENERAL.—Subject to subparagraphs (B), (C), and (D), the United States Court of Appeals for the District of Columbia Circuit shall have exclusive jurisdiction to determine the validity of any final decision rendered pursuant to Military Commission Order No. 1, dated August 31, 2005 (or any successor military order).

(B) GRANT OF REVIEW.—Review under this paragraph—

(i) with respect to a capital case or a case in which the alien was sentenced to a term of imprisonment of 10 years or more, shall be as of right; or

(ii) with respect to any other case, shall be at the discretion of the United States Court of Appeals for the District of Columbia Circuit.

(C) LIMITATION ON APPEALS.—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit under this paragraph shall be limited to an appeal brought by or on behalf of an alien—

(i) who was, at the time of the proceedings pursuant to the military order referred to in subparagraph (A), detained by the Department of Defense at Guantanamo Bay, Cuba; and

(ii) for whom a final decision has been rendered pursuant to such military order.

(D) SCOPE OF REVIEW.—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit on an appeal of a final decision with respect to an alien under this paragraph shall be limited to the consideration of—

(i) whether the final decision was consistent with the standards and procedures specified in the military order referred to in subparagraph (A); and

(ii) to the extent the Constitution and laws of the United States are applicable, whether the use of such standards and procedures to reach the final decision is consistent with the Constitution and laws of the United States.

(4) RESPONDENT.—The Secretary of Defense shall be the named respondent in any appeal to the United States Court of Appeals for the District of Columbia Circuit under this subsection.

(f) CONSTRUCTION.—Nothing in this section shall be construed to confer any constitutional right on an alien detained as an enemy combatant outside the United States.

(g) UNITED STATES DEFINED.—For purposes of this section, the term “United States”, when used in a geographic sense, is as defined in section 101(a)(38) of the Immigration and Nationality Act and, in particular, does not include the United States Naval Station, Guantanamo Bay, Cuba.

(h) EFFECTIVE DATE.—

(1) IN GENERAL.—This section shall take effect on the date of the enactment of this Act.

(2) REVIEW OF COMBATANT STATUS TRIBUNAL AND MILITARY COMMISSION DECISIONS.—Paragraphs (2) and (3) of subsection

(e) shall apply with respect to any claim whose review is governed by one of such paragraphs and that is pending on or after the date of the enactment of this Act.

SEC. 1006. TRAINING OF IRAQI FORCES REGARDING TREATMENT OF DETAINEES.

(a) REQUIRED POLICIES.—

(1) **IN GENERAL.**—The Secretary of Defense shall ensure that policies are prescribed regarding procedures for military and civilian personnel of the Department of Defense and contractor personnel of the Department of Defense in Iraq that are intended to ensure that members of the Armed Forces, and all persons acting on behalf of the Armed Forces or within facilities of the Armed Forces, ensure that all personnel of Iraqi military forces who are trained by Department of Defense personnel and contractor personnel of the Department of Defense receive training regarding the international obligations and laws applicable to the humane detention of detainees, including protections afforded under the Geneva Conventions and the Convention Against Torture.

(2) **ACKNOWLEDGMENT OF TRAINING.**—The Secretary shall ensure that, for all personnel of the Iraqi Security Forces who are provided training referred to in paragraph (1), there is documented acknowledgment of such training having been provided.

(3) **DEADLINE FOR POLICIES TO BE PRESCRIBED.**—The policies required by paragraph (1) shall be prescribed not later than 180 days after the date of the enactment of this Act.

(b) ARMY FIELD MANUAL.—

(1) **TRANSLATION.**—The Secretary of Defense shall provide for the United States Army Field Manual on Intelligence Interrogation to be translated into arabic and any other language the Secretary determines appropriate for use by members of the Iraqi military forces.

(2) **DISTRIBUTION.**—The Secretary of Defense shall provide for such manual, as translated, to be provided to each unit of the Iraqi military forces trained by Department of Defense personnel or contractor personnel of the Department of Defense.

(c) **TRANSMITTAL OF REGULATIONS.**—Not less than 30 days after the date on which regulations, policies, and orders are first prescribed under subsection (a), the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives copies of such regulations, policies, or orders, together with a report on steps taken to the date of the report to implement this section.

(d) **ANNUAL REPORT.**—Not less than one year after the date of the enactment of this Act, and annually thereafter, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the implementation of this section.

This division may be cited as the “Department of Defense Appropriations Act, 2006”.

Records.
Reports.

DIVISION B

EMERGENCY SUPPLEMENTAL APPROPRIATIONS TO ADDRESS HURRICANES IN THE GULF OF MEXICO AND PANDEMIC INFLUENZA, 2006

Emergency
Supplemental
Appropriations
Act to Address
Hurricanes in the
Gulf of Mexico
and Pandemic
Influenza, 2006.

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to address hurricanes in the Gulf of Mexico and pandemic influenza for the fiscal year ending September 30, 2006, and for other purposes, namely:

TITLE I

EMERGENCY SUPPLEMENTAL APPROPRIATIONS TO ADDRESS HURRICANES IN THE GULF OF MEXICO

CHAPTER 1

DEPARTMENT OF AGRICULTURE

EXECUTIVE OPERATIONS

WORKING CAPITAL FUND

For necessary expenses of “Working Capital Fund” related to the consequences of Hurricane Katrina, \$35,000,000, to remain available until expended: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

AGRICULTURAL RESEARCH SERVICE

BUILDINGS AND FACILITIES

For an additional amount for “Buildings and Facilities”, \$9,200,000, to remain available until September 30, 2007, for necessary expenses related to the consequences of Hurricane Katrina: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

RURAL DEVELOPMENT PROGRAMS

RURAL COMMUNITY ADVANCEMENT PROGRAM

For the cost of grants for the water, waste disposal, and wastewater facilities programs authorized under section 306(a) and 306A of the Consolidated Farm and Rural Development Act, \$45,000,000: *Provided*, That funds made available under this paragraph shall remain available until expended to respond to damage caused by hurricanes that occurred during the 2005 calendar year: *Provided further*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

RURAL HOUSING SERVICE

RURAL HOUSING INSURANCE FUND PROGRAM ACCOUNT

For gross obligations for the principal amount of direct and guaranteed loans as authorized by title V of the Housing Act of 1949 to respond to damage caused by hurricanes that occurred during the 2005 calendar year to be available from the Rural Housing Insurance Fund, as follows: \$1,468,696,000 for loans to section 502 borrowers, as determined by the Secretary, of which \$175,593,000 shall be for direct loans and of which \$1,293,103,000 shall be for unsubsidized guaranteed loans; and \$34,188,000 for section 504 housing repair loans.

For the cost of direct and guaranteed loans, including the cost of modifying loans, as defined in section 502 of the Congressional Budget Act of 1974, as follows, to remain available until expended: section 502 loans, \$35,000,000, of which \$20,000,000 shall be for direct loans, and of which \$15,000,000 shall be for unsubsidized guaranteed loans; and section 504 housing repair loans, \$10,000,000: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

RURAL HOUSING ASSISTANCE GRANTS

For an additional amount for grants for very low-income housing repairs as authorized by 42 U.S.C. 1474 to respond to damage caused by hurricanes that occurred during the 2005 calendar year, \$20,000,000, to remain available until expended: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006: *Provided further*, That these funds are not subject to any age limitation.

RURAL UTILITIES SERVICE

RURAL ELECTRIFICATION AND TELECOMMUNICATIONS LOANS PROGRAM
ACCOUNT

For gross obligations for the principal amount of direct rural telecommunication loans as authorized by section 306 of the Rural Electrification Act of 1936 to respond to damage caused by hurricanes that occurred during the 2005 calendar year, \$50,000,000, as determined by the Secretary.

For the cost of loan modifications to rural electric loans made or guaranteed under the Rural Electrification Act of 1936 to respond to damage caused by hurricanes that occurred during the 2005 calendar year, \$8,000,000, to remain available until expended: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

FOOD AND NUTRITION SERVICE

COMMODITY ASSISTANCE PROGRAM

For an additional amount for “Commodity Assistance Program” for necessary expenses related to the consequences of Hurricane Katrina, \$10,000,000, to remain available until expended, of which \$6,000,000 shall be for The Emergency Food Assistance Program and \$4,000,000 shall be for the Commodity Supplemental Food Program: *Provided*, That notwithstanding any other provisions of the Emergency Food Assistance Act of 1983 (the “Act”), the Secretary may allocate additional foods and funds for administrative expenses from resources specifically appropriated, transferred, or reprogrammed to restore to states resources used to assist families and individuals displaced by the hurricanes of calendar year 2005 among the states without regard to sections 204 and 214 of the Act: *Provided further*, That such programs may operate in any area where emergency feeding organizations develop a program to provide temporary emergency nonprofit food service to families and individuals displaced by the hurricanes of calendar year 2005: *Provided further*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 101. EMERGENCY CONSERVATION PROGRAM. (a) IN GENERAL.—There is hereby appropriated \$199,800,000, to remain available until expended, to provide assistance under the emergency conservation program established under title IV of the Agricultural Credit Act of 1978 (16 U.S.C. 2201 et seq.) for expenses resulting from hurricanes that occurred during the 2005 calendar year.

(b) ASSISTANCE TO NURSERY, OYSTER, AND POULTRY PRODUCERS.—In carrying out this section, the Secretary shall make payments to nursery, oyster, and poultry producers to pay for up to 90 percent of the cost of emergency measures to rehabilitate public and private oyster reefs or farmland damaged by hurricanes that occurred during the 2005 calendar year, including the cost of—

- (1) cleaning up structures, such as barns and poultry houses;
- (2) providing water to livestock;
- (3) in the case of nursery producers, removing debris, such as nursery structures, shade-houses, and above-ground irrigation facilities;
- (4) in the case of oyster producers, refurbishing oyster beds; and
- (5) in the case of poultry producers, removing poultry house debris, including carcasses.

(c) POULTRY RECOVERY ASSISTANCE.—

(1) IN GENERAL.—The Secretary shall not use more than \$20,000,000 of the funds made available under this section to provide assistance to poultry growers who suffered uninsured losses to poultry houses in counties affected by hurricanes that occurred during the 2005 calendar year.

(2) LIMITATIONS.—The amount of assistance provided to a poultry grower under this subsection may not exceed the lesser of—

(A) 50 percent of the total costs associated with the reconstruction or repair of a poultry house; or

(B) \$50,000 for each poultry house.

(3) LIMIT ON AMOUNT OF ASSISTANCE.—The total amount of assistance provided under this subsection, and any indemnities for losses to a poultry house paid to a poultry grower, may not exceed 90 percent of the total costs associated with the reconstruction or repair of a poultry house.

(d) ASSISTANCE TO PRIVATE NONINDUSTRIAL FOREST LAND-OWNERS.—

(1) ELIGIBILITY.—To be eligible to receive a payment under this section, a private nonindustrial forest landowner shall (as determined by the Secretary)—

(A) have suffered a loss of, or damage to, at least 35 percent of forest acres on commercial forest land of the forest landowner in a county affected by hurricanes that occurred during the 2005 calendar year, or a related condition; and

(B) during the 5-year period beginning on the date of the loss—

(i) reforest the lost forest acres, in accordance with a plan approved by the Secretary that is appropriate for the forest type;

(ii) use best management practices on the forest land of the landowner, in accordance with the best management practices of the Secretary for the applicable State; and

(iii) exercise good stewardship on the forest land of the landowner, while maintaining the land in a forested state.

(2) PROGRAM.—The Secretary shall make payments under this subsection to private nonindustrial forest landowners to pay for up to 75 percent of the cost of reforestation, rehabilitation, and related measures, except that the amount of assistance provided under this subsection shall not exceed \$150 per acre.

(e) ELIGIBILITY.—Failure to comply with subtitle C of title XII of the Food Security Act of 1985 (16 U.S.C. 3821 et seq.) shall not prevent an agricultural producer from receiving assistance under this section.

(f) EMERGENCY DESIGNATION.—The amount provided under this section is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

SEC. 102. EMERGENCY WATERSHED PROTECTION PROGRAM. (a) IN GENERAL.—There is hereby appropriated \$300,000,000, to remain available until expended, to provide assistance under the emergency watershed protection program established under section 403 of the Agricultural Credit Act of 1978 (16 U.S.C. 2203) to repair damages resulting from hurricanes that occurred during the 2005 calendar year.

(b) ASSISTANCE.—In carrying out this section, the Secretary shall make payments to landowners and land users to pay for up to 75 percent of the cost resulting from damage caused by

hurricanes that occurred during the 2005 calendar year, or a related condition, including the cost of—

(1) cleaning up structures on private land; and

(2) reimbursing private nonindustrial forest landowners for costs associated with downed timber removal, except that the amount of assistance provided under this paragraph shall not exceed \$150 per acre.

(c) Notwithstanding any other provision of law, the Secretary, acting through the Natural Resources Conservation Service, using funds made available under this section may provide financial and technical assistance to remove and dispose of debris and animal carcasses that could adversely affect health and safety on non-Federal land in a hurricane-affected county.

(d) EMERGENCY DESIGNATION.—The amount provided under this section is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

SEC. 103. Notwithstanding any other provision of law, funds appropriated under this Act to the Secretary of Agriculture may be used to reimburse accounts of the Secretary that have been used to pay costs incurred to respond to damage caused by hurricanes that occurred during the 2005 calendar year if those costs could have been paid with such appropriated funds if such costs had arisen after the date of enactment of this Act.

SEC. 104. Funds provided for hurricanes that occurred during the 2005 calendar year under the headings, “Rural Housing Insurance Fund” and “Rural Housing Assistance Grants”, may be transferred between such accounts at the Secretary’s discretion.

SEC. 105. (a) Notwithstanding any other provision of this title, with respect to the counties affected by hurricanes in the 2005 calendar year and for any individuals who resided in such counties at the time of the disaster the Secretary of Agriculture may, for a 6-month period that begins upon the date of the enactment of this Act—

(1) convert rental assistance under section 521 of the Housing Act of 1949 (42 U.S.C. 1490a) allocated for a property that is not decent, safe, and sanitary because of the disaster into rural housing vouchers authorized under title V of the Housing Act of 1949;

(2) guarantee loans under section 502(h) of the Housing Act of 1949 (42 U.S.C. 1472(h)) to—

(A) repair and rehabilitate single-family residences; and

(B) refinance any loan made to a single-family resident used to acquire or construct the single-family residence if such residence meets the requirements of subparagraphs (A), (B), and (C) of section 502(h)(4) of the Housing Act of 1949 (42 U.S.C. 1472(h)(4));

(3) waive the application of the rural area or similar limitations under any program funded through an appropriations act and administered by the Rural Development Mission Area;

(4) issue housing vouchers under section 542 of the Housing Act of 1949 (42 U.S.C. 1490r), except that—

(A) notwithstanding the first sentence of subsection (a) of section 542 of such Act, the Secretary may assist low-income families and persons whose residence has

become uninhabitable or inaccessible as a result of a 2005 hurricane; and

(B) subsection (b) of such section 542 of such Act shall not apply;

(5) provide loans, loan guarantees and grants from the Renewable Energy System and Energy Efficiency Improvements Program authorized in section 9006 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8106) to any rural business—

(A) with a cost share requirement not to exceed 50 percent;

(B) without regard to any limitation of the grant amount; and

(C) which may include businesses processing unsegregated solid waste and paper, as determined by the Secretary;

(6) provide grants under the Value-added Agricultural Product Market Development Grant Program and Rural Cooperative Development Grant Program without regard to any grant amount limitations or matching requirements; and

(7) provide grants under the Community Facilities Grant Program without regard to any graduated funding requirements, grant amount limitations or matching requirements.

(b) The funds made available under this section are designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

SEC. 106. Section 759 of the Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriations Act, 2006 (Public Law 109-97) is amended to read as follows:

“SEC. 759. None of the funds appropriated or otherwise made available under this or any other Act shall be used to pay the salaries and expenses of personnel to expend more than \$12,000,000 of the funds initially made available for fiscal year 2006 by section 310(a)(2) of the Biomass Research and Development Act of 2000 (7 U.S.C. 7624 note).”.

SEC. 107. EMERGENCY FORESTRY CONSERVATION RESERVE PROGRAM.

(a) Section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) is amended by adding at the end the following:

“(k) EMERGENCY FORESTRY CONSERVATION RESERVE PROGRAM.—

“(1) DEFINITIONS.—In this subsection:

“(A) MERCHANTABLE TIMBER.—The term ‘merchantable timber’ means timber on private nonindustrial forest land on which the average tree has a trunk diameter of at least 6 inches measured at a point no less than 4.5 feet above the ground.

“(B) PRIVATE NONINDUSTRIAL FOREST LAND.—The term ‘private nonindustrial forest land’ includes State school trust land.

“(2) PROGRAM.—During calendar year 2006, the Secretary shall carry out an emergency pilot program in States that the Secretary determines have suffered damage to merchantable timber in counties affected by hurricanes during the 2005 calendar year.

“(3) ELIGIBLE ACREAGE.—

“(A) IN GENERAL.—Subject to subparagraph (B) and the availability of funds under subparagraph (G), an owner or operator may enroll private nonindustrial forest land in the conservation reserve under this subsection.

“(B) DETERMINATION OF DAMAGES.—Eligibility for enrollment shall be limited to owners and operators of private nonindustrial forest land that have experienced a loss of 35 percent or more of merchantable timber in a county affected by hurricanes during the 2005 calendar year.

“(C) EXEMPTIONS.—Acreage enrolled in the conservation reserve under this subsection shall not count toward—

“(i) county acreage limitations described in section 1243(b); or

“(ii) the maximum enrollment described in subsection (d).

“(D) DUTIES OF OWNERS AND OPERATORS.—As a condition of entering into a contract under this subsection, during the term of the contract, the owner or operator of private nonindustrial forest land shall agree—

“(i) to restore the land, through site preparation and planting of similar species as existing prior to hurricane damages or to the maximum extent practicable with other native species, as determined by the Secretary; and

“(ii) to establish temporary vegetative cover the purpose of which is to prevent soil erosion on the eligible acreage, as determined by the Secretary.

“(E) DUTIES OF THE SECRETARY.—

“(i) IN GENERAL.—In return for a contract entered into by an owner or operator of private nonindustrial forest land under this subsection, the Secretary shall provide, at the option of the landowner—

“(I) notwithstanding the limitation in section 1234(f)(1), a lump sum payment; or

“(II) annual rental payments.

“(ii) CALCULATION OF LUMP SUM PAYMENT.—The lump sum payment described in clause (i)(I) shall be calculated using a net present value formula, as determined by the Secretary, based on the total amount a producer would receive over the duration of the contract.

“(iii) CALCULATION OF ANNUAL RENTAL PAYMENTS.—The annual rental payment described in clause (i)(II) shall be equal to the average rental rate for conservation reserve contracts in the county in which the land is located.

“(iv) ROLLING SIGNUP.—The Secretary shall offer a rolling signup for contracts under this subsection.

“(v) DURATION OF CONTRACTS.—A contract entered into under this subsection shall have a term of 10 years.

“(F) BALANCE OF NATURAL RESOURCES.—In determining the acceptability of contract offers under this subsection, the Secretary shall consider an equitable balance among the purposes of soil erosion prevention, water quality

improvement, wildlife habitat restoration, and mitigation of economic loss.

“(G) FUNDING.—The Secretary shall use \$404,100,000, to remain available until expended, of funds of the Commodity Credit Corporation to carry out this subsection.

“(H) DETERMINATIONS BY SECRETARY.—A determination made by the Secretary under this subsection shall be final and conclusive.

“(I) REGULATIONS.—

“(i) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary shall promulgate such regulations as are necessary to implement this subsection.

“(ii) PROCEDURE.—The promulgation of regulations and administration of this subsection shall be made without regard to—

“(I) the notice and comment provisions of section 553 of title 5, United States Code;

“(II) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

“(III) chapter 35 of title 44, United States Code (commonly known as the ‘Paperwork Reduction Act’).

“(iii) CONGRESSIONAL REVIEW OF AGENCY RULE-MAKING.—In carrying out this subsection, the Secretary shall use the authority provided under section 808 of title 5, United States Code.”.

(b) EMERGENCY DESIGNATION.—The amount provided under this section is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

CHAPTER 2

DEPARTMENT OF DEFENSE

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For an additional amount for “Military Personnel, Army”, \$29,830,000, to remain available until September 30, 2006, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

MILITARY PERSONNEL, NAVY

For an additional amount for “Military Personnel, Navy”, \$57,691,000, to remain available until September 30, 2006, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: *Provided*, That the amount provided under this heading is designated as an emergency

requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

MILITARY PERSONNEL, MARINE CORPS

For an additional amount for “Military Personnel, Marine Corps”, \$14,193,000, to remain available until September 30, 2006, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

MILITARY PERSONNEL, AIR FORCE

For an additional amount for “Military Personnel, Air Force”, \$105,034,000, to remain available until September 30, 2006, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

RESERVE PERSONNEL, ARMY

For an additional amount for “Reserve Personnel, Army”, \$11,100,000, to remain available until September 30, 2006, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

RESERVE PERSONNEL, NAVY

For an additional amount for “Reserve Personnel, Navy”, \$33,015,000, to remain available until September 30, 2006, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

RESERVE PERSONNEL, MARINE CORPS

For an additional amount for “Reserve Personnel, Marine Corps”, \$3,028,000, to remain available until September 30, 2006, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

RESERVE PERSONNEL, AIR FORCE

For an additional amount for “Reserve Personnel, Air Force”, \$2,370,000, to remain available until September 30, 2006, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

NATIONAL GUARD PERSONNEL, ARMY

For an additional amount for “National Guard Personnel, Army”, \$220,556,000, to remain available until September 30, 2006, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

NATIONAL GUARD PERSONNEL, AIR FORCE

For an additional amount for “National Guard Personnel, Air Force”, \$77,718,000, to remain available until September 30, 2006, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For an additional amount for “Operation and Maintenance, Army”, \$156,166,000, to remain available until September 30, 2006, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

OPERATION AND MAINTENANCE, NAVY

For an additional amount for “Operation and Maintenance, Navy”, \$544,690,000, to remain available until September 30, 2006, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

OPERATION AND MAINTENANCE, MARINE CORPS

For an additional amount for “Operation and Maintenance, Marine Corps”, \$7,343,000, to remain available until September 30, 2006, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for “Operation and Maintenance, Air Force”, \$554,252,000, to remain available until September 30, 2006, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

OPERATION AND MAINTENANCE, DEFENSE-WIDE

For an additional amount for “Operation and Maintenance, Defense-Wide”, \$29,027,000, to remain available until September 30, 2006, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

OPERATION AND MAINTENANCE, ARMY RESERVE

For an additional amount for “Operation and Maintenance, Army Reserve”, \$16,118,000, to remain available until September 30, 2006, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

OPERATION AND MAINTENANCE, NAVY RESERVE

For an additional amount for “Operation and Maintenance, Navy Reserve”, \$480,084,000, to remain available until September 30, 2006, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For an additional amount for “Operation and Maintenance, Marine Corps Reserve”, \$16,331,000, to remain available until September 30, 2006, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For an additional amount for “Operation and Maintenance, Air Force Reserve”, \$2,366,000, to remain available until September 30, 2006, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For an additional amount for “Operation and Maintenance, Army National Guard”, \$98,855,000, to remain available until September 30, 2006, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For an additional amount for “Operation and Maintenance, Air National Guard”, \$48,086,000, to remain available until September 30, 2006, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

PROCUREMENT

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES,
ARMY

For an additional amount for “Procurement of Weapons and Tracked Combat Vehicles, Army”, \$1,600,000, to remain available until September 30, 2008, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

PROCUREMENT OF AMMUNITION, ARMY

For an additional amount for “Procurement of Ammunition, Army”, \$1,000,000, to remain available until September 30, 2008, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

OTHER PROCUREMENT, ARMY

For an additional amount for “Other Procurement, Army”, \$43,390,000, to remain available until September 30, 2008, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

AIRCRAFT PROCUREMENT, NAVY

For an additional amount for “Aircraft Procurement, Navy”, \$3,856,000, to remain available until September 30, 2008, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

PROCUREMENT OF AMMUNITION, NAVY AND MARINE CORPS

For an additional amount for “Procurement of Ammunition, Navy and Marine Corps”, \$2,600,000, to remain available until September 30, 2008, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

SHIPBUILDING AND CONVERSION, NAVY

For an additional amount for “Shipbuilding and Conversion, Navy”, \$1,987,000,000, to remain available until September 30, 2010, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005, which shall be available for transfer within this account to replace destroyed or damaged equipment, prepare and recover naval vessels under contract; and provide for cost adjustments for naval vessels for which funds have been previously appropriated: *Provided*, That this transfer authority is in addition to any other transfer authority available to the Department of Defense: *Provided further*, That the Secretary of Defense shall, not fewer than 15 days prior to making transfers within this appropriation, notify the congressional defense committees in writing of the details of any such transfer:

Notification.
Deadline.

Provided further, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

OTHER PROCUREMENT, NAVY

For an additional amount for “Other Procurement, Navy”, \$76,675,000, to remain available until September 30, 2008, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

OTHER PROCUREMENT, AIR FORCE

For an additional amount for “Other Procurement, Air Force”, \$162,315,000, to remain available until September 30, 2008, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

PROCUREMENT, DEFENSE-WIDE

For an additional amount for “Procurement, Defense-Wide”, \$12,082,000, to remain available until September 30, 2008, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

NATIONAL GUARD AND RESERVE EQUIPMENT

For an additional amount for “National Guard and Reserve Equipment”, \$19,260,000, to remain available until September 30, 2008, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

For an additional amount for “Research, Development, Test and Evaluation, Navy”, \$2,462,000, to remain available until September 30, 2007, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: *Provided*, That the amount provided under this heading is designated as

an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

For an additional amount for “Research, Development, Test and Evaluation, Air Force”, \$6,200,000, to remain available until September 30, 2007, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE

For an additional amount for “Research, Development, Test and Evaluation, Defense-Wide”, \$32,720,000, to remain available until September 30, 2007, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

REVOLVING AND MANAGEMENT FUNDS

DEFENSE WORKING CAPITAL FUNDS

For an additional amount for “Defense Working Capital Funds”, \$7,224,000, to remain available until expended, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

TRUST FUNDS

SURCHARGE COLLECTIONS, SALES OF COMMISSARY STORES, DEFENSE

For an additional amount for “Surcharge Collections, Sales of Commissary Stores, Defense”, \$44,341,000, to remain available until expended, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

OTHER DEPARTMENT OF DEFENSE PROGRAMS

DEFENSE HEALTH PROGRAM

For an additional amount for “Defense Health Program”, \$201,550,000, of which \$172,958,000 shall be for Operation and Maintenance, and of which \$28,592,000 shall be for Procurement, to remain available until September 30, 2006, for necessary

expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

OFFICE OF THE INSPECTOR GENERAL

For an additional amount for “Office of the Inspector General”, \$310,000, to remain available until September 30, 2006, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

GENERAL PROVISIONS—THIS CHAPTER

(TRANSFER OF FUNDS)

Notification.

SEC. 201. Upon his determination that such action is necessary to ensure the appropriate allocation of funds provided in this chapter, the Secretary of Defense may transfer up to \$500,000,000 of the funds made available to the Department of Defense in this chapter between such appropriations: *Provided*, That the Secretary shall notify the Congress promptly of each transfer made pursuant to this authority: *Provided further*, That the transfer authority provided in this section is in addition to any other transfer authority available to the Department of Defense: *Provided further*, That the amount made available by the transfer of the funds in or pursuant to this section is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

Accumulated
leave.
Employment and
labor.

SEC. 202. Notwithstanding section 701(b) of title 10, United States Code, the Secretary of Defense may authorize a member of the Armed Forces on active duty who performed duties in support of disaster relief operations in connection with hurricanes in the Gulf of Mexico in calendar year 2005 and who, except for this section, would lose any accumulated leave in excess of 60 days at the end of fiscal year 2005 to retain an accumulated leave total not to exceed 120 days leave. Except as provided in section 701(f) of title 10, United States Code, leave in excess of 60 days accumulated under this section is lost unless used by the member before October 1, 2007.

SEC. 203. Notwithstanding 37 U.S.C. 403(b), the Secretary of Defense may prescribe a temporary adjustment in the geographic location rates of the basic allowance for housing in a military housing area located within an area declared a major disaster under the Robert T. Stafford Disaster Relief and Emergency Act (42 U.S.C. 5121 et seq.) resulting from hurricanes in the Gulf of Mexico in calendar year 2005.

(1) Such temporary adjustment shall be based upon the Secretary’s redetermination of housing costs in an affected area and at a rate that shall not exceed 20 percent of the current rate for an affected area.

(2) Members in an affected military housing area must certify that an increased housing cost above the current rate

for an affected area has been incurred in order to be eligible for the temporary rate adjustment.

(3) No temporary adjustment may be made after September 30, 2006. No assistance provided to individual households under this heading may extend beyond January 1, 2007. Further, the Secretary is authorized to reduce or eliminate any temporary adjustment granted under paragraph (1) prior to such date as appropriate.

SEC. 204. Funds appropriated by this chapter may be obligated and expended notwithstanding section 504(a)(1) of the National Security Act of 1947 (50 U.S.C. 414(a)(1)).

SEC. 205. (a) The total amount appropriated or otherwise made available in this chapter is hereby reduced by \$737,089,000.

(b) The Secretary of Defense shall allocate this reduction proportionately to each applicable appropriation account.

(c) The reduction in subsection (a) shall not apply to budget authority appropriated or otherwise made available to the Defense Health Program account.

CHAPTER 3

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

INVESTIGATIONS

For an additional amount for “Investigations” to expedite studies of flood and storm damage reduction related to the consequences of hurricanes in the Gulf of Mexico and Atlantic Ocean in 2005, \$37,300,000, to remain available until expended: *Provided*, That using \$10,000,000 of the funds provided, the Secretary shall conduct an analysis and design for comprehensive improvements or modifications to existing improvements in the coastal area of Mississippi in the interest of hurricane and storm damage reduction, prevention of saltwater intrusion, preservation of fish and wildlife, prevention of erosion, and other related water resource purposes at full Federal expense: *Provided further*, That the Secretary shall recommend a cost-effective project, but shall not perform an incremental benefit-cost analysis to identify the recommended project, and shall not make project recommendations based upon maximizing net national economic development benefits: *Provided further*, That interim recommendations for near term improvements shall be provided within 6 months of enactment of this Act with final recommendations within 24 months of enactment: *Provided further*, That none of the \$12,000,000 provided herein for the Louisiana Hurricane Protection Study shall be available for expenditure until the State of Louisiana establishes a single state or quasi-state entity to act as local sponsor for construction, operation and maintenance of all of the hurricane, storm damage reduction and flood control projects in the greater New Orleans and southeast Louisiana area: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

Deadlines.

CONSTRUCTION

For additional amounts for “Construction” to rehabilitate and repair Corps projects related to the consequences of hurricanes in the Gulf of Mexico and Atlantic Ocean in 2005, \$101,417,000, to remain available until expended: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109 Congress), the concurrent resolution on the budget for fiscal year 2006.

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES, ARKANSAS, ILLINOIS, KENTUCKY, LOUISIANA, MISSISSIPPI, MISSOURI, AND TENNESSEE

For an additional amount for “Flood Control, Mississippi River and Tributaries, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee” to cover the additional costs of mat laying and other repairs to the Mississippi River channel and associated levee repairs related to the consequences of hurricanes in the Gulf of Mexico in 2005, \$153,750,000, to remain available until expended: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

OPERATION AND MAINTENANCE

For an additional amount for “Operation and Maintenance” to dredge navigation channels and repair other Corps projects related to the consequences of hurricanes in the Gulf of Mexico and Atlantic Ocean in 2005, \$327,517,000, to remain available until expended: *Provided*, That \$75,000,000 of this amount shall be used for authorized operation and maintenance activities along the Mississippi River-Gulf Outlet channel: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

FLOOD CONTROL AND COASTAL EMERGENCIES

For an additional amount for “Flood Control and Coastal Emergencies”, as authorized by section 5 of the Flood Control Act of August 18, 1941, as amended (33 U.S.C. 701n), for emergency response to and recovery from coastal storm damages and flooding related to the consequences of hurricanes in the Gulf of Mexico and Atlantic Ocean in 2005, \$2,277,965,000, to remain available until expended: *Provided*, That in using the funds appropriated for construction related to Hurricane Katrina in the areas covered by the disaster declaration made by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 93-288, 88 Stat. 143, as amended (42 U.S.C. 5121 et seq.), the Secretary of the Army, acting through the Chief of Engineers, is directed to restore the flood damage reduction and hurricane and storm damage reduction projects, and related works, to provide the level of protection for which they were designed, at full Federal expense: *Provided further*, That \$75,000,000 of this amount shall be used to accelerate completion of unconstructed portions of authorized projects in the State of Mississippi along the Mississippi Gulf

Coast at full Federal expense: *Provided further*, That \$544,460,000 of this amount shall be used to accelerate completion of unconstructed portions of authorized hurricane, storm damage reduction and flood control projects in the greater New Orleans and south Louisiana area at full Federal expense: *Provided further*, That \$70,000,000 of this amount shall be available to prepare for flood, hurricane and other natural disasters and support emergency operations, repair and other activities in response to flood and hurricane emergencies as authorized by law: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

GENERAL EXPENSES

For an additional amount for “General Expenses” for increased efforts by the Mississippi Valley Division to oversee emergency response and recovery activities related to the consequences of hurricanes in the Gulf of Mexico in 2005, \$1,600,000, to remain available until expended: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

CHAPTER 4

DEPARTMENT OF HOMELAND SECURITY

CUSTOMS AND BORDER PROTECTION

SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses” to repair and replace critical equipment and property damaged by hurricanes and other natural disasters, \$24,100,000: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

CONSTRUCTION

For an additional amount for “Construction” to rebuild and repair structures damaged by hurricanes and other natural disasters, \$10,400,000, to remain available until expended: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

IMMIGRATION AND CUSTOMS ENFORCEMENT

SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses” to repair and replace critical equipment and property damaged by hurricanes and other natural disasters, \$13,000,000: *Provided*, That the amount provided under this heading is designated as an emergency

requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

UNITED STATES COAST GUARD

OPERATING EXPENSES

For an additional amount for “Operating Expenses” for necessary expenses related to the consequences of hurricanes and other natural disasters, \$132,000,000, to remain available until expended, of which up to \$400,000 may be transferred to “Environmental Compliance and Restoration” to be used for environmental cleanup and restoration of Coast Guard facilities; and of which up to \$525,000 may be transferred to “Research, Development, Test, and Evaluation” to be used for salvage and repair of research and development equipment and facilities: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

For an additional amount for “Acquisition, Construction, and Improvements” for necessary expenses related to the consequences of hurricanes and other natural disasters, \$74,500,000, to remain available until expended, for major repair and reconstruction projects and for vessels currently under construction: *Provided*, That such amounts shall also be available for expenses to replace destroyed or damaged equipment; prepare and recover United States Coast Guard vessels under contract; reimburse for delay, loss of efficiency and disruption, and other related costs; make equitable adjustments and provisional payments to contracts for Coast Guard vessels for which funds have been previously appropriated: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses” for equipment, vehicle replacement, and personnel relocation due to the consequences of hurricanes and other natural disasters, \$3,600,000: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

OFFICE FOR DOMESTIC PREPAREDNESS

STATE AND LOCAL PROGRAMS

For an additional amount for “State and Local Programs” for equipment replacement related to hurricanes and other natural disasters, \$10,300,000: *Provided*, That the amount provided under

this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

FEDERAL EMERGENCY MANAGEMENT AGENCY

ADMINISTRATIVE AND REGIONAL OPERATIONS

For an additional amount for “Administrative and Regional Operations” for necessary expenses related to hurricanes and other natural disasters, \$17,200,000, to remain available until expended: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

DISASTER RELIEF

(TRANSFER OF FUNDS)

In addition, of the amounts appropriated under this heading in Public Law 109–62, \$1,500,000 shall be transferred to the “Disaster Assistance Direct Loan Program Account” for administrative expenses to carry out the direct loan program, as authorized by section 417 of the Stafford Act: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

GENERAL PROVISION—THIS CHAPTER

SEC. 401. Notwithstanding 10 U.S.C. 701(b), the Secretary of the Department of Homeland Security may authorize a member on active duty who performed duties in support of Hurricanes Katrina or Rita disaster relief operations and who, except for this section, would lose any accumulated leave in excess of 60 days at the end of fiscal year 2005, to retain an accumulated leave total not to exceed 120 days leave. Leave in excess of 60 days accumulated under this section is lost unless it is used by the member before October 1, 2007.

Accumulated
leave.
Employment and
labor.

CHAPTER 5

DEPARTMENT OF THE INTERIOR

UNITED STATES FISH AND WILDLIFE SERVICE

CONSTRUCTION

For an additional amount for “Construction” for response, cleanup, recovery, repair and reconstruction expenses related to hurricanes in the Gulf of Mexico in calendar year 2005, \$30,000,000, to remain available until expended: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

NATIONAL PARK SERVICE

CONSTRUCTION

For an additional amount for “Construction” for response, cleanup, recovery, repair and reconstruction expenses related to hurricanes in the Gulf of Mexico in calendar year 2005, \$19,000,000, to remain available until expended: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

UNITED STATES GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

For an additional amount for “Surveys, Investigations, and Research”, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005 and for repayment of advances to other appropriation accounts from which funds were transferred for such purposes, \$5,300,000, to remain available until expended: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

MINERALS MANAGEMENT SERVICE

ROYALTY AND OFFSHORE MINERALS MANAGEMENT

For an additional amount for “Royalty and Offshore Minerals Management”, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005 and for repayment of advances to other appropriation accounts from which funds were transferred for such purposes, \$16,000,000, to remain available until expended: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

ENVIRONMENTAL PROTECTION AGENCY

LEAKING UNDERGROUND STORAGE TANK PROGRAM

For an additional amount for “Leaking Underground Storage Tank Program”, not to exceed \$85,000 per project, \$8,000,000, to remain available until expended, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

STATE AND PRIVATE FORESTRY

For an additional amount for “State and Private Forestry”, \$30,000,000, to remain available until expended, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

NATIONAL FOREST SYSTEM

For an additional amount for “National Forest System”, \$20,000,000, to remain available until expended, for necessary expenses, including hazardous fuels reduction, related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

CAPITAL IMPROVEMENT AND MAINTENANCE

For an additional amount for “Capital Improvement and Maintenance”, \$7,000,000, to remain available until expended, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

CHAPTER 6

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

TRAINING AND EMPLOYMENT SERVICES

For an additional amount for “Training and Employment Services” to award national emergency grants under section 173 of the Workforce Investment Act of 1998 related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005, \$125,000,000, to remain available until June 30, 2006: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006: *Provided further*, That these sums may be used to replace grant funds previously obligated to the impacted areas.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE
OPERATIONS

Funds provided under this heading in Public Law 108-447 which have been allocated to the States of Alabama, Louisiana, and Mississippi for activities authorized by title III of the Social Security Act, as amended, shall remain available for obligation by such States through September 30, 2006, except that funds used for automation by such States shall remain available through September 30, 2008.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ADMINISTRATION FOR CHILDREN AND FAMILIES

SOCIAL SERVICES BLOCK GRANT

For an additional amount for “Social Services Block Grant”, \$550,000,000, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005, notwithstanding section 2003 and paragraphs (1) and (4) of section 2005(a) of the Social Security Act (42 U.S.C. 1397b and 1397d(a)): *Provided*, That in addition to other uses permitted by title XX of the Social Security Act, funds appropriated under this heading may be used for health services (including mental health services) and for repair, renovation and construction of health facilities (including mental health facilities): *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

CHILDREN AND FAMILIES SERVICES PROGRAMS

For an additional amount for “Children and Families Services Programs”, \$90,000,000, for Head Start to serve children displaced by hurricanes in the Gulf of Mexico in calendar year 2005, notwithstanding sections 640(a)(1) and 640(g)(1) of the Head Start Act, and to cover the costs of renovating those Head Start facilities which were affected by these hurricanes, to the extent reimbursements from FEMA and insurance companies do not fully cover such costs: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

DEPARTMENT OF EDUCATION

For assisting in meeting the educational needs of individuals affected by hurricanes in the Gulf of Mexico in calendar year 2005, \$1,600,000,000, to remain available through September 30, 2006, of which \$750,000,000 shall be available to State educational agencies until expended to carry out section 102 of title IV, division B of this Act, \$5,000,000 shall be available to carry out section 106 of title IV, division B of this Act, \$645,000,000 shall be available to carry out section 107 of title IV, division B of this Act, and \$200,000,000 shall be available to provide assistance under the programs authorized by subparts 3 and 4 of part A, part C of title IV, and part B of title VII of the Higher Education Act of 1965, for students attending institutions of higher education (as

defined in section 102 of that Act) that are located in an area in which a major disaster has been declared in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act related to hurricanes in the Gulf of Mexico in calendar year 2005 and who qualify for assistance under subparts 3 and 4 of part A and part C of title IV of the Higher Education Act of 1965, to provide emergency assistance based on demonstrated need to institutions of higher education that are located in an area affected by hurricanes in the Gulf of Mexico in calendar year 2005 and were forced to close, relocate or significantly curtail their activities as a result of damage directly sustained by such hurricanes, and to provide payments to institutions of higher education to help defray the unexpected expenses associated with enrolling displaced students from institutions of higher education at which operations have been disrupted due to hurricanes in the Gulf of Mexico in calendar year 2005: *Provided*, That of the \$200,000,000 described in the preceding proviso, \$95,000,000 shall be for the Mississippi Institutes of Higher Learning to provide assistance under such title IV programs, notwithstanding any requirements relating to matching, Federal share, reservation of funds, or maintenance of effort that would otherwise be applicable to that assistance; \$95,000,000 shall be for the Louisiana Board of Regents to provide emergency assistance based on demonstrated need under part B of title VII of the Higher Education Act of 1965, which may be used for student financial assistance, faculty and staff salaries, equipment and instruments, or any purpose authorized under the Higher Education Act of 1965, to institutions of higher education that are located in an area affected by hurricanes in the Gulf of Mexico in calendar year 2005; and \$10,000,000 shall be available to the Secretary of Education for such payments to institutions of higher education to help defray the unexpected expenses associated with enrolling displaced students from institutions of higher education directly affected by hurricanes in the Gulf of Mexico in calendar year 2005, in accordance with criteria as are established by the Secretary and made publicly available without regard to section 437 of the General Education Provisions Act or section 553 of title 5, United States Code: *Provided further*, That the amounts provided in this paragraph are designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

CHAPTER 7

DEPARTMENT OF DEFENSE

MILITARY CONSTRUCTION

MILITARY CONSTRUCTION, NAVY AND MARINE CORPS

For an additional amount for “Military Construction, Navy and Marine Corps”, \$291,219,000, to remain available until September 30, 2010, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: *Provided*, That such funds may be obligated or expended for planning and design and military construction projects not otherwise authorized by law: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to

section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

MILITARY CONSTRUCTION, AIR FORCE

For an additional amount for “Military Construction, Air Force”, \$52,612,000, to remain available until September 30, 2010, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: *Provided*, That such funds may be obligated or expended for planning and design and military construction projects not otherwise authorized by law: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

MILITARY CONSTRUCTION, DEFENSE-WIDE

For an additional amount for “Military Construction, Defense-Wide”, \$45,000,000, to remain available until September 30, 2010, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: *Provided*, That such funds may be obligated or expended for planning and design and military construction projects not otherwise authorized by law: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

For an additional amount for “Military Construction, Army National Guard”, \$374,300,000, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: *Provided*, That such funds may be obligated or expended for planning and design and military construction projects not otherwise authorized by law: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

MILITARY CONSTRUCTION, AIR NATIONAL GUARD

For an additional amount for “Military Construction, Air National Guard”, \$35,000,000, to remain available until September 30, 2010, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: *Provided*, That such funds may be obligated or expended for planning and design and military construction projects not otherwise authorized by law: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

MILITARY CONSTRUCTION, NAVAL RESERVE

For an additional amount for “Military Construction, Naval Reserve”, \$120,132,000, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: *Provided*, That such funds may be obligated or expended for planning and design and military construction projects not otherwise authorized by law: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

FAMILY HOUSING

FAMILY HOUSING CONSTRUCTION, NAVY AND MARINE CORPS

For an additional amount for “Family Housing Construction, Navy and Marine Corps”, \$86,165,000, to remain available until September 30, 2010, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: *Provided*, That such funds may be obligated or expended for planning and design and military construction projects not otherwise authorized by law: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

FAMILY HOUSING OPERATION AND MAINTENANCE, NAVY AND MARINE CORPS

For an additional amount for “Family Housing Operation and Maintenance, Navy and Marine Corps”, \$48,889,000, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005, to remain available until September 30, 2007: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

FAMILY HOUSING CONSTRUCTION, AIR FORCE

For an additional amount for “Family Housing Construction, Air Force”, \$278,000,000, to remain available until September 30, 2010, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: *Provided*, That such funds may be obligated or expended for planning and design and military construction projects not otherwise authorized by law: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

FAMILY HOUSING OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for “Family Housing Operation and Maintenance, Air Force”, \$47,019,000, to remain available until September 30, 2007, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year

2005: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

DEPARTMENT OF VETERANS AFFAIRS

VETERANS HEALTH ADMINISTRATION

MEDICAL SERVICES

For an additional amount for “Medical Services”, \$198,265,000, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

DEPARTMENTAL ADMINISTRATION

GENERAL OPERATING EXPENSES

For an additional amount for “General Operating Expenses”, \$24,871,000, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

NATIONAL CEMETERY ADMINISTRATION

For an additional amount for “National Cemetery Administration”, \$200,000, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

CONSTRUCTION, MAJOR PROJECTS

For an additional amount for “Construction, Major Projects”, \$367,500,000, to remain available until expended, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

CONSTRUCTION, MINOR PROJECTS

For an additional amount for “Construction, Minor Projects,” \$1,800,000, to remain available until expended, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

RELATED AGENCY

ARMED FORCES RETIREMENT HOME

For payment to the “Armed Forces Retirement Home” for necessary expenses related to the consequences of Hurricane Katrina, \$65,800,000, to remain available until expended: *Provided*, That of the amount provided, \$45,000,000 shall be available for the Armed Forces Retirement Home, Gulfport, Mississippi: *Provided further*, That of the amount provided, \$20,800,000 shall be available for the Armed Forces Retirement Home, Washington, DC: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

GENERAL PROVISIONS—THIS CHAPTER

Veterans.

SEC. 701. The limitation of Federal contribution established under section 18236(b) of title 10 is hereby waived for projects appropriated in this chapter.

SEC. 702. For any real property expressly granted to the United States since January 1, 1980 for use as or in connection with a Navy homeport subject to a reversionary interest retained by the grantor and serving as the site of or being used by a naval station subsequently closed or realigned pursuant to the Defense Base Closure and Realignment Act of 1990 as amended, the right of the United States to any consideration or repayment for the fair market value of the real property as improved shall be released, relinquished, waived, or otherwise permanently extinguished. The Secretary shall execute such written agreements as may be needed to facilitate the reversion and transfer all right, title, and interest of the United States in any real property described in this section, including the improvements thereon, for no consideration to the reversionary interest holder as soon as practicable after the naval station is closed or realigned. This agreement shall not require the reversionary interest holder to assume any environmental liabilities of the United States or relieve the United States from any responsibilities for environmental remediation that it may have incurred as a result of federal ownership or use of the real property.

Real property.
Reversionary
interest.
10 USC 5013
note.

Contracts.

SEC. 703. (a) Notwithstanding 38 U.S.C. 2102, the Secretary of Veterans Affairs may make a grant to a veteran whose home was previously adapted with the assistance of a grant under chapter 21 of title 38, United States Code, in the event the adapted home which was being used and occupied by the veteran was destroyed or substantially damaged in the declared disaster areas as a result of hurricanes in the Gulf of Mexico in calendar year 2005, as determined by the President under the Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.). The grant is available to acquire a suitable housing unit with special fixtures or moveable facilities made necessary by the veteran's disability, and necessary land therefor. This authority expires on September 30, 2006: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

Expiration date.

(b) The amount of the grant authorized by this subsection may not exceed the lesser of—

(1) the reasonable cost, as determined by the Secretary of Veterans Affairs, of repairing or replacing the adapted home in excess of the available insurance coverage on the damaged or destroyed home; or

(2) the maximum grant to which the veteran would have been entitled under 38 U.S.C. 2102 (a) or (b) had the veteran not obtained the prior grant.

SEC. 704. In any case where the Secretary of Veterans Affairs determines that a veteran described in 38 U.S.C. 3108(a)(2) has been displaced as the result of hurricanes in the Gulf of Mexico in calendar year 2005, from the disaster area, as determined by the President under the Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Secretary may extend the payment of subsistence allowance authorized by such paragraph for up to an additional two months while the veteran is satisfactorily following such program of employment services. This authority expires on September 30, 2006: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

Expiration date.

SEC. 705. The annual limitation contained in 38 U.S.C. 3120(e) shall not apply in any case where the Secretary of Veterans Affairs determines that a veteran described in 38 U.S.C. 3120(b) has been displaced as the result of, or has otherwise been adversely affected in the areas covered by hurricanes in the Gulf of Mexico in calendar year 2005, as determined by the President under the Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.). This authority expires on September 30, 2006: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

Expiration date.

SEC. 706. Notwithstanding 38 U.S.C. 3903(a), the Secretary of Veterans Affairs may provide or assist in providing an eligible person with a second automobile or other conveyance under the provisions of chapter 39 of title 38 United States Code, if the Secretary receives satisfactory evidence that the automobile or other conveyance previously purchased with assistance under such chapter was destroyed as a result of hurricanes in the Gulf of Mexico in calendar year 2005, and through no fault of the eligible person: *Provided*, That that person does not otherwise receive from a property insurer compensation for the loss. This authority expires on September 30, 2006: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

Expiration date.

CHAPTER 8

DEPARTMENT OF JUSTICE

LEGAL ACTIVITIES

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For an additional amount for “Salaries and Expenses, United States Attorneys”, \$9,000,000, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar

year 2005: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

UNITED STATES MARSHALS SERVICE

SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, \$9,000,000, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, \$45,000,000, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, \$10,000,000, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES

SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, \$20,000,000, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

FEDERAL PRISON SYSTEM

BUILDINGS AND FACILITIES

For an additional amount for “Buildings and Facilities”, \$11,000,000, to remain available until expended, for necessary

expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

OFFICE OF JUSTICE PROGRAMS

STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

For an additional amount for “State and Local Law Enforcement Assistance”, \$125,000,000, for necessary expenses related to the direct or indirect consequences of hurricanes in the Gulf of Mexico in calendar year 2005, to remain available until expended: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006: *Provided further*, That the Attorney General shall consult with the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives on the allocation of funds prior to expenditure.

DEPARTMENT OF COMMERCE

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount for “Operations, Research, and Facilities”, \$17,200,000, to remain available until expended, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

PROCUREMENT, ACQUISITION AND CONSTRUCTION

For an additional amount for “Procurement, Acquisition and Construction”, \$37,400,000, to remain available until expended, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

EXPLORATION CAPABILITIES

For an additional amount for “Exploration Capabilities”, \$349,800,000, to remain available until expended, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

SMALL BUSINESS ADMINISTRATION

OFFICE OF INSPECTOR GENERAL

For an additional amount for the “Office of Inspector General” for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico in calendar year 2005, \$5,000,000, to remain available until expended: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

DISASTER LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for the “Disaster Loans Program Account” authorized by section 7(b) of the Small Business Act, for necessary expenses related to hurricanes in the Gulf of Mexico in calendar year 2005 and other natural disasters, \$264,500,000, to remain available until expended: *Provided*, That such costs, including the cost of modifying such loans shall be as defined in section 502 of the Congressional Budget Act of 1974.

In addition, for administrative expenses to carry out the direct loan program authorized by section 7(b), \$176,500,000, to remain available until expended, which may be transferred to and merged with “Salaries and Expenses”: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006: *Provided further*, That no funds shall be transferred to the appropriation for “Salaries and Expenses” for indirect administrative expenses.

GENERAL PROVISIONS—THIS CHAPTER

(INCLUDING TRANSFER OF FUNDS)

SEC. 801. Of the unobligated balances available under “National Institute of Standards and Technology, Industrial Technology Services” for the Hollings Manufacturing Extension Partnership Program, \$4,500,000 shall be used to assist manufacturers recovering from hurricanes in the Gulf of Mexico in calendar year 2005: *Provided*, That only Manufacturing Extension Centers in States affected by hurricanes in the Gulf of Mexico in calendar year 2005 shall be eligible for hurricane recovery assistance funds: *Provided further*, That these funds shall be allocated to the Manufacturing Extension Centers in these States based on an assessment of the needs of manufacturers in the counties declared a disaster by the Federal Emergency Management Agency: *Provided further*, That employment and productivity shall be among the metrics used in developing the needs assessment: *Provided further*, That the matching provisions of 15 U.S.C. 278(k) paragraph (c) shall not apply to amounts provided by this Act or by Public Law 109-108 to Manufacturing Extension Centers serving areas affected by hurricanes in the Gulf of Mexico in calendar year 2005.

Manufacturers.

SEC. 802. The Attorney General shall transfer to the “Narrowband Communications/Integrated Wireless Network” account all funds made available in this Act to the Department of Justice for the purchase of portable and mobile radios and related

infrastructure. Any transfer made under this section shall be subject to section 605 of Public Law 109-108.

CHAPTER 9

DEPARTMENT OF TRANSPORTATION

FEDERAL AVIATION ADMINISTRATION

FACILITIES AND EQUIPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For an additional amount for “Facilities and equipment”, \$40,600,000, to be derived from the Airport and Airway Trust Fund and to remain available until expended, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico during calendar year 2005: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

FEDERAL HIGHWAY ADMINISTRATION

EMERGENCY RELIEF PROGRAM

California.

For an additional amount for “Emergency relief program” as authorized under 23 U.S.C. 125, \$2,750,000,000, to remain available until expended, for necessary expenses related to the consequences of Hurricanes Katrina, Rita, and Wilma: *Provided*, That of the funds provided herein, up to \$629,000,000 shall be available to repair and reconstruct the I-10 bridge spanning New Orleans and Slidell, Louisiana in accordance with current design standards as contained in 23 U.S.C. 125: *Provided further*, That notwithstanding 23 U.S.C. 120(e) and from funds provided herein, the Federal share for all projects for repairs or reconstruction of highways, roads, bridges, and trails to respond to damage caused by Hurricanes Katrina, Rita, and Wilma shall be 100 percent: *Provided further*, That notwithstanding 23 U.S.C. 125(d)(1), the Secretary of Transportation may obligate more than \$100,000,000 for such projects in a State in a fiscal year, to respond to damage caused by Hurricanes Dennis, Katrina, Rita or Wilma and by the 2004–2005 winter storms in the State of California: *Provided further*, That any amounts in excess of those necessary for emergency expenses relating to the above hurricanes may be used for other projects authorized under 23 U.S.C. 125: *Provided further*, That such amounts as may be necessary but not to exceed \$550,000,000 may be made available promptly from the funds provided herein to pay for other projects authorized under 23 U.S.C. 125 arising from natural disasters or catastrophic failures from external causes that occurred prior to Hurricane Wilma and that are ready to proceed to construction or are eligible for reimbursement: *Provided further*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

MARITIME ADMINISTRATION

OPERATIONS AND TRAINING

For an additional amount for “Operations and training”, \$7,500,000, to remain available until September 30, 2007, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico during calendar year 2005: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

PUBLIC AND INDIAN HOUSING

TENANT-BASED RENTAL ASSISTANCE

For an additional amount for housing vouchers for households within the area declared a major disaster under the Robert T. Stafford Disaster Relief and Emergency Act (42 U.S.C. 5121 et seq.) resulting from hurricanes in the Gulf of Mexico during calendar year 2005, \$390,299,500, to remain available until September 30, 2007: *Provided*, That such households shall be limited to those which, prior to Hurricanes Katrina or Rita, received assistance under section 8 or 9 of the United States Housing Act of 1937 (Public Law 93-383), section 801 or 811 of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101-625), the AIDS Housing Opportunity Act (Public Law 101-625), or the Stewart B. McKinney Homeless Assistance Act (Public Law 100-77); or those which were homeless or in emergency shelters in the declared disaster area prior to Hurricanes Katrina or Rita: *Provided further*, That these funds are available for assistance, under section 8(o) of the United States Housing Act of 1937: *Provided further*, That in administering assistance under this heading the Secretary of Housing and Urban Development may waive requirements for income eligibility and tenant contribution under section 8 of such Act for up to 18 months: *Provided further*, That all households receiving housing vouchers under this heading shall be eligible to reoccupy their previous assisted housing, if and when it becomes available: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

Vouchers.

COMMUNITY PLANNING AND DEVELOPMENT

COMMUNITY DEVELOPMENT FUND

For an additional amount for the “Community development fund”, for necessary expenses related to disaster relief, long-term recovery, and restoration of infrastructure in the most impacted and distressed areas related to the consequences of hurricanes in the Gulf of Mexico in 2005 in States for which the President declared a major disaster under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) in conjunction with Hurricane Katrina, Rita, or Wilma, \$11,500,000,000, to remain available until expended, for activities

authorized under title I of the Housing and Community Development Act of 1974 (Public Law 93-383): *Provided*, That no State shall receive more than 54 percent of the amount provided under this heading: *Provided further*, That funds provided under this heading shall be administered through an entity or entities designated by the Governor of each State: *Provided further*, That such funds may not be used for activities reimbursable by or for which funds are made available by the Federal Emergency Management Agency or the Army Corps of Engineers: *Provided further*, That funds allocated under this heading shall not adversely affect the amount of any formula assistance received by a State under this heading: *Provided further*, That each State may use up to five percent of its allocation for administrative costs: *Provided further*, That Louisiana and Mississippi may each use up to \$20,000,000 (with up to \$400,000 each for technical assistance) from funds made available under this heading for LISC and the Enterprise Foundation for activities authorized by section 4 of the HUD Demonstration Act of 1993 (42 U.S.C. 9816 note), as in effect immediately before June 12, 1997, and for activities authorized under section 11 of the Housing Opportunity Program Extension Act of 1996, including demolition, site clearance and remediation, and program administration: *Provided further*, That in administering the funds under this heading, the Secretary of Housing and Urban Development shall waive, or specify alternative requirements for, any provision of any statute or regulation that the Secretary administers in connection with the obligation by the Secretary or the use by the recipient of these funds or guarantees (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment), upon a request by the State that such waiver is required to facilitate the use of such funds or guarantees, and a finding by the Secretary that such waiver would not be inconsistent with the overall purpose of the statute, as modified: *Provided further*, That the Secretary may waive the requirement that activities benefit persons of low and moderate income, except that at least 50 percent of the funds made available under this heading must benefit primarily persons of low and moderate income unless the Secretary otherwise makes a finding of compelling need: *Provided further*, That the Secretary shall publish in the Federal Register any waiver of any statute or regulation that the Secretary administers pursuant to title I of the Housing and Community Development Act of 1974 no later than 5 days before the effective date of such waiver: *Provided further*, That every waiver made by the Secretary must be reconsidered according to the three previous provisos on the two-year anniversary of the day the Secretary published the waiver in the Federal Register: *Provided further*, That prior to the obligation of funds each State shall submit a plan to the Secretary detailing the proposed use of all funds, including criteria for eligibility and how the use of these funds will address long-term recovery and restoration of infrastructure: *Provided further*, That each State will report quarterly to the Committees on Appropriations on all awards and uses of funds made available under this heading, including specifically identifying all awards of sole-source contracts and the rationale for making the award on a sole-source basis: *Provided further*, That the Secretary shall notify the Committees on Appropriations on any proposed allocation of any funds and any related waivers made pursuant to these provisions under this

Federal Register,
publication.
Deadline.

Reports.

Notification.

heading no later than 5 days before such waiver is made: *Provided further*, That the Secretary shall establish procedures to prevent recipients from receiving any duplication of benefits and report quarterly to the Committees on Appropriations with regard to all steps taken to prevent fraud and abuse of funds made available under this heading including duplication of benefits: *Provided further*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006. Reports.

ADMINISTRATIVE PROVISIONS

SEC. 901. Notwithstanding provisions of the United States Housing Act of 1937 (Public Law 93-383), in order to assist public housing agencies located within the most heavily impacted areas of Louisiana and Mississippi that are subject to a declaration by the President of a major disaster under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) in connection with Hurricane Katrina or Rita, the Secretary for calendar year 2006 may authorize a public housing agency to combine assistance provided under sections 9(d) and (e) of the United States Housing Act of 1937 and assistance provided under section 8(o) of such Act, for the purpose of facilitating the prompt, flexible and efficient use of funds provided under these sections of the Act to assist families who were receiving housing assistance under the Act immediately prior to Hurricane Katrina or Rita and were displaced from their housing by the hurricanes.

SEC. 902. To the extent feasible the Secretary of Housing and Urban Development shall preserve all housing within the area declared a major disaster under the Robert T. Stafford Disaster Relief and Emergency Act (42 U.S.C. 5121 et seq.) resulting from Hurricane Katrina or Rita that received project-based assistance under section 8 or 9 of the United States Housing Act of 1937, section 801 or 811 of the Cranston-Gonzalez National Affordable Housing Act, the AIDS Housing Opportunity Act, or the Stewart B. McKinney Homeless Assistance Act: *Provided*, That the Secretary shall report to the Committees on Appropriations on the status of all such housing, including costs associated with any repair or rehabilitation, within 120 days of enactment of this Act. Reports.
Deadline.

THE JUDICIARY

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

For an additional amount for “Salaries and expenses, Courts of Appeals, District Courts, and Other Judicial Services”, \$18,000,000, to remain available until expended, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico during calendar year 2005: *Provided*, That notwithstanding any other provision of law such sums shall be available for transfer to accounts within the Judiciary subject to approval of the Judiciary operating plan: *Provided further*, That the amount

provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

INDEPENDENT AGENCY

GENERAL SERVICES ADMINISTRATION

FEDERAL BUILDINGS FUND

For an additional amount for “Federal buildings fund”, \$38,000,000, from the general fund and to remain available until expended, for necessary expenses related to the consequences of hurricanes in the Gulf of Mexico during calendar year 2005: *Provided*, That notwithstanding 40 U.S.C. 3307, the Administrator of General Services is authorized to proceed with repairs and alterations for those facilities: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

TITLE II

EMERGENCY SUPPLEMENTAL APPROPRIATIONS TO ADDRESS PANDEMIC INFLUENZA

CHAPTER 1

DEPARTMENT OF AGRICULTURE

OFFICE OF THE SECRETARY

For an additional amount for the “Office of the Secretary”, related to the detection of and response to highly pathogenic avian influenza, including research and development, \$11,350,000, to remain available until September 30, 2007: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

AGRICULTURAL RESEARCH SERVICE

SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, related to the detection of and response to highly pathogenic avian influenza, including research and development, \$7,000,000, to remain available until September 30, 2007: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

COOPERATIVE STATE RESEARCH, EDUCATION, AND EXTENSION
SERVICE

RESEARCH AND EDUCATION ACTIVITIES

For an additional amount for “Research and Education Activities”, related to the detection of and response to highly pathogenic avian influenza, \$1,500,000, to remain available until September 30, 2007: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, related to the detection of and response to highly pathogenic avian influenza, \$71,500,000, to remain available until September 30, 2007: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

FOOD AND DRUG ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for “Food and Drug Administration, Salaries and Expenses”, to prepare for and respond to an influenza pandemic, \$20,000,000, to remain available until September 30, 2007: *Provided*, That of the total amount appropriated \$18,000,000 shall be for the Center for Biologics Evaluation and Research and for related field activities in the Office of Regulatory Affairs, and \$2,000,000 shall be for other activities including the Office of the Commissioner and the Office of Management: *Provided further*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

CHAPTER 2

DEPARTMENT OF DEFENSE

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, DEFENSE-WIDE

For an additional amount for “Operation and Maintenance, Defense-Wide” for surveillance, communication equipment, and assistance to military partner nations in procuring protective equipment, \$10,000,000: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

OTHER DEPARTMENT OF DEFENSE PROGRAMS

DEFENSE HEALTH PROGRAM

For an additional amount for “Defense Health Program” for necessary expenses related to vaccine purchases, storage, expanded avian influenza surveillance programs, equipment, essential information management systems, and laboratory diagnostic equipment, \$120,000,000: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

CHAPTER 3

BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

CHILD SURVIVAL AND HEALTH PROGRAMS FUND

For an additional amount for “Child Survival and Health Programs Fund” for activities related to surveillance, planning, preparedness, and response to the avian influenza virus, \$75,200,000, to remain available until expended: *Provided*, That funds appropriated by this paragraph may be obligated and expended notwithstanding section 10 of Public Law 91-672: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

INTERNATIONAL DISASTER AND FAMINE ASSISTANCE

For an additional amount for “International Disaster and Famine Assistance” for the pre-positioning and deployment of essential supplies and equipment for preparedness and response to the avian influenza virus, \$56,330,000, to remain available until expended: *Provided*, That funds appropriated by this paragraph may be obligated and expended notwithstanding section 10 of Public Law 91-672: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

GENERAL PROVISION—THIS CHAPTER

Deadline.
Reports.

SEC. 2301. Within 30 days from the date of enactment of this Act and every six months thereafter, the Administrator of the United States Agency for International Development shall submit to the Committees on Appropriations a report which identifies, for all projects funded from amounts appropriated by this Act that are administered by that agency, the following: the program objectives for each such project, the approximate timeline for achieving each of those objectives, the amounts obligated and expended for each project, and the current status of program

performance with reference to identified program objectives and the timeline for achieving those objectives.

CHAPTER 4

DEPARTMENT OF HOMELAND SECURITY

OFFICE OF THE SECRETARY AND EXECUTIVE MANAGEMENT

For an additional amount for “Office of the Secretary and Executive Management”, \$47,283,000, to remain available until expended, for necessary expenses to train, plan, and prepare for a potential outbreak of highly pathogenic influenza: *Provided*, That these funds may be transferred to other Department of Homeland Security appropriations accounts in accordance with section 503 of Public Law 109–90: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

CHAPTER 5

DEPARTMENT OF THE INTERIOR

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

For an additional amount for “Resource Management” for the detection of highly pathogenic avian influenza in wild birds, including the investigation of morbidity and mortality events, targeted surveillance in live wild birds, and targeted surveillance in hunter-taken birds, \$7,398,000, to remain available until September 30, 2007: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

For an additional amount for “Operation of the National Park System” for the detection of highly pathogenic avian influenza in wild birds, including the investigation of morbidity and mortality events, \$525,000, to remain available until September 30, 2007: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

UNITED STATES GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

For an additional amount for “Surveys, Investigations, and Research” for the detection of highly pathogenic avian influenza in wild birds, including the investigation of morbidity and mortality

events, targeted surveillance in live wild birds, and targeted surveillance in hunter-taken birds, \$3,670,000, to remain available until September 30, 2007: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

CHAPTER 6

DEPARTMENT OF HEALTH AND HUMAN SERVICES

OFFICE OF THE SECRETARY

PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY FUND

For an additional amount for “Public Health and Social Services Emergency Fund” to prepare for and respond to an influenza pandemic, including the development and purchase of vaccines, antivirals, and necessary medical supplies, and for planning activities, \$3,054,000,000, to remain available until expended: *Provided*, That \$350,000,000 shall be for Upgrading State and Local Capacity and \$50,000,000 shall be for laboratory capacity and research at the Centers for Disease Control and Prevention: *Provided further*, That products purchased with these funds may, at the discretion of the Secretary, be deposited in the Strategic National Stockpile: *Provided further*, That notwithstanding section 496(b) of the Public Health Service Act, funds may be used for the construction or renovation of privately owned facilities for the production of pandemic influenza vaccines and other biologicals, where the Secretary finds such a contract necessary to secure sufficient supplies of such vaccines or biologicals: *Provided further*, That the Secretary may negotiate a contract with a vendor under which a State may place an order with the vendor for antivirals; may reimburse a State for a portion of the price paid by the State pursuant to such an order; and may use amounts made available herein for such reimbursement: *Provided further*, That funds appropriated herein and not specifically designated under this heading may be transferred to other appropriation accounts of the Department of Health and Human Services, as determined by the Secretary to be appropriate, to be used for the purposes specified in this sentence: *Provided further*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

For an additional amount for “Public Health and Social Services Emergency Fund” for activities related to pandemic influenza, including international activities and activities in foreign countries, related to preparedness planning, enhancing the pandemic influenza regulatory science base, accelerating pandemic influenza disease surveillance, developing registries to monitor influenza vaccine distribution and use, and supporting pandemic influenza research, clinical trials and clinical trials infrastructure, \$246,000,000, of which \$150,000,000, to remain available until expended, shall be for the Centers for Disease Control and Prevention to carry out global and domestic disease surveillance, laboratory diagnostics, rapid response, and quarantine: *Provided*, That funds appropriated herein and not specifically designated under this heading may be transferred to other appropriation accounts of the Department

of Health and Human Services, as determined by the Secretary to be appropriate, to be used for the purposes specified in this sentence: *Provided further*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

CHAPTER 7

DEPARTMENT OF VETERANS AFFAIRS

VETERANS HEALTH ADMINISTRATION

MEDICAL SERVICES

For an additional amount for “Medical Services” for enhanced avian influenza surveillance programs, planning functions and preparations for the pandemic and to establish real-time surveillance data exchange with the Centers for Disease Control and Prevention, \$27,000,000: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

CHAPTER 8

DEPARTMENT OF STATE AND RELATED AGENCY

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for “Diplomatic and Consular Programs” to support avian influenza country coordination, development of an avian influenza response plan, diplomatic outreach, and health support of United States Government employees, Peace Corps volunteers, and eligible family members stationed abroad, \$16,000,000, to remain available until expended, of which \$1,100,000 shall be transferred to and merged with appropriations for the Peace Corps: *Provided*, That funds appropriated by this paragraph may be obligated and expended notwithstanding section 15 of the State Department Basic Authorities Act of 1956: *Provided further*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

For an additional amount for “Emergencies in the Diplomatic and Consular Service” for emergency evacuation support of United States Government personnel, Peace Corps volunteers, and dependents in regions affected by the avian influenza, \$15,000,000, to remain available until expended: *Provided*, That funds appropriated by this paragraph may be obligated and expended notwithstanding

Notification.
Deadline.

section 15 of the State Department Basic Authorities Act of 1956: *Provided further*, That notwithstanding section 402 of Public Law 109–108, upon a determination by the Secretary of State that circumstances related to the avian influenza require additional funding for activities under this heading, the Secretary of State may transfer such amounts to “Emergencies in the Diplomatic and Consular Service” from available appropriations for the current fiscal year for the Department of State as may be necessary to respond to such circumstances: *Provided further*, That any transfer pursuant to the previous proviso shall be treated as a reprogramming of funds under section 605 of Public Law 109–108 and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section, except that the Committees on Appropriations shall be notified not less than 5 days in advance of any such reprogramming: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

TITLE III

RESCISSIONS AND OFFSETS

CHAPTER 1

DEPARTMENT OF AGRICULTURE

NATURAL RESOURCES CONSERVATION SERVICE

CONSERVATION OPERATIONS

(RESCISSION)

Of the unobligated balances available under this heading, \$10,000,000 are rescinded: *Provided*, That funds for projects or activities identified in the Statement of Managers that accompanies House Report 109–255, pages 84 through 87, shall not be reduced due to such rescission.

RURAL UTILITIES SERVICE

DISTANCE LEARNING, TELEMEDICINE, AND BROADBAND PROGRAM

(RESCISSION)

Of the unobligated balances available under this heading, \$9,900,000 are rescinded.

FOOD AND NUTRITION SERVICE

FOOD STAMP PROGRAM

(RESCISSION)

Of unobligated balances available under this heading of funds provided pursuant to section 16(h)(1)(A) of the Food Stamp Act of 1977, \$11,200,000 are rescinded.

FOREIGN AGRICULTURAL SERVICE

PUBLIC LAW 480 TITLE I OCEAN FREIGHT DIFFERENTIAL GRANTS

(RESCISSION)

Of the unobligated balances available under this heading, \$35,000,000 are rescinded.

CHAPTER 2

DEPARTMENT OF DEFENSE

OPERATION AND MAINTENANCE

DISPOSAL OF DEPARTMENT OF DEFENSE REAL PROPERTY

(RESCISSION)

Of the unobligated balances available under this heading, \$45,000,000 are rescinded.

LEASE OF DEPARTMENT OF DEFENSE REAL PROPERTY

(RESCISSION)

Of the unobligated balances available under this heading, \$30,000,000 are rescinded.

OVERSEAS MILITARY FACILITY INVESTMENT RECOVERY

(RESCISSION)

Of the unobligated balances available under this heading, \$5,000,000 are rescinded.

CHAPTER 3

EXPORT-IMPORT BANK OF THE UNITED STATES

SUBSIDY APPROPRIATION

(RESCISSION)

Of the unobligated balances available under this heading in Public Law 109–102 and Public Law 108–447, \$25,000,000 are rescinded.

CHAPTER 4

DEPARTMENT OF HOMELAND SECURITY

UNITED STATES COAST GUARD

OPERATING EXPENSES

(RESCISSION OF FUNDS)

Of the funds appropriated under this heading in Public Law 109–90, \$260,533,000 are rescinded.

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

(RESCISSION OF FUNDS)

Of the funds appropriated under this heading in Public Law 109–62, \$23,409,300,000 are rescinded.

CHAPTER 5

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

(RESCISSION)

Of the unobligated balances available under this heading, \$500,000 are rescinded.

UNITED STATES FISH AND WILDLIFE SERVICE

LANDOWNER INCENTIVE PROGRAM

(RESCISSION)

Of the unobligated balances available under this heading, \$2,000,000 are rescinded.

COOPERATIVE ENDANGERED SPECIES CONSERVATION FUND

(RESCISSION)

Of the unobligated balances available under this heading, \$1,000,000 are rescinded.

CHAPTER 6

DEPARTMENT OF COMMERCE

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

INDUSTRIAL TECHNOLOGY SERVICES

(RESCISSION)

Of the unobligated balances available under this heading, \$7,000,000 are rescinded.

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

(RESCISSION)

Of the unobligated balances available under this heading, \$10,000,000 are rescinded.

EMBASSY SECURITY, CONSTRUCTION, AND MAINTENANCE

(RESCISSION)

Of the unobligated balances available under this heading, \$20,000,000 are rescinded.

CHAPTER 7

DEPARTMENT OF TRANSPORTATION

FEDERAL HIGHWAY ADMINISTRATION

FEDERAL-AID HIGHWAYS

(HIGHWAY TRUST FUND)

(RESCISSION)

Of the unobligated balances of funds apportioned to each State under chapter 1 of title 23, United States Code, \$1,143,000,000 are rescinded: *Provided*, That such rescission shall not apply to the funds distributed in accordance with 23 U.S.C. 130(f), 23 U.S.C. 133(d)(1) as in effect prior to the date of enactment of Public Law 109–59, the first sentence of 23 U.S.C. 133(d)(3)(A), 23 U.S.C. 104(b)(5), or 23 U.S.C. 163 as in effect prior to the enactment of Public Law 109–59.

FEDERAL RAILROAD ADMINISTRATION

EFFICIENCY INCENTIVE GRANTS TO THE NATIONAL RAILROAD
PASSENGER CORPORATION

(RESCISSION)

Of the unobligated balances of amounts made available under this heading in Public Law 109–115, \$8,300,000 are rescinded: *Provided*, That section 135 of title I of division A of Public Law 109–115 is repealed.

Ante, p. 2416.

CHAPTER 8

GOVERNMENT-WIDE RESCISSIONS

SEC. 3801. (a) ACROSS-THE-BOARD RESCISSIONS.—There is hereby rescinded an amount equal to 1 percent of—

(1) the budget authority provided (or obligation limit imposed) for fiscal year 2006 for any discretionary account of this Act and in any other fiscal year 2006 appropriation Act;

(2) the budget authority provided in any advance appropriation for fiscal year 2006 for any discretionary account in any prior fiscal year appropriation Act; and

(3) the contract authority provided in fiscal year 2006 for any program subject to limitation contained in any fiscal year 2006 appropriation Act.

(b) PROPORTIONATE APPLICATION.—Any rescission made by subsection (a) shall be applied proportionately—

(1) to each discretionary account and each item of budget authority described in such subsection; and

(2) within each such account and item, to each program, project, and activity (with programs, projects, and activities as delineated in the appropriation Act or accompanying reports for the relevant fiscal year covering such account or item, or for accounts and items not included in appropriation Acts, as delineated in the most recently submitted President's budget).

(c) EXCEPTIONS.—This section shall not apply—

(1) to discretionary budget authority that has been designated pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006; or

(2) to discretionary authority appropriated or otherwise made available to the Department of Veterans Affairs.

Deadline.

(d) OMB REPORT.—Within 30 days after the date of the enactment of this section the Director of the Office of Management and Budget shall submit to the Committees on Appropriations of the House of Representatives and the Senate a report specifying the account and amount of each rescission made pursuant to this section.

TITLE IV—HURRICANE EDUCATION RECOVERY ACT

Subtitle A—Elementary and Secondary Education Hurricane Relief

SEC. 101. FINDINGS; DEFINITIONS.

(a) FINDINGS.—Congress finds the following:

(1) Hurricane Katrina and Hurricane Rita have had a devastating and unprecedented impact on students who attended schools in the disaster areas.

(2) Due to the devastating effects of Hurricane Katrina and Hurricane Rita, a significant number of students have enrolled in schools outside of the area in which they resided, including a significant number of students who enrolled in non-public schools because their parents chose to enroll them in such schools.

(3) 372,000 students were displaced by Hurricane Katrina. Approximately 700 schools have been damaged or destroyed. Nine States each have more than 1,000 of such displaced students enrolled in their schools. In Texas alone, over 45,000 displaced students have enrolled in schools.

(4) In response to these extraordinary conditions, this subtitle creates a one-time only emergency grant for the 2005–2006 school year tailored to the needs and particular circumstances of students displaced by Hurricane Katrina and Hurricane Rita.

(5) The level and type of assistance provided under this subtitle, both for students attending public schools and students attending non-public schools, is made available solely because of the unprecedented nature of the crisis, the massive dislocation of students, and the short duration of the services or assistance.

(b) **DEFINITIONS.**—Unless otherwise specified in this subtitle, the terms used in this subtitle have the meanings given the terms in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

SEC. 102. IMMEDIATE AID TO RESTART SCHOOL OPERATIONS.

(a) **PURPOSE.**—It is the purpose of this section—

(1) to provide immediate services or assistance to local educational agencies and non-public schools in Louisiana, Mississippi, Alabama, and Texas that serve an area in which a major disaster has been declared in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170), related to Hurricane Katrina or Hurricane Rita; and

(2) to assist school administrators and personnel of such agencies or non-public schools with expenses related to the restart of operations in, the re-opening of, and the re-enrollment of students in, elementary schools and secondary schools in such areas.

(b) **PAYMENTS AUTHORIZED.**—From amounts appropriated to carry out this subtitle, the Secretary of Education is authorized to make payments, on such basis as the Secretary determines appropriate, taking into consideration the number of students who were enrolled, during the 2004–2005 school year, in elementary schools and secondary schools that were closed on September 12, 2005, as a result of Hurricane Katrina or on October 7, 2005, as a result of Hurricane Rita, to State educational agencies in Louisiana, Mississippi, Alabama, and Texas to enable such agencies to provide services or assistance to local educational agencies or non-public schools serving an area in which a major disaster has been declared in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170), related to Hurricane Katrina or Hurricane Rita.

(c) **ELIGIBILITY, CONSIDERATION, AND EQUITY.**—

(1) **ELIGIBILITY AND CONSIDERATION.**—From the payment provided by the Secretary of Education under subsection (b), the State educational agency shall provide services and assistance to local educational agencies and non-public schools, consistent with the provisions of this section. In determining the amount to be provided for services or assistance under this section, the State educational agency shall consider the following:

(A) The number of school-aged children served by the local educational agency or non-public school in the academic year preceding the academic year for which the services or assistance are provided.

(B) The severity of the impact of Hurricane Katrina or Hurricane Rita on the local educational agency or non-public school and the extent of the needs in each local educational agency or non-public school in Louisiana, Mississippi, Alabama, and Texas that is in an area in which a major disaster has been declared in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170), related to Hurricane Katrina or Hurricane Rita.

(2) **EQUITY.**—Educational services and assistance provided for eligible non-public school students under paragraph (1) shall

be equitable in comparison to the educational services and other benefits provided for public school students under this section, and shall be provided in a timely manner.

(d) APPLICATIONS.—Each local educational agency or non-public school desiring services or assistance under this section shall submit an application to the State educational agency at such time, in such manner, and accompanied by such information as the State educational agency may reasonably require to ensure expedited and timely provision of services or assistance to the local educational agency or non-public school.

(e) USES OF FUNDS.—

(1) IN GENERAL.—A local educational agency or non-public school receiving services or assistance from the State educational agency under this section shall use such services or assistance for—

(A) recovery of student and personnel data, and other electronic information;

(B) replacement of school district information systems, including hardware and software;

(C) financial operations;

(D) reasonable transportation costs;

(E) rental of mobile educational units and leasing of neutral sites or spaces;

(F) initial replacement of instructional materials and equipment, including textbooks;

(G) redeveloping instructional plans, including curriculum development;

(H) initiating and maintaining education and support services; and

(I) such other activities related to the purpose of this section that are approved by the Secretary.

(2) USE WITH OTHER AVAILABLE FUNDS.—A local educational agency or non-public school receiving services or assistance under this section may use such services or assistance in coordination with other Federal, State, or local funds available for the activities described in paragraph (1).

(3) SPECIAL RULES.—

(A) PROHIBITION.—Services or assistance provided under this section shall not be used for construction or major renovation of schools.

(B) SECULAR, NEUTRAL, AND NONIDEOLOGICAL SERVICES OR ASSISTANCE.—Services or assistance provided under this section, including equipment and materials, shall be secular, neutral, and nonideological.

(f) SUPPLEMENT NOT SUPPLANT.—

(1) IN GENERAL.—Except as provided in paragraph (2), services or assistance made available under this section shall be used to supplement, not supplant, any funds made available through the Federal Emergency Management Agency or through a State.

(2) EXCEPTION.—Paragraph (1) shall not prohibit the provision of Federal assistance under this section to an eligible State educational agency, local educational agency, or non-public school that is or may be entitled to receive, from another source, benefits for the same purposes as under this section if—

(A) such State educational agency, local educational agency, or school has not received such other benefits by the time of application for Federal assistance under this section; and

(B) such State educational agency, local educational agency, or school agrees to repay all duplicative Federal assistance received to carry out the purposes of this section.

(g) **DEFINITION OF NON-PUBLIC SCHOOL.**—The term “non-public school” means a non-public elementary school or secondary school that—

(1) is accredited or licensed or otherwise operates in accordance with State law; and

(2) was in existence prior to August 22, 2005.

(h) **ASSISTANCE TO NON-PUBLIC SCHOOLS.**—

(1) **FUNDS AVAILABILITY.**—From the payment provided by the Secretary of Education under subsection (b) to a State educational agency, the State educational agency shall reserve an amount of funds, to be made available to non-public schools in the State, that is not less than an amount that bears the same relation to the payment as the number of non-public elementary schools and secondary schools in the State bears to the total number of non-public and public elementary schools and secondary schools in the State. The number of such schools shall be determined by the National Center for Education Statistics Common Core of Data for the 2003–2004 school year. Such funds shall be used for the provision of services or assistance at non-public schools, except as provided in paragraph (2).

(2) **SPECIAL RULE.**—If funds made available under paragraph (1) remain unobligated 120 days after the date of enactment of this Act, such funds may be used to provide services or assistance under this section to local educational agencies or non-public schools.

(3) **PUBLIC CONTROL OF FUNDS.**—The control of funds for the services and assistance provided to a non-public school under paragraph (1), and title to materials, equipment, and property purchased with such funds, shall be in a public agency, and a public agency shall administer such funds, materials, equipment, and property and shall provide such services (or may contract for the provision of such services with a public or private entity).

SEC. 103. HOLD HARMLESS FOR LOCAL EDUCATIONAL AGENCIES SERVING MAJOR DISASTER AREAS.

In the case of a local educational agency that serves an area in which the President has declared that a major disaster exists in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170), related to Hurricane Katrina or Hurricane Rita, the amount made available for such local educational agency under each of sections 1124, 1124A, 1125, and 1125A of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333, 6334, 6335, and 6337) for fiscal year 2006 shall be not less than the amount made available for such local educational agency under each of such sections for fiscal year 2005.

SEC. 104. TEACHER AND PARAPROFESSIONAL RECIPROCITY; DELAY.

(a) **TEACHER AND PARAPROFESSIONAL RECIPROCITY.**—

(1) TEACHERS.—

(A) AFFECTED TEACHER.—In this subsection, the term “affected teacher” means a teacher who is displaced due to Hurricane Katrina or Hurricane Rita and relocates to a State that is different from the State in which such teacher resided on August 22, 2005.

(B) RECIPROCITY.—

(i) TEACHERS.—A local educational agency may consider an affected teacher hired by such agency who is not highly qualified in a core academic subject in the State in which such agency is located to be highly qualified in the same core academic subject or area, for purposes of section 1119 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6319), for the 2005–2006 school year, if such teacher was highly qualified, consistent with section 9101(23) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801(23)), on or before August 22, 2005, in the State in which such teacher resided on August 22, 2005.

(ii) SPECIAL EDUCATION TEACHERS.—A local educational agency may consider an affected special education teacher hired by such agency who is not highly qualified in the State in which such agency is located to be highly qualified, for purposes of section 612(a)(14) of the Individuals with Disabilities Education Act (20 U.S.C. 1412(a)(14)), for the 2005–2006 school year, if such teacher was highly qualified, consistent with section 602(10) of the Individuals with Disabilities Education Act (20 U.S.C. 1401(10)), on or before August 22, 2005, in the State in which such teacher resided on August 22, 2005.

(2) PARAPROFESSIONAL.—

(A) AFFECTED PARAPROFESSIONAL.—In this subsection, the term “affected paraprofessional” means a paraprofessional who is displaced due to Hurricane Katrina or Hurricane Rita and relocates to a State that is different from the State in which such paraprofessional resided on August 22, 2005.

(B) RECIPROCITY.—A local educational agency may consider an affected paraprofessional hired by such agency who does not satisfy the requirements of section 1119(c) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6319(c)) in the State in which such agency is located to satisfy such requirements, for purposes of such section, for the 2005–2006 school year, if such paraprofessional satisfied such requirements on or before August 22, 2005, in the State in which such paraprofessional resided on August 22, 2005.

(b) DELAY.—The Secretary of Education may delay, for a period not to exceed 1 year, applicability of the requirements of paragraphs (2) and (3) of section 1119(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6319(a)(2) and (3)) and section 612(a)(14)(C) of the Individuals with Disabilities Education Act (20 U.S.C. 1412(a)(14)(C)) with respect to the States of Alabama, Louisiana, Texas, and Mississippi (and local educational agencies within the jurisdiction of such States), if any such State or local

educational agency demonstrates that a failure to comply with such requirements is due to exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the financial resources of local educational agencies within the State.

SEC. 105. REGULATORY AND FINANCIAL RELIEF.

(a) **WAIVER AUTHORITY.**—Subject to subsections (b) and (c), in providing any grant or other assistance, directly or indirectly, to an entity in an affected State in which a major disaster has been declared in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170), related to Hurricane Katrina or Hurricane Rita, the Secretary of Education may, as applicable, waive or modify, in order to ease fiscal burdens, any requirement relating to the following:

(1) Maintenance of effort.

(2) The use of Federal funds to supplement, not supplant, non-Federal funds.

(3) Any non-Federal share or capital contribution required to match Federal funds provided under programs administered by the Secretary of Education.

(b) **DURATION.**—A waiver under this section shall be for the fiscal year 2006.

(c) **LIMITATIONS.**—

(1) **RELATION TO IDEA.**—Nothing in this section shall be construed to waive or modify any provision of the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

(2) **MAINTENANCE OF EFFORT.**—If the Secretary grants a waiver or modification under this section waiving or modifying a requirement relating to maintenance of effort for fiscal year 2006, the level of effort required for fiscal year 2007 shall not be reduced because of the waiver or modification.

SEC. 106. ASSISTANCE FOR HOMELESS YOUTH.

(a) **IN GENERAL.**—The Secretary of Education shall provide assistance to local educational agencies serving homeless children and youths displaced by Hurricane Katrina or Hurricane Rita, consistent with section 723 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11433), including identification, enrollment assistance, assessment and school placement assistance, transportation, coordination of school services, supplies, referrals for health, mental health, and other needs.

(b) **EXCEPTION AND DISTRIBUTION OF FUNDS.**—

(1) **EXCEPTION.**—For purposes of providing assistance under subsection (a), subsections (c) and (e)(1) of section 722 and subsections (b) and (c) of section 723 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11432(c) and (e)(1), 11433(b) and (c)) shall not apply.

(2) **DISBURSEMENT.**—The Secretary of Education shall disburse funding provided under subsection (a) to State educational agencies based on demonstrated need, as determined by the Secretary, and such State educational agencies shall distribute funds, that are appropriated under section 109 and available to carry out this section, to local educational agencies based on demonstrated need, for the purposes of carrying out section 723 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11433).

SEC. 107. TEMPORARY EMERGENCY IMPACT AID FOR DISPLACED STUDENTS.**(a) TEMPORARY EMERGENCY IMPACT AID AUTHORIZED.—**

(1) **AID TO STATE EDUCATIONAL AGENCIES.**—From amounts appropriated to carry out this subtitle, the Secretary of Education shall provide emergency impact aid to State educational agencies to enable the State educational agencies to make emergency impact aid payments to eligible local educational agencies and eligible BIA-funded schools to enable—

(A) such eligible local educational agencies and schools to provide for the instruction of students served by such agencies and schools; and

(B) such eligible local educational agencies to make immediate impact aid payments to accounts established on behalf of displaced students (referred to in this section as “accounts”) who are attending eligible non-public schools located in the areas served by the eligible local educational agencies.

(2) **AID TO LOCAL EDUCATIONAL AGENCIES AND BIA-FUNDED SCHOOLS.**—A State educational agency shall make emergency impact aid payments to eligible local educational agencies and eligible BIA-funded schools in accordance with subsection (d).

(3) **STATE EDUCATIONAL AGENCIES IN CERTAIN STATES.**—In the case of the States of Louisiana and Mississippi, the State educational agency shall carry out the activities of eligible local educational agencies that are unable to carry out this section, including eligible local educational agencies in such States for which the State exercises the authorities normally exercised by such local educational agencies.

(4) **NOTICE OF FUNDS AVAILABILITY.**—Not later than 14 calendar days after the date of enactment of this Act, the Secretary of Education shall publish in the Federal Register a notice of the availability of funds under this section.

(b) DEFINITIONS.—In this section:

(1) **DISPLACED STUDENT.**—The term “displaced student” means a student who enrolled in an elementary school or secondary school (other than the school that the student was enrolled in, or was eligible to be enrolled in, on August 22, 2005) because such student resides or resided on August 22, 2005, in an area for which a major disaster has been declared in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170), related to Hurricane Katrina or Hurricane Rita.

(2) **ELIGIBLE LOCAL EDUCATIONAL AGENCIES.**—The term “eligible local educational agency” means a local educational agency that serves—

(A) an elementary school or secondary school (including a charter school) in which there is enrolled a displaced student; or

(B) an area in which there is located an eligible non-public school.

(3) **ELIGIBLE NON-PUBLIC SCHOOL.**—The term “eligible non-public school” means a non-public elementary school or secondary school that—

(A) is accredited or licensed or otherwise operates in accordance with State law;

(B) was in existence on August 22, 2005; and

Deadline.
Federal Register,
publication.

(C) serves a displaced student on behalf of whom an application for an account has been made pursuant to subsection (c)(2)(A)(ii).

(4) ELIGIBLE BIA-FUNDED SCHOOL.—In this section, the term “eligible BIA-funded school” means a school funded by the Bureau of Indian Affairs in which there is enrolled a displaced student.

(c) APPLICATION.—

Deadlines.

(1) STATE EDUCATIONAL AGENCY.—A State educational agency that desires to receive emergency impact aid under this section shall submit an application to the Secretary of Education, not later than 7 calendar days after the date by which an application under paragraph (2) must be submitted, in such manner, and accompanied by such information as the Secretary of Education may reasonably require, including—

(A) information on the total displaced student child count of the State provided by eligible local educational agencies in the State and eligible BIA-funded schools in the State under paragraph (2);

(B) a description of the process for the parent or guardian of a displaced student enrolled in a non-public school to indicate to the eligible local educational agency serving the area in which such school is located that the student is enrolled in such school;

(C) a description of the procedure to be used by an eligible local educational agency in such State to provide payments to accounts;

(D) a description of the process to be used by an eligible local educational agency in such State to obtain—

(i) attestations of attendance of eligible displaced students from eligible non-public schools, in order for the local educational agency to provide payments to accounts on behalf of eligible displaced students; and

(ii) attestations from eligible non-public schools that accounts are used only for the purposes described in subsection (e)(1);

(E) the criteria, including family income, used to determine the eligibility for and the amount of assistance under this section provided on behalf of a displaced student attending an eligible non-public school; and

(F) the student count for displaced students attending eligible non-public schools.

(2) LOCAL EDUCATIONAL AGENCIES AND BIA-FUNDED SCHOOLS.—An eligible local educational agency or eligible BIA-funded school that desires an emergency impact aid payment under this section shall submit an application to the State educational agency, not later than 14 calendar days after the date of the publication of the notice described in subsection (a)(4), in such manner, and accompanied by such information as the State educational agency may reasonably require, including documentation submitted quarterly for the 2005–2006 school year that indicates the following:

(A) In the case of an eligible local educational agency—

(i) the number of displaced students enrolled in the elementary schools and secondary schools (including charter schools and including the number

of displaced students who are children with disabilities) served by such agency for such quarter;

(ii) the number of displaced students for whom the eligible local educational agency expects to provide payments to accounts under subsection (d)(3) (including the number of displaced students who are children with disabilities) for such quarter who meet the following criteria—

(I) the displaced student enrolled in an eligible non-public school prior to the date of enactment of this Act;

(II) the parent or guardian of the displaced student chose to enroll the student in the eligible non-public school in which the student is enrolled; and

(III) the parent or guardian of the displaced student submitted, in a timely manner that allows the local educational agency to meet the documentation requirements under this paragraph, an application requesting that the agency make a payment to an account on behalf of the student; and

(iii) an assurance that the local educational agency will make payments to accounts within 14 calendar days of receipt of funds provided under this section.

(B) In the case of an eligible BIA-funded school, the number of displaced students, including the number of displaced students who are children with disabilities, enrolled in such school for such quarter.

(3) DETERMINATION OF NUMBER OF DISPLACED STUDENTS.—In determining the number of displaced students for a quarter under paragraph (2), an eligible local educational agency or eligible BIA-funded school shall include the number of displaced students served—

(A) in the case of a determination for the first quarterly installment, during the quarter prior to the date of enactment of this Act; and

(B) in the case of a determination for each subsequent quarterly installment, during the quarter immediately preceding the quarter for which the installment is provided.

(d) AMOUNT OF EMERGENCY IMPACT AID.—

(1) AID TO STATE EDUCATIONAL AGENCIES.—

(A) IN GENERAL.—The amount of emergency impact aid received by a State educational agency for the 2005–2006 school year shall equal the sum of—

(i) the product of the number of displaced students (who are not children with disabilities), as determined by the eligible local educational agencies and eligible BIA-funded schools in the State under subsection (c)(2), times \$6,000; and

(ii) the product of the number of displaced students who are children with disabilities, as determined by the eligible local educational agencies and eligible BIA-funded schools in the State under subsection (c)(2), times \$7,500.

(B) INSUFFICIENT FUNDS.—If the amount available under this section to provide emergency impact aid under this subsection is insufficient to pay the full amount that

a State educational agency is eligible to receive under this section, the Secretary of Education shall ratably reduce the amount of such emergency impact aid.

(C) RETENTION OF STATE SHARE.—In the case of a State educational agency that has made a payment prior to the date of enactment of this Act to a local educational agency for the purpose of covering additional costs incurred as a result of enrolling a displaced student in a school served by the local educational agency, the State educational agency may retain a portion of the payment described in paragraph (2)(A)(ii) that bears the same relation to the total amount of the payment under such paragraph as the sum of such prior payments bears to the total cost of attendance for all students in that local educational agency for whom the State educational agency made such prior payments, except that a local educational agency shall not adjust the level of funding provided to accounts under this section based on the State's retention of such amount.

(2) AID TO ELIGIBLE LOCAL EDUCATIONAL AGENCIES AND ELIGIBLE BIA-FUNDED SCHOOLS.—

(A) QUARTERLY INSTALLMENTS.—

(i) IN GENERAL.—A State educational agency shall provide emergency impact aid payments under this section on a quarterly basis for the 2005–2006 school year by such dates as determined by the Secretary of Education. Such quarterly installment payments shall be based on the number of displaced students reported under subsection (c)(2) and in the amount determined under clause (ii).

(ii) PAYMENT AMOUNT.—Each quarterly installment payment under clause (i) shall equal 25 percent of the sum of—

(I) the number of displaced students (who are not children with disabilities) reported by the eligible local educational agency or eligible BIA-funded school for such quarter (as determined under subsection (c)(2)) times \$6,000; and

(II) the number of displaced students who are children with disabilities reported by the eligible local educational agency or eligible BIA-funded school for such quarter (as determined under subsection (c)(2)) times \$7,500.

(iii) TIMELINE.—The Secretary of Education shall establish a timeline for quarterly reporting on the number of displaced students in order to make the appropriate disbursements in a timely manner.

Reports.

(iv) INSUFFICIENT FUNDS.—If, for any quarter, the amount available under this section to make payments under this subsection is insufficient to pay the full amount that an eligible local educational agency or eligible BIA-funded school is eligible to receive under this section, the State educational agency shall ratably reduce the amount of such payments.

(B) MAXIMUM PAYMENT TO ACCOUNT.—In providing quarterly payments to an account for the 2005–2006 school year on behalf of a displaced student for each quarter

Deadline.

that such student is enrolled in a non-public school in the area served by the agency under paragraph (3), an eligible local educational agency may provide not more than 4 quarterly payments to such account (each of which shall be paid not later than 14 calendar days after the date of receipt of each quarterly installment payment received under subparagraph (A)), and the aggregate amount of such payments shall not exceed the lesser of—

(i)(I) in the case of a displaced student who is not a child with a disability, \$6,000; or

(II) in the case of a displaced student who is a child with a disability, \$7,500; or

(ii) the cost of tuition and fees (and transportation expenses, if any) at the non-public school for the 2005–2006 school year.

(C) LIMITATION.—A non-public school accessing funds on behalf of a displaced student under this section must waive tuition, or reimburse tuition paid, in an amount equal to the amount accessed.

(3) DISPLACED STUDENTS.—Subject to the succeeding sentence, an eligible local educational agency or eligible BIA-funded school receiving emergency impact aid payments under this section shall use the payments to provide services and assistance to elementary schools and secondary schools (including charter schools) served by such agency, or to such BIA-funded school, that enrolled a displaced student. An eligible local educational agency that receives emergency impact aid payments under this section and that serves an area in which there is located an eligible non-public school shall, at the request of the parent or guardian of a displaced student who meets the criteria described in subsection (c)(2)(A)(ii) and who enrolled in a non-public school in an area served by the agency, use such emergency impact aid payment to provide payment on a quarterly basis (but not to exceed the total amount specified in subsection (d)(2)(B) for the 2005–2006 school year) to an account on behalf of such displaced student.

(e) USE OF FUNDS.—

(1) AUTHORIZED USES.—The authorized uses of funds are the following:

(A) Paying the compensation of personnel, including teacher aides, in schools enrolling displaced students.

(B) Identifying and acquiring curricular material, including the costs of providing additional classroom supplies, and mobile educational units and leasing sites or spaces.

(C) Basic instructional services for such students, including tutoring, mentoring, or academic counseling.

(D) Reasonable transportation costs.

(E) Health and counseling services.

(F) Education and support services.

(2) VERIFICATION OF ENROLLMENT FOR NON-PUBLIC SCHOOLS.—Before providing a quarterly payment to an account, the eligible local educational agency shall verify with the parent or guardian of a displaced student that such displaced student is, or was, enrolled in the non-public school for such quarter.

(3) PROHIBITION.—Funds received under this section shall not be used for construction or major renovation of schools.

(4) PROVISION OF SPECIAL EDUCATION AND RELATED SERVICES.—

(A) IN GENERAL.—In the case of a displaced student who is a child with a disability, any payment made on behalf of such student to an eligible local educational agency or any payment available in an account for such student, shall be used to pay for special education and related services consistent with the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

(B) SPECIAL RULE.—

(i) RETENTION.—Notwithstanding any other provision of this section, if an eligible local educational agency provides services to a displaced student attending an eligible non-public school under section 612(a)(10) of the Individuals with Disabilities Education Act (20 U.S.C. 1412(a)(10)), the eligible local educational agency may retain a portion of the assistance received under this section on behalf of such student to pay for such services.

(ii) DETERMINATION OF PORTION.—

(I) GUIDELINES.—Each State shall issue guidelines, not later than 14 calendar days after the date of the publication of the notice described in subsection (a)(4), that specify the portion of the assistance that an eligible local educational agency in the State may retain under this subparagraph. Each State shall apply such guidelines in a consistent manner throughout the State.

Deadline.

(II) DETERMINATION OF PORTION.—The portion specified in the guidelines shall be based on customary costs of providing services under such section 612(a)(10) for the local educational agency.

(C) DEFINITIONS.—In this paragraph:

(i) SPECIAL EDUCATION; RELATED SERVICES.—The terms “special education” and “related services” have the meaning given such terms in section 602 of the Individuals with Disabilities Education Act (20 U.S.C. 1401).

(ii) INDIVIDUALIZED EDUCATION PROGRAM.—The term “individualized education program” has the meaning given the term in section 614(d)(2) of the Individuals with Disabilities Education Act (20 U.S.C. 1414(d)(2)).

(f) RETURN OF AID.—

(1) ELIGIBLE LOCAL EDUCATIONAL AGENCY OR ELIGIBLE BIA-FUNDED SCHOOL.—An eligible local educational agency or eligible BIA-funded school that receives an emergency impact aid payment under this section shall return to the State educational agency any payment provided to the eligible local educational agency or school under this section that the eligible local educational agency or school has not obligated by the end of the 2005–2006 school year in accordance with this section.

(2) STATE EDUCATIONAL AGENCY.—A State educational agency that receives emergency impact aid under this section, shall return to the Secretary of Education—

(A) any aid provided to the agency under this section that the agency has not obligated by the end of the 2005–2006 school year in accordance with this section; and

(B) any payment funds returned to the State educational agency under paragraph (1).

(g) **LIMITATION ON USE OF AID AND PAYMENTS.**—Aid and payments provided under this section shall only be used for expenses incurred during the 2005–2006 school year.

(h) **ADMINISTRATIVE EXPENSES.**—A State educational agency that receives emergency impact aid under this section may use not more than 1 percent of such aid for administrative expenses. An eligible local educational agency or eligible BIA-funded school that receives emergency impact aid payments under this section may use not more than 2 percent of such payments for administrative expenses.

(i) **SPECIAL FUNDING RULE.**—In calculating funding under section 8003 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703) for an eligible local educational agency that receives an emergency impact aid payment under this section, the Secretary of Education shall not count displaced students served by such agency for whom an emergency impact aid payment is received under this section, nor shall such students be counted for the purpose of calculating the total number of children in average daily attendance at the schools served by such agency as provided in section 8003(b)(3)(B)(i) of such Act (20 U.S.C. 7703(b)(3)(B)(i)).

(j) **NOTICE.**—Each State receiving emergency impact aid under this section shall provide, to the parent or guardian of each displaced student for whom a payment is made under this section to an account who resides in such State, notification that—

(1) such parent or guardian has the option of enrolling such student in a public school or a non-public school; and

(2) the temporary emergency impact aid for displaced students provided under this section is temporary and is only available for the 2005–2006 school year.

(k) **BYPASS.**—For a State in which State law prohibits the State from using Federal funds to directly provide services on behalf of students attending non-public schools and provides that another entity shall provide such services, the Secretary of Education shall make such arrangements with that entity.

(l) **REDIRECTION OF FUNDS.**—

(1) **IN GENERAL.**—If a State educational agency or eligible local educational agency is unable to carry out this section, the Secretary of Education shall make such arrangements with the State as the Secretary determines appropriate to carry out this section on behalf of displaced students attending an eligible non-public school in the area served by such agency.

(2) **SPECIAL RULE.**—If an eligible local educational agency does not make a payment to an account within 14 calendar days of receipt of funds provided under this section, then—

(A) the eligible local educational agency shall return the funds received that quarter for such account to the State educational agency; and

(B) the State educational agency shall ensure that the proper payment to such account for such quarter is made not later than 14 calendar days after the date of the receipt of funds under subparagraph (A), before any

Deadlines.

further funds for such account are distributed to the eligible local educational agency.

(m) NONDISCRIMINATION.—

(1) PROHIBITION.—

(A) IN GENERAL.—A school that enrolls a displaced student under this section shall not discriminate against students on the basis of race, color, national origin, religion, disability, or sex.

(B) APPLICABILITY.—The prohibition of religious discrimination in subparagraph (A) shall not apply with regard to enrollment for a non-public school that is controlled by a religious organization or organized and operated on the basis of religious tenets, except that the prohibition of religious discrimination shall apply with respect to the enrollment of displaced students assisted under this section.

(2) SINGLE SEX SCHOOLS, CLASSES, OR ACTIVITIES.—

(A) IN GENERAL.—To the extent consistent with title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), the prohibition of sex discrimination in paragraph (1)(A) shall not apply to a non-public school that is controlled by a religious organization or organized and operated on the basis of religious tenets if the application of paragraph (1)(A) would not be consistent with the religious tenets of such organization.

(B) SINGLE SEX SCHOOLS, CLASSES, OR ACTIVITIES.—Notwithstanding paragraph (1)(A) and to the extent consistent with title IX of the Education Amendments of 1972, a parent or guardian may choose and a non-public school may offer a single sex school, class, or activity.

(3) GENERAL PROVISION.—Nothing in this subtitle may be construed to alter or modify the provisions of the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), and the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.).

(4) OPT-OUT.—A parent or guardian of a displaced student on behalf of whom a payment to an account is made under this section shall have the option to have such parent or guardian's displaced child opt out of religious worship or religious classes offered by the non-public school in which such student is enrolled and on behalf of whom a payment to an account is made under this section.

(5) RULE OF CONSTRUCTION.—The amount of any payment (or other form of support provided on behalf of a displaced student) under this section shall not be treated as income of a parent or guardian of the student for purposes of Federal tax laws or for determining eligibility for any other Federal program.

(m) TREATMENT OF STATE AID.—A State shall not take into consideration emergency impact aid payments received under this section by a local educational agency in the State in determining the eligibility of such local educational agency for State aid, or the amount of State aid, with respect to free public education of children.

SEC. 108. SEVERABILITY.

If any provision of this subtitle, an amendment made by this subtitle, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this subtitle, the amendments made by this subtitle, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

SEC. 109. AUTHORIZATION OF FUNDS.

There are authorized to be appropriated such sums as may be necessary to carry out sections 102, 106, and 107.

SEC. 110. SUNSET PROVISION.

Except as provided in section 105, the provisions of this subtitle shall be effective for the period beginning on the date of enactment of this Act and ending on August 1, 2006.

Higher Education
Hurricane Relief
Act of 2005.

Subtitle B—Higher Education Hurricane Relief

SEC. 201. SHORT TITLE.

This subtitle may be cited as the “Higher Education Hurricane Relief Act of 2005”.

SEC. 202. GENERAL WAIVERS AND MODIFICATIONS.

(a) **AUTHORITY.**—Notwithstanding any other provision of law, unless enacted with specific reference to this section, the Secretary is authorized to waive or modify any statutory or regulatory provision applicable to the student financial assistance programs under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.), or any student or institutional eligibility provisions in the Higher Education Act of 1965, as the Secretary deems necessary in connection with a Gulf hurricane disaster to ensure that—

(1) administrative requirements placed on affected students, affected individuals, affected institutions, lenders, guaranty agencies, and grantees are minimized to the extent possible without impairing the integrity of the higher education programs under the Higher Education Act of 1965, to ease the burden on such participants; or

(2) institutions of higher education, lenders, guaranty agencies, and other entities participating in the student financial assistance programs under title IV of the Higher Education Act of 1965, that serve an area affected by a Gulf hurricane disaster, may be granted temporary relief from requirements that are rendered infeasible or unreasonable due to the effects of a Gulf hurricane disaster, including due diligence requirements and reporting deadlines.

(b) **AUTHORITY TO EXTEND OR WAIVE REPORTING REQUIREMENTS UNDER SECTION 131(a).**—The Secretary is authorized to extend reporting deadlines or waive reporting requirements under section 131(a) of the Higher Education Act of 1965 (20 U.S.C. 1015(a)) for an affected institution.

(c) **CONSTRUCTION.**—Nothing in this subtitle shall be construed—

(1) to allow the Secretary to waive or modify any applicable statutory or regulatory requirements prohibiting discrimination

in a program or activity, or in employment or contracting, under existing law (in existence on the date of the Secretary's action); or

(2) to authorize any refunding of any repayment of a loan.

SEC. 203. MODIFICATION OF PART A OF TITLE II GRANTS AUTHORIZED.

The Secretary is authorized to approve modifications to the requirements for Teacher Quality Enhancement Grants for States and Partnerships under part A of title II of the Higher Education Act of 1965 (20 U.S.C. 1021 et seq.), at the request of the grantee—

(1) to assist States and local educational agencies to recruit and retain highly qualified teachers in a school district located in an area affected by a Gulf hurricane disaster; and

(2) to assist institutions of higher education, located in such area to recruit and retain faculty necessary to prepare teachers and provide professional development.

SEC. 204. AUTHORIZED USES OF TRIO, GEAR-UP, PART A OR B OF TITLE III, AND OTHER GRANTS.

The Secretary is authorized to modify the required and allowable uses of funds under chapters 1 and 2 of subpart 2 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070a et seq., 1070a-21 et seq.), under part A or B of title III (20 U.S.C. 1057 et seq., 1060 et seq.), and under any other competitive grant program, at the request of an affected institution or other grantee, with respect to affected institutions and other grantees located in an area affected by a Gulf hurricane disaster. The Secretary may not, under the authority of this section, authorize any new construction, renovation, or improvement of classrooms, libraries, laboratories, or other instructional facilities that is not authorized under the institution's grant award, as in effect on the date of enactment of this Act, under part A or B of title III of such Act.

SEC. 205. PROFESSIONAL JUDGMENT.

A financial aid administrator shall be considered to be making an adjustment in accordance with section 479A(a) of the Higher Education Act of 1965 (20 U.S.C. 1087tt(a)) if the financial aid administrator makes the adjustment with respect to the calculation of the expected student or parent contribution (or both) for an affected student, or for a student or a parent who resides or resided on August 29, 2005, or was employed on August 29, 2005, in an area affected by a Gulf hurricane disaster. The financial aid administrator shall adequately document the need for the adjustment.

SEC. 206. EXPANDING INFORMATION DISSEMINATION REGARDING ELIGIBILITY FOR PELL GRANTS.

(a) **IN GENERAL.**—The Secretary shall make special efforts, in conjunction with State efforts, to notify affected students and if applicable, their parents, who qualify for means-tested Federal benefit programs, of their potential eligibility for a maximum Pell Grant, and shall disseminate such informational materials as the Secretary deems appropriate.

(b) **MEANS-TESTED FEDERAL BENEFIT PROGRAM.**—For the purpose of this section, the term “means-tested Federal benefit program” means a mandatory spending program of the Federal Government, other than a program under the Higher Education Act of

1965, in which eligibility for the program's benefits, or the amount of such benefits, or both, are determined on the basis of income or resources of the individual or family seeking the benefit, and may include such programs as the supplemental security income program under title XVI of the Social Security Act, the food stamp program under the Food Stamp Act of 1977, the free and reduced price school lunch program established under the Richard B. Russell National School Lunch Act, the temporary assistance to needy families program established under part A of title IV of the Social Security Act, and the women, infants, and children program established under section 17 of the Child Nutrition Act of 1966, and other programs identified by the Secretary.

SEC. 207. PROCEDURES.

(a) **REGULATORY REQUIREMENTS INAPPLICABLE.**—Sections 482(c) and 492 of the Higher Education Act of 1965 (20 U.S.C. 1089(c), 1098a), section 437 of the General Education Provisions Act (20 U.S.C. 1232), and section 553 of title 5, United States Code, shall not apply to this subtitle.

(b) **NOTICE OF WAIVERS, MODIFICATIONS, OR EXTENSIONS.**—Notwithstanding section 437 of the General Education Provisions Act (20 U.S.C. 1232) and section 553 of title 5, United States Code, the Secretary shall make publicly available the waivers, modifications, or extensions granted under this subtitle.

(c) **CASE-BY-CASE BASIS.**—The Secretary is not required to exercise any waiver or modification authority under this subtitle on a case-by-case basis.

SEC. 208. TERMINATION OF AUTHORITY.

The authority of the Secretary to issue waivers or modifications under this subtitle shall expire at the conclusion of the 2005–2006 academic year.

SEC. 209. DEFINITIONS.

For the purposes of this subtitle, the following terms have the following meanings:

(1) **AFFECTED INDIVIDUAL.**—The term “affected individual” means an individual who has applied for or received student financial assistance under title IV of the Higher Education Act of 1965, and—

(A) who is an affected student; or

(B) whose primary place of employment or residency was, as of August 29, 2005, in an area affected by a Gulf hurricane disaster.

(2) **AFFECTED INSTITUTION.**—

(A) **IN GENERAL.**—The term “affected institution” means an institution of higher education that—

(i) is located in an area affected by a Gulf hurricane disaster; and

(ii) has temporarily ceased operations as a consequence of a Gulf hurricane disaster, as determined by the Secretary.

(B) **LENGTH OF TIME.**—In determining eligibility for assistance under this subtitle, the Secretary, using consistent, objective criteria, shall determine the time period for which an institution of higher education is an affected institution.

(C) SPECIAL RULE.—An organizational unit of an affected institution that is not impacted by a Gulf hurricane disaster shall not be considered as part of such affected institution for purposes of receiving assistance under this subtitle.

(3) AFFECTED STATE.—The term “affected State” means the State of Alabama, Florida, Louisiana, Mississippi, or Texas.

(4) AFFECTED STUDENT.—The term “affected student” means an individual who was enrolled or accepted for enrollment on August 29, 2005, at an affected institution.

(5) AREA AFFECTED BY A GULF HURRICANE DISASTER.—The term “area affected by a Gulf hurricane disaster” means a county or parish, in an affected State, that has been designated by the Federal Emergency Management Agency for disaster assistance for individuals and households as a result of Hurricane Katrina or Hurricane Rita.

(6) CANCELLED ENROLLMENT PERIOD.—The term “cancelled enrollment period” means any period of enrollment at an affected institution during the academic year 2005–2006, during which students were unable to attend such institution.

(7) GULF HURRICANE DISASTER.—The term “Gulf hurricane disaster” means a major disaster that the President declared to exist, in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, and that was caused by Hurricane Katrina or Hurricane Rita.

(8) INSTITUTION OF HIGHER EDUCATION.—The term “institution of higher education” means—

(A) an institution covered by the definition of such term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001); and

(B) an institution described in subparagraph (A) or (B) of section 102(a)(1) of such Act (20 U.S.C. 1002(a)(1)(A), (B)).

(9) QUALIFIED STUDENT LOAN.—The term “qualified student loan” means any loan made, insured, or guaranteed under part B, D, or E of title IV of the Higher Education Act of 1965, other than a loan under section 428B of such title or a Federal Direct Plus loan.

(10) QUALIFIED PARENT LOAN.—The term “qualified parent loan” means a loan made under section 428B of title IV of the Higher Education Act of 1965 or a Federal Direct Plus loan.

(11) SECRETARY.—The term “Secretary” means the Secretary of Education.

Subtitle C—Education and Related Programs Hurricane Relief

SEC. 301. AGREEMENTS TO EXTEND CERTAIN DEADLINES OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT TO FACILITATE THE PROVISION OF EDUCATIONAL SERV- ICES TO CHILDREN WITH DISABILITIES.

(a) AUTHORITY.—The Secretary of Education may enter into an agreement described in subsection (b) with an eligible entity to extend certain deadlines under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) related to providing special

education and related services, including early intervention services, to individuals adversely affected by a Gulf hurricane disaster.

(b) **TERMS OF AGREEMENTS.**—An agreement referred to in subsection (a) is an agreement with an eligible entity made in accordance with subsection (e) that may extend the applicable deadlines under one or more of the following sections:

(1) Section 611(e)(3)(C)(ii) of such Act, by extending up to an additional 60 days the 90 day deadline for developing a State plan for the high cost fund.

(2) Section 612(a)(15)(C) of such Act, by extending up to an additional 60 days the deadline for submission of the annual report to the Secretary of Education and the public regarding the progress of the State and of children with disabilities in the State.

(3) Section 612(a)(16)(D) of such Act, by extending up to an additional 60 days the deadline for making available reports regarding the participation in assessments and the performance on such assessments of children with disabilities.

(4) Section 614(a)(1)(C)(i)(I) of such Act, by extending up to an additional 30 days the 60 day deadline for the initial evaluation to determine whether a child is a child with a disability for purposes of the provision of special education and related services to such child.

(5) Section 616(b)(1)(A) of such Act, by extending up to an additional 60 days the deadline for finalization of the State performance plan.

(6) Section 641(e)(1)(D) of such Act, by extending up to an additional 60 days the deadline for submission to the Governor of a State and the Secretary of Education of the report on the status of early intervention programs for infants and toddlers with disabilities and their families operated within the State.

(c) **RULE OF CONSTRUCTION.**—Nothing in this section shall be construed—

(1) as permitting the waiver of—

(A) any applicable Federal civil rights law;

(B) any student or family privacy protections, including provisions requiring parental consent for evaluations and services;

(C) any procedural safeguards required under section 615 or section 639 of the Individuals with Disabilities Education Act; or

(D) any requirements not specified in subsection (b) of this section; or

(2) as removing the obligation of the eligible entity to provide a child with a disability or an infant or toddler with a disability and their families—

(A) a free appropriate public education under part B of the Individuals with Disabilities Education Act; or

(B) early intervention services under part C of such Act.

(d) **DURATION OF AGREEMENT.**—An agreement under this section shall terminate at the conclusion of the 2005–2006 academic year.

(e) **REQUEST TO ENTER INTO AGREEMENT.**—To enter into an agreement under this section, an eligible entity shall submit a

request to the Secretary of Education at such time, in such manner, and containing such information as the Secretary may require.

SEC. 302. HEAD START AND CHILD CARE AND DEVELOPMENT BLOCK GRANT.

(a) HEAD START.—

(1) TECHNICAL ASSISTANCE, GUIDANCE, AND RESOURCES.—From the amount made available for Head Start in this Act, the Secretary of Health and Human Services shall provide training and technical assistance, guidance, and resources through the Region 4 and Region 6 offices of the Administration for Children and Families (and may provide training and technical assistance, guidance, and resources through other regional offices of the Administration, at the request of such offices that administer affected Head Start agencies and Early Head Start entities) to Head Start agencies and Early Head Start entities in areas affected by a Gulf hurricane disaster, and to affected Head Start agencies and Early Head Start entities, to assist the agencies and entities involved to address the health and counseling needs of infants, toddlers, and young children affected by a Gulf hurricane disaster. Such training and technical assistance may be provided by contract or cooperative agreement with qualified national, regional, or local providers.

(2) WAIVER.—For such period up to September 30, 2006, and to such extent as the Secretary considers appropriate, the Secretary of Health and Human Services—

(A) may waive section 640(b) of the Head Start Act for Head Start agencies located in an area affected by a Gulf hurricane disaster, and other affected Head Start agencies and Early Head Start agencies; and

(B) shall waive requirements of documentation for individuals adversely affected by a Gulf hurricane disaster who participate in a Head Start program or an Early Head Start program funded under the Head Start Act.

(b) CHILD CARE AND DEVELOPMENT BLOCK GRANT.—

(1) CHILD CARE AND DEVELOPMENT BLOCK GRANT ACT OF 1990.—For such period up to September 30, 2006, and to such extent as the Secretary considers to be appropriate, the Secretary of Health and Human Services may waive, for any affected State, and any State serving significant numbers of individuals adversely affected by a Gulf hurricane disaster, provisions of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.)—

(A) relating to Federal income limitations on eligibility to receive child care services for which assistance is provided under such Act;

(B) relating to work requirements applicable to eligibility to receive child care services for which assistance is provided under such Act;

(C) relating to limitations on the use of funds under section 658G of the Child Care and Development Block Grant Act of 1990;

(D) preventing children designated as evacuees from receiving priority for child care services provided under such Act, except that children residing in a State and

currently receiving services should not lose such services to accommodate evacuee children; and

(E) relating to any non-Federal or capital contribution required (including copayment or other cost sharing by parents receiving child care assistance) to match Federal funds provided under programs administered by the Secretary of Health and Human Services;

(2) TECHNICAL ASSISTANCE AND GUIDANCE.—The Secretary may provide assistance to States for the purpose of providing training, technical assistance, and guidance to eligible child care providers (as defined in section 658P of the Child Care and Development Block Grant Act of 1990) who are licensed and regulated, as applicable, by the States, to enable such providers to provide child care services for children and families described in paragraph (1). Such training and technical assistance may be provided through intermediary organizations, including those with demonstrated experience in providing training and technical assistance to programs serving school-age children up to age 13, involved in reinstituting child care services on a broad scale in areas affected by a Gulf hurricane disaster.

SEC. 303. DEFINITIONS.

(a) IN GENERAL.—Unless otherwise specified in this subtitle, the terms used in this subtitle have the meanings given the terms in section 9101 of the Elementary and Secondary Education Act of 1965.

(b) ADDITIONAL DEFINITIONS.—For the purposes of this subtitle:

(1) AFFECTED HEAD START AGENCIES AND EARLY HEAD START AGENCIES.—The term “affected Head Start Agencies and Early Head Start Agencies” means a Head Start agency receiving a significant number of children from an area in which a Gulf hurricane disaster has been declared.

(2) AFFECTED STATE.—The term “affected State” means the State of Alabama, Florida, Louisiana, Mississippi, or Texas.

(3) AREA AFFECTED BY A GULF HURRICANE DISASTER.—The term “area affected by a Gulf hurricane disaster” means a county or parish, in an affected State, that has been designated by the Federal Emergency Management Agency for disaster assistance for individuals and households as a result of Hurricane Katrina or Hurricane Rita.

(4) CHILD WITH A DISABILITY.—The term “child with a disability” has the meaning given such term in section 602(3) of the Individuals with Disabilities Education Act.

(5) ELIGIBLE ENTITY.—The term “eligible entity” means—

(A) a local educational agency (as defined in section 602(19) of the Individuals with Disabilities Education Act) if such agency is located in a State or in an area of a State with respect to which the President has declared that a Gulf hurricane disaster exists;

(B) a State educational agency (as defined in section 602(32) of such Act) if such agency is located in a State with respect to which the President has declared that a Gulf hurricane disaster exists; or

(C) a State interagency coordinating council established under section 641 of such Act if such council is located

in a State with respect to which the President has declared that a Gulf hurricane disaster exists.

(6) GULF HURRICANE DISASTER.—The term “Gulf hurricane disaster” means a major disaster that the President declared to exist, in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, and that was caused by Hurricane Katrina or Hurricane Rita.

(7) HIGHLY QUALIFIED.—The term “highly qualified”—

(A) in the case of a special education teacher, has the meaning given such term in section 602 of the Individuals with Disabilities Education Act; and

(B) in the case of any other elementary, middle, or secondary school teacher, has the meaning given such term in section 9101 of the Elementary and Secondary Education Act of 1965.

(8) INDIVIDUAL ADVERSELY AFFECTED BY A GULF HURRICANE DISASTER.—The term “individual adversely affected by a Gulf hurricane disaster” means an individual who, on August 29, 2005, was living, working, or attending school in an area in which the President has declared to exist a Gulf hurricane disaster.

(9) INFANT OR TODDLER WITH A DISABILITY.—The term “infant or toddler with a disability” has the meaning given such term in section 632(5) of the Individuals with Disabilities Education Act.

TITLE V

GENERAL PROVISIONS AND TECHNICAL CORRECTIONS

SEC. 5001. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 5002. Except as expressly provided otherwise, any reference to “this Act” contained in either division A or division B shall be treated as referring only to the provisions of that division.

SEC. 5003. Effective upon the enactment of this Act, none of the funds appropriated or otherwise made available by the 2001 Emergency Supplemental Appropriations Act for Recovery from and Response to Terrorist Attacks on the United States (Public Law 107–38) shall be transferred to or from the Emergency Response Fund.

SEC. 5004. Title I of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2006 (Public Law 109–97) is amended in the paragraph under the heading “Cooperative State Research, Education, and Extension Service, Research and Education Activities” (109 Stat. 2126) by inserting “, to remain available until expended” after “for a veterinary medicine loan repayment program pursuant to section 1415A of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3101 et seq.), \$500,000”.

SEC. 5005. Section 207 of division C of Public Law 108–447 is amended by inserting “, and any effects of inflation thereon,” after the word “increase”.

SEC. 5006. The matter under the heading “Water and Related Resources” in Public Law 109–103 is amended by inserting before the period at the end the following: “: *Provided further*, That

1 USC 1 note.

Effective date.

118 Stat. 2950.

Ante, p. 2265.

\$10,000,000 of the funds appropriated under this heading shall be deposited in the San Gabriel Basin Restoration Fund established by section 110 of title I of appendix D of Public Law 106-554”.

SEC. 5007. The funds appropriated in Public Law 109-103 under the heading “Bureau of Reclamation, Water and Related Resources” for the Placer County, California Sub-Regional Wastewater Treatment Project are hereby transferred to and merged with the amount appropriated in such public law under the heading “Corps of Engineers—Civil, Construction”, and shall be used for the construction of such project under the same terms and conditions that would have been applicable if such funds had originally been appropriated to the Corps of Engineers.

Ante, p. 2255.

SEC. 5008. Section 118 of Public Law 109-103 is amended by striking “106-541” and inserting “106-53” in lieu thereof.

Ante, p. 2247.

Reports.

SEC. 5009. Public Law 109-103 is amended under the heading “Corps of Engineers—Civil, Investigations”, by striking “*Provided further*, That using \$8,000,000” and all that follows to the end of the paragraph, and inserting in lieu thereof, “*Provided further*, That using \$8,000,000 of the funds provided herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to conduct a comprehensive hurricane protection analysis and design at full federal expense to develop and present a full range of flood control, coastal restoration, and hurricane protection measures exclusive of normal policy considerations for South Louisiana and the Secretary shall submit a preliminary technical report for comprehensive Category 5 protection within 6 months of enactment of this Act and a final technical report for Category 5 protection within 24 months of enactment of this Act: *Provided further*, That the Secretary shall consider providing protection for a storm surge equivalent to a Category 5 hurricane within the project area and may submit reports on component areas of the larger protection program for authorization as soon as practicable: *Provided further*, That the analysis shall be conducted in close coordination with the State of Louisiana and its appropriate agencies.”.

SEC. 5010. Funds made available under the heading “Construction, Rehabilitation, Operation and Maintenance, Western Area Power Administration” in Public Law 109-103 shall be available for the operation, maintenance, and purchase, through transfer, exchange, or sale, of one helicopter for replacement only.

SEC. 5011. (a) In addition to the amounts provided elsewhere in this Act, \$50,000,000 is hereby appropriated to the Department of Labor, to remain available until expended, for payment to the New York State Uninsured Employers Fund for reimbursement of claims related to the September 11, 2001, terrorist attacks on the United States and for reimbursement of claims related to the first response emergency services personnel who were injured, were disabled, or died due to such terrorist attacks.

(b) In addition to the amounts provided elsewhere in this Act, \$75,000,000 is hereby appropriated to the Centers for Disease Control and Prevention, to remain available until expended, for purposes related to the September 11, 2001, terrorist attacks on the United States. In expending such funds, the Director of the Centers for Disease Control and Prevention shall: (1) give first priority to existing programs that administer baseline and follow-up screening, clinical examinations, or long-term medical health monitoring, analysis, or treatment for emergency services personnel or rescue and recovery personnel, as coordinated by the Mount

Sinai Center for Occupational and Environmental Medicine of New York City, the New York City Fire Department's Bureau of Health Services and Counseling Services Unit, the New York City Police Foundation's Project COPE, the Police Organization Providing Peer Assistance of New York City, and the New York City Department of Health and Mental Hygiene's World Trade Center Health Registry; and (2) give secondary priority to similar programs coordinated by other entities working with the State of New York and New York City.

(c) Each amount appropriated in this section is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

SEC. 5012. The Flexibility for Displaced Workers Act (Public Law 109-72) is amended by striking "Hurricane Katrina" each place it appears and inserting "hurricanes in the Gulf of Mexico in calendar year 2005".

Ante, p. 2013.

SEC. 5013. Section 124 of Public Law 109-114 is amended by inserting before the period at the end the following: "": *Provided further*, That nothing in this section precludes the Secretary of a military department, after notifying the congressional defense committees and waiting 21 days, from using funds derived under section 2601, chapter 403, chapter 603, or chapter 903 of title 10, United States Code, for the maintenance or repair of General and Flag Officer Quarters at the military service academy under the jurisdiction of that Secretary: *Provided further*, That each Secretary of a military department shall provide an annual report by February 15 to the congressional defense committees on the amount of funds that were derived under section 2601, chapter 403, chapter 603, or chapter 903 of title 10, United States Code in the previous year and were obligated for the construction, improvement, repair, or maintenance of any military facility or infrastructure".

10 USC 2821
note.

Reports.
Deadline.

SEC. 5014. Section 128 of Public Law 109-114 is amended as follows—

Ante, p. 2381.

(1) by inserting after "support" the following: "a continuing mission or function at that installation or"; and

(2) by inserting after the last period the following: "This section shall not apply to military construction projects, land acquisition, or family housing projects for which the project is vital to the national security or the protection of health, safety, or environmental quality: *Provided*, That the Secretary of Defense shall notify the congressional defense committees within seven days of a decision to carry out such a military construction project."

Notification.
Deadline.

SEC. 5015. The amount provided for "Military Construction, Army" in Public Law 109-114 is hereby reduced by \$8,100,000 for the Special Operations Free Fall Simulator at Yuma Proving Ground, Arizona.

The amount provided for "Military Construction, Army" in Public Law 109-114 is hereby increased by \$8,100,000 for the Upgrade Wastewater Treatment Plant at Yuma Proving Ground, Arizona.

SEC. 5016. The last paragraph of Public Law 109-114 is amended by inserting "Military Construction," before "Military Quality".

Ante, p. 2395.

Ante, p. 2336.

SEC. 5017. (a) Section 613 of Public Law 109-108 is amended by striking “\$500,000 shall be for a grant to Warren County, Virginia, for a community enhancement project;” and inserting “\$250,000 shall be for a grant to Warren County, Virginia, for a community enhancement project; \$250,000 shall be for a grant to The ARC of Loudoun County for land acquisition and construction;”.

118 Stat. 2916.

(b) Section 619(a) of division B in Public Law 108-447 is amended by striking “\$50,000 shall be available for a grant for the Promesa Foundation in the Bronx, New York, to provide community growth funding;” and inserting “\$50,000 shall be available for a grant to the Promesa Foundation to provide financial assistance to New York area families and organizations under a youth sports and recreational initiative;”.

118 Stat. 93.

(c) Section 621 of division B in Public Law 108-199 is amended by striking “\$200,000 shall be available for a grant for the Promesa Foundation in South Bronx, New York, to provide community growth funding;” and inserting “\$200,000 shall be available for a grant to the Promesa Foundation to provide financial assistance to New York area families and organizations under a youth sports and recreational initiative;”.

117 Stat. 103.

(d) Section 625 of division B in Public Law 108-7 is amended by striking “\$200,000 shall be available for a grant for the Promesa Foundation in South Bronx, New York to provide community growth funding;” and inserting “\$200,000 shall be available for a grant to the Promesa Foundation to provide financial assistance to New York area families and organizations under a youth sports and recreational initiative;”.

Ante, p. 2300.

SEC. 5018. Public Law 109-108 is amended under the heading “State and Local Law Enforcement Assistance” in subparagraph 4 by striking “authorized by subpart 2 of part E, of title I of the 1968 Act, notwithstanding the provisions of section 511 of said Act”.

(TRANSFER OF FUNDS)

SEC. 5019. The unobligated and unexpended balances of the amount appropriated under the heading “United States-Canada Railroad Commission” by chapter 9 of title II of Public Law 107-20 shall be transferred as a direct lump-sum payment to the University of Alaska.

Ante, p. 2418.

SEC. 5020. The matter under the heading “Federal Transit Administration, capital investment grants” in title I of division A of Public Law 109-115 is amended by striking “Virginia, \$26,000,000” and inserting “Virginia, \$30,000,000”; by striking “Ohio, \$24,770,000” and inserting “Ohio, \$24,774,513”; and by striking “Metro, Pennsylvania, \$2,000,000” and inserting “Metro, Pennsylvania, \$4,000,000”.

SEC. 5021. For purposes of compliance with section 205 of Public Law 109-115, a reduction in taxpayer service shall include, but not be limited to, any reduction in available hours of telephone taxpayer assistance on a daily, weekly and monthly basis below the levels in existence during the month of October 2005.

SEC. 5022. The referenced statement of the managers under the heading “Community development fund” in Public Law 108-447 is amended with respect to item number 145 by striking “Putnam County, Missouri” and inserting “Sullivan County, Missouri”.

SEC. 5023. The statement of the managers correction referenced under the second paragraph of the heading “Community development fund” in title III of Public Law 109-115 (as in effect pursuant to H. Con. Res. 308, 109th Congress) is deemed to be amended—

(1) with respect to item number 65 by striking “\$125,000 to Esperanza Mercado Project, California for the Esperanza Community Maple-Mae Project;” and inserting “\$125,000 to the Esperanza Community Housing Corporation, Los Angeles, California for the Mercado La Paloma project;”;

(2) with respect to item number 840 by striking “\$100,000 to Gwen’s Girls, Inc. in Pittsburgh, Pennsylvania for construction of a residential facility;” and inserting “\$100,000 to the Bloomfield-Garfield Association in Pittsburgh, Pennsylvania for acquisition and demolition;”;

(3) with respect to item number 411 by striking “\$200,000 to the City of Holyoke, Massachusetts for renovations of facility for Solutions Development Corporation;” and inserting “\$200,000 to Solutions Development Inc. of Holyoke, Massachusetts for facility renovations;”;

(4) with respect to item number 314 by striking “\$225,000 to the City of Harvey, Illinois for demolition and redevelopment of property to aid the community;” and inserting “\$225,000 to the Village of Riverdale, Illinois for planning, design, acquisition, and demolition;”;

(5) with respect to item number 715 by striking “39th” and inserting “59th”;

(6) with respect to item number 26 by striking “Center” and inserting “College”;

(7) with respect to item number 372 by striking “Fairview, Kansas” and inserting “Fairway, Kansas”;

(8) with respect to item number 584 by striking “City of Asheville, North Carolina for the renovation of the Asheville Veterans Memorial Stadium” and inserting “UNC Asheville Science and Multimedia Center, City of Asheville, North Carolina for the construction of a new science and multi-media building”; and

(9) with respect to item number 341 by striking “Village of Northfield, IL” and inserting “Northfield Park District of Illinois”.

SEC. 5024. The referenced statement of the managers under the heading “Community development fund” in title II of division I of Public Law 108-447 is deemed to be amended with respect to item 571 by striking “\$575,000 to the Metropolitan Development Association in Syracuse, New York for the Essential New York Initiative” and inserting “\$200,000 to the Monroe County Industrial Development Agency for streetscape and infrastructure improvements to the Medley Center in the Town of Irondequoit, New York; \$90,000 to the City of Syracuse, New York for facilities and equipment improvements for the Syracuse Food Bank; \$200,000 to the City of Syracuse, New York for renovations and infrastructure improvements to the Lofts on Willow Urban Village project; and, \$85,000 to Cayuga County, New York for the CIVIC Heritage Historical Society for the construction of a history center;”.

SEC. 5025. Effective upon the enactment of this Act, none of the funds appropriated or otherwise made available by the 2001 Emergency Supplemental Appropriations Act for Recovery from and Response to Terrorist Attacks on the United States (Public Law

Effective date.

107–38) shall be transferred to or from the Emergency Response Fund.

This division may be cited as the “Emergency Supplemental Appropriations Act to Address Hurricanes in the Gulf of Mexico and Pandemic Influenza, 2006”.

Public Readiness
and Emergency
Preparedness
Act.
42 USC 201 note.

DIVISION C—PUBLIC READINESS AND EMERGENCY PREPAREDNESS ACT

SEC. 1. SHORT TITLE.

This division may be cited as the “Public Readiness and Emergency Preparedness Act”.

SEC. 2. TARGETED LIABILITY PROTECTIONS FOR PANDEMIC AND EPIDEMIC PRODUCTS AND SECURITY COUNTERMEASURES.

Part B of title III of the Public Health Service Act (42 U.S.C. 243 et seq.) is amended by inserting after section 319F–2 the following section:

42 USC 247d–6d.

“SEC. 319F–3. TARGETED LIABILITY PROTECTIONS FOR PANDEMIC AND EPIDEMIC PRODUCTS AND SECURITY COUNTERMEASURES.

“(a) LIABILITY PROTECTIONS.—

“(1) IN GENERAL.—Subject to the other provisions of this section, a covered person shall be immune from suit and liability under Federal and State law with respect to all claims for loss caused by, arising out of, relating to, or resulting from the administration to or the use by an individual of a covered countermeasure if a declaration under subsection (b) has been issued with respect to such countermeasure.

“(2) SCOPE OF CLAIMS FOR LOSS.—

“(A) LOSS.—For purposes of this section, the term ‘loss’ means any type of loss, including—

“(i) death;

“(ii) physical, mental, or emotional injury, illness, disability, or condition;

“(iii) fear of physical, mental, or emotional injury, illness, disability, or condition, including any need for medical monitoring; and

“(iv) loss of or damage to property, including business interruption loss.

Each of clauses (i) through (iv) applies without regard to the date of the occurrence, presentation, or discovery of the loss described in the clause.

“(B) SCOPE.—The immunity under paragraph (1) applies to any claim for loss that has a causal relationship with the administration to or use by an individual of a covered countermeasure, including a causal relationship with the design, development, clinical testing or investigation, manufacture, labeling, distribution, formulation, packaging, marketing, promotion, sale, purchase, donation, dispensing, prescribing, administration, licensing, or use of such countermeasure.

“(3) CERTAIN CONDITIONS.—Subject to the other provisions of this section, immunity under paragraph (1) with respect to a covered countermeasure applies only if—

“(A) the countermeasure was administered or used during the effective period of the declaration that was issued under subsection (b) with respect to the countermeasure;

“(B) the countermeasure was administered or used for the category or categories of diseases, health conditions, or threats to health specified in the declaration; and

“(C) in addition, in the case of a covered person who is a program planner or qualified person with respect to the administration or use of the countermeasure, the countermeasure was administered to or used by an individual who—

“(i) was in a population specified by the declaration; and

“(ii) was at the time of administration physically present in a geographic area specified by the declaration or had a connection to such area specified in the declaration.

“(4) APPLICABILITY OF CERTAIN CONDITIONS.—With respect to immunity under paragraph (1) and subject to the other provisions of this section:

“(A) In the case of a covered person who is a manufacturer or distributor of the covered countermeasure involved, the immunity applies without regard to whether such countermeasure was administered to or used by an individual in accordance with the conditions described in paragraph (3)(C).

“(B) In the case of a covered person who is a program planner or qualified person with respect to the administration or use of the covered countermeasure, the scope of immunity includes circumstances in which the countermeasure was administered to or used by an individual in circumstances in which the covered person reasonably could have believed that the countermeasure was administered or used in accordance with the conditions described in paragraph (3)(C).

“(5) EFFECT OF DISTRIBUTION METHOD.—The provisions of this section apply to a covered countermeasure regardless of whether such countermeasure is obtained by donation, commercial sale, or any other means of distribution, except to the extent that, under paragraph (2)(E) of subsection (b), the declaration under such subsection provides that subsection (a) applies only to covered countermeasures obtained through a particular means of distribution.

“(6) REBUTTABLE PRESUMPTION.—For purposes of paragraph (1), there shall be a rebuttable presumption that any administration or use, during the effective period of the emergency declaration by the Secretary under subsection (b), of a covered countermeasure shall have been for the category or categories of diseases, health conditions, or threats to health with respect to which such declaration was issued.

“(b) DECLARATION BY SECRETARY.—

“(1) AUTHORITY TO ISSUE DECLARATION.—Subject to paragraph (2), if the Secretary makes a determination that a disease or other health condition or other threat to health constitutes a public health emergency, or that there is a credible risk

that the disease, condition, or threat may in the future constitute such an emergency, the Secretary may make a declaration, through publication in the Federal Register, recommending, under conditions as the Secretary may specify, the manufacture, testing, development, distribution, administration, or use of one or more covered countermeasures, and stating that subsection (a) is in effect with respect to the activities so recommended.

“(2) CONTENTS.—In issuing a declaration under paragraph (1), the Secretary shall identify, for each covered countermeasure specified in the declaration—

“(A) the category or categories of diseases, health conditions, or threats to health for which the Secretary recommends the administration or use of the countermeasure;

“(B) the period or periods during which, including as modified by paragraph (3), subsection (a) is in effect, which period or periods may be designated by dates, or by milestones or other description of events, including factors specified in paragraph (6);

“(C) the population or populations of individuals for which subsection (a) is in effect with respect to the administration or use of the countermeasure (which may be a specification that such subsection applies without geographic limitation to all individuals);

“(D) the geographic area or areas for which subsection (a) is in effect with respect to the administration or use of the countermeasure (which may be a specification that such subsection applies without geographic limitation), including, with respect to individuals in the populations identified under subparagraph (C), a specification, as determined appropriate by the Secretary, of whether the declaration applies only to individuals physically present in such areas or whether in addition the declaration applies to individuals who have a connection to such areas, which connection is described in the declaration; and

“(E) whether subsection (a) is effective only to a particular means of distribution as provided in subsection (a)(5) for obtaining the countermeasure, and if so, the particular means to which such subsection is effective.

“(3) EFFECTIVE PERIOD OF DECLARATION.—

“(A) FLEXIBILITY OF PERIOD.—The Secretary may, in describing periods under paragraph (2)(B), have different periods for different covered persons to address different logistical, practical or other differences in responsibilities.

“(B) ADDITIONAL TIME TO BE SPECIFIED.—In each declaration under paragraph (1), the Secretary, after consulting, to the extent the Secretary deems appropriate, with the manufacturer of the covered countermeasure, shall also specify a date that is after the ending date specified under paragraph (2)(B) and that allows what the Secretary determines is—

“(i) a reasonable period for the manufacturer to arrange for disposition of the covered countermeasure, including the return of such product to the manufacturer; and

“(ii) a reasonable period for covered persons to take such other actions as may be appropriate to limit administration or use of the covered countermeasure.

“(C) ADDITIONAL PERIOD FOR CERTAIN STRATEGIC NATIONAL STOCKPILE COUNTERMEASURES.—With respect to a covered countermeasure that is in the stockpile under section 319F-2, if such countermeasure was the subject of a declaration under paragraph (1) at the time that it was obtained for the stockpile, the effective period of such declaration shall include a period when the countermeasure is administered or used pursuant to a distribution or release from the stockpile.

“(4) AMENDMENTS TO DECLARATION.—The Secretary may through publication in the Federal Register amend any portion of a declaration under paragraph (1). Such an amendment shall not retroactively limit the applicability of subsection (a) with respect to the administration or use of the covered countermeasure involved.

“(5) CERTAIN DISCLOSURES.—In publishing a declaration under paragraph (1) in the Federal Register, the Secretary is not required to disclose any matter described in section 552(b) of title 5, United States Code.

“(6) FACTORS TO BE CONSIDERED.—In deciding whether and under what circumstances or conditions to issue a declaration under paragraph (1) with respect to a covered countermeasure, the Secretary shall consider the desirability of encouraging the design, development, clinical testing or investigation, manufacture, labeling, distribution, formulation, packaging, marketing, promotion, sale, purchase, donation, dispensing, prescribing, administration, licensing, and use of such countermeasure.

“(7) JUDICIAL REVIEW.—No court of the United States, or of any State, shall have subject matter jurisdiction to review, whether by mandamus or otherwise, any action by the Secretary under this subsection.

“(8) PREEMPTION OF STATE LAW.—During the effective period of a declaration under subsection (b), or at any time with respect to conduct undertaken in accordance with such declaration, no State or political subdivision of a State may establish, enforce, or continue in effect with respect to a covered countermeasure any provision of law or legal requirement that—

“(A) is different from, or is in conflict with, any requirement applicable under this section; and

“(B) relates to the design, development, clinical testing or investigation, formulation, manufacture, distribution, sale, donation, purchase, marketing, promotion, packaging, labeling, licensing, use, any other aspect of safety or efficacy, or the prescribing, dispensing, or administration by qualified persons of the covered countermeasure, or to any matter included in a requirement applicable to the covered countermeasure under this section or any other provision of this Act, or under the Federal Food, Drug, and Cosmetic Act.

“(9) REPORT TO CONGRESS.—Within 30 days after making a declaration under paragraph (1), the Secretary shall submit to the appropriate committees of the Congress a report that

provides an explanation of the reasons for issuing the declaration and the reasons underlying the determinations of the Secretary with respect to paragraph (2). Within 30 days after making an amendment under paragraph (4), the Secretary shall submit to such committees a report that provides the reasons underlying the determination of the Secretary to make the amendment.

“(c) DEFINITION OF WILLFUL MISCONDUCT.—

“(1) DEFINITION.—

“(A) IN GENERAL.—Except as the meaning of such term is further restricted pursuant to paragraph (2), the term ‘willful misconduct’ shall, for purposes of subsection (d), denote an act or omission that is taken—

“(i) intentionally to achieve a wrongful purpose;

“(ii) knowingly without legal or factual justification; and

“(iii) in disregard of a known or obvious risk that is so great as to make it highly probable that the harm will outweigh the benefit.

“(B) RULE OF CONSTRUCTION.—The criterion stated in subparagraph (A) shall be construed as establishing a standard for liability that is more stringent than a standard of negligence in any form or recklessness.

“(2) AUTHORITY TO PROMULGATE REGULATORY DEFINITION.—

“(A) IN GENERAL.—The Secretary, in consultation with the Attorney General, shall promulgate regulations, which may be promulgated through interim final rules, that further restrict the scope of actions or omissions by a covered person that may qualify as ‘willful misconduct’ for purposes of subsection (d).

“(B) FACTORS TO BE CONSIDERED.—In promulgating the regulations under this paragraph, the Secretary, in consultation with the Attorney General, shall consider the need to define the scope of permissible civil actions under subsection (d) in a way that will not adversely affect the public health.

“(C) TEMPORAL SCOPE OF REGULATIONS.—The regulations under this paragraph may specify the temporal effect that they shall be given for purposes of subsection (d).

“(D) INITIAL RULEMAKING.—Within 180 days after the enactment of the Public Readiness and Emergency Preparedness Act, the Secretary, in consultation with the Attorney General, shall commence and complete an initial rulemaking process under this paragraph.

“(3) PROOF OF WILLFUL MISCONDUCT.—In an action under subsection (d), the plaintiff shall have the burden of proving by clear and convincing evidence willful misconduct by each covered person sued and that such willful misconduct caused death or serious physical injury.

“(4) DEFENSE FOR ACTS OR OMISSIONS TAKEN PURSUANT TO SECRETARY’S DECLARATION.—Notwithstanding any other provision of law, a program planner or qualified person shall not have engaged in ‘willful misconduct’ as a matter of law where such program planner or qualified person acted consistent with applicable directions, guidelines, or recommendations by the Secretary regarding the administration or use of a covered countermeasure that is specified in the declaration

Deadline.

under subsection (b), provided either the Secretary, or a State or local health authority, was provided with notice of information regarding serious physical injury or death from the administration or use of a covered countermeasure that is material to the plaintiff's alleged loss within 7 days of the actual discovery of such information by such program planner or qualified person.

“(5) EXCLUSION FOR REGULATED ACTIVITY OF MANUFACTURER OR DISTRIBUTOR.—

“(A) IN GENERAL.—If an act or omission by a manufacturer or distributor with respect to a covered countermeasure, which act or omission is alleged under subsection (e)(3)(A) to constitute willful misconduct, is subject to regulation by this Act or by the Federal Food, Drug, and Cosmetic Act, such act or omission shall not constitute ‘willful misconduct’ for purposes of subsection (d) if—

“(i) neither the Secretary nor the Attorney General has initiated an enforcement action with respect to such act or omission; or

“(ii) such an enforcement action has been initiated and the action has been terminated or finally resolved without a covered remedy.

Any action or proceeding under subsection (d) shall be stayed during the pendency of such an enforcement action.

“(B) DEFINITIONS.—For purposes of this paragraph, the following terms have the following meanings:

“(i) ENFORCEMENT ACTION.—The term ‘enforcement action’ means a criminal prosecution, an action seeking an injunction, a seizure action, a civil monetary proceeding based on willful misconduct, a mandatory recall of a product because voluntary recall was refused, a proceeding to compel repair or replacement of a product, a termination of an exemption under section 505(i) or 520(g) of the Federal Food, Drug, and Cosmetic Act, a debarment proceeding, an investigator disqualification proceeding where an investigator is an employee or agent of the manufacturer, a revocation, based on willful misconduct, of an authorization under section 564 of such Act, or a suspension or withdrawal, based on willful misconduct, of an approval or clearance under chapter V of such Act or of a licensure under section 351 of this Act.

“(ii) COVERED REMEDY.—The term ‘covered remedy’ means an outcome—

“(I) that is a criminal conviction, an injunction, or a condemnation, a civil monetary payment, a product recall, a repair or replacement of a product, a termination of an exemption under section 505(i) or 520(g) of the Federal Food, Drug, and Cosmetic Act, a debarment, an investigator disqualification, a revocation of an authorization under section 564 of such Act, or a suspension or withdrawal of an approval or clearance under chapter 5 of such Act or of a licensure under section 351 of this Act; and

“(II) that results from a final determination by a court or from a final agency action.

“(iii) FINAL.—The terms ‘final’ and ‘finally’—

“(I) with respect to a court determination, or to a final resolution of an enforcement action that is a court determination, mean a judgment from which an appeal of right cannot be taken or a voluntary or stipulated dismissal; and

“(II) with respect to an agency action, or to a final resolution of an enforcement action that is an agency action, mean an order that is not subject to further review within the agency and that has not been reversed, vacated, enjoined, or otherwise nullified by a final court determination or a voluntary or stipulated dismissal.

“(C) RULES OF CONSTRUCTION.—

“(i) IN GENERAL.—Nothing in this paragraph shall be construed—

“(I) to affect the interpretation of any provision of the Federal Food, Drug, and Cosmetic Act, of this Act, or of any other applicable statute or regulation; or

“(II) to impair, delay, alter, or affect the authority, including the enforcement discretion, of the United States, of the Secretary, of the Attorney General, or of any other official with respect to any administrative or court proceeding under this Act, under the Federal Food, Drug, and Cosmetic Act, under title 18 of the United States Code, or under any other applicable statute or regulation.

“(ii) MANDATORY RECALLS.—A mandatory recall called for in the declaration is not a Food and Drug Administration enforcement action.

“(d) EXCEPTION TO IMMUNITY OF COVERED PERSONS.—

“(1) IN GENERAL.—Subject to subsection (f), the sole exception to the immunity from suit and liability of covered persons set forth in subsection (a) shall be for an exclusive Federal cause of action against a covered person for death or serious physical injury proximately caused by willful misconduct, as defined pursuant to subsection (c), by such covered person. For purposes of section 2679(b)(2)(B) of title 28, United States Code, such a cause of action is not an action brought for violation of a statute of the United States under which an action against an individual is otherwise authorized.

“(2) PERSONS WHO CAN SUE.—An action under this subsection may be brought for wrongful death or serious physical injury by any person who suffers such injury or by any representative of such a person.

“(e) PROCEDURES FOR SUIT.—

“(1) EXCLUSIVE FEDERAL JURISDICTION.—Any action under subsection (d) shall be filed and maintained only in the United States District Court for the District of Columbia.

“(2) GOVERNING LAW.—The substantive law for decision in an action under subsection (d) shall be derived from the law, including choice of law principles, of the State in which the alleged willful misconduct occurred, unless such law is inconsistent with or preempted by Federal law, including provisions of this section.

“(3) PLEADING WITH PARTICULARITY.—In an action under subsection (d), the complaint shall plead with particularity each element of the plaintiff’s claim, including—

“(A) each act or omission, by each covered person sued, that is alleged to constitute willful misconduct relating to the covered countermeasure administered to or used by the person on whose behalf the complaint was filed;

“(B) facts supporting the allegation that such alleged willful misconduct proximately caused the injury claimed; and

“(C) facts supporting the allegation that the person on whose behalf the complaint was filed suffered death or serious physical injury.

“(4) VERIFICATION, CERTIFICATION, AND MEDICAL RECORDS.—

“(A) IN GENERAL.—In an action under subsection (d), the plaintiff shall verify the complaint in the manner stated in subparagraph (B) and shall file with the complaint the materials described in subparagraph (C). A complaint that does not substantially comply with subparagraphs (B) and (C) shall not be accepted for filing and shall not stop the running of the statute of limitations.

“(B) VERIFICATION REQUIREMENT.—

“(i) IN GENERAL.—The complaint shall include a verification, made by affidavit of the plaintiff under oath, stating that the pleading is true to the knowledge of the deponent, except as to matters specifically identified as being alleged on information and belief, and that as to those matters the plaintiff believes it to be true.

“(ii) IDENTIFICATION OF MATTERS ALLEGED UPON INFORMATION AND BELIEF.—Any matter that is not specifically identified as being alleged upon the information and belief of the plaintiff, shall be regarded for all purposes, including a criminal prosecution, as having been made upon the knowledge of the plaintiff.

“(C) MATERIALS REQUIRED.—In an action under subsection (d), the plaintiff shall file with the complaint—

“(i) an affidavit, by a physician who did not treat the person on whose behalf the complaint was filed, certifying, and explaining the basis for such physician’s belief, that such person suffered the serious physical injury or death alleged in the complaint and that such injury or death was proximately caused by the administration or use of a covered countermeasure; and

“(ii) certified medical records documenting such injury or death and such proximate causal connection.

“(5) THREE-JUDGE COURT.—Any action under subsection (d) shall be assigned initially to a panel of three judges. Such panel shall have jurisdiction over such action for purposes of considering motions to dismiss, motions for summary judgment, and matters related thereto. If such panel has denied such motions, or if the time for filing such motions has expired, such panel shall refer the action to the chief judge for assignment for further proceedings, including any trial. Section 1253 of title 28, United States Code, and paragraph (3) of subsection

(b) of section 2284 of title 28, United States Code, shall not apply to actions under subsection (d).

“(6) CIVIL DISCOVERY.—

“(A) TIMING.—In an action under subsection (d), no discovery shall be allowed—

“(i) before each covered person sued has had a reasonable opportunity to file a motion to dismiss;

“(ii) in the event such a motion is filed, before the court has ruled on such motion; and

“(iii) in the event a covered person files an interlocutory appeal from the denial of such a motion, before the court of appeals has ruled on such appeal.

“(B) STANDARD.—Notwithstanding any other provision of law, the court in an action under subsection (d) shall permit discovery only with respect to matters directly related to material issues contested in such action, and the court shall compel a response to a discovery request (including a request for admission, an interrogatory, a request for production of documents, or any other form of discovery request) under Rule 37, Federal Rules of Civil Procedure, only if the court finds that the requesting party needs the information sought to prove or defend as to a material issue contested in such action and that the likely benefits of a response to such request equal or exceed the burden or cost for the responding party of providing such response.

“(7) REDUCTION IN AWARD OF DAMAGES FOR COLLATERAL SOURCE BENEFITS.—

“(A) IN GENERAL.—In an action under subsection (d), the amount of an award of damages that would otherwise be made to a plaintiff shall be reduced by the amount of collateral source benefits to such plaintiff.

“(B) PROVIDER OF COLLATERAL SOURCE BENEFITS NOT TO HAVE LIEN OR SUBROGATION.—No provider of collateral source benefits shall recover any amount against the plaintiff or receive any lien or credit against the plaintiff's recovery or be equitably or legally subrogated to the right of the plaintiff in an action under subsection (d).

“(C) COLLATERAL SOURCE BENEFIT DEFINED.—For purposes of this paragraph, the term ‘collateral source benefit’ means any amount paid or to be paid in the future to or on behalf of the plaintiff, or any service, product, or other benefit provided or to be provided in the future to or on behalf of the plaintiff, as a result of the injury or wrongful death, pursuant to—

“(i) any State or Federal health, sickness, income-disability, accident, or workers' compensation law;

“(ii) any health, sickness, income-disability, or accident insurance that provides health benefits or income-disability coverage;

“(iii) any contract or agreement of any group, organization, partnership, or corporation to provide, pay for, or reimburse the cost of medical, hospital, dental, or income disability benefits; or

“(iv) any other publicly or privately funded program.

“(8) NONECONOMIC DAMAGES.—In an action under subsection (d), any noneconomic damages may be awarded only in an amount directly proportional to the percentage of responsibility of a defendant for the harm to the plaintiff. For purposes of this paragraph, the term ‘noneconomic damages’ means damages for losses for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium, hedonic damages, injury to reputation, and any other nonpecuniary losses.

“(9) RULE 11 SANCTIONS.—Whenever a district court of the United States determines that there has been a violation of Rule 11 of the Federal Rules of Civil Procedure in an action under subsection (d), the court shall impose upon the attorney, law firm, or parties that have violated Rule 11 or are responsible for the violation, an appropriate sanction, which may include an order to pay the other party or parties for the reasonable expenses incurred as a direct result of the filing of the pleading, motion, or other paper that is the subject of the violation, including a reasonable attorney’s fee. Such sanction shall be sufficient to deter repetition of such conduct or comparable conduct by others similarly situated, and to compensate the party or parties injured by such conduct.

“(10) INTERLOCUTORY APPEAL.—The United States Court of Appeals for the District of Columbia Circuit shall have jurisdiction of an interlocutory appeal by a covered person taken within 30 days of an order denying a motion to dismiss or a motion for summary judgment based on an assertion of the immunity from suit conferred by subsection (a) or based on an assertion of the exclusion under subsection (c)(5).

“(f) ACTIONS BY AND AGAINST THE UNITED STATES.—Nothing in this section shall be construed to abrogate or limit any right, remedy, or authority that the United States or any agency thereof may possess under any other provision of law or to waive sovereign immunity or to abrogate or limit any defense or protection available to the United States or its agencies, instrumentalities, officers, or employees under any other law, including any provision of chapter 171 of title 28, United States Code (relating to tort claims procedure).

“(g) SEVERABILITY.—If any provision of this section, or the application of such provision to any person or circumstance, is held to be unconstitutional, the remainder of this section and the application of such remainder to any person or circumstance shall not be affected thereby.

“(h) RULE OF CONSTRUCTION CONCERNING NATIONAL VACCINE INJURY COMPENSATION PROGRAM.—Nothing in this section, or any amendment made by the Public Readiness and Emergency Preparedness Act, shall be construed to affect the National Vaccine Injury Compensation Program under title XXI of this Act.

“(i) DEFINITIONS.—In this section:

“(1) COVERED COUNTERMEASURE.—The term ‘covered countermeasure’ means—

“(A) a qualified pandemic or epidemic product (as defined in paragraph (7));

“(B) a security countermeasure (as defined in section 319F-2(c)(1)(B)); or

“(C) a drug (as such term is defined in section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1)), biological product (as such term is defined by section 351(i) of this Act), or device (as such term is defined by section 201(h) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 321(h)) that is authorized for emergency use in accordance with section 564 of the Federal Food, Drug, and Cosmetic Act.

“(2) COVERED PERSON.—The term ‘covered person’, when used with respect to the administration or use of a covered countermeasure, means—

“(A) the United States; or

“(B) a person or entity that is—

“(i) a manufacturer of such countermeasure;

“(ii) a distributor of such countermeasure;

“(iii) a program planner of such countermeasure;

“(iv) a qualified person who prescribed, administered, or dispensed such countermeasure; or

“(v) an official, agent, or employee of a person or entity described in clause (i), (ii), (iii), or (iv).

“(3) DISTRIBUTOR.—The term ‘distributor’ means a person or entity engaged in the distribution of drugs, biologics, or devices, including but not limited to manufacturers; repackers; common carriers; contract carriers; air carriers; own-label distributors; private-label distributors; jobbers; brokers; warehouses, and wholesale drug warehouses; independent wholesale drug traders; and retail pharmacies.

“(4) MANUFACTURER.—The term ‘manufacturer’ includes—

“(A) a contractor or subcontractor of a manufacturer;

“(B) a supplier or licensor of any product, intellectual property, service, research tool, or component or other article used in the design, development, clinical testing, investigation, or manufacturing of a covered countermeasure; and

“(C) any or all of the parents, subsidiaries, affiliates, successors, and assigns of a manufacturer.

“(5) PERSON.—The term ‘person’ includes an individual, partnership, corporation, association, entity, or public or private corporation, including a Federal, State, or local government agency or department.

“(6) PROGRAM PLANNER.—The term ‘program planner’ means a State or local government, including an Indian tribe, a person employed by the State or local government, or other person who supervised or administered a program with respect to the administration, dispensing, distribution, provision, or use of a security countermeasure or a qualified pandemic or epidemic product, including a person who has established requirements, provided policy guidance, or supplied technical or scientific advice or assistance or provides a facility to administer or use a covered countermeasure in accordance with a declaration under subsection (b).

“(7) QUALIFIED PANDEMIC OR EPIDEMIC PRODUCT.—The term ‘qualified pandemic or epidemic product’ means a drug (as such term is defined in section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1)), biological product (as such term is defined by section 351(i) of this Act), or

device (as such term is defined by section 201(h) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 321(h)) that is—

“(A)(i) a product manufactured, used, designed, developed, modified, licensed, or procured—

“(I) to diagnose, mitigate, prevent, treat, or cure a pandemic or epidemic; or

“(II) to limit the harm such pandemic or epidemic might otherwise cause; or

“(ii) a product manufactured, used, designed, developed, modified, licensed, or procured to diagnose, mitigate, prevent, treat, or cure a serious or life-threatening disease or condition caused by a product described in clause (i); and

“(B)(i) approved or cleared under chapter V of the Federal Food, Drug, and Cosmetic Act or licensed under section 351 of this Act;

“(ii) the object of research for possible use as described by subparagraph (A) and is the subject of an exemption under section 505(i) or 520(g) of the Federal Food, Drug, and Cosmetic Act; or

“(iii) authorized for emergency use in accordance with section 564 of the Federal Food, Drug, and Cosmetic Act.

“(8) QUALIFIED PERSON.—The term ‘qualified person’, when used with respect to the administration or use of a covered countermeasure, means—

“(A) a licensed health professional or other individual who is authorized to prescribe, administer, or dispense such countermeasures under the law of the State in which the countermeasure was prescribed, administered, or dispensed; or

“(B) a person within a category of persons so identified in a declaration by the Secretary under subsection (b).

“(9) SECURITY COUNTERMEASURE.—The term ‘security countermeasure’ has the meaning given such term in section 319F-2(c)(1)(B).

“(10) SERIOUS PHYSICAL INJURY.—The term ‘serious physical injury’ means an injury that—

“(A) is life threatening;

“(B) results in permanent impairment of a body function or permanent damage to a body structure; or

“(C) necessitates medical or surgical intervention to preclude permanent impairment of a body function or permanent damage to a body structure.”.

SEC. 3. COVERED COUNTERMEASURE PROCESS.

Part B of title III of the Public Health Service Act is further amended by inserting after section 319F-3 (as added by section 2) the following new section:

“SEC. 319F-4. COVERED COUNTERMEASURE PROCESS.

42 USC 247d-6e.

“(a) ESTABLISHMENT OF FUND.—Upon the issuance by the Secretary of a declaration under section 319F-3(b), there is hereby established in the Treasury an emergency fund designated as the ‘Covered Countermeasure Process Fund’ for purposes of providing timely, uniform, and adequate compensation to eligible individuals for covered injuries directly caused by the administration or use of a covered countermeasure pursuant to such declaration, which

Fund shall consist of such amounts designated as emergency appropriations under section 402 of H. Con. Res. 95 of the 109th Congress, this emergency designation shall remain in effect through October 1, 2006.

“(b) PAYMENT OF COMPENSATION.—

“(1) IN GENERAL.—If the Secretary issues a declaration under 319F-3(b), the Secretary shall, after amounts have by law been provided for the Fund under subsection (a), provide compensation to an eligible individual for a covered injury directly caused by the administration or use of a covered countermeasure pursuant to such declaration.

“(2) ELEMENTS OF COMPENSATION.—The compensation that shall be provided pursuant to paragraph (1) shall have the same elements, and be in the same amount, as is prescribed by sections 264, 265, and 266 in the case of certain individuals injured as a result of administration of certain countermeasures against smallpox, except that section 266(a)(2)(B) shall not apply.

“(3) RULE OF CONSTRUCTION.—Neither reasonable and necessary medical benefits nor lifetime total benefits for lost employment income due to permanent and total disability shall be limited by section 266.

“(4) DETERMINATION OF ELIGIBILITY AND COMPENSATION.—Except as provided in this section, the procedures for determining, and for reviewing a determination of, whether an individual is an eligible individual, whether such individual has sustained a covered injury, whether compensation may be available under this section, and the amount of such compensation shall be those stated in section 262 (other than in subsection (d)(2) of such section), in regulations issued pursuant to that section, and in such additional or alternate regulations as the Secretary may promulgate for purposes of this section. In making determinations under this section, other than those described in paragraph (5)(A) as to the direct causation of a covered injury, the Secretary may only make such determination based on compelling, reliable, valid, medical and scientific evidence.

“(5) COVERED COUNTERMEASURE INJURY TABLE.—

Regulations.

“(A) IN GENERAL.—The Secretary shall by regulation establish a table identifying covered injuries that shall be presumed to be directly caused by the administration or use of a covered countermeasure and the time period in which the first symptom or manifestation of onset of each such adverse effect must manifest in order for such presumption to apply. The Secretary may only identify such covered injuries, for purpose of inclusion on the table, where the Secretary determines, based on compelling, reliable, valid, medical and scientific evidence that administration or use of the covered countermeasure directly caused such covered injury.

“(B) AMENDMENTS.—The provisions of section 263 (other than a provision of subsection (a)(2) of such section that relates to accidental vaccinia inoculation) shall apply to the table established under this section.

“(C) JUDICIAL REVIEW.—No court of the United States, or of any State, shall have subject matter jurisdiction to

review, whether by mandamus or otherwise, any action by the Secretary under this paragraph.

“(6) MEANINGS OF TERMS.—In applying sections 262, 263, 264, 265, and 266 for purposes of this section—

“(A) the terms ‘vaccine’ and ‘smallpox vaccine’ shall be deemed to mean a covered countermeasure;

“(B) the terms ‘smallpox vaccine injury table’ and ‘table established under section 263’ shall be deemed to refer to the table established under paragraph (4); and

“(C) other terms used in those sections shall have the meanings given to such terms by this section.

“(c) VOLUNTARY PROGRAM.—The Secretary shall ensure that a State, local, or Department of Health and Human Services plan to administer or use a covered countermeasure is consistent with any declaration under 319F-3 and any applicable guidelines of the Centers for Disease Control and Prevention and that potential participants are educated with respect to contraindications, the voluntary nature of the program, and the availability of potential benefits and compensation under this part.

“(d) EXHAUSTION; EXCLUSIVITY; ELECTION.—

“(1) EXHAUSTION.—Subject to paragraph (5), a covered individual may not bring a civil action under section 319F-3(d) against a covered person (as such term is defined in section 319F-3(i)(2)) unless such individual has exhausted such remedies as are available under subsection (a), except that if amounts have not by law been provided for the Fund under subsection (a), or if the Secretary fails to make a final determination on a request for benefits or compensation filed in accordance with the requirements of this section within 240 days after such request was filed, the individual may seek any remedy that may be available under section 319F-3(d).

“(2) TOLLING OF STATUTE OF LIMITATIONS.—The time limit for filing a civil action under section 319F-3(d) for an injury or death shall be tolled during the pendency of a claim for compensation under subsection (a).

“(3) RULE OF CONSTRUCTION.—This section shall not be construed as superseding or otherwise affecting the application of a requirement, under chapter 171 of title 28, United States Code, to exhaust administrative remedies.

“(4) EXCLUSIVITY.—The remedy provided by subsection (a) shall be exclusive of any other civil action or proceeding for any claim or suit this section encompasses, except for a proceeding under section 319F-3.

“(5) ELECTION.—If under subsection (a) the Secretary determines that a covered individual qualifies for compensation, the individual has an election to accept the compensation or to bring an action under section 319F-3(d). If such individual elects to accept the compensation, the individual may not bring such an action.

“(e) DEFINITIONS.—For purposes of this section, the following terms shall have the following meanings:

“(1) COVERED COUNTERMEASURE.—The term ‘covered countermeasure’ has the meaning given such term in section 319F-3.

“(2) COVERED INDIVIDUAL.—The term ‘covered individual’, with respect to administration or use of a covered countermeasure pursuant to a declaration, means an individual—

“(A) who is in a population specified in such declaration, and with respect to whom the administration or use of the covered countermeasure satisfies the other specifications of such declaration; or

“(B) who uses the covered countermeasure, or to whom the covered countermeasure is administered, in a good faith belief that the individual is in the category described by subparagraph (A).

“(3) COVERED INJURY.—The term ‘covered injury’ means serious physical injury or death.

“(4) DECLARATION.—The term ‘declaration’ means a declaration under section 319F–3(b).

“(5) ELIGIBLE INDIVIDUAL.—The term ‘eligible individual’ means an individual who is determined, in accordance with subsection (b), to be a covered individual who sustains a covered injury.”.

This Act may be cited as the “Department of Defense, Emergency Supplemental Appropriations to Address Hurricanes in the Gulf of Mexico, and Pandemic Influenza Act, 2006”.

Approved December 30, 2005.

LEGISLATIVE HISTORY—H.R. 2863:

HOUSE REPORTS: Nos. 109–119 (Comm. on Appropriations) and 109–359 (Comm. of Conference).

SENATE REPORTS: No. 109–141 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 151 (2005):

June 20, considered and passed House.

Sept. 29, 30, Oct. 3–7, considered and passed Senate, amended.

Dec. 19, House agreed to conference report.

Dec. 21, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 41 (2005):

Dec. 30, Presidential statement.



Public Law 109–149
109th Congress

An Act

Making appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes.

Dec. 30, 2005
[H.R. 3010]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Labor, Health and Human Services, and Education, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes, namely:

Departments of
Labor, Health
and Human
Services, and
Education, and
Related Agencies
Appropriations
Act, 2006.

TITLE I—DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

Department of
Labor
Appropriations
Act, 2006.

TRAINING AND EMPLOYMENT SERVICES

(INCLUDING RESCISSIONS)

For necessary expenses of the Workforce Investment Act of 1998, the Denali Commission Act of 1998, and the Women in Apprenticeship and Non-Traditional Occupations Act of 1992, including the purchase and hire of passenger motor vehicles, the construction, alteration, and repair of buildings and other facilities, and the purchase of real property for training centers as authorized by the Workforce Investment Act of 1998; \$2,652,411,000 plus reimbursements, of which \$1,688,411,000 is available for obligation for the period July 1, 2006, through June 30, 2007; except that amounts determined by the Secretary of Labor to be necessary pursuant to sections 173(a)(4)(A) and 174(c) of the Workforce Investment Act of 1998 shall be available from October 1, 2005, until expended; and of which \$950,000,000 is available for obligation for the period April 1, 2006, through June 30, 2007, to carry out chapter 4 of the Workforce Investment Act of 1998; and of which \$8,000,000 is available for the period July 1, 2006, through June 30, 2009, for necessary expenses of construction, rehabilitation, and acquisition of Job Corps centers: *Provided*, That notwithstanding any other provision of law, of the funds provided herein under section 137(c) of the Workforce Investment Act of 1998, \$282,800,000 shall be for activities described in section 132(a)(2)(A) of such Act and \$1,193,264,000 shall be for activities described in section 132(a)(2)(B) of such Act: *Provided further*, That \$125,000,000 shall be available for Community-Based Job Training Grants, which shall be from funds reserved under section

132(a)(2)(A) of the Workforce Investment Act of 1998 and shall be used to carry out such grants under section 171(d) of such Act, except that the 10 percent limitation otherwise applicable to the amount of funds that may be used to carry out section 171(d) shall not be applicable to funds used for Community-Based Job Training grants: *Provided further*, That funds provided to carry out section 132(a)(2)(A) of the Workforce Investment Act of 1998 may be used to provide assistance to a State for State-wide or local use in order to address cases where there have been worker dislocations across multiple sectors or across multiple local areas and such workers remain dislocated; coordinate the State workforce development plan with emerging economic development needs; and train such eligible dislocated workers: *Provided further*, That \$7,936,000 shall be for carrying out section 172 of the Workforce Investment Act of 1998: *Provided further*, That \$982,000 shall be for carrying out Public Law 102-530: *Provided further*, That, notwithstanding any other provision of law or related regulation, \$80,557,000 shall be for carrying out section 167 of the Workforce Investment Act of 1998, including \$75,053,000 for formula grants, \$5,000,000 for migrant and seasonal housing (of which not less than 70 percent shall be for permanent housing), and \$504,000 for other discretionary purposes, and that the Department shall take no action limiting the number or proportion of eligible participants receiving related assistance services or discouraging grantees from providing such services: *Provided further*, That notwithstanding the transfer limitation under section 133(b)(4) of such Act, up to 30 percent of such funds may be transferred by a local board if approved by the Governor: *Provided further*, That funds provided to carry out section 171(d) of the Workforce Investment Act of 1998 may be used for demonstration projects that provide assistance to new entrants in the workforce and incumbent workers: *Provided further*, That no funds from any other appropriation shall be used to provide meal services at or for Job Corps centers.

For necessary expenses of the Workforce Investment Act of 1998, including the purchase and hire of passenger motor vehicles, the construction, alteration, and repair of buildings and other facilities, and the purchase of real property for training centers as authorized by the Act; \$2,463,000,000 plus reimbursements, of which \$2,363,000,000 is available for obligation for the period October 1, 2006, through June 30, 2007, and of which \$100,000,000 is available for the period October 1, 2006, through June 30, 2009, for necessary expenses of construction, rehabilitation, and acquisition of Job Corps centers.

Of the funds provided under this heading in Public Law 108-7 to carry out section 173(a)(4)(A) of the Workforce Investment Act of 1998, \$20,000,000 are rescinded.

Of the funds provided under this heading in Public Law 107-117, \$5,000,000 are rescinded.

Of the funds provided under this heading in division F of Public Law 108-447 for Community-Based Job Training Grants, \$125,000,000 is rescinded.

The Secretary of Labor shall take no action to amend, through regulatory or administration action, the definition established in 20 CFR 667.220 for functions and activities under title I of the Workforce Investment Act of 1998, or to modify, through regulatory or administrative action, the procedure for redesignation of local

areas as specified in subtitle B of title I of that Act (including applying the standards specified in section 116(a)(3)(B) of that Act, but notwithstanding the time limits specified in section 116(a)(3)(B) of that Act), until such time as legislation reauthorizing the Act is enacted. Nothing in the preceding sentence shall permit or require the Secretary of Labor to withdraw approval for such redesignation from a State that received the approval not later than October 12, 2005, or to revise action taken or modify the redesignation procedure being used by the Secretary in order to complete such redesignation for a State that initiated the process of such redesignation by submitting any request for such redesignation not later than October 26, 2005.

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

To carry out title V of the Older Americans Act of 1965, as amended, \$436,678,000.

FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES

For payments during the current fiscal year of trade adjustment benefit payments and allowances under part I and section 246; and for training, allowances for job search and relocation, and related State administrative expenses under part II of chapter 2, title II of the Trade Act of 1974 (including the benefits and services described under sections 123(c)(2) and 151(b) and (c) of the Trade Adjustment Assistance Reform Act of 2002, Public Law 107-210), \$966,400,000, together with such amounts as may be necessary to be charged to the subsequent appropriation for payments for any period subsequent to September 15 of the current year.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

For authorized administrative expenses, \$125,312,000, together with not to exceed \$3,266,766,000 (including not to exceed \$1,228,000 which may be used for amortization payments to States which had independent retirement plans in their State employment service agencies prior to 1980), which may be expended from the Employment Security Administration Account in the Unemployment Trust Fund including the cost of administering section 51 of the Internal Revenue Code of 1986, as amended, section 7(d) of the Wagner-Peyser Act, as amended, the Trade Act of 1974, as amended, the Immigration Act of 1990, and the Immigration and Nationality Act, as amended, and of which the sums available in the allocation for activities authorized by title III of the Social Security Act, as amended (42 U.S.C. 502-504), and the sums available in the allocation for necessary administrative expenses for carrying out 5 U.S.C. 8501-8523, shall be available for obligation by the States through December 31, 2006, except that funds used for automation acquisitions shall be available for obligation by the States through September 30, 2008; of which \$125,312,000, together with not to exceed \$700,000,000 of the amount which may be expended from said trust fund, shall be available for obligation for the period July 1, 2006, through June 30, 2007, to fund activities under the Act of June 6, 1933, as amended, including the cost of penalty mail authorized under 39 U.S.C. 3202(a)(1)(E)

made available to States in lieu of allotments for such purpose: *Provided*, That to the extent that the Average Weekly Insured Unemployment (AWIU) for fiscal year 2006 is projected by the Department of Labor to exceed 2,800,000, an additional \$28,600,000 shall be available for obligation for every 100,000 increase in the AWIU level (including a pro rata amount for any increment less than 100,000) from the Employment Security Administration Account of the Unemployment Trust Fund: *Provided further*, That funds appropriated in this Act which are used to establish a national one-stop career center system, or which are used to support the national activities of the Federal-State unemployment insurance or immigration programs, may be obligated in contracts, grants or agreements with non-State entities: *Provided further*, That funds appropriated in this Act for activities authorized under the Wagner-Peyser Act, as amended, and title III of the Social Security Act, may be used by the States to fund integrated Employment Service and Unemployment Insurance automation efforts, notwithstanding cost allocation principles prescribed under Office of Management and Budget Circular A-87.

ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

For repayable advances to the Unemployment Trust Fund as authorized by sections 905(d) and 1203 of the Social Security Act, as amended, and to the Black Lung Disability Trust Fund as authorized by section 9501(c)(1) of the Internal Revenue Code of 1954, as amended; and for nonrepayable advances to the Unemployment Trust Fund as authorized by section 8509 of title 5, United States Code, and to the “Federal unemployment benefits and allowances” account, to remain available until September 30, 2007, \$465,000,000.

In addition, for making repayable advances to the Black Lung Disability Trust Fund in the current fiscal year after September 15, 2006, for costs incurred by the Black Lung Disability Trust Fund in the current fiscal year, such sums as may be necessary.

PROGRAM ADMINISTRATION

For expenses of administering employment and training programs, \$117,123,000, together with not to exceed \$82,877,000, which may be expended from the Employment Security Administration Account in the Unemployment Trust Fund.

WORKERS COMPENSATION PROGRAMS

(RESCISSION)

Of funds provided under this heading in the Emergency Supplemental Appropriations Act, 2002 (Public Law 107-117, division B), \$120,000,000 are rescinded.

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Employee Benefits Security Administration, \$134,900,000.

PENSION BENEFIT GUARANTY CORPORATION

PENSION BENEFIT GUARANTY CORPORATION FUND

The Pension Benefit Guaranty Corporation is authorized to make such expenditures, including financial assistance authorized by section 104 of Public Law 96-364, within limits of funds and borrowing authority available to such Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 9104), as may be necessary in carrying out the program, including associated administrative expenses, through September 30, 2006, for such Corporation: *Provided*, That none of the funds available to the Corporation for fiscal year 2006 shall be available for obligations for administrative expenses in excess of \$296,978,000: *Provided further*, That obligations in excess of such amount may be incurred after approval by the Office of Management and Budget and the Committees on Appropriations of the House and Senate.

EMPLOYMENT STANDARDS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Employment Standards Administration, including reimbursement to State, Federal, and local agencies and their employees for inspection services rendered, \$413,168,000, together with \$2,048,000 which may be expended from the Special Fund in accordance with sections 39(c), 44(d), and 44(j) of the Longshore and Harbor Workers' Compensation Act: *Provided*, That the Secretary of Labor is authorized to establish and, in accordance with 31 U.S.C. 3302, collect and deposit in the Treasury fees for processing applications and issuing certificates under sections 11(d) and 14 of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 211(d) and 214) and for processing applications and issuing registrations under title I of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801 et seq.).

SPECIAL BENEFITS

(INCLUDING TRANSFER OF FUNDS)

For the payment of compensation, benefits, and expenses (except administrative expenses) accruing during the current or any prior fiscal year authorized by title 5, chapter 81 of the United States Code; continuation of benefits as provided for under the heading "Civilian War Benefits" in the Federal Security Agency Appropriation Act, 1947; the Employees' Compensation Commission Appropriation Act, 1944; sections 4(c) and 5(f) of the War Claims Act of 1948 (50 U.S.C. App. 2012); and 50 percent of the additional compensation and benefits required by section 10(h) of the Longshore and Harbor Workers' Compensation Act, as amended, \$237,000,000, together with such amounts as may be necessary to be charged to the subsequent year appropriation for the payment of compensation and other benefits for any period subsequent to August 15 of the current year: *Provided*, That amounts appropriated may be used under section 8104 of title 5, United States Code, by the Secretary of Labor to reimburse an employer, who is not

the employer at the time of injury, for portions of the salary of a reemployed, disabled beneficiary: *Provided further*, That balances of reimbursements unobligated on September 30, 2005, shall remain available until expended for the payment of compensation, benefits, and expenses: *Provided further*, That in addition there shall be transferred to this appropriation from the Postal Service and from any other corporation or instrumentality required under section 8147(c) of title 5, United States Code, to pay an amount for its fair share of the cost of administration, such sums as the Secretary determines to be the cost of administration for employees of such fair share entities through September 30, 2006: *Provided further*, That of those funds transferred to this account from the fair share entities to pay the cost of administration of the Federal Employees' Compensation Act, \$53,695,000 shall be made available to the Secretary as follows:

(1) For enhancement and maintenance of automated data processing systems and telecommunications systems, \$13,305,000.

(2) For automated workload processing operations, including document imaging, centralized mail intake and medical bill processing, \$27,148,000.

(3) For periodic roll management and medical review, \$13,242,000.

(4) The remaining funds shall be paid into the Treasury as miscellaneous receipts:

Provided further, That the Secretary may require that any person filing a notice of injury or a claim for benefits under chapter 81 of title 5, United States Code, or 33 U.S.C. 901 et seq., provide as part of such notice and claim, such identifying information (including Social Security account number) as such regulations may prescribe.

SPECIAL BENEFITS FOR DISABLED COAL MINERS

For carrying out title IV of the Federal Mine Safety and Health Act of 1977, as amended by Public Law 107-275 (the "Act"), \$232,250,000, to remain available until expended.

For making after July 31 of the current fiscal year, benefit payments to individuals under title IV of the Act, for costs incurred in the current fiscal year, such amounts as may be necessary.

For making benefit payments under title IV for the first quarter of fiscal year 2007, \$74,000,000, to remain available until expended.

ADMINISTRATIVE EXPENSES, ENERGY EMPLOYEES OCCUPATIONAL ILLNESS COMPENSATION FUND

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to administer the Energy Employees Occupational Illness Compensation Act, \$96,081,000, to remain available until expended: *Provided*, That the Secretary of Labor is authorized to transfer to any executive agency with authority under the Energy Employees Occupational Illness Compensation Act, including within the Department of Labor, such sums as may be necessary in fiscal year 2006 to carry out those authorities: *Provided further*, That the Secretary may require that any person filing a claim for benefits under the Act provide as part of such claim, such identifying information (including Social Security

account number) as may be prescribed: *Provided further*, That not later than 30 days after enactment, in addition to other sums transferred by the Secretary of Labor to the National Institute for Occupational Safety and Health (“NIOSH”) for the administration of the Energy Employees Occupational Illness Compensation Program (“EEOICPA”), the Secretary of Labor shall transfer \$4,500,000 to NIOSH from the funds appropriated to the Energy Employees Occupational Illness Compensation Fund (42 U.S.C. 7384e), for use by or in support of the Advisory Board on Radiation and Worker Health (“the Board”) to carry out its statutory responsibilities under EEOICPA (42 U.S.C. 7384n–q), including obtaining audits, technical assistance and other support from the Board’s audit contractor with regard to radiation dose estimation and reconstruction efforts, site profiles, procedures, and review of Special Exposure Cohort petitions and evaluation reports. Deadline.

BLACK LUNG DISABILITY TRUST FUND

(INCLUDING TRANSFER OF FUNDS)

In fiscal year 2006 and thereafter, such sums as may be necessary from the Black Lung Disability Trust Fund, to remain available until expended, for payment of all benefits authorized by section 9501(d)(1), (2), (4), and (7) of the Internal Revenue Code of 1954, as amended; and interest on advances, as authorized by section 9501(c)(2) of that Act. In addition, the following amounts shall be available from the Fund for fiscal year 2006 for expenses of operation and administration of the Black Lung Benefits program, as authorized by section 9501(d)(5): \$33,050,000 for transfer to the Employment Standards Administration “Salaries and Expenses”; \$24,239,000 for transfer to Departmental Management, “Salaries and Expenses”; \$344,000 for transfer to Departmental Management “Office of Inspector General”; and \$356,000 for payments into miscellaneous receipts for the expenses of the Department of the Treasury. 26 USC 9501 note.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Occupational Safety and Health Administration, \$477,199,000, including not to exceed \$92,013,000 which shall be the maximum amount available for grants to States under section 23(g) of the Occupational Safety and Health Act (the “Act”), which grants shall be no less than 50 percent of the costs of State occupational safety and health programs required to be incurred under plans approved by the Secretary under section 18 of the Act; and, in addition, notwithstanding 31 U.S.C. 3302, the Occupational Safety and Health Administration may retain up to \$750,000 per fiscal year of training institute course tuition fees, otherwise authorized by law to be collected, and may utilize such sums for occupational safety and health training and education grants: *Provided*, That, notwithstanding 31 U.S.C. 3302, the Secretary of Labor is authorized, during the fiscal year ending September 30, 2006, to collect and retain fees for services provided to Nationally Recognized Testing Laboratories, and may utilize such sums, in accordance with the provisions of 29 U.S.C. 9a, 29 USC 670 note.

to administer national and international laboratory recognition programs that ensure the safety of equipment and products used by workers in the workplace: *Provided further*, That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, or order under the Act which is applicable to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs 10 or fewer employees: *Provided further*, That no funds appropriated under this paragraph shall be obligated or expended to administer or enforce any standard, rule, regulation, or order under the Act with respect to any employer of 10 or fewer employees who is included within a category having a Days Away, Restricted, or Transferred (DART) occupational injury and illness rate, at the most precise industrial classification code for which such data are published, less than the national average rate as such rates are most recently published by the Secretary, acting through the Bureau of Labor Statistics, in accordance with section 24 of that Act (29 U.S.C. 673), except—

(1) to provide, as authorized by such Act, consultation, technical assistance, educational and training services, and to conduct surveys and studies;

(2) to conduct an inspection or investigation in response to an employee complaint, to issue a citation for violations found during such inspection, and to assess a penalty for violations which are not corrected within a reasonable abatement period and for any willful violations found;

(3) to take any action authorized by such Act with respect to imminent dangers;

(4) to take any action authorized by such Act with respect to health hazards;

(5) to take any action authorized by such Act with respect to a report of an employment accident which is fatal to one or more employees or which results in hospitalization of two or more employees, and to take any action pursuant to such investigation authorized by such Act; and

(6) to take any action authorized by such Act with respect to complaints of discrimination against employees for exercising rights under such Act:

Provided further, That the foregoing proviso shall not apply to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs 10 or fewer employees: *Provided further*, That not less than \$3,200,000 shall be used to extend funding for the Institutional Competency Building training grants which commenced in September 2000, for program activities for the period of September 30, 2006, to September 30, 2007, provided that a grantee has demonstrated satisfactory performance: *Provided further*, That none of the funds appropriated under this paragraph shall be obligated or expended to administer or enforce the provisions of 29 CFR 1910.134(f)(2) (General Industry Respiratory Protection Standard) to the extent that such provisions require the annual fit testing (after the initial fit testing) of respirators for occupational exposure to tuberculosis.

MINE SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Mine Safety and Health Administration, \$280,490,000, including purchase and bestowal of certificates and trophies in connection with mine rescue and first-aid work, and the hire of passenger motor vehicles, including up to \$2,000,000 for mine rescue and recovery activities; in addition, not to exceed \$750,000 may be collected by the National Mine Health and Safety Academy for room, board, tuition, and the sale of training materials, otherwise authorized by law to be collected, to be available for mine safety and health education and training activities, notwithstanding 31 U.S.C. 3302; and, in addition, the Mine Safety and Health Administration may retain up to \$1,000,000 from fees collected for the approval and certification of equipment, materials, and explosives for use in mines, and may utilize such sums for such activities; the Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private; the Mine Safety and Health Administration is authorized to promote health and safety education and training in the mining community through cooperative programs with States, industry, and safety associations; the Secretary is authorized to recognize the Joseph A. Holmes Safety Association as a principal safety association and, notwithstanding any other provision of law, may provide funds and, with or without reimbursement, personnel, including service of Mine Safety and Health Administration officials as officers in local chapters or in the national organization; and any funds available to the department may be used, with the approval of the Secretary, to provide for the costs of mine rescue and survival operations in the event of a major disaster.

30 USC 962.

BUREAU OF LABOR STATISTICS

SALARIES AND EXPENSES

For necessary expenses for the Bureau of Labor Statistics, including advances or reimbursements to State, Federal, and local agencies and their employees for services rendered, \$464,678,000, together with not to exceed \$77,845,000, which may be expended from the Employment Security Administration Account in the Unemployment Trust Fund, of which \$5,000,000 may be used to fund the mass layoff statistics program under section 15 of the Wagner-Peyser Act (29 U.S.C. 491-2): *Provided*, That the Current Employment Survey shall maintain the content of the survey issued prior to June 2005 with respect to the collection of data for the women worker series.

OFFICE OF DISABILITY EMPLOYMENT POLICY

SALARIES AND EXPENSES

For necessary expenses for the Office of Disability Employment Policy to provide leadership, develop policy and initiatives, and award grants furthering the objective of eliminating barriers to the training and employment of people with disabilities, \$27,934,000.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For necessary expenses for Departmental Management, including the hire of three sedans, and including the management or operation, through contracts, grants or other arrangements of Departmental activities conducted by or through the Bureau of International Labor Affairs, including bilateral and multilateral technical assistance and other international labor activities, \$300,275,000, of which \$6,944,000, to remain available until September 30, 2007, is for Frances Perkins Building Security Enhancements, and \$29,760,000 is for the acquisition of Departmental information technology, architecture, infrastructure, equipment, software and related needs, which will be allocated by the Department's Chief Information Officer in accordance with the Department's capital investment management process to assure a sound investment strategy; together with not to exceed \$311,000, which may be expended from the Employment Security Administration Account in the Unemployment Trust Fund.

VETERANS EMPLOYMENT AND TRAINING

Not to exceed \$194,834,000 may be derived from the Employment Security Administration Account in the Unemployment Trust Fund to carry out the provisions of 38 U.S.C. 4100-4113, 4211-4215, and 4321-4327, and Public Law 103-353, and which shall be available for obligation by the States through December 31, 2006, of which \$1,984,000 is for the National Veterans' Employment and Training Services Institute. To carry out the Homeless Veterans Reintegration Programs (38 U.S.C. 2021) and the Veterans Workforce Investment Programs (29 U.S.C. 2913), \$29,500,000, of which \$7,500,000 shall be available for obligation for the period July 1, 2006, through June 30, 2007.

OFFICE OF INSPECTOR GENERAL

For salaries and expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, \$66,211,000, together with not to exceed \$5,608,000, which may be expended from the Employment Security Administration Account in the Unemployment Trust Fund.

WORKING CAPITAL FUND

For the acquisition of a new core accounting system for the Department of Labor, including hardware and software infrastructure and the costs associated with implementation thereof, \$6,230,000.

GENERAL PROVISIONS

SEC. 101. None of the funds appropriated in this title for the Job Corps shall be used to pay the salary of an individual, either as direct costs or any proration as an indirect cost, at a rate in excess of Executive Level I.

SEC. 102. Not later than 90 days after the date of enactment of this Act, the Secretary of Labor shall permanently establish and maintain an Office of Job Corps within the Office of the

Secretary, in the Department of Labor, to carry out the functions (including duties, responsibilities, and procedures) of subtitle C of title I of the Workforce Investment Act of 1998 (29 U.S.C. 2881 et seq.). The Secretary shall appoint a senior member of the civil service to head that Office of Job Corps and carry out subtitle C. The Secretary shall transfer funds appropriated for the program carried out under that subtitle C, including the administration of such program, to the head of that Office of Job Corps. The head of that Office of Job Corps shall have contracting authority and shall receive support as necessary from the Assistant Secretary for Administration and Management with respect to contracting functions and the Assistant Secretary for Policy with respect to research and evaluation functions.

Appointment.

(TRANSFER OF FUNDS)

SEC. 103. Not to exceed 1 percent of any discretionary funds (pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985, as amended) which are appropriated for the current fiscal year for the Department of Labor in this Act may be transferred between a program, project, or activity, but no such program, project, or activity shall be increased by more than 3 percent by any such transfer: *Provided*, That a program, project, or activity may be increased by up to an additional 2 percent subject to approval by the House and Senate Committees on Appropriations: *Provided further*, That the transfer authority granted by this section shall be available only to meet emergency needs and shall not be used to create any new program or to fund any project or activity for which no funds are provided in this Act: *Provided further*, That the Appropriations Committees of both Houses of Congress are notified at least 15 days in advance of any transfer.

Notification.
Deadline.

SEC. 104. In accordance with Executive Order No. 13126, none of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended for the procurement of goods mined, produced, manufactured, or harvested or services rendered, whole or in part, by forced or indentured child labor in industries and host countries already identified by the United States Department of Labor prior to enactment of this Act.

Child labor.

SEC. 105. There is authorized to be appropriated such sums as may be necessary to the Denali Commission through the Department of Labor to conduct job training of the local workforce where Denali Commission projects will be constructed.

SEC. 106. For purposes of chapter 8 of division B of the Department of Defense and Emergency Supplemental Appropriations for Recovery from and Response to Terrorist Attacks on the United States Act, 2002 (Public Law 107-117), payments made by the New York Workers' Compensation Board to the New York Crime Victims Board and the New York State Insurance Fund before the date of the enactment of this Act shall be deemed to have been made for workers compensation programs.

New York.

SEC. 107. The Department of Labor shall submit its fiscal year 2007 congressional budget justifications to the Committees on Appropriations of the House of Representatives and the Senate in the format and level of detail used by the Department of Education in its fiscal year 2006 congressional budget justifications.

Budget.

SEC. 108. The Secretary shall prepare and submit not later than July 1, 2006, to the Committees on Appropriations of the Senate and of the House an operating plan that outlines the planned

Deadline.

allocation by major project and activity of fiscal year 2006 funds made available for section 171 of the Workforce Investment Act.

This title may be cited as the “Department of Labor Appropriations Act, 2006”.

Department of
Health and
Human Services
Appropriations
Act, 2006.

TITLE II—DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

HEALTH RESOURCES AND SERVICES

For carrying out titles II, III, IV, VII, VIII, X, XII, XIX, and XXVI of the Public Health Service Act, section 427(a) of the Federal Coal Mine Health and Safety Act, title V and sections 1128E, and 711, and 1820 of the Social Security Act, the Health Care Quality Improvement Act of 1986, as amended, the Native Hawaiian Health Care Act of 1988, as amended, the Cardiac Arrest Survival Act of 2000, section 712 of the American Jobs Creation Act of 2004, and for expenses necessary to support activities related to countering potential biological, disease, nuclear, radiological and chemical threats to civilian populations, \$6,629,661,000 of which \$64,180,000 from general revenues, notwithstanding section 1820(j) of the Social Security Act, shall be available for carrying out the Medicare rural hospital flexibility grants program under section 1820 of such Act (of which \$25,000,000 is for a Delta health initiative Rural Health, Education, and Workforce Infrastructure Demonstration Program which shall solicit and fund proposals from local governments, hospitals, universities, and rural public health-related entities and organizations for research development, educational programs, job training, and construction of public health-related facilities): *Provided*, That of the funds made available under this heading, \$222,000 shall be available until expended for facilities renovations at the Gillis W. Long Hansen’s Disease Center: *Provided further*, That in addition to fees authorized by section 427(b) of the Health Care Quality Improvement Act of 1986, fees shall be collected for the full disclosure of information under the Act sufficient to recover the full costs of operating the National Practitioner Data Bank, and shall remain available until expended to carry out that Act: *Provided further*, That fees collected for the full disclosure of information under the “Health Care Fraud and Abuse Data Collection Program”, authorized by section 1128E(d)(2) of the Social Security Act, shall be sufficient to recover the full costs of operating the program, and shall remain available until expended to carry out that Act: *Provided further*, That no more than \$40,000 is available until expended for carrying out the provisions of 42 U.S.C. 233(o) including associated administrative expenses: *Provided further*, That no more than \$45,000,000 is available until expended for carrying out the provisions of Public Law 104-73 and for expenses incurred by the Department of Health and Human Services pertaining to administrative claims made under such law: *Provided further*, That \$4,000,000 is available until expended for the National Cord Blood Stem Cell Bank Program as described in House Report 108-401: *Provided further*, That of the funds made available under this heading, \$285,963,000 shall be for the program under title X of the Public Health Service Act to provide for voluntary family planning projects: *Provided further*, That amounts provided to said projects under such title shall not be

expended for abortions, that all pregnancy counseling shall be non-directive, and that such amounts shall not be expended for any activity (including the publication or distribution of literature) that in any way tends to promote public support or opposition to any legislative proposal or candidate for public office: *Provided further*, That \$797,521,000 shall be for State AIDS Drug Assistance Programs authorized by section 2616 of the Public Health Service Act: *Provided further*, That in addition to amounts provided herein, \$25,000,000 shall be available from amounts available under section 241 of the Public Health Service Act to carry out Parts A, B, C, and D of title XXVI of the Public Health Service Act to fund section 2691 Special Projects of National Significance: *Provided further*, That, notwithstanding section 502(a)(1) of the Social Security Act, not to exceed \$117,108,000 is available for carrying out special projects of regional and national significance pursuant to section 501(a)(2) of such Act: *Provided further*, That of the funds provided, \$39,680,000 shall be provided to the Denali Commission as a direct lump payment pursuant to Public Law 106–113.

HEALTH EDUCATION ASSISTANCE LOANS PROGRAM ACCOUNT

Such sums as may be necessary to carry out the purpose of the program, as authorized by title VII of the Public Health Service Act, as amended. For administrative expenses to carry out the guaranteed loan program, including section 709 of the Public Health Service Act, \$2,916,000.

VACCINE INJURY COMPENSATION PROGRAM TRUST FUND

For payments from the Vaccine Injury Compensation Program Trust Fund, such sums as may be necessary for claims associated with vaccine-related injury or death with respect to vaccines administered after September 30, 1988, pursuant to subtitle 2 of title XXI of the Public Health Service Act, to remain available until expended: *Provided*, That for necessary administrative expenses, not to exceed \$3,600,000 shall be available from the Trust Fund to the Secretary of Health and Human Services.

CENTERS FOR DISEASE CONTROL AND PREVENTION

DISEASE CONTROL, RESEARCH, AND TRAINING

To carry out titles II, III, VII, XI, XV, XVII, XIX, XXI, and XXVI of the Public Health Service Act, sections 101, 102, 103, 201, 202, 203, 301, and 501 of the Federal Mine Safety and Health Act of 1977, sections 20, 21, and 22 of the Occupational Safety and Health Act of 1970, title IV of the Immigration and Nationality Act, section 501 of the Refugee Education Assistance Act of 1980, and for expenses necessary to support activities related to countering potential biological, disease, nuclear, radiological, and chemical threats to civilian populations; including purchase and insurance of official motor vehicles in foreign countries; and purchase, hire, maintenance, and operation of aircraft, \$5,884,934,000, of which \$160,000,000 shall remain available until expended for equipment, construction and renovation of facilities; of which \$30,000,000 of the amounts available for immunization activities shall remain available until expended; of which \$530,000,000 shall remain available until expended for the Strategic National Stockpile; and of

Notification.

which \$123,883,000 for international HIV/AIDS shall remain available until September 30, 2007. In addition, such sums as may be derived from authorized user fees, which shall be credited to this account: *Provided*, That in addition to amounts provided herein, the following amounts shall be available from amounts available under section 241 of the Public Health Service Act: (1) \$12,794,000 to carry out the National Immunization Surveys; (2) \$109,021,000 to carry out the National Center for Health Statistics surveys; (3) \$24,751,000 to carry out information systems standards development and architecture and applications-based research used at local public health levels; (4) \$463,000 for Health Marketing evaluations; (5) \$31,000,000 to carry out Public Health Research; and (6) \$87,071,000 to carry out research activities within the National Occupational Research Agenda: *Provided further*, That none of the funds made available for injury prevention and control at the Centers for Disease Control and Prevention may be used, in whole or in part, to advocate or promote gun control: *Provided further*, That up to \$31,800,000 shall be made available until expended for Individual Learning Accounts for full-time equivalent employees of the Centers for Disease Control and Prevention: *Provided further*, That the Director may redirect the total amount made available under authority of Public Law 101-502, section 3, dated November 3, 1990, to activities the Director may so designate: *Provided further*, That the Congress is to be notified promptly of any such transfer: *Provided further*, That not to exceed \$12,500,000 may be available for making grants under section 1509 of the Public Health Service Act to not more than 15 States, tribes, or tribal organizations: *Provided further*, That notwithstanding any other provision of law, a single contract or related contracts for development and construction of facilities may be employed which collectively include the full scope of the project: *Provided further*, That the solicitation and contract shall contain the clause “availability of funds” found at 48 CFR 52.232-18: *Provided further*, That of the funds appropriated, \$10,000 is for official reception and representation expenses when specifically approved by the Director of the Centers for Disease Control and Prevention: *Provided further*, That employees of the Centers for Disease Control and Prevention or the Public Health Service, both civilian and Commissioned Officers, detailed to States, municipalities, or other organizations under authority of section 214 of the Public Health Service Act, shall be treated as non-Federal employees for reporting purposes only and shall not be included within any personnel ceiling applicable to the Agency, Service, or the Department of Health and Human Services during the period of detail or assignment.

NATIONAL INSTITUTES OF HEALTH

NATIONAL CANCER INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to cancer, \$4,841,774,000, of which up to \$8,000,000 may be used for facilities repairs and improvements at the NCI-Frederick Federally Funded Research and Development Center in Frederick, Maryland.

NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to cardiovascular, lung, and blood diseases, and blood and blood products, \$2,951,270,000.

NATIONAL INSTITUTE OF DENTAL AND CRANIOFACIAL RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to dental disease, \$393,269,000.

NATIONAL INSTITUTE OF DIABETES AND DIGESTIVE AND KIDNEY
DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to diabetes and digestive and kidney disease, \$1,722,146,000.

NATIONAL INSTITUTE OF NEUROLOGICAL DISORDERS AND STROKE

For carrying out section 301 and title IV of the Public Health Service Act with respect to neurological disorders and stroke, \$1,550,260,000.

NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

(INCLUDING TRANSFER OF FUNDS)

For carrying out section 301 and title IV of the Public Health Service Act with respect to allergy and infectious diseases, \$4,459,395,000: *Provided*, That \$100,000,000 may be made available to International Assistance Programs “Global Fund to Fight HIV/AIDS, Malaria, and Tuberculosis”, to remain available until expended: *Provided further*, That up to \$30,000,000 shall be for extramural facilities construction grants to enhance the Nation’s capability to do research on biological and other agents.

NATIONAL INSTITUTE OF GENERAL MEDICAL SCIENCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to general medical sciences, \$1,955,170,000.

NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT

For carrying out section 301 and title IV of the Public Health Service Act with respect to child health and human development, \$1,277,544,000.

NATIONAL EYE INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to eye diseases and visual disorders, \$673,491,000.

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

For carrying out sections 301 and 311 and title IV of the Public Health Service Act with respect to environmental health sciences, \$647,608,000.

NATIONAL INSTITUTE ON AGING

For carrying out section 301 and title IV of the Public Health Service Act with respect to aging, \$1,057,203,000.

NATIONAL INSTITUTE OF ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to arthritis and musculoskeletal and skin diseases, \$513,063,000.

NATIONAL INSTITUTE ON DEAFNESS AND OTHER COMMUNICATION DISORDERS

For carrying out section 301 and title IV of the Public Health Service Act with respect to deafness and other communication disorders, \$397,432,000.

NATIONAL INSTITUTE OF NURSING RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to nursing research, \$138,729,000.

NATIONAL INSTITUTE ON ALCOHOL ABUSE AND ALCOHOLISM

For carrying out section 301 and title IV of the Public Health Service Act with respect to alcohol abuse and alcoholism, \$440,333,000.

NATIONAL INSTITUTE ON DRUG ABUSE

For carrying out section 301 and title IV of the Public Health Service Act with respect to drug abuse, \$1,010,130,000.

NATIONAL INSTITUTE OF MENTAL HEALTH

For carrying out section 301 and title IV of the Public Health Service Act with respect to mental health, \$1,417,692,000.

NATIONAL HUMAN GENOME RESEARCH INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to human genome research, \$490,959,000.

NATIONAL INSTITUTE OF BIOMEDICAL IMAGING AND BIOENGINEERING

For carrying out section 301 and title IV of the Public Health Service Act with respect to biomedical imaging and bioengineering research, \$299,808,000.

NATIONAL CENTER FOR RESEARCH RESOURCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to research resources and general research support grants, \$1,110,203,000: *Provided*, That none of these funds shall be used to pay recipients of the general research support grants program any amount for indirect expenses in connection with such grants.

NATIONAL CENTER FOR COMPLEMENTARY AND ALTERNATIVE
MEDICINE

For carrying out section 301 and title IV of the Public Health Service Act with respect to complementary and alternative medicine, \$122,692,000.

NATIONAL CENTER ON MINORITY HEALTH AND HEALTH DISPARITIES

For carrying out section 301 and title IV of the Public Health Service Act with respect to minority health and health disparities research, \$197,379,000.

JOHN E. FOGARTY INTERNATIONAL CENTER

For carrying out the activities at the John E. Fogarty International Center, \$67,048,000.

NATIONAL LIBRARY OF MEDICINE

For carrying out section 301 and title IV of the Public Health Service Act with respect to health information communications, \$318,091,000, of which \$4,000,000 shall be available until expended for improvement of information systems: *Provided*, That in fiscal year 2006, the Library may enter into personal services contracts for the provision of services in facilities owned, operated, or constructed under the jurisdiction of the National Institutes of Health: *Provided further*, That in addition to amounts provided herein, \$8,200,000 shall be available from amounts available under section 241 of the Public Health Service Act to carry out National Information Center on Health Services Research and Health Care Technology and related health services.

OFFICE OF THE DIRECTOR

(INCLUDING TRANSFER OF FUNDS)

For carrying out the responsibilities of the Office of the Director, National Institutes of Health, \$482,895,000, of which up to \$10,000,000 shall be used to carry out section 217 of this Act: *Provided*, That funding shall be available for the purchase of not to exceed 29 passenger motor vehicles for replacement only: *Provided further*, That the Director may direct up to 1 percent of the total amount made available in this or any other Act to all National Institutes of Health appropriations to activities the Director may so designate: *Provided further*, That no such appropriation shall be decreased by more than 1 percent by any such transfers and that the Congress is promptly notified of the transfer: *Provided further*, That the National Institutes of Health is authorized to collect third party payments for the cost of clinical services that are incurred in National Institutes of Health research facilities and that such payments shall be credited to the National Institutes of Health Management Fund: *Provided further*, That all funds credited to the National Institutes of Health Management Fund shall remain available for one fiscal year after the fiscal year in which they are deposited: *Provided further*, That up to \$500,000 shall be available to carry out section 499 of the Public Health Service Act: *Provided further*, That in addition to the transfer authority provided above, a uniform percentage of the amounts appropriated

Notification.

in this Act to each Institute and Center may be transferred and utilized for the National Institutes of Health Roadmap for Medical Research: *Provided further*, That the amount utilized under the preceding proviso shall not exceed \$250,000,000 without prior notification to the Committees on Appropriations of the House of Representatives and the Senate: *Provided further*, That amounts transferred and utilized under the preceding two provisos shall be in addition to amounts made available for the Roadmap for Medical Research from the Director's Discretionary Fund and to any amounts allocated to activities related to the Roadmap through the normal research priority-setting process of individual Institutes and Centers: *Provided further*, That of the funds provided \$10,000 shall be for official reception and representation expenses when specifically approved by the Director of NIH: *Provided further*, That the Office of AIDS Research within the Office of the Director, NIH may spend up to \$4,000,000 to make grants for construction or renovation of facilities as provided for in section 2354(a)(5)(B) of the Public Health Service Act: *Provided further*, That of the funds provided \$97,000,000 shall be for expenses necessary to support activities related to countering potential nuclear, radiological and chemical threats to civilian populations.

BUILDINGS AND FACILITIES

For the study of, construction of, renovation of, and acquisition of equipment for, facilities of or used by the National Institutes of Health, including the acquisition of real property, \$81,900,000, to remain available until expended.

SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION

SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES

For carrying out titles V and XIX of the Public Health Service Act ("PHS Act") with respect to substance abuse and mental health services, the Protection and Advocacy for Individuals with Mental Illness Act, and section 301 of the PHS Act with respect to program management, \$3,237,813,000: *Provided*, That notwithstanding section 520A(f)(2) of the PHS Act, no funds appropriated for carrying out section 520A are available for carrying out section 1971 of the PHS Act: *Provided further*, That in addition to amounts provided herein, the following amounts shall be available under section 241 of the PHS Act: (1) \$79,200,000 to carry out subpart II of part B of title XIX of the PHS Act to fund section 1935(b) technical assistance, national data, data collection and evaluation activities, and further that the total available under this Act for section 1935(b) activities shall not exceed 5 percent of the amounts appropriated for subpart II of part B of title XIX; (2) \$21,803,000 to carry out subpart I of part B of title XIX of the PHS Act to fund section 1920(b) technical assistance, national data, data collection and evaluation activities, and further that the total available under this Act for section 1920(b) activities shall not exceed 5 percent of the amounts appropriated for subpart I of part B of title XIX; (3) \$16,000,000 to carry out national surveys on drug abuse; and (4) \$4,300,000 to evaluate substance abuse treatment programs.

AGENCY FOR HEALTHCARE RESEARCH AND QUALITY

HEALTHCARE RESEARCH AND QUALITY

For carrying out titles III and IX of the Public Health Service Act, and part A of title XI of the Social Security Act, amounts received from Freedom of Information Act fees, reimbursable and interagency agreements, and the sale of data shall be credited to this appropriation and shall remain available until expended: *Provided*, That the amount made available pursuant to section 927(c) of the Public Health Service Act shall not exceed \$318,695,000: *Provided further*, That not more than \$50,000,000 of these funds shall be for the development of scientific evidence that supports the implementation and evaluation of health care information technology systems.

CENTERS FOR MEDICARE AND MEDICAID SERVICES

GRANTS TO STATES FOR MEDICAID

For carrying out, except as otherwise provided, titles XI and XIX of the Social Security Act, \$156,954,419,000, to remain available until expended.

For making, after May 31, 2006, payments to States under title XIX of the Social Security Act for the last quarter of fiscal year 2006 for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

For making payments to States or in the case of section 1928 on behalf of States under title XIX of the Social Security Act for the first quarter of fiscal year 2007, \$62,783,825,000, to remain available until expended.

Payment under title XIX may be made for any quarter with respect to a State plan or plan amendment in effect during such quarter, if submitted in or prior to such quarter and approved in that or any subsequent quarter.

PAYMENTS TO HEALTH CARE TRUST FUNDS

For payment to the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as provided under section 1844, 1860D–16, and 1860D–31 of the Social Security Act, sections 103(c) and 111(d) of the Social Security Amendments of 1965, section 278(d) of Public Law 97–248, and for administrative expenses incurred pursuant to section 201(g) of the Social Security Act, \$177,742,200,000.

In addition, for making matching payments under section 1844, and benefit payments under sections 1860D–16 and 1860D–31, of the Social Security Act, not anticipated in budget estimates, such sums as may be necessary.

PROGRAM MANAGEMENT

For carrying out, except as otherwise provided, titles XI, XVIII, XIX, and XXI of the Social Security Act, titles XIII and XXVII of the Public Health Service Act, and the Clinical Laboratory Improvement Amendments of 1988, not to exceed \$3,170,927,000, to be transferred from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as authorized by section 201(g) of the Social Security Act; together with

Fees.

all funds collected in accordance with section 353 of the Public Health Service Act and section 1857(e)(2) of the Social Security Act, and such sums as may be collected from authorized user fees and the sale of data, which shall remain available until expended: *Provided*, That all funds derived in accordance with 31 U.S.C. 9701 from organizations established under title XIII of the Public Health Service Act shall be credited to and available for carrying out the purposes of this appropriation: *Provided further*, That \$24,205,000, to remain available until September 30, 2007, is for contract costs for the Centers for Medicare and Medicaid Services Systems Revitalization Plan: *Provided further*, That \$79,934,000, to remain available until September 30, 2007, is for contract costs for the Healthcare Integrated General Ledger Accounting System: *Provided further*, That funds appropriated under this heading are available for the Healthy Start, Grow Smart program under which the Centers for Medicare and Medicaid Services may, directly or through grants, contracts, or cooperative agreements, produce and distribute informational materials including, but not limited to, pamphlets and brochures on infant and toddler health care to expectant parents enrolled in the Medicaid program and to parents and guardians enrolled in such program with infants and children: *Provided further*, That the Secretary of Health and Human Services is directed to collect fees in fiscal year 2006 from Medicare Advantage organizations pursuant to section 1857(e)(2) of the Social Security Act and from eligible organizations with risk-sharing contracts under section 1876 of that Act pursuant to section 1876(k)(4)(D) of that Act: *Provided further*, That to the extent Medicare claims volume is projected by the Centers for Medicare and Medicaid Services (CMS) to exceed 200,000,000 Part A claims and/or 1,022,100,000 Part B claims, an additional \$32,500,000 shall be available for obligation for every 50,000,000 increase in Medicare claims volume (including a pro rata amount for any increment less than 50,000,000) from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds.

HEALTH MAINTENANCE ORGANIZATION LOAN AND LOAN GUARANTEE FUND

For carrying out subsections (d) and (e) of section 1308 of the Public Health Service Act, any amounts received by the Secretary in connection with loans and loan guarantees under title XIII of the Public Health Service Act, to be available without fiscal year limitation for the payment of outstanding obligations. During fiscal year 2006, no commitments for direct loans or loan guarantees shall be made.

ADMINISTRATION FOR CHILDREN AND FAMILIES

PAYMENTS TO STATES FOR CHILD SUPPORT ENFORCEMENT AND FAMILY SUPPORT PROGRAMS

For making payments to States or other non-Federal entities under titles I, IV-D, X, XI, XIV, and XVI of the Social Security Act and the Act of July 5, 1960 (24 U.S.C. chapter 9), \$2,121,643,000, to remain available until expended; and for such purposes for the first quarter of fiscal year 2007, \$1,200,000,000, to remain available until expended.

For making payments to each State for carrying out the program of Aid to Families with Dependent Children under title IV–A of the Social Security Act before the effective date of the program of Temporary Assistance for Needy Families (TANF) with respect to such State, such sums as may be necessary: *Provided*, That the sum of the amounts available to a State with respect to expenditures under such title IV–A in fiscal year 1997 under this appropriation and under such title IV–A as amended by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 shall not exceed the limitations under section 116(b) of such Act.

For making, after May 31 of the current fiscal year, payments to States or other non-Federal entities under titles I, IV–D, X, XI, XIV, and XVI of the Social Security Act and the Act of July 5, 1960 (24 U.S.C. chapter 9), for the last 3 months of the current fiscal year for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

LOW-INCOME HOME ENERGY ASSISTANCE

For making payments under title XXVI of the Omnibus Budget Reconciliation Act of 1981, \$2,000,000,000.

For making payments under title XXVI of the Omnibus Budget Reconciliation Act of 1981, \$183,000,000, to remain available until September 30, 2006: *Provided*, That these funds are for the unanticipated home energy assistance needs of one or more States, as authorized by section 2604(e) of such Act, and notwithstanding the designation requirement of section 2602(e) of such Act.

REFUGEE AND ENTRANT ASSISTANCE

For necessary expenses for refugee and entrant assistance activities and for costs associated with the care and placement of unaccompanied alien children authorized by title IV of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act of 1980 (Public Law 96–422), for carrying out section 462 of the Homeland Security Act of 2002 (Public Law 107–296), and for carrying out the Torture Victims Relief Act of 2003 (Public Law 108–179), \$575,579,000, of which up to \$9,915,000 shall be available to carry out the Trafficking Victims Protection Act of 2003 (Public Law 108–193): *Provided*, That funds appropriated under this heading pursuant to section 414(a) of the Immigration and Nationality Act and section 462 of the Homeland Security Act of 2002 for fiscal year 2006 shall be available for the costs of assistance provided and other activities to remain available through September 30, 2008.

PAYMENTS TO STATES FOR THE CHILD CARE AND DEVELOPMENT BLOCK GRANT

For carrying out sections 658A through 658R of the Omnibus Budget Reconciliation Act of 1981 (The Child Care and Development Block Grant Act of 1990), \$2,082,910,000 shall be used to supplement, not supplant State general revenue funds for child care assistance for low-income families: *Provided*, That \$18,967,040 shall be available for child care resource and referral and school-aged child care activities, of which \$992,000 shall be for the Child Care Aware toll-free hotline: *Provided further*, That, in addition to the amounts required to be reserved by the States under section 658G,

\$270,490,624 shall be reserved by the States for activities authorized under section 658G, of which \$99,200,000 shall be for activities that improve the quality of infant and toddler care: *Provided further*, That \$9,920,000 shall be for use by the Secretary for child care research, demonstration, and evaluation activities.

SOCIAL SERVICES BLOCK GRANT

For making grants to States pursuant to section 2002 of the Social Security Act, \$1,700,000,000: *Provided*, That notwithstanding subparagraph (B) of section 404(d)(2) of such Act, the applicable percent specified under such subparagraph for a State to carry out State programs pursuant to title XX of such Act shall be 10 percent.

CHILDREN AND FAMILIES SERVICES PROGRAMS

(INCLUDING RESCISSION OF FUNDS)

For carrying out, except as otherwise provided, the Runaway and Homeless Youth Act, the Developmental Disabilities Assistance and Bill of Rights Act, the Head Start Act, the Child Abuse Prevention and Treatment Act, sections 310 and 316 of the Family Violence Prevention and Services Act, as amended, the Native American Programs Act of 1974, title II of Public Law 95-266 (adoption opportunities), the Adoption and Safe Families Act of 1997 (Public Law 105-89), sections 1201 and 1211 of the Children's Health Act of 2000, the Abandoned Infants Assistance Act of 1988, sections 261 and 291 of the Help America Vote Act of 2002, part B(1) of title IV and sections 413, 429A, 1110, and 1115 of the Social Security Act, and sections 40155, 40211, and 40241 of Public Law 103-322; for making payments under the Community Services Block Grant Act, sections 439(h), 473A, and 477(i) of the Social Security Act, and title IV of Public Law 105-285, and for necessary administrative expenses to carry out said Acts and titles I, IV, V, X, XI, XIV, XVI, and XX of the Social Security Act, the Act of July 5, 1960 (24 U.S.C. chapter 9), the Omnibus Budget Reconciliation Act of 1981, title IV of the Immigration and Nationality Act, section 501 of the Refugee Education Assistance Act of 1980, sections 40155, 40211, and 40241 of Public Law 103-322, and section 126 and titles IV and V of Public Law 100-485, \$8,922,213,000, of which \$18,000,000, to remain available until September 30, 2007, shall be for grants to States for adoption incentive payments, as authorized by section 473A of title IV of the Social Security Act (42 U.S.C. 670-679) and may be made for adoptions completed before September 30, 2006: *Provided*, That \$6,843,114,000 shall be for making payments under the Head Start Act, of which \$1,388,800,000 shall become available October 1, 2006, and remain available through September 30, 2007: *Provided further*, That \$701,590,000 shall be for making payments under the Community Services Block Grant Act: *Provided further*, That not less than \$7,367,000 shall be for section 680(3)(B) of the Community Services Block Grant Act: *Provided further*, That in addition to amounts provided herein, \$6,000,000 shall be available from amounts available under section 241 of the Public Health Service Act to carry out the provisions of section 1110 of the Social Security Act: *Provided further*, That to the extent Community Services Block Grant funds are distributed as grant funds by a State to an eligible

entity as provided under the Act, and have not been expended by such entity, they shall remain with such entity for carryover into the next fiscal year for expenditure by such entity consistent with program purposes: *Provided further*, That the Secretary shall establish procedures regarding the disposition of intangible property which permits grant funds, or intangible assets acquired with funds authorized under section 680 of the Community Services Block Grant Act, as amended, to become the sole property of such grantees after a period of not more than 12 years after the end of the grant for purposes and uses consistent with the original grant: *Provided further*, That funds appropriated for section 680(a)(2) of the Community Services Block Grant Act, as amended, shall be available for financing construction and rehabilitation and loans or investments in private business enterprises owned by community development corporations: *Provided further*, That \$65,000,000 is for a compassion capital fund to provide grants to charitable organizations to emulate model social service programs and to encourage research on the best practices of social service organizations: *Provided further*, That \$15,879,000 shall be for activities authorized by the Help America Vote Act of 2002, of which \$11,000,000 shall be for payments to States to promote access for voters with disabilities, and of which \$4,879,000 shall be for payments to States for protection and advocacy systems for voters with disabilities: *Provided further*, That \$110,000,000 shall be for making competitive grants to provide abstinence education (as defined by section 510(b)(2) of the Social Security Act) to adolescents, and for Federal costs of administering the grant: *Provided further*, That grants under the immediately preceding proviso shall be made only to public and private entities which agree that, with respect to an adolescent to whom the entities provide abstinence education under such grant, the entities will not provide to that adolescent any other education regarding sexual conduct, except that, in the case of an entity expressly required by law to provide health information or services the adolescent shall not be precluded from seeking health information or services from the entity in a different setting than the setting in which abstinence education was provided: *Provided further*, That within amounts provided herein for abstinence education for adolescents, up to \$10,000,000 may be available for a national abstinence education campaign: *Provided further*, That in addition to amounts provided herein for abstinence education for adolescents, \$4,500,000 shall be available from amounts available under section 241 of the Public Health Service Act to carry out evaluations (including longitudinal evaluations) of adolescent pregnancy prevention approaches: *Provided further*, That \$2,000,000 shall be for improving the Public Assistance Reporting Information System, including grants to States to support data collection for a study of the system's effectiveness.

Procedures.
Grants.
42 USC 9921
note.

Grants.
Abstinence.

Of the funds provided under this heading in Public Law 108-447 to carry out section 473A of title IV of the Social Security Act (42 U.S.C. 670-679), \$22,500,000 are rescinded.

PROMOTING SAFE AND STABLE FAMILIES

For carrying out section 436 of the Social Security Act, \$305,000,000 and for section 437, \$90,000,000.

PAYMENTS TO STATES FOR FOSTER CARE AND ADOPTION ASSISTANCE

For making payments to States or other non-Federal entities under title IV-E of the Social Security Act, \$4,852,800,000.

For making payments to States or other non-Federal entities under title IV-E of the Act, for the first quarter of fiscal year 2007, \$1,730,000,000.

For making, after May 31 of the current fiscal year, payments to States or other non-Federal entities under section 474 of title IV-E, for the last 3 months of the current fiscal year for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

ADMINISTRATION ON AGING

AGING SERVICES PROGRAMS

For carrying out, to the extent not otherwise provided, the Older Americans Act of 1965, as amended, and section 398 of the Public Health Service Act, \$1,376,624,000, of which \$5,500,000 shall be available for activities regarding medication management, screening, and education to prevent incorrect medication and adverse drug reactions.

OFFICE OF THE SECRETARY

GENERAL DEPARTMENTAL MANAGEMENT

For necessary expenses, not otherwise provided, for general departmental management, including hire of six sedans, and for carrying out titles III, XVII, XX, and XXI of the Public Health Service Act, the United States-Mexico Border Health Commission Act, and research studies under section 1110 of the Social Security Act, \$352,703,000, together with \$5,851,000 to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from the Hospital Insurance Trust Fund and the Supplemental Medical Insurance Trust Fund, and \$39,552,000 from the amounts available under section 241 of the Public Health Service Act to carry out national health or human services research and evaluation activities: *Provided*, That of the funds made available under this heading for carrying out title XX of the Public Health Service Act, \$13,120,000 shall be for activities specified under section 2003(b)(2), all of which shall be for prevention service demonstration grants under section 510(b)(2) of title V of the Social Security Act, as amended, without application of the limitation of section 2010(c) of said title XX: *Provided further*, That of this amount, \$52,415,000 shall be for minority AIDS prevention and treatment activities; and \$5,952,000 shall be to assist Afghanistan in the development of maternal and child health clinics, consistent with section 103(a)(4)(H) of the Afghanistan Freedom Support Act of 2002: *Provided further*, That specific information requests from the chairmen and ranking members of the Subcommittees on Labor, Health and Human Services, and Education, and Related Agencies, on scientific research or any other matter, shall be transmitted to the Committees on Appropriations in a prompt professional manner and within the time frame specified in the request: *Provided further*, That scientific information requested by the Committees on Appropriations and prepared by government researchers and

scientists shall be transmitted to the Committees on Appropriations, uncensored and without delay.

OFFICE OF MEDICARE HEARINGS AND APPEALS

For expenses necessary for administrative law judges responsible for hearing cases under title XVIII of the Social Security Act (and related provisions of title XI of such Act), \$60,000,000, to be transferred in appropriate part from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds.

OFFICE OF THE NATIONAL COORDINATOR FOR HEALTH INFORMATION TECHNOLOGY

For expenses necessary for the Office of the National Coordinator for Health Information Technology, including grants, contracts and cooperative agreements for the development and advancement of an interoperable national health information technology infrastructure, \$42,800,000: *Provided*, That in addition to amounts provided herein, \$18,900,000 shall be available from amounts available under section 241 of the Public Health Service Act to carry out health information technology network development.

OFFICE OF INSPECTOR GENERAL

For expenses necessary for the Office of Inspector General, including the hire of passenger motor vehicles for investigations, in carrying out the provisions of the Inspector General Act of 1978, as amended, \$39,813,000: *Provided*, That of such amount, necessary sums are available for providing protective services to the Secretary and investigating non-payment of child support cases for which non-payment is a Federal offense under 18 U.S.C. 228.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, \$31,682,000, together with not to exceed \$3,314,000 to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from the Hospital Insurance Trust Fund and the Supplemental Medical Insurance Trust Fund.

RETIREMENT PAY AND MEDICAL BENEFITS FOR COMMISSIONED OFFICERS

For retirement pay and medical benefits of Public Health Service Commissioned Officers as authorized by law, for payments under the Retired Serviceman's Family Protection Plan and Survivor Benefit Plan, for medical care of dependents and retired personnel under the Dependents' Medical Care Act (10 U.S.C. chapter 55), such amounts as may be required during the current fiscal year.

PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY FUND

For expenses necessary to support activities related to countering potential biological, disease, nuclear, radiological and chemical threats to civilian populations, and to ensure a year-round influenza vaccine production capacity, the development and implementation of rapidly expandable influenza vaccine production

technologies, and if determined necessary by the Secretary, the purchase of influenza vaccine, \$63,589,000.

GENERAL PROVISIONS

SEC. 201. Funds appropriated in this title shall be available for not to exceed \$50,000 for official reception and representation expenses when specifically approved by the Secretary.

Children and
youth.
HIV/AIDS.

SEC. 202. The Secretary shall make available through assignment not more than 60 employees of the Public Health Service to assist in child survival activities and to work in AIDS programs through and with funds provided by the Agency for International Development, the United Nations International Children's Emergency Fund or the World Health Organization.

SEC. 203. None of the funds appropriated in this Act may be used to implement section 399F(b) of the Public Health Service Act or section 1503 of the National Institutes of Health Revitalization Act of 1993, Public Law 103-43.

SEC. 204. None of the funds appropriated in this Act for the National Institutes of Health, the Agency for Healthcare Research and Quality, and the Substance Abuse and Mental Health Services Administration shall be used to pay the salary of an individual, through a grant or other extramural mechanism, at a rate in excess of Executive Level I.

SEC. 205. None of the funds appropriated in this title for Head Start shall be used to pay the compensation of an individual, either as direct costs or any proration as an indirect cost, at a rate in excess of Executive Level II.

SEC. 206. None of the funds appropriated in this Act may be expended pursuant to section 241 of the Public Health Service Act, except for funds specifically provided for in this Act, or for other taps and assessments made by any office located in the Department of Health and Human Services, prior to the Secretary's preparation and submission of a report to the Committee on Appropriations of the Senate and of the House detailing the planned uses of such funds.

SEC. 207. Notwithstanding section 241(a) of the Public Health Service Act, such portion as the Secretary shall determine, but not more than 2.4 percent, of any amounts appropriated for programs authorized under said Act shall be made available for the evaluation (directly, or by grants or contracts) of the implementation and effectiveness of such programs.

(TRANSFER OF FUNDS)

SEC. 208. Not to exceed 1 percent of any discretionary funds (pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985, as amended) which are appropriated for the current fiscal year for the Department of Health and Human Services in this Act may be transferred between a program, project, or activity, but no such program, project, or activity shall be increased by more than 3 percent by any such transfer: *Provided*, That a program, project, or activity may be increased by up to an additional 2 percent subject to approval by the House and Senate Committees on Appropriations: *Provided further*, That the transfer authority granted by this section shall be available only to meet emergency needs and shall not be used to create any new program or to fund any project or activity for which no funds are provided in

this Act: *Provided further*, That the Appropriations Committees of both Houses of Congress are notified at least 15 days in advance of any transfer.

Notification.
Deadline.

(TRANSFER OF FUNDS)

SEC. 209. The Director of the National Institutes of Health, jointly with the Director of the Office of AIDS Research, may transfer up to 3 percent among institutes and centers from the total amounts identified by these two Directors as funding for research pertaining to the human immunodeficiency virus: *Provided*, That the Congress is promptly notified of the transfer.

Notification.

(TRANSFER OF FUNDS)

SEC. 210. Of the amounts made available in this Act for the National Institutes of Health, the amount for research related to the human immunodeficiency virus, as jointly determined by the Director of the National Institutes of Health and the Director of the Office of AIDS Research, shall be made available to the “Office of AIDS Research” account. The Director of the Office of AIDS Research shall transfer from such account amounts necessary to carry out section 2353(d)(3) of the Public Health Service Act.

HIV/AIDS.

SEC. 211. None of the funds appropriated in this Act may be made available to any entity under title X of the Public Health Service Act unless the applicant for the award certifies to the Secretary that it encourages family participation in the decision of minors to seek family planning services and that it provides counseling to minors on how to resist attempts to coerce minors into engaging in sexual activities.

SEC. 212. None of the funds appropriated by this Act (including funds appropriated to any trust fund) may be used to carry out the Medicare Advantage program if the Secretary denies participation in such program to an otherwise eligible entity (including a Provider Sponsored Organization) because the entity informs the Secretary that it will not provide, pay for, provide coverage of, or provide referrals for abortions: *Provided*, That the Secretary shall make appropriate prospective adjustments to the capitation payment to such an entity (based on an actuarially sound estimate of the expected costs of providing the service to such entity’s enrollees): *Provided further*, That nothing in this section shall be construed to change the Medicare program’s coverage for such services and a Medicare Advantage organization described in this section shall be responsible for informing enrollees where to obtain information about all Medicare covered services.

SEC. 213. Notwithstanding any other provision of law, no provider of services under title X of the Public Health Service Act shall be exempt from any State law requiring notification or the reporting of child abuse, child molestation, sexual abuse, rape, or incest.

SEC. 214. (a) Except as provided by subsection (e) none of the funds appropriated by this Act may be used to withhold substance abuse funding from a State pursuant to section 1926 of the Public Health Service Act (42 U.S.C. 300x-26) if such State certifies to the Secretary of Health and Human Services by May 1, 2006, that the State will commit additional State funds, in accordance with subsection (b), to ensure compliance with State

Certification.
Deadline.
Tobacco and
tobacco products.

laws prohibiting the sale of tobacco products to individuals under 18 years of age.

(b) The amount of funds to be committed by a State under subsection (a) shall be equal to 1 percent of such State's substance abuse block grant allocation for each percentage point by which the State misses the retailer compliance rate goal established by the Secretary of Health and Human Services under section 1926 of such Act.

(c) The State is to maintain State expenditures in fiscal year 2006 for tobacco prevention programs and for compliance activities at a level that is not less than the level of such expenditures maintained by the State for fiscal year 2005, and adding to that level the additional funds for tobacco compliance activities required under subsection (a). The State is to submit a report to the Secretary on all fiscal year 2005 State expenditures and all fiscal year 2006 obligations for tobacco prevention and compliance activities by program activity by July 31, 2006.

(d) The Secretary shall exercise discretion in enforcing the timing of the State obligation of the additional funds required by the certification described in subsection (a) as late as July 31, 2006.

(e) None of the funds appropriated by this Act may be used to withhold substance abuse funding pursuant to section 1926 from a territory that receives less than \$1,000,000.

SEC. 215. In order for the Centers for Disease Control and Prevention to carry out international health activities, including HIV/AIDS and other infectious diseases, chronic and environmental diseases, and other health activities abroad during fiscal year 2006, the Secretary of Health and Human Services—

(1) may exercise authority equivalent to that available to the Secretary of State in section 2(c) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2669(c)). The Secretary of Health and Human Services shall consult with the Secretary of State and relevant Chief of Mission to ensure that the authority provided in this section is exercised in a manner consistent with section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927) and other applicable statutes administered by the Department of State; and

(2) is authorized to provide such funds by advance or reimbursement to the Secretary of State as may be necessary to pay the costs of acquisition, lease, alteration, renovation, and management of facilities outside of the United States for the use of the Department of Health and Human Services. The Department of State shall cooperate fully with the Secretary of Health and Human Services to ensure that the Department of Health and Human Services has secure, safe, functional facilities that comply with applicable regulation governing location, setback, and other facilities requirements and serve the purposes established by this Act. The Secretary of Health and Human Services is authorized, in consultation with the Secretary of State, through grant or cooperative agreement, to make available to public or nonprofit private institutions or agencies in participating foreign countries, funds to acquire, lease, alter, or renovate facilities in those countries as necessary to conduct programs of assistance for international health activities, including activities relating to HIV/AIDS and other

Reports.
Deadline.

Grants.

infectious diseases, chronic and environmental diseases, and other health activities abroad.

SEC. 216. The Division of Federal Occupational Health hereafter may utilize personal services contracting to employ professional management/administrative and occupational health professionals. 42 USC 209 note.

SEC. 217. (a) AUTHORITY.—Notwithstanding any other provision of law, the Director of the National Institutes of Health may use funds available under section 402(i) of the Public Health Service Act (42 U.S.C. 282(i)) to enter into transactions (other than contracts, cooperative agreements, or grants) to carry out research in support of the NIH Roadmap for Medical Research.

(b) PEER REVIEW.—In entering into transactions under subsection (a), the Director of the National Institutes of Health may utilize such peer review procedures (including consultation with appropriate scientific experts) as the Director determines to be appropriate to obtain assessments of scientific and technical merit. Such procedures shall apply to such transactions in lieu of the peer review and advisory council review procedures that would otherwise be required under sections 301(a)(3), 405(b)(1)(B), 405(b)(2), 406(a)(3)(A), 492, and 494 of the Public Health Service Act (42 U.S.C. 241, 284(b)(1)(B), 284(b)(2), 284a(a)(3)(A), 289a, and 289c). Applicability.

SEC. 218. Funds which are available for Individual Learning Accounts for employees of the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry may be transferred to “Disease Control, Research, and Training”, to be available only for Individual Learning Accounts: *Provided*, That such funds may be used for any individual full-time equivalent employee while such employee is employed either by CDC or ATSDR.

SEC. 219. Notwithstanding any other provisions of law, funds made available in this Act may be used to continue operating the Council on Graduate Medical Education established by section 301 of Public Law 102–408. 42 USC 2940 note.

(RESCISSION OF FUNDS)

SEC. 220. The unobligated balance in the amount of \$10,000,000 appropriated by Public Law 108–11 under the heading “Public Health and Social Services Emergency Fund” are rescinded.

SEC. 221. (a) The Headquarters and Emergency Operations Center Building (Building 21) at the Centers for Disease Control and Prevention is hereby renamed as the Arlen Specter Headquarters and Emergency Operations Center. Federal buildings and facilities.

(b) The Global Communications Center Building (Building 19) at the Centers for Disease Control and Prevention is hereby renamed as the Thomas R. Harkin Global Communications Center.

SEC. 222. None of the funds made available under this Act may be used to implement or enforce the interim final rule published in the Federal Register by the Centers for Medicare & Medicaid Services on August 26, 2005 (70 Fed. Reg. 50940) prior to April 1, 2006.

SEC. 223. (a) For fiscal year 2006 and subject to subsection (b), the Secretary of Health and Human Services may waive the requirements of regulations promulgated under the Head Start Act (42 U.S.C. 9831 et seq.), for one or more vehicles used by a Head Start agency or an Early Head Start entity (or the designee

of either) in transporting children enrolled in a Head Start program or an Early Head Start program if—

(1) such requirements pertain to child restraint systems or vehicle monitors;

(2) the agency or entity demonstrates that compliance with such requirements will result in a significant disruption to the Head Start program or the Early Head Start program; and

(3) waiving such requirements is in the best interest of the children involved.

(b) The Secretary of Health and Human Services may not issue any waiver under subsection (a) after September 30, 2006, or the date of the enactment of a statute that authorizes appropriations for fiscal year 2006 to carry out the Head Start Act, whichever date is earlier.

Effective date.

SEC. 224. Section 1310.12(a) of title 45 of the Code of Federal Regulations (October 1, 2004) shall not be effective until June 30, 2006, or 60 days after the date of the enactment of a statute that authorizes appropriations for fiscal year 2006 to carry out the Head Start Act, whichever date is earlier.

(RESCISSION)

SEC. 225. The unobligated balance of the Health Professions Student Loan program authorized in Subpart II, Federally-Supported Student Loan Funds, of title VII of the Public Health Service Act is rescinded.

(RESCISSION)

SEC. 226. The unobligated balance of the Nursing Student Loan program authorized by section 835 of the Public Health Service Act is rescinded.

SEC. 227. In addition to any other amounts available for such travel, and notwithstanding any other provision of law, amounts available from this or any other appropriation for the purchase, hire, maintenance, or operation of aircraft by the Centers for Disease Control and Prevention shall be available for travel by the Secretary of Health and Human Services, the Director of the Centers for Disease Control and Prevention, and employees of the Department of Health and Human Services accompanying the Secretary or the Director during such travel.

This title may be cited as the “Department of Health and Human Services Appropriations Act, 2006”.

Department of
Education
Appropriations
Act, 2006.

TITLE III—DEPARTMENT OF EDUCATION

EDUCATION FOR THE DISADVANTAGED

For carrying out title I of the Elementary and Secondary Education Act of 1965 (“ESEA”) and section 418A of the Higher Education Act of 1965, \$14,627,435,000, of which \$7,073,126,000 shall become available on July 1, 2006, and shall remain available through September 30, 2007, and of which \$7,383,301,000 shall become available on October 1, 2006, and shall remain available through September 30, 2007, for academic year 2006–2007: *Provided*, That \$6,934,854,000 shall be for basic grants under section 1124: *Provided further*, That up to \$3,472,000 of these funds shall

be available to the Secretary of Education on October 1, 2005, to obtain annually updated educational-agency-level census poverty data from the Bureau of the Census: *Provided further*, That \$1,365,031,000 shall be for concentration grants under section 1124A: *Provided further*, That \$2,269,843,000 shall be for targeted grants under section 1125: *Provided further*, That \$2,269,843,000 shall be for education finance incentive grants under section 1125A: *Provided further*, That \$9,424,000 shall be to carry out part E of title I: *Provided further*, That \$8,000,000 shall be available for section 1608 of the ESEA, of which \$1,465,000 shall be available for a continuation award for the comprehensive school reform clearinghouse previously funded under the heading “Innovation and Improvement” in title III of division F of Public Law 108-447.

IMPACT AID

For carrying out programs of financial assistance to federally affected schools authorized by title VIII of the Elementary and Secondary Education Act of 1965, \$1,240,862,000, of which \$1,102,896,000 shall be for basic support payments under section 8003(b), \$49,966,000 shall be for payments for children with disabilities under section 8003(d), \$18,000,000 shall be for construction under section 8007(a), \$65,000,000 shall be for Federal property payments under section 8002, and \$5,000,000, to remain available until expended, shall be for facilities maintenance under section 8008: *Provided*, That for purposes of computing the amount of a payment for an eligible local educational agency under section 8003(a) of the Elementary and Secondary Education Act (20 U.S.C. 7703(a)) for school year 2005–2006, children enrolled in a school of such agency that would otherwise be eligible for payment under section 8003(a)(1)(B) of such Act, but due to the deployment of both parents or legal guardians, or a parent or legal guardian having sole custody of such children, or due to the death of a military parent or legal guardian while on active duty (so long as such children reside on Federal property as described in section 8003(a)(1)(B)), are no longer eligible under such section, shall be considered as eligible students under such section, provided such students remain in average daily attendance at a school in the same local educational agency they attended prior to their change in eligibility status.

SCHOOL IMPROVEMENT PROGRAMS

For carrying out school improvement activities authorized by title II, part B of title IV, part A and subparts 6 and 9 of part D of title V, parts A and B of title VI, and parts B and C of title VII of the Elementary and Secondary Education Act of 1965 (“ESEA”); the McKinney-Vento Homeless Assistance Act; section 203 of the Educational Technical Assistance Act of 2002; the Compact of Free Association Amendments Act of 2003; and the Civil Rights Act of 1964, \$5,308,564,000, of which \$3,676,482,000 shall become available on July 1, 2006, and remain available through September 30, 2007, and of which \$1,435,000,000 shall become available on October 1, 2006, and shall remain available through September 30, 2007, for academic year 2006–2007: *Provided*, That funds made available to carry out part B of title VII of the ESEA may be used for construction, renovation and modernization of any elementary school, secondary school, or structure related to

an elementary school or secondary school, run by the Department of Education of the State of Hawaii, that serves a predominantly Native Hawaiian student body: *Provided further*, That from the funds referred to in the preceding proviso, not less than \$1,250,000 shall be for a grant to the Department of Education of the State of Hawaii for the activities described in such proviso, and \$1,250,000 shall be for a grant to the University of Hawaii School of Law for a Center of Excellence in Native Hawaiian law: *Provided further*, That funds made available to carry out part C of title VII of the ESEA may be used for construction: *Provided further*, That up to 100 percent of the funds available to a State educational agency under part D of title II of the ESEA may be used for subgrants described in section 2412(a)(2)(B) of such Act: *Provided further*, That \$411,680,000 shall be for State assessments and related activities authorized under sections 6111 and 6112 of the ESEA: *Provided further*, That \$56,825,000 shall be available to carry out section 203 of the Educational Technical Assistance Act of 2002: *Provided further*, That \$31,693,000 shall be available to carry out part D of title V of the ESEA: *Provided further*, That no funds appropriated under this heading may be used to carry out section 5494 under the ESEA: *Provided further*, That \$12,132,000 shall be available to carry out the Supplemental Education Grants program for the Federated States of Micronesia, and \$6,051,000 shall be available to carry out the Supplemental Education Grants program for the Republic of the Marshall Islands: *Provided further*, That up to 5 percent of these amounts may be reserved by the Federated States of Micronesia and the Republic of the Marshall Islands to administer the Supplemental Education Grants programs and to obtain technical assistance, oversight and consultancy services in the administration of these grants and to reimburse the United States Departments of Labor, Health and Human Services, and Education for such services.

INDIAN EDUCATION

For expenses necessary to carry out, to the extent not otherwise provided, title VII, part A of the Elementary and Secondary Education Act of 1965, \$119,889,000.

INNOVATION AND IMPROVEMENT

For carrying out activities authorized by parts G and H of title I, subpart 5 of part A and parts C and D of title II, parts B, C, and D of title V, and section 1504 of the Elementary and Secondary Education Act of 1965 (“ESEA”), \$945,947,000, of which \$95,000,000 shall become available on July 1, 2006, and remain available until September 30, 2007: *Provided*, That \$16,864,000 shall be available to carry out section 2151(c) of the ESEA, of which not less than \$9,920,000 shall be provided to the National Board for Professional Teaching Standards, and not less than \$6,944,000 shall be provided to the American Board for the Certification of Teacher Excellence: *Provided further*, That from funds for subpart 4, part C of title II, up to 3 percent shall be available to the Secretary for technical assistance and dissemination of information: *Provided further*, That \$36,981,000 shall be for subpart 2 of part B of title V: *Provided further*, That \$260,111,000 shall be available to carry out part D of title V of the ESEA, of which \$100,000,000 of the funds for subpart 1 shall be for competitive

grants to local educational agencies, including charter schools that are local educational agencies, or States, or partnerships of: (1) a local educational agency, a State, or both; and (2) at least one non-profit organization to develop and implement performance-based teacher and principal compensation systems in high-need schools: *Provided further*, That such performance-based compensation systems must consider gains in student academic achievement as well as classroom evaluations conducted multiple times during each school year among other factors and provide educators with incentives to take on additional responsibilities and leadership roles: *Provided further*, That five percent of such funds for competitive grants shall become available on October 1, 2005, for technical assistance, training, peer review of applications, program outreach and evaluation activities and that 95 percent shall become available on July 1, 2006, and remain available through September 30, 2007, for competitive grants.

SAFE SCHOOLS AND CITIZENSHIP EDUCATION

For carrying out activities authorized by subpart 3 of part C of title II, part A of title IV, and subparts 2, 3, and 10 of part D of title V of the Elementary and Secondary Education Act of 1965 (“ESEA”), \$736,886,000, of which \$350,000,000 shall become available on July 1, 2006, and remain available through September 30, 2007: *Provided*, That of the amount available for subpart 2 of part A of title IV of the ESEA, \$850,000 shall be used to continue the National Recognition Awards program under the same guidelines outlined by section 120(f) of Public Law 105-244: *Provided further*, That \$350,000,000 shall be available for subpart 1 of part A of title IV and \$224,580,000 shall be available for subpart 2 of part A of title IV, of which not less than \$1,449,000, to remain available until expended, shall be for the Project School Emergency Response to Violence program to provide education-related services to local educational agencies in which the learning environment has been disrupted due to a violent or traumatic crisis: *Provided further*, That \$132,901,000 shall be available to carry out part D of title V of the ESEA: *Provided further*, That of the funds available to carry out subpart 3 of part C of title II, up to \$12,194,000 may be used to carry out section 2345 and \$3,025,000 shall be used by the Center for Civic Education to implement a comprehensive program to improve public knowledge, understanding, and support of the Congress and the State legislatures.

ENGLISH LANGUAGE ACQUISITION

For carrying out part A of title III of the ESEA, \$675,765,000, which shall become available on July 1, 2006, and shall remain available through September 30, 2007, except that 6.5 percent of such amount shall be available on October 1, 2005, and shall remain available through September 30, 2007, to carry out activities under section 3111(c)(1)(C).

SPECIAL EDUCATION

For carrying out the Individuals with Disabilities Education Act, \$11,770,607,000, of which \$6,141,604,000 shall become available on July 1, 2006, and shall remain available through September

30, 2007, and of which \$5,424,200,000 shall become available on October 1, 2006, and shall remain available through September 30, 2007, for academic year 2006–2007: *Provided*, That \$12,000,000 shall be for Recording for the Blind and Dyslexic, Inc., to support the development, production, and circulation of recorded educational materials: *Provided further*, That \$1,500,000 shall be for the recipient of funds provided by Public Law 105–78 under section 687(b)(2)(G) of the Act (as in effect prior to the enactment of the Individuals with Disabilities Education Improvement Act of 2004) to provide information on diagnosis, intervention, and teaching strategies for children with disabilities: *Provided further*, That the amount for section 611(b)(2) of the Act shall be equal to the amount available for that activity during fiscal year 2005, increased by the amount of inflation as specified in section 619(d)(2)(B) of the Act.

REHABILITATION SERVICES AND DISABILITY RESEARCH

For carrying out, to the extent not otherwise provided, the Rehabilitation Act of 1973, the Assistive Technology Act of 1998 (“the AT Act”), and the Helen Keller National Center Act, \$3,129,638,000, of which \$1,000,000 shall be awarded to the American Academy of Orthotists and Prosthetists for activities that further the purposes of the grant received by the Academy for the period beginning October 1, 2003, including activities to meet the demand for orthotic and prosthetic provider services and improve patient care: *Provided*, That \$30,760,000 shall be used for carrying out the AT Act, including \$4,385,000 for State grants for protection and advocacy under section 5 of the AT Act and \$3,760,000 shall be for alternative financing programs under section 4(b)(2)(D) of the AT Act: *Provided further*, That the Federal share of grants for alternative financing programs shall not exceed 75 percent, and the requirements in section 301(c)(2) and section 302 of the AT Act (as in effect on the day before the date of enactment of the Assistive Technology Act of 2004) shall not apply to such grants.

SPECIAL INSTITUTIONS FOR PERSONS WITH DISABILITIES

AMERICAN PRINTING HOUSE FOR THE BLIND

For carrying out the Act of March 3, 1879, as amended (20 U.S.C. 101 et seq.), \$17,750,000.

NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

For the National Technical Institute for the Deaf under titles I and II of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), \$56,708,000, of which \$800,000 shall be for construction and shall remain available until expended: *Provided*, That from the total amount available, the Institute may at its discretion use funds for the endowment program as authorized under section 207.

GALLAUDET UNIVERSITY

For the Kendall Demonstration Elementary School, the Model Secondary School for the Deaf, and the partial support of Gallaudet University under titles I and II of the Education of the Deaf

Act of 1986 (20 U.S.C. 4301 et seq.), \$108,079,000: *Provided*, That from the total amount available, the University may at its discretion use funds for the endowment program as authorized under section 207.

VOCATIONAL AND ADULT EDUCATION

For carrying out, to the extent not otherwise provided, the Carl D. Perkins Vocational and Technical Education Act of 1998, the Adult Education and Family Literacy Act, title VIII-D of the Higher Education Amendments of 1998, and subpart 4 of part D of title V of the Elementary and Secondary Education Act of 1965 (“ESEA”), \$2,012,282,000, of which \$1,216,558,000 shall become available on July 1, 2006, and shall remain available through September 30, 2007, and of which \$791,000,000 shall become available on October 1, 2006, and shall remain available through September 30, 2007: *Provided*, That of the amount provided for Adult Education State Grants, \$68,582,000 shall be made available for integrated English literacy and civics education services to immigrants and other limited English proficient populations: *Provided further*, That of the amount reserved for integrated English literacy and civics education, notwithstanding section 211 of the Adult Education and Family Literacy Act, 65 percent shall be allocated to States based on a State’s absolute need as determined by calculating each State’s share of a 10-year average of the Immigration and Naturalization Service data for immigrants admitted for legal permanent residence for the 10 most recent years, and 35 percent allocated to States that experienced growth as measured by the average of the 3 most recent years for which Immigration and Naturalization Service data for immigrants admitted for legal permanent residence are available, except that no State shall be allocated an amount less than \$60,000: *Provided further*, That of the amounts made available for the Adult Education and Family Literacy Act, \$9,096,000 shall be for national leadership activities under section 243 and \$6,638,000 shall be for the National Institute for Literacy under section 242: *Provided further*, That \$94,476,000 shall be available to support the activities authorized under subpart 4 of part D of title V of the Elementary and Secondary Education Act of 1965, of which up to 5 percent shall become available October 1, 2005, and shall remain available through September 30, 2007, for evaluation, technical assistance, school networks, peer review of applications, and program outreach activities, and of which not less than 95 percent shall become available on July 1, 2006, and remain available through September 30, 2007, for grants to local educational agencies: *Provided further*, That funds made available to local educational agencies under this subpart shall be used only for activities related to establishing smaller learning communities within large high schools or small high schools that provide alternatives for students enrolled in large high schools: *Provided further*, That \$23,000,000 shall be for Youth Offender Grants.

STUDENT FINANCIAL ASSISTANCE

For carrying out subparts 1, 3, and 4 of part A, part C and part E of title IV of the Higher Education Act of 1965, as amended, \$15,077,752,000, which shall remain available through September 30, 2007.

20 USC 1070a
note.

The maximum Pell Grant for which a student shall be eligible during award year 2006–2007 shall be \$4,050.

STUDENT AID ADMINISTRATION

For Federal administrative expenses (in addition to funds made available under section 458), to carry out part D of title I, and subparts 1, 3, and 4 of part A, and parts B, C, D, and E of title IV of the Higher Education Act of 1965, as amended, \$120,000,000.

HIGHER EDUCATION

For carrying out, to the extent not otherwise provided, titles II, III, IV, V, VI, and VII of the Higher Education Act of 1965 (“HEA”), as amended, section 1543 of the Higher Education Amendments of 1992, the Mutual Educational and Cultural Exchange Act of 1961, title VIII of the Higher Education Amendments of 1998, and section 117 of the Carl D. Perkins Vocational and Technical Education Act, \$1,970,760,000: *Provided*, That \$9,797,000, to remain available through September 30, 2007, shall be available to fund fellowships for academic year 2007–2008 under part A, subpart 1 of title VII of said Act, under the terms and conditions of part A, subpart 1: *Provided further*, That notwithstanding any other provision of law or any regulation, the Secretary of Education shall not require the use of a restricted indirect cost rate for grants issued pursuant to section 117 of the Carl D. Perkins Vocational and Technical Education Act of 1998: *Provided further*, That \$980,000 is for data collection and evaluation activities for programs under the HEA, including such activities needed to comply with the Government Performance and Results Act of 1993: *Provided further*, That notwithstanding any other provision of law, funds made available in this Act to carry out title VI of the HEA and section 102(b)(6) of the Mutual Educational and Cultural Exchange Act of 1961 may be used to support visits and study in foreign countries by individuals who are participating in advanced foreign language training and international studies in areas that are vital to United States national security and who plan to apply their language skills and knowledge of these countries in the fields of government, the professions, or international development: *Provided further*, That of the funds referred to in the preceding proviso up to 1 percent may be used for program evaluation, national outreach, and information dissemination activities: *Provided further*, That the funds provided for title II of the HEA shall be allocated notwithstanding section 210 of such Act.

HOWARD UNIVERSITY

For partial support of Howard University (20 U.S.C. 121 et seq.), \$239,790,000, of which not less than \$3,562,000 shall be for a matching endowment grant pursuant to the Howard University Endowment Act (Public Law 98–480) and shall remain available until expended.

COLLEGE HOUSING AND ACADEMIC FACILITIES LOANS PROGRAM

For Federal administrative expenses to carry out activities related to existing facility loans pursuant to section 121 of the Higher Education Act of 1965, as amended \$573,000.

HISTORICALLY BLACK COLLEGE AND UNIVERSITY CAPITAL
FINANCING PROGRAM ACCOUNT

The aggregate principal amount of outstanding bonds insured pursuant to section 344 of title III, part D of the Higher Education Act of 1965, shall not exceed \$357,000,000, and the cost, as defined in section 502 of the Congressional Budget Act of 1974, of such bonds shall not exceed zero.

For administrative expenses to carry out the Historically Black College and University Capital Financing Program entered into pursuant to title III, part D of the Higher Education Act of 1965, as amended, \$210,000.

INSTITUTE OF EDUCATION SCIENCES

For carrying out activities authorized by the Education Sciences Reform Act of 2002, as amended, the National Assessment of Educational Progress Authorization Act, section 208 of the Educational Technical Assistance Act of 2002, and section 664 of the Individuals with Disabilities Education Act, \$522,695,000, of which \$271,560,000 shall be available until September 30, 2007: *Provided*, That of the amount provided to carry out title I, parts B and D of Public Law 107–279, not less than \$25,257,000 shall be for the national research and development centers authorized under section 133(c).

DEPARTMENTAL MANAGEMENT

PROGRAM ADMINISTRATION

For carrying out, to the extent not otherwise provided, the Department of Education Organization Act, including rental of conference rooms in the District of Columbia and hire of three passenger motor vehicles, \$415,303,000.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, as authorized by section 203 of the Department of Education Organization Act, \$91,526,000.

OFFICE OF THE INSPECTOR GENERAL

For expenses necessary for the Office of the Inspector General, as authorized by section 212 of the Department of Education Organization Act, \$49,000,000.

GENERAL PROVISIONS

SEC. 301. No funds appropriated in this Act may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation

School busing.

of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system.

SEC. 302. None of the funds contained in this Act shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education, to the school offering such special education, in order to comply with title VI of the Civil Rights Act of 1964. For the purpose of this section an indirect requirement of transportation of students includes the transportation of students to carry out a plan involving the reorganization of the grade structure of schools, the pairing of schools, or the clustering of schools, or any combination of grade restructuring, pairing or clustering. The prohibition described in this section does not include the establishment of magnet schools.

Voluntary
prayer.
Meditation.

SEC. 303. No funds appropriated in this Act may be used to prevent the implementation of programs of voluntary prayer and meditation in the public schools.

(TRANSFER OF FUNDS)

SEC. 304. Not to exceed 1 percent of any discretionary funds (pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985, as amended) which are appropriated for the Department of Education in this Act may be transferred between appropriations, but no such appropriation shall be increased by more than 3 percent by any such transfer: *Provided*, That the Appropriations Committees of both Houses of Congress are notified at least 15 days in advance of any transfer.

Notification.
Deadline.

SEC. 305. For an additional amount to carry out subpart 1 of part A of title IV of the Higher Education Act of 1965 for the purpose of eliminating the estimated accumulated shortfall of budget authority for such subpart, \$4,300,000,000, pursuant to section 303 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

SEC. 306. Subpart 12 of part D of title V of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7265 et seq.) is amended—

(1) in section 5522(b) (20 U.S.C. 7265a(b)), by adding at the end the following:

“(4) To authorize and develop cultural and educational programs relating to any Federally recognized Indian tribe in Mississippi.”;

(2) in section 5523 (20 U.S.C. 7265b)—

(A) in subsection (a)—

(i) by redesignating paragraphs (6) through (8) as paragraphs (7) through (9), respectively; and

(ii) by inserting after paragraph (5) the following:

“(6) The Mississippi Band of Choctaw Indians in Choctaw, Mississippi.”; and

(B) in subsection (b), by adding at the end the following:

“(7) Cultural and educational programs relating to any Federally recognized Indian tribe in Mississippi.”; and

(3) in section 5525(1) (20 U.S.C. 7265d(1))—

(A) in subparagraph (a), by striking “and” after the semicolon;

(B) in subparagraph (B), by striking the period and inserting “; and”; and

(C) by adding at the end the following:

“(C) the Mississippi Band of Choctaw Indians in Choctaw, Mississippi.”

This title may be cited as the “Department of Education Appropriations Act, 2006”.

TITLE IV—RELATED AGENCIES

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

SALARIES AND EXPENSES

For expenses necessary of the Committee for Purchase From People Who Are Blind or Severely Disabled established by Public Law 92-28, \$4,669,000.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

DOMESTIC VOLUNTEER SERVICE PROGRAMS, OPERATING EXPENSES

For expenses necessary for the Corporation for National and Community Service to carry out the provisions of the Domestic Volunteer Service Act of 1973, as amended, \$316,212,000: *Provided*, That none of the funds made available to the Corporation for National and Community Service in this Act for activities authorized by section 122 of part C of title I and part E of title II of the Domestic Volunteer Service Act of 1973 shall be used to provide stipends or other monetary incentives to volunteers or volunteer leaders whose incomes exceed 125 percent of the national poverty level.

NATIONAL AND COMMUNITY SERVICE PROGRAMS, OPERATING EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for the Corporation for National and Community Service (the “Corporation”) in carrying out programs, activities, and initiatives under the National and Community Service Act of 1990 (the “Act”) (42 U.S.C. 12501 et seq.), \$520,087,000, to remain available until September 30, 2007: *Provided*, That not more than \$267,500,000 of the amount provided under this heading shall be available for grants under the National Service Trust Program authorized under subtitle C of title I of the Act (42 U.S.C. 12571 et seq.) (relating to activities of the AmeriCorps program), including grants to organizations operating projects under the AmeriCorps Education Awards Program (without regard to the requirements of sections 121(d) and (e), section 131(e), section 132, and sections 140(a), (d), and (e) of the Act: *Provided further*, That not less than \$140,000,000 of the amount provided under this heading, to remain available without fiscal year limitation, shall be transferred to the National Service Trust for educational awards authorized under subtitle D of title I of the Act (42 U.S.C. 12601), of which up to \$4,000,000 shall be available to support national service scholarships for high school students performing community service, and of which \$7,000,000 shall be held in reserve as defined in Public Law 108-45: *Provided further*, That in addition to amounts otherwise provided to the National

Service Trust under the second proviso, the Corporation may transfer funds from the amount provided under the first proviso, to the National Service Trust authorized under subtitle D of title I of the Act (42 U.S.C. 12601) upon determination that such transfer is necessary to support the activities of national service participants and after notice is transmitted to Congress: *Provided further*, That of the amount provided under this heading for grants under the National Service Trust program authorized under subtitle C of title I of the Act, not more than \$55,000,000 may be used to administer, reimburse, or support any national service program authorized under section 121(d)(2) of such Act (42 U.S.C. 12581(d)(2)): *Provided further*, That not more than \$16,445,000 shall be available for quality and innovation activities authorized under subtitle H of title I of the Act (42 U.S.C. 12853 et seq.): *Provided further*, That notwithstanding subtitle H of title I of the Act (42 U.S.C. 12853), none of the funds provided under the previous proviso shall be used to support salaries and related expenses (including travel) attributable to Corporation employees: *Provided further*, That to the maximum extent feasible, funds appropriated under subtitle C of title I of the Act shall be provided in a manner that is consistent with the recommendations of peer review panels in order to ensure that priority is given to programs that demonstrate quality, innovation, replicability, and sustainability: *Provided further*, That \$27,000,000 of the funds made available under this heading shall be available for the Civilian Community Corps authorized under subtitle E of title I of the Act (42 U.S.C. 12611 et seq.): *Provided further*, That \$37,500,000 shall be available for school-based and community-based service-learning programs authorized under subtitle B of title I of the Act (42 U.S.C. 12521 et seq.): *Provided further*, That \$4,000,000 shall be available for audits and other evaluations authorized under section 179 of the Act (42 U.S.C. 12639): *Provided further*, That \$10,000,000 of the funds made available under this heading shall be made available for the Points of Light Foundation for activities authorized under title III of the Act (42 U.S.C. 12661 et seq.), of which not more than \$2,500,000 may be used to support an endowment fund, the corpus of which shall remain intact and the interest income from which shall be used to support activities described in title III of the Act, provided that the Foundation may invest the corpus and income in federally insured bank savings accounts or comparable interest bearing accounts, certificates of deposit, money market funds, mutual funds, obligations of the United States, and other market instruments and securities but not in real estate investments: *Provided further*, That no funds shall be available for national service programs run by Federal agencies authorized under section 121(b) of such Act (42 U.S.C. 12571(b)): *Provided further*, That \$5,000,000 of the funds made available under this heading shall be made available to America's Promise—The Alliance for Youth, Inc.: *Provided further*, That to the maximum extent practicable, the Corporation shall increase significantly the level of matching funds and in-kind contributions provided by the private sector, and shall reduce the total Federal costs per participant in all programs: *Provided further*, That notwithstanding section 501(a)(4) of the Act, of the funds provided under this heading, not more than \$12,642,000 shall be made available to provide assistance to state commissions on national and community service

under section 126(a) of the Act: *Provided further*, That the Corporation may use up to 1 percent of program grant funds made available under this heading to defray its costs of conducting grant application reviews, including the use of outside peer reviewers.

SALARIES AND EXPENSES

For necessary expenses of administration as provided under section 501(a)(4) of the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.) and under section 504(a) of the Domestic Volunteer Service Act of 1973, including payment of salaries, authorized travel, hire of passenger motor vehicles, the rental of conference rooms in the District of Columbia, the employment of experts and consultants authorized under 5 U.S.C. 3109, and not to exceed \$2,500 for official reception and representation expenses, \$66,750,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the Inspector General Act of 1978, as amended, \$6,000,000, to remain available until September 30, 2007.

ADMINISTRATIVE PROVISIONS

Notwithstanding any other provision of law, the term “qualified student loan” with respect to national service education awards shall mean any loan determined by an institution of higher education to be necessary to cover a student’s cost of attendance at such institution and made, insured, or guaranteed directly to a student by a State agency, in addition to other meanings under section 148(b)(7) of the National and Community Service Act.

Notwithstanding any other provision of law, funds made available under section 129(d)(5)(B) of the National and Community Service Act to assist entities in placing applicants who are individuals with disabilities may be provided to any entity that receives a grant under section 121 of the Act.

The Inspector General of the Corporation for National and Community Service shall conduct random audits of the grantees that administer activities under the AmeriCorps programs and shall levy sanctions in accordance with standard Inspector General audit resolution procedures which include, but are not limited to, debarment of any grantee (or successor in interest or any entity with substantially the same person or persons in control) that has been determined to have committed any substantial violations of the requirements of the AmeriCorps programs, including any grantee that has been determined to have violated the prohibition of using Federal funds to lobby the Congress: *Provided*, That the Inspector General shall obtain reimbursements in the amount of any misused funds from any grantee that has been determined to have committed any substantial violations of the requirements of the AmeriCorps programs.

Audits.

For fiscal year 2006, the Corporation shall make any significant changes to program requirements or policy only through public notice and comment rulemaking. For fiscal year 2006, during any grant selection process, no officer or employee of the Corporation shall knowingly disclose any covered grant selection information regarding such selection, directly or indirectly, to any person other

Public notice and comments.

than an officer or employee of the Corporation that is authorized by the Corporation to receive such information.

CORPORATION FOR PUBLIC BROADCASTING

Discrimination.

For payment to the Corporation for Public Broadcasting, as authorized by the Communications Act of 1934, an amount which shall be available within limitations specified by that Act, for the fiscal year 2008, \$400,000,000: *Provided*, That no funds made available to the Corporation for Public Broadcasting by this Act shall be used to pay for receptions, parties, or similar forms of entertainment for Government officials or employees: *Provided further*, That none of the funds contained in this paragraph shall be available or used to aid or support any program or activity from which any person is excluded, or is denied benefits, or is discriminated against, on the basis of race, color, national origin, religion, or sex: *Provided further*, That for fiscal year 2006, in addition to the amounts provided above, \$30,000,000 shall be for costs related to digital program production, development, and distribution, associated with the transition of public broadcasting to digital broadcasting, to be awarded as determined by the Corporation in consultation with public radio and television licensees or permittees, or their designated representatives: *Provided further*, That for fiscal year 2006, in addition to the amounts provided above, \$35,000,000 shall be for the costs associated with replacement and upgrade of the public television interconnection system: *Provided further*, That none of the funds made available to the Corporation for Public Broadcasting by this Act, Public Law 108-199 or Public Law 108-7, shall be used to support the Television Future Fund or any similar purpose.

FEDERAL MEDIATION AND CONCILIATION SERVICE

SALARIES AND EXPENSES

For expenses necessary for the Federal Mediation and Conciliation Service to carry out the functions vested in it by the Labor Management Relations Act, 1947 (29 U.S.C. 171-180, 182-183), including hire of passenger motor vehicles; for expenses necessary for the Labor-Management Cooperation Act of 1978 (29 U.S.C. 175a); and for expenses necessary for the Service to carry out the functions vested in it by the Civil Service Reform Act, Public Law 95-454 (5 U.S.C. chapter 71), \$43,031,000, including \$400,000, to remain available through September 30, 2007, for activities authorized by the Labor-Management Cooperation Act of 1978 (29 U.S.C. 175a): *Provided*, That notwithstanding 31 U.S.C. 3302, fees charged, up to full-cost recovery, for special training activities and other conflict resolution services and technical assistance, including those provided to foreign governments and international organizations, and for arbitration services shall be credited to and merged with this account, and shall remain available until expended: *Provided further*, That fees for arbitration services shall be available only for education, training, and professional development of the agency workforce: *Provided further*, That the Director of the Service is authorized to accept and use on behalf of the United States gifts of services and real, personal, or other property in the aid of any projects or functions within the Director's jurisdiction.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary for the Federal Mine Safety and Health Review Commission (30 U.S.C. 801 et seq.), \$7,809,000.

INSTITUTE OF MUSEUM AND LIBRARY SERVICES

OFFICE OF MUSEUM AND LIBRARY SERVICES: GRANTS AND
ADMINISTRATION

For carrying out the Museum and Library Services Act of 1996, \$249,640,000, to remain available until expended.

MEDICARE PAYMENT ADVISORY COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out section 1805 of the Social Security Act, \$10,168,000, to be transferred to this appropriation from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

SALARIES AND EXPENSES

For necessary expenses for the National Commission on Libraries and Information Science, established by the Act of July 20, 1970 (Public Law 91-345, as amended), \$993,000.

NATIONAL COUNCIL ON DISABILITY

SALARIES AND EXPENSES

For expenses necessary for the National Council on Disability as authorized by title IV of the Rehabilitation Act of 1973, as amended, \$3,144,000.

NATIONAL LABOR RELATIONS BOARD

SALARIES AND EXPENSES

For expenses necessary for the National Labor Relations Board to carry out the functions vested in it by the Labor-Management Relations Act, 1947, as amended (29 U.S.C. 141-167), and other laws, \$252,268,000: *Provided*, That no part of this appropriation shall be available to organize or assist in organizing agricultural laborers or used in connection with investigations, hearings, directives, or orders concerning bargaining units composed of agricultural laborers as referred to in section 2(3) of the Act of July 5, 1935 (29 U.S.C. 152), and as amended by the Labor-Management Relations Act, 1947, as amended, and as defined in section 3(f) of the Act of June 25, 1938 (29 U.S.C. 203), and including in said definition employees engaged in the maintenance and operation of ditches, canals, reservoirs, and waterways when maintained or operated on a mutual, nonprofit basis and at least 95 percent of the water stored or supplied thereby is used for farming purposes.

Agricultural
laborers.

NATIONAL MEDIATION BOARD

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Railway Labor Act, as amended (45 U.S.C. 151-188), including emergency boards appointed by the President, \$11,628,000.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary for the Occupational Safety and Health Review Commission (29 U.S.C. 661), \$10,510,000.

RAILROAD RETIREMENT BOARD

DUAL BENEFITS PAYMENTS ACCOUNT

For payment to the Dual Benefits Payments Account, authorized under section 15(d) of the Railroad Retirement Act of 1974, \$97,000,000, which shall include amounts becoming available in fiscal year 2006 pursuant to section 224(c)(1)(B) of Public Law 98-76; and in addition, an amount, not to exceed 2 percent of the amount provided herein, shall be available proportional to the amount by which the product of recipients and the average benefit received exceeds \$97,000,000: *Provided*, That the total amount provided herein shall be credited in 12 approximately equal amounts on the first day of each month in the fiscal year.

FEDERAL PAYMENTS TO THE RAILROAD RETIREMENT ACCOUNTS

For payment to the accounts established in the Treasury for the payment of benefits under the Railroad Retirement Act for interest earned on unnegotiated checks, \$150,000, to remain available through September 30, 2007, which shall be the maximum amount available for payment pursuant to section 417 of Public Law 98-76.

LIMITATION ON ADMINISTRATION

For necessary expenses for the Railroad Retirement Board for administration of the Railroad Retirement Act and the Railroad Unemployment Insurance Act, \$102,543,000, to be derived in such amounts as determined by the Board from the railroad retirement accounts and from moneys credited to the railroad unemployment insurance administration fund.

LIMITATION ON THE OFFICE OF INSPECTOR GENERAL

For expenses necessary for the Office of Inspector General for audit, investigatory and review activities, as authorized by the Inspector General Act of 1978, as amended, not more than \$7,196,000, to be derived from the railroad retirement accounts and railroad unemployment insurance account: *Provided*, That none of the funds made available in any other paragraph of this Act may be transferred to the Office; used to carry out any such transfer; used to provide any office space, equipment, office supplies, communications facilities or services, maintenance services, or administrative services for the Office; used to pay any salary, benefit, or

award for any personnel of the Office; used to pay any other operating expense of the Office; or used to reimburse the Office for any service provided, or expense incurred, by the Office.

SOCIAL SECURITY ADMINISTRATION

PAYMENTS TO SOCIAL SECURITY TRUST FUNDS

For payment to the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance trust funds, as provided under sections 201(m), 228(g), and 1131(b)(2) of the Social Security Act, \$20,470,000.

SUPPLEMENTAL SECURITY INCOME PROGRAM

For carrying out titles XI and XVI of the Social Security Act, section 401 of Public Law 92-603, section 212 of Public Law 93-66, as amended, and section 405 of Public Law 95-216, including payment to the Social Security trust funds for administrative expenses incurred pursuant to section 201(g)(1) of the Social Security Act, \$29,369,174,000, to remain available until expended: *Provided*, That any portion of the funds provided to a State in the current fiscal year and not obligated by the State during that year shall be returned to the Treasury.

For making, after June 15 of the current fiscal year, benefit payments to individuals under title XVI of the Social Security Act, for unanticipated costs incurred for the current fiscal year, such sums as may be necessary.

For making benefit payments under title XVI of the Social Security Act for the first quarter of fiscal year 2007, \$11,110,000,000, to remain available until expended.

LIMITATION ON ADMINISTRATIVE EXPENSES

For necessary expenses, including the hire of two passenger motor vehicles, and not to exceed \$15,000 for official reception and representation expenses, not more than \$9,079,400,000 may be expended, as authorized by section 201(g)(1) of the Social Security Act, from any one or all of the trust funds referred to therein: *Provided*, That not less than \$2,000,000 shall be for the Social Security Advisory Board: *Provided further*, That unobligated balances of funds provided under this paragraph at the end of fiscal year 2006 not needed for fiscal year 2006 shall remain available until expended to invest in the Social Security Administration information technology and telecommunications hardware and software infrastructure, including related equipment and non-payroll administrative expenses associated solely with this information technology and telecommunications infrastructure: *Provided further*, That reimbursement to the trust funds under this heading for expenditures for official time for employees of the Social Security Administration pursuant to section 7131 of title 5, United States Code, and for facilities or support services for labor organizations pursuant to policies, regulations, or procedures referred to in section 7135(b) of such title shall be made by the Secretary of the Treasury, with interest, from amounts in the general fund not otherwise appropriated, as soon as possible after such expenditures are made.

In addition, \$119,000,000 to be derived from administration fees in excess of \$5.00 per supplementary payment collected pursuant to section 1616(d) of the Social Security Act or section 212(b)(3) of Public Law 93-66, which shall remain available until expended. To the extent that the amounts collected pursuant to such section 1616(d) or 212(b)(3) in fiscal year 2006 exceed \$119,000,000, the amounts shall be available in fiscal year 2007 only to the extent provided in advance in appropriations Acts.

In addition, up to \$1,000,000 to be derived from fees collected pursuant to section 303(c) of the Social Security Protection Act (Public Law 108-203), which shall remain available until expended.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary for the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, \$26,000,000, together with not to exceed \$66,400,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund.

Notice.

In addition, an amount not to exceed 3 percent of the total provided in this appropriation may be transferred from the "Limitation on Administrative Expenses", Social Security Administration, to be merged with this account, to be available for the time and purposes for which this account is available: *Provided*, That notice of such transfers shall be transmitted promptly to the Committees on Appropriations of the House and Senate.

TITLE V—GENERAL PROVISIONS

SEC. 501. The Secretaries of Labor, Health and Human Services, and Education are authorized to transfer unexpended balances of prior appropriations to accounts corresponding to current appropriations provided in this Act: *Provided*, That such transferred balances are used for the same purpose, and for the same periods of time, for which they were originally appropriated.

SEC. 502. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

Lobbying.

SEC. 503. (a) No part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or video presentation designed to support or defeat legislation pending before the Congress or any State legislature, except in presentation to the Congress or any State legislature itself.

(b) No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress or any State legislature.

SEC. 504. The Secretaries of Labor and Education are authorized to make available not to exceed \$28,000 and \$20,000, respectively, from funds available for salaries and expenses under titles

I and III, respectively, for official reception and representation expenses; the Director of the Federal Mediation and Conciliation Service is authorized to make available for official reception and representation expenses not to exceed \$5,000 from the funds available for “Salaries and expenses, Federal Mediation and Conciliation Service”; and the Chairman of the National Mediation Board is authorized to make available for official reception and representation expenses not to exceed \$5,000 from funds available for “Salaries and expenses, National Mediation Board”.

SEC. 505. Notwithstanding any other provision of this Act, no funds appropriated in this Act shall be used to carry out any program of distributing sterile needles or syringes for the hypodermic injection of any illegal drug.

SEC. 506. When issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds included in this Act, including but not limited to State and local governments and recipients of Federal research grants, shall clearly state—

(1) the percentage of the total costs of the program or project which will be financed with Federal money;

(2) the dollar amount of Federal funds for the project or program; and

(3) percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

SEC. 507. (a) None of the funds appropriated in this Act, and none of the funds in any trust fund to which funds are appropriated in this Act, shall be expended for any abortion.

Abortion.

(b) None of the funds appropriated in this Act, and none of the funds in any trust fund to which funds are appropriated in this Act, shall be expended for health benefits coverage that includes coverage of abortion.

(c) The term “health benefits coverage” means the package of services covered by a managed care provider or organization pursuant to a contract or other arrangement.

SEC. 508. (a) The limitations established in the preceding section shall not apply to an abortion—

(1) if the pregnancy is the result of an act of rape or incest; or

(2) in the case where a woman suffers from a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, that would, as certified by a physician, place the woman in danger of death unless an abortion is performed.

(b) Nothing in the preceding section shall be construed as prohibiting the expenditure by a State, locality, entity, or private person of State, local, or private funds (other than a State’s or locality’s contribution of Medicaid matching funds).

(c) Nothing in the preceding section shall be construed as restricting the ability of any managed care provider from offering abortion coverage or the ability of a State or locality to contract separately with such a provider for such coverage with State funds (other than a State’s or locality’s contribution of Medicaid matching funds).

(d)(1) None of the funds made available in this Act may be made available to a Federal agency or program, or to a State

or local government, if such agency, program, or government subjects any institutional or individual health care entity to discrimination on the basis that the health care entity does not provide, pay for, provide coverage of, or refer for abortions.

(2) In this subsection, the term “health care entity” includes an individual physician or other health care professional, a hospital, a provider-sponsored organization, a health maintenance organization, a health insurance plan, or any other kind of health care facility, organization, or plan.

Human embryos.

SEC. 509. (a) None of the funds made available in this Act may be used for—

(1) the creation of a human embryo or embryos for research purposes; or

(2) research in which a human embryo or embryos are destroyed, discarded, or knowingly subjected to risk of injury or death greater than that allowed for research on fetuses in utero under 45 CFR 46.204(b) and section 498(b) of the Public Health Service Act (42 U.S.C. 289g(b)).

(b) For purposes of this section, the term “human embryo or embryos” includes any organism, not protected as a human subject under 45 CFR 46 as of the date of the enactment of this Act, that is derived by fertilization, parthenogenesis, cloning, or any other means from one or more human gametes or human diploid cells.

Drugs and drug abuse.

SEC. 510. (a) None of the funds made available in this Act may be used for any activity that promotes the legalization of any drug or other substance included in schedule I of the schedules of controlled substances established by section 202 of the Controlled Substances Act (21 U.S.C. 812).

(b) The limitation in subsection (a) shall not apply when there is significant medical evidence of a therapeutic advantage to the use of such drug or other substance or that federally sponsored clinical trials are being conducted to determine therapeutic advantage.

Health identifier.

SEC. 511. None of the funds made available in this Act may be used to promulgate or adopt any final standard under section 1173(b) of the Social Security Act (42 U.S.C. 1320d-2(b)) providing for, or providing for the assignment of, a unique health identifier for an individual (except in an individual’s capacity as an employer or a health care provider), until legislation is enacted specifically approving the standard.

Contracts.

SEC. 512. None of the funds made available in this Act may be obligated or expended to enter into or renew a contract with an entity if—

(1) such entity is otherwise a contractor with the United States and is subject to the requirement in section 4212(d) of title 38, United States Code, regarding submission of an annual report to the Secretary of Labor concerning employment of certain veterans; and

(2) such entity has not submitted a report as required by that section for the most recent year for which such requirement was applicable to such entity.

SEC. 513. None of the funds made available in this Act may be transferred to any department, agency, or instrumentality of the United States Government, except pursuant to a transfer made by, or transfer authority provided in, this Act or any other appropriation Act.

SEC. 514. None of the funds made available by this Act to carry out the Library Services and Technology Act may be made available to any library covered by paragraph (1) of section 224(f) of such Act (20 U.S.C. 9134(f)), as amended by the Children's Internet Protections Act, unless such library has made the certifications required by paragraph (4) of such section.

SEC. 515. None of the funds made available by this Act to carry out part D of title II of the Elementary and Secondary Education Act of 1965 may be made available to any elementary or secondary school covered by paragraph (1) of section 2441(a) of such Act (20 U.S.C. 6777(a)), as amended by the Children's Internet Protections Act and the No Child Left Behind Act, unless the local educational agency with responsibility for such covered school has made the certifications required by paragraph (2) of such section.

SEC. 516. None of the funds appropriated in this Act may be used to enter into an arrangement under section 7(b)(4) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(4)) with a nongovernmental financial institution to serve as disbursing agent for benefits payable under the Railroad Retirement Act of 1974.

SEC. 517. (a) None of the funds provided under this Act, or provided under previous appropriations Acts to the agencies funded by this Act that remain available for obligation or expenditure in fiscal year 2006, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure through a reprogramming of funds that—

- (1) creates new programs;
- (2) eliminates a program, project, or activity;
- (3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted;
- (4) relocates an office or employees;
- (5) reorganizes or renames offices;
- (6) reorganizes programs or activities; or
- (7) contracts out or privatizes any functions or activities presently performed by Federal employees;

unless the Appropriations Committees of both Houses of Congress are notified 15 days in advance of such reprogramming or of an announcement of intent relating to such reprogramming, whichever occurs earlier.

(b) None of the funds provided under this Act, or provided under previous appropriations Acts to the agencies funded by this Act that remain available for obligation or expenditure in fiscal year 2006, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure through a reprogramming of funds in excess of \$500,000 or 10 percent, whichever is less, that—

- (1) augments existing programs, projects (including construction projects), or activities;
- (2) reduces by 10 percent funding for any existing program, project, or activity, or numbers of personnel by 10 percent as approved by Congress; or
- (3) results from any general savings from a reduction in personnel which would result in a change in existing programs, activities, or projects as approved by Congress;

Notifications.
Deadlines.

unless the Appropriations Committees of both Houses of Congress are notified 15 days in advance of such reprogramming or of an announcement of intent relating to such reprogramming, whichever occurs earlier.

SEC. 518. (a) Section 316 of the Immigration and Nationality Act (8 U.S.C. 1427), is amended by adding at the end the following:

“(g)(1) The continuous residency requirement under subsection (a) may be reduced to 3 years for an applicant for naturalization if—

“(A) the applicant is the beneficiary of an approved petition for classification under section 204(a)(1)(E);

“(B) the applicant has been approved for adjustment of status under section 245(a); and

“(C) such reduction is necessary for the applicant to represent the United States at an international event.

Deadline.

“(2) The Secretary of Homeland Security shall adjudicate an application for naturalization under this section not later than 30 days after the submission of such application if the applicant—

“(A) requests such expedited adjudication in order to represent the United States at an international event; and

“(B) demonstrates that such expedited adjudication is related to such representation.

“(3) An applicant is ineligible for expedited adjudication under paragraph (2) if the Secretary of Homeland Security determines that such expedited adjudication poses a risk to national security. Such a determination by the Secretary shall not be subject to review.

Fees.

“(4)(A) In addition to any other fee authorized by law, the Secretary of Homeland Security shall charge and collect a \$1,000 premium processing fee from each applicant described in this subsection to offset the additional costs incurred to expedite the processing of applications under this subsection.

“(B) The fee collected under subparagraph (A) shall be deposited as offsetting collections in the Immigration Examinations Fee Account.”.

Repeal.
8 USC 1427
and note.

(b) The amendment made by subsection (a) is repealed on January 1, 2006.

SEC. 519. (a) None of the funds made available in this Act may be used to request that a candidate for appointment to a Federal scientific advisory committee disclose the political affiliation or voting history of the candidate or the position that the candidate holds with respect to political issues not directly related to and necessary for the work of the committee involved.

(b) None of the funds made available in this Act may be used to disseminate scientific information that is deliberately false or misleading.

SEC. 520. The \$3,170,927,000 made available under this Act under the heading Program Management under the heading Centers for Medicare and Medicaid Services shall be reduced by \$60,000,000: *Provided*, That none of the reduction shall be taken from research, demonstration, and evaluation activities or from State survey and certification activities: *Provided further*, That notwithstanding the amounts specified under such heading for the Centers for Medicare and Medicaid Services System Revitalization Plan and for contract costs for the Healthcare Integrated General Ledger Accounting System, such amounts may be reduced by the Secretary.

This Act may be cited as the “Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2006”.

Approved December 30, 2005.

LEGISLATIVE HISTORY—H.R. 3010:

HOUSE REPORTS: Nos. 109–143 (Comm. on Appropriations) and 109–300 and 109–337 (both from Comm. of Conference).

SENATE REPORTS: No. 109–103 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 151 (2005):

June 23, 24, considered and passed House.

Oct. 21, 24–27, considered and passed Senate, amended.

Nov. 17, House rejected conference report.

Dec. 14, House agreed to conference report.

Dec. 15, 21, Senate considered and agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 41 (2005):

Dec. 30, Presidential statement.



Public Law 109–150
109th Congress

An Act

Dec. 30, 2005
[H.R. 4525]

To temporarily extend the programs under the Higher Education Act of 1965,
and for other purposes.

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

Second Higher
Education
Extension Act of
2005.
20 USC 1001
note.

SECTION 1. SHORT TITLE.

This Act may be cited as the “Second Higher Education Extension Act of 2005”.

SEC. 2. EXTENSION OF PROGRAMS.

(a) **GENERAL EXTENSION.**—Section 2(a) of the Higher Education Extension Act of 2005 (P.L. 109–81; 20 U.S.C. 1001 note) is amended by striking “December 31, 2005” and inserting “March 31, 2006”.

(b) **EXTENSION OF LIMITATIONS ON SPECIAL ALLOWANCE FOR LOANS FROM THE PROCEEDS OF TAX EXEMPT ISSUES.**—Section 438(b)(2)(B) of the Higher Education Act of 1965 (20 U.S.C. 1087–1(b)(2)(B)) is amended by striking “January 1, 2006” each place it appears in clauses (iv) and (v)(II) and inserting “April 1, 2006”.

(c) **EXTENSION OF EFFECTIVE DATE LIMITATION ON HIGHER TEACHER LOAN FORGIVENESS BENEFITS.**—

(1) **AMENDMENT.**—Paragraph (3) of section 3(b) of the Taxpayer-Teacher Protection Act of 2004 (P.L. 108–409; 20 U.S.C. 1078–10 note) is amended by striking “October 1, 2005” and inserting “June 30, 2007”.

20 USC 1087–1.

(2) **TECHNICAL AMENDMENT.**—Section 2 of such Act is amended by inserting “of the Higher Education Act of 1965” after “438(b)(2)(B)”.

20 USC 1087–1
note.

(d) **EFFECTIVE DATES.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), the amendments made by this section are effective upon enactment.

(2) **EXCEPTION.**—The amendment made by subsection (c)(1) shall take effect as if enacted on October 1, 2005.

SEC. 3. ELIGIBILITY PROVISION.

Notwithstanding section 102(a)(4)(A) of the Higher Education Act of 1965 (20 U.S.C. 1002(a)(4)(A)), the Secretary of Education shall not take into account a bankruptcy petition filed in the United States Bankruptcy Court for the Southern District of New York in July, 2005, in determining whether a nonprofit educational institution that is a subsidiary of an entity that filed such petition

meets the definition of an “institution of higher education” under section 102 of that Act (20 U.S.C. 1002).

Approved December 30, 2005.

LEGISLATIVE HISTORY—H.R. 4525:

CONGRESSIONAL RECORD, Vol. 151 (2005):

Dec. 17, considered and passed House.

Dec. 21, considered and passed Senate.



Public Law 109–151
109th Congress

An Act

Dec. 30, 2005
[H.R. 4579]

To amend title I of the Employee Retirement Income Security Act of 1974, title XXVII of the Public Health Service Act, and the Internal Revenue Code of 1986 to extend by one year provisions requiring parity in the application of certain limits to mental health benefits.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

**SECTION 1. ONE-YEAR EXTENSION FOR PROVISIONS REQUIRING
PARITY IN THE APPLICATION OF CERTAIN LIMITS TO
MENTAL HEALTH BENEFITS.**

(a) AMENDMENT TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Section 712(f) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185a(f)) is amended by striking “December 31, 2005” and inserting “December 31, 2006”.

(b) AMENDMENT TO THE PUBLIC HEALTH SERVICE ACT.—Section 2705(f) of the Public Health Service Act (42 U.S.C. 300gg–5(f)) is amended by striking “December 31, 2005” and inserting “December 31, 2006”.

26 USC 9812. (c) AMENDMENT TO THE INTERNAL REVENUE CODE OF 1986.—Section 9812(f)(3) of the Internal Revenue Code of 1986 (relating to application of section) is amended by striking “December 31, 2005” and inserting “December 31, 2006”.

Approved December 30, 2005.

LEGISLATIVE HISTORY—H.R. 4579:

CONGRESSIONAL RECORD, Vol. 151 (2005):

Dec. 17, considered and passed House.

Dec. 21, considered and passed Senate.



Public Law 109–152
109th Congress

An Act

To authorize the American Battle Monuments Commission to establish in the State of Louisiana a memorial to honor the Buffalo Soldiers.

Dec. 30, 2005

[S. 205]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Buffalo Soldiers Commemoration Act of 2005”.

Buffalo Soldiers
Commemoration
Act of 2005.
16 USC 431 note.

SEC. 2. ESTABLISHMENT OF BUFFALO SOLDIERS MEMORIAL.

(a) **AUTHORIZATION.**—The American Battle Monuments Commission is authorized to establish a memorial to honor the Buffalo Soldiers in or around the City of New Orleans on land donated for such purpose or on Federal land with the consent of the appropriate land manager.

(b) **CONTRIBUTIONS.**—The Commission shall solicit and accept contributions for the construction and maintenance of the memorial.

(c) **COOPERATIVE AGREEMENTS.**—The Commission may enter into a cooperative agreement with a private or public entity for the purpose of fundraising for the construction and maintenance of the memorial.

(d) **MAINTENANCE AGREEMENT.**—Prior to beginning construction of the memorial, the Commission shall enter into an agreement with an appropriate public or private entity to provide for the permanent maintenance of the memorial and shall have sufficient funds, or assurance that it will receive sufficient funds, to complete the memorial.

SEC. 3. BUFFALO SOLDIERS MEMORIAL ACCOUNT.

(a) **ESTABLISHMENT.**—The Commission shall maintain an escrow account (“account”) to pay expenses incurred in constructing the memorial.

(b) **DEPOSITS INTO THE ACCOUNT.**—The Commission shall deposit into the account any principal and interest by the United States that the Chairman determines has a suitable maturity.

(c) **USE OF ACCOUNT.**—Amounts in the account, including proceeds of any investments, may be used to pay expenses incurred in establishing the memorial. After construction of the memorial amounts in the account shall be transferred by the Commission to the entity providing for permanent maintenance of the memorial under such terms and conditions as the Commission determines will ensure the proper use and accounting of the amounts.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

Approved December 30, 2005.

LEGISLATIVE HISTORY—S. 205:

SENATE REPORTS: No. 109–24 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 151 (2005):

July 26, considered and passed Senate.

Dec. 18, considered and passed House.



Public Law 109–153
109th Congress

An Act

To provide financial assistance for the rehabilitation of the Benjamin Franklin National Memorial in Philadelphia, Pennsylvania, and the development of an exhibit to commemorate the 300th anniversary of the birth of Benjamin Franklin.

Dec. 30, 2005
[S. 652]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Benjamin Franklin National Memorial Commemoration Act of 2005”.

Benjamin
Franklin
National
Memorial
Commemoration
Act of 2005.

SEC. 2. BENJAMIN FRANKLIN NATIONAL MEMORIAL.

The Secretary of the Interior may provide a grant to the Franklin Institute to—

- (1) rehabilitate the Benjamin Franklin National Memorial (including the Franklin statue) in Philadelphia, Pennsylvania; and
- (2) develop an interpretive exhibit relating to Benjamin Franklin, to be displayed at a museum adjacent to the Benjamin Franklin National Memorial.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

(a) **IN GENERAL.**—There is authorized to be appropriated to carry out this Act \$10,000,000.

(b) **REQUIRED MATCH.**—The Secretary of the Interior shall require the Franklin Institute to match any amounts provided to the Franklin Institute under this Act.

Approved December 30, 2005.

LEGISLATIVE HISTORY—S. 652:

SENATE REPORTS: No. 109–147 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 151 (2005):

Nov. 16, considered and passed Senate.

Dec. 18, considered and passed House.



Public Law 109–154
109th Congress

An Act

Dec. 30, 2005
[S. 1238]

To amend the Public Lands Corps Act of 1993 to provide for the conduct of projects that protect forests, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Public Lands
Corps Healthy
Forests
Restoration Act
of 2005.
16 USC 1701
note.

SECTION 1. SHORT TITLE.

This Act may be cited as the “Public Lands Corps Healthy Forests Restoration Act of 2005”.

SEC. 2. AMENDMENTS TO THE PUBLIC LANDS CORPS ACT OF 1993.

(a) **DEFINITIONS.**—Section 203 of the Public Lands Corps Act of 1993 (16 U.S.C. 1722) is amended—

(1) by redesignating paragraphs (8), (9), (10), and (11) as paragraphs (9), (10), (11), and (13), respectively;

(2) by inserting after paragraph (7) the following:

“(8) **PRIORITY PROJECT.**—The term ‘priority project’ means an appropriate conservation project conducted on eligible service lands to further 1 or more of the purposes of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6501 et seq.), as follows:

“(A) To reduce wildfire risk to a community, municipal water supply, or other at-risk Federal land.

“(B) To protect a watershed or address a threat to forest and rangeland health, including catastrophic wildfire.

“(C) To address the impact of insect or disease infestations or other damaging agents on forest and rangeland health.

“(D) To protect, restore, or enhance forest ecosystem components to—

“(i) promote the recovery of threatened or endangered species;

“(ii) improve biological diversity; or

“(iii) enhance productivity and carbon sequestration.”; and

(3) by inserting after paragraph (11) (as redesignated by paragraph (1)) the following:

“(12) **SECRETARY.**—The term ‘Secretary’ means—

“(A) with respect to National Forest System land, the Secretary of Agriculture; and

“(B) with respect to Indian lands, Hawaiian home lands, or land administered by the Department of the Interior, the Secretary of the Interior.”.

(b) **QUALIFIED YOUTH OR CONSERVATION CORPS.**—Section 204(c) of the Public Lands Corps Act of 1993 (16 U.S.C. 1723(c)) is amended—

(1) by striking “The Secretary of the Interior and the Secretary of Agriculture are” and inserting the following:

“(1) **IN GENERAL.**—The Secretary is”; and

(2) by adding at the end the following:

“(2) **PREFERENCE.**—

“(A) **IN GENERAL.**—For purposes of entering into contracts and cooperative agreements under paragraph (1), the Secretary may give preference to qualified youth or conservation corps located in a specific area that have a substantial portion of members who are economically, physically, or educationally disadvantaged to carry out projects within the area.

“(B) **PRIORITY PROJECTS.**—In carrying out priority projects in a specific area, the Secretary shall, to the maximum extent practicable, give preference to qualified youth or conservation corps located in that specific area that have a substantial portion of members who are economically, physically, or educationally disadvantaged.”

(c) **CONSERVATION PROJECTS.**—Section 204(d) of the Public Lands Corps Act of 1993 (16 U.S.C. 1723(d)) is amended—

(1) in the first sentence—

(A) by striking “The Secretary of the Interior and the Secretary of Agriculture may each” and inserting the following:

“(1) **IN GENERAL.**—The Secretary may”; and

(B) by striking “such Secretary” and inserting “the Secretary”;

(2) in the second sentence, by striking “Appropriate conservation” and inserting the following:

“(2) **PROJECTS ON INDIAN LANDS.**—Appropriate conservation”; and

(3) by striking the third sentence and inserting the following:

“(3) **DISASTER PREVENTION OR RELIEF PROJECTS.**—The Secretary may authorize appropriate conservation projects and other appropriate projects to be carried out on Federal, State, local, or private land as part of a Federal disaster prevention or relief effort.”

(d) **CONSERVATION CENTERS AND PROGRAM SUPPORT.**—Section 205 of the Public Lands Corps Act of 1993 (16 U.S.C. 1724) is amended—

(1) by striking the heading and inserting the following:

“SEC. 205. CONSERVATION CENTERS AND PROGRAM SUPPORT.”;

(2) by striking subsection (a) and inserting the following:

“(a) **ESTABLISHMENT AND USE.**—

“(1) **IN GENERAL.**—The Secretary may establish and use conservation centers owned and operated by the Secretary for—

“(A) use by the Public Lands Corps; and

“(B) the conduct of appropriate conservation projects under this title.

“(2) **ASSISTANCE FOR CONSERVATION CENTERS.**—The Secretary may provide to a conservation center established under paragraph (1) any services, facilities, equipment, and supplies

that the Secretary determines to be necessary for the conservation center.

“(3) STANDARDS FOR CONSERVATION CENTERS.—The Secretary shall—

“(A) establish basic standards of health, nutrition, sanitation, and safety for all conservation centers established under paragraph (1); and

“(B) ensure that the standards established under subparagraph (A) are enforced.

“(4) MANAGEMENT.—As the Secretary determines to be appropriate, the Secretary may enter into a contract or other appropriate arrangement with a State or local government agency or private organization to provide for the management of a conservation center.”; and

(3) by adding at the end the following:

“(d) ASSISTANCE.—The Secretary may provide any services, facilities, equipment, supplies, technical assistance, oversight, monitoring, or evaluations that are appropriate to carry out this title.”.

(e) LIVING ALLOWANCES AND TERMS OF SERVICE.—Section 207 of the Public Lands Corps Act of 1993 (16 U.S.C. 1726) is amended—

(1) by striking subsection (a) and inserting the following:

“(a) LIVING ALLOWANCES.—The Secretary shall provide each participant in the Public Lands Corps and each resource assistant with a living allowance in an amount established by the Secretary.”; and

(2) by adding at the end the following:

“(c) HIRING.—The Secretary may—

“(1) grant to a member of the Public Lands Corps credit for time served with the Public Lands Corps, which may be used toward future Federal hiring; and

“(2) provide to a former member of the Public Lands Corps noncompetitive hiring status for a period of not more than 120 days after the date on which the member’s service with the Public Lands Corps is complete.”.

(f) FUNDING.—The Public Lands Corps Act of 1993 is amended—

(1) in section 210 (16 U.S.C. 1729), by adding at the end the following:

“(c) OTHER FUNDS.—Amounts appropriated pursuant to the authorization of appropriations under section 211 are in addition to amounts allocated to the Public Lands Corps through other Federal programs or projects.”; and

(2) by inserting after section 210 the following:

16 USC 1730.

“SEC. 211. AUTHORIZATION OF APPROPRIATIONS.

“(a) IN GENERAL.—There is authorized to be appropriated to carry out this title \$12,000,000 for each fiscal year, of which \$8,000,000 is authorized to carry out priority projects and \$4,000,000 of which is authorized to carry out other appropriate conservation projects.

“(b) DISASTER RELIEF OR PREVENTION PROJECTS.—Notwithstanding subsection (a), any amounts made available under that subsection shall be available for disaster prevention or relief projects.

“(c) AVAILABILITY OF FUNDS.—Notwithstanding any other provision of law, amounts appropriated for any fiscal year to carry out this title shall remain available for obligation and expenditure

until the end of the fiscal year following the fiscal year for which the amounts are appropriated.”.

(g) CONFORMING AMENDMENTS.—The Public Lands Corps Act of 1993 is amended—

(1) in section 204 (16 U.S.C. 1723)—

(A) in subsection (b)—

(i) in the first sentence, by striking “Secretary of the Interior or the Secretary of Agriculture” and inserting “Secretary”;

(ii) in the third sentence, by striking “Secretaries” and inserting “Secretary”; and

(iii) in the fourth sentence, by striking “Secretaries” and inserting “Secretary”; and

(B) in subsection (e), by striking “Secretary of the Interior and the Secretary of Agriculture” and inserting “Secretary”;

(2) in section 205 (16 U.S.C. 1724)—

(A) in subsection (b), by striking “Secretary of the Interior and the Secretary of Agriculture” and inserting “Secretary”; and

(B) in subsection (c), by striking “Secretary of the Interior and the Secretary of Agriculture” and inserting “Secretary”;

(3) in section 206 (16 U.S.C. 1725)—

(A) in subsection (a)—

(i) in the first sentence—

(I) by striking “Secretary of the Interior and the Secretary of Agriculture are each” and inserting “Secretary is”; and

(II) by striking “such Secretary” and inserting “the Secretary”;

(ii) in the third sentence, by striking “Secretaries” and inserting “Secretary”; and

(iii) in the fourth sentence, by striking “Secretaries” and inserting “Secretary”; and

(B) in the first sentence of subsection (b), by striking “Secretary of the Interior or the Secretary of Agriculture” and inserting “the Secretary”; and

(4) in section 210 (16 U.S.C. 1729)—

(A) in subsection (a)—

(i) in paragraph (1), by striking “Secretary of the Interior and the Secretary of Agriculture are each” and inserting “Secretary is”; and

(ii) in paragraph (2), by striking “Secretary of the Interior and the Secretary of Agriculture are each” and inserting “Secretary is”; and

(B) in subsection (b), by striking “Secretary of the Interior and the Secretary of Agriculture” and inserting “Secretary”.

Approved December 30, 2005.

LEGISLATIVE HISTORY—S. 1238 (H.R. 2875):

HOUSE REPORTS: No. 109–273, Pt. 1 accompanying H.R. 2875 (Comm. on Resources).

SENATE REPORTS: No. 109–152 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 151 (2005):

Nov. 16, considered and passed Senate.

Dec. 18, considered and passed House.



Public Law 109–155
109th Congress

An Act

To authorize the programs of the National Aeronautics and Space Administration.

Dec. 30, 2005

[S. 1281]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “National Aeronautics and Space Administration Authorization Act of 2005”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

National
Aeronautics and
Space
Administration
Authorization
Act of 2005.
42 USC 16601
note.

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

TITLE I—GENERAL PRINCIPLES AND REPORTS

Sec. 101. Responsibilities, policies, and plans.

Sec. 102. Reports.

Sec. 103. Baselines and cost controls.

Sec. 104. Prize authority.

Sec. 105. Foreign launch vehicles.

Sec. 106. Safety management.

Sec. 107. Lessons learned and best practices.

Sec. 108. Commercialization plan.

Sec. 109. Study on the feasibility of use of ground source heat pumps.

Sec. 110. Whistleblower protection.

TITLE II—AUTHORIZATION OF APPROPRIATIONS

Sec. 201. Structure of budget accounts.

Sec. 202. Fiscal year 2007.

Sec. 203. Fiscal year 2008.

Sec. 204. ISS research.

Sec. 205. Test facilities.

Sec. 206. Official representation fund.

Sec. 207. ISS cost cap.

TITLE III—SCIENCE

Subtitle A—General Provisions

Sec. 301. Performance assessments.

Sec. 302. Status on Hubble Space Telescope servicing mission.

Sec. 303. Independent assessment of Landsat-NPOESS integrated mission.

Sec. 304. Assessment of science mission extensions.

Sec. 305. Microgravity research.

Sec. 306. Coordination with the National Oceanic and Atmospheric Administration.

Sec. 307. Review and report on Headquarters Earth-Sun System Applied Sciences Program.

Subtitle B—Remote Sensing

Sec. 311. Definitions.

Sec. 312. General responsibilities.

Sec. 313. Pilot projects to encourage public sector applications.

Sec. 314. Program evaluation.

- Sec. 315. Data availability.
- Sec. 316. Education.

Subtitle C—George E. Brown, Jr. Near-Earth Object Survey

- Sec. 321. George E. Brown, Jr. Near-Earth Object Survey.

TITLE IV—AERONAUTICS

- Sec. 401. Definition.

Subtitle A—Governmental Interest in Aeronautics Research and Development

- Sec. 411. Governmental interest.

Subtitle B—High Priority Aeronautics Research and Development Programs

- Sec. 421. Fundamental research program.
- Sec. 422. Research and technology programs.
- Sec. 423. Airspace systems research.
- Sec. 424. Aviation safety and security research.
- Sec. 425. Aviation weather research.
- Sec. 426. Assessment of wake turbulence research and development program.
- Sec. 427. University-based Centers for Research on Aviation Training.

Subtitle C—Scholarships

- Sec. 431. NASA aeronautics scholarships.

Subtitle D—Data Requests

- Sec. 441. Aviation data requests.

TITLE V—HUMAN SPACE FLIGHT

- Sec. 501. Space Shuttle follow-on.
- Sec. 502. Transition.
- Sec. 503. Requirements.
- Sec. 504. Ground-based analog capabilities.
- Sec. 505. ISS completion.
- Sec. 506. ISS research.
- Sec. 507. National laboratory designation.

TITLE VI—OTHER PROGRAM AREAS

Subtitle A—Space and Flight Support

- Sec. 601. Orbital debris.
- Sec. 602. Secondary payload capability.

Subtitle B—Education

- Sec. 611. Institutions in NASA's minority institutions program.
- Sec. 612. Program to expand distance learning in rural underserved areas.
- Sec. 613. Charles "Pete" Conrad Astronomy Awards.
- Sec. 614. Review of education programs.
- Sec. 615. Equal access to NASA's education programs.
- Sec. 616. Museums.
- Sec. 617. Review of MUST program.
- Sec. 618. Continuation of certain education programs.
- Sec. 619. Implementation of previous recommendations.

Subtitle C—Technology Transfer

- Sec. 621. Commercial technology transfer program.

TITLE VII—MISCELLANEOUS PROVISIONS

Subtitle A—National Aeronautics and Space Administration

- Sec. 701. Retrocession of jurisdiction.
- Sec. 702. Extension of indemnification.
- Sec. 703. NASA scholarships.
- Sec. 704. Independent cost analysis.
- Sec. 705. Recovery and disposition authority.
- Sec. 706. Changes to existing laws on reports.
- Sec. 707. Small business contracting.
- Sec. 708. NASA healthcare program.
- Sec. 709. Offshore performance of contracts for the procurement of goods and services.

Sec. 710. Study on enhanced use leasing.

Subtitle B—National Science Foundation

Sec. 721. Data on specific fields of study.

Sec. 722. National Science Foundation major research equipment and facilities.

TITLE VIII—TASK FORCE AND COMMISSION

Subtitle A—International Space Station Independent Safety Task Force

Sec. 801. Establishment of task force.

Sec. 802. Tasks of the task force.

Sec. 803. Composition of the task force.

Sec. 804. Reporting requirements.

Sec. 805. Sunset.

Subtitle B—Human Space Flight Independent Investigation Commission

Sec. 821. Definitions.

Sec. 822. Establishment of Commission.

Sec. 823. Tasks of the Commission.

Sec. 824. Composition of Commission.

Sec. 825. Powers of Commission.

Sec. 826. Public meetings, information, and hearings.

Sec. 827. Staff of Commission.

Sec. 828. Compensation and travel expenses.

Sec. 829. Security clearances for Commission members and staff.

Sec. 830. Reporting requirements and termination.

SEC. 2. DEFINITIONS.

42 USC 16601.

In this Act:

(1) ADMINISTRATOR.—The term “Administrator” means the Administrator of the National Aeronautics and Space Administration.

(2) ISS.—The term “ISS” means the International Space Station.

(3) NASA.—The term “NASA” means the National Aeronautics and Space Administration.

TITLE I—GENERAL PRINCIPLES AND REPORTS

SEC. 101. RESPONSIBILITIES, POLICIES, AND PLANS.

42 USC 16611.

(a) GENERAL RESPONSIBILITIES.—

(1) PROGRAMS.—The Administrator shall ensure that NASA carries out a balanced set of programs that shall include, at a minimum, programs in—

(A) human space flight, in accordance with subsection

(b);

(B) aeronautics research and development; and

(C) scientific research, which shall include, at a minimum—

(i) robotic missions to study the Moon and other planets and their moons, and to deepen understanding of astronomy, astrophysics, and other areas of science that can be productively studied from space;

(ii) earth science research and research on the Sun-Earth connection through the development and operation of research satellites and other means;

(iii) support of university research in space science, earth science, and microgravity science; and

(iv) research on microgravity, including research that is not directly related to human exploration.

(2) CONSULTATION AND COORDINATION.—In carrying out the programs of NASA, the Administrator shall—

(A) consult and coordinate to the extent appropriate with other relevant Federal agencies, including through the National Science and Technology Council;

(B) work closely with the private sector, including by—

(i) encouraging the work of entrepreneurs who are seeking to develop new means to launch satellites, crew, or cargo;

(ii) contracting with the private sector for crew and cargo services, including to the International Space Station, to the extent practicable;

(iii) using commercially available products (including software) and services to the extent practicable to support all NASA activities; and

(iv) encouraging commercial use and development of space to the greatest extent practicable; and

(C) involve other nations to the extent appropriate.

(b) VISION FOR SPACE EXPLORATION.—

(1) IN GENERAL.—The Administrator shall establish a program to develop a sustained human presence on the Moon, including a robust precursor program, to promote exploration, science, commerce, and United States preeminence in space, and as a stepping-stone to future exploration of Mars and other destinations. The Administrator is further authorized to develop and conduct appropriate international collaborations in pursuit of these goals.

(2) MILESTONES.—The Administrator shall manage human space flight programs to strive to achieve the following milestones (in conformity with section 503)—

(A) Returning Americans to the Moon no later than 2020.

(B) Launching the Crew Exploration Vehicle as close to 2010 as possible.

(C) Increasing knowledge of the impacts of long duration stays in space on the human body using the most appropriate facilities available, including the ISS.

(D) Enabling humans to land on and return from Mars and other destinations on a timetable that is technically and fiscally possible.

(c) AERONAUTICS.—

(1) IN GENERAL.—The President of the United States, through an official the President shall designate, and in consultation with appropriate Federal agencies, shall develop a national policy to guide the aeronautics research and development programs of the United States through 2020. The policy shall include national goals for aeronautics research and development and shall describe the role and responsibilities of each Federal agency that will carry out the policy. The development of the policy shall utilize external studies that have been conducted on the state of United States aeronautics and aviation research and development and have suggested policies to ensure continued competitiveness.

(2) CONTENT.—(A) At a minimum, the national aeronautics research and development policy shall describe for NASA—

(i) the priority areas of research for aeronautics through fiscal year 2011;

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President.

(ii) the basis on which and the process by which priorities for ensuing fiscal years will be selected;

(iii) the facilities and personnel needed to carry out the aeronautics program through fiscal year 2011; and

(iv) the budget assumptions on which the policy is based, which for fiscal years 2007 and 2008 shall be the authorized level for aeronautics provided in title II of this Act.

(B) The policy shall be based on the premises that—

(i) the Federal Government has an established interest in conducting research and development programs for improving the usefulness, performance, speed, safety, and efficiency of aeronautical vehicles, as described in section 102(d)(2) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2451(d)(2)); and

(ii) the Federal Government has an established interest in conducting research and development programs that help preserve the role of the United States as a global leader in aeronautical technologies and in their application, as described in section 102(d)(5) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2451(d)(5)).

(3) CONSIDERATIONS.—In developing the national aeronautics research and development policy, the President shall consider the following issues, which shall be discussed in the transmittal under paragraph (5):

(A) The extent to which NASA should focus on long-term, high-risk research or more incremental research, and the expected impact of that decision on the United States economy, and the ability to achieve environmental and other public goals related to aeronautics.

(B) The extent to which NASA should address military and commercial needs.

(C) How NASA will coordinate its aeronautics program with other Federal agencies.

(D) The extent to which NASA will conduct research in-house, fund university research, and collaborate on industry research, and the expected impact of that mix of funding on the supply of United States workers for the aeronautics industry.

(E) The extent to which the priority areas of research listed pursuant to paragraph (2)(A) should include the activities authorized by title IV of this Act, the discussion of which shall include a priority ranking of all of the activities authorized in title IV and an explanation for that ranking.

(4) CONSULTATION.—In the development of the national aeronautics research and development policy, the President shall consult widely with academic and industry experts and with other Federal agencies. The Administrator may enter into an arrangement with the National Academy of Sciences to help develop the policy.

(5) SCHEDULE.—(A) Not later than 1 year after the date of enactment of this Act, the President shall transmit the national aeronautics research and development policy to the Committee on Appropriations of the House of Representatives, the Committee on Appropriations of the Senate, the Committee

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President.

- on Science of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate.
- Deadline. (B) Not later than 60 days after the transmittal of the policy under subparagraph (A), the Administrator shall transmit to the Committee on Appropriations of the House of Representatives, the Committee on Appropriations of the Senate, the Committee on Science of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate a report describing how NASA will carry out the policy.
- Reports. (C) At the time the President's fiscal year 2007 budget is transmitted to the Congress, the Administrator shall transmit to the Committee on Appropriations of the House of Representatives, the Committee on Appropriations of the Senate, the Committee on Science of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate a report on the proposed NASA aeronautics budget describing—
- (i) the rationale for the budget levels and activities in the proposed fiscal year 2007 NASA aeronautics budget;
 - (ii) the extent to which the program directions proposed for fiscal year 2007 are likely to be consistent with the national policy being prepared under this section; and
 - (iii) the extent to which the proposed programs for fiscal year 2007 are consistent with past reports and current studies of the National Academy of Sciences, and other relevant reports and studies.
- (d) SCIENCE.—
- (1) IN GENERAL.—The Administrator shall develop a plan to guide the science programs of NASA through 2016.
- (2) CONTENT.—At a minimum, the plan developed under paragraph (1) shall be designed to ensure that NASA has a rich and vigorous set of science activities, and shall describe—
- (A) the missions NASA will initiate, design, develop, launch, or operate in space science and earth science through fiscal year 2016, including launch dates;
 - (B) a priority ranking of all of the missions listed under subparagraph (A), and the rationale for the ranking; and
 - (C) the budget assumptions on which the policy is based, which for fiscal years 2007 and 2008 shall be consistent with the authorizations provided in title II of this Act.
- (3) CONSIDERATIONS.—In developing the science plan under this subsection, the Administrator shall consider the following issues, which shall be discussed in the transmittal under paragraph (6):
- (A) What the most important scientific questions in space science and earth science are.
 - (B) How to best benefit from the relationship between NASA's space and earth science activities and those of other Federal agencies.
 - (C) Whether the Magnetospheric Multiscale Mission, SIM-Planet Quest, and missions under the Future Explorers Programs can be expedited to meet previous schedules.

(D) Whether any NASA Earth observing missions that have been delayed or cancelled can be restored.

(E) How to ensure the long-term vitality of Earth observation programs at NASA, including their satellite, science, and data system components.

(F) Whether current and currently planned Earth observation missions should be supplemented or replaced with new satellite architectures and instruments that enable global coverage, and all-weather, day and night imaging of the Earth's surface features.

(G) How to integrate NASA earth science missions with the Global Earth Observing System of Systems.

(4) CONSULTATION.—In developing the plan under this subsection, the Administrator shall draw on decadal surveys and other reports in planetary science, astronomy, solar and space physics, earth science, and any other relevant fields developed by the National Academy of Sciences. The Administrator shall also consult widely with academic and industry experts and with other Federal agencies.

(5) HUBBLE SPACE TELESCOPE.—The plan developed under this subsection shall address plans for a human mission to repair the Hubble Space Telescope consistent with section 302 of this Act.

(6) SCHEDULE.—The Administrator shall transmit the plan developed under this subsection to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate not later than 1 year after the date of enactment of this Act. The Administrator shall make available to those committees any study done by a nongovernmental entity that was used in the development of the plan.

Deadline.

(e) FACILITIES.—

(1) IN GENERAL.—The Administrator shall develop a plan for managing NASA's facilities through fiscal year 2015. The plan shall be consistent with the policies and plans developed pursuant to this section.

(2) CONTENT.—At a minimum, the plan developed under paragraph (1) shall describe—

(A) any new facilities NASA intends to acquire, whether through construction, purchase, or lease, and the expected dates for doing so;

(B) any facilities NASA intends to significantly modify, refurbish, or upgrade, and the expected dates for doing so;

(C) any facilities NASA intends to close, and the expected dates for doing so;

(D) any transactions NASA intends to conduct to sell, lease, or otherwise transfer the ownership of a facility, and the expected dates for doing so;

(E) how each of the actions described in subparagraphs (A), (B), (C), and (D) will enhance the ability of NASA to carry out its programs;

(F) the expected costs or savings expected from each of the actions described in subparagraphs (A), (B), (C), and (D);

(G) the priority order of the actions described in subparagraphs (A), (B), (C), and (D);

(H) the budget assumptions of the plan, which for fiscal years 2007 and 2008 shall be consistent with the authorizations provided in title II of this Act, including the funding levels for maintenance and repairs; and

(I) how facilities were evaluated in developing the plan.

Deadline.

(3) SCHEDULE.—The Administrator shall transmit the plan developed under this subsection to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate not later than the date on which the President submits the proposed budget for the Federal Government for fiscal year 2008 to the Congress.

(f) WORKFORCE.—

(1) IN GENERAL.—The Administrator shall develop a human capital strategy to ensure that NASA has a workforce of the appropriate size and with the appropriate skills to carry out the programs of NASA, consistent with the policies and plans developed pursuant to this section. Under the strategy, NASA shall utilize current personnel, to the maximum extent feasible, in implementing the vision for space exploration and NASA's other programs. The strategy shall cover the period through fiscal year 2011.

(2) CONTENT.—The strategy developed under paragraph (1) shall describe, at a minimum—

(A) any categories of employees NASA intends to reduce, the expected size and timing of those reductions, the methods NASA intends to use to make the reductions, and the reasons NASA no longer needs those employees;

(B) any categories of employees NASA intends to increase, the expected size and timing of those increases, the methods NASA intends to use to recruit the additional employees, and the reasons NASA needs those employees;

(C) the steps NASA will use to retain needed employees; and

(D) the budget assumptions of the strategy, which for fiscal years 2007 and 2008 shall be consistent with the authorizations provided in title II of this Act, and any expected additional costs or savings from the strategy by fiscal year.

Deadlines.

(3) SCHEDULE.—The Administrator shall transmit the strategy developed under this subsection to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate not later than 60 days after the date on which the President submits the proposed budget for the Federal Government for fiscal year 2007 to the Congress. At least 60 days before transmitting the strategy, NASA shall provide a draft of the strategy to its Federal employee unions for a 30-day consultation period after which NASA shall respond in writing to any written concerns provided by the unions.

(4) LIMITATION.—NASA may not implement any Reduction in Force or other involuntary separations (except for cause) prior to March 16, 2007.

(g) CENTER MANAGEMENT.—

(1) IN GENERAL.—The Administrator shall conduct a study to determine whether any of NASA's centers should be operated by or with the private sector by converting a center to a

Federally Funded Research and Development Center or through any other mechanism.

(2) CONTENT.—The study conducted under paragraph (1) shall, at a minimum—

(A) make a recommendation for the operation of each center and provide reasons for that recommendation; and

(B) describe the advantages and disadvantages of each mode of operation considered in the study.

(3) CONSIDERATIONS.—In conducting the study, the Administrator shall take into consideration the experiences of other relevant Federal agencies in operating laboratories and centers, and any reports that have reviewed the mode of operation of those laboratories and centers, as well as any reports that have reviewed NASA's centers.

(4) SCHEDULE.—The Administrator shall transmit the study conducted under this subsection to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate not later than May 31, 2006. Deadline.

(h) BUDGETS.—

(1) CATEGORIES.—The proposed budget for NASA submitted by the President for each fiscal year shall be accompanied by documents showing—

(A) by program—

(i) the budget for space operations, including the ISS and the Space Shuttle;

(ii) the budget for exploration systems;

(iii) the budget for aeronautics;

(iv) the budget for space science;

(v) the budget for earth science;

(vi) the budget for microgravity science;

(vii) the budget for education;

(viii) the budget for safety oversight; and

(ix) the budget for public relations;

(B) the budget for technology transfer programs;

(C) the budget for the Integrated Enterprise Management Program, by individual element;

(D) the budget for the Independent Technical Authority, both total and by center;

(E) the total budget for the prize program under section 104, and the administrative budget for that program; and

(F) the comparable figures for at least the 2 previous fiscal years for each item in the proposed budget.

(2) SENSE OF CONGRESS REGARDING EVALUATION CRITERIA FOR BUDGET REQUESTS.—It is the sense of the Congress that each budget of the United States submitted to the Congress after the date of enactment of this Act should be evaluated for compliance with the findings and priorities established by this Act and the amendments made by this Act.

(i) ADDITIONAL BUDGET INFORMATION.—NASA shall make available, upon request from the Committee on Science of the House of Representatives or the Committee on Commerce, Science, and Transportation of the Senate—

(1) information on corporate and center general and administrative costs and service pool costs, including—

(A) the total amount of funds being allocated for those purposes for any fiscal year for which the President has submitted an annual budget request to Congress;

(B) the amount of funds being allocated for those purposes for each center, for headquarters, and for each directorate; and

(C) the major activities included in each cost category; and

(2) the figures on the amount of unobligated funds and unexpended funds, by appropriations account—

(A) that remained at the end of the fiscal year prior to the fiscal year in which the budget is being presented that were carried over into the fiscal year in which the budget is being presented;

(B) that are estimated will remain at the end of the fiscal year in which the budget is being presented that are proposed to be carried over into the fiscal year for which the budget is being presented; and

(C) that are estimated will remain at the end of the fiscal year for which the budget is being presented.

(j) NASA AERONAUTICS TEST FACILITIES AND SIMULATORS.—

(1) REVIEW.—The Director of the Office of Science and Technology Policy shall commission an independent review of the Nation's long-term strategic needs for aeronautics test facilities and shall submit the review to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate. The review shall include an evaluation of the facility needs described pursuant to subsection (c)(2)(A)(iii). The review shall take into consideration the results of the study conducted pursuant to the instructions on page 582 of the conference report (H. Rept. 108-767) to accompany the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (P.L. 108-375).

(2) LIMITATION.—The Administrator shall not close or mothball any aeronautics test facilities identified in the 2003 independent assessment by the RAND Corporation titled “Wind Tunnel and Propulsion Test Facilities: An Assessment of NASA's Capabilities to Serve National Needs” as being part of the minimum set of those facilities necessary to retain and manage to serve national needs, or any aeronautics simulators, that were in use as of January 1, 2004, with the exception of the already closed 16-foot transonic tunnel, until—

(A) the review conducted under paragraph (1) has been transmitted to the Congress; and

(B) 60 days after the Administrator has transmitted to the Committee on Appropriations and the Committee on Science of the House of Representatives and the Committee on Appropriations and the Committee on Commerce, Science, and Transportation of the Senate a written certification that the proposed closure will not have an adverse impact on NASA's ability to execute the national policy developed under subsection (c) and to achieve the goals described in that policy.

Subparagraph (B) shall cease to be effective five years after the date the study required by this section has been transmitted to the Congress.

Deadline.
Certification.

Termination
date.

SEC. 102. REPORTS.

42 USC 16612.

(a) NATIONAL AWARENESS CAMPAIGN.—

(1) **IN GENERAL.**—The Administrator shall implement, beginning not later than May 1, 2006, a national awareness campaign through various media, including print, radio, television, and the Internet, to articulate missions, publicize recent accomplishments, and facilitate efforts to encourage young Americans to enter the fields of science, mathematics, and engineering to help maintain United States leadership in those fields.

(2) **REPORTS.**—(A) Not later than April 1, 2006, the Administrator shall transmit a plan to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate describing the activities that will be undertaken as part of the national awareness campaign required by paragraph (1) and the expected cost of those activities. NASA may undertake activities as part of the national awareness campaign prior to the transmittal of the plan required by this subparagraph, but the plan shall include a description of any activities undertaken prior to the transmittal and the estimated cost of those activities.

(B) Not later than three years after the date of enactment of this Act, the Administrator shall transmit to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate an assessment of the impact of the national awareness campaign.

(b) BUDGET INFORMATION.—Not later than April 30, 2006, the Administrator shall transmit to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report describing—

(1) the expected cost of the Crew Exploration Vehicle through fiscal year 2020, based on the public specifications for that development contract; and

(2) the expected budgets for each fiscal year through 2020 for human spaceflight, aeronautics, space science, and earth science—

(A) first assuming inflationary growth for the budget of NASA as a whole and including costs for the Crew Exploration Vehicle as projected under paragraph (1); and

(B) then assuming inflationary growth for the budget of NASA as a whole and including at least two cost estimates for the Crew Exploration Vehicle that are higher than those projected under paragraph (1), based on NASA's past experience with cost increases for similar programs, along with a description of the reasons for selecting the cost estimates used for the calculations under this subparagraph and the confidence level for each of the cost estimates used in this section.

(c) SPACE COMMUNICATIONS PLAN.—

(1) **PLAN.**—The Administrator shall develop a plan, in consultation with relevant Federal agencies, for updating NASA's space communications architecture for both low-Earth orbital operations and deep space exploration so that it is capable of meeting NASA's needs over the next 20 years. The plan shall include life-cycle cost estimates, milestones, estimated performance capabilities, and 5-year funding profiles. The plan

shall also include an estimate of the amounts of any reimbursements NASA is likely to receive from other Federal agencies during the expected life of the upgrades described in the plan. At a minimum, the plan shall include a description of the following:

(A) Projected Deep Space Network requirements for the next 20 years, including those in support of human space exploration missions.

(B) Upgrades needed to support Deep Space Network requirements.

(C) Cost estimates for the maintenance of existing Deep Space Network capabilities.

(D) Cost estimates and schedules for the upgrades described in subparagraph (B).

(E) Projected Tracking and Data Relay Satellite System requirements for the next 20 years, including those in support of other relevant Federal agencies.

(F) Cost and schedule estimates to maintain and upgrade the Tracking and Data Relay Satellite System to meet projected requirements.

(2) CONSULTATIONS.—The Administrator shall consult with other relevant Federal agencies in developing the plan under this subsection.

Deadline.

(3) SCHEDULE.—The Administrator shall transmit the plan under this subsection to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate not later than February 17, 2007.

(d) JOINT DARK ENERGY MISSION.—The Administrator and the Director of the Department of Energy Office of Science shall jointly transmit to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, not later than July 15, 2006, a report on plans for a Joint Dark Energy Mission. The report shall include the amount of funds each agency intends to expend on the Joint Dark Energy Mission for each of the fiscal years 2007 through 2011, and any specific milestones for the development and launch of the Mission.

(e) OFFICE OF SCIENCE AND TECHNOLOGY POLICY.—

(1) STUDY.—As part of ongoing efforts to coordinate research and development across the Federal agencies, the Director of the Office of Science and Technology Policy shall conduct a study to determine—

(A) if any research and development programs of NASA are unnecessarily duplicating aspects of programs of other Federal agencies; and

(B) if any research and development programs of NASA are neglecting any topics of national interest that are related to the mission of NASA.

(2) REPORT.—Not later than one year after the date of enactment of this Act, the Director of the Office of Science and Technology Policy shall transmit to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report that—

(A) describes the results of the study under paragraph (1);

(B) lists the research and development programs of Federal agencies other than NASA that were reviewed as part of the study, which shall include any program supporting research and development in an area related to the programs of NASA, and the most recent budget figures for those programs of other agencies;

(C) recommends any changes to the research and development programs of NASA that should be made in response to the findings of the study required by paragraph (1); and

(D) describes mechanisms the Office of Science and Technology Policy will use to ensure adequate coordination between NASA and Federal agencies that operate related programs.

(3) **CONTRACT.**—The Director of the Office of Science and Technology Policy may contract with a nongovernmental entity to conduct the study required by paragraph (1).

SEC. 103. BASELINES AND COST CONTROLS.

42 USC 16613.

(a) **CONDITIONS FOR DEVELOPMENT.**—

(1) **IN GENERAL.**—NASA shall not enter into a contract for the development of a major program unless the Administrator determines that—

(A) the technical, cost, and schedule risks of the program are clearly identified and the program has developed a plan to manage those risks;

(B) the technologies required for the program have been demonstrated in a relevant laboratory or test environment; and

(C) the program complies with all relevant policies, regulations, and directives of NASA.

(2) **REPORT.**—The Administrator shall transmit a report describing the basis for the determination required under paragraph (1) to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate at least 30 days before entering into a contract for development under a major program.

(3) **NONDELEGATION.**—The Administrator may not delegate the determination requirement under this subsection, except in cases in which the Administrator has a conflict of interest.

(b) **MAJOR PROGRAM ANNUAL REPORTS.**—

(1) **REQUIREMENT.**—Annually, at the same time as the President's annual budget submission to the Congress, the Administrator shall transmit to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report that includes the information required by this section for each major program for which NASA proposes to expend funds in the subsequent fiscal year. Reports under this paragraph shall be known as Major Program Annual Reports.

(2) **BASELINE REPORT.**—The first Major Program Annual Report for each major program shall include a Baseline Report that shall, at a minimum, include—

(A) the purposes of the program and key technical characteristics necessary to fulfill those purposes;

(B) an estimate of the life-cycle cost for the program, with a detailed breakout of the development cost, program

reserves, and an estimate of the annual costs until development is completed;

(C) the schedule for development, including key program milestones;

(D) the plan for mitigating technical, cost, and schedule risks identified in accordance with subsection (a)(1)(A); and

(E) the name of the person responsible for making notifications under subsection (c), who shall be an individual whose primary responsibility is overseeing the program.

(3) INFORMATION UPDATES.—For major programs for which a Baseline Report has been submitted, each subsequent Major Program Annual Report shall describe any changes to the information that had been provided in the Baseline Report, and the reasons for those changes.

Deadlines.

(c) NOTIFICATION.—

(1) REQUIREMENT.—The individual identified under subsection (b)(2)(E) shall immediately notify the Administrator any time that individual has reasonable cause to believe that, for the major program for which he or she is responsible—

(A) the development cost of the program is likely to exceed the estimate provided in the Baseline Report of the program by 15 percent or more; or

(B) a milestone of the program is likely to be delayed by 6 months or more from the date provided for it in the Baseline Report of the program.

(2) REASONS.—Not later than 30 days after the notification required under paragraph (1), the individual identified under subsection (b)(2)(E) shall transmit to the Administrator a written notification explaining the reasons for the change in the cost or milestone of the program for which notification was provided under paragraph (1).

(3) NOTIFICATION OF CONGRESS.—Not later than 15 days after the Administrator receives a written notification under paragraph (2), the Administrator shall transmit the notification to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

Deadlines.
Notification.

(d) FIFTEEN PERCENT THRESHOLD.—Not later than 30 days after receiving a written notification under subsection (c)(2), the Administrator shall determine whether the development cost of the program is likely to exceed the estimate provided in the Baseline Report of the program by 15 percent or more, or whether a milestone is likely to be delayed by 6 months or more. If the determination is affirmative, the Administrator shall—

Reports.

(1) transmit to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, not later than 15 days after making the determination, a report that includes—

(A) a description of the increase in cost or delay in schedule and a detailed explanation for the increase or delay;

(B) a description of actions taken or proposed to be taken in response to the cost increase or delay; and

(C) a description of any impacts the cost increase or schedule delay, or the actions described under subparagraph (B), will have on any other program within NASA; and

(2) if the Administrator intends to continue with the program, promptly initiate an analysis of the program, which shall include, at a minimum—

(A) the projected cost and schedule for completing the program if current requirements of the program are not modified;

(B) the projected cost and the schedule for completing the program after instituting the actions described under paragraph (1)(B); and

(C) a description of, and the projected cost and schedule for, a broad range of alternatives to the program.

NASA shall complete an analysis initiated under paragraph (2) not later than 6 months after the Administrator makes a determination under this subsection. The Administrator shall transmit the analysis to the Committee on Science of the House of Representatives and Committee on Commerce, Science, and Transportation of the Senate not later than 30 days after its completion.

(e) THIRTY PERCENT THRESHOLD.—If the Administrator determines under subsection (d) that the development cost of a program will exceed the estimate provided in the Baseline Report of the program by more than 30 percent, then, beginning 18 months after the date the Administrator transmits a report under subsection (d)(1), the Administrator shall not expend any additional funds on the program, other than termination costs, unless the Congress has subsequently authorized continuation of the program by law. An appropriation for the specific program enacted subsequent to a report being transmitted shall be considered an authorization for purposes of this subsection. If the program is continued, the Administrator shall submit a new Baseline Report for the program no later than 90 days after the date of enactment of the Act under which Congress has authorized continuation of the program.

Effective date.

Reports.
Deadline.

(f) DEFINITIONS.—For the purposes of this section—

(1) the term “development” means the phase of a program following the formulation phase and beginning with the approval to proceed to implementation, as defined in NASA’s Procedural Requirements 7120.5c, dated March 22, 2005;

(2) the term “development cost” means the total of all costs, including construction of facilities and civil servant costs, from the period beginning with the approval to proceed to implementation through the achievement of operational readiness, without regard to funding source or management control, for the life of the program;

(3) the term “life-cycle cost” means the total of the direct, indirect, recurring, and nonrecurring costs, including the construction of facilities and civil servant costs, and other related expenses incurred or estimated to be incurred in the design, development, verification, production, operation, maintenance, support, and retirement of a program over its planned lifespan, without regard to funding source or management control; and

(4) the term “major program” means an activity approved to proceed to implementation that has an estimated life-cycle cost of more than \$250,000,000.

SEC. 104. PRIZE AUTHORITY.

The National Aeronautics and Space Act of 1958 (42 U.S.C. 2451, et seq.) is amended by inserting after section 313 the following new section:

“PRIZE AUTHORITY

42 USC 2459f-1.

“SEC. 314. (a) IN GENERAL.—The Administration may carry out a program to competitively award cash prizes to stimulate innovation in basic and applied research, technology development, and prototype demonstration that have the potential for application to the performance of the space and aeronautical activities of the Administration. The Administration may carry out a program to award prizes only in conformity with this section.

“(b) TOPICS.—In selecting topics for prize competitions, the Administrator shall consult widely both within and outside the Federal Government, and may empanel advisory committees.

“(c) ADVERTISING.—The Administrator shall widely advertise prize competitions to encourage participation.

Notice.
Federal Register,
publication.

“(d) REQUIREMENTS AND REGISTRATION.—For each prize competition, the Administrator shall publish a notice in the Federal Register announcing the subject of the competition, the rules for being eligible to participate in the competition, the amount of the prize, and the basis on which a winner will be selected.

“(e) ELIGIBILITY.—To be eligible to win a prize under this section, an individual or entity—

“(1) shall have registered to participate in the competition pursuant to any rules promulgated by the Administrator under subsection (d);

“(2) shall have complied with all the requirements under this section;

“(3) in the case of a private entity, shall be incorporated in and maintain a primary place of business in the United States, and in the case of an individual, whether participating singly or in a group, shall be a citizen or permanent resident of the United States; and

“(4) shall not be a Federal entity or Federal employee acting within the scope of their employment.

“(f) LIABILITY.—(1) Registered participants must agree to assume any and all risks and waive claims against the Federal Government and its related entities, except in the case of willful misconduct, for any injury, death, damage, or loss of property, revenue, or profits, whether direct, indirect, or consequential, arising from their participation in a competition, whether such injury, death, damage, or loss arises through negligence or otherwise. For the purposes of this paragraph, the term ‘related entity’ means a contractor or subcontractor at any tier, and a supplier, user, customer, cooperating party, grantee, investigator, or detailee.

“(2) Participants must obtain liability insurance or demonstrate financial responsibility, in amounts determined by the Administrator, for claims by—

“(A) a third party for death, bodily injury, or property damage, or loss resulting from an activity carried out in connection with participation in a competition, with the Federal

Government named as an additional insured under the registered participant's insurance policy and registered participants agreeing to indemnify the Federal Government against third party claims for damages arising from or related to competition activities; and

“(B) the Federal Government for damage or loss to Government property resulting from such an activity.

“(g) JUDGES.—For each competition, the Administration, either directly or through an agreement under subsection (h), shall assemble a panel of qualified judges to select the winner or winners of the prize competition on the basis described pursuant to subsection (d). Judges for each competition shall include individuals from outside the Administration, including from the private sector. A judge may not—

“(1) have personal or financial interests in, or be an employee, officer, director, or agent of any entity that is a registered participant in a competition; or

“(2) have a familial or financial relationship with an individual who is a registered participant.

“(h) ADMINISTERING THE COMPETITION.—The Administrator may enter into an agreement with a private, nonprofit entity to administer the prize competition, subject to the provisions of this section.

“(i) FUNDING.—(1) Prizes under this section may consist of Federal appropriated funds and funds provided by the private sector for such cash prizes. The Administrator may accept funds from other Federal agencies for such cash prizes. The Administrator may not give any special consideration to any private sector entity in return for a donation.

“(2) Notwithstanding any other provision of law, funds appropriated for prize awards under this section shall remain available until expended, and may be transferred, reprogrammed, or expended for other purposes only after the expiration of 10 fiscal years after the fiscal year for which the funds were originally appropriated. No provision in this section permits obligation or payment of funds in violation of the Anti-Deficiency Act (31 U.S.C. 1341).

“(3) No prize may be announced under subsection (d) until all the funds needed to pay out the announced amount of the prize have been appropriated or committed in writing by a private source. The Administrator may increase the amount of a prize after an initial announcement is made under subsection (d) if—

“(A) notice of the increase is provided in the same manner as the initial notice of the prize; and

“(B) the funds needed to pay out the announced amount of the increase have been appropriated or committed in writing by a private source.

“(4) No prize competition under this section may offer a prize in an amount greater than \$10,000,000 unless 30 days have elapsed after written notice has been transmitted to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

“(5) No prize competition under this section may result in the award of more than \$1,000,000 in cash prizes without the approval of the Administrator.

Notification.

“(j) USE OF NASA NAME AND INSIGNIA.—A registered participant in a competition under this section may use the Administration’s name, initials, or insignia only after prior review and written approval by the Administration.

“(k) COMPLIANCE WITH EXISTING LAW.—The Federal Government shall not, by virtue of offering or providing a prize under this section, be responsible for compliance by registered participants in a prize competition with Federal law, including licensing, export control, and non-proliferation laws, and related regulations.”.

42 USC 16614.

SEC. 105. FOREIGN LAUNCH VEHICLES.

(a) ACCORD WITH SPACE TRANSPORTATION POLICY.—NASA shall not launch a payload on a foreign launch vehicle except in accordance with the Space Transportation Policy announced by the President on December 21, 2004. This subsection shall not be construed to prevent the President from waiving the Space Transportation Policy.

Deadline.

(b) INTERAGENCY COORDINATION.—NASA shall not launch a payload on a foreign launch vehicle unless NASA commenced the interagency coordination required by the Space Transportation Policy announced by the President on December 21, 2004, at least 90 days before entering into a development contract for the payload.

(c) APPLICATION.—This section shall not apply to any payload for which development has begun prior to the date of enactment of this Act, including the James Webb Space Telescope.

SEC. 106. SAFETY MANAGEMENT.

Section 6 of the National Aeronautics and Space Administration Authorization Act, 1968 (42 U.S.C. 2477) is amended—

(1) by inserting “(a) IN GENERAL.—” before “There”;

(2) by striking “to it” and inserting “to it, including evaluating NASA’s compliance with the return-to-flight and continue-to-fly recommendations of the Columbia Accident Investigation Board,”;

(3) by inserting “and the Congress” after “advise the Administrator”;

(4) by striking “and with respect to the adequacy of proposed or existing safety standards and shall” and inserting “with respect to the adequacy of proposed or existing safety standards, and with respect to management and culture related to safety. The Panel shall also”; and

(5) by adding at the end the following:

“(b) ANNUAL REPORT.—The Panel shall submit an annual report to the Administrator and to the Congress. In the first annual report submitted after the date of enactment of the National Aeronautics and Space Administration Authorization Act of 2005, the Panel shall include an evaluation of NASA’s management and culture related to safety. Each annual report shall include an evaluation of the Administration’s compliance with the recommendations of the Columbia Accident Investigation Board through retirement of the Space Shuttle.”.

42 USC 16615.

SEC. 107. LESSONS LEARNED AND BEST PRACTICES.

Deadline.

(a) IN GENERAL.—The Administrator shall transmit to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate an implementation plan describing NASA’s approach for obtaining, implementing, and sharing lessons learned and best practices for

its major programs and projects not later than 180 days after the date of enactment of this Act. The implementation plan shall be updated and maintained to ensure that it is current and consistent with the burgeoning culture of learning and safety that is emerging at NASA.

(b) **REQUIRED CONTENT.**—The implementation plan shall contain at a minimum the lessons learned and best practices requirements for NASA, the organizations or positions responsible for enforcement of the requirements, the reporting structure, and the objective performance measures indicating the effectiveness of the activity.

(c) **INCENTIVES.**—The Administrator shall provide incentives to encourage sharing and implementation of lessons learned and best practices by employees, projects, and programs, as well as penalties for programs and projects that are determined not to have demonstrated use of those resources.

SEC. 108. COMMERCIALIZATION PLAN.

42 USC 16616.

(a) **IN GENERAL.**—The Administrator, in consultation with other relevant agencies, shall develop a commercialization plan to support the human missions to the Moon and Mars, to support low-Earth orbit activities and earth science missions and applications, and to transfer science research and technology to society. The plan shall identify opportunities for the private sector to participate in the future missions and activities, including opportunities for partnership between NASA and the private sector in conducting research and the development of technologies and services. The plan shall include provisions for developing and funding sustained university and industry partnerships to conduct commercial research and technology development, to proactively translate results of space research to Earth benefits, to advance United States economic interests, and to support the vision for exploration. The plan shall also emphasize the utilization by NASA of advancements made by the private sector in space launch and orbital hardware, and shall include opportunities for innovative collaborations between NASA and the private sector under existing authorities of NASA for reimbursable and nonreimbursable agreements under the National Aeronautics and Space Act of 1958 (42 U.S.C. 2451 et seq.).

(b) **REPORT.**—Not later than 180 days after the date of enactment of this Act, the Administrator shall submit a copy of the plan to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

SEC. 109. STUDY ON THE FEASIBILITY OF USE OF GROUND SOURCE HEAT PUMPS.

42 USC 16617.

(a) **IN GENERAL.**—The Administrator shall conduct a feasibility study on the use of ground source heat pumps in future NASA facilities or substantial renovation of existing NASA facilities involving the installation of heating, ventilating, and air conditioning systems. Not later than 1 year after the date of enactment of this Act, the Administrator shall transmit the study to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

Deadline.

(b) **CONTENTS.**—The study shall examine—

(1) the life-cycle costs, including maintenance costs, of the operation of such heat pumps compared to generally available heating, cooling, and water heating equipment;

(2) barriers to installation, such as availability and suitability of terrain; and

(3) such other issues as the Administrator considers appropriate.

(c) DEFINITION.—In this section, the term “ground source heat pump” means an electric-powered system that uses the Earth’s relatively constant temperature to provide heating, cooling, or hot water.

42 USC 16618.

Deadlines.

SEC. 110. WHISTLEBLOWER PROTECTION.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Administrator shall transmit to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a plan describing steps to be taken by NASA to protect from retaliation NASA employees who raise concerns about substantial and specific dangers to public health and safety or about substantial and specific factors that could threaten the success of a mission. The plan shall be designed to ensure that NASA employees have the full protection required by law. The Administrator shall implement the plan not more than 1 year after its transmittal.

(b) GOAL.—The Administrator shall ensure that the plan describes a system that will protect employees who wish to raise or have raised concerns described in subsection (a).

(c) PLAN.—At a minimum, the plan shall include, consistent with Federal law—

(1) a reporting structure that ensures that the officials who are the subject of a whistleblower’s complaint will not learn the identity of the whistleblower;

(2) a single point to which all complaints can be made without fear of retribution;

(3) procedures to enable the whistleblower to track the status of the case;

(4) activities to educate employees about their rights as whistleblowers and how they are protected by law;

(5) activities to educate employees about their obligations to report concerns and their accountability before and after receiving the results of the investigations into their concerns; and

(6) activities to educate all appropriate NASA Human Resources professionals, and all NASA managers and supervisors, regarding personnel laws, rules, and regulations.

(d) REPORT.—Not later than February 15 of each year beginning with the year after the date of enactment of this Act, the Administrator shall transmit a report to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the concerns described in subsection (a) that were raised during the previous fiscal year. At a minimum, the report shall provide—

(1) the number of concerns that were raised, divided into the categories of safety and health, mission assurance, and mismanagement, and the disposition of those concerns, including whether any employee was disciplined as a result of a concern having been raised; and

(2) any recommendations for reforms to further prevent retribution against employees who raise concerns.

TITLE II—AUTHORIZATION OF APPROPRIATIONS

SEC. 201. STRUCTURE OF BUDGET ACCOUNTS.

Section 313 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2459f) is amended—

(1) by amending subsection (a) to read as follows:

“(a)(1) Appropriations for the Administration for fiscal year 2007 and thereafter shall be made in three accounts, ‘Science, Aeronautics, and Education’, ‘Exploration Systems and Space Operations’, and an account for amounts appropriated for the necessary expenses of the Office of the Inspector General.

“(2) Within the Exploration Systems and Space Operations account, no more than 10 percent of the funds for a fiscal year for Exploration Systems may be reprogrammed for Space Operations, and no more than 10 percent of the funds for a fiscal year for Space Operations may be reprogrammed for Exploration Systems. This paragraph shall not apply to reprogramming for the purposes described in subsection (b)(2).

“(3) Appropriations shall remain available for two fiscal years, unless otherwise specified in law. Each account shall include the planned full costs of Administration activities.”; and

(2) in subsection (b)—

(A) by inserting “(1)” before “To ensure”; and

(B) by adding at the end the following new paragraph:

“(2) The Administration may also transfer amounts among accounts for the immediate costs of recovering from damage caused by a major disaster (as defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)) or by an act of terrorism, or for the immediate costs associated with an emergency rescue of astronauts.”.

SEC. 202. FISCAL YEAR 2007.

42 USC 16631.

There are authorized to be appropriated to NASA for fiscal year 2007, \$17,932,000,000, as follows:

(1) For Science, Aeronautics, and Education (including amounts for construction of facilities), \$7,136,800,000, of which \$962,000,000 shall be for Aeronautics.

(2) For Exploration Systems and Space Operations (including amounts for construction of facilities), \$10,761,700,000, of which \$6,618,600,000 shall be for Space Operations.

(3) For the Office of Inspector General, \$33,500,000.

SEC. 203. FISCAL YEAR 2008.

42 USC 16632.

There are authorized to be appropriated to NASA for fiscal year 2008, \$18,686,300,000 as follows:

(1) For Science, Aeronautics, and Education (including amounts for construction of facilities), \$7,747,800,000, of which \$990,000,000 shall be for Aeronautics.

(2) For Exploration Systems and Space Operations (including amounts for construction of facilities),

\$10,903,900,000, of which \$6,546,600,000 shall be for Space Operations.

(3) For the Office of Inspector General, \$34,600,000.

42 USC 16633.

SEC. 204. ISS RESEARCH.

Beginning with fiscal year 2006, the Administrator shall allocate at least 15 percent of the funds budgeted for ISS research to ground-based, free-flyer, and ISS life and microgravity science research that is not directly related to supporting the human exploration program, consistent with section 305.

42 USC 16634.

SEC. 205. TEST FACILITIES.Deadline.
Notice.

(a) CHARGES.—The Administrator shall establish a policy of charging users of NASA's test facilities for the costs associated with their tests at a level that is competitive with alternative test facilities. The Administrator shall not implement a policy of seeking full cost recovery for a facility until at least 30 days after transmitting a notice to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(b) FUNDING ACCOUNT.—In planning and budgeting, the Administrator shall establish a funding account that shall be used for all test facilities. The account shall be sufficient to maintain the viability of test facilities during periods of low utilization.

42 USC 16635.

SEC. 206. OFFICIAL REPRESENTATION FUND.

Amounts appropriated pursuant to this Act may be used, but not to exceed a total of \$70,000 in any fiscal year, for official reception and representation expenses.

42 USC 16636.

SEC. 207. ISS COST CAP.

(a) REPORT.—The Administrator shall transmit to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report providing the current expected development costs of the ISS and describing any changes to those costs that have occurred because of the grounding of the Space Shuttle after the loss of the Space Shuttle Columbia and because of the implementation of full-cost accounting.

(b) REPEAL.—Thirty days after the transmittal of the report described in subsection (a), section 202 of the National Aeronautics and Space Administration Act of 2000 (42 U.S.C. 2451 note) is repealed.

TITLE III—SCIENCE

Subtitle A—General Provisions

42 USC 16651.

SEC. 301. PERFORMANCE ASSESSMENTS.

(a) IN GENERAL.—The performance of each division in the Science directorate of NASA shall be reviewed and assessed by the National Academy of Sciences at 5-year intervals.

(b) TIMING.—Beginning with the first fiscal year following the date of enactment of this Act, the Administrator shall select at least one division for review under this section. The Administrator shall select divisions so that all disciplines will have received their

first review within six fiscal years of the date of enactment of this Act.

(c) **REPORTS.**—Not later than March 1 of each year, beginning with the first fiscal year after the date of enactment of this Act, the Administrator shall transmit a report to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate—

(1) setting forth in detail the results of any external review under subsection (a);

(2) setting forth in detail actions taken by NASA in response to any external review; and

(3) including a summary of findings and recommendations from any other relevant external reviews of NASA’s science mission priorities and programs.

SEC. 302. STATUS ON HUBBLE SPACE TELESCOPE SERVICING MISSION. 42 USC 16652.

It is the sense of the Congress that the Hubble Space Telescope is an extraordinary instrument that has provided, and should continue to provide, answers to profound scientific questions. In accordance with the recommendations of the National Academy of Sciences study titled “Assessment of Options for Extending the Life of the Hubble Space Telescope”, all appropriate efforts should be expended to complete the Space Shuttle servicing mission. Upon successful completion of the planned return-to-flight schedule of the Space Shuttle, the Administrator shall determine the schedule for a Space Shuttle servicing mission to the Hubble Space Telescope, unless such a mission would compromise astronaut safety. Not later than 60 days after the landing of the second Space Shuttle mission for return-to-flight certification, the Administrator shall transmit to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a status report on plans for a Hubble Space Telescope servicing mission.

Deadline.
Reports.

SEC. 303. INDEPENDENT ASSESSMENT OF LANDSAT-NPOESS INTEGRATED MISSION. 42 USC 16653.

(a) **ASSESSMENT.**—In view of the importance of ensuring continuity of Landsat data and in view of the challenges facing the National Polar-Orbiting Operational Environmental Satellite System program, the Administrator shall seek an independent assessment of the costs as well as the technical, cost, and schedule risks associated with incorporating the Landsat instrument on the first National Polar-Orbiting Operational Environmental Satellite System spacecraft compared with undertaking various alternatives, including a dedicated Landsat data “gap-filler” mission followed by the incorporation of the Landsat instrument on the second National Polar-Orbiting Operational Environmental Satellite System spacecraft. The assessment shall also include an evaluation of the budgetary requirements of each of the options under consideration.

(b) **REPORT.**—

(1) **DEADLINE.**—The Administrator shall transmit the independent assessment to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate not later than 180 days after the date of enactment of this Act unless, prior to that date, NASA cancels plans to fly the Landsat instrument on

the first National Polar-Orbiting Operational Environmental Satellite System spacecraft.

Deadlines.

(2) CANCELLATION.—If NASA cancels such plans, the Administrator shall—

(A) not later than 7 days after a cancellation decision, inform the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, in writing, of the cancellation; and

(B) not later than 90 days after the transmittal of the cancellation notice, transmit to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a plan for undertaking a dedicated gap-filler mission or alternative means for ensuring the continuity of Landsat data, which shall include consideration of a low-cost constellation of small satellites.

42 USC 16654.

SEC. 304. ASSESSMENT OF SCIENCE MISSION EXTENSIONS.

(a) ASSESSMENT.—The Administrator shall carry out biennial reviews within each of the Science divisions to assess the cost and benefits of extending the date of the termination of data collection for those missions that have exceeded their planned mission lifetime. In addition—

Deadline.

(1) not later than 60 days after the date of enactment of this Act, the Administrator shall carry out such an assessment for at least the following missions: FAST, TIMED, Cluster, Wind, Geotail, Polar, TRACE, Ulysses, and Voyager; and

(2) for those missions that have an operational component, the National Oceanic and Atmospheric Administration or any other affected agency shall be consulted and the potential benefits of instruments on missions that are beyond their planned mission lifetime taken into account.

(b) REPORT.—Not later than 30 days after completing each assessment required by subsection (a)(1), the Administrator shall transmit a report on the assessment to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

42 USC 16655.

SEC. 305. MICROGRAVITY RESEARCH.

The Administrator shall—

Reports.

(1) transmit the report required by section 506;

(2) ensure the capacity to support ground-based research leading to space-based basic and applied scientific research in a variety of disciplines with potential direct national benefits and applications that can be advanced significantly from the uniqueness of microgravity and the space environment; and

(3) carry out, to the maximum extent practicable, basic, applied, and commercial ISS research in fields such as molecular crystal growth, animal research, basic fluid physics, combustion research, cellular biotechnology, low-temperature physics, and cellular research at a level that will sustain the existing United States scientific expertise and research capability in microgravity research.

SEC. 306. COORDINATION WITH THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION. 42 USC 16656.

(a) **JOINT WORKING GROUP.**—The Administrator and the Administrator of the National Oceanic and Atmospheric Administration shall appoint a Joint Working Group, which shall review and monitor missions of the two agencies to ensure maximum coordination in the design, operation, and transition of missions where appropriate. The Joint Working Group shall also prepare the plans required by subsection (c). Establishment.

(b) **COORDINATION REPORT.**—Not later than February 15 of each year, beginning with the first fiscal year after the date of enactment of this Act, the Administrator and the Administrator of the National Oceanic and Atmospheric Administration shall jointly transmit a report to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on how the earth science programs of the National Oceanic and Atmospheric Administration and NASA will be coordinated during the fiscal year following the fiscal year in which the report is transmitted.

(c) **COORDINATION OF TRANSITION PLANNING AND REPORTING.**—The Administrator, in conjunction with the Administrator of the National Oceanic and Atmospheric Administration and in consultation with other relevant agencies, shall evaluate relevant NASA science missions for their potential operational capabilities and shall prepare transition plans for the existing and future Earth observing systems found to have potential operational capabilities.

(d) **LIMITATION.**—The Administrator shall not transfer any NASA earth science mission or Earth observing system to the National Oceanic and Atmospheric Administration until the plan required under subsection (c) has been approved by the Administrator and the Administrator of the National Oceanic and Atmospheric Administration and until financial resources have been identified to support the transition or transfer in the President's budget request for the National Oceanic and Atmospheric Administration.

SEC. 307. REVIEW AND REPORT ON HEADQUARTERS EARTH-SUN SYSTEM APPLIED SCIENCES PROGRAM. 42 USC 16657.

(a) **REVIEW.**—The Administrator shall review the policies, processes, and procedures in the planning and management of applications research and development implemented in calendar years 2001 to 2005 within the Headquarters Earth-Sun System Applied Sciences Program and former Earth Science Applications Program. This review shall include—

(1) the program planning and analysis process used to formulate applied science research and development requirements, priorities, and solicitation schedules, including changes to the process within the period under review, and the effects of such planning on the quality and clarity of applied sciences research announcements;

(2) the peer review process including, but not limited to—

(A) membership selection, determination of qualifications, and use of NASA and non-NASA reviewers;

(B) management of conflicts of interest, including reviewers funded by the program with a significant consulting or contractual relationship with NASA, and individuals who both review proposals and participate in the

submission of proposals under the same solicitation announcement; and

(C) compensation of non-NASA proposal reviewers;

(3) the process for assigning or allocating applied research to NASA researchers and to non-NASA researchers; and

(4) alternative models for NASA planning and management of applied science and applications research, including an evaluation of the relevance for NASA of—

(A) National Institutes of Health intramural and extramural research program structure, peer review process, management of conflicts of interests, compensation of reviewers, and the effects of compensation on reviewer efficiency and quality;

(B) Department of Agriculture Cooperative State Research Education and Extension Service program and structure, peer review process, management of conflicts of interest, compensation of reviewers, and the effects of compensation on reviewer efficiency and quality;

(C) National Institutes of Health and Department of Agriculture best practices in the planning, selection, and management of applied sciences research and development; and

(D) any other relevant models.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Administrator shall transmit a report to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate describing the results of the review conducted under subsection (a). The report shall include a plan to ensure that the peer review process is transparent and selects proposals in a manner that instills public and stakeholder confidence.

Subtitle B—Remote Sensing

42 USC 16671.

SEC. 311. DEFINITIONS.

In this subtitle—

(1) the term “geospatial information” means knowledge of the nature and distribution of physical and cultural features on the landscape based on analysis of data from airborne or spaceborne platforms or other types and sources of data;

(2) the term “high resolution” means resolution better than five meters; and

(3) the term “institution of higher education” has the meaning given that term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

42 USC 16672.

SEC. 312. GENERAL RESPONSIBILITIES.

The Administrator shall—

(1) develop a sustained relationship with the United States commercial remote sensing industry and, consistent with applicable policies and law, to the maximum practicable, rely on their services; and

(2) in conjunction with United States industry and universities, research, develop, and demonstrate prototype earth science applications to enhance Federal, State, local, and tribal governments’ use of government and commercial remote sensing

data, technologies, and other sources of geospatial information for improved decision support to address their needs.

SEC. 313. PILOT PROJECTS TO ENCOURAGE PUBLIC SECTOR APPLICATIONS.

42 USC 16673.

(a) **IN GENERAL.**—The Administrator shall establish a program of grants for competitively awarded pilot projects to explore the integrated use of sources of remote sensing and other geospatial information to address State, local, regional, and tribal agency needs.

Grants.

(b) **PREFERRED PROJECTS.**—In awarding grants under this section, the Administrator shall give preference to projects that—

(1) make use of commercial data sets, including high resolution commercial satellite imagery and derived satellite data products, existing public data sets where commercial data sets are not available or applicable, or the fusion of such data sets;

(2) integrate multiple sources of geospatial information, such as geographic information system data, satellite-provided positioning data, and remotely sensed data, in innovative ways;

(3) include funds or in-kind contributions from non-Federal sources;

(4) involve the participation of commercial entities that process raw or lightly processed data, often merging that data with other geospatial information, to create data products that have significant value added to the original data; and

(5) taken together demonstrate as diverse a set of public sector applications as possible.

(c) **OPPORTUNITIES.**—In carrying out this section, the Administrator shall seek opportunities to assist—

(1) in the development of commercial applications potentially available from the remote sensing industry; and

(2) State, local, regional, and tribal agencies in applying remote sensing and other geospatial information technologies for growth management.

(d) **DURATION.**—Assistance for a pilot project under subsection (a) shall be provided for a period not to exceed 3 years.

(e) **REPORT.**—Each recipient of a grant under subsection (a) shall transmit a report to the Administrator on the results of the pilot project within 180 days of the completion of that project.

(f) **WORKSHOP.**—Each recipient of a grant under subsection (a) shall, not later than 180 days after the completion of the pilot project, conduct at least one workshop for potential users to disseminate the lessons learned from the pilot project as widely as feasible.

Deadline.

(g) **REGULATIONS.**—The Administrator shall issue regulations establishing application, selection, and implementation procedures for pilot projects, and guidelines for reports and workshops required by this section.

SEC. 314. PROGRAM EVALUATION.

42 USC 16674.

(a) **ADVISORY COMMITTEE.**—The Administrator shall establish an advisory committee, consisting of individuals with appropriate expertise in State, local, regional, and tribal agencies, the university research community, and the remote sensing and other geospatial information industries, to monitor the program established under section 313. The advisory committee shall consult with the Federal Geographic Data Committee and other appropriate industry representatives and organizations. Notwithstanding section 14 of the

Establishment.

- Deadline. Federal Advisory Committee Act, the advisory committee established under this subsection shall remain in effect until the termination of the program under section 313.
- (b) **EFFECTIVENESS EVALUATION.**—Not later than December 31, 2009, the Administrator shall transmit to the Congress an evaluation of the effectiveness of the program established under section 313 in exploring and promoting the integrated use of sources of remote sensing and other geospatial information to address State, local, regional, and tribal agency needs. Such evaluation shall have been conducted by an independent entity.
- 42 USC 16675. **SEC. 315. DATA AVAILABILITY.**
- The Administrator shall ensure that the results of each of the pilot projects completed under section 313 shall be retrievable through an electronic, Internet-accessible database.
- 42 USC 16676. **SEC. 316. EDUCATION.**
- The Administrator shall establish an educational outreach program to increase awareness at institutions of higher education and State, local, regional, and tribal agencies of the potential applications of remote sensing and other geospatial information and awareness of the need for geospatial workforce development.

Subtitle C—George E. Brown, Jr. Near-Earth Object Survey

- George E. Brown, Jr. Near-Earth Object Survey Act.
42 USC 16691.
- SEC. 321. GEORGE E. BROWN, JR. NEAR-EARTH OBJECT SURVEY.**
- (a) **SHORT TITLE.**—This section may be cited as the “George E. Brown, Jr. Near-Earth Object Survey Act”.
- (b) **FINDINGS.**—The Congress makes the following findings:
- (1) Near-Earth objects pose a serious and credible threat to humankind, as many scientists believe that a major asteroid or comet was responsible for the mass extinction of the majority of the Earth’s species, including the dinosaurs, nearly 65,000,000 years ago.
 - (2) Similar objects have struck the Earth or passed through the Earth’s atmosphere several times in the Earth’s history and pose a similar threat in the future.
 - (3) Several such near-Earth objects have only been discovered within days of the objects’ closest approach to Earth, and recent discoveries of such large objects indicate that many large near-Earth objects remain undiscovered.
 - (4) The efforts taken to date by NASA for detecting and characterizing the hazards of near-Earth objects are not sufficient to fully determine the threat posed by such objects to cause widespread destruction and loss of life.
- (c) **DEFINITIONS.**—For purposes of this section the term “near-Earth object” means an asteroid or comet with a perihelion distance of less than 1.3 Astronomical Units from the Sun.
- (d) **NEAR-EARTH OBJECT SURVEY.**—
- (1) **SURVEY PROGRAM.**—The Administrator shall plan, develop, and implement a Near-Earth Object Survey program to detect, track, catalogue, and characterize the physical characteristics of near-Earth objects equal to or greater than 140 meters in diameter in order to assess the threat of such near-Earth objects to the Earth. It shall be the goal of the
- Deadline.

Survey program to achieve 90 percent completion of its near-Earth object catalogue (based on statistically predicted populations of near-Earth objects) within 15 years after the date of enactment of this Act.

(2) AMENDMENTS.—Section 102 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2451) is amended—

(A) by redesignating subsection (g) as subsection (h);

(B) by inserting after subsection (f) the following new subsection:

“(g) The Congress declares that the general welfare and security of the United States require that the unique competence of the National Aeronautics and Space Administration be directed to detecting, tracking, cataloguing, and characterizing near-Earth asteroids and comets in order to provide warning and mitigation of the potential hazard of such near-Earth objects to the Earth.”; and

(C) in subsection (h), as so redesignated by subparagraph (A) of this paragraph, by striking “and (f)” and inserting “(f), and (g)”.

(3) FIFTH-YEAR REPORT.—The Administrator shall transmit to the Congress, not later than February 28 of the fifth year after the date of enactment of this Act, a report that provides the following:

(A) A summary of all activities taken pursuant to paragraph (1) since the date of enactment of this Act.

(B) A summary of expenditures for all activities pursuant to paragraph (1) since the date of enactment of this Act.

(4) INITIAL REPORT.—The Administrator shall transmit to Congress not later than 1 year after the date of enactment of this Act an initial report that provides the following:

(A) An analysis of possible alternatives that NASA may employ to carry out the Survey program, including ground-based and space-based alternatives with technical descriptions.

(B) A recommended option and proposed budget to carry out the Survey program pursuant to the recommended option.

(C) Analysis of possible alternatives that NASA could employ to divert an object on a likely collision course with Earth.

TITLE IV—AERONAUTICS

SEC. 401. DEFINITION.

42 USC 16701.

For purposes of this title, the term “institution of higher education” has the meaning given that term by section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

Subtitle A—Governmental Interest in Aeronautics Research and Development

SEC. 411. GOVERNMENTAL INTEREST.

42 USC 16711.

Congress reaffirms the national commitment to aeronautics research made in the National Aeronautics and Space Act of 1958.

Aeronautics research and development remains a core mission of NASA. NASA is the lead agency for civil aeronautics research. Further, the government of the United States shall promote aeronautics research and development that will expand the capacity, ensure the safety, and increase the efficiency of the Nation's air transportation system, promote the security of the Nation, protect the environment, and retain the leadership of the United States in global aviation.

Subtitle B—High Priority Aeronautics Research and Development Programs

42 USC 16721.

SEC. 421. FUNDAMENTAL RESEARCH PROGRAM.

(a) OBJECTIVE.—In order to ensure that the Nation maintains needed capabilities in fundamental areas of aeronautics research, the Administrator shall establish a program of long-term fundamental research in aeronautical sciences and technologies that is not tied to specific development projects.

Grants.

(b) OPERATION.—The Administrator shall conduct the program under this section, in part by awarding grants to institutions of higher education. The Administrator shall encourage the participation of institutions of higher education located in States that participate in the Experimental Program to Stimulate Competitive Research. All grants to institutions of higher education under this section shall be awarded through merit review.

(c) ASSESSMENT.—The Administrator shall enter into an arrangement with the National Research Council for an assessment of the Nation's future requirements for fundamental aeronautics research and whether the Nation will have a skilled research workforce and research facilities commensurate with those requirements. The assessment shall include an identification of any projected gaps, and recommendations for what steps should be taken by the Federal Government to eliminate those gaps.

(d) REPORT.—The Administrator shall transmit the assessment, along with NASA's response to the assessment, to Congress not later than 2 years after the date of enactment of this Act.

42 USC 16722.

SEC. 422. RESEARCH AND TECHNOLOGY PROGRAMS.

(a) ENVIRONMENTAL AIRCRAFT RESEARCH AND DEVELOPMENT.—The Administrator may establish an initiative with the objective of developing, and demonstrating in a relevant environment, technologies to enable the following commercial aircraft performance characteristics:

(1) NOISE.—Noise levels on takeoff and on airport approach and landing that do not exceed ambient noise levels in the absence of flight operations in the vicinity of airports from which such commercial aircraft would normally operate.

(2) ENERGY CONSUMPTION.—Twenty-five percent reduction in the energy required for medium- to long-range flights, compared to aircraft in commercial service as of the date of enactment of this Act.

(3) EMISSIONS.—Nitrogen oxides on take-off and landing that are significantly reduced, without adversely affecting hydrocarbons and smoke, relative to aircraft in commercial service as of the date of enactment of this Act.

(b) **SUPERSONIC TRANSPORT RESEARCH AND DEVELOPMENT.**—The Administrator may establish an initiative with the objective of developing and demonstrating, in a relevant environment, airframe and propulsion technologies to enable efficient, economical overland flight of supersonic civil transport aircraft with no significant impact on the environment.

(c) **ROTORCRAFT AND OTHER RUNWAY-INDEPENDENT AIR VEHICLES.**—The Administrator may establish a rotorcraft and other runway-independent air vehicles initiative with the objective of developing and demonstrating improved safety, noise, and environmental impact in a relevant environment.

(d) **HYPERSONICS RESEARCH.**—The Administrator may establish a hypersonics research program with the objective of exploring the science and technology of hypersonic flight using air-breathing propulsion concepts, through a mix of theoretical work, basic and applied research, and development of flight research demonstration vehicles. The program may also include the transition to the hypersonic range of Mach 3 to Mach 5.

(e) **REVOLUTIONARY AERONAUTICAL CONCEPTS.**—The Administrator may establish a research program which covers a unique range of subsonic, fixed wing vehicles and propulsion concepts. This research is intended to push technology barriers beyond current subsonic technology. Propulsion concepts include advanced materials, morphing engines, hybrid engines, and fuel cells.

(f) **FUEL CELL-POWERED AIRCRAFT RESEARCH.**—

(1) **OBJECTIVE.**—The Administrator may establish a fuel-cell powered aircraft research program whose objective shall be to develop and test concepts to enable a hydrogen fuel cell-powered aircraft that would have no hydrocarbon or nitrogen oxide emissions into the environment.

(2) **APPROACH.**—The Administrator may establish a program of competitively awarded grants available to teams of researchers that may include the participation of individuals from universities, industry, and government for the conduct of this research.

(g) **MARS AIRCRAFT RESEARCH.**—

(1) **OBJECTIVE.**—The Administrator may establish a Mars Aircraft project whose objective shall be to develop and test concepts for an uncrewed aircraft that could operate for sustained periods in the atmosphere of Mars.

(2) **APPROACH.**—The Administrator may establish a program of competitively awarded grants available to teams of researchers that may include the participation of individuals from universities, industry, and government for the conduct of this research.

SEC. 423. AIRSPACE SYSTEMS RESEARCH.

42 USC 16723.

(a) **OBJECTIVE.**—The Airspace Systems Research program shall pursue research and development to enable revolutionary improvements to and modernization of the National Airspace System, as well as to enable the introduction of new systems for vehicles that can take advantage of an improved, modern air transportation system.

(b) **ALIGNMENT.**—Not later than 1 year after the date of enactment of this Act, the Administrator shall align the projects of

Deadline.

the Airspace Systems Research program so that they directly support the objectives of the Joint Planning and Development Office's Next Generation Air Transportation System Integrated Plan.

42 USC 16724.

SEC. 424. AVIATION SAFETY AND SECURITY RESEARCH.

(a) **OBJECTIVE.**—The Aviation Safety and Security Research program shall pursue research and development activities that directly address the safety and security needs of the National Airspace System and the aircraft that fly in it. The program shall develop prevention, intervention, and mitigation technologies aimed at causal, contributory, or circumstantial factors of aviation accidents.

Deadline.

(b) **ALIGNMENT.**—Not later than 1 year after the date of enactment of this Act, the Administrator shall align the projects of the Aviation Safety and Security Research program so that they directly support the objectives of the Joint Planning and Development Office's Next Generation Air Transportation System Integrated Plan.

42 USC 16725.

SEC. 425. AVIATION WEATHER RESEARCH.

The Administrator may carry out a program of collaborative research with the National Oceanic and Atmospheric Administration on convective weather events, with the goal of significantly improving the reliability of 2-hour to 6-hour aviation weather forecasts.

42 USC 16726.

SEC. 426. ASSESSMENT OF WAKE TURBULENCE RESEARCH AND DEVELOPMENT PROGRAM.

(a) **ASSESSMENT.**—The Administrator shall enter into an arrangement with the National Research Council for an assessment of Federal wake turbulence research and development programs. The assessment shall address at least the following questions:

(1) Are the Federal research and development goals and objectives well defined?

(2) Are there any deficiencies in the Federal research and development goals and objectives?

(3) What roles should be played by each of the relevant Federal agencies, such as NASA, the Federal Aviation Administration, and the National Oceanic and Atmospheric Administration, in wake turbulence research and development?

(b) **REPORT.**—A report containing the results of the assessment conducted pursuant to subsection (a) shall be provided to Congress not later than 2 years after the date of enactment of this Act.

42 USC 16727.

SEC. 427. UNIVERSITY-BASED CENTERS FOR RESEARCH ON AVIATION TRAINING.

(a) **IN GENERAL.**—The Administrator may award grants to institutions of higher education (or consortia thereof) to establish one or more Centers for Research on Aviation Training under cooperative agreements with appropriate NASA Centers.

(b) **PURPOSE.**—The purpose of the Centers shall be to investigate the impact of new technologies and procedures, particularly those related to the aircraft flight deck and to the air traffic management functions, on training requirements for pilots and air traffic controllers.

(c) **APPLICATION.**—An institution of higher education (or a consortium of such institutions) seeking funding under this section shall submit an application to the Administrator at such time,

in such manner, and containing such information as the Administrator may require, including, at a minimum, a 5-year research plan.

(d) AWARD DURATION.—An award made by the Administrator under this section shall be for a period of 5 years and may be renewed on the basis of—

(1) satisfactory performance in meeting the goals of the research plan proposed by the Center in its application under subsection (c); and

(2) other requirements as specified by the Administrator.

Subtitle C—Scholarships

SEC. 431. NASA AERONAUTICS SCHOLARSHIPS.

42 USC 16741.

(a) ESTABLISHMENT.—The Administrator shall establish a program of scholarships for full-time graduate students who are United States citizens and are enrolled in, or have been accepted by and have indicated their intention to enroll in, accredited Masters degree programs in aeronautical engineering or equivalent programs at institutions of higher education. Each such scholarship shall cover the costs of room, board, tuition, and fees, and may be provided for a maximum of 2 years.

(b) IMPLEMENTATION.—Not later than 180 days after the date of enactment of this Act, the Administrator shall publish regulations governing the scholarship program under this section.

Deadline.
Publication.
Regulations.

(c) COOPERATIVE TRAINING OPPORTUNITIES.—Students who have been awarded a scholarship under this section shall have the opportunity for paid employment at one of the NASA Centers engaged in aeronautics research and development during the summer prior to the first year of the student's Masters program, and between the first and second year, if applicable.

Subtitle D—Data Requests

SEC. 441. AVIATION DATA REQUESTS.

42 USC 16751.

The Administrator shall make available upon request satellite imagery and aerial photography of remote terrain that NASA owns at the time of the request to the Administrator of the Federal Aviation Administration, or the Director of the Five Star Medallion Program, to assist and train pilots in navigating challenging topographical features of such terrain.

TITLE V—HUMAN SPACE FLIGHT

SEC. 501. SPACE SHUTTLE FOLLOW-ON.

42 USC 16761.

(a) POLICY STATEMENT.—It is the policy of the United States to possess the capability for human access to space on a continuous basis.

(b) PROGRESS REPORT.—Not later than 180 days after the date of enactment of this Act and annually thereafter, the Administrator shall transmit a report to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate describing the progress being made toward developing the Crew Exploration Vehicle and the Crew

Launch Vehicle and the estimated time before they will demonstrate crewed, orbital spaceflight.

(c) COMPLIANCE REPORT.—If, 1 year before the final planned flight of the Space Shuttle orbiter, the United States has not demonstrated a replacement human space flight system, and the United States cannot uphold the policy described in subsection (a), the Administrator shall transmit a report to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate describing—

(1) strategic risks to the United States associated with the failure to uphold the policy described in subsection (a);

(2) the estimated length of time during which the United States will not have its own human access to space;

(3) what steps will be taken to shorten that length of time; and

(4) what other means will be used to allow human access to space during that time.

42 USC 16762.

SEC. 502. TRANSITION.

(a) IN GENERAL.—The Administrator shall, to the fullest extent possible consistent with a successful development program, use the personnel, capabilities, assets, and infrastructure of the Space Shuttle program in developing the Crew Exploration Vehicle, Crew Launch Vehicle, and a heavy-lift launch vehicle.

Deadline.

(b) PLAN.—Not later than 180 days after the date of enactment of this Act, the Administrator shall transmit to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a plan describing how NASA will proceed with its human space flight programs, which, at a minimum, shall describe—

(1) how NASA will deploy personnel from, and use the facilities of, the Space Shuttle program to ensure that the Space Shuttle operates as safely as possible through its final flight and to ensure that personnel and facilities from the Space Shuttle program are used in NASA's exploration programs in accordance with subsection (a);

(2) the planned number of flights the Space Shuttle will make before its retirement;

(3) the means, other than the Space Shuttle and the Crew Exploration Vehicle, including commercial vehicles, that may be used to ferry crew and cargo to and from the ISS;

(4) the intended purpose of lunar missions and the architecture for those missions; and

(5) the extent to which the Crew Exploration Vehicle will allow for the escape of the crew in an emergency.

(c) PERSONNEL.—The Administrator shall consult with other appropriate Federal agencies and with NASA contractors and employees to develop a transition plan for any Federal and contractor personnel engaged in the Space Shuttle program who can no longer be retained because of the retirement of the Space Shuttle. The plan shall include actions to assist Federal and contractor personnel in taking advantage of training, retraining, job placement and relocation programs, and any other actions that NASA will take to assist the employees. The plan shall also describe how the Administrator will ensure that NASA and its contractors will have an appropriate complement of employees to allow for the safest possible use of the Space Shuttle through its final flight.

The Administrator shall transmit the plan to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate not later than March 31, 2006. Deadline.

SEC. 503. REQUIREMENTS.

42 USC 16763.

The Administrator shall—

(1) construct an architecture and implementation plan for NASA's human exploration program that is not critically dependent on the achievement of milestones by fixed dates;

(2) implement an exploration technology development program to enable lunar human and robotic operations consistent with section 101(b)(2), including surface power to use on the Moon and other locations;

(3) conduct an in-situ resource utilization technology program to develop the capability to use space resources to increase independence from Earth, and sustain exploration beyond low-Earth orbit; and

(4) pursue aggressively automated rendezvous and docking capabilities that can support the ISS and other mission requirements.

SEC. 504. GROUND-BASED ANALOG CAPABILITIES.

42 USC 16764.

(a) IN GENERAL.—The Administrator may establish a ground-based analog capability in remote United States locations in order to assist in the development of lunar operations, life support, and in-situ resource utilization experience and capabilities.

(b) ENVIRONMENTAL CHARACTERISTICS.—The Administrator shall select locations for the activities described in subsection (a) that—

(1) are regularly accessible;

(2) have significant temperature extremes and range; and

(3) have access to energy and natural resources (including geothermal, permafrost, volcanic, or other potential resources).

(c) INVOLVEMENT OF LOCAL POPULATIONS; PRIVATE SECTOR PARTNERS.—In carrying out this section, the Administrator shall involve local populations, academia, and industrial partners as much as possible to ensure that ground-based benefits and applications are encouraged and developed.

SEC. 505. ISS COMPLETION.

42 USC 16765.

(a) POLICY.—It is the policy of the United States to achieve diverse and growing utilization of, and benefits from, the ISS.

(b) ELEMENTS, CAPABILITIES, AND CONFIGURATION CRITERIA.—The Administrator shall ensure that the ISS will—

(1) be assembled and operated in a manner that fulfills international partner agreements, as long as the Administrator determines that the Shuttle can safely enable the United States to do so;

(2) be used for a diverse range of microgravity research, including fundamental, applied, and commercial research, consistent with section 305;

(3) have an ability to support a crew size of at least 6 persons, unless the Administrator transmits to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate not later than 60 days after the date of enactment of this Act, a report explaining why such a requirement should not be

met, the impact of not meeting the requirement on the ISS research agenda and operations and international partner agreements, and what additional funding or other steps would be required to have an ability to support crew size of at least 6 persons;

(4) support Crew Exploration Vehicle docking and automated docking of cargo vehicles or modules launched by either heavy-lift or commercially-developed launch vehicles;

(5) support any diagnostic human research, on-orbit characterization of molecular crystal growth, cellular research, and other research that NASA believes is necessary to conduct, but for which NASA lacks the capacity to return the materials that need to be analyzed to Earth; and

(6) be operated at an appropriate risk level.

(c) CONTINGENCIES.—

(1) POLICY.—The Administrator shall ensure that the ISS can have available, if needed, sufficient logistics and on-orbit capabilities to support any potential period during which the Space Shuttle or its follow-on crew and cargo systems are unavailable, and can have available, if needed, sufficient surge delivery capability or prepositioning of spares and other supplies needed to accommodate any such hiatus.

Deadline.

(2) PLAN.—Not later than 60 days after the date of enactment of this Act, and before making any change in the ISS assembly sequence in effect on the date of enactment of this Act, the Administrator shall transmit to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a plan to carry out the policy described in paragraph (1).

42 USC 16766.

SEC. 506. ISS RESEARCH.

The Administrator shall—

(1) carry out a program of microgravity research consistent with section 305;

(2) consider the need for a life sciences centrifuge and any associated holding facilities; and

Deadline.

(3) not later than 90 days after the date of enactment of this Act, transmit to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate the research plan for NASA utilization of the ISS and the proposed final configuration of the ISS, which shall include an identification of microgravity research that can be performed in ground-based facilities and then validated in space and an assessment of the impact of having or not having a life science centrifuge aboard the ISS.

42 USC 16767.

SEC. 507. NATIONAL LABORATORY DESIGNATION.

(a) DESIGNATION.—To further the policy described in section 501(a), the United States segment of the ISS is hereby designated a national laboratory.

(b) MANAGEMENT.—

(1) PARTNERSHIPS.—The Administrator shall seek to increase the utilization of the ISS by other Federal entities and the private sector through partnerships, cost-sharing agreements, and other arrangements that would supplement NASA funding of the ISS.

(2) CONTRACTING.—The Administrator may enter into a contract with a nongovernmental entity to operate the ISS

national laboratory, subject to all applicable Federal laws and regulations.

(c) **PLAN.**—Not later than 1 year after the date of enactment of this Act, the Administrator shall transmit to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a plan describing how the national laboratory will be operated. At a minimum, the plan shall describe—

Deadline.

(1) any changes in the research plan transmitted under section 506(3) and any other changes in the operation of the ISS resulting from the designation;

(2) any ground-based NASA operations or buildings that will be considered part of the national laboratory;

(3) the management structure for the laboratory, including the rationale for contracting or not contracting with a non-governmental entity to operate the ISS national laboratory;

(4) the workforce that will be considered employees of the national laboratory;

(5) how NASA will seek the participation of other parties described in subsection (b)(1); and

(6) a schedule for implementing any changes in ISS operations, utilization, or management described in the plan.

(d) **UNITED STATES SEGMENT DEFINED.**—In this section the term “United States segment of the ISS” means those elements of the ISS manufactured—

(1) by the United States; or

(2) for the United States by other nations in exchange for funds or launch services.

TITLE VI—OTHER PROGRAM AREAS

Subtitle A—Space and Flight Support

SEC. 601. ORBITAL DEBRIS.

42 USC 16781.

The Administrator, in conjunction with the heads of other Federal agencies, shall take steps to develop or acquire technologies that will enable NASA to decrease the risks associated with orbital debris.

SEC. 602. SECONDARY PAYLOAD CAPABILITY.

42 USC 16782.

(a) **IN GENERAL.**—In order to provide more routine and affordable access to space for a broad range of scientific payloads, the Administrator is encouraged to provide the capabilities to support secondary payload flight opportunities on United States launch vehicles, or free flyers, for satellites or scientific payloads weighing less than 500 kilograms.

(b) **FEASIBILITY STUDY.**—The Administrator shall initiate a feasibility study for designating a National Free Flyer Launch Coordination Center as a means of coordinating, consolidating, and integrating secondary launch capabilities, launch opportunities, and payloads.

(c) **ASSESSMENT.**—The feasibility study required by subsection (b) shall include an assessment of the feasibility of integrating a National Free Flyer Launch Coordination Center within the operations and facilities of an existing nonprofit organization such as the Inland Northwest Space Alliance in Missoula, Montana, or

a similar entity, and shall include an assessment of the potential utilization of existing launch and launch support facilities and capabilities, including but not limited to those in the States of Montana and New Mexico and their respective contiguous States, and the State of Alaska, for the integration and launch of secondary payloads, including an assessment of the feasibility of establishing cooperative agreements among such facilities, existing or future commercial launch providers, payload developers, and the designated Coordination Center.

Subtitle B—Education

SEC. 611. INSTITUTIONS IN NASA'S MINORITY INSTITUTIONS PROGRAM.

The matter appearing under the heading “NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, SMALL AND DISADVANTAGED BUSINESS” in title III of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1990 (42 U.S.C. 2473b; 103 Stat. 863) is amended by striking “Historically Black Colleges and Universities and” and inserting “Historically Black Colleges and Universities that are part B institutions (as defined in section 322(2) of the Higher Education Act of 1965 (20 U.S.C. 1061(2))), Hispanic-serving institutions (as defined in section 502(a)(5) of that Act (20 U.S.C. 1101a(a)(5))), Tribal Colleges or Universities (as defined in section 316(b)(3) of that Act (20 U.S.C. 1059c(b)(3))), Alaskan Native-serving institutions (as defined in section 317(b)(2) of that Act (20 U.S.C. 1059d(b)(2))), Native Hawaiian-serving institutions (as defined in section 317(b)(4) of that Act (20 U.S.C. 1059d(b)(4))), and”.

42 USC 16791.

SEC. 612. PROGRAM TO EXPAND DISTANCE LEARNING IN RURAL UNDERSERVED AREAS.

(a) IN GENERAL.—The Administrator shall develop or expand programs to extend science and space educational outreach to rural communities and schools through video conferencing, interpretive exhibits, teacher education, classroom presentations, and student field trips.

(b) PRIORITIES.—In carrying out subsection (a), the Administrator shall give priority to existing programs, including Challenger Learning Centers—

- (1) that utilize community-based partnerships in the field;
- (2) that build and maintain video conference and exhibit capacity;
- (3) that travel directly to rural communities and serve low-income populations; and
- (4) with a special emphasis on increasing the number of women and minorities in the science and engineering professions.

Charles “Pete”
Conrad
Astronomy
Awards Act.
42 USC 16792.

SEC. 613. CHARLES “PETE” CONRAD ASTRONOMY AWARDS.

(a) SHORT TITLE.—This section may be cited as the “Charles ‘Pete’ Conrad Astronomy Awards Act”.

(b) DEFINITIONS.—For the purposes of this section—

- (1) the term “amateur astronomer” means an individual whose employer does not provide any funding, payment, or compensation to the individual for the observation of asteroids

and other celestial bodies, and does not include any individual employed as a professional astronomer;

(2) the term “Minor Planet Center” means the Minor Planet Center of the Smithsonian Astrophysical Observatory;

(3) the term “near-Earth asteroid” means an asteroid with a perihelion distance of less than 1.3 Astronomical Units from the Sun; and

(4) the term “Program” means the Charles “Pete” Conrad Astronomy Awards Program established under subsection (c).
(c) PETE CONRAD ASTRONOMY AWARD PROGRAM.—

(1) IN GENERAL.—The Administrator shall establish the Charles “Pete” Conrad Astronomy Awards Program.

(2) AWARDS.—The Administrator shall make awards under the Program based on the recommendations of the Minor Planet Center.

(3) AWARD CATEGORIES.—The Administrator shall make one annual award, unless there are no eligible discoveries or contributions, for each of the following categories:

(A) The amateur astronomer or group of amateur astronomers who in the preceding calendar year discovered the intrinsically brightest near-Earth asteroid among the near-Earth asteroids that were discovered during that year by amateur astronomers or groups of amateur astronomers.

(B) The amateur astronomer or group of amateur astronomers who made the greatest contribution to the Minor Planet Center’s mission of cataloguing near-Earth asteroids during the preceding year.

(4) AWARD AMOUNT.—An award under the Program shall be in the amount of \$3,000.

(5) GUIDELINES.—(A) No individual who is not a citizen or permanent resident of the United States at the time of his discovery or contribution may receive an award under this section.

(B) The decisions of the Administrator in making awards under this section are final.

SEC. 614. REVIEW OF EDUCATION PROGRAMS.

42 USC 16793.

(a) IN GENERAL.—The Administrator shall enter into an arrangement with the National Research Council of the National Academy of Sciences to conduct a review and evaluation of NASA’s precollege science, technology, and mathematics education program. The review and evaluation shall be documented in a report to the Administrator and shall include such recommendations as the National Research Council determines will improve the effectiveness of the program.

(b) REVIEW.—The review and evaluation under subsection (a) shall include—

(1) an evaluation of the effectiveness of the overall program in meeting its defined goals and objectives;

(2) an assessment of the quality and educational effectiveness of the major components of the program, including an evaluation of the adequacy of assessment metrics and data collection requirements available for determining the effectiveness of individual projects;

(3) an evaluation of the funding priorities in the program, including a review of the funding level and funding trend for each major component of the program and an assessment

of whether the resources made available are consistent with meeting identified goals and priorities; and

(4) a determination of the extent and the effectiveness of coordination and collaboration between NASA and other Federal agencies that sponsor science, technology, and mathematics education activities.

(c) **REPORT TO CONGRESS.**—Not later than 18 months after the date of enactment of this Act, the Administrator shall transmit to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate the results of the review and evaluation required under subsection (a).

42 USC 16794.

SEC. 615. EQUAL ACCESS TO NASA'S EDUCATION PROGRAMS.

(a) **IN GENERAL.**—The Administrator shall strive to ensure equal access for minority and economically disadvantaged students to NASA's education programs.

(b) **REPORT.**—Not later than 1 year after the date of enactment of this Act, and every 2 years thereafter, the Administrator shall submit a report to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate describing the efforts by the Administrator to ensure equal access for minority and economically disadvantaged students under this section and the results of such efforts. As part of the report, the Administrator shall provide—

(1) data on minority participation in NASA's education programs, at a minimum in the following categories: elementary and secondary education, undergraduate education, and graduate education; and

(2) the total value of grants NASA made to Historically Black Colleges and Universities and to Hispanic Serving Institutions through education programs during the period covered by the report.

(c) **PROGRAM.**—The Administrator shall establish the Dr. Mae C. Jemison Grant Program to work with Minority Serving Institutions to bring more women of color into the field of space and aeronautics.

42 USC 16795.

SEC. 616. MUSEUMS.

The Administrator may provide grants to, and enter into cooperative agreements with, museums and planetariums to enable them to enhance programs related to space exploration, aeronautics, space science, earth science, or microgravity.

Deadline.
Reports.

42 USC 16796.

SEC. 617. REVIEW OF MUST PROGRAM.

Not later than 60 days after the date of enactment of this Act, the Administrator shall transmit a report to Congress on the legal status of the Motivating Undergraduates in Science and Technology program. If the report concludes that the program is in compliance with the laws of the United States, NASA shall implement the program, as planned in the July 5, 2005, NASA Research Announcement.

42 USC 16797.

SEC. 618. CONTINUATION OF CERTAIN EDUCATION PROGRAMS.

From amounts appropriated to NASA for education programs, the Administrator shall ensure the continuation of the Space Grant Program, the Experimental Program to Stimulate Competitive Research, and, consistent with the results of the review under

section 614, the NASA Explorer School program, to motivate and develop the next generation of explorers.

SEC. 619. IMPLEMENTATION OF PREVIOUS RECOMMENDATIONS.

42 USC 16798.

(a) GAO REPORT.—Not more than 180 days after the date of enactment of this Act, the Administrator shall transmit to the Committee on Science of the House of Representatives and the Committee of Commerce, Science, and Transportation of the Senate a report describing action taken by NASA to implement the recommendations contained in the Government Accountability Office's Report No. 04–639.

(b) COMPLIANCE.—To comply with title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), the Administrator shall conduct compliance reviews of at least 2 grantees annually.

Subtitle C—Technology Transfer

SEC. 621. COMMERCIAL TECHNOLOGY TRANSFER PROGRAM.

42 USC 16811.

(a) IN GENERAL.—The Administrator shall execute a commercial technology transfer program with the goal of facilitating the exchange of services, products, and intellectual property between NASA and the private sector. This program shall place at least as much emphasis on encouraging the transfer of NASA technology to the private sector (“spinning out”) as on encouraging use of private sector technology by NASA. This program shall be maintained in a manner that provides clear benefits for the agency, the domestic economy, and the research community.

(b) PROGRAM STRUCTURE.—In carrying out the program described in subsection (a), the Administrator shall provide program participants with at least 45 days notice of any proposed changes to the structure of NASA's technology transfer and commercialization organizations that is in effect as of the date of enactment of this Act.

Deadline.
Notice.

TITLE VII—MISCELLANEOUS PROVISIONS

Subtitle A—National Aeronautics and Space Administration

SEC. 701. RETROCESSION OF JURISDICTION.

The National Aeronautics and Space Act of 1958 (42 U.S.C. 2451 et seq.) is amended by adding at the end of title III the following new section:

“RETROCESSION OF JURISDICTION

“SEC. 316. (a) Notwithstanding any other provision of law, the Administrator may relinquish to a State all or part of the legislative jurisdiction of the United States over lands or interests under the control of the Administrator in that State.

42 USC 2459k.

“(b) For purposes of this section, the term ‘State’ means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American

Samoa, the Northern Mariana Islands, and any other commonwealth, territory, or possession of the United States.”.

SEC. 702. EXTENSION OF INDEMNIFICATION.

Section 309 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2458c) is amended in subsection (f)(1) by striking “December 31, 2002” and all that follows and inserting “December 31, 2010.”.

SEC. 703. NASA SCHOLARSHIPS.

(a) AMENDMENTS.—Section 9809 of title 5, United States Code, is amended—

(1) in subsection (a)(2) by striking “Act.” and inserting “Act (42 U.S.C. 1885a or 1885b).”;

(2) in subsection (c) by striking “require.” and inserting “require to carry out this section.”;

(3) in subsection (f)(1) by striking the last sentence; and

(4) in subsection (g)(2) by striking “Treasurer of the” and all that follows through “by 3” and inserting “Treasurer of the United States”.

(b) REPEAL.—The Vision 100-Century of Aviation Reauthorization Act is amended by striking section 703 (42 U.S.C. 2473e).

SEC. 704. INDEPENDENT COST ANALYSIS.

Section 301 of the National Aeronautics and Space Administration Authorization Act of 2000 (42 U.S.C. 2459g) is amended—

(1) by striking “Phase B” in subsection (a) and inserting “implementation”;

(2) by striking “\$150,000,000” and inserting “\$250,000,000”;

(3) by striking “Chief Financial Officer” each place it appears in subsection (a) and inserting “Administrator”;

(4) by inserting “and consider” in subsection (a) after “shall conduct”; and

(5) by striking subsection (b) and inserting the following:

“(b) IMPLEMENTATION DEFINED.—In this section, the term ‘implementation’ means all activity in the life cycle of a project after preliminary design, independent assessment of the preliminary design, and approval to proceed into implementation, including critical design, development, certification, launch, operations, disposal of assets, and, for technology programs, development, testing, analysis, and communication of the results.”.

SEC. 705. RECOVERY AND DISPOSITION AUTHORITY.

Title III of the National Aeronautics and Space Act of 1958, as amended by section 701 of this Act, is further amended by adding at the end the following:

42 USC 2459l.

“SEC. 317. RECOVERY AND DISPOSITION AUTHORITY.

“(a) IN GENERAL.—

“(1) CONTROL OF REMAINS.—Subject to paragraphs (2) and (3), when there is an accident or mishap resulting in the death of a crewmember of a NASA human space flight vehicle, the Administrator may take control over the remains of the crewmember and order autopsies and other scientific or medical tests.

“(2) TREATMENT.—Each crewmember shall provide the Administrator with his or her preferences regarding the treatment accorded to his or her remains and the Administrator shall, to the extent possible, respect those stated preferences.

“(3) CONSTRUCTION.—This section shall not be construed to permit the Administrator to interfere with any Federal investigation of a mishap or accident.

“(b) DEFINITIONS.—In this section:

“(1) CREWMEMBER.—The term ‘crewmember’ means an astronaut or other person assigned to a NASA human space flight vehicle.

“(2) NASA HUMAN SPACE FLIGHT VEHICLE.—The term ‘NASA human space flight vehicle’ means a space vehicle, as defined in section 308(f)(1), that

“(A) is intended to transport 1 or more persons;

“(B) is designed to operate in outer space; and

“(C) is either owned by NASA, or owned by a NASA contractor or cooperating party and operated as part of a NASA mission or a joint mission with NASA.”.

SEC. 706. CHANGES TO EXISTING LAWS ON REPORTS.

(a) Section 201 of the National Aeronautics and Space Administration Authorization Act of 2000 (42 U.S.C. 2451 note) is amended—

(1) by striking “and not later than the first day of every second month thereafter until October 1, 2006” and inserting “and semiannually thereafter until December 31, 2011”; and

(2) by adding at the end the following: “Each such report shall also identify each Russian entity or person to whom NASA has, since the date of the enactment of the Iran Non-proliferation Amendments Act of 2005, made a payment in cash or in-kind for work to be performed or services to be rendered under the Agreement Concerning Cooperation on the Civil International Space Station, with annex, signed at Washington January 29, 1998, and entered into force March 27, 2001, or any protocol, agreement, memorandum of understanding, or contract related thereto. Each report shall include the specific purpose of each payment made to each entity or person identified in the report.”.

(b) Section 304(b) of the Federal Aviation Administration Research, Engineering, and Development Authorization Act of 1992 (49 U.S.C. 47508 note) is amended by striking “2000” and inserting “2010”.

(c) Section 323 of the National Aeronautics and Space Administration Authorization Act of 2000 is amended by striking subsection (a).

114 Stat. 1599.

SEC. 707. SMALL BUSINESS CONTRACTING.

42 USC 16821.

(a) PLAN.—In consultation with the Small Business Administration, the Administrator shall develop a plan to maximize the number and amount of contracts awarded to small business concerns (within the meaning given that term in section 3 of the Small Business Act (15 U.S.C. 632)) and to meet established contracting goals for such concerns.

(b) PRIORITY.—The Administrator shall establish as a priority meeting the contracting goals developed in conjunction with the Small Business Administration to maximize the amount of prime contracts, as measured in dollars, awarded in each fiscal year

by NASA to small business concerns (within the meaning given that term in section 3 of the Small Business Act (15 U.S.C. 632)).

42 USC 16822.

SEC. 708. NASA HEALTHCARE PROGRAM.

The Administrator shall develop a plan to better understand the longitudinal health effects of space flight on humans. In the development of the plan, the Administrator shall consider the need for the establishment of a lifetime healthcare program for NASA astronauts and their families or other methods to obtain needed health data from astronauts and retired astronauts.

Deadline.
Reports.
42 USC 16823.

SEC. 709. OFFSHORE PERFORMANCE OF CONTRACTS FOR THE PROCUREMENT OF GOODS AND SERVICES.

The Administrator shall submit to Congress, not later than 120 days after the end of each fiscal year beginning with the first fiscal year after the date of enactment of this Act, a report on the contracts and subcontracts performed overseas and the amount of purchases directly or indirectly by NASA from foreign entities in that fiscal year. The report shall separately indicate—

(1) the contracts and subcontracts and their dollar values for which the Administrator determines that essential goods or services under the contract are available only from a source outside the United States; and

(2) the items and their dollar values for which the Buy American Act was waived pursuant to obligations of the United States under international agreements.

Deadline.
42 USC 16824.

SEC. 710. STUDY ON ENHANCED USE LEASING.

Not later than one year after the date of enactment of this Act, the Comptroller General shall transmit to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a review of NASA's enhanced use leasing pilot program established by section 315 of the National Aeronautics and Space Administration Act of 1958 (42 U.S.C. 2459j). At a minimum the review shall analyze—

(1) the financial impact of the program, taking into account revenue foregone by the United States, whether such revenue would have been realized in the absence of the program, and any revenue that accrued to NASA because of the program;

(2) the use and effectiveness of the program; and

(3) whether the arrangements made under the program would have been made in the absence of the program.

Subtitle B—National Science Foundation

42 USC 16831.

SEC. 721. DATA ON SPECIFIC FIELDS OF STUDY.

The National Science Foundation shall continue to collect statistically reliable data on the field of degree of college-educated individuals to fulfill obligations under section 4(j)(1) of the National Science Foundation Act of 1950 (42 U.S.C. 1863(j)(1)) and the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885 et. seq.). If the Director of the Foundation determines that there is a legal impediment to the continued collection of this data, he shall inform the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate not later than 180 days after the date of enactment of this Act.

Notice.
Deadline.

SEC. 722. NATIONAL SCIENCE FOUNDATION MAJOR RESEARCH EQUIPMENT AND FACILITIES. 42 USC 16832.

(a) ASTRONOMICAL SCIENCES SENIOR REVIEW.—

(1) REVIEW.—The Director of the National Science Foundation shall charge the Mathematical and Physical Sciences Advisory Committee with conducting a review of the astronomical facilities supported by the Foundation to determine the appropriate balance between supporting the operation of existing facilities and supporting the design, development, and eventual operation of new facilities. The review shall recommend actions that would enable the Foundation to support priorities recommended in the National Academy of Sciences reports “Astronomy and Astrophysics in the New Millennium” and “Connecting Quarks with the Cosmos”.

(2) TRANSMITTAL.—The Director shall transmit the review, along with a schedule for implementing any recommendations the Director accepts and an explanation for rejecting any recommendations, to the Committee on Science of the House of Representatives and the Committee of Commerce, Science, and Transportation of the Senate no later than June 30, 2006.

Deadline.

(b) PLAN FOR FUNDING DESIGN AND DEVELOPMENT FOR MAJOR RESEARCH EQUIPMENT AND FACILITIES CONSTRUCTION PROJECTS.—

(1) IN GENERAL.—The Director of the National Science Foundation shall develop a plan to facilitate more thorough design and development of facilities that can be considered for funding through the Major Research Equipment and Facilities Construction account.

(2) CONSIDERATIONS.—In developing the plan, the Director shall consider—

(A) steps to encourage and ease cross-directorate collaboration;

(B) ways to ensure that a Directorate that will eventually support the operation of a facility is fully committed to that facility from the outset;

(C) providing funding for the design and development of facilities from new sources within the Foundation; and

(D) ways to enable and encourage entities proposing facilities projects to receive design and development funding from nongovernmental sources.

(3) TRANSMITTAL.—No later than June 30, 2006, the Director of the National Science Foundation shall transmit to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate the plan, along with a statement from the Director describing how the plan addresses the considerations described in paragraph (2).

Deadline.

TITLE VIII—TASK FORCE AND COMMISSION

Subtitle A—International Space Station Independent Safety Task Force

SEC. 801. ESTABLISHMENT OF TASK FORCE.

(a) **ESTABLISHMENT.**—The Administrator shall establish an independent task force to review the International Space Station program with the objective of discovering and assessing any vulnerabilities of the International Space Station that could lead to its destruction, compromise the health of its crew, or necessitate its premature abandonment.

(b) **DEADLINE FOR ESTABLISHMENT.**—The Administrator shall establish the independent task force within 60 days after the date of enactment of this Act.

SEC. 802. TASKS OF THE TASK FORCE.

The independent task force established under section 801 shall, to the extent possible, undertake the following tasks:

(1) Catalogue threats to and vulnerabilities of the ISS, including design flaws, natural phenomena, computer software or hardware flaws, sabotage or terrorist attack, number of crewmembers, inability to adequately deliver replacement parts and supplies, and management or procedural deficiencies.

(2) Make recommendations for corrective actions.

(3) Provide any additional findings or recommendations related to ISS safety.

(4) Prepare a report to the Administrator, Congress, and the public.

Reports.
Public
information.

SEC. 803. COMPOSITION OF THE TASK FORCE.

(a) **EXTERNAL ORGANIZATIONS.**—The independent task force shall include at least one representative from each of the following external organizations:

(1) The Aerospace Safety Advisory Panel.

(2) The Task Force on International Space Station Operational Readiness of the NASA Advisory Council, or its successor.

(3) The Aeronautics and Space Engineering Board of the National Research Council.

(b) **INDEPENDENT ORGANIZATIONS WITHIN NASA.**—The independent task force shall also include at least the following individuals from within NASA:

(1) NASA's Chief Engineer.

(2) The head of the Independent Technical Authority.

(3) The head of the Safety and Mission Assurance Office.

(4) The head of the NASA Engineering and Safety Center.

SEC. 804. REPORTING REQUIREMENTS.

(a) **INTERIM REPORTS.**—The independent task force may transmit to the Administrator and Congress, and make concurrently available to the public, interim reports containing such findings, conclusions, and recommendations for corrective actions as have been agreed to by a majority of the task force members.

(b) **FINAL REPORT.**—The task force shall transmit to the Administrator and Congress, and make concurrently available to the public, a final report containing such findings, conclusions, and recommendations for corrective actions as have been agreed to by a majority of task force members. Such report shall include any minority views or opinions not reflected in the majority report.

(c) **APPROVAL.**—The independent task force shall not be required to seek the approval of the contents of any of the reports submitted under subsection (a) or (b) by the Administrator or by any person designated by the Administrator prior to the submission of the reports to the Administrator and Congress and to their being made concurrently available to the public.

SEC. 805. SUNSET.

The independent task force established under this subtitle shall transmit its final report to the Administrator and to Congress and make it available to the public not later than 1 year after the independent task force is established and shall cease to exist after the transmittal.

Reports.
Public
information.
Deadline.

Subtitle B—Human Space Flight Independent Investigation Commission

SEC. 821. DEFINITIONS.

For purposes of this subtitle—

(1) the term “Commission” means a Commission established under this title; and

(2) the term “incident” means either an accident or a deliberate act.

SEC. 822. ESTABLISHMENT OF COMMISSION.

(a) **ESTABLISHMENT.**—The President shall establish an independent, nonpartisan Commission within the executive branch to investigate any incident that results in the loss of—

President.

(1) a Space Shuttle;

(2) the International Space Station or its operational viability;

(3) any other United States space vehicle carrying humans that is owned by the Federal Government or that is being used pursuant to a contract with the Federal Government; or

(4) a crew member or passenger of any space vehicle described in this subsection.

(b) **DEADLINE FOR ESTABLISHMENT.**—The President shall establish a Commission within 7 days after an incident specified in subsection (a).

SEC. 823. TASKS OF THE COMMISSION.

A Commission established pursuant to this subtitle shall, to the extent possible, undertake the following tasks:

(1) Investigate the incident.

(2) Determine the cause of the incident.

(3) Identify all contributing factors to the cause of the incident.

(4) Make recommendations for corrective actions.

Reports.
Public
information.

(5) Provide any additional findings or recommendations deemed by the Commission to be important, whether or not they are related to the specific incident under investigation.

(6) Prepare a report to Congress, the President, and the public.

SEC. 824. COMPOSITION OF COMMISSION.

(a) NUMBER OF COMMISSIONERS.—A Commission established pursuant to this subtitle shall consist of 15 members.

(b) SELECTION.—The members of a Commission shall be chosen in the following manner:

President.

(1) The President shall appoint the members, and shall designate the Chairman and Vice Chairman of the Commission from among its members.

(2) The majority leader of the Senate, the minority leader of the Senate, the Speaker of the House of Representatives, and the minority leader of the House of Representatives shall each provide to the President a list of candidates for membership on the Commission. The President may select one of the candidates from each of the 4 lists for membership on the Commission.

(3) No officer or employee of the Federal Government or Member of Congress shall serve as a member of the Commission.

(4) No member of the Commission shall have, or have pending, a contractual relationship with NASA.

(5) The President shall not appoint any individual as a member of a Commission under this section who has a current or former relationship with the Administrator that the President determines would constitute a conflict of interest.

(6) To the extent practicable, the President shall ensure that the members of the Commission include some individuals with experience relative to human carrying spacecraft, as well as some individuals with investigative experience and some individuals with legal experience.

(7) To the extent practicable, the President shall seek diversity in the membership of the Commission.

(c) DEADLINE FOR APPOINTMENT.—All members of a Commission established under this subtitle shall be appointed no later than 30 days after the incident.

(d) INITIAL MEETING.—A Commission shall meet and begin operations as soon as practicable.

(e) QUORUM; VACANCIES.—After its initial meeting, a Commission shall meet upon the call of the Chairman or a majority of its members. Eight members of a Commission shall constitute a quorum. Any vacancy in a Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

SEC. 825. POWERS OF COMMISSION.

(a) HEARINGS AND EVIDENCE.—A Commission or, on the authority of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out this subtitle—

(1) hold such hearings and sit and act at such times and places, take such testimony, receive such evidence, administer such oaths; and

(2) require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents, as the Commission or such designated subcommittee or designated member may determine advisable.

(b) CONTRACTING.—A Commission may, to such extent and in such amounts as are provided in appropriation Acts, enter into contracts to enable the Commission to discharge its duties under this subtitle.

(c) INFORMATION FROM FEDERAL AGENCIES.—

(1) IN GENERAL.—A Commission may secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality of the Government, information, suggestions, estimates, and statistics for the purposes of this subtitle. Each department, bureau, agency, board, commission, office, independent establishment, or instrumentality shall, to the extent authorized by law, furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the Chairman, the chairman of any subcommittee created by a majority of the Commission, or any member designated by a majority of the Commission.

(2) RECEIPT, HANDLING, STORAGE, AND DISSEMINATION.—Information shall only be received, handled, stored, and disseminated by members of the Commission and its staff consistent with all applicable statutes, regulations, and Executive orders.

(d) ASSISTANCE FROM FEDERAL AGENCIES.—

(1) GENERAL SERVICES ADMINISTRATION.—The Administrator of General Services shall provide to a Commission on a reimbursable basis administrative support and other services for the performance of the Commission's tasks.

(2) OTHER DEPARTMENTS AND AGENCIES.—In addition to the assistance prescribed in paragraph (1), departments and agencies of the United States may provide to the Commission such services, funds, facilities, staff, and other support services as they may determine advisable and as may be authorized by law.

(3) NASA ENGINEERING AND SAFETY CENTER.—The NASA Engineering and Safety Center shall provide data and technical support as requested by the Commission.

SEC. 826. PUBLIC MEETINGS, INFORMATION, AND HEARINGS.

(a) PUBLIC MEETINGS AND RELEASE OF PUBLIC VERSIONS OF REPORTS.—A Commission shall—

(1) hold public hearings and meetings to the extent appropriate; and

(2) release public versions of the reports required under this subtitle. Reports.

(b) PUBLIC HEARINGS.—Any public hearings of a Commission shall be conducted in a manner consistent with the protection of information provided to or developed for or by the Commission as required by any applicable statute, regulation, or Executive order.

SEC. 827. STAFF OF COMMISSION.

(a) APPOINTMENT AND COMPENSATION.—The Chairman, in consultation with Vice Chairman, in accordance with rules agreed

upon by a Commission, may appoint and fix the compensation of a staff director and such other personnel as may be necessary to enable the Commission to carry out its functions.

(b) **DETAILEES.**—Any Federal Government employee, except for an employee of NASA, may be detailed to a Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

(c) **CONSULTANT SERVICES.**—A Commission may procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code. Any consultant or expert whose services are procured under this subsection shall disclose any contract or association it has with NASA or any NASA contractor.

SEC. 828. COMPENSATION AND TRAVEL EXPENSES.

(a) **COMPENSATION.**—Each member of a Commission may be compensated at not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Commission.

(b) **TRAVEL EXPENSES.**—While away from their homes or regular places of business in the performance of services for the Commission, members of a Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

SEC. 829. SECURITY CLEARANCES FOR COMMISSION MEMBERS AND STAFF.

The appropriate Federal agencies or departments shall cooperate with a Commission in expeditiously providing to the Commission members and staff appropriate security clearances to the extent possible pursuant to existing procedures and requirements. No person shall be provided with access to classified information under this subtitle without the appropriate security clearances.

SEC. 830. REPORTING REQUIREMENTS AND TERMINATION.

(a) **INTERIM REPORTS.**—A Commission may submit to the President and Congress interim reports containing such findings, conclusions, and recommendations for corrective actions as have been agreed to by a majority of Commission members.

(b) **FINAL REPORT.**—A Commission shall submit to the President and Congress, and make concurrently available to the public, a final report containing such findings, conclusions, and recommendations for corrective actions as have been agreed to by a majority of Commission members. Such report shall include any minority views or opinions not reflected in the majority report.

(c) **TERMINATION.**—

(1) **IN GENERAL.**—A Commission, and all the authorities of this subtitle with respect to that Commission, shall terminate 60 days after the date on which the final report is submitted under subsection (b).

(2) ADMINISTRATIVE ACTIVITIES BEFORE TERMINATION.—A Commission may use the 60-day period referred to in paragraph (1) for the purpose of concluding its activities, including providing testimony to committees of Congress concerning its reports and disseminating the final report.

Approved December 30, 2005.

LEGISLATIVE HISTORY—S. 1281 (H.R. 3070):

HOUSE REPORTS: Nos. 109–173 accompanying H.R. 3070 (Comm. on Science) and 109–354 (Comm. of Conference).

SENATE REPORTS: No. 109–108 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD, Vol. 151 (2005):

Sept. 28, considered and passed Senate.

Nov. 18, considered and passed House, amended, in lieu of H.R. 3070.

Dec. 17, House agreed to conference report.

Dec. 21, Senate agreed to conference report.



Public Law 109–156
109th Congress

An Act

Dec. 30, 2005
[S. 1310]

Delaware Water
Gap National
Recreation Area
Improvement
Act.
16 USC 461 note.

To authorize the Secretary of the Interior to allow the Columbia Gas Transmission Corporation to increase the diameter of a natural gas pipeline located in the Delaware Water Gap National Recreation Area, to allow certain commercial vehicles to continue to use Route 209 within Delaware Water Gap National Recreation Area, and to extend the termination date of the National Park System Advisory Board to January 1, 2007.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Delaware Water Gap National Recreation Area Improvement Act”.

SEC. 2. DEFINITIONS.

In this Act:

(1) CORPORATION.—The term “Corporation” means the Columbia Gas Transmission Corporation.

(2) PIPELINE.—The term “pipeline” means that portion of the pipeline of the Corporation numbered 1278 that is—

(A) located in the Recreation Area; and

(B) situated on 2 tracts designated by the Corporation as ROW No. 16405 and No. 16413.

(3) RECREATION AREA.—The term “Recreation Area” means the Delaware Water Gap National Recreation Area in the Commonwealth of Pennsylvania.

(4) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(5) SUPERINTENDENT.—The term “Superintendent” means the Superintendent of the Recreation Area.

SEC. 3. EASEMENT FOR EXPANDED NATURAL GAS PIPELINE.

(a) IN GENERAL.—The Secretary may enter into an agreement with the Corporation to grant to the Corporation an easement to enlarge the diameter of the pipeline from 14 inches to not more than 20 inches.

(b) TERMS AND CONDITIONS.—The easement authorized under subsection (a) shall—

(1) be consistent with—

(A) the recreational values of the Recreation Area; and

(B) protection of the resources of the Recreation Area;
(2) include provisions for the protection of resources in the Recreation Area that ensure that only the minimum and

necessary amount of disturbance, as determined by the Secretary, shall occur during the construction or maintenance of the enlarged pipeline;

(3) be consistent with the laws (including regulations) and policies applicable to units of the National Park System; and

(4) be subject to any other terms and conditions that the Secretary determines to be necessary;

(c) PERMITS.—

(1) IN GENERAL.—The Superintendent may issue a permit to the Corporation for the use of the Recreation Area in accordance with subsection (b) for the temporary construction and staging areas required for the construction of the enlarged pipeline.

(2) PRIOR TO ISSUANCE.—The easement authorized under subsection (a) and the permit authorized under paragraph (1) shall require that before the Superintendent issues a permit for any clearing or construction, the Corporation shall—

(A) consult with the Superintendent;

(B) identify natural and cultural resources of the Recreation Area that may be damaged or lost because of the clearing or construction; and

(C) submit to the Superintendent for approval a restoration and mitigation plan that—

(i) describes how the land subject to the easement will be maintained; and

(ii) includes a schedule for, and description of, the specific activities to be carried out by the Corporation to mitigate the damages or losses to, or restore, the natural and cultural resources of the Recreation Area identified under subparagraph (B).

(d) PIPELINE REPLACEMENT REQUIREMENTS.—The enlargement of the pipeline authorized under subsection (a) shall be considered to meet the pipeline replacement requirements required by the Research and Special Programs Administration of the Department of Transportation (CPF No. 1–2002–1004–H).

(e) FERC CONSULTATION.—The Corporation shall comply with all other requirements for certification by the Federal Energy Regulatory Commission that are necessary to permit the increase in pipeline size.

Certification.

(f) LIMITATION.—The Secretary shall not grant any additional increases in the diameter of, or easements for, the pipeline within the boundary of the Recreation Area after the date of enactment of this Act.

(g) EFFECT ON RIGHT-OF-WAY EASEMENT.—Nothing in this Act increases the 50-foot right-of-way easement for the pipeline.

(h) PENALTIES.—On request of the Secretary, the Attorney General may bring a civil action against the Corporation in United States district court to recover damages and response costs under Public Law 101–337 (16 U.S.C. 19jj et seq.) or any other applicable law if—

(1) the Corporation—

(A) violates a provision of—

(i) an easement authorized under subsection (a);

or

(ii) a permit issued under subsection (c); or

(B) fails to submit or timely implement a restoration and mitigation plan approved under subsection (c)(2)(C); and

(2) the violation or failure destroys, results in the loss of, or injures any park system resource (as defined in section 1 of Public Law 101–337 (16 U.S.C. 19jj)).

SEC. 4. USE OF CERTAIN ROADS WITHIN DELAWARE WATER GAP.

Section 702 of Division I of the Omnibus Parks and Public Lands Management Act of 1996 (Public Law 104–333; 110 Stat. 4185) is amended—

(1) in subsection (a), by striking “at noon on September 30, 2005” and inserting “on the earlier of the date on which a feasible alternative is available or noon of September 30, 2015”; and

(2) in subsection (c)—

(A) in paragraph (1), by striking “September 30, 2005” and inserting “on the earlier of the date on which a feasible alternative is available or September 30, 2015”; and

(B) in paragraph (2)—

(i) by striking “noon on September 30, 2005” and inserting “the earlier of the date on which a feasible alternative is available or noon of September 30, 2015”; and

(ii) by striking “not exceed \$25 per trip” and inserting the following: “be established at a rate that would cover the cost of collection of the commercial use fee, but not to exceed \$40 per trip”.

16 USC 463 note.

SEC. 5. TERMINATION OF NATIONAL PARK SYSTEM ADVISORY BOARD.

Effective on January 1, 2006, section 3(f) of the Act of August 21, 1935 (16 U.S.C. 463(f)) is amended in the first sentence by striking “2006” and inserting “2007”.

Approved December 30, 2005.

LEGISLATIVE HISTORY—S. 1310 (H.R. 3124):

HOUSE REPORTS: No. 109–334 accompanying H.R. 3124 (Comm. on Resources).

SENATE REPORTS: No. 109–194 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 151 (2005):

Dec. 16, considered and passed Senate.

Dec. 18, considered and passed House.



Public Law 109–157
109th Congress

An Act

To amend the Indian Land Consolidation Act to provide for probate reform.

Dec. 30, 2005

[S. 1481]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Indian Land Probate Reform Technical Corrections Act of 2005”.

Indian Land
Probate Reform
Technical
Corrections Act
of 2005.
25 USC 2201
note.

SEC. 2. PARTITION OF HIGHLY FRACTIONATED INDIAN LAND.

Section 205 of the Indian Land Consolidation Act (25 U.S.C. 2204) is amended—

(1) by striking subsection (a) and inserting the following:

“(a) PURCHASE OF LAND.—

“(1) IN GENERAL.—Subject to subsection (b), any Indian tribe may purchase, at not less than fair market value and with the consent of the owners of the interests, part or all of the interests in—

“(A) any tract of trust or restricted land within the boundaries of the reservation of the tribe; or

“(B) land that is otherwise subject to the jurisdiction of the tribe.

“(2) REQUIRED CONSENT.—

“(A) IN GENERAL.—The Indian tribe may purchase all interests in a tract described in paragraph (1) with the consent of the owners of undivided interests equal to at least 50 percent of the undivided interest in the tract.

“(B) INTEREST OWNED BY TRIBE.—Interests owned by an Indian tribe in a tract may be included in the computation of the percentage of ownership of the undivided interests in that tract for purposes of determining whether the consent requirement under subparagraph (A) has been met.”;

(2) by redesignating subsection (d) as subsection (c); and

(3) in subsection (c) (as redesignated by paragraph (2))—

(A) in paragraph (2)—

(i) in subparagraph (G)(ii)(I), by striking “a higher valuation of the land” and inserting “a value of the land that is equal to or greater than that of the earlier appraisal”; and

(ii) in subparagraph (I)(iii)—

(I) in subclause (III), by inserting “(if any)” after “this section”; and

(II) in subclause (IV)—

(aa) in item (aa), by striking “less” and inserting “more”; and

(bb) in item (bb), by striking “to implement this section” and inserting “under paragraph (5)”; and

(B) in paragraph (5), in the second sentence, by striking “shall” and inserting “may”.

SEC. 3. TRIBAL PROBATE CODES.

Section 206 of the Indian Land Consolidation Act (25 U.S.C. 2205) is amended—

(1) in subsection (b)(3), by striking subparagraph (A) and inserting the following:

“(A) the date that is 1 year after the date on which the Secretary makes the certification required under section 8(a)(4) of the American Indian Probate Reform Act of 2004 (25 U.S.C. 2201 note; Public Law 108–374); or”; and

(2) in subsection (c)—

(A) in paragraph (1)(A), by striking “section” and all that follows through “the Indian tribe” and inserting “section 207(b)(2)(A)(ii), the Indian tribe”; and

(B) in paragraph (2)(A)(i)(II)(bb), by inserting “in writing” after “agrees”.

SEC. 4. DESCENT AND DISTRIBUTION.

(a) IN GENERAL.—Section 207 of the Indian Land Consolidation Act (25 U.S.C. 2206) is amended—

(1) by redesignating subsections (h) through (p) as subsections (g) through (o), respectively;

(2) in subsection (g) (as redesignated by paragraph (1))—

(A) in paragraph (2)—

(i) by inserting “specifically” after “pertains”; and

(ii) by striking subparagraph (B) and inserting the following:

“(B) the allotted land (or any interest relating to such land) of 1 or more specific Indian tribes expressly identified in Federal law, including any of the Federal laws governing the probate or determination of heirs associated with, or otherwise relating to, the land, interest in land, or other interests or assets that are owned by individuals in—

“(i) Five Civilized Tribes restricted fee status; or

“(ii) Osage Tribe restricted fee status.”; and

(B) by adding at the end the following:

“(3) EFFECT OF SUBSECTION.—Except to the extent that this Act otherwise affects the application of a Federal law described in paragraph (2), nothing in this subsection limits the application of this Act to trust or restricted land, interests in such land, or any other trust or restricted interests or assets.”;

(3) in subsection (h) (as redesignated by paragraph (1))—

(A) in paragraph (6), by striking “(25 U.S.C. 2205)”; and

and

(B) in paragraph (7), by inserting “in trust or restricted status” after “testator”;

(4) in subsection (j) (as redesignated by paragraph (1))—

(A) in paragraph (2)(A)—

(i) in clause (ii)(I), by striking “the date of enactment of this subparagraph” and inserting “the date that is 1 year after the date on which the Secretary publishes a notice of certification under section 8(a)(4) of the American Indian Probate Reform Act of 2004 (25 U.S.C. 2201 note; Public Law 108–374)”; and

(ii) in clause (iii), by striking “the provisions of section 207(a)(2)(A)” and inserting “subsection (a)(2)(A)”; and

(B) in paragraph (8)(D), by striking “the provisions of section 207(a)(2)(D) (25 U.S.C. 2206(a)(2)(D))” and inserting “subsection (a)(2)(D)”; and

(C) in paragraph (9)(C)—

(i) by striking “section 207(e) (25 U.S.C. 2206(e))” and inserting “subsection (e)”; and

(ii) by striking “section 207(p) (25 U.S.C. 2206(p))” and inserting “subsection (o)”; and

(5) in subsection (o) (as redesignated by paragraph (1))—

(A) in paragraph (2)—

(i) in the matter preceding subparagraph (A), by striking “section 207(a)(2)(A) or (D)” and inserting “subparagraph (A) or (D) of subsection (a)(2)”; and

(ii) in subparagraph (A), by striking “section 207(b)(1)(A)” and inserting “subsection (b)(1)(A)”; and

(B) in paragraph (3)(B), by striking “section 207(a)(2)(A) or (D)” and inserting “subparagraph (A) or (D) of subsection (a)(2)”; and

(C) in paragraph (6)—

(i) in the first sentence, by striking “Proceeds” and inserting the following:

“(A) IN GENERAL.—Proceeds”; and

(ii) by striking the second sentence and inserting the following:

“(B) HOLDING IN TRUST.—Proceeds described in subparagraph (A) shall be deposited and held in an account as trust personalty if the interest sold would otherwise pass to—

“(i) the heir, by intestate succession under subsection (a); or

“(ii) the devisee in trust or restricted status under subsection (b)(1).”.

(b) **NONTESTAMENTARY DISPOSITION.**—Section 207(a)(2)(D)(iv)(I)(aa) of the Indian Land Consolidation Act (25 U.S.C. 2206(a)(2)(D)(iv)(I)(aa)) is amended—

(1) by striking “clause (iii)” and inserting “this subparagraph”; and

(2) in subitem (BB), by striking “any co-owner” and inserting “not more than 1 co-owner”.

(c) **JOINT TENANCY; RIGHT OF SURVIVORSHIP.**—Section 207(c) of the Indian Land Consolidation Act (25 U.S.C. 2206(c)) is amended by striking the subsection heading and inserting the following:

“(c) **JOINT TENANCY; RIGHT OF SURVIVORSHIP.**—”.

(d) **ESTATE PLANNING ASSISTANCE.**—Section 207(f)(3) of the Indian Land Consolidation Act (25 U.S.C. 2206(f)(3)) is amended in the matter preceding subparagraph (A) by inserting “, including noncompetitive grants,” after “grants”.

SEC. 5. FRACTIONAL INTEREST ACQUISITION PROGRAM.

Section 213 of the Indian Land Consolidation Act (25 U.S.C. 2212) is amended—

(1) by striking the section heading and inserting the following:

“SEC. 213. FRACTIONAL INTEREST ACQUISITION PROGRAM.”;

and

(2) in subsection (a)(1), by striking “(25 U.S.C. 2206(p))”.

SEC. 6. ESTABLISHING FAIR MARKET VALUE.

Section 215 of the Indian Land Consolidation Act (25 U.S.C. 2214) is amended by striking the last sentence and inserting the following: “Such a system may govern the amounts offered for the purchase of interests in trust or restricted land under this Act.”.

SEC. 7. LAND OWNERSHIP INFORMATION.

Section 217(e) of the Indian Land Consolidation Act (25 U.S.C. 2216(e)) is amended by striking “be made available to” and inserting “be made available to—”.

SEC. 8. CONFORMING AMENDMENTS.

(a) **PROBATE REFORM.**—The American Indian Probate Reform Act of 2004 (25 U.S.C. 2201 note; Public Law 108–374) is amended—

25 USC 2204.

(1) in section 4, by striking “(as amended by section 6(a)(2))”; and

25 USC 2201
note.

(2) in section 9, by striking “section 205(d)(2)(I)(i)” and inserting “section 205(c)(2)(I)(i) of the Indian Land Consolidation Act (25 U.S.C. 2204(c)(2)(I)(i))”.

(b) **TRANSFER AND EXCHANGE OF LAND.**—Section 4 of the Act of June 18, 1934 (25 U.S.C. 464) is amended to read as follows:

“SEC. 4. TRANSFER AND EXCHANGE OF RESTRICTED INDIAN LAND AND SHARES OF INDIAN TRIBES AND CORPORATIONS.

“(a) **APPROVAL.**—Except as provided in this section, no sale, devise, gift, exchange, or other transfer of restricted Indian land or shares in the assets of an Indian tribe or corporation organized under this Act shall be made or approved.

“(b) **TRANSFER TO INDIAN TRIBE.**—

“(1) **IN GENERAL.**—Land or shares described in subsection (a) may be sold, devised, or otherwise transferred to the Indian tribe on the reservation of which the land is located, or in the corporation of which the shares are held or were derived (or a successor of such a corporation), with the approval of the Secretary of the Interior.

“(2) **DESCENT AND DEVISE.**—Land and shares transferred under paragraph (1) shall descend or be devised to any member of the Indian tribe or corporation (or an heir of such a member) in accordance with the Indian Land Consolidation Act (25 U.S.C. 2201 et seq.), including a tribal probate code approved under that Act (including regulations).

“(c) **VOLUNTARY EXCHANGES.**—The Secretary of the Interior may authorize a voluntary exchange of land or shares described in subsection (a) that the Secretary determines to be of equal value if the Secretary determines that the exchange is—

“(1) expedient;

“(2) beneficial for, or compatible with, achieving proper consolidation of Indian land; and

“(3) for the benefit of cooperative organizations.”.

SEC. 9. EFFECTIVE DATE.

25 USC 464 note.

The amendments made by this Act shall be effective as if included in the American Indian Probate Reform Act of 2004 (25 U.S.C. 2201 note; Public Law 108–374).

Approved December 30, 2005.

LEGISLATIVE HISTORY—S. 1481:

CONGRESSIONAL RECORD, Vol. 151 (2005):

July 26, considered and passed Senate.

Dec. 18, considered and passed House.



Public Law 109–158
109th Congress

An Act

Dec. 30, 2005

[S. 1892]

To amend Public Law 107–153 to modify a certain date.

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. SETTLEMENT OF TRIBAL CLAIMS.

Section 1(a) of Public Law 107–153 (25 U.S.C. 4044 note; 116 Stat. 79) is amended by striking “December 31, 1999” and inserting “December 31, 2000”.

Approved December 30, 2005.

LEGISLATIVE HISTORY—S. 1892 (H.R. 4292):

HOUSE REPORTS: No. 109–324 accompanying H.R. 4292 (Comm. on Resources).

SENATE REPORTS: No. 109–201 (Comm. on Indian Affairs).

CONGRESSIONAL RECORD, Vol. 151 (2005):

Dec. 16, considered and passed Senate.

Dec. 18, considered and passed House.



Public Law 109–159
109th Congress

An Act

To authorize the transfer of items in the War Reserves Stockpile for Allies, Korea.

Dec. 30, 2005

[S. 1988]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. WAR RESERVES STOCKPILE FOR ALLIES, KOREA.

(a) **AUTHORITY TO TRANSFER ITEMS IN STOCKPILE.**—

(1) **IN GENERAL.**—Notwithstanding section 514 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321h), the President is authorized to transfer to the Republic of Korea, on such conditions as the President may determine, any or all of the items described in paragraph (2).

President.

(2) **COVERED ITEMS.**—The items referred to in paragraph (1) are munitions, equipment, and materiel such as tanks, trucks, artillery, mortars, general purpose bombs, repair parts, barrier material, and ancillary equipment if such items are—

(A) obsolete or surplus items;

(B) in the inventory of the Department of Defense;

(C) intended for use as reserve stocks for the Republic of Korea; and

(D) as of the date of the enactment of this Act, located in a stockpile in the Republic of Korea or Japan.

(3) **VALUATION OF CONCESSIONS.**—The value of concessions negotiated pursuant to paragraph (1) shall be at least equal to the fair market value of the items transferred, less any savings (which may not exceed the fair market value of the items transferred) accruing to the Department of Defense from an avoidance of the cost of removal of such items from the Republic of Korea or of the disposal of such items. The concessions may include cash compensation, services, waiver of charges otherwise payable by the United States (such as charges for demolition of United States-owned or United States-intended munitions), and other items of value.

(4) **TERMINATION.**—No transfer may be made under the authority of this subsection after the date that is three years after the date of the enactment of this Act.

(b) **CERTIFICATION REGARDING MATERIEL IN STOCKPILE.**—Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall certify to the appropriate committees of Congress whether or not the ammunition, equipment, and materiel in the War Reserves Stockpile for Allies, Korea that are available for transfer to the Republic of Korea is of any utility to the United States for any of the following:

Deadline.

(1) Counterterrorism operations.

(2) Contingency operations.

(3) Training.

(4) Stockpile, pre-positioning, or war reserve requirements.

(c) TERMINATION OF STOCKPILE.—

(1) IN GENERAL.—At the conclusion of the transfer to the Republic of Korea under subsection (a) of items in the War Reserves Stockpile for Allies, Korea pursuant to that subsection, the War Reserves Stockpile for Allies, Korea program shall be terminated.

(2) DISPOSITION OF REMAINING ITEMS.—Any items remaining in the War Reserves Stockpile for Allies, Korea as of the termination of the War Reserves Stockpile for Allies, Korea program under paragraph (1) shall be removed, disposed of, or both by the Department of Defense.

(d) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term “appropriate committees of Congress” means—

(1) the Committees on Armed Services, Appropriations, and Foreign Relations of the Senate; and

(2) the Committees on Armed Services, Appropriations, and International Relations of the House of Representatives.

Approved December 30, 2005.

LEGISLATIVE HISTORY—S. 1988:

CONGRESSIONAL RECORD, Vol. 151 (2005):

Nov. 9, considered and passed Senate.

Dec. 18, considered and passed House.



Public Law 109–160
109th Congress

An Act

To amend the USA PATRIOT ACT to extend the sunset of certain provisions of that Act and the lone wolf provision of the Intelligence Reform and Terrorism Prevention Act of 2004 to July 1, 2006.

Dec. 30, 2005
[S. 2167]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF SUNSET OF CERTAIN PROVISIONS OF THE USA PATRIOT ACT AND THE LONE WOLF PROVISION OF THE INTELLIGENCE REFORM AND TERRORISM PREVENTION ACT OF 2004.

Section 224(a) of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 (18 U.S.C. 2510 note) is amended by striking “December 31, 2005” and inserting “February 3, 2006”.

Approved December 30, 2005.

LEGISLATIVE HISTORY—S. 2167 (H.R. 4647):

CONGRESSIONAL RECORD, Vol. 151 (2005):

Dec. 21, considered and passed Senate.

Dec. 22, considered and passed House, amended. Senate concurred in House amendment.



Public Law 109–161
109th Congress

An Act

Dec. 30, 2005
[H.R. 4635]

To reauthorize the Temporary Assistance for Needy Families block grant program through March 31, 2006, and for other purposes.

TANF and Child
Care
Continuation
Act of 2005.
42 USC 1305
note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “TANF and Child Care Continuation Act of 2005”.

SEC. 2. EXTENSION OF THE TEMPORARY ASSISTANCE FOR NEEDY FAMILIES BLOCK GRANT PROGRAM THROUGH MARCH 31, 2006.

(a) **IN GENERAL.**—Activities authorized by part A of title IV and section 1108(b) of the Social Security Act (adjusted, as applicable, by or under the TANF Emergency Response and Recovery Act of 2005) shall continue through March 31, 2006, in the manner authorized for fiscal year 2005, and out of any money in the Treasury of the United States not otherwise appropriated, there are hereby appropriated such sums as may be necessary for such purpose. Grants and payments may be made pursuant to this authority through the second quarter of fiscal year 2006 at the level provided for such activities through the second quarter of fiscal year 2005 (or, as applicable, at such greater level as may result from the application of the TANF Emergency Response and Recovery Act of 2005).

(b) **CONFORMING AMENDMENT.**—Section 403(a)(3)(H)(ii) of the Social Security Act (42 U.S.C. 603(a)(3)(H)(ii)) is amended by striking “December 31, 2005” and inserting “March 31, 2006”.

(c) **OFFSET.**—Notwithstanding subsection (a) of this section and section 403(a)(2) of the Social Security Act, for each of fiscal years 2006 through 2010, the Secretary shall reduce the amount of each grant otherwise payable under such section 403(a)(2) to each eligible State (as defined in subparagraph (C)(i) of such section 403(a)(2)) by such equal percentage as may be necessary to ensure that the total amount of grants paid under such section 403(a)(2) does not exceed \$73,000,000.

SEC. 3. EXTENSION OF THE NATIONAL RANDOM SAMPLE STUDY OF CHILD WELFARE AND CHILD WELFARE WAIVER AUTHORITY THROUGH MARCH 31, 2006.

Activities authorized by sections 429A and 1130(a) of the Social Security Act shall continue through March 31, 2006, in the manner authorized for fiscal year 2005, and out of any money in the Treasury of the United States not otherwise appropriated, there

are hereby appropriated such sums as may be necessary for such purpose. Grants and payments may be made pursuant to this authority through the second quarter of fiscal year 2006 at the level provided for such activities through the second quarter of fiscal year 2005.

Approved December 30, 2005.

LEGISLATIVE HISTORY—H.R. 4635 (S. 1778):

CONGRESSIONAL RECORD, Vol. 151 (2005):

Dec. 18, considered and passed House.

Dec. 21, considered and passed Senate.



Public Law 109–162
109th Congress

An Act

Jan. 5, 2006
[H.R. 3402]

To authorize appropriations for the Department of Justice for fiscal years 2006 through 2009, and for other purposes.

Violence Against
Women and
Department of
Justice
Reauthorization
Act of 2005.
42 USC 13701
note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Violence Against Women and Department of Justice Reauthorization Act of 2005”.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. Universal definitions and grant provisions.

**TITLE I—ENHANCING JUDICIAL AND LAW ENFORCEMENT TOOLS TO
COMBAT VIOLENCE AGAINST WOMEN**

- Sec. 101. Stop grants improvements.
- Sec. 102. Grants to encourage arrest and enforce protection orders improvements.
- Sec. 103. Legal Assistance for Victims improvements.
- Sec. 104. Ensuring crime victim access to legal services.
- Sec. 105. The Violence Against Women Act court training and improvements.
- Sec. 106. Full faith and credit improvements.
- Sec. 107. Privacy protections for victims of domestic violence, dating violence, sexual violence, and stalking.
- Sec. 108. Sex offender management.
- Sec. 109. Stalker database.
- Sec. 110. Federal victim assistants reauthorization.
- Sec. 111. Grants for law enforcement training programs.
- Sec. 112. Reauthorization of the court-appointed special advocate program.
- Sec. 113. Preventing cyberstalking.
- Sec. 114. Criminal provision relating to stalking.
- Sec. 115. Repeat offender provision.
- Sec. 116. Prohibiting dating violence.
- Sec. 117. Prohibiting violence in special maritime and territorial jurisdiction.
- Sec. 118. Updating protection order definition.
- Sec. 119. GAO study and report.
- Sec. 120. Grants for outreach to underserved populations.
- Sec. 121. Enhancing culturally and linguistically specific services for victims of domestic violence, dating violence, sexual assault, and stalking.

**TITLE II—IMPROVING SERVICES FOR VICTIMS OF DOMESTIC VIOLENCE,
DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING**

- Sec. 201. Findings.
- Sec. 202. Sexual assault services program.
- Sec. 203. Amendments to the Rural Domestic Violence and Child Abuse Enforcement Assistance Program.
- Sec. 204. Training and services to end violence against women with disabilities.
- Sec. 205. Training and services to end violence against women in later life.
- Sec. 206. Strengthening the National Domestic Violence Hotline.

TITLE III—SERVICES, PROTECTION, AND JUSTICE FOR YOUNG VICTIMS OF VIOLENCE

- Sec. 301. Findings.
- Sec. 302. Rape prevention and education.
- Sec. 303. Services, education, protection, and justice for young victims of violence.
- Sec. 304. Grants to combat violent crimes on campuses.
- Sec. 305. Juvenile justice.
- Sec. 306. Safe havens.

TITLE IV—STRENGTHENING AMERICA'S FAMILIES BY PREVENTING VIOLENCE

- Sec. 401. Preventing violence against women and children.
- Sec. 403. Public Awareness Campaign.
- Sec. 402. Study conducted by the Centers for Disease Control and Prevention.

TITLE V—STRENGTHENING THE HEALTHCARE SYSTEM'S RESPONSE TO DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING

- Sec. 501. Findings.
- Sec. 502. Purpose.
- Sec. 503. Training and education of health professionals in domestic and sexual violence.
- Sec. 504. Grants to foster public health responses to domestic violence, dating violence, sexual assault, and stalking grants.
- Sec. 505. Research on effective interventions in the healthcare setting.

TITLE VI—HOUSING OPPORTUNITIES AND SAFETY FOR BATTERED WOMEN AND CHILDREN

- Sec. 601. Addressing the housing needs of victims of domestic violence, dating violence, sexual assault, and stalking.
- Sec. 602. Transitional housing assistance grants for victims of domestic violence, dating violence, sexual assault, or stalking.
- Sec. 603. Public housing authority plans reporting requirement.
- Sec. 604. Housing strategies.
- Sec. 605. Amendment to the McKinney-Vento Homeless Assistance Act.
- Sec. 606. Amendments to the low-income housing assistance voucher program.
- Sec. 607. Amendments to the public housing program.

TITLE VII—PROVIDING ECONOMIC SECURITY FOR VICTIMS OF VIOLENCE

- Sec. 701. Grant for National Resource Center on Workplace Responses to assist victims of domestic and sexual violence.

TITLE VIII—PROTECTION OF BATTERED AND TRAFFICKED IMMIGRANTS

Subtitle A—Victims of Crime

- Sec. 801. Treatment of spouse and children of victims.
- Sec. 802. Presence of victims of a severe form of trafficking in persons.
- Sec. 803. Adjustment of status.
- Sec. 804. Protection and assistance for victims of trafficking.
- Sec. 805. Protecting victims of child abuse.

Subtitle B—VAWA Self-Petitioners

- Sec. 811. Definition of VAWA self-petitioner.
- Sec. 812. Application in case of voluntary departure.
- Sec. 813. Removal proceedings.
- Sec. 814. Eliminating abusers' control over applications and limitation on petitioning for abusers.
- Sec. 815. Application for VAWA-related relief.
- Sec. 816. Self-petitioning parents.
- Sec. 817. VAWA confidentiality nondisclosure.

Subtitle C—Miscellaneous Amendments

- Sec. 821. Duration of T and U visas.
- Sec. 822. Technical correction to references in application of special physical presence and good moral character rules.
- Sec. 823. Petitioning rights of certain former spouses under Cuban adjustment.
- Sec. 824. Self-petitioning rights of HRIFA applicants.
- Sec. 825. Motions to reopen.

- Sec. 826. Protecting abused juveniles.
- Sec. 827. Protection of domestic violence and crime victims from certain disclosures of information.
- Sec. 828. Rulemaking.

Subtitle D—International Marriage Broker Regulation

- Sec. 831. Short title.
- Sec. 832. Access to VAWA protection regardless of manner of entry.
- Sec. 833. Domestic violence information and resources for immigrants and regulation of international marriage brokers.
- Sec. 834. Sharing of certain information.

TITLE IX—SAFETY FOR INDIAN WOMEN

- Sec. 901. Findings.
- Sec. 902. Purposes.
- Sec. 903. Consultation.
- Sec. 904. Analysis and research on violence against Indian women.
- Sec. 905. Tracking of violence against Indian women.
- Sec. 906. Grants to Indian tribal governments.
- Sec. 907. Tribal deputy in the Office on Violence Against Women.
- Sec. 908. Enhanced criminal law resources.
- Sec. 909. Domestic assault by an habitual offender.

TITLE X—DNA FINGERPRINTING

- Sec. 1001. Short title.
- Sec. 1002. Use of opt-out procedure to remove samples from national DNA index.
- Sec. 1003. Expanded use of CODIS grants.
- Sec. 1004. Authorization to conduct DNA sample collection from persons arrested or detained under Federal authority.
- Sec. 1005. Tolling of statute of limitations for sexual-abuse offenses.

TITLE XI—DEPARTMENT OF JUSTICE REAUTHORIZATION

Subtitle A—Authorization of Appropriations

- Sec. 1101. Authorization of appropriations for fiscal year 2006.
- Sec. 1102. Authorization of appropriations for fiscal year 2007.
- Sec. 1103. Authorization of appropriations for fiscal year 2008.
- Sec. 1104. Authorization of appropriations for fiscal year 2009.
- Sec. 1105. Organized retail theft.
- Sec. 1106. United States-Mexico Border Violence Task Force.
- Sec. 1107. National Gang Intelligence Center.

Subtitle B—Improving the Department of Justice's Grant Programs

CHAPTER 1—ASSISTING LAW ENFORCEMENT AND CRIMINAL JUSTICE AGENCIES

- Sec. 1111. Merger of Byrne Grant Program and Local Law Enforcement Block Grant Program.
- Sec. 1112. Clarification of number of recipients who may be selected in a given year to receive Public Safety Officer Medal of Valor.
- Sec. 1113. Clarification of official to be consulted by Attorney General in considering application for emergency Federal law enforcement assistance.
- Sec. 1114. Clarification of uses for regional information sharing system grants.
- Sec. 1115. Integrity and enhancement of national criminal record databases.
- Sec. 1116. Extension of matching grant program for law enforcement armor vests.

CHAPTER 2—BUILDING COMMUNITY CAPACITY TO PREVENT, REDUCE, AND CONTROL CRIME

- Sec. 1121. Office of Weed and Seed Strategies.

CHAPTER 3—ASSISTING VICTIMS OF CRIME

- Sec. 1131. Grants to local nonprofit organizations to improve outreach services to victims of crime.
- Sec. 1132. Clarification and enhancement of certain authorities relating to crime victims fund.
- Sec. 1133. Amounts received under crime victim grants may be used by State for training purposes.
- Sec. 1134. Clarification of authorities relating to Violence Against Women formula and discretionary grant programs.
- Sec. 1135. Change of certain reports from annual to biennial.
- Sec. 1136. Grants for young witness assistance.

CHAPTER 4—PREVENTING CRIME

- Sec. 1141. Clarification of definition of violent offender for purposes of juvenile drug courts.
- Sec. 1142. Changes to distribution and allocation of grants for drug courts.
- Sec. 1143. Eligibility for grants under drug court grants program extended to courts that supervise non-offenders with substance abuse problems.
- Sec. 1144. Term of Residential Substance Abuse Treatment program for local facilities.
- Sec. 1145. Enhanced residential substance abuse treatment program for State prisoners.
- Sec. 1146. Residential Substance Abuse Treatment Program for Federal facilities.

CHAPTER 5—OTHER MATTERS

- Sec. 1151. Changes to certain financial authorities.
- Sec. 1152. Coordination duties of Assistant Attorney General.
- Sec. 1153. Simplification of compliance deadlines under sex-offender registration laws.
- Sec. 1154. Repeal of certain programs.
- Sec. 1155. Elimination of certain notice and hearing requirements.
- Sec. 1156. Amended definitions for purposes of Omnibus Crime Control and Safe Streets Act of 1968.
- Sec. 1157. Clarification of authority to pay subsistence payments to prisoners for health care items and services.
- Sec. 1158. Office of Audit, Assessment, and Management.
- Sec. 1159. Community Capacity Development Office.
- Sec. 1160. Office of Applied Law Enforcement Technology.
- Sec. 1161. Availability of funds for grants.
- Sec. 1162. Consolidation of financial management systems of Office of Justice Programs.
- Sec. 1163. Authorization and change of COPS program to single grant program.
- Sec. 1164. Clarification of persons eligible for benefits under public safety officers' death benefits programs.
- Sec. 1165. Pre-release and post-release programs for juvenile offenders.
- Sec. 1166. Reauthorization of juvenile accountability block grants.
- Sec. 1167. Sex offender management.
- Sec. 1168. Evidence-based approaches.
- Sec. 1169. Reauthorization of matching grant program for school security.
- Sec. 1170. Technical amendments to Aimee's Law.

Subtitle C—Miscellaneous Provisions

- Sec. 1171. Technical amendments relating to Public Law 107–56.
- Sec. 1172. Miscellaneous technical amendments.
- Sec. 1173. Use of Federal training facilities.
- Sec. 1174. Privacy officer.
- Sec. 1175. Bankruptcy crimes.
- Sec. 1176. Report to Congress on status of United States persons or residents detained on suspicion of terrorism.
- Sec. 1177. Increased penalties and expanded jurisdiction for sexual abuse offenses in correctional facilities.
- Sec. 1178. Expanded jurisdiction for contraband offenses in correctional facilities.
- Sec. 1179. Magistrate judge's authority to continue preliminary hearing.
- Sec. 1180. Technical corrections relating to steroids.
- Sec. 1181. Prison Rape Commission extension.
- Sec. 1182. Longer statute of limitation for human trafficking-related offenses.
- Sec. 1183. Use of Center for Criminal Justice Technology.
- Sec. 1184. SEARCH Grants.
- Sec. 1185. Reauthorization of Law Enforcement Tribute Act.
- Sec. 1186. Amendment regarding bullying and gangs.
- Sec. 1187. Transfer of provisions relating to the Bureau of Alcohol, Tobacco, Firearms, and Explosives.
- Sec. 1188. Reauthorize the Gang Resistance Education and Training Projects Program.
- Sec. 1189. National Training Center.
- Sec. 1190. Sense of Congress relating to "good time" release.
- Sec. 1191. Public employee uniforms.
- Sec. 1192. Officially approved postage.
- Sec. 1193. Authorization of additional appropriations.
- Sec. 1194. Assistance to courts.
- Sec. 1195. Study and report on correlation between substance abuse and domestic violence at domestic violence shelters.
- Sec. 1196. Reauthorization of State Criminal Alien Assistance Program.

Sec. 1197. Extension of Child Safety Pilot Program.

Sec. 1198. Transportation and subsistence for special sessions of District Courts.

Sec. 1199. Youth Violence Reduction Demonstration Projects.

SEC. 3. UNIVERSAL DEFINITIONS AND GRANT PROVISIONS.

(a) IN GENERAL.—The Violence Against Women Act of 1994 (108 Stat. 1902 et seq.) is amended by adding after section 40001 the following:

42 USC 13925.

“SEC. 40002. DEFINITIONS AND GRANT PROVISIONS.

“(a) DEFINITIONS.—In this title:

“(1) COURTS.—The term ‘courts’ means any civil or criminal, tribal, and Alaskan Village, Federal, State, local or territorial court having jurisdiction to address domestic violence, dating violence, sexual assault or stalking, including immigration, family, juvenile, and dependency courts, and the judicial officers serving in those courts, including judges, magistrate judges, commissioners, justices of the peace, or any other person with decisionmaking authority.

“(2) CHILD ABUSE AND NEGLECT.—The term ‘child abuse and neglect’ means any recent act or failure to act on the part of a parent or caregiver with intent to cause death, serious physical or emotional harm, sexual abuse, or exploitation, or an act or failure to act which presents an imminent risk of serious harm. This definition shall not be construed to mean that failure to leave an abusive relationship, in the absence of other action constituting abuse or neglect, is itself abuse or neglect.

“(3) COMMUNITY-BASED ORGANIZATION.—The term ‘community-based organization’ means an organization that—

“(A) focuses primarily on domestic violence, dating violence, sexual assault, or stalking;

“(B) has established a specialized culturally specific program that addresses domestic violence, dating violence, sexual assault, or stalking;

“(C) has a primary focus on underserved populations (and includes representatives of these populations) and domestic violence, dating violence, sexual assault, or stalking; or

“(D) obtains expertise, or shows demonstrated capacity to work effectively, on domestic violence, dating violence, sexual assault, and stalking through collaboration.

“(4) CHILD MALTREATMENT.—The term ‘child maltreatment’ means the physical or psychological abuse or neglect of a child or youth, including sexual assault and abuse.

“(5) COURT-BASED AND COURT-RELATED PERSONNEL.—The term ‘court-based’ and ‘court-related personnel’ mean persons working in the court, whether paid or volunteer, including—

“(A) clerks, special masters, domestic relations officers, administrators, mediators, custody evaluators, guardians ad litem, lawyers, negotiators, probation, parole, interpreters, victim assistants, victim advocates, and judicial, administrative, or any other professionals or personnel similarly involved in the legal process;

“(B) court security personnel;

“(C) personnel working in related, supplementary offices or programs (such as child support enforcement); and

“(D) any other court-based or community-based personnel having responsibilities or authority to address domestic violence, dating violence, sexual assault, or stalking in the court system.

“(6) DOMESTIC VIOLENCE.—The term ‘domestic violence’ includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction.

“(7) DATING PARTNER.—The term ‘dating partner’ refers to a person who is or has been in a social relationship of a romantic or intimate nature with the abuser, and where the existence of such a relationship shall be determined based on a consideration of—

“(A) the length of the relationship;

“(B) the type of relationship; and

“(C) the frequency of interaction between the persons involved in the relationship.

“(8) DATING VIOLENCE.—The term ‘dating violence’ means violence committed by a person—

“(A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and

“(B) where the existence of such a relationship shall be determined based on a consideration of the following factors:

“(i) The length of the relationship.

“(ii) The type of relationship.

“(iii) The frequency of interaction between the persons involved in the relationship.

“(9) ELDER ABUSE.—The term ‘elder abuse’ means any action against a person who is 50 years of age or older that constitutes the willful—

“(A) infliction of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical harm, pain, or mental anguish; or

“(B) deprivation by a person, including a caregiver, of goods or services with intent to cause physical harm, mental anguish, or mental illness.

“(10) INDIAN.—The term ‘Indian’ means a member of an Indian tribe.

“(11) INDIAN COUNTRY.—The term ‘Indian country’ has the same meaning given such term in section 1151 of title 18, United States Code.

“(12) INDIAN HOUSING.—The term ‘Indian housing’ means housing assistance described in the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq., as amended).

“(13) INDIAN TRIBE.—The term ‘Indian tribe’ means a tribe, band, pueblo, nation, or other organized group or community of Indians, including any Alaska Native village or regional or village corporation (as defined in, or established pursuant

to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

“(14) INDIAN LAW ENFORCEMENT.—The term ‘Indian law enforcement’ means the departments or individuals under the direction of the Indian tribe that maintain public order.

“(15) LAW ENFORCEMENT.—The term ‘law enforcement’ means a public agency charged with policing functions, including any of its component bureaus (such as governmental victim services programs), including those referred to in section 3 of the Indian Enforcement Reform Act (25 U.S.C. 2802).

“(16) LEGAL ASSISTANCE.—The term ‘legal assistance’ includes assistance to adult and youth victims of domestic violence, dating violence, sexual assault, and stalking in—

“(A) family, tribal, territorial, immigration, employment, administrative agency, housing matters, campus administrative or protection or stay away order proceedings, and other similar matters; and

“(B) criminal justice investigations, prosecutions and post-trial matters (including sentencing, parole, and probation) that impact the victim’s safety and privacy.

“(17) LINGUISTICALLY AND CULTURALLY SPECIFIC SERVICES.—The term ‘linguistically and culturally specific services’ means community-based services that offer full linguistic access and culturally specific services and resources, including outreach, collaboration, and support mechanisms primarily directed toward underserved communities.

“(18) PERSONALLY IDENTIFYING INFORMATION OR PERSONAL INFORMATION.—The term ‘personally identifying information’ or ‘personal information’ means individually identifying information for or about an individual including information likely to disclose the location of a victim of domestic violence, dating violence, sexual assault, or stalking, including—

“(A) a first and last name;

“(B) a home or other physical address;

“(C) contact information (including a postal, e-mail or Internet protocol address, or telephone or facsimile number);

“(D) a social security number; and

“(E) any other information, including date of birth, racial or ethnic background, or religious affiliation, that, in combination with any of subparagraphs (A) through (D), would serve to identify any individual.

“(19) PROSECUTION.—The term ‘prosecution’ means any public agency charged with direct responsibility for prosecuting criminal offenders, including such agency’s component bureaus (such as governmental victim services programs).

“(20) PROTECTION ORDER OR RESTRAINING ORDER.—The term ‘protection order’ or ‘restraining order’ includes—

“(A) any injunction, restraining order, or any other order issued by a civil or criminal court for the purpose of preventing violent or threatening acts or harassment against, sexual violence or contact or communication with or physical proximity to, another person, including any temporary or final orders issued by civil or criminal courts whether obtained by filing an independent action or as

a pendente lite order in another proceeding so long as any civil order was issued in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection; and

“(B) any support, child custody or visitation provisions, orders, remedies, or relief issued as part of a protection order, restraining order, or stay away injunction pursuant to State, tribal, territorial, or local law authorizing the issuance of protection orders, restraining orders, or injunctions for the protection of victims of domestic violence, dating violence, sexual assault, or stalking.

“(21) RURAL AREA AND RURAL COMMUNITY.—The term ‘rural area’ and ‘rural community’ mean—

“(A) any area or community, respectively, no part of which is within an area designated as a standard metropolitan statistical area by the Office of Management and Budget; or

“(B) any area or community, respectively, that is—

“(i) within an area designated as a metropolitan statistical area or considered as part of a metropolitan statistical area; and

“(ii) located in a rural census tract.

“(22) RURAL STATE.—The term ‘rural State’ means a State that has a population density of 52 or fewer persons per square mile or a State in which the largest county has fewer than 150,000 people, based on the most recent decennial census.

“(23) SEXUAL ASSAULT.—The term ‘sexual assault’ means any conduct prescribed by chapter 109A of title 18, United States Code, whether or not the conduct occurs in the special maritime and territorial jurisdiction of the United States or in a Federal prison and includes both assaults committed by offenders who are strangers to the victim and assaults committed by offenders who are known or related by blood or marriage to the victim.

“(24) STALKING.—The term ‘stalking’ means engaging in a course of conduct directed at a specific person that would cause a reasonable person to—

“(A) fear for his or her safety or the safety of others;

or

“(B) suffer substantial emotional distress.

“(25) STATE.—The term ‘State’ means each of the several States and the District of Columbia, and except as otherwise provided, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Northern Mariana Islands.

“(26) STATE DOMESTIC VIOLENCE COALITION.—The term ‘State domestic violence coalition’ means a program determined by the Administration for Children and Families under the Family Violence Prevention and Services Act (42 U.S.C. 10410(b)).

“(27) STATE SEXUAL ASSAULT COALITION.—The term ‘State sexual assault coalition’ means a program determined by the Center for Injury Prevention and Control of the Centers for Disease Control and Prevention under the Public Health Service Act (42 U.S.C. 280b et seq.).

“(28) TERRITORIAL DOMESTIC VIOLENCE OR SEXUAL ASSAULT COALITION.—The term ‘territorial domestic violence or sexual

assault coalition’ means a program addressing domestic or sexual violence that is—

“(A) an established nonprofit, nongovernmental territorial coalition addressing domestic violence or sexual assault within the territory; or

“(B) a nongovernmental organization with a demonstrated history of addressing domestic violence or sexual assault within the territory that proposes to incorporate as a nonprofit, nongovernmental territorial coalition.

“(29) TRIBAL COALITION.—The term ‘tribal coalition’ means—

“(A) an established nonprofit, nongovernmental tribal coalition addressing domestic violence and sexual assault against American Indian or Alaskan Native women; or

“(B) individuals or organizations that propose to incorporate as nonprofit, nongovernmental tribal coalitions to address domestic violence and sexual assault against American Indian or Alaska Native women.

“(30) TRIBAL GOVERNMENT.—The term ‘tribal government’ means—

“(A) the governing body of an Indian tribe; or

“(B) a tribe, band, pueblo, nation, or other organized group or community of Indians, including any Alaska Native village or regional or village corporation (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

“(31) TRIBAL ORGANIZATION.—The term ‘tribal organization’ means—

“(A) the governing body of any Indian tribe;

“(B) any legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body of a tribe or tribes to be served, or which is democratically elected by the adult members of the Indian community to be served by such organization and which includes the maximum participation of Indians in all phases of its activities; or

“(C) any tribal nonprofit organization.

“(32) UNDERSERVED POPULATIONS.—The term ‘underserved populations’ includes populations underserved because of geographic location, underserved racial and ethnic populations, populations underserved because of special needs (such as language barriers, disabilities, alienage status, or age), and any other population determined to be underserved by the Attorney General or by the Secretary of Health and Human Services, as appropriate.

“(33) VICTIM ADVOCATE.—The term ‘victim advocate’ means a person, whether paid or serving as a volunteer, who provides services to victims of domestic violence, sexual assault, stalking, or dating violence under the auspices or supervision of a victim services program.

“(34) VICTIM ASSISTANT.—The term ‘victim assistant’ means a person, whether paid or serving as a volunteer, who provides services to victims of domestic violence, sexual assault, stalking,

or dating violence under the auspices or supervision of a court or a law enforcement or prosecution agency.

“(35) VICTIM SERVICES OR VICTIM SERVICE PROVIDER.—The term ‘victim services’ or ‘victim service provider’ means a non-profit, nongovernmental organization that assists domestic violence, dating violence, sexual assault, or stalking victims, including rape crisis centers, domestic violence shelters, faith-based organizations, and other organizations, with a documented history of effective work concerning domestic violence, dating violence, sexual assault, or stalking.

“(36) YOUTH.—The term ‘youth’ means teen and young adult victims of domestic violence, dating violence, sexual assault, or stalking.

“(b) GRANT CONDITIONS.—

“(1) MATCH.—No matching funds shall be required for a grant or subgrant made under this title for any tribe, territory, victim service provider, or any entity that the Attorney General determines has adequately demonstrated financial need.

“(2) NONDISCLOSURE OF CONFIDENTIAL OR PRIVATE INFORMATION.—

“(A) IN GENERAL.—In order to ensure the safety of adult, youth, and child victims of domestic violence, dating violence, sexual assault, or stalking, and their families, grantees and subgrantees under this title shall protect the confidentiality and privacy of persons receiving services.

“(B) NONDISCLOSURE.—Subject to subparagraphs (C) and (D), grantees and subgrantees shall not—

“(i) disclose any personally identifying information or individual information collected in connection with services requested, utilized, or denied through grantees’ and subgrantees’ programs; or

“(ii) reveal individual client information without the informed, written, reasonably time-limited consent of the person (or in the case of an unemancipated minor, the minor and the parent or guardian or in the case of persons with disabilities, the guardian) about whom information is sought, whether for this program or any other Federal, State, tribal, or territorial grant program, except that consent for release may not be given by the abuser of the minor, person with disabilities, or the abuser of the other parent of the minor.

“(C) RELEASE.—If release of information described in subparagraph (B) is compelled by statutory or court mandate—

“(i) grantees and subgrantees shall make reasonable attempts to provide notice to victims affected by the disclosure of information; and

“(ii) grantees and subgrantees shall take steps necessary to protect the privacy and safety of the persons affected by the release of the information.

“(D) INFORMATION SHARING.—Grantees and subgrantees may share—

“(i) nonpersonally identifying data in the aggregate regarding services to their clients and nonpersonally identifying demographic information in order to comply

with Federal, State, tribal, or territorial reporting, evaluation, or data collection requirements;

“(ii) court-generated information and law-enforcement generated information contained in secure, governmental registries for protection order enforcement purposes; and

“(iii) law enforcement- and prosecution-generated information necessary for law enforcement and prosecution purposes.

“(E) OVERSIGHT.—Nothing in this paragraph shall prevent the Attorney General from disclosing grant activities authorized in this Act to the chairman and ranking members of the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate exercising Congressional oversight authority. All disclosures shall protect confidentiality and omit personally identifying information, including location information about individuals.

“(3) APPROVED ACTIVITIES.—In carrying out the activities under this title, grantees and subgrantees may collaborate with and provide information to Federal, State, local, tribal, and territorial public officials and agencies to develop and implement policies to reduce or eliminate domestic violence, dating violence, sexual assault, and stalking.

“(4) NON-SUPPLANTATION.—Any Federal funds received under this title shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities under this title.

“(5) USE OF FUNDS.—Funds authorized and appropriated under this title may be used only for the specific purposes described in this title and shall remain available until expended.

“(6) REPORTS.—An entity receiving a grant under this title shall submit to the disbursing agency a report detailing the activities undertaken with the grant funds, including and providing additional information as the agency shall require.

“(7) EVALUATION.—Federal agencies disbursing funds under this title shall set aside up to 3 percent of such funds in order to conduct—

“(A) evaluations of specific programs or projects funded by the disbursing agency under this title or related research; or

“(B) evaluations of promising practices or problems emerging in the field or related research, in order to inform the agency or agencies as to which programs or projects are likely to be effective or responsive to needs in the field.

“(8) NONEXCLUSIVITY.—Nothing in this title shall be construed to prohibit male victims of domestic violence, dating violence, sexual assault, and stalking from receiving benefits and services under this title.

“(9) PROHIBITION ON TORT LITIGATION.—Funds appropriated for the grant program under this title may not be used to fund civil representation in a lawsuit based on a tort claim. This paragraph should not be construed as a prohibition on providing assistance to obtain restitution in a protection order or criminal case.

“(10) PROHIBITION ON LOBBYING.—Any funds appropriated for the grant program shall be subject to the prohibition in section 1913 of title 18, United States Code, relating to lobbying with appropriated moneys.

“(11) TECHNICAL ASSISTANCE.—If there is a demonstrated history that the Office on Violence Against Women has previously set aside amounts greater than 8 percent for technical assistance and training relating to grant programs authorized under this title, the Office has the authority to continue setting aside amounts greater than 8 percent.”.

(b) CHANGE OF CERTAIN REPORTS FROM ANNUAL TO BIENNIAL.—

(1) STALKING AND DOMESTIC VIOLENCE.—Section 40610 of the Violence Against Women Act of 1994 (42 U.S.C. 14039) is amended by striking “The Attorney General shall submit to the Congress an annual report, beginning 1 year after the date of the enactment of this Act, that provides” and inserting “Each even-numbered fiscal year, the Attorney General shall submit to the Congress a biennial report that provides”.

(2) SAFE HAVENS FOR CHILDREN.—Section 1301(d)(l) of the Victims of Trafficking and Violence Protection Act of 2000 (42 U.S.C. 10420(d)(1)) is amended in the matter preceding subparagraph (A) by striking “Not later than 1 year after the last day of the first fiscal year commencing on or after the date of enactment of this Act, and not later than 180 days after the last day of each fiscal year thereafter,” and inserting “Not later than 1 month after the end of each even-numbered fiscal year,”.

(3) STOP VIOLENCE AGAINST WOMEN FORMULA GRANTS.—Section 2009(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg–3) is amended by striking “Not later than” and all that follows through “the Attorney General shall submit” and inserting the following: “Not later than 1 month after the end of each even-numbered fiscal year, the Attorney General shall submit”.

(4) TRANSITIONAL HOUSING ASSISTANCE GRANTS FOR CHILD VICTIMS OF DOMESTIC VIOLENCE, STALKING, OR SEXUAL ASSAULT.—Section 40299(f) of the Violence Against Women Act of 1994 (42 U.S.C. 13975(f)) is amended by striking “shall annually prepare and submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a report that contains a compilation of the information contained in the report submitted under subsection (e) of this section.” and inserting “shall prepare and submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a report that contains a compilation of the information contained in the report submitted under subsection (e) of this section not later than 1 month after the end of each even-numbered fiscal year.”.

(c) DEFINITIONS AND GRANT CONDITIONS IN CRIME CONTROL ACT.—

(1) PART T.—Part T of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg et seq.) is amended by striking section 2008 and inserting the following:

Applicability.
42 USC
3796gg–2.

“SEC. 2008. DEFINITIONS AND GRANT CONDITIONS.

“In this part the definitions and grant conditions in section 40002 of the Violence Against Women Act of 1994 shall apply.”.

(2) PART U.—Section 2105 of the Omnibus Crime Control and Safe Streets Act of 1968 is amended to read as follows:

Applicability.
42 USC
3796hh–4.

“SEC. 2105. DEFINITIONS AND GRANT CONDITIONS.

“In this part the definitions and grant conditions in section 40002 of the Violence Against Women Act of 1994 shall apply.”.

(d) DEFINITIONS AND GRANT CONDITIONS IN 2000 ACT.—Section 1002 of the Violence Against Women Act of 2000 (42 U.S.C. 3796gg–2 note) is amended to read as follows:

Applicability.

“SEC. 1002. DEFINITIONS AND GRANT CONDITIONS.

“In this division the definitions and grant conditions in section 40002 of the Violence Against Women Act of 1994 shall apply.”.

TITLE I—ENHANCING JUDICIAL AND LAW ENFORCEMENT TOOLS TO COM- BAT VIOLENCE AGAINST WOMEN

SEC. 101. STOP GRANTS IMPROVEMENTS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a)(18) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(18)) is amended by striking “\$185,000,000 for each of fiscal years 2001 through 2005” and inserting “\$225,000,000 for each of fiscal years 2007 through 2011”.

(b) PURPOSE AREA ENHANCEMENTS.—Section 2001(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg(b)) is amended—

(1) in paragraph (10), by striking “and” after the semicolon;

(2) in paragraph (11), by striking the period and inserting a semicolon; and

(3) by adding at the end the following:

“(12) maintaining core victim services and criminal justice initiatives, while supporting complementary new initiatives and emergency services for victims and their families;

Jessica Gonzales.

“(13) supporting the placement of special victim assistants (to be known as ‘Jessica Gonzales Victim Assistants’) in local law enforcement agencies to serve as liaisons between victims of domestic violence, dating violence, sexual assault, and stalking and personnel in local law enforcement agencies in order to improve the enforcement of protection orders. Jessica Gonzales Victim Assistants shall have expertise in domestic violence, dating violence, sexual assault, or stalking and may undertake the following activities—

“(A) developing, in collaboration with prosecutors, courts, and victim service providers, standardized response policies for local law enforcement agencies, including triage protocols to ensure that dangerous or potentially lethal cases are identified and prioritized;

“(B) notifying persons seeking enforcement of protection orders as to what responses will be provided by the relevant law enforcement agency;

“(C) referring persons seeking enforcement of protection orders to supplementary services (such as emergency shelter programs, hotlines, or legal assistance services); and

“(D) taking other appropriate action to assist or secure the safety of the person seeking enforcement of a protection order; and

“(14) to provide funding to law enforcement agencies, non-profit nongovernmental victim services providers, and State, tribal, territorial, and local governments, (which funding stream shall be known as the Crystal Judson Domestic Violence Protocol Program) to promote—

Crystal Judson.

“(A) the development and implementation of training for local victim domestic violence service providers, and to fund victim services personnel, to be known as ‘Crystal Judson Victim Advocates,’ to provide supportive services and advocacy for victims of domestic violence committed by law enforcement personnel;

“(B) the implementation of protocols within law enforcement agencies to ensure consistent and effective responses to the commission of domestic violence by personnel within such agencies (such as the model policy promulgated by the International Association of Chiefs of Police (‘Domestic Violence by Police Officers: A Policy of the IACP, Police Response to Violence Against Women Project’ July 2003));

“(C) the development of such protocols in collaboration with State, tribal, territorial and local victim service providers and domestic violence coalitions.

Any law enforcement, State, tribal, territorial, or local government agency receiving funding under the Crystal Judson Domestic Violence Protocol Program under paragraph (14) shall on an annual basis, receive additional training on the topic of incidents of domestic violence committed by law enforcement personnel from domestic violence and sexual assault nonprofit organizations and, after a period of 2 years, provide a report of the adopted protocol to the Department of Justice, including a summary of progress in implementing such protocol.”

Reports.

(c) CLARIFICATION OF ACTIVITIES REGARDING UNDERSERVED POPULATIONS.—Section 2007 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg–1) is amended—

(1) in subsection (c)(2), by inserting before the semicolon the following: “and describe how the State will address the needs of underserved populations”; and

(2) in subsection (e)(2), by striking subparagraph (D) and inserting the following:

“(D) recognize and meaningfully respond to the needs of underserved populations and ensure that monies set aside to fund linguistically and culturally specific services and activities for underserved populations are distributed equitably among those populations.”

(d) TRIBAL AND TERRITORIAL SETASIDES.—Section 2007 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg–1) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking “5 percent” and inserting “10 percent”;

(B) in paragraph (2), striking by “ $\frac{1}{54}$ ” and inserting “ $\frac{1}{56}$ ”;

(C) in paragraph (3), by striking “and the coalition for the combined Territories of the United States, each receiving an amount equal to $\frac{1}{54}$ ” and inserting “coalitions for Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands, each receiving an amount equal to $\frac{1}{56}$ ”; and

(D) in paragraph (4), by striking “ $\frac{1}{54}$ ” and inserting “ $\frac{1}{56}$ ”;

(2) in subsection (c)(3)(B), by inserting after “victim services” the following: “, of which at least 10 percent shall be distributed to culturally specific community-based organization”; and

(3) in subsection (d)—

(A) in paragraph (3), by striking the period and inserting “; and”; and

(B) by adding at the end the following:

“(4) documentation showing that tribal, territorial, State or local prosecution, law enforcement, and courts have consulted with tribal, territorial, State, or local victim service programs during the course of developing their grant applications in order to ensure that proposed services, activities and equipment acquisitions are designed to promote the safety, confidentiality, and economic independence of victims of domestic violence, sexual assault, stalking, and dating violence.”.

(e) TRAINING, TECHNICAL ASSISTANCE, AND DATA COLLECTION.—Section 2007 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg-1) is amended by adding at the end the following:

“(i) TRAINING, TECHNICAL ASSISTANCE, AND DATA COLLECTION.—

“(1) IN GENERAL.—Of the total amounts appropriated under this part, not less than 3 percent and up to 8 percent shall be available for providing training and technical assistance relating to the purpose areas of this part to improve the capacity of grantees, subgrantees and other entities.

“(2) INDIAN TRAINING.—The Director of the Office on Violence Against Women shall ensure that training or technical assistance regarding violence against Indian women will be developed and provided by entities having expertise in tribal law, customary practices, and Federal Indian law.”.

(f) AVAILABILITY OF FORENSIC MEDICAL EXAMS.—Section 2010 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg-4) is amended by adding at the end the following:

“(c) USE OF FUNDS.—A State or Indian tribal government may use Federal grant funds under this part to pay for forensic medical exams performed by trained examiners for victims of sexual assault, except that such funds may not be used to pay for forensic medical exams by any State, Indian tribal government, or territorial government that requires victims of sexual assault to seek reimbursement for such exams from their insurance carriers.

“(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to permit a State, Indian tribal government, or territorial government to require a victim of sexual assault to participate in the criminal justice system or cooperate with law enforcement

in order to be provided with a forensic medical exam, reimbursement for charges incurred on account of such an exam, or both.

“(e) JUDICIAL NOTIFICATION.—

“(1) IN GENERAL.—A State or unit of local government shall not be entitled to funds under this part unless the State or unit of local government—

“(A) certifies that its judicial administrative policies and practices include notification to domestic violence offenders of the requirements delineated in section 922(g)(8) and (g)(9) of title 18, United States Code, and any applicable related Federal, State, or local laws; or

Certification.

“(B) gives the Attorney General assurances that its judicial administrative policies and practices will be in compliance with the requirements of subparagraph (A) within the later of—

Deadline.

“(i) the period ending on the date on which the next session of the State legislature ends; or

“(ii) 2 years.

“(2) REDISTRIBUTION.—Funds withheld from a State or unit of local government under subsection (a) shall be distributed to other States and units of local government, pro rata.”.

(g) POLYGRAPH TESTING PROHIBITION.—Part T of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg et seq.) is amended by adding at the end the following:

“SEC. 1013. POLYGRAPH TESTING PROHIBITION.

42 USC
3796gg–8.
Deadline.

“(a) IN GENERAL.—In order to be eligible for grants under this part, a State, Indian tribal government, territorial government, or unit of local government shall certify that, not later than 3 years after the date of enactment of this section, their laws, policies, or practices will ensure that no law enforcement officer, prosecuting officer or other government official shall ask or require an adult, youth, or child victim of an alleged sex offense as defined under Federal, tribal, State, territorial, or local law to submit to a polygraph examination or other truth telling device as a condition for proceeding with the investigation of such an offense.

“(b) PROSECUTION.—The refusal of a victim to submit to an examination described in subsection (a) shall not prevent the investigation, charging, or prosecution of the offense.”.

SEC. 102. GRANTS TO ENCOURAGE ARREST AND ENFORCE PROTECTION ORDERS IMPROVEMENTS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a)(19) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(19)) is amended by striking “\$65,000,000 for each of fiscal years 2001 through 2005” and inserting “\$75,000,000 for each of fiscal years 2007 through 2011. Funds appropriated under this paragraph shall remain available until expended.”.

(b) GRANTEE REQUIREMENTS.—Section 2101 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796hh) is amended—

(1) in subsection (a), by striking “to treat domestic violence as a serious violation” and inserting “to treat domestic violence, dating violence, sexual assault, and stalking as serious violations”;

(2) in subsection (b)—

(A) in the matter before paragraph (1), by inserting after “State” the following: “, tribal, territorial,”;

(B) in paragraph (1), by—

(i) striking “mandatory arrest or”; and

(ii) striking “mandatory arrest programs and”;

(C) in paragraph (2), by—

(i) inserting after “educational programs,” the following: “protection order registries,”;

(ii) striking “domestic violence and dating violence” and inserting “domestic violence, dating violence, sexual assault, and stalking. Policies, educational programs, protection order registries, and training described in this paragraph shall incorporate confidentiality, and privacy protections for victims of domestic violence, dating violence, sexual assault, and stalking”;

(D) in paragraph (3), by—

(i) striking “domestic violence cases” and inserting “domestic violence, dating violence, sexual assault, and stalking cases”; and

(ii) striking “groups” and inserting “teams”;

(E) in paragraph (5), by striking “domestic violence and dating violence” and inserting “domestic violence, dating violence, sexual assault, and stalking”;

(F) in paragraph (6), by—

(i) striking “other” and inserting “civil”; and

(ii) inserting after “domestic violence” the following: “, dating violence, sexual assault, and stalking”; and

(G) by adding at the end the following:

“(9) To develop State, tribal, territorial, or local policies, procedures, and protocols for preventing dual arrests and prosecutions in cases of domestic violence, dating violence, sexual assault, and stalking, and to develop effective methods for identifying the pattern and history of abuse that indicates which party is the actual perpetrator of abuse.

“(10) To plan, develop and establish comprehensive victim service and support centers, such as family justice centers, designed to bring together victim advocates from non-profit, non-governmental victim services organizations, law enforcement officers, prosecutors, probation officers, governmental victim assistants, forensic medical professionals, civil legal attorneys, chaplains, legal advocates, representatives from community-based organizations and other relevant public or private agencies or organizations into one centralized location, in order to improve safety, access to services, and confidentiality for victims and families. Although funds may be used to support the colocation of project partners under this paragraph, funds may not support construction or major renovation expenses or activities that fall outside of the scope of the other statutory purpose areas.

“(11) To develop and implement policies and training for police, prosecutors, probation and parole officers, and the judiciary in recognizing, investigating, and prosecuting instances of sexual assault, with an emphasis on recognizing the threat to the community for repeat crime perpetration by such individuals.

“(12) To develop, enhance, and maintain protection order registries.

“(13) To develop human immunodeficiency virus (HIV) testing programs for sexual assault perpetrators and notification and counseling protocols.”;

(3) in subsection (c)—

(A) in paragraph (3), by striking “and” after the semicolon;

(B) in paragraph (4), by striking the period and inserting “; and”; and

(C) by adding at the end the following:

“(5) certify that, not later than 3 years after the date of enactment of this section, their laws, policies, or practices will ensure that—

Certification.
Deadline.

“(A) no law enforcement officer, prosecuting officer or other government official shall ask or require an adult, youth, or child victim of a sex offense as defined under Federal, tribal, State, territorial, or local law to submit to a polygraph examination or other truth telling device as a condition for proceeding with the investigation of such an offense; and

“(B) the refusal of a victim to submit to an examination described in subparagraph (A) shall not prevent the investigation of the offense.”; and

(4) by striking subsections (d) and (e) and inserting the following:

“(d) SPEEDY NOTICE TO VICTIMS.—A State or unit of local government shall not be entitled to 5 percent of the funds allocated under this part unless the State or unit of local government—

“(1) certifies that it has a law or regulation that requires—

Certification.
HIV.
Deadline.

“(A) the State or unit of local government at the request of a victim to administer to a defendant, against whom an information or indictment is presented for a crime in which by force or threat of force the perpetrator compels the victim to engage in sexual activity, testing for the immunodeficiency virus (HIV) not later than 48 hours after the date on which the information or indictment is presented;

“(B) as soon as practicable notification to the victim, or parent and guardian of the victim, and defendant of the testing results; and

“(C) follow-up tests for HIV as may be medically appropriate, and that as soon as practicable after each such test the results be made available in accordance with subparagraph (B); or

“(2) gives the Attorney General assurances that its laws and regulations will be in compliance with requirements of paragraph (1) within the later of—

Deadline.

“(A) the period ending on the date on which the next session of the State legislature ends; or

“(B) 2 years.

“(e) ALLOTMENT FOR INDIAN TRIBES.—Not less than 10 percent of the total amount made available for grants under this section for each fiscal year shall be available for grants to Indian tribal governments.”.

(c) APPLICATIONS.—Section 2102(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796hh-1(b)) is

amended in each of paragraphs (1) and (2) by inserting after “involving domestic violence” the following: “, dating violence, sexual assault, or stalking”.

(d) **TRAINING, TECHNICAL ASSISTANCE, CONFIDENTIALITY.**—Part U of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796hh et seq.) is amended by adding at the end the following:

42 USC
3796hh–5.

“SEC. 2106. TRAINING AND TECHNICAL ASSISTANCE.

“Of the total amounts appropriated under this part, not less than 5 percent and up to 8 percent shall be available for providing training and technical assistance relating to the purpose areas of this part to improve the capacity of grantees and other entities.”.

SEC. 103. LEGAL ASSISTANCE FOR VICTIMS IMPROVEMENTS.

Section 1201 of the Violence Against Women Act of 2000 (42 U.S.C. 3796gg–6) is amended—

(1) in subsection (a), by—

(A) inserting before “legal assistance” the following: “civil and criminal”;

(B) inserting after “effective aid to” the following: “adult and youth”; and

(C) inserting at the end the following: “Criminal legal assistance provided for under this section shall be limited to criminal matters relating to domestic violence, sexual assault, dating violence, and stalking.”;

(2) by striking subsection (b) and inserting the following:

Applicability.

“(b) **DEFINITIONS.**—In this section, the definitions provided in section 40002 of the Violence Against Women Act of 1994 shall apply.”;

(3) in subsection (c), by inserting “and tribal organizations, territorial organizations” after “Indian tribal governments”;

(4) in subsection (d) by striking paragraph (2) and inserting the following:

“(2) any training program conducted in satisfaction of the requirement of paragraph (1) has been or will be developed with input from and in collaboration with a tribal, State, territorial, or local domestic violence, dating violence, sexual assault or stalking organization or coalition, as well as appropriate tribal, State, territorial, and local law enforcement officials”.

(5) in subsection (e), by inserting “dating violence,” after “domestic violence,”; and

(6) in subsection (f)—

(A) by striking paragraph (1) and inserting the following:

“(1) **IN GENERAL.**—There is authorized to be appropriated to carry out this section \$65,000,000 for each of fiscal years 2007 through 2011.”; and

(B) in paragraph (2)(A), by—

(i) striking “5 percent” and inserting “10 percent”;

and

(ii) inserting “adult and youth” after “that assist”.

SEC. 104. ENSURING CRIME VICTIM ACCESS TO LEGAL SERVICES.

(a) **IN GENERAL.**—Section 502 of the Department of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998 (Public Law 105–119; 111 Stat. 2510) is amended—

(1) in subsection (a)(2)(C)—

(A) in the matter preceding clause (i), by striking “using funds derived from a source other than the Corporation to provide” and inserting “providing”;

(B) in clause (i), by striking “in the United States” and all that follows and inserting “or a victim of sexual assault or trafficking in the United States, or qualifies for immigration relief under section 101(a)(15)(U) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(U)); or”; and

(C) in clause (ii), by striking “has been battered” and all that follows and inserting “, without the active participation of the alien, has been battered or subjected to extreme cruelty or a victim of sexual assault or trafficking in the United States, or qualifies for immigration relief under section 101(a)(15)(U) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(U)).”; and

(2) in subsection (b)(2), by striking “described in such subsection” and inserting “, sexual assault or trafficking, or the crimes listed in section 101(a)(15)(U)(iii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(U)(iii))”.

(b) SAVINGS PROVISION.—Nothing in this Act, or the amendments made by this Act, shall be construed to restrict the legal assistance provided to victims of trafficking and certain family members authorized under section 107(b)(1) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7105(b)(1)).

22 USC 7105
note.

SEC. 105. THE VIOLENCE AGAINST WOMEN ACT COURT TRAINING AND IMPROVEMENTS.

(a) VIOLENCE AGAINST WOMEN ACT COURT TRAINING AND IMPROVEMENTS.—The Violence Against Women Act of 1994 (108 Stat. 1902 et seq.) is amended by adding at the end the following:

“Subtitle J—Violence Against Women Act Court Training and Improvements

“SEC. 41001. SHORT TITLE.

“This subtitle may be cited as the ‘Violence Against Women Act Court Training and Improvements Act of 2005’.

“SEC. 41002. PURPOSE.

“The purpose of this subtitle is to enable the Attorney General, though the Director of the Office on Violence Against Women, to award grants to improve court responses to adult and youth domestic violence, dating violence, sexual assault, and stalking to be used for—

“(1) improved internal civil and criminal court functions, responses, practices, and procedures;

“(2) education for court-based and court-related personnel on issues relating to victims’ needs, including safety, security, privacy, confidentiality, and economic independence, as well as information about perpetrator behavior and best practices for holding perpetrators accountable;

“(3) collaboration and training with Federal, State, tribal, territorial, and local public agencies and officials and nonprofit, nongovernmental organizations to improve implementation and

Violence Against
Women Act
Court Training
and
Improvements
Act of 2005.
Grants.
42 USC 13701
note.

42 USC 14043.

enforcement of relevant Federal, State, tribal, territorial, and local law;

“(4) enabling courts or court-based or court-related programs to develop new or enhance current—

“(A) court infrastructure (such as specialized courts, dockets, intake centers, or interpreter services);

“(B) community-based initiatives within the court system (such as court watch programs, victim assistants, or community-based supplementary services);

“(C) offender management, monitoring, and accountability programs;

“(D) safe and confidential information-storage and -sharing databases within and between court systems;

“(E) education and outreach programs to improve community access, including enhanced access for underserved populations; and

“(F) other projects likely to improve court responses to domestic violence, dating violence, sexual assault, and stalking; and

“(5) providing technical assistance to Federal, State, tribal, territorial, or local courts wishing to improve their practices and procedures or to develop new programs.

42 USC 14043a.

“SEC. 41003. GRANT REQUIREMENTS.

“Grants awarded under this subtitle shall be subject to the following conditions:

“(1) ELIGIBLE GRANTEES.—Eligible grantees may include—

“(A) Federal, State, tribal, territorial, or local courts or court-based programs; and

“(B) national, State, tribal, territorial, or local private, nonprofit organizations with demonstrated expertise in developing and providing judicial education about domestic violence, dating violence, sexual assault, or stalking.

“(2) CONDITIONS OF ELIGIBILITY.—To be eligible for a grant under this section, applicants shall certify in writing that—

“(A) any courts or court-based personnel working directly with or making decisions about adult or youth parties experiencing domestic violence, dating violence, sexual assault, and stalking have completed or will complete education about domestic violence, dating violence, sexual assault, and stalking;

“(B) any education program developed under section 41002 has been or will be developed with significant input from and in collaboration with a national, tribal, State, territorial, or local victim services provider or coalition; and

“(C) the grantee’s internal organizational policies, procedures, or rules do not require mediation or counseling between offenders and victims physically together in cases where domestic violence, dating violence, sexual assault, or stalking is an issue.

42 USC
14043a–1.

“SEC. 41004. NATIONAL EDUCATION CURRICULA.

“(a) IN GENERAL.—The Attorney General, through the Director of the Office on Violence Against Women, shall fund efforts to develop a national education curriculum for use by State and national judicial educators to ensure that all courts and court personnel have access to information about relevant Federal, State,

territorial, or local law, promising practices, procedures, and policies regarding court responses to adult and youth domestic violence, dating violence, sexual assault, and stalking.

“(b) ELIGIBLE ENTITIES.—Any curricula developed under this section—

“(1) shall be developed by an entity or entities having demonstrated expertise in developing judicial education curricula on issues relating to domestic violence, dating violence, sexual assault, and stalking; or

“(2) if the primary grantee does not have demonstrated expertise with such issues, shall be developed by the primary grantee in partnership with an organization having such expertise.

“SEC. 41005. TRIBAL CURRICULA.

42 USC
14043a–2.

“(a) IN GENERAL.—The Attorney General, through the Office on Violence Against Women, shall fund efforts to develop education curricula for tribal court judges to ensure that all tribal courts have relevant information about promising practices, procedures, policies, and law regarding tribal court responses to adult and youth domestic violence, dating violence, sexual assault, and stalking.

“(b) ELIGIBLE ENTITIES.—Any curricula developed under this section—

“(1) shall be developed by a tribal organization having demonstrated expertise in developing judicial education curricula on issues relating to domestic violence, dating violence, sexual assault, and stalking; or

“(2) if the primary grantee does not have such expertise, the curricula shall be developed by the primary grantee through partnership with organizations having such expertise.

“SEC. 41006. AUTHORIZATION OF APPROPRIATIONS.

42 USC
14043a–3.

“(a) IN GENERAL.—There is authorized to be appropriated to carry out this subtitle \$5,000,000 for each of fiscal years 2007 to 2011.

“(b) AVAILABILITY.—Funds appropriated under this section shall remain available until expended and may only be used for the specific programs and activities described in this subtitle.

“(c) SET ASIDE.—Of the amounts made available under this subsection in each fiscal year, not less than 10 percent shall be used for grants for tribal courts, tribal court-related programs, and tribal nonprofits.”.

SEC. 106. FULL FAITH AND CREDIT IMPROVEMENTS.

(a) ENFORCEMENT OF PROTECTION ORDERS ISSUED BY TERRITORIES.—Section 2265 of title 18, United States Code, is amended by—

(1) striking “or Indian tribe” each place it appears and inserting “, Indian tribe, or territory”; and

(2) striking “State or tribal” each place it appears and inserting “State, tribal, or territorial”.

(b) CLARIFICATION OF ENTITIES HAVING ENFORCEMENT AUTHORITY AND RESPONSIBILITIES.—Section 2265(a) of title 18, United States Code, is amended by striking “and enforced as if it were” and inserting “and enforced by the court and law enforcement personnel of the other State, Indian tribal government or Territory as if it were”.

(c) LIMITS ON INTERNET PUBLICATION OF PROTECTION ORDER INFORMATION.—Section 2265(d) of title 18, United States Code, is amended by adding at the end the following:

“(3) LIMITS ON INTERNET PUBLICATION OF REGISTRATION INFORMATION.—A State, Indian tribe, or territory shall not make available publicly on the Internet any information regarding the registration or filing of a protection order, restraining order, or injunction in either the issuing or enforcing State, tribal or territorial jurisdiction, if such publication would be likely to publicly reveal the identity or location of the party protected under such order. A State, Indian tribe, or territory may share court-generated and law enforcement-generated information contained in secure, governmental registries for protection order enforcement purposes.”.

(d) DEFINITIONS.—Section 2266 of title 18, United States Code, is amended—

(1) by striking paragraph (5) and inserting the following:

“(5) PROTECTION ORDER.—The term ‘protection order’ includes—

“(A) any injunction, restraining order, or any other order issued by a civil or criminal court for the purpose of preventing violent or threatening acts or harassment against, sexual violence, or contact or communication with or physical proximity to, another person, including any temporary or final order issued by a civil or criminal court whether obtained by filing an independent action or as a pendente lite order in another proceeding so long as any civil or criminal order was issued in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection; and

“(B) any support, child custody or visitation provisions, orders, remedies or relief issued as part of a protection order, restraining order, or injunction pursuant to State, tribal, territorial, or local law authorizing the issuance of protection orders, restraining orders, or injunctions for the protection of victims of domestic violence, sexual assault, dating violence, or stalking.”; and

(2) in clauses (i) and (ii) of paragraph (7)(A), by striking “2261A, a spouse or former spouse of the abuser, a person who shares a child in common with the abuser, and a person who cohabits or has cohabited as a spouse with the abuser” and inserting “2261A—

“(I) a spouse or former spouse of the abuser, a person who shares a child in common with the abuser, and a person who cohabits or has cohabited as a spouse with the abuser; or

“(II) a person who is or has been in a social relationship of a romantic or intimate nature with the abuser, as determined by the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship”.

SEC. 107. PRIVACY PROTECTIONS FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL VIOLENCE, AND STALKING.

The Violence Against Women Act of 1994 (108 Stat. 1902 et seq.) is amended by adding at the end the following:

“Subtitle K—Privacy Protections for Victims of Domestic Violence, Dating Violence, Sexual Violence, and Stalking

“SEC. 41101. GRANTS TO PROTECT THE PRIVACY AND CONFIDENTIALITY OF VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING.

42 USC 14043b.

“The Attorney General, through the Director of the Office on Violence Against Women, may award grants under this subtitle to States, Indian tribes, territories, or local agencies or nonprofit, nongovernmental organizations to ensure that personally identifying information of adult, youth, and child victims of domestic violence, sexual violence, stalking, and dating violence shall not be released or disclosed to the detriment of such victimized persons.

“SEC. 41102. PURPOSE AREAS.

42 USC
14043b–1.

“Grants made under this subtitle may be used—

“(1) to develop or improve protocols, procedures, and policies for the purpose of preventing the release of personally identifying information of victims (such as developing alternative identifiers);

“(2) to defray the costs of modifying or improving existing databases, registries, and victim notification systems to ensure that personally identifying information of victims is protected from release, unauthorized information sharing and disclosure;

“(3) to develop confidential opt out systems that will enable victims of violence to make a single request to keep personally identifying information out of multiple databases, victim notification systems, and registries; or

“(4) to develop safe uses of technology (such as notice requirements regarding electronic surveillance by government entities), to protect against abuses of technology (such as electronic or GPS stalking), or providing training for law enforcement on high tech electronic crimes of domestic violence, dating violence, sexual assault, and stalking.

“SEC. 41103. ELIGIBLE ENTITIES.

42 USC
14043b–2.

“Entities eligible for grants under this subtitle include—

“(1) jurisdictions or agencies within jurisdictions having authority or responsibility for developing or maintaining public databases, registries or victim notification systems;

“(2) nonprofit nongovernmental victim advocacy organizations having expertise regarding confidentiality, privacy, and information technology and how these issues are likely to impact the safety of victims;

“(3) States or State agencies;

“(4) local governments or agencies;

“(5) Indian tribal governments or tribal organizations;

“(6) territorial governments, agencies, or organizations; or

“(7) nonprofit nongovernmental victim advocacy organizations, including statewide domestic violence and sexual assault coalitions.

42 USC
14043b–3.

“SEC. 41104. GRANT CONDITIONS.

“Applicants described in paragraph (1) and paragraphs (3) through (6) shall demonstrate that they have entered into a significant partnership with a State, tribal, territorial, or local victim service or advocacy organization or condition in order to develop safe, confidential, and effective protocols, procedures, policies, and systems for protecting personally identifying information of victims.

42 USC
14043b–4.

“SEC. 41105. AUTHORIZATION OF APPROPRIATIONS.

“(a) IN GENERAL.—There is authorized to be appropriated to carry out this subtitle \$5,000,000 for each of fiscal years 2007 through 2011.

“(b) TRIBAL ALLOCATION.—Of the amount made available under this section in each fiscal year, 10 percent shall be used for grants to Indian tribes for programs that assist victims of domestic violence, dating violence, stalking, and sexual assault.

“(c) TECHNICAL ASSISTANCE AND TRAINING.—Of the amount made available under this section in each fiscal year, not less than 5 percent shall be used for grants to organizations that have expertise in confidentiality, privacy, and technology issues impacting victims of domestic violence, dating violence, sexual assault, and stalking to provide technical assistance and training to grantees and non-grantees on how to improve safety, privacy, confidentiality, and technology to protect victimized persons.”.

SEC. 108. SEX OFFENDER MANAGEMENT.

Section 40152 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13941) is amended by striking subsection (c) and inserting the following:

“(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$3,000,000 for each of fiscal years 2007 through 2011.”.

SEC. 109. STALKER DATABASE.

Section 40603 of the Violence Against Women Act of 1994 (42 U.S.C. 14032) is amended—

- (1) by striking “2001” and inserting “2007”; and
- (2) by striking “2006” and inserting “2011”.

SEC. 110. FEDERAL VICTIM ASSISTANTS REAUTHORIZATION.

108 Stat. 1910

Section 40114 of the Violence Against Women Act of 1994 (Public Law 103–322) is amended to read as follows:

“SEC. 40114. AUTHORIZATION FOR FEDERAL VICTIM ASSISTANTS.

“There are authorized to be appropriated for the United States attorneys for the purpose of appointing victim assistants for the prosecution of sex crimes and domestic violence crimes where applicable (such as the District of Columbia), \$1,000,000 for each of fiscal years 2007 through 2011.”.

42 USC 14044f.

SEC. 111. GRANTS FOR LAW ENFORCEMENT TRAINING PROGRAMS.

(a) DEFINITIONS.—In this section:

(1) ACT OF TRAFFICKING.—The term “act of trafficking” means an act or practice described in paragraph (8) of section

103 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102).

(2) ELIGIBLE ENTITY.—The term “eligible entity” means a State or a local government.

(3) STATE.—The term “State” means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, American Samoa, and any other territory or possession of the United States.

(4) VICTIM OF TRAFFICKING.—The term “victim of trafficking” means a person subjected to an act of trafficking.

(b) GRANTS AUTHORIZED.—The Attorney General may award grants to eligible entities to provide training to State and local law enforcement personnel to identify and protect victims of trafficking.

(c) USE OF FUNDS.—A grant awarded under this section shall be used to—

(1) train law enforcement personnel to identify and protect victims of trafficking, including training such personnel to utilize Federal, State, or local resources to assist victims of trafficking;

(2) train law enforcement or State or local prosecutors to identify, investigate, or prosecute acts of trafficking; or

(3) train law enforcement or State or local prosecutors to utilize laws that prohibit acts of trafficking and to assist in the development of State and local laws to prohibit acts of trafficking.

(d) RESTRICTIONS.—

(1) ADMINISTRATIVE EXPENSES.—An eligible entity that receives a grant under this section may use not more than 5 percent of the total amount of such grant for administrative expenses.

(2) NONEXCLUSIVITY.—Nothing in this section may be construed to restrict the ability of an eligible entity to apply for or obtain funding from any other source to carry out the training described in subsection (c).

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$10,000,000 for each of the fiscal years 2007 through 2011 to carry out the provisions of this section.

SEC. 112. REAUTHORIZATION OF THE COURT-APPOINTED SPECIAL ADVOCATE PROGRAM.

(a) FINDINGS.—Section 215 of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13011) is amended by striking paragraphs (1) and (2) and inserting the following:

“(1) Court Appointed Special Advocates, who may serve as guardians ad litem, are trained volunteers appointed by courts to advocate for the best interests of children who are involved in the juvenile and family court system due to abuse or neglect; and

“(2) in 2003, Court Appointed Special Advocate volunteers represented 288,000 children, more than 50 percent of the estimated 540,000 children in foster care because of substantiated cases of child abuse or neglect.”.

(b) IMPLEMENTATION DATE.—Section 216 of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13012) is amended by striking “January 1, 1995” and inserting “January 1, 2010”.

(c) CLARIFICATION OF PROGRAM GOALS.—Section 217 of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13013) is amended—

(1) in subsection (a), by striking “to expand” and inserting “to initiate, sustain, and expand”;

(2) subsection (b)—

(A) in paragraph (1)—

(i) by striking “subsection (a) shall be” and inserting the following: “subsection (a)—

“(A) shall be”;

(ii) by striking “(2) may be” and inserting the following:

“(B) may be”; and

(iii) in subparagraph (B) (as redesignated), by striking “to initiate or expand” and inserting “to initiate, sustain, and expand”; and

(B) in the first sentence of paragraph (2)—

(i) by striking “(1)(a)” and inserting “(1)(A)”; and

(ii) striking “to initiate and to expand” and inserting “to initiate, sustain, and expand”; and

(3) by adding at the end the following:

“(d) BACKGROUND CHECKS.—State and local Court Appointed Special Advocate programs are authorized to request fingerprint-based criminal background checks from the Federal Bureau of Investigation’s criminal history database for prospective volunteers. The requesting program is responsible for the reasonable costs associated with the Federal records check.”

(d) REPORT.—Subtitle B of title II of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13011 et seq.) is amended—

42 USC 13014.

(1) by redesignating section 218 as section 219; and

(2) by inserting after section 217 the following new section:

42 USC 13013a.

“SEC. 218. REPORT.

“(a) REPORT REQUIRED.—Not later than December 31, 2006, the Inspector General of the Department of Justice shall submit to Congress a report on the types of activities funded by the National Court-Appointed Special Advocate Association and a comparison of outcomes in cases where court-appointed special advocates are involved and cases where court-appointed special advocates are not involved.

“(b) ELEMENTS OF REPORT.—The report submitted under subsection (a) shall include information on the following:

“(1) The types of activities the National Court-Appointed Special Advocate Association has funded since 1993.

“(2) The outcomes in cases where court-appointed special advocates are involved as compared to cases where court-appointed special advocates are not involved, including—

“(A) the length of time a child spends in foster care;

“(B) the extent to which there is an increased provision of services;

“(C) the percentage of cases permanently closed; and

“(D) achievement of the permanent plan for reunification or adoption.”

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) AUTHORIZATION.—Section 219 of the Victims of Child Abuse Act of 1990, as redesignated by subsection (d), is amended by striking subsection (a) and inserting the following: 42 USC 13014.

“(a) AUTHORIZATION.—There is authorized to be appropriated to carry out this subtitle \$12,000,000 for each of fiscal years 2007 through 2011.”.

(2) PROHIBITION ON LOBBYING.—Section 219 of the Victims of Child Abuse Act of 1990, as redesignated by subsection (d) and amended by paragraphs (1) and (2), is further amended by adding at the end the following new subsection:

“(c) PROHIBITION ON LOBBYING.—No funds authorized under this subtitle may be used for lobbying activities in contravention of OMB Circular No. A–122.”.

SEC. 113. PREVENTING CYBERSTALKING.

(a) IN GENERAL.—Paragraph (1) of section 223(h) of the Communications Act of 1934 (47 U.S.C. 223(h)(1)) is amended—

(1) in subparagraph (A), by striking “and” at the end;
(2) in subparagraph (B), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following new subparagraph:

“(C) in the case of subparagraph (C) of subsection (a)(1), includes any device or software that can be used to originate telecommunications or other types of communications that are transmitted, in whole or in part, by the Internet (as such term is defined in section 1104 of the Internet Tax Freedom Act (47 U.S.C. 151 note)).”.

(b) RULE OF CONSTRUCTION.—This section and the amendment made by this section may not be construed to affect the meaning given the term “telecommunications device” in section 223(h)(1) of the Communications Act of 1934, as in effect before the date of the enactment of this section. 47 USC 223 note.

SEC. 114. CRIMINAL PROVISION RELATING TO STALKING.

(a) INTERSTATE STALKING.—Section 2261A of title 18, United States Code, is amended to read as follows:

“§ 2261A. Stalking

“Whoever—

“(1) travels in interstate or foreign commerce or within the special maritime and territorial jurisdiction of the United States, or enters or leaves Indian country, with the intent to kill, injure, harass, or place under surveillance with intent to kill, injure, harass, or intimidate another person, and in the course of, or as a result of, such travel places that person in reasonable fear of the death of, or serious bodily injury to, or causes substantial emotional distress to that person, a member of the immediate family (as defined in section 115) of that person, or the spouse or intimate partner of that person; or

“(2) with the intent—

“(A) to kill, injure, harass, or place under surveillance with intent to kill, injure, harass, or intimidate, or cause substantial emotional distress to a person in another State or tribal jurisdiction or within the special maritime and territorial jurisdiction of the United States; or

“(B) to place a person in another State or tribal jurisdiction, or within the special maritime and territorial jurisdiction of the United States, in reasonable fear of the death of, or serious bodily injury to—

“(i) that person;

“(ii) a member of the immediate family (as defined in section 115 of that person; or

“(iii) a spouse or intimate partner of that person; uses the mail, any interactive computer service, or any facility of interstate or foreign commerce to engage in a course of conduct that causes substantial emotional distress to that person or places that person in reasonable fear of the death of, or serious bodily injury to, any of the persons described in clauses (i) through (iii) of subparagraph (B);

shall be punished as provided in section 2261(b) of this title.”.

(b) **ENHANCED PENALTIES FOR STALKING.**—Section 2261(b) of title 18, United States Code, is amended by adding at the end the following:

“(6) Whoever commits the crime of stalking in violation of a temporary or permanent civil or criminal injunction, restraining order, no-contact order, or other order described in section 2266 of title 18, United States Code, shall be punished by imprisonment for not less than 1 year.”.

SEC. 115. REPEAT OFFENDER PROVISION.

Chapter 110A of title 18, United States Code, is amended by adding after section 2265 the following:

“§ 2265A. Repeat offenders

“(a) **MAXIMUM TERM OF IMPRISONMENT.**—The maximum term of imprisonment for a violation of this chapter after a prior domestic violence or stalking offense shall be twice the term otherwise provided under this chapter.

“(b) **DEFINITION.**—For purposes of this section—

“(1) the term ‘prior domestic violence or stalking offense’ means a conviction for an offense—

“(A) under section 2261, 2261A, or 2262 of this chapter;

or

“(B) under State law for an offense consisting of conduct that would have been an offense under a section referred to in subparagraph (A) if the conduct had occurred within the special maritime and territorial jurisdiction of the United States, or in interstate or foreign commerce; and

“(2) the term ‘State’ means a State of the United States, the District of Columbia, or any commonwealth, territory, or possession of the United States.”.

SEC. 116. PROHIBITING DATING VIOLENCE.

(a) **IN GENERAL.**—Section 2261(a) of title 18, United States Code, is amended—

(1) in paragraph (1), striking “or intimate partner” and inserting “, intimate partner, or dating partner”; and

(2) in paragraph (2), striking “or intimate partner” and inserting “, intimate partner, or dating partner”.

(b) **DEFINITION.**—Section 2266 of title 18, United States Code, is amended by adding at the end the following:

“(10) DATING PARTNER.—The term ‘dating partner’ refers to a person who is or has been in a social relationship of a romantic or intimate nature with the abuser and the existence of such a relationship based on a consideration of—

“(A) the length of the relationship; and

“(B) the type of relationship; and

“(C) the frequency of interaction between the persons involved in the relationship.”.

SEC. 117. PROHIBITING VIOLENCE IN SPECIAL MARITIME AND TERRITORIAL JURISDICTION.

(a) DOMESTIC VIOLENCE.—Section 2261(a)(1) of title 18, United States Code, is amended by inserting after “Indian country” the following: “or within the special maritime and territorial jurisdiction of the United States”.

(b) PROTECTION ORDER.—Section 2262(a)(1) of title 18, United States Code, is amended by inserting after “Indian country” the following: “or within the special maritime and territorial jurisdiction of the United States”.

SEC. 118. UPDATING PROTECTION ORDER DEFINITION.

Section 534 of title 28, United States Code, is amended by striking subsection (e)(3)(B) and inserting the following:

“(B) the term ‘protection order’ includes—

“(i) any injunction, restraining order, or any other order issued by a civil or criminal court for the purpose of preventing violent or threatening acts or harassment against, sexual violence or contact or communication with or physical proximity to, another person, including any temporary or final orders issued by civil or criminal courts whether obtained by filing an independent action or as a pendente lite order in another proceeding so long as any civil order was issued in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection; and

“(ii) any support, child custody or visitation provisions, orders, remedies, or relief issued as part of a protection order, restraining order, or stay away injunction pursuant to State, tribal, territorial, or local law authorizing the issuance of protection orders, restraining orders, or injunctions for the protection of victims of domestic violence, dating violence, sexual assault, or stalking.”.

SEC. 119. GAO STUDY AND REPORT.

(a) STUDY REQUIRED.—The Comptroller General shall conduct a study to establish the extent to which men, women, youth, and children are victims of domestic violence, dating violence, sexual assault, and stalking and the availability to all victims of shelter, counseling, legal representation, and other services commonly provided to victims of domestic violence.

(b) ACTIVITIES UNDER STUDY.—In conducting the study, the following shall apply: Applicability.

(1) CRIME STATISTICS.—The Comptroller General shall not rely only on crime statistics, but may also use existing research available, including public health studies and academic studies.

(2) SURVEY.—The Comptroller General shall survey the Department of Justice, as well as any recipients of Federal

funding for any purpose or an appropriate sampling of recipients, to determine—

(A) what services are provided to victims of domestic violence, dating violence, sexual assault, and stalking;

(B) whether those services are made available to youth, child, female, and male victims; and

(C) the number, age, and gender of victims receiving each available service.

(c) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on the activities carried out under this section.

42 USC 14045.

SEC. 120. GRANTS FOR OUTREACH TO UNDERSERVED POPULATIONS.

(a) GRANTS AUTHORIZED.—

(1) IN GENERAL.—From amounts made available to carry out this section, the Attorney General, acting through the Director of the Office on Violence Against Women, shall award grants to eligible entities described in subsection (b) to carry out local, regional, or national public information campaigns focused on addressing adult, youth, or minor domestic violence, dating violence, sexual assault, stalking, or trafficking within tribal and underserved populations and immigrant communities, including information on services available to victims and ways to prevent or reduce domestic violence, dating violence, sexual assault, and stalking.

(2) TERM.—The Attorney General shall award grants under this section for a period of 1 fiscal year.

(b) ELIGIBLE ENTITIES.—Eligible entities under this section are—

(1) nonprofit, nongovernmental organizations or coalitions that represent the targeted tribal and underserved populations or immigrant community that—

(A) have a documented history of creating and administering effective public awareness campaigns addressing domestic violence, dating violence, sexual assault, and stalking; or

(B) work in partnership with an organization that has a documented history of creating and administering effective public awareness campaigns addressing domestic violence, dating violence, sexual assault, and stalking; or

(2) a governmental entity that demonstrates a partnership with organizations described in paragraph (1).

(c) ALLOCATION OF FUNDS.—Of the amounts appropriated for grants under this section—

(1) not more than 20 percent shall be used for national model campaign materials targeted to specific tribal and underserved populations or immigrant community, including American Indian tribes and Alaskan native villages for the purposes of research, testing, message development, and preparation of materials; and

(2) the balance shall be used for not less than 10 State, regional, territorial, tribal, or local campaigns targeting specific communities with information and materials developed through the national campaign or, if appropriate, new materials to reach an underserved population or a particularly isolated community.

(d) **USE OF FUNDS.**—Funds appropriated under this section shall be used to conduct a public information campaign and build the capacity and develop leadership of racial, ethnic populations, or immigrant community members to address domestic violence, dating violence, sexual assault, and stalking.

(e) **APPLICATION.**—An eligible entity desiring a grant under this section shall submit an application to the Director of the Office on Violence Against Women at such time, in such form, and in such manner as the Director may prescribe.

(f) **CRITERIA.**—In awarding grants under this section, the Attorney General shall ensure—

(1) reasonable distribution among eligible grantees representing various underserved and immigrant communities;

(2) reasonable distribution among State, regional, territorial, tribal, and local campaigns; and

(3) that not more than 8 percent of the total amount appropriated under this section for each fiscal year is set aside for training, technical assistance, and data collection.

(g) **REPORTS.**—Each eligible entity receiving a grant under this section shall submit to the Director of the Office of Violence Against Women, every 18 months, a report that describes the activities carried out with grant funds.

(h) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out this section \$2,000,000 for each of fiscal years 2007 through 2011.

SEC. 121. ENHANCING CULTURALLY AND LINGUISTICALLY SPECIFIC SERVICES FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING.

42 USC 14045a.

(a) **ESTABLISHMENT.**—

(1) **IN GENERAL.**—Of the amounts appropriated under certain grant programs identified in paragraph (a)(2) of this Section, the Attorney General, through the Director of the Violence Against Women Office (referred to in this section as the “Director”), shall take 5 percent of such appropriated amounts and combine them to establish a new grant program to enhance culturally and linguistically specific services for victims of domestic violence, dating violence, sexual assault, and stalking. Grants made under this new program shall be administered by the Director.

(2) **PROGRAMS COVERED.**—The programs covered by paragraph (1) are the programs carried out under the following provisions:

(A) Section 2101 (42 U.S.C. 3796hh), Grants to Encourage Arrest Policies.

(B) Section 1201 of the Violence Against Women Act of 2000 (42 U.S.C. 3796gg–6), Legal Assistance for Victims.

(C) Section 40295 of the Violence Against Women Act of 1994 (42 U.S.C. 13971), Rural Domestic Violence and Child Abuser Enforcement Assistance.

(D) Section _____ of the Violence Against Women Act of 1994 (42 U.S.C. _____), Older Battered Women.

(E) Section _____ of the Violence Against Women Act of 2000 (42 U.S.C. _____), Disabled Women Program.

(b) **PURPOSE OF PROGRAM AND GRANTS.**—

(1) **GENERAL PROGRAM PURPOSE.**—The purpose of the program required by this section is to promote:

(A) The maintenance and replication of existing successful services in domestic violence, dating violence, sexual assault, and stalking community-based programs providing culturally and linguistically specific services and other resources.

(B) The development of innovative culturally and linguistically specific strategies and projects to enhance access to services and resources for victims of domestic violence, dating violence, sexual assault, and stalking who face obstacles to using more traditional services and resources.

(2) PURPOSES FOR WHICH GRANTS MAY BE USED.—The Director shall make grants to community-based programs for the purpose of enhancing culturally and linguistically specific services for victims of domestic violence, dating violence, sexual assault, and stalking. Grants under the program shall support community-based efforts to address distinctive cultural and linguistic responses to domestic violence, dating violence, sexual assault, and stalking.

(3) TECHNICAL ASSISTANCE AND TRAINING.—The Director shall provide technical assistance and training to grantees of this and other programs under this Act regarding the development and provision of effective culturally and linguistically specific community-based services by entering into cooperative agreements or contracts with an organization or organizations having a demonstrated expertise in and whose primary purpose is addressing the development and provision of culturally and linguistically specific community-based services to victims of domestic violence, dating violence, sexual assault, and stalking.

(c) ELIGIBLE ENTITIES.—Eligible entities for grants under this Section include—

(1) community-based programs whose primary purpose is providing culturally and linguistically specific services to victims of domestic violence, dating violence, sexual assault, and stalking; and

(2) community-based programs whose primary purpose is providing culturally and linguistically specific services who can partner with a program having demonstrated expertise in serving victims of domestic violence, dating violence, sexual assault, and stalking.

(d) REPORTING.—The Director shall issue a biennial report on the distribution of funding under this section, the progress made in replicating and supporting increased services to victims of domestic violence, dating violence, sexual assault, and stalking who face obstacles to using more traditional services and resources, and the types of culturally and linguistically accessible programs, strategies, technical assistance, and training developed or enhanced through this program.

(e) GRANT PERIOD.—The Director shall award grants for a 2-year period, with a possible extension of another 2 years to implement projects under the grant.

(f) EVALUATION.—The Director shall award a contract or cooperative agreement to evaluate programs under this section to an entity with the demonstrated expertise in and primary goal of providing enhanced cultural and linguistic access to services and resources for victims of domestic violence, dating violence,

Contracts.

sexual assault, and stalking who face obstacles to using more traditional services and resources.

(g) NON-EXCLUSIVITY.—Nothing in this Section shall be interpreted to exclude linguistic and culturally specific community-based programs from applying to other grant programs authorized under this Act.

TITLE II—IMPROVING SERVICES FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING

SEC. 201. FINDINGS.

42 USC 13925
note.

Congress finds the following:

(1) Nearly $\frac{1}{3}$ of American women report physical or sexual abuse by a husband or boyfriend at some point in their lives.

(2) According to the National Crime Victimization Survey, 248,000 Americans 12 years of age and older were raped or sexually assaulted in 2002.

(3) Rape and sexual assault in the United States is estimated to cost \$127,000,000,000 per year, including—

- (A) lost productivity;
- (B) medical and mental health care;
- (C) police and fire services;
- (D) social services;
- (E) loss of and damage to property; and
- (F) reduced quality of life.

(4) Nonreporting of sexual assault in rural areas is a particular problem because of the high rate of nonstranger sexual assault.

(5) Geographic isolation often compounds the problems facing sexual assault victims. The lack of anonymity and accessible support services can limit opportunities for justice for victims.

(6) Domestic elder abuse is primarily family abuse. The National Elder Abuse Incidence Study found that the perpetrator was a family member in 90 percent of cases.

(7) Barriers for older victims leaving abusive relationships include—

- (A) the inability to support themselves;
- (B) poor health that increases their dependence on the abuser;
- (C) fear of being placed in a nursing home; and
- (D) ineffective responses by domestic abuse programs and law enforcement.

(8) Disabled women comprise another vulnerable population with unmet needs. Women with disabilities are more likely to be the victims of abuse and violence than women without disabilities because of their increased physical, economic, social, or psychological dependence on others.

(9) Many women with disabilities also fail to report the abuse, since they are dependent on their abusers and fear being abandoned or institutionalized.

(10) Of the 598 battered women's programs surveyed—

(A) only 35 percent of these programs offered disability awareness training for their staff; and

(B) only 16 percent dedicated a staff member to provide services to women with disabilities.

(11) Problems of domestic violence are exacerbated for immigrants when spouses control the immigration status of their family members, and abusers use threats of refusal to file immigration papers and threats to deport spouses and children as powerful tools to prevent battered immigrant women from seeking help, trapping battered immigrant women in violent homes because of fear of deportation.

(12) Battered immigrant women who attempt to flee abusive relationships may not have access to bilingual shelters or bilingual professionals, and face restrictions on public or financial assistance. They may also lack assistance of a certified interpreter in court, when reporting complaints to the police or a 9–1–1 operator, or even in acquiring information about their rights and the legal system.

(13) More than 500 men and women call the National Domestic Violence Hotline every day to get immediate, informed, and confidential assistance to help deal with family violence.

(14) The National Domestic Violence Hotline service is available, toll-free, 24 hours a day and 7 days a week, with bilingual staff, access to translators in 150 languages, and a TTY line for the hearing-impaired.

(15) With access to over 5,000 shelters and service providers across the United States, Puerto Rico, and the United States Virgin Islands, the National Domestic Violence Hotline provides crisis intervention and immediately connects callers with sources of help in their local community.

(16) Approximately 60 percent of the callers indicate that calling the Hotline is their first attempt to address a domestic violence situation and that they have not called the police or any other support services.

(17) Between 2000 and 2003, there was a 27 percent increase in call volume at the National Domestic Violence Hotline.

(18) Improving technology infrastructure at the National Domestic Violence Hotline and training advocates, volunteers, and other staff on upgraded technology will drastically increase the Hotline's ability to answer more calls quickly and effectively.

SEC. 202. SEXUAL ASSAULT SERVICES PROGRAM.

Part T of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg et seq.) is amended by inserting after section 2012, as added by this Act, the following:

“SEC. 2014. SEXUAL ASSAULT SERVICES.

“(a) PURPOSES.—The purposes of this section are—

“(1) to assist States, Indian tribes, and territories in providing intervention, advocacy, accompaniment, support services, and related assistance for—

“(A) adult, youth, and child victims of sexual assault;

“(B) family and household members of such victims;

and

“(C) those collaterally affected by the victimization, except for the perpetrator of such victimization;

“(2) to provide for technical assistance and training relating to sexual assault to—

“(A) Federal, State, tribal, territorial and local governments, law enforcement agencies, and courts;

“(B) professionals working in legal, social service, and health care settings;

“(C) nonprofit organizations;

“(D) faith-based organizations; and

“(E) other individuals and organizations seeking such assistance.

“(b) GRANTS TO STATES AND TERRITORIES.—

“(1) GRANTS AUTHORIZED.—The Attorney General shall award grants to States and territories to support the establishment, maintenance, and expansion of rape crisis centers and other programs and projects to assist those victimized by sexual assault.

“(2) ALLOCATION AND USE OF FUNDS.—

“(A) ADMINISTRATIVE COSTS.—Not more than 5 percent of the grant funds received by a State or territory governmental agency under this subsection for any fiscal year may be used for administrative costs.

“(B) GRANT FUNDS.—Any funds received by a State or territory under this subsection that are not used for administrative costs shall be used to provide grants to rape crisis centers and other nonprofit, nongovernmental organizations for programs and activities within such State or territory that provide direct intervention and related assistance.

“(C) INTERVENTION AND RELATED ASSISTANCE.—Intervention and related assistance under subparagraph (B) may include—

“(i) 24 hour hotline services providing crisis intervention services and referral;

“(ii) accompaniment and advocacy through medical, criminal justice, and social support systems, including medical facilities, police, and court proceedings;

“(iii) crisis intervention, short-term individual and group support services, and comprehensive service coordination and supervision to assist sexual assault victims and family or household members;

“(iv) information and referral to assist the sexual assault victim and family or household members;

“(v) community-based, linguistically and culturally specific services and support mechanisms, including outreach activities for underserved communities; and

“(vi) the development and distribution of materials on issues related to the services described in clauses (i) through (v).

“(3) APPLICATION.—

“(A) IN GENERAL.—Each eligible entity desiring a grant under this subsection shall submit an application to the Attorney General at such time and in such manner as the Attorney General may reasonably require.

“(B) CONTENTS.—Each application submitted under subparagraph (A) shall—

“(i) set forth procedures designed to ensure meaningful involvement of the State or territorial sexual assault coalition and representatives from underserved communities in the development of the application and the implementation of the plans;

“(ii) set forth procedures designed to ensure an equitable distribution of grants and grant funds within the State or territory and between urban and rural areas within such State or territory;

“(iii) identify the State or territorial agency that is responsible for the administration of programs and activities; and

“(iv) meet other such requirements as the Attorney General reasonably determines are necessary to carry out the purposes and provisions of this section.

“(4) MINIMUM AMOUNT.—The Attorney General shall allocate to each State not less than 1.50 percent of the total amount appropriated in a fiscal year for grants under this section, except that the United States Virgin Islands, American Samoa, Guam, the District of Columbia, Puerto Rico, and the Commonwealth of the Northern Mariana Islands shall each be allocated 0.125 percent of the total appropriations. The remaining funds shall be allotted to each State and each territory in an amount that bears the same ratio to such remaining funds as the population of such State and such territory bears to the population of the combined States or the population of the combined territories.

“(c) GRANTS FOR CULTURALLY SPECIFIC PROGRAMS ADDRESSING SEXUAL ASSAULT.—

“(1) GRANTS AUTHORIZED.—The Attorney General shall award grants to eligible entities to support the establishment, maintenance, and expansion of culturally specific intervention and related assistance for victims of sexual assault.

“(2) ELIGIBLE ENTITIES.—To be eligible to receive a grant under this section, an entity shall—

“(A) be a private nonprofit organization that focuses primarily on culturally specific communities;

“(B) must have documented organizational experience in the area of sexual assault intervention or have entered into a partnership with an organization having such expertise;

“(C) have expertise in the development of community-based, linguistically and culturally specific outreach and intervention services relevant for the specific communities to whom assistance would be provided or have the capacity to link to existing services in the community tailored to the needs of culturally specific populations; and

“(D) have an advisory board or steering committee and staffing which is reflective of the targeted culturally specific community.

“(3) AWARD BASIS.—The Attorney General shall award grants under this section on a competitive basis.

“(4) DISTRIBUTION.—

“(A) The Attorney General shall not use more than 2.5 percent of funds appropriated under this subsection

in any year for administration, monitoring, and evaluation of grants made available under this subsection.

“(B) Up to 5 percent of funds appropriated under this subsection in any year shall be available for technical assistance by a national, nonprofit, nongovernmental organization or organizations whose primary focus and expertise is in addressing sexual assault within underserved culturally specific populations.

“(5) TERM.—The Attorney General shall make grants under this section for a period of no less than 2 fiscal years.

“(6) REPORTING.—Each entity receiving a grant under this subsection shall submit a report to the Attorney General that describes the activities carried out with such grant funds.

“(d) GRANTS TO STATE, TERRITORIAL, AND TRIBAL SEXUAL ASSAULT COALITIONS.—

“(1) GRANTS AUTHORIZED.—

“(A) IN GENERAL.—The Attorney General shall award grants to State, territorial, and tribal sexual assault coalitions to assist in supporting the establishment, maintenance, and expansion of such coalitions.

“(B) MINIMUM AMOUNT.—Not less than 10 percent of the total amount appropriated to carry out this section shall be used for grants under subparagraph (A).

“(C) ELIGIBLE APPLICANTS.—Each of the State, territorial, and tribal sexual assault coalitions.

“(2) USE OF FUNDS.—Grant funds received under this subsection may be used to—

“(A) work with local sexual assault programs and other providers of direct services to encourage appropriate responses to sexual assault within the State, territory, or tribe;

“(B) work with judicial and law enforcement agencies to encourage appropriate responses to sexual assault cases;

“(C) work with courts, child protective services agencies, and children’s advocates to develop appropriate responses to child custody and visitation issues when sexual assault has been determined to be a factor;

“(D) design and conduct public education campaigns;

“(E) plan and monitor the distribution of grants and grant funds to their State, territory, or tribe; or

“(F) collaborate with and inform Federal, State, or local public officials and agencies to develop and implement policies to reduce or eliminate sexual assault.

“(3) ALLOCATION AND USE OF FUNDS.—From amounts appropriated for grants under this subsection for each fiscal year—

“(A) not less than 10 percent of the funds shall be available for grants to tribal sexual assault coalitions; and

“(B) the remaining funds shall be available for grants to State and territorial coalitions, and the Attorney General shall allocate an amount equal to $\frac{1}{56}$ of the amounts so appropriated to each of those State and territorial coalitions.

“(4) APPLICATION.—Each eligible entity desiring a grant under this subsection shall submit an application to the Attorney General at such time, in such manner, and containing such information as the Attorney General determines to be essential to carry out the purposes of this section.

“(5) FIRST-TIME APPLICANTS.—No entity shall be prohibited from submitting an application under this subsection during any fiscal year for which funds are available under this subsection because such entity has not previously applied or received funding under this subsection.

“(e) GRANTS TO TRIBES.—

“(1) GRANTS AUTHORIZED.—The Attorney General may award grants to Indian tribes, tribal organizations, and non-profit tribal organizations for the operation of sexual assault programs or projects in Indian country and Alaska Native villages to support the establishment, maintenance, and expansion of programs and projects to assist those victimized by sexual assault.

“(2) ALLOCATION AND USE OF FUNDS.—

“(A) ADMINISTRATIVE COSTS.—Not more than 5 percent of the grant funds received by an Indian tribe, tribal organization, and nonprofit tribal organization under this subsection for any fiscal year may be used for administrative costs.

“(B) GRANT FUNDS.—Any funds received under this subsection that are not used for administrative costs shall be used to provide grants to tribal organizations and nonprofit tribal organizations for programs and activities within Indian country and Alaskan native villages that provide direct intervention and related assistance.

“(f) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—There are authorized to be appropriated \$50,000,000 for each of the fiscal years 2007 through 2011 to carry out the provisions of this section.

“(2) ALLOCATIONS.—Of the total amounts appropriated for each fiscal year to carry out this section—

“(A) not more than 2.5 percent shall be used by the Attorney General for evaluation, monitoring, and other administrative costs under this section;

“(B) not more than 2.5 percent shall be used for the provision of technical assistance to grantees and sub-grantees under this section;

“(C) not less than 65 percent shall be used for grants to States and territories under subsection (b);

“(D) not less than 10 percent shall be used for making grants to State, territorial, and tribal sexual assault coalitions under subsection (d);

“(E) not less than 10 percent shall be used for grants to tribes under subsection (e); and

“(F) not less than 10 percent shall be used for grants for culturally specific programs addressing sexual assault under subsection (c).”.

SEC. 203. AMENDMENTS TO THE RURAL DOMESTIC VIOLENCE AND CHILD ABUSE ENFORCEMENT ASSISTANCE PROGRAM.

Section 40295 of the Safe Homes for Women Act of 1994 (42 U.S.C. 13971) is amended to read as follows:

“SEC. 40295. RURAL DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, STALKING, AND CHILD ABUSE ENFORCEMENT ASSISTANCE.

“(a) PURPOSES.—The purposes of this section are—

“(1) to identify, assess, and appropriately respond to child, youth, and adult victims of domestic violence, sexual assault, dating violence, and stalking in rural communities, by encouraging collaboration among—

“(A) domestic violence, dating violence, sexual assault, and stalking victim service providers;

“(B) law enforcement agencies;

“(C) prosecutors;

“(D) courts;

“(E) other criminal justice service providers;

“(F) human and community service providers;

“(G) educational institutions; and

“(H) health care providers;

“(2) to establish and expand nonprofit, nongovernmental, State, tribal, territorial, and local government victim services in rural communities to child, youth, and adult victims; and

“(3) to increase the safety and well-being of women and children in rural communities, by—

“(A) dealing directly and immediately with domestic violence, sexual assault, dating violence, and stalking occurring in rural communities; and

“(B) creating and implementing strategies to increase awareness and prevent domestic violence, sexual assault, dating violence, and stalking.

“(b) GRANTS AUTHORIZED.—The Attorney General, acting through the Director of the Office on Violence Against Women (referred to in this section as the ‘Director’), may award grants to States, Indian tribes, local governments, and nonprofit, public or private entities, including tribal nonprofit organizations, to carry out programs serving rural areas or rural communities that address domestic violence, dating violence, sexual assault, and stalking by—

“(1) implementing, expanding, and establishing cooperative efforts and projects among law enforcement officers, prosecutors, victim advocacy groups, and other related parties to investigate and prosecute incidents of domestic violence, dating violence, sexual assault, and stalking;

“(2) providing treatment, counseling, advocacy, and other long- and short-term assistance to adult and minor victims of domestic violence, dating violence, sexual assault, and stalking in rural communities, including assistance in immigration matters; and

“(3) working in cooperation with the community to develop education and prevention strategies directed toward such issues.

“(c) USE OF FUNDS.—Funds appropriated pursuant to this section shall be used only for specific programs and activities expressly described in subsection (a).

“(d) ALLOTMENTS AND PRIORITIES.—

“(1) ALLOTMENT FOR INDIAN TRIBES.—Not less than 10 percent of the total amount made available for each fiscal year to carry out this section shall be allocated for grants to Indian tribes or tribal organizations.

“(2) ALLOTMENT FOR SEXUAL ASSAULT.—

“(A) IN GENERAL.—Not less than 25 percent of the total amount appropriated in a fiscal year under this section shall fund services that meaningfully address sexual

assault in rural communities, however at such time as the amounts appropriated reach the amount of \$45,000,000, the percentage allocated shall rise to 30 percent of the total amount appropriated, at such time as the amounts appropriated reach the amount of \$50,000,000, the percentage allocated shall rise to 35 percent of the total amount appropriated, and at such time as the amounts appropriated reach the amount of \$55,000,000, the percentage allocated shall rise to 40 percent of the amounts appropriated.

“(B) MULTIPLE PURPOSE APPLICATIONS.—Nothing in this section shall prohibit any applicant from applying for funding to address sexual assault, domestic violence, stalking, or dating violence in the same application.

“(3) ALLOTMENT FOR TECHNICAL ASSISTANCE.—Of the amounts appropriated for each fiscal year to carry out this section, not more than 8 percent may be used by the Director for technical assistance costs. Of the amounts appropriated in this subsection, no less than 25 percent of such amounts shall be available to a nonprofit, nongovernmental organization or organizations whose focus and expertise is in addressing sexual assault to provide technical assistance to sexual assault grantees.

“(4) UNDERSERVED POPULATIONS.—In awarding grants under this section, the Director shall give priority to the needs of underserved populations.

“(5) ALLOCATION OF FUNDS FOR RURAL STATES.—Not less than 75 percent of the total amount made available for each fiscal year to carry out this section shall be allocated to eligible entities located in rural States.

“(e) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—There are authorized to be appropriated \$55,000,000 for each of the fiscal years 2007 through 2011 to carry out this section.

“(2) ADDITIONAL FUNDING.—In addition to funds received through a grant under subsection (b), a law enforcement agency may use funds received through a grant under part Q of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd et seq.) to accomplish the objectives of this section.”

SEC. 204. TRAINING AND SERVICES TO END VIOLENCE AGAINST WOMEN WITH DISABILITIES.

(a) IN GENERAL.—Section 1402 of the Violence Against Women Act of 2000 (42 U.S.C. 3796gg–7) is amended to read as follows:

“SEC. 1402. EDUCATION, TRAINING, AND ENHANCED SERVICES TO END VIOLENCE AGAINST AND ABUSE OF WOMEN WITH DISABILITIES.

“(a) IN GENERAL.—The Attorney General, in consultation with the Secretary of Health and Human Services, may award grants to eligible entities—

“(1) to provide training, consultation, and information on domestic violence, dating violence, stalking, and sexual assault against individuals with disabilities (as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102)); and

“(2) to enhance direct services to such individuals.

“(b) USE OF FUNDS.—Grants awarded under this section shall be used—

“(1) to provide personnel, training, technical assistance, advocacy, intervention, risk reduction and prevention of domestic violence, dating violence, stalking, and sexual assault against disabled individuals;

“(2) to conduct outreach activities to ensure that disabled individuals who are victims of domestic violence, dating violence, stalking, or sexual assault receive appropriate assistance;

“(3) to conduct cross-training for victim service organizations, governmental agencies, courts, law enforcement, and non-profit, nongovernmental organizations serving individuals with disabilities about risk reduction, intervention, prevention and the nature of domestic violence, dating violence, stalking, and sexual assault for disabled individuals;

“(4) to provide technical assistance to assist with modifications to existing policies, protocols, and procedures to ensure equal access to the services, programs, and activities of victim service organizations for disabled individuals;

“(5) to provide training and technical assistance on the requirements of shelters and victim services organizations under Federal antidiscrimination laws, including—

“(A) the Americans with Disabilities Act of 1990; and

“(B) section 504 of the Rehabilitation Act of 1973;

“(6) to modify facilities, purchase equipment, and provide personnel so that shelters and victim service organizations can accommodate the needs of disabled individuals;

“(7) to provide advocacy and intervention services for disabled individuals who are victims of domestic violence, dating violence, stalking, or sexual assault; or

“(8) to develop model programs providing advocacy and intervention services within organizations serving disabled individuals who are victims of domestic violence, dating violence, sexual assault, or stalking.

“(c) ELIGIBLE ENTITIES.—

“(1) IN GENERAL.—An entity shall be eligible to receive a grant under this section if the entity is—

“(A) a State;

“(B) a unit of local government;

“(C) an Indian tribal government or tribal organization;

or

“(D) a nonprofit and nongovernmental victim services organization, such as a State domestic violence or sexual assault coalition or a nonprofit, nongovernmental organization serving disabled individuals.

“(2) LIMITATION.—A grant awarded for the purpose described in subsection (b)(8) shall only be awarded to an eligible agency (as defined in section 410 of the Rehabilitation Act of 1973 (29 U.S.C. 796f–5)).

“(d) UNDERSERVED POPULATIONS.—In awarding grants under this section, the Director shall ensure that the needs of underserved populations are being addressed.

“(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$10,000,000 for each of the fiscal years 2007 through 2011 to carry out this section.”

SEC. 205. TRAINING AND SERVICES TO END VIOLENCE AGAINST WOMEN IN LATER LIFE.

(a) **TRAINING PROGRAMS.**—Section 40802 of the Violence Against Women Act of 1994 (42 U.S.C. 14041a) is amended to read as follows:

“SEC. 40802. ENHANCED TRAINING AND SERVICES TO END VIOLENCE AGAINST AND ABUSE OF WOMEN LATER IN LIFE.

“(a) **GRANTS AUTHORIZED.**—The Attorney General, through the Director of the Office on Violence Against Women, may award grants, which may be used for—

“(1) training programs to assist law enforcement, prosecutors, governmental agencies, victim assistants, and relevant officers of Federal, State, tribal, territorial, and local courts in recognizing, addressing, investigating, and prosecuting instances of elder abuse, neglect, and exploitation, including domestic violence, dating violence, sexual assault, or stalking against victims who are 50 years of age or older;

“(2) providing or enhancing services for victims of elder abuse, neglect, and exploitation, including domestic violence, dating violence, sexual assault, or stalking, who are 50 years of age or older;

“(3) creating or supporting multidisciplinary collaborative community responses to victims of elder abuse, neglect, and exploitation, including domestic violence, dating violence, sexual assault, and stalking, who are 50 years of age or older; and

“(4) conducting cross-training for victim service organizations, governmental agencies, courts, law enforcement, and non-profit, nongovernmental organizations serving victims of elder abuse, neglect, and exploitation, including domestic violence, dating violence, sexual assault, and stalking, who are 50 years of age or older.

“(b) **ELIGIBLE ENTITIES.**—An entity shall be eligible to receive a grant under this section if the entity is—

“(1) a State;

“(2) a unit of local government;

“(3) an Indian tribal government or tribal organization;

or

“(4) a nonprofit and nongovernmental victim services organization with demonstrated experience in assisting elderly women or demonstrated experience in addressing domestic violence, dating violence, sexual assault, and stalking.

“(c) **UNDERSERVED POPULATIONS.**—In awarding grants under this section, the Director shall ensure that services are culturally and linguistically relevant and that the needs of underserved populations are being addressed.”

(b) **AUTHORIZATION OF APPROPRIATIONS.**—Section 40803 of the Violence Against Women Act of 1994 (42 U.S.C. 14041b) is amended by striking “\$5,000,000 for each of fiscal years 2001 through 2005” and inserting “\$10,000,000 for each of the fiscal years 2007 through 2011”.

SEC. 206. STRENGTHENING THE NATIONAL DOMESTIC VIOLENCE HOTLINE.

Section 316 of the Family Violence Prevention and Services Act (42 U.S.C. 10416) is amended—

(1) in subsection (d)(2), by inserting “(including technology training)” after “train;”;

(2) in subsection (f)(2)(A), by inserting “, including technology training to ensure that all persons affiliated with the hotline are able to effectively operate any technological systems used by the hotline” after “hotline personnel”; and

(3) in subsection (g)(2), by striking “shall” and inserting “may”.

TITLE III—SERVICES, PROTECTION, AND JUSTICE FOR YOUNG VICTIMS OF VIOLENCE

SEC. 301. FINDINGS.

42 USC 13925
note.

Congress finds the following:

(1) Youth, under the age of 18, account for 67 percent of all sexual assault victimizations reported to law enforcement officials.

(2) The Department of Justice consistently finds that young women between the ages of 16 and 24 experience the highest rate of non-fatal intimate partner violence.

(3) In 1 year, over 4,000 incidents of rape or sexual assault occurred in public schools across the country.

(4) Young people experience particular obstacles to seeking help. They often do not have access to money, transportation, or shelter services. They must overcome issues such as distrust of adults, lack of knowledge about available resources, or pressure from peers and parents.

(5) A needs assessment on teen relationship abuse for the State of California, funded by the California Department of Health Services, identified a desire for confidentiality and confusion about the law as 2 of the most significant barriers to young victims of domestic and dating violence seeking help.

(6) Only one State specifically allows for minors to petition the court for protection orders.

(7) Many youth are involved in dating relationships, and these relationships can include the same kind of domestic violence and dating violence seen in the adult population. In fact, more than 40 percent of all incidents of domestic violence involve people who are not married.

(8) 40 percent of girls ages 14 to 17 report knowing someone their age who has been hit or beaten by a boyfriend, and 13 percent of college women report being stalked.

(9) Of college women who said they had been the victims of rape or attempted rape, 12.8 percent of completed rapes, 35 percent of attempted rapes, and 22.9 percent of threatened rapes took place on a date. Almost 60 percent of the completed rapes that occurred on campus took place in the victim's residence.

(10) According to a 3-year study of student-athletes at 10 Division I universities, male athletes made up only 3.3 percent of the general male university population, but they accounted for 19 percent of the students reported for sexual assault and 35 percent of domestic violence perpetrators.

SEC. 302. RAPE PREVENTION AND EDUCATION.

Section 393B(c) of part J of title III of the Public Health Service Act (42 U.S.C. 280b–1c(c)) is amended to read as follows:

“(c) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—There is authorized to be appropriated to carry out this section \$80,000,000 for each of fiscal years 2007 through 2011.

“(2) NATIONAL SEXUAL VIOLENCE RESOURCE CENTER ALLOTMENT.—Of the total amount made available under this subsection in each fiscal year, not less than \$1,500,000 shall be available for allotment under subsection (b).”.

SEC. 303. SERVICES, EDUCATION, PROTECTION, AND JUSTICE FOR YOUNG VICTIMS OF VIOLENCE.

The Violence Against Women Act of 1994 (Public Law 103–322, Stat. 1902 et seq.) is amended by adding at the end the following:

“Subtitle L—Services, Education, Protection and Justice for Young Victims of Violence

42 USC 14043c.

“SEC. 41201. SERVICES TO ADVOCATE FOR AND RESPOND TO YOUTH.

“(a) GRANTS AUTHORIZED.—The Attorney General, in consultation with the Department of Health and Human Services, shall award grants to eligible entities to conduct programs to serve youth victims of domestic violence, dating violence, sexual assault, and stalking. Amounts appropriated under this section may only be used for programs and activities described under subsection (c).

“(b) ELIGIBLE GRANTEEES.—To be eligible to receive a grant under this section, an entity shall be—

“(1) a nonprofit, nongovernmental entity, the primary purpose of which is to provide services to teen and young adult victims of domestic violence, dating violence, sexual assault, or stalking;

“(2) a community-based organization specializing in intervention or violence prevention services for youth;

“(3) an Indian Tribe or tribal organization providing services primarily to tribal youth or tribal victims of domestic violence, dating violence, sexual assault or stalking; or

“(4) a nonprofit, nongovernmental entity providing services for runaway or homeless youth affected by domestic or sexual abuse.

“(c) USE OF FUNDS.—

“(1) IN GENERAL.—An entity that receives a grant under this section shall use amounts provided under the grant to design or replicate, and implement, programs and services, using domestic violence, dating violence, sexual assault, and stalking intervention models to respond to the needs of youth who are victims of domestic violence, dating violence, sexual assault or stalking.

“(2) TYPES OF PROGRAMS.—Such a program—

“(A) shall provide direct counseling and advocacy for youth and young adults, who have experienced domestic violence, dating violence, sexual assault or stalking;

“(B) shall include linguistically, culturally, and community relevant services for underserved populations or linkages to existing services in the community tailored to the needs of underserved populations;

“(C) may include mental health services for youth and young adults who have experienced domestic violence, dating violence, sexual assault, or stalking;

“(D) may include legal advocacy efforts on behalf of youth and young adults with respect to domestic violence, dating violence, sexual assault or stalking;

“(E) may work with public officials and agencies to develop and implement policies, rules, and procedures in order to reduce or eliminate domestic violence, dating violence, sexual assault, and stalking against youth and young adults; and

“(F) may use not more than 25 percent of the grant funds to provide additional services and resources for youth, including childcare, transportation, educational support, and respite care.

“(d) AWARDS BASIS.—

“(1) GRANTS TO INDIAN TRIBES.—Not less than 7 percent of funds appropriated under this section in any year shall be available for grants to Indian Tribes or tribal organizations.

“(2) ADMINISTRATION.—The Attorney General shall not use more than 2.5 percent of funds appropriated under this section in any year for administration, monitoring, and evaluation of grants made available under this section.

“(3) TECHNICAL ASSISTANCE.—Not less than 5 percent of funds appropriated under this section in any year shall be available to provide technical assistance for programs funded under this section.

“(e) TERM.—The Attorney General shall make the grants under this section for a period of 3 fiscal years.

“(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, \$15,000,000 for each of fiscal years 2007 through 2011.

“SEC. 41202. ACCESS TO JUSTICE FOR YOUTH.

42 USC
14043c–1.

“(a) PURPOSE.—It is the purpose of this section to encourage cross training and collaboration between the courts, domestic violence and sexual assault service providers, youth organizations and service providers, violence prevention programs, and law enforcement agencies, so that communities can establish and implement policies, procedures, and practices to protect and more comprehensively and effectively serve young victims of dating violence, domestic violence, sexual assault, and stalking who are between the ages of 12 and 24, and to engage, where necessary, other entities addressing the safety, health, mental health, social service, housing, and economic needs of young victims of domestic violence, dating violence, sexual assault, and stalking, including community-based supports such as schools, local health centers, community action groups, and neighborhood coalitions.

“(b) GRANT AUTHORITY.—

“(1) IN GENERAL.—The Attorney General, through the Director of the Office on Violence Against Women (in this section referred to as the ‘Director’), shall make grants to eligible entities to carry out the purposes of this section.

“(2) GRANT PERIODS.—Grants shall be awarded under this section for a period of 2 fiscal years.

“(3) ELIGIBLE ENTITIES.—To be eligible for a grant under this section, a grant applicant shall establish a collaboration that—

“(A) shall include a victim service provider that has a documented history of effective work concerning domestic violence, dating violence, sexual assault, or stalking and the effect that those forms of abuse have on young people;

“(B) shall include a court or law enforcement agency partner; and

“(C) may include—

“(i) batterer intervention programs or sex offender treatment programs with specialized knowledge and experience working with youth offenders;

“(ii) community-based youth organizations that deal specifically with the concerns and problems faced by youth, including programs that target teen parents and underserved communities;

“(iii) schools or school-based programs designed to provide prevention or intervention services to youth experiencing problems;

“(iv) faith-based entities that deal with the concerns and problems faced by youth;

“(v) healthcare entities eligible for reimbursement under title XVIII of the Social Security Act, including providers that target the special needs of youth;

“(vi) education programs on HIV and other sexually transmitted diseases that are designed to target teens;

“(vii) Indian Health Service, tribal child protective services, the Bureau of Indian Affairs, or the Federal Bureau of Investigations; or

“(viii) law enforcement agencies of the Bureau of Indian Affairs providing tribal law enforcement.

“(c) USES OF FUNDS.—An entity that receives a grant under this section shall use the funds made available through the grant for cross-training and collaborative efforts—

“(1) addressing domestic violence, dating violence, sexual assault, and stalking, assessing and analyzing currently available services for youth and young adult victims, determining relevant barriers to such services in a particular locality, and developing a community protocol to address such problems collaboratively;

“(2) to establish and enhance linkages and collaboration between—

“(A) domestic violence and sexual assault service providers; and

“(B) where applicable, law enforcement agencies, courts, Federal agencies, and other entities addressing the safety, health, mental health, social service, housing, and economic needs of young victims of abuse, including community-based supports such as schools, local health centers, community action groups, and neighborhood coalitions—

“(i) to respond effectively and comprehensively to the varying needs of young victims of abuse;

“(ii) to include linguistically, culturally, and community relevant services for underserved populations or linkages to existing services in the community tailored to the needs of underserved populations; and

“(iii) to include where appropriate legal assistance, referral services, and parental support;

“(3) to educate the staff of courts, domestic violence and sexual assault service providers, and, as applicable, the staff of law enforcement agencies, Indian child welfare agencies, youth organizations, schools, healthcare providers, and other community prevention and intervention programs to responsibly address youth victims and perpetrators of domestic violence, dating violence, sexual assault, and stalking;

“(4) to identify, assess, and respond appropriately to dating violence, domestic violence, sexual assault, or stalking against teens and young adults and meet the needs of young victims of violence; and

“(5) to provide appropriate resources in juvenile court matters to respond to dating violence, domestic violence, sexual assault, and stalking and ensure necessary services dealing with the health and mental health of victims are available.

“(d) GRANT APPLICATIONS.—To be eligible for a grant under this section, the entities that are members of the applicant collaboration described in subsection (b)(3) shall jointly submit an application to the Director at such time, in such manner, and containing such information as the Director may require.

“(e) PRIORITY.—In awarding grants under this section, the Director shall give priority to entities that have submitted applications in partnership with community organizations and service providers that work primarily with youth, especially teens, and who have demonstrated a commitment to coalition building and cooperative problem solving in dealing with problems of dating violence, domestic violence, sexual assault, and stalking in teen populations.

“(f) DISTRIBUTION.—In awarding grants under this section—

“(1) not less than 10 percent of funds appropriated under this section in any year shall be available to Indian tribal governments to establish and maintain collaborations involving the appropriate tribal justice and social services departments or domestic violence or sexual assault service providers, the purpose of which is to provide culturally appropriate services to American Indian women or youth;

“(2) the Director shall not use more than 2.5 percent of funds appropriated under this section in any year for monitoring and evaluation of grants made available under this section;

“(3) the Attorney General of the United States shall not use more than 2.5 percent of funds appropriated under this section in any year for administration of grants made available under this section; and

“(4) up to 8 percent of funds appropriated under this section in any year shall be available to provide technical assistance for programs funded under this section.

“(g) DISSEMINATION OF INFORMATION.—Not later than 12 months after the end of the grant period under this section, the

Deadline.

Director shall prepare, submit to Congress, and make widely available, including through electronic means, summaries that contain information on—

“(1) the activities implemented by the recipients of the grants awarded under this section; and

“(2) related initiatives undertaken by the Director to promote attention to dating violence, domestic violence, sexual assault, and stalking and their impact on young victims by—

“(A) the staffs of courts;

“(B) domestic violence, dating violence, sexual assault, and stalking victim service providers; and

“(C) law enforcement agencies and community organizations.

“(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, \$5,000,000 in each of fiscal years 2007 through 2011.

42 USC
14043c–2.

“SEC. 41203. GRANTS FOR TRAINING AND COLLABORATION ON THE INTERSECTION BETWEEN DOMESTIC VIOLENCE AND CHILD MALTREATMENT.

“(a) PURPOSE.—The purpose of this section is to support efforts by child welfare agencies, domestic violence or dating violence victim services providers, courts, law enforcement, and other related professionals and community organizations to develop collaborative responses and services and provide cross-training to enhance community responses to families where there is both child maltreatment and domestic violence.

“(b) GRANTS AUTHORIZED.—The Secretary of the Department of Health and Human Services (in this section referred to as the ‘Secretary’), through the Family and Youth Services Bureau, and in consultation with the Office on Violence Against Women, shall award grants on a competitive basis to eligible entities for the purposes and in the manner described in this section.

“(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$5,000,000 for each of fiscal years 2007 through 2011. Funds appropriated under this section shall remain available until expended. Of the amounts appropriated to carry out this section for each fiscal year, the Secretary shall—

“(1) use not more than 3 percent for evaluation, monitoring, site visits, grantee conferences, and other administrative costs associated with conducting activities under this section;

“(2) set aside not more than 7 percent for grants to Indian tribes to develop programs addressing child maltreatment and domestic violence or dating violence that are operated by, or in partnership with, a tribal organization; and

“(3) set aside up to 8 percent for technical assistance and training to be provided by organizations having demonstrated expertise in developing collaborative community and system responses to families in which there is both child maltreatment and domestic violence or dating violence, which technical assistance and training may be offered to jurisdictions in the process of developing community responses to families in which children are exposed to child maltreatment and domestic violence or dating violence, whether or not they are receiving funds under this section.

“(d) UNDERSERVED POPULATIONS.—In awarding grants under this section, the Secretary shall consider the needs of underserved populations.

“(e) GRANT AWARDS.—The Secretary shall award grants under this section for periods of not more than 2 fiscal years.

“(f) USES OF FUNDS.—Entities receiving grants under this section shall use amounts provided to develop collaborative responses and services and provide cross-training to enhance community responses to families where there is both child maltreatment and domestic violence or dating violence. Amounts distributed under this section may only be used for programs and activities described in subsection (g).

“(g) PROGRAMS AND ACTIVITIES.—The programs and activities developed under this section shall—

“(1) encourage cross training, education, service development, and collaboration among child welfare agencies, domestic violence victim service providers, and courts, law enforcement agencies, community-based programs, and other entities, in order to ensure that such entities have the capacity to and will identify, assess, and respond appropriately to—

“(A) domestic violence or dating violence in homes where children are present and may be exposed to the violence;

“(B) domestic violence or dating violence in child protection cases; and

“(C) the needs of both the child and nonabusing parent;

“(2) establish and implement policies, procedures, programs, and practices for child welfare agencies, domestic violence victim service providers, courts, law enforcement agencies, and other entities, that are consistent with the principles of protecting and increasing the immediate and long-term safety and well being of children and non-abusing parents and caretakers;

“(3) increase cooperation and enhance linkages between child welfare agencies, domestic violence victim service providers, courts, law enforcement agencies, and other entities to provide more comprehensive community-based services (including health, mental health, social service, housing, and neighborhood resources) to protect and to serve both child and adult victims;

“(4) identify, assess, and respond appropriately to domestic violence or dating violence in child protection cases and to child maltreatment when it co-occurs with domestic violence or dating violence;

“(5) analyze and change policies, procedures, and protocols that contribute to overrepresentation of certain populations in the court and child welfare system; and

“(6) provide appropriate referrals to community-based programs and resources, such as health and mental health services, shelter and housing assistance for adult and youth victims and their children, legal assistance and advocacy for adult and youth victims, assistance for parents to help their children cope with the impact of exposure to domestic violence or dating violence and child maltreatment, appropriate intervention and treatment for adult perpetrators of domestic violence or dating violence whose children are the subjects of child protection

cases, programs providing support and assistance to underserved populations, and other necessary supportive services.

“(h) GRANTEE REQUIREMENTS.—

“(1) APPLICATIONS.—Under this section, an entity shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, consistent with the requirements described herein. The application shall—

“(A) ensure that communities impacted by these systems or organizations are adequately represented in the development of the application, the programs and activities to be undertaken, and that they have a significant role in evaluating the success of the project;

“(B) describe how the training and collaboration activities will enhance or ensure the safety and economic security of families where both child maltreatment and domestic violence or dating violence occurs by providing appropriate resources, protection, and support to the victimized parents of such children and to the children themselves; and

“(C) outline methods and means participating entities will use to ensure that all services are provided in a developmentally, linguistically and culturally competent manner and will utilize community-based supports and resources.

“(2) ELIGIBLE ENTITIES.—To be eligible for a grant under this section, an entity shall be a collaboration that—

“(A) shall include a State or local child welfare agency or Indian Tribe;

“(B) shall include a domestic violence or dating violence victim service provider;

“(C) shall include a law enforcement agency or Bureau of Indian Affairs providing tribal law enforcement;

“(D) may include a court; and

“(E) may include any other such agencies or private nonprofit organizations and faith-based organizations, including community-based organizations, with the capacity to provide effective help to the child and adult victims served by the collaboration.

Supporting Teens
through
Education and
Protection Act of
2005.
42 USC
14043c–3.

“SEC. 41204. GRANTS TO COMBAT DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING IN MIDDLE AND HIGH SCHOOLS.

“(a) SHORT TITLE.—This section may be cited as the ‘Supporting Teens through Education and Protection Act of 2005’ or the ‘STEP Act’.

“(b) GRANTS AUTHORIZED.—The Attorney General, through the Director of the Office on Violence Against Women, is authorized to award grants to middle schools and high schools that work with domestic violence and sexual assault experts to enable the schools—

“(1) to provide training to school administrators, faculty, counselors, coaches, healthcare providers, security personnel, and other staff on the needs and concerns of students who experience domestic violence, dating violence, sexual assault, or stalking, and the impact of such violence on students;

“(2) to develop and implement policies in middle and high schools regarding appropriate, safe responses to, and identification and referral procedures for, students who are experiencing or perpetrating domestic violence, dating violence, sexual assault, or stalking, including procedures for handling the requirements of court protective orders issued to or against students or school personnel, in a manner that ensures the safety of the victim and holds the perpetrator accountable;

“(3) to provide support services for students and school personnel, such as a resource person who is either on-site or on-call, and who is an expert described in subsections (i)(2) and (i)(3), for the purpose of developing and strengthening effective prevention and intervention strategies for students and school personnel experiencing domestic violence, dating violence, sexual assault or stalking;

“(4) to provide developmentally appropriate educational programming to students regarding domestic violence, dating violence, sexual assault, and stalking, and the impact of experiencing domestic violence, dating violence, sexual assault, and stalking on children and youth by adapting existing curricula activities to the relevant student population;

“(5) to work with existing mentoring programs and develop strong mentoring programs for students, including student athletes, to help them understand and recognize violence and violent behavior, how to prevent it and how to appropriately address their feelings; and

“(6) to conduct evaluations to assess the impact of programs and policies assisted under this section in order to enhance the development of the programs.

“(c) AWARD BASIS.—The Director shall award grants and contracts under this section on a competitive basis.

“(d) POLICY DISSEMINATION.—The Director shall disseminate to middle and high schools any existing Department of Justice, Department of Health and Human Services, and Department of Education policy guidance and curricula regarding the prevention of domestic violence, dating violence, sexual assault, and stalking, and the impact of the violence on children and youth.

“(e) NONDISCLOSURE OF CONFIDENTIAL OR PRIVATE INFORMATION.—In order to ensure the safety of adult, youth, and minor victims of domestic violence, dating violence, sexual assault, or stalking and their families, grantees and subgrantees shall protect the confidentiality and privacy of persons receiving services. Grantees and subgrantees pursuant to this section shall not disclose any personally identifying information or individual information collected in connection with services requested, utilized, or denied through grantees’ and subgrantees’ programs. Grantees and subgrantees shall not reveal individual client information without the informed, written, reasonably time-limited consent of the person (or in the case of unemancipated minor, the minor and the parent or guardian, except that consent for release may not be given by the abuser of the minor or of the other parent of the minor) about whom information is sought, whether for this program or any other Tribal, Federal, State or Territorial grant program. If release of such information is compelled by statutory or court mandate, grantees and subgrantees shall make reasonable attempts to provide notice to victims affected by the disclosure of information. If such personally identifying information is or will be revealed,

grantees and subgrantees shall take steps necessary to protect the privacy and safety of the persons affected by the release of the information. Grantees may share non-personally identifying data in the aggregate regarding services to their clients and non-personally identifying demographic information in order to comply with Tribal, Federal, State or Territorial reporting, evaluation, or data collection requirements. Grantees and subgrantees may share court-generated information contained in secure, governmental registries for protection order enforcement purposes.

“(f) GRANT TERM AND ALLOCATION.—

“(1) TERM.—The Director shall make the grants under this section for a period of 3 fiscal years.

“(2) ALLOCATION.—Not more than 15 percent of the funds available to a grantee in a given year shall be used for the purposes described in subsection (b)(4)(D), (b)(5), and (b)(6).

“(g) DISTRIBUTION.—

“(1) IN GENERAL.—Not less than 5 percent of funds appropriated under subsection (l) in any year shall be available for grants to tribal schools, schools on tribal lands or schools whose student population is more than 25 percent Native American.

“(2) ADMINISTRATION.—The Director shall not use more than 5 percent of funds appropriated under subsection (l) in any year for administration, monitoring and evaluation of grants made available under this section.

“(3) TRAINING, TECHNICAL ASSISTANCE, AND DATA COLLECTION.—Not less than 5 percent of funds appropriated under subsection (l) in any year shall be available to provide training, technical assistance, and data collection for programs funded under this section.

“(h) APPLICATION.—To be eligible to be awarded a grant or contract under this section for any fiscal year, a middle or secondary school, in consultation with an expert as described in subsections (i)(2) and (i)(3), shall submit an application to the Director at such time and in such manner as the Director shall prescribe.

“(i) ELIGIBLE ENTITIES.—To be eligible to receive a grant under this section, an entity shall be a partnership that—

“(1) shall include a public, charter, tribal, or nationally accredited private middle or high school, a school administered by the Department of Defense under 10 U.S.C. 2164 or 20 U.S.C. 921, a group of schools, or a school district;

“(2) shall include a domestic violence victim service provider that has a history of working on domestic violence and the impact that domestic violence and dating violence have on children and youth;

“(3) shall include a sexual assault victim service provider, such as a rape crisis center, program serving tribal victims of sexual assault, or coalition or other nonprofit nongovernmental organization carrying out a community-based sexual assault program, that has a history of effective work concerning sexual assault and the impact that sexual assault has on children and youth; and

“(4) may include a law enforcement agency, the State, Tribal, Territorial or local court, nonprofit nongovernmental organizations and service providers addressing sexual harassment, bullying or gang-related violence in schools, and any other such agencies or nonprofit nongovernmental organizations

with the capacity to provide effective assistance to the adult, youth, and minor victims served by the partnership.

“(j) PRIORITY.—In awarding grants under this section, the Director shall give priority to entities that have submitted applications in partnership with relevant courts or law enforcement agencies.

“(k) REPORTING AND DISSEMINATION OF INFORMATION.—

“(1) REPORTING.—Each of the entities that are members of the applicant partnership described in subsection (i), that receive a grant under this section shall jointly prepare and submit to the Director every 18 months a report detailing the activities that the entities have undertaken under the grant and such additional information as the Director shall require.

“(2) DISSEMINATION OF INFORMATION.—Within 9 months of the completion of the first full grant cycle, the Director shall publicly disseminate, including through electronic means, model policies and procedures developed and implemented in middle and high schools by the grantees, including information on the impact the policies have had on their respective schools and communities.

“(l) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—There is authorized to be appropriated to carry out this section, \$5,000,000 for each of fiscal years 2007 through 2011.

“(2) AVAILABILITY.—Funds appropriated under paragraph (1) shall remain available until expended.”.

SEC. 304. GRANTS TO COMBAT VIOLENT CRIMES ON CAMPUSES.

42 USC 14045b.

(a) GRANTS AUTHORIZED.—

(1) IN GENERAL.—The Attorney General is authorized to make grants to institutions of higher education, for use by such institutions or consortia consisting of campus personnel, student organizations, campus administrators, security personnel, and regional crisis centers affiliated with the institution, to develop and strengthen effective security and investigation strategies to combat domestic violence, dating violence, sexual assault, and stalking on campuses, and to develop and strengthen victim services in cases involving such crimes against women on campuses, which may include partnerships with local criminal justice authorities and community-based victim services agencies.

(2) AWARD BASIS.—The Attorney General shall award grants and contracts under this section on a competitive basis for a period of 3 years. The Attorney General, through the Director of the Office on Violence Against Women, shall award the grants in amounts of not more than \$500,000 for individual institutions of higher education and not more than \$1,000,000 for consortia of such institutions.

(3) EQUITABLE PARTICIPATION.—The Attorney General shall make every effort to ensure—

(A) the equitable participation of private and public institutions of higher education in the activities assisted under this section;

(B) the equitable geographic distribution of grants under this section among the various regions of the United States; and

(C) the equitable distribution of grants under this section to tribal colleges and universities and traditionally black colleges and universities.

(b) USE OF GRANT FUNDS.—Grant funds awarded under this section may be used for the following purposes:

(1) To provide personnel, training, technical assistance, data collection, and other equipment with respect to the increased apprehension, investigation, and adjudication of persons committing domestic violence, dating violence, sexual assault, and stalking on campus.

(2) To train campus administrators, campus security personnel, and personnel serving on campus disciplinary or judicial boards to develop and implement campus policies, protocols, and services that more effectively identify and respond to the crimes of domestic violence, dating violence, sexual assault, and stalking. Within 90 days after the date of enactment of this Act, the Attorney General shall issue and make available minimum standards of training relating to domestic violence, dating violence, sexual assault, and stalking on campus, for all campus security personnel and personnel serving on campus disciplinary or judicial boards.

(3) To implement and operate education programs for the prevention of domestic violence, dating violence, sexual assault, and stalking.

(4) To develop, enlarge, or strengthen victim services programs on the campuses of the institutions involved, including programs providing legal, medical, or psychological counseling, for victims of domestic violence, dating violence, sexual assault, and stalking, and to improve delivery of victim assistance on campus. To the extent practicable, such an institution shall collaborate with any entities carrying out nonprofit and other victim services programs, including domestic violence, dating violence, sexual assault, and stalking victim services programs in the community in which the institution is located. If appropriate victim services programs are not available in the community or are not accessible to students, the institution shall, to the extent practicable, provide a victim services program on campus or create a victim services program in collaboration with a community-based organization. The institution shall use not less than 20 percent of the funds made available through the grant for a victim services program provided in accordance with this paragraph.

(5) To create, disseminate, or otherwise provide assistance and information about victims' options on and off campus to bring disciplinary or other legal action, including assistance to victims in immigration matters.

(6) To develop, install, or expand data collection and communication systems, including computerized systems, linking campus security to the local law enforcement for the purpose of identifying and tracking arrests, protection orders, violations of protection orders, prosecutions, and convictions with respect to the crimes of domestic violence, dating violence, sexual assault, and stalking on campus.

(7) To provide capital improvements (including improved lighting and communications facilities but not including the construction of buildings) on campuses to address the crimes

Deadline.
Standards.

of domestic violence, dating violence, sexual assault, and stalking.

(8) To support improved coordination among campus administrators, campus security personnel, and local law enforcement to reduce domestic violence, dating violence, sexual assault, and stalking on campus.

(c) APPLICATIONS.—

(1) IN GENERAL.—In order to be eligible to be awarded a grant under this section for any fiscal year, an institution of higher education shall submit an application to the Attorney General at such time and in such manner as the Attorney General shall prescribe.

(2) CONTENTS.—Each application submitted under paragraph (1) shall—

(A) describe the need for grant funds and the plan for implementation for any of the purposes described in subsection (b);

(B) include proof that the institution of higher education collaborated with any non-profit, nongovernmental entities carrying out other victim services programs, including domestic violence, dating violence, sexual assault, and stalking victim services programs in the community in which the institution is located;

(C) describe the characteristics of the population being served, including type of campus, demographics of the population, and number of students;

(D) provide measurable goals and expected results from the use of the grant funds;

(E) provide assurances that the Federal funds made available under this section shall be used to supplement and, to the extent practical, increase the level of funds that would, in the absence of Federal funds, be made available by the institution for the purposes described in subsection (b); and

(F) include such other information and assurances as the Attorney General reasonably determines to be necessary.

(3) COMPLIANCE WITH CAMPUS CRIME REPORTING REQUIRED.—No institution of higher education shall be eligible for a grant under this section unless such institution is in compliance with the requirements of section 485(f) of the Higher Education Act of 1965 (20 U.S.C. 1092(f)). Up to \$200,000 of the total amount of grant funds appropriated under this section for fiscal years 2007 through 2011 may be used to provide technical assistance in complying with the mandatory reporting requirements of section 485(f) of such Act.

(d) GENERAL TERMS AND CONDITIONS.—

(1) NONMONETARY ASSISTANCE.—In addition to the assistance provided under this section, the Attorney General may request any Federal agency to use the agency's authorities and the resources granted to the agency under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of campus security, and investigation and victim service efforts.

(2) GRANTEE REPORTING.—

(A) ANNUAL REPORT.—Each institution of higher education receiving a grant under this section shall submit

a biennial performance report to the Attorney General. The Attorney General shall suspend funding under this section for an institution of higher education if the institution fails to submit such a report.

(B) **FINAL REPORT.**—Upon completion of the grant period under this section, the institution shall file a performance report with the Attorney General and the Secretary of Education explaining the activities carried out under this section together with an assessment of the effectiveness of those activities in achieving the purposes described in subsection (b).

(3) **REPORT TO CONGRESS.**—Not later than 180 days after the end of the fiscal year for which grants are awarded under this section, the Attorney General shall submit to Congress a report that includes—

(A) the number of grants, and the amount of funds, distributed under this section;

(B) a summary of the purposes for which the grants were provided and an evaluation of the progress made under the grant;

(C) a statistical summary of the persons served, detailing the nature of victimization, and providing data on age, sex, race, ethnicity, language, disability, relationship to offender, geographic distribution, and type of campus; and

(D) an evaluation of the effectiveness of programs funded under this part.

(e) **AUTHORIZATION OF APPROPRIATIONS.**—For the purpose of carrying out this section, there are authorized to be appropriated \$12,000,000 for fiscal year 2007 and \$15,000,000 for each of fiscal years 2008 through 2011.

(f) **REPEAL.**—Section 826 of the Higher Education Amendments of 1998 (20 U.S.C. 1152) is repealed.

SEC. 305. JUVENILE JUSTICE.

Section 223(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(a)) is amended—

(1) in paragraph (7)(B)—

(A) by redesignating clauses (i), (ii) and (iii), as clauses (ii), (iii), and (iv), respectively; and

(B) by inserting before clause (ii) the following:

“(i) an analysis of gender-specific services for the prevention and treatment of juvenile delinquency, including the types of such services available and the need for such services;”.

SEC. 306. SAFE HAVENS.

Section 1301 of the Victims of Trafficking and Violence Protection Act of 2000 (42 U.S.C. 10420) is amended—

(1) by striking the section heading and inserting the following:

“SEC. 10402. SAFE HAVENS FOR CHILDREN.”;

(2) in subsection (a)—

(A) by inserting “, through the Director of the Office on Violence Against Women,” after “Attorney General”;

(B) by inserting “dating violence,” after “domestic violence,”;

(C) by striking “to provide” and inserting the following:

“(1) to provide”;

(D) by striking the period at the end and inserting a semicolon; and

(E) by adding at the end the following:

“(2) to protect children from the trauma of witnessing domestic or dating violence or experiencing abduction, injury, or death during parent and child visitation exchanges;

“(3) to protect parents or caretakers who are victims of domestic and dating violence from experiencing further violence, abuse, and threats during child visitation exchanges; and

“(4) to protect children from the trauma of experiencing sexual assault or other forms of physical assault or abuse during parent and child visitation and visitation exchanges.”; and

(3) by striking subsection (e) and inserting the following:

“(e) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—There is authorized to be appropriated to carry out this section, \$20,000,000 for each of fiscal years 2007 through 2011. Funds appropriated under this section shall remain available until expended.

“(2) USE OF FUNDS.—Of the amounts appropriated to carry out this section for each fiscal year, the Attorney General shall—

“(A) set aside not less than 7 percent for grants to Indian tribal governments or tribal organizations;

“(B) use not more than 3 percent for evaluation, monitoring, site visits, grantee conferences, and other administrative costs associated with conducting activities under this section; and

“(C) set aside not more than 8 percent for technical assistance and training to be provided by organizations having nationally recognized expertise in the design of safe and secure supervised visitation programs and visitation exchange of children in situations involving domestic violence, dating violence, sexual assault, or stalking.”.

TITLE IV—STRENGTHENING AMERICA’S FAMILIES BY PREVENTING VIOLENCE

SEC. 401. PREVENTING VIOLENCE AGAINST WOMEN AND CHILDREN.

The Violence Against Women Act of 1994 (108 Stat. 1902 et seq.) is amended by adding at the end the following:

“Subtitle M—Strengthening America’s Families by Preventing Violence Against Women and Children

“SEC. 41301. FINDINGS.

“Congress finds that—

42 USC 14043d.

“(1) the former United States Advisory Board on Child Abuse suggests that domestic violence may be the single major precursor to child abuse and neglect fatalities in this country;

“(2) studies suggest that as many as 10,000,000 children witness domestic violence every year;

“(3) studies suggest that among children and teenagers, recent exposure to violence in the home was a significant factor in predicting a child’s violent behavior;

“(4) a study by the Nurse-Family Partnership found that children whose parents did not participate in home visitation programs that provided coaching in parenting skills, advice and support, were almost 5 times more likely to be abused in their first 2 years of life;

“(5) a child’s exposure to domestic violence seems to pose the greatest independent risk for being the victim of any act of partner violence as an adult;

“(6) children exposed to domestic violence are more likely to believe that using violence is an effective means of getting one’s needs met and managing conflict in close relationships;

“(7) children exposed to abusive parenting, harsh or erratic discipline, or domestic violence are at increased risk for juvenile crime; and

“(8) in a national survey of more than 6,000 American families, 50 percent of men who frequently assaulted their wives also frequently abused their children.

42 USC
14043d–1.

“SEC. 41302. PURPOSE.

“The purpose of this subtitle is to—

“(1) prevent crimes involving violence against women, children, and youth;

“(2) increase the resources and services available to prevent violence against women, children, and youth;

“(3) reduce the impact of exposure to violence in the lives of children and youth so that the intergenerational cycle of violence is interrupted;

“(4) develop and implement education and services programs to prevent children in vulnerable families from becoming victims or perpetrators of domestic violence, dating violence, sexual assault, or stalking;

“(5) promote programs to ensure that children and youth receive the assistance they need to end the cycle of violence and develop mutually respectful, nonviolent relationships; and

“(6) encourage collaboration among community-based organizations and governmental agencies serving children and youth, providers of health and mental health services and providers of domestic violence, dating violence, sexual assault, and stalking victim services to prevent violence against women and children.

42 USC
14043d–2.

“SEC. 41303. GRANTS TO ASSIST CHILDREN AND YOUTH EXPOSED TO VIOLENCE.

“(a) GRANTS AUTHORIZED.—

“(1) IN GENERAL.—The Attorney General, acting through the Director of the Office on Violence Against Women, and in collaboration with the Department of Health and Human Services, is authorized to award grants on a competitive basis to eligible entities for the purpose of mitigating the effects of domestic violence, dating violence, sexual assault, and

stalking on children exposed to such violence, and reducing the risk of future victimization or perpetration of domestic violence, dating violence, sexual assault, and stalking.

“(2) TERM.—The Director shall make grants under this section for a period of 2 fiscal years.

“(3) AWARD BASIS.—The Director shall award grants—

“(A) considering the needs of underserved populations;

“(B) awarding not less than 10 percent of such amounts to Indian tribes for the funding of tribal projects from the amounts made available under this section for a fiscal year;

“(C) awarding up to 8 percent for the funding of technical assistance programs from the amounts made available under this section for a fiscal year; and

“(D) awarding not less than 66 percent to programs described in subsection (c)(1) from the amounts made available under this section for a fiscal year.

“(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$20,000,000 for each of fiscal years 2007 through 2011.

“(c) USE OF FUNDS.—The funds appropriated under this section shall be used for—

“(1) programs that provide services for children exposed to domestic violence, dating violence, sexual assault, or stalking, which may include direct counseling, advocacy, or mentoring, and must include support for the nonabusing parent or the child’s caretaker; or

“(2) training, coordination, and advocacy for programs that serve children and youth (such as Head Start, child care, and after-school programs) on how to safely and confidentially identify children and families experiencing domestic violence and properly refer them to programs that can provide direct services to the family and children, and coordination with other domestic violence or other programs serving children exposed to domestic violence, dating violence, sexual assault, or stalking that can provide the training and direct services referenced in this subsection.

“(d) ELIGIBLE ENTITIES.—To be eligible to receive a grant under this section, an entity shall be a—

“(1) a victim service provider, tribal nonprofit organization or community-based organization that has a documented history of effective work concerning children or youth exposed to domestic violence, dating violence, sexual assault, or stalking, including programs that provide culturally specific services, Head Start, childcare, faith-based organizations, after school programs, and health and mental health providers; or

“(2) a State, territorial, or tribal, or local unit of government agency that is partnered with an organization described in paragraph (1).

“(e) GRANTEE REQUIREMENTS.—Under this section, an entity shall—

“(1) prepare and submit to the Director an application at such time, in such manner, and containing such information as the Director may require; and

“(2) at a minimum, describe in the application the policies and procedures that the entity has or will adopt to—

“(A) enhance or ensure the safety and security of children who have been or are being exposed to violence and their nonabusing parent, enhance or ensure the safety and security of children and their nonabusing parent in homes already experiencing domestic violence, dating violence, sexual assault, or stalking; and

“(B) ensure linguistically, culturally, and community relevant services for underserved communities.

42 USC
14043d–3.

“SEC. 41304. DEVELOPMENT OF CURRICULA AND PILOT PROGRAMS FOR HOME VISITATION PROJECTS.

“(a) GRANTS AUTHORIZED.—

“(1) IN GENERAL.—The Attorney General, acting through the Director of the Office on Violence Against Women, and in collaboration with the Department of Health and Human Services, shall award grants on a competitive basis to home visitation programs, in collaboration with victim service providers, for the purposes of developing and implementing model policies and procedures to train home visitation service providers on addressing domestic violence, dating violence, sexual assault, and stalking in families experiencing violence, or at risk of violence, to reduce the impact of that violence on children, maintain safety, improve parenting skills, and break intergenerational cycles of violence.

“(2) TERM.—The Director shall make the grants under this section for a period of 2 fiscal years.

“(3) AWARD BASIS.—The Director shall—

“(A) consider the needs of underserved populations;

“(B) award not less than 7 percent of such amounts for the funding of tribal projects from the amounts made available under this section for a fiscal year; and

“(C) award up to 8 percent for the funding of technical assistance programs from the amounts made available under this section for a fiscal year.

“(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$7,000,000 for each of fiscal years 2007 through 2011.

“(c) ELIGIBLE ENTITIES.—To be eligible to receive a grant under this section, an entity shall be a national, Federal, State, local, territorial, or tribal—

“(1) home visitation program that provides services to pregnant women and to young children and their parent or primary caregiver that are provided in the permanent or temporary residence or in other familiar surroundings of the individual or family receiving such services; or

“(2) victim services organization or agency in collaboration with an organization or organizations listed in paragraph (1).

“(d) GRANTEE REQUIREMENTS.—Under this section, an entity shall—

“(1) prepare and submit to the Director an application at such time, in such manner, and containing such information as the Director may require; and

“(2) describe in the application the policies and procedures that the entity has or will adopt to—

“(A) enhance or ensure the safety and security of children and their nonabusing parent in homes already experiencing domestic violence, dating violence, sexual assault, or stalking;

“(B) ensure linguistically, culturally, and community relevant services for underserved communities;

“(C) ensure the adequate training by domestic violence, dating violence, sexual assault or stalking victim service providers of home visitation grantee program staff to—

“(i) safely screen for and/or recognize domestic violence, dating violence, sexual assault, and stalking;

“(ii) understand the impact of domestic violence or sexual assault on children and protective actions taken by a nonabusing parent or caretaker in response to violence against anyone in the household; and

“(iii) link new parents with existing community resources in communities where resources exist; and

“(D) ensure that relevant State and local domestic violence, dating violence, sexual assault, and stalking victim service providers and coalitions are aware of the efforts of organizations receiving grants under this section, and are included as training partners, where possible.

“SEC. 41305. ENGAGING MEN AND YOUTH IN PREVENTING DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING.

42 USC
14043d–4.

“(a) GRANTS AUTHORIZED.—

“(1) IN GENERAL.—The Attorney General, acting through the Director of the Office on Violence Against Women, and in collaboration with the Department of Health and Human Services, shall award grants on a competitive basis to eligible entities for the purpose of developing or enhancing programs related to engaging men and youth in preventing domestic violence, dating violence, sexual assault, and stalking by helping them to develop mutually respectful, nonviolent relationships.

“(2) TERM.—The Director shall make grants under this section for a period of 2 fiscal years.

“(3) AWARD BASIS.—The Director shall award grants—

“(A) considering the needs of underserved populations;

“(B) awarding not less than 10 percent of such amounts for the funding of Indian tribes from the amounts made available under this section for a fiscal year; and

“(C) awarding up to 8 percent for the funding of technical assistance for grantees and non-grantees working in this area from the amounts made available under this section for a fiscal year.

“(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$10,000,000 for each of fiscal years 2007 through 2011.

“(c) USE OF FUNDS.—

“(1) PROGRAMS.—The funds appropriated under this section shall be used by eligible entities—

“(A) to develop or enhance community-based programs, including gender-specific programs in accordance with applicable laws that—

“(i) encourage children and youth to pursue non-violent relationships and reduce their risk of becoming victims or perpetrators of domestic violence, dating violence, sexual assault, or stalking; and

“(ii) that include at a minimum—

“(I) information on domestic violence, dating violence, sexual assault, stalking, or child sexual abuse and how they affect children and youth; and

“(II) strategies to help participants be as safe as possible; or

“(B) to create public education campaigns and community organizing to encourage men and boys to work as allies with women and girls to prevent violence against women and girls conducted by entities that have experience in conducting public education campaigns that address domestic violence, dating violence, sexual assault, or stalking.

“(2) MEDIA LIMITS.—No more than 40 percent of funds received by a grantee under this section may be used to create and distribute media materials.

“(d) ELIGIBLE ENTITIES.—

“(1) RELATIONSHIPS.—Eligible entities under subsection (c)(1)(A) are—

“(A) nonprofit, nongovernmental domestic violence, dating violence, sexual assault, or stalking victim service providers or coalitions;

“(B) community-based child or youth services organizations with demonstrated experience and expertise in addressing the needs and concerns of young people;

“(C) a State, territorial, tribal, or unit of local governmental entity that is partnered with an organization described in subparagraph (A) or (B); or

“(D) a program that provides culturally specific services.

“(2) AWARENESS CAMPAIGN.—Eligible entities under subsection (c)(1)(B) are—

“(A) nonprofit, nongovernmental organizations or coalitions that have a documented history of creating and administering effective public education campaigns addressing the prevention of domestic violence, dating violence, sexual assault or stalking; or

“(B) a State, territorial, tribal, or unit of local governmental entity that is partnered with an organization described in subparagraph (A).

“(e) GRANTEE REQUIREMENTS.—Under this section, an entity shall—

“(1) prepare and submit to the Director an application at such time, in such manner, and containing such information as the Director may require; and

“(2) eligible entities pursuant to subsection (c)(1)(A) shall describe in the application the policies and procedures that the entity has or will adopt to—

“(A) enhance or ensure the safety and security of children and youth already experiencing domestic violence, dating violence, sexual assault, or stalking in their lives;

“(B) ensure linguistically, culturally, and community relevant services for underserved communities;

“(C) inform participants about laws, services, and resources in the community, and make referrals as appropriate; and

“(D) ensure that State and local domestic violence, dating violence, sexual assault, and stalking victim service providers and coalitions are aware of the efforts of organizations receiving grants under this section.”.

SEC. 402. STUDY CONDUCTED BY THE CENTERS FOR DISEASE CONTROL AND PREVENTION.

42 USC 280b–4.

(a) **PURPOSES.**—The Secretary of Health and Human Services acting through the National Center for Injury Prevention and Control at the Centers for Disease Control Prevention shall make grants to entities, including domestic and sexual assault coalitions and programs, research organizations, tribal organizations, and academic institutions to support research to examine prevention and intervention programs to further the understanding of sexual and domestic violence by and against adults, youth, and children.

Grants.

(b) **USE OF FUNDS.**—The research conducted under this section shall include evaluation and study of best practices for reducing and preventing violence against women and children addressed by the strategies included in Department of Health and Human Services-related provisions this title, including strategies addressing underserved communities.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There shall be authorized to be appropriated to carry out this title \$2,000,000 for each of the fiscal years 2007 through 2011.

SEC. 403. PUBLIC AWARENESS CAMPAIGN.

42 USC 14045c.

(a) **IN GENERAL.**—The Attorney General, acting through the Office on Violence Against Women], shall make grants to States for carrying out a campaign to increase public awareness of issues regarding domestic violence against pregnant women.

Grants.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2006 through 2010.

TITLE V—STRENGTHENING THE HEALTHCARE SYSTEM’S RESPONSE TO DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING

SEC. 501. FINDINGS.

42 USC 280g–4 note.

Congress makes the following findings:

(1) The health-related costs of intimate partner violence in the United States exceed \$5,800,000,000 annually.

(2) Thirty-seven percent of all women who sought care in hospital emergency rooms for violence-related injuries were injured by a current or former spouse, boyfriend, or girlfriend.

(3) In addition to injuries sustained during violent episodes, physical and psychological abuse is linked to a number of adverse physical and mental health effects. Women who have been abused are much more likely to suffer from chronic pain, diabetes, depression, unintended pregnancies, substance abuse and sexually transmitted infections, including HIV/AIDS.

(4) Health plans spend an average of \$1,775 more a year on abused women than on general enrollees.

(5) Each year about 324,000 pregnant women in the United States are battered by the men in their lives. This battering leads to complications of pregnancy, including low weight gain, anemia, infections, and first and second trimester bleeding.

(6) Pregnant and recently pregnant women are more likely to be victims of homicide than to die of any other pregnancy-related cause, and evidence exists that a significant proportion of all female homicide victims are killed by their intimate partners.

(7) Children who witness domestic violence are more likely to exhibit behavioral and physical health problems including depression, anxiety, and violence towards peers. They are also more likely to attempt suicide, abuse drugs and alcohol, run away from home, engage in teenage prostitution, and commit sexual assault crimes.

(8) Recent research suggests that women experiencing domestic violence significantly increase their safety-promoting behaviors over the short- and long-term when health care providers screen for, identify, and provide followup care and information to address the violence.

(9) Currently, only about 10 percent of primary care physicians routinely screen for intimate partner abuse during new patient visits and 9 percent routinely screen for intimate partner abuse during periodic checkups.

(10) Recent clinical studies have proven the effectiveness of a 2-minute screening for early detection of abuse of pregnant women. Additional longitudinal studies have tested a 10-minute intervention that was proven highly effective in increasing the safety of pregnant abused women. Comparable research does not yet exist to support the effectiveness of screening men.

(11) Seventy to 81 percent of the patients studied reported that they would like their healthcare providers to ask them privately about intimate partner violence.

42 USC 280g–4
note.

SEC. 502. PURPOSE.

It is the purpose of this title to improve the health care system's response to domestic violence, dating violence, sexual assault, and stalking through the training and education of health care providers, developing comprehensive public health responses to violence against women and children, increasing the number of women properly screened, identified, and treated for lifetime exposure to violence, and expanding research on effective interventions in the health care setting.

SEC. 503. TRAINING AND EDUCATION OF HEALTH PROFESSIONALS IN DOMESTIC AND SEXUAL VIOLENCE.

Part D of title VII of the Public Health Service Act (42 U.S.C. 294 et seq.) is amended by adding at the end the following:

“SEC. 758. INTERDISCIPLINARY TRAINING AND EDUCATION ON DOMESTIC VIOLENCE AND OTHER TYPES OF VIOLENCE AND ABUSE. 42 USC 294h.

“(a) **GRANTS.**—The Secretary, acting through the Director of the Health Resources and Services Administration, shall award grants under this section to develop interdisciplinary training and education programs that provide undergraduate, graduate, postgraduate medical, nursing (including advanced practice nursing students), and other health professions students with an understanding of, and clinical skills pertinent to, domestic violence, sexual assault, stalking, and dating violence.

“(b) **ELIGIBILITY.**—To be eligible to receive a grant under this section an entity shall—

“(1) be an accredited school of allopathic or osteopathic medicine;

“(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including—

“(A) information to demonstrate that the applicant includes the meaningful participation of a school of nursing and at least one other school of health professions or graduate program in public health, dentistry, social work, midwifery, or behavioral and mental health;

“(B) strategies for the dissemination and sharing of curricula and other educational materials developed under the grant to other interested medical and nursing schools and national resource repositories for materials on domestic violence and sexual assault; and

“(C) a plan for consulting with community-based coalitions or individuals who have experience and expertise in issues related to domestic violence, sexual assault, dating violence, and stalking for services provided under the program carried out under the grant.

“(c) **USE OF FUNDS.**—

“(1) **REQUIRED USES.**—Amounts provided under a grant under this section shall be used to—

“(A) fund interdisciplinary training and education projects that are designed to train medical, nursing, and other health professions students and residents to identify and provide health care services (including mental or behavioral health care services and referrals to appropriate community services) to individuals who are or who have experienced domestic violence, sexual assault, and stalking or dating violence; and

“(B) plan and develop culturally competent clinical components for integration into approved residency training programs that address health issues related to domestic violence, sexual assault, dating violence, and stalking, along with other forms of violence as appropriate, and include the primacy of victim safety and confidentiality.

“(2) **PERMISSIVE USES.**—Amounts provided under a grant under this section may be used to—

“(A) offer community-based training opportunities in rural areas for medical, nursing, and other students and residents on domestic violence, sexual assault, stalking, and dating violence, and other forms of violence and abuse, which may include the use of distance learning networks

and other available technologies needed to reach isolated rural areas; or

“(B) provide stipends to students who are underrepresented in the health professions as necessary to promote and enable their participation in clerkships, preceptorships, or other offsite training experiences that are designed to develop health care clinical skills related to domestic violence, sexual assault, dating violence, and stalking.

“(3) REQUIREMENTS.—

“(A) CONFIDENTIALITY AND SAFETY.—Grantees under this section shall ensure that all educational programs developed with grant funds address issues of confidentiality and patient safety, and that faculty and staff associated with delivering educational components are fully trained in procedures that will protect the immediate and ongoing security of the patients, patient records, and staff. Advocacy-based coalitions or other expertise available in the community shall be consulted on the development and adequacy of confidentiality and security procedures, and shall be fairly compensated by grantees for their services.

“(B) RURAL PROGRAMS.—Rural training programs carried out under paragraph (2)(A) shall reflect adjustments in protocols and procedures or referrals that may be needed to protect the confidentiality and safety of patients who live in small or isolated communities and who are currently or have previously experienced violence or abuse.

“(4) CHILD AND ELDER ABUSE.—Issues related to child and elder abuse may be addressed as part of a comprehensive programmatic approach implemented under a grant under this section.

“(d) REQUIREMENTS OF GRANTEEES.—

“(1) LIMITATION ON ADMINISTRATIVE EXPENSES.—A grantee shall not use more than 10 percent of the amounts received under a grant under this section for administrative expenses.

“(2) CONTRIBUTION OF FUNDS.—A grantee under this section, and any entity receiving assistance under the grant for training and education, shall contribute non-Federal funds, either directly or through in-kind contributions, to the costs of the activities to be funded under the grant in an amount that is not less than 25 percent of the total cost of such activities.

“(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, \$3,000,000 for each of fiscal years 2007 through 2011. Amounts appropriated under this subsection shall remain available until expended.”.

SEC. 504. GRANTS TO FOSTER PUBLIC HEALTH RESPONSES TO DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING GRANTS.

Part P of title III of the Public Health Service Act (42 U.S.C. 280g et seq.) is amended by adding at the end the following:

42 USC 280g–4.

“SEC. 3990. GRANTS TO FOSTER PUBLIC HEALTH RESPONSES TO DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING.

“(a) AUTHORITY TO AWARD GRANTS.—

“(1) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention,

shall award grants to eligible State, tribal, territorial, or local entities to strengthen the response of State, tribal, territorial, or local health care systems to domestic violence, dating violence, sexual assault, and stalking.

“(2) ELIGIBLE ENTITIES.—To be eligible to receive a grant under this section, an entity shall—

“(A) be—

“(i) a State department (or other division) of health, a State domestic or sexual assault coalition or service-based program, State law enforcement task force, or any other nonprofit, nongovernmental, tribal, territorial, or State entity with a history of effective work in the fields of domestic violence, dating violence, sexual assault or stalking, and health care; or

“(ii) a local, nonprofit domestic violence, dating violence, sexual assault, or stalking service-based program, a local department (or other division) of health, a local health clinic, hospital, or health system, or any other nonprofit, tribal, or local entity with a history of effective work in the field of domestic or sexual violence and health;

“(B) prepare and submit to the Secretary an application at such time, in such manner, and containing such agreements, assurances, and information as the Secretary determines to be necessary to carry out the purposes for which the grant is to be made; and

“(C) demonstrate that the entity is representing a team of organizations and agencies working collaboratively to strengthen the response of the health care system involved to domestic violence, dating violence, sexual assault, or stalking and that such team includes domestic violence, dating violence, sexual assault or stalking and health care organizations.

“(3) DURATION.—A program conducted under a grant awarded under this section shall not exceed 2 years.

“(b) USE OF FUNDS.—

“(1) IN GENERAL.—An entity shall use amounts received under a grant under this section to design and implement comprehensive strategies to improve the response of the health care system involved to domestic or sexual violence in clinical and public health settings, hospitals, clinics, managed care settings (including behavioral and mental health), and other health settings.

“(2) MANDATORY STRATEGIES.—Strategies implemented under paragraph (1) shall include the following:

“(A) The implementation, dissemination, and evaluation of policies and procedures to guide health care professionals and behavioral and public health staff in responding to domestic violence, dating violence, sexual assault, and stalking, including strategies to ensure that health information is maintained in a manner that protects the patient’s privacy and safety and prohibits insurance discrimination.

“(B) The development of on-site access to services to address the safety, medical, mental health, and economic needs of patients either by increasing the capacity of existing health care professionals and behavioral and public health staff to address domestic violence, dating violence,

sexual assault, and stalking, by contracting with or hiring domestic or sexual assault advocates to provide the services, or to model other services appropriate to the geographic and cultural needs of a site.

“(C) The evaluation of practice and the institutionalization of identification, intervention, and documentation including quality improvement measurements.

“(D) The provision of training and followup technical assistance to health care professionals, behavioral and public health staff, and allied health professionals to identify, assess, treat, and refer clients who are victims of domestic violence, dating violence, sexual violence, or stalking.

“(3) PERMISSIVE STRATEGIES.—Strategies implemented under paragraph (1) may include the following:

“(A) Where appropriate, the development of training modules and policies that address the overlap of child abuse, domestic violence, dating violence, sexual assault, and stalking and elder abuse as well as childhood exposure to domestic violence.

“(B) The creation, adaptation, and implementation of public education campaigns for patients concerning domestic violence, dating violence, sexual assault, and stalking prevention.

“(C) The development, adaptation, and dissemination of domestic violence, dating violence, sexual assault, and stalking education materials to patients and health care professionals and behavioral and public health staff.

“(D) The promotion of the inclusion of domestic violence, dating violence, sexual assault, and stalking into health professional training schools, including medical, dental, nursing school, social work, and mental health curriculum.

“(E) The integration of domestic violence, dating violence, sexual assault, and stalking into health care accreditation and professional licensing examinations, such as medical, dental, social work, and nursing boards.

“(c) ALLOCATION OF FUNDS.—Funds appropriated under this section shall be distributed equally between State and local programs.

“(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to award grants under this section, \$5,000,000 for each of fiscal years 2007 through 2011.”.

SEC. 505. RESEARCH ON EFFECTIVE INTERVENTIONS IN THE HEALTHCARE SETTING.

Subtitle B of the Violence Against Women Act of 1994 (Public Law 103–322; 108 Stat. 1902 et seq.), as amended by the Violence Against Women Act of 2000 (114 Stat. 1491 et seq.), and as amended by this Act, is further amended by adding at the end the following:

“CHAPTER 11—RESEARCH ON EFFECTIVE INTERVENTIONS TO ADDRESS VIOLENCE AGAINST WOMEN**“SEC. 40297. RESEARCH ON EFFECTIVE INTERVENTIONS IN THE HEALTH CARE SETTING.** 42 USC 13973.

“(a) PURPOSE.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention and the Director of the Agency for Healthcare Research and Quality, shall award grants and contracts to fund research on effective interventions in the health care setting that prevent domestic violence, dating violence, and sexual assault across the lifespan and that prevent the health effects of such violence and improve the safety and health of individuals who are currently being victimized.

Grants.
Contracts.

“(b) USE OF FUNDS.—Research conducted with amounts received under a grant or contract under this section shall include the following:

“(1) With respect to the authority of the Centers for Disease Control and Prevention—

“(A) research on the effects of domestic violence, dating violence, sexual assault, and childhood exposure to domestic, dating, or sexual violence, on health behaviors, health conditions, and the health status of individuals, families, and populations;

“(B) research and testing of best messages and strategies to mobilize public and health care provider action concerning the prevention of domestic, dating, or sexual violence; and

“(C) measure the comparative effectiveness and outcomes of efforts under this Act to reduce violence and increase women’s safety.

“(2) With respect to the authority of the Agency for Healthcare Research and Quality—

“(A) research on the impact on the health care system, health care utilization, health care costs, and health status of domestic violence, dating violence, and childhood exposure to domestic and dating violence, sexual violence and stalking and childhood exposure; and

“(B) research on effective interventions within primary care and emergency health care settings and with health care settings that include clinical partnerships within community domestic violence providers for adults and children exposed to domestic or dating violence.

“(c) USE OF DATA.—Research funded under this section shall be utilized by eligible entities under section 399O of the Public Health Service Act.

“(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, \$5,000,000 for each of fiscal years 2007 through 2011.”.

TITLE VI—HOUSING OPPORTUNITIES AND SAFETY FOR BATTERED WOMEN AND CHILDREN

SEC. 601. ADDRESSING THE HOUSING NEEDS OF VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING.

The Violence Against Women Act of 1994 (42 U.S.C. 13701 et seq.) is amended by adding at the end the following:

“Subtitle N—Addressing the Housing Needs of Victims of Domestic Violence, Dating Violence, Sexual Assault, and Stalking

42 USC 14043e.

“SEC. 41401. FINDINGS.

“Congress finds that:

“(1) There is a strong link between domestic violence and homelessness. Among cities surveyed, 44 percent identified domestic violence as a primary cause of homelessness.

“(2) Ninety-two percent of homeless women have experienced severe physical or sexual abuse at some point in their lives. Of all homeless women and children, 60 percent had been abused by age 12, and 63 percent have been victims of intimate partner violence as adults.

“(3) Women and families across the country are being discriminated against, denied access to, and even evicted from public and subsidized housing because of their status as victims of domestic violence.

“(4) A recent survey of legal service providers around the country found that these providers have responded to almost 150 documented eviction cases in the last year alone where the tenant was evicted because of the domestic violence crimes committed against her. In addition, nearly 100 clients were denied housing because of their status as victims of domestic violence.

“(5) Women who leave their abusers frequently lack adequate emergency shelter options. The lack of adequate emergency options for victims presents a serious threat to their safety and the safety of their children. Requests for emergency shelter by homeless women with children increased by 78 percent of United States cities surveyed in 2004. In the same year, 32 percent of the requests for shelter by homeless families went unmet due to the lack of available emergency shelter beds.

“(6) The average stay at an emergency shelter is 60 days, while the average length of time it takes a homeless family to secure housing is 6 to 10 months.

“(7) Victims of domestic violence often return to abusive partners because they cannot find long-term housing.

“(8) There are not enough Federal housing rent vouchers available to accommodate the number of people in need of

long-term housing. Some people remain on the waiting list for Federal housing rent vouchers for years, while some lists are closed.

“(9) Transitional housing resources and services provide an essential continuum between emergency shelter provision and independent living. A majority of women in transitional housing programs stated that had these programs not existed, they would have likely gone back to abusive partners.

“(10) Because abusers frequently manipulate finances in an effort to control their partners, victims often lack steady income, credit history, landlord references, and a current address, all of which are necessary to obtain long-term permanent housing.

“(11) Victims of domestic violence in rural areas face additional barriers, challenges, and unique circumstances, such as geographical isolation, poverty, lack of public transportation systems, shortages of health care providers, under-insurance or lack of health insurance, difficulty ensuring confidentiality in small communities, and decreased access to many resources (such as advanced education, job opportunities, and adequate childcare).

“(12) Congress and the Secretary of Housing and Urban Development have recognized in recent years that families experiencing domestic violence have unique needs that should be addressed by those administering the Federal housing programs.

“SEC. 41402. PURPOSE.

42 USC
14043e–1.

“The purpose of this subtitle is to reduce domestic violence, dating violence, sexual assault, and stalking, and to prevent homelessness by—

“(1) protecting the safety of victims of domestic violence, dating violence, sexual assault, and stalking who reside in homeless shelters, public housing, assisted housing, tribally designated housing, or other emergency, transitional, permanent, or affordable housing, and ensuring that such victims have meaningful access to the criminal justice system without jeopardizing such housing;

“(2) creating long-term housing solutions that develop communities and provide sustainable living solutions for victims of domestic violence, dating violence, sexual assault, and stalking;

“(3) building collaborations among victim service providers, homeless service providers, housing providers, and housing agencies to provide appropriate services, interventions, and training to address the housing needs of victims of domestic violence, dating violence, sexual assault, and stalking; and

“(4) enabling public and assisted housing agencies, tribally designated housing entities, private landlords, property management companies, and other housing providers and agencies to respond appropriately to domestic violence, dating violence, sexual assault, and stalking, while maintaining a safe environment for all housing residents.

“SEC. 41403. DEFINITIONS.

42 USC
14043e–2.

“For purposes of this subtitle—

“(1) the term ‘assisted housing’ means housing assisted—

“(A) under sections 213, 220, 221(d)(3), 221(d)(4), 223(e), 231, or 236 of the National Housing Act (12 U.S.C. 1715l(d)(3), (d)(4), or 1715z–1);

“(B) under section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s);

“(C) under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q);

“(D) under section 811 of the Cranston-Gonzales National Affordable Housing Act (42 U.S.C. 8013);

“(E) under title II of the Cranston-Gonzales National Affordable Housing Act (42 U.S.C. 12701 et seq.);

“(F) under subtitle D of title VIII of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12901 et seq.);

“(G) under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.); or

“(H) under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f);

“(2) the term ‘continuum of care’ means a community plan developed to organize and deliver housing and services to meet the specific needs of people who are homeless as they move to stable housing and achieve maximum self-sufficiency;

“(3) the term ‘low-income housing assistance voucher’ means housing assistance described in section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f);

“(4) the term ‘public housing’ means housing described in section 3(b)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(1));

“(5) the term ‘public housing agency’ means an agency described in section 3(b)(6) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(6));

“(6) the terms ‘homeless’, ‘homeless individual’, and ‘homeless person’—

“(A) mean an individual who lacks a fixed, regular, and adequate nighttime residence; and

“(B) includes—

“(i) an individual who—

“(I) is sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason;

“(II) is living in a motel, hotel, trailer park, or campground due to the lack of alternative adequate accommodations;

“(III) is living in an emergency or transitional shelter;

“(IV) is abandoned in a hospital; or

“(V) is awaiting foster care placement;

“(ii) an individual who has a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings; or

“(iii) migratory children (as defined in section 1309 of the Elementary and Secondary Education Act of 1965; 20 U.S.C. 6399) who qualify as homeless under this section because the children are living in circumstances described in this paragraph;

“(7) the term ‘homeless service provider’ means a nonprofit, nongovernmental homeless service provider, such as a homeless shelter, a homeless service or advocacy program, a tribal organization serving homeless individuals, or coalition or other nonprofit, nongovernmental organization carrying out a community-based homeless or housing program that has a documented history of effective work concerning homelessness;

“(8) the term ‘tribally designated housing’ means housing assistance described in the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.); and

“(9) the term ‘tribally designated housing entity’ means a housing entity described in the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103(21));

“SEC. 41404. COLLABORATIVE GRANTS TO INCREASE THE LONG-TERM STABILITY OF VICTIMS.

42 USC
14043e–3.

“(a) GRANTS AUTHORIZED.—

“(1) IN GENERAL.—The Secretary of Health and Human Services, acting through the Administration of Children and Families, in partnership with the Secretary of Housing and Urban Development, shall award grants, contracts, or cooperative agreements for a period of not less than 2 years to eligible entities to develop long-term sustainability and self-sufficiency options for adult and youth victims of domestic violence, dating violence, sexual assault, and stalking who are currently homeless or at risk for becoming homeless.

Contracts.

“(2) AMOUNT.—The Secretary of Health and Human Services shall award funds in amounts—

“(A) not less than \$25,000 per year; and

“(B) not more than \$1,000,000 per year.

“(b) ELIGIBLE ENTITIES.—To be eligible to receive funds under this section, an entity shall demonstrate that it is a coalition or partnership, applying jointly, that—

“(1) shall include a domestic violence victim service provider;

“(2) shall include—

“(A) a homeless service provider;

“(B) a nonprofit, nongovernmental community housing development organization or a Department of Agriculture rural housing service program; or

“(C) in the absence of a homeless service provider on tribal lands or nonprofit, nongovernmental community housing development organization on tribal lands, a tribally designated housing entity or tribal housing consortium;

“(3) may include a dating violence, sexual assault, or stalking victim service provider;

“(4) may include housing developers, housing corporations, State housing finance agencies, other housing agencies, and associations representing landlords;

“(5) may include a public housing agency or tribally designated housing entity;

“(6) may include tenant organizations in public or tribally designated housing, as well as nonprofit, nongovernmental tenant organizations;

“(7) may include other nonprofit, nongovernmental organizations participating in the Department of Housing and Urban Development’s Continuum of Care process;

“(8) may include a State, tribal, territorial, or local government or government agency; and

“(9) may include any other agencies or nonprofit, nongovernmental organizations with the capacity to provide effective help to adult and youth victims of domestic violence, dating violence, sexual assault, or stalking.

“(c) APPLICATION.—Each eligible entity seeking funds under this section shall submit an application to the Secretary of Health and Human Services at such time, in such manner, and containing such information as the Secretary of Health and Human Services may require.

“(d) USE OF FUNDS.—

“(1) IN GENERAL.—Funds awarded to eligible entities under subsection (a) shall be used to design or replicate and implement new activities, services, and programs to increase the stability and self-sufficiency of, and create partnerships to develop long-term housing options for adult and youth victims of domestic violence, dating violence, sexual assault, or stalking, and their dependents, who are currently homeless or at risk of becoming homeless.

“(2) ACTIVITIES, SERVICES, PROGRAMS.—Such activities, services, or programs described in paragraph (1) shall develop sustainable long-term living solutions in the community by—

“(A) coordinating efforts and resources among the various groups and organizations comprised in the entity to access existing private and public funding;

“(B) assisting with the placement of individuals and families in long-term housing; and

“(C) providing services to help individuals or families find and maintain long-term housing, including financial assistance and support services;

“(3) may develop partnerships with individuals, organizations, corporations, or other entities that provide capital costs for the purchase, preconstruction, construction, renovation, repair, or conversion of affordable housing units;

“(4) may use funds for the administrative expenses related to the continuing operation, upkeep, maintenance, and use of housing described in paragraph (3); and

“(5) may provide to the community information about housing and housing programs, and the process to locate and obtain long-term housing.

“(e) LIMITATION.—Funds provided under paragraph (a) shall not be used for construction, modernization or renovation.

“(f) UNDERSERVED POPULATIONS AND PRIORITIES.—In awarding grants under this section, the Secretary of Health and Human Services shall—

“(1) give priority to linguistically and culturally specific services;

“(2) give priority to applications from entities that include a sexual assault service provider as described in subsection (b)(3); and

“(3) award a minimum of 15 percent of the funds appropriated under this section in any fiscal year to tribal organizations.

“(g) DEFINITIONS.—For purposes of this section:

“(1) AFFORDABLE HOUSING.—The term ‘affordable housing’ means housing that complies with the conditions set forth in section 215 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12745).

“(2) LONG-TERM HOUSING.—The term ‘long-term housing’ means housing that is sustainable, accessible, affordable, and safe for the foreseeable future and is—

“(A) rented or owned by the individual;

“(B) subsidized by a voucher or other program which is not time-limited and is available for as long as the individual meets the eligibility requirements for the voucher or program; or

“(C) provided directly by a program, agency, or organization and is not time-limited and is available for as long as the individual meets the eligibility requirements for the program, agency, or organization.

“(h) EVALUATION, MONITORING, ADMINISTRATION, AND TECHNICAL ASSISTANCE.—For purposes of this section—

“(1) up to 5 percent of the funds appropriated under subsection (i) for each fiscal year may be used by the Secretary of Health and Human Services for evaluation, monitoring, and administration costs under this section; and

“(2) up to 8 percent of the funds appropriated under subsection (i) for each fiscal year may be used to provide technical assistance to grantees under this section.

“(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$10,000,000 for each of fiscal years 2007 through 2011 to carry out the provisions of this section.

“SEC. 41405. GRANTS TO COMBAT VIOLENCE AGAINST WOMEN IN PUBLIC AND ASSISTED HOUSING.

42 USC
14043e–4.

“(a) PURPOSE.—It is the purpose of this section to assist eligible grantees in responding appropriately to domestic violence, dating violence, sexual assault, and stalking so that the status of being a victim of such a crime is not a reason for the denial or loss of housing. Such assistance shall be accomplished through—

“(1) education and training of eligible entities;

“(2) development and implementation of appropriate housing policies and practices;

“(3) enhancement of collaboration with victim service providers and tenant organizations; and

“(4) reduction of the number of victims of such crimes who are evicted or denied housing because of crimes and lease violations committed or directly caused by the perpetrators of such crimes.

“(b) GRANTS AUTHORIZED.—

“(1) IN GENERAL.—The Attorney General, acting through the Director of the Violence Against Women Office of the Department of Justice (‘Director’), and in consultation with the Secretary of Housing and Urban Development (‘Secretary’), and the Secretary of Health and Human Services, acting through the Administration for Children, Youth and Families (‘ACYF’), shall award grants and contracts for not less than 2 years to eligible grantees to promote the full and equal access to and use of housing by adult and youth victims of domestic violence, dating violence, sexual assault, and stalking.

Contracts.

“(2) AMOUNTS.—Not less than 15 percent of the funds appropriated to carry out this section shall be available for grants to tribally designated housing entities.

“(3) AWARD BASIS.—The Attorney General shall award grants and contracts under this section on a competitive basis.

“(4) LIMITATION.—Appropriated funds may only be used for the purposes described in subsection (f).

“(c) ELIGIBLE GRANTEEES.—

“(1) IN GENERAL.—Eligible grantees are—

“(A) public housing agencies;

“(B) principally managed public housing resident management corporations, as determined by the Secretary;

“(C) public housing projects owned by public housing agencies;

“(D) tribally designated housing entities; and

“(E) private, for-profit, and nonprofit owners or managers of assisted housing.

Certification.

“(2) SUBMISSION REQUIRED FOR ALL GRANTEEES.—To receive assistance under this section, an eligible grantee shall certify that—

“(A) its policies and practices do not prohibit or limit a resident’s right to summon police or other emergency assistance in response to domestic violence, dating violence, sexual assault, or stalking;

“(B) programs and services are developed that give a preference in admission to adult and youth victims of such violence, consistent with local housing needs, and applicable law and the Secretary’s instructions;

“(C) it does not discriminate against any person—

“(i) because that person is or is perceived to be, or has a family or household member who is or is perceived to be, a victim of such violence; or

“(ii) because of the actions or threatened actions of the individual who the victim, as certified in subsection (e), states has committed or threatened to commit acts of such violence against the victim, or against the victim’s family or household member;

“(D) plans are developed that establish meaningful consultation and coordination with local victim service providers, tenant organizations, linguistically and culturally specific service providers, State domestic violence and sexual assault coalitions, and, where they exist, tribal domestic violence and sexual assault coalitions; and

Deadline.

“(E) its policies and practices will be in compliance with those described in this paragraph within the later of 1 year or a period selected by the Attorney General in consultation with the Secretary and ACYF.

“(d) APPLICATION.—Each eligible entity seeking a grant under this section shall submit an application to the Attorney General at such a time, in such a manner, and containing such information as the Attorney General may require.

“(e) CERTIFICATION.—

“(1) IN GENERAL.—A public housing agency, tribally designated housing entity, or assisted housing provider receiving funds under this section may request that an individual claiming relief under this section certify that the individual is a victim of domestic violence, dating violence, sexual assault,

or stalking. The individual shall provide a copy of such certification to the public housing agency, tribally designated housing entity, or assisted housing provider within a reasonable period of time after the agency or authority requests such certification.

Records.

“(2) CONTENTS.—An individual may satisfy the certification requirement of paragraph (1) by—

“(A) providing the public housing agency, tribally designated housing entity, or assisted housing provider with documentation, signed by an employee, agent, or volunteer of a victim service provider, an attorney, a member of the clergy, a medical professional, or any other professional from whom the victim has sought assistance in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse; or

“(B) producing a Federal, State, tribal, territorial, or local police or court record.

“(3) LIMITATION.—Nothing in this subsection shall be construed to require any housing agency, assisted housing provider, tribally designated housing entity, owner, or manager to demand that an individual produce official documentation or physical proof of the individual’s status as a victim of domestic violence, dating violence, sexual assault, or stalking, in order to receive any of the benefits provided in this section. A housing agency, assisted housing provider, tribally designated housing entity, owner, or manager may provide benefits to an individual based solely on the individual’s statement or other corroborating evidence.

“(4) CONFIDENTIALITY.—

“(A) IN GENERAL.—All information provided to any housing agency, assisted housing provider, tribally designated housing entity, owner, or manager pursuant to paragraph (1), including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, or stalking, shall be retained in confidence by such agency, and shall neither be entered into any shared database, nor provided to any related housing agency, assisted housing provider, tribally designated housing entity, owner, or manager, except to the extent that disclosure is—

“(i) requested or consented to by the individual in writing; or

“(ii) otherwise required by applicable law.

“(B) NOTIFICATION.—Public housing agencies must provide notice to tenants of their rights under this section, including their right to confidentiality and the limits thereof, and to owners and managers of their rights and obligations under this section.

“(f) USE OF FUNDS.—Grants and contracts awarded pursuant to subsection (a) shall provide to eligible entities personnel, training, and technical assistance to develop and implement policies, practices, and procedures, making physical improvements or changes, and developing or enhancing collaborations for the purposes of—

“(1) enabling victims of domestic violence, dating violence, sexual assault, and stalking with otherwise disqualifying rental, credit, or criminal histories to be eligible to obtain housing or housing assistance, if such victims would otherwise qualify for housing or housing assistance and can provide documented

evidence that demonstrates the causal connection between such violence or abuse and the victims' negative histories;

“(2) permitting applicants for housing or housing assistance to provide incomplete rental and employment histories, otherwise required as a condition of admission or assistance, if the victim believes that providing such rental and employment history would endanger the victim's or the victim children's safety;

“(3) protecting victims' confidentiality, including protection of victims' personally identifying information, address, or rental history;

“(4) assisting victims who need to leave a public housing, tribally designated housing, or assisted housing unit quickly to protect their safety, including those who are seeking transfer to a new public housing unit, tribally designated housing unit, or assisted housing unit, whether in the same or a different neighborhood or jurisdiction;

“(5) enabling the public housing agency, tribally designated housing entity, or assisted housing provider, or the victim, to remove, consistent with applicable State law, the perpetrator of domestic violence, dating violence, sexual assault, or stalking without evicting, removing, or otherwise penalizing the victim;

“(6) enabling the public housing agency, tribally designated housing entity, or assisted housing provider, when notified, to honor court orders addressing rights of access to or control of the property, including civil protection orders issued to protect the victim and issued to address the distribution or possession of property among the household members in cases where a family breaks up;

“(7) developing and implementing more effective security policies, protocols, and services;

“(8) allotting not more than 15 percent of funds awarded under the grant to make modest physical improvements to enhance safety;

“(9) training personnel to more effectively identify and respond to victims of domestic violence, dating violence, sexual assault, and stalking; and

“(10) effectively providing notice to applicants and residents of the above housing policies, practices, and procedures.

“(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$10,000,000 for each of fiscal years 2007 through 2011 to carry out the provisions of this section.

“(h) TECHNICAL ASSISTANCE.—Up to 12 percent of the amount appropriated under subsection (g) for each fiscal year shall be used by the Attorney General for technical assistance costs under this section.”.

SEC. 602. TRANSITIONAL HOUSING ASSISTANCE GRANTS FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING.

(a) IN GENERAL.—Section 40299 of the Violence Against Women Act of 1994 (42 U.S.C. 13975) is amended—

(1) in subsection (a)—

(A) by inserting “the Department of Housing and Urban Development, and the Department of Health and Human Services,” after “Department of Justice,”;

(B) by inserting “, including domestic violence and sexual assault victim service providers, domestic violence and sexual assault coalitions, other nonprofit, nongovernmental organizations, or community-based and culturally specific organizations, that have a documented history of effective work concerning domestic violence, dating violence, sexual assault, or stalking” after “other organizations”; and

(C) in paragraph (1), by inserting “, dating violence, sexual assault, or stalking” after “domestic violence”;

(2) in subsection (b)—

(A) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively;

(B) in paragraph (3), as redesignated, by inserting “, dating violence, sexual assault, or stalking” after “violence”;

(C) by inserting before paragraph (2), as redesignated, the following:

“(1) transitional housing, including funding for the operating expenses of newly developed or existing transitional housing.”; and

(D) in paragraph (3)(B) as redesignated, by inserting “Participation in the support services shall be voluntary. Receipt of the benefits of the housing assistance described in paragraph (2) shall not be conditioned upon the participation of the youth, adults, or their dependents in any or all of the support services offered them.” after “assistance.”;

(3) in paragraph (1) of subsection (c), by striking “18 months” and inserting “24 months”;

(4) in subsection (d)(2)—

(A) by striking “and” at the end of subparagraph (A);

(B) by redesignating subparagraph (B) as subparagraph (C); and

(C) by inserting after subparagraph (A) the following:

“(B) provide assurances that any supportive services offered to participants in programs developed under subsection (b)(3) are voluntary and that refusal to receive such services shall not be grounds for termination from the program or eviction from the victim’s housing; and”;

(5) in subsection (e)(2)—

(A) in subparagraph (A), by inserting “purpose and” before “amount”;

(B) in clause (ii) of subparagraph (C), by striking “and”;

(C) in subparagraph (D), by striking the period and inserting “; and”; and

(D) by adding at the end the following new subparagraph:

“(E) the client population served and the number of individuals requesting services that the transitional housing program is unable to serve as a result of a lack of resources.”; and

(6) in subsection (g)—

(A) in paragraph (1), by striking “\$30,000,000” and inserting “\$40,000,000”;

(B) in paragraph (1), by striking “2004” and inserting “2007”;

(C) in paragraph (1), by striking “2008” and inserting “2011”;

(D) in paragraph (2), by striking “not more than 3 percent” and inserting “up to 5 percent”;

(E) in paragraph (2), by inserting “evaluation, monitoring, technical assistance,” before “salaries”; and

(F) in paragraph (3), by adding at the end the following new subparagraphs:

“(C) UNDERSERVED POPULATIONS.—

“(i) A minimum of 7 percent of the total amount appropriated in any fiscal year shall be allocated to tribal organizations serving adult and youth victims of domestic violence, dating violence, sexual assault, or stalking, and their dependents.

“(ii) Priority shall be given to projects developed under subsection (b) that primarily serve underserved populations.”.

SEC. 603. PUBLIC HOUSING AUTHORITY PLANS REPORTING REQUIREMENT.

Section 5A of the United States Housing Act of 1937 (42 U.S.C. 1437c–1) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking “paragraph (2)” and inserting “paragraph (3)”;

(B) by redesignating paragraph (2) as paragraph (3); and

(C) by inserting after paragraph (1) the following:

“(2) STATEMENT OF GOALS.—The 5-year plan shall include a statement by any public housing agency of the goals, objectives, policies, or programs that will enable the housing authority to serve the needs of child and adult victims of domestic violence, dating violence, sexual assault, or stalking.”;

(2) in subsection (d), by redesignating paragraphs (13), (14), (15), (16), (17), and (18), as paragraphs (14), (15), (16), (17), (18), and (19), respectively; and

(3) by inserting after paragraph (12) the following:

“(13) DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING PROGRAMS.—A description of—

“(A) any activities, services, or programs provided or offered by an agency, either directly or in partnership with other service providers, to child or adult victims of domestic violence, dating violence, sexual assault, or stalking;

“(B) any activities, services, or programs provided or offered by a public housing agency that helps child and adult victims of domestic violence, dating violence, sexual assault, or stalking, to obtain or maintain housing; and

“(C) any activities, services, or programs provided or offered by a public housing agency to prevent domestic violence, dating violence, sexual assault, and stalking, or to enhance victim safety in assisted families.”.

SEC. 604. HOUSING STRATEGIES.

Section 105(b)(1) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705(b)(1)) is amended by inserting after “immunodeficiency syndrome,” the following: “victims of domestic violence, dating violence, sexual assault, and stalking”.

SEC. 605. AMENDMENT TO THE MCKINNEY-VENTO HOMELESS ASSISTANCE ACT.

Section 423 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11383) is amended—

(1) by adding at the end of subsection (a) the following:

“(8) CONFIDENTIALITY.—

“(A) VICTIM SERVICE PROVIDERS.—In the course of awarding grants or implementing programs under this subsection, the Secretary shall instruct any victim service provider that is a recipient or subgrantee not to disclose for purposes of a Homeless Management Information System personally identifying information about any client. The Secretary may, after public notice and comment, require or ask such recipients and subgrantees to disclose for purposes of a Homeless Management Information System non-personally identifying data that has been de-identified, encrypted, or otherwise encoded. Nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this paragraph for victims of domestic violence, dating violence, sexual assault, or stalking.

“(B) DEFINITIONS.—

“(i) PERSONALLY IDENTIFYING INFORMATION OR PERSONAL INFORMATION.—The term ‘personally identifying information’ or ‘personal information’ means individually identifying information for or about an individual including information likely to disclose the location of a victim of domestic violence, dating violence, sexual assault, or stalking, including—

“(I) a first and last name;

“(II) a home or other physical address;

“(III) contact information (including a postal, e-mail or Internet protocol address, or telephone or facsimile number);

“(IV) a social security number; and

“(V) any other information, including date of birth, racial or ethnic background, or religious affiliation, that, in combination with any other non-personally identifying information would serve to identify any individual.

“(ii) VICTIM SERVICE PROVIDER.—The term ‘victim service provider’ or ‘victim service providers’ means a nonprofit, nongovernmental organization including rape crisis centers, battered women’s shelters, domestic violence transitional housing programs, and other programs whose primary mission is to provide services to victims of domestic violence, dating violence, sexual assault, or stalking.”.

SEC. 606. AMENDMENTS TO THE LOW-INCOME HOUSING ASSISTANCE VOUCHER PROGRAM.

Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) is amended—

(1) in subsection (c), by adding at the end the following new paragraph:

“(9)(A) That an applicant or participant is or has been a victim of domestic violence, dating violence, or stalking is

not an appropriate basis for denial of program assistance or for denial of admission, if the applicant otherwise qualifies for assistance or admission.

“(B) An incident or incidents of actual or threatened domestic violence, dating violence, or stalking will not be construed as a serious or repeated violation of the lease by the victim or threatened victim of that violence and shall not be good cause for terminating the assistance, tenancy, or occupancy rights of the victim of such violence.

“(C)(i) Criminal activity directly relating to domestic violence, dating violence, or stalking, engaged in by a member of a tenant’s household or any guest or other person under the tenant’s control shall not be cause for termination of assistance, tenancy, or occupancy rights if the tenant or an immediate member of the tenant’s family is the victim or threatened victim of that domestic violence, dating violence, or stalking.

“(ii) Notwithstanding clause (i), an owner or manager may bifurcate a lease under this section, in order to evict, remove, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant.

“(iii) Nothing in clause (i) may be construed to limit the authority of a public housing agency, owner, or manager, when notified, to honor court orders addressing rights of access to or control of the property, including civil protection orders issued to protect the victim and issued to address the distribution or possession of property among the household members in cases where a family breaks up.

“(iv) Nothing in clause (i) limits any otherwise available authority of an owner or manager to evict or the public housing agency to terminate assistance to a tenant for any violation of a lease not premised on the act or acts of violence in question against the tenant or a member of the tenant’s household, provided that the owner or manager does not subject an individual who is or has been a victim of domestic violence, dating violence, or stalking to a more demanding standard than other tenants in determining whether to evict or terminate.

“(v) Nothing in clause (i) may be construed to limit the authority of an owner, manager, or public housing agency to evict or terminate from assistance any tenant or lawful occupant if the owner, manager or public housing agency can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant is not evicted or terminated from assistance.

“(vi) Nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking.”;

(2) in subsection (d)—

(A) in paragraph (1)(A), by inserting after “public housing agency” the following: “and that an applicant or participant is or has been a victim of domestic violence, dating violence, or stalking is not an appropriate basis for denial of program assistance or for denial of admission

if the applicant otherwise qualifies for assistance or admission”;

(B) in paragraph (1)(B)(ii), by inserting after “other good cause” the following: “, and that an incident or incidents of actual or threatened domestic violence, dating violence, or stalking will not be construed as a serious or repeated violation of the lease by the victim or threatened victim of that violence and will not be good cause for terminating the tenancy or occupancy rights of the victim of such violence”; and

(C) in paragraph (1)(B)(iii), by inserting after “termination of tenancy” the following: “, except that: (I) criminal activity directly relating to domestic violence, dating violence, or stalking, engaged in by a member of a tenant’s household or any guest or other person under the tenant’s control, shall not be cause for termination of the tenancy or occupancy rights or program assistance, if the tenant or immediate member of the tenant’s family is a victim of that domestic violence, dating violence, or stalking; (II) notwithstanding subclause (I), a public housing agency may terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, or an owner or manager under this section may bifurcate a lease, in order to evict, remove, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant; (III) nothing in subclause (I) may be construed to limit the authority of a public housing agency, owner, or manager, when notified, to honor court orders addressing rights of access to or control of the property, including civil protection orders issued to protect the victim and issued to address the distribution or possession of property among the household members in cases where a family breaks up; (IV) nothing in subclause (I) limits any otherwise available authority of an owner or manager to evict or the public housing agency to terminate assistance to a tenant for any violation of a lease not premised on the act or acts of violence in question against the tenant or a member of the tenant’s household, provided that the owner, manager, or public housing agency does not subject an individual who is or has been a victim of domestic violence, dating violence, or stalking to a more demanding standard than other tenants in determining whether to evict or terminate; (V) nothing in subclause (I) may be construed to limit the authority of an owner or manager to evict, or the public housing agency to terminate assistance, to any tenant if the owner, manager, or public housing agency can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant is not evicted or terminated from assistance; and (VI) nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection

than this section for victims of domestic violence, dating violence, or stalking.”;

(3) in subsection (f)—

(A) in paragraph (6), by striking “and”;

(B) in paragraph (7), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following new paragraphs:

“(8) the term ‘domestic violence’ has the same meaning given the term in section 40002 of the Violence Against Women Act of 1994;

“(9) the term ‘dating violence’ has the same meaning given the term in section 40002 of the Violence Against Women Act of 1994; and

“(10) the term ‘stalking’ means—

“(A)(i) to follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate another person; and

“(ii) to place under surveillance with the intent to kill, injure, harass, or intimidate another person; and

“(B) in the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to—

“(i) that person;

“(ii) a member of the immediate family of that person; or

“(iii) the spouse or intimate partner of that person;

and

“(11) the term ‘immediate family member’ means, with respect to a person—

“(A) a spouse, parent, brother or sister, or child of that person, or an individual to whom that person stands in loco parentis; or

“(B) any other person living in the household of that person and related to that person by blood and marriage.”;

(4) in subsection (o)—

(A) by inserting at the end of paragraph (6)(B) the following new sentence: “That an applicant or participant is or has been a victim of domestic violence, dating violence, or stalking is not an appropriate basis for denial of program assistance by or for denial of admission if the applicant otherwise qualifies for assistance for admission, and that nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking.”;

(B) in paragraph (7)(C), by inserting after “other good cause” the following: “, and that an incident or incidents of actual or threatened domestic violence, dating violence, or stalking shall not be construed as a serious or repeated violation of the lease by the victim or threatened victim of that violence and shall not be good cause for terminating the tenancy or occupancy rights of the victim of such violence”;

(C) in paragraph (7)(D), by inserting after “termination of tenancy” the following: “; except that (i) criminal activity

directly relating to domestic violence, dating violence, or stalking, engaged in by a member of a tenant's household or any guest or other person under the tenant's control shall not be cause for termination of the tenancy or occupancy rights, if the tenant or immediate member of the tenant's family is a victim of that domestic violence, dating violence, or stalking; (ii) notwithstanding clause (i), a public housing agency may terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, or an owner or manager may bifurcate a lease under this section, in order to evict, remove, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant; (iii) nothing in clause (i) may be construed to limit the authority of a public housing agency, owner, or manager, when notified, to honor court orders addressing rights of access to control of the property, including civil protection orders issued to protect the victim and issued to address the distribution or possession of property among the household members in cases where a family breaks up; (iv) nothing in clause (i) limits any otherwise available authority of an owner or manager to evict or the public housing agency to terminate assistance to a tenant for any violation of a lease not premised on the act or acts of violence in question against the tenant or a member of the tenant's household, provided that the owner, manager, or public housing agency does not subject an individual who is or has been a victim of domestic violence, dating violence, or stalking to a more demanding standard than other tenants in determining whether to evict or terminate; (v) nothing in clause (i) may be construed to limit the authority of an owner or manager to evict, or the public housing agency to terminate, assistance to any tenant if the owner, manager, or public housing agency can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant is not evicted or terminated from assistance; and (vi) nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking.”; and

(D) by adding at the end the following new paragraph:

“(20) PROHIBITED BASIS FOR TERMINATION OF ASSISTANCE.—

“(A) IN GENERAL.—A public housing agency may not terminate assistance to a participant in the voucher program on the basis of an incident or incidents of actual or threatened domestic violence, dating violence, or stalking against that participant.

“(B) CONSTRUAL OF LEASE PROVISIONS.—Criminal activity directly relating to domestic violence, dating violence, or stalking shall not be considered a serious or repeated violation of the lease by the victim or threatened victim of that criminal

activity justifying termination of assistance to the victim or threatened victim.

“(C) TERMINATION ON THE BASIS OF CRIMINAL ACTIVITY.—Criminal activity directly relating to domestic violence, dating violence, or stalking shall not be considered cause for termination of assistance for any participant or immediate member of a participant’s family who is a victim of the domestic violence, dating violence, or stalking.

“(D) EXCEPTIONS.—

“(i) PUBLIC HOUSING AUTHORITY RIGHT TO TERMINATE FOR CRIMINAL ACTS.—Nothing in subparagraph (A), (B), or (C) may be construed to limit the authority of the public housing agency to terminate voucher assistance to individuals who engage in criminal acts of physical violence against family members or others.

“(ii) COMPLIANCE WITH COURT ORDERS.—Nothing in subparagraph (A), (B), or (C) may be construed to limit the authority of a public housing agency, when notified, to honor court orders addressing rights of access to or control of the property, including civil protection orders issued to protect the victim and issued to address the distribution possession of property among the household members in cases where a family breaks up.

“(iii) PUBLIC HOUSING AUTHORITY RIGHT TO TERMINATE VOUCHER ASSISTANCE FOR LEASE VIOLATIONS.—Nothing in subparagraph (A), (B), or (C) limit any otherwise available authority of the public housing agency to terminate voucher assistance to a tenant for any violation of a lease not premised on the act or acts of violence in question against the tenant or a member of the tenant’s household, provided that the public housing agency does not subject an individual who is or has been a victim of domestic violence, dating violence, or stalking to a more demanding standard than other tenants in determining whether to terminate.

“(iv) PUBLIC HOUSING AUTHORITY RIGHT TO TERMINATE VOUCHER ASSISTANCE FOR IMMINENT THREAT.—Nothing in subparagraph (A), (B), or (C) may be construed to limit the authority of the public housing agency to terminate voucher assistance to a tenant if the public housing agency can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property or public housing agency if that tenant is not evicted or terminated from assistance.

“(v) PREEMPTION.—Nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking.”;

(5) in subsection (r)(5), by inserting after “violation of a lease” the following: “, except that a family may receive a voucher from a public housing agency and move to another jurisdiction under the tenant-based assistance program if the family has complied with all other obligations of the section 8 program and has moved out of the assisted dwelling unit in order to protect the health or safety of an individual who is or has been the victim of domestic violence, dating violence, or stalking and who reasonably believed he or she was

imminently threatened by harm from further violence if he or she remained in the assisted dwelling unit”; and

(6) by adding at the end the following new subsection:
“(ee) CERTIFICATION AND CONFIDENTIALITY.—

“(1) CERTIFICATION.—

“(A) IN GENERAL.—An owner, manager, or public housing agency responding to subsections (c)(9), (d)(1)(B)(ii), (d)(1)(B)(iii), (o)(7)(C), (o)(7)(D), (o)(20), and (r)(5) may request that an individual certify via a HUD approved certification form that the individual is a victim of domestic violence, dating violence, or stalking, and that the incident or incidents in question are bona fide incidents of such actual or threatened abuse and meet the requirements set forth in the aforementioned paragraphs. Such certification shall include the name of the perpetrator. The individual shall provide such certification within 14 business days after the owner, manager, or public housing agency requests such certification.

Deadline.

“(B) FAILURE TO PROVIDE CERTIFICATION.—If the individual does not provide the certification within 14 business days after the owner, manager, public housing agency, or assisted housing provider has requested such certification in writing, nothing in this subsection or in subsection (c)(9), (d)(1)(B)(ii), (d)(1)(B)(iii), (o)(7)(C), (o)(7)(D), (o)(20), or (r)(5) may be construed to limit the authority of an owner or manager to evict, or the public housing agency or assisted housing provider to terminate voucher assistance for, any tenant or lawful occupant that commits violations of a lease. The owner, manager, public housing agency, or assisted housing provider may extend the 14-day deadline at their discretion.

“(C) CONTENTS.—An individual may satisfy the certification requirement of subparagraph (A) by—

“(i) providing the requesting owner, manager, or public housing agency with documentation signed by an employee, agent, or volunteer of a victim service provider, an attorney, or a medical professional, from whom the victim has sought assistance in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of the abuse, in which the professional attests under penalty of perjury (28 U.S.C. 1746) to the professional’s belief that the incident or incidents in question are bona fide incidents of abuse, and the victim of domestic violence, dating violence, or stalking has signed or attested to the documentation; or

“(ii) producing a Federal, State, tribal, territorial, or local police or court record.

“(D) LIMITATION.—Nothing in this subsection shall be construed to require an owner, manager, or public housing agency to demand that an individual produce official documentation or physical proof of the individual’s status as a victim of domestic violence, dating violence, sexual assault, or stalking in order to receive any of the benefits provided in this section. At their discretion, the owner, manager, or public housing agency may provide benefits

to an individual based solely on the individual's statement or other corroborating evidence.

“(E) COMPLIANCE NOT SUFFICIENT TO CONSTITUTE EVIDENCE OF UNREASONABLE ACT.—Compliance with this statute by an owner, manager, public housing agency, or assisted housing provider based on the certification specified in paragraphs (1)(A) and (B) of this subsection or based solely on the victim's statement or other corroborating evidence, as permitted by paragraph (1)(C) of this subsection, shall not alone be sufficient to constitute evidence of an unreasonable act or omission by an owner, manager, public housing agency, or assisted housing provider, or employee thereof. Nothing in this subparagraph shall be construed to limit liability for failure to comply with the requirements of subsection (c)(9), (d)(1)(B)(ii), (d)(1)(B)(iii), (o)(7)(C), (o)(7)(D), (o)(20), or (r)(5).

“(F) PREEMPTION.—Nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking.

“(2) CONFIDENTIALITY.—

“(A) IN GENERAL.—All information provided to an owner, manager, or public housing agency pursuant to paragraph (1), including the fact that an individual is a victim of domestic violence, dating violence, or stalking, shall be retained in confidence by an owner, manager, or public housing agency, and shall neither be entered into any shared database nor provided to any related entity, except to the extent that disclosure is—

“(i) requested or consented to by the individual in writing;

“(ii) required for use in an eviction proceeding under subsection (c)(9), (d)(1)(B)(ii), (d)(1)(B)(iii), (o)(7)(C), (o)(7)(D), or (o)(20); or

“(iii) otherwise required by applicable law.

“(B) NOTIFICATION.—Public housing agencies must provide notice to tenants assisted under Section 8 of the United States Housing Act of 1937 of their rights under this subsection and subsections (c)(9), (d)(1)(B)(ii), (d)(1)(B)(iii), (o)(7)(C), (o)(7)(D), (o)(20), and (r)(5), including their right to confidentiality and the limits thereof, and to owners and managers of their rights and obligations under this subsection and subsections (c)(9), (d)(1)(B)(ii), (d)(1)(B)(iii), (o)(7)(C), (o)(7)(D), (o)(20), and (r)(5).”.

SEC. 607. AMENDMENTS TO THE PUBLIC HOUSING PROGRAM.

Section 6 of the United States Housing Act of 1937 (42 U.S.C. 1437d) is amended—

(1) in subsection (c), by redesignating paragraph (3) and (4), as paragraphs (4) and (5), respectively;

(2) by inserting after paragraph (2) the following:

“(3) the public housing agency shall not deny admission to the project to any applicant on the basis that the applicant is or has been a victim of domestic violence, dating violence, or stalking if the applicant otherwise qualifies for assistance or admission, and that nothing in this section shall be construed

to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking”;

(3) in subsection (l)(5), by inserting after “other good cause” the following: “, and that an incident or incidents of actual or threatened domestic violence, dating violence, or stalking will not be construed as a serious or repeated violation of the lease by the victim or threatened victim of that violence and will not be good cause for terminating the tenancy or occupancy rights of the victim of such violence”;

(4) in subsection (l)(6), by inserting after “termination of tenancy” the following: “; except that: (A) criminal activity directly relating to domestic violence, dating violence, or stalking, engaged in by a member of a tenant’s household or any guest or other person under the tenant’s control, shall not be cause for termination of the tenancy or occupancy rights, if the tenant or immediate member of the tenant’s family is a victim of that domestic violence, dating violence, or stalking; (B) notwithstanding subparagraph (A), a public housing agency under this section may bifurcate a lease under this section, in order to evict, remove, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant; (C) nothing in subparagraph (A) may be construed to limit the authority of a public housing agency, when notified, to honor court orders addressing rights of access to or control of the property, including civil protection orders issued to protect the victim and issued to address the distribution or possession of property among the household members in cases where a family breaks up; (D) nothing in subparagraph (A) limits any otherwise available authority of a public housing agency to evict a tenant for any violation of a lease not premised on the act or acts of violence in question against the tenant or a member of the tenant’s household, provided that the public housing agency does not subject an individual who is or has been a victim of domestic violence, dating violence, or stalking to a more demanding standard than other tenants in determining whether to evict or terminate; (E) nothing in subparagraph (A) may be construed to limit the authority of a public housing agency to terminate the tenancy of any tenant if the public housing agency can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant’s tenancy is not terminated; and (F) nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking.”; and

(5) by inserting at the end of subsection (t) the following new subsection:

“(u) CERTIFICATION AND CONFIDENTIALITY.—

“(1) CERTIFICATION.—

“(A) IN GENERAL.—A public housing agency responding to subsection (l)(5) and (6) may request that an individual certify via a HUD approved certification form that the

Deadline.

individual is a victim of domestic violence, dating violence, or stalking, and that the incident or incidents in question are bona fide incidents of such actual or threatened abuse and meet the requirements set forth in the aforementioned paragraphs. Such certification shall include the name of the perpetrator. The individual shall provide such certification within 14 business days after the public housing agency requests such certification.

“(B) FAILURE TO PROVIDE CERTIFICATION.—If the individual does not provide the certification within 14 business days after the public housing agency has requested such certification in writing, nothing in this subsection, or in paragraph (5) or (6) of subsection (1), may be construed to limit the authority of the public housing agency to evict any tenant or lawful occupant that commits violations of a lease. The public housing agency may extend the 14-day deadline at its discretion.

“(C) CONTENTS.—An individual may satisfy the certification requirement of subparagraph (A) by—

“(i) providing the requesting public housing agency with documentation signed by an employee, agent, or volunteer of a victim service provider, an attorney, or a medical professional, from whom the victim has sought assistance in addressing domestic violence, dating violence, or stalking, or the effects of the abuse, in which the professional attests under penalty of perjury (28 U.S.C. 1746) to the professional’s belief that the incident or incidents in question are bona fide incidents of abuse, and the victim of domestic violence, dating violence, or stalking has signed or attested to the documentation; or

“(ii) producing a Federal, State, tribal, territorial, or local police or court record.

“(D) LIMITATION.—Nothing in this subsection shall be construed to require any public housing agency to demand that an individual produce official documentation or physical proof of the individual’s status as a victim of domestic violence, dating violence, or stalking in order to receive any of the benefits provided in this section. At the public housing agency’s discretion, a public housing agency may provide benefits to an individual based solely on the individual’s statement or other corroborating evidence.

“(E) PREEMPTION.—Nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking.

“(F) COMPLIANCE NOT SUFFICIENT TO CONSTITUTE EVIDENCE OF UNREASONABLE ACT.—Compliance with this statute by a public housing agency, or assisted housing provider based on the certification specified in subparagraphs (A) and (B) of this subsection or based solely on the victim’s statement or other corroborating evidence, as permitted by subparagraph (D) of this subsection, shall not alone be sufficient to constitute evidence of an unreasonable act or omission by a public housing agency or employee thereof. Nothing in this subparagraph shall

be construed to limit liability for failure to comply with the requirements of subsection (1)(5) and (6).

“(2) CONFIDENTIALITY.—

“(A) IN GENERAL.—All information provided to any public housing agency pursuant to paragraph (1), including the fact that an individual is a victim of domestic violence, dating violence, or stalking, shall be retained in confidence by such public housing agency, and shall neither be entered into any shared database nor provided to any related entity, except to the extent that disclosure is—

“(i) requested or consented to by the individual in writing;

“(ii) required for use in an eviction proceeding under subsection (1)(5) or (6); or

“(iii) otherwise required by applicable law.

“(B) NOTIFICATION.—Public housing agencies must provide notice to tenants assisted under section 6 of the United States Housing Act of 1937 of their rights under this subsection and subsection (1)(5) and (6), including their right to confidentiality and the limits thereof.

“(3) DEFINITIONS.—For purposes of this subsection, subsection (c)(3), and subsection (1)(5) and (6)—

“(A) the term ‘domestic violence’ has the same meaning given the term in section 40002 of the Violence Against Women Act of 1994;

“(B) the term ‘dating violence’ has the same meaning given the term in section 40002 of the Violence Against Women Act of 1994;

“(C) the term ‘stalking’ means—

“(i)(I) to follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate; or

“(II) to place under surveillance with the intent to kill, injure, harass, or intimidate another person; and

“(ii) in the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to—

“(I) that person;

“(II) a member of the immediate family of that person; or

“(III) the spouse or intimate partner of that person; and

“(D) the term ‘immediate family member’ means, with respect to a person—

“(i) a spouse, parent, brother or sister, or child of that person, or an individual to whom that person stands in loco parentis; or

“(ii) any other person living in the household of that person and related to that person by blood and marriage.”.

TITLE VII—PROVIDING ECONOMIC SECURITY FOR VICTIMS OF VIOLENCE

SEC. 701. GRANT FOR NATIONAL RESOURCE CENTER ON WORKPLACE RESPONSES TO ASSIST VICTIMS OF DOMESTIC AND SEXUAL VIOLENCE.

Subtitle N of the Violence Against Women Act of 1994 (Public Law 103–322; 108 Stat. 1902) is amended by adding at the end the following:

“Subtitle O—National Resource Center

42 USC 14043f.

“SEC. 41501. GRANT FOR NATIONAL RESOURCE CENTER ON WORK- PLACE RESPONSES TO ASSIST VICTIMS OF DOMESTIC AND SEXUAL VIOLENCE.

“(a) **AUTHORITY.**—The Attorney General, acting through the Director of the Office on Violence Against Women, may award a grant to an eligible nonprofit nongovernmental entity or tribal organization, in order to provide for the establishment and operation of a national resource center on workplace responses to assist victims of domestic and sexual violence. The resource center shall provide information and assistance to employers and labor organizations to aid in their efforts to develop and implement responses to such violence.

“(b) **APPLICATIONS.**—To be eligible to receive a grant under this section, an entity or organization shall submit an application to the Attorney General at such time, in such manner, and containing such information as the Attorney General may require, including—

“(1) information that demonstrates that the entity or organization has nationally recognized expertise in the area of domestic or sexual violence;

“(2) a plan to maximize, to the extent practicable, outreach to employers (including private companies and public entities such as public institutions of higher education and State and local governments) and labor organizations described in subsection (a) concerning developing and implementing workplace responses to assist victims of domestic or sexual violence; and

“(3) a plan for developing materials and training for materials for employers that address the needs of employees in cases of domestic violence, dating violence, sexual assault, and stalking impacting the workplace, including the needs of underserved communities.

“(c) **USE OF GRANT AMOUNT.**—

“(1) **IN GENERAL.**—An entity or organization that receives a grant under this section may use the funds made available through the grant for staff salaries, travel expenses, equipment, printing, and other reasonable expenses necessary to develop, maintain, and disseminate to employers and labor organizations described in subsection (a), information and assistance concerning workplace responses to assist victims of domestic or sexual violence.

“(2) **RESPONSES.**—Responses referred to in paragraph (1) may include—

“(A) providing training to promote a better understanding of workplace assistance to victims of domestic or sexual violence;

“(B) providing conferences and other educational opportunities; and

“(C) developing protocols and model workplace policies.

“(d) **LIABILITY.**—The compliance or noncompliance of any employer or labor organization with any protocol or policy developed by an entity or organization under this section shall not serve as a basis for liability in tort, express or implied contract, or by any other means. No protocol or policy developed by an entity or organization under this section shall be referenced or enforced as a workplace safety standard by any Federal, State, or other governmental agency.

“(e) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this section \$1,000,000 for each of fiscal years 2007 through 2011.

“(f) **AVAILABILITY OF GRANT FUNDS.**—Funds appropriated under this section shall remain available until expended.”.

TITLE VIII—PROTECTION OF BATTERED AND TRAFFICKED IMMIGRANTS

Subtitle A—Victims of Crime

SEC. 801. TREATMENT OF SPOUSE AND CHILDREN OF VICTIMS.

(a) **TREATMENT OF SPOUSE AND CHILDREN OF VICTIMS OF TRAFFICKING.**—Section 101(a)(15)(T) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(T)) is amended—

(1) in clause (i)—

(A) in the matter preceding subclause (I), by striking “Attorney General” and inserting “Secretary of Homeland Security, or in the case of subclause (III)(aa) the Secretary of Homeland Security and the Attorney General jointly;”;

(B) in subclause (III)(aa)—

(i) by inserting “Federal, State, or local” before “investigation”; and

(ii) by striking “, or” and inserting “or the investigation of crime where acts of trafficking are at least one central reason for the commission of that crime; or”; and

(C) in subclause (IV), by striking “and” at the end;

(2) by amending clause (ii) to read as follows:

“(ii) if accompanying, or following to join, the alien described in clause (i)—

“(I) in the case of an alien described in clause (i) who is under 21 years of age, the spouse, children, unmarried siblings under 18 years of age on the date on which such alien applied for status under such clause, and parents of such alien; or

“(II) in the case of an alien described in clause (i) who is 21 years of age or older, the spouse and children of such alien; and”; and

(3) by inserting after clause (ii) the following:

“(iii) if the Secretary of Homeland Security, in his or her discretion and with the consultation of the Attorney General, determines that a trafficking victim, due to psychological or physical trauma, is unable to cooperate with a request for assistance described in clause (i)(III)(aa), the request is unreasonable.”.

(b) **TREATMENT OF SPOUSES AND CHILDREN OF VICTIMS OF ABUSE.**—Section 101(a)(15)(U) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(U)) is amended—

(1) in clause (i), by striking “Attorney General” and inserting “Secretary of Homeland Security”; and

(2) by amending clause (ii) to read as follows:

“(ii) if accompanying, or following to join, the alien described in clause (i)—

“(I) in the case of an alien described in clause (i) who is under 21 years of age, the spouse, children, unmarried siblings under 18 years of age on the date on which such alien applied for status under such clause, and parents of such alien; or

“(II) in the case of an alien described in clause (i) who is 21 years of age or older, the spouse and children of such alien; and”.

(c) **TECHNICAL AMENDMENTS.**—Section 101(i) of the Immigration and Nationality Act (8 U.S.C. 1101(i)) is amended—

(1) in paragraph (1), by striking “Attorney General” and inserting “Secretary of Homeland Security, the Attorney General,”; and

(2) in paragraph (2), by striking “Attorney General” and inserting “Secretary of Homeland Security”.

SEC. 802. PRESENCE OF VICTIMS OF A SEVERE FORM OF TRAFFICKING IN PERSONS.

(a) **IN GENERAL.**—Section 212(a)(9)(B)(iii) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(9)(B)(iii)) is amended by adding at the end the following:

“(V) **VICTIMS OF A SEVERE FORM OF TRAFFICKING IN PERSONS.**—Clause (i) shall not apply to an alien who demonstrates that the severe form of trafficking (as that term is defined in section 103 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102)) was at least one central reason for the alien’s unlawful presence in the United States.”.

(b) **TECHNICAL AMENDMENT.**—Paragraphs (13) and (14) of section 212(d) of the Immigration and Nationality Act (8 U.S.C. 1182(d)) are amended by striking “Attorney General” each place it appears and inserting “Secretary of Homeland Security”.

SEC. 803. ADJUSTMENT OF STATUS.

(a) **VICTIMS OF TRAFFICKING.**—Section 245(l) of the Immigration and Nationality Act (8 U.S.C. 1255(l)) is amended—

(1) in paragraph (1)—

(A) by striking “Attorney General” each place it appears and inserting “Secretary of Homeland Security, or in the case of subparagraph (C)(i), the Attorney General,”; and

(B) in subparagraph (A), by inserting at the end “or has been physically present in the United States for a continuous period during the investigation or prosecution

of acts of trafficking and that, in the opinion of the Attorney General, the investigation or prosecution is complete, whichever period of time is less;”;

(2) in paragraph (2), by striking “Attorney General” each place it appears and inserting “Secretary of Homeland Security”; and

(3) in paragraph (5), by striking “Attorney General” and inserting “Secretary of Homeland Security”.

(b) VICTIMS OF CRIMES AGAINST WOMEN.—Section 245(m) of the Immigration and Nationality Act (8 U.S.C. 12255(m)) is amended—

(1) in paragraph (1)—

(A) by striking “Attorney General may adjust” and inserting “Secretary of Homeland Security may adjust”; and

(B) in subparagraph (B), by striking “Attorney General” and inserting “Secretary of Homeland Security”;

(2) in paragraph (3)—

(A) by striking “Attorney General may adjust” and inserting “Secretary of Homeland Security may adjust”; and

(B) by striking “Attorney General considers” and inserting “Secretary considers”; and

(3) in paragraph (4), by striking “Attorney General” and inserting “Secretary of Homeland Security”.

SEC. 804. PROTECTION AND ASSISTANCE FOR VICTIMS OF TRAFFICKING.

(a) CLARIFICATION OF DEPARTMENT OF JUSTICE AND DEPARTMENT OF HOMELAND SECURITY ROLES.—Section 107 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7105) is amended—

(1) in subsections (b)(1)(E), (e)(5), and (g), by striking “Attorney General” each place it appears and inserting “Secretary of Homeland Security”; and

(2) in subsection (c), by inserting “, the Secretary of Homeland Security” after “Attorney General”.

(b) CERTIFICATION PROCESS.—Section 107(b)(1)(E) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7105(b)(1)(E)) is amended—

(1) in clause (i)—

(A) in the matter preceding subclause (I), by inserting “and the Secretary of Homeland Security” after “Attorney General”; and

(B) in subclause (II)(bb), by inserting “and the Secretary of Homeland Security” after “Attorney General”.

(2) in clause (ii), by inserting “Secretary of Homeland Security” after “Attorney General”;

(3) in clause (iii)—

(A) in subclause (II), by striking “and” at the end;

(B) in subclause (III), by striking the period at the end and inserting “; or”; and

(C) by adding at the end the following:

“(IV) responding to and cooperating with requests for evidence and information.”.

(c) PROTECTION FROM REMOVAL FOR CERTAIN CRIME VICTIMS.—Section 107(e) of the Trafficking Victims Protection Act of 2000

(22 U.S.C. 7105(e)) is amended by striking “Attorney General” each place it occurs and inserting “Secretary of Homeland Security”.

(d) ANNUAL REPORT.—Section 107(g) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7105(g)) is amended by inserting “or the Secretary of Homeland Security” after “Attorney General”.

SEC. 805. PROTECTING VICTIMS OF CHILD ABUSE.

(a) AGING OUT CHILDREN.—Section 204(a)(1)(D) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(D)) is amended—

(1) in clause (i)—

(A) in subclause (I), by inserting “or section 204(a)(1)(B)(iii)” after “204(a)(1)(A)” each place it appears; and

(B) in subclause (III), by striking “a petitioner for preference status under paragraph (1), (2), or (3) of section 203(a), whichever paragraph is applicable,” and inserting “a VAWA self-petitioner”; and

(2) by adding at the end the following:

“(iv) Any alien who benefits from this subparagraph may adjust status in accordance with subsections (a) and (c) of section 245 as an alien having an approved petition for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii).”.

(b) APPLICATION OF CSPA PROTECTIONS.—

(1) IMMEDIATE RELATIVE RULES.—Section 201(f) of the Immigration and Nationality Act (8 U.S.C. 1151(f)) is amended by adding at the end the following:

“(4) APPLICATION TO SELF-PETITIONS.—Paragraphs (1) through (3) shall apply to self-petitioners and derivatives of self-petitioners.”.

(2) CHILDREN RULES.—Section 203(h) of the Immigration and Nationality Act (8 U.S.C. 1153(h)) is amended by adding at the end the following:

“(4) APPLICATION TO SELF-PETITIONS.—Paragraphs (1) through (3) shall apply to self-petitioners and derivatives of self-petitioners.”.

(c) LATE PETITION PERMITTED FOR IMMIGRANT SONS AND DAUGHTERS BATTERED AS CHILDREN.—

(1) IN GENERAL.—Section 204(a)(1)(D) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(D)), as amended by subsection (a), is further amended by adding at the end the following:

“(v) For purposes of this paragraph, an individual who is not less than 21 years of age, who qualified to file a petition under subparagraph (A)(iv) as of the day before the date on which the individual attained 21 years of age, and who did not file such a petition before such day, shall be treated as having filed a petition under such subparagraph as of such day if a petition is filed for the status described in such subparagraph before the individual attains 25 years of age and the individual shows that the abuse was at least one central reason for the filing delay. Clauses (i) through (iv) of this subparagraph shall apply to an individual described in this clause in the same manner as an individual filing a petition under subparagraph (A)(iv).”.

Applicability.

(d) REMOVING A 2-YEAR CUSTODY AND RESIDENCY REQUIREMENT FOR BATTERED ADOPTED CHILDREN.—Section 101(b)(1)(E)(i) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(1)(E)(i)) is amended by inserting before the colon the following: “or if the

child has been battered or subject to extreme cruelty by the adopting parent or by a family member of the adopting parent residing in the same household”.

Subtitle B—VAWA Self-Petitioners

SEC. 811. DEFINITION OF VAWA SELF-PETITIONER.

Section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)) is amended by adding at the end the following:

“(51) The term ‘VAWA self-petitioner’ means an alien, or a child of the alien, who qualifies for relief under—

“(A) clause (iii), (iv), or (vii) of section 204(a)(1)(A);

“(B) clause (ii) or (iii) of section 204(a)(1)(B);

“(C) section 216(c)(4)(C);

“(D) the first section of Public Law 89–732 (8 U.S.C. 1255 note) (commonly known as the Cuban Adjustment Act) as a child or spouse who has been battered or subjected to extreme cruelty;

“(E) section 902(d)(1)(B) of the Haitian Refugee Immigration Fairness Act of 1998 (8 U.S.C. 1255 note);

“(F) section 202(d)(1) of the Nicaraguan Adjustment and Central American Relief Act; or

“(G) section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208).”.

SEC. 812. APPLICATION IN CASE OF VOLUNTARY DEPARTURE.

Section 240B(d) of the Immigration and Nationality Act (8 U.S.C. 1229c(d)) is amended to read as follows:

“(d) CIVIL PENALTY FOR FAILURE TO DEPART.—

“(1) IN GENERAL.—Subject to paragraph (2), if an alien is permitted to depart voluntarily under this section and voluntarily fails to depart the United States within the time period specified, the alien—

“(A) shall be subject to a civil penalty of not less than \$1,000 and not more than \$5,000; and

“(B) shall be ineligible, for a period of 10 years, to receive any further relief under this section and sections 240A, 245, 248, and 249.

“(2) APPLICATION OF VAWA PROTECTIONS.—The restrictions on relief under paragraph (1) shall not apply to relief under section 240A or 245 on the basis of a petition filed by a VAWA self-petitioner, or a petition filed under section 240A(b)(2), or under section 244(a)(3) (as in effect prior to March 31, 1997), if the extreme cruelty or battery was at least one central reason for the alien’s overstaying the grant of voluntary departure.

“(3) NOTICE OF PENALTIES.—The order permitting an alien to depart voluntarily shall inform the alien of the penalties under this subsection.”.

SEC. 813. REMOVAL PROCEEDINGS.

(a) EXCEPTIONAL CIRCUMSTANCES.—

(1) IN GENERAL.—Section 240(e)(1) of the Immigration and Nationality Act (8 U.S.C. 1229a(e)(1)) is amended by striking “serious illness of the alien” and inserting “battery or extreme

cruelty to the alien or any child or parent of the alien, serious illness of the alien.”

8 USC 1229a
note.

(2) **EFFECTIVE DATE.**—The amendment made by paragraph (1) shall apply to a failure to appear that occurs before, on, or after the date of the enactment of this Act.

8 USC 1229b
note.

(b) **DISCRETION TO CONSENT TO AN ALIEN’S REAPPLICATION FOR ADMISSION.**—

(1) **IN GENERAL.**—The Secretary of Homeland Security, the Attorney General, and the Secretary of State shall continue to have discretion to consent to an alien’s reapplication for admission after a previous order of removal, deportation, or exclusion.

(2) **SENSE OF CONGRESS.**—It is the sense of Congress that the officials described in paragraph (1) should particularly consider exercising this authority in cases under the Violence Against Women Act of 1994, cases involving nonimmigrants described in subparagraph (T) or (U) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)), and relief under section 240A(b)(2) or 244(a)(3) of such Act (as in effect on March 31, 1997) pursuant to regulations under section 212.2 of title 8, Code of Federal Regulations.

(c) **CLARIFYING APPLICATION OF DOMESTIC VIOLENCE WAIVER AUTHORITY IN CANCELLATION OF REMOVAL.**—

(1) **IN GENERAL.**—Section 240A(b) of the Immigration and Nationality Act (8 U.S.C. 1229b(b)) is amended—

(A) in paragraph (1)(C), by striking “(except in a case described in section 237(a)(7) where the Attorney General exercises discretion to grant a waiver)” and inserting “, subject to paragraph (5)”;

(B) in paragraph (2)(A)(iv), by striking “(except in a case described in section 237(a)(7) where the Attorney General exercises discretion to grant a waiver)” and inserting “, subject to paragraph (5)”;

(C) by adding at the end the following:

“(5) **APPLICATION OF DOMESTIC VIOLENCE WAIVER AUTHORITY.**—The authority provided under section 237(a)(7) may apply under paragraphs (1)(B), (1)(C), and (2)(A)(iv) in a cancellation of removal and adjustment of status proceeding.”.

SEC. 814. ELIMINATING ABUSERS’ CONTROL OVER APPLICATIONS AND LIMITATION ON PETITIONING FOR ABUSERS.

(a) **APPLICATION OF VAWA DEPORTATION PROTECTIONS TO ALIENS ELIGIBLE FOR RELIEF UNDER CUBAN ADJUSTMENT AND HAITIAN REFUGEE IMMIGRATION FAIRNESS ACT.**—Section 1506(c)(2) of the Violence Against Women Act of 2000 (8 U.S.C. 1229a note; division B of Public Law 106–386) is amended—

(1) in subparagraph (A)—

(A) by amending clause (i) to read as follows:

“(i) if the basis of the motion is to apply for relief under—

“(I) clause (iii) or (iv) of section 204(a)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(A));

“(II) clause (ii) or (iii) of section 204(a)(1)(B) of such Act (8 U.S.C. 1154(a)(1)(B));

“(III) section 244(a)(3) of such Act (8 U.S.C. 8 U.S.C. 1254(a)(3));

“(IV) the first section of Public Law 89–732 (8 U.S.C. 1255 note) (commonly known as the Cuban Adjustment Act) as a child or spouse who has been battered or subjected to extreme cruelty; or

“(V) section 902(d)(1)(B) of the Haitian Refugee Immigration Fairness Act of 1998 (8 U.S.C. 1255 note); and”; and

(B) in clause (ii), by inserting “or adjustment of status” after “suspension of deportation”; and

(2) in subparagraph (B)(ii), by striking “for relief” and all that follows through “1101 note))” and inserting “for relief described in subparagraph (A)(i)”.

(b) EMPLOYMENT AUTHORIZATION FOR VAWA SELF-PETITIONERS.—Section 204(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)) is amended by adding at the end the following:

“(K) Upon the approval of a petition as a VAWA self-petitioner, the alien—

“(i) is eligible for work authorization; and

“(ii) may be provided an ‘employment authorized’ endorsement or appropriate work permit incidental to such approval.”.

(c) EMPLOYMENT AUTHORIZATION FOR BATTERED SPOUSES OF CERTAIN NONIMMIGRANTS.—Title I of the Immigration and Nationality Act is amended by adding at the end the following new section:

“SEC. 106. EMPLOYMENT AUTHORIZATION FOR BATTERED SPOUSES OF CERTAIN NONIMMIGRANTS. 8 USC 1105a.

“(a) IN GENERAL.—In the case of an alien spouse admitted under subparagraph (A), (E)(iii), (G), or (H) of section 101(a)(15) who is accompanying or following to join a principal alien admitted under subparagraph (A), (E)(iii), (G), or (H) of such section, respectively, the Secretary of Homeland Security may authorize the alien spouse to engage in employment in the United States and provide the spouse with an ‘employment authorized’ endorsement or other appropriate work permit if the alien spouse demonstrates that during the marriage the alien spouse or a child of the alien spouse has been battered or has been the subject of extreme cruelty perpetrated by the spouse of the alien spouse. Requests for relief under this section shall be handled under the procedures that apply to aliens seeking relief under section 204(a)(1)(A)(iii).

Applicability.

“(b) CONSTRUCTION.—The grant of employment authorization pursuant to this section shall not confer upon the alien any other form of relief.”.

(d) CLERICAL AMENDMENT.—The table of contents of such Act is amended by inserting after the item relating to section 105 the following new item:

“Sec. 106. Employment authorization for battered spouses of certain non-immigrants.”.

(e) LIMITATION ON PETITIONING FOR ABUSER.—Section 204(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)) is amended by adding at the end the following new subparagraph:

“(L) Notwithstanding the previous provisions of this paragraph, an individual who was a VAWA petitioner or who had the status of a nonimmigrant under subparagraph (T) or (U) of section 101(a)(15) may not file a petition for classification under this section or section 214 to classify

any person who committed the battery or extreme cruelty or trafficking against the individual (or the individual's child) which established the individual's (or individual's child) eligibility as a VAWA petitioner or for such non-immigrant status.”.

SEC. 815. APPLICATION FOR VAWA-RELATED RELIEF.

(a) **IN GENERAL.**—Section 202(d)(1) of the Nicaraguan Adjustment and Central American Relief Act (8 U.S.C. 1255 note; Public Law 105–100) is amended—

(1) in subparagraph (B)(ii), by inserting “, or was eligible for adjustment,” after “whose status is adjusted”; and

(2) in subparagraph (E), by inserting “, or, in the case of an alien who qualifies under subparagraph (B)(ii), applies for such adjustment during the 18-month period beginning on the date of enactment of the Violence Against Women and Department of Justice Reauthorization Act of 2005” after “April 1, 2000”.

(b) **TECHNICAL AMENDMENT.**—Section 202(d)(3) of such Act (8 U.S.C. 1255 note; Public Law 105–100) is amended by striking “204(a)(1)(H)” and inserting “204(a)(1)(J)”.

8 USC 1255 note.

(c) **EFFECTIVE DATE.**—The amendment made by subsection (b) shall take effect as if included in the enactment of the Violence Against Women Act of 2000 (division B of Public Law 106–386; 114 Stat. 1491).

SEC. 816. SELF-PETITIONING PARENTS.

Section 204(a)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(A)) is amended by adding at the end the following:

“(vii) An alien may file a petition with the Secretary of Homeland Security under this subparagraph for classification of the alien under section 201(b)(2)(A)(i) if the alien—

“(I) is the parent of a citizen of the United States or was a parent of a citizen of the United States who, within the past 2 years, lost or renounced citizenship status related to an incident of domestic violence or died;

“(II) is a person of good moral character;

“(III) is eligible to be classified as an immediate relative under section 201(b)(2)(A)(i);

“(IV) resides, or has resided, with the citizen daughter or son; and

“(V) demonstrates that the alien has been battered or subject to extreme cruelty by the citizen daughter or son.”.

SEC. 817. VAWA CONFIDENTIALITY NONDISCLOSURE.

Section 384 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1367) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking “(including any bureau or agency of such Department)” and inserting “, the Secretary of Homeland Security, the Secretary of State, or any other official or employee of the Department of Homeland Security or Department of State (including any bureau or agency of either of such Departments)”;

(B) in paragraph (1)—

(i) in subparagraph (D), by striking “or” at the end; and

(ii) by inserting after subparagraph (E) the following:

“(F) in the case of an alien applying for status under section 101(a)(15)(T) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(T)), under section 107(b)(1)(E)(i)(II)(bb) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7105), under section 244(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1254a(a)(3)), as in effect prior to March 31, 1999, or as a VAWA self-petitioner (as defined in section 101(a)(51) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(51)), the trafficker or perpetrator.”;

(2) in subsection (b), by adding at the end the following new paragraphs:

“(6) Subsection (a) may not be construed to prevent the Attorney General and the Secretary of Homeland Security from disclosing to the chairmen and ranking members of the Committee on the Judiciary of the Senate or the Committee on the Judiciary of the House of Representatives, for the exercise of congressional oversight authority, information on closed cases under this section in a manner that protects the confidentiality of such information and that omits personally identifying information (including locational information about individuals).

“(7) Government entities adjudicating applications for relief under subsection (a)(2), and government personnel carrying out mandated duties under section 101(i)(1) of the Immigration and Nationality Act, may, with the prior written consent of the alien involved, communicate with nonprofit, nongovernmental victims’ service providers for the sole purpose of assisting victims in obtaining victim services from programs with expertise working with immigrant victims. Agencies receiving referrals are bound by the provisions of this section. Nothing in this paragraph shall be construed as affecting the ability of an applicant to designate a safe organization through whom governmental agencies may communicate with the applicant.”;

(3) in subsection (c), by inserting “or who knowingly makes a false certification under section 239(e) of the Immigration and Nationality Act” after “in violation of this section”; and

(4) by adding at the end the following new subsection:

“(d) GUIDANCE.—The Attorney General and the Secretary of Homeland Security shall provide guidance to officers and employees of the Department of Justice or the Department of Homeland Security who have access to information covered by this section regarding the provisions of this section, including the provisions to protect victims of domestic violence from harm that could result from the inappropriate disclosure of covered information.”.

Subtitle C—Miscellaneous Amendments

SEC. 821. DURATION OF T AND U VISAS.

(a) T VISAS.—Section 214(o) of the Immigration and Nationality Act (8 U.S.C. 1184(o)) is amended by adding at the end the following:

“(7)(A) Except as provided in subparagraph (B), an alien who is issued a visa or otherwise provided nonimmigrant status under section 101(a)(15)(T) may be granted such status for a period of not more than 4 years.

“(B) An alien who is issued a visa or otherwise provided nonimmigrant status under section 101(a)(15)(T) may extend the period of such status beyond the period described in subparagraph (A) if a Federal, State, or local law enforcement official, prosecutor, judge, or other authority investigating or prosecuting activity relating to human trafficking or certifies that the presence of the alien in the United States is necessary to assist in the investigation or prosecution of such activity.”.

(b) U VISAS.—Section 214(p) of the Immigration and Nationality Act (8 U.S.C. 1184(p)) is amended by adding at the end the following:

Certification.

“(6) DURATION OF STATUS.—The authorized period of status of an alien as a nonimmigrant under section 101(a)(15)(U) shall be for a period of not more than 4 years, but shall be extended upon certification from a Federal, State, or local law enforcement official, prosecutor, judge, or other Federal, State, or local authority investigating or prosecuting criminal activity described in section 101(a)(15)(U)(iii) that the alien’s presence in the United States is required to assist in the investigation or prosecution of such criminal activity.”.

(c) PERMITTING CHANGE OF NONIMMIGRANT STATUS TO T AND U NONIMMIGRANT STATUS.—

(1) IN GENERAL.—Section 248 of the Immigration and Nationality Act (8 U.S.C. 1258) is amended—

(A) by striking “The Attorney General” and inserting

“(a) The Secretary of Homeland Security”;

(B) by inserting “(subject to subsection (b))” after “except”; and

(C) by adding at the end the following:

“(b) The exceptions specified in paragraphs (1) through (4) of subsection (a) shall not apply to a change of nonimmigrant classification to that of a nonimmigrant under subparagraph (T) or (U) of section 101(a)(15).”.

(2) CONFORMING AMENDMENT.—Section 214(l)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1184(l)(2)(A)) is amended by striking “248(2)” and inserting “248(a)(2)”.

SEC. 822. TECHNICAL CORRECTION TO REFERENCES IN APPLICATION OF SPECIAL PHYSICAL PRESENCE AND GOOD MORAL CHARACTER RULES.

(a) PHYSICAL PRESENCE RULES.—Section 240A(b)(2)(B) of the Immigration and Nationality Act (8 U.S.C. 1229b(b)(2)(B)) is amended—

(1) in the first sentence, by striking “(A)(i)(II)” and inserting “(A)(ii)”; and

(2) in the fourth sentence, by striking “subsection (b)(2)(B) of this section” and inserting “this subparagraph, subparagraph (A)(ii),”.

(b) **MORAL CHARACTER RULES.**—Section 240A(b)(2)(C) of the Immigration and Nationality Act (8 U.S.C. 1229b(b)(2)(C)) is amended by striking “(A)(i)(III)” and inserting “(A)(iii)”.

(c) **CORRECTION OF CROSS-REFERENCE ERROR IN APPLYING GOOD MORAL CHARACTER.**—

(1) **IN GENERAL.**—Section 101(f)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(f)(3)) is amended by striking “(9)(A)” and inserting “(10)(A)”.

(2) **EFFECTIVE DATE.**—The amendment made by paragraph (1) shall be effective as if included in section 603(a)(1) of the Immigration Act of 1990 (Public Law 101–649; 104 Stat. 5082). 8 USC 1101 note.

SEC. 823. PETITIONING RIGHTS OF CERTAIN FORMER SPOUSES UNDER CUBAN ADJUSTMENT.

(a) **IN GENERAL.**—The first section of Public Law 89–732 (8 U.S.C. 1255 note) (commonly known as the Cuban Adjustment Act) is amended—

(1) in the last sentence, by striking “204(a)(1)(H)” and inserting “204(a)(1)(J)”; and

(2) by adding at the end the following: “An alien who was the spouse of any Cuban alien described in this section and has resided with such spouse shall continue to be treated as such a spouse for 2 years after the date on which the Cuban alien dies (or, if later, 2 years after the date of enactment of Violence Against Women and Department of Justice Reauthorization Act of 2005), or for 2 years after the date of termination of the marriage (or, if later, 2 years after the date of enactment of Violence Against Women and Department of Justice Reauthorization Act of 2005) if there is demonstrated a connection between the termination of the marriage and the battering or extreme cruelty by the Cuban alien.”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a)(1) shall take effect as if included in the enactment of the Violence Against Women Act of 2000 (division B of Public Law 106–386; 114 Stat. 1491). 8 USC 1255 note.

SEC. 824. SELF-PETITIONING RIGHTS OF HRIFA APPLICANTS.

(a) **IN GENERAL.**—Section 902(d)(1)(B) of the Haitian Refugee Immigration Fairness Act of 1998 (8 U.S.C. 1255 note) is amended—

(1) in clause (i), by striking “whose status is adjusted to that of an alien lawfully admitted for permanent residence” and inserting “who is or was eligible for classification”;

(2) in clause (ii), by striking “whose status is adjusted to that of an alien lawfully admitted for permanent residence” and inserting “who is or was eligible for classification”; and

(3) in clause (iii), by striking “204(a)(1)(H)” and inserting “204(a)(1)(J)”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a)(3) shall take effect as if included in the enactment of the Violence Against Women Act of 2000 (division B of Public Law 106–386; 114 Stat. 1491). 8 USC 1255 note.

SEC. 825. MOTIONS TO REOPEN.

(a) **REMOVAL PROCEEDINGS.**—Section 240(c)(7) of the Immigration and Nationality Act (8 U.S.C. 1229a(c)(7)), as redesignated

by section 101(d)(1) of the REAL ID Act of 2005 (division B of Public Law 109–13), is amended—

(1) in subparagraph (A), by inserting “, except that this limitation shall not apply so as to prevent the filing of one motion to reopen described in subparagraph (C)(iv)” before the period at the end; and

(2) in subparagraph (C)—

(A) in the heading of clause (iv), by striking “SPOUSES AND CHILDREN” and inserting “SPOUSES, CHILDREN, AND PARENTS”;

(B) in the matter before subclause (I) of clause (iv), by striking “The deadline specified in subsection (b)(5)(C) for filing a motion to reopen does not apply” and inserting “Any limitation under this section on the deadlines for filing such motions shall not apply”;

(C) in clause (iv)(I), by striking “or section 240A(b)” and inserting “, section 240A(b), or section 244(a)(3) (as in effect on March 31, 1997)”;

(D) by striking “and” at the end of clause (iv)(II);

(E) by striking the period at the end of clause (iv)(III) and inserting “, and”; and

(F) by adding at the end the following:

“(IV) if the alien is physically present in the United States at the time of filing the motion. The filing of a motion to reopen under this clause shall only stay the removal of a qualified alien (as defined in section 431(c)(1)(B) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1641(c)(1)(B)) pending the final disposition of the motion, including exhaustion of all appeals if the motion establishes that the alien is a qualified alien.”.

(b) DEPORTATION AND EXCLUSION PROCEEDINGS.—Section 1506(c)(2) of the Violence Against Women Act of 2000 (8 U.S.C. 1229a note) is amended—

(1) by striking subparagraph (A) and inserting the following:

“(A)(i) IN GENERAL.—Notwithstanding any limitation imposed by law on motions to reopen or rescind deportation proceedings under the Immigration and Nationality Act (as in effect before the title III–A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note))—

“(I) there is no time limit on the filing of a motion to reopen such proceedings, and the deadline specified in section 242B(c)(3) of the Immigration and Nationality Act (as so in effect) (8 U.S.C. 1252b(c)(3)) does not apply—

“(aa) if the basis of the motion is to apply for relief under clause (iii) or (iv) of section 204(a)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(A)), clause (ii) or (iii) of section 204(a)(1)(B) of such Act (8 U.S.C. 1154(a)(1)(B)), or section 244(a)(3) of such Act (as so in effect) (8 U.S.C. 1254(a)(3)); and

“(bb) if the motion is accompanied by a suspension of deportation application to be filed with the Secretary of Homeland Security or by a copy

of the self-petition that will be filed with the Department of Homeland Security upon the granting of the motion to reopen; and

“(II) any such limitation shall not apply so as to prevent the filing of one motion to reopen described in section 240(c)(7)(C)(iv) of the Immigration and Nationality Act (8 U.S.C. 1229a(c)(7)).

“(ii) PRIMA FACIE CASE.—The filing of a motion to reopen under this subparagraph shall only stay the removal of a qualified alien (as defined in section 431(c)(1)(B) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1641(c)(1)(B))) pending the final disposition of the motion, including exhaustion of all appeals if the motion establishes that the alien is a qualified alien.”;

(2) in subparagraph (B), in the matter preceding clause (i), by inserting “who are physically present in the United States and” after “filed by aliens”; and

(3) in subparagraph (B)(i), by inserting “or exclusion” after “deportation”.

(c) CERTIFICATION OF COMPLIANCE IN REMOVAL PROCEEDINGS.—

(1) IN GENERAL.—Section 239 of the Immigration and Nationality Act (8 U.S.C. 1229) is amended by adding at the end the following new subsection:

“(e) CERTIFICATION OF COMPLIANCE WITH RESTRICTIONS ON DISCLOSURE.—

“(1) IN GENERAL.—In cases where an enforcement action leading to a removal proceeding was taken against an alien at any of the locations specified in paragraph (2), the Notice to Appear shall include a statement that the provisions of section 384 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1367) have been complied with.

“(2) LOCATIONS.—The locations specified in this paragraph are as follows:

“(A) At a domestic violence shelter, a rape crisis center, supervised visitation center, family justice center, a victim services, or victim services provider, or a community-based organization.

“(B) At a courthouse (or in connection with that appearance of the alien at a courthouse) if the alien is appearing in connection with a protection order case, child custody case, or other civil or criminal case relating to domestic violence, sexual assault, trafficking, or stalking in which the alien has been battered or subject to extreme cruelty or if the alien is described in subparagraph (T) or (V) of section 101(a)(15).”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date that is 30 days after the date of the enactment of this Act and shall apply to apprehensions occurring on or after such date. 8 USC 1229 note.

SEC. 826. PROTECTING ABUSED JUVENILES.

Section 287 of the Immigration and Nationality Act (8 U.S.C. 1357), as amended by section 726, is further amended by adding at the end the following new clause:

“(i) An alien described in section 101(a)(27)(J) of the Immigration and Nationality Act who has been battered, abused, neglected, or abandoned, shall not be compelled to contact the alleged abuser (or family member of the alleged abuser) at any stage of applying for special immigrant juvenile status, including after a request for the consent of the Secretary of Homeland Security under section 101(a)(27)(J)(iii)(I) of such Act.”.

49 USC 30301
note.

SEC. 827. PROTECTION OF DOMESTIC VIOLENCE AND CRIME VICTIMS FROM CERTAIN DISCLOSURES OF INFORMATION.

In developing regulations or guidance with regard to identification documents, including driver's licenses, the Secretary of Homeland Security, in consultation with the Administrator of Social Security, shall consider and address the needs of victims, including victims of battery, extreme cruelty, domestic violence, dating violence, sexual assault, stalking or trafficking, who are entitled to enroll in State address confidentiality programs, whose addresses are entitled to be suppressed under State or Federal law or suppressed by a court order, or who are protected from disclosure of information pursuant to section 384 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1367).

Deadline.
8 USC 1101 note.

SEC. 828. RULEMAKING.

Not later than 180 days after the date of enactment of this Act, the Attorney General, the Secretary of Homeland Security, and the Secretary of State shall promulgate regulations to implement the provisions contained in the Battered Immigrant Women Protection Act of 2000 (title V of Public Law 106–386), this Act, and the amendments made by this Act.

International
Marriage Broker
Regulation Act of
2005.

Subtitle D—International Marriage Broker Regulation

8 USC 1101 note.

SEC. 831. SHORT TITLE.

This subtitle may be cited as the “International Marriage Broker Regulation Act of 2005”.

SEC. 832. ACCESS TO VAWA PROTECTION REGARDLESS OF MANNER OF ENTRY.

(a) INFORMATION ON CERTAIN CONVICTIONS AND LIMITATION ON PETITIONS FOR K NONIMMIGRANT PETITIONERS.—

(1) 214(d) AMENDMENT.—Section 214(d) of the Immigration and Nationality Act (8 U.S.C. 1184(d)) is amended—

(A) by striking “(d)” and inserting “(d)(1)”;

(B) by inserting after the second sentence “Such information shall include information on any criminal convictions of the petitioner for any specified crime.”;

(C) by striking “Attorney General” and inserting “Secretary of Homeland Security” each place it appears; and

(D) by adding at the end the following:

“(2)(A) Subject to subparagraphs (B) and (C), a consular officer may not approve a petition under paragraph (1) unless the officer has verified that—

“(i) the petitioner has not, previous to the pending petition, petitioned under paragraph (1) with respect to two or more applying aliens; and

“(ii) if the petitioner has had such a petition previously approved, 2 years have elapsed since the filing of such previously approved petition.

“(B) The Secretary of Homeland Security may, in the Secretary’s discretion, waive the limitations in subparagraph (A) if justification exists for such a waiver. Except in extraordinary circumstances and subject to subparagraph (C), such a waiver shall not be granted if the petitioner has a record of violent criminal offenses against a person or persons.

“(C)(i) The Secretary of Homeland Security is not limited by the criminal court record and shall grant a waiver of the condition described in the second sentence of subparagraph (B) in the case of a petitioner described in clause (ii).

“(ii) A petitioner described in this clause is a petitioner who has been battered or subjected to extreme cruelty and who is or was not the primary perpetrator of violence in the relationship upon a determination that—

“(I) the petitioner was acting in self-defense;

“(II) the petitioner was found to have violated a protection order intended to protect the petitioner; or

“(III) the petitioner committed, was arrested for, was convicted of, or pled guilty to committing a crime that did not result in serious bodily injury and where there was a connection between the crime and the petitioner’s having been battered or subjected to extreme cruelty.

“(iii) In acting on applications under this subparagraph, the Secretary of Homeland Security shall consider any credible evidence relevant to the application. The determination of what evidence is credible and the weight to be given that evidence shall be within the sole discretion of the Secretary.

“(3) In this subsection:

“(A) The terms ‘domestic violence’, ‘sexual assault’, ‘child abuse and neglect’, ‘dating violence’, ‘elder abuse’, and ‘stalking’ have the meaning given such terms in section 3 of the Violence Against Women and Department of Justice Reauthorization Act of 2005.

“(B) The term ‘specified crime’ means the following:

“(i) Domestic violence, sexual assault, child abuse and neglect, dating violence, elder abuse, and stalking.

“(ii) Homicide, murder, manslaughter, rape, abusive sexual contact, sexual exploitation, incest, torture, trafficking, peonage, holding hostage, involuntary servitude, slave trade, kidnapping, abduction, unlawful criminal restraint, false imprisonment, or an attempt to commit any of the crimes described in this clause.

“(iii) At least three convictions for crimes relating to a controlled substance or alcohol not arising from a single act.”

(2) 214(r) AMENDMENT.—Section 214(r) of such Act (8 U.S.C. 1184(r)) is amended—

(A) in paragraph (1), by inserting after the second sentence “Such information shall include information on any criminal convictions of the petitioner for any specified crime.”; and

(B) by adding at the end the following:

“(4)(A) The Secretary of Homeland Security shall create a database for the purpose of tracking multiple visa petitions filed for

Records.

- Notification. fiancé(e)s and spouses under clauses (i) and (ii) of section 101(a)(15)(K). Upon approval of a second visa petition under section 101(a)(15)(K) for a fiancé(e) or spouse filed by the same United States citizen petitioner, the petitioner shall be notified by the Secretary that information concerning the petitioner has been entered into the multiple visa petition tracking database. All subsequent fiancé(e) or spouse nonimmigrant visa petitions filed by that petitioner under such section shall be entered in the database.
- Notification. “(B)(i) Once a petitioner has had two fiancé(e) or spousal petitions approved under clause (i) or (ii) of section 101(a)(15)(K), if a subsequent petition is filed under such section less than 10 years after the date the first visa petition was filed under such section, the Secretary of Homeland Security shall notify both the petitioner and beneficiary of any such subsequent petition about the number of previously approved fiancé(e) or spousal petitions listed in the database.
- “(ii) A copy of the information and resources pamphlet on domestic violence developed under section 833(a) of the International Marriage Broker Regulation Act of 2005 shall be mailed to the beneficiary along with the notification required in clause (i).
- “(5) In this subsection:
- “(A) The terms ‘domestic violence’, ‘sexual assault’, ‘child abuse and neglect’, ‘dating violence’, ‘elder abuse’, and ‘stalking’ have the meaning given such terms in section 3 of the Violence Against Women and Department of Justice Reauthorization Act of 2005.
- “(B) The term ‘specified crime’ means the following:
- “(i) Domestic violence, sexual assault, child abuse and neglect, dating violence, elder abuse, and stalking.
- “(ii) Homicide, murder, manslaughter, rape, abusive sexual contact, sexual exploitation, incest, torture, trafficking, peonage, holding hostage, involuntary servitude, slave trade, kidnapping, abduction, unlawful criminal restraint, false imprisonment, or an attempt to commit any of the crimes described in this clause.
- “(iii) At least three convictions for crimes relating to a controlled substance or alcohol not arising from a single act.”
- 8 USC 1184 note. (3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date that is 60 days after the date of the enactment of this Act.
- 8 USC 1184 note. (b) LIMITATION ON USE OF CERTAIN INFORMATION.—The fact that an alien described in clause (i) or (ii) of section 101(a)(15)(K) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(K)) is aware of any information disclosed under the amendments made by this section or under section 833 shall not be used to deny the alien eligibility for relief under any other provision of law.
- 8 USC 1375a. **SEC. 833. DOMESTIC VIOLENCE INFORMATION AND RESOURCES FOR IMMIGRANTS AND REGULATION OF INTERNATIONAL MARRIAGE BROKERS.**
- (a) INFORMATION FOR K NONIMMIGRANTS ON LEGAL RIGHTS AND RESOURCES FOR IMMIGRANT VICTIMS OF DOMESTIC VIOLENCE.—
- (1) IN GENERAL.—The Secretary of Homeland Security, in consultation with the Attorney General and the Secretary of State, shall develop an information pamphlet, as described

in paragraph (2), on legal rights and resources for immigrant victims of domestic violence and distribute and make such pamphlet available as described in paragraph (5). In preparing such materials, the Secretary of Homeland Security shall consult with nongovernmental organizations with expertise on the legal rights of immigrant victims of battery, extreme cruelty, sexual assault, and other crimes.

(2) INFORMATION PAMPHLET.—The information pamphlet developed under paragraph (1) shall include information on the following:

(A) The K nonimmigrant visa application process and the marriage-based immigration process, including conditional residence and adjustment of status.

(B) The illegality of domestic violence, sexual assault, and child abuse in the United States and the dynamics of domestic violence.

(C) Domestic violence and sexual assault services in the United States, including the National Domestic Violence Hotline and the National Sexual Assault Hotline.

(D) The legal rights of immigrant victims of abuse and other crimes in immigration, criminal justice, family law, and other matters, including access to protection orders.

(E) The obligations of parents to provide child support for children.

(F) Marriage fraud under United States immigration laws and the penalties for committing such fraud.

(G) A warning concerning the potential use of K nonimmigrant visas by United States citizens who have a history of committing domestic violence, sexual assault, child abuse, or other crimes and an explanation that such acts may not have resulted in a criminal record for such a citizen.

(H) Notification of the requirement under subsection (d)(3)(A) that international marriage brokers provide foreign national clients with background information gathered on United States clients from searches of Federal and State sex offender public registries and collected from United States clients regarding their marital history and domestic violence or other violent criminal history, but that such information may not be complete or accurate because the United States client may not have a criminal record or may not have truthfully reported their marital or criminal record.

(3) SUMMARIES.—The Secretary of Homeland Security, in consultation with the Attorney General and the Secretary of State, shall develop summaries of the pamphlet developed under paragraph (1) that shall be used by Federal officials when reviewing the pamphlet in interviews under subsection (b).

(4) TRANSLATION.—

(A) IN GENERAL.—In order to best serve the language groups having the greatest concentration of K nonimmigrant visa applicants, the information pamphlet developed under paragraph (1) shall, subject to subparagraph (B), be translated by the Secretary of State into foreign

languages, including Russian, Spanish, Tagalog, Vietnamese, Chinese, Ukrainian, Thai, Korean, Polish, Japanese, French, Arabic, Portuguese, Hindi, and such other languages as the Secretary of State, in the Secretary's discretion, may specify.

(B) REVISION.—Every 2 years, the Secretary of Homeland Security, in consultation with the Attorney General and the Secretary of State, shall determine at least 14 specific languages into which the information pamphlet is translated based on the languages spoken by the greatest concentrations of K nonimmigrant visa applicants.

(5) AVAILABILITY AND DISTRIBUTION.—The information pamphlet developed under paragraph (1) shall be made available and distributed as follows:

(A) MAILINGS TO K NONIMMIGRANT VISA APPLICANTS.—

(i) The pamphlet shall be mailed by the Secretary of State to each applicant for a K nonimmigrant visa at the same time that the instruction packet regarding the visa application process is mailed to such applicant. The pamphlet so mailed shall be in the primary language of the applicant or in English if no translation into the applicant's primary language is available.

Records.

(ii) The Secretary of Homeland Security shall provide to the Secretary of State, for inclusion in the mailing under clause (i), a copy of the petition submitted by the petitioner for such applicant under subsection (d) or (r) of section 214 of such Act (8 U.S.C. 1184).

Records.

(iii) The Secretary of Homeland Security shall provide to the Secretary of State any criminal background information the Secretary of Homeland Security possesses with respect to a petitioner under subsection (d) or (r) of section 214 of such Act (8 U.S.C. 1184). The Secretary of State, in turn, shall share any such criminal background information that is in government records or databases with the K nonimmigrant visa applicant who is the beneficiary of the petition. The visa applicant shall be informed that such criminal background information is based on available records and may not be complete. The Secretary of State also shall provide for the disclosure of such criminal background information to the visa applicant at the consular interview in the primary language of the visa applicant. Nothing in this clause shall be construed to authorize the Secretary of Homeland Security to conduct any new or additional criminal background check that is not otherwise conducted in the course of adjudicating such petitions.

Public
information.

(B) CONSULAR ACCESS.—The pamphlet developed under paragraph (1) shall be made available to the public at all consular posts. The summaries described in paragraph (3) shall be made available to foreign service officers at all consular posts.

(C) POSTING ON FEDERAL WEBSITES.—The pamphlet developed under paragraph (1) shall be posted on the websites of the Department of State and the Department of Homeland Security, as well as on the websites of all

consular posts processing applications for K nonimmigrant visas.

(D) INTERNATIONAL MARRIAGE BROKERS AND VICTIM ADVOCACY ORGANIZATIONS.—The pamphlet developed under paragraph (1) shall be made available to any international marriage broker, government agency, or nongovernmental advocacy organization.

(6) DEADLINE FOR PAMPHLET DEVELOPMENT AND DISTRIBUTION.—The pamphlet developed under paragraph (1) shall be distributed and made available (including in the languages specified under paragraph (4)) not later than 120 days after the date of the enactment of this Act.

(b) VISA AND ADJUSTMENT INTERVIEWS.—

(1) FIANCÉ(E)S, SPOUSES AND THEIR DERIVATIVES.—During an interview with an applicant for a K nonimmigrant visa, a consular officers shall—

(A) provide information, in the primary language of the visa applicant, on protection orders or criminal convictions collected under subsection (a)(5)(A)(iii);

(B) provide a copy of the pamphlet developed under subsection (a)(1) in English or another appropriate language and provide an oral summary, in the primary language of the visa applicant, of that pamphlet; and

(C) ask the applicant, in the primary language of the applicant, whether an international marriage broker has facilitated the relationship between the applicant and the United States petitioner, and, if so, obtain the identity of the international marriage broker from the applicant and confirm that the international marriage broker provided to the applicant the information and materials required under subsection (d)(3)(A)(iii).

(2) FAMILY-BASED APPLICANTS.—The pamphlet developed under subsection (a)(1) shall be distributed directly to applicants for family-based immigration petitions at all consular and adjustment interviews for such visas. The Department of State or Department of Homeland Security officer conducting the interview shall review the summary of the pamphlet with the applicant orally in the applicant's primary language, in addition to distributing the pamphlet to the applicant in English or another appropriate language.

(c) CONFIDENTIALITY.—In fulfilling the requirements of this section, no official of the Department of State or the Department of Homeland Security shall disclose to a nonimmigrant visa applicant the name or contact information of any person who was granted a protection order or restraining order against the petitioner or who was a victim of a crime of violence perpetrated by the petitioner, but shall disclose the relationship of the person to the petitioner.

(d) REGULATION OF INTERNATIONAL MARRIAGE BROKERS.—

(1) PROHIBITION ON MARKETING CHILDREN.—An international marriage broker shall not provide any individual or entity with the personal contact information, photograph, or general information about the background or interests of any individual under the age of 18.

(2) REQUIREMENTS OF INTERNATIONAL MARRIAGE BROKERS WITH RESPECT TO MANDATORY COLLECTION OF BACKGROUND INFORMATION.—

(A) IN GENERAL.—

(i) SEARCH OF SEX OFFENDER PUBLIC REGISTRIES.—Each international marriage broker shall search the National Sex Offender Public Registry or State sex offender public registry, as required under paragraph (3)(A)(i).

(ii) COLLECTION OF BACKGROUND INFORMATION.—Each international marriage broker shall also collect the background information listed in subparagraph (B) about the United States client to whom the personal contact information of a foreign national client would be provided.

Certification.

(B) BACKGROUND INFORMATION.—The international marriage broker shall collect a certification signed (in written, electronic, or other form) by the United States client accompanied by documentation or an attestation of the following background information about the United States client:

(i) Any temporary or permanent civil protection order or restraining order issued against the United States client.

(ii) Any Federal, State, or local arrest or conviction of the United States client for homicide, murder, manslaughter, assault, battery, domestic violence, rape, sexual assault, abusive sexual contact, sexual exploitation, incest, child abuse or neglect, torture, trafficking, peonage, holding hostage, involuntary servitude, slave trade, kidnapping, abduction, unlawful criminal restraint, false imprisonment, or stalking.

(iii) Any Federal, State, or local arrest or conviction of the United States client for—

(I) solely, principally, or incidentally engaging in prostitution;

(II) a direct or indirect attempt to procure prostitutes or persons for the purpose of prostitution; or

(III) receiving, in whole or in part, of the proceeds of prostitution.

(iv) Any Federal, State, or local arrest or conviction of the United States client for offenses related to controlled substances or alcohol.

(v) Marital history of the United States client, including whether the client is currently married, whether the client has previously been married and how many times, how previous marriages of the client were terminated and the date of termination, and whether the client has previously sponsored an alien to whom the client was engaged or married.

(vi) The ages of any of the United States client's children who are under the age of 18.

(vii) All States and countries in which the United States client has resided since the client was 18 years of age.

(3) OBLIGATION OF INTERNATIONAL MARRIAGE BROKERS WITH RESPECT TO INFORMED CONSENT.—

(A) LIMITATION ON SHARING INFORMATION ABOUT FOREIGN NATIONAL CLIENTS.—An international marriage broker

shall not provide any United States client or representative with the personal contact information of any foreign national client unless and until the international marriage broker has—

(i) performed a search of the National Sex Offender Public Registry, or of the relevant State sex offender public registry for any State not yet participating in the National Sex Offender Public Registry in which the United States client has resided during the previous 20 years, for information regarding the United States client;

(ii) collected background information about the United States client required under paragraph (2);

(iii) provided to the foreign national client—

(I) in the foreign national client's primary language, a copy of any records retrieved from the search required under paragraph (2)(A)(i) or documentation confirming that such search retrieved no records;

(II) in the foreign national client's primary language, a copy of the background information collected by the international marriage broker under paragraph (2)(B); and

(III) in the foreign national client's primary language (or in English or other appropriate language if there is no translation available into the client's primary language), the pamphlet developed under subsection (a)(1); and

(iv) received from the foreign national client a signed, written consent, in the foreign national client's primary language, to release the foreign national client's personal contact information to the specific United States client.

(B) CONFIDENTIALITY.—In fulfilling the requirements of this paragraph, an international marriage broker shall disclose the relationship of the United States client to individuals who were issued a protection order or restraining order as described in clause (i) of paragraph (2)(B), or of any other victims of crimes as described in clauses (ii) through (iv) of such paragraph, but shall not disclose the name or location information of such individuals.

(C) PENALTY FOR MISUSE OF INFORMATION.—A person who knowingly discloses, uses, or causes to be used any information obtained by an international marriage broker as a result of the obligations imposed on it under paragraph (2) and this paragraph for any purpose other than the disclosures required under this paragraph shall be fined in accordance with title 18, United States Code, or imprisoned not more than 1 year, or both. These penalties are in addition to any other civil or criminal liability under Federal or State law which a person may be subject to for the misuse of that information, including to threaten, intimidate, or harass any individual. Nothing in this section shall prevent the disclosure of such information to law enforcement or pursuant to a court order.

(4) **LIMITATION ON DISCLOSURE.**—An international marriage broker shall not provide the personal contact information of any foreign national client to any person or entity other than a United States client. Such information shall not be disclosed to potential United States clients or individuals who are being recruited to be United States clients or representatives.

(5) **PENALTIES.**—

(A) **FEDERAL CIVIL PENALTY.**—

(i) **VIOLATION.**—An international marriage broker that violates (or attempts to violate) paragraph (1), (2), (3), or (4) is subject to a civil penalty of not less than \$5,000 and not more than \$25,000 for each such violation.

(ii) **PROCEDURES FOR IMPOSITION OF PENALTY.**—A penalty may be imposed under clause (i) by the Attorney General only after notice and an opportunity for an agency hearing on the record in accordance with subchapter II of chapter 5 of title 5, United States Code (popularly known as the Administrative Procedure Act).

(B) **FEDERAL CRIMINAL PENALTY.**—In circumstances in or affecting interstate or foreign commerce, an international marriage broker that, within the special maritime and territorial jurisdiction of the United States, violates (or attempts to violate) paragraph (1), (2), (3), or (4) shall be fined in accordance with title 18, United States Code, or imprisoned for not more than 5 years, or both.

(C) **ADDITIONAL REMEDIES.**—The penalties and remedies under this subsection are in addition to any other penalties or remedies available under law.

(6) **NONPREEMPTION.**—Nothing in this subsection shall preempt—

(A) any State law that provides additional protections for aliens who are utilizing the services of an international marriage broker; or

(B) any other or further right or remedy available under law to any party utilizing the services of an international marriage broker.

(7) **EFFECTIVE DATE.**—

(A) **IN GENERAL.**—Except as provided in subparagraph (B), this subsection shall take effect on the date that is 60 days after the date of the enactment of this Act.

(B) **ADDITIONAL TIME ALLOWED FOR INFORMATION PAMPHLET.**—The requirement for the distribution of the pamphlet developed under subsection (a)(1) shall not apply until 30 days after the date of its development and initial distribution under subsection (a)(6).

(e) **DEFINITIONS.**—In this section:

(1) **CRIME OF VIOLENCE.**—The term “crime of violence” has the meaning given such term in section 16 of title 18, United States Code.

(2) **DOMESTIC VIOLENCE.**—The term “domestic violence” has the meaning given such term in section 3 of this Act.

(3) **FOREIGN NATIONAL CLIENT.**—The term “foreign national client” means a person who is not a United States citizen or national or an alien lawfully admitted to the United States for permanent residence and who utilizes the services of an

international marriage broker. Such term includes an alien residing in the United States who is in the United States as a result of utilizing the services of an international marriage broker and any alien recruited by an international marriage broker or representative of such broker.

(4) INTERNATIONAL MARRIAGE BROKER.—

(A) IN GENERAL.—The term “international marriage broker” means a corporation, partnership, business, individual, or other legal entity, whether or not organized under any law of the United States, that charges fees for providing dating, matrimonial, matchmaking services, or social referrals between United States citizens or nationals or aliens lawfully admitted to the United States as permanent residents and foreign national clients by providing personal contact information or otherwise facilitating communication between individuals.

(B) EXCEPTIONS.—Such term does not include—

(i) a traditional matchmaking organization of a cultural or religious nature that operates on a nonprofit basis and otherwise operates in compliance with the laws of the countries in which it operates, including the laws of the United States; or

(ii) an entity that provides dating services if its principal business is not to provide international dating services between United States citizens or United States residents and foreign nationals and it charges comparable rates and offers comparable services to all individuals it serves regardless of the individual’s gender or country of citizenship.

(5) K NONIMMIGRANT VISA.—The term “K nonimmigrant visa” means a nonimmigrant visa under clause (i) or (ii) of section 101(a)(15)(K) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(K)).

(6) PERSONAL CONTACT INFORMATION.—

(A) IN GENERAL.—The term “personal contact information” means information, or a forum to obtain such information, that would permit individuals to contact each other, including—

(i) the name or residential, postal, electronic mail, or instant message address of an individual;

(ii) the telephone, pager, cellphone, or fax number, or voice message mailbox of an individual; or

(iii) the provision of an opportunity for an in-person meeting.

(B) EXCEPTION.—Such term does not include a photograph or general information about the background or interests of a person.

(7) REPRESENTATIVE.—The term “representative” means, with respect to an international marriage broker, the person or entity acting on behalf of such broker. Such a representative may be a recruiter, agent, independent contractor, or other international marriage broker or other person conveying information about or to a United States client or foreign national client, whether or not the person or entity receives remuneration.

(8) STATE.—The term “State” includes the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

(9) UNITED STATES.—The term “United States”, when used in a geographic sense, includes all the States.

(10) UNITED STATES CLIENT.—The term “United States client” means a United States citizen or other individual who resides in the United States and who utilizes the services of an international marriage broker, if a payment is made or a debt is incurred to utilize such services.

(f) GAO STUDY AND REPORT.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study—

(A) on the impact of this section and section 832 on the K nonimmigrant visa process, including specifically—

(i) annual numerical changes in petitions for K nonimmigrant visas;

(ii) the annual number (and percentage) of such petitions that are denied under subsection (d)(2) or (r) of section 214 of the Immigration and Nationality Act (8 U.S.C. 1184), as amended by this Act;

(iii) the annual number of waiver applications submitted under such a subsection, the number (and percentage) of such applications granted or denied, and the reasons for such decisions;

(iv) the annual number (and percentage) of cases in which the criminal background information collected and provided to the applicant as required by subsection (a)(5)(A)(iii) contains one or more convictions;

(v) the annual number and percentage of cases described in clause (iv) that were granted or were denied waivers under section 214(d)(2) of the Immigration and Nationality Act, as amended by this Act;

(vi) the annual number of fiancé(e) and spousal K nonimmigrant visa petitions or family-based immigration petitions filed by petitioners or applicants who have previously filed other fiancé(e) or spousal K nonimmigrant visa petitions or family-based immigration petitions;

(vii) the annual number of fiancé(e) and spousal K nonimmigrant visa petitions or family-based immigration petitions filed by petitioners or applicants who have concurrently filed other fiancé(e) or spousal K nonimmigrant visa petitions or family-based immigration petitions; and

(viii) the annual and cumulative number of petitioners and applicants tracked in the multiple filings database established under paragraph (4) of section 214(r) of the Immigration and Nationality Act, as added by this Act;

(B) regarding the number of international marriage brokers doing business in the United States, the number of marriages resulting from the services provided, and the extent of compliance with the applicable requirements of this section;

(C) that assesses the accuracy and completeness of information gathered under section 832 and this section

from clients and petitioners by international marriage brokers, the Department of State, or the Department of Homeland Security;

(D) that examines, based on the information gathered, the extent to which persons with a history of violence are using either the K nonimmigrant visa process or the services of international marriage brokers, or both, and the extent to which such persons are providing accurate and complete information to the Department of State or the Department of Homeland Security and to international marriage brokers in accordance with subsections (a) and (d)(2)(B); and

(E) that assesses the accuracy and completeness of the criminal background check performed by the Secretary of Homeland Security at identifying past instances of domestic violence.

(2) REPORT.—Not later than 2 years after the date of enactment of this Act, the Comptroller General shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report setting forth the results of the study conducted under paragraph (1).

(3) DATA COLLECTION.—The Secretary of Homeland Security and the Secretary of State shall collect and maintain the data necessary for the Comptroller General of the United States to conduct the study required by paragraph (1).

(g) REPEAL OF MAIL-ORDER BRIDE PROVISION.—Section 652 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1375) is hereby repealed.

SEC. 834. SHARING OF CERTAIN INFORMATION.

8 USC 1202 note.

Section 222(f) of the Immigration and Nationality Act (8 U.S.C. 1202(f)) shall not be construed to prevent the sharing of information regarding a United States petitioner for a visa under clause (i) or (ii) of section 101(a)(15)(K) of such Act (8 U.S.C. 1101(a)(15)(K)) for the limited purposes of fulfilling disclosure obligations imposed by the amendments made by section 832(a) or by section 833, including reporting obligations of the Comptroller General of the United States under section 833(f).

TITLE IX—SAFETY FOR INDIAN WOMEN

SEC. 901. FINDINGS.

42 USC
3796gg–10 note.

Congress finds that—

(1) 1 out of every 3 Indian (including Alaska Native) women are raped in their lifetimes;

(2) Indian women experience 7 sexual assaults per 1,000, compared with 4 per 1,000 among Black Americans, 3 per 1,000 among Caucasians, 2 per 1,000 among Hispanic women, and 1 per 1,000 among Asian women;

(3) Indian women experience the violent crime of battering at a rate of 23.2 per 1,000, compared with 8 per 1,000 among Caucasian women;

(4) during the period 1979 through 1992, homicide was the third leading cause of death of Indian females aged 15

to 34, and 75 percent were killed by family members or acquaintances;

(5) Indian tribes require additional criminal justice and victim services resources to respond to violent assaults against women; and

(6) the unique legal relationship of the United States to Indian tribes creates a Federal trust responsibility to assist tribal governments in safeguarding the lives of Indian women.

42 USC
3796gg–10 note.

SEC. 902. PURPOSES.

The purposes of this title are—

(1) to decrease the incidence of violent crimes against Indian women;

(2) to strengthen the capacity of Indian tribes to exercise their sovereign authority to respond to violent crimes committed against Indian women; and

(3) to ensure that perpetrators of violent crimes committed against Indian women are held accountable for their criminal behavior.

42 USC 14045d.

SEC. 903. CONSULTATION.

(a) **IN GENERAL.**—The Attorney General shall conduct annual consultations with Indian tribal governments concerning the Federal administration of tribal funds and programs established under this Act, the Violence Against Women Act of 1994 (title IV of Public Law 103–322; 108 Stat. 1902) and the Violence Against Women Act of 2000 (division B of Public Law 106–386; 114 Stat. 1491).

(b) **RECOMMENDATIONS.**—During consultations under subsection (a), the Secretary of the Department of Health and Human Services and the Attorney General shall solicit recommendations from Indian tribes concerning—

(1) administering tribal funds and programs;

(2) enhancing the safety of Indian women from domestic violence, dating violence, sexual assault, and stalking; and

(3) strengthening the Federal response to such violent crimes.

SEC. 904. ANALYSIS AND RESEARCH ON VIOLENCE AGAINST INDIAN WOMEN.

42 USC
3796gg–10 note.

(a) **NATIONAL BASELINE STUDY.**—

(1) **IN GENERAL.**—The National Institute of Justice, in consultation with the Office on Violence Against Women, shall conduct a national baseline study to examine violence against Indian women in Indian country.

(2) **SCOPE.**—

(A) **IN GENERAL.**—The study shall examine violence committed against Indian women, including—

(i) domestic violence;

(ii) dating violence;

(iii) sexual assault;

(iv) stalking; and

(v) murder.

(B) **EVALUATION.**—The study shall evaluate the effectiveness of Federal, State, tribal, and local responses to the violations described in subparagraph (A) committed against Indian women.

(C) RECOMMENDATIONS.—The study shall propose recommendations to improve the effectiveness of Federal, State, tribal, and local responses to the violation described in subparagraph (A) committed against Indian women.

(3) TASK FORCE.—

Establishment.

(A) IN GENERAL.—The Attorney General, acting through the Director of the Office on Violence Against Women, shall establish a task force to assist in the development and implementation of the study under paragraph (1) and guide implementation of the recommendation in paragraph (2)(C).

(B) MEMBERS.—The Director shall appoint to the task force representatives from—

- (i) national tribal domestic violence and sexual assault nonprofit organizations;
- (ii) tribal governments; and
- (iii) the national tribal organizations.

(4) REPORT.—Not later than 2 years after the date of enactment of this Act, the Attorney General shall submit to the Committee on Indian Affairs of the Senate, the Committee on the Judiciary of the Senate, and the Committee on the Judiciary of the House of Representatives a report that describes the study.

(5) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$1,000,000 for each of fiscal years 2007 and 2008, to remain available until expended.

(b) INJURY STUDY.—

(1) IN GENERAL.—The Secretary of Health and Human Services, acting through the Indian Health Service and the Centers for Disease Control and Prevention, shall conduct a study to obtain a national projection of—

(A) the incidence of injuries and homicides resulting from domestic violence, dating violence, sexual assault, or stalking committed against American Indian and Alaska Native women; and

(B) the cost of providing health care for the injuries described in subparagraph (A).

(2) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary of Health and Human Services shall submit to the Committee on Indian Affairs of the Senate, the Committee on the Judiciary of the Senate, and the Committee on the Judiciary of the House of Representatives a report that describes the findings made in the study and recommends health care strategies for reducing the incidence and cost of the injuries described in paragraph (1).

(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$500,000 for each of fiscal years 2007 and 2008, to remain available until expended.

SEC. 905. TRACKING OF VIOLENCE AGAINST INDIAN WOMEN.

(a) ACCESS TO FEDERAL CRIMINAL INFORMATION DATABASES.—Section 534 of title 28, United States Code, is amended—

- (1) by redesignating subsection (d) as subsection (e); and
- (2) by inserting after subsection (c) the following:

“(d) INDIAN LAW ENFORCEMENT AGENCIES.—The Attorney General shall permit Indian law enforcement agencies, in cases of domestic violence, dating violence, sexual assault, and stalking, to enter information into Federal criminal information databases and to obtain information from the databases.”.

28 USC 534 note.

(b) TRIBAL REGISTRY.—

(1) ESTABLISHMENT.—The Attorney General shall contract with any interested Indian tribe, tribal organization, or tribal nonprofit organization to develop and maintain—

(A) a national tribal sex offender registry; and

(B) a tribal protection order registry containing civil and criminal orders of protection issued by Indian tribes and participating jurisdictions.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$1,000,000 for each of fiscal years 2007 through 2011, to remain available until expended.

SEC. 906. GRANTS TO INDIAN TRIBAL GOVERNMENTS.

(a) IN GENERAL.—Part T of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg et seq.) is amended by adding at the end the following:

42 USC
3796gg–10.

“SEC. 2007. GRANTS TO INDIAN TRIBAL GOVERNMENTS.

“(a) GRANTS.—The Attorney General may make grants to Indian tribal governments and tribal organizations to—

“(1) develop and enhance effective governmental strategies to curtail violent crimes against and increase the safety of Indian women consistent with tribal law and custom;

“(2) increase tribal capacity to respond to domestic violence, dating violence, sexual assault, and stalking crimes against Indian women;

“(3) strengthen tribal justice interventions including tribal law enforcement, prosecution, courts, probation, correctional facilities;

“(4) enhance services to Indian women victimized by domestic violence, dating violence, sexual assault, and stalking;

“(5) work in cooperation with the community to develop education and prevention strategies directed toward issues of domestic violence, dating violence, and stalking programs and to address the needs of children exposed to domestic violence;

“(6) provide programs for supervised visitation and safe visitation exchange of children in situations involving domestic violence, sexual assault, or stalking committed by one parent against the other with appropriate security measures, policies, and procedures to protect the safety of victims and their children; and

“(7) provide transitional housing for victims of domestic violence, dating violence, sexual assault, or stalking, including rental or utilities payments assistance and assistance with related expenses such as security deposits and other costs incidental to relocation to transitional housing, and support services to enable a victim of domestic violence, dating violence, sexual assault, or stalking to locate and secure permanent housing and integrate into a community.

“(b) COLLABORATION.—All applicants under this section shall demonstrate their proposal was developed in consultation with a nonprofit, nongovernmental Indian victim services program,

including sexual assault and domestic violence victim services providers in the tribal or local community, or a nonprofit tribal domestic violence and sexual assault coalition to the extent that they exist. In the absence of such a demonstration, the applicant may meet the requirement of this subsection through consultation with women in the community to be served.

“(c) NONEXCLUSIVITY.—The Federal share of a grant made under this section may not exceed 90 percent of the total costs of the project described in the application submitted, except that the Attorney General may grant a waiver of this match requirement on the basis of demonstrated financial hardship. Funds appropriated for the activities of any agency of an Indian tribal government or of the Bureau of Indian Affairs performing law enforcement functions on any Indian lands may be used to provide the non-Federal share of the cost of programs or projects funded under this section.”.

(b) AUTHORIZATION OF FUNDS FROM GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN.—Section 2007(b)(1) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg-1(b)(1)) is amended to read as follows:

“(1) Ten percent shall be available for grants under the program authorized in section 2007. The requirements of this part shall not apply to funds allocated for such program.”.

(c) AUTHORIZATION OF FUNDS FROM GRANTS TO ENCOURAGE STATE POLICIES AND ENFORCEMENT OF PROTECTION ORDERS PROGRAM.—Section 2101 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796hh) is amended by striking subsection (e) and inserting the following:

“(e) Not less than 10 percent of the total amount available under this section for each fiscal year shall be available for grants under the program authorized in section 2007. The requirements of this part shall not apply to funds allocated for such program.”.

(d) AUTHORIZATION OF FUNDS FROM RURAL DOMESTIC VIOLENCE AND CHILD ABUSE ENFORCEMENT ASSISTANCE GRANTS.—Subsection 40295(c) of the Violence Against Women Act of 1994 (42 U.S.C. 13971(c)(3)) is amended by striking paragraph (3) and inserting the following:

“(3) Not less than 10 percent of the total amount available under this section for each fiscal year shall be available for grants under the program authorized in section 2007 of the Omnibus Crime Control and Safe Streets Act of 1968. The requirements of this paragraph shall not apply to funds allocated for such program.”.

(e) AUTHORIZATION OF FUNDS FROM THE SAFE HAVENS FOR CHILDREN PROGRAM.—Section 1301 of the Violence Against Women Act of 2000 (42 U.S.C. 10420) is amended by striking subsection (f) and inserting the following:

“(f) Not less than 10 percent of the total amount available under this section for each fiscal year shall be available for grants under the program authorized in section 2007 of the Omnibus Crime Control and Safe Streets Act of 1968. The requirements of this subsection shall not apply to funds allocated for such program.”.

(f) AUTHORIZATION OF FUNDS FROM THE TRANSITIONAL HOUSING ASSISTANCE GRANTS FOR CHILD VICTIMS OF DOMESTIC VIOLENCE, STALKING, OR SEXUAL ASSAULT PROGRAM.—Section 40299(g) of the

Violence Against Women Act of 1994 (42 U.S.C. 13975(g)) is amended by adding at the end the following:

“(4) TRIBAL PROGRAM.—Not less than 10 percent of the total amount available under this section for each fiscal year shall be available for grants under the program authorized in section 2007 of the Omnibus Crime Control and Safe Streets Act of 1968. The requirements of this paragraph shall not apply to funds allocated for such program.”.

(g) AUTHORIZATION OF FUNDS FROM THE LEGAL ASSISTANCE FOR VICTIMS IMPROVEMENTS PROGRAM.—Section 1201(f) of the Violence Against Women Act of 2000 (42 U.S.C. 3796gg–6) is amended by adding at the end the following:

“(4) Not less than 10 percent of the total amount available under this section for each fiscal year shall be available for grants under the program authorized in section 2007 of the Omnibus Crime Control and Safe Streets Act of 1968. The requirements of this paragraph shall not apply to funds allocated for such program.”.

SEC. 907. TRIBAL DEPUTY IN THE OFFICE ON VIOLENCE AGAINST WOMEN.

Part T of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg et seq.), as amended by section 906, is amended by adding at the end the following:

“SEC. 2008. TRIBAL DEPUTY.

“(a) ESTABLISHMENT.—There is established in the Office on Violence Against Women a Deputy Director for Tribal Affairs.

“(b) DUTIES.—

“(1) IN GENERAL.—The Deputy Director shall under the guidance and authority of the Director of the Office on Violence Against Women—

“(A) oversee and manage the administration of grants to and contracts with Indian tribes, tribal courts, tribal organizations, or tribal nonprofit organizations;

“(B) ensure that, if a grant under this Act or a contract pursuant to such a grant is made to an organization to perform services that benefit more than 1 Indian tribe, the approval of each Indian tribe to be benefitted shall be a prerequisite to the making of the grant or letting of the contract;

“(C) coordinate development of Federal policy, protocols, and guidelines on matters relating to violence against Indian women;

“(D) advise the Director of the Office on Violence Against Women concerning policies, legislation, implementation of laws, and other issues relating to violence against Indian women;

“(E) represent the Office on Violence Against Women in the annual consultations under section 903;

“(F) provide technical assistance, coordination, and support to other offices and bureaus in the Department of Justice to develop policy and to enforce Federal laws relating to violence against Indian women, including through litigation of civil and criminal actions relating to those laws;

42 USC
3796gg–11.

Grants.
Contracts.

Guidelines.

“(G) maintain a liaison with the judicial branches of Federal, State, and tribal governments on matters relating to violence against Indian women;

“(H) support enforcement of tribal protection orders and implementation of full faith and credit educational projects and comity agreements between Indian tribes and States; and

“(I) ensure that adequate tribal technical assistance is made available to Indian tribes, tribal courts, tribal organizations, and tribal nonprofit organizations for all programs relating to violence against Indian women.

“(c) AUTHORITY.—

“(1) IN GENERAL.—The Deputy Director shall ensure that a portion of the tribal set-aside funds from any grant awarded under this Act, the Violence Against Women Act of 1994 (title IV of Public Law 103–322; 108 Stat. 1902), or the Violence Against Women Act of 2000 (division B of Public Law 106–386; 114 Stat. 1491) is used to enhance the capacity of Indian tribes to address the safety of Indian women.

“(2) ACCOUNTABILITY.—The Deputy Director shall ensure that some portion of the tribal set-aside funds from any grant made under this part is used to hold offenders accountable through—

“(A) enhancement of the response of Indian tribes to crimes of domestic violence, dating violence, sexual assault, and stalking against Indian women, including legal services for victims and Indian-specific offender programs;

“(B) development and maintenance of tribal domestic violence shelters or programs for battered Indian women, including sexual assault services, that are based upon the unique circumstances of the Indian women to be served;

“(C) development of tribal educational awareness programs and materials;

“(D) support for customary tribal activities to strengthen the intolerance of an Indian tribe to violence against Indian women; and

“(E) development, implementation, and maintenance of tribal electronic databases for tribal protection order registries.”.

SEC. 908. ENHANCED CRIMINAL LAW RESOURCES.

(a) FIREARMS POSSESSION PROHIBITIONS.—Section 921(33)(A)(i) of title 18, United States Code, is amended to read: “(i) is a misdemeanor under Federal, State, or Tribal law; and”.

(b) LAW ENFORCEMENT AUTHORITY.—Section 4(3) of the Indian Law Enforcement Reform Act (25 U.S.C. 2803(3)) is amended—

(1) in subparagraph (A), by striking “or”;

(2) in subparagraph (B), by striking the semicolon and inserting “, or”; and

(3) by adding at the end the following:

“(C) the offense is a misdemeanor crime of domestic violence, dating violence, stalking, or violation of a protection order and has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the

victim shares a child in common, by a person who is cohabitating with or has cohabited with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent or guardian of the victim, and the employee has reasonable grounds to believe that the person to be arrested has committed, or is committing the crime;”.

SEC. 909. DOMESTIC ASSAULT BY AN HABITUAL OFFENDER.

Chapter 7 of title 18, United States Code, is amended by adding at the end the following:

“§ 117. Domestic assault by an habitual offender

“(a) IN GENERAL.—Any person who commits a domestic assault within the special maritime and territorial jurisdiction of the United States or Indian country and who has a final conviction on at least 2 separate prior occasions in Federal, State, or Indian tribal court proceedings for offenses that would be, if subject to Federal jurisdiction—

“(1) any assault, sexual abuse, or serious violent felony against a spouse or intimate partner; or

“(2) an offense under chapter 110A,

shall be fined under this title, imprisoned for a term of not more than 5 years, or both, except that if substantial bodily injury results from violation under this section, the offender shall be imprisoned for a term of not more than 10 years.

“(b) DOMESTIC ASSAULT DEFINED.—In this section, the term ‘domestic assault’ means an assault committed by a current or former spouse, parent, child, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabited with the victim as a spouse, parent, child, or guardian, or by a person similarly situated to a spouse, parent, child, or guardian of the victim.”.

TITLE X—DNA FINGERPRINTING

DNA Fingerprint
Act of 2005.

42 USC 13701
note.

SEC. 1001. SHORT TITLE.

This title may be cited as the “DNA Fingerprint Act of 2005”.

SEC. 1002. USE OF OPT-OUT PROCEDURE TO REMOVE SAMPLES FROM NATIONAL DNA INDEX.

Section 210304 of the DNA Identification Act of 1994 (42 U.S.C. 14132) is amended—

(1) in subsection (a)(1)(C), by striking “DNA profiles” and all that follows through “, and”;

(2) in subsection (d)(1), by striking subparagraph (A), and inserting the following:

“(A) The Director of the Federal Bureau of Investigation shall promptly expunge from the index described in subsection (a) the DNA analysis of a person included in the index—

“(i) on the basis of conviction for a qualifying Federal offense or a qualifying District of Columbia offense (as determined under sections 3 and 4 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135a, 14135b), respectively), if the Director receives, for each conviction of the person of a qualifying offense,

Certification.

a certified copy of a final court order establishing that such conviction has been overturned; or

“(ii) on the basis of an arrest under the authority of the United States, if the Attorney General receives, for each charge against the person on the basis of which the analysis was or could have been included in the index, a certified copy of a final court order establishing that such charge has been dismissed or has resulted in an acquittal or that no charge was filed within the applicable time period.”;

(3) in subsection (d)(2)(A)(ii), by striking “all charges for” and all that follows, and inserting the following: “the responsible agency or official of that State receives, for each charge against the person on the basis of which the analysis was or could have been included in the index, a certified copy of a final court order establishing that such charge has been dismissed or has resulted in an acquittal or that no charge was filed within the applicable time period.”; and

Certification.

(4) by striking subsection (e).

SEC. 1003. EXPANDED USE OF CODIS GRANTS.

Section 2(a)(1) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135(a)(1)) is amended by striking “taken from individuals convicted of a qualifying State offense (as determined under subsection (b)(3))” and inserting “collected under applicable legal authority”.

SEC. 1004. AUTHORIZATION TO CONDUCT DNA SAMPLE COLLECTION FROM PERSONS ARRESTED OR DETAINED UNDER FEDERAL AUTHORITY.

(a) IN GENERAL.—Section 3 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135a) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking “The Director” and inserting the following:

“(A) The Attorney General may, as prescribed by the Attorney General in regulation, collect DNA samples from individuals who are arrested or from non-United States persons who are detained under the authority of the United States. The Attorney General may delegate this function within the Department of Justice as provided in section 510 of title 28, United States Code, and may also authorize and direct any other agency of the United States that arrests or detains individuals or supervises individuals facing charges to carry out any function and exercise any power of the Attorney General under this section.

Regulations.

“(B) The Director”; and

(B) in paragraphs (3) and (4), by striking “Director of the Bureau of Prisons” each place it appears and inserting “Attorney General, the Director of the Bureau of Prisons,”; and

(2) in subsection (b), by striking “Director of the Bureau of Prisons” and inserting “Attorney General, the Director of the Bureau of Prisons,”.

(b) CONFORMING AMENDMENTS.—Subsections (b) and (c)(1)(A) of section 3142 of title 18, United States Code, are each amended by inserting “and subject to the condition that the person cooperate in the collection of a DNA sample from the person if the collection

of such a sample is authorized pursuant to section 3 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135a)” after “period of release”.

SEC. 1005. TOLLING OF STATUTE OF LIMITATIONS FOR SEXUAL-ABUSE OFFENSES.

Section 3297 of title 18, United States Code, is amended by striking “except for a felony offense under chapter 109A,”.

**TITLE XI—DEPARTMENT OF JUSTICE
REAUTHORIZATION**

**Subtitle A—AUTHORIZATION OF
APPROPRIATIONS**

**SEC. 1101. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR
2006.**

There are authorized to be appropriated for fiscal year 2006, to carry out the activities of the Department of Justice (including any bureau, office, board, division, commission, subdivision, unit, or other component thereof), the following sums:

(1) GENERAL ADMINISTRATION.—For General Administration: \$161,407,000.

(2) ADMINISTRATIVE REVIEW AND APPEALS.—For Administrative Review and Appeals: \$216,286,000 for administration of clemency petitions and for immigration-related activities.

(3) OFFICE OF INSPECTOR GENERAL.—For the Office of Inspector General: \$72,828,000, which shall include not to exceed \$10,000 to meet unforeseen emergencies of a confidential character.

(4) GENERAL LEGAL ACTIVITIES.—For General Legal Activities: \$679,661,000, which shall include—

(A) not less than \$4,000,000 for the investigation and prosecution of denaturalization and deportation cases involving alleged Nazi war criminals;

(B) not less than \$15,000,000 for the investigation and prosecution of violations of title 17 of the United States Code;

(C) not to exceed \$20,000 to meet unforeseen emergencies of a confidential character; and

(D) \$5,000,000 for the investigation and prosecution of violations of chapter 77 of title 18 of the United States Code.

(5) ANTITRUST DIVISION.—For the Antitrust Division: \$144,451,000.

(6) UNITED STATES ATTORNEYS.—For United States Attorneys: \$1,626,146,000.

(7) FEDERAL BUREAU OF INVESTIGATION.—For the Federal Bureau of Investigation: \$5,761,237,000, which shall include not to exceed \$70,000 to meet unforeseen emergencies of a confidential character.

(8) UNITED STATES MARSHALS SERVICE.—For the United States Marshals Service: \$800,255,000.

(9) FEDERAL PRISON SYSTEM.—For the Federal Prison System, including the National Institute of Corrections: \$5,065,761,000.

(10) DRUG ENFORCEMENT ADMINISTRATION.—For the Drug Enforcement Administration: \$1,716,173,000, which shall include not to exceed \$70,000 to meet unforeseen emergencies of a confidential character.

(11) BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES.—For the Bureau of Alcohol, Tobacco, Firearms and Explosives: \$923,613,000.

(12) FEES AND EXPENSES OF WITNESSES.—For Fees and Expenses of Witnesses: \$181,137,000, which shall include not to exceed \$8,000,000 for construction of protected witness safesites.

(13) INTERAGENCY CRIME AND DRUG ENFORCEMENT.—For Interagency Crime and Drug Enforcement: \$661,940,000 for expenses not otherwise provided for, for the investigation and prosecution of persons involved in organized crime drug trafficking, except that any funds obligated from appropriations authorized by this paragraph may be used under authorities available to the organizations reimbursed from such funds.

(14) FOREIGN CLAIMS SETTLEMENT COMMISSION.—For the Foreign Claims Settlement Commission: \$1,270,000.

(15) COMMUNITY RELATIONS SERVICE.—For the Community Relations Service: \$9,759,000.

(16) ASSETS FORFEITURE FUND.—For the Assets Forfeiture Fund: \$21,468,000 for expenses authorized by section 524 of title 28, United States Code.

(17) UNITED STATES PAROLE COMMISSION.—For the United States Parole Commission: \$11,300,000.

(18) FEDERAL DETENTION TRUSTEE.—For the necessary expenses of the Federal Detention Trustee: \$1,222,000,000.

(19) JUSTICE INFORMATION SHARING TECHNOLOGY.—For necessary expenses for information sharing technology, including planning, development, and deployment: \$181,490,000.

(20) NARROW BAND COMMUNICATIONS.—For the costs of conversion to narrowband communications, including the cost for operation and maintenance of Land Mobile Radio legacy systems: \$128,701,000.

(21) ADMINISTRATIVE EXPENSES FOR CERTAIN ACTIVITIES.—For the administrative expenses of the Office of Justice Programs, the Office on Violence Against Women, and Office of Community Oriented Policing Services:

(A) \$121,105,000 for the Office of Justice Programs.

(B) \$14,172,000 for the Office on Violence Against Women.

(C) \$31,343,000 for the Office of Community Oriented Policing Services.

SEC. 1102. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 2007.

There are authorized to be appropriated for fiscal year 2007, to carry out the activities of the Department of Justice (including any bureau, office, board, division, commission, subdivision, unit, or other component thereof), the following sums:

(1) GENERAL ADMINISTRATION.—For General Administration: \$167,863,000.

(2) ADMINISTRATIVE REVIEW AND APPEALS.—For Administrative Review and Appeals: \$224,937,000 for administration of clemency petitions and for immigration-related activities.

(3) OFFICE OF INSPECTOR GENERAL.—For the Office of Inspector General: \$75,741,000, which shall include not to exceed \$10,000 to meet unforeseen emergencies of a confidential character.

(4) GENERAL LEGAL ACTIVITIES.—For General Legal Activities: \$706,847,000, which shall include—

(A) not less than \$4,000,000 for the investigation and prosecution of denaturalization and deportation cases involving alleged Nazi war criminals;

(B) not less than \$15,600,000 for the investigation and prosecution of violations of title 17 of the United States Code;

(C) not to exceed \$20,000 to meet unforeseen emergencies of a confidential character; and

(D) \$5,000,000 for the investigation and prosecution of violations of chapter 77 of title 18 of the United States Code.

(5) ANTITRUST DIVISION.—For the Antitrust Division: \$150,229,000.

(6) UNITED STATES ATTORNEYS.—For United States Attorneys: \$1,691,192,000.

(7) FEDERAL BUREAU OF INVESTIGATION.—For the Federal Bureau of Investigation: \$5,991,686,000, which shall include not to exceed \$70,000 to meet unforeseen emergencies of a confidential character.

(8) UNITED STATES MARSHALS SERVICE.—For the United States Marshals Service: \$832,265,000.

(9) FEDERAL PRISON SYSTEM.—For the Federal Prison System, including the National Institute of Corrections: \$5,268,391,000.

(10) DRUG ENFORCEMENT ADMINISTRATION.—For the Drug Enforcement Administration: \$1,784,820,000, which shall include not to exceed \$70,000 to meet unforeseen emergencies of a confidential character.

(11) BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES.—For the Bureau of Alcohol, Tobacco, Firearms and Explosives: \$960,558,000.

(12) FEES AND EXPENSES OF WITNESSES.—For Fees and Expenses of Witnesses: \$188,382,000, which shall include not to exceed \$8,000,000 for construction of protected witness safesites.

(13) INTERAGENCY CRIME AND DRUG ENFORCEMENT.—For Interagency Crime and Drug Enforcement: \$688,418,000, for expenses not otherwise provided for, for the investigation and prosecution of persons involved in organized crime drug trafficking, except that any funds obligated from appropriations authorized by this paragraph may be used under authorities available to the organizations reimbursed from such funds.

(14) FOREIGN CLAIMS SETTLEMENT COMMISSION.—For the Foreign Claims Settlement Commission: \$1,321,000.

(15) COMMUNITY RELATIONS SERVICE.—For the Community Relations Service: \$10,149,000.

(16) ASSETS FORFEITURE FUND.—For the Assets Forfeiture Fund: \$22,000,000 for expenses authorized by section 524 of title 28, United States Code.

(17) UNITED STATES PAROLE COMMISSION.—For the United States Parole Commission: \$11,752,000.

(18) FEDERAL DETENTION TRUSTEE.—For the necessary expenses of the Federal Detention Trustee: \$1,405,300,000.

(19) JUSTICE INFORMATION SHARING TECHNOLOGY.—For necessary expenses for information sharing technology, including planning, development, and deployment: \$188,750,000.

(20) NARROWBAND COMMUNICATIONS.—For the costs of conversion to narrowband communications, including the cost for operation and maintenance of Land Mobile Radio legacy systems: \$133,849,000.

(21) ADMINISTRATIVE EXPENSES FOR CERTAIN ACTIVITIES.—For the administrative expenses of the Office of Justice Programs, the Office on Violence Against Women, and the Office of Community Oriented Policing Services:

(A) \$125,949,000 for the Office of Justice Programs.

(B) \$15,600,000 for the Office on Violence Against Women.

(C) \$32,597,000 for the Office of Community Oriented Policing Services.

SEC. 1103. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 2008.

There are authorized to be appropriated for fiscal year 2008, to carry out the activities of the Department of Justice (including any bureau, office, board, division, commission, subdivision, unit, or other component thereof), the following sums:

(1) GENERAL ADMINISTRATION.—For General Administration: \$174,578,000.

(2) ADMINISTRATIVE REVIEW AND APPEALS.—For Administrative Review and Appeals: \$233,934,000 for administration of clemency petitions and for immigration-related activities.

(3) OFFICE OF INSPECTOR GENERAL.—For the Office of Inspector General: \$78,771,000, which shall include not to exceed \$10,000 to meet unforeseen emergencies of a confidential character.

(4) GENERAL LEGAL ACTIVITIES.—For General Legal Activities: \$735,121,000, which shall include—

(A) not less than \$4,000,000 for the investigation and prosecution of denaturalization and deportation cases involving alleged Nazi war criminals;

(B) not less than \$16,224,000 for the investigation and prosecution of violations of title 17 of the United States Code;

(C) not to exceed \$20,000 to meet unforeseen emergencies of a confidential character; and

(D) \$5,000,000 for the investigation and prosecution of violations of chapter 77 of title 18 of the United States Code.

(5) ANTITRUST DIVISION.—For the Antitrust Division: \$156,238,000.

(6) UNITED STATES ATTORNEYS.—For United States Attorneys: \$1,758,840,000.

(7) FEDERAL BUREAU OF INVESTIGATION.—For the Federal Bureau of Investigation: \$6,231,354,000, which shall include not to exceed \$70,000 to meet unforeseen emergencies of a confidential character.

(8) UNITED STATES MARSHALS SERVICE.—For the United States Marshals Service: \$865,556,000.

(9) FEDERAL PRISON SYSTEM.—For the Federal Prison System, including the National Institute of Corrections: \$5,479,127,000.

(10) DRUG ENFORCEMENT ADMINISTRATION.—For the Drug Enforcement Administration: \$1,856,213,000, which shall include not to exceed \$70,000 to meet unforeseen emergencies of a confidential character.

(11) BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES.—For the Bureau of Alcohol, Tobacco, Firearms and Explosives: \$998,980,000.

(12) FEES AND EXPENSES OF WITNESSES.—For Fees and Expenses of Witnesses: \$195,918,000, which shall include not to exceed \$8,000,000 for construction of protected witness safesites.

(13) INTERAGENCY CRIME AND DRUG ENFORCEMENT.—For Interagency Crime and Drug Enforcement: \$715,955,000, for expenses not otherwise provided for, for the investigation and prosecution of persons involved in organized crime drug trafficking, except that any funds obligated from appropriations authorized by this paragraph may be used under authorities available to the organizations reimbursed from such funds.

(14) FOREIGN CLAIMS SETTLEMENT COMMISSION.—For the Foreign Claims Settlement Commission: \$1,374,000.

(15) COMMUNITY RELATIONS SERVICE.—For the Community Relations Service: \$10,555,000.

(16) ASSETS FORFEITURE FUND.—For the Assets Forfeiture Fund: \$22,000,000 for expenses authorized by section 524 of title 28, United States Code.

(17) UNITED STATES PAROLE COMMISSION.—For the United States Parole Commission: \$12,222,000.

(18) FEDERAL DETENTION TRUSTEE.—For the necessary expenses of the Federal Detention Trustee: \$1,616,095,000.

(19) JUSTICE INFORMATION SHARING TECHNOLOGY.—For necessary expenses for information sharing technology, including planning, development, and deployment: \$196,300,000.

(20) NARROWBAND COMMUNICATIONS.—For the costs of conversion to narrowband communications, including the cost for operation and maintenance of Land Mobile Radio legacy systems: \$139,203,000.

(21) ADMINISTRATIVE EXPENSES FOR CERTAIN ACTIVITIES.—For the administrative expenses of the Office of Justice Programs, the Office on Violence Against Women, and the Office of Community Oriented Policing Services:

(A) \$130,987,000 for the Office of Justice Programs.

(B) \$16,224,000 for the Office on Violence Against Women.

(C) \$33,901,000 for the Office of Community Oriented Policing Services.

SEC. 1104. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 2009.

There are authorized to be appropriated for fiscal year 2009, to carry out the activities of the Department of Justice (including any bureau, office, board, division, commission, subdivision, unit, or other component thereof), the following sums:

(1) GENERAL ADMINISTRATION.—For General Administration: \$181,561,000.

(2) ADMINISTRATIVE REVIEW AND APPEALS.—For Administrative Review and Appeals: \$243,291,000 for administration of pardon and clemency petitions and for immigration-related activities.

(3) OFFICE OF INSPECTOR GENERAL.—For the Office of Inspector General: \$81,922,000, which shall include not to exceed \$10,000 to meet unforeseen emergencies of a confidential character.

(4) GENERAL LEGAL ACTIVITIES.—For General Legal Activities: \$764,526,000, which shall include—

(A) not less than \$4,000,000 for the investigation and prosecution of denaturalization and deportation cases involving alleged Nazi war criminals;

(B) not less than \$16,872,000 for the investigation and prosecution of violations of title 17 of the United States Code;

(C) not to exceed \$20,000 to meet unforeseen emergencies of a confidential character; and

(D) \$5,000,000 for the investigation and prosecution of violations of chapter 77 of title 18 of the United States Code.

(5) ANTITRUST DIVISION.—For the Antitrust Division: \$162,488,000.

(6) UNITED STATES ATTORNEYS.—For United States Attorneys: \$1,829,194,000.

(7) FEDERAL BUREAU OF INVESTIGATION.—For the Federal Bureau of Investigation: \$6,480,608,000, which shall include not to exceed \$70,000 to meet unforeseen emergencies of a confidential character.

(8) UNITED STATES MARSHALS SERVICE.—For the United States Marshals Service: \$900,178,000.

(9) FEDERAL PRISON SYSTEM.—For the Federal Prison System, including the National Institute of Corrections: \$5,698,292,000.

(10) DRUG ENFORCEMENT ADMINISTRATION.—For the Drug Enforcement Administration: \$1,930,462,000, which shall include not to exceed \$70,000 to meet unforeseen emergencies of a confidential character.

(11) BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES.—For the Bureau of Alcohol, Tobacco, Firearms and Explosives: \$1,038,939,000.

(12) FEES AND EXPENSES OF WITNESSES.—For Fees and Expenses of Witnesses: \$203,755,000, which shall include not to exceed \$8,000,000 for construction of protected witness safesites.

(13) INTERAGENCY CRIME AND DRUG ENFORCEMENT.—For Interagency Crime and Drug Enforcement: \$744,593,000, for expenses not otherwise provided for, for the investigation and

prosecution of persons involved in organized crime drug trafficking, except that any funds obligated from appropriations authorized by this paragraph may be used under authorities available to the organizations reimbursed from such funds.

(14) FOREIGN CLAIMS SETTLEMENT COMMISSION.—For the Foreign Claims Settlement Commission: \$1,429,000.

(15) COMMUNITY RELATIONS SERVICE.—For the Community Relations Service: \$10,977,000.

(16) ASSETS FORFEITURE FUND.—For the Assets Forfeiture Fund: \$22,000,000 for expenses authorized by section 524 of title 28, United States Code.

(17) UNITED STATES PAROLE COMMISSION.—For the United States Parole Commission: \$12,711,000.

(18) FEDERAL DETENTION TRUSTEE.—For the necessary expenses of the Federal Detention Trustee: \$1,858,509,000.

(19) JUSTICE INFORMATION SHARING TECHNOLOGY.—For necessary expenses for information sharing technology, including planning, development, and deployment: \$204,152,000.

(20) NARROWBAND COMMUNICATIONS.—For the costs of conversion to narrowband communications, including the cost for operation and maintenance of Land Mobile Radio legacy systems: \$144,771,000.

(21) ADMINISTRATIVE EXPENSES FOR CERTAIN ACTIVITIES.—For the administrative expenses of the Office of Justice Programs, the Office on Violence Against Women, and the Office of Community Oriented Policing Services:

(A) \$132,226,000 for the Office of Justice Programs.

(B) \$16,837,000 for the Office on Violence Against Women.

(C) \$35,257,000 for the Office of Community Oriented Policing Services.

28 USC 509 note.

SEC. 1105. ORGANIZED RETAIL THEFT.

Establishment.
Records.

(a) NATIONAL DATA.—(1) The Attorney General and the Federal Bureau of Investigation, in consultation with the retail community, shall establish a task force to combat organized retail theft and provide expertise to the retail community for the establishment of a national database or clearinghouse housed and maintained in the private sector to track and identify where organized retail theft type crimes are being committed in the United States. The national database shall allow Federal, State, and local law enforcement officials as well as authorized retail companies (and authorized associated retail databases) to transmit information into the database electronically and to review information that has been submitted electronically.

(2) The Attorney General shall make available funds to provide for the ongoing administrative and technological costs to federal law enforcement agencies participating in the database project.

(3) The Attorney General through the Bureau of Justice Assistance in the Office of Justice may make grants to help provide for the administrative and technological costs to State and local law enforcement agencies participating in the data base project.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for each of fiscal years 2006 through 2009, \$5,000,000 for educating and training federal law enforcement regarding organized retail theft, for investigating, apprehending and prosecuting individuals engaged in organized retail theft, and

for working with the private sector to establish and utilize the database described in subsection (a).

(c) DEFINITION OF ORGANIZED RETAIL THEFT.—For purposes of this section, “organized retail theft” means—

(1) the violation of a State prohibition on retail merchandise theft or shoplifting, if the violation consists of the theft of quantities of items that would not normally be purchased for personal use or consumption and for the purpose of reselling the items or for reentering the items into commerce;

(2) the receipt, possession, concealment, bartering, sale, transport, or disposal of any property that is known or should be known to have been taken in violation of paragraph (1); or

(3) the coordination, organization, or recruitment of persons to undertake the conduct described in paragraph (1) or (2).

SEC. 1106. UNITED STATES-MEXICO BORDER VIOLENCE TASK FORCE.

28 USC 509 note.

(a) TASK FORCE.—(1) The Attorney General shall establish the United States-Mexico Border Violence Task Force in Laredo, Texas, to combat drug and firearms trafficking, violence, and kidnapping along the border between the United States and Mexico and to provide expertise to the law enforcement and homeland security agencies along the border between the United States and Mexico. The Task Force shall include personnel from the Bureau of Alcohol, Tobacco, Firearms, and Explosives, Immigration and Customs Enforcement, the Drug Enforcement Administration, Customs and Border Protection, other Federal agencies (as appropriate), the Texas Department of Public Safety, and local law enforcement agencies.

Establishment.

(2) The Attorney General shall make available funds to provide for the ongoing administrative and technological costs to Federal, State, and local law enforcement agencies participating in the Task Force.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$10,000,000 for each of the fiscal years 2006 through 2009, for—

(1) the establishment and operation of the United States-Mexico Border Violence Task Force; and

(2) the investigation, apprehension, and prosecution of individuals engaged in drug and firearms trafficking, violence, and kidnapping along the border between the United States and Mexico.

SEC. 1107. NATIONAL GANG INTELLIGENCE CENTER.

28 USC 534 note.

(a) ESTABLISHMENT.—The Attorney General shall establish a National Gang Intelligence Center and gang information database to be housed at and administered by the Federal Bureau of Investigation to collect, analyze, and disseminate gang activity information from—

Records.

(1) the Federal Bureau of Investigation;

(2) the Bureau of Alcohol, Tobacco, Firearms, and Explosives;

(3) the Drug Enforcement Administration;

(4) the Bureau of Prisons;

(5) the United States Marshals Service;

(6) the Directorate of Border and Transportation Security of the Department of Homeland Security;

(7) the Department of Housing and Urban Development;

- (8) State and local law enforcement;
 - (9) Federal, State, and local prosecutors;
 - (10) Federal, State, and local probation and parole offices;
 - (11) Federal, State, and local prisons and jails; and
 - (12) any other entity as appropriate.
- (b) INFORMATION.—The Center established under subsection (a) shall make available the information referred to in subsection (a) to—
- (1) Federal, State, and local law enforcement agencies;
 - (2) Federal, State, and local corrections agencies and penal institutions;
 - (3) Federal, State, and local prosecutorial agencies; and
 - (4) any other entity as appropriate.
- (c) ANNUAL REPORT.—The Center established under subsection (a) shall annually submit to Congress a report on gang activity.
- (d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$10,000,000 for fiscal year 2006 and for each fiscal year thereafter.

Subtitle B—IMPROVING THE DEPARTMENT OF JUSTICE’S GRANT PROGRAMS

CHAPTER 1—ASSISTING LAW ENFORCEMENT AND CRIMINAL JUSTICE AGENCIES

SEC. 1111. MERGER OF BYRNE GRANT PROGRAM AND LOCAL LAW ENFORCEMENT BLOCK GRANT PROGRAM.

(a) IN GENERAL.—Part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended as follows:

42 USC 3751 *et seq.*

(1) Subpart 1 of such part (42 U.S.C. 3751–3759) is repealed.

(2) Such part is further amended—

(A) by inserting before section 500 (42 U.S.C. 3750) the following new heading:

“Subpart 1—Edward Byrne Memorial Justice Assistance Grant Program”;

(B) by amending section 500 to read as follows:

42 USC 3750.

“SEC. 500. NAME OF PROGRAM.

“(a) IN GENERAL.—The grant program established under this subpart shall be known as the ‘Edward Byrne Memorial Justice Assistance Grant Program’.

“(b) REFERENCES TO FORMER PROGRAMS.—(1) Any reference in a law, regulation, document, paper, or other record of the United States to the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs, or to the Local Government Law Enforcement Block Grants program, shall be deemed to be a reference to the grant program referred to in subsection (a).

“(2) Any reference in a law, regulation, document, paper, or other record of the United States to section 506 of this Act as such section was in effect on the date of the enactment of the Department of Justice Appropriations Authorization Act, Fiscal

Years 2006 through 2009, shall be deemed to be a reference to section 505(a) of this Act as amended by the Department of Justice Appropriations Authorization Act, Fiscal Years 2006 through 2009.”; and

(C) by inserting after section 500 the following new sections:

“SEC. 501. DESCRIPTION.

42 USC 3751.

“(a) GRANTS AUTHORIZED.—

“(1) IN GENERAL.—From amounts made available to carry out this subpart, the Attorney General may, in accordance with the formula established under section 505, make grants to States and units of local government, for use by the State or unit of local government to provide additional personnel, equipment, supplies, contractual support, training, technical assistance, and information systems for criminal justice, including for any one or more of the following programs:

“(A) Law enforcement programs.

“(B) Prosecution and court programs.

“(C) Prevention and education programs.

“(D) Corrections and community corrections programs.

“(E) Drug treatment and enforcement programs.

“(F) Planning, evaluation, and technology improvement programs.

“(G) Crime victim and witness programs (other than compensation).

“(2) RULE OF CONSTRUCTION.—Paragraph (1) shall be construed to ensure that a grant under that paragraph may be used for any purpose for which a grant was authorized to be used under either or both of the programs specified in section 500(b), as those programs were in effect immediately before the enactment of this paragraph.

“(b) CONTRACTS AND SUBAWARDS.—A State or unit of local government may, in using a grant under this subpart for purposes authorized by subsection (a), use all or a portion of that grant to contract with or make one or more subawards to one or more—

“(1) neighborhood or community-based organizations that are private and nonprofit;

“(2) units of local government; or

“(3) tribal governments.

“(c) PROGRAM ASSESSMENT COMPONENT; WAIVER.—

“(1) Each program funded under this subpart shall contain a program assessment component, developed pursuant to guidelines established by the Attorney General, in coordination with the National Institute of Justice.

“(2) The Attorney General may waive the requirement of paragraph (1) with respect to a program if, in the opinion of the Attorney General, the program is not of sufficient size to justify a full program assessment.

“(d) PROHIBITED USES.—Notwithstanding any other provision of this Act, no funds provided under this subpart may be used, directly or indirectly, to provide any of the following matters:

“(1) Any security enhancements or any equipment to any nongovernmental entity that is not engaged in criminal justice or public safety.

“(2) Unless the Attorney General certifies that extraordinary and exigent circumstances exist that make the use of

such funds to provide such matters essential to the maintenance of public safety and good order—

“(A) vehicles (excluding police cruisers), vessels (excluding police boats), or aircraft (excluding police helicopters);

“(B) luxury items;

“(C) real estate;

“(D) construction projects (other than penal or correctional institutions); or

“(E) any similar matters.

“(e) ADMINISTRATIVE COSTS.—Not more than 10 percent of a grant made under this subpart may be used for costs incurred to administer such grant.

“(f) PERIOD.—The period of a grant made under this subpart shall be four years, except that renewals and extensions beyond that period may be granted at the discretion of the Attorney General.

“(g) RULE OF CONSTRUCTION.—Subparagraph (d)(1) shall not be construed to prohibit the use, directly or indirectly, of funds provided under this subpart to provide security at a public event, such as a political convention or major sports event, so long as such security is provided under applicable laws and procedures.

42 USC 3752.

“SEC. 502. APPLICATIONS.

Deadline.

“To request a grant under this subpart, the chief executive officer of a State or unit of local government shall submit an application to the Attorney General within 90 days after the date on which funds to carry out this subpart are appropriated for a fiscal year, in such form as the Attorney General may require. Such application shall include the following:

Certification.

“(1) A certification that Federal funds made available under this subpart will not be used to supplant State or local funds, but will be used to increase the amounts of such funds that would, in the absence of Federal funds, be made available for law enforcement activities.

“(2) An assurance that, not fewer than 30 days before the application (or any amendment to the application) was submitted to the Attorney General, the application (or amendment) was submitted for review to the governing body of the State or unit of local government (or to an organization designated by that governing body).

Public notice and comment.

“(3) An assurance that, before the application (or any amendment to the application) was submitted to the Attorney General—

“(A) the application (or amendment) was made public; and

“(B) an opportunity to comment on the application (or amendment) was provided to citizens and to neighborhood or community-based organizations, to the extent applicable law or established procedure makes such an opportunity available.

Records.

“(4) An assurance that, for each fiscal year covered by an application, the applicant shall maintain and report such data, records, and information (programmatic and financial) as the Attorney General may reasonably require.

Certification.

“(5) A certification, made in a form acceptable to the Attorney General and executed by the chief executive officer

of the applicant (or by another officer of the applicant, if qualified under regulations promulgated by the Attorney General), that—

“(A) the programs to be funded by the grant meet all the requirements of this subpart;

“(B) all the information contained in the application is correct;

“(C) there has been appropriate coordination with affected agencies; and

“(D) the applicant will comply with all provisions of this subpart and all other applicable Federal laws.

“SEC. 503. REVIEW OF APPLICATIONS.

42 USC 3753.

“The Attorney General shall not finally disapprove any application (or any amendment to that application) submitted under this subpart without first affording the applicant reasonable notice of any deficiencies in the application and opportunity for correction and reconsideration.

“SEC. 504. RULES.

42 USC 3754.

“The Attorney General shall issue rules to carry out this subpart. The first such rules shall be issued not later than one year after the date on which amounts are first made available to carry out this subpart.

Deadline.

“SEC. 505. FORMULA.

42 USC 3755.

“(a) ALLOCATION AMONG STATES.—

“(1) IN GENERAL.—Of the total amount appropriated for this subpart, the Attorney General shall, except as provided in paragraph (2), allocate—

“(A) 50 percent of such remaining amount to each State in amounts that bear the same ratio of—

“(i) the total population of a State to—

“(ii) the total population of the United States; and

“(B) 50 percent of such remaining amount to each State in amounts that bear the same ratio of—

“(i) the average annual number of part 1 violent crimes of the Uniform Crime Reports of the Federal Bureau of Investigation reported by such State for the three most recent years reported by such State to—

“(ii) the average annual number of such crimes reported by all States for such years.

“(2) MINIMUM ALLOCATION.—If carrying out paragraph (1) would result in any State receiving an allocation less than 0.25 percent of the total amount (in this paragraph referred to as a ‘minimum allocation State’), then paragraph (1), as so carried out, shall not apply, and the Attorney General shall instead—

“(A) allocate 0.25 percent of the total amount to each State; and

“(B) using the amount remaining after carrying out subparagraph (A), carry out paragraph (1) in a manner that excludes each minimum allocation State, including the population of and the crimes reported by such State.

“(b) ALLOCATION BETWEEN STATES AND UNITS OF LOCAL GOVERNMENT.—Of the amounts allocated under subsection (a)—

“(1) 60 percent shall be for direct grants to States, to be allocated under subsection (c); and

“(2) 40 percent shall be for grants to be allocated under subsection (d).

“(c) ALLOCATION FOR STATE GOVERNMENTS.—

“(1) IN GENERAL.—Of the amounts allocated under subsection (b)(1), each State may retain for the purposes described in section 501 an amount that bears the same ratio of—

“(A) total expenditures on criminal justice by the State government in the most recently completed fiscal year to—

“(B) the total expenditure on criminal justice by the State government and units of local government within the State in such year.

“(2) REMAINING AMOUNTS.—Except as provided in subsection (e)(1), any amounts remaining after the allocation required by paragraph (1) shall be made available to units of local government by the State for the purposes described in section 501.

“(d) ALLOCATIONS TO LOCAL GOVERNMENTS.—

“(1) IN GENERAL.—Of the amounts allocated under subsection (b)(2), grants for the purposes described in section 501 shall be made directly to units of local government within each State in accordance with this subsection, subject to subsection (e).

“(2) ALLOCATION.—

“(A) IN GENERAL.—From the amounts referred to in paragraph (1) with respect to a State (in this subsection referred to as the ‘local amount’), the Attorney General shall allocate to each unit of local government an amount which bears the same ratio to such share as the average annual number of part 1 violent crimes reported by such unit to the Federal Bureau of Investigation for the 3 most recent calendar years for which such data is available bears to the number of part 1 violent crimes reported by all units of local government in the State in which the unit is located to the Federal Bureau of Investigation for such years.

“(B) TRANSITIONAL RULE.—Notwithstanding subparagraph (A), for fiscal years 2006, 2007, and 2008, the Attorney General shall allocate the local amount to units of local government in the same manner that, under the Local Government Law Enforcement Block Grants program in effect immediately before the date of the enactment of this section, the reserved amount was allocated among reporting and nonreporting units of local government.

“(3) ANNEXED UNITS.—If a unit of local government in the State has been annexed since the date of the collection of the data used by the Attorney General in making allocations pursuant to this section, the Attorney General shall pay the amount that would have been allocated to such unit of local government to the unit of local government that annexed it.

“(4) RESOLUTION OF DISPARATE ALLOCATIONS.—(A) Notwithstanding any other provision of this subpart, if—

“(i) the Attorney General certifies that a unit of local government bears more than 50 percent of the costs of prosecution or incarceration that arise with respect to part

Grants.

Certification.

1 violent crimes reported by a specified geographically constituent unit of local government; and

“(ii) but for this paragraph, the amount of funds allocated under this section to—

“(I) any one such specified geographically constituent unit of local government exceeds 150 percent of the amount allocated to the unit of local government certified pursuant to clause (i); or

“(II) more than one such specified geographically constituent unit of local government exceeds 400 percent of the amount allocated to the unit of local government certified pursuant to clause (i),

then in order to qualify for payment under this subsection, the unit of local government certified pursuant to clause (i), together with any such specified geographically constituent units of local government described in clause (ii), shall submit to the Attorney General a joint application for the aggregate of funds allocated to such units of local government. Such application shall specify the amount of such funds that are to be distributed to each of the units of local government and the purposes for which such funds are to be used. The units of local government involved may establish a joint local advisory board for the purposes of carrying out this paragraph.

“(B) In this paragraph, the term ‘geographically constituent unit of local government’ means a unit of local government that has jurisdiction over areas located within the boundaries of an area over which a unit of local government certified pursuant to clause (i) has jurisdiction.

“(e) LIMITATION ON ALLOCATIONS TO UNITS OF LOCAL GOVERNMENT.—

“(1) MAXIMUM ALLOCATION.—No unit of local government shall receive a total allocation under this section that exceeds such unit’s total expenditures on criminal justice services for the most recently completed fiscal year for which data are available. Any amount in excess of such total expenditures shall be allocated proportionally among units of local government whose allocations under this section do not exceed their total expenditures on such services.

“(2) ALLOCATIONS UNDER \$10,000.—If the allocation under this section to a unit of local government is less than \$10,000 for any fiscal year, the direct grant to the State under subsection (c) shall be increased by the amount of such allocation, to be distributed (for the purposes described in section 501) among State police departments that provide criminal justice services to units of local government and units of local government whose allocation under this section is less than \$10,000.

“(3) NON-REPORTING UNITS.—No allocation under this section shall be made to a unit of local government that has not reported at least three years of data on part 1 violent crimes of the Uniform Crime Reports to the Federal Bureau of Investigation within the immediately preceding 10 years.

“(f) FUNDS NOT USED BY THE STATE.—If the Attorney General determines, on the basis of information available during any grant period, that any allocation (or portion thereof) under this section to a State for such grant period will not be required, or that a State will be unable to qualify or receive funds under this subpart, or that a State chooses not to participate in the program established

under this subpart, then such State's allocation (or portion thereof) shall be awarded by the Attorney General to units of local government, or combinations thereof, within such State, giving priority to those jurisdictions with the highest annual number of part 1 violent crimes of the Uniform Crime Reports reported by the unit of local government to the Federal Bureau of Investigation for the three most recent calendar years for which such data are available.

“(g) SPECIAL RULES FOR PUERTO RICO.—

Grants.

“(1) ALL FUNDS SET ASIDE FOR COMMONWEALTH GOVERNMENT.—Notwithstanding any other provision of this subpart, the amounts allocated under subsection (a) to Puerto Rico, 100 percent shall be for direct grants to the Commonwealth government of Puerto Rico.

“(2) NO LOCAL ALLOCATIONS.—Subsections (c) and (d) shall not apply to Puerto Rico.

“(h) UNITS OF LOCAL GOVERNMENT IN LOUISIANA.—In carrying out this section with respect to the State of Louisiana, the term ‘unit of local government’ means a district attorney or a parish sheriff.

42 USC 3756.

“SEC. 506. RESERVED FUNDS.

“(a) Of the total amount made available to carry out this subpart for a fiscal year, the Attorney General shall reserve not more than—

“(1) \$20,000,000, for use by the National Institute of Justice in assisting units of local government to identify, select, develop, modernize, and purchase new technologies for use by law enforcement, of which \$1,000,000 shall be for use by the Bureau of Justice Statistics to collect data necessary for carrying out this subpart; and

“(2) \$20,000,000, to be granted by the Attorney General to States and units of local government to develop and implement antiterrorism training programs.

“(b) Of the total amount made available to carry out this subpart for a fiscal year, the Attorney General may reserve not more than 5 percent, to be granted to 1 or more States or units of local government, for 1 or more of the purposes specified in section 501, pursuant to his determination that the same is necessary—

“(1) to combat, address, or otherwise respond to precipitous or extraordinary increases in crime, or in a type or types of crime; or

“(2) to prevent, compensate for, or mitigate significant programmatic harm resulting from operation of the formula established under section 505.

42 USC 3757.

“SEC. 507. INTEREST-BEARING TRUST FUNDS.

“(a) TRUST FUND REQUIRED.—A State or unit of local government shall establish a trust fund in which to deposit amounts received under this subpart.

“(b) EXPENDITURES.—

“(1) IN GENERAL.—Each amount received under this subpart (including interest on such amount) shall be expended before the date on which the grant period expires.

Deadline.

“(2) REPAYMENT.—A State or unit of local government that fails to expend an entire amount (including interest on such

amount) as required by paragraph (1) shall repay the unexpended portion to the Attorney General not later than 3 months after the date on which the grant period expires.

“(3) REDUCTION OF FUTURE AMOUNTS.—If a State or unit of local government fails to comply with paragraphs (1) and (2), the Attorney General shall reduce amounts to be provided to that State or unit of local government accordingly.

“(c) REPAID AMOUNTS.—Amounts received as repayments under this section shall be subject to section 108 of this title as if such amounts had not been granted and repaid. Such amounts shall be deposited in the Treasury in a dedicated fund for use by the Attorney General to carry out this subpart. Such funds are hereby made available to carry out this subpart.

“SEC. 508. AUTHORIZATION OF APPROPRIATIONS.

42 USC 3758.

“There is authorized to be appropriated to carry out this subpart \$1,095,000,000 for fiscal year 2006 and such sums as may be necessary for each of fiscal years 2007 through 2009.”

(b) REPEALS OF CERTAIN AUTHORITIES RELATING TO BYRNE GRANTS.—

(1) DISCRETIONARY GRANTS TO PUBLIC AND PRIVATE ENTITIES.—Chapter A of subpart 2 of Part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3760–3762) is repealed.

(2) TARGETED GRANTS TO CURB MOTOR VEHICLE THEFT.—Subtitle B of title I of the Anti Car Theft Act of 1992 (42 U.S.C. 3750a–3750d) is repealed.

(c) CONFORMING AMENDMENTS.—

(1) CRIME IDENTIFICATION TECHNOLOGY ACT.—Subsection (c)(2)(G) of section 102 of the Crime Identification Technology Act of 1998 (42 U.S.C. 14601) is amended by striking “such as” and all that follows through “the M.O.R.E. program” and inserting “such as the Edward Byrne Justice Assistance Grant Program and the M.O.R.E. program”.

(2) SAFE STREETS ACT.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(A) in section 517 (42 U.S.C. 3763), in subsection (a)(1), by striking “pursuant to section 511 or 515” and inserting “pursuant to section 515”;

(B) in section 520 (42 U.S.C. 3766)—

(i) in subsection (a)(1), by striking “the program evaluations as required by section 501(c) of this part” and inserting “program evaluations”;

(ii) in subsection (a)(2), by striking “evaluations of programs funded under section 506 (formula grants) and sections 511 and 515 (discretionary grants) of this part” and inserting “evaluations of programs funded under section 505 (formula grants) and section 515 (discretionary grants) of this part”; and

(iii) in subsection (b)(2), by striking “programs funded under section 506 (formula grants) and section 511 (discretionary grants)” and inserting “programs funded under section 505 (formula grants)”;

(C) in section 522 (42 U.S.C. 3766b)—

(i) in subsection (a), in the matter preceding paragraph (1), by striking “section 506” and inserting “section 505”; and

(ii) in subsection (a)(1), by striking “an assessment of the impact of such activities on meeting the needs identified in the State strategy submitted under section 503” and inserting “an assessment of the impact of such activities on meeting the purposes of subpart 1”;

(D) in section 801(b) (42 U.S.C. 3782(b)), in the matter following paragraph (5)—

(i) by striking “the purposes of section 501 of this title” and inserting “the purposes of such subpart 1”; and

Reports.

(ii) by striking “the application submitted pursuant to section 503 of this title.” and inserting “the application submitted pursuant to section 502 of this title. Such report shall include details identifying each applicant that used any funds to purchase any cruiser, boat, or helicopter and, with respect to such applicant, specifying both the amount of funds used by such applicant for each purchase of any cruiser, boat, or helicopter and a justification of each such purchase (and the Bureau of Justice Assistance shall submit to the Committee of the Judiciary of the House of Representatives and the Committee of the Judiciary of the Senate, promptly after preparation of such report a written copy of the portion of such report containing the information required by this sentence).”;

(E) in section 808 (42 U.S.C. 3789), by striking “the State office described in section 507 or 1408” and inserting “the State office responsible for the trust fund required by section 507, or the State office described in section 1408,”;

(F) in section 901 (42 U.S.C. 3791), in subsection (a)(2), by striking “for the purposes of section 506(a)” and inserting “for the purposes of section 505(a)”;

(G) in section 1502 (42 U.S.C. 3796bb–1)—

(i) in paragraph (1), by striking “section 506(a)” and inserting “section 505(a)”;

(ii) in paragraph (2)—

(I) by striking “section 503(a)” and inserting “section 502”; and

(II) by striking “section 506” and inserting “section 505”;

(H) in section 1602 (42 U.S.C. 3796cc–1), in subsection (b), by striking “The office designated under section 507 of title I” and inserting “The office responsible for the trust fund required by section 507”;

(I) in section 1702 (42 U.S.C. 3796dd–1), in subsection (c)(1), by striking “and reflects consideration of the state-wide strategy under section 503(a)(1)”;

(J) in section 1902 (42 U.S.C. 3796ff–1), in subsection (e), by striking “The Office designated under section 507” and inserting “The office responsible for the trust fund required by section 507”.

42 USC 3750
note.

(d) **APPLICABILITY.**—The amendments made by this section shall apply with respect to the first fiscal year beginning after the date of the enactment of this Act and each fiscal year thereafter.

**SEC. 1112. CLARIFICATION OF NUMBER OF RECIPIENTS WHO MAY BE
SELECTED IN A GIVEN YEAR TO RECEIVE PUBLIC SAFETY
OFFICER MEDAL OF VALOR.**

Section 3(c) of the Public Safety Officer Medal of Valor Act of 2001 (42 U.S.C. 15202(c)) is amended by striking “more than 5 recipients” and inserting “more than 5 individuals, or groups of individuals, as recipients”.

**SEC. 1113. CLARIFICATION OF OFFICIAL TO BE CONSULTED BY
ATTORNEY GENERAL IN CONSIDERING APPLICATION
FOR EMERGENCY FEDERAL LAW ENFORCEMENT ASSIST-
ANCE.**

Section 609M(b) of the Justice Assistance Act of 1984 (42 U.S.C. 10501(b)) is amended by striking “the Director of the Office of Justice Assistance” and inserting “the Assistant Attorney General for the Office of Justice Programs”.

**SEC. 1114. CLARIFICATION OF USES FOR REGIONAL INFORMATION
SHARING SYSTEM GRANTS.**

Section 1301(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796h(b)), as most recently amended by section 701 of the USA PATRIOT Act (Public Law 107–56; 115 Stat. 374), is amended—

(1) in paragraph (1), by inserting “regional” before “information sharing systems”;

(2) by amending paragraph (3) to read as follows:

“(3) establishing and maintaining a secure telecommunications system for regional information sharing between Federal, State, tribal, and local law enforcement agencies;”;

(3) by striking “(5)” at the end of paragraph (4).

**SEC. 1115. INTEGRITY AND ENHANCEMENT OF NATIONAL CRIMINAL
RECORD DATABASES.**

(a) DUTIES OF DIRECTOR.—Section 302 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3732) is amended—

(1) in subsection (b), by inserting after the third sentence the following new sentence: “The Director shall be responsible for the integrity of data and statistics and shall protect against improper or illegal use or disclosure.”;

(2) by amending paragraph (19) of subsection (c) to read as follows:

“(19) provide for improvements in the accuracy, quality, timeliness, immediate accessibility, and integration of State criminal history and related records, support the development and enhancement of national systems of criminal history and related records including the National Instant Criminal Background Check System, the National Incident-Based Reporting System, and the records of the National Crime Information Center, facilitate State participation in national records and information systems, and support statistical research for critical analysis of the improvement and utilization of criminal history records;”;

(3) in subsection (d)—

(A) by striking “and” at the end of paragraph (4);

(B) by striking the period at the end of paragraph

(5) and inserting “; and”;

(C) by adding at the end the following:

“(6) confer and cooperate with Federal statistical agencies as needed to carry out the purposes of this part, including by entering into cooperative data sharing agreements in conformity with all laws and regulations applicable to the disclosure and use of data.”.

(b) **USE OF DATA.**—Section 304 of such Act (42 U.S.C. 3735) is amended by striking “particular individual” and inserting “private person or public agency”.

(c) **CONFIDENTIALITY OF INFORMATION.**—Section 812(a) of such Act (42 U.S.C. 3789g(a)) is amended by striking “Except as provided by Federal law other than this title, no” and inserting “No”.

SEC. 1116. EXTENSION OF MATCHING GRANT PROGRAM FOR LAW ENFORCEMENT ARMOR VESTS.

Section 1001(a)(23) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(23)) is amended by striking “2007” and inserting “2009”.

CHAPTER 2—BUILDING COMMUNITY CAPACITY TO PREVENT, REDUCE, AND CONTROL CRIME

SEC. 1121. OFFICE OF WEED AND SEED STRATEGIES.

(a) **IN GENERAL.**—Part A of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by inserting after section 102 (42 U.S.C. 3712) the following new sections:

42 USC 3712a.

“SEC. 103. OFFICE OF WEED AND SEED STRATEGIES.

“(a) **ESTABLISHMENT.**—There is established within the Office an Office of Weed and Seed Strategies, headed by a Director appointed by the Attorney General.

“(b) **ASSISTANCE.**—The Director may assist States, units of local government, and neighborhood and community-based organizations in developing Weed and Seed strategies, as provided in section 104.

“(c) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this section \$60,000,000 for fiscal year 2006, and such sums as may be necessary for each of fiscal years 2007, 2008, and 2009, to remain available until expended.

42 USC 3712b.

“SEC. 104. WEED AND SEED STRATEGIES.

“(a) **IN GENERAL.**—From amounts made available under section 103(c), the Director of the Office of Weed and Seed Strategies may implement strategies, to be known as Weed and Seed strategies, to prevent, control, and reduce violent crime, criminal drug-related activity, and gang activity in designated Weed-and-Seed communities. Each such strategy shall involve both of the following activities:

“(1) **WEEDING.**—Activities, to be known as Weeding activities, which shall include promoting and coordinating a broad spectrum of community efforts (especially those of law enforcement agencies and prosecutors) to arrest, and to sanction or incarcerate, persons in that community who participate or engage in violent crime, criminal drug-related activity, and other crimes that threaten the quality of life in that community.

“(2) **SEEDING.**—Activities, to be known as Seeding activities, which shall include promoting and coordinating a broad spectrum of community efforts (such as drug abuse education, mentoring, and employment counseling) to provide—

“(A) human services, relating to prevention, intervention, or treatment, for at-risk individuals and families; and

“(B) community revitalization efforts, including enforcement of building codes and development of the economy.

“(b) GUIDELINES.—The Director shall issue guidelines for the development and implementation of Weed and Seed strategies under this section. The guidelines shall ensure that the Weed and Seed strategy for a community referred to in subsection (a) shall—

“(1) be planned and implemented through and under the auspices of a steering committee, properly established in the community, comprised of—

“(A) in a voting capacity, representatives of—

“(i) appropriate law enforcement agencies; and

“(ii) other public and private agencies, and neighborhood and community-based organizations, interested in criminal justice and community-based development and revitalization in the community; and

“(B) in a voting capacity, both—

“(i) the Drug Enforcement Administration’s special agent in charge for the jurisdiction encompassing the community; and

“(ii) the United States Attorney for the District encompassing the community;

“(2) describe how law enforcement agencies, other public and private agencies, neighborhood and community-based organizations, and interested citizens are to cooperate in implementing the strategy; and

“(3) incorporate a community-policing component that shall serve as a bridge between the Weeding activities under subsection (a)(1) and the Seeding activities under subsection (a)(2).

“(c) DESIGNATION.—For a community to be designated as a Weed-and-Seed community for purposes of subsection (a)—

“(1) the United States Attorney for the District encompassing the community must certify to the Director that—

“(A) the community suffers from consistently high levels of crime or otherwise is appropriate for such designation;

“(B) the Weed and Seed strategy proposed, adopted, or implemented by the steering committee has a high probability of improving the criminal justice system within the community and contains all the elements required by the Director; and

“(C) the steering committee is capable of implementing the strategy appropriately; and

“(2) the community must agree to formulate a timely and effective plan to independently sustain the strategy (or, at a minimum, a majority of the best practices of the strategy) when assistance under this section is no longer available.

“(d) APPLICATION.—An application for designation as a Weed-and-Seed community for purposes of subsection (a) shall be submitted to the Director by the steering committee of the community in such form, and containing such information and assurances, as the Director may require. The application shall propose—

“(1) a sustainable Weed and Seed strategy that includes—

“(A) the active involvement of the United States Attorney for the District encompassing the community, the Drug Enforcement Administration’s special agent in charge for the jurisdiction encompassing the community, and other Federal law enforcement agencies operating in the vicinity;

“(B) a significant community-oriented policing component; and

“(C) demonstrated coordination with complementary neighborhood and community-based programs and initiatives; and

“(2) a methodology with outcome measures and specific objective indicia of performance to be used to evaluate the effectiveness of the strategy.

“(e) GRANTS.—

“(1) IN GENERAL.—In implementing a strategy for a community under subsection (a), the Director may make grants to that community.

“(2) USES.—For each grant under this subsection, the community receiving that grant may not use any of the grant amounts for construction, except that the Assistant Attorney General may authorize use of grant amounts for incidental or minor construction, renovation, or remodeling.

“(3) LIMITATIONS.—A community may not receive grants under this subsection (or fall within such a community)—

“(A) for a period of more than 10 fiscal years;

“(B) for more than 5 separate fiscal years, except that the Assistant Attorney General may, in single increments and only upon a showing of extraordinary circumstances, authorize grants for not more than 3 additional separate fiscal years; or

“(C) in an aggregate amount of more than \$1,000,000, except that the Assistant Attorney General may, upon a showing of extraordinary circumstances, authorize grants for not more than an additional \$500,000.

“(4) DISTRIBUTION.—In making grants under this subsection, the Director shall ensure that—

“(A) to the extent practicable, the distribution of such grants is geographically equitable and includes both urban and rural areas of varying population and area; and

“(B) priority is given to communities that clearly and effectively coordinate crime prevention programs with other Federal programs in a manner that addresses the overall needs of such communities.

“(5) FEDERAL SHARE.—(A) Subject to subparagraph (B), the Federal share of a grant under this subsection may not exceed 75 percent of the total costs of the projects described in the application for which the grant was made.

“(B) The requirement of subparagraph (A)—

“(i) may be satisfied in cash or in kind; and

“(ii) may be waived by the Assistant Attorney General upon a determination that the financial circumstances affecting the applicant warrant a finding that such a waiver is equitable.

“(6) SUPPLEMENT, NOT SUPPLANT.—To receive a grant under this subsection, the applicant must provide assurances that the amounts received under the grant shall be used to supplement, not supplant, non-Federal funds that would otherwise

be available for programs or services provided in the community.

“SEC. 105. INCLUSION OF INDIAN TRIBES.

42 USC 3712c.

“For purposes of sections 103 and 104, the term ‘State’ includes an Indian tribal government.”.

(b) ABOLISHMENT OF EXECUTIVE OFFICE OF WEED AND SEED; TRANSFERS OF FUNCTIONS.—

42 USC 3712a note.

(1) **ABOLISHMENT.**—The Executive Office of Weed and Seed is abolished.

(2) **TRANSFER.**—There are hereby transferred to the Office of Weed and Seed Strategies all functions and activities performed immediately before the date of the enactment of this Act by the Executive Office of Weed and Seed Strategies.

(c) **EFFECTIVE DATE.**—This section and the amendments made by this section take effect 90 days after the date of the enactment of this Act.

42 USC 3712a note.

CHAPTER 3—ASSISTING VICTIMS OF CRIME

SEC. 1131. GRANTS TO LOCAL NONPROFIT ORGANIZATIONS TO IMPROVE OUTREACH SERVICES TO VICTIMS OF CRIME.

Section 1404(c) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(c)), as most recently amended by section 623 of the USA PATRIOT Act (Public Law 107–56; 115 Stat. 372), is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by striking the comma after “Director”;

(B) in subparagraph (A), by striking “and” at the end;

(C) in subparagraph (B), by striking the period at the end and inserting “; and”; and

(D) by adding at the end the following new subparagraph:

“(C) for nonprofit neighborhood and community-based victim service organizations and coalitions to improve outreach and services to victims of crime.”;

(2) in paragraph (2)—

(A) in subparagraph (A)—

(i) by striking “paragraph (1)(A)” and inserting “paragraphs (1)(A) and (1)(C)”; and

(ii) by striking “and” at the end;

(B) in subparagraph (B), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following new subparagraph:

“(C) not more than \$10,000 shall be used for any single grant under paragraph (1)(C).”.

SEC. 1132. CLARIFICATION AND ENHANCEMENT OF CERTAIN AUTHORITIES RELATING TO CRIME VICTIMS FUND.

Section 1402 of the Victims of Crime Act of 1984 (42 U.S.C. 10601) is amended as follows:

(1) **AUTHORITY TO ACCEPT GIFTS.**—Subsection (b)(5) of such section is amended by striking the period at the end and inserting the following: “; which the Director is hereby authorized to accept for deposit into the Fund, except that the Director is not hereby authorized to accept any such gift, bequest, or donation that—

“(A) attaches conditions inconsistent with applicable laws or regulations; or

“(B) is conditioned upon or would require the expenditure of appropriated funds that are not available to the Office for Victims of Crime.”.

(2) **AUTHORITY TO REPLENISH ANTITERRORISM EMERGENCY RESERVE.**—Subsection (d)(5)(A) of such section is amended by striking “expended” and inserting “obligated”.

(3) **AUTHORITY TO MAKE GRANTS TO INDIAN TRIBES FOR VICTIM ASSISTANCE PROGRAMS.**—Subsection (g) of such section is amended—

(A) in paragraph (1), by striking “, acting through the Director,”;

(B) by redesignating paragraph (2) as paragraph (3); and

(C) by inserting after paragraph (1) the following new paragraph:

“(2) The Attorney General may use 5 percent of the funds available under subsection (d)(2) (prior to distribution) for grants to Indian tribes to establish child victim assistance programs, as appropriate.”.

SEC. 1133. AMOUNTS RECEIVED UNDER CRIME VICTIM GRANTS MAY BE USED BY STATE FOR TRAINING PURPOSES.

(a) **CRIME VICTIM COMPENSATION.**—Section 1403(a)(3) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(a)(3)) is amended by inserting after “may be used for” the following: “training purposes and”.

(b) **CRIME VICTIM ASSISTANCE.**—Section 1404(b)(3) of such Act (42 U.S.C. 10603(b)(3)) is amended by inserting after “may be used for” the following: “training purposes and”.

SEC. 1134. CLARIFICATION OF AUTHORITIES RELATING TO VIOLENCE AGAINST WOMEN FORMULA AND DISCRETIONARY GRANT PROGRAMS.

(a) **CLARIFICATION OF STATE GRANTS.**—Section 2007 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg–1) is amended—

(1) in subsection (c)(3)(A), by striking “police” and inserting “law enforcement”; and

(2) in subsection (d)—

(A) in the second sentence, by inserting after “each application” the following: “submitted by a State”; and

(B) in the third sentence, by striking “An application” and inserting “In addition, each application submitted by a State or tribal government”.

(b) **CHANGE FROM ANNUAL TO BIENNIAL REPORTING.**—Section 2009(b) of such Act (42 U.S.C. 3796gg–3) is amended by striking “Not later than” and all that follows through “the Attorney General shall submit” and inserting the following: “Not later than one month after the end of each even-numbered fiscal year, the Attorney General shall submit”.

SEC. 1135. CHANGE OF CERTAIN REPORTS FROM ANNUAL TO BIENNIAL.

(a) **STALKING AND DOMESTIC VIOLENCE.**—Section 40610 of the Violence Against Women Act of 1994 (title IV of the Violent Crime Control and Law Enforcement Act of 1994; 42 U.S.C. 14039) is

amended by striking “The Attorney General shall submit to the Congress an annual report, beginning one year after the date of the enactment of this Act, that provides” and inserting “Each even-numbered fiscal year, the Attorney General shall submit to the Congress a biennial report that provides”.

(b) **SAFE HAVENS FOR CHILDREN.**—Subsection 1301(d)(1) of the Victims of Trafficking and Violence Protection Act of 2000 (42 U.S.C. 10420(d)(1)) is amended in the matter preceding subparagraph (A) by striking “Not later than 1 year after the last day of the first fiscal year commencing on or after the date of enactment of this Act, and not later than 180 days after the last day of each fiscal year thereafter,” and inserting “Not later than 1 month after the end of each even-numbered fiscal year,”.

(c) **STOP VIOLENCE AGAINST WOMEN FORMULA GRANTS.**—Subsection 2009(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg–3), is amended by striking “Not later than” and all that follows through “the Attorney General shall submit” and inserting the following: “Not later than 1 month after the end of each even-numbered fiscal year, the Attorney General shall submit”.

(d) **GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN ON CAMPUS.**—Subsection 826(d)(3) of the Higher Education Amendments Act of 1998 (20 U.S.C. 1152 (d)(3)) is amended by striking from “Not” through and including “under this section” and inserting “Not later than 1 month after the end of each even-numbered fiscal year”.

(e) **TRANSITIONAL HOUSING ASSISTANCE GRANTS FOR CHILD VICTIMS OF DOMESTIC VIOLENCE, STALKING, OR SEXUAL ASSAULT.**—Subsection 40299(f) of the Violence Against Women Act of 1994 (42 U.S.C. 13975(f)) is amended by striking “shall annually prepare and submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a report that contains a compilation of the information contained in the report submitted under subsection (e) of this section.” and inserting “shall prepare and submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a report that contains a compilation of the information contained in the report submitted under subsection (e) of this section not later than one month after the end of each even-numbered fiscal year.”.

SEC. 1136. GRANTS FOR YOUNG WITNESS ASSISTANCE.

42 USC 3743.

(a) **IN GENERAL.**—The Attorney General, acting through the Bureau of Justice Assistance, may make grants to State and local prosecutors and law enforcement agencies in support of juvenile and young adult witness assistance programs.

(b) **USE OF FUNDS.**—Grants made available under this section may be used—

- (1) to assess the needs of juvenile and young adult witnesses;
- (2) to develop appropriate program goals and objectives; and
- (3) to develop and administer a variety of witness assistance services, which includes—

(A) counseling services to young witnesses dealing with trauma associated in witnessing a violent crime;

(B) pre- and post-trial assistance for the youth and their family;

(C) providing education services if the child is removed from or changes their school for safety concerns;

(D) protective services for young witnesses and their families when a serious threat of harm from the perpetrators or their associates is made; and

(E) community outreach and school-based initiatives that stimulate and maintain public awareness and support.

(c) DEFINITIONS.—In this section:

(1) The term “juvenile” means an individual who is age 17 or younger.

(2) The term “young adult” means an individual who is age 21 or younger but not a juvenile.

(3) The term “State” includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$3,000,000 for each of fiscal years 2006 through 2009.

CHAPTER 4—PREVENTING CRIME

SEC. 1141. CLARIFICATION OF DEFINITION OF VIOLENT OFFENDER FOR PURPOSES OF JUVENILE DRUG COURTS.

Section 2953(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797u–2(b)) is amended in the matter preceding paragraph (1) by striking “an offense that” and inserting “a felony-level offense that”.

SEC. 1142. CHANGES TO DISTRIBUTION AND ALLOCATION OF GRANTS FOR DRUG COURTS.

(a) MINIMUM ALLOCATION REPEALED.—Section 2957 of such Act (42 U.S.C. 3797u–6) is amended by striking subsection (b) and inserting the following:

“(b) TECHNICAL ASSISTANCE AND TRAINING.—Unless one or more applications submitted by any State or unit of local government within such State (other than an Indian tribe) for a grant under this part has been funded in any fiscal year, such State, together with eligible applicants within such State, shall be provided targeted technical assistance and training by the Community Capacity Development Office to assist such State and such eligible applicants to successfully compete for future funding under this part, and to strengthen existing State drug court systems. In providing such technical assistance and training, the Community Capacity Development Office shall consider and respond to the unique needs of rural States, rural areas and rural communities.”.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(25)(A) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(25)(A)) is amended by adding at the end the following:

“(v) \$70,000,000 for each of fiscal years 2007 and 2008.”.

SEC. 1143. ELIGIBILITY FOR GRANTS UNDER DRUG COURT GRANTS PROGRAM EXTENDED TO COURTS THAT SUPERVISE NON-OFFENDERS WITH SUBSTANCE ABUSE PROBLEMS.

Section 2951(a)(1) of such Act (42 U.S.C. 3797u(a)(1)) is amended by striking “offenders with substance abuse problems” and inserting “offenders, and other individuals under the jurisdiction of the court, with substance abuse problems”.

SEC. 1144. TERM OF RESIDENTIAL SUBSTANCE ABUSE TREATMENT PROGRAM FOR LOCAL FACILITIES.

Section 1904 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796ff-3) is amended by adding at the end the following new subsection:

“(d) DEFINITION.—In this section, the term ‘residential substance abuse treatment program’ means a course of individual and group activities, lasting between 6 and 12 months, in residential treatment facilities set apart from the general prison population—

“(1) directed at the substance abuse problems of the prisoners;

“(2) intended to develop the prisoner’s cognitive, behavioral, social, vocational and other skills so as to solve the prisoner’s substance abuse and other problems; and

“(3) which may include the use of pharmacotherapies, where appropriate, that may extend beyond the treatment period.”.

SEC. 1145. ENHANCED RESIDENTIAL SUBSTANCE ABUSE TREATMENT PROGRAM FOR STATE PRISONERS.

(a) ENHANCED DRUG SCREENINGS REQUIREMENT.—Subsection (b) of section 1902 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796ff-1(b)) is amended to read as follows:

“(b) SUBSTANCE ABUSE TESTING REQUIREMENT.—To be eligible to receive funds under this part, a State must agree to implement or continue to require urinalysis or other proven reliable forms of testing, including both periodic and random testing—

“(1) of an individual before the individual enters a residential substance abuse treatment program and during the period in which the individual participates in the treatment program; and

“(2) of an individual released from a residential substance abuse treatment program if the individual remains in the custody of the State.”.

(b) AFTERCARE SERVICES REQUIREMENT.—Subsection (c) of such section is amended—

(1) in the matter preceding paragraph (1), by striking “ELIGIBILITY FOR PREFERENCE WITH AFTER CARE COMPONENT” and inserting “AFTERCARE SERVICES REQUIREMENT”; and

(2) by amending paragraph (1) to read as follows:

“(1) To be eligible for funding under this part, a State shall ensure that individuals who participate in the substance abuse treatment program established or implemented with assistance provided under this part will be provided with after care services.”; and

(3) by adding at the end the following new paragraph:

“(4) After care services required by this subsection shall be funded through funds provided for this part.”.

(c) **PRIORITY FOR PARTNERSHIPS WITH COMMUNITY-BASED DRUG TREATMENT PROGRAMS.**—Section 1903 of such Act (42 U.S.C. 3796ff–2) is amended by adding at the end the following new subsection:

“(e) **PRIORITY FOR PARTNERSHIPS WITH COMMUNITY-BASED DRUG TREATMENT PROGRAMS.**—In considering an application submitted by a State under section 1902, the Attorney General shall give priority to an application that involves a partnership between the State and a community-based drug treatment program within the State.”.

SEC. 1146. RESIDENTIAL SUBSTANCE ABUSE TREATMENT PROGRAM FOR FEDERAL FACILITIES.

Section 3621(e) of title 18, United States Code, is amended—

(1) by striking paragraph (4) and inserting the following:

“(4) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to carry out this subsection such sums as may be necessary for each of fiscal years 2007 through 2011.”; and

(2) in paragraph (5)(A)—

(A) in clause (i) by striking “and” after the semicolon;

(B) in clause (ii) by inserting “and” after the semicolon;

and

(C) by adding at the end the following:

“(iii) which may include the use of pharmacotherapies, if appropriate, that may extend beyond the treatment period.”.

CHAPTER 5—OTHER MATTERS

SEC. 1151. CHANGES TO CERTAIN FINANCIAL AUTHORITIES.

(a) **CERTAIN PROGRAMS THAT ARE EXEMPT FROM PAYING STATES INTEREST ON LATE DISBURSEMENTS ALSO EXEMPTED FROM PAYING CHARGE TO TREASURY FOR UNTIMELY DISBURSEMENTS.**—Section 204(f) of Public Law 107–273 (116 Stat. 1776; 31 U.S.C. 6503 note) is amended—

(1) by striking “section 6503(d)” and inserting “sections 3335(b) or 6503(d)”; and

(2) by striking “section 6503” and inserting “sections 3335(b) or 6503”.

(b) **SOUTHWEST BORDER PROSECUTOR INITIATIVE INCLUDED AMONG SUCH EXEMPTED PROGRAMS.**—Section 204(f) of such Act is further amended by striking “pursuant to section 501(a)” and inserting “pursuant to the Southwest Border Prosecutor Initiative (as carried out pursuant to paragraph (3) (117 Stat. 64) under the heading relating to Community Oriented Policing Services of the Department of Justice Appropriations Act, 2003 (title I of division B of Public Law 108–7), or as carried out pursuant to any subsequent authority) or section 501(a)”.

(c) **ATFE UNDERCOVER INVESTIGATIVE OPERATIONS.**—Section 102(b) of the Department of Justice and Related Agencies Appropriations Act, 1993, as in effect pursuant to section 815(d) of the Antiterrorism and Effective Death Penalty Act of 1996 shall apply with respect to the Bureau of Alcohol, Tobacco, Firearms, and Explosives and the undercover investigative operations of the Bureau on the same basis as such section applies with respect to any other agency and the undercover investigative operations of such agency.

Applicability.
28 USC 533 note.

SEC. 1152. COORDINATION DUTIES OF ASSISTANT ATTORNEY GENERAL.

(a) COORDINATE AND SUPPORT OFFICE FOR VICTIMS OF CRIME.—Section 102 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3712) is amended in subsection (a)(5) by inserting after “the Bureau of Justice Statistics,” the following: “the Office for Victims of Crime,”.

(b) SETTING GRANT CONDITIONS AND PRIORITIES.—Such section is further amended in subsection (a)(6) by inserting “, including placing special conditions on all grants, and determining priority purposes for formula grants” before the period at the end.

SEC. 1153. SIMPLIFICATION OF COMPLIANCE DEADLINES UNDER SEX-OFFENDER REGISTRATION LAWS.

(a) COMPLIANCE PERIOD.—A State shall not be treated, for purposes of any provision of law, as having failed to comply with section 170101 (42 U.S.C. 14071) or 170102 (42 U.S.C. 14072) of the Violent Crime Control and Law Enforcement Act of 1994 until 36 months after the date of the enactment of this Act, except that the Attorney General may grant an additional 24 months to a State that is making good faith efforts to comply with such sections.

42 USC 14071
note.

(b) TIME FOR REGISTRATION OF CURRENT ADDRESS.—Subsection (a)(1)(B) of such section 170101 is amended by striking “unless such requirement is terminated under” and inserting “for the time period specified in”.

SEC. 1154. REPEAL OF CERTAIN PROGRAMS.

(a) SAFE STREETS ACT PROGRAM.—The Criminal Justice Facility Construction Pilot program (part F; 42 U.S.C. 3769–3769d) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is repealed.

(b) VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT PROGRAMS.—The following provisions of the Violent Crime Control and Law Enforcement Act of 1994 are repealed:

(1) LOCAL CRIME PREVENTION BLOCK GRANT PROGRAM.—Subtitle B of title III (42 U.S.C. 13751–13758).

(2) ASSISTANCE FOR DELINQUENT AND AT-RISK YOUTH.—Subtitle G of title III (42 U.S.C. 13801–13802).

(3) IMPROVED TRAINING AND TECHNICAL AUTOMATION.—Subtitle E of title XXI (42 U.S.C. 14151).

(4) OTHER STATE AND LOCAL AID.—Subtitle F of title XXI (42 U.S.C. 14161).

18 USC 922 note.

SEC. 1155. ELIMINATION OF CERTAIN NOTICE AND HEARING REQUIREMENTS.

Part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended as follows:

(1) NOTICE AND HEARING ON DENIAL OR TERMINATION OF GRANT.—Section 802 (42 U.S.C. 3783) of such part is amended—

(A) by striking subsections (b) and (c); and

(B) by striking “(a)” before “Whenever,”.

(2) FINALITY OF DETERMINATIONS.—Section 803 (42 U.S.C. 3784) of such part is amended—

(A) by striking “, after reasonable notice and opportunity for a hearing,”; and

(B) by striking “, except as otherwise provided herein”.

(3) REPEAL OF APPELLATE COURT REVIEW.—Section 804 (42 U.S.C. 3785) of such part is repealed.

SEC. 1156. AMENDED DEFINITIONS FOR PURPOSES OF OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968.

Section 901 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791) is amended as follows:

(1) INDIAN TRIBE.—Subsection (a)(3)(C) of such section is amended by striking “(as that term is defined in section 103 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603))”.

(2) COMBINATION.—Subsection (a)(5) of such section is amended by striking “program or project” and inserting “program, plan, or project”.

(3) NEIGHBORHOOD OR COMMUNITY-BASED ORGANIZATIONS.—Subsection (a)(11) of such section is amended by striking “which” and inserting “, including faith-based, that”.

(4) INDIAN TRIBE; PRIVATE PERSON.—Subsection (a) of such section is further amended—

(A) in paragraph (24) by striking “and” at the end;

(B) in paragraph (25) by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following new paragraphs:

“(26) the term ‘Indian Tribe’ has the meaning given the term ‘Indian tribe’ in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)); and

“(27) the term ‘private person’ means any individual (including an individual acting in his official capacity) and any private partnership, corporation, association, organization, or entity (or any combination thereof).”.

SEC. 1157. CLARIFICATION OF AUTHORITY TO PAY SUBSISTENCE PAYMENTS TO PRISONERS FOR HEALTH CARE ITEMS AND SERVICES.

Section 4006 of title 18, United States Code, is amended—

(1) in subsection (a) by inserting after “The Attorney General” the following: “or the Secretary of Homeland Security, as applicable,”; and

(2) in subsection (b)(1)—

(A) by striking “the Immigration and Naturalization Service” and inserting “the Department of Homeland Security”;

(B) by striking “shall not exceed the lesser of the amount” and inserting “shall be the amount billed, not to exceed the amount”;

(C) by striking “items and services” and all that follows through “the Medicare program” and inserting “items and services under the Medicare program”; and

(D) by striking “; or” and all that follows through the period at the end and inserting a period.

SEC. 1158. OFFICE OF AUDIT, ASSESSMENT, AND MANAGEMENT.

(a) IN GENERAL.—Part A of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding after section 104, as added by section 211 of this Act, the following new section:

“SEC. 105. OFFICE OF AUDIT, ASSESSMENT, AND MANAGEMENT.

“(a) ESTABLISHMENT.—

“(1) IN GENERAL.—There is established within the Office an Office of Audit, Assessment, and Management, headed by a Director appointed by the Attorney General. In carrying out the functions of the Office, the Director shall be subject to the authority, direction, and control of the Attorney General. Such authority, direction, and control may be delegated only to the Assistant Attorney General, without redelegation.

“(2) PURPOSE.—The purpose of the Office shall be to carry out and coordinate program assessments of, take actions to ensure compliance with the terms of, and manage information with respect to, grants under programs covered by subsection (b). The Director shall take special conditions of the grant into account and consult with the office that issued those conditions to ensure appropriate compliance.

“(3) EXCLUSIVITY.—The Office shall be the exclusive element of the Department of Justice, other than the Inspector General, performing functions and activities for the purpose specified in paragraph (2). There are hereby transferred to the Office all functions and activities, other than functions and activities of the Inspector General, for such purpose performed immediately before the date of the enactment of this Act by any other element of the Department.

Government
organization.

“(b) COVERED PROGRAMS.—The programs referred to in subsection (a) are the following:

“(1) The program under part Q of this title.

“(2) Any grant program carried out by the Office of Justice Programs.

“(3) Any other grant program carried out by the Department of Justice that the Attorney General considers appropriate.

“(c) PROGRAM ASSESSMENTS REQUIRED.—

“(1) IN GENERAL.—The Director shall select grants awarded under the programs covered by subsection (b) and carry out program assessments on such grants. In selecting such grants, the Director shall ensure that the aggregate amount awarded under the grants so selected represent not less than 10 percent of the aggregate amount of money awarded under all such grant programs.

Grants.

“(2) RELATIONSHIP TO NIJ EVALUATIONS.—This subsection does not affect the authority or duty of the Director of the National Institute of Justice to carry out overall evaluations of programs covered by subsection (b), except that such Director shall consult with the Director of the Office in carrying out such evaluations.

“(3) TIMING OF PROGRAM ASSESSMENTS.—The program assessment required by paragraph (1) of a grant selected under paragraph (1) shall be carried out—

“(A) not later than the end of the grant period, if the grant period is not more than 1 year; and

“(B) at the end of each year of the grant period, if the grant period is more than 1 year.

“(d) COMPLIANCE ACTIONS REQUIRED.—The Director shall take such actions to ensure compliance with the terms of a grant as the Director considers appropriate with respect to each grant that the Director determines (in consultation with the head of the element of the Department of Justice concerned), through a program

assessment under subsection (a) or other means, is not in compliance with such terms. In the case of a misuse of more than 1 percent of the grant amount concerned, the Director shall, in addition to any other action to ensure compliance that the Director considers appropriate, ensure that the entity responsible for such misuse ceases to receive any funds under any program covered by subsection (b) until such entity repays to the Attorney General an amount equal to the amounts misused. The Director may, in unusual circumstances, grant relief from this requirement to ensure that an innocent party is not punished.

Establishment.

“(e) GRANT MANAGEMENT SYSTEM.—The Director shall establish and maintain, in consultation with the chief information officer of the Office, a modern, automated system for managing all information relating to the grants made under the programs covered by subsection (b).

“(f) AVAILABILITY OF FUNDS.—Not to exceed 3 percent of all funding made available for a fiscal year for the programs covered by subsection (b) shall be reserved for the Office of Audit, Assessment and Management for the activities authorized by this section.”.

42 USC 3712d
note.

(b) EFFECTIVE DATE.—This section and the amendment made by this section take effect 90 days after the date of the enactment of this Act.

SEC. 1159. COMMUNITY CAPACITY DEVELOPMENT OFFICE.

(a) IN GENERAL.—Part A of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding after section 105, as added by section 248 of this Act, the following new section:

42 USC 3712e.

“SEC. 106. COMMUNITY CAPACITY DEVELOPMENT OFFICE.

“(a) ESTABLISHMENT.—

“(1) IN GENERAL.—There is established within the Office a Community Capacity Development Office, headed by a Director appointed by the Attorney General. In carrying out the functions of the Office, the Director shall be subject to the authority, direction, and control of the Attorney General. Such authority, direction, and control may be delegated only to the Assistant Attorney General, without redelegation.

“(2) PURPOSE.—The purpose of the Office shall be to provide training to actual and prospective participants under programs covered by section 105(b) to assist such participants in understanding the substantive and procedural requirements for participating in such programs.

“(3) EXCLUSIVITY.—The Office shall be the exclusive element of the Department of Justice performing functions and activities for the purpose specified in paragraph (2). There are hereby transferred to the Office all functions and activities for such purpose performed immediately before the date of the enactment of this Act by any other element of the Department. This does not preclude a grant-making office from providing specialized training and technical assistance in its area of expertise.

Government
organization.

“(b) MEANS.—The Director shall, in coordination with the heads of the other elements of the Department, carry out the purpose of the Office through the following means:

“(1) Promoting coordination of public and private efforts and resources within or available to States, units of local government, and neighborhood and community-based organizations.

“(2) Providing information, training, and technical assistance.

“(3) Providing support for inter- and intra-agency task forces and other agreements and for assessment of the effectiveness of programs, projects, approaches, or practices.

“(4) Providing in the assessment of the effectiveness of neighborhood and community-based law enforcement and crime prevention strategies and techniques, in coordination with the National Institute of Justice.

“(5) Any other similar means.

“(c) LOCATIONS.—Training referred to in subsection (a) shall be provided on a regional basis to groups of such participants. In a case in which remedial training is appropriate, as recommended by the Director or the head of any element of the Department, such training may be provided on a local basis to a single such participant.

“(d) BEST PRACTICES.—The Director shall—

“(1) identify grants under which clearly beneficial outcomes were obtained, and the characteristics of those grants that were responsible for obtaining those outcomes; and

“(2) incorporate those characteristics into the training provided under this section.

“(e) AVAILABILITY OF FUNDS.—not to exceed 3 percent of all funding made available for a fiscal year for the programs covered by section 105(b) shall be reserved for the Community Capacity Development Office for the activities authorized by this section.”.

(b) EFFECTIVE DATE.—This section and the amendment made by this section take effect 90 days after the date of the enactment of this Act.

42 USC 3712e
note.

SEC. 1160. OFFICE OF APPLIED LAW ENFORCEMENT TECHNOLOGY.

(a) IN GENERAL.—Part A of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding after section 106, as added by section 249 of this Act, the following new section:

“SEC. 107. DIVISION OF APPLIED LAW ENFORCEMENT TECHNOLOGY.

42 USC 3712f.

“(a) ESTABLISHMENT.—There is established within the Office of Science and Technology, the Division of Applied Law Enforcement Technology, headed by an individual appointed by the Attorney General. The purpose of the Division shall be to provide leadership and focus to those grants of the Department of Justice that are made for the purpose of using or improving law enforcement computer systems.

“(b) DUTIES.—In carrying out the purpose of the Division, the head of the Division shall—

“(1) establish clear minimum standards for computer systems that can be purchased using amounts awarded under such grants; and

“(2) ensure that recipients of such grants use such systems to participate in crime reporting programs administered by the Department, such as Uniform Crime Reports or the National Incident-Based Reporting System.”.

(b) EFFECTIVE DATE.—This section and the amendment made by this section take effect 90 days after the date of the enactment of this Act.

42 USC 3712f
note.

SEC. 1161. AVAILABILITY OF FUNDS FOR GRANTS.

(a) IN GENERAL.—Part A of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding after section 107, as added by section 250 of this Act, the following new section:

42 USC 3712g.

“SEC. 108. AVAILABILITY OF FUNDS.

“(a) PERIOD FOR AWARDING GRANT FUNDS.—

“(1) IN GENERAL.—Unless otherwise specifically provided in an authorization, DOJ grant funds for a fiscal year shall remain available to be awarded and distributed to a grantee only in that fiscal year and the three succeeding fiscal years, subject to paragraphs (2) and (3). DOJ grant funds not so awarded and distributed shall revert to the Treasury.

“(2) TREATMENT OF REPROGRAMMED FUNDS.—DOJ grant funds for a fiscal year that are reprogrammed in a later fiscal year shall be treated for purposes of paragraph (1) as DOJ grant funds for such later fiscal year.

“(3) TREATMENT OF DEOBLIGATED FUNDS.—If DOJ grant funds were obligated and then deobligated, the period of availability that applies to those grant funds under paragraph (1) shall be extended by a number of days equal to the number of days from the date on which those grant funds were obligated to the date on which those grant funds were deobligated.

“(b) PERIOD FOR EXPENDING GRANT FUNDS.—DOJ grant funds for a fiscal year that have been awarded and distributed to a grantee may be expended by that grantee only in the period permitted under the terms of the grant. DOJ grant funds not so expended shall revert to the Treasury.

“(c) DEFINITION.—In this section, the term ‘DOJ grant funds’ means, for a fiscal year, amounts appropriated for activities of the Department of Justice in carrying out grant programs for that fiscal year.

“(d) APPLICABILITY.—This section applies to DOJ grant funds for fiscal years beginning with fiscal year 2006.”.

42 USC 3712g
note.

(b) EFFECTIVE DATE.—This section and the amendment made by this section take effect 90 days after the date of the enactment of this Act.

42 USC 3715a.

SEC. 1162. CONSOLIDATION OF FINANCIAL MANAGEMENT SYSTEMS OF OFFICE OF JUSTICE PROGRAMS.

(a) CONSOLIDATION OF ACCOUNTING ACTIVITIES AND PROCUREMENT ACTIVITIES.—The Assistant Attorney General of the Office of Justice Programs, in coordination with the Chief Information Officer and Chief Financial Officer of the Department of Justice, shall ensure that—

(1) all accounting activities for all elements of the Office of Justice Programs are carried out under the direct management of the Office of the Comptroller; and

(2) all procurement activities for all elements of the Office are carried out under the direct management of the Office of Administration.

Effective date.

(b) FURTHER CONSOLIDATION OF PROCUREMENT ACTIVITIES.—The Assistant Attorney General, in coordination with the Chief Information Officer and Chief Financial Officer of the Department of Justice, shall ensure that, on and after September 30, 2008—

(1) all procurement activities for all elements of the Office are carried out through a single management office; and

(2) all contracts and purchase orders used in carrying out those activities are processed through a single procurement system.

(c) CONSOLIDATION OF FINANCIAL MANAGEMENT SYSTEMS.—The Assistant Attorney General, in coordination with the Chief Information Officer and Chief Financial Officer of the Department of Justice, shall ensure that, on and after September 30, 2010, all financial management activities (including human resources, payroll, and accounting activities, as well as procurement activities) of all elements of the Office are carried out through a single financial management system.

Effective date.

(d) ACHIEVING COMPLIANCE.—

(1) SCHEDULE.—The Assistant Attorney General shall undertake a scheduled consolidation of operations to achieve compliance with the requirements of this section.

(2) SPECIFIC REQUIREMENTS.—With respect to achieving compliance with the requirements of—

Deadlines.

(A) subsection (a), the consolidation of operations shall be initiated not later than 90 days after the date of the enactment of this Act; and

(B) subsections (b) and (c), the consolidation of operations shall be initiated not later than September 30, 2006, and shall be carried out by the Office of Administration, in consultation with the Chief Information Officer and the Office of Audit, Assessment, and Management.

SEC. 1163. AUTHORIZATION AND CHANGE OF COPS PROGRAM TO SINGLE GRANT PROGRAM.

(a) IN GENERAL.—Section 1701 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd) is amended—

(1) by amending subsection (a) to read as follows:

“(a) GRANT AUTHORIZATION.—The Attorney General shall carry out a single grant program under which the Attorney General makes grants to States, units of local government, Indian tribal governments, other public and private entities, and multi-jurisdictional or regional consortia for the purposes described in subsection (b).”;

(2) by striking subsections (b) and (c);

(3) by redesignating subsection (d) as subsection (b), and in that subsection—

(A) by striking “ADDITIONAL GRANT PROJECTS.—Grants made under subsection (a) may include programs, projects, and other activities to—” and inserting “USES OF GRANT AMOUNTS.—The purposes for which grants made under subsection (a) may be made are—”;

(B) by redesignating paragraphs (1) through (12) as paragraphs (6) through (17), respectively;

(C) by inserting before paragraph (6) (as so redesignated) the following new paragraphs:

“(1) rehire law enforcement officers who have been laid off as a result of State and local budget reductions for deployment in community-oriented policing;

“(2) hire and train new, additional career law enforcement officers for deployment in community-oriented policing across the Nation;

“(3) procure equipment, technology, or support systems, or pay overtime, to increase the number of officers deployed in community-oriented policing;

“(4) award grants to pay for offices hired to perform intelligence, anti-terror, or homeland security duties;” and

(D) by amending paragraph (9) (as so redesignated) to read as follows:

“(9) develop new technologies, including interoperable communications technologies, modernized criminal record technology, and forensic technology, to assist State and local law enforcement agencies in reorienting the emphasis of their activities from reacting to crime to preventing crime and to train law enforcement officers to use such technologies;”;

(4) by redesignating subsections (e) through (k) as subsections (c) through (i), respectively; and

(5) in subsection (c) (as so redesignated) by striking “subsection (i)” and inserting “subsection (g)”.

(b) CONFORMING AMENDMENT.—Section 1702 of title I of such Act (42 U.S.C. 3796dd-1) is amended in subsection (d)(2) by striking “section 1701(d)” and inserting “section 1701(b)”.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a)(11) of title I of such Act (42 U.S.C. 3793(a)(11)) is amended—

(1) in subparagraph (A) by striking “expended—” and all that follows through “2000” and inserting “expended \$1,047,119,000 for each of fiscal years 2006 through 2009”; and

(2) in subparagraph (B)—

(A) by striking “section 1701(f)” and inserting “section 1701(d)”; and

(B) by striking the third sentence.

SEC. 1164. CLARIFICATION OF PERSONS ELIGIBLE FOR BENEFITS UNDER PUBLIC SAFETY OFFICERS’ DEATH BENEFITS PROGRAMS.

(a) PERSONS ELIGIBLE FOR DEATH BENEFITS.—Section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b), as most recently amended by section 2(a) of the Mychal Judge Police and Fire Chaplains Public Safety Officers’ Benefit Act of 2002 (Public Law 107-196; 116 Stat. 719), is amended—

(1) by redesignating paragraphs (7) and (8) as paragraphs (8) and (9), respectively;

(2) by inserting after paragraph (6) the following new paragraph:

“(7) ‘member of a rescue squad or ambulance crew’ means an officially recognized or designated public employee member of a rescue squad or ambulance crew;” and

(3) in paragraph (4) by striking “and” and all that follows through the end and inserting a semicolon.

(4) in paragraph (6) by striking “enforcement of the laws” and inserting “enforcement of the criminal laws (including juvenile delinquency).”.

(b) CLARIFICATION OF LIMITATION ON PAYMENTS IN NON-CIVILIAN CASES.—Section 1202(5) of such Act (42 U.S.C. 3796a(5)) is amended by inserting “with respect” before “to any individual”.

(c) WAIVER OF COLLECTION IN CERTAIN CASES.—Section 1201 of such Act (42 U.S.C. 3796) is amended by adding at the end the following:

“(m) The Bureau may suspend or end collection action on an amount disbursed pursuant to a statute enacted retroactively or otherwise disbursed in error under subsection (a) or (c), where such collection would be impractical, or would cause undue hardship to a debtor who acted in good faith.”.

(d) DESIGNATION OF BENEFICIARY.—Section 1201(a)(4) of such Act (42 U.S.C. 3796(a)(4)) is amended to read as follows:

“(4) if there is no surviving spouse or surviving child—

“(A) in the case of a claim made on or after the date that is 90 days after the date of the enactment of this subparagraph, to the individual designated by such officer as beneficiary under this section in such officer’s most recently executed designation of beneficiary on file at the time of death with such officer’s public safety agency, organization, or unit, provided that such individual survived such officer; or

“(B) if there is no individual qualifying under subparagraph (A), to the individual designated by such officer as beneficiary under such officer’s most recently executed life insurance policy on file at the time of death with such officer’s public safety agency, organization, or unit, provided that such individual survived such officer; or”.

(e) CONFIDENTIALITY.—Section 1201(1)(a) of such Act (42 U.S.C. 3796(a)) is amended by adding at the end the following:

“(6) The public safety agency, organization, or unit responsible for maintaining on file an executed designation of beneficiary or recently executed life insurance policy pursuant to paragraph (4) shall maintain the confidentiality of such designation or policy in the same manner as it maintains personnel or other similar records of the officer.”.

SEC. 1165. PRE-RELEASE AND POST-RELEASE PROGRAMS FOR JUVENILE OFFENDERS.

Section 1801(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796ee(b)) is amended—

(1) in paragraph (15) by striking “or” at the end;

(2) in paragraph (16) by striking the period at the end and inserting “; or”; and

(3) by adding at the end the following:

“(17) establishing, improving, and coordinating pre-release and post-release systems and programs to facilitate the successful reentry of juvenile offenders from State or local custody in the community.”.

SEC. 1166. REAUTHORIZATION OF JUVENILE ACCOUNTABILITY BLOCK GRANTS.

42 USC
3796ee–10.

Section 1810(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg–10(a)) is amended by striking “2002 through 2005” and inserting “2006 through 2009”.

SEC. 1167. SEX OFFENDER MANAGEMENT.

Section 40152 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13941) is amended by striking subsection (c) and inserting the following:

“(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$5,000,000 for each of fiscal years 2006 through 2010.”.

42 USC
3796ee–2.

SEC. 1168. EVIDENCE-BASED APPROACHES.

Section 1802 of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) in subsection (a)(1)(B) by inserting “, including the extent to which evidence-based approaches are utilized” after “part”; and

(2) in subsection (b)(1)(A)(ii) by inserting “, including the extent to which evidence-based approaches are utilized” after “part”.

SEC. 1169. REAUTHORIZATION OF MATCHING GRANT PROGRAM FOR SCHOOL SECURITY.

(a) IN GENERAL.—Section 2705 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797e) is amended by striking “2003” and inserting “2009”.

(b) PROGRAM TO REMAIN UNDER COPS OFFICE.—Section 2701 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797a) is amended in subsection (a) by inserting after “The Attorney General” the following: “, acting through the Office of Community Oriented Policing Services,”.

SEC. 1170. TECHNICAL AMENDMENTS TO AIMEE’S LAW.

Section 2001 of division C, Public Law 106–386 (42 U.S.C. 13713), is amended—

(1) in each of subsections (b), (c)(1), (c)(2), (c)(3), (e)(1), and (g) by striking the first upper-case letter after the heading and inserting a lower case letter of such letter and the following: “Pursuant to regulations promulgated by the Attorney General hereunder,”;

(2) in subsection (c), paragraphs (1) and (2), respectively, by—

(A) striking “a State”, the first place it appears, and inserting “a criminal-records-reporting State”; and

(B) striking “(3),” and all that follows through “subsequent offense” and inserting “(3), it may, under subsection (d), apply to the Attorney General for \$10,000, for its related apprehension and prosecution costs, and \$22,500 per year (up to a maximum of 5 years), for its related incarceration costs with both amounts for costs adjusted annually for the rate of inflation”;

(3) in subsection (c)(3), by—

(A) striking “if—” and inserting “unless—”;

(B) striking—

(i) “average”;

(ii) “individuals convicted of the offense for which,”;

and

(iii) “convicted by the State is”; and

(C) inserting “not” before “less” each place it appears.

(4) in subsections (d) and (e), respectively, by striking “transferred”;

(5) in subsection (e)(1), by—

(A) inserting “pursuant to section 506 of the Omnibus Crime Control and Safe Streets Act of 1968” before “that”; and

(B) striking the last sentence and inserting “No amount described under this section shall be subject to section 3335(b) or 6503(d) of title 31, United States Code”.

(6) in subsection (i)(1), by striking “State-” and inserting “State (where practicable)-”; and

(7) by striking subsection (i)(2) and inserting:

“(2) REPORT.—The Attorney General shall submit to Congress—

“(A) a report, by not later than 6 months after the date of enactment of this Act, that provides national estimates of the nature and extent of recidivism (with an emphasis on interstate recidivism) by State inmates convicted of murder, rape, and dangerous sexual offenses;

“(B) a report, by not later than October 1, 2007, and October 1 of each year thereafter, that provides statistical analysis and criminal history profiles of interstate recidivists identified in any State applications under this section; and

“(C) reports, at regular intervals not to exceed every five years, that include the information described in paragraph (1).”.

Subtitle C—MISCELLANEOUS PROVISIONS

SEC. 1171. TECHNICAL AMENDMENTS RELATING TO PUBLIC LAW 107–56.

(a) STRIKING SURPLUS WORDS.—

(1) Section 2703(c)(1) of title 18, United States Code, is amended by striking “or” at the end of subparagraph (C).

(2) Section 1960(b)(1)(C) of title 18, United States Code, is amended by striking “to be used to be used” and inserting “to be used”.

(b) PUNCTUATION AND GRAMMAR CORRECTIONS.—Section 2516(1)(q) of title 18, United States Code, is amended—

(1) by striking the semicolon after the first close parenthesis; and

(2) by striking “sections” and inserting “section”.

(c) CROSS REFERENCE CORRECTION.—Section 322 of Public Law 107–56 is amended, effective on the date of the enactment of that section, by striking “title 18” and inserting “title 28”.

28 USC 2466 and note.

SEC. 1172. MISCELLANEOUS TECHNICAL AMENDMENTS.

(a) TABLE OF SECTIONS OMISSION.—The table of sections at the beginning of chapter 203 of title 18, United States Code, is amended by inserting after the item relating to section 3050 the following new item:

“3051. Powers of Special Agents of Bureau of Alcohol, Tobacco, Firearms, and Explosives”.

(b) REPEAL OF DUPLICATIVE PROGRAM.—Section 316 of Part A of the Runaway and Homeless Youth Act (42 U.S.C. 5712d), as added by section 40155 of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322; 108 Stat. 1922), is repealed.

(c) REPEAL OF PROVISION RELATING TO UNAUTHORIZED PROGRAM.—Section 20301 of Public Law 103–322 is amended by striking subsection (c).

8 USC 1231 note.

28 USC 530c
note.

SEC. 1173. USE OF FEDERAL TRAINING FACILITIES.

(a) **FEDERAL TRAINING FACILITIES.**—Unless authorized in writing by the Attorney General, or the Assistant Attorney General for Administration, if so delegated by the Attorney General, the Department of Justice (and each entity within it) shall use for any predominantly internal training or conference meeting only a facility that does not require a payment to a private entity for use of the facility.

(b) **ANNUAL REPORT.**—The Attorney General shall prepare an annual report to the Chairmen and ranking minority members of the Committees on the Judiciary of the Senate and of the House of Representatives that details each training and conference meeting that requires specific authorization under subsection (a). The report shall include an explanation of why the facility was chosen, and a breakdown of any expenditures incurred in excess of the cost of conducting the training or meeting at a facility that did not require such authorization.

28 USC 509.
Designation.

SEC. 1174. PRIVACY OFFICER.

(a) **IN GENERAL.**—The Attorney General shall designate a senior official in the Department of Justice to assume primary responsibility for privacy policy.

(b) **RESPONSIBILITIES.**—The responsibilities of such official shall include advising the Attorney General regarding—

(1) appropriate privacy protections, relating to the collection, storage, use, disclosure, and security of personally identifiable information, with respect to the Department's existing or proposed information technology and information systems;

(2) privacy implications of legislative and regulatory proposals affecting the Department and involving the collection, storage, use, disclosure, and security of personally identifiable information;

(3) implementation of policies and procedures, including appropriate training and auditing, to ensure the Department's compliance with privacy-related laws and policies, including section 552a of title 5, United States Code, and Section 208 of the E-Government Act of 2002 (Public Law 107–347);

(4) ensuring that adequate resources and staff are devoted to meeting the Department's privacy-related functions and obligations;

(5) appropriate notifications regarding the Department's privacy policies and privacy-related inquiry and complaint procedures; and

(6) privacy-related reports from the Department to Congress and the President.

(c) **REVIEW OF PRIVACY RELATED FUNCTIONS, RESOURCES, AND REPORT.**—Within 120 days of his designation, the privacy official shall prepare a comprehensive report to the Attorney General and to the Committees on the Judiciary of the House of Representatives and of the Senate, describing the organization and resources of the Department with respect to privacy and related information management functions, including access, security, and records management, assessing the Department's current and future needs relating to information privacy issues, and making appropriate recommendations regarding the Department's organizational structure and personnel.

(d) **ANNUAL REPORT.**—The privacy official shall submit a report to the Committees on the Judiciary of the House of Representatives and of the Senate on an annual basis on activities of the Department that affect privacy, including a summary of complaints of privacy violations, implementation of section 552a of title 5, United States Code, internal controls, and other relevant matters.

SEC. 1175. BANKRUPTCY CRIMES.

Reports.
28 USC 581 note.

The Director of the Executive Office for United States Trustees shall prepare an annual report to the Congress detailing—

- (1) the number and types of criminal referrals made by the United States Trustee Program;
- (2) the outcomes of each criminal referral;
- (3) for any year in which the number of criminal referrals is less than for the prior year, an explanation of the decrease; and
- (4) the United States Trustee Program's efforts to prevent bankruptcy fraud and abuse, particularly with respect to the establishment of uniform internal controls to detect common, higher risk frauds, such as a debtor's failure to disclose all assets.

SEC. 1176. REPORT TO CONGRESS ON STATUS OF UNITED STATES PERSONS OR RESIDENTS DETAINED ON SUSPICION OF TERRORISM.

28 USC 509 note.

Not less often than once every 12 months, the Attorney General shall submit to Congress a report on the status of United States persons or residents detained, as of the date of the report, on suspicion of terrorism. The report shall—

- (1) specify the number of persons or residents so detained; and
- (2) specify the standards developed by the Department of Justice for recommending or determining that a person should be tried as a criminal defendant or should be designated as an enemy combatant.

SEC. 1177. INCREASED PENALTIES AND EXPANDED JURISDICTION FOR SEXUAL ABUSE OFFENSES IN CORRECTIONAL FACILITIES.

(a) **EXPANDED JURISDICTION.**—The following provisions of title 18, United States Code, are each amended by inserting “or in any prison, institution, or facility in which persons are held in custody by direction of or pursuant to a contract or agreement with the Attorney General” after “in a Federal prison,”:

- (1) Subsections (a) and (b) of section 2241.
- (2) The first sentence of subsection (c) of section 2241.
- (3) Section 2242.
- (4) Subsections (a) and (b) of section 2243.
- (5) Subsections (a) and (b) of section 2244.

(b) **INCREASED PENALTIES.**—

(1) **SEXUAL ABUSE OF A WARD.**—Section 2243(b) of such title is amended by striking “one year” and inserting “five years”.

(2) **ABUSIVE SEXUAL CONTACT.**—Section 2244 of such title is amended by striking “six months” and inserting “two years” in each of subsections (a)(4) and (b).

SEC. 1178. EXPANDED JURISDICTION FOR CONTRABAND OFFENSES IN CORRECTIONAL FACILITIES.

Section 1791(d)(4) of title 18, United States Code, is amended by inserting “or any prison, institution, or facility in which persons are held in custody by direction of or pursuant to a contract or agreement with the Attorney General” after “penal facility”.

SEC. 1179. MAGISTRATE JUDGE’S AUTHORITY TO CONTINUE PRELIMINARY HEARING.

The second sentence of section 3060(c) of title 18, United States Code, is amended to read as follows: “In the absence of such consent of the accused, the judge or magistrate judge may extend the time limits only on a showing that extraordinary circumstances exist and justice requires the delay.”.

SEC. 1180. TECHNICAL CORRECTIONS RELATING TO STEROIDS.

Section 102(41)(A) of the Controlled Substances Act (21 U.S.C. 802(41)(A)), as amended by the Anabolic Steroid Control Act of 2004 (Public law 108–358), is amended by—

- (1) striking clause (xvii) and inserting the following:
“(xvii) 13 β -ethyl-17 β -hydroxygon-4-en-3-one;”; and
- (2) striking clause (xliv) and inserting the following:
“(xliv) stanozolol (17 α -methyl-17 β -hydroxy-[5 α]-androst-2-eno[3,2-c]-pyrazole);”.

SEC. 1181. PRISON RAPE COMMISSION EXTENSION.

Section 7 of the Prison Rape Elimination Act of 2003 (42 U.S.C. 15606) is amended in subsection (d)(3)(A) by striking “2 years” and inserting “3 years”.

SEC. 1182. LONGER STATUTE OF LIMITATION FOR HUMAN TRAFFICKING-RELATED OFFENSES.

(a) IN GENERAL.—Chapter 213 of title 18, United States Code, is amended by adding at the end the following new section:

“§ 3298. Trafficking-related offenses

“No person shall be prosecuted, tried, or punished for any non-capital offense or conspiracy to commit a non-capital offense under section 1581 (Peonage; Obstructing Enforcement), 1583 (Enticement into Slavery), 1584 (Sale into Involuntary Servitude), 1589 (Forced Labor), 1590 (Trafficking with Respect to Peonage, Slavery, Involuntary Servitude, or Forced Labor), or 1592 (Unlawful Conduct with Respect to Documents in furtherance of Trafficking, Peonage, Slavery, Involuntary Servitude, or Forced Labor) of this title or under section 274(a) of the Immigration and Nationality Act unless the indictment is found or the information is instituted not later than 10 years after the commission of the offense.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“3298. Trafficking-related offenses”.

(c) MODIFICATION OF STATUTE APPLICABLE TO OFFENSE AGAINST CHILDREN.—Section 3283 of title 18, United States Code, is amended by inserting “, or for ten years after the offense, whichever is longer” after “of the child”.

SEC. 1183. USE OF CENTER FOR CRIMINAL JUSTICE TECHNOLOGY.

(a) **IN GENERAL.**—The Attorney General may use the services of the Center for Criminal Justice Technology, a nonprofit “center of excellence” that provides technology assistance and expertise to the criminal justice community.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Attorney General to carry out this section the following amounts, to remain available until expended:

- (1) \$7,500,000 for fiscal year 2006.
- (2) \$7,500,000 for fiscal year 2007.
- (3) \$10,000,000 for fiscal year 2008.

SEC. 1184. SEARCH GRANTS.

(a) **IN GENERAL.**—Pursuant to subpart 1 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, the Attorney General may make grants to SEARCH, the National Consortium for Justice Information and Statistics, to carry out the operations of the National Technical Assistance and Training Program.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Attorney General to carry out this section \$4,000,000 for each of fiscal years 2006 through 2009.

SEC. 1185. REAUTHORIZATION OF LAW ENFORCEMENT TRIBUTE ACT.

Section 11001 of Public Law 107–273 (42 U.S.C. 15208; 116 Stat. 1816) is amended in subsection (i) by striking “2006” and inserting “2009”.

SEC. 1186. AMENDMENT REGARDING BULLYING AND GANGS.

Paragraph (13) of section 1801(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796ee(b)) is amended to read as follows:

“(13) establishing and maintaining accountability-based programs that are designed to enhance school safety, which programs may include research-based bullying, cyberbullying, and gang prevention programs;”.

SEC. 1187. TRANSFER OF PROVISIONS RELATING TO THE BUREAU OF ALCOHOL, TOBACCO, FIREARMS, AND EXPLOSIVES.

(a) **ORGANIZATIONAL PROVISION.**—Part II of title 28, United States Code, is amended by adding at the end the following new chapter:

**“CHAPTER 40A—BUREAU OF ALCOHOL, TOBACCO,
FIREARMS, AND EXPLOSIVES**

“Sec.

“599A. Bureau of Alcohol, Tobacco, Firearms, and Explosives

“599B. Personnel management demonstration project”.

(b) **TRANSFER OF PROVISIONS.**—The section heading for, and subsections (a), (b), (c)(1), and (c)(3) of, section 1111, and section 1115, of the Homeland Security Act of 2002 (6 U.S.C. 531(a), (b), (c)(1), and (c)(3), and 533) are hereby transferred to, and added at the end of chapter 40A of such title, as added by subsection (a) of this section.

28 USC 599A,
599B.

(c) **CONFORMING AMENDMENTS.**—

- (1) Such section 1111 is amended—

28 USC 599A.

(A) by striking the section heading and inserting the following:

“§ 599A. Bureau of alcohol, tobacco, firearms, and Explosives”;

and

(B) in subsection (b)(2), by inserting “of section 1111 of the Homeland Security Act of 2002 (as enacted on the date of the enactment of such Act)” after “subsection (c)”, and such section heading and such subsections (as so amended) shall constitute section 599A of such title.

28 USC 599B.

(2) Such section 1115 is amended by striking the section heading and inserting the following:

“§ 599B. Personnel Management demonstration project”;

and such section (as so amended) shall constitute section 599B of such title.

(d) CLERICAL AMENDMENT.—The chapter analysis for such part is amended by adding at the end the following new item:

“40A. Bureau of Alcohol, Tobacco, Firearms, and Explosives 2599A”.

SEC. 1188. REAUTHORIZE THE GANG RESISTANCE EDUCATION AND TRAINING PROJECTS PROGRAM.

Section 32401(b) of the Violent Crime Control Act of 1994 (42 U.S.C. 13921(b)) is amended by striking paragraphs (1) through (6) and inserting the following:

- “(1) \$20,000,000 for fiscal year 2006;
- “(2) \$20,000,000 for fiscal year 2007;
- “(3) \$20,000,000 for fiscal year 2008;
- “(4) \$20,000,000 for fiscal year 2009; and
- “(5) \$20,000,000 for fiscal year 2010.”.

SEC. 1189. NATIONAL TRAINING CENTER.

(a) IN GENERAL.—The Attorney General may use the services of the National Training Center in Sioux City, Iowa, to utilize a national approach to bring communities and criminal justice agencies together to receive training to control the growing national problem of methamphetamine, poly drugs and their associated crimes. The National Training Center in Sioux City, Iowa, seeks a comprehensive approach to control and reduce methamphetamine trafficking, production and usage through training.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Attorney General to carry out this section the following amounts, to remain available until expended:

- (1) \$2,500,000 for fiscal year 2006.
- (2) \$3,000,000 for fiscal year 2007.
- (3) \$3,000,000 for fiscal year 2008.
- (4) \$3,000,000 for fiscal year 2009.

SEC. 1190. SENSE OF CONGRESS RELATING TO “GOOD TIME” RELEASE.

It is the sense of Congress that it is important to study the concept of implementing a “good time” release program for non-violent criminals in the Federal prison system.

SEC. 1191. PUBLIC EMPLOYEE UNIFORMS.

(a) IN GENERAL.—Section 716 of title 18, United States Code, is amended—

(1) by striking “police badge” each place it appears in subsections (a) and (b) and inserting “official insignia or uniform”;

(2) in each of paragraphs (2) and (4) of subsection (a), by striking “badge of the police” and inserting “official insignia or uniform”;

(3) in subsection (b)—

(A) by striking “the badge” and inserting “the insignia or uniform”;

(B) by inserting “is other than a counterfeit insignia or uniform and” before “is used or is intended to be used”; and

(C) by inserting “is not used to mislead or deceive, or” before “is used or intended”;

(4) in subsection (c)—

(A) by striking “and” at the end of paragraph (1);

(B) by striking the period at the end of paragraph

(2) and inserting “; and”;

(C) by adding at the end the following:

“(3) the term ‘official insignia or uniform’ means an article of distinctive clothing or insignia, including a badge, emblem or identification card, that is an indicium of the authority of a public employee;

“(4) the term ‘public employee’ means any officer or employee of the Federal Government or of a State or local government; and

“(5) the term ‘uniform’ means distinctive clothing or other items of dress, whether real or counterfeit, worn during the performance of official duties and which identifies the wearer as a public agency employee.”; and

(5) by adding at the end the following:

“(d) It is a defense to a prosecution under this section that the official insignia or uniform is not used or intended to be used to mislead or deceive, or is a counterfeit insignia or uniform and is used or is intended to be used exclusively—

“(1) for a dramatic presentation, such as a theatrical, film, or television production; or

“(2) for legitimate law enforcement purposes.”; and

(6) in the heading for the section, by striking “**POLICE BADGES**” and inserting “**PUBLIC EMPLOYEE INSIGNIA AND UNIFORM**”.

(b) CONFORMING AMENDMENT TO TABLE OF SECTIONS.—The item in the table of sections at the beginning of chapter 33 of title 18, United States Code, relating to section 716 is amended by striking “Police badges” and inserting “Public employee insignia and uniform”.

(c) DIRECTION TO SENTENCING COMMISSION.—The United States Sentencing Commission is directed to make appropriate amendments to sentencing guidelines, policy statements, and official commentary to assure that the sentence imposed on a defendant who is convicted of a Federal offense while wearing or displaying insignia and uniform received in violation of section 716 of title 18, United States Code, reflects the gravity of this aggravating factor.

28 USC 994 note.

SEC. 1192. OFFICIALLY APPROVED POSTAGE.

Section 475 of title 18, United States Code, is amended by adding at the end the following: “Nothing in this section applies

to evidence of postage payment approved by the United States Postal Service.”.

Grants.

SEC. 1193. AUTHORIZATION OF ADDITIONAL APPROPRIATIONS.

In addition to any other amounts authorized by law, there are authorized to be appropriated for grants to the American Prosecutors Research Institute under section 214A of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13003) \$7,500,000 for each of fiscal years 2006 through 2010.

Hurricanes
Katrina and Rita.

SEC. 1194. ASSISTANCE TO COURTS.

The chief judge of each United States district court is encouraged to cooperate with requests from State and local authorities whose operations have been significantly disrupted as a result of Hurricane Katrina or Hurricane Rita to provide accommodations in Federal facilities for State and local courts to conduct their proceedings.

SEC. 1195. STUDY AND REPORT ON CORRELATION BETWEEN SUBSTANCE ABUSE AND DOMESTIC VIOLENCE AT DOMESTIC VIOLENCE SHELTERS.

The Secretary of Health and Human Services shall carry out a study on the correlation between a perpetrator’s drug and alcohol abuse and the reported incidence of domestic violence at domestic violence shelters. The study shall cover fiscal years 2006 through 2008. Not later than February 2009, the Secretary shall submit to Congress a report on the results of the study.

SEC. 1196. REAUTHORIZATION OF STATE CRIMINAL ALIEN ASSISTANCE PROGRAM.

(a) **AUTHORIZATION OF APPROPRIATIONS.**—Section 241(i)(5) of the Immigration and Nationality Act (8 U.S.C. 1231(i)(5)) is amended by striking “appropriated” and all that follows through the period and inserting the following: “appropriated to carry out this subsection—

“(A) \$750,000,000 for fiscal year 2006;

“(B) \$850,000,000 for fiscal year 2007; and

“(C) \$950,000,000 for each of the fiscal years 2008 through 2011.”.

(b) **LIMITATION ON USE OF FUNDS.**—Section 241(i)(6) of the Immigration and Nationality Act (8 U.S.C. 1231(i)(6)) is amended to read as follows:

“(6) Amounts appropriated pursuant to the authorization of appropriations in paragraph (5) that are distributed to a State or political subdivision of a State, including a municipality, may be used only for correctional purposes.”.

(c) **STUDY AND REPORT ON STATE AND LOCAL ASSISTANCE IN INCARCERATING UNDOCUMENTED CRIMINAL ALIENS.**—

(1) **IN GENERAL.**—Not later than 1 year after the date of the enactment of this Act, the Inspector General of the United States Department of Justice shall perform a study, and report to the Committee on the Judiciary of the United States House of Representatives and the Committee on the Judiciary of the United States Senate on the following:

(A) Whether there are States, or political subdivisions of a State, that have received compensation under section 241(i) of the Immigration and Nationality Act (8 U.S.C. 1231(i)) and are not fully cooperating in the Department

of Homeland Security's efforts to remove from the United States undocumented criminal aliens (as defined in paragraph (3) of such section).

(B) Whether there are States, or political subdivisions of a State, that have received compensation under section 241(i) of the Immigration and Nationality Act (8 U.S.C. 1231(i)) and that have in effect a policy that violates section 642 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373).

(C) The number of criminal offenses that have been committed by aliens unlawfully present in the United States after having been apprehended by States or local law enforcement officials for a criminal offense and subsequently being released without being referred to the Department of Homeland Security for removal from the United States.

(D) The number of aliens described in subparagraph (C) who were released because the State or political subdivision lacked space or funds for detention of the alien.

(2) IDENTIFICATION.—In the report submitted under paragraph (1), the Inspector General of the United States Department of Justice—

(A) shall include a list identifying each State or political subdivision of a State that is determined to be described in subparagraph (A) or (B) of paragraph (1); and

(B) shall include a copy of any written policy determined to be described in subparagraph (B).

SEC. 1197. EXTENSION OF CHILD SAFETY PILOT PROGRAM.

Section 108 of the PROTECT Act (42 U.S.C. 5119a note) is amended—

(1) in subsection (a)—

(A) in paragraph (2)(B), by striking “A volunteer organization in a participating State may not submit background check requests under paragraph (3).”;

(B) in paragraph (3)—

(i) in subparagraph (A), by striking “a 30-month” and inserting “a 60-month”;

(ii) in subparagraph (A), by striking “100,000” and inserting “200,000”; and

(iii) by striking subparagraph (B) and inserting the following:

“(B) PARTICIPATING ORGANIZATIONS.—

“(i) ELIGIBLE ORGANIZATIONS.—Eligible organizations include—

“(I) the Boys and Girls Clubs of America;

“(II) the MENTOR/National Mentoring Partnership;

“(III) the National Council of Youth Sports; and

“(IV) any nonprofit organization that provides care, as that term is defined in section 5 of the National Child Protection Act of 1993 (42 U.S.C. 5119c), for children.

“(ii) PILOT PROGRAM.—The eligibility of an organization described in clause (i)(IV) to participate in the pilot program established under this section

shall be determined by the National Center for Missing and Exploited Children, with the rejection or concurrence within 30 days of the Attorney General, according to criteria established by such Center, including the potential number of applicants and suitability of the organization to the intent of this section. If the Attorney General fails to reject or concur within 30 days, the determination of the National Center for Missing and Exploited Children shall be conclusive.”;

(iv) by striking subparagraph (C) and inserting the following:

“(C) APPLICANTS FROM PARTICIPATING ORGANIZATIONS.—Participating organizations may request background checks on applicants for positions as volunteers and employees who will be working with children or supervising volunteers.”;

(v) in subparagraph (D), by striking “the organizations described in subparagraph (C)” and inserting “participating organizations”; and

(vi) in subparagraph (F), by striking “14 business days” and inserting “10 business days”;

(2) in subsection (c)(1), by striking “and 2005” and inserting “through 2008”; and

(3) in subsection (d)(1), by adding at the end the following: “(O) The extent of participation by eligible organizations in the state pilot program.”.

SEC. 1198. TRANSPORTATION AND SUBSISTENCE FOR SPECIAL SESSIONS OF DISTRICT COURTS.

(a) TRANSPORTATION AND SUBSISTENCE.—Section 141(b) of title 28, United States Code, as added by section 2(b) of Public Law 109–63, is amended by adding at the end the following:

“(5) If a district court issues an order exercising its authority under paragraph (1), the court shall direct the United States marshal of the district where the court is meeting to furnish transportation and subsistence to the same extent as that provided in sections 4282 and 4285 of title 18.”.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out paragraph (5) of section 141(b) of title 28, United States Code, as added by subsection (a) of this section.

SEC. 1199. YOUTH VIOLENCE REDUCTION DEMONSTRATION PROJECTS.

(a) ESTABLISHMENT OF YOUTH VIOLENCE REDUCTION DEMONSTRATION PROJECTS.—

(1) IN GENERAL.—The Attorney General shall make up to 5 grants for the purpose of carrying out Youth Violence Demonstration Projects to reduce juvenile and young adult violence, homicides, and recidivism among high-risk populations.

(2) ELIGIBLE ENTITIES.—An entity is eligible for a grant under paragraph (1) if it is a unit of local government or a combination of local governments established by agreement for purposes of undertaking a demonstration project.

(b) SELECTION OF GRANT RECIPIENTS.—

(1) AWARDS.—The Attorney General shall award grants for Youth Violence Reduction Demonstration Projects on a competitive basis.

42 USC 13751
note.

Grants.

(2) AMOUNT OF AWARDS.—No single grant award made under subsection (a) shall exceed \$15,000,000 per fiscal year.

(3) APPLICATION.—An application for a grant under paragraph (1) shall be submitted to the Attorney General in such a form, and containing such information and assurances, as the Attorney General may require, and at a minimum shall propose—

(A) a program strategy targeting areas with the highest incidence of youth violence and homicides;

(B) outcome measures and specific objective indicia of performance to assess the effectiveness of the program; and

(C) a plan for evaluation by an independent third party.

(4) DISTRIBUTION.—In making grants under this section, the Attorney General shall ensure the following:

(A) No less than 1 recipient is a city with a population exceeding 1,000,000 and an increase of at least 30 percent in the aggregated juvenile and young adult homicide victimization rate during calendar year 2005 as compared to calendar year 2004.

(B) No less than one recipient is a nonmetropolitan county or group of counties with per capita arrest rates of juveniles and young adults for serious violent offenses that exceed the national average for nonmetropolitan counties by at least 5 percent.

(5) CRITERIA.—In making grants under this section, the Attorney General shall give preference to entities operating programs that meet the following criteria:

(A) A program focusing on—

(i) reducing youth violence and homicides, with an emphasis on juvenile and young adult probationers and other juveniles and young adults who have had or are likely to have contact with the juvenile justice system;

(ii) fostering positive relationships between program participants and supportive adults in the community; and

(iii) accessing comprehensive supports for program participants through coordinated community referral networks, including job opportunities, educational programs, counseling services, substance abuse programs, recreational opportunities, and other services.

(B) A program goal of almost daily contacts with and supervision of participating juveniles and young adults through small caseloads and a coordinated team approach among case managers drawn from the community, probation officers, and police officers.

(C) The use of existing structures, local government agencies, and nonprofit organizations to operate the program.

(D) Inclusion in program staff of individuals who live or have lived in the community in which the program operates; have personal experiences or cultural competency that build credibility in relationships with program participants; and will serve as a case manager, intermediary, and mentor.

(E) Fieldwork and neighborhood outreach in communities where the young violent offenders live, including support of the program from local public and private organizations and community members.

(F) Imposition of graduated probation sanctions to deter violent and criminal behavior.

(G) A record of program operation and effectiveness evaluation over a period of at least five years prior to the date of enactment of this Act.

(H) A program structure that can serve as a model for other communities in addressing the problem of youth violence and juvenile and young adult recidivism.

(c) AUTHORIZED ACTIVITIES.—Amounts paid to an eligible entity under a grant award may be used for the following activities:

(1) Designing and enhancing program activities.

(2) Employing and training personnel.

(3) Purchasing or leasing equipment.

(4) Providing services and training to program participants and their families.

(5) Supporting related law enforcement and probation activities, including personnel costs.

(6) Establishing and maintaining a system of program records.

(7) Acquiring, constructing, expanding, renovating, or operating facilities to support the program.

(8) Evaluating program effectiveness.

(9) Undertaking other activities determined by the Attorney General as consistent with the purposes and requirements of the demonstration program.

(d) EVALUATION AND REPORTS.—

(1) INDEPENDENT EVALUATION.—The Attorney General may use up to \$500,000 of funds appropriated annually under this such section to—

(A) prepare and implement a design for interim and overall evaluations of performance and progress of the funded demonstration projects;

(B) provide training and technical assistance to grant recipients; and

(C) disseminate broadly the information generated and lessons learned from the operation of the demonstration projects.

(2) REPORTS TO CONGRESS.—Not later than 120 days after the last day of each fiscal year for which 1 or more demonstration grants are awarded, the Attorney General shall submit to Congress a report which shall include—

(A) a summary of the activities carried out with such grants;

(B) an assessment by the Attorney General of the program carried out; and

(C) such other information as the Attorney General considers appropriate.

(e) FEDERAL SHARE.—

(1) IN GENERAL.—The Federal share of a grant awarded under this Act shall not exceed 90 percent of the total program costs.

(2) NON-FEDERAL SHARE.—The non-Federal share of such cost may be provided in cash or in-kind.

(f) DEFINITIONS.—In this section:

(1) UNIT OF LOCAL GOVERNMENT.—The term “unit of local government” means a county, township, city, or political subdivision of a county, township, or city, that is a unit of local government as determined by the Secretary of Commerce for general statistical purposes.

(2) JUVENILE.—The term “juvenile” means an individual who is 17 years of age or younger.

(3) YOUNG ADULT.—The term “young adult” means an individual who is 18 through 24 years of age.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$50,000,000 for fiscal year 2007 and such sums as may be necessary for each of fiscal years 2008 through 2009, to remain available until expended.

Approved January 5, 2006.

LEGISLATIVE HISTORY—H.R. 3402:

HOUSE REPORTS: No. 109–233 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 151 (2005):

Sept. 28, considered and passed House.

Dec. 16, considered and passed Senate, amended.

Dec. 17, House concurred in Senate amendment.



Public Law 109–163
109th Congress

An Act

Jan. 6, 2006
[H.R. 1815]

National Defense
Authorization
Act for Fiscal
Year 2006.

To authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “National Defense Authorization Act for Fiscal Year 2006”.

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) DIVISIONS.—This Act is organized into three divisions as follows:

- (1) Division A—Department of Defense Authorizations.
- (2) Division B—Military Construction Authorizations.
- (3) Division C—Department of Energy National Security Authorizations and Other Authorizations.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Organization of Act into divisions; table of contents.
- Sec. 3. Congressional defense committees.

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- Sec. 102. Navy and Marine Corps.
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- Sec. 131. C–17 aircraft program and assessment of intertheater airlift requirements.
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- Sec. 213. Limitations on systems development and demonstration of manned ground vehicles under Armored Systems Modernization program.
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- Sec. 842. Extension of contract goal for small disadvantaged businesses and certain institutions of higher education.
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- Sec. 847. Civilian Board of Contract Appeals.
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- Sec. 901. Parity in pay levels among Under Secretary positions.
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- Sec. 904. Directors of Small Business Programs in Department of Defense and military departments.
- Sec. 905. Plan to defend the homeland against cruise missiles and other low-altitude aircraft.
- Sec. 906. Provision of audiovisual support services by White House Communications Agency on nonreimbursable basis.
- Sec. 907. Report on establishment of a Deputy Secretary of Defense for Management.
- Sec. 908. Responsibility of the Joint Chiefs of Staff as military advisers to the Homeland Security Council.
- Sec. 909. Improvement in health care services for residents of Armed Forces Retirement Home.

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- Sec. 911. Space Situational Awareness Strategy and space control mission review.
- Sec. 912. Military satellite communications.
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- Sec. 915. Sense of Congress regarding national security aspect of United States preeminence in human spaceflight.

SUBTITLE C—CHEMICAL DEMILITARIZATION PROGRAM

- Sec. 921. Clarification of Cooperative Agreement Authority under Chemical Demilitarization Program.
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- Sec. 931. Department of Defense Strategy for Open-Source Intelligence.
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TITLE X—GENERAL PROVISIONS**SUBTITLE A—FINANCIAL MATTERS**

- Sec. 1001. Transfer authority.
- Sec. 1002. Authorization of emergency supplemental appropriations for fiscal years 2005 and 2006.
- Sec. 1003. Increase in fiscal year 2005 general transfer authority.
- Sec. 1004. Reports on feasibility and desirability of capital budgeting for major defense acquisition programs.
- Sec. 1005. United States contribution to NATO common-funded budgets in fiscal year 2006.

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- Sec. 1011. Conveyance, Navy drydock, Seattle, Washington.
- Sec. 1012. Conveyance, Navy drydock, Jacksonville, Florida.
- Sec. 1013. Conveyance, Navy drydock, Port Arthur, Texas.
- Sec. 1014. Transfer of battleships U.S.S. WISCONSIN and U.S.S. IOWA.
- Sec. 1015. Transfer of ex-U.S.S. Forrest Sherman.
- Sec. 1016. Report on leasing of vessels to meet national defense sealift requirements.
- Sec. 1017. Establishment of the USS Oklahoma Memorial and other memorials at Pearl Harbor.
- Sec. 1018. Authority to use National Defense Sealift Fund to purchase certain maritime prepositioning ships currently under charter to the Navy.

SUBTITLE C—COUNTER-DRUG ACTIVITIES

- Sec. 1021. Resumption of reporting requirement regarding Department of Defense expenditures to support foreign counter-drug activities.

- Sec. 1022. Clarification of authority for joint task forces to support law enforcement agencies conducting counter-terrorism activities.
- Sec. 1023. Sense of Congress regarding drug trafficking deterrence.

SUBTITLE D—MATTERS RELATED TO HOMELAND SECURITY

- Sec. 1031. Responsibilities of Assistant Secretary of Defense for Homeland Defense relating to nuclear, chemical, and biological emergency response.
- Sec. 1032. Testing of preparedness for emergencies involving nuclear, radiological, chemical, biological, and high-yield explosives weapons.
- Sec. 1033. Department of Defense chemical, biological, radiological, nuclear, and high-yield explosives response teams.
- Sec. 1034. Repeal of Department of Defense emergency response assistance program.
- Sec. 1035. Report on use of Department of Defense aerial reconnaissance assets to support Homeland Security border security missions.

SUBTITLE E—REPORTS AND STUDIES

- Sec. 1041. Review of Defense Base Act insurance.
- Sec. 1042. Report on Department of Defense response to findings and recommendations of Defense Science Board Task Force on High Performance Microchip Supply.

SUBTITLE F—OTHER MATTERS

- Sec. 1051. Commission on the Implementation of the New Strategic Posture of the United States.
- Sec. 1052. Reestablishment of EMP Commission.
- Sec. 1053. Modernization of authority relating to security of defense property and facilities.
- Sec. 1054. Revision of Department of Defense counterintelligence polygraph program.
- Sec. 1055. Preservation of records pertaining to radioactive fallout from nuclear weapons testing.
- Sec. 1056. Technical and clerical amendments.
- Sec. 1057. Deletion of obsolete definitions in titles 10 and 32, United States Code.
- Sec. 1058. Support for youth organizations.
- Sec. 1059. Special immigrant status for persons serving as translators with United States Armed Forces.
- Sec. 1060. Expansion of emergency services under reciprocal agreements.
- Sec. 1061. Renewal of moratorium on return of veterans memorial objects to foreign nations without specific authorization in law.
- Sec. 1062. Sense of Congress on national security interest of maintaining aeronautics research and development.
- Sec. 1063. Airport certification.

SUBTITLE G—MILITARY MAIL MATTERS

- Sec. 1071. Safe delivery of mail in military mail system.

TITLE XI—CIVILIAN PERSONNEL MATTERS**SUBTITLE A—EXTENSIONS OF AUTHORITIES**

- Sec. 1101. Extension of eligibility to continue Federal employee health benefits.
- Sec. 1102. Extension of Department of Defense voluntary reduction in force authority.
- Sec. 1103. Extension of authority to make lump sum severance payments.
- Sec. 1104. Permanent extension of Science, Mathematics, and Research for Transformation (SMART) Defense Education Program.
- Sec. 1105. Authority to waive annual limitation on total compensation paid to Federal civilian employees.

SUBTITLE B—VETERANS PREFERENCE MATTERS

- Sec. 1111. Veterans' preference status for certain veterans who served on active duty during the period beginning on September 11, 2001, and ending as of the close of Operation Iraqi Freedom.
- Sec. 1112. Veterans' preference eligibility for military reservists.

SUBTITLE C—OTHER MATTERS

- Sec. 1121. Transportation of family members in connection with the repatriation of Federal employees held captive.
- Sec. 1122. Strategic human capital plan for civilian employees of the Department of Defense.

- Sec. 1123. Independent study on features of successful personnel management systems of highly technical and scientific workforces.
- Sec. 1124. Support by Department of Defense of pilot project for Civilian Linguist Reserve Corps.
- Sec. 1125. Increase in authorized number of positions in Defense Intelligence Senior Executive Service.

TITLE XII—MATTERS RELATING TO FOREIGN NATIONS

SUBTITLE A—ASSISTANCE AND TRAINING

- Sec. 1201. Extension of humanitarian and civic assistance provided to host nations in conjunction with military operations.
- Sec. 1202. Commanders' Emergency Response Program.
- Sec. 1203. Modification of geographic restriction under bilateral and regional cooperation programs for payment of certain expenses of defense personnel of developing countries.
- Sec. 1204. Authority for Department of Defense to enter into acquisition and cross-servicing agreements with regional organizations of which the United States is not a member.
- Sec. 1205. Two-year extension of authority for payment of certain administrative services and support for coalition liaison officers.
- Sec. 1206. Authority to build the capacity of foreign military forces.
- Sec. 1207. Security and stabilization assistance.
- Sec. 1208. Reimbursement of certain coalition nations for support provided to United States military operations.
- Sec. 1209. Authority to transfer defense articles and provide defense services to the military and security forces of Iraq and Afghanistan.

SUBTITLE B—NONPROLIFERATION MATTERS AND COUNTRIES OF CONCERN

- Sec. 1211. Prohibition on procurements from Communist Chinese military companies.
- Sec. 1212. Report on nonstrategic nuclear weapons.

SUBTITLE C—REPORTS AND SENSE OF CONGRESS PROVISIONS

- Sec. 1221. War-related reporting requirements.
- Sec. 1222. Quarterly reports on war strategy in Iraq.
- Sec. 1223. Report on records of civilian casualties in Afghanistan and Iraq.
- Sec. 1224. Annual report on Department of Defense costs to carry out United Nations resolutions.
- Sec. 1225. Report on claims related to the bombing of the LaBelle Discotheque.
- Sec. 1226. Sense of Congress concerning cooperation with Russia on issues pertaining to missile defense.
- Sec. 1227. United States policy on Iraq.

SUBTITLE D—OTHER MATTERS

- Sec. 1231. Purchase of weapons overseas for force protection purposes in countries in which combat operations are ongoing.
- Sec. 1232. Riot control agents.
- Sec. 1233. Requirement for establishment of certain criteria applicable to Global Posture Review.
- Sec. 1234. The United States-China Economic Security Review Commission.

TITLE XIII—COOPERATIVE THREAT REDUCTION WITH STATES OF THE FORMER SOVIET UNION

- Sec. 1301. Specification of Cooperative Threat Reduction programs and funds.
- Sec. 1302. Funding allocations.
- Sec. 1303. Permanent waiver of restrictions on use of funds for threat reduction in states of the former Soviet Union.
- Sec. 1304. Report on elimination of impediments to threat-reduction and non-proliferation programs in the former Soviet Union.
- Sec. 1305. Repeal of requirement for annual Comptroller General assessment of annual Department of Defense report on activities and assistance under Cooperative Threat Reduction programs.

TITLE XIV—MATTERS RELATING TO DETAINEES

- Sec. 1401. Short title.
- Sec. 1402. Uniform standards for the interrogation of persons under the detention of the Department of Defense.
- Sec. 1403. Prohibition on cruel, inhuman, or degrading treatment or punishment of persons under custody or control of the United States Government.

- Sec. 1404. Protection of United States Government personnel engaged in authorized interrogations.
- Sec. 1405. Procedures for status review of detainees outside the United States.
- Sec. 1406. Training of Iraqi security forces regarding treatment of detainees.

**TITLE XV—AUTHORIZATION FOR INCREASED COSTS DUE TO
OPERATION IRAQI FREEDOM AND OPERATION ENDURING FREEDOM**

- Sec. 1501. Purpose.
- Sec. 1502. Army procurement.
- Sec. 1503. Navy and Marine Corps procurement.
- Sec. 1504. Air Force procurement.
- Sec. 1505. Defense-wide activities procurement.
- Sec. 1506. Research, development, test and evaluation.
- Sec. 1507. Operation and maintenance.
- Sec. 1508. Defense Working Capital Fund.
- Sec. 1509. Defense Health Program.
- Sec. 1510. Military personnel.
- Sec. 1511. Iraq Freedom Fund.
- Sec. 1512. Treatment as additional authorizations.
- Sec. 1513. Transfer authority.
- Sec. 1514. Availability of funds.

DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

- Sec. 2001. Short title.

TITLE XXI—ARMY

- Sec. 2101. Authorized Army construction and land acquisition projects.
- Sec. 2102. Family housing.
- Sec. 2103. Improvements to military family housing units.
- Sec. 2104. Authorization of appropriations, Army.
- Sec. 2105. Modification of authority to carry out certain fiscal year 2004 project.

TITLE XXII—NAVY

- Sec. 2201. Authorized Navy construction and land acquisition projects.
- Sec. 2202. Family housing.
- Sec. 2203. Improvements to military family housing units.
- Sec. 2204. Authorization of appropriations, Navy.
- Sec. 2205. Modification of authority to carry out certain fiscal year 2004 project.
- Sec. 2206. Modifications of authority to carry out certain fiscal year 2005 projects.

TITLE XXIII—AIR FORCE

- Sec. 2301. Authorized Air Force construction and land acquisition projects.
- Sec. 2302. Family housing.
- Sec. 2303. Improvements to military family housing units.
- Sec. 2304. Authorization of appropriations, Air Force.

TITLE XXIV—DEFENSE AGENCIES

- Sec. 2401. Authorized Defense Agencies construction and land acquisition projects.
- Sec. 2402. Energy conservation projects.
- Sec. 2403. Authorization of appropriations, Defense Agencies.

**TITLE XXV—NORTH ATLANTIC TREATY ORGANIZATION SECURITY
INVESTMENT PROGRAM**

- Sec. 2501. Authorized NATO construction and land acquisition projects.
- Sec. 2502. Authorization of appropriations, NATO.

TITLE XXVI—GUARD AND RESERVE FORCES FACILITIES

- Sec. 2601. Authorized Guard and Reserve construction and land acquisition projects.

TITLE XXVII—EXPIRATION AND EXTENSION OF AUTHORIZATIONS

- Sec. 2701. Expiration of authorizations and amounts required to be specified by law.
- Sec. 2702. Extension of authorizations of certain fiscal year 2003 projects.
- Sec. 2703. Extension of authorizations of certain fiscal year 2002 projects.

TITLE XXVIII—GENERAL PROVISIONS

**SUBTITLE A—MILITARY CONSTRUCTION PROGRAM AND MILITARY FAMILY
HOUSING CHANGES**

- Sec. 2801. Modification of congressional notification requirements for certain military construction activities.

- Sec. 2802. Increase in number of family housing units in Korea authorized for lease by the Army at maximum amount.
- Sec. 2803. Improvement in availability and timeliness of Department of Defense information regarding military construction and family housing accounts and activities.
- Sec. 2804. Modification of cost variation authority.
- Sec. 2805. Inapplicability to child development centers of restriction on authority to acquire or construct ancillary supporting facilities.
- Sec. 2806. Department of Defense Housing Funds.
- Sec. 2807. Use of design-build selection procedures to accelerate design effort in connection with military construction projects.
- Sec. 2808. Acquisition of associated utilities, equipment, and furnishings in reserve component facility exchange.
- Sec. 2809. One-year extension of temporary, limited authority to use operation and maintenance funds for construction projects outside the United States.
- Sec. 2810. Temporary program to use minor military construction authority for construction of child development centers.
- Sec. 2811. General and flag officers quarters in the National Capital Region.

SUBTITLE B—REAL PROPERTY AND FACILITIES ADMINISTRATION

- Sec. 2821. Consolidation of Department of Defense land acquisition authorities and limitations on use of such authorities.
- Sec. 2822. Modification of authorities on agreements to limit encroachments and other constraints on military training, testing, and operations.
- Sec. 2823. Modification of utility system conveyance authority and related reporting requirements.
- Sec. 2824. Report on application of force protection and anti-terrorism standards to leased facilities.
- Sec. 2825. Report on use of ground source heat pumps at Department of Defense facilities.

SUBTITLE C—BASE CLOSURE AND REALIGNMENT

- Sec. 2831. Additional reporting requirements regarding base closure process and use of Department of Defense base closure accounts.
- Sec. 2832. Expanded availability of adjustment and diversification assistance for communities adversely affected by mission realignments in base closure process.
- Sec. 2833. Treatment of Indian Tribal Governments as public entities for purposes of disposal of real property recommended for closure in July 1993 BRAC Commission report.
- Sec. 2834. Termination of project authorizations for military installations approved for closure in 2005 round of base realignments and closures.
- Sec. 2835. Required consultation with State and local entities on issues related to increase in number of military personnel at military installations.
- Sec. 2836. Sense of Congress regarding infrastructure and installation requirements for transfer of units and personnel from closed and realigned military installations to receiving locations.
- Sec. 2837. Defense access road program and military installations affected by defense base closure process or Integrated Global Presence and Basing Strategy.
- Sec. 2838. Sense of Congress on reversionary interests involving real property at Navy homeports.

SUBTITLE D—LAND CONVEYANCES

PART I—ARMY CONVEYANCES

- Sec. 2841. Land conveyance, Camp Navajo, Arizona.
- Sec. 2842. Land conveyance, Iowa Army Ammunition Plant, Middletown, Iowa.
- Sec. 2843. Land conveyance, Helena, Montana.
- Sec. 2844. Lease authority, Army Heritage and Education Center, Carlisle, Pennsylvania.
- Sec. 2845. Land exchange, Fort Hood, Texas.
- Sec. 2846. Modification of land conveyance, Engineer Proving Ground, Fort Belvoir, Virginia.
- Sec. 2847. Land conveyance, Fort Belvoir, Virginia.
- Sec. 2848. Land conveyance, Army Reserve Center, Bothell, Washington.

PART II—NAVY CONVEYANCES

- Sec. 2851. Land conveyance, Marine Corps Air Station, Miramar, San Diego, California.
- Sec. 2852. Lease or license of United States Navy Museum facilities at Washington Navy Yard, District of Columbia.

PART III—AIR FORCE CONVEYANCES

- Sec. 2861. Purchase of build-to-lease family housing, Eielson Air Force Base, Alaska.
- Sec. 2862. Land conveyance, Air Force property, Jacksonville, Arkansas.
- Sec. 2863. Land conveyance, Air Force property, La Junta, Colorado.
- Sec. 2864. Lease, National Imagery and Mapping Agency site, St. Louis, Missouri.

SUBTITLE E—OTHER MATTERS

- Sec. 2871. Clarification of moratorium on certain improvements at Fort Buchanan, Puerto Rico.
- Sec. 2872. Transfer of excess Department of Defense property on Santa Rosa and Okaloosa Island, Florida, to Gulf Islands National Seashore.
- Sec. 2873. Authorized military uses of Papago Park Military Reservation, Phoenix, Arizona.
- Sec. 2874. Assessment of water needs for Presidio of Monterey and Ord Military Community.
- Sec. 2875. Redesignation of McEntire Air National Guard Station, South Carolina, as McEntire Joint National Guard Base.
- Sec. 2876. Sense of Congress regarding community impact assistance related to construction of Navy landing field, North Carolina.
- Sec. 2877. Sense of Congress on establishment of Bakers Creek Memorial.

DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS**TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS****SUBTITLE A—NATIONAL SECURITY PROGRAMS AUTHORIZATIONS**

- Sec. 3101. National Nuclear Security Administration.
- Sec. 3102. Defense environmental cleanup.
- Sec. 3103. Other defense activities.
- Sec. 3104. Defense nuclear waste disposal.

SUBTITLE B—OTHER MATTERS

- Sec. 3111. Reliable Replacement Warhead program.
- Sec. 3112. Rocky Flats Environmental Technology Site.
- Sec. 3113. Report on compliance with Design Basis Threat issued by Department of Energy in 2005.
- Sec. 3114. Reports associated with Waste Treatment and Immobilization Plant Project, Hanford Site, Richland, Washington.
- Sec. 3115. Report on assistance for a comprehensive inventory of Russian nonstrategic nuclear weapons.
- Sec. 3116. Report on international border security programs.
- Sec. 3117. Savannah River National Laboratory.

TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD

- Sec. 3201. Authorization.

TITLE XXXIII—NATIONAL DEFENSE STOCKPILE

- Sec. 3301. Authorized uses of National Defense Stockpile funds.
- Sec. 3302. Revisions to required receipt objectives for previously authorized disposals from National Defense Stockpile.
- Sec. 3303. Authorization for disposal of tungsten ores and concentrates.
- Sec. 3304. Disposal of ferromanganese.

TITLE XXXIV—NAVAL PETROLEUM RESERVES

- Sec. 3401. Authorization of appropriations.

TITLE XXXV—MARITIME ADMINISTRATION

- Sec. 3501. Authorization of appropriations for fiscal year 2006.
- Sec. 3502. Payments for State and regional maritime academies.
- Sec. 3503. Maintenance and repair reimbursement pilot program.
- Sec. 3504. Tank vessel construction assistance.
- Sec. 3505. Improvements to the Maritime Administration vessel disposal program.
- Sec. 3506. Assistance for small shipyards and maritime communities.
- Sec. 3507. Transfer of authority for title XI non-fishing loan guarantee decisions to Maritime Administration.
- Sec. 3508. Technical corrections.

Sec. 3509. United States Maritime Service.
 Sec. 3510. Awards and medals.

10 USC 101 note. **SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES.**

For purposes of this Act, the term “congressional defense committees” has the meaning given that term in section 101(a)(16) of title 10, United States Code.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

SUBTITLE A—AUTHORIZATION OF APPROPRIATIONS

Sec. 101. Army.
 Sec. 102. Navy and Marine Corps.
 Sec. 103. Air Force.
 Sec. 104. Defense-wide activities.

SUBTITLE B—ARMY PROGRAMS

Sec. 111. Multiyear procurement authority for utility helicopters.
 Sec. 112. Multiyear procurement authority for modernized target acquisition designation sight/pilot night vision sensors for AH–64 Apache attack helicopters.
 Sec. 113. Multiyear procurement authority for conversion of AH–64A Apache attack helicopters to the AH–64D Block II configuration.
 Sec. 114. Acquisition strategy for tactical wheeled vehicle programs.
 Sec. 115. Report on Army Modular Force Initiative.

SUBTITLE C—NAVY PROGRAMS

Sec. 121. Virginia-class submarine program.
 Sec. 122. LHA Replacement (LHA(R)) amphibious assault ship program.
 Sec. 123. Cost limitation for next-generation destroyer program.
 Sec. 124. Littoral Combat Ship (LCS) program.
 Sec. 125. Prohibition on acquisition of next-generation destroyer through a single shipyard.
 Sec. 126. Aircraft carrier force structure.
 Sec. 127. Refueling and complex overhaul of the U.S.S. Carl Vinson.
 Sec. 128. CVN–78 aircraft carrier.
 Sec. 129. LHA Replacement (LHA(R)) ship.
 Sec. 130. Report on alternative propulsion methods for surface combatants and amphibious warfare ships.

SUBTITLE D—AIR FORCE PROGRAMS

Sec. 131. C–17 aircraft program and assessment of intertheater airlift requirements.
 Sec. 132. Prohibition on retirement of KC–135E aircraft.
 Sec. 133. Prohibition on retirement of F–117 aircraft during fiscal year 2006.
 Sec. 134. Prohibition on retirement of C–130E/H tactical airlift aircraft during fiscal year 2006.
 Sec. 135. Procurement of C–130J/KC–130J aircraft after fiscal year 2005.
 Sec. 136. Report on Air Force aircraft aeromedical evacuation programs.

SUBTITLE E—JOINT AND MULTISERVICE MATTERS

Sec. 141. Requirement that tactical unmanned aerial vehicles use specified standard data link.
 Sec. 142. Limitation on initiation of new unmanned aerial vehicle systems.
 Sec. 143. Advanced SEAL Delivery System.

Subtitle A—Authorization of Appropriations

SEC. 101. ARMY.

Funds are hereby authorized to be appropriated for fiscal year 2006 for procurement for the Army as follows:

- (1) For aircraft, \$2,792,580,000.
- (2) For missiles, \$1,246,850,000.
- (3) For weapons and tracked combat vehicles, \$1,652,949,000.
- (4) For ammunition, \$1,738,872,000.
- (5) For other procurement, \$4,328,934,000.

SEC. 102. NAVY AND MARINE CORPS.

(a) NAVY.—Funds are hereby authorized to be appropriated for fiscal year 2006 for procurement for the Navy as follows:

- (1) For aircraft, \$9,803,126,000.
- (2) For weapons, including missiles and torpedoes, \$2,737,841,000.
- (3) For shipbuilding and conversion, \$8,880,623,000.
- (4) For other procurement, \$5,518,287,000.

(b) MARINE CORPS.—Funds are hereby authorized to be appropriated for fiscal year 2006 for procurement for the Marine Corps in the amount of \$1,396,705,000.

(c) NAVY AND MARINE CORPS AMMUNITION.—Funds are hereby authorized to be appropriated for fiscal year 2006 for procurement of ammunition for the Navy and the Marine Corps in the amount of \$867,470,000.

SEC. 103. AIR FORCE.

Funds are hereby authorized to be appropriated for fiscal year 2006 for procurement for the Air Force as follows:

- (1) For aircraft, \$12,862,333,000.
- (2) For ammunition, \$1,021,207,000.
- (3) For missiles, \$5,394,557,000.
- (4) For other procurement, \$14,024,689,000.

SEC. 104. DEFENSE-WIDE ACTIVITIES.

Funds are hereby authorized to be appropriated for fiscal year 2006 for Defense-wide procurement in the amount of \$2,646,988,000.

Subtitle B—Army Programs

SEC. 111. MULTIYEAR PROCUREMENT AUTHORITY FOR UTILITY HELICOPTERS.

(a) UH–60M BLACK HAWK HELICOPTERS.—Subject to subsection (c), the Secretary of the Army may enter into a multiyear contract for the procurement of UH–60M Black Hawk helicopters.

(b) MH–60S SEAHAWK HELICOPTERS.—Subject to subsection (c), the Secretary of the Army, acting as executive agent for the Department of the Navy, may enter into a multiyear contract for the procurement of MH–60S Seahawk helicopters.

(c) CONTRACT REQUIREMENTS.—Any multiyear contract under this section shall be entered into in accordance with section 2306b of title 10, United States Code, and shall commence with the fiscal year 2007 program year.

SEC. 112. MULTIYEAR PROCUREMENT AUTHORITY FOR MODERNIZED TARGET ACQUISITION DESIGNATION SIGHT/PILOT NIGHT VISION SENSORS FOR AH-64 APACHE ATTACK HELICOPTERS.

(a) **AUTHORITY.**—The Secretary of the Army may, in accordance with section 2306b of title 10, United States Code, enter into a multiyear contract, beginning with the fiscal year 2006 program year, for procurement of modernized target acquisition designation sight/pilot night vision sensors for AH-64 Apache attack helicopters.

(b) **LIMITATION ON TERM OF CONTRACT.**—Notwithstanding subsection (k) of section 2306b of title 10, United States Code, a contract under this section may not be for a period in excess of four program years.

SEC. 113. MULTIYEAR PROCUREMENT AUTHORITY FOR CONVERSION OF AH-64A APACHE ATTACK HELICOPTERS TO THE AH-64D BLOCK II CONFIGURATION.

(a) **AUTHORITY.**—The Secretary of the Army may, in accordance with section 2306b of title 10, United States Code, enter into a multiyear contract, beginning with the fiscal year 2006 program year, for conversion of AH-64A Apache attack helicopters to the AH-64D Block II configuration.

(b) **LIMITATION ON TERM OF CONTRACT.**—Notwithstanding subsection (k) of section 2306b of title 10, United States Code, a contract under this section may not be for a period in excess of four program years.

SEC. 114. ACQUISITION STRATEGY FOR TACTICAL WHEELED VEHICLE PROGRAMS.

(a) **ARMY.**—If, in carrying out a program for modernization and recapitalization of the fleet of tactical wheeled vehicles of the Army, the Secretary of the Army determines to award a contract for procurement of a new vehicle class for the next-generation tactical wheeled vehicle, the Secretary shall award and execute the acquisition program under that contract as a joint service program with the Marine Corps.

(b) **MARINE CORPS.**—If, in carrying out a program for modernization and recapitalization of the fleet of tactical wheeled vehicles of the Marine Corps, the Secretary of the Navy determines to award a contract for procurement of a new vehicle class for the next-generation tactical wheeled vehicle, the Secretary shall award and execute the acquisition program under that contract as a joint service program with the Army.

(c) **APPLICABILITY ONLY TO NEW VEHICLE CLASS.**—Subsections (a) and (b) do not apply to a contract for modifications, upgrades, or product improvements to the existing fleet of tactical wheeled vehicles of the Army or Marine Corps, respectively.

SEC. 115. REPORT ON ARMY MODULAR FORCE INITIATIVE.

(a) **REPORT.**—The Secretary of the Army shall submit to the congressional defense committees a report on the complex of programs referred to as the Army Modular Force Initiative. The report shall be submitted not later than 30 days after the date of the submission to Congress of a request by the President for the enactment of emergency supplemental appropriations for the Department of Defense for fiscal year 2006.

(b) **MATTERS TO BE INCLUDED.**—The report under subsection (a) shall include the following:

(1) A specification of each acquisition program of the Army that is considered by the Secretary of the Army to be part of the complex of programs constituting the Army Modular Force Initiative.

(2) For each program specified under paragraph (1), the acquisition objective of the program, the funding profile of the program, and the requirement for the program.

(3) The requirements of each such program that, under current funding plans of the Department of Defense for fiscal years after fiscal year 2006, would not be funded.

(4) A detailed accounting of the amounts for the Army Modular Force Initiative in the request for supplemental appropriations referred to in subsection (a).

Subtitle C—Navy Programs

SEC. 121. VIRGINIA-CLASS SUBMARINE PROGRAM.

(a) LIMITATION OF COSTS.—Except as provided in subsection (b), the total amount obligated or expended for procurement of the five Virginia-class submarines designated as SSN–779, SSN–780, SSN–781, SSN–782, and SSN–783 may not exceed the following amounts:

- (1) For the SSN–779 submarine, \$2,330,000,000.
- (2) For the SSN–780 submarine, \$2,470,000,000.
- (3) For the SSN–781 submarine, \$2,550,000,000.
- (4) For the SSN–782 submarine, \$2,670,000,000.
- (5) For the SSN–783 submarine, \$2,720,000,000.

(b) ADJUSTMENT OF LIMITATION AMOUNTS.—The Secretary of the Navy may adjust the amount set forth in subsection (a) for any Virginia-class submarine specified in that subsection by the following:

- (1) The amounts of increases or decreases in costs attributable to economic inflation after September 30, 2005.
- (2) The amounts of increases or decreases in costs attributable to compliance with changes in Federal, State, or local laws enacted after September 30, 2005.
- (3) The amounts of outfitting costs and post-delivery costs incurred for that submarine.
- (4) The amounts of increases or decreases in costs of that submarine that are attributable to insertion of new technology into that submarine, as compared to the technology built into the lead vessel of the Virginia class.

(c) LIMITATION ON TECHNOLOGY INSERTION COST ADJUSTMENT.—The Secretary of the Navy may use the authority under paragraph (4) of subsection (b) to adjust the amount set forth in subsection (a) for any Virginia-class submarine with respect to insertion of new technology into that submarine only if—

- (1) the Secretary determines, and certifies to the congressional defense committees, that insertion of the new technology would lower the life-cycle cost of the submarine; or
- (2) the Secretary determines, and certifies to the congressional defense committees, that insertion of the new technology is required to meet an emerging threat and the Secretary of Defense certifies to those committees that such threat poses grave harm to national security.

(d) NOTICE TO CONGRESS OF PROGRAM CHANGES.—The Secretary of the Navy shall submit to the congressional defense committees each year, at the same time that the budget is submitted under section 1105(a) of title 31, United States Code, for the next fiscal year, written notice of any change in any of the amounts set forth in subsection (a) during the preceding fiscal year that the Secretary has determined to be associated with a cost referred to in subsection (b).

SEC. 122. LHA REPLACEMENT (LHA(R)) AMPHIBIOUS ASSAULT SHIP PROGRAM.

(a) LIMITATION ON PROCUREMENT FUNDS.—Of the funds available to the Department of the Navy for Shipbuilding and Conversion, Navy, for fiscal year 2006 for procurement for the LHA Replacement (LHA(R)) amphibious assault ship program, not more than 70 percent may be obligated or expended until the Secretary of the Navy submits to the congressional defense committees the Secretary's certification in writing that—

(1) a detailed operational requirements document for the program has been approved within the Department of Defense by an appropriate approval authority; and

(2) there exists a stable design for the LHA(R) class of vessels.

(b) STABLE DESIGN.—For purposes of this section, the design of a class of vessels shall be considered to be stable when no substantial change to the design is anticipated.

SEC. 123. COST LIMITATION FOR NEXT-GENERATION DESTROYER PROGRAM.

(a) LIMITATION OF COSTS.—Except as provided in subsection (b), the total amount obligated or expended for procurement of the fifth vessel in the next-generation destroyer program may not exceed \$2,300,000,000.

(b) ADJUSTMENT OF LIMITATION AMOUNT.—The Secretary of the Navy may adjust the amount set forth in subsection (a) for the vessel referred to in that subsection by the following:

(1) The amounts of increases or decreases in costs attributable to economic inflation after September 30, 2005.

(2) The amounts of increases or decreases in costs attributable to compliance with changes in Federal, State, or local laws enacted after September 30, 2005.

(3) The amounts of outfitting costs and post-delivery costs incurred for that vessel.

(4) The amounts of increases or decreases in costs of that vessel that are attributable to insertion of new technology into that vessel, as compared to the technology built into the lead vessel of the next-generation destroyer program class.

(c) LIMITATION ON TECHNOLOGY INSERTION COST ADJUSTMENT.—The Secretary of the Navy may use the authority under paragraph (4) of subsection (b) to adjust the amount set forth in subsection (a) for the vessel referred to in that subsection with respect to insertion of new technology into that vessel only if—

(1) the Secretary determines, and certifies to the congressional defense committees, that insertion of the new technology would lower the life-cycle cost of the vessel; or

(2) the Secretary determines, and certifies to the congressional defense committees, that insertion of the new technology is required to meet an emerging threat and the Secretary

of Defense certifies to those committees that such threat poses grave harm to national security.

(d) WRITTEN NOTICE OF CHANGE IN AMOUNT.—

(1) REQUIREMENT.—The Secretary of the Navy shall submit to the congressional defense committees each year, at the same time that the budget is submitted under section 1105(a) of title 31, United States Code, for the next fiscal year, written notice of any change in the amount set forth in subsection (a) during the preceding fiscal year that the Secretary has determined to be associated with a cost referred to in subsection (b).

(2) EFFECTIVE DATE.—The requirement in paragraph (1) shall become effective with the budget request for the year of procurement of the vessel referred to in subsection (a), such year being the fiscal year in which the Secretary of the Navy intends to award a contract for detail design and construction.

(e) NEXT-GENERATION DESTROYER PROGRAM.—In this section, the term “next-generation destroyer program” means the program to acquire and deploy a new class of destroyers as the follow-on to the Arleigh Burke class of destroyers.

SEC. 124. LITTORAL COMBAT SHIP (LCS) PROGRAM.

(a) LIMITATION OF COSTS.—Except as provided in subsection (b), the total amount obligated or expended for procurement of the fifth and sixth vessels in the Littoral Combat Ship (LCS) class of vessels, excluding amounts for elements designated by the Secretary of the Navy as a mission package, may not exceed \$220,000,000 per vessel.

(b) ADJUSTMENT OF LIMITATION AMOUNT.—The Secretary of the Navy may adjust the amount set forth in subsection (a) for either vessel referred to in that subsection by the following:

(1) The amounts of increases or decreases in costs attributable to economic inflation after September 30, 2005.

(2) The amounts of increases or decreases in costs attributable to compliance with changes in Federal, State, or local laws enacted after September 30, 2005.

(3) The amounts of outfitting costs and post-delivery costs incurred for that vessel.

(4) The amounts of increases or decreases in costs of that vessel that are attributable to insertion of new technology into that vessel, as compared to the technology built into the first and second vessels, respectively, of the Littoral Combat Ship (LCS) class of vessels.

(c) LIMITATION ON TECHNOLOGY INSERTION COST ADJUSTMENT.—The Secretary of the Navy may use the authority under paragraph (4) of subsection (b) to adjust the amount set forth in subsection (a) for any vessel referred to in that subsection with respect to insertion of new technology into that vessel only if—

(1) the Secretary determines, and certifies to the congressional defense committees, that insertion of the new technology would lower the life-cycle cost of the vessel; or

(2) the Secretary determines, and certifies to the congressional defense committees, that insertion of the new technology is required to meet an emerging threat and the Secretary of Defense certifies to those committees that such threat poses grave harm to national security.

(d) ANNUAL REPORT ON COST GROWTH.—

(1) **REQUIREMENT.**—The Secretary of the Navy shall submit to the congressional defense committees each year, at the same time that the budget is submitted under section 1105(a) of title 31, United States Code, for the next fiscal year, written notice of any change in the amount set forth in subsection (a) during the preceding fiscal year that the Secretary has determined to be associated with a cost referred to in subsection (b).

(2) **EFFECTIVE DATE.**—The requirement in paragraph (1) shall become effective with the budget request for the year of procurement of the fifth and sixth vessels in the Littoral Combat Ship (LCS) class of vessels, such year being the fiscal year in which the Secretary of the Navy intends to award a contract for detail design and construction of those vessels.

(e) **ANNUAL REPORT ON MISSION PACKAGES.**—The Secretary of the Navy shall submit to the congressional defense committees each year, at the same time as the President's budget for the next fiscal year is submitted under section 1105(a) of title 31, United States Code, a report that provides current information regarding the content of any element of the Littoral Combat Ship (LCS) class of vessels that is designated as a “mission package”, the estimated cost of any such element, and the total number of such elements anticipated.

(f) **LIMITATION ON SHIPS AND MISSION MODULES.**—No funds available to the Navy may be used for the procurement of Littoral Combat Ships, or elements for such Littoral Combat Ships referred to in subsection (e), after procurement of the first four vessels in the Littoral Combat Ship (LCS) class until the Secretary of the Navy submits to the congressional defense committees the Secretary's certification in writing that there exist stable designs for the Littoral Combat Ship class of vessels.

(g) **STABLE DESIGN.**—For purposes of this section, the designs of a class of vessels shall be considered to be stable when no substantial change to those designs is anticipated.

SEC. 125. PROHIBITION ON ACQUISITION OF NEXT-GENERATION DESTROYER THROUGH A SINGLE SHIPYARD.

(a) **PROHIBITION.**—The Secretary of the Navy may not acquire vessels under the next-generation destroyer program through a winner-take-all acquisition strategy.

(b) **PROHIBITION ON USE OF FUNDS.**—The Secretary of the Navy may not obligate or expend any funds to prepare for, conduct, or implement a strategy for the acquisition of vessels under the next-generation destroyer program through a winner-take-all acquisition strategy.

(c) **WINNER-TAKE-ALL ACQUISITION STRATEGY DEFINED.**—In this section, the term “winner-take-all acquisition strategy”, with respect to the acquisition of vessels under the next-generation destroyer program, means the acquisition (including design and construction) of such vessels through a single shipyard.

(d) **NEXT-GENERATION DESTROYER PROGRAM.**—In this section, the term “next-generation destroyer program” means the program to acquire and deploy a new class of destroyers as the follow-on to the Arleigh Burke class of destroyers.

SEC. 126. AIRCRAFT CARRIER FORCE STRUCTURE.

(a) **REQUIREMENT FOR 12 OPERATIONAL AIRCRAFT CARRIERS WITHIN THE NAVY.**—Section 5062 of title 10, United States Code, is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) by inserting after subsection (a) the following new subsection (b):

“(b) The naval combat forces of the Navy shall include not less than 12 operational aircraft carriers. For purposes of this subsection, an operational aircraft carrier includes an aircraft carrier that is temporarily unavailable for worldwide deployment due to routine or scheduled maintenance or repair.”.

(b) **FUNDING FOR REPAIR AND MAINTENANCE OF U.S.S. JOHN F. KENNEDY.**—Of the amounts available for operation and maintenance for the Navy pursuant to this Act and any other Act for fiscal year 2006, not more than \$288,000,000 shall be available for repair and maintenance to extend the life of the U.S.S. John F. Kennedy (CVN-67).

SEC. 127. REFUELING AND COMPLEX OVERHAUL OF THE U.S.S. CARL VINSON.

(a) **AMOUNT AUTHORIZED FROM FY06 SCN ACCOUNT.**—Of the amount authorized to be appropriated by section 102(a)(3) for fiscal year 2006 for shipbuilding and conversion, Navy, \$1,493,563,000 is available for work on the nuclear refueling and complex overhaul of the U.S.S. Carl Vinson (CVN-70) under the contract authorized by Public Law 109-104.

(b) **CONTRACT AUTHORITY.**—The amount specified in subsection (a) includes the amount of \$89,000,000 made available by Public Law 109-104 for fiscal year 2006 for a period of such fiscal year preceding the enactment of this Act.

SEC. 128. CVN-78 AIRCRAFT CARRIER.

(a) **AUTHORITY TO USE MULTIPLE YEARS OF FUNDING.**—The Secretary of the Navy is authorized to enter into a contract for detail design and construction of the aircraft carrier designated CVN-78 that provides that, subject to subsection (b), funds for payments under the contract may be provided from amounts appropriated for Shipbuilding and Conversion, Navy, for fiscal years 2007, 2008, and 2009.

(b) **CONDITION FOR OUT-YEAR CONTRACT PAYMENTS.**—A contract described in subsection (a) shall provide that any obligation of the United States to make a payment under the contract for a fiscal year after fiscal year 2006 is subject to the availability of appropriations for that purpose for that fiscal year.

SEC. 129. LHA REPLACEMENT (LHA(R)) SHIP.

(a) **AMOUNT AUTHORIZED FROM SCN ACCOUNT FOR FISCAL YEAR 2006.**—Of the amount authorized to be appropriated by section 102(a)(3) for fiscal year 2006 for shipbuilding and conversion, Navy, \$200,447,000 shall be available for design, advance procurement, advance construction, detail design, and construction with respect to the LHA Replacement (LHA(R)) ship.

(b) **AMOUNTS AUTHORIZED FROM SCN ACCOUNT FOR FISCAL YEARS 2007 AND 2008.**—Amounts authorized to be appropriated for fiscal years 2007 and 2008 for shipbuilding and conversion,

Navy, shall be available for construction with respect to the LHA Replacement ship.

(c) CONTRACT AUTHORITY.—

(1) DESIGN, ADVANCE PROCUREMENT, AND ADVANCE CONSTRUCTION.—The Secretary of the Navy may enter into a contract during fiscal year 2006 for design, advance procurement, and advance construction with respect to the LHA Replacement ship.

(2) DETAIL DESIGN AND CONSTRUCTION.—The Secretary may enter into a contract during fiscal year 2006 for the detail design and construction of the LHA Replacement ship.

(d) CONDITION FOR OUT-YEAR CONTRACT PAYMENTS.—A contract entered into under subsection (c) shall provide that any obligation of the United States to make a payment under the contract for a fiscal year after fiscal year 2006 is subject to the availability of appropriations for that purpose for such fiscal year.

(e) FUNDING AS INCREMENT OF FULL FUNDING.—The amounts available under subsections (a) and (b) for the LHA Replacement ship are the first increments of funding for the full funding of the LHA Replacement (LHA(R)) ship program.

SEC. 130. REPORT ON ALTERNATIVE PROPULSION METHODS FOR SURFACE COMBATANTS AND AMPHIBIOUS WARFARE SHIPS.

(a) ANALYSIS OF ALTERNATIVES.—The Secretary of the Navy shall conduct an analysis of alternative propulsion methods for surface combatant vessels and amphibious warfare ships of the Navy.

(b) REPORT.—The Secretary shall submit to the congressional defense committees a report on the analysis of alternative propulsion systems carried out under subsection (a). The report shall be submitted not later than November 1, 2006.

(c) MATTERS TO BE INCLUDED.—The report under subsection (b) shall include the following:

(1) The key assumptions used in carrying out the analysis under subsection (a).

(2) The methodology and techniques used in conducting the analysis.

(3) A description of current and future technology relating to propulsion that has been incorporated in recently-designed surface combatant vessels and amphibious warfare ships or that is expected to be available for those types of vessels within the next 10-to-20 years.

(4) A description of each propulsion alternative for surface combatant vessels and amphibious warfare ships that was considered under the study and an analysis and evaluation of each such alternative from an operational and cost-effectiveness standpoint.

(5) A comparison of the life-cycle costs of each propulsion alternative.

(6) For each nuclear propulsion alternative, an analysis of when that nuclear propulsion alternative becomes cost effective as the price of a barrel of crude oil increases for each type of surface combatant vessel and each type of amphibious warfare ship.

(7) The conclusions and recommendations of the study, including those conclusions and recommendations that could

impact the design of future ships or lead to modifications of existing ships.

(8) The Secretary's intended actions, if any, for implementation of the conclusions and recommendations of the study.

(d) LIFE-CYCLE COSTS.—For purposes of this section, the term “life-cycle costs” includes those elements of cost that would be considered for a life-cycle cost analysis for a major defense acquisition program.

Subtitle D—Air Force Programs

SEC. 131. C-17 AIRCRAFT PROGRAM AND ASSESSMENT OF INTERTHEATER AIRLIFT REQUIREMENTS.

(a) MULTIYEAR PROCUREMENT AUTHORIZED.—Subject to subsection (b), the Secretary of the Air Force may, in accordance with section 2306b of title 10, United States Code, enter into a multiyear contract, beginning with the fiscal year 2006 program year, for the procurement of up to 42 additional C-17 aircraft.

(b) CERTIFICATION REQUIRED.—The Secretary of the Air Force may not exercise the authority in subsection (a) until the Secretary of Defense submits to the congressional defense committees a certification that the additional airlift capacity to be provided by the C-17 aircraft to be procured under that authority is consistent with the assessment of the intertheater airlift capabilities required to support the national defense strategy carried out pursuant to subsection (c) and submitted to the congressional committees pursuant to subsection (d).

(c) ASSESSMENT OF INTERTHEATER AIRLIFT REQUIREMENTS.—

(1) REQUIREMENT.—The Secretary of Defense shall carry out an assessment of the intertheater airlift capabilities required to support the national defense strategy. The assessment shall include development of recommendations for future airlift force structure requirements, together with an explanation for each such recommendation. The Secretary shall submit the assessment pursuant to subsection (d).

Reports.

(2) ADDITIONAL INFORMATION.—In the report on the results of the assessment required by paragraph (1), the Secretary shall explain how the recommendations for future airlift force structure requirements in that report take into account the following:

(A) The increased airlift demands associated with the Army modular brigade combat teams.

(B) The objective to be able to deliver—

(i) a brigade combat team anywhere in the world within four to seven days;

(ii) a division anywhere in the world within 10 days; and

(iii) multiple divisions anywhere in the world within 20 days.

(C) The increased airlift demands associated with the expanded scope of operational activities of the Special Operations forces.

(D) The realignment of the overseas basing structure in accordance with the Integrated Presence and Basing Strategy announced by the Secretary of Defense on March 20, 2003.

(E) Adjustments in the force structure to meet homeland defense requirements.

(F) The potential for simultaneous homeland defense activities and major combat operations.

(G) Potential changes in requirements for intratheater airlift or sealift capabilities.

(H) The capability of the Civil Reserve Air Fleet to provide adequate augmentation in meeting global mobility requirements.

Reports.

(d) SUBMISSION OF ASSESSMENT OF INTERTHEATER AIRLIFT REQUIREMENTS.—

(1) INCLUSION IN QUADRENNIAL DEFENSE REVIEW.—Subject to paragraph (2), the assessment of the intertheater airlift capabilities required to support the national defense strategy required by subsection (c)(1) shall be carried out as part of the quadrennial defense review under section 118 of title 10, United States Code, in 2005 and in accordance with the provisions of subsection (d)(9) of that section, and the report under subsection (c)(1) on that assessment shall be included in the report on that quadrennial defense review submitted to the Committees on Armed Services of the Senate and House of Representatives with the budget of the President for fiscal year 2007 (as submitted under section 1105(a) of title 31, United States Code).

(2) ALTERNATIVE SUBMISSION.—If the Secretary of Defense determines that, because of the date required by law for the submission of the report on the quadrennial defense review referred to in paragraph (1), the assessment of the intertheater airlift capabilities required to support the national defense strategy required by subsection (c)(1) cannot be carried out as part of the quadrennial defense review referred to in paragraph (1), the Secretary may submit the report of such assessment not later than 45 days after the date of the submission of that review pursuant to section 118(d) of title 10, United States Code. In that case, the Secretary shall submit the report of such assessment to the congressional defense committees.

(e) MAINTENANCE OF C–17 AIRCRAFT PRODUCTION LINE.—If the Secretary of Defense is unable to make the certification specified in subsection (b), the Secretary of the Air Force should procure sufficient C–17 aircraft to maintain the C–17 aircraft production line at not less than the minimum sustaining rate until sufficient flight test data regarding improved C–5 aircraft mission capability rates as a result of the Reliability Enhancement and Re-engining Program and Avionics Modernization Program have been obtained to determine the validity of assumptions concerning the C–5 aircraft used in the Mobility Capabilities Study.

SEC. 132. PROHIBITION ON RETIREMENT OF KC–135E AIRCRAFT.

The Secretary of the Air Force may not retire any KC–135E aircraft of the Air Force in fiscal year 2006.

SEC. 133. PROHIBITION ON RETIREMENT OF F–117 AIRCRAFT DURING FISCAL YEAR 2006.

The Secretary of the Air Force may not retire any F–117 Nighthawk attack aircraft during fiscal year 2006.

SEC. 134. PROHIBITION ON RETIREMENT OF C-130E/H TACTICAL AIRLIFT AIRCRAFT DURING FISCAL YEAR 2006.

The Secretary of the Air Force may not retire any C-130E/H tactical airlift aircraft during fiscal year 2006.

SEC. 135. PROCUREMENT OF C-130J/KC-130J AIRCRAFT AFTER FISCAL YEAR 2005.

Any C-130J/KC-130J aircraft procured after fiscal year 2005 (including C-130J/KC-130J aircraft procured through a multiyear contract continuing in force from a fiscal year before fiscal year 2006) shall be procured through a contract under part 15 of the Federal Acquisition Regulation (FAR), relating to acquisition of items by negotiated contract (48 CFR 15.000 et seq.), rather than through a contract under part 12 of the Federal Acquisition Regulation, relating to acquisition of commercial items (48 CFR 12.000 et seq.).

SEC. 136. REPORT ON AIR FORCE AIRCRAFT AEROMEDICAL EVACUATION PROGRAMS.

(a) **REPORT REQUIRED.**—Not later than 90 days after the date of the enactment of this Act, the Secretary of the Air Force shall submit to the congressional defense committees a report on aircraft aeromedical evacuation programs of the Air Force. The report shall contain a comprehensive evaluation and overall assessment of (1) the current aeromedical evacuation program, carried out through the use of designated aircraft, compared to (2) the former aeromedical evacuation program, carried out through the use of dedicated aircraft.

(b) **MATTERS TO BE INCLUDED.**—The report shall include the following:

(1) A description of challenges and capability gaps of the current aircraft aeromedical evacuation program compared to the challenges and capability gaps of the former program.

(2) A description of possible means by which to best mitigate or resolve the challenges and capability gaps described under paragraph (1) with respect to the current program.

(3) Specification of medical equipment or upgrades needed to enhance the current program.

(4) Specification of aircraft equipment or upgrades needed to enhance the current program.

(5) A description of the advantages and disadvantages of the current program compared to the advantages and disadvantages of the former program.

(6) A cost comparison analysis of the current program and the former program.

(7) A description of the manner in which customer feedback is obtained and applied to the current program.

Subtitle E—Joint and Multiservice Matters

SEC. 141. REQUIREMENT THAT TACTICAL UNMANNED AERIAL VEHICLES USE SPECIFIED STANDARD DATA LINK.

(a) **REQUIREMENT.**—The Secretary of Defense shall take such steps as necessary to ensure that (except as specified in subsection (c)) all tactical unmanned aerial vehicles (UAVs) of the Army, Navy, Marine Corps, and Air Force are equipped and configured so that—

(1) the data link used by those vehicles is the Department of Defense standard tactical unmanned aerial vehicle data link known as the Tactical Common Data Link (TCDL), until such time as the Tactical Common Data Link standard is replaced by an updated standard for use by those vehicles; and

(2) those vehicles use data formats consistent with the architectural standard for tactical unmanned aerial vehicles known as STANAG 4586, developed to facilitate multinational interoperability among NATO member nations.

(b) **FUNDING LIMITATION.**—After December 1, 2006, no funds available to the Department of Defense may be used to enter into a contract for procurement of a new tactical unmanned aerial vehicle system with data links other than as required by subsection (a)(1).

(c) **WAIVER AUTHORITY.**—The Under Secretary of Defense for Acquisition, Technology, and Logistics may waive the applicability of subsection (a) to any tactical unmanned aerial vehicle if the Under Secretary determines, and certifies to the congressional defense committees, that it would be technologically infeasible or uneconomically acceptable to integrate a tactical data link specified in that subsection into that tactical unmanned aerial vehicle.

(d) **REPORT.**—Not later than February 1, 2006, the Secretary of each military department shall submit to Congress a report on the status of implementation of standard data links for unmanned aerial vehicles under the jurisdiction of the Secretary in accordance with subsection (a).

SEC. 142. LIMITATION ON INITIATION OF NEW UNMANNED AERIAL VEHICLE SYSTEMS.

(a) **LIMITATION.**—Funds available to the Department of Defense may not be used to procure an unmanned aerial vehicle (UAV) system, including any air vehicle, data link, ground station, sensor, or other associated equipment for any such system, or to modify any such system to include any form of armament, unless such procurement or modification is authorized in writing in advance by the Under Secretary of Defense for Acquisition, Technology, and Logistics.

(b) **EXCEPTION FOR EXISTING SYSTEMS.**—The limitation in subsection (a) does not apply with respect to an unmanned aerial vehicle (UAV) system for which funds are under contract as of the date of the enactment of this Act or for which funds have been appropriated for procurement before the date of the enactment of this Act.

SEC. 143. ADVANCED SEAL DELIVERY SYSTEM.

(a) **LIMITATION.**—Of the amounts authorized to be appropriated for fiscal year 2006 for operation and maintenance, Defense-wide, that are available for the United States Special Operations Command, \$10,100,000 may not be obligated or expended until the Secretary of Defense submits to the congressional defense committees each of the following:

(1) The Secretary's certification that the Secretary has revalidated the requirement for the Advanced SEAL Delivery System.

(2) A report on the Advanced SEAL Delivery System program that, at a minimum, includes—

(A) the conclusions of the quadrennial defense review concerning the program;

(B) the number of boats required for the program and the manner of their expected employment;

(C) an updated cost estimate for the program; and

(D) a timeline for addressing the technological challenges faced by the program by March 1, 2006.

(b) REPORT ON ONGOING CRITICAL SYSTEMS REVIEW.—Not later than January 1, 2007, the Secretary shall submit to the congressional defense committees a report providing the conclusions of the ongoing critical systems review with respect to the Advanced SEAL Delivery System program.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

SUBTITLE A—AUTHORIZATION OF APPROPRIATIONS

Sec. 201. Authorization of appropriations.

Sec. 202. Amount for defense science and technology.

SUBTITLE B—PROGRAM REQUIREMENTS, RESTRICTIONS, AND LIMITATIONS

Sec. 211. Annual Comptroller General report on Future Combat Systems program.

Sec. 212. Contract for the procurement of the Future Combat Systems (FCS).

Sec. 213. Limitations on systems development and demonstration of manned ground vehicles under Armored Systems Modernization program.

Sec. 214. Separate program elements required for significant systems development and demonstration projects for Armored Systems Modernization program.

Sec. 215. Initiation of program to design and develop next-generation nuclear attack submarine.

Sec. 216. Extension of requirements relating to management responsibility for naval mine countermeasures programs.

Sec. 217. Single set of requirements for Army and Marine Corps heavy lift rotorcraft program.

Sec. 218. Requirements for development of tactical radio communications systems.

Sec. 219. Limitation on systems development and demonstration of Personnel Recovery Vehicle.

Sec. 220. Limitation on VXX helicopter program.

Sec. 221. Report on testing of Internet Protocol version 6.

SUBTITLE C—MISSILE DEFENSE PROGRAMS

Sec. 231. Report on capabilities and costs for operational boost/ascent-phase missile defense systems.

Sec. 232. One-year extension of Comptroller General assessments of ballistic missile defense programs.

Sec. 233. Fielding of ballistic missile defense capabilities.

Sec. 234. Plans for test and evaluation of operational capability of the ballistic missile defense system.

SUBTITLE D—HIGH-PERFORMANCE DEFENSE MANUFACTURING TECHNOLOGY RESEARCH AND DEVELOPMENT

Sec. 241. Pilot program for identification and transition of advanced manufacturing processes and technologies.

Sec. 242. Transition of transformational manufacturing processes and technologies to defense manufacturing base.

Sec. 243. Manufacturing technology strategies.

Sec. 244. Report.

Sec. 245. Definitions.

SUBTITLE E—OTHER MATTERS

Sec. 251. Comptroller General report on program element structure for research, development, test, and evaluation projects.

Sec. 252. Research and development efforts for purposes of small business research.

Sec. 253. Revised requirements relating to submission of Joint Warfighting Science and Technology Plan.

Sec. 254. Report on efficiency of naval shipbuilding industry.

Sec. 255. Technology transition.

- Sec. 256. Prevention, mitigation, and treatment of blast injuries.
- Sec. 257. Modification of requirements for annual report on DARPA program to award cash prizes for advanced technology achievements.
- Sec. 258. Designation of facilities and resources constituting the Major Range and Test Facility Base.
- Sec. 259. Report on cooperation between Department of Defense and National Aeronautics and Space Administration on research, development, test, and evaluation activities.
- Sec. 260. Delayed effective date for limitation on procurement of systems not GPS-equipped.
- Sec. 261. Report on development and use of robotics and unmanned ground vehicle systems.

Subtitle A—Authorization of Appropriations

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 2006 for the use of the Department of Defense for research, development, test, and evaluation as follows:

- (1) For the Army, \$10,036,004,000.
- (2) For the Navy, \$18,581,441,000.
- (3) For the Air Force, \$22,305,012,000.
- (4) For Defense-wide activities, \$19,277,402,000, of which \$168,458,000 is authorized for the Director of Operational Test and Evaluation.

SEC. 202. AMOUNT FOR DEFENSE SCIENCE AND TECHNOLOGY.

(a) FISCAL YEAR 2006.—Of the amounts authorized to be appropriated by section 201, \$11,363,021,000 shall be available for the Defense Science and Technology Program, including basic research, applied research, and advanced technology development projects.

(b) BASIC RESEARCH, APPLIED RESEARCH, AND ADVANCED TECHNOLOGY DEVELOPMENT DEFINED.—For purposes of this section, the term “basic research, applied research, and advanced technology development” means work funded in program elements for defense research and development under Department of Defense budget activities 1, 2, and 3.

Subtitle B—Program Requirements, Restrictions, and Limitations

SEC. 211. ANNUAL COMPTROLLER GENERAL REPORT ON FUTURE COMBAT SYSTEMS PROGRAM.

(a) ANNUAL GAO REVIEW.—The Comptroller General shall conduct an annual review of the Future Combat Systems program and shall, not later than March 15 of each year, submit to Congress a report on the results of the most recent review. With each such report, the Comptroller General shall submit a certification as to whether the Comptroller General has had access to sufficient information to enable the Comptroller General to make informed judgments on the matters covered by the report.

(b) MATTERS TO BE INCLUDED.—Each report on the Future Combat Systems program under subsection (a) shall include the following with respect to research and development under the program:

(1) The extent to which systems development and demonstration under the program is meeting established goals, including the goals established for performance, key performance parameters, technology readiness levels, cost, and schedule.

(2) The budget for the current fiscal year, and the projected budget for the next fiscal year, for all Department of Defense programs directly supporting the Future Combat Systems program and an evaluation of the contribution each such program makes to meeting the goals established for performance, key performance parameters, and technology readiness levels of the Future Combat Systems program.

(3) The plan for such systems development and demonstration (leading to production) for the fiscal year that begins in the year in which the report is submitted.

(4) The Comptroller General's conclusion regarding whether such systems development and demonstration (leading to production) is likely to be completed at a total cost not in excess of the amount specified (or to be specified) for such purpose in the Selected Acquisition Report for the Future Combat Systems program under section 2432 of title 10, United States Code, for the first quarter of the fiscal year during which the report of the Comptroller General is submitted.

(c) **TERMINATION.**—No report is required under this section after systems development and demonstration under the Future Combat Systems program is completed.

SEC. 212. CONTRACT FOR THE PROCUREMENT OF THE FUTURE COMBAT SYSTEMS (FCS).

The Secretary of the Army shall procure the Future Combat Systems (FCS) through a contract under part 15 of the Federal Acquisition Regulation (FAR), relating to acquisition of items by negotiated contract (48 CFR 15.000 et seq.), rather than through a transaction under section 2371 of title 10, United States Code.

SEC. 213. LIMITATIONS ON SYSTEMS DEVELOPMENT AND DEMONSTRATION OF MANNED GROUND VEHICLES UNDER ARMORED SYSTEMS MODERNIZATION PROGRAM.

Reports.

(a) **LIMITATIONS.**—Of the amounts appropriated or otherwise made available pursuant to the authorization of appropriations in section 201 for the Armored Systems Modernization program, not more than 70 percent may be obligated for systems development and demonstration of manned ground vehicle variants under that program until each of the following occurs:

(1) The Secretary of Defense certifies to the congressional defense committees that the threshold requirements for manned ground vehicle variants with respect to lethality and survivability have been met and demonstrated, in accordance with applicable regulations, in a relevant environment to be at least equal to the lethality and survivability of the manned ground vehicles to be replaced by those variants.

(2) The Secretary of Defense submits to the congressional defense committees the results of an independent analysis carried out with respect to the transportability requirement for the manned ground vehicle variants under the Future Combat Systems program for the purpose of determining whether—

(A) the requirement can be supported by the future-years defense plan and the projected extended planning

period inter-theater and intra-theater airlift force structure budget;

(B) the requirement is justified by any likely deployment scenario envisioned by current operational plans; and

(C) the projected unit procurement cost warrants the investment required to deploy those variants.

(3) The Under Secretary of Defense for Acquisition, Technology, and Logistics submits to the congressional defense committees the results of an independent cost estimate, prepared by the cost analysis improvement group of the Office of the Secretary of Defense, with respect to the Future Combat Systems program.

(4) The Secretary of the Army submits to the congressional defense committees a report containing—

(A) the organizational design, quantities, and fielding plan for each of the current force Brigade Combat Teams and the Future Combat Systems Brigade Combat Teams; and

(B) the Future Combat Systems Manned Ground Vehicle research, development, test, and evaluation and procurement plan and budgets through the future-years defense plan, including unit procurement cost for each Future Combat Systems Manned Ground Vehicle variant in constant and current-year dollars.

(5) The Secretary of Defense submits to the congressional defense committees a report describing and evaluating the requirements and budgets for the technology insertion program for integrating Future Combat Systems capabilities into current force programs through the future-years defense plan for the purpose of determining—

(A) the balance in programs and resources between the Future Combat Systems Brigade Combat Teams and the current force Brigade Combat Teams;

(B) the feasibility of accelerating technology insertion into the current force Brigade Combat Teams;

(C) the level of research, development, test, and evaluation and procurement funding to support planned technology insertions into the current force Brigade Combat Teams through the future-years defense plan; and

(D) the capabilities of a current force Brigade Combat Team equipped with planned technology insertions in 2010, in comparison to a Future Combat Systems Manned Ground Vehicle Brigade Combat Team in 2014.

(b) EXCEPTION FOR NON-LINE-OF-SIGHT CANNON SYSTEM.—This section does not apply with respect to the obligation of funds for systems development and demonstration of the non-line-of-sight cannon system.

10 USC 221 note. **SEC. 214. SEPARATE PROGRAM ELEMENTS REQUIRED FOR SIGNIFICANT SYSTEMS DEVELOPMENT AND DEMONSTRATION PROJECTS FOR ARMORED SYSTEMS MODERNIZATION PROGRAM.**

(a) PROGRAM ELEMENTS SPECIFIED.—Effective for the budget of the President submitted to Congress under section 1105(a) of title 31, United States Code, for fiscal year 2008 and each fiscal year thereafter, the Secretary of Defense shall ensure that a separate, dedicated program element is assigned to each of the following

systems development and demonstration projects of the Armored Systems Modernization program:

- (1) Manned Ground Vehicles.
- (2) Systems of Systems Engineering and Program Management.
- (3) Future Combat Systems Reconnaissance Platforms and Sensors.
- (4) Future Combat Systems Unmanned Ground Vehicles.
- (5) Unattended Sensors.
- (6) Sustainment.

(b) **EARLY COMMENCEMENT OF DISPLAY IN BUDGET JUSTIFICATION MATERIALS.**—As part of the budget justification materials submitted to Congress in support of the Department of Defense budget for fiscal year 2007, as submitted with the budget of the President under such section 1105(a), the Secretary of the Army shall set forth the budget justification material for the systems development and demonstration projects of the Armored Systems Modernization program identified in subsection (a) as if the projects were already separate program elements.

(c) **TECHNOLOGY INSERTION TO CURRENT FORCE.**—

(1) **REPORT ON ESTABLISHMENT OF ADDITIONAL PROGRAM ELEMENT.**—Not later than June 1, 2006, the Secretary of the Army shall submit a report to the congressional defense committees describing the manner in which the costs of integrating Future Combat Systems capabilities into current force programs could be assigned to a separate, dedicated program element and any management issues that would be raised as a result of establishing such a program element.

(2) **DISPLAY IN BUDGET JUSTIFICATION MATERIALS.**—As part of the budget justification materials submitted to Congress in support of the Department of Defense budget for fiscal year 2007 and each fiscal year thereafter, as submitted with the budget of the President under such section 1105(a), the Secretary of the Army shall set forth the budget justification material for technology insertion to the current force under the Armored Systems Modernization program.

SEC. 215. INITIATION OF PROGRAM TO DESIGN AND DEVELOP NEXT-GENERATION NUCLEAR ATTACK SUBMARINE.

(a) **PROGRAM REQUIRED.**—The Secretary of the Navy shall initiate a program to design and develop the next-generation of nuclear attack submarines.

(b) **OBJECTIVE.**—The objective of the program required by subsection (a) is to develop a nuclear attack submarine that meets or exceeds the warfighting capability of a submarine of the current Virginia class at a cost dramatically lower than the cost of a submarine of the Virginia class. The Secretary may meet such objective by modifying the Virginia class of nuclear submarines to incorporate new technology.

(c) **REPORT.**—

(1) **IN GENERAL.**—The Secretary of the Navy shall include, with the defense budget justification materials submitted in support of the President's budget for fiscal year 2007 submitted to Congress under section 1105 of title 31, United States Code, a report on the program required by subsection (a).

(2) **CONTENTS.**—The report shall include—

- (A) an outline of the management approach to be used in carrying out the program;
- (B) the goals for the program; and
- (C) a schedule for the program.

SEC. 216. EXTENSION OF REQUIREMENTS RELATING TO MANAGEMENT RESPONSIBILITY FOR NAVAL MINE COUNTERMEASURES PROGRAMS.

(a) **IN GENERAL.**—Section 216 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1317), as most recently amended by section 212 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2480), is amended—

(1) in subsection (a), by striking “2008” and inserting “2011”;

(2) in subsection (b)(1), by inserting after “Secretary of Defense” the following: “, and the Secretary of Defense has forwarded to the congressional defense committees,”;

(3) in subsection (b)(2), by inserting before the semicolon at the end the following: “and, by so certifying, ensures that the budget meets the requirements of section 2437 of title 10, United States Code”; and

(4) by striking subsection (c) and inserting the following new subsection (c):

“(c) **NOTIFICATION OF CERTAIN PROPOSED CHANGES.**—

“(1) **IN GENERAL.**—With respect to a fiscal year, the Secretary may not carry out any change to the naval mine countermeasures master plan or the budget resources for mine countermeasures with respect to that fiscal year until after the Under Secretary of Defense for Acquisition, Technology, and Logistics submits to the congressional defense committees a notification of the proposed change. Such notification shall describe the nature of the proposed change and the effect of the proposed change on the naval mine countermeasures program or related programs with respect to that fiscal year.

“(2) **EXCEPTION.**—Paragraph (1) does not apply to a change if both—

“(A) the amount of the change is below the applicable reprogramming threshold; and

“(B) the effect of the change does not affect the validity of the decision to certify.”.

(b) **NOTICE AND CERTIFICATION BEFORE DECOMMISSIONING OF MHC–51 VESSELS.**—The Secretary of the Navy may not decommission any vessel of the MHC–51 mine countermeasures class before the end of the service life of that vessel until—

(1) the Secretary submits to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on existing capabilities to assume the MHC–51 mission, together with the Secretary’s certification that the capabilities of the vessels of the MHC–51 mine countermeasures class are no longer required; and

(2) a period of 30 days has elapsed after the date of receipt of that report and certification by those committees.

SEC. 217. SINGLE SET OF REQUIREMENTS FOR ARMY AND MARINE CORPS HEAVY LIFT ROTORCRAFT PROGRAM.

(a) **JOINT REQUIREMENT.**—The Secretary of the Army and the Secretary of the Navy shall develop a single set of requirements for the Joint Heavy Lift program for the Army and the Marine Corps.

(b) **APPROVAL BY JROC REQUIRED.**—The Secretary of Defense may not authorize entry into Systems Development and Demonstration for the next-generation heavy lift rotorcraft until the single joint requirement required by subsection (a) has been approved by the Joint Requirements Oversight Council.

(c) **EXCEPTION.**—This section does not apply to the CH–53X Heavy Lift Replacement Program.

SEC. 218. REQUIREMENTS FOR DEVELOPMENT OF TACTICAL RADIO COMMUNICATIONS SYSTEMS.

(a) **INTERIM TACTICAL RADIO COMMUNICATIONS.**—The Secretary of Defense shall—

(1) assess the immediate requirements of the military departments for tactical radio communications systems;

(2) ensure that the military departments rapidly acquire tactical radio communications systems utilizing existing technology or mature systems readily available in the commercial marketplace; and

(3) develop a plan and roadmap for the development, procurement, deployment, and sustainment of interim and future tactical radio communications systems.

(b) **JOINT TACTICAL RADIO SYSTEM.**—The Secretary of Defense shall apply Department of Defense Instruction 5000.2 to the Joint Tactical Radio System in a manner that does not permit the Milestone B entrance requirements to be waived unless the Secretary certifies that the Department is unable to meet critical national security objectives.

(c) **CERTIFICATION OF BUDGETS.**—

(1) **BUDGETING THROUGH JOINT PROGRAM OFFICE.**—The Secretary of Defense shall require that the Secretary of each military department, and the head of each Defense Agency with programs developing components of or research related to the Joint Tactical Radio System transmit such proposed budgets for these activities, including all waveform development activities, for a fiscal year to the head of the single joint program office designated under section 213 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1416) for review and certification under paragraph (2) before submitting such proposed budget to the Under Secretary of Defense (Comptroller).

(2) **ACTIONS OF HEAD OF JOINT PROGRAM OFFICE.**—The head of the single joint program office designated under section 213 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1416) shall review each proposed budget transmitted under paragraph (1) and shall, not later than January 31 of the year preceding the fiscal year for which such budgets are proposed, submit to the Secretary of Defense a report containing comments with respect to all such proposed budgets, together with the certification as to whether such proposed budgets are adequate and whether

Reports.
Deadline.

such proposed budgets provide balanced support for the plan required under subsection (a)(3).

Reports.
Deadline.

(3) ACTIONS OF SECRETARY OF DEFENSE.—The Secretary of Defense shall, not later than March 31 of the year preceding the fiscal year for which such budgets are proposed, submit to Congress a report on those proposed budgets which the head of the single joint program office has not certified under paragraph (2) to be adequate, including a discussion of the actions that the Secretary proposes to take to address the inadequacy of the proposed budgets.

Reports.
Deadline.

(d) REPORT ON IMPLEMENTATION REQUIRED.—Not later than May 1, 2006, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the implementation of this section.

SEC. 219. LIMITATION ON SYSTEMS DEVELOPMENT AND DEMONSTRATION OF PERSONNEL RECOVERY VEHICLE.

Not more than 40 percent of the amounts made available pursuant to the authorization of appropriations in section 201 for systems development and demonstration of the Personnel Recovery Vehicle may be obligated until 30 days after the date on which the Secretary of Defense submits to the congressional defense committees each of the following:

(1) The Secretary's certification that the requirements for the Personnel Recovery Vehicle have been validated by the Joint Requirements Oversight Council and that the acquisition schedule has been validated by the Under Secretary of Defense for Acquisition, Technology, and Logistics.

(2) The Secretary's certification that all technologies required to meet the requirements (as validated under paragraph (1)) for the Personnel Recovery Vehicle are mature and will have been demonstrated in a relevant environment before inclusion in production aircraft.

(3) The Secretary's assessment of whether another aircraft, or modification of an aircraft, in the inventory of the Department of Defense can meet the requirements and provide a more cost effective solution (as validated under paragraph (1)) for the Personnel Recovery Vehicle Program.

(4) In the event that the Department chooses to award a contract for the Personnel Recovery Vehicle Program for an aircraft not in the Department of Defense inventory, the Secretary's explanation of the reasons why the chosen system would be more effective or less expensive in terms of total life-cycle costs.

(5) A statement setting forth the independent cost estimate and manpower estimate (as required by section 2434 of title 10, United States Code) for the Personnel Recovery Vehicle.

SEC. 220. LIMITATION ON VXX HELICOPTER PROGRAM.

(a) LIMITATION.—Of the amounts appropriated or otherwise made available pursuant to the authorization of appropriations in section 201 for the VXX executive helicopter program, not more than 75 percent may be obligated for system development and demonstration of the VXX helicopter until the Secretary of the Navy submits to Congress an event-driven acquisition strategy for Increment Two of the program that includes the completion of

at least one phase of operational testing on production representative test vehicles before the initiation of aircraft production. That acquisition strategy shall be developed by the Secretary working with the Director of Operational Test and Evaluation of the Department of Defense.

(b) **REPORT.**—Not later than March 15, 2006, the Secretary of the Navy shall submit to the congressional defense committees a report setting forth in detail the acquisition strategy referred to in subsection (a). The report shall, at a minimum, include the following:

(1) A list of the critical technologies required for the production and operation of Increment Two aircraft for the VXX executive helicopter program.

(2) A schedule that accepts no more than moderate risk in either cost or schedule for the demonstration and test of each critical technology listed pursuant to paragraph (1).

(3) A description of the event-based decision points and associated decision criteria that will occur before the initiation of production of Increment two aircraft.

(4) A description of a proposed operational evaluation using production representative test vehicles to occur before the initiation of production of Increment Two aircraft.

(5) An evaluation of the acquisition strategy for Increment Two aircraft detailed in the report provided by the Director of Operational Test and Evaluation of the Department of Defense.

SEC. 221. REPORT ON TESTING OF INTERNET PROTOCOL VERSION 6.

(a) **ADDITIONAL PLAN ELEMENT.**—Subsection (b) of section 331 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 1850) is amended by adding at the end the following new paragraph:

“(5) A certification by the Chairman of the Joint Chiefs of Staff that the conversion of Department of Defense networks to Internet Protocol version 6 will provide equivalent or better performance and capabilities than that which would be provided by any other combination of available technologies or protocols.”.

(b) **OFFICIAL RESPONSIBLE FOR OVERSIGHT OF TEST AND EVALUATION PLAN.**—Such section is further amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection (d):

“(d) **OFFICIAL RESPONSIBLE FOR OVERSIGHT OF TEST AND EVALUATION PLAN.**—The Secretary of Defense shall designate the Director of Operational Test and Evaluation of the Department of Defense as the official responsible within the Department of Defense for oversight and direction of the test and evaluation plan under this section and for approval of the master test and evaluation plan under this section.”.

(c) **ANNUAL REPORT.**—Subsection (e) of such section (as redesignated by subsection (b)(1)) is amended to read as follows:

“(e) **REPORTS.**—

“(1) Not later than June 30, 2006, the Secretary of Defense shall submit to the congressional defense committees a report

containing the transition plan under subsection (a), updated to the time of the submission of the report.

“(2) For each of fiscal years 2006 through 2008, the Secretary of Defense shall, not later than the end of that fiscal year, submit to the congressional defense committees a report on the testing and evaluation carried out pursuant to subsection (c).”.

Subtitle C—Missile Defense Programs

SEC. 231. REPORT ON CAPABILITIES AND COSTS FOR OPERATIONAL BOOST/ASCENT-PHASE MISSILE DEFENSE SYSTEMS.

(a) SECRETARY OF DEFENSE ASSESSMENT.—The Secretary of Defense shall conduct an assessment of the United States missile defense programs that are designed to provide capability against threat ballistic missiles in the boost/ascent phase of flight.

(b) PURPOSE.—The purpose of the assessment shall be to compare and contrast—

(1) capabilities of those programs (if operational) to defeat, while in the boost/ascent phase of flight, ballistic missiles launched from North Korea or a location in the Middle East against the continental United States, Alaska, or Hawaii; and

(2) asset requirements and costs for those programs to become operational with the capabilities referred to in paragraph (1).

(c) REPORT.—Not later than October 1, 2006, the Secretary shall submit to Congress a report providing the results of the assessment.

SEC. 232. ONE-YEAR EXTENSION OF COMPTROLLER GENERAL ASSESSMENTS OF BALLISTIC MISSILE DEFENSE PROGRAMS.

(a) EXTENSION.—Section 232(g) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 10 U.S.C. 2431 note) is amended—

(1) in paragraph (1), by striking “through 2006” and inserting “through 2007”; and

(2) in paragraph (2), by striking “through 2007” and inserting “through 2008”.

(b) MODIFICATION OF SUBMITTAL DATE.—Paragraph (2) of such section is further amended by striking “February 15” and inserting “March 15”.

SEC. 233. FIELDING OF BALLISTIC MISSILE DEFENSE CAPABILITIES.

Upon approval by the Secretary of Defense, funds authorized to be appropriated for fiscal years 2006 and 2007 for research, development, test, and evaluation for the Missile Defense Agency may be used for the development and fielding of ballistic missile defense capabilities.

10 USC 2431
note.

SEC. 234. PLANS FOR TEST AND EVALUATION OF OPERATIONAL CAPABILITY OF THE BALLISTIC MISSILE DEFENSE SYSTEM.

(a) TEST AND EVALUATION PLANS FOR BLOCKS.—

(1) PLANS REQUIRED.—With respect to block 06 and each subsequent block of the Ballistic Missile Defense System, the appropriate joint and service operational test and evaluation components of the Department of Defense concerned with the

block shall prepare a plan, appropriate for the level of technological maturity of the block, to test, evaluate, and characterize the operational capability of the block.

(2) CONSULTATION AND REVIEW.—The preparation of each plan under this subsection shall be—

(A) carried out in coordination with the Missile Defense Agency; and

(B) subject to the review and approval of the Director of Operational Test and Evaluation.

(b) REPORTS ON TEST AND EVALUATION OF BLOCKS.—At the conclusion of the test and evaluation of block 06 and each subsequent block of the Ballistic Missile Defense System, the Director of Operational Test and Evaluation shall submit to the Secretary of Defense and the congressional defense committees a report providing—

(1) the assessment of the Director as to whether or not the test and evaluation was adequate to evaluate the operational capability of the block; and

(2) the characterization of the Director as to the operational effectiveness, suitability, and survivability of the block, as appropriate for the level of technological maturity of the block tested.

Subtitle D—High-Performance Defense Manufacturing Technology Research and Development

SEC. 241. PILOT PROGRAM FOR IDENTIFICATION AND TRANSITION OF ADVANCED MANUFACTURING PROCESSES AND TECHNOLOGIES.

10 USC 2521
note.

(a) PILOT PROGRAM REQUIRED.—The Under Secretary of Defense for Acquisition, Technology, and Logistics shall conduct a pilot program under the authority of section 2521 of title 10, United States Code, to identify and transition advanced manufacturing processes and technologies the utilization of which would achieve significant productivity and efficiency gains in the defense manufacturing base.

(b) CONSIDERATION OF DEFENSE PRIORITIES.—In carrying out subsection (a), the Under Secretary shall take into consideration the defense priorities established in the most current Joint Warfighting Science and Technology plan, as required under section 270 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 10 U.S.C. 2501 note).

(c) IDENTIFICATION FOR TRANSITION.—In identifying manufacturing processes and technologies for transition to the defense manufacturing base under the pilot program, the Under Secretary shall select the most promising transformational technologies and manufacturing processes, in consultation with the Director of Defense Research and Engineering, the Joint Defense Manufacturing Technology Panel, and other such entities as may be appropriate, including the Director of the Small Business Innovation Research Program.

10 USC 2521
note.

SEC. 242. TRANSITION OF TRANSFORMATIONAL MANUFACTURING PROCESSES AND TECHNOLOGIES TO DEFENSE MANUFACTURING BASE.

(a) **PROTOTYPES AND TEST BEDS.**—The Under Secretary of Defense for Acquisition, Technology, and Logistics shall undertake the development of prototypes and test beds to validate the manufacturing processes and technologies selected for transition under the pilot program under section 241.

(b) **DIFFUSION OF ENHANCEMENTS.**—The Under Secretary shall seek the cooperation of industry in adopting such manufacturing processes and technologies through the following:

(1) The Manufacturing Extension Partnership Program.

(2) The identification of incentives for industry to incorporate and utilize such manufacturing processes and technologies.

10 USC 2521
note.

SEC. 243. MANUFACTURING TECHNOLOGY STRATEGIES.

(a) **IN GENERAL.**—The Under Secretary of Defense for Acquisition, Technology, and Logistics may—

(1) identify an area of technology where the development of an industry-prepared roadmap for new manufacturing and technology processes applicable to defense manufacturing requirements would be beneficial to the Department of Defense; and

(2) establish a task force, and act in cooperation, with the private sector to map the strategy for the development of manufacturing processes and technologies needed to support technology development in the area identified under paragraph (1).

Deadline.

(b) **COMMENCEMENT OF ROADMAPPING.**—The Under Secretary shall commence any roadmapping identified pursuant to subsection (a)(1) not later than January 2007.

10 USC 2521
note.

SEC. 244. REPORT.

(a) **IN GENERAL.**—Not later than December 31, 2007, the Under Secretary of the Defense for Acquisition, Technology, and Logistics shall submit to the congressional defense committees a report on the actions undertaken by the Under Secretary under this subtitle during fiscal year 2006.

(b) **ELEMENTS.**—The report under subsection (a) shall include—

(1) a comprehensive description of the actions undertaken under this subtitle during fiscal year 2006;

(2) an assessment of effectiveness of such actions in enhancing research and development on manufacturing technologies and processes, and the implementation of such within the defense manufacturing base; and

(3) such recommendations as the Under Secretary considers appropriate for additional actions to be undertaken in order to increase the effectiveness of the actions undertaken under this subtitle in enhancing manufacturing activities within the defense manufacturing base.

10 USC 2521
note.

SEC. 245. DEFINITIONS.

In this subtitle:

(1) **DEFENSE MANUFACTURING BASE.**—The term “defense manufacturing base” includes any supplier of the Department of Defense, including a supplier of raw materials.

(2) MANUFACTURING EXTENSION PARTNERSHIP PROGRAM.—The term “Manufacturing Extension Partnership Program” means the Manufacturing Extension Partnership Program of the Department of Commerce.

(3) SMALL BUSINESS INNOVATION RESEARCH PROGRAM.—The term “Small Business Innovation Research Program” has the meaning given that term in section 2500(11) of title 10, United States Code.

Subtitle E—Other Matters

SEC. 251. COMPTROLLER GENERAL REPORT ON PROGRAM ELEMENT STRUCTURE FOR RESEARCH, DEVELOPMENT, TEST, AND EVALUATION PROJECTS.

(a) REPORT REQUIRED.—The Comptroller General shall prepare a report containing assessments of—

(1) the current program element structure and content used to account for projects carried out, or proposed to be carried out, using amounts for research, development, test, and evaluation activities; and

(2) the effectiveness of such program elements, and related budget justification materials, in providing necessary information for budget transparency and oversight by the congressional defense committees.

(b) RECOMMENDATIONS.—The report required by subsection (a) shall also include such recommendations as the Comptroller General considers to be appropriate regarding program element size and content, budget justification material content, and appropriate reprogramming authorities within and between program elements, particularly in connection with highly complex research and development programs that employ the system-of-systems concept.

(c) SUBMISSION.—The report required by subsection (a) shall be submitted to the congressional defense committees not later than February 1, 2007.

SEC. 252. RESEARCH AND DEVELOPMENT EFFORTS FOR PURPOSES OF SMALL BUSINESS RESEARCH.

(a) IN GENERAL.—Section 9 of the Small Business Act (15 U.S.C. 638) is amended by adding at the end the following new subsections:

“(x) RESEARCH AND DEVELOPMENT FOCUS.—

“(1) REVISION AND UPDATE OF CRITERIA AND PROCEDURES OF IDENTIFICATION.—In carrying out subsection (g), the Secretary of Defense shall, not less often than once every 4 years, revise and update the criteria and procedures utilized to identify areas of the research and development efforts of the Department of Defense which are suitable for the provision of funds under the Small Business Innovation Research Program and the Small Business Technology Transfer Program.

“(2) UTILIZATION OF PLANS.—The criteria and procedures described in paragraph (1) shall be developed through the use of the most current versions of the following plans:

“(A) The Joint Warfighting Science and Technology Plan required under section 270 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 10 U.S.C. 2501 note).

“(B) The Defense Technology Area Plan of the Department of Defense.

“(C) The Basic Research Plan of the Department of Defense.

“(3) INPUT IN IDENTIFICATION OF AREAS OF EFFORT.—The criteria and procedures described in paragraph (1) shall include input in the identification of areas of research and development efforts described in that paragraph from Department of Defense program managers (PMs) and program executive officers (PEOs).

“(y) COMMERCIALIZATION PILOT PROGRAM.—

“(1) IN GENERAL.—The Secretary of Defense and the Secretary of each military department is authorized to create and administer a ‘Commercialization Pilot Program’ to accelerate the transition of technologies, products, and services developed under the Small Business Innovation Research Program to Phase III, including the acquisition process.

“(2) IDENTIFICATION OF RESEARCH PROGRAMS FOR ACCELERATED TRANSITION TO ACQUISITION PROCESS.—In carrying out the Commercialization Pilot Program, the Secretary of Defense and the Secretary of each military department shall identify research programs of the Small Business Innovation Research Program that have the potential for rapid transitioning to Phase III and into the acquisition process.

“(3) LIMITATION.—No research program may be identified under paragraph (2) unless the Secretary of the military department concerned certifies in writing that the successful transition of the program to Phase III and into the acquisition process is expected to meet high priority military requirements of such military department.

“(4) FUNDING.—For payment of expenses incurred to administer the Commercialization Pilot Program under this subsection, the Secretary of Defense and each Secretary of a military department is authorized to use not more than an amount equal to 1 percent of the funds available to the Department of Defense or the military department pursuant to the Small Business Innovation Research Program. Such funds—

“(A) shall not be subject to the limitations on the use of funds in subsection (f)(2); and

“(B) shall not be used to make Phase III awards.

“(5) EVALUATIVE REPORT.—At the end of each fiscal year, the Secretary of Defense shall submit to the Committee on Armed Services and the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Armed Services and the Committee on Small Business of the House of Representatives an evaluative report regarding activities under the Commercialization Pilot Program. The report shall include—

“(A) an accounting of the funds used in the Commercialization Pilot Program;

“(B) a detailed description of the Commercialization Pilot Program, including incentives and activities undertaken by acquisition program managers, program executive officers, and prime contractors; and

“(C) a detailed compilation of results achieved by the Commercialization Pilot Program, including the number

of small business concerns assisted and the number of projects commercialized.

“(6) SUNSET.—The pilot program under this subsection shall terminate at the end of fiscal year 2009.”.

(b) IMPLEMENTATION OF EXECUTIVE ORDER NO. 13329.—Section 9 of the Small Business Act (15 U.S.C. 638), as amended by subsection (a), is further amended—

(1) in subsection (b)—

(A) in paragraph (6), by striking “and” at the end;

(B) in paragraph (7), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(8) to provide for and fully implement the tenets of Executive Order No. 13329 (Encouraging Innovation in Manufacturing).”;

(2) in subsection (g)—

(A) in paragraph (9), by striking “and” at the end;

(B) in paragraph (10), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(11) provide for and fully implement the tenets of Executive Order No. 13329 (Encouraging Innovation in Manufacturing).”; and

(3) in subsection (o)—

(A) in paragraph (14), by striking “and” at the end;

(B) in paragraph (15), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(16) provide for and fully implement the tenets of Executive Order No. 13329 (Encouraging Innovation in Manufacturing).”.

(c) TESTING AND EVALUATION AUTHORITY.—Section 9(e) of the Small Business Act (15 U.S.C. 638(e)) is amended—

(1) in paragraph (7), by striking “and” at the end;

(2) in paragraph (8), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(9) the term ‘commercial applications’ shall not be construed to exclude testing and evaluation of products, services, or technologies for use in technical or weapons systems, and further, awards for testing and evaluation of products, services, or technologies for use in technical or weapons systems may be made in either the second or the third phase of the Small Business Innovation Research Program and of the Small Business Technology Transfer Program, as defined in this subsection.”.

SEC. 253. REVISED REQUIREMENTS RELATING TO SUBMISSION OF JOINT WARFIGHTING SCIENCE AND TECHNOLOGY PLAN.

(a) BIENNIAL SUBMITTAL.—Section 270 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 10 U.S.C. 2501 note) is amended—

(1) by striking “ANNUAL” in the section heading and inserting “BIENNIAL”; and

(2) by striking “(a) ANNUAL PLAN REQUIRED.—On March 1 of each year” and inserting “Not later than March 1 of each even-numbered year”.

10 USC 2501
note.

(b) REPEAL OF REQUIREMENT FOR INCLUSION OF TECHNOLOGY AREA REVIEW AND ASSESSMENT SUMMARIES WITH JWSTP.—Subsection (b) of such section is repealed.

(c) REQUIREMENT FOR SEPARATE REPORTS ON TECHNOLOGY AREA REVIEW AND ASSESSMENT SUMMARIES.—Whenever the Secretary of Defense provides for the conduct of a study referred to as a Technology Area Review and Assessment, the Secretary shall, not later than March 1 of the year following the year in which that study is conducted, submit to the congressional defense committees a report containing a summary of each such Technology Area Review and Assessment conducted during that year.

SEC. 254. REPORT ON EFFICIENCY OF NAVAL SHIPBUILDING INDUSTRY.

(a) ASSESSMENT OF EFFICIENCY OF NAVAL SHIPBUILDING INDUSTRY.—

(1) ASSESSMENT REQUIRED.—The Secretary of the Navy shall conduct an assessment of the United States naval shipbuilding industry to determine how worldwide shipbuilding industry best practices for innovation, design, and production technologies, processes, and infrastructure could be adopted to improve efficiency in the following areas:

(A) Program design, engineering, and production engineering.

(B) Organization and operating systems.

(C) Steelwork production.

(D) Ship construction and outfitting.

(2) CONTENTS OF ASSESSMENT.—The assessment under paragraph (1) shall include the following:

(A) An identification of any best practice of the worldwide shipbuilding industry that the United States naval shipbuilding industry has not adopted, the adoption of which would lower construction costs.

(B) The estimated cost of adopting any best practice identified under subparagraph (A) and any estimated return on an investment made by a shipyard to adopt such a best practice.

(C) Any recommendation of the Secretary to increase the efficiency of the United States naval shipbuilding industry.

(3) RELATION TO INDEPENDENT NAVY SHIP CONSTRUCTION ASSESSMENT.—The assessment under paragraph (1) shall occur subsequent to, and take into consideration the results of, the study of the cost effectiveness of the ship construction program of the Navy required by section 1014 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2041).

(b) REPORT.—Not later than April 1, 2006, the Secretary of the Navy shall submit to the congressional defense committees a report containing the Secretary's findings and conclusions based on the assessment under subsection (a).

SEC. 255. TECHNOLOGY TRANSITION.

(a) CLARIFICATION OF DUTIES OF TECHNOLOGY TRANSITION COUNCIL.—Paragraph (2) of section 2359a(g) of title 10, United States Code, is amended to read as follows:

“(2) The duty of the Council shall be to support the Under Secretary of Defense for Acquisition, Technology, and Logistics in

developing policies to facilitate the rapid transition of technologies from science and technology programs into acquisition programs of the Department of Defense.”.

(b) REPORT ON TECHNOLOGY TRANSITION.—

(1) REPORT REQUIRED.—The Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report concerning the challenges associated with technology transition from the science and technology programs of the Department of Defense to the acquisition programs of the Department of Defense. The Secretary shall include in the report a strategy to address those challenges. The Secretary shall prepare the report working through the Technology Transition Council of the Department of Defense established under section 2359a(g) of title 10, United States Code

(2) MATTERS TO BE INCLUDED.—The report shall include the following:

(A) A description of any internal organizational barriers within the Department to technology transition between the technology development, acquisition, and operations components of the Department.

(B) An assessment of the effect of Department acquisition regulations on technology transition.

(C) An assessment of the effects of the requirements validation process and the planning, programming, budgeting, and execution processes of the Department on technology transition.

(D) A description of other challenges associated with technology transition in the Department that are identified by the Secretary.

(E) A Department-wide strategy for pursuing technology transition.

(F) Such recommendations as the Secretary considers appropriate to eliminate internal barriers within the Department to technology transition.

(3) SUBMITTAL DATE.—The report under paragraph (1) shall be submitted not later than nine months after the date of the enactment of this Act.

SEC. 256. PREVENTION, MITIGATION, AND TREATMENT OF BLAST INJURIES.

10 USC 1071
note.

(a) DESIGNATION OF EXECUTIVE AGENT.—The Secretary of Defense shall designate an executive agent to be responsible for coordinating and managing the medical research efforts and programs of the Department of Defense relating to the prevention, mitigation, and treatment of blast injuries.

(b) GENERAL RESPONSIBILITIES.—The executive agent designated under subsection (a) shall be responsible for—

(1) planning for the medical research and development projects, diagnostic and field treatment programs, and patient tracking and monitoring activities within the Department that relate to combat blast injuries;

(2) efficient execution of such projects, programs, and activities;

(3) enabling the sharing of blast injury health hazards and survivability data collected through such projects, programs, and activities with the programs of the Department of Defense;

(4) working with the Director, Defense Research and Engineering and the Secretaries of the military departments to ensure resources are adequate to also meet non-medical requirements related to blast injury prevention, mitigation, and treatment; and

(5) ensuring that a joint combat trauma registry is established and maintained for the purposes of collection and analysis of contemporary combat casualties, including casualties with traumatic brain injury.

(c) MEDICAL RESEARCH EFFORTS.—

(1) IN GENERAL.—The executive agent designated under subsection (a) shall review and assess the adequacy of medical research efforts of the Department of Defense as of the date of the enactment of this Act relating to the following:

(A) The characterization of blast effects leading to injury, including the injury potential of blasts in various environments.

(B) Medical technologies and protocols to more accurately detect and diagnose blast injuries, including improved discrimination between traumatic brain injuries and mental health disorders.

(C) Enhanced treatment of blast injuries in the field.

(D) Integrated treatment approaches for members of the Armed Forces who have a combination of traumatic brain injuries and mental health disorders or other injuries.

(E) Such other blast injury matters as the executive agent considers appropriate.

(2) REQUIREMENTS FOR RESEARCH EFFORTS.—Based on the assessment under paragraph (1), the executive agent shall establish requirements for medical research efforts described in that paragraph in order to enhance and accelerate those research efforts.

(3) OVERSIGHT OF RESEARCH EFFORTS.—The executive agent shall establish, coordinate, and oversee Department-wide medical research efforts relating to the prevention, mitigation, and treatment of blast injuries, as necessary, to fulfill requirements established under paragraph (2).

(d) OTHER RELATED RESEARCH EFFORTS.—The Director, Defense Research and Engineering, in coordination with the executive agent designated under subsection (a) and the Director of the Joint IED Defeat Task Force, shall—

(1) review and assess the adequacy of current research efforts of the Department on the prevention and mitigation of blast injuries;

(2) based on subsection (c)(1), establish requirements for further research; and

(3) address any deficiencies identified in paragraphs (1) and (2) by establishing, coordinating, and overseeing Department-wide research and development initiatives on the prevention and mitigation of blast injuries, including explosive detection and defeat and personnel and vehicle blast protection.

(e) STUDIES.—The executive agent designated under subsection (a) shall conduct studies on the prevention, mitigation, and treatment of blast injuries, including—

(1) studies to improve the clinical evaluation and treatment approach for blast injuries, with an emphasis on traumatic brain injuries and other consequences of blast injury, including acoustic and eye injuries and injuries resulting from over-pressure wave;

(2) studies on the incidence of traumatic brain injuries attributable to blast injury in soldiers returning from combat;

(3) studies to develop protocols for medical tracking of members of the Armed Forces for up to five years following blast injuries; and

(4) studies to refine and improve educational interventions for blast injury survivors and their families.

(f) TRAINING.—The executive agent designated under subsection (a), in coordination with the Director of the Joint IED Defeat Task Force, shall develop training protocols for medical and non-medical personnel on the prevention, mitigation, and treatment of blast injuries. Those protocols shall be intended to improve field and clinical training on early identification of blast injury consequences, both seen and unseen, including traumatic brain injuries, acoustic injuries, and internal injuries.

(g) INFORMATION SHARING.—The executive agent designated under subsection (a) shall make available the results of relevant medical research and development projects and studies to—

(1) Department of Defense programs focused on—

(A) promoting the exchange of blast health hazards data with blast characterization data and blast modeling and simulation tools; and

(B) encouraging the incorporation of blast hazards data into design and operational features of blast detection, mitigation, and defeat capabilities, such as comprehensive armor systems which provide blast, ballistic, and fire protection for the head, neck, ears, eyes, torso, and extremities; and

(2) traumatic brain injury treatment programs to enhance the evaluation and care of members of the Armed Forces with traumatic brain injuries in medical facilities in the United States and in deployed medical facilities, including those outside the Department of Defense.

(h) REPORTS ON BLAST INJURY MATTERS.—

(1) REPORTS REQUIRED.—Not later than 270 days after the date of the enactment of this Act, and annually thereafter through 2008, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the efforts and programs of the Department of Defense relating to the prevention, mitigation, and treatment of blast injuries.

(2) ELEMENTS.—Each report under paragraph (1) shall include the following:

(A) A description of the activities undertaken under this section during the two years preceding the report to improve the prevention, mitigation, and treatment of blast injuries.

(B) A consolidated budget presentation for Department of Defense biomedical research efforts and studies related to blast injury for the two fiscal years following the year of the report.

(C) A description of any gaps in the capabilities of the Department and any plans to address such gaps within biomedical research related to blast injury, blast injury diagnostic and treatment programs, and blast injury tracking and monitoring activities.

(D) A description of collaboration, if any, with other departments and agencies of the Federal Government, and with other countries, during the two years preceding the report in efforts for the prevention, mitigation, and treatment of blast injuries.

(E) A description of any efforts during the two years preceding the report to disseminate findings on the diagnosis and treatment of blast injuries through civilian and military research and medical communities.

(F) A description of the status of efforts during the two years preceding the report to incorporate blast injury effects data into appropriate programs of the Department of Defense and into the development of comprehensive force protection systems that are effective in confronting blast, ballistic, and fire threats.

(i) **DEADLINE FOR DESIGNATION OF EXECUTIVE AGENT.**—The Secretary shall make the designation required by subsection (a) not later than 90 days after the date of the enactment of this Act.

(j) **BLAST INJURIES DEFINED.**—In this section, the term “blast injuries” means injuries that occur as the result of the detonation of high explosives, including vehicle-borne and person-borne explosive devices, rocket-propelled grenades, and improvised explosive devices.

(k) **EXECUTIVE AGENT DEFINED.**—In this section, the term “executive agent” has the meaning provided such term in Department of Defense Directive 5101.1.

SEC. 257. MODIFICATION OF REQUIREMENTS FOR ANNUAL REPORT ON DARPA PROGRAM TO AWARD CASH PRIZES FOR ADVANCED TECHNOLOGY ACHIEVEMENTS.

Subsection (e) of section 2374a of title 10, United States Code, is amended to read as follows:

“(e) **ANNUAL REPORT.**—(1) Not later than March 1 each year, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the activities undertaken by the Director of the Defense Advanced Research Projects Agency during the preceding fiscal year under the authority of this section.

“(2) The report for a fiscal year under this subsection shall include the following:

“(A) The results of consultations between the Director and officials of the military departments regarding the areas of research, technology development, or prototype development for which prizes would be awarded under the program under this section.

“(B) A description of the proposed goals of the competitions established under the program, including the areas of research,

technology development, or prototype development to be promoted by such competitions and the relationship of such areas to the military missions of the Department.

“(C) The total amount of cash prizes awarded under the program, including a description of the manner in which the amounts of cash prizes awarded and claimed were allocated among the accounts of the Defense Advanced Research Projects Agency for recording as obligations and expenditures.

“(D) The methods used for the solicitation and evaluation of submissions under the program, together with an assessment of the effectiveness of such methods.

“(E) A description of the resources, including personnel and funding, used in the execution of the program, together with a detailed description of the activities for which such resources were used.

“(F) A description of any plans to transition the technologies or prototypes developed as a result of the program into acquisition programs of the Department.”.

SEC. 258. DESIGNATION OF FACILITIES AND RESOURCES CONSTITUTING THE MAJOR RANGE AND TEST FACILITY BASE.

(a) DEPARTMENT OF DEFENSE TEST RESOURCE MANAGEMENT CENTER.—Section 196(h) of title 10, United States Code, is amended by striking “Director of Operational Test and Evaluation” and inserting “Secretary of Defense”.

(b) INSTITUTIONAL FUNDING OF TEST AND EVALUATION ACTIVITIES.—Section 232(b)(1) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2490) is amended by striking “Director of Operational Test and Evaluation” and inserting “Secretary of Defense”.

SEC. 259. REPORT ON COOPERATION BETWEEN DEPARTMENT OF DEFENSE AND NATIONAL AERONAUTICS AND SPACE ADMINISTRATION ON RESEARCH, DEVELOPMENT, TEST, AND EVALUATION ACTIVITIES.

(a) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense and the Administrator of the National Aeronautics and Space Administration shall jointly submit to Congress a report setting forth the recommendations of the Secretary and the Administrator regarding cooperative activities between the Department of Defense and the National Aeronautics and Space Administration related to research, development, test, and evaluation on areas of mutual interest to the Department and the Administration.

(b) AREAS COVERED.—The areas of mutual interest to the Department of Defense and the National Aeronautics and Space Administration referred to in subsection (a) may include the following:

- (1) Aeronautics research.
- (2) Facilities, personnel, and support infrastructure.
- (3) Propulsion and power technologies.
- (4) Space access and operations, including responsive launch and small satellite development.

SEC. 260. DELAYED EFFECTIVE DATE FOR LIMITATION ON PROCUREMENT OF SYSTEMS NOT GPS-EQUIPPED.

10 USC 2281
note.

(a) DELAYED EFFECTIVE DATE.—Section 152(b) of the National Defense Authorization Act for Fiscal Year 1994 (10 U.S.C. 2281

10 USC 2281
note.

note) is amended by striking “After September 30, 2005” and inserting “After September 30, 2007”.

(b) **RATIFICATION OF ACTIONS.**—The amendment made by subsection (a) shall be deemed to have taken effect at the close of September 30, 2005, and any obligation or expenditure of funds by the Department of Defense during the period beginning on October 1, 2005, and ending on the date of the enactment of this Act to modify or procure a Department of Defense aircraft, ship, armored vehicle, or indirect-fire weapon system that is not equipped with a Global Positioning System receiver is hereby ratified with respect to the provision of law specified in subsection (a).

SEC. 261. REPORT ON DEVELOPMENT AND USE OF ROBOTICS AND UNMANNED GROUND VEHICLE SYSTEMS.

(a) **REPORT REQUIRED.**—Not later than nine months after the date of the enactment of this Act, the Under Secretary of Defense for Acquisition, Technology, and Logistics shall submit to the congressional defense committees a report on the development and utilization of robotics and unmanned ground vehicle systems by the Department of Defense.

(b) **ELEMENTS.**—The report required by subsection (a) shall include the following:

(1) A description of the utilization of robotics and unmanned ground vehicle systems in current military operations.

(2) A description of the manner in which the development of robotics and unmanned ground vehicle systems capabilities supports current major acquisition programs of the Department of Defense.

(3) A description, including budget estimates, of all Department programs and activities on robotics and unmanned ground vehicle systems for fiscal years 2004 through 2012, including the Joint Robotics Program and other programs and activities relating to research, development, test and evaluation, procurement, and operation and maintenance.

(4) A description of the long-term research and development strategy of the Department on technology for the development and integration of new robotics and unmanned ground vehicle systems capabilities in support of Department missions.

(5) A description of any planned demonstration or experimentation activities of the Department that will support the development and deployment of robotics and unmanned ground vehicle systems by the Department.

(6) A statement of the Department organizations currently participating in the development of new robotics or unmanned ground vehicle systems capabilities, including the specific missions of each such organization in such efforts.

(7) A description of the activities of the Department to collaborate with industry, academia, and other government and nongovernmental organizations in the development of new capabilities in robotics and unmanned ground vehicle systems.

(8) An assessment of the short-term and long-term ability of the industrial base of the United States to support the production of robotics and unmanned ground vehicle systems to meet Department requirements.

(9) An assessment of the progress being made to achieve the goal established by section 220(a)(2) of the Floyd D. Spence

National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–38) that, by 2015, one-third of operational ground combat vehicles be unmanned.

(10) An assessment of international research, technology, and military capabilities in robotics and unmanned ground vehicle systems.

(11) A description of the role and placement of the Joint Robotics Program in the Department.

(12) A description of the mechanisms of the Department for coordinating pre-systems development and demonstration funding for robotics and unmanned ground vehicle systems.

TITLE III—OPERATION AND MAINTENANCE

SUBTITLE A—AUTHORIZATION OF APPROPRIATIONS

- Sec. 301. Operation and maintenance funding.
- Sec. 302. Working capital funds.
- Sec. 303. Other Department of Defense programs.

SUBTITLE B—ENVIRONMENTAL PROVISIONS

- Sec. 311. Elimination and simplification of certain items required in the annual report on environmental quality programs and other environmental activities.
- Sec. 312. Payment of certain private cleanup costs in connection with Defense Environmental Restoration Program.

SUBTITLE C—WORKPLACE AND DEPOT ISSUES

- Sec. 321. Modification of authority of Army working-capital funded facilities to engage in cooperative activities with non-Army entities.
- Sec. 322. Limitation on transition of funding for east coast shipyards from funding through Navy working capital fund to direct funding.
- Sec. 323. Armament Retooling and Manufacturing Support Initiative matters.
- Sec. 324. Sense of Congress regarding depot maintenance.

SUBTITLE D—EXTENSION OF PROGRAM AUTHORITIES

- Sec. 331. Extension of authority to provide logistics support and services for weapons systems contractors.
- Sec. 332. Extension of period for reimbursement for certain protective, safety, or health equipment purchased by or for members of the Armed Forces deployed in contingency operations.

SUBTITLE E—OUTSOURCING

- Sec. 341. Public-private competition.
- Sec. 342. Contracting for procurement of certain supplies and services.
- Sec. 343. Performance of certain work by Federal Government employees.
- Sec. 344. Extension of temporary authority for contractor performance of security-guard functions.

SUBTITLE F—ANALYSIS, STRATEGIES, AND REPORTS

- Sec. 351. Report on Department of Army programs for prepositioning of equipment and other materiel.
- Sec. 352. Reports on budget models used for base operations support, sustainment, and facilities recapitalization.
- Sec. 353. Army training strategy for brigade-based combat teams and functional supporting brigades.
- Sec. 354. Report regarding effect on military readiness of undocumented immigrants trespassing upon operational ranges.
- Sec. 355. Report regarding management of Army lodging.
- Sec. 356. Comptroller General report on corrosion prevention and mitigation programs of the Department of Defense.
- Sec. 357. Study on use of biodiesel and ethanol fuel.
- Sec. 358. Report on effects of windmill farms on military readiness.

- Sec. 359. Report on space-available travel for certain disabled veterans and gray-area retirees.
- Sec. 360. Report on joint field training and experimentation on stability, security, transition, and reconstruction operations.
- Sec. 361. Reports on budgeting relating to sustainment of key military equipment.
- Sec. 362. Repeal of Air Force report on military installation encroachment issues.

SUBTITLE G—OTHER MATTERS

- Sec. 371. Supervision and management of Defense Business Transformation Agency.
- Sec. 372. Codification and revision of limitation on modification of major items of equipment scheduled for retirement or disposal.
- Sec. 373. Limitation on purchase of investment items with operation and maintenance funds.
- Sec. 374. Operation and use of general gift funds of the Department of Defense and Coast Guard.
- Sec. 375. Inclusion of packet based telephony in Department of Defense telecommunications benefit.
- Sec. 376. Limitation on financial management improvement and audit initiatives within Department of Defense.
- Sec. 377. Provision of welfare of special category residents at Naval Station Guantanamo Bay, Cuba.
- Sec. 378. Commemoration of success of the Armed Forces in Operation Enduring Freedom and Operation Iraqi Freedom.

SUBTITLE H—UTAH TEST AND TRAINING RANGE

- Sec. 381. Definitions.
- Sec. 382. Military operations and overflights, Utah Test and Training Range.
- Sec. 383. Analysis of military readiness and operational impacts in planning process for Federal lands in Utah Test and Training Range.
- Sec. 384. Designation and management of Cedar Mountain Wilderness, Utah.
- Sec. 385. Relation to other lands.

Subtitle A—Authorization of Appropriations

SEC. 301. OPERATION AND MAINTENANCE FUNDING.

Funds are hereby authorized to be appropriated for fiscal year 2006 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

- (1) For the Army, \$24,686,295,000.
- (2) For the Navy, \$30,538,089,000.
- (3) For the Marine Corps, \$3,809,526,000.
- (4) For the Air Force, \$31,117,136,000.
- (5) For Defense-wide activities, \$18,550,169,000.
- (6) For the Army Reserve, \$1,992,542,000.
- (7) For the Navy Reserve, \$1,237,295,000.
- (8) For the Marine Corps Reserve, \$198,034,000.
- (9) For the Air Force Reserve, \$2,487,786,000.
- (10) For the Army National Guard, \$4,478,319,000.
- (11) For the Air National Guard, \$4,701,991,000.
- (12) For the United States Court of Appeals for the Armed Forces, \$11,236,000.
- (13) For Environmental Restoration, Army, \$407,865,000.
- (14) For Environmental Restoration, Navy, \$305,275,000.
- (15) For Environmental Restoration, Air Force, \$406,461,000.
- (16) For Environmental Restoration, Defense-wide, \$28,167,000.
- (17) For Environmental Restoration, Formerly Used Defense Sites, \$261,921,000.

(18) For Overseas Humanitarian, Disaster, and Civic Aid programs, \$61,546,000.

(19) For Cooperative Threat Reduction programs, \$415,459,000.

(20) For the Overseas Contingency Operations Transfer Fund, \$20,000,000.

SEC. 302. WORKING CAPITAL FUNDS.

Funds are hereby authorized to be appropriated for fiscal year 2006 for the use of the Armed Forces and other activities and agencies of the Department of Defense for providing capital for working capital and revolving funds in amounts as follows:

(1) For the Defense Working Capital Funds, \$316,340,000.

(2) For the National Defense Sealift Fund, \$1,657,717,000.

(3) For the Defense Working Capital Fund, Defense Commissary, \$1,155,000,000.

SEC. 303. OTHER DEPARTMENT OF DEFENSE PROGRAMS.

(a) **DEFENSE HEALTH PROGRAM.**—Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2006 for expenses, not otherwise provided for, for the Defense Health Program, in the amount of \$19,892,594,000, of which—

(1) \$19,348,119,000 is for Operation and Maintenance;

(2) \$169,156,000 is for Research, Development, Test, and Evaluation; and

(3) \$375,319,000 is for Procurement.

(b) **CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, DEFENSE.**—

(1) **AUTHORIZATION OF APPROPRIATIONS.**—Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2006 for expenses, not otherwise provided for, for Chemical Agents and Munitions Destruction, Defense, in the amount of \$1,425,827,000, of which—

(A) \$1,241,514,000 is for Operation and Maintenance;

(B) \$67,786,000 is for Research, Development, Test, and Evaluation; and

(C) \$116,527,000 is for Procurement.

(2) **USE.**—Amounts authorized to be appropriated under paragraph (1) are authorized for—

(A) the destruction of lethal chemical agents and munitions in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521); and

(B) the destruction of chemical warfare materiel of the United States that is not covered by section 1412 of such Act.

(c) **DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE-WIDE.**—Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2006 for expenses, not otherwise provided for, for Drug Interdiction and Counter-Drug Activities, Defense-wide, in the amount of \$901,741,000.

(d) **DEFENSE INSPECTOR GENERAL.**—Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2006 for expenses, not otherwise provided for, for the Office of the Inspector General of the Department of Defense, in the amount of \$209,687,000, of which—

(1) \$208,687,000 is for Operation and Maintenance; and

(2) \$1,000,000 is for Procurement.

Subtitle B—Environmental Provisions

SEC. 311. ELIMINATION AND SIMPLIFICATION OF CERTAIN ITEMS REQUIRED IN THE ANNUAL REPORT ON ENVIRONMENTAL QUALITY PROGRAMS AND OTHER ENVIRONMENTAL ACTIVITIES.

Section 2706(b)(2) of title 10, United States Code, is amended—

(1) by striking subparagraphs (D) and (E);

(2) by inserting after subparagraph (C) the following new subparagraph:

“(D) A summary of fines and penalties imposed or assessed against the Department of Defense and the military departments under Federal, State, or local environmental laws during the fiscal year in which the report is submitted and the four preceding fiscal years, which summary shall include—

“(i) a trend analysis of such fines and penalties for military installations inside and outside the United States; and

“(ii) a list of such fines or penalties that exceeded \$1,000,000 and the provisions of law under which such fines or penalties were imposed or assessed.”; and

(3) by redesignating subparagraph (F) as subparagraph (E) and, in such subparagraph, by striking “and amounts for conferences” and all that follows through “such activities”.

SEC. 312. PAYMENT OF CERTAIN PRIVATE CLEANUP COSTS IN CONNECTION WITH DEFENSE ENVIRONMENTAL RESTORATION PROGRAM.

(a) ACTIVITIES AT FORMER DEFENSE PROPERTY SUBJECT TO COVENANT FOR ADDITIONAL REMEDIAL ACTION.—Section 2701(d) of title 10, United States Code, is amended—

(1) in paragraph (1)—

(A) by inserting “any owner of covenant property,” after “any Indian tribe,”; and

(B) by inserting “owner,” after “; Indian tribe,”;

(2) in paragraph (3), by adding at the end the following new sentence: “An agreement under such paragraph with respect to a site also may not change the cleanup standards selected for the site pursuant to law.”;

(3) in paragraph (4), by adding at the end the following new subparagraph:

“(C) The term ‘owner of covenant property’ means an owner of property subject to a covenant provided by the United States in accordance with the requirements of paragraphs (3) and (4) of section 120(h) of CERCLA (42 U.S.C. 9620(h)), so long as the covenant property is the site at which the services procured under paragraph (1) are to be performed.”; and

(4) by adding at the end the following new paragraph:

“(5) SAVINGS CLAUSE.—Nothing in this subsection affects the applicability of section 120 of CERCLA (42 U.S.C. 6920) to the Department of Defense or the obligations and responsibilities of the Department of Defense under subsection (h) of such section.”.

(b) SOURCE OF FUNDS FOR FORMER BRAC PROPERTY SUBJECT TO COVENANT FOR ADDITIONAL REMEDIAL ACTION.—Section 2703 of such title is amended—

(1) in subsection (g)(1), by striking “The sole source” and inserting “Except as provided in subsection (h), the sole source”; and

(2) by adding at the end the following new subsection:

“(h) SOLE SOURCE OF FUNDS FOR ENVIRONMENTAL REMEDIATION AT CERTAIN BASE REALIGNMENT AND CLOSURE SITES.—In the case of property disposed of pursuant to a base closure law and subject to a covenant that was required to be provided by paragraphs (3) and (4) of section 120(h) of CERCLA (42 U.S.C. 9620(h)), the sole source of funds for services procured under subsection 2701(d)(1) of this title shall be the applicable Department of Defense base closure account. The limitation in this subsection shall expire upon the closure of the applicable base closure account.”.

Subtitle C—Workplace and Depot Issues

SEC. 321. MODIFICATION OF AUTHORITY OF ARMY WORKING-CAPITAL FUNDED FACILITIES TO ENGAGE IN COOPERATIVE ACTIVITIES WITH NON-ARMY ENTITIES.

(a) APPLICABILITY OF SUNSET.—Subsection (j) of section 4544 of title 10, United States Code, is amended by striking “September 30, 2009,” and all that follows through the end and inserting “September 30, 2009.”.

(b) CREDITING OF PROCEEDS OF SALE OF ARTICLES AND SERVICES.—Such section is further amended—

(1) in subsection (d), by striking “subsection (e)” and inserting “subsection (f)”;

(2) by redesignating subsections (e), (f), (g), (h), (i), and (j) as subsections (f), (g), (h), (i), (j), and (k) respectively;

(3) by inserting after subsection (d) the following new subsection (e):

“(e) PROCEEDS CREDITED TO WORKING CAPITAL FUND.—The proceeds received from the sale of an article or service pursuant to a contract or other cooperative arrangement under this section shall be credited to the working capital fund that incurs the cost of manufacturing the article or performing the service.”; and

(4) in subsection (g), as redesignated by paragraph (2), by striking “subsection (e)” and inserting “subsection (f)”.

SEC. 322. LIMITATION ON TRANSITION OF FUNDING FOR EAST COAST SHIPYARDS FROM FUNDING THROUGH NAVY WORKING CAPITAL FUND TO DIRECT FUNDING.

(a) LIMITATION.—The Secretary of the Navy may not convert funding for the shipyards of the Navy on the east coast of the United States from funding through the working capital fund of the Navy to funding on a direct basis (also known as “mission funding”) before October 1, 2006.

(b) REPORT ON DIRECT FUNDING FOR PUGET SOUND NAVAL SHIPYARD.—

(1) REPORT REQUIRED.—Not later than March 1, 2006, the Secretary shall submit to the congressional defense committees a report that contains the assessment of the Secretary on the effects on Puget Sound Naval Shipyard, Washington, of

the conversion of that shipyard from funding through the working capital fund of the Navy to funding on a direct basis.

(2) MATTERS TO BE INCLUDED.—The report under paragraph (1) shall address the effect of the conversion of Puget Sound Naval Shipyard to direct funding on each of the following:

(A) The cost visibility of specific work performed.

(B) The total cost of consolidated ship maintenance operations on an ongoing basis.

(C) The ability to distinguish between depot and intermediate work of consolidated ship maintenance activities.

(D) The costs associated with buyout expenses for the transfer of the shipyards of the Navy on the east coast of the United States from funding through the working capital fund of the Navy to funding on a direct basis.

(E) The flexibility of the shipyard to continue routine ship maintenance operations during a potential funding gap at the beginning of a fiscal year or when expected maintenance costs exceed annual appropriations.

(F) Operational and financial flexibility and responsiveness of funding on a direct basis compared to funding through the working capital fund of the Navy.

(G) Long-term funding for the capital improvement programs of the shipyard.

(H) Compliance with section 2460 of title 10, United States Code, which defines the work that is considered to be depot-level maintenance and repair versus work that is considered to be a major modification of a weapons system.

(I) Compliance with section 2466 of title 10, United States Code, which limits the amount of depot-level maintenance and repair workload of the Department of Navy that is performed by non-Federal Government personnel in any fiscal year to not more than 50 percent of the total depot workload reported to the Department in that fiscal year.

(J) Compliance with sections 1115 and 1116 of title 31, United States Code, which require agencies to set annual performance goals, measure performance toward the achievement of those goals, and publicly report on progress.

(K) Compliance with chapter 35 of title 31, United States Code, which requires audited financial statements to include the ability to properly charge and account for reimbursable workload.

(3) GOVERNMENT ACCOUNTABILITY OFFICE REVIEW.—Not later than 60 days after the date on which the report required under paragraph (1) is submitted, the Comptroller General shall submit to the congressional defense committees a review of the report, which shall include the Comptroller General's assessment of whether the report adequately addresses each of the matters specified under paragraph (2).

(c) REPORT ON PROPOSED CONGRESSIONAL BUDGET EXHIBITS FOR NAVY MISSION-FUNDED SHIPYARDS.—

(1) REPORT REQUIRED.—Not later than March 1, 2006, the Secretary shall submit to the congressional defense committees a report that proposes congressional budget exhibits for use

in connection with the funding of Navy shipyards on a direct basis.

(2) MATTERS TO BE INCLUDED.—The report under paragraph (1) shall comprehensively address the following:

(A) The establishment of annual categories, metrics, and measurements to objectively compare the performance of each shipyard over time with respect to the following:

- (i) Schedule adherence.
- (ii) Quality of work.
- (iii) Cost management.
- (iv) Administrative efficiency.
- (v) Number of hulls for which repairs are completed during the fiscal year.
- (vi) Number of hulls that are in the process of being repaired at the end of the fiscal year.

(B) Capital replenishment for each shipyard.

(C) Workload indicators to determine whether each shipyard is effectively utilized.

(D) Annual budget management reports to enable effective monitoring of each shipyard with respect to the following:

(i) Obligation authority from Department of the Navy accounts, including operation and maintenance funds for the Atlantic Fleet, the Pacific Fleet, and the Naval Sea Systems Command and procurement funds for the Navy shipbuilding and conversion account and the other procurement accounts.

(ii) Obligation authority provided by reimbursement from non-Department of the Navy sources, including other Department of Defense accounts, foreign military sales accounts, other Federal Government agency accounts, and non-Federal Government sources.

(iii) Costs and expenses of military personnel, civilian personnel, materials, contracts, travel, supplies, overhead, and other costs.

(iv) Capital expenditures.

(v) Military construction.

(vi) Base operating support.

(vii) Facilities sustainment, restoration, and modernization.

(viii) Personnel and labor management, including military end strengths, civilian end strengths, military mandays, and civilian mandays.

(3) CONGRESSIONAL BUDGET OFFICE REVIEW.—Not later than 60 days after the date on which the report required under paragraph (1) is submitted, the Director of the Congressional Budget Office shall submit to the congressional defense committees a review of the report, which shall include the Director's assessment of whether the report comprehensively addresses each of the matters specified in subparagraphs (A) through (D) of paragraph (2).

SEC. 323. ARMAMENT RETOOLING AND MANUFACTURING SUPPORT INITIATIVE MATTERS.

(a) INCLUSION OF ADDITIONAL FACILITIES WITHIN ARMS INITIATIVE.—Section 4551(2) of title 10, United States Code, is amended by inserting “, or a Government-owned, contractor-operated depot

for the storage, maintenance, renovation, or demilitarization of ammunition,” after “manufacturing facility”.

(b) **ADDITIONAL CONSIDERATION FOR USE OF FACILITIES.**—Section 4554(b)(2) of such title is amended by adding at the end the following new subparagraph:

“(D) The demilitarization and storage of conventional ammunition.”.

(c) **ADDITIONAL POLICY OBJECTIVES WITH RESPECT TO AMMUNITION FACILITIES AND CAPACITY.**—Section 4552 of such title is amended in paragraphs (1) and (8) by inserting “, storage, maintenance, renovation, and demilitarization” after “manufacturing”.

(d) **BROADENING OF PURPOSE OF ARMS INITIATIVE WITH RESPECT TO WORK FORCE SKILLS.**—Section 4553(b)(3) of such title is amended by striking “in manufacturing processes that are”.

SEC. 324. SENSE OF CONGRESS REGARDING DEPOT MAINTENANCE.

(a) **FINDINGS.**—Congress finds the following:

(1) The Depot Maintenance Strategy and Master Plan of the Air Force reflects the essential requirements for the Air Force to maintain a ready and controlled source of organic technical competence, thereby ensuring an effective and timely response to national defense contingencies and emergency requirements.

(2) Since the publication of the Depot Maintenance Strategy and Master Plan of the Air Force in 2002, the Air Force has made great progress toward modernizing all three of its depots, in order to maintain the status of those depots as “world class” maintenance repair and overhaul operations.

(3) One of the central components of the Depot Maintenance Strategy and Master Plan of the Air Force is the commitment of the Air Force to allocate \$150,000,000 each fiscal year for six years, beginning in fiscal year 2004, for recapitalization and investment, including the procurement of technologically advanced facilities and equipment, of the Nation’s three Air Force depots.

(4) The funds expended to date have ensured that transformation projects, such as the initial implementation of “Lean” and “Six Sigma” production techniques, have achieved great success in reducing the time necessary to perform depot maintenance on aircraft.

(b) **SENSE OF CONGRESS.**—It is the sense of Congress that—

(1) the Air Force should be commended for the implementation of its Depot Maintenance Strategy and Master Plan and, in particular, meeting the capital investment strategy pursuant to the Plan; and

(2) the Air Force should remain committed to the depot maintenance process improvement initiatives and the investments and recapitalization projects pursuant to the Depot Maintenance Strategy and Master Plan.

Subtitle D—Extension of Program Authorities

SEC. 331. EXTENSION OF AUTHORITY TO PROVIDE LOGISTICS SUPPORT AND SERVICES FOR WEAPONS SYSTEMS CONTRACTORS.

Section 365(g)(1) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2521; 10 U.S.C. 2302 note) is amended by striking “September 30, 2007” and inserting “September 30, 2010”.

SEC. 332. EXTENSION OF PERIOD FOR REIMBURSEMENT FOR CERTAIN PROTECTIVE, SAFETY, OR HEALTH EQUIPMENT PURCHASED BY OR FOR MEMBERS OF THE ARMED FORCES DEPLOYED IN CONTINGENCY OPERATIONS.

(a) **EXTENSION.**—Section 351(a)(3) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 1857) is amended by striking “July 31, 2004” and inserting “April 1, 2006”.

(b) **FUNDING.**—Amounts for reimbursements made under section 351 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 after the date of the enactment of this Act shall be derived from supplemental appropriations for the Department of Defense for fiscal year 2006 for military operations in Iraq and Afghanistan and the Global War on Terrorism, contingent upon such appropriations being enacted.

Subtitle E—Outsourcing

SEC. 341. PUBLIC-PRIVATE COMPETITION.

(a) **PUBLIC-PRIVATE COMPETITION REQUIRED PRIOR TO CONVERSION OF CERTAIN DEPARTMENT OF DEFENSE FUNCTIONS.**—Subsection (a) of section 2461 of title 10, United States Code, is amended to read as follows:

“(a) **PUBLIC-PRIVATE COMPETITION.**—(1) A function of the Department of Defense performed by 10 or more Department of Defense civilian employees may not be converted, in whole or in part, to performance by a contractor unless the conversion is based on the results of a public-private competition that—

“(A) formally compares the cost of performance of the function by Department of Defense civilian employees with the cost of performance by a contractor;

“(B) creates an agency tender, including a most efficient organization plan, in accordance with Office of Management and Budget Circular A–76, as implemented on May 29, 2003;

“(C) includes the issuance of a solicitation;

“(D) determines whether the submitted offers meet the needs of the Department of Defense with respect to factors other than cost, including quality and reliability;

“(E) examines the cost of performance of the function by Department of Defense civilian employees and the cost of performance of the function by one or more contractors to demonstrate whether converting to performance by a contractor will result in savings to the Government over the life of the contract, including—

“(i) the estimated cost to the Government (based on offers received) for performance of the function by a contractor;

“(ii) the estimated cost to the Government for performance of the function by Department of Defense civilian employees; and

“(iii) an estimate of all other costs and expenditures that the Government would incur because of the award of such a contract;

“(F) requires continued performance of the function by Department of Defense civilian employees unless the difference in the cost of performance of the function by a contractor compared to the cost of performance of the function by Department of Defense civilian employees would, over all performance periods required by the solicitation, be equal to or exceed the lesser of—

“(i) 10 percent of the personnel-related costs for performance of that function in the agency tender; or

“(ii) \$10,000,000; and

“(G) examines the effect of performance of the function by a contractor on the military mission associated with the performance of the function.

“(2) A function that is performed by the Department of Defense and is reengineered, reorganized, modernized, upgraded, expanded, or changed to become more efficient, but still essentially provides the same service, shall not be considered a new requirement.

“(3) In no case may a function being performed by Department of Defense personnel be—

“(A) modified, reorganized, divided, or in any way changed for the purpose of exempting the conversion of the function from the requirements of this section; or

“(B) converted to performance by a contractor to circumvent a civilian personnel ceiling.”.

(b) CONGRESSIONAL NOTIFICATION.—Subsection (b) of such section is amended—

(1) in paragraph (1)—

(A) by striking “to analyze” and all that follows through “private sector” and inserting “a public-private competition under subsection (a)”;

(B) in subparagraph (A), by striking “to be analyzed for possible change” and inserting “for which such public-private competition is to be conducted”;

(C) in subparagraph (C), by inserting “Department of Defense” before “civilian employee”;

(D) in subparagraph (D), by striking “the analysis” both places it appears and inserting “the public-private competition”; and

(E) in subparagraph (E)—

(i) by striking “commercial or industrial type” before “function”; and

(ii) by striking “persons who are not civilian employees of the Department of Defense” and inserting “a contractor”;

(2) by striking paragraphs (2) and (3) and inserting the following new paragraph (2):

“(2) The report required under paragraph (1) shall include an examination the potential economic effect of performance of the function by a contractor on—

“(A) Department of Defense civilian employees who would be affected by such a conversion in performance; and

“(B) the local community and the Government, if more than 50 Department of Defense civilian employees perform the function.”;

(3) by redesignating paragraph (4) as paragraph (3); and

(4) in paragraph (3), as so redesignated—

(A) in subparagraph (A)—

(i) by striking “where a commercial” and all that follows through “performance” and inserting “where a public-private competition is conducted”; and

(ii) by striking “the analysis” both places it appears and inserting “the public private competition”; and

(B) in subparagraph (B), by striking “the commercial” and all that follows through “to which objected” and inserting “the function for which the public-private competition was conducted for which the objection was submitted”.

(c) CONSOLIDATION AND RESTATEMENT OF REPORTING PROVISIONS.—

(1) CONSOLIDATION AND RESTATEMENT.—Section 2462 of such title is amended to read as follows:

10 USC 2462.

“§ 2462. Reports on public-private competition

“(a) REPORT ON PUBLIC-PRIVATE COMPETITION RESULTS.—(1) Upon the completion of a public-private competition under section 2461 of this title, the Secretary of Defense shall submit to Congress a report containing the results of the public-private competition required by subsection (a) of such section.

“(2) Each report under this subsection shall include the following:

“(A) The date on which the public-private competition was commenced.

“(B) The number of Department of Defense civilian employees who were performing the function when the public-private competition was commenced and the number of such employees whose employment was or will be terminated or otherwise affected by converting to performance of the function by a contractor or by implementation of the most efficient organization of the function.

“(C) The Secretary’s certification that the Government’s calculation of the cost of performance of the function by Department of Defense civilian employees is based on an estimate of the most cost effective manner for performance of the function by Department of Defense civilian employees that meets the needs of the Department with respect to factors other than cost, including quality and reliability.

“(D) The Secretary’s certification that the public-private competition did not include any predetermined personnel constraint or limitation in terms of man years, end strength, full-time equivalent positions, or maximum number of employees.

“(E) The Secretary’s certification that the entire public-private competition is available for examination.

“(F) In the case of a function performed at a Center of Industrial and Technical Excellence designated under section 2474(a) of this title or an Army ammunition plant, a description of the effect that the manner of performance of the function, and administration of the resulting contract if any, will have on the overhead costs of the center or ammunition plant, as the case may be.

“(G) A schedule for implementing the results of the public-private competition.

“(3)(A) No decision made on the basis of a public-private competition under section 2461 of this title may be implemented until after the submission of a report under paragraph (1).

“(B) Notwithstanding subparagraph (A), in the case of function performed at a Center of Industrial and Technical Excellence designated under section 2474(a) of this title or an Army ammunition plant, the conversion of the function to performance by a contractor may not begin until at least 60 days after the submission of a report under paragraph (1).

“(b) ANNUAL REPORT.—Not later than June 30 of each year, the Secretary of Defense shall submit to Congress a written report, which shall include the following:

“(1) An estimate of the percentage of functions (other than functions that are inherently governmental) that Department of Defense civilian employees will perform and an estimate of the percentage of such functions that contractors will perform during the fiscal year during which the report is submitted.

“(2) The results of public-private competitions conducted under section 2461 of this title that were completed during the preceding fiscal year, including each of the following:

“(A) The number of such competitions completed during such fiscal year and the number of Department of Defense civilian employees performing functions for which such a competition was conducted.

“(B) The percentage of such competitions that resulted in the continued performance of a function by Department of Defense civilian employees.

“(C) The percentage of such competitions that resulted in the conversion of a function to performance by a contractor.

“(D) The percentage of the Department of Defense civilian employees identified pursuant to subparagraph (A) whose positions will be converted to performance by contractors or eliminated as a result of implementing the results of such competitions.

“(3) The results of monitoring the performance of Department functions under section 2461a of this title, including for each function subject to monitoring, each of the following:

“(A) The cost of the public-private competition conducted under section 2461 of this title.

“(B) The cost of performing the function before such competition compared to the costs incurred after implementing the conversion, reorganization, or reengineering actions recommended pursuant to the competition.

“(C) The actual savings derived from the implementation of the recommendations made pursuant to such competition, if any, compared to the anticipated savings that

were to result from the conversion, reorganization, or re-engineering actions.”.

(2) **WAIVER FOR SMALL FUNCTIONS AND CONFORMING AMENDMENTS.**—Section 2461 of such title, as amended by subsections (a) and (b), is further amended—

(A) by striking subsections (c), (d), (f) and (g); and

(B) by redesignating subsections (e) and (h) as subsections (c) and (d) respectively.

(3) **CORRECTION OF TERMINOLOGY.**—The heading for subsection (c) of such section, as redesignated by paragraph (2), is amended by striking “WAIVER” and inserting “EXEMPTION”.

(d) **PERFORMANCE MONITORING.**—Section 2461a of such title is amended—

(1) by striking subsections (a), (c), and (d);

(2) by redesignating subsections (b) and (e) as subsections (a) and (b) respectively;

(3) in subsection (a), as so redesignated—

(A) in paragraph (1)—

(i) by striking “establish a system for monitoring” and inserting “monitor”; and

(ii) by striking “a workforce review” and inserting “a public-private competition conducted under section 2461 of this title”;

(B) in paragraph (2), by striking all and inserting the following:

“(2) In carrying out paragraph (1), the Secretary shall—

“(A) compare the cost of performing the function before the public-private competition to the cost of performing the function after the implementation of the results of the public-private competition; and

“(B) identify any actual savings of the Department of Defense after the implementation of the results of the public-private competition and compare such savings to the estimated savings identified pursuant to section 2461(a)(1)(E) of this title for that public-private competition;”;

(C) in paragraph (3), by inserting “pursuant to such a public-private competition” after “reengineering of the function”; and

(4) in subsection (b), as so redesignated, by striking “workforce reviews” and inserting “public-private competitions conducted under section 2461 of this title”.

(e) **INAPPLICABILITY TO BEST-VALUE SOURCE SELECTION PILOT PROGRAM.**—Subsection (a)(1)(E) of section 2461 of title 10, United States Code, as amended by subsection (a), shall not apply with respect to the pilot program for best-value source selection for performance of information technology services authorized by section 336 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1444; 10 U.S.C. 2461 note).

10 USC 2461
note.

(f) **REPEAL OF REDUNDANT PROVISION.**—Section 2463 of such title is repealed.

(g) **CLERICAL AND CONFORMING AMENDMENTS.**—

(1) **SECTION 2461.**—Section 2461(c) of such title, as redesignated by subsection (c), is amended by striking “Subsections (a) through (c) and subsection (g)” and inserting “This section”.

(2) **HEADINGS.**—

(A) **2461.**—The heading for section 2461 of such title is amended to read as follows:

“§ 2461. Public-private competition required before conversion to contractor performance”.

(B) 2461(b).—The heading for subsection (b) of such section is amended to read as follows:

“(b) CONGRESSIONAL NOTIFICATION.—”.

(C) 2461a.—The heading for section 2461a of such title is amended to read as follows:

“§ 2461a. Development and implementation of system for monitoring cost saving resulting from public-private competitions”.

(3) PUBLIC LAW 108-375.—Section 327 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108-375; 10 U.S.C. 2461 note) is repealed.

(4) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 146 of title 10, United States Code, is amended by striking the items relating to sections 2461 through 2463 and inserting the following new items:

“2461. Public-private competition required before conversion to contractor performance.

“2461a. Development and implementation of system for monitoring cost saving resulting from public-private competitions.

“2462. Reports on public-private competition.”.

SEC. 342. CONTRACTING FOR PROCUREMENT OF CERTAIN SUPPLIES AND SERVICES.

Section 8014(a)(3) of the Department of Defense Appropriations Act, 2005 (Public Law 108-287; 118 Stat. 972) is amended—

(1) in subparagraph (A), by inserting “, payment that could be used in lieu of such a plan, health savings account, or medical savings account” after “health insurance plan”; and

(2) in subparagraph (B), by striking “that requires” and all that follows through the end and inserting “that does not comply with the requirements of any Federal law governing the provision of health care benefits by Government contractors that would be applicable if the contractor performed the activity or function under the contract.”.

10 USC 2461
note.

SEC. 343. PERFORMANCE OF CERTAIN WORK BY FEDERAL GOVERNMENT EMPLOYEES.

(a) GUIDELINES.—

(1) IN GENERAL.—The Secretary of Defense shall prescribe guidelines and procedures for ensuring that consideration is given to using Federal Government employees for work that is currently performed or would otherwise be performed under Department of Defense contracts.

(2) CRITERIA.—The guidelines and procedures prescribed under paragraph (1) shall provide for special consideration to be given to contracts that—

(A) have been performed by Federal Government employees at any time on or after October 1, 1980;

(B) are associated with the performance of inherently governmental functions;

(C) were not awarded on a competitive basis; or

(D) have been determined by a contracting officer to be poorly performed due to excessive costs or inferior quality.

(b) **USE OF FLEXIBLE HIRING AUTHORITY.**—The Secretary shall include the use of the flexible hiring authority available through the National Security Personnel System in order to facilitate performance by Federal Government employees of new requirements and work that is performed under Department of Defense contracts.

(c) **DEFINITIONS.**—In this section:

(1) The term “National Security Personnel System” means the human resources management system established under the authority of section 9902 of title 5, United States Code.

(2) The term “inherently governmental function” has the meaning given that term in section 5 of the Federal Activities Inventory Reform Act of 1998 (Public Law 105–270; 112 Stat. 2384; 31 U.S.C. 501 note).

SEC. 344. EXTENSION OF TEMPORARY AUTHORITY FOR CONTRACTOR PERFORMANCE OF SECURITY-GUARD FUNCTIONS.

Section 332(c) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2513) is amended—

(1) by striking “2006” each place it appears and inserting “2007”; and

(2) in paragraph (1), by striking “, except that” and all that follows through the end and inserting a period.

Subtitle F—Analysis, Strategies, and Reports

SEC. 351. REPORT ON DEPARTMENT OF ARMY PROGRAMS FOR PREPOSITIONING OF EQUIPMENT AND OTHER MATERIEL.

(a) **SECRETARY OF ARMY ASSESSMENT.**—The Secretary of the Army shall conduct an assessment of the programs of the Department of Army for the prepositioning of equipment and other materiel stocks. The assessment shall focus on how such programs are configured to support the evolving goals of the Department of Army and shall include an identification of each of the following:

(1) The key operational capabilities currently available in both the afloat and ashore prepositioned stocks of the Army, organized by geographic region, including inventory levels in brigade sets, operational projects, and sustainment programs.

(2) Any significant shortfalls that exist in such stocks, particularly in combat and support equipment, spare parts, and munitions, and how the Army would mitigate those shortfalls in the event of a new conflict.

(3) The maintenance condition of prepositioned equipment and supplies, especially the key “pacing” items in brigade sets, including the percentage currently maintained at the Technical Manual–10/20 standard required by the Army.

(4) The percentage of required cyclic maintenance performed on all stocks for each of fiscal years 2003, 2004, and 2005, and the quality control procedures used to ensure that such maintenance was completed according to Army standards.

(5) Whether the oversight mechanisms and internal management reports of the Army with respect to such stocks

are adequate and ensure an accurate portrayal of the readiness of such stocks.

(6) The funding allocated and expended for prepositioning programs for each fiscal year beginning with fiscal year 2000, organized by region, and an assessment of whether the funding levels for such programs have been adequate to maintain program readiness.

(7) The facilities used to store and maintain brigade sets, organized by region, and whether those facilities provide adequate (or excess) capacity for the current and future mission.

(8) The current funding for the war reserve, the sufficiency of the war reserve inventory, and the effect of the war reserve on the ability of the Army to conduct operations.

(b) **REPORT.**—Not later than March 1, 2006, the Secretary shall submit to Congress a report on the assessment under subsection (a). The report shall include each of the matters specified in paragraphs (1) through (8) of that subsection.

(c) **COMPTROLLER GENERAL REVIEW.**—Not later than 120 days after the date of the receipt of the report under subsection (b), the Comptroller General shall submit to Congress a review of the assessment conducted by the Secretary of the Army under subsection (a). The review under this subsection shall include the following:

(1) The Comptroller General's assessment of whether the assessment by the Secretary of the Army under subsection (a) comprehensively addresses each of the matters specified in paragraphs (1) through (8) of that subsection.

(2) The extent to which any shortfall or other issue reported by the Secretary of the Army or identified by the Comptroller General has been addressed and an assessment of any plan to address any remaining such shortfalls in the future.

SEC. 352. REPORTS ON BUDGET MODELS USED FOR BASE OPERATIONS SUPPORT, SUSTAINMENT, AND FACILITIES RECAPITALIZATION.

(a) **REPORTS REQUIRED.**—Not later than March 30 of each of the calendar years 2006 through 2010, the Secretary of Defense shall submit to the congressional defense committees a report describing the models used to prepare the budget requests for base operations support, sustainment, and facilities recapitalization submitted to Congress by the President under section 1105(a) of title 31, United States Code, for the next fiscal year.

(b) **CONTENT OF REPORTS.**—The report for a fiscal year under subsection (a) shall include the following:

(1) An explanation of the methodology used to develop each model and, if there have been any changes to the methodology since the previous report, an explanation of the changes and the reasons therefor.

(2) A description of the items contained in each model.

(3) An explanation of whether the models are being applied to each military department and Defense Agency under common definitions of base operations support, sustainment, and facilities recapitalization and, if common definitions are not being used, an explanation of the differences and the reasons therefor.

(4) A description of the requested funding levels for base operations support, sustainment, and facilities recapitalization for the fiscal year covered by the report and the funding goals

established for base operations support, sustainment, and facilities recapitalization for at least the four succeeding fiscal years.

(5) If the requested funding levels for base operations support, sustainment, and facilities recapitalization for the fiscal year covered by the report deviate from the goals for that fiscal year contained in the preceding report, or the funding goals established for succeeding fiscal years deviate from the goals for those fiscal years contained in the preceding report, a justification for the funding levels and goals and an explanation of the reasons for the changes from the preceding report.

SEC. 353. ARMY TRAINING STRATEGY FOR BRIGADE-BASED COMBAT TEAMS AND FUNCTIONAL SUPPORTING BRIGADES.

10 USC 3013
note.

(a) TRAINING STRATEGY.—

(1) **STRATEGY REQUIRED.**—The Secretary of the Army shall develop and implement a strategy for the training of brigade-based combat teams and functional supporting brigades in order to ensure the readiness of such teams and brigades.

(2) **ELEMENTS.**—The training strategy under paragraph (1) shall include the following:

(A) A statement of the purpose of training for brigade-based combat teams and functional supporting brigades.

(B) Performance goals for both active-component and reserve-component brigade-based combat teams and functional supporting brigades, including goals for live, virtual, and constructive training.

(C) Metrics to quantify training performance against the performance goals specified under subparagraph (B).

(D) A process to report the status of collective training to Army leadership for monitoring the training performance of brigade-based combat teams and functional supporting brigades.

(E) A model to quantify, and to forecast, operation and maintenance funding required for each fiscal year to attain the performance goals specified under subparagraph (B).

(3) **TIMING OF IMPLEMENTATION.**—The Secretary of the Army shall develop and implement the training strategy under paragraph (1) as soon as practicable.

(b) REPORT.—

(1) **REPORT REQUIRED.**—Not later than one year after the date of the enactment of this Act, the Secretary of the Army shall submit to the congressional defense committees a report on the training strategy developed under subsection (a).

(2) **ELEMENTS.**—The report under paragraph (1) shall include the following:

(A) A discussion of the training strategy developed under subsection (a), including a description of the performance goals and metrics developed under that subsection.

(B) A discussion and description of the training ranges and other essential elements required to support the training strategy.

(C) A list of the funding requirements, shown by fiscal year and set forth in a format consistent with the future-years defense program to accompany the budget of the President under section 221 of title 10, United States Code, necessary to meet the requirements of the training ranges

and other essential elements described under subparagraph (B).

(D) A schedule for the implementation of the training strategy.

(c) COMPTROLLER GENERAL REVIEW OF IMPLEMENTATION.—

(1) IN GENERAL.—The Comptroller General shall monitor the implementation of the training strategy developed under subsection (a).

(2) REPORT.—Not later than 180 days after the date on which the Secretary of the Army submits the report under subsection (b), the Comptroller General shall submit to the congressional defense committees a report containing the assessment of the Comptroller General of the current progress of the Army in implementing the training strategy.

10 USC 113 note.

SEC. 354. REPORT REGARDING EFFECT ON MILITARY READINESS OF UNDOCUMENTED IMMIGRANTS TRESPASSING UPON OPERATIONAL RANGES.

(a) REPORT CONTAINING ASSESSMENT AND RESPONSE PLAN.—Not later than April 15, 2006, the Secretary of Defense shall submit to Congress a report containing—

(1) an assessment of the impact on military readiness caused by undocumented immigrants whose entry into the United States involves trespassing upon operational ranges of the Department of Defense; and

(2) a plan for the implementation of measures to prevent such trespass.

(b) PREPARATION AND ELEMENTS OF ASSESSMENT.—The assessment required by subsection (a)(1) shall be prepared by the Secretary of Defense. The assessment shall include the following:

(1) A listing of the operational ranges adversely affected by the trespass of undocumented immigrants upon operational ranges.

(2) A description of the types of range activities affected by such trespass.

(3) A determination of the amount of time lost for range activities, and the increased costs incurred, as a result of such trespass.

(4) An evaluation of the nature and extent of such trespass and means of travel.

(5) An evaluation of the factors that contribute to the use by undocumented immigrants of operational ranges as a means to enter the United States.

(6) A description of measures currently in place to prevent such trespass, including the use of barriers to vehicles and persons, military patrols, border patrols, and sensors.

(c) PREPARATION AND ELEMENTS OF PLAN.—The plan required by subsection (a)(2) shall be prepared jointly by the Secretary of Defense and the Secretary of Homeland Security. The plan shall include the following:

(1) The types of measures to be implemented to improve prevention of trespass of undocumented immigrants upon operational ranges, including the specific physical methods, such as barriers and increased patrols or monitoring, to be implemented and any legal or other policy changes recommended by the Secretaries.

(2) The costs of, and timeline for, implementation of the plan.

(d) IMPLEMENTATION REPORTS.—Not later than September 15, 2006, March 15, 2007, September 15, 2007, and March 15, 2008, the Secretary of Defense shall submit to Congress a report detailing the progress made by the Department of Defense, during the period covered by the report, in implementing measures recommended in the plan required by subsection (a)(2) to prevent undocumented immigrants from trespassing upon operational ranges. Each report shall include the number and types of mitigation measures implemented and the success of such measures in preventing such trespass.

(e) DEFINITIONS.—In this section, the terms “operational range” and “range activities” have the meaning given those terms in section 101(e) of title 10, United States Code.

SEC. 355. REPORT REGARDING MANAGEMENT OF ARMY LODGING.

(a) REPORT ON MERITS AND IMPACTS OF PRIVATIZATION.—The Secretary of the Army shall submit to Congress a report containing the results of a study evaluating the merits of privatization of Army lodging. The study should consider at a minimum the following:

(1) The potential overall costs and benefits of privatization of Army lodging.

(2) Whether current lodging agreements with the Army and Air Force Exchange Service to provide hospitality telecommunication services would be impacted by privatization and whether the proposed change will have an impact on funds contributed to morale, welfare, and recreation accounts.

(3) Whether privatization of Army lodging will result in significant cost increases to members of the Armed Forces or other eligible patrons or the loss of such lodging if it is determined that management of such lodging is not a profitable marketing venture.

(4) Whether privatization of Army lodging will provide ancillary support facilities and services that might impact the Army and Air Force Exchange Service and to what extent such facilities and services may impact the funds contributed to morale, welfare, and recreation accounts.

(5) The number of Army lodging personnel who would be impacted by privatization and the total personnel-related costs that could occur as a result of privatization.

(b) ARMY AND AIR FORCE EXCHANGE SERVICE PARTICIPATION IN PRIVATIZATION.—The Army and Air Force Exchange Service shall submit to Congress a report commenting on the feasibility of its participation in privatization of Army lodging. The report should include at a minimum the following:

(1) The potential overall costs and benefits of an Army and Air Force Exchange Service partnership in Army lodging.

(2) Whether the Army and Air Force Exchange Service can adequately participate as a partner in the management of Army lodging, including whether such participation could enhance the quality of lodging and improve access to such lodging when provided through a nonprofit organization versus a partnership with a for-profit corporation.

(3) Whether there are certain benefits, including cost benefits, to having the Army and Air Force Exchange Service become

the partner with the Army that would not exist were the Army to partner with a private sector entity.

(4) The number of Army lodging personnel who would be impacted by an Army and Air Force Exchange Service partnership and the total personnel related costs that could occur as a result of such partnership.

(c) **LIMITATION PENDING SUBMISSION OF REPORT.**—Until the Secretary of the Army submits the report required by subsection (a) to Congress, the Secretary may not solicit or consider any request for qualifications that would privatize Army lodging beyond the level of privatization identified for inclusion in Group A of the Privatization of Army Lodging Initiative.

SEC. 356. COMPTROLLER GENERAL REPORT ON CORROSION PREVENTION AND MITIGATION PROGRAMS OF THE DEPARTMENT OF DEFENSE.

(a) **REPORT REQUIRED.**—Not later than April 1, 2007, the Comptroller General shall submit to the congressional defense committees a report on the effectiveness of the corrosion prevention and mitigation programs of the Department of Defense.

(b) **ELEMENTS.**—The report required by subsection (a) shall include the following:

(1) An assessment of the document of the Department of Defense entitled “Long-Term Strategy to Reduce Corrosion and the Effects of Corrosion on the Military Equipment and Infrastructure of the Department of Defense” and dated November 2004.

(2) An assessment of the adequacy for purposes of the strategy set forth in that document of the funding requested in the budgets of the President for fiscal years 2006 and 2007, as submitted to Congress pursuant to section 1105(a) of title 31, United States Code, and the associated Future-Years Defense Program under section 221 of title 10, United States Code.

(3) An assessment of the adequacy and effectiveness of the organizational structure of the Department of Defense in implementing that strategy.

(4) An assessment of the progress made as of the date of the report in establishing throughout the Department common metrics, definitions, and procedures on corrosion prevention and mitigation.

(5) An assessment of the progress made as of the date of the report in establishing a baseline estimate of the scope of the corrosion problems of the Department.

(6) An assessment of the extent to which the strategy of the Department on corrosion prevention and mitigation has been revised to incorporate the recommendations contained in the report of the Defense Science Board on corrosion control issued in October 2004.

(7) An assessment of the implementation of the corrosion prevention and mitigation programs of the Department during fiscal year 2006.

(8) Such recommendations as the Comptroller General considers appropriate for addressing any shortfalls or areas of potential improvement identified in the review for purposes of the report.

SEC. 357. STUDY ON USE OF BIODIESEL AND ETHANOL FUEL.

(a) **IN GENERAL.**—The Secretary of Defense shall conduct a study on the use of biodiesel and ethanol fuel by the Armed Forces and the Defense Agencies and any measures that can be taken to increase such use.

(b) **ELEMENTS.**—The study shall include—

(1) an evaluation of the historical utilization of biodiesel and ethanol fuel by the Armed Forces and the Defense Agencies, including the quantity of biodiesel and ethanol fuel acquired by the Department of Defense for the Armed Forces and the Defense Agencies during the 5-year period ending on the date of the report under subsection (c);

(2) a review and assessment of potential requirements for increased use of biodiesel and ethanol fuel within the Department of Defense and any research and development efforts required to meet those increased requirements;

(3) based on the review under paragraph (2), a forecast of the requirements of the Armed Forces and the Defense Agencies for biodiesel and ethanol fuels for each of fiscal years 2007 through 2012;

(4) an assessment of the current and future commercial availability of biodiesel and ethanol fuel, including facilities for the production, storage, transportation, distribution, and commercial sale of such fuel;

(5) an assessment of the utilization by the Department of Defense of the commercial infrastructure for ethanol fuel as described in paragraph (4);

(6) a review of the actions of the Department of Defense to coordinate with State, local, and private entities to support the expansion and use of alternative fuel refueling stations that are accessible to the public; and

(7) an assessment of the fueling infrastructure on military installations in the United States, including storage and distribution facilities, that could be adapted or converted for the delivery of biodiesel and ethanol fuel, including—

(A) an assessment of cost of the adaptation or conversion of such infrastructure to the delivery of biodiesel and ethanol fuel; and

(B) an assessment of the feasibility and advisability of that adaptation or conversion.

(c) **REPORT.**—Not later than 270 days after the date of the enactment of this Act, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the study conducted under this section.

(d) **DEFINITIONS.**—In this section:

(1) The term “ethanol fuel” means fuel that is 85 percent ethyl alcohol.

(2) The term “biodiesel” means a diesel fuel substitute produced from nonpetroleum renewable resources that meets the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545).

SEC. 358. REPORT ON EFFECTS OF WINDMILL FARMS ON MILITARY READINESS.

Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the effects of windmill farms on military readiness, including an assessment of the effects on the operations of military radar installations of the proximity of windmill farms to such installations and of technologies that could mitigate any adverse effects on military operations identified.

SEC. 359. REPORT ON SPACE-AVAILABLE TRAVEL FOR CERTAIN DISABLED VETERANS AND GRAY-AREA RETIREES.

(a) **REPORT REQUIRED.**—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the feasibility of providing transportation on Department of Defense aircraft on a space-available basis for—

(1) veterans with a service-connected disability rating of 50 percent or higher;

(2) members and former members of a reserve component under 60 years of age who, but for age, would be eligible for retired pay under chapter 1223 of title 10, United States Code; and

(3) dependents of persons described in paragraph (1) or (2).

(b) **CONSULTATION.**—The Secretary of Defense shall prepare the report in consultation with the Secretary of Veterans Affairs.

SEC. 360. REPORT ON JOINT FIELD TRAINING AND EXPERIMENTATION ON STABILITY, SECURITY, TRANSITION, AND RECONSTRUCTION OPERATIONS.

Not later than February 1, 2007, the Secretary of Defense shall submit to the congressional defense committees a report on joint field training and experimentation conducted to address matters relating to stability, security, transition, and reconstruction operations during fiscal years 2005 and 2006. The report shall include—

(1) a description of each such joint field training and experimentation event, including a description of the participation of other Federal departments and agencies and of the participation of allied and coalition partners;

(2) the findings of the Secretary as a result of such joint field training and experimentation; and

(3) such recommendations as the Secretary considers appropriate in light of such joint field training and experimentation, including recommendations with respect to legislative or administrative action and recommendations for any funding required to implement such action.

SEC. 361. REPORTS ON BUDGETING RELATING TO SUSTAINMENT OF KEY MILITARY EQUIPMENT.

(a) **REPORTS REQUIRED.**—In each of 2006, 2007, and 2008, at or about the time that the budget of the President is submitted to Congress that year under section 1105(a) of title 31, United States Code, the Secretary of Defense shall submit to Congress a report on the budgeting of the Department of Defense for the sustainment of key military equipment.

(b) **REPORT ELEMENTS.**—The report required by subsection (a) for a year shall set forth the following:

(1) A description of the current strategies of the Department of Defense for sustaining key military equipment, and for any modernization that will be required of such equipment.

(2) A description of the amounts required for the Department for the fiscal year beginning in such year in order to fully fund the strategies described in paragraph (1).

(3) A description of the amounts requested for the Department for such fiscal year in order to fully fund such strategies.

(4) A description of the risks, if any, of failing to fund such strategies in the amounts required to fully fund such strategies (as specified in paragraph (2)).

(5) A description of the actions being taken by the Department of Defense to mitigate the risks described in paragraph (4).

(c) **KEY MILITARY EQUIPMENT DEFINED.**—In this section, the term “key military equipment”—

(1) means—

(A) major weapons systems that are essential to accomplishing the national defense strategy; and

(B) other military equipment, such as major command, control, communications, computer, intelligence, surveillance, and reconnaissance (C4ISR) equipment, and systems designed to prevent fratricide, that is critical to the readiness of military units; and

(2) includes equipment reviewed in the report of the Comptroller General of the United States numbered GAO–06–141.

SEC. 362. REPEAL OF AIR FORCE REPORT ON MILITARY INSTALLATION ENCROACHMENT ISSUES.

Section 315 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 1843) is repealed.

Subtitle G—Other Matters

SEC. 371. SUPERVISION AND MANAGEMENT OF DEFENSE BUSINESS TRANSFORMATION AGENCY.

Section 192 of title 10, United States Code, is amended by adding at the end the following new subsection:

“(e) **SPECIAL RULE FOR DEFENSE BUSINESS TRANSFORMATION AGENCY.**—(1) The Defense Business Transformation Agency shall be supervised by the vice chairman of the Defense Business System Management Committee.

“(2) Notwithstanding the results of any periodic review under subsection (c) with regard to the Defense Business Transformation Agency, the Secretary of Defense shall designate that the Agency be managed cooperatively by the Deputy Under Secretary of Defense for Business Transformation and the Deputy Under Secretary of Defense for Financial Management.”.

SEC. 372. CODIFICATION AND REVISION OF LIMITATION ON MODIFICATION OF MAJOR ITEMS OF EQUIPMENT SCHEDULED FOR RETIREMENT OR DISPOSAL.

(a) **IN GENERAL.**—Chapter 134 of title 10, United States Code, is amended by inserting after section 2244 the following new section:

“§ 2244a. Equipment scheduled for retirement or disposal: limitation on expenditures for modifications

“(a) PROHIBITION.—Except as otherwise provided in this section, the Secretary of a military department may not carry out a modification of an aircraft, weapon, vessel, or other item of equipment that the Secretary plans to retire or otherwise dispose of within five years after the date on which the modification, if carried out, would be completed.

“(b) EXCEPTIONS.—

“(1) EXCEPTION FOR BELOW-THRESHOLD MODIFICATIONS.—The prohibition in subsection (a) does not apply to a modification for which the cost is less than \$100,000.

“(2) EXCEPTION FOR TRANSFER OF REUSABLE ITEMS OF VALUE.—The prohibition in subsection (a) does not apply to a modification in a case in which—

“(A) the reusable items of value, as determined by the Secretary, installed on the item of equipment as part of such modification will, upon the retirement or disposal of the item to be modified, be removed from such item of equipment, refurbished, and installed on another item of equipment; and

“(B) the cost of such modification (including the cost of the removal and refurbishment of reusable items of value under subparagraph (A)) is less than \$1,000,000.

“(3) EXCEPTION FOR SAFETY MODIFICATIONS.—The prohibition in subsection (a) does not apply to a safety modification.

“(c) WAIVER AUTHORITY.—The Secretary concerned may waive the prohibition in subsection (a) in the case of any modification otherwise subject to that subsection if the Secretary determines that carrying out the modification is in the national security interest of the United States. Whenever the Secretary issues such a waiver, the Secretary shall notify the congressional defense committees in writing.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2244 the following new item:

“2244a. Equipment scheduled for retirement or disposal: limitation on expenditures for modifications.”.

(c) CONFORMING REPEAL.—Section 8053 of the Department of Defense Appropriations Act, 1998 (Public Law 105-56; 10 U.S.C. 2241 note) is repealed.

SEC. 373. LIMITATION ON PURCHASE OF INVESTMENT ITEMS WITH OPERATION AND MAINTENANCE FUNDS.

(a) LIMITATION ON USE OF OPERATION AND MAINTENANCE FUNDS.—Chapter 134 of title 10, United States Code, is amended by inserting after section 2245 the following new section:

“§ 2245a. Use of operation and maintenance funds for purchase of investment items: limitation

“Funds appropriated to the Department of Defense for operation and maintenance may not be used to purchase any item (including any item to be acquired as a replacement for an item) that has an investment item unit cost that is greater than \$250,000.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2245 the following new item:

“2245a. Use of operation and maintenance funds for purchase of investment items: limitation.”.

SEC. 374. OPERATION AND USE OF GENERAL GIFT FUNDS OF THE DEPARTMENT OF DEFENSE AND COAST GUARD.

Section 2601 of title 10, United States Code, is amended to read as follows:

“§ 2601. General gift funds

“(a) GENERAL AUTHORITY TO ACCEPT GIFTS.—Subject to subsection (d)(2), the Secretary concerned may accept, hold, administer, and spend any gift, devise, or bequest of real property, personal property, or money made on the condition that the gift, devise, or bequest be used for the benefit, or in connection with, the establishment, operation, or maintenance, of a school, hospital, library, museum, cemetery, or other institution or organization under the jurisdiction of the Secretary.

“(b) ADDITIONAL AUTHORITY TO ACCEPT GIFTS TO BENEFIT CERTAIN MEMBERS, DEPENDENTS, AND CIVILIAN EMPLOYEES.—(1) Subject to subsection (d)(2), the Secretary concerned may accept, hold, administer, and spend any gift, devise, or bequest of real property, personal property, money, or services made on the condition that the gift, devise, or bequest be used for the benefit of—

“(A) members of the armed forces, including members performing full-time National Guard duty under section 502(f) of title 32, who incur a wound, injury, or illness while in the line of duty;

“(B) civilian employees of the Department of Defense who incur a wound, injury, or illness while in the line of duty;

“(C) dependents of such members or employees; and

“(D) survivors of such members or employees who are killed.

“(2) The Secretary concerned may not accept a gift of services from a foreign government or international organization under this subsection. A gift of real property, personal property, or money from a foreign government or international organization may be accepted under this subsection only if the gift is not designated for a specific individual.

“(3) The Secretary of Defense shall prescribe regulations specifying the conditions that may be attached to a gift, devise, or bequest accepted under this subsection.

Regulations.

“(4) The authority to accept gifts, devises, or bequests under this subsection expires on December 31, 2007.

Expiration date.

“(c) GIFT FUNDS.—Gifts and bequests of money, and the proceeds of the sale of property, received under subsection (a) or (b) shall be deposited in the Treasury in the following accounts:

“(1) The Department of the Army General Gift Fund, in the case of deposits made by the Secretary of the Army.

“(2) The Department of the Navy General Gift Fund, in the case of deposits made by the Secretary of the Navy.

“(3) The Department of the Air Force General Gift Fund, in the case of deposits made by the Secretary of the Air Force.

“(4) The Coast Guard General Gift Fund, in the case of deposits made by the Secretary of Homeland Security.

“(5) The Department of Defense General Gift Fund, in the case of deposits made by the Secretary of Defense.

“(d) USE OF GIFTS; PROHIBITIONS.—(1) Except as provided in paragraph (2), property and money accepted under subsection (a) or (b) may be used by the Secretary concerned, and services accepted under subsection (b) may be performed, without further specific authorization in law.

“(2) Property and money may not be accepted under subsection (a) and property, money, and services may not be accepted under subsection (b)—

“(A) if the use of the property or money or the performance of the services in connection with any program, project, or activity would result in the violation of any prohibition or limitation otherwise applicable to such program, project, or activity;

“(B) if the conditions attached to the property, money, or services are inconsistent with applicable law or regulations;

“(C) if the Secretary concerned determines that the use of the property or money or the performance of the services would reflect unfavorably on the ability of the Department of Defense or the Coast Guard, any employee of the Department or Coast Guard, or any member of the armed forces to carry out any responsibility or duty in a fair and objective manner; or

“(D) if the Secretary concerned determines that the use of the property or money or the performance of the services would compromise the integrity or appearance of integrity of any program of the Department of Defense or Coast Guard, or any individual involved in such a program.

“(3) The Secretary concerned may disburse funds deposited in a gift fund referred to in subsection (c) for the purposes specified in subsections (a) and (b), subject to the terms of the gift, devise, or bequest.

“(e) PAYMENT OF EXPENSES.—The Secretary concerned may pay all necessary expenses in connection with the conveyance or transfer of a gift, devise, or bequest accepted under this section.

“(f) TREATMENT OF GIFTS.—For the purposes of Federal income, estate, and gift taxes, any property or money accepted under subsection (a) and any property, money, or services accepted under subsection (b) shall be considered as a gift, devise, or bequest to or for the use of the United States.

“(g) MANAGEMENT OF FUNDS.—In the case of each gift fund referred to in subsection (c), the Secretary of the Treasury, upon the request of the Secretary concerned, may retain money, securities, and the proceeds of the sale of securities in the gift fund and may invest money and reinvest the proceeds of the sale of securities in the gift fund in securities of the United States or in securities guaranteed as to principal and interest by the United States. The interest and profits accruing from those securities shall be deposited to the credit of the gift fund and may be disbursed as provided in subsection (d).

“(h) COMPTROLLER GENERAL REVIEW.—The Comptroller General shall make periodic audits of gifts, devises, and bequests accepted under subsection (a) or (b) at such intervals as the Comptroller General determines to be warranted. The Comptroller General shall submit to Congress a report on the results of each such audit.

“(i) DEFINITIONS.—In this section:

“(1) The term ‘Secretary concerned’ includes the Secretary of Defense.

“(2) The term ‘services’ includes activities that benefit the morale, welfare, or recreation of members of the armed forces and their dependents or are related or incidental to the conveyance of a gift, devise, or bequest of real property or personal property under subsection (a) or (b).”.

SEC. 375. INCLUSION OF PACKET BASED TELEPHONY IN DEPARTMENT OF DEFENSE TELECOMMUNICATIONS BENEFIT.

(a) INCLUSION IN BENEFIT.—Subsection (a) of section 344 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1448) is amended by inserting “packet based telephony service,” after “prepaid phone cards,”.

(b) INCLUSION OF INTERNET TELEPHONY IN DEPLOYMENT OF ADDITIONAL TELEPHONE EQUIPMENT.—Subsection (e) of such section is amended—

(1) by inserting “or Internet service” after “additional telephones”;

(2) by inserting “or packet based telephony” after “to facilitate telephone”; and

(3) by inserting “or Internet access” after “installation of telephones”.

(c) CONFORMING AMENDMENTS.—Such section is further amended—

(1) in the heading for subsection (a), by striking “PREPAID PHONE CARDS” and inserting “BENEFIT”; and

(2) in the heading for subsection (e), by inserting “OR INTERNET ACCESS” after “TELEPHONE EQUIPMENT”.

SEC. 376. LIMITATION ON FINANCIAL MANAGEMENT IMPROVEMENT AND AUDIT INITIATIVES WITHIN DEPARTMENT OF DEFENSE.

(a) LIMITATION.—During fiscal year 2006, the Secretary of Defense may not obligate or expend any funds for the purpose of any financial management improvement activity relating to the preparation, processing, or auditing of financial statements until the Secretary submits to the congressional defense committees each of the following:

(1) A comprehensive and integrated financial management improvement plan that—

(A) describes specific actions to be taken to correct financial management deficiencies that impair the ability of the Department of Defense to prepare timely, reliable, and complete financial management information; and

(B) systematically ties such actions to process and control improvements and business systems modernization efforts described in the business enterprise architecture and transition plan required by section 2222 of title 10, United States Code.

(2) A written determination that each financial management improvement activity to be undertaken is—

(A) consistent with the financial management improvement plan submitted pursuant to paragraph (1); and

(B) likely to improve internal controls or otherwise result in sustained improvements in the ability of the

Department to produce timely, reliable, and complete financial management information.

(b) EXCEPTION.—The limitation under subsection (a) shall not apply to an activity directed exclusively at assessing the adequacy of internal controls and remediating any inadequacy identified pursuant to such an assessment.

SEC. 377. PROVISION OF WELFARE OF SPECIAL CATEGORY RESIDENTS AT NAVAL STATION GUANTANAMO BAY, CUBA.

(a) IN GENERAL.—The Secretary of the Navy may provide for the general welfare, including subsistence, housing, and health care, of any person at Naval Station Guantanamo Bay, Cuba, who is designated by the Secretary, not later than 90 days after the date of the enactment of this Act, as a “special category resident”.

(b) PROHIBITION ON CONSTRUCTION OF NEW FACILITIES.—The authorization under subsection (a) shall not be construed as an authorization for the construction a new housing facility or medical treatment facility.

(c) PRIOR USE OF FUNDS.—Any obligation or expenditure of funds for the general welfare of any person described in subsection (a) before the date of the enactment of this Act is deemed to be not subject to the provisions of chapter 13 of title 31, United States Code.

SEC. 378. COMMEMORATION OF SUCCESS OF THE ARMED FORCES IN OPERATION ENDURING FREEDOM AND OPERATION IRAQI FREEDOM.

(a) CELEBRATION HONORING MILITARY EFFORTS IN OPERATION ENDURING FREEDOM AND OPERATION IRAQI FREEDOM.—The President may—

(1) designate a day of celebration to honor the soldiers, sailors, airmen, and Marines of the Armed Forces who have served in Operation Enduring Freedom or Operation Iraqi Freedom and have returned to the United States; and

(2) issue a proclamation calling on the people of the United States to observe that day with appropriate ceremonies and activities.

(b) PARTICIPATION OF ARMED FORCES IN CELEBRATION.—

(1) PARTICIPATION AUTHORIZED.—Members and units of the Armed Forces may participate in activities associated with a day of celebration designated under subsection (a) that are held in Washington, District of Columbia.

(2) AVAILABILITY OF FUNDS.—Subject to paragraph (4), amounts authorized to be appropriated for the Department of Defense for fiscal year 2006 may be used to cover costs associated with the participation of members and units of the Armed Forces in the activities described in paragraph (1).

(3) ACCEPTANCE OF PRIVATE CONTRIBUTIONS.—(A) Notwithstanding any other provision of law, the Secretary of Defense may accept cash contributions from private individuals and entities for the purposes of covering the costs of the participation of members and units of the Armed Forces in the activities described in paragraph (1). Amounts so accepted shall be deposited in an account established for purposes of this paragraph.

(B) Amounts accepted under subparagraph (A) may be used for the purposes described in that subparagraph until expended.

(4) **LIMITATION.**—The total amount of funds described in paragraph (2) that are available for the purpose set forth in that paragraph may not exceed the amount equal to—

(A) \$20,000,000, minus

(B) the amount of any cash contributions accepted by the Secretary under paragraph (3).

(c) **AWARD OF RECOGNITION ITEMS.**—

(1) **AUTHORITY TO AWARD.**—Under regulations prescribed by the Secretary of Defense, appropriate recognition items may be awarded to any individual who served honorably as a member of the Armed Forces in Operation Enduring Freedom or Operation Iraqi Freedom during the Global War on Terrorism. The purpose of the award of such items is to recognize the contribution of such individuals to the success of the United States in those operations.

(2) **RECOGNITION ITEMS DEFINED.**—In this subsection, the term “recognition items” means recognition items authorized for presentation under section 2261 of title 10, United States Code (as added by section 589 of this Act).

Subtitle H—Utah Test and Training Range

SEC. 381. DEFINITIONS.

In this subtitle:

(1) The term “covered wilderness” means the wilderness area designated by this subtitle and wilderness study areas located near lands withdrawn for military use and beneath special use airspace critical to the support of military test and training missions at the Utah Test and Training Range, including the Deep Creek, Fish Springs, Swasey Mountain, Howell Peak, Notch Peak, King Top, Wah Wah Mountain, and Conger Mountain units designated by the Department of the Interior.

(2) The term “Utah Test and Training Range” means those portions of the military operating area of the Utah Test and Training Area located solely in the State of Utah. The term includes the Dugway Proving Ground.

(3) The term “Wilderness Act” means Public Law 88–577, approved September 3, 1964 (16 U.S.C. 1131 et seq.).

SEC. 382. MILITARY OPERATIONS AND OVERFLIGHTS, UTAH TEST AND TRAINING RANGE.

(a) **FINDINGS.**—The Congress finds the following:

(1) The testing and development of military weapons systems and the training of military forces are critical to ensuring the national security of the United States.

(2) The Utah Test and Training Range in the State of Utah is a unique and irreplaceable national asset at the core of the test and training mission of the Department of Defense.

(3) The Cedar Mountain Wilderness Area designated by section 384, as well as several wilderness study areas, are located near lands withdrawn for military use or are beneath special use airspace critical to the support of military test and training missions at the Utah Test and Training Range.

(4) The Utah Test and Training Range and special use airspace withdrawn for military uses create unique management circumstances for the covered wilderness in this subtitle, and it is not the intent of Congress that passage of this subtitle shall be construed as establishing a precedent with respect to any future national conservation area or wilderness designation.

(5) Continued access to the special use airspace and lands that comprise the Utah Test and Training Range, under the terms and conditions described in this subtitle, is a national security priority and is not incompatible with the protection and proper management of the natural, environmental, cultural, and other resources of such lands.

(b) OVERFLIGHTS.—Nothing in this subtitle or the Wilderness Act shall preclude low-level overflights and operations of military aircraft, helicopters, missiles, or unmanned aerial vehicles over the covered wilderness, including military overflights and operations that can be seen or heard within the covered wilderness.

(c) SPECIAL USE AIRSPACE AND TRAINING ROUTES.—Nothing in this subtitle or the Wilderness Act shall preclude the designation of new units of special use airspace, the expansion of existing units of special use airspace, or the use or establishment of military training routes over the covered wilderness.

(d) COMMUNICATIONS AND TRACKING SYSTEMS.—Nothing in this subtitle shall prevent any required maintenance of existing communications, instrumentation, or electronic tracking systems (or infrastructure supporting such systems) or prevent the installation of new communication, instrumentation, or other equipment necessary for effective testing and training to meet military requirements in wilderness study areas located beneath special use airspace comprising the Utah Test and Training Range, including the Deep Creek, Fish Springs, Swasey Mountain, Howell Peak, Notch Peak, King Top, Wah Wah Mountain, and Conger Mountain units designated by the Department of Interior, so long as the Secretary of the Interior, after consultation with the Secretary of the Air Force, determines that the installation and maintenance of such systems, when considered both individually and collectively, comply with section 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782).

(e) EMERGENCY ACCESS AND RESPONSE.—Nothing in this subtitle or the Wilderness Act shall preclude the continuation of the memorandum of understanding in existence as of the date of the enactment of this Act between the Department of the Interior and the Department of the Air Force with respect to emergency access and response.

(f) PROHIBITION ON GROUND MILITARY OPERATIONS.—Except as provided in subsections (d) and (e), nothing in this section shall be construed to permit a military operation to be conducted on the ground in covered wilderness in the Utah Test and Training Range unless such ground operation is otherwise permissible under Federal law and consistent with the Wilderness Act.

SEC. 383. ANALYSIS OF MILITARY READINESS AND OPERATIONAL IMPACTS IN PLANNING PROCESS FOR FEDERAL LANDS IN UTAH TEST AND TRAINING RANGE.

The Secretary of the Interior shall develop, maintain, and revise land use plans pursuant to section 202 of the Federal Land Policy

and Management Act of 1976 (43 U.S. C. 1712) for Federal lands located in the Utah Test and Training Range in consultation with the Secretary of Defense. As part of the required consultation in connection with a proposed revision of a land use plan, the Secretary of Defense shall prepare and transmit to the Secretary of the Interior an analysis of the military readiness and operational impacts of the proposed revision within six months of a request from the Secretary of the Interior.

SEC. 384. DESIGNATION AND MANAGEMENT OF CEDAR MOUNTAIN WILDERNESS, UTAH.

National
Wilderness
Preservation
System.
16 USC 1132
note.

(a) **DESIGNATION.**—Certain Federal lands in Tooele County, Utah, as generally depicted on the map entitled “Cedar Mountain Wilderness” and dated March 7, 2004, are hereby designated as wilderness and, therefore, as a component of the National Wilderness Preservation System to be known as the Cedar Mountain Wilderness Area.

(b) **WITHDRAWAL.**—Subject to valid existing rights, the Federal lands in the Cedar Mountain Wilderness Area are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws, from location, entry, and patent under the United States mining laws, and from disposition under all laws pertaining to mineral and geothermal leasing, and mineral materials, and all amendments to such laws.

(c) **MAP AND DESCRIPTION.**—

(1) **TRANSMITTAL.**—As soon as practicable after the date of the enactment of this Act, the Secretary of the Interior shall transmit a map and legal description of the Cedar Mountain Wilderness Area to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(2) **LEGAL EFFECT.**—The map and legal description shall have the same force and effect as if included in this Act, except that the Secretary of the Interior may correct clerical and typographical errors in the map and legal description.

(3) **AVAILABILITY.**—The map and legal description shall be on file and available for public inspection in the office of the Director of the Bureau of Land Management and the office of the State Director of the Bureau of Land Management in the State of Utah.

(d) **ADMINISTRATION.**—Subject to valid existing rights and this subtitle, the Cedar Mountain Wilderness Area shall be administered by the Secretary of the Interior in accordance with the provisions of the Wilderness Act, except that any reference in such provisions to the effective date of the Wilderness Act (or any similar reference) shall be deemed to be a reference to the date of the enactment of this Act.

(e) **LAND ACQUISITION.**—Any lands or interest in lands within the boundaries of the Cedar Mountain Wilderness Area acquired by the United States after the date of the enactment of this Act shall be added to and administered as part of the Cedar Mountain Wilderness Area.

(f) **FISH AND WILDLIFE MANAGEMENT.**—As provided in section 4(d)(7) of the Wilderness Act (16 U.S.C. 1133(d)(7)), nothing in this subtitle shall be construed as affecting the jurisdiction of the State of Utah with respect to fish and wildlife on the Federal lands located in that State.

(g) **GRAZING.**—Within the Cedar Mountain Wilderness Area, the grazing of livestock, where established before the date of the enactment of this Act, shall be permitted to continue subject to such reasonable regulations, policies, and practices as the Secretary of the Interior considers necessary, as long as such regulations, policies, and practices fully conform with and implement the intent of Congress regarding grazing in such areas, as such intent is expressed in the Wilderness Act, section 101(f) of Public Law 101–628 (104 Stat. 4473), and appendix A of the Report of the Committee on Interior and Insular Affairs to accompany H.R. 2570 of the 101st Congress (H. Rept. 101–405).

(h) **BUFFER ZONES.**—Congress does not intend for the designation of the Cedar Mountain Wilderness Area to lead to the creation of protective perimeters or buffer zones around the wilderness area. The fact that nonwilderness activities or uses can be seen or heard within the wilderness area shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

(i) **RELEASE FROM WILDERNESS STUDY AREA STATUS.**—The lands identified as the Browns Spring Cherrystem on the map entitled “Proposed Browns Spring Cherrystem” and dated May 11, 2004, are released from their status as a wilderness study area, and shall no longer be subject to the requirements of section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)) pertaining to the management of wilderness study areas in a manner that does not impair the suitability of those areas for preservation of wilderness.

SEC. 385. RELATION TO OTHER LANDS.

Nothing in this subtitle shall be construed to affect any Federal lands located outside of the covered wilderness or the management of such lands.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

SUBTITLE A—ACTIVE FORCES

- Sec. 401. End strengths for active forces.
- Sec. 402. Revision in permanent active duty end strength minimum levels.
- Sec. 403. Additional authority for increases of Army and Marine Corps active duty end strengths for fiscal years 2007 through 2009.

SUBTITLE B—RESERVE FORCES

- Sec. 411. End strengths for Selected Reserve.
- Sec. 412. End strengths for reserves on active duty in support of the reserves.
- Sec. 413. End strengths for military technicians (dual status).
- Sec. 414. Fiscal year 2006 limitation on number of non-dual status technicians.
- Sec. 415. Maximum number of reserve personnel authorized to be on active duty for operational support.

SUBTITLE C—AUTHORIZATION OF APPROPRIATIONS

- Sec. 421. Military personnel.
- Sec. 422. Armed Forces Retirement Home.

Subtitle A—Active Forces

10 USC 115 note. **SEC. 401. END STRENGTHS FOR ACTIVE FORCES.**

(a) **IN GENERAL.**—The Armed Forces are authorized strengths for active duty personnel as of September 30, 2006, as follows:

- (1) The Army, 512,400.
- (2) The Navy, 352,700.
- (3) The Marine Corps, 179,000.
- (4) The Air Force, 357,400.

(b) LIMITATION.—

(1) ARMY.—The authorized strength for the Army provided in paragraph (1) of subsection (a) for active duty personnel for fiscal year 2006 is subject to the condition that costs of active duty personnel of the Army for that fiscal year in excess of 482,400 shall be paid out of funds authorized to be appropriated for that fiscal year for a contingent emergency reserve fund or as an emergency supplemental appropriation.

(2) MARINE CORPS.—The authorized strength for the Marine Corps provided in paragraph (3) of subsection (a) for active duty personnel for fiscal year 2006 is subject to the condition that costs of active duty personnel of the Marine Corps for that fiscal year in excess of 175,000 shall be paid out of funds authorized to be appropriated for that fiscal year for a contingent emergency reserve fund or as an emergency supplemental appropriation.

SEC. 402. REVISION IN PERMANENT ACTIVE DUTY END STRENGTH MINIMUM LEVELS.

Section 691(b) of title 10, United States Code, is amended by striking paragraphs (1) through (4) and inserting the following:

- “(1) For the Army, 502,400.
- “(2) For the Navy, 352,700.
- “(3) For the Marine Corps, 179,000.
- “(4) For the Air Force, 357,400.”.

SEC. 403. ADDITIONAL AUTHORITY FOR INCREASES OF ARMY AND MARINE CORPS ACTIVE DUTY END STRENGTHS FOR FISCAL YEARS 2007 THROUGH 2009.

10 USC 115
notes.

Effective October 1, 2006, the text of section 403 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 1863) is amended to read as follows:

Effective date.

“(a) AUTHORITY.—

“(1) ARMY.—For each of fiscal years 2007, 2008, and 2009, the Secretary of Defense may, as the Secretary determines necessary for the purposes specified in paragraph (3), establish the active-duty end strength for the Army at a number greater than the number otherwise authorized by law up to the number equal to the fiscal-year 2006 baseline plus 20,000.

“(2) MARINE CORPS.—For each of fiscal years 2007, 2008, and 2009, the Secretary of Defense may, as the Secretary determines necessary for the purposes specified in paragraph (3), establish the active-duty end strength for the Marine Corps at a number greater than the number otherwise authorized by law up to the number equal to the fiscal-year 2006 baseline plus 5,000.

“(3) PURPOSE OF INCREASES.—The purposes for which increases may be made in Army and Marine Corps active duty end strengths under paragraphs (1) and (2) are—

“(A) to support operational missions; and

“(B) to achieve transformational reorganization objectives, including objectives for increased numbers of combat

brigades and battalions, increased unit manning, force stabilization and shaping, and rebalancing of the active and reserve component forces.

“(4) FISCAL-YEAR 2006 BASELINE.—In this subsection, the term ‘fiscal-year 2006 baseline’, with respect to the Army and Marine Corps, means the active-duty end strength authorized for those services in section 401 of the National Defense Authorization Act for Fiscal Year 2006.

“(5) ACTIVE-DUTY END STRENGTH.—In this subsection, the term ‘active-duty end strength’ means the strength for active-duty personnel of one the Armed Forces as of the last day of a fiscal year.

“(b) RELATIONSHIP TO PRESIDENTIAL WAIVER AUTHORITY.—Nothing in this section shall be construed to limit the President’s authority under section 123a of title 10, United States Code, to waive any statutory end strength in a time of war or national emergency.

“(c) RELATIONSHIP TO OTHER VARIANCE AUTHORITY.—The authority under subsection (a) is in addition to the authority to vary authorized end strengths that is provided in subsections (e) and (f) of section 115 of title 10, United States Code.

“(d) BUDGET TREATMENT.—

“(1) FISCAL YEAR 2007 BUDGET.—The budget for the Department of Defense for fiscal year 2007 as submitted to Congress shall comply, with respect to funding, with subsections (c) and (d) of section 691 of title 10, United States Code.

“(2) OTHER INCREASES.—If the Secretary of Defense plans to increase the Army or Marine Corps active duty end strength for a fiscal year under subsection (a), then the budget for the Department of Defense for that fiscal year as submitted to Congress shall include the amounts necessary for funding that active duty end strength in excess of the fiscal year 2006 active duty end strength authorized for that service under section 401 of the National Defense Authorization Act for Fiscal Year 2006.”.

Subtitle B—Reserve Forces

10 USC 12001
note.

SEC. 411. END STRENGTHS FOR SELECTED RESERVE.

(a) IN GENERAL.—The Armed Forces are authorized strengths for Selected Reserve personnel of the reserve components as of September 30, 2006, as follows:

- (1) The Army National Guard of the United States, 350,000.
- (2) The Army Reserve, 205,000.
- (3) The Navy Reserve, 73,100.
- (4) The Marine Corps Reserve, 39,600.
- (5) The Air National Guard of the United States, 106,800.
- (6) The Air Force Reserve, 74,000.
- (7) The Coast Guard Reserve, 10,000.

(b) ADJUSTMENTS.—The end strengths prescribed by subsection (a) for the Selected Reserve of any reserve component shall be proportionately reduced by—

- (1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at the end of the fiscal year; and

(2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at the end of the fiscal year.

Whenever such units or such individual members are released from active duty during any fiscal year, the end strength prescribed for such fiscal year for the Selected Reserve of such reserve component shall be increased proportionately by the total authorized strengths of such units and by the total number of such individual members.

SEC. 412. END STRENGTHS FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVES.

10 USC 12001
note.

Within the end strengths prescribed in section 411(a), the reserve components of the Armed Forces are authorized, as of September 30, 2006, the following number of Reserves to be serving on full-time active duty or full-time duty, in the case of members of the National Guard, for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

- (1) The Army National Guard of the United States, 27,396.
- (2) The Army Reserve, 15,270.
- (3) The Navy Reserve, 13,392.
- (4) The Marine Corps Reserve, 2,261.
- (5) The Air National Guard of the United States, 13,123.
- (6) The Air Force Reserve, 2,290.

SEC. 413. END STRENGTHS FOR MILITARY TECHNICIANS (DUAL STATUS).

10 USC 115 note.

The minimum number of military technicians (dual status) as of the last day of fiscal year 2006 for the reserve components of the Army and the Air Force (notwithstanding section 129 of title 10, United States Code) shall be the following:

- (1) For the Army Reserve, 7,649.
- (2) For the Army National Guard of the United States, 25,563.
- (3) For the Air Force Reserve, 9,852.
- (4) For the Air National Guard of the United States, 22,971.

SEC. 414. FISCAL YEAR 2006 LIMITATION ON NUMBER OF NON-DUAL STATUS TECHNICIANS.

(a) LIMITATIONS.—

(1) NATIONAL GUARD.—Within the limitation provided in section 10217(c)(2) of title 10, United States Code, the number of non-dual status technicians employed by the National Guard as of September 30, 2006, may not exceed the following:

(A) For the Army National Guard of the United States, 1,600.

(B) For the Air National Guard of the United States, 350.

(2) ARMY RESERVE.—The number of non-dual status technicians employed by the Army Reserve as of September 30, 2006, may not exceed 695.

(3) AIR FORCE RESERVE.—The number of non-dual status technicians employed by the Air Force Reserve as of September 30, 2006, may not exceed 90.

(b) NON-DUAL STATUS TECHNICIANS DEFINED.—In this section, the term “non-dual status technician” has the meaning given that term in section 10217(a) of title 10, United States Code.

SEC. 415. MAXIMUM NUMBER OF RESERVE PERSONNEL AUTHORIZED TO BE ON ACTIVE DUTY FOR OPERATIONAL SUPPORT.

During fiscal year 2006, the maximum number of members of the reserve components of the Armed Forces who may be serving at any time on full-time operational support duty under section 115(b) of title 10, United States Code, is the following:

- (1) The Army National Guard of the United States, 17,000.
- (2) The Army Reserve, 13,000.
- (3) The Naval Reserve, 6,200.
- (4) The Marine Corps Reserve, 3,000.
- (5) The Air National Guard of the United States, 16,000.
- (6) The Air Force Reserve, 14,000.

Subtitle C—Authorization of Appropriations

SEC. 421. MILITARY PERSONNEL.

There is hereby authorized to be appropriated to the Department of Defense for military personnel for fiscal year 2006 a total of \$108,942,746,000. The authorization in the preceding sentence supersedes any other authorization of appropriations (definite or indefinite) for such purpose for fiscal year 2006.

SEC. 422. ARMED FORCES RETIREMENT HOME.

There is hereby authorized to be appropriated for fiscal year 2006 from the Armed Forces Retirement Home Trust Fund the sum of \$58,281,000 for the operation of the Armed Forces Retirement Home.

TITLE V—MILITARY PERSONNEL POLICY

SUBTITLE A—OFFICER PERSONNEL POLICY

- Sec. 501. Temporary increase in percentage limits on reduction of time-in-grade requirements for retirement in grade upon voluntary retirement.
- Sec. 502. Two-year renewal of temporary authority to reduce minimum length of commissioned service required for voluntary retirement as an officer.
- Sec. 503. Exclusion from active-duty general and flag officer distribution and strength limitations of officers on leave pending separation or retirement or between senior positions.
- Sec. 504. Consolidation of grade limitations on officer assignment and insignia practice known as frocking.
- Sec. 505. Clarification of deadline for receipt by promotion selection boards of certain communications from eligible officers.
- Sec. 506. Furnishing to promotion selection boards of adverse information on officers eligible for promotion to certain senior grades.
- Sec. 507. Applicability of officer distribution and strength limitations to officers serving in intelligence community positions.
- Sec. 508. Grades of the Judge Advocates General.
- Sec. 509. Authority to retain permanent professors at the Naval Academy beyond 30 years of active commissioned service.
- Sec. 510. Authority for designation of a general/flag officer position on the Joint Staff to be held by reserve component general or flag officer on active duty.

SUBTITLE B—RESERVE COMPONENT MANAGEMENT

- Sec. 511. Separation at age 64 for reserve component senior officers.
- Sec. 512. Modification of strength-in-grade limitations applicable to Reserve flag of officers in active status.
- Sec. 513. Military technicians (dual status) mandatory separation.
- Sec. 514. Military retirement credit for certain service by National Guard members performed while in a State duty status immediately after the terrorist attacks of September 11, 2001.
- Sec. 515. Redesignation of the Naval Reserve as the Navy Reserve.
- Sec. 516. Clarification of certain authorities relating to the Commission on the National Guard and Reserves.
- Sec. 517. Report on employment matters for members of the reserve components.
- Sec. 518. Defense Science Board study on deployment of members of the National Guard and Reserves in the Global War on Terrorism.
- Sec. 519. Sense of Congress on certain matters relating to the National Guard and Reserves.
- Sec. 520. Pilot program on enhanced quality of life for members of the Army Reserve and their families.

SUBTITLE C—EDUCATION AND TRAINING**PART I—DEPARTMENT OF DEFENSE SCHOOLS GENERALLY**

- Sec. 521. Authority for National Defense University award of degree of Master of Science in Joint Campaign Planning and Strategy.
- Sec. 522. Authority for certain professional military education schools to receive faculty research grants for certain purposes.

PART II—UNITED STATES NAVAL POSTGRADUATE SCHOOL

- Sec. 523. Revision to mission of the Naval Postgraduate School.
- Sec. 524. Modification of eligibility for position of President of the Naval Postgraduate School.
- Sec. 525. Increased enrollment for eligible defense industry employees in the defense product development program at Naval Postgraduate School.
- Sec. 526. Instruction for enlisted personnel by the Naval Postgraduate School.

PART III—RESERVE OFFICERS' TRAINING CORPS

- Sec. 531. Repeal of limitation on amount of financial assistance under ROTC scholarship programs.
- Sec. 532. Increase in annual limit on number of ROTC scholarships under Army Reserve and National Guard program.
- Sec. 533. Procedures for suspending financial assistance and subsistence allowance for Senior ROTC cadets and midshipmen on the basis of health-related conditions.
- Sec. 534. Eligibility of United States nationals for appointment to the Senior Reserve Officers' Training Corps.
- Sec. 535. Promotion of foreign language skills among members of the Reserve Officers' Training Corps.
- Sec. 536. Designation of Ike Skelton Early Commissioning Program Scholarships.

PART IV—OTHER MATTERS

- Sec. 537. Enhancement of educational loan repayment authorities.
- Sec. 538. Payment of expenses of members of the Armed Forces to obtain professional credentials.
- Sec. 539. Use of Reserve Montgomery GI Bill benefits and benefits for mobilized members of the Selected Reserve and National Guard for payments for licensing or certification tests.
- Sec. 540. Modification of educational assistance for reserves supporting contingency and other operations.

SUBTITLE D—GENERAL SERVICE REQUIREMENTS

- Sec. 541. Ground combat and other exclusion policies.
- Sec. 542. Uniform citizenship or residency requirements for enlistment in the Armed Forces.
- Sec. 543. Increase in maximum age for enlistment.
- Sec. 544. Increase in maximum term of original enlistment in regular component.
- Sec. 545. National Call to Service program.
- Sec. 546. Reports on information provided to potential recruits and to new entrants into the Armed Forces on “stop loss” authorities and initial period of military service obligation.

SUBTITLE E—MILITARY JUSTICE AND LEGAL ASSISTANCE MATTERS

- Sec. 551. Offense of stalking under the Uniform Code of Military Justice.

- Sec. 552. Rape, sexual assault, and other sexual misconduct under Uniform Code of Military Justice.
- Sec. 553. Extension of statute of limitations for murder, rape, and child abuse offenses under the Uniform Code of Military Justice.
- Sec. 554. Reports by officers and senior enlisted members of conviction of criminal law.
- Sec. 555. Clarification of authority of military legal assistance counsel to provide military legal assistance without regard to licensing requirements.
- Sec. 556. Use of teleconferencing in administrative sessions of courts-martial.
- Sec. 557. Sense of Congress on applicability of Uniform Code of Military Justice to Reserves on inactive-duty training overseas.

SUBTITLE F—MATTERS RELATING TO CASUALTIES

- Sec. 561. Authority for members on active duty with disabilities to participate in Paralympic Games.
- Sec. 562. Policy and procedures on casualty assistance to survivors of military decedents.
- Sec. 563. Policy and procedures on assistance to severely wounded or injured service members.
- Sec. 564. Designation by members of the Armed Forces of persons authorized to direct the disposition of member remains.

SUBTITLE G—ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES FOR DEFENSE DEPENDENTS EDUCATION

- Sec. 571. Expansion of authorized enrollment in Department of Defense dependents schools overseas.
- Sec. 572. Assistance to local educational agencies that benefit dependents of members of the Armed Forces and Department of Defense civilian employees.
- Sec. 573. Impact aid for children with severe disabilities.
- Sec. 574. Continuation of impact aid assistance on behalf of dependents of certain members despite change in status of member.

SUBTITLE H—DECORATIONS AND AWARDS

- Sec. 576. Eligibility for Operation Enduring Freedom campaign medal.

SUBTITLE I—CONSUMER PROTECTION MATTERS

- Sec. 577. Requirement for regulations on policies and procedures on personal commercial solicitations on Department of Defense installations.
- Sec. 578. Consumer education for members of the Armed Forces and their spouses on insurance and other financial services.
- Sec. 579. Report on predatory lending practices directed at members of the Armed Forces and their dependents.

SUBTITLE J—REPORTS AND SENSE OF CONGRESS STATEMENTS

- Sec. 581. Report on need for a personnel plan for linguists in the Armed Forces.
- Sec. 582. Sense of Congress that colleges and universities give equal access to military recruiters and ROTC in accordance with the Solomon Amendment and requirement for report to Congress.
- Sec. 583. Sense of Congress concerning study of options for providing homeland defense education.
- Sec. 584. Sense of Congress recognizing the diversity of the members of the Armed Forces serving in Operation Iraqi Freedom and Operation Enduring Freedom and honoring their sacrifices and the sacrifices of their families.

SUBTITLE K—OTHER MATTERS

- Sec. 589. Expansion and enhancement of authority to present recognition items for recruitment and retention purposes.
- Sec. 590. Extension of date of submittal of report of Veterans' Disability Benefits Commission.
- Sec. 591. Recruitment and enlistment of home-schooled students in the Armed Forces.
- Sec. 592. Modification of requirement for certain intermediaries under certain authorities relating to adoptions.
- Sec. 593. Adoption leave for members of the Armed Forces adopting children.
- Sec. 594. Addition of information to be covered in mandatory preseparation counseling.
- Sec. 595. Report on Transition Assistance Programs.
- Sec. 596. Improvement to Department of Defense capacity to respond to sexual assault affecting members of the Armed Forces.

Sec. 597. Authority for appointment of Coast Guard flag officer as Chief of Staff to the President.

Sec. 598. Prayer at military service academy activities.

Sec. 599. Modification of authority to make military working dogs available for adoption.

Subtitle A—Officer Personnel Policy

SEC. 501. TEMPORARY INCREASE IN PERCENTAGE LIMITS ON REDUCTION OF TIME-IN-GRADE REQUIREMENTS FOR RETIREMENT IN GRADE UPON VOLUNTARY RETIREMENT.

Section 1370(a)(2) of title 10, United States Code, is amended by adding at the end the following new subparagraph:

“(F) Notwithstanding subparagraph (E), during the period ending on December 31, 2007, the number of lieutenant colonels and colonels of the Air Force, and the number of commanders and captains of the Navy, for whom a reduction is made under this section during any fiscal year in the period of service-in-grade otherwise required under this paragraph may not exceed four percent of the authorized active-duty strength for that fiscal year for officers of that armed force in that grade.”.

SEC. 502. TWO-YEAR RENEWAL OF TEMPORARY AUTHORITY TO REDUCE MINIMUM LENGTH OF COMMISSIONED SERVICE REQUIRED FOR VOLUNTARY RETIREMENT AS AN OFFICER.

(a) ARMY.—Section 3911(b) of title 10, United States Code, is amended—

(1) by inserting “(1)” after “(b)”;

(2) in paragraph (1), as so designated, by striking “during the period beginning on October 1, 1990, and ending on December 31, 2001” and inserting “during the period specified in paragraph (2),”; and

(3) by adding at the end the following new paragraph:

“(2) The period specified in this paragraph is the period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2006 and ending on December 31, 2008.”.

(b) NAVY AND MARINE CORPS.—Section 6323(a)(2) of such title is amended—

(1) by inserting “(A)” after “(2)”;

(2) in subparagraph (A), as so designated, by striking “during the period beginning on October 1, 1990, and ending on December 31, 2001” and inserting “during the period specified in subparagraph (B),”; and

(3) by adding at the end the following new subparagraph:

“(B) The period specified in this subparagraph is the period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2006 and ending on December 31, 2008.”.

(c) AIR FORCE.—Section 8911(b) of such title is amended—

(1) by inserting “(1)” after “(b)”;

(2) in paragraph (1), as so designated, by striking “during the period beginning on October 1, 1990, and ending on December 31, 2001” and inserting “during the period specified in paragraph (2),”; and

(3) by adding at the end the following new paragraph:

“(2) The period specified in this paragraph is the period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2006 and ending on December 31, 2008.”.

SEC. 503. EXCLUSION FROM ACTIVE-DUTY GENERAL AND FLAG OFFICER DISTRIBUTION AND STRENGTH LIMITATIONS OF OFFICERS ON LEAVE PENDING SEPARATION OR RETIREMENT OR BETWEEN SENIOR POSITIONS.

(a) **DISTRIBUTION LIMITATIONS.**—Section 525 of title 10, United States Code, is amended by adding at the end the following new subsection:

“(e) In determining the total number of general officers or flag officers of an armed force on active duty for purposes of this section, the following officers shall not be counted:

“(1) An officer of that armed force in the grade of brigadier general or above or, in the case of the Navy, in the grade of rear admiral (lower half) or above, who is on leave pending the retirement, separation, or release of that officer from active duty, but only during the 60-day period beginning on the date of the commencement of such leave of such officer.

“(2) An officer of that armed force who has been relieved from a position designated under section 601(a) of this title and is under orders to assume another such position, but only during the 60-day period beginning on the date on which those orders are published.”.

(b) **ACTIVE-DUTY STRENGTH LIMITATIONS.**—

(1) **IN GENERAL.**—Section 526 of such title is amended by adding at the end the following new subsection:

“(e) **EXCLUSION OF CERTAIN OFFICERS PENDING SEPARATION OR RETIREMENT OR BETWEEN SENIOR POSITIONS.**—The limitations of this section do not apply to a general or flag officer who is covered by an exclusion under section 525(e) of this title.”.

(2) **CONFORMING AMENDMENT.**—The heading of subsection (d) of such section is amended by striking “CERTAIN OFFICERS” and inserting “CERTAIN RESERVE OFFICERS”.

(c) **PROHIBITION OF FROCKING TO GRADES ABOVE MAJOR GENERAL AND REAR ADMIRAL.**—Section 777(a) of such title is amended by inserting “in a grade below the grade of major general or, in the case of the Navy, rear admiral,” after “An officer” in the first sentence.

SEC. 504. CONSOLIDATION OF GRADE LIMITATIONS ON OFFICER ASSIGNMENT AND INSIGNIA PRACTICE KNOWN AS FROCKING.

Section 777(d) of title 10, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking “brigadier generals and Navy rear admirals (lower half)” and inserting “colonels, Navy captains, brigadier generals, and rear admirals (lower half); and

(B) by striking “the grade of” and all that follows through “30” and inserting “the next higher grade may not exceed 85”;

(2) by striking paragraph (2); and

(3) by redesignating paragraph (3) as paragraph (2).

SEC. 505. CLARIFICATION OF DEADLINE FOR RECEIPT BY PROMOTION SELECTION BOARDS OF CERTAIN COMMUNICATIONS FROM ELIGIBLE OFFICERS.

(a) **OFFICERS ON ACTIVE-DUTY LIST.**—Section 614(b) of title 10, United States Code, is amended in the first sentence by inserting “the day before” after “not later than”.

(b) **OFFICERS ON RESERVE ACTIVE-STATUS LIST.**—Section 14106 of such title is amended in the second sentence by inserting “the day before” after “not later than”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on March 1, 2006, and shall apply with respect to selection boards convened on or after that date.

SEC. 506. FURNISHING TO PROMOTION SELECTION BOARDS OF ADVERSE INFORMATION ON OFFICERS ELIGIBLE FOR PROMOTION TO CERTAIN SENIOR GRADES.

(a) **OFFICERS ON ACTIVE-DUTY LIST.**—

(1) **IN GENERAL.**—Section 615(a) of title 10, United States Code, is amended—

(A) by redesignating paragraphs (3), (4), (5), and (6) as paragraphs (4), (5), (6), and (7), respectively; and

(B) by inserting after paragraph (2) the following new paragraph (3):

“(3) In the case of an eligible officer considered for promotion to a grade above colonel or, in the case of the Navy, captain, any credible information of an adverse nature, including any substantiated adverse finding or conclusion from an officially documented investigation or inquiry, shall be furnished to the selection board in accordance with standards and procedures set out in the regulations prescribed by the Secretary of Defense pursuant to paragraph (1).”.

(2) **CONFORMING AMENDMENTS.**—Such section is further amended—

(A) in paragraph (4), as redesignated by paragraph (1)(A) of this subsection, by striking “paragraph (2)” and inserting “paragraphs (2) and (3)”;

(B) in paragraph (5), as so redesignated, by striking “and (3)” and inserting “, (3), and (4)”;

(C) in paragraph (6), as so redesignated—

(i) in the matter preceding subparagraph (A), by inserting “, or in paragraph (3),” after “paragraph (2)”;

and

(ii) in subparagraph (B), by inserting “or (3), as applicable” after “paragraph (2)”;

(D) in subparagraph (A) of paragraph (7), as so redesignated, by inserting “or (3)” after “paragraph (2)(B)”.

(b) **RESERVE OFFICERS.**—

(1) **IN GENERAL.**—Section 14107(a) of title 10, United States Code, is amended—

(A) by redesignating paragraphs (3), (4), (5), and (6) as paragraphs (4), (5), (6), and (7), respectively; and

(B) by inserting after paragraph (2) the following new paragraph (3):

“(3) In the case of an eligible officer considered for promotion to a grade above colonel or, in the case of the Navy, captain, any credible information of an adverse nature, including any

substantiated adverse finding or conclusion from an officially documented investigation or inquiry, shall be furnished to the selection board in accordance with standards and procedures set out in the regulations prescribed by the Secretary of Defense pursuant to paragraph (1).”.

(2) CONFORMING AMENDMENTS.—Such section is further amended—

(A) in paragraph (4), as redesignated by paragraph (1)(A) of this subsection, by striking “paragraph (2)” and inserting “paragraphs (2) and (3)”;

(B) in paragraph (5), as so redesignated, by striking “and (3)” and inserting “, (3), and (4)”;

(C) in paragraph (6), as so redesignated—

(i) in the matter preceding subparagraph (A), by inserting “, or in paragraph (3),” after “paragraph (2)”;

and

(ii) in subparagraph (B), by inserting “or (3), as applicable” after “paragraph (2)”;

(D) in subparagraph (A) of paragraph (7), as so redesignated, by inserting “or (3)” after “paragraph (2)(B)”.

10 USC 615 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2006, and shall apply with respect to promotion selection boards convened on or after that date.

SEC. 507. APPLICABILITY OF OFFICER DISTRIBUTION AND STRENGTH LIMITATIONS TO OFFICERS SERVING IN INTELLIGENCE COMMUNITY POSITIONS.

(a) IN GENERAL.—Section 528 of title 10, United States Code, is amended to read as follows:

“§ 528. Exclusion: officers serving in certain intelligence positions

“(a) EXCLUSION OF OFFICER SERVING IN CERTAIN CIA POSITIONS.—When either of the individuals serving in a position specified in subsection (b) is an officer of the armed forces, one of those officers, while serving in that position, shall be excluded from the limitations in sections 525 and 526 of this title.

“(b) COVERED POSITIONS.—The positions referred to in this subsection are the following:

“(1) Director of the Central Intelligence Agency.

“(2) Deputy Director of the Central Intelligence Agency.

“(c) ASSOCIATE DIRECTOR OF CIA FOR MILITARY SUPPORT.—An officer of the armed forces serving in the position of Associate Director of the Central Intelligence Agency for Military Support, while serving in that position, shall be excluded from the limitations in sections 525 and 526 of this title.

“(d) OFFICERS SERVING IN OFFICE OF DNI.—A general or flag officer of the armed forces assigned to a position in the Office of the Director of National Intelligence designated by agreement between the Secretary of Defense and the Director of National Intelligence, while serving in that position, shall be excluded from the limitations in sections 525 and 526 of this title, except that not more than five such officers may be so excluded at any time.”.

(b) CLERICAL AMENDMENT.—The item relating to such section in the table of sections at the beginning of chapter 32 of such title is amended to read as follows:

“528. Exclusion: officers serving in certain intelligence positions.”.

SEC. 508. GRADES OF THE JUDGE ADVOCATES GENERAL.

(a) JUDGE ADVOCATE GENERAL OF THE ARMY.—Section 3037(a) of title 10, United States Code, is amended by striking the last sentence and inserting the following new sentences: “The Judge Advocate General, while so serving, shall hold a grade not lower than major general. An officer appointed as Assistant Judge Advocate General who holds a lower regular grade shall be appointed in the regular grade of major general.”.

(b) JUDGE ADVOCATE GENERAL OF THE NAVY.—Section 5148(b) of such title is amended by striking the last sentence and inserting the following new sentence: “The Judge Advocate General, while so serving, shall hold a grade not lower than rear admiral or major general, as appropriate.”.

(c) JUDGE ADVOCATE GENERAL OF THE AIR FORCE.—Section 8037(a) of such title is amended by striking the last sentence and inserting the following new sentence: “The Judge Advocate General, while so serving, shall hold a grade not lower than major general.”.

SEC. 509. AUTHORITY TO RETAIN PERMANENT PROFESSORS AT THE NAVAL ACADEMY BEYOND 30 YEARS OF ACTIVE COMMISSIONED SERVICE.

(a) WAIVER OF MANDATORY RETIREMENT FOR YEARS OF SERVICE.—

(1) LIEUTENANT COLONELS AND COMMANDERS.—Section 633 of title 10, United States Code, is amended—

(A) by striking “Except an” and all that follows through “except as provided” and inserting “(a) 28 YEARS OF ACTIVE COMMISSIONED SERVICE.—Except as provided in subsection (b) and as provided”; and

(B) by adding at the end the following:

“(b) EXCEPTIONS.—Subsection (a) does not apply to the following:

“(1) An officer of the Navy or Marine Corps who is an officer designated for limited duty to whom section 5596(e) or 6383 of this title applies.

“(2) An officer of the Navy or Marine Corps who is a permanent professor at the United States Naval Academy.”.

(2) COLONELS AND NAVY CAPTAINS.—Section 634 of such title is amended—

(A) by striking “Except an” and all that follows through “except as provided” and inserting “(a) 30 YEARS OF ACTIVE COMMISSIONED SERVICE.—Except as provided in subsection (b) and as provided”; and

(B) by adding at the end the following:

“(b) EXCEPTIONS.—Subsection (a) does not apply to the following:

“(1) An officer of the Navy who is designated for limited duty to whom section 6383(a)(4) of this title applies.

“(2) An officer of the Navy or Marine Corps who is a permanent professor at the United States Naval Academy.”.

(b) AUTHORITY FOR RETENTION OF PERMANENT PROFESSORS BEYOND 30 YEARS.—

(1) AUTHORITY.—Chapter 603 of such title is amended by inserting after section 6969 the following new section:

“§ 6970. Permanent professors: retirement for years of service; authority for deferral

“(a) RETIREMENT FOR YEARS OF SERVICE.—(1) Except as provided in subsection (b), an officer of the Navy or Marine Corps serving as a permanent professor at the Naval Academy in the grade of commander or lieutenant colonel who is not on a list of officers recommended for promotion to the grade of captain or colonel, as the case may be, shall, if not earlier retired, be retired on the first day of the month after the month in which the officer completes 28 years of active commissioned service.

“(2) Except as provided in subsection (b), an officer of the Navy or Marine Corps serving as a permanent professor at the Naval Academy in the grade of captain or colonel who is not on a list of officers recommended for promotion to the grade of rear admiral (lower half) or brigadier general, as the case may be, shall, if not earlier retired, be retired on the first day of the month after the month in which the officer completes 30 years of active commissioned service.

“(b) CONTINUATION ON ACTIVE DUTY.—(1) An officer subject to retirement under subsection (a) may have his retirement deferred and be continued on active duty by the Secretary of the Navy.

“(2) Subject to section 1252 of this title, the Secretary of the Navy shall determine the period of any continuation on active duty under this section.

“(c) ELIGIBILITY FOR PROMOTION.—A permanent professor at the Naval Academy in the grade of commander or lieutenant colonel who is continued on active duty as a permanent professor under subsection (b) remains eligible for consideration for promotion to the grade of captain or colonel, as the case may be.

“(d) RETIRED GRADE AND RETIRED PAY.—Each officer retired under this section—

“(1) unless otherwise entitled to a higher grade, shall be retired in the grade determined under section 1370 of this title; and

“(2) is entitled to retired pay computed under section 6333 of this title.”.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 6969 the following new item:

“6970. Permanent professors: retirement for years of service; authority for deferral.”.

(c) MANDATORY RETIREMENT AT AGE 64.—

(1) REORGANIZATION AND STANDARDIZATION.—Chapter 63 of such title is amended by inserting after section 1251 the following new section:

“§ 1252. Age 64: permanent professors at academies

“(a) MANDATORY RETIREMENT FOR AGE.—Unless retired or separated earlier, each regular commissioned officer of the Army, Navy, Air Force, or Marine Corps covered by subsection (b) shall be retired on the first day of the month following the month in which the officer becomes 64 years of age.

“(b) COVERED OFFICERS.—This section applies to the following officers:

“(1) An officer who is a permanent professor or the director of admissions of the United States Military Academy.

“(2) An officer who is a permanent professor at the United States Naval Academy.

“(3) An officer who is a permanent professor or the registrar of the United States Air Force Academy.”.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1251 the following new item:

“1252. Age 64: permanent professors at academies.”.

(3) CONFORMING AMENDMENT.—Section 1251(a) of such title is amended—

(A) in the first sentence, by inserting “, a permanent professor at the United States Naval Academy,” after “Air Force Academy”; and

(B) by striking the second sentence.

(d) CONFORMING AMENDMENTS RELATING TO COMPUTATION OF RETIRED PAY.—

(1) AGE 64 RETIREMENT.—Chapter 71 of such title is amended—

(A) in the table in section 1401(a), by inserting at the bottom of the column under the heading “For sections”, in the entry for Formula Number 5, the following: “1252”; and

(B) in the table in section 1406(b)(1), by inserting at the bottom of the first column the following: “1252”.

(2) YEARS-OF-SERVICE RETIREMENT.—Section 6333(a) of such title is amended—

(A) in the matter preceding the table, by inserting “6970 or” after “section”; and

(B) in the table, by inserting “6970” immediately below “6325(b)” in the column under the heading “For sections”, in the entry for Formula B.

SEC. 510. AUTHORITY FOR DESIGNATION OF A GENERAL/FLAG OFFICER POSITION ON THE JOINT STAFF TO BE HELD BY RESERVE COMPONENT GENERAL OR FLAG OFFICER ON ACTIVE DUTY.

Section 526(b)(2)(A) of title 10, United States Code, is amended by inserting “, and a general and flag officer position on the Joint Staff,” after “combatant commands”.

Subtitle B—Reserve Component Management

SEC. 511. SEPARATION AT AGE 64 FOR RESERVE COMPONENT SENIOR OFFICERS.

Section 14512(a) of title 10, United States Code, is amended—

(1) by inserting “(1)” before “Unless retired,”;

(2) by striking “who is Chief” and all that follows through “of a State,” and inserting “who is specified in paragraph (2)”; and

(3) by adding at the end the following new paragraph:

“(2) Paragraph (1) applies to a reserve officer of the Army or Air Force who is any of the following:

“(A) The Chief of the National Guard Bureau.

“(B) The Chief of the Army Reserve, Chief of the Air Force Reserve, Director of the Army National Guard, or Director of the Air National Guard.

“(C) An adjutant general.

“(D) If a reserve officer of the Army, the commanding general of the troops of a State.”.

SEC. 512. MODIFICATION OF STRENGTH-IN-GRADE LIMITATIONS APPLICABLE TO RESERVE FLAG OFFICERS IN ACTIVE STATUS.

(a) **LINE OFFICERS.**—The table in paragraph (1) of section 12004(c) of title 10, United States Code, is amended by striking “28” in the item relating to Line officers and inserting “33”.

(b) **MEDICAL DEPARTMENT STAFF CORPS OFFICERS.**—Such table is further amended by striking “9” in the item relating to Medical Department staff corps officers and inserting “5”.

(c) **SUPPLY CORPS OFFICERS.**—Paragraph (2)(A) of such section is amended by striking “seven” and inserting “six”.

(d) **CONFORMING AMENDMENT.**—Paragraph (1) of such section is further amended in the matter preceding the table by striking “39” and inserting “40”.

SEC. 513. MILITARY TECHNICIANS (DUAL STATUS) MANDATORY SEPARATION.

(a) **DEFERRAL OF SEPARATION.**—Section 10216 of title 10, United States Code, is amended by adding at the end the following new subsection:

“(f) **DEFERRAL OF MANDATORY SEPARATION.**—The Secretary of the Army shall implement personnel policies so as to allow a military technician (dual status) who continues to meet the requirements of this section for dual status to continue to serve beyond a mandatory removal date for officers, and any applicable maximum years of service limitation, until the military technician (dual status) reaches age 60 and attains eligibility for an unreduced annuity (as defined in section 10218(c) of this title).”.

(b) **EFFECTIVE DATE.**—The Secretary of the Army shall implement subsection (f) of section 10216 of title 10, United States Code, as added by subsection (a), not later than 90 days after the date of the enactment of this Act.

SEC. 514. MILITARY RETIREMENT CREDIT FOR CERTAIN SERVICE BY NATIONAL GUARD MEMBERS PERFORMED WHILE IN A STATE DUTY STATUS IMMEDIATELY AFTER THE TERRORIST ATTACKS OF SEPTEMBER 11, 2001.

(a) **RETIREMENT CREDIT.**—Service of a member of the Ready Reserve of the Army National Guard or Air National Guard described in subsection (b) shall be deemed to be service creditable under section 12732(a)(2)(A)(i) of title 10, United States Code.

(b) **COVERED SERVICE.**—Service referred to in subsection (a) is full-time State active duty service that a member of the National Guard performed on or after September 11, 2001, and before October 1, 2002, in any of the counties specified in subsection (c) to support a Federal declaration of emergency following the terrorist attacks on the United States of September 11, 2001.

(c) **COVERED COUNTIES.**—The counties referred to in subsection (b) are the following:

(1) In the State of New York: Bronx, Kings, New York (boroughs of Brooklyn and Manhattan), Queens, Richmond,

Delaware, Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk, Sullivan, Ulster, and Westchester.

(2) In the State of Virginia: Arlington.

(d) APPLICABILITY.—Subsection (a) shall take effect as of September 11, 2001. Effective date.

SEC. 515. REDESIGNATION OF THE NAVAL RESERVE AS THE NAVY RESERVE.

(a) REDESIGNATION OF RESERVE COMPONENT.—

(1) REDESIGNATION.—The reserve component of the Armed Forces known as the Naval Reserve is redesignated as the Navy Reserve. 10 USC 10101 note.

(2) CONFORMING REPEAL.—Section 517 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 1884; 10 U.S.C. 10101 note) is repealed.

(b) CONFORMING AMENDMENTS TO TITLE 10, UNITED STATES CODE.—

(1) TEXT AMENDMENTS.—Title 10, United States Code, is amended by striking “Naval Reserve” each place it appears in the following provisions and inserting “Navy Reserve”:

- (A) Section 513(a).
- (B) Section 516.
- (C) Section 526(b)(2)(C)(i).
- (D) Section 971(a).
- (E) Section 5001(a)(1).
- (F) Section 5143.
- (G) Section 5596(c).
- (H) Section 6323(f).
- (I) Section 6327.
- (J) Section 6330(b).
- (K) Section 6331(a)(2).
- (L) Section 6336.
- (M) Section 6389.
- (N) Section 6911(c)(1).
- (O) Section 6913(a).
- (P) Section 6915.
- (Q) Section 6954(b)(3).
- (R) Section 6956(a)(2).
- (S) Section 6959.
- (T) Section 7225.
- (U) Section 7226.
- (V) Section 7605(1).
- (W) Section 7852.
- (X) Section 7853.
- (Y) Section 7854.
- (Z) Section 10101(3).
- (AA) Section 10108.
- (BB) Section 10172.
- (CC) Section 10301(a)(7).
- (DD) Section 10303.
- (EE) Section 12004(e)(2).
- (FF) Section 12005.
- (GG) Section 12010.
- (HH) Section 12011(a)(2).
- (II) Section 12012(a).
- (JJ) Section 12103.

(KK) Section 12205.

(LL) Section 12207(b)(2).

(MM) Section 12732.

(NN) Section 12774(b) (other than the first place it appears).

(OO) Section 14002(b).

(PP) Section 14101(a)(1).

(QQ) Section 14107(d).

(RR) Section 14302(a)(1)(A).

(SS) Section 14313(b).

(TT) Section 14501(a).

(UU) Section 14512(b).

(VV) Section 14705(a).

(WW) Section 16201(d)(1)(B)(ii).

(2) SUBSECTION CAPTION AMENDMENTS.—Such title is further amended in sections 971(a) and 5143(a) by striking “NAVAL RESERVE” and inserting “NAVY RESERVE”.

(3) SECTION HEADING AMENDMENTS.—Such title is further amended as follows:

(A) The heading of section 5143 is amended to read as follows:

“§ 5143. Office of Navy Reserve: appointment of Chief”.

(B) The heading of section 6327 is amended to read as follows:

“§ 6327. Officers and enlisted members of the Navy Reserve and Marine Corps Reserve: 30 years; 20 years; retired pay”.

(C) The heading of section 6389 is amended to read as follows:

“§ 6389. Navy Reserve and Marine Corps Reserve; officers: elimination from active status; computation of total commissioned service”.

(D) The heading of section 7225 is amended to read as follows:

“§ 7225. Navy Reserve flag”.

(E) The heading of section 7226 is amended to read as follows:

“§ 7226. Navy Reserve yacht pennant”.

(F) The heading of section 10108 is amended to read as follows:

“§ 10108. Navy Reserve: administration”.

(G) The heading of section 10172 is amended to read as follows:

“§ 10172. Navy Reserve Force”.

(H) The heading of section 10303 is amended to read as follows:

“§ 10303. Navy Reserve Policy Board”.

(I) The heading of section 12010 is amended to read as follows:

“§ 12010. Computations for Navy Reserve and Marine Corps Reserve: rule when fraction occurs in final result”.

(J) The heading of section 14306 is amended to read as follows:

“§ 14306. Establishment of promotion zones: Navy Reserve and Marine Corps Reserve running mate system”.

(4) TABLES OF SECTIONS AMENDMENTS.—Such title is further amended as follows:

(A) The item relating to section 5143 in the table of sections at the beginning of chapter 513 is amended to read as follows:

“5143. Office of Navy Reserve: appointment of Chief.”.

(B) The item relating to section 6327 in the table of sections at the beginning of chapter 571 is amended to read as follows:

“6327. Officers and enlisted members of the Navy Reserve and Marine Corps Reserve: 30 years; 20 years; retired pay.”.

(C) The item relating to section 6389 in the table of sections at the beginning of chapter 573 is amended to read as follows:

“6389. Navy Reserve and Marine Corps Reserve; officers: elimination from active status; computation of total commissioned service.”.

(D) The items relating to sections 7225 and 7226 in the table of sections at the beginning of chapter 631 are amended to read as follows:

“7225. Navy Reserve flag.

“7226. Navy Reserve yacht pennant.”.

(E) The item relating to section 10108 in the table of sections at the beginning of chapter 1003 is amended to read as follows:

“10108. Navy Reserve: administration.”.

(F) The item relating to section 10172 in the table of sections at the beginning of chapter 1006 is amended to read as follows:

“10172. Navy Reserve Force.”.

(G) The item relating to section 10303 in the table of sections at the beginning of chapter 1009 is amended to read as follows:

“10303. Navy Reserve Policy Board.”.

(H) The item relating to section 12010 in the table of sections at the beginning of chapter 1201 is amended to read as follows:

“12010. Computations for Navy Reserve and Marine Corps Reserve: rule when fraction occurs in final result.”.

(I) The item relating to section 14306 in the table of sections at the beginning of chapter 1405 is amended to read as follows:

“14306. Establishment of promotion zones: Navy Reserve and Marine Corps Reserve running mate system.”.

(c) CONFORMING AMENDMENT TO TITLE 14, UNITED STATES CODE.—Section 705 of title 14, United States Code, is amended by striking “Naval Reserve” each place it appears and inserting “Navy Reserve”.

(d) CONFORMING AMENDMENTS TO TITLE 37, UNITED STATES CODE.—

(1) TEXT AMENDMENTS.—Title 37, United States Code, is amended by striking “Naval Reserve” each place it appears in the following provisions and inserting “Navy Reserve”:

- (A) Section 101(24)(C).
- (B) Section 201(d).
- (C) Section 205(a)(2)(I).
- (D) Section 301c(d).
- (E) Section 319(a).
- (F) Section 905.

(2) SUBSECTION CAPTION AMENDMENT.—Section 301c(d) of such title is further amended by striking “NAVAL RESERVE” and inserting “NAVY RESERVE”.

(e) CONFORMING AMENDMENTS TO TITLE 38, UNITED STATES CODE.—Title 38, United States Code, is amended by striking “Naval Reserve” each place it appears in the following provisions and inserting “Navy Reserve”:

- (1) Section 101(27)(B).
- (2) Section 3002(6)(C).
- (3) Section 3202(1)(C)(iii).
- (4) Section 3452(a)(3)(C).

(f) CONFORMING AMENDMENTS TO OTHER CODIFIED TITLES.—

(1) TITLE 5, UNITED STATES CODE.—Section 2108(1)(B) of title 5, United States Code, is amended by striking “Naval Reserve” and inserting “Navy Reserve”.

(2) TITLE 18, UNITED STATES CODE.—Section 2387(b) of title 18, United States Code, is amended by striking “Naval Reserve” and inserting “Navy Reserve”.

(3) TITLE 46, UNITED STATES CODE.—Title 46, United States Code, is amended as follows:

(A) Sections 8103(g) and 8302(g) are amended by striking “Naval Reserve” each place it appears and inserting “Navy Reserve”.

(B) The heading of section 8103 is amended to read as follows:

“§ 8103. Citizenship and Navy Reserve requirements”.

(C) The table of sections at the beginning of chapter 81 is amended by striking the item relating to section 8103 and inserting the following new item:

“8103. Citizenship and Navy Reserve requirements.”.

(g) CONFORMING AMENDMENTS TO OTHER LAWS.—

(1) Section 2301(4)(C) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6671(4)(C)) is amended by striking “Naval Reserve” and inserting “Navy Reserve”.

(2) The Merchant Marine Act, 1936 is amended—

(A) by striking “Naval Reserve” each place it appears in sections 301(b) (46 U.S.C. App. 1131(b)), 1303 (46 U.S.C. App. 1295b), and 1304 (46 U.S.C. App. 1295c) and inserting “Navy Reserve”; and

(B) by striking “NAVAL RESERVE” in sections 1303(c) and 1304(h) and inserting “NAVY RESERVE”;

(3) The Military Selective Service Act is amended—

(A) in section 6(a)(1) (50 U.S.C. App. 456(a)(1)), by striking “United States Naval Reserves” and inserting “members of the United States Navy Reserve”; and

(B) in section 16(i) (50 U.S.C. App. 466(i)), by striking “Naval Reserve” and inserting “Navy Reserve”.

(h) OTHER REFERENCES.—Any reference in any law, regulation, document, record, or other paper of the United States to the Naval Reserve, other than a reference to the Naval Reserve regarding the United States Naval Reserve Retired List, shall be considered to be a reference to the Navy Reserve. 10 USC 10101 note.

SEC. 516. CLARIFICATION OF CERTAIN AUTHORITIES RELATING TO THE COMMISSION ON THE NATIONAL GUARD AND RESERVES.

(a) NATURE OF COMMISSION.—Subsection (a) of section 513 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 1880) is amended by inserting “in the legislative branch” after “There is established”.

(b) PAY OF MEMBERS.—Subsection (e)(1) of such section is amended by striking “except that” and all that follows through the end and inserting “except that—

“(A) in applying the first sentence of subsection (a) of section 957 of such Act to the Commission, ‘may’ shall be substituted for ‘shall’; and

“(B) in applying subsections (a), (c)(2), and (e) of section 957 of such Act to the Commission, ‘level IV of the Executive Schedule’ shall be substituted for ‘level V of the Executive Schedule’.”.

(c) TECHNICAL AMENDMENT.—Subsection (c)(2)(C) of such section is amended by striking “section 404(a)(4)” and inserting “section 416(a)(4)”.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 28, 2004, as if included in the enactment of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005.

SEC. 517. REPORT ON EMPLOYMENT MATTERS FOR MEMBERS OF THE RESERVE COMPONENTS.

(a) REQUIREMENT FOR REPORT.—Not later than 270 days after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on problems faced by members of the reserve components with respect to employment as a result of being ordered to perform full-time National Guard duty or being ordered to active duty.

(b) SPECIFIC MATTERS.—In preparing the report under subsection (a), the Comptroller General shall include the following:

(1) TYPE OF EMPLOYERS.—An estimate of the number of employers of members of the reserve components who are private-sector employers and the number who are public-sector employers.

(2) SIZE OF EMPLOYERS.—An estimate of the number of employers of members of the reserve components who employ fewer than 50 full-time employees.

(3) SELF-EMPLOYED.—An estimate of the number of members of the reserve components who are self-employed.

(4) NATURE OF BUSINESS.—A description of the nature of the business of employers of members of the reserve components.

(5) REEMPLOYMENT DIFFICULTIES.—A description of difficulties faced by members of the reserve components in gaining reemployment after having performed full-time National Guard duty or active duty, including difficulties faced by members who are disabled as a result of their service.

SEC. 518. DEFENSE SCIENCE BOARD STUDY ON DEPLOYMENT OF MEMBERS OF THE NATIONAL GUARD AND RESERVES IN THE GLOBAL WAR ON TERRORISM.

(a) **STUDY REQUIRED.**—The Defense Science Board shall conduct a study on the length and frequency of the deployment of members of the National Guard and the Reserves as a result of the global war on terrorism.

(b) **ELEMENTS.**—The study required by subsection (a) shall include the following:

(1) An identification of the current range of lengths and frequencies of deployments of members of the National Guard and the Reserves.

(2) An assessment of the consequences for force structure, morale, and mission capability of deployments of members of the National Guard and the Reserves in the course of the global war on terrorism that are lengthy, frequent, or both.

(3) An identification of the optimal length and frequency of deployments of members of the National Guard and the Reserves during the global war on terrorism.

(4) An identification of mechanisms to reduce the length, frequency, or both of deployments of members of the National Guard and the Reserves during the global war on terrorism.

(c) **REPORT.**—Not later than May 1, 2006, the Defense Science Board shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the study required by subsection (a). The report shall include the results of the study and such recommendations as the Defense Science Board considers appropriate in light of the study.

SEC. 519. SENSE OF CONGRESS ON CERTAIN MATTERS RELATING TO THE NATIONAL GUARD AND RESERVES.

It is the sense of Congress—

(1) to recognize the important and integral role played by members of the Active Guard and Reserve and military technicians (dual status) in the efforts of the Armed Forces; and

(2) to urge the Secretary of Defense to promptly resolve issues relating to appropriate authority for payment of reenlistment bonuses stemming from reenlistment contracts entered into between January 14, 2005, and April 17, 2005, involving members of the Army National Guard and military technicians (dual status).

10 USC 10101
note.

SEC. 520. PILOT PROGRAM ON ENHANCED QUALITY OF LIFE FOR MEMBERS OF THE ARMY RESERVE AND THEIR FAMILIES.

(a) **PILOT PROGRAM REQUIRED.**—

(1) **IN GENERAL.**—The Secretary of the Army shall carry out a pilot program to assess the feasibility and advisability of using a coalition of military and civilian community personnel in order to enhance the quality of life for members of the Army Reserve and their families.

(2) **LOCATIONS.**—The Secretary shall carry out the pilot program in areas of the United States in which members of the Army Reserve and their families are concentrated. The Secretary shall select one area in two States for purposes of the pilot program.

(b) **PARTICIPATING PERSONNEL.**—A coalition of personnel under the pilot program shall include—

- (1) military personnel; and
- (2) appropriate members of the civilian community, such as clinicians and teachers, who volunteer for participation in the coalition.

(c) **REPORT.**—Not later than April 1, 2007, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the pilot program carried out under this section. The report shall include—

- (1) a description of the pilot program;
- (2) an assessment of the benefits of using a coalition of military and civilian community personnel in order to enhance the quality of life for members of the Army Reserve and their families; and
- (3) such recommendations for legislative or administrative action as the Secretary considers appropriate in light of the pilot program.

Subtitle C—Education and Training

PART I—DEPARTMENT OF DEFENSE SCHOOLS GENERALLY

SEC. 521. AUTHORITY FOR NATIONAL DEFENSE UNIVERSITY AWARD OF DEGREE OF MASTER OF SCIENCE IN JOINT CAMPAIGN PLANNING AND STRATEGY.

(a) **JOINT FORCES STAFF COLLEGE PROGRAM.**—Section 2163 of title 10, United States Code, is amended to read as follows:

“§ 2163. National Defense University: master of science degrees

“(a) **AUTHORITY TO AWARD SPECIFIED DEGREES.**—The President of the National Defense University, upon the recommendation of the faculty of the respective college or other school within the University, may confer the master of science degrees specified in subsection (b).

“(b) **AUTHORIZED DEGREES.**—The following degrees may be awarded under subsection (a):

“(1) **MASTER OF SCIENCE IN NATIONAL SECURITY STRATEGY.**—The degree of master of science in national security strategy, to graduates of the University who fulfill the requirements of the program of the National War College.

“(2) **MASTER OF SCIENCE IN NATIONAL RESOURCE STRATEGY.**—The degree of master of science in national resource strategy, to graduates of the University who fulfill the requirements of the program of the Industrial College of the Armed Forces.

“(3) **MASTER OF SCIENCE IN JOINT CAMPAIGN PLANNING AND STRATEGY.**—The degree of master of science in joint campaign planning and strategy, to graduates of the University who fulfill the requirements of the program of the Joint Advanced Warfighting School at the Joint Forces Staff College.

“(c) REGULATIONS.—The authority provided by this section shall be exercised under regulations prescribed by the Secretary of Defense.”

(b) CLERICAL AMENDMENT.—The item relating to section 2163 in the table of sections at the beginning of chapter 108 of such title is amended to read as follows:

“2163. National Defense University: master of science degrees.”

10 USC 2163
note.

(c) EFFECTIVE DATE.—Paragraph (3) of section 2163(b) of title 10, United States Code, as amended by subsection (a), shall take effect for degrees awarded after May 2005.

SEC. 522. AUTHORITY FOR CERTAIN PROFESSIONAL MILITARY EDUCATION SCHOOLS TO RECEIVE FACULTY RESEARCH GRANTS FOR CERTAIN PURPOSES.

(a) NATIONAL DEFENSE UNIVERSITY.—Section 2165 of title 10, United States Code, is amended by adding at the end the following new subsection:

“(e) ACCEPTANCE OF FACULTY RESEARCH GRANTS.—(1) The Secretary of Defense may authorize the President of the National Defense University to accept qualifying research grants. Any such grant may only be accepted if the work under the grant is to be carried out by a professor or instructor of one of the institutions comprising the University for a scientific, literary, or educational purpose.

“(2) A qualifying research grant under this subsection is a grant that is awarded on a competitive basis by an entity referred to in paragraph (3) for a research project with a scientific, literary, or educational purpose.

“(3) A grant may be accepted under this subsection only from a corporation, fund, foundation, educational institution, or similar entity that is organized and operated primarily for scientific, literary, or educational purposes.

“(4) The Secretary shall establish an account for administering funds received as research grants under this subsection. The President of the University shall use the funds in the account in accordance with applicable provisions of the regulations and the terms and condition of the grants received.

“(5) Subject to such limitations as may be provided in appropriations Acts, appropriations available for the National Defense University may be used to pay expenses incurred by the University in applying for, and otherwise pursuing, the award of qualifying research grants.

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“(6) The Secretary shall prescribe regulations for the administration of this subsection.”

(b) ARMY WAR COLLEGE.—

(1) IN GENERAL.—Chapter 407 of such title is amended by adding at the end the following new section:

“§ 4417. United States Army War College: acceptance of grants for faculty research for scientific, literary, and educational purposes

“(a) ACCEPTANCE OF RESEARCH GRANTS.—The Secretary of the Army may authorize the Commandant of the United States Army War College to accept qualifying research grants. Any such grant may only be accepted if the work under the grant is to be carried out by a professor or instructor of the College for a scientific, literary, or educational purpose.

“(b) **QUALIFYING GRANTS.**—A qualifying research grant under this section is a grant that is awarded on a competitive basis by an entity referred to in subsection (c) for a research project with a scientific, literary, or educational purpose.

“(c) **ENTITIES FROM WHICH GRANTS MAY BE ACCEPTED.**—A grant may be accepted under this section only from a corporation, fund, foundation, educational institution, or similar entity that is organized and operated primarily for scientific, literary, or educational purposes.

“(d) **ADMINISTRATION OF GRANT FUNDS.**—The Secretary shall establish an account for administering funds received as research grants under this section. The Commandant shall use the funds in the account in accordance with applicable provisions of the regulations and the terms and condition of the grants received.

“(e) **RELATED EXPENSES.**—Subject to such limitations as may be provided in appropriations Acts, appropriations available for the Army War College may be used to pay expenses incurred by the College in applying for, and otherwise pursuing, the award of qualifying research grants.

“(f) **REGULATIONS.**—The Secretary shall prescribe regulations for the administration of this section.”

(2) **CLERICAL AMENDMENT.**—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“4417. United States Army War College: acceptance of grants for faculty research for scientific, literary, and educational purposes.”

(c) **UNITED STATES NAVAL POSTGRADUATE SCHOOL.**—

(1) **IN GENERAL.**—Chapter 605 of such title is amended by adding at the end the following new section:

“§ 7050. Grants for faculty research for scientific, literary, and educational purposes: acceptance; authorized grantees

“(a) **ACCEPTANCE OF RESEARCH GRANTS.**—The Secretary of the Navy may authorize the President of the Naval Postgraduate School to accept qualifying research grants. Any such grant may only be accepted if the work under the grant is to be carried out by a professor or instructor of the School for a scientific, literary, or educational purpose.

“(b) **QUALIFYING GRANTS.**—A qualifying research grant under this section is a grant that is awarded on a competitive basis by an entity referred to in subsection (c) for a research project with a scientific, literary, or educational purpose.

“(c) **ENTITIES FROM WHICH GRANTS MAY BE ACCEPTED.**—A grant may be accepted under this section only from a corporation, fund, foundation, educational institution, or similar entity that is organized and operated primarily for scientific, literary, or educational purposes.

“(d) **ADMINISTRATION OF GRANT FUNDS.**—The Secretary shall establish an account for administering funds received as research grants under this section. The President of the Naval Postgraduate School shall use the funds in the account in accordance with applicable provisions of the regulations and the terms and condition of the grants received.

“(e) **RELATED EXPENSES.**—Subject to such limitations as may be provided in appropriations Acts, appropriations available for the Naval Postgraduate School may be used to pay expenses

incurred by the School in applying for, and otherwise pursuing, the award of qualifying research grants.

“(f) REGULATIONS.—The Secretary shall prescribe regulations for the administration of this section.”.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“7050. Grants for faculty research for scientific, literary, and educational purposes: acceptance, authorized grantees.”.

(d) NAVAL WAR COLLEGE AND MARINE CORPS UNIVERSITY.—

(1) IN GENERAL.—Chapter 609 of such title is amended by adding at the end the following new sections:

“§ 7103. Naval War College: acceptance of grants for faculty research for scientific, literary, and educational purposes

“(a) ACCEPTANCE OF RESEARCH GRANTS.—The Secretary of the Navy may authorize the President of the Naval War College to accept qualifying research grants. Any such grant may only be accepted if the work under the grant is to be carried out by a professor or instructor of the College for a scientific, literary, or educational purpose.

“(b) QUALIFYING GRANTS.—A qualifying research grant under this section is a grant that is awarded on a competitive basis by an entity referred to in subsection (c) for a research project with a scientific, literary, or educational purpose.

“(c) ENTITIES FROM WHICH GRANTS MAY BE ACCEPTED.—A grant may be accepted under this section only from a corporation, fund, foundation, educational institution, or similar entity that is organized and operated primarily for scientific, literary, or educational purposes.

“(d) ADMINISTRATION OF GRANT FUNDS.—The Secretary shall establish an account for administering funds received as research grants under this section. The President of the Naval War College shall use the funds in the account in accordance with applicable provisions of the regulations and the terms and condition of the grants received.

“(e) RELATED EXPENSES.—Subject to such limitations as may be provided in appropriations Acts, appropriations available for the Naval War College may be used to pay expenses incurred by the College in applying for, and otherwise pursuing, the award of qualifying research grants.

“(f) REGULATIONS.—The Secretary shall prescribe regulations for the administration of this section.

“§ 7104. Marine Corps University: acceptance of grants for faculty research for scientific, literary, and educational purposes

“(a) ACCEPTANCE OF RESEARCH GRANTS.—The Secretary of the Navy may authorize the President of the Marine Corps University to accept qualifying research grants. Any such grant may only be accepted if the work under the grant is to be carried out by a professor or instructor of one of the institutions comprising the University for a scientific, literary, or educational purpose.

“(b) QUALIFYING GRANTS.—A qualifying research grant under this section is a grant that is awarded on a competitive basis

by an entity referred to in subsection (c) for a research project with a scientific, literary, or educational purpose.

“(c) ENTITIES FROM WHICH GRANTS MAY BE ACCEPTED.—A grant may be accepted under this section only from a corporation, fund, foundation, educational institution, or similar entity that is organized and operated primarily for scientific, literary, or educational purposes.

“(d) ADMINISTRATION OF GRANT FUNDS.—The Secretary shall establish an account for administering funds received as research grants under this section. The President of the Marine Corps University shall use the funds in the account in accordance with applicable provisions of the regulations and the terms and condition of the grants received.

“(e) RELATED EXPENSES.—Subject to such limitations as may be provided in appropriations Acts, appropriations available for the Marine Corps University may be used to pay expenses incurred by the University in applying for, and otherwise pursuing, the award of qualifying research grants.

“(f) REGULATIONS.—The Secretary shall prescribe regulations for the administration of this section.”.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new items:

“7103. Naval War College: acceptance of grants for faculty research for scientific, literary, and educational purposes.

“7104. Marine Corps University: acceptance of grants for faculty research for scientific, literary, and educational purposes.”.

(e) UNITED STATES AIR FORCE INSTITUTE OF TECHNOLOGY.—Section 9314 of such title is amended by adding at the end the following new subsection:

“(d) ACCEPTANCE OF RESEARCH GRANTS.—(1) The Secretary of the Air Force may authorize the Commandant of the United States Air Force Institute of Technology to accept qualifying research grants. Any such grant may only be accepted if the work under the grant is to be carried out by a professor or instructor of the Institute for a scientific, literary, or educational purpose.

“(2) A qualifying research grant under this subsection is a grant that is awarded on a competitive basis by an entity referred to in paragraph (3) for a research project with a scientific, literary, or educational purpose.

“(3) A grant may be accepted under this subsection only from a corporation, fund, foundation, educational institution, or similar entity that is organized and operated primarily for scientific, literary, or educational purposes.

“(4) The Secretary shall establish an account for administering funds received as research grants under this section. The Commandant of the Institute shall use the funds in the account in accordance with applicable provisions of the regulations and the terms and condition of the grants received.

“(5) Subject to such limitations as may be provided in appropriations Acts, appropriations available for the Institute may be used to pay expenses incurred by the Institute in applying for, and otherwise pursuing, the award of qualifying research grants.

“(6) The Secretary shall prescribe regulations for the administration of this subsection.”.

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(f) AIR WAR COLLEGE.—

(1) IN GENERAL.—Chapter 907 of such title is amended by adding at the end the following new section:

“§ 9417. Air War College: acceptance of grants for faculty research for scientific, literary, and educational purposes

“(a) ACCEPTANCE OF RESEARCH GRANTS.—The Secretary of the Air Force may authorize the Commandant of the Air War College to accept qualifying research grants. Any such grant may only be accepted if the work under the grant is to be carried out by a professor or instructor of the College for a scientific, literary, or educational purpose.

“(b) QUALIFYING GRANTS.—A qualifying research grant under this section is a grant that is awarded on a competitive basis by an entity referred to in subsection (c) for a research project with a scientific, literary, or educational purpose.

“(c) ENTITIES FROM WHICH GRANTS MAY BE ACCEPTED.—A grant may be accepted under this section only from a corporation, fund, foundation, educational institution, or similar entity that is organized and operated primarily for scientific, literary, or educational purposes.

“(d) ADMINISTRATION OF GRANT FUNDS.—The Secretary shall establish an account for administering funds received as research grants under this section. The Commandant shall use the funds in the account in accordance with applicable provisions of the regulations and the terms and condition of the grants received.

“(e) RELATED EXPENSES.—Subject to such limitations as may be provided in appropriations Acts, appropriations available for the Air War College may be used to pay expenses incurred by the College in applying for, and otherwise pursuing, the award of qualifying research grants.

“(f) REGULATIONS.—The Secretary shall prescribe regulations for the administration of this section.”.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“9417. Air War College: acceptance of grants for faculty research for scientific, literary, and educational purposes.”.

**PART II—UNITED STATES NAVAL
POSTGRADUATE SCHOOL**

SEC. 523. REVISION TO MISSION OF THE NAVAL POSTGRADUATE SCHOOL.

(a) INCLUSION OF PROFESSIONAL EDUCATION AND RESEARCH OPPORTUNITIES.—The text of section 7041 of title 10, United States Code, is amended to read as follows:

“There is a United States Naval Postgraduate School, the primary function of which is to provide advanced instruction and professional and technical education and research opportunities for commissioned officers of the naval service in—

“(1) their practical and theoretical duties;

“(2) the science, physics, and systems engineering of current and future naval warfare doctrine, operations, and systems; and

“(3) the integration of naval operations and systems into joint, combined, and multinational operations.”.

(b) CONFORMING AMENDMENT.—Section 7042(b)(1) of such title is amended by striking “and technical education of students” and

inserting “and professional and technical education of students and the provision of research opportunities for students”.

SEC. 524. MODIFICATION OF ELIGIBILITY FOR POSITION OF PRESIDENT OF THE NAVAL POSTGRADUATE SCHOOL.

Subsection (a) of section 7042 of title 10, United States Code, is amended to read as follows:

“(a)(1) The President of the Naval Postgraduate School shall be one of the following:

“(A) An officer of the Navy in a grade not below the grade of captain who is detailed to such position.

“(B) A civilian individual having qualifications appropriate to the position of President of the Naval Postgraduate School who is assigned to such position.

“(2) The President of the Naval Postgraduate School shall be detailed or assigned to such position by the Secretary of the Navy, upon the recommendation of the Chief of Naval Operations.

“(3) An individual assigned to the position of President of the Naval Postgraduate School under paragraph (1)(B) shall serve in that position for a term of not more than five years and may be reassigned to that position for an additional term of up to five years.

“(4) The qualifications appropriate for selection for detail or assignment to the position of President of the Naval Postgraduate School include the following:

“(A) A doctorate degree in a field of study relevant to the mission and function of the Naval Postgraduate School, in the case of a civilian, or a doctorate or master’s degree in such a field of study, in the case of an officer of the Navy.

“(B) A comprehensive understanding of the Navy, the Department of Defense, and joint and combined operations.

“(C) Leadership experience at the senior level in a large and diverse organization.

“(D) Demonstrated ability to foster and encourage a program of research in order to sustain academic excellence.

“(E) Other qualifications, as determined by the Secretary of the Navy.”.

SEC. 525. INCREASED ENROLLMENT FOR ELIGIBLE DEFENSE INDUSTRY EMPLOYEES IN THE DEFENSE PRODUCT DEVELOPMENT PROGRAM AT NAVAL POSTGRADUATE SCHOOL.

Section 7049(a) of title 10, United States Code, is amended—

(1) by inserting “and systems engineering” after “curriculum related to defense product development”; and

(2) by striking “10” and inserting “25”.

SEC. 526. INSTRUCTION FOR ENLISTED PERSONNEL BY THE NAVAL POSTGRADUATE SCHOOL.

(a) EXPANDED ELIGIBILITY FOR INSTRUCTION.—Section 7045 of title 10, United States Code, is amended—

(1) in subsection (a)(2)—

(A) by redesignating subparagraph (C) as subparagraph (D);

(B) by inserting after subparagraph (B) the following new subparagraph (C):

“(C) The Secretary may permit an eligible enlisted member of the Navy or Marine Corps to receive instruction from the Postgraduate School in certificate programs and courses required for the performance of the member’s duties.”; and

(C) in subparagraph (D), as so redesignated, by striking “(A) and (B)” and inserting “(A), (B), and (C)”; and

(2) in subsection (b)(2), by striking “(a)(2)(C)” and inserting “(a)(2)(D)”.

(b) LIMITATION ON DEGREE AWARDS.—Such section is further amended by adding at the end the following new subsection:

“(d) The Secretary may not award a baccalaureate, masters, or doctorate degree to an enlisted member based upon instruction received at the Postgraduate School under subsection (a)(2)(C).”.

(c) REPORT ON RATIONALE AND PLANS OF THE NAVY TO PROVIDE ENLISTED MEMBERS AN OPPORTUNITY TO OBTAIN GRADUATE DEGREES.—The Secretary of the Navy shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the plans, if any, of the Secretary, and the rationale for those plans, for a program to provide enlisted members of the Navy with opportunities to pursue graduate degree programs either through Navy schools or paid for by the Navy in return for an additional service obligation. The report shall include the following:

(1) The underlying philosophy and objectives supporting a decision to provide opportunities for graduate degrees to enlisted members of the Navy.

(2) An overall description of how the award of a graduate degree to an enlisted member would fit in an integrated, progressive, coordinated, and systematic way into the goals and requirements of the Navy for enlisted career development and for professional education, together with a discussion of a wider requirement, if any, for programs for the award of associate and baccalaureate degrees to enlisted members, particularly in the career fields under consideration for the pilot program referred to in subsection (d).

(3) A discussion of the scope and details of the plan to ensure that Navy enlisted members have the requisite academic baccalaureate degrees as a prerequisite for undertaking graduate-level work.

(4) Identification of the specific enlisted career fields for which the Secretary has determined that a graduate degree should be a requirement, as well as the rationale for that determination.

(5) A description of the concept of the Secretary for the process and mechanism of providing graduate degrees to enlisted members, including, at a minimum, the Secretary’s plan for whether the degree programs would be provided through civilian or military degree-granting institutions and whether through in-resident or distance learning or some combination thereof.

(6) A description of the plan to ensure proper and effective utilization of enlisted members following the award of a graduate degree.

(d) PLAN FOR PILOT PROGRAM.—In addition to the report under subsection (c), the Secretary of the Navy may submit a plan for a pilot program to make available opportunities to pursue graduate degree programs to a limited number of Navy enlisted members

in a specific, limited set of critical career fields. Such a plan shall include, as a minimum, the following:

- (1) The specific objectives of the pilot program.
- (2) An identification of the specific enlisted career fields from which candidates for the program would be drawn, the numbers and prerequisite qualifications of initial candidates, and the process for selecting the enlisted members who would initially participate.
- (3) The process and mechanism for providing the degrees, described in the same manner as specified under subsection (c)(5), and a general description of course content.
- (4) An analysis of the cost effectiveness of using Navy, other service, or civilian degree granting institutions in the program.
- (5) The plan for post-graduation utilization of the enlisted members who obtain graduate degrees under the program.
- (6) The criteria and plan for assessing whether the objectives of the program are met.

PART III—RESERVE OFFICERS’ TRAINING CORPS

SEC. 531. REPEAL OF LIMITATION ON AMOUNT OF FINANCIAL ASSISTANCE UNDER ROTC SCHOLARSHIP PROGRAMS.

(a) GENERAL ROTC PROGRAM.—Section 2107(c) of title 10, United States Code, is amended—

(1) by striking paragraph (4); and

(2) in paragraph (5)(B), by striking “, (3), or (4)” and inserting “or (3)”.

(b) ARMY RESERVE AND ARMY NATIONAL GUARD PROGRAM.—Section 2107a(c) of such title is amended by striking paragraph (3).

(c) EFFECTIVE DATE.—Paragraph (4) of section 2107(c) of title 10, United States Code, and paragraph (3) of section 2107a(c) of such title, as in effect on the day before the date of the enactment of this Act, shall continue to apply in the case of any individual selected before the date of the enactment of this Act for appointment as a cadet or midshipman under section 2107 or 2107a of such title.

10 USC 2107
note.

SEC. 532. INCREASE IN ANNUAL LIMIT ON NUMBER OF ROTC SCHOLARSHIPS UNDER ARMY RESERVE AND NATIONAL GUARD PROGRAM.

Section 2107a(h) of title 10, United States Code, is amended by striking “208” and inserting “416”.

SEC. 533. PROCEDURES FOR SUSPENDING FINANCIAL ASSISTANCE AND SUBSISTENCE ALLOWANCE FOR SENIOR ROTC CADETS AND MIDSHIPMEN ON THE BASIS OF HEALTH-RELATED CONDITIONS.

(a) REQUIREMENTS.—Section 2107 of title 10, United States Code, is amended by adding at the end the following new subsection:

“(j)(1) Payment of financial assistance under this section for, and payment of a monthly subsistence allowance under section 209 of title 37 to, a cadet or midshipman appointed under this section may be suspended on the basis of health-related incapacity

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of the cadet or midshipman only in accordance with regulations prescribed under paragraph (2).

“(2) The Secretary of Defense shall prescribe in regulations the policies and procedures for suspending payments under paragraph (1). The regulations shall apply uniformly to all of the military departments. The regulations shall include the following matters:

“(A) The standards of health-related fitness that are to be applied.

“(B) Requirements for—

“(i) the health-related condition and prognosis of a cadet or midshipman to be determined, in relation to the applicable standards prescribed under subparagraph (A), by a health care professional on the basis of a medical examination of the cadet or midshipman; and

“(ii) the Secretary concerned to take into consideration the determinations made under clause (i) with respect to such condition in deciding whether to suspend payment in the case of such cadet or midshipman on the basis of that condition.

“(C) A requirement for the Secretary concerned to transmit to a cadet or midshipman proposed for suspension under this subsection a notification of the proposed suspension together with the determinations made under subparagraph (B)(i) in the case of the proposed suspension.

“(D) A procedure for a cadet or midshipman proposed for suspension under this subsection to submit a written response to the proposal for suspension, including any supporting information.

“(E) Requirements for—

“(i) one or more health-care professionals to review, in the case of such a response of a cadet or midshipman, each health-related condition and prognosis addressed in the response, taking into consideration the matters submitted in such response; and

“(ii) the Secretary concerned to take into consideration the determinations made under clause (i) with respect to such condition in making a final decision regarding whether to suspend payment in the case of such cadet or midshipman on the basis of that condition, and the conditions under which such suspension may be lifted.”.

10 USC 2107
note.

(b) TIME FOR PROMULGATION OF REGULATIONS.—The Secretary of Defense shall prescribe the regulations required under subsection (j) of section 2107 of title 10, United States Code (as added by subsection (a)), not later than May 1, 2006.

SEC. 534. ELIGIBILITY OF UNITED STATES NATIONALS FOR APPOINTMENT TO THE SENIOR RESERVE OFFICERS' TRAINING CORPS.

(a) IN GENERAL.—Section 2107(b)(1) of title 10, United States Code, is amended by inserting “or national” after “citizen”.

(b) ARMY RESERVE OFFICERS TRAINING PROGRAMS.—Section 2107a(b)(1)(A) of such title is amended by inserting “or national” after “citizen”.

(c) ELIGIBILITY FOR APPOINTMENT AS COMMISSIONED OFFICERS.—Section 532(f) of such title is amended by inserting “, or for a United States national otherwise eligible for appointment as a cadet or midshipman under section 2107(a) of this title or

as a cadet under section 2107a of this title,” after “for permanent residence”.

SEC. 535. PROMOTION OF FOREIGN LANGUAGE SKILLS AMONG MEMBERS OF THE RESERVE OFFICERS’ TRAINING CORPS.

10 USC 2101
note.

(a) **IN GENERAL.**—The Secretary of Defense shall support the acquisition of foreign language skills among cadets and midshipmen in the Reserve Officers’ Training Corps, including through the development and implementation of—

(1) incentives for cadets and midshipmen to participate in study of a foreign language, including special emphasis for Arabic, Chinese, and other “strategic languages”, as defined by the Secretary of Defense in consultation with other relevant agencies; and

(2) a recruiting strategy to target foreign language speakers, including members of heritage communities, to participate in the Reserve Officers’ Training Corps.

(b) **REPORT REQUIRED.**—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the Committee on Armed Services the Senate and the Committee on Armed Services of the House of Representatives a report on the actions taken to carry out this section.

SEC. 536. DESIGNATION OF IKE SKELTON EARLY COMMISSIONING PROGRAM SCHOLARSHIPS.

Section 2107a of title 10, United States Code, is amended by adding at the end the following new subsection:

“(j) Financial assistance provided under this section to a cadet appointed at a military junior college is designated as, and shall be known as, an ‘Ike Skelton Early Commissioning Program Scholarship’.”.

PART IV—OTHER MATTERS

SEC. 537. ENHANCEMENT OF EDUCATIONAL LOAN REPAYMENT AUTHORITIES.

(a) **ADDITIONAL LOANS ELIGIBLE FOR REPAYMENT.**—Paragraph (1) of section 2171(a) of title 10, United States Code, is amended—

(1) in subparagraph (B), by striking “or” at the end;

(2) in subparagraph (C), by striking the period at the end and inserting “; or”; and

(3) by inserting after subparagraph (C) the following new subparagraph:

“(D) any loan incurred for educational purposes made by a lender that is—

“(i) an agency or instrumentality of a State;

“(ii) a financial or credit institution (including an insurance company) that is subject to examination and supervision by an agency of the United States or any State;

“(iii) a pension fund approved by the Secretary for purposes of this section; or

“(iv) a non-profit private entity designated by a State, regulated by such State, and approved by the Secretary for purposes of this section.”.

(b) **ELIGIBILITY OF OFFICERS.**—Paragraph (2) of such section is amended by striking “an enlisted member in a military specialty” and inserting “a member in an officer program or military specialty”.

SEC. 538. PAYMENT OF EXPENSES OF MEMBERS OF THE ARMED FORCES TO OBTAIN PROFESSIONAL CREDENTIALS.

(a) IN GENERAL.—Chapter 101 of title 10, United States Code, is amended by adding at the end the following new section:

“§ 2015. Payment of expenses to obtain professional credentials

“(a) AUTHORITY.—The Secretary of Defense and the Secretary of Homeland Security, with respect to the Coast Guard when it is not operating as a service in the Navy, may pay for—

“(1) expenses for members of the armed forces to obtain professional credentials, including expenses for professional accreditation, State-imposed and professional licenses, and professional certification; and

“(2) examinations to obtain such credentials.

“(b) LIMITATION.—The authority under subsection (a) may not be used to pay the expenses of a member to obtain professional credentials that are a prerequisite for appointment in the armed forces.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“2015. Payment of expenses to obtain professional credentials.”.

SEC. 539. USE OF RESERVE MONTGOMERY GI BILL BENEFITS AND BENEFITS FOR MOBILIZED MEMBERS OF THE SELECTED RESERVE AND NATIONAL GUARD FOR PAYMENTS FOR LICENSING OR CERTIFICATION TESTS.

(a) CHAPTER 1606.—Section 16131 of title 10, United States Code, is amended by adding at the end the following new subsection:

“(j)(1) Subject to paragraph (3), the amount of educational assistance payable under this chapter for a licensing or certification test described in section 3452(b) of title 38 is the lesser of \$2,000 or the fee charged for the test.

“(2) The number of months of entitlement charged in the case of any individual for such licensing or certification test is equal to the number (including any fraction) determined by dividing the total amount of educational assistance paid such individual for such test by the full-time monthly institutional rate of educational assistance which, but for paragraph (1), such individual would otherwise be paid under subsection (b).

“(3) In no event shall payment of educational assistance under this subsection for such a test exceed the amount of the individual’s available entitlement under this chapter.”.

(b) CHAPTER 1607.—Section 16162 of such title is amended by adding at the end the following new subsection:

“(e) AVAILABILITY OF ASSISTANCE FOR LICENSING AND CERTIFICATION TESTS.—The provisions of section 16131(j) of this title shall apply to the provision of educational assistance under this chapter, except that, in applying such section under this chapter, the reference to subsection (b) in paragraph (2) of such section is deemed to be a reference to subsection (c) of this section.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to a licensing or certification test administered on or after the date of the enactment of this Act.

SEC. 540. MODIFICATION OF EDUCATIONAL ASSISTANCE FOR RESERVES SUPPORTING CONTINGENCY AND OTHER OPERATIONS.

(a) **OFFICIAL RECEIVING ELECTIONS OF BENEFITS.**—Section 16163(e) of title 10, United States Code, is amended by striking “Secretary concerned” and inserting “Secretary of Veterans Affairs”.

(b) **EXCEPTION TO IMMEDIATE TERMINATION OF ASSISTANCE.**—Section 16165 of such title is amended—

(1) by striking “Educational assistance” and inserting “(a) **IN GENERAL.**—Except as provided in subsection (b), educational assistance”; and

(2) by adding at the end the following new subsection:

“(b) **EXCEPTION.**—Under regulations prescribed by the Secretary of Defense, educational assistance may be provided under this chapter to a member of the Selected Reserve of the Ready Reserve who incurs a break in service in the Selected Reserve of not more than 90 days if the member continues to serve in the Ready Reserve during and after such break in service.”.

Subtitle D—General Service Requirements

SEC. 541. GROUND COMBAT AND OTHER EXCLUSION POLICIES.

(a) **IN GENERAL.**—

(1) Chapter 37 of title 10, United States Code, is amended by inserting after section 651 the following new section:

“§ 652. Notice to Congress of proposed changes in units, assignments, etc. to which female members may be assigned

“(a) **RULE FOR GROUND COMBAT PERSONNEL POLICY.**—(1) If the Secretary of Defense proposes to make any change described in paragraph (2)(A) or (2)(B) to the ground combat exclusion policy or proposes to make a change described in paragraph (2)(C), the Secretary shall, before any such change is implemented, submit to Congress a report providing notice of the proposed change. Such a change may then be implemented only after the end of a period of 30 days of continuous session of Congress (excluding any day on which either House of Congress is not in session) following the date on which the report is received.

Effective date.

“(2) A change referred to in paragraph (1) is a change that—

“(A) closes to female members of the armed forces any category of unit or position that at that time is open to service by such members;

“(B) opens to service by female members of the armed forces any category of unit or position that at that time is closed to service by such members; or

“(C) opens or closes to the assignment of female members of the armed forces any military career designator as described in paragraph (6).

“(3) The Secretary shall include in any report under paragraph (1)—

“(A) a detailed description of, and justification for, the proposed change; and

“(B) a detailed analysis of legal implication of the proposed change with respect to the constitutionality of the

application of the Military Selective Service Act (50 App. U.S.C. 451 et seq.) to males only.

“(4) In this subsection, the term ‘ground combat exclusion policy’ means the military personnel policies of the Department of Defense and the military departments, as in effect on October 1, 1994, by which female members of the armed forces are restricted from assignment to units and positions below brigade level whose primary mission is to engage in direct combat on the ground.

“(5) For purposes of this subsection, the continuity of a session of Congress is broken only by an adjournment of the Congress sine die.

“(6) For purposes of this subsection, a military career designator is one that is related to military operations on the ground as of May 18, 2005, and applies—

“(A) for enlisted members and warrant officers, to military occupational specialties, specialty codes, enlisted designators, enlisted classification codes, additional skill identifiers, and special qualification identifiers; and

“(B) for officers (other than warrant officers), to officer areas of concentration, occupational specialties, specialty codes, designators, additional skill identifiers, and special qualification identifiers.

“(b) OTHER PERSONNEL POLICY CHANGES.—(1) Except in a case covered by section 6035 of this title or by subsection (a), whenever the Secretary of Defense proposes to make a change to military personnel policies described in paragraph (2), the Secretary shall, not less than 30 days before such change is implemented, submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives notice, in writing, of the proposed change.

“(2) Paragraph (1) applies to a proposed military personnel policy change, other than a policy change covered by subsection (a), that would make available to female members of the armed forces assignment to any of the following that, as of the date of the proposed change, is closed to such assignment:

“(A) Any type of unit not covered by subsection (a).

“(B) Any class of combat vessel.

“(C) Any type of combat platform.”

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 651 the following new item:

“652. Notice to Congress of proposed changes in units, assignments, etc. to which female members may be assigned.”.

(b) REPORT ON IMPLEMENTATION OF DEPARTMENT OF DEFENSE POLICIES WITH REGARD TO THE ASSIGNMENT OF WOMEN.—Not later than March 31, 2006, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report of the Secretary’s review of the current and future implementation of the policy regarding the assignment of women as articulated in the Secretary of Defense memorandum, dated January 13, 1994, and entitled, “Direct Ground Combat Definition and Assignment Rule”. In conducting that review, the Secretary shall closely examine Army unit modularization efforts, and associated personnel assignment policies, to ensure their compliance with the Department of Defense policy articulated in the January 1994 memorandum.

(c) CONFORMING REPEAL.—Section 542 of the National Defense Authorization Act for Fiscal Year 1994 (10 U.S.C. 113 note) is repealed.

SEC. 542. UNIFORM CITIZENSHIP OR RESIDENCY REQUIREMENTS FOR ENLISTMENT IN THE ARMED FORCES.

(a) UNIFORM REQUIREMENTS.—Section 504 of title 10, United States Code, is amended—

(1) by inserting “(a) INSANITY, DESERTION, FELONS, ETC.—” before “No person”; and

(2) by adding at the end the following new subsection:

“(b) CITIZENSHIP OR RESIDENCY.—(1) A person may be enlisted in any armed force only if the person is one of the following:

“(A) A national of the United States, as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

“(B) An alien who is lawfully admitted for permanent residence, as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20)).

“(C) A person described in section 341 of one of the following compacts:

“(i) The Compact of Free Association between the Federated States of Micronesia and the United States (section 201(a) of Public Law 108–188 (117 Stat. 2784; 48 U.S.C. 1921 note)).

“(ii) The Compact of Free Association between the Republic of the Marshall Islands and the United States (section 201(b) of Public Law 108–188 (117 Stat. 2823; 48 U.S.C. 1921 note)).

“(iii) The Compact of Free Association between Palau and the United States (section 201 of Public Law 99–658 (100 Stat. 3678; 48 U.S.C. 1931 note)).

“(2) Notwithstanding paragraph (1), the Secretary concerned may authorize the enlistment of a person not described in paragraph (1) if the Secretary determines that such enlistment is vital to the national interest.”.

(b) REPEAL OF SUPERSEDED LIMITATIONS FOR THE ARMY AND AIR FORCE.—

(1) REPEAL.—Sections 3253 and 8253 of such title are repealed.

(2) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 333 of such title is amended by striking the item relating to section 3253. The table of sections at the beginning of chapter 833 of such title is amended by striking the item relating to section 8253.

SEC. 543. INCREASE IN MAXIMUM AGE FOR ENLISTMENT.

Section 505(a) of title 10, United States Code, is amended by striking “thirty-five years of age” and inserting “forty-two years of age”.

SEC. 544. INCREASE IN MAXIMUM TERM OF ORIGINAL ENLISTMENT IN REGULAR COMPONENT.

Section 505(c) of title 10, United States Code, is amended by striking “six years” and inserting “eight years”.

SEC. 545. NATIONAL CALL TO SERVICE PROGRAM.

(a) **LIMITATION TO DOMESTIC NATIONAL SERVICE PROGRAMS.**—Subsection (c)(3)(D) of section 510 of title 10, United States Code, is amended by striking “in the Peace Corps, Americorps, or another national service program” and inserting “in Americorps or another domestic national service program”.

(b) **EXTENSION OF QUALIFYING SERVICE FOR INITIAL MILITARY SERVICE UNDER PROGRAM.**—Subsection (d) of such title section is amended by inserting before the period at the end the following: “and shall include military occupational specialties for enlistments for officer training and subsequent service as an officer, in cases in which the reason for the enlistment and entry into an agreement under subsection (b) is to enter an officer training program”.

(c) **ADMINISTRATION OF EDUCATION INCENTIVES BY SECRETARY OF VETERANS AFFAIRS.**—Paragraph (2) of subsection (h) of such section is amended to read as follows:

“(2)(A) Educational assistance under paragraphs (3) or (4) of subsection (e) shall be provided through the Department of Veterans Affairs under an agreement to be entered into by the Secretary of Defense and the Secretary of Veterans Affairs. The agreements shall include administrative procedures to ensure the prompt and timely transfer of funds from the Secretary concerned to the Secretary of Veterans Affairs for the making of payments under this section.

“(B) Except as otherwise provided in this section, the provisions of sections 503, 511, 3470, 3471, 3474, 3476, 3482(g), 3483, and 3485 of title 38 and the provisions of subchapters I and II of chapter 36 of such title (with the exception of sections 3686(a), 3687, and 3692) shall be applicable to the provision of educational assistance under this chapter. The term ‘eligible veteran’ and the term ‘person’, as used in those provisions, shall be deemed for the purpose of the application of those provisions to this section to refer to a person eligible for educational assistance under paragraph (3) or (4) of subsection (e).”.

SEC. 546. REPORTS ON INFORMATION PROVIDED TO POTENTIAL RECRUITS AND TO NEW ENTRANTS INTO THE ARMED FORCES ON “STOP LOSS” AUTHORITIES AND INITIAL PERIOD OF MILITARY SERVICE OBLIGATION.

(a) **REPORT ON INFORMATION PROVIDED TO POTENTIAL RECRUITS.**—

(1) **IN GENERAL.**—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the actions being taken to ensure that each individual being recruited for service in the Armed Forces is provided, before making a formal enlistment in the Armed Forces, precise and detailed information on the period or periods of service to which such individual may be obligated by reason of enlistment in the Armed Forces, including any revisions to Department of Defense Form 4/1.

(2) **ELEMENTS.**—The report under paragraph (1) shall include—

(A) a description of how the Department informs enlistees in the Armed Forces on—

(i) the so-called “stop loss” authority and the manner in which exercise of such authority could affect the duration of an individual’s service on active duty in the Armed Forces;

(ii) the authority for the call or order to active duty of members of the Individual Ready Reserve and the manner in which such a call or order to active duty could affect an individual following the completion of the individual’s expected period of service on active duty or in the Individual Ready Reserve; and

(iii) any other authorities applicable to the call or order to active duty of the Reserves, or of the retention of members of the Armed Forces on active duty, that could affect the period of service of an individual on active duty or in the Armed Forces; and

(B) such other information as the Secretary considers appropriate.

(b) REPORT ON INFORMATION PROVIDED TO NEW ENTRANTS AND OTHER SERVICE MEMBERS.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the actions being taken to ensure that each individual covered by section 651(a) of title 10, United States Code, is provided, upon commencing that person’s initial period of service as a member of the Armed Forces and at other points during a military career, precise information regarding the date on which the initial service obligation of that person under such section ends.

(2) ELEMENTS OF REPORT.—The report under subsection (a) shall include the following:

(A) A description of how the Department notifies members of the Armed Forces of—

(i) the completion date of their military service obligation upon entry in the Armed Forces;

(ii) the expiration of their military service obligation; and

(iii) before the expiration of a member’s military service obligation, the opportunity, if the member is qualified and serving in the Individual Ready Reserve, to continue voluntarily in the Ready Reserve or to transfer to an active component.

(B) A description of the policy and procedures of the Department of Defense regarding the involuntary recall or mobilization of members serving in the Individual Ready Reserve beyond the date of expiration of their military service obligation.

(C) Such other information as the Secretary considers appropriate.

Subtitle E—Military Justice and Legal Assistance Matters

SEC. 551. OFFENSE OF STALKING UNDER THE UNIFORM CODE OF MILITARY JUSTICE.

(a) ESTABLISHMENT OF OFFENSE.—

(1) NEW PUNITIVE ARTICLE.—Subchapter X of chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), is amended by inserting after section 920 (article 120) the following new section:

“§ 920a. Art. 120a. Stalking

“(a) Any person subject to this section—

“(1) who wrongfully engages in a course of conduct directed at a specific person that would cause a reasonable person to fear death or bodily harm, including sexual assault, to himself or herself or a member of his or her immediate family;

“(2) who has knowledge, or should have knowledge, that the specific person will be placed in reasonable fear of death or bodily harm, including sexual assault, to himself or herself or a member of his or her immediate family; and

“(3) whose acts induce reasonable fear in the specific person of death or bodily harm, including sexual assault, to himself or herself or to a member of his or her immediate family; is guilty of stalking and shall be punished as a court-martial may direct.

“(b) In this section:

“(1) The term ‘course of conduct’ means—

“(A) a repeated maintenance of visual or physical proximity to a specific person; or

“(B) a repeated conveyance of verbal threat, written threats, or threats implied by conduct, or a combination of such threats, directed at or toward a specific person.

“(2) The term ‘repeated’, with respect to conduct, means two or more occasions of such conduct.

“(3) The term ‘immediate family’, in the case of a specific person, means a spouse, parent, child, or sibling of the person, or any other family member, relative, or intimate partner of the person who regularly resides in the household of the person or who within the six months preceding the commencement of the course of conduct regularly resided in the household of the person.”.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such subchapter is amended by inserting after the item relating to section 920 the following new item:

“920a. 120a. Stalking.”.

(b) APPLICABILITY.—Section 920a of title 10, United States Code (article 120a of the Uniform Code of Military Justice), as added by subsection (a), applies to offenses committed after the date that is 180 days after the date of the enactment of this Act.

SEC. 552. RAPE, SEXUAL ASSAULT, AND OTHER SEXUAL MISCONDUCT UNDER UNIFORM CODE OF MILITARY JUSTICE.

(a) REVISION TO UCMJ.—

Effective date.
10 USC 920a
note.

(1) IN GENERAL.—Section 920 of title 10, United States Code (article 120 of the Uniform Code of Military Justice), is amended to read as follows:

“§ 920. Art. 120. Rape, sexual assault, and other sexual misconduct

“(a) RAPE.—Any person subject to this chapter who causes another person of any age to engage in a sexual act by—

“(1) using force against that other person;

“(2) causing grievous bodily harm to any person;

“(3) threatening or placing that other person in fear that any person will be subjected to death, grievous bodily harm, or kidnapping;

“(4) rendering another person unconscious; or

“(5) administering to another person by force or threat of force, or without the knowledge or permission of that person, a drug, intoxicant, or other similar substance and thereby substantially impairs the ability of that other person to appraise or control conduct;

is guilty of rape and shall be punished as a court-martial may direct.

“(b) RAPE OF A CHILD.—Any person subject to this chapter who—

“(1) engages in a sexual act with a child who has not attained the age of 12 years; or

“(2) engages in a sexual act under the circumstances described in subsection (a) with a child who has attained the age of 12 years;

is guilty of rape of a child and shall be punished as a court-martial may direct.

“(c) AGGRAVATED SEXUAL ASSAULT.—Any person subject to this chapter who—

“(1) causes another person of any age to engage in a sexual act by—

“(A) threatening or placing that other person in fear (other than by threatening or placing that other person in fear that any person will be subjected to death, grievous bodily harm, or kidnapping); or

“(B) causing bodily harm; or

“(2) engages in a sexual act with another person of any age if that other person is substantially incapacitated or substantially incapable of—

“(A) appraising the nature of the sexual act;

“(B) declining participation in the sexual act; or

“(C) communicating unwillingness to engage in the sexual act;

is guilty of aggravated sexual assault and shall be punished as a court-martial may direct.

“(d) AGGRAVATED SEXUAL ASSAULT OF A CHILD.—Any person subject to this chapter who engages in a sexual act with a child who has attained the age of 12 years is guilty of aggravated sexual assault of a child and shall be punished as a court-martial may direct.

“(e) AGGRAVATED SEXUAL CONTACT.—Any person subject to this chapter who engages in or causes sexual contact with or by another person, if to do so would violate subsection (a) (rape) had the

sexual contact been a sexual act, is guilty of aggravated sexual contact and shall be punished as a court-martial may direct.

“(f) AGGRAVATED SEXUAL ABUSE OF A CHILD.—Any person subject to this chapter who engages in a lewd act with a child is guilty of aggravated sexual abuse of a child and shall be punished as a court-martial may direct.

“(g) AGGRAVATED SEXUAL CONTACT WITH A CHILD.—Any person subject to this chapter who engages in or causes sexual contact with or by another person, if to do so would violate subsection (b) (rape of a child) had the sexual contact been a sexual act, is guilty of aggravated sexual contact with a child and shall be punished as a court-martial may direct.

“(h) ABUSIVE SEXUAL CONTACT.—Any person subject to this chapter who engages in or causes sexual contact with or by another person, if to do so would violate subsection (c) (aggravated sexual assault) had the sexual contact been a sexual act, is guilty of abusive sexual contact and shall be punished as a court-martial may direct.

“(i) ABUSIVE SEXUAL CONTACT WITH A CHILD.—Any person subject to this chapter who engages in or causes sexual contact with or by another person, if to do so would violate subsection (d) (aggravated sexual assault of a child) had the sexual contact been a sexual act, is guilty of abusive sexual contact with a child and shall be punished as a court-martial may direct.

“(j) INDECENT LIBERTY WITH A CHILD.—Any person subject to this chapter who engages in indecent liberty in the physical presence of a child—

“(1) with the intent to arouse, appeal to, or gratify the sexual desire of any person; or

“(2) with the intent to abuse, humiliate, or degrade any person;

is guilty of indecent liberty with a child and shall be punished as a court-martial may direct.

“(k) INDECENT ACT.—Any person subject to this chapter who engages in indecent conduct is guilty of an indecent act and shall be punished as a court-martial may direct.

“(l) FORCIBLE PANDERING.—Any person subject to this chapter who compels another person to engage in an act of prostitution with another person to be directed to said person is guilty of forcible pandering and shall be punished as a court-martial may direct.

“(m) WRONGFUL SEXUAL CONTACT.—Any person subject to this chapter who, without legal justification or lawful authorization, engages in sexual contact with another person without that other person's permission is guilty of wrongful sexual contact and shall be punished as a court-martial may direct.

“(n) INDECENT EXPOSURE.—Any person subject to this chapter who intentionally exposes, in an indecent manner, in any place where the conduct involved may reasonably be expected to be viewed by people other than members of the actor's family or household, the genitalia, anus, buttocks, or female areola or nipple is guilty of indecent exposure and shall be punished as a court-martial may direct.

“(o) AGE OF CHILD.—

“(1) TWELVE YEARS.—In a prosecution under subsection (b) (rape of a child), subsection (g) (aggravated sexual contact with a child), or subsection (j) (indecent liberty with a child),

it need not be proven that the accused knew that the other person engaging in the sexual act, contact, or liberty had not attained the age of 12 years. It is not an affirmative defense that the accused reasonably believed that the child had attained the age of 12 years.

“(2) SIXTEEN YEARS.—In a prosecution under subsection (d) (aggravated sexual assault of a child), subsection (f) (aggravated sexual abuse of a child), subsection (i) (abusive sexual contact with a child), or subsection (j) (indecent liberty with a child), it need not be proven that the accused knew that the other person engaging in the sexual act, contact, or liberty had not attained the age of 16 years. Unlike in paragraph (1), however, it is an affirmative defense that the accused reasonably believed that the child had attained the age of 16 years.

“(p) PROOF OF THREAT.—In a prosecution under this section, in proving that the accused made a threat, it need not be proven that the accused actually intended to carry out the threat.

“(q) MARRIAGE.—

“(1) IN GENERAL.—In a prosecution under paragraph (2) of subsection (c) (aggravated sexual assault), or under subsection (d) (aggravated sexual assault of a child), subsection (f) (aggravated sexual abuse of a child), subsection (i) (abusive sexual contact with a child), subsection (j) (indecent liberty with a child), subsection (m) (wrongful sexual contact), or subsection (n) (indecent exposure), it is an affirmative defense that the accused and the other person when they engaged in the sexual act, sexual contact, or sexual conduct are married to each other.

“(2) DEFINITION.—For purposes of this subsection, a marriage is a relationship, recognized by the laws of a competent State or foreign jurisdiction, between the accused and the other person as spouses. A marriage exists until it is dissolved in accordance with the laws of a competent State or foreign jurisdiction.

“(3) EXCEPTION.—Paragraph (1) shall not apply if the accused’s intent at the time of the sexual conduct is to abuse, humiliate, or degrade any person.

“(r) CONSENT AND MISTAKE OF FACT AS TO CONSENT.—Lack of permission is an element of the offense in subsection (m) (wrongful sexual contact). Consent and mistake of fact as to consent are not an issue, or an affirmative defense, in a prosecution under any other subsection, except they are an affirmative defense for the sexual conduct in issue in a prosecution under subsection (a) (rape), subsection (c) (aggravated sexual assault), subsection (e) (aggravated sexual contact), and subsection (h) (abusive sexual contact).

“(s) OTHER AFFIRMATIVE DEFENSES NOT PRECLUDED.—The enumeration in this section of some affirmative defenses shall not be construed as excluding the existence of others.

“(t) DEFINITIONS.—In this section:

“(1) SEXUAL ACT.—The term ‘sexual act’ means—

“(A) contact between the penis and the vulva, and for purposes of this subparagraph contact involving the penis occurs upon penetration, however slight; or

“(B) the penetration, however slight, of the genital opening of another by a hand or finger or by any object,

with an intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person.

“(2) SEXUAL CONTACT.—The term ‘sexual contact’ means the intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of another person, or intentionally causing another person to touch, either directly or through the clothing, the genitalia, anus, groin, breast, inner thigh, or buttocks of any person, with an intent to abuse, humiliate, or degrade any person or to arouse or gratify the sexual desire of any person.

“(3) GRIEVOUS BODILY HARM.—The term ‘grievous bodily harm’ means serious bodily injury. It includes fractured or dislocated bones, deep cuts, torn members of the body, serious damage to internal organs, and other severe bodily injuries. It does not include minor injuries such as a black eye or a bloody nose. It is the same level of injury as in section 928 (article 128) of this chapter, and a lesser degree of injury than in section 2246(4) of title 18.

“(4) DANGEROUS WEAPON OR OBJECT.—The term ‘dangerous weapon or object’ means—

“(A) any firearm, loaded or not, and whether operable or not;

“(B) any other weapon, device, instrument, material, or substance, whether animate or inanimate, that in the manner it is used, or is intended to be used, is known to be capable of producing death or grievous bodily harm; or

“(C) any object fashioned or utilized in such a manner as to lead the victim under the circumstances to reasonably believe it to be capable of producing death or grievous bodily harm.

“(5) FORCE.—The term ‘force’ means action to compel submission of another or to overcome or prevent another’s resistance by—

“(A) the use or display of a dangerous weapon or object;

“(B) the suggestion of possession of a dangerous weapon or object that is used in a manner to cause another to believe it is a dangerous weapon or object; or

“(C) physical violence, strength, power, or restraint applied to another person, sufficient that the other person could not avoid or escape the sexual conduct.

“(6) THREATENING OR PLACING THAT OTHER PERSON IN FEAR.—The term ‘threatening or placing that other person in fear’ under paragraph (3) of subsection (a) (rape), or under subsection (e) (aggravated sexual contact), means a communication or action that is of sufficient consequence to cause a reasonable fear that non-compliance will result in the victim or another person being subjected to death, grievous bodily harm, or kidnapping.

“(7) THREATENING OR PLACING THAT OTHER PERSON IN FEAR.—

“(A) IN GENERAL.—The term ‘threatening or placing that other person in fear’ under paragraph (1)(A) of subsection (c) (aggravated sexual assault), or under subsection (h) (abusive sexual contact), means a communication or

action that is of sufficient consequence to cause a reasonable fear that non-compliance will result in the victim or another being subjected to a lesser degree of harm than death, grievous bodily harm, or kidnapping.

“(B) INCLUSIONS.—Such lesser degree of harm includes—

“(i) physical injury to another person or to another person’s property; or

“(ii) a threat—

“(I) to accuse any person of a crime;

“(II) to expose a secret or publicize an asserted fact, whether true or false, tending to subject some person to hatred, contempt or ridicule; or

“(III) through the use or abuse of military position, rank, or authority, to affect or threaten to affect, either positively or negatively, the military career of some person.

“(8) BODILY HARM.—The term ‘bodily harm’ means any offensive touching of another, however slight.

“(9) CHILD.—The term ‘child’ means any person who has not attained the age of 16 years.

“(10) LEWD ACT.—The term ‘lewd act’ means—

“(A) the intentional touching, not through the clothing, of the genitalia of another person, with an intent to abuse, humiliate, or degrade any person, or to arouse or gratify the sexual desire of any person; or

“(B) intentionally causing another person to touch, not through the clothing, the genitalia of any person with an intent to abuse, humiliate or degrade any person, or to arouse or gratify the sexual desire of any person.

“(11) INDECENT LIBERTY.—The term ‘indecent liberty’ means indecent conduct, but physical contact is not required. It includes one who with the requisite intent exposes one’s genitalia, anus, buttocks, or female areola or nipple to a child. An indecent liberty may consist of communication of indecent language as long as the communication is made in the physical presence of the child. If words designed to excite sexual desire are spoken to a child, or a child is exposed to or involved in sexual conduct, it is an indecent liberty; the child’s consent is not relevant.

“(12) INDECENT CONDUCT.—The term ‘indecent conduct’ means that form of immorality relating to sexual impurity which is grossly vulgar, obscene, and repugnant to common propriety, and tends to excite sexual desire or deprave morals with respect to sexual relations. Indecent conduct includes observing, or making a videotape, photograph, motion picture, print, negative, slide, or other mechanically, electronically, or chemically reproduced visual material, without another person’s consent, and contrary to that other person’s reasonable expectation of privacy, of—

“(A) that other person’s genitalia, anus, or buttocks, or (if that other person is female) that person’s areola or nipple; or

“(B) that other person while that other person is engaged in a sexual act, sodomy (under section 925 (article 125)), or sexual contact.

“(13) ACT OF PROSTITUTION.—The term ‘act of prostitution’ means a sexual act, sexual contact, or lewd act for the purpose of receiving money or other compensation.

“(14) CONSENT.—The term ‘consent’ means words or overt acts indicating a freely given agreement to the sexual conduct at issue by a competent person. An expression of lack of consent through words or conduct means there is no consent. Lack of verbal or physical resistance or submission resulting from the accused’s use of force, threat of force, or placing another person in fear does not constitute consent. A current or previous dating relationship by itself or the manner of dress of the person involved with the accused in the sexual conduct at issue shall not constitute consent. A person cannot consent to sexual activity if—

“(A) under 16 years of age; or

“(B) substantially incapable of—

“(i) appraising the nature of the sexual conduct at issue due to—

“(I) mental impairment or unconsciousness resulting from consumption of alcohol, drugs, a similar substance, or otherwise; or

“(II) mental disease or defect which renders the person unable to understand the nature of the sexual conduct at issue;

“(ii) physically declining participation in the sexual conduct at issue; or

“(iii) physically communicating unwillingness to engage in the sexual conduct at issue.

“(15) MISTAKE OF FACT AS TO CONSENT.—The term ‘mistake of fact as to consent’ means the accused held, as a result of ignorance or mistake, an incorrect belief that the other person engaging in the sexual conduct consented. The ignorance or mistake must have existed in the mind of the accused and must have been reasonable under all the circumstances. To be reasonable the ignorance or mistake must have been based on information, or lack of it, which would indicate to a reasonable person that the other person consented. Additionally, the ignorance or mistake cannot be based on the negligent failure to discover the true facts. Negligence is the absence of due care. Due care is what a reasonably careful person would do under the same or similar circumstances. The accused’s state of intoxication, if any, at the time of the offense is not relevant to mistake of fact. A mistaken belief that the other person consented must be that which a reasonably careful, ordinary, prudent, sober adult would have had under the circumstances at the time of the offense.

“(16) AFFIRMATIVE DEFENSE.—The term ‘affirmative defense’ means any special defense which, although not denying that the accused committed the objective acts constituting the offense charged, denies, wholly, or partially, criminal responsibility for those acts. The accused has the burden of proving the affirmative defense by a preponderance of evidence. After the defense meets this burden, the prosecution shall have the burden of proving beyond a reasonable doubt that the affirmative defense did not exist.”.

(2) CLERICAL AMENDMENT.—The item relating to section 920 (article 120) in the table of sections at the beginning

of subchapter X of chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), is amended to read as follows:

“920. 120. Rape, sexual assault, and other sexual misconduct.”.

(b) INTERIM MAXIMUM PUNISHMENTS.—Until the President otherwise provides pursuant to section 856 of title 10, United States Code (article 56 of the Uniform Code of Military Justice), the punishment which a court-martial may direct for an offense under section 920 of such title (article 120 of the Uniform Code of Military Justice), as amended by subsection (a), may not exceed the following limits:

(1) SUBSECTIONS (a) AND (b).—For an offense under subsection (a) (rape) or subsection (b) (rape of a child), death or such other punishment as a court-martial may direct.

(2) SUBSECTION (c).—For an offense under subsection (c) (aggravated sexual assault), dishonorable discharge, forfeiture of all pay and allowances, and confinement for 30 years.

(3) SUBSECTIONS (d) AND (e).—For an offense under subsection (d) (aggravated sexual assault of a child) or subsection (e) (aggravated sexual contact), dishonorable discharge, forfeiture of all pay and allowances, and confinement for 20 years.

(4) SUBSECTIONS (f) AND (g).—For an offense under subsection (f) (aggravated sexual abuse of a child) or subsection (g) (aggravated sexual contact with a child), dishonorable discharge, forfeiture of all pay and allowances, and confinement for 15 years.

(5) SUBSECTIONS (h) THROUGH (j).—For an offense under subsection (h) (abusive sexual contact), subsection (i) (abusive sexual contact with a child), or subsection (j) (indecent liberty with a child), dishonorable discharge, forfeiture of all pay and allowances, and confinement for 7 years.

(6) SUBSECTIONS (k) AND (l).—For an offense under subsection (k) (indecent act) or subsection (l) (forcible pandering), dishonorable discharge, forfeiture of all pay and allowances, and confinement for 5 years.

(7) SUBSECTIONS (m) AND (n).—For an offense under subsection (m) (wrongful sexual contact) or subsection (n) (indecent exposure), dishonorable discharge, forfeiture of all pay and allowances, and confinement for one year.

(c) APPLICABILITY.—Section 920 of title 10, United States Code (article 120 of the Uniform Code of Military Justice), as amended by subsection (a), shall apply with respect to offenses committed on or after the effective date specified in subsection (f).

(d) AGGRAVATING FACTORS FOR OFFENSE OF MURDER.—Section 918 of title 10, United States Code (article 118 of the Uniform Code of Military Justice), is amended in paragraph (4) by striking “rape,” and inserting “rape, rape of a child, aggravated sexual assault, aggravated sexual assault of a child, aggravated sexual contact, aggravated sexual abuse of a child, aggravated sexual contact with a child,”.

(e) STATUTE OF LIMITATIONS.—Section 843(a) of title 10, United States Code (article 843(a) of the Uniform Code of Military Justice), as amended by section 553(a), is amended by striking “or rape,” and inserting “, rape, or rape of a child,”.

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2007.

SEC. 553. EXTENSION OF STATUTE OF LIMITATIONS FOR MURDER, RAPE, AND CHILD ABUSE OFFENSES UNDER THE UNIFORM CODE OF MILITARY JUSTICE.

(a) **NO LIMITATION FOR MURDER OR RAPE.**—Subsection (a) of section 843 of title 10, United States Code (article 43 of the Uniform Code of Military Justice), is amended by striking “or with any offense punishable by death” and inserting “with murder or rape, or with any other offense punishable by death”.

(b) **SPECIAL RULES FOR CHILD ABUSE OFFENSES.**—Subsection (b)(2) of such section (article) is amended—

(1) in subparagraph (A), by striking “before the child attains the age of 25 years” and inserting “during the life of the child or within five years after the date on which the offense was committed, whichever provides a longer period,”;

(2) in subparagraph (B)—

(A) in the matter preceding clause (i), by striking “sexual or physical”;

(B) in clause (i), by striking “Rape or carnal knowledge” and inserting “Any offense”; and

(C) in clause (v), by striking “Indecent assault,” and inserting “Kidnaping; indecent assault;”;

(3) by adding at the end the following new subparagraph: “(C) In subparagraph (A), the term ‘child abuse offense’ includes an act that involves abuse of a person who has not attained the age of 18 years and would constitute an offense under chapter 110 or 117, or under section 1591, of title 18.”

10 USC 113 note. **SEC. 554. REPORTS BY OFFICERS AND SENIOR ENLISTED MEMBERS OF CONVICTION OF CRIMINAL LAW.**

(a) **REQUIREMENT FOR REPORTS.**—

Regulations.

(1) **IN GENERAL.**—The Secretary of Defense shall prescribe in regulations a requirement that each covered member of the Armed Forces shall submit to an authority in the military department concerned designated pursuant to such regulations a timely report of any conviction of such member by any law enforcement authority of the United States for a violation of a criminal law of the United States, whether or not the member is on active duty at the time of the conduct that provides the basis for the conviction. The regulations shall apply uniformly throughout the military departments.

(2) **COVERED MEMBERS.**—In this section, the term “covered member of the Armed Forces” means a member of the Army, Navy, Air Force, or Marine Corps who is on the active-duty list or the reserve active-status list and who is—

(A) an officer; or

(B) an enlisted member in a pay grade above pay grade E–6.

(b) **LAW ENFORCEMENT AUTHORITY OF THE UNITED STATES.**—For purposes of this section, a law enforcement authority of the United States includes—

(1) a military or other Federal law enforcement authority;

(2) a State or local law enforcement authority; and

(3) such other law enforcement authorities within the United States as the Secretary shall specify in the regulations prescribed pursuant to subsection (a).

(c) **CRIMINAL LAW OF THE UNITED STATES.**—

(1) IN GENERAL.—Except as provided in paragraph (2), for purposes of this section, a criminal law of the United States includes—

(A) any military or other Federal criminal law;

(B) any State, county, municipal, or local criminal law or ordinance; and

(C) such other criminal laws and ordinances of jurisdictions within the United States as the Secretary shall specify in the regulations prescribed pursuant to subsection (a).

(2) EXCEPTION.—For purposes of this section, a criminal law of the United States shall not include a law or ordinance specifying a minor traffic offense (as determined by the Secretary for purposes of such regulations).

(d) TIMELINESS OF REPORTS.—The regulations prescribed pursuant to subsection (a) shall establish requirements for the timeliness of reports under this section.

(e) FORWARDING OF INFORMATION.—The regulations prescribed pursuant to subsection (a) shall provide that, in the event a military department receives information that a covered member of the Armed Forces under the jurisdiction of another military department has become subject to a conviction for which a report is required by this section, the Secretary of the military department receiving such information shall, in accordance with such procedures as the Secretary of Defense shall establish in such regulations, forward such information to the authority in the military department having jurisdiction over such member designated pursuant to such regulations.

(f) CONVICTIONS.—In this section, the term “conviction” includes any plea of guilty or nolo contendere.

(g) DEADLINE FOR REGULATIONS.—The regulations required by subsection (a), including the requirement in subsection (e), shall go into effect not later than the end of the 180-day period beginning on the date of the enactment of this Act.

(h) APPLICABILITY OF REQUIREMENT.—The requirement under the regulations required by subsection (a) that a covered member of the Armed Forces submit notice of a conviction shall apply only to a conviction that becomes final after the date of the enactment of this Act.

Effective date.

SEC. 555. CLARIFICATION OF AUTHORITY OF MILITARY LEGAL ASSISTANCE COUNSEL TO PROVIDE MILITARY LEGAL ASSISTANCE WITHOUT REGARD TO LICENSING REQUIREMENTS.

Section 1044 of title 10, United States Code, is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection (d):

“(d)(1) Notwithstanding any law regarding the licensure of attorneys, a judge advocate or civilian attorney who is authorized to provide military legal assistance is authorized to provide that assistance in any jurisdiction, subject to such regulations as may be prescribed by the Secretary concerned.

“(2) Military legal assistance may be provided only by a judge advocate or a civilian attorney who is a member of the bar of a Federal court or of the highest court of a State.

“(3) In this subsection, the term ‘military legal assistance’ includes—

“(A) legal assistance provided under this section; and

“(B) legal assistance contemplated by sections 1044a, 1044b, 1044c, and 1044d of this title.”.

SEC. 556. USE OF TELECONFERENCING IN ADMINISTRATIVE SESSIONS OF COURTS-MARTIAL.

Section 839 of title 10, United States Code (article 39 of the Uniform Code of Military Justice), is amended—

- (1) by redesignating subsection (b) as subsection (c);
- (2) by designating the matter following paragraph (4) of subsection (a) as subsection (b); and

(3) in subsection (b), as so redesignated—

(A) by striking “These proceedings shall be conducted” and inserting “Proceedings under subsection (a) shall be conducted”; and

(B) by adding at the end the following new sentence: “If authorized by regulations of the Secretary concerned, and if at least one defense counsel is physically in the presence of the accused, the presence required by this subsection may otherwise be established by audiovisual technology (such as videoteleconferencing technology).”.

SEC. 557. SENSE OF CONGRESS ON APPLICABILITY OF UNIFORM CODE OF MILITARY JUSTICE TO RESERVES ON INACTIVE-DUTY TRAINING OVERSEAS.

It is the sense of Congress that—

(1) there should be no ambiguity about the applicability of the Uniform Code of Military Justice to members of the reserve components of the Armed Forces while such members are serving overseas under inactive-duty training orders for any period of time under such orders; and

(2) the Secretary of Defense should—

(A) take action, not later than February 1, 2006, to clarify jurisdictional issues relating to such applicability under section 802 of title 10, United States Code (article 2 of the Uniform Code of Military Justice); and

(B) if necessary, submit to Congress a proposal for legislative action to ensure the applicability of the Uniform Code of Military Justice to such members.

Subtitle F—Matters Relating to Casualties

SEC. 561. AUTHORITY FOR MEMBERS ON ACTIVE DUTY WITH DISABILITIES TO PARTICIPATE IN PARALYMPIC GAMES.

Section 717(a) of title 10, United States Code, is amended by striking “participate in—” and all that follows through “(2) any other” and inserting “participate in any of the following sports competitions:

“(1) The Pan-American Games and the Olympic Games, and qualifying events and preparatory competition for those games.

“(2) The Paralympic Games, if eligible to participate in those games, and qualifying events and preparatory competition for those games.

“(3) Any other”.

SEC. 562. POLICY AND PROCEDURES ON CASUALTY ASSISTANCE TO SURVIVORS OF MILITARY DECEDENTS. 10 USC 1475 note.

(a) COMPREHENSIVE POLICY ON CASUALTY ASSISTANCE.—

(1) POLICY REQUIRED.—Not later than August 1, 2006, the Secretary of Defense shall prescribe a comprehensive policy for the Department of Defense on the provision of casualty assistance to survivors and next of kin of members of the Armed Forces who die during military service (in this section referred to as “military decedents”).

(2) CONSULTATION.—The Secretary shall develop the policy under paragraph (1) in consultation with the Secretaries of the military departments, the Secretary of Veterans Affairs, and the Secretary of Homeland Security with respect to the Coast Guard.

(3) INCORPORATION OF PAST EXPERIENCE AND PRACTICE.—The policy developed under paragraph (1) shall be based on—

(A) the experience and best practices of the military departments;

(B) the recommendations of nongovernment organizations with demonstrated expertise in responding to the needs of survivors of military decedents; and

(C) such other matters as the Secretary of Defense considers appropriate.

(4) PROCEDURES.—The policy shall include procedures to be followed by the military departments in the provision of casualty assistance to survivors and next of kin of military decedents. The procedures shall be uniform across the military departments except to the extent necessary to reflect the traditional practices or customs of a particular military department.

(b) ELEMENTS OF POLICY.—The comprehensive policy developed under subsection (a) shall address the following matters:

(1) The initial notification of primary and secondary next of kin of the deaths of military decedents and any subsequent notifications of next of kin warranted by circumstances.

(2) The transportation and disposition of remains of military decedents, including notification of survivors of the performance of autopsies.

(3) The qualifications, assignment, training, duties, supervision, and accountability for the performance of casualty assistance responsibilities.

(4) The relief or transfer of casualty assistance officers, including notification to survivors and next of kin of the reassignment of such officers to other duties.

(5) Centralized, short-term and long-term case-management procedures for casualty assistance by each military department, including rapid access by survivors of military decedents and casualty assistance officers to expert case managers and counselors.

(6) The provision, through a computer accessible Internet website and other means and at no cost to survivors of military decedents, of personalized, integrated information on the benefits and financial assistance available to such survivors from the Federal Government.

(7) The provision, at no cost to survivors of military decedents, of legal assistance by military attorneys on matters arising from the deaths of such decedents, including tax matters, on an expedited, prioritized basis.

(8) The provision of financial counseling to survivors of military decedents, particularly with respect to appropriate disposition of death gratuity and insurance proceeds received by surviving spouses, minor dependent children, and their representatives.

(9) The provision of information to survivors and next of kin of military decedents on mechanisms for registering complaints about, or requests for, additional assistance related to casualty assistance.

(10) Liaison with the Department of Veterans Affairs and the Social Security Administration in order to ensure prompt and accurate resolution of issues relating to benefits administered by those agencies for survivors of military decedents.

(11) Data collection regarding the incidence and quality of casualty assistance provided to survivors of military decedents, including surveys of such survivors and military and civilian members assigned casualty assistance duties.

Regulations.

(c) ADOPTION BY MILITARY DEPARTMENTS.—Not later than November 1, 2006, the Secretary of each military department shall prescribe regulations, or modify current regulations, on the policies and procedures of such military department on the provision of casualty assistance to survivors and next of kin of military decedents in order to conform such policies and procedures to the policy developed under subsection (a).

(d) REPORT ON IMPROVEMENT OF CASUALTY ASSISTANCE PROGRAMS.—Not later than December 1, 2006, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report that includes—

(1) the assessment of the Secretary of the adequacy and sufficiency of the current casualty assistance programs of the military departments;

(2) a plan for a system for the uniform provision to survivors of military decedents of personalized, accurate, and integrated information on the benefits and financial assistance available to such survivors through the casualty assistance programs of the military departments under subsection (c); and

(3) such recommendations for other legislative or administrative action as the Secretary considers appropriate to enhance and improve such programs to achieve their intended purposes.

(e) GAO REPORT.—

(1) REPORT REQUIRED.—Not later than July 1, 2006, the Comptroller General shall submit to the committees specified in subsection (d) a report on the evaluation by the Comptroller General of the casualty assistance programs of the Department of Defense and of such other departments and agencies of the Federal Government as provide casualty assistance to survivors and next of kin of military decedents.

(2) ASSESSMENT.—The report shall include the assessment of the Comptroller General of the adequacy of the current policies and procedures of, and funding for, the casualty assistance programs covered by the report to achieve their intended purposes.

SEC. 563. POLICY AND PROCEDURES ON ASSISTANCE TO SEVERELY WOUNDED OR INJURED SERVICE MEMBERS. 10 USC 113 note.

(a) COMPREHENSIVE POLICY.—

(1) POLICY REQUIRED.—Not later than June 1, 2006, the Secretary of Defense shall prescribe a comprehensive policy for the Department of Defense on the provision of assistance to members of the Armed Forces who incur severe wounds or injuries in the line of duty (in this section referred to as “severely wounded or injured servicemembers”).

(2) CONSULTATION.—The Secretary shall develop the policy required by paragraph (1) in consultation with the Secretaries of the military departments, the Secretary of Veterans Affairs, and the Secretary of Labor.

(3) INCORPORATION OF PAST EXPERIENCE AND PRACTICE.—The policy required by paragraph (1) shall be based on—

(A) the experience and best practices of the military departments, including the Army Wounded Warrior Program, the Marine Corps Marine for Life Injured Support Program, the Air Force Palace HART program, and the Navy Wounded Marines and Sailors Initiative;

(B) the recommendations of nongovernment organizations with demonstrated expertise in responding to the needs of severely wounded or injured servicemembers; and

(C) such other matters as the Secretary of Defense considers appropriate.

(4) PROCEDURES AND STANDARDS.—The policy shall include guidelines to be followed by the military departments in the provision of assistance to severely wounded or injured servicemembers. The procedures and standards shall be uniform across the military departments except to the extent necessary to reflect the traditional practices or customs of a particular military department. The procedures and standards shall establish a minimum level of support and shall specify the duration of programs.

(b) ELEMENTS OF POLICY.—The comprehensive policy developed under subsection (a) shall address the following matters:

(1) Coordination with the Severely Injured Joint Support Operations Center of the Department of Defense.

(2) Promotion of a seamless transition to civilian life for severely wounded or injured servicemembers who are or are likely to be separated on account of their wound or injury.

(3) Identification and resolution of special problems or issues related to the transition to civilian life of severely wounded or injured servicemembers who are members of the reserve components.

(4) The qualifications, assignment, training, duties, supervision, and accountability for the performance of responsibilities for the personnel providing assistance to severely wounded or injured servicemembers.

(5) Centralized, short-term and long-term case-management procedures for assistance to severely wounded or injured servicemembers by each military department, including rapid access for severely wounded or injured servicemembers to case managers and counselors.

(6) The provision, through a computer accessible Internet website and other means and at no cost to severely wounded

or injured servicemembers, of personalized, integrated information on the benefits and financial assistance available to such members from the Federal Government.

(7) The provision of information to severely wounded or injured servicemembers on mechanisms for registering complaints about, or requests for, additional assistance.

(8) Participation of family members.

(9) Liaison with the Department of Veterans Affairs and the Department of Labor in order to ensure prompt and accurate resolution of issues relating to benefits administered by those agencies for severely wounded or injured servicemembers.

(10) Data collection regarding the incidence and quality of assistance provided to severely wounded or injured servicemembers, including surveys of such servicemembers and military and civilian personnel whose assigned duties include assistance to severely wounded or injured servicemembers.

Regulations.

(c) **ADOPTION BY MILITARY DEPARTMENTS.**—Not later than September 1, 2006, the Secretary of each military department shall prescribe regulations, or modify current regulations, on the policies and procedures of such military department on the provision of assistance to severely wounded or injured servicemembers in order to conform such policies and procedures to the policy prescribed under subsection (a).

SEC. 564. DESIGNATION BY MEMBERS OF THE ARMED FORCES OF PERSONS AUTHORIZED TO DIRECT THE DISPOSITION OF MEMBER REMAINS.

Deadline.

(a) **IN GENERAL.**—Not later than June 1, 2006, the Secretary of Defense shall complete, and the Secretaries of the military departments shall implement, Department of Defense Instruction 1300.18, including interim policy guidance, regarding the requirement to have service members designate a person authorized to direct disposition of their remains should they become a casualty.

(b) **REPORT.**—Not later than July 1, 2006, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the actions taken by the Secretary, and by the Secretaries of the military departments, to carry out the requirement in subsection (a).

Subtitle G—Assistance to Local Educational Agencies for Defense Dependents Education

SEC. 571. EXPANSION OF AUTHORIZED ENROLLMENT IN DEPARTMENT OF DEFENSE DEPENDENTS SCHOOLS OVERSEAS.

The Defense Dependents' Education Act of 1978 (20 U.S.C. 931 et seq.) is amended by inserting after section 1404 the following new section:

“ENROLLMENT OF CERTAIN ADDITIONAL CHILDREN ON TUITION-FREE BASIS

Regulations.
20 USC 923a.

“SEC. 1404A. (a) **ENROLLMENT AUTHORIZED.**—Under regulations to be prescribed by the Secretary of Defense, the Secretary may

authorize the enrollment in schools of the defense dependents' education system on a tuition-free basis of the children of full-time, locally-hired employees of the Department of Defense in an overseas area if such employees are citizens or nationals of the United States.

“(b) FUNDING.—The Secretary may use funds available for the defense dependents' education system to provide for the education of children enrolled in the defense dependents' education system under subsection (a).”.

SEC. 572. ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES THAT BENEFIT DEPENDENTS OF MEMBERS OF THE ARMED FORCES AND DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES.

20 USC 7703b.

(a) ASSISTANCE TO SCHOOLS WITH SIGNIFICANT NUMBERS OF MILITARY DEPENDENT STUDENTS.—

(1) ASSISTANCE AUTHORIZED.—The Secretary of Defense shall provide financial assistance to an eligible local educational agency described in paragraph (2) if, without such assistance, the local educational agency will be unable (as determined by the Secretary of Defense in consultation with the Secretary of Education) to provide the students in the schools of the local educational agency with a level of education that is equivalent to the minimum level of education available in the schools of the other local educational agencies in the same State.

(2) ELIGIBLE LOCAL EDUCATIONAL AGENCIES.—A local educational agency is eligible for assistance under this subsection for a fiscal year if at least 20 percent (as rounded to the nearest whole percent) of the students in average daily attendance in the schools of the local educational agency during the preceding school year were military dependent students counted under section 8003(a)(1) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(a)(1)).

(b) ASSISTANCE TO SCHOOLS WITH ENROLLMENT CHANGES DUE TO BASE CLOSURES, FORCE STRUCTURE CHANGES, OR FORCE RELOCATIONS.—

(1) ASSISTANCE AUTHORIZED.—To assist communities in making adjustments resulting from changes in the size or location of the Armed Forces, the Secretary of Defense shall provide financial assistance to an eligible local educational agency described in paragraph (2) if, during the period between the end of the school year preceding the fiscal year for which the assistance is authorized and the beginning of the school year immediately preceding that school year, the local educational agency had (as determined by the Secretary of Defense in consultation with the Secretary of Education) an overall increase or reduction of—

(A) not less than five percent in the average daily attendance of military dependent students in the schools of the local educational agency; or

(B) not less than 250 military dependent students in average daily attendance in the schools of the local educational agency.

(2) ELIGIBLE LOCAL EDUCATIONAL AGENCIES.—A local educational agency is eligible for assistance under this subsection for a fiscal year if—

(A) the local educational agency is eligible for assistance under subsection (a) for the same fiscal year, or would

have been eligible for such assistance if not for the reduction in military dependent students in schools of the local educational agency; and

(B) the overall increase or reduction in military dependent students in schools of the local educational agency is the result of one or more of the following:

(i) The global rebasing plan of the Department of Defense.

(ii) The official creation or activation of one or more new military units.

(iii) The realignment of forces as a result of the base closure process.

(iv) A change in the number of housing units on a military installation.

(3) CALCULATION OF AMOUNT OF ASSISTANCE.—

(A) PRO RATA DISTRIBUTION.—The amount of the assistance provided under this subsection to a local educational agency that is eligible for such assistance for a fiscal year shall be equal to the product obtained by multiplying—

(i) the per-student rate determined under subparagraph (B) for that fiscal year; by

(ii) the net of the overall increases and reductions in the number of military dependent students in schools of the local educational agency, as determined under paragraph (1).

(B) PER-STUDENT RATE.—For purposes of subparagraph (A)(i), the per-student rate for a fiscal year shall be equal to the dollar amount obtained by dividing—

(i) the total amount of funds made available for that fiscal year to provide assistance under this subsection; by

(ii) the sum of the overall increases and reductions in the number of military dependent students in schools of all eligible local educational agencies for that fiscal year under this subsection.

(C) MAXIMUM AMOUNT OF ASSISTANCE.—A local educational agency may not receive more than \$1,000,000 in assistance under this subsection for any fiscal year.

(4) DURATION.—Assistance may not be provided under this subsection after September 30, 2010.

(c) NOTIFICATION.—Not later than June 30, 2006, and June 30 of each fiscal year thereafter for which funds are made available to carry out this section, the Secretary of Defense shall notify each local educational agency that is eligible for assistance under this section for that fiscal year of—

(1) the eligibility of the local educational agency for the assistance, including whether the agency is eligible for assistance under either subsection (a) or (b) or both subsections; and

(2) the amount of the assistance for which the local educational agency is eligible.

(d) DISBURSEMENT OF FUNDS.—The Secretary of Defense shall disburse assistance made available under this section for a fiscal year not later than 30 days after the date on which notification to the eligible local educational agencies is provided pursuant to subsection (c) for that fiscal year.

Deadline.

(e) FINDING FOR FISCAL YEAR 2006.—Of the amount authorized to be appropriated pursuant to section 301(5) for operation and maintenance for Defense-wide activities—

(1) \$30,000,000 shall be available only for the purpose of providing assistance to local educational agencies under subsection (a); and

(2) \$10,000,000 shall be available only for the purpose of providing assistance to local educational agencies under subsection (b).

(f) DEFINITIONS.—In this section:

(1) The term “base closure process” means the 2005 base closure and realignment process authorized by Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) or any base closure and realignment process conducted after the date of the enactment of this Act under section 2687 of title 10, United States Code, or any other similar law enacted after that date.

(2) The term “local educational agency” has the meaning given that term in section 8013(9) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713(9)).

(3) The term “military dependent students” refers to—
(A) elementary and secondary school students who are dependents of members of the Armed Forces; and

(B) elementary and secondary school students who are dependents of civilian employees of the Department of Defense.

(4) The term “State” means each of the 50 States and the District of Columbia.

(g) REPEAL OF FORMER AUTHORITY.—Section 386 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 20 U.S.C. 7703 note) is repealed.

SEC. 573. IMPACT AID FOR CHILDREN WITH SEVERE DISABILITIES.

Of the amount authorized to be appropriated pursuant to section 301(5) for operation and maintenance for Defense-wide activities, \$5,000,000 shall be available for payments under section 363 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–77; 20 U.S.C. 7703a).

SEC. 574. CONTINUATION OF IMPACT AID ASSISTANCE ON BEHALF OF DEPENDENTS OF CERTAIN MEMBERS DESPITE CHANGE IN STATUS OF MEMBER.

(a) SPECIAL RULE.—For purposes of computing the amount of a payment for an eligible local educational agency under subsection (a) of section 8003 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703) for school year 2005–2006, the Secretary of Education shall continue to count as a child enrolled in a school of such agency under such subsection any child who—

(1) would be counted under paragraph (1)(B) of such subsection to determine the number of children who were in average daily attendance in the school; but

(2) due to the deployment of both parents or legal guardians of the child, the deployment of a parent or legal guardian having sole custody of the child, or the death of a military parent or legal guardian while on active duty (so long as the child resides on Federal property (as defined in section 8013(5) of such Act (20 U.S.C. 7713(5))), is not eligible to be so counted.

(b) **TERMINATION.**—The special rule provided under subsection (a) applies only so long as the children covered by such subsection remain in average daily attendance at a school in the same local educational agency they attended before their change in eligibility status.

Subtitle H—Decorations and Awards

SEC. 576. ELIGIBILITY FOR OPERATION ENDURING FREEDOM CAMPAIGN MEDAL.

For purposes of eligibility for the campaign medal for Operation Enduring Freedom established pursuant to Public Law 108–234 (10 U.S.C. 1121 note), the beginning date of Operation Enduring Freedom is September 11, 2001.

Subtitle I—Consumer Protection Matters

SEC. 577. REQUIREMENT FOR REGULATIONS ON POLICIES AND PROCEDURES ON PERSONAL COMMERCIAL SOLICITATIONS ON DEPARTMENT OF DEFENSE INSTALLATIONS.

10 USC 992 note.

(a) **REQUIREMENT.**—As soon as practicable after the date of the enactment of this Act, and not later than March 31, 2006, the Secretary of Defense shall prescribe regulations, or modify existing regulations, on the policies and procedures relating to personal commercial solicitations, including the sale of life insurance and securities, on Department of Defense installations.

(b) **REPEAL OF SUPERSEDED LIMITATIONS.**—The following provisions of law are repealed:

(1) Section 586 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1493).

(2) Section 8133 of the Department of Defense Appropriations Act, 2005 (Public Law 108–287; 118 Stat. 1002).

SEC. 578. CONSUMER EDUCATION FOR MEMBERS OF THE ARMED FORCES AND THEIR SPOUSES ON INSURANCE AND OTHER FINANCIAL SERVICES.

(a) **EDUCATION AND COUNSELING REQUIREMENTS.**—

(1) **IN GENERAL.**—Chapter 50 of title 10, United States Code, is amended by adding at the end the following new section:

“§ 992. Consumer education: financial services

“(a) **REQUIREMENT FOR CONSUMER EDUCATION PROGRAM FOR MEMBERS.**—(1) The Secretary concerned shall carry out a program to provide comprehensive education to members of the armed forces under the jurisdiction of the Secretary on—

“(A) financial services that are available under law to members;

“(B) financial services that are routinely offered by private sector sources to members;

“(C) practices relating to the marketing of private sector financial services to members;

“(D) such other matters relating to financial services available to members, and the marketing of financial services to members, as the Secretary considers appropriate; and

“(E) such other financial practices as the Secretary considers appropriate.

“(2) Training under this subsection shall be provided to members as—

“(A) a component of members initial entry orientation training; and

“(B) a component of periodically recurring required training that is provided for the members at military installations.

“(3) The training provided at a military installation under paragraph (2)(B) shall include information on any financial services marketing practices that are particularly prevalent at that military installation and in the vicinity.

“(b) COUNSELING FOR MEMBERS AND SPOUSES.—(1) The Secretary concerned shall, upon request, provide counseling on financial services to each member of the armed forces, and such member’s spouse, under the jurisdiction of the Secretary.

“(2)(A) In the case of a military installation at which at least 2,000 members of the armed forces on active duty are assigned, the Secretary concerned—

“(i) shall provide counseling on financial services under this subsection through a full-time financial services counselor at such installation; and

“(ii) may provide such counseling at such installation by any means elected by the Secretary from among the following:

“(I) Through members of the armed forces in pay grade E-7 or above, or civilians, who provide such counseling as part of their other duties for the armed forces or the Department of Defense.

“(II) By contract, including contract for services by telephone and by the Internet.

“(III) Through qualified representatives of nonprofit organizations and agencies under formal agreements with the Department of Defense to provide such counseling.

“(B) In the case of any military installation not described in subparagraph (A), the Secretary concerned shall provide counseling on financial services under this subsection at such installation by any of the means set forth in subparagraph (A)(ii), as elected by the Secretary concerned.

“(3) Each financial services counselor under paragraph (2)(A)(i), and any other individual providing counseling on financial services under paragraph (2), shall be an individual who, by reason of education, training, or experience, is qualified to provide helpful counseling to members of the armed forces and their spouses on financial services and marketing practices described in subsection (a)(1). Such individual may be a member of the armed forces or an employee of the Federal Government.

“(4) The Secretary concerned shall take such action as is necessary to ensure that each financial services counselor under paragraph (2)(A)(i), and any other individual providing counseling on financial services under paragraphs (2), is free from conflicts of interest relevant to the performance of duty under this section, and, in the performance of that duty, is dedicated to furnishing members of the armed forces and their spouses with helpful information and counseling on financial services and related marketing practices.

“(c) LIFE INSURANCE.—In counseling a member of the armed forces, or spouse of a member of the armed forces, under this

section regarding life insurance offered by a private sector source, a financial services counselor under subsection (b)(2)(A)(i), or another individual providing counseling on financial services under subsection (b)(2), shall furnish the member or spouse, as the case may be, with information on the availability of Servicemembers' Group Life Insurance under subchapter III of chapter 19 of title 38, including information on the amounts of coverage available and the procedures for electing coverage and the amount of coverage.

“(d) FINANCIAL SERVICES DEFINED.—In this section, the term ‘financial services’ includes the following:

“(1) Life insurance, casualty insurance, and other insurance.

“(2) Investments in securities or financial instruments.

“(3) Banking, credit, loans, deferred payment plans, and mortgages.”.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“992. Consumer education: financial services.”.

10 USC 992 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first month that begins more than 120 days after the date of the enactment of this Act.

SEC. 579. REPORT ON PREDATORY LENDING PRACTICES DIRECTED AT MEMBERS OF THE ARMED FORCES AND THEIR DEPENDENTS.

(a) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the appropriate committees of Congress a report on predatory lending practices directed at members of the Armed Forces and their families. The report shall be prepared in consultation with the Secretary of the Treasury, the Chairman of the Federal Reserve, the Chairman of the Federal Deposit Insurance Corporation, and representatives of military charity organizations and consumer organizations.

(b) ELEMENTS.—The report under subsection (a) shall include the following:

(1) A description of the prevalence of predatory lending practices directed at members of the Armed Forces and their families.

(2) An assessment of the effects of predatory lending practices on members of the Armed Forces and their families.

(3) A description of the strategy of the Department of Defense, and of any current or planned programs of the Department, to educate members of the Armed Forces and their families regarding predatory lending practices.

(4) A description of the strategy of the Department of Defense, and of any current or planned programs of the Department, to reduce or eliminate—

(A) the prevalence of predatory lending practices directed at members of the Armed Forces and their families; and

(B) the negative effect of such practices on members of the Armed Forces and their families.

(5) Recommendations for additional legislative and administrative action to reduce or eliminate predatory lending

practices directed at members of the Armed Forces and their families.

(c) **DEFINITIONS.**—In this section:

(1) The term “appropriate committees of Congress” means—

(A) the Committee on Armed Services and the Committee on Banking, Housing, and Urban Affairs of the Senate; and

(B) the Committee on Armed Services and the Committee on Financial Services of the House of Representatives.

(2) The term “predatory lending practice” means an unfair or abusive loan or credit sale transaction or collection practice.

Subtitle J—Reports and Sense of Congress Statements

SEC. 581. REPORT ON NEED FOR A PERSONNEL PLAN FOR LINGUISTS IN THE ARMED FORCES.

(a) **NEED ASSESSMENT.**—The Secretary of Defense shall review the career tracks of members of the Armed Forces who are linguists in an effort to improve the management of linguists (in enlisted grades or officer grades, or both) and to assist them in reaching their full linguistic and analytical potential over a 20-year career. As part of such review, the Secretary shall assess the need for a comprehensive plan to better manage the careers of military linguists (in enlisted grades or officer grades, or both) and to ensure that such linguists have an opportunity to progress in grade and are provided opportunities to enhance their language and cultural skills. As part of the review, the Secretary shall consider personnel management methods such as enhanced bonuses, immersion opportunities, specialized career fields, establishment of a dedicated career path for linguists, and career monitoring to ensure career progress for linguists serving in duty assignments that are not linguist related.

(b) **REPORT.**—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the review and assessment conducted under subsection (a). The report shall include the findings, results, and conclusions of the Secretary’s review and assessment of the careers of officer and enlisted linguists in the Armed Forces and the need for a comprehensive plan to ensure effective career management of linguists.

SEC. 582. SENSE OF CONGRESS THAT COLLEGES AND UNIVERSITIES GIVE EQUAL ACCESS TO MILITARY RECRUITERS AND ROTC IN ACCORDANCE WITH THE SOLOMON AMENDMENT AND REQUIREMENT FOR REPORT TO CONGRESS.

(a) **SENSE OF CONGRESS.**—It is the sense of Congress that—

(1) any college or university that discriminates against ROTC programs or military recruiters should be denied certain Federal taxpayer support, especially funding for many military and defense programs; and

(2) universities and colleges that receive Federal funds should provide military recruiters access to college campuses

and to college students equal in quality and scope to that provided all other employers.

(b) **REPORT REQUIRED.**—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the colleges and universities that are denying equal access to military recruiters and ROTC programs.

SEC. 583. SENSE OF CONGRESS CONCERNING STUDY OF OPTIONS FOR PROVIDING HOMELAND DEFENSE EDUCATION.

It is the sense of Congress that—

(1) the Secretary of Defense, in consultation with the Secretary of Homeland Security, should study the options among public and private educational institutions and facilities (including an option of using the National Defense University) for providing strategic-level homeland defense education and related research opportunities to civilian and military leaders from all agencies of government in order to contribute to the development of a common understanding of core homeland defense principles and of effective interagency homeland defense strategies, policies, doctrines, and processes; and

(2) the results of such consultation and study should be reported to the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate, together with such recommendations as the Secretary considers appropriate, including a request for any implementing legislation that would contribute to the development of strategic-level homeland defense education.

SEC. 584. SENSE OF CONGRESS RECOGNIZING THE DIVERSITY OF THE MEMBERS OF THE ARMED FORCES SERVING IN OPERATION IRAQI FREEDOM AND OPERATION ENDURING FREEDOM AND HONORING THEIR SACRIFICES AND THE SACRIFICES OF THEIR FAMILIES.

(a) **FINDINGS.**—Congress finds the following:

(1) Thousands of members of the United States Armed Forces who come from a variety of ethnic and racial backgrounds have served, and are serving, in Operation Iraqi Freedom and Operation Enduring Freedom to defend the cause of freedom, democracy, and liberty. Many have been killed, wounded, or seriously injured.

(2) Diversity is an essential part of the strength of the Armed Forces, in which members having different ethnic and racial backgrounds share the goal of defending the cause of freedom, democracy, and liberty.

(3) The Armed Forces are representative of the diverse culture and backgrounds that make the United States a great nation.

(b) **SENSE OF CONGRESS.**—It is the sense of Congress that the United States should—

(1) recognize and celebrate the diversity of the members of the Armed Forces; and

(2) recognize and honor the sacrifices being made by the members of the Armed Forces and their families in the global war on terrorism.

Subtitle K—Other Matters

SEC. 589. EXPANSION AND ENHANCEMENT OF AUTHORITY TO PRESENT RECOGNITION ITEMS FOR RECRUITMENT AND RETENTION PURPOSES.

(a) IN GENERAL.—

(1) AUTHORITY.—Subchapter II of chapter 134 of title 10, United States Code, is amended by adding at the end the following new section:

“§ 2261. Presentation of recognition items for recruitment and retention purposes

“(a) EXPENDITURES FOR RECOGNITION ITEMS.—Under regulations prescribed by the Secretary of Defense, appropriated funds may be expended—

“(1) to procure recognition items of nominal or modest value for recruitment or retention purposes; and

“(2) to present such items—

“(A) to members of the armed forces; and

“(B) to members of the families of members of the armed forces, and other individuals, recognized as providing support that substantially facilitates service in the armed forces.

“(b) PROVISION OF MEALS AND REFRESHMENTS.—For purposes of section 520c of this title and any regulation prescribed to implement that section, functions conducted for the purpose of presenting recognition items described in subsection (a) shall be treated as recruiting functions, and recipients of such items shall be treated as persons who are the objects of recruiting efforts.

“(c) RECOGNITION ITEMS OF NOMINAL OR MODEST VALUE.—In this section, the term ‘recognition item of nominal or modest value’ means a commemorative coin, medal, trophy, badge, flag, poster, painting, or other similar item that is valued at less than \$50 per item and is designed to recognize or commemorate service in the armed forces.

“(d) TERMINATION OF AUTHORITY.—The authority under this section shall expire December 31, 2007.”

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter II of chapter 134 of such title is amended by adding at the end the following new item:

“2261. Presentation of recognition items for recruitment and retention purposes.”

(b) REPEAL OF SUPERSEDED AUTHORITIES.—

(1) ARMY RESERVE.—Section 18506 of title 10, United States Code, is repealed. The table of sections at the beginning of chapter 1805 of such title is amended by striking the item relating to such section.

(2) NATIONAL GUARD.—Section 717 of title 32, United States Code, is repealed. The table of sections at the beginning of chapter 7 of such title is amended by striking the item relating to such section.

32 USC prec.
701.

SEC. 590. EXTENSION OF DATE OF SUBMITTAL OF REPORT OF VETERANS' DISABILITY BENEFITS COMMISSION.

Section 1503 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1678; 38 U.S.C. 1101 note) is amended by striking “Not later than 15 months

after the date on which the commission first meets,” and inserting “Not later than October 1, 2007,”.

10 USC 503 note. **SEC. 591. RECRUITMENT AND ENLISTMENT OF HOME-SCHOOLED STUDENTS IN THE ARMED FORCES.**

(a) **POLICY ON RECRUITMENT AND ENLISTMENT.**—

(1) **POLICY REQUIRED.**—The Secretary of Defense shall prescribe a policy on the recruitment and enlistment of home-schooled students in the Armed Forces.

(2) **UNIFORMITY ACROSS THE ARMED FORCES.**—The Secretary shall ensure that the policy prescribed under paragraph (1) applies, to the extent practicable, uniformly across the Armed Forces.

(b) **ELEMENTS.**—The policy under subsection (a) shall include the following:

(1) An identification of a graduate of home schooling for purposes of recruitment and enlistment in the Armed Forces that is in accordance with the requirements described in subsection (c).

(2) A communication plan to ensure that the policy described in subsection (c) is understood by recruiting officials of all the Armed Forces, to include field recruiters at the lowest level of command.

(3) An exemption of graduates of home schooling from the requirement for a secondary school diploma or an equivalent (GED) as a precondition for enlistment in the Armed Forces.

(c) **HOME SCHOOL GRADUATES.**—In prescribing the policy under subsection (a), the Secretary of Defense shall prescribe a single set of criteria to be used by the Armed Forces in determining whether an individual is a graduate of home schooling. The Secretary concerned shall ensure compliance with education credential coding requirements.

(d) **SECRETARY CONCERNED DEFINED.**—In this section, the term “Secretary concerned” has the meaning given such term in section 101(a)(9) of title 10, United States Code.

SEC. 592. MODIFICATION OF REQUIREMENT FOR CERTAIN INTERMEDIARIES UNDER CERTAIN AUTHORITIES RELATING TO ADOPTIONS.

(a) **REIMBURSEMENT FOR ADOPTION EXPENSES.**—Section 1052(g)(1) of title 10, United States Code, is amended by inserting “or other source authorized to place children for adoption under State or local law” after “qualified adoption agency”.

(b) **TREATMENT AS CHILDREN FOR MEDICAL AND DENTAL CARE PURPOSES.**—Section 1072(6)(D)(i) of such title is amended by inserting “, or by any other source authorized by State or local law to provide adoption placement,” after “(recognized by the Secretary of Defense)”.

SEC. 593. ADOPTION LEAVE FOR MEMBERS OF THE ARMED FORCES ADOPTING CHILDREN.

(a) **LEAVE AUTHORIZED.**—Section 701 of title 10, United States Code, is amended by adding at the end the following new subsection:

“(i)(1) Under regulations prescribed by the Secretary of Defense, a member of the armed forces adopting a child in a qualifying child adoption is allowed up to 21 days of leave in a calendar year to be used in connection with the adoption.”

“(2) For the purpose of this subsection, an adoption of a child by a member is a qualifying child adoption if the member is eligible for reimbursement of qualified adoption expenses for such adoption under section 1052 of this title.

“(3) In the event that two members of the armed forces who are married to each other adopt a child in a qualifying child adoption, only one such member shall be allowed leave under this subsection.

“(4) Leave under paragraph (1) is in addition to other leave provided under other provisions of this section.”.

(b) EFFECTIVE DATE.—Subsection (i) of section 701 of title 10, United States Code (as added by subsection (a)), shall take effect on January 1, 2006, and shall apply only with respect to adoptions completed on or after that date.

10 USC 701 note.

SEC. 594. ADDITION OF INFORMATION TO BE COVERED IN MANDATORY PRESEPARATION COUNSELING.

Section 1142(b) of title 10, United States Code, is amended—

(1) in paragraph (4), by striking “(4) Information concerning” and inserting the following:

“(4) Provision of information on civilian occupations and related assistance programs, including information concerning—

“(A) certification and licensure requirements that are applicable to civilian occupations;

“(B) civilian occupations that correspond to military occupational specialties; and

“(C)”;

(2) by adding at the end the following:

“(11) Information concerning the availability of mental health services and the treatment of post-traumatic stress disorder, anxiety disorders, depression, suicidal ideations, or other mental health conditions associated with service in the armed forces.

“(12) Information concerning the priority of service for veterans in the receipt of employment, training, and placement services provided under qualified job training programs of the Department of Labor.

“(13) Information concerning veterans small business ownership and entrepreneurship programs of the Small Business Administration and the National Veterans Business Development Corporation.

“(14) Information concerning employment and reemployment rights and obligations under chapter 43 of title 38.

“(15) Information concerning veterans preference in federal employment and federal procurement opportunities.

“(16) Contact information for housing counseling assistance.

“(17) A description, developed in consultation with the Secretary of Veterans Affairs, of health care and other benefits to which the member may be entitled under the laws administered by the Secretary of Veterans Affairs.”.

SEC. 595. REPORT ON TRANSITION ASSISTANCE PROGRAMS.

(a) REPORT REQUIRED.—Not later than May 1, 2006, the Secretary of Defense shall submit to Congress a report on the actions taken, including those actions taken pursuant to the recommendations in the May 2005 report of the Comptroller General submitted to Congress pursuant to section 598 of the Ronald W. Reagan

National Defense Authorization Act for Fiscal Year 2005 (Public Law 108-375; 118 Stat. 1939), to ensure that the Transition Assistance Programs for members of the Armed Forces separating from the Armed Forces (including members of the regular components of the Armed Forces and members of the reserve components of the Armed Forces) function effectively to provide such members with timely and comprehensive transition assistance when separating from the Armed Forces. The report under this section shall be prepared in consultation with the Secretary of Labor and the Secretary of Veterans Affairs.

(b) **FOCUS ON PARTICULAR MEMBERS.**—The report required by subsection (a) shall include particular attention to the actions taken with respect to the Transition Assistance Programs to assist the following members of the Armed Forces:

- (1) Members deployed to Operation Iraqi Freedom.
- (2) Members deployed to Operation Enduring Freedom.
- (3) Members deployed to or in support of other contingency operations.
- (4) Members of the National Guard activated under the provisions of title 32, United States Code, in support of relief efforts for Hurricane Katrina and Hurricane Rita.

SEC. 596. IMPROVEMENT TO DEPARTMENT OF DEFENSE CAPACITY TO RESPOND TO SEXUAL ASSAULT AFFECTING MEMBERS OF THE ARMED FORCES.

10 USC 113 note.

(a) **PLAN FOR SYSTEM TO TRACK CASES IN WHICH CARE OR PROSECUTION HINDERED BY LACK OF AVAILABILITY.**—

(1) **PLAN REQUIRED.**—The Secretary of Defense shall develop and implement a system to track cases under the jurisdiction of the Department of Defense in which care to a victim of rape or sexual assault, or the investigation or prosecution of an alleged perpetrator of rape or sexual assault, is hindered by the lack of availability of a rape kit or other needed supplies or by the lack of timely access to appropriate laboratory testing resources.

(2) **SUBMITTAL TO CONGRESSIONAL COMMITTEES.**—The Secretary shall submit the plan developed under paragraph (1) to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives not later than 120 days after the date of the enactment of this Act.

(b) **ACCESSIBILITY PLAN FOR DEPLOYED UNITS.**—

(1) **PLAN REQUIRED.**—The Secretary of Defense shall develop and implement a plan for ensuring accessibility and availability of supplies, trained personnel, and transportation resources for responding to sexual assaults occurring in deployed units. The plan shall include the following:

(A) A plan for the training of personnel who are considered to be “first responders” to sexual assaults (including criminal investigators, medical personnel responsible for rape kit evidence collection, and victims advocates), such training to include current techniques on the processing of evidence, including rape kits, and on conducting investigations.

(B) A plan for ensuring the availability at military hospitals of supplies needed for the treatment of victims of sexual assault who present at a military hospital,

including rape kits, equipment for processing rape kits, and supplies for testing and treatment for sexually transmitted infections and diseases, including HIV, and for testing for pregnancy.

(2) SUBMITTAL TO CONGRESSIONAL COMMITTEES.—The Secretary shall submit the plan developed under paragraph (1) to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives not later than 120 days after the date of the enactment of this Act.

(c) ADDITIONAL MATTERS FOR ANNUAL REPORT ON SEXUAL ASSAULTS.—Section 577(f)(2) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 1927; 10 U.S.C. 113 note) is amended—

(1) by redesignating subparagraph (D) as subparagraph (G); and

(2) by inserting after subparagraph (C) the following new subparagraphs:

“(D) A description of the implementation during the year covered by the report of the tracking system implemented pursuant to section 596(a) of the National Defense Authorization Act for Fiscal Year 2006, including information collected on cases during that year in which care to a victim of rape or sexual assault was hindered by the lack of availability of a rape kit or other needed supplies or by the lack of timely access to appropriate laboratory testing resources.

“(E) A description of the implementation during the year covered by the report of the accessibility plan implemented pursuant to section 596(b) of the National Defense Authorization Act for Fiscal Year 2006, including a description of the steps taken during that year to provide that trained personnel, appropriate supplies, and transportation resources are accessible to deployed units in order to provide an appropriate and timely response in any case of reported sexual assault in a deployed unit.

“(F) A description of the required supply inventory, location, accessibility, and availability of supplies, trained personnel, and transportation resources needed, and in fact in place, in order to be able to provide an appropriate and timely response in any case of reported sexual assault in a deployed unit.”.

SEC. 597. AUTHORITY FOR APPOINTMENT OF COAST GUARD FLAG OFFICER AS CHIEF OF STAFF TO THE PRESIDENT.

(a) AUTHORITY.—Chapter 3 of title 14, United States Code, is amended by adding at the end the following new section:

“§ 54. Chief of staff to President: appointment

“The President, by and with the advice and consent of the Senate, may appoint a flag officer of the Coast Guard as the Chief of Staff to the President.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“54. Chief of Staff to President: appointment.”.

SEC. 598. PRAYER AT MILITARY SERVICE ACADEMY ACTIVITIES.

(a) IN GENERAL.—The superintendent of a service academy may have in effect such policy as the superintendent considers

10 USC 4331
note.

appropriate with respect to the offering of a voluntary, non-denominational prayer at an otherwise authorized activity of the academy, subject to the United States Constitution and such limitations as the Secretary of Defense may prescribe.

(b) **SERVICE ACADEMIES.**—For purposes of this section, the term “service academy” means any of the following:

- (1) The United States Military Academy.
- (2) The United States Naval Academy.
- (3) The United States Air Force Academy.

SEC. 599. MODIFICATION OF AUTHORITY TO MAKE MILITARY WORKING DOGS AVAILABLE FOR ADOPTION.

(a) **ADMINISTRATION OF AUTHORITY BY SECRETARIES OF MILITARY DEPARTMENTS.**—Subsection (a) of section 2583 of title 10, United States Code, is amended—

- (1) by striking “Secretary of Defense may” and inserting “Secretary of the military department concerned may”; and
- (2) by striking “the Department of Defense” and inserting “such military department”.

(b) **AUTHORITY TO MAKE DOGS AVAILABLE FOR ADOPTION BEFORE END OF USEFUL WORKING LIFE.**—Such subsection is further amended by striking “at the end” and all that follows and inserting “, unless the dog has been determined to be unsuitable for adoption under subsection (b), under circumstances as follows:

- “(1) At the end of the dog’s useful working life.
- “(2) Before the end of the dog’s useful working life, if such Secretary, in such Secretary’s discretion, determines that unusual or extraordinary circumstances justify making the dog available for adoption before that time.
- “(3) When the dog is otherwise excess to the needs of such military department.”.

(c) **CLARIFICATION OF REPORTING REQUIREMENT.**—Subsection (f) of such section is amended by inserting “of Defense” after “Secretary”.

(d) **CONFORMING AND CLERICAL AMENDMENTS.**—The heading of such section, and the item relating to such section in the table of sections at the beginning of chapter 153 of such title, are each amended by striking the last six words.

10 USC prec.
2571.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

SUBTITLE A—PAY AND ALLOWANCES

- Sec. 601. Increase in basic pay for fiscal year 2006.
- Sec. 602. Additional pay for permanent military professors at United States Naval Academy with over 36 years of service.
- Sec. 603. Basic pay rates for reserve component members selected to attend military service academy preparatory schools.
- Sec. 604. Clarification of restriction on compensation for correspondence courses.
- Sec. 605. Enhanced authority for agency contributions for members of the Armed Forces participating in the Thrift Savings Plan.
- Sec. 606. Pilot program on contributions to Thrift Savings Plan for initial enlistees in the Army.
- Sec. 607. Prohibition against requiring certain injured members to pay for meals provided by military treatment facilities.
- Sec. 608. Permanent authority for supplemental subsistence allowance for low-income members with dependents.
- Sec. 609. Increase in basic allowance for housing and extension of temporary lodging expenses authority for areas subject to major disaster declaration or for installations experiencing sudden increase in personnel levels.

- Sec. 610. Basic allowance for housing for reserve component members.
- Sec. 611. Permanent increase in length of time dependents of certain deceased members may continue to occupy military family housing or receive basic allowance for housing.
- Sec. 612. Overseas cost of living allowance.
- Sec. 613. Allowance to cover portion of monthly deduction from basic pay for Servicemembers' Group Life Insurance coverage for members serving in Operation Enduring Freedom or Operation Iraqi Freedom.
- Sec. 614. Income replacement payments for Reserves experiencing extended and frequent mobilization for active duty service.

SUBTITLE B—BONUSES AND SPECIAL AND INCENTIVE PAYS

- Sec. 621. Extension or resumption of certain bonus and special pay authorities for reserve forces.
- Sec. 622. Extension of certain bonus and special pay authorities for certain health care professionals.
- Sec. 623. Extension of special pay and bonus authorities for nuclear officers.
- Sec. 624. Extension of other bonus and special pay authorities.
- Sec. 625. Eligibility of oral and maxillofacial surgeons for incentive special pay.
- Sec. 626. Eligibility of dental officers for additional special pay.
- Sec. 627. Increase in maximum monthly rate authorized for hardship duty pay.
- Sec. 628. Flexible payment of assignment incentive pay.
- Sec. 629. Active-duty reenlistment bonus.
- Sec. 630. Reenlistment bonus for members of the Selected Reserve.
- Sec. 631. Consolidation and modification of bonuses for affiliation or enlistment in the Selected Reserve.
- Sec. 632. Expansion and enhancement of special pay for enlisted members of the Selected Reserve assigned to certain high priority units.
- Sec. 633. Eligibility requirements for prior service enlistment bonus.
- Sec. 634. Increase and enhancement of affiliation bonus for officers of the Selected Reserve.
- Sec. 635. Increase in authorized maximum amount of enlistment bonus.
- Sec. 636. Discretion of Secretary of Defense to authorize retroactive hostile fire and imminent danger pay.
- Sec. 637. Increase in maximum bonus amount for nuclear-qualified officers extending period of active duty.
- Sec. 638. Increase in maximum amount of nuclear career annual incentive bonus for nuclear-qualified officers trained while serving as enlisted members.
- Sec. 639. Uniform payment of foreign language proficiency pay to eligible reserve component members and regular component members.
- Sec. 640. Retention bonus for members qualified in certain critical skills or assigned to high priority units.
- Sec. 641. Incentive bonus for transfer between Armed Forces.
- Sec. 642. Availability of special pay for members during rehabilitation from wounds, injuries, and illnesses incurred in a combat operation or combat zone.
- Sec. 643. Pay and benefits to facilitate voluntary separation of targeted members of the Armed Forces.
- Sec. 644. Ratification of payment of critical-skills accession bonus for persons enrolled in Senior Reserve Officers' Training Corps obtaining nursing degrees.
- Sec. 645. Temporary authority to pay bonus to encourage members of the Army to refer other persons for enlistment in the Army.

SUBTITLE C—TRAVEL AND TRANSPORTATION ALLOWANCES

- Sec. 651. Authorized absences of members for which lodging expenses at temporary duty location may be paid.
- Sec. 652. Extended period for selection of home for travel and transportation allowances for dependents of deceased members.
- Sec. 653. Transportation of family members in connection with the repatriation of members held captive.
- Sec. 654. Increased weight allowances for shipment of household goods of senior noncommissioned officers.
- Sec. 655. Permanent authority to provide travel and transportation allowances for family members to visit hospitalized members of the Armed Forces injured in combat operation or combat zone.

SUBTITLE D—RETIRED PAY AND SURVIVOR BENEFITS

- Sec. 661. Monthly disbursement to States of State income tax withheld from retired or retainer pay.
- Sec. 662. Denial of certain burial-related benefits for individuals who committed a capital offense.

- Sec. 663. Concurrent receipt of veterans' disability compensation and military retired pay.
- Sec. 664. Additional amounts of death gratuity for survivors of certain members of the Armed Forces dying on active duty.
- Sec. 665. Child support for certain minor children of retirement-eligible members convicted of domestic violence resulting in death of child's other parent.
- Sec. 666. Comptroller General report on actuarial soundness of the Survivor Benefit Plan.

**SUBTITLE E—COMMISSARY AND NONAPPROPRIATED FUND INSTRUMENTALITY
BENEFITS**

- Sec. 671. Increase in authorized level of supplies and services procurement from overseas exchange stores.
- Sec. 672. Requirements for private operation of commissary store functions.
- Sec. 673. Provision of and payment for overseas transportation services for commissary and exchange supplies and products.
- Sec. 674. Compensatory time off for certain nonappropriated fund employees.
- Sec. 675. Rest and recuperation leave programs.

SUBTITLE F—OTHER MATTERS

- Sec. 681. Temporary Army authority to provide additional recruitment incentives.
- Sec. 682. Clarification of leave accrual for members assigned to a deployable ship or mobile unit or other duty.
- Sec. 683. Expansion of authority to remit or cancel indebtedness of members of the Armed Forces incurred on active duty.
- Sec. 684. Loan repayment program for chaplains in the Selected Reserve.
- Sec. 685. Inclusion of Senior Enlisted Advisor for the Chairman of the Joint Chiefs of Staff among senior enlisted members of the Armed Forces.
- Sec. 686. Special and incentive pays considered for saved pay upon appointment of members as officers.
- Sec. 687. Repayment of unearned portion of bonuses, special pays, and educational benefits.
- Sec. 688. Rights of members of the Armed Forces and their dependents under Housing and Urban Development Act of 1968.
- Sec. 689. Extension of eligibility for SSI for certain individuals in families that include members of the Reserve and National Guard.
- Sec. 690. Information for members of the Armed Forces and their dependents on rights and protections of the Servicemembers Civil Relief Act.

Subtitle A—Pay and Allowances

37 USC 1009
note.

SEC. 601. INCREASE IN BASIC PAY FOR FISCAL YEAR 2006.

(a) **WAIVER OF SECTION 1009 ADJUSTMENT.**—The adjustment to become effective during fiscal year 2006 required by section 1009 of title 37, United States Code, in the rates of monthly basic pay authorized members of the uniformed services shall not be made.

(b) **INCREASE IN BASIC PAY.**—Effective on January 1, 2006, the rates of monthly basic pay for members of the uniformed services are increased by 3.1 percent.

SEC. 602. ADDITIONAL PAY FOR PERMANENT MILITARY PROFESSORS AT UNITED STATES NAVAL ACADEMY WITH OVER 36 YEARS OF SERVICE.

Section 203(b) of title 37, United States Code, is amended by inserting after “Military Academy” the following: “, the United States Naval Academy,”.

SEC. 603. BASIC PAY RATES FOR RESERVE COMPONENT MEMBERS SELECTED TO ATTEND MILITARY SERVICE ACADEMY PREPARATORY SCHOOLS.

Section 203(e)(2) of title 37, United States Code, is amended—

(1) by striking “on active duty for a period of more than 30 days shall continue to receive” and inserting “shall receive”; and

(2) by inserting before the period at the end the following: “or at the rate provided for cadets and midshipmen under subsection (c), whichever is greater”.

SEC. 604. CLARIFICATION OF RESTRICTION ON COMPENSATION FOR CORRESPONDENCE COURSES.

Section 206(d)(1) of title 37, United States Code, is amended by inserting after “reserve component” the following: “or by a member of the National Guard while not in Federal service”.

SEC. 605. ENHANCED AUTHORITY FOR AGENCY CONTRIBUTIONS FOR MEMBERS OF THE ARMED FORCES PARTICIPATING IN THE THRIFT SAVINGS PLAN.

(a) **AUTHORITY TO MAKE CONTRIBUTIONS FOR CERTAIN FIRST-TIME ENLISTEES.**—Subsection (d) of section 211 of title 37, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by inserting “(i)” after “(A)”;

(B) by redesignating subparagraph (B) as clause (ii) of subparagraph (A) and, in such clause, by striking the period at the end and inserting “; or”; and

(C) by adding at the end the following new subparagraph (B):

“(B) is enlisting in the armed forces for the first time and the period of the member’s enlistment is not less than two years.”;

(2) in paragraph (2), by striking “paragraph (1)” the first place it appears and inserting “paragraph (1)(A)”;

(3) by designating the second sentence of paragraph (2) as paragraph (4) and, in such paragraph, by striking “this paragraph” and inserting “this subsection”; and

(4) by inserting before such paragraph (4) the following new paragraph:

“(3) In the case of a member described by paragraph (1)(B), the Secretary shall make contributions to the Fund for the benefit of the member for each pay period of the enlistment of the member described in that paragraph for which the member makes a contribution to the Fund under section 8440e of title 5 (other than under subsection (d)(2) thereof).”.

(b) **CLERICAL AMENDMENT.**—Such subsection is further amended by inserting “AND FIRST-TIME ENLISTEES” after “SPECIAL-TIES”.

SEC. 606. PILOT PROGRAM ON CONTRIBUTIONS TO THRIFT SAVINGS PLAN FOR INITIAL ENLISTEES IN THE ARMY.

37 USC 211 note.

(a) **PILOT PROGRAM REQUIRED.**—During fiscal year 2006, the Secretary of the Army shall use the authority provided by section 211(d)(1)(B) of title 10, United States Code, as amended by section 605, to carry out within the Army a pilot program in order to assess the extent to which contributions by the Secretary to the Thrift Savings Fund on behalf of members of the Army described in subsection (b) would—

(1) assist the Army in recruiting efforts; and

(2) assist such members in establishing habits of financial responsibility during their initial enlistment in the Armed Forces.

(b) **COVERED MEMBERS.**—To be eligible to participate in the pilot program under subsection (a), a member of the Army must

be serving under an initial enlistment for a period of not less than two years.

(c) CONTRIBUTIONS TO THRIFT SAVINGS FUND.—

(1) IN GENERAL.—The Secretary of the Army may make contributions to the Thrift Savings Fund on behalf of any participant in the pilot program under subsection (a) for any pay period during the period of the pilot program.

(2) LIMITATIONS.—The amount of any contributions made with respect to a member under paragraph (1) shall be subject to the provisions of section 8432(c) of title 5, United States Code.

(d) REPORT.—

(1) IN GENERAL.—Not later than February 1, 2007, the Secretary of Defense shall submit to the congressional defense committees a report on the pilot program under subsection (a).

(2) ELEMENTS.—The report shall include the following:

(A) A description of the pilot program, including the number of members of the Army who participated in the pilot program and the contributions made by the Army to the Thrift Savings Fund on behalf of such members during the period of the pilot program.

(B) An assessment, based on the pilot program and taking into account the views of officers and senior enlisted personnel of the Army, and of field recruiters, of the extent to which contributions by the military departments to the Thrift Savings Fund on behalf of members of the Armed Forces similar to the participants in the pilot program—

(i) would enhance the recruiting efforts of the Armed Forces; and

(ii) would assist such members in establishing habits of financial responsibility during their initial enlistment in the Armed Forces.

SEC. 607. PROHIBITION AGAINST REQUIRING CERTAIN INJURED MEMBERS TO PAY FOR MEALS PROVIDED BY MILITARY TREATMENT FACILITIES.

(a) TEMPORARY PROHIBITION.—Section 402 of title 37, United States Code, is amended—

(1) by redesignating subsection (h) as subsection (i); and

(2) by inserting after subsection (g) the following new subsection:

“(h) NO PAYMENT FOR MEALS RECEIVED AT MILITARY TREATMENT FACILITIES.—(1) A member of the armed forces who is undergoing medical recuperation or therapy, or is otherwise in the status of continuous care, including outpatient care, at a military treatment facility for an injury, illness, or disease described in paragraph (2) shall not be required to pay any charge for meals provided to the member by the military treatment facility during any month covered by paragraph (3) in which the member is entitled to a basic allowance for subsistence under this section.

“(2) Paragraph (1) applies with respect to an injury, illness, or disease incurred or aggravated by a member while the member was serving on active duty—

“(A) in support of Operation Iraqi Freedom or Operation Enduring Freedom; or

“(B) in any other operation designated by the Secretary of Defense as a combat operation or in an area designated by the Secretary as a combat zone.

“(3) This subsection shall apply to months beginning during the period beginning on October 1, 2005, and ending on December 31, 2006.”.

Effective date.

(b) **REPEAL OF TEMPORARY AUTHORITY.**—Section 1023 of division A of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (Public Law 109–13), is repealed.

Ante, p. 251.

SEC. 608. PERMANENT AUTHORITY FOR SUPPLEMENTAL SUBSISTENCE ALLOWANCE FOR LOW-INCOME MEMBERS WITH DEPENDENTS.

(a) **REPEAL OF TERMINATION PROVISION.**—Section 402a of title 37, United States Code, is amended by striking subsection (i).

(b) **TECHNICAL AND CONFORMING AMENDMENTS.**—Subsection (f) of such section is amended—

(1) in the first sentence, by striking “Secretary of Transportation” and inserting “Secretary of Homeland Security, with respect to the Coast Guard”; and

(2) by striking the second sentence.

SEC. 609. INCREASE IN BASIC ALLOWANCE FOR HOUSING AND EXTENSION OF TEMPORARY LODGING EXPENSES AUTHORITY FOR AREAS SUBJECT TO MAJOR DISASTER DECLARATION OR FOR INSTALLATIONS EXPERIENCING SUDDEN INCREASE IN PERSONNEL LEVELS.

(a) **TEMPORARY BASIC ALLOWANCE FOR HOUSING INCREASE AUTHORIZED.**—Section 403(b) of title 37, United States Code, is amended by adding at the end the following new paragraph:

“(7)(A) Under the authority of this paragraph, the Secretary of Defense may prescribe a temporary increase in the rates of basic allowance for housing otherwise prescribed for a military housing area or a portion of a military housing area if the military housing area or portion thereof—

“(i) is located in an area covered by a declaration by the President under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170) that a major disaster exists; or

“(ii) contains one or more military installations that are experiencing a sudden increase in the number of members of the armed forces assigned to the installation.

“(B) The Secretary of Defense shall base the amount of the increase to be made in the rates of basic allowance for housing for an area on a determination by the Secretary of the amount by which the costs of adequate housing for civilians have increased in the area by reason of the disaster or the influx of military personnel, except that the increase may not exceed the amount equal to 20 percent of the rate of basic allowance for housing otherwise prescribed for the area.

“(C) A member may be paid a basic allowance for housing at a rate increased under this paragraph only if the member certifies to the Secretary concerned that the member has incurred increased housing costs in the area by reason of the disaster or the influx of military personnel.

“(D) Subject to subparagraph (E), an increase in the rates of basic allowance for housing in an area under this paragraph

shall remain in effect until the effective date of the first adjustment in rates of basic allowance for housing made for the area pursuant to a redetermination of housing costs in the area under this subsection that occurs after the date of the increase under this paragraph.

“(E) An increase in the rates of basic allowance for housing for an area may not be prescribed under this paragraph or continue after December 31, 2008.”.

(b) TEMPORARY EXTENSION OF TEMPORARY LODGING EXPENSES AUTHORITY.—Section 404a(c) of such title is amended by adding at the end the following new paragraph:

“(3) Whenever the conditions described in clause (i) or (ii) of subparagraph (A) of section 403(b)(7) of this title exist for a military housing area or portion thereof, the Secretary concerned may increase the period for which subsistence expenses are to be paid or reimbursed under this section in the case of a change of permanent station described in subparagraph (A) or (C) of subsection (a)(2) in the same military housing area or portion thereof to a maximum of 20 days.”.

37 USC 403 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to months beginning on or after September 1, 2005.

SEC. 610. BASIC ALLOWANCE FOR HOUSING FOR RESERVE COMPONENT MEMBERS.

(a) EQUAL TREATMENT OF RESERVE MEMBERS.—Subsection (g) of section 403 of title 37, United States Code, is amended—

(1) by redesignating paragraph (3) as paragraph (4);

(2) by inserting after paragraph (2) the following new paragraph (3):

“(3) The rate of basic allowance for housing to be paid to the following members of a reserve component shall be equal to the rate in effect for similarly situated members of a regular component of the uniformed services:

“(A) A member who is called or ordered to active duty for a period of more than 30 days.

“(B) A member who is called or ordered to active duty for a period of 30 days or less in support of a contingency operation.”; and

(3) in paragraph (4), as so redesignated, by striking “less than 140 days” and inserting “30 days or less”.

(b) CONFORMING AMENDMENT REGARDING MEMBERS WITHOUT DEPENDENTS.—Paragraph (1) of such subsection is amended by inserting “or for a period of more than 30 days” after “in support of a contingency operation” both places it appears.

37 USC 403 note.

SEC. 611. PERMANENT INCREASE IN LENGTH OF TIME DEPENDENTS OF CERTAIN DECEASED MEMBERS MAY CONTINUE TO OCCUPY MILITARY FAMILY HOUSING OR RECEIVE BASIC ALLOWANCE FOR HOUSING.

Effective immediately after the termination, pursuant to subsection (b) of section 1022 of Public Law 109–13 (119 Stat. 251) and section 124 of Public Law 109–77 (119 Stat. 2041), of the amendments made by subsection (a) of such section 1022, section 403(l) of title 37, United States Code, is amended by striking “180 days” each place it appears and inserting “365 days”.

SEC. 612. OVERSEAS COST OF LIVING ALLOWANCE.

(a) **PAYMENT OF ALLOWANCE BASED ON OVERSEAS LOCATION OF DEPENDENTS.**—Section 405 of title 37, United States Code, is amended by adding at the end the following new subsection:

“(e) **PAYMENT OF ALLOWANCE BASED ON OVERSEAS LOCATION OF DEPENDENTS.**—In the case of a member assigned to duty inside the continental United States whose dependents continue to reside outside the continental United States, the Secretary concerned may pay the member a per diem under this section based on the location of the dependents and provide reimbursement under subsection (d) for an unusual or extraordinary expense incurred by the dependents if the Secretary determines that such payment or reimbursement is in the best interest of the member or the member’s dependents and in the best interest of the United States.”.

(b) **CLARIFICATION OF EXPENSES ELIGIBLE FOR LUMP-SUM REIMBURSEMENT.**—Subsection (d) of such section is amended—

(1) in the subsection heading, by striking “NONRECURRING” and inserting “UNUSUAL OR EXTRAORDINARY”;

(2) by inserting “or (e)” after “subsection (a)” each place it appears; and

(3) in paragraph (1)—

(A) by striking “a nonrecurring” and inserting “an unusual or extraordinary” in the matter preceding subparagraph (A); and

(B) in subparagraph (A), by inserting “or the location of the member’s dependents” before the semicolon.

SEC. 613. ALLOWANCE TO COVER PORTION OF MONTHLY DEDUCTION FROM BASIC PAY FOR SERVICEMEMBERS’ GROUP LIFE INSURANCE COVERAGE FOR MEMBERS SERVING IN OPERATION ENDURING FREEDOM OR OPERATION IRAQI FREEDOM.

(a) **ALLOWANCE TO COVER SGLI DEDUCTIONS.**—Chapter 7 of title 37, United States Code, is amended by adding at the end the following new section:

“§ 437. Allowance to cover portion of monthly premium for Servicemembers’ Group Life Insurance: members serving in Operation Enduring Freedom or Operation Iraqi Freedom

“(a) **REQUIRED REIMBURSEMENT FOR PREMIUM DEDUCTION.**—

(1) In the case of a member of the armed forces who has insurance coverage for the member under the Servicemembers’ Group Life Insurance program under subchapter III of chapter 19 of title 38 and who serves in the theater of operations for Operation Enduring Freedom or Operation Iraqi Freedom at any time during a month, the Secretary concerned shall pay the member an allowance under this section for that month in an amount equal to the amount of the deduction made under subsection (a)(1) of section 1969 of such title for the first \$150,000 of Servicemembers’ Group Life Insurance coverage held by the member under section 1967 of such title.

“(2) If a member described in paragraph (1) elected to be insured in an amount less than the coverage amount specified in paragraph (1) or in effect pursuant to subsection (b), the amount of the allowance under this section for a month shall be equal

to the amount of the deduction made for that month under subsection (a)(1) of section 1969 of title 38 from the basic pay of the member for the amount of Servicemembers' Group Life Insurance coverage actually held by the member under section 1967 of such title.

“(b) **AUTHORITY TO INCREASE MAXIMUM REIMBURSEMENT AMOUNT.**—For purposes of subsection (a), the Secretary of Defense is authorized to increase the coverage amount specified in paragraph (1) of such subsection to permit the reimbursement of all or an additional amount of the deduction made under section 1969(a)(1) of title 38 for levels of coverage in excess of \$150,000 for members under the Servicemembers' Group Life Insurance program.

“(c) **NOTICE OF AVAILABILITY OF ALLOWANCE.**—To the maximum extent practicable, in advance of the deployment of a member to a theater of operations referred to in subsection (a), the Secretary concerned shall give the member information regarding the following:

“(1) The availability of the allowance under this section for members insured under the Servicemembers' Group Life Insurance program.

“(2) The ability of members who elected not to be insured under Servicemembers' Group Life Insurance, or elected less than the coverage amount specified in subsection (a)(1) or in effect pursuant to subsection (b), to obtain insurance, or to obtain additional coverage, as the case may be, under the authority provided in section 1967(c) of title 38.”.

(b) **CLERICAL AMENDMENT.**—The table of sections at the beginning of chapter 7 of title 37, United States Code, is amended by adding at the end the following new item:

“437. Allowance to cover portion of monthly premium for Servicemembers' Group Life Insurance: members serving in Operation Enduring Freedom or Operation Iraqi Freedom.”.

37 USC 437 note.

(c) **EFFECTIVE DATE; NOTIFICATION.**—Section 437 of title 37, United States Code, as added by subsection (a), shall apply with respect to service by members of the Armed Forces in the theater of operations for Operation Enduring Freedom or Operation Iraqi Freedom for months beginning on or after the date of the enactment of this Act. In the case of members who are serving in the theater of operations for Operation Enduring Freedom or Operation Iraqi Freedom as of such date, the Secretary of Defense shall provide such members, as soon as practicable, the information specified in subsection (c) of that section.

SEC. 614. INCOME REPLACEMENT PAYMENTS FOR RESERVES EXPERIENCING EXTENDED AND FREQUENT MOBILIZATION FOR ACTIVE DUTY SERVICE.

(a) **IN GENERAL.**—Chapter 17 of title 37, United States Code, is amended by adding at the end the following new section:

“§ 910. Replacement of lost income: involuntarily mobilized reserve component members subject to extended and frequent active duty service

“(a) **PAYMENT REQUIRED.**—The Secretary concerned shall pay to an eligible member of a reserve component of the armed forces an amount equal to the monthly active-duty income differential of the member, as determined by the Secretary. The payments shall be made on a monthly basis.

“(b) **ELIGIBILITY.**—Subject to subsection (c), a reserve component member is entitled to a payment under this section for any full month of active duty of the member, while on active duty under an involuntary mobilization order, following the date on which the member—

“(1) completes 18 continuous months of service on active duty under such an order;

“(2) completes 24 months on active duty during the previous 60 months under such an order; or

“(3) is involuntarily mobilized for service on active duty for a period of 180 days or more within six months or less following the member’s separation from a previous period of involuntary active duty for a period of 180 days or more.

“(c) **MINIMUM AND MAXIMUM PAYMENT AMOUNTS.**—(1) A payment under this section shall be made to a member for a month only if the amount of the monthly active-duty income differential for the month is greater than \$50.

“(2) Notwithstanding the amount determined under subsection (d) for a member for a month, the monthly payment to a member under this section may not exceed \$3,000.

“(d) **MONTHLY ACTIVE-DUTY INCOME DIFFERENTIAL.**—For purposes of this section, the monthly active-duty income differential of a member is the difference between—

“(1) the average monthly civilian income of the member; and

“(2) the member’s total monthly military compensation.

“(e) **DEFINITIONS.**—In this section:

“(1) The term ‘average monthly civilian income’, with respect to a member of a reserve component, means the amount, determined by the Secretary concerned, of the earned income of the member for either the 12 months preceding the member’s mobilization or the 12 months covered by the member’s most recent Federal income tax filing, divided by 12.

“(2) The term ‘total monthly military compensation’ means the amount, computed on a monthly basis, of the sum of—

“(A) the amount of the regular military compensation (RMC) of the member; and

“(B) any amount of special pay or incentive pay and any allowance (other than an allowance included in regular military compensation) that is paid to the member on a monthly basis.

“(f) **REGULATIONS.**—This section shall be administered under regulations to be prescribed by the Secretary of Defense.

“(g) **TERMINATION OF AUTHORITY.**—No payment shall be made under this section after December 31, 2008.”.

(b) **CLERICAL AMENDMENT.**—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“910. Replacement of lost income: involuntarily mobilized reserve component members subject to extended and frequent active duty service.”.

(c) **EFFECTIVE DATE.**—Section 910 of title 37, United States Code, as added by subsection (a), may apply only with respect to months beginning after the end of the 180-day period beginning on the date of the enactment of this Act .

37 USC 910 note.

Subtitle B—Bonuses and Special and Incentive Pays

SEC. 621. EXTENSION OR RESUMPTION OF CERTAIN BONUS AND SPECIAL PAY AUTHORITIES FOR RESERVE FORCES.

(a) **SELECTED RESERVE REENLISTMENT BONUS.**—Section 308b(g) of title 37, United States Code, is amended by striking “December 31, 2005” and inserting “December 31, 2006”.

(b) **SPECIAL PAY FOR ENLISTED MEMBERS ASSIGNED TO CERTAIN HIGH PRIORITY UNITS.**—Section 308d(c) of such title is amended by striking “December 31, 2005” and inserting “December 31, 2006”.

(c) **READY RESERVE ENLISTMENT BONUS FOR PERSONS WITHOUT PRIOR SERVICE.**—Section 308g(h) of such title is amended by striking “an enlistment after September 30, 1992” and inserting “an enlistment—

“(1) during the period beginning on October 1, 1992, and ending on September 30, 2005; or

“(2) after December 31, 2006.”.

(d) **READY RESERVE ENLISTMENT AND REENLISTMENT BONUS FOR PERSONS WITH PRIOR SERVICE.**—Section 308h(g) of such title is amended by striking “December 31, 2005” and inserting “December 31, 2006”.

(e) **SELECTED RESERVE ENLISTMENT BONUS FOR PERSONS WITH PRIOR SERVICE.**—Section 308i(f) of such title is amended by striking “December 31, 2005” and inserting “December 31, 2006”.

SEC. 622. EXTENSION OF CERTAIN BONUS AND SPECIAL PAY AUTHORITIES FOR CERTAIN HEALTH CARE PROFESSIONALS.

(a) **NURSE OFFICER CANDIDATE ACCESSION PROGRAM.**—Section 2130a(a)(1) of title 10, United States Code, is amended by striking “December 31, 2005” and inserting “December 31, 2006”.

(b) **REPAYMENT OF EDUCATION LOANS FOR CERTAIN HEALTH PROFESSIONALS WHO SERVE IN THE SELECTED RESERVE.**—Section 16302(d) of such title is amended by striking “January 1, 2006” and inserting “January 1, 2007”.

(c) **ACCESSION BONUS FOR REGISTERED NURSES.**—Section 302d(a)(1) of title 37, United States Code, is amended by striking “December 31, 2005” and inserting “December 31, 2006”.

(d) **INCENTIVE SPECIAL PAY FOR NURSE ANESTHETISTS.**—Section 302e(a)(1) of such title is amended by striking “December 31, 2005” and inserting “December 31, 2006”.

(e) **SPECIAL PAY FOR SELECTED RESERVE HEALTH PROFESSIONALS IN CRITICALLY SHORT WARTIME SPECIALTIES.**—Section 302g(f) of such title is amended by striking “December 31, 2005” and inserting “December 31, 2006”.

(f) **ACCESSION BONUS FOR DENTAL OFFICERS.**—Section 302h(a)(1) of such title is amended by striking “December 31, 2005” and inserting “December 31, 2006”.

(g) **ACCESSION BONUS FOR PHARMACY OFFICERS.**—Section 302j(a) of such title is amended by striking “December 31, 2005” and inserting “December 31, 2006”.

SEC. 623. EXTENSION OF SPECIAL PAY AND BONUS AUTHORITIES FOR NUCLEAR OFFICERS.

(a) **SPECIAL PAY FOR NUCLEAR-QUALIFIED OFFICERS EXTENDING PERIOD OF ACTIVE SERVICE.**—Section 312(e) of title 37, United

States Code, is amended by striking “December 31, 2005” and inserting “December 31, 2006”.

(b) NUCLEAR CAREER ACCESSION BONUS.—Section 312b(c) of such title is amended by striking “December 31, 2005” and inserting “December 31, 2006”.

(c) NUCLEAR CAREER ANNUAL INCENTIVE BONUS.—Section 312c(d) of such title is amended by striking “December 31, 2005” and inserting “December 31, 2006”.

SEC. 624. EXTENSION OF OTHER BONUS AND SPECIAL PAY AUTHORITIES.

(a) AVIATION OFFICER RETENTION BONUS.—Section 301b(a) of title 37, United States Code, is amended by striking “December 31, 2005” and inserting “December 31, 2006”.

(b) ASSIGNMENT INCENTIVE PAY.—Section 307a(f) of such title is amended by striking “December 31, 2006” and inserting “December 31, 2007”.

(c) REENLISTMENT BONUS FOR ACTIVE MEMBERS.—Section 308(g) of such title is amended by striking “December 31, 2005” and inserting “December 31, 2006”.

(d) ENLISTMENT BONUS FOR ACTIVE MEMBERS.—Section 309(e) of such title is amended by striking “December 31, 2005” and inserting “December 31, 2006”.

(e) RETENTION BONUS FOR MEMBERS WITH CRITICAL MILITARY SKILLS.—Section 323(i) of such title is amended by striking “December 31, 2005” and inserting “December 31, 2006”.

(f) ACCESSION BONUS FOR NEW OFFICERS IN CRITICAL SKILLS.—Section 324(g) of such title is amended by striking “December 31, 2005” and inserting “December 31, 2006”.

SEC. 625. ELIGIBILITY OF ORAL AND MAXILLOFACIAL SURGEONS FOR INCENTIVE SPECIAL PAY.

(a) ELIGIBILITY.—Subsection (a) of section 302b of title 37, United States Code, is amended—

(1) in the subsection heading, by striking “AND BOARD CERTIFICATION” and inserting “BOARD CERTIFICATION, AND INCENTIVE”; and

(2) by adding at the end the following new paragraph:

“(6) An officer described in paragraph (1) who is an oral or maxillofacial surgeon may be paid incentive special pay at the same rates, and subject to the same terms and conditions, as incentive special pay available for medical officers under section 302(b) of this title.”.

(b) CONFORMING AMENDMENTS.—Such section is further amended in subsections (b) and (d) by striking “subsection (a)(4)” each place it appears and inserting “paragraph (4) or (6) of subsection (a)”.

SEC. 626. ELIGIBILITY OF DENTAL OFFICERS FOR ADDITIONAL SPECIAL PAY.

Section 302b(a)(4) of title 37, United States Code, is amended in the first sentence—

(1) by inserting “also” before “is entitled”; and

(2) by inserting “initial” before “residency”.

SEC. 627. INCREASE IN MAXIMUM MONTHLY RATE AUTHORIZED FOR HARDSHIP DUTY PAY.

Section 305(a) of title 37, United States Code, is amended by striking “\$300” and inserting “\$750”.

SEC. 628. FLEXIBLE PAYMENT OF ASSIGNMENT INCENTIVE PAY.

(a) **AUTHORITY TO PROVIDE LUMP SUM OR INSTALLMENT PAYMENTS.**—Section 307a of title 37, United States Code, is amended—

(1) in subsection (a)—

(A) by striking “monthly”; and

(B) by adding at the end the following new sentence: “Incentive pay payable under this section may be paid on a monthly basis, in a lump sum, or in installments.”; and

(2) in subsection (b)—

(A) by inserting “(1)” before “The Secretary concerned”; and

(B) in paragraph (1), as so designated, by striking “incentive pay” in the first sentence and inserting “the payment of incentive pay on a monthly basis”; and

(C) by adding at the end the following new paragraph:

Contracts.

“(2) The Secretary concerned shall require a member performing service in an assignment designated under subsection (a) to enter into a written agreement with the Secretary in order to qualify for the payment of incentive pay on a lump sum or installment basis under this section. The written agreement shall specify the period for which the incentive pay will be paid to the member and, subject to subsection (c), the amount of the lump sum, or each installment, of the incentive pay.”.

(b) **MAXIMUM RATE OR AMOUNT.**—Subsection (c) of such section is amended to read as follows:

“(c) **MAXIMUM RATE OR AMOUNT.**—(1) The maximum monthly rate of incentive pay payable to a member on a monthly basis under this section is \$3,000.

“(2) The amount of the lump sum payment of incentive pay payable to a member on a lump sum basis under this section may not exceed an amount equal to the product of—

“(A) the maximum monthly rate authorized under paragraph (1) at the time of the written agreement of the member under subsection (b)(2); and

“(B) the number of months in the period for which incentive pay will be paid pursuant to the agreement.

“(3) The amount of each installment payment of incentive pay payable to a member on an installment basis under this section shall be the amount equal to—

“(A) the product of (i) a monthly rate specified in the written agreement of the member under subsection (b)(2) (which monthly rate may not exceed the maximum monthly rate authorized under paragraph (1) at the time of the written agreement), and (ii) the number of months in the period for which incentive pay will be paid; divided by

“(B) the number of installments over such period.

“(4) If a member extends an assignment specified in an agreement with the Secretary under subsection (b), incentive pay for the period of the extension may be paid under this section on a monthly basis, in a lump sum, or in installments in accordance with this section.”.

(c) **REPAYMENT.**—Such section is further amended—

(1) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively; and

(2) by inserting after subsection (c), as amended by subsection (b) of this section, the following new subsection (d):

“(d) REPAYMENT OF INCENTIVE PAY.—(1) A member who, pursuant to an agreement under subsection (b)(2), receives a lump sum or installment payment of incentive pay under this section and who fails to complete the total period of service or other conditions specified in the agreement voluntarily or because of misconduct, shall refund to the United States an amount equal to the percentage of incentive pay paid which is equal to the unexpired portion of the service divided by the total period of service. The Secretary concerned may waive repayment of an amount of incentive pay under this section, in whole or in part, if the Secretary determines that conditions and circumstances warrant.

“(2) An obligation to repay the United States imposed under paragraph (1) is for all purposes a debt owed to the United States.

“(3) A discharge in bankruptcy under title 11 that is entered less than 5 years after the termination of the agreement does not discharge the member signing the agreement from a debt arising under paragraph (1).”.

SEC. 629. ACTIVE-DUTY REENLISTMENT BONUS.

(a) ELIGIBILITY OF SENIOR ENLISTED MEMBERS.—Subsection (a) of section 308 of title 37, United States Code, is amended—

(1) in paragraph (1)(A), by striking “16 years of active duty” and inserting “20 years of active duty”; and

(2) in paragraph (3), by striking “18 years” and inserting “24 years”.

(b) INCREASE IN AUTHORIZED MAXIMUM AMOUNT OF BONUS.—Paragraph (2)(B) of such subsection is amended by striking “\$60,000” and inserting “\$90,000”.

(c) REPEAL OF REFERENCE TO OBSOLETE SPECIAL PAY.—Paragraph (1) of such subsection is amended—

(1) by inserting “and” at the end of subparagraph (B);

(2) by striking subparagraph (C); and

(3) by redesignating subparagraph (D) as subparagraph (C).

(d) REPEAL OF OBSOLETE SPECIAL PAY.—

(1) REPEAL.—Section 312a of title 37, United States Code, is repealed.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 5 of such title is amended by striking the item relating to section 312a.

37 USC prec.
301.

SEC. 630. REENLISTMENT BONUS FOR MEMBERS OF THE SELECTED RESERVE.

(a) ELIGIBILITY OF SENIOR ENLISTED MEMBERS.—Subsection (a)(1) of section 308b of title 37, United States Code, is amended by striking “16 years of total military service” and inserting “20 years of total military service”.

(b) COMPUTATION OF BONUS AMOUNT.—Subsection (b) of such section is amended by adding at the end the following new paragraph:

“(3) Any portion of a term of reenlistment or extension of enlistment of a member that, when added to the total years of service of the member at the time of discharge or release, exceeds

24 years may not be used in computing the total bonus amount under paragraph (1).”.

SEC. 631. CONSOLIDATION AND MODIFICATION OF BONUSES FOR AFFILIATION OR ENLISTMENT IN THE SELECTED RESERVE.

(a) CONSOLIDATION AND MODIFICATION OF BONUSES.—Section 308c of title 37, United States Code, is amended to read as follows:

“§ 308c. Special pay: bonus for affiliation or enlistment in the Selected Reserve

“(a) AFFILIATION BONUS AUTHORIZED.—The Secretary concerned may pay an affiliation bonus to an enlisted member of an armed force who—

“(1) has completed fewer than 20 years of military service; and

“(2) executes a written agreement to serve in the Selected Reserve of the Ready Reserve of an armed force for a period of not less than three years in a skill, unit, or pay grade designated under subsection (b) after being discharged or released from active duty under honorable conditions.

“(b) DESIGNATION OF SKILLS, UNITS, AND PAY GRADES.—The Secretary concerned shall designate the skills, units, and pay grades for which an affiliation bonus may be paid under subsection (a). Any skill, unit, or pay grade so designated shall be a skill, unit, or pay grade for which there is a critical need for personnel in the Selected Reserve of the Ready Reserve of an armed force, as determined by the Secretary concerned. The Secretary concerned shall establish other requirements to ensure that members accepted for affiliation meet required performance and discipline standards.

“(c) ACCESSION BONUS AUTHORIZED.—The Secretary concerned may pay an accession bonus to a person who—

“(1) has not previously served in the armed forces; and

“(2) executes a written agreement to serve as an enlisted member in the Selected Reserve of the Ready Reserve of an armed force for a period of not less than three years upon acceptance of the agreement by the Secretary concerned.

“(d) LIMITATION ON AMOUNT OF BONUS.—The amount of a bonus under subsection (a) or (c) may not exceed \$20,000.

“(e) PAYMENT METHOD.—Upon acceptance of a written agreement by the Secretary concerned, the total amount of the bonus payable under the agreement becomes fixed. The agreement shall specify whether the bonus shall be paid by the Secretary concerned in a lump sum or in installments.

“(f) CONTINUED ENTITLEMENT TO BONUS PAYMENTS.—A member entitled to a bonus under this section who is called or ordered to active duty shall be paid, during that period of active duty, any amount of the bonus that becomes payable to the member during that period of active duty.

“(g) REPAYMENT.—(1) A person who enters into an agreement under subsection (a) or (c) and receives all or part of the bonus under the agreement, but who does not commence to serve in the Selected Reserve or does not satisfactorily participate in the Selected Reserve for the total period of service specified in the agreement, shall repay to the United States the amount of the bonus so paid, except as otherwise prescribed under paragraph (2).

“(2) The Secretary concerned shall prescribe in regulations whether repayment of an amount otherwise required under paragraph (1) shall be made in whole or in part, the method for computing the amount of such repayment, and any conditions under which an exception to required repayment would apply.

Regulations.

“(3) An obligation to repay the United States imposed under paragraph (1) is for all purposes a debt owed to the United States. A discharge in bankruptcy under title 11 that is entered less than five years after the termination of an agreement entered into under subsection (a) or (c) does not discharge the individual signing the agreement from a debt arising under such agreement or under paragraph (1).

“(h) REGULATIONS.—This section shall be administered under regulations prescribed by the Secretary of Defense for the armed forces under the jurisdiction of the Secretary of Defense and by the Secretary of Homeland Security for the Coast Guard when it is not operating as a service in the Navy.

“(i) TERMINATION OF BONUS AUTHORITY.—No bonus may be paid under this section with respect to any agreement entered into under subsection (a) or (c) after December 31, 2006.”.

(b) REPEAL OF SUPERSEDED AFFILIATION BONUS AUTHORITY.—Section 308e of such title is repealed.

(c) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 5 of such title is amended—

(1) by striking the item relating to section 308c and inserting the following new item:

37 USC prec.
301.

“308c. Special pay: bonus for affiliation or enlistment in the Selected Reserve.”;
and

(2) by striking the item relating to section 308e.

SEC. 632. EXPANSION AND ENHANCEMENT OF SPECIAL PAY FOR ENLISTED MEMBERS OF THE SELECTED RESERVE ASSIGNED TO CERTAIN HIGH PRIORITY UNITS.

(a) ELIGIBILITY FOR PAY.—Subsection (a) of section 308d of title 37, United States Code, is amended by striking “an enlisted member” and inserting “a member”.

(b) AMOUNT OF PAY.—Such subsection is further amended by striking “\$10” and inserting “\$50”.

(c) CONFORMING AND CLERICAL AMENDMENTS.—

(1) CONFORMING AMENDMENT.—The heading of such section is amended to read as follows:

“§ 308d. Special pay: members of the Selected Reserve assigned to certain high priority units”.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 5 of such title is amended by striking the item relating to section 308d and inserting the following new item:

“308d. Special pay: members of the Selected Reserve assigned to certain high priority units.”.

SEC. 633. ELIGIBILITY REQUIREMENTS FOR PRIOR SERVICE ENLISTMENT BONUS.

Section 308i(a)(2) of title 37, United States Code, is amended—

(1) by striking subparagraph (A) and inserting the following new subparagraph:

“(A) The person has not more than 16 years of total military service and received an honorable discharge at the conclusion of all prior periods of service.”; and

(2) by striking subparagraph (D).

SEC. 634. INCREASE AND ENHANCEMENT OF AFFILIATION BONUS FOR OFFICERS OF THE SELECTED RESERVE.

(a) **REPEAL OF PROHIBITION ON ELIGIBILITY FOR PRIOR RESERVE SERVICE.**—Subsection (a)(2) of section 308j of title 37, United States Code, is amended—

(1) in subparagraph (A), by adding “and” at the end;

(2) by striking subparagraph (B); and

(3) by redesignating subparagraph (C) as subparagraph (B).

(b) **INCREASE IN MAXIMUM AMOUNT.**—Subsection (d) of such section is amended by striking “\$6,000” and inserting “\$10,000”.

(c) **CONFORMING AND CLERICAL AMENDMENTS.**—

(1) **CONFORMING AMENDMENT.**—The heading of such section is amended to read as follows:

“§ 308j. Special pay: affiliation bonus for officers in the Selected Reserve”.

(2) **CLERICAL AMENDMENT.**—The table of sections at the beginning of chapter 5 of such title is amended by striking the item relating to section 308j and inserting the following new item:

37 USC prec.
301.

“308j. Special pay: affiliation bonus for officers in the Selected Reserve.”.

SEC. 635. INCREASE IN AUTHORIZED MAXIMUM AMOUNT OF ENLISTMENT BONUS.

Section 309(a) of title 37, United States Code, is amended by striking “\$20,000” and inserting “\$40,000”.

SEC. 636. DISCRETION OF SECRETARY OF DEFENSE TO AUTHORIZE RETROACTIVE HOSTILE FIRE AND IMMINENT DANGER PAY.

Section 310(c) of title 37, United States Code, is amended—

(1) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively; and

(2) by inserting before paragraph (2), as so redesignated, the following new paragraph (1):

“(1) In the case of an area described in subparagraph (B) or (D) of subsection (a)(2), the Secretary of Defense shall be responsible for designating the period during which duty in the area will qualify members for special pay under this section. The effective date designated for the commencement of such a period may be a date occurring before, on, or after the actual date on which the Secretary makes the designation. If the commencement date for such a period is a date occurring before the date on which the Secretary makes the designation, the payment of special pay under this section for the period between the commencement date and the date on which the Secretary makes the designation shall be subject to the availability of appropriated funds for that purpose.”.

SEC. 637. INCREASE IN MAXIMUM BONUS AMOUNT FOR NUCLEAR-QUALIFIED OFFICERS EXTENDING PERIOD OF ACTIVE DUTY.

Section 312(a) of title 37, United States Code, is amended by striking “\$25,000” and inserting “\$30,000”.

SEC. 638. INCREASE IN MAXIMUM AMOUNT OF NUCLEAR CAREER ANNUAL INCENTIVE BONUS FOR NUCLEAR-QUALIFIED OFFICERS TRAINED WHILE SERVING AS ENLISTED MEMBERS.

Section 312c(b)(1) of title 37, United States Code, is amended by striking “\$10,000” and inserting “\$14,000”.

SEC. 639. UNIFORM PAYMENT OF FOREIGN LANGUAGE PROFICIENCY PAY TO ELIGIBLE RESERVE COMPONENT MEMBERS AND REGULAR COMPONENT MEMBERS.

(a) AVAILABILITY OF BONUS IN LIEU OF MONTHLY SPECIAL PAY.—Subsection (a) of section 316 of title 37, United States Code, is amended—

- (1) by striking “SPECIAL PAY” and inserting “BONUS”;
- (2) by striking “monthly special pay” and inserting “a bonus”; and
- (3) by striking “is entitled to basic pay under section 204 of this title and who”.

(b) PAYMENT OF BONUS.—Such section is further amended—

- (1) by striking subsections (b), (d), (e), and (g);
- (2) by redesignating subsections (f) and (h) as subsections (d) and (f), respectively; and
- (3) by inserting after subsection (a) the following new subsection (b):

“(b) BONUS AMOUNT; TIME FOR PAYMENT.—A bonus under subsection (a) may not exceed \$12,000 per one-year certification period under subsection (c). The Secretary concerned may pay the bonus in a single lump sum at the beginning of the certification period or in installments during the certification period. The bonus is in addition to any other pay or allowance payable to a member under any other provision of law.”.

(c) REPAYMENT.—Such section is further amended by inserting after subsection (d), as redesignated by subsection (b)(2) of this section, the following new subsection (e):

“(e) REPAYMENT.—(1) A member who receives a bonus under this section, but who does not satisfy an eligibility requirement specified in paragraph (1), (2), (3), or (4) of subsection (a) for the entire certification period, shall repay to the United States the amount of the bonus so paid, except as otherwise prescribed under paragraph (2).

“(2) The Secretary concerned shall prescribe in regulations whether repayment of an amount otherwise required under paragraph (1) shall be made in whole or in part, the method for computing the amount of such repayment, and any conditions under which an exception to required repayment would apply.

Regulations.

“(3) An obligation to repay the United States imposed under paragraph (1) is for all purposes a debt owed to the United States. A discharge in bankruptcy under title 11 that is entered less than five years after the date on which the member received the bonus does not discharge the member from a debt arising under paragraph (1).”.

(d) CONFORMING AMENDMENTS.—Such section is further amended—

(1) in subsection (c)—

(A) by striking “special pay or” both places it appears; and

(B) by striking “or (b)”;

(2) in subsection (d), as redesignated by subsection (b)(2) of this section—

(A) in paragraph (1)—

(i) by striking “monthly special pay or” in the matter preceding subparagraph (A); and

(ii) in subparagraph (C), by striking “for receipt” and all that follows through the period at the end and inserting “under subsection (a).”;

(B) in paragraph (2), by striking “For purposes” and all that follows through “the Secretary concerned” and inserting “The Secretary concerned”;

(C) in paragraph (3)—

(i) by striking “special pay or” both places it appears; and

(ii) by striking “subsection (h)” and inserting “subsection (f)”;

(D) in paragraph (4), by striking “subsection (g)” and inserting “section 303a(e) of this title”.

(e) CLERICAL AMENDMENTS.—

(1) SECTION HEADING.—The heading of such section is amended to read as follows:

“§ 316. Special pay: bonus for members with foreign language proficiency”.

(2) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 5 of such title is amended by striking the item relating to section 316 and inserting the following new item:

“316. Special pay: bonus for members with foreign language proficiency.”.

SEC. 640. RETENTION BONUS FOR MEMBERS QUALIFIED IN CERTAIN CRITICAL SKILLS OR ASSIGNED TO HIGH PRIORITY UNITS.

(a) AVAILABILITY OF BONUS FOR RESERVE COMPONENT MEMBERS.—Section 323 of title 37, United States Code, is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking “who is serving on active duty and” and inserting “who is serving on active duty in a regular component or in an active status in a reserve component and who”;

(B) in paragraph (1), by inserting “or to remain in an active status in a reserve component for at least one year” before the semicolon; and

(C) in paragraph (3), by inserting “or to remain in an active status in a reserve component for a period of at least one year” before the period; and

(2) in subsection (e)(1), by inserting “or service in an active status in a reserve component” after “active duty” each place it appears.

(b) ADDITIONAL CRITERIA FOR BONUS.—Such section is further amended—

(1) in subsection (a), by striking “designated critical military skill” and inserting “critical military skill designated under subsection (b) or accepts an assignment to a high priority unit designated under such subsection”;

(2) in subsection (b)—

(A) by striking “DESIGNATION OF CRITICAL SKILLS.—” and inserting “ELIGIBILITY CRITERIA.—(1)”;

(B) by adding at the end the following new paragraph:

“(2) The Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, may designate a unit as a high priority unit regarding which a retention bonus will be provided to a member of the armed forces who agrees to accept an assignment to the unit under subsection (a).”; and

(3) in subsection (h)(1), by striking “members qualified in the critical military skills for which the bonuses were offered” and inserting “members of the armed forces who were offered a bonus under this section”.

(c) MAXIMUM AMOUNT OF BONUS FOR RESERVE COMPONENT MEMBERS.—Subsection (d)(1) of such section is amended by inserting after “\$200,000” the following: “(or \$100,000 in the case of a reserve component member)”.

(d) EXTENDED ELIGIBILITY PERIOD FOR CERTAIN MEMBERS.—Subsection (e) of such section is amended by striking paragraph (2) and inserting the following new paragraphs:

“(2) The limitations in paragraph (1) do not apply with respect to an officer who, during the period of active duty or service in an active status in a reserve component for which the bonus is being offered, is assigned duties as a health care professional.

“(3) The limitations in paragraph (1) do not apply with respect to a member who, during the period of active duty or service in an active status in a reserve component for which the bonus is being offered—

“(A) is qualified in a skill designated as critical under subsection (b)(1) related to special operations forces; or

“(B) is qualified for duty in connection with the supervision, operation, and maintenance of naval nuclear propulsion plants.”.

(e) REPAYMENT REQUIREMENTS.—Subsection (g)(1) of such section is amended by striking “If” and all that follows through “under this section,” and inserting “If a member paid a bonus under this section fails, during the period of service covered by the member’s agreement, reenlistment, or voluntary extension of enlistment under subsection (a), to remain qualified in the critical military skill or to satisfy the other eligibility criteria for which the bonus was paid,”.

(f) CLERICAL AMENDMENTS.—

(1) SECTION HEADING.—The heading of section 323 of such title is amended to read as follows:

“§ 323. Special pay: retention incentives for members qualified in critical military skills or assigned to high priority units”.

(2) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 5 of such title is amended by striking the

37 USC prec.
301.

item relating to section 323 and inserting the following new item:

“323. Special pay: retention incentives for members qualified in critical military skills or assigned to high priority units.”.

SEC. 641. INCENTIVE BONUS FOR TRANSFER BETWEEN ARMED FORCES.

(a) IN GENERAL.—Chapter 5 of title 37, United States Code, is amended by adding at the end the following new section:

“§ 327. Incentive bonus: transfer between armed forces

“(a) INCENTIVE BONUS AUTHORIZED.—A bonus under this section may be paid to an eligible member of a regular component or reserve component of an armed force who executes a written agreement—

“(1) to transfer from such regular component or reserve component to a regular component or reserve component of another armed force; and

“(2) to serve pursuant to such agreement for a period of not less than three years in the component to which transferred.

“(b) ELIGIBLE MEMBERS.—A member is eligible to enter into an agreement under subsection (a) if, as of the date of the agreement, the member—

“(1) has not failed to satisfactorily complete any term of enlistment in the armed forces;

“(2) is eligible for reenlistment in the armed forces or, in the case of an officer, is eligible to continue in service in a regular or reserve component of the armed forces; and

“(3) has fulfilled such requirements for transfer to the component of the armed force to which the member will transfer as the Secretary having jurisdiction over such armed force shall establish.

“(c) LIMITATION.—A member may enter into an agreement under subsection (a) to transfer to a regular component or reserve component of another armed force only if the Secretary having jurisdiction over such armed force determines that there is shortage of trained and qualified personnel in such component.

“(d) AMOUNT AND PAYMENT OF BONUS.—(1) A bonus under this section may not exceed \$2,500.

“(2) A bonus under this section shall be paid by the Secretary having jurisdiction of the armed force to which the member to be paid the bonus is transferring.

“(3) A bonus under this section shall, at the election of the Secretary paying the bonus—

“(A) be disbursed to the member in one lump sum when the transfer for which the bonus is paid is approved by the chief personnel officer of the armed force to which the member is transferring; or

“(B) be paid to the member in annual installments in such amounts as may be determined by the Secretary paying the bonus.

“(e) RELATIONSHIP TO OTHER PAY AND ALLOWANCES.—A bonus paid to a member under this section is in addition to any other pay and allowances to which the member is entitled.

“(f) REPAYMENT.—(1) A member who is paid a bonus under an agreement under this section and who, voluntarily or because

of misconduct, fails to serve for the period covered by such agreement shall refund to the United States an amount which bears the same ratio to the amount of the bonus paid such member as the period which such member failed to serve bears to the total period for which the bonus was paid.

“(2) An obligation to reimburse the United States imposed under paragraph (1) is for all purposes a debt owed to the United States.

“(3) A discharge in bankruptcy under title 11 that is entered less than 5 years after the termination of an agreement under this section does not discharge the person signing such agreement from a debt arising under paragraph (1).

“(g) REGULATIONS.—The Secretaries concerned shall prescribe regulations to carry out this section. Regulations prescribed by the Secretary of a military department under this subsection shall be subject to the approval of the Secretary of Defense.

“(h) TERMINATION OF AUTHORITY.—No agreement under this section may be entered into after December 31, 2006.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 5 of such title is amended by adding at the end the following new item:

37 USC prec.
301.

“327. Incentive bonus: transfer between armed forces.”.

SEC. 642. AVAILABILITY OF SPECIAL PAY FOR MEMBERS DURING REHABILITATION FROM WOUNDS, INJURIES, AND ILLNESSES INCURRED IN A COMBAT OPERATION OR COMBAT ZONE.

(a) SPECIAL PAY AUTHORIZED.—Chapter 5 of title 37, United States Code, is amended by inserting after section 327, as added by section 641, the following new section:

“§ 328. Combat-related injury rehabilitation pay

“(a) SPECIAL PAY AUTHORIZED.—The Secretary concerned may pay monthly special pay under this section to a member of the armed forces who, while in the line of duty, incurs a wound, injury, or illness in a combat operation or combat zone designated by the Secretary of Defense and is evacuated from the theater of the combat operation or from the combat zone for medical treatment.

“(b) COMMENCEMENT OF PAYMENT.—Subject to subsection (c), the special pay authorized by subsection (a) may be paid to a member described in such subsection for any month beginning after the date on which the member was evacuated from the theater of the combat operation or the combat zone in which the member incurred the combat-related injury.

“(c) TERMINATION OF PAYMENTS.—The payment of special pay to a member under subsection (a) shall terminate at the end of the first month during which any of the following occurs:

“(1) The member is paid a benefit under the traumatic injury protection rider of the Servicemembers’ Group Life Insurance Program issued under section 1980A of title 38.

“(2) The member receives notification of the eligibility of the member for a benefit under such traumatic injury protection rider and a period of 30 days expires after the date of such notification.

“(3) The member is no longer hospitalized in a military treatment facility or a facility under the auspices of the military health care system.

“(d) AMOUNT OF SPECIAL PAY.—The monthly amount of special pay paid to a member under this section shall be equal to \$430, less any payment received by the member for the same month under section 310(b) of this title.

“(e) RELATIONSHIP TO OTHER PAY AND ALLOWANCES.—Special pay paid to a member under this section is in addition to any other pay and allowances to which the member is entitled or authorized to receive.”.

(b) CONTINUATION OF HOSTILE FIRE AND IMMINENT DANGER PAY DURING HOSPITALIZATION.—Section 310(b) of such title is amended—

(1) by striking “A member covered by subsection (a)(2)(C)” and all that follows through “the injury or wound” and inserting “(1) A member described in paragraph (2)”;

(2) by striking “so hospitalized” and inserting “hospitalized as described in such paragraph”; and

(3) by adding at the end the following new paragraph:

“(2) Paragraph (1) applies with respect to a member who—

“(A) is injured or wounded under the circumstances described in subsection (a)(2)(C) and is hospitalized for the treatment of the injury or wound; or

“(B) while in the line of duty, incurs a wound, injury, or illness in a combat operation or combat zone designated by the Secretary of Defense and is hospitalized outside of the theater of the combat operation or the combat zone for the treatment of the wound, injury, or illness.”.

37 USC prec.
301.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 5 of such title is amended by inserting after the item relating to section 327, as added by section 641, the following new item:

“328. Combat-related injury rehabilitation pay.”.

37 USC 328 note.

(d) EFFECTIVE DATE.—The Secretary of a military department may provide special pay under section 328 of title 37, United States Code, as added by subsection (a), for months beginning on or after the date of the enactment of this Act. A member of the Armed Forces who incurred a wound, injury, or illness under the circumstances described in subsection (a) of such section before the date of the enactment of this Act may receive such pay for such wound, injury, or illness for months beginning on or after that date so long as the member continues to satisfy the eligibility criteria specified in such section.

SEC. 643. PAY AND BENEFITS TO FACILITATE VOLUNTARY SEPARATION OF TARGETED MEMBERS OF THE ARMED FORCES.

(a) PAY AND BENEFITS AUTHORIZED.—

(1) IN GENERAL.—Chapter 59 of title 10, United States Code, is amended by inserting after section 1175 the following new section:

“§ 1175a. Voluntary separation pay and benefits

“(a) IN GENERAL.—Under regulations approved by the Secretary of Defense, the Secretary concerned may provide voluntary separation pay and benefits in accordance with this section to eligible

members of the armed forces who are voluntarily separated from active duty in the armed forces.

“(b) ELIGIBLE MEMBERS.—(1) Except as provided in paragraph (2), a member of the armed forces is eligible for voluntary separation pay and benefits under this section if the member—

“(A) has served on active duty for more than 6 years but not more than 20 years;

“(B) has served at least 5 years of continuous active duty immediately preceding the date of the member’s separation from active duty;

“(C) has not been approved for payment of a voluntary separation incentive under section 1175 of this title;

“(D) meets such other requirements as the Secretary concerned may prescribe, which may include requirements relating to—

“(i) years of service, skill, rating, military specialty, or competitive category;

“(ii) grade or rank;

“(iii) remaining period of obligated service; or

“(iv) any combination of these factors; and

“(E) requests separation from active duty.

“(2) The following members are not eligible for voluntary separation pay and benefits under this section:

“(A) Members discharged with disability severance pay under section 1212 of this title.

“(B) Members transferred to the temporary disability retired list under section 1202 or 1205 of this title.

“(C) Members being evaluated for disability retirement under chapter 61 of this title.

“(D) Members who have been previously discharged with voluntary separation pay.

“(E) Members who are subject to pending disciplinary action or who are subject to administrative separation or mandatory discharge under any other provision of law or regulations.

“(3) The Secretary concerned shall determine each year the number of members to be separated, and provided separation pay and benefits, under this section during the fiscal year beginning in such year.

“(c) SEPARATION.—Each eligible member of the armed forces whose request for separation from active duty under subsection (b)(1)(E) is approved shall be separated from active duty.

“(d) ADDITIONAL SERVICE IN READY RESERVE.—Of the number of members of the armed forces to be separated from active duty in a fiscal year, as determined under subsection (b)(3), the Secretary concerned shall determine a number of such members, in such skill and grade combinations as the Secretary concerned shall designate, who shall serve in the Ready Reserve, after separation from active duty, for a period of not less than three years, as a condition of the receipt of voluntary separation pay and benefits under this section.

“(e) SEPARATION PAY AND BENEFITS.—(1) A member of the armed forces who is separated from active duty under subsection (c) shall be paid voluntary separation pay in accordance with subsection (g) in an amount determined by the Secretary concerned pursuant to subsection (f).

“(2) A member who is not entitled to retired or retainer pay upon separation shall be entitled to the benefits and services provided under—

“(A) chapter 58 of this title during the 180-day period beginning on the date the member is separated (notwithstanding any termination date for such benefits and services otherwise applicable under the provisions of such chapter); and

“(B) sections 404 and 406 of title 37.

“(f) COMPUTATION OF VOLUNTARY SEPARATION PAY.—The Secretary concerned shall specify the amount of voluntary separation pay that an individual or defined group of members of the armed forces may be paid under subsection (e)(1). No member may receive as voluntary separation pay an amount greater than two times the full amount of separation pay for a member of the same pay grade and years of service who is involuntarily separated under section 1174 of this title.

“(g) PAYMENT OF VOLUNTARY SEPARATION PAY.—(1) Voluntary separation pay under this section may be paid in a single lump sum.

“(2) In the case of a member of the armed forces who, at the time of separation under subsection (c), has completed at least 15 years, but less than 20 years, of active service, voluntary separation pay may be paid, at the election of the Secretary concerned, in—

“(A) a single lump sum;

“(B) installments over a period not to exceed 10 years;

or

“(C) a combination of lump sum and such installments.

“(h) COORDINATION WITH RETIRED OR RETAINER PAY AND DISABILITY COMPENSATION.—(1) A member who is paid voluntary separation pay under this section and who later qualifies for retired or retainer pay under this title or title 14 shall have deducted from each payment of such retired or retainer pay an amount, in such schedule of monthly installments as the Secretary concerned shall specify, until the total amount deducted from such retired or retainer pay is equal to the total amount of voluntary separation pay so paid.

“(2)(A) Except as provided in subparagraphs (B) and (C), a member who is paid voluntary separation pay under this section shall not be deprived, by reason of the member's receipt of such pay, of any disability compensation to which the member is entitled under the laws administered by the Secretary of Veterans Affairs, but there shall be deducted from such disability compensation an amount, in such schedule of monthly installments as the Secretary concerned shall specify, until the total amount deducted from such disability compensation is equal to the total amount of voluntary separation pay so paid, less the amount of Federal income tax withheld from such pay (such withholding being at the flat withholding rate for Federal income tax withholding, as in effect pursuant to regulations prescribed under chapter 24 of the Internal Revenue Code of 1986).

“(B) No deduction shall be made from the disability compensation paid to an eligible disabled uniformed services retiree under section 1413, or to an eligible combat-related disabled uniformed services retiree under section 1413a of this title, who is paid voluntary separation pay under this section.

“(C) No deduction may be made from the disability compensation paid to a member for the amount of voluntary separation pay received by the member because of an earlier discharge or release from a period of active duty if the disability which is the basis for that disability compensation was incurred or aggravated during a later period of active duty.

“(3) The requirement under this subsection to repay voluntary separation pay following retirement from the armed forces does not apply to a member who was eligible to retire at the time the member applied and was accepted for voluntary separation pay and benefits under this section.

“(4) The Secretary concerned may waive the requirement to repay voluntary separation pay under paragraphs (1) and (2) if the Secretary determines that recovery would be against equity and good conscience or would be contrary to the best interests of the United States.

“(i) RETIREMENT DEFINED.—In this section, the term ‘retirement’ includes a transfer to the Fleet Reserve or Fleet Marine Corps Reserve.

“(j) REPAYMENT FOR MEMBERS WHO RETURN TO ACTIVE DUTY.—(1) Except as provided in paragraphs (2) and (3), a member of the armed forces who, after having received all or part of voluntary separation pay under this section, returns to active duty shall have deducted from each payment of basic pay, in such schedule of monthly installments as the Secretary concerned shall specify, until the total amount deducted from such basic pay equals the total amount of voluntary separation pay received.

“(2) Members who are involuntarily recalled to active duty or full-time National Guard duty in accordance with section 12301(a), 12301(b), 12301(g), 12302, 12303, or 12304 of this title or section 502(f)(1) of title 32 shall not be subject to this subsection.

“(3) Members who are recalled or perform active duty or full-time National Guard duty in accordance with section 101(d)(1), 101(d)(2), 101(d)(5), 12301(d) (insofar as the period served is less than 180 consecutive days with the consent of the member), 12319, or 12503 of title 10, or section 114, 115, or 502(f)(2) of title 32 (insofar as the period served is less than 180 consecutive days with consent of the member), shall not be subject to this subsection.

“(4) The Secretary of Defense may waive, in whole or in part, repayment required under paragraph (1) if the Secretary determines that recovery would be against equity and good conscience or would be contrary to the best interests of the United States. The authority in this paragraph may be delegated only to the Undersecretary of Defense for Personnel and Readiness and the Principal Deputy Undersecretary of Defense for Personnel and Readiness.

“(k) TERMINATION OF AUTHORITY.—(1) The authority to separate a member of the armed forces from active duty under subsection (c) shall terminate on December 31, 2008.

“(2) A member who separates by the date specified in paragraph (1) may continue to be provided voluntary separation pay and benefits under this section until the member has received the entire amount of pay and benefits to which the member is entitled under this section.”.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 59 of such title is amended by inserting after the item relating to section 1175 the following new item: “1175a. Voluntary separation pay and benefits.”.

10 USC 1175a
note.

(b) **LIMITATION ON APPLICABILITY.**—During the period beginning on the date of the enactment of this Act and ending on December 31, 2008, the members of the Armed Forces who are eligible for separation, and for the provision of voluntary separation pay and benefits, under section 1175a of title 10, United States Code (as added by subsection (a)), shall be limited to officers of the Armed Forces who meet the eligibility requirements of section 1175a(b) of title 10, United States Code (as so added), but have not completed more than 12 years of active service as of the date of separation from active duty.

SEC. 644. RATIFICATION OF PAYMENT OF CRITICAL-SKILLS ACCESSION BONUS FOR PERSONS ENROLLED IN SENIOR RESERVE OFFICERS' TRAINING CORPS OBTAINING NURSING DEGREES.

(a) **ACCESSION BONUS AUTHORIZED.**—In the case of an agreement executed under section 324 of title 37, United States Code, from October 5, 2004, through December 31, 2005, between the Secretary of the Army and a person who completed the second year of an accredited baccalaureate degree program in nursing to serve in the Army Nurse Corps, the payment of an accession bonus to the person under such section is authorized even though the person did not possess a skill designated as critical and, at the time of the agreement, was enrolled in the Senior Reserve Officers' Training Corps program of the Army for advanced training under chapter 103 of title 10, United States Code, including a person receiving financial assistance under section 2107 of such title.

(b) **LIMITATION ON AMOUNT OF BONUS.**—The amount of the accession bonus referred to in subsection (a) may not exceed \$5,000.

SEC. 645. TEMPORARY AUTHORITY TO PAY BONUS TO ENCOURAGE MEMBERS OF THE ARMY TO REFER OTHER PERSONS FOR ENLISTMENT IN THE ARMY.

(a) **AUTHORITY TO PAY BONUS.**—The Secretary of the Army may pay a bonus under this section to a member of the Army, whether in the regular component of the Army or in the Army National Guard or Army Reserve, who refers to an Army recruiter a person who has not previously served in an Armed Force and who, after such referral, enlists in the regular component of the Army or in the Army National Guard or Army Reserve.

(b) **REFERRAL.**—For purposes of this section, a referral for which a bonus may be paid under subsection (a) occurs—

(1) when a member of the Army contacts an Army recruiter on behalf of a person interested in enlisting in the Army; or

(2) when a person interested in enlisting in the Army contacts the Army recruiter and informs the recruiter of the role of the member in initially recruiting the person.

(c) **CERTAIN REFERRALS INELIGIBLE.**—

(1) **REFERRAL OF IMMEDIATE FAMILY.**—A member of the Army may not be paid a bonus under subsection (a) for the referral of an immediate family member.

(2) **MEMBERS IN RECRUITING ROLES.**—A member of the Army serving in a recruiting or retention assignment, or assigned to other duties regarding which eligibility for a bonus under subsection (a) could (as determined by the Secretary)

be perceived as creating a conflict of interest, may not be paid a bonus under subsection (a).

(d) AMOUNT OF BONUS.—The amount of the bonus paid for a referral under subsection (a) may not exceed \$1,000. The bonus shall be paid in a lump sum.

(e) TIME OF PAYMENT.—A bonus may not be paid under subsection (a) with respect to a person who enlists in the Army until the person completes basic training and individual advanced training.

(f) RELATION TO PROHIBITION ON BOUNTIES.—The referral bonus authorized by this section is not a bounty for purposes of section 514(a) of title 10, United States Code.

(g) DURATION OF AUTHORITY.—A bonus may not be paid under subsection (a) with respect to any referral that occurs after December 31, 2007.

Subtitle C—Travel and Transportation Allowances

SEC. 651. AUTHORIZED ABSENCES OF MEMBERS FOR WHICH LODGING EXPENSES AT TEMPORARY DUTY LOCATION MAY BE PAID.

(a) ABSENCES COVERED BY ALLOWANCE.—Section 404b of title 37, United States Code, is amended—

(1) in subsection (a), by striking “while the member is in an authorized leave status” and inserting “during an authorized absence of the member from the temporary duty location”;

(2) in subsection (b)—

(A) in paragraph (1), by striking “taking the authorized leave” and inserting “the authorized absence”; and

(B) in paragraph (3), by striking “immediately after completing the authorized leave” and inserting “before the end of the authorized absence”;

(3) in subsection (c), by striking “while the member was in an authorized leave status” and inserting “during the authorized absence of the member”; and

(4) by adding at the end the following new subsection:

“(d) AUTHORIZED ABSENCE DEFINED.—In this section, the term ‘authorized absence’, with respect to a member, means that the member is in an authorized leave status or that the absence of the member is otherwise authorized under regulations prescribed by the Secretary concerned.”.

(b) CLERICAL AMENDMENTS.—

(1) SECTION HEADING.—The heading of such section is amended to read as follows:

“§ 404b. Travel and transportation allowances: payment of lodging expenses at temporary duty location during authorized absence of member”.

(2) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 7 of such title is amended by striking the

37 USC prec.
401.

item relating to section 404b and inserting the following new item:

“404b. Travel and transportation allowances: payment of lodging expenses at temporary duty location during authorized absence of member.”.

SEC. 652. EXTENDED PERIOD FOR SELECTION OF HOME FOR TRAVEL AND TRANSPORTATION ALLOWANCES FOR DEPENDENTS OF DECEASED MEMBERS.

(a) DEATH OF MEMBERS ENTITLED TO BASIC PAY.—Subsection (f) section 406 of title 37, United States Code, is amended—

(1) by inserting “(1)” after “(f)”;

(2) by striking “he” and inserting “the member”; and

(3) by adding at the end the following new paragraph:

“(2) The Secretary concerned shall give the dependents of a member described in paragraph (1) a period of not less than three years, beginning on the date of the death of the member, during which to select a home for the purposes of the travel and transportation allowances authorized by this section.”.

(b) CERTAIN OTHER DECEASED MEMBERS.—Subsection (g)(3) of such section is amended in the first sentence—

(1) by striking “he exercises it” and inserting “the member exercises the right or entitlement”;

(2) by striking “his surviving dependents or, if” and inserting “the surviving dependents at any time before the end of the three-year period beginning on the date on which the member accrued that right or entitlement. If”; and

(3) by striking “his baggage and household effects” and inserting “the baggage and household effects of the deceased member”.

SEC. 653. TRANSPORTATION OF FAMILY MEMBERS IN CONNECTION WITH THE REPATRIATION OF MEMBERS HELD CAPTIVE.

(a) ALLOWANCES AUTHORIZED.—Chapter 7 of title 37, United States Code, is amended by inserting after section 411i the following new section:

“§ 411j. Travel and transportation allowances: transportation of family members incident to the repatriation of members held captive

“(a) ALLOWANCE FOR FAMILY MEMBERS AND CERTAIN OTHERS.—

(1) Under uniform regulations prescribed by the Secretaries concerned, travel and transportation described in subsection (d) may be provided for not more than three family members of a member described in subsection (b).

“(2) In addition to the family members authorized to be provided travel and transportation under paragraph (1), the Secretary concerned may provide travel and transportation described in subsection (d) to an attendant to accompany a family member described in that paragraph if the Secretary determines that—

“(A) the family member to be accompanied is unable to travel unattended because of age, physical condition, or other reason determined by the Secretary; and

“(B) no other family member who is eligible for travel and transportation under paragraph (1) is able to serve as an attendant for the family member.

“(3) If no family member of a member described in subsection (b) is able to travel to the repatriation site of the member, travel

and transportation described in subsection (d) may be provided to not more than 2 persons related to and selected by the member.

“(4) In circumstances determined to be appropriate by the Secretary concerned, the Secretary may waive the limitation on the number of family members of a member provided travel and transportation allowances under this section.

“(b) COVERED MEMBERS.—A member described in this subsection is a member of the uniformed services who—

“(1) is serving on active duty;

“(2) was held captive, as determined by the Secretary concerned; and

“(3) is repatriated to a site inside or outside the United States.

“(c) ELIGIBLE FAMILY MEMBERS.—In this section, the term ‘family member’ has the meaning given the term in section 411h(b) of this title.

“(d) TRAVEL AND TRANSPORTATION AUTHORIZED.—(1) The transportation authorized by subsection (a) is round-trip transportation between the home of the family member (or home of the attendant or person provided transportation under paragraph (2) or (3) of subsection (a), as the case may be) and the location of the repatriation site at which the member is located.

“(2) In addition to the transportation authorized by subsection (a), the Secretary concerned may provide a per diem allowance or reimbursement for the actual and necessary expenses of the travel, or a combination thereof, but not to exceed the rates established for such allowances and expenses under section 404(d) of this title.

“(3) The transportation authorized by subsection (a) may be provided by any of the means described in section 411h(d)(1) of this title.

“(4) An allowance under this subsection may be paid in advance.

“(5) Reimbursement payable under this subsection may not exceed the cost of Government-procured round-trip air travel.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 7 of such title is amended by inserting after the item relating to section 411i the following new item:

37 USC prec.
401.

“411j. Travel and transportation allowances: transportation of family members incident to the repatriation of members held captive.”.

SEC. 654. INCREASED WEIGHT ALLOWANCES FOR SHIPMENT OF HOUSEHOLD GOODS OF SENIOR NONCOMMISSIONED OFFICERS.

(a) INCREASE.—The table in section 406(b)(1)(C) of title 37, United States Code, is amended by striking the items relating to pay grades E–7 through E–9 and inserting the following new items:

“E–9	13,000	15,000
E–8	12,000	14,000
E–7	11,000	13,000”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 2006, and apply with respect to

an order in connection with a change of temporary or permanent station issued on or after that date.

SEC. 655. PERMANENT AUTHORITY TO PROVIDE TRAVEL AND TRANSPORTATION ALLOWANCES FOR FAMILY MEMBERS TO VISIT HOSPITALIZED MEMBERS OF THE ARMED FORCES INJURED IN COMBAT OPERATION OR COMBAT ZONE.

37 USC 411h
notes.

(a) **AUTHORITY TO CONTINUE ALLOWANCE.**—Section 1026 of division A of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (Public Law 109–13; 119 Stat. 254), is amended by striking subsections (d) and (e).

(b) **CONFORMING AMENDMENT.**—Subsection (a)(2)(B)(ii) of section 411h of title 37, United States Code, as added by section 1026 of division A of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005, is amended by striking “under section 1967(e)(1)(A) of title 38”.

37 USC 411h
note.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on the earlier of the following:

(1) The date of the enactment of this Act.

(2) The date specified in section 106(3) of Public Law 109–77 (119 Stat. 2039).

Subtitle D—Retired Pay and Survivor Benefits

SEC. 661. MONTHLY DISBURSEMENT TO STATES OF STATE INCOME TAX WITHHELD FROM RETIRED OR RETAINER PAY.

Section 1045(a) of title 10, United States Code, is amended in the third sentence—

(1) by striking “quarter” the first place it appears and inserting “month”; and

(2) by striking “during the month following that calendar quarter” and inserting “during the following calendar month”.

SEC. 662. DENIAL OF CERTAIN BURIAL-RELATED BENEFITS FOR INDIVIDUALS WHO COMMITTED A CAPITAL OFFENSE.

(a) **PROHIBITION OF INTERMENT IN NATIONAL CEMETERIES.**—Section 2411 of title 38, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking “for which the person was sentenced to death or life imprisonment” and inserting “and whose conviction is final (other than a person whose sentence was commuted by the President)”; and

(B) in paragraph (2), by striking “for which the person was sentenced to death or life imprisonment without parole” and inserting “and whose conviction is final (other than a person whose sentence was commuted by the Governor of a State)”; and

(2) in subsection (d)—

(A) in paragraph (1), by striking “the death penalty or life imprisonment may be imposed” and inserting “a sentence of imprisonment for life or the death penalty may be imposed”; and

(B) in paragraph (2), by striking “the death penalty or life imprisonment without parole may be imposed” and inserting “a sentence of imprisonment for life or the death penalty may be imposed”.

(b) PROHIBITION OF CERTAIN DEPARTMENT OF DEFENSE BENEFITS.—

(1) ADDITIONAL CIRCUMSTANCES FOR PROHIBITION OF PERFORMANCE OF MILITARY HONORS.—Subsection (a) of section 985 of title 10, United States Code, is amended—

(A) by inserting “(under section 1491 of this title or any other authority)” after “military honors”; and

(B) by striking “a person who” and all that follows and inserting the following: “any of the following persons:

“(1) A person described in section 2411(b) of title 38.

“(2) A person who is a veteran (as defined in section 1491(h) of this title) or who died while on active duty or a member of a reserve component, when the circumstances surrounding the person’s death or other circumstances as specified by the Secretary of Defense are such that to provide military honors at the funeral or burial of the person would bring discredit upon the person’s service (or former service).”.

(2) ADDITIONAL CIRCUMSTANCES FOR PROHIBITION OF INTERMENT IN MILITARY CEMETERY.—Subsection (b) of such section is amended by striking “convicted of a capital offense under Federal law” and inserting “who is ineligible for interment in a national cemetery under the control of the National Cemetery Administration by reason of section 2411(b) of title 38”.

Supra.

(3) CONFORMING AMENDMENT.—Subsection (c) such section is amended to read as follows:

“(c) DEFINITION.—In this section, the term ‘burial’ includes inurnment.”.

(4) PROHIBITION OF FUNERAL HONORS.—Section 1491(a) of title 10, United States Code, is amended by inserting before the period at the end the following: “, except when military honors are prohibited under section 985(a) of this title”.

(c) CLERICAL AMENDMENTS.—

(1) SECTION HEADING.—The heading of section 985 of such title is amended to read as follows:

“§ 985. Persons convicted of capital crimes; certain other persons: denial of specified burial-related benefits”.

(2) TABLE OF SECTIONS.—The item relating to section 985 in the table of sections at the beginning of chapter 49 of such title is amended to read as follows:

“985. Persons convicted of capital crimes; certain other persons: denial of specified burial-related benefits.”.

(d) RULEMAKING.—

(1) DEPARTMENT OF VETERANS AFFAIRS.—The Secretary of Veterans Affairs shall prescribe regulations to ensure that a person is not interred in any cemetery in the National Cemetery System unless a good faith effort has been made to determine whether such person is ineligible for such interment or honors by reason of being a person described in section 2411(b) of title 38, United States Code, or is otherwise ineligible for such interment under Federal law.

38 USC 2411
note.

10 USC 985 note.

(2) DEPARTMENT OF DEFENSE.—The Secretary of Defense shall prescribe regulations to ensure that a person is not interred in any military cemetery under the authority of the Secretary of a military department or provided funeral honors under section 1491 of title 10, United States Code, unless a good faith effort has been made to determine whether such person is ineligible for such interment or honors by reason of being a person described in section 2411(b) of title 38, United States Code, or is otherwise ineligible for such interment or honors under Federal law.

10 USC 985 note.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to funerals and burials that occur on or after the date of the enactment of this Act.

Effective date.

SEC. 663. CONCURRENT RECEIPT OF VETERANS' DISABILITY COMPENSATION AND MILITARY RETIRED PAY.

Section 1414(a)(1) of title 10, United States Code, is amended by inserting before the period at the end the following: “, and in the case of a qualified retiree receiving veterans' disability compensation at the rate payable for a 100 percent disability by reason of a determination of individual unemployability, payment of retired pay to such veteran is subject to subsection (c) only during the period beginning on January 1, 2004, and ending on September 30, 2009”.

SEC. 664. ADDITIONAL AMOUNTS OF DEATH GRATUITY FOR SURVIVORS OF CERTAIN MEMBERS OF THE ARMED FORCES DYING ON ACTIVE DUTY.

(a) INCREASED AMOUNT OF DEATH GRATUITY.—

(1) INCREASED AMOUNT.—Subsection (a) of section 1478 of title 10, United States Code, is amended by striking “\$12,000” and inserting “\$100,000”.

(2) AMENDMENTS.—Such section is further amended—

(A) in the first sentence of subsection (a), by striking “(as)” and all that follows in that sentence and inserting a period; and

(B) by striking subsection (c).

10 USC 1478 note.

(3) EFFECTIVE DATE.—The amendment made by paragraph

(1) shall take effect as of October 7, 2001, and shall apply to deaths occurring on or after the date of the enactment of this Act and, subject to subsection (c), to deaths occurring during the period beginning on October 7, 2001, and ending on the day before the date of the enactment of this Act.

(b) RETROACTIVE PAYMENT OF ADDITIONAL DEATH GRATUITY FOR CERTAIN MEMBERS NOT PREVIOUSLY COVERED.—Such section is further amended by adding at the end the following new subsection:

“(d)(1) In the case of a person described in paragraph (2), a death gratuity shall be payable, subject to section 664(c) of the National Defense Authorization Act for Fiscal Year 2006, for the death of such person that is in addition to the death gratuity payable in the case of such death under subsection (a).

“(2) This subsection applies in the case of a person who died during the period beginning on October 7, 2001, and ending on May 11, 2005, while a member of the armed forces on active duty and whose death did not establish eligibility for an additional death gratuity under the prior subsection (e) of this section (as added by section 1013(b) of Public Law 109–13; 119 Stat. 247),

because the person was not described in paragraph (2) of that prior subsection.

“(3) The amount of additional death gratuity payable under this subsection shall be \$150,000.

“(4) A payment pursuant to this subsection shall be paid in the same manner as provided under paragraph (4) of the prior subsection (e) of this section (as added by section 1013(b) of Public Law 109–13; 119 Stat. 247), for payments pursuant to paragraph (3)(A) of that prior subsection.”.

(c) FUNDING.—Amounts for payments after the date of the enactment of this Act by reason of the amendments made by subsection (a) with respect to deaths before the date of the date of the enactment of this Act, and amounts for payments under subsection (d) of section 1478 of title 10, United States Code, as added by subsection (b), shall be derived from supplemental appropriations for the Department of Defense for fiscal year 2006 for military operations in Iraq and Afghanistan and the Global War on Terrorism, contingent upon such appropriations being enacted.

(d) COORDINATION OF AMENDMENTS.—If the date of the enactment of this Act occurs before the date specified in section 106(3) of Public Law 109–77—

(1) effective as of such date of enactment, the amendments made to section 1478 of title 10, United States Code, by section 1013 of Public Law 109–13 are repealed; and

(2) effective immediately before the execution of the amendments made by this section, the provisions of section 1478 of title 10, United States Code, as in effect on the day before the date of the enactment of Public Law 109–13, are revived.

SEC. 665. CHILD SUPPORT FOR CERTAIN MINOR CHILDREN OF RETIREMENT-ELIGIBLE MEMBERS CONVICTED OF DOMESTIC VIOLENCE RESULTING IN DEATH OF CHILD'S OTHER PARENT.

(a) AUTHORITY FOR COURT-ORDERED PAYMENTS.—Section 1408(h) of title 10, United States Code, is amended—

(1) in paragraph (1)—

(A) by inserting “(A)” after “(1)”; and

(B) by adding at the end of such paragraph the following:

“(B) If, in the case of a member or former member of the armed forces referred to in paragraph (2)(A), a court order provides for the payment as child support of an amount from the disposable retired pay of that member or former member (as certified under paragraph (4)) to an eligible dependent child of the member or former member, the Secretary concerned, beginning upon effective service of such court order, shall pay that amount in accordance with this subsection to such dependent child.”;

(2) in paragraph (2)—

(A) in the matter preceding subparagraph (A), by inserting “, or a dependent child,” after “former spouse”;

(B) in subparagraph (B)—

(i) by inserting “in the case of eligibility of a spouse or former spouse under paragraph (1)(A),” after “(B)”; and

(ii) by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following new subparagraph:

“(C) in the case of eligibility of a dependent child under paragraph (1)(B), the other parent of the child died as a result of the misconduct that resulted in the termination of retired pay.”;

(3) in paragraph (4), by inserting “, or an eligible dependent child,” after “former spouse”;

(4) in paragraph (5), by inserting “, or the dependent child,” after “former spouse”; and

(5) in paragraph (6), by inserting “, or to a dependent child,” after “former spouse”.

10 USC 1408
note.

(b) **EFFECTIVE DATE.**—A court order authorized by the amendments made by this section may not provide for a payment attributable to any period before the date of the enactment of this Act, or the date of the court order, whichever is later.

SEC. 666. COMPTROLLER GENERAL REPORT ON ACTUARIAL SOUNDNESS OF THE SURVIVOR BENEFIT PLAN.

(a) **REPORT.**—Not later than July 31, 2006, the Comptroller General shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the actuarial soundness of the Survivor Benefit Plan program under subchapter II of chapter 73 of title 10, United States Code.

(b) **ELEMENTS.**—The report required by subsection (a) shall include the following:

(1) An assessment of the implications for the actuarial soundness of the Survivor Benefit Plan program of recent improvements to that program, including the implications of such improvements for the actuarial soundness of that program with respect to various categories of participants in the program and with respect to the program as a whole.

(2) An assessment of the implications for Government contributions and payments to the Survivor Benefit Plan program of the improvements to that program covered by paragraph (1), including the implications of such improvements on such contributions and payments with respect to various categories of participants in the program and with respect to the program as a whole.

(3) An assessment of the implications for the actuarial soundness of the Survivor Benefit Plan program, and for Government contributions and payments to that program, of—

(A) enactment of a law permitting participants in that program to designate an insurable interest beneficiary if a previously designated beneficiary dies; and

(B) enactment of a law repealing the provisions of sections 1450(c) and 1451(c)(2) of title 10, United States Code, that require the reduction of an annuity paid to a beneficiary under that program by the amount of dependency and indemnity compensation paid to the same beneficiary under section 1311(a) of title 38, United States Code.

(c) **GOVERNMENT CONTRIBUTIONS.**—In making the assessments under paragraphs (2) and (3) of subsection (b), the Comptroller General, in considering the Government contributions to the Survivor Benefit Plan program, shall consider both the Government’s

normal cost contributions under the program and the Government's payments to amortize unfunded liability under the program.

Subtitle E—Commissary and Non-appropriated Fund Instrumentality Benefits

SEC. 671. INCREASE IN AUTHORIZED LEVEL OF SUPPLIES AND SERVICES PROCUREMENT FROM OVERSEAS EXCHANGE STORES.

Section 2424(b) of title 10, United States Code, is amended by striking “\$50,000” and inserting “\$100,000”.

SEC. 672. REQUIREMENTS FOR PRIVATE OPERATION OF COMMISSARY STORE FUNCTIONS.

Effective date.

Section 2485(a)(2) of title 10, United States Code, is amended by adding at the end the following new sentence: “Until December 31, 2008, the Defense Commissary Agency is not required to conduct any cost-comparison study under the policies and procedures of Office of Management and Budget Circular A–76 relating to the possible contracting out of commissary store functions.”.

SEC. 673. PROVISION OF AND PAYMENT FOR OVERSEAS TRANSPORTATION SERVICES FOR COMMISSARY AND EXCHANGE SUPPLIES AND PRODUCTS.

Section 2643 of title 10, United States Code, is amended—
(1) by inserting “(a) TRANSPORTATION OPTIONS.—” before “The Secretary”;

(2) in the first sentence, by striking “by sea without relying on the Military Sealift Command” and inserting “to destinations outside the continental United States without relying on the Air Mobility Command, the Military Sealift Command,”;

(3) in the second sentence, by striking “transportation contracts” and inserting “contracts for sea-borne transportation”; and

(4) by adding at the end the following new subsection:

“(b) PAYMENT OF TRANSPORTATION COSTS.—Section 2483(b)(5) of this title, regarding the use of appropriated funds to cover the expenses of operating commissary stores, shall apply to the transportation of commissary supplies and products. Appropriated funds for the Department of Defense shall also be used to cover the expenses of transporting exchange supplies and products to destinations outside the continental United States.”.

SEC. 674. COMPENSATORY TIME OFF FOR CERTAIN NON-APPROPRIATED FUND EMPLOYEES.

Section 5543 of title 5, United States Code, is amended by adding at the end the following new subsection:

“(d)(1) The appropriate Secretary may, on request of an employee of a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard described in section 2105(c), grant such employee compensatory time off from duty instead of overtime pay for overtime work.

“(2) For purposes of this subsection, the term ‘appropriate Secretary’ means—

“(A) with respect to an employee of a nonappropriated fund instrumentality of the Department of Defense, the Secretary of Defense; and

“(B) with respect to an employee of a nonappropriated fund instrumentality of the Coast Guard, the Secretary of the Executive department in which it is operating.”.

SEC. 675. REST AND RECUPERATION LEAVE PROGRAMS.

(a) **AVAILABILITY OF FUNDS FOR REIMBURSEMENT OF EXPENSES.**—Of the amount authorized to be appropriated by section 301(5) for operation and maintenance for Defense-wide activities, \$7,000,000 may be available for the reimbursement of expenses of the Armed Forces Recreation Centers related to the utilization of the facilities of the Armed Forces Recreation Centers under official Rest and Recuperation Leave Programs authorized by the military departments or combatant commanders.

(b) **UTILIZATION OF REIMBURSEMENTS.**—Amounts received by the Armed Forces Recreation Centers under subsection (a) as reimbursement for expenses may be utilized by such Centers for facility maintenance and repair, utility expenses, correction of health and safety deficiencies, and routine ground maintenance.

(c) **REGULATIONS.**—The utilization of facilities of the Armed Forces Recreation Centers under Rest and Recuperation Leave Programs, and reimbursement for expenses related to such utilization of such facilities, shall be subject to regulations prescribed by the Secretary of Defense.

Subtitle F—Other Matters

SEC. 681. TEMPORARY ARMY AUTHORITY TO PROVIDE ADDITIONAL RECRUITMENT INCENTIVES.

(a) **AUTHORITY TO DEVELOP AND PROVIDE RECRUITMENT INCENTIVES.**—The Secretary of the Army may develop and provide incentives not otherwise authorized by law to encourage individuals to accept commissions as officers or to enlist in the Army.

(b) **RELATION TO OTHER PERSONNEL AUTHORITIES.**—A recruitment incentive developed under subsection (a) may be provided—

(1) without regard to the lack of specific authority for the incentive under title 10 or 37, United States Code; and

(2) notwithstanding any provision of such titles, or any rule or regulation prescribed under such provision, relating to methods of—

(A) determining requirements for, and the compensation of, members of the Army who are assigned duty as military recruiters; or

(B) providing incentives to individuals to accept commissions or enlist in the Army, including the provision of group or individual bonuses, pay, or other incentives.

(c) **WAIVER OF OTHERWISE APPLICABLE LAWS.**—A provision of title 10 or 37, United States Code, may not be waived with respect to, or otherwise determined to be inapplicable to, the provision of a recruitment incentive developed under subsection (a) without the approval of the Secretary of Defense.

(d) **NOTICE AND WAIT REQUIREMENT.**—A recruitment incentive developed under subsection (a) may not be provided to individuals until—

(1) the Secretary of the Army submits to Congress, the appropriate elements of the Department of Defense, and the Comptroller General a plan that includes—

(A) a description of the incentive, including the purpose of the incentive and the potential recruits to be addressed by the incentive;

(B) a description of the provisions of titles 10 and 37, United States Code, from which the incentive would require a waiver and the rationale to support the waiver;

(C) a statement of the anticipated outcomes as a result of providing the incentive; and

(D) the method to be used to evaluate the effectiveness of the incentive; and

(2) a 45-day period beginning on the date on which the plan was received by Congress expires.

(e) **LIMITATION ON NUMBER OF INCENTIVES.**—Not more than four recruitment incentives may be provided under the authority of this section.

(f) **LIMITATION ON NUMBER OF INDIVIDUALS RECEIVING INCENTIVES.**—The number of individuals who receive one or more of the recruitment incentives provided under subsection (a) during a fiscal year may not exceed the number of individuals equal to 20 percent of the accession mission of the Army for that fiscal year.

(g) **DURATION OF DEVELOPED INCENTIVE.**—A recruitment incentive developed under subsection (a) may be provided for not longer than a three-year period beginning on the date on which the incentive is first provided, except that the Secretary of the Army may extend the period if the Secretary determines that additional time is needed to fully evaluate the effectiveness of the incentive.

(h) **REPORTING REQUIREMENTS.**—

(1) **SECRETARY OF THE ARMY REPORT.**—The Secretary of the Army shall submit to Congress an annual report on the recruitment incentives provided under subsection (a) during the preceding year, including—

(A) a description of the incentives provided under subsection (a) during that fiscal year; and

(B) an assessment of the impact of the incentives on the recruitment of individuals as officers or enlisted members.

(2) **COMPTROLLER GENERAL REPORT.**—As soon as practicable after receipt of each plan under subsection (d), the Comptroller General shall submit to Congress a report evaluating the expected outcomes of the recruitment incentive covered by the plan in terms of cost effectiveness and mission achievement.

(i) **TERMINATION OF AUTHORITY TO PROVIDE INCENTIVES.**—Notwithstanding subsection (g), the authority to provide recruitment incentives under this section expires on December 31, 2009.

SEC. 682. CLARIFICATION OF LEAVE ACCRUAL FOR MEMBERS ASSIGNED TO A DEPLOYABLE SHIP OR MOBILE UNIT OR OTHER DUTY.

Subparagraph (B) of section 701(f)(1) of title 10, United States Code, is amended to read as follows:

“(B) This subsection applies to a member who—

“(i) serves on active duty for a continuous period of at least 120 days in an area in which the member is entitled to special pay under section 310(a) of title 37;

“(ii) is assigned to a deployable ship or mobile unit or to other duty designated for the purpose of this section; or

“(iii) on or after August 29, 2005, performs duty designated by the Secretary of Defense as qualifying duty for purposes of this subsection.”.

SEC. 683. EXPANSION OF AUTHORITY TO REMIT OR CANCEL INDEBTEDNESS OF MEMBERS OF THE ARMED FORCES INCURRED ON ACTIVE DUTY.

(a) INDEBTEDNESS OF MEMBERS OF THE ARMY.—

(1) AUTHORITY.—Section 4837 of title 10, United States Code, is amended to read as follows:

“§ 4837. Settlement of accounts: remission or cancellation of indebtedness of members

“(a) IN GENERAL.—If the Secretary considers it to be in the best interest of the United States, the Secretary may have remitted or cancelled any part of the indebtedness of a member of the Army on active duty, or a member of a reserve component of the Army in an active status, to the United States or any instrumentality of the United States incurred while the member was serving on active duty.

“(b) PERIOD OF EXERCISE OF AUTHORITY.—The Secretary may exercise the authority in subsection (a) with respect to a member—

“(1) while the member is on active duty or in active status, as the case may be;

“(2) if discharged from the armed forces under honorable conditions, during the one-year period beginning on the date of such discharge; or

“(3) if released from active status in a reserve component, during the one-year period beginning on the date of such release.

“(c) RETROACTIVE APPLICABILITY TO CERTAIN DEBTS.—The authority in subsection (a) may be exercised with respect to any debt covered by that subsection that is incurred on or after October 7, 2001.

“(d) REGULATIONS.—This section shall be administered under regulations prescribed by the Secretary of Defense.”.

(2) CLERICAL AMENDMENT.—The item relating to that section in the table of sections at the beginning of chapter 453 of such title is amended by striking the penultimate word.

(3) TERMINATION.—The amendments made by this subsection shall terminate on December 31, 2007. Effective on that date, section 4873 of title 10, United States Code, as in effect on the day before the date of the enactment of this Act shall be revived.

(b) INDEBTEDNESS OF MEMBERS OF THE NAVY.—

(1) AUTHORITY.—Section 6161 of title 10, United States Code, is amended to read as follows:

“§ 6161. Settlement of accounts: remission or cancellation of indebtedness of members

“(a) IN GENERAL.—If the Secretary of the Navy considers it to be in the best interest of the United States, the Secretary

may have remitted or cancelled any part of the indebtedness of a member of the Navy on active duty, or a member of a reserve component of the Navy in an active status, to the United States or any instrumentality of the United States incurred while the member was serving on active duty.

“(b) PERIOD OF EXERCISE OF AUTHORITY.—The Secretary of the Navy may exercise the authority in subsection (a) with respect to a member—

“(1) while the member is on active duty or in active status, as the case may be;

“(2) if discharged from the armed forces under honorable conditions, during the one-year period beginning on the date of such discharge; or

“(3) if released from active status in a reserve component, during the one-year period beginning on the date of such release.

“(c) RETROACTIVE APPLICABILITY TO CERTAIN DEBTS.—The authority in subsection (a) may be exercised with respect to any debt covered by that subsection that is incurred on or after October 7, 2001.

“(d) REGULATIONS.—This section shall be administered under regulations prescribed by the Secretary of Defense.”.

(2) CLERICAL AMENDMENT.—The item relating to that section in the table of sections at the beginning of chapter 561 of such title is amended by striking the penultimate word.

(3) TERMINATION.—The amendments made by this subsection shall terminate on December 31, 2007. Effective on that date, section 6161 of title 10, United States Code, as in effect on the day before the date of the enactment of this Act shall be revived.

10 USC 6161
note.

(c) INDEBTEDNESS OF MEMBERS OF THE AIR FORCE.—

(1) AUTHORITY.—Section 9837 of title 10, United States Code, is amended to read as follows:

“§ 9837. Settlement of accounts: remission or cancellation of indebtedness of members

“(a) IN GENERAL.—If the Secretary considers it to be in the best interest of the United States, the Secretary may have remitted or cancelled any part of the indebtedness of a member of the Air Force on active duty, or a member of a reserve component of the Air Force in an active status, to the United States or any instrumentality of the United States incurred while the member was serving on active duty.

“(b) PERIOD OF EXERCISE OF AUTHORITY.—The Secretary may exercise the authority in subsection (a) with respect to a member—

“(1) while the member is on active duty or in active status, as the case may be;

“(2) if discharged from the armed forces under honorable conditions, during the one-year period beginning on the date of such discharge; or

“(3) if released from active status in a reserve component, during the one-year period beginning on the date of such release.

“(c) RETROACTIVE APPLICABILITY TO CERTAIN DEBTS.—The authority in subsection (a) may be exercised with respect to any debt covered by that subsection that is incurred on or after October 7, 2001.

“(d) REGULATIONS.—This section shall be administered under regulations prescribed by the Secretary of Defense.”.

(2) CLERICAL AMENDMENT.—The item relating to that section in the table of sections at the beginning of chapter 953 of such title is amended by striking the penultimate word.

10 USC 9837
note.

(3) TERMINATION.—The amendments made by this subsection shall terminate on December 31, 2007. Effective on that date, section 9873 of title 10, United States Code, as in effect on the day before the date of the enactment of this Act shall be revived.

SEC. 684. LOAN REPAYMENT PROGRAM FOR CHAPLAINS IN THE SELECTED RESERVE.

(a) LOAN REPAYMENT PROGRAM AUTHORIZED.—Chapter 1609 of title 10, United States Code, is amended by adding at the end the following new section:

“§ 16303. Loan repayment program: chaplains serving in the Selected Reserve

“(a) AUTHORITY TO REPAY EDUCATION LOANS.—For purposes of maintaining adequate numbers of chaplains in the Selected Reserve, the Secretary concerned may repay a loan that was obtained by a person who—

“(1) satisfies the requirements for accessioning and commissioning of chaplains, as prescribed in regulations;

“(2) holds, or is fully qualified for, an appointment as a chaplain in a reserve component of an armed force; and

“(3) signs a written agreement with the Secretary concerned to serve not less than three years in the Selected Reserve.

“(b) EXCEPTION FOR CHAPLAIN CANDIDATE PROGRAM.—A person accessioned into the Chaplain Candidate Program is not eligible for the repayment of a loan under subsection (a).

“(c) LOAN REPAYMENT PROCESS; MAXIMUM AMOUNT.—(1) Subject to paragraph (2), the repayment of a loan under subsection (a) may consist of the payment of the principal, interest, and related expenses of the loan.

“(2) The amount of any repayment of a loan made under subsection (a) on behalf of a person may not exceed \$20,000 for each three year period of obligated service that the person agrees to serve in an agreement described in subsection (a)(3). Of such amount, not more than an amount equal to 50 percent of such amount may be paid before the completion by the person of the first year of obligated service pursuant to the agreement. The balance of such amount shall be payable at such time or times as are prescribed in regulations.

“(d) EFFECT OF FAILURE TO COMPLETE OBLIGATION.—If a person on whose behalf a loan is repaid under subsection (a) fails to commence or complete the period of obligated service specified in the agreement described in subsection (a)(3), the Secretary concerned may require the person to pay the United States an amount equal to the amount of the loan repayments made on behalf of the person in connection with the agreement.

“(e) REGULATIONS.—The Secretary of Defense shall prescribe regulations to carry out this section.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1609 of such title is amended by adding at the end the following new item:

10 USC prec.
16301.

“16303. Loan repayment program: chaplains serving in the Selected Reserve.”.

SEC. 685. INCLUSION OF SENIOR ENLISTED ADVISOR FOR THE CHAIRMAN OF THE JOINT CHIEFS OF STAFF AMONG SENIOR ENLISTED MEMBERS OF THE ARMED FORCES.

(a) BASIC PAY RATE.—

37 USC 205 note.

(1) EQUAL TREATMENT.—The rate of basic pay for an enlisted member in the grade E–9 while serving as Senior Enlisted Advisor for the Chairman of the Joint Chiefs of Staff shall be the same as the rate of basic pay for an enlisted member in that grade while serving as Sergeant Major of the Army, Master Chief Petty Officer of the Navy, Chief Master Sergeant of the Air Force, Sergeant Major of the Marine Corps, or Master Chief Petty Officer of the Coast Guard, regardless of cumulative years of service computed under section 205 of title 37, United States Code.

(2) EFFECTIVE DATE.—Paragraph (1) shall apply beginning on the date on which an enlisted member of the Armed Forces is first appointed to serve as Senior Enlisted Advisor for the Chairman of the Joint Chiefs of Staff.

(b) PAY DURING TERMINAL LEAVE OR WHILE HOSPITALIZED.—Section 210(c) of title 37, United States Code, is amended by adding at the end the following new paragraph:

“(6) The Senior Enlisted Advisor for the Chairman of the Joint Chiefs of Staff.”.

(c) PERSONAL MONEY ALLOWANCE.—Section 414(c) of such title is amended—

(1) by striking “or” after “Sergeant Major of the Marine Corps,”; and

(2) by inserting before the period at the end the following: “, or the Senior Enlisted Advisor for the Chairman of the Joint Chiefs of Staff”.

(d) RETIRED PAY BASE.—Section 1406(i)(3)(B) of title 10, United States Code, is amended by adding at the end the following new clause:

“(vi) Senior Enlisted Advisor for the Chairman of the Joint Chiefs of Staff.”.

SEC. 686. SPECIAL AND INCENTIVE PAYS CONSIDERED FOR SAVED PAY UPON APPOINTMENT OF MEMBERS AS OFFICERS.

(a) INCLUSION AND EXCLUSION OF CERTAIN PAY TYPES.—Subsection (d) of section 907 of title 37, United States Code, is amended to read as follows:

“(d)(1) In determining the amount of the pay and allowances of a grade formerly held by an officer, the following special and incentive pays may be considered only so long as the officer continues to perform the duty that creates the entitlement to, or eligibility for, that pay and would otherwise be eligible to receive that pay in the former grade:

“(A) Incentive pay for hazardous duty under section 301 of this title.

“(B) Submarine duty incentive pay under section 301c of this title.

“(C) Special pay for diving duty under section 304 of this title.

“(D) Hardship duty pay under section 305 of this title.

“(E) Career sea pay under section 305a of this title.

“(F) Special pay for service as a member of a Weapons of Mass Destruction Civil Support Team under section 305b of this title.

“(G) Assignment incentive pay under section 307a of this title.

“(H) Special pay for duty subject to hostile fire or imminent danger under section 310 of this title.

“(I) Special pay or bonus for an extension of duty at a designated overseas location under section 314 of this title.

“(J) Foreign language proficiency pay under section 316 of this title.

“(K) Critical skill retention bonus under section 323 of this title.

“(2) The following special and incentive pays are dependent on a member being in an enlisted status and may not be considered in determining the amount of the pay and allowances of a grade formerly held by an officer:

“(A) Special duty assignment pay under section 307 of this title.

“(B) Reenlistment bonus under section 308 of this title.

“(C) Enlistment bonus under section 309 of this title.

“(D) Career enlisted flyer incentive pay under section 320 of this title.”.

(b) **STYLISTIC AMENDMENTS.**—Such section is further amended—

(1) in subsections (a) and (b)—

(A) by striking “he” each place it appears and inserting “the officer”; and

(B) by striking “his appointment” each place it appears and inserting “the appointment”; and

(2) in subsection (c)(2), by striking “he” and inserting “the officer”.

37 USC 907 note.

(c) **EFFECTIVE DATE.**—Subsection (d) of section 907 of title 37, United States Code, as amended by subsection (a), shall apply with respect to any acceptance by an enlisted member of the Armed Forces of an appointment as an officer made on or after the date of the enactment of this Act.

SEC. 687. REPAYMENT OF UNEARNED PORTION OF BONUSES, SPECIAL PAYS, AND EDUCATIONAL BENEFITS.

(a) **REPAYMENT OF UNEARNED PORTION OF BONUSES AND OTHER BENEFITS.**—

(1) **UNIFORM REPAYMENT PROVISION.**—Section 303a of title 37, United States Code, is amended by adding at the end the following new subsection:

“(e) **REPAYMENT OF UNEARNED PORTION OF BONUSES AND OTHER BENEFITS WHEN CONDITIONS OF PAYMENT NOT MET.**—(1) A member of the uniformed services who receives a bonus or similar benefit and whose receipt of the bonus or similar benefit is subject to the condition that the member continue to satisfy certain eligibility requirements shall repay to the United States an amount equal to the unearned portion of the bonus or similar benefit if

the member fails to satisfy the requirements, except in certain circumstances authorized by the Secretary concerned.

“(2) The Secretary concerned may establish, by regulations, procedures for determining the amount of the repayment required under this subsection and the circumstances under which an exception to the required repayment may be granted. The Secretary concerned may specify in the regulations the conditions under which an installment payment of a bonus or similar benefit to be paid to a member of the uniformed services will not be made if the member no longer satisfies the eligibility requirements for the bonus or similar benefit. For the military departments, this subsection shall be administered under regulations prescribed by the Secretary of Defense.

Regulations.

“(3) An obligation to repay the United States under this subsection is, for all purposes, a debt owed the United States. A discharge in bankruptcy under title 11 does not discharge a person from such debt if the discharge order is entered less than five years after—

“(A) the date of the termination of the agreement or contract on which the debt is based; or

“(B) in the absence of such an agreement or contract, the date of the termination of the service on which the debt is based.

“(4) In this subsection:

“(A) The term ‘bonus or similar benefit’ means a bonus, incentive pay, special pay, or similar payment, or an educational benefit or stipend, paid to a member of the uniformed services under a provision of law that refers to the repayment requirements of this subsection.

“(B) The term ‘service’, as used in paragraph (3)(B), refers to an obligation willingly undertaken by a member of the uniformed services, in exchange for a bonus or similar benefit offered by the Secretary of Defense or the Secretary concerned—

“(i) to remain on active duty or in an active status in a reserve component;

“(ii) to perform duty in a specified skill, with or without a specified qualification or credential;

“(iii) to perform duty at a specified location; or

“(iv) to perform duty for a specified period of time.”.

(2) APPLICABILITY TO TITLE 11 CASES.—In the case of a provision of law amended by subsection (b), (c), or (d) of this section, paragraph (3) of subsection (a) of section 303a of title 37, United States Code, as added by this subsection, shall apply to any case commenced under title 11, United States Code, after March 30, 2006.

37 USC 303a
note.

(b) CONFORMING AMENDMENTS TO TITLE 37.—

(1) AVIATION CAREER OFFICER RETENTION BONUS.—Subsection (g) of section 301b of title 37, United States Code, is amended to read as follows:

“(g) REPAYMENT.—An officer who does not complete the period of active duty specified in the agreement entered into under subsection (a) shall be subject to the repayment provisions of section 303a(e) of this title.”.

(2) MEDICAL OFFICER MULTIYEAR RETENTION BONUS.—Subsection (c) of section 301d of such title is amended to read as follows:

“(c) REPAYMENT.—An officer who does not complete the period of active duty specified in the agreement entered into under subsection (a) shall be subject to the repayment provisions of section 303a(e) of this title.”.

(3) DENTAL OFFICER MULTIYEAR RETENTION BONUS.—Subsection (d) of section 301e of such title is amended to read as follows:

“(d) REPAYMENT.—An officer who does not complete the period of active duty specified in the agreement entered into under subsection (a) shall be subject to the repayment provisions of section 303a(e) of this title.”.

(4) MEDICAL OFFICER SPECIAL PAY.—Section 302 of such title is amended—

(A) in subsection (c)(2), by striking the second sentence and inserting the following new sentence: “If such entitlement is terminated, the officer concerned shall be subject to the repayment provisions of section 303a(e) of this title.”; and

(B) by striking subsection (f) and inserting the following new subsection:

“(f) REPAYMENT.—An officer who does not complete the period for which the payment was made under subsection (a)(4) or subsection (b)(1) shall be subject to the repayment provisions of section 303a(e) of this title.”.

(5) OPTOMETRIST RETENTION SPECIAL PAY.—Paragraph (4) of section 302a(b) of such title is amended to read as follows:

“(4) The Secretary concerned may terminate at any time the eligibility of an officer to receive retention special pay under paragraph (1). An officer who does not complete the period for which the payment was made under paragraph (1) shall be subject to the repayment provisions of section 303a(e) of this title.”.

(6) DENTAL OFFICER SPECIAL PAY.—Section 302b of such title is amended—

(A) in subsection (b)(2), by striking the second sentence and inserting the following new sentence: “If such entitlement is terminated, the officer concerned shall be subject to the repayment provisions of section 303a(e) of this title.”;

(B) by striking subsection (e) and inserting the following new subsection (e):

“(e) REPAYMENT.—An officer who does not complete the period of active duty specified in the agreement referred to in subsection (b) shall be subject to the repayment provisions of section 303a(e) of this title.”;

(C) by striking subsection (f); and

(D) by redesignating subsections (g) and (h) as subsections (f) and (g), respectively.

(7) ACCESSION BONUS FOR REGISTERED NURSES.—Subsection (d) of section 302d of such title is amended to read as follows:

“(d) REPAYMENT.—An officer who does not become and remain licensed as a registered nurse during the period for which the payment is made, or who does not complete the period of active duty specified in the agreement entered into under subsection (a), shall be subject to the repayment provisions of section 303a(e) of this title.”.

(8) NURSE ANESTHETIST SPECIAL PAY.—Section 302e of such title is amended—

(A) in subsection (c), by striking the last sentence and inserting the following new sentence: “If such entitlement is terminated, the officer concerned shall be subject to the repayment provisions of section 303a(e) of this title.”; and

(B) by striking subsection (e) and inserting the following new subsection:

“(e) REPAYMENT.—An officer who does not complete the period of active duty specified in the agreement entered into under subsection (a) shall be subject to the repayment provisions of section 303a(e) of this title.”.

(9) RESERVE, RECALLED, OR RETAINED HEALTH CARE OFFICERS SPECIAL PAY.—Section 302f(c) of such title is amended by striking “refund” and inserting “repay in the manner provided in section 303a(e) of this title”.

(10) SELECTED RESERVE HEALTH CARE PROFESSIONALS IN CRITICALLY SHORT WARTIME SPECIALTIES SPECIAL PAY.—Section 302g of such title is amended—

(A) by striking subsections (d) and (e);

(B) by inserting after subsection (c) the following new subsection (d):

“(d) REPAYMENT.—An officer who does not complete the period of service in the Selected Reserve specified in the agreement entered into under subsection (a) shall be subject to the repayment provisions of section 303a(e) of this title.”; and

(C) by redesignating subsection (f), as amended by section 622(e), as subsection (e).

(11) ACCESSION BONUS FOR DENTAL OFFICERS.—Subsection (d) of section 302h of such title is amended to read as follows:

“(d) REPAYMENT.—A person who, after signing an agreement under subsection (a), is not commissioned as an officer of the armed forces, does not become licensed as a dentist, or does not complete the period of active duty specified in the agreement shall be subject to the repayment provisions of section 303a(e) of this title.”.

(12) ACCESSION BONUS FOR PHARMACY OFFICERS.—Subsection (e) of section 302j of such title is amended to read as follows:

“(e) REPAYMENT.—A person who, after signing an agreement under subsection (a), is not commissioned as an officer of the armed forces, does not become and remain certified or licensed as a pharmacist, or does not complete the period of active duty specified in the agreement shall be subject to the repayment provisions of section 303a(e) of this title.”.

(13) ASSIGNMENT INCENTIVE PAY.—Subsection (d) of section 307a of such title, as added by section 628(c), is amended to read as follows:

“(d) REPAYMENT.—A member who enters into an agreement under this section and receives incentive pay under the agreement in a lump sum or installments, but who fails to complete the period of service covered by the payment, whether voluntarily or because of misconduct, shall be subject to the repayment provisions of section 303a(e) of this title.”.

(14) REENLISTMENT BONUS FOR ACTIVE MEMBERS.—Subsection (d) of section 308 of such title is amended to read as follows:

“(d) A member who does not complete the term of enlistment for which a bonus was paid to the member under this section, or a member who is not technically qualified in the skill for which a bonus was paid to the member under this section, shall be subject to the repayment provisions of section 303a(e) of this title.”.

(15) REENLISTMENT BONUS FOR SELECTED RESERVE.—Subsection (d) of section 308b of such title is amended to read as follows:

“(d) REPAYMENT.—A member who does not complete the term of enlistment in the element of the Selected Reserve for which the bonus was paid to the member under this section shall be subject to the repayment provisions of section 303a(e) of this title.”.

(16) SELECTED RESERVE AFFILIATION OR ENLISTMENT BONUS.—Section 308c of such title, as amended by section 631, is further amended by striking subsection (g) and inserting the following new subsection:

“(g) REPAYMENT.—A person who enters into an agreement under subsection (a) or (c) and receives all or part of the bonus under the agreement, but who does not commence to serve in the Selected Reserve or does not satisfactorily participate in the Selected Reserve for the total period of service specified in the agreement, shall be subject to the repayment provisions of section 303a(e) of this title.”.

(17) READY RESERVE ENLISTMENT BONUS.—Section 308g of such title is amended—

(A) by striking subsection (d) and inserting the following new subsection:

“(d) A person who does not serve satisfactorily in the element of the Ready Reserve in the combat or combat support skill for the period for which the bonus was paid under this section shall be subject to the repayment provisions of section 303a(e) of this title.”;

(B) by striking subsections (e) and (f); and

(C) by redesignating subsections (g) and (h), as amended by section 621(c), as subsections (e) and (f), respectively.

(18) READY RESERVE REENLISTMENT, ENLISTMENT, AND VOLUNTARY EXTENSION OF ENLISTMENT BONUS.—Section 308h of such title is amended—

(A) by striking subsection (c) and inserting the following new subsection:

“(c) REPAYMENT.—A person who does not complete the period of enlistment or extension of enlistment for which the bonus was paid under this section shall be subject to the repayment provisions of section 303a(e) of this title.”;

(B) by striking subsections (d) and (e); and

(C) by redesignating subsections (f) and (g), as amended by section 621(d), as subsections (d) and (e), respectively.

(19) PRIOR SERVICE ENLISTMENT BONUS.—Subsection (d) of section 308i of such title is amended to read as follows:

“(d) REPAYMENT.—A person who receives a bonus payment under this section and who, during the period for which the bonus was paid, does not serve satisfactorily in the element of the Selected Reserve with respect to which the bonus was paid shall be subject to the repayment provisions of section 303a(e) of this title.”.

(20) ENLISTMENT BONUS.—Subsection (b) of section 309 of such title is amended to read as follows:

“(b) REPAYMENT.—A member who does not complete the term of enlistment for which a bonus was paid to the member under this section, or a member who is not technically qualified in the skill for which a bonus was paid to the member under this section, shall be subject to the repayment provisions of section 303a(e) of this title.”.

(21) SPECIAL PAY FOR NUCLEAR-QUALIFIED OFFICERS EXTENDING ACTIVE DUTY.—Subsection (b) of section 312 of such title is amended to read as follows:

“(b) An officer who does not complete the period of active duty in connection with the supervision, operation, and maintenance of naval nuclear propulsion plants that the officer agreed to serve, and for which a payment was made under subsection (a) or subsection (d)(1), shall be subject to the repayment provisions of section 303a(e) of this title.”.

(22) NUCLEAR CAREER ACCESSION BONUS.—Paragraph (2) of section 312b(a) of such title is amended to read as follows:

“(2) An officer who does not commence or complete satisfactorily the nuclear power training specified in the agreement under paragraph (1) shall be subject to the repayment provisions of section 303a(e) of this title.”.

(23) ENLISTED MEMBERS EXTENDING DUTY AT DESIGNATED LOCATIONS OVERSEAS.—Subsection (d) of section 314 of such title is amended to read as follows:

“(d) REPAYMENT.—A member who, having entered into a written agreement to extend a tour of duty for a period under subsection (a), receives a bonus payment under subsection (b)(2) for a 12-month period covered by the agreement and ceases during that 12-month period to perform the agreed tour of duty shall be subject to the repayment provisions of section 303a(e) of this title.”.

(24) ENGINEERING AND SCIENTIFIC CAREER CONTINUATION PAY.—Subsection (c) of section 315 of such title is amended to read as follows:

“(c) An officer who, having entered into a written agreement under subsection (b) and having received all or part of a bonus under this section, does not complete the period of active duty as specified in the agreement shall be subject to the repayment provisions of section 303a(e) of this title.”.

(25) FOREIGN LANGUAGE PROFICIENCY PAY.—Subsection (e) of section 316 of such title, as added by section 639(c), is amended to read as follows:

“(e) REPAYMENT.—A member who receives a bonus under this section, but who does not satisfy an eligibility requirement specified in paragraph (1), (2), (3), or (4) of subsection (a) for the entire certification period, shall be subject to the repayment provisions of section 303a(e) of this title.”.

(26) CRITICAL ACQUISITION POSITIONS.—Subsection (f) of section 317 of such title is amended to read as follows:

“(f) REPAYMENT.—An officer who, having entered into a written agreement under subsection (a) and having received all or part of a bonus under this section, does not complete the period of active duty as specified in the agreement shall be subject to the repayment provisions of section 303a(e) of this title.”.

(27) SPECIAL WARFARE OFFICERS EXTENDING PERIOD OF ACTIVE DUTY.—Subsection (h) of section 318 of such title is amended to read as follows:

“(h) REPAYMENT.—An officer who, having entered into a written agreement under subsection (b) and having received all or part of a bonus under this section, does not complete the period of active duty in special warfare service as specified in the agreement shall be subject to the repayment provisions of section 303a(e) of this title.”.

(28) SURFACE WARFARE OFFICERS EXTENDING PERIOD OF ACTIVE DUTY.—Subsection (f) of section 319 of such title is amended to read as follows:

“(f) REPAYMENT.—An officer who, having entered into a written agreement under subsection (b) and having received all or part of a bonus under this section, does not complete the period of active duty as a department head on a surface vessel as specified in the agreement, shall be subject to the repayment provisions of section 303a(e) of this title.”.

(29) JUDGE ADVOCATE CONTINUATION PAY.—Subsection (f) of section 321 of such title is amended to read as follows:

“(f) REPAYMENT.—An officer who has entered into a written agreement under subsection (b) and has received all or part of the amount payable under the agreement but who does not complete the total period of active duty specified in the agreement, shall be subject to the repayment provisions of section 303a(e) of this title.”.

(30) 15-YEAR CAREER STATUS BONUS.—Subsection (f) of section 322 of such title is amended to read as follows:

“(f) REPAYMENT.—If a person paid a bonus under this section does not complete a period of active duty beginning on the date on which the election of the person under paragraph (1) of subsection (a) is received and ending on the date on which the person completes 20 years of active duty service as described in paragraph (2) of such subsection, the person shall be subject to the repayment provisions of section 303a(e) of this title.”.

(31) CRITICAL MILITARY SKILLS RETENTION BONUS.—Subsection (g) of section 323 of such title, as amended by section 640(e), is amended to read as follows:

“(g) REPAYMENT.—A member paid a bonus under this section who fails, during the period of service covered by the member's agreement, reenlistment, or voluntary extension of enlistment under subsection (a), to remain qualified in the critical military skill or to satisfy the other eligibility criteria for which the bonus was paid shall be subject to the repayment provisions of section 303a(e) of this title.”.

(32) ACCESSION BONUS FOR NEW OFFICERS IN CRITICAL SKILLS.—Subsection (f) of section 324 of such title is amended to read as follows:

“(f) REPAYMENT.—An individual who, having received all or part of the bonus under an agreement referred to in subsection (a), is not thereafter commissioned as an officer or does not commence or complete the total period of active duty service specified in the agreement shall be subject to the repayment provisions of section 303a(e) of this title.”.

(33) SAVINGS PLAN FOR EDUCATION EXPENSES AND OTHER CONTINGENCIES.—Subsection (g) of section 325 of such title is amended to read as follows:

“(g) REPAYMENT.—If a person does not complete the qualifying service for which the person is obligated under a commitment for which a benefit has been paid under this section, the person

shall be subject to the repayment provisions of section 303a(e) of this title.”.

(34) INCENTIVE BONUS FOR CONVERSION TO MILITARY OCCUPATIONAL SPECIALTY.—Subsection (e) of section 326 of such title is amended to read as follows:

“(e) REPAYMENT.—A member who does not convert to and complete the period of service in the military occupational specialty specified in the agreement executed under subsection (a) shall be subject to the repayment provisions of section 303a(e) of this title.”.

(35) TRANSFER BETWEEN ARMED FORCES INCENTIVE BONUS.—Section 327 of such title, as added by section 641, is amended by striking subsection (f) and inserting the following new subsection:

“(f) REPAYMENT.—A member who is paid a bonus under an agreement under this section and who, voluntarily or because of misconduct, fails to serve for the period covered by such agreement shall be subject to the repayment provisions of section 303a(e) of this title.”.

(c) CONFORMING AMENDMENTS TO TITLE 10.—

(1) ENLISTMENT INCENTIVES FOR PURSUIT OF SKILLS TO FACILITATE NATIONAL SERVICE.—Subsection (i) of section 510 of title 10, United States Code, is amended to read as follows:

“(i) REPAYMENT.—If a National Call to Service participant who has entered into an agreement under subsection (b) and received or benefitted from an incentive under paragraph (1) or (2) of subsection (e) fails to complete the total period of service specified in the agreement, the National Call to Service participant shall be subject to the repayment provisions of section 303a(e) of title 37.”.

(2) ADVANCED EDUCATION ASSISTANCE.—Section 2005 of such title is amended—

(A) in subsection (a), by striking paragraph (3) and inserting the following new paragraph:

“(3) that if such person does not complete the period of active duty specified in the agreement, or does not fulfill any term or condition prescribed pursuant to paragraph (4), such person shall be subject to the repayment provisions of section 303a(e) of title 37; and”;

(B) by striking subsections (c), (d), (f), (g) and (h);

(C) by redesignating subsection (e) as subsection (d);

and

(D) by inserting after subsection (b), the following new subsection:

“(c) As a condition of the Secretary concerned providing financial assistance under section 2107 or 2107a of this title to any person, the Secretary concerned shall require that the person enter into the agreement described in subsection (a). In addition to the requirements of paragraphs (1) through (4) of such subsection, the agreement shall specify that, if the person does not complete the education requirements specified in the agreement or does not fulfill any term or condition prescribed pursuant to paragraph (4) of such subsection, the person shall be subject to the repayment provisions of section 303a(e) of title 37 without the Secretary first ordering such person to active duty as provided for under subsection (a)(2) and sections 2107(f) and 2107a(f) of this title.”.

Contracts.

(3) TUITION FOR OFF-DUTY TRAINING OR EDUCATION.—Section 2007 of such title is amended by adding at the end the following new subsection:

“(f) If an officer who enters into an agreement under subsection (b) does not complete the period of active duty specified in the agreement, the officer shall be subject to the repayment provisions of section 303a(e) of title 37.”.

(4) FAILURE TO COMPLETE ADVANCED TRAINING OR TO ACCEPT COMMISSION.—Section 2105 of such title is amended by adding at the end the following new sentence: “If the member does not complete the period of active duty prescribed by the Secretary concerned, the member shall be subject to the repayment provisions of section 303a(e) of title 37”.

(5) HEALTH PROFESSIONS SCHOLARSHIP AND FINANCIAL ASSISTANCE PROGRAM FOR ACTIVE SERVICE.—Section 2123(e)(1)(C) of such title is amended by striking “equal to” and all that follows through the period at the end and inserting “pursuant to the repayment provisions of section 303a(e) of title 37.”.

(6) FINANCIAL ASSISTANCE FOR NURSE OFFICER CANDIDATES.—Subsection (d) of section 2130a of such title is amended to read as follows:

“(d) REPAYMENT.—A person who does not complete a nursing degree program in which the person is enrolled in accordance with the agreement entered into under subsection (a), or having completed the nursing degree program, does not become an officer in the Nurse Corps of the Army or the Navy or an officer designated as a nurse officer of the Air Force or commissioned corps of the Public Health Service or does not complete the period of obligated active service required under the agreement, shall be subject to the repayment provisions of section 303a(e) of title 37.”.

(7) EDUCATION LOAN REPAYMENT PROGRAM.—Subsection (g) of section 2173 of such title is amended—

(A) by inserting “(1)” before “A commissioned officer”;

and

(B) by adding at the end the following new paragraph:

“(2) An officer who does not complete the period of active duty specified in the agreement entered into under subsection (b)(3), or the alternative obligation imposed under paragraph (1), shall be subject to the repayment provisions of section 303a(e) of title 37.”.

(8) SCHOLARSHIP PROGRAM FOR DEGREE PROGRAM FOR DEGREE OR CERTIFICATION IN INFORMATION ASSURANCE.—Section 2200a of such title is amended—

(A) by striking subsection (e) and inserting the following new subsection:

“(e) REPAYMENT FOR PERIOD OF UNSERVED OBLIGATED SERVICE.—(1) A member of an armed force who does not complete the period of active duty specified in the service agreement under section (b) shall be subject to the repayment provisions of section 303a(e) of title 37.

“(2) A civilian employee of the Department of Defense who voluntarily terminates service before the end of the period of obligated service required under an agreement entered into under subsection (b) shall be subject to the repayment provisions of section 303a(e) of title 37 in the same manner and to the same extent as if the civilian employee were a member of the armed forces.”.

(B) by striking subsection (f); and

(C) by redesignating subsection (g) as subsection (f).

(9) ARMY CADET AGREEMENT TO SERVE AS OFFICER.—Section 4348 of such title is amended by adding at the end the following new subsection:

“(f) A cadet or former cadet who does not fulfill the terms of the agreement as specified under section (a), or the alternative obligation imposed under subsection (b), shall be subject to the repayment provisions of section 303a(e) of title 37.”.

(10) MIDSHIPMEN AGREEMENT FOR LENGTH OF SERVICE.—

Section 6959 of such title is amended by adding at the end the following new subsection:

“(f) A midshipman or former midshipman who does not fulfill the terms of the agreement as specified under section (a), or the alternative obligation imposed under subsection (b), shall be subject to the repayment provisions of section 303a(e) of title 37.”.

(11) AIR FORCE CADET AGREEMENT TO SERVE AS OFFICER.—

Section 9348 of such title is amended by adding at the end the following new subsection:

“(f) A cadet or former cadet who does not fulfill the terms of the agreement as specified under section (a), or the alternative obligation imposed under subsection (b), shall be subject to the repayment provisions of section 303a(e) of title 37.”.

(12) EDUCATIONAL ASSISTANCE FOR MEMBERS OF SELECTED RESERVE.—Section 16135 of such title is amended to read as follows:

“§ 16135. Failure to participate satisfactorily; penalties

“(a) PENALTIES.—At the option of the Secretary concerned, a member of the Selected Reserve of an armed force who does not participate satisfactorily in required training as a member of the Selected Reserve during a term of enlistment or other period of obligated service that created entitlement of the member to educational assistance under this chapter, and during which the member has received such assistance, may—

“(1) be ordered to active duty for a period of two years or the period of obligated service the person has remaining under section 16132 of this title, whichever is less; or

“(2) be subject to the repayment provisions under section 303a(e) of title 37.

“(b) EFFECT OF REPAYMENT.—Any repayment under section 303a(e) of title 37 shall not affect the period of obligation of a member to serve as a Reserve in the Selected Reserve.”.

(13) HEALTH PROFESSIONS STIPEND PROGRAM PENALTIES AND LIMITATIONS.—Subparagraph (B) of section 16203(a)(1) of such title is amended to read as follows:

“(B) to comply with the repayment provisions of section 303a(e) of title 37.”.

(14) LOAN REPAYMENT PROGRAM FOR CHAPLAINS SERVING IN SELECTED RESERVE.—Section 16303 of such title, as added by section 684, is amended by striking subsection (d) and inserting the following new subsection:

“(d) EFFECT OF FAILURE TO COMPLETE OBLIGATION.—A person on whose behalf a loan is repaid under subsection (a) who fails to commence or complete the period of obligated service specified in the agreement described in subsection (a)(3) shall be subject to the repayment provisions of section 303a(e) of title 37.”.

(15) COLLEGE TUITION ASSISTANCE PROGRAM FOR MARINE CORPS PLATOON LEADERS CLASS.—Subsection (f) of section 16401 of such title is amended—

(A) in paragraph (1), by striking “may be required to repay the full amount of financial assistance” and inserting “shall be subject to the repayment provisions of section 303a(e) of title 37”; and

(B) in paragraph (2), by inserting before “The Secretary of the Navy” the following new sentence: “Any requirement to repay any portion of financial assistance received under this section shall be administered under the regulations issued under section 303a(e) of title 37.”.

(d) CONFORMING AMENDMENT TO TITLE 14.—Section 182 of title 14, United States Code, is amended by adding at the end the following new subsection:

“(g) A cadet or former cadet who does not fulfill the terms of the obligation to serve as specified under section (b), or the alternative obligation imposed under subsection (c), shall be subject to the repayment provisions of section 303a(e) of title 37.”.

(e) CLERICAL AMENDMENTS.—

(1) SECTION HEADING.—The heading of section 303a of title 37, United States Code, is amended to read as follows:

“§ 303a. Special pay: general provisions”.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 5 of such title is amended by striking the item relating to section 303a and inserting the following new item:

“303a. Special pay: general provisions.”.

10 USC 510 note.

(f) CONTINUED APPLICATION OF CURRENT LAW TO EXISTING BONUSES.—In the case of any bonus, incentive pay, special pay, or similar payment, such as education assistance or a stipend, which the United States became obligated to pay before April 1, 2006, under a provision of law amended by subsection (b), (c), or (d) of this section, such provision of law, as in effect on the day before the date of the enactment of this Act, shall continue to apply to the payment, or any repayment, of the bonus, incentive pay, special pay, or similar payment under such provision of law.

SEC. 688. RIGHTS OF MEMBERS OF THE ARMED FORCES AND THEIR DEPENDENTS UNDER HOUSING AND URBAN DEVELOPMENT ACT OF 1968.

(a) WRITTEN NOTICE OF RIGHTS.—Section 106(c)(5)(A)(ii) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(5)(A)(ii)) is amended—

(1) in subclause (II), by striking “and” at the end;

(2) in subclause (III), by striking the period and inserting “; and”; and

(3) by adding at the end the following new subclause:

“(IV) notify the homeowner by a statement or notice, written in plain English by the Secretary of Housing and Urban Development, in consultation with the Secretary of Defense and the Secretary of the Treasury, explaining the mortgage and foreclosure rights of servicemembers, and the dependents of such servicemembers, under the Servicemembers Civil Relief Act (50 U.S.C. App.

501 et seq.), including the toll-free military one source number to call if servicemembers, or the dependents of such servicemembers, require further assistance.”.

(b) **NO EFFECT ON OTHER LAWS.**—Nothing in this section shall relieve any person of any obligation imposed by any other Federal, State, or local law. 12 USC 1701x note.

(c) **DISCLOSURE FORM.**—Not later than 150 days after the date of the enactment of this Act, the Secretary of Housing and Urban Development shall issue a final disclosure form to fulfill the requirement of subclause (IV) of section 106(c)(5)(A)(ii) of the Housing and Urban Development Act of 1968, as added by subsection (a). Deadline. 12 USC 1701x note.

(d) **EFFECTIVE DATE.**—The amendments made under subsection (a) shall take effect 150 days after the date of the enactment of this Act. 12 USC 1701x note.

SEC. 689. EXTENSION OF ELIGIBILITY FOR SSI FOR CERTAIN INDIVIDUALS IN FAMILIES THAT INCLUDE MEMBERS OF THE RESERVE AND NATIONAL GUARD.

Section 1631(j)(1)(B) of the Social Security Act (42 U.S.C. 1383(j)(1)(B)) is amended by inserting “(or 24 consecutive months, in the case of such an individual whose ineligibility for benefits under or pursuant to both such sections is a result of being called to active duty pursuant to section 12301(d) or 12302 of title 10, United States Code, or section 502(f) of title 32, United States Code)” after “for a period of 12 consecutive months”.

SEC. 690. INFORMATION FOR MEMBERS OF THE ARMED FORCES AND THEIR DEPENDENTS ON RIGHTS AND PROTECTIONS OF THE SERVICEMEMBERS CIVIL RELIEF ACT.

50 USC app. 515a.

(a) **OUTREACH TO MEMBERS.**—The Secretary concerned shall provide to each member of the Armed Forces under the jurisdiction of the Secretary pertinent information on the rights and protections available to members and their dependents under the Servicemembers Civil Relief Act (50 U.S.C. App. 501 et seq.).

(b) **TIME OF PROVISION.**—The information required to be provided under subsection (a) to a member shall be provided at the following times:

(1) During the initial orientation training of the member.

(2) In the case of a member of a reserve component, during the initial orientation training of the member and when the member is mobilized or otherwise individually called or ordered to active duty for a period of more than one year.

(3) At such other times as the Secretary concerned considers appropriate.

(c) **OUTREACH TO DEPENDENTS.**—The Secretary concerned may provide to the adult dependents of members under the jurisdiction of the Secretary pertinent information on the rights and protections available to members and their dependents under the Servicemembers Civil Relief Act.

(d) **DEFINITIONS.**—In this section, the terms “dependent” and “Secretary concerned” have the meanings given such terms in section 101 of the Servicemembers Civil Relief Act (50 U.S.C. App. 511).

TITLE VII—HEALTH CARE PROVISIONS

SUBTITLE A—IMPROVEMENTS TO HEALTH BENEFITS FOR RESERVES

- Sec. 701. Enhancement of TRICARE Reserve Select program.
- Sec. 702. Expanded eligibility of members of the Selected Reserve under the TRICARE program.

SUBTITLE B—TRICARE PROGRAM IMPROVEMENTS

- Sec. 711. Additional information required by surveys on TRICARE Standard.
- Sec. 712. Availability of chiropractic health care services.
- Sec. 713. Surviving-dependent eligibility under TRICARE dental plan for surviving spouses who were on active duty at time of death of military spouse.
- Sec. 714. Exceptional eligibility for TRICARE Prime Remote.
- Sec. 715. Increased period of continued TRICARE Prime coverage of children of members of the uniformed services who die while serving on active duty for a period of more than 30 days.
- Sec. 716. TRICARE Standard in TRICARE Regional Offices.
- Sec. 717. Qualifications for individuals serving as TRICARE Regional Directors.

SUBTITLE C—MENTAL HEALTH-RELATED PROVISIONS

- Sec. 721. Program for mental health awareness for dependents and pilot project on post traumatic stress disorder.
- Sec. 722. Pilot projects on early diagnosis and treatment of post traumatic stress disorder and other mental health conditions.
- Sec. 723. Department of Defense task force on mental health.

SUBTITLE D—STUDIES AND REPORTS

- Sec. 731. Study relating to predeployment and postdeployment medical exams of certain members of the Armed Forces.
- Sec. 732. Requirements for physical examinations and medical and dental readiness for members of the Selected Reserve not on active duty.
- Sec. 733. Report on delivery of health care benefits through the military health care system.
- Sec. 734. Comptroller General studies and report on differential payments to children's hospitals for health care for children dependents and maximum allowable charge for obstetrical care services under TRICARE.
- Sec. 735. Report on the Department of Defense AHLTA global electronic health record system.
- Sec. 736. Comptroller General study and report on Vaccine Healthcare Centers.
- Sec. 737. Report on adverse health events associated with use of anti-malarial drugs.
- Sec. 738. Report on Reserve dental insurance program.
- Sec. 739. Demonstration project study on Medicare Advantage regional preferred provider organization option for TRICARE-medicare dual-eligible beneficiaries.
- Sec. 740. Pilot projects on pediatric early literacy among children of members of the Armed Forces.

SUBTITLE E—OTHER MATTERS

- Sec. 741. Authority to relocate patient safety center; renaming MedTeams Program.
- Sec. 742. Modification of health care quality information and technology enhancement reporting requirement.
- Sec. 743. Correction to eligibility of certain Reserve officers for military health care pending active duty following commissioning.
- Sec. 744. Prohibition on conversions of military medical and dental positions to civilian medical positions until submission of certification.
- Sec. 745. Clarification of inclusion of dental care in medical readiness tracking and health surveillance program.
- Sec. 746. Cooperative outreach to members and former members of the naval service exposed to environmental factors related to sarcoidosis.
- Sec. 747. Repeal of requirement for Comptroller General reviews of certain Department of Defense-Department of Veterans Affairs projects on sharing of health care resources.
- Sec. 748. Pandemic avian flu preparedness.
- Sec. 749. Follow up assistance for members of the Armed Forces after preseparation physical examinations.
- Sec. 750. Policy on role of military medical and behavioral science personnel in interrogation of detainees.

Subtitle A—Improvements to Health Benefits for Reserves

SEC. 701. ENHANCEMENT OF TRICARE RESERVE SELECT PROGRAM.

(a) **EXTENSION OF COVERAGE FOR MEMBERS RECALLED TO ACTIVE DUTY.**—Section 1076d of title 10, United States Code, is amended—

(1) in subsection (b), by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph (3):

“(3) In the case of a member recalled to active duty before the period of coverage for which the member is eligible under subsection (a) terminates, the period of coverage of the member—

“(A) resumes after the member completes the subsequent active duty service (subject to any additional entitlement to care and benefits under section 1145(a) of this title that is based on the same subsequent active duty service); and

“(B) increases by any additional period of coverage for which the member is eligible under subsection (a) based on the subsequent active duty service.”;

(2) in subsection (b)(2), by striking “Unless earlier terminated under paragraph (3)” and inserting “Subject to paragraph (3) and unless earlier terminated under paragraph (4)”; and

(3) in subsection (f), by adding at the end the following new paragraph:

“(3) The term ‘member recalled to active duty’ means, with respect to a member who is eligible for coverage under this section based on a period of active duty service, a member who is called or ordered to active duty for an additional period of active duty subsequent to the period of active duty on which that eligibility is based.”.

(b) **SPECIAL RULE FOR MOBILIZED MEMBERS OF INDIVIDUAL READY RESERVE FINDING NO POSITION IN SELECTED RESERVE.**—Section 1076d of such title is amended by adding at the end of subsection (b) (as amended by this section) the following new paragraph:

“(5) In the case of a member of the Individual Ready Reserve who is unable to find a position in the Selected Reserve and who meets the requirements for eligibility for health benefits under TRICARE Standard under subsection (a) except for membership in the Selected Reserve, the period of coverage under this section may begin not later than one year after coverage would otherwise begin under this section had the member been a member of the Selected Reserve, if the member finds a position in the Selected Reserve during that one-year period.”.

(c) **ELIGIBILITY OF FAMILY MEMBERS FOR 6 MONTHS FOLLOWING DEATH OF MEMBER.**—Section 1076d(c) of such title is amended by adding at the end the following: “If a member of a reserve component dies while in a period of coverage under this section, the eligibility of the members of the immediate family of such member for TRICARE Standard coverage shall continue for six months beyond the date of death of the member.”.

(d) **EXTENSION OF TIME FOR ENTERING INTO AGREEMENT.**—Section 1076d(a)(2) of such title is amended by striking “on or before the date of the release” and inserting “not later than 90 days after release”.

(e) REVISION OF TRICARE STANDARD DEFINITION.—Subsection (f)(2) of section 1076d of such title is amended to read as follows:

“(2) The term ‘TRICARE Standard’ means—

“(A) medical care to which a dependent described in section 1076(a)(2) of this title is entitled; and

“(B) health benefits contracted for under the authority of section 1079(a) of this title and subject to the same rates and conditions as apply to persons covered under that section.”.

(f) REVISION OF SECTION HEADING.—

(1) AMENDMENT.—The heading for section 1076d of such title is amended to read as follows:

“§ 1076d. TRICARE program: coverage for members of reserve components who commit to continued service in the Selected Reserve after release from active duty in support of a contingency operation”.

(2) CLERICAL AMENDMENT.—The item relating to section 1076d in the table of sections relating to chapter 55 of such title is amended to read as follows:

“1076d. TRICARE program: coverage for members of reserve components who commit to continued service in the Selected Reserve after release from active duty in support of a contingency operation.”.

SEC. 702. EXPANDED ELIGIBILITY OF MEMBERS OF THE SELECTED RESERVE UNDER THE TRICARE PROGRAM.

(a) EXPANDED ELIGIBILITY.—

(1) IN GENERAL.—Section 1076b of title 10, United States Code, is amended to read as follows:

“§ 1076b. TRICARE program: TRICARE Standard coverage for members of the Selected Reserve

“(a) ELIGIBILITY.—Each member of the Selected Reserve of the Ready Reserve who is committed to serving in the Selected Reserve as described in subsection (c)(3) is eligible, subject to subsection (h), to enroll in TRICARE Standard and receive benefits under such enrollment for any period that the member—

“(1) is an eligible unemployment compensation recipient;

“(2) subject to subsection (i), is not eligible for health care benefits under an employer-sponsored health benefits plan; or

“(3) is not eligible under paragraph (1) or (2) and is not eligible under section 1076d of this title.

“(b) TYPES OF COVERAGE.—(1) A member eligible under subsection (a) may enroll for either of the following types of coverage:

“(A) Self alone coverage.

“(B) Self and family coverage.

“(2) An enrollment by a member for self and family covers the member and the dependents of the member who are described in subparagraph (A), (D), or (I) of section 1072(2) of this title.

“(c) ENROLLMENT.—(1) The Secretary of Defense shall provide for at least one open enrollment period each year. During an open enrollment period or at such other time as the Secretary considers appropriate, a member eligible under subsection (a) may enroll in TRICARE Standard or change or terminate an enrollment in TRICARE Standard.

“(2) An enrollment in TRICARE Standard of a member eligible under subsection (a) shall be effective for one year only, and may

be renewed by the member during the open enrollment period provided under paragraph (1) or at such other time as the Secretary considers appropriate.

“(3) A member eligible under subsection (a) may not enroll or renew an enrollment in TRICARE Standard under this section unless the member is committed to a period of obligated service in the Selected Reserve that extends through the enrollment period.

“(d) SCOPE OF CARE.—(1) A member and the dependents of a member enrolled in TRICARE Standard under this section shall be entitled to the same benefits under this chapter as a member of the uniformed services on active duty or a dependent of such a member, respectively, is entitled to under TRICARE Standard.

“(2) Section 1074(c) of this title shall apply with respect to a member enrolled in TRICARE Standard under this section. Applicability.

“(e) PREMIUMS.—(1) The Secretary of Defense shall charge premiums for coverage pursuant to enrollments under this section. The Secretary shall prescribe for each of the TRICARE Standard program options a premium for self alone coverage and a premium for self and family coverage.

“(2) The monthly amount of the premium in effect for a month for a type of coverage under this section shall be as follows:

“(A) For members eligible under paragraph (1) or (2) of subsection (a), the amount equal to 50 percent of the total amount determined by the Secretary on an appropriate actuarial basis as being reasonable for the coverage.

“(B) For members eligible under paragraph (3) of subsection (a), the amount equal to 85 percent of the total amount determined by the Secretary on an appropriate actuarial basis as being reasonable for the coverage.

“(3) In determining the amount of a premium under paragraph (2), the Secretary shall use the same actuarial basis as used under section 1076d of this title for determining the amount of premiums under that section.

“(4) The premiums payable by a member under this subsection may be deducted and withheld from basic pay payable to the member under section 204 of title 37 or from compensation payable to the member under section 206 of such title. The Secretary shall prescribe the requirements and procedures applicable to the payment of premiums by members. Procedures.

“(5) Amounts collected as premiums under this subsection shall be credited to the appropriation available for the Defense Health Program Account under section 1100 of this title, shall be merged with sums in such Account that are available for the fiscal year in which collected, and shall be available under subsection (b) of such section for such fiscal year.

“(f) OTHER CHARGES.—A person who receives health care pursuant to an enrollment in TRICARE Standard under this section, including a member who receives such health care, shall be subject to the same deductibles, copayments, and other nonpremium charges for health care as apply under this chapter for health care provided under TRICARE Standard to dependents described in subparagraph (A), (D), or (I) of section 1072(2) of this title.

“(g) TERMINATION OF ENROLLMENT.—(1) A member enrolled in TRICARE Standard under this section may terminate the enrollment only during an open enrollment period provided under subsection (c).

“(2) An enrollment of a member for self alone or for self and family under this section shall terminate on the first day of the first month beginning after the date on which the member ceases to be eligible under subsection (a).

“(3) The enrollment of a member under this section may be terminated on the basis of failure to pay the premium charged the member under this section.

“(h) RELATIONSHIP TO TRANSITION TRICARE COVERAGE UPON SEPARATION FROM ACTIVE DUTY.—A member is not eligible for TRICARE Standard under this section while entitled to transitional health care under subsection (a) of section 1145 of this title or while authorized to receive health care under subsection (c) of such section.

“(i) NONCOVERAGE BY OTHER HEALTH BENEFITS PLAN.—(1) For purposes of subsection (a)(2), a person shall be considered to be not eligible for health care benefits under an employer-sponsored health benefits plan only if the person—

“(A) is employed by an employer that does not offer a health benefits plan to anyone working for the employer;

“(B) is in a category of employees to which the person’s employer does not offer a health benefits plan, if such category is designated by the employer based on hours, duties, employment agreement, or such other characteristic, other than membership in the Selected Reserve, as the regulations administering this section prescribe (such as part-time employees); or

“(C) is self-employed.

“(2) The Secretary of Defense may require a member to submit any certification that the Secretary considers appropriate to substantiate the member’s assertion that the member is not eligible for health care benefits under an employer-sponsored health benefits plan.

“(j) ELIGIBLE UNEMPLOYMENT COMPENSATION RECIPIENT DEFINED.—In this section, the term ‘eligible unemployment compensation recipient’ means, with respect to any month, any individual who is determined eligible for any day of such month for unemployment compensation under State law (as defined in section 205(9) of the Federal-State Extended Unemployment Compensation Act of 1970), including Federal unemployment compensation laws administered through the State.

“(k) TRICARE STANDARD DEFINED.—In this section, the term ‘TRICARE Standard’ has the meaning provided by section 1076d(f) of this title.

“(l) REGULATIONS.—The Secretary of Defense, in consultation with the other administering Secretaries, shall prescribe regulations for the administration of this section.”.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 55 of title 10, United States Code, is amended by striking the item relating to section 1076b and inserting the following:

“1076b. TRICARE program: TRICARE Standard coverage for members of the Selected Reserve.”.

(b) EFFECTIVE DATE.—The Secretary of Defense shall ensure that health care under TRICARE Standard is provided under section 1076b of title 10, United States Code, as amended by this section, beginning not later than October 1, 2006.

Subtitle B—TRICARE Program Improvements

SEC. 711. ADDITIONAL INFORMATION REQUIRED BY SURVEYS ON TRICARE STANDARD.

Section 723(a) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1532; 10 U.S.C. 1073 note) is amended by adding at the end the following new paragraph:

“(4) Surveys required by paragraph (1) shall include questions seeking to determine from health care providers the following:

“(A) Whether the provider is aware of the TRICARE program.

“(B) What percentage of the provider’s current patient population uses any form of TRICARE.

“(C) Whether the provider accepts patients for whom payment is made under the medicare program for health care services.

“(D) If the provider accepts patients referred to in subparagraph (C), whether the provider would accept additional such patients who are not in the provider’s current patient population.”.

SEC. 712. AVAILABILITY OF CHIROPRACTIC HEALTH CARE SERVICES.

10 USC 1092
note.

(a) AVAILABILITY OF CHIROPRACTIC HEALTH CARE SERVICES.—The Secretary of the Air Force shall ensure that chiropractic health care services are available at all medical treatment facilities listed in table 5 of the report to Congress dated August 16, 2001, titled “Chiropractic Health Care Implementation Plan”. If the Secretary determines that it is not necessary or feasible to provide chiropractic health care services at any such facility, the Secretary shall provide such services at an alternative site for each such facility.

(b) IMPLEMENTATION AND REPORT.—Not later than September 30, 2006, the Secretary of the Air Force shall—

(1) implement subsection (a); and

(2) submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the availability of chiropractic health care services as required under subsection (a), including information on alternative sites at which such services have been made available.

SEC. 713. SURVIVING-DEPENDENT ELIGIBILITY UNDER TRICARE DENTAL PLAN FOR SURVIVING SPOUSES WHO WERE ON ACTIVE DUTY AT TIME OF DEATH OF MILITARY SPOUSE.

Section 1076a(k) of title 10, United States Code, is amended to read as follows:

“(k) ELIGIBLE DEPENDENT DEFINED.—(1) In this section, the term ‘eligible dependent’ means a dependent described in subparagraph (A), (D), or (I) of section 1072(2) of this title.

“(2) Such term includes any such dependent of a member who dies while on active duty for a period of more than 30 days or a member of the Ready Reserve if, on the date of the death of the member, the dependent—

“(A) is enrolled in a dental benefits plan established under subsection (a); or

“(B) if not enrolled in such a plan on such date—

“(i) is not enrolled by reason of a discontinuance of a former enrollment under subsection (f); or

“(ii) is not qualified for such enrollment because—

“(I) the dependent is a child under the minimum age for such enrollment; or

“(II) the dependent is a spouse who is a member of the armed forces on active duty for a period of more than 30 days.

“(3) Such term does not include a dependent by reason of paragraph (2) after the end of the three-year period beginning on the date of the member’s death.”.

SEC. 714. EXCEPTIONAL ELIGIBILITY FOR TRICARE PRIME REMOTE.

Section 1079(p) of title 10, United States Code, is amended—

(1) by redesignating paragraph (4) as paragraph (5); and

(2) by inserting after paragraph (3) the following new paragraph:

“(4) The Secretary of Defense may provide for coverage of a dependent referred to in subsection (a) who is not described in paragraph (3) if the Secretary determines that exceptional circumstances warrant such coverage.”.

SEC. 715. INCREASED PERIOD OF CONTINUED TRICARE PRIME COVERAGE OF CHILDREN OF MEMBERS OF THE UNIFORMED SERVICES WHO DIE WHILE SERVING ON ACTIVE DUTY FOR A PERIOD OF MORE THAN 30 DAYS.

(a) PERIOD OF ELIGIBILITY.—Section 1079(g) of title 10, United States Code, is amended—

(1) by inserting “(1)” after “(g)”;

(2) by striking the second sentence; and

(3) by adding at the end the following new paragraph:

“(2) In addition to any continuation of eligibility for benefits under paragraph (1), when a member dies while on active duty for a period of more than 30 days, the member’s dependents who are receiving benefits under a plan covered by subsection (a) shall continue to be eligible for benefits under TRICARE Prime during the three-year period beginning on the date of the member’s death, except that, in the case of such a dependent of the deceased who is described by subparagraph (D) or (I) of section 1072(2) of this title, the period of continued eligibility shall be the longer of the following periods beginning on such date:

“(A) Three years.

“(B) The period ending on the date on which such dependent attains 21 years of age.

“(C) In the case of such a dependent who, at 21 years of age, is enrolled in a full-time course of study in a secondary school or in a full-time course of study in an institution of higher education approved by the administering Secretary and was, at the time of the member’s death, in fact dependent on the member for over one-half of such dependent’s support, the period ending on the earlier of the following dates:

“(i) The date on which such dependent ceases to pursue such a course of study, as determined by the administering Secretary.

“(ii) The date on which such dependent attains 23 years of age.

“(3) For the purposes of paragraph (2)(C), a dependent shall be treated as being enrolled in a full-time course of study in an

institution of higher education during any reasonable period of transition between the dependent's completion of a full-time course of study in a secondary school and the commencement of an enrollment in a full-time course of study in an institution of higher education, as determined by the administering Secretary.

“(4) The terms and conditions under which health benefits are provided under this chapter to a dependent of a deceased member under paragraph (2) shall be the same as those that would apply to the dependent under this chapter if the member were living and serving on active duty for a period of more than 30 days.

“(5) In this subsection, the term ‘TRICARE Prime’ means the managed care option of the TRICARE program.”

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 7, 2001, and shall apply with respect to deaths occurring on or after that date.

10 USC 1079
note.

SEC. 716. TRICARE STANDARD IN TRICARE REGIONAL OFFICES.

10 USC 1073
note.

(a) RESPONSIBILITIES OF TRICARE REGIONAL OFFICE.—The responsibilities of each TRICARE Regional Office shall include the monitoring, oversight, and improvement of the TRICARE Standard option in the TRICARE region concerned, including—

(1) identifying health care providers who will participate in the TRICARE program and provide the TRICARE Standard option under that program;

(2) communicating with beneficiaries who receive the TRICARE Standard option;

(3) outreach to community health care providers to encourage their participation in the TRICARE program; and

(4) publication of information that identifies health care providers in the TRICARE region concerned who provide the TRICARE Standard option.

(b) ANNUAL REPORT.—The Secretary of Defense shall submit an annual report to the Committees on Armed Services of the Senate and the House of Representatives on the monitoring, oversight, and improvement of TRICARE Standard activities of each TRICARE Regional Office. The report shall include—

(1) a description of the activities of the TRICARE Regional Office to monitor, oversee, and improve the TRICARE Standard option;

(2) an assessment of the participation of eligible health care providers in TRICARE Standard in each TRICARE region; and

(3) a description of any problems or challenges that have been identified by both providers and beneficiaries with respect to use of the TRICARE Standard option and the actions undertaken to address such problems or challenges.

(c) DEFINITION.—In this section, the term “TRICARE Standard” or “TRICARE standard option” means the Civilian Health and Medical Program of the Uniformed Services option under the TRICARE program.

SEC. 717. QUALIFICATIONS FOR INDIVIDUALS SERVING AS TRICARE REGIONAL DIRECTORS.

10 USC 1073
note.

(a) QUALIFICATIONS.—Effective as of the date of the enactment of this Act, no individual may be selected to serve in the position of Regional Director under the TRICARE program unless the individual—

Effective date.

(1) is—

(A) an officer of the Armed Forces in a general or flag officer grade;

(B) a civilian employee of the Department of Defense in the Senior Executive Service; or

(C) a civilian employee of the Federal Government in a department or agency other than the Department of Defense, or a civilian working in the private sector, who has experience in a position comparable to an officer described in subparagraph (A) or a civilian employee described in subparagraph (B); and

(2) has at least 10 years of experience, or equivalent expertise or training, in the military health care system, managed care, and health care policy and administration.

(b) **TRICARE PROGRAM DEFINED.**—In this section, the term “TRICARE program” has the meaning given such term in section 1072(7) of title 10, United States Code.

Subtitle C—Mental Health-Related Provisions

10 USC 1077
note.

SEC. 721. PROGRAM FOR MENTAL HEALTH AWARENESS FOR DEPENDENTS AND PILOT PROJECT ON POST TRAUMATIC STRESS DISORDER.

Deadline.

(a) **PROGRAM ON MENTAL HEALTH AWARENESS.**—

(1) **REQUIREMENT.**—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall develop a program to improve awareness of the availability of mental health services for, and warning signs about mental health problems in, dependents of members of the Armed Forces whose sponsor served or will serve in a combat theater during the previous or next 60 days.

(2) **MATTERS COVERED.**—The program developed under paragraph (1) shall be designed to—

(A) increase awareness of mental health services available to dependents of members of the Armed Forces on active duty;

(B) increase awareness of mental health services available to dependents of Reservists and National Guard members whose sponsors have been activated; and

(C) increase awareness of mental health issues that may arise in dependents referred to in subparagraphs (A) and (B) whose sponsor is deployed to a combat theater.

(3) **COORDINATION.**—The Secretary may permit the Department of Defense to coordinate the program developed under paragraph (1) with an accredited college, university, hospital-based, or community-based mental health center or engage mental health professionals to develop programs to help implement this section.

(4) **AVAILABILITY IN OTHER LANGUAGES.**—The Secretary shall evaluate whether the effectiveness of the program developed under paragraph (1) would be improved by providing materials in languages other than English and take action accordingly

(5) **REPORT.**—Not later than one year after implementation of the program developed under paragraph (1), the Secretary

shall submit to Congress a report on the effectiveness of the program, including the extent to which the program is used by low-English-proficient individuals.

(b) PILOT PROJECT ON POST TRAUMATIC STRESS DISORDER.—

(1) REQUIREMENT.—The Secretary of Defense shall carry out a pilot project to evaluate the efficacy of various approaches to improving the capability of the military and civilian health care systems to provide early diagnosis and treatment of post traumatic stress disorder (PTSD) and other mental health conditions.

(2) INTERNET-BASED DIAGNOSIS AND TREATMENT.—The pilot project shall be designed to evaluate—

(A) Internet-based automated tools available to military and civilian health care providers for the early diagnosis and treatment of post traumatic stress disorder, and for tracking patients who suffer from post traumatic stress disorder; and

(B) Internet-based tools available to family members of members of the Armed Forces in order to assist such family members in the identification of the emergence of post traumatic stress disorder.

(3) REPORT.—Not later than June 1, 2006, the Secretary shall submit to the congressional defense committees a report on the pilot project. The report shall include a description of the pilot project, including the location of the pilot project and the scope and objectives of the pilot project.

SEC. 722. PILOT PROJECTS ON EARLY DIAGNOSIS AND TREATMENT OF POST TRAUMATIC STRESS DISORDER AND OTHER MENTAL HEALTH CONDITIONS.

10 USC 1074
note.

(a) PILOT PROJECTS REQUIRED.—The Secretary of Defense may carry out pilot projects to evaluate the efficacy of various approaches to improving the capability of the military and civilian health care systems to provide early diagnosis and treatment of post traumatic stress disorder (PTSD) and other mental health conditions.

(b) PILOT PROJECT REQUIREMENTS.—

(1) MOBILIZATION-DEMobilIZATION FACILITY.—

(A) IN GENERAL.—A pilot project under subsection (a) may be carried out at a military medical facility at a large military installation at which the mobilization or demobilization of members of the Armed Forces occurs.

(B) ELEMENTS.—The pilot project under this paragraph shall be designed to evaluate and produce effective diagnostic and treatment approaches for use by primary care providers in the military health care system in order to improve the capability of such providers to diagnose and treat post traumatic stress disorder in a manner that avoids the referral of patients to specialty care by a psychiatrist or other mental health professional.

(2) NATIONAL GUARD OR RESERVE FACILITY.—

(A) IN GENERAL.—A pilot project under subsection (a) may be carried out at the location of a National Guard or Reserve unit or units that are located more than 40 miles from a military medical facility and whose personnel are served primarily by civilian community health resources.

(B) ELEMENTS.—The pilot project under this paragraph shall be designed—

(i) to evaluate approaches for providing evidence-based clinical information on post traumatic stress disorder to civilian primary care providers; and

(ii) to develop educational materials and other tools for use by members of the National Guard or Reserve who come into contact with other members of the National Guard or Reserve who may suffer from post traumatic stress disorder in order to encourage and facilitate early reporting and referral for treatment.

(c) REPORT.—Not later than September 1, 2006, the Secretary shall submit to the congressional defense committees a report on the progress toward identifying pilot projects to be carried out under this section. To the extent possible the report shall include a description of each such pilot project, including the location of the pilot projects under paragraphs (1) and (2) of subsection (b), and the scope and objectives of each such pilot project.

SEC. 723. DEPARTMENT OF DEFENSE TASK FORCE ON MENTAL HEALTH.

(a) REQUIREMENT TO ESTABLISH.—The Secretary of Defense shall establish within the Department of Defense a task force to examine matters relating to mental health and the Armed Forces.

(b) COMPOSITION.—

(1) MEMBERS.—The task force shall consist of not more than 14 members appointed by the Secretary of Defense from among individuals described in paragraph (2) who have demonstrated expertise in the area of mental health.

(2) RANGE OF MEMBERS.—The individuals appointed to the task force shall include—

(A) at least one member of each of the Army, Navy, Air Force, and Marine Corps;

(B) a number of persons from outside the Department of Defense equal to the total number of personnel from within the Department of Defense (whether members of the Armed Forces or civilian personnel) who are appointed to the task force;

(C) persons who have experience in—

(i) national mental health policy;

(ii) military personnel policy;

(iii) research in the field of mental health;

(iv) clinical care in mental health; or

(v) military chaplain or pastoral care; and

(D) at least one family member of a member of the Armed Forces who has experience working with military families.

(3) INDIVIDUALS APPOINTED WITHIN DEPARTMENT OF DEFENSE.—At least one of the individuals appointed to the task force from within the Department of Defense shall be the surgeon general of an Armed Force.

(4) INDIVIDUALS APPOINTED OUTSIDE DEPARTMENT OF DEFENSE.—(A) Individuals appointed to the task force from outside the Department of Defense may include officers or employees of other departments or agencies of the Federal Government, officers or employees of State and local governments, or individuals from the private sector.

(B) The individuals appointed to the task force from outside the Department of Defense shall include—

(i) an officer or employee of the Department of Veterans Affairs; and

(ii) an officer or employee of the Substance Abuse and Mental Health Services Administration of the Department of Health and Human Services.

(5) DEADLINE FOR APPOINTMENT.—All appointments of individuals to the task force shall be made not later than 90 days after the date of the enactment of this Act.

(6) CO-CHAIRS OF TASK FORCE.—There shall be two co-chairs of the task force. One of the co-chairs shall be designated by the Secretary of the Defense at the time of appointment from among the Department of Defense personnel appointed to the task force. The other co-chair shall be selected from among the members appointed from outside the Department of Defense by members so appointed.

Designation.

(c) ASSESSMENT AND RECOMMENDATIONS ON MENTAL HEALTH SERVICES.—

(1) IN GENERAL.—Not later than 12 months after the date on which all members of the task force have been appointed, the task force shall submit to the Secretary a report containing an assessment of, and recommendations for improving, the efficacy of mental health services provided to members of the Armed Forces by the Department of Defense.

Deadline.
Reports.

(2) UTILIZATION OF OTHER EFFORTS.—In preparing the report, the task force shall take into consideration completed and ongoing efforts by the Department of Defense and the Department of Veterans Affairs to improve the efficacy of mental health care provided to members of the Armed Forces by the Departments.

(3) ELEMENTS.—The assessment and recommendations (including recommendations for legislative or administrative action) shall include measures to improve the following:

(A) The awareness of the potential for mental health conditions among members of the Armed Forces.

(B) The access to and efficacy of existing programs in primary care and mental health care to prevent, identify, and treat mental health conditions among members of the Armed Forces, including programs for and with respect to forward-deployed troops.

(C) Identification and means to evaluate the effectiveness of pilot projects authorized by section 722 with the objective of improving early diagnosis and treatment of post traumatic stress disorder and other mental health conditions.

(D) The access to and programs for family members of members of the Armed Forces, including family members overseas.

(E) The reduction or elimination of barriers to care, including the stigma associated with seeking help for mental health related conditions, and the enhancement of confidentiality for members of the Armed Forces seeking care for such conditions.

(F) The awareness of mental health services available to dependents of members of the Armed Forces whose

sponsors have been activated or deployed to a combat theater.

(G) The adequacy of outreach, education, and support programs on mental health matters for families of members of the Armed Forces.

(H) The early identification and treatment of mental health and substance abuse problems through the use of internal mass media communications (including radio and television) and other education tools to change attitudes within the Armed Forces regarding mental health and substance abuse treatment.

(I) The efficacy of programs and mechanisms for ensuring a seamless transition from care of members of the Armed Forces on active duty for mental health conditions through the Department of Defense to care for such conditions through the Department of Veterans Affairs after such members are discharged or released from military, naval, or air service.

(J) The availability of long-term follow-up and access to care for mental health conditions for members of the Individual Ready Reserve and the Selective Reserve and for discharged, separated, or retired members of the Armed Forces.

(K) Collaboration among organizations in the Department of Defense with responsibility for or jurisdiction over the provision of mental health services.

(L) Coordination between the Department of Defense and civilian communities, including local support organizations, with respect to mental health services.

(M) The scope and efficacy of curricula and training on mental health matters for commanders in the Armed Forces.

(N) The efficiency of pre- and post-deployment mental health screening, including mental health screenings for members of the Armed Forces who have experienced multiple deployments.

(O) The effectiveness of mental health programs provided in languages other than English.

(P) Such other matters as the task force considers appropriate.

(d) ADMINISTRATIVE MATTERS.—

(1) COMPENSATION.—Each member of the task force who is a member of the Armed Forces or a civilian officer or employee of the United States shall serve without compensation (other than compensation to which entitled as a member of the Armed Forces or an officer or employee of the United States, as the case may be). Other members of the task force shall be treated for purposes of section 3161 of title 5, United States Code, as having been appointed under subsection (b) of such section.

(2) OVERSIGHT.—The Under Secretary of Defense for Personnel and Readiness shall oversee the activities of the task force.

(3) ADMINISTRATIVE SUPPORT.—The Washington Headquarters Services of the Department of Defense shall provide

the task force with personnel, facilities, and other administrative support as necessary for the performance of the duties of the task force.

(4) ACCESS TO FACILITIES.—The Under Secretary of Defense for Personnel and Readiness shall, in coordination with the Secretaries of the military departments, ensure appropriate access by the task force to military installations and facilities for purposes of the discharge of the duties of the task force.

(e) REPORT.—

(1) IN GENERAL.—The task force shall submit to the Secretary of Defense a report on its activities under this section. The report shall include—

(A) a description of the activities of the task force;

(B) the assessment and recommendations required by subsection (c); and

(C) such other matters relating to the activities of the task force that the task force considers appropriate.

(2) TRANSMITTAL TO CONGRESS.—Not later than 90 days after receipt of the report under paragraph (1), the Secretary shall transmit the report to the Committees on Armed Services and Veterans' Affairs of the Senate and the House of Representatives. The Secretary may include in the transmittal such comments on the report as the Secretary considers appropriate.

(f) PLAN REQUIRED.—Not later than 6 months after receipt of the report from the task force under subsection (e)(1), the Secretary of Defense shall develop a plan based on the recommendations of the task force and submit the plan to the congressional defense committees. Deadline.

(g) TERMINATION.—The task force shall terminate 90 days after the date on which the report of the task force is submitted to Congress under subsection (e)(2).

Subtitle D—Studies and Reports

SEC. 731. STUDY RELATING TO PREDEPLOYMENT AND POSTDEPLOYMENT MEDICAL EXAMS OF CERTAIN MEMBERS OF THE ARMED FORCES.

(a) STUDY.—The Secretary of Defense shall conduct a study of the effectiveness of self-administered surveys included in predeployment and postdeployment medical exams, including the mental health portion of the surveys, of members of the Armed Forces that are carried out as part of the medical tracking system required under section 1074f of title 10, United States Code.

(b) REPORT.—Not later than 120 days after the date of the enactment of this Act, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the study conducted under subsection (a).

SEC. 732. REQUIREMENTS FOR PHYSICAL EXAMINATIONS AND MEDICAL AND DENTAL READINESS FOR MEMBERS OF THE SELECTED RESERVE NOT ON ACTIVE DUTY.

(a) IN GENERAL.—Subsection (a) of section 10206 of title 10, United States Code, is amended—

(1) by amending paragraph (1) to read as follows:

“(1) have a comprehensive medical readiness health and dental assessment on an annual basis, including routine annual

preventive health care screening and periodic comprehensive physical examinations in accordance with regulations prescribed by the Secretary of Defense that reflect morbidity and mortality risks associated with the military service, age, and gender of the member; and”; and

(2) in paragraph (2), by striking “annually to the Secretary concerned” and all that follows and inserting “to the Secretary concerned on an annual basis documentation of the medical and dental readiness of the member to perform military duties.”.

(b) CONFORMING AMENDMENT.—The heading of such section is amended by striking “**periodic**”.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1007 of such title is amended in the item relating to section 10206 by striking “periodic”.

SEC. 733. REPORT ON DELIVERY OF HEALTH CARE BENEFITS THROUGH THE MILITARY HEALTH CARE SYSTEM.

(a) REPORT REQUIRED.—Not later than February 1, 2007, the Secretary of Defense shall submit to the congressional defense committees a report on the delivery of health care benefits through the military health care system.

(b) ELEMENTS.—The report under subsection (a) shall include the following:

(1) An analysis of the organization and costs of delivering health care benefits to current and retired members of the Armed Forces and their families.

(2) An analysis of the costs of ensuring medical readiness throughout the Armed Forces in support of national security objectives.

(3) An assessment of the role of health benefits in the recruitment and retention of members of the Armed Forces, whether in the regular components or the reserve components of the Armed Forces.

(4) An assessment of the experience of the military departments during fiscal years 2003, 2004, and 2005 in recruitment and retention of military and civilian medical and dental personnel, whether in the regular components or the reserve components of the Armed Forces, in light of military and civilian medical manpower requirements.

(5) A description of requirements for graduate medical education for military medical care providers and options for meeting such requirements, including civilian medical training programs.

(c) RECOMMENDATIONS.—In addition to the matters specified in subsection (b), the report under subsection (a) shall also include such recommendations for legislative or administrative action as the Secretary considers necessary to improve efficiency and quality in the provision of health care benefits through the military health care system, including recommendations on—

(1) the organization and delivery of health care benefits;

(2) mechanisms required to measure costs more accurately;

(3) mechanisms required to measure quality of care, and access to care, more accurately;

(4) Department of Defense participation in the Medicare Advantage Program, formerly Medicare plus Choice;

(5) the use of flexible spending accounts and health savings accounts for military retirees under the age of 65;

(6) incentives for eligible beneficiaries of the military health care system to retain private employer-provided health care insurance;

(7) means of improving integrated systems of disease management, including chronic illness management;

(8) means of improving the safety and efficiency of pharmacy benefits management;

(9) the management of enrollment options for categories of eligible beneficiaries in the military health care system;

(10) reform of the provider payment system, including the potential for use of a pay-for-performance system in order to reward quality and efficiency in the TRICARE system;

(11) means of improving efficiency in the administration of the TRICARE program, to include the reduction of headquarters and redundant management layers, and maximizing efficiency in the claims processing system;

(12) other improvements in the efficiency of the military health care system; and

(13) any other matters the Secretary considers appropriate to improve the efficiency and quality of military health care benefits.

SEC. 734. COMPTROLLER GENERAL STUDIES AND REPORT ON DIFFERENTIAL PAYMENTS TO CHILDREN'S HOSPITALS FOR HEALTH CARE FOR CHILDREN DEPENDENTS AND MAXIMUM ALLOWABLE CHARGE FOR OBSTETRICAL CARE SERVICES UNDER TRICARE.

(a) **STUDIES REQUIRED.**—The Comptroller General of the United States shall conduct the following studies:

(1) A study of the effectiveness of the current system of differential payments to children's hospitals for health care services for dependent children of members of the uniformed services under the TRICARE program in achieving the objective of securing adequate health care services for such dependent children under that program.

(2) A study of the effectiveness of the TRICARE program in achieving the objective of adequate access to high quality obstetrical care services for family members of members of the uniformed services.

(b) **ELEMENTS OF CHILDREN'S HOSPITALS STUDY.**—The study required by subsection (a)(1) shall include the following:

(1) A description of the current participation of children's hospitals in the TRICARE program.

(2) An assessment of the current system of payments to children's hospitals under the TRICARE program, including differential payments to such hospitals for health care services described in subsection (a)(1), including an assessment of—

(A) the extent to which the calculation of such differential payments takes into account the complexity and extraordinary resources required for the provision of such health care services;

(B) the extent to which TRICARE payment rates, including the children's hospital differential, have kept pace with inflation in health care costs for children's hospitals since the establishment of the differential in 1988;

(C) the extent to which such differential payments provide appropriate compensation to such hospitals for the provision of such services; and

(D) any obstacles or challenges to the development of future modifications to the system of differential payments.

(3) An assessment of the adequacy of, including any barrier to, the access of dependent children described in subsection (a)(1) to specialized hospital services for their illnesses under the TRICARE program.

(c) ELEMENTS OF OBSTETRICAL CARE SERVICES STUDY.—The study required by subsection (a)(2) shall include the following:

(1) A description of the current participation of civilian providers of obstetrical care services in the TRICARE program.

(2) An assessment of the current system of payments for obstetrical care services, including an assessment of—

(A) the extent to which the calculation of such payments takes into account the complexity and resources required;

(B) the extent to which TRICARE payment rates have kept pace with inflation in health care costs;

(C) the extent to which such payments provide appropriate compensation to providers of such services; and

(D) obstacles or challenges to the development of future improvements to access to high quality obstetrical services, including referral patterns and inclusion of all necessary services within the maximum allowable charge.

(3) An assessment of the adequacy of the access of military family members to needed obstetrical care services.

(d) REPORT.—Not later than May 1, 2006, the Comptroller General shall submit to the Secretary of Defense and the congressional defense committees a report on the studies required by subsection (a), together with such recommendations, if any, as the Comptroller General considers appropriate for modifications of the current system of differential payments to children's hospitals and payments for obstetrical care services in order to achieve the objectives described in that subsection.

(e) TRANSMITTAL TO CONGRESS.—

(1) IN GENERAL.—Not later than November 1, 2006, the Secretary of Defense shall transmit to the congressional defense committees the report submitted by the Comptroller General to the Secretary under subsection (d).

(2) IMPLEMENTATION OF MODIFICATIONS.—If the report under paragraph (1) includes recommendations of the Comptroller General for modifications of the current system of differential payments to children's hospitals or of payments for obstetrical care services, the Secretary shall transmit with the report—

(A) a proposal for such legislative or administration action as may be required to implement such modifications; and

(B) an assessment and estimate of the costs associated with the implementation of such modifications.

(f) DEFINITIONS.—In this section:

(1) DIFFERENTIAL PAYMENTS TO CHILDREN'S HOSPITALS.—The term “differential payments to children's hospitals” means the additional amounts paid to children's hospitals under the

Deadline.

TRICARE program for health care procedures for severely ill children in order to take into account the additional costs associated with such procedures for such children when compared with the costs associated with such procedures for adults and other children.

(2) **PAYMENTS FOR OBSTETRICAL CARE.**—The term “payments for obstetrical care services” means the maximum allowable payment rates established by the Department of Defense under the TRICARE program for routine obstetrical care, including prenatal care, laboratory tests in accordance with accepted obstetrical practices standards, specialty care if needed, delivery, and post-partum maternal care.

(3) **TRICARE PROGRAM.**—The term “TRICARE program” has the meaning given that term in section 1072(7) of title 10, United States Code.

SEC. 735. REPORT ON THE DEPARTMENT OF DEFENSE AHLTA GLOBAL ELECTRONIC HEALTH RECORD SYSTEM.

(a) **REPORT REQUIRED.**—Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall submit to the appropriate committees of Congress a report on the Department of Defense AHLTA global electronic health record system.

(b) **REPORT ELEMENTS.**—The report under subsection (a) shall include the following:

(1) A chronology and description of previous efforts undertaken to develop an electronic medical records system capable of maintaining a two-way exchange of data between the Department of Defense and the Department of Veterans Affairs.

(2) The plans as of the date of the report, including any projected commencement dates, for the implementation of the AHLTA global electronic health record system.

(3) A description of the software and hardware being considered as of the date of the report for use in the AHLTA global electronic health record system.

(4) A description of the management structure used in the development of the AHLTA global electronic health record system.

(5) A description of the accountability measures utilized during the development of the AHLTA global electronic health record system in order to evaluate progress made in the development of that system.

(6) The schedule for the remaining development of the AHLTA global electronic health record system.

(c) **APPROPRIATE COMMITTEES OF CONGRESS DEFINED.**—In this section, the term “appropriate committees of Congress” means—

(1) the Committees on Armed Services, Appropriations, Veterans’ Affairs, and Health, Education, Labor, and Pensions of the Senate; and

(2) the Committees on Armed Services, Appropriations, Veterans’ Affairs, and Energy and Commerce of the House of Representatives.

SEC. 736. COMPTROLLER GENERAL STUDY AND REPORT ON VACCINE HEALTHCARE CENTERS.

(a) **STUDY REQUIRED.**—The Comptroller General shall conduct a study of the Vaccine Healthcare Centers operated by the Department of Defense in support of medical needs arising from mandatory military vaccinations.

(b) **ELEMENTS.**—In conducting the study under subsection (a), the Comptroller General shall examine the following:

(1) The mission of each Center.

(2) The adequacy of resources available to support the mission of each Center and the source of those resources from within the Department of Defense.

(3) The extent of participation and support of the Centers by each of the Armed Forces.

(4) The effectiveness of the Centers in supporting the medical needs of members of the Armed Forces arising from mandatory military vaccinations.

(5) The effectiveness of the Centers in providing assistance to military and civilian healthcare providers based on outreach to and response to inquiries from providers.

(6) The extent to which the Centers are conducting evaluations to identify and treat potential and actual health effects from vaccines.

(7) The extent to which the Centers take advantage of and are linked to vaccine health resources outside the Department of Defense.

(8) The extent to which the Centers are involved in outreach to military and civilian healthcare providers relating to vaccine safety, efficiency, and acceptability.

(9) The extent to which similar activities conducted by the Centers are conducted in governmental or nongovernmental agencies outside the Department of Defense.

(c) **RECOMMENDATIONS.**—The Comptroller General shall submit to Congress a report containing findings and recommendations not later than May 30, 2006, including recommendations on ways to improve the ability of the Department of Defense to understand and support medical needs arising from mandatory military vaccinations and the extent to which the Department of Defense requires the Vaccine Healthcare Centers to continue in their current configuration.

SEC. 737. REPORT ON ADVERSE HEALTH EVENTS ASSOCIATED WITH USE OF ANTI-MALARIAL DRUGS.

(a) **STUDY REQUIRED.**—The Secretary of Defense shall conduct a study of adverse health events that may be associated with use of anti-malarial drugs, including mefloquine.

(b) **MATTERS COVERED.**—The study required by subsection (a) shall include a comparison of adverse health (including mental health) events that may be associated with different anti-malarial drugs, including mefloquine.

(c) **REPORT.**—Not later than one year after the date of the enactment of this Act, the Secretary shall submit to the congressional defense committees a report on the study required by subsection (a).

SEC. 738. REPORT ON RESERVE DENTAL INSURANCE PROGRAM.

(a) **STUDY.**—The Secretary of Defense shall conduct a study of the Reserve dental insurance program.

(b) **ELEMENTS.**—The study required by subsection (a) shall—

(1) identify the most effective mechanism or mechanisms for the payment of premiums under the Reserve dental insurance program for members of the reserve components of the Armed Forces and their dependents, including by deduction from reserve pay, by direct collection, or by other means (including appropriate mechanisms from other military benefits programs), to ensure uninterrupted availability of premium payments regardless of whether members are performing active duty with pay or inactive-duty training with pay;

(2) include such matters relating to the Reserve dental insurance program as the Secretary considers appropriate; and

(3) assess the effectiveness of mechanisms for informing the members of the reserve components of the Armed Forces of the availability of, and benefits under, the Reserve dental insurance program.

(c) **REPORT.**—Not later than February 1, 2007, the Secretary shall submit to the congressional defense committees a report on the study required by subsection (a). The report shall include the findings of the study and such recommendations for legislative or administrative action regarding the Reserve dental insurance program as the Secretary considers appropriate in light of the study.

(d) **RESERVE DENTAL INSURANCE PROGRAM DEFINED.**—In this section, the term “Reserve dental insurance program” includes—

(1) the dental insurance plan required under paragraph

(1) of section 1076a(a) of title 10, United States Code; and

(2) any dental insurance plan established under paragraph (2) or (4) of section 1076a(a) of title 10, United States Code.

SEC. 739. DEMONSTRATION PROJECT STUDY ON MEDICARE ADVANTAGE REGIONAL PREFERRED PROVIDER ORGANIZATION OPTION FOR TRICARE-MEDICARE DUAL-ELIGIBLE BENEFICIARIES.

(a) **STUDY ON DEMONSTRATION PROJECT.**—

(1) **REQUIREMENT.**—The Secretary of Defense shall conduct a study to evaluate the feasibility and cost effectiveness of conducting a demonstration project under section 1092 of title 10, United States Code, to implement the provisions of section 1097(d) of such title. The purpose of such a demonstration project would be to evaluate whether applying the managed care methods under the Medicare Advantage program under part C of title XVIII of the Social Security Act would improve the quality of care, realize cost savings to the Department of Defense, and improve beneficiary satisfaction for Department of Defense beneficiaries who also are entitled to health care under medicare.

(2) **ELEMENTS OF STUDY.**—The study required by paragraph (1) shall include an analysis of the following:

(A) The impact of the Medicare Advantage Regional Preferred Provider Organization model on medical utilization, pharmacy usage, and Department of Defense health care costs.

(B) The full costs of the demonstration project.

(C) The implementation and use of quality improvement and chronic care improvement programs for Department of Defense beneficiaries.

(D) Beneficiary satisfaction.

(E) The near term and long term effect on all existing Department of Defense contracts for health care support, including TRICARE managed care contracts, claims processing contracts, and pharmacy contracts.

(F) A comparison of the costs and benefits of using existing Department of Defense contractors or new Department of Defense contractors who are qualified as the vehicle for conducting the demonstration.

(b) PLAN.—

(1) REQUIREMENT.—If the Secretary of Defense determines under subsection (a) that the demonstration project is feasible, cost effective, and in the best interests of the Department of Defense and eligible beneficiaries, the Secretary, in coordination with other administering Secretaries, shall develop a plan to carry out the demonstration project.

(2) ELEMENTS OF PLAN.—

(A) HEALTH CARE BENEFITS.—In the plan, the Secretary of Defense shall prescribe the minimum health care benefits to be provided under the plan to eligible beneficiaries enrolled in the plan. Those benefits shall include at least all health care services covered under part A and part B of medicare and TRICARE for Life.

(B) DEMONSTRATION SERVICE AREA.—In the plan, the Secretary shall provide for conducting the demonstration in at least two demonstration service areas.

(C) ELIGIBILITY.—In the plan, the Secretary shall provide that any eligible beneficiary who meets the eligibility requirements for participation in the Medicare Advantage Regional Preferred Provider Organization plan who resides in the demonstration service area is eligible to enroll in the demonstration on a voluntary basis.

(D) DURATION.—In the plan, the Secretary shall provide for conducting the demonstration for a period of time consistent with decisions made by the Department of Defense to exercise remaining option periods on the managed care support contract covering the area where the demonstration occurs.

(E) EVALUATION OF THE DEMONSTRATION PROJECT.—The plan shall include a plan to evaluate the costs and benefits of all elements of the demonstration project, including the elements described in subsection (a)(2) and, in addition, the financial mechanisms used in carrying out the demonstration project.

(c) DEFINITIONS.—In this section:

(1) ELIGIBLE BENEFICIARY.—The term “eligible beneficiary” means a person who is eligible for both TRICARE and medicare under section 1086(d)(2) of title 10, United States Code.

(2) MEDICARE.—The term “medicare” means title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

(3) ADMINISTERING SECRETARIES.—The term “administering Secretaries” has the meaning provided by section 1072(3) of title 10, United States Code.

(d) **REPORT.**—Not later than April 1, 2006, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the study required under subsection (a), along with the plan under subsection (b) if applicable.

SEC. 740. PILOT PROJECTS ON PEDIATRIC EARLY LITERACY AMONG CHILDREN OF MEMBERS OF THE ARMED FORCES.

10 USC 1073
note.

(a) **PILOT PROJECTS AUTHORIZED.**—The Secretary of Defense may conduct pilot projects to assess the feasibility, advisability, and utility of encouraging pediatric early literacy among the children of members of the Armed Forces.

(b) **LOCATIONS.**—

(1) **IN GENERAL.**—The pilot projects conducted under subsection (a) shall be conducted at not more than 20 military medical treatment facilities designated by the Secretary for purposes of this section.

(2) **CO-LOCATION WITH CERTAIN INSTALLATIONS.**—In designating military medical treatment facilities under paragraph (1), the Secretary shall, to the extent practicable, designate facilities that are located on, or co-located with, military installations at which the mobilization or demobilization of members of the Armed Forces occurs.

(c) **ACTIVITIES.**—Activities under the pilot projects conducted under subsection (a) shall the following:

(1) The provision of training to health care providers and other appropriate personnel on early literacy promotion.

(2) The purchase and distribution of children's books to members of the Armed Forces, their spouses, and their children.

(3) The modification of treatment facility and clinic waiting rooms to include a full selection of literature for children.

(4) The dissemination to members of the Armed Forces and their spouses of parent education materials on pediatric early literacy.

(5) Such other activities as the Secretary considers appropriate.

(d) **REPORT.**—

(1) **IN GENERAL.**—Not later than March 1, 2007, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the pilot projects conducted under this section.

(2) **ELEMENTS.**—The report under paragraph (1) shall include—

(A) a description of the pilot projects conducted under this section, including the location of each pilot project and the activities conducted under each pilot project; and

(B) an assessment of the feasibility, advisability, and utility of encouraging pediatric early literacy among the children of members of the Armed Forces.

Subtitle E—Other Matters

10 USC 1071
note.

SEC. 741. AUTHORITY TO RELOCATE PATIENT SAFETY CENTER; RENAMING MEDTEAMS PROGRAM.

(a) REPEAL OF REQUIREMENT TO LOCATE THE DEPARTMENT OF DEFENSE PATIENT SAFETY CENTER WITHIN THE ARMED FORCES INSTITUTE OF PATHOLOGY.—Subsection (c)(3) of section 754 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted by Public Law 106–398; 114 Stat. 1654–196) is amended by striking “within the Armed Forces Institute of Pathology”.

(b) RENAMING MEDTEAMS PROGRAM.—Subsection (d) of such section is amended by striking “MedTeams” in the heading and inserting “Medical Team Training”.

10 USC 1071
note.

SEC. 742. MODIFICATION OF HEALTH CARE QUALITY INFORMATION AND TECHNOLOGY ENHANCEMENT REPORTING REQUIREMENT.

Section 723(e) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 697) is amended by striking paragraphs (1) through (4) and inserting the following:

“(1) Measures of the quality of health care furnished, including timeliness and accessibility of care.

“(2) Population health.

“(3) Patient safety.

“(4) Patient satisfaction.

“(5) The extent of use of evidence-based health care practices.

“(6) The effectiveness of biosurveillance in detecting an emerging epidemic.”.

SEC. 743. CORRECTION TO ELIGIBILITY OF CERTAIN RESERVE OFFI- CERS FOR MILITARY HEALTH CARE PENDING ACTIVE DUTY FOLLOWING COMMISSIONING.

(a) CORRECTION.—Clause (iii) of section 1074(a)(2)(B) of title 10, United States Code, is amended by inserting before the semicolon the following: “or the orders have been issued but the member has not entered active duty”.

10 USC 1074
note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as of November 24, 2003, and as if included in the enactment of paragraph (2) of section 1074(a) of title 10, United States Code, by section 708 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1530).

10 USC 129c
note.

SEC. 744. PROHIBITION ON CONVERSIONS OF MILITARY MEDICAL AND DENTAL POSITIONS TO CIVILIAN MEDICAL POSITIONS UNTIL SUBMISSION OF CERTIFICATION.

(a) PROHIBITION ON CONVERSIONS.—

(1) SUBMISSION OF CERTIFICATION.—A Secretary of a military department may not convert any military medical or dental position to a civilian medical or dental position until the Secretary submits to the Committees on Armed Services of the Senate and the House of Representatives a certification that the conversions within that department will not increase cost or decrease quality of care or access to care. Such a certification may not be submitted before June 1, 2006.

Effective date.

(2) REPORT WITH CERTIFICATION.—A Secretary submitting such a certification shall include with the certification a written report that includes—

(A) the methodology used by the Secretary in making the determinations necessary for the certification, including the extent to which the Secretary took into consideration the findings of the Comptroller General in the report under subsection (b)(3);

(B) the results of a market survey in each affected area of the availability of civilian medical and dental care providers in such area in order to determine whether the civilian medical and dental care providers available in such area are adequate to fill the civilian positions created by the conversion of military medical and dental positions to civilian positions in such area; and

(C) any action taken by the Secretary in response to recommendations in the Comptroller General report under subsection (b)(3).

(b) REQUIREMENT FOR STUDY.—

(1) IN GENERAL.—The Comptroller General shall conduct a study on the effect of conversions of military medical and dental positions to civilian medical or dental positions on the defense health program.

(2) MATTERS COVERED.—The study shall include the following:

(A) The number of military medical and dental positions, by grade and specialty, planned for conversion to civilian medical or dental positions.

(B) The number of military medical and dental positions, by grade and specialty, converted to civilian medical or dental positions since October 1, 2004.

(C) The ability of the military health care system to fill the civilian medical and dental positions required, by specialty.

(D) The degree to which access to health care is affected in both the direct and purchased care system, including an assessment of the effects of any increased shifts in patient load from the direct care to the purchased care system, or any delays in receipt of care in either the direct or purchased care system because of lack of direct care providers.

(E) The degree to which changes in military manpower requirements affect recruiting and retention of uniformed medical and dental personnel.

(F) The degree to which conversion of the military positions meets the joint medical and dental readiness requirements of the uniformed services, as determined jointly by all the uniformed services.

(G) The effect of the conversions of military medical positions to civilian medical and dental positions on the defense health program, including costs associated with the conversions, with a comparison of the estimated costs versus the actual costs incurred by the number of conversions since October 1, 2004.

(H) The effectiveness of the conversions in enhancing medical and dental readiness, health care efficiency, productivity, quality, and customer satisfaction.

(3) **REPORT ON STUDY.**—Not later than May 1, 2006, the Comptroller General shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing the results of the study under this section.

(c) **DEFINITIONS.**—In this section:

(1) The term “military medical or dental position” means a position for the performance of health care functions within the Armed Forces held by a member of the Armed Forces.

(2) The term “civilian medical or dental position” means a position for the performance of health care functions within the Department of Defense held by an employee of the Department or of a contractor of the Department.

(3) The term “affected area” means an area in which military medical or dental positions were converted to civilian medical or dental positions before October 1, 2004, or in which such conversions are scheduled to occur in the future.

(4) The term “uniformed services” has the meaning given that term in section 1072(1) of title 10, United States Code.

SEC. 745. CLARIFICATION OF INCLUSION OF DENTAL CARE IN MEDICAL READINESS TRACKING AND HEALTH SURVEILLANCE PROGRAM.

(a) **INCLUSION OF DENTAL CARE.**—Subtitle D of title VII of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108-375; 10 U.S.C. 1074 note) is amended by adding at the end the following new section:

“SEC. 740. INCLUSION OF DENTAL CARE.

“For purposes of the plan, this subtitle, and the amendments made by this subtitle, references to medical readiness, health status, and health care shall be considered to include dental readiness, dental status, and dental care.”

(b) **CLERICAL AMENDMENT.**—The table of sections at the beginning of title VII of such Act and in section 2(b) of such Act are each amended by inserting after the item relating to section 739 the following:

“Sec. 740. Inclusion of dental care.”.

10 USC 1074
note.

SEC. 746. COOPERATIVE OUTREACH TO MEMBERS AND FORMER MEMBERS OF THE NAVAL SERVICE EXPOSED TO ENVIRONMENTAL FACTORS RELATED TO SARCOIDOSIS.

(a) **OUTREACH PROGRAM REQUIRED.**—The Secretary of the Navy, in coordination with the Secretary of Veterans Affairs, shall conduct an outreach program intended to contact as many members and former members of the naval service as possible who, in connection with service aboard Navy ships, may have been exposed to aerosolized particles resulting from the removal of nonskid coating used on those ships.

(b) **PURPOSES OF OUTREACH PROGRAM.**—The purposes of the outreach program are as follows:

(1) To develop additional data for use in subsequent studies aimed at determining a causative link between sarcoidosis and military service.

(2) To inform members and former members identified in subsection (a) of the findings of Navy studies identifying an association between service aboard certain naval ships and sarcoidosis.

(3) To provide information to assist members and former members identified in subsection (a) in getting medical evaluations to help clarify linkages between their disease and their service aboard Navy ships.

(4) To provide the Department of Veterans Affairs with data and information for the effective evaluation of veterans who may seek care for sarcoidosis.

(c) IMPLEMENTATION AND REPORT.—Not later than six months after the date of the enactment of this Act, the Secretary of the Navy shall begin the outreach program. Not later than one year after beginning the program, the Secretary shall provide to the Committees on Armed Services of the Senate and the House of Representatives and the Committees on Veterans Affairs of the Senate and House of Representatives a report on the results of the outreach program.

SEC. 747. REPEAL OF REQUIREMENT FOR COMPTROLLER GENERAL REVIEWS OF CERTAIN DEPARTMENT OF DEFENSE-DEPARTMENT OF VETERANS AFFAIRS PROJECTS ON SHARING OF HEALTH CARE RESOURCES.

(a) JOINT INCENTIVES PROGRAM.—Section 8111(d) of title 38, United States Code, is amended—

(1) by striking paragraph (3); and

(2) by redesignating paragraph (4) as paragraph (3).

(b) HEALTH CARE RESOURCES SHARING AND COORDINATION PROJECT.—Section 722 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2595; 38 U.S.C. 8111 note) is amended—

(1) by striking subsection (h);

(2) by redesignating subsection (i) as subsection (h); and

(3) in paragraph (2) of subsection (h), as so redesignated, by striking “based on recommendations” and all that follows and inserting “as determined by the Secretaries based on information available to the Secretaries to warrant such action.”.

SEC. 748. PANDEMIC AVIAN FLU PREPAREDNESS.

(a) REPORT.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the efforts within the Department of Defense to prepare for pandemic influenza, including pandemic avian influenza. The Secretary shall address the following, with respect to military personnel, dependents of military personnel on military installations, and civilian personnel within the Department of Defense:

(1) The procurement of vaccines, antivirals, and other medicines, and medical supplies, including personal protective equipment, particularly those that must be imported.

(2) Protocols for the allocation and distribution of vaccines and medicines among high priority personnel.

(3) Public health protection and containment measures that may be implemented on military bases and other facilities, including risk communication, quarantine, travel restrictions, and other isolation precautions.

(4) Communication with Department of Defense-affiliated health providers about pandemic preparedness and response.

(5) Surge capacity for the provision of medical care during pandemics.

(6) The availability and delivery of food and basic supplies and services.

(7) Surveillance efforts domestically and internationally, including those using the Global Emerging Infections Systems (GEIS), and how such efforts are integrated with other ongoing surveillance systems.

(8) The integration of pandemic and response planning in the Department of Defense with the planning of other Federal departments, including the Department of Health and Human Services, the Department of Homeland Security, the Department of Veterans Affairs, the Department of State, and USAID.

(9) Collaboration (as appropriate) with international entities engaged in pandemic preparedness and response.

(10) Acceleration of medical research and development related to pandemic influenza.

(b) SUBMISSION OF REPORT.—The report required under subsection (a) shall be submitted not later than 120 days after the date of the enactment of this Act.

SEC. 749. FOLLOW UP ASSISTANCE FOR MEMBERS OF THE ARMED FORCES AFTER PRESEPARATION PHYSICAL EXAMINATIONS.

Section 1145(a) of title 10, United States Code, is amended by adding at the end the following new paragraph:

“(5)(A) The Secretary of Defense shall, in consultation with the Secretary of Veterans Affairs, ensure that appropriate actions are taken to assist a member of the armed forces who, as a result of a medical examination under paragraph (4), receives an indication for a referral for follow up treatment from the health care provider who performs the examination.

“(B) Assistance provided to a member under paragraph (1) shall include the following:

“(i) Information regarding, and any appropriate referral for, the care, treatment, and other services that the Secretary of Veterans Affairs may provide to such member under any other provision of law, including—

“(I) clinical services, including counseling and treatment for post-traumatic stress disorder and other mental health conditions; and

“(II) any other care, treatment, and services.

“(ii) Information on the private sector sources of treatment that are available to the member in the member’s community.

“(iii) Assistance to enroll in the health care system of the Department of Veterans Affairs for health care benefits for which the member is eligible under laws administered by the Secretary of Veterans Affairs.”.

10 USC 801 note.

SEC. 750. POLICY ON ROLE OF MILITARY MEDICAL AND BEHAVIORAL SCIENCE PERSONNEL IN INTERROGATION OF DETAINEES.

(a) POLICY REQUIRED.—The Secretary of Defense shall establish the policy of the Department of Defense on the role of military medical and behavioral science personnel in the interrogation of persons detained by the Armed Forces. The policy shall apply uniformly throughout the Armed Forces.

(b) REPORT.—Not later than March 1, 2006, the Secretary shall submit to the congressional defense committees a report on the

policy established under subsection (a). The report shall set forth the policy, and shall include such additional matters on the policy as the Secretary considers appropriate.

TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

SUBTITLE A—PROVISIONS RELATING TO MAJOR DEFENSE ACQUISITION PROGRAMS

- Sec. 801. Requirement for certification before major defense acquisition program may proceed to Milestone B.
- Sec. 802. Requirements applicable to major defense acquisition programs exceeding baseline costs.
- Sec. 803. Requirement for determination by Secretary of Defense and notification to Congress before procurement of major weapon systems as commercial items.
- Sec. 804. Reports on significant increases in program acquisition unit costs or procurement unit costs of major defense acquisition programs.
- Sec. 805. Report on use of lead system integrators in the acquisition of major systems.
- Sec. 806. Congressional notification of cancellation of major automated information systems.

SUBTITLE B—ACQUISITION POLICY AND MANAGEMENT

- Sec. 811. Internal controls for procurements on behalf of the Department of Defense.
- Sec. 812. Management structure for the procurement of contract services.
- Sec. 813. Report on service surcharges for purchases made for military departments through other Department of Defense agencies.
- Sec. 814. Review of defense acquisition structures and capabilities.
- Sec. 815. Modification of requirements applicable to contracts authorized by law for certain military materiel.
- Sec. 816. Guidance on use of tiered evaluations of offers for contracts and task orders under contracts.
- Sec. 817. Joint policy on contingency contracting.
- Sec. 818. Acquisition strategy for commercial satellite communication services.
- Sec. 819. Authorization of evaluation factor for defense contractors employing or subcontracting with members of the Selected Reserve of the reserve components of the Armed Forces.

SUBTITLE C—AMENDMENTS TO GENERAL CONTRACTING AUTHORITIES, PROCEDURES, AND LIMITATIONS

- Sec. 821. Participation by Department of Defense in acquisition workforce training fund.
- Sec. 822. Increase in cost accounting standard threshold.
- Sec. 823. Modification of authority to carry out certain prototype projects.
- Sec. 824. Increased limit applicable to assistance provided under certain procurement technical assistance programs.

SUBTITLE D—UNITED STATES DEFENSE INDUSTRIAL BASE PROVISIONS

- Sec. 831. Clarification of exception from Buy American requirements for procurement of perishable food for establishments outside the United States.
- Sec. 832. Training for defense acquisition workforce on the requirements of the Berry Amendment.
- Sec. 833. Amendments to domestic source requirements relating to clothing materials and components covered.

SUBTITLE E—OTHER MATTERS

- Sec. 841. Review and report on Department of Defense efforts to identify contract fraud, waste, and abuse.
- Sec. 842. Extension of contract goal for small disadvantaged businesses and certain institutions of higher education.
- Sec. 843. Extension of deadline for report of advisory panel on laws and regulations on acquisition practices.

- Sec. 844. Exclusion of certain security expenses from consideration for purpose of small business size standards.
- Sec. 845. Disaster relief for small business concerns damaged by drought.
- Sec. 846. Extension of limited acquisition authority for the commander of the United States Joint Forces Command.
- Sec. 847. Civilian Board of Contract Appeals.
- Sec. 848. Statement of policy and report relating to contracting with employers of persons with disabilities.
- Sec. 849. Study on Department of Defense contracting with small business concerns owned and controlled by service-disabled veterans.

Subtitle A—Provisions Relating to Major Defense Acquisition Programs

SEC. 801. REQUIREMENT FOR CERTIFICATION BEFORE MAJOR DEFENSE ACQUISITION PROGRAM MAY PROCEED TO MILESTONE B.

(a) CERTIFICATION REQUIREMENT.—Chapter 139 of title 10, United States Code, is amended by inserting after section 2366 the following new section:

“§ 2366a. Major defense acquisition programs: certification required before Milestone B or Key Decision Point B approval

“(a) CERTIFICATION.—A major defense acquisition program may not receive Milestone B approval, or Key Decision Point B approval in the case of a space program, until the milestone decision authority certifies that—

“(1) the technology in the program has been demonstrated in a relevant environment;

“(2) the program demonstrates a high likelihood of accomplishing its intended mission;

“(3) the program is affordable when considering the per unit cost and the total acquisition cost in the context of the total resources available during the period covered by the future-years defense program submitted during the fiscal year in which the certification is made;

“(4) the Department of Defense has completed an analysis of alternatives with respect to the program;

“(5) the program is affordable when considering the ability of the Department of Defense to accomplish the program’s mission using alternative systems;

“(6) the Joint Requirements Oversight Council has accomplished its duties with respect to the program pursuant to section 181(b) of this title, including an analysis of the operational requirements for the program; and

“(7) the program complies with all relevant policies, regulations, and directives of the Department of Defense.

“(b) SUBMISSION TO CONGRESS.—The certification required under subsection (a) with respect to a major defense acquisition program shall be submitted to the congressional defense committees with the first Selected Acquisition Report submitted under section 2432 of this title after completion of the certification.

“(c) WAIVER FOR NATIONAL SECURITY.—The milestone decision authority may waive the applicability to a major defense acquisition program of one or more components (as specified in paragraph (1), (2), (3), (4), (5), or (6) of subsection (a)) of the certification requirement if the milestone decision authority determines that,

but for such a waiver, the Department would be unable to meet critical national security objectives. Whenever the milestone decision authority makes such a determination and authorizes such a waiver, the waiver, the determination, and the reasons for the determination shall be submitted in writing to the congressional defense committees within 30 days after the waiver is authorized.

Deadline.

“(d) NONDELEGATION.—The milestone decision authority may not delegate the certification requirement under subsection (a) or the authority to waive any component of such requirement under subsection (c).

“(e) DEFINITIONS.—In this section:

“(1) The term ‘major defense acquisition program’ means a Department of Defense acquisition program that is a major defense acquisition program for purposes of section 2430 of this title.

“(2) The term ‘milestone decision authority’, with respect to a major defense acquisition program, means the individual within the Department of Defense designated with overall responsibility for the program.

“(3) The term ‘Milestone B approval’ has the meaning provided that term in section 2366(e)(7) of this title.

“(4) The term ‘Key Decision Point B’ means the official program initiation of a National Security Space program of the Department of Defense, which triggers a formal review to determine maturity of technology and the program’s readiness to begin the preliminary system design.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2366 the following new item:

“2366a. Major defense acquisition programs: certification required before Milestone B approval or Key Decision Point B approval.”.

SEC. 802. REQUIREMENTS APPLICABLE TO MAJOR DEFENSE ACQUISITION PROGRAMS EXCEEDING BASELINE COSTS.

(a) SPECIFICATION OF SIGNIFICANT COST GROWTH THRESHOLD AND CRITICAL COST GROWTH THRESHOLD.—Subsection (a) of section 2433 of title 10, United States Code, is amended by adding at the end the following new paragraphs:

“(4) The term ‘significant cost growth threshold’ means the following:

“(A) In the case of a major defense acquisition program, a percentage increase in the program acquisition unit cost for the program of—

“(i) at least 15 percent over the program acquisition unit cost for the program as shown in the current Baseline Estimate for the program; or

“(ii) at least 30 percent over the program acquisition unit cost for the program as shown in the original Baseline Estimate for the program.

“(B) In the case of a major defense acquisition program that is a procurement program, a percentage increase in the procurement unit cost for the program of—

“(i) at least 15 percent over the procurement unit cost for the program as shown in the current Baseline Estimate for the program; or

“(ii) at least 30 percent over the procurement unit cost for the program as shown in the original Baseline Estimate for the program.

“(5) The term ‘critical cost growth threshold’ means the following:

“(A) In the case of a major defense acquisition program, a percentage increase in the program acquisition unit cost for the program of—

“(i) at least 25 percent over the program acquisition unit cost for the program as shown in the current Baseline Estimate for the program; or

“(ii) at least 50 percent over the program acquisition unit cost for the program as shown in the original Baseline Estimate for the program.

“(B) In the case of a major defense acquisition program that is a procurement program, a percentage increase in the procurement unit cost for the program of—

“(i) at least 25 percent over the procurement unit cost for the program as shown in the current Baseline Estimate for the program; or

“(ii) at least 50 percent over the procurement unit cost for the program as shown in the original Baseline Estimate for the program.”.

(b) INCORPORATION OF THRESHOLDS INTO UNIT COST REPORT AND RELATED REQUIREMENTS.—

(1) UNIT COST REPORT REQUIREMENTS.—Subsection (c) of such section is amended by striking “cause to believe—” and all that follows through “reflected in the Baseline Estimate;” and inserting “cause to believe that the program acquisition unit cost for the program or the procurement unit cost for the program, as applicable, has increased by a percentage equal to or greater than the significant cost growth threshold for the program;”.

(2) DETERMINATIONS OF SERVICE ACQUISITION EXECUTIVES.—Subsection (d) of such section is amended—

(A) in paragraph (1), by striking “by at least 15 percent, or by at least 25 percent, over the program acquisition unit cost for the program as shown in the Baseline Estimate” and inserting “by a percentage equal to or greater than the significant cost growth threshold, or the critical cost growth threshold, for the program”;

(B) in paragraph (2), by striking “by at least 15 percent, or by at least 25 percent, over the procurement unit cost for the program as reflected in the Baseline Estimate” and inserting “by a percentage equal to or greater than the significant cost growth threshold, or the critical cost growth threshold, for the program”; and

(C) in paragraph (3)—

(i) by striking “by at least 15 percent, or by at least 25 percent, as determined under paragraph (1)” and inserting “by a percentage equal to or greater than the significant cost growth threshold or critical cost growth threshold”; and

(ii) by striking “by at least 15 percent, or by at least 25 percent, as determined under paragraph (2)” and inserting “by a percentage equal to or greater

than the significant cost growth threshold or critical cost growth threshold”.

(3) SERVICE ACQUISITION REPORTS.—Subsection (e) of such section is amended—

(A) in paragraph (1)(A), by striking “by at least 15 percent” and inserting “by a percentage equal to or greater than the significant cost growth threshold for the program”;

(B) in paragraph (2)—

(i) by striking “percentage increase in the”; and

(ii) by striking “exceeds 25 percent” and inserting “increases by a percentage equal to or greater than the critical cost growth threshold for the program”; and

(C) in paragraph (3)—

(i) by striking “of at least 15 percent” both places it appears and inserting “by a percentage equal to or greater than the significant cost growth threshold”; and

(ii) by striking “of at least 25 percent” both places it appears and inserting “by a percentage equal to or greater than the critical cost growth threshold”.

(c) ADDITIONAL REQUIREMENTS RELATING TO CERTAIN UNIT COST INCREASES.—Paragraph (2) of subsection (e) of such section is further amended—

(1) by redesignating subparagraph (B) as subparagraph (C); and

(2) by striking “the Secretary of Defense” and all that follows through “a written certification, stating that—” and inserting “the Secretary of Defense shall—

“(A) carry out an assessment of—

“(i) the projected cost of completing the program if current requirements are not modified;

“(ii) the projected cost of completing the program based on reasonable modification of such requirements; and

“(iii) the rough order of magnitude of the costs of any reasonable alternative system or capability;

“(B) submit to Congress, before the end of the 60-day period beginning on the day the Selected Acquisition Report containing the information described in subsection (g) is required to be submitted under section 2432(f) of this title, a written certification (with a supporting explanation) stating that—”.

(d) ORIGINAL BASELINE ESTIMATE.—

(1) IN GENERAL.—Section 2435 of title 10, United States Code, is amended—

(A) by redesignating subsection (d) as subsection (e); and

(B) by inserting after subsection (c) the following new subsection (d):

“(d) ORIGINAL BASELINE ESTIMATE.—(1) In this chapter, the term ‘original Baseline Estimate’, with respect to a major defense acquisition program, means the baseline description established with respect to the program under subsection (a), without adjustment or revision (except as provided in paragraph (2)).

“(2) An adjustment or revision of the original baseline description of a major defense acquisition program may be treated as the original Baseline Estimate for the program for purposes of

this chapter only if the percentage increase in the program acquisition unit cost or procurement unit cost under such adjustment or revision exceeds the critical cost growth threshold for the program under section 2433 of this title, as determined by the Secretary of the military department concerned under subsection (d) of such section.

“(3) In the event of an adjustment or revision of the original baseline description of a major defense acquisition program, the Secretary of Defense shall include in the next Selected Acquisition Report to be submitted under section 2432 of this title after such adjustment or revision a notification to the congressional defense committees of such adjustment or revision, together with the reasons for such adjustment or revision.”.

(2) CONFORMING AMENDMENT.—Section 2433(a) of such title, as amended by subsection (a) of this section, is further amended by adding at the end the following new paragraph:

“(6) The term ‘original Baseline Estimate’ has the same meaning as provided in section 2435(d) of this title.”.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on the date of the enactment of this Act, and shall apply with respect to any major defense acquisition program for which an original Baseline Estimate is first established before, on, or after that date.

(2) APPLICABILITY TO CURRENT MAJOR DEFENSE ACQUISITION PROGRAMS.—In the case of a major defense acquisition program for which the program acquisition unit cost or procurement unit cost, as applicable, exceeds the original Baseline Estimate for the program by more than 50 percent on the date of the enactment of this Act—

(A) the current Baseline Estimate for the program as of such date of enactment is deemed to be the original Baseline Estimate for the program for purposes of section 2433 of title 10, United States Code (as amended by this section); and

(B) each Selected Acquisition Report submitted on the program after the date of the enactment of this Act shall reflect each of the following:

(i) The original Baseline Estimate, as first established for the program, without adjustment or revision.

(ii) The Baseline Estimate for the program that is deemed to be the original Baseline Estimate for the program under subparagraph (A).

(iii) The current original Baseline Estimate for the program as adjusted or revised, if at all, in accordance with subsection (d)(2) of section 2435 of title 10, United States Code (as added by subsection (d) of this section).

SEC. 803. REQUIREMENT FOR DETERMINATION BY SECRETARY OF DEFENSE AND NOTIFICATION TO CONGRESS BEFORE PROCUREMENT OF MAJOR WEAPON SYSTEMS AS COMMERCIAL ITEMS.

(a) REQUIREMENT FOR DETERMINATION AND NOTIFICATION.—

(1) IN GENERAL.—Chapter 140 of title 10, United States Code, is amended by adding at the end the following new section:

10 USC 2433
note.

“§ 2379. Requirement for determination by Secretary of Defense and notification to Congress before procurement of major weapon systems as commercial items

“(a) REQUIREMENT FOR DETERMINATION AND NOTIFICATION.—A major weapon system of the Department of Defense may be treated as a commercial item, or purchased under procedures established for the procurement of commercial items, only if—

“(1) the Secretary of Defense determines that—

“(A) the major weapon system is a commercial item, as defined in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)); and

“(B) such treatment is necessary to meet national security objectives; and

“(2) the congressional defense committees are notified at least 30 days before such treatment or purchase occurs.

“(b) TREATMENT OF SUBSYSTEMS AND COMPONENTS AS COMMERCIAL ITEMS.—A subsystem or component of a major weapon system shall be treated as a commercial item and purchased under procedures established for the procurement of commercial items if such subsystem or component otherwise meets the requirements (other than requirements under subsection (a)) for treatment as a commercial item.

“(c) DELEGATION.—The authority of the Secretary of Defense to make a determination under subsection (a) may be delegated only to the Deputy Secretary of Defense, without further redelegation.

“(d) MAJOR WEAPON SYSTEM DEFINED.—In this section, the term ‘major weapon system’ means a weapon system acquired pursuant to a major defense acquisition program (as that term is defined in section 2430 of this title).”.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 140 of such title is amended by adding at the end the following new item:

“2379. Requirement for determination by Secretary of Defense and notification to Congress before procurement of major weapon systems as commercial items.”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply to contracts entered into on or after such date.

10 USC 2379
note.

SEC. 804. REPORTS ON SIGNIFICANT INCREASES IN PROGRAM ACQUISITION UNIT COSTS OR PROCUREMENT UNIT COSTS OF MAJOR DEFENSE ACQUISITION PROGRAMS.

(a) INITIAL REPORT REQUIRED.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the acquisition status of each major defense acquisition program whose program acquisition unit cost or procurement unit cost, as of the date of the enactment of this Act, has exceeded by more than 50 percent the original baseline projection for such unit cost. The report shall include the information specified in subsection (b).

(b) INFORMATION.—The information specified in this subsection with respect to a major defense acquisition program is the following:

(1) An assessment of the costs to be incurred to complete the program if the program is not modified.

(2) An explanation of why the costs of the program have increased.

(3) A justification for the continuation of the program notwithstanding the increase in costs.

(c) MAJOR DEFENSE ACQUISITION PROGRAM DEFINED.—In this section, the term “major defense acquisition program” has the meaning given that term in section 2430 of title 10, United States Code.

SEC. 805. REPORT ON USE OF LEAD SYSTEM INTEGRATORS IN THE ACQUISITION OF MAJOR SYSTEMS.

(a) REPORT REQUIRED.—Not later than September 30, 2006, the Secretary of Defense shall submit to the congressional defense committees a report on the use of lead system integrators for the acquisition by the Department of Defense of major systems.

(b) CONTENTS.—The report required by subsection (a) shall include a detailed description of the actions taken, or to be taken (including a specific timetable), and the current regulations and guidelines regarding—

(1) the definition of the respective rights of the Department of Defense, lead system integrators, and other contractors that participate in the development or production of any individual element of a major weapon system (including subcontractors under lead system integrators) in intellectual property that is developed by the other participating contractors in a manner that ensures that—

(A) the Department of Defense obtains appropriate rights in technical data developed by the other participating contractors in accordance with the requirements of section 2320 of title 10, United States Code; and

(B) lead system integrators obtain access to technical data developed by the other participating contractors only to the extent necessary to execute their contractual obligations as lead systems integrators;

(2) the prevention or mitigation of organizational conflicts of interest on the part of lead system integrators;

(3) minimization of the performance by lead system integrators of functions closely associated with inherently governmental functions;

(4) the appropriate use of competitive procedures in the award of subcontracts by lead system integrators with system responsibility;

(5) the prevention of organizational conflicts of interest arising out of any financial interest of lead system integrators without system responsibility in the development or production of individual elements of a major weapon system; and

(6) the prevention of pass-through charges by lead system integrators with system responsibility on systems or subsystems developed or produced under subcontracts where such lead system integrators do not provide significant value added with regard to such systems or subsystems.

(c) DEFINITIONS.—In this section:

(1) The term “lead system integrator” includes lead system integrators with system responsibility and lead system integrators without system responsibility.

(2) The term “lead system integrator with system responsibility” means a prime contractor for the development or production of a major system if the prime contractor is not expected at the time of award, as determined by the Secretary of Defense for purposes of this section, to perform a substantial portion of the work on the system and the major subsystems.

(3) The term “lead system integrator without system responsibility” means a contractor under a contract for the procurement of services whose primary purpose is to perform acquisition functions closely associated with inherently governmental functions with regard to the development or production of a major system.

(4) The term “major system” has the meaning given such term in section 2302d of title 10, United States Code.

(5) The term “pass-through charge” means a charge for overhead or profit on work performed by a lower-tier contractor (other than charges for the direct costs of managing lower-tier contracts and overhead and profit based on such direct costs) that does not, as determined by the Secretary for purposes of this section, promote significant value added with regard to such work.

(6) The term “functions closely associated with inherently governmental functions” has the meaning given such term in section 2383(b)(3) of title 10, United States Code.

SEC. 806. CONGRESSIONAL NOTIFICATION OF CANCELLATION OF MAJOR AUTOMATED INFORMATION SYSTEMS.

10 USC 2302
note.

(a) **REPORT REQUIRED.**—The Secretary of Defense shall notify the congressional defense committees not less than 60 days before cancelling a major automated information system program that has been fielded or approved to be fielded, or making a change that will significantly reduce the scope of such a program, of the proposed cancellation or change.

(b) **CONTENT.**—Each notification submitted under subsection (a) with respect to a proposed cancellation or change shall include—

(1) the specific justification for the proposed cancellation or change;

(2) a description of the impact of the proposed cancellation or change on the ability of the Department to achieve the objectives of the program proposed for cancellation or change;

(3) a description of the steps that the Department plans to take to achieve those objectives; and

(4) other information relevant to the change in acquisition strategy.

(c) **DEFINITIONS.**—In this section:

(1) The term “major automated information system” has the meaning given that term in Department of Defense directive 5000.1.

(2) The term “approved to be fielded” means having received Milestone C approval.

Subtitle B—Acquisition Policy and Management

10 USC 2304
note.

SEC. 811. INTERNAL CONTROLS FOR PROCUREMENTS ON BEHALF OF THE DEPARTMENT OF DEFENSE.

Deadline.

(a) INSPECTOR GENERAL REVIEWS AND DETERMINATIONS.—

(1) IN GENERAL.—For each covered non-defense agency, the Inspector General of the Department of Defense and the Inspector General of such non-defense agency shall, not later than March 15, 2006, jointly—

(A) review—

(i) the procurement policies, procedures, and internal controls of such non-defense agency that are applicable to the procurement of property and services on behalf of the Department by such non-defense agency; and

(ii) the administration of those policies, procedures, and internal controls; and

(B) determine in writing whether—

(i) such non-defense agency is compliant with defense procurement requirements;

(ii) such non-defense agency is not compliant with defense procurement requirements, but has a program or initiative to significantly improve compliance with defense procurement requirements; or

(iii) neither of the conclusions stated in clauses (i) and (ii) is correct in the case of such non-defense agency.

Deadline.

(2) ACTIONS FOLLOWING CERTAIN DETERMINATIONS.—If the Inspectors General determine under paragraph (1) that the conclusion stated in clause (ii) or (iii) of subparagraph (B) of that paragraph is correct in the case of a covered non-defense agency, such Inspectors General shall, not later than June 15, 2007, jointly—

(A) conduct a second review, as described in subparagraph (A) of that paragraph, regarding such non-defense agency's procurement of property or services on behalf of the Department of Defense in fiscal year 2006; and

(B) determine in writing whether such non-defense agency is or is not compliant with defense procurement requirements.

(b) COMPLIANCE WITH DEFENSE PROCUREMENT REQUIREMENTS.—For the purposes of this section, a covered non-defense agency is compliant with defense procurement requirements if such non-defense agency's procurement policies, procedures, and internal controls applicable to the procurement of products and services on behalf of the Department of Defense, and the manner in which they are administered, are adequate to ensure such non-defense agency's compliance with the requirements of laws and regulations that apply to procurements of property and services made directly by the Department of Defense.

Contracts.

(c) MEMORANDA OF UNDERSTANDING BETWEEN INSPECTORS GENERAL.—

Deadline.

(1) IN GENERAL.—Not later than 60 days after the date of the enactment of this Act, the Inspector General of the

Department of Defense and the Inspector General of each covered non-defense agency shall enter into a memorandum of understanding with each other to carry out the reviews and make the determinations required by this section.

(2) SCOPE OF MEMORANDA.—The Inspector General of the Department of Defense and the Inspector General of a covered non-defense agency may by mutual agreement conduct separate reviews of the procurement of property and services on behalf of the Department of Defense that are conducted by separate business units, or under separate governmentwide acquisition contracts, of such non-defense agency. In any case where such separate reviews are conducted, the Inspectors General shall make separate determinations under paragraph (1) or (2) of subsection (a), as applicable, with respect to each such separate review.

(d) LIMITATIONS ON PROCUREMENTS ON BEHALF OF DEPARTMENT OF DEFENSE.—

(1) LIMITATION DURING REVIEW PERIOD.—After March 15, 2006, and before June 16, 2007, no official of the Department of Defense may, except as provided in subsection (e) or (f), order, purchase, or otherwise procure property or services in an amount in excess of \$100,000 through a covered non-defense agency for which a determination described in paragraph (1)(B)(iii) of subsection (a) has been made under that subsection.

(2) LIMITATION AFTER REVIEW PERIOD.—After June 15, 2007, no official of the Department of Defense may, except as provided in subsection (e) or (f), order, purchase, or otherwise procure property or services in an amount in excess of \$100,000 through a covered non-defense agency that, having been subject to review under this section, has not been determined under this section as being compliant with defense procurement requirements.

(3) LIMITATION FOLLOWING FAILURE TO REACH MOU.—Commencing on the date that is 60 days after the date of the enactment of this Act, if a memorandum of understanding between the Inspector General of the Department of Defense and the Inspector General of a covered non-defense agency cannot be attained causing the review required by this section to not be performed, no official of the Department of Defense, except as provided in subsection (e) or (f), may order, purchase or otherwise procure property or services in an amount in excess of \$100,000 through such non-defense agency.

Deadline.

(e) EXCEPTION FROM APPLICABILITY OF LIMITATIONS.—

(1) EXCEPTION.—No limitation applies under subsection (d) with respect to the procurement of property and services on behalf of the Department of Defense by a covered non-defense agency during any period that there is in effect a determination of the Under Secretary of Defense for Acquisition, Technology, and Logistics, made in writing, that it is necessary in the interest of the Department of Defense to continue to procure property and services through such non-defense agency.

(2) APPLICABILITY OF DETERMINATION.—A written determination with respect to a covered non-defense agency under paragraph (1) is in effect for the period, not in excess of one year, that the Under Secretary shall specify in the written determination. The Under Secretary may extend from time

to time, for up to one year at a time, the period for which the written determination remains in effect.

(f) TERMINATION OF APPLICABILITY OF LIMITATIONS.—Subsection (d) shall cease to apply to a covered non-defense agency on the date on which the Inspector General of the Department of Defense and the Inspector General of such non-defense agency jointly—

(1) determine that such non-defense agency is compliant with defense procurement requirements; and

(2) notify the Secretary of Defense of that determination.

Notification.

(g) IDENTIFICATION OF PROCUREMENTS MADE DURING A PARTICULAR FISCAL YEAR.—For the purposes of subsection (a), a procurement shall be treated as being made during a particular fiscal year to the extent that funds are obligated by the Department of Defense for that procurement in that fiscal year.

(h) DEFINITIONS.—In this section:

(1) The term “covered non-defense agency” means each of the following:

(A) The Department of the Treasury.

(B) The Department of the Interior.

(C) The National Aeronautics and Space Administration.

(2) The term “governmentwide acquisition contract”, with respect to a covered non-defense agency, means a task or delivery order contract that—

(A) is entered into by the non-defense agency; and

(B) may be used as the contract under which property or services are procured for 1 or more other departments or agencies of the Federal Government.

SEC. 812. MANAGEMENT STRUCTURE FOR THE PROCUREMENT OF CONTRACT SERVICES.

(a) MANAGEMENT STRUCTURE.—

(1) IN GENERAL.—Section 2330 of title 10, United States Code, is amended to read as follows:

“§ 2330. Procurement of contract services: management structure

“(a) REQUIREMENT FOR MANAGEMENT STRUCTURE.—The Secretary of Defense shall establish and implement a management structure for the procurement of contract services for the Department of Defense. The management structure shall provide, at a minimum, for the following:

“(1) The Under Secretary of Defense for Acquisition, Technology, and Logistics shall—

“(A) develop and maintain (in consultation with the service acquisition executives) policies, procedures, and best practices guidelines addressing the procurement of contract services, including policies, procedures, and best practices guidelines for—

“(i) acquisition planning;

“(ii) solicitation and contract award;

“(iii) requirements development and management;

“(iv) contract tracking and oversight;

“(v) performance evaluation; and

“(vi) risk management;

“(B) work with the service acquisition executives and other appropriate officials of the Department of Defense—

“(i) to identify the critical skills and competencies needed to carry out the procurement of contract services on behalf of the Department of Defense;

“(ii) to develop a comprehensive strategy for recruiting, training, and deploying employees to meet the requirements for such skills and competencies; and

“(iii) to ensure that the military departments and Defense Agencies have staff and administrative support that are adequate to effectively perform their duties under this section;

“(C) establish contract services acquisition categories, based on dollar thresholds, for the purpose of establishing the level of review, decision authority, and applicable procedures in such categories; and

“(D) oversee the implementation of the requirements of this section and the policies, procedures, and best practices guidelines established pursuant to subparagraph (A).

“(2) The service acquisition executive of each military department shall be the senior official responsible for the management of acquisition of contract services for or on behalf of the military department.

“(3) The Under Secretary of Defense for Acquisition, Technology, and Logistics shall be the senior official responsible for the management of acquisition of contract services for or on behalf of the Defense Agencies and other components of the Department of Defense outside the military departments.

“(b) DUTIES AND RESPONSIBILITIES OF SENIOR OFFICIALS RESPONSIBLE FOR THE MANAGEMENT OF ACQUISITION OF CONTRACT SERVICES.—(1) Except as provided in paragraph (2), the senior officials responsible for the management of acquisition of contract services shall assign responsibility for the review and approval of procurements in each contract services acquisition category established under subsection (a)(1)(C) to specific Department of Defense officials, subject to the direction, supervision, and oversight of such senior officials.

“(2) With respect to the acquisition of contract services by a component or command of the Department of Defense the primary mission of which is the acquisition of products and services, such acquisition shall be conducted in accordance with policies, procedures, and best practices guidelines developed and maintained by the Under Secretary of Defense for Acquisition, Technology, and Logistics pursuant to subsection (a)(1), subject to oversight by the senior officials referred to in paragraph (1).

“(3) In carrying out paragraph (1), each senior official responsible for the management of acquisition of contract services shall—

“(A) implement the requirements of this section and the policies, procedures, and best practices guidelines developed by the Under Secretary of Defense for Acquisition, Technology, and Logistics pursuant to subsection (a)(1)(A);

“(B) authorize the procurement of contract services through contracts entered into by agencies outside the Department of Defense in appropriate circumstances, in accordance with the requirements of section 854 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (10 U.S.C. 2304 note), section 814 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (31 U.S.C. 1535 note), and the regulations implementing such sections;

“(C) dedicate full-time commodity managers to coordinate the procurement of key categories of services;

“(D) ensure that contract services are procured by means of procurement actions that are in the best interests of the Department of Defense and are entered into and managed in compliance with applicable laws, regulations, directives, and requirements;

“(E) ensure that competitive procedures and performance-based contracting are used to the maximum extent practicable for the procurement of contract services; and

“(F) monitor data collection under section 2330a of this title, and periodically conduct spending analyses, to ensure that funds expended for the procurement of contract services are being expended in the most rational and economical manner practicable.

“(c) DEFINITIONS.—In this section:

“(1) The term ‘procurement action’ includes the following actions:

“(A) Entry into a contract or any other form of agreement.

“(B) Issuance of a task order, delivery order, or military interdepartmental purchase request.

“(2) The term ‘contract services’ includes all services acquired from private sector entities by or for the Department of Defense, other than services relating to research and development or military construction.”.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 137 of such title is amended by striking the item relating to section 2330 and inserting the following new item:

“2330. Procurement of contract services: management structure.”.

10 USC 2330
note.

(b) PHASED IMPLEMENTATION.—The requirements of section 2330 of title 10, United States Code (as added by subsection (a)), shall be implemented as follows:

Deadlines.

(1) The Under Secretary of Defense for Acquisition, Technology, and Logistics shall—

(A) establish an initial set of contract services acquisition categories, based on dollar thresholds, by not later than June 1, 2006; and

Procedures.

(B) issue an initial set of policies, procedures, and best practices guidelines in accordance with section 2330(a)(1)(A) by not later than October 1, 2006.

(2) The contract services acquisition categories established by the Under Secretary shall include—

(A) one or more categories for acquisitions with an estimated value of \$250,000,000 or more;

(B) one or more categories for acquisitions with an estimated value of at least \$10,000,000 but less than \$250,000,000; and

(C) one or more categories for acquisitions with an estimated value greater than the simplified acquisition threshold but less than \$10,000,000.

Deadlines.

(3) The senior officials responsible for the management of acquisition of contract services shall assign responsibility to specific individuals in the Department of Defense for the review and approval of procurements in the contract services

acquisition categories established by the Under Secretary, as follows:

(A) Not later than October 1, 2006, for all categories established pursuant to paragraph (2)(A).

(B) Not later than October 1, 2007, for all categories established pursuant to paragraph (2)(B).

(C) Not later than October 1, 2009, for all categories established pursuant to paragraph (2)(C).

(c) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a final report on the implementation of section 2330 of title 10, United States Code, as added by this section.

SEC. 813. REPORT ON SERVICE SURCHARGES FOR PURCHASES MADE FOR MILITARY DEPARTMENTS THROUGH OTHER DEPARTMENT OF DEFENSE AGENCIES.

(a) REPORTS BY MILITARY DEPARTMENTS.—For each of fiscal years 2005 and 2006, the Secretary of each military department shall, not later than 180 days after the last day of that fiscal year, submit to the Under Secretary of Defense for Acquisition, Technology, and Logistics a report on the service charges imposed on such military department for purchases in amounts greater than the simplified acquisition threshold that were made for that military department during such fiscal year through a contract entered into by an agency of the Department of Defense other than that military department. The report shall specify the amounts of the service charges and identify the services provided in exchange for such charges.

(b) ANALYSIS OF MILITARY DEPARTMENT REPORT.—Not later than 90 days after receiving a report of the Secretary of a military department for a fiscal year under subsection (a), the Under Secretary of Defense for Acquisition, Technology, and Logistics shall review the service charges delineated in such report for the acquisitions covered by the report and the services provided in exchange for such charges and shall compare those charges with the costs of alternative means for making such acquisitions. The analysis shall include the Under Secretary's determinations of whether the imposition and amounts of the service charges were reasonable.

(c) REPORTS TO CONGRESS.—Not later than October 1, 2006 (for reports for fiscal year 2005 under subsection (a)), and not later than October 1, 2007 (for reports for fiscal year 2006 under subsection (a)), the Under Secretary of Defense for Acquisition, Technology, and Logistics shall submit to the congressional defense committees a report on the reports submitted by the Secretaries of the military departments under subsection (a), together with the Under Secretary's determinations under subsection (b) with regard to the matters set forth in those reports.

(d) SIMPLIFIED ACQUISITION THRESHOLD DEFINED.—In this section, the term “simplified acquisition threshold” has the meaning given such term in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)).

SEC. 814. REVIEW OF DEFENSE ACQUISITION STRUCTURES AND CAPABILITIES.

(a) REVIEW BY DEFENSE ACQUISITION UNIVERSITY.—The Defense Acquisition University, acting under the direction and

authority of the Under Secretary of Defense for Acquisition, Technology, and Logistics, shall conduct a review of the acquisition structures and capabilities of the Department of Defense, including the acquisition structures and capabilities of the following:

- (1) Each military department.
- (2) Each defense agency.
- (3) Any other element of the Department of Defense that has an acquisition function.

(b) ELEMENTS OF REVIEW.—

(1) IN GENERAL.—In reviewing the acquisition structures and capabilities of an organization under subsection (a), the Defense Acquisition University shall—

- (A) determine the current structure of the organization;
- (B) review the evolution of the current structure of the organization, including the reasons for each reorganization of the structure;
- (C) identify the capabilities needed by the organization to fulfill its function and assess the capacity of the organization, as currently structured, to provide such capabilities;
- (D) identify any gaps, shortfalls, or inadequacies relating to acquisitions in the current structures and capabilities of the organization;
- (E) identify any recruiting, retention, training, or professional development steps that may be needed to address any such gaps, shortfalls, or inadequacies; and
- (F) make such recommendations as the review team determines to be appropriate.

(2) EMPHASIS IN REVIEW.—In conducting the review of acquisition structures and capabilities under subsection (a), the University shall place special emphasis on consideration of—

- (A) structures, capabilities, and processes for joint acquisition, including actions that may be needed to improve such structures, capabilities, and processes; and
- (B) actions that may be needed to improve acquisition outcomes.

(c) FUNDING.—The Under Secretary of Defense for Acquisition, Technology, and Logistics shall provide the Defense Acquisition University the funds required to conduct the review under subsection (a).

(d) REPORT ON REVIEW.—

(1) IN GENERAL.—Not later than 180 days after the completion of the review required by subsection (a), the University shall submit to the Under Secretary of Defense for Acquisition, Technology, and Logistics a report on the review.

(2) ANNEX.—The report shall include a separate annex on the acquisition structures and capabilities on each organization covered by the review. The annex—

- (A) shall address the matters specified under subsection (b) with respect to such organization; and
- (B) may include such recommendations with respect to such organization as the University considers appropriate.

(3) TRANSMITTAL OF FINAL REPORT.—Not later than 90 days after the receipt of the report under paragraph (1), the Under

Secretary shall transmit to the congressional defense committees a copy of the report, together with the comments of the Under Secretary on the report.

(e) **DEFENSE ACQUISITION UNIVERSITY DEFINED.**—In this section, the term “Defense Acquisition University” means the Defense Acquisition University established pursuant to section 1746 of title 10, United States Code.

SEC. 815. MODIFICATION OF REQUIREMENTS APPLICABLE TO CONTRACTS AUTHORIZED BY LAW FOR CERTAIN MILITARY MATERIEL.

(a) **INCLUSION OF COMBAT VEHICLES UNDER REQUIREMENTS.**—Section 2401 of title 10, United States Code, is amended—

(1) by striking “vessel or aircraft” each place it appears and inserting “vessel, aircraft, or combat vehicle”;

(2) in subsection (c), by striking “aircraft or naval vessel” each place it appears and inserting “aircraft, naval vessel, or combat vehicle”;

(3) in subsection (e), by striking “aircraft or naval vessels” each place it appears and inserting “aircraft, naval vessels, or combat vehicles”; and

(4) in subsection (f)—

(A) by striking “aircraft and naval vessels” and inserting “aircraft, naval vessels, and combat vehicles”; and

(B) by striking “such aircraft and vessels” and inserting “such aircraft, vessels, and combat vehicles”.

(b) **ADDITIONAL INFORMATION FOR CONGRESS.**—Subsection (b) of such section is amended—

(1) in paragraph (1)—

(A) in subparagraph (B), by striking “and” at the end;

(B) in subparagraph (C), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following new subparagraph:

“(D) the Secretary has certified to those committees—

“(i) that entering into the proposed contract as a means of obtaining the vessel, aircraft, or combat vehicle is the most cost-effective means of obtaining such vessel, aircraft, or combat vehicle; and

“(ii) that the Secretary has determined that the lease complies with all applicable laws, Office of Management and Budget circulars, and Department of Defense regulations.”; and

(2) by adding at the end the following new paragraphs:

“(3) Upon receipt of a notice under paragraph (1)(C), a committee identified in paragraph (1)(B) may request the Inspector General of the Department of Defense or the Comptroller General of the United States to conduct a review of the proposed contract to determine whether or not such contract meets the requirements of this section.

“(4) If a review is requested under paragraph (3), the Inspector General of the Department of Defense or the Comptroller General of the United States, as the case may be, shall submit to the Secretary and the congressional defense committees a report on such review before the expiration of the period specified in paragraph (1)(C).”.

Certification.

Reports.

(c) **APPLICABILITY OF ACQUISITION REGULATIONS.**—Such section is further amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection (f):

“(f)(1) If a lease or charter covered by this section is a capital lease or a lease-purchase—

“(A) the lease or charter shall be treated as an acquisition and shall be subject to all applicable statutory and regulatory requirements for the acquisition of aircraft, naval vessels, or combat vehicles; and

“(B) funds appropriated to the Department of Defense for operation and maintenance may not be obligated or expended for the lease or charter.

“(2) In this subsection, the terms ‘capital lease’ and ‘lease-purchase’ have the meanings given those terms in Appendix B to Office of Management and Budget Circular A–11, as in effect on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2006.”.

(d) **CONFORMING AND CLERICAL AMENDMENTS.**—

(1) **SECTION HEADING.**—The heading of such section is amended to read as follows:

“§ 2401. Requirement for authorization by law of certain contracts relating to vessels, aircraft, and combat vehicles”.

(2) **TABLE OF SECTIONS.**—The table of sections at the beginning of chapter 141 of such title is amended by striking the item relating to section 2401 and inserting the following new item:

“2401. Requirement for authorization by law of certain contracts relating to vessels, aircraft, and combat vehicles.”.

10 USC 2305
note.

SEC. 816. GUIDANCE ON USE OF TIERED EVALUATIONS OF OFFERS FOR CONTRACTS AND TASK ORDERS UNDER CONTRACTS.

(a) **GUIDANCE REQUIRED.**—The Secretary of Defense shall prescribe guidance for the military departments and the Defense Agencies on the use of tiered evaluations of offers for contracts and for task or delivery orders under contracts.

(b) **ELEMENTS.**—The guidance prescribed under subsection (a) shall include a prohibition on the initiation by a contracting officer of a tiered evaluation of an offer for a contract or for a task or delivery order under a contract unless the contracting officer—

(1) has conducted market research in accordance with part 10 of the Federal Acquisition Regulation in order to determine whether or not a sufficient number of qualified small businesses are available to justify limiting competition for the award of such contract or task or delivery order under applicable law and regulations;

(2) is unable, after conducting market research under paragraph (1), to make the determination described in that paragraph; and

(3) includes in the contract file a written explanation of why such contracting officer was unable to make such determination.

10 USC 2302
note.

SEC. 817. JOINT POLICY ON CONTINGENCY CONTRACTING.

(a) **JOINT POLICY.**—

(1) REQUIREMENT.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, shall develop a joint policy for contingency contracting during combat operations and post-conflict operations. Deadline.

(2) MATTERS COVERED.—The joint policy for contingency contracting required by paragraph (1) shall, at a minimum, provide for—

(A) the designation of a senior commissioned officer in each military department with the responsibility for administering the policy;

(B) the assignment of a senior commissioned officer with appropriate acquisition experience and qualifications to act as head of contingency contracting during combat operations, post-conflict operations, and contingency operations, who shall report directly to the commander of the combatant command in whose area of responsibility the operations occur;

(C) an organizational approach to contingency contracting that is designed to ensure that each military department is prepared to conduct contingency contracting during combat operations and post-conflict operations;

(D) a requirement to provide training (including training under a program to be created by the Defense Acquisition University) to contingency contracting personnel in—

(i) the use of law, regulations, policies, and directives related to contingency contracting operations;

(ii) the appropriate use of rapid acquisition methods, including the use of exceptions to competition requirements under section 2304 of title 10, United States Code, sealed bidding, letter contracts, indefinite delivery indefinite quantity task orders, set asides under section 8(a) of the Small Business Act (15 U.S.C. 637(a)), undefinitized contract actions, and other tools available to expedite the delivery of goods and services during combat operations or post-conflict operations;

(iii) the appropriate use of rapid acquisition authority, commanders' emergency response program funds, and other tools unique to contingency contracting; and

(iv) instruction on the necessity for the prompt transition from the use of rapid acquisition authority to the use of full and open competition and other methods of contracting that maximize transparency in the acquisition process;

(E) appropriate steps to ensure that training is maintained for such personnel even when they are not deployed in a contingency operation; and

(F) such steps as may be needed to ensure jointness and cross-service coordination in the area of contingency contracting.

(b) REPORTS.—

(1) INTERIM REPORT.—

(A) REQUIREMENT.—Not later than 270 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the

Senate and the House of Representatives an interim report on contingency contracting.

(B) MATTERS COVERED.—The report shall include discussions of the following:

(i) Progress in the development of the joint policy under subsection (a).

(ii) The ability of the Armed Forces to support contingency contracting.

(iii) The ability of commanders of combatant commands to request contingency contracting support and the ability of the military departments and the acquisition support agencies to respond to such requests and provide such support, including the availability of rapid acquisition personnel for such support.

(iv) The ability of the current civilian and military acquisition workforce to deploy to combat theaters of operations and to conduct contracting activities during combat and during post-conflict, reconstruction, or other contingency operations.

(v) The effect of different periods of deployment on continuity in the acquisition process.

(2) FINAL REPORT.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Defense shall submit to the committees listed in paragraph (1)(A) a final report on contingency contracting, containing a discussion of the implementation of the joint policy developed under subsection (a), including updated discussions of the matters covered in the interim report.

(c) DEFINITIONS.—In this section:

(1) CONTINGENCY CONTRACTING PERSONNEL.—The term “contingency contracting personnel” means members of the Armed Forces and civilian employees of the Department of Defense who are members of the defense acquisition workforce and, as part of their duties, are assigned to provide support to contingency operations (whether deployed or not).

(2) CONTINGENCY CONTRACTING.—The term “contingency contracting” means all stages of the process of acquiring property or services by the Department of Defense during a contingency operation.

(3) CONTINGENCY OPERATION.—The term “contingency operation” has the meaning provided in section 101(13) of title 10, United States Code.

(4) ACQUISITION SUPPORT AGENCIES.—The term “acquisition support agencies” means Defense Agencies and Department of Defense Field Activities that carry out and provide support for acquisition-related activities.

SEC. 818. ACQUISITION STRATEGY FOR COMMERCIAL SATELLITE COMMUNICATION SERVICES.

(a) REQUIREMENT FOR SPEND ANALYSIS.—The Secretary of Defense shall, as a part of the effort of the Department of Defense to develop a revised strategy for acquiring commercial satellite communication services, perform a complete spend analysis of the acquisitions by the Department of commercial satellite communication services for the period from fiscal year 2000 through fiscal year 2005. That analysis shall, at a minimum, include a determination of the following:

(1) Total acquisition costs in aggregate, by fiscal year, for items and services purchased.

(2) Total quantity of items and services purchased.

(3) Quantity and cost of items and services purchased by each entity from each supplier and who used the items and services purchased.

(4) Purchasing patterns that may lead to recommendations in which the Department of Defense may centralize operations, consolidate requirements, or leverage purchasing power.

(b) REPORT ON ACQUISITION STRATEGY.—

(1) IN GENERAL.—Not later than five months after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the acquisition strategy of the Department of Defense for commercial satellite communications services.

(2) ELEMENTS.—The report required by paragraph (1) shall include the following:

(A) A description of the spend analysis required by subsection (a), including the results of the analysis.

(B) The proposed strategy of the Department for acquiring commercial satellite communication services, which—

(i) shall be based in appropriate part on the results of the analysis required by subsection (a); and

(ii) shall take into account various methods of aggregating purchases and leveraging the purchasing power of the Department, including through the use of multiyear contracting for commercial satellite communication services.

(C) A proposal for such legislative action as the Secretary considers necessary to acquire appropriate types and amounts of commercial satellite communications services using methods of aggregating purchases and leveraging the purchasing power of the Department (including the use of multiyear contracting), or if the use of such methods is determined inadvisable, a statement of the rationale for such determination.

(D) A proposal for such other legislative action that the Secretary considers necessary to implement the strategy of the Department for acquiring commercial satellite communication services.

SEC. 819. AUTHORIZATION OF EVALUATION FACTOR FOR DEFENSE CONTRACTORS EMPLOYING OR SUBCONTRACTING WITH MEMBERS OF THE SELECTED RESERVE OF THE RESERVE COMPONENTS OF THE ARMED FORCES.

10 USC 2305
note.

(a) DEFENSE CONTRACTS.—In awarding any contract for the procurement of goods or services to an entity, the Secretary of Defense is authorized to use as an evaluation factor whether the entity intends to carry out the contract using employees or individual subcontractors who are members of the Selected Reserve of the reserve components of the Armed Forces.

(b) DOCUMENTATION OF SELECTED RESERVE-RELATED EVALUATION FACTOR.—Any entity claiming intent to carry out a contract using employees or individual subcontractors who are members of the Selected Reserve of the reserve components of the Armed

Forces shall submit proof of the use of such employees or sub-contractors for the Department of Defense to consider in carrying out subsection (a) with respect to that contract.

(c) REGULATIONS.—The Federal Acquisition Regulation shall be revised as necessary to implement this section.

Subtitle C—Amendments to General Contracting Authorities, Procedures, and Limitations

SEC. 821. PARTICIPATION BY DEPARTMENT OF DEFENSE IN ACQUISITION WORKFORCE TRAINING FUND.

(a) REQUIRED CONTRIBUTIONS TO ACQUISITION WORKFORCE TRAINING FUND BY DEPARTMENT OF DEFENSE.—Section 37(h)(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 433(h)(3)) is amended—

(1) in subparagraph (A), by striking “other than the Department of Defense” and inserting “, except as provided in subparagraph (D)”; and

(2) by redesignating subparagraphs (D), (E), (F), and (G) as subparagraphs (E), (F), (G), and (H), respectively, and inserting after subparagraph (C) the following new subparagraph (D):

“(D) The Administrator of General Services shall transfer to the Secretary of Defense fees collected from the Department of Defense pursuant to subparagraph (B), to be used by the Defense Acquisition University for purposes of acquisition workforce training.”.

(b) CONFORMING AMENDMENTS.—

(1) OFFICE OF FEDERAL PROCUREMENT POLICY ACT.—Section 37(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 433(a)) is amended by striking “This section” and inserting “Except as provided in subsection (h)(3), this section”.

(2) PUBLIC LAW 108–136.—Section 1412 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1664) is amended by striking subsection (c).

41 USC 433 note.

41 USC 433 note.

(c) DEFENSE ACQUISITION UNIVERSITY FUNDING.—Amounts transferred under section 37(h)(3)(D) of the Office of Federal Procurement Policy Act (as amended by subsection (a)) for use by the Defense Acquisition University shall be in addition to other amounts authorized for the University.

41 USC 433 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to fees collected under contracts described in section 37(h)(3)(B) of the Office of Federal Procurement Policy Act (41 U.S.C. 433(h)(3)(B)) after the date of the enactment of this Act.

SEC. 822. INCREASE IN COST ACCOUNTING STANDARD THRESHOLD.

Section 26(f)(2)(A) of the Office of Federal Procurement Policy Act (41 U.S.C. 422(f)(A)) is amended by striking “\$500,000” and inserting “the amount set forth in section 2306a(a)(1)(A)(i) of title 10, United States Code, as such amount is adjusted in accordance with applicable requirements of law”.

SEC. 823. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN PROTOTYPE PROJECTS.

Section 845 of the National Defense Authorization Act for Fiscal Year 1994 (10 U.S.C. 2371 note) is amended—

(1) in subsection (a)—

(A) by striking “The Director” and inserting “(1) Subject to paragraph (2), the Director”; and

(B) by adding at the end the following new paragraphs:

“(2) The authority of this section—

“(A) may be exercised for a prototype project that is expected to cost the Department of Defense in excess of \$20,000,000 but not in excess of \$100,000,000 only upon a written determination by the senior procurement executive for the agency (as designated for the purpose of section 16(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(c)) that—

“(i) the requirements of subsection (d) will be met;

and

“(ii) the use of the authority of this section is essential to promoting the success of the prototype project; and

“(B) may be exercised for a prototype project that is expected to cost the Department of Defense in excess of \$100,000,000 only if—

“(i) the Under Secretary of Defense for Acquisition, Technology, and Logistics determines in writing that—

“(I) the requirements of subsection (d) will be met;

and

“(II) the use of the authority of this section is essential to meet critical national security objectives; and

“(ii) the congressional defense committees are notified in writing at least 30 days before such authority is exercised.

Notification.
Deadline.

“(3) The authority of a senior procurement executive under paragraph (2)(A), and the authority of the Under Secretary of Defense for Acquisition, Technology, and Logistics under paragraph (2)(B), may not be delegated.”;

(2) by redesignating subsection (h) as subsection (i); and

(3) by inserting after subsection (g) the following new subsection (h):

“(h) **APPLICABILITY OF PROCUREMENT ETHICS REQUIREMENTS.**—

An agreement entered into under the authority of this section shall be treated as a Federal agency procurement for the purposes of section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423).”.

SEC. 824. INCREASED LIMIT APPLICABLE TO ASSISTANCE PROVIDED UNDER CERTAIN PROCUREMENT TECHNICAL ASSISTANCE PROGRAMS.

Section 2414(a)(2) of title 10, United States Code, is amended by striking “\$150,000” and inserting “\$300,000”.

Subtitle D—United States Defense Industrial Base Provisions

SEC. 831. CLARIFICATION OF EXCEPTION FROM BUY AMERICAN REQUIREMENTS FOR PROCUREMENT OF PERISHABLE FOOD FOR ESTABLISHMENTS OUTSIDE THE UNITED STATES.

Section 2533a(d)(3) of title 10, United States Code, is amended by inserting “, or for,” after “perishable foods by”.

10 USC 2533a
note.

SEC. 832. TRAINING FOR DEFENSE ACQUISITION WORKFORCE ON THE REQUIREMENTS OF THE BERRY AMENDMENT.

(a) TRAINING DURING FISCAL YEAR 2006.—The Secretary of Defense shall ensure that each member of the defense acquisition workforce who participates personally and substantially in the acquisition of textiles on a regular basis receives training during fiscal year 2006 on the requirements of section 2533a of title 10, United States Code (commonly referred to as the “Berry Amendment”), and the regulations implementing that section.

(b) INCLUSION OF INFORMATION IN NEW TRAINING PROGRAMS.—The Secretary shall ensure that any training program developed or implemented after the date of the enactment of this Act for members of the defense acquisition workforce who participate personally and substantially in the acquisition of textiles on a regular basis includes comprehensive information on the requirements described in subsection (a).

SEC. 833. AMENDMENTS TO DOMESTIC SOURCE REQUIREMENTS RELATING TO CLOTHING MATERIALS AND COMPONENTS COVERED.

(a) NOTICE.—Section 2533a of title 10, United States Code, is amended by adding at the end the following new subsection:

“(k) NOTIFICATION REQUIRED WITHIN 7 DAYS AFTER CONTRACT AWARD IF CERTAIN EXCEPTIONS APPLIED.—In the case of any contract for the procurement of an item described in subparagraph (B), (C), (D), or (E) of subsection (b)(1), if the Secretary of Defense or of the military department concerned applies an exception set forth in subsection (c) or (e) with respect to that contract, the Secretary shall, not later than 7 days after the award of the contract, post a notification that the exception has been applied on the Internet site maintained by the General Services Administration known as FedBizOps.gov (or any successor site).”

(b) CLOTHING MATERIALS AND COMPONENTS COVERED.—Subsection (b) of section 2533a of title 10, United States Code, is amended in paragraph (1)(B) by inserting before the semicolon the following: “and the materials and components thereof, other than sensors, electronics, or other items added to, and not normally associated with, clothing (and the materials and components thereof)”.

Deadline.

Subtitle E—Other Matters

SEC. 841. REVIEW AND REPORT ON DEPARTMENT OF DEFENSE EFFORTS TO IDENTIFY CONTRACT FRAUD, WASTE, AND ABUSE.

(a) REVIEW BY COMPTROLLER GENERAL.—The Comptroller General shall conduct a review of efforts by the Department of Defense to identify and assess the areas of vulnerability of Department of Defense contracts to fraud, waste, and abuse.

(b) MATTERS COVERED.—

(1) IN GENERAL.—In conducting the review, the Comptroller General shall summarize the ongoing efforts of the Department of Defense, including the reviews described in paragraph (2), and make recommendations about areas not addressed or items that need further investigation.

(2) DEPARTMENT OF DEFENSE REVIEWS.—The reviews by the Department of Defense referred to in paragraph (1) are the following:

(A) A report by a task force of the Defense Science Board dated March 2005 and titled “Management Oversight in Acquisition Organizations”.

(B) An audit by the Inspector General of the Department of Defense titled “Service Acquisition Executives Management Oversight and Procurement Authority”.

(C) A task force to address contract fraud, waste, and abuse designated by the Deputy Secretary of Defense.

(c) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Comptroller General shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the results of the review, including the Comptroller General’s findings and recommendations.

SEC. 842. EXTENSION OF CONTRACT GOAL FOR SMALL DISADVANTAGED BUSINESSES AND CERTAIN INSTITUTIONS OF HIGHER EDUCATION.

Section 2323(k) of title 10, United States Code, is amended by striking “2006” both places it appears and inserting “2009”.

SEC. 843. EXTENSION OF DEADLINE FOR REPORT OF ADVISORY PANEL ON LAWS AND REGULATIONS ON ACQUISITION PRACTICES.

Section 1423(d) of the Services Acquisition Reform Act of 2003 (title XIV of Public Law 108–136; 117 Stat. 1669; 41 U.S.C. 405 note) is amended by striking “one year” and inserting “18 months”.

SEC. 844. EXCLUSION OF CERTAIN SECURITY EXPENSES FROM CONSIDERATION FOR PURPOSE OF SMALL BUSINESS SIZE STANDARDS.

Section 3(a) of the Small Business Act (15 U.S.C. 632(a)), is amended by adding at the end the following:

“(4) EXCLUSION OF CERTAIN SECURITY EXPENSES FROM CONSIDERATION FOR PURPOSE OF SMALL BUSINESS SIZE STANDARDS.—

“(A) DETERMINATION REQUIRED.—Not later than 30 days after the date of enactment of this paragraph, the Administrator shall review the application of size standards established pursuant to paragraph (2) to small business

Deadline.

concerns that are performing contracts in qualified areas and determine whether it would be fair and appropriate to exclude from consideration in the average annual gross receipts of such small business concerns any payments made to such small business concerns by Federal agencies to reimburse such small business concerns for the cost of subcontracts entered for the sole purpose of providing security services in a qualified area.

Deadline.

“(B) ACTION REQUIRED.—Not later than 60 days after the date of enactment of this paragraph, the Administrator shall either—

“(i) initiate an adjustment to the size standards, as described in subparagraph (A), if the Administrator determines that such an adjustment would be fair and appropriate; or

Reports.

“(ii) provide a report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives explaining in detail the basis for the determination by the Administrator that such an adjustment would not be fair and appropriate.

“(C) QUALIFIED AREAS.—In this paragraph, the term ‘qualified area’ means—

“(i) Iraq,

“(ii) Afghanistan, and

“(iii) any foreign country which included a combat zone, as that term is defined in section 112(c)(2) of the Internal Revenue Code of 1986, at the time of performance of the relevant Federal contract or subcontract.”.

SEC. 845. DISASTER RELIEF FOR SMALL BUSINESS CONCERNS DAMAGED BY DROUGHT.

(a) DROUGHT DISASTER AUTHORITY.—

(1) DEFINITION OF DISASTER.—Section 3(k) of the Small Business Act (15 U.S.C. 632(k)) is amended—

(A) by inserting “(1)” after “(k)”; and

(B) by adding at the end the following:

“(2) For purposes of section 7(b)(2), the term ‘disaster’ includes—

“(A) drought; and

“(B) below average water levels in the Great Lakes, or on any body of water in the United States that supports commerce by small business concerns.”.

(2) DROUGHT DISASTER RELIEF AUTHORITY.—Section 7(b)(2) of the Small Business Act (15 U.S.C. 636(b)(2)) is amended—

(A) by inserting “(including drought), with respect to both farm-related and nonfarm-related small business concerns,” before “if the Administration”; and

(B) in subparagraph (B), by striking “the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961)” and inserting the following: “section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961), in which case, assistance under this paragraph may be provided to farm-related and nonfarm-related small business concerns, subject to the other applicable requirements of this paragraph”.

(b) **LIMITATION ON LOANS.**—From funds otherwise appropriated for loans under section 7(b) of the Small Business Act (15 U.S.C. 636(b)), not more than \$9,000,000 may be used during each of fiscal years 2005 through 2008, to provide drought disaster loans to nonfarm-related small business concerns in accordance with this section and the amendments made by this section.

(c) **PROMPT RESPONSE TO DISASTER REQUESTS.**—Section 7(b)(2)(D) of the Small Business Act (15 U.S.C. 636(b)(2)(D)) is amended by striking “Upon receipt of such certification, the Administration may” and inserting “Not later than 30 days after the date of receipt of such certification by a Governor of a State, the Administration shall respond in writing to that Governor on its determination and the reasons therefore, and may”.

Deadline.

(d) **RULEMAKING.**—Not later than 45 days after the date of enactment of this Act, the Administrator of the Small Business Administration shall promulgate final rules to carry out this section and the amendments made by this section.

Deadline.
15 USC 632 note.

SEC. 846. EXTENSION OF LIMITED ACQUISITION AUTHORITY FOR THE COMMANDER OF THE UNITED STATES JOINT FORCES COMMAND.

(a) **EXTENSION OF AUTHORITY.**—Subsection (f) of section 167a of title 10, United States Code, is amended—

(1) by striking “through 2006” and inserting “through 2008”; and

(2) by striking “September 30, 2006” and inserting “September 30, 2008”.

(b) **REPORT.**—Not later than one year after the date of the enactment of this Act, the Comptroller General shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the implementation of section 167a of title 10, United States Code.

SEC. 847. CIVILIAN BOARD OF CONTRACT APPEALS.

(a) **IN GENERAL.**—The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is amended by adding at the end the following new section:

“SEC. 42. CIVILIAN BOARD OF CONTRACT APPEALS.

41 USC 438.

“(a) **BOARD ESTABLISHED.**—There is established in the General Services Administration a board of contract appeals to be known as the Civilian Board of Contract Appeals (in this section referred to as the ‘Civilian Board’).

“(b) **MEMBERSHIP.**—

“(1) **APPOINTMENT.**—(A) The Civilian Board shall consist of members appointed by the Administrator of General Services (in consultation with the Administrator for Federal Procurement Policy) from a register of applicants maintained by the Administrator of General Services, in accordance with rules issued by the Administrator of General Services (in consultation with the Administrator for Federal Procurement Policy) for establishing and maintaining a register of eligible applicants and selecting Civilian Board members. The Administrator of General Services shall appoint a member without regard to political affiliation and solely on the basis of the professional qualifications required to perform the duties and responsibilities of a Civilian Board member.

“(B) The members of the Civilian Board shall be selected and appointed to serve in the same manner as administrative law judges appointed pursuant to section 3105 of title 5, United States Code, with an additional requirement that such members shall have had not fewer than five years of experience in public contract law.

“(C) Notwithstanding subparagraph (B) and subject to paragraph (2), the following persons shall serve as Civilian Board members: any full-time member of any agency board of contract appeals other than the Armed Services Board of Contract Appeals, the Postal Service Board of Contract Appeals, and the board of contract appeals of the Tennessee Valley Authority serving as such on the day before the effective date of this section.

“(2) REMOVAL.—Members of the Civilian Board shall be subject to removal in the same manner as administrative law judges, as provided in section 7521 of title 5, United States Code.

“(3) COMPENSATION.—Compensation for members of the Civilian Board shall be determined under section 5372a of title 5, United States Code.

“(c) FUNCTIONS.—

“(1) IN GENERAL.—The Civilian Board shall have jurisdiction as provided by section 8(d) of the Contract Disputes Act of 1978 (41 U.S.C. 607(b)).

“(2) ADDITIONAL JURISDICTION.—The Civilian Board may, with the concurrence of the Federal agency or agencies affected—

“(A) assume jurisdiction over any additional category of laws or disputes over which an agency board of contract appeals established pursuant to section 8 of the Contract Disputes Act exercised jurisdiction before the effective date of this section; and

“(B) assume any other functions performed by such a board before such effective date on behalf of such agencies.”.

41 USC 607 note.

(b) TRANSFERS.—The personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available in connection with the functions vested by law in the agency boards of contract appeals established pursuant to section 8 of the Contract Disputes Act of 1978 (41 U.S.C. 607) (as in effect on the day before the effective date described in subsection (g)) other than the Armed Services Board of Contract Appeals, the board of contract appeals of the Tennessee Valley Authority, and the Postal Service Board of Contract Appeals shall be transferred to the Civilian Board of Contract Appeals for appropriate allocation by the Chairman of that Board.

41 USC 607 note.

(c) TERMINATION OF BOARDS OF CONTRACT APPEALS.—

(1) TERMINATION.—Effective on the effective date described in subsection (g), the agency boards of contract appeals established pursuant to section 8 of the Contract Disputes Act of 1978 (41 U.S.C. 607) (as in effect on the day before such effective date), other than the Armed Services Board of Contract Appeals, the board of contract appeals of the Tennessee Valley

Authority, and the Postal Service Board of Contract Appeals, shall terminate.

(2) SAVINGS PROVISION.—(A) This section and the amendments made by this section shall not affect any proceedings pending on the effective date described in subsection (g) before any agency board of contract appeals terminated by paragraph (1).

(B) In the case of any such proceedings pending before an agency board of contract appeals other than the Armed Services Board of Contract Appeals or the board of contract appeals of the Tennessee Valley Authority, the proceedings shall be continued by the Civilian Board of Contract Appeals, and orders which were issued in any such proceeding by the agency board shall continue in effect until modified, terminated, superseded, or revoked by the Civilian Board of Contract Appeals, by a court of competent jurisdiction, or by operation of law.

(d) AMENDMENTS TO CONTRACTS DISPUTES ACT.—

(1) AMENDMENTS TO DEFINITIONS.—Section 2 of the Contract Disputes Act of 1978 (41 U.S.C. 601) is amended—

(A) in paragraph (2), by striking “, the United States Postal Service, and the Postal Rate Commission”;

(B) by redesignating paragraph (7) as paragraph (9);

(C) by amending paragraph (6) to read as follows:

“(6) the terms ‘agency board’ or ‘agency board of contract appeals’ mean—

“(A) the Armed Services Board of Contract Appeals established under section 8(a)(1) of this Act;

“(B) the Civilian Board of Contract Appeals established under section 42 of the Office of Federal Procurement Policy Act (41 U.S.C. 403 et seq.);

“(C) the board of contract appeals of the Tennessee Valley Authority; or

“(D) the Postal Service Board of Contract Appeals established under section 8(c) of this Act;”;

(D) by inserting after paragraph (6) the following new paragraphs:

“(7) the term ‘Armed Services Board’ means the Armed Services Board of Contract Appeals established under section 8(a)(1) of this Act;

“(8) the term ‘Civilian Board’ means the Civilian Board of Contract Appeals established under section 42 of the Office of Federal Procurement Policy Act (41 U.S.C. 403 et seq.); and”.

(2) AMENDMENTS RELATING TO JURISDICTION.—Section 8 of the Contract Disputes Act of 1978 (41 U.S.C. 607) is amended—

(A) in subsection (d)—

(i) by striking the first sentence and inserting the following: “The Armed Services Board shall have jurisdiction to decide any appeal from a decision of a contracting officer of the Department of Defense, the Department of the Army, the Department of the Navy, the Department of the Air Force, or the National Aeronautics and Space Administration relative to a contract made by that department or agency. The Civilian Board shall have jurisdiction to decide any appeal from

a decision of a contracting officer of any executive agency (other than the Department of Defense, the Department of the Army, the Department of the Navy, the Department of the Air Force, the National Aeronautics and Space Administration, the United States Postal Service, the Postal Rate Commission, or the Tennessee Valley Authority) relative to a contract made by that agency. Each other agency board shall have jurisdiction to decide any appeal from a decision of a contracting officer relative to a contract made by its agency.”; and

(ii) in the second sentence, by striking “Claims Court” and inserting “Court of Federal Claims”;

(B) by striking subsection (c) and inserting the following:

Establishment. “(c) There is established an agency board of contract appeals to be known as the ‘Postal Service Board of Contract Appeals’. Such board shall have jurisdiction to decide any appeal from a decision of a contracting officer of the United States Postal Service or the Postal Rate Commission relative to a contract made by either agency. Such board shall consist of judges appointed by the Postmaster General who shall meet the qualifications of and serve in the same manner as members of the Civilian Board of Contract Appeals. This Act shall apply to contract disputes before the Postal Service Board of Contract Appeals in the same manner as they apply to contract disputes before the Civilian Board.”.

Applicability.

(3) CONFORMING AMENDMENTS.—Section 8 of the Contract Disputes Act of 1978 (41 U.S.C. 607) is further amended—

(A) in subsection (a)(1)—

(i) by striking “Except as provided in paragraph (2) an agency board of contract appeals” and inserting “An Armed Services Board of Contract Appeals”; and

(ii) by striking “an executive agency when the agency head” and inserting “the Department of Defense when the Secretary of Defense”; and

(B) in subsection (b)(1)—

(i) by striking “Except as provided in paragraph (2), the members of agency boards” and inserting “The members of the Armed Services Board of Contract Appeals”;

(ii) in the second sentence, by striking “agency boards” and inserting “such Board”;

(iii) in the third sentence, by striking “each board” and inserting “such Board” and by striking “the agency head” and inserting “the Secretary of Defense”; and

(iv) in the fourth sentence, by striking “an agency board” and inserting “such Board”.

(4) REPEAL OF OBSOLETE PROVISIONS.—Section 8 of the Contract Disputes Act of 1978 (41 U.S.C. 607) is further amended by striking subsections (h) and (i).

41 USC 607 note. (e) REFERENCES.—Any reference to an agency board of contract appeals other than the Armed Services Board of Contract Appeals, the board of contract appeals of the Tennessee Valley Authority, or the Postal Service Board of Contract Appeals in any provision of law or in any rule, regulation, or other paper of the United States shall be treated as referring to the Civilian Board of Contract

Appeals established under section 42 of the Office of Federal Procurement Policy Act.

(f) CONFORMING AND CLERICAL AMENDMENTS.—(1) Section 5372a(a)(1) of title 5, United States Code, is amended by inserting after “of 1978” the following: “or a member of the Civilian Board of Contract Appeals appointed under section 42 of the Office of Federal Procurement Policy Act”.

(2) The table of contents for the Office of Federal Procurement Policy Act (contained in section 1(b)) is amended by adding at the end the following new item:

“42. Civilian Board of Contract Appeals.”.

(g) EFFECTIVE DATE.—Section 42 of the Office of Federal Procurement Policy Act, as added by this section, and the amendments and repeals made by this section, shall take effect 1 year after the date of the enactment of this Act.

5 USC 5372a
note.

SEC. 848. STATEMENT OF POLICY AND REPORT RELATING TO CONTRACTING WITH EMPLOYERS OF PERSONS WITH DISABILITIES.

(a) EXTENSIONS OF INAPPLICABILITY OF CERTAIN ACTS.—Section 853 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2021) is amended in subsections (a)(2)(A) and (b)(2)(A) by striking “2005” and inserting “2006”.

(b) STATEMENT OF POLICY.—The Secretary of Defense, the Secretary of Education, and the Chairman of the Committee for Purchase From People Who Are Blind or Severely Disabled shall jointly issue a statement of policy related to the implementation of the Randolph-Sheppard Act (20 U.S.C. 107 et seq.) and the Javits-Wagner-O’Day Act (41 U.S.C. 48) within the Department of Defense and the Department of Education. The joint statement of policy shall specifically address the application of those Acts to both operation and management of all or any part of a military mess hall, military troop dining facility, or any similar dining facility operated for the purpose of providing meals to members of the Armed Forces, and shall take into account and address, to the extent practicable, the positions acceptable to persons representing programs implemented under each Act.

41 USC 46 note.

(c) REPORT.—Not later than April 1, 2006, the Secretary of Defense, the Secretary of Education, and the Chairman of the Committee for Purchase From People Who Are Blind or Severely Disabled shall submit to the Committees on Armed Services of the Senate and the House of Representatives, the Committee on Health, Education, Labor and Pensions of the Senate, and the Committee on Education and the Workforce of the House of Representatives a report describing the joint statement of policy issued under subsection (b), with such findings and recommendations as the Secretaries consider appropriate.

41 USC 46 note.

SEC. 849. STUDY ON DEPARTMENT OF DEFENSE CONTRACTING WITH SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY SERVICE-DISABLED VETERANS.

(a) STUDY REQUIRED.—The Secretary of Defense shall conduct a study on Department of Defense procurement contracts with small business concerns owned and controlled by service-disabled veterans.

(b) **ELEMENTS OF STUDY.**—The study required by subsection (a) shall include the following determinations:

(1) Any steps taken by the Department of Defense to meet the Government-wide goal of participation by small business concerns owned and controlled by service-disabled veterans in at least 3 percent of the total value of all prime contract and subcontract awards, as required under section 15(g) of the Small Business Act (15 U.S.C. 644(g)).

(2) If the Department of Defense has failed to meet such goal, an explanation of the reasons for such failure.

(3) Any steps taken within the Department of Defense to make contracting officers aware of the 3 percent goal and to ensure that procurement officers are working actively to achieve such goal.

(4) An estimate of the number of appropriately qualified small business concerns owned and controlled by service-disabled veterans which submitted responsive offers on contracts with the Department of Defense during the preceding fiscal year.

(5) Any outreach efforts made by the Department to enter into contracts with small business concerns owned and controlled by service-disabled veterans.

(6) Any additional outreach efforts the Department should make.

(7) The appropriate role of prime contractors in achieving goals established for small business concerns owned and controlled by service-disabled veterans under section 36 of the Small Business Act (15 U.S.C. 657f).

(c) **REPORT.**—Not later than one year after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the findings of the study conducted under this section.

(d) **SMALL BUSINESS CONCERN OWNED AND CONTROLLED BY SERVICE-DISABLED VETERANS.**—In this section, the term “small business concern owned and controlled by service-disabled veterans” has the meaning given that term in section 3(q) of the Small Business Act (15 U.S.C. 632(q)).

TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

SUBTITLE A—GENERAL DEPARTMENT OF DEFENSE MANAGEMENT MATTERS

- Sec. 901. Parity in pay levels among Under Secretary positions.
- Sec. 902. Expansion of eligibility for leadership of Department of Defense Test Resource Management Center.
- Sec. 903. Standardization of authority for acceptance of gifts and donations for Department of Defense regional centers for security studies.
- Sec. 904. Directors of Small Business Programs in Department of Defense and military departments.
- Sec. 905. Plan to defend the homeland against cruise missiles and other low-altitude aircraft.
- Sec. 906. Provision of audiovisual support services by White House Communications Agency on nonreimbursable basis.
- Sec. 907. Report on establishment of a Deputy Secretary of Defense for Management.
- Sec. 908. Responsibility of the Joint Chiefs of Staff as military advisers to the Homeland Security Council.
- Sec. 909. Improvement in health care services for residents of Armed Forces Retirement Home.

SUBTITLE B—SPACE ACTIVITIES

- Sec. 911. Space Situational Awareness Strategy and space control mission review.
- Sec. 912. Military satellite communications.
- Sec. 913. Operationally responsive space.
- Sec. 914. Report on use of Space Radar for topographical mapping for scientific and civil purposes.
- Sec. 915. Sense of Congress regarding national security aspect of United States preeminence in human spaceflight.

SUBTITLE C—CHEMICAL DEMILITARIZATION PROGRAM

- Sec. 921. Clarification of Cooperative Agreement Authority under Chemical Demilitarization Program.
- Sec. 922. Chemical demilitarization facilities.

SUBTITLE D—INTELLIGENCE-RELATED MATTERS

- Sec. 931. Department of Defense Strategy for Open-Source Intelligence.
- Sec. 932. Comprehensive inventory of Department of Defense Intelligence and Intelligence-related programs and projects.
- Sec. 933. Operational files of the Defense Intelligence Agency.

Subtitle A—General Department of Defense Management Matters

SEC. 901. PARITY IN PAY LEVELS AMONG UNDER SECRETARY POSITIONS.

(a) POSITIONS OF UNDER SECRETARIES OF MILITARY DEPARTMENTS RAISED TO LEVEL III OF THE EXECUTIVE SCHEDULE.—Section 5314 of title 5, United States Code, is amended by inserting after “Under Secretary of Defense for Intelligence” the following:

“Under Secretary of the Air Force.
“Under Secretary of the Army.
“Under Secretary of the Navy.”.

(b) CONFORMING AMENDMENT.—Section 5315 of such title is amended by striking the following:

“Under Secretary of the Air Force.
“Under Secretary of the Army.
“Under Secretary of the Navy.”.

SEC. 902. EXPANSION OF ELIGIBILITY FOR LEADERSHIP OF DEPARTMENT OF DEFENSE TEST RESOURCE MANAGEMENT CENTER.

(a) DIRECTOR OF CENTER.—Paragraph (1) of section 196(b) of title 10, United States Code, is amended by striking “commissioned officers” and all that follows through the end of the sentence and inserting “individuals who have substantial experience in the field of test and evaluation.”.

(b) DEPUTY DIRECTOR OF CENTER.—Paragraph (2) of such section is amended by striking “senior civilian officers and employees of the Department of Defense” and inserting “individuals”.

SEC. 903. STANDARDIZATION OF AUTHORITY FOR ACCEPTANCE OF GIFTS AND DONATIONS FOR DEPARTMENT OF DEFENSE REGIONAL CENTERS FOR SECURITY STUDIES.

(a) AUTHORITY TO ACCEPT.—

(1) IN GENERAL.—Section 2611 of title 10, United States Code, is amended to read as follows:

“§ 2611. Regional centers for security studies: acceptance of gifts and donations

“(a) **AUTHORITY TO ACCEPT GIFTS AND DONATIONS.**—(1) Subject to subsection (c), the Secretary of Defense may, on behalf of any Department of Defense regional center for security studies, any combination of such centers, or such centers generally, accept from any source specified in subsection (b) any gift or donation for purposes of defraying the costs or enhancing the operation of such a center, combination of centers, or centers generally, as the case may be.

“(2) For purposes of this section, the Department of Defense regional centers for security studies are the following:

“(A) The George C. Marshall European Center for Security Studies.

“(B) The Asia-Pacific Center for Security Studies.

“(C) The Center for Hemispheric Defense Studies.

“(D) The Africa Center for Strategic Studies.

“(E) The Near East South Asia Center for Strategic Studies.

“(b) **SOURCES.**—The sources from which gifts and donations may be accepted under subsection (a) are the following:

“(1) The government of a State or a political subdivision of a State.

“(2) The government of a foreign country.

“(3) A foundation or other charitable organization, including a foundation or charitable organization this is organized or operates under the laws of a foreign country.

“(4) Any source in the private sector of the United States or a foreign country.

“(c) **LIMITATION.**—The Secretary may not accept a gift or donation under subsection (a) if acceptance of the gift or donation would compromise or appear to compromise—

“(1) the ability of the Department of Defense, any employee of the Department, or any member of the armed forces to carry out the responsibility or duty of the Department in a fair and objective manner; or

“(2) the integrity of any program of the Department, or of any person involved in such a program.

“(d) **CRITERIA FOR ACCEPTANCE.**—The Secretary shall prescribe written guidance setting forth the criteria to be used in determining whether the acceptance of a gift or donation would have a result described in subsection (c).

“(e) **CREDITING OF FUNDS.**—Funds accepted by the Secretary under section (a) shall be credited to appropriations available to the Department of Defense for the regional center, combination of centers, or centers generally for which accepted. Funds so credited shall be merged with the appropriations to which credited and shall be available for the regional center, combination of centers, or centers generally, as the case may be, for the same purposes as the appropriations with which merged. Any funds accepted under this section shall remain available until expended.

“(f) **GIFT OR DONATION DEFINED.**—In this section, the term ‘gift or donation’ means any gift or donation of funds, materials (including research materials), real or personal property, or services (including lecture services and faculty services).”.

(2) CLERICAL AMENDMENT.—The item relating to section 2611 in the table of sections at the beginning of chapter 155 of such title is amended to read as follows:

“2611. Regional centers for security studies: acceptance of gifts and donations.”.

(b) ANNUAL REPORT ON GIFT ACCEPTANCE.—Section 184(b)(4) of title 10, United States Code, is amended by striking “under any of the” and all that follows and inserting “under section 2611 of this title.”.

(c) CONFORMING AMENDMENTS.—

(1) Section 1306 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2892) is amended—

- (A) by striking subsection (a);
- (B) by redesignating subsection (b) as subsection (a);
- (C) by striking “(1)” the first place it appears;
- (D) by redesignating paragraph (2) as subsection (b);
- (E) by inserting “SOURCE OF FUNDS.—” before “Costs for”; and

(F) by striking “paragraph (1)” and insertion “subsection (a)”.

(2) Section 1065 of the National Defense Authorization Act for Fiscal Year 1997 (10 U.S.C. 113 note) is amended—

- (A) by striking subsection (a); and
- (B) by redesignating subsections (b) and (c) as subsections (a) and (b), respectively.

SEC. 904. DIRECTORS OF SMALL BUSINESS PROGRAMS IN DEPARTMENT OF DEFENSE AND MILITARY DEPARTMENTS.

(a) REDESIGNATION OF EXISTING POSITIONS AND OFFICES.—

(1) POSITIONS REDESIGNATED.—The following positions within the Department of Defense are redesignated as follows:

(A) The Director of Small and Disadvantaged Business Utilization of the Department of Defense is redesignated as the Director of Small Business Programs of the Department of Defense.

(B) The Director of Small and Disadvantaged Business Utilization of the Department of the Army is redesignated as the Director of Small Business Programs of the Department of the Army.

(C) The Director of Small and Disadvantaged Business Utilization of the Department of the Navy is redesignated as the Director of Small Business Programs of the Department of the Navy.

(D) The Director of Small and Disadvantaged Business Utilization of the Department of the Air Force is redesignated as the Director of Small Business Programs of the Department of the Air Force.

(2) OFFICES REDESIGNATED.—The following offices within the Department of Defense are redesignated as follows:

(A) The Office of Small and Disadvantaged Business Utilization of the Department of Defense is redesignated as the Office of Small Business Programs of the Department of Defense.

(B) The Office of Small and Disadvantaged Business Utilization of the Department of the Army is redesignated as the Office of Small Business Programs of the Department of the Army.

(C) The Office of Small and Disadvantaged Business Utilization of the Department of the Navy is redesignated as the Office of Small Business Programs of the Department of the Navy.

(D) The Office of Small and Disadvantaged Business Utilization of the Department of the Air Force is redesignated as the Office of Small Business Programs of the Department of the Air Force.

(3) REFERENCES.—Any reference in any law, regulation, document, paper, or other record of the United States to a position or office redesignated by paragraph (1) or (2) shall be deemed to be a reference to the position or office as so redesignated.

(b) DEPARTMENT OF DEFENSE.—

(1) OSD POSITION AND OFFICE.—Chapter 4 of title 10, United States Code, is amended by adding at the end the following new section:

“§ 144. Director of Small Business Programs

“(a) DIRECTOR.—There is a Director of Small Business Programs in the Department of Defense. The Director is appointed by the Secretary of Defense.

“(b) OFFICE OF SMALL BUSINESS PROGRAMS.—The Office of Small Business Programs of the Department of Defense is the office that is established within the Office of the Secretary of Defense under section 15(k) of the Small Business Act (15 U.S.C. 644(k)). The Director of Small Business Programs is the head of such office.

“(c) DUTIES AND POWERS.—(1) The Director of Small Business Programs shall, subject to paragraph (2), perform such duties regarding small business programs of the Department of Defense, and shall exercise such powers regarding those programs, as the Secretary of Defense may prescribe.

“(2) Section 15(k) of the Small Business Act (15 U.S.C. 644(k)), except for the designations of the Director and the Office, applies to the Director of Small Business Programs.”.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“144. Director of Small Business Programs.”.

(c) DEPARTMENT OF THE ARMY.—

(1) POSITION AND OFFICE.—Chapter 303 of title 10, United States Code, is amended by adding at the end the following new section:

“§ 3024. Director of Small Business Programs

“(a) DIRECTOR.—There is a Director of Small Business Programs in the Department of the Army. The Director is appointed by the Secretary of the Army.

“(b) OFFICE OF SMALL BUSINESS PROGRAMS.—The Office of Small Business Programs of the Department of the Army is the office that is established within the Department of the Army under section 15(k) of the Small Business Act (15 U.S.C. 644(k)). The Director of Small Business Programs is the head of such office.

“(c) DUTIES AND POWERS.—(1) The Director of Small Business Programs shall, subject to paragraph (2), perform such duties regarding small business programs of the Department of the Army,

Applicability.

and shall exercise such powers regarding those programs, as the Secretary of the Army may prescribe.

“(2) Section 15(k) of the Small Business Act (15 U.S.C. 644(k)), except for the designations of the Director and the Office, applies to the Director of Small Business Programs.”. Applicability.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“3024. Director of Small Business Programs.”.

(d) DEPARTMENT OF THE NAVY.—

(1) POSITION AND OFFICE.—Chapter 503 of title 10, United States Code, is amended by adding at the end the following new section:

“§ 5028. Director of Small Business Programs

“(a) DIRECTOR.—There is a Director of Small Business Programs in the Department of the Navy. The Director is appointed by the Secretary of the Navy.

“(b) OFFICE OF SMALL BUSINESS PROGRAMS.—The Office of Small Business Programs of the Department of the Navy is the office that is established within the Department of the Navy under section 15(k) of the Small Business Act (15 U.S.C. 644(k)). The Director of Small Business Programs is the head of such office.

“(c) DUTIES AND POWERS.—(1) The Director of Small Business Programs shall, subject to paragraph (2), perform such duties regarding small business programs of the Department of the Navy, and shall exercise such powers regarding those programs, as the Secretary of the Navy may prescribe.

“(2) Section 15(k) of the Small Business Act (15 U.S.C. 644(k)), except for the designations of the Director and the Office, applies to the Director of Small Business Programs.”. Applicability.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“5028. Director of Small Business Programs.”.

(e) DEPARTMENT OF THE AIR FORCE.—

(1) POSITION AND OFFICE.—Chapter 803 of title 10, United States Code, is amended by adding at the end the following new section:

“§ 8024. Director of Small Business Programs

“(a) DIRECTOR.—There is a Director of Small Business Programs in the Department of the Air Force. The Director is appointed by the Secretary of the Air Force.

“(b) OFFICE OF SMALL BUSINESS PROGRAMS.—The Office of Small Business Programs of the Department of the Air Force is the office that is established within the Department of the Air Force under section 15(k) of the Small Business Act (15 U.S.C. 644(k)). The Director of Small Business Programs is the head of such office.

“(c) DUTIES AND POWERS.—(1) The Director of Small Business Programs shall, subject to paragraph (2), perform such duties regarding small business programs of the Department of the Air Force, and shall exercise such powers regarding those programs, as the Secretary of the Air Force may prescribe.

Applicability.

“(2) Section 15(k) of the Small Business Act (15 U.S.C. 644(k)), except for the designations of the Director and the Office, applies to the Director of Small Business Programs.”.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“8024. Director of Small Business Programs.”.

SEC. 905. PLAN TO DEFEND THE HOMELAND AGAINST CRUISE MISSILES AND OTHER LOW-ALTITUDE AIRCRAFT.

Deadline.

(a) PLAN REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a plan for the defense of the United States homeland against cruise missiles, unmanned aerial vehicles, and other low-altitude aircraft that may be launched in an attack against the United States homeland.

(b) FOCUS OF PLAN.—In developing the plan, the Secretary shall focus on the role of Department of Defense components in the defense of the homeland against an attack described in subsection (a), but shall also address the role, if any, of other departments and agencies of the United States Government in that defense.

(c) ELEMENTS OF PLAN.—The plan shall include the following:

(1) The identification of an official or office within the Department of Defense to be responsible for coordinating the implementation of the plan described in subsection (a) from both an operational and acquisition perspective.

(2) Identification of (A) the capabilities required by the Department of Defense in order to fulfill the mission of the Department to defend the homeland against attack by cruise missiles, unmanned aerial vehicles, and other low-altitude aircraft, and (B) any current shortfall in those capabilities.

(3) Identification of each element of the Department of Defense that will be responsible under the plan for acquisition in order to achieve one or more of the capabilities identified pursuant to paragraph (2).

(4) A schedule for implementing the plan.

(5) A statement of the funding required to implement the Department of Defense portion of the plan.

(6) An identification of the roles and missions, if any, of other departments and agencies of the United States Government in contributing to the defense of the homeland against attack described in paragraph (2).

(d) SCOPE OF PLAN.—The plan shall be coordinated with plans of the Department of Defense for defending the United States homeland against attack by short-range to medium-range ballistic missiles.

SEC. 906. PROVISION OF AUDIOVISUAL SUPPORT SERVICES BY WHITE HOUSE COMMUNICATIONS AGENCY ON NONREIMBURSABLE BASIS.

(a) PROVISION ON NONREIMBURSABLE BASIS.—Section 912 of the National Defense Authorization Act for Fiscal Year 1997 (10 U.S.C. 111 note) is amended—

(1) in subsection (a)—

(A) in the subsection heading, by inserting “AND AUDIO-VISUAL SUPPORT SERVICES” after “TELECOMMUNICATIONS SUPPORT”; and

(B) by inserting “and audiovisual support services” after “provision of telecommunications support”; and

(2) in subsection (b), by inserting “and audiovisual” after “other than telecommunications”.

(b) REPEAL OF OBSOLETE PROVISIONS.—Such section is further amended by striking subsections (d), (e), and (f).

SEC. 907. REPORT ON ESTABLISHMENT OF A DEPUTY SECRETARY OF DEFENSE FOR MANAGEMENT.

(a) STUDY REQUIRED.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall, as determined by the Secretary, select one or two Federally Funded Research and Development Centers to conduct a study of the feasibility and advisability of establishing a Deputy Secretary of Defense for Management. The Secretary shall provide for each Center conducting a study under this section to submit a report on such study to the Secretary and to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives not later than December 1, 2006.

(b) CONTENT OF STUDY.—Each study under this section shall address—

(1) the extent to which the establishment of a Deputy Secretary of Defense for Management would—

(A) improve the management of the Department of Defense;

(B) expedite the process of management reform in the Department; and

(C) enhance the implementation of business systems modernization in the Department;

(2) the appropriate relationship of the Deputy Secretary of Defense for Management to other Department of Defense officials;

(3) the appropriate term of service for a Deputy Secretary of Defense for Management; and

(4) the experience of any other Federal agencies that have instituted similar management positions.

(c) DEPUTY SECRETARY FOR MANAGEMENT POSITION DESCRIBED.—For the purposes of this section, a Deputy Secretary of Defense for Management is an official who—

(1) serves as the Chief Management Officer of the Department of Defense;

(2) is the principal advisor to the Secretary of Defense on matters relating to the management of the Department of Defense, including defense business activities, to ensure Department-wide capability to carry out the strategic plan of the Department of Defense in support of national security objectives; and

(3) takes precedence in the Department of Defense immediately after the Deputy Secretary of Defense.

SEC. 908. RESPONSIBILITY OF THE JOINT CHIEFS OF STAFF AS MILITARY ADVISERS TO THE HOMELAND SECURITY COUNCIL.

(a) RESPONSIBILITY AS MILITARY ADVISERS.—

(1) IN GENERAL.—Subsection (b) of section 151 of title 10, United States Code, is amended—

(A) in paragraph (1), by inserting “the Homeland Security Council,” after “the National Security Council,”; and

(B) in paragraph (2), by inserting “the Homeland Security Council,” after “the National Security Council,”.

(2) CONSULTATION BY CHAIRMAN.—Subsection (c)(2) of such section is amended by inserting “the Homeland Security Council,” after “the National Security Council,” both places it appears.

(3) ADVICE AND OPINIONS OF MEMBERS OTHER THAN CHAIRMAN.—Subsection (d) of such section is amended—

(A) in paragraph (1), by inserting “the Homeland Security Council,” after “the National Security Council,” both places it appears; and

(B) in paragraph (2), by inserting “the Homeland Security Council,” after “the National Security Council,”.

(4) ADVICE ON REQUEST.—Subsection (e) of such section is amended by inserting “the Homeland Security Council,” after “the National Security Council,” both places it appears.

(b) ATTENDANCE AT MEETING OF HOMELAND SECURITY COUNCIL.—Section 903 of the Homeland Security Act of 2002 (6 U.S.C. 493) is amended—

(1) by inserting “(a) MEMBERS—” before “The members”; and

(2) by adding at the end the following new subsection:
 “(b) ATTENDANCE OF CHAIRMAN OF JOINT CHIEFS OF STAFF AT MEETINGS.—The Chairman of the Joint Chiefs of Staff (or, in the absence of the Chairman, the Vice Chairman of the Joint Chiefs of Staff) may, in the role of the Chairman of the Joint Chiefs of Staff as principal military adviser to the Council and subject to the direction of the President, attend and participate in meetings of the Council.”.

SEC. 909. IMPROVEMENT IN HEALTH CARE SERVICES FOR RESIDENTS OF ARMED FORCES RETIREMENT HOME.

(a) AVAILABILITY OF PHYSICIANS AND DENTISTS; MEDICAL CARE TRANSPORTATION.—Section 1513 of the Armed Forces Retirement Home Act of 1991 (24 U.S.C. 413) is amended—

(1) in subsection (a), by striking “subsection (b)” and inserting “subsections (b), (c), and (d)”;

(2) in the third sentence of subsection (b), by striking “The” and inserting “Except as provided in subsection (d), the”; and

(3) by adding at the end the following new subsections:
 “(c) AVAILABILITY OF PHYSICIANS AND DENTISTS.—(1) In providing for the health care needs of residents at a facility of the Retirement Home under subsection (b), the Retirement Home shall have a physician and a dentist—

“(A) available at the facility during the daily business hours of the facility; and

“(B) available on an on-call basis at other times.

“(2) The physicians and dentists required by this subsection shall have the skills and experience suited to residents of the facility served by the physicians and dentists.

“(3) To ensure the availability of health care services for residents of a facility of the Retirement Home, the Chief Operating Officer, in consultation with the Medical Director, shall establish

uniform standards, appropriate to the medical needs of the residents, for access to health care services during and after the daily business hours of the facility.

“(d) **TRANSPORTATION TO MEDICAL CARE OUTSIDE RETIREMENT HOME FACILITIES.**—(1) With respect to each facility of the Retirement Home, the Retirement Home shall provide daily scheduled transportation to nearby medical facilities used by residents of the facility. The Retirement Home may provide, based on a determination of medical need, unscheduled transportation for a resident of the facility to any medical facility located not more than 30 miles from the facility for the provision of necessary and urgent medical care for the resident.

“(2) The Retirement Home may not collect a fee from a resident for transportation provided under this subsection.”.

(b) **COMPTROLLER GENERAL ASSESSMENT.**—Not later than 180 days after the date of the enactment of this Act, the Comptroller General shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report containing—

Deadline.
Reports.

(1) an assessment of the regulatory oversight and monitoring of health care and nursing home care services provided by the Armed Forces Retirement Home; and

(2) such recommendations as the Comptroller General considers appropriate in light of the results of the assessment.

Subtitle B—Space Activities

SEC. 911. SPACE SITUATIONAL AWARENESS STRATEGY AND SPACE CONTROL MISSION REVIEW.

10 USC 2271
note.

(a) **FINDINGS.**—The Congress finds that—

(1) the Department of Defense has the responsibility, within the executive branch, for developing the strategy and the systems of the United States for ensuring freedom to operate United States space assets affecting national security; and

(2) the foundation of any credible strategy for ensuring freedom to operate United States space assets is a comprehensive system for space situational awareness.

(b) **SPACE SITUATIONAL AWARENESS STRATEGY.**—

(1) **REQUIREMENT.**—The Secretary of Defense shall develop a strategy, to be known as the “Space Situational Awareness Strategy”, for ensuring freedom to operate United States space assets affecting national security. The Secretary shall submit the Space Situational Awareness Strategy to Congress not later than April 15, 2006. The Secretary shall submit to Congress an updated, current version of the strategy not later than April 15 of every odd-numbered year thereafter.

Deadlines.

(2) **TIME PERIODS.**—The Space Situational Awareness Strategy shall cover—

(A) the 20-year period from 2006 through 2025; and

(B) three separate successive periods, the first beginning with 2006, designed to align with the next three periods for the Future-Years Defense Plan.

(3) **MATTERS TO BE INCLUDED.**—The Space Situational Awareness Strategy shall include the following for each period specified in paragraph (2):

(A) A threat assessment describing the perceived threats to United States space assets affecting national security.

(B) A list of the desired effects and required space situational awareness capabilities required for national security.

(C) Details for a coherent and comprehensive strategy for the United States for space situational awareness, together with a description of the systems architecture to implement that strategy in light of the threat assessment and the desired effects and required capabilities identified under subparagraphs (A) and (B).

(D) The space situational awareness capabilities roadmap required by subsection (c).

(c) SPACE SITUATIONAL AWARENESS CAPABILITIES ROADMAP.—The Space Situational Awareness Strategy shall include a roadmap, to be known as the “space situational awareness capabilities roadmap”, which shall include the following:

(1) A description of each of the individual program concepts that will make up the systems architecture described pursuant to subsection (b)(3)(C).

(2) For each such program concept, a description of the specific capabilities to be achieved and the threats to be abated.

(d) SPACE SITUATIONAL AWARENESS IMPLEMENTATION PLAN.—

(1) REQUIREMENT.—The Secretary of the Air Force shall develop a plan, to be known as the “space situational awareness implementation plan”, for the development of the systems architecture described pursuant to subsection (b)(3)(C).

(2) MATTERS TO BE INCLUDED.—The space situational awareness implementation plan shall include a description of the following:

(A) The capabilities of all systems deployed as of mid-2005 or planned for modernization or acquisition from 2006 to 2015.

(B) Recommended solutions for inadequacies in the architecture to address threats and the desired effects and required capabilities identified under subparagraphs (A) and (B) of subsection (b)(3).

(e) SPACE CONTROL MISSION REVIEW AND ASSESSMENT.—

(1) REQUIREMENT.—The Secretary of Defense shall provide for a review and assessment of the requirements of the Department of Defense for the space control mission. The review and assessment shall be conducted by an entity of the Department of Defense outside of the Department of the Air Force.

(2) MATTERS TO BE INCLUDED.—The review and assessment under paragraph (1) shall consider the following:

(A) Whether current activities of the Department of Defense match current requirements of the Department for the current space control mission.

(B) Whether there exists proper allocation of appropriate resources to fulfill the current space control mission.

(C) The plans of the Department of Defense for the future space control mission.

(3) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the results

of the review and assessment under paragraph (1). The report shall include the following:

(A) The findings and conclusions of the entity conducting the review and assessment on (A) requirements of the Department of Defense for the space control mission, and (B) the efforts of the Department to meet those requirements.

(B) Recommendations regarding the best means by which the Department may meet those requirements.

(4) SPACE CONTROL MISSION DEFINED.—In this subsection, the term “space control mission” means the mission of the Department of Defense involving the following:

(A) Space situational awareness.

(B) Defensive counterspace operations.

(C) Offensive counterspace operations.

SEC. 912. MILITARY SATELLITE COMMUNICATIONS.

(a) FINDINGS.—Congress finds the following:

(1) Military requirements for satellite communications exceed the capability of on-orbit assets as of mid-2005.

(2) To meet future military requirements for satellite communications, the Secretary of the Air Force has initiated a highly complex and revolutionary program called the Transformational Satellite Communications System (TSAT).

(3) If the program referred to in paragraph (2) experiences setbacks that prolong the development and deployment of the capability to be provided by that program, the Secretary of the Air Force must be prepared to implement contingency programs to achieve interim improvements in the capabilities of satellite communications to meet military requirements through upgrades to current systems.

(b) DEVELOPMENT OF OPTIONS.—In order to prepare for the contingency referred to in subsection (a)(3), the Director of the National Security Space Office of the Department of Defense shall provide for an assessment, to be conducted by an entity outside the Department of Defense, to develop and compare options for the individual acquisition of additional Advanced Extremely High Frequency space vehicles, in conjunction with modifications to future acquisitions under the Wideband Gapfiller System program, that will accomplish the following:

(1) Minimize nonrecurring costs.

(2) Improve communications-on-the-move capabilities.

(3) Increase net centricity for communications.

(4) Increase satellite throughput.

(5) Increase user connectivity.

(6) Improve airborne communications support.

(7) Minimize effects of a break in production.

(8) Minimize risk associated with gaps in functional availability of on-orbit assets.

(c) ANALYSIS OF ALTERNATIVES REPORT.—Not later than April 15, 2006, the Director of the National Security Space Office shall submit to Congress a report providing an analysis of alternatives with respect to the options developed pursuant to subsection (b). The analysis of alternatives shall be prepared taking into consideration the findings and recommendations of the independent assessment conducted under subsection (b).

SEC. 913. OPERATIONALLY RESPONSIVE SPACE.

10 USC 2273a
note.

Establishment.

(a) JOINT OPERATIONALLY RESPONSIVE SPACE PAYLOAD TECHNOLOGY ORGANIZATION.—

(1) IN GENERAL.—The Secretary of Defense shall establish or designate an organization in the Department of Defense to coordinate joint operationally responsive space payload technology.

(2) MASTER PLAN.—The organization established or designated under paragraph (1) shall produce an annual master plan for coordination of operationally responsive space payload technology and shall coordinate resources provided to stimulate technical development of small satellite payloads. The annual master plan shall describe focus areas for development of operationally responsive space payload technology, including—

(A) miniaturization technology for satellite payloads;

(B) increased sensor acuity;

(C) concept of operations exploration;

(D) increased processor capability; and

(E) such additional matters as the head of that organization determines appropriate.

Contracts.

(3) REQUESTS FOR PROPOSALS.—The Secretary of Defense, acting through the Director of the Office of Force Transformation, shall award contracts, from amounts available for that purpose for any fiscal year, for technology projects that support the focus areas set out in the master plan for development of operationally responsive space payload technology.

(4) ASSESSMENT FACTORS.—In assessing any proposal submitted for a contract under paragraph (3), the Secretary shall consider—

(A) how the proposal correlates to the goals articulated in the master plan under paragraph (2) and to the National Security Space Architecture; and

(B) the probability, for the project for which the proposal is submitted, of eventual transition either to a laboratory of one of the military departments for continued development or to a joint program office for operational deployment.

(b) REPORT ON JOINT PROGRAM OFFICE FOR TACSAT.—Not later than February 28, 2006, the Secretary of Defense shall submit to the congressional defense committees a report providing a plan for the creation of a joint program office for the Tactical Satellite program and for transition of that program out of the Office of Force Transformation and to the administration of the joint program office. The report shall be prepared in conjunction with the Department of Defense executive agent for space.

(c) JOINT REPORT ON CERTAIN SPACE AND MISSILE DEFENSE ACTIVITIES.—Not later than February 28, 2006, the Department of Defense executive agent for space and the Director of the Missile Defense Agency shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a joint report on the value of each of the following:

(1) Increased use of the Rocket Systems Launch Program for the respective missions of the Department of the Air Force and the Missile Defense Agency.

(2) An agreement between the Director of the Missile Defense Agency and the Secretary of the Air Force for eventual

transition of operational control of small satellite demonstrations from the Missile Defense Agency to the Department of the Air Force.

(3) A partnership between the Missile Defense Agency and the Department of the Air Force in the development of common high-altitude and near-space assets for the respective missions of the Missile Defense Agency and the Department of the Air Force.

SEC. 914. REPORT ON USE OF SPACE RADAR FOR TOPOGRAPHICAL MAPPING FOR SCIENTIFIC AND CIVIL PURPOSES.

(a) **REPORT REQUIRED.**—Not later than October 1, 2006, the Secretary of Defense shall submit to the congressional defense committees a report on the feasibility and advisability of using systems developed within the Space Radar program of the Department of Defense for purposes of providing coastal zone and other topographical mapping information, and related information, to the scientific community and other elements of the private sector for scientific and civil purposes.

(b) **REPORT ELEMENTS.**—The report required by subsection (a) shall include the following:

(1) A description and evaluation of any use of Space Radar systems for scientific or civil purposes that is identified by the Secretary for purposes of the report.

(2) A description and evaluation of any addition or modification to Space Radar systems that is identified by the Secretary for purposes of the report that would increase the utility of those systems to the scientific community or other elements of the private sector for scientific or civil purposes, including the use of additional frequencies, the development or enhancement of ground systems, and the enhancement of operations.

(3) A description and evaluation of the effects, if any, on the primary missions of the Space Radar, and on the development of the Space Radar, of the use of systems developed within the Space Radar program for scientific or civil purposes.

(4) A description of the costs of any addition or modification identified pursuant to paragraph (2).

(5) A description of the process for developing and validating requirements for the Space Radar, including the involvement of the Civil Applications Committee or other organizations outside the Department of Defense.

(6) A description and evaluation of the processes that would be used to modify Space Radar systems in order to meet the needs of the scientific community, or other elements of the private sector with respect to the use of those systems for scientific or civil purposes, and for meeting the costs of such modifications.

SEC. 915. SENSE OF CONGRESS REGARDING NATIONAL SECURITY ASPECT OF UNITED STATES PREEMINENCE IN HUMAN SPACEFLIGHT.

(a) **FINDINGS.**—The Congress finds that the following:

(1) Preeminence by the United States in human spaceflight allows the United States to project leadership around the world and forms an important component of United States national security.

(2) Continued development of human spaceflight in low-Earth orbit, on the Moon, and beyond adds to the overall national strategic posture.

(3) Human spaceflight enables continued stewardship of the region between the Earth and the Moon—an area that is critical and of growing national and international security relevance.

(4) Human spaceflight provides unprecedented opportunities for the United States to lead peaceful and productive international relationships with the world community in support of United States security and geo-political objectives.

(5) An increasing number of nations are pursuing human spaceflight and space-related capabilities, including China and India.

(6) Past investments in human spaceflight capabilities represent a national resource that can be built upon and leveraged for a broad range of purposes, including national and economic security.

(7) The industrial base and capabilities represented by the Space Transportation System (popularly referred to as the “space shuttle”) provide a critical launch capability for the Nation.

(b) SENSE OF CONGRESS.—It is the sense of Congress that it is in the national security interest of the United States to maintain preeminence in human spaceflight.

Subtitle C—Chemical Demilitarization Program

SEC. 921. CLARIFICATION OF COOPERATIVE AGREEMENT AUTHORITY UNDER CHEMICAL DEMILITARIZATION PROGRAM.

(a) AGREEMENTS WITH FEDERALLY RECOGNIZED INDIAN TRIBAL ORGANIZATIONS.—Section 1412(c)(4) of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521(c)(4)), is amended—

(1) by inserting “(A)” after “(4)”;

(2) in the first sentence—

(A) by inserting “and to tribal organizations” after “to State and local governments”; and

(B) by inserting “and tribal organizations” after “assist those governments”;

(3) by designating the text beginning “Additionally, the Secretary” as subparagraph (B);

(4) in the first sentence of subparagraph (B), as designated by paragraph (3), by inserting “, and with tribal organizations,” after “with State and local governments”; and

(5) by adding at the end the following:

“(C) In this paragraph, the term ‘tribal organization’ has the meaning given that term in section 4(l) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(1)).”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a)—

(1) take effect as of December 5, 1991; and

(2) apply with respect to any cooperative agreement entered into on or after that date.

SEC. 922. CHEMICAL DEMILITARIZATION FACILITIES.

(a) **AUTHORITY TO USE RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FUNDS TO CONSTRUCT FACILITIES.**—The Secretary of Defense may, using amounts authorized to be appropriated by section 201(4) for research, development, test, and evaluation, Defense-wide and available for chemical weapons demilitarization activities under the Assembled Chemical Weapons Alternatives program, carry out construction projects, or portions of construction projects, for facilities necessary to support chemical demilitarization operations at each of the following:

(1) Pueblo Army Depot, Colorado.

Colorado.

(2) Blue Grass Army Depot, Kentucky.

Kentucky.

(b) **SCOPE OF AUTHORITY.**—The authority in subsection (a) to carry out a construction project for facilities includes authority to carry out planning and design and the acquisition of land for the construction or improvement of such facilities.

(c) **LIMITATION ON AMOUNT OF FUNDS.**—The amount of funds that may be utilized under the authority in subsection (a) may not exceed \$51,000,000.

(d) **DURATION OF AUTHORITY.**—A construction project, or portion of a construction project, may not be commenced under the authority in subsection (a) after September 30, 2006.

(e) **NOTICE AND WAIT.**—The Secretary may not carry out a construction project, or portion of a construction project, under the authority in subsection (a) until the end of the 21-day period beginning on the date on which the Secretary submits to the congressional defense committees notice of the Secretary's intent to carry out such project and confirms his intent to seek funding for these projects beginning in fiscal year 2007 through the military construction appropriations accounts.

Subtitle D—Intelligence-Related Matters

SEC. 931. DEPARTMENT OF DEFENSE STRATEGY FOR OPEN-SOURCE INTELLIGENCE.

50 USC 403–5
note.

(a) **FINDINGS.**—Congress makes the following findings:

(1) Open-source intelligence (OSINT) is intelligence that is produced from publicly available information and is collected, exploited, and disseminated in a timely manner to an appropriate audience for the purpose of addressing a specific intelligence requirement.

(2) With the Information Revolution, the amount, significance, and accessibility of open-source information has expanded significantly, but the intelligence community has not expanded its exploitation efforts and systems to produce open-source intelligence.

(3) The production of open-source intelligence is a valuable intelligence discipline that must be integrated into intelligence tasking, collection, processing, exploitation, and dissemination to ensure that United States policymakers are fully and completely informed.

(4) The dissemination and use of validated open-source intelligence inherently enables information sharing since open-source intelligence is produced without the use of sensitive sources and methods. Open-source intelligence products can

be shared with the American public and foreign allies because of the unclassified nature of open-source intelligence.

(5) The National Commission on Terrorist Attacks Upon the United States (popularly referred to as the “9/11 Commission”), in its final report released on July 22, 2004, identified shortfalls in the ability of the United States to use all-source intelligence, a large component of which is open-source intelligence.

(6) In the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458), Congress calls for coordination of the collection, analysis, production, and dissemination of open-source intelligence.

(7) The Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction, in its report to the President released on March 31, 2005, found that “the need for exploiting open-source material is greater now than ever before,” but that “the Intelligence Community’s open source programs have not expanded commensurate with either the increase in available information or with the growing importance of open source data to today’s problems”.

(b) DEPARTMENT OF DEFENSE STRATEGY FOR OPEN-SOURCE INTELLIGENCE.—

(1) DEVELOPMENT OF STRATEGY.—The Secretary of Defense shall develop a strategy for the purpose of integrating open-source intelligence into the Defense intelligence process. The strategy shall be known as the “Defense Strategy for Open-Source Intelligence”. The strategy shall be incorporated within the larger Defense intelligence strategy.

(2) SUBMISSION.—The Secretary shall submit to Congress a report setting forth the strategy developed under paragraph (1). The report shall be submitted not later than 180 days after the date of the enactment of this Act.

(c) MATTERS TO BE INCLUDED.—The strategy under subsection (b) shall include the following:

(1) A plan for providing funds over the period of the future-years defense program for the development of a robust open-source intelligence capability for the Department of Defense, with particular emphasis on exploitation and dissemination.

(2) A description of how management of the collection of open-source intelligence is currently conducted within the Department of Defense and how that management can be improved.

(3) A description of the tools, systems, centers, organizational entities, and procedures to be used within the Department of Defense to perform open-source intelligence tasking, collection, processing, exploitation, and dissemination.

(4) A description of proven tradecraft for effective exploitation of open-source intelligence, to include consideration of operational security.

(5) A detailed description on how open-source intelligence will be fused with all other intelligence sources across the Department of Defense.

(6) A description of—

(A) a training plan for Department of Defense intelligence personnel with respect to open-source intelligence; and

Reports.
Deadline.

(B) open-source intelligence guidance for Department of Defense intelligence personnel.

(7) A plan to incorporate the function of oversight of open-source intelligence—

(A) into the Office of the Undersecretary of Defense for Intelligence; and

(B) into service intelligence organizations.

(8) A plan to incorporate and identify an open-source intelligence specialty into personnel systems of the Department of Defense, including military personnel systems.

(9) A plan for the use of intelligence personnel of the reserve components to augment and support the open-source intelligence mission.

(10) A plan for the use of the Open-Source Information System for the purpose of exploitation and dissemination of open-source intelligence.

SEC. 932. COMPREHENSIVE INVENTORY OF DEPARTMENT OF DEFENSE INTELLIGENCE AND INTELLIGENCE-RELATED PROGRAMS AND PROJECTS.

(a) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional committees specified in subsection (b) a report providing a comprehensive inventory of Department of Defense intelligence and intelligence-related programs and projects. The Secretary shall prepare the inventory in consultation with the Director of National Intelligence, as appropriate.

(b) COMMITTEES.—The congressional committees referred to in subsection (a) are the following:

(1) The Committee on Armed Services and the Select Committee on Intelligence of the Senate.

(2) The Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives.

SEC. 933. OPERATIONAL FILES OF THE DEFENSE INTELLIGENCE AGENCY.

Classified
information.

(a) PROTECTION OF OPERATIONAL FILES OF DEFENSE INTELLIGENCE AGENCY.—

(1) PROTECTION OF FILES.—Title VII of the National Security Act of 1947 (50 U.S.C. 431 et seq.) is amended by adding at the end the following new section:

“OPERATIONAL FILES OF THE DEFENSE INTELLIGENCE AGENCY

“SEC. 705. (a) EXEMPTION OF OPERATIONAL FILES.—The Director of the Defense Intelligence Agency, in coordination with the Director of National Intelligence, may exempt operational files of the Defense Intelligence Agency from the provisions of section 552 of title 5, United States Code, which require publication, disclosure, search, or review in connection therewith.

50 USC 432c.

“(b) OPERATIONAL FILES DEFINED.—(1) In this section, the term ‘operational files’ means—

“(A) files of the Directorate of Human Intelligence of the Defense Intelligence Agency (and any successor organization

of that directorate) that document the conduct of foreign intelligence or counterintelligence operations or intelligence or security liaison arrangements or information exchanges with foreign governments or their intelligence or security services; and

“(B) files of the Directorate of Technology of the Defense Intelligence Agency (and any successor organization of that directorate) that document the means by which foreign intelligence or counterintelligence is collected through technical systems.

“(2) Files that are the sole repository of disseminated intelligence are not operational files.

“(c) SEARCH AND REVIEW FOR INFORMATION.—Notwithstanding subsection (a), exempted operational files shall continue to be subject to search and review for information concerning:

“(1) United States citizens or aliens lawfully admitted for permanent residence who have requested information on themselves pursuant to the provisions of section 552 or 552a of title 5, United States Code.

“(2) Any special activity the existence of which is not exempt from disclosure under the provisions of section 552 of title 5, United States Code.

“(3) The specific subject matter of an investigation by any of the following for any impropriety, or violation of law, Executive order, or Presidential directive, in the conduct of an intelligence activity:

“(A) The Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives.

“(B) The Committee on Armed Services and the Select Committee on Intelligence of the Senate.

“(C) The Intelligence Oversight Board.

“(D) The Department of Justice.

“(E) The Office of General Counsel of the Department of Defense or of the Defense Intelligence Agency.

“(F) The Office of Inspector General of the Department of Defense or of the Defense Intelligence Agency.

“(G) The Office of the Director of the Defense Intelligence Agency.

“(d) INFORMATION DERIVED OR DISSEMINATED FROM EXEMPTED OPERATIONAL FILES.—(1) Files that are not exempted under subsection (a) that contain information derived or disseminated from exempted operational files shall be subject to search and review.

“(2) The inclusion of information from exempted operational files in files that are not exempted under subsection (a) shall not affect the exemption under subsection (a) of the originating operational files from search, review, publication, or disclosure.

“(3) The declassification of some of the information contained in an exempted operational file shall not affect the status of the operational file as being exempt from search, review, publication, or disclosure.

“(4) Records from exempted operational files that have been disseminated to and referenced in files that are not exempted under subsection (a) and that have been returned to exempted operational files for sole retention shall be subject to search and review.

“(e) ALLEGATION; IMPROPER WITHHOLDING OF RECORDS; JUDICIAL REVIEW.—(1) Except as provided in paragraph (2), whenever any person who has requested agency records under section 552 of title 5, United States Code, alleges that the Defense Intelligence Agency has withheld records improperly because of failure to comply with any provision of this section, judicial review shall be available under the terms set forth in section 552(a)(4)(B) of title 5, United States Code.

“(2) Judicial review shall not be available in the manner provided under paragraph (1) as follows:

“(A) In any case in which information specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign relations which is filed with, or produced for, the court by the Defense Intelligence Agency, such information shall be examined *ex parte*, in camera by the court.

“(B) The court shall determine, to the fullest extent practicable, issues of fact based on sworn written submissions of the parties.

“(C) When a complainant alleges that requested records were improperly withheld because of improper placement solely in exempted operational files, the complainant shall support such allegation with a sworn written submission based upon personal knowledge or otherwise admissible evidence.

“(D)(i) When a complainant alleges that requested records were improperly withheld because of improper exemption of operational files, the Defense Intelligence Agency shall meet its burden under section 552(a)(4)(B) of title 5, United States Code, by demonstrating to the court by sworn written submission that exempted operational files likely to contain responsible records currently perform the functions set forth in subsection (b).

“(ii) The court may not order the Defense Intelligence Agency to review the content of any exempted operational file or files in order to make the demonstration required under clause (i), unless the complainant disputes the Defense Intelligence Agency’s showing with a sworn written submission based on personal knowledge or otherwise admissible evidence.

“(E) In proceedings under subparagraphs (C) and (D), the parties shall not obtain discovery pursuant to rules 26 through 36 of the Federal Rules of Civil Procedure, except that requests for admission may be made pursuant to rules 26 and 36.

“(F) If the court finds under this subsection that the Defense Intelligence Agency has improperly withheld requested records because of failure to comply with any provision of this subsection, the court shall order the Defense Intelligence Agency to search and review the appropriate exempted operational file or files for the requested records and make such records, or portions thereof, available in accordance with the provisions of section 552 of title 5, United States Code, and such order shall be the exclusive remedy for failure to comply with this section (other than subsection (f)).

“(G) If at any time following the filing of a complaint pursuant to this paragraph the Defense Intelligence Agency agrees to search the appropriate exempted operational file or files for the requested records, the court shall dismiss the claim based upon such complaint.

“(H) Any information filed with, or produced for the court pursuant to subparagraphs (A) and (D) shall be coordinated with the Director of National Intelligence before submission to the court.

“(f) DECENNIAL REVIEW OF EXEMPTED OPERATIONAL FILES.—

(1) Not less than once every 10 years, the Director of the Defense Intelligence Agency and the Director of National Intelligence shall review the exemptions in force under subsection (a) to determine whether such exemptions may be removed from a category of exempted files or any portion thereof. The Director of National Intelligence must approve any determinations to remove such exemptions.

“(2) The review required by paragraph (1) shall include consideration of the historical value or other public interest in the subject matter of the particular category of files or portions thereof and the potential for declassifying a significant part of the information contained therein.

“(3) A complainant that alleges that the Defense Intelligence Agency has improperly withheld records because of failure to comply with this subsection may seek judicial review in the district court of the United States of the district in which any of the parties reside, or in the District of Columbia. In such a proceeding, the court’s review shall be limited to determining the following:

“(A) Whether the Defense Intelligence Agency has conducted the review required by paragraph (1) before the expiration of the 10-year period beginning on the date of the enactment of this section or before the expiration of the 10-year period beginning on the date of the most recent review.

“(B) Whether the Defense Intelligence Agency, in fact, considered the criteria set forth in paragraph (2) in conducting the required review.

“(g) TERMINATION.—This section shall cease to be effective on December 31, 2007.”.

(2) CLERICAL AMENDMENT.—The table of contents in the first section of the National Security Act of 1947 is amended by inserting after the item relating to section 704 the following new item:

“Sec. 705. Operational files of the Defense Intelligence Agency.”.

(b) SEARCH AND REVIEW OF CERTAIN OTHER OPERATIONAL FILES.—The National Security Act of 1947 is further amended—

(1) in section 702(a)(3)(C) (50 U.S.C. 432(a)(3)(C)), by adding at the end the following new clause:

“(vi) The Office of the Inspector General of the National Geospatial-Intelligence Agency.”;

(2) in section 703(a)(3)(C) (50 U.S.C. 432a(a)(3)(C)), by adding at the end the following new clause:

“(vii) The Office of the Inspector General of the NRO.”;

and

(3) in section 704(c)(3) (50 U.S.C. 432b(c)(3)), by adding at the end the following new subparagraph:

“(H) The Office of the Inspector General of the National Security Agency.”.

TITLE X—GENERAL PROVISIONS

SUBTITLE A—FINANCIAL MATTERS

- Sec. 1001. Transfer authority.
- Sec. 1002. Authorization of emergency supplemental appropriations for fiscal years 2005 and 2006.
- Sec. 1003. Increase in fiscal year 2005 general transfer authority.
- Sec. 1004. Reports on feasibility and desirability of capital budgeting for major defense acquisition programs.
- Sec. 1005. United States contribution to NATO common-funded budgets in fiscal year 2006.

SUBTITLE B—NAVAL VESSELS AND SHIPYARDS

- Sec. 1011. Conveyance, Navy drydock, Seattle, Washington.
- Sec. 1012. Conveyance, Navy drydock, Jacksonville, Florida.
- Sec. 1013. Conveyance, Navy drydock, Port Arthur, Texas.
- Sec. 1014. Transfer of battleships U.S.S. WISCONSIN and U.S.S. IOWA.
- Sec. 1015. Transfer of ex-U.S.S. Forrest Sherman.
- Sec. 1016. Report on leasing of vessels to meet national defense sealift requirements.
- Sec. 1017. Establishment of the USS Oklahoma Memorial and other memorials at Pearl Harbor.
- Sec. 1018. Authority to use National Defense Sealift Fund to purchase certain maritime prepositioning ships currently under charter to the Navy.

SUBTITLE C—COUNTER-DRUG ACTIVITIES

- Sec. 1021. Resumption of reporting requirement regarding Department of Defense expenditures to support foreign counter-drug activities.
- Sec. 1022. Clarification of authority for joint task forces to support law enforcement agencies conducting counter-terrorism activities.
- Sec. 1023. Sense of Congress regarding drug trafficking deterrence.

SUBTITLE D—MATTERS RELATED TO HOMELAND SECURITY

- Sec. 1031. Responsibilities of Assistant Secretary of Defense for Homeland Defense relating to nuclear, chemical, and biological emergency response.
- Sec. 1032. Testing of preparedness for emergencies involving nuclear, radiological, chemical, biological, and high-yield explosives weapons.
- Sec. 1033. Department of Defense chemical, biological, radiological, nuclear, and high-yield explosives response teams.
- Sec. 1034. Repeal of Department of Defense emergency response assistance program.
- Sec. 1035. Report on use of Department of Defense aerial reconnaissance assets to support Homeland Security border security missions.

SUBTITLE E—REPORTS AND STUDIES

- Sec. 1041. Review of Defense Base Act insurance.
- Sec. 1042. Report on Department of Defense response to findings and recommendations of Defense Science Board Task Force on High Performance Microchip Supply.

SUBTITLE F—OTHER MATTERS

- Sec. 1051. Commission on the Implementation of the New Strategic Posture of the United States.
- Sec. 1052. Reestablishment of EMP Commission.
- Sec. 1053. Modernization of authority relating to security of defense property and facilities.
- Sec. 1054. Revision of Department of Defense counterintelligence polygraph program.
- Sec. 1055. Preservation of records pertaining to radioactive fallout from nuclear weapons testing.
- Sec. 1056. Technical and clerical amendments.
- Sec. 1057. Deletion of obsolete definitions in titles 10 and 32, United States Code.
- Sec. 1058. Support for youth organizations.
- Sec. 1059. Special immigrant status for persons serving as translators with United States Armed Forces.
- Sec. 1060. Expansion of emergency services under reciprocal agreements.
- Sec. 1061. Renewal of moratorium on return of veterans memorial objects to foreign nations without specific authorization in law.

Sec. 1062. Sense of Congress on national security interest of maintaining aeronautics research and development.

Sec. 1063. Airport certification.

SUBTITLE G—MILITARY MAIL MATTERS

Sec. 1071. Safe delivery of mail in military mail system.

Subtitle A—Financial Matters

SEC. 1001. TRANSFER AUTHORITY.

(a) **AUTHORITY TO TRANSFER AUTHORIZATIONS.**—

(1) **AUTHORITY.**—Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this division for fiscal year 2006 between any such authorizations for that fiscal year (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) **LIMITATION.**—The total amount of authorizations that the Secretary may transfer under the authority of this section may not exceed \$3,500,000,000.

(b) **LIMITATIONS.**—The authority provided by this section to transfer authorizations—

(1) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(2) may not be used to provide authority for an item that has been denied authorization by Congress.

(c) **EFFECT ON AUTHORIZATION AMOUNTS.**—A transfer made from one account to another under the authority of this section shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

(d) **NOTICE TO CONGRESS.**—The Secretary shall promptly notify Congress of each transfer made under subsection (a).

SEC. 1002. AUTHORIZATION OF EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEARS 2005 AND 2006.

(a) **EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT FOR DEFENSE, THE GLOBAL WAR ON TERROR, AND TSUNAMI RELIEF, 2005.**—Amounts authorized to be appropriated to the Department of Defense and the Department of Energy for fiscal year 2005 in the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375) are hereby adjusted, with respect to any such authorized amount, by the amount by which appropriations pursuant to such authorization are increased by a supplemental appropriation or decreased by a rescission, or both, or are increased by a transfer of funds, pursuant to title I and chapter 2 of title IV of division A of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (Public Law 109–13).

(b) **FIRST EMERGENCY SUPPLEMENTAL TO MEET NEEDS ARISING FROM HURRICANE KATRINA.**—Amounts authorized to be appropriated to the Department of Defense for fiscal year 2005 in the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375) are hereby adjusted, with respect

to any such authorized amount, by the amount by which appropriations pursuant to such authorized amount are increased by a supplemental appropriation, or by a transfer of funds, pursuant to the Emergency Supplemental Appropriations Act to Meet Immediate Needs Arising From the Consequences of Hurricane Katrina, 2005 (Public Law 109–61).

(c) SECOND EMERGENCY SUPPLEMENTAL TO MEET NEEDS ARISING FROM HURRICANE KATRINA.—Amounts authorized to be appropriated to the Department of Defense for fiscal year 2005 in the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 are hereby adjusted, with respect to any such authorized amount, by the amount by which appropriations pursuant to such authorized amount are increased by a supplemental appropriation, or by a transfer of funds, pursuant to the Second Emergency Supplemental Appropriations Act to Meet Immediate Needs Arising From the Consequences of Hurricane Katrina, 2005 (Public Law 109–62).

(d) SUPPLEMENTAL APPROPRIATIONS FOR AVIAN FLU PREPAREDNESS.—Amounts authorized to be appropriated to the Department of Defense for fiscal year 2006 in this Act are hereby adjusted, with respect to any such authorized amount, by the amount by which appropriations pursuant to such authorized amount are increased by a supplemental appropriation, or by a transfer of funds, arising from the proposal of the President relating to avian flu preparedness that was submitted to Congress on November 1, 2006.

(e) AMOUNTS REALLOCATED FOR HURRICANE-RELATED DISASTER RELIEF.—Amounts authorized to be appropriated to the Department of Defense for fiscal year 2006 in this Act are hereby adjusted, with respect to any such authorized amount, by the amount by which appropriations pursuant to such authorized amount are increased by a reallocation of funds from the Disaster Relief Fund of the Federal Emergency Management Agency arising from the proposal of the Director of the Office of Management and Budget on the reallocation of amounts for hurricane-related disaster relief that was submitted to the President on October 28, 2005, and transmitted to the Speaker of the House of Representatives on that date.

(f) AMOUNTS FOR HUMANITARIAN ASSISTANCE FOR EARTHQUAKE VICTIMS IN PAKISTAN.—There is authorized to be appropriated as emergency supplemental appropriations for the Department of Defense for fiscal year 2006, \$40,000,000 for the use of the Department of Defense for overseas, humanitarian, disaster, and civic aid for the purpose of providing humanitarian assistance to the victims of the earthquake that devastated northern Pakistan on October 8, 2005.

(g) REPORTS ON USE OF CERTAIN FUNDS.—

(1) REPORT ON USE OF EMERGENCY SUPPLEMENTAL FUNDS.—

Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the obligation and expenditure, as of that date, of any funds appropriated to the Department of Defense for fiscal year 2005 pursuant to the Acts referred to in subsections (a), (b), and (c) as authorized by such subsections. The report shall set forth—

(A) the amounts so obligated and expended; and

(B) the purposes for which such amounts were so obligated and expended.

(2) **REPORT ON EXPENDITURE OF REIMBURSABLE FUNDS.**—The Secretary shall include in the report required by paragraph (1) a statement of any expenditure by the Department of Defense of funds that were reimbursable by the Federal Emergency Management Agency, or any other department or agency of the Federal Government, from funds appropriated in an Act referred to in subsection (a), (b), or (c) to such department or agency.

(3) **REPORT ON USE OF CERTAIN OTHER FUNDS.**—Not later than May 15, 2006, and quarterly thereafter through November 15, 2006, the Secretary shall submit to the congressional defense committees a report on the obligation and expenditure, during the previous fiscal year quarter, of any funds appropriated to the Department of Defense as specified in subsection (d) and any funds reallocated to the Department as specified in subsection (e). Each report shall, for the fiscal year quarter covered by such report, set forth—

(A) the amounts so obligated and expended; and

(B) the purposes for which such amounts were so obligated and expended.

(h) **REPORT ON ASSISTANCE FOR EARTHQUAKE VICTIMS IN PAKISTAN.**—Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report describing Department of Defense efforts to provide relief to victims of the earthquake that devastated northern Pakistan on October 8, 2005, and assessing the need for further reconstruction and relief assistance.

SEC. 1003. INCREASE IN FISCAL YEAR 2005 GENERAL TRANSFER AUTHORITY.

Section 1001(a)(2) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108-375; 118 Stat. 2034) is amended by striking “\$3,500,000,000” and inserting “\$6,185,000,000”.

SEC. 1004. REPORTS ON FEASIBILITY AND DESIRABILITY OF CAPITAL BUDGETING FOR MAJOR DEFENSE ACQUISITION PROGRAMS.

(a) **CAPITAL BUDGETING DEFINED.**—For the purposes of this section, the term “capital budgeting” means a budget process that—

(1) identifies large capital outlays that are expected to be made in future years, together with identification of the proposed means to finance those outlays and the expected benefits of those outlays;

(2) separately identifies revenues and outlays for capital assets from revenues and outlays for an operating budget;

(3) allows for the issue of long-term debt to finance capital investments; and

(4) provides the budget authority for acquiring a capital asset over several fiscal years (rather than in a single fiscal year at the beginning of such acquisition).

(b) **REPORTS REQUIRED.**—Not later than July 1, 2006, the Secretary of Defense and the Secretary of each military department shall each submit to Congress a report analyzing the feasibility and desirability of using a capital budgeting system for the

financing of major defense acquisition programs. Each such report shall address the following matters:

- (1) The potential long-term effect on the defense industrial base of the United States of continuing with the current full up-front funding system for major defense acquisition programs.
- (2) Whether use of a capital budgeting system could create a more effective decisionmaking process for long-term investments in major defense acquisition programs.
- (3) The manner in which a capital budgeting system for major defense acquisition programs would affect the budget planning and formulation process of the military departments.
- (4) The types of financial mechanisms that would be needed to provide funds for such a capital budgeting system.

SEC. 1005. UNITED STATES CONTRIBUTION TO NATO COMMON-FUNDED BUDGETS IN FISCAL YEAR 2006.

(a) **FISCAL YEAR 2006 LIMITATION.**—The total amount contributed by the Secretary of Defense in fiscal year 2006 for the common-funded budgets of NATO may be any amount up to, but not in excess of, the amount specified in subsection (b) (rather than the maximum amount that would otherwise be applicable to those contributions under the fiscal year 1998 baseline limitation).

(b) **TOTAL AMOUNT.**—The amount of the limitation applicable under subsection (a) is the sum of the following:

- (1) The amounts of unexpended balances, as of the end of fiscal year 2005, of funds appropriated for fiscal years before fiscal year 2006 for payments for those budgets.
- (2) The amount specified in subsection (c)(1).
- (3) The amount specified in subsection (c)(2).
- (4) The total amount of the contributions authorized to be made under section 2501.

(c) **AUTHORIZED AMOUNTS.**—Amounts authorized to be appropriated by titles II and III of this Act are available for contributions for the common-funded budgets of NATO as follows:

- (1) Of the amount provided in section 201(1), \$763,000 for the Civil Budget.
- (2) Of the amount provided in section 301(1), \$289,447,000 for the Military Budget.

(d) **DEFINITIONS.**—For purposes of this section:

(1) **COMMON-FUNDED BUDGETS OF NATO.**—The term “common-funded budgets of NATO” means the Military Budget, the Security Investment Program, and the Civil Budget of the North Atlantic Treaty Organization (and any successor or additional account or program of NATO).

(2) **FISCAL YEAR 1998 BASELINE LIMITATION.**—The term “fiscal year 1998 baseline limitation” means the maximum annual amount of Department of Defense contributions for common-funded budgets of NATO that is set forth as the annual limitation in section 3(2)(C)(ii) of the resolution of the Senate giving the advice and consent of the Senate to the ratification of the Protocols to the North Atlantic Treaty of 1949 on the Accession of Poland, Hungary, and the Czech Republic (as defined in section 4(7) of that resolution), approved by the Senate on April 30, 1998.

Subtitle B—Naval Vessels and Shipyards

SEC. 1011. CONVEYANCE, NAVY DRYDOCK, SEATTLE, WASHINGTON.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Navy is authorized to convey the yard floating drydock YFD–70, located in Seattle, Washington, to Todd Pacific Shipyards Corporation, that company being the current user of the drydock.

(b) CONDITION OF CONVEYANCE.—The Secretary shall require as a condition of the conveyance under subsection (a) that the drydock remain at the facilities of Todd Pacific Shipyards Corporation until at least September 30, 2010.

(c) CONSIDERATION.—As consideration for the conveyance of the drydock under subsection (a), the purchaser shall provide compensation to the United States the value of which, as determined by the Secretary, is equal to the fair market value of the drydock, as determined by the Secretary.

Applicability.

(d) TRANSFER AT NO COST TO UNITED STATES.—The provisions of section 7306(c) of title 10, United States Code, shall apply to the conveyance under this section.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 1012. CONVEYANCE, NAVY DRYDOCK, JACKSONVILLE, FLORIDA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Navy is authorized to convey the medium auxiliary floating drydock SUSTAIN (AFDM–7), located in Duval County, Florida, to Atlantic Marine Property Holding Company, that company being the current user of the drydock.

(b) CONDITION OF CONVEYANCE.—The Secretary shall require as a condition of the conveyance under subsection (a) that the drydock remain at the facilities of Atlantic Marine Property Holding Company until at least September 30, 2010.

(c) CONSIDERATION.—As consideration for the conveyance of the drydock under subsection (a), the purchaser shall provide compensation to the United States the value of which, as determined by the Secretary, is equal to the fair market value of the drydock, as determined by the Secretary.

Applicability.

(d) TRANSFER AT NO COST TO UNITED STATES.—The provisions of section 7306(c) of title 10, United States Code, shall apply to the conveyance under this section.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 1013. CONVEYANCE, NAVY DRYDOCK, PORT ARTHUR, TEXAS.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Navy is authorized to convey to the port authority of the city of Port Arthur, Texas, the inactive medium auxiliary floating drydock designated as AFDM–2, currently administered through the National Defense Reserve Fleet.

(b) CONDITION OF CONVEYANCE.—The Secretary shall require as a condition of the conveyance under subsection (a) that the drydock remain at the facilities of the port authority named in subsection (a).

(c) CONSIDERATION.—As consideration for the conveyance of the drydock under subsection (a), the purchaser shall provide compensation to the United States the value of which, as determined by the Secretary, is equal to the fair market value of the drydock, as determined by the Secretary.

(d) TRANSFER AT NO COST TO UNITED STATES.—The provisions of section 7306(c) of title 10, United States Code, shall apply to the conveyance under this section. Applicability.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 1014. TRANSFER OF BATTLESHIPS U.S.S. WISCONSIN AND U.S.S. IOWA.

(a) TRANSFER OF BATTLESHIP WISCONSIN.—The Secretary of the Navy is authorized—

(1) to strike the battleship U.S.S. WISCONSIN (BB–64) from the Naval Vessel Register; and

(2) to transfer that vessel, by gift or otherwise, in accordance with section 7306 of title 10, United States Code, except that the Secretary shall require, as a condition of transfer, that the transferee locate the vessel in the Commonwealth of Virginia. Virginia.

(b) TRANSFER OF BATTLESHIP IOWA.—The Secretary of the Navy is authorized—

(1) to strike the battleship U.S.S. IOWA (BB–61) from the Naval Vessel Register; and

(2) to transfer that vessel, by gift or otherwise, in accordance with section 7306 of title 10, United States Code, except that the Secretary shall require, as a condition of transfer, that the transferee locate the vessel in the State of California. California.

(c) INAPPLICABILITY OF NOTICE-AND-WAIT REQUIREMENT.—Section 7306(d) of title 10, United States Code, does not apply to the transfer authorized by subsection (a) or the transfer authorized by subsection (b).

(d) AUTHORITY FOR REVERSION IN EVENT OF NATIONAL EMERGENCY.—The Secretary of the Navy shall require that the terms of the transfer of a vessel under this section include a requirement that, in the event the President declares a national emergency pursuant to the National Emergencies Act (50 U.S.C. 1601 et seq.), the transferee of the vessel shall, upon request of the Secretary of Defense, return the vessel to the United States and that, in such a case, unless the transferee is otherwise notified by the Secretary, title to the vessel shall revert immediately to the United States.

(e) REPEAL OF SUPERSEDED REQUIREMENTS AND AUTHORITIES.—

(1) Section 1011 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 421) is repealed.

(2) Section 1011 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2118) is repealed.

SEC. 1015. TRANSFER OF EX-U.S.S. FORREST SHERMAN.

(a) TRANSFER.—The Secretary of the Navy may transfer the decommissioned destroyer ex-U.S.S. Forrest Sherman (DD–931) to the USS Forrest Sherman DD–931 Foundation, Inc., a nonprofit Maryland.

organization under the laws of the State of Maryland, subject to the submission of a donation application for that vessel that is satisfactory to the Secretary.

(b) **APPLICABLE LAW.**—The transfer under this section is subject to subsections (b) and (c) of section 7306 of title 10, United States Code. Subsection (d) of that section is hereby waived with respect to such transfer.

(c) **ADDITIONAL TERMS AND CONDITIONS.**—The Secretary may require such additional terms and conditions in connection with the transfer under subsection (a) as the Secretary considers appropriate.

(d) **EXPIRATION OF AUTHORITY.**—The authority granted by subsection (a) shall expire at the end of the five-year period beginning on the date of the enactment of this Act.

SEC. 1016. REPORT ON LEASING OF VESSELS TO MEET NATIONAL DEFENSE SEALIFT REQUIREMENTS.

(a) **REPORT REQUIREMENT.**—The Secretary of Defense shall submit to the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate by no later than March 1, 2006, a report on leasing (including chartering) of vessels by the Department of Defense to meet national defense sealift requirements, including leasing under sections 2401 and 2401a of title 10, United States Code.

(b) **MATTERS TO BE INCLUDED.**—The report under subsection (a) shall include the following:

(1) A description of—

(A) the portion of national defense sealift requirements that, during the 3-year period preceding the date of the enactment of this Act, was met through leasing of vessels;

(B) the portion of such requirements that was met during that period through use of vessels owned by the United States; and

(C) for each of the portions described under subparagraph (A) and (B), a description of the number of each type of vessel used to meet such requirements, including roll-on/roll-off vessels, dry bulk carriers, oilers, and other vessel types.

(2) With respect to vessels that were leased in the 3-year period preceding the date of the enactment of this Act—

(A) a listing of such vessels;

(B) identification of the country in which each vessel was constructed or reconstructed;

(C) identification of the country under the laws of which each vessel is documented;

(D) with respect to periods during which each vessel was operated under lease to the Department of Defense, identification of the routes on which each vessel operated and the ports at which each vessel called;

(E) the terms of the lease for each vessel that govern—

(i) amounts required to be paid by the United States;

(ii) the length of the lease term;

(iii) maintenance, repair, and alteration, including provisions regarding—

(I) alterations required under the lease; and

- (II) qualified maintenance or repair of the vessel in a foreign shipyard or foreign ship repair facility; and
- (iv) where alterations or qualified maintenance or repair may be performed; and
- (F) a description of qualified maintenance or repair that was performed on each vessel in the 3-year period preceding the date of the enactment of this Act, including—
 - (i) the amounts paid by the lessor for such work; and
 - (ii) identification of whether such work was performed in the United States or in a foreign country.
- (3) Estimation of any increase in total costs that would have been incurred by the United States if qualified maintenance or repair that was performed on leased vessels in the 3-year period preceding the date of the enactment of this Act were required to be performed in the United States.
- (4) Other impacts to the economy of the United States if qualified maintenance or repair that was performed on leased vessels in the 3-year period preceding the date of the enactment of this Act were required to be performed in the United States.
- (c) **QUALIFIED MAINTENANCE OR REPAIR DEFINED.**—In this section the term “qualified maintenance or repair”—
 - (1) except as provided in paragraph (2), means—
 - (A) any inspection of a vessel that is—
 - (i) required under chapter 33 of title 46, United States Code; and
 - (ii) performed in a period in which the vessel is under lease by the Department of Defense;
 - (B) any maintenance or repair of a vessel that is determined, in the course of an inspection referred to in subparagraph (A), to be necessary to comply with the laws of the United States; and
 - (C) any routine maintenance or repair; and
 - (2) does not include any emergency work that is necessary to enable a vessel to return to a port in the United States.

SEC. 1017. ESTABLISHMENT OF THE USS OKLAHOMA MEMORIAL AND OTHER MEMORIALS AT PEARL HARBOR.

(a) **ESTABLISHMENT OF THE USS OKLAHOMA MEMORIAL.**—Not later than 90 days after the date of the enactment of this Act, the Secretary of the Navy, in consultation with the Secretary of the Interior, shall identify an appropriate site on Ford Island, Hawaii, for a memorial for the U.S.S. Oklahoma (BB-37). The Secretary of the Interior shall establish the memorial at the identified site by authorizing the USS Oklahoma Memorial Foundation to construct a memorial. The Secretary shall certify that—

- (1) the USS Oklahoma Memorial Foundation has sufficient funding to complete construction of the memorial; and
- (2) the memorial meets the requirements of subsection (c).

(b) **ADMINISTRATION OF THE MEMORIAL.**—Once established, the Secretary of the Interior shall administer the USS Oklahoma Memorial as a part of the USS Arizona Memorial, a unit of the National Park System, in accordance with the laws and regulations applicable to land administered by the National Park Service and any agreement between the Secretary of the Interior and the Secretary of

Hawaii.
16 USC 431 note.

Deadline.

Certification.

the Navy. The Secretary of the Navy shall retain administrative jurisdiction over the land where the USS Oklahoma Memorial is established.

(c) **REQUIREMENTS FOR PEARL HARBOR MEMORIALS.**—The site selection, design, and construction of the USS Oklahoma Memorial and any memorials established after the date of the enactment of this Act that are associated with the attack at Pearl Harbor on December 7, 1941, shall be consistent with the requirements in the document titled “Pearl Harbor Naval Complex Design Guidelines and Evaluation Criteria for Memorials”, dated April 2005.

(d) **ESTABLISHMENT AND OPERATION OF TRANSPORTATION SYSTEM.**—The Secretary of the Interior may establish and operate a transportation system over roads linking the USS Arizona Memorial Visitor Center with one or more of the existing and future historic sites and historic visitor attractions within the Pearl Harbor Naval Complex, including Ford Island. Transportation on this system may be provided with or without charge, directly or through a contract or concessioner, and without regard to whether service is provided to sites or attractions that are under the jurisdiction of or administered by the National Park Service.

SEC. 1018. AUTHORITY TO USE NATIONAL DEFENSE SEALIFT FUND TO PURCHASE CERTAIN MARITIME PREPOSITIONING SHIPS CURRENTLY UNDER CHARTER TO THE NAVY.

(a) **FISCAL YEAR 2006 LIMITATION.**—The authority provided by subsection (c)(1) of section 2218 of title 10, United States Code, may not be used for the purchase of more than six vessels described in subsection (c) using funds appropriated to the National Defense Sealift Fund for fiscal year 2006.

(b) **AUTHORITY.**—The Secretary of Defense may purchase any vessel described in subsection (c) through the use of the authority in subsection (c)(1) of section 2218 of title 10, United States Code, without regard to the limitation in subsection (f)(1) of that section.

Applicability.

(c) **COVERED VESSELS.**—Subsections (a) and (b) apply with respect to any vessel that as of the date of the enactment of this Act—

(1) is chartered by the Department of Defense under a 25-year lease; and

(2) is used by the Navy as a maritime prepositioning ship.

(d) **TECHNICAL AMENDMENTS TO UPDATE STATUTE.**—Section 2218(f)(1) of title 10, United States Code, is amended—

(1) by striking “Not more than a total of five vessels built in foreign ship yards may be” and inserting “A vessel built in a foreign ship yard may not be”; and

(2) by inserting before the period at the end the following: “, unless specifically authorized by law”.

Subtitle C—Counter-Drug Activities

SEC. 1021. RESUMPTION OF REPORTING REQUIREMENT REGARDING DEPARTMENT OF DEFENSE EXPENDITURES TO SUPPORT FOREIGN COUNTER-DRUG ACTIVITIES.

(a) **ADDITIONAL REPORT REQUIRED.**—Section 1022 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–255), as amended by section 1022 of the National Defense

Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1215), is further amended by striking “January 1, 2001, and April 15, 2002,” and inserting “April 15, 2006,”.

(b) **ADDITIONAL INFORMATION REQUIRED.**—Such section is further amended—

- (1) by redesignating paragraph (3) as paragraph (4); and
- (2) by inserting after paragraph (2) the following new paragraph (3):

“(3) A description of each base of operation or training facility established, constructed, or operated using the assistance, including any minor construction projects carried out using such assistance, and the amount of assistance expended on base of operations and training facilities.”.

SEC. 1022. CLARIFICATION OF AUTHORITY FOR JOINT TASK FORCES TO SUPPORT LAW ENFORCEMENT AGENCIES CONDUCTING COUNTER-TERRORISM ACTIVITIES.

10 USC 371 note.

Section 1022 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1594) is amended—

- (1) by redesignating subsection (b) as subsection (d); and
- (2) by inserting after subsection (a) the following new subsections:

“(b) **AVAILABILITY OF FUNDS.**—During fiscal years 2006 and 2007, funds available to a joint task force to support counter-drug activities may also be used to provide the counter-terrorism support authorized by subsection (a).

“(c) **REPORT REQUIRED.**—Not later than December 31, 2006, the Secretary of Defense shall submit to Congress a report evaluating the effect on counter-drug and counter-terrorism activities and objectives of using counter-drug funds of a joint task force to provide counter-terrorism support authorized by subsection (a).”.

SEC. 1023. SENSE OF CONGRESS REGARDING DRUG TRAFFICKING DETERRENCE.

(a) **FINDINGS.**—Congress finds the following:

(1) According to the Department of State, drug trafficking organizations shipped approximately nine tons of cocaine to the United States through the Dominican Republic in 2004, and are increasingly using small, high-speed watercraft.

(2) Drug traffickers use the Caribbean corridor to smuggle narcotics to the United States via Puerto Rico and the Dominican Republic. This route is ideal for drug trafficking because of its geographic expanse, numerous law enforcement jurisdictions, and fragmented investigative efforts.

(3) The tethered aerostat system in Lajas, Puerto Rico, contributes to deterring and detecting smugglers moving illicit drugs into Puerto Rico. The aerostat’s range and operational capabilities allow it to provide surveillance coverage of the eastern Caribbean corridor and the strategic waterway between Puerto Rico and the Dominican Republic, known as the Mona Passage.

(4) Including maritime radar on the Lajas aerostat will expand its ability to detect suspicious vessels in the eastern Caribbean corridor.

(b) **SENSE OF CONGRESS.**—Given the findings contained in subsection (a), it is the sense of Congress that—

(1) Congress and the Department of Defense should fund the Counter-Drug Tethered Aerostat program; and

(2) the Department of Defense should install maritime radar on the Lajas, Puerto Rico, aerostat.

Subtitle D—Matters Related to Homeland Security

SEC. 1031. RESPONSIBILITIES OF ASSISTANT SECRETARY OF DEFENSE FOR HOMELAND DEFENSE RELATING TO NUCLEAR, CHEMICAL, AND BIOLOGICAL EMERGENCY RESPONSE.

Subsection (a) of section 1413 of the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2313) is amended to read as follows:

“(a) DEPARTMENT OF DEFENSE.—The Assistant Secretary of Defense for Homeland Defense is responsible for the coordination of Department of Defense assistance to Federal, State, and local officials in responding to threats involving nuclear, radiological, biological, chemical weapons, or high-yield explosives or related materials or technologies, including assistance in identifying, neutralizing, dismantling, and disposing of nuclear, radiological, biological, chemical weapons, and high-yield explosives and related materials and technologies.”.

SEC. 1032. TESTING OF PREPAREDNESS FOR EMERGENCIES INVOLVING NUCLEAR, RADIOLOGICAL, CHEMICAL, BIOLOGICAL, AND HIGH-YIELD EXPLOSIVES WEAPONS.

(a) SECRETARY OF HOMELAND SECURITY FUNCTIONS.—Subsection (a) of section 1415 of the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2315) is amended—

(1) in the subsection heading, by striking “CHEMICAL OR” and inserting “NUCLEAR, RADIOLOGICAL, CHEMICAL, OR”;

(2) in paragraph (1)—

(A) by striking “Secretary of Defense” and inserting “Secretary of Homeland Security”; and

(B) by striking “biological weapons and related materials and emergencies involving” and inserting “nuclear, radiological, biological, and”;

(3) in paragraph (2), by striking “during each of fiscal years 1997 through 2013” and inserting “in accordance with sections 102(c) and 430(c)(1) of the Homeland Security Act of 2002 (6 U.S.C. 112(c), 238(c)(1))”; and

(4) in paragraph (3)—

(A) by inserting “the Secretary of Defense,” before “the Director of the Federal Bureau of Investigation”; and

(B) by striking “the Director of the Federal Emergency Management Agency,”.

(b) REPEAL OF SECRETARY OF ENERGY FUNCTIONS.—Such section is further amended by striking subsection (b).

(c) CONFORMING AMENDMENTS.—Subsection (c) of such section—

(1) is redesignated as subsection (b); and

(2) is amended—

(A) in the first sentence, by striking “The official responsible for carrying out a program developed under subsection (a) or (b) shall revise the program” and inserting “The Secretary of Homeland Security shall revise the program developed under subsection (a)”; and

(B) in the second sentence, by striking “the official” and inserting “the Secretary”.

(d) REPEAL OF OBSOLETE PROVISIONS.—Such section is further amended by striking subsections (d) and (e).

SEC. 1033. DEPARTMENT OF DEFENSE CHEMICAL, BIOLOGICAL, RADIOLOGICAL, NUCLEAR, AND HIGH-YIELD EXPLOSIVES RESPONSE TEAMS.

Section 1414 of the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2314) is amended as follows:

(1) The heading of such section is amended to read as follows:

“SEC. 1414. CHEMICAL, BIOLOGICAL, RADIOLOGICAL, NUCLEAR, AND HIGH-YIELD EXPLOSIVES RESPONSE TEAM.”

(2) Subsection (a) of such section is amended by striking “or related materials” and inserting “radiological, nuclear, and high-yield explosives”.

(3) Subsection (b) of such section is amended—

(A) in the subsection heading, by striking “PLAN” and inserting “PLANS”;

(B) in the first sentence, by striking “Not later than” and all that follows through “response plans and” and inserting “The Secretary of Homeland Security shall incorporate into the National Response Plan prepared pursuant to section 502(6) of the Homeland Security Act of 2002 (6 U.S.C. 312(6)), other existing Federal emergency response plans, and”; and

(C) in the second sentence—

(i) by striking “Director” and inserting “Secretary of Homeland Security”; and

(ii) by striking “consultation” and inserting “coordination”.

SEC. 1034. REPEAL OF DEPARTMENT OF DEFENSE EMERGENCY RESPONSE ASSISTANCE PROGRAM.

Section 1412 of the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2312) is repealed.

SEC. 1035. REPORT ON USE OF DEPARTMENT OF DEFENSE AERIAL RECONNAISSANCE ASSETS TO SUPPORT HOMELAND SECURITY BORDER SECURITY MISSIONS.

(a) REPORT REQUIRED.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report containing the results of a study regarding the use of aerial reconnaissance equipment of the Department of Defense in missions in which the Armed Forces support the Department of Homeland Security in performing its international border security mission. The Secretary of Defense shall conduct the study and prepare the report in coordination with the Secretary of Homeland Security.

(b) ELEMENTS OF REPORT.—The report required by subsection (a) shall include the following:

(1) A description of the current use of aerial reconnaissance equipment of the Department of Defense to conduct aerial reconnaissance over the international land and maritime borders of the United States in missions in which the Armed

Forces support the Department of Homeland Security in performing its international border security mission.

(2) A statement of the costs of such missions and the source of funds for such missions.

(3) The conclusions derived from a study of how the Department of Defense leverages dual-use aerial reconnaissance assets and technology, such as unmanned aerial vehicles and tethered aerostat radars, for both homeland defense and homeland security purposes.

Subtitle E—Reports and Studies

SEC. 1041. REVIEW OF DEFENSE BASE ACT INSURANCE.

(a) **REVIEW REQUIRED.**—The Secretary of Defense shall review current and future needs, options, and risks associated with Defense Base Act insurance. The review shall be conducted in coordination with the Director of the Office of Management and Budget and appropriate officials of the Department of Labor, the Department of State, and the United States Agency for International Development.

(b) **MATTERS TO BE ADDRESSED.**—The review under subsection (a) shall address the following matters:

(1) Cost-effective options for acquiring Defense Base Act insurance.

(2) Methods for coordinating data collection efforts among agencies and contractors on numbers of employees, costs of insurance, and other information relevant to decisions on Defense Base Act insurance.

(3) Improved communication and coordination within and among agencies on the implementation of Defense Base Act insurance.

(4) Actions to be taken to address difficulties in the administration of Defense Base Act insurance, including on matters relating to cost, data, enforcement, and claims processing.

(c) **REPORT REQUIRED.**—Not later than one year after the date of the enactment of this Act, the Secretary shall submit to the congressional defense committees a report on the results of the review under subsection (a). The report shall set forth the findings of the Secretary as a result of the review and such recommendations, including recommendations for legislative or administrative action, as the Secretary considers appropriate in light of the review.

(d) **DEFENSE BASE ACT INSURANCE DEFINED.**—In this section, the term “Defense Base Act insurance” means workers’ compensation insurance provided to contractor employees pursuant to the Defense Base Act (42 U.S.C. 1651 et seq.).

SEC. 1042. REPORT ON DEPARTMENT OF DEFENSE RESPONSE TO FINDINGS AND RECOMMENDATIONS OF DEFENSE SCIENCE BOARD TASK FORCE ON HIGH PERFORMANCE MICROCHIP SUPPLY.

(a) **REPORT REQUIRED.**—Not later than July 1, 2006, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House

of Representatives a report on the implementation of the recommendations of the Defense Science Board Task Force on High Performance Microchip Supply.

(b) CONTENTS.—The report required by subsection (a) shall include the following:

(1) An analysis of each finding of the Task Force.

(2) A detailed description of the response of the Department of Defense to each recommendation of the Task Force, including—

(A) for each recommendation that is being implemented or that the Secretary plans to implement—

(i) a summary of actions that have been taken to implement the recommendation; and

(ii) a schedule, with specific milestones, for completing the implementation of the recommendation; and

(B) for each recommendation that the Secretary does not plan to implement—

(i) the reasons for the decision not to implement the recommendation; and

(ii) a summary of alternative actions the Secretary plans to take to address the purposes underlying the recommendation.

(3) A summary of any additional actions the Secretary plans to take to address concerns raised by the Task Force.

Subtitle F—Other Matters

SEC. 1051. COMMISSION ON THE IMPLEMENTATION OF THE NEW STRATEGIC POSTURE OF THE UNITED STATES.

(a) ESTABLISHMENT OF COMMISSION.—

(1) ESTABLISHMENT.—There is hereby established a commission to be known as the “Commission on the Implementation of the New Strategic Posture of the United States”. The Secretary of Defense shall enter into a contract with a federally funded research and development center to provide for the organization, management, and support of the Commission. Such contract shall be entered into in consultation with the Secretary of Energy. The selection of the federally funded research and development center shall be made in consultation with the chairman and ranking minority member of the Committee on Armed Services of the Senate and the chairman and ranking minority member of the Committee on Armed Services of the House of Representatives.

Contracts.

(2) COMPOSITION.—

(A) MEMBERSHIP.—The Commission shall be composed of 12 members who shall be appointed by the Secretary of Defense. In selecting individuals for appointment to the Commission, the Secretary of Defense shall consult with the chairman and ranking minority member of the Committee on Armed Services of the Senate and the chairman and ranking minority member of the Committee on Armed Services of the House of Representatives.

(B) QUALIFICATIONS.—Members of the Commission shall be appointed from among private United States citizens with knowledge and expertise in the political, military, operational, and technical aspects of nuclear strategy.

(3) CHAIRMAN OF THE COMMISSION.—The Secretary of Defense shall designate one of the members of the Commission to serve as chairman of the Commission.

(4) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall be filled in the same manner as the original appointment.

(5) SECURITY CLEARANCES.—All members of the Commission shall hold appropriate security clearances.

(b) DUTIES OF COMMISSION.—

(1) REVIEW OF IMPLEMENTATION OF NUCLEAR POSTURE REVIEW.—The Commission shall examine programmatic requirements to achieve the goals set forth in the report of the Secretary of Defense submitted to Congress on December 31, 2001, providing the results of the Nuclear Posture Review conducted pursuant to section 1041 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398; 114 Stat. 1654, 1654A-262) and results of periodic assessments of the Nuclear Posture Review. Matters examined by the Commission shall include the following:

(A) The process of establishing requirements for strategic forces and how that process accommodates employment of nonnuclear strike platforms and munitions in a strategic role.

(B) How strategic intelligence, reconnaissance, and surveillance requirements differ from nuclear intelligence, reconnaissance, and surveillance requirements.

(C) The ability of a limited number of strategic platforms to carry out a growing range of nonnuclear strategic strike missions.

(D) The limits of tactical systems to perform nonnuclear global strategic missions in a prompt manner.

(E) An assessment of the ability of the current nuclear stockpile to address the evolving strategic threat environment through 2008.

(2) RECOMMENDATIONS.—The Commission shall include in its report recommendations with respect to the following:

(A) Changes to the requirements process to employ nonnuclear strike platforms and munitions in a strategic role.

(B) Changes to the nuclear stockpile and infrastructure required to preserve a nuclear capability commensurate with the changes to the strategic threat environment through 2008.

(C) Actions the Secretary of Defense and the Secretary of Energy can take to preserve flexibility of the defense nuclear complex while reducing the cost of a Cold War strategic infrastructure.

(D) Identify shortfalls in the strategic modernization programs of the United States that would undermine the ability of the United States to develop new nonnuclear strategic strike capabilities.

(3) COOPERATION FROM GOVERNMENT.—

(A) COOPERATION.—In carrying out its duties, the Commission shall receive the full and timely cooperation of the Secretary of Defense, the Secretary of Energy, and any other United States Government official in providing the Commission with analyses, briefings, and other information necessary for the fulfillment of its responsibilities.

(B) LIAISON WITH DOE & DOD.—The Secretary of Energy and the Secretary of Defense shall each designate at least one officer or employee of the Department of Energy and the Department of Defense, respectively, to serve as a liaison officer between the department and the Commission.

(c) REPORTS.—

(1) COMMISSION REPORT.—Not later than June 30, 2007, the Commission shall submit to the Secretary of Defense and the Committees on Armed Services of the Senate and House of Representatives a report on the Commission's findings and conclusions.

(2) SECRETARY OF DEFENSE RESPONSE.—

(A) IN GENERAL.—The Secretary of Defense may submit to the Commission a response to the report of the Commission under paragraph (1). If the Secretary elects to submit to the Commission a response to the report of the Commission, the Secretary shall also submit such response to the committees specified in paragraph (1).

(B) MATTERS TO BE INCLUDED.—The response, if any, of the Secretary to the report of the Commission shall include—

(i) comments on the findings and conclusions of the Commission; and

(ii) an explanation of what actions, if any, the Secretary intends to take to implement the recommendations of the Commission and, with respect to each such recommendation, the Secretary's reasons for implementing, or not implementing, the recommendation.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Upon request of the chairman of the Commission, the head of any Federal department or agency may detail, on a nonreimbursable basis, up to three employees of such department or agency to the Commission to assist it in carrying out its duties.

(e) FUNDING.—Funds for activities of the Commission shall be provided from amounts appropriated for the Department of Defense.

(f) TERMINATION OF COMMISSION.—The Commission shall terminate on July 30, 2007.

(g) IMPLEMENTATION.—

Deadlines.

(1) FFRDC CONTRACT.—The Secretary of Defense shall enter into the contract required under subsection (a)(1) not later than 60 days after the date of the enactment of this Act.

(2) FIRST MEETING.—The Commission shall convene its first meeting not later than 30 days after the date as of which all members of the Commission have been appointed.

50 USC 2301
note.

SEC. 1052. REESTABLISHMENT OF EMP COMMISSION.

(a) REESTABLISHMENT.—The commission established pursuant to title XIV of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–345), known as the Commission to Assess the Threat to the United States from Electromagnetic Pulse Attack, is hereby reestablished.

(b) MEMBERSHIP.—The Commission as reestablished shall have the same membership as the Commission had as of the date of the submission of the report of the Commission pursuant to section 1403(a) of such Act, as in effect before the date of the enactment of this Act. Service on the Commission is voluntary, and Commissioners may elect to terminate their service on the Commission.

(c) COMMISSION CHARTER DEFINED.—In this section, the term “Commission charter” means title XIV of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–345 et seq.).

(d) ESTABLISHMENT AND PURPOSE.—Section 1401 of the Commission charter (114 Stat. 1654A–345) is amended—

(1) by striking subsections (e) and (g);

(2) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively;

(3) by inserting after subsection (a) the following new subsection (b):

“(b) PURPOSE.—The purpose of the Commission is to monitor, investigate, make recommendations, and report to Congress on the evolving threat to the United States from electromagnetic pulse (hereinafter in this title referred to as ‘EMP’) attack resulting from the detonation of a nuclear weapon or weapons at high altitude.”;

(4) in subsection (c), as redesignated by paragraph (2), by striking the second and third sentences and inserting “In the event of a vacancy in the membership of the Commission, the Secretary of Defense shall appoint a new member.”; and

(5) in subsection (d), as redesignated by paragraph (2), by striking “pulse (hereafter)” and all that follows and inserting “pulse effects referred to in subsection (b).”.

(e) DUTIES OF COMMISSION.—Section 1402 of the Commission charter (114 Stat. 1654A–346) is amended to read as follows:

“SEC. 1402. DUTIES OF COMMISSION.

“The Commission shall assess the following:

“(1) The vulnerability of electric-dependent military systems and other electric-dependent systems in the United States to an EMP attack, giving special attention to the progress, or lack of progress, by the Department of Defense, other Government departments and agencies of the United States, and entities of the private sector in taking steps to protect such systems from such an attack.

“(2) The report of the Secretary of Defense submitted to Congress under section 1403(b) of this Act as in effect before the enactment of the National Defense Authorization Act for Fiscal Year 2006.”.

(f) REPORT.—Section 1403 of the Commission charter (114 Stat. 1654A–345) is amended to read as follows:

“SEC. 1403. REPORTS.

“(a) FINAL REPORT.—Not later than June 30, 2007, the Commission shall submit to Congress a report providing the Commission’s assessment of the matters specified in section 1402. That report shall include recommendations for any steps the Commission believes should be taken by the United States to better protect systems referred to in section 1402(1) from an EMP attack.

“(b) INTERIM REPORTS.—Before the submission of its report under subsection (a), the Commission may submit to Congress interim reports at such times as the Commission considers appropriate.”.

(g) CLERICAL AMENDMENT.—The heading for subsection (c) of section 1405 of the Commission charter (114 Stat. 1654A–347) is amended by striking “COMMISSION” and inserting “PANELS”.

(h) COMMISSION PERSONNEL MATTERS.—Section 1406(c)(2) of the Commission charter (114 Stat. 1654A–347) is amended by striking “for grade GS–15 of the General Schedule” and inserting “for senior level and scientific or professional positions”.

(i) FUNDING.—Section 1408 of the Commission charter (114 Stat. 1654A–348) is amended—

(1) by inserting “for any fiscal year” after “activities of the Commission”; and

(2) by striking “for fiscal year 2001” and inserting “for that fiscal year”.

(j) TERMINATION.—Section 1049 of of the Commission charter (114 Stat. 1654A–348) is amended by striking “60 days” and inserting “30 days”.

SEC. 1053. MODERNIZATION OF AUTHORITY RELATING TO SECURITY OF DEFENSE PROPERTY AND FACILITIES.

Section 21 of the Internal Security Act of 1950 (50 U.S.C. 797) is amended to read as follows:

“PENALTY FOR VIOLATION OF SECURITY REGULATIONS AND ORDERS**“SEC. 21. (a) MISDEMEANOR VIOLATION OF DEFENSE PROPERTY SECURITY REGULATIONS.—**

“(1) MISDEMEANOR.—Whoever willfully violates any defense property security regulation shall be fined under title 18, United States Code, or imprisoned not more than one year, or both.

“(2) DEFENSE PROPERTY SECURITY REGULATION DESCRIBED.—For purposes of paragraph (1), a defense property security regulation is a property security regulation that, pursuant to lawful authority—

“(A) shall be or has been promulgated or approved by the Secretary of Defense (or by a military commander designated by the Secretary of Defense or by a military officer, or a civilian officer or employee of the Department of Defense, holding a senior Department of Defense director position designated by the Secretary of Defense) for the protection or security of Department of Defense property; or

“(B) shall be or has been promulgated or approved by the Administrator of the National Aeronautics and Space Administration for the protection or security of NASA property.

“(3) PROPERTY SECURITY REGULATION DESCRIBED.—For purposes of paragraph (2), a property security regulation, with respect to any property, is a regulation—

“(A) relating to fire hazards, fire protection, lighting, machinery, guard service, disrepair, disuse, or other unsatisfactory conditions on such property, or the ingress thereto or egress or removal of persons therefrom; or

“(B) otherwise providing for safeguarding such property against destruction, loss, or injury by accident or by enemy action, sabotage, or other subversive actions.

“(4) DEFINITIONS.—In this subsection:

“(A) DEPARTMENT OF DEFENSE PROPERTY.—The term ‘Department of Defense property’ means covered property subject to the jurisdiction, administration, or in the custody of the Department of Defense, any Department or agency of which that Department consists, or any officer or employee of that Department or agency.

“(B) NASA PROPERTY.—The term ‘NASA property’ means covered property subject to the jurisdiction, administration, or in the custody of the National Aeronautics and Space Administration or any officer or employee thereof.

“(C) COVERED PROPERTY.—The term ‘covered property’ means aircraft, airports, airport facilities, vessels, harbors, ports, piers, water-front facilities, bases, forts, posts, laboratories, stations, vehicles, equipment, explosives, or other property or places.

“(D) REGULATION AS INCLUDING ORDER.—The term ‘regulation’ includes an order.

“(b) POSTING.—Any regulation or order covered by subsection (a) shall be posted in conspicuous and appropriate places.”

SEC. 1054. REVISION OF DEPARTMENT OF DEFENSE COUNTERINTELLIGENCE POLYGRAPH PROGRAM.

(a) IN GENERAL.—Section 1564a of title 10, United States Code, is amended to read as follows:

“§ 1564a. Counterintelligence polygraph program

“(a) AUTHORITY FOR PROGRAM.—The Secretary of Defense may carry out a program for the administration of counterintelligence polygraph examinations to persons described in subsection (b). The program shall be conducted in accordance with the standards specified in subsection (e).

“(b) PERSONS COVERED.—Except as provided in subsection (d), the following persons, if their duties are described in subsection (c), are subject to this section:

“(1) Military and civilian personnel of the Department of Defense.

“(2) Personnel of defense contractors.

“(3) A person assigned or detailed to the Department of Defense.

“(4) An applicant for a position in the Department of Defense.

“(c) COVERED TYPES OF DUTIES.—The Secretary of Defense may provide, under standards established by the Secretary, that a person described in subsection (b) is subject to this section if that person’s duties involve—

“(1) access to information that—

“(A) has been classified at the level of top secret; or

“(B) is designated as being within a special access program under section 4.4(a) of Executive Order No. 12958 (or a successor Executive order); or

“(2) assistance in an intelligence or military mission in a case in which the unauthorized disclosure or manipulation of information, as determined under standards established by the Secretary of Defense, could reasonably be expected to—

“(A) jeopardize human life or safety;

“(B) result in the loss of unique or uniquely productive intelligence sources or methods vital to United States security; or

“(C) compromise technologies, operational plans, or security procedures vital to the strategic advantage of the United States and its allies.

“(d) EXCEPTIONS FROM COVERAGE FOR CERTAIN INTELLIGENCE AGENCIES AND FUNCTIONS.—This section does not apply to the following persons:

“(1) A person assigned or detailed to the Central Intelligence Agency or to an expert or consultant under a contract with the Central Intelligence Agency.

“(2) A person who is—

“(A) employed by or assigned or detailed to the National Security Agency;

“(B) an expert or consultant under contract to the National Security Agency;

“(C) an employee of a contractor of the National Security Agency; or

“(D) a person applying for a position in the National Security Agency.

“(3) A person assigned to a space where sensitive cryptographic information is produced, processed, or stored.

“(4) A person employed by, or assigned or detailed to, an office within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs or a contractor of such an office.

“(e) STANDARDS.—(1) Polygraph examinations conducted under this section shall comply with all applicable laws and regulations.

“(2) Such examinations may be authorized for any of the following purposes:

“(A) To assist in determining the initial eligibility for duties described in subsection (c) of, and aperiodically thereafter, on a random basis, to assist in determining the continued eligibility of, persons described in subsections (b) and (c).

“(B) With the consent of, or upon the request of, the examinee, to—

“(i) resolve serious credible derogatory information developed in connection with a personnel security investigation; or

“(ii) exculpate him- or herself of allegations or evidence arising in the course of a counterintelligence or personnel security investigation.

“(C) To assist, in a limited number of cases when operational exigencies require the immediate use of a person's services before the completion of a personnel security investigation, in determining the interim eligibility for duties described in subsection (c) of the person.

“(3) Polygraph examinations conducted under this section shall provide adequate safeguards, prescribed by the Secretary of Defense, for the protection of the rights and privacy of persons subject to this section under subsection (b) who are considered for or administered polygraph examinations under this section. Such safeguards shall include the following:

“(A) The examinee shall receive timely notification of the examination and its intended purpose and may only be given the examination with the consent of the examinee.

“(B) The examinee shall be advised of the examinee’s right to consult with legal counsel.

“(C) All questions asked concerning the matter at issue, other than technical questions necessary to the polygraph technique, must have a relevance to the subject of the inquiry.

“(f) OVERSIGHT.—(1) The Secretary shall establish a process to monitor responsible and effective application of polygraph examinations within the Department of Defense.

“(2) The Secretary shall make information on the use of polygraphs within the Department of Defense available to the congressional defense committees.

“(g) POLYGRAPH RESEARCH PROGRAM.—The Secretary shall carry out a continuing research program to support the polygraph examination activities of the Department of Defense. The program shall include the following:

“(1) An on-going evaluation of the validity of polygraph techniques used by the Department.

“(2) Research on polygraph countermeasures and anti-countermeasures.

“(3) Developmental research on polygraph techniques, instrumentation, and analytic methods.”.

10 USC 1564a
note.

(b) EFFECTIVE DATE; IMPLEMENTATION.—The amendment made by subsection (a) shall apply with respect to polygraph examinations administered beginning on the date of the enactment of this Act.

10 USC 113 note.

SEC. 1055. PRESERVATION OF RECORDS PERTAINING TO RADIOACTIVE FALLOUT FROM NUCLEAR WEAPONS TESTING.

(a) PROHIBITION OF DESTRUCTION OF CERTAIN RECORDS.—The Secretary of Defense may not destroy any official record in the custody or control of the Department of Defense that contains information relating to radioactive fallout from nuclear weapons testing.

(b) PRESERVATION AND PUBLICATION OF INFORMATION.—The Secretary of Defense shall identify, preserve, and make available any unclassified information contained in official records referred to in subsection (a).

SEC. 1056. TECHNICAL AND CLERICAL AMENDMENTS.

(a) AMENDMENTS RELATING TO DEFINITION OF BASE CLOSURE LAWS.—

(1) Section 2694a(i) of title 10, United States Code, is amended by striking paragraph (2).

(2) Paragraph (1) of section 1333(i) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 10 U.S.C. 2701 note) is amended to read as follows:

“(1) BASE CLOSURE LAW.—The term ‘base closure law’ has the meaning given such term in section 101(a)(17) of title 10, United States Code.”.

(3) Subsection (b) of section 2814 of the Military Construction Authorization Act for Fiscal Year 1995 (division B of Public Law 103–337; 10 U.S.C. 2687 note) is amended to read as follows:

“(b) BASE CLOSURE LAW DEFINED.—In this section, the term ‘base closure law’ has the meaning given such term in section 101(a)(17) of title 10, United States Code.”.

(4) Subsection (c) of section 3341 of title 5, United States Code, is amended to read as follows:

“(c) For purposes of this section, the term ‘base closure law’ has the meaning given such term in section 101(a)(17) of title 10.”.

(5) Chapter 5 of title 40, United States Code, is amended—

(A) in section 554(a)(1), by striking “means” and all that follows and inserting “has the meaning given that term in section 101(a)(17) of title 10.”; and

(B) in section 572(b)(1)(B), by striking “section 2667(h)(2) of title 10” and inserting “section 101(a)(17) of title 10”.

(6) The Act of November 13, 2000, entitled “An Act to amend the Organic Act of Guam, and for other purposes” (Public Law 106–504; 114 Stat. 2309) is amended by striking paragraph (2) of section 1(c) and inserting the following new paragraph (2):

“(2) The term ‘base closure law’ has the meaning given such term in section 101(a)(17) of title 10, United States Code.”.

(b) DEFINITION OF STATE FOR PURPOSES OF SECTION 2694a.—Subsection (i) of section 2694a of title 10, United States Code, as amended by subsection (a)(1), is further amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively; and

(2) in paragraph (3), as so redesignated, by striking “and the territories and possessions of the United States” and inserting “Guam, the Virgin Islands, and American Samoa”.

(c) OTHER MISCELLANEOUS CORRECTIONS TO TITLE 10, UNITED STATES CODE.—Title 10, United States Code, is amended as follows:

(1) Section 101(e)(4)(B)(ii) is amended by striking the comma after “bulk explosives”.

(2) Section 127b(d)(1) is amended by striking “polices” in the second sentence and inserting “policies”.

(3) Section 1732 is amended—

(A) in subsection (c)—

(i) by striking “(b)(2)(A) and (b)(2)(B)” in paragraphs (1) and (2) and inserting “(b)(1)(A) and (b)(1)(B)”;

(ii) by striking paragraph (3); and

(B) in subsection (d)(2), by striking “(b)(2)(A)(ii)” and inserting “(b)(1)(A)(ii)”.

(4) Section 2410n(b) is amended by striking “compeititon” in the second sentence and inserting “competition”.

(5) Section 2507(d) is amended by striking “section (a)” and inserting “subsection (a)”.

(6) Section 2665(a) is amended by striking “under section 2664 of this title”.

(7) Section 2703(b) is amended by striking “For purposes of the preceding sentence, the terms ‘unexploded ordnance’,

‘discarded military munitions’, and” and inserting “In this subsection, the terms ‘discarded military munitions’ and”.

(8) Section 2773a(a) is amended by inserting “by” after “incorrect payment made” in the first sentence.

(9) Section 2801(d) is amended by striking “sections 2830 and 2835” and inserting “sections 2830, 2835, and 2836 of this chapter”.

(10) Section 2881a(f) is amended by striking “Notwithstanding section 2885 of this title, the” and inserting “The”.

(11) Section 3084 is amended by striking the semicolon in the section heading and inserting a colon.

10 USC 2192
note.

(d) RONALD W. REAGAN NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005.—Section 1105(h) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2075) is amended by striking “(21 U.S.C.” and inserting “(20 U.S.C.”.

(e) BOB STUMP NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2003.—The Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314) is amended as follows:

10 USC 2302
note.

(1) Section 314 (116 Stat. 2508) is amended—

(A) in subsection (d), by striking “(40 U.S.C.” and inserting “(42 U.S.C.”; and

(B) in subsection (e)(2), by striking “(40 U.S.C.” and inserting “(42 U.S.C.”.

10 USC 3702.

(2) Section 635(a) (116 Stat. 2574) is amended by inserting “the first place it appears” after “by striking ‘a claim’”.

(f) NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1994.—Section 1605(a)(4) of the National Defense Authorization Act for Fiscal Year 1994 (22 U.S.C. 2751 note) is amended by striking “Logisitics” in the first sentence and inserting “Logistics”.

(g) TITLE 38, UNITED STATES CODE.—Section 8111(b)(1) of title 38, United States Code, is amended by inserting “of 1993” after “the Government Performance and Results Act”.

SEC. 1057. DELETION OF OBSOLETE DEFINITIONS IN TITLES 10 AND 32, UNITED STATES CODE.

(a) DELETING OBSOLETE DEFINITION OF “TERRITORY” IN TITLE 10.—Title 10, United States Code, is amended as follows:

(1) Section 101(a) is amended by striking paragraph (2).

(2) The following sections are amended by striking the terms “Territory or”, “or Territory”, “a Territorial Department”, “or a Territory”, “Territory and”, “its Territories”, and “and Territories” each place they appear: sections 101(a)(3), 332, 822, 1072, 1103, 2671, 3037, 5148, 8037, 8074, 12204, and 12642.

(3) The following sections are amended by striking the terms “Territory,” and “Territories,” each place they appear: sections 849, 858, 888, 2668, 2669, 7545, and 9773.

(4) Section 808 is amended by striking “Territory, Commonwealth, or possession,” and inserting “Commonwealth, possession,”.

(5) The following sections are amended by striking “Territories, Commonwealths, or possessions” each place it appears and inserting “Commonwealths or possessions”: sections 847, 2734, 4778, 5986, 7652, 7653, and 12406.

(6) The following sections are amended by striking “Territories, Commonwealths, and possessions” each place it appears and inserting “Commonwealths and possessions”: sections 846, 3062, 3074, 4747, 4778, 8062, and 9778.

(7) Section 312 is amended by striking “States and Territories, and Puerto Rico” and inserting “States, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands”.

(8) Section 335 is amended by striking “the unincorporated territories of”.

(9) Sections 4301 and 9301 are amended by striking “State or Territory, Puerto Rico, or the District of Columbia” each place it appears and inserting “State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, or the Virgin Islands”.

(10) Sections 4685 and 9685 are amended by striking “State or Territory concerned” each place it appears and inserting “State concerned or Guam or the Virgin Islands” and by striking “State and Territorial” each place it appears and inserting “State, Guam, and the Virgin Islands”.

(11) Section 7851 is amended by striking “States, the Territories, and the District of Columbia” and inserting “States, the District of Columbia, Guam, and the Virgin Islands”.

(12) Section 7854 is amended by striking “any State, any Territory, or the District of Columbia” and inserting “any State, the District of Columbia, Guam, or the Virgin Islands”.

(b) DELETING OBSOLETE DEFINITION OF “TERRITORY” IN TITLE 32.—Title 32, United States Code, is amended as follows:

(1) Paragraph (1) of section 101 is amended to read as follows:

“(1) For purposes of other laws relating to the militia, the National Guard, the Army National Guard of the United States, and the Air National Guard of the United States, the term ‘Territory’ includes Guam and the Virgin Islands.”.

(2) Sections 103, 104(c), 314, 315, 708(d), and 711 are amended by striking “State and Territory, Puerto Rico, and the District of Columbia” and “State or Territory, Puerto Rico, and the District of Columbia” each place they appear and inserting “State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, and the Virgin Islands”.

(3) Sections 104(d), 107, 109, 503, 703, 704, 710, and 712 are amended by striking “State or Territory, Puerto Rico, or the District of Columbia” and “State or Territory, Puerto Rico, the Virgin Islands or the District of Columbia” each place they appear and inserting “State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, or the Virgin Islands”.

(4) Sections 104(a), 505, 702(a), and 708(a) are amended by striking “State or Territory and Puerto Rico”, “State or Territory or Puerto Rico”, and “State or Territory, Puerto Rico” each place they appear and inserting “State, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands”.

(5) Section 324 is amended by striking “State or Territory of whose National Guard he is a member, or by the laws of Puerto Rico, or the District of Columbia, if he is a member of its National Guard” and inserting “State of whose National Guard he is a member, or by the laws of the Commonwealth of Puerto Rico, or the District of Columbia, Guam, or the Virgin Islands, whose National Guard he is a member”.

(6) Section 325 is amended by striking “State or Territory, or of Puerto Rico” and “State or Territory or Puerto Rico” each place they appear and inserting “State, or of the Commonwealth of Puerto Rico, Guam, or the Virgin Islands”.

(7) Sections 326, 327, and 501 are amended by striking “States and Territories, Puerto Rico, and the District of Columbia” each place it appears and inserting “States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, and the Virgin Islands”.

SEC. 1058. SUPPORT FOR YOUTH ORGANIZATIONS.

5 USC 301 note.

(a) **YOUTH ORGANIZATION DEFINED.**—In this section, the term “youth organization” means—

- (1) the Boy Scouts of America;
- (2) the Girl Scouts of the United States of America;
- (3) the Boys Clubs of America;
- (4) the Girls Clubs of America;
- (5) the Young Men’s Christian Association;
- (6) the Young Women’s Christian Association;
- (7) the Civil Air Patrol;
- (8) the United States Olympic Committee;
- (9) the Special Olympics;
- (10) Campfire USA;
- (11) the Young Marines;
- (12) the Naval Sea Cadets Corps;
- (13) 4-H Clubs;
- (14) the Police Athletic League;
- (15) Big Brothers—Big Sisters of America;
- (16) National Guard Challenge Program; and
- (17) any other organization designated by the President as an organization that is primarily intended to—
 - (A) serve individuals under the age of 21 years;
 - (B) provide training in citizenship, leadership, physical fitness, service to community, and teamwork; and
 - (C) promote the development of character and ethical and moral values.

5 USC 301 note.

(b) **SUPPORT FOR YOUTH ORGANIZATIONS.**—

(1) **CONTINUATION OF SUPPORT.**—No Federal law (including any rule, regulation, directive, instruction, or order) shall be construed to limit any Federal agency from providing any form of support for a youth organization (including the Boy Scouts of America or any group officially affiliated with the Boy Scouts of America) that would result in that Federal agency providing less support to that youth organization (or any similar organization chartered under the chapter of title 36, United States Code, relating to that youth organization) than was provided during the preceding fiscal year to that youth organization. This paragraph shall be subject to the availability of appropriations.

(2) **YOUTH ORGANIZATIONS THAT CEASE TO EXIST.**—Paragraph (1) shall not apply to any youth organization that ceases to exist.

(3) **WAIVERS.**—The head of a Federal agency may waive the application of paragraph (1) to a youth organization with respect to each conviction or investigation described under subparagraph (A) or (B) for a period of not more than two fiscal years if—

(A) any senior officer (including any member of the board of directors) of the youth organization is convicted of a criminal offense relating to the official duties of that officer or the youth organization is convicted of a criminal offense; or

(B) the youth organization is the subject of a criminal investigation relating to fraudulent use or waste of Federal funds.

(4) TYPES OF SUPPORT.—Support described in paragraph (1) includes—

(A) authorizing a youth organization to hold meetings, camping events, or other activities on Federal property;

(B) hosting any official event of a youth organization;

(C) loaning equipment for the use of a youth organization; and

(D) providing personnel services and logistical support for a youth organization.

(c) CONTINUATION OF DEPARTMENT OF DEFENSE OF SUPPORT FOR SCOUT JAMBOREES.—Section 2554 of title 10, United States Code, is amended by adding at the end the following new subsection:

“(i)(1) The Secretary of Defense shall provide at least the same level of support under this section for a national or world Boy Scout Jamboree as was provided under this section for the preceding national or world Boy Scout Jamboree.

“(2) The Secretary of Defense may waive paragraph (1), if the Secretary—

“(A) determines that providing the support subject to paragraph (1) would be detrimental to the national security of the United States; and

“(B) submits to Congress a report containing such determination in a timely manner, and before the waiver takes effect.”.

Reports.

(d) EQUAL ACCESS FOR YOUTH ORGANIZATIONS.—Section 109 of the Housing and Community Development Act of 1974 (42 U.S.C. 5309) is amended—

(1) in the first sentence of subsection (b), by inserting “or (e)” after “subsection (a)”; and

(2) by adding at the end the following new subsection: “(e) EQUAL ACCESS.—

“(1) DEFINITION.—In this subsection, the term ‘youth organization’ means an organization described under part B of subtitle II of title 36, United States Code, that is intended to serve individuals under the age of 21 years.

“(2) IN GENERAL.—No State or unit of general local government that has a designated open forum, limited public forum, or nonpublic forum and that is a recipient of assistance under this title shall deny equal access or a fair opportunity to meet to, or discriminate against, any youth organization, including the Boy Scouts of America or any group officially affiliated with the Boy Scouts of America, that wishes to conduct a meeting or otherwise participate in that designated open forum, limited public forum, or nonpublic forum.”.

SEC. 1059. SPECIAL IMMIGRANT STATUS FOR PERSONS SERVING AS TRANSLATORS WITH UNITED STATES ARMED FORCES.

8 USC 1101 note.

(a) IN GENERAL.—For purposes of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), subject to subsection (c)(1), the

Secretary of Homeland Security may provide an alien described in subsection (b) with the status of a special immigrant under section 101(a)(27) of such Act (8 U.S.C. 1101(a)(27)), if the alien—

(1) files with the Secretary of Homeland Security a petition under section 204 of such Act (8 U.S.C. 1154) for classification under section 203(b)(4) of such Act (8 U.S.C. 1153(b)(4)); and

(2) is otherwise eligible to receive an immigrant visa and is otherwise admissible to the United States for permanent residence, except in determining such admissibility, the grounds for inadmissibility specified in section 212(a)(4) of such Act (8 U.S.C. 1182(a)(4)) shall not apply.

(b) ALIENS DESCRIBED.—

(1) PRINCIPAL ALIENS.—An alien is described in this subsection if the alien—

(A) is a national of Iraq or Afghanistan;

(B) worked directly with United States Armed Forces as a translator for a period of at least 12 months;

(C) obtained a favorable written recommendation from a general or flag officer in the chain of command of the United States Armed Forces unit that was supported by the alien; and

(D) before filing the petition described in subsection (a)(1), cleared a background check and screening, as determined by a general or flag officer in the chain of command of the United States Armed Forces unit that was supported by the alien.

(2) SPOUSES AND CHILDREN.—An alien is described in this subsection if the alien is the spouse or child of a principal alien described in paragraph (1), and is following or accompanying to join the principal alien.

(c) NUMERICAL LIMITATIONS.—

(1) IN GENERAL.—The total number of principal aliens who may be provided special immigrant status under this section during any fiscal year shall not exceed 50.

(2) COUNTING AGAINST SPECIAL IMMIGRANT CAP.—For purposes of the application of sections 201 through 203 of the Immigration and Nationality Act (8 U.S.C. 1151–1153) in any fiscal year, aliens eligible to be provided status under this section shall be treated as special immigrants described in section 101(a)(27) of such Act (8 U.S.C. 1101(a)(27)) who are not described in subparagraph (A), (B), (C), or (K) of such section.

(d) APPLICATION OF IMMIGRATION AND NATIONALITY ACT PROVISIONS.—The definitions in subsections (a) and (b) of section 101 of the Immigration and Nationality Act (8 U.S.C. 1101) shall apply in the administration of this section.

SEC. 1060. EXPANSION OF EMERGENCY SERVICES UNDER RECIPROCAL AGREEMENTS.

Subsection (b) of the first section of the Act of May 27, 1955 (42 U.S.C. 1856(b)), is amended by striking “and fire fighting” and inserting “, fire fighting, and emergency services, including basic medical support, basic and advanced life support, hazardous material containment and confinement, and special rescue events involving vehicular and water mishaps, and trench, building, and confined space extractions”.

**SEC. 1061. RENEWAL OF MORATORIUM ON RETURN OF VETERANS
MEMORIAL OBJECTS TO FOREIGN NATIONS WITHOUT
SPECIFIC AUTHORIZATION IN LAW.**

Section 1051(c) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 10 U.S.C. 2572 note) is amended—

(1) by striking “the date of the enactment of this Act” and inserting “October 5, 1999,”; and

(2) by inserting before the period at the end the following: “, and during the period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2006 and ending on September 30, 2010”.

**SEC. 1062. SENSE OF CONGRESS ON NATIONAL SECURITY INTEREST
OF MAINTAINING AERONAUTICS RESEARCH AND
DEVELOPMENT.**

(a) FINDINGS.—Congress makes the following findings:

(1) The advances made possible by Government-funded research in emerging aeronautics technologies have enabled longstanding military air superiority for the United States in recent decades.

(2) Military aircraft incorporate advanced technologies developed at research centers of the National Aeronautics and Space Administration.

(3) The vehicle systems program of the National Aeronautics and Space Administration has provided major technology advances that have been used in every major civil and military aircraft developed over the last 50 years.

(4) It is important for the cooperative research efforts of the National Aeronautics and Space Administration and the Department of Defense that funding of research on military aviation technologies be robust.

(5) Recent National Aeronautics and Space Administration and independent studies have demonstrated the competitiveness, scientific merit, and necessity of existing aeronautics programs.

(6) The economic and military security of the United States is enhanced by the continued development of improved aeronautics technologies.

(7) A national effort is needed to ensure that the National Aeronautics and Space Administration can help meet future aviation needs.

(b) SENSE OF CONGRESS.—It is the sense of Congress that it is in the national security interest of the United States to maintain a strong aeronautics research and development program within the Department of Defense and the National Aeronautics and Space Administration.

SEC. 1063. AIRPORT CERTIFICATION.

For the airport referred to in paragraph (1) to be eligible to receive approval of an airport layout plan by the Federal Aviation Administration, such airport shall ensure and provide documentation that—

(1) the governing body of an airport built after the date of enactment of this Act at site number 04506.3*A and under number 17–0027 of the National Plan of Integrated Airport

Systems is composed of a majority of local residents who live in the county in which such airport is located; and

(2) the airport complies with sections 303, 303A, and 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253–253b) as implemented by the Federal Acquisition Regulation issued pursuant to section 25 of the Office of Federal Procurement Policy Act (41 U.S.C. 421) regarding land procurement and developer selection.

Subtitle G—Military Mail Matters

10 USC 113 note. SEC. 1071. SAFE DELIVERY OF MAIL IN MILITARY MAIL SYSTEM.

(a) PLAN FOR SAFE DELIVERY OF MILITARY MAIL.—

(1) PLAN REQUIRED.—The Secretary of Defense shall develop and implement a plan to ensure that the mail within the military mail system is safe for delivery. The plan shall provide for the screening of all mail within the military mail system in order to detect the presence of biological, chemical, or radiological weapons, agents, or pathogens or explosive devices before mail within the military mail system is delivered to its intended recipients.

(2) FUNDING.—The budget justification materials submitted to Congress with the budget of the President for fiscal year 2007 and each fiscal year thereafter shall include a description of the amounts required in such fiscal year to carry out the plan.

(b) REPORT ON SAFETY OF MAIL FOR DELIVERY.—

(1) REPORT REQUIRED.—Not later than 120 days after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the safety of mail within the military mail system for delivery.

(2) ELEMENTS.—The report shall include the following:

(A) An assessment of any existing deficiencies in the military mail system in ensuring that mail within the military mail system is safe for delivery.

(B) The plan required by subsection (a).

(C) An estimate of the time and resources required to implement the plan.

(D) A description of the delegation within the Department of Defense of responsibility for ensuring that mail within the military mail system is safe for delivery, including responsibility for the development, implementation, and oversight of improvements to the military mail system to ensure that mail within the military mail system is safe for delivery.

(3) FORM.—The report shall be submitted in unclassified form, but may include a classified annex.

(c) MAIL WITHIN THE MILITARY MAIL SYSTEM DEFINED.—

(1) IN GENERAL.—In this section, the term “mail within the military mail system” means—

(A) any mail that is posted through the Military Post Offices (including Army Post Offices (APOs) and Fleet Post Offices (FPOs)), Department of Defense mail centers, military Air Mail Terminals, and military Fleet Mail Centers; and

(B) any mail or package posted in the United States that is addressed to an unspecified member of the Armed Forces.

(2) INCLUSIONS AND EXCEPTION.—The term includes any official mail posted by the Department of Defense. The term does not include any mail posted as otherwise described in paragraph (1) that has been screened for safety for delivery by the United States Postal Service before such posting.

TITLE XI—CIVILIAN PERSONNEL MATTERS

SUBTITLE A—EXTENSIONS OF AUTHORITIES

- Sec. 1101. Extension of eligibility to continue Federal employee health benefits.
- Sec. 1102. Extension of Department of Defense voluntary reduction in force authority.
- Sec. 1103. Extension of authority to make lump sum severance payments.
- Sec. 1104. Permanent extension of Science, Mathematics, and Research for Transformation (SMART) Defense Education Program.
- Sec. 1105. Authority to waive annual limitation on total compensation paid to Federal civilian employees.

SUBTITLE B—VETERANS PREFERENCE MATTERS

- Sec. 1111. Veterans' preference status for certain veterans who served on active duty during the period beginning on September 11, 2001, and ending as of the close of Operation Iraqi Freedom.
- Sec. 1112. Veterans' preference eligibility for military reservists.

SUBTITLE C—OTHER MATTERS

- Sec. 1121. Transportation of family members in connection with the repatriation of Federal employees held captive.
- Sec. 1122. Strategic human capital plan for civilian employees of the Department of Defense.
- Sec. 1123. Independent study on features of successful personnel management systems of highly technical and scientific workforces.
- Sec. 1124. Support by Department of Defense of pilot project for Civilian Linguist Reserve Corps.
- Sec. 1125. Increase in authorized number of positions in Defense Intelligence Senior Executive Service.

Subtitle A—Extensions of Authorities

SEC. 1101. EXTENSION OF ELIGIBILITY TO CONTINUE FEDERAL EMPLOYEE HEALTH BENEFITS.

Section 8905a(d)(4)(B) of title 5, United States Code, is amended—

- (1) in clause (i), by striking “October 1, 2006” and inserting “October 1, 2010”; and
- (2) in clause (ii)—
 - (A) by striking “February 1, 2007” and inserting “February 1, 2011”; and
 - (B) by striking “October 1, 2006” and inserting “October 1, 2010”.

SEC. 1102. EXTENSION OF DEPARTMENT OF DEFENSE VOLUNTARY REDUCTION IN FORCE AUTHORITY.

Section 3502(f)(5) of title 5, United States Code, is amended by striking “September 30, 2005” and inserting “September 30, 2010”.

SEC. 1103. EXTENSION OF AUTHORITY TO MAKE LUMP SUM SEVERANCE PAYMENTS.

Section 5595(i)(4) of title 5, United States Code, is amended by striking “October 1, 2006” and inserting “October 1, 2010”.

SEC. 1104. PERMANENT EXTENSION OF SCIENCE, MATHEMATICS, AND RESEARCH FOR TRANSFORMATION (SMART) DEFENSE EDUCATION PROGRAM.

(a) PERMANENT EXTENSION.—Section 1105 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2074; 10 U.S.C. 2192 note) is amended—

(1) by striking “pilot” each place it appears in the section and subsection headings and the text;

(2) in subsection (a)—

(A) by striking “(1)”; and

(B) by striking paragraph (2);

(3) in subsection (b)—

(A) by striking “(b)” and all that follows through “a scholarship” and inserting “(b) FINANCIAL ASSISTANCE.—

(1) Under the program under this section, the Secretary of Defense may award a scholarship or fellowship”;

(B) in paragraph (1)(B)—

(i) by striking “undergraduate” and inserting “associates degree, undergraduate degree,”; and

(ii) by inserting “accredited” before “institution of higher education”;

(C) in paragraph (2)—

(i) by inserting “or fellowship” after “scholarship”;

(ii) by inserting “equipment expenses,” after “laboratory expenses,”; and

(iii) by striking the second sentence; and

(D) by adding at the end the following new paragraph:

“(3) Financial assistance provided under a scholarship or fellowship awarded under this section may be paid directly to the recipient of such scholarship or fellowship or to an administering entity for disbursement of the funds.”; and

(4) in subsection (c)—

(A) in the heading, by inserting “FINANCIAL” before “ASSISTANCE”

(B) in paragraph (2)—

(i) by striking “a scholarship” and inserting “financial assistance”;

(ii) by striking “the financial assistance provided under the scholarship” and inserting “such financial assistance”; and

(iii) by striking the second sentence and inserting the following: “Except as provided in subsection (d), the period of service required of a recipient may not be less than the total period of pursuit of a degree that is covered by such financial assistance.”.

(b) EMPLOYMENT OF PROGRAM PARTICIPANTS.—Such section is further amended—

(1) by striking subsection (g);

(2) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively; and

(3) by inserting after subsection (c) the following new subsection (d):

“(d) EMPLOYMENT OF PROGRAM PARTICIPANTS.—(1) The Secretary of Defense may—

“(A) appoint or retain a person participating in the program under this section in a position on an interim basis during the period of such person’s pursuit of a degree under the program and for a period not to exceed 2 years after completion of the degree, but only if, in the case of the period after completion of the degree—

“(i) there is no readily available appropriate permanent position for such person; and

“(ii) there is an active and ongoing effort to identify and assign such person to an appropriate permanent position as soon as practicable; and

“(B) if there is no appropriate permanent position available after the end of the periods described in subparagraph (A), separate such person from employment with the Department without regard to any other provision of law, in which event the service agreement of such person under subsection (c) shall terminate.

“(2) The period of service of a person covered by paragraph (1) in a position on an interim basis under that paragraph shall, after completion of the degree, be treated as a period of service for purposes of satisfying the obligated service requirements of the person under the service agreement of the person under subsection (c).”.

(c) REFUND FOR PERIOD OF UNSERVED OBLIGATED SERVICE.—Paragraph (1) of subsection (e) of such section, as redesignated by subsection (c)(1) of this section, is amended to read as follows:

“(1)(A) A participant in the program under this section who is not an employee of the Department of Defense and who voluntarily fails to complete the educational program for which financial assistance has been provided under this section, or fails to maintain satisfactory academic progress as determined in accordance with regulations prescribed by the Secretary of Defense, shall refund to the United States an appropriate amount, as determined by the Secretary.

“(B) A participant in the program under this section who is an employee of the Department of Defense and who—

“(i) voluntarily fails to complete the educational program for which financial assistance has been provided, or fails to maintain satisfactory academic progress as determined in accordance with regulations prescribed by the Secretary; or

“(ii) before completion of the period of obligated service required of such participant—

“(I) voluntarily terminates such participant’s employment with the Department; or

“(II) is removed from such participant’s employment with the Department on the basis of misconduct, shall refund the United States an appropriate amount, as determined by the Secretary.”.

(d) CODIFICATION.—

(1) AMENDMENT TO TITLE 10.—Chapter 111 of title 10, United States Code, is amended—

(A) by inserting after section 2192 the following:

“§ 2192a. Science, Mathematics, and Research for Transformation (SMART) Defense Education Program”;

and

(B) by transferring and inserting the text of section 1105 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2074; 10 U.S.C. 2192 note), as amended by subsections (a), (b), and (c), so as to appear below the section heading for section 2192a, as added by subparagraph (A).

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2192 the following new item:

“2192a. Science, Mathematics, and Research for Transformation (SMART) Defense Education Program.”.

(e) CONFORMING AMENDMENTS.—

(1) Section 1105 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2074; 10 U.S.C. 2192 note) is repealed.

(2) Section 3304(a)(3)(B)(ii) of title 5, United States Code, is amended—

(A) by striking “Scholarship Pilot Program” and inserting “Defense Education Program”; and

(B) by striking “section 1105” and all that follows through the period and inserting “section 2192a of title 10, United States Code.”.

10 USC 2192a
note.

(f) EFFECT ON CURRENT PARTICIPANTS IN SMART PILOT PROGRAM.—Participation in the Science, Mathematics, and Research for Transformation (SMART) Defense Scholarship Pilot Program under section 1105 of Public Law 108–375 by an individual who has entered into an agreement under that pilot program before the date of the enactment of this Act shall be governed by the terms of such agreement without regard to the amendments made by this section.

SEC. 1105. AUTHORITY TO WAIVE ANNUAL LIMITATION ON TOTAL COMPENSATION PAID TO FEDERAL CIVILIAN EMPLOYEES.

(a) WAIVER AUTHORITY.—During 2006 and notwithstanding section 5547 of title 5, United States Code, the head of an executive agency may waive, subject to subsection (b), the limitation established in that section for total compensation (including limitations on the aggregate of basic pay and premium pay payable in a calendar year) of an employee who performs work while in an overseas location that is in the area of responsibility of the commander of the United States Central Command, in direct support of or directly related to a military operation (including a contingency operation as defined in section 101(13) of title 10, United States Code).

(b) \$200,000 MAXIMUM TOTAL COMPENSATION.—The total compensation of an employee whose pay is covered by a waiver under subsection (a) may not exceed \$200,000 in a calendar year.

(c) ADDITIONAL PAY NOT CONSIDERED BASIC PAY.—To the extent that a waiver under subsection (a) results in payment of additional premium pay of a type that is normally creditable as basic pay for retirement or any other purpose, such additional pay—

(1) shall not be considered to be basic pay for any purpose; and

(2) shall not be used in computing a lump sum payment for accumulated and accrued annual leave under section 5551 of title 5, United States Code.

Subtitle B—Veterans Preference Matters

SEC. 1111. VETERANS' PREFERENCE STATUS FOR CERTAIN VETERANS WHO SERVED ON ACTIVE DUTY DURING THE PERIOD BEGINNING ON SEPTEMBER 11, 2001, AND ENDING AS OF THE CLOSE OF OPERATION IRAQI FREEDOM.

(a) DEFINITION OF VETERAN.—Section 2108(1) of title 5, United States Code, is amended—

(1) in subparagraph (B), by striking “or” at the end;

(2) in subparagraph (C), by adding “or” after the semicolon;

and

(3) by inserting after subparagraph (C) the following:

“(D) served on active duty as defined by section 101(21) of title 38 at any time in the armed forces for a period of more than 180 consecutive days any part of which occurred during the period beginning on September 11, 2001, and ending on the date prescribed by Presidential proclamation or by law as the last date of Operation Iraqi Freedom;”.

(b) CONFORMING AMENDMENT.—Section 2108(3)(B) of such title is amended by striking “paragraph (1)(B) or (C)” and inserting “paragraph (1)(B), (C), or (D)”.

SEC. 1112. VETERANS' PREFERENCE ELIGIBILITY FOR MILITARY RESERVISTS.

(a) VETERANS' PREFERENCE ELIGIBILITY.—Section 2108(1) of title 5, United States Code, is amended by striking “separated from” and inserting “discharged or released from active duty in”.

(b) SAVINGS PROVISION.—Nothing in the amendment made by subsection (a) may be construed to affect a determination made before the date of enactment of this Act that an individual is a preference eligible (as defined in section 2108(3) of title 5, United States Code).

5 USC 2108 note.

Subtitle C—Other Matters

SEC. 1121. TRANSPORTATION OF FAMILY MEMBERS IN CONNECTION WITH THE REPATRIATION OF FEDERAL EMPLOYEES HELD CAPTIVE.

(a) ALLOWANCES AUTHORIZED.—Chapter 57 of title 5, United States Code, is amended by adding at the end the following new section:

“§ 5760. Travel and transportation allowances: transportation of family members incident to the repatriation of employees held captive

“(a) ALLOWANCE FOR FAMILY MEMBERS AND CERTAIN OTHERS.—(1) Under uniform regulations prescribed by the heads of agencies, travel and transportation described in subsection (d) may be provided for not more than 3 family members of an employee described in subsection (b).

“(2) In addition to the family members authorized to be provided travel and transportation under paragraph (1), the head of an agency may provide travel and transportation described in subsection (d) to an attendant to accompany a family member described in subsection (b) if the head of an agency determines—

“(A) the family member to be accompanied is unable to travel unattended because of age, physical condition, or other reason determined by the head of the agency; and

“(B) no other family member who is eligible for travel and transportation under subsection (a) is able to serve as an attendant for the family member.

“(3) If no family member of an employee described in subsection (b) is able to travel to the repatriation site of the employee, travel and transportation described in subsection (d) may be provided to not more than 2 persons related to and selected by the employee.

“(b) COVERED EMPLOYEES.—An employee described in this subsection is an employee (as defined in section 2105 of this title) who—

“(1) was held captive, as determined by the head of an agency concerned; and

“(2) is repatriated to a site inside or outside the United States.

“(c) ELIGIBLE FAMILY MEMBERS.—In this section, the term ‘family member’ has the meaning given the term in section 411h(b) of title 37.

“(d) TRAVEL AND TRANSPORTATION AUTHORIZED.—(1) The transportation authorized by subsection (a) is round-trip transportation between the home of the family member (or home of the attendant or person provided transportation under paragraph (2) or (3) of subsection (a), as the case may be) and the location of the repatriation site at which the employee is located.

“(2) In addition to the transportation authorized by subsection (a), the head of an agency may provide a per diem allowance or reimbursement for the actual and necessary expenses of the travel, or a combination thereof, but not to exceed the rates established for such allowances and expenses under section 404(d) of title 37.

“(3) The transportation authorized by subsection (a) may be provided by any of the means described in section 411h(d)(1) of title 37.

“(4) An allowance under this subsection may be paid in advance.

“(5) Reimbursement payable under this subsection may not exceed the cost of government-procured round-trip air travel.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 57 of such title is amended by adding at the end the following new item:

“5760. Travel and transportation allowances: transportation of family members incident to the repatriation of employees held captive.”.

10 USC prec.
1580 note.

Deadline.

SEC. 1122. STRATEGIC HUMAN CAPITAL PLAN FOR CIVILIAN EMPLOYEES OF THE DEPARTMENT OF DEFENSE.

(a) PLAN REQUIRED.—(1) Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall develop and submit to the Committees on Armed Services of the Senate and House of Representatives a strategic plan to shape and improve the civilian employee workforce of the Department of Defense.

(2) The plan shall be known as the “strategic human capital plan”.

(b) CONTENTS.—The strategic human capital plan required by subsection (a) shall include—

(1) an assessment of—

(A) the critical skills and competencies that will be needed in the future civilian employee workforce of the Department of Defense to support national security requirements and effectively manage the Department over the next decade;

(B) the skills and competencies of the existing civilian employee workforce of the Department and projected trends in that workforce based on expected losses due to retirement and other attrition; and

(C) gaps in the existing or projected civilian employee workforce of the Department that should be addressed to ensure that the Department has continued access to the critical skills and competencies described in subparagraph (A); and

(2) a plan of action for developing and reshaping the civilian employee workforce of the Department to address the gaps in critical skills and competencies identified under paragraph (1)(C), including—

(A) specific recruiting and retention goals, including the program objectives of the Department to be achieved through such goals; and

(B) specific strategies for development, training, deploying, compensating, and motivating the civilian employee workforce of the Department, including the program objectives of the Department to be achieved through such strategies.

(c) ANNUAL UPDATES.—Not later than March 1 of each year from 2007 through 2010, the Secretary shall update the strategic human capital plan required by subsection (a), as previously updated under this subsection. Deadline.

(d) ANNUAL REPORTS.—Not later than March 1 of each year from 2007 through 2010, the Secretary shall submit to the appropriate committees of Congress—

(1) the update of the strategic human capital plan prepared in such year under subsection (c); and

(2) the assessment of the Secretary, using results-oriented performance measures, of the progress of the Department of Defense in implementing the strategic human capital plan.

(e) COMPTROLLER GENERAL REVIEW.—Not later than 90 days after the Secretary submits under subsection (a) the strategic human capital plan required by that subsection, the Comptroller General shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the plan. Deadline.
Reports.

SEC. 1123. INDEPENDENT STUDY ON FEATURES OF SUCCESSFUL PERSONNEL MANAGEMENT SYSTEMS OF HIGHLY TECHNICAL AND SCIENTIFIC WORKFORCES.

(a) INDEPENDENT STUDY.—The Secretary of Defense shall commission an independent study to identify the features of successful personnel management systems of the highly technical and scientific workforces of the Department of Defense laboratories and similar scientific facilities and institutions.

(b) **ELEMENTS.**—The study required by subsection (a) shall include the following:

(1) An examination of the personnel management authorities under statute or regulation currently being used, or available for use, at Department of Defense demonstration laboratories to assist in the management of the workforce of such laboratories.

(2) A list of personnel management authorities and practices critical to successful mission execution, obtained through interviews with selected, premier government and private sector laboratory directors.

(3) A comparative assessment of the effectiveness of the Department of Defense technical workforce management authorities and practices with that of other similar entities.

(4) Such recommendations as are considered appropriate for the effective use of available personnel management authorities to ensure the successful personnel management of the highly technical and scientific workforce of the Department of Defense.

50 USC 403–1b
note.

SEC. 1124. SUPPORT BY DEPARTMENT OF DEFENSE OF PILOT PROJECT FOR CIVILIAN LINGUIST RESERVE CORPS.

Subject to the availability of appropriated funds, the Secretary of Defense may support implementation of the Civilian Linguist Reserve Corps pilot project authorized by section 613 of the Intelligence Authorization Act for Fiscal Year 2005 (Public Law 108–487; 118 Stat. 3959; 50 U.S.C. 403–1b note).

SEC. 1125. INCREASE IN AUTHORIZED NUMBER OF POSITIONS IN DEFENSE INTELLIGENCE SENIOR EXECUTIVE SERVICE.

Section 1606(a) of title 10, United States Code, is amended by striking “544” and inserting “594”.

TITLE XII—MATTERS RELATING TO FOREIGN NATIONS

SUBTITLE A—ASSISTANCE AND TRAINING

- Sec. 1201. Extension of humanitarian and civic assistance provided to host nations in conjunction with military operations.
- Sec. 1202. Commanders' Emergency Response Program.
- Sec. 1203. Modification of geographic restriction under bilateral and regional cooperation programs for payment of certain expenses of defense personnel of developing countries.
- Sec. 1204. Authority for Department of Defense to enter into acquisition and cross-servicing agreements with regional organizations of which the United States is not a member.
- Sec. 1205. Two-year extension of authority for payment of certain administrative services and support for coalition liaison officers.
- Sec. 1206. Authority to build the capacity of foreign military forces.
- Sec. 1207. Security and stabilization assistance.
- Sec. 1208. Reimbursement of certain coalition nations for support provided to United States military operations.
- Sec. 1209. Authority to transfer defense articles and provide defense services to the military and security forces of Iraq and Afghanistan.

SUBTITLE B—NONPROLIFERATION MATTERS AND COUNTRIES OF CONCERN

- Sec. 1211. Prohibition on procurements from Communist Chinese military companies.
- Sec. 1212. Report on nonstrategic nuclear weapons.

SUBTITLE C—REPORTS AND SENSE OF CONGRESS PROVISIONS

- Sec. 1221. War-related reporting requirements.

- Sec. 1222. Quarterly reports on war strategy in Iraq.
- Sec. 1223. Report on records of civilian casualties in Afghanistan and Iraq.
- Sec. 1224. Annual report on Department of Defense costs to carry out United Nations resolutions.
- Sec. 1225. Report on claims related to the bombing of the LaBelle Discotheque.
- Sec. 1226. Sense of Congress concerning cooperation with Russia on issues pertaining to missile defense.
- Sec. 1227. United States policy on Iraq.

SUBTITLE D—OTHER MATTERS

- Sec. 1231. Purchase of weapons overseas for force protection purposes in countries in which combat operations are ongoing.
- Sec. 1232. Riot control agents.
- Sec. 1233. Requirement for establishment of certain criteria applicable to Global Posture Review.
- Sec. 1234. The United States-China Economic Security Review Commission.

Subtitle A—Assistance and Training

SEC. 1201. EXTENSION OF HUMANITARIAN AND CIVIC ASSISTANCE PROVIDED TO HOST NATIONS IN CONJUNCTION WITH MILITARY OPERATIONS.

(a) **LIMITATION ON AMOUNT OF ASSISTANCE FOR CLEARANCE OF LANDMINES, ETC.**—Subsection (c)(3) of section 401 of title 10, United States Code is amended by striking “\$5,000,000” and inserting “\$10,000,000”.

(b) **EXTENSION AND CLARIFICATION OF TYPES OF HEALTH CARE AUTHORIZED.**—Subsection (e)(1) of such section is amended—

- (1) by inserting “surgical,” before “dental,” both places it appears; and
- (2) by inserting “, including education, training, and technical assistance related to the care provided” before the period at the end.

SEC. 1202. COMMANDERS’ EMERGENCY RESPONSE PROGRAM.

(a) **AUTHORITY FOR FISCAL YEARS 2006 AND 2007.**—During each of fiscal years 2006 and 2007, from funds made available to the Department of Defense for operation and maintenance for such fiscal year, not to exceed \$500,000,000 may be used by the Secretary of Defense in such fiscal year to provide funds—

- (1) for the Commanders’ Emergency Response Program; and
- (2) for a similar program to assist the people of Afghanistan.

(b) **QUARTERLY REPORTS.**—Not later than 15 days after the end of each fiscal-year quarter of fiscal years 2006 and 2007, the Secretary of Defense shall submit to the congressional defense committees a report regarding the source of funds and the allocation and use of funds during that quarter that were made available pursuant to the authority provided in this section or under any other provision of law for the purposes of the programs under subsection (a).

(c) **SUBMISSION OF GUIDANCE.**—

- (1) **INITIAL SUBMISSION.**—Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a copy of the guidance issued by the Secretary to the Armed Forces concerning the allocation of funds through the Commanders’ Emergency Response Program and any similar program to assist the people of Afghanistan.

Records.

(2) MODIFICATIONS.—If the guidance in effect for the purpose stated in paragraph (1) is modified, the Secretary shall submit to the congressional defense committees a copy of the modification not later than 15 days after the date on which the Secretary makes the modification.

(d) WAIVER AUTHORITY.—For purposes of exercising the authority provided by this section or any other provision of law making funding available for the Commanders' Emergency Response Program or any similar program to assist the people of Afghanistan, the Secretary of Defense may waive any provision of law not contained in this section that would (but for the waiver) prohibit, restrict, limit, or otherwise constrain the exercise of that authority.

(e) COMMANDERS' EMERGENCY RESPONSE PROGRAM DEFINED.—In this section, the term "Commanders' Emergency Response Program" means the program established by the Administrator of the Coalition Provisional Authority for the purpose of enabling United States military commanders in Iraq to respond to urgent humanitarian relief and reconstruction requirements within their areas of responsibility by carrying out programs that will immediately assist the Iraqi people.

SEC. 1203. MODIFICATION OF GEOGRAPHIC RESTRICTION UNDER BILATERAL AND REGIONAL COOPERATION PROGRAMS FOR PAYMENT OF CERTAIN EXPENSES OF DEFENSE PERSONNEL OF DEVELOPING COUNTRIES.

Section 1051(b)(1) of title 10, United States Code, is amended—

(1) by inserting "to and" after "in connection with travel"; and

(2) by striking "in which the developing country is located" and inserting "in which the bilateral or regional conference, seminar, or similar meeting for which expenses are authorized is located".

SEC. 1204. AUTHORITY FOR DEPARTMENT OF DEFENSE TO ENTER INTO ACQUISITION AND CROSS-SERVICING AGREEMENTS WITH REGIONAL ORGANIZATIONS OF WHICH THE UNITED STATES IS NOT A MEMBER.

Subchapter I of chapter 138 of title 10, United States Code, is amended by striking "of which the United States is a member" in sections 2341(1), 2342(a)(1)(C), and 2344(b)(4).

SEC. 1205. TWO-YEAR EXTENSION OF AUTHORITY FOR PAYMENT OF CERTAIN ADMINISTRATIVE SERVICES AND SUPPORT FOR COALITION LIAISON OFFICERS.

Section 1051a(e) of title 10, United States Code, is amended by striking "September 30, 2005" and inserting "September 30, 2007".

SEC. 1206. AUTHORITY TO BUILD THE CAPACITY OF FOREIGN MILITARY FORCES.

(a) AUTHORITY.—The President may direct the Secretary of Defense to conduct or support a program to build the capacity of a foreign country's national military forces in order for that country to—

(1) conduct counterterrorist operations; or

(2) participate in or support military and stability operations in which the United States Armed Forces are a participant.

(b) TYPES OF CAPACITY BUILDING.—

(1) AUTHORIZED ELEMENTS.—The program directed by the President under subsection (a) may include the provision of equipment, supplies, and training.

(2) REQUIRED ELEMENTS.—The program directed by the President under subsection (a) shall include elements that promote—

(A) observance of and respect for human rights and fundamental freedoms; and

(B) respect for legitimate civilian authority within that country.

(c) LIMITATIONS.—

(1) ANNUAL FUNDING LIMITATION.—The Secretary of Defense may use up to \$200,000,000 of funds available for defense-wide operation and maintenance for any fiscal year to conduct or support activities directed by the President under subsection (a) in that fiscal year.

(2) ASSISTANCE OTHERWISE PROHIBITED BY LAW.—The President may not use the authority in subsection (a) to provide any type of assistance described in subsection (b) that is otherwise prohibited by any provision of law.

(3) LIMITATION ON ELIGIBLE COUNTRIES.—The President may not use the authority in subsection (a) to provide assistance described in subsection (b) to any foreign country that is otherwise prohibited from receiving such type of assistance under any other provision of law.

(d) FORMULATION AND EXECUTION OF PROGRAM.—The Secretary of Defense and the Secretary of State shall jointly formulate any program directed by the President under subsection (a). The Secretary of Defense shall coordinate with the Secretary of State in the implementation of any program directed by the President under subsection (a).

(e) CONGRESSIONAL NOTIFICATION.—

(1) PRESIDENTIAL DIRECTION.—At the time the President directs the Secretary of Defense to conduct or support a program authorized in subsection (a), the President shall provide a written copy of that direction to the Congress.

(2) ACTIVITIES IN A COUNTRY.—Not less than 15 days before initiating activities in any country as directed by the President under subsection (a), the Secretary of Defense, in coordination with the Secretary of State, shall submit to the congressional committees specified in paragraph (3) a notice of the following:

(A) The country whose capacity to engage in activities in subsection (a) will be built.

(B) The budget, implementation timeline with milestones, and completion date for completing the program directed by the President.

(C) The source and planned expenditure of funds to complete the program directed by the President.

(3) SPECIFIED CONGRESSIONAL COMMITTEES.—The congressional committees specified in this paragraph are the following:

(A) The Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Appropriations of the Senate.

(B) The Committee on Armed Services, the Committee on International Relations, and the Committee on Appropriations of the House of Representatives.

(f) REPORT.—Not later than one year after the date of the enactment of this Act, the President shall transmit to the congressional committees specified in subsection (e)(3) a report examining the following issues:

(1) The strengths and weaknesses of the Foreign Assistance Act of 1961, the Arms Export Control Act, and any other provision of law related to the building of the capacity of foreign governments or the training and equipping of foreign military forces, including strengths and weaknesses for the purposes described in subsection (a).

(2) The changes, if any, that should be made to the Foreign Assistance Act of 1961, the Arms Export Control Act, and any other relevant provision of law that would improve the ability of the United States Government to build the capacity of foreign governments or train and equip foreign military forces, including for the purposes described in subsection (a).

(3) The organizational and procedural changes, if any, that should be made in the Department of State and the Department of Defense to improve their ability to conduct programs to build the capacity of foreign governments or train and equip foreign military forces, including for the purposes described in subsection (a).

(4) The resources and funding mechanisms required to assure adequate funding for such programs.

(g) TERMINATION OF PROGRAM.—The authority of the President under subsection (a) to direct the Secretary of Defense to conduct a program terminates at the close of September 30, 2007. Any program directed before that date may be completed, but only using funds available for fiscal year 2006 or fiscal year 2007.

SEC. 1207. SECURITY AND STABILIZATION ASSISTANCE.

(a) AUTHORITY.—The Secretary of Defense may provide services to, and transfer defense articles and funds to, the Secretary of State for the purposes of facilitating the provision by the Secretary of State of reconstruction, security, or stabilization assistance to a foreign country.

(b) LIMITATION.—The aggregate value of all services, defense articles, and funds provided or transferred to the Secretary of State under this section in any fiscal year may not exceed \$100,000,000.

(c) AVAILABILITY OF FUNDS.—Any funds transferred to the Secretary of State under this section may remain available until expended.

(d) CONGRESSIONAL NOTIFICATION.—

(1) REQUIREMENT FOR NOTICE.—Whenever the Secretary of Defense exercises the authority under subsection (a), the Secretary shall, at the time the authority is exercised, notify the congressional committees specified in paragraph (3) of the exercise of that authority. Any such notification shall be prepared in coordination with the Secretary of State.

(2) CONTENT OF NOTIFICATION.—Any notification under paragraph (1) shall include a description of—

(A) the services, defense articles, or funds provided or transferred to the Secretary of State; and

(B) the purpose for which such services, defense articles, and funds will be used.

(3) SPECIFIED CONGRESSIONAL COMMITTEES.—The congressional committees specified in this paragraph are the following:

(A) The Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Appropriations of the Senate.

(B) The Committee on Armed Services, the Committee on International Relations, and the Committee on Appropriations of the House of Representatives.

(e) APPLICABLE LAW.—Any services, defense articles, or funds provided or transferred to the Secretary of State under the authority of this section that the Secretary of State uses to provide reconstruction, security, or stabilization assistance to a foreign country shall be subject to the authorities and limitations in the Foreign Assistance Act of 1961, the Arms Export Control Act, or any law making appropriations to carry out such Acts.

(f) EXPIRATION.—The authority provided under subsection (a) may not be exercised after September 30, 2007.

SEC. 1208. REIMBURSEMENT OF CERTAIN COALITION NATIONS FOR SUPPORT PROVIDED TO UNITED STATES MILITARY OPERATIONS.

(a) AUTHORITY.—From funds made available for the Department of Defense by title XV for Defense-Wide Operation and Maintenance, the Secretary of Defense may reimburse any key cooperating nation for logistical and military support provided by that nation to or in connection with United States military operations in Iraq, Afghanistan, and the global war on terrorism.

(b) DETERMINATIONS.—Payments authorized under subsection (a) may be made in such amounts as the Secretary of Defense, with the concurrence of the Secretary of State and in consultation with the Director of the Office of Management and Budget, may determine, in the Secretary's discretion, based on documentation determined by the Secretary of Defense to adequately account for the support provided. Any such determination by the Secretary of Defense shall be final and conclusive upon the accounting officers of the United States. To the maximum extent practicable, the Secretary shall develop standards for determining the kinds of logistical and military support to the United States that shall be considered reimbursable under this section.

(c) LIMITATIONS.—

(1) TOTAL AMOUNT.—The total amount of payments made under the authority of this section during fiscal year 2006 may not exceed \$1,500,000,000.

(2) PROHIBITION ON CONTRACTUAL OBLIGATIONS TO MAKE PAYMENTS.—The Secretary may not enter into any contractual obligation to make a payment under the authority of this section.

(d) CONGRESSIONAL NOTIFICATIONS.—The Secretary of Defense—

(1) shall notify the congressional defense committees not less than 15 days before making any payment under the authority of this section; and

(2) shall submit to those committees quarterly reports on the use of the authority under this section. Reports.

SEC. 1209. AUTHORITY TO TRANSFER DEFENSE ARTICLES AND PROVIDE DEFENSE SERVICES TO THE MILITARY AND SECURITY FORCES OF IRAQ AND AFGHANISTAN.

President.

(a) **AUTHORITY.**—The President is authorized to transfer defense articles from the stocks of the Department of Defense and to provide defense services in connection with the transfer of such defense articles to the military and security forces of Iraq and Afghanistan in order to support the efforts of those forces to restore and maintain peace and security in those countries.

(b) **LIMITATION.**—The aggregate value of all defense articles transferred and defense services provided to Iraq and Afghanistan under subsection (a) may not exceed \$500,000,000.

(c) **APPLICABLE LAW.**—Any defense articles transferred or defense services provided to Iraq or Afghanistan under the authority of subsection (a) shall be subject to the authorities and limitations applicable to the transfer of excess defense articles under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j), other than the authorities and limitations contained in subsections (b)(1)(B), (e), (f), and (g) of such section.

(d) **NOTIFICATION.**—

(1) **IN GENERAL.**—The President may not transfer defense articles or provide defense services under subsection (a) until 15 days after the date on which the President has provided notice of the proposed transfer of defense articles or provision of defense services to the appropriate congressional committees.

(2) **CONTENTS.**—Such notification shall include—

(A) the information required by subparagraphs (A) through (D) of section 516(f)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j(f)(2)(A) through (D));

(B) a description of the amount and type of each defense article to be transferred or defense service to be provided and the brigade-level unit from which the defense article is to be transferred or defense service is to be provided, if applicable; and

(C) an identification of the element of the military or security force that is the proposed recipient of each defense article to be transferred or defense service to be provided.

(e) **DEFINITIONS.**—In this section:

(1) **APPROPRIATE CONGRESSIONAL COMMITTEES.**—The term “appropriate congressional committees” means—

(A) the Committee on Appropriations, the Committee on Armed Services, and the Committee on International Relations of the House of Representatives; and

(B) the Committee on Appropriations, the Committee on Armed Services, and the Committee on Foreign Relations of the Senate.

(2) **DEFENSE ARTICLES.**—The term “defense articles” has the meaning given the term in section 644(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2403(d)).

(3) **DEFENSE SERVICES.**—The term “defense services” has the meaning given the term in section 644(f) of such Act (22 U.S.C. 2403(f)).

(4) **MILITARY AND SECURITY FORCES.**—The term “military and security forces” has the meaning given the term in section 1202(e) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375).

(f) EXPIRATION.—The authority provided under subsection (a) may not be exercised after September 30, 2006.

Subtitle B—Nonproliferation Matters and Countries of Concern

SEC. 1211. PROHIBITION ON PROCUREMENTS FROM COMMUNIST CHINESE MILITARY COMPANIES.

10 USC 2302
note.

(a) PROHIBITION.—The Secretary of Defense may not procure goods or services described in subsection (b), through a contract or any subcontract (at any tier) under a contract, from any Communist Chinese military company.

(b) GOODS AND SERVICES COVERED.—For purposes of subsection (a), the goods and services described in this subsection are goods and services on the munitions list of the International Trafficking in Arms Regulations, other than goods or services procured—

(1) in connection with a visit by a vessel or an aircraft of the United States Armed Forces to the People's Republic of China;

(2) for testing purposes; or

(3) for purposes of gathering intelligence.

(c) WAIVER AUTHORIZED.—The Secretary of Defense may waive the prohibition in subsection (a) if the Secretary determines such a waiver is necessary for national security purposes. The Secretary shall notify the congressional defense committees of each waiver made under this subsection.

(d) DEFINITIONS.—In this section:

(1) The term “Communist Chinese military company” has the meaning provided that term by section 1237(b)(4) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (50 U.S.C. 1701 note).

(2) The term “munitions list of the International Trafficking in Arms Regulations” means the United States Munitions List contained in part 121 of subchapter M of title 22 of the Code of Federal Regulations.

SEC. 1212. REPORT ON NONSTRATEGIC NUCLEAR WEAPONS.

(a) REVIEW.—Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall, in consultation with the Secretary of State and the Secretary of Energy, conduct a review of United States and Russian nonstrategic nuclear weapons and determine whether it is in the national security interest of the United States—

(1) to reduce the number of United States and Russian nonstrategic nuclear weapons;

(2) to improve the security of United States and Russian nonstrategic nuclear weapons in storage and during transport;

(3) to identify and develop mechanisms and procedures to implement transparent reductions in nonstrategic nuclear weapons; and

(4) to identify and develop mechanisms and procedures to implement the transparent dismantlement of excess nonstrategic nuclear weapons.

(b) REPORT.—

(1) IN GENERAL.—The Secretary of Defense shall submit to the congressional defense committees a joint report, prepared

in consultation with the Secretary of State and the Secretary of Energy, on the results of the review required under subsection (a). The report shall include a plan to implement, not later than October 1, 2006, actions determined as a result of the review to be in the United States national security interest.

(2) FORM.—The report required under paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

Subtitle C—Reports and Sense of Congress Provisions

10 USC 113 note. SEC. 1221. WAR-RELATED REPORTING REQUIREMENTS.

(a) REPORT REQUIRED FOR OPERATION IRAQI FREEDOM, OPERATION ENDURING FREEDOM, AND OPERATION NOBLE EAGLE.—The Secretary of Defense shall submit to the congressional defense committees, in accordance with this section, a report on procurement and equipment maintenance costs for each of Operation Iraqi Freedom, Operation Enduring Freedom, and Operation Noble Eagle and on facility infrastructure costs associated with each of Operation Iraqi Freedom and Operation Enduring Freedom. The report shall include the following:

(1) PROCUREMENT.—A specification of costs of procurement funding requested since fiscal year 2003, together with end-item quantities requested and the purpose of the request (such as replacement for battle losses, improved capability, increase in force size, restructuring of forces), shown by service.

(2) EQUIPMENT MAINTENANCE.—A cost comparison of the requirements for equipment maintenance expenditures during peacetime and for such requirements during wartime, as shown by the requirements in each of Operation Iraqi Freedom, Operation Enduring Freedom, and Operation Noble Eagle. The cost comparison shall include—

(A) a description of the effect of war operations on the backlog of maintenance requirements over the period of fiscal years 2003 to the time of the report; and

(B) an examination of the extent to which war operations have precluded maintenance from being performed because equipment was unavailable.

(3) OPERATION IRAQI FREEDOM AND OPERATION ENDURING FREEDOM INFRASTRUCTURE.—A specification of the number of United States military personnel that can be supported by the facility infrastructure in Iraq and Afghanistan and in the neighboring countries from where Operation Iraqi Freedom and Operation Enduring Freedom are supported.

(b) SUBMISSION REQUIREMENTS.—The report under subsection (a) shall be submitted not later than 180 days after the date of the enactment of this Act. The Secretary of Defense shall submit an updated report on procurement, equipment maintenance, and military construction costs, as specified in subsection (a), concurrently with any request made to Congress after the date of the enactment of this Act for war-related funding.

(c) SUBMISSION TO GAO OF CERTAIN REPORTS ON COSTS.—The Secretary of Defense shall submit to the Comptroller General, not later than 45 days after the end of each reporting month, the

Department of Defense Supplemental and Cost of War Execution reports. Based on these reports, the Comptroller General shall provide to Congress quarterly updates on the costs of Operation Iraqi Freedom and Operation Enduring Freedom.

SEC. 1222. QUARTERLY REPORTS ON WAR STRATEGY IN IRAQ.

(a) **QUARTERLY REPORTS.**—At the same time the Secretary of Defense submits to Congress each report on stability and security in Iraq that is submitted to Congress after the date of the enactment of this Act under the Joint Explanatory Statement of the Committee on Conference to accompany the conference report on the bill H.R. 1268 of the 109th Congress, the Secretary of Defense and appropriate personnel of the Central Intelligence Agency shall provide the appropriate committees of Congress a briefing on the strategy for the war in Iraq, including the intelligence and other measures of evaluation used in determining the progress made in the execution of that strategy.

(b) **APPROPRIATE COMMITTEES OF CONGRESS DEFINED.**—In this section, the term “appropriate committees of Congress” means—

(1) the Committee on Armed Services, the Select Committee on Intelligence, and the Committee on Appropriations of the Senate; and

(2) the Committee on Armed Services, the Permanent Select Committee on Intelligence, and the Committee on Appropriations of the House of Representatives.

(c) **TERMINATION OF REQUIREMENT.**—This section shall cease to be in effect after 12 of the quarterly briefings specified in subsection (a) have been provided or December 31, 2008, whichever is later.

SEC. 1223. REPORT ON RECORDS OF CIVILIAN CASUALTIES IN AFGHANISTAN AND IRAQ.

(a) **REPORT.**—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on records of civilian casualties in Afghanistan and Iraq.

(b) **MATTERS TO BE INCLUDED.**—The report under subsection (a) shall include the following:

(1) Whether records of civilian casualties in Afghanistan and Iraq are kept by the United States Armed Forces and if such records are kept—

(A) how and from what sources the information for those records is collected;

(B) where those records are kept; and

(C) what officials or organizations are responsible for maintaining those records.

(2) Whether such records (if kept) contain—

(A) any information relating to the circumstances under which the casualties occurred and whether those casualties were fatalities or injuries;

(B) information as to whether any condolence payment, compensation, or assistance was provided to the victim or to the victim’s family; and

(C) any other information relating to those casualties.

SEC. 1224. ANNUAL REPORT ON DEPARTMENT OF DEFENSE COSTS TO CARRY OUT UNITED NATIONS RESOLUTIONS. 10 USC 113 note.

(a) **REQUIREMENT FOR ANNUAL REPORT.**—

(1) DEPARTMENT OF DEFENSE COSTS.—Not later than April 30 of each year, the Secretary of Defense shall submit to the congressional committees specified in paragraph (2) a report on Department of Defense costs during the preceding fiscal year to carry out United Nations resolutions.

(2) SPECIFIED COMMITTEES.—The committees specified in this paragraph are—

(A) the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Appropriations of the Senate; and

(B) the Committee on Armed Services, the Committee on International Relations, and the Committee on Appropriations of the House of Representatives.

(b) MATTERS TO BE INCLUDED.—Each report under subsection (a) shall set forth the following:

(1) All direct and indirect costs (including incremental costs) incurred by the Department of Defense during the preceding fiscal year in implementing or supporting any resolution adopted by the United Nations Security Council, including any such resolution calling for—

- (A) international sanctions;
- (B) international peacekeeping operations;
- (C) international peace enforcement operations;
- (D) monitoring missions;
- (E) observer missions; or
- (F) humanitarian missions.

(2) An aggregate of all such Department of Defense costs by operation or mission and the total cost to United Nations members of each operation or mission.

(3) All direct and indirect costs (including incremental costs) incurred by the Department of Defense during the preceding fiscal year in training, equipping, and otherwise assisting, preparing, providing resources for, and transporting foreign defense or security forces for implementing or supporting any resolution adopted by the United Nations Security Council, including any such resolution specified in paragraph (1).

(4) All efforts made to seek credit against past United Nations expenditures.

(5) All efforts made to seek compensation from the United Nations for costs incurred by the Department of Defense in implementing and supporting United Nations activities.

(c) COORDINATION.—The report under subsection (a) each year shall be prepared in coordination with the Secretary of State.

(d) FORM OF REPORT.—Each report required by this section shall be submitted in unclassified form, but may include a classified annex.

Germany.
Libya.

SEC. 1225. REPORT ON CLAIMS RELATED TO THE BOMBING OF THE LABELLE DISCOTHEQUE.

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Government of Libya should be commended for the steps the Government has taken to renounce terrorism and to eliminate Libya's weapons of mass destruction and related programs; and

(2) an important priority for improving relations between the United States and Libya should be a good faith effort

on the part of the Government of Libya to resolve the claims of members of the Armed Forces of the United States and other United States citizens who were injured in the bombing of the LaBelle Discotheque in Berlin, Germany that occurred in April 1986, and of family members of members of the Armed Forces of the United States who were killed in that bombing.

(b) REPORTS.—

(1) INITIAL REPORT.—Not later than 90 days after the date of enactment of this Act, the Secretary of State shall submit to the appropriate congressional committees a report on the status of negotiations between the Government of Libya and United States claimants in connection with the bombing of the LaBelle Discotheque in Berlin, Germany that occurred in April 1986, regarding resolution of their claims. The report shall also include information on efforts by the Government of the United States to urge the Government of Libya to make a good faith effort to resolve such claims.

(2) UPDATE.—Not later than one year after enactment of this Act, the Secretary of State shall submit to the appropriate congressional committees an update of the report required by paragraph (1).

(c) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term “appropriate congressional committees” means the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on Armed Services and the Committee on International Relations of the House of Representatives.

SEC. 1226. SENSE OF CONGRESS CONCERNING COOPERATION WITH RUSSIA ON ISSUES PERTAINING TO MISSILE DEFENSE.

It is the sense of Congress that—

(1) cooperation between the United States and Russia with regard to missile defense is in the interest of the United States;

(2) there does not exist strong enough engagement between the United States and Russia with respect to missile defense cooperation;

(3) the United States should explore innovative and non-traditional means of cooperation with Russia on issues pertaining to missile defense; and

(4) as part of such an effort, the Secretary of Defense should consider the possibilities for United States-Russian cooperation with respect to missile defense through—

(A) the testing of specific elements of the detection and tracking equipment of the Missile Defense Agency of the United States Department of Defense through the use of Russian target missiles;

(B) the provision of early warning radar to the Missile Defense Agency by the use of Russian radar data; and

(C) the implementation of the Joint Data Exchange Center in Moscow to improve early warning capabilities.

SEC. 1227. UNITED STATES POLICY ON IRAQ.

(a) SHORT TITLE.—This section may be cited as the “United States Policy in Iraq Act”.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that, in order to succeed in Iraq—

(1) members of the United States Armed Forces who are serving or have served in Iraq and their families deserve the

United States
Policy in Iraq
Act.
50 USC 1541
note.

utmost respect and the heartfelt gratitude of the American people for their unwavering devotion to duty, service to the Nation, and selfless sacrifice under the most difficult circumstances; the United States Congress supports our troops and supports a successful conclusion to their mission;

(2) it is important to recognize that the Iraqi people have made enormous sacrifices and that the overwhelming majority of Iraqis want to live in peace and security; and that the Iraqi security forces in a growing number of incidences are fighting side-by-side with coalition forces, are increasing in numbers and improving in military capability;

(3) the terrorists seeking to prevent the emergence of a secure, stable, peaceful, and democratic Iraq are led by individuals seeking to restore dictatorship in Iraq or who want to advance al Qaeda's broad vision of violently extreme Islam in the Middle East;

(4) calendar year 2006 should be a period of significant transition to full Iraqi sovereignty, with Iraqi security forces taking the lead for the security of a free and sovereign Iraq, thereby creating the conditions for the phased redeployment of United States forces from Iraq;

(5) United States military forces should not stay in Iraq any longer than required and the professional military judgment of our senior military should be a key factor in future decisions;

(6) the Administration should tell the leaders of all groups and political parties in Iraq that they need to make the compromises necessary to achieve the broad-based and sustainable political settlement that is essential for defeating the insurgency in Iraq, within the schedule they set for themselves; and

(7) the President has committed to continue to explain to Congress and the American people progress toward a successful completion of the mission in Iraq.

(c) REPORTS TO CONGRESS ON UNITED STATES POLICY AND MILITARY OPERATIONS IN IRAQ.—Not later than 90 days after the date of the enactment of this Act, and every three months thereafter until all United States combat brigades have redeployed from Iraq, the President shall submit to Congress a report on United States policy and military operations in Iraq. To the maximum extent practicable, the report required in (c) shall be unclassified, with a classified annex if necessary. Each report shall include to the extent practical, the following information:

(1) The current military mission and the diplomatic, political, economic, and military measures that are being or have been undertaken to successfully complete or support that mission, including:

(A) Efforts to convince Iraq's main communities to make the compromises necessary for a broad-based and sustainable political settlement.

(B) Engaging the international community and the region in efforts to stabilize Iraq and to forge a broad-based and sustainable political settlement.

(C) Strengthening the capacity of Iraq's government ministries.

(D) Accelerating the delivery of basic services.

(E) Securing the delivery of pledged economic assistance from the international community and additional pledges of assistance.

(F) Training Iraqi security forces and transferring additional security responsibilities to those forces and the government of Iraq.

(2) Whether the Iraqis have made the compromises necessary to achieve the broad-based and sustainable political settlement that is essential for defeating the insurgency in Iraq.

(3) Any specific conditions included in the April 2005 Multi-National Forces-Iraq campaign action plan (referred to in United States Government Accountability Office October 2005 report on Rebuilding Iraq: DOD Reports Should Link Economic, Governance, and Security Indicators to Conditions for Stabilizing Iraq), and any subsequent updates to that campaign plan, that must be met in order to provide for the transition of additional security responsibility to Iraqi security forces.

(4) To the extent that these conditions are not covered under paragraph (3), the following should also be addressed:

(A) The number of battalions of the Iraqi Armed Forces that must be able to operate independently or to take the lead in counterinsurgency operations and the defense of Iraq's territory.

(B) The number of Iraqi special police units that must be able to operate independently or to take the lead in maintaining law and order and fighting the insurgency.

(C) The number of regular police that must be trained and equipped to maintain law and order.

(D) The ability of Iraq's Federal ministries and provincial and local governments to independently sustain, direct, and coordinate Iraq's security forces.

(5) The criteria to be used to evaluate progress toward meeting such conditions.

(6) A plan for meeting such conditions, an assessment of the extent to which such conditions have been met, information regarding variables that could alter that plan, and the reasons for any subsequent changes to that plan.

Subtitle D—Other Matters

SEC. 1231. PURCHASE OF WEAPONS OVERSEAS FOR FORCE PROTECTION PURPOSES IN COUNTRIES IN WHICH COMBAT OPERATIONS ARE ONGOING.

(a) FORCE PROTECTION PURCHASES.—Chapter 3 of title 10, United States Code, is amended by inserting after section 127b the following new section:

“§ 127c. Purchase of weapons overseas: force protection

“(a) AUTHORITY.—When elements of the armed forces are engaged in ongoing military operations in a country, the Secretary of Defense may, for the purpose of protecting United States forces in that country, purchase weapons from any foreign person, foreign government, international organization, or other entity located in that country.

“(b) **LIMITATION.**—The total amount expended during any fiscal year for purchases under this section may not exceed \$15,000,000.

“(c) **SEMIANNUAL CONGRESSIONAL REPORT.**—In any case in which the authority provided in subsection (a) is used during the period of the first six months of a fiscal year, or during the period of the second six months of a fiscal year, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and Committee on Armed Services of the House of Representatives a report on the use of that authority during that six-month period. Each such report shall be submitted not later than 30 days after the end of the six-month period during which the authority is used. Each such report shall include the following:

“(1) The number and type of weapons purchased under subsection (a) during that six-month period covered by the report, together with the amount spent for those weapons and the Secretary’s estimate of the fair market value of those weapons.

“(2) A description of the dispositions (if any) during that six-month period of weapons purchased under subsection (a).”.

(b) **CLERICAL AMENDMENT.**—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 127b the following new item:

“127c. Purchase of weapons overseas: force protection.”.

50 USC 1512
note.

SEC. 1232. RIOT CONTROL AGENTS.

(a) **RESTATEMENT OF POLICY.**—It is the policy of the United States that riot control agents are not chemical weapons and that the President may authorize their use as legitimate, legal, and non-lethal alternatives to the use of force that, as provided in Executive Order No. 11850 (40 Fed. Reg. 16187) and consistent with the resolution of ratification of the Chemical Weapons Convention, may be employed by members of the Armed Forces in war in defensive military modes to save lives, including the illustrative purposes cited in Executive Order No. 11850.

(b) **REPORT REQUIRED.**—

(1) **IN GENERAL.**—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a report on the use of riot control agents by members of the Armed Forces.

(2) **CONTENT.**—The report required by paragraph (1) shall include—

(A) a description of all regulations, doctrines, training materials, and any other information related to the use of riot control agents by members of the Armed Forces;

(B) a description of how the material described in subparagraph (A) is consistent with United States policy on the use of riot control agents;

(C) a description of the availability of riot control agents, and the means to use them, to members of the Armed Forces, including members of the Armed Forces deployed in Iraq and Afghanistan;

(D) a description of the frequency and circumstances of the use of riot control agents by members of the Armed Forces since January 1, 1992, and a summary of views held by commanders of United States combatant commands as to the utility of the use of riot control agents by members of the Armed Forces when compared with alternatives;

(E) a general description of steps taken or planned to be taken by the Department of Defense to clarify the circumstances under which riot control agents may be used by members of the Armed Forces; and

(F) a brief explanation of the continuing validity of Executive Order No. 11850 under United States law.

(3) FORM.—The report required by paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

(c) DEFINITIONS.—In this section:

(1) CHEMICAL WEAPONS CONVENTION.—The term “Chemical Weapons Convention” means the Convention on the Prohibitions of Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, with annexes, done at Paris, January 13, 1993, and entered into force April 29, 1997 (T. Doc. 103–21).

(2) RESOLUTION OF RATIFICATION OF THE CHEMICAL WEAPONS CONVENTION.—The term “resolution of ratification of the Chemical Weapons Convention” means S. Res. 75, 105th Congress, agreed to April 24, 1997, advising and consenting to the ratification of the Chemical Weapons Convention.

SEC. 1233. REQUIREMENT FOR ESTABLISHMENT OF CERTAIN CRITERIA APPLICABLE TO GLOBAL POSTURE REVIEW.

10 USC 113 note.

(a) CRITERIA.—As part of the Integrated Global Presence and Basing Strategy (IGPBS) developed by the Department of Defense that is referred to as the “Global Posture Review”, the Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, shall develop criteria for assessing, with respect to each type of facility specified in subsection (c) that is to be located in a foreign country, the following factors:

(1) The effect of any new basing arrangements on the strategic mobility requirements of the Department of Defense.

(2) The ability of units deployed to overseas locations in areas in which United States Armed Forces have not traditionally been deployed to meet mobility response times required by operational planners.

(3) The cost of deploying units to areas referred to in paragraph (2) on a rotational basis (rather than on a permanent basing basis).

(4) The strategic benefit of rotational deployments through countries with which the United States is developing a close or new security relationship.

(5) Whether the relative speed and complexity of conducting negotiations with a particular country is a discriminator in the decision to deploy forces within the country.

(6) The appropriate and available funding mechanisms for the establishment, operation, and sustainment of specific Main Operating Bases, Forward Operating Bases, or Cooperative Security Locations.

(7) The effect on military quality of life of the unaccompanied deployment of units to new facilities in overseas locations.

(8) Other criteria as Secretary of Defense determines appropriate.

(b) ANALYSIS OF ALTERNATIVES TO BASING OR OPERATING LOCATIONS.—The Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, shall develop a mechanism for analyzing alternatives to any particular overseas basing or operating location. Such a mechanism shall incorporate the factors specified in each of paragraphs (1) through (5) of subsection (a).

(c) MINIMAL INFRASTRUCTURE REQUIREMENTS FOR OVERSEAS INSTALLATIONS.—The Secretary of Defense shall develop a description of minimal infrastructure requirements for each of the following types of facilities:

- (1) Facilities categorized as Main Operating Bases.
- (2) Facilities categorized as Forward Operating Bases.
- (3) Facilities categorized as Cooperative Security Locations.

(d) NOTIFICATION REQUIRED.—Not later than 30 days after an agreement is entered into between the United States and a foreign country to support the deployment of elements of the United States Armed Forces in that country, the Secretary of Defense shall submit to the congressional defense committees a written notification of such agreement. The notification under this subsection shall include the terms of the agreement, any costs to the United States resulting from the agreement, and a timeline to carry out the terms of the agreement.

(e) ANNUAL BUDGET ELEMENT.—The Secretary of Defense shall submit to Congress, as an element of the annual budget request of the Secretary, information regarding the funding sources for the establishment, operation, and sustainment of individual Main Operating Bases, Forward Operating Bases, or Cooperative Security Locations.

(f) REPORT.—Not later than March 30, 2006, the Secretary of Defense shall submit to Congress a report on the matters specified in subsections (a) through (c).

SEC. 1234. THE UNITED STATES-CHINA ECONOMIC SECURITY REVIEW COMMISSION.

(a) FINDINGS.—Congress finds the following:

(1) The 2004 Report to Congress of the United States-China Economic and Security Review Commission states that—

(A) China's State-Owned Enterprises (SOEs) lack adequate disclosure standards, which creates the potential for United States investors to unwittingly contribute to enterprises that are involved in activities harmful to United States security interests;

(B) United States influence and vital long-term interests in Asia are being challenged by China's robust regional economic engagement and diplomacy;

(C) the assistance of China and North Korea to global ballistic missile proliferation is extensive and ongoing;

(D) China's transfers of technology and components for weapons of mass destruction (WMD) and their delivery systems to countries of concern, including countries that support acts of international terrorism, have helped create a new tier of countries with the capability to produce WMD and ballistic missiles;

(E) the removal of the European Union arms embargo against China that is currently under consideration in the European Union would accelerate weapons modernization and dramatically enhance Chinese military capabilities;

(F) China is developing a leading-edge military with the objective of intimidating Taiwan and deterring United States involvement in the Taiwan Strait, and China's qualitative and quantitative military advancements have already resulted in a dramatic shift in the cross-Strait military balance toward China; and

(G) China's growing energy needs are driving China into bilateral arrangements that undermine multilateral efforts to stabilize oil supplies and prices, and in some cases may involve dangerous weapons transfers.

(2) On March 14, 2005, the National People's Congress approved a law that would authorize the use of force if Taiwan formally declares independence.

(b) SENSE OF CONGRESS FOR COMPREHENSIVE STRATEGY.—It is the sense of Congress that the President should present to Congress quickly a comprehensive strategy to—

(1) address the emergence of China economically, diplomatically, and militarily;

(2) promote mutually beneficial trade relations with China; and

(3) encourage China's adherence to international norms in the areas of trade, international security, and human rights.

(c) CONTENTS OF STRATEGY.—The strategy referred to in subsection (b) should address the following:

(1) Actions to address China's policy of undervaluing its currency, including—

(A) encouraging China to continue to upwardly revalue the Chinese yuan against the United States dollar;

(B) allowing the yuan to float against a trade-weighted basket of currencies; and

(C) concurrently encouraging United States trading partners with similar interests to join in these efforts.

(2) Actions to make better use of the World Trade Organization (WTO) dispute settlement mechanism and applicable United States trade laws to redress China's trade practices, including—

(A) exchange rate manipulation;

(B) denial of trading and distribution rights;

(C) insufficient intellectual property rights protection;

(D) objectionable labor standards;

(E) subsidization of exports; and

(F) forced technology transfers as a condition of doing business.

(3) The United States Trade Representative should consult with United States trading partners regarding any trade dispute with China.

(4) Actions to encourage United States diplomatic efforts to identify and pursue initiatives to revitalize United States engagement in East Asia. The initiatives should have a regional focus and complement bilateral efforts. The Asia-Pacific Economic Cooperation forum (APEC) offers a ready mechanism for pursuit of such initiatives.

(5) Actions by the administration to work with China to prevent proliferation of prohibited technologies and to secure China's agreement to renew efforts to curtail commercial export by North Korea of ballistic missiles.

(6) Actions by the Secretary of State and the Secretary of Energy to consult with the International Atomic Energy Agency with the objective of upgrading the current loose experience-sharing arrangement whereby China engages in some limited exchanges with the organization to a more structured arrangement.

(7) Actions by the administration to develop a coordinated, comprehensive national policy and strategy designed to maintain United States scientific and technological leadership and competitiveness, in light of the rise of China and the challenges of globalization.

(8) Actions to review laws and regulations governing the Committee on Foreign Investment in the United States (CFIUS), including exploring whether the definition of national security should include the potential impact on national economic security as a criterion to be reviewed, and whether the chairmanship of CFIUS should be transferred from the Secretary of the Treasury to a more appropriate executive branch agency.

(9) Actions by the President and the Secretary of State and Secretary of Defense to press strongly their counterparts in the European Union and its member states to maintain and strengthen the embargo on selling arms to China.

(10) Actions by the administration to discourage foreign defense contractors from selling sensitive military-use technology or weapons systems to China.

TITLE XIII—COOPERATIVE THREAT REDUCTION WITH STATES OF THE FORMER SOVIET UNION

Sec. 1301. Specification of Cooperative Threat Reduction programs and funds.

Sec. 1302. Funding allocations.

Sec. 1303. Permanent waiver of restrictions on use of funds for threat reduction in states of the former Soviet Union.

Sec. 1304. Report on elimination of impediments to threat-reduction and non-proliferation programs in the former Soviet Union.

Sec. 1305. Repeal of requirement for annual Comptroller General assessment of annual Department of Defense report on activities and assistance under Cooperative Threat Reduction programs.

SEC. 1301. SPECIFICATION OF COOPERATIVE THREAT REDUCTION PROGRAMS AND FUNDS.

(a) SPECIFICATION OF CTR PROGRAMS.—For purposes of section 301 and other provisions of this Act, Cooperative Threat Reduction programs are the programs specified in section 1501(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2731; 50 U.S.C. 2362 note).

(b) FISCAL YEAR 2006 COOPERATIVE THREAT REDUCTION FUNDS DEFINED.—As used in this title, the term “fiscal year 2006 Cooperative Threat Reduction funds” means the funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs.

(c) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs shall be available for obligation for three fiscal years.

SEC. 1302. FUNDING ALLOCATIONS.

(a) **FUNDING FOR SPECIFIC PURPOSES.**—Of the \$415,549,000 authorized to be appropriated to the Department of Defense for fiscal year 2006 in section 301(19) for Cooperative Threat Reduction programs, the following amounts may be obligated for the purposes specified:

(1) For strategic offensive arms elimination in Russia, \$78,900,000.

(2) For nuclear weapons storage security in Russia, \$74,100,000.

(3) For nuclear weapons transportation security in Russia, \$30,000,000.

(4) For weapons of mass destruction proliferation prevention in the states of the former Soviet Union, \$40,600,000.

(5) For biological weapons proliferation prevention in the former Soviet Union, \$60,849,000.

(6) For chemical weapons destruction in Russia, \$108,500,000.

(7) For defense and military contacts, \$8,000,000.

(8) For activities designated as Other Assessments/Administrative Support, \$14,600,000.

(b) **REPORT ON OBLIGATION OR EXPENDITURE OF FUNDS FOR OTHER PURPOSES.**—No fiscal year 2006 Cooperative Threat Reduction funds may be obligated or expended for a purpose other than a purpose listed in paragraphs (1) through (8) of subsection (a) until 30 days after the date that the Secretary of Defense submits to Congress a report on the purpose for which the funds will be obligated or expended and the amount of funds to be obligated or expended. Nothing in the preceding sentence shall be construed as authorizing the obligation or expenditure of fiscal year 2006 Cooperative Threat Reduction funds for a purpose for which the obligation or expenditure of such funds is specifically prohibited under this title or any other provision of law.

(c) **LIMITED AUTHORITY TO VARY INDIVIDUAL AMOUNTS.**—(1) Subject to paragraphs (2) and (3), in any case in which the Secretary of Defense determines that it is necessary to do so in the national interest, the Secretary may obligate amounts appropriated for fiscal year 2006 for a purpose listed in any of the paragraphs in subsection (a) in excess of the specific amount authorized for that purpose.

(2) An obligation of funds for a purpose stated in any of the paragraphs in subsection (a) in excess of the specific amount authorized for such purpose may be made using the authority provided in paragraph (1) only after—

(A) the Secretary submits to Congress notification of the intent to do so together with a complete discussion of the justification for doing so; and

Notification.

(B) 15 days have elapsed following the date of the notification.

(3) The Secretary may not, under the authority provided in paragraph (1), obligate amounts for a purpose stated in any of paragraphs (6) through (8) of subsection (a) in excess of 125 percent of the specific amount authorized for such purpose.

SEC. 1303. PERMANENT WAIVER OF RESTRICTIONS ON USE OF FUNDS FOR THREAT REDUCTION IN STATES OF THE FORMER SOVIET UNION.

Section 1306 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 22 U.S.C. 5952 note) is amended—

- 22 USC 5952. (1) by striking subsections (c) and (d); and
(2) by redesignating subsection (e) as subsection (c).

President.

SEC. 1304. REPORT ON ELIMINATION OF IMPEDIMENTS TO THREAT-REDUCTION AND NONPROLIFERATION PROGRAMS IN THE FORMER SOVIET UNION.

Not later than November 1, 2006, the President shall submit to Congress a report on impediments to the effective conduct of Cooperative Threat Reduction programs and related threat reduction and nonproliferation programs and activities in the states of the former Soviet Union. The report shall—

(1) identify the impediments to the rapid, efficient, and effective conduct of programs and activities of the Department of Defense, the Department of State, and the Department of Energy, including issues relating to access to sites, liability, and taxation; and

(2) describe the plans of the United States to overcome or ameliorate such impediments, including an identification and discussion of new models and approaches that might be used to develop new relationships with entities in the states of the former Soviet Union capable of assisting in removing or ameliorating those impediments, and any congressional action that may be necessary for that purpose.

22 USC 5959.

SEC. 1305. REPEAL OF REQUIREMENT FOR ANNUAL COMPTROLLER GENERAL ASSESSMENT OF ANNUAL DEPARTMENT OF DEFENSE REPORT ON ACTIVITIES AND ASSISTANCE UNDER COOPERATIVE THREAT REDUCTION PROGRAMS.

Section 1308 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–341) is amended by striking subsection (e).

Detainee
Treatment Act
of 2005.

TITLE XIV—MATTERS RELATING TO DETAINEES

Sec. 1401. Short title

Sec. 1402. Uniform standards for the interrogation of persons under the detention of the Department of Defense

Sec. 1403. Prohibition on cruel, inhuman, or degrading treatment or punishment of persons under custody or control of the United States Government

Sec. 1404. Protection of United States Government personnel engaged in authorized interrogations

Sec. 1405. Procedures for status review of detainees outside the United States

Sec. 1406. Training of Iraqi security forces regarding treatment of detainees

42 USC 2000dd
note.

SEC. 1401. SHORT TITLE.

This title may be cited as the “Detainee Treatment Act of 2005”.

SEC. 1402. UNIFORM STANDARDS FOR THE INTERROGATION OF PERSONS UNDER THE DETENTION OF THE DEPARTMENT OF DEFENSE.

10 USC 801 note.

(a) **IN GENERAL.**—No person in the custody or under the effective control of the Department of Defense or under detention in a Department of Defense facility shall be subject to any treatment or technique of interrogation not authorized by and listed in the United States Army Field Manual on Intelligence Interrogation.

(b) **APPLICABILITY.**—Subsection (a) shall not apply with respect to any person in the custody or under the effective control of the Department of Defense pursuant to a criminal law or immigration law of the United States.

(c) **CONSTRUCTION.**—Nothing in this section shall be construed to affect the rights under the United States Constitution of any person in the custody or under the physical jurisdiction of the United States.

SEC. 1403. PROHIBITION ON CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT OF PERSONS UNDER CUSTODY OR CONTROL OF THE UNITED STATES GOVERNMENT.

42 USC 2000dd.

(a) **IN GENERAL.**—No individual in the custody or under the physical control of the United States Government, regardless of nationality or physical location, shall be subject to cruel, inhuman, or degrading treatment or punishment.

(b) **CONSTRUCTION.**—Nothing in this section shall be construed to impose any geographical limitation on the applicability of the prohibition against cruel, inhuman, or degrading treatment or punishment under this section.

(c) **LIMITATION ON SUPERSEDITION.**—The provisions of this section shall not be superseded, except by a provision of law enacted after the date of the enactment of this Act which specifically repeals, modifies, or supersedes the provisions of this section.

(d) **CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT DEFINED.**—In this section, the term “cruel, inhuman, or degrading treatment or punishment” means the cruel, unusual, and inhumane treatment or punishment prohibited by the Fifth, Eighth, and Fourteenth Amendments to the Constitution of the United States, as defined in the United States Reservations, Declarations and Understandings to the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment done at New York, December 10, 1984.

SEC. 1404. PROTECTION OF UNITED STATES GOVERNMENT PERSONNEL ENGAGED IN AUTHORIZED INTERROGATIONS.42 USC
2000dd–1.

(a) **PROTECTION OF UNITED STATES GOVERNMENT PERSONNEL.**—In any civil action or criminal prosecution against an officer, employee, member of the Armed Forces, or other agent of the United States Government who is a United States person, arising out of the officer, employee, member of the Armed Forces, or other agent's engaging in specific operational practices, that involve detention and interrogation of aliens who the President or his designees have determined are believed to be engaged in or associated with international terrorist activity that poses a serious, continuing threat to the United States, its interests, or its allies, and that were officially authorized and determined to be lawful at the time that they were conducted, it shall be a defense that such officer, employee, member of the Armed Forces, or other agent did not

know that the practices were unlawful and a person of ordinary sense and understanding would not know the practices were unlawful. Good faith reliance on advice of counsel should be an important factor, among others, to consider in assessing whether a person of ordinary sense and understanding would have known the practices to be unlawful. Nothing in this section shall be construed to limit or extinguish any defense or protection otherwise available to any person or entity from suit, civil or criminal liability, or damages, or to provide immunity from prosecution for any criminal offense by the proper authorities.

(b) COUNSEL.—The United States Government may provide or employ counsel, and pay counsel fees, court costs, bail, and other expenses incident to the representation of an officer, employee, member of the Armed Forces, or other agent described in subsection (a), with respect to any civil action or criminal prosecution arising out of practices described in that subsection, under the same conditions, and to the same extent, to which such services and payments are authorized under section 1037 of title 10, United States Code.

10 USC 801 note.

SEC. 1405. PROCEDURES FOR STATUS REVIEW OF DETAINEES OUTSIDE THE UNITED STATES.

(a) SUBMITTAL OF PROCEDURES FOR STATUS REVIEW OF DETAINEES AT GUANTANAMO BAY, CUBA, AND IN AFGHANISTAN AND IRAQ.—

Deadline.
Reports.

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committee on Armed Services and the Committee on the Judiciary of the Senate and the Committee on Armed Services and the Committee on the Judiciary of the House of Representatives a report setting forth—

(A) the procedures of the Combatant Status Review Tribunals and the Administrative Review Boards established by direction of the Secretary of Defense that are in operation at Guantanamo Bay, Cuba, for determining the status of the detainees held at Guantanamo Bay or to provide an annual review to determine the need to continue to detain an alien who is a detainee; and

(B) the procedures in operation in Afghanistan and Iraq for a determination of the status of aliens detained in the custody or under the physical control of the Department of Defense in those countries.

(2) DESIGNATED CIVILIAN OFFICIAL.—The procedures submitted to Congress pursuant to paragraph (1)(A) shall ensure that the official of the Department of Defense who is designated by the President or Secretary of Defense to be the final review authority within the Department of Defense with respect to decisions of any such tribunal or board (referred to as the “Designated Civilian Official”) shall be a civilian officer of the Department of Defense holding an office to which appointments are required by law to be made by the President, by and with the advice and consent of the Senate.

(3) CONSIDERATION OF NEW EVIDENCE.—The procedures submitted under paragraph (1)(A) shall provide for periodic review of any new evidence that may become available relating to the enemy combatant status of a detainee.

(b) CONSIDERATION OF STATEMENTS DERIVED WITH COERCION.—

(1) ASSESSMENT.—The procedures submitted to Congress pursuant to subsection (a)(1)(A) shall ensure that a Combatant Status Review Tribunal or Administrative Review Board, or any similar or successor administrative tribunal or board, in making a determination of status or disposition of any detainee under such procedures, shall, to the extent practicable, assess—

(A) whether any statement derived from or relating to such detainee was obtained as a result of coercion; and

(B) the probative value, if any, of any such statement.

(2) APPLICABILITY.—Paragraph (1) applies with respect to any proceeding beginning on or after the date of the enactment of this Act.

(c) REPORT ON MODIFICATION OF PROCEDURES.—The Secretary of Defense shall submit to the committees specified in subsection (a)(1) a report on any modification of the procedures submitted under subsection (a). Any such report shall be submitted not later than 60 days before the date on which such modification goes into effect.

(d) ANNUAL REPORT.—

(1) REPORT REQUIRED.—The Secretary of Defense shall submit to Congress an annual report on the annual review process for aliens in the custody of the Department of Defense outside the United States. Each such report shall be submitted in unclassified form, with a classified annex, if necessary. The report shall be submitted not later than December 31 each year.

(2) ELEMENTS OF REPORT.—Each such report shall include the following with respect to the year covered by the report:

(A) The number of detainees whose status was reviewed.

(B) The procedures used at each location.

(e) JUDICIAL REVIEW OF DETENTION OF ENEMY COMBATANTS.—

(1) IN GENERAL.—Section 2241 of title 28, United States Code, is amended by adding at the end the following:

“(e) Except as provided in section 1405 of the Detainee Treatment Act of 2005, no court, justice, or judge shall have jurisdiction to hear or consider—

“(1) an application for a writ of habeas corpus filed by or on behalf of an alien detained by the Department of Defense at Guantanamo Bay, Cuba; or

“(2) any other action against the United States or its agents relating to any aspect of the detention by the Department of Defense of an alien at Guantanamo Bay, Cuba, who—

“(A) is currently in military custody; or

“(B) has been determined by the United States Court of Appeals for the District of Columbia Circuit in accordance with the procedures set forth in section 1405(e) of the Detainee Treatment Act of 2005 to have been properly detained as an enemy combatant.”

(2) REVIEW OF DECISIONS OF COMBATANT STATUS REVIEW TRIBUNALS OF PROPRIETY OF DETENTION.—

(A) IN GENERAL.—Subject to subparagraphs (B), (C), and (D), the United States Court of Appeals for the District of Columbia Circuit shall have exclusive jurisdiction to determine the validity of any final decision of a Combatant

Status Review Tribunal that an alien is properly detained as an enemy combatant.

(B) LIMITATION ON CLAIMS.—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit under this paragraph shall be limited to claims brought by or on behalf of an alien—

(i) who is, at the time a request for review by such court is filed, detained by the Department of Defense at Guantanamo Bay, Cuba; and

(ii) for whom a Combatant Status Review Tribunal has been conducted, pursuant to applicable procedures specified by the Secretary of Defense.

(C) SCOPE OF REVIEW.—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit on any claims with respect to an alien under this paragraph shall be limited to the consideration of—

(i) whether the status determination of the Combatant Status Review Tribunal with regard to such alien was consistent with the standards and procedures specified by the Secretary of Defense for Combatant Status Review Tribunals (including the requirement that the conclusion of the Tribunal be supported by a preponderance of the evidence and allowing a rebuttable presumption in favor the Government's evidence); and

(ii) to the extent the Constitution and laws of the United States are applicable, whether the use of such standards and procedures to make the determination is consistent with the Constitution and laws of the United States.

(D) TERMINATION ON RELEASE FROM CUSTODY.—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit with respect to the claims of an alien under this paragraph shall cease upon the release of such alien from the custody of the Department of Defense.

(3) REVIEW OF FINAL DECISIONS OF MILITARY COMMISSIONS.—

(A) IN GENERAL.—Subject to subparagraphs (B), (C), and (D), the United States Court of Appeals for the District of Columbia Circuit shall have exclusive jurisdiction to determine the validity of any final decision rendered pursuant to Military Commission Order No. 1, dated August 31, 2005 (or any successor military order).

(B) GRANT OF REVIEW.—Review under this paragraph—

(i) with respect to a capital case or a case in which the alien was sentenced to a term of imprisonment of 10 years or more, shall be as of right; or

(ii) with respect to any other case, shall be at the discretion of the United States Court of Appeals for the District of Columbia Circuit.

(C) LIMITATION ON APPEALS.—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit under this paragraph shall be limited to an appeal brought by or on behalf of an alien—

(i) who was, at the time of the proceedings pursuant to the military order referred to in subparagraph

(A), detained by the Department of Defense at Guantanamo Bay, Cuba; and

(ii) for whom a final decision has been rendered pursuant to such military order.

(D) SCOPE OF REVIEW.—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit on an appeal of a final decision with respect to an alien under this paragraph shall be limited to the consideration of—

(i) whether the final decision was consistent with the standards and procedures specified in the military order referred to in subparagraph (A); and

(ii) to the extent the Constitution and laws of the United States are applicable, whether the use of such standards and procedures to reach the final decision is consistent with the Constitution and laws of the United States.

(4) RESPONDENT.—The Secretary of Defense shall be the named respondent in any appeal to the United States Court of Appeals for the District of Columbia Circuit under this subsection.

(f) CONSTRUCTION.—Nothing in this section shall be construed to confer any constitutional right on an alien detained as an enemy combatant outside the United States.

(g) UNITED STATES DEFINED.—For purposes of this section, the term “United States”, when used in a geographic sense, is as defined in section 101(a)(38) of the Immigration and Nationality Act and, in particular, does not include the United States Naval Station, Guantanamo Bay, Cuba.

(h) EFFECTIVE DATE.—

(1) IN GENERAL.—This section shall take effect on the date of the enactment of this Act.

(2) REVIEW OF COMBATANT STATUS TRIBUNAL AND MILITARY COMMISSION DECISIONS.—Paragraphs (2) and (3) of subsection (e) shall apply with respect to any claim whose review is governed by one of such paragraphs and that is pending on or after the date of the enactment of this Act.

Applicability.

SEC. 1406. TRAINING OF IRAQI SECURITY FORCES REGARDING TREATMENT OF DETAINEES.

10 USC 801 note.

(a) REQUIRED POLICIES.—

(1) IN GENERAL.—The Secretary of Defense shall prescribe policies designed to ensure that all military and civilian Department of Defense personnel or contractor personnel of the Department of Defense responsible for the training of any unit of the Iraqi Security Forces provide training to such units regarding the international obligations and laws applicable to the humane treatment of detainees, including protections afforded under the Geneva Conventions and the Convention Against Torture.

(2) ACKNOWLEDGMENT OF TRAINING.—The Secretary shall ensure that, for all personnel of the Iraqi Security Forces who are provided training referred to in paragraph (1), there is documented acknowledgment that such training has been provided.

(3) DEADLINE FOR POLICIES TO BE PRESCRIBED.—The policies required by paragraph (1) shall be prescribed not later than 180 days after the date of the enactment of this Act.

(b) ARMY FIELD MANUAL.—

(1) TRANSLATION.—The Secretary of Defense shall provide for the unclassified portions of the United States Army Field Manual on Intelligence Interrogation to be translated into Arabic and any other language the Secretary determines appropriate for use by members of the Iraqi security forces.

(2) DISTRIBUTION.—The Secretary of Defense shall provide for such manual, as translated, to be distributed to all appropriate officials of the Iraqi Government, including, but not limited to, the Iraqi Minister of Defense, the Iraqi Minister of Interior, senior Iraqi military personnel, and appropriate members of the Iraqi Security Forces with a recommendation that the principles that underlay the manual be adopted by the Iraqis as the basis for their policies on interrogation of detainees.

Deadline.
Reports.

(c) TRANSMITTAL TO CONGRESSIONAL COMMITTEES.—Not less than 30 days after the date on which policies are first prescribed under subsection (a), the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives copies of such regulations, policies, or orders, together with a report on steps taken to the date of the report to implement this section.

(d) ANNUAL REPORT.—Not less than one year after the date of the enactment of this Act, and annually thereafter, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the implementation of this section.

TITLE XV—AUTHORIZATION FOR INCREASED COSTS DUE TO OPERATION IRAQI FREEDOM AND OPERATION ENDURING FREEDOM

- Sec. 1501. Purpose.
- Sec. 1502. Army procurement.
- Sec. 1503. Navy and Marine Corps procurement.
- Sec. 1504. Air Force procurement.
- Sec. 1505. Defense-wide activities procurement.
- Sec. 1506. Research, development, test and evaluation.
- Sec. 1507. Operation and maintenance.
- Sec. 1508. Defense Working Capital Fund.
- Sec. 1509. Defense Health Program.
- Sec. 1510. Military personnel.
- Sec. 1511. Iraq Freedom Fund.
- Sec. 1512. Treatment as additional authorizations.
- Sec. 1513. Transfer authority.
- Sec. 1514. Availability of funds.

SEC. 1501. PURPOSE.

The purpose of this title is to authorize emergency supplemental appropriations for the Department of Defense for fiscal year 2006 to provide funds for additional costs due to Operation Iraqi Freedom and Operation Enduring Freedom pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

SEC. 1502. ARMY PROCUREMENT.

(a) **IN GENERAL.**—Funds are hereby authorized to be appropriated for fiscal year 2006 for procurement accounts of the Army in amounts as follows:

- (1) For aircraft, \$40,600,000.
- (2) For ammunition, \$109,500,000.
- (3) For weapons and tracked combat vehicles, \$485,499,000.
- (4) For other procurement, \$1,659,800,000.

(b) **AVAILABILITY OF CERTAIN AMOUNTS FOR UP-ARMORED WHEELED VEHICLES.**—

(1) **AVAILABILITY.**—Of the amount authorized to be appropriated by subsection (a)(4), \$240,000,000 shall be available for the procurement of up-armored high mobility multipurpose wheeled vehicles (UAHs), including vehicles in the M1114, M1151, and M1152 configurations.

(2) **ALLOCATION OF FUNDS.**—

(A) **IN GENERAL.**—Subject to subparagraph (B), the Secretary of the Army shall allocate the manner in which amounts available under paragraph (1) shall be available for purposes specified in that paragraph.

(B) **LIMITATION.**—Amounts available under paragraph (1) may not be allocated under subparagraph (A) until the Secretary certifies to the congressional defense committees that the Army has a validated requirement for procurement for a purpose specified in paragraph (1) based on a statement of urgent needs from a commander of a combatant command.

(C) **REPORTS.**—Not later than 15 days after an allocation of funds is made under subparagraph (A), the Secretary shall submit to the congressional defense committees a report describing such allocation of funds.

(c) **AVAILABILITY OF CERTAIN AMOUNTS FOR TACTICAL WHEELED VEHICLE ARMORING PROGRAMS.**—

(1) **AVAILABILITY.**—Of the amount authorized to be appropriated by subsection (a)(4), \$150,000,000 shall be available for units deployed in Iraq and Afghanistan, as follows:

(A) Procurement of up-armored Light Tactical Wheeled Vehicles (LTVs) or add-on armor kits for Light Tactical Wheeled Vehicles.

(B) Procurement of add-on armor kits for Medium Tactical Wheeled Vehicles (MTVs), including Low Signature Armored Cabs for the family of Medium Tactical Wheeled Vehicles.

(C) Procurement of add-on armor kits for Heavy Tactical Wheeled Vehicles (HTVs).

(2) **ALLOCATION OF FUNDS.**—To the extent the Secretary of the Army determines that such amount is not needed for the procurement of such armored Tactical Wheeled Vehicles for units deployed in Iraq and Afghanistan under paragraph (1), the Secretary shall use the amounts remaining for the procurement of such armored vehicles in accordance with other priorities of the Army.

SEC. 1503. NAVY AND MARINE CORPS PROCUREMENT.

(a) **NAVY.**—Funds are hereby authorized to be appropriated for fiscal year 2006 for procurement accounts for the Navy in amounts as follows:

(1) For aircraft procurement, \$15,000,000.

(2) For weapons procurement, \$56,700,000.

(b) MARINE CORPS.—Funds are hereby authorized to be appropriated for fiscal year 2006 for the procurement account for the Marine Corps in the amount of \$644,400,000.

(c) NAVY AND MARINE CORPS AMMUNITION.—Funds are hereby authorized to be appropriated for fiscal year 2006 for the procurement account for ammunition for the Navy and the Marine Corps in the amount of \$147,921,000.

(d) AVAILABILITY OF CERTAIN AMOUNTS.—

(1) AVAILABILITY.—Of the amount authorized to be appropriated by subsection (b), \$200,000,000 shall be available for the procurement of up-armored high mobility multipurpose wheeled vehicles (UAHs), including vehicles in the M1114, M1151, and M1152 configurations.

(2) ALLOCATION OF FUNDS.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary of the Navy shall allocate the manner in which amounts available under paragraph (1) shall be available for the purposes specified in that paragraph.

(B) LIMITATION.—Amounts available under paragraph (1) may not be allocated under subparagraph (A) until the Secretary certifies to the congressional defense committees that the Marine Corps has a validated requirement for procurement for a purpose specified in paragraph (1) based on a statement of urgent needs from a commander of a combatant command.

(C) REPORTS.—Not later than 15 days after an allocation of funds is made under subparagraph (A), the Secretary shall submit to the congressional defense committees a report describing such allocation of funds.

SEC. 1504. AIR FORCE PROCUREMENT.

Funds are hereby authorized to be appropriated for fiscal year 2006 for the aircraft procurement accounts for the Air Force in the amount of \$214,000,000.

SEC. 1505. DEFENSE-WIDE ACTIVITIES PROCUREMENT.

Funds are hereby authorized to be appropriated for fiscal year 2006 for the procurement account for Defense-wide in the amount of \$103,900,000.

SEC. 1506. RESEARCH, DEVELOPMENT, TEST AND EVALUATION.

Funds are hereby authorized to be appropriated for fiscal year 2006 for the use of the Department of Defense for research, development, test and evaluation as follows:

(1) For the Army, \$8,700,000.

(2) For Defense-wide activities, \$75,000,000.

SEC. 1507. OPERATION AND MAINTENANCE.

Funds are hereby authorized to be appropriated for fiscal year 2006 for the use of the Armed Forces for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

(1) For the Army, \$19,828,180,000.

(2) For the Navy, \$1,658,000,000.

(3) For the Marine Corps, \$1,588,250,000.

(4) For the Air Force, \$2,404,190,000.

(5) For Defense-wide activities, \$1,778,397,000.

- (6) For the Army Reserve, \$44,400,000.
- (7) For the Naval Reserve, \$9,400,000.
- (8) For the Marine Corps Reserve, \$4,000,000.
- (9) For the Air Force Reserve, \$7,000,000.
- (10) For the Army National Guard, \$196,300,000.
- (11) For the Air National Guard, \$13,400,000.

SEC. 1508. DEFENSE WORKING CAPITAL FUND.

Funds are hereby authorized to be appropriated for fiscal year 2006 for the Defense Working Capital Fund in the amount of \$1,700,000,000.

SEC. 1509. DEFENSE HEALTH PROGRAM.

Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2006 for expenses, not otherwise provided for, the Defense Health Program, in the amount of \$178,415,000 for operation and maintenance.

SEC. 1510. MILITARY PERSONNEL.

There is hereby authorized to be appropriated to the Department of Defense for military personnel accounts for fiscal year 2006 a total of \$11,788,323,000.

SEC. 1511. IRAQ FREEDOM FUND.

(a) **IN GENERAL.**—Funds are hereby authorized to be appropriated for fiscal year 2006 for the Iraq Freedom Fund in the amount of \$5,240,725,000.

(b) **LIMITATION ON AVAILABILITY OF CERTAIN AMOUNT.**—Of the amount authorized to be appropriated by subsection (a), \$1,000,000,000 shall be available only for support of activities of the Joint Improvised Explosive Device Task Force.

(c) **CLASSIFIED PROGRAMS.**—Of the amount authorized to be appropriated by subsection (a), \$2,500,000,000 shall be available only for classified programs.

(d) **TRANSFER.**—

(1) **TRANSFER AUTHORIZED.**—Subject to paragraph (2), amounts authorized to be appropriated by subsection (a) may be transferred from the Iraq Freedom Fund to any accounts as follows:

(A) Operation and maintenance accounts of the Armed Forces.

(B) Military personnel accounts.

(C) Research, development, test, and evaluation accounts of the Department of Defense.

(D) Procurement accounts of the Department of Defense.

(E) Accounts providing funding for classified programs.

(F) The operating expenses account of the Coast Guard.

(2) **NOTICE TO CONGRESS.**—A transfer may not be made under the authority in paragraph (1) until five days after the date on which the Secretary of Defense notifies the congressional defense committees in writing of the transfer.

(3) **TREATMENT OF TRANSFERRED FUNDS.**—Amounts transferred to an account under the authority in paragraph (1) shall be merged with amounts in such account and shall be made available for the same purposes, and subject to the same conditions and limitations, as amounts in such account.

(4) **EFFECT ON AUTHORIZATION AMOUNTS.**—A transfer of an amount to an account under the authority in paragraph (1) shall be deemed to increase the amount authorized for such account by an amount equal to the amount transferred.

SEC. 1512. TREATMENT AS ADDITIONAL AUTHORIZATIONS.

The amounts authorized to be appropriated by this title are in addition to amounts otherwise authorized to be appropriated by this Act.

SEC. 1513. TRANSFER AUTHORITY.

(a) **AUTHORITY TO TRANSFER AUTHORIZATIONS.**—

(1) **AUTHORITY.**—Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this title for fiscal year 2006 between any such authorizations for that fiscal year (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) **LIMITATION.**—The total amount of authorizations that the Secretary may transfer under the authority of this section may not exceed \$2,500,000,000. The transfer authority provided in this section is in addition to any other transfer authority available to the Secretary of Defense.

(b) **LIMITATIONS.**—The authority provided by this section to transfer authorizations—

(1) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred;

(2) may not be used to provide authority for an item that has been denied authorization by Congress; and

(3) may not be combined with the authority under section 1001.

(c) **EFFECT ON AUTHORIZATION AMOUNTS.**—A transfer made from one account to another under the authority of this section shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

(d) **NOTICE TO CONGRESS.**—A transfer may be made under the authority of this section only after the Secretary of Defense—

(1) consults with the chairmen and ranking members of the congressional defense committees with respect to the proposed transfer; and

(2) after such consultation, notifies those committees in writing of the proposed transfer not less than five days before the transfer is made.

SEC. 1514. AVAILABILITY OF FUNDS.

Funds in this title shall be made available for obligation to the Army, Navy, Marine Corps, Air Force, and Defense-wide components by the end of the second quarter of fiscal year 2006.

DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

Military
Construction
Authorization
Act for Fiscal
Year 2006.

SEC. 2001. SHORT TITLE.

This division may be cited as the “Military Construction Authorization Act for Fiscal Year 2006”.

TITLE XXI—ARMY

Sec. 2101. Authorized Army construction and land acquisition projects.
 Sec. 2102. Family housing.
 Sec. 2103. Improvements to military family housing units.
 Sec. 2104. Authorization of appropriations, Army.
 Sec. 2105. Modification of authority to carry out certain fiscal year 2004 project.

SEC. 2101. AUTHORIZED ARMY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(1), the Secretary of the Army may acquire real property and carry out military construction projects for the installations or locations inside the United States, and in the amounts, set forth in the following table:

Army: Inside the United States

State	Installation or Location	Amount
Alabama	Anniston Army Depot	\$3,150,000
	Fort Rucker	\$9,700,000
	Redstone Arsenal	\$25,100,000
Alaska	Fort Richardson	\$4,700,000
	Fort Wainwright	\$44,660,000
Arizona	Fort Huachuca	\$5,100,000
	Yuma Proving Ground	\$8,100,000
California	Concord Naval Weapons Station	\$11,850,000
	Fort Irwin	\$21,250,000
Colorado	Fort Carson	\$72,822,000
Georgia	Fort Benning	\$30,261,000
	Fort Gillem	\$3,900,000
	Fort Gordon	\$4,550,000
	Fort Stewart/Hunter Army Air Field	\$57,980,000
Hawaii	Pohakuloa Training Area	\$60,300,000
	Schofield Barracks	\$53,900,000
Illinois	Rock Island Arsenal	\$7,400,000
Indiana	Crane Army Ammunition Activity	\$5,700,000
Kansas	Fort Riley	\$33,900,000
Kentucky	Fort Campbell	\$116,475,000
	Fort Knox	\$4,600,000
Louisiana	Fort Polk	\$28,887,000
Missouri	Fort Leonard Wood	\$23,500,000
New Jersey	Picatinny Arsenal	\$4,450,000
New York	Fort Drum	\$73,350,000
	United States Military Academy, West Point.	\$7,500,000
North Carolina ..	Fort Bragg	\$301,250,000
Ohio	Joint Systems Manufacturing Center, Lima	\$11,600,000
Oklahoma	Fort Sill	\$5,850,000
Pennsylvania	McAlester Army Ammunition Plant	\$5,400,000
	Letterkenny Depot	\$6,300,000

Army: Inside the United States—Continued

State	Installation or Location	Amount
South Carolina ..	Fort Jackson	\$1,600,000
Texas	Fort Bliss	\$5,000,000
	Fort Hood	\$64,488,000
	Fort Sam Houston	\$7,000,000
Utah	Dugway Proving Ground	\$25,000,000
Virginia	Fort A.P. Hill	\$2,700,000
	Fort Belvoir	\$18,000,000
	Fort Eustis	\$3,100,000
	Fort Lee	\$3,900,000
	Fort Myer	\$15,200,000
Washington	Fort Lewis	\$99,949,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(2), the Secretary of the Army may acquire real property and carry out military construction projects for the installations or locations outside the United States, and in the amounts, set forth in the following table:

Army: Outside the United States

Country	Installation or Location	Amount
Germany	Grafenwoehr	\$84,081,000
Italy	Pisa	\$5,254,000
Korea	Camp Humphreys	\$105,162,000
	Yongpyong	\$1,450,000

(c) UNSPECIFIED WORLDWIDE.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(3), the Secretary of the Army may acquire real property and carry out military construction projects for unspecified installations or locations in the amount set forth in the following table:

Army: Unspecified Worldwide

Location	Installation or Location	Amount
	Unspecified Worldwide	\$50,000,000

SEC. 2102. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(6)(A), the Secretary of the Army may construct or acquire family housing units (including land acquisition and supporting facilities) at the installations or locations, in the number of units, and in the amounts set forth in the following table:

Army: Family Housing

State	Installation or Location	Units	Amount
Alaska	Fort Richardson	117 ...	\$49,000,000
	Fort Wainwright	180 ...	\$91,000,000

Army: Family Housing—Continued

State	Installation or Location	Units	Amount
Arizona	Fort Huachuca	131	\$31,000,000
	Yuma Proving Ground	35	\$11,200,000
Oklahoma	Fort Sill	129	\$24,000,000
Virginia	Fort Lee	96	\$19,500,000
	Fort Monroe	21	\$6,000,000

(b) **PLANNING AND DESIGN.**—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(6)(A), the Secretary of the Army may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of family housing units in an amount not to exceed \$17,536,000.

SEC. 2103. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(6)(A), the Secretary of the Army may improve existing military family housing units in an amount not to exceed \$300,400,000.

SEC. 2104. AUTHORIZATION OF APPROPRIATIONS, ARMY.

(a) **AUTHORIZATION OF APPROPRIATIONS.**—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2005, for military construction, land acquisition, and military family housing functions of the Department of the Army in the total amount of \$3,128,889,000 as follows:

(1) For military construction projects inside the United States authorized by section 2101(a), \$1,111,522,000.

(2) For military construction projects outside the United States authorized by section 2101(b), \$195,947,000.

(3) For military construction projects at unspecified worldwide locations authorized by section 2101(c), \$50,000,000.

(4) For unspecified minor military construction projects authorized by section 2805 of title 10, United States Code, \$24,141,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, \$170,021,000.

(6) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, \$549,636,000.

(B) For support of military family housing (including the functions described in section 2833 of title 10, United States Code), \$803,993,000.

(7) For the construction of increment 3 of the Lewis and Clark Instructional Facility at Fort Leavenworth, Kansas, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1697), \$42,642,000.

(8) For the construction of increment 2 of a barracks complex at Vilseck, Germany, authorized by section 2101(b) of the Military Construction Authorization Act for Fiscal Year

2004 (division B of Public Law 108-136; 117 Stat. 1698), as amended by section 2105 of this Act, \$13,600,000.

(9) For the construction of increment 2 of the Drum Road upgrade at Helemano Military Reservation, Hawaii, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108-375; 118 Stat. 2101), \$41,000,000.

(10) For the construction of increment 2 of a vehicle maintenance facility at Schofield Barracks, Hawaii, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108-375; 118 Stat. 2101), \$24,656,000.

(11) For the construction of increment 2 of a barracks complex, at Fort Campbell, Kentucky, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108-375; 118 Stat. 2101), \$24,650,000.

(12) For the construction of increment 2 of trainee barracks, Basic Training Complex 1 at Fort Knox, Kentucky, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108-375; 118 Stat. 2101), \$21,000,000.

(13) For the construction of increment 2 of a library and learning center at the United States Military Academy, West Point, New York, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108-375; 118 Stat. 2101), \$25,470,000.

(14) For the construction of increment 2 of a barracks complex renewal project at Fort Bragg, North Carolina, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108-375; 118 Stat. 2101), \$30,611,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2101 of this Act may not exceed the sum of the following:

(1) The total amount authorized to be appropriated under paragraphs (1), (2), and (3) of subsection (a).

(2) \$16,500,000 (the balance of the amount authorized under section 2101(a) for construction of a barracks complex for Fort Drum, New York).

(3) \$31,000,000 (the balance of the amount authorized under section 2101(a) for construction of a barracks complex for the 2nd Brigade at Fort Bragg, North Carolina).

(4) \$50,000,000 (the balance of the amount authorized under section 2101(a) for construction of a barracks complex for the 3rd Brigade at Fort Bragg, North Carolina).

(5) \$77,400,000 (the balance of the amount authorized under section 2101(a) for construction of a barracks complex for divisional artillery at Fort Bragg, North Carolina).

(6) \$13,000,000 (the balance of the amount authorized under section 2101(a) for construction of a defense access road for Fort Belvoir, Virginia).

(c) CONFORMING TECHNICAL AMENDMENT.—Section 2104(a)(8) of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108-375; 118 Stat. 2103) is amended

by striking “Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2681)” and inserting “Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1697)”.

SEC. 2105. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2004 PROJECT.

(a) MODIFICATION OF OUTSIDE THE UNITED STATES PROJECT.—The table in section 2101(b) of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1698) is amended—

(1) in the item relating to Vilseck, Germany, by striking “\$31,000,000” in the amount column and inserting “\$26,000,000”; and

(2) by striking the amount identified as the total in the amount column and inserting “\$226,900,000”.

(b) CONFORMING AMENDMENT.—Section 2104(b)(6) of that Act (117 Stat. 1700) is amended by striking “\$18,900,000” and inserting “\$13,900,000”.

TITLE XXII—NAVY

Sec. 2201. Authorized Navy construction and land acquisition projects.

Sec. 2202. Family housing.

Sec. 2203. Improvements to military family housing units.

Sec. 2204. Authorization of appropriations, Navy.

Sec. 2205. Modification of authority to carry out certain fiscal year 2004 project.

Sec. 2206. Modifications of authority to carry out certain fiscal year 2005 projects.

SEC. 2201. AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(1), the Secretary of the Navy may acquire real property and carry out military construction projects for the installations or locations inside the United States, and in the amounts, set forth in the following table:

Navy: Inside the United States

State	Installation or Location	Amount
Arizona	Marine Corps Air Station, Yuma	\$3,637,000
California	Air-Ground Combat Center, Twentynine Palms.	\$24,000,000
	Marine Corps Air Station, Camp Pendleton.	\$1,400,000
	Marine Corps Air Station, Miramar	\$5,070,000
	Marine Corps Base, Camp Pendleton	\$90,437,000
	Naval Air Station, Lemoore	\$8,480,000
	Naval Air Warfare Center, China Lake ...	\$19,158,000
	Naval Postgraduate School	\$6,500,000
Connecticut	Naval Submarine Base, New London	\$4,610,000
Florida	Diving&Salvage Training Center, Panama City.	\$9,678,000
	Naval Air Station, Jacksonville	\$88,603,000
	Naval Air Station, Pensacola	\$8,710,000
	Naval Station, Mayport	\$15,220,000
	Whiting Field	\$4,670,000
Georgia	Naval Submarine Base, Kings Bay	\$6,890,000
	Marine Corps Logistics Base, Albany	\$5,840,000
Hawaii	Marine Corps Air Station, Kaneohe Bay	\$5,700,000

Navy: Inside the United States—Continued

State	Installation or Location	Amount
	Naval Base, Pearl Harbor	\$29,700,000
Illinois	Recruit Training Command, Great Lakes	\$167,750,000
Indiana	Naval Warfare Center, Crane	\$8,220,000
Maine	Portsmouth Naval Shipyard	\$8,100,000
Maryland	Naval Air Warfare Center, Patuxent River.	\$5,800,000
	Naval Surface Warfare Center, Indian Head.	\$8,250,000
	United States Naval Academy, Annapolis	\$51,720,000
Mississippi	Naval Air Station, Meridian	\$10,450,000
North Carolina	Marine Corps Air Station, Cherry Point ..	\$29,147,000
	Marine Corps Air Station, New River	\$6,840,000
	Marine Corps Base, Camp Lejeune	\$44,590,000
Pennsylvania	Naval Station Weapons Center, Philadelphia.	\$4,780,000
Rhode Island	Naval Station, Newport	\$15,490,000
South Carolina	Marine Corps Air Station, Beaufort	\$1,480,000
Texas	Naval Air Station, Kingsville	\$16,040,000
Virginia	Marine Corps Air Field, Quantico	\$19,698,000
	Marine Corps Base, Quantico	\$18,429,000
	Naval Air Station, Oceana	\$11,680,000
	Naval Amphibious Base, Little Creek	\$36,034,000
	Naval Station, Norfolk	\$32,245,000
	Naval Support Activity, Norfolk Naval Shipyard.	\$78,788,000
	Naval Station Weapons Center, Dahlgren	\$9,960,000
Washington	Naval Station, Everett	\$70,950,000
	Naval Submarine Base, Bangor	\$60,160,000
	Naval Air Station, Whidbey Island	\$4,010,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(2), the Secretary of the Navy may acquire real property and carry out military construction projects for the installations or locations outside the United States, and in the amounts, set forth in the following table:

Navy: Outside the United States

Country	Installation or Location	Amount
Guam	Naval Base, Guam	\$55,473,000
Japan	Naval Station, Yokosuka	\$83,010,000

SEC. 2202. FAMILY HOUSING.

Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(4)(A), the Secretary of the Navy may construct or acquire family housing units (including land acquisition and supporting facilities) at the installation, in the number of units, and in the amount set forth in the following table:

Navy: Family Housing

Location	Installation	Units	Amount
Guam	Naval Base, Guam	126	\$43,495,000

SEC. 2203. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(4)(A), the Secretary of the Navy may improve existing military family housing units in an amount not to exceed \$178,644,000.

SEC. 2204. AUTHORIZATION OF APPROPRIATIONS, NAVY.

(a) **AUTHORIZATION OF APPROPRIATIONS.**—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2005, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of \$1,964,743,000, as follows:

(1) For military construction projects inside the United States authorized by section 2201(a), \$837,411,000.

(2) For military construction projects outside the United States authorized by section 2201(b), \$39,584,000.

(3) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, \$34,893,000.

(4) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, \$218,942,000.

(B) For support of military family housing (including functions described in section 2833 of title 10, United States Code), \$588,660,000.

(5) For the construction of increment 3 of the general purpose berthing pier at Naval Weapons Station, Earle, New Jersey, authorized by section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1704), as amended by section 2205 of this Act, \$54,432,000.

(6) For the construction of increment 3 of pier 11 replacement at Naval Station, Norfolk, Virginia, authorized by section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1704), \$40,200,000.

(7) For the construction of increment 2 of the apron and hangar recapitalization at Naval Air Facility, El Centro, California, authorized by section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108–375; 118 Stat. 2105), \$18,666,000.

(8) For the construction of increment 2 of the White Side complex, Marine Corps Air Facility, Quantico, Virginia, authorized by section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108–375; 118 Stat. 2105), \$34,730,000.

(9) For the construction of increment 2 of the limited area production and storage complex at Strategic Weapons Facility Pacific, Bangor, Washington, authorized by section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108–375; 118 Stat. 2105), as amended by section 2206 of this Act, \$47,095,000.

(10) For the construction of increment 2 of the lab consolidation at Strategic Weapons Facility Pacific, Bangor, Washington authorized by section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108-375; 118 Stat. 2105), as amended by section 2206 of this Act, \$9,430,000.

(11) For the construction of increment 2 of the presidential helicopter programs support facility at Naval Air Warfare Center, Patuxent River, Maryland, authorized by section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108-375; 118 Stat. 2105), as amended by section 2206 of this Act, \$40,700,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2201 of this Act may not exceed the sum of the following:

(1) The total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

(2) \$37,721,000 (the balance of the amount authorized under section 2201(a) for a reclamation and conveyance project for Marine Corps Base, Camp Pendleton, California).

(3) \$43,424,000 (the balance of the amount authorized under section 2201(a) for a helicopter hangar replacement at Naval Air Station, Jacksonville, Florida).

(4) \$45,850,000 (the balance of the amount authorized under section 2201(a) for infrastructure upgrades to Recruit Training Command, Great Lakes, Illinois).

(5) \$26,790,000 (the balance of the amount authorized under section 2201(a) for construction of a field house at United States Naval Academy, Annapolis, Maryland).

(6) \$31,059,000 (the balance of the amount authorized under section 2201(a) for replacement of Ship Repair Pier 3 at Naval Support Activity, Norfolk Naval Shipyard, Virginia).

(7) \$10,159,000 (the balance of the amount authorized under section 2201(a) for an addition to Hockmuth Hall, Marine Corps Base, Quantico, Virginia).

(8) \$21,000,000 (the balance of the amount authorized under section 2201(a) for construction of bachelor quarters for Naval Station, Everett, Washington).

(9) \$29,889,000 (the balance of the amount authorized under section 2201(b) for wharf upgrades at Naval Base, Guam).

(10) \$69,100,000 (the balance of the amount authorized under section 2201(b) for wharf upgrades at Naval Station, Yokosuka, Japan).

SEC. 2205. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2004 PROJECT.

(a) MODIFICATION OF INSIDE THE UNITED STATES PROJECT.—The table in section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108-136; 117 Stat. 1703) is amended—

(1) in the item relating to Naval Weapons Station, Earle, New Jersey, by striking “\$123,720,000” in the amount column and inserting “\$140,372,000”; and

(2) by striking the amount identified as the total in the amount column and inserting “\$1,352,524,000”.

(b) CONFORMING AMENDMENT.—Section 2204(b)(4) of that Act (117 Stat. 1706) is amended by striking “\$96,980,000” and inserting “\$113,632,000”.

SEC. 2206. MODIFICATIONS OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2005 PROJECTS.

(a) MODIFICATION OF INSIDE THE UNITED STATES PROJECTS.—Section 2201 of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108–375; 118 Stat. 2105) is amended—

(1) in the table in subsection (a)—

(A) below the item relating to Naval Surface Warfare Center, Indian Head, Maryland, by inserting “Naval Air Warfare Center, Patuxent River” in the installation column and “\$95,200,000” in the amount column;

(B) in the item relating to Marine Corps Air Facility, Quantico, Virginia, by striking “\$73,838,000” in the amount column and inserting “\$74,470,000”;

(C) in the item relating to Strategic Weapons Facility Pacific, Bangor, Washington, by striking “\$138,060,000” in the amount column and inserting “\$147,760,000”; and

(D) by striking the amount identified as the total in the amount column and inserting “\$1,057,587,000”; and

(2) by striking subsection (c).

(b) CONFORMING AMENDMENTS.—Section 2204 of that Act (118 Stat. 2107) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking “\$712,927,000” and inserting “\$752,927,000”; and

(B) by striking paragraph (3); and

(2) in subsection (b)—

(A) in paragraph (4), by striking “\$34,098,000” and inserting “\$34,730,000”; and

(B) by striking paragraph (7) and inserting the following new paragraphs:

“(7) \$9,700,000 (the balance of the amount authorized under section 2201(a) for naval laboratory consolidation, Strategic Weapons Facility Pacific, Bangor, Washington).

“(8) \$55,200,000 (the balance of the amount authorized under section 2201(a) for construction of a presidential helicopter programs support facility at Naval Air Warfare Center, Patuxent River, Maryland).”.

TITLE XXIII—AIR FORCE

Sec. 2301. Authorized Air Force construction and land acquisition projects.

Sec. 2302. Family housing.

Sec. 2303. Improvements to military family housing units.

Sec. 2304. Authorization of appropriations, Air Force.

SEC. 2301. AUTHORIZED AIR FORCE CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(1), the Secretary of the Air Force may acquire real property and carry out military construction projects for the installations

or locations inside the United States, and in the amounts, set forth in the following table:

Air Force: Inside the United States

State	Installation or Location	Amount
Alabama	Maxwell Air Force Base	\$14,900,000
Alaska	Clear Air Force Base	\$20,000,000
	Elmendorf Air Force Base	\$84,820,000
Arizona	Davis-Monthan Air Force Base	\$8,600,000
	Luke Air Force Base	\$13,000,000
Arkansas	Little Rock Air Force Base	\$8,900,000
California	Beale Air Force Base	\$14,200,000
	Edwards Air Force Base	\$103,000,000
	Travis Air Force Base	\$46,400,000
	Vandenberg Air Force Base	\$16,845,000
Colorado	Buckley Air Force Base	\$20,100,000
	Peterson Air Force Base	\$25,500,000
	United States Air Force Academy	\$13,000,000
Delaware	Dover Air Force Base	\$19,000,000
District of Columbia	Bolling Air Force Base	\$14,900,000
Florida	Cape Canaveral	\$6,200,000
	Hurlburt Field	\$2,540,000
	MacDill Air Force Base	\$107,200,000
	Tyndall Air Force Base	\$21,500,000
Georgia	Robins Air Force Base	\$7,600,000
Hawaii	Hickam Air Force Base	\$13,378,000
Idaho	Mountain Home Air Force Base	\$9,835,000
Louisiana	Barksdale Air Force Base	\$10,800,000
Massachusetts	Hanscom Air Force Base	\$3,900,000
Mississippi	Columbus Air Force Base	\$10,000,000
	Keesler Air Force Base	\$47,500,000
Missouri	Whiteman Air Force Base	\$5,721,000
Montana	Malmstrom Air Force Base	\$13,500,000
Nebraska	Offutt Air Force Base	\$63,080,000
Nevada	Indian Springs Auxiliary Field	\$60,724,000
	Nellis Air Force Base	\$24,370,000
New Jersey	McGuire Air Force Base	\$13,185,000
New Mexico	Kirtland Air Force Base	\$6,600,000
	Holloman Air Force Base	\$15,000,000
North Dakota	Minot Air Force Base	\$8,700,000
Ohio	Wright Patterson Air Force Base	\$32,620,000
Oklahoma	Tinker Air Force Base	\$31,960,000
	Vance Air Force Base	\$14,000,000
South Carolina	Charleston Air Force Base	\$2,583,000
	Shaw Air Force Base	\$16,030,000
South Dakota	Ellsworth Air Force Base	\$8,400,000
Texas	Goodfellow Air Force Base	\$4,300,000
	Laughlin Air Force Base	\$7,900,000
	Sheppard Air Force Base	\$36,000,000
Utah	Hill Air Force Base	\$33,900,000
Virginia	Langley Air Force Base	\$44,365,000
Washington	Fairchild Air Force Base	\$8,200,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(2), the Secretary of the Air Force may acquire real property and carry out military construction projects for the installations or locations outside the United States, and in the amounts, set forth in the following table:

Air Force: Outside the United States

Country	Installation or Location	Amount
Germany	Ramstein Air Base	\$11,650,000
	Spangdahlem Air Base	\$12,474,000
Guam	Andersen Air Base	\$18,500,000
Italy	Aviano Air Base	\$22,660,000
Korea	Kunsan Air Base	\$47,900,000
	Osan Air Base	\$37,719,000
Portugal	Lajes Field, Azores	\$12,000,000
Turkey	Incirlik Air Base	\$5,780,000
United Kingdom	Royal Air Force Lakenheath	\$5,125,000
	Royal Air Force Mildenhall	\$13,500,000

SEC. 2302. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(5)(A), the Secretary of the Air Force may construct or acquire family housing units (including land acquisition and supporting facilities) at the installations or locations, in the number of units, and in the amounts set forth in the following table:

Air Force: Family Housing

State or Country	Installation or Location	Units	Amount
Alaska	Eielson Air Force Base	392 ..	\$55,794,000
California	Edwards Air Force Base	226 ..	\$59,699,000
Florida	MacDill Air Force Base	109 ..	\$40,982,000
Idaho	Mountain Home Air Force Base.	194 ..	\$56,467,000
Missouri	Whiteman Air Force Base	111 ..	\$26,917,000
Montana	Malmstrom Air Force Base	296 ..	\$68,971,000
North Carolina ...	Seymour Johnson Air Force Base.	255 ..	\$48,868,000
North Dakota	Grand Forks Air Force Base.	150 ..	\$43,353,000
	Minot Air Force Base	223 ..	\$44,548,000
South Carolina ...	Charleston Air Force Base	10	\$15,935,000
South Dakota	Ellsworth Air Force Base ...	60	\$14,383,000
Texas	Dyess Air Force Base	190 ..	\$43,016,000
Germany	Ramstein Air Base	101 ..	\$62,952,000
	Spangdahlem Air Base	79	\$45,385,000
Turkey	Incirlik Air Base	100 ..	\$22,730,000
United Kingdom	Royal Air Force Lakenheath.	107 ..	\$48,437,000

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(5)(A), the Secretary of the Air Force may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed \$37,104,000.

SEC. 2303. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(5)(A), the Secretary of the Air Force

may improve existing military family housing units in an amount not to exceed \$366,346,000.

SEC. 2304. AUTHORIZATION OF APPROPRIATIONS, AIR FORCE.

(a) **AUTHORIZATION OF APPROPRIATIONS.**—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2005, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of \$3,157,356,000, as follows:

(1) For military construction projects inside the United States authorized by section 2301(a), \$989,756,000.

(2) For military construction projects outside the United States authorized by section 2301(b), \$187,308,000.

(3) For unspecified minor military construction projects authorized by section 2805 of title 10, United States Code, \$15,929,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, \$95,537,000.

(5) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, \$1,101,887,000.

(B) For support of military family housing (including functions described in section 2833 of title 10, United States Code), \$766,939,000.

(b) **LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.**—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2301 of this Act may not exceed the sum of the following:

(1) The total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

(2) \$30,000,000 (the balance of the amount authorized under section 2301(a) for construction of a C–17 maintenance complex at Elmendorf Air Force Base, Alaska).

(3) \$66,000,000 (the balance of the amount authorized under section 2301(a) for construction of a main base runway at Edwards Air Force Base, California).

(4) \$29,000,000 (the balance of the amount authorized under section 2301(a) for construction of a joint intelligence center at MacDill Air Force Base, Florida).

TITLE XXIV—DEFENSE AGENCIES

Sec. 2401. Authorized Defense Agencies construction and land acquisition projects.

Sec. 2402. Energy conservation projects.

Sec. 2403. Authorization of appropriations, Defense Agencies.

SEC. 2401. AUTHORIZED DEFENSE AGENCIES CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) **INSIDE THE UNITED STATES.**—Using amounts appropriated pursuant to the authorization of appropriations in section 2403(a)(1), the Secretary of Defense may acquire real property and carry out military construction projects for the installations or locations inside the United States, and in the amounts, set forth in the following tables:

Defense Education Activity

State	Installation or Location	Amount
Georgia	Fort Stewart/Hunter Army Air Field ..	\$16,629,000
North Carolina	Fort Bragg	\$18,075,000

Defense Intelligence Agency

State	Installation or Location	Amount
District of Columbia ..	Bolling Air Force Base	\$7,900,000

Defense Logistics Agency

State	Installation or Location	Amount
Arizona	Yuma Proving Ground	\$7,300,000
California	Defense Distribution Depot, Tracy	\$33,635,000
	Miramar	\$23,000,000
Kansas	McConnell Air Force Base	\$15,800,000
New Mexico	Cannon Air Force Base	\$13,200,000
North Carolina	Seymour Johnson Air Force Base	\$18,500,000
Pennsylvania	Defense Distribution Depot, New Cum- berland.	\$6,500,000
Virginia	Fort Belvoir	\$4,500,000
	Naval Station, Norfolk	\$6,700,000

National Security Agency

State	Installation or Location	Amount
Georgia	Augusta	\$61,466,000
Hawaii	Kunua	\$305,000,000
Maryland	Fort Meade	\$41,200,000

Special Operations Command

State	Installation or Location	Amount
California	Naval Surface Warfare Center, Coronado.	\$28,350,000
Florida	Hurlburt Field	\$6,500,000
	Eglin Air Force Base	\$12,800,000
Georgia	Fort Stewart/Hunter Army Air Field.	\$10,000,000
Kentucky	Fort Campbell	\$37,800,000
North Carolina	Fort Bragg	\$18,069,000
Washington	Fort Lewis	\$53,300,000

TRICARE Management Activity

State	Installation or Location	Amount
California	Beale Air Force Base	\$18,000,000

TRICARE Management Activity—Continued

State	Installation or Location	Amount
	Naval Hospital, San Diego	\$15,000,000
Colorado	Peterson Air Force Base	\$1,820,000
Maryland	Fort Detrick	\$55,200,000
	Uniformed Services University, Bethesda.	\$10,350,000
Mississippi ..	Keesler Air Force Base	\$14,000,000
Nevada	Nellis Air Force Base	\$1,700,000
South Carolina.	Charleston	\$35,000,000
Texas	Lackland Air Force Base	\$11,000,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2403(a)(2), the Secretary of Defense may acquire real property and carry out military construction projects for the installations or locations outside the United States, and in the amounts, set forth in the following tables:

Defense Education Activity

Country	Installation or Location	Amount
Germany	Landstuhl	\$6,543,000
	Vilseck	\$2,323,000
Guam	Agana	\$40,578,000
Korea	Taegu	\$8,231,000
Spain	Naval Station, Rota	\$7,963,000

Defense Logistics Agency

Country	Installation or Location	Amount
Greece	Souda Bay	\$7,089,000

Missile Defense Agency

Country	Installation or Location	Amount
Kwajalein	Kwajalein Atoll	\$4,901,000

National Security Agency

Country	Installation or Location	Amount
United Kingdom	Menwith Hill	\$86,354,000

TRICARE Management Activity

Country	Installation or Location	Amount
Bahrain	\$4,750,000

SEC. 2402. ENERGY CONSERVATION PROJECTS.

Using amounts appropriated pursuant to the authorization of appropriations in section 2403(a)(5), the Secretary of Defense may carry out energy conservation projects under section 2865 of title 10, United States Code, in the amount of \$50,000,000.

SEC. 2403. AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES.

(a) **IN GENERAL.**—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2005, for military construction, land acquisition, and military family housing functions of the Department of Defense (other than the military departments) in the total amount of \$2,817,039,000, as follows:

(1) For military construction projects inside the United States authorized by section 2401(a), \$626,609,000.

(2) For military construction projects outside the United States authorized by section 2401(b), \$123,104,000.

(3) For unspecified minor military construction projects under section 2805 of title 10, United States Code, \$15,736,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, \$136,406,000.

(5) For energy conservation projects authorized by section 2402 of this Act, \$50,000,000.

(6) For base closure and realignment activities as authorized by the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) and funded through the Department of Defense Base Closure Account 1990 established by section 2906 of such Act, \$254,827,000.

(7) For base closure and realignment activities as authorized by the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) and funded through the Department of Defense Base Closure Account 2005 established by section 2906A of such Act, \$1,504,466,000.

(8) For military family housing functions:

(A) For support of military family housing (including functions described in section 2833 of title 10, United States Code), \$46,391,000.

(B) For credit to the Department of Defense Family Housing Improvement Fund established by section 2883(a)(1) of title 10, United States Code, \$2,500,000.

(9) For the construction of increment 2 of the hospital replacement at Fort Belvoir, Virginia, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108–375; 118 Stat. 2112), \$57,000,000.

(b) **LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.**—Notwithstanding the cost variations authorized by section 2853

of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2401 of this Act may not exceed the sum of the following:

(1) The total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

(2) \$12,500,000 (the balance of the amount authorized under section 2401(a) for construction of a regional security operations center, Augusta, Georgia).

(3) \$256,034,000 (the balance of the amount authorized under section 2401(a) for replacement of a regional security operations center, Kunia, Hawaii).

(4) \$13,151,000 (the balance of the amount authorized under section 2401(a) for construction of a classified material conversion facility, Fort Meade, Maryland).

(5) \$44,657,000 (the balance of the amount authorized under section 2401(b) for construction of an operations building, Royal Air Force Menwith Hill Station, United Kingdom).

(c) NOTICE AND WAIT REQUIREMENT APPLICABLE TO OBLIGATION OF FUNDS FOR BASE CLOSURE AND REALIGNMENT ACTIVITIES.—Funds appropriated pursuant to the authorization of appropriations in subsection (a)(7) may not be obligated until—

Reports.

(1) a period of 21 days has expired following the date on which the Secretary of Defense submits to the congressional defense committees a report describing the specific programs, projects, and activities for which the funds are to be obligated; or

(2) if over sooner, a period of 14 days has expired following the date on which a copy of the report is provided in an electronic medium pursuant to section 480 of title 10, United States Code.

TITLE XXV—NORTH ATLANTIC TREATY ORGANIZATION SECURITY INVESTMENT PROGRAM

Sec. 2501. Authorized NATO construction and land acquisition projects.

Sec. 2502. Authorization of appropriations, NATO.

SEC. 2501. AUTHORIZED NATO CONSTRUCTION AND LAND ACQUISITION PROJECTS.

The Secretary of Defense may make contributions for the North Atlantic Treaty Organization Security Investment program as provided in section 2806 of title 10, United States Code, in an amount not to exceed the sum of the amount authorized to be appropriated for this purpose in section 2502 and the amount collected from the North Atlantic Treaty Organization as a result of construction previously financed by the United States.

SEC. 2502. AUTHORIZATION OF APPROPRIATIONS, NATO.

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2005, for contributions by the Secretary of Defense under section 2806 of title 10, United States Code, for the share of the United States of the cost of projects for the North Atlantic Treaty Organization Security Investment program authorized by section 2501, in the amount of \$206,858,000.

TITLE XXVI—GUARD AND RESERVE FORCES FACILITIES

Sec. 2601. Authorized Guard and Reserve construction and land acquisition projects.

SEC. 2601. AUTHORIZED GUARD AND RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS.

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2005, for the costs of acquisition, architectural and engineering services, and construction of facilities for the Guard and Reserve Forces, and for contributions therefor, under chapter 1803 of title 10, United States Code (including the cost of acquisition of land for those facilities), in the following amounts:

- (1) For the Department of the Army—
 - (A) for the Army National Guard of the United States, \$523,151,000; and
 - (B) for the Army Reserve, \$152,569,000.
- (2) For the Department of the Navy, for the Navy Reserve and Marine Corps Reserve, \$46,864,000.
- (3) For the Department of the Air Force—
 - (A) for the Air National Guard of the United States, \$316,117,000; and
 - (B) for the Air Force Reserve, \$105,883,000.

TITLE XXVII—EXPIRATION AND EXTENSION OF AUTHORIZATIONS

Sec. 2701. Expiration of authorizations and amounts required to be specified by law.

Sec. 2702. Extension of authorizations of certain fiscal year 2003 projects.

Sec. 2703. Extension of authorizations of certain fiscal year 2002 projects.

SEC. 2701. EXPIRATION OF AUTHORIZATIONS AND AMOUNTS REQUIRED TO BE SPECIFIED BY LAW.

(a) EXPIRATION OF AUTHORIZATIONS AFTER THREE YEARS.—Except as provided in subsection (b), all authorizations contained in titles XXI through XXVI for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Security Investment program (and authorizations of appropriations therefor) shall expire on the later of—

- (1) October 1, 2008; or
- (2) the date of the enactment of an Act authorizing funds for military construction for fiscal year 2009.

(b) EXCEPTION.—Subsection (a) shall not apply to authorizations for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Security Investment program (and authorizations of appropriations therefor), for which appropriated funds have been obligated before the later of—

- (1) October 1, 2008; or
- (2) the date of the enactment of an Act authorizing funds for fiscal year 2009 for military construction projects, land

acquisition, family housing projects and facilities, or contributions to the North Atlantic Treaty Organization Security Investment program.

SEC. 2702. EXTENSION OF AUTHORIZATIONS OF CERTAIN FISCAL YEAR 2003 PROJECTS.

(a) **EXTENSION.**—Notwithstanding section 2701 of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2700), authorizations set forth in the tables in subsection (b), as provided in section 2301, 2302, or 2401 of that Act, shall remain in effect until October 1, 2006, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 2007, whichever is later.

(b) **TABLES.**—The tables referred to in subsection (a) are as follows:

Air Force: Extension of 2003 Project Authorizations

Installation or Location	Project	Amount
Aviano Air Base, Italy	Area consolidation	\$5,000,000
Eglin Air Force Base, Florida	Family housing (134 units)	\$15,906,000
	Family housing office	\$597,000
Keesler Air Force Base, Mississippi	Family housing (117 units)	\$16,505,000
Randolph Air Force Base, Texas	Family housing (112 units)	\$14,311,000
	Housing maintenance facility.	\$447,000

Defense Wide: Extension of 2003 Project Authorization

Installation or Location	Project	Amount
Stennis Space Center, Mississippi	SOF Training Range	\$5,000,000

SEC. 2703. EXTENSION OF AUTHORIZATIONS OF CERTAIN FISCAL YEAR 2002 PROJECTS.

(a) **EXTENSION AND RENEWAL.**—Notwithstanding section 2701 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1301), authorizations set forth in the tables in subsection (b), as provided in section 2101 or 2302 of that Act and extended by section 2702 of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108–375; 118 Stat. 2116), shall remain in effect until October 1, 2006, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 2007, whichever is later.

(b) **TABLES.**—The tables referred to in subsection (a) are as follows:

Army: Extension of 2002 Project Authorization

Installation or Location	Project	Amount
Pohakuloa Training Area, Hawaii	Land acquisition	\$1,500,000

Air Force: Extension of 2002 Project Authorization

Installation or Location	Project	Amount
Barksdale Air Force Base, Louisiana.	Family housing (56 units) ..	\$7,300,000

TITLE XXVIII—GENERAL PROVISIONS**SUBTITLE A—MILITARY CONSTRUCTION PROGRAM AND MILITARY FAMILY HOUSING CHANGES**

- Sec. 2801. Modification of congressional notification requirements for certain military construction activities.
- Sec. 2802. Increase in number of family housing units in Korea authorized for lease by the Army at maximum amount.
- Sec. 2803. Improvement in availability and timeliness of Department of Defense information regarding military construction and family housing accounts and activities.
- Sec. 2804. Modification of cost variation authority.
- Sec. 2805. Inapplicability to child development centers of restriction on authority to acquire or construct ancillary supporting facilities.
- Sec. 2806. Department of Defense Housing Funds.
- Sec. 2807. Use of design-build selection procedures to accelerate design effort in connection with military construction projects.
- Sec. 2808. Acquisition of associated utilities, equipment, and furnishings in reserve component facility exchange.
- Sec. 2809. One-year extension of temporary, limited authority to use operation and maintenance funds for construction projects outside the United States.
- Sec. 2810. Temporary program to use minor military construction authority for construction of child development centers.
- Sec. 2811. General and flag officers quarters in the National Capital Region.

SUBTITLE B—REAL PROPERTY AND FACILITIES ADMINISTRATION

- Sec. 2821. Consolidation of Department of Defense land acquisition authorities and limitations on use of such authorities.
- Sec. 2822. Modification of authorities on agreements to limit encroachments and other constraints on military training, testing, and operations.
- Sec. 2823. Modification of utility system conveyance authority and related reporting requirements.
- Sec. 2824. Report on application of force protection and anti-terrorism standards to leased facilities.
- Sec. 2825. Report on use of ground source heat pumps at Department of Defense facilities.

SUBTITLE C—BASE CLOSURE AND REALIGNMENT

- Sec. 2831. Additional reporting requirements regarding base closure process and use of Department of Defense base closure accounts.
- Sec. 2832. Expanded availability of adjustment and diversification assistance for communities adversely affected by mission realignments in base closure process.
- Sec. 2833. Treatment of Indian Tribal Governments as public entities for purposes of disposal of real property recommended for closure in July 1993 BRAC Commission report.
- Sec. 2834. Termination of project authorizations for military installations approved for closure in 2005 round of base realignments and closures.
- Sec. 2835. Required consultation with State and local entities on issues related to increase in number of military personnel at military installations.
- Sec. 2836. Sense of Congress regarding infrastructure and installation requirements for transfer of units and personnel from closed and realigned military installations to receiving locations.
- Sec. 2837. Defense access road program and military installations affected by defense base closure process or Integrated Global Presence and Basing Strategy.
- Sec. 2838. Sense of Congress on reversionary interests involving real property at Navy homeports.

SUBTITLE D—LAND CONVEYANCES**PART 1—ARMY CONVEYANCES**

- Sec. 2841. Land conveyance, Camp Navajo, Arizona.
- Sec. 2842. Land conveyance, Iowa Army Ammunition Plant, Middletown, Iowa.
- Sec. 2843. Land conveyance, Helena, Montana.
- Sec. 2844. Lease authority, Army Heritage and Education Center, Carlisle, Pennsylvania.
- Sec. 2845. Land exchange, Fort Hood, Texas.
- Sec. 2846. Modification of land conveyance, Engineer Proving Ground, Fort Belvoir, Virginia.
- Sec. 2847. Land conveyance, Fort Belvoir, Virginia.
- Sec. 2848. Land conveyance, Army Reserve Center, Bothell, Washington.

PART 2—NAVY CONVEYANCES

- Sec. 2851. Land conveyance, Marine Corps Air Station, Miramar, San Diego, California.
- Sec. 2852. Lease or license of United States Navy Museum facilities at Washington Navy Yard, District of Columbia.

PART 3—AIR FORCE CONVEYANCES

- Sec. 2861. Purchase of build-to-lease family housing, Eielson Air Force Base, Alaska.
- Sec. 2862. Land conveyance, Air Force property, Jacksonville, Arkansas.
- Sec. 2863. Land conveyance, Air Force property, La Junta, Colorado.
- Sec. 2864. Lease, National Imagery and Mapping Agency site, St. Louis, Missouri.

SUBTITLE E—OTHER MATTERS

- Sec. 2871. Clarification of moratorium on certain improvements at Fort Buchanan, Puerto Rico.
- Sec. 2872. Transfer of excess Department of Defense property on Santa Rosa and Okaloosa Island, Florida, to Gulf Islands National Seashore.
- Sec. 2873. Authorized military uses of Papago Park Military Reservation, Phoenix, Arizona.
- Sec. 2874. Assessment of water needs for Presidio of Monterey and Ord Military Community.
- Sec. 2875. Redesignation of McEntire Air National Guard Station, South Carolina, as McEntire Joint National Guard Base.
- Sec. 2876. Sense of Congress regarding community impact assistance related to construction of Navy landing field, North Carolina.
- Sec. 2877. Sense of Congress on establishment of Bakers Creek Memorial.

Subtitle A—Military Construction Program and Military Family Housing Changes

SEC. 2801. MODIFICATION OF CONGRESSIONAL NOTIFICATION REQUIREMENTS FOR CERTAIN MILITARY CONSTRUCTION ACTIVITIES.

(a) CONTINGENCY CONSTRUCTION.—Section 2804(b) of title 10, United States Code, is amended—

(1) by striking “21-day period” and inserting “14-day period”; and

(2) by striking “14-day period” and inserting “seven-day period”.

(b) ACQUISITION IN LIEU OF CONSTRUCTION.—Section 2813(c) of such title is amended—

(1) by striking “30-day period” and inserting “21-day period”; and

(2) by striking “21-day period” and inserting “14-day period”.

SEC. 2802. INCREASE IN NUMBER OF FAMILY HOUSING UNITS IN KOREA AUTHORIZED FOR LEASE BY THE ARMY AT MAXIMUM AMOUNT.

Section 2828(e)(4) of title 10, United States Code, is amended by striking “2,400” and inserting “2,800”.

SEC. 2803. IMPROVEMENT IN AVAILABILITY AND TIMELINESS OF DEPARTMENT OF DEFENSE INFORMATION REGARDING MILITARY CONSTRUCTION AND FAMILY HOUSING ACCOUNTS AND ACTIVITIES.

(a) MAINTENANCE OF INFORMATION ON INTERNET.—Section 2851 of title 10, United States Code, is amended by adding at the end the following new subsection:

“(c) MAINTENANCE OF MILITARY CONSTRUCTION INFORMATION ON INTERNET; ACCESS.—(1) The Secretary of Defense shall maintain an Internet site that, when activated by a person authorized under paragraph (3), will permit the person to access and view on a separate page of the Internet site a document or other file containing the information required by paragraph (2) for the following:

“(A) Each military construction project or military family housing project that has been specifically authorized by Act of Congress.

“(B) Each project carried out with funds authorized for the operation and maintenance of military family housing.

“(C) Each project carried out with funds authorized for the improvement of military family housing units.

“(D) Each unspecified minor construction project carried out under the authority of section 2805(a) of this title.

“(E) Each military construction project or military family housing project regarding which a statutory requirement exists to notify Congress.

“(2) The information to be provided via the Internet site required by paragraph (1) for each project described in such paragraph shall include the following:

“(A) The solicitation date and award date (or anticipated dates) for each contract entered into (or to be entered into) by the United States in connection with the project.

“(B) The contract recipient, contract award amount, construction milestone schedule proposed by the contractor, and construction completion date stipulated in the awarded contract.

“(C) The most current Department of Defense Form 1391, Military Construction Project Data, for the project.

“(D) The progress of the project, including the percentage of construction currently completed and the current estimated construction completion date.

“(E) The current contract obligation of funds for the project, including any changes to the original contract award amount.

“(F) The estimated final cost of the project and, if the estimated final cost of the project exceeds the amount appropriated for the project and funds have been provided from another source to meet the increased cost, the source of the funds and the amount provided.

“(G) If funds appropriated for the project have been diverted for use in another project, the project to which the funds were diverted and the amount so diverted.

“(H) For accounts such as planning and design, unspecified minor construction, and family housing operation and maintenance, detailed information regarding expenditures and anticipated expenditures under these accounts and the purposes for which the expenditures are made.

“(3) Access to the Internet site required by paragraph (1) shall be restricted to the following persons:

“(A) Members of the congressional defense committees and their staff.

“(B) Staff of the congressional defense committees.

Deadline.

“(4) The information required to be provided for each project described in paragraph (1) shall be made available to the persons referred to in paragraph (3) not later than 90 days after the award of a contract or delivery order for the project. The Secretary of Defense shall update the required information as promptly as practicable, but not less frequently than once a month, to ensure that the information is available to such persons in a timely manner.”.

Deadline.
10 USC 2851
note.

(b) IMPLEMENTATION.—The Internet site required by subsection (c) of section 2851 of title 10, United States Code, as added by subsection (a), shall be available to the persons referred to in paragraph (3) of such subsection not later than July 15, 2006.

(c) STYLISTIC AMENDMENTS.—Such section is further amended—

(1) in subsection (a), by inserting “SUPERVISION OF MILITARY DEPARTMENT PROJECTS.—” after “(a)”; and

(2) in subsection (b), by inserting “SUPERVISION OF DEFENSE AGENCY PROJECTS.—” after “(b)”

SEC. 2804. MODIFICATION OF COST VARIATION AUTHORITY.

(a) LIMITATION ON COST DECREASES RELATED TO MILITARY CONSTRUCTION AND MILITARY FAMILY HOUSING PROJECTS.—Section 2853 of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) by striking “may be increased by not more than 25 percent” and inserting “may be increased or decreased by not more than 25 percent”; and

(B) by striking “if the Secretary concerned determines that such an increase in cost is required” and inserting “if the Secretary concerned determines that such revised cost is required”;

(2) in subsection (c)—

(A) by striking “limitation on cost increase” and inserting “limitation on cost variations”; and

(B) by striking “the increase” both places it appears and inserting “the variation”; and

(3) in subsection (d), by striking “limitation on cost increases” and inserting “limitation on cost variations”.

(b) ADDITIONAL INFORMATION REQUIRED FOR NOTIFICATION IN CONNECTION WITH WAIVER OF LIMITATIONS ON COST INCREASES.—Subsection (c)(2) of such section is further amended by inserting after “the reasons therefor” the following: “, including a description of the funds proposed to be used to finance any increased costs”.

(c) TECHNICAL AMENDMENTS.—

(1) SECTION HEADING.—The heading of such section is amended to read as follows:

“§ 2853. Authorized cost and scope of work variations”.

(2) TABLE OF SECTIONS.—The item relating to such section in the table of sections at the beginning of subchapter III of chapter 169 of such title is amended to read as follows:

“2853. Authorized cost and scope of work variations.”.

SEC. 2805. INAPPLICABILITY TO CHILD DEVELOPMENT CENTERS OF RESTRICTION ON AUTHORITY TO ACQUIRE OR CONSTRUCT ANCILLARY SUPPORTING FACILITIES.

(a) EXCEPTION FOR CHILD DEVELOPMENT CENTERS.—Section 2881(b) of title 10, United States Code, is amended by inserting “(other than a child development center)” after “ancillary supporting facility”.

(b) CHILD DEVELOPMENT CENTER DEFINED.—Section 2871 of such title is amended—

(1) in paragraph (1), by inserting “child development centers,” after “day care centers,”; and

(2) by inserting after paragraph (1) the following new paragraph:

“(2) The term ‘child development center’ includes a facility, and the utilities to support such facility, the function of which is to support the daily care of children aged six weeks old through five years old for full-day, part-day, and hourly service.”.

(c) RULE OF CONSTRUCTION.—Nothing in the amendment made by subsection (a) may be construed to alter any law and regulation applicable to the operation of a child development center, as defined in section 2871(2) of title 10, United States Code.

10 USC 2881
note.

SEC. 2806. DEPARTMENT OF DEFENSE HOUSING FUNDS.

(a) REQUIREMENT TO FUND CERTAIN ACQUISITION AND IMPROVEMENT OF MILITARY HOUSING SOLELY THROUGH DEFENSE HOUSING FUNDS.—Subsection (e) of section 2883 of title 10, United States Code, is amended—

(1) by striking “The Secretary” and inserting “(1) The Secretary”; and

(2) by adding at the end the following new paragraph:

“(2) The Funds established under subsection (a) shall be the sole source of funds for activities carried out under this subchapter.”.

(b) AUTHORITY TO TRANSFER FUNDS APPROPRIATED FOR THE IMPROVEMENT OF MILITARY FAMILY HOUSING TO DEFENSE HOUSING FUNDS.—Subsection (c)(1)(B) of such section is amended by striking “acquisition or construction” and inserting “acquisition, improvement, or construction”.

(c) REPORTING REQUIREMENTS RELATED TO DEPARTMENT OF DEFENSE HOUSING FUNDS.—Section 2884 of such title is amended—

(1) in subsection (a)(2)(D), by inserting after “description of the source of such funds” the following: “, including a description of the specific construction, acquisition, or improvement projects from which funds were transferred to the Funds established under section 2883 of this title in order to finance the contract, conveyance, or lease”; and

(2) in subsection (b)(1)—

(A) by striking “a report” and inserting “a separate report”;

(B) by striking “covering the Funds” and inserting “covering each of the Funds”; and

(C) by striking the period at the end and inserting the following: “, including a description of the specific construction, acquisition, or improvement projects from which funds were transferred and the privatization projects or contracts to which those funds were transferred. Each report shall also include, for each military department or defense agency, a description of all funds to be transferred to such Funds for the current fiscal year and the next fiscal year.”.

SEC. 2807. USE OF DESIGN-BUILD SELECTION PROCEDURES TO ACCELERATE DESIGN EFFORT IN CONNECTION WITH MILITARY CONSTRUCTION PROJECTS.

(a) CLARIFICATION OF CONDITION ON CONTRACTS.—Paragraph (2) of subsection (f) of section 2305a of title 10, United States Code, is amended to read as follows:

“(2) Any military construction contract that provides for an accelerated design effort, as authorized by paragraph (1), shall include as a condition of the contract that the liability of the United States in a termination for convenience before funds are first made available for construction may not exceed an amount attributable to the final design of the project.”.

(b) DURATION OF AUTHORITY; REPORT.—Paragraph (4) of such subsection is amended by striking “2007” each place it appears and inserting “2008”.

SEC. 2808. ACQUISITION OF ASSOCIATED UTILITIES, EQUIPMENT, AND FURNISHINGS IN RESERVE COMPONENT FACILITY EXCHANGE.

(a) ACQUISITION AUTHORITY.—Section 18240 of title 10, United States Code, is amended—

(1) in subsection (a), by adding at the end the following new sentence: “The acquisition of a facility or an addition to an existing facility under this section may include the acquisition of utilities, equipment, and furnishings for the facility.”; and

(2) in subsection (c), by inserting “including any utilities, equipment, and furnishings, to be” after “existing facility,”.

(b) CONFORMING AMENDMENT.—Section 2809(c)(1) of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108–375; 118 Stat. 2127) is amended by inserting “including any utilities, equipment, and furnishings,” after “existing facility,”.

SEC. 2809. ONE-YEAR EXTENSION OF TEMPORARY, LIMITED AUTHORITY TO USE OPERATION AND MAINTENANCE FUNDS FOR CONSTRUCTION PROJECTS OUTSIDE THE UNITED STATES.

(a) CONDITIONAL EXTENSION.—Section 2808 of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1723), as amended by section 2810 of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108–375; 118 Stat. 2128), is further amended—

(1) in subsection (a), by striking “fiscal year 2005” and inserting “fiscal years 2005 and 2006”; and

(2) in subsection (d)(2)—

(A) by striking “during fiscal year 2005” and inserting “during a fiscal year”;

(B) by inserting “for that fiscal year” after “commence”;

and

(C) by striking “for fiscal year 2004” and inserting “for the preceding fiscal year”.

(b) **LIMITATION ON USE OF AUTHORITY.**—Subsection (c)(1) of such section 2808 is amended by striking “\$200,000,000” and inserting “\$100,000,000”.

(c) **QUARTERLY REPORTS.**—Subsection (d) of such section 2808 is amended by striking paragraph (1) and inserting the following new paragraph:

“(1) Not later than 30 days after the end of each fiscal-year quarter during which appropriated funds available for operation and maintenance are obligated or expended to carry out construction projects outside the United States, the Secretary of Defense shall submit to the congressional committees specified in subsection (f) a report on the worldwide obligation and expenditure during that quarter of such appropriated funds for such construction projects.”.

(d) **EFFECT OF FAILURE TO SUBMIT QUARTERLY REPORTS OR PROJECT NOTIFICATIONS.**—Such section 2808 is further amended by adding at the end the following new subsection:

“(g) **EFFECT OF FAILURE TO SUBMIT QUARTERLY REPORTS OR PROJECT NOTIFICATIONS.**—If the report for a fiscal-year quarter under subsection (d) or the notice of the obligation of the funds for a construction project required by subsection (b) is not submitted to the congressional committees specified in subsection (f) by the required date, appropriated funds available for operation and maintenance may not be obligated or expended after that date under the authority of this section to carry out construction projects outside the United States until the date on which the report or notice is finally submitted.”.

SEC. 2810. TEMPORARY PROGRAM TO USE MINOR MILITARY CONSTRUCTION AUTHORITY FOR CONSTRUCTION OF CHILD DEVELOPMENT CENTERS.

(a) **THRESHOLDS ON CONSTRUCTION AUTHORIZED.**—The Secretary of Defense shall establish a program to carry out minor military construction projects under section 2805 of title 10, United States Code, to construct child development centers.

(b) **INCREASED MAXIMUM AMOUNTS APPLICABLE TO MINOR CONSTRUCTION PROJECTS.**—For the purpose of any military construction project carried out under the program authorized by this section, the amounts specified in section 2805 of title 10, United States Code, are modified as follows:

(1) The amount specified in the third sentence of subsection (a)(1) of such section is deemed to be \$8,000,000.

(2) The amount specified in the second sentence of subsection (a)(1) and in subsection (c)(1)(A) of such section is deemed to be \$7,000,000.

(3) The amount specified in subsections (b)(1) and (c)(1)(B) of such section is deemed to be \$5,000,000.

(c) **NOTIFICATION, REVIEW AND APPROVAL REQUIREMENTS.**—The notification requirements under section 2805 of title 10, United States Code, shall remain in effect for construction projects carried out under the program authorized by this section. The Secretary

Procedures.

shall establish procedures for the review and approval of requests from the Secretaries of military departments to carry out construction projects under the program.

(d) **REPORT REQUIRED.**—Not later than March 1, 2007, the Secretary of Defense shall submit to the congressional defense committees a report on the program authorized by this section. The report shall include a list and description of the construction projects carried out under the program, including the location and cost of each project.

(e) **EXPIRATION OF AUTHORITY.**—The authority to obligate funds to carry out a minor military construction project under the program authorized by this section expires on September 30, 2007.

(f) **CONSTRUCTION OF AUTHORITY.**—Nothing in this section may be construed to limit any other authority provided by law for a military construction project at a child development center.

(g) **CHILD DEVELOPMENT CENTER DEFINED.**—In this section, the term “child development center” includes a facility, and the utilities to support such facility, the function of which is to support the daily care of children aged six weeks old through five years old for full-day, part-day, and hourly service.

SEC. 2811. GENERAL AND FLAG OFFICERS QUARTERS IN THE NATIONAL CAPITAL REGION.

(a) **SERVICE-BY-SERVICE REPORT ON NEED FOR QUARTERS IN NATIONAL CAPITAL REGION.**—Not later than March 15, 2006, the Secretary of each of the military departments shall submit to the congressional defense committees a report containing an analysis of the anticipated needs of the Armed Forces under the jurisdiction of that Secretary for family housing units for general officers and flag officers in the National Capital Region. In conducting the analysis, the Secretary shall consider the necessity of providing housing for general officers and flag officers in secure locations in the National Capital Region, but shall not consider the number of existing Government-owned units in the National Capital Region.

(b) **USE OF ALTERNATIVE AUTHORITY FOR ACQUISITION AND IMPROVEMENT OF MILITARY HOUSING.**—The Secretary of a military department shall include in the report prepared by the Secretary under subsection (a) an assessment of the viability and economic impact of incorporating the inventory of general officer and flag officer quarters of that military department in the National Capitol Region into transactions carried out using the alternative authority for the acquisition and improvement of military housing provided by subchapter IV of chapter 169 of title 10, United States Code. The assessment shall include an economic analysis of the potential costs to include general officer and flag officer quarters into existing and planned housing privatization transactions.

(c) **DEFINITIONS.**—In this section:

(1) The terms “general officer” and “flag officer” have the meanings given such terms in section 101(b) of title 10, United States Code.

(2) The term “National Capital Region” has the meaning given such term in section 2674(f) of such title.

Subtitle B—Real Property and Facilities Administration

SEC. 2821. CONSOLIDATION OF DEPARTMENT OF DEFENSE LAND ACQUISITION AUTHORITIES AND LIMITATIONS ON USE OF SUCH AUTHORITIES.

(a) LAND ACQUISITION AUTHORITY.—Chapter 159 of title 10, United States Code, is amended—

(1) in section 2663—

(A) by striking the section heading and inserting the following new section heading:

“§ 2663. Land acquisition authorities”;

(B) in subsection (a)—

(i) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(ii) in subparagraph (C), as so redesignated, by striking “clause (2)” and inserting “subparagraph (B)”;

and

(iii) by inserting “ACQUISITION OF LAND BY CONDEMNATION FOR CERTAIN MILITARY PURPOSES.—(1)” before “The Secretary”;

(C) by redesignating subsection (b) as paragraph (2) and, in such paragraph, by striking “subsection (a)” and inserting “paragraph (1)”;

(D) by redesignating subsection (c) as subsection (b) and, in such subsection, by inserting “ACQUISITION BY PURCHASE IN LIEU OF CONDEMNATION.—” before “The Secretary”; and

(E) by striking subsection (d);

(2) by transferring subsections (a), (b), and (d) of section 2672 to section 2663 and inserting such subsections in that order after subsection (b), as redesignated by paragraph (1)(D);

(3) in subsection (a), as transferred by paragraph (2), by striking “(a) ACQUISITION AUTHORITY” and inserting “(c) ACQUISITION OF LOW-COST INTERESTS IN LAND”;

(4) in subsection (b), as transferred by paragraph (2)—

(A) by striking “(b) ACQUISITION OF MULTIPLE PARCELS.—This section” and inserting “(3) This subsection”;

(B) by striking “subsection (a)(1)” and inserting “paragraph (1)”;

(C) by striking “subsection (a)(2)” and inserting “paragraph (2)”;

(5) in subsection (d), as transferred by paragraph (2)—

(A) by striking “(d) AVAILABILITY OF FUNDS.—Appropriations” and inserting “(4) Appropriations”; and

(B) by striking “this section” and inserting “this subsection”;

(6) by transferring subsections (a), (c), and (b) of section 2672a to section 2663 and inserting such subsections in that order after subsection (c), as redesignated and amended by paragraphs (3), (4), and (5);

(7) in subsection (a), as transferred by paragraph (6)—

(A) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively; and

- (B) by striking “(a) The Secretary” and inserting “(d) ACQUISITION OF INTERESTS IN LAND WHEN NEED IS URGENT.—(1) The Secretary”;
- (8) in subsection (c), as transferred by paragraph (6)—
- (A) by striking “(c)” and inserting “(2)”;
- (B) by striking “this section” and inserting “this subsection”;
- (9) in subsection (b), as transferred by paragraph (6)—
- (A) by striking “(b)” and inserting “(3)”;
- (B) by striking “this section” in the first sentence and inserting “this subsection”; and
- (C) by striking the second sentence;
- (10) by transferring subsection (b) of section 2676 to section 2663 and inserting such subsection after subsection (d), as redesignated and amended by paragraphs (7), (8), and (9); and
- (11) in subsection (b), as transferred by paragraph (10), by striking “(b) Authority” and inserting “(e) SURVEY AUTHORITY; ACQUISITION METHODS.—Authority”.
- (b) LIMITATIONS ON ACQUISITION AUTHORITY.—Section 2676 of such title, as amended by subsection (a)(10), is further amended—
- (1) in subsection (a)—
- (A) by inserting “AUTHORIZATION FOR ACQUISITION REQUIRED.—” before “No military department”; and
- (B) by striking “, as amended”;
- (2) in subsection (c)—
- (A) in paragraph (1), by inserting “COST LIMITATIONS.—” before “(1)”;
- (B) in paragraph (2)—
- (i) by striking “A land” and inserting “Until subsection (d) is complied with, a land”; and
- (ii) by striking “lesser,” and all that follows through the period at the end and inserting “lesser.”;
- (3) in subsection (d), by inserting “CONGRESSIONAL NOTIFICATION.—” before “The limitations”; and
- (4) in subsection (e), by inserting “PAYMENT OF JUDGEMENTS AND SETTLEMENTS.—” before “The Secretary”.
- (c) TRANSFER AND REDESIGNATION OF REVISED LIMITATION SECTION.—Section 2676 of such title, as amended by subsections (a)(10) and (b)—
- (1) is inserted after section 2663 of such title, as amended by subsection (a); and
- (2) is amended by striking the section heading and inserting the following new section heading:

“§ 2664. Limitations on real property acquisition”.

(d) INCLUSION OF LIMITATION ON LAND ACQUISITION COMMISSIONS.—Subsection (c) of section 2661 of such title is transferred to section 2664 of such title, as redesignated by subsection (c)(2), is inserted after subsection (a) of such redesignated section, and is redesignated as subsection (b).

(e) APPLICATION OF REAL PROPERTY MANAGEMENT AUTHORITIES TO PENTAGON RESERVATION.—Section 2661 of such title is amended by adding at the end the following new subsection:

“(d) TREATMENT OF PENTAGON RESERVATION.—In this chapter, the terms ‘Secretary concerned’ and ‘Secretary of a military department’ include the Secretary of Defense with respect to the Pentagon Reservation.”.

(f) CONFORMING REPEALS.—Sections 2672 and 2672a of such title are repealed.

(g) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 159 of such title is amended—

(1) by striking the items relating to sections 2663, 2672, 2672a, and 2676; and

(2) by inserting after the item relating to section 2662 the following new items:

“2663. Land acquisition authorities.

“2664. Limitations on real property acquisition.”.

SEC. 2822. MODIFICATION OF AUTHORITIES ON AGREEMENTS TO LIMIT ENCROACHMENTS AND OTHER CONSTRAINTS ON MILITARY TRAINING, TESTING, AND OPERATIONS.

(a) EXPANSION OF AGREEMENTS AUTHORIZED.—

(1) IN GENERAL.—Subsection (a) of section 2684a of title 10, United States Code, is amended—

(A) by inserting “or entities” after “entity”; and

(B) by striking “in the vicinity of a military installation” and inserting “in the vicinity of, or ecologically related to, a military installation or military airspace”.

(2) CONFORMING AMENDMENTS.—Subsection (d) of such section is amended—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by inserting “or entities” after “eligible entity”; and

(ii) in subparagraph (A), by inserting “or entities” after “the entity”; and

(B) in paragraph (3), by inserting “or entities” after “the entity”.

(b) COST-SHARING OF ACQUISITION COSTS OF PROPERTY AND INTERESTS.—Subsection (d) of such section is further amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by striking “may provide” and inserting “shall provide”; and

(B) by striking subparagraph (B) and inserting the following new subparagraph (B):

“(B) the sharing by the United States and the entity or entities of the acquisition costs in accordance with paragraph (3).”;

(2) by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), respectively; and

(3) by inserting after paragraph (2) the following new paragraph (3):

“(3)(A) The Secretary concerned shall determine the appropriate portion of the acquisition costs to be borne by the United States in the sharing of acquisition costs of real property, or an interest in real property, under paragraph (1)(B).

“(B) The portion of acquisition costs borne by the United States in the sharing of acquisition costs of real property, or an interest in real property, under paragraph (1)(B) may not exceed an amount equal to the fair market value of any property or interest to be

transferred to the United States upon the request of the Secretary concerned under paragraph (4).

“(C) The contribution of an entity or entities to the acquisition costs of real property, or an interest in real property, under paragraph (1)(B) may include, with the approval of the Secretary concerned, the following or any combination of the following:

“(i) The provision of funds, including funds received by such entity or entities from a Federal agency outside the Department of Defense or a State or local government in connection with a Federal, State, or local program.

“(ii) The provision of in-kind services, including services related to the acquisition or maintenance of such real property or interest in real property.

“(iii) The exchange or donation of real property or any interest in real property.”

(c) REPORTING REQUIREMENT.—Such section is further amended—

(1) by redesignating subsections (g) and (h) as subsections (h) and (i), respectively; and

(2) by inserting after subsection (f) the following new subsection (g):

“(g) ANNUAL REPORTS.—(1) Not later than March 1, 2007, and annually thereafter, the Secretary of Defense shall, in coordination with the Secretaries of the military departments and the Director of the Department of Defense Test Resource Management Center, submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the projects undertaken under agreements under this section.

“(2) Each report under paragraph (1) shall include the following the following:

“(A) A description of the status of the projects undertaken under agreements under this section.

“(B) An assessment of the effectiveness of such projects, and other actions taken pursuant to this section, as part of a long-term strategy to ensure the sustainability of military test and training ranges, military installations, and associated airspace.

“(C) An evaluation of the methodology and criteria used to select, and to establish priorities, for projects undertaken under agreements under this section.

“(D) A description of any sharing of costs by the United States and eligible entities under subsection (d) during the preceding year, including a description of each agreement under this section providing for the sharing of such costs and a statement of the eligible entity or entities with which the United States is sharing such costs.

“(E) Such recommendations as the Secretary of Defense considers appropriate for legislative or administrative action in order to improve the efficiency and effectiveness of actions taken pursuant to agreements under this section.”

Contracts.

SEC. 2823. MODIFICATION OF UTILITY SYSTEM CONVEYANCE AUTHORITY AND RELATED REPORTING REQUIREMENTS.

(a) NOTICE AND WAIT REQUIREMENT.—Subsection (a) of section 2688 of title 10, United States Code, is amended—

(1) by inserting “(1)” after “CONVEYANCE AUTHORITY.—”; and

(2) by adding at the end the following new paragraph:

“(2) The Secretary concerned may not enter into a contract to convey a utility system, or part of a utility system, under this subsection until—

“(A) the Secretary submits to the congressional defense committees an economic analysis, based upon accepted life-cycle costing procedures approved by the Secretary of Defense, that demonstrates that—

“(i) the long-term economic benefit to the United States of the conveyance of the utility system, or part thereof, exceeds the long-term economic cost to the United States of the conveyance;

“(ii) the conveyance of the utility system, or part thereof, will reduce the long-term cost to the United States of utility services provided by the utility system; and

“(iii) the economic benefit analysis under clause (i) and the cost reduction analysis under clause (ii) incorporate margins of error in the estimates, based upon guidance approved by the Secretary of Defense that minimize any underestimation of the costs resulting from privatization of the utility system, or part thereof, or any overestimation of the costs resulting from continued Government ownership and management of the utility system, or part thereof; and

“(B) the end of the 21-day period beginning on the date on which the economic analysis prepared under subparagraph (A) with respect to the conveyance of the utility system, or part thereof, is received by the congressional defense committees or, if over earlier, the end of the 14-day period beginning on the date on which a copy of the economic analysis is provided in an electronic medium pursuant to section 480 of this title.”.

(b) CONSIDERATION.—Subsection (c)(1) of such section is amended by striking “shall” and inserting “may”.

(c) DURATION OF UTILITY SERVICES CONTRACTS IN CONNECTION WITH CONVEYANCES.—Such section is further amended—

(1) by redesignating subsections (d) through (i) as subsections (e) through (j), respectively; and

(2) by redesignating paragraph (3) of subsection (c) as subsection (d) and, in such subsection (as so redesignated)—

(A) by striking “A contract” and inserting “CONTRACTS FOR UTILITY SERVICES.—(1) Except as provided in paragraph (2), a contract”;

(B) by striking “paragraph (1)” and inserting “subsection (c)”;

(C) by striking “50 years.” and inserting “10 years.”; and

(D) by adding at the end the following new paragraph:

“(2) The Secretary of Defense, or the designee of the Secretary, may authorize a contract for utility services described in paragraph (1) to have a term in excess of 10 years, but not to exceed 50 years, if the Secretary determines that a contract for a longer term will be cost effective. The economic analysis submitted to the congressional defense committees under subsection (a)(2) for the conveyance of the utility system, or part thereof, with regard to which the utility services contract will be entered into by the Secretary concerned shall include the determination required by this paragraph, an explanation of the need for the longer term

contract, and a comparison of costs between a 10-year contract and the longer-term contract.”.

(d) CONFORMING AMENDMENTS.—Such section is further amended—

(1) in subsection (f), as redesignated by subsection (c)(1), by striking the second sentence; and

(2) in subsection (h), as redesignated by subsection (c)(1), by striking “subsection (e)” and inserting “subsection (a)(2)”.

(e) TEMPORARY LIMITATION ON USE OF CONVEYANCE AUTHORITY.—During each of fiscal years 2006 and 2007, the number of utility systems, or parts of utility systems, for which conveyance contracts may be entered into under section 2688 of title 10, United States Code, shall not exceed 25 percent of the total number of utility systems that, as of the date of the enactment of this Act, have been determined to be eligible for conveyance under such section, but have not yet been conveyed.

(f) REPORT ON USE OF CONVEYANCE AUTHORITY.—Not later than April 1, 2006, the Secretary of Defense shall submit to the congressional defense committees a report describing the use of section 2688 of title 10, United States Code, to convey utility systems, or parts of utility systems. The report shall contain the following:

(1) A discussion of the methodology by which a military department conducts the economic analyses of proposed utility system conveyances under section 2688 of title 10, United States Code, including the economic analyses referred to in subsection (a)(2) of such section, and any guidance issued by the Department of Defense related to conducting such economic analyses.

(2) A list of the steps taken to ensure the reliability of completed economic analyses, including post-conveyance reviews of actual costs and savings to the United States versus the costs and savings anticipated in the economic analyses.

(3) A review of the costs and savings to the United States resulting from each utility system conveyance carried out under such section.

(4) A discussion of the feasibility of obtaining consideration equal to the fair market value of a conveyed utility system, as authorized by subsection (c) of such section, and any guidance issued by the Department of Defense related to implementing that requirement, and the effect of that requirement and guidance on the costs and savings to the United States resulting from procuring by contract the utility services provided by the utility system.

(5) A discussion of the effects that permanent conveyance of ownership in a utility system may have on the ability of the Secretary of a military department to renegotiate contracts for utility services provided by the utility system or to procure such services from another source.

(6) A comparison of the value of contracts to permanently convey ownership in a utility system versus contracts that include reversion of the utility system to Government ownership at the end of a specified contractual period, with regards to contract terms, short- and long-term costs to the Government, system condition at the end of a contract, liability and costs associated with termination before the end of a contract, and

available courses of action to address problems and other issues raised during and after the contractual period.

(7) A discussion of the efforts and direction within the Department of Defense to oversee the implementation and use of the utility system conveyance authority under this section and to ensure the adequacy of utilities services for a military installation after conveyance of a utility system.

(8) A discussion of the effect of utility system conveyances on the operating budgets of military installations at which the conveyances were made.

(g) TEMPORARY SUSPENSION OF CONVEYANCE AUTHORITY.—If the report required by subsection (f) is not submitted to the congressional defense committees by the date specified in such subsection, the Secretary of a military department may not convey a utility system, including any part of a utility system, under subsection (a) of section 2688 of title 10, United States Code, or make a contribution under subsection (h) of such section toward the cost of construction, repair, or replacement of a utility system by another entity until the end of the 30-day period beginning on the date on which the report is finally submitted. Deadline.

(h) COMPTROLLER GENERAL REVIEW.—Not later than August 1, 2006, the Comptroller General shall submit to the congressional defense committees a report evaluating the changes made by the Department of Defense since May 2005 to the utility systems conveyance program authorized by section 2688 of title 10, United States Code, and the effects of those changes and containing such recommendations for additional changes as the Comptroller General considers necessary. Deadline.
Reports.

SEC. 2824. REPORT ON APPLICATION OF FORCE PROTECTION AND ANTI-TERRORISM STANDARDS TO LEASED FACILITIES.

(a) REPORT REQUIRED.—Not later than September 30, 2006, the Secretary of Defense shall submit to the congressional defense committees a report on the application of Department of Defense Anti-Terrorism/Force Protection standards to all facilities leased by the Department of Defense or leased by the General Services Administration as an agent for the Department of Defense as of September 30, 2005.

(b) INFORMATION ON LEASED FACILITIES.—For the facilities identified in the report submitted under subsection (a), the Secretary of Defense shall include the following:

(1) A description of the function of each leased facility, including the location, size, terms of lease, and number of personnel housed within the facility.

(2) A description of the threat assessment and the joint security integrated vulnerability assessment for each leased facility.

(3) A description and cost estimate of any actions necessary to mitigate risk to an acceptable level in each leased facility.

(4) A description and cost estimate of the actions to be taken by the Secretary for each leased facility to ensure compliance with Department of Defense Anti-Terrorism/Force Protection standards.

(5) The total estimated cost of, and a proposed funding plan for, implementation of the force protection and anti-terrorism measures required to ensure the compliance of all leased

facilities with Defense Anti-Terrorism/Force Protection standards.

(c) **INFORMATION ON SUPPORT PRIORITIES.**—The report submitted under subsection (a) shall also include a separate description of the procedures used by the Secretary of Defense to prioritize funding for the application of force protection and antiterrorism standards to leased facilities, including a description of any such procedures applicable to the entire Department of Defense.

(d) **APPLICABILITY.**—The reporting requirements under this section apply to any space or facility that houses 11 or more personnel in service to, or employed by, the Department of Defense.

SEC. 2825. REPORT ON USE OF GROUND SOURCE HEAT PUMPS AT DEPARTMENT OF DEFENSE FACILITIES.

(a) **REPORT REQUIRED.**—Not later than July 1, 2006, the Secretary of Defense shall submit to the congressional defense committees a report on the use of ground source heat pumps at Department of Defense facilities.

(b) **CONTENT.**—The report required under subsection (a) shall include—

(1) a description of the types of Department of Defense facilities that use ground source heat pumps;

(2) an assessment of the applicability and cost-effectiveness of the use of ground source heat pumps at Department of Defense facilities in different geographic regions of the United States;

(3) a description of the relative applicability of ground source heat pumps for purposes of new construction at, and retrofitting of, Department of Defense facilities; and

(4) recommendations for facilitating and encouraging the increased use of ground source heat pumps at Department of Defense facilities.

Subtitle C—Base Closure and Realignment

SEC. 2831. ADDITIONAL REPORTING REQUIREMENTS REGARDING BASE CLOSURE PROCESS AND USE OF DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNTS.

(a) **INFORMATION ON FUTURE RECEIPTS AND EXPENDITURES.**—

(1) **1990 ACCOUNT.**—Section 2906(c)(1) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended—

(A) in subparagraph (A)—

(i) by striking “committees of the amount” and inserting “committees of—

“(i) the amount”;

(ii) by striking “such fiscal year and of the amount” and inserting “such fiscal year;

“(ii) the amount”; and

(iii) by striking “such fiscal year.” and inserting “such fiscal year;

“(iii) the amount and nature of anticipated deposits to be made into, and the anticipated expenditures to be made from, the Account during the first fiscal year commencing after the submission of the report; and

“(iv) the amount and nature of anticipated expenditures to be made pursuant to section 2905(a) during the first fiscal year commencing after the submission of the report.”; and

(B) in subparagraph (B)—

(i) in clause (i), by inserting “and installation” after “subaccount”; and

(ii) by adding at the end the following new clause:

“(v) An estimate of the net revenues to be received from property disposals to be completed during the first fiscal year commencing after the submission of the report at military installations the date of approval of closure or realignment of which is before January 1, 2005.”.

(2) 2005 ACCOUNT.—Section 2906A(c)(1) of such Act is amended—

10 USC 2687
note.

(A) in subparagraph (A)—

(i) by striking “committees of the amount” and inserting “committees of—

“(i) the amount”;

(ii) by striking “such fiscal year and of the amount” and inserting “such fiscal year;

“(ii) the amount”; and

(iii) by striking “such fiscal year.” and inserting “such fiscal year;

“(iii) the amount and nature of anticipated deposits to be made into, and the anticipated expenditures to be made from, the Account during the first fiscal year commencing after the submission of the report; and

“(iv) the amount and nature of anticipated expenditures to be made pursuant to section 2905(a) during the first fiscal year commencing after the submission of the report.”; and

(B) in subparagraph (B)—

(i) in clause (i), by inserting “and installation” after “subaccount”; and

(ii) by adding at the end the following new clause:

“(v) An estimate of the net revenues to be received from property disposals to be completed during the first fiscal year commencing after the submission of the report at military installations the date of approval of closure or realignment of which is after January 1, 2005.”.

(b) INFORMATION ON BRAC PROCESS.—Section 2907 of such Act is amended—

10 USC 2687
note.

(1) by striking “fiscal year 1993” and inserting “fiscal year 2007”;

(2) by striking “and” at the end of paragraph (1);

(3) by striking the period at the end of paragraph (2) and inserting a semicolon; and

(4) by adding at the end the following new paragraphs:

“(3) a description of the closure or realignment actions already carried out at each military installation since the date of the installation’s approval for closure or realignment under this part and the current status of the closure or realignment of the installation, including whether—

“(A) a redevelopment authority has been recognized by the Secretary for the installation;

“(B) the screening of property at the installation for other Federal use has been completed; and

“(C) a redevelopment plan has been agreed to by the redevelopment authority for the installation;

“(4) a description of redevelopment plans for military installations approved for closure or realignment under this part, the quantity of property remaining to be disposed of at each installation as part of its closure or realignment, and the quantity of property already disposed of at each installation;

“(5) a list of the Federal agencies that have requested property during the screening process for each military installation approved for closure or realignment under this part, including the date of transfer or anticipated transfer of the property to such agencies, the acreage involved in such transfers, and an explanation for any delays in such transfers;

“(6) a list of known environmental remediation issues at each military installation approved for closure or realignment under this part, including the acreage affected by these issues, an estimate of the cost to complete such environmental remediation, and the plans (and timelines) to address such environmental remediation; and

“(7) an estimate of the date for the completion of all closure or realignment actions at each military installation approved for closure or realignment under this part.”.

SEC. 2832. EXPANDED AVAILABILITY OF ADJUSTMENT AND DIVERSIFICATION ASSISTANCE FOR COMMUNITIES ADVERSELY AFFECTED BY MISSION REALIGNMENTS IN BASE CLOSURE PROCESS.

(a) **ELIGIBILITY REQUIREMENTS.**—Subsection (b)(3) of section 2391 of title 10, United States Code, is amended—

(1) by striking “significantly reduced operations of a defense facility” and inserting “realignment of a military installation”;

(2) by striking “cancellation,” and inserting “closure or realignment, cancellation or”; and

(3) by striking “community” and all that follows through the period at the end and inserting “community or its residents.”.

(b) **MILITARY INSTALLATION AND REALIGNMENT DEFINED.**—Paragraph (1) of subsection (d) of such section is amended to read as follows:

“(1) The terms ‘military installation’ and ‘realignment’ have the meanings given those terms in section 2687(e) of this title.”.

SEC. 2833. TREATMENT OF INDIAN TRIBAL GOVERNMENTS AS PUBLIC ENTITIES FOR PURPOSES OF DISPOSAL OF REAL PROPERTY RECOMMENDED FOR CLOSURE IN JULY 1993 BRAC COMMISSION REPORT.

Section 8013 of the Department of Defense Appropriations Act, 1994 (Public Law 103–139; 107 Stat. 1440), is amended by striking “the report to the President from the Defense Base Closure and Realignment Commission, July 1991” and inserting “the reports to the President from the Defense Base Closure and Realignment Commission, July 1991 and July 1993”.

SEC. 2834. TERMINATION OF PROJECT AUTHORIZATIONS FOR MILITARY INSTALLATIONS APPROVED FOR CLOSURE IN 2005 ROUND OF BASE REALIGNMENTS AND CLOSURES.

(a) **PROJECT TERMINATION.**—An authorization for a military construction project, land acquisition, or family housing project

contained in title XXI, XXII, XXIII, or XXIV of this Act or in an Act authorizing funds for a prior fiscal year for military construction projects, land acquisition, and family housing projects (and authorizations of appropriations therefor) shall terminate and no longer constitute authority under section 2676, 2802, 2821, or 2822 of title 10, United States Code, to carry out the military construction project, land acquisition, or family housing project if the project is located at a military installation that is approved for closure or adverse realignment or established as an enclave in 2005 under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

(b) EXCEPTIONS.—Subsection (a) shall not apply to an authorization for a military construction project, land acquisition, or family housing project (and authorizations of appropriations therefor) if the Secretary of Defense determines that—

(1) the cost to the United States to carry out the project would be less than the cost to the United States of canceling the project;

(2) the project remains necessary to support functions at a military installation either before, during, or after the closure or realignment of the installation or the establishment of the installation as an enclave;

(3) in the case of an installation established as an enclave to which future missions may be designated, the project is necessary to support enclave functions or future missions after their designation; or

(4) the project is vital to the national security or to the protection of health, safety, or the quality of the environment.

(c) NOTICE AND WAIT REQUIREMENT.—When a decision is made to carry out a military construction project, land acquisition, or family housing project under subsection (b), the Secretary of Defense shall submit to the congressional defense committees a report explaining the decision, including the justification for the project and the current estimate of the cost of the project. The project may then be carried out only after the end of the 21-day period beginning on the date the report is received by such committees or, if earlier, the end of the 14-day period beginning on the date on which a copy of the report is provided in an electronic medium pursuant to section 480 of title 10, United States Code. In the case of a project described in subsection (b)(4), advance notification is not required, but the Secretary shall notify such committees within seven days after first obligating funds for the project.

Reports.

SEC. 2835. REQUIRED CONSULTATION WITH STATE AND LOCAL ENTITIES ON ISSUES RELATED TO INCREASE IN NUMBER OF MILITARY PERSONNEL AT MILITARY INSTALLATIONS.

10 USC 2687 note.

If the base closure and realignment decisions of the 2005 round of base closures and realignments under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) or the Integrated Global Presence and Basing Strategy would result in an increase in the number of members of the Armed Forces assigned to a military installation, the Secretary of Defense, during the development of the plans to implement the decisions or strategy with respect to that installation, shall consult with appropriate State and local entities to ensure that matters affecting the local community, including

requirements for transportation, utility infrastructure, housing, education, and family support activities, are considered.

SEC. 2836. SENSE OF CONGRESS REGARDING INFRASTRUCTURE AND INSTALLATION REQUIREMENTS FOR TRANSFER OF UNITS AND PERSONNEL FROM CLOSED AND REALIGNED MILITARY INSTALLATIONS TO RECEIVING LOCATIONS.

(a) FINDINGS.—Congress finds the following:

(1) The decisions of the 2005 round of base closures and realignments and the Integrated Global Presence and Basing Strategy will result in the permanent change of station and relocation of hundreds of thousands of members of the Armed Forces and their families over the next six years.

(2) Critical quality-of-life concerns for military families related to the infrastructure and installation requirements to support the restructuring of the Armed Forces include adequate housing and continued access to quality education facilities and child care, health care, and other services.

(3) By ensuring that facilities and infrastructure are maintained at closing installations pending the actual change of station and relocation of members of the Armed Forces and their families and that adequate permanent facilities and infrastructure await them at the receiving installations, disruptions to unit operational effectiveness will be minimized and the quality of life of military families will be protected.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Defense should seek to ensure that the permanent facilities and infrastructure necessary to support the mission of the Armed Forces and the quality-of-life needs of members of the Armed Forces and their families are ready for use at receiving locations before units are transferred to such locations as a result of the 2005 round of base closures and realignments and the Integrated Global Presence and Basing Strategy.

SEC. 2837. DEFENSE ACCESS ROAD PROGRAM AND MILITARY INSTALLATIONS AFFECTED BY DEFENSE BASE CLOSURE PROCESS OR INTEGRATED GLOBAL PRESENCE AND BASING STRATEGY.

(a) SENSE OF CONGRESS.—It is the sense of Congress that roads leading onto a military installation that is significantly impacted by an increase in the number of members of the Armed Forces assigned to the installation as a result of the 2005 round of defense base closure and realignment under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) or the Integrated Global Presence and Basing Strategy should be considered for designation as defense access roads for purposes of section 210 of title 23, United States Code.

(b) STUDY OF SURFACE TRANSPORTATION INFRASTRUCTURE OF AFFECTED INSTALLATIONS.—The Secretary of Defense shall conduct a study—

(1) to identify each military installation, if any, that will be significantly impacted by an increase in the number of members of the Armed Forces assigned to the installation as a result of the 2005 round of defense base closure and realignment under the Defense Base Closure and Realignment Act of 1990 or the Integrated Global Presence and Basing Strategy; and

(2) to determine whether the existing surface transportation infrastructure at each installation identified under paragraph (1) is adequate to support the increased vehicular traffic associated with the increase in the number of defense personnel described in that paragraph.

(c) REPORT.—Not later than April 15, 2007, the Secretary shall submit to the congressional defense committees a report containing the results of the study conducted under subsection (b).

SEC. 2838. SENSE OF CONGRESS ON REVERSIONARY INTERESTS INVOLVING REAL PROPERTY AT NAVY HOMEPORTS.

It is the sense of Congress that, in implementing the decisions made with respect to Navy homeports as part of the 2005 round of defense base closures and realignments, the Secretary of the Navy should, when consistent with Federal policy supporting cost-free conveyances of Federal surplus property suitable for use to provide a public benefit, release or otherwise relinquish any entitlement to receive, pursuant to any agreement providing for such payment, compensation from any holder of a reversionary interest in real property used by the United States for improvements made to the property.

Subtitle D—Land Conveyances

PART 1—ARMY CONVEYANCES

SEC. 2841. LAND CONVEYANCE, CAMP NAVAJO, ARIZONA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to the Department of Veterans' Services of the State of Arizona (in this section referred to as the "Department") all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 80 acres at Camp Navajo, Arizona, for the purpose of permitting the Department to establish a State-run cemetery for veterans.

(b) REVERSIONARY INTEREST.—If the Secretary determines at any time that the real property conveyed under subsection (a) is not being used in accordance with the purpose of the conveyance specified in such subsection, all right, title, and interest in and to the property shall revert, at the option of the Secretary, to the United States, and the United States shall have the right of immediate entry onto the property. Any determination of the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

Records.

(c) PAYMENT OF COSTS OF CONVEYANCE.—

(1) PAYMENT REQUIRED.—The Secretary shall require the Department to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation, and other administrative costs related to the conveyance. If amounts are collected from the Department in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to the Department.

(2) TREATMENT OF AMOUNTS RECEIVED.—Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

Survey.

(d) DESCRIPTION OF REAL PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2842. LAND CONVEYANCE, IOWA ARMY AMMUNITION PLANT, MIDDLETOWN, IOWA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey to the City of Middletown, Iowa (in this section referred to as the “City”), all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 1.0 acres located at the Iowa Army Ammunition Plant, Middletown, Iowa, for the purpose of economic development.

(b) CONSIDERATION.—As consideration for the conveyance of property under subsection (a), the City shall provide the United States, whether by cash payment, in-kind consideration, or a combination thereof, an amount that is not less than the fair market value of the conveyed property, as determined by the Secretary.

(c) PAYMENT OF COSTS OF CONVEYANCE.—

(1) AUTHORITY TO REQUIRE PAYMENT.—The Secretary may require the City to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation, and other administrative costs related to the conveyance. If amounts are collected from the City in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to the City.

(2) TREATMENT OF AMOUNTS RECEIVED.—Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

Survey.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with

the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2843. LAND CONVEYANCE, HELENA, MONTANA.

(a) **CONVEYANCE AUTHORIZED.**—The Secretary of the Army may convey to the Helena Indian Alliance all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately 3.0 acres located at Sheridan Hall United States Army Reserve Center, 501 Euclid Avenue, Helena, Montana, for the purposes of supporting Native American health care, mental health counseling, and the operation of an education training center.

(b) **REVERSIONARY INTEREST.**—If the Secretary determines at any time that the real property conveyed under subsection (a) is not being used in accordance with the purposes of the conveyance specified in such subsection, all right, title, and interest in and to the property shall revert, at the option of the Secretary, to the United States, and the United States shall have the right of immediate entry onto the property. Any determination of the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

Records.

(c) **PAYMENT OF COSTS OF CONVEYANCE.**—

(1) **PAYMENT REQUIRED.**—The Secretary shall require the Helena Indian Alliance to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation, and other administrative costs related to the conveyance. If amounts are collected from the Helena Indian Alliance in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to the Alliance.

(2) **TREATMENT OF AMOUNTS RECEIVED.**—Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(d) **DESCRIPTION OF REAL PROPERTY.**—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary.

Survey.

(e) **ADDITIONAL TERMS AND CONDITIONS.**—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2844. LEASE AUTHORITY, ARMY HERITAGE AND EDUCATION CENTER, CARLISLE, PENNSYLVANIA.

Section 2866 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1333) is amended—

- (1) by redesignating subsection (e) as subsection (f); and
- (2) by inserting after subsection (d) the following new subsection (e):

“(e) LEASE OF FACILITY.—(1) Under such terms and conditions as the Secretary considers appropriate, the Secretary may lease portions of the facility to the Military Heritage Foundation to be used by the Foundation, consistent with the agreement referred to in subsection (a), for—

“(A) generating revenue for activities of the facility through rental use by the public, commercial and nonprofit entities, State and local governments, and other Federal agencies; and

“(B) such administrative purposes as may be necessary for the support of the facility.

“(2) The annual amount of consideration paid to the Secretary by the Military Heritage Foundation for a lease under paragraph (1) may not exceed an amount equal to the actual cost, as determined by the Secretary, of the annual operations and maintenance of the facility.

“(3) Amounts paid under paragraph (2) may be used by the Secretary, in such amounts as provided in advance in appropriation Acts, to cover the costs of operation of the facility.”.

SEC. 2845. LAND EXCHANGE, FORT HOOD, TEXAS.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey to Central Texas College (in this section referred to as the “College”) all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 40 acres at Fort Hood, Texas.

(b) CONSIDERATION.—As consideration for the conveyance under subsection (a), the College shall convey to the Secretary all right, title, and interest of the College in and to one or more parcels of real property acceptable to the Secretary and consisting of a total of approximately 158 acres. The fair market value of the real property received by the Secretary under this subsection shall be at least equal to the fair market value of the real property conveyed under subsection (a), as determined by the Secretary.

(c) PAYMENT OF COSTS OF CONVEYANCE.—

(1) PAYMENT REQUIRED.—The Secretary shall require the College to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the land exchange under this section, including survey costs, costs related to environmental documentation, and other administrative costs related to the exchange. If amounts are collected from the College in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to the College.

(2) TREATMENT OF AMOUNTS RECEIVED.—Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the land exchange. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be exchanged under this section shall be determined by surveys satisfactory to the Secretary.

Surveys.

(e) **ADDITIONAL TERMS AND CONDITIONS.**—The Secretary may require such additional terms and conditions in connection with the land exchange under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2846. MODIFICATION OF LAND CONVEYANCE, ENGINEER PROVING GROUND, FORT BELVOIR, VIRGINIA.

(a) **CONSIDERATION.**—Subsection (b)(4) of section 2836 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107-107; 115 Stat. 1314) is amended by striking “, jointly determined” and all that follows through “Ground” and inserting “equal to \$3,880,000”.

(b) **REPLACEMENT OF FIRE STATION.**—Subsection (d) of such section is amended—

(1) in paragraph (1)—

(A) by striking “Building 5089” and inserting “Building 191”; and

(B) by striking “paragraphs (2) and (3)” and inserting “paragraph (2)”;

(2) in paragraph (2), by striking “Building 5089” and inserting “Building 191”; and

(3) by striking paragraph (3).

SEC. 2847. LAND CONVEYANCE, FORT BELVOIR, VIRGINIA.

(a) **CONVEYANCE AUTHORIZED.**—The Secretary of the Army may convey to the Commonwealth of Virginia (in this section referred to as the “Commonwealth”) all right, title, and interest of the United States in and to up to three parcels of real property at Fort Belvoir, Virginia, consisting of approximately 2.5 acres and located on the alignment of State Route 618 (also known as the Woodlawn Road) and both the east and west sides of the intersection of State Route 618 and U.S. Highway No. 1 (in this section referred to as the “Woodlawn Road parcels”), for the purpose of allowing the Commonwealth, the National Trust for Historic Preservation (in this section referred to as the “Trust”), and Fairfax County, Virginia, to enter into an agreement regarding the conveyance from the Trust of a parcel of real property located on the west side of Old Mill Road, consisting of approximately two acres and extending between the intersection of Old Mill Road and Pole Road and the intersection of Mount Vernon Highway and U.S. Highway No. 1.

(b) **CONSIDERATION.**—

(1) **IN GENERAL.**—As consideration for the conveyance of the Woodlawn Road parcels under subsection (a), the Secretary shall receive, whether by cash payment, in-kind consideration, or a combination thereof, an amount that is not less than the fair market value of the conveyed property, as determined by an appraisal of the property acceptable to the Secretary.

(2) **DISPOSITION OF FUNDS.**—Cash consideration received by the Secretary under paragraph (1) shall be deposited in the special account in the Treasury established under subsection (b) of section 572 of title 40, United States Code, and shall be available in accordance with paragraph (5)(B)(i) of such subsection.

(c) **PAYMENT OF COSTS OF CONVEYANCE.**—

(1) **AUTHORITY TO REQUIRE PAYMENT.**—The Secretary may require the Commonwealth to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred

by the Secretary, to carry out the conveyance of the Woodlawn Road parcels under subsection (a), including survey costs, costs related to environmental documentation, and other administrative costs related to the conveyance. If amounts are collected from the Commonwealth in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to the Commonwealth.

(2) TREATMENT OF AMOUNTS RECEIVED.—Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

Survey.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the Woodlawn Road parcels shall be determined by surveys satisfactory to the Secretary.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyances under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2848. LAND CONVEYANCE, ARMY RESERVE CENTER, BOTHELL, WASHINGTON.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey to the Snohomish County Fire Protection District #10 (in this section referred to as the “Fire District”) all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately one acre at the Army Reserve Center in Bothell, Washington, and currently occupied, in part, by the Queensborough Firehouse, for the purpose of supporting the provision of fire and emergency medical aid services.

(b) IN-KIND CONSIDERATION.—As consideration for the conveyance under subsection (a), the Fire District shall provide in-kind consideration acceptable to the Secretary.

(c) REVERSIONARY INTEREST.—If the Secretary determines at any time that the real property conveyed under subsection (a) is not being used in accordance with the purpose of the conveyance specified in such subsection, all right, title, and interest in and to all or any portion of the property shall revert, at the option of the Secretary, to the United States, and the United States shall have the right of immediate entry onto the property. Any determination of the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

Records.

(d) PAYMENT OF COSTS OF CONVEYANCE.—

(1) PAYMENT REQUIRED.—The Secretary shall require the Fire District to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation, and other administrative costs related to the conveyance. If amounts are collected from the Fire District in advance of the Secretary incurring the actual costs, and the amount

collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to the Fire District.

(2) TREATMENT OF AMOUNTS RECEIVED.—Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(e) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. Survey.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

PART 2—NAVY CONVEYANCES

SEC. 2851. LAND CONVEYANCE, MARINE CORPS AIR STATION, MIRAMAR, SAN DIEGO, CALIFORNIA.

(a) CONVEYANCE AUTHORIZED.—Subject to subsection (c), the Secretary of the Navy may convey to the County of San Diego, California (in this section referred to as the “County”), all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon and appurtenant easements thereto, consisting of approximately 230 acres along the eastern boundary of Marine Corps Air Station, Miramar, California, for the purpose of removing the property from the boundaries of the installation and permitting the County to preserve the entire property as a public passive park/recreational area known as the Stowe Trail.

(b) CONSIDERATION.—

(1) IN GENERAL.—As consideration for the conveyance under subsection (a), the County shall provide the United States consideration, whether by cash payment, in-kind consideration, or a combination thereof, in an amount that is not less than the fair market value of the conveyed real property, as determined by the Secretary.

(2) IN-KIND CONSIDERATION.—The in-kind consideration provided by the County under paragraph (1) shall include the acquisition, construction, provision, improvement, maintenance, repair, or restoration (including environmental restoration), or combination thereof, of any facilities or infrastructure relating to the security of Marine Corps Air Station, Miramar, that the Secretary considers acceptable as consideration under that paragraph.

(3) RELATION TO OTHER LAWS.—Sections 2662 and 2802 of title 10, United States Code, shall not apply to any new facilities or infrastructure received by the United States as in-kind consideration under paragraph (2).

(4) NOTICE TO CONGRESS.—The Secretary shall provide written notification to the congressional defense committees of the types and value of consideration provided the United States under paragraph (1).

(5) TREATMENT OF CASH CONSIDERATION RECEIVED.—Any cash payment received by the United States under paragraph (1) shall be deposited in the special account in the Treasury established under subsection (b) of section 572 of title 40, United States Code, and shall be available in accordance with paragraph (5)(B)(ii) of such subsection.

(c) REVERSIONARY INTEREST.—If the Secretary determines at any time that the County is not using the property conveyed under subsection (a) in accordance with the purpose of the conveyance specified in such subsection, all right, title, and interest in and to the property, including any improvements thereon, shall revert, at the option of the Secretary, to the United States, and the United States shall have the right of immediate entry onto the property. Any determination of the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

(d) RELEASE OF REVERSIONARY INTEREST.—The Secretary shall release, without consideration, the reversionary interest retained by the United States under subsection (c) if—

(1) Marine Corps Air Station, Miramar, is no longer being used for Department of Defense activities; or

(2) the Secretary determines that the reversionary interest is otherwise unnecessary to protect the interests of the United States.

(e) PAYMENT OF COSTS OF CONVEYANCE.—

(1) PAYMENT REQUIRED.—The Secretary shall require the County to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a) and implement the receipt of in-kind consideration under subsection (b), including appraisal costs, survey costs, costs related to environmental documentation, and other administrative costs related to the conveyance and receipt of in-kind consideration.

(2) TREATMENT OF AMOUNTS RECEIVED.—Section 2695(c) of title 10, United States Code, shall apply to any amounts received by the Secretary under paragraph (1). If amounts are received from the County in advance of the Secretary incurring the actual costs, and the amount received exceeds the costs actually incurred by the Secretary under this section, the Secretary shall refund the excess amount to the County.

(f) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed by the Secretary under subsection (a) shall be determined by a survey satisfactory to the Secretary.

(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2852. LEASE OR LICENSE OF UNITED STATES NAVY MUSEUM FACILITIES AT WASHINGTON NAVY YARD, DISTRICT OF COLUMBIA.

(a) LEASES AND LICENSES AUTHORIZED.—The Secretary of the Navy may lease or license to the Naval Historical Foundation any portion of the facilities located at the Washington Naval Yard, District of Columbia, that house the United States Navy Museum for the purpose of permitting the Foundation to carry out the following activities:

(1) Generation of revenue for the United States Navy Museum through the rental of facilities to the public, commercial and non-profit entities, State and local governments, and other Federal agencies.

(2) Performance of administrative activities in support of the United States Navy Museum.

(b) LIMITATION.—Activities carried out at a facility subject to a lease or license under subsection (a) must be consistent with the operations of the United States Navy Museum.

(c) CONSIDERATION.—The amount of consideration paid in a year by the Naval Historical Foundation to the United States for the lease or license of facilities under subsection (a) may not exceed the actual cost, as determined by the Secretary, of the annual operation and maintenance of the facilities.

(d) DEPOSIT AND USE OF PROCEEDS.—Consideration paid under subsection (c) shall be deposited into the appropriations account available for the operation and maintenance of the United States Navy Museum. The Secretary may use the amounts so deposited to cover costs associated with the operation and maintenance of the Museum and its exhibits.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with a lease or license under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

PART 3—AIR FORCE CONVEYANCES

SEC. 2861. PURCHASE OF BUILD-TO-LEASE FAMILY HOUSING, EIELSON AIR FORCE BASE, ALASKA.

(a) CONDITIONAL AUTHORITY TO PURCHASE.—After the expiration of the contract for the lease of the military family housing project at Eielson Air Force Base, Alaska, that was constructed under the authority of former subsection (g) of section 2828 of title 10, United States Code (now section 2835 of such title), as added by section 801 of the Military Construction Authorization Act, 1984 (Public Law 98–115; 97 Stat. 782), the Secretary of the Air Force may purchase the entire interest of the lessor in the project if the Secretary determines that the purchase of the project is in the best economic interests of the Air Force.

(b) CONSIDERATION.—The consideration paid by the Secretary to purchase the interest of the lessor under subsection (a) may not exceed the fair market value of the military family housing project, as determined by the Secretary.

(c) CONGRESSIONAL NOTIFICATION.—If a decision is made to purchase the interest of the lessor in the military family housing project under subsection (a), the Secretary shall submit a report to the congressional defense committees containing—

(1) notice of the decision;

(2) the economic analyses used by the Secretary to determine that purchase of the project is in the best economic interests of the Air Force, as required by subsection (a); and

(3) a schedule for, and an estimate of the costs and nature of, any renovations or repairs that will be necessary to ensure that all units in the project meet current adequate housing standards.

Reports.

(d) **PURCHASE DELAY.**—A contract to effectuate the purchase of the military family housing project under subsection (a) may be entered into by the Secretary only after—

- (1) the contract for the lease of the project expires; and
- (2) the report required by subsection (c) is submitted and a 30-day period beginning on the date the report is received by the congressional defense committees expires or, if earlier, a 21-day period beginning on the date on which a copy of the report is provided in an electronic medium pursuant to section 480 of title 10, United States Code, expires.

SEC. 2862. LAND CONVEYANCE, AIR FORCE PROPERTY, JACKSONVILLE, ARKANSAS.

(a) **CONVEYANCE AUTHORIZED.**—The Secretary of the Air Force may convey to the City of Jacksonville, Arkansas (in this section referred to as the “City”), all right, title, and interest of the United States in and to real property consisting of approximately 45.024 acres around an existing short line railroad in Pulaski County, Arkansas, for the purpose of permitting the City to facilitate railroad access to an industrial park to further community economic development.

(b) **CONSIDERATION.**—As consideration for the conveyance under subsection (a), the City shall pay to the United States an amount equal to the fair market value of the conveyed real property, as established by the assessment of the property conducted under contract for the Corps of Engineers and dated September 15, 2003.

(c) **CONDITIONS OF CONVEYANCE.**—The conveyance under subsection (a) shall be subject to the lease agreement dated October 29, 1982, as amended, between the Secretary and the Missouri Pacific Railroad Company (and its successors and assigns) and any other easement, lease, condition, or restriction of record, including streets, roads, highways, railroads, pipelines, and public utilities, insofar as the easement, lease, condition, or restriction is in existence on the date of the enactment of this Act and lawfully affects the conveyed property.

(d) **PAYMENT OF COSTS OF CONVEYANCE.**—

(1) **PAYMENT REQUIRED.**—The Secretary shall require the City to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation, and other administrative costs related to the conveyance. If amounts are collected from the City in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to the City.

(2) **TREATMENT OF AMOUNTS RECEIVED.**—Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(e) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. Survey.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2863. LAND CONVEYANCE, AIR FORCE PROPERTY, LA JUNTA, COLORADO.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Air Force may convey, without consideration, to the City of La Junta, Colorado (in this section referred to as the “City”), all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately 8 acres located at the USA Bomb Plot in the La Junta Industrial Park for the purpose of training local law enforcement officers.

(b) PAYMENT OF COSTS OF CONVEYANCE.—

(1) PAYMENT REQUIRED.—The Secretary shall require the City to cover costs to be incurred by the Secretary after the date of enactment of the Act, or to reimburse the Secretary for costs incurred by the Secretary after that date, to carry out the conveyance under subsection (a), including any survey costs, costs related to environmental assessments, studies, analyses, or other documentation, and other administrative costs related to the conveyance. If amounts are collected from the City in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to the City.

(2) TREATMENT OF AMOUNTS RECEIVED.—Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. Survey.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2864. LEASE, NATIONAL IMAGERY AND MAPPING AGENCY SITE, ST. LOUIS, MISSOURI.

(a) LEASE REQUIRED.—Not later than February 28, 2006, the Secretary of the Air Force shall lease to the St. Louis County Port Authority of St. Louis County, Missouri (in this section referred to as the “Port District”), a parcel of real property, including improvements thereon, consisting of approximately 39 acres and known as the National Imagery and Mapping Agency site at 8900 South Broadway, St. Louis, Missouri, for the purpose of permitting the Port District to use the parcel for economic development purposes. The Secretary shall carry out this section in consultation with the Administrator of the General Services Administration. Deadline.

(b) RENTAL PRICE.—The real property to be leased under subsection (a) shall be leased at a rate equal to not less than the fair market value of the property.

Survey.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be leased under subsection (a) shall be determined by a survey satisfactory to the Secretary of the Air Force and the Port District.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the lease under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

Subtitle E—Other Matters

SEC. 2871. CLARIFICATION OF MORATORIUM ON CERTAIN IMPROVEMENTS AT FORT BUCHANAN, PUERTO RICO.

(a) CLARIFICATION OF AND EXCEPTIONS TO MORATORIUM.—Section 1507 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398; 114 Stat. 1654A-355) is amended—

(1) in subsection (a), by striking “conversion, rehabilitation, extension, or improvement” and inserting “or extension”; and

(2) in subsection (b)—

(A) in paragraph (1), by inserting “, repair, replace, or convert” after “maintain”;

(B) in paragraph (2), by striking “authorized before the date of the enactment of this Act”; and

(C) by adding at the end the following new paragraphs:
“(3) The construction of facilities supporting Department of Defense education activities.

“(4) Any construction or extension required to support the installation of communications equipment.”.

(b) RULE OF CONSTRUCTION.—The amendments made by subsection (a) do not trigger the termination of the moratorium on certain improvements at Fort Buchanan, Puerto Rico, as provided by subsection (c) of such section.

Mississippi.

SEC. 2872. TRANSFER OF EXCESS DEPARTMENT OF DEFENSE PROPERTY ON SANTA ROSA AND OKALOOSA ISLAND, FLORIDA, TO GULF ISLANDS NATIONAL SEASHORE.

16 USC 459h-6
note.

(a) FINDINGS.—Congress finds the following:

(1) Public Law 91-660 of the 91st Congress established the Gulf Islands National Seashore in the States of Florida and Mississippi.

(2) The original boundaries of the Gulf Islands National Seashore encompassed certain Federal land used by the Air Force and the Navy, and the use of such land was still required by the Armed Forces when the seashore was established.

(3) Senate Report 91-1514 of the 91th Congress addressed the relationship between these military lands and the Gulf Islands National Seashore as follows: “While the military use of these lands is presently required, they remain virtually free of adverse development and they are included in the boundaries of the seashore so that they can be wholly or partially transferred to the Department of the Interior when they become excess to the needs of the Air Force.”.

(4) Although section 2(a) of Public Law 91–660 (16 U.S.C. 459h–1(a)) authorized the eventual transfer of Federal land within the boundaries of the Gulf Islands National Seashore from the Department of Defense to the Secretary of the Interior, an amendment mandating the transfer of excess Department of Defense land on Santa Rosa and Okaloosa Island, Florida, to the Secretary of the Interior is required to ensure that the purposes of the Gulf Islands National Seashore are fulfilled.

(b) **TRANSFER REQUIRED.**—Section 7 of Public Law 91–660 (16 U.S.C. 459h–6) is amended—

(1) by inserting “(a)” before “There are”; and

(2) by adding at the end the following new subsection:

“(b) If any of the Federal land on Santa Rosa or Okaloosa Island, Florida, under the jurisdiction of the Department of Defense is ever excess to the needs of the Armed Forces, the Secretary of Defense shall transfer the excess land to the administrative jurisdiction of the Secretary of the Interior, subject to the terms and conditions acceptable to the Secretary of the Interior and the Secretary of Defense. The Secretary of the Interior shall administer the transferred land as part of the seashore in accordance with the provisions of this Act.”.

SEC. 2873. AUTHORIZED MILITARY USES OF PAPAGO PARK MILITARY RESERVATION, PHOENIX, ARIZONA.

The Act of April 7, 1930 (Chapter 107; 46 Stat. 142), is amended in the first designated paragraph, relating to the Papago Park Military Reservation, by striking “as a rifle range”. 16 USC 431 note.

SEC. 2874. ASSESSMENT OF WATER NEEDS FOR PRESIDIO OF MONTEREY AND ORD MILITARY COMMUNITY.

Not later than April 7, 2006, the Secretary of Defense shall submit to Congress an interim assessment of the current and reasonable future needs of the Department of the Defense for water for the Presidio of Monterey and the Ord Military Community. Deadline.

SEC. 2875. REDESIGNATION OF MCENTIRE AIR NATIONAL GUARD STATION, SOUTH CAROLINA, AS MCENTIRE JOINT NATIONAL GUARD BASE.

McEntire Air National Guard Station in Eastover, South Carolina, shall be known and designated as “McEntire Joint National Guard Base” in recognition of the use of the installation to house both Air National Guard and Army National Guard assets. Any reference to McEntire Air National Guard Station in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to McEntire Joint National Guard Base.

SEC. 2876. SENSE OF CONGRESS REGARDING COMMUNITY IMPACT ASSISTANCE RELATED TO CONSTRUCTION OF NAVY LANDING FIELD, NORTH CAROLINA.

It is the sense of Congress that—

(1) the planned construction of an outlying landing field in North Carolina is vital to the national security interests of the United States; and

(2) the Department of Defense should work with other Federal agencies to provide community impact assistance to those communities directly impacted by the location of the outlying landing field, including, to the extent appropriate—

- (A) economic development assistance;
- (B) impact aid program assistance;
- (C) the provision by cooperative agreement with the Navy of fire, rescue, water, and sewer services;
- (D) access by leasing arrangement to appropriate land for farming for farmers impacted by the location of the landing field;
- (E) direct relocation assistance; and
- (F) fair compensation to landowners for property purchased by the Navy.

Australia.

SEC. 2877. SENSE OF CONGRESS ON ESTABLISHMENT OF BAKERS CREEK MEMORIAL.

(a) FINDINGS.—Congress makes the following findings:

(1) In 1943 and 1944, the United States Armed Forces operated a rest and relaxation facility in Mackay, Queensland, Australia, for troops serving in the Pacific Theater during World War II.

(2) On June 14, 1943, a Boeing B–17C was transporting 6 crew members and 35 servicemen from Mackay to Port Moresby, New Guinea, to return the servicemen to duty after 10 days of rest and relaxation leave at an Army/Red Cross facility.

(3) The aircraft crashed shortly after take-off at Bakers Creek, Australia, killing all 6 crew members and 34 of the 35 servicemen being transported in what was at that point the worst crash in American air transport history, and what remains the worst air disaster in Australian history.

(4) Due to wartime censorship rules related to the movement of troops, the tragic crash and loss of life were not reported to the Australian or United States public.

(5) Many family members of those killed did not learn the circumstances of the troops deaths until they were contacted by the Bakers Creek Memorial Foundation beginning in 1992.

(6) As of May 2005, the Bakers Creek Memorial Foundation had contacted 36 of the 40 families that lost loved ones in the tragic crash, and was continuing efforts to locate the remaining four families to inform them of the true events of the crash at Bakers Creek.

(7) The Australian people marked the tragic crash at Bakers Creek with a memorial established in 1992, but no similar memorial has been established in the United States.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of the Army may establish an appropriate marker, at a site to be chosen at the discretion of the Secretary, to commemorate the 40 members of the United States Armed Forces who lost their lives in the air crash at Bakers Creek, Australia, on June 14, 1943.

DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZA- TIONS AND OTHER AUTHORIZATIONS

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

SUBTITLE A—NATIONAL SECURITY PROGRAMS AUTHORIZATIONS

- Sec. 3101. National Nuclear Security Administration.
- Sec. 3102. Defense environmental cleanup.
- Sec. 3103. Other defense activities.
- Sec. 3104. Defense nuclear waste disposal.

SUBTITLE B—OTHER MATTERS

- Sec. 3111. Reliable Replacement Warhead program.
- Sec. 3112. Rocky Flats Environmental Technology Site.
- Sec. 3113. Report on compliance with Design Basis Threat issued by Department of Energy in 2005.
- Sec. 3114. Reports associated with Waste Treatment and Immobilization Plant Project, Hanford Site, Richland, Washington.
- Sec. 3115. Report on assistance for a comprehensive inventory of Russian nonstrategic nuclear weapons.
- Sec. 3116. Report on international border security programs.
- Sec. 3117. Savannah River National Laboratory.

Subtitle A—National Security Programs Authorizations

SEC. 3101. NATIONAL NUCLEAR SECURITY ADMINISTRATION.

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2006 for the activities of the National Nuclear Security Administration in carrying out programs necessary for national security in the amount of \$9,196,456 to be allocated as follows:

- (1) For weapons activities, \$6,433,936,000.
- (2) For defense nuclear nonproliferation activities, \$1,631,151,000.
- (3) For naval reactors, \$789,500,000.
- (4) For the Office of the Administrator for Nuclear Security, \$341,869,000.

(b) AUTHORIZATION OF NEW PLANT PROJECTS.—From funds referred to in subsection (a) that are available for carrying out plant projects, the Secretary of Energy may carry out new plant projects for the National Nuclear Security Administration as follows:

- (1) For readiness in technical base and facilities, the following new plant projects:

Project 06–D-140, Readiness in Technical Base and Facilities Program, project engineering and design, various locations, \$14,113,000.

Project 06–D-402, replacement of Fire Stations Number 1 and Number 2, Nevada Test Site, Nevada, \$8,284,000.

Project 06–D-403, tritium facility modernization, Lawrence Livermore National Laboratory, Livermore, California, \$2,600,000.

Project 06-D-404, remediation, restoration, and upgrade of Building B-3, Nevada Test Site, Nevada, \$16,000,000.

(2) For facilities and infrastructure recapitalization, the following new plant projects:

Project 06-D-160, Facilities and Infrastructure Recapitalization Program, project engineering and design, various locations, \$5,811,000.

Project 06-D-601, electrical distribution system upgrade, Pantex Plant, Amarillo, Texas, \$4,000,000.

Project 06-D-602, gas main and distribution system upgrade, Pantex Plant, Amarillo, Texas, \$3,700,000.

Project 06-D-603, Steam Plant Life Extension Project, Y-12 National Security Complex, Oak Ridge, Tennessee, \$729,000.

(3) For defense nuclear nonproliferation, the following new plant project:

Project 06-D-180, Defense Nuclear Nonproliferation, project engineering and design, National Security Laboratory, Pacific Northwest National Laboratory, Richland, Washington, \$13,000,000.

(4) For naval reactors, the following plant projects:

Project 06-D-901, Central Office Building 2, Bettis Atomic Power Laboratory, West Mifflin, Pennsylvania, \$7,000,000.

Project 05-D-900, Materials Development Facility Building, Schenectady, New York, \$9,900,000, of which \$1,000,000 shall be available for project engineering and design.

SEC. 3102. DEFENSE ENVIRONMENTAL CLEANUP.

(a) **AUTHORIZATION OF APPROPRIATIONS.**—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2006 for defense environmental cleanup activities in carrying out programs necessary for national security in the amount of \$6,192,371,000.

(b) **AUTHORIZATION OF NEW PLANT PROJECT.**—From funds referred to in subsection (a) that are available for carrying out plant projects, the Secretary of Energy may carry out, for defense environmental cleanup activities, the following new plant project:

Project 06-D-401, sodium bearing waste treatment project, Idaho National Laboratory, Idaho Falls, Idaho, \$54,270,000.

SEC. 3103. OTHER DEFENSE ACTIVITIES.

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2006 for other defense activities in carrying out programs necessary for national security in the amount of \$641,998,000.

SEC. 3104. DEFENSE NUCLEAR WASTE DISPOSAL.

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2006 for defense nuclear waste disposal for payment to the Nuclear Waste Fund established in section 302(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(c)) in the amount of \$350,000,000.

Subtitle B—Other Matters

SEC. 3111. RELIABLE REPLACEMENT WARHEAD PROGRAM.

(a) PROGRAM REQUIRED.—The Atomic Energy Defense Act (division D of Public Law 107–314) is amended by inserting after section 4204 (50 U.S.C. 2524) the following new section:

“SEC. 4204a. RELIABLE REPLACEMENT WARHEAD PROGRAM.

50 USC 2524a.

“(a) PROGRAM REQUIRED.—The Secretary of Energy shall carry out a program, to be known as the Reliable Replacement Warhead program, which will have the following objectives:

“(1) To increase the reliability, safety, and security of the United States nuclear weapons stockpile.

“(2) To further reduce the likelihood of the resumption of underground nuclear weapons testing.

“(3) To remain consistent with basic design parameters by including, to the maximum extent feasible and consistent with the objective specified in paragraph (2), components that are well understood or are certifiable without the need to resume underground nuclear weapons testing.

“(4) To ensure that the nuclear weapons infrastructure can respond to unforeseen problems, to include the ability to produce replacement warheads that are safer to manufacture, more cost-effective to produce, and less costly to maintain than existing warheads.

“(5) To achieve reductions in the future size of the nuclear weapons stockpile based on increased reliability of the reliable replacement warheads.

“(6) To use the design, certification, and production expertise resident in the nuclear complex to develop reliable replacement components to fulfill current mission requirements of the existing stockpile.

“(7) To serve as a complement to, and potentially a more cost-effective and reliable long-term replacement for, the current Stockpile Life Extension Programs.

“(b) CONSULTATION.—The Secretary of Energy shall carry out the Reliable Replacement Warhead program in consultation with the Secretary of Defense.”

(b) REPORT.—Not later than March 1, 2007, the Secretary of Energy and the Secretary of Defense shall submit to the congressional defense committees a report on the feasibility and implementation of the Reliable Replacement Warhead program required by section 4204a of the Atomic Energy Defense Act, as added by subsection (a). The report shall—

(1) identify existing warheads recommended for replacement by 2035 with an assessment of the weapon performance and safety characteristics of the replacement warheads;

(2) discuss the relationship of the Reliable Replacement Warhead program within the Stockpile Stewardship Program and its impact on the current Stockpile Life Extension Programs;

(3) provide an assessment of the extent to which a successful Reliable Replacement Warhead program could lead to reductions in the nuclear weapons stockpile;

(4) discuss the criteria by which replacement warheads under the Reliable Replacement Warhead program will be

designed to maximize the likelihood of not requiring nuclear testing, as well as the circumstances that could lead to a resumption of testing;

(5) provide a description of the infrastructure, including pit production capabilities, required to support the Reliable Replacement Warhead program;

(6) provide a detailed summary of how the funds made available pursuant to the authorizations of appropriations in this Act, and any funds made available in prior years, will be used; and

(7) provide an estimate of the comparative costs of a reliable replacement warhead and the stockpile life extension for the warheads identified in paragraph (1).

(c) INTERIM REPORT.—Not later than March 1, 2006, the Secretary of Energy and the Secretary of Defense shall submit to the congressional defense committees an interim report on the matters required to be covered by the report under subsection (b).

(d) CONSULTATION.—The Secretary of Energy and the Secretary of Defense shall prepare the reports required by subsections (b) and (c) in consultation with the Nuclear Weapons Council.

Colorado.

SEC. 3112. ROCKY FLATS ENVIRONMENTAL TECHNOLOGY SITE.

(a) DEFINITIONS.—In this section:

(1) ESSENTIAL MINERAL RIGHT.—The term “essential mineral right” means a right to mine sand and gravel at Rocky Flats, as depicted on the map.

(2) FAIR MARKET VALUE.—The term “fair market value” means the value of an essential mineral right, as determined by an appraisal performed by an independent, certified mineral appraiser under the Uniform Standards of Professional Appraisal Practice.

(3) MAP.—The term “map” means the map entitled “Rocky Flats National Wildlife Refuge”, dated July 25, 2005, and available for inspection in appropriate offices of the United States Fish and Wildlife Service and the Department of Energy.

(4) NATURAL RESOURCE DAMAGE LIABILITY CLAIM.—The term “natural resource damage liability claim” means a natural resource damage liability claim under subsections (a)(4)(C) and (f) of section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) arising from hazardous substances releases at or from Rocky Flats that, as of the date of enactment of this Act, are identified in the administrative record for Rocky Flats required by the National Oil and Hazardous Substances Pollution Contingency Plan prepared under section 105 of that Act (42 U.S.C. 9605).

(5) ROCKY FLATS.—The term “Rocky Flats” means the Department of Energy facility in the State of Colorado known as the “Rocky Flats Environmental Technology Site”.

(6) SECRETARY.—The term “Secretary” means the Secretary of Energy.

(7) TRUSTEES.—The term “Trustees” means the Federal and State officials designated as trustees under section 107(f)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(f)(2)).

(b) PURCHASE OF ESSENTIAL MINERAL RIGHTS.—

(1) IN GENERAL.—Not later than one year after the date of enactment of this Act, such amounts authorized to be appropriated under subsection (c) shall be available to the Secretary to purchase essential mineral rights at Rocky Flats. Deadline.

(2) CONDITIONS.—The Secretary shall not purchase an essential mineral right under paragraph (1) unless—

(A) the owner of the essential mineral right is a willing seller; and

(B) the Secretary purchases the essential mineral right for an amount that does not exceed fair market value.

(3) LIMITATION.—Only those funds authorized to be appropriated under subsection (c) shall be available for the Secretary to purchase essential mineral rights under paragraph (1).

(4) RELEASE FROM LIABILITY.—A natural resource damage liability claim under section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) shall be considered to be satisfied by—

(A) the purchase by the Secretary of essential mineral rights under paragraph (1) for consideration in an amount equal to \$10,000,000;

(B) the payment by the Secretary to the Trustees of \$10,000,000; or

(C) the purchase by the Secretary of any portion of the mineral rights under paragraph (1) for—

(i) consideration in an amount less than \$10,000,000; and

(ii) a payment by the Secretary to the Trustees of an amount equal to the difference between—

(I) \$10,000,000; and

(II) the amount paid under clause (i).

(5) USE OF FUNDS.—

(A) IN GENERAL.—Any amounts received under paragraph (4) shall be used by the Trustees for the purposes described in section 107(f)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(f)(1)), including—

(i) the purchase of additional mineral rights at Rocky Flats; and

(ii) the development of habitat restoration projects at Rocky Flats.

(B) CONDITION.—Any expenditure of funds under this paragraph shall be made jointly by the Trustees.

(C) ADDITIONAL FUNDS.—The Trustees may use the funds received under paragraph (4) in conjunction with other private and public funds.

(6) EXEMPTION FROM NATIONAL ENVIRONMENTAL POLICY ACT.—Any purchases of mineral rights under this subsection shall be exempt from the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(7) ROCKY FLATS NATIONAL WILDLIFE REFUGE.—

(A) TRANSFER OF MANAGEMENT RESPONSIBILITIES.—The Rocky Flats National Wildlife Refuge Act of 2001 (16 U.S.C. 668dd note; Public Law 107–107) is amended—

(i) in section 3175—

(I) by striking subsections (b) and (f); and

(II) by redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d), respectively; and

(ii) in section 3176(a)(1), by striking “section 3175(d)” and inserting “section 3175(c)”.

(B) BOUNDARIES.—Section 3177 of such Act is amended by striking subsection (c) and inserting the following new subsection:

“(c) COMPOSITION.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the refuge shall consist of land within the boundaries of Rocky Flats, as depicted on the map—

“(A) entitled ‘Rocky Flats National Wildlife Refuge’;

“(B) dated July 25, 2005; and

“(C) available for inspection in the appropriate offices of the United States Fish and Wildlife Service and the Department of Energy.

“(2) EXCLUSIONS.—The refuge does not include—

“(A) any land retained by the Department of Energy for response actions under section 3175(c);

“(B) any land depicted on the map described in paragraph (1) that is subject to one or more essential mineral rights described in section 3112(a) of the National Defense Authorization Act for Fiscal Year 2006 over which the Secretary shall retain jurisdiction of the surface estate until the essential mineral rights—

“(i) are purchased under subsection (b) of such section; or

“(ii) are mined and reclaimed by the mineral rights holders in accordance with requirements established by the State of Colorado; and

“(C) the land depicted on the map described in paragraph (1) on which essential mineral rights are being actively mined as of the date of enactment of the National Defense Authorization Act for Fiscal Year 2006 until—

“(i) the essential mineral rights are purchased;

or

“(ii) the surface estate is reclaimed by the mineral rights holder in accordance with requirements established by the State of Colorado.

“(3) ACQUISITION OF ADDITIONAL LAND.—Notwithstanding paragraph (2), upon the purchase of the mineral rights or reclamation of the land depicted on the map described in paragraph (1), the Secretary shall—

“(A) transfer the land to the Secretary of the Interior for inclusion in the refuge; and

“(B) the Secretary of the Interior shall—

“(i) accept the transfer of the land; and

“(ii) manage the land as part of the refuge.”.

(c) FUNDING.—Of the amounts authorized to be appropriated to the Secretary for the Rocky Flats Environmental Technology Site for fiscal year 2006, \$10,000,000 may be made available to the Secretary for the purposes described in subsection (b).

**SEC. 3113. REPORT ON COMPLIANCE WITH DESIGN BASIS THREAT
ISSUED BY DEPARTMENT OF ENERGY IN 2005.**

(a) **REPORT REQUIRED.**—Not later than 180 days after the date of the enactment of this Act, the Secretary of Energy shall submit to the congressional defense committees a report detailing plans for achieving compliance under the Design Basis Threat issued by the Department of Energy in November 2005 (in this section referred to as the “2005 Design Basis Threat”).

(b) **CONTENT.**—The report required under subsection (a) shall include the following:

(1) A plan with associated annual funding requirements to achieve compliance under the 2005 Design Basis Threat by December 31, 2008, and sustain such compliance through the Future Years Nuclear Security Plan, of all Department of Energy and National Nuclear Security Administration sites that contain nuclear weapons or special nuclear material.

(2) A risk and cost analysis of the increase in security requirements from the Design Basis Threat issued by the Department of Energy in May 2003 to the 2005 Design Basis Threat.

(3) An evaluation of options for applying security technologies and innovative protective force deployment to increase the efficiency and effectiveness of efforts to protect against the threats postulated in the 2005 Design Basis Threat.

(c) **FORM.**—The report required under subsection (a) shall be submitted in classified form with an unclassified summary.

(d) **COMPTROLLER GENERAL REVIEW.**—Not later than one year after the date of the enactment of this Act, the Comptroller General shall submit to the congressional defense committees a report containing a review of the plan required by subsection (b)(1). In conducting the review, the Comptroller General shall employ probalistic risk assessment methodology to assess the merits of incremental risk mitigation steps proposed by the Department of Energy.

**SEC. 3114. REPORTS ASSOCIATED WITH WASTE TREATMENT AND
IMMOBILIZATION PLANT PROJECT, HANFORD SITE,
RICHLAND, WASHINGTON.**

(a) **SUBMISSION OF ARMY CORPS OF ENGINEERS REPORTS.**—Not later than 10 days after the date on which the Secretary of Energy receives any report from the Army Corps of Engineers documenting any evaluation or validation of costs, schedule, and technical issues associated with the Waste Treatment and Immobilization Plant Project at the Department of Energy Hanford Site, the Secretary shall submit a copy of the report to the congressional defense committees.

(b) **INCLUSION OF SPECIFIC REPORTS.**—The requirement to submit reports under this section includes the anticipated reports from the Army Corps of Engineers—

(1) documenting the cost validation of the estimated cost to complete the project based on both constrained and unconstrained funding scenarios; and

(2) evaluating the baseline ground motion criteria.

**SEC. 3115. REPORT ON ASSISTANCE FOR A COMPREHENSIVE INVEN-
TORY OF RUSSIAN NONSTRATEGIC NUCLEAR WEAPONS.**

(a) **FINDINGS.**—Congress finds that—

(1) there is an insufficient accounting for, and insufficient security of, the nonstrategic nuclear weapons of the Russian Federation; and

(2) because of the dangers posed by that insufficient accounting and security, it is in the national security interest of the United States to assist the Russian Federation in the conduct of a comprehensive inventory of its nonstrategic nuclear weapons.

(b) REPORT.—

(1) REPORT REQUIRED.—Not later than April 15, 2006, the Secretary of Energy shall submit to Congress a report containing—

(A) the Secretary's evaluation of past and current efforts by the United States to encourage or facilitate a proper accounting for and securing of the nonstrategic nuclear weapons of the Russian Federation; and

(B) the Secretary's recommendations regarding the actions by the United States that are most likely to lead to progress in improving the accounting for, and securing of, those weapons.

(2) CONSULTATION WITH SECRETARY OF DEFENSE.—The report under paragraph (1) shall be prepared in consultation with the Secretary of Defense.

(3) CLASSIFICATION OF REPORT.—The report under paragraph (1) shall be in unclassified form, but may be accompanied by a classified annex.

SEC. 3116. REPORT ON INTERNATIONAL BORDER SECURITY PROGRAMS.

(a) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Energy shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the management by the Secretaries referred to in subsection (c) of border security programs in the countries of the former Soviet Union and other countries.

(b) CONTENT.—The report required under subsection (a) shall include—

(1) a description of the roles and responsibilities of each department and agency of the United States Government in international border security programs;

(2) a description of the interactions and coordination among departments and agencies of the United States Government that are conducting international border security programs;

(3) a description of the mechanisms and processes that exist to ensure coordination, avoid duplication, and provide a means to resolve conflicts or problems that might arise in the implementation of international border security programs;

(4) a discussion of whether there is existing interagency guidance that addresses the roles, interactions, and dispute resolution mechanisms for departments and agencies of the United States Government that are conducting international border security programs, and the adequacy of such guidance if it exists; and

(5) recommendations to improve the coordination and effectiveness of international border security programs.

(c) CONSULTATION.—The Secretary of Energy shall prepare the report required by subsection (a) in consultation with the Secretary of Defense, the Secretary of State, and, as appropriate, the Secretary of Homeland Security.

SEC. 3117. SAVANNAH RIVER NATIONAL LABORATORY.

The Savannah River National Laboratory shall be a participating laboratory in the Department of Energy laboratory directed research and development program.

TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Sec. 3201. Authorization.

SEC. 3201. AUTHORIZATION.

There are authorized to be appropriated for fiscal year 2006, \$22,032,000 for the operation of the Defense Nuclear Facilities Safety Board under chapter 21 of the Atomic Energy Act of 1954 (42 U.S.C. 2286 et seq.).

TITLE XXXIII—NATIONAL DEFENSE STOCKPILE

Sec. 3301. Authorized uses of National Defense Stockpile funds.

Sec. 3302. Revisions to required receipt objectives for previously authorized disposals from National Defense Stockpile.

Sec. 3303. Authorization for disposal of tungsten ores and concentrates.

Sec. 3304. Disposal of ferromanganese.

SEC. 3301. AUTHORIZED USES OF NATIONAL DEFENSE STOCKPILE FUNDS.

(a) OBLIGATION OF STOCKPILE FUNDS.—During fiscal year 2006, the National Defense Stockpile Manager may obligate up to \$52,132,000 of the funds in the National Defense Stockpile Transaction Fund established under subsection (a) of section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h) for the authorized uses of such funds under subsection (b)(2) of such section, including the disposal of hazardous materials that are environmentally sensitive.

(b) ADDITIONAL OBLIGATIONS.—The National Defense Stockpile Manager may obligate amounts in excess of the amount specified in subsection (a) if the National Defense Stockpile Manager notifies Congress that extraordinary or emergency conditions necessitate the additional obligations. The National Defense Stockpile Manager may make the additional obligations described in the notification after the end of the 45-day period beginning on the date on which Congress receives the notification.

Notification.

Effective date.

(c) LIMITATIONS.—The authorities provided by this section shall be subject to such limitations as may be provided in appropriations Acts.

SEC. 3302. REVISIONS TO REQUIRED RECEIPT OBJECTIVES FOR PREVIOUSLY AUTHORIZED DISPOSALS FROM NATIONAL DEFENSE STOCKPILE.

(a) DISPOSAL AUTHORITY.—Section 3303(a) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999

(Public Law 105–261; 50 U.S.C. 98d note), as amended by section 3302 of the Ronald W. Reagan National Defense Authorization Act for Year 2005 (Public Law 108–375; 118 Stat. 2193), is amended—

- (1) by striking “and” at the end of paragraph (4); and
- (2) by striking paragraph (5) and inserting the following new paragraphs:

“(5) \$900,000,000 by the end of fiscal year 2010; and

“(6) \$1,000,000,000 by the end of fiscal year 2013.”.

(b) **ADDITIONAL DISPOSAL AUTHORITY.**—Section 3402(b) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 50 U.S.C. 98d note), as amended by section 3302 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1788), is amended—

- (1) by striking “and” at the end of paragraph (3); and
- (2) by striking paragraph (4) and inserting the following new paragraphs:

“(4) \$500,000,000 before the end of fiscal year 2010; and

“(5) \$600,000,000 before the end of fiscal year 2013.”.

50 USC 98d note.

SEC. 3303. AUTHORIZATION FOR DISPOSAL OF TUNGSTEN ORES AND CONCENTRATES.

(a) **DISPOSAL AUTHORIZED.**—The President may dispose of up to 8,000,000 pounds of contained tungsten in the form of tungsten ores and concentrates from the National Defense Stockpile in fiscal year 2006.

(b) **CERTAIN SALES AUTHORIZED.**—The tungsten ores and concentrates disposed under subsection (a) may be sold to entities with ore conversion or tungsten carbide manufacturing or processing capabilities in the United States.

50 USC 98d note.

SEC. 3304. DISPOSAL OF FERROMANGANESE.

(a) **DISPOSAL AUTHORIZED.**—The Secretary of Defense may dispose of up to 75,000 tons of ferromanganese from the National Defense Stockpile during fiscal year 2006.

(b) **CONTINGENT AUTHORITY FOR ADDITIONAL DISPOSAL.**—If the Secretary of Defense completes the disposal of the total quantity of ferromanganese authorized for disposal by subsection (a) before September 30, 2006, the Secretary of Defense may dispose of up to an additional 25,000 tons of ferromanganese from the National Defense Stockpile before that date.

Deadline.

(c) **CERTIFICATION.**—The Secretary of Defense may dispose of ferromanganese under the authority of subsection (b) only if the Secretary submits written certification to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives, not later than 30 days before the commencement of disposal, that—

(1) the disposal of the additional ferromanganese from the National Defense Stockpile is in the interest of national defense;

(2) the disposal of the additional ferromanganese will not cause undue disruption to the usual markets of producers and processors of ferromanganese in the United States; and

(3) the disposal of the additional ferromanganese is consistent with the requirements and purpose of the National Defense Stockpile.

(d) **DELEGATION OF RESPONSIBILITY.**—The Secretary of Defense may delegate the responsibility of the Secretary under subsection (c) to an appropriate official within the Department of Defense.

(e) NATIONAL DEFENSE STOCKPILE DEFINED.—In this section, the term “National Defense Stockpile” means the stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c).

TITLE XXXIV—NAVAL PETROLEUM RESERVES

Sec. 3401. Authorization of appropriations.

SEC. 3401. AUTHORIZATION OF APPROPRIATIONS.

(a) AMOUNT.—There are hereby authorized to be appropriated to the Secretary of Energy \$18,500,000 for fiscal year 2006 for the purpose of carrying out activities under chapter 641 of title 10, United States Code, relating to the naval petroleum reserves.

(b) PERIOD OF AVAILABILITY.—Funds appropriated pursuant to the authorization of appropriations in subsection (a) shall remain available until expended.

TITLE XXXV—MARITIME ADMINISTRATION

Sec. 3501. Authorization of appropriations for fiscal year 2006.

Sec. 3502. Payments for State and regional maritime academies.

Sec. 3503. Maintenance and repair reimbursement pilot program.

Sec. 3504. Tank vessel construction assistance.

Sec. 3505. Improvements to the Maritime Administration vessel disposal program.

Sec. 3506. Assistance for small shipyards and maritime communities.

Sec. 3507. Transfer of authority for title XI non-fishing loan guarantee decisions to Maritime Administration.

Sec. 3508. Technical corrections.

Sec. 3509. United States Maritime Service.

Sec. 3510. Awards and medals.

SEC. 3501. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 2006.

Funds are hereby authorized to be appropriated for fiscal year 2006, to be available without fiscal year limitation if so provided in appropriations Acts, for the use of the Department of Transportation for the Maritime Administration as follows:

(1) For expenses necessary for operations and training activities, \$122,249,000.

(2) For administrative expenses related to loan guarantee commitments under the program authorized by title XI of the Merchant Marine Act, 1936 (46 App. U.S.C. 1271 et seq.), \$4,126,000.

(3) For expenses to dispose of obsolete vessels in the National Defense Reserve Fleet, including provision of assistance under section 7 of Public Law 92–402, \$21,000,000.

SEC. 3502. PAYMENTS FOR STATE AND REGIONAL MARITIME ACADEMIES.

(a) ANNUAL PAYMENT.—Section 1304(d)(1)(C)(ii) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295c(d)(1)(C)(ii)) is amended by striking “\$200,000” and inserting “\$300,000 for fiscal year 2006, \$400,000 for fiscal year 2007, and \$500,000 for fiscal year 2008 and each fiscal year thereafter”.

(b) SCHOOL SHIP FUEL PAYMENT.—Section 1304(c)(2) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295c(c)(2)) is amended—

(1) by striking “The Secretary may pay to any State maritime academy” and inserting “(A) The Secretary shall, subject to the availability of appropriations, pay to each State maritime academy”; and

(2) by adding at the end the following:

“(B) The amount of the payment to a State maritime academy under this paragraph shall not exceed—

“(i) \$100,000 for fiscal year 2006;

“(ii) \$200,000 for fiscal year 2007; and

“(iii) \$300,000 for fiscal year 2008 and each fiscal year thereafter.”.

SEC. 3503. MAINTENANCE AND REPAIR REIMBURSEMENT PILOT PROGRAM.

Section 3517 of the Maritime Security Act of 2003 (46 U.S.C. 53101 note) is amended to read as follows:

“SEC. 3517. MAINTENANCE AND REPAIR REIMBURSEMENT PILOT PROGRAM.

“(a) AUTHORITY TO ENTER AGREEMENTS.—

“(1) IN GENERAL.—The Secretary of Transportation shall carry out a pilot program under which the Secretary shall enter into an agreement with 1 or more contractors under chapter 531 of title 46, United States Code, regarding maintenance and repair of 1 or more vessels that are subject to an operating agreement under that chapter.

“(2) REQUIREMENT OF AGREEMENT.—The Secretary shall, subject to the availability of appropriations, require 1 or more persons to enter into an agreement under this section as a condition of awarding an operating agreement to the person under chapter 531 of title 46, United States Code, for 1 or more vessels that normally make port calls in the United States.

“(b) TERMS OF AGREEMENT.—An agreement under this section—

“(1) shall require that except as provided in subsection (c), all qualified maintenance or repair on the vessel shall be performed in the United States;

“(2) shall require that the Secretary shall reimburse the contractor in accordance with subsection (d) for the costs of qualified maintenance or repair performed in the United States; and

“(3) shall apply to qualified maintenance or repair performed during the 5-year period beginning on the date the vessel begins operating under the operating agreement under chapter 531 of title 46, United States Code.

“(c) EXCEPTION TO REQUIREMENT TO PERFORM WORK IN THE UNITED STATES.—A contractor shall not be required to have qualified maintenance or repair work performed in the United States under this section if—

“(1) the Secretary determines that there is no facility capable of meeting all technical requirements of the qualified maintenance or repair in the United States located in the geographic area in which the vessel normally operates available to perform the work in the time required by the contractor to maintain its regularly scheduled service;

Applicability.

“(2) the Secretary determines that there are insufficient funds to pay reimbursement under subsection (d) with respect to the work; or

“(3) the Secretary fails to make the certification described in subsection (e)(2).

“(d) REIMBURSEMENT.—

“(1) IN GENERAL.—The Secretary shall, subject to the availability of appropriations, reimburse a contractor for costs incurred by the contractor for qualified maintenance or repair performed in the United States under this section.

“(2) AMOUNT.—The amount of reimbursement shall be equal to the difference between—

“(A) the fair and reasonable cost of obtaining the qualified maintenance or repair in the United States; and

“(B) the fair and reasonable cost of obtaining the qualified maintenance or repair outside the United States, in the country in which the contractor would otherwise undertake the qualified maintenance or repair.

“(3) DETERMINATION OF FAIR AND REASONABLE COSTS.—The Secretary shall determine fair and reasonable costs for purposes of paragraph (2).

“(e) NOTIFICATION REQUIREMENTS.—

“(1) NOTIFICATION BY CONTRACTOR.—The Secretary is not required to pay reimbursement to a contractor under this section for qualified maintenance or repair, unless the contractor—

“(A) notifies the Secretary of the intent of the contractor to obtain the qualified maintenance or repair, by not later than 90 days before the date of the performance of the qualified maintenance or repair; and

Deadline.

“(B) includes in such notification—

“(i) a description of all qualified maintenance or repair that the contractor should reasonably expect may be performed;

“(ii) a description of the vessel’s normal route and port calls in the United States;

“(iii) an estimate of the cost of obtaining the qualified maintenance or repair described under clause (i) in the United States; and

“(iv) an estimate of the cost of obtaining the qualified maintenance or repair described under clause (i) outside the United States, in the country in which the contractor otherwise would undertake the qualified maintenance or repair.

“(2) CERTIFICATION BY SECRETARY.—

“(A) Not later than 30 days after the date of receipt of notification under paragraph (1), the Secretary shall certify to the contractor—

Deadline.

“(i) whether the cost estimates provided by the contractor are fair and reasonable;

“(ii) if the Secretary determines that such cost estimates are not fair and reasonable, the Secretary’s estimate of fair and reasonable costs for such work;

“(iii) whether there are available to the Secretary sufficient funds to pay reimbursement under subsection (d) with respect to such work; and

Deadline.	<p>“(iv) that the Secretary commits such funds to the contractor for such reimbursement, if such funds are available for that purpose.</p>
	<p>“(B) If the contractor notification described in paragraph (1) does not include an estimate of the cost of obtaining qualified maintenance and repair in the United States, then not later than 30 days after the date of receipt of such notification, the Secretary shall—</p>
	<p>“(i) certify to the contractor whether there is a facility capable of meeting all technical requirements of the qualified maintenance and repair in the United States located in the geographic area in which the vessel normally operates available to perform the qualified maintenance and repair described in the notification by the contractor under paragraph (1) in the time period required by the contractor to maintain its regularly scheduled service; and</p>
	<p>“(ii) if there is such a facility, require the contractor to resubmit such notification with the required cost estimate for such facility.</p>
Deadlines.	<p>“(f) REGULATIONS.—</p> <p>“(1) REQUIREMENT TO ISSUE NOTICE OF PROPOSED RULE MAKING.—The Secretary shall—</p>
	<p>“(A) by not later than 30 days after the effective date of this subsection, issue a notice of proposed rule making to implement this section;</p>
Public comments.	<p>“(B) in such notice, solicit the submission of comments by the public regarding rules to implement this section; and</p>
	<p>“(C) provide a period of at least 30 days for the submission of such comments.</p>
Public comments.	<p>“(2) INTERIM RULES.—Upon expiration of the period for submission of comments pursuant to paragraph (1)(C), the Secretary may prescribe interim rules necessary to carry out the Secretary’s responsibilities under this section. For this purpose, the Secretary is excepted from compliance with the notice and comment requirements of section 553 of title 5, United States Code. At the time interim rules are issued, the Secretary shall solicit comments on the interim rules from the public and other interested persons. Such period for comment shall not be less than 90 days. All interim rules prescribed under the authority of this subsection that are not earlier superseded by final rules shall expire no later than 270 days after the effective date of this subsection.</p>
Deadline.	<p>“(g) QUALIFIED MAINTENANCE OR REPAIR DEFINED.—In this section the term ‘qualified maintenance or repair’—</p>
Expiration date.	<p>“(1) except as provided in paragraph (2), means—</p>
	<p>“(A) any inspection of a vessel that is—</p>
	<p>“(i) required under chapter 33 of title 46, United States Code; and</p>
	<p>“(ii) performed in the period in which the vessel is subject to an agreement under this section;</p>
	<p>“(B) any maintenance or repair of a vessel that is determined, in the course of an inspection referred to in subparagraph (A), to be necessary; and</p>

“(C) any additional maintenance or repair the contractor intends to undertake at the same time as the work described in subparagraph (B); and

“(2) does not include—

“(A) maintenance or repair not agreed to by the contractor to be undertaken at the same time as the work described in paragraph (1); or

“(B) any emergency work that is necessary to enable a vessel to return to a port in the United States.

“(h) ANNUAL REPORT.—The Secretary shall submit to the Congress by not later than September 30 each year a report on the program under this section. The report shall include a listing of future inspection schedules for all vessels included in the Maritime Security Fleet under section 53102 of title 46, United States Code.

Records.

“(i) AUTHORIZATION OF APPROPRIATIONS.—In addition to the other amounts authorized by this title, for reimbursement of costs of qualified maintenance or repair under this section there is authorized to be appropriated to the Secretary of Transportation \$19,500,000 for each of fiscal years 2006 through 2011.”.

SEC. 3504. TANK VESSEL CONSTRUCTION ASSISTANCE.

(a) REQUIREMENT TO ENTER CONTRACTS.—Section 3543(a) of the National Defense Authorization Act for Fiscal Year 2004 (46 U.S.C. 53101 note) is amended by striking “may” and inserting “shall, to the extent of the availability of appropriations,”.

(b) AMOUNT OF ASSISTANCE.—Section 3543(b) of the National Defense Authorization Act for Fiscal Year 2004 (46 U.S.C. 53101 note) is amended by striking “up to 75 percent of”.

SEC. 3505. IMPROVEMENTS TO THE MARITIME ADMINISTRATION VESSEL DISPOSAL PROGRAM.

(a) REPEAL OF LIMITATION ON SCRAPPING; COMPREHENSIVE MANAGEMENT PLAN.—Section 3502 of the Floyd D. Spence National Defense Authorization Act of Fiscal Year 2001 (enacted into law by section 1 of Public Law 106–398; 16 U.S.C. 5405 note; 114 Stat. 1654A–490) is amended by striking subsections (c), (d), (e), and (f), and inserting the following:

“(c) COMPREHENSIVE MANAGEMENT PLAN.—

“(1) REQUIREMENT TO DEVELOP PLAN.—The Secretary of Transportation shall prepare, publish, and submit to the Congress by not later than 180 days after the date of the enactment of this Act a comprehensive plan for management of the vessel disposal program of the Maritime Administration in accordance with the recommendations made in the Government Accountability Office in report number GAO–05–264, dated March 2005.

Publication.
Deadline.

“(2) CONTENTS OF PLAN.—The plan shall—

“(A) include a strategy and implementation plan for disposal of obsolete National Defense Reserve Fleet vessels (including vessels added to the fleet after the enactment of this paragraph) in a timely manner, maximizing the use of all available disposal methods, including dismantling, use for artificial reefs, donation, and Navy training exercises;

“(B) identify and describe the funding and other resources necessary to implement the plan, and specific milestones for disposal of vessels under the plan;

“(C) establish performance measures to track progress toward achieving the goals of the program, including the expeditious disposal of ships commencing upon the date of the enactment of this paragraph;

“(D) develop a formal decisionmaking framework for the program; and

“(E) identify external factors that could impede successful implementation of the plan, and describe steps to be taken to mitigate the effects of such factors.

“(d) IMPLEMENTATION OF MANAGEMENT PLAN.—

“(1) REQUIREMENT TO IMPLEMENT.—Subject to the availability of appropriations, the Secretary shall implement the vessel disposal program of the Maritime Administration in accordance with—

“(A) the management plan submitted under subsection (c); and

“(B) the requirements set forth in paragraph (2).

“(2) UTILIZATION OF DOMESTIC SOURCES.—In the procurement of services under the vessel disposal program of the Maritime Administration, the Secretary shall—

“(A) use full and open competition; and

“(B) utilize domestic sources to the maximum extent practicable.

“(e) FAILURE TO SUBMIT PLAN.—

“(1) PRIVATE MANAGEMENT CONTRACT FOR DISPOSAL OF MARITIME ADMINISTRATION VESSELS.—The Secretary of Transportation, subject to the availability of appropriations, shall promptly award a contract using full and open competition to expeditiously implement all aspects of disposal of obsolete National Defense Reserve Fleet vessels.

“(2) APPLICATION.—This subsection shall apply beginning 180 days after the date of the enactment of this subsection, unless the Secretary of Transportation has submitted to the Congress the comprehensive plan required under subsection (c).

“(f) REPORT.—No later than 1 year after the date of the enactment of this subsection, and every 6 months thereafter, the Secretary of Transportation, in coordination with the Secretary of the Navy, shall report to the Committee on Transportation and Infrastructure, the Committee on Resources, and the Committee on Armed Services of the House of Representatives, and to the Committee on Commerce, Science, and Transportation and the Committee on Armed Services of the Senate, on the progress made in implementing the vessel disposal plan developed under subsection (c). In particular, the report shall address the performance measures required to be established under subsection (c)(2)(C).”.

(b) TEMPORARY AUTHORITY TO TRANSFER OBSOLETE COMBATANT VESSELS TO NAVY FOR DISPOSAL.—The Secretary of Transportation shall, subject to the availability of appropriations and consistent with section 1535 of title 31, United States Code, popularly known as the Economy Act, transfer to the Secretary of the Navy during fiscal year 2006 for disposal by the Navy, no fewer than 4 combatant vessels in the nonretention fleet of the Maritime Administration that are acceptable to the Secretary of the Navy.

(c) TRANSFER OF TITLE OF OBSOLETE VESSELS TO BE DISPOSED OF AS ARTIFICIAL REEFS.—Paragraph (4) of section 4 of the Act entitled “An Act to authorize appropriations for the fiscal year

1973 for certain maritime programs of the Department of Commerce, and for related purposes” (Public Law 92-402; 16 U.S.C. 1220a) is amended to read as follows:

“(4) the transfer would be at no cost to the Government (except for any financial assistance provided under section 1220(c)(1) of this title) with the State taking delivery of such obsolete ships and titles in an ‘as-is—where-is’ condition at such place and time designated as may be determined by the Secretary of Transportation.”.

SEC. 3506. ASSISTANCE FOR SMALL SHIPYARDS AND MARITIME COMMUNITIES.

Grants.
Loans.
46 USC app.
1249.

(a) **ESTABLISHMENT OF PROGRAM.**—Subject to the availability of appropriations, the Administrator of the Maritime Administration shall establish a program to provide assistance to State and local governments—

(1) to provide assistance in the form of grants, loans, and loan guarantees to small shipyards for capital improvements; and

(2) for maritime training programs in communities whose economies are substantially related to the maritime industry.

(b) **AWARDS.**—In providing assistance under the program, the Administrator shall—

(1) take into account—

(A) the economic circumstances and conditions of maritime communities; and

(B) the local, State, and regional economy in which the communities are located; and

(2) strongly encourage State, local, and regional efforts to promote economic development and training that will enhance the economic viability of and quality of life in maritime communities.

(c) **USE OF FUNDS.**—Assistance provided under this section may be used—

(1) to make capital and related improvements in small shipyards located in or near maritime communities;

(2) to encourage, assist in, or provide training for residents of maritime communities that will enhance the economic viability of those communities; and

(3) for such other purposes as the Administrator determines to be consistent with and supplemental to such activities.

(d) **PROHIBITED USES.**—Grants awarded under this section may not be used to construct buildings or other physical facilities or to acquire land unless such use is specifically approved by the Administrator in support of subsection (c)(3).

(e) **MATCHING REQUIREMENTS.**—

(1) **FEDERAL FUNDING.**—Except as provided in paragraph (2), Federal funds for any eligible project under this section shall not exceed 75 percent of the total cost of such project.

(2) **EXCEPTIONS.**—

(A) **SMALL PROJECTS.**—Paragraph (1) shall not apply to grants under this section for stand alone projects costing not more than \$25,000. The amount under this subparagraph shall be indexed to the consumer price index and modified each fiscal year after the annual publication of the consumer price index.

(B) REDUCTION IN MATCHING REQUIREMENT.—If the Administrator determines that a proposed project merits support and cannot be undertaken without a higher percentage of Federal financial assistance, the Administrator may award a grant for such project with a lesser matching requirement than is described in paragraph (1).

(f) APPLICATION.—

(1) IN GENERAL.—The Administrator shall determine who, as an eligible applicant, may submit an application, at such time, in such form, and containing such information and assurances as the Administrator may require.

(2) MINIMUM STANDARDS FOR PAYMENT OR REIMBURSEMENT.—Each application submitted under paragraph (1) shall include—

(A) a comprehensive description of—

(i) the need for the project;

(ii) the methodology for implementing the project; and

(iii) any existing programs or arrangements that can be used to supplement or leverage assistance under the program.

(3) PROCEDURAL SAFEGUARDS.—The Administrator, in consultation with the Office of the Inspector General, shall issue guidelines to establish appropriate accounting, reporting, and review procedures to ensure that—

(A) grant funds are used for the purposes for which they were made available;

(B) grantees have properly accounted for all expenditures of grant funds; and

(C) grant funds not used for such purposes and amounts not obligated or expended are returned.

(4) PROJECT APPROVAL REQUIRED.—The Administrator may not award a grant under this section unless the Administrator determines that—

(A) sufficient funding is available to meet the matching requirements of subsection (e);

(B) the project will be completed without unreasonable delay; and

(C) the recipient has authority to carry out the proposed project.

(g) AUDITS AND EXAMINATIONS.—All grantees under this section shall maintain such records as the Administrator may require and make such records available for review and audit by the Administrator.

(h) SMALL SHIPYARD DEFINED.—In this section, the term “small shipyard” means a shipyard that—

(1) is a small business concern (within the meaning of section 3 of the Small Business Act (15 U.S.C. 632); and

(2) does not have more than 600 employees.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator of the Maritime Administration for each of fiscal years 2006 through 2010 to carry out this section—

(1) \$5,000,000 for training grants; and

(2) \$25,000,000 for capital and related improvement grants.

**SEC. 3507. TRANSFER OF AUTHORITY FOR TITLE XI NON-FISHING LOAN
GUARANTEE DECISIONS TO MARITIME ADMINISTRATION.**

(a) IN GENERAL.—Title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1271 et seq.), as amended by subsection (d) of this section, is amended—

(1) by striking “Secretary” each place it appears and inserting “Secretary or Administrator” in—

(A) section 1101(c), (f), and (g); 46 USC app. 1271.

(B) section 1102; 46 USC app. 1272.

(C) section 1103(a), (b), (c), (e), (g), and (h); 46 USC app. 1273.

(D) section 1104A, except in— 46 USC app. 1274.

(i) subsection (b)(7) and the undesignated paragraph that follows;

(ii) paragraphs (1), (2), (3)(B), and (4) of subsection

(d);

(iii) subsection (e)(2)(F) the second place it appears;

(iv) subsection (j); and

(v) subsection (n)(1) the first place it appears;

(E) section 1104B; 46 USC app. 1274a.

(F) section 1105(a), (b), (c), and (e); 46 USC app. 1275.

(G) section 1105(d) the first, second, third, fifth, and last places it appears; and

(H) sections 1108, 1109 (except the second place it appears in subsection (c)), and 1113 (as redesignated by subsection (d) of this section);

(2) by striking “Secretary” and inserting “Administrator” in—

(A) section 1103(i);

(B) section 1103(j) the first place it appears;

(C) section 1104A(b)(7) each place it appears but not in the undesignated paragraph that follows subsection (b)(7);

(D) section 1104A(d)(1)(A) each place it appears except the first;

(E) section 1104A(d)(3) each place it appears except in subparagraph (B);

(F) section 1104A(j)(1) the first, fifth, and seventh places it appears;

(G) section 1104A(n) each place it appears except the first;

(H) section 1110 each place it appears except the first and fourth places it appears in subsection (b); 46 USC app. 1279c.

(I) section 1111(a) and (b)(2) each place it appears; 46 USC app. 1279d.

(J) section 1111(b)(4) each place it appears except the first; and

(K) section 1112 each place it appears; and 46 USC app. 1279e.

(3) by striking “Secretary’s” in sections 1108(g)(1) and 1109(d)(3) and inserting “Secretary’s or Administrator’s”.

(b) ADDITIONAL AND CONFORMING TITLE XI CHANGES.—

(1) Section 1101 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1271) is amended—

(A) by striking “title,” and all that follows in subsection (n) and inserting “title.”; and

(B) by adding at the end the following:

“(p) The term ‘Administrator’ means the Administrator of the Maritime Administration.”.

- (2) Section 1103(j) of such Act (46 U.S.C. App. 1273(j)) is amended by adding at the end the following:
 Deadline. “The Secretary of Defense shall determine whether a vessel satisfies paragraphs (1) and (2) by not later than 30 days after receipt of a request from the Administrator for such a determination.”.
- (3) Section 1104A(d) of such Act (46 U.S.C. App. 1274(d)) is amended—
- (A) by striking “Secretary of Transportation” in paragraphs (1)(A) and (3)(B) and inserting “Administrator”;
 - (B) by striking “the waiver” in paragraph (4)(B) and inserting “if deemed necessary by the Secretary or Administrator, the waiver”;
 - (C) by striking “the increased” in paragraph (4)(B) and inserting “any significant increase in”.
- 46 USC app. 1274. (4) Section 1104A(f) of such Act (46 U.S.C. App. 1273(f)) is amended—
- (A) by striking “financial structures, or other risk factors identified by the Secretary or Administrator.” in paragraph (2), as amended by subsection (a) of this section, and inserting “or financial structures.”;
 - (B) by striking “financial structures, or other risk factors identified by the Secretary or Administrator.” in paragraph (3), as amended by subsection (a) of this section, and inserting “or financial structures.”; and
 - (C) by adding at the end the following:
 “(5) A third party independent analysis conducted under paragraph (2) shall be performed by a private sector expert in assessing such risk factors who is selected by the Administrator.”.
- 46 USC app. 1274. (5) Section 1104A(j)(2) of such Act (46 U.S.C. App. 1273(j)(2)) is amended by striking “The Secretary of Transportation” and inserting “The Administrator”.
- 46 USC app. 1274. (6) Section 1104A(m) of such Act (46 U.S.C. App. 1273(m)) is amended by striking the last sentence and inserting “If the Secretary or Administrator has waived a requirement under section 1104A(d), the loan agreement shall include requirements for additional payments, collateral, or equity contributions to meet such waived requirement upon the occurrence of verifiable conditions indicating that the obligor’s financial condition enables the obligor to meet the waived requirement.”.
- 46 USC app. 1274. (7) Section 1104A(n)(1) of such Act (46 U.S.C. App. 1273(n)(1)) is amended by striking “The Secretary of Transportation” and inserting “The Administrator”.
- 46 USC app. 1279d. (8) Section 1111 of such Act (46 U.S.C. 1279(f)) is amended by striking “Secretary of Transportation” each place it appears and inserting “Administrator”.
- (c) CONFORMING CHANGES IN OTHER STATUTES.—
- (1) Section 401(a) of the Ocean Shipping Reform Act of 1998 (46 U.S.C. App. 1273a(a)) is amended by striking “Secretary of Transportation” and inserting “Administrator of the Maritime Administration”.
 - (2) Section 101 of Public Law 85-469 (46 U.S.C. 1280) is amended by inserting “or the Administrator of the Maritime Administration” after “Secretary”.
 - (3) Section 3527 of the Maritime Security Act of 2003 (46 U.S.C. App. 1280b) is amended by striking “Secretary of Transportation” and inserting “Administrator of the Maritime Administration”.

(4) Section 3528 of the Maritime Security Act of 2003 (46 U.S.C. App. 1271 note) is repealed. Repeal.

(d) TECHNICAL CORRECTION OF SECTION NUMBERING.—Title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1271 et seq.) is amended by redesignating the second sections 1111 and 1112, as added by section 303 of the Sustainable Fisheries Act (Public Law 104–297; 110 Stat. 3616), as sections 1113 and 1114, respectively. 46 USC app. 1279f, 1279g.

SEC. 3508. TECHNICAL CORRECTIONS.

(a) INTERMODAL CENTERS.—Section 9008(b)(1) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users is amended by striking “section 5309(m)(1)(C)” and inserting “paragraphs (1)(C) and (2)(C) of section 5309(m)”. Ante, p. 1926.

(b) INTERMODAL SURFACE FREIGHT TRANSFER FACILITY ELIGIBILITY.—Section 9008(b)(2) of that Act is amended by striking “section 181(9)(D)” and inserting “181(8)(D)”.

SEC. 3509. UNITED STATES MARITIME SERVICE.

Section 1306(a) of the Maritime Education and Training Act of 1980 (46 U.S.C. App. 1295e(a)), is amended by inserting “and to perform functions to assist the United States merchant marine, as determined necessary by the Secretary,” after “United States” the second place it appears.

SEC. 3510. AWARDS AND MEDALS.

Section 5(c) of the Merchant Marine Decorations and Medals Act (46 U.S.C. App. 2004(c)) is amended by striking “provide at cost, or authorize for the manufacture and sale at reasonable prices by private persons—” and inserting “provide—”.

Approved January 6, 2006.

LEGISLATIVE HISTORY—H.R. 1815 (S. 1042) (S. 1043):

HOUSE REPORTS: Nos. 109–89 (Comm. on Armed Services) and 109–360 (Comm. of Conference).

SENATE REPORTS: No. 109–69 accompanying S. 1042 (Comm. on Armed Services). CONGRESSIONAL RECORD, Vol. 151 (2005):

May 25, considered and passed House.

Nov. 15, considered and passed Senate, amended, in lieu of S. 1042.

Dec. 18, House agreed to conference report.

Dec. 19, 21, Senate considered and agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 42 (2006):

Jan. 6, Presidential statement.



Public Law 109–164
109th Congress

An Act

Jan. 10, 2006
[H.R. 972]

To authorize appropriations for fiscal years 2006 and 2007 for the Trafficking Victims Protection Act of 2000, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Trafficking
Victims
Protection
Reauthorization
Act of 2005.
Women.
Children and
youth.
22 USC 7101
note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Trafficking Victims Protection Reauthorization Act of 2005”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.

TITLE I—COMBATTING INTERNATIONAL TRAFFICKING IN PERSONS

Sec. 101. Prevention of trafficking in conjunction with post-conflict and humanitarian emergency assistance.
Sec. 102. Protection of victims of trafficking in persons.
Sec. 103. Enhancing prosecutions of trafficking in persons offenses.
Sec. 104. Enhancing United States efforts to combat trafficking in persons.
Sec. 105. Additional activities to monitor and combat forced labor and child labor.

TITLE II—COMBATTING DOMESTIC TRAFFICKING IN PERSONS

Sec. 201. Prevention of domestic trafficking in persons.
Sec. 202. Establishment of grant program to develop, expand, and strengthen assistance programs for certain persons subject to trafficking.
Sec. 203. Protection of juvenile victims of trafficking in persons.
Sec. 204. Enhancing State and local efforts to combat trafficking in persons.
Sec. 205. Report to Congress.
Sec. 206. Senior Policy Operating Group.
Sec. 207. Definitions.

TITLE III—AUTHORIZATIONS OF APPROPRIATIONS

Sec. 301. Authorizations of appropriations.

22 USC 7101
note.

SEC. 2. FINDINGS.

Congress finds the following:

(1) The United States has demonstrated international leadership in combating human trafficking and slavery through the enactment of the Trafficking Victims Protection Act of 2000 (division A of Public Law 106–386; 22 U.S.C. 7101 et seq.) and the Trafficking Victims Protection Reauthorization Act of 2003 (Public Law 108–193).

(2) The United States Government currently estimates that 600,000 to 800,000 individuals are trafficked across international borders each year and exploited through forced labor and commercial sex exploitation. An estimated 80 percent of such individuals are women and girls.

(3) Since the enactment of the Trafficking Victims Protection Act of 2000, United States efforts to combat trafficking

in persons have focused primarily on the international trafficking in persons, including the trafficking of foreign citizens into the United States.

(4) Trafficking in persons also occurs within the borders of a country, including the United States.

(5) No known studies exist that quantify the problem of trafficking in children for the purpose of commercial sexual exploitation in the United States. According to a report issued by researchers at the University of Pennsylvania in 2001, as many as 300,000 children in the United States are at risk for commercial sexual exploitation, including trafficking, at any given time.

(6) Runaway and homeless children in the United States are highly susceptible to being domestically trafficked for commercial sexual exploitation. According to the National Runaway Switchboard, every day in the United States, between 1,300,000 and 2,800,000 runaway and homeless youth live on the streets. One out of every seven children will run away from home before the age of 18.

(7) Following armed conflicts and during humanitarian emergencies, indigenous populations face increased security challenges and vulnerabilities which result in myriad forms of violence, including trafficking for sexual and labor exploitation. Foreign policy and foreign aid professionals increasingly recognize the increased activity of human traffickers in post-conflict settings and during humanitarian emergencies.

(8) There is a need to protect populations in post-conflict settings and humanitarian emergencies from being trafficked for sexual or labor exploitation. The efforts of aid agencies to address the protection needs of, among others, internally displaced persons and refugees are useful in this regard. Nonetheless, there is a need for further integrated programs and strategies at the United States Agency for International Development, the Department of State, and the Department of Defense to combat human trafficking, including through protection and prevention methodologies, in post-conflict environments and during humanitarian emergencies.

(9) International and human rights organizations have documented a correlation between international deployments of military and civilian peacekeepers and aid workers and a resulting increase in the number of women and girls trafficked into prostitution in post-conflict regions.

(10) The involvement of employees and contractors of the United States Government and members of the Armed Forces in trafficking in persons, facilitating the trafficking in persons, or exploiting the victims of trafficking in persons is inconsistent with United States laws and policies and undermines the credibility and mission of United States Government programs in post-conflict regions.

(11) Further measures are needed to ensure that United States Government personnel and contractors are held accountable for involvement with acts of trafficking in persons, including by expanding United States criminal jurisdiction to all United States Government contractors abroad.

TITLE I—COMBATting INTERNATIONAL TRAFFICKING IN PERSONS

SEC. 101. PREVENTION OF TRAFFICKING IN CONJUNCTION WITH POST- CONFLICT AND HUMANITARIAN EMERGENCY ASSIST- ANCE.

(a) AMENDMENT.—Section 106 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7104) is amended by adding at the end the following new subsection:

“(h) PREVENTION OF TRAFFICKING IN CONJUNCTION WITH POST-CONFLICT AND HUMANITARIAN EMERGENCY ASSISTANCE.—The United States Agency for International Development, the Department of State, and the Department of Defense shall incorporate anti-trafficking and protection measures for vulnerable populations, particularly women and children, into their post-conflict and humanitarian emergency assistance and program activities.”.

(b) STUDY AND REPORT.—

(1) STUDY.—

(A) IN GENERAL.—The Secretary of State and the Administrator of the United States Agency for International Development, in consultation with the Secretary of Defense, shall conduct a study regarding the threat and practice of trafficking in persons generated by post-conflict and humanitarian emergencies in foreign countries.

(B) FACTORS.—In carrying out the study, the Secretary of State and the Administrator of the United States Agency for International Development shall examine—

(i) the vulnerabilities to human trafficking of commonly affected populations, particularly women and children, generated by post-conflict and humanitarian emergencies;

(ii) the various forms of trafficking in persons, both internal and trans-border, including both sexual and labor exploitation;

(iii) a collection of best practices implemented to date to combat human trafficking in such areas; and

(iv) proposed recommendations to better combat trafficking in persons in conjunction with post-conflict reconstruction and humanitarian emergencies assistance.

(2) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of State and the Administrator of the United States Agency for International Development, with the concurrence of the Secretary of Defense, shall transmit to the Committee on International Relations and the Committee on Armed Services of the House of Representatives and the Committee on Foreign Relations and the Committee on Armed Services of the Senate a report that contains the results of the study conducted pursuant to paragraph (1).

SEC. 102. PROTECTION OF VICTIMS OF TRAFFICKING IN PERSONS.

(a) ACCESS TO INFORMATION.—Section 107(c)(2) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7105(c)(2)) is amended by adding at the end the following new sentence: “To the extent practicable, victims of severe forms of trafficking shall

have access to information about federally funded or administered anti-trafficking programs that provide services to victims of severe forms of trafficking.”.

(b) ESTABLISHMENT OF PILOT PROGRAM FOR RESIDENTIAL REHABILITATIVE FACILITIES FOR VICTIMS OF TRAFFICKING.— 22 USC 7105 note.

(1) STUDY.—

(A) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Administrator of the United States Agency for International Development shall carry out a study to identify best practices for the rehabilitation of victims of trafficking in group residential facilities in foreign countries. Deadline.

(B) FACTORS.—In carrying out the study under subparagraph (A), the Administrator shall—

(i) investigate factors relating to the rehabilitation of victims of trafficking in group residential facilities, such as the appropriate size of such facilities, services to be provided, length of stay, and cost; and

(ii) give consideration to ensure the safety and security of victims of trafficking, provide alternative sources of income for such victims, assess and provide for the educational needs of such victims, including literacy, and assess the psychological needs of such victims and provide professional counseling, as appropriate.

(2) PILOT PROGRAM.—Upon completion of the study carried out pursuant to paragraph (1), the Administrator of the United States Agency for International Development shall establish and carry out a pilot program to establish residential treatment facilities in foreign countries for victims of trafficking based upon the best practices identified in the study.

(3) PURPOSES.—The purposes of the pilot program established pursuant to paragraph (2) are to—

(A) provide benefits and services to victims of trafficking, including shelter, psychological counseling, and assistance in developing independent living skills;

(B) assess the benefits of providing residential treatment facilities for victims of trafficking, as well as the most efficient and cost-effective means of providing such facilities; and

(C) assess the need for and feasibility of establishing additional residential treatment facilities for victims of trafficking.

(4) SELECTION OF SITES.—The Administrator of the United States Agency for International Development shall select 2 sites at which to operate the pilot program established pursuant to paragraph (2).

(5) FORM OF ASSISTANCE.—In order to carry out the responsibilities of this subsection, the Administrator of the United States Agency for International Development shall enter into contracts with, or make grants to, organizations with relevant expertise in the delivery of services to victims of trafficking. Contracts. Grants.

(6) REPORT.—Not later than one year after the date on which the first pilot program is established pursuant to paragraph (2), the Administrator of the United States Agency for International Development shall submit to the Committee on International Relations of the House of Representatives and

the Committee on Foreign Relations of the Senate a report on the implementation of this subsection.

(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator of the United States Agency for International Development to carry out this subsection \$2,500,000 for each of the fiscal years 2006 and 2007.

SEC. 103. ENHANCING PROSECUTIONS OF TRAFFICKING IN PERSONS OFFENSES.

(a) EXTRATERRITORIAL JURISDICTION OVER CERTAIN TRAFFICKING IN PERSONS OFFENSES.—

(1) IN GENERAL.—Part II of title 18, United States Code, is amended by inserting after chapter 212 the following new chapter:

“CHAPTER 212A—EXTRATERRITORIAL JURISDICTION OVER CERTAIN TRAFFICKING IN PERSONS OFFENSES

“Sec.

“3271. Trafficking in persons offenses committed by persons employed by or accompanying the Federal Government outside the United States.

“3272. Definitions.

“§ 3271. Trafficking in persons offenses committed by persons employed by or accompanying the Federal Government outside the United States

“(a) Whoever, while employed by or accompanying the Federal Government outside the United States, engages in conduct outside the United States that would constitute an offense under chapter 77 or 117 of this title if the conduct had been engaged in within the United States or within the special maritime and territorial jurisdiction of the United States shall be punished as provided for that offense.

“(b) No prosecution may be commenced against a person under this section if a foreign government, in accordance with jurisdiction recognized by the United States, has prosecuted or is prosecuting such person for the conduct constituting such offense, except upon the approval of the Attorney General or the Deputy Attorney General (or a person acting in either such capacity), which function of approval may not be delegated.

“§ 3272. Definitions

“As used in this chapter:

“(1) The term ‘employed by the Federal Government outside the United States’ means—

“(A) employed as a civilian employee of the Federal Government, as a Federal contractor (including a subcontractor at any tier), or as an employee of a Federal contractor (including a subcontractor at any tier);

“(B) present or residing outside the United States in connection with such employment; and

“(C) not a national of or ordinarily resident in the host nation.

“(2) The term ‘accompanying the Federal Government outside the United States’ means—

“(A) a dependant of—

“(i) a civilian employee of the Federal Government; or

“(ii) a Federal contractor (including a subcontractor at any tier) or an employee of a Federal contractor (including a subcontractor at any tier);

“(B) residing with such civilian employee, contractor, or contractor employee outside the United States; and

“(C) not a national of or ordinarily resident in the host nation.”.

(2) CLERICAL AMENDMENT.—The table of chapters at the beginning of such part is amended by inserting after the item relating to chapter 212 the following new item:

“212A. Extraterritorial jurisdiction over certain trafficking in persons offenses 3271”.

(b) LAUNDERING OF MONETARY INSTRUMENTS.—Section 1956(c)(7)(B) of title 18, United States Code, is amended—

(1) in clause (v), by striking “or” at the end;

(2) in clause (vi), by adding “or” at the end; and

(3) by adding at the end the following new clause:

“(vii) trafficking in persons, selling or buying of children, sexual exploitation of children, or transporting, recruiting or harboring a person, including a child, for commercial sex acts;”.

(c) DEFINITION OF RACKETEERING ACTIVITY.—Section 1961(1)(B) of title 18, United States Code, is amended by striking “1581–1591” and inserting “1581–1592”.

(d) CIVIL AND CRIMINAL FORFEITURES.—

(1) IN GENERAL.—Chapter 117 of title 18, United States Code, is amended by adding at the end the following new section:

“§ 2428. Forfeitures

“(a) IN GENERAL.—The court, in imposing sentence on any person convicted of a violation of this chapter, shall order, in addition to any other sentence imposed and irrespective of any provision of State law, that such person shall forfeit to the United States—

“(1) such person’s interest in any property, real or personal, that was used or intended to be used to commit or to facilitate the commission of such violation; and

“(2) any property, real or personal, constituting or derived from any proceeds that such person obtained, directly or indirectly, as a result of such violation.

“(b) PROPERTY SUBJECT TO FORFEITURE.—

“(1) IN GENERAL.—The following shall be subject to forfeiture to the United States and no property right shall exist in them:

“(A) Any property, real or personal, used or intended to be used to commit or to facilitate the commission of any violation of this chapter.

“(B) Any property, real or personal, that constitutes or is derived from proceeds traceable to any violation of this chapter.

“(2) APPLICABILITY OF CHAPTER 46.—The provisions of chapter 46 of this title relating to civil forfeitures shall apply to any seizure or civil forfeiture under this subsection.”.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“2428. Forfeitures.”.

SEC. 104. ENHANCING UNITED STATES EFFORTS TO COMBAT TRAFFICKING IN PERSONS.

(a) **APPOINTMENT TO INTERAGENCY TASK FORCE TO MONITOR AND COMBAT TRAFFICKING.**—Section 105(b) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7103(b)) is amended—

(1) by striking “the Director of Central Intelligence” and inserting “the Director of National Intelligence”; and

(2) by inserting “, the Secretary of Defense, the Secretary of Homeland Security” after “the Director of National Intelligence” (as added by paragraph (1)).

(b) **MINIMUM STANDARDS FOR THE ELIMINATION OF TRAFFICKING.**—

(1) **AMENDMENTS.**—Section 108(b) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7106(b)) is amended—

(A) in paragraph (3), by adding at the end before the period the following: “, measures to reduce the demand for commercial sex acts and for participation in international sex tourism by nationals of the country, measures to ensure that its nationals who are deployed abroad as part of a peacekeeping or other similar mission do not engage in or facilitate severe forms of trafficking in persons or exploit victims of such trafficking, and measures to prevent the use of forced labor or child labor in violation of international standards”; and

(B) in the first sentence of paragraph (7), by striking “persons,” and inserting “persons, including nationals of the country who are deployed abroad as part of a peacekeeping or other similar mission who engage in or facilitate severe forms of trafficking in persons or exploit victims of such trafficking,”.

(2) **EFFECTIVE DATE.**—The amendments made by subparagraphs (A) and (B) of paragraph (1) take effect beginning two years after the date of the enactment of this Act.

(c) **RESEARCH.**—

(1) **AMENDMENTS.**—Section 112A of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7109a) is amended—

(A) in the first sentence of the matter preceding paragraph (1)—

(i) by striking “The President” and inserting “(a) In General.—The President”; and

(ii) by striking “the Director of Central Intelligence” and inserting “the Director of National Intelligence”;

(B) in paragraph (3), by adding at the end before the period the following: “, particularly HIV/AIDS”;

(C) by adding at the end the following new paragraphs:
 “(4) Subject to subsection (b), the interrelationship between trafficking in persons and terrorism, including the use of profits from trafficking in persons to finance terrorism.

“(5) An effective mechanism for quantifying the number of victims of trafficking on a national, regional, and international basis.

“(6) The abduction and enslavement of children for use as soldiers, including steps taken to eliminate the abduction and enslavement of children for use as soldiers and recommendations for such further steps as may be necessary to

rapidly end the abduction and enslavement of children for use as soldiers.”; and

(D) by further adding at the end the following new subsections:

“(b) **ROLE OF HUMAN SMUGGLING AND TRAFFICKING CENTER.**—The research initiatives described in subsection (a)(4) shall be carried out by the Human Smuggling and Trafficking Center (established pursuant to section 7202 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458)).

“(c) **DEFINITIONS.**—In this section:

“(1) **AIDS.**—The term ‘AIDS’ means the acquired immune deficiency syndrome.

“(2) **HIV.**—The term ‘HIV’ means the human immunodeficiency virus, the pathogen that causes AIDS.

“(3) **HIV/AIDS.**—The term ‘HIV/AIDS’ means, with respect to an individual, an individual who is infected with HIV or living with AIDS.”.

(2) **REPORT.**—

(A) **IN GENERAL.**—Not later than one year after the date of the enactment of this Act, the Human Smuggling and Trafficking Center (established pursuant to section 7202 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458)) shall submit to the appropriate congressional committees a report on the results of the research initiatives carried out pursuant to section 112A(4) of the Trafficking Victims Protection Act of 2000 (as added by paragraph (1)(C) of this subsection).

(B) **DEFINITION.**—In this paragraph, the term “appropriate congressional committees” means—

(i) the Committee on International Relations and the Committee on the Judiciary of the House of Representatives; and

(ii) the Committee on Foreign Relations and the Committee on the Judiciary of the Senate.

(d) **FOREIGN SERVICE OFFICER TRAINING.**—Section 708(a) of the Foreign Service Act of 1980 (22 U.S.C. 4028(a)) is amended—

(1) in the matter preceding paragraph (1), by inserting “, the Director of the Office to Monitor and Combat Trafficking,” after “the International Religious Freedom Act of 1998”;

(2) in paragraph (1), by striking “and” at the end;

(3) in paragraph (2), by striking the period at the end and inserting “; and”; and

(4) by adding at the end the following:

“(3) instruction on international documents and United States policy on trafficking in persons, including provisions of the Trafficking Victims Protection Act of 2000 (division A of Public Law 106-386; 22 U.S.C. 7101 et seq.) which may affect the United States bilateral relationships.”.

(e) **PREVENTION OF TRAFFICKING BY PEACEKEEPERS.**—

(1) **INCLUSION IN TRAFFICKING IN PERSONS REPORT.**—Section 110(b)(1) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7107(b)(1)) is amended—

(A) in subparagraph (B), by striking “and” at the end;

(B) in subparagraph (C), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following new subparagraph:

“(D) information on the measures taken by the United Nations, the Organization for Security and Cooperation in Europe, the North Atlantic Treaty Organization and, as appropriate, other multilateral organizations in which the United States participates, to prevent the involvement of the organization’s employees, contractor personnel, and peacekeeping forces in trafficking in persons or the exploitation of victims of trafficking.”.

22 USC 7111.

(2) REPORT BY SECRETARY OF STATE.—At least 15 days prior to voting for a new or reauthorized peacekeeping mission under the auspices of the United Nations, the North Atlantic Treaty Organization, or any other multilateral organization in which the United States participates (or in an emergency, as far in advance as is practicable), the Secretary of State shall submit to the Committee on International Relations of the House of Representatives, the Committee on Foreign Relations of the Senate, and any other appropriate congressional committee a report that contains—

(A) a description of measures taken by the organization to prevent the organization’s employees, contractor personnel, and peacekeeping forces serving in the peacekeeping mission from trafficking in persons, exploiting victims of trafficking, or committing acts of sexual exploitation or abuse, and the measures in place to hold accountable any such individuals who engage in any such acts while participating in the peacekeeping mission; and

(B) an analysis of the effectiveness of each of the measures referred to in subparagraph (A).

22 USC 7112.

SEC. 105. ADDITIONAL ACTIVITIES TO MONITOR AND COMBAT FORCED LABOR AND CHILD LABOR.

(a) ACTIVITIES OF THE DEPARTMENT OF STATE.—

(1) FINDING.—Congress finds that in the report submitted to Congress by the Secretary of State in June 2005 pursuant to section 110(b) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7107(b)), the list of countries whose governments do not comply with the minimum standards for the elimination of trafficking and are not making significant efforts to bring themselves into compliance was composed of a large number of countries in which the trafficking involved forced labor, including the trafficking of women into domestic servitude.

(2) SENSE OF CONGRESS.—It is the sense of Congress that the Director of the Office to Monitor and Combat Trafficking of the Department of State should intensify the focus of the Office on forced labor in the countries described in paragraph (1) and other countries in which forced labor continues to be a serious human rights concern.

(b) ACTIVITIES OF THE DEPARTMENT OF LABOR.—

(1) IN GENERAL.—The Secretary of Labor, acting through the head of the Bureau of International Labor Affairs of the Department of Labor, shall carry out additional activities to monitor and combat forced labor and child labor in foreign countries as described in paragraph (2).

(2) **ADDITIONAL ACTIVITIES DESCRIBED.**—The additional activities referred to in paragraph (1) are—

(A) to monitor the use of forced labor and child labor in violation of international standards;

(B) to provide information regarding trafficking in persons for the purpose of forced labor to the Office to Monitor and Combat Trafficking of the Department of State for inclusion in trafficking in persons report required by section 110(b) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7107(b));

(C) to develop and make available to the public a list of goods from countries that the Bureau of International Labor Affairs has reason to believe are produced by forced labor or child labor in violation of international standards;

(D) to work with persons who are involved in the production of goods on the list described in subparagraph (C) to create a standard set of practices that will reduce the likelihood that such persons will produce goods using the labor described in such subparagraph; and

(E) to consult with other departments and agencies of the United States Government to reduce forced and child labor internationally and ensure that products made by forced labor and child labor in violation of international standards are not imported into the United States.

Public
information.

Standards.

TITLE II—COMBATTING DOMESTIC TRAFFICKING IN PERSONS

SEC. 201. PREVENTION OF DOMESTIC TRAFFICKING IN PERSONS.

42 USC 14044.

(a) **PROGRAM TO REDUCE TRAFFICKING IN PERSONS AND DEMAND FOR COMMERCIAL SEX ACTS IN THE UNITED STATES.**—

(1) **COMPREHENSIVE RESEARCH AND STATISTICAL REVIEW AND ANALYSIS OF INCIDENTS OF TRAFFICKING IN PERSONS AND COMMERCIAL SEX ACTS.**—

(A) **IN GENERAL.**—The Attorney General shall use available data from State and local authorities as well as research data to carry out a biennial comprehensive research and statistical review and analysis of severe forms of trafficking in persons, and a biennial comprehensive research and statistical review and analysis of sex trafficking and unlawful commercial sex acts in the United States, and shall submit to Congress separate biennial reports on the findings.

Reports.

(B) **CONTENTS.**—The research and statistical review and analysis under this paragraph shall consist of two separate studies, utilizing the same statistical data where appropriate, as follows:

(i) The first study shall address severe forms of trafficking in persons in the United States and shall include, but need not be limited to—

(I) the estimated number and demographic characteristics of persons engaged in acts of severe forms of trafficking in persons; and

(II) the number of investigations, arrests, prosecutions, and incarcerations of persons

engaged in acts of severe forms of trafficking in persons by States and their political subdivisions.

(ii) The second study shall address sex trafficking and unlawful commercial sex acts in the United States and shall include, but need not be limited to—

(I) the estimated number and demographic characteristics of persons engaged in sex trafficking and commercial sex acts, including purchasers of commercial sex acts;

(II) the estimated value in dollars of the commercial sex economy, including the estimated average annual personal income derived from acts of sex trafficking;

(III) the number of investigations, arrests, prosecutions, and incarcerations of persons engaged in sex trafficking and unlawful commercial sex acts, including purchasers of commercial sex acts, by States and their political subdivisions; and

(IV) a description of the differences in the enforcement of laws relating to unlawful commercial sex acts across the United States.

(2) TRAFFICKING CONFERENCE.—

(A) IN GENERAL.—The Attorney General, in consultation and cooperation with the Secretary of Health and Human Services, shall conduct an annual conference in each of the fiscal years 2006, 2007, and 2008, and thereafter conduct a biennial conference, addressing severe forms of trafficking in persons and commercial sex acts that occur, in whole or in part, within the territorial jurisdiction of the United States. At each such conference, the Attorney General, or his designee, shall—

(i) announce and evaluate the findings contained in the research and statistical reviews carried out under paragraph (1);

(ii) disseminate best methods and practices for enforcement of laws prohibiting acts of severe forms of trafficking in persons and other laws related to acts of trafficking in persons, including, but not limited to, best methods and practices for training State and local law enforcement personnel on the enforcement of such laws;

(iii) disseminate best methods and practices for training State and local law enforcement personnel on the enforcement of laws prohibiting sex trafficking and commercial sex acts, including, but not limited to, best methods for investigating and prosecuting exploiters and persons who solicit or purchase an unlawful commercial sex act; and

(iv) disseminate best methods and practices for training State and local law enforcement personnel on collaborating with social service providers and relevant nongovernmental organizations and establishing trust of persons subjected to commercial sex acts or severe forms of trafficking in persons.

(B) PARTICIPATION.—Each annual conference conducted under this paragraph shall involve the participation of

persons with expertise or professional responsibilities with relevance to trafficking in persons, including, but not limited to—

- (i) Federal Government officials, including law enforcement and prosecutorial officials;
- (ii) State and local government officials, including law enforcement and prosecutorial officials;
- (iii) persons who have been subjected to severe forms of trafficking in persons or commercial sex acts;
- (iv) medical personnel;
- (v) social service providers and relevant nongovernmental organizations; and
- (vi) academic experts.

(C) **REPORTS.**—The Attorney General and the Secretary of Health and Human Services shall prepare and post on the respective Internet Web sites of the Department of Justice and the Department of Health and Human Services reports on the findings and best practices identified and disseminated at the conference described in this paragraph.

(b) **TERMINATION OF CERTAIN GRANTS, CONTRACTS, AND COOPERATIVE AGREEMENTS.**—Section 106(g) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7104) is amended—

- (1) by striking “COOPERATIVE AGREEMENTS.—” and all that follows through “The President shall” and inserting “COOPERATIVE AGREEMENTS.—The President shall”;
- (2) by striking “described in paragraph (2)”;
- (3) by striking paragraph (2).

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated—

- (1) \$2,500,000 for each of the fiscal years 2006 and 2007 to carry out the activities described in subsection (a)(1)(B)(i) and \$2,500,000 for each of the fiscal years 2006 and 2007 to carry out the activities described in subsection (a)(1)(B)(ii); and
- (2) \$1,000,000 for each of the fiscal years 2006 through 2007 to carry out the activities described in subsection (a)(2).

SEC. 202. ESTABLISHMENT OF GRANT PROGRAM TO DEVELOP, EXPAND, AND STRENGTHEN ASSISTANCE PROGRAMS FOR CERTAIN PERSONS SUBJECT TO TRAFFICKING.

42 USC 14044a.

(a) **GRANT PROGRAM.**—The Secretary of Health and Human Services may make grants to States, Indian tribes, units of local government, and nonprofit, nongovernmental victims’ service organizations to establish, develop, expand, and strengthen assistance programs for United States citizens or aliens admitted for permanent residence who are the subject of sex trafficking or severe forms of trafficking in persons that occurs, in whole or in part, within the territorial jurisdiction of the United States.

(b) **SELECTION FACTOR.**—In selecting among applicants for grants under subsection (a), the Secretary shall give priority to applicants with experience in the delivery of services to persons who have been subjected to sexual abuse or commercial sexual exploitation and to applicants who would employ survivors of sexual abuse or commercial sexual exploitation as a part of their proposed project.

(c) **LIMITATION ON FEDERAL SHARE.**—The Federal share of a grant made under this section may not exceed 75 percent of the total costs of the projects described in the application submitted.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated \$10,000,000 for each of the fiscal years 2006 and 2007 to carry out the activities described in this section.

42 USC 14044b.

SEC. 203. PROTECTION OF JUVENILE VICTIMS OF TRAFFICKING IN PERSONS.

Deadline.

(a) **ESTABLISHMENT OF PILOT PROGRAM.**—Not later than 180 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall establish and carry out a pilot program to establish residential treatment facilities in the United States for juveniles subjected to trafficking.

(b) **PURPOSES.**—The purposes of the pilot program established pursuant to subsection (a) are to—

(1) provide benefits and services to juveniles subjected to trafficking, including shelter, psychological counseling, and assistance in developing independent living skills;

(2) assess the benefits of providing residential treatment facilities for juveniles subjected to trafficking, as well as the most efficient and cost-effective means of providing such facilities; and

(3) assess the need for and feasibility of establishing additional residential treatment facilities for juveniles subjected to trafficking.

(c) **SELECTION OF SITES.**—The Secretary of Health and Human Services shall select three sites at which to operate the pilot program established pursuant to subsection (a).

(d) **FORM OF ASSISTANCE.**—In order to carry out the responsibilities of this section, the Secretary of Health and Human Services shall enter into contracts with, or make grants to, organizations that—

(1) have relevant expertise in the delivery of services to juveniles who have been subjected to sexual abuse or commercial sexual exploitation; or

(2) have entered into partnerships with organizations that have expertise as described in paragraph (1) for the purpose of implementing the contracts or grants.

(e) **REPORT.**—Not later than one year after the date on which the first pilot program is established pursuant to subsection (a), the Secretary of Health and Human Services shall submit to Congress a report on the implementation of this section.

(f) **DEFINITION.**—In this section, the term “juvenile subjected to trafficking” means a United States citizen, or alien admitted for permanent residence, who is the subject of sex trafficking or severe forms of trafficking in persons that occurs, in whole or in part, within the territorial jurisdiction of the United States and who has not attained 18 years of age at the time the person is identified as having been the subject of sex trafficking or severe forms of trafficking in persons.

(g) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary of Health and Human Services to carry out this section \$5,000,000 for each of the fiscal years 2006 and 2007.

SEC. 204. ENHANCING STATE AND LOCAL EFFORTS TO COMBAT TRAFFICKING IN PERSONS.

Inter-
governmental
relations.
42 USC 14044c.

(a) ESTABLISHMENT OF GRANT PROGRAM FOR LAW ENFORCEMENT.—

(1) IN GENERAL.—The Attorney General may make grants to States and local law enforcement agencies to establish, develop, expand, or strengthen programs—

(A) to investigate and prosecute acts of severe forms of trafficking in persons, and related offenses, which involve United States citizens, or aliens admitted for permanent residence, and that occur, in whole or in part, within the territorial jurisdiction of the United States;

(B) to investigate and prosecute persons who engage in the purchase of commercial sex acts;

(C) to educate persons charged with, or convicted of, purchasing or attempting to purchase commercial sex acts; and

(D) to educate and train law enforcement personnel in how to establish trust of persons subjected to trafficking and encourage cooperation with prosecution efforts.

(2) DEFINITION.—In this subsection, the term “related offenses” includes violations of tax laws, transacting in illegally derived proceeds, money laundering, racketeering, and other violations of criminal laws committed in connection with an act of sex trafficking or a severe form of trafficking in persons.

(b) MULTI-DISCIPLINARY APPROACH REQUIRED.—Grants under subsection (a) may be made only for programs in which the State or local law enforcement agency works collaboratively with social service providers and relevant nongovernmental organizations, including organizations with experience in the delivery of services to persons who are the subject of trafficking in persons.

(c) LIMITATION ON FEDERAL SHARE.—The Federal share of a grant made under this section may not exceed 75 percent of the total costs of the projects described in the application submitted.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Attorney General to carry out this section \$25,000,000 for each of the fiscal years 2006 and 2007.

SEC. 205. REPORT TO CONGRESS.

Section 105(d)(7) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7103(d)(7)) is amended—

(1) in subparagraph (F), by striking “and” at the end;

(2) by redesignating subparagraph (G) as subparagraph (H); and

(3) by inserting after subparagraph (F) the following new subparagraph:

“(G) the amount, recipient, and purpose of each grant under sections 202 and 204 of the Trafficking Victims Protection Act of 2005; and”.

SEC. 206. SENIOR POLICY OPERATING GROUP.

42 USC 14044d.

Each Federal department or agency involved in grant activities related to combatting trafficking or providing services to persons subjected to trafficking inside the United States shall, as the department or agency determines appropriate, apprise the Senior Policy Operating Group established by section 105(f) of the Victims of Trafficking and Violence Protection Act of 2000 (22 U.S.C. 7103(f)),

under the procedures established by the Senior Policy Operating Group, of such activities of the department or agency to ensure that the activities are consistent with the purposes of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7101 et seq.).

42 USC 14044e.

SEC. 207. DEFINITIONS.

In this title:

(1) **SEVERE FORMS OF TRAFFICKING IN PERSONS.**—The term “severe forms of trafficking in persons” has the meaning given the term in section 103(8) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102(8)).

(2) **SEX TRAFFICKING.**—The term “sex trafficking” has the meaning given the term in section 103(9) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102(9)).

(3) **COMMERCIAL SEX ACT.**—The term “commercial sex act” has the meaning given the term in section 103(3) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102(3)).

TITLE III—AUTHORIZATIONS OF APPROPRIATIONS

SEC. 301. AUTHORIZATIONS OF APPROPRIATIONS.

Section 113 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7110) is amended—

(1) in subsection (a)—

(A) by striking “and \$5,000,000” and inserting “\$5,000,000”;

(B) by adding at the end before the period the following: “, and \$5,500,000 for each of the fiscal years 2006 and 2007”; and

(C) by further adding at the end the following new sentence: “In addition, there are authorized to be appropriated to the Office to Monitor and Combat Trafficking for official reception and representation expenses \$3,000 for each of the fiscal years 2006 and 2007.”;

(2) in subsection (b), by striking “2004 and 2005” and inserting “2004, 2005, 2006, and 2007”;

(3) in subsection (c)(1), by striking “2004 and 2005” each place it appears and inserting “2004, 2005, 2006, and 2007”;

(4) in subsection (d), by striking “2004 and 2005” each place it appears and inserting “2004, 2005, 2006, and 2007”;

(5) in subsection (e)—

(A) in paragraphs (1) and (2), by striking “2003 through 2005” and inserting “2003 through 2007”; and

(B) in paragraph (3), by striking “\$300,000 for fiscal year 2004 and \$300,000 for fiscal year 2005” and inserting “\$300,000 for each of the fiscal years 2004 through 2007”;

(6) in subsection (f), by striking “2004 and 2005” and inserting “2004, 2005, 2006, and 2007”; and

(7) by adding at the end the following new subsections:

“(h) **AUTHORIZATION OF APPROPRIATIONS TO DIRECTOR OF THE FBI.**—There are authorized to be appropriated to the Director of the Federal Bureau of Investigation \$15,000,000 for fiscal year 2006, to remain available until expended, to investigate severe forms of trafficking in persons.

“(i) AUTHORIZATION OF APPROPRIATIONS TO THE SECRETARY OF HOMELAND SECURITY.—There are authorized to be appropriated to the Secretary of Homeland Security, \$18,000,000 for each of the fiscal years 2006 and 2007, to remain available until expended, for investigations by the Bureau of Immigration and Customs Enforcement of severe forms of trafficking in persons.”.

Approved January 10, 2006.

LEGISLATIVE HISTORY—H.R. 972:

HOUSE REPORTS: No. 109–317, Pt. 1 (Comm. on International Relations) and Pt. 2 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 151 (2005):

Dec. 14, considered and passed House.

Dec. 21, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 42 (2006):

Jan. 10, Presidential statement and remarks.



Public Law 109–165
109th Congress

An Act

Jan. 10, 2006
[H.R. 2017]

To amend the Torture Victims Relief Act of 1998 to authorize appropriations to provide assistance for domestic and foreign programs and centers for the treatment of victims of torture, and for other purposes.

Torture Victims
Relief
Reauthorization
Act of 2005.
22 USC 2151
note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Torture Victims Relief Reauthorization Act of 2005”.

22 USC 2152
note.

SEC. 2. STATEMENT OF POLICY.

It is the policy of the United States—

(1) to ensure that, in its support abroad for programs and centers for the treatment of victims of torture, particular incentives and support should be given to establishing and supporting such programs and centers in emerging democracies, in post-conflict environments, and, with a view to providing services to refugees and internally displaced persons, in areas as close to ongoing conflict as safely as possible; and

(2) to ensure that, in its support for domestic programs and centers for the treatment of victims of torture, particular attention should be given to regions with significant immigrant or refugee populations.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS FOR DOMESTIC TREATMENT CENTERS FOR VICTIMS OF TORTURE.

Section 5(b)(1) of the Torture Victims Relief Act of 1998 (22 U.S.C. 2152 note) is amended to read as follows:

“(1) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts authorized to be appropriated for the Department of Health and Human Services for fiscal years 2006 and 2007, there are authorized to be appropriated to carry out subsection (a) \$25,000,000 for each of the fiscal years 2006 and 2007.”.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS FOR FOREIGN TREATMENT CENTERS FOR VICTIMS OF TORTURE.

Section 4(b)(1) of the Torture Victims Relief Act of 1998 (22 U.S.C. 2152 note) is amended to read as follows:

“(1) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts authorized to be appropriated for fiscal years 2006 and 2007 pursuant to chapter 1 of part I of the Foreign Assistance Act of 1961, there are authorized to be appropriated to the President to carry out section 130 of such Act \$12,000,000 for fiscal year 2006 and \$13,000,000 for fiscal year 2007.”.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS FOR THE UNITED STATES CONTRIBUTION TO THE UNITED NATIONS VOLUNTARY FUND FOR VICTIMS OF TORTURE.

Of the amounts authorized to be appropriated for fiscal years 2006 and 2007 pursuant to chapter 3 of part I of the Foreign Assistance Act of 1961, there are authorized to be appropriated to the President for a voluntary contribution to the United Nations Voluntary Fund for Victims of Torture \$7,000,000 for fiscal year 2006 and \$8,000,000 for fiscal year 2007.

Approved January 10, 2006.

LEGISLATIVE HISTORY—H.R. 2017:

CONGRESSIONAL RECORD, Vol. 151 (2005):

Dec. 6, considered and passed House.

Dec. 21, considered and passed Senate.



Public Law 109–166
109th Congress

An Act

Jan. 10, 2006
[H.R. 3179]

To reauthorize and amend the Junior Duck Stamp Conservation and Design Program Act of 1994.

Junior Duck
Stamp
Reauthorization
Amendments Act
of 2005.
16 USC 719 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Junior Duck Stamp Reauthorization Amendments Act of 2005”.

SEC. 2. USE OF PROCEEDS FROM LICENSING AND MARKETING OF JUNIOR DUCK STAMPS AND JUNIOR DUCK STAMP DESIGNS.

Section 3(c) of the Junior Duck Stamp Conservation and Design Program Act of 1994 (16 U.S.C. 719a(c)) is amended to read as follows:

“(c) USE OF PROCEEDS.—Amounts received under subsection (b)—

“(1) shall be available to the Secretary until expended, without further appropriations, solely for—

“(A) awards, prizes, and scholarships to individuals who submit designs in competitions under subsection (a), that are—

“(i) selected in such a competition as winning designs; or

“(ii) otherwise determined in such a competition to be superior;

“(B) awards and prizes to schools, students, teachers, and other participants to further education activities related to the conservation education goals of the Program;

“(C) award ceremonies for winners of national and State Junior Duck Stamp competitions;

“(D) travel expenses for winners of national and State Junior Duck Stamp competitions to award ceremonies, if—

“(i) the event is intended to honor students for winning a national competition; or

“(ii) the event is intended to honor students for winning a State competition;

“(E) expenses for licensing and marketing under subsection (b);

“(F) expenses for migratory bird reference materials or supplies awarded to schools that participate in the Program; and

“(G) expenses for marketing and educational materials developed to promote the Program.”.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

Section 6 of the Junior Duck Stamp Conservation and Design Program Act of 1994 (16 U.S.C. 719c) is amended—

(1) by striking “\$250,000” and inserting “\$350,000”;

(2) by striking “fiscal years 2001 through 2005” and inserting “fiscal years 2006 through 2010”;

(3) by inserting “(a) AUTHORIZATION.—” before the first sentence; and

(4) by adding at the end the following:

“(b) LIMITATIONS ON USE FOR DISTRIBUTION TO STATE AND REGIONAL COORDINATORS TO IMPLEMENT COMPETITIONS.—Of the amount appropriated under this section for a fiscal year—

“(1) not more than \$100,000 may be used by the Secretary to administer the Program; and

“(2) not more than \$250,000 may be distributed to State and regional coordinators to implement competitions under the Program.”.

SEC. 4. REPEAL.

The second section 6 of the Junior Duck Stamp Conservation and Design Program Act of 1994 (16 U.S.C. 668dd note), relating to an environmental education center and refuge headquarters, is repealed.

16 USC 668dd
note.

Approved January 10, 2006.

LEGISLATIVE HISTORY—H.R. 3179 (S. 1339):

HOUSE REPORTS: No. 109–246 accompanying S. 1339 (Comm. on Resources).

SENATE REPORTS: No. 109–124 accompanying S. 1339 (Comm. on Environment and Public Works).

CONGRESSIONAL RECORD, Vol. 151 (2005):

Dec. 18, considered and passed House.

Dec. 21, considered and passed Senate.



Public Law 109–167
109th Congress

An Act

Jan. 10, 2006
[H.R. 4501]

To amend the Passport Act of June 4, 1920, to authorize the Secretary of State to establish and collect a surcharge to cover the costs of meeting the increased demand for passports as a result of actions taken to comply with section 7209(b) of the Intelligence Reform and Terrorism Prevention Act of 2004.

Passport Services
Enhancement
Act of 2005.
22 USC 211a
note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Passport Services Enhancement Act of 2005”.

SEC. 2. AUTHORITY OF SECRETARY OF STATE TO ESTABLISH AND COLLECT A SURCHARGE TO COVER THE COSTS OF MEETING THE INCREASED DEMAND FOR PASSPORTS.

Section 1 of the Passport Act of June 4, 1920 (22 U.S.C. 214) is amended—

(1) in the first sentence, by striking “There shall be collected and paid” and inserting “(a) There shall be collected and paid”; and

(2) by adding at the end the following new subsection:

“(b)(1) The Secretary of State may by regulation establish and collect a surcharge on applicable fees for the filing of each application for a passport in order to cover the costs of meeting the increased demand for passports as a result of actions taken to comply with section 7209(b) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 8 U.S.C. 1185 note). Such surcharge shall be in addition to the fees provided for in subsection (a) and in addition to the surcharges or fees otherwise authorized by law and shall be deposited as an offsetting collection to the appropriate Department of State appropriation, to remain available until expended for the purposes of meeting such costs.

Expiration date.

“(2) The authority to collect the surcharge provided under paragraph (1) may not be exercised after September 30, 2010.

“(3) The Secretary of State shall ensure that, to the extent practicable, the total cost of a passport application during fiscal years 2006 and 2007, including the surcharge authorized under

paragraph (1), shall not exceed the cost of the passport application as of December 1, 2005.”.

Approved January 10, 2006.

LEGISLATIVE HISTORY—H.R. 4501:

CONGRESSIONAL RECORD, Vol. 151 (2005):

Dec. 18, considered and passed House.

Dec. 21, considered and passed Senate.



Public Law 109–168
109th Congress

An Act

Jan. 10, 2006
[H.R. 4637]

To make certain technical corrections in amendments made by the Energy Policy Act of 2005.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TECHNICAL CORRECTIONS.

(a) SUBTITLE I OF SOLID WASTE DISPOSAL ACT.—The Solid Waste Disposal Act is amended as follows:

Ante, p. 1098.

(1) In section 9012, in subsection (a)(2)(D), strike “or a regulated” and insert “of a regulated”.

Ante, p. 1097.

(2) In section 9003, subsection (i), relating to government-owned tanks, as added by section 1526(b) of the Energy Policy Act of 2005, is redesignated as subsection (j).

Ante, p. 1104.

(3) Section 9014 is amended by striking “2005 through 2009” in each place it appears and inserting “2006 through 2011” in each such place.

(b) TITLE XVII OF ENERGY POLICY ACT OF 2005.—Title XVII of the Energy Policy Act of 2005 is amended as follows:

Ante, p. 1120.

(1) Section 1703(c)(4) is amended by striking “clean coal power initiative under subtitle A of title IV for” and inserting “Department of Energy’s Clean Coal Power Initiative for Fischer-Tropsch”.

Ante, p. 1122.

(2) Section 1704(b) is amended by striking “clean coal power initiative under subtitle A of title IV” and inserting “Clean Coal Power Initiative”.

Approved January 10, 2006.

LEGISLATIVE HISTORY—H.R. 4637:

CONGRESSIONAL RECORD, Vol. 151 (2005):

Dec. 18, considered and passed House.

Dec. 21, considered and passed Senate.



Public Law 109–169
109th Congress

An Act

To implement the United States-Bahrain Free Trade Agreement.

Jan. 11, 2006

[H.R. 4340]

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “United States-Bahrain Free Trade Agreement Implementation Act”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

United States-
Bahrain Free
Trade Agreement
Implementation
Act.
19 USC 3805
note.

Sec. 1. Short title; table of contents.

Sec. 2. Purposes.

Sec. 3. Definitions.

**TITLE I—APPROVAL OF, AND GENERAL PROVISIONS RELATING TO, THE
AGREEMENT**

Sec. 101. Approval and entry into force of the Agreement.

Sec. 102. Relationship of the agreement to United States and State law.

Sec. 103. Implementing actions in anticipation of entry into force and initial regulations.

Sec. 104. Consultation and layover provisions for, and effective date of, proclaimed actions.

Sec. 105. Administration of dispute settlement proceedings.

Sec. 106. Effective dates; effect of termination.

TITLE II—CUSTOMS PROVISIONS

Sec. 201. Tariff modifications.

Sec. 202. Rules of origin.

Sec. 203. Customs user fees.

Sec. 204. Enforcement relating to trade in textile and apparel goods.

Sec. 205. Regulations.

TITLE III—RELIEF FROM IMPORTS

Sec. 301. Definitions.

Subtitle A—Relief From Imports Benefiting From the Agreement

Sec. 311. Commencing of action for relief.

Sec. 312. Commission action on petition.

Sec. 313. Provision of relief.

Sec. 314. Termination of relief authority.

Sec. 315. Compensation authority.

Sec. 316. Confidential business information.

Subtitle B—Textile and Apparel Safeguard Measures

Sec. 321. Commencement of action for relief.

Sec. 322. Determination and provision of relief.

Sec. 323. Period of relief.

Sec. 324. Articles exempt from relief.

Sec. 325. Rate after termination of import relief.

Sec. 326. Termination of relief authority.

Sec. 327. Compensation authority.

Sec. 328. Confidential business information.

TITLE IV—PROCUREMENT

Sec. 401. Eligible products.

19 USC 3805
note.**SEC. 2. PURPOSES.**

The purposes of this Act are—

(1) to approve and implement the Free Trade Agreement between the United States and Bahrain entered into under the authority of section 2103(b) of the Bipartisan Trade Promotion Authority Act of 2002 (19 U.S.C. 3803(b));

(2) to strengthen and develop economic relations between the United States and Bahrain for their mutual benefit;

(3) to establish free trade between the 2 nations through the reduction and elimination of barriers to trade in goods and services; and

(4) to lay the foundation for further cooperation to expand and enhance the benefits of such Agreement.

19 USC 3805
note.**SEC. 3. DEFINITIONS.**

In this Act:

(1) **AGREEMENT.**—The term “Agreement” means the United States-Bahrain Free Trade Agreement approved by Congress under section 101(a)(1).

(2) **HTS.**—The term “HTS” means the Harmonized Tariff Schedule of the United States.

(3) **TEXTILE OR APPAREL GOOD.**—The term “textile or apparel good” means a good listed in the Annex to the Agreement on Textiles and Clothing referred to in section 101(d)(4) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(4)).

TITLE I—APPROVAL OF, AND GENERAL PROVISIONS RELATING TO, THE AGREEMENT

19 USC 3805
note.**SEC. 101. APPROVAL AND ENTRY INTO FORCE OF THE AGREEMENT.**

(a) **APPROVAL OF AGREEMENT AND STATEMENT OF ADMINISTRATIVE ACTION.**—Pursuant to section 2105 of the Bipartisan Trade Promotion Authority Act of 2002 (19 U.S.C. 3805) and section 151 of the Trade Act of 1974 (19 U.S.C. 2191), Congress approves—

(1) the United States-Bahrain Free Trade Agreement entered into on September 14, 2004, with Bahrain and submitted to Congress on November 16, 2005; and

(2) the statement of administrative action proposed to implement the Agreement that was submitted to Congress on November 16, 2005.

President.
Effective date.

(b) **CONDITIONS FOR ENTRY INTO FORCE OF THE AGREEMENT.**—At such time as the President determines that Bahrain has taken measures necessary to bring it into compliance with those provisions of the Agreement that are to take effect on the date on which the Agreement enters into force, the President is authorized to exchange notes with the Government of Bahrain providing for the entry into force, on or after January 1, 2006, of the Agreement with respect to the United States.

19 USC 3805
note.**SEC. 102. RELATIONSHIP OF THE AGREEMENT TO UNITED STATES AND STATE LAW.**

(a) **RELATIONSHIP OF AGREEMENT TO UNITED STATES LAW.**—

(1) UNITED STATES LAW TO PREVAIL IN CONFLICT.—No provision of the Agreement, nor the application of any such provision to any person or circumstance, which is inconsistent with any law of the United States shall have effect.

(2) CONSTRUCTION.—Nothing in this Act shall be construed—

(A) to amend or modify any law of the United States;

or

(B) to limit any authority conferred under any law of the United States,

unless specifically provided for in this Act.

(b) RELATIONSHIP OF AGREEMENT TO STATE LAW.—

(1) LEGAL CHALLENGE.—No State law, or the application thereof, may be declared invalid as to any person or circumstance on the ground that the provision or application is inconsistent with the Agreement, except in an action brought by the United States for the purpose of declaring such law or application invalid.

(2) DEFINITION OF STATE LAW.—For purposes of this subsection, the term “State law” includes—

(A) any law of a political subdivision of a State; and

(B) any State law regulating or taxing the business of insurance.

(c) EFFECT OF AGREEMENT WITH RESPECT TO PRIVATE REMEDIES.—No person other than the United States—

(1) shall have any cause of action or defense under the Agreement or by virtue of congressional approval thereof; or

(2) may challenge, in any action brought under any provision of law, any action or inaction by any department, agency, or other instrumentality of the United States, any State, or any political subdivision of a State, on the ground that such action or inaction is inconsistent with the Agreement.

SEC. 103. IMPLEMENTING ACTIONS IN ANTICIPATION OF ENTRY INTO FORCE AND INITIAL REGULATIONS.

19 USC 3805
note.

(a) IMPLEMENTING ACTIONS.—

(1) PROCLAMATION AUTHORITY.—After the date of the enactment of this Act—

Effective date.

(A) the President may proclaim such actions, and

(B) other appropriate officers of the United States

Government may issue such regulations,

as may be necessary to ensure that any provision of this Act, or amendment made by this Act, that takes effect on the date on which the Agreement enters into force is appropriately implemented on such date, but no such proclamation or regulation may have an effective date earlier than the date on which the Agreement enters into force.

(2) EFFECTIVE DATE OF CERTAIN PROCLAIMED ACTIONS.—Any action proclaimed by the President under the authority of this Act that is not subject to the consultation and layover provisions under section 104 may not take effect before the 15th day after the date on which the text of the proclamation is published in the Federal Register.

Federal Register,
publication.

(3) WAIVER OF 15-DAY RESTRICTION.—The 15-day restriction in paragraph (2) on the taking effect of proclaimed actions is waived to the extent that the application of such restriction would prevent the taking effect on the date on which the

	Agreement enters into force of any action proclaimed under this section.
Deadlines.	(b) INITIAL REGULATIONS.—Initial regulations necessary or appropriate to carry out the actions required by or authorized under this Act or proposed in the statement of administrative action submitted under section 101(a)(2) to implement the Agreement shall, to the maximum extent feasible, be issued within 1 year after the date on which the Agreement enters into force. In the case of any implementing action that takes effect on a date after the date on which the Agreement enters into force, initial regulations to carry out that action shall, to the maximum extent feasible, be issued within 1 year after such effective date.
President. 19 USC 3805 note.	SEC. 104. CONSULTATION AND LAYOVER PROVISIONS FOR, AND EFFECTIVE DATE OF, PROCLAIMED ACTIONS. If a provision of this Act provides that the implementation of an action by the President by proclamation is subject to the consultation and layover requirements of this section, such action may be proclaimed only if— (1) the President has obtained advice regarding the proposed action from— (A) the appropriate advisory committees established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155); and (B) the United States International Trade Commission; (2) the President has submitted to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report that sets forth— (A) the action proposed to be proclaimed and the reasons therefor; and (B) the advice obtained under paragraph (1); (3) a period of 60 calendar days, beginning on the first day on which the requirements set forth in paragraphs (1) and (2) have been met has expired; and (4) the President has consulted with the Committees referred to in paragraph (2) regarding the proposed action during the period referred to in paragraph (3).
19 USC 3805 note. President.	SEC. 105. ADMINISTRATION OF DISPUTE SETTLEMENT PROCEEDINGS. (a) ESTABLISHMENT OR DESIGNATION OF OFFICE.—The President is authorized to establish or designate within the Department of Commerce an office that shall be responsible for providing administrative assistance to panels established under chapter 19 of the Agreement. The office may not be considered to be an agency for purposes of section 552 of title 5, United States Code. (b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year after fiscal year 2005 to the Department of Commerce such sums as may be necessary for the establishment and operations of the office established or designated under subsection (a) and for the payment of the United States share of the expenses of panels established under chapter 19 of the Agreement.
19 USC 3805 note.	SEC. 106. EFFECTIVE DATES; EFFECT OF TERMINATION. (a) EFFECTIVE DATES.—Except as provided in subsection (b), the provisions of this Act and the amendments made by this Act take effect on the date on which the Agreement enters into force.

(b) **EXCEPTIONS.**—Sections 1 through 3 and this title take effect on the date of the enactment of this Act.

(c) **TERMINATION OF THE AGREEMENT.**—On the date on which the Agreement terminates, the provisions of this Act (other than this subsection) and the amendments made by this Act shall cease to be effective.

TITLE II—CUSTOMS PROVISIONS

SEC. 201. TARIFF MODIFICATIONS.

19 USC 3805
note.

(a) **TARIFF MODIFICATIONS PROVIDED FOR IN THE AGREEMENT.**—

(1) **PROCLAMATION AUTHORITY.**—The President may proclaim—

- (A) such modifications or continuation of any duty,
- (B) such continuation of duty-free or excise treatment,

or

(C) such additional duties,

as the President determines to be necessary or appropriate to carry out or apply articles 2.3, 2.5, 2.6, 3.2.8, and 3.2.9, and Annex 2–B of the Agreement.

(2) **EFFECT ON BAHRAINI GSP STATUS.**—Notwithstanding section 502(a)(1) of the Trade Act of 1974 (19 U.S.C. 2462(a)(1)), the President shall, on the date on which the Agreement enters into force, terminate the designation of Bahrain as a beneficiary developing country for purposes of title V of the Trade Act of 1974 (19 U.S.C. 2461 et seq.).

President.

(b) **OTHER TARIFF MODIFICATIONS.**—Subject to the consultation and layover provisions of section 104, the President may proclaim—

- (1) such modifications or continuation of any duty,
- (2) such modifications as the United States may agree to with Bahrain regarding the staging of any duty treatment set forth in Annex 2–B of the Agreement,
- (3) such continuation of duty-free or excise treatment, or
- (4) such additional duties,

as the President determines to be necessary or appropriate to maintain the general level of reciprocal and mutually advantageous concessions with respect to Bahrain provided for by the Agreement.

(c) **CONVERSION TO AD VALOREM RATES.**—For purposes of subsections (a) and (b), with respect to any good for which the base rate in the Tariff Schedule of the United States to Annex 2–B of the Agreement is a specific or compound rate of duty, the President may substitute for the base rate an ad valorem rate that the President determines to be equivalent to the base rate.

SEC. 202. RULES OF ORIGIN.

19 USC 3805
note.

(a) **APPLICATION AND INTERPRETATION.**—In this section:

(1) **TARIFF CLASSIFICATION.**—The basis for any tariff classification is the HTS.

(2) **REFERENCE TO HTS.**—Whenever in this section there is a reference to a heading or subheading, such reference shall be a reference to a heading or subheading of the HTS.

(b) **ORIGINATING GOODS.**—

(1) **IN GENERAL.**—For purposes of this Act and for purposes of implementing the preferential tariff treatment provided for under the Agreement, a good is an originating good if—

- (A) the good is imported directly—

(i) from the territory of Bahrain into the territory of the United States; or

(ii) from the territory of the United States into the territory of Bahrain; and

(B)(i) the good is a good wholly the growth, product, or manufacture of Bahrain or the United States, or both;

(ii) the good (other than a good to which clause (iii) applies) is a new or different article of commerce that has been grown, produced, or manufactured in Bahrain or the United States, or both, and meets the requirements of paragraph (2); or

(iii)(I) the good is a good covered by Annex 3-A or 4-A of the Agreement;

(II)(aa) each of the nonoriginating materials used in the production of the good undergoes an applicable change in tariff classification specified in such Annex as a result of production occurring entirely in the territory of Bahrain or the United States, or both; or

(bb) the good otherwise satisfies the requirements specified in such Annex; and

(III) the good satisfies all other applicable requirements of this section.

(2) REQUIREMENTS.—A good described in paragraph (1)(B)(ii) is an originating good only if the sum of—

(A) the value of each material produced in the territory of Bahrain or the United States, or both, and

(B) the direct costs of processing operations performed in the territory of Bahrain or the United States, or both, is not less than 35 percent of the appraised value of the good at the time the good is entered into the territory of the United States.

(c) CUMULATION.—

(1) ORIGINATING GOOD OR MATERIAL INCORPORATED INTO GOODS OF OTHER COUNTRY.—An originating good, or a material produced in the territory of Bahrain or the United States, or both, that is incorporated into a good in the territory of the other country shall be considered to originate in the territory of the other country.

(2) MULTIPLE PRODUCERS.—A good that is grown, produced, or manufactured in the territory of Bahrain or the United States, or both, by 1 or more producers, is an originating good if the good satisfies the requirements of subsection (b) and all other applicable requirements of this section.

(d) VALUE OF MATERIALS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the value of a material produced in the territory of Bahrain or the United States, or both, includes the following:

(A) The price actually paid or payable for the material by the producer of the good.

(B) The freight, insurance, packing, and all other costs incurred in transporting the material to the producer's plant, if such costs are not included in the price referred to in subparagraph (A).

(C) The cost of waste or spoilage resulting from the use of the material in the growth, production, or manufacture of the good, less the value of recoverable scrap.

(D) Taxes or customs duties imposed on the material by Bahrain or the United States, or both, if the taxes or customs duties are not remitted upon exportation from the territory of Bahrain or the United States, as the case may be.

(2) EXCEPTION.—If the relationship between the producer of a good and the seller of a material influenced the price actually paid or payable for the material, or if there is no price actually paid or payable by the producer for the material, the value of the material produced in the territory of Bahrain or the United States, or both, includes the following:

(A) All expenses incurred in the growth, production, or manufacture of the material, including general expenses.

(B) A reasonable amount for profit.

(C) Freight, insurance, packing, and all other costs incurred in transporting the material to the producer's plant.

(e) PACKAGING AND PACKING MATERIALS AND CONTAINERS FOR RETAIL SALE AND FOR SHIPMENT.—Packaging and packing materials and containers for retail sale and shipment shall be disregarded in determining whether a good qualifies as an originating good, except to the extent that the value of such packaging and packing materials and containers has been included in meeting the requirements set forth in subsection (b)(2).

(f) INDIRECT MATERIALS.—Indirect materials shall be disregarded in determining whether a good qualifies as an originating good, except that the cost of such indirect materials may be included in meeting the requirements set forth in subsection (b)(2).

(g) TRANSIT AND TRANSSHIPMENT.—A good shall not be considered to meet the requirement of subsection (b)(1)(A) if, after exportation from the territory of Bahrain or the United States, the good undergoes production, manufacturing, or any other operation outside the territory of Bahrain or the United States, other than unloading, reloading, or any other operation necessary to preserve the good in good condition or to transport the good to the territory of Bahrain or the United States.

(h) TEXTILE AND APPAREL GOODS.—

(1) DE MINIMIS AMOUNTS OF NONORIGINATING MATERIALS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), a textile or apparel good that is not an originating good because certain fibers or yarns used in the production of the component of the good that determines the tariff classification of the good do not undergo an applicable change in tariff classification set out in Annex 3-A of the Agreement shall be considered to be an originating good if the total weight of all such fibers or yarns in that component is not more than 7 percent of the total weight of that component.

(B) CERTAIN TEXTILE OR APPAREL GOODS.—A textile or apparel good containing elastomeric yarns in the component of the good that determines the tariff classification of the good shall be considered to be an originating good only if such yarns are wholly formed in the territory of Bahrain or the United States.

(C) YARN, FABRIC, OR GROUP OF FIBERS.—For purposes of this paragraph, in the case of a textile or apparel good

that is a yarn, fabric, or group of fibers, the term “component of the good that determines the tariff classification of the good” means all of the fibers in the yarn, fabric, or group of fibers.

(2) GOODS PUT UP IN SETS FOR RETAIL SALE.—Notwithstanding the rules set forth in Annex 3-A of the Agreement, textile or apparel goods classifiable as goods put up in sets for retail sale as provided for in General Rule of Interpretation 3 of the HTS shall not be considered to be originating goods unless each of the goods in the set is an originating good or the total value of the nonoriginating goods in the set does not exceed 10 percent of the value of the set determined for purposes of assessing customs duties.

(i) DEFINITIONS.—In this section:

(1) DIRECT COSTS OF PROCESSING OPERATIONS.—

(A) IN GENERAL.—The term “direct costs of processing operations”, with respect to a good, includes, to the extent they are includable in the appraised value of the good when imported into Bahrain or the United States, as the case may be, the following:

(i) All actual labor costs involved in the growth, production, or manufacture of the good, including fringe benefits, on-the-job training, and the cost of engineering, supervisory, quality control, and similar personnel.

(ii) Tools, dies, molds, and other indirect materials, and depreciation on machinery and equipment that are allocable to the good.

(iii) Research, development, design, engineering, and blueprint costs, to the extent that they are allocable to the good.

(iv) Costs of inspecting and testing the good.

(v) Costs of packaging the good for export to the territory of the other country.

(B) EXCEPTIONS.—The term “direct costs of processing operations” does not include costs that are not directly attributable to a good or are not costs of growth, production, or manufacture of the good, such as—

(i) profit; and

(ii) general expenses of doing business that are either not allocable to the good or are not related to the growth, production, or manufacture of the good, such as administrative salaries, casualty and liability insurance, advertising, and sales staff salaries, commissions, or expenses.

(2) GOOD.—The term “good” means any merchandise, product, article, or material.

(3) GOOD WHOLLY THE GROWTH, PRODUCT, OR MANUFACTURE OF BAHRAIN OR THE UNITED STATES, OR BOTH.—The term “good wholly the growth, product, or manufacture of Bahrain or the United States, or both” means—

(A) a mineral good extracted in the territory of Bahrain or the United States, or both;

(B) a vegetable good, as such a good is provided for in the HTS, harvested in the territory of Bahrain or the United States, or both;

(C) a live animal born and raised in the territory of Bahrain or the United States, or both;

(D) a good obtained from live animals raised in the territory of Bahrain or the United States, or both;

(E) a good obtained from hunting, trapping, or fishing in the territory of Bahrain or the United States, or both;

(F) a good (fish, shellfish, and other marine life) taken from the sea by vessels registered or recorded with Bahrain or the United States and flying the flag of that country;

(G) a good produced from goods referred to in subparagraph (F) on board factory ships registered or recorded with Bahrain or the United States and flying the flag of that country;

(H) a good taken by Bahrain or the United States or a person of Bahrain or the United States from the seabed or beneath the seabed outside territorial waters, if Bahrain or the United States, as the case may be, has rights to exploit such seabed;

(I) a good taken from outer space, if such good is obtained by Bahrain or the United States or a person of Bahrain or the United States and not processed in the territory of a country other than Bahrain or the United States;

(J) waste and scrap derived from—

(i) production or manufacture in the territory of Bahrain or the United States, or both; or

(ii) used goods collected in the territory of Bahrain or the United States, or both, if such goods are fit only for the recovery of raw materials;

(K) a recovered good derived in the territory of Bahrain or the United States from used goods and utilized in the territory of that country in the production of remanufactured goods; and

(L) a good produced in the territory of Bahrain or the United States, or both, exclusively—

(i) from goods referred to in subparagraphs (A) through (J), or

(ii) from the derivatives of goods referred to in clause (i),

at any stage of production.

(4) INDIRECT MATERIAL.—The term “indirect material” means a good used in the growth, production, manufacture, testing, or inspection of a good but not physically incorporated into the good, or a good used in the maintenance of buildings or the operation of equipment associated with the growth, production, or manufacture of a good, including—

(A) fuel and energy;

(B) tools, dies, and molds;

(C) spare parts and materials used in the maintenance of equipment and buildings;

(D) lubricants, greases, compounding materials, and other materials used in the growth, production, or manufacture of a good or used to operate equipment and buildings;

(E) gloves, glasses, footwear, clothing, safety equipment, and supplies;

(F) equipment, devices, and supplies used for testing or inspecting the good;

(G) catalysts and solvents; and

(H) any other goods that are not incorporated into the good but the use of which in the growth, production, or manufacture of the good can reasonably be demonstrated to be a part of that growth, production, or manufacture.

(5) MATERIAL.—The term “material” means a good, including a part or ingredient, that is used in the growth, production, or manufacture of another good that is a new or different article of commerce that has been grown, produced, or manufactured in Bahrain or the United States, or both.

(6) MATERIAL PRODUCED IN THE TERRITORY OF BAHRAIN OR THE UNITED STATES, OR BOTH.—The term “material produced in the territory of Bahrain or the United States, or both” means a good that is either wholly the growth, product, or manufacture of Bahrain or the United States, or both, or a new or different article of commerce that has been grown, produced, or manufactured in the territory of Bahrain or the United States, or both.

(7) NEW OR DIFFERENT ARTICLE OF COMMERCE.—

(A) IN GENERAL.—The term “new or different article of commerce” means, except as provided in subparagraph

(B), a good that—

(i) has been substantially transformed from a good or material that is not wholly the growth, product, or manufacture of Bahrain or the United States, or both; and

(ii) has a new name, character, or use distinct from the good or material from which it was transformed.

(B) EXCEPTION.—A good shall not be considered a new or different article of commerce by virtue of having undergone simple combining or packaging operations, or mere dilution with water or another substance that does not materially alter the characteristics of the good.

(8) RECOVERED GOODS.—The term “recovered goods” means materials in the form of individual parts that result from—

(A) the complete disassembly of used goods into individual parts; and

(B) the cleaning, inspecting, testing, or other processing of those parts that is necessary for improvement to sound working condition.

(9) REMANUFACTURED GOOD.—The term “remanufactured good” means an industrial good that is assembled in the territory of Bahrain or the United States and that—

(A) is entirely or partially comprised of recovered goods;

(B) has a similar life expectancy to, and meets similar performance standards as, a like good that is new; and

(C) enjoys a factory warranty similar to that of a like good that is new.

(10) SIMPLE COMBINING OR PACKAGING OPERATIONS.—The term “simple combining or packaging operations” means operations such as adding batteries to devices, fitting together a small number of components by bolting, gluing, or soldering, and repacking or packaging components together.

(11) SUBSTANTIALLY TRANSFORMED.—The term “substantially transformed” means, with respect to a good or material,

changed as the result of a manufacturing or processing operation so that—

(A)(i) the good or material is converted from a good that has multiple uses into a good or material that has limited uses;

(ii) the physical properties of the good or material are changed to a significant extent; or

(iii) the operation undergone by the good or material is complex by reason of the number of different processes and materials involved and the time and level of skill required to perform those processes; and

(B) the good or material loses its separate identity in the manufacturing or processing operation.

(j) **PRESIDENTIAL PROCLAMATION AUTHORITY.**—

(1) **IN GENERAL.**—The President is authorized to proclaim, as part of the HTS—

(A) the provisions set forth in Annex 3–A and Annex 4–A of the Agreement; and

(B) any additional subordinate category that is necessary to carry out this title, consistent with the Agreement.

(2) **MODIFICATIONS.**—

(A) **IN GENERAL.**—Subject to the consultation and lay-over provisions of section 104, the President may proclaim modifications to the provisions proclaimed under the authority of paragraph (1)(A), other than provisions of chapters 50 through 63 of the HTS (as included in Annex 3–A of the Agreement).

(B) **ADDITIONAL PROCLAMATIONS.**—Notwithstanding subparagraph (A), and subject to the consultation and lay-over provisions of section 104, the President may proclaim—

(i) modifications to the provisions proclaimed under the authority of paragraph (1)(A) as are necessary to implement an agreement with Bahrain pursuant to article 3.2.5 of the Agreement; and

(ii) before the end of the 1-year period beginning on the date of the enactment of this Act, modifications to correct any typographical, clerical, or other nonsubstantive technical error regarding the provisions of chapters 50 through 63 of the HTS (as included in Annex 3–A of the Agreement).

Deadline.

SEC. 203. CUSTOMS USER FEES.

Section 13031(b) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)) is amended—

(1) in each of paragraphs (13) and (15), by moving the text 2 ems to the left; and

(2) by adding after paragraph (15) the following:

“(16) No fee may be charged under subsection (a) (9) or (10) with respect to goods that qualify as originating goods under section 202 of the United States-Bahrain Free Trade Agreement Implementation Act. Any service for which an exemption from such fee is provided by reason of this paragraph may not be funded with money contained in the Customs User Fee Account.”.

19 USC 3805
note.

19 USC 3805
note.

SEC. 204. ENFORCEMENT RELATING TO TRADE IN TEXTILE AND APPAREL GOODS.

(a) ACTION DURING VERIFICATION.—

(1) **IN GENERAL.**—If the Secretary of the Treasury requests the Government of Bahrain to conduct a verification pursuant to article 3.3 of the Agreement for purposes of making a determination under paragraph (2), the President may direct the Secretary to take appropriate action described in subsection (b) while the verification is being conducted.

(2) **DETERMINATION.**—A determination under this paragraph is a determination—

(A) that an exporter or producer in Bahrain is complying with applicable customs laws, regulations, procedures, requirements, or practices affecting trade in textile or apparel goods; or

(B) that a claim that a textile or apparel good exported or produced by such exporter or producer—

(i) qualifies as an originating good under section 202; or

(ii) is a good of Bahrain, is accurate.

(b) APPROPRIATE ACTION DESCRIBED.—Appropriate action under subsection (a)(1) includes—

(1) suspension of liquidation of the entry of any textile or apparel good exported or produced by the person that is the subject of a verification referred to in subsection (a)(1) regarding compliance described in subsection (a)(2)(A), in a case in which the request for verification was based on a reasonable suspicion of unlawful activity related to such good; and

(2) suspension of liquidation of the entry of a textile or apparel good for which a claim has been made that is the subject of a verification referred to in subsection (a)(1) regarding a claim described in subsection (a)(2)(B).

Deadline.

(c) ACTION WHEN INFORMATION IS INSUFFICIENT.—If the Secretary of the Treasury determines that the information obtained within 12 months after making a request for a verification under subsection (a)(1) is insufficient to make a determination under subsection (a)(2), the President may direct the Secretary to take appropriate action described in subsection (d) until such time as the Secretary receives information sufficient to make a determination under subsection (a)(2) or until such earlier date as the President may direct.

(d) APPROPRIATE ACTION DESCRIBED.—Appropriate action referred to in subsection (c) includes—

Publication.

(1) publication of the name and address of the person that is the subject of the verification;

(2) denial of preferential tariff treatment under the Agreement to—

(A) any textile or apparel good exported or produced by the person that is the subject of a verification referred to in subsection (a)(1) regarding compliance described in subsection (a)(2)(A); or

(B) a textile or apparel good for which a claim has been made that is the subject of a verification referred to in subsection (a)(1) regarding a claim described in subsection (a)(2)(B); and

(3) denial of entry into the United States of—

(A) any textile or apparel good exported or produced by the person that is the subject of a verification referred to in subsection (a)(1) regarding compliance described in subsection (a)(2)(A); or

(B) a textile or apparel good for which a claim has been made that is the subject of a verification referred to in subsection (a)(1) regarding a claim described in subsection (a)(2)(B).

SEC. 205. REGULATIONS.

19 USC 3805
note.

The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out—

- (1) subsections (a) through (i) of section 202;
- (2) the amendment made by section 203(2); and
- (3) proclamations issued under section 202(j).

TITLE III—RELIEF FROM IMPORTS

SEC. 301. DEFINITIONS.

19 USC 3805
note.

In this title:

(1) **BAHRAINI ARTICLE.**—The term “Bahraini article” means an article that—

(A) qualifies as an originating good under section 202(b); or

(B) receives preferential tariff treatment under paragraphs 8 through 11 of article 3.2 of the Agreement.

(2) **BAHRAINI TEXTILE OR APPAREL ARTICLE.**—The term “Bahraini textile or apparel article” means an article that—

(A) is listed in the Annex to the Agreement on Textiles and Clothing referred to in section 101(d)(4) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(4)); and

(B) is a Bahraini article.

(3) **COMMISSION.**—The term “Commission” means the United States International Trade Commission.

Subtitle A—Relief From Imports Benefiting From the Agreement

SEC. 311. COMMENCING OF ACTION FOR RELIEF.

19 USC 3805
note.

(a) **FILING OF PETITION.**—A petition requesting action under this subtitle for the purpose of adjusting to the obligations of the United States under the Agreement may be filed with the Commission by an entity, including a trade association, firm, certified or recognized union, or group of workers, that is representative of an industry. The Commission shall transmit a copy of any petition filed under this subsection to the United States Trade Representative.

(b) **INVESTIGATION AND DETERMINATION.**—Upon the filing of a petition under subsection (a), the Commission, unless subsection (d) applies, shall promptly initiate an investigation to determine whether, as a result of the reduction or elimination of a duty provided for under the Agreement, a Bahraini article is being imported into the United States in such increased quantities, in absolute terms or relative to domestic production, and under such

conditions that imports of the Bahraini article constitute a substantial cause of serious injury or threat thereof to the domestic industry producing an article that is like, or directly competitive with, the imported article.

(c) **APPLICABLE PROVISIONS.**—The following provisions of section 202 of the Trade Act of 1974 (19 U.S.C. 2252) apply with respect to any investigation initiated under subsection (b):

(1) Paragraphs (1)(B) and (3) of subsection (b).

(2) Subsection (c).

(3) Subsection (i).

(d) **ARTICLES EXEMPT FROM INVESTIGATION.**—No investigation may be initiated under this section with respect to any Bahraini article if, after the date on which the Agreement enters into force with respect to the United States, import relief has been provided with respect to that Bahraini article under this subtitle.

19 USC 3805
note.
Deadline.

SEC. 312. COMMISSION ACTION ON PETITION.

(a) **DETERMINATION.**—Not later than 120 days after the date on which an investigation is initiated under section 311(b) with respect to a petition, the Commission shall make the determination required under that section.

(b) **APPLICABLE PROVISIONS.**—For purposes of this subtitle, the provisions of paragraphs (1), (2), and (3) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d) (1), (2), and (3)) shall be applied with respect to determinations and findings made under this section as if such determinations and findings were made under section 202 of the Trade Act of 1974 (19 U.S.C. 2252).

(c) **ADDITIONAL FINDING AND RECOMMENDATION IF DETERMINATION AFFIRMATIVE.**—

(1) **IN GENERAL.**—If the determination made by the Commission under subsection (a) with respect to imports of an article is affirmative, or if the President may consider a determination of the Commission to be an affirmative determination as provided for under paragraph (1) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)(1)), the Commission shall find, and recommend to the President in the report required under subsection (d), the amount of import relief that is necessary to remedy or prevent the injury found by the Commission in the determination and to facilitate the efforts of the domestic industry to make a positive adjustment to import competition.

(2) **LIMITATION ON RELIEF.**—The import relief recommended by the Commission under this subsection shall be limited to that described in section 313(c).

(3) **VOTING; SEPARATE VIEWS.**—Only those members of the Commission who voted in the affirmative under subsection (a) are eligible to vote on the proposed action to remedy or prevent the injury found by the Commission. Members of the Commission who did not vote in the affirmative may submit, in the report required under subsection (d), separate views regarding what action, if any, should be taken to remedy or prevent the injury.

(d) **REPORT TO PRESIDENT.**—Not later than the date that is 30 days after the date on which a determination is made under subsection (a) with respect to an investigation, the Commission shall submit to the President a report that includes—

(1) the determination made under subsection (a) and an explanation of the basis for the determination;

(2) if the determination under subsection (a) is affirmative, any findings and recommendations for import relief made under subsection (c) and an explanation of the basis for each recommendation; and

(3) any dissenting or separate views by members of the Commission regarding the determination and recommendation referred to in paragraphs (1) and (2).

(e) PUBLIC NOTICE.—Upon submitting a report to the President under subsection (d), the Commission shall promptly make public such report (with the exception of information which the Commission determines to be confidential) and shall cause a summary thereof to be published in the Federal Register.

Federal Register,
publication.

SEC. 313. PROVISION OF RELIEF.

(a) IN GENERAL.—Not later than the date that is 30 days after the date on which the President receives the report of the Commission in which the Commission's determination under section 312(a) is affirmative, or which contains a determination under section 312(a) that the President considers to be affirmative under paragraph (1) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)(1)), the President, subject to subsection (b), shall provide relief from imports of the article that is the subject of such determination to the extent that the President determines necessary to remedy or prevent the injury found by the Commission and to facilitate the efforts of the domestic industry to make a positive adjustment to import competition.

President.
19 USC 3805
note.
Deadline.

(b) EXCEPTION.—The President is not required to provide import relief under this section if the President determines that the provision of the import relief will not provide greater economic and social benefits than costs.

(c) NATURE OF RELIEF.—

(1) IN GENERAL.—The import relief that the President is authorized to provide under this section with respect to imports of an article is as follows:

(A) The suspension of any further reduction provided for under Annex 2–B of the Agreement in the duty imposed on such article.

(B) An increase in the rate of duty imposed on such article to a level that does not exceed the lesser of—

(i) the column 1 general rate of duty imposed under the HTS on like articles at the time the import relief is provided; or

(ii) the column 1 general rate of duty imposed under the HTS on like articles on the day before the date on which the Agreement enters into force.

(2) PROGRESSIVE LIBERALIZATION.—If the period for which import relief is provided under this section is greater than 1 year, the President shall provide for the progressive liberalization of such relief at regular intervals during the period in which the relief is in effect.

(d) PERIOD OF RELIEF.—

(1) IN GENERAL.—Subject to paragraph (2), any import relief that the President provides under this section may not, in the aggregate, be in effect for more than 3 years.

(2) EXTENSION.—

(A) IN GENERAL.—If the initial period for any import relief provided under this section is less than 3 years, the President, after receiving a determination from the Commission under subparagraph (B) that is affirmative, or which the President considers to be affirmative under paragraph (1) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)(1)), may extend the effective period of any import relief provided under this section, subject to the limitation under paragraph (1), if the President determines that—

(i) the import relief continues to be necessary to remedy or prevent serious injury and to facilitate adjustment by the domestic industry to import competition; and

(ii) there is evidence that the industry is making a positive adjustment to import competition.

(B) ACTION BY COMMISSION.—

Deadline.

(i) INVESTIGATION.—Upon a petition on behalf of the industry concerned that is filed with the Commission not earlier than the date which is 9 months, and not later than the date which is 6 months, before the date any action taken under subsection (a) is to terminate, the Commission shall conduct an investigation to determine whether action under this section continues to be necessary to remedy or prevent serious injury and to facilitate adjustment by the domestic industry to import competition and whether there is evidence that the industry is making a positive adjustment to import competition.

Federal Register, publication.

(ii) NOTICE AND HEARING.—The Commission shall publish notice of the commencement of any proceeding under this subparagraph in the Federal Register and shall, within a reasonable time thereafter, hold a public hearing at which the Commission shall afford interested parties and consumers an opportunity to be present, to present evidence, and to respond to the presentations of other parties and consumers, and otherwise to be heard.

(iii) REPORT.—The Commission shall transmit to the President a report on its investigation and determination under this subparagraph not later than 60 days before the action under subsection (a) is to terminate, unless the President specifies a different date.

(e) RATE AFTER TERMINATION OF IMPORT RELIEF.—When import relief under this section is terminated with respect to an article, the rate of duty on that article shall be the rate that would have been in effect, but for the provision of such relief, on the date on which the relief terminates.

(f) ARTICLES EXEMPT FROM RELIEF.—No import relief may be provided under this section on any article that has been subject to import relief under this subtitle after the date on which the Agreement enters into force.

19 USC 3805 note.

SEC. 314. TERMINATION OF RELIEF AUTHORITY.

(a) GENERAL RULE.—Subject to subsection (b), no import relief may be provided under this subtitle after the date that is 10 years after the date on which the Agreement enters into force.

(b) **PRESIDENTIAL DETERMINATION.**—Import relief may be provided under this subtitle in the case of a Bahraini article after the date on which such relief would, but for this subsection, terminate under subsection (a), if the President determines that Bahrain has consented to such relief.

SEC. 315. COMPENSATION AUTHORITY.

19 USC 3805
note.

For purposes of section 123 of the Trade Act of 1974 (19 U.S.C. 2133), any import relief provided by the President under section 313 shall be treated as action taken under chapter 1 of title II of such Act (19 U.S.C. 2251 et seq.).

SEC. 316. CONFIDENTIAL BUSINESS INFORMATION.

19 USC 3805
note.

Section 202(a)(8) of the Trade Act of 1974 (19 U.S.C. 2252(a)(8)) is amended in the first sentence—

(1) by striking “and”; and

(2) by inserting before the period at the end “, and title III of the United States-Bahrain Free Trade Agreement Implementation Act”.

Subtitle B—Textile and Apparel Safeguard Measures

SEC. 321. COMMENCEMENT OF ACTION FOR RELIEF.

President.
19 USC 3805
note.

(a) **IN GENERAL.**—A request under this subtitle for the purpose of adjusting to the obligations of the United States under the Agreement may be filed with the President by an interested party. Upon the filing of a request, the President shall review the request to determine, from information presented in the request, whether to commence consideration of the request.

(b) **PUBLICATION OF REQUEST.**—If the President determines that the request under subsection (a) provides the information necessary for the request to be considered, the President shall cause to be published in the Federal Register a notice of commencement of consideration of the request, and notice seeking public comments regarding the request. The notice shall include a summary of the request and the dates by which comments and rebuttals must be received.

Federal Register,
publication.
Notice.

SEC. 322. DETERMINATION AND PROVISION OF RELIEF.

19 USC 3805
note.
President.

(a) **DETERMINATION.**—

(1) **IN GENERAL.**—If a positive determination is made under section 321(b), the President shall determine whether, as a result of the reduction or elimination of a duty under the Agreement, a Bahraini textile or apparel article is being imported into the United States in such increased quantities, in absolute terms or relative to the domestic market for that article, and under such conditions as to cause serious damage, or actual threat thereof, to a domestic industry producing an article that is like, or directly competitive with, the imported article.

(2) **SERIOUS DAMAGE.**—In making a determination under paragraph (1), the President—

(A) shall examine the effect of increased imports on the domestic industry, as reflected in changes in such relevant economic factors as output, productivity, utilization

of capacity, inventories, market share, exports, wages, employment, domestic prices, profits, and investment, none of which is necessarily decisive; and

(B) shall not consider changes in technology or consumer preference as factors supporting a determination of serious damage or actual threat thereof.

(b) **PROVISION OF RELIEF.**—

(1) **IN GENERAL.**—If a determination under subsection (a) is affirmative, the President may provide relief from imports of the article that is the subject of such determination, as described in paragraph (2), to the extent that the President determines necessary to remedy or prevent the serious damage and to facilitate adjustment by the domestic industry to import competition.

(2) **NATURE OF RELIEF.**—The relief that the President is authorized to provide under this subsection with respect to imports of an article is an increase in the rate of duty imposed on the article to a level that does not exceed the lesser of—

(A) the column 1 general rate of duty imposed under the HTS on like articles at the time the import relief is provided; or

(B) the column 1 general rate of duty imposed under the HTS on like articles on the day before the date on which the Agreement enters into force.

19 USC 3805
note.

SEC. 323. PERIOD OF RELIEF.

(a) **IN GENERAL.**—Subject to subsection (b), any import relief that the President provides under subsection (b) of section 322 may not, in the aggregate, be in effect for more than 3 years.

(b) **EXTENSION.**—If the initial period for any import relief provided under section 322 is less than 3 years, the President may extend the effective period of any import relief provided under that section, subject to the limitation set forth in subsection (a), if the President determines that—

(1) the import relief continues to be necessary to remedy or prevent serious damage and to facilitate adjustment by the domestic industry to import competition; and

(2) there is evidence that the industry is making a positive adjustment to import competition.

19 USC 3805
note.

SEC. 324. ARTICLES EXEMPT FROM RELIEF.

The President may not provide import relief under this subtitle with respect to any article if—

(1) the article has been subject to import relief under this subtitle after the date on which the Agreement enters into force; or

(2) the article is subject to import relief under chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.).

19 USC 3805
note.

SEC. 325. RATE AFTER TERMINATION OF IMPORT RELIEF.

When import relief under this subtitle is terminated with respect to an article, the rate of duty on that article shall be the rate that would have been in effect, but for the provision of such relief, on the date on which the relief terminates.

SEC. 326. TERMINATION OF RELIEF AUTHORITY.19 USC 3805
note.

No import relief may be provided under this subtitle with respect to any article after the date that is 10 years after the date on which duties on the article are eliminated pursuant to the Agreement.

SEC. 327. COMPENSATION AUTHORITY.19 USC 3805
note.

For purposes of section 123 of the Trade Act of 1974 (19 U.S.C. 2133), any import relief provided by the President under this subtitle shall be treated as action taken under chapter 1 of title II of such Act.

SEC. 328. CONFIDENTIAL BUSINESS INFORMATION.19 USC 3805
note.

The President may not release information that is submitted in a proceeding under this subtitle and that the President considers to be confidential business information unless the party submitting the confidential business information had notice, at the time of submission, that such information would be released, or such party subsequently consents to the release of the information. To the extent a party submits confidential business information to the President in a proceeding under this subtitle, the party shall also submit a nonconfidential version of the information, in which the confidential business information is summarized or, if necessary, deleted.

TITLE IV—PROCUREMENT

SEC. 401. ELIGIBLE PRODUCTS.19 USC 3805
note.

Section 308(4)(A) of the Trade Agreements Act of 1979 (19 U.S.C. 2518(4)(A)) is amended—

- (1) by striking “or” at the end of clause (iii);
- (2) by striking the period at the end of clause (iv) and inserting “; or”; and
- (3) by adding at the end the following new clause:
“(v) a party to a free trade agreement that entered into force with respect to the United States after December 31, 2005, and before July 2, 2006, a product or service of that country or instrumentality which

is covered under the free trade agreement for procurement by the United States.”.

Approved January 11, 2006.

LEGISLATIVE HISTORY—H.R. 4340 (S. 2027):

HOUSE REPORTS: No. 109–318 (Comm. on Ways and Means).

SENATE REPORTS: No. 109–199 accompanying S. 2027 (Comm. on Finance).

CONGRESSIONAL RECORD, Vol. 151 (2005):

Dec. 7, considered and passed House.

Dec. 13, considered and passed Senate.

